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PARLIAMENTARY DEBATES
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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

Wednesday 5 December 2018

11 am

Prayers—read by the Lord Bishop of Carlisle.

Brexit: Withdrawal Agreement and Political Declaration

Motion to Take Note (1st Day)

11.08 am

Moved by **Baroness Evans of Bowes Park**

That this House, for the purposes of section 13(1)(c) of the European Union (Withdrawal) Act 2018, takes note of the negotiated withdrawal agreement laid before the House on Monday 26 November 2018 with the title ‘*Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*’ and the framework for the future relationship laid before the House on Monday 26 November 2018 with the title ‘*Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom*’.

Relevant document: 24th Report from the European Union Committee

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, the Motion before the House today gives us the formal opportunity to consider the withdrawal agreement and political declaration negotiated with the European Union. On 23 June 2016, the people of the United Kingdom voted to leave the European Union. Before Parliament is a deal that delivers on that vote. This is a good deal and, as European leaders have made clear, the only one on offer. In supporting it, we will be protecting jobs, ending the jurisdiction of the European Court of Justice in the UK and securing the ability to strike free trade deals around the world. It maintains a strong and close relationship with our European allies, while allowing us to forge new partnerships around the world.

I do not need to tell noble Lords that negotiating with 27 other countries is challenging and demands compromise. This is the case in any complex negotiation, as many in this House who have been involved in such matters will know. But we have succeeded in agreeing a deal, and Parliament has the opportunity to provide certainty to the country and allow us to move forward together.

The only certainty, if this deal is rejected in the other place, is uncertainty. That is not good for business, our economy, our political system and, most importantly, our citizens. It is not the right path to follow. Before us we have three days of debate, with contributions from over 180 noble Lords. With a crucial national decision to be made, it is right that this House devotes its time and expertise to the choice facing the United Kingdom. While it is a privilege for me to open this debate, I am grateful that the task of responding will fall to my noble friend Lord Callanan, who I know will do so with his usual panache.

Before I address the details of the documents, I will reflect briefly on this House’s role up to this point. Since the referendum and during the legislative programme that has followed, there has been regular speculation that this House would ignore the conventions governing the exercise of its powers and seek to block or frustrate the express will of the public. I speak as Leader of the whole House when I say that that is not the approach that has been taken. Noble Lords on all Benches have worked hard on the public’s behalf, debating key issues and subjecting the Government’s legislative programme—both primary and secondary—to robust scrutiny.

Despite the passionate debates we have had, this House has continued in its final decisions to recognise the primacy of the House of Commons. The conventions which spring from that recognition underpin the legitimacy of everything we do, and I believe the House has maintained them.

Since the end of June 2016, we have spent 414 hours and 47 minutes debating issues directly connected to Brexit. Six Acts have been passed to ensure the UK has a functioning statute book after exit day. These Acts put in place immediate post-exit frameworks in areas such as nuclear safeguards, sanctions, customs, and vehicle and trailer registration. Five Bills are currently before Parliament and more than 220 statutory instruments relating to Brexit have been laid.

The Select Committees of this House have been very busy. Sixty-eight reports have been published—including one produced to inform this debate—largely by your Lordship’s European Union Committee and its six sub-committees but also by the Constitution Committee, the Delegated Powers Committee and the Joint Committee on Human Rights. I thank all involved for their dedicated work.

During the passage of the European Union (Withdrawal) Act, we achieved cross-House consensus on a sensible way to consider proposed negative statutory instruments under that Act, building on our established structures and leading to two new sub-committees of the Secondary Legislation Scrutiny Committee. That system has been up and running for three months and is working well.

The Motion before the House, and that which is being considered in the other place, is another legacy of our scrutiny of the European Union (Withdrawal) Act. The amendment that was ultimately carried recognised from the outset that a vote on the final agreement was for the elected House alone, but it is right that our views should be put on record, as they will be, before the House of Commons votes next Tuesday. The noble Baroness, Lady Smith of Basildon, has tabled a separate resolution which will be debated alongside the Government’s Motion. My noble friend Lord Callanan will respond to it in his winding-up speech.

The process which has resulted in the withdrawal agreement and the political declaration before us today began with the passing, unamended, through both Houses of the European Union (Notification of Withdrawal) Act. That short but crucial piece of legislation gave the Prime Minister the authority to set the clock ticking on the UK’s departure from the EU.

[BARONESS EVANS OF BOWES PARK]

Noble Lords will be familiar with Article 50 on the Treaty of the Functioning of the European Union, and it is worth remembering that at its core it set out that any member state leaving shall negotiate and conclude an agreement,

“setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union”.

It is those two things we have been negotiating since the end of March last year: the terms of our withdrawal, and the framework for our future relationship once we are no longer a member state.

The documents we are considering are the result of thousands of hours of negotiations between the UK and the EU, and represent a conclusion that is in the national interest. I would like to take this opportunity to place on record my admiration for the Prime Minister, who has worked tirelessly to deliver this deal. Credit must also go to the hard work of both sets of negotiators. The first document, as laid in Parliament on 26 November, is the withdrawal agreement—the agreed draft treaty setting out the terms of our separation from the EU under the Article 50 process. It provides for, among other things, a deal on citizens’ rights, a time-limited implementation period, arrangements for the financial settlement and arrangements for the unique circumstances in Northern Ireland. It is to be considered and voted on as a package in the other place, with the *Political Declaration Setting out the framework for the future relationship between the European Union and the United Kingdom*. This document was also laid in both Houses on 26 November and outlines the scope and terms for our country’s future relationship with the EU. Taken together, these documents represent the evolution in both sides’ positions and demonstrate our joint commitment to a future partnership that reflects the depth of our shared history and values.

This deal secures the rights of EU citizens living and working in the UK, who make such a valuable contribution to our society, economy and public services. It ensures there will be an end to the billions of pounds we send to Brussels every year, allowing more investment in our domestic priorities. We have negotiated a fair settlement of our financial obligations and, as my right honourable friend the Prime Minister said yesterday, this is less than half of what some people originally expected and demanded. It means we will leave the common agricultural and common fisheries policies and we will once again be in control of our immigration policy.

This deal also provides the route to a new economic partnership with the EU that goes well beyond the baseline WTO commitments on services, trade and investment. We will have an unprecedented economic relationship that no other major economy has, and it allows us to secure new trade agreements with partners around the world, but its scope goes far wider than trade. From foreign policy to security and defence, law enforcement to criminal justice, we have negotiated a security partnership to keep our citizens safe and to promote global security, prosperity and effective multilateralism. In doing so, we will be negotiating the broadest and most comprehensive security relationship in the EU’s history.

There is, of course, further work to do to turn the political declaration into a legally binding treaty during the next phase of negotiations. However, the declaration sets out a clear vision for a positive future relationship. Taken together, the withdrawal agreement and the political declaration form a deal that delivers on the result of the referendum for the whole of the UK as well as the Crown dependencies and the overseas territories. Critically, it safeguards the constitutional and economic integrity of the UK and meets our commitments to Northern Ireland; and as powers are returned to the UK, in areas of devolved competence, they will flow directly to Belfast, Cardiff and Edinburgh.

Noble Lords have raised concerns about the inclusion of the backstop in this deal. The original proposal from the EU would have split the UK into two customs territories—a totally unacceptable proposal that the Prime Minister would never agree to. But the backstop secured in this deal gives the whole UK tariff-free access to the EU market without free movement of people, without any financial contribution, without having to follow most of the level-playing-field rules and without allowing the EU access to our waters. As the Prime Minister explained yesterday, the backstop is not a trick to trap us in the EU by the back door. If it were ever to be used, it would give us the benefits of access to the EU’s market without many of its obligations. This is not something the EU wants to happen, let alone to persist for a long time.

Our unbreakable commitment to honouring the Belfast agreement meant that the only way that we could guarantee no border on the island of Ireland at the end of the implementation period if the future relationship was not in place was to agree a backstop as a last-resort insurance policy, and we have secured seven separate commitments in the withdrawal agreement and the political declaration to ensure that the UK cannot be stuck in it indefinitely. Put simply, with no backstop there would be no deal, as the EU and the Irish Government have made clear.

Over the next three days we will hear many differing views and voices, as we have since 23 June 2016. This House has played an important role through the process of our exit from the EU, and this debate does not represent the end of that work. There will be legislation to implement this deal, and then a future relationship deal to be scrutinised, shaped and signed. I am sure that noble Lords will have welcomed the commitment by my right honourable friend the Prime Minister yesterday, when she undertook to ensure,

“a greater and more formal role for Parliament”,—[*Official Report*, Commons, 4/12/18; col. 758.]

in the next stage of negotiations.

I know this House will approach the debate and all those to come with vigour and challenge. That is its job. The job of this Government has been to negotiate a deal that will allow the UK to leave the European Union on 29 March 2019 and forge a new path in the world. Many suggested that that was an impossible task, but they were wrong—we have a deal. There is no alternative on the table and it is now less than four months until we leave the EU. This agreement provides for an orderly exit, safeguarding our economic prosperity and the bright future of our country.

Support for this deal should not be limited to the Government Benches, as the Opposition's manifesto clearly set out that Labour too "accepts the referendum result". The referendum vote gave people a voice. Those who felt that they had been ignored made their decision and they placed their confidence in Parliament to deliver on that result. We must honour that trust.

On borders, laws and money, this deal delivers for the British people, and I urge colleagues across the House to support it. I look forward to the debate which will follow, and I commend the withdrawal agreement and the future relationship framework to the House. I beg to move.

11.21 am

Baroness Smith of Basildon (Lab): My Lords, I am grateful to the noble Baroness the Leader of the House for opening a very important debate, and to the usual channels for facilitating what is effectively four days of debate across three days to ensure we have the opportunity to conclude our discussions prior to the vote in the other place.

Since the result of the referendum, as the noble Baroness referenced, this House has been constructive in examining the detail and implications of the UK's departure from the EU. The clearest evidence of this is the many Select Committee reports on a range of subjects, such as trade and financial services, judicial and security co-operation, and Northern Ireland, which have brought enormous clarity to complex matters. When the Government were forced by the High Court to secure Parliament's approval to trigger Article 50, your Lordships' House passed just two amendments—on the position of EU nationals and the need for parliamentary debate—with a vote for MPs on the eventual deal. Although the Government opposed the amendments, they conceded the principle on both.

Our constructive approach has also been evident in later legislation. On the withdrawal Bill, some 160 hours of scrutiny led your Lordships' House to pass an unprecedented 15 amendments for consideration by MPs. Despite the over-the-top protestations from some, this was clearly useful work. Our EU agencies amendment was accepted in full and others, including those on Northern Ireland and the meaningful vote, were accepted with some changes.

Your Lordships' House, working across party lines to improve the legislation, secured almost 200 concessions, including crucial restrictions on delegated powers. We considered that there should be parliamentary oversight of the final arrangements, rather than our future relationship with the EU being approved with the stroke of a ministerial pen. This House agreed that we should debate the Prime Minister's Brexit deal, but that the meaningful vote should be for the elected House. Any vote we have is an expression of our opinion as a second Chamber, and our debate over the coming days is in that context. It provides an opportunity for your Lordships' House to continue to be constructive, analytical and forensic in consideration of the withdrawal agreement and the political declaration.

Following discussions and consultations, we have tabled a Motion in my name to provide an opportunity for your Lordships' House to express its opinion on

the outcome of the Prime Minister's negotiations. I will speak to it now, but it will not be formally moved until the conclusion of our debate on Monday. I have just been informed that an amendment to my Motion has been tabled, although I have not had sight of it yet. I do not know what it says, but I hope that might become clearer in the next few days.

The aim of my amendment is to frame the next few days around three key issues that are at stake. First, as noted, it is for the elected House of Commons to determine this matter. When we debated the withdrawal Bill in this House, my noble friend Lord Monks tabled a successful amendment saying that the Prime Minister should obtain a mandate from Parliament for her deliberations with the EU. At that time the Government were adamant that Mrs May could not be constrained by Parliament, yet had she sought a parliamentary mandate then, even just for the basic principles, she might not be facing such an uphill and perhaps even impossible struggle. Yet as we heard from her last night, she has again conceded that principle. While it is exceptional, the Government are—probably as I speak—releasing their own legal advice, having been forced to do so by MPs. The House of Commons faces its most important Division for 75 years, so how could it have been against the national interest, as the Government then claimed, to provide MPs with vital legal information? I am pleased that, following last night's vote, the Government have had to accept that they were wrong, but the Prime Minister just made her job harder.

Secondly, the Motion is clear that the option—or indeed the threat—of a no-deal exit is emphatically rejected. While some may fondly imagine that the only consequence of no deal is that we step back in time and pick up where we left off 45 years ago, the reality is so very different. The world outside has not been static, just waiting for us. To crash out of the EU without arrangements in place for co-operation on trade, agriculture and fisheries, crime and security, consumer and employment protections, energy and the environment would be grossly reckless and irresponsible. It would leave the country in the curious position of being outside the EU but having essentially to accept free movement, due to a lack of alternative immigration arrangements. It would leave our UK citizens in the EU without security in employment or in retirement. Initially, planes would be grounded and, regardless of the number of lorry parking spaces made available on our motorways, major ports would experience tailbacks and costly delays, with huge implications for the nation's food security and exports. Our already overstretched police forces would no longer have access to EU databases but would be left to rely on patchy, outdated and cumbersome procedures for exchanging vital information on cross-border crime. The lack of certainty for businesses would have a hugely detrimental effect on our economy and investment. There are no circumstances in which a no-deal scenario could be of any benefit to the UK.

Thirdly, the Motion regrets that the Prime Minister's negotiated settlement is inadequate. The Government initially argued against a transition or implementation period, claiming they had everything in place: it would all be done by March 2019. This deal proves how

[BARONESS SMITH OF BASILDON]

empty a boast that was. The Government are now forced to accept that such a breathing space is essential as they have not been able to reach agreement on multiple issues. The declaration outlines what both sides hope can be achieved, but it offers zero certainty. Should the deal we are debating be accepted by the other place, the Government would then bring forward what they call an implementation Bill, but nobody has any idea what it will be implementing. Our future economic prosperity, our security and our place in the world are all weakened by this agreement.

Since the publication of the political declaration, it has become clear that the envisaged trade and security relationship is below par. Even if the Prime Minister had got everything on her Chequers shopping list—and we should be clear that she is nowhere near—the result would be slower economic growth. There is no provision for a permanent UK-EU customs union, nor for continued participation in the European arrest warrant. While the EU has stated that the UK can enjoy an unprecedented level of third-country security co-operation, we have no idea whether we will have access to databases such as the second-generation Schengen Information System. On Northern Ireland, the Prime Minister produced a backstop that literally nobody is happy with—not her Back Benchers, not the DUP and certainly not the Labour Party.

What does the Prime Minister's deal offer us? It is a wish list, with decisions to be made later. In the words of the latest Brexit Secretary,

“we have agreed to strike an ambitious new flexible and scalable relationship that allows us to combine resources worldwide for maximum impact”.

If only there was some existing international organisation that allowed the UK to maximise its contribution to global affairs. The deal before us represents a blind Brexit, with no certainty or clarity for the future. It does not deserve our support.

When the Prime Minister claims it is the best deal, what she means is that it is the best deal she has been able to negotiate. Those red lines Mrs May set at Lancaster House were never a great starting point for a strategy. Throughout, she has sought to appease one or other of the rival factions in her party. In a Statement last week, the Lord Privy Seal described Brexit as,

“building a brighter future of opportunity and prosperity for all our people”.—[*Official Report*, 26/11/18; col. 503.]

On what basis can that claim be made? What is the evidence? Where is the detail?

The Government's economic analysis was modelled on a White Paper produced post-Chequers. That is not even government policy any more. We have been told that countries are queueing up to sign trade deals with us. However, the US President clearly thinks otherwise. The Prime Minister's most positive interaction at the G20 summit was meeting her Japanese counterpart who, echoing our Motion today, pleaded with Mrs May to rule out no deal. The Chancellor of the Exchequer admitted that the deal leaves us worse off, saying:

“There will be a cost to leaving the European Union, because there will impediments to our trade”.

The options being presented by the Prime Minister are her deal—which would leave us worse off—or a catastrophic no deal. That is a Hobson's choice, and not one that any responsible Government should ever seek to force their Parliament to take.

Let us be very clear: the Government have mismanaged this entire process. Every time there has been a fork in the road with decisions to be made on the direction ahead, the Prime Minister has taken the wrong turn. No responsible Government would ever trigger Article 50 without having some kind of blueprint for negotiations and ensuring buy-in from Parliament. No responsible Government would ever alienate their closest allies before talks had even begun by refusing to protect the rights of their citizens who have made this country their home. Surely, no responsible Government should ever talk up the chance of falling off a cliff-edge, forcing businesses to implement contingency plans that result in the loss of UK jobs.

It is little wonder the Prime Minister is living life on the edge, taking each week—or rather each day—as it comes, or that our country is so divided. That division is not the only tragedy of Brexit. Imagine if that energy, intellect, enthusiasm and money had been channelled into some of the great issues of our time: eradicating homelessness and poverty, tackling climate change, preventing disease and resolving conflict. For the first time since the Second World War, we have generations of young people without the hope, optimism or confidence in the future that their parents and grandparents had. Whatever the eventual outcome of the wider debate on Brexit, there is an obligation on all of us to address that and prove that the current state of our political life is not the norm. Parliament and politics should and must be a force for good.

The public were promised outcomes that were never realistic. Over the next few days, your Lordships' House will do what it does best: scrutinising the agreements and highlighting the many issues and inconsistencies within them. On Monday, before the Commons takes its own binding decision, I will ask your Lordships' House to vote on the Motion standing in my name. There are just three points: first, it is for MPs to make the decision; secondly, no deal can never be an option; thirdly, even if the Prime Minister thinks it is the best deal she can get, it is inadequate. We hope our debate, the evidence we have already provided through our Select Committees and the work of our EU committee will be useful to MPs as they deliberate. As part of being helpful to the other place, we hope your Lordships' House will want to express the view that the Prime Minister is wrong to impose this as a choice between her deal or no deal.

Lord Butler of Brockwell (CB): My Lords, before the noble Baroness sits down, I apologise that I was not able to give her more notice of the amendment I have put down to her Motion. For reasons I shall give when I speak, I wholeheartedly go along with the first two legs of her Motion, but I cannot agree with the condemnation of the draft agreement in the last part.

Baroness Smith of Basildon: I am sorry that the noble Lord was not able to speak to me before. However, the point I am making does not differ from his, and I stand by it: the deal offered by the Prime Minister is inadequate.

11.35 am

Lord Newby (LD): My Lords, when your Lordships' House debated the withdrawal Bill, we agreed that the substantive, meaningful vote at the end of the Brexit negotiations would lie exclusively with the Commons. This is reflected in the Government's Motion today. However, I think your Lordships would have felt cheated had we not had the opportunity to express a view on the two Brexit options facing the country: the Government's deal and leaving the EU without a deal. I am therefore grateful to the noble Baroness, Lady Smith, for tabling a Motion on which we have been consulted and with which we agree.

The country finds itself in the most dangerous position it has faced in 80 years. It continues to have great underlying strengths, but it is faced with serious divisions at home—between rich and poor, and north and south—and increasing tensions internationally, whether from terrorism, an opportunistic and expansionist Russia or an eccentric ally in the United States. In these circumstances, the Government have embarked on a policy purely to resolve differences in the Conservative Party: a mission that has spectacularly failed, incidentally. The Prime Minister knew—she said so at the time—that it would make us poorer, less secure and less influential.

Your Lordships' House contains many eminent historians. None of them has yet been able to point to an example of a democracy ever knowingly embarking on such a policy, but that is where Britain is today. On the economics, the only real debate now is about exactly how much poorer we will become. The Government's own assessment, published last week, gives a bewildering range of scenarios, but every single outcome is preceded by a minus sign. Some argue that this is because the Treasury is useless or biased in its forecasting. But, as the table on page 81 of the government document demonstrates, of the 28 forecasts of the impact of Brexit produced in the last three years, only one—by the highly partisan Economists for Free Trade group—shows the economy doing better if we leave the EU.

On security, obviously we would not remain a member of a raft of EU programmes and co-ordinating bodies. For example, all talk of remaining in the crucial European arrest warrant has now vanished. Similarly, our influence on the world stage will inevitably be diminished, as the Prime Minister's rather sad and lonely performance in Buenos Aires amply demonstrated.

Of the two Brexit options before us, leaving without a deal is so damaging that in my view there has never been any chance of the Commons supporting it. Yesterday's vote on the Grieve amendment merely reinforces that view. The other option, the Prime Minister's deal, consists of two parts: the withdrawal agreement, which is probably as good as was available given the Government's red lines, and the political declaration on our future relationship. The document produced by the Government to explain this latter agreement says the political declaration,

“will be turned into legal text after the UK leaves the EU”.

This is a deeply misleading statement. The declaration contains virtually no agreements that we are remotely near being able to turn into legal text. It is an agenda

for future discussions, with all difficult issues again kicked down the road. In the time available, I will mention only two: people and trade.

On people, the Government are clear only on wanting to restrict EU migration, but on this they are fighting the last war. Far from there being hordes of Europeans now wanting to come to the UK, figures released last week show a net exodus of EU citizens in the last quarter. This is not surprising. For example, I know of a Frenchwoman who has lived in North Yorkshire for 32 years and is returning to France in the spring with her English husband because she cannot stand the level of abuse the Brexit vote has unleashed. This example is commonplace. Why, then, would anybody from the EU want to come to live in this environment?

The Government cannot even decide what their immigration strategy should be. The Prime Minister wants to limit EU migrants to those earning £30,000 a year or more—a move that would have severe negative effects on the agricultural, hospitality and care sectors. No wonder it is opposed by half her Cabinet. To quote from the Government's document, for those EU citizens already in the UK, the Government can promise only that they can,

“live their lives broadly as now”.

What does “broadly” mean? It is hardly likely to make waverers decide to stay here.

On trade, the Chequers agreement promised frictionless trade by having a wholly impractical so-called facilitated customs arrangement. This has been comprehensively rejected by the EU. In its place, we do indeed have in the political declaration an agreement not to have tariffs; but as for frictionless trade, the agreement states that, depending on the extent to which the UK follows EU rules, there is,

“a spectrum of different outcomes for administrative processes as well as checks and controls”.

If we diverge on rules and standards, as the Government intend, we will have customs controls. Heaven knows how the Government think that is compatible with an open border in Northern Ireland. However, it does perhaps explain why some fear that the Northern Ireland backstop might become permanent.

The vagueness of the political declaration, its failure to incorporate the UK wish list in the Chequers agreement and its confirmation of our weakened economic and security status make it hardly surprising that it has been so widely condemned in the Commons, or that the Government are set to lose their meaningful vote. So when the deal has been voted down, what will happen next? There are only three options.

The Government could attempt to renegotiate the deal, but even if the EU was ready to do so, it is extremely unclear what alternative would stand a better chance of Commons success. Whether it is Norway-plus, Canada-plus-plus or Ukraine plus-plus-plus, the same inexorable trade-off has to be made. You can have independence and a hard border in Ireland, or you can have a frictionless border and the requirement to follow EU rules, laws and subscription fees. I find it particularly odd that so many people now seem to want to follow the example of Norway—a country that supinely follows EU rules, pays as much into the EU per head as we do and, in reality, has to accept all

[LORD NEWBY]

EU court rulings. It is a sign of how desperate some of those advocating Brexit have become that this is the best they can come up with.

The second option is to have a general election, but given that this will be fought by three Conservative parties and at least two Labour parties, I cannot see how it could possibly bring any clarity to the position.

The third option, of course, is to ask the people to decide what they want. Such an option now has clear majority support in the country, and the polls also show a consistently widening majority in favour of remaining in the EU. Those who argue against such a referendum on the grounds that it is undemocratic are guilty of a perversion of language and logic, as is the Prime Minister when she claims that the deal she has negotiated will bring the country back together again. We do indeed need to implement policies to heal the divisions in society, but our ability to do so if we become poorer, less secure and less influential will be much reduced. That is why I urge Members of your Lordships' House to support the Motion in the name of the noble Baroness, Lady Smith, and urge the Commons to ask the people whether this is the future they really want.

11.44 am

Lord Hope of Craighead (CB): My Lords, for me as a self-confessed remainer, it has felt from time to time as if we are trapped in a maze from which there is no way out. I did not want to enter the maze at all. I did not believe the declarations by some of those who were selling the idea of leaving the EU to the public. Theirs was a false prospectus, as the noble Lord, Lord Sugar, pointed out in a memorable contribution to our debate on the people's vote on 25 October. It seemed to me that despite the EU's obvious shortcomings, we would almost certainly lose more than we would gain by leaving it, but I was willing to respect the result of the referendum, and that has been my position ever since.

Yet from the earliest months of the negotiation it was clear to me that it was an unequal struggle. It did not take the EU very long to get its act together and work out what it needed to achieve on its side if it was to hold the 27 together. Our side was beset by disagreements about what we wanted and the drawing of red lines before our case had been properly thought through. A prime example was our position that we would have nothing whatever to do with the jurisdiction of the ECJ—the CJEU as it is now—in any circumstances, a misguided and constant obstacle to progress. It was impossible to hold on to—as the agreement and the Attorney-General's commentary on the legal position now show. To take but one example, the ruling by the CJEU on an issue referred to it by the arbitration panel is to be binding on the arbitration panel, and this means that it will be binding on us. For too long it seemed that such an arrangement would have been totally unacceptable, but it is obvious, given the assumption that the issue will always be one of EU law not domestic law, that this had to be so. There are other examples. We were far too slow to accept the inevitable.

Now we have a deal which we are told is the best that can be achieved. That is what the Prime Minister, guided by those who were conducting the negotiations on her behalf, is telling us. So too are Mr Tusk and Mr Barnier. Then we are told by so many on our side of the channel, who seem best placed to say so, that it is a bad deal and unacceptable. They seem to have a point. There is the backstop, of which we have heard so much, and its implications for Scotland, among other things, if it is invoked. We now have advice from the Attorney-General that there is no prospect of our being able to withdraw from the backstop unilaterally. Then there is the fact that so much will be decided for us during the implementation period by institutions of the EU of which we will no longer be a member and on which we will no longer be represented, and the contributions, which have meant so much, by our European Union Committee and its sub-committees will no longer be able to be made, and so on.

One thing seems to be certain in this fast-moving situation. As the law stands, we will be leaving the EU on 29 March, so we have to find the best way out if we can. What is it to be, I ask myself. I sympathise with those members of the public, many in the business community, who are fed up with the process, want to move on and want certainty. As one of our Cross-Benchers, who unfortunately cannot be in her place, said to me in a note attached to her Christmas card, "People I talk to have given up on the detail. They just want a deal to happen and to move on. Trying to discuss the complications brings a level of irritation from all sorts". In other words, people recognise that there is a price to be paid because the deal has not a few things wrong with it, but they are willing to pay that price and move on.

There are three ways out of the maze that I find myself in, other than accepting the deal: no deal; to seek to renegotiate; or to go back to the people. As to no deal, it really is the cliff edge. If leaving the EU with this deal will make us all poorer, to leave it with no deal at all is far worse. Business leaders tell us that it is the worst of all worlds. So does the Governor of the Bank of England. The consequences for our security and for judicial co-operation in criminal matters would be very serious, and time to do anything about it is fast running out. I could go on, but the noble Baroness, Lady Smith, made all these points for me. For me, it is simply not an option.

Next, to ask the Prime Minister to renegotiate, in the expectation that any significant changes can be achieved by that method, seems to me to be barking in the wind. It will prolong uncertainty, and changes of a fundamental nature in the backstop arrangements seem remote. It is far from clear how much of the political declaration, on which so much depends as we move to the implementation period, would survive if we were to go back to the negotiating table and try to start again. That may have to be thought through again. All in all, this option seems highly unlikely to produce enough by any further agreement to satisfy those who argue for this course. The arguments that whatever is got out of it is still a bad deal will simply not go away.

Then there is the option of taking it back to the people. Of course, if a second referendum were to reverse the vote, it would open the door to a declaration by Parliament not to leave at all: to no Brexit. For me, as a remainer, this of course has some attraction, but I think we would be deluding ourselves if we thought this would settle the matter for ever. The last campaign was unpleasant enough. Project Fear and all the other slogans would raise their ugly heads again. I do not think the most reverend Primate, the Archbishop of York, was far wrong when he said on Monday that a second referendum would undermine trust in democracy, that civil unrest would follow and all that that means. If the result were to go the remainers' way, perhaps by a similar margin to last time, there would be much resentment among the people who voted the other way. They would feel they had been cheated, and one could understand why. It seems to me that there are real dangers here, however attractive this option might seem.

So where am I? It seems to me that the best way out of the maze is to accept this deal for what it is. Part of me regrets this, because there are aspects of it which I do not like. However, I cannot bring myself to describe the consequences as "grave", as the noble Baroness's Motion invites us to do. Let us have a sense of perspective. It is, after all, a deal about the withdrawal and implementation period. There is much more work still to be done after that. It is not the end of the story. I believe we should move on to the next stage and concentrate our efforts now on establishing a sound framework for our future relationship with the EU. That is what really matters in the long run.

Let us also face the fact that the decision to leave was always going to leave us with less than we wanted. We were always going to have to compromise. It is an imperfect deal, but it is all we have, so I am prepared to swallow my misgivings and get on with it.

11.53 am

The Archbishop of Canterbury: My Lords, of the choice of psalms that form part of our daily prayers in the Lords, we have Psalm 46, which we heard today,

"The nations rage, the kingdoms totter",

and Psalm 121, which we will doubtless hear tomorrow,

"I lift up my eyes to the hills ...

My help comes from the Lord,
who made heaven and earth".

Eyes need to be lifted now more than ever, and that is a gift of this House, perhaps more than others. It is a skill and a calling here.

The withdrawal agreement and the political declaration are essentially political more than economic; the debate has moved on from the referendum campaign, which was the other way round. Another change, as we know particularly since yesterday evening, is that the great decisions are now left firmly in the hands of Parliament—as is right.

The decision on this agreement and consequent legislation is thus about not just the immediate politics but national policy and identity, and our future place in the world and how we develop it. It is long term: it is for the child born yesterday and not just for parliamentarians today. The decision must be made in

the interests of those who will be here for the long term. In the midst of political struggle, that is a very hard thing to do, but it is the calling of Parliament and one to which it has risen in equal crises in the past.

In what way will we be able to be the kind of nation we want to be? First, it is obvious that no agreement is ever final. Many years ago, Palmerston said:

"We have no eternal allies",—[*Official Report, Commons, 1/3/1848; col. 122.*]

only eternal interests. So no agreement is final, least of all the withdrawal agreement and the political declaration, both of which I have read in their entirety. They make it clear that so much is left open in deciding our future and our relationships with the EU 27 and around the world. That may be an advantage or a disadvantage.

What is obvious is that we are choosing a new path. Although I am a remainer, like the noble and learned Lord, Lord Hope, I fully accept the decision of the referendum, which must now be implemented; the shape of which is in the hands of Parliament, and particularly of the other place. With that responsibility there is a moral agency and a moral choice, and it is that that should guide our votes. It must reflect a genuinely hopeful vision for our nation and its place, because there is a vision of hope and global influence to be grasped by this country, with proper leadership.

Secondly, whichever way we go, there is a requirement for national reconciliation; for restating what the noble Lord, Lord Sacks, calls the core values of civilised discourse, and ensuring that they are lived out. The negative impact of the previous referendum is why I see another one as a possible but not immediately preferable choice, and only if Parliament has failed in its responsibilities. Reconciliation is an area for civil society and faith groups, but it is also largely the responsibility of any Government. It is a process that takes generations, and thus will affect not only the current Government but subsequent ones. What specific commitment will the Leader of the House—and for that matter the noble Baroness, Lady Smith, and other leaders of groups and parties—make to future Governments to work purposefully for reconciliation in this House, across politics and across the nation? We have heard much about its need but nothing about its methods.

Thirdly, economically, we know that there are many and diverse views about the outcome of this agreement, of no agreement or of other possibilities. We know that no forecast is certain—that has become very clear over the last two and a half years. The risk we face now is not a decision to leave without an agreement but an accidental leaving without an agreement. We may drift into something that no one chooses as their ideal. If that happens, and even under some of the other options, there is a significant danger of adverse economic effect, with a fall in government revenue, a rise in unemployment and greater poverty. Some will argue that that will be only temporary, but we need to remember that for those in poverty, temporary is an eternity. It must be the clear policy of this and all future Governments, after so many years of austerity, borne most often by the poorest, that the burden of the transition to a post-EU economy—if there is a

[THE ARCHBISHOP OF CANTERBURY]

burden—must be carried by those with the broadest shoulders, the wealthiest, and not by further cuts, whether to local services, social care, benefits, the Armed Forces, climate change budgets, education or other areas that have lost so much in recent years.

This is not a simply a debate—and, in the other place, a decision—on the agreement and the declaration before us. This is genuinely a moment of national re-imagination; exciting and hope-filled, but also deeply dangerous in some ways. We have had such before; we need not despair.

Another verse from the Bible, from Proverbs in the King James version, says:

“Where there is no vision, the people perish”.

The withdrawal agreement and political declaration are mainly about process, not vision and outcome. Whichever way we go, there must be a vision for justice and fairness, with economic, political, and visionary moral foundations secure enough to bear any storms or shocks that may come. The process must then lay the foundations to fulfil such a vision. That should be the test for our voting.

12 noon

Lord Mackay of Clashfern (Con): My Lords, it is a privilege to follow the most reverend Primate the Archbishop of Canterbury. I feel the responsibility of that and appreciate what he said.

The Prime Minister has been criticised for the so-called red lines. I think these were very reasonable attempts to focus on what the referendum had done and to try to follow through on the intention of those who had voted in the majority. Therefore, as far as I am concerned the Prime Minister is seeking to implement the recommendation—the advice—she got in the referendum. It is against that background that one has to evaluate what has happened. The advisory time is seven minutes, and I am determined to keep to that. Therefore, I shall be selective in what I talk about, because I could easily go on for much longer.

When I was appointed Lord Chancellor in 1987, one of my responsibilities was the nomination of judges in Northern Ireland and the political supervision of the court system there. Shortly before my appointment, a Lord Justice had been blown up after crossing the great boundary between Northern Ireland and Ireland; the Lord Chief Justice had been shot at; and a Lord Justice’s wife had come home from shopping to find a note on the kitchen table saying, “Get out quickly, because the place is going to be blown up”. She did get out quickly and her home was blown up. So the dangers facing the judiciary of Northern Ireland then were very severe, and it is extraordinary how they were able to live in those surroundings.

The peace and security of Northern Ireland are very much an issue in my life, and I will do everything I possibly can to defend them. The Belfast agreement, and all that followed it, is a wonderful step forward, and the situation in Northern Ireland is now, happily, very different from when I took office. But it is not perfect, and we need to be careful to secure what has happened.

The peace and prosperity of Northern Ireland is not a temporary matter. I would like it to last as long as possible. The steps taken to secure it should therefore also be permanent. Others in this House who had political responsibilities in Northern Ireland agree that the only way to secure a soft border or eliminate a hard border is to apply pretty similar customs rules on both sides of the border. That is the purpose of the backstop.

The backstop will be permanent if it is necessary for it to be permanent. I can see no way out of that if you like the peace and prosperity of Northern Ireland—as I said, I certainly do. The necessity for the backstop to be permanent is obvious, unless and until the conditions are satisfied in which it can be changed. One of those conditions is the agreement of a new customs arrangement between the United Kingdom and the EU. That is one objective of the agreement that has been reached.

The withdrawal agreement is a binding legal agreement. The political proposal is not binding in that sense, but it is the agenda for an agreement. The agreement will be enforced by the law of the United Kingdom, as well as by the law of the EU. My view of these documents—and I was glad that Mr Trump was able to give a view on them, having read the whole lot very quickly—is that they are well written but complicated. As legal documents go, they are readable for those who have not been burdened by being lawyers. The agreement requires that the treaty that follows on the political agenda will be brought into force with the best endeavours of the two sides. That is a legal requirement that can be enforced under the procedures in the withdrawal agreement.

The other day, the noble and learned Lord, Lord Goldsmith, asked what could be done on enforcement. He correctly pointed out that although it would not be an arbitration tribunal that fixed the new agreement, it would have the power to enforce the best endeavours provision. Therefore, I would expect the result to be a full treaty according to these provisions within the time allotted. My time allotted has finished.

12.08 pm

Lord Mendelsohn (Lab): My Lords, I thank the opening speakers for setting the scene for this debate so well. I particularly thank my noble friend Lady Smith of Basildon for setting the case for her Motion extremely well; I strongly support her. I have deep concerns about the withdrawal agreement and the political declaration, and I do not think that they are as illuminating as the Government believe. I am reminded of the old adage: it is darkest at the bottom of the lighthouse.

As a pragmatic businessman, I would have been open to accepting the Government’s intended plan at the very beginning to respect the will of the referendum and to set out a broad plan and timetable. But my confidence has strongly waned since then, and I truly believe not only that are we in the position of having an inadequate agreement but that it is time for us to return to the question of whether there is a place and time for another referendum.

