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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

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Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

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House of Lords

Tuesday 7 March 2017

11 am

Prayers—read by the Lord Bishop of Oxford.

European Union (Notification of Withdrawal) Bill Report

11.07 am

Clause 1: Power to notify withdrawal from the EU

Amendment 1

Moved by **Lord Newby**

1: Clause 1, page 1, line 10, at end insert—

“() No agreement with the European Union consequent on the use of the power under subsection (1) may be ratified unless it has been approved by a national referendum.”

Noble Lords: Hear, hear!

Lord Newby (LD): My Lords, it may be downhill all the way from this point.

This is a very straightforward amendment, which would require any Brexit deal to be put to the people to approve or to reject. It is based on the principle that, having asked the people whether they wish to initiate the Brexit process, only the people should take the final decision.

In asking the people to do this, we are not sidelining Parliament. Clearly, Parliament should debate and vote on all the options at the end of the negotiating process, as we will discuss later, but Parliament was completely at odds with the views of the people in advance of the referendum. If Parliament took a decision that went against the majority popular view, having given the people the initial decision-making role in the process, we would be faced with widespread and justifiable anger that would be corrosive to our national life for many years to come.

I begin by thanking the noble Lord, Lord Grocott, for his drafting advice, which he so generously gave me in Committee. I hope that he feels that, even if he cannot agree with the amendment before us, it at least avoids some of the shortcomings he saw in its predecessor.

Lord Grocott (Lab): I am grateful for that generous tribute. Will the noble Lord advise us as to whether the referendum he proposes would be an advisory or a mandatory one?

Lord Newby: My Lords, we have already seen the referendum being taken as decisive. Parliament did not decide that it should look at it as merely advisory. I think that any referendum has to be seen as decisive, to the extent that it requires Parliament to act on the basis of it.

Lord Foulkes of Cumnock (Lab): I wonder whether the noble Lord can answer my question in relation to the conduct of the referendum. I was unhappy about the previous referendum because 16 and 17 year-olds were not allowed to vote, EU citizens were not allowed to vote and there was no threshold. In his referendum, which of those three would be included, if any? I would have serious doubts about having a referendum without those three points being taken account of.

Lord Newby: My Lords, the noble Lord will recall the attitude that we took when we discussed the previous referendum. We strongly believe that 16 and 17 year-olds should get the vote, not just in referendums but more generally.

The Countess of Mar (CB): My Lords, would the noble Lord kindly address the House rather than the noble Lord, Lord Foulkes, because we on this side cannot hear what he is saying?

Lord Newby: I apologise. I was saying that, when we discussed this matter previously in respect of the referendum that we have just had, we argued strongly that 16 and 17 year-olds should get the vote, but the details of any future referendum would have to be discussed in the context of a new referendum Bill, which Parliament would have to pass. Perhaps I may make a little progress.

Since Committee, I have had the chance to read the speeches of the noble Baroness, Lady Smith, and the noble Lord, Lord Bridges. The noble Baroness's view was that referenda are best avoided and that the deal at the end of the Brexit process would be far too detailed and complicated to leave to the people to decide. However, she went on that,

“if, as time and negotiations progress, there is genuine evidence of a widespread public demand for a second referendum, that should be listened to”.

I suppose that I should be grateful for that willingness to keep an open mind, but I simply do not think that it goes far enough.

The Minister said that a confirmatory referendum should not be contemplated because trust in politicians was so low, and that,

“There is a sense that Parliament is divorced from day-to-day life”.

Well, we know what the Government's response to that has been: to try to cut Parliament out of the decision-making process altogether and just to take the decisions themselves. Furthermore, the Government have assiduously argued that asking the people to take the final decision on the most important issue facing the country in generations and on which they have already had a say is anti-democratic. That argument simply defies logic.

The Minister then said, quoting the White Paper, that,

“people are coming together to make a success”,—[*Official Report*, 27/2/17; cols. 638-39.]

of Brexit. It is certainly the case that business is taking decisions based on the assumption of Brexit. That helps to explain why banks are moving thousands of staff outside the UK, why Ford is downsizing its plant at Newport and why Herriot-Watt is cutting staff. But this is not exactly “coming together”.

[LORD NEWBY]

Nor are divisions within the country reducing. As I said at Second Reading, the anger of those who wish to leave the EU, which was evident before the referendum, is now being increasingly matched by the anger of those who wish to remain—particularly young people, who see their life chances being jeopardised. I am afraid that there is simply no happy consensus emerging about the alleged sunny uplands of being outside the EU—quite the opposite.

11.15 am

Lord Robathan (Con): The noble Lord was talking about logic. Could he tell us exactly—perhaps he will come on to this—what would happen were the vote to go his way on a second referendum? If it went one way each, would there then be a third referendum, with the best of three?

Lord Newby: My Lords, I am afraid that argument does not do the noble Lord justice. I shall be coming on to the question of the nature of the vote in a moment.

In Committee, the Minister said that a further referendum would jeopardise the “need for certainty” and prayed in aid his concerns for EU citizens living in the UK and UK citizens living in the EU. This really is a desperate argument. The Government have it in their hands to deal with the fears of EU nationals living in the UK now. As we heard in last week’s debate, by doing so it would make it more likely that UK nationals living in the EU receive reciprocal treatment.

The Minister finally talked of a referendum being years ahead on a question we do not know. We are not talking about some point in the far future. A short referendum campaign, no longer than a general election campaign, would hardly impinge on the timetable at all. The Government claim to be confident of getting the negotiations completed within the two-year period, so we know what kind of timeframe we are talking about. As to the issue of what the question will be about—

Lord Dykes (CB): I agree with those final comments, but does the noble Lord not agree that, bearing in mind that we had the Second World War without a referendum, we joined NATO without a referendum, we had the atom bomb without a referendum and we joined the United Nations without a referendum—we had all those things with no referenda—it is the primordial duty of parliamentarians to restore the true deep sovereignty of the British Parliament, mainly in the House of Commons?

Lord Newby: My Lords, on this issue, Parliament sold that pass when it gave the people the decision about whether or not we stay in the EU. Parliament, having given that decision to the people, should accept in logic that the people should retain that decision-making at the end of the process as well as at the start of it. That is the nub of the argument I am making today.

The noble Lord, Lord Robathan, asked what the question would be about. It would be very straightforward: do you prefer the deal done by the Government or to remain within the EU? I found the Minister’s arguments in Committee unconvincing.

Lord Spicer (Con): The noble Lord, Lord Robathan, did not ask the question the noble Lord has just said he asked; he asked whether there might be a third referendum. If the noble Lord cannot give an answer to that, why will there not be a fourth referendum to decide which of the previous three referendums was the real thing?

Lord Newby: I would have thought that that is fairly clear. People voted to start the process and we get to the point where there is a deal. At that point, the people should decide, finally, on whether the deal is acceptable. There would be no need, no point, and no issue for having a third referendum after that second decisive referendum.

Baroness O’Cathain (Con): Surely what we voted on was whether to leave or remain—nothing else.

Lord Newby: My Lords, people voted on 57 varieties of the future of this country. The vast bulk of people, as all the polls show, did not vote to leave the single market; now they are being told they have got to. The idea that the referendum vote reflected the settled will of 52% of the people on what they wanted our future relationship with Europe to be is, in my view, extremely simplistic. It is not borne out by conversations with individuals or the polling evidence. I do not believe that that vote should be the last word.

Lord Cormack (Con): Is it not at least equally simplistic to assume that, after long negotiations and if we have parted company, our European friends and neighbours would wish to have us back?

Lord Newby: My Lords, that will be part of the consideration at the time. All the evidence to date is that our European friends and neighbours are shaking their heads with disbelief at what we are doing and saying, “For goodness’ sake, why are you doing this?”.

Lord Hamilton of Epsom (Con): If all our European neighbours are shaking their heads and wondering why we are leaving, why then should they give us a good deal when they know that it might be overturned by a referendum and the UK might stay in the EU? Therefore, they would have no incentive to give us a good deal at all.

Lord Newby: My Lords, I think that our European friends and neighbours will negotiate in good faith—

Noble Lords: Oh!

Lord Newby: I must say that I find it deeply depressing, when we have been members of the European Union for these decades, that noble Lords on the other side should have such a difficult and unfriendly view of the people with whom we have been co-operating to solve common problems to the best of our abilities and against a background of hostilities in Europe which cost people, across Europe and in this country over the decades and centuries, millions of lives.

I was attempting to say that I found the noble Lord's arguments unconvincing and the arguments for giving the people a final say compelling, and therefore I beg to move.

Lord Warner (CB): My Lords, I have added my name to this amendment and want to make three simple points.

First, the Government have consistently chosen to attribute to the referendum a wider mandate than the result justified. The majority by which people voted to leave the EU was a small one, and they gave no clues about how the withdrawal should be accomplished. The Government know nothing about the views on the withdrawal of the 28% of the electorate who did not vote. Two other groups—British citizens who live in the EU and 16 and 17 year-olds—were not given a chance to vote, and they are now expected just to accept what the Government negotiate. The latter group will be aged over 18 in 2019 when, on present plans, another cohort of 16 and 17 year-olds will have their views similarly ignored. In 2019, the Government will seek to impose, without any say, a withdrawal deal on a majority of the UK's population who either voted to remain or who have given no consent to the terms of a deal that will have a huge impact on their futures.

Secondly, as the Government reveal more of their negotiating approach, the public is showing signs of not liking what it sees. This includes many who voted to leave the EU. Dissent is growing over the decision to rule out membership of the EEA and the customs union, despite the views of much expert opinion and promises given earlier by some politicians. The so-called "best deal for Britain" is looking decidedly second best because of the barriers, financial and administrative, to be erected where none exists at present. The refusal to grant those EU citizens working here a prompt right to stay, despite our economic dependence on them for several decades to come, looks to many like another own goal. The Government's insistence that they can reduce net migration to tens of thousands does not seem to be believed even by the Brexit Secretary, let alone by much of the public. A level of public distrust is building before withdrawal negotiations have even started, and that distrust is being fuelled further by the Government's reluctance to accept the constitutional need for Parliament to be fully involved in the decision-making process on withdrawal—something that I hope we can rectify with Amendment 3.

My third and final point is about whether the Government really want a deal. I have to say that I thought the cat was let out of the bag last week by the Brexit Secretary when he told Cabinet colleagues to prepare for a hard Brexit so that in 2019 the Prime Minister can walk away from the EU negotiations without any deal at all. This will mean diverting large amounts of public expenditure away from our public services to pay for things such as new IT systems for customs declarations, a new immigration system and new air transport agreements. If that is where we end up in 2019, it seems that the public are entitled to have a say in whether that is a future they want to sign up for, irrespective of any narrow referendum vote three years earlier. The Government simply do not know what the majority of people expect will happen and there is growing public concern over the Government's

negotiating approach. That concern could be much greater when we reach 2019. The British people may well want to change their minds when they realise how adversely they will be affected by leaving the EU. We should provide them with an opportunity to do so by giving them the final say, as Amendment 1 would.

Lord Hain (Lab): My Lords, I agree with the arguments of the noble Lord, Lord Warner. I have added my name to this all-party amendment and if a vote is called, I will vote for it. What struck me about the referendum campaign as I knocked on hundreds of doors in the south Wales valleys, which are all traditional working-class Labour strongholds, is that the people who were voting leave were voting against something. They were voting against the European Union, but they were not voting in favour of anything. In part that is because they were not told by the leave leadership what the alternative would be. In fact, the leave leaders were deliberately unclear and disagreed with each other as to what it would mean. Some argued that it would be a future like Albania while others argued that it would be in the single market, which was again denied by others. In that sense, the leave campaign left the alternative deliberately ambiguous and now we are in a position, or we will be in the coming months, where that alternative will become clearer.

In every other referendum, including the Welsh referendum in 1997, which as a Minister I helped to organise and lead on behalf of Welsh Labour, it was very clear that you were voting either to establish a Welsh Assembly or for the status quo. The same applied in Scotland in 1997, as it did to the electoral reform referendum in 2011—you were either voting for the alternative vote or to keep the status quo, the first past the post voting system. It was similar in the Scottish independence referendum held in 2014. Everyone knew that, whichever way they voted, it was absolutely crystal clear what they would get. What was different about the referendum held on 23 June last year is that that was not the case. It was unlike any other referendum we have experienced where the consequences of voting for or against were clear to voters; this was not, so we are in a very different position.

I am not disputing the outcome on 23 June. This is not about re-running that referendum. This is about making sure that the democratic process remains democratic and that voters have the final say on the eventual negotiated outcome. It seems to me that a process which is started by a referendum should be completed by a referendum and voters should have a final say on the deal that is negotiated, if indeed any deal is negotiated, although the Prime Minister has made it clear that perhaps none will be and we will move into an even more uncertain future.

Perhaps I may quote in support of my remarks from the last Labour Party conference. Composite 1, moved by the TSSA union and seconded by Newcastle upon Tyne Central Constituency Labour Party, stated this—by the way, it was passed unanimously. I speak from the Labour Benches and I intend to remain on these Benches in the future, unless anyone questions that. The composite says that it,

"recognises that many of those who voted to leave the EU were expressing dissatisfaction with EU or national policy and were

[LORD HAIN]

voting for change, but believes that unless the final settlement proves to be acceptable then the option of retaining EU membership should be retained. The final settlement should therefore be subject to approval, through Parliament and potentially through a general election, or a referendum”.

That is Labour Party policy and I am speaking in favour of that policy.

11.30 am

I noticed and welcomed that, in her speech in Committee, the Leader of the Opposition, my noble friend Lady Smith of Basildon—I wish she was the Opposition leader, as opposed to our existing leader, but that is a different matter—said that she disagreed with pressing a referendum at this stage but left the question open. If there was a final demand come the final situation, following clarity on what Britain’s future would hold and the deal that had or had not been negotiated, then a referendum could be called at that stage. She left the door open. I welcome that and I understand the Front Bench’s position.

The truth is that the country was split down the middle on 23 June last year. Yes, leave won, there is no disputing that, and I am not seeking to dispute it, but the country was split down the middle. It is still split down the middle—perhaps even more so. This is the most divisive issue of my political generation. It will continue to be divisive. A referendum that will allow people to have the final say is a way of bringing the country together in deciding on that final say. A process started by a referendum should be completed by a referendum. That is why I support the amendment.

Lord Carlile of Berriew (Non-Aff): My Lords, it is always a pleasure to follow the noble Lord, Lord Hain. I remind him of one or two aspects of the Welsh devolution referendum. I was the leader of the Welsh Liberal Democrats from 1992 to 1997 and strongly supported devolution to Wales, as he did. It has worked extremely well. However, I remind him that nobody—certainly no Liberal Democrat I knew in Wales—envisaged that, if we did not like the way devolution was set up, we would have a second referendum. We would have considered that view completely idiotic and unconstitutional.

I have been on this side of the House for only the last two or three months, so my memory of being a Liberal Democrat is reasonably fresh. It is clear in my mind that at the time of the European referendum last year the starting point for Liberal Democrats was as follows: there would be one referendum. It was not suggested for one moment that there would be two, three or even four referenda. I see the logic of what the noble Lord, Lord Robathan, said earlier and think he was rather wrongly put down by the noble Lord, Lord Newby, because he made a perfectly fair point. It was envisaged by Liberal Democrats that there would be one referendum and that it would be in accordance with the law. The law provides that referenda are advisory and subject to parliamentary procedure thereafter. If a referendum result, for good reason, is rejected by Parliament then the result is rejected by Parliament. That is what Liberal Democrats expected—namely, the normal process. We would have heard had it been otherwise.

I want to make two particular points, one tactical and the other constitutional.

Lord Ashdown of Norton-sub-Hamdon (LD): As I remember, to my cost, the noble Lord’s recollection of what positions Liberal Democrats took in the past has not always been entirely accurate. On this issue surely the difference is this. When the Wales referendum was put, it was put on a specific proposition, fully backed up with policy and detail. On this occasion, the proposition put to the British people was to leave or not. They decided to leave. That mandate is clear and the Government are entitled to enact it. But, unless the noble Lord might like to suggest what the mandate is for the particular form of exit the Government choose, there is no mandate to leave the single market, nor to leave the common customs union. Therefore, if there is no mandate for that, why have the Government chosen to use it and follow the most hard-line Brexit possible? If the noble Lord believes that there is a mandate for that, will he describe what it is, given that the majority of the people in this country in opinion polls have made it clear that they do not support this and the Conservative—

Noble Lords: Oh!

Lord Taylor of Holbeach (Con): I do not wish to stifle debate but the noble Lord should know that we are on Report, and the opportunity to interrupt a speaker is not an opportunity to make a speech.

Lord Carlile of Berriew: My Lords, as I think the noble Lord, Lord Ashdown, knows, I have enormous admiration for his skill and ability. He is at his best when he makes points with simplicity, but that point was not made with simplicity. I am totally confused by what he sought to say and I reject his argument completely. He knows perfectly well, as all the Liberal Democrats know, that what was put to the country was a referendum in the normal constitutional and legal form. No Liberal Democrat, least of all the noble Lord, Lord Ashdown—perhaps he was too busy eating his hat as a result of his comments on television during the general election—suggested for one moment that there was something different about the referendum that we faced last June. However, I am sure that noble Lords will want me to move on.

The truth of the matter is that we are facing this proposal for the second time—now rather better drafted, thanks to the intervention of the noble Lord, Lord Grocott—because unfortunately the Liberal Democrats do not like the result of last June’s referendum. Nor did I, but my advice to your Lordships’ House, for what it is worth, is: be careful what you wish for. The Liberal Democrats’ record on referenda ain’t so good. Noble Lords will recall the alternative vote referendum, as well as what happened in June. Indeed, I would say that Amendment 1 seeks to compress a huge quantity of extremely complicated issues into a simplistic binary question. It just will not work, and the Government do not need this kind of patronising advice in order to get on with the negotiations.

I now turn briefly to the constitutional issue. The noble Lord, Lord Newby, failed to answer the challenge from the noble Lord, Lord Grocott, as to whether it

would be a binding or an advisory referendum. He sought to answer it by saying that he thought that, on balance, it would be a binding referendum. If that is the basis of this amendment, it is ridiculous, because there is no provision in the law for a binding referendum.

The whole debate we have been having in your Lordships' House has been about how much respect we should pay to the referendum that took place last June. My answer is that we should pay a lot of respect to it. I do not want to leave the European Union, but I recognise that the referendum has taken us to Article 50, which we must get on with triggering as soon as possible. The Government know perfectly well what they have to do. They know that, if they produce a completely unsatisfactory result, they will face a Motion of no confidence in the other place and will fall. We can well do without messing around with the arrangements which should now be in action.

Baroness Wheatcroft (Con): My Lords, I have no wish to get involved in Liberal Democrat internecine warfare but I put my name to this amendment and I support many of the speeches that have been made in support of it.

My noble friend the Minister has done a very skilful job in getting the Bill to this stage in this House, but in Committee he told us to be in no doubt that this country was leaving the EU—no ifs, no buts, and with no idea of the terms. I admire determination but not when it is blind to changing circumstances. I cannot see why any Government would be so adamant about a course of action with no knowledge of the circumstances in which they might take that course.

We do not know what the world will look like in two years' time. Economically and politically it is at some of the most uncertain stages that I have ever seen in my lifetime. In two years' time, the EU, the world and our economy could look very different—and, I suspect, not for the better. At that stage, we will be able to look at the deal that our Government have negotiated or, as others have pointed out, at the no deal that they have been handed. Although I am not an advocate of government by referenda, in this situation, having started the process with a referendum, as the noble Lord, Lord Hain, pointed out, it seems to me that the only sensible way to bring the process to an end is to put the terms to the public. I have listened to the arguments of the noble Lord, Lord Carlile, and I do not dismiss the patronising advice that he gave the Liberal Democrats or those supporting this amendment, but I believe that the public need to see what is on offer.

During the course of this Bill, we have heard that, whatever people voted for on 23 June last year, it was not to get poorer. I cannot see that in the end the Government will be presenting them with a deal which does not mean that they get poorer. I believe that at that stage they should have a chance to vote on whether, having seen the future, it is the future that they really want.

Lord Morgan (Lab): My Lords, there was a previous referendum on Europe in 1975. On that occasion, it was not taken as holy writ and as something that it was almost obscene to vote against. On the contrary,

in 1979 the Labour Party said that it would ignore and vote against the referendum result—there were no difficulties there—and so did a very large number of Conservatives, headed by Mr Enoch Powell. Therefore, I cannot see why the advisory referendum of 1975, where the majority was 33%, should somehow be treated so casually, whereas this referendum, with a majority of, I think, 3.8%, is somehow treated reverentially, with the view that we should all genuflect before the will of the people.

I link this amendment with Amendment 3, which I shall also support. Amendment 3 confirms the view so wisely put by the Supreme Court that sovereignty in this country resides in the two Houses of Parliament. That was the view taken and it is the view that will be proclaimed in Amendment 3. Referendums are always advisory—they are to help Parliament in reaching a view. It is best to have an informed referendum. The last one was not in the least informed; it was a process of serial lying and deception, which added nothing to public understanding. As the facts emerge, I think that public understanding will change substantially.

We need to ask the view of the people again to assist Parliament when the facts are known—when the car workers at Vauxhall, the steel workers at Port Talbot and the car workers at Sunderland will be forming a view on employment, trade and Britain's economic relationships with a wider world. It would also be when we have had an opportunity to have the views of young people, deprived of voting this time and whose futures are imperilled by this ill-informed, almost non-informed, decision.

Another referendum will not be taken in a one-world universe; it will be taken when the views on Brexit of those other 27 countries, views which are quite important, are also known. As I believe was the Labour Party in 1979 and 1983 in respect of the previous referendum, as well as a growing number of Conservatives, I am in favour of regarding the referendum that we had in June last year as ill-informed, or almost uninformed, guidance. I would prefer informed guidance and that is why I shall vote for this amendment.

11.45 am

The Archbishop of Canterbury: My Lords, I apologise to the House for not having been present at earlier stages of the Bill, for medical reasons beyond my control. The benefit for your Lordships is that I will not be on my feet for long.

I was disappointed to miss the excellent debates at early stages. What unites us in this House, across all Benches, is how seriously we take our role as scrutineers. On our best days, we approach each question not on the basis of tribe or loyalty, but on the strength of the argument and how it might work for the common good of the whole country. On these Benches, we are not a party, nor do we follow a Whip. Today will see a significant number of Bishops appearing, not because we hold ourselves out as constitutional experts but because we are deeply embedded in every local community in England. We may dress the same, but we have independent minds, as anyone observing church politics recently will be well aware. So I speak today not in a corporate but in a personal capacity.

[THE ARCHBISHOP OF CANTERBURY]

The referendum campaign and its aftermath revealed deep divisions in our society, as the noble Lord, Lord Hain, rightly commented—like him, this feels like the most divided country that I have lived in in my lifetime. Whatever the outcome of the next two years, our nation's future, particularly for the most vulnerable, will be profoundly damaged if we arrive in 2019 even more divided, without a common vision to confront the opportunities and challenges before us. To meet these opportunities and challenges in every aspect of policy and every level of society, we must find a level of national reconciliation. So how we conduct this process is as important as the outcome. It would be dangerous, unwise and wrong to reduce the substance of the terms on which we exit the European Union to the result of a binary yes/no choice taken last summer, and the Government should avoid any inclination to oversimplify the outcome of the most complex peacetime negotiations probably ever to have been undertaken.

But neither is the complexity of a further referendum a good way of dealing with the process at the end of negotiation. It will add to our divisions; it will deepen the bitterness. It is not democratic; it is unwise. Even if circumstances change, as the noble Baroness, Lady Wheatcroft, rightly said they were likely to do—even if they change drastically—a dangerous and overcomplicated process is the result of a referendum.

It is beyond doubt that those bringing this amendment and others before this House today, and last week in Committee, are moved by legitimate and deeply principled concerns for our country. To challenge that, as has been done in the press, is entirely wrong. Similarly, those who have argued against amending the Bill have done so not from a deficit of care but from a concern for process and a legitimate desire to reach the best outcome.

Division of our country is not a mere fact to be navigated around like a rock in a stream but something to be healed, to be challenged and to be changed. During many years in which I have worked in countries in the midst of deep division—sometimes armed, sometimes merely civil—I have seen two cardinal errors made in seeking to bring reconciliation and building common vision. The first is to complicate the process; the second is artificially to simplify complicated substance. On this amendment, I fear we risk making the process too complex and the substance too simple. Although I fully understand the good intentions of those who tabled the amendment, for these reasons I will be unable to support it.

Lord Wigley (PC): My Lords, I support Amendment 1, but I believe we have Amendment 1 and Amendment 3 in the wrong order. If we pass Amendment 3, as I suspect may well happen, that would give Parliament the final say, which is certainly better than allowing the Government to walk roughshod over Parliament and decide for themselves. We cannot ignore the fact that the people, regrettably in my view, voted to leave the EU, although in doing so they did not have a clear view as to the alternative they were backing. If Parliament—or the Government for that matter—has the final say and the people who voted out last June do not like it, we could easily escalate the situation into an almighty crisis. That could be avoided by a confirmatory referendum.

Let us imagine over the next two years that negotiations get nowhere and the Government resort to the WTO basis with no preferential access to the single market. Car factories start closing, as the noble Lord, Lord Morgan, mentioned. Financial services move to Paris or Frankfurt. The EU insists on a €30 billion payment, or whatever, from the UK. EU nationals start quitting key posts in the NHS and expats find that they have to start paying for their healthcare in the countries they live in, or lose pension increments that arise from the UK. At that point, many who voted out will start bleating, “This isn't what we voted for”. At that point, the only way for the Government to hold their line is to be able to tell them, “Okay, you will get the final say, so let's see what happens with the final package”. It is therefore in the Government's best interest to have a confirmatory referendum. I believe that is a very good reason for backing the amendment.

Baroness Falkner of Margravine (LD): My Lords, I am unable to support the amendment. I say so with a heavy heart, but I am extremely conscious of the economic consequences, not least the ones the noble Lord just mentioned, of prolonged uncertainty. I will briefly sum up why. We have had uncertainty in this country from when the then Prime Minister made his Bloomberg speech, but more so since he started his negotiation. The negotiation took 14 months. We have had the referendum. That took four months to organise. So why are there noble Lords here who believe that it could be done in the space of an election campaign? The Electoral Commission's role is such that it needs to take its time. We would probably run into a referendum around October 2019. If the result was that the country did not like what it got, there would have to be another negotiation, either to revoke Article 50 or to change the terms. That would bring us into the general election. If there is going to be a general election in 2020 anyway, there seems to me little value in having a referendum in early 2020 or late 2019.

That is just the chronology. To imagine that our EU partners would hang around from 2015 to 2020 without making provisional plans for a 12.5% hole in their budget, or for a potentially dramatic change in the relationship of 65 million people with the single market, is somehow not to understand even the EU's position. I say that advisedly. We have seen HSBC move 1,000 jobs. We have heard Mario Draghi telling us that euro clearing would have to move. We have heard the Irish Government tell us that they are preparing for companies to move their office space. We know that 1.1 million people are dependent on the financial services sector, and their jobs are in line at the moment. The idea that business will hang around for a further four years was rebutted in the evidence we took for the report of the EU Financial Affairs Sub-committee on Brexit and its impact on financial services. We were told in terms that uncertainty was extremely damaging to the sector and that people therefore wished to have a transition period.

Let me conclude with one or two points that relate directly to some of the remarks made by speakers in this debate. The noble Lord, Lord Hain, said that a process which is started by a referendum should end with one. I accept the logic of that. The process started

with a referendum in 1975. Until last year, the people of this country who are 60 years old or under had not had a say in our future direction. I have to admit with a heavy heart that they did not go in the direction I wanted them to go in, which was to remain, but they made their choice. So the process did start with a referendum and it will end with one. I suspect that what the noble Lord is alluding to is a third and potentially a fourth referendum.

The noble Baroness, Lady Wheatcroft, said that we do not know what the world will look like in a couple of years' time, and I agree with her completely. That is why I look forward to debating the amendments to come about whether Parliament should make an assessment.

I am in a place where I think that referendums are a dangerous tool. Direct democracy, in my opinion, is dangerous. Referendums should be used with great care and clarity. We cannot explain a complicated negotiation result in a referendum, as Mr Cameron found out to his cost.

Lord Robathan: My Lords, I agree entirely with the noble Baroness that referendums are a bad idea, and I am surprised that everyone else in the Chamber does not agree, especially those on the Liberal Democrat Benches.

Nevertheless, we had a referendum and, as the most reverend Primate said, it was a binary choice: yes or no. People knew what they were voting for, and they voted to leave the EU. It is unbecoming and, if I may say so, patronising of people to attribute to the individuals of this nation the reasons for how they voted. Personally, in 1975 I voted to stay in and some 40 years later, with my experience of the EU, I voted to take back control of this country and put it in the hands of the British people. That is what I have done, and that is what I suspect that most people are expecting from us. It is patronising to suggest that people did not know what they were voting for.

The logic to which the noble Lord, Lord Newby, referred is this: what would happen if in a second referendum the people of this country rejected the Government's negotiating position? No one has an answer to that, so I would say that there must be a third referendum, but I would not particularly want to get into that.

Finally, perhaps I may direct my friends on the Liberal Democrat Benches—I count them as friends and I hope that they count me as a friend from time to time—to an article published in the *Times* yesterday by a man called Edward Lucas, who outed himself as a Liberal Democrat—I did not realise he was until then—which suggested that this is part of reinvigorating the fortunes of the Liberal Democrats. I would say the contrary. The noble Lord, Lord Newby, suggested that there might be corrosive and justifiable anger, but the great British people have had their referendum and they do not want another one. So we should just ignore this amendment and carry on.

Lord Foulkes of Cumnock: My Lords, I came into this Chamber genuinely unsure about which way to vote and whether to support the amendment. My noble friend Lord Grocott may laugh, but it is a genuine feeling.

He and I have known each other for a long time and I hope he will accept that, in relation to this particular amendment, it is a genuine feeling. I support Amendment 3 very strongly indeed.

I am not sure that the debate has helped me, because we have heard eloquent speeches on both sides, by my noble friend Lord Morgan and by the most reverend Primate the Archbishop of Canterbury. I intervened on the noble Lord, Lord Newby, because of my reservations about the referendum itself: the fact that 16 and 17 year-olds were not allowed to vote; that EU citizens were not allowed to vote; that there was no threshold; and the uncertainty about whether it was advisory or mandatory. All of that created a huge problem.

Noon

Lord Morgan: It was an advisory referendum. There is no doubt about that.

Lord Foulkes of Cumnock: I agree. I share that view. However, some people tried to sow confusion and indicated that it had to be accepted. I say to my noble friend Lord Grocott that this is why we need to look carefully at what happens at the end of this long and complicated process.

As I say, I was not sure how to vote, but I am now convinced. The noble Lord, Lord Newby, answered my question. The form of the referendum, its timing, the question, the franchise and all of the other matters will be dealt with in a Bill which will come before this Parliament.

I also support Amendment 3 about parliamentary approval of any deal that is agreed. I envisage—I do not know whether my colleagues agree—that Parliament would then put the proposal to the referendum. That would be the question. So at that time, in that referendum, we would know what we were voting for, unlike the previous referendum. That has convinced me that the way forward is to combine the parliamentary consideration of the deal that is reached and come to some conclusion, and then put it to the people because they will have considered it already. That is the first thing that has convinced me to support this amendment.

The second thing is that I have become increasingly concerned at the tribalism of the Tories on this issue. They are sitting there supporting some kind of concerted campaign to push through the kind of hard Brexit that they want at any cost—and I mean at any cost. The more they do that, and the more they sit there jeering at our partners in Europe, dismissing them as if they were irrelevant in relation to this, the more I will be convinced that we need to make sure that their kind of hard Brexit—

Lord Hughes of Woodside (Lab): Does my noble friend agree, given what happened in Scotland, that every referendum is greeted with, “We will have to have another one because we do not like the result”? What happens if the second referendum is closer than the last one? Will there be a third referendum and a fourth referendum? It is an abrogation of responsibility.

Lord Foulkes of Cumnock: No. As my noble friend Lord Hain rightly said, in Scotland and Wales what was put to the people was absolutely clear. It was a specific proposal—there was no doubt about it—to set

[LORD FOULKES OF CUMNOCK]
up a Parliament for Scotland and a Parliament for Wales. What we put at the last referendum was not as clear. We did not know the way forward; we did not know the options before us.

Lord Tyler (LD): Perhaps I may help. I think I am right in saying that all previous referenda have always been confirmatory. They agreed to what Parliament set before the nation. That was not the case, of course, in June of last year.

Lord Foulkes of Cumnock: I find myself, unusually, agreeing with the noble Lord, Lord Tyler. Having seen him on television recently, he has taken me by surprise. They have been confirmative and that is what we are talking about in this referendum. I think the noble Lord, Lord Newby, agrees that it will be a confirmatory referendum after Parliament has agreed or otherwise the proposal that comes from the Government in relation to Europe. On that basis I will back his amendment.

Lord Hamilton of Epsom: My Lords, there are two scenarios vis-à-vis the attitude of the EU towards our leaving it. One is that it will be absolutely delighted that we are going. A thorn will have come out of its side once the UK has departed and it will be able to proceed with the federal dream it has always had. Therefore, it will want to quickly get on with an agreement and say goodbye to us. The other scenario is that the EU will regard the UK leaving as a hole in the head. As the noble Baroness, Lady Falkner, said, it will present it with an enormous budgetary problem. It will probably be contagious and will lead to other countries in the EU wanting to leave as well. The noble Lord, Lord Newby, says that we must trust the EU. Well, hold on. The people who run the EU are not renowned for being overtly democratic. Let us face it: they put the whole objective of the federal dream above all else. Therefore, they will say that we must go to any lengths that we possibly can to ensure that the United Kingdom stays in the EU.

How do you do that? You offer the most appalling deal known to man. Then, knowing that there is going to be a referendum, if this amendment is passed, you can confidently reckon that the British people will vote against that deal and the United Kingdom will stay in the EU. Does that not completely undermine the Government's negotiating position once Article 50 has been triggered? This amendment should be opposed absolutely ruthlessly.

Lord Taverne (LD): My Lords, there is one other important reason why the final decision on Brexit should be a national referendum, not the approval of Parliament: Parliament has changed. We have abandoned the main principle that we are a parliamentary democracy and that MPs are representatives, not delegates. Instead, we have adopted the doctrine that the will of the people must always prevail. That is the favourite doctrine of dictators and autocrats throughout history. At Second Reading I gave examples, which I will not repeat now. In that debate the noble Lord, Lord Lipsey, pointed out that four-fifths of the MPs who voted to trigger Article 50 had voted to remain and believed that

Brexit would be against the national interest. The exercise of their own judgment, based on weighing up the argument and evidence in debate, has given way to the new fashion for populist political correctness. The inescapable logic of this approach means that if MPs, at the end of negotiations, came to the conclusion that the result would be equivalent to falling over a cliff, they would still feel duty bound because of the referendum of 23 June to act like lemmings.

Burke has been ditched; Rousseau rules instead. I have always been a devotee of Burke. I once fought a by-election on his principles. In 1972, I was one of the 69 Labour Members of Parliament led by Roy Jenkins who voted for British entry into the European Community against a three-line Whip. Without our vote, Britain would not have joined. My local, left-wing Labour Party in Lincoln was passionately anti-Europe. It told me that if I voted with the Tories, against the party's three-line Whip, it would deselect me. I did, and it did. So I resigned and fought a by-election in March 1973 as an independent social democrat. The real issue in that by-election was not Europe, but Burke. I explained my reasons at a mass meeting held in Lincoln. I said that I had always been pro-Europe and as an 18 year-old student—some 70 years ago—I joined a club called the Strasbourg club, which argued that Britain should share some of its sovereignty with other European countries to promote peace and prosperity, and that I was not going to change my views because my party told me to. I was supported at this mass meeting by a famous journalist at the time, Bernard Levin, who put the issue quite simply. He said that the choice in Lincoln was between Dick Taverne and a Dictaphone. I won with an overwhelming majority over Labour and the Conservatives, and it was Burke wot won it.

Burke is popular because people like those who stick to their guns. His championship of MPs as representatives, not delegates, has been a basic part of the strength of our parliamentary system. If referendums determined our laws, we would probably still have the death penalty and flogging in prisons. What would be the point of parliamentary debates if MPs had already pledged their vote irrespective of all arguments?

It may be asked why I support the Liberal Democrat amendment in favour of a new referendum. My noble friend Lord Newby gave a very good answer to that. A referendum is one way in which people would have a chance to change their mind. If the Government's process is followed, there would be no real choice because the only one would be either to accept or reject the end of the negotiations, whatever their result.

I believe that the decision to leave the single market and the customs union makes a hard Brexit almost inevitable. We will not get a special deal for key industries or the right of our service companies to operate in their biggest market. Mr Trump will not abandon his claim for "America first" and we will face a more protectionist world, not a free trade bonanza. We are in real danger of returning to the nationalism and protectionism of the 1930s. If we leave Europe, we will find it increasingly necessary to rely on Mr Trump's America: a future of Mrs May and Donald Trump walking hand in hand. We should not travel one miserable inch along that fearsome road.

Baroness Kidron (CB): My Lords, at Second Reading I set out an argument for a second referendum based on the principle of informed consent, a standard by which individuals are truly given and granted their opinion. I am not going to repeat that argument now, but it remains my primary reason for supporting this amendment.

Much of what I was going to say has been said, but I wish to make one brief point. We are being asked to have faith in the Government and their officers to secure this deal, but the reason given last week for not securing the fate of EU nationals was not that the Government were not willing, but that a small number of the remaining 27 would not play ball. Similarly, we have already been asked to accept that the Government cannot deliver the single market because the 27 have a red line on free movement. As the negotiation moves on from its visible red lines into the hundreds of thousands of details that will constitute this divorce settlement, the 27 will have a multitude of issues on which they do not wish to play ball. Yet by the Government's own admission they have to accept, or are currently accepting, whatever is offered by the least interested of those 27 nations.

Meaningful parliamentary oversight and a mechanism by which the much-quoted "will of the people" can be tested are not automatic roadblocks to withdrawal; they are merely an insurance policy against a lousy deal.

Lord Lexden (Con): My Lords—

Baroness Kennedy of The Shaws (Lab): My Lords—

Lord Taylor of Holbeach: My Lords, we will hear from the Conservative Benches and then from the Labour Benches, and then from the noble Lord, Lord Pearson.

Lord Lexden: My Lords, my simple point is this. Parliament will pronounce for or against the results of the Government's negotiations to withdraw from the European Union in due course. It may possibly be that in 2019 or whenever the negotiations are completed, Parliament will feel that it would be wise to test the opinion of the country through another referendum, but that should be determined at that final stage and in those circumstances, not now. It would be wholly contrary to our constitution and traditions to make a binding provision for another referendum at this early point.

Baroness Kennedy of The Shaws: My Lords, the Government seem confident that they can get a good deal, or, that not being the case and they get a bad deal, that they can walk away and WTO trading arrangements will be good enough for us to operate effectively in the world. If that is the position held by the Government, why should they be in any doubt that a referendum would do anything other than give them an even greater majority in support of what they finally resolve?

12.15 pm

I support the amendment for a number of reasons. The most pressing is that, like probably everyone in this House, I have some regret about our greater use of referendums. The strength of representative democracy

is that it gives us the opportunity of greater, more nuanced understanding of issues, which is why we delegate to our representatives the matter of governing on our behalf. If at the end of all this the sense in Parliament was that the deal on offer was not good, that the WTO alternative was not good at all and that we wanted to look again at whether remaining might not be an option, it would be quite difficult for us to say that the people should not have their voice, given that they started the whole process. That is why I am persuaded that having a referendum is the only thing that one could do at the end. Again, it would be advisory and Parliament would say, "But we have to listen to what the people's view is".

Like the noble Baroness, Lady Wheatcroft, I take the view that a lot is going to happen in the next two years, not least that people will start seeing what the implications of this are. I want to remind us of the state of our National Health Service and the fact that we had people on the street, many of them working in the National Health Service, saying, "This can't go on" and that the need for resource was essential. We have a complete crisis when it comes to the care of our elderly, which needs money, yet we will see huge tranches of money spent on trade negotiators, on seeking to reinstate immigration processes and on any number of things. I think that as people recognise that our public services will see ever greater depletion in the shadows of this great Brexit movement they will ask, "Is this really what we wanted?"