The main long-term questions are still unresolved. The two-year period of negotiations has created an ever-larger series of negotiations, for many more years

to come. All this is because the date for withdrawal was set before any plan was made. The planning and preparations continue to be inadequate, and options have not been properly evaluated. In business, we would call this stage of the process the heads of terms: we would come to the main agreement and be able to say that we had the basis of a deal, and then all the detail could be addressed in an orderly way. But this is not even remotely near a heads of terms. As an old mentor would say to me if I came back with an unfinished job, a cake with its ingredients missing is basically a biscuit. This is not a deal. Those so exhausted by this process that they believe any deal should come forward will be most disheartened by this deal's consequences.

This deal is the unfortunate product of a process that has not just lacked long-term objectives and strategy, but been plagued by a piecemeal approach and lacked the most basic forms of consultation. It is too internally focused. There has been a deep lack of preparation and no desire to see the Government act in a way that would make this effort a national mission. It has been the story of internal political divisions and the agreement's contents bear this out. That is not only on one party's side, but one party is the Government.

The accompanying documents also cite the economic impact. The many economic projections all tell pretty much the same story: the loss of economic output over 10 years of a post-Brexit Britain will be somewhere between £40 billion at best and up to £200 billion. That is less than the projected £300 billion cost of the financial crisis, but it comes after it and after failed growth following the appalling austerity plan. One also has to admit that after we come to this agreement the period towards the next election will also have a tremendous amount of political uncertainty and fear for business, which will continue to be a drag on any prospect of growth. These objections also do not deal with some of the likely industry-specific consequences, be they in aviation, the car industry or across our services, which have a very uncertain future outside the EU. This is a terrible story of potential decline—one that we must be very concerned about, given the state of our public services, economy and development.

This is a matter that we must take deeply seriously and that we have to address with the public. The evidence is overwhelming. The future is not certain, but it is a certainty that we will be worse off. I might not share their view, but noble Lords can argue that Brexit is worth the economic damage it implies, that economics is not the most important consideration or even that some of these economic warnings are overblown, but it is absurd to say that there will be no damage at all. There are strong divisions in this country that will not be addressed by the outcome of the withdrawal agreement. It provides absolutely no certainty whatever, rather the prospect of continued division, uncertainty and negotiation.

The sense of betrayal from all sides of the debate has a poisonous impact on our body politic, and brings corrosion and a sense of disaffection. We can see this happening with awful things such as the terrible takeover of UKIP by the far right, which means that the next few years will be deeply unpleasant in our country unless we address this.

The agreement really does not help any of these matters and it is not the only option. Even if there is no capacity in anyone's ability to renegotiate the arrangements with the EU, it is not the EU's problem: it is our inability to have the right sort of vision or plan. It is easy to renegotiate. But there is now no doubt that even Article 50 can be stopped. When we come to crystallise our view we have the chance to make sure we make the right expression that we oppose the deal. We should say that it has no long-term vision, offers prolonged and ever worse division, and does not offer Britain wider economic prosperity and opportunities, and that we have to rise above our divisions.

Ultimately, we have to take a view on a new people's vote. I truly believe we should also have remain as an option. This country has come to a point where it now understands Brexit's consequences. They are too terrible to bear. Our position has not been resolved over two years. It is time to take this matter seriously with a long-term view.

12.14 pm

Baroness Smith of Newnham (LD): My Lords, I remember the late Lord Williamson of Horton coming to speak when I was a student at Oxford. He said that one morning Margaret Thatcher came down the stairs in No. 10 waving a piece of paper, saying, "I've read it. I agree". The piece of paper—indeed, it would have been a few pieces of paper—was the Single European Act. We then had a Prime Minister who did her homework, who was a lawyer and who could have been expected to understand the implications of what she had agreed to. Yet, with hindsight, she and many others on the Conservative Benches felt that the Single European Act may have been a mistake.

With the withdrawal agreement that Theresa May—or perhaps one of her Secretaries of State, it is not wholly clear—has negotiated, one wonders whether anybody has read it. The most reverend Primate the Archbishop of Canterbury noted that he has read it, as have I and, I suspect, others across the Chamber, but when the Prime Minister claimed to have agreement in her Cabinet on the withdrawal agreement, that was quickly disproved. At 585 pages, it is difficult to see how members of her Cabinet or Conservative Back-Benchers could possibly have read the agreement within an hour, when they were supposed to be discussing it. There is a question about how much detail has been examined and how much time has been spent scrutinising the withdrawal agreement, which does not do what the Prime Minister claimed. It does not return control from the European Union, as advertised by the leave campaign, as Theresa May has said she wants to do, and as the noble Baroness the Leader of the House suggested earlier.

There are some good points in the withdrawal agreement, and it is important to distinguish between the withdrawal agreement and the political declaration. There are some aspects of Part 2 of the withdrawal agreement dealing with the rights of EU citizens and UK nationals which should have been dealt with in June 2016. One might say: what has taken you so long? Despite its good bits there are all sorts of hostages to

[BARONESS SMITH OF NEWNHAM]

fortune. The role of the Court of Justice of the European Union might be something that those of us who are passionate pro-Europeans think is a good thing, but should the United Kingdom be tied to the jurisdiction of the Court of Justice in the way it will be under the withdrawal agreement? I suspect that no leavers would want that—I see the noble Lord, Lord Forsyth, shaking his head—but I am not sure many remainers want that either.

Of course, the withdrawal agreement is supposed to take us only to the end of December 2020. Thereafter, the political declaration is supposed to lead us towards those great sunlit uplands. The most reverend Primate the Archbishop of Canterbury reminded us of Psalm 121, which talks about mine eyes looking up to the hills. The political declaration is something of a mirage. As the noble Lord, Lord Mendelsohn, suggested, it is vague and does not deliver on the expectations generated by leavers or the Prime Minister.

By now, we should be clear what the future relationship will look like. Arguably, it should have been clear on 23 June 2016. It was not. It should certainly have been clear at the time that the Prime Minister triggered Article 50. It was not. It was almost clear in July this year, when the Prime Minister claimed to have agreement on her Chequers proposal, but it was not clear then and the political declaration that the Prime Minister has negotiated does not have the support of her Cabinet—as we saw with the resignation of a second Brexit Secretary, which seemed to be more than a little careless—and it does not have support in the other place.

The noble Baroness, Lady Smith of Basildon, states in her Motion that the political declaration,

“would do grave damage to the future economic prosperity, internal security and global influence of the United Kingdom”.

There is nothing to suggest that this is a better arrangement than we have as members of the European Union, and we should not be lured into the false logic that the Prime Minister has put forward, the noble Baroness the Leader of the House reiterated and, I regret to say, the noble and learned Lord, Lord Hope of Craighead, also suggested: we need a deal, this is the deal, therefore we should accept it. Nobody voted to be poorer, for the country to be diminished and for us also to lose control of our sovereignty. Nobody wanted that. Some leavers might have said that they would rather be worse off if we could reclaim sovereignty, but who in their right mind would want to be poorer, for the country to be diminished and for us to lose control?

I am afraid that, again, I am reminded of the words of Baroness Thatcher. She said consensus is a,

“process of abandoning all beliefs, principles, values and policies in search of something in which no-one believes, but to which no-one objects—the process of avoiding the very issues that have to be solved, merely because you cannot get agreement on the way ahead. What great cause would have been fought and won under the banner ‘I stand for consensus’?”

I would say that the withdrawal agreement and the political declaration represent consensus, except the only person who wants this agreement is the Prime Minister. If the House of Commons cannot support this deal, and if almost everyone agrees that no deal would be a disaster for the country, we have another

option. We can ask the Prime Minister and the House of Commons to look again, and perhaps it is time to ask the people to think again.

When we voted to trigger Article 50, I was one of the very few Liberal Democrats who did not vote for the amendment on a referendum. I wanted to accept the result of the referendum because I thought that that was the right thing to do. However, if we cannot find a deal and can only put forward ideas that will make the country much worse off, surely it is now time to offer the people the chance to think again.

12.21 pm

Lord Boswell of Aynho (Non-Afl): My Lords, I am struck by the gulf between the measured analysis of the withdrawal agreement and political declaration that we have attempted to offer in our EU Committee report published this morning and the intense emotions, concealed or express, felt on all sides of the House and across the nation. We have taken the view as a Committee that our role is not to plump for one particular policy or another—there will of course be differences among Committee members—but instead to offer your Lordships a cool and precise analysis of the situation, and leave it to colleagues to take their own approach.

Over the 30 months since the Brexit referendum, we have published almost 40 reports on major policy issues and on the conduct of the negotiations. It is now abundantly clear that these matters are complex and simply not amenable to simplistic solutions or, if I dare say it, soundbite policies. Most of all, despite what was said on either side in campaigning, they do not lend themselves to absolutist opinions. I ask myself: what became of our vaunted British common sense and pragmatism?

Meanwhile, I recognise that the arguments are shifting, as those who are not obsessives begin to realise that we have only a few months left to sort ourselves out. Many others, who have better things to do than wander and wade through more than 500 pages of legal documents, want this all to be over, while at the same time are rightly concerned as to how it will affect them and those nearest to them. I still deploy the simple test of the European health insurance card: after 29 March, will it still work or not?

We now at least have a deal for the withdrawal agreement, as required under Article 50, and a core text for the declaration on future relations. It is unlikely that our European colleagues will want to reopen the former or rush to reconsider the latter. In our report, we point to some serious issues over the proposed transition or implementation period. However, it does buy time for the measured consideration of the many compromises and trade-offs we shall need in a prolonged negotiation, of which, frankly, only the first phase is concluded. We also raise significant concerns over the proposed backstop while identifying positive elements and omissions and ambiguities in the political declaration. I hope that our report will provide food for thought to noble Lords contributing to this debate and more widely in the national debate.

I offer five short thoughts in conclusion. First, while we must meet the needs of the United Kingdom as a whole, we must also take full account of the views

and concerns of its constituent parts, as well as the members of the wider British family, including Gibraltar, the other overseas territories and the Crown dependencies. Secondly, we must answer the conundrum of ensuring no hard border on the island of Ireland while retaining the territorial integrity of the UK and ensuring that the voices and concerns of both communities in Northern Ireland are heard. Thirdly, we should be conscious that every option open to us involves costs and compromises. There is no easy or costless change of policy. Fourthly, we should remember the habits of co-operation and friendship built up over decades of our membership and not burn our bridges with the remaining 27 member states. Finally, if we decide to jump into the unknown, remember to pack a reserve parachute.

12.26 pm

Baroness Crawley (Lab): My Lords, I refer noble Lords to my entry in the register as a former MEP. What can I say? What can any of us say now that we are in the end game of this miserable national predicament called Brexit? We have seen the Prime Minister's deal, which I am afraid gives us even less than Chequers did, especially when it comes to the ambition for frictionless borders. The Government's latest economic analysis, after all the modelling, assumptions and hedging, adds up to only one thing: leaving the EU on March 29 means that we will be poorer than we are now, or staying in the EU, as noble Lords have said.

Of course if we leave without a deal, the impact on trade means that we could lose up to 9% of GDP and could experience an 11.8% drop in real wages. That is to say nothing of the emergency measures needed when it comes to food and medicine shortages, drinking water and disruption in travel, transportation and energy supplies. The Bank of England, which has become something of a pantomime villain for the Brexiteers, has also warned that under the worst-case scenario, house prices could fall by 30%, employment could rise by more than 7% and GDP could fall by 8%. The list goes on, is frightening and must not be allowed to happen, as our Motion tabled by my noble friend Lady Smith of Basildon outlines. A Canada-style free trade agreement means a shocking drop in GDP and real wages, according to the Government. Even an EEA Norway-style Brexit sees GDP drop by 2.3% and real wages drop by 2.8%. The Prime Minister's deal means that we lose up to 2.2% of GDP and could experience a drop of 2.7% in real wages. Of course, as noble Lords have said, these losses will be felt by the poorest people, the marginalised and the left behind. Is this not where we came in? There are no happy stories here; no reasons to celebrate this December.

Everyone in the country is worried and people are looking for certainty for themselves, their families and their workplaces. To many, the Prime Minister's deal looks like a kind of solution, as in, "Please make the pain stop". We have to acknowledge that fear and anxiety in the country and offer a feasible and positive alternative. The clamour is growing, especially among our young people, for a people's vote on the terms of our leaving. At the time of the referendum, none of us could have imagined those terms, and that vote would

be an opportunity to change our minds, should we wish to. Like many on my side of the argument, I am often asked whether I want the referendum to be a neverendum, as they say in Scotland. In other words, do I want as many people's votes as it takes to deliver the result called remain? Here is my answer. The wording of the question put to the British people in 2016 ran as follows:

"Should the United Kingdom remain a member of the European Union, or leave the European Union?"

They were not asked: do you favour Boris Johnson's version of Brexit? Are you happy with Labour's six conditions? Does the thought of Norway-plus appeal to you? Or Canada-plus? Or Papua New Guinea-plus? How about Mrs May's Chequers plan, as opposed to her most recent plan? Is full access to the EU's Galileo satellite navigation system something of a red line for you and your family? What about freedom to immigrate low-skilled workers into the UK, or special provisions for our friends in the DUP when it comes to the very serious issue of the Irish border?

It occurred to me the other day that most people, who do not spend their lives looking at economic analysis and reading policy papers as we do, probably imagine that the Irish backstop is a new rugby move for the forthcoming Six Nations.

Even if I were a fervent Brexiteer—which, thank the Lord, I am not, sir—I would have to conclude that since 2016, Brexit has grown as many heads as the Hydra of Lerna. No general election or referendum result binds the people's hands forever. It is bogus constitutionalism to argue that anyone, in any one spasm of time, should be bound. The bald truth is that no version of Brexit currently available can possibly claim to be the settled will of the country. So, in the week when the Government have been found in contempt; when the Advocate-General of the ECJ has advised that Britain can unilaterally cancel Brexit; and when Parliament has voted to wrest control from the Executive in the event of no plan B beyond 11 December; I have to say that it is a case of back to the people.

12.33 pm

Lord Craig of Radley (CB): My Lords, two years ago almost to the day, on 1 December 2016, I spoke in a debate on the Brexit UK-EU relationship. I said,

"one issue, little debated, is a presumption in discussions about Brexit that the EU is a known, unchanging quantity—an edifice of predictable structure",—[*Official Report*, 1/12/16; cols. 342-43.] and future. Since then—nor in the time before the referendum—I have not seen much serious debate on the stability and constancy of the European Union, in particular on the controlling part played by the Commission. No measuring scenarios, like the Bank of England's, about political, global or economic crosswinds in the EU are available, let alone any relating to defence threats. Looking to the late 2020s, I would be amazed if there were not significant changes to the EU of today.

Let me cast a few pebbles into this supposedly placid EU lake, and ask: when the ripples reach land, will they disturb the shape of the EU's shore, acknowledging first that a UK withdrawal itself must wash over the 27? Financially, there will be less for

[LORD CRAIG OF RADLEY]

pan-European schemes once the UK departure is complete. Will there be fewer members, if others leave, or more than 27, if some of the minor aspiring nations, or indeed Turkey, join? All that will have financial consequences. If the UK suffers recess, as some predict, surely that will not remain an internal matter, and trade for the EU and others would also be affected and suffer.

How stable is the euro? The one-size-fits-all approach has been exposed to frequent stresses. Not all of the 27 are of a similar political mind about some of the direction that comes from the Commission. Will the Italians be brought to financial heel? Will Spain's problems with Catalonia be contained? Will the Visegrad states remain acquiescent? German suggestions to replace France on the Security Council with a pan-EU member are hardly conducive to good fraternal relations.

The EU could change greatly—the ripples from my pebble could reach far and wide. For the moment, the EU's prime focus is to secure a good deal for itself. Indeed, there is a game book for that. Let us remember that commissions faced with an unsatisfactory referendum result, such as in Ireland or Denmark, seek another. Secretly, the EU may be thrilled by homespun ambitions for a second UK referendum. It can only half claim to have spooked it with the current withdrawal agreement.

The backstop is a serious, second referendum-triggering device, were the EU unwilling to agree acceptable trading arrangements. That pebble could cause the UK a constitutional tsunami.

I move to the decision facing the other place next week: should the Government go ahead with it? All expert analyses and predictions fail to deliver a single answer, and reasoning ignores a fundamental: does the EU itself prosper? Risk-averse voters might be guided by a motto of caution: "A bird in the hand is worth two in the bush". But with maybe much of £39 billion at risk for the EU, is that roadblock of a backstop still really non-negotiable? Both the UK and the EU seem to dislike it. Everything has its price. Successful punters might try for that.

On balance, an agreement now is best. Commons and Parliament are past masters at saying yes or no to a proposition, but multiple choices in a referendum or in Parliament would be a recipe for disaster. Noble Lords will recall that, when trying to choose one of six options for Lords reform, the Commons could not agree on a single one. Multiple choice is a route to more constitutional mayhem. We have to go for the option available.

12.37 pm

Lord Tugendhat (Con): My Lords, this is a sad day for me. As a young Member of Parliament in 1972, I voted for the European Communities Act, which took us into the European Community, as the Union was then called. Some years later, I served as a European Commissioner, and I look back with pride at the achievements of the European Commission—on behalf of Europe as a whole and of the United Kingdom.

Now, as an elderly Peer, I find myself supporting a proposition to take us out of the European Union. I do so because I respect the result of the 2016 referendum.

I believe it is incumbent on us to respect the results of democratic votes. The Government have a duty to seek to bring the wish of the British people into effect, and I think they have done so. They have done so in a manner that certainly costs the country economically—I will come back to that—but that costs us less than might otherwise be the case. It is far from an ideal agreement, but it minimises rather than maximises the costs of our departure.

This short-term consideration is important. I understand, although I do not sympathise with, the Brexiteers' wish to put as many aspects of membership behind us as possible, but we have been a member of the EU for 45 years. That is as long as Queen Elizabeth I reigned. It is as long as the German Empire from Bismarck to 1918 lasted. It is a very long time, and many aspects of our economic life, domestic as well as international, and much else besides, are inextricably bound up with the EU. The same applies to our security, foreign and defence policies. The sharper the break from the EU, the greater the disruption. The greater the disruption, the greater the cost. The greater the cost, the harder it will be to reorient ourselves to take advantage of the opportunities and overcome the difficulties of being outside the European Union.

Leaving must be a process, not an event, and I believe that the deal before us is an acceptable route to take us out without too much economic damage. There is no getting away from the fact that there will be economic damage. The Treasury and Bank of England assessments and scenarios make that clear. In economic terms, we would be much better off staying in, and there is no surprise in that. The United Kingdom has had an important influence on the construction of the European Union, and the European Union works very much to the advantage of the United Kingdom.

Not only that, any attempt to undo 45 years of being involved in something is bound to come at an economic cost. When systems are as closely integrated as ours is with the rest of the Union, there is bound to be a cost, and I cannot understand the reluctance of Brexiteers to accept that. The Government's duty is to try to ensure that the short-term cost is managed in a way that opens up as many as possible opportunities for the future and closes down as few as possible. Basically, they have managed to achieve that with this agreement.

Does it carry out the wish of the British people as expressed in the 2016 referendum? I believe that it does. It takes us out of the European Union. It takes us out of a political union. It takes us out of the common agricultural and fisheries policies. We regain control of immigration. The supremacy of the European Court of Justice is brought to an end. As far as is possible in the modern world, we regain control of our own laws.

For all these reasons, I support the deal that the Government have negotiated. I do so for another reason as well. I believe that it provides a basis—and I see few other such bases—to overcome the deep divisions that have opened up in our society and to begin to rebuild the national unity to which the most reverend Primate referred.

As we look at the arguments for and against the deal, as we look at the arguments for and against membership of the European Union, a consideration being lost is the extent to which the unity of this country is being fragmented. Divisions have opened up between regions, classes and interest groups—even within families. There is great urgency to bring the situation to an end and to build for the future.

I support the deal, but if it fails—if the House of Commons rejects it—I will throw my support behind those who will do whatever they can to prevent a crash-out no deal.

12.44 pm

Lord Howarth of Newport (Lab): My Lords, the Prime Minister has honourably striven to do the impossible: to find a compromise between remainers, for whom Brexit is above all a threat to our economy, and leavers, for whom what matters most is the recovery of our sovereignty. Remainers think that the economic cost of withdrawal on the terms she has negotiated is too great and see the deal as far inferior to remaining in the European Union. They think we should revoke our Article 50 declaration. The reckless among them seek a second referendum. A second referendum would do deep damage to the already battered faith in our politics and put paid to reconciliation in our country for a long time. For leavers, the deal fails to release us from the tentacles of the EU and from the democratic deficit that was built into it at its origins.

It is not only leavers who cannot accept that we should continue, perhaps indefinitely, to be subject, with no power of decision on our part, to rules determined by the EU governing swathes of our national life, including policy on the environment, employment, state aid, competition and even tax; to be subject to the continued jurisdiction of the CJEU as arbiter of the agreement and interpreter of EU laws by which we remain bound; with a separate regime for Northern Ireland; without the right to liberate ourselves at our own volition from the Irish backstop; and locked inside the customs union and the EU's external tariff wall for as long as the EU wants, with no realistic chance of achieving an independent trade policy. How can we as democrats accept that?

Amid the passions of this debate, in your Lordships' House we should seek to state the issues accurately. Let us dispose of the canard, as our French friends say, that the demand to take back control masks ugly attitudes towards immigration and a widespread vicious nativism at odds with liberal values and internationalism. Yes, there are racists and xenophobes among those who voted leave; their attitudes are odious. Nobody, however, can sensibly suggest that more than a minuscule proportion of the 17.4 million of our fellow countrymen who voted to leave were such bigots. It does not follow that, if you want to extricate your country from the undemocratic structures of the European Union, you are illiberal or insular.

The evidence published in April by the Nuffield Centre for Social Investigation confirms that the paramount concern of leavers is sovereignty: our right to make our own laws through our own representative institutions of government, accountable to our people,

together with the supremacy of our own courts. We see this clearly now in the reaction of leavers to the withdrawal agreement. It ends free movement from the EU into the UK. If immigration was their key concern, leavers would be welcoming the agreement, but they are not. They are objecting that the withdrawal agreement does not allow us to take back control and to recover the sovereignty that we lent to the EU through the European Communities Act 1972.

Let us also have a realistic debate about no deal, on which the Motion in the name of my noble friend invites us to focus. The Government are right to prepare for no deal, and in no spirit of trepidation. They would be right also to prepare to protect those in poverty who are at risk of particular suffering during the transition, a point that the most reverend Primate made very powerfully. But no deal certainly need not be a disaster or a catastrophe, as so many noble Lords insist. It need not mean crashing out or a cliff edge. There would be no need for aeroplanes to stop flying, for Kent to become a lorry park, for supply chains to seize up, for medicines to be unobtainable and for food to be rationed, as the litany goes. We would not face the Bank of England's worst-case scenario of a disorderly exit, which is, as the former governor, the noble Lord, Lord King of Lothbury, has noted, based on entirely unrealistic assumptions.

Appendix A of the Bank's response to the Treasury Committee, entitled "Impact on the UK economy of a transition to WTO", offers a no-deal scenario that we can well live with. Philip Aldrick, economics editor of the *Times*, has helpfully translated the Bank's technical prognostications into relatively plain English. In this scenario, he explains, we go to WTO rules after a smooth transition in January 2021, retaining for ourselves the EU's existing 90 external trade deals; sterling falls by 8.5%; we welcome a net 85,000 immigrants—tens of thousands—into Britain annually; and our GDP is 5.25% less in 2023 than if we had remained in the EU. Under the Prime Minister's deal GDP would be 3.75% less. The difference between the Prime Minister's deal and an orderly no deal is just 1.5% of GDP.

Remainers assert that people did not vote to be poorer. With the orderly no deal projected by the Bank, they will not be poorer than they were; they will be somewhat less wealthier than they might have been. Leavers, who voted to leave despite the lurid warnings of the first project fear, will be happy to pay that price for the restoration of their sovereignty.

It is in the interests of the peoples and businesses of the EU to avoid chaos and agree an orderly no deal with us. The EU has already offered to reciprocate air traffic rights and aviation safety certificates, and in its own interests it will surely act sensibly in relation to road transport. Any additional checks would be very limited. There will be no legal requirement to inspect every vehicle or to carry out checks at the border itself, and anyway there will not be enough staff and equipment to check more than a minute proportion of vehicles. Indeed, new EU-imposed non-tariff barriers will be illegal under WTO rules so long as our products exported into the EU are still made to the same standards.

[LORD HOWARTH OF NEWPORT]

It is objected that under WTO rules and without the customs union, there must be a hard border within the island of Ireland. That problem has been greatly overstated and I do not believe that the Good Friday agreement would be in jeopardy. The Permanent Secretary at HMRC has made it clear that there is no need for the UK to erect a hard border in any scenario. Nor, as they have said, will the Republic or the EU impose one.

The US and China trade with the EU on WTO rules. We can do likewise. Better, of course, would be the rapid conclusion of a free trade deal with the EU. Given where we start from and based on the EU's deal with Canada, that is entirely possible. EU countries that sell us £300 billion of exports will be impatient for the EU to reach a free trade deal with us. That is what the Government must now work for.

12.52 pm

Lord Empey (UUP): My Lords, much has been said in this House about the Irish situation. The noble and learned Lord, Lord Mackay of Clashfern, reminded us of some of the things that happened in the bad old days, when members of the judiciary were attacked. Indeed, a Member of this House who held that role found a bomb under his car. Fortunately, he discovered it and it was disarmed. We get the very strong message that the noble and learned Lord has set out.

With this deal in front of us, I find myself in a virtually impossible position. I want to see a deal with the European Union, but that does not mean that I oppose the decision of the British people to vote for Brexit. After all, it seems to be forgotten that this Parliament provided them with that opportunity. The concerns that many Members are currently expressing were not expressed at the time, even though some of the options could have been foreseen. In many respects, complaining now that the rules should be changed after the match is over does not fall well, because we, as a Parliament, let it take place.

During that campaign we had grossly exaggerated claims from either side: it was a poor-quality debate and an unedifying spectacle. As a consequence of what was said on both sides, the economic forecasts that people are now bandying around in all directions have little or no credibility with the general public. Given the fact that most of those who are making them cannot even anticipate 12 months ahead, let alone 15 years ahead, that will come as little surprise to some of us.

I gently remind the noble Baroness, Lady Smith of Basildon, that when we talk about getting a good deal and preparing for negotiation, her party leader called for the immediate triggering of Article 50 after the referendum—that was before we had even had a chance to think our way through.

While I would prefer to look at this in a pan-Unionist position from the whole of the United Kingdom, because so much of it has been focused on my Province's position, it is inevitable that that will guide what I do next week. I fear that the whole border question has been grossly exaggerated. The real border between the United Kingdom and the Republic of Ireland is between

Dublin and Holyhead. At a recent meeting I was at, the Irish ambassador publicly said that between 80% and 90% of Irish goods go to or via Great Britain to reach European markets and the British market. Only 1.6% of its exports go to Northern Ireland and only 1.6% of its imports come from Northern Ireland. There are, of course, goods in transit, and most of the trade is in agricultural products, alcohol and other matters. The point is that the real border is between Dublin and Holyhead. That is where goods in volume go, yet it has hardly ever been mentioned in this debate.

I have to say that while the Prime Minister cannot be faulted for her work ethic—far from it—my party wrote to her on 7 December last year, and after the European Union produced its papers in March, to seek assurances. On 8 December, some people in Northern Ireland put out statements to say that there would be no regulatory differences between any parts of the United Kingdom. They were proved wrong. There will be differences. Indeed, a new manufacturing logo called “UKNI” will be developed to show that a product is made exclusively in Northern Ireland.

I would like the Minister in his wind up to address this: the Attorney-General for Northern Ireland made clear that we will not be free of the jurisdiction of the European court. We will still be guided by its decisions and we will not be free to make the trade deals that we want as a country. I also hear people say, “Well, we’ll get back control of our fishing policy”. In theory, yes, but in practice, if you have been listening to President Macron and others, you will know that everybody will have their slice of the cake when it comes to it. To put ourselves in a position where we are incapable as a nation of taking a decision, whether it is on our trade or our foreign and other policies, without having other people mark our homework is quite concerning.

I have listened very carefully to the noble and learned Lord, Lord Keen of Elie, the Lord Advocate and a leading Queen's Counsel. He stood here the other day and talked about this arbitration process and using best endeavours. I am a veteran of the Belfast agreement: it contained “best endeavours” and stated that some people would use their influence. Instead of taking two years for them to use that influence, it took nine years—indeed, it is not clear that it has been used.

To my friends in the Government I say this. I understand that some people are bored with this and say that we have to do it because it is on the table. It may be on the table, but I fear that it is not the right deal for this country at this time, and it certainly breaks the red lines that the Prime Minister gave us assurances about in December last year and in March this year—that there would be no barriers or border up the Irish Sea. There will be. We will be in a different place, and if the agreement goes through as it is now, in 15 years' time, that difference will widen. Once we get into this backstop—I wish it were a rugby move, as the noble Baroness, Lady Crawley, put it—we will be very lucky ever to get out of it.

12.59 pm

Baroness Deech (CB): My Lords, the situation is changing even as we speak. Yesterday we heard the legal advice given to the European Court that Article 50 could be unilaterally withdrawn by this country to put us back where we were—an unsurprising opinion, given the federal push of that court. Given these options of going back, “Macbeth” sprang to mind:

“I am in blood

Stepp’d in so far that, should I wade no more,
Returning were as tedious as go o’er”.

That is one of my themes. I should also add that I do not think the Motion in the name of the noble Baroness, Lady Smith, helps us. It is unconstructive and provides no solutions.

This national debate is not just about the economy. It is not even about whether we will speculatively be poorer. For leavers, it is about the recovery of self-determination and self-respect, democratic governance, the rule of law and respect for human rights, all of which have been under attack by and within the European Union. It is in that light that we must consider the withdrawal agreement, which is more about European survival than anything else. As others have explained, it takes all the money on the table, but holds us in a customs union, potentially for ever, through the backstop, unless we accept whatever departure terms the EU may dictate. Withdrawal is indeed like a divorce. One side will be paying up indefinitely so that the other can keep up the style of living to which it is accustomed. We have no need to see the legal opinion that was extorted yesterday. It was obvious.

I do not believe the professions of wishing the backstop to be short term. The Joint Committee will be weighted towards Europe and unaccountable and its meetings will be confidential. It is unacceptable to have the ECJ involved in arbitration over whether we could leave the backstop. As I have said before, it is a court with a federalist mission, with judges on short-term contracts with vast salaries and pensions—a system that would be unacceptable here—who have recently made judgments, such as upholding the non-disclosure of MEPs’ expenses and the clamping down on gene-edited crops, that are simply wrong. It is no impartial arbiter.

The protocol locking the UK in without a right to leave is unique and unprecedented in trade treaty law. Will the Government persuade the PM and the EU to drop the backstop? Perhaps the Minister can assure us that the Vienna Convention on the Law of Treaties will enable us unilaterally to withdraw from the withdrawal agreement, as I believe it does, because, as that treaty specifies, withdrawal is possible unilaterally when it is contemplated and when there is, as there probably will be, a profound change of circumstances.

As far as Northern Ireland is concerned, it is sad that threats of terrorism should affect our policy, but my reading is that the agreement will make Northern Ireland subject to Dublin’s influence. It is likely that unification is the only answer to the inflexible approach now being taken. Perhaps that was always what was in the Republic’s mind. Northern Ireland’s democracy is being taken away; it will remain subject to EU law and control without having a vote, which is contrary to human rights. Either the EU should accept British bona fides on avoiding a hard border or the technology

that we know is available should be presaged in the agreement. Were there to be a clean break, the EU could force Ireland to conduct checks at the border. This might be the very shock needed to make Ireland find ways to arrange checks away from the border. A clean break might be better for Northern Ireland than this agreement.

As in a bad divorce, the financial obligations will continue long past any commitment of the parties to each other. The meal ticket for life encompasses our meeting commitments entered into in 2020 and 2021—a great temptation to the EU to commit to as many programmes as it can in this period while we will have no vote but have to pay. We will have to meet the pension obligations incurred for the lifetime of the pensioners and their dependants. All these sums will be calculated by the EU. The Union law referred to in the agreement includes the Charter of Fundamental Rights, in blatant contradiction to Parliament’s decision not to include that charter in the carrying over of EU law after March. All in all, our sovereignty has not been reclaimed. It is even more diminished, and the rule of law is compromised by the uncertain scope of articles referring final decisions to bodies outside this country and not under our control.

Would a second referendum help? Quite apart from the difficulties in arranging one and deciding what the questions should be, it would create further constitutional complexities. To hold another drains the last of its legitimacy; it means none is legitimate. A referendum’s legitimacy lies in its one-off quality—it is monogamy compared with bigamy or polygamy.

If we leavers were regarded as ignorant and misled in 2016, how can any voter in a hypothetical second referendum be regarded as competent unless they have read the 585 pages of the agreement, are able to choose between four or five options and have got to grips with the backstop, the customs union and the single market? In any case, it is likely that leave would win again, because if there is one element that even a staunch remainder will not stomach, it is being bullied into changing their mind under a barrage of state propaganda. The British voters remember how the Dutch and Greek nay-voters were treated, and up with this they will not put. Threats, inducements and speculative financial prognoses will not work.

We cannot accept an agreement about the future of the country that forbids us to leave without the permission of the other party. That is exactly the situation that leavers have been trying to escape for decades. We want to live under a safe, legitimate rule of law. If the Government cannot or will not drop the backstop and are not prepared to rely on the international law of treaties to assure a way out, we must have a clean break. That would be better than being chained to the decaying body that is the EU. We could abide by WTO rules and let the EU discover that its greed will ultimately lead to its losses.

1.06 pm

Viscount Astor (Con): My Lords, the most reverend Primate the Archbishop of Canterbury quoted the King James Bible when he spoke. I offer a quote from a rather different hymn sheet, as it were:

“Welcome to the Hotel California ... You can check out any time you like, but you can never leave”.

[VISCOUNT ASTOR]

That Eagles hit from 1976 rather aptly describes the one flaw in the Government's exit proposal. If you do not have the right to walk away, you are permanently held hostage in any negotiation. I wish we were not here. I voted to stay in the EU.

It is claimed the backstop will not be needed and agreements will be negotiated well before the end date. If that is the case, why is it there? Do any other EU treaties have no exit clause or threaten to break up a country? I think not.

In the last few weeks, we have seen how the Spanish raised the issue of Gibraltar. The French want a permanent right to fish in our waters. Among the 27, there are bound to be others who want to gain something from the negotiations—not necessarily from us, but by holding the negotiations hostage and blocking the agreement. Angela Merkel will not be in power. Junker and Barnier will have moved on. President Macron is hardly flavour of the month in France. Other EU Governments will have been replaced by new Administrations.

Some have claimed that we can just walk away from a treaty. I think not. I leave it to lawyers cleverer than I to deal with that proposition, as I am sure they will.

As we have heard during this debate, the Labour Party, the Lib Dems, the DUP, the SNP and many Conservatives will vote to reject the deal next week in the House of Commons. The Government will be forced to reconsider. A hard Brexit is not the only option. It is reported that the EU will negotiate. It is in its interests to do so. A hard Brexit is bad for the EU and terrible for us.

If the EU agrees for the backstop to be moved from the agreement to the political declaration, I believe the agreement could get through Parliament. The Irish would have to back down, but after all they have the most to lose from a hard Brexit. The Labour Party's six tests could be met.

There are other solutions; they are more complex and difficult to achieve. As we have heard and read, the Government could assert our rights under the EEA treaty to remain part of the EEA after Brexit, and apply to join EFTA. It would be a kind of Norway-plus. We could remain in the customs union. That could include services, which make up the majority of our GDP. Further negotiations on a Canadian-style deal could continue until the Irish border question is resolved. That probably passes Labour's six tests as well. We would keep our fishing, which removes the SNP's block. More importantly, it maintains the integrity of the United Kingdom, which is crucial for the DUP, as we have heard from the noble Lords. We would be outside the common agricultural policy and not subject to the ECJ—a core issue at the start of the negotiations. We would be subject to the EFTA Court for disputes and would have only limited mechanisms to restrict free movement, but that would be a small price to pay for not harming our economy or undermining the union.

It is not a perfect solution and has many disadvantages. I suppose it is a halfway house—Norway-plus—but it might command a parliamentary majority. Those in favour of Brexit would see it as the first stage of perhaps a Canadian-style deal. I am not in favour of

another referendum; it would be a last resort and it really would show the collective failure of government and Parliament. However, it would be difficult to argue against a referendum if there is no workable deal—if there is a logjam. Imagine the chaos of the referendum, with a pro-remain Prime Minister leading a largely leave party, and a pro-Brexit leader of the Opposition leading a largely remain party. The result would be utter chaos. We really should avoid that.

There may be other solutions, and I am sure there are better solutions than the ones I have suggested, but we should consider all options. We cannot allow Brexit fatigue to allow us to stumble exhaustedly into a bad outcome. Following the vote in another place next week, I hope the Government will seize the opportunity to go back to the EU and renegotiate the backstop. Doing so would make the deal workable and good for this country and generations going forward.

1.12 pm

Lord Liddle (Lab): My Lords, I first place on record my personal thanks to the clerks and advisers of the EU Select Committee, of which I am a member, and to the noble Lord, Lord Boswell, who chairs it extremely well, for producing an excellent analysis of the withdrawal agreement and the political declaration. We all owe them thanks. Of course, we now have to come to a political view of where we go next.

The diminishing band of supporters of the Prime Minister's deal are essentially repeating that Victorian ditty “cling to nurse for fear of something worse”. That is the best argument they think they can give. Last week, they were saying, “It's this deal, no deal or no Brexit”. After yesterday, it looks as though the choice is becoming, “No deal, no Brexit, or something we will cobble together in the next fortnight or so”.

The fact is that, despite months, or even years, of interminable debate in the Government, there is no clarity in this deal about the future economic relationship, or the security relationship. I do not know how the noble Baroness, Lady Evans, is able to describe it as presenting a clear vision; there is no clear vision. There is tremendous confusion about the Northern Ireland backstop. At one point we are told it is temporary and will never happen, then we are told it is wonderful because it gives us tariff-free access to the single market without any of the obligations. Let us be clear: what the EU is offering in the declaration is tariff-free access, but that is not the frictionless trade on which our manufacturers depend. The fact is that if there is any regulatory divergence we will face full inspections and border checks: this is what the Brexiteers call taking back control.

Some think that we can move to a Canada-plus agreement, but I think that is impossible. For the EU 27, that now conjures up a bad joke: Boris Johnson, in some cartoonist's pose, trying to have his cake and eat it. They are fed up with that. They have had their fill of this British attempt to have it both ways.

Is a better exit deal possible? There is a lot of talk about EEA membership at the moment. I am a bit of a sceptic as to whether it can be done now. If the Government—and indeed the Opposition Front Bench, I have to say—had come out for Norway as soon as we

had had the referendum, then the EU might have welcomed that with open arms and on the back of that solid economic foundation we could have built a strong vision of co-operation and partnership. But now, after two years having had to deal with this Government and all its divisions, they think that half the party opposite is not interested in a long-term relationship of co-operation and partnership, so the chance that they are going to pay heed to Michael Gove's idea of, "Let's have Norway for now", is frankly laughable.

The choice comes down to no deal or a referendum with a clear choice to remain as the only way to draw a line under this ghastly episode in our history. Some say that this would be a defiance of democracy. I do not see how putting something to the people is a defiance of democracy—they have a big deficiency of logic to explain. There may be a problem with people who voted to leave being disillusioned as a result of a second referendum that voted to remain. For me, that is a big reason why this next referendum, if it happens, cannot simply be a vote for the status quo: it also has to be a vote for a new deal for the left-behind communities of Britain and a new push for real reform in Europe—not the Europe we have, but the Europe that could be.

Some of my Labour colleagues worry about this because their constituents voted to leave. I want to address a few remarks to them. How can you meet an obligation to your constituents if you know that what you are voting for will damage their economic prospects, their life prospects, and destroy decent jobs? It will put a future Labour Government in a position where there is far less money to spend on vital public services. People say, what about free movement? Again, while there may be some short-term political benefit in low-skilled migration being cut, in the longer term, in an ageing society with a contracting workforce, this will mean fewer people to tend to the sick and helpless. How will we make our ambitious plans for the NHS work if we cannot get the labour to do the caring? We have to think again.

How can social democrats in this country betray all those young people, of all social classes, who see Europe as part of their destiny, who regard free movement not as a burden but as an immense freedom that they enjoy and who sense that the only way Britain can play its part in meeting the great global challenges of our time is by close co-operation with those neighbours who share our values and interests? The next days and weeks will test whether Labour remains true to its international heritage or whether it submits to an unthinking populism. I hope very much, and believe, that the representatives of the party of conscience and reform will rise to their responsibilities.

1.20 pm

Lord Wallace of Saltaire (LD): My Lords, there have been occasions in the past two years when I have reminded myself that the Vote Leave campaign's personnel overlaps with that of the Global Warming Policy Foundation, the TaxPayers' Alliance and other right-wing think tanks. After all, the Global Policy Warming Foundation has made its entire pitch by denying the

evidence in front of it, and the TaxPayers' Alliance by promising that taxes can be cut without cutting public services, while promising at the same time that spending on the NHS can be increased. I fear that the speech by the noble Lord, Lord Howarth, promising an orderly no-deal exit came into something of the same category. I recommend to him Sir Roger Gale's speech in yesterday's Commons debate. As a Kent MP, he was talking about the implications of an unavoidably disorderly no deal.

Now we have this deal in front of us, which is justified on three grounds: that it restores British sovereignty; that it will, eventually, allow the UK to negotiate independent trade deals with third countries; and that it will save us the money that we have contributed to the shared EU budget, from which the Prime Minister keeps implying we get nothing back. It does none of those things. British sovereignty cannot be absolute in an overpopulated and interdependent world. Since we joined the European Community two generations ago, our economy has become highly integrated with those of our neighbours and other industrialised countries and significantly foreign owned. We are dependent on the good will of American, German, Japanese, French and now also Chinese multinational companies for our continued prosperity. Our media and our football clubs also have a high proportion of foreign owners, personnel and players, yet Brexit campaigners insist that the overwhelming threat to British independence comes from the Court of Justice of the European Union. Escape from that, and we will be free and independent.

There is no evidence to support the myth that the UK on its own will be able to negotiate better trade agreements than those it benefits from within the EU, nor that there is a significant group of third countries committed to free trade in contrast to an allegedly protectionist EU. President Trump is actively undermining the WTO and threatening a trade war between the USA and China. Nor is there any likelihood that major trade deals can be completed within the short transition period we have negotiated with the EU. Margaret Thatcher understood that the creation of the single market offered Britain the world's largest open market for frictionless trade. This agreement's rejection of the single market rejects her legacy.

Nowhere in the British debate, before the referendum or since, has any supporter of Brexit admitted the link between Margaret Thatcher's Bruges speech of 1988, which I remember well, and our net contribution. She argued passionately that Prague, Warsaw and the other capitals of eastern Europe are also part of our historic European region. Since the Berlin Wall fell, a rising proportion of the payments that Britain, together with Germany, the Netherlands, France and the other net contributors, has put into the common budget has gone towards the stabilisation of eastern Europe, thus contributing to our own and our shared security. Let us remind ourselves that Norway has been contributing heavily as well. We have also contributed to shared resources, such as the EU technical agencies and the common research budget, from which we have benefited a great deal. As we prepare to leave, the Government are recruiting, at substantial extra cost, thousands of extra civil servants and setting up national agencies to

[LORD WALLACE OF SALTAIRE]

replace what we are losing, and if we really want to control our borders we also need a large increase in the Border Force and in maritime patrol.

Margaret Thatcher also cared deeply about Britain's place in the world. She understood that close relations with France and Germany, as well as with the USA, are central to Britain's international standing. Those who claim to be her successors today interpret "global Britain" as a country that turns its back on continental Europe and pursues independent partnerships with China, India, the Middle Eastern monarchies and, of course, the Anglo-Saxon world, rather than grounding our global role in our European context.

It is extraordinary that a Conservative Party that used to stand for a strong British foreign policy has failed to spell out any coherent alternative rationale for our international role in the two years of drift since the referendum. There is no vision and no strategy. The political declaration offers only vague phrases on any framework for future foreign policy co-ordination.

I follow the noble Lord, Lord Liddle, in arguing that the Government are neglecting the domestic problems that lay behind the English majority that voted to leave the EU. IPPR North yesterday published figures showing that public spending cuts across the north of England—the regions that voted most heavily for Brexit—have been much deeper than in Scotland, Wales, London or the south-east. The OECD last week showed that Britain and the United States are by far the lowest spenders on labour market training among industrial democracies, which means we continue to rely on recruiting immigrants directly to fill skilled positions. The Chancellor nevertheless recently repeated his promise that taxes will be cut further, following the small-state ideology of the libertarian right and the TaxPayers' Alliance—from which, I was surprised to read, the Leader of the House has apparently recruited her new spad.

If we are to bring the country back together, we need a long-term strategy to invest in this country's most deprived towns and regions, whatever the outcome of our current political crisis over the EU. If we are to pursue the reconciliation for which the most reverend Primate the Archbishop of Canterbury rightly calls to heal the wounds that the 2016 referendum exposed, we have to tackle inequality, poverty and social divisions within this country. It will be easier to achieve that reconciliation if we sustain the foundations for Britain's long-term prosperity and security within the EU rather than through this flawed deal.

1.26 pm

Lord Bew (CB): My Lords, I rise to address the vexing Northern Irish backstop issue. I should perhaps first say that I entirely accept the Government's good-faith desire to deal with the difficulties created for the Irish Republic by Brexit—in particular, their desire to avoid a hard border in Ireland.

The Government indicated before last Christmas that there are no circumstances in which they would create anything that might be described as a hard border in Ireland—none at all. There are no circumstances even now, including a no-deal Brexit. We have greatly

exercised ourselves, not so much to prevent a hard border on our side but to ensure that the EU will not tell the Irish Government, "You must establish a border on your side". Maybe we were right to do it, but we should be absolutely clear that that is what we have been doing. We have put ourselves through a lot of pain to do it, and I absolutely accept it is right to be sensitive to the needs and problems created for Ireland by Brexit.

We ought to be clear about exactly what we have done and why, and not talk in too general terms. Even the noble Baroness the Leader of the House this morning made another, more generalised statement that this is being done to save the Good Friday agreement. She knows my admiration for her, and I have spent significant time with her. Having grown up in Northern Ireland, I know her understanding of and sympathy for Northern Irish issues. But there is one great problem with the backstop: it does not protect the Good Friday agreement. The reason is twofold. First, if people do not have democratic control upwards—the Matthews European Court of Human Rights case raised this issue in the context of Gibraltar in 1999—you have a problem. I turned to the Attorney-General's advice this morning to read if there was any reference to the Matthews case, which clearly bears on the situation envisaged in the backstop. There is no such reference.

The Good Friday agreement is profoundly based on a bottom-up approach to north/south regulatory arrangements, not a top-down approach. The backstop is a top-down imposition on how Northern Ireland matters will be handled in future. There is a huge gap between the Good Friday agreement and the backstop; there is no avoiding it. I was myself much involved in the period between 1993 and 1998 in the struggle for the Good Friday agreement, and I spent much ink writing newspaper articles to convince the unionist community that you could have a north/south arrangement that did not automatically drag you into the orbit of the Irish Republic—that there were areas in which you could co-operate pragmatically, and that this would work. The great achievement of the Good Friday agreement since 1998 has been that these areas have grown without controversy; they have created little tension, and what tension we have had is all to do with other issues such as decommissioning and the implementation of the Good Friday agreement. It is quite remarkable how successful this has been. The objective was to end the cold war between the north and the south and we did so, but that is not the model in the backstop. It is absolutely clear that the model of the Good Friday agreement is not the model in the backstop.

We could look at this another way and talk about the disappearance of paragraph 50 from the text of the December agreement. The Prime Minister, even after Salzburg, explicitly referred to her support for paragraph 50, which places the Northern Ireland Assembly at the centre of north/south regulatory developments and the relationship with the EU. But it is not in the final version of the report. You could say that there is a category problem here: that EU law is dealing in a clunky way with nation states, that it has difficulty dealing with the subtleties of political agreements in Northern Ireland and so on, and that the language is

creating a problem. You could say that the many references in the document to defending the Good Friday agreement in all its parts must mean that people understand that at its centre, the agreement says that, on issues such as north/south regulatory alignment and harmonisation, you must have “the specific endorsement of the Northern Ireland Assembly”. You could say that they know all that is there, and that is what they mean by supporting all aspects of the Good Friday agreement. You could say that they have read paragraph 17 of the Good Friday agreement, which says explicitly on the matter of EU issues that the Northern Ireland Assembly must play the key role in determining how this develops. You could say it—unless you have read what the backstop on agriculture actually says.

Article 10 of the backstop provides that the EU law on agriculture and environment should apply in full in Northern Ireland and that to enforce EU law, neither the UK Government nor the Northern Irish Government are allowed to carry out checks on farming in Northern Ireland. That is precisely the area, by the way, where the agreement has worked so well up to now—protecting animal health on the island of Ireland. It was one of the models, and it has worked like a dream. Now, however, the British Government are explicitly not allowed to carry out checks if there could be an animal disease such as mad cow disease on a farm in Ballymena, for example, and nor can the Northern Irish Government. That is how the agreement is interpreted in Northern Ireland. The language is absolutely explicit: it is repeated at page 429 of the withdrawal agreement and in two or three other places. Why it is there, I have no particular idea.

To be honest, the hope is that the EU does not care too much about this point, but it is a sign that we are getting very close to infringing the basic principles of the agreement. You can defend this on lots of grounds, some of which I absolutely accept, but you cannot defend it on the grounds that it is defending the Good Friday agreement. It is constructed on an entirely different principle: top-down, not bottom-up. This is a huge difficulty that will have to be attended to; otherwise, we lose the template of the Good Friday agreement, which all parties in Northern Ireland accept. Even now, when we cannot make it work, everybody accepts that that is the basic template for a settlement. If we throw it away, which will be the effect of going along these lines, we will be taking a massive risk with the stability of Northern Ireland.

I read the Attorney-General’s legal advice this morning in the hope that some of these issues would be addressed. It is extremely interesting legal advice but nothing is said about the implications of the 1999 Matthews case—the Gibraltar case—which raises these issues. Nothing is said about the obvious conflict between the core principles of the agreement—the text of the agreement—and the principles in the withdrawal agreement on the backstop. I really hope that the Minister, when he concludes, can give me clarification and reassurance on this matter, but on the face of it, there is a conflict.

1.34 pm

Sitting suspended.

Syria Question

3 pm

Asked by **Baroness D’Souza**

To ask Her Majesty’s Government what plans they have to support and provide resources for reconstruction programmes in Syria.

The Minister of State, Department for International Development (Lord Bates) (Con): My Lords, while the conflict in Syria is ongoing, the UK’s focus is on delivering life-saving humanitarian aid to those affected. At the same time, we are making every effort to achieve a political settlement that ends the suffering and helps provide stability for all Syrians in the wider region.

Baroness D’Souza (CB): I thank the Minister for his Answer. The needs in Syria today are both huge and urgent. More than 50% of medical and educational facilities are in ruins, as is some 30% of the housing. But some organisations are operating in Syria outside the Assad regime; for example: MSF, the White Helmets, Syria Relief and the umbrella body UOSSM. In addition, the ICRC, which holds a long-standing tradition of neutrality and therefore responds to need wherever it finds it, is doing what it can to ensure continued access to essential services including, in some areas, infrastructure services. These bodies cannot always tick all the boxes that DfID requires to release aid, but they do provide accountability through multiple networks at ground level. Will the Government commit to some flexibility in allowing aid via these channels, so that what infrastructure remains can be maintained and further deterioration prevented?

Lord Bates: Certainly I recognise the figures that the noble Baroness outlined about the damage to infrastructure, which were set out in the World Bank’s *Toll of War* report. I can also confirm that British taxpayers have contributed some £2.71 billion since 2012, making us the second-largest contributor—and this our largest response to any humanitarian situation. When funding goes into a conflict situation, there is a well-established protocol that extra layers of due diligence and tests are needed. If that is not the case, funding to provide humanitarian aid could be diverted into perpetuating the very conflict that we are seeking to resolve. That is the reason that the restrictions and tests are so strict, but we continue to keep the discussions under review and will hopefully work with respected partners in the future.

Lord Anderson of Swansea (Lab): My Lords, estimates of the costs of reconstruction range from \$250 billion and \$1 trillion. As Russia is responsible for much of the damage, directly and indirectly, has there been any indication at all that it is prepared to pay its share of the costs of reconstruction?

Lord Bates: There has not been any indication of that and, of course, the conflict is ongoing. It is vital that all parties to the conflict bring their efforts to bear to stop the ongoing suffering. We believe that, while

[LORD BATES]

the suffering and conflict continue, there cannot be a meaningful discussion about how to begin the reconstruction, because that requires a Government we can deal with, and we do not have one at the moment.

Baroness Sheehan (LD): What assurances do the Government have that funds going to programmes run by the UN via Damascus are carried out according to core principles of development and transparency, and do not benefit the Syrian regime's cronies?

Lord Bates: As I was saying, that is kept under review by DfID, by the Independent Commission for Aid Impact and by the National Audit Office. ICAI produced its report in May this year. It found that we were doing what we could in very difficult circumstances. The reality on the ground is that the checks that have to be made are being made in a context that is not Switzerland but Syria in the middle of a conflict situation. It is very difficult to get a 100% level of assurance while still helping people in need.

The Lord Bishop of Coventry: My Lords, given the powerful words of the most reverend Primate the Archbishop of Canterbury and His Royal Highness the Prince of Wales at yesterday's service in Westminster Abbey to mark the contribution of Christians to the Middle East, and in particular His Royal Highness's moving account of Christians returning to Syria to rebuild not only their homes and schools but their gifts to society—schools, orphanages and hospitals—can the Minister give an assurance that responsible organisations that provide support for returning Christians and other minorities also have the support of the Government? Will the Minister join me in commending the Muslim children who will be joining Christian children to light 1 million candles on New Year's Day as a sign of their hope for their country and for a shared future together?

Lord Bates: I am very happy to do that. It is indeed a message of hope in this situation. I had the opportunity yesterday to meet some of the clergy and patriarchal representatives who were visiting that initiative. I pay tribute to all involved in organising it. Their stories of what was going on on the ground and what they had gone through were quite horrific and a testament to their ability to keep their light flickering in the darkness that surrounds them.

Baroness Cox (CB): My Lords, will the Minister ensure that adequate aid is given to the areas controlled by the Syrian Government? Many thousands of Syrians of all faiths wish to return to their homes in these areas because they are now safe from jihadist attacks, but they desperately need help with reconstruction. On a related issue, given that massive amounts of UK aid money has been given to jihadist-related organisations in Syria, as illustrated by the BBC "Panorama" programme, will the Government publish information on who are the recipients of UK taxpayers' money?

Lord Bates: I must say to the noble Business that I completely reject the accusation that funding has been going to jihadist organisations. That is not borne out

at all by the investigations that we have carried out. We have very strict procedures in place. But it is a terribly difficult situation and above all we need all parties to put maximum pressure on the parties to the conflict to rekindle the UN Geneva process so that we can move towards a credible political solution.

Lord Collins of Highbury (Lab): My Lords, I very much welcome the Minister's response in relation to ensuring ongoing humanitarian support. In this conflict that has to be our number one priority. Can the Minister update the House, particularly on the Rukban camp on the Jordan border, where we were able to get aid and support in at the beginning of November? What is the latest situation and what are we doing with the Government of Jordan to ensure that support is given also to those who cross the border?

Lord Bates: It is a particularly difficult situation there. One humanitarian aid convoy got in in November, but that is nowhere near enough to provide for the people there. We are seeking to remind the Syrian regime of its obligations under international humanitarian law to allow access. We are also working with Jordan and as part of that we will be hosting a Jordan conference in London on 28 February next year, where we hope to make progress on a whole range of those issues.

Diesel Emissions

Question

3.08 pm

Asked by **Baroness Randerson**

To ask Her Majesty's Government what steps they are taking to raise awareness among the general public of the health impacts of emissions from diesel vehicles.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord O'Shaughnessy) (Con): My Lords, the Government raise awareness of the effects of air pollution, including from diesel vehicles, via the UK Air website and through supporting activities such as the annual clean air day. Furthermore, the Department for Transport's Road to Zero strategy contains a range of policies aimed at reducing the use of diesel in transport and therefore the harms that flow from it.

Baroness Randerson (LD): My Lords, despite the work that the Minister has outlined, many people are still not aware of this problem. We are condemning young children to a lifetime of ill health because of this invisible threat, and they are particularly vulnerable to the effect of emissions during the school run. Will the Minister commit to having discussions with the Department for Transport to ensure that emission levels outside schools are tested frequently and that suitable warning signs are displayed when necessary, and will the Government introduce a ban on engine idling for vehicles waiting outside schools?

Lord O'Shaughnessy: I absolutely agree with the noble Baroness that this is an issue of concern. It is a concern to all of us and it is certainly a concern to

those of us with school-age children in urban areas, who experience the pollution every day. First, the UK has made progress on reducing pollutants, although clearly there is a long way to go, and in specific urban areas the problem is much worse than in others. Secondly, I point the noble Baroness to the clean air strategy, which will be published at the end of this year. It will contain a range of measures aimed at reducing pollution and, as a consequence, the public health damage that comes from it. I shall certainly feed in her comments about the importance of targeting these benefits on schools.

Baroness Wheeler (Lab): My Lords, earlier this year the World Health Organization Science Panel reclassified diesel exhaust as a carcinogen, underlining that many cases of lung cancer could be connected to the contaminant and that exhaust could become as important a public health hazard as passive smoking. The European Public Health Alliance has pointed to the urgent need to develop research into the possible impact on other health conditions such as diabetes and dementia. Can the Minister tell the House what action is being taken in response to the WHO declaration and what research funding and programmes are in place to address the growing concerns on this issue?

Lord O'Shaughnessy: The noble Baroness is quite right: it is one of the biggest public health problems that we face. It is associated with around 30,000 deaths a year, and that gives us a sense of the scale of the problem. I mentioned the clean air strategy but two specific important pieces of research are also taking place. One is called the Exploration of Health and Lungs in the Environment, which is a London-based study looking at the links between pollution and children's lung health. The Department of Health and Social Care has also commissioned a review of adverse birth outcomes and early-life effects associated with exposure to air pollution. Therefore, we take this problem seriously and are commissioning research to know not only the consequences but what to do about it.

Lord Krebs (CB): My Lords, it is my understanding that much of the responsibility for delivering the clean air strategy will be delegated to local authorities. Can the Minister confirm that local authorities will be given both the necessary legal powers and the resources to deliver that strategy?

Lord O'Shaughnessy: The noble Lord is quite right that local authorities will have a critical role. The clean air strategy is supported by the Department of Health and Social Care and Public Health England, but it is Defra's responsibility. I am not able to say any more than that at the moment, but it is clearly a very important strategy being led by the Government, and we will make sure that we support local authorities to do their bit.

Baroness Jolly (LD): As the noble Lord said, local authorities are being supported by Public Health England in reducing their pollution levels. Can the Minister tell the House which local authorities are non-compliant and whether there are any sanctions for this, and what form the support from Public Health England takes?

Lord O'Shaughnessy: We provide a range of support. In fact, my colleague, the Parliamentary Under-Secretary of State for Public Health and Primary Care, wrote to directors of public health in October to remind them of their responsibilities and to make sure that they focus on this issue. Just yesterday, our Deputy Chief Medical Officer held a round table with stakeholders and others in local government to think about how we can improve policy and communicate locally with people to make sure that they understand the consequences of things such as idling and other unnecessary uses of diesel.

Lord Brooke of Alverthorpe (Lab): My Lords, I welcome the news that there will be research in London. Will any assessment be made of the number of deaths and the damage to health in London due to Boris Johnson's refusal to apply the congestion charge to west London?

Lord O'Shaughnessy: The important issue is that, whoever holds the post, the Mayor of London has the power to take action. It is notable that that has not been reinstated by a Labour Mayor of London, so maybe there was something in that decision in the first place.

The Lord Bishop of Carlisle: My Lords, does the Minister agree that, while electric cars are being developed, trees, plants, shrubs and especially hedges can make a very useful contribution to the absorption of harmful emissions, as well as having a therapeutic value for those who grow them and those who enjoy them? Can he tell us of any plans the Government may have to encourage the greening of our towns and cities?

Lord O'Shaughnessy: The right reverend Prelate makes an excellent point, with which I completely concur. We are making good progress in increasing the number of ultra-low emission cars. There is a huge amount that we can do to green our cities. I know that this is a priority of both the Ministry of Housing, Communities and Local Government and Defra. They will have specific details, and I will write to him with an answer.

Baroness Hooper (Con): My Lords, harmful emissions are caused by traffic in queues, particularly in London, as a result of the new bicycle lanes, but also as a result of the inordinate number of roadworks, which are taking place in an unco-ordinated way. Can the Government find any research to prove these results, and can they do anything about the co-ordination of roadworks?

Lord O'Shaughnessy: I shall take that point to my noble friend the Minister for Transport, and I am sure that she will have an excellent answer, as she does for all these questions. I am not sure that I agree with my noble friend on the point about bicycle lanes. They are well-used, and bicycling is very good for your health.

Religious Hate Speech Question

3.16 pm

Asked by **Lord Pearson of Rannoch**

To ask Her Majesty's Government whether section 29J of the Public Order Act 1986 remains in force, and if so, what is the basis in statute for the offence of religious hate speech.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, Part 3A of the Public Order Act 1986 relates to hatred against persons on religious or sexual orientation grounds. Section 29J provides that Part 3A should not be interpreted in a way that prohibits discussion or encouragement to cease practising of particular religions or beliefs. There is no criminal offence in the UK of hate speech.

Lord Pearson of Rannoch (UKIP): My Lords, I thank the Minister for her reply. However, I fear that we are on our way to losing our freedom of speech in this area. I repeat a question I put a year ago, which the Government refused to answer: namely, whether a Christian who proclaims that Jesus is the only Son of the one true God can be arrested for hate speech if a Muslim feels insulted and complains to the police. By the same token, can a Muslim be arrested for preaching the supreme divinity of Allah if a Christian takes offence?

Secondly, can the Government assure your Lordships that they will not follow a new judgment from the Strasbourg court, which upholds Austria's criminalisation of a lady who said that Muhammad was a paedophile? Or are we to have a new blasphemy law that prohibits discussion of Islam?

Baroness Williams of Trafford: My Lords, the noble Lord asked me a hypothetical question in an unspecified situation. The CPS and the police agreed definition of hate crime is used for the purposes of identifying and flagging only. The definition is: any criminal offence which is perceived to be motivated by hostility or prejudice based on a person's actual or perceived disability, race, religion, sexual orientation or transgender identity. When flagged as a hate crime, the police will be satisfied that an offence has been committed and will then investigate evidence in support of the appropriate charge, as well as the aggravated element of hostility. It would not be appropriate for me, as I have just said, to confirm whether this is an example which would constitute a hate crime. That would be an operational decision both of the police and the CPS based on the specific circumstances.

On the Austrian situation, the judgment does not raise any issues which require any further consideration by this Government at this time.

Lord Rosser (Lab): I was hoping that the noble Lord, Lord Pearson, was going to tell us that, like Mr Farage, he now found UKIP so awful that he, too, was leaving its ranks. Section 29J of the Public Order Act 1986, which was added, I understand, by this House during the passage of the Racial and Religious Hatred Act 2006, states:

"Nothing in this Part shall be read or given effect in a way which prohibits or restricts discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents, or of any other belief system or the beliefs or practices of its adherents".

In the light of those references to "insult or abuse", do the Government intend to reconsider the appropriateness of those two words in Section 29J in the current climate, which seem to conflict to some degree with the objective of the Racial and Religious Hatred Act 2006 and its protection for individuals from hatred and the fear of violence and harassment?

Baroness Williams of Trafford: My Lords, we need to be careful to balance the two issues. I know why the noble Lord picked "insult" and "abuse" because they sound quite strong words, but insult and abuse and hatred are quite different things. I take the noble Lord's point: on the face of it, they seem quite strong words.

Lord Paddick (LD): My Lords, I was the police spokesperson after the 7 July bombings in 2005 in London when 52 innocent people lost their lives. I was asked in a press conference whether I felt that it was the result of Islamic terrorism. I said that I thought that the phrase "Islamic terrorism" was a contradiction in terms. I went on to say that I believe that the UK is a much better, more law-abiding country because we have a strong Muslim community. I believe that now as much as I did then. Does the Minister agree?

Baroness Williams of Trafford: I do agree with the noble Lord that the conflation of Islamism and Islamic is widespread. Not only should we understand where the two terms come from—Islamism, of course, comes from the collapse of the Ottoman empire—but that Islam itself is a peaceful religion and Muslims in this country contribute to the variety and diversity of our country.

Lord Singh of Wimbledon (CB): My Lords, does the Minister agree that all faiths should be treated equally, and does she deplore the present practice of resources going to those who shout the loudest? There are no comparative statistics on hate crime for different faiths.

Baroness Williams of Trafford: I agree with the noble Lord that all religions should be treated equally. The premise of some of our hate crime legislation absolutely underpins that equality in society. No one should feel that hate should be meted out on them because of their religion, the colour of their skin, their sexual orientation or their disability.

Lord King of Bridgwater (Con): Does my noble friend agree that there is now far too much hatred in the world, affecting all ages, such as the tragic incident that occurred recently with the Syrian refugee? The total pervasiveness of social media is an opportunity to spread hate in different directions. Will she comment on the approach that could be taken to tackle that particular challenge that we now have?

Baroness Williams of Trafford: My noble friend raises an important question about the proliferation of hate crime online; of course, what is a crime offline should also be a crime online. We will be taking our online harms White Paper through Parliament shortly. He is absolutely right to point out the case of that poor Syrian boy, but I should also like to point out that sometimes out of such awful situations comes great kindness. I understand that the British public have raised a lot of funds for that family to support them through the terrible time that they have had.

Carbon Emission Reduction Targets

Question

3.23 pm

Asked by *The Lord Bishop of St Albans*

To ask Her Majesty's Government what steps they are taking to encourage oil and gas companies to link executive pay to carbon emission reduction targets.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Henley) (Con): My Lords, the Government welcome the announcement by Shell that executive pay will be linked to carbon reduction targets. While executive pay is a matter for the company's shareholders, the Government have given shareholders new powers to hold companies to account on pay, including a binding vote on the directors' remuneration policy.

The Lord Bishop of St Albans: My Lords, I thank the Minister for his Answer and I agree that the announcement this week by Royal Dutch Shell is to be welcomed, though it has come after years of investor pressure, not least from the Church Commissioners and the Church of England Pensions Board. Her Majesty's Government have stated their support for the Task Force on Climate-Related Financial Disclosures. Can the Minister tell us what practical things Her Majesty's Government are doing to encourage that, and in particular what assessment they have made of whether it should become compulsory?

Lord Henley: My Lords, we believe that it is important that executive pay should be a matter for the companies involved. That is why we leave it to them and why we have given powers to shareholders in the Enterprise and Regulatory Reform Act 2013 to insist, as I said in my original Answer, that they have a binding vote on directors' remuneration policy. In striving to meet carbon reduction targets, the Government will continue to encourage others to do the same, but that must be a matter for the companies.

Baroness McIntosh of Pickering (Con): My Lords, does my noble friend agree that this is not just about the principle of executive pay, but that we should all be committed to reducing carbon emissions? How does my noble friend square the fact that if fracking

continues in the United Kingdom, we will increase our greenhouse gas emissions and therefore create more carbon emissions?

Lord Henley: My Lords, I do not agree with my noble friend. I believe that there is a very strong case for encouraging shale gas extraction not only in terms of energy security but also in terms of reducing our carbon emissions. It will lead to less use of other, more harmful sources of energy. It can play a role in both reducing carbon and increasing our energy security.

Lord Teverson (LD): My Lords, I was delighted to learn that the Government have carbon targets for their whole estate under their Greening Government Commitments. Does the Minister agree that, given his welcome for this scheme, Secretaries of State should have their pay varied according to their performance against those greening commitments?

Lord Henley: I do not have absolutely at my fingertips how well each department across the government estate is doing in terms of the Greening Government Commitments, but I can assure the noble Lord that this has been going on through Governments for many years; I remember it happening as long ago as in the 1990s. The Government are moving in that direction. Whether the pay of Secretaries of State should be involved in this is a matter beyond my pay grade.

Lord Forsyth of Drumlean (Con): My Lords, is it possible that the Church of England might link the stipends of vicars and bishops to making the heating systems in their churches more efficient and greener?

Lord Henley: I am sure that the Benches represented by the right reverend Prelates, which are particularly well occupied today, will have noted what my noble friend has had to say.

Viscount Ridley (Con): My Lords, research by NASA and at Peking University in Beijing, among others, has shown conclusively that there is now roughly 14% more green vegetation on the planet than there was 33 years ago and that 70% of that is the result of extra carbon dioxide in the atmosphere. Should oil and gas executives be rewarded for increasing the growth rates of forests?

Lord Henley: My Lords, I am going to leave the pay of oil and gas executives to their own shareholders, and what my noble friend has said is something that they can take into account. We will continue to try to meet our own carbon reduction targets and also note the comments of my noble friends. We are making enormous progress and are on track to meet our second carbon reduction target. We are the fastest decarbonating country in the G20. Moreover, as I said earlier, we will look at our energy security and other matters.

Lord Stevenson of Balmacara (Lab): My Lords, given that the long-term gain must be to try to get to net zero emissions—by approximately 2050—there is a lot to play for in this area. I think that we should all congratulate the Church Commissioners and the Church of England on making sure, through their pressure,

[LORD STEVENSON OF BALMACARA]
that at least one company recognises that it has a responsibility, even if it is a rather novel way of doing it. Indeed, if the Minister has any worries about what other schemes we might have for capping executive pay, I have many of them up my sleeve which I could share with him. However, surely the main point here is that this has to be an all-round effort. What are the Government going to do about affecting investors whose short-term decisions often ruin the plans that they might have?

Lord Henley: My Lords, I believe that the Government have done the right thing in giving the power to the shareholders, who are the investors. They now have the power to look at their executive pay.

Scottish Election (Date) (2020) Bill [HL] *First Reading*

3.29 pm

A Bill to make provision for the next election to the Scottish Parliament to take place in 2020.

The Bill was introduced by Lord Foulkes of Cumnock, read a first time and ordered to be printed.

Brexit: Withdrawal Agreement and Political Declaration

Motion to Take Note (1st Day) (Continued)

3.30 pm

Lord Goldsmith (Lab): My Lords, this has been a rollercoaster of a week, not just from a political point of view but from a legal point of view. I say at the outset that I have some sympathy for the position of the Attorney-General. No one who has not done that job will appreciate how difficult it can be. He expressed himself robustly and with great confidence in another place; it was a stupendous performance, for those who had the privilege of watching it.

However, the point that I want to dwell on in my few comments is that, ultimately, what the Attorney-General gave was not a legal opinion. The key issue with which we—and, I suggest, all noble Lords—are concerned is: what is the prospect that, if we go into this deal, we will be able to exit from the backstop with a degree of confidence and reliability? He gave an assessment born of confidence and a strong conviction in the Government's political stance. He is, of course, fully entitled to that view—but at the end of the day it was a political view, not a legal view.

Now, since the disclosure this morning of the Attorney-General's advice to Cabinet on what the legal position actually is, in his opinion, we have a much clearer view. That is what I want to turn to first. The document is revealing. The key point I wanted to make, even before I saw it, was that in legal terms, entering into this deal would potentially tie us indefinitely into the backstop arrangements. There is no legal route to exit from the backstop: only a political agreement between the EU and the UK would do that.

That view is now endorsed emphatically in the Attorney-General's advice to Cabinet, and I commend that document to the House. He says, in paragraph 30, that,

“the current drafting of the Protocol, including Article 19”—
which is now Article 20—

“does not provide for a mechanism that is likely to enable the UK lawfully to exit the UK wide customs union without a subsequent agreement”.

Noble Lords will note that he goes on to say:

“This remains the case even if parties are still negotiating many years later, and even if the parties believe that talks have clearly broken down and there is no prospect of a future relationship agreement”.

In his Statement to the other place, the Attorney-General also said:

“If the protocol were to come into force, it would continue to apply in international law unless and until it was superseded by the intended subsequent agreement”.—[*Official Report, Commons, 3/12/18; col. 547.*]

I agree with that. There is no unilateral right to terminate this arrangement.

I want to make three points about the advice that your Lordships and the other place have now seen. First, it is now clear that certain of the makeweight legal arguments put forward to suggest another conclusion are without substance. That is what I believed and intended to put before the House, but the Attorney-General's opinion makes it abundantly clear.

In particular, first, it had been suggested that reliance could be placed on the statements that the protocol is intended to be “temporary”. It is now clear that, as I believe, that is misplaced. As the Attorney-General says in paragraph 16 of his advice to Cabinet:

“It is difficult to conclude otherwise than that the Protocol is intended to subsist even when negotiations have clearly broken down”.

He goes on to say that,

“despite statements in the Protocol that it is not intended to be permanent, and the clear intention of the parties that it should be replaced by alternative, permanent arrangements in international law, the Protocol would endure indefinitely until a superseding agreement took its place, in whole or in part, as set out therein”.

I emphasise the words “would endure indefinitely”, because they are critical to this analysis—and they are right. The protocol makes clear—for example, in Article 1.4, and in the preamble—that only a subsequent agreement will bring it to an end.

Secondly, as the Attorney-General said, the review mechanism in Article 19, now Article 20, adds nothing. It states that by mutual consent—that is, agreement of the EU and the United Kingdom—the protocol could be brought to an end, but that is what international law already provides. The suggestion has been made, particularly in this House by the noble and learned Lord, Lord Keen, that the arbitration and dispute resolution provisions would kick in to create a different situation. Noble Lords may recall that I was sceptical about that and challenged that proposition when it was raised in this House.

The House can now see that the view of the Attorney-General is the same as mine. I refer in particular to paragraphs 27 to 29 of his advice to the Cabinet. He makes the point, with which I respectfully agree, that,

“it is extremely difficult to see how a five member arbitral panel made up of lawyers who are independent of the parties would be prepared to make a judgment as political as whether the Protocol is no longer necessary, in the absence of the consent of the parties”.