It goes back to that question: did people vote to become poorer? The other night, I sat with two very distinguished businessmen whose names will be on all of your Lordships' lips. They said that, by 2025, the people of Great Britain—the middle classes as well as the working classes—will be 30% poorer. Let us just think about that. They will be 30% less well off. We are lying to people if we do not tell them the truth about it. But people will see and they have to be given the opportunity of seeing, and I will not have lectures from anybody whose business interests are all in South Africa and who are therefore not concerned about what happens here. I therefore press on this House—

Lord Taylor of Holbeach: The noble Baroness is drifting to a Second Reading speech. A specific proposal is before this House: the amendment proposed by the noble Lord, Lord Newby. I would be grateful if noble Lords could be brief—a lot of people want to speak—and address the substance of that amendment, not other aspects to which they may wish to draw the attention of the House.

Baroness Kennedy of The Shaws: I certainly will not continue to make a speech, but I want to say that the reason why people are asking that this matter eventually goes to the people is that we started with the people. Parliament has said, "We are bound by the fact that people have given us a direction of travel". When it comes to the end of that journey, they have the right to be heard too.

Lord Pearson of Rannoch (UKIP): My Lords, I regret that I did not speak at Second Reading or in Committee, owing to previous engagements. I want to

[LORD PEARSON OF RANNOCH]

speak briefly on this amendment, as it reveals what noble remainers really want: they want a second referendum on the result of the Article 50 negotiations in the hope that the people will change their mind.

I hope to spend a minute or two trying to persuade supporters of the amendment why they are wrong to do so, and to do that one has to look at the bigger picture. What I cannot understand, and what beats me—

Lord Taylor of Holbeach: I am sorry. The noble Lord could have made a Second Reading speech at Second Reading. I would be grateful if he addressed the substance of the amendment.

Lord Pearson of Rannoch: My Lords, if the noble Lord wants me to deal with that, I thought I had advice that, as it was a two-day debate and I was not able to be here for the opening speeches on the first day, I could speak on the second. I make no complaint. Owing to a prior engagement, I could not get to the opening speeches and that is why I did not speak. That is really not important or relevant to this debate.

As I was saying, what beats me is why so many noble Lords still fervently believe that the European Union, which is the project of European integration, and its single market, are somehow good things—that is why they support this amendment—when clearly they are not. They have become bad things. As I have said many times in the House over the past 26 years, the project of European integration was honourable when it started: it was to get rid of war in Europe and all the rest of it. As Jean Monnet said in 1956—

Lord Taylor of Holbeach: The noble Lord is very courteous. He listens to what I say but chooses to ignore it. I would be grateful if he addressed the subject of the amendment and then let other noble Lords have a say.

Lord Pearson of Rannoch: My Lords, I am quite happy to sit down, but I am trying to persuade supporters of this amendment that they are wrong, because the whole project has gone wrong. Is that not something that noble Lords wish to hear?

Noble Lords: No!

Lord Pearson of Rannoch: Okay, I shall skip over why the single market is a bad thing, I shall skip over the strength of our hand—because they have so many more jobs selling things to us than we do to them—and I shall skip over the fact that noble remainers who support this amendment still think that somehow EU money exists, when it does not. After every penny that the European Union gives us, we are still left with £10 billion a year net, which is—I will give noble Lords a new statistic—the salary of 1,000 nurses every day, at £27,500 a year. Whatever happens, we will go on trading with our friends in Europe, because they need it more than we do.

I end with a word of advice for the Liberal Democrats. I fancy that they are considering supporting this amendment. Their very own policy from the election

before last—I do not know what it is now because it is difficult to follow Liberal Democrat policy—was that membership of this House should grow to represent and reflect the votes in the previous general election. In the last election, the Liberal Democrats got 5% of the vote. That should give them 43 seats in this House. Instead, they have 102. I will pass over in silence the fact that we got 8% of the vote, which should give us 69 seats, and we have precisely three. More seriously, however, if the Liberal Democrats use this dishonest advantage—by their own standards and manifesto—to vote down the will of the British people and the House of Commons, they will reveal their contempt for democracy and do your Lordships' House no good at all.

Lord Kerr of Kinlochard (CB): My Lords, I disagree with the amendment because I see two defects in it, one of which was highlighted by the noble Lord, Lord Lexden, a moment ago. It purports to tie the hands of Parliament—which it should not do—unlike Amendment 3, which we will debate later today, which gives Parliament the certainty of having more options. The second defect is that the amendment does not address the increasing possibility that there will be no settlement, no agreement, and that we fall out.

What I do not like in this debate—I did not like it at Second Reading or in Committee—is the suggestion that in some way it would be illegitimate for the country to think again. There is a frog chorus behind the Minister. Every time he says, “It was decided”, the chorus behind him chants, “Koax-koax, decided, decided”. This is the lemming position. No matter how awful the deal turns out to be, no matter how unlike the promises of the leavers the eventual deal turns out to be, no matter how steep the cliff and stormy the sea, we must go over. There is no time to think again; there is no chance of turning back on any decision.

I find that strangely reminiscent of the Moscow I worked in in 1968, when Soviet foreign policy ran on the Brezhnev doctrine. The House will remember the Brezhnev doctrine, which said that once you have voted Communists in, you cannot vote Communists out. It was a very good doctrine for running central and eastern Europe. That seems to be the position of most of the government Back-Benches today.

I hope that the noble Lord, Lord Carlile of Berriew, will consult his new right honourable friend Mr David Davis, the Secretary of State for Exiting the European Union, and will come to the conclusion that Mr Davis was right when he said that if a democracy cannot think again, cannot change its mind, it is no longer a democracy. I rather agree.

Lord Faulks (Con): My Lords, I do not think I am a frog or a lemming, but I was one of the Ministers at the Dispatch Box when we took the European Union Referendum Bill through this House and I think we should have regard to what we decided in Parliament in that Act. A number of amendments were tabled but, I say to the noble Lord, Lord Foulkes, there was no amendment about thresholds, no amendment to nuance the simple question that was posed, no amendment to say that we would only leave if we stayed within the single market, and, in particular, no amendment saying

that there would be a second referendum. Why not? Was it because the alternatives were too complicated? There were only two outcomes of the referendum: either we remained or we left. Was it political negligence by parliamentarians not to table these amendments, or were they content with the Bill and its binary question?

We are having this debate contrary to what was generally considered to be the law, which was that it was the right of the Government, exercising the royal prerogative—

Lord Foulkes of Cumnock: These amendments were tabled in the previous Bill introduced by the noble Lord, Lord Dobbs, as a surrogate for the Government. If they were tabled and defeated or withdrawn on that occasion, some people may have felt that there was no point in raising them at a later stage.

Lord Faulks: I find that remarkably unpersuasive.

As a result of the decision of the people, most thought that there was a power for the Government to negotiate and do the best deal possible. We then had the Gina Miller case, but there is nothing in the Supreme Court judgment, in my view, which either expressly or impliedly endorses the amendment advanced by the noble Lord, Lord Newby.

This is opportunism motivated by the perfectly understandable view, which I share, that we should not have voted to leave the EU. However, if we vote for this amendment, we will be ignoring what we decided in the European Union Referendum Act, we will be ignoring the vote and we will be ignoring the House of Commons. It is time for a little constitutional modesty on our part.

12.30 pm

Lord Grocott: My Lords, it is a pleasure to follow the noble Lord, Lord Faulks, because he, like me, sat through most of the debate that resulted in this House, without opposition, deciding that we should have a referendum to determine whether to remain in or leave the European Union. I say that perhaps particularly to the noble Lord, Lord Taverne, who expressed his strong opposition to referendums. I respectfully say to him that, if that is the case, he should have opposed in this House the Bill that established the referendum mechanism to decide whether we should leave or remain.

I want to make an observation and will then specifically address the amendment. The observation is simply that there has been an awful lot of rerunning of the referendum argument in the discussion so far. I always want to urge this House, above all institutions that I have been able to be involved in, not to ascribe motives to people in elections and to assume that we understand precisely why they voted in the way they did, and then to challenge them somehow on the basis of whether they made what we consider to be the right or wrong decision. Perhaps I have a considerable qualification in this regard in that I have lost an awful lot of elections over the course of my career. Although the motive is always to say that your opponents lied or misled people, or that the people were not bright enough to make the decision, my advice, when they

eventually elect you, is to acknowledge that they are a pretty shrewd electorate. That is how we all react to success and failure in elections.

Specifically on the amendment, we still have not had a reply on whether such a referendum would be advisory. I respectfully need to point out to the noble Lords who have spoken that one or two mistakes have been made in arguing this case. I think that it was my noble friend Lord Morgan who said that all referendums are advisory. That simply is not right. The referendum that we held on whether we should have AV or first past the post was based on legislation that this House had passed in the form of the Bill for the AV referendum. That laid out precisely the system that the electorate would put into place, should the referendum be passed.

Lord Morgan: I apologise for interrupting my noble friend. With regard to that referendum and all referendums, this is a constitution based on parliamentary sovereignty. Unlike France, it is not based on popular sovereignty.

Lord Grocott: My noble friend is absolutely right but in this case the Act of Parliament that this House passed to establish the referendum included precisely the mechanism for the alternative vote election that would come into place should that referendum be carried.

Lord Lang of Monkton (Con): My Lords, I am in no doubt that the referendum of 23 June was technically advisory but the Government of the day and the leaders of the campaigns had made it absolutely clear that the Government would implement its findings without qualification. It also featured in the governing party's manifesto in the last general election.

Lord Grocott: I do not disagree with that at all. The debate when the referendum campaign was under way was clearly on the basis that this was a once-in-a-lifetime decision, and we need to acknowledge that as well.

My main points are in respect of the validity of the decision and whether it should be replaced with a second referendum. As the noble Lord, Lord Faulks, said, at the time of the referendum it was never said that there would be a second referendum. I hate to disagree with my noble friend Lord Foulkes—particularly not on matters relating to Scotland; I have never done so in the long parliamentary careers that we have shared—but I think he said, and he will no doubt intervene and I will be happy to give way if I am wrong, that the choice in the Scottish referendum was absolutely clear. However, it did not come over like that in the way that it was reported in England. There appeared to be a great lack of clarity about things such as the currency that would be used and whether an independent Scotland could reapply, or would successfully be able to reapply, to join the European Union. There is a whole host of uncertainties around all referendums, and I have never heard of one where there were no uncertainties or difficulties to address.

That brings me to the only really substantial point that I think has not been made so far: that somehow or other—this, according to its proponents, is the

[LORD GROCOTT]
 whole basis of having a second referendum—circumstances will change in a very fundamental way, making it absolutely essential that we again test the opinion of the British people. I cannot avoid a trip down memory lane at this point because this is not the first referendum on whether we should be a member of the European Union; it is the second. The first one was held in 1975 and the overwhelming decision was to remain in the European Union.

A noble Lord: Can I say—

Lord Grocott: Please can I finish my point? A lot of people said thereafter that perhaps we should have another referendum, and of course we did. The only problem from the perspective of those who voted no in the first one in 1975 was that we had to wait 41 years to be given the choice. Several generations of 16, 17 and 18 year-olds had become pensioners, so on that occasion there was a long gap between the decision taken in the first referendum and the second one, whereas it is proposed that there should be two or perhaps three years in the gap between referendums on this occasion.

The point I want to make is this: no one voting in 1975 could possibly have anticipated the consequences of a yes vote in that referendum. It was not the European Union then because it has changed its name several times since. It was the Common Market that people voted for or against in 1975.

A noble Lord: It was the European Community.

Lord Grocott: I am sorry and I stand corrected. It was the Common Market, then the European Community, then the European Union and no doubt it will be something else in due course. The people who voted yes in the 1975 referendum did not know that it would triple in size over the ensuing 41 years, that qualified majority voting on all related matters would develop and that we would get a European foreign ministry, 150-odd offices of the European Union around the country, a European foreign affairs spokesman and so on. I am not necessarily criticising that, but I would say that no one who voted yes in 1975 could conceivably have thought that that would be the way in which the European Union would develop. Correct me if I am wrong, but do I recall anyone who voted yes in 1975 saying, “No, the circumstances have changed dramatically and we need to have another referendum to check whether the people agree with what they voted for”? The answer of course is no, that did not happen, and we waited 41 years between the first referendum and the second.

If we adopt the same principle in this respect, we shall have another referendum in 2057. I am a generous man looking for compromises and I think that would be an unreasonable gap between this referendum and any subsequent one. However, it is inevitable that after any decision, whether in a referendum or at a general election, some people will be dissatisfied with the result and will want to have it checked—correction, they will want to have it reversed. That is precisely the motive behind this proposal for a second referendum—

unacknowledged in the Bill and unacknowledged during the referendum debate, and now being demanded as an entirely novel proposal. I hope that the House will agree with me that that is not acceptable.

Lord Taylor of Holbeach: My Lords, I think that it would be sensible to hear from the Front Benches now. Perhaps we may hear from the Labour Front Bench and then the Minister.

Baroness Smith of Basildon (Lab): My Lords, this has been an interesting and long debate on a short amendment to a short Bill. While I appreciate that the amendment refers to a ratification referendum, in his opening comments the noble Lord, Lord Newby, referred to this being an issue about people being able to change their minds. However, there has been a much broader discussion than just the amendment.

As someone who campaigned strongly to remain, and remains bitterly disappointed at the result, I agree with many of the comments that have been made but I am not sure that they bring much to bear on whether a second referendum is appropriate. The demands for a second referendum started even before the ink was dry on the ballot papers of the first referendum. We know that it is rare for us to have a national referendum. In 1975, the incredible Labour Party leader and Prime Minister, Harold Wilson, held a referendum on whether we should remain in or leave the European Community. I think that I am in a minority in your Lordships’ House, but not alone, in that I was not able to vote in that referendum, being far too young, and the Minister probably could not vote in that referendum either. In 2011, the coalition Government held a referendum on whether to change the voting system where Parliament, via legislation, ceded sovereignty to the public, and in 2016, last year, we had the EU referendum.

There is clearly public interest in the EU because both referenda had high turnouts. It was a little lower in 1975, but no one really thought we were going leave and the margin of difference in favour of retaining EU membership, as the noble Lord, Lord Morgan, reminded us, was significant at 33%. However, last year the polls were so close that it probably encouraged the high turnout of 72%. Yet the referendum on changing the voting system motivated fewer than half of our fellow citizens, just 42%. There was never any real public demand for such a change and to most people it appeared politician led.

When we debated this amendment in Committee, I expressed my natural caution about politicians calling for a referendum on any issue. Usually it is called because we think it will endorse the result that we want. I accept that there have been exceptions today and that some noble Lords have made a case for direct or popular democracy, but the noble Lord, Lord Newby, has made clear what his reasons are for bringing forward this amendment. However, there is clearly a difference in the case of a public demand for a referendum, as we have seen, but politicians have to take care in how we respond to that public demand.

I listened carefully to the noble Lord, Lord Newby, and others, when he opened the debate and I have read his article in the *The House Magazine* on this issue, in which he was totally honest about his amendment

proposing a further referendum. Despite comments from a number of your Lordships that this is merely about giving the public a say on the exit arrangements, he was very clear that he took the view that the public would change their mind. In *The House Magazine* he said that it would be “implausible” not to grant a second referendum if public opinion shifted in favour of the EU.

However, there is no significant public demand for a second referendum and, at this stage, there is no significant shift in public opinion. This is being seen by many as merely a campaign to challenge the result of the first referendum. That was reinforced last week when the noble Lord spoke about the purpose behind his amendment. That is exactly the point. A second referendum would not be on the deal or the arrangements but yet again on a principle—or, rather, a mood—of how people felt about the EU the last time.

Before the last referendum—indeed, before the last elections—the Liberal Democrats campaigned for what they called a real referendum, an in-out referendum, on principle. They criticised both my party, the Labour Party, and the Conservatives for not going far enough in agreeing with them. I have a copy of their leaflet with me today. It urges people to “Sign our petition today” and says:

“It’s time for a real referendum on Europe”.

However, nowhere in the leaflet calling for this “real referendum” does it say, “But if you do not agree with us we will try and have another one”.

My understanding from those who were there at the time is that the Liberal Democrats considered—this is absolutely crucial—that, although their policy was to have a referendum limited to the Lisbon treaty, their campaign literature should not say it because they felt that it would not be clearly understood and that any referendum would inevitably turn into “Do you like the EU or not?”. I think that is right, because it is what we saw last year. It is also why the noble Lord’s confidence in having a referendum to show that people have changed their minds is flawed, because after two years of what could be very difficult negotiations it could well become a referendum—in effect—on whether we like, or are happy with, our European neighbours.

12.45 pm

The coming months of negotiations are going to be complex. We are pressing the Government to ensure that Parliament is kept fully engaged and informed throughout the process and has an opportunity for a final say and meaningful vote on the exit arrangements or the deal. Parliament will have to make a judgment on that. MPs—Members of the other place—are accountable to their constituents, which is why the final say, the responsibility and the authority must always remain with the House of Commons. That is what parliamentary sovereignty means: taking responsibility. It also means that the Government must keep Parliament involved and informed using the committees of Parliament, and particularly your Lordships’ House, for support and advice, ensuring that as we move closer to closing a deal a judgment can be made in an informed, factual way.

I find it hard, having gone through the first referendum, to see circumstances in which a second referendum—involving the press, politicians and campaigners on this issue—can deal with all that is required and all the information gathered over two years, and not just be a referendum on principle, in effect rerunning the first referendum.

The final judgment must be a very measured one that deals with the forensic detail, not an appeal to the emotions without hard accurate facts, with vehicles running around the country saying that you will get £350 million extra for the NHS if you vote to leave the EU. The first referendum was one on which different sides campaigned and lobbied around the principle of staying in or leaving. I am on record as saying that I was unimpressed with the campaigning. I have not yet been convinced that such an approach works. I made a plea, when we were dealing with this issue before the referendum, that it should have been for Parliament as a whole to provide factual, accurate information to the public and not left to campaigners to see who could shout loudest for the longest. I am not convinced that that approach works when dealing with the detail of negotiations that have taken place over the past two years, any more than it worked in the last referendum.

As we have heard today, it is clear that a second referendum is being pushed by some as a way to unite a country that is seriously divided on this issue. I have looked for evidence to support that idea. Why would a second referendum be different in tone, mood or argument from the first? I take comfort from the words of the most reverend Primate the Archbishop of Canterbury in a thoughtful and wise intervention in the debate. He made it clear that whether it is a first referendum, a second referendum, or any other, it will be down to a binary choice: yes or no. That never unites; it only ever divides.

I can hear the noble Baroness, Lady Ludford, chuntering away; I ask her to bear with me. The noble Lord, Lord Newby, was asked a question by the noble Lord, Lord Grocott, and I remain puzzled by his answer, which I thought was unclear. If this House chooses to recommend a second referendum to the other place, will it be advisory or binding? We have heard from others that unless Parliament specifically says so, all referendums should be advisory. The noble Lord’s party says that it respects the result. However, it voted against the Second Reading of the Bill in the other place. What happens if there is a second referendum and there are those in the noble Lord’s party who do not like the result? I am not sure that takes us any further forward.

To go into a second referendum without that clarity, and to look at it today without such clarity, would not be democratic. It does not seem to have been thought through. But as I have said before, I do not think that the Government can shut the door completely on this issue or on public opinion. Throughout the process, the Government have to take note of the public mood, and keep Parliament and the public informed. They must not allow rumour and misinformation to circulate, and they must be honest.

I do not disagree with many of the comments that have been made today. The previous campaign rarely got down to the details that Parliament has discussed

[BARONESS SMITH OF BASILDON]

both in your Lordships' House and in the other place during the passage of this Bill. It does Parliament credit, particularly in our debate last week on EU nationals, that we were able to debate detail in this House that never got an airing during the referendum.

Our priority is Amendment 3, to ensure that Parliament has a meaningful vote and that we maintain parliamentary sovereignty, but also important are other amendments to show that Parliament must be fully engaged in this process and that, as usual, our Members of Parliament are accountable through their constituencies. I cannot support this amendment, and I ask my colleagues not to support it. We will not take part in this vote.

The Parliamentary Under-Secretary of State, Department for Exiting the European Union (Lord Bridges of Headley) (Con): My Lords, this has been another good debate. I suspect that it confirms what many of us already know: that there are a number of your Lordships who passionately believe that the people have made a grave mistake by voting to leave the European Union and that there needs to be a referendum at the end of the negotiations. As I said before, I respect their views and I repeat my wish to bring together those on both sides of the argument—leave and remain—as we continue. But the Government are very clear that the amendment before us is misguided both in practice and in principle. Our reasons are very clear and they start with the democratic path that we have followed so far.

On 7 May 2015, the Conservative Government were elected by 11.3 million people, committed to a referendum on the UK's membership of the European Union and committed to honouring the outcome. On 7 September 2015, 316 members of the other place voted in favour of holding a referendum by a majority of six to one. No condition or caveat was attached to the referendum, as my noble friend Lord Faulks pointed out. Parliament agreed on the question, which was simple: leave or remain? On 23 June 2016, 17.4 million people voted to leave the European Union. On 8 February this year, the other place passed this Bill unamended—a simple Bill to trigger the process of leaving the European Union—by a majority of 372. This is the democratic path that has been followed, a path that will lead this country to leaving the European Union.

Some argue that we need another referendum, on what I consider to be somewhat peculiar and weak arguments. I refer to the wise words of the noble Lord, Lord Lee of Trafford, who said that,

“however it is dressed up, it will be seen as a second referendum. I cannot support that. Our people have already spoken”.—[*Official Report*, 20/2/17; col. 134.]

How right he is. Listen to Mr Norman Lamb, the Liberal Democrat Member of Parliament for North Norfolk, who said that the second referendum would raise,

“the question as to whether we'd remain in the European Union”.

But it was made abundantly clear that the referendum in June was, to quote the leaflet sent to all households in the UK,

“a once in a generation decision”.

There was nothing on the ballot, and no suggestion from Parliament, that there would have to be another

referendum if the UK were to vote to leave. During the campaign, the then Prime Minister said:

“I am absolutely clear a referendum is a referendum, it's a once in a generation, once in a lifetime opportunity and the result determines the outcome ... You can't have neverendums, you have referendums”.

The next bogus argument is that people did not know enough to make an informed decision. I do not see that approach and argument as particularly liberal or democratic; I see it as somewhat patronising. It is as if we are saying, “We trust the people, but not quite entirely”. That Government leaflet spelled out the consequences and on many occasions during the campaign those on both sides of the argument made it clear that a vote to leave meant leaving the single market. For example, Mr David Cameron said:

“The British public would be voting, if we Leave, to leave the EU and leave the Single Market”.

Mr George Osborne said:

“We'd be out of the single market, that's the reality”.

Mr Michael Gove said that we should be, “outside the single market”. The noble Lord, Lord Darling, said:

“Those wanting to leave the EU want to pull Britain out of the single market”.

My noble friend Lord Hill of Oareford said:

“The Leave campaign has ... been clear what Leave means: it means leaving the Single Market”.

These politicians were right to point this out, for if we were to remain in the single market it would mean complying with the EU's rules and regulations without having a vote on what those rules and regulations are. It would mean accepting a role for the European Court of Justice that would still see it having direct legal authority in our country and it would mean not having control of our borders. It would to all intents and purposes mean not leaving the EU at all.

The next peculiar argument is that a second referendum is needed to bring the nation together. Here I agree entirely with what was said by the noble Baroness, Lady Smith. If the argument is that the first referendum divided the nation, a second referendum is hardly likely to unite it—quite the reverse. Rather than bring people together, it would merely encourage divisions to fester.

Let me say a word about the need to come together. The most reverend Primate the Archbishop of Canterbury made a thoughtful and powerful speech. He is right about the need to heal our divisions and to work together to tackle the challenges we face. I would like to put on the record once again my thanks to the Church of England for hosting round tables to do just that. Moreover, others agree that we need to come together by saying:

“If we have to be out then let's make the best of it”.

Those are the words of the noble Lord, Lord Ashdown, who on the question of a second referendum, said:

“Politicians should stay out of that”,

and the report of the event at which he said this—which I assume to be valid and not some form of fake news—continues as follows. Lord Ashdown,

“did not call for a second referendum on the UK's membership of the EU saying it would be ‘foolish and wrong’ for Parliament to do that”.

Lord Ashdown of Norton-sub-Hamdon: My Lords, let me see if I can make a rather better hash of it this time than I did with the noble Lord, Lord Carlile. Is the Minister embarrassed by the fact that he keeps on answering the question by referring to an issue that is not addressed? We are not saying that there has to be a second referendum on European Union membership. That is done and we accept that the Government have their mandate. What we do not believe the Government have a mandate for is a brutal Brexit that will take us out of the single market. Can he explain why he believes that he does have that mandate, given that it was set out specifically in the Conservative Party manifesto that they would not do this?

Lord Bridges of Headley: My Lords, the Conservative Party manifesto made it absolutely clear that we would respect the outcome, a position that the noble Lord himself took on the night of the referendum. It is absolutely our intention that the Government will deliver on the results of the referendum. I know that the noble Lord is spending Lent eating his own words, but I am sorry to say that he is wrong on this point.

Then there are the consequences of such a referendum. Would it bring certainty? Will businesses clap their hands with glee at the thought of a referendum some years off, the basis on which it would be held unclear, but the consequences of which could be to throw the entire negotiated settlement up in the air? We know the answer. As I have said, the Institute of Directors have called for:

“A commitment across all major political parties ... not to undertake a second referendum on either EU membership or the Brexit deal to reduce uncertainty”.

What would happen, even after all this, if the result of the second referendum is still to leave? As some noble Lords have pointed out, would we once again be subjected to people saying, “Actually, we don’t like this answer. Please try again”? Where does it end? Will we continue to hold the same referendum until we get the result that those who support this amendment prefer?

Lord Liddle (Lab): If, as the Prime Minister said in her Lancaster House speech, no deal would be better than a bad deal, is the Minister really telling us that in the circumstances of no deal he would absolutely rule out a referendum in the future?

Lord Bridges of Headley: Yes, my Lords. It is very clear: we are leaving the European Union. That is the pure and simple answer to the noble Lord.

Lord Liddle: My Lords—

Lord Bridges of Headley: No, I am sorry, my Lords; I am going to finish. I know that we will come back to this. Forgive me but I will not give way. I know that we will have a lot of debate after lunch about the meaningful vote that we will have, and I am sure that the noble Lord will have a chance then to have his say.

The noble Lord, Lord Newby, said on Wednesday that the rejection of a second referendum would be the antithesis of democracy. With respect to the noble Lord, I totally and utterly disagree. The referendum itself was democracy in action. We were also told that, “a second referendum entails risks for which the price is too high”—[*Official Report*, 21/2/17; col. 160.]

and that:

“A further vote will prolong the uncertainty and cause uproar in the country, or worse”.—[*Official Report*, 20/2/17; col. 134.]

Those are the words of the noble Baroness, Lady Falkner of Margravine, and the noble Lord, Lord Lee of Trafford, and I entirely agree with them. Calling a second referendum, as this amendment seeks to do, would undermine the will of the people as expressed in the EU referendum. The people have voted to leave the European Union and leave we will. Therefore, I hope that the noble Lord will withdraw his amendment.

1 pm

Lord Newby: My Lords, I thank all noble Lords who have taken part in this debate, which boils down to a single question: is it Parliament or the people that take the final decision on our future in Europe? The noble Lord, Lord Carlile, said that it should be Parliament but that if Parliament rejected the deal, there might be a confidence vote. There would then be a general election, but a general election is an extremely imperfect way to debate a single issue. I think all parties have found that, as did Mr Heath. The noble Lord, Lord Forsyth, says that the Liberal Democrats might have found that, but with the current leaderships of the two main political parties, does he genuinely believe that a general election would be solely or even mainly on the issue of Brexit? No, my Lords; the general election is a very imperfect tool for dealing with such a specific question.

I have the highest regard for the most reverend Primate, but I am afraid that when he says that a further referendum is not democratic, I simply cannot agree. I cannot see the logic of that and I am sorry to say that I really cannot follow that argument at all.

It has been argued that the people cannot take a decision in these circumstances because it would be a binary choice. It is quite unclear to me why it is perfectly reasonable for Parliament to take a binary choice but not the people. Finally, it has been argued by a number of noble Lords that it is all too complicated for the people to take a final decision on this matter. That is the antithesis of democracy.

I ended my Second Reading speech by quoting Gladstone and, indeed, the Brexit Secretary: “Trust the people”. That was our stance a fortnight ago and it is our stance today. I wish to test the opinion of the House.

1.03 pm

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 Palmer, L.
 Palumbo, L.
 Pannick, L.
 Patel, L.
 Patten, L.
 Pearson of Rannoch, L.
 Phillips of Worth Matravers,
 L.
 Pidding, B.
 Plumb, L.
 Polak, L.
 Popat, L.
 Porter of Spalding, L.
 Prashar, B.
 Price, L.
 Prior of Brampton, L.
 Quirk, L.
 Ramsbotham, L.
 Rawlings, B.
 Redfern, B.
 Renfrew of Kaimsthorn, L.
 Renwick of Clifton, L.
 Richards of Herstmonceux, L.
 Ricketts, L.
 Ridley, V.
 Risby, L.
 Robathan, L.

Rock, B.
 Rogan, L.
 Rose of Monewden, L.
 Rotherwick, L.
 Rowe-Beddoe, L.
 Russell of Liverpool, L.
 Ryder of Wensum, L.
 Saatchi, L.
 St John of Bletso, L.
 Sanderson of Bowden, L.
 Scott of Bybrook, B.
 Seccombe, B.
 Selborne, E.
 Selkirk of Douglas, L.
 Selsdon, L.
 Shackleton of Belgravia, B.
 Sharples, B.
 Shephard of Northwold, B.
 Sherbourne of Didsbury, L.
 Shields, B.
 Shinkwin, L.
 Shrewsbury, E.
 Simon, V.
 Singh of Wimbledon, L.
 Skelmersdale, L.
 Skidelsky, L.
 Slim, V.
 Smith of Hindhead, L.
 Spicer, L.
 Stedman-Scott, B.
 Sterling of Plaistow, L.
 Stirrup, L.
 Stoddart of Swindon, L.
 Stowell of Beeston, B.
 Strathclyde, L.
 Stroud, B.
 Sugg, B.
 Suri, L.
 Swinfen, L.
 Taylor of Holbeach, L.
 [Teller]
 Taylor of Warwick, L.
 Tebbit, L.
 Thurlow, L.
 Trees, L.
 Trefgarne, L.
 Trenchard, V.
 Trevelthick and Oaksey, L.
 Trimble, L.
 True, L.
 Truro, Bp.
 Tugendhat, L.
 Ullswater, V.
 Verma, B.
 Vinson, L.
 Wakeham, L.
 Waldegrave of North Hill, L.
 Walker of Aldringham, L.
 Wasserman, L.
 Watkins of Tavistock, B.
 Waverley, V.
 Wei, L.
 Wellington, D.
 West of Spithead, L.
 Whitby, L.
 Wilcox, B.
 Willetts, L.
 Williams of Trafford, B.
 Willoughby de Broke, L.
 Wilson of Tillyorn, L.
 Winchester, Bp.
 Wolfson of Aspley Guise, L.
 Worcester, Bp.
 Young of Cookham, L.
 Young of Graffham, L.
 Young of Hornsey, B.
 Younger of Leckie, V.

1.25 pm

Lord Taylor of Holbeach: It may help noble Lords if I explain that we hope to complete this amendment before we adjourn the Report stage for Questions. I hope noble Lords will be able to have some refreshment before 2.30 pm.

Amendment 2

Moved by **Baroness Hayter of Kentish Town**

2: Clause 1, page 1, line 10, at end insert—

“() Once a notification has been given under subsection (1), Ministers of the Crown must make a quarterly statement on the negotiations to each House of Parliament, with an accompanying report to be made available to relevant parliamentary committees.”

Baroness Hayter of Kentish Town (Lab): I have always thought the Government Chief Whip was a very nice man. I do not think he was offering us lunch today but he was offering us time for lunch.

This is a short and, I hope, sweet amendment. It is about the cement between Amendment 1 and Amendment 3. Amendment 1 has been defeated and therefore we are not talking about a referendum at the end of negotiations, but Amendment 3, which I trust will be carried, is about putting the decision at the end to Parliament. Amendment 2 basically states that, in order to make that as good a way of moving forward as possible, we will need to have from the Government—not as a running commentary, or even as a walking commentary, but as a dialogue with Parliament—some feedback about how the negotiations are going.

This is not only about what we are offering as a Government, as a country, but also about what is happening on the other side. We think we will be negotiating with just one bloc—the European Union—but there are 27 countries on that side and there will be ups and downs, elections, changes of personnel and all kinds of things happening within those 27 countries.

Charles Grant of the CER, who is usually correct, has said that in all of this, politics matters more than economics. Therefore feedback from the Government about how the other countries and the European Union are responding will help us to understand the negotiations. As I said in Committee, it would be terrible if we come to that final vote in this House and there are surprises because we do not know what has been happening and how discussions have been going and, even worse, because the Government have not taken the time to listen to our EU committees.

Lord Dykes: What would be the provision for an expression of opinion in both Houses on the later stages of those quarterly reports and negotiations? If people wanted to express an opinion, it might be legitimate for them to do so with a formal vote.

Baroness Hayter of Kentish Town: I will leave that to the usual channels, who will discuss it at the time. I deal with content not process. That is why I will be pleased when this Bill is over and we get into the real meat of the negotiations, with which I wish Ministers luck. The task of negotiating will be extremely hard and that is why they could benefit from discussions in the House.

[BARONESS HAYTER OF KENTISH TOWN]

It is important that we should hear back almost the mood music of what is going on. We should hear some detail so that it will not be any surprise. If people think this will all be done in secret then they have not worked in Brussels for very long. It is as leaky as a sieve and we will be reading a lot about the negotiations. It will be more like a colander than a bucket about the things that are going on in there and taking stock will be important. We have already stressed the importance of the devolved Administrations also being involved and to check that they are. We can talk on this.

Therefore, with a nod to this afternoon's debate and what I hope will be its outcome—that Parliament will get the final vote—if the final deal is to win the consent of Parliament there should be no surprises and a grown-up conversation should go on. I am sure that the Government will not veer off in ways that surprise us, because we do not want to vote down something because it is a surprise. We will want to have a proper vote at that time. To make the final vote a proper one, we ask for these reports to be quarterly, and if the Minister thinks that means only quarterly he needs to think again: there needs to be a minimum of quarterly reports, so that we can discuss how it is going. I beg to move.

1.30 pm

Baroness Ludford (LD): My Lords, I rise briefly to support the noble Baroness, Lady Hayter. It is important to have a structured schedule and framework for reporting back to Parliament as part of the whole scheme that we are trying to set up, including a meaningful vote, which we will discuss this afternoon.

The European Parliament example has been much prayed in aid. Those of us, like myself, who were in the European Parliament, and others, will know that one of the incentives for making sure that the European Parliament was kept informed throughout the process of negotiating external agreements was that it had the power to reject them at the end. After the European Parliament had rejected several international agreements, the European Council, the Council of Ministers and the Commission finally came to their senses and realised that it was much better to front-load the system so that the European Parliament was kept informed along the way, instead of getting a nasty surprise at the end. In the jargon, that accounts for the “inter-institutional arrangements”, which include reports and the making available of documents throughout the process. It is a much better way of managing it and making sure that the Council's negotiating objectives are delivered in a “smooth, orderly way”, which, I think, is the phrase often used by the Government about Brexit. There are, therefore, good practical reasons for having a very structured system of reporting back.

Lord Hamilton of Epsom: My Lords, the noble Baroness, Lady Ludford, talks about everything happening in a smooth, orderly way. I rather agree with the noble Baroness, Lady Hayter. Everything will leak. The EU Commission is obliged to report to the European Parliament and the whole idea that the European Parliament will say, “This is all secret information, we

should not let it out”, seems to me to be for the birds. Everything will leak and we will hear rumours about how far the negotiations have got, or what has happened. At that point, Parliament will demand a debate. The Government will get up, if this amendment is passed, and say, “No, you must wait for the quarterly review in two months' time”. I do not think so. I think that the House of Commons will say, “Come on, get on with it, we want a response. Why have we heard these rumours? The Government must put us straight on all of this”.

This amendment, therefore, would achieve nothing. Everything will leak from the negotiations. When things of substance leak, Parliament, particularly the Commons, will demand a debate, and your Lordships' House will no doubt do the same. This amendment is otiose.

Lord Spicer: My Lords, I made the point in Committee that if you want sovereignty of Parliament you should vote as quickly as possible for this Bill and subsequent Bills to get us out of the control of the European Union. I make the point now—it is rather similar to that of my noble friend—that it is highly unlikely that the Government will accept this amendment. If it prevails, we will potentially be into a constitutional issue.

Therefore, one has to ask what options are likely to occur in the event of this House passing this amendment and, as my noble friend has just suggested, the other House passing it back to us, with the Government standing firm. There are three options. First, the Government could do nothing and concede the situation, but I think that that is highly unlikely. To lose control of the Bill at this stage on this issue would be very questionable wisdom on the part of the Government. Secondly, they could create 100 Peers. That is unlikely as well and would be rather dramatic at this stage. Thirdly, they could call a general election. That option should be under strong consideration by the Government at the moment. Through a vote of confidence in the Commons or whatever, they could have it out in the well-known democratic way of doing things—through a general election. I want to put on the record that there should be one round of ping-pong and then we should call a general election.

Lord Warner: My Lords, I wish to speak in support of the amendment. I tabled a similar amendment in Committee which was rather less demanding than this one, but the Government dispatched it extremely briskly.

I suggest that this amendment might be helpful to the Government. The idea that all the special interest groups affected by these negotiations—the different sectors, companies and pressure groups—will sit still, while stuff comes out of the EU about the possibility of doing damage to their particular interests and concerns, is fanciful. If the Minister and the Government do not have any structured way of reporting back to Parliament, we will find that many of those people will lobby your Lordships' House and there will be a demand for a huge number of Parliamentary Questions, as well as demands for debates, to deal with the latest set of rumours about a particular sector, industry or agency which may be being transferred back to Europe. The EMA would be a good example and Euratom is another. Therefore, the Government might find that

their life was made a bit easier if there was a structured way of reporting back to Parliament about the progress that was being made, especially if it was reasonably detailed and told some of these interest groups what was going on in the negotiations.

Lord Hamilton of Epsom: Does the noble Lord think that Parliament will be happy if they are given the response that, because the quarterly review is coming up and it is two months away, the question cannot be answered today; it will have to be answered in two months' time when the clock next ticks round?

Lord Warner: The noble Baroness's amendment is very flexible. It refers to a period of at least three months. There is nothing in the amendment to stop the Government serving their own interests by being more forthcoming more frequently. I am sure that the noble Baroness would not mind having reports made on a more frequent basis.

Lord Mackay of Clashfern (Con): My Lords, I am sure that the Government share the sentiments expressed from the Front Bench opposite—indeed, from both Front Benches opposite. The proposal would be entirely in the interests of the smooth development of policy in this difficult area, which I am sure we all understand is extremely difficult. The more help the Government can get, the better, and I think that they are sufficiently humble to know that.

If there were any slackness on the part of the Government, we would have plenty of means in this Parliament for getting them to respond, but I do not agree with putting that into an Act of Parliament, and the reason for that is simple. If something is put into a general Act of Parliament, the idea is that the courts are the enforcers, but one thing that the courts cannot do, in view of the Bill of Rights, is to interfere in proceedings in Parliament. Therefore, this is useless as a formal amendment, but the spirit of it is first-class. I feel almost certain that my noble and learned friend will be able to accept that, because the Minister in the Commons said just as much in a passage that I may refer to later.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, I am obliged for the contributions that have been made to the debate. This short Bill has already invoked many hours of debate, so I intend to keep my remarks very brief.

I endorse the observations of the noble and learned Lord, Lord Mackay of Clashfern, both as to the appropriateness of this amendment and as to the spirit in which it will be and is being received by the Government. As noble Lords will be aware, the Prime Minister gives a Statement to the other place following European Councils. We know that there will be a Council this month, and indeed quarterly thereafter. That means that a Statement will be made to Parliament at least once every quarter on European issues, and it will be repeated in this House. Of course, that is just the beginning of a much wider process over which this Parliament has control at the end of the day.