In paragraph 28, he says that there is no other mechanism for adjudicating a dispute over the absence of an agreement and confirms that there are no “remedies” for an absence of agreement other than those specified “expressly” in the withdrawal agreement, which,

“does not include termination of all or part of the Withdrawal Agreement”.

Noble Lords may recall that, in answer to me, the noble and learned Lord, Lord Keen, confirmed that the protocol does not contain a power in the arbitral panel to substitute an agreement that the parties have not themselves made.

Thirdly, the noble and learned Lord placed much emphasis on the duty to use best endeavours, while the Attorney-General describes the duties to act in good faith and to use best endeavours as “forceful and precise”, acknowledging that,

“that could not require the parties to a negotiation to set aside their fundamental interest”.

In other words, the parties could not be proven to have breached those obligations,

“in the absence of clear and convincing evidence of a proper motive and wilful intransigence”.

I would add that Article 184 makes it clear that, in any event, the agreement is subject to the “respective legal orders” of both parties. Reliance has been placed on a number of authorities in the commentary provided by the Attorney-General, which do not contradict what I just said.

Before I conclude on what that all means, I invite noble Lords to note that the advice also seems to confirm that there will be different regulatory regimes in Great Britain and Northern Ireland, which will require customs and regulatory checks and controls. I invite attention to paragraphs 7 and 8 of the Attorney-General’s advice.

Where does this all lead? I respect the noble and learned Lord the Advocate-General—I have had the pleasure of appearing with him in court—but that does not mean that legal arguments we might be prepared to advance are a sound basis on which we should put the future of our country. If there is an agreement between the EU and this country, we will exit but, as noble Lords know, that would require unanimity. That means that any state, whether it is France because of fishing rights or Spain because of Gibraltar, could prevent such an agreement coming into effect.

One may be prepared to put reliance aside in the political hope that this will all be unnecessary. On an earlier occasion, the noble Lord, Lord Bridges, referred to the dangers of going on a “gangplank into thin air”. If any Members of the House or another place think that there is a legal gangplank made of solid legal planks to get us there, I respectfully advise them that that is not the case. The gangplank of legal planks is simply a hologram. I am not prepared to trust my or my country’s weight to it and I advise noble Lords not to do so either.

3.38 pm

Lord Hodgson of Astley Abbotts (Con): My Lords, it is a privilege to speak after the noble and learned Lord, Lord Goldsmith. Obviously, his distinguished record as a former Attorney-General is particularly relevant to the present situation, and enables him to speak with authority. Probably more than anybody in the country, he has had first-hand experience of the extraordinary pressures placed on Law Officers of the Crown in the performance of their duties at significant points in our nation’s history.

In his remarks, the noble and learned Lord expressed a degree of certainty that I am not sure my noble and learned friend Lord Keen would agree with. I am not going to get into a lawyers’ discussion, because I do not want the House to think that I have certainty on these issues. I am assailed by doubts on this matter on every side, regarding not just the legal issue but the transaction itself. Probably the only certainty that I had when we set out on the Brexit road was the belief that, at the end of the negotiations and when the transaction was revealed, both sides would say that it was a bad and inadequate deal. A lifetime in the City has taught me that at the end of fiercely fought negotiations, the pre-eminent emotion among participants is that of disappointment that negotiations could and should have been handled better. In the City, it is known as buyer’s remorse or seller’s remorse. The critical question is not “Is this a good deal?”, but “Is this a good-enough deal?” I now turn to that judgment.

First, the ending of free movement of labour is clearly an important and advantageous outcome. The House may be aware of my interest in the demographic projections of 7 million to 9 million more people in the UK 20 years from now, requiring us to build three cities the size of Manchester. I fear that that will impose strains on our society, both economic and societal, and may undermine our social cohesion. The most reverend Primate the Archbishop of Canterbury, in his remarks this morning, urged us to look to the long term. This issue is nothing if not long-term. It is perfectly true that the Government have not done much to close down or control arrivals from outside the EU, over which they already have complete control. However, a key result of this negotiation is that we now have a tap which can regulate the flow of labour into this country from the EU, and provided we have the political will, we can turn it.

The second issue is the rolling-back, not immediate elimination, of the role of the European Court of Justice. This country, having been a member of the EU for 40 years, can reasonably be expected to have to allow a role for the ECJ in UK-EU dealings, but it is equally not unrealistic to expect them to become attenuated over time. Ab initio, our Supreme Court will have an enlarged area of competence over which it can deploy British common law principles.

My third point relates to the Irish border and the backstop, which the noble and learned Lord focused on. The Hodgsons come from County Galway in the Republic. I can recall, in the bad old days, cousins who were serving in the British Army being told by the Gardai that it was best if they did not come home on leave. I need no lessons on the significance or sensitivity of the Irish border question. In part, the Irish border

[LORD HODGSON OF ASTLEY ABBOTTS]
question has assumed some greater short-term significance because of Irish domestic political issues—the struggle for control of Fine Gael between the Taoiseach Leo Varadkar and his Foreign Minister Simon Coveney.

However, leaving that aside, it is a question of trust—a commodity which, at least at present, is in short supply. As I understand it, less than 10% of Anglo-Irish trade goes by the land border. Over 90% going by sea will be handled no differently in the future under the new arrangement from trade with France or Holland. For this relatively small volume of land trade, a combination of modern technology and trusted trader status could and should provide an answer. I say “could” because it requires an element of good will. Quite understandably, some of us fear that the UK will be stuck in a halfway house with the EU’s hand on our windpipe. However, there are not inconsiderable reasons as to why the EU should try to reach an accommodation on this issue, as my noble friend the Leader of the House mentioned in her opening remarks. After March 2019, the UK will no longer be a member of the EU, so it will not contribute to the EU budget, but it will still enjoy frictionless trade inside the customs union. Might this situation, without too much exaggeration, be described as having your cake and eating it too?

This question of trust underlies the whole next stage of our disentanglement. The EU is faced with a number of existential threats: to the euro and to itself. What does this foretell about the next stage? Clearly, we cannot be seen to be short-term winners, but while for institutional reasons of self-preservation the Commission may continue to take a hard line, once the initial withdrawal agreement is out of the way the emphasis of member states may shift. I notice in my contacts with Europe in businesses increasing use of phrases such as, “We should not be vindictive”. Those comments, of course, flow from self-interest. First, they want to continue to sell to us; secondly, they recognise what the UK could bring to Europe in security, defence and the fight against organised crime.

Is this deal good enough? Taken together, the ending of free movement of labour, the re-establishment of our Supreme Court at the apex of our judicial system and the emerging signs of self-interest among the remaining EU states lead me to believe that it is. The noble Baroness, Lady Smith of Basildon, rightly reminded us that, in the end, this is a matter for the House of Commons. So let me say to your Lordships’ House that, if I were a Member of the other place, I would vote for this transaction.

3.46 pm

Lord Judd (Lab): My Lords, it was challenging to hear the most reverend Primate’s intervention this morning. So what are the strategic issues facing the UK, Europe and the world? Overridingly, they are those of the environment and climate change: not only the need for effective control of pollution but the need to face up to the vast movement of people which will be an inevitable consequence of what is happening.

We are constantly preoccupied here in the UK with immigration, but that is part of the wider challenge of migration in the world as a whole. As we debate here

today, let us remember that there are in the real world more than 20 million refugees and 39 million displaced people. How will we have any kind of stable future unless we have effective strategic policies to meet that reality? What about international terrorism? There is no way in which we can solve that and the issues that stem from it and lie behind it on an insular basis. There has to be co-operation. I had the privilege of serving on the EU Home Affairs Sub-Committee when it was taking this issue very seriously. I hardly heard a front-line practitioner working in this area who did not say that to be leaving the European Union would make the work more difficult and less effective.

There are also the issues of international crime and corruption, which similarly require collective action. Among the economic issues are non-renewables and human resources. Nearer home, in our immediate situation, we have heard a good deal in the debate so far about Ireland, where it is crucial that preserving the stability which has been won through Good Friday agreement is high in our priorities.

There are other issues which are global. We need a well-educated population, certainly in our own country but across the world, to meet these challenges. Education that is relevant in our present context requires an international dimension. That means movement of people. If we are to fulfil the creative potential of our society, freedom of movement is crucial, because we want informed and creative activity, with people from different backgrounds working closely together.

What is the European story against all this? On the European Coal and Steel Community and the story of the evolution of the European institutions since, there is a tendency in this country, and certainly in this House, to talk about the European story simply in economic terms and say, “We didn’t want to get involved in all this political stuff; we thought it was an economic arrangement”. That is simply naive. The whole European story has been political from the start. Of course, the European Economic Community and the European Coal and Steel Community were economically important, but they were a means for moving towards a stable, collaborative, strong Europe.

Under successive Administrations, we have never imaginatively embraced this. I was Minister for Europe in the early years of our confirmed membership. I can remember recognising that we had an imaginative, visionary battle to be won. We have been dominated by what is in it for us.

I find that, against this background, a general election is crucial. I am sad to find myself differing strongly from the Liberals on this point, because I so often find myself almost inspired by what they have to say on the Europe issue. This is not a separate issue. It is intimately connected to all the political issues that face us. We have to evaluate the relevance and effectiveness of the institutions against how far they help or hinder our response to all the issues I have been listing.

We have got to be very careful here in Parliament. The young, the professionals, the business community, the trade unions, much of the leadership in the services—as real players in the real world, they understand how much we are dependent upon the world and how much, therefore, our involvement with Europe is crucial

to us playing our full part in serving the purposes of our own people and the people of other nations in facing up to what confronts us.

I think these are dangerous times. I think that political leadership has been badly lagging behind and that so many of the key people in our society have run far ahead in their imagination and thinking of where the political community here in Britain finds itself. Without vision, we are lost. That means being sure that what is before us faces up to the magnitude of the challenge. I do not believe that what is before us begins to suggest that these huge, overarching issues are at the centre of government thinking. We need a general election desperately. If we cannot have that, with all its flaws and inadequacies there must be renewed authority and that means another referendum.

3.54 pm

Baroness Northover (LD): My Lords, this decision could not be more important for the UK and our children's future. The noble Lord, Lord Hennessy, set this decision in its massive historical context when the referendum went the way that it did. The noble Lord, Lord Howarth, who is not in his place, identified remainers' concerns as largely economic, while leavers were concerned about sovereignty. Those who marched immediately after the referendum, or more recently for the people's vote, would challenge that.

Young people passionately feel European, as, clearly, do others: a non-British architecture student was marching with me and she noted, with delighted astonishment, the noble Lord, Lord Rogers of Riverside. Especially for young people, being European is part of who they are—part of their many-layered identities. As my noble friend Lord Wallace of Saltaire and the noble Lord, Lord Judd, made clear, it is part of how we share sovereignty to greatest effect—for example, in tackling climate change which, as David Attenborough has pointed out yet again, threatens the future of all of us. So we must remember, as the most reverend Primate pointed out, the child born yesterday and remember, too, the children who marched recently with signs saying “Made in EU”—unlike most of us.

I shall focus on the potential impact of Brexit and this deal on foreign affairs at a time of enormous global challenge. Whether we look at soft power for keeping values at the heart of our foreign policy or at our ability to achieve much more through the EU, Brexit undermines Britain's place in the world. We apparently seek global reach and influence, but global Britain has been dubbed “a slogan in pursuit of a policy”. Many of our partners believe that Britain has retreated into what Edward Luce of the *Financial Times* has called “inglorious isolation”.

The Governor of the Bank of England's reports make very clear the economic damage of leaving our biggest trading market, so how would we resource a newly global Britain? We have been able to punch above our weight as a member of the EU. We have very significant soft power assets, including higher education, science and the creative industries. Brexit threatens them all. We are on the UN Security Council, NATO, the G7 and in the EU. That array helps to maximise our influence.

Britain has long claimed to be the Euro-Atlantic bridge. With the threat of Brexit, that is already going. The EU has helped the UK to deliver many of our foreign policy objectives, acting as a force multiplier. Ironically, of course, the UK has held EU external action, and the Union's common foreign and security policy, at arm's length. But it was our British colleague the noble Baroness, Lady Ashton, who was the EU's first ever High Representative.

We have had a disproportionate effect in helping to shape the EU's global role from within, including: the Iran nuclear deal; fielding stabilisation and other missions to Georgia, the Palestinian Territories, Somalia, Kosovo, Bosnia and elsewhere; agreeing sanctions on Syria, Russia, Zimbabwe and in relation to Ukraine, Yemen and elsewhere; and helping to tackle the conflict so recently seen on the European continent, not only in Northern Ireland but in the Balkans. Even stabilising the position of Gibraltar was assisted by the UK and Spain both being EU members.

We have helped the world's poorest people and those in crisis. We have promoted global stability as the world's largest development and humanitarian aid donor. We have worked together with EU allies across the globe, including in the WTO, the OECD and the UN Human Rights Council. And of course there were the amazing efforts that our Ministers put in to ensuring that the EU was ambitious and effective in helping to deliver the Paris climate change treaty in 2015.

Our EU membership has given us so much more clout than we would have alone. A small taster of what might come to be was when we failed for the first time to secure a British judge on the International Court of Justice, or a Brit to head the WHO. These failures are widely seen as an indicator of Britain's reduced status and diminished European support.

So what are the Government seeking to do? We want a “deep and special partnership” between the UK and the EU. We issued a joint position with France and Germany on Saudi Arabia and Jamal Khashoggi. We did not want to go it alone. If we do go it alone, the FCO will need further resourcing: its core budget is already dwarfed by that of the French diplomatic service. However, our economy will not be as strong as it might have been.

In May, the Government spoke about a “deep and special partnership”. In the political declaration, the proposal is for “close and lasting” co-operation on foreign policy, with co-ordination on a case-by-case basis. It is full of “possibles”: we might support each other's position; we might be invited to meetings, “on an exceptional basis”. There may be dialogue at various levels. I am not going to play with anyone's name, but “may” does not mean “must”.

We know that leaving the EU will damage us economically and affect how we define ourselves. We can see that leaving the EU reduces our clout globally, which is, of course, why the Government have been arguing for a close and special relationship—it is a pity that we did not do this in earlier years. But nothing is guaranteed; we are examining a withdrawal deal that is noted as inadequate on all sides. Nothing has been set in place for what happens after that, only

[BARONESS NORTHOVER]
 aspirations with no legal force. We are looking at the gangplank to nowhere, so lucidly described by the noble Lord, Lord Bridges, months ago.

This is a turning point in our history. A referendum set this train of events in motion; we should therefore return to the people. Do they accept this deal, or do they vote to remain, now that we can all see what the real choices are?

4.01 pm

Lord Krebs (CB): My Lords, as a career scientist I ask myself whether the Prime Minister's deal is good or bad for UK science. Last Friday, the Science Minister, Sam Gyimah, gave his verdict when he resigned, saying that the deal would mean that the UK's interests, "will be repeatedly and permanently hammered by the EU 27 for many years to come".

He recognised the gap between the warm and encouraging words of the political declaration and the harsh reality of negotiation over the years ahead.

The president of the Royal Society, commenting on the deal, put it this way:

"This is a step in the right direction but it will be a long hard road to reach a long-term agreement".

The report that came out today from the European Union Select Committee also highlights in paragraph 199 that nothing is said in the deal about how we will reach future agreements on science and technology with the other member states.

The trigger event for the resignation of Sam Gyimah, as noble Lords will be aware, was the European Union 27 rejecting the UK's bid to remain in Galileo. This is the European Union's satellite navigation system that will serve as an alternative to the GPS system from the United States that we all use every day on our smartphones. Galileo, importantly, will give European Union member states access to high-resolution data that is crucially important in military security. We are now left out in the cold. Having spent £1.24 billion on Galileo, we are going to start all over again to build our own stand-alone system. This is lunacy.

Lord West of Spithead (Lab): Does the noble Lord not agree that this was a completely disgraceful and vindictive act, based on their claim that they cannot share sensitive intelligence with our nation, when on a daily basis we are giving sensitive intelligence to Europe and saving lives in Europe? Is this not a quite extraordinary decision?

Lord Krebs: I agree that it is an extraordinary decision but, as I am saying, it reflects the difficulty of the future negotiations. This outcome undermines the Prime Minister's hope that the UK,

"would like the option to fully associate ourselves with the excellence-based European science and innovation programmes—including the successor to Horizon 2020 and Euratom".

Galileo is only one example of how our science and technology could suffer in future. In a recent survey of 1,000 staff at the Francis Crick Institute, Europe's largest biomedical research institute, scientists were overwhelmingly negative about the consequences of

Brexit for UK science. On 23 October, 29 Nobel prize winners and six Fields medallists—the maths equivalent of a Nobel—wrote to the Prime Minister expressing their deep concerns. The deal simply does not do enough to reassure the scientific community.

In my own university, Oxford, roughly 12% of research funding comes from the EU, and there is no guarantee that in future we will be able to participate in the schemes that follow on from Horizon 2020. In the European Research Council funding programme, which is based on scientific excellence, the UK is far and away the most successful country in the EU, and the top three institutions in the EU for receiving funds under this scheme are Cambridge, Oxford and UCL.

Lord Vinson (Con): My Lords, is it not in fact true that our annual contribution to the EU is merely recycled and comes back to our science and other bodies, so moneys should still be available?

Lord Krebs: I thank the noble Lord for that because it anticipates my next paragraph. The UK gets out more than 1.5 times as much as we pay in, so our return on investment is stupendous. But it is not just about money; it is the exchange of people and ideas that will be lost if we cannot remain in these European programmes.

Noble Lords might ask: why does the science base in this country matter? The reason is that it is the basis of our future prosperity. As the Prime Minister herself put it in introducing the industrial strategy:

"That is what our modern Industrial Strategy is all about. Investing in science and research to keep us at the forefront of new technologies and the benefits they bring".

So, whether you are thinking of new medical treatments, novel sources of energy, transport or tackling climate change, all of that will depend in future on our investment in science and on the international nature of our science.

I know that the Minister will not be able to provide us with any reassurance about the future because, as other noble Lords have said, the future is quite uncertain—but perhaps he could tell us what assessment the Government have made of the impact of the deal that is on the table on the future prospects for UK science. Some have said, "Why worry about the EU, because, after all, we can collaborate with other countries?"—but it is not either/or. In my own scientific career I have done research in German, French and Dutch laboratories as well as in the United States and Canada, so it is not as if we are constrained from international collaboration outside the European Union by our membership of EU research programmes.

I hope that the Minister will be able to tell us what evidence he has to support the notion that this deal will be good for UK science. Perhaps he could also tell us what the go-it-alone replacement for Galileo will cost and how those costs compare with working within the European Union. As things stand, I do not see enough in the deal on the table that will support the future of UK science and technology for me to think that it is a satisfactory deal—which is why I will support the Motion in the name of the noble Baroness, Lady Smith of Basildon.

4.08 pm

Lord Howard of Lympne (Con): My Lords, I am not a natural rebel. I can count on the fingers of one hand the number of times that I have rebelled against my party in the 35 years during which I have had the privilege of serving in Parliament, and all those were matters of hugely less importance than the issues before your Lordships today, so I make this speech with a heavy heart.

I was one of the 17.4 million people who voted to leave the EU, and I did so because I wanted my country and its Parliament to take back control over our nation's future and its destiny. I am afraid that the agreement before your Lordships' House today does the opposite of that.

As a member of the European Union, we have the right, under Article 50, to leave. It is an untrammelled right—we can exercise it, and are exercising it, unilaterally, without having to ask anyone's permission to do so. Under the backstop—it constrains our freedom of action in a large number of areas, over which we would have no control—we would be unable to leave without the permission of the European Union or perhaps, just possibly, the panel of arbitrators. The noble and learned Lord, Lord Goldsmith, has just executed an extremely effective job of demolishing the role of the panel of arbitrators, but let us assume for the purpose of the argument that it has a more expanded role. Clearly, the Government thought that its role was of great significance, otherwise they would not have gone to the lengths of inserting so many provisions relating to the panel of arbitrators into the agreement.

I have never attained the pinnacles of judicial and legal expertise possessed by those Members of your Lordships' House who are entitled to be called "learned". However, I did practise at the Bar for 21 years, and it taught me one thing: judges and arbitrators can get things wrong. It is because judges get things wrong that we have a Court of Appeal, and it is because the Court of Appeal gets things wrong that we have a Supreme Court. Yet the wording of Article 180.2 of the agreement is stark. It says that:

"Any ruling of the arbitration panel shall be binding".

Not only is there no provision for appeal, but the article actually prohibits the publication of any dissenting opinion.

The agreement's supporters say that we will never get into the backstop. They may be right, but they may not be. A large number of the 585 pages of the withdrawal agreement are devoted to the backstop. It is reasonable, to put it mildly, that all that midnight oil would not have been devoted to them if both sides thought this was an entirely academic exercise. The agreement's supporters would say that we need not worry about the backstop, because it is not in the interests of the European Union to keep us there. Indeed, we heard that argument from my noble friend Lord Hodgson a few moments ago. I ask this simple question: if it is not in the interests of the European Union to keep us there, why will they not agree to a time-limited backstop? Nothing could be easier if it is not in their interests to keep us in the backstop.

I am afraid the evidence is mounting that there are European leaders only too keen to use this as leverage to pressure us. The Prime Minister of Spain has hinted he may do it on Gibraltar. The President of France has said he wants to use it to get rights over fishing. When this was put to my right honourable friend the Secretary of State for the Environment in another place, he said that the President of France was wrong. He said it in French for good measure. I am a great admirer of my right honourable friend the Secretary of State, and not only because of his command of the French language, but should there be a dispute it will not be him who decides whether the President of France is wrong. It will not be our Prime Minister, our Government or our Parliament; it will be the European Union or, just possibly, a panel of arbitrators. One of the ironies of the referendum debate is that those of us who voted to leave are constantly being told what we meant or did not mean by those who voted to remain. I can say one thing without any fear of contradiction: the 17.4 million people who voted in 2016 to leave the European Union did not do so to place their future, or the future of our country, in the hands of a panel of arbitrators.

The noble Lord, Lord Kerr, described the agreement on Monday as a "humiliation". In the debate in your Lordships' House two weeks ago, my noble friend Lord Lamont quoted Carl Baudenbacher, the former president of the EFTA Court, who said:

"It is absolutely unbelievable that a country like the UK, which was the first country to accept independent courts, would subject itself to this".

I cannot think of any other country—except, perhaps, in the immediate aftermath of a defeat in war, or in the face of an imminent defeat of that kind—which has been prepared to give away so much control over such a wide area of its future affairs to a panel of arbitrators.

Your Lordships may perfectly reasonably ask: what is the alternative? This is what should be done: the Government should recognise that this deal is dead. I was encouraged to be told on Monday by my noble friend the Leader of the House that conversations are taking place between the UK and the European Union on preparations for Brexit without a formal withdrawal agreement. Those conversations should be intensified and expanded. They should encompass a series of ad hoc, temporary arrangements to minimise and if possible eliminate any disruption which might otherwise take place on 30 March. I would go further and declare that, for a period of 12 months from 30 March next year, the United Kingdom will not place any tariffs, tariff barriers or obstacles against the importation of goods and services into the United Kingdom from the European Union. I hope that it would reciprocate, but we should do it even if it does not. Finally, I would use those 12 months to negotiate a free-trade, Canada-plus agreement with the European Union along the lines offered by President Tusk earlier this year.

Obviously, I cannot vote for either the second Motion or the amendment that will be put before your Lordships later, because they would conflict with that objective. We should never have allowed ourselves to get into these difficulties. There is a way through, but it is not the agreement before your Lordships today.

4.16 pm

Lord Judge (CB): My Lords, the truth is that just about everything that could be said on this subject has been said, time and again. There is no doubt either that, in truth, today's debate will not change many minds; if it changes five minds, it will be miraculous. If we are being absolutely honest with ourselves, the debate that really matters is happening at the other end of the building. So I should sit down, and the temptation to do so is increased by the fact that, with the noble Lord, Lord Howard, going ahead of me, and the noble Lord, Lord Heseltine, coming behind me, I feel like the cavalryman at the Battle of Balaclava suddenly realising that he is charging the guns—only this time it is cannon in front and cannon behind, instead of just to the left and the right, where my friends are.

My reason for speaking is just to address a slightly different point from that which has taken up most of your Lordships' time. The processes we have gone through have caused huge public disillusionment with our processes. Whichever side of the argument you are on, that should be recognised as an issue of the utmost seriousness. If I had three hours, I could give your Lordships a complete list of all the occasions when this public disillusionment was aggravated, so I will pick three to show that I am not taking sides.

Mr Cameron went to Europe to secure some fresh arrangements. Anybody could read that it was utterly pointless—he got nothing. But when he came back, he suggested to the public that something significant had been achieved when, in truth, nothing had been achieved. He forgot that you cannot fool all the people all the time. I think that helped turn the result of the referendum. It encouraged people to think, “If that's what we're really being asked to believe has been achieved, maybe we should vote leave”. What about the referendum campaign? Both sides spoke in fables. We were engulfed in those twin imposters, were we not? There was the triumph of the wilder Brexiteers and desolation and defeat of the shattered remainers. Then there were all of the rest of us somewhere in the middle. I am sorry to say this—former judges should not make political points—but at this moment, as I stand here, I still find the position of the leader of Her Majesty's loyal Opposition on all these issues enigmatic.

We can blame Mrs May, the Prime Minister, for the inadequacy of the deal that she has negotiated, and I would not resist criticism of the way in which we have handled the negotiations. But there is, is there not—please, can we pause and remember it—a further thought? If the terms of the withdrawal agreement brought back to London by Mrs May should have been better than they are, or do not satisfy what we think they should have been, there was another party to these negotiations. These were the best terms the EU was prepared to give her. I am not being critical of the EU. It did not want us to leave; it does not want anybody to leave; it wants people to be discouraged from leaving. It had the best cards and played them. This is not a criticism of the EU, but we have to remember that whoever thinks they could have done better in these negotiations must demonstrate quite how that would have been achieved and quite what would have been achieved. That is my

anxiety about the matter raised by the noble Baroness, Lady Smith—no doubt she will tell us, or it will be said to us.

Mrs May voted personally to remain, but it was not open to her or her Government to renege on the results of the referendum. The main foundation of our constitution is the sovereignty of Parliament. I believe referenda have emerged as a totally unwelcome and inappropriate way of dealing with issues raised in our constitution. I would love to argue the constitutional point; I would win. But, politically, Mrs May had no choice. I remind this House that the European Union Referendum Act 2015 passed the Commons at Second Reading by no fewer than 544 votes to 53. The Conservatives, Labour and Liberal Democrats all voted in favour. There were a few dissentients, such as my old friend Kenneth Clarke, but the only significant party to vote against the referendum was the SNP.

I am very assiduous; I looked at *Hansard* to see which of these 544 MPs said, “But I want you to know that I still reserve the constitutional right of Parliament to overrule the result of the referendum”. I do not say there were none, but they were not a great number. Beyond that, we then come to a general election in which both major parties commit themselves unequivocally to proceeding with the referendum result. Between them, they won the overwhelming majority of the seats. Whichever party had come into power, no Government could have dared to insult the electorate by ignoring both the extraordinary parliamentary majority that voted in favour of the referendum, and the result of the election. The referendum had to be honoured and, as things stand, it is still the only lawfully binding arrangement in town: the referendum still binds us.

It is possible that Parliament may change it. I must move on, but how will we address the public disillusionment with our processes, partly caused by the chaotic negotiations, the constant meetings, the whispers and the commentators—everybody churning away, saying it is all chaotic? I suggest something utterly quixotic, something nobody who lived in the real world would ever think of: might it not be a sensible idea, although hopeless, for us to invite the other place to allow a free vote? We know that all parties are split through and through in all sorts of directions. Why should every Member of Parliament voting on this crucial issue—the most important of my lifetime—not be allowed a free vote? The public would at least then know what individual Members of Parliament thought, untrammelled by party pressure, and that they had cast their votes accordingly—exercising the wonderful idea of their own judgment and discretion and not doing what their party told them to do. It may be a quixotic idea but I think that is how, in 1971, we went into the EU. Maybe we should return to the same process.

4.25 pm

Lord Heseltine (Con): My Lords, this debate has repeated arguments that most of us have used over many years but I do not intend to go back over any arguments that I have expressed. They remain in my mind as convincing as they have been throughout my political life.

I have to say that, of the many speeches and moments of memory in this debate, my noble friend Lord Howard proclaiming that he is not a rebel will long live in my memory. He provided the explanation that he had rebelled against his party on only three occasions. If I had risen in my place to say that I am not a rebel the place would have dissolved into hysterical laughter, but I have rebelled against my party on only three occasions.

The first was when they wanted to resist the race relations legislation of the former Prime Minister, Mr Callaghan. I revolted and the Tory party changed its mind. I revolted against the poll tax. I brought the poll tax to an end. The poll tax went and the Tory party won a subsequent general election. It is perfectly true that I defied a three-line Whip in this House over the issue of a meaningful vote. I was hauled out of my dinner with my wife in Wiltons in Jermyn Street for the poor old Chief Whip to axe me from the job that I was doing in government at the time. I say to my noble friend Lord Howard: "Be careful where you go tonight".

I wish to come very briefly to three points. The first of them was referred to very eloquently by the noble and learned Lord, Lord Goldsmith. I agree with him that the Attorney-General put up a bravura performance in another place yesterday. He made it clear that he felt that he had delivered the facts and the truth and a proper reflection of his private advice to government. I am sympathetic to the argument that Governments should not be expected to publish all their private advice. It could be seriously damaging if information in it is of help to people who do not share the national interest of this country.

I faced exactly this dilemma when I had to deal with the censure Motion from the then Opposition over the sinking of the "Belgrano". One of the prime arguments was that the House of Commons wanted to see the papers. They were secure, classified papers and not publishable. I dealt with the issue by inviting the Select Committee for Defence to come to my office in the Ministry of Defence to read the papers. There were no problems, no questions and no leaks and the issue was successfully resolved.

I believe that the Government, in losing on three amendments over the course of yesterday, could easily have circumnavigated at least that one by saying to a committee of privy counsellors from all sides of the House, "Come and look at the advice and affirm to the House of Commons that what the Attorney-General has said to the House in public actually reflects in whole the contents of the private advice". Although I hear what the noble and learned Lord, Lord Goldsmith, says, the truth is that it has proved to be a damp squib. The document itself has not supported any of the hysterical abuse that would have been justified if, in fact, it had differed significantly on the two occasions.

Secondly, I want to go back to a point made most eloquently by the noble Lord, Lord Krebs. In 1973 I was faced by a classic ministerial submission: "Minister of State, would you give us £6 million in order to catch up with the cheating French and Germans on their space programmes?" It was phrased more eloquently than that but the thrust of the argument was broadly along those lines. I said to the officials, "Well, of

course, I'm dead keen on catching up with anybody who is cheating on the British national interest, but before we get carried away with this £6 million, would you be kind enough to just tell me how much Europe is spending on space, and will you then tell me what the United States is spending on space?" I shall never forget the figures. The European figure—for all of Europe at that time—was £200 million a year and the American figure was £1.2 billion, and I was being asked to provide £6 million to compete with the French and the Germans.

I played a formative role in creating the European Space Agency. British industry told me that it wanted satellite leadership. I got it satellite leadership, and that fast-forwards to the Galileo project. Here, we find that we are not to be trusted on defence matters that are secret to Europe. What secrecy is there in Europe that, in defence terms, does not affect us? However, that is the argument and it is the tip of the argument that the noble Lord, Lord Krebs, was talking about.

What have we done in response? We have provided £90 million for a feasibility study on whether we can compete with the Galileo project. It will take 18 months, and at the end of that there will be a six-month consideration. So in two years' time we will come to a view about the feasibility and the cost. The noble Lord asks whether the Minister will provide an answer about the cost but the Minister has no idea and it is likely that no one else does. However, let us assume that it is rather more than the £90 million cost of the feasibility study and let us put the figures in context.

The UK space programme at the moment costs £300 million. If you take the £90 million over 18 months, that is £60 million a year, so one-fifth of the cost of our programme is going into a feasibility study. Currently, £5 billion is spent on the European programme and £16 billion is spent on the American programme. The only moral of this story is that we cannot afford to act on our own, and that is why the noble Lord, Lord Krebs, speaks with such eloquence on the panic sweeping through research institutions, universities and academia in this country about this being the beginning of the unravelling of 40 years of recognising the indissoluble self-interest of this country in working with European people, most of whom have an identity of interest with us.

I have one last point to make, and perhaps I may apologise to many of my noble friends, because my point is really directed at my colleagues behind me. I have fought many battles with them against the elected mandates of Governments of which we disapproved. We did not deny the mandates; we simply set out to change them. I now listen to the arguments being deployed, many of them behind closed doors: "Vote for us, old boy"; "Don't rock the boat, old boy"; "Do you want an election, old boy?"; or "Aren't you frightened of who might be there, old boy?". Well, I do not believe that there is going to be an election—I do not believe that the House of Commons will vote for one—but I do believe that the underlying issue behind Brexit was the frozen living standards in 2008 after the economic crash. I have heard from one noble friend after another and from the right reverend Prelate that we are voting in this legislation to make this country poorer.

[LORD HESELTINE]

Most of us in this House will not be affected—certainly I will not—but much has been made about the poorer people. While, on theology, I would not dream of locking horns with the right reverend Prelate, when it comes to the urban poor, I have some experience of the politics of urban poverty. There are no solutions that help the fortunes of the least privileged in the most stressful circumstances that are dissociable from public expenditure. If this House is going to vote solemnly and knowingly, as we have heard here today, for a slower economy, for lower tax revenues and for lower public expenditure, those who will suffer most are those least able to bear the strain.

When the election comes, it will have been a Tory who led the referendum campaign, it will have been a Tory Government who perpetuated the frozen living standards, and it will be a Tory Government who are blamed for what we are talking about today. I will have no part of it.

4.36 pm

Lord Whitty (Lab): My Lords, it is a great pleasure to follow the noble Lord, Lord Heseltine. Not for the first time, I agreed with much of what he said. However, I want to raise a very different point, which was alluded to by the noble and learned Lord, Lord Judge, just now.

There has been reference to the work that this House has done since 2016 on producing its reports in great detail on the various aspects of the unravelling of the relationship between this country and the European Union. As of yesterday, and with the debate going on in the House of Commons today, I can assure the House that none of that detailed work has the slightest relevance to the shenanigans in the House of Commons and the votes that are being taken this week. That underlines the fact that the politics operating here in Westminster are in a parallel universe to the expectations of the population outside.

The decisions of this House and its role in this whole period are limited. But let us be frank: the decisions that will be taken next week by the House of Commons are also very limited. To judge by the commentary in the press and the expectations of the public, they assume that the judgment on Mrs May's deal is the key point at which we decide what our future is, and that all the questions that have arisen since Brexit will be answered one way or another by the acceptance, rejection or amendment of that deal. But that vote will do nothing of the kind. The only substantive element that we have before us is the withdrawal treaty, which is detailed and clear and has been the subject of drafting and redrafting over the past many months. But the political declaration that is determining our future was produced only about a month ago. It is very vague and grew from seven pages to 22 in about 10 days flat. Frankly, as the noble Baroness, Lady Northover, said just now, the way in which it is written is aspirational—there is hardly a “must” or a “will” in it; it all rests on the verbs “may” and “should”. This presents nothing to our people about how our future is going to develop.

The expectations among the electorate are that the vote will give such answers. But our exporters and importers will not know, on the basis of the decision on that document, on what basis they will be trading in future years, what the costs will be and what administrative and bureaucratic delays there will be in what was formerly frictionless trade. Our citizens will not know what rights they or their children will have in relation to movement within and between us and the European Union. Our workers will not know what rights they have over their jobs. As tourists, we will not know whether we will need to revert to international driving licences, change our insurance arrangements or, as tourists, rely on our health cards, as the noble Lord, Lord Boswell, said earlier.

Our farmers will not know on what terms their goods will be accepted within Europe, or Europe's will be imported here, and therefore what their fortunes will be in the future. Our fishermen will not know whether they are still governed by quotas or have free access. Our police forces will not know what replaces the European arrest warrant. As the noble Lord, Lord Krebs, has just said, our scientists will not know on what basis collaboration and funding will operate for their work over the next few years. More immediately, our hauliers and travel operators by air, land and sea will not know the terms of their access once this decision has been taken. In other words, the issues that are most meaningful to our citizens and businesses will not be answered by this time next week.

The other dimension, which this dichotomy makes worse, is the fact that Brexit has already proved toxic within Britain and, to some extent, within Europe as a whole. It has divided our politicians and our major political parties. It has split families and it has divided north from south, city from countryside. It has revived secessionist tendencies within Scotland and threatens the Good Friday agreement in Northern Ireland—and dark forces of racism and worse have been released in and after the referendum. We are in dangerous political territory.

Meanwhile, this Parliament appears to the majority of our fellow citizens to be getting itself more and more convoluted and introverted in internal party and interparty matters. The result is growing frustration amongst Brexiteers and remainers alike that we should be getting on with it. As such, we are also seeing a move to support a no-deal exit. That is very dangerous territory indeed. The paradox, regrettably, is that actually we need more time to get this right. We need more time to get to a real deal that will substantially answer those questions and will be the basis for us going forward with our European partners.