DExEU Ministers have responded to more than 600 parliamentary Written Questions, appeared at 13 Select Committees and given six Oral Statements to the House on developments regarding our exit. The Secretary of State has agreed to give evidence to the Exiting the EU Select Committee on 15 March, alongside the Permanent Secretary at DExEU, and will shortly afterwards give evidence to the Lords EU Committee on 22 March.

The Government are committed to parliamentary scrutiny, and Parliament will play a key role in scrutinising and shaping our withdrawal. As my noble friend Lord Bridges observed last week, we have had take-note debates, debates on Select Committee reports, debates in government time and Select Committee appearances. All this will continue in order that Parliament can scrutinise the development of negotiations in so far as is possible to put those in the public domain and in so far as they come into the public domain.

The noble Baroness, Lady Hayter, referred to secrets, and the noble Baroness, Lady Ludford, referred to nasty secrets. This may reflect a difference of approach, but at the end of the day there will not be any secrets. You cannot conduct such a process in secret, ultimately, and then expect Parliament to consider that it is being kept properly informed, as it should be, if you have what are termed secrets. We are committed to keeping Parliament at least as well informed as the European Parliament as negotiations progress.

A Bill to repeal the European Communities Act will follow. There will be primary legislation on issues such as immigration and customs, and a vote at the end with regard to the process on the final deal to exit.

With all that in mind, I will pose a few questions. Is the Prime Minister already bound to give a Statement to Parliament after every quarterly European Council? The answer is yes.

Have the Government been willing to give frequent Statements to Parliament? The answer is yes.

Have DExEU Ministers and other government Ministers appeared in front of Select Committees? The answer is yes.

Have the Government listened to Select Committee reports? The answer is yes; we published a White Paper in February this year.

Do the Government aim to respond to the Select Committee reports about Brexit within two months? The answer is yes.

Have the Government said they will give more information to Parliament, so long as it does not undermine our negotiating position? The answer is yes.

Then there is the core question: what is the present Bill about? The Bill is about giving the Prime Minister the authority to give notice of withdrawal from the European Union.

With great respect to the House and to all noble Lords, let us proceed and pass this Bill. It will not be improved by unnecessary decoration and, as the noble and learned Lord, Lord Mackay of Clashfern, has already observed, it is not appropriate that this amendment should proceed. As I believe all Members of your Lordships' House who have spoken would acknowledge,

[LORD KEEN OF ELIE]

it is not necessary that this amendment should proceed in these circumstances. Therefore, I invite the noble Lords to withdraw the amendment.

Baroness Hayter of Kentish Town: I thank the Minister and other noble Lords who have contributed to this debate. The most helpful exchange—I mean no disrespect to the others—was to hear the noble and learned Lord Mackay support the spirit of the amendment and then the Minister say that he agreed. If I could just bottle that, that will do me nicely.

I want to make only two other points. Although there are of course report-backs after the European Council, the UK will not be there when the European Council discusses our departure. Therefore, it is the other meetings that we are interested in.

My other comment is in response to the noble Lord, Lord Spicer, who said that if we dared to suggest that Parliament rather than the Crown should take the final decision, Mrs May might call an election. I am much older than my noble friend who spoke earlier and not only did I vote in 1975 but I remember the February 1974 election very well. Edward Heath basically called an election on who governs Britain. Mrs May would not be well advised to go to the country on, “Do you want the Government or Parliament to govern Britain?”. However, that is beside the point. I thank the Minister for the tone of his response and, on that basis, beg leave to withdraw the amendment.

Amendment 2 withdrawn.

Consideration on Report adjourned until after Oral Questions.

1.46 pm

Sitting suspended.

Living Standards: Inequality Question

2.30 pm

Asked by Baroness Lister of Burtersett

To ask Her Majesty’s Government what policy lessons can be learned from the forecast of growing inequality in the Resolution Foundation report *Living Standards 2017*.

The Commercial Secretary to the Treasury (Baroness Neville-Rolfe) (Con): My Lords, according to the latest data from the Office for National Statistics, income inequality in the UK is at its lowest level since 1986. The key to economic success and to reducing inequality is to improve productivity, which determines living standards in the long run. That is why the Government have established a national productivity investment fund and published a Green Paper on an industrial strategy, highlighting the role of improved skills, infrastructure investment and R&D.

Baroness Lister of Burtersett (Lab): My Lords, the Resolution Foundation argues that preventing the biggest increase in inequality since the 1980s requires a shift in social policy choices, notably the freeze in most working-age benefits in the face of rising inflation. Will the

Government now follow the advice of Iain Duncan Smith and reconsider the freeze? He warned that it was never intended that it should have such a “dramatic effect on incomes”—his words. Would that not be the right thing to do, to protect low-income families in and out of work, for a Government who claim to be working for everyone?

Baroness Neville-Rolfe: My Lords, I think we have to have a little context. Savings are necessary to reduce borrowing and to put the public finances back on a sustainable footing after the financial crisis. Between 1980 and 2014, spending on welfare trebled in real terms to £96 billion, while GDP increased by much less. Our approach is a different one. We are committed to supporting working families with a whole host of measures to get people back into work, to innovate, to grow and to put the country on a good footing. It is only a forecast from the Resolution Foundation. Forecasts are not always right, and we are determined to make the changes we need for this country.

Lord Shinkwin (Con): My Lords, can my noble friend say whether any assessment has been made of the effect of the national living wage on reducing inequality and, indeed, whether there is anything more that can be done in this respect?

Baroness Neville-Rolfe: I thank my noble friend for that question. I believe that the national living wage, brought in in April last year, is a fantastic example of policies that the Government have introduced to make work pay. Looking forward, it will rise again, to £7.50 next month, and it has already given many working people in Britain the fastest pay rise in 20 years.

Lord Lea of Crondall (Lab): My Lords, observers will have noticed that there is a startling contradiction between the presumption in the Question that income inequality has been growing very sharply and the presumption in the reply that it is doing the opposite. There are different measures, but most of them show that inequality is growing. Would it not be useful if the ONS convened a panel to get a little more clarity as to why figures can be bandied around that give such different descriptions of what is happening?

Baroness Neville-Rolfe: I think the ONS keeps us honest; it looks at these figures over time and very helpfully updates us. The OBR forecasts are also updated all the time so that we can see what is happening. I come back to the point that the Resolution Foundation is looking at a forecast, but if we look at what has happened, five years ago it was predicted by the IFS, I think, that there would be a rise in inequality. In fact, that has not happened. Actually, things have continued to progress and we have seen a recovery. That is what we need to continue by having the right policies, which this Government are pursuing under our new Prime Minister.

Baroness Kramer (LD): My Lords, I am shocked that the Minister does not recognise that young working families are facing serious financial pressure and are struggling, and that it looks as though it is going to be worse with inflation. Does she agree that part of the reason is the very high rents that most of these families

face? Will she be willing, in the Budget tomorrow, to permit local councils to go out and borrow the necessary amounts of money to drive forward development of affordable rental housing? She has often acknowledged that the housing market is broken but all the Government's solutions are on the demand side, and supply does not increase, especially not in the affordable area.

Baroness Neville-Rolfe: I would not want to steal the Chancellor's thunder today. There is certainly some provision for prudential borrowing by local councils, but I come back to the support that we give to working families. The national living wage has already been mentioned by my noble friend. That has provided the fastest pay rise in 20 years. We have raised the personal allowance to £12,500 by the end of this Parliament; nobody had done that before. We are introducing universal credit, which has the benefit of making work pay, so that if you go out and work you are not held back by benefit dilemmas. We are committed to making work pay, and we believe that that is the very best way forward for the people of this country and for hard-working families, which I agree are a priority.

Lord Davies of Oldham (Lab): My Lords, the Minister cannot discount the Resolution Foundation in such a cavalier manner. It has a strong reputation and it produced very real, well-backed analysis. It said that higher incomes will rise, but slowly; that middle incomes are going to stagnate; and that low incomes are going to fall. We know that the base for low incomes is so little that they will be unable to afford to fall without poverty increasing substantially. The Foundation says it will be the biggest rise in inequality since the late 1980s. I do not need to remind the House which party was in power during that period or which Prime Minister—many of whose Cabinet members, of course, are still with us.

Baroness Neville-Rolfe: I would add that the Resolution Foundation report also says—which is the point I have been emphasising—that economic forecasts can change dramatically and there is no way of knowing just how the future will play out. I believe that the approach we now have—including our industrial strategy, and investment in infrastructure, housing, digital and transport—is making a big difference. We have protected the most vulnerable through the benefit system, which is actually highly redistributive, so that households in the lowest decile get four times the support in spending that they pay in tax, while the highest decile pay five times as much in tax as they receive in pay. We want a fairer society and getting workless households into work and improving productivity and skills is, to my mind, the best way forward.

European Union: Migration *Question*

2.38 pm

Asked by Lord Dykes

To ask Her Majesty's Government whether they expect to use article 45 of the Treaty on the Functioning of the European Union to secure a new policy for the admission of migrants to the United Kingdom from the European Union.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the Government's White Paper on exiting the EU was published on 2 February. It sets out the Government's priorities and the broad strategy for exiting the EU and made it clear that we will take back control of our own laws. There are a number of options as to how EU immigration might work once we have exited the EU; we are considering those options and will consult businesses and communities. Parliament will also have a critical role to play.

Lord Dykes (Non-Aff): Of course, the so-called main pressure is really from non-EU migrants. Why did not the Government, many years ago, use Article 45 of the TFEU, particularly paragraphs 3(a), (c) and (d), to impose necessary civilised restraints on migrants coming in with authorisation to do so, so that the horrendous hostility to immigrants from all over would not have been so evident in the referendum on 23 June?

Baroness Williams of Trafford: My Lords, I cannot be accountable for what happened in the past. We have been a very, very generous country in terms of letting people come here for the purposes of work. There was a very clear message sent last year about controlling the numbers of people who come into this country from both EU and non-EU countries. That is what we intend to do and we will keep Parliament fully involved in the process.

Lord Rosser (Lab): On 12 January the Government stated in response to an Oral Question:

"The directive sets out that in order for an EU citizen to reside in another member state beyond three months, they must be exercising a treaty right; that is, working, self-employed, self-sufficient or a student".

After being asked three times why they did not implement this three-month rule for EU citizens still here without a job, but who were not students, the Government said,

"it is not a failure to implement ... This country is more than generous in its implementation of that directive".—[*Official Report*, 12/1/17; col. 2059-61.]

First, why do the Government maintain that it is only by leaving the EU that we can reduce EU migration, when they accept that they have not applied the EU directive's three-month rule as firmly as they could have done, instead considering that they have been "more than generous" in their implementation of that directive? Secondly, how much lower would the net migration figure for EU nationals have been in each of the last five years, had they applied the directive as firmly as they believe they were entitled to do?

Baroness Williams of Trafford: My Lords, as the noble Lord said we have been a very generous country, and certainly when Labour was in power it decided not to exercise the opt-out the noble Lord asked about. In terms of what the figures would have been had we adopted a different process, we are where we are. The country has given a very, very clear message in the referendum and we intend to follow that through by making sure that net migration to this country is in the tens of thousands.

Baroness Smith of Newnham (LD): My Lords, I shall endeavour to be helpful to the Minister: the previous questions have been about the past; I want to ask about the future. Article 45 of the Treaty on the Functioning of the European Union relates to the free movement of workers, not people generally. What thoughts have Her Majesty's Government given to the excellent report by the House of Commons Brexit committee? It talks about the rights of UK and EU nationals in relation to the non-work related aspects of immigration policy, including students and family reunion, and EU spouses compared with non-EU spouses. I declare my interests as listed in the register.

Baroness Williams of Trafford: My Lords, I am glad the noble Baroness is talking about the future and not the past, which probably neither of us, and certainly I, do not remember. The directive is about the movement of workers and their families. The Prime Minister has been absolutely clear about protecting the rights of EU nationals living in this country. We talked a lot in Committee about the fairness of the process and, therefore, protecting the rights of UK nationals in return. The Government do not want to do this on a unilateral basis. We need to think about all the people involved, both UK nationals living in the EU and EU nationals living here.

Lord Clark of Windermere (Lab): My Lords, the Minister has actually been very patient with the House during recent Questions in explaining to us the right of residence after five years of work for European citizens, and the right of citizenship after six years. If a European citizen becomes a citizen of the UK, does that mean he or she has the right to remain in this country?

Baroness Williams of Trafford: I am very grateful to the noble Lord; we talked about this at length the other day. When we talk about the right of residence and comprehensive sickness insurance, that is an EU law, not a UK law, which we implement after five years, abiding by treaty obligations. The noble Lord is absolutely right: an EU national living in this country has permanent residence, and they do not have to prove that permanent residence. He made another valid point, which is distinguishing that from applying for British citizenship. In that application process, which is based on UK law, that person has to prove residence and not be breaking any immigration rules. After six years, they will then be granted UK citizenship, and the noble Lord is absolutely right: they have the right to remain here.

Rural Areas: Income *Question*

2.45 pm

Asked by Lord Beith

To ask Her Majesty's Government what process they use to assess the impact of government policy on people on low incomes living in rural areas.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, this Government are committed to working for everyone in all parts of the country. I am grateful to the noble Lord, Lord Cameron of Dillington, for his review of rural proofing. Through rural proofing, we will understand and better reflect in our policies the needs of rural communities, including those on low incomes. The Government are currently revising their guidance on rural proofing, and it will be published shortly on GOV.UK.

Lord Beith (LD): My Lords, I very much welcome rural proofing and the work that the Minister is doing on it, but why do so many government departments fail to recognise the huge barrier of transport costs faced by families on low incomes in rural areas when they need to access public services? Whether it is young people needing to get to further education colleges or older people needing to access increasingly centralised health and social services, they are so often cut off and excluded by the costs of transport. Surely we cannot allow ourselves to stumble into a situation where you have to be well off to live in the countryside.

Lord Gardiner of Kimble: I entirely agree with the noble Lord that it is very important that we enhance accessibility. Sparsity and the topography of the countryside mean that there are great challenges. That is why I am particularly pleased that the community minibus fund was launched. It will enable about 300 local charities and community groups across England to receive a new minibus, which will be helpful. Clearly, there is more that we want to do. On the whole issue of transport and accessibility it is important, for instance, that under the post office transformation all post office branches will have banking facilities. There are ways in which we can assist rural communities across the piece.

Earl Cathcart (Con): My Lords, as it is National Apprenticeship Week, what are the Government doing to encourage apprenticeships in rural areas?

Lord Gardiner of Kimble: My Lords, the Government are committed to reaching 3 million apprenticeship starts in England by 2020. That includes trebling the number of apprenticeships in food and farming from 6,000 to 18,000. National parks authorities, for instance, are seeking to double the number of apprenticeships. It is important that we not only encourage apprenticeships this week but work with employers of all sizes. A new apprenticeship levy is coming into force in April this year for larger businesses. This is an enormous opportunity. Raising the skills of young people in the countryside and across the nation is a force for good.

Lord Grantchester (Lab): My Lords, the Commission for Rural Communities was established in 2005 by the last Labour Administration, to promote awareness of rural needs among decision-makers across government. It produced some key reports on rural life, highlighting that those living in poverty in rural areas, often in geographical isolation, can be harder to identify and help. But the coalition Government scrapped the CRC in 2013. With the issues of agriculture, trade and food

policy on Brexit, what structures are in place to ensure that the interests of rural communities are heard and acted on during the negotiations?

Lord Gardiner of Kimble: My Lords, I will make sure that the noble Lord receives a copy of the new, revised rural-proofing guidance. I have been working with my honourable friend Ben Gummer, the Minister for the Cabinet Office, on this. It is important that all departments across Whitehall understand the issues of rural communities. As Minister for Rural Affairs, I am on a number of ministerial task forces—connectivity and housing, to mention two—precisely to ensure that the rural voice is heard.

Lord Berkeley of Knighton (CB): My Lords, given what the Minister has just said, is he concerned by the fact that in many rural and underprivileged areas libraries and leisure centres are under threat? These are the very places that offer a glimmer of light to people who lead rather dark lives in terms of entertainment and education.

Lord Gardiner of Kimble: My Lords, this rather takes me back to my DCMS days. One thing that very much strikes me is how vibrant so many rural communities are. Certainly in my part of Suffolk, the amount of cultural activities going on—in dance, theatre and music—is incredible. We all want to improve that and have greater accessibility to those things, but the noble Lord may be painting a rather too pessimistic picture.

Lord Morris of Handsworth (Lab): My Lords, making work pay is a very seductive slogan, but is the Minister not aware that many of the families who are worst off in our country have someone working in the gig economy? What steps can the Government take to ensure that people are paid properly and earn at least a living wage?

Lord Gardiner of Kimble: My Lords, there is a national living wage and it is an obligation. I am very pleased that it is to rise to £7.50 per hour in April. That is precisely why we want to ensure that, with the increase in tax allowance and more coming through, people at the lower end of the income range are those who we are helping.

Baroness Pincock (LD): My Lords, rural proofing does not seem to have reached local government, where many local services have withdrawn from villages into urban centres as a consequence of the deep cuts to local government funding. What advice would the Minister provide to the Secretary of State or his fellow Minister the noble Lord, Lord Bourne, about funding for district and county councils to enable rural proofing?

Lord Gardiner of Kimble: My Lords, as I say, the rural-proofing guidance is to go across Whitehall and the DCLG is of course a very important government department in that respect. There are clearly considerable sums of money still going to local authorities and it is for them to decide on the division of the budget. But this predicates something rather more important: we have to have a growing economy to afford all the things we want to do. That is why this country has the

fastest-growing economy in the G7, which is important because it is only when we grow our economy that we will have the resources to do many of the things which I am sure your Lordships wish to have done.

Baroness Farrington of Ribbleton (Lab): My Lords, would the Minister care to correct his assertion about the national living wage and the national minimum wage? Secondly, can he assure me that when the Government put in new free schools in areas where there is no need in terms of numbers, they will consider the needs of the rural economy? I declare my interest as a former chair of Lancashire education authority. Because of the history of Lancashire, we have the largest number of voluntary-aided schools. People have wanted diversity locally for Anglican and Catholic schools, in the main, across the county. Can we be assured that the Government will not come in from Whitehall with little knowledge and step over the needs of the local community? Some of those schools need money and investment.

Lord Gardiner of Kimble: My Lords, that is precisely why I suspect we are going to hear about more investment: we want to enhance the opportunity for children across the country. We have some schools that are simply not up to the standard that we want. That is why we will need to invest more and why I am a champion of rural schools—precisely because we want to ensure that there are opportunities in rural areas, as across the rest of the country. As for the living wage, I will check *Hansard*. The national living wage will certainly rise to £7.50 per hour in April but I will see whether I have made a mistake.

Operation Conifer Question

2.55 pm

Asked by **Lord Armstrong of Iminster**

To ask Her Majesty's Government, in the light of the recent statement by the Chief Constable of Wiltshire Police, whether they will institute a judicial inquiry into that force's Operation Conifer, with unrestricted access to all relevant information.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the police are operationally independent of government. The investigation of allegations of sexual abuse and how the police conduct those investigations, including whether to commission any form of internal inquiry, are operational matters for the relevant chief officer. It is for the police and crime commissioner to hold their force to account.

Lord Armstrong of Iminster (CB): My Lords, having served in the Home Office for four years, I understand about the operational independence of the police, but this matter has gone beyond operational affairs; it has become a matter of confidence in the police and the police service. The chief constable of Wiltshire has gone beyond the police duties of investigating allegations and following up evidence and has pronounced a verdict of guilty on the late Sir Edward Heath in respect of allegations of child abuse even before his inquiry

[LORD ARMSTRONG OF ILMINSTER]
is complete. The officer in charge of the inquiry, having made a stupid mistake at the beginning, has now been obliged to be withdrawn because of ill health—I think he is having a nervous breakdown. The inquiry is being pursued in a way which looks to many people more like a fishing expedition than a serious pursuit of allegations and evidence. Is it not high time that this operation was reviewed independently either by a retired judge, as in the case of Operation Midland, or by a retired chief constable of recognised efficiency and integrity?

Baroness Williams of Trafford: My Lords, first, without talking about any individual investigation, I express my profound sympathy with the families and friends of people who have been wrongfully named in the press or who, after they have died, have had defamatory statements made about them. In any investigation, it is a matter for the police. On investigations of complaints against a chief officer, I know, because I took through the Bill that became the Policing and Crime Act, that we have strengthened the independence of the police complaints system and the accountability of chief officers. Any allegations of misconduct against a chief officer should be investigated by the IPCC.

Lord Hunt of Wirral (Con): I declare my interest as chair of the Sir Edward Heath Charitable Foundation. I join my predecessor in that position in asking the Minister to whom is this chief constable accountable? If it is not the police and crime commissioner for Wiltshire and Swindon, surely it is not the secret and unnamed group of people whom he has decided to appoint. There are increasing concerns about the conduct of this inquiry, and we need to know to whom this chief constable is accountable.

Baroness Williams of Trafford: I thank my noble friend for that question. He will know that it is not appropriate for me to comment on individual operational matters, which are a matter for the relevant chief officer. As I have said, chief officers are held to account in respect of operational matters by their police and crime commissioner. In line with recognised best practice, Wiltshire Police also recently commissioned Operation Hydrant to undertake an independent review of the investigation to ensure its ongoing proportionality and justification. My noble friend talked about the secret and unnamed group. It is recognised as best practice and that is what Wiltshire Police has done. It has engaged a panel of independent experts outside policing who are providing ongoing scrutiny of the investigation to ensure its proportionality and justification. The membership includes individuals from the legal profession and academics.

Lord Rosser (Lab): The newspaper quotations last month came from an anonymous source claiming to know the views of the chief constable for Wiltshire. This raises the issue of the relationship between the police and the national press and makes the case for Leveson part 2 even stronger. Coming to the role of the police and crime commissioner to which the Minister has referred, the second issue relates to the call for a government-instituted judicial inquiry into Operation Conifer, the investigation by Wiltshire police. Will the

Government confirm that the Wiltshire police and crime commissioner has the power to commission such a judicial inquiry into an operation by his own force? Thirdly, will the Government confirm that if any hard evidence actually emerged that the chief constable had made the comments claimed by the anonymous newspaper source, the Wiltshire police and crime commissioner could, under his powers, suspend or dismiss the chief constable? In other words, is the ball not very much in the elected Wiltshire police and crime commissioner's court?

Baroness Williams of Trafford: The noble Lord raises a very good point about the role of the police and crime commissioner in this situation. Without talking about the specific case about which the noble Lord, Lord Armstrong, has asked, it is for the police and crime commissioner to make the decision to appoint, to suspend or to remove a chief constable. In making the decision to compel a chief constable to resign or to retire, a PCC is bound by certain requirements including acting reasonably, acting fairly and consulting the chief constable and the local police and crime panel. A PCC may compel a chief constable to resign or to retire under Section 38(3) of the Police Reform and Social Responsibility Act 2011.

Arrangement of Business

Announcement

3.01 pm

Lord Taylor of Holbeach (Con): My Lords, before we resume the Bill's Report stage, for the convenience of the House I shall say a brief word about the arrangements for its Third Reading, which we expect to take place this evening. At the conclusion of Report, we will move to the Question for Short Debate in the name of the noble Lord, Lord Truscott. At that point, the Legislation Office will work on making the Bill available for noble Lords who may wish to table amendments at Third Reading. The timescale for this will depend on whether the Bill needs to be reprinted. When the Bill is ready for amendments to be tabled, a notice will put on the annunciator to say so as well as to give a reasonable deadline for noble Lords to table any amendments. We will adjourn during pleasure at the conclusion of the debate of the noble Lord, Lord Truscott, with the time for the House to resume for the Third Reading advertised on the annunciator. I am grateful to the House authorities, in particular those in the Legislation Office, for their hard work to support the House on this Bill.

Lastly, I remind the House that when we resume in a moment, the normal rules on Report will apply. The relevant parts of the *Companion* were printed in today's list, which was published this morning.

European Union (Notification of Withdrawal) Bill

Report (Continued)

3.04 pm

Amendment 3

Moved by Lord Pannick

3: After Clause 1, insert the following new Clause—
“Parliamentary approval for the outcome of negotiations with the European Union

- (1) The Prime Minister may not conclude an agreement with the European Union under Article 50(2) of the Treaty on European Union, on the terms of the United Kingdom's withdrawal from the European Union, without the approval of both Houses of Parliament.
- (2) Such approval shall be required before the European Parliament debates and votes on that agreement.
- (3) The prior approval of both Houses of Parliament shall also be required in relation to an agreement on the future relationship of the United Kingdom with the European Union.
- (4) The prior approval of both Houses of Parliament shall also be required in relation to any decision by the Prime Minister that the United Kingdom shall leave the European Union without an agreement as to the applicable terms."

Lord Pannick (CB): My Lords, Amendment 3 is in my name and the names of the noble Baroness, Lady Hayter, the noble Lord, Lord Oates, and the noble Viscount, Lord Hailsham. The purpose and effect of Amendment 3 is very simple. It would ensure that at the end of the negotiating process, the approval of Parliament would be required for the terms of our withdrawal from the EU. The Prime Minister has accepted that principle: she has undertaken that any agreement with the European Union on the terms of our withdrawal, and any agreement on our future relationship with the EU, will be put to both Houses of Parliament for their approval. She has also promised that this will occur before the withdrawal agreement is sent to the European Parliament for its consent. That must be right: this Parliament must have at least the same opportunity as the European Parliament to disagree with the terms of any draft agreement. The Prime Minister has given an undertaking but the Government are refusing to include the commitment in the Bill. Given the importance of the decision to leave the EU and the importance of the terms on which we are to do that, the role of Parliament must surely be written into the Bill—no ifs and no buts.

The amendment has been revised since the very helpful debate in Committee last Wednesday evening. As suggested by the noble and learned Lord, Lord Hope of Craighead, during that debate, proposed new subsections (1), (2) and (3) in the amendment set out the undertaking given to the House of Commons by the Minister, Mr David Jones, on 7 February at col. 264. The only alteration to what Mr Jones said is that the amendment does not commit the Government to proceeding by way of a Motion in both Houses. The amendment allows the Government to decide what would be the best means of seeking and obtaining approval from both Houses. That is because of the point made in Committee last Wednesday night by the noble Lord, Lord Lisvane, with his enormous knowledge and experience of parliamentary procedure.

Proposed new subsection (4), which has also been revised since the debate last Wednesday, requires the "approval of both Houses" if the Prime Minister decides that,

"the United Kingdom shall leave the European Union without an agreement",

as to the terms. Parliament must also have a role in those circumstances. It must be for Parliament to decide whether to prefer no deal or the deal offered by the EU.

I will also address a point that has been raised with me by some noble Lords, about what happens if the two Houses disagree when the agreement, or lack of agreement, is put to Parliament. It is of course the Prime Minister who has decided that the terms of our withdrawal are so important that the approval of both Houses of Parliament should be required. The White Paper says, at paragraph 1.12:

"The Government will ... put the final deal that is agreed between the UK and the EU to a vote in both Houses of Parliament".

The Minister, Mr David Jones, stated in the House of Commons in Committee that,

"the Government will bring forward a motion on the final agreement, to be approved by both Houses of Parliament before it is concluded".—[*Official Report*, Commons, 7/2/17; col. 264.]

In any event, if this House were to agree this amendment today, it is open to the Government, if they are concerned about this issue, to seek to amend this proposed new clause in the Commons next week to address what happens if the two Houses were to disagree.

Lord Grocott (Lab): This is a very important point, and I am glad that the noble Lord is addressing it in such detail, but we cannot make our judgments on the basis of what the Government have said they might do. The judgment today must be on the basis of what is in this proposed new clause. I therefore ask the noble Lord, from his perspective, given that the proposed new clause repeatedly says,

"the approval of both Houses of Parliament",

what, in his judgment, would the solution be if one House said yes and the other said no?

Lord Pannick: As I have said, this is the Prime Minister's undertaking, but since the noble Lord has asked me—I do not have to tell him this, given his enormous experience—if the House of Commons were to give its approval, this House would, in my judgment, rightly be told that it should be very slow indeed to take a different view from the elected House. If we were to disagree with the Commons, I understand that it would be open to the Government immediately to take the matter back to the Commons for a further confirmatory resolution, which, if agreed, would lead to a further approval Motion in this House. I expect, at that stage, it would be exceptionally unlikely that this House would stand its ground. I repeat, however, that if the Government were dissatisfied with that, which is the consequence of the undertaking given by the Prime Minister, it is open to the Government to bring forward an amendment in the other place. Indeed, it was open to the Government in this House to bring forward an amendment to this amendment to deal with the matter.

Lord Howard of Lympne (Con): I am grateful to the noble Lord for giving way. He says that it is "exceptionally unlikely" that this House would insist in those circumstances on having its way, but that falls some way short of dealing with the point raised by the noble Lord opposite. Does the noble Lord not agree that this proposed new clause, in effect, gives this House a statutory veto on the decision made by the Prime Minister with the support of the other place to implement the decision of the British people to leave the European Union?

Lord Pannick: The noble Lord will form his own judgment; I am putting to the House that this amendment implements the undertaking given by the Prime Minister. She has recognised—in my view rightly—that so important are these matters that it is necessary, and imperative, to obtain the approval of both Houses of Parliament. The constitutional realities, as I understand them, are that this House is exceptionally unlikely to stand its ground against the view of the elected House. However, noble Lords will form their own judgment.

Viscount Hailsham (Con): My Lords, does the noble Lord also agree that there is nothing in this proposed new clause that precludes the approval of both Houses being expressed in an Act of Parliament? If that is correct, the Parliament Act stands behind it.

Lord Pannick: I am grateful to the noble Viscount. As I have already said, this amendment is different from the amendment that we had in Committee because it does not state by what the means the Government must seek the approval of both Houses. The noble Viscount is absolutely right: it is open to the Government to proceed by way of emergency legislation.

Lord True (Con): My Lords, the noble Lord is an exceedingly distinguished lawyer, as we all know. I recognise that, normally, the legal profession seeks precision. The noble Lord is laying before the House an amendment that is imprecise, and he has admitted that; it has been pointed out by my noble friend Lord Howard. He uses the term, “extremely unlikely”. Section 20 of the Constitutional Reform and Governance Act 2010 has a clear device for breaking a disagreement. Why is the noble Lord, as a lawyer concerned with the precise, not putting before Parliament precise legislation that deals with the matter he recognises needs to be dealt with?

Lord Pannick: I repeat to the noble Lord: I have put in the amendment precisely the undertaking that the Prime Minister has given. If the Prime Minister takes the view that it is appropriate to address specifically in the amendment the means by which any division of view between the two Houses can be broken, it is entirely up to her, when the matter returns to the Commons—if it does—to amend this provision to specify, for example, Section 20. If I had put in the amendment a particular means of breaking a deadlock between the two Houses, I would have been told by the noble Lord and others that that was not the solution we welcome.

3.15 pm

Lord Forsyth of Drumlean (Con): Can the noble Lord explain? He has repeatedly said that what he has put in his amendment and wants to put in the Bill is no different from what the Prime Minister indicated to the House of Commons. Surely the difference is that the Prime Minister’s undertaking was that there would be a vote in both Houses on the issue of a deal or falling back on WTO. Reading his amendment, his difference is between no deal and what? What happens? Can he explain?

Lord Pannick: What happens? Nobody knows what will happen: that is the whole point of the difficulty that we face in 21 months’ time. I do not know what will happen. The noble Lord does not know what will happen. I am saying to the House that it is essential that Parliament has an opportunity, guaranteed by legislation, to address the circumstances at the time.

Lord Forsyth of Drumlean: I know that some people in the House do not want to see the flaws in this, but the answer to my question—no deal or what?—is that we end up rejecting the view that the British people voted for: that we should leave the European Union. That is the hidden agenda behind the amendment.

Lord Pannick: If by referring to a hidden agenda, the noble Lord is suggesting that I have some motivation, I assure him that my only motivation is to ensure that Parliament has a guaranteed opportunity at the end of the negotiating process to decide whether the terms of our withdrawal are acceptable or not. That is a basic question of parliamentary sovereignty.

The amendment will not delay notification of withdrawal from the EU. It does not commit the Government to adopt any specific approach in the negotiations. It does not impede them in the negotiations any more than the undertaking already given by the Prime Minister. Crucially, it will guarantee that the Government must come back to both Houses to seek approval for the result of the negotiations.

Lord Lester of Herne Hill (LD): I am grateful to the noble Lord for giving way and wish him a happy birthday. Would I be right in thinking that the difference between what he is advocating and what some other noble Lords are advocating is the difference between parliamentary authority and the royal prerogative? Is he not doing exactly what the Supreme Court of the United Kingdom said in Gina Miller’s case, which he won?

Lord Pannick: I am very grateful to the noble Lord. I was worried for a moment that he was going to sing at me, but I entirely agree with his point. We are considering the Bill because, and only because, as he reminds the House, the Supreme Court ruled as a matter of law that parliamentary sovereignty is required at this stage of notification of withdrawal. I say, not as a matter of law—because I am not arguing a legal case—but as a matter of constitutional principle, that parliamentary sovereignty is as important at the end of the negotiating process. I beg to move.

Lord Heseltine (Con): My Lords, many of your Lordships have made the point that we are not here to refight the referendum campaign; there is a clear mandate to trigger Article 50. My own personal position has been clearly established since I first joined the Conservative Party in 1951. I believe, and always have, that Britain’s national self-interest is inextricably interwoven with those of our European partners. I deeply regret the outcome of the referendum.

That said, within three days of that outcome, I publicly made three points. First, I urged the Government to get on with the disengagement process, not only

because they had a clear mandate to do so but because I thought that delay would only add uncertainty to the damage that the result itself had produced. Secondly, I urged the Government to appoint Brexiteers to the three Cabinet positions that would front the negotiations. It was clear to me then that failure to do so would open the door to the allegation that if only “the right people” had been put in positions to lead the charge, a much better deal would have been done. I also took the view, perhaps naively, that as campaigners for Brexit, it was not unreasonable to assume that they might have answers to the numerous questions that we faced. Your Lordships will be aware that both of these events have now taken place and I am very pleased to say how fully I support the Prime Minister in what she has done.

That leaves only my third point—the most controversial of the three. I said then that the fightback starts here. Like so many of your Lordships, I enjoyed the privilege of many years in another place—in my case, 35 years. I learned the limitations of government in a parliamentary democracy and I learned the role of opposition in such circumstances. Time and again I have been involved, along with many of your Lordships on these Benches, in opposing by every constitutional means in our power the mandate of the elected Government. Not only did we oppose their mandate from the very first day that Parliament met, we began the long process of repealing the Acts of which we disapproved.

In the end, it came down to a belief in the ultimate sovereignty of Parliament. I must make it clear that, in accepting the mandate to negotiate our withdrawal from the European Union, I do not accept that the mandate runs for all time and in all circumstances—48% of our people rejected that concept last year. They have the same right to be heard, as I hope so many of us recognised in those long years of opposition in another place.

We now face a protracted period of negotiation. No one has the first idea what will emerge. No one can even tell us what Governments in Europe will be there to conclude whatever deal emerges. No one can say with certainty how British public opinion will react to totally unpredictable events. To give just one example, I am told that it took 240 regulations to introduce the single market in the late 1980s. I remember the resentment that caused, particularly to small and medium-sized companies. I understand that it may take 1,600 regulations to unravel more than 40 years of closer union—and no one can say how the vital small and medium-sized sector of our economy will react to the circumstances that it will then face.

Everyone in this House knows that we now face the most momentous peacetime decision of our time. This amendment, as the noble Lord so clearly set out, secures in law the Government’s commitment, already made to another place, to ensure that Parliament is the ultimate custodian of our national sovereignty. It ensures that Parliament has the critical role in determining the future that we will bequeath to generations of young people. I urge your Lordships to support the amendment.

Lord Oates (LD): My Lords, I support the amendment moved by the noble Lord, Lord Pannick. I will not take up too much of the House’s time, not least

because I think the issue at stake is really rather simple. On 17 January this year, the Prime Minister confirmed in her Lancaster House speech the Government’s intention to,

“put the final deal that is agreed between the UK and the EU to a vote in both Houses of Parliament”.

As the noble Lord, Lord Pannick, said, on 7 February the Minister of State for Exiting the European Union stated that,

“the vote will cover not only the withdrawal arrangements but also the future relationship with the European Union”.—[*Official Report*, Commons, 7/2/17; col. 264.]

This amendment merely gives legislative effect to the Government’s pledge. In doing so it will assist the Prime Minister in upholding her intention, should she or any successor be tempted to resile from it. The amendment will also provide clarity that the Government will require the prior approval of Parliament should the Prime Minister decide to leave the European Union without any agreement at all.

In Committee, some noble Lords on the Benches opposite questioned the need for legal underpinning of the commitment given by the Government to a meaningful vote. The reason is simple. We do not trust the Government on this matter—not because we do not trust the integrity of individual members of the Government but because, as the noble Lord, Lord Deben, pointed out in Committee, we are only discussing this at all because the Government were forced by the courts and the arguments made by the noble Lord, Lord Pannick, to come to Parliament and hear its voice on the matter.

If we want to ensure that our sovereign Parliament, so often championed by the leave campaigners, has a clear and decisive role in scrutinising the final outcome of this process, it must assert its rights in legislation. If the Government are genuine in the commitment they have given on these matters, they should have no problem accepting the amendment. If they are not willing to do so, it will call into question the sincerity of their commitment and only strengthen the argument to pass this amendment into law.

The noble Viscount, Lord Hailsham, reminded us last week:

“Prime Ministers can go, Ministers can be sacked, Parliaments can change and Governments can cease to exist. One needs to enshrine assurances that stand against ... changes in circumstances”.—[*Official Report*, 1/3/17; col. 921.]

I wholeheartedly agree with the noble Viscount. That is why I support the amendment. I hope that your Lordships’ House will do so, too.

Lord Forsyth of Drumlean: My Lords, on the noble Lord’s latter point, it is perhaps worth recalling to the House what the Minister, Mr David Jones, said in the other place:

“The Government have repeatedly committed from the Dispatch Box to a vote in both Houses on the final deal before it comes into force. That, I repeat and confirm, will cover not only the withdrawal agreement but the future arrangement that we propose with the European Union. I confirm again that the Government will bring forward a motion on the final agreement ... to be approved by both Houses of Parliament before it is concluded, and we expect and intend that that will happen before the European Parliament debates and votes on the final agreement”.—[*Official Report*, Commons, 7/2/17; col. 269.]

[LORD FORSYTH OF DRUMLEAN]

In the course of the debate, the Minister repeated those sentences three times, and the shadow Secretary of State, Keir Starmer, to whom I paid tribute in the Second Reading debate, said:

“Minister, I am very grateful for that intervention. That is a huge and very important concession about the process that we are to embark on. The argument I have made about a vote over the last three months is that the vote must cover both the article 50 deal and any future relationship—I know that, for my colleagues, that is very important”.—[*Official Report, Commons, 7/2/17; cols 264-65.*]

Both Houses will get a vote on the final draft deal, and we do not need any of these amendments. It is a complete distortion to suggest that the amendments before us today—

Lord Hannay of Chiswick (CB): My Lords—

Noble Lords: Order.

Lord Forsyth of Drumlean: I will give way in a second.

Noble Lords: Order!

Lord Forsyth of Drumlean: I shall give way to the noble Lord if he sits down and lets me finish my sentence.

It is a complete distortion to suggest that the Government are likely to renege on those promises or that the amendments that we are discussing today put on to the statute book exactly what was said by the Prime Minister and the Minister in the House of Commons. They do something completely different.

3.30 pm

Lord Hannay of Chiswick: I am most grateful to the noble Lord for giving way, but having read out three times what the Minister said in the House of Commons he has revealed that the Minister failed to answer the question that he and the noble Lord, Lord Howard, and others put to my noble friend on what happens if there is a disagreement between the two Houses. Perhaps he could address that, and perhaps he could also put that question to the right person to put it to, which is not my noble friend but the Minister who is going to reply to the debate and who will have ample opportunity to reply to it.

Lord Forsyth of Drumlean: I know that the noble Lord is very experienced. If he does not know the difference between a resolution in the House of Commons and putting in statute a power of veto for the House of Lords, I am very surprised to hear him making that point.

The point about the amendment that we are discussing, Amendment 3, is that it is a wrecking amendment.

Baroness Butler-Sloss (CB): My Lords—

Lord Forsyth of Drumlean: I am not going to give way; I am going to make some progress.

Noble Lords: Order!