To get a real deal that answers those real questions, we need to ask ourselves what happens next. There will be no answer to that, whether Mrs May is defeated or survives next week. We will not know what the basis of trade will be. We will not even know what the basis of our security arrangements will be. We need a few months more. It was folly of this Parliament to insert within British legislation the date of 29 March. Just a few more months would get us a lot further along the road. It would turn what is currently a very vague political declaration into one that my noble friend

Lord Mendelsohn described earlier, with at least the heads of agreement so that people can understand the direction in which we are moving. We need that bit more time, yet the Government, the House of Commons and most of public opinion have set their face against finding more time.

I make a plea to Parliament—to the Government and to this House—that if we need more time and we need to reassure our population that we know where we are actually going, let us seek more time. Let us look at the possibility of other arrangements on trade, including the Norway option and others, and look at the implications of the likely judgment in Strasbourg and whether or not we need to put this back to the people. A little more time now would be well worth it, because Brexit may last forever.

4.43 pm

Baroness Bowles of Berkhamsted (LD): My Lords, I do not support the Prime Minister's agreement, but I agree with what the noble and learned Lord, Lord Mackay, said this morning: she has tried to deliver to a set of red lines derived from major planks of the winning side of the referendum. The problem is that something had to give, because the collective set of red lines turned out to be an impossibility, and what has given is customs. It might be called temporary or a backstop, but an arrangement based around a customs union with an accompanying fudge for Northern Ireland is the only thing left if you prioritise against freedom of movement and the direct effect of the European Court. I know because I have tried it myself. I went around and around the loop back in 2016 after the referendum: how would I negotiate it? To my chagrin then, I ended up with something remarkably similar to the backstop.

The way it happened in the real negotiation was that the backstop was agreed to unlock talks about trade. That did not really happen and it was, at best, talks about talks—or rather, constraints on talks. All we have is a declaration to use best endeavours to come to a real deal and to replace the backstop solution, under a protocol that embeds all the difficulties and red lines of each side that have prevented progress so far. The protocol is more of an obstacle course than a route map and requires more concessions than would be needed without it. We would be locked in, as eloquently described by the noble and learned Lord, Lord Goldsmith.

Moreover, I do not see how we can expect to line up trade deals with other countries while relying on the protocol because they will still say, “What is the relationship with the EU?” That will go on and on. We may escape Brexit on the news and we may escape news about trade agreements that are going on in secret, but the fact is that there is still a never-ending round of negotiations.

I understand businesses backing the withdrawal treaty, especially when told that the alternative is no deal. Many do not mind who makes the rules between us and the EU. They are not hung up on sovereignty and prefer to have just one set of rules. The potential for up to four years of implementation—you can rest assured that lobbying for the two-year extension will

start soon—gives stability over the immediate cycle. Indeed, UK chief executives spend an average of only 4.8 years in the top job, so an awful lot of them will be out of their jobs and their horizon is not particularly long term—a common grievance that we have against our businesses. Their horizon is not the for ever that this treaty would put us in, and I say “treaty” to point out its permanence. Businesses want time to adjust their arrangements, maximise their use of assets in the UK for the time being, and have a bit longer to figure out where to move what. But in the political and broad economic sense, we have certainty over nothing.

I can remember when just-in-time supply lines were a political issue—on the one hand foreign firms sought to invest, and on the other there were concerns over the environmental effect of all the additional transportation. But it has boomed, and so too has all the other ease of business that followed on from the single market. Thanks to the withdrawal negotiations, everyone now knows more about the depth of our integration in the EU and how our trading relationships work. Moreover, it is not just us who know more; it has surprised many in the EU, too, including the leaders and Ministers of other member states. There is no shame or humiliation in admitting that we did not know it all; neither did they.

I recognise that some people consider the Single European Act to have been a mistake, but the reality we now see is that we cannot turn the clock back, and reversing out of 40 years of integration makes for a worse mistake than they considered that first Single European Act to be. Our young people are growing to voting age and will make it clear what they think of those who robbed them of their opportunities. Baby boomers took and enjoyed all the assets, and now they are stealing their children's opportunities to study, work, love and marry with the freedom that they enjoyed. That is the rift already breaking down intergenerational solidarity; it cannot be fixed by agreeing a bad treaty that makes us all poorer. Being poorer through the years of austerity has not brought the country together.

We now have the facts about the consequences of withdrawal and knowledge of the deal, or non-deal, on offer. We know that it is a simple matter to reverse Article 50, so it has to be time to ask the people to choose.

4.50 pm

Lord Birt (CB): My Lords, in the American state of Utah a condemned person used to have three unpalatable choices. He or she could choose between death by hanging, by firing squad or by beheading. Most chose the firing squad, a few hanging. No one chose beheading. We ourselves face three unpalatable, or difficult, choices. The first is a car-crash Brexit on WTO terms, without a seat belt. There are those who will submit to the surgeon's knife when ill, or trust a ground engineer when they fly, but who none the less defy climate science or the expertise of the economists of the Bank of England and almost all other financial institutions, who advise that an immediate and ill-prepared Brexit would inflict a severe and destabilising blow on a UK economy not yet fully recovered from the 2008 shock,

[LORD BIRT]

and that this blow would be followed by a long slow decline relative to our peers and neighbours. That is the beheading option, and I hope no one will choose it.

The second option is the Prime Minister's. I think that she, supported by Olly Robbins, has done the best possible deal in all the circumstances. Hemmed in by the referendum outcome, by her party and by the power and conviction of Brussels, it is hard to believe that, plus or minus, anyone else could have done better. I strongly support what the noble and learned Lord, Lord Judge, said: the deal the Prime Minister has achieved is an unavoidable consequence of the referendum decision, the bitter pills it contains an unavoidable surprise to those who held out false and unrealisable hopes from that negotiation.

The doubts about the Prime Minister's deal are very reasonable. We would be rule-takers, albeit in the first instance of rules that we helped to invent. The backstop is a calculated risk, potentially a trap we cannot escape, as the noble and learned Lord, Lord Goldsmith, emphatically explained to us earlier. Most importantly, we would be buying a pig in a poke—for the challenge of translating a political declaration on a massive array of tangled issues into a working reality still lies ahead of us, and is truly monumental.

The third option—my ideal—is to remain. Like a condemned man in Utah, I would rather have a reprieve. But it is not clear that the EU would embrace the necessary reform, particularly of free movement, that would satiate the Brexit urge in the British people; nor is it thinkable that Parliament can defy the democratic vote of the British people.

For all its risks and imperfections, for all that it is a mighty gamble, at this moment the PM's deal appears the least worst option available. It averts catastrophe and offers us a difficult but probably navigable path to a halfway house—half out of a Europe that we are currently half in. But, but, but—if, as seems likely, a divided Parliament cannot support her option, or unite behind any other, and with the clock close to midnight, a new Conservative leader or a general election is unlikely to produce consensus. At that point, the only way out for us is a three-option referendum: WTO, the PM's deal or remain.

In other walks of life, it is a commonplace to ratify a detailed deal previously given the go-ahead in principle. Whatever the outcome of a final referendum, we should recognise that, at long last, we have had the informed debate we lamentably failed to have in 2016. In that event, we must all stand by and wholeheartedly support whatever final choice the British people make.

4.55 pm

Lord Owen (Ind SD): My Lords, the *Sunday Times* has published a series of letters, the first one of which was the Prime Minister's letter to the country. We then had Mr Blair's letter to the EU. This week, I wrote to Members of the House of Commons; they had that letter in front of them on Monday morning. I will draw on it, if I may.

Let us be under no illusion. If we reach a situation where the House of Commons cannot forge an acceptable agreement, it is deadlocked. Then, the House of Commons and all of us will have lost our basic democracy. The

referendum did not enter into what we would do. The people made one judgment: that they wanted to leave. They suffered a grave blow at 7 am when the former Prime Minister walked out on the job that he had told us he would stay with—in marked contrast to Wilson and Callaghan, who made it clear in 1975 that they would carry out the will of the electorate. During the campaign, they made it clear that they would do so.

What do we face now? I suggest that Members of this House start looking at what happened yesterday in the House of Commons when, very wisely, Back-Bench MPs and others took control of this process. The Government chose not to try—it would have been very difficult—to get consensus across the political parties through their leadership. Now, if you look at the speeches of Sir Oliver Letwin and Hilary Benn, you see the basis of an attempt to find an agreement in the Commons. We must wish them well.

In my letter to the Commons, I said very clearly:

“Your votes on December 11 are your choice and yours alone. This is about what the government and the UK should do if the Commons decides not to endorse the EU withdrawal agreement”.

There is an “if” there. After reading yesterday's debate, nobody can think of any more ifs or buts. The agreement will go down. In the remainder of our debates, I beg this House to address the question of what will be offered to the people of this country by the House of Commons. It has already offered us the European Union (Withdrawal) Act 2018, which, unless it is blocked, will come into effect on 29 March next year. That is less than four months away.

What can be done? If you lose a major vote in the House of Commons, you have to decide what you will do. It is no use saying, “We will come back and tell you 21 days later”. It is vital that the world financial markets know immediately how the UK Government intend to proceed. It would be damaging even to wait until early the next day. That the Government should allow speculators and currency markets to dictate a repeat vote on the withdrawal agreement in some weeks' time is totally disreputable and extremely dangerous. The House of Commons will not live with it. Let that idea be pushed aside.

When the withdrawal agreement is rejected, Parliament must seize the initiative; it must stop being the supplicant under Article 50 and not expect the 27 other nations that have performed their part of the agreement with great difficulty to revise it straightway. They will not do so. It is essential that we provide another reputable forum for debate and discussion. It may not achieve anything. At the end of this short period, we may not be able to get an agreement in the House of Commons. They will then be faced with voting down the withdrawal Act.

So what can we do? The Cabinet will know the result beforehand, and it must meet beforehand and tell her the sort of thing that she must say. It must tell the Prime Minister bluntly: “If you have lost the vote, you must open up another option to this”. Some people say that there are no options. On the best legal advice, I suggest a Prime Minister's Statement immediately after the withdrawal vote is lost. It has been carefully looked at by experts in the EEA and by lawyers, particularly international lawyers. It goes like this:

“As a consequence of tonight’s votes I am sending letters immediately to all the other 31 parties to the European Economic Area Agreement, the EU itself, its 27 member states, and the three EFTA states. The letters will state our intention to continue in the European Economic Area as a non-EU member from the end of March 2019. We intend to do this because we as a country signed the EEA Agreement as the UK in 1992 and we have not as the UK given the 12 months’ notice in writing required to withdraw from that agreement”.

We would withdraw from that agreement under the terms of the European Union (Withdrawal) Act, but we have not done so now and it is perfectly possible for it to be continued. She would go on to say:

“If EFTA or the EU countries challenge our entitlement then we will take our case to arbitration under international law using the Permanent Court of Arbitration which was endorsed by all EU countries in the Withdrawal Agreement. I am writing to the Secretary-General of the PCA. I hope this action will unite many different viewpoints in Parliament. It has the merit of being very simple. We, like the three other non-EU members of the EEA, would not be starting out as part of the EU customs union, though we could pursue it. We could pursue our own EU-UK free trade agreement on the lines of Canada plus plus plus—President Tusk added the three pluses at one time proposed by the EU—and we will immediately start with other free trade agreement negotiations. There is no necessity for us to join EFTA. We would not be fixing any time limit as to how long we stay in EEA. Like the other three non-EU countries, we would continue to be bound, as are all parties to the EEA, to give one year’s notice of leaving. We would not ask anything more from the EU than we are entitled to under the EEA”.

I am under a strict time limit and cannot include the other four paragraphs. They are in the *Times*, and I will make them available if anyone wants to see them.

I beg this House to be constructive in helping the House of Commons do its duty. It is going to be a very difficult four months, but we need this other extra option. It is our right to stay in the EEA. Within that negotiation, we would be entitled to ask the EU to look with us at those parts of the withdrawal agreement which are very helpful to them and to us. One of them was the standstill arrangement until December 2020. We were ready to pay for it, and we would still be ready to pay for it. The derogations in the EEA agreement allow us to make it within the EEA agreement. We are due to pay £39 billion; about £17 billion of that is what we definitely owe them. The extra is for having the privilege of having another length of time. I agree so much with what the noble Lord, Lord Whitty, said. We have to have more time. The EEA option offers us more time.

To the leader of the Liberal Party I say: “Don’t talk about Norway supinely accepting it”. There is nothing supine about the Norwegian people. They have fashioned a very interesting agreement, keeping their own sovereignty while not being in the EU, having an EFTA Court, and having a different arrangement. Going on disparaging it, as the Government have done over the last few months in order to have no choice, is not doing a service to democracy in our country, in the European Union or in the European Economic Area.

5.05 pm

Lord Garnier (Con): My Lords, there is much to study in what the noble Lord, Lord Owen, has just said—but, if he will forgive me, I shall not follow him down his line of argument. However, I would dearly like to follow the route to verdict set out by the noble

and learned Lord, Lord Hope, and my noble and learned friend Lord Mackay. I agree with their analysis of the issues, very largely for the reasons that they each explained. I was also much taken by the arguments of my noble friend Lord Tugendhat. All things being equal, I would like the House of Commons to reach the same conclusion as they did: namely, that, for all its imperfections, the Government’s proposed withdrawal agreement should be supported.

But all things are not equal. The speech of the noble Lord, Lord Bew, demonstrated that the Northern Ireland backstop may lead to unintended consequences, and certainly to consequences that may not have been fully thought through. I accept that the backstop is just that and not intended to be used except in the event of certain other things not coming into being, such as a free trade agreement with the European Union. The chances of its not having to be deployed are so small as to be discountable. However, the noble Lord threw a new light on the backstop, beyond the Attorney-General’s advice of 13 November, which I and, I am sure, many others had not previously appreciated. I hope that the Government in the Commons will study what he said with great attention. Indeed, Parliament needs to take account of it with thoughtfulness and care.

Even if the noble Lord, Lord Bew, is wrong about the effect of the backstop and its relationship to the Belfast or Good Friday agreement, another factor makes my support for the Government’s withdrawal agreement utterly hopeless. It does not take a psephological soothsayer to anticipate the result of next Tuesday’s vote in the other place. The political reality is that the Government will be defeated—and by what I suspect will be a large majority, much of it made up by Conservative Members of Parliament, not all of whom are Brexiteers. That a former Government Chief Whip and a remainer, Mark Harper, has announced that he will not support the agreement is significant both because he is a careful and thoughtful person and because he has, I gather, never voted against the Government before. If he is prepared to go against the Government, I suspect that many others will do so, too. I feel like someone sitting at the bedside of a terminally ill patient. I can watch and hope and regret that what is about to happen will happen—but there is nothing that I can do to stop the inevitable.

We had a foretaste yesterday of what is likely to happen if the Government persist in the face of the arithmetic to require the Commons to support their agreement. They were defeated three times in pretty short order, on the contempt question and then on the Grieve amendment. I believe that that will happen again next Tuesday and it gives me no pleasure whatever to say so.

Beyond the fact that there is no majority in the Commons for the Government’s agreement, there appears to be no majority for any other proposal to implement the result of the referendum. I fear that we are witnessing an accelerating descent into political chaos which will make what has happened so far look like a pretty well-organised affair. I also fear that, unless things take a remarkable turn for the better, the United Kingdom will, for want of an agreed policy and the

[LORD GARNIER]

political will to unify the contestants in Parliament and outside it, get to 29 March next year with no deal in place, and with all the difficulties for our economy, our cohesion as a country and our well-being that have been mentioned by several today, and most pointedly by the most reverend Primate the Archbishop of Canterbury in his telling contribution.

I have tried to comfort myself over the past few weeks by thinking that, as with so many things in life, a no-deal Brexit will not be as bad as I fear but not as good as some have predicted. It is going to be a mixed picture of triumphs and disasters for some while, but we are probably looking forward to a period of instability, uncertainty and confusion, both domestically and in our relations with the EU and its constituent countries. To prevent that, we need to stir ourselves to make a huge effort to ensure that, when the Government's agreement as presently drafted is defeated, we move forward with dispatch but with cool heads and with large doses of common sense and political realism.

Although I can offer no immediate practical solution to this mess, I will offer one or two reasons for it which may inform the way forward, even if it does lead me into analysis paralysis. We must not have another referendum on this question. It is easy to say—so I will say it—that, despite the relative narrowness of the result following a large turnout, we are politically and morally obliged to respect the result and to try our best to implement our departure from the European Union. Of course we all try to interpret the result and the unsatisfactory nature of the debate before the referendum to suit our own cause. I wish the result had been different—but it was not, and we gain nothing by complaining about that. My experience of the referendum, the campaign and its divisive consequences lead me to think that, even if it is politically possible, another referendum would be a terrible mistake that would lead to further and worse divisions in this country that would take an age to heal, without solving our current dilemma.

The second point flows from that referendum. It has been recently and more eloquently explained by the noble Lord, Lord Hennessy. I have no doubt that he will say something about this when he speaks on Monday. We have—I plead guilty to this as someone who voted for the referendum when I was in the House of Commons—created a destructive tension between two sorts of democratic process: government by representative Parliament and government by plebiscite. If Parliament or government subcontracts high-level decision-making to the population as a whole, it creates a rod for its own back if it does not make the terms and the consequences of the delegated decision superabundantly clear. We did not.

We now have, inconveniently—as been pointed out—a Conservative Party in the Commons that is becoming increasingly pro-Brexit led by a remainer, even if a quiet one, and a largely pro-remain Labour Party led by a closet Brexiteer. This state of affairs has led not to rational debate on Brexit and its terms but to a series of vicious feuds. Mistrust of politics and politicians is, I suggest, at an all-time high. The public are angry and

feel ill used and ill served, as such discussions as we have in the country on this subject become more bad tempered, sharp and unconstructive.

I therefore urge the Prime Minister, who deserves considerable respect for many achievements in the face of adversity, to see that her deal in its present form is not going to be accepted by the Commons, and to start looking around the corner to see what can be achieved, rather than doggedly pressing on with trying to achieve what will not succeed. Listen to the words of the noble Lord, Lord Bew: rework the Northern Ireland backstop and come back to Parliament in January when tempers are cooler. To say that there is no alternative might have worked when the Government had a large majority, as they did under Margaret Thatcher. The Conservative Government could ride out the Suez crisis when it had a majority of 50. We do not, so I urge my right honourable friend to get across to Brussels and return with a reworked backstop.

5.13 pm

Lord Wilson of Dinton (CB): My Lords, it is an honour to follow the noble Lord. I was particularly moved by his remarks about plebiscite. I will explain why. I want to say a few words about the young. I have spent the last two days interviewing candidates for admission to my college in Cambridge. These are 17 year-olds from diverse backgrounds, all hugely intelligent, sharp and well informed, who are under great pressure, because there were 36 of them in two days competing for—I will not tell you for how many places. I am not allowed to tell you that, but it was tiny. I have done this for 15 years. Each year, they are a window through which I can keep in touch with what the young are doing. Every year, there is a different topic that concerns them.

It was not very difficult, I thought, to presume that Brexit would be among such topics this year. But, for the first time ever, I thought that they were a really troubled generation. They were unhappy, and their troubles went much deeper, although Brexit was part of them. I was interviewing them for politics, and what they wanted to talk about was the inadequacy of our political institutions. I wanted to bring a group of them to talk to noble Lords—they were so sharp and disillusioned with the quality of the handling of Brexit and the debate about it. One said, “My generation is the most tested in the history of this country. Since I was at primary school, we have been under pressure to be excellent, but I don't see any sign that people in Parliament feel any pressure at all to be excellent in the way that they handle Brexit”. Luckily, I was not being interviewed by them. It is very hard to think how to defend the deal that is before this House.

I asked myself: if I were to vote for the deal and it was passed, how would I defend it to the people I am interviewing? It is clear to me that in economic terms we will be poorer as a country. I know we can argue about how grave it is—I quite like the description of some commentators that it would be like an economic slow puncture—but on any basis we will be poorer. Who will have to pay the price? It will not be our generation, if I may generalise—it will be the young. It will not be just for a year or two; it will be for decades. How do you explain to them that that is a good thing?

We will be politically weaker in the world. One of the main reasons we applied to go into the Common Market was to increase our political influence in the world and not just stand on our own on the edge of Europe. I was privileged to be present when Macmillan was discussing whether Ted, then in opposition, should make a second application to join. Macmillan said two things: someone had remarked that the main challenge would be the French but Macmillan said “No, the big problem will be my party; there will always be a group who will be unhappy with our membership of Europe”. He obviously knew his party. When someone said that there would be great economic advantage in joining, he said, “Yes, but the real argument is that for our security, our defence and our weight in the world, we must be part of Europe”.

Now we are reversing that—we are going backwards. That is the wish of the people. But it is hard to explain that to the young, who see themselves as part of Europe. They see themselves as Europeans. When the Prime Minister talks about migration, they hear her stopping them exploring the world and having adventures in Europe—that is what turns them on. This is nailing down the coffin of their ambitions. How do we defend the Government’s attitude?

We will leave our strongest negotiating weapons at the door on 29 March, if we leave then, and enter the negotiating chamber for much the biggest part of the negotiations in a weak position, on bended knee. Earlier in the debate, I found myself imagining—forgive me—the Front Bench explaining to Mrs Thatcher the deal that they were recommending to Parliament and to the people. I have a fair idea of some of the things she would say, but I cannot repeat them in polite company. I would hate to be in their shoes but I would love to be the minute-taker—it would be great entertainment. She would be shocked by this deal, the backstop, the risks and the gamble that we are taking with this great country. I am confident of that.

The future will not be one of peace and settlement of this argument. We have arguably been having this argument over Europe for 500 years. The first Brexit was when we left the Church of Rome. It will go on bitterly: what we have done has been to make it more and more bitter. The need for reconciliation is one that I sympathise with hugely. The point about the young is that they have no vision of what Britain will be like in the future. One of them said, “I know why we want to leave; I don’t know where we want to go to. Why are we doing this? It is the young who will have to pay the price”. Therefore, I say to the Front Bench: I will be interested to know how they will persuade young people that this is a good thing to do, because I would be ashamed to offer and recommend it to my children and grandchildren.

5.20 pm

Viscount Ridley (Con): My Lords, three years and two months ago, at the Second Reading of the EU Referendum Bill, I said that it was “absolutely vital” that the referendum was,

“seen to be robust and fair. We want to settle this question for a generation. I will possibly vote to leave unless the negotiations come up with good results but, if I do so and I lose, I will not

complain unless the referendum has been unfair, and I am sure that others on all sides will take that view”.—[*Official Report*, 13/10/15; col. 157.]

The negotiations did not get good results, so I voted to leave, but how wrong I was about that last point, that others would respect the results.

I have had to watch the losers of that referendum explaining why people voted to leave, like pith-helmeted explorers talking about a tribe of hunter-gatherers whose language they do not understand. They briefed the Brusselscrats on how best to beat Britain in the negotiations; they said that they would respect the results but then did not do so; they urged a second referendum without bothering to specify the question, and talked down the country. How proud I was of our Prime Minister, however, for her ringing words of courage and determination at Lancaster House, in Florence and at the Mansion House; for her insistence that no deal was better than a bad deal; for her assertion that nothing was agreed until everything was agreed; and for her assurance that we would leave the customs union—that system of imperial preference—whatever happened, and be free to pursue trade deals with the rest of the world. She said that £39 billion would get us a comprehensive free-trade agreement before exit day so that the next 20 months would be an implementation period, not a transition period, and that we would prepare properly for no deal in case it proved necessary.

Throughout the long debates in this Chamber, therefore—on the referendum Bill, the Article 50 Bill and the withdrawal Bill—for three years I have voted with the Government every time, even as I had to watch some of my colleagues speaking, voting, scheming and even whipping against their own party and their own manifesto. Then, quite suddenly, there came a bit of a sinking feeling earlier this year when I realised that my side had apparently been pursuing a somewhat different deal: a pessimistic, damage-limitation Brexit. It seemed—this is how people in the north-east of England seemed to react to it when I talked to them—to be based on appeasing, conceding and retreating, like Brave Sir Robin in “Monty Python and the Holy Grail” and that the future relationship is still just a list of airy aspirations, dependent on best endeavours and against the deadline of a backstop.

When I said three years ago that I hoped the losers would accept the result of the referendum, it never occurred to me that I needed to worry that the winners might not accept the result. Imagine—those of your Lordships who voted to remain, which is most of those in this Chamber—you had won by 52% to 48% but, two years later, finding that your Government were negotiating a half-out deal with a permanent backstop trapdoor with no exit, which prevented our fully rejoining the EU. Would that have felt fair?

I know it has been very difficult to negotiate a deal, and I have tried very hard to persuade myself that this is the right deal, but I cannot, especially after reading the Attorney-General’s advice this morning and listening to the noble and learned Lord, Lord Goldsmith. If it seems to some on my side that that is being disloyal, then I ask: where is the loyalty of my party to its own manifesto?

[VISCOUNT RIDLEY]

Next week, the other place will probably reject this deal, as we have heard. What then? I genuinely do not know and nobody does. The paradox of this situation is that every possibility that we consider seems highly implausible, and yet one of them will happen. We must surely have one last try at getting the backstop softened or taken out of the agreement and put into the future relationship paper so that it cannot be a trap without an exit. At the same time we must prepare, as fast and as best we can, for a bare-bones arrangement to cover the essentials that we will need, and not because that is what we want. Of course I want free trade with the EU but not on these dangerous terms, which could deliver eternal half-membership and bitterness in the long run and, in the short run, a Corbyn premiership, an outcome I know many on the Back Benches opposite do not want either. We must get ready to tackle the bottlenecks at the ports, prevent the imposition of tariffs and do whatever it takes to keep things flowing. Of course it would be painful but it would be the EU's fault at least as much as our own for trying to impose a Carthaginian peace on this proud country.

Whether 29 March is a disaster is not something that can be modelled, certainly not by the discredited methods employed by the Treasury and the disgracefully politicised Bank of England—the people who brought you forecasts of 500,000 to 800,000 more unemployed if we voted to leave, whereas we have 250,000 fewer; who brought you a forecast of recession, whereas we have had steady growth; and who brought you forecasts of a collapse of foreign direct investment, whereas we saw a 12.5% increase in foreign direct investment in 2017, and just today the biopharmaceutical firm UCB has announced a £1.3 billion investment in the UK.

Why can it not be modelled? Because what happens is in the hands of people. We can make it a disaster or a success, depending on what we do. I have no doubt that the vast majority of British people will want to ensure that the country gets through this crisis and takes off afterwards. However, equally, I have no doubt that some people—in, let us say, the BBC, the CBI, the *FT*, the Labour Party, the Liberal Democrats, the intelligentsia and much of the chattering classes—will be longing, hoping and perhaps even plotting to ensure that it is a disaster. That gives me pause. It makes me worry that, because of insufficient preparation and the determination to fail, we might indeed face real problems.

What is more, it takes two to prepare, and the EU also needs to be preparing. I have it on quite good authority that the EU is refusing co-operation with us on some of the preparation that we need to do in the event that this deal fails. I would like the Minister to address whether that is the case and what can be done to improve that situation.

5.27 pm

Lord Davies of Stamford (Lab): My Lords, this is not the first time that I have followed the noble Viscount in this House in a debate on Europe. It is always a pleasure to debate with him—he is always interesting and original—but I have to say there is often a strand that leads to paranoia in what he says, and that was

true today. Something that worries me is that over the last few years there has appeared on the right wing of politics, and I think the noble Viscount represents the right wing of politics very well, a rejection of the values of rationality, evidence-based decisions, expertise and experience, principles on which our civilisation has been based since the Enlightenment and on which the advance of science has been based for a very long time. That worries me very much.

I do not suppose that many of us or indeed any of us had ever thought or heard of a Government who knowingly pursue a policy that is likely to reduce the wealth of the country that they govern. I suppose the reason why we had not heard about that until the last few days is that, as I am told, there has never been such an occasion in history before. Even reaching through the darkness of the past into the ancient world, no one can come up with an example even in Herodotus of a Greek tyrant who did such an irrational thing. The phenomenon is quite extraordinary.

More extraordinary, surprising and depressing still to a lot of us is that if that phenomenon was going to arise somewhere in the human race one day, of all the 193 countries in this world it would be in our country that it happened. I think that is very frightening. The situation is grotesque. Where there is a breakdown in the governance of the country, and when the Government of the day have obviously lost their bearings, a great responsibility falls upon Members of the House of Commons, and I am sure that they will discharge that responsibility on Tuesday. It is not for me to tell them what to do and I certainly will not—it is not any intention of mine to give them advice—but the purpose of arranging this debate in advance of their decision is, I suppose, that at least we can express some opinions, and if anyone in the Commons wants to take any notice of them then they are free to do so.

If I had half an hour, I could set out my own view on what should happen over the next six months, but I do not. There are, however, three things that I think should not happen. First, no one should be allowed to get away with saying, “Vote for me; support me; follow me, and I will renegotiate with the European Union and get a better deal”. That is rubbish. There is no possibility of renegotiating with the European Union and getting a better deal, nor should there be. No self-respecting person in its shoes, having come to an arrangement like that, would reopen matters and start renegotiating. It would be a fatal thing to do. In the EU's case, it would be very conscious that the Prime Minister and the Minister of Europe they are dealing with now might change and, in a few weeks or a month or two, their successors would come back and say: “Now I'm in charge so I would like to start renegotiating”. It would be absolute chaos. It is not possible and, in my view, it is dishonest to suggest it. It would be a siren call to disaster. It would be an abdication, preventing us from taking the necessary decisions, and wasting valuable time. I very much hope that that does not happen and that no one is tempted to go down that particular road.

The other thing that we need to bear in mind is that no referendum can be altered. A referendum can be altered constitutionally—I accept that entirely—but

politically and psychologically, it would be a great mistake to try to alter one except by another referendum. If we wish to collectively change our mind as a country, the only vehicle for doing that must be another referendum.

All of us find ourselves in a difficult situation, not knowing exactly what to do in these difficult circumstances. It is clear to me that if a Government do not have the confidence of the House of Commons, there must be changes. We cannot have a situation in which a Prime Minister who has been rejected in a project with which he or she has been identified for a very long time, remains in power. It would mean that the Prime Minister has no credibility, either domestically or abroad, and that is undesirable for the country as a whole.

I want to add something on freedom of movement, which has not been mentioned at all in these debates, although it should have been. I accept what I think is the majority view of commentators and experts that it was freedom of movement and not the economy—as the noble Lord, Lord Heseltine, said in a brilliant speech a few moments ago—that moved most people to vote for Brexit in the referendum. One understands the emotions that sometimes arise in such contexts. I am sorry to say that, since the beginning of time, all human beings have had a slightly tribal instinct and a suspicion of foreigners. It is not always the most attractive aspects of human personality that come to the fore in contexts like that.

Nevertheless, those who voted for the end of freedom of movement and the great reduction in immigration that they were hoping for at that time have already been betrayed by the Government. The Government have now realised that you cannot run the British economy without foreigners, and they have explicitly rejected their previous policy of reducing net immigration to less than 100,000 people a year. In that situation, interesting choices arise, but the Government have made it clear that they want to replace immigration from the rest of the EU under the freedom of movement principle with immigration from the third world. I think we should probe the reasons for doing that and the merits or demerits of doing so. This is a sensitive subject, but that is not a reason for not touching it. I think it is a great abdication not to talk about difficult subjects when they have a great importance for public policy.

Most of us will have met many thousands of people from the rest of the European continent, not just from countries in eastern Europe such as Romania, Lithuania and Poland but also from France, Spain and Portugal, and so forth, who have been working in this country—very many of them in the NHS and the catering and entertainment industry, in bars and restaurants and in shops. Mostly, they seem to be doing a very good job. I have no doubt at all that there are people from any part of the world who could do a very good job. But if we replace immigrants from the rest of the European Union with people from the third world, they will presumably mostly come from those parts of the third world where there is the greatest degree of emigration and the greatest numbers of people wanting to leave. The countries where there is the greatest emigration at the moment are well known; if I am not mistaken,

they are Syria, Somaliland, Eritrea, South Sudan, Afghanistan and Iraq. All those countries have had a difficult history in recent years and the tradition of political violence and extremism. Cultural integration issues would arise in a context that we all ought to think about very carefully. It would be quite irresponsible just to brush those matters under the carpet.

There are other reasons why there is a good case to be made for freedom of movement within the European Union rather than immigration from outside. First, freedom of movement, from a purely selfish point of view, is a valuable instrument of economic stabilisation. If the economy is overheating and there is a shortage of labour, you can introduce people from the rest of the EU; and when the economy turns down, the experience is that a lot of them tend to go home. That is splendid, and you can carry on with the higher growth rate of the economy for longer, avoid recessions and so forth and stabilise the economy. People do not normally go home to Eritrea or South Sudan. For very obvious reasons, it is the last place they would want to go.

Secondly, freedom of movement is a reciprocal principle. We have benefits in that we can go and work in those countries, and indeed, I made use of those myself as a young man. I do not know why the Government do not recognise the merits of freedom of movement. I do not think that this matter has been properly explored or properly explained. I think we should hear from the Government a rationale for their recent perverse policy in this area.

Baroness Manzoor (Con): My Lords, I respectfully remind noble Lords that the advisory speaking time is seven minutes so that everybody gets the opportunity to speak.

5.37 pm

Baroness Janke (LD): My Lords, I recently listened to the debate in this Chamber on the Kindertransport, and heard the experiences of so many families in this country who suffered the destruction of war and the sadness of separation in the ensuing years after the division of Germany. In fact, my own family suffered not only from the effects of the two world wars but from the division of Europe through the Warsaw Pact. Cousins whom we discovered after the fall of the Berlin Wall have told us about their sufferings and hopes for peace in Europe, their sorrow at the loss of the UK from Europe, and their children and grandchildren, who see themselves very much as part of Europe and its future. The debate restated to me how many have benefited from the years of peace brought about as a result of the formation of the European Union.

Recently, I read about some of the events in Germany during the 1930s, and I asked people I knew why nobody did anything about them as they gained momentum. I believe there was a feeling that people knew what the direction of the events was, but they felt powerless as to how to stop them. Many of us have that feeling. We cannot ignore the rise of the far right, not only in our own country but across Europe and the world. It has produced politics based on hatred

[BARONESS JANKE]

and division, and it seems unthinkable that we propose to leave our closest allies at a moment when we should be working together to fight for liberal values, principles and beliefs.

Yet we are proposing to leave the EU, with very little agreed other than intentions and hopes. As many noble Lords have said already, the agreement and the political statement are vague and lacking in specifics. Indeed, they give us little more than a flimsy tissue of assertion, ambitions and aspirations. Let us look at a little of the language. The parties are committed to a “high level” of co-operation. They are,

“endeavouring to adopt decisions by the end of 2020 if the applicable conditions are met”.

“Appropriate arrangements” and “best endeavours” are the language of these documents. As others have said, there is huge danger in the fact that we are contemplating leaving the EU after 40 years of close co-operation with little more than a vague statement of intent on which to base our future.

Members of the EU Select Committee, including myself, have been struck by the views of many witnesses who describe the real vulnerability of the UK in leaving the EU not on a basis of certainty or clarity but with all the substantive issues still to be negotiated. Whether it is security, the European arrest warrant, shared information systems, reciprocal healthcare, medicines, sport and culture—the arrangements for sportsmen and sportswomen, musicians, actors and entertainers to be able to cross frontiers simply to go about their daily business—if things go ahead as planned, we will be outside the EU when all these substantive issues are negotiated.

These matters and many more will have to be agreed between ourselves and the other 27 Parliaments when we are outside the EU as a rule-taker, with little influence and no leverage. It is a common view that at least 10 years of negotiations lie ahead, whatever the aspirations of the Government. Somebody said to me recently that, as it took us 14 years to get into the European Union, we should not be surprised if it takes us quite a while to get out. That must be the case, but how would we have felt a few years ago if someone had told us that we would leave and then settle the arrangements afterwards? We would not have believed it. To those who have said we need more time, I support that. Had people been aware, when they thought of the amount of time ahead for negotiations, that at this stage they would still not know how they would travel abroad, whether they could get their medicines, whether their pets could have passports or whether they could go on holiday without worrying, many would have been shocked. They were never led to believe this.

As the most reverend Primate said, we have a moral choice: we should never be afraid to speak from our hearts. If this Brexit will harm our country’s future, make people poorer and threaten our position in the world—our ability to construct a future for the benefit of our people—then it is our duty not just to say so, but to fight it. If we do not, there will be even more scope for division and resentment. Referenda are not an ideal form of government; I agree about that. But

the problem is that the referendum genie is out of the bottle. I do not believe any change of direction will be possible without a vote on the current deal. To the people who say that this would be divisive, my response is that the situation is extremely divisive now; it is getting more so as people realise that they are losing out and have been lied to on many issues. What hope for reconciliation—if that is what we want to achieve, as I certainly do—if there are more constraints, more costs, fewer benefits, and the people who lose out are the poor and the dispossessed?

Now that the reality of the problems is clear, the only way we have a chance of stopping this march to massive self-harm is by giving people the right to vote to approve the deal or say that they prefer to remain. This must be a decision taken for the long term; even if it is fraught with the utmost difficulties, we must get it right or our children and grandchildren will not forgive us.

5.44 pm

Lord Bilimoria (CB): My Lords, the Leader of the House started this debate by saying that we are implementing the express will of the people. According to her, this is a deal that will protect jobs. On the other hand, the former Governor of the Bank of England, the noble Lord, Lord King of Lothbury, has just said that this deal is the “worst of all worlds”. This is a lose-lose. Although the withdrawal agreement is 875 pages long, the political declaration, which is the basis of our future relationship, started at six pages, got to 26 and is not legally binding. It is full of waffle—platitudes and best endeavours—and takes our country into a completely blindfold Brexit, with an inability unilaterally to withdraw from the backstop, and with a transition period to the end of 2020, which has already been talked about being increased to 2022. We are being presented with uncertainty to infinity and beyond.

As for being in control of our fishing, even before negotiations have started the French are demanding to fish in our waters. Ironically, 75% of our home-caught fish is exported—mostly to the European Union. To me the most important aspect of our 45 years of membership is that the EU has helped to bring peace to Europe. I would pay the £8 billion a year, which is 1% of government expenditure, for the peace and the security arrangements that EU membership brings us.

Now we are told we will not have access to Galileo. What about the European arrest warrant? What about European police forces physically working in each other’s countries including here in the UK? Brexit also threatens the very security of our union, including the 20 year-old Good Friday agreement, which has brought peace to Northern Ireland.

What about frictionless trade, a term not seen at all in these documents? What about the shocking revelation from Dominic Raab when he was Brexit Secretary that he had not realised the importance of the Dover-Calais freight corridor to our trade? Here is an individual who is advocating a hard Brexit, crashing out over the white cliffs of Dover.

All this talk from Brexiteers, and from the Leader of the House today, about Brexit allowing us to forge a new path around the world and the Brexiteer mantra of “global Britain”—what a lot of nonsense! We have

already been global Britain. We are one of the most global economies in the world. Almost 50% of our trade is with the EU—45% of our exports and 55% of our imports. On top of that, through the FTAs with 50 countries, we have 17% of our exports through the EU. Two-thirds of our trade is with and through the EU. Will we go global by going after the other one-third that includes America, China and the whole of the Commonwealth, including India, which makes up just 9% of our trade? India has only nine free trade deals with any countries in the world, and not one with a western country. For countries such as India an EU-India free trade agreement is far more important than a UK-India one. We are talking about 500 million people and 28 countries versus one country and 66 million people. The British public have been sold a pup.

What about immigration? EU net migration has now fallen to 74,000, whereas non-EU migration is at a record level of 248,000. The Government have the ability to control non-EU migration and a target to reduce net migration to under 100,000. This is sheer hypocrisy. The Conservative Government keep boasting about creating 3 million jobs, but we have 3.5 million people from the European Union over here with 4% unemployment. Without them, we would have an acute labour shortage. Then there is that fact that EU migrants contribute billions to the economy, far more than they take out in benefits. We already have the ability to control EU migration through an EU regulation that allows us to repatriate EU nationals after three months. We never use that. Can the Minister tell us why the public do not know about this?

The migration crisis from Syria and the Mediterranean was at its peak in 2015. There is no question that it influenced the Brexit vote. Today it is far lower and nowhere near as alarming to the public as it was three years ago, sad though it still is. What is so bad is the awful way the Government have handled the Brexit process, trying to bypass Parliament at every stage. They tried to implement Article 50 without Parliament's approval. They tried to avoid giving Parliament a meaningful vote, which is what we are having now. They tried to avoid disclosing the legal advice and ended up being in contempt of Parliament. Now the Attorney-General has released the advice and there it is in bold type:

“In conclusion, the current drafting of the Protocol, including Article 19, does not provide for a mechanism that is likely to enable the UK lawfully to exit the UK wide customs union without a subsequent agreement. This remains the case even if parties are still negotiating many years later, and even if the parties believe that talks have clearly broken down and there is no prospect of a future relationship agreement. The resolution of such a stalemate would have to be political”.

Far from Brexit taking back control, we are losing control. As a Parliament and as a country our sovereignty is being threatened. As the Attorney-General said earlier this week, the Government are doing this by taking a “calculated risk”. How dare the Government take a calculated risk with our citizens' livelihoods and our children's future? This is irresponsible to the extreme. How dare the Government continually vandalise parliamentary sovereignty? We are losing our seats in the EU Parliament. We are losing our EU Commissioner. We are losing our seat on the European Council. We are losing our say. Our global standing has been

diminished day by day. London has lost its position as the world's number one financial centre to New York. The whole world does not want us to leave the EU, including the EU countries themselves.

With Northern Ireland, the Achilles heel of Brexit, we are threatening the union of Great Britain and Northern Ireland. Scotland is rebelling and might break away. Wales, which voted to leave, is now rebelling too. Northern Ireland voted to remain, Scotland voted to remain, business voted to remain, London voted to remain and the youth voted to remain. By March 2019, two of my children who were not old enough to vote in June 2016 will be old enough to vote, and they have had no say in their future. Approaching 2 million youngsters who were not legally allowed to vote two and a half years ago can now vote, and over 85% of the youth want to remain. They did not turn out in 2016 and they regret it. If there is another referendum, they will turn out in droves. The Government are giving us Hobson's choice between their awful deal and no deal. There is a much better choice and that is no Brexit via a people's vote.

We have heard just this week from the Advocate-General of the Court of Justice of the European Union that the UK can unilaterally withdraw Article 50. Democracy should be dynamic. This country is being held to ransom to respect the will of the people in an outdated vote that took place two and a half years ago. The demographics and facts have changed. In a normal democracy, you can change your mind every five years, so we should respect the will of the people today, not as it was two and a half years ago. Today, the polls show that 54% would vote to remain and that 55% want a people's vote. Just a few hours ago, a YouGov poll reported that 38% of people believe that the UK was right to vote for Brexit, whereas 49% think that Brexit was a wrong decision. That is the biggest gap to date. The number believing that Brexit was a mistake is at its highest since the referendum and will only get higher. I cannot understand why people worry about a second referendum further dividing the country. How much more divided can we get than 52% against 48%? The polls show that if we have another referendum, many more people will vote to remain.

In conclusion, my favourite saying is that good judgment comes from experience, and experience comes from bad judgment. It was bad judgment to have a referendum on such a complex issue covering 45 years; it was bad judgment to give the people just four months in which to make a decision; it was bad judgment not to have had a two-thirds majority threshold, which would have prevented a decision being made on a margin of 52:48; and it was bad judgement to rush into implementing Article 50 on an advisory referendum.

The EU has been accused of bullying us. The EU has not been bullying us; we have chosen to leave. We opted in to Europe and have had a lot of opt-outs—we are not part of the eurozone and not part of Schengen. Now, we want to opt out of Europe but have all the opt-ins. It is time to get back on to the top table of the world. We should stop wasting precious time, energy and money and, instead, focus on the major issues, such as child poverty and rising violent crime. The

[LORD BILIMORIA]

people have seen that the Brexit emperor has no clothes. The truly democratic decision now would be to go back to the people and let them have a say. That is the choice, not a hopeless deal or no deal. That would be respecting the will of the people.

Churchill talked about the “sunlit uplands”, as did the most reverend Primate. We will get the sunlit uplands if we have a people’s vote. If they get a choice, they will choose to remain.

5.52 pm

The Lord Bishop of Leeds: My Lords, I wish that I could pack as much into a single speech as the noble Lord, Lord Bilimoria, but I defy the challenge.

It is perhaps not a bad idea at this stage in the debate just to take a step back and to remember what the point of all this is. I was doing “Thought for the Day” on Radio 4 this morning and picked up on three words from the title of a Theos think-tank report on resilience in the north-east of England—people, place and purpose. They are three words that offer us a lens through which to see what all this is about. I endorse what the most reverend Primate said this morning in his speech.

Whatever the ultimate outcome, one of the legacies of the Brexit process thus far is, as I have said before, a corruption of public discourse, polarisation between people and communities, and a too frequent reduction of the polity to the merely economic. People are now too often categorised as either Punch or Judy; argument and nuance are dismissed in favour of emotive ad hominem judgment.

I understand that the withdrawal agreement is necessarily a technical means of achieving a political end, but the political declaration is aspirational in its language without offering a big vision for a society that is more than an economic market. Aspiration is good, but it needs to be accompanied by some articulated obligations and accountabilities. Therefore, I repeat the question that has come out in this debate: what is the big vision for British society, not just trade relationships, into which the technical agreement fits as a mechanism? What is the vision, and what is the future that we are asking our young people to build?

To be biblical for a moment, when Moses led the people of Israel out of captivity after 400 years in Egypt, they did not go straight to the promised land; they spent 40 years in the desert. There, a whole generation of romanticisers about the past died out. That is the point. You have to let a generation go in order to have a new generation that can envision and build a new society fired by their own imagination and not something that they were simply required to inherit from their forebears. I agree with the noble Lord, Lord Tugendhat, that today we are talking about process and not event. I, along with my right reverend colleagues in this place, see deep divisions and significant challenges every day in our communities, and they will not be resolved immediately. In fact, they might define the next generation while we go through a sort of desert and all this gets sorted out. However, I do not believe that all this will evaporate merely by coming to a conclusion. This is not a zero-sum game and it must not become that.

The deal before us has the virtue of being a compromise. Compromise is often spoken of pejoratively, but it is a good thing because it assumes that people have listened to opposing arguments. They have weighed things up in the balance. They know that there might not be a perfect answer but they weigh things up and come to a judgment, and then together try to work out what is best for the common good. I may be naive but I do not believe that anyone could have got a better deal because, frankly, the people they were negotiating with would have been the same and the maths would have been the same, and we would have ended up with the same narrow criteria having to be worked through. It is a fantasy to say that someone else could have come up with a better compromise. That does not address the question of whether this compromise is acceptable but the options were never vast, even if some of the fantasies about Brexit were ridiculous. It was clear from the beginning that some circles were never capable of being squared, and the Government should have been honest about that from the word go.

I confess to being bewildered. I have heard some very powerful speeches today and in one sense I could go either way. I want to vote against an agreement that leaves the country poorer and possibly more isolated. I want to vote against a deal that commands so little support across the country or even in this building but is being pushed as a binary choice. Yet I also want to vote for it, mainly because a compromise was always going to be costly and this one gives both sides something, if not everything, that they wished for. However, I also want to abstain, as I think that the choice before us compels a short-term decision that might have medium to longer-term negative consequences. “No deal” is a failure to deal. This deal reduces the sovereignty—or control—that Brexit was supposed to recover and simply loses us the rather good deal that we already have within the EU. Another referendum is a risk, but it cannot be said to diminish parliamentary democracy any more than the first referendum did—that pass was sold in 2016.

I am in a difficult place, so I will carry on listening to the debate and then make my mind up on Monday. However, assuming, as I do, that there is no ideal outcome—that whatever outcome we come to will have us poorer than we are at the moment—in conclusion I would like to address two or three principles that might be getting lost but which might be worth bearing in mind as we go forward.

First, whatever the outcome of this process, how are we to take responsibility for what we have done and for shaping the United Kingdom and the Europe of the future? We do not just sail off into the sunset and say, “Now that’s all up to them”. I have no doubt that the United Kingdom, if it remains intact, will grow a younger generation who will create a prosperous and creative future for our islands, even if we suffer short-term loss. But the generation that has led us into this mess—my generation—might have to make way for those who can shape a new narrative for our collective future, and they will not be helped by self-exonerating blame games by those of us who can see ourselves only as victims. A new sort of leadership will

be needed in future that can rise above the divisions and seeks to reconcile and unite people around a common vision for more than trade and economics.

Secondly, when we speak of “we” and “us”, that must include the EU 27. The demonisation of those remaining in the EU is infantile, counterproductive and unhelpful. If our language reflects who we are, then we are going to have a problem encouraging the next generation to speak, relate and behave like adults.

Finally, very briefly, whatever Brexit looks like in the end, we will still be left with the massive challenges of poverty, homelessness, debt, food banks, poor health among too many people, challenges in education when children come to school hungry, and so on—I could go on and on. We must move on to face the challenges of the NHS, castrated local authorities, transport failures, infrastructure and other consequences of a decade of austerity. The EU cannot be blamed for that lot.

If a divided people are once again to know that they belong—whichever way they voted in the referendum—they will need to hear from this place an articulation of vision, hope and reconciliation: that people in all places have a common purpose that is worth adopting.

6.01 pm

Lord Lea of Crondall (Lab): My Lords, we all have to be highly selective in this debate but, before I address the central question of where we go from here, as the right reverend Prelate is on his way out, I would like to express my accord with the remarks he made and how many nails he knocked on the head, referring to the most reverend Primate the Archbishop of Canterbury.

Back in April, a cross-party group of us submitted an amendment to the then European Union (Withdrawal) Bill, calling on Parliament to take back control, in effect—not to negotiate internationally itself, but to provide the Government with a mandate for the negotiations with the EU. It is a great pity that the other place did not adopt it because, however difficult it would have been for the Government then, it could well have helped them now. Parliament was excluded, but if the Government lose the meaningful vote next week, we in Parliament will need to step in with alternatives of our own.

We hear now the return of the dictum associated with Baroness Thatcher: “There is no alternative”. Some of us set out our alternative. I have been involved in producing a pamphlet, which I have here, on how we would return to the EEA through moving from Pillar 1, the EU, to Pillar 2, EFTA. I am afraid that I do not think that the noble Lord, Lord Owen, in a speech with which I otherwise had much sympathy, is right about the technical point here, which is that the EEA is in fact a twin-pillar organisation—the pillar of the EU and the pillar of EFTA. One can be in the EEA only if one belongs to one or the other of them. There would be scope for exploring further with the EU and EFTA about what we have proposed in this pamphlet, an alternative to the EU, which would be an evolving role of the European Economic Area. All Members of both Houses should have received one of these pamphlets, and I have further copies if anyone is keen to get this instead of a Christmas card.

We have a better alternative to the Government’s deal, and we must push ahead inter alia, otherwise the working people of this country would not only not be in the single market, with all its industrial aspects, but would be only in what is called a protected position on existing rights under the Social Chapter—that is, rights at work. Given all the evidence of disquiet in the country about where we are with jobs and our industrial future, I hope that this will not be left just for people with a trade union hat on to, as it were, push up the agenda of concern.

It has often been said that the objection to the EEA is that we would be a rule taker rather than a rule maker. But, apart from anything else, we would be in a position in the EEA to address what some of the EU people in Brussels now know has to be a decade of evolution in many of the protocols and workings of the EU/EFTA arrangement. Of course, it was Jacques Delors who, in 1990, established the EEA with a view to an evolution in the medium term. That is very important and would certainly include, de minimis, a strengthening of the consultative arrangements before legislation.

On the attitude of the Norwegian and Icelandic Governments, I will read out two quotes from the past few days to put them on the record. Mrs Solberg, the Norwegian Prime Minister, on the question of whether she would support Britain coming back, said:

“If that is what they really want, we will find solutions in the future. To find a good agreement is important for all European countries and I hope that we will see an orderly deal that doesn’t disrupt economic affairs in Europe”.

I say that because Norway’s biggest trading partner is, of course, ourselves. Norway sells natural gas, fish, and services in particular. The Icelandic Foreign Minister, Mr Thórdarson, said:

“We would be very positive towards the idea of the UK joining EFTA/EEA—you are the ones that started the organisation”.

The proposal that we are making should not in any sense be associated with the terminology used by Nick Boles MP, “Norway for now”—I think he may have rescinded that now. We are talking about a long-term relationship and an evolutionary one, and I think that phrase is not a very polite way to greet potential colleagues in Norway; nor, with great respect, is it a good idea to refer to us having entitlements in that regard. But I think the negotiations would be very constructive.

I was rather disappointed, for once, by the speech of the noble Lord, Lord Newby, on the EU/EFTA option. It would make a great difference to the weight of EFTA. I have some knowledge of the background to this, and I think his word “supine” referred to the lack of weight in the EFTA pillar of the EEA. But we are a big elephant relative to the size of EFTA, and that itself would change things. I repeat: there is an appetite in Brussels to see some evolution in these arrangements.

Finally, I believe that in the next few weeks we cannot crash out; we have to find an alternative. We would have to do that in any event if we wish to make progress both with the extension of Article 50 and on the important political declaration to which our attention was drawn by my noble friend Lord Whitty.

6.09 pm

Lord Howard of Rising (Con): My Lords, leaving the European Union is a political decision, not a business or a commercial one. In spite of the dishonest fear campaign, the people of this great country of ours voted to return the rule of their country to within these shores—a return to democracy, where the people of Great Britain govern themselves through their Members of Parliament: their elected representatives. The people voted this way in spite of the deliberately inaccurate forecasts promoted by various organisations anxious to continue being ruled by unelected bureaucrats in another country.

This seemed to be understood by the Prime Minister when she said that,

“no deal is better than a bad deal”.

Since then, she has stated a number of red lines. Each new red line was a signal of firm principle. Firm principles were abandoned as fast as deckchairs in a summer squall. She said that we would leave the customs union, that the integrity of the United Kingdom would be maintained and that we would no longer be under the jurisdiction of the European Court of Justice—all abandoned, with the Prime Minister claiming that no principle had been abandoned.

It is possible that the Government believed the stream of negative stories put about by the same people who urged us to go into the ERM and then that it would be a disaster if we left the ERM, and who said that we could not survive outside the single currency and must join the euro—the Treasury was a notable exception to this foolishness. Then there were the forecasts made during the referendum that proved to be so spectacularly wrong. Now the same hobgoblins are at it again. The Bank of England is making irresponsible forecasts, the most recent described by the distinguished remainder economist Andrew Sentance as “highly speculative and extreme”. Any GCSE economics candidate submitting such duff answers would be invited to resit the examination or contemplate a different career choice.

On supply chain interruption, I know that this Government have their limitations, but will they ban the importation of essentials? It is our decision whether or not to limit imports. The CBI has simply never got anything right—indeed, it is an achievement to have got everything quite so wrong over such a long period. The Treasury’s referendum economic forecasts created a whole new dimension of getting things wrong. These elite organisations, cocooned in their metropolitan fortress, out of touch with the country, as well as being unable to accurately forecast seem unable to grasp the basic, fundamental point that the British people want to leave, and said so in the largest plebiscite ever. The people do not wish to stay attached to the EU in any fashion dreamed up by people quite out of touch with reality.

Did those negotiating either wish to sabotage what people had voted for, or have they never been near a negotiating table? They started discussions by giving away £39 billion and followed that up by accepting that the Irish border is our problem when, as no southern Irish Government would contemplate a hard border, it is the EU’s weakness and problem.

There have been comments during this debate about the horrors of no deal. There is no such thing as no deal. If nothing is agreed with the European Union, we will have a world trade deal. I remind noble Lords that, since the 1990s, UK exports to countries with which we trade under world trade terms have grown three times as fast as our exports to the EU single market. Can noble Lords imagine how that figure would multiply if the UK were free of the shackles and the ball and chain of the single market and the customs union?

With world trade there is no crashing out; there is only cashing in as we save £39 billion. Think what that could do for the people of this country. I urge the Prime Minister to abandon a plan the only achievement of which would be to befoul democracy’s name for a generation and plunge the Conservatives not just into outer darkness but so far into darkest space that they may never find their way back.

6.15 pm

Lord Inglewood (Non-Affl): My Lords, it is frequently said that these days are exciting political times—and indeed of course they are. But I do not think that they are the most exciting. For me, that was the time of the collapse of the Berlin Wall and the end of the Soviet empire. That is because we won. Sadly, the same cannot be said of the present. The atmosphere that surrounds this debate is melancholy. But this is probably the most febrile time that I can remember.

For me, two certainties frame our discussions this afternoon. The first is that a rejection of this deal now does not mean no deal and crashing out. There is time. Secondly, whatever may happen in the future, the present direction of travel will mean that we will end up in circumstances of permanent revolution for many years to come. The public do not like that and are not impressed by it—but, realistically, we are looking towards political turmoil for years and years. The problem we face in this regard is that the negotiations of the past two years are the template for the future mechanisms for doing the deals that will have to be done—unless of course we simply acquiesce and become a rule taker. This approach is an inherent consequence of the doctrine of taking back control, as it has been interpreted and has evolved in thinking in this country.

As we all know, not least because it was said by the Spanish Advocate General yesterday, EU membership does not mean that we have lost our sovereignty, otherwise we could not have served Article 50. Of course, as many noble Lords know, there are more sophisticated ways of getting what you want than traditional intergovernmentalism in certain circumstances—and getting what you want is what control is all about. In an interdependent world, you can do better by working through different mechanisms on various occasions.

Before the withdrawal negotiations began, we were promised that we would be in Berlin by Christmas. Where in fact are we? We are mired, battered and bruised and on the back foot in the Flanders mud, after the best part of three years, with a fair chance of not getting out for a number of years to come. This, by any measure, is a gloomy, unconstructive and nihilistic prospect.

Of course, it is true that in years gone by our own political institutions were good at criticising others and rather less good at evolving methods of decision-making and scrutiny in a changing world. In particular, we have been very slack as regards scrutinising the progress of European Union legislation and Governments of all persuasions have smuggled legislation on to the statute book via the EU system. But as an individual I am surprised that as a trading nation involved in all kinds of complicated trading relationships which have to be different from those in an introverted, subsistence economy, we have not fully recognised the need for a different kind of system of governance in an interdependent world of regulated economies.

The kind of political and administrative turmoil we are now in is not good, not least for business certainty. As I have said, it looks as if it is going to stretch out in front of us for some time to come. What we need is more stability and certainty, not less, but the deal we are looking at presents myriad loose ends that do not seem to be encouraging. On top of this but also part of it, the vast majority of economic commentators are saying that it is going to reduce national prosperity. Of course, without that we cannot have the healthcare systems we want and the defence capabilities that people want and expect.

Those who support the deal will say, “Ah well, in the long run it will work out in our favour”. All I can say is that I have always thought that a bird in the hand is worth two in the bush. As a financial analyst explained to me the other day, an unrealised gain is not a gain at all. Furthermore, we live in a world of regulated markets, which I personally believe is a good thing. I and many of my fellow citizens do not want to live in a kind of ersatz Singapore.

Of course, the heart of the Brexit project is the referendum, whose authority, it is true, has been tarnished and whose prospectuses were in general pretty bogus. As far as I can see, the case for Brexit goes back to the referendum, and I do not think that I have ever heard any Government suggest that on its own terms Brexit does the best for Britain. If the referendum had been constitutionally binding, that would probably have been the end of the matter. But, as the noble and learned Lord, Lord Neuberger, then President of the Supreme Court, pointed out in the Miller judgment, it is Parliament that is sovereign and so it is for Parliament to take the decisions; we cannot simply duck them. Being a Member of either House of Parliament is not simply a matter of resting one’s backside on green or red Benches in SW1. In the last analysis, our role is to guide the nation’s direction of travel, and in different ways we are Burkean representatives, not delegates. It is our perception of the national interest and our fiduciary duties which must guide us.

For my own part, I envy those who actually believe that these proposals are in the nation’s best interests; it is easy for them. But I do not. I also have a nightmare about basing our decision on the outcome of a referendum held nearly three years ago to justify doing the wrong thing now when that view may no longer command the support it enjoyed then. There has rightly been discussion both in this debate and more widely about the divisions that this has exposed in our country. I

agree with that and I hate it, but these things cut in several directions. I consider leaving Europe on the basis of a vote taken nearly three years ago, if now three years later public sentiment has changed, would be the most divisive outcome that could possibly be imagined. It is one that should at all costs be avoided.

In my view, the Prime Minister’s deal—I concur with those who have said that it is a remarkable achievement in the circumstances—is not good enough. It diminishes us all in a variety of ways and so I cannot endorse it. As parliamentarians, we now collectively take a decision on whether or not the nation goes to war and soldiers put their lives on the line for their country. Against that background, I believe that it is craven not to say no to this deal if we believe that it is not good enough. If as a consequence I leave politics in a tumbrel, so be it—but that is an easy thing to say at the end of one’s career. But that is not the only part of the story, because there is another bit—what next? Quite simply, we all have to stop and think carefully and quickly. In reality, we have some time before rushing into anything. We must find an acceptable way of extricating ourselves from the fine mess which unfortunately we find ourselves in.

6.23 pm

Lord Wasserman (Con): My Lords, I hesitated before putting my name down to speak in this debate as I did not think I would have anything to say about Brexit that would not be said more convincingly by a large number of other noble Lords with far more experience of matters European than I. However, two events last week moved me to participate in the debate.

The first was a dinner I attended last weekend with a very successful British businessman who spent much of the evening trying to persuade me of the advantages of a no-deal Brexit. As he put it, with passion and conviction, “The economic welfare of our country depends mainly on our entrepreneurs, and the most successful entrepreneurs are those who know how to create or take advantage of disruption; that is, shattering old ways of doing things, old relationships and old ways of looking at the world. A no-deal Brexit”, he argued, “by causing disruption to established ways of doing things, would make it easier for our entrepreneurs to exploit new opportunities, and this in turn would make us all much richer”. I must have looked a bit sceptical when he made that claim because he went on to say, not in so many words, that our political leaders and especially our civil servants, even retired ones like me, were fundamentally risk-averse and therefore constitutionally unable to recognise new opportunities even when they were staring them in the face. I have to admit that his passion for a no-deal Brexit, particularly as he is someone who has clearly been very successful, left me wondering whether perhaps my 27 years as a civil servant really have left me incapable of seeing the advantages of freeing ourselves from the EU at the end of next March and leaving our people to fend for themselves and make the best of it.

However, on the way home from that dinner, I thought about a debate in your Lordships’ House in which I had spoken the previous day. It was a debate on violent crime, introduced by the noble Lord, Lord

[LORD WASSERMAN]

Harris of Haringey. In that moving debate, one speaker after another for two and a half hours referred to the large numbers of young people who have been killed or seriously maimed on our streets in recent months, and how this tragic state of affairs was likely to continue for the foreseeable future. This, it was argued, was because the underlying causes of this violence are not amenable to a so-called quick fix and the resources which are devoted to tackling these problems are in short supply, whether in our police forces, our prisons or other parts of the criminal justice system. The same can be said for our schools, hospitals, social services and the provision made for youth unemployment.

We must not forget that while we in this House and those in another place are debating which form of Brexit would be best from the economic, constitutional or political point of view, there are young people out there on the streets of London along with other cities, towns and even villages who are daily becoming the victims of violent crime. Each day, almost two women are the victims of fatal domestic abuse, while each year well over 1,000 people die on our roads. I believe that these two issues, Brexit and the safety of our communities, cannot be considered in isolation. Indeed, the Brexit options we are debating today must also, or perhaps even first, be considered in terms of their effect on the security and safety of our communities, which after all is meant to be the first responsibility of government. It is for this reason that I believe that, given the present state of violent crime in our society and the shortage of resources to tackle it, it would be wrong—immoral might be a better word—for us to choose a Brexit option which means abandoning the agencies and institutions that our law enforcement organisations have developed over the past decade in collaboration with their European counterparts.

I do not have time to discuss the agencies and institutions in any detail this evening. I simply want to say that the agencies and systems such as Europol, Eurojust, the European arrest warrant, the information systems we all know about and the passenger name record have all been developed largely with our help and our leadership. Without them, our police forces would be far less effective and our communities would be far less safe. As a country, we cannot afford to choose a Brexit scenario that makes us less safe.

There has been much debate about the economic costs of the various forms of Brexit, the constitutional aspects and the political case for one or other option. However, I agree with the right reverend Prelate the Bishop of Leeds. Like him, I am concerned primarily about the cost in human lives, and here I do not think that there is room for argument. It is only the Prime Minister's deal which specifies that the operational co-operation between our local law enforcement agencies and those of our European neighbours will continue largely as it does now for the whole of the implementation period. Further, it is only the Prime Minister's political declaration which provides for:

“Comprehensive, close, balanced and reciprocal law enforcement and judicial co-operation in criminal matters with a view to delivering strong operational capabilities for the purposes of prevention, investigation, detection and prosecution of criminal offences”.

Our law enforcement and other criminal justice agencies are very hard-pressed at the moment trying to keep up with the growth of violence and crime in our communities. This is not the time to deprive them of the tools which they have developed over the past decade in collaboration with their European colleagues. The families of those who will inevitably be the victims of violent crime over the next decade will never forgive that. We must not let them down.

6.30 pm

Baroness O'Neill of Bengarve (CB): My Lords, the lights may not be going out all over Europe—not quite—but the doors are closing, and we must be realistic when we look at what is going on. It makes it more bitter if one believes, as I do, that the doors are closing partly because we are pushing them closed, and that we may trap our own fingers in them—and, what is worse, our children's fingers. That is the background.

Another way in which doors are closing is that the option of a second referendum does not look like a great solution. That is partly because we have moved into a new digital age in which democracy is under severe pressure owing to the corruption of the democratic process by digital technologies. We must be realistic about this. A number of recent books have educated me—and, I am sure, many others—about these realities. For example, there is Martin Moore's *Democracy Hacked*, and the book by Jonathan Taplin with the marvellous title drawn from Mr Zuckerberg's thought, *Move Fast and Break Things*, whose subtitle is *How Google, Facebook and Amazon Have Cornered Culture and Undermined Democracy*. That is where we are, and anybody who thinks a second referendum can provide a remedy needs to address the corruption of electoral politics by digital technologies that we have so far failed to address.

I shall say no more about that, on which I am not an expert, but I want to say a little about—as noble Lords will guess—the Irish border. There, again, we are not looking at the realities of the change going on. We have heard some notable speeches both today and on earlier occasions, including one from my noble friend Lord Bew, about customs and the movement of beasts, which I take to be a serious issue. Questions have been raised not just about which rules, but about who is enforcing the rules. That requires careful thought.

I want to say something about the movement of persons. There is plenty to be found in various documents, including the 24th report of your Lordships' European Union Committee, which was published this morning, and government documents. There is plenty about the rights of EU citizens, but rather too little is said about the rights of British and Irish citizens, which are not just the generic rights of EU citizens, because they reflect the common travel area settlement of the 1920s. They are much more extensive rights, important to all of us. We have rights in one another's countries more extensive than the Schengen rights that certain EU countries have agreed for their citizens in other countries—rights not merely to movement but to abode, to work and to vote. Irish citizens vote when they live here and British citizens vote when living in the Republic of Ireland.

It is unclear how well the Government's proposals would protect those rights. I have repeatedly asked Ministers how those bundles of rights will be protected, and the answer I have typically received is, "People will have to show their passports". That is all very well if someone possesses a passport, which not everybody does. It is probably a good answer if all we are concerned about is EU citizens who are not UK or Republic of Ireland citizens. They must have passports—that is how they get here. But we must think about people who may lack passports—and, what is more concerning, lack the means to acquire a passport, which will require, for example, knowledge of one's place of birth, or some prior documentary evidence.

Not every family has the wherewithal to provide that information. People grow up in various circumstances. We do not have a system of ID cards. People live their lives without ID; they have not needed it, because they know they are British, or they know they are Irish, and they know they have the right to go to and fro across the Irish Sea by boat without passports, although planes are a different matter. When people suffer from a lack of clarity about their place of birth or their parentage—I think of the home for unwed mothers in Newry, County Down, where children were, let us say, distributed quite lavishly into various jurisdictions—or are not sure where they were registered, their access to passports is not automatic.

This morning on the BBC, many of your Lordships will have heard the story of a person born in Nigeria of British parents, whose father worked in the oil industry and who was registered as having been born there, but that registration was not accessible. That person spent nine years serving in the Armed Forces, but was denied a passport. This predicament should be familiar to us, because it is the Windrush predicament—the predicament of fellow citizens who are entitled but cannot demonstrate their entitlement.

Of course, this is not general: lots of people have a passport or know where their birth certificate can be found. But there are enough in the other case for that to need to be taken seriously. Denial of rights for lack of documentation is something the Government need to address. The complex family situations in which some people grow up mean that they cannot obtain the documentation, but they are citizens of these islands and they deserve to be protected by the common travel area arrangement, which is referenced but not, I think, thought through in the Government's current documentation.

6.37 pm

Lord Patten of Barnes (Con): Here we go again, seeking, despite the presence of so many right reverend Prelates this afternoon, to struggle across the Jordan to Canaan's side. Well, we are not there yet. I suspect that one thing on which we could develop a consensus pretty rapidly in this House, and also down the Corridor, is the proposition that we are in one awful political mess, which is in danger of turning into a constitutional mess, or shambles—all in pursuit of a deal that the Chancellor of the Exchequer tells us will make the country poorer. This is not normally an objective in political life.

I have been reading Michael Palin's excellent book on the "Erebus", and I am struck by the similarity with a voyage taken by explorers in the middle of the 19th century in the Antarctic. One ship went from Cape Longing to Cape Disappointment, then on to Delusion Point, and finished up in Exasperation Bay. I have a certain sympathy with those Victorian travellers.

The noble and learned Lord, Lord Judge, in an admirable speech, said that he did not think that many new points would be made in this debate. He then made one: he gets this year's Christmas hamper for what he said about a free vote down the Corridor, which I think would be an extremely good idea. Even if not many new points have been made, we have come back again and again to some of the points we have made in this Chamber before, which actually made a lot of sense. Many of the best points we made were rejected with contumely by Brexit Ministers at the time. I cannot remember who they were—they come and go with some regularity—but if they had accepted the points, we would all be in a rather better position today.

The question of sovereignty and how you define it ran through a lot of those discussions and is of course still relevant. I have always thought of sovereignty as an extremely slippery concept. We got into some of the difficulties we are in now because of an ideological fixation with it, as though it were something written in Mosaic law. It encourages what psychiatrists call "cognitive dissonance", in which people seek to see the relationship between facts or evidence and reality. In *The March of Folly*—a book on mistakes in American history, particularly the Vietnam War—Barbara Tuchman makes that exact point about mistakes in American domestic and foreign policy. We can see that such folly is possible on both sides of the Atlantic; there have been real errors in this country as well.

I want to pick up on what I thought were the two best speeches—certainly the two best metaphors—of the summer. The first was in a speech by my noble friend Lord Bridges, who always makes great sense. He used the metaphor of a "gangplank" again the other day when he spoke. We have not built a bridge to a place where we want to land, whether it is Delusion Bay or Exasperation Whatever, partly because we put the cart before the horse. We dealt with withdrawing from the European Union before we decided what we wanted to withdraw to—which seems to have led to some obvious consequences, which were referred to by the excellent Higher Education Minister in his resignation the other day. I suppose that the answer is contained in the political declaration. It is quite well written—as gangplanks go—but I have written this stuff in the past and put my name to it. Whenever I see the words "best endeavours", I reach for a shotgun. It is full of strong nouns, strong adjectives and weak verbs—and we have all seen this sort of thing before.

Let us think about sovereignty in that context. Today I found myself agreeing once again with my noble friend Lord Howard—as I used to fairly regularly. He pointed out that you can withdraw from the European Union without anybody else's agreement—that is sovereignty—but you cannot get out of the withdrawal

[LORD PATTEN OF BARNES]

agreement or the backstop without other people's sovereignty, and that is called "taking back control". It puzzles me very greatly. So this document, which promises us a future in which the landing point is determined largely by others, with 27 European Union countries having a veto over what we do, is one of several reasons for not supporting the deal.

The other speech I wanted to refer to was by the noble Lord, Lord Lisvane, which has gone viral. I am not sure that either he or I would have known until a few months ago what "going viral" means; I used to think that it was something to do with flu. I challenged him on this point and he rather agreed with me. He made a wonderful speech about taking his aunts to the cinema and them having to choose between seeing "The Texas Chain Saw Massacre" and "Reservoir Dogs". That is what we are offered here—only it is a double bill of "The Texas Chain Saw Massacre" that we are threatened with. The mantra used to be, "No deal is better than a bad deal". Today's mantra is, "A bad deal is better than no deal". To a considerable extent I suppose I can agree with that—but we should be able to achieve a better deal.

I realise that some of my noble friends will go through the Division Lobbies next week in support of the deal because they think that it is terrific. Some will probably go through the Lobbies out of loyalty to their party, which I understand, and because they are sympathetic to the Prime Minister, who has shown great determination even though I think that she has made the job more difficult for herself. They will go through the Lobbies comforting themselves, perhaps, that it could be a lot worse and that if we do not do a deal, the country will remain divided. I do not think that this deal will bring the country together and that if the deal goes through, my honourable and noble friends in the Brexit camp will, after all these years, come down the pavilion steps, slap us on the back and say, "May the best man win. It's been a terrific fight. We'll go along with whatever you're doing". We will argue about this for years. It will not bring us together, despite what St Matthew, St Paul and the most reverend Primate said—though not necessarily in that order.

We should not delude ourselves that this is the only deal in town and that the European Union will not do another one. It has made it clear that it will not do another deal if we do not change our red lines. It will do another deal if we change our red lines on leaving the single market and the customs union. It would be nice if the Minister underlines that point when he eventually responds to the debate.

Unfortunately, I find myself in a position where I will not be able to join my noble friends in the Division Lobby next week. I sympathise with the amendments in the House of Commons in the names of Hilary Benn and Dominic Grieve. I therefore sympathise very much with the Motion in the name of the noble Baroness, Lady Smith of Basildon. This is a bad deal. It is bad for the future of this country and bad for our kids, as the noble Lord, Lord Wilson, said earlier—and because of that I will be in the Lobby with the noble Baroness next week.

6.46 pm

Lord Rooker (Lab): My Lords, I voted no on 5 June 1975. A convert of Jacques Delors, I come to this debate as an avid remainder. I have read part of every one of the 585 pages of what was the draft agreement of 14 November—that version was provided without a contents list, by the way, so it took a while to work out—the detail of which we did not know on 23 June 2016. I believe that the British people should have the right to vote now, knowing the details. I would caution and plead with the Minister to answer two of the speeches I have heard today when he winds up the debate: that of the noble Lord, Lord Bew, because the Government are in dead trouble on Northern Ireland, and that of the noble Lord, Lord Wilson of Dinton.