Baroness Butler-Sloss: How can it be a veto since we cannot in fact impose our will on the House of Commons?

Lord Forsyth of Drumlean: The noble and learned Baroness is very experienced, and she should know that this House is able to impose its will on the House of Commons. By convention, we do not do so, and, if we sought to do so, we would be in very deep water. This amendment is taking us into deep water.

I return to the issue under discussion, which is the amendment. Proposed new subsection (1) says:

“The Prime Minister may not conclude an agreement with the European Union under Article 50(2) ... on the terms of the United Kingdom’s withdrawal ... without the approval of both Houses of Parliament”.

So we get to the final hour, at midnight, when the deal is being done, and the Prime Minister says, “Hang on a second, I cannot agree a deal—I’ve got to go and consult the House of Commons”. It is a ridiculous proposal—

Noble Lords: The Prime Minister’s!

Lord Forsyth of Drumlean: It is not the Prime Minister’s proposal. It is a ridiculous proposal to say that the Prime Minister may not conclude an agreement until this has been sorted.

Viscount Hailsham: Would my noble friend give way?

Lord Forsyth of Drumlean: No, I am not going to give way to my noble friend.

Noble Lords: Oh!

Lord Forsyth of Drumlean: I promise to give way to him once I have actually made my points about the amendment.

It is a first rule of negotiation that you never negotiate with someone who does not have authority to conclude the deal. The effect of these proposals is to put Ministers in a position where their authority is in doubt and where, in effect, this House and the House of Commons are parties to the negotiation, which has to be conducted between Ministers and people from the EU.

Lord Heseltine: I wonder whether the noble Lord realises that the Ministers or European officials with whom this will be negotiated have all got to go back to every European parliament and the European Parliament before they can conclude a deal.

Lord Forsyth of Drumlean: I do realise that. I have the utmost respect for my noble friend, who helped to get me elected in 1983, which may not be one of the most important things on his escutcheon. He has served the party with great distinction. But I have to say to him that it is not the moment for this House to grab the mace and challenge the authority of the House of Commons.

Noble Lords: Oh!

Lord Forsyth of Drumlean: Subsection (2) of the proposed new clause states that:

“Such approval shall be required before the European Parliament debates and votes on that agreement”.

How are Ministers supposed to deliver that? They are not in control of the timetable for when the European Parliament debates these matters. It is an impossible condition for them to meet.

Lord Hope of Craighead (CB): I beg the noble Lord’s pardon and am grateful to him for giving way. The phrase,

“this will happen before the European Parliament debates and votes on the final agreement”—[*Official Report*, Commons, 7/2/17; col. 264],

is set out in *Hansard* in the undertaking given by David Jones on 7 February. The more the noble Lord makes his points, the more important it is, it seems to me, to pass this amendment.

Lord Forsyth of Drumlean: If the noble and learned Lord accepts my point then the more important it is not to seek to put it in statute. He did not actually deal with my point. How on earth are Ministers able to ensure that,

“approval shall be required before the European Parliament debates”,

when they are not in charge of the timetable for those debates? I would happily give way to him if he would like to answer that point. He is arguing that this should be put in statute and he should be able to explain how it could be achieved.

Lord Hope of Craighead: My Lords, I would love to continue this discussion until we reach an end of it, but all I am doing is referring to the words of the Minister himself. It is for him to work out how this undertaking, which he gave to Parliament and which fits exactly with the wording of the White Paper, should be conducted. It is very important that we make this matter clear. The best way of dealing with it is to use the Minister’s words in proposed subsections (1) to (3)—as the noble Lord, Lord Pannick, has done—and pass the amendment. The House of Commons can look at it again if it wishes.

Lord Forsyth of Drumlean: The noble and learned Lord is normally very careful and precise. At the beginning of my speech I read out the words that David Jones used in the other House. He said: “We expect and intend” that that will happen before the European Parliament debates. This says that such approval “shall be required” before the European Parliament debates. There is a big difference between “expect and intend” and “shall be required”.

Lord Callanan (Con): Does the noble Lord agree that the vote in the European Parliament will be about whether the deal that is negotiated will be acceptable, not about whether the UK actually leaves the EU or not?

Lord Forsyth of Drumlean: My noble friend is absolutely right on that point. Subsection (3) of the proposed new clause states that:

“The prior approval of both Houses of Parliament shall ... be required in relation to an agreement on the future relationship of the United Kingdom with the European Union”.

I put that point to the noble Lord, Lord Pannick, in my intervention. This effectively gives this House, and the House of Commons, a veto on Brexit. It gives it the ability to prevent us from leaving the European Union, despite the fact that we have had the biggest vote in our history from people requiring that. It would be immensely destructive to the reputation of Parliament and of this House.

Subsection (4) states that:

“The prior approval of both Houses of Parliament shall also be required in relation to any decision by the Prime Minister that the United Kingdom shall leave the European Union without an agreement as to the applicable terms”.

That means that Ministers are unable to walk away. This was the mistake that David Cameron made. If he had walked away he might have been able to get a proper deal—who knows? He did not walk away and they knew he was not going to. That is why he got such a useless deal. This ensures that Ministers cannot walk away. For the noble Lord, Lord Pannick, to suggest that the amendment is simply implementing the Prime Minister’s promise is a complete misrepresentation.

Lord Pannick: I am sorry; I did not say that. I made it very clear to the House that proposed subsections (1) to (3) implement the undertaking. That is not the case in relation to subsection (4). I take the view—noble Lords will form their own judgment—that it is absolutely vital for this House and the other place to have a say on whether we should leave with no deal or the one that is being offered. I made that very clear.

Lord Forsyth of Drumlean: I have to say to the noble Lord that we know what he is up to, and we know what is going on.

Noble Lords: Oh!

Lord Forsyth of Drumlean: I appreciate that I am in a minority in this House, and not just because I am a Scottish Tory. I am in a minority because I support the views of the majority of people in this country. This House is absolutely full of people who still have not come to terms with the results of the referendum. This is a clever lawyer’s confection in order to reverse that result. That is what we are debating. That is what it is about.

Lord Hannay of Chiswick: My Lords—

Noble Lords: Order.

Lord Forsyth of Drumlean: I have already given way to the noble Lord. He can make his own speech.

Lord Hannay of Chiswick: My Lords—

Lord Forsyth of Drumlean: I am not giving way to the noble Lord.

Noble Lords: Order!

Lord Forsyth of Drumlean: Well, all right. I will give way to the noble Lord.

Lord Hannay of Chiswick: I am most grateful to the noble Lord. I am sorry that I am causing him such frustration this afternoon.

Lord Naseby (Con): The House, not him.

Lord Hannay of Chiswick: Normally in this House we do not speak from a sedentary position.

Lord Naseby: My sedentary comment was that the noble Lord is annoying the House, not just an individual Member.

Lord Hannay of Chiswick: I am most grateful to the noble Lord for having arrogated to himself the decision as to what the hundreds of people around this place believe.

The point I was going to raise, and ask the noble Lord, Lord Forsyth, to address, is this. Of course the Prime Minister of this country has the ability to ensure that we leave the European Union without an agreement, because of the two-year time limit in Article 50, which the noble Lord has not addressed. That time limit is absolute. It will be triggered within the next few days and, sometime in 2019, it will reach its conclusion. It takes two to negotiate. Since the Prime Minister will be one of them—and the 27 and the institutions of the European Union will be the other—she has the ability to ensure that we leave without an agreement. That is the eventuality that is being dealt with in this amendment.

Lord Forsyth of Drumlean: The noble Lord makes my point for me. If, after two years, we have no agreement, then we will have left the European Union. I need to conclude my remarks.

Noble Lords: Hear, hear!

Lord Forsyth of Drumlean: This place is beginning to be like the House of Commons.

What is going on here is like Gulliver. These amendments are trying to tie down the Prime Minister—by her hair, her arms and her legs—in every conceivable way in order to prevent her from getting an agreement and us from leaving the European Union. The House should reject this amendment for what it is—which is an unelected Chamber trying to frustrate the will of the democratically elected Government and of the people, which has been expressed in a huge vote in a referendum.

Lord Bilimoria (CB): My Lords, one of the main reasons why we are where we are now is that the Prime Minister and the Government wanted to go ahead and use the prerogative, and it is only because of the ruling in the Supreme Court that we are debating this here.

In this amendment, we are asking to have something put in statute to protect against uncertainty in the future. We have heard so far in the discussion that questioning why voters voted—remain or leave—would be an insult to them. However, this was not a general election. In a general election, you have the party's manifesto—or an “Ed’s stone” and its commandments. If the people do not like the Government and say that they have not lived up to their manifesto, or have not delivered, in five years’ time they can throw them out. The difference here is that this decision is permanent.

The last referendum was in 1975—over four decades ago. Then, there was a majority of 67%. A supermajority was achieved. The decision was decisive. There was certainty. This time, we were told that it was a binary decision—remain or leave—but the outcomes are anything but binary. One of the outcomes is a hard Brexit.

The main issue here is that people are allowed to change their minds. Whether it is the Prime Minister, her Ministers, Members of the other place or Members of this House who want to change their minds, it is their right to do so. In fact, Steve Jobs, the founder of Apple, said that changing your mind was a sign of intelligence. As Keynes said, “When the facts change, I change my mind”. As the noble Lord, Lord Heseltine, said, many facts and many outcomes of this negotiation are completely uncertain. The Dutch elections, the French elections and the German elections are coming up. The eurozone might collapse. Europe might even reform its immigration rules, which we would like. Therefore, it is only right that Parliament has a full say on the road ahead. This amendment would protect us from the potential outcomes.

I concluded my Second Reading speech by quoting Professor Deepak Malhotra of the Harvard Business School, a world expert in negotiation. He told me to make sure that I read a book called *The Guns of August* by Barbara Tuchman about the beginning of the First World War. He said that reading that book was like watching a train crash in slow motion. That is what we are seeing right now with Brexit. I conclude that we need to support this amendment more than anything in order to protect the future.

3.45 pm

Lord Tebbit (Con): I wonder whether in 1975 the noble Lord knew about the Maastricht treaty?

Lord Bilimoria: My Lords, in 1975 I was barely a teenager.

I conclude by saying that the main reason why we need to support this amendment is for the sake of future generations and to protect them. I am sure that noble Lords have received several tweets, emails and letters from individuals. Just this morning I received an email that said, “Please support parliamentary democracy and our young people’s future”. One of our doorkeepers reminded me of an ancient Gaelic saying: “We do not inherit the earth from our ancestors, we borrow it from our children”.

Lord Finkelstein (Con): The noble Lord, Lord Hannay, seemed to suggest that we should support this amendment because Article 50 was not unilaterally irrevocable and that we would have to leave the EU. The argument used by the noble Lord, Lord Bilimoria, just now was that we should support the amendment because it is unilaterally irrevocable. Which is it?

Lord Bilimoria: Whether it is irrevocable has not been tested legally. The expert on this is the noble Lord, Lord Kerr, who wrote Article 50 and who claims that it is revocable. However, this amendment would cover all potential outcomes, and that we should have.

Lord Cormack (Con): My Lords, I speak briefly to Amendment 4, which stands in my name and that of the noble Lord, Lord Russell of Liverpool. It is similar in intent to the amendment moved very eloquently by the noble Lord, Lord Pannick, but it is shorter. I have sought merely to put in the Bill the remarks of Mr Jones and other Ministers: namely, that Parliament will have an absolute legal right, and that it will exercise its right before the European Parliament has exercised its. I say in parenthesis that we have to remember that whatever is agreed will go round every parliament, and indeed around some regional parliaments among the 27 nations, and it will go to the European Parliament, of course.

We have a system of parliamentary democracy in which I take enormous pride. I shall always be glad that I spent 40 years at the other end of the Corridor, not one of them in government but always trying to play a part in holding government to account. That is the supreme task of Parliament, in both this House and the other place. Of course, as I have repeatedly made plain in my interventions in the debates on this Bill and on many others, the ultimate power, authority and supremacy is with the other place. We neglect that fact—and it is a fact—at our peril. Nevertheless, we have not only a right but, I believe, a duty to ask the other place to reconsider if we think that it has not got it right. While I had no hesitation this morning in voting against the referendum amendment, I equally have no hesitation in speaking to this one, because all we are saying in this amendment and in the amendment moved so well by the noble Lord, Lord Pannick, and supported by my noble friend Lord Heseltine and others is that Parliament’s right and duty must be in the Bill.

It is not a question of the integrity of those who have made statements. Of course I accept that without question. But there is a difference between a statement expressing intent and a legal obligation. That is what we seek to insert in the Bill—a legal obligation that should be recognised. I very much hope that even at this late stage my noble friend the Minister will feel able at least to acknowledge that there is some validity in what we seek—and I very much hope that in the other place they will reconsider.

That would not delay the passage of the Bill by more than a day. We could get it through this House in all its remaining stages next week. It would in no sense alter the intent or purpose of the Bill, because it would give the Prime Minister what she has asked for. I sincerely hope that she will be in rude and vigorous health for many years to come and will still be in office long after the sad day when we have vacated the European Union. Nevertheless, we cannot guarantee that that will be the case, and one Prime Minister cannot necessarily bind her successor. Look at the changes that took place in June and July last year. How were the mighty fallen.

Unless my noble friend can give us the assurances that we seek, when we come to vote I urge your Lordships that we vote to put Parliament in its rightful place: the House of Commons first, but the House of Lords, this noble House, in its proper position, able to say, “Please reconsider”, and, “We genuinely do not think you’ve got this right” —

Lord True: Will my noble friend give way?

Lord Cormack: I am just about to finish.

The House of Lords should be able to say, “We do not think you’ve got this right”. Of course, if the other place takes a different line we recognise the limitations on our power. But let us send a message to the other place tonight.

The Archbishop of York: My Lords, I hope you will permit me to think aloud; these are not yet crystallised thoughts. I heard the exchanges between the noble Lords, Lord Pannick, Lord Hannay and Lord Forsyth, and I still want to work out some of the complications. For me, Amendment 3 provides for the intrusion of Parliament into the negotiation processes—which I do not think should happen—in such a way that it could prevent any deal ever being reached, because we would be involving ourselves in the processes.

There is a question that has not been fully answered. The amendment mentions the approval of Parliament three times. It says,

“without the approval of both Houses of Parliament”, once, and:

“The prior approval of both Houses of Parliament shall also be required”,

twice. The question that has to be answered is: what happens when this House does not agree with the other House? The amendment says that both must agree, but if we did not agree with the other place, that would give the unelected House almost a veto on the procedure for reaching an agreement with the EU, which in turn would thwart the decision made by the electorate in the 2016 referendum. So that question has to be answered.

I think that the commitment made by the Prime Minister in January 2017 as to the role of Parliament goes above and beyond what is in the Constitutional Reform and Governance Act 2010. I invite your Lordships to look at that Act, because I think she said more than it allows. I suggest that it is not in Parliament’s gift to make this a condition, as the European Union might well refuse to negotiate, or it might agree not to extend the negotiations. The Prime Minister’s official spokesman said yesterday that,

“we should not commit to any process that would incentivise the EU to offer us a bad deal”,

and that any deal that could be rejected by MPs would, “give strength to other parties in the negotiation. We believe it should be a simple bill in relation to triggering article 50 and nothing else.”

For me, and I think that the noble Lord, Lord Hannay, was trying to say the same thing, triggering Article 50 is an irreversible act. Two years after triggering Article 50 the UK will leave the EU. It will do so with or without a deal, but either way it will leave. Article 50, paragraph (3) makes it clear that the treaties will cease to apply two years after notification has been made. It is possible that the 27 EU members might unanimously agree to extend the negotiating period beyond the two years, but this cannot be taken for granted, nor should it be assumed that anything but a brief extension would be offered. This amendment shows no awareness as to the realities presented by the Article 50 timeframe. It may sound like rubbish, but an answer has to be given to the questions raised by paragraph (3). The amendment also overlooks the fact that the European

[THE ARCHBISHOP OF YORK]

Union (Notification of Withdrawal) Bill is about the triggering of Article 50 and the formal divorce settlement. Neither the Bill nor Article 50 is about negotiating a new agreement with the EU.

Faith seeking understanding: *fides quaerens intellectum*. Could somebody explain? If I cannot get a clear answer to the questions I have posed, I may find myself voting no. But if I am helped to understand then I may vote yes.

Lord Turner of Ecchinswell (CB): My Lords, like the noble Lord, Lord Faulks, I arrived this morning for the debate on Amendment 1 not sure which way I would vote, but very clear that I was going to be a strong supporter of this amendment. Also like the noble Lord, I thought there was a link between the two. However, my resolution is somewhat different, in that I did not vote for this morning's amendment but I still strongly support this one.

One of the difficulties with these debates as to how we should think about the finality of the vote on 23 June last year is that I find myself disagreeing with arguments on either side. On the side of those who, like me, voted remain, it is often suggested that there was something about the vote that was less legitimate than other votes—perhaps because 16 to 18 year-olds did not have the vote or because the leave side lied. But I do not consider those to be reasonable arguments. You may or may not be in favour of 16 to 18 year-olds having the vote, but in our present system voting starts at 18 and that does not change the legitimacy of a general election or referendum result. As for the argument that the leave side exaggerated or, perhaps with the NHS claim, lied, I think there were some exaggerations on the other side as well. In every general election that I can remember, there have been exaggerations on either side, some of which have verged on the mendacious. But they have not invalidated the result of the general election. Democracy is scrappy and imperfect but it is the best system we have. So I accept the result of what happened last year as no more and no less legitimate than any general election. However, that means that as well as being no less legitimate, it is also no more.

It is the case that, on the day after a general election—the noble Lord, Lord Heseltine, has said this already—Members of the opposition party, be they Labour, Conservative or Liberal Democrat, devote themselves to arguing against what was just agreed by the majority of the population. They put down amendments in the Commons or the Lords, try to delay things in the Lords and work, day after day, to win the next general election. In some cases, they work very hard to bring it forward if they possibly can—there is a very fine play here in London now which records that happening in the Commons in the days of several people currently in this House.

4 pm

I very much agree with the sentiment of my noble friend Lord Kerr that any idea that the vote last June reflects the will of the people in some unanimous fashion—all the people together, *una voce*, absolute and for ever, unchanging—is, as my noble friend put it, not democratic but the Brezhnev doctrine. Like

him, I have been a bit surprised and depressed by the fact that this Brezhnev doctrine, having been first propagated by some of our major newspapers, is now finding an echo chamber among some parts, although definitely not all parts, of the Conservative Party. On the basis of what the noble Lord, Lord Taverne, said earlier, I wish that they would pay more attention to the intellectual lineage of Edmund Burke than that of Leonid Brezhnev.

The idea that to have another referendum three, four or five years after the last is undemocratic is nonsense. Indeed, the idea that we should reject the possibility of another referendum in principle is in itself undemocratic. If it so happened that there was another referendum in three, four, five or 20 years' time in which there was a majority for staying in the European Union, that would be equally democratic—no more and no less—than the vote on 23 June. Still, I did not support Amendment 1, because I am not sure that there should be a referendum in two, three or four years' time. I do not think that by referendum we can solve the uncertainties and issues we will face in two years' time, but we can and should resolve them by having extensive parliamentary debates at that time.

We simply do not know what will be the result of the negotiations. Nor do we know what the situation will be in two years' time. It may be that adverse consequences have emerged from the expectation of leaving the European Union—it may be that they will not. I do not know. I do not think, therefore, that it would be appropriate now to commit to a future referendum, nor do I think we can be sure how we would interpret the result of such a referendum.

Viscount Ridley (Con): I wonder whether the noble Lord has picked up his notes for the wrong speech. He seems to be talking about a second referendum.

Lord Turner of Ecchinswell: I am going to come very shortly and briefly to why I think these arguments mean that we should have a parliamentary debate. I do not think it would be appropriate to commit now to a future referendum, because I do not think we can know now what the meaning of a no vote in a future referendum would be. Would it be a vote against a result that was too soft or too hard?

Lord Taylor of Holbeach (Con): I am sorry; I know that the noble Lord wanted to speak to Amendment 1 and perhaps it is a bit frustrating that he is actually now dealing with Amendment 3, but it is important that he addresses his remarks to Amendment 3, not to Amendment 1, which is a matter this House has already decided.

Lord Turner of Ecchinswell: The very argument as to why we should not commit to a future referendum, the uncertainty of the situation we will then face, is, however, the argument why it is appropriate for us to come back for a detailed debate in both Houses of Parliament at that time to deal with the uncertain circumstances that will then exist. Like others around this House I would in some ways prefer that this referendum more clearly identified the relative powers of the Commons and the Lords in that process. I would

have preferred the earlier version of the amendment, which proposed that a legislative process should be brought forward at that time. The most important principle is that we should not treat 23 June as providing answers for ever or the answers to everything. It is therefore absolutely appropriate for us to assert that there should be a process of parliamentary sovereignty, where the details of what is proposed are brought back to both Houses of Parliament for detailed debate at that time.

Viscount Hailsham: My Lords—

Lord Lawson of Blaby (Con): My Lords—

Lord Howell of Guildford (Con): My Lords—

Lord Taylor of Holbeach: My noble friend Lord Hailsham is a signatory to this amendment and it is right that the House hear from him. Perhaps we can then hear from the Labour Benches, and then from one of my noble friends on the Conservative Benches.

Viscount Hailsham: My Lords, those who have put their names to the proposed new clause are not seeking to stand in the way of the Bill. Our sole purpose is to ensure that the outcome—agreed terms or no agreed terms—is subject to the unfettered discretion of Parliament. It is, in our view, Parliament and not the Executive which should be the final arbiter of our country's future. Ironically, in this sense we stand with the campaigners for Brexit who wanted Parliament to recover control over policy and legislation. Incidentally, too, we stand in that long tradition of parliamentarians who have stood for the primacy of Parliament against ministerial fiat. In the old days, that was a contest fought on the battlefields; happily, more recently it has been fought in public debate. Of course, most recently of all it was fought in the law courts. This is a conflict that never ceases. Let us not forget that, had it not been for the judiciary, we would not be debating this Bill—oh no. It was the Government's intention to trigger Article 50 under prerogative powers; that is, under the residual powers of the Crown.

It is absolutely central that we should determine the proper interpretation to be given to the referendum of last June. I acknowledge at once—albeit I was a remainder—that the referendum was much more than merely the advisory expression of public opinion. However, I do deny that it gave authority to this Government to leave the European Union whatever the cost, whatever the terms and whatever the prejudice. That cannot be the case because when the public voted last June, they did not—could not—know the outcome. In any event, the Government's commitment to subject the ultimate decision to a vote of Parliament undercuts that very proposition.

I believe that the proper interpretation of the referendum is this: it is an instruction to the Government to negotiate withdrawal on the best terms they can get. But that raises an absolutely fundamental question to which this proposed new clause is directed. When the negotiations have crystallised and there are agreed terms—or, perhaps, no agreed terms—who determines the way forward: is it the Executive or is it Parliament?

That is the old question we have to resolve. In my view, any believer in a democratic state has to say that the authority lies with Parliament.

In very brief reference to a second referendum, it may be that Parliament, two years down the track, will decide that it is necessary. It may be justified in doing so; the circumstances may well change. Say, in two years' time, there is a clear change in public sentiment. Say, too, that Parliament recognises that fact. Is Parliament not then under a duty to test public opinion? I quote the noble Lord, Lord Taverne, who spoke earlier today. At Second Reading he said that only dictatorships, “do not allow people to change their mind but in a democracy no decision is ever irreversible”.—[*Official Report*, 21/2/17; col. 243.]

I want to turn to the argument that has been advanced by my noble friend Lord Hill of Oareford, who is indeed a very old friend of mine. I say at once that I acknowledge his experience and authority, which are recent. His view, which I am sure will be adopted by the Government, is that if you give Parliament the kinds of powers contemplated by the proposed new clause, you will undercut the negotiating position of the British Government. I do not agree with that view. I share the view expressed by the noble Lords, Lord O'Donnell and Lord Kerr, both citing their own very considerable experience, that the existence of the argument that Parliament will never wear this reinforces rather than undermines the position of the negotiators.

Lord Hill of Oareford (Con): One of my noble friend's most endearing characteristics is that he cannot walk past a wasps' nest without wanting to poke it with a stick. He has just succeeded. There are two points that I would ask him to reflect on, which we have already touched on in this debate.

The first—which my noble friend and, I think, all noble Lords, with a few exceptions, would agree with—is that this is going to be an extremely complex negotiation. Anything that adds to that complexity is strongly to be avoided, in my opinion. I do not agree with those who say that this is going to be very simple and we can sort it all out in a matter of time. This is going to be complicated, so we should keep things as least complex as we can make them. When I listened to the noble Lord, Lord Pannick, set out this amendment, it added to my sense that complexity and uncertainty is contained in it.

Secondly, regarding the effect this might have on the negotiation, does my noble friend agree that the argument some people use—that having a Parliament or a board behind you in a negotiation enables you to have a stronger position—normally applies when the board or the Parliament is adopting a harder line than the person negotiating? I have to tell your Lordships that our friends in Europe do read our debates and our media. They are highly intelligent, sophisticated negotiators. They know where people sit. When my noble friend says that it would not weaken our position, can he not see that there are indeed instances where it would weaken our position because it would make Parliament a player in the negotiation and add complexity to what is already going to be very complex?

Viscount Hailsham: My Lords, my noble friend has made a very serious point, which enables me to cut directly to the chase, to one of the points I was going

[VISCOUNT HAILSHAM]
to make. It is possible that my noble friend Lord Hill is right about this. There is sometimes a price to be paid for democracy. Indeed, that is the argument that underpins many of the assertions made by the Brexiteers. They argue that, yes, there may be a cost involved in withdrawal but it is more than compensated for by the recovery of democratic control. That argument also applies to the process of negotiation.

Lord Ashdown of Norton-sub-Hamdon (LD): In answer to that very question, I ask the noble Viscount to cast his mind back to 1991, when he and I were both in the other place. He was a member of the Government, as I recall. On that occasion the then Prime Minister, John Major, brought the Maastricht treaty to the House for its approval twice; first, in seeking a mandate for negotiation; and, secondly, afterwards in seeking the House's approval for what had been negotiated. If that did not weaken his Government at the time, why should this weaken this one?

Viscount Hailsham: My Lords, I entirely agree with what the noble Lord has said. Of course, it is also consistent with the principles that underpin Section 20 of the 2010 Act, because that requires all treaties to be ratified by Parliament.

If I might make a little progress, the Government have in the course of the Bill made a very large number of concessions. It would be churlish not to welcome that fact. Indeed, I rather hope for more. But I agree with the views expressed by the noble Baroness, Lady Kennedy, and the noble Lord, Lord Pannick. It is better by far that the assurances and concessions of Ministers be expressed in statutory language because, as the noble Lord, Lord Oates, has reminded the House, political circumstances may change. Ministers may move on; Governments may fall. Statutory language is always to be preferred to the comforting words of Ministers.

4.15 pm

Finally, I turn to my noble friend Lord Bridges—a friend of mine of very old standing. I very much hope that I do not prejudice his future when I say that he has conducted the Government's case with great distinction. But in his winding-up speech he will doubtless argue in a number of ingenious ways, as indeed my noble friend Lord Forsyth has done, that the drafting of this new clause is defective. It would surprise me if he does not advance that argument but I say to your Lordships' House: ignore that argument. I have carried several Bills and been party to scores of Bills going through Parliament, and the truth is this. When a Minister is weak on principle, that Minister focuses on the drafting.

The reality is as follows. If Parliament as a whole resolves that as a matter of principle, the ultimate authority to determine the future of this country should rest with Parliament and not the Executive, skilled parliamentary counsel will be instructed to ensure—and ensure very rapidly—that the language of the Bill meets that objective. I ask your Lordships to rest on the long-contested principle that this country's

future should rest with Parliament and not with Ministers. It is in that spirit that I commend this new clause to your Lordships' House.

Baroness Kennedy of The Shaws (Lab): My Lords, I think it is the occasion for the Labour Benches. I remind the House that the Supreme Court gave us the benefit of its wisdom on constitutional matters in the case of *Gina Miller*, which we have heard about. In that case, the Supreme Court's principal conclusion was that primary legislation is required to authorise the UK's withdrawal from the European Union. I make it clear that this Bill is a notification Bill; it is not an authorisation Bill. It does not authorise withdrawal from the European Union. What it does is to notify other European Union members that we are in a process of negotiation. The withdrawal must come back before this Parliament.

I also remind the House what the Supreme Court judges said. They said that the reason why this was a matter for Parliament—both the notification and, finally, withdrawal—was because any fundamental change to our laws that inevitably amends or abrogates our individual rights requires the approval of Parliament. That is one of the essential constitutional principles under which our system operates: that anything involving our rights—whether they are to trade with, to live in or to travel to the European Union—we have introduced into domestic law. Because that therefore involves the rights of citizens, Parliament is the place that has to make the decision and approve any changes to that law.

The concern that I raised in Committee late at night, when most people were no longer here, was that I had heard repeatedly from Ministers that if there was not a deal, or if Parliament decided that the deal was not good enough, we would walk away and that there was therefore authorisation from the people, having taken part in the referendum, to walk away. That flies in the face of what was said by the constitutional court of this country—the Supreme Court, which deals with constitutional issues—because walking away and embarking on an engagement in trade worldwide under the WTO rules also involves an amendment or abrogation of some of the rights that citizens in this country have. It has implications. That is why it is a constitutional matter and why this House has a particular role to play.

Lord Faulks (Con): Perhaps I can remind the noble Baroness of the limits of what the Supreme Court decided. In paragraph 3, it said:

“It is also worth emphasising that this case has nothing to do with issues such as the wisdom of the decision to withdraw from the European Union, the terms of withdrawal, the timetable or arrangements for withdrawal, or the details of any future relationship with the European Union”.

There is a distinct limit to what it decided. Does the noble Baroness agree?

Baroness Kennedy of The Shaws: In reaching that decision, the Supreme Court laid out the principle that the reason why it was engaging with the case at all was not because it had a view on Brexit but because of the constitutional principle. The principle is very straightforward. It is that when it comes to our rights,

Parliament makes those decisions. That is why when the process comes to the end and there is a deal on the table it has to be voted upon by Parliament but, if there is no deal, that too becomes an issue. It is not good enough for Ministers of Government to say that we just walk away as though that has no consequences. Walking away also has consequences for the rights of citizens in this country. That is why it is a matter for Parliament. That is why this proposed new clause is so important.

Viscount Ridley: The noble Baroness said at the beginning of her remarks that this is a notification Bill, not an authorisation Bill. Will she therefore explain what an authorisation amendment is doing in a notification Bill?

Baroness Kennedy of The Shaws: At the end of the process, there is going to be a need to come back before Parliament. That has been acknowledged by the Prime Minister and other Ministers and I understand that an undertaking has been given. Like the noble Viscount, Lord Hailsham, I believe that having it in statutory form is the best way for us to know exactly what is on offer, but I have heard repeatedly from Ministers that the option of walking away involves no need to come back before Parliament. I asked the question directly of the Minister, the noble Lord, Lord Bridges, and I have heard it said by other Ministers in Select Committee. All I am saying to this House is that that is why this amendment is so important, even if no negotiation deal comes back before Parliament because no deal means WTO and WTO has implications for citizens of this country with regard to their rights.

Lord Lawson of Blaby: My Lords, as my noble friend Lord Hailsham—

Lord Finkelstein: Did the noble Baroness finish? I wanted to intervene on her.

Baroness Kennedy of The Shaws: I think the noble Lord, Lord Finkelstein, wants to come in on the points that I was making. I had actually more or less completed my speech, but if he wants to raise an issue—

Lord Finkelstein: Was the court's judgment not based on the idea that this was authorisation? The court would have not have ruled as it did if it had not assumed that this was not unilaterally revocable. Both sides in the court case, including the noble Lord, Lord Pannick, said that it is not unilaterally revocable, and the court ruled specifically because of that that authorisation is delivered by triggering Article 50. If it had not done so, it would not have ruled as it did; therefore, it is crucial to the understanding that this is authorisation.

Baroness Kennedy of The Shaws: It is notification of withdrawal; it is not a withdrawal Bill.

Lord Lawson of Blaby: My Lords, as I was saying, as my noble friend Lord Hailsham, whose father I greatly respected as a colleague of mine in government, has reminded us, the reason we are debating this proposed new clause today is that the noble Lord,

Lord Pannick, who moved this amendment, convinced first the High Court and subsequently a majority of the Supreme Court that a Bill is needed and that the Government's intention to rely on the prerogative will not do. His argument was clear, and I think it will be helpful if I remind the House of it by quoting his words before the High Court:

“my case is very simple. My case is that notification is the pulling of the trigger and once you have pulled the trigger, the consequence follows. The bullet hits the target. It hits the target on the date specified in Article 50(3). The triggering leads to the consequence, inevitably leads to the consequence, as a matter of law, that the treaties cease to apply”.

In short, the very act of invoking Article 50 inexorably leads to Brexit two years later. This was the principal basis on which the courts decided that the Government were wrong to rely on the prerogative, yet the proposed new clause appears to say exactly the opposite. It says that there is no inevitability at all. Triggering Article 50 does not “inevitably”—in the own word of the noble Lord, Lord Pannick—lead to Brexit, for the explicit purpose of the proposed new clause is to ensure that even when Article 50 has been invoked, if Parliament disapproves of the outcome of the negotiations it can stop Brexit happening. Indeed, as a number of speakers have pointed out, on the strict interpretation of the proposed new clause, your Lordships' House alone can prevent Brexit since the approval of both Houses is required. I do not want to go down that avenue because I have not time.

I have the greatest respect for the noble Lord, Lord Pannick, as an exceedingly clever lawyer who deploys his cleverness with considerable charm. However, is it possible for even him to have his cake and eat it? Might this not be too clever by half? The real mischief—

Lord Lester of Herne Hill (LD): My Lords—

Lord Lawson of Blaby: I should like to develop my argument. The real mischief in this proposed new clause lies in subsection (4). As the noble Lord, Lord Pannick, effectively conceded, without subsection 4 there is a possible reconciliation with his original thesis, since without subsection (4), Parliament would be faced simply with the decision of whether to approve the agreement that the Government had putatively reached with the European Union. As the noble and learned Lord, Lord Hope, and one or two others, have already pointed out, the Government have pledged to put this before Parliament when the time comes.

The Government might, for example, have agreed to pay the Barnier ransom demand which our own European Union Committee has recently confirmed that we are under no legal obligation to pay. In that case, Parliament might have found that unacceptable. However, if, for whatever reason, Parliament refused to approve the agreement that the Government had reached with the EU, that would not prevent Brexit. It would mean simply that we would leave the European Union without an agreement—and, as I explained at Second Reading, that is nothing to be scared of. Far from jumping off a non-existent cliff into the unknown, trading under WTO rules is the very satisfactory basis of most of the trade that we do throughout the world today. I give way.

Lord Lester of Herne Hill: I am grateful. Does the noble Lord accept that at this stage the key question before the House is: who is to be master? Is it Ministers or Parliament?

Lord Lawson of Blaby: If the noble Lord allows me to develop my argument he will see exactly what the problem with what he is saying is, because no agreement is by far the most likely outcome. As the Prime Minister made clear in her excellent Lancaster House speech and as the subsequent White Paper reiterated, no agreement would be better than a bad agreement. Sadly—and it is sad—a bad agreement is all that is likely to be on offer. However, the mischief of subsection (4) of this proposed new clause is that it would not merely give Parliament the power to reject a bad deal but enable it to prevent Brexit altogether by refusing to allow the UK to leave the European Union without an agreement. This not only is in diametric opposition to the Pannick thesis on which the Bill rests but, more importantly, would be an unconscionable rejection of the referendum result that would drive a far greater wedge between the political class and the British people than the dangerous gulf that already exists.

4.30 pm

It might be argued that all Parliament would be doing would be instructing the Government to go back to Brussels and accept whatever agreement, however bad, the 27 were prepared to offer. That is clearly unacceptable, and indeed constitutionally improper. The only practical effect of subsection (4) would be to create a political crisis, causing highly damaging uncertainty to business and the economy, which could in practice be resolved only by a dissolution of Parliament and a general election—something the Opposition can always try to achieve, if that is what they wish, without this clause, simply by moving and carrying a vote of no confidence in the Government. This mischievous proposed new clause, masquerading as an assertion of parliamentary sovereignty, deserves to be rejected out of hand.

Baroness Deech (CB): My Lords—

Lord Lisvane (CB): My Lords—

Noble Lords: Lisvane!

Lord Lisvane: My Lords, I am extremely grateful to my noble friend; no doubt she will have her opportunity in a moment. After more than four decades in which I sought to make the most modest of modest contributions to parliamentary effectiveness and reputation, I hope that my credentials as an advocate of parliamentary sovereignty will not be challenged. I am very grateful to my noble friend Lord Pannick not only for his kind words but also for his recasting of Amendment 3. I agree with him that, if this amendment were to be agreed, the means of approval would be in the hands of the Government. So I hope that he and noble Lords will forgive me if I repeat some of the issues that, in that case, the Government should have in mind.

So far, ministerial language has been in terms of “a vote” and “a Motion”. That rather suggests proceeding by resolution—and, if so, the concerns I expressed in

Committee are unallayed. What happens if one House votes one way and the other House votes the other way? Does qualified approval, perhaps with a conditional rider, count as approval? Would it be acceptable in those circumstances to give this House an effective veto over the process?

If, on the other hand, primary legislation is contemplated, the issue of interpreting some sort of qualified approval, or the terms of approval, remains. Even in the unloved Fixed-term Parliaments Act, specific wording for a Motion of confidence or no confidence was inserted to avoid the possibility of recourse to the courts. In matters of the present gravity, recourse to the courts would be even more unwelcome. My father had a ghastly warning about the dangers of overspecification in legislation. He quoted what was alleged to have been a rule at Heidelberg University, which stated: “No one shall tie anything, whether a nightwatchman or not a nightwatchman, to anything, whether a lightning conductor or not a lightning conductor, at any time, whether or not during a thunderstorm”. I do not ask for that degree of specification—but, if primary legislation is contemplated, the terms of approval need to be considered very carefully indeed.

Baroness McIntosh of Pickering (Con): My Lords, I am genuinely torn on how to vote on this amendment and turn to my noble and very able friend the Minister to guide me in this respect. I listened very carefully to all the speakers this afternoon, particularly the noble Baroness, Lady Kennedy, who I think comes at this with the same approach that I do. These amendments seem based to me on a very simple proposition, which is that rights given to British subjects by statute can be removed only by statute.

Of the two alternatives available, particularly in Amendment 3, which I am tempted and minded to support—a resolution to be passed by both Houses or a Bill to be passed by both Houses—the amendment neatly leaves it to the Government to determine the means to choose. I would like to know—and I seek guidance from the Minister and very powerful arguments against—why it would not be appropriate to include the amendment here on the face of the Bill. I say this because this is the last procedural stage before we embark on the substance. We are told that there will not be just the great repeal Bill but a number of substantive primary pieces of legislation as well as, no doubt, multiple pieces of secondary legislation to repeal some of the *acquis* that we might wish no longer to apply.

Why is it important to write it on the face of the Bill? It is for so many reasons: times change; politics change and personalities change. We are being asked to take an awful lot on trust here, both in terms of a commitment from the Government and in terms of a commitment given on the Floor of the House of Commons that Parliament and the Government would hope to follow through. Surely it is only right and proper that it should be put on the face of the Bill.

I remind the House that we spent about two hours and 30 minutes talking about the rights of EU nationals going forward. If the referendum had been held on the same terms as the European Parliament elections, all the EU nationals living here for the required length of

time would have been able to vote. As I understand it from memory, an amendment passed in this House deprived those 1 million EU nationals living in this country of the right to vote. In fact, that 1 million number could have changed the outcome of the referendum overnight.

I refer to the words of the noble and learned Lord, Lord Hope of Craighead, in summing up on Second Reading. He expressed to the Government, in a helpful way, that the Supreme Court's decision in *Miller* went further than just this Bill before us today, which embarks on the negotiation procedure. A majority of the House would not wish to stand in the way of the triggering of the process. By the same token, the noble and learned Lord went on to say, in respect to not writing into the face of the Bill—I do not want to press him too hard, but I think that the noble and learned Lord was saying the same—that,

“obtaining approval by resolution in Parliament is not the same thing as being given statutory authority”.