I could quote several articles in the withdrawal agreement where the UK is at a disadvantage, but I will not do so. I will cite just one. In fact, following the speech of the noble Lord, Lord Wasserman, it fits. Article 62.2, regarding "Ongoing judicial cooperation proceedings in criminal matters", sets out clearly that access to SIENA, the Secure Information Exchange Network Application, will be very limited and costly for the UK. On environmental issues alone, the ECJ has taken the UK to court 34 times, and won 30 times, to give us a safer environment from air to water. In this deal, leaving means no independent external monitoring or enforcement.

There are still those who want to leave the EU without any arrangement and trade under so-called WTO rules. Although we are a WTO member, we do not currently trade on WTO terms. In Lords Select Committees on which I have served, the Government have talked about the UK taking imports from the EU without checks because we can trust the EU. If we did this under WTO terms, it would mean that imports from WTO members would have to be treated in exactly the same way. That would mean doing away with inspections and paperwork. We would lose control of imports, including dangerous products such as contaminated food, animal and plant products, dangerous electrical goods, unsafe cars and so on. The EU would treat the UK as any other WTO member. That would mean that UK exports of products of animal origin would have to enter the EU via a veterinary border inspection post. It just so happens that two of the UK's main agricultural routes into the EU market are Calais and the Eurotunnel, neither of which has veterinary border inspection posts.

The Prime Minister is always going on about leaving being good for our money, our borders and our laws. Let us look at those points in reverse order, beginning with our laws. Between 1997 and 2013, I served in six government departments, including four years in MAFF and Defra and the Food Standards Agency. I was often at the end of complaints about EU food laws. However, not once in those 16 years did anyone suggest a specific law to abolish. When the coalition Government went through the balance of competences exercise—that is, UK versus EU—they buried over 30 reports because they all came down in favour of the status quo.

The second point is on our borders. Within the current EU rules, UK Governments, Labour and Tory, have had the power to restrict access by people from

the EU to the UK under article 7 of the EU citizens' rights directive. It is used by more than one EU member state. Why has our Home Office never used these restrictions? Instead, it just prattles on about freedom of movement. There are opportunities to take that action within the existing rules.

The third point is our money. I went to a Hacked Off lecture last week by the broadcaster James O'Brien. It was brilliant. He had an interesting tabloid-esque approach to this—that is not meant as an insult. The cost of the EU is 39p per person per day in the UK. That is taking a net contribution of £9.4 billion from a population of 66 million over the days in the year. It is exactly 39p per person per day. It is not massive in the way that the Prime Minister puts it across.

Finally, the Government's finance papers on Brexit assume trade deals all over the world, including the food-poisoning capital of the western world, the United States of America, where food poisoning rates are 10 times the rate per head of population compared with the UK. I have often cautioned in this House and in committees that the attack on chlorine-washed chicken is an animal welfare issue rather than a food safety issue. "Why the need to wash?" is the question. The answer is easy—it is because of the high level of disease in production plants and chicken-killing plants.

However, new research published last week in a paper by the experts at the Society of Applied Microbiology, "Food Safety after Brexit", discloses that,

"chlorinated water does not effectively disinfect even salad leaves and can even render harmful bacteria as undetectable in routine testing methods".

That must be part of the explanation for the food health problems in the United States, which has major salmonella outbreaks. It has just recalled 6.5 million pounds of raw beef due to salmonella. Hundreds of people die each year from salmonella in the United States—450 in 2016. Over the 10 years from 2005 to 2015, nobody in England and Wales died from salmonella. The EU has protected us from this. That is what it is all about. It has protected our people and made them safer. The draft agreement does not do that. For that reason, it should be rejected. I rest my case.

6.53 pm

Baroness Bull (CB): My Lords, as so many of your Lordships have pointed out, the UK's future success depends not so much on the withdrawal agreement, but on the outcomes of the negotiations still to come—negotiations based on a political declaration that is not legally binding. The future viability of key businesses and the livelihoods of the people they employ are left hanging on the series of "best endeavours", "should" and "aims to" that punctuate this short document.

Among those sectors are the creative industries. In my short time in this House I have often stressed the importance of the creative industries to the UK's success—a sector growing at twice the rate of the wider UK economy and singled out in the industrial strategy, with ambitious targets for jobs and growth. Yet this sector, like so many others, is at risk because its success depends on the ability to recruit and retain key talent from the EU. In the most economically productive areas, domestic skills gaps mean that 30% of

staff are recruited from the EU, with 17 creative occupations on the tier 2 shortage occupation list. Even if we started today, we would not be able to train up a domestic workforce to fill those roles by 2021.

Nothing is agreed, as we have been told, until everything is agreed. For many parts of the economy, nothing is yet agreed. The withdrawal agreement covers only the terms of separation, the political declaration is no more than its title claims, and we now know that the all-important White Paper on immigration will not be published any time soon.

To the creative and many other sectors, the future position on immigration is of as much significance in this debate as the documents named in the Motions before us today. The Migration Observatory at Oxford University reports that the UK economy is dependent on between 3.6 million and 3.8 million workers from the EU—roles that we will still require in April and 21 months later. Yet over two-fifths of these workers are employed in lower-paid but vital occupations, for instance, in health and social care—roles that will not meet an anticipated £30,000 salary threshold. Government-commissioned forecasts predict that every year, a further 1.5 million jobs will open up for workers new to the labour market—around 725,000 of them medium and low-skilled jobs.

Where exactly will these workers come from? The Office for National Statistics projects that between 700,000 and 900,000 young people will turn 18 every year between now and 2030. Is our aspiration that every one of them will occupy medium and low-skilled roles? This is hardly the "race to the top" that was promised in the Government's 2017 plan to improve social mobility through education.

The current tier 1 and tier 2 system has been effective in supplying high-skilled workers from non-EEA countries, but it has worked as part of a migration landscape that provides access to a steady supply of medium and low-skilled workers through our EU membership. A salary-based immigration system will block access to the workforce the UK economy needs and will be severely damaging to our creative industries, which rely not just on established talent but the bright talents of the future, for whom an annual income of £30,000 is the stuff of dreams. Salary levels are not a proxy for skills.

The political declaration says nothing about freelance workers, who make up 15% of the overall workforce and 35% of the creative sector. A freelance visa, as proposed by the Creative Industries Federation, would ensure continued access to skilled, short of exceptional, freelancers who are required on an occasional basis, often at short notice, and provide vital flexibility, especially to small businesses.

Even in the event of an orderly Brexit, there is a real risk that UK employers will not have access to the workforce they need, in either the short or medium term. No deal would "bring down the shutters overnight", to quote the chief executive of London First. Without assurances that our future immigration system will reflect the economy's need for a broader range of skills and salaries, the UK's future prosperity is at risk.

[BARONESS BULL]

Over the last two years, we have seen an unswerving determination to end freedom of movement on the basis that this is the will of the people. This continues to baffle many of us, not least the Migration Advisory Committee, which has noted that migration flows are now falling sharply and the UK may find itself in the position of ending free movement just as public concern falls about the migration flows that result from it.

The rhetoric is getting in the way of the facts, and it is obscuring an obvious truth: freedom of movement is not just about attracting talent to the UK, important as that is. It is about the rights of future generations to enjoy the freedoms we have all taken for granted—to experience other cultures, to learn and work in diverse communities and places, and to enjoy, as we have, the enriching opportunities of a life lived without borders.

With so much uncertainty, Members in the elected Chamber face not so much a meaningful vote as a terrifying hand of pontoon, gambling, as the noble Lord, Lord Wilson, pointed out, on our futures. Stick with the deal on the table, despite it suiting no one, or twist and see what the next deal brings, but, in doing so, take the risk of leaving without a deal—an option no one believes is in the best interests of the UK.

On the advice of the ECJ's advocate-general, there is a third choice. I have listened hard to other noble Lords who argue that a further referendum would be a betrayal of democracy. However, it seems to me that the betrayal happened over two years ago, when dubious, if not illegal, practices undermined a democratic process, and the false claims that underpinned the referendum meant that a bright future outside the EU was, as the noble and learned Lord, Lord Hope, pointed out, grossly mis-sold. All the evidence shows that pressing on, with or without a deal, will leave us in a worse position than we currently enjoy.

The decision rightly belongs to Members of the other place. Given all this, I believe that they would be justified in choosing that third option. Noble Lords have put forward possible ways in which this might play out, including taking the question back to the public and particularly to the next generation, on whom this decision will have the most impact. It is clear that Parliament now needs to take back control and press pause on the basis that pushing on cannot be the best way to ensure the future success of the UK, or to bring together our divided nation.

7 pm

Baroness Meyer (Con): My Lords, what distresses me most about the Brexit debate is the defeatism and pessimism that run through it. It is for me a very un-British thing—the very opposite of what I have always admired about this country. We have behaved as if we were defeated from the start. If I have heard it once, I have heard it 100 times: “The people did not know what they were talking about or voting for”. “We are bound to be overwhelmed by a union of 27 nations”. “After over 40 years of membership, it is all too difficult to disentangle”. These are the beliefs of those who refuse to accept the referendum result in defiance of our duty to implement it, as David Cameron and the leader of the Opposition pledged at the time. These are the beliefs that propel the demand for a

second referendum—a referendum of unknown outcome that would prolong uncertainty and deepen still further the rift in our society. I know that some of your Lordships say that it is unfair that young people did not vote, but there will always be young people. Of the next referendum, we could say that the next generation two years down the line also did not vote. It would be a national catastrophe.

I regret to say that such defeatism and lack of self-confidence have contaminated the agreement itself. They have been the worm in the apple of negotiation. It is no wonder that it is so difficult for some people to support the withdrawal agreement and political declaration. They fall far short of the mandate given to the Government and Parliament by the referendum result. As many here have pointed out, the worst thing about the agreement is the open-ended backstop; the Attorney-General has confirmed it. No self-respecting nation, independent for a thousand years, can or should accept indefinite subordination to a foreign authority.

The Government and the EU tell us to take the deal because it is the only one on offer, but there is always another one on offer if we are more self-confident, recognise the EU's manifest weaknesses and deploy the sticks and carrots of skilful negotiation. To say that it is impossible before even trying is sheer defeatism. We are told that no one has come up with an alternative, but the landscape is littered with alternatives—they have just not been entertained by the Government. Do you know what worries me most? It is that, if we approve this deal, the 17.4 million people who voted to leave will feel that they have been cheated. I dread to think what their reaction will be. We have only to look across the channel at the violent demonstrations all over France to see what happens when the political class and its leadership lose touch with the people. Do not think that it cannot happen in this country. We must obtain an end date for our release from the backstop or we must pursue another course. With political will there is still time.

Incidentally, there is no such thing as “no deal”; there is a spectrum of potential deals. Even a bare-bones agreement, under WTO rules, does not deserve to be called “crashing out”. Of course, there will be a period of adjustment, but it is worth paying the price if we safeguard our sovereignty. The British are the most adaptable people. You need only to go to Germany, where I lived for seven years, or to France, of which I hold a passport, to realise how flexible and adaptable this country is by contrast. This is the moment for our country to rise up from its defensive crouch and to dig deep into its history. It is time to stiffen the sinews in defence of our nation's sovereignty.

We can look forward to a new era of sovereignty and alliance with our many friends around the globe, including in Europe. Leaving the European Union does not make us any less European. I am a European; I am the symbol of one. I firmly believe that we can do better for our country. The noble Lord, Lord Newby, spoke about a French person living in his constituency who has decided to leave the UK because of Brexit. Well, I say to her, “Good luck!” I wager that she will soon be back when she has seen that in France

unemployment is high and the country is in a complete mess. I know of French people who have been and are already back in the UK.

We should stop re-running the referendum; we should stop the negativity. People and businesses in this country want closure. We should not be afraid. We should believe in ourselves. Even if it comes to what people call a “no deal”, we can handle it.

7.07 pm

The Earl of Clancarty (CB): My Lords, I shall talk about free movement. I want to do so in part because the ending of free movement “once and for all”, as the Prime Minister puts it, is arguably the most emphatic and oft-repeated point that she has made in trying to sell her deal to the country. Yet in doing so the Prime Minister commits a sin of omission. Her line about ending free movement once and for all is intended to play not to the whole country but to a specific and, up to now, less quiet audience. What she omits to draw attention to is the movement of people in the other direction, into the rest of Europe, because any curbs to movement that we place on those coming into this country will have to be reciprocated, and the stronger her rhetoric on curbing immigration, the stronger it should be for any British person moving the other way. Of course, that cannot be part of her selling pitch, yet the effect will be severe limitations placed on such movement, in particular in our service industries, including the creative sector which the noble Baroness, Lady Bull, has already referred to, as well as severe limitations on opportunities for young people to travel, work and study in Europe.

Many service industries—often ignored in favour of conventional goods despite being 80% of our economy, with 46% of service exports going to Europe—depend inherently on movement of workers within Europe, not just to one country but across multiple borders. That will affect Brits, both freelance and employees, living not just in the UK but abroad. Whatever rights and security are afforded to them in their country of residence—and Europeans living within the UK are far from being reassured—those freelancers and employees may find themselves effectively landlocked and in danger of losing their livelihoods.

Both short and longer-term jobs are threatened. I want to give some examples. The Incorporated Society of Musicians states bluntly that the Government’s deal represents a serious threat to the British music industry, which is worth £4.5 billion a year to the British economy, and that the end of free movement would mean significant new barriers for musicians seeking touring work in the EU.

Jayne Hamilton, a British software developer based in the UK, said in a letter to the *New European* earlier this year that:

“I will lose two-thirds of my livelihood at the very least because of Brexit. While companies export products, we freelancers export ourselves. The freedom of movement and work in the single market is vital for us ... It has taken me over 12 years to build up my network and clients. Many of them are in Germany and the Netherlands. My languages in addition to technical skills often secure me a contract and allow me to fend off tough competition ... agencies usually need freelance candidates fast,

sometimes within days ... The great irony is that British freelancers often gain niche skills on projects in the EU which they can deploy on projects back home”.

We are to understand that the Government favour what they term a “mobility partnership”. Yet, outside the single market, even when movement will be possible, the inevitable lack of flexibility, the red tape and the costs will always mean that EU workers will have an edge in competition which should not be underestimated. Anything less than what EU citizens have will be, in comparison, an immobility partnership. The only mobility partnership worth considering is the partnership we now have, not just for competition but for co-operation.

The effects of an anticipated loss of free movement have already been felt. Where they can, many creatives are moving abroad. We heard yesterday that, remarkably, over 3,000 British tech jobs have relocated to Brussels. We heard last year that 40% of the British video gaming industry is thinking of relocating. I have heard no change to that estimate. The pressures being placed on our British and European creative talent by the threat of Brexit is already a scandal.

It has been instructive to listen to the Prime Minister’s response to the recent questioning by Pete Wishart and others on the loss of opportunities for young people of all classes to travel, work and study in Europe if this deal is accepted. The response is, once again, as always, a selective line: free movement is ending. The Prime Minister’s refusal to engage with these concerns is deeply insulting to the young people of this country. For many young Europeans, including British people, free movement is a principle in itself. More than that, it is the right to explore at will your continent, a right that will be lost if we accept this deal. Will the UK be involved in the new iteration of Erasmus+ and Horizon Europe? We get no inkling from the political declaration. We know that Switzerland lost full access to Erasmus+ and Horizon 2020 when it voted to restrict EU migration, since partly reversed. It is entirely logical that the same thing will happen to the UK if this deal is accepted. The resignation of Universities and Science Minister Sam Gyimah, even though he was not a Cabinet Minister, was both significant and heartfelt.

Free movement is a two-way street. What is most heartbreaking is the willingness of Brexiteers, for whatever reason, to betray the opportunities of their fellow citizens. Some who have spoken today are remainers who have accepted the 2016 referendum. I am a remainder who in the last two years has become even more convinced by the arguments to remain than I was then. Either Parliament stops Brexit or we have a people’s vote. If the latter is the case, I hope that the country takes a decision to reverse the first referendum and remain within the EU.

7.13 pm

Lord Shinkwin (Con): My Lords, I would also like to pay tribute to the Prime Minister as someone whom I have known for more than 20 years and whom I admire for her stamina, her resilience and her self-belief. No one can claim greater ownership of the process, the detail or, indeed, the outcome of the Brexit negotiations than the Prime Minister. No one deserves greater credit for this deal.

[LORD SHINKWIN]

That is why there is nothing that I would rather be able to do than stand here today and say that I support this withdrawal agreement. How much easier it would be to say that I was convinced by the arguments, persuaded by the appeals to loyalty and resolved to ignore the overwhelming evidence that this is such a bad deal that it is worse than the deal on World Trade Organization terms. I would love to be able to reject the advice of successful British entrepreneurs, like the inventor Sir James Dyson; Tim Martin, founder of the Wetherspoon pub chain; and the hotelier Sir Rocco Forte. All have the deal-clinching confidence to believe that a clean, global Brexit on the WTO terms on which most of the world trades would be a better deal than this deal.

When I worked for various charities over a period of almost 20 years, I fought hard to protect their independence from government, in the sure knowledge that it underpinned their credibility in the media, in your Lordships' House and in the other place. That the Governor of the Bank of England should have so compromised its independence totally undermines the credibility of his predictions of Brexit Armageddon, based on factors which its former Governor, the noble Lord, Lord King, has argued are not plausible. I agree with him when he says:

"It saddens me to see the Bank of England unnecessarily drawn into this project".

The former Governor is surely right because that is, ultimately, what this is all about: the project that is ever closer political union with the EU. It is exactly what the British people voted to leave in the 2016 referendum. Yet this deal would see us trapped and with less control than if the country had actually voted to remain.

It reminds me of a cross-party trip to Berlin which I went on last year, when a British parliamentarian—who shall remain nameless and, I should add, is not from your Lordships' House—told our counterparts from the Bundestag, "I hope you give us a good hiding so that we realise the mistake that we have made". I think the EU Commission might have been listening, because it has done exactly that.

Just consider the £39 billion from us to them—for what? It was for a backstop, the so-called insurance policy which not only insures them against our having a competitive advantage but, for good measure, treats a part of the UK differently from the rest and, incredibly, would be indefinite. As the Attorney-General has advised, there is no unilateral right of termination. Yet we understand that the backstop was "a risk worth taking" because both sides have agreed in the deal to use their "best endeavours" to find a way out of the arrangement as soon as possible. With all due respect, a quick glance at the Attorney-General's legal advice to the Prime Minister shows that this deal is fraught with risk.

As my noble friend Lord Patten of Barnes, who is not in his place, intimated earlier, much has been made of the term "best endeavours", as if somehow the EU and UK can resolve their differences by having a group hug—without my noble friend's shotgun, I imagine. If that does not work, we can always tell teacher at the

independent arbitration panel, in the hope that they side with us eventually and that the ECJ will look on benignly and with complete neutrality. All I can say is: "Good luck with that. I am sure it will go really well!".

As a Member of the other place explained a few hours ago, "best endeavours" is not a legal obligation. The EU is not obliged to compromise its own interests, so why should we trust the EU to stop endeavouring to do its best to do us down—not because it hates us but because it is acting, as it has always done, in the national interest of the political project that is the European Union? Even if we choose to indulge in such wilful delusion, the people out there know that not only is that not the same thing as our national interest but in some areas it runs wholly contrary to it. Yet this deal presupposes that, after two years of interminable negotiations, we should suddenly trust the EU to respect our national interest after we have handed it £39 billion. Why?

I will close on this point. My noble friend Lady Meyer, in her superb speech, referred to defeatism. This defeatist deal is not about a compromise; it is about being totally compromised. Of course I share the Prime Minister's desire to bring the country back together. Who does not? But for us to mouth meaningless mantras which conceal the truth, foment distrust and dishonour the majority result of the 2016 referendum is a recipe not for healing but for prolonged uncertainty and deeper division.

7.21 pm

Lord Anderson of Swansea (Lab): My Lords, to coin a phrase, a week in politics is a long time. Let us project our thoughts to Wednesday of next week. Who knows what the political landscape will be? Will the Prime Minister still be there, or will she sink with her flagship deal? Will rival factions be putting forward alternatives at that time?

Clearly, there has been a great problem in trying to bring together two conflicting considerations. First, almost all economic forecasts suggest that we will be less prosperous outside the EU than if we stayed as full members. Indeed, we already see a weak sterling, business closures, lack of investment in the UK and, since the referendum, an outflow from UK equity funds of \$20.6 billion. The bright new deals promised by Brexiteers appear increasingly to be but a mirage. Why should new trading partners give us a better deal than the EU, with its much greater clout? It is also likely that our weight in world affairs will be reduced as we are largely on our own. On this basis, the deal and the accompanying political declaration are essentially essays in damage limitation.

However, the second consideration is also cogent. These considerations have to be balanced by the fact of the referendum result—a small but decisive majority in favour of Brexit—even if there appears within that group no majority for a hard or soft Brexit, when by contrast the remain vote is clear. However, that referendum was only a snapshot in time. The latest YouGov poll published in today's *Times* shows that 49%, as against 38%, of our people believe that to leave was a mistake.

The deal, I concede, was an honest attempt by the Prime Minister to square the circle, to recognise the importance of a close relationship with our major

trading partner while satisfying a referendum majority. But the result is that the context in our country today is of almost total political disarray on the issue, reflected in the votes in Parliament last night and in the Cabinet. Last week, the *Daily Mail* trumpeted the astonishing front-page exclusive—the revelation that a Cabinet Minister, Mrs Leadsom, was intending to support the Prime Minister. That is surely an interesting vignette on the depth of our political crisis. Our system is traditionally meant to provide stability, but historians will be hard-pressed to find any precedent for the turmoil. Shelley’s “England in 1819” comes to mind.

Clearly, the referendum showed great fissures in our body politic; that deep malaise is not the fault of the Prime Minister, but she has contributed to it by her actions and lack of actions. I see her as a decent and principled patriot who inherited from her predecessor a poisoned chalice and leads an impossible party with less support than that enjoyed by John Major at the time of the Maastricht treaty. She called a general election prematurely and became dependent on Northern Irish unionists for her majority. Who would have thought that there was in Northern Ireland a majority for remain? It is not what we hear from our Ulster colleagues in this Parliament. She was forced to give a massive sum to the DUP; now that it is a major threat to her, will she be asking for our money back? She has blown equally hot and cold on the European Union to different audiences. She has largely ignored the Cabinet in negotiations and excited the expectations of the Brexiteers, who now feel betrayed. She attempted to divide the EU, but it remained remarkably united.

A key mistake in the negotiations was to start by announcing thick red lines which she has been forced, over the negotiations, to dilute. An example, as the noble and learned Lord, Lord Hope, mentioned, was to demonise the CJEU; as the noble Lord, Lord Rooker, pointed out, its judgments have been much to our advantage. This entailed a rejection of the customs union, the single market and the adoption of policies on aviation, chemicals and dispute resolution, which the Government now seek to soften. Paragraph 26 of the *Explainer for the Political Declaration* states:

“The UK and the EU will explore the possibility of cooperation between UK authorities and EU agencies”.

Paragraph 27 states:

“The UK will also consider aligning with EU rules in relevant areas”.

So that is clear.

Thus, on the red lines, the Prime Minister was bound by fetters of her own making. She allowed internal party opponents to make the running without forcing them to produce their alternatives. She is now trying to sell the only deal in town; it is as if with one leap we are free, but we will be bound by equivalence frameworks and level playing fields. The deal is, of course, a compromise, an orphan which neither side wishes to adopt. She now faces a parliamentary gridlock; there is no majority in Parliament for this deal or indeed for any other, and the likelihood is that next Tuesday the deal will be rejected.

The Prime Minister can read the economic forecasts; she can see that in the international field we risk being relegated to a lower division. She was wrong-footed in

a recent Q&A phone-in when asked whether her deal was better than staying in the EU. The response of the Brexiteers and their cheerleaders is analogous to that of President Trump to the forecasts of climate change: “We know better than those so-called experts whose Project Hysteria now succeeds Project Fear”.

Faced with parliamentary gridlock and a possible attempt to restart negotiations, the EU could, of course, marginally tweak the deal, but would that produce agreement? Leaving aside the disaster of no deal, the only serious alternative is a people’s vote. Yes, it would be full of uncertainties and the electorate might feel cheated, but they did not vote for a lower standard of living and may indeed feel cheated because of that. People did not vote to be decision-takers. The option is the status quo or this deal. There is a chance of escaping from the massive misjudgment against our national interest three years ago, and we should take it.

7.28 pm

Lord Farmer (Con): My Lords, as some noble Lords may know, I supported the campaign to leave the European Union with my vote and also with my finances—and I have the inheritance tax bill from HMRC to prove it. Despite the political and economic turmoil we are in, and the irritation of having to pay twice to help level the playing field, given that the remain-supporting Government pumped more than £9 million into their cause, I am an unrepentant leaver, with no regrets.

Along with many other Brexiteers, I do not say that capriciously or for cavalier reasons but because I am a democrat who is primarily and viscerally driven by the desire to regain our sovereignty. This prime motivation means that I cannot support the deal on offer, however naive, ideological or downright inflexible that makes me appear.

Flexibility, as it is currently understood, is not an unlimited good. Professor Richard Sennett describes how the meaning of flexibility has fundamentally changed. Originally it was derived from the observation that, though a tree may bend in the wind, its branches spring back to their original position. Flexibility denoted, “the tree’s capacity both to yield and to recover, both the testing and the restoration of its form”.

The shape of the tree, its identity and identifiability as a tree are unchanged.

Today, he says, flexibility means the ability to move rapidly from one shape to another—to be always in flux and to have no essential shape at all. The tree to which I am referring is the structure of the United Kingdom and the sovereignty of our Parliament. The deal on offer, which we are strenuously told is a reasonable compromise requiring a flexible approach, requires us to morph into something that we are not. Its shape shifts the union of nations and makes a mockery of our sovereignty.

Under the proposed withdrawal agreement Bill, the United Kingdom will have no representation in the European Council, the European Commission, the European Parliament and the European Court of Justice. We will have no representation in the bodies which make laws that will continue directly to affect us. No one who actually makes or implements these

[LORD FARMER]

laws will be accountable to us, and the names of those making and implementing those decisions will be unknown. It will mean government without the consent of those to be governed—yet as Abraham Lincoln said in his Nebraska speech in 1854:

“No man is good enough to govern another man, without that other’s consent”.

Paraphrasing the Declaration of Independence, to secure every human being’s inalienable rights, which include liberty, Governments are instituted, and they derive their just powers from the consent of the governed. This has always been the problem with the European Union. It is why so many in this country chose to leave and why others across the land mass it controls are not enamoured with it. Who in this country, or in any of the other 27 countries, voted for Juncker, Tusk—or, of course, Selmayr or Barnier? Yet they wield disproportionate power over our everyday lives and will continue to do so under this draft agreement, despite the 2016 referendum result.

I fear that too many view this in the short term, just wanting a fix so that we can move on. In reality, it is a straitjacket that will ferment Europhobic division over the long term. It would be far better to adopt the spirit of adventure and freedom that has enabled us to walk a narrow path in the past and take the short-term pain that leaving on World Trade Organization terms might entail. For this reason, the Labour Motion, which emphatically rejects a WTO outcome regardless of the actual final deal, should itself be emphatically rejected.

Finally, the argument that we are not ready for what is otherwise called a no-deal exit is indefensible. A Government who have not prepared for a no-deal scenario have not acted responsibly, given the oft-repeated mantra that no deal is better than a bad deal. Somewhere along the line, this script was rewritten, and now we are being told that a bad deal is better than no deal. We must hold our nerve, as my noble friend Lady Meyer encouraged us to do just now, and we must push back, not just against this rewrite but against the flexible revision of democracy—otherwise it will shapeshift into something no longer identifiable as democracy. That is a divisive and unresolved inheritance that we do not want to pass on to future generations.

7.35 pm

Lord Shipley (LD): My Lords, it was interesting to listen to the contribution of the noble Lord, Lord Farmer. His speech confirmed to me why I was right to vote remain.

We have been reminded many times in this debate that the country voted for Brexit in 2016. It certainly voted to leave the European Union, but it did not at the time establish a clear sense of what that actually meant. The Norway option, a Norway-plus option, a Norway-plus-plus option, a Canada-style free-trade agreement, a relationship such as that which Switzerland has with the EU: all of these were said to be options, as were claims by some supporters of Brexit that we might get special access to the single market and stay in a customs union if we left.

We were promised that our trading with the EU would be settled quickly: it has not been. We were told that trade deals with the rest of the world would be

easy: they have not been. I have never understood why such trade deals are thought to be in our interest, when much of the evidence suggests that it is the other country that will gain more from them, sometimes disrupting British production. Anyway, we have large numbers of trade deals already from our membership of the EU. Would it not be better just to keep those as a member of the EU and benefit as a member when other trade deals are negotiated by the EU?

The Government’s own analysis admits that trade deals outside the EU will add little to GDP, yet a no deal could mean a 9% hit to our GDP. No deal would be a disaster. The question we need to address is: can we rely on the result of a referendum held two and a half years ago when the outcome two and a half years later is very different from what was claimed it would be by leave campaigners? I submit that another referendum would not be a betrayal, as the Prime Minister has described it, now that the destination has become clearer. People surely must have the right to assess the evidence and to make a final decision, so I will be supporting the Motion of the noble Baroness, Lady Smith of Basildon. No deal would damage our currency, cause rising unemployment and push up interest rates. This is not Project Fear: both the Government and the Bank of England have confirmed that any Brexit outcome will make us poorer. People did not vote to become poorer and were never told they would be poorer by the leave campaign.

The Prime Minister describes her deal as promising a brighter future. Her letter to the nation adds a claim that it is a deal,

“that works for our whole country and all of our people”.

It does not. It is a serious blunder that will impact on millions of low-income families. The Prime Minister’s letter to the nation also said that she has worked to,

“deliver a Brexit deal that works for every part of our country—for England, Scotland, Wales and Northern Ireland”.

Crucially, the English regions are simply forgotten in this, yet more than £400 million has been injected into the north-east of England, where I live, through the current round of European structural funds. This funding is due to end in 2020, yet we already know that transition could be extended beyond 2020. Without clear decisions well in advance, regional growth and development will be harmed. Why have the Government failed so comprehensively to ensure that the money we would expect from the EU in structural funding if we stayed in will be available for the poorer English regions after 2020?

With regard to the risks for the north-east economy in this withdrawal agreement, I remind the House that 4,540 north-east businesses traded with the EU in 2017, totalling 57% of north-east regional trade, compared with 40% nationally. The EU is a vital export market for the north-east of England, and the single market is a crucial part of that.

I am advised now that there are cases of businesses already putting their no-deal plans into place, either relocating or reducing staff. In addition, some smaller companies cannot deal with some of the pressures needed for Brexit. For example, it is often cited that business may need to stockpile 25% more to cope with transition—but, with limited warehousing and pressured

profit margins, some businesses do not have the resources to raise their capacity. There are examples of some north-east companies being handed supply contracts saying that if the deal is unfavourable, they may have to move to the EU or else have their contracts terminated. Many companies are concerned about their role in a supply chain: if a large manufacturer pulls out, it could cause a domino effect right down the chain, impacting on many businesses.

Uncertainty has also deterred certain businesses in the north-east from bidding for continental contracts. Currency risk is one reason I give as an example. Some businesses have bid for European contracts but have been told that it was too much of a risk to take them on, and that has been attributed to uncertainty. I contend that the north-east of England will be poorer outside the EU. The north-east will be outside the single market, making it harder for our exporters to the EU to do business. We will see more capital investment that we might have attracted to the north-east going to other parts of the EU that are inside the single market, because we are outside it. No deal would also impact hard on university research and disrupt EU exchange programmes.

I repeat that all versions of Brexit will make us poorer. I have concluded that we need to ask the British people whether they still want to leave the EU now that they know the cost of Brexit or whether they prefer to stay in, with all the advantages of the customs union, the single market and membership of European programmes. I accept that this would require a people's vote, and I will support that.

7.42 pm

Lord Butler of Brockwell (CB): My Lords, it appears that we will have one voting opportunity to express the House's opinion on the draft agreement and the political declaration, and that is on the Motion expressing regret by the noble Baroness, Lady Smith. I will therefore address my remarks to that Motion. I regard it as a curate's egg. I agree with the first two parts of the Motion. The first says,

"it is for the House of Commons to determine the matter".

I agree with that. The second says,

"a no deal outcome to negotiations under Article 50(2) of the Treaty on European Union must be emphatically rejected".

I agree with that also, and I believe that a great majority in both Houses, although not everyone, agrees with both of those propositions. The third part of the Motion regrets that the withdrawal agreement and political declaration negotiated by the Government,

"would do grave damage to the future economic prosperity, internal security and global influence of the United Kingdom".

I agree that the consequences of the UK leaving the EU will be to damage our future prosperity, security and global influence, but I do not agree that these damaging consequences are due to the withdrawal agreement and the political declaration. They are due to the UK's decision to leave the EU.

As the noble Baroness, Lady Bull, and others have said, there is of course still much to play for. Many of the points that have been made—for example, in favour of a Norway arrangement—fall within the negotiations

on the future relationship. So there is still much to negotiate about, but it is the withdrawal agreement on which we have to make an immediate decision.

The agreement is neither better nor worse than I expected from the outset of the negotiations, and I note that none of those in favour of our leaving the EU has proposed an alternative departure agreement that would have had any chance of acceptance by the EU, nor are they doing so now. If the UK is to leave the EU, a departure agreement along the lines proposed by the Government and agreed with the EU is, in my view, the inevitable consequence. It is much better than no deal. It is worse than the alternative of staying within the EU, but that is not the choice before us in this debate. Given the choice between this departure agreement and no deal, I cannot in good conscience put my name to regretting the agreement and political declaration.

So in the last few days I have felt that I am in a dilemma, and I know that some other Members of the House have shared it. I want to express my support for the first two legs of the Opposition's Motion, but I could not do so except by also voting for the third leg, with which I do not agree. So I have tabled an amendment, which will be on the Order Paper tomorrow, to delete the third leg of the Opposition's Motion so that I and others in the House have the chance to support the first two legs of the Motion without supporting the third.

I should explain briefly why I do not want to vote for the third leg of the Opposition's Motion. First, for reasons that I explained in our debate on the departure agreement a week or so ago, I think the objections to this departure agreement have been greatly overstated. Secondly, I doubt whether the Government, or for that matter the Opposition, could have done better. Thirdly, I see no realistic prospect of a substantially better departure agreement now being negotiated, so I think it pointless to condemn this one unless the purpose is simply to increase the Government's difficulties, and I do not regard that as being in the national interest.

Having irritated the Leader of the Opposition today, I will end by irritating the Liberal Democrats. If they had been drafting this Motion, I feel confident that what they would have regretted would have been the Government's decision to press ahead with Brexit without giving the British people the opportunity to express an informed opinion. I would have supported such a Motion, but of course they could not get the Labour Party's support for a Motion on those terms. So they have compromised in the interests of opposition solidarity, but in compromising they have lost me on this occasion.

7.48 pm

Lord Selkirk of Douglas (Con): My Lords, I congratulate the noble Lord on an excellent speech that will provide a lot of food for thought for many of our colleagues and beyond. Speaking in this Chamber after the Brexit referendum vote, I urged the Government not to let down the people who earn their livelihoods in our fishing industry and not to allow their interests to be bargained away in future negotiations with the

[LORD SELKIRK OF DOUGLAS]

EU. Having watched developments since then, I am sure that the Prime Minister has no intention of doing so, but it is clear that the way ahead in this area will be complex and difficult, and a great deal of tough deal-making lies in front of us.

Fishing may be a small industry—it contributes 0.5% to our GDP, and in 2016 the UK fishing fleet was estimated to employ 11,757 people—but big promises were made and continue to be made by the Government about the benefits that will accrue to our fishing communities when, as part of Brexit, we leave the common fisheries policy and are able to negotiate catch quotas and access to our waters as an independent coastal state. Despite its relatively small economic clout, I believe that the fishing industry and the coastal communities where it is embedded hold a very special place in British hearts. Their fate has become totemic, as the fraught negotiating process in Brussels has continued. It is certainly true in Scotland, where 65% of the British catch is landed. It has now become painfully clear that the Government will have to remain both resolute and vigilant to withstand EU attempts to muddy the waters when talks on a future trade deal get under way. Indeed, it now seems quite possible that fishing may provide the first trial of strength.

To make matters more complicated, we must also remember that our fishing industry is not homogenous with uniform requirements. While those who own and crew trawlers on the east coast of Scotland want access to EU markets for much of their catch, they also want new arrangements which will increase their quotas, and keep foreign fleets further at bay. Meanwhile, the major priority for those who take their lucrative catch of shellfish mainly off the west coast is swift and untrammelled entry to EU markets.

The potential stumbling block is linkage. The Government are well aware of this, and the Prime Minister—who has been pressed hard by her Scottish Tory colleagues—has said she is determined to keep future negotiations on fishing catch quotas in our waters from the bargaining over a future trade deal. However, the French President has insisted that the two issues should be linked, and without UK concessions, a trade deal will become slow to achieve. In a robust response, the Prime Minister has rightly made it clear that if a fair deal on fishing rights cannot be agreed by the end of 2020, the default position would be that French and other EU boats would be banned from British waters.