That is why he cautioned the Government against thinking that this Bill before the House today,

“on its own will give them all the authority they need, or that obtaining approval by an agreement by resolution is the same thing as being given statutory authority to conclude that agreement”.—[*Official Report*, 20/2/17; col. 23.]

I will refer also to an article written by five eminent QCs, including three knights, who gave their opinion on the matter and stated:

“Meaningful Parliamentary decision-making cannot be achieved by Parliament authorising exit from the European Union, two years in advance, on as yet unknown terms. Equally, it cannot be achieved by a single ‘take it or leave it’ vote at the end of the process”.

The article argues very straightforwardly:

“The constitutional requirements for a decision by the United Kingdom to leave the European Union include the enactment of primary legislation consenting to give legal effect to the terms of a withdrawal agreement between the United Kingdom and the European Union”.

Therefore, rather than being a wrecking amendment, I see this amendment as being potentially helpful to the Government, responding to a situation that we found ourselves in, having now lost three to six months through a court case and then an appeal, by writing on to the face of the Bill that Parliament—these two Houses—will have the final say. It will be of the Government's choosing what the mechanism will be—whether a resolution of both Houses or an Act of Parliament. Otherwise, there will be a complete lack of clarity over what remaining rights already extended to British subjects can continue to be relied on. I will go further and say that, when we come to the great repeal Bill, there will be a complete lack of clarity over the court on which we should rely to make sure that those outstanding rights can be enforced.

Baroness Deech: My Lords—

Baroness Symons of Vernham Dean (Lab): My Lords—

Lord Mackay of Clashfern (Con): My Lords—

Baroness Altmann (Con): My Lords—

Lord Taylor of Holbeach: My Lords, I think we will hear from the noble Baroness, Lady Deech, then from the noble Baroness, Lady Symons, and then from my noble and learned friend Lord Mackay.

Baroness Deech: My Lords, I wish to say a few, brief words about sovereignty and the likely outcome if Parliament disapproves a deal at the end of the negotiations in two years' time. The sad fact is that because of the construction of Article 50, we will not recover our parliamentary sovereignty in European matters until the whole process is over. If we contemplate what might happen in two years' time, we see only too clearly that sovereignty lies with Europe. If this House or the other House were to reject the deal, we would end up as puppets in their hands. Can it honestly be imagined that if one or other House, whether through approval or an Act of Parliament, goes back to Europe in just under two years' time and says, “We don't like the deal”, the other 27 will say, “Oh dear. Here is a much better one”, or, “Let us, all 27, now agree to extend the negotiation time”? I do not think so.

The noble Lord, Lord Oates, indicated that he did not trust the Prime Minister. I am sorry to say that I do not trust the other 27 members of the European Union to give us a good deal, or indeed to care very much about what happens to us or our nationals, because their only declared intent since last June has been: “You must be punished. The Union must survive, no matter what the cost. We will not accommodate you, we will not be kind to you”. There is no vision. There is no mission.

Lord Lea of Crondall (Lab): Can the noble Baroness give us chapter and verse on who said that?

Baroness Deech: My Lords, I read it in the papers every day.

Lord Lamont of Lerwick (Con): Perhaps the noble Baroness would quote to the noble Lord, Lord Lea, exactly what President Hollande said: “There has to be a price. There has to be a threat. There has to be a cost”.

Baroness Deech: Thank you.

Much of our argument turns on whether Article 50 is revocable or not. The Supreme Court judgment in *Miller* did not go that far. The judgment was based on the fact that triggering Article 50 would be the no turning back moment at which the two years would start and inevitably run their course. Indeed, I know that there has been a legal opinion from three knights that Article 50 is revocable, but I know from my dealings with lawyers that you can find another three knights who will tell you something quite different. Although I have heard it said that the noble Lord, Lord Kerr, drafted the article, so he knows what it is about, in our system, it is not the draftsman who in the end declares what the article means.

If parliamentary approval were needed at the end of the deal, what might it look like? Some parts of it might very well deal with European nationals. Only a few days ago, we were expressing our shock and dismay that the position of European nationals might not be

[BARONESS DEECH]

taken care of. Would we be throwing them all into disarray in two years' time if, among probably thousands of pages of deal, there was something about European nationals?

I am sorry to say that the noble Lord, Lord Pannick, has departed from his usual clarity in legal matters. He has tied himself and the House in knots. On the one hand, he says that we always defer in the end to the Commons. I wonder whether we will hear that this evening or next week if there is a head-on clash between our decision, if we approve the amendment, and what the House of Commons says. On the other hand, he has also said that approval is better than having an Act of Parliament: it leaves it open to the Prime Minister to decide what to do. But with an Act of Parliament expressing what is in the amendment, the Commons would prevail because of the Parliament Act. You cannot really have it both ways. The only other possible outcome at the end is no deal. The two-year shutter comes down and we are off the cliff—that is the general outcome. Others know just as well how difficult that would be.

Our lack of sovereignty means that if at the end of two years the rest of the European Union does not give us what we want and either House rejects that deal, the European Union will, for sure, not welcome us back with open arms, will not necessarily accept a revocation of Article 50 and not necessarily give us a better deal. That is the reality of the situation. We will have to take what comes our way in two years' time.

4.45 pm

Plainly, the amendment requiring a second parliamentary assent is designed to enable Brexit to be blocked in the mistaken belief that the EU will roll over. If this amendment is enacted, it is more likely to lead to no deal at all. In practice, it is unworkable and defies the result of the referendum. The referendum was on a matter of principle, not details. It lies deep with many of those who voted to leave, regardless of the details. They want to separate themselves from the European Union, and it is very unlikely that they will feel differently in two years, especially if the Union deals up a bad deal to the rest of us. I oppose the amendment.

Baroness Symons of Vernham Dean: My Lords, I do not know what people will feel like in two years' time. We know that the demographics will have changed and that young people will be coming on to the electoral register and, as we all know, young people have taken a very different view about our leaving the EU to that taken by older people who will no longer be able to vote.

I have two specific questions to ask the Minister. The noble Lord, Lord Lawson, said that the Supreme Court's judgment was that Article 50 was irrevocable—a view just reiterated by the noble Baroness, Lady Deech. I thought that the Supreme Court judgment was rather more nuanced than that: that because the parties to the action were prepared to use that as the basis for forming their judgment, they had not tested the arguments on the irrevocability or otherwise of Article 50. So there was a clear statement that they had not tested that argument.

On Second Reading, I asked the noble Lord what the Government's views were on that. In a very skilled response at the end of the debate, he said that it was the firm policy of the Government not to turn back having triggered Article 50. The noble Lord knows that that was not the question I asked. We are not asking about the firm policy. What we need to know is the Government's legal view on the revocability or otherwise of Article 50. That is a crucial question because if the issue does come back to Parliament, we will be in a very different position if it is revocable. I ask the question, and hope that this time I might have the answer.

My second question is about the position whereby the Government have sought to bypass Parliament, as indeed they did, by saying that the prerogative powers were sufficient to trigger Article 50. It did indeed take private individuals, represented by the noble Lord, Lord Pannick, to go to court to prevent the Government going beyond their powers and bypassing this Parliament. The Government had assumed they had powers by using the prerogative, and the Supreme Court was able to disabuse them of that.

Lord Finkelstein: Does the noble Baroness accept that the reason the court made that judgment was that both parties had agreed that it was not unilaterally revocable? That is the reason why both parties had to agree, otherwise the court would have ruled differently. It ruled that this was a parliamentary decision of authorisation. That is the reason why it had to come back to Parliament. It would change the law.

Baroness Symons of Vernham Dean: The point that the Supreme Court made was that it had not tested the point about revocability. I say to the noble Lord, who knows what the outcome would be if it were asked to do that? The political position now is that the Supreme Court has not made that judgment, and it took going to the court to get the views that we have.

When we get to the end of this whole discussion, I wonder what the Minister will be able to say about our ability to trust the views of Ministers. I am not saying that we do not believe that Ministers really want to come back to Parliament, but the only assurance we will have is putting it in the Bill. The Government do not have good form over this. They foolishly went on to the Supreme Court after the High Court had told them what the judgment should be. We need this in the Bill because the Government have form for bypassing Parliament, and we need to know that that will not happen again.

We need the best legal checks and balances we can get—not to stop Brexit but to make sure that we obtain the best this country can get from it. That is why we need to vote for this amendment today. It is also why, if the amendment is successful in this House, I hope it goes on to be successful in another place. Britain relies on parliamentary sovereignty and now is the moment for it to be fully asserted by this House—not in six months' time, not in 18 months' time, not at the end of the period of negotiation. We have to make sure legally that Britain's best interests are protected and safeguarded. That is the job of this Parliament. It is our job here today and I urge this House to vote for the amendment.

Lord Mackay of Clashfern (Con): My Lords, I will first take up the point that the noble Baroness has just mentioned about the judgment of the Supreme Court. Naturally, I have studied it with a certain amount of care. Both sides, the Government and the applicant, agreed with the basis that they should treat the Article 50 notification as irrevocable. Lord Justice Reed pointed out clearly that that had not been the subject of a decision by the court but that, from the point of view of the judgment, it did not matter so long as it was possible that it was irrevocable. If that was the case, the danger to Acts of Parliament existed even if it turned out that it might be revocable. If it was possible that it was irrevocable, once it was triggered, these Acts of Parliament came into danger. It was as simple as that. I think we must assume—I am prepared to anyway—that the government lawyers took the view that Article 50 notification was irrevocable because they took the case on that basis. Of course, some doubt about that might have helped them if they thought there was a real argument that it was revocable—the bullet and all the rest of it that the noble Lord, Lord Pannick, talked about in the decision would maybe not have occurred. The Government’s lawyers definitely took the view that it was irrevocable.

The point tonight is different. The Prime Minister and the Minister in the Commons both gave an undertaking that a Motion would be put before both Houses of Parliament for approval of the final deal and for the way in which we might leave the European Union. They both gave that undertaking but they did not say that the Prime Minister would necessarily be bound by the decision of both Houses.

The difficulty in this amendment is that it formally requires the approval of both Houses. There is no question—it is as clear as can be. I do not claim to be a prophet, so exactly what will happen after two years I do not know, but I feel absolutely certain that the negotiations will be difficult and that it will be very difficult at this stage to tell what sort of outcome we may get. If we can get such an agreement in relation to economics as the Prime Minister indicated in her speech, that might be very good. On the other hand, some people who know more about it than I do think that may not be likely.

As I said, I do not know what will happen. The Prime Minister and the Minister have agreed that both Houses of Parliament should have a Motion put before them for approval, but neither said—I believe that may be why they phrased it as they did—that the approval of both Houses would be necessary.

I want to point out the danger of not getting this right. I see no reason why it should not be put right, if people agree that it is not quite right. The House of Commons should be the prime source of authority on this matter. Your Lordships will remember, if you read the newspapers—I am sure most of us do, although perhaps selectively—the suggestion that this was all a scheme for this House to try to defeat the Brexit vote. I do not want it to be said unnecessarily, in any circumstances, that we give colour to that, because I feel certain that nobody in this House wants to engineer a blockage of the Brexit vote as the Prime Minister goes ahead. I feel sure of that, and I think I am right.

Somebody this morning mentioned the word “tribal”. I do not feel myself part of any particular tribe, but I want the matter to be right. If the amendment is sent back to the Commons, I would like it to be correct, so that nobody could suggest that we were trying to create a scheme that might block Brexit, because we refuse our approval and the House of Commons approves it.

Lord Lester of Herne Hill: As I understand the noble and learned Lord’s speech, he is saying that, provided the primacy of the House of Commons is made clear, he would support the amendment. Is that right?

Lord Mackay of Clashfern: I am saying that I think it would then simply incorporate the Prime Minister’s and the Minister’s undertaking.

Lord Lawson of Blaby: But not proposed new subsection (4).

Lord Mackay of Clashfern: Of course, the bit at the end is a separate matter, and on the whole I do not feel very inclined to get into it. There is the problem that, as was said, Brexit, once initiated, may go out of hand and terminate without any voluntary agreement on the part of the Prime Minister. The amendment does not really deal with that—but I do not see too much harm in the amendment. I cannot foresee exactly what will happen, but I sincerely hope that it is the first two parts of the amendment that will come into play in the end and there will be an agreement that can be put before the Houses of Parliament. Nobody knows—I cannot tell—and we can only hope. But it would be very desirable for any amendment of this kind, going from this House, to recognise the supremacy of the House of Commons.

Baroness Altmann: My Lords—

Lord Higgins (Con): My Lords—

Lord Kerr of Kinlochard (CB): My Lords—

Lord Taylor of Holbeach: I think my noble friend will find that my noble and learned friend has sat down. There will be an opportunity for him to speak, but I indicated earlier that I thought we should hear from the noble Lord, Lord Kerr, at this stage.

5 pm

Lord Kerr of Kinlochard: I am grateful to the noble Lord. The first of my two quick points is to clarify the issue of irrevocability raised by the noble Lord, Lord Finkelstein—and I am glad that he did so. We discussed the issue extensively at Second Reading and he told his readers in the *Times* that we did not mention it at all, so I am glad that he is here this time. I also pay tribute to the skill of the Lord, Lord Pannick, both in court and in this House. When he won his case in the High Court—not the Supreme Court—the No. 10 spokesman was asked about revocability and said that, “as a matter of firm policy, our notification to withdraw will not be withdrawn”.

[LORD KERR OF KINLOCHARD]

After our extensive debate at Second Reading, the Minister was put on the spot by the noble Baroness, Lady Symons of Vernham Dean, about whether it was revocable or not. The Minister is a very clever man and replied:

“As a matter of firm policy, our notification will not be withdrawn”.—[*Official Report*, 21/2/17; col. 320.]

That is very similar to what was said by the No. 10 spokesman, which is always wise in a Minister. Last Wednesday, in Committee, the same issue of revocability was raised. When the Minister replied to the debate on the amendment, he said that,

“as a matter of policy we will not withdraw our notice to leave”.—[*Official Report*, 1/3/17; col. 923.]

The wording was slightly wrong there, but I am sure they will forgive him.

Every time the Government say that,

“as a matter of policy”,

firm or infirm, they will not withdraw the notification which the Bill authorises, they implicitly confirm that, in law, they could withdraw it—and they could. If you want a definitive source, do not look at me, listen to the President of the European Council, who has said so on the record. If you want a definitive EU legal view, and this would be an EU legal question if it were ever tested, try the present head of the Council’s legal service or the one who advised me when I was writing the wretched thing. Just a point of clarification: it is revocable.

My second point relates to the discussion of subsection (4) of the new clause proposed in the amendment. The noble Lord, Lord Lawson, detected deep evil in it. What is being said there is that it is for Parliament to decide whether no deal is better than a bad deal and to make a judgment on whether the deal is bad and that the chaos and disruption of leaving with no deal is preferable. I struggle to think of a deal which could be worse than no deal. Last week, the president of CBI said that the worst possible scenario was leaving with no deal. However, that is not the point: the point is about parliamentary sovereignty. The issue of whether no deal is worse than the deal which is available on the table on that day is for Parliament to decide. That is what subsection (4) of the amendment says, and I support it.

Lord Grocott: My Lords, the noble Lord, Lord Kerr, quite rightly—and entertainingly as always—referred to the crucial element of parliamentary sovereignty. We have heard from top lawyers and diplomats and I only offer some thoughts as a run-of-the-mill parliamentarian. I could not possibly vote against parliamentary sovereignty. Voting against an amendment such as this would be like voting against motherhood and apple pie. It is something in which I passionately believe. It was one of the reasons why many people—and I was one of them—were concerned during the course of the European referendum because it seemed incontrovertible that the way in which the European Union had developed involved a steady erosion of parliamentary sovereignty. It would be quite difficult to disagree with this proposition.

When addressing this amendment, we have to decide what a decision by Parliament actually comprises. I am forced to read the amendment. Proposed subsection (1) refers to,

“without the approval of both Houses of Parliament”.

Subsection (3) requires:

“The prior approval of both Houses of Parliament”,

Subsection (4) refers to:

“The prior approval of both Houses of Parliament”.

With great respect to the weight of legal opinion being offered, to propose this amendment without being clear as to what is involved in the approval of both Houses of Parliament is to leave an ambiguity at its heart. It is hardly necessary to add to what the noble and learned Lord, Lord Mackay, has already said.

I was concerned about this from the start. I raised it in Committee. There has been an attempt to move towards answering the question, “What happens if the Commons say ‘yes’ and the Lords say ‘no’?”. The solution is certainly not contained within these amendments.

I made an, admittedly inadequate, attempt with the Public Bill Office to see if there was any way in which I could put down an amendment which would satisfy, or at least address, this problem at the heart of the Bill. If the House will forgive me—as I will conclude shortly afterwards—I will read out the terms of the defunct amendment. It would have said:

“(5) If, under the provisions of subsections (1), (3) or (4), there is disagreement between the House of Commons and the House of Lords as to whether or not the agreement or decision should be approved, the view of the House of Commons prevails over the view of the House of Lords”.

That makes an attempt to explain precisely—or, I hope, resolve precisely—the ambiguity at the heart of the Bill.

Lord True: I was following the noble Lord’s argument, and I agree with it in terms of the imprecision and lack of clarity as to what happens if both Houses disagree. Does he agree that there is a further issue in relation to the different procedures of the two Houses? In the House of Commons, the Government control the agenda. We heard from the noble Lord, Lord Pannick, that what happens in this House will be up to the Government. But am I not right in saying that any noble Lord can put down an amendment at any time to disapprove a resolution and this House will vote on it? Surely there cannot be any circumstances in this House in which the Government control what might constitute approval or disapproval. Is this not a further difficulty with the amendment?

Lord Grocott: Yes. I can understand that point. I want to emphasise the central problem, which the noble and learned Lord, Lord Mackay, has identified. I ask the House—or, more specifically, the mover of the amendment—whether something like that, included at Third Reading, would solve the difficulty which I think even he would acknowledge was expressed in the various interventions that he dealt with.

There is one thing that I can influence to some degree—something which, if not within the control of this House, is within the control of my beloved Labour Party. For as long as I have been in it, it has been absolutely clear about the primacy of the elected House over the unelected House. I say this to my Front Bench and to my very good noble friend Lady Hayter, who will be winding up. Should we pass this amendment as written and, in two years’ time, find ourselves in a situation where there is a clash between

the House of Commons and the House of Lords, and if all the normal attempts at agreement and solutions to the differences had been tried, this party, at any rate, would assert clearly that, ultimately, the primacy of the House of Commons must prevail.

Baroness Altmann: My Lords—

Lord Higgins: My Lords—

Lord Howard of Lympne: My Lords, it is a great pleasure to follow the noble Lord, Lord Grocott, and I agree with much of what he said—

Noble Lords: Order!

Lord Taylor of Holbeach: I apologise. A lot of noble Lords want to speak. I have tried to construct a speaking order. I suggest that my noble friend Lord Howard speaks at this stage. I see that the noble Baroness, Lady Jones, also wants to speak. It might be sensible then—

Noble Lords: Baroness Altmann!

Lord Taylor of Holbeach: Yes, indeed. I will let my noble friend Lord Higgins speak next and include my noble friend Lady Altmann in the list to speak later.

Lord Howard of Lympne: I am grateful to my noble friend. I long ago came to the painful recognition that many Members of your Lordships' House think that to serve in this place without having served down the Corridor in the other place is an absolutely enormous advantage. Therefore, it is with some temerity that I seek to draw on my 27 years' experience in the other place—not as long as my noble friend Lord Heseltine—to make a preliminary observation. At the end of the negotiations, there will be either an agreement or a decision by the Government to leave the European Union without an agreement. Whichever of those scenarios comes about, the other place will have its say. Not only will it have its say, it will have its way. If the agreement that is reached by the Government is unacceptable to a majority of the Members of the House of Commons, they will vote accordingly. If the Government propose to leave the European Union on terms which are unacceptable to a majority of the Members of the House of Commons, they will vote accordingly. They do not need the authority of Mr David Jones to do that. They do not even need the authority of my right honourable friend the Prime Minister to do that, and they certainly do not need this proposed new clause to do that. They do not need any authority to do that. They will have their say. They will have their way. For those of us who believe that parliamentary supremacy rests with the House of Commons, that is the ultimate safeguard.

I make a couple of observations about the proposed new clause. In the end, the noble Lord, Lord Pannick, admitted—not quite explicitly but in effect—that, in its present form at any rate, it provides a veto for your Lordships' House. He said that it was extremely unlikely that your Lordships would exercise that veto. In the end, he was obliged to accept a lifeline from my noble friend Lord Hailsham. However, as is so often the case

when you examine a lifeline in detail, it proves not to be quite as effective as at first sight it appeared. The lifeline offered by my noble friend was that the Government might enshrine the Motions necessary by virtue of the proposed new clause in an Act of Parliament so that the Parliament Act could be activated. I ask your Lordships to consider that situation. The Government will have agreed the terms on which they are going to leave the European Union. The House of Commons will have approved those terms but this House will have rejected them and we will have to hang around for a year until the Parliament Act can be used to ensure that the House of Commons gets its way. That was suggested by my noble friend Lord Hailsham. Even my noble friend Lord Heseltine acknowledged the need for the minimum of delay. We all want the minimum of delay. The notion that the nation should stand around for a year waiting for the Parliament Act to be invoked for the House of Commons to get its way illustrates how unnecessary this amendment and proposed new clause are.

5.15 pm

I want to make one other general point about the proposed new clause. If we put the requirement for approval by this House and the other House on the face of the statute, it will become justiciable. I have long ago given up any attempt to anticipate the ingenuity of the arguments that the noble Lord, Lord Pannick, can deploy in the courts—but just think of the potential for arguing that the Motion approved by one House or the other did not quite match up to this or that interpretation of the proposed new clause, which would by then be on the face of the statute.

The noble Lord, Lord Lisvane, said that he thought further intervention by the courts would be unhelpful. I could not agree more—but that is a sentiment that may not be shared by all your Lordships. I suspect it will not be shared by the noble Lord, Lord Pannick. However, I think it has much to commend it. I do not think we should lightly embark on a course that would run the risk not only of putting one House in conflict with the other, but of putting Parliament in conflict with the courts.

I agree with what my noble friend Lord Lawson said about Amendment 4. I shall not repeat everything I said last week, but we have still not yet had an answer to the fact that subsection (4) of the proposed new clause in Amendment 3 would facilitate repeated coming and going between Parliament, Government and the European Union. The Government would say, "We haven't done a deal, and we propose to leave"; then, according to proposed new subsection (4), Parliament could say, "Go back to the table". That could happen again and again, which would put our Government in an absurd position.

For the reasons that I have tried to express, the amendment is totally unnecessary. It is also a recipe for conflict between this House and the other place, and between Parliament and the courts. I urge your Lordships to reject it.

Baroness Jones of Moulsecoomb (GP): My Lords—

Lord Phillips of Worth Matravers (CB): My Lords—

Lord Taylor of Holbeach: My Lords, I am sorry, but I did indicate that I was going to call the noble Baroness, Lady Jones. I am trying to compile a speakers list; I hope your Lordships will understand that that is a reasonable way of carrying on, as so many people have indicated to me that they wish to contribute to this debate.

Baroness Jones of Moulsecoomb: My Lords, it is an honour to follow the noble Lord, Lord Howard, with whom I shared a platform during the referendum campaign—but on this matter I am afraid I have to disagree with him. I support Amendment 3. There is a lot of merit in Amendment 4, but it seems that the House is probably going to go for something written by lawyers, because apparently some of us still trust lawyers—which is sometimes a good move.

I shall be brief and to the point: I am taking a rather simplistic attitude to this whole debate. During the referendum we voted for taking back control. However, taking back control does not mean giving such a momentous decision for the future of the UK to a tiny cohort of politicians. As we have said, the Government and the Prime Minister committed themselves to a vote in both Houses. They must have thought that was an appropriate thing to do. Therefore I see no problem with a commitment from this House.

People change. Governments change. We cannot be sure that the same people will be in power when this finally happens, so it is important to get a commitment. Parliament has to have scrutiny, and a say in something so incredibly important—a deal that is being thrashed out between the UK and the EU that will affect our future for ever. I also think it is a mockery if the European Parliament gets a vote on this and we do not. That again is not taking back control.

One of the other commitments made during the referendum was the £350 million to the NHS. I look forward to seeing that as a line in the Budget tomorrow. Quite honestly, that was one of the things that I voted for when I voted leave.

Lord Higgins: My Lords, I sought to intervene earlier far more aggressively than I would ever normally do, simply because I wished to pursue the point made by my noble and learned friend Lord Mackay and the noble Lord, Lord Grocott, which was of considerable tactical importance in relation to this debate. There is widespread agreement that there should be parliamentary approval for the outcome of the negotiations. The Prime Minister herself has made it clear that she believes that should be so, and the noble Lord, Lord Pannick, has sought to incorporate that undertaking in the Bill. Again, I believe that that is the right thing to do.

The problem, however, is in the drafting of the amendment. In opening the debate, the noble Lord said he realised there were problems because it seemed to give a veto to the House of Lords—that would not be acceptable. Also, he said that it failed to recognise the relationship between the two Houses, whereby, at the end of the day, the House of Commons must be supreme. He suggested that we should agree to the amendment before us and then the House of Commons would sort it out. I think there is a very simple problem with that: people are less likely to vote for his amendment

on that basis than would otherwise be the case. Therefore, it may never get to the House of Commons and its Members will not be able to put the matter right.

As we now stand, we have a very difficult situation as to whether or not we should support the amendment. My inclination is still to do so, subject to what may be said subsequently, because it is important to have the undertaking in the Bill. However, we have to resolve the problem of ensuring that the House of Commons remains supreme. We cannot have a veto on what is being negotiated; it would be wholly inappropriate if the House of Commons took the opposite view.

One possible solution is to try to draft a manuscript amendment or to amend the Bill at some later stage in the proceedings. I fear that may be very difficult, although perhaps we might try. In any case, we should agree the amendment, but I understand that many people will feel it is defective in the respect I have mentioned. It would be very unfortunate if, as a result of these debates, we do not have anything to ensure that the undertaking given absolutely clearly by the Prime Minister is in the Bill and that there is no uncertainty about the situation in the future.

Baroness Altmann: My Lords, I preface my remarks by expressing my belief that speaking in favour of any amendment to the Bill does not amount to trying to frustrate the referendum result or to deny the will of the people. I respect the result, and we are trying to implement it as responsibly as we can in the interests of our great country.

The referendum was about taking back control and ensuring parliamentary sovereignty. That is vital to safeguard our democracy and protect our national interests. The people want to be able to trust our Parliament to look after their future. But in the context of the Bill, it seems to me that Parliament is in danger of abrogating its responsibility.

I have heard the arguments to suggest that parliamentary oversight somehow makes it inevitable that the EU will only offer us a bad deal. However, I respectfully disagree. Indeed, I believe that the likelihood is the other way round. If the negotiators and Ministers know that at the end of the day they will have to sell this deal to Parliament, I believe they will be properly incentivised to be more likely to achieve a deal that is acceptable.

As currently proposed, the Bill will effectively hand responsibility for our future to a group of negotiators and Ministers who apparently countenance with a measure of equanimity the idea that no deal is better than a bad deal. If we enter negotiations with a view that the EU will not give us a good deal and that we will just have to leave the single market, the customs union, Euratom and so many other fundamental parts of our current economic security, then we must surely ask ourselves whether those negotiators will be sufficiently incentivised to actually get a good deal for the country.

A no-deal scenario was never put to the British people. The White Paper and the referendum campaign have not considered the consequences either. Leaving the customs union, the single market and Euratom are recent decisions with significant implications for people's jobs, for standards of living, for national security,

for the nuclear industry, for Northern Ireland and so much else. Yet the risks have been skirted over, almost as if they do not really matter. They do matter. In normal negotiations, corporate negotiators would reserve the option of taking an offer back to their board; a lawyer would reserve the option of referring back to their client.

Viscount Ridley: Will my noble friend explain how what she is saying now squares with what she said at the start of her speech about not challenging the result of the referendum?

Baroness Altmann: I am not challenging the result of the referendum. We are here to debate and discuss how best to safeguard the interests of our country and to discuss what might happen at the end of the negotiation, in light of the referendum, to make sure that we have parliamentary sovereignty. That is what this debate and this amendment are about. Why would we deny Parliament, the heart of our democracy, the authority to approve or push for a better deal, rather than accepting no deal without a proper say? This parliamentary route, giving Parliament, not the Executive, a meaningful final vote is my preferred option, not a referendum. Such a safety net, written into statute, would seem to me to be the most responsible course to take as we negotiate our EU exit.

I believe it is my duty, given the very serious concerns that I have expressed, to ask the other place to reconsider the need for elected MPs to take responsibility for the future of their constituents. I believe that they must have the final say on the Bill and I want to ask them to think again.

Lord Phillips of Worth Matravers: My Lords, I have listened to this debate with a question that was unanswered at the beginning and, to me, is still unanswered. It is this. Subsections (3) and (4) of the proposed new clause read:

“The prior approval of both Houses of Parliament shall also be required in relation to an agreement on the future relationship of the United Kingdom”,
and:

“The prior approval of both Houses of Parliament shall also be required in relation to any decision by the Prime Minister that the United Kingdom shall leave”.

Assume that the House of Commons and the House of Lords are in agreement. They say, “We do not approve of the terms of the agreement. We do not approve that the Prime Minister shall decide that we leave without an agreement”. My question is: what then? Is it implicit in this amendment that Parliament may then decide to withdraw the Article 50 notification?

The Lord Bishop of Chester: My Lords, whether Article 50 notification is revocable or irrevocable is a matter of policy or law. I believe that we could interrupt the process of leaving the EU only by another referendum. I think this is the point that the noble Lord, Lord Lawson, touched upon. In fact, the noble Baroness, Lady Altmann, made the same point at the beginning of her speech. If in two years’ time Parliament were seen to be blocking the departure of the United Kingdom from the European Union without another referendum, there would be a serious political situation in our country.

While we have talked about conflicts between the Executive and Parliament and between the Executive and the two Houses, I rather agree with the noble Lord, Lord Grocott, that as it stands it should be the House of Commons that has the decisive vote. There is real potential for conflict here. We decided to have a referendum and its outcome can be reversed only with another referendum, which this morning we decided in a sense that we did not want—I admire the Liberal Democrats, who are consistent on this point and who I noticed have their amendment down for Third Reading. At the end of the day, in two years’ time we could be in a very serious, difficult and sensitive political situation. I am not sure the proposed new clause would help handle that.

5.30 pm

The Prime Minister and the Minister in the other place have given a solemn and public undertaking that there will be parliamentary approval for whatever is proposed. I think that that can be trusted and I wonder what the advantage is of putting this proposed new clause in the Bill, particularly as its subsection (4) suggests that Parliament would block the Article 50 process without going back to the people. The referendum was won by only 52% to 48%—that is another conflict that we are handling, I accept that. But it seems that we are not facing up to the fundamental fact of the referendum itself.

Lord Howell of Guildford: My Lords, not for the first time I wholly agree with the analysis of my noble friend Lord Heseltine, with whom I think I entered the House of Commons on the same day over 50 years ago—I agree with his analysis but I am afraid I do not agree with his conclusion. The amendments have clearly been tabled with great sincerity and I appreciate all their aims and concerns. They are trying to impose statutory precision on a Bill that happens to be going through this House in order to make provision for a very uncertain future and for events that are completely unforeseeable. As my noble friend and others have said, we have absolutely no grasp of where the world or this issue will be in two years’ time.

Any commentary one looks at from the other side of the channel shows clear uncertainty as to who is taking the lead. There are daily quarrels between national capitals and Brussels, and there is infighting inside the European Commission—the Visegrad four are already talking about a different treaty. This very hour we have a blog saying that Spain and Poland want to join together on a completely different approach to the negotiations from that offered by the European Commission. What will happen is uncertain. The additional point was made by the noble Lord, Lord Kerr, with his usual eloquence, that under certain circumstances—although this is almost inconceivable except under a different Government on this side of the channel—the whole project could be aborted and withdrawn.

The truth, which my noble friend Lord Howard stated with great frankness and eloquence, is that in the Commons the parliamentary majority can do what it likes. I say “majority” and that is different from “Parliament”, which flows from legal lips as though it were an entity—of course, it is not. Parliament is

[LORD HOWELL OF GUILDFORD]

actually the people controlling the majority; that is, the managers of the parties or coalitions that have a majority in the Commons. That is what comes out if you press the button marked “Parliament”.

I say to the noble Lord, Lord Taverne, whose speech I greatly enjoyed, and to the noble Lord, Lord Kerr, that I am certainly more Burke than Brezhnev. But I am also a disciple of Karl Popper, who spent a lot of time warning us—as did Isaiah Berlin and others—about the dangers of making things too inevitable and the poverty of determinism. Telling the Commons what to do by statute law about a situation that may be completely different from anything we presently envisage seems a noble but really futile project. The Commons will decide by parliamentary majority. It has not always been able to do so and in past centuries there have, of course, been fights against the royal prerogative. But since Parliament has won that battle, as it did in our history, the parliamentary majority will decide—if its managers can control it, the Whips can keep it in place and it is big enough then it will be the will of Parliament.

The bundle containing the divorce papers and the mixture of new arrangements will be vastly complex and there will be all sorts of uncompleted aspects. That document will be the work of two years of Ministers slaving away, of vastly difficult negotiations and private deals ensuring mutual equivalence and mutually beneficial arrangements between sectors and industries—and heaven knows what else. If after all that there is a vote in Parliament and the Government lose because the majority moves against them and fails to give its approval, I do not see how there can be any doubt about what will happen. That is a declaration of no confidence. We have a five-year rule for Governments but that would not need to be changed if the no-confidence vote was in ringing terms, as it almost certainly would be. That would mean we would arrive at a general election. That seems so obvious and so certain that I cannot understand those who are talking mysteriously about a world beyond rejection. It is inconceivable that Ministers would be sent back to Brussels saying, “Our Parliament has looked at this and does not like it but we will carry on”—it would not be the same Ministers, it would not be the same Government and it would not be the same deal. It would be a completely different situation, regardless of what is written on any piece of paper and regardless of any statute, however beautifully it had been drafted by all the learned people sitting in this House and however firm it was. In reality, it would make no difference to what would actually happen.

I do not want to stray beyond the confines of Report but I realise that behind the longing to get this into statute—to pin it down on paper—is a real concern. It is the concern of those who fear that the deal, when it comes back, will not include membership of the single market and of the customs union. For them, that will brand it a bad deal and it will lead a lot of people in the Commons, but I suspect not the majority, to think about voting it down—they will not succeed but they will think about it. I say to my noble friends in this House and particularly to the noble Lord, Lord Kerr, that there is room for considerable doubt as to whether being in or out of the single market as it exists

today is really the end of the world. In an ocean of digital change, in which there are vast new supply chains travelling in every direction, which are perforated with low tariffs, tariff wars, and special arrangements and regulations on every side, as well as a completely new pattern of trade, totally different in character from even 10 years ago, there is room for doubt as to whether being outside the single market is really a catastrophe. The chief economist of the Bank of England, Mr Haldane, actually said last week that it does not matter and that over the next three years it is of no material difference to the growth of the British economy whether it is in or out of the single market.

I put that in as an aside. I appreciate that it moves away from the amendment, but the amendment expresses a genuine fear about being excluded from the single market. All I say is that if you look at the facts and details of what is actually happening, you will see it is very different from what is being said by those who argue that leaving will be a disaster and that we are bound to pay a colossal price. They say that trade will effectively halve because goods will have to travel double the distance but these sort of generalities belong to the past century and to a world that no longer exists.

The whole idea of sending Ministers back to Brussels to get us back into the single market if the deal arranged takes us out is a fantasy; in reality no such situation could ever arise. It is worthy of an animated cartoon but highly disadvantageous. There is a new pattern emerging—a new world governed by the WTO—which many people feel has all sorts of advantages, which have not been discussed at all by this House.

For this House to tell the House of Commons what to do two years hence, in a completely different situation from anything we presently envisage, is to make fools of ourselves twice over. If that is what noble Lords opposite want, so be it, but it will have to be without me. My hope remains that we in this House can contribute not division but unity to a very difficult challenge and a major new situation emerging for this country in the near future. Perhaps we cannot deliver the unity in this amendment but we can at least agree on the facts. At present the full facts are not being presented to us.

Lord Taylor of Holbeach: My Lords, I remind noble Lords that it is Report and we do not want Second Reading speeches. It is not appropriate for Members to give Second Reading speeches. I apologise to my noble friend.

Noble Lords: Front Bench!

Lord Taylor of Holbeach: No, I am afraid there are still some more people who have indicated that they want to speak.

Baroness Stowell of Beeston (Con): My Lords, I will make just a couple of simple points because I can see that the House is ready to hear from the Front Benches. I want to pick up on a phrase that my noble friend Lord Hailsham used, although I disagree with him and his amendment. He talked about there being a price to pay. What we have to reflect on as a House is

that if we support these amendments, particularly an amendment which gives us power ultimately to overturn the referendum result, there is a price that comes with that, too. We have to decide what is most important to us. Do we want to influence the Prime Minister as she goes into these negotiations, or do we want to say now that we want the power to overturn the referendum result? As I said in Committee, I feel very strongly that among people in both Houses—and policymakers and leading businesspeople outside—there is a lot of expertise and experience that needs to be heard by the Prime Minister and the Government over the next two years and needs to be influential in the negotiation period. I worry that we will start to undermine the right for us to be heard in that way.

I will say one final thing. The noble Lord, Lord Turner, referred to some of us as tribal party politicians. Somebody else mentioned that this morning. We have to reflect very carefully on what has changed since the referendum and on how we are seen by the electorate. I do not think they see us in party terms in the same way they used to. There are two clear sets of politicians whom people consider and listen to: those they feel understand them, and those they feel are against them. I know that most of those who are participating in these debates and working very hard to get the best result for this Brexit deal are not against the people, but we need to understand that they think we are. We have to reflect on what it is we need to do differently. That is why I caution against supporting these amendments which give Parliament power—not just this House, not just the other House, but Parliament. I urge noble Lords to really reflect on that.

Lord Cashman (Lab): Does the noble Baroness agree with me that we should not ditch the principles of this House in order to please or pander to public opinion?

Lord Naseby: My Lords—

Lord Tugendhat (Con): My Lords—

Lord Taylor of Holbeach: My Lords, we will hear from the noble Lord, Lord Naseby, and then from the noble Lord, Lord Tugendhat. Then, unless anybody else wishes to speak, we will move on to the Front Benches to conclude this debate.

5.45 pm

Lord Naseby: My Lords, I shall be brief. I concur with what my noble friend has just said. We forget the effect this is having on the ordinary people outside. They knew what they were voting about when they voted at the referendum. Both individuals and businesses were fed up with the way that restrictions were put on their lives and regulations imposed. We have to recognise that fact.

It was my privilege in the other place to be Chairman of Ways and Means. There were 500 amendments to the Maastricht Bill. Many more were chucked out. The ones that were not successful were thrown out because they were out of order. They were wrecking

amendments. They were defective. I find it quite extraordinary that your Lordships' House is spending several hours on what is basically a defective amendment. There are better ways. If the noble Lord, Lord Pannick, is not capable of tabling an amendment that is in order, so be it, but he is a highly creative lawyer and there are other lawyers on the Liberal Benches who perhaps can produce an amendment that is not defective, in which case this House should rightly debate it. But as it stands, this amendment is defective in all four elements. Noble Lords should bear in mind that it is not wise for our House to vote on amendments which have huge implications and are defective. It would be much more sensible to take it back and maybe on another occasion find some means to move forward.

Ultimately, I trust our Prime Minister. I trust the right honourable David Davis to negotiate well. I trust them to do their very best for the ordinary people who have voted for it all. Frankly, what we are doing this afternoon—if we are doing anything—is undermining the public's confidence in this House. Confidence is a very delicate flower and it affects not just us here or the public; it affects all the nation, all the businesses, all commerce, and we should not be undermining that confidence. I will certainly not be voting for the amendment.

Lord Tugendhat: My Lords, as the House knows, I speak as one who very much regrets the result of the referendum but who now feels that we must put it behind us and work to create the best possible relationship we can with the European Union. I feel that this amendment muddies the waters. I remind the House of the words of that very wise woman, George Eliot, who said:

“Among all forms of mistake, prophecy is the most gratuitous”. The amendment goes down the road of prophecy. We can have no idea how the negotiations are going to unfold. Personally, I feel more optimistic about them than some people but we can have no idea how they are going to unfold or what the parliamentary situation or the situation in the European Union or anything else will be in two years' time.

We can be certain of only one thing, and that was the point made by my noble friend Lord Howard. Generally speaking, my noble friend and I disagree on matters relating to Europe but he is quite right that the Government will stand or fall by the way in which they conduct these negotiations. Whether or not there is a deal, the House of Commons will pass judgment on the Government's performance. It will either support the Government or reject them but either way, its will will prevail. That is a very simple matter. The amendment would put in place a complicated structure which would make it very much more difficult for the House of Commons to assert its authority. I quite understand that the purpose of the amendment is to enhance the authority of Parliament but its effect would be to diminish the capacity of the House of Commons to hold the Government to account. For that reason, I hope very much that the House will reject it.

Viscount Ridley: My Lords—

Lord True: My Lords—

Baroness Ludford (LD): My Lords—

Noble Lords: Front Bench.

Lord Taylor of Holbeach: I think I made it clear, and the House has certainly made it clear, that is it time for the Front-Bench speakers.

Baroness Ludford: My Lords, we have gone via all kinds of highways, by-ways, Aunt Sallies and red herrings—mixing my metaphors, no doubt—but the central issue of this amendment is, in the words of my noble friend Lord Lester: who is the master, Ministers or Parliament? The noble Viscount, Lord Hailsham, insisted that this was about taking back control for Parliament. It should not be the taking back of control for the Executive: Parliament should be in charge and in the driving seat.

The various criticisms of the amendment seem to me to be more properly directed at the Prime Minister's assurance in the White Paper because—I think that the noble Lord, Lord Pannick, originally used this phrase—it gives the Prime Minister what she asked for. The noble Lord, Lord Hill of Oareford, said that it adds to the complexity and the noble Lord, Lord Tugendhat, said that it made it more complicated and muddied the waters. Well then, why did the Prime Minister pledge approval by both Houses of Parliament? As the noble Lord, Lord Cormack, and I think the noble Baroness, Lady McIntosh, said, this would put an assurance—an undertaking given by the Prime Minister—into a statutory obligation, and it is wise and sensible so to do.

There is no basis whatever for the assertion, made variously by the noble Lords, Lord Lawson and Lord Forsyth, and the most reverend Primate the Archbishop of York that it would give this House a veto. Given that the Prime Minister offered to give approval by both Houses of Parliament, presumably she knows how that would work and has shared it with the Government. It is for the Government to deal with that process, which could, as other noble Lords have mentioned, be avoided if there was primary legislation because then the rules would be clear.

The noble Baroness, Lady Stowell, counselled against an amendment that gives Parliament power, which I found a strange piece of advice. Surely Parliament has the right to such a power as we possess under the constitution, but it seems that it is not normal to have parliamentary power in the kind of parallel universe that Brexit has created. The amendment does not weaken the Government's bargaining position. The statement, "I've got to get it past my legislators", is perfectly good enough for a US president or EU negotiators. It should be more than good enough for the British Parliament.

The noble Lord, Lord Hill, said that our EU partners read our debates. Yes, they may well do, and they will in this case, but they know that we in this Parliament want really substantial content in a future relationship. We might even stiffen the Government's backbone in the negotiations. I agree with the noble Baroness, Lady Symons of Vernham Dean, that far from being in conflict, getting the best deal and parliamentary sovereignty go hand in hand.

Finally, Brexiteers seem to claim that this is a wicked plot by remainers but, in fact, some of them seem to find Parliament an inconvenient obstacle to their dream of crashing out of the EU altogether. They want the Government to be able to action no deal; they do not want Parliament to be able to say, "Hang on—is that actually a good idea?". That is why this amendment is extremely valid.

Baroness Hayter of Kentish Town (Lab): My Lords, this afternoon we have heard a really compelling case for quite a simple demand: the right of Parliament, rather than government, to authorise the arrangements whereby the Article 50 negotiations conclude. Indeed, probably no additional words are needed to strengthen the case made by the noble Lord, Lord Pannick, or many of the others who have spoken. I will not mention them all but the House will forgive me if I mention my noble friends Lady Kennedy of The Shaws and Lady Symons and the noble Baronesses, Lady Altmann, Lady McIntosh and Lady Ludford. What do they have in common? So I must also mention the noble Baroness, Lady Stowell, although sadly she was not able to support the case.

Essentially, Amendment 3 is about implementing the Supreme Court's view that withdrawal would require parliamentary authorisation. The argument is straightforward. As the noble Lord, Lord Heseltine, said, it would secure in law the Government's commitment that Parliament is the ultimate decider. Very shortly, maybe even next week, the Prime Minister will trigger Article 50 of the treaty. But neither that treaty nor any UK law states how the arrangements made by our Government should be made into law. What is written in the treaty—in EU law, in other words—is that the final agreement will go to the Council and to the European Parliament, so it is mandatory for that Parliament to give its consent but there is no similar requirement for this Parliament to give its consent.

The Prime Minister has said that she will allow a vote in both Houses and the noble Lord, Lord Forsyth, quoted Mr Jones saying that that was the intent. That, to me, is not a very firm commitment, no matter how sincerely it was given. Indeed, when the Minister said in Committee that the Government's oral, "commitment mirrors the powers of the European Parliament",—*[Official Report, 1/3/17; col. 923.]*

he was not exactly right because its power is written in law. All we are asking is for an equal legislative requirement for the exit deal to come to this Parliament. It is basically about the Crown's prerogative against Parliament's.

I turn to the West Lothian question—no, not that but the Grocott question. We will have to call it the Grocott question as he no longer has a constituency. This was raised by the noble and learned Lord, Lord Mackay. It is true that whether we look at the undertaking given by the Prime Minister or at this amendment, there would be a problem if the House of Commons were to vote one way and your Lordships' House another. I hope that will not be the case for lots of reasons. Particularly, I hope that by then not just the country but Parliament will have come together, and that we are of one view. But I make it clear from these Benches that if that were to be the outcome, we are absolutely clear that ultimately the will of the Commons must prevail.

Furthermore, if that is the only argument given against this amendment, there are two ways of answering it. One is that we do a bit of hurried work this evening to table an amendment and, if the Government were willing to accept it, that might be the easiest way. Keeping all my friends here late into the night, however, may not be the best way of achieving that end. We would not want to risk voting down the idea of Commons supremacy just because, very sensibly, everyone was back in their beds. The real issue is to get this principle into the Bill and down the road into the Commons. On behalf of the Opposition, I say that if that is the only point of dispute between us, given that we want the supremacy to be down there rather than here, we will happily work with the Government on the form of words to make that absolutely crystal clear.

6 pm

Lord Dykes (CB): Bearing in mind the emphasis the noble Baroness has quite rightly put on the two Houses coming together, would it really be intrinsically so nerve racking, fearful and awesome for the Commons, for once, to accept a Lords amendment such as this?

Baroness Hayter of Kentish Town: The Commons should certainly accept this amendment, albeit I am happy with the tweak to make certain the supremacy of the Commons. The most important thing is to get this amendment in the Bill so that we are absolutely clear about that.

It is so simple. Whatever the outcome of the negotiations with the EU 27, it is with Parliament, not simply with the Government, that authority lies, deal or no deal. I am afraid I did not follow the Minister's response on this last week in Committee, questioning what would happen if the EU terminates the talks and refuses to extend the negotiations. He asked: what then? It is pretty simple: the Government come back to Parliament.

Stranger still than that is the briefing coming out of No. 10, with advisers arguing that giving legislators the power to veto the final Brexit deal and send the Premier back to the negotiating table would undermine her and limit the possibility of a good deal and, indeed, might even push the EU into giving a bad Brexit deal, incentivising it, it seems, "in the hope it stops us leaving".

That was what Downing Street apparently told the *Financial Times*, and I always believe the *Financial Times*.

I again remind the House that it was Mrs May who said that the deal would be put to a vote in both Houses, so all this is real nonsense. The only issue is whether it is an undertaking or in the Bill. All we are doing in this amendment is putting her pledge, which I am sure was absolutely sincerely given—I do not question that—in the Bill. It is hardly starting a revolution. It is certainly not upending the referendum, and any such arguments are in bad faith because we are trying to put the Prime Minister's undertaking in the Bill. We do not want the Government's hand to be forced by the courts. We want the vote to be clearly in the Bill, ideally with the Government's blessing, without even the need for us to divide. They need to provide certainty at this stage so that we are not back having this debate

in 18 months' time. The amendment is about authorising Parliament. It is to put wheels on the outcome of the referendum.

The Parliamentary Under-Secretary of State, Department for Exiting the European Union (Lord Bridges of Headley) (Con): My Lords, this debate has shown this House at its very best, and I thank all noble Lords who have spoken. Forty-four, I think, hours of debate on these 137 words show how sprightly your Lordships are.

Before I discuss the amendments, I shall briefly set out three core principles governing our approach to this country's withdrawal from the European Union. First, the Government are determined to honour and deliver on the result of the referendum: the United Kingdom is going to leave the European Union. Secondly, everything we do will be determined by our national interest, and we shall do nothing to undermine it. Thirdly, parliamentary sovereignty is key. Parliament will have a role in scrutinising the Government throughout the negotiations and in making decisions, a point to which I will return.

Given this, I turn now to the rationale and motives behind the amendments tabled by my noble friend Lord Cormack, the noble Baroness, Lady Hayter, and the noble Lord, Lord Pannick. One basic intent is that the Government should be legally bound to deliver on their commitment to give Parliament a vote on the agreement. That government commitment is crystal clear, and I shall repeat it: the commitment is to bring forward a Motion on the final agreement to be approved by both Houses of Parliament before it is concluded. We expect and intend that this will happen before the European Parliament debates and votes on the final agreement.

The need for my noble friend Lord Cormack's amendment, and the first three proposed new subsections of the amendment tabled by the noble Baroness, Lady Hayter, and the noble Lord, Lord Pannick, really comes down to a judgment about whether Ministers and the Government can be trusted and to considering the consequences if the Government were not to deliver on this commitment. All I can say is that of course we will honour our promise and Parliament will hold the Government to account for doing so. Let me go further and echo a point very well made by my noble friend Lord Howard: at any point throughout this process, Parliament will be able to express its view. Given this, the other place was happy with this state of affairs. It considered and rejected similar amendments.

Furthermore, Parliament will not be providing scrutiny in the dark. After all, this Government have committed to keeping the UK Parliament at least as well informed as the European Parliament as negotiations progress. The Government will continue to be accountable to Parliament via regular Statements—which I so enjoy—debates and Select Committee appearances. Crucially, Parliament's role will not just be one of scrutiny. It will make decisions and shape the legislation required to give effect to our withdrawal from the European Union: the great repeal Bill to repeal the ECA and the legislation that will be required for significant policy changes, such as on immigration and customs. With the greatest of respect to my noble friend Lord Cormack and the noble Baroness, Lady Hayter, any amendment that

[LORD BRIDGES OF HEADLEY]

attempts to transcribe the Government's commitment into legislation is unnecessary. More than being unnecessary, an amendment that sought to put this commitment in the Bill could have unintended consequences and create, as has been said, a lucrative field day for lawyers. I do not want to single out any particular lawyer, but I have one in mind. As the noble Lord, Lord Lisvane, put it so well in Committee,

"regulating parliamentary proceedings by statute ... generally ends in some sort of tears".—[*Official Report*, 1/3/17; col. 920.]

Other noble Lords have asked whether someone might argue that we need an Act of Parliament to authorise our exit from the European Union and whether the Bill is sufficient for our withdrawal. The requirements of the Miller judgment are entirely fulfilled by the Bill. The Supreme Court ruled that because withdrawal from the EU involves removing a source of domestic law in the UK, and because of the far-reaching effects of the European Communities Act, the authority of primary legislation is needed before the Government can decide to give notice under Article 50. The Supreme Court did not rule that anything further is required to satisfy our constitutional requirements.

Let me now turn to subsection (4) of the new clause proposed by Amendment 3, which was tabled by the noble Baroness, Lady Hayter. I have to say there is something about Labour and Clause 4, but we will put that to one side. The motive behind this subsection was summarised by the noble Lord, Lord Pannick, in Committee and he repeated it today. He said:

"Parliament should decide whether we leave the EU with no agreement or whether we leave the EU with whatever agreement is being offered to us by the EU that the Government think is unacceptable".—[*Official Report*, 1/3/17; col. 907-8.]

As he said, proposed new subsection (4) goes beyond what the Government have committed to in the other place and there are several problems with it. The first concerns the Government's role as negotiator and one of my first principles, which is protecting our national interest. When considering this amendment, we must ask ourselves whether it will strengthen or weaken the Government's hand at the negotiating table. Remember the wise words of this House's Select Committee:

"The Government will conduct the negotiations on behalf of the United Kingdom, and, like any negotiator, it will need room to manoeuvre if it is to secure a good outcome".

Let us not forget the Motion passed by the other place that nothing should be done to undermine the negotiating position of the Government. This proposed new subsection in this amendment would do just that—

Lord Ashdown of Norton-sub-Hamdon: My Lords—

Lord Bridges of Headley: Let me continue please. Denying the Prime Minister the ability to walk away from the negotiating table, as proposed new subsection (4) would do, would only incentivise the European Union to offer us a bad deal. The European Union is bound to see that there are a number of people in Parliament who think that any deal is better than no deal. We heard some noble Lords argue just now that to go to WTO terms would be bad for Britain. Therefore, this amendment simply makes the negotiations much harder from day one for the Prime Minister, since it increases the incentive for the European Union to offer nothing but a bad deal.

Some have argued that the proposed clause would strengthen the Government's hand. They say that this is like a CEO saying, "My board will not agree to that deal". However, this analogy is not correct in this case. Most boards would say, "We want to do a deal, but not at any price". In this case, a number of parliamentarians are saying, "Any deal is better than no deal". This approach would therefore weaken the Government's position.

However, that is not the only problem with this amendment. The amendment is clear—

Lord Ashdown of Norton-sub-Hamdon: My Lords—

Lord Bridges of Headley: Forgive me. The amendment is clear on one thing, and one thing only: namely, that if Parliament agrees with the Prime Minister that no deal is better than the terms on offer, the United Kingdom will leave the European Union without a deal. However, it is unclear—totally unclear—what happens if the House says no to walking away. As the noble and learned Lord, Lord Phillips of Worth Matravers, and my noble friend Lord Forsyth asked, what path must the Prime Minister then take? Is she to accept the terms on offer? Is she being told to secure a better deal—and, if so, what would happen if that cannot be achieved before the end of the two-year period? Alternatively, in the silence of the amendment on this matter, is she to find a means to remain a member of the European Union?

We do not know the answer to any of these questions. My noble friend Lord Forsyth was entirely right to highlight this omission. The Government cannot possibly accept an amendment that is so unclear on an issue of this importance: what the Prime Minister is to do if Parliament votes against leaving with no agreement.

With regard to that risk, let us remember the first principle that I stated: the Government are intent on delivering on the result of the referendum as a matter of firm policy. I almost turn to the noble Lord, Lord Kerr, to repeat the words after me. As a matter of firm policy, a notification under Article 50 will not be revoked. Therefore, for the Government, any question of whether notification under Article 50 is legally reversible is irrelevant. The parliamentary vote that we have promised will be very meaningful: we will leave with a deal or we will leave without a deal. That is the choice on offer. However, the choice offered by this amendment by proposed subsection (4), is unclear.

I will end by repeating the first line of the White Paper:

"We do not approach these negotiations expecting failure, but anticipating success".

Our clear intent, as I said, is to negotiate a new partnership with the European Union that will enable us and Europe to continue to trade freely together and to co-operate and collaborate where it is in our interests. Parliament will decide on whether to accept or reject the agreement. The purpose of this simple Bill is to deliver on the result of the referendum and to leave the EU. These amendments are unnecessary. They are damaging to our national interest, they would create uncertainty and they may be used by some to block the wish of the British people to leave the European Union. For these reasons, I hope that the noble Lord will withdraw his amendment.

Lord Pannick: My Lords, I am grateful to all noble Lords who have contributed to this very full debate. I am particularly grateful to the Minister. The whole House recognises the skill, expertise and indeed patience with which he has piloted this Bill through the House. He will need all those qualities over the next two years. I am sure that the whole House wishes him the best of luck.

The essence of this amendment is clear. It has been clear from the start. It simply seeks to ensure that Parliament, not Ministers, has control over the terms of our withdrawal at the end of the negotiating process. I find it disappointing that those who most loudly asserted the importance of the sovereignty of Parliament during the referendum campaign are now so alarmed by the prospect of the sovereignty of Parliament at the end of the process.

Lord True: My Lords—

6.15 pm

Lord Pannick: No, we have had a full debate. The Minister says that an undertaking has been given on proposed subsections (1) to (3) and therefore that this amendment is not needed. On a matter of this importance, an undertaking is no substitute for a commitment in legislation. On proposed subsection (4), it surely must be for Parliament, not Ministers, to decide whether we leave on no terms or on the terms that have been offered.

The Minister repeated that the approval of both Houses of Parliament will be needed and in no part of the argument advanced by the Minister in his winding-up speech did he express any concern about the primacy of the House of Commons not being recognised by this amendment. If the Government do believe that that is a problem—and if we pass this amendment—the Government will be perfectly able to put a revised amendment before the other place next week.

Your Lordships have heard the arguments. It is now time to test the opinion of the House.

6.16 pm

Division on Amendment 3

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 Shackleton of Belgravia, B.
 Sharples, B.
 Sheikh, L.
 Shephard of Northwold, B.
 Sherbourne of Didsbury, L.
 Shields, B.
 Shinkwin, L.
 Shrewsbury, E.
 Skelmersdale, L.
 Slim, V.
 Smith of Hindhead, L.
 Spicer, L.
 Stedman-Scott, B.
 Sterling of Plaistow, L.
 Stevens of Ludgate, L.
 Stirrup, L.
 Stoddart of Swindon, L.
 Stowell of Beeston, B.
 Strathclyde, L.
 Stroud, B.
 Sugg, B.
 Suri, L.
 Swinfen, L.
 Taylor of Holbeach, L.
 [Teller]
 Taylor of Warwick, L.
 Tebbit, L.
 Thurlow, L.
 Trees, L.
 Trefgarne, L.
 Trenchard, V.
 Trevethin and Oaksey, L.
 Trimble, L.
 True, L.
 Truro, Bp.
 Truscott, L.
 Tugendhat, L.
 Ullswater, V.
 Verma, B.
 Vinson, L.
 Wakeham, L.
 Waldegrave of North Hill, L.
 Walker of Aldringham, L.
 Wasserman, L.
 Waverley, V.
 Wei, L.
 Whitby, L.
 Wilcox, B.
 Williams of Trafford, B.
 Willoughby de Broke, L.
 Winchester, Bp.
 Wolfson of Aspley Guise, L.
 York, Abp.
 Young of Cookham, L.
 Young of Graffham, L.
 Younger of Leckie, V.

6.37 pm

Amendment 4 not moved.

Amendment 5

Moved by Lord Hain

5: After Clause 1, insert the following new Clause—
 “Maintenance of citizenship rights set out in the Belfast Agreement

Before a notification can be given under section 1(1), the Prime Minister must give an undertaking to negotiate under the process set out in Article 50 to support the right of Northern Irish people to claim Irish citizenship, as set out in the Belfast Agreement.”

Lord Hain: My Lords, Amendment 5 is in my name and that of my noble friend Lord Murphy of Torfaen, who was my predecessor as Secretary of State for Northern Ireland. I reassure your Lordships that this is more of a probing amendment, and I certainly do not intend to even consider dividing on it. That should be a relief.

The Belfast/Good Friday agreement of 1998, endorsed by a referendum in Northern Ireland, included the rights of people who were born in Northern Ireland to choose to be Irish or British, or to choose to be both. Some choose to exercise, exclusively, one of them. Indeed, a British citizen whose parents were born in Ireland could—as many have done since the referendum—apply for an Irish passport without giving up their British citizenship, because British citizens are also allowed to hold dual citizenship. This means that you do not have to renounce your British citizenship if you apply for an Irish passport.

However, for those who choose to be both British and Irish or just Irish, will they also be citizens of the European Union as they are now? I presume that they would: the Minister will, I hope, confirm that Irish citizenship automatically confers EU citizenship rights, so that right to be a citizen of the European Union would remain. Can we assume that the EU would not object to EU citizen status for Irish citizens, not only those living in the Republic, but also those living in Northern Ireland, in what will be, after Brexit, part of a non-member state, the United Kingdom? Will those born in Northern Ireland claiming Irish citizenship remain EU citizens, albeit living outside the EU?

Can we assume that the position would be analogous to someone being able to apply for dual French and British citizenship—for example, if they were British, but had French parents? As long as France remained in the European Union, the French citizenship would confer the right to EU citizenship by extension; in the case of Northern Ireland, however, it will apply to a whole society—Northern Ireland’s—and not just individuals claiming European citizenship through relatives. Can the Minister give a guarantee that this right is maintained for people from Northern Ireland? After all, a common EU identity has helped both nationalists and unionists to focus on what they have in common rather than what has, for centuries, divided them. Irish citizenship may of course also be available for those with grandparents who were born on the island of Ireland, which includes Northern Ireland.

[LORD HAIN]

I note the report of the House of Lords European Union Committee, which stated on page 32:

“We also considered the impact of Brexit on the current reciprocal rights for UK and Irish citizens to live and work in each other’s countries. Such rights are underpinned in domestic law by the treatment of Irish nationals as non-foreigners under the Ireland Act 1949, and the acknowledgement of their special status in subsequent legislation including the Immigration Act 1971, as well as by the provisions of the British Nationality Act 1981 ... In addition, under the terms of the Belfast/Good Friday Agreement, the people of Northern Ireland have the right to identify as British, Irish or both, and to claim citizenship accordingly. Those who claim Irish citizenship would, by extension, be able to claim EU citizenship”.

Last week, I raised the thorny issue of the border in the context of Brexit. Nationalist and above all republican buy-in to the peace process has been cemented by an open border, as it normalises relations between both parts of the island. For them, it is iconic; and for unionists, either doing business or going about their daily lives, it is also extremely valuable. Similarly, the right to be Irish has been for nationalists and republicans a key part of the Northern Ireland peace process. Furthermore, do the Government agree that it is vital to retain and guarantee that right, not just for those who currently enjoy it but for future generations? Categorical reassurances on all of these are especially important after, first, a collapse of the power-sharing Executive into an election, and then a seismic result in which for the first time since 1922, unionists do not have a majority in the local legislature. Is there hope that two charismatic new women leaders, Sinn Fein’s Michelle O’Neill and Alliance’s Naomi Long, can broker common ground with the DUP’s leader Arlene Foster to rescue devolved government?

Meanwhile, the issue of how to deal with Northern Ireland’s troubled and tangled past remains toxic. Long-retired British soldiers are being prosecuted, provoking outrage among both their families and unionists who perceive it as an unjustified focus on the state’s role in the conflict. “What about prosecutions of former IRA assassins?”, is their question? Both magnanimity and mutual respect is needed, otherwise Northern Ireland will get completely bogged down in its gruesome past, instead of properly supporting victims and building a new future.

To conclude, I ask that the Minister gives a proper and full explanation and guarantee about the entitlement to Irish and therefore European citizenship of people from Northern Ireland. The EU has in the past been very supportive in recognising Northern Ireland’s unique status, and it will almost certainly have to be supportive in the future.

Lord Reid of Cardowan (Lab): My Lords, I am very pleased to follow my noble colleague and fellow former Secretary of State for Northern Ireland, Lord Hain, in support of the amendment. I merely point out that I am the third former Secretary of State from these Benches to have supported the sentiments of the amendment, as my noble friend Lord Murphy also spoke on the matter last week.

I do not intend to address the amendment in such detail as my noble Friend Lord Hain; I will confine my remarks to a focus on three or four strategic issues of

vital importance. We have spent a great deal of time thinking and worrying—correctly—about the implications of Brexit for Scotland and, in my view, not nearly enough time thinking about the implications not only for Northern Ireland but for the whole of Ireland and a relationship which we have built over the past 20 years, in contrast to centuries prior to that of animosity and antagonism.

6.45 pm

I want to make just three or four points which I hope that Ministers will convey to their colleagues, in the spirit of my noble colleague. First, if the whole question of immigration is so central to the Government’s view of Brexit—and, they imply, the public’s view—we ought to be careful to pay sufficient attention to the fact that the border between Europe and the United Kingdom will be across the border between Northern Ireland and southern Ireland. The Government say to us: “But there will not be a hard border. We have no intention of bringing back a hard border”—by which they mean noticing who passes from the south to the north on the island of Ireland. I put it to the Government that their own logic suggests that if they have no way of telling who is moving from the Republic of Ireland and Northern Ireland, it is really difficult for them to assure the British people that they somehow have control of immigration. I hope that the Minister will be able to tell us how he squares that particular circle.

That is not just a matter of control over the numbers of immigration, of course—it is also a question of security. If we are to have this dreadfully soft border between Europe, in particular, the Schengen area of Europe—of which, I accept, the Republic of Ireland is not a member—we must almost by definition enhance the security threat compared to the pre-existing position.

Immigration is also of extreme importance to Northern Ireland’s economy and industry. As we know, the Province came through an extremely difficult period of 30 years—actually, in some ways, since 1168, since we first arrived on that island having run out of land on the mainland of England and sailed into the estuary at Wexford and, with 400 soldiers, declared: “It will be all over in a month”. We have had a long history of conflict and war there. In the past 10 to 15 years, Northern Ireland has prospered. It is now completely different from what it was, largely by reason of the development of the economy and the introduction of equality in the Province of Ulster. However, many of those industries are entirely dependent on bringing the best brains of Europe to Northern Ireland—something that did not happen for decades. If we are not very careful, we will be in the position not where the best brains of Europe come to Northern Ireland, but where Northern Ireland companies are moving 50 or 100 miles south of the border, into southern Ireland. That will do untold damage to the economy of Northern Ireland.

The second question is fiscal differences. It is easy to say that we will have a soft border, but if you have vast variation in taxation in the north compared with the south, there will be a very profitable industry in bringing goods into the north and making a lot of money out of them. It may surprise Ministers, but that is how a lot of the terrorism in Northern Ireland was funded. I will not go into detail on that but merely say that,

anecdotally, it was a very good idea to own a couple of fields that straddled the border. Anecdotally, it is said that some of the people who did so parked oil tankers at the bottom of their field at dusk, but by daybreak those tankers had mysteriously moved to the top of the field, thus causing a great deal of surplus because of the taxation differences between the north and the south. That problem—smuggling—will arise again, and as I said, industry is moving south.

Finally, my noble friend referred to the Good Friday agreement. I will also call it the Belfast agreement. As the Minister knows, there are two names for many things in Northern Ireland, and if you use the wrong name you are accused of having a prejudice one way or the other—so there is Derry and Londonderry. The Belfast agreement and the Good Friday agreement have to be encompassed within the same phraseology to prove neutrality. But whatever you call that agreement, it was historic. My worry is that we will create the perception that we are abandoning the rights and liberties that could be guaranteed by recourse to the European Parliament. That, I think, is arguable. I do not believe that that will happen. This is such an entrenched, embedded and historic agreement that those rights will be maintained. Nevertheless, that perception will grow.

More importantly, although it was never articulated in explicit terms, the fact is that the all-Ireland dimension of the Good Friday/Belfast agreement was absolutely essential in ensuring that it brought all sides into it—nationalist, republican, unionist and loyalist. So, while Northern Ireland stood as part of the United Kingdom, the solution to the problem was to encompass the all-Ireland dimension. That all-Ireland dimension was underpinned by our dual membership—both sovereign countries' membership—of the European Union. Therefore, the divorce of the European Union and the United Kingdom raises a very serious issue for Ministers, not just in the legal niceties but in the underlying atmospherics and the all-Ireland dimension.

My noble friend has made it plain that he does not intend to push this to a vote, and I am glad about that. The amendment is in the spirit in which the Good Friday agreement was conducted—which is all parties, on all sides, in all parts of this island as well as all parts of the island of Ireland, advising each other as we see fit on the best way to avoid big traps and to ensure the prosperity of Northern Ireland and of the Good Friday and Belfast agreement.

Baroness O'Neill of Bengarve (CB): My Lords, I am very grateful to the noble Lord, Lord Hain, for tabling this amendment although I think that things may not be quite as difficult as he imagines. For many of us—I declare an interest here—our right to Irish citizenship is not contingent on the Belfast agreement. It goes back much further to the establishment of the common travel area. In order to set my own mind at rest, I checked with the Irish embassy after the Brexit vote to make sure of my own status. I was born in County Antrim during the war years and the answer was, “You are a citizen. You have birthright”. That did not continue indefinitely but many of us in the north have citizenship by virtue of being born, I think, when there was still a territorial claim to the entire island.

I see the noble Lord, Lord Empey, nodding. That is very important to us. The numbers we are talking about are rather different from the suggestion that this is a Belfast agreement creation.

However, the underlying problems are every bit as severe as noble Lords have suggested. There are three. One is obviously the movement of people. I know that many in the Conservative Party think that ID cards are a no-no, but many noble Lords carry mobile phones which constantly give away far more about their identity. We should grow up and realise that in the present age identity and identification is absolutely routine. We need to get it right and enable people to travel. However, the issue is not only to identify the persons who have, under whatever dispensation we reach, no right to cross into the UK. I am afraid that this duty to identify ourselves would fall on all of us—probably when we do crucial things, such as register with a GP's surgery, start a company or buy a property, and not merely when we travel. That topic really needs to be explored in full.

The second topic, which I believe is the most awkward, is the question of tariffs. Of course it depends on the negotiation that we have been talking about at some length today—what sort of issue that has to be, and how much of it can be electronic—but make no mistake: the economies are interwoven, and it cannot be thought that we will have a long queue at 260 border crossings across 300 miles. That is not a solution.

Thirdly, and I think this is a neglected but important topic, we may expect in the event of a negotiation that the agricultural support systems north and south of the Irish border will diverge. That creates new incentives to do something that has long been done—about which amusing stories can be told, because it is not only oil tankers that were put into fields but, of course, beasts. It is extraordinarily important that we address issues of biosecurity very early on in the negotiations. The economies of both the Republic and the north are highly integrated in some respects, particularly dairy, and it is very important that those supply lines can be maintained without any risk to biosecurity. Of course, it is not just the looming possibility of foot and mouth but also other horrible diseases that animals get, such as swine flu and Asian flu. You name it, it is possible. I hope that we can address that one soon.

Lord Eames (CB): My Lords, it is an opportunity, because of the speech of the noble Lord, Lord Hain, to once again concentrate our minds on an aspect of our long debates on the EU and Brexit, and to realise the significance of a cameo within the bigger cameo. It is a question not just of addressing the issue of the United Kingdom and the EU; within the United Kingdom is a border that will become the frontier between the United Kingdom and the EU.

The border, which is a part of folklore as well as part of the political story of Ireland, is much more important, as I said at Second Reading, than a line on a map. It represents something in people's minds, aspirations and memories of the past. I believe that the value of what the noble Lord, Lord Hain, has said to us this evening is this: the border represents perhaps the most important facet for the people of Northern Ireland that is represented by Brexit. Northern Ireland will be affected by Brexit more than any other part of

[LORD EAMES]

the United Kingdom simply because of geography. However, more than geography, it will be affected by cultural and economic changes and, of course, the security question.

It is important to emphasise what lies behind the words of the amendment; I am glad that the noble Lord, Lord Hain, will not press it to a Division. It is a reminder that this part of the United Kingdom will be the first to feel the effect of Brexit. The second part will be the ongoing consequences. As the noble Baroness has reminded us, there is the tariff question, the economy and the proverbial oil tankers, and horses and cows in the field.

7 pm

Away from the romanticism of this, in this House this evening are three Peers who have every reason to remind us of the sensitivities of what Brexit will do to the situation in Northern Ireland. I refer to those who have served us well as Secretaries of State over the years. What has been achieved in the island of Ireland in the relations between north and south, and east and west—which are equally as important—over years full of bloodshed and great suffering for people on both sides, has been remarkable. Those of us who have worked most of our lives to try to bring reconciliation and progress—not only in the political sense but in that wide and deep sense of people's relationships, their hopes and everyday lives—fear that if anything is done that will upset the balance of those newly achieved relationships, a lot of other people will suffer.

I applaud the noble Lord, Lord Hain, for the wording of his amendment. I thank him and his two colleagues who have served the people of Northern Ireland over the years. Even though in a sense the noble Lord is probing us with the words of his amendment, I ask the Minister to recognise once more that this is much more than a question of a line on the map; it is a question that goes very deep into our understanding of the future.

Lord Davies of Stamford (Lab): The whole House always listens to the noble and right reverend Lord with the greatest respect on these matters. I have known him for about 20 years and have spoken to him on the subject over that time and feel the same degree of respect. I wonder whether he would like to tell the House—I do not know what answer he will give—whether he feels that one possible solution to the difficult, dire problems he has just outlined might be to allow for the negotiation of a special status for Northern Ireland which might leave it, at least in some respects, within the European Union.

Lord Eames: My Lords, I feel that the question that the noble Lord has raised takes us far beyond the points I was trying to put over because we must not tie the hands of the team that is going to speak for us all in the negotiations. I say to the noble Lord, please keep an open mind on the possibilities, but it is not for us to concern ourselves with.

The Archbishop of York: My Lords, it is a real delight to follow the noble and right reverend Lord, Lord Eames. When he was Archbishop of Armagh he

invited me endless times to visit Northern Ireland, even during the terrible Troubles. As a result we ended up spending a lot of holidays in that particular part of Ireland. It is a very beautiful, wonderful place. The noble Lords, Lord Hain and Lord Reid, spoke with insight. I would like to follow in their footsteps on this wonderful probing amendment that the noble Lord, Lord Hain, says he is not going to put to a vote.

I want to say three things. First, this amendment, as I understand it, touches on sensitivities that Brexit risks putting Northern Ireland's peace process in jeopardy by not taking account of the fact that under the Belfast/Good Friday agreement citizens in Northern Ireland have a right to Irish citizenship and therefore EU citizenship. This makes Northern Ireland unique post Brexit as the only jurisdiction outside the EU where every person living there is legally entitled to be a citizen of the European Union, simply by applying for an Irish passport. While these considerations are high on the agenda in Dublin and Belfast, they are not receiving, as I understand it, the attention they deserve in London, Brussels or other EU capitals. The amendment seeks to reverse that situation, hence its probing nature.

Secondly, this issue and other matters relating to the impact of Brexit on UK-Irish relations were explored in a report published in December 2016 by the House of Lords European Union Committee. The committee concluded that the unique nature of UK-Irish relations needs a unique solution. It recommended that the best way to achieve this would be for the EU institutions and member states to invite the UK and Irish Governments to negotiate a draft bilateral agreement, involving and incorporating the views and interests of the Northern Ireland Executive, while keeping the EU itself fully informed. Such an agreement would then need to be agreed by the EU partners as a strand of the withdrawal agreement. I will be interested to know what the Minister will say about that.

Thirdly, this amendment does not go as far as the committee suggested but it holds that the right of the people of Northern Ireland to Irish and therefore EU citizenship should be upheld in any agreement negotiated following the triggering of Article 50. To me, that is important. The noble and right reverend Lord, Lord Eames, reminded us of the importance of the border. There is no wall there but it is a border. It seems to me that the rights of those people need to be upheld otherwise we are going to put in jeopardy this wonderful decision under the Belfast/Good Friday agreement that citizens in Northern Ireland have a right to Irish citizenship and therefore EU citizenship.

Baroness Suttie (LD): My Lords, I pay tribute to the wonderful, heartfelt speech from the noble and right reverend Lord, Lord Eames. I think I speak for many in this Chamber by saying that his speaking with such emotion makes us realise how important this issue is. The right of Northern Irish people to claim Irish citizenship is, as other noble Lords have said, set out in the Belfast/Good Friday agreement, the Irish constitution and, as has also been said, the common travel agreement. It should be stressed that this right will remain and will not be changed by Brexit. It would be wrong to suggest otherwise.

However, there remain many unanswered questions and it will be useful, in debating this probing amendment from the noble Lord, Lord Hain, to push the Government for clarification on several issues. As has been said, Northern Ireland is unique in the United Kingdom in that citizens can choose to have Irish citizenship, British citizenship or both. Since the Maastricht treaty, citizens in both Ireland and the United Kingdom have also been entitled to European citizenship. However, following Brexit, in Northern Ireland there will be a situation in which, unlike in the rest of the UK, people will be able to remain EU citizens by virtue of their Irish citizenship. Will the Minister say how he believes UK citizens also being able to maintain EU citizenship will work in practice?

Last week, your Lordships' House voted overwhelmingly to maintain EU citizens' rights in the United Kingdom. If this is overturned by the House of Commons next week, can the Minister clarify whether he believes this will have any impact on the Northern Irish people who have opted to have Irish citizenship? If there is no change to the current situation, does the Minister believe that this would entail special status within the European Union? Finally, can the Minister confirm that resolving these issues will be a top priority for the Government, and does he agree that any continuing uncertainty or lack of clarity about future citizenship rights for Northern Irish people is clearly unacceptable?

Viscount Slim (CB): My Lords, how pleasant to have a meaningful and good, short debate. I so agree with what has been said. The noble Lord, Lord Hain, was kind enough to mention the bad feelings caused by the hounding and prosecuting of British soldiers over matters of Sinn Fein and Ireland. I remind noble Lords that our Armed Forces are full of good Ulstermen and good Irishmen, and they need looking after and defending. The false prosecuting of British soldiers and airmen and the constabulary in Northern Ireland should not be allowed. The Minister may not recall that previous Governments have given dispensation to IRA/Sinn Fein murderers of British troops and the constabulary. This false prosecution and hounding of the Armed Forces has to stop. It is a law thing, and maybe the Minister has some views on it. I raise it because the noble Lord was kind enough to bring up the question of a British soldier being prosecuted.

Lord Reid of Cardowan: I put it on record that my noble friend Lord Hain, who is perfectly capable of speaking for himself, my noble friend Lord Murphy and I tried, unsuccessfully, to draw a line against all prosecutions before 1998. We did it in retrospect in 2002, 2005, 2006 and so on. We could not get common agreement among parties in Northern Ireland—or, indeed, in the British Parliament—so to do. We said at the time that we would regret that decision as the years went on and prosecutions were pursued against the British Armed Forces, the RUC and, indeed, people from the loyalist and republican communities. I put it on record that the three of us all made an attempt to solve this problem, but we could not get consensus in the British Parliament or among the parties in Northern Ireland.

Viscount Slim: I am fully aware of that and of what other noble Lords, Ministers and Secretaries of State have done, and I thank the noble Lord.

Lord Empey (UUP): My Lords, I believe that citizenship is not threatened by the decision of the United Kingdom to leave the European Union. Indeed, I am absolutely certain that people of whatever outlook can be confident that the undertakings given to them will be honoured. I refer to the Good Friday agreement, where in the section under constitutional issues, paragraph vi of Article 1 refers to recognising,

“the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may so choose, and accordingly confirm that their right to hold both British and Irish citizenship is accepted by both Governments and would not be affected by any future change in the status of Northern Ireland”.

We can link that to the matter that I brought to your Lordships' attention in the debate last week. We go back to our friends in the Supreme Court, who said that the Supreme Court has now unanimously endorsed the Belfast ruling without caveat, which was to say that the rights of people in Northern Ireland were not affected by Brexit—but the Attorney-General John Larkin decided to put the case to the Supreme Court for clarity, and it is a good thing he did. That included the three judges who were dissenting from the final judgment in *Miller*. Furthermore, because there will now be a UK Parliament vote on Article 50, the court added that nothing about Northern Ireland's removal from Europe breaches any law, treaty or part of the constitution.

Therefore, I contend, though not being a lawyer, that the position of citizenship is secure. As the noble Baroness, Lady O'Neill, clearly indicated, that goes back way before the Belfast agreement ever existed. In fact, the Irish constitution, before it was amended in 1998, made it absolutely clear that any person born on the physical ground of the island of Ireland was an Irish citizen, which has pertained ever since. It was reinforced in the Belfast agreement, but it says that it shall,

“not be affected by any future change in the status of Northern Ireland”.

In other words, people argue that leaving the European Union changes the status in some way, but the Supreme Court says that no injury is done to any treaty, law or the constitution.

7.15 pm

Therefore, I believe that the noble Lord, Lord Hain, can be confident that the important point that he raises along with his colleagues on the question of citizenship can be laid to rest. I believe that there is no threat to that issue and, if there was a threat, while I might take a different view of my own personal nationality, nevertheless I would support the right of anyone to maintain what they believe is their identity. We had many hours and days of discussion on this and, while it may not be my particular outlook, we accepted universally that people have a right to determine their identity. The former distinguished Secretaries of State who are here will know how important an issue it is for people. It is fundamental—it is a core issue—and we had to listen and participate in debate on the issue for many years, so I do not dismiss it lightly. It is right that it be debated now, but I am confident that, legally and internationally through a treaty and in other ways

[LORD EMPEY]

historically, citizenship rights of people on the island of Ireland are secured and not threatened by the United Kingdom's decision to withdraw from the European Union.

Baroness Altmann: My Lords, I am very grateful to the noble Lord, Lord Hain, for raising one of the issues that has troubled me most about leaving the European Union. It is not just about citizenship, from my perspective. So many companies across Ireland are deeply concerned about the possibility of leaving the EU with no deal, falling back on WTO rules, and the effect on the economy of the north and the rest of Ireland. In the context of us having responsibility for the whole of the United Kingdom, I urge the Minister to reassure us that it is possible to leave the customs union and still provide significant comfort to corporations and others engaged in economic activity in Northern Ireland.

Lord McAvoy (Lab): My Lords, I thank my noble friends Lord Hain and Lord Murphy of Torfaen for tabling the amendment, which gives us a chance further to emphasise the importance we place on the issue it deals with. It has been for the most part an extremely positive debate. Contributions from my noble friends Lord Murphy of Torfaen, Lord Reid of Cardowan and Lord Hain, as former Secretaries of State for Northern Ireland, have weighed heavily on the discussion, as well as the contributions of the noble and right reverend Lord, Lord Eames, the most reverend Primate the Archbishop of York, the noble Baroness, Lady O'Neill of Bengarve, and the noble Lord, Lord Empey, who brought a commendable spirit of tolerance into what can be on occasions a tight subject.

It has been almost 20 years since the people of Northern Ireland turned out to vote for the Good Friday/Belfast agreement. Last week, Northern Irish voters turned out in the highest numbers since 1998 to vote for representation and progress in the devolved Assembly. The negotiations in the coming days and weeks are vital to the future of Northern Ireland to ensure that victims are supported and communities are able to move forward. There is so much at stake here.

The UK and Irish Governments are co-guarantors of the Good Friday/Belfast agreement and must live up to this responsibility. This is vital, not only to immediate negotiations on devolution but, focusing on the amendment, to long-term Brexit negotiations. On the issue of British-Irish relations and the role of the European Union, it is worth noting that the Prime Minister and Taoiseach are meeting to discuss Northern Ireland while they are together at the EU Council summit in Brussels this week. That can only be a positive development.

There is a body of opinion that, when he decided to call the European Union referendum, the former Prime Minister, Mr Cameron, had not given proper thought to the implications for Northern Ireland if UK voters opted to leave. I pay tribute to all noble Lords who have worked so keenly during the passage of the Bill to focus the Government's mind on these key issues, particularly my noble friend Lord Murphy of Torfaen, who has brought considerable expertise to these discussions. The Good Friday agreement has been the cornerstone of two decades of progress in Northern Ireland. This

House has asked for an absolute guarantee from the Government that the provisions of the agreement will remain in place and be respected in both letter and spirit. These questions were also raised last week when other matters were discussed. We had no hesitation in fully accepting the Minister's assurances when he responded to the debate. He went a long way toward guaranteeing the House's acceptance that those assurances would hold. I have every confidence that he will again give assurances on the responsibilities of the UK Government that will satisfy most genuine, open-minded people.

The passport arrangements recognise, "the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both".

Like the noble Lord, Lord Empey, I have not heard any great objection to this. As he said, how can anyone object to someone else's identity? Surely we accept that. We know that the Government accept this situation and it should not be affected by any future change in the status of Northern Ireland. We in this House have a shared duty to guarantee the future of the Good Friday/Belfast agreement and the rights of Northern Irish citizens. As noble Lords on all sides have said, we must respect the will of the people and, in doing so, we must continue to respect, protect and uphold the result of the referendum which took place in May 1998.

I thank noble Lords for a very positive discussion and restate my belief that the Minister will repeat his assurances of last week, which greatly reassured the whole House.

The Parliamentary Under-Secretary of State, Northern Ireland Office and Scotland Office (Lord Dunlop) (Con):

I thank all noble Lords who have taken part in the debate on this amendment, relating to the right of the people of Northern Ireland to identify themselves as British or Irish or both, under the Belfast agreement. It is always a pleasure to follow two former Secretaries of State who have so much experience of this issue. I also mention the eloquent contributions from, among others, the noble and right reverend Lord, Lord Eames, and the most reverend Primate the Archbishop of York.

The noble Lord, Lord Hain, referred to the current political context. The whole House is very conscious of the political situation in Northern Ireland and the need to provide support to the parties there. The recent Assembly election produced a high turnout, and my right honourable friend the Northern Ireland Secretary said in a statement on Saturday:

"This election has demonstrated the clear desire by the overwhelming majority of people in Northern Ireland for inclusive, devolved Government ... Everyone now has a shared responsibility to engage intensively in the short period of time that is available to us, to ensure that a strong and stable administration is established".

I make it absolutely clear that the Government take that responsibility very seriously and are totally committed to the resumption of strong and stable devolved government, which is so much in the interests of the people of Northern Ireland. We all want to see the forward momentum of the peace process maintained.

The amendment in the name of the noble Lord, Lord Hain, seeks an undertaking to support the right of the people of Northern Ireland to claim Irish citizenship, as set out in the Belfast agreement. The Government's commitment to the Belfast agreement is

absolutely rock-solid, including to the principles that recognise the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they so choose, and their right to hold both British and Irish citizenship. As the noble Baroness, Lady O'Neill, and the noble Lord, Lord Empey, made clear, this birthright predates the Belfast agreement. The United Kingdom's departure from the EU will not change this commitment. However, the question of who can or cannot claim Irish nationality and citizenship is not something that would be dealt with through the Article 50 process.

Citizenship and nationality are matters of exclusive member state competence. The right to Irish nationality and citizenship is therefore a matter for Ireland, in line with its own commitments under the Belfast agreement. The Taoiseach has repeatedly made clear that the Irish Government remain committed to this agreement. In response to the point made by the noble Lord, Lord Hain, and the noble Baroness, Lady Suttie, EU citizenship is enjoyed by the citizens of all EU members. Therefore, any Northern Ireland resident who takes Irish citizenship will have EU citizenship. This is a matter of EU law, so no guarantees are required from the UK. It does not require special status. There are, after all, 3 million EU citizens currently in the UK. The noble Lord, Lord Reid, and the noble and right reverend Lord, Lord Eames, raised the issue of the border. The Government are committed to a frictionless border. How that is achieved is a matter for negotiation.

In conclusion, although the Government agree with the core sentiment behind this amendment—namely, unwavering support for the Belfast agreement—there is no need for its inclusion in the Bill in order to achieve the effect the noble Lords are seeking. Therefore, I respectfully ask the noble Lord not to press his amendment, as he indicated he would not.

Lord Hain: My Lords, I am grateful to the Minister and will respond briefly to him in a moment. However, the happy consensus which we have enjoyed this evening will be destroyed over the weekend when Wales play Ireland—at least in the case of my noble friend Lord Murphy and me.

My noble and right reverend friend Lord Eames spoke, as always, with moving eloquence. I am grateful for his generosity to me and to my noble friends Lord Reid and Lord Murphy. He said, very aptly, that Northern Ireland was affected by Brexit more than any other part of the UK. Scotland may be making the most noise but he is right that Northern Ireland, potentially, will be more seriously affected.

The noble Viscount, Lord Slim, referred to my mention of soldiers being prosecuted. To ensure that he understands my point of view, which is shared by my noble friends Lord Reid and Lord Murphy, we did indeed try to draw a line under the past. I introduced the Northern Ireland Offences Bill, which fell because its principle was that it applied to everybody. You had to treat people equally, whether they were a British soldier or a former paramilitary: that principle is vital. I can well understand why the families of soldiers who are now in their 70s and are being prosecuted for offences that they are said to have committed have a grievance that this may be one-sided.

You have to do these things even-handedly—and I return to what my noble and right reverend friend Lord Eames said. I do not wish to detain the House because it is not strictly appropriate to this amendment, but it is part of the context. You have to deal with this whole question in an entirely different way from pursuing continuous prosecutions going back 30, 40 and more years. Forensic evidence in those cases is either non-existent or, if there is forensic and other evidence, it is often more easily captured under former serving soldiers, where records were kept, than it is under former paramilitaries. So long as the parties turn their backs on an even-handed approach and so long as government is unable to pursue that matter, we will continue to have these grievances and they will multiply.

My noble and right reverend friend Lord Eames was the co-author, with Denis Bradley, of a very authoritative and excellent report on the past. There was one particular recommendation on compensation which perhaps was not ideal and attracted a lot of controversy. However, the rest of the report showed how it was possible to address this issue. The people of Northern Ireland and their politicians should return to it.

7.30 pm

Lord Empey: I am obliged to the noble Lord. Would he not confirm that, even going back to 1998, one of the principal objectors to drawing a line or trying to treat everybody equally was the Army? It did not wish to be treated in the same way as terrorists who were being prosecuted. It wrote to the Government at the time, objecting strongly to being treated in the same way as ex-paramilitary prisoners. I understand that the security forces still object to that. It is an issue that needs to be addressed. I hope that the noble Lord is at least aware of it.

Lord Hain: I am aware of it. It is more complicated than the view that the noble Lord attributed to the Army—but my noble friend Lord Reid may be able to clarify.

Lord Reid of Cardowan: What the noble Lord, Lord Empey, said was true—but, at a certain point, the chiefs of staff actually changed their mind. They could see the difficulties of paramilitaries having been released and the precise difficulties that have been pointed out tonight of British Army soldiers being prosecuted. While I was Secretary of State, they agreed that, if any member of the Armed Forces wished, in the event of such legislation being passed, to have recourse to and defence through immunity, they would not object. So, historically, although they had taken one view, they were prepared to countenance that on behalf of the Armed Forces.

Unfortunately, the parties in Northern Ireland would not permit an agreement at any given time—and nor, indeed, to be fair, would the British Parliament. We said consistently, “You will regret this because it will be a running sore for decades”. While we accept that there is a contradiction between justice for the families of those injured or killed in the past—which I understand perfectly—and peace and security for the future, the overwhelming case was to assure peace and security

[LORD REID OF CARDOWAN]
for all families in future by drawing a line at 1998. This has been the position of the British Armed Forces since 2003, as I understand it.

Lord Hain: I am grateful to my noble friend. I will not prolong this discussion too much except to say that, following the impasse that the Minister, the Secretary of State and their colleagues are grappling with, we hope that negotiations will bear fruit. It may well be that the British Government have to give something on this. I would just mention in passing that there is, for example, a demand from the WAVE trauma group to have a pension for innocent victims—not perpetrators of atrocities. I presume this could come only from the Government. I will briefly give way.

Lord Davies of Stamford (Lab): I am grateful to my noble friend. Thanks to the initiative of the noble Viscount, Lord Slim, we are talking about a desperately important matter. As the noble Lord, Lord Empey, said, there are still some serious reservations about granting amnesty to British forces. I share some of those sensitivities. Without getting into this complicated ground, is it not the case that the prosecuting authorities always have the option to decide whether or not to prosecute not just on the grounds of whether there is a chance of a conviction but also on the grounds of national interest? Is it not to be hoped that the prosecutor in Northern Ireland will take advantage of the opportunity for a judgment with the greatest degree of sensitivity?

Lord Hain: We are opening up a whole new debate. I am not sure I fully agree with my noble friend. I will end by saying that I welcome the fact that the Minister said that the commitment to the option of Irish citizenship is rock solid, as is the commitment of the Government to the Good Friday Belfast agreement. I beg leave to withdraw the amendment.

Amendment 5 withdrawn.

Shale Gas

Question for Short Debate

7.35 pm

Asked by Lord Truscott

To ask Her Majesty's Government what are the economic and environmental benefits of shale gas development in the United Kingdom.

Lord Truscott (Ind Lab): My Lords, in opening this debate, I declare a non-pecuniary interest as vice-chair of the All-Party Parliamentary Group on Shale Gas Regulation and Planning and as a former UK Energy Minister.

This is a controversial subject and, no doubt, your Lordships have heard and will hear many different views. Hydraulic fracturing—fracking—is a technological reality and cannot be uninvented. It is also clear that the Government, and Parliament as a whole, are determined to develop shale gas in the UK. The question is whether this development has been thoroughly thought through in all its ramifications, as we inexorably move towards exploration and production.

Andrea Leadsom, the Minister of State for Energy at the time, said in May 2016 that shale gas could, “provide jobs for our people and tax revenues for our society”, and

“help the UK to decarbonise while we move away from coal to lower-carbon energy sources”.

It could secure energy and bring economic growth and job creation.

The suggestion has been that shale gas development could create between 60,000 and 70,000 jobs, stimulate billions of pounds of investment in the UK, provide energy security and help secure “a bridge to a greener future”. On the face of it, these arguments seem compelling, except that none of them is quite as straightforward as it initially sounds.

Let me start with energy security. The assumption is that we lack it. A House of Lords Economic Affairs Committee report into shale specifically referred to the reliance on Russia, Europe's biggest gas supplier. The only problem here is that the UK imports virtually no gas from Russia and is unlikely to import significant amounts in the future.

In a Written Answer to me last September, the Minister, the noble Baroness, Lady Neville-Rolfe, responded:

“There are no pipelines that allow Russian gas to flow from Norway (our biggest source of imports) or via shipped Liquefied Natural Gas (which comes mainly from Qatar). Some gas of Russian origin may enter via pipelines from Belgium and the Netherlands. However, Belgium has reported virtually no Russian gas imports over the past three years. The Netherlands does report some Russian imports, but we estimate Russian gas via this route would account for less than 1% of the UK's gas imports and, therefore, much less than 1% of our total gas supply”.

In fact, the UK has now started receiving direct imports of US LNG so, unless we regard Norway and the US as unreliable partners, the energy security argument does not stack up. Of course, it is always better economically to have our own gas than to import it. There may be some environmental benefits if the amount of carbon produced is less, but that is by no means currently certain.

The billions of pounds of investment and thousands of jobs are presently speculative. Hopes of commercial-scale shale in Poland have faded and many of the majors have already pulled out. The number of licences have been halved. Those leaving include Exxon, Chevron, ConocoPhillips, Talisman and Marathon. Put simply, UK shale may or may not be commercially viable. No one will know until large-scale exploration establishes the level of exploitable reserves. This is, of course, a matter for the companies involved, but the experience in Poland shows that you should not count your chickens or your prospective tax-take.

As for the thousands of jobs, these may or may not just replace those already lost in the North Sea, partly as a result of the hydrocarbon glut and price collapse caused by the US shale revolution in the first place. Oil and Gas UK estimates that 120,000 jobs have been lost in the wider British economy due to the North Sea oil and gas downturn, with a barrel of crude falling from about \$115 to around \$50 since 2014, with a close correlation with gas prices. The US has also experienced the boom and ghost town experience, where some shale operators which initially did well went bust in the downturn, impacting local economies.

Significant UK shale production and downward pressure on prices could further undermine North Sea operators and squeeze margins in what is already one of the most expensive places in the world to exploit oil and gas. So what about a “bridge to a greener future” and the effect on the environment? Well, this is one of the most contentious issues of all. No doubt the Minister will repeat that the UK’s regulations are some of the strongest in the world and that we have 50 years of successful and safe onshore and offshore oil and gas extraction. Shale gas developments will be very closely monitored, shallow drilling will be banned and seismic movements monitored. That is all true, no doubt, but as Piper Alpha, Deepwater Horizon and the Exxon Valdez disasters showed, accidents do happen. No hydrocarbon explorer or producer can 100% guarantee the integrity of its wells, even if they are much deeper than aquifers. Water contamination is possible and earthquakes are inevitable. We have had several hundred already in the UK as a result of mining operations, quite apart from the notorious Cuadrilla quakes outside Blackpool. The US has had thousands of earthquakes, now indisputably linked to fracking. I am still unsure how the UK will avoid the same fate as the US. Perhaps the Minister will use this opportunity to explain that.

By the very nature of fracking and unconventional gas, where production falls off after 18 months, the UK will need to develop thousands, not hundreds, of shale gas wells. This has caused problems in the wide open spaces of the US. How will it work in this densely populated island of ours? What about the truck movements? In the US, the environmental picture has not been great. In 2014, Oklahoma experienced 585 earthquakes with a magnitude of three and over. According to the US Geological Survey, these were caused by the disposal of wastewater reinjected into the wells by the shale operators. A study by the University of Alberta, co-authored by the Geological Survey of Canada, confirmed a definitive link between fracking and almost every large earthquake recorded in Alberta and British Columbia since 1985.

The Pennsylvania Department of Environmental Protection reported that 234 private drinking water wells in Pennsylvania have been contaminated by drilling and fracking operations in the last seven years. Meanwhile, a US Environmental Protection Agency scientist identified groundwater pollution in Pavillion, Wyoming, as a result of fracking. A separate report in April 2016 concluded that there were,

“dangerous levels of chemicals in the underground water supply used by the 230 residents of Pavillion ... Levels of benzene, a flammable liquid used in fuel, were 50 times above the allowable limit, while chemicals were dumped in unlined pits and cement barriers to protect groundwater were inadequate”.

Last week, the leadership of the Pawnee Nation, a Native American tribe, filed a lawsuit against multiple Oklahoma oil companies, claiming that their operations caused a 5.8 magnitude earthquake.

Furthermore, there is serious concern about the amounts of methane released during fracking. Recent attempts in the US under President Obama to limit methane emissions look likely to be overturned by President Trump. Of course, the industry will tell us that it will all be different in the UK. It cannot happen

here, the US is different and the regulations will be tighter. Perhaps the Minister would like to comment further on that. However, some states and regions think differently. Maryland in the US has put a moratorium on fracking, as have Scotland, Northern Ireland and France. Fracking was banned in New York in December 2014. What do they know that we do not, or do Her Majesty Government have a monopoly of wisdom on the subject? The UK’s Labour Party also supports banning fracking, with shadow energy Minister Barry Gardiner stating:

“The real reason to ban fracking is that it locks us into an energy infrastructure that is based on fossil fuels long after our country needs to have moved to clean energy”.

We will continue to be dependent on fossil fuels in the foreseeable future, at least up to 2040 or 2050. Her Majesty’s Government are committed to reducing our carbon emissions by at least 80% by 2050, compared to 1990 levels. Professor Kevin Anderson, former director of the Tyndall Centre for Climate Change Research, has said:

“From a climate-change perspective this stuff simply has to stay in the ground”.

The Environmental Audit Committee reported in 2015:

“Ultimately, fracking cannot be compatible with our long-term commitments to cut climate changing emissions unless full-scale carbon capture and storage technology is rolled out rapidly, which currently looks unlikely”.

The Committee on Climate Change also thought that the implications for UK shale gas exploitation for greenhouse emissions,

“are subject to considerable uncertainty”,

and are not compatible with UK carbon budgets unless strict measures are taken.

Finally, a recent survey showed that only 19% of people back shale exploration in the UK despite the various inducements offered to local communities. The Financial Secretary to the Treasury said in the other place last November that the Prime Minister has been very clear:

“Local people must come first”—[*Official Report, Commons, 21/11/16; col. 727.*]

Will the Minister therefore pledge that local communities will in future decide local planning issues?

7.46 pm

Lord MacGregor of Pulham Market (Con): My Lords, I congratulate the noble Lord, Lord Truscott, on obtaining this debate and on his introduction to it. However, I shall come to some very different conclusions from those that he reached.

I chaired the Economic Affairs Select Committee, which reported on this subject in May 2014. According to our own press department’s survey, that committee’s report obtained one of the widest levels of attention of any Select Committee report produced at that time. That was partly, of course, because of the concerns of environmental groups but it went much wider than that.

Given the wide-ranging background and knowledge of the members of the Select Committee—on the environment, climate change, economic issues; we had all these things—I had thought that it would be very difficult to reach agreement. In fact, we had a unanimous

[LORD MACGREGOR OF PULHAM MARKET] report, having heard from a very wide range of expert witnesses. Therefore, my main conclusion remains, as was the conclusion in the report, that the benefits far outweigh the risks, and the risks can be controlled. My main concern is that it is still far from certain that the benefits will be realised and achieved.

What have been the developments since our report was published? First, the Government have made some beneficial changes to legislation. Senior Ministers, past and present, have confirmed that in principle they are strongly in favour of shale gas exploration and production as a major contributor to our energy mix, employment, import savings and other benefits.

Secondly, it is widely recognised that our regulatory and other environmental requirements are fit for purpose. Thirdly, the Government have made some helpful changes to planning and tax legislation and offered community benefits to those affected. All this is very commendable but progress is just too slow, there is no clear drive and few results have been obtained so far. The history to date is of limited progress and no real awareness among the wider public of the benefits of shale gas as compared with the media attention given to protesting local and environmental groups. Since 2004, government and Parliament have striven to meet all the environmental, planning and other concerns, as have the industry and regulators, and compensatory benefits have been given to local communities. All that is now in place. Yet still no exploration drills have been drilled since 2011, so we still do not know the full potential or can fully cover all the risks. So shale gas drilling is still at a pre-exploratory stage, no commercial operations have been authorised and a lengthy application process must be completed before drilling can take place.

Meanwhile, the world is passing us by. Only this week we learned that shale output from the Permian Basin in Texas is expanding faster than the world thought possible. The founder of Pioneer Natural Resources there said:

“People just don’t seem to realise how big the Permian is. It will eventually pass the Ghawar field in Saudi Arabia, and that is the biggest in the world”.

He also says:

“We have had such efficiency gains that break-even cost in the Permian are close to \$25. It took us 40 days to drill a well in 2014. We’re already down to 20 days”.

Meanwhile, we in the UK have not even started. The US will get all the benefits, unless we get a move on.

The companies involved in the UK are running out of money quite quickly. The economic valuation is less favourable because the gas price has fallen considerably. The US is finding much more shale gas than originally anticipated and companies there are reducing costs dramatically. There could be a wave of imports in the next few years, making it less favourable for companies to develop here, at a cost to the balance of payments, to employment possibilities and to security of supply. I have not dealt with the wider security aspects, but they are there too.

The Government are committed to shale gas development in the UK. In our report we called for a Cabinet committee to be set up to get the right mix of

incentives, to remove or substantially reduce obstacles, and to give a strong steer to all the departments, local authorities and others to make real progress. It has not yet happened. The benefits are likely to far outstrip the costs and the risks, and the latter can be controlled. Yet the benefits are still far from certain to be realised. In my view, swift progress to shale gas production needs greater public and political recognition and support—and we need to get on with it.

7.52 pm

Lord Young of Norwood Green (Lab): My Lords, I think that I would have congratulated my noble friend Lord Truscott on introducing this debate if I had not had to listen to the way he introduced it, which was another example of all the scare stories that we have heard about fracking in the past. I am disappointed to hear them reiterated, because they have all been roundly disproved. The earthquake stories have been recycled again, but even if there was a slight worry about earthquakes, if monitoring of fracking in this country should show anything like 0.5 on the Richter scale I do not think that the earth would be moving, even for my noble friend. We have the toughest fracking safety regulations anywhere in the world.

I do not understand the idea that, apparently, anybody else can do fracking—it does not matter where else it is done—but it cannot be done here. We do not care if it is done in Qatar, or what the conditions are. We do not care about the fact that if it is liquefied and then de-liquefied that in itself causes emissions. Apparently that is okay with my noble friend.

The plain fact of the matter is that gas will continue to be used in this country, for 20, 30 and even more years. It is the largest source of electricity, accounting for around 45% of electricity generation, which has allowed the share of coal-fired generation to fall to record lows. Gas-fired power stations can run continuously or as flexible back-up for intermittent wind and solar energy.

I shall partly repeat what the noble Lord, Lord MacGregor, said, because it was nice to hear a voice telling us about the real benefits that we can expect from fracking, assuming that we actually get round to doing it. At the moment we are significantly dependent on imports, not only of liquid natural gas but also of pipe gas. Whether or not we worry about energy security, surely we should be worried about price volatility, because we do not control the import prices. That exposes the UK to international currency fluctuations, with imported LNG, for example, priced in dollars.

This also harms the UK’s balance of trade, which apparently does not really matter to my noble friend. In 2015 the UK spent over £14 billion on net primary fuel and energy imports—crude oil, oil products, natural gas, coal and electricity. It is estimated that by 2030 imports of gas alone could cost the UK economy £10 billion a year. We could be producing that ourselves.

Among the benefits would be energy security and employment. What do we know about shale gas? We know that potentially there are billions if not trillions of cubic feet of gas here. We do not know for sure, but even taking the most conservative estimates—taking only 10%, say—that would give years and years of gas

supplies. Employment does not seem to matter any longer either, but there are potential skilled jobs there. We have set up training colleges to train people, but apparently that does not matter either.

I listened carefully to my noble friend's arguments, but I direct him to the report by the American Environmental Protection Agency, which looked at 38,000 wells. I did not notice it issuing an instruction that fracking had to stop immediately. If it were such a serious environmental danger, listening to my noble friend one would think that the whole of the US water supply was poisoned. That is just not the case.

The UK has the industry experience to make a success of shale gas production. More than 2,000 wells have been drilled onshore, with around 200 having been hydraulically fractured at lower volumes to enhance recovery. The Wytch Farm oilfield is located in an area of outstanding natural beauty on a world heritage coastline whose property prices are among the highest in the country and it produced 100,000 barrels of oil a day at peak production, yet I never noticed the whole of Dorset being contaminated as a result. Today the industry has 230 operating oil and gas wells onshore on 120 sites, producing about 8 million barrels of oil equivalent per year.

We have very large potential shale gas resources and what we are doing about them beggars belief—including, unfortunately, the decision taken by my own party to endorse a ban on fracking—when we could be using them to reduce the cost of fuel. If we cared about fuel poverty, I would have thought that that would be uppermost in our minds.

Unfortunately, in the green movement there are many scare stories. My noble friend talked about leaving it to local people to decide. I would be happy if it really were local people who decided, but we know that, as soon as there is any local activity in relation to fracking, the usual opponents flood the area, spreading scare stories about earthquakes and poisonous substances. The fact that 99.5% of the substances consists of sand and water did not stop Friends of the Earth claiming that the silicon used caused cancer. On that basis, I presume that none of our children will be playing on beaches any longer, because to my knowledge—although I do not claim to be an expert chemist—that is what sand consists of. These are irresponsible scare stories. Why people persist in spreading them is beyond me.

I do not want to exaggerate the impact of shale gas but, according to the British Geological Survey, in the Bowland shale there are something like 1,300 trillion cubic feet of shale gas. If only 10% of that could be extracted, it would be equivalent to 40 to 50 years of UK gas consumption. Surely that is worth doing. I cannot understand the opposition. If we were in the situation where there were not sufficient safety regulations, I would be the first to endorse the concern, but that is not the case. This Government have ensured the tightest set of safety regulations. My view is that there are real economic and energy security benefits, as well as employment benefits, to this country if only we could get on with the production of shale gas.

8 pm

Viscount Ridley (Con): My Lords, it is always a great pleasure to follow the noble Lord, Lord Young of Norwood Green, who speaks a great deal of common sense on these issues. I declare my interests in energy as listed in the register—they are mainly in coal, which is threatened by shale gas, and so I should be against it but I am not.

I first visited a shale gas well in Pennsylvania in 2011 while writing a report for a think tank, the Global Warming Policy Foundation, founded by my noble friend Lord Lawson. At that time, most energy analysts were still arguing that shale gas was a flash in the pan. I concluded that that was almost certainly wrong and that we were witnessing an energy revolution of huge significance. And so it proved. America went from importing to exporting gas. The shale boom pumped hundreds of billions of dollars into the American economy through domestic production and lower prices. The environmental problems were minimal. President Obama's Energy Secretary confirmed this in 2015, when he said:

"I still have not seen any evidence of fracking per se contaminating groundwater".

Over the past decade, America has cut its carbon dioxide emissions faster than any country, thanks almost entirely to the shale gas revolution. It did so while simultaneously bringing heavy industry back onshore, whereas we have driven it away. Saudi Arabia tried to kill the shale drilling business in 2014 by flooding the market and cutting prices. It failed—the technology keeps improving and, as my noble friend Lord MacGregor said, the break-even price gets lower and lower.

Last November, I was on a shale-oil site in Colorado watching the new quiet-fracking fleet do its work: an operation that takes about the same length of time as building a wind turbine and is as limited in area, but produces hundreds of times more energy and is about 2% as prominent in height in the landscape when it is finished.

In 2011, I wrote that,

"shale gas faces a formidable host of enemies in the coal, nuclear, renewable and environmental industries—all keen, it seems, to strangle it at birth, especially in Europe".

I was right about that too. What was the reaction of the environmental movement to this gift from the gods? To oppose it with all its might, even at the cost of telling the truth. This year, Friends of the Earth was forced by the Advertising Standards Authority to withdraw several misleading claims it had made about shale gas. As the noble Lord, Lord Young, said, it even resorted to arguing that sand is carcinogenic. It did not quite have the brass neck to complain about dihydrogen monoxide, which is injected in large quantities into shale gas wells—for those whose chemistry is rusty, that is H₂O, or water.

Who is behind this anti-shale propaganda? Let us look at who stands to suffer from a successful shale revolution here. First, the subsidy-drunk renewable energy industry, still trying to justify things like burning American forests for electricity. The former DECC chief scientist, the late Professor David MacKay, found that in particular circumstances, using wood pellets to

[VISCOUNT RIDLEY]

generate electricity could have a carbon footprint almost twice that of coal and four times that of gas, and yet we subsidise foreign wood pellets and stand in the way of shale gas.

The second group with an interest in undermining British shale gas, apparently, is a foreign power. Anders Fogh Rasmussen, the former NATO Secretary-General, has accused Moscow of campaigning to undermine shale gas. Here is a quote from *National Review* magazine in 2015:

“Russia has ramped up covert payments to environmental groups in the West. By supporting well-intentioned environmentalists with hard cash (often without their knowledge), Russian intelligence gains Western mouthpieces to petition Western audiences in its favor.”

Sure enough, the Kremlin’s mouthpiece, RT, Russia Today, has been broadcasting anti-UK shale propaganda on its “Keiser Report”, including the line that, “frackers are the moral equivalent of paedophiles”.

The US Director of National Intelligence said very recently:

“RT runs anti-fracking programming, highlighting environmental issues and the impacts on public health. This is likely reflective of the Russian Government’s concern about the impact of fracking and US natural gas production on the global energy market and the potential challenges to Gazprom’s profitability”.

This is what we are up against. The noble Lord, Lord Truscott, knows Russia well. Given what I have said, can he shed any light on which anti-fracking protesters in this country are funded directly or indirectly by Russian interests?

We will be burning gas for decades to come under any policy. Even the national grid’s extreme “gone green” scenario for future energy policy sees us burning almost as much gas in 2035 as we burn today. But more than that, we have a huge chemical industry in this country, employing hundreds of thousands of people directly and indirectly. It needs methane and ethane, derived from natural gas wells, as feedstock. That industry will disappear rapidly if we do not exploit domestic shale. It has repeatedly warned us of this. As the GMB union puts it, if exploratory drilling reveals a plentiful supply of UK shale gas reserves,

“is it not a moral duty for Britain to take responsibility for providing for our own gas needs from those supplies rather than importing gas from elsewhere”?

Beneath Lancashire and Yorkshire, in the Bowland shale, lies one of the richest shale gas resources ever discovered. As the noble Lord, Lord Young, said, just 10% of it would be enough to provide 50 years of British needs. We know how to get it out, using sand and water to make millimetre-wide cracks a mile and a half down, with minimal environmental risks. The tiny group of middle-class southerners who go north to protest about this stuff are not representative of public opinion. Let us not us give in to the 21st-century Luddites, commercial interests or foreign crony-capitalists who do not have our interests at heart.

8.06 pm

Lord Mair (CB): My Lords, I welcome this important debate introduced by the noble Lord, Lord Truscott. Shale gas and its extraction by the process of hydraulic fracturing, known as “fracking”, remains a controversial

subject. In discussing the environmental benefits of shale gas, it is also important to address potential environmental risks from a science and engineering standpoint. These risks have been referred to by the noble Lord, Lord Truscott.

I speak from my experience as chairman of the committee that produced in 2012 the Royal Society and Royal Academy of Engineering report, *Shale Gas Extraction in the UK: A Review of Hydraulic Fracturing*. That independent review was requested by the Government Chief Scientific Adviser, at that time Sir John Beddington. It arose from experiences of seismicity in the Blackpool area in 2011 shortly after the fracking of an exploratory shale gas well at the Preese Hall site. Our remit was to review the available scientific and engineering evidence associated with fracking, identify the major risks and consider whether these could be managed effectively in the UK. We were asked to address two major questions. One, what are the environmental risks, particularly in relation to possible groundwater contamination? Two, what are the risks of earthquakes? In our review we consulted with and received evidence from around 70 experts and organisations, including environmental organisations such as Greenpeace, Friends of the Earth and WWF.

Our report concluded the following. First, the fracking process itself is unlikely to contaminate groundwater. To reach overlying freshwater aquifers, the fractures in the shale would have to propagate upwards towards the surface for many hundreds of metres to reach them. The risk of this happening is very low, provided that fracking takes place at great depths—it is typically undertaken at depths of several kilometres. It is important not to conflate the fracking process with shale gas well operations. Groundwater contamination is much less likely to be due to the fracking process than to faulty well construction. The only realistic way that any contamination of groundwater may occur is if operations are poorly regulated and faulty wells are constructed as a result. Ensuring well integrity must remain the highest priority to prevent contamination. If wells are properly constructed, sealed and managed, the risk of contamination is very low. Our report therefore concluded that shale gas extraction can be undertaken safely in the UK, provided that operational best practices are implemented and enforced through robust regulation.

Secondly, our report concluded that earth tremors resulting from fracking are minimal, smaller than those caused by coal mining. In this context, “earth tremor” is a much more appropriate term than “earthquake”. The effects felt from earth tremors caused by fracking would be no worse than those from a passing heavy lorry. The noble Lord, Lord Truscott, referred to earthquakes in Oklahoma. More significant earthquakes have been reported in the USA, all arising from reinjection of waste water into disposal wells, not from fracking itself.

We recommended various regulatory safeguards to manage these risks. Vital to effective management of the risks is comprehensive and rigorous monitoring. In particular, methane and other contaminants in groundwater should be closely monitored, as well as potential leakages of methane and other gases into the atmosphere. Similar conclusions on the importance of

rigorous monitoring were reached by Public Health England in its 2014 report and in other recent reports by science and engineering academies within Europe and elsewhere, including the Australian and Canadian academies. Our Royal Society and Royal Academy of Engineering review made 10 major recommendations, all of which the Government accepted. The Task Force on Shale Gas, chaired by the noble Lord, Lord Smith of Finsbury, reached similar conclusions and made similar recommendations in its final report, published in 2015.

We should nevertheless be careful to distinguish between exploratory activities and full-scale production. Shale gas extraction in the UK is presently at a very small scale, involving only exploratory drilling. There is greater uncertainty about the scale of production activities should a future shale gas industry develop nationwide. We will need to pay attention to the way in which risks scale up. Regulatory capacity will need to be increased. Efficient co-ordination of the numerous government bodies with regulatory responsibilities for shale gas extraction must be maintained.

Our report covered environmental and health and safety risks, but climate risks were not addressed in detail. Fugitive methane emissions during shale gas extraction operations must also be closely monitored and minimised. Green completion technologies, designed to capture any methane and other gases emitted from flowback water, have been made mandatory in the USA by the Environmental Protection Agency since 2015. This may not be applicable to our current small-scale exploratory activities, but such technologies will certainly be needed for any future production activities in the UK.

The potential economic and environmental benefits of shale gas development in the UK can only be properly evaluated by undertaking exploratory drilling and fracking. The type and composition of gas extracted and the proved reserves will vary depending on the detailed geology, so each site has to be investigated on a case-by-case basis. "Proved reserves" means the volume that is economically recoverable. It is this that will really determine the potential economic benefits, which will only become clear when appropriate exploratory drilling has been completed. That is why it is so important for exploratory drilling to proceed without delay.

Scare stories, myths and mistruths about fracking abound: flames coming from water taps and damaging earthquakes, to name two. Effective public engagement is essential to dispel such myths and mistruths, thereby enabling shale gas extraction to gain wider acceptability. We should recall that the UK has been employing fracking and directional drilling for non-shale resources for many years. Fracking itself is not new to the UK but it is being newly applied to shale gas. The quantities of water needed are greater but otherwise the process is very similar. As the noble Lord, Lord Young, pointed out, over the last 30 years more than 2,000 onshore wells have been drilled in the UK, around 200 of which have been fracked to enhance the recovery of oil or gas. In our Royal Society and Royal Academy of Engineering review we were not aware of groundwater contamination issues with any of those wells.

In summary, moratoria on shale gas extraction get us nowhere. The constructive way forward is to proceed cautiously with well-controlled exploratory drilling, with a strong regulatory framework, robust environmental risk assessments and rigorous monitoring regimes. As the noble Lord, Lord MacGregor, put it, we need to get on with it. Only this will provide the evidence needed to properly assess the economic and environmental benefits of shale gas development in the UK.

Lord Vinson (Con): Before the noble Lord sits down, will he say clearly that his society would strongly recommend the development of shale gas because of the huge economic benefits it could bring to this country, subject only to satisfactory safeguards in its production?

Lord Mair: I thank the noble Lord for that question. The answer is, yes, the Royal Society and the Royal Academy of Engineering would indeed say that we should proceed, provided that we do so exactly as I have said, with very careful and rigorous monitoring.

8.16 pm

Lord Polak (Con): My Lords, I too thank the noble Lord, Lord Truscott, for securing this debate. I am not sure that he expected the consensus around the House when he put it down. UK energy policy should provide secure, affordable and climate-friendly energy with an emphasis on homegrown energy, primary fuels and innovation for the future. UK Onshore Oil and Gas is a representative body for the industry and has suggested that, to achieve the aims of secure, affordable and climate-friendly energy, the UK will need a balance of: natural gas, to provide heat, electricity and essential chemical feedstocks and to improve air quality; renewables and nuclear to generate electricity; and oil to power transportation and to provide essential chemical feedstocks. So gas is a vital source of energy for the UK and we have so much of it in our own country.

The IoD says that shale gas could cut our gas imports by half. The National Grid believes that British shale gas could heat every home in the UK, and shale gas, as we have heard, could create 60,000 jobs. How ironic that in September 2016 the first shipment of shale gas arrived in the United Kingdom from the US, at Grangemouth refinery in Scotland. How ridiculous that shale gas produced in the US arrives in Scotland when the Scottish Parliament has banned fracking. As Francis Egan of Cuadrilla so rightly said at the time:

"They are taking ethane, turning it into a liquid, transporting it across the sea in a container, turning it back into a gas and then pumping it into Grangemouth. Just beneath Grangemouth are deposits of shale gas the Scottish Government is saying you can't touch".

Today in the United States around 50% of oil production and two-thirds of gas production is from so-called non-conventional wells. Well over 300,000 such wells have been drilled. The fact that the oil and gas industry pumps chemicals into the ground in this process causes opposition from environmental groups. However, despite Hollywood dramatizing the dangers, there is no significant evidence of any environmental damage from fracking. I agree with the noble Lord, Lord Young, that it has been suggested that test fracking in the north of England caused a minor earthquake,

[LORD POLAK]

but I understand that the magnitude of the so-called tremor was no more likely to cause damage to property than the vibrations of a heavy truck passing a building. In reality, the opposition to fracking in the UK has more to do with the perceived blight on the surface environment and the volume of heavy industrial traffic than with the theoretical poisoning of aquifers, which some say is impossible as shale operations take place at a much deeper level than the water table which is cased from the well bore, as was explained by the noble Lord, Lord Mair. We have sensible regulations in this country which will help us to maintain the environment while being able to produce the gas that we need.

In the energy industry, three key issues are often cited: energy security now that our traditional fossil fuels are running out, the long-term affordability and financial security of energy, and climate change, environmental concerns and decarbonisation targets. Our North Sea oil and gas reserves are running low. Production, as we know, has fallen two-thirds in the last 15 years. But gas represents 35% of fuel consumption in the UK and we currently import more than half our gas from Norway, the rest of Europe—and, maybe, Russia—and Qatar. By 2035 we may well have to import 90% of our gas. From a security point of view that is alarming.

The British Geological Survey estimates that there is 1,300 trillion cubic feet of shale gas in the north of England. Even recovering just one-tenth of those reserves will be enough to supply us for at least 40 years as we currently use just under 3 trillion cubic feet per annum. If it is accepted that we need gas and that it is more secure, better for domestic employment and for the development of a manufacturing industry—which is part of our industrial strategy—and that it would produce a potential bonanza in tax receipts, then the clear answer is to exploit these shale beds. Let us not turn our backs on a lower-carbon energy source, on maintaining our own energy security, and on growing a manufacturing industry with jobs and careers for a whole new generation. As the North Sea reserves run out let us be positive and create a shale revolution.

8.22 pm

Lord Smith of Finsbury (Non-Aff): My Lords, in 2014 and 2015 I chaired the Task Force on Shale Gas; we concluded our work at the end of 2015. I should also mention that I was chairman of the Environment Agency until September 2014.

The task force looked very carefully at the economic and environmental implications of the development of a shale gas industry in the UK, and five especially important points arose from its work. First, we will need gas as part of our energy mix in this country for several decades to come. Yes, of course we must develop renewables and yes, we must build a new generation of nuclear power stations—though not necessarily on the model that the Government appear determined to take forward. But these cannot be deployed in a hurry. They will take time and we will need gas as an interim fuel to take us towards a lower-carbon future. Let us also not forget that this is not just about electricity generation: 80% of our households depend on gas for cooking and heating. That is not going to change overnight.

Secondly, gas is better than coal. The industrial emissions and greenhouse gas effects of burning it are something like half of those of burning unabated coal. In this country we are rightly running down our coal-burning capacity to generate electricity at the moment—and I trust that this will be one of the developments that does not fall foul of Brexit. Gas has to be part of the solution—along, I add, with carbon capture and storage, which will become increasingly important, especially for gas. I am dismayed that the Government's decision to abandon the fund that had been specifically earmarked for the development of large-scale pilot projects of CCS. It was very short-sighted of them to do so and it denies us both an early environmental benefit and a first-mover economic advantage with carbon capture.

Thirdly, local environmental protection at a shale gas site is imperative. There are four things that are crucial for this. Rigorous regulation, monitoring and inspection are largely in place at the moment—but the noble Lord, Lord Mair, is absolutely right to point to the issue of ensuring that necessary resources are available if a shale gas industry develops at scale. There should be local community participation in this monitoring and inspecting process, as that will ultimately be the way to secure their agreement and acceptance. As the noble Lord said, the absolute integrity of wells, independently overseen, is crucial—it was failures of well integrity that caused problems in the early buccaneering days in the United States, which are long since over. Mandatory green completion to ensure that all gases, especially methane, are captured when they rise to the surface must be put in place. With these clear conditions in place, shale gas extraction can be done safely. Regulatory corners, however, cannot and must not be cut in the process.

Fourthly, it makes economic and environmental sense to produce gas domestically rather than ship it half way across the world. Taking gas out of the ground in Qatar, liquefying it, shipping it to the UK, de-liquefying it and then delivering it to power stations and households has a far higher carbon and climate change footprint than sourcing it here in the UK. The climate change impact of not having a domestic gas resource will be worse than that of having one.

Fifthly, the development of a shale gas industry in the UK, however, must not be allowed to have a chilling effect on the development of renewables and our preparation for a low-carbon future. Shale gas can and should be only an interim energy response. It is not a long-term answer. To ensure this, I propose that all government revenues coming specifically from a developed shale gas industry should be earmarked for investment in research and development and innovation in renewables, carbon capture and storage, and low-carbon energy generation, storage and distribution. In that way we will have an energy policy fit for the longer-term future.

8.28 pm

Lord Hodgson of Astley Abbotts (Con): My Lords, I add my thanks to the noble Lord, Lord Truscott, for giving us the chance to debate this important matter. I will focus on one small aspect of the shale gas revolution; that is, the proposal to create a shale wealth fund. I

had a very modest role in its creation and I would like my noble friend to update us on progress as far as this is concerned. Progress has been disappointingly slow, like so many aspects of the shale gas revolution, but it is important because its successful creation would be a useful way of bringing uncommitted public opinion on side to support the wider development of shale gas. It would be an example of effective public engagement, to quote the noble Lord, Lord Mair.

The reasons for my interest in this are as follows. I see our natural energy resources coming from two main blocks—infinite and finite. Infinite, obviously, is the energy that flows from the sun, the wind, the waves, the flow of the rivers and so on. The finite resources are coal, referred to by my noble friend Lord Ridley, which for a time made this country the workshop of the world, and in 1970 of course we received the gift from nature of North Sea oil. It was assumed that the oil would have run out by now, and at some point it will run out. We have been able to extract more than we thought we would because of technology, but it will eventually run out.

Successive Governments and the country as a whole have benefited from the oil. Estimates of the revenue flows are around £400 billion. But every penny of that revenue has been spent—every penny. The debate on whether it has been spent well or foolishly would occupy your Lordships' House for many a long day—but that is not a point for this evening. However, spent it has been. Across the North Sea, Norway took a different approach. After a strenuous debate, it decided that it would be worth while creating a sovereign wealth fund. Norway has a much smaller population and commensurately much more gas, so I am not pushing the metrics too far, but in 25 short years Norway has created a sovereign wealth fund which last June was valued at \$850 billion—about £680 billion. As I say, in this country we took a different approach and made a different decision and every penny that we receive now and in the future will be spent until the oil finally runs out.

Now we have another potential gift from nature, with natural gas extracted by this fracking process. I believe that we should be doing something to follow the Norwegian example, avoid the mistakes we have made in the past and put aside some portion of this for the future. I accept that one problem at this stage is that we do not know what funds will flow—or whether, indeed, any funds will flow—from shale gas. Equally, I am sure that if we fail to establish some structure before the funds start to flow, the chances of our doing so afterwards are vanishingly small.

As a result of this, in November 2014 I tabled amendments in Committee on the Infrastructure Bill suggesting that it would be advantageous to follow this approach. I expected that my amendments would be roundly rejected and I was not disappointed; they were. But a couple of days later I had a call from the Chancellor of the Exchequer's office to say that he actually thought it was quite a good idea and that if I chose to retable my amendments on Report he would be prepared to give a commitment to undertake some form of shale wealth fund. As your Lordships may imagine, I did not need to be asked twice to do that,

so I retabled them and on 10 November 2014 the noble Lord, Lord Deighton, speaking for the Treasury, said that,

“we commit to the principle. The Chancellor will demonstrate his commitment to bring forward a proposal in the next Parliament in his Autumn Statement”.—[*Official Report*, 10/11/14; col. 102.]

I am glad to say that the Chancellor did fulfil that commitment.

I should have known that pride cometh before a fall because, since October 2015, progress has been—well, “glacial” is probably the right word, bearing in mind what we are discussing this evening. A consultation document was published in August of last year and any strategic vision had been carefully excised. Now one reads that the fund is to have a maximum life of 25 years and a maximum size of £1 billion—this is hardly a sovereign wealth fund, Norway-style. Indeed, as I pointed out in my response to the consultation, the emphasis on local distribution of any money received leads one to fear that it is no more than a bribe to draw the sting of local opposition to fracking.

My reactions are that this proposal should not be limited to a 25-year life; that some proportion of the fund should be invested on an endowment basis—that is, disbursement should be limited to a level at which you preserve the capital for future generations; and that the fund should not be used exclusively to benefit what might be quite small communities which happen to be sitting on top of a gas access point. By my calculations, with a suitable split between immediate spending and endowment, by the end of the 25 years the fund would—assuming that you had reached the £1 billion figure—be distributing £8 million a year to local and regional projects, and would have an endowment fund valued at £600 million capable of throwing off about £20 million per annum, inflation-proofed in perpetuity. This would be an extremely modest project by comparison with Norway's but it might provide a working example for a more visionary follow-on.

Sadly, vision still seems to be in short supply, and since that consultation closed at the end of October there has been silence. In reply to a Parliamentary Question that I put down in February, my noble friend Lady Neville-Rolfe said:

“A government response to the consultation will be published shortly”.

This sounds to me as if the long grass is beckoning.

In summary, I feel that the dead hand of Her Majesty's Treasury, with its dislike of anything financial outside its control and terror of anything approaching hypothecation—although this is a very unusual form of hypothecation—is gradually squeezing the life out of this idea. Perhaps when he comes to wind up, my noble friend the Minister could confirm or deny my worst fears.

8.35 pm

Baroness Featherstone (LD): My Lords, I find myself in opposition to the vast majority of your Lordships who have spoken. I congratulate the noble Lord, Lord Truscott, on securing this debate, which I regard as very important. I do not agree, or believe, that fracking will deliver energy security in the long term. I do not believe that fracking is sustainable or will help us meet

[**BARONESS FEATHERSTONE**]
our legally binding targets. I believe that it will introduce a new form of greenhouse gas. It is not sensible or logical, when we have just signed up to the Paris agreement on climate change, to encourage forward a source of energy that emits greenhouse gases.

There is a litany of reasons why fracking is a bad idea. I can see that the Government look across the sea—the Atlantic—with green eyes. Could shale gas do for the UK what it has done for the US? Many noble Lords believe that it could, but I do not—so no would be my answer. We have different geology and geography. To some degree, the Government are keen because private money will come in and produce the gas. As many of your Lordships have said, this gas will be an interim supply of energy—a bridging loan to the future. It will get the Government out of a hole that exposes a lack of a planned energy policy, and take us from where we are now to a sustainable future. We have had no sight of the emissions reduction plan and no word on government plans to decarbonise heating. As for the experts, I am not sure that this Government believe in experts.

I hear what your Lordships have said about the scare stories but I believe some of the doctors and health charities that have raised concerns about water contamination and threats to health. The contribution of the noble Lord, Lord Mair, was very impressive and substantial but Scotland and Wales have banned it. I do not think that they banned it for no reason. Moreover, this is not America. In America, landowners' rights mean that they get the profits from selling their land for fracking. We do not have wide-open unpopulated areas and the ravages caused by fracking, with literally thousands of wells, will lay the land to waste—and this is inhabited land, not like in America.

Viscount Ridley: Is the noble Baroness aware that the current revolution in shale gas started in the suburbs of Fort Worth, which is an inhabited city, and has reached its apogee in some very heavily populated areas of Pennsylvania?

Baroness Featherstone: As my noble friend Lord Stoneham reminds me, their environmental standards are somewhat lower than ours. I am not saying that everywhere in America is unpopulated, but it is a very different territory from most of the United Kingdom.

There will be people—such as people in Ryedale, for example—who object strongly to what is projected for their local environment. They will use the planning process to object in the way that they are entitled to do. Promises were made that national areas of exceptional beauty would be protected and that local people would hold sway, but that has gone and the promises have been broken.

Putting all that to one side, the most damaging effect of developing the shale industry is one that to an extent was referred to by the noble Lord, Lord Smith. It will set back our ability to reach our legally binding targets by 40 years and undermine the development to scale of renewable heat technology. Renewable heat is vital. Industry will develop the technologies we need for renewable heat if we have the right policy framework and incentives. There would have to be incentives that carry a cast-iron guarantee from the Government that

they will not be taken away in a precipitate manner, as happened with the Government undermining investor confidence by the precipitate removal of agreed subsidies on wind and solar. The noble Lord, Lord Smith, raised the breaking of the manifesto pledge on carbon capture and storage.

The Government's reputation will no longer be adequate to reassure investors; they will need an agreement that is literally written in blood. Additionally, as several noble Lords have said, all we have in the UK so far is licences for exploratory drilling. We are years if not decades away from producing shale gas at any scale, if it happens at all. The Environmental Audit Committee concluded that shale will not contribute to replacing coal because, by the time it comes on stream, coal will no longer be used. I do not believe that fracking is the answer. I do not put my trust in this Government. Everything we have seen since the end of the coalition—when the Liberal Democrats held sway in the Department of Energy and Climate Change, which is also no longer—is pretty indicative of the importance that the Conservative Government attach to climate change. Everything indicates that this Government do not favour a green approach, green understanding or the imperative, for both the planet and the economy, of taking our future energy supply seriously and not introducing something that is a stop-gap and not sustainable. If we had a Government who encouraged cutting-edge technology—renewables, energy efficiency, home energy improvements—

Lord Young of Norwood Green: I hesitate to interrupt the noble Baroness, but twice she has referred to fracking being not sustainable. Can she therefore explain why she is in favour of gas being imported for at least the next 30, 40 or 50 years? That is the bit in her argument that I do not understand. I could dispute many things that she says on the environmental impact, for which she has produced no evidence whatever to back it up, but why is she in favour of us importing gas for the next 30 or 40 years rather than using our natural resources?

Baroness Featherstone: Other resources are coming on stream, such as green gas, hydrogen and so on. I object to creating a whole new industry, which will be a stop-gap, rather than encouraging our homegrown industries to develop the new technologies that we need to produce renewable heat. I do not see developing the shale industry as the answer to our question. I am not that keen on importing gas, but for the time being, that would be my preference rather than starting a whole new industry with the destruction it brings in its wake.

There is a list of what the Government should be doing in terms of regulation, intervention, sequestration and demand reduction—and then we would actually get somewhere. There seems to be a general prayer that somehow shale will save us. My faith in that not happening is based on the fact that the companies that are taking up the exploratory drilling licences are not huge companies but middle-sized companies, and because of the difference in geology and geography, they will find that it is not profitable. That is the main reason why I am hoping that shale will go away with its drills between its legs.

8.43 pm

Lord Grantchester (Lab): I thank the noble Lord, Lord Truscott, for initiating this debate on fracking. It concerns the important question of the nature of the UK's future energy mix and whether fracking has an acceptable role to play. The continuing debate and your Lordships' contributions tonight are serious matters. I commiserate with the noble Lord, Lord Truscott, should he consider that being positioned between stages of the European Union (Notification of Withdrawal) Bill does not do justice to the importance of this subject, but tonight's debate has been excellent. I thank all noble Lords who have contributed at this important juncture in our deliberations on the UK's future role in Europe. I am disappointed that the contribution of the noble Lord, Lord Howell of Guildford, has been noticeably absent tonight, but I am pleased to see his conversion to a more critical stance in his contribution to the *Journal of Energy Security*, in which he calls for a change of direction in fracking policy and says that the view coming from Ministers is much too optimistic. I agree, despite some of the contributions tonight.

Labour recognises the dominance of gas in the UK's energy supply and the concerns for the nation's security of supply while the UK transforms into a low-carbon economy. While the Government are coming forward with every assistance to further the role of fracking as a game-changer, we have some critical questions from a different, more realistic perspective. Is it likely to be the game-changer? Is it safe, and are there special places like national parks that need special protection? Is it wanted and recognised as really needed? Is it really a low-carbon bridge to a sustainable future?

I am grateful to the noble Baroness, Lady Featherstone, for her recognition tonight that maybe this debate does not reflect widely held, less assertive views. The debate has recognised some issues between the competing views on this question. It has been mostly positive towards fracking and, as the noble Lord, Lord MacGregor, has said, has largely regretted that progress, even towards the exploratory drilling stage, has been slow, suggesting that speed is certainly to be welcomed. However, Labour has always been sceptical about fracking's supposed benefits. The geology and geography of the UK are different from those of the United States. Theoretical reserves are not the same as recoverable reserves. At present the evidence points to the likelihood of rather disappointingly low recovery rates of shale gas from wells, with rapid depletion and the need to establish large numbers of wells and pads in concentrated areas of the country that are not largely unpopulated, all to extract even a modest amount of gas for the UK's energy system. Shale gas is unlikely to be able to replace the returns from conventional natural gas as they diminish. The exploratory evidence has yet to be produced to support the estimates from the British Geological Survey.

Labour has never believed that the returns on fracking are likely to be so compelling as to allow the overriding of legitimate concerns about the process on safety, environmental and community grounds. This debate has underlined that fracking should only proceed on the basis of clear and rigorous environmental safeguards.

Furthermore, there should be an outright ban on fracking in and under areas of environmental sensitivity such as national parks, areas of outstanding natural beauty, sites of special scientific interest and water protection zones. These areas need better protection even than the added requirement that fracking be limited to depths below 1,200 metres.

The Government's environmental conditions do not measure up to Labour's standards, achieved during the passage of the Infrastructure Act, which were subsequently reduced by the coalition Government in 2015. Environmental tests should include an understanding of the number of well-heads being set up and the cumulative effects to which the numbers might give rise, over and above those of fracking taking place at all.

I certainly enjoyed the contribution from the noble Lord, Lord Mair, who gave us the perspective of his society's 2012 report. He emphasised the importance of the integrity of regulatory enforcement. However, having a world-class regulatory regime is not enough. Regulatory bodies need to engage with local communities that are concerned about the potential impact in their area, as they have heard has happened elsewhere. Their legitimate concerns should not be overridden. Local communities need to be convinced that community benefits and the sharing of future revenues are not to be interpreted as a way to buy off objections for particular ulterior motives.

The position now is that most of the conditions that Labour laid down, and particularly those concerning the cumulative impact of multiple fracking pads on an area, have either been disregarded or weakened to such an extent that they no longer constitute credible environmental safeguards. The development of fracking exploration and production cannot be endorsed under these circumstances. It is not safe or reasonable to proceed without these key safeguards. Labour is now calling for the introduction of a moratorium on fracking in the UK until such time as we can be sure that full environmental safeguards can be observed.

Finally, there are concerns that shale gas is also a fossil fuel and that fracking is incompatible with our climate targets. The chief scientist at the then Department of Energy and Climate Change, Professor David MacKay, and Dr Timothy Stone concluded in a report that shale gas production would give rise to greenhouse gas emissions. They argued, however, that with the "right safeguards", these would be "relatively small"—"comparable" to liquefied natural gas and well below the emissions of coal.

The noble Lord, Lord Smith, gave a thorough assessment of the relativities of the various fuel sources in the UK, but this interpretation is not supported by the Committee on Climate Change, the independent statutory body set up to provide advice and analysis to government and to report to Parliament. It concluded that the implications of shale gas for greenhouse gas emissions are indeed uncertain. By the time any shale gas exploitation would have developed on a significant scale, the UK carbon budget would have reached more advanced and critical levels. Shale gas is only likely to become permissible once tests relating to emissions,

[LORD GRANTCHESTER]

gas consumption and carbon reductions elsewhere in the economy have been satisfied. The UK should not be developing shale gas any further at this time.

8.51 pm

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Prior of Brampton) (Con): My Lords, I too thank the noble Lord, Lord Truscott, for tabling the debate this evening. It has been a really well-informed debate, even if the noble Lord did not necessarily receive the support he was hoping for. It was so well informed that I find that everything that I was going to say in my speech has already been said by noble Lords, so I will just run through the main issues that have been raised.

First, I do not think I agreed with a single thing that the noble Lord, Lord Truscott, said in his speech, with one exception, when he said that Poland was an example of where fracking has not worked—the shale was too tight and the gas would not flow—and that therefore you should not count your chickens. Of course he is right about that: we should not count our chickens about the prospects for shale gas, because we have not done the exploration work to know whether or not we can count the chickens. Until we do the work, we are never going to know what we have, so I could agree with him in that respect.

My noble friend Lord MacGregor, who chaired the Select Committee looking at fracking, said that the committee was unanimous that the benefits of fracking exceeded the risk, and his criticism of the Government was not that progress was too fast but that it was too slow. He drew attention to the fact that in the US, the cost of production now has come down, from probably over \$50 per barrel of oil equivalent when they started, to \$25. It is now taking 20 days to drill a well. The success in the US has been phenomenal, which is something to be celebrated—it has been transformational. It has transformed the American economy and geopolitics. It has of course been hugely resented by many producers in the Middle East and in Russia, as my noble friend Lord Ridley pointed out, because the price has come down. Economies such as the Russian one have suffered hugely as a result.

The noble Lord, Lord Young, referred to the fact that we have some of the toughest safety regulations in the world—probably the toughest. He referred to the fact that we have 50 years of experience in onshore and offshore oil and gas exploration and to the irresponsible scare stories, which are not just limited to us in the UK but are also there in the US. Much of the US production would have come more quickly without those scare stories. It is worth pointing out that in 2000, there were 26,000 fracked wells in the US, accounting for 7% of US total natural gas production. By 2015, the number of wells had grown to 300,000, equating to 67% of total natural gas output in the US. It shows what can be done. What they have done in the US is an extraordinary achievement.

The noble Lord, Lord Young, also mentioned the huge economic benefits to employment and wealth that have been created by fracking gas. It is not just the direct employment consequences—it is the impact on the economy as a whole. My noble friend Lord Ridley—in

a point picked up later on by the noble Lord, Lord Mair—said that there was no evidence of any groundwater contamination in the US, and that it had cut greenhouse gases. He went on to say that fracked gas and the LNG that comes from it are vital feedstocks for the chemical industry. This point was also raised by the noble Lord, Lord Polak. It is an absurd situation where we are now bringing LNG from the US into Grangemouth to be used as a feedstock there, or, indeed, piped over to Teesside to be used as a feedstock in Teesside. Not only is the carbon footprint much larger, but, of course, it is much less economic for the chemical industry in this country. There is a risk, of course, that the USA now, instead of shipping LNG, will convert that gas in the US into other products, therefore undercutting our chemical industry in the UK.

The noble Lord, Lord Mair, referred to the work done by the Royal Society and the Royal Academy, which sounded pretty conclusive. They found that fracking was unlikely to contaminate groundwater, and that the earth tremors were minimal, so long as there was proper regulation and monitoring and the well operations were properly managed. He said that scare stories and mistruths abound, and he is absolutely right in that regard. The noble Lord, Lord Smith, not only chaired the task force on shale gas but was, at the same time, chairman of the Environment Agency. Again, his conclusion was a very clear one—that, on balance, shale gas was a good thing for the UK.

On the point made by the noble Lord, Lord Hodgson, about the shale wealth fund, he was slightly putting the cart before the horse when he referred to the Norwegian sovereign wealth fund being £850 billion. We have not yet got any gas out of the ground over here. It would be a lovely problem to have. As he knows, the Government are consulting about forming a sovereign wealth fund equivalent, which would be funded by 10% of tax revenues; that is still being consulted upon.

Of course, I do not want to minimise the points made by the noble Baroness, Lady Featherstone, and the noble Lord, Lord Grantchester. There are, of course, environmental issues. It would be foolish to pretend that they should not be taken into consideration. However, gas is the cleanest fossil fuel when combusted, producing half the carbon emissions of coal and it is expected to have a carbon footprint comparable to that of LNG. Shale gas could, therefore, act as an effective lower carbon bridge technology while we develop renewables, improve energy efficiency and move towards a lower carbon economy.

The Infrastructure Act 2015 inserted safeguards for licensing onshore hydraulic fracturing into the Petroleum Act 1998. These include the assessment of environmental impacts, groundwater monitoring and community benefits, and the guarantee that the associated hydraulic fracturing will not take place within “protected groundwater source areas” and “other protected areas”.

We have banned fracking within 1,200 metres of the surface, in national parks, the Broads, areas of outstanding natural beauty, World Heritage Sites, and areas that are most vulnerable to groundwater pollution. We are confident that these measures will protect our most valuable areas for the future.

In conclusion, the potential benefits of fracking in the UK are enormous. We have seen how transformational they have been in the US. If we have the right regulatory system around it, and take the right measures of protection for our environment, then this is something that this Government are wholly in favour of.

European Union (Notification of Withdrawal) Bill

Third Reading

9 pm

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, I have it in my command from Her Majesty the Queen to acquaint the House that Her Majesty, having been informed of the purport of the European Union (Notification of Withdrawal) Bill, has consented to place her prerogative, so far as it is affected by the Bill, at the disposal of Parliament for the purposes of the Bill.

Motion

Moved by Lord Bridges of Headley

That the Bill do now pass.

The Parliamentary Under-Secretary of State, Department for Exiting the European Union (Lord Bridges of Headley) (Con): My Lords, sometimes statistics say more than words. Here is a simple fact. We have spent 44 or so hours debating a Bill that started off as 137 words. That works out at about 20 minutes per word, but that amount of time and scrutiny is hardly surprising, given the importance of the issues that swirl around those words. In the debate, we have seen the very best of what this House is here to do. As I said at Second Reading a fortnight ago—although I have to say that it feels a lot longer than that—scrutinising legislation is not an unpatriotic act. Whatever our differences, we all share a basic wish: to see our country prosper in future. Everything that has been said has been motivated by that basic wish.

I am sure that the House will be grateful that I shall not name everyone who has spoken, as that in itself might take some time, but I thank each and every one of your Lordships who has spoken, even where we have disagreed, and I apologise if I deprived anyone of the chance to speak, although I have a sneaking suspicion that we will meet again very soon, and on numerous occasions after that. For we are, as I have said before, just approaching base camp in terms of the parliamentary process of our withdrawal from the European Union. So while I thank my excellent Bill team and my noble friends Lady Goldie and Lord Dunlop, and my noble and learned friend Lord Keen, for all their help in getting me this far, I add only: please keep going.

I am of course obliged to the noble Baronesses, Lady Hayter and Lady Ludford, for their diligence in sitting on the Front Bench through the long hours of these debates. I must admit that the noble Baroness, Lady Hayter, somewhat set back my efforts to build a national consensus on our withdrawal from the EU when she mentioned my youngest daughter in her Second Reading speech, but failed to mention my

twins. As you can imagine, this caused some consternation at the Bridges breakfast table the next morning. My twins expressed loud demands for a meaningful mention. They wanted reciprocity now, not at some unknown point in future. They were not prepared to take it or leave it: Bridges means Bridges, I was told. I am very grateful that she has since addressed this imbalance.

The Bill simply seeks to honour the commitment that the Government gave to respect the outcome of the referendum held on 23 June last year. During the course of our debates on this issue, a number of noble Lords have questioned the formulation of the Bill or sought to expand it beyond its straightforward aim. While I have disagreed with them on a number of occasions, the one point on which I thought we had all agreed was that we must respect the outcome of the referendum and that neither the Labour Party nor the Liberal Democrats would block the Bill. I know that the noble Lord, Lord Newby, is indeed a very honourable man, so I look forward with great interest to hearing why he has tabled the amendment to the Motion, which appears to contradict everything he has said, and why his party will now block the UK's exit from the European Union. I beg to move.

Amendment to the Motion

Moved by Lord Newby

Leave out from “that” to the end and insert “this House declines to allow the bill to pass, because the bill does not provide a mechanism for the people of the United Kingdom to have a vote, prior to the United Kingdom’s departure from the European Union, on the terms of the new relationship between the United Kingdom and the European Union.”

Lord Newby (LD): My Lords, I thank the Minister and all who have spoken in debates on this Bill to date. It has been a great privilege to take part in such debates, which have been conducted with grace, erudition and great passion in equal measure.

The *Companion* enjoins those who move amendments at this stage to speak briefly to them, so I shall be brief. Amendments to the Motion that the Bill do now pass are rare, and on these Benches we have not initiated such an amendment in recent times. We do so only because of the importance of the issue before us and the strength of our opposition to the way in which the Government have approached this Bill and the Brexit process.

We on these Benches have argued, as we did in the Commons, that while it is perfectly proper for the Government to be triggering the Article 50 negotiations, they should do so only if the process to be followed throughout respects the principles of both parliamentary sovereignty and democratic accountability. In reality, the Government have shown disdain for both. Parliament must clearly play a full part in the entire process, but we also believe it is essential that the people take the final decision, for reasons which we fully debated in recent days.

The Government's view is that they not only oppose giving the people the final say, but oppose in principle any amendments to the Bill. The noble Lord's enthusiasm

[LORD NEWBY]

for scrutiny is rather tempered by the idea that such scrutiny might actually lead to amendment. Why is this the case? It is not in reality that it is somehow inappropriate, far less improper, to amend this Bill; it is simply that it is inconvenient for the Government. Their whole attitude is one of lofty disdain for Parliament and the people alike.

In moving this amendment, and voting on it, I do so in the certain knowledge that this Bill will now pass this evening back to the Commons. We on these Benches could not allow this to happen without registering our opposition to the brutal Brexit that the Government are now pursuing, whether in making the country poorer by leaving the single market, or by using more than 3 million EU nationals living in the UK as bargaining chips. These decisions will exacerbate our long-term economic problems—fiscal imbalances, balance of payments deficits and low productivity, as well as our reputation as a welcoming and tolerant country.

However, the Government now seem set on this course towards this brutal Brexit. This is a deliberate distortion of the mandate they received from the British people, and we on these Benches cannot in all conscience support it. At this historic moment, we wish to record again our opposition to the damaging course on which the Government are set, and our opposition to the Government's refusal to allow the British people, who will feel the consequences of Brexit for generations to come, the right to decide their own future. I beg to move.

Baroness Smith of Basildon (Lab): My Lords, this Bill is a direct result of two things: the outcome of the referendum and the decision of the Supreme Court. In all of this, countless behind-the-scenes hands have been at work. Wherever we stood as we voted on 23 June, all of us know that the tasks since then has been unprecedented. Civil servants have had to devise new structures and work teams to prepare Parliament for this. This is just our first Bill; others will come our way.

So it is appropriate to take a moment, as the Minister did, to acknowledge the work that has been done and to thank all those who have contributed, within the Department for Exiting the EU and within your Lordships' House. As an Opposition we have been well supported by Dan Stevens, Ben Coffman, Ian Parker and their colleagues—and, while I recognise that the work on the Bill is not yet done, if I thank them now it might give them the energy for all the work yet to be done.

Thanks are also due to the Minister, for whom we have considerable sympathy. I apologise to his family. We have probably taken up far too much of his time and we would be very happy for him to spend more time with them in the months to come. We also thank the Minister's colleagues and the noble Lord the Chief Whip for their help in dealing with the mechanics of the timetabling of the Bill. I concur with the Minister's comments and thank all noble Lords who have spoken.

The debates we have had at Second Reading, in Committee and on Report have been a great credit to your Lordships' House, both in the range of expertise we have been able to show and the quality of debate.

I also thank my colleagues, my noble friend Lord Lennie and especially my noble friend Lady Hayter. She has worked tirelessly on this Bill and I have to say that she is lot more even-tempered than perhaps I am. It is a pleasure to work for her and I look forward to seeing her continued work on this Bill. She recalled how she was volunteered to wind up at Second Reading. She will be volunteered again in the future. I give sincere thanks to those noble Lords and all my colleagues on different sides of the arguments. I think we have conducted ourselves with great integrity and strong belief.

That is why I am rather puzzled in many ways by the comments today from the noble Lord, Lord Newby. As somebody who, alongside many of my colleagues, campaigned extraordinarily hard to remain in the EU, I regret the decision that has been taken. I think it has to be not just the 52% who are represented but the 48% as well. It has to be recognised by all in your Lordships' House that we have a duty to perhaps try to heal and unite where there has been division—and the Government must recognise that they have to act in the interests of the whole country.

During this debate we have voted on two extraordinarily important amendments. The first, on EEA and EU nationals in the UK and UK citizens in the EU, aims to remove some of the uncertainty regarding their position. That was one very serious amendment. The second one was debated tonight on the issue of parliamentary sovereignty. In that case there was a majority of 98.

Both amendments fulfil the criteria of the role of your Lordships' House in asking the other place, the House of Commons, to reconsider. The quality and content of those debates provide considerable material for MPs to do so. We passed those amendments not as some kind of vanity exercise or just to make a point—we are not a debating society where we have our debates and then afterwards shrug off home or off to the pub because we have made our point and have no thought about what happens next.

What happens in this House is really important. We passed those amendments for a very serious reason, as part of our constitutional responsibilities. I want to hear the House of Commons debate those issues. I want elected MPs to reconsider, and I hope that they will accept our amendments and the principles behind them. I would be very happy to see the Government, who have offered co-operation and help on this one, bring forward similar amendments to give effect to them. These amendments matter. That is why I find the Liberal Democrat Motion tonight absolutely incredible.

The noble Lord, Lord Newby, stood in your Lordships' House today and told us that he accepted the result of the referendum and the vote in the other place—but he failed to convince this House that a second referendum was the right course of action at this time. On the basis of that, as outlined in his Motion—not about anything else, not about all the issues he talked about surrounding a hard Brexit but on the one issue of that vote—Liberal Democrats are now prepared to vote against this whole Bill to stop Members of Parliament considering our amendments. I find that irresponsible.

It may be that he feels okay, as he said, about making a point about Brexit as a whole because they are not going to win the vote. But responsibility is not just about winning—it is about taking responsibility for our actions. As I heard him tonight, he failed to convince me that he is serious about these amendments that we have voted on.

If the Motion from the Liberal Democrats were passed tonight, it would stop the other place considering the amendments on EEA and EU nationals and on parliamentary sovereignty. Your Lordships' House was never told when voting on these amendments that at the final hurdle the Liberal Democrats would say that they would not support the very amendments that they have asked your Lordships' House to vote for. I am very much committed to those two amendments, and the Motion shows a lack of commitment to these two amendments and issues which have been voted on in this House.

9.15 pm

Noble Lords: Oh!

Baroness Smith of Basildon: I can hear some chuntering from the Liberal Democrats. I am not taking heckling—stand up and intervene if you want to, but do not heckle. If we really care about these amendments, we want them to go to the other place and we want the other place to debate them. So how can we possibly ask MPs to vote for these amendments if this House is not prepared to pass the amendments and let the Bill pass and go to the other place?

We believe in the amendments that we supported. We respect the decisions taken by this House, and we respect and thank our colleagues from all parties who supported them. I have no hesitation in asking your Lordships' House to reject this Motion.

Lord Liddle (Lab): I very much support what my noble friend has just said about the value of the amendments that this House has carried, but does not she agree that her plea to the Members opposite to heal and unite rings pretty false when they are pursuing the hardest of hard Brexits? Does not she also agree that, whereas in June it would have been reasonable to hope that you might have had a national consensus around a soft Brexit, this Government have done nothing of that kind? The policy of the Lancaster House speech is la-la land as far as the possibility of a reasonable negotiation in the national interest. These things are very important, and I hope that the Opposition will continue to fight with vigour this hardest of hard Brexits.

Baroness Smith of Basildon: My Lords, I do not think that I have ever been accused of not having vigour. Yes, I agree with my noble friend that the response from the party opposite—not from all noble Lords, I have to say, but from those who particularly want to pursue a hard Brexit—is disappointing. However, not for one moment will I or my colleagues on this side of the House give up trying to get the best deal that we possibly can for the people of this country. Yes, I am very disappointed that before we had even finished voting some Ministers rushed out to tell the cameras,

“We’re going to hold back—we’re not going to support this”. We need a responsible, grown-up response—a mature response—and just saying that we are going head-on for a hard Brexit does not do it. But there is a role for this House; when we pass amendments, we do not just put them in the bag and give up—we send them to the other end. I have no hesitation in saying that we should reject this Motion because our responsibility, as my noble friend agrees, is to ensure that the work that we have put into the amendments, the debates that we have had on them and the issues we have raised on them are considered by the other place.

Lord Bridges of Headley: My Lords, to echo the noble Baroness’s remarks, I very much hope that as a House and as a nation we can put the divisions of the referendum behind us, accept the result and turn our minds to how we can together overcome the challenges that we face as a nation. As I said at Second Reading, I voted remain, so I certainly do not dismiss concerns lightly or complacently. However, I genuinely believe that this House must respect the will of the British people and deliver on their wish to leave the European Union.

With that in mind, I am more than a little disappointed by the approach of the Liberal Democrats. It is one thing to vote for an amendment to this Bill, quite another to try and block it entirely. What of the majority of MPs who voted to give the country a referendum? What of the 17.4 million people who voted to leave the European Union? What of the majority of MPs who voted to pass this Bill without amendment? I find it pretty strange that a party that has “Democrat” in its name votes against delivering the will of the people. However the Liberal Democrats dress this amendment up, it would stop the Bill from passing, which means we cannot start the process of negotiating. I find the logic very difficult to grasp. The noble Lord seems to be saying, “Because we are not going to have a second referendum, we should not respect the views which the people expressed in the first”.

The noble Lord made commitments to this House and the nation on 20 February. He said that:

“No significant body of opinion in this House is seeking to prevent the passage of the Bill, but there is a world of difference between blocking the Bill and seeking to amend it”.—[*Official Report*, 20/2/17; col. 20.]

He went on to say that no one is suggesting they want to stop the Bill, and that they are not saying they want to block the Bill. Furthermore, just this morning, the leader of the Liberal Democrats said on the BBC:

“But, in the end, the majority of people voted to leave the European Union. It would be quite wrong for the Lords, the Commons or the courts to try and frustrate the will of the people. I am against that”.

I therefore find this baffling. I could go on and recite all the steps that Parliament and the Government will take to ensure that Parliament does not merely scrutinise the process of our leaving the European Union but takes major decisions. I have done so several times, but to do so misses a much bigger point on this amendment.

There are two very simple issues here. First is the integrity of a party whose Leader in this House says it will not block this Bill, then tries to do so. Second is the belief in democracy which the party claims to

[LORD BRIDGES OF HEADLEY]
champion. If the noble Lord presses the amendment it will, sadly, show that the Liberal Democrats are willing to do anything to give the kiss of life to their political fortunes. I very much hope that this is not the case and that the Bill will go to the other place without further delay.

Lord Newby: My Lords, the idea that by speaking and voting, as we will now do, we will block this Bill is, of course, fantasy. It has been abundantly clear that the Opposition in your Lordships' House will vote for the Bill, as will the Government. I simply repeat—

Lord Grocott (Lab): It cannot possibly be honourable for the noble Lord to say that he is going to vote against the implementation of—to kill—the Bill, which has been overwhelmingly passed by the Commons and which is, of course, the result of a referendum, in the full, secure knowledge that the Bill will in fact pass. If he is voting on his amendment I hope he can assure the House that it is with the full intention of trying to kill the Bill. Anything else could be interpreted only as complete cynicism.

Lord Newby: Like everybody else, I have got to live with my conscience on this Bill, and I am going to sleep easy tonight. I repeat what I said earlier. We are voting now to record our opposition to the damaging course on which the Government are set and their refusal to allow the British people—

Baroness Smith of Basildon: I apologise to the noble Lord. He is again coming back to the point that the reason he is voting for his amendment tonight is because of his fears of a hard Brexit, which are shared with many across the House. However, that is not what the amendment says. It says that they want the Bill to not pass because they did not get their way on a second referendum vote.

Lord Newby: My Lords, unfortunately, the noble Baroness did not allow me to finish my sentence. Our opposition is to the Government's refusal to allow the British people, who will feel the consequences—ie, costs—of Brexit for generations to come, the right to decide their own future. I wish to test the opinion of the House.

9.25 pm

Division on Lord Newby's amendment

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Lord Newby's amendment disagreed.

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9.44 pm

Bill passed and returned to the Commons with amendments.

House adjourned at 9.44 pm.

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 Stedman-Scott, B.
 Sterling of Plaistow, L.
 Stirrup, L.
 Stowell of Beeston, B.
 Strathclyde, L.
 Stroud, B.
 Sugg, B.
 Suri, L.
 Symons of Vernham Dean, B.
 Taylor of Bolton, B.
 Taylor of Holbeach, L.
 [Teller]
 Taylor of Warwick, L.
 Tebbit, L.
 Thornton, B.
 Touhig, L.
 Trees, L.
 Trefgarne, L.
 Trenchard, V.
 Trevelthick and Oaksey, L.
 Trimble, L.
 True, L.
 Truro, Bp.
 Truscott, L.
 Tugendhat, L.
 Turnberg, L.
 Ullswater, V.
 Wakeham, L.
 Waldegrave of North Hill, L.
 Wasserman, L.
 Watkins of Tavistock, B.
 Watts, L.
 Waverley, V.
 Wei, L.
 West of Spithead, L.
 Wheeler, B.
 Whitaker, B.
 Whitby, L.
 Wilcox, B.
 Willetts, L.
 Williams of Trafford, B.
 Willoughby de Broke, L.
 Winston, L.
 York, Abp.
 Young of Cookham, L.
 Young of Graffham, L.
 Young of Norwood Green, L.
 Young of Old Scone, B.
 Younger of Leckie, V.