The withdrawal agreement, and the political declaration, give no guarantees to the fishing industry about its future. The declaration only states that the UK and the EU should establish a “new fisheries agreement”, preferably by July 2020. The Government insist that they have managed to resist any written reference to a link between access to our waters and the terms of a future trade deal. Ominously, a separate statement by EU leaders states that one of their priorities is a fisheries agreement which builds on,

“existing reciprocal access and quota shares”.

I must stress how severely trust and confidence in the UK Government will be damaged in Scotland if the fishing industry is not clearly seen to benefit from

the UK leaving the common fisheries policy. Predictably, the Scottish nationalists are already chanting, almost like a doom-laden Greek chorus, that there will be a sell-out of fishing interests by the United Kingdom Government. The SNP, which wants to use Brexit to further its plan to break up the United Kingdom, must believe that an endless mantra of “sell-out” will divert attention from its own weak and untenable position on this matter. I repeat the words in *Hansard* of 26 March 2018, when the Prime Minister answered the speech of the parliamentary leader of the SNP in the other place. She said emphatically:

“We will be leaving the common fisheries policy and taking back control of our waters. But it is a bit rich for him to make those comments, given that he belongs to a party that wants to stay in the CFP in perpetuity”.—[*Official Report*, Commons, 26/3/18; col. 529.]

The only sell-out of our fishing industry which could take place would be as a result of the SNP’s obsession with independence, which has been accompanied by its plan to take Scotland back into the common fisheries policy. That is not what the British fishing industry wants. Theirs is an extremely good and deserving cause, and I sincerely hope and believe that it will be given priority by our Government in due course.

7.54 pm

Lord Macpherson of Earl’s Court (CB): My Lords, my first reaction when news of the Government’s deal seeped out three weeks ago was one of relief. The Prime Minister had pulled off what had seemed impossible—an agreement broadly consistent with her so-called red lines, which provided for a backstop on the border between the Republic and the north of Ireland, and which was acceptable to the EU. On top of that, it appeared to reflect public opinion, providing more control over our borders while keeping us economically close to our main trading partner. For a brief moment, I thought the tedious debate about Brexit and its associated negotiations would come to an end, and at last the Government could turn their attention to more pressing priorities around improving the UK’s economic performance.

However, as with all legal contracts, it is important to study the fine print. In this case, the six hundred pages of legal text, supplemented by a 26-page declaration, make somewhat disappointing reading. The more I have read the document, the clearer it is that the EU 27 have achieved all their objectives, while for the UK success is again deferred, kicked down the road into the next phase of endless negotiations.

The political declaration, long on adjectives but short on substance, is all things to all people. It could lead to any destination, which may be no bad thing. Most importantly, the EU 27 have no incentive to reach a speedy trade agreement. The EU has Britain over a barrel. Yes, it will use its best endeavours to reach a deal by the end of the transition period, but it will be a negotiation in which the UK has few cards left to play. We will face a number of cliff edges, starting with fisheries in mid-2020, as the noble Lord, Lord Selkirk, has just referred to. The balance of probability is that we will be salami-sliced into making one concession after another.

The EU has every incentive to play it long, bearing in mind that most trade deals take years to agree, and this one will run to several thousand pages. My old friend and colleague Sir Ivan Rogers was right to advise the Prime Minister in 2016 that agreeing such a deal could take up to a decade. I would be happy to place a large bet that no deal will be ready by the time the transition period expires at the end of December 2020, so either the transition period will be extended or the UK will enter the backstop arrangement. The former will require the EU's agreement. Exit from the latter also requires EU agreement.

With hindsight, it is not very surprising that we have ended up in this position. The Government have made a number of strategic errors. First, they have never prepared the country for a no-deal scenario, so the threat of a hard Brexit has never been credible. Secondly, the Government triggered the Article 50 process without a clear plan for the way forward. Thirdly, at no point did the Government seek to create a cross-party consensus.

To this day, I am not sure the Prime Minister fully understood what she had signed up to when she agreed the Irish backstop last year. If she did, she never explained it to her then Foreign Secretary and DExEU Secretary, judging by their resignations some six months later. I think it is therefore perfectly reasonable for Parliament to ask the Government to think again. I am not under any illusions—the balance of probability is that they will not be able to wring substantive concessions from the EU, but it may be possible to tweak the declaration. Parliament may choose to give a clearer steer in favour of a Norway-plus arrangement. It may even instruct the Government to seek to negotiate an extension of the Article 50 process, as part of a bridge either to another general election or to a referendum. I am agnostic as to which of these options is preferable.

At this stage, a chaotic no deal is not a credible threat, since this Government still have the option of bringing the agreement back to Parliament in February or early March. For myself, at five minutes to midnight on 28 March, I might speak in favour of this deal.

Whatever happens in the coming weeks, we are going to have to get used to negotiating with the EU, and we are going to have to get used to negotiating trade deals with third countries. These will be particularly difficult, since I cannot see the United States Congress agreeing any deal without the UK lowering food standards. I also wonder whether the British people are yet ready for chlorinated chicken and hormone-infused beef—as much as they enthuse me. Interestingly, the Government's analysis suggests that they do not expect these deals to add much to national income any time soon, as the noble Lord, Lord Shipley, pointed out. But whatever else happens, the Government will have to learn to multitask. Over the last two years, Brexit has created a policy exclusion zone across Whitehall.

At a time of uncertainty around our trading relations, promoting economic growth is now more important than ever. It is essential if the younger generation is finally to see an increase in living standards. Growth will not come from running a large budget deficit, but it will come from improving the supply side. I hope

that at some point the Government will come forward with a serious and comprehensive plan for infrastructure, skills, competition and innovation. In addition, as my noble friend Lord Wilson suggested, they should develop a prospectus which will engage and enthuse the younger generation.

8 pm

Lord Wigley (PC): My Lords, to the extent that, during my six years in this House, I have been able to make any impression at all—which may be questionable—I hope that I have been able to convey my uncompromising attachment to the European ideal, and my belief that the future of the four nations of these islands is best served within an European context.

As a democrat, I respect the outcome of the referendum. I respect the 52% who voted to leave—but also the 48% who voted to remain. I am acutely conscious that the English approach to politics is one of “winner takes all”, as reflected in the electoral system. Our values in Wales are perhaps a little different, based on our sharing within the community—perhaps a reflection of being rooted in gavelkind rather than primogeniture. In the referendum, the leave side knew what it was voting against, without coherence as to what it was voting for, so in trying to implement the wishes of leavers there were no clear benchmarks. The leavers never had one clear-cut manifesto as to what would follow the UK leaving the EU.

Over the past two years, a whole phalanx of leave-voting Ministers have represented the UK in negotiations in Brussels and with the international world. They have made an appalling botch of it, which is partly why we are in such a mess today. We had the Foreign Secretary Boris Johnson insisting that he could have his cake and eat it; David Davis, who led the Brexit negotiations, managed to negotiate with Michel Barnier for just four hours in two years; and, most recently, we had Dominic Raab, who negotiated this withdrawal agreement then resigned from the Cabinet in protest against what he had done. It beggars belief.

The Brexit camp has had its chance; today's withdrawal agreement is the best that can be mustered—and, frankly, it just is not good enough. It just shifts the uncertainty facing manufacturing industry and agriculture a couple of years down the road to the end of the transition period, which may well turn out to be a bridge to nowhere. It leaves the Irish border issue largely unresolved, and unresolvable, given that both the EU and the UK have a veto on the backstop issue. It leaves uncertainty in the minds of EU citizens in the UK regarding their future, with the massive implications that has for the health service, our universities and our tourist sector.

The Government promised to carry the devolved regimes with them, but from both Edinburgh and Cardiff and their two very different Governments we have had the same retort: that they were not part of developing strategy, nor was agreement sought from them on the final terms. The concerns of the National Assembly remain: the long-term future of our manufacturing and agricultural exports; the failure to make adequate preparations in our ports; whether EU structural funding will be replaced, which the noble Lord, Lord Shipley,

[LORD WIGLEY]

emphasised in the equally valid English context; that there will not be a power grab, reversing aspects of the devolution settlement; the fair management of state aid and procurement policy issues; and that the UK will be a partnership of equals, not a Westminster-dominated, neo-unitary state.

As a result of these misgivings, yesterday's debate on the withdrawal agreement in the National Assembly in Cardiff had the dramatic outcome of the governing Labour Party supporting the Plaid Cymru amendment to reject the UK Government's proposals; I am glad to see that trend among Labour colleagues in Cardiff. It is interesting to note that today in the Scottish Parliament there was a vote of 92 to 29, also rejecting the proposals. On Tuesday, Welsh MPs will no doubt vote overwhelmingly against this inadequate agreement and it will be buried without trace.

It could have been so very different. There was a workable compromise available, as I have repeatedly stressed in this House, since it was published two years ago. It is contained in the Welsh White Paper *Securing Wales' Future*, which accepts leaving the EU but seeks a new settlement involving membership of the customs union and a single market arrangement. That would essentially be a form of common market, which many Brexiters hankered for during the referendum. If the Government had sought a constructive compromise along these lines, it was there for them. They know that there was support for that within Labour ranks, Plaid Cymru and the SNP. Mrs May refused to consider such a step. I was so sorry that last month, when there was so much to play for, the Leader of this House—whom I am pleased to see in her seat—was unwilling to discuss this with me. So be it.

We are now faced with the real possibility of a no-deal Brexit, which would be an absolute disaster. It must be stopped at all costs. While I accept that the final word on these issues must rightly rest with the elected Chamber, I will support the Motion in the name of the noble Baroness, Lady Smith. If the only alternatives are this withdrawal agreement or no deal, there must be a provision to return the matter to the people. They asked Parliament to seek a new arrangement with Europe, and it is only proper that they be asked whether they really want to go down this disastrous road.

Perhaps it should now be a matter for Parliament, having taken over control of these processes from the Government—as we have seen with the votes last night, and as the noble Lord, Lord Owen, mentioned earlier—to refine and adopt the preferred model of Brexit, and for that proposal then to be run off against the status quo in a people's vote. As the European court is being advised that the UK can unilaterally withdraw the Article 50 application, the Government should now give notice of their intention to do so, or at least seek a postponement long enough to arrange a people's vote, which must have the option of remaining in the EU on present terms. If the people then vote to leave, so be it. But if they wake up to the realities facing us, let us withdraw our notice to leave the EU and then start the important work of trying to rebuild our relationships with the continent of which we are a part, and in partnership with which our future most assuredly lies.

8.07 pm

Lord Framlingham (Con): My Lords, it is interesting to follow the noble Lord, Lord Wigley, because he epitomises those in this House who stubbornly refuse to accept what the people voted for, who constantly use the word “if”, not “when”, and who still hope that we will stay in. We are where we are because of two and a half wasted years: it has been trench warfare, with people trying to prevent us making headway. History will not be kind to those who have been so destructive in pushing through a vote of the people. Even the noble Lord, Lord Butler, who is not in his place, said “if” we come out. It is not “if” but “when” we come out—and how we come out. Many noble Lords have done a disservice to the nation in the way they have approached this.

The noble Lord, Lord Shipley, talked about leaving, and said that people, in voting to leave, did not know this or that. What is it about the word “leave” that people do not understand? If you leave something, such as an organisation, a family or a company, you know what you are doing. You know that there will be consequences—of course you do; you think them through—but you still vote to leave. How patronising to say that people did not know what they were doing when they voted to leave. In 2016, they voted to leave the EU without any conditions whatever, yet an unholy alliance of recalcitrant remainers, remain-leaning civil servants, artful EU negotiators and an unhelpful Ireland has left us, after two years, being asked to accept a deal that completely betrays the decision we took and is totally unacceptable. It must, and I feel sure it will, be voted down by the House of Commons.

Monsieur Barnier's brief on behalf of the EU was to try to stop us leaving: to drag things out for as long as possible in the hope that we would give up and, in the end, to give us the worst possible deal so that no other member state would dare to try to leave. How well he has met his brief. It is a mess. There are understandable calls to just get on with it, but we must not fall into the trap of signing something we will regret for ever just because we are tired of discussing it. There are other sensible ways ahead: either Canada-plus-plus or the WTO—the no-deal option, which sounds more negative than it really is, which would allow us to trade on World Trade Organization terms, as most nations do. He is not in his place now, but how well this was explained by the noble Lord, Lord Howarth of Newport, on the other side of the Chamber, in his excellent speech earlier.

The Prime Minister has repeatedly said, “Brexit means Brexit”, “Nothing is agreed until everything is agreed” and “No deal is better than a bad deal”. If these words are to mean anything and if any trust is to be left in our political system, Parliament must vote down the dreadful deal presented to it and set out in a new direction which, even if it brings us short-term problems to overcome, truly respects the decision the country took in 2016.

The saddest and most worrying aspect of this whole process has been, since the very day of the referendum, the deep and frightening divisions it has created between strangers, between friends and even within families. It is so important that the healing process starts as soon as possible, for the sake of the fabric of our society

and to enable normal government to resume. As so often, the healing process cannot begin until decisions have been made, which requires leadership. To deal with some of the suggestions currently flying about, staying in would be a total betrayal of trust and would, I fear, have the direst of consequences, perhaps even civil unrest. A second referendum would open up old wounds, solve nothing and take too long; it should be dismissed out of hand. A people's vote on any deal would be complex, difficult to understand, divisive and, in truth, an abdication of governmental responsibility.

If the withdrawal agreement is voted down in the Commons, the only course of action is to set a new proposal before the EU. I know the EU has said that it will not countenance that but, faced with this situation, it will have to. It should in my view be a Canada-plus-plus or similar deal, which has already been offered and which, with genuine co-operation to solve the overblown Irish border issue, could work quite satisfactorily. Then, perhaps, the healing process can begin.

In his speech today, the most reverend Primate the Archbishop of Canterbury mentioned the need for vision. As a nation with all that we have to offer the world, we should show self-belief without arrogance, conviction without pomposity, determination without aggression, competition without rancour and leadership without conceit. We must champion our deep-rooted belief in the value and integrity of the nation state and our distrust of blocs that attempt to harmonise and formalise unnatural groupings. Europe should be a flexible jigsaw of independent nation states working closely together, but each able to flex separately in response to its individual needs. Cementing nations together in blocs or unions produces a stultifying rigidity, tension, friction and, ultimately, cracking and break-up, which is now starting to happen in the EU. We are not tearing ourselves out of the heart of a thriving organisation, but sensibly detaching ourselves from an ailing bloc that has within it the increasingly obvious seeds of self-destruction. We will be of much more use to the EU in the long term as a strong and independent ally than as a disgruntled partner.

I finish by praising in her absence my noble friend Lady Meyer for her words this evening; let us be more confident in our own nation and drive this matter forward with a sensible deal that everybody wants to see.

8.14 pm

Lord Roberts of Llandudno (LD): My Lords, this is not just about confidence in our nation; it is about our obligation to future generations. Leave means my seven grandchildren and how they will be affected in future years. Brexit means my seven grandchildren, all your Lordships' grandchildren and all the children in our country. Will it be better for them to have fewer benefits than we have had, or should we think first of them when we vote on this deal?

Just after the Second World War, the community of Llangollen in north Wales established the international musical festival, which has brought people from many countries together. It still goes on; I spoke only this morning to its press office. This past year it brought applications from 3,919 competitors from 64 locations; it brought together people who had been at enmity

with one another. As people who have been fighting each other, we suddenly find ourselves in a situation where we either stretch out to one another in friendship or say we want to carry on building a wall.

When the first eisteddfod was held, one choir hitchhiked from Hungary to reach Llangollen—I find it difficult to think of a choir hitchhiking. The following time, a German choir from Lübeck came over to Llangollen. Members of the choir were not sure what sort of reception they would get because we had been at war. They were going to sing to those who had been their enemies and they were very uncertain. But the compère at the eisteddfod on that day was Hywel Roberts, who greeted them by saying, “We are now going to hear from our German friends”. It has taken a long time to build this: to build relationships and get over the enmity of the past. But it has been done, in many different ways. Will we continue with these feelings of friendship? Will we continue building bridges and not walls?

A decade after the Llangollen eisteddfod started, we had the embryonic European movement. This also brought together countries which had been at enmity. When I was in Berlin at a conference some time ago, I said, “The last time one of my family was here he was in a bomber plane over the city, but now we are talking together”. One of the major competitions in Llangollen is the Pavarotti choral competition. So why are we taking a step back? What reason have we for becoming more distant from those who once were distant from us but with whom we are now comrades?

Union takes a long time; of course it does. In Wales we united in a way with England in 1534. We still have our problems; it is an evolving thing. We have our Assembly and certain powers. Our union will always evolve. It is not ready-made or a finished product, and neither is the European Union, or our place in the European Union, because we are in an evolving situation. Without Llangollen and without the European Union, the world would be far more threatening and far more unstable. Every move towards co-operation and understanding is in the right direction. The weakening of our ties with Europe is a backward move. We halt the free movement of people; we withdraw the status of our own people as citizens of Europe. What are we doing? Do we know what we are doing? Are we to be known as those who built walls and not bridges—the Canutes of history? Or are we people who will build this relationship and this understanding? Our children will benefit from what we do in this debate or they will look back on us and say, “Ah, things were different in my grandfather's time”.

I appeal to all Members of the House—the details, of course, will be worked out over many years—to let us build a world fit for children to live in. We can either do it or be a barrier to it. It is our decision.

8.20 pm

Viscount Hailsham (Con): My Lords, I will explain briefly why I shall support the deal negotiated by the Prime Minister, albeit with great reluctance and very considerable reservations. I shall also support the amendment to the regret Motion proposed by the noble Lord, Lord Butler of Brockwell, for the reasons that he so eloquently expressed.

[VISCOUNT HAILSHAM]

I start from the proposition that I am wholly opposed to the policy of Brexit. I believe that Brexit will damage Britain in many important respects. The dire economic consequences were highlighted in the recent Treasury and Bank of England assessments. If this were the moment to do so, I would vote to stop Brexit, either through a decision of Parliament or a further referendum—or more probably both. If that were not possible, I would support the softest version of Brexit available.

But now is not the moment for that. Those questions are not now before the House, although they may very soon be. What we are presently discussing is the deal negotiated by the Prime Minister. That is the subject of this debate. I acknowledge that many criticisms can properly be made of the deal—from both sides of the argument. Some of those defects were very clearly identified in the hitherto private advice from the Attorney-General to the Cabinet, and have also been developed by noble Lords in this House. However, despite the fact that many of those criticisms are wholly valid, I shall support the deal for fear of worse: namely, crashing out of the EU without a deal.

I know that many of my Remainer friends will oppose the deal on the basis that out of rejection comes chaos, out of chaos comes opportunity and out of opportunity will come salvation. Their optimism has been much encouraged by the advice given by the Advocate General to the European Court and by the procedural amendment tabled by Mr Dominic Grieve and passed by the House of Commons yesterday. Both of these developments are much to be welcomed, but I am not yet sufficiently persuaded to take the risk of rejecting the Prime Minister's deal.

I acknowledge that out of rejection chaos will ensue, and that out of chaos opportunities will emerge—but of salvation I am not confident. A disaster seems equally probable. I fear that, by inadvertence, error, misjudgments, lack of leadership, or an inability to assemble a cross-party consensus, we could crash out of the EU without a deal. That would be a calamity and it is a risk that I am not willing to run. It is on that narrow—and I admit very fragile—basis that I support the deal.

However, if the deal fails, as seems very probable, I shall support whatever measures seem most likely to keep us in the European Union on existing terms—most especially through a further referendum, following the early withdrawal of the Article 50 notification which, as a result of the Grieve amendment, the House of Commons could and should direct. If such a referendum is not available I shall support the softest possible version of Brexit.

I shall make common cause with whoever supports these views. That is what many Conservatives did in the 1930s when they rallied behind the national Government. My grandfather was among them. That is what the Conservatives did in May 1940 when they replaced Chamberlain with Churchill. My father was among them. That is what many Labour MPs did when they voted to join the Common Market. On all of these occasions the national interest was deemed paramount. If this deal fails to command support in

the House of Commons, we must unite, across parties, if necessary under a Government of national unity, to prevent the disaster of no deal.

8.25 pm

Baroness Hooper (Con): Sorry, we seem to have missed somebody.

My Lords, exiting or extricating ourselves from over 40 years' membership of the European Union was clearly never going to be as simple or as easy as was suggested by some ardent Brexiteers during the referendum campaign. As a Remainer, I am sad that even during our early years of membership we tended to take a negative stance, waiting for another country to suggest a policy and then criticising it. The big exception to this was, of course, the single market, pioneered when I was a member of the first directly-elected European Parliament, ably carried through by my late noble friend Lord Cockfield and strongly supported by the then Prime Minister, Margaret Thatcher.

We have also been reminded today by my noble friend Lord Heseltine of the creation of the European Space Agency, which was another British initiative—and indeed there are others, but not enough. Taking control of our future, which so many people have advocated in the course of this debate, could have been done just as easily within the European Union as by going it alone, had we taken all the opportunities that Ted Heath envisaged when he led us into membership at our third attempt—let us not forget—way back in 1973.

I am also saddened by some of the language that has been used in these debates and in the press, giving the impression that our European partners and neighbours are now our adversaries, when they have been very forbearing about our rash decision to leave and made clear their feelings only last week at the conclusion of the withdrawal agreement talks, expressing that this was a sad moment and saying how sorry they would be to see us leave. There were no corresponding expressions of sadness on our part, I am sad to say.

Even today, in my noble friend's otherwise excellent introduction to this debate, she stated that the agreement meant that we would no longer be sending billions of pounds to Brussels every year—implying that we had been giving it away when, in fact, it has all gone towards paying our dues for overseas development and overseas trade negotiation, among other things. All of these payments will have to be replicated on a national basis now and we have only to look at the brand new Department for International Trade which has been created with—as I understand it—over 600 civil servants to know where all these billions will be going in the future.

On the subject of trade and trade deals—this is where I see at least a glimmer of hope and possible excitement in the future—I would like to point out that there has been nothing to prevent our trading with third countries throughout our membership of the European Union. Trade deals and trade agreements by themselves achieve nothing. What is needed for increased trade is getting businesses and potential investors on the ground overseas, seeking possibilities and negotiating contracts. So what we need is more trade promotion, and I hope that, in winding up, my

noble friend will be able to reassure us that this is all part of the Government's planning—although I realise that we shall have plenty of time to discuss such things if and when we overcome the present hurdle of the withdrawal agreement.

The other area of concern for me is the fate of the overseas territories. It is not just Gibraltar that has border issues; Anguilla also has an EU border in the Caribbean. In fact, all the overseas territories will be adversely affected as a result of our withdrawal from the European Union. So in welcoming the protocols on Gibraltar and the sovereign base areas, and the Prime Minister's continuing assurances that Gibraltar will not be forgotten, I express the hope that all the overseas territories will be taken into consideration and their specific needs safeguarded.

My preferred option at the conclusion of all these discussions would be to remain as a member of the European Union—that would certainly suit Gibraltar—and I would support anyone who had the temerity to put forward a Motion to rescind Article 50. Whoever considers doing that will have my support. I certainly do not want another referendum—ever—although I understand those who feel that, with clearer information now, people might vote in a different way. However, like the noble and learned Lord, Lord Hope of Craighead, who put it so well at the outset, I too have come to the conclusion that the best way forward is to support the Prime Minister's hard-fought agreement.

8.32 pm

Lord Truscott (Ind Lab): My Lords, it is a pleasure to follow the noble Baroness, Lady Hooper, and I agree with many, although not all, of the points that she made. I declare my role as a former MEP.

It is not overdramatic to say that this country is facing the worst crisis since the Suez crisis of 1956, and arguably the worst crisis since the Second World War. At least in the case of Suez, the run on the pound was mercifully short, and the change of Prime Minister was smoothly executed as Macmillan succeeded Eden. Yesterday, for the first time in British history, a Government were found in contempt of Parliament, which I think shows how the body politic in the UK is in collective meltdown at the moment.

It is also clear that the UK's exit from the EU on the basis of the withdrawal agreement before us will have severe ramifications for many years, perhaps generations, to come. To take another historical analogy, and following on from the noble Viscount, Lord Hailsham, who gave some historical examples, the withdrawal agreement resembles a set of terms foisted on a defeated nation, rather like the Treaty of Versailles. As the Government's published legal advice shows, the UK will have no unilateral right to end the backstop or exit the single customs territory. As a crumb of comfort, we have been told that the withdrawal agreement says it is intended to apply "only temporarily". However, the reality is that Brussels will have no incentive to release the UK from the Irish backstop.

The political declaration is in my view meaningless, containing 26 pages of vague aspirations which have no legal force, unlike the withdrawal agreement itself. It will take very many years to negotiate a proper

future relationship with the EU, and the declaration is full of vague, non-committal phrases, as has been said many times in your Lordships' House today.

The Brexit negotiations have been a shambles, not helped by the disarray in the Government. They have, frankly, been a national humiliation. Anyone competent on the negotiating team has either resigned or been sacked. Meanwhile, Brussels appointed a capable Frenchman to run rings round the British negotiators and poach financial services from the City of London, with Paris blatantly wooing our companies to relocate.

The question for your Lordships' House and Her Majesty's Government is: what do we do now? The EU has made it clear that the deal cannot be renegotiated, and even if the political declaration is tinkered with, that will not do the trick. As oft repeated by noble Lords, the British people voted for Brexit but they did not vote to be worse off. The Prime Minister says that the options are her deal, leaving without a deal, no Brexit or going back to square 1. We have to hold our hands up to the British people and say that after over two years we are just not ready to leave the EU on 29 March 2019. We cannot salvage this deal. We were not adequately prepared for it and we have been consistently outmanoeuvred by Brussels.

We need time as a Parliament and as a country to sort ourselves out. We need to extend or revoke Article 50—a point that, again, has been raised a number of times in your Lordships' House—and use the time to negotiate a different deal, scrapping the withdrawal agreement and the political declaration in their entirety. The EU says that it will not renegotiate the agreement: fair enough; let us look at an entirely different model. This could, for example, be a customs union, allowing for real frictionless trade in goods and services, restrictions on freedom of movement and the ability to sign our own free trade agreements. That would also solve the Irish backstop issue and there would be no need for a hard border. Such a deal can be negotiated; they just did not try.

The EU also understands that attitudes on the continent towards untrammelled freedom of movement have changed since the UK's referendum, especially in Italy and central and eastern Europe. Before the referendum, when David Cameron came back from Brussels with no meaningful agreement on curtailing freedom of movement, both he and the agreement were doomed. That was the EU's big mistake, in my view. It reminded me of when Mikhail Gorbachev was refused vital loans from the West in 1991, and he and the USSR were overthrown in a matter of weeks, with tanks rumbling on the streets of Moscow; and Gorbachev knew it was coming.

The British people voted leave in the referendum for two main reasons: to end uncontrolled immigration and to restore our sovereignty. The proposed withdrawal agreement deals with the former to a limited extent but fails on the latter. Theresa May should not make the same mistake with this half-baked deal as Cameron did in 2016. It will damage the economy and trap the UK in a form of single customs territory, where we will have no say over our future. We need to restart this process with the EU from the beginning, if necessary, and if that requires fresh legislation from Parliament

[LORD TRUSCOTT]

so be it. There is no point in holding a second referendum unless freedom of movement is addressed; the result would likely be the same. All this may not be ideal, but any idea of the UK exiting the EU on time and in an ideal way is long past.

8.38 pm

The Earl of Listowel (CB): My Lords, listening to today's debate, I am reminded what a privilege it is to be a Member of your Lordships' House. From time to time, struck by fear, I wonder what I can possibly contribute to such a debate. Then I say to myself that I have my own experience, which may be helpful to one or two of your Lordships.

My father became politically engaged at the age of 17. Fairly early, he became a London county councillor, and he served in your Lordships' House for many years. He was a very reliable father, and I think your Lordships found him a very reliable Member of this House. He had two pieces of life advice to give me, which also apply to politics and which he probably drew from politics. The first was: if you make a mistake, do not worry about it too much; just learn from it and do not repeat it. The second was: do not raise expectations in people and then disappoint them. In thinking about that mistake, my sense is that there is something rotten, if you like, in the state of our constitution and our polity. We are so proud—we are the mother of parliaments. We have been so successful as a nation, defending Europe against the tyrant Napoleon and the tyrant Hitler, that it may be hard for us to think that we need to change.

I recently visited Germany, which, of course, had the opposite experience. It was crushed and had to change. In fact, we played a large hand in rewriting its constitution of basic law. In all the pain that we are currently experiencing, I hope there may also be an opportunity for us to look at the processes, the system and the constitution that we have and think: are they fit for purpose in the 21st century, in the complex society we now live in?

My noble friend Lord Wilson, speaking about the 17 year-olds he was interviewing for university, said how tested they were. Indeed, some time ago the Chief Inspector of Schools described our children as the most tested in the world. This points out a wider anxiety. Yes, we are a very polarised society—very rich and very poor. For such a wealthy country, there is a terrible disparity in wealth. But, more widely, we are a country that experiences deep insecurity. Many people work long hours for low pay, with job insecurity, and many have insecure housing.

Going to Germany, what struck me most was that it is a prosperous country that also achieves a great deal of social security and comfort. Its shops still do not open on Sundays. If one works past 6 pm, one is seen as inefficient. No businesses are allowed to email their workers after 8 pm, yet it is a most productive, economically successful country. Last year, in preparing to visit the Bundestag with an all-party parliamentary group, I looked at the history of Germany's political system from 1945 onwards. What struck me was the continuity—not only of leadership but of parties and different coalitions, and their ability to collaborate

rather than always be in opposition. Collaboration and continuity are such important qualities, which I do not think we have been able to deliver in this country. I hope we can look to the best-performing nations and see whether we can learn from them and perhaps reform ourselves. That is one good thing that might come from the current crisis that we are experiencing.

The second thing my father said was: do not raise expectations in people that you cannot deliver. My heart jumps for joy in some senses to think that there might be another referendum—that this was all a bad dream and we can all go back to where we were a few years ago. But I think of my father's advice and I wonder how those people who voted in the referendum for us to remove ourselves from the European Union, who have been led to believe that we have been working solidly towards that over the past two years, will react when they are told, "Sorry, we're going to rerun it", and, "We're going in a different direction now". I do not have any easy answer to that. If that is the way we go, we have a piece of work to do. Look at France at the moment—at Macron and the yellow vests. When he was elected, *Le Monde* commented that it was an interesting development and exciting to have Macron and *La République En Marche!*, but Marine Le Pen is waiting. If Macron falls flat on his face, she is well positioned to take over. In America, we see in Donald Trump a leader who has worked on those people who felt disenfranchised in the rust belt. In Italy, we see the Five Star Movement taking control. Noble Lords might say that it could never happen here, but there are nationalist parties and nationalists who might have influence and even control, so we cannot discount that. I am concerned about that.

I want to express my admiration for Theresa May. In the way that she sticks with her job, she reminds me of the mothers of my acquaintance who live in very difficult circumstances and still struggle to do their best for their children. I am generalising wildly, but generally women have to stick with their children while men can walk away. I know that many men are looking after children and women sometimes walk away, but one of the important differences between men and women is that generally women have to stick with the child whereas men can choose to walk away. I sense that Mrs May has stuck with the child while many of the men and women involved have walked away. I am heartened. She has challenged her party in the past, saying that it is perceived as the nasty party. She dared to talk at a party conference about the value of social housing. She put aside £2 billion for affordable housing and removed the cap on borrowing for local authorities so that they can borrow to build more social housing. I respect the way that she has pursued that agenda, even when she has had to carry forward Brexit.

Whatever happens, I hope we can continue in that direction. As the most reverend Primate said, it should not be the poor who carry the burden of this impoverishment that is Brexit, but those with the broadest shoulders. The Liberal Democrats have often talked about a land tax. We should look at whether we can take some money from those who can afford it and roll back the welfare cuts on the poorest.

8.46 pm

Lord Risby (Con): My Lords, however people view Brexit and the controversy surrounding it, we have now certainly reached a critical phase in the Brexit undertaking. We have moved a long way since the referendum, in what has proved to be a tortuous and highly charged process. But let us just remember a few things. We were threatened with huge increases in unemployment, a major recession and a flight of capital. Conversely, we were told that because we import considerable numbers of cars from Germany, businesses in the rest of Europe would push their Governments into responding to our demands unhesitatingly. The simple reality, for those of us who sit on EU committees, is the sheer complexity of what this process has involved, the way that we have integrated so much of our activity with the European Union in bringing businesses, investment and employment into this country, and how complicated the divorce process is. Many businesses that located here simply as an entry point to the single market have put further investment on hold.

I should like to examine some of the elements of the withdrawal agreement that need to be further refined and clarified. The checks and balances of this agreement, under Article 164, are in effect to be controlled by a Joint Committee. Its main function is to keep, with qualification, the withdrawal agreement under review, but its decisions equate to the same legal effect as the agreement itself. It will oversee some specialised committees, which may be added to, during transition and for a period of four years thereafter, so it has the potential for real power and influence. For those of us who fear opacity, some clarity about oversight is certainly needed and we should not overlook this.

We have a proud and long-standing network of relationships forged in our history but also, more latterly, through our membership of the EU. In areas such as security and defence, sanctions and overseas aid, our relationships with the EU have enhanced the reputation and capability of the EU and indeed ourselves.

The political declaration expresses the intention to co-operate closely at a bilateral level and within international organisations when and where the interests of the United Kingdom and the European Union are shared. The political declaration talks of consultation and dialogue in respect of foreign, security and defence policy. But the actual process is unclear and appears to preclude the United Kingdom even requesting attendance at members' meetings when clearly appropriate. So perhaps I may express the hope that as our relationship post Brexit evolves, the unqualified offer made by our Prime Minister on these matters achieves a more clearly definable form. Frankly, the attitude of European members as regards the Galileo project has made no sense in this context.

I happen to chair the British Ukrainian Society. The appalling aggression recently of Russia in the Sea of Azov, and spilling over into the Black Sea, simply reinforces the need for us to co-operate intensely with our European neighbours and, for example, to undertake sanctions together in our mutual interest wherever that is appropriate.

The question of the backstop is one that has understandably greatly exercised your Lordships. It is certainly a matter of the most profound regret that the

question of the border on the island of Ireland has in my view been so mishandled. Of course, at the last minute there was a hiccup but essentially the issue of Gibraltar's relationship with Spain was quietly and efficiently resolved. By contrast, the loud running commentary surrounding the Northern Ireland border question has led to considerable tension and mistrust within the United Kingdom, and of course particularly in Northern Ireland. There are those who believe, however, that the European Union may not wish to see the backstop operating for any length of time, if at all.

It is worth noting that in the backstop part of the withdrawal agreement, level playing field rules cover various sectors, but in only one are we required to maintain future EU rules—namely, state aid, which on the face of it seems perfectly legitimate. There are, additionally, those who believe that while we have tariff-free access to European markets without paying money, there may be a considered view among some European countries that the United Kingdom would have a competitive advantage over their own country and their own economy. But it is very unclear at this time and the politics of the situation—I say this as a unionist—are very difficult indeed. I hope that this matter can be somehow revisited and changed if we are to move on successfully. Certainly, the parliamentary arithmetic dictates that.

I conclude with an expression of hope for our future. Almost all industrialised countries are riven by division, much aggravated by anonymous social networks. Whatever one's view of Brexit, it is wrong that individual civil servants and judges, and even the Governor of the Bank of England, have been criticised so personally. I hope we can move beyond the current stage quickly, so that we can get on to trade negotiations. I should just add, as one of the Prime Minister's trade envoys, that there is now nothing to prevent us pursuing commercial activity abroad. I see for myself the ferocious competition between us and other members of the European Union but, all being well, the next stage will be trade negotiations. They are one of the two key elements of our departure from the European Union; namely, to be able to secure direct and comprehensive trade deal arrangements abroad to ensure our future.

I can only hope that we will move on to the next stage, in whatever form it takes, free of the rancour that is certainly alien to our traditional standards of debate. But as I have seen in my export promotion role, there is enormous affection for this country, considerable admiration for the resilience of our Prime Minister and high regard for our parliamentary processes. The deal we have struck is certainly imperfect, but in essence it is probably, in my view, what we could have expected and we should now move on accordingly. That is my great hope for what will happen in the weeks and months to come.

8.53 pm

Lord Monks (Lab): My Lords, this morning my noble friend Lady Smith recalled that during the debates on the EU withdrawal Bill in April, a cross-party group of us moved an amendment calling on the Government to seek a parliamentary mandate to guide

[LORD MONKS]

their negotiating stance with the EU, with the object of promoting some kind of common purpose in this country while there was still some time to try to work that out. I am pleased to say that this House supported that amendment while the other place narrowly did not—at least until last night when Parliament claimed a measure of control over a stumbling, fumbling Cabinet which, it should be remembered, could not produce a plan until the ill-fated Chequers arrangements were unveiled to a sceptical world. I now look forward to the view of the noble Lord, Lord Callanan, on last night's developments, and inquire whether the Cabinet will now accept the fact that Parliament should do its job and sort out a mandate if, as is widely expected, the deal is voted down next Tuesday.

The Prime Minister has spent two miserable years trying to make sense of the decision to leave the EU. She has been trapped by her own red lines and the politics of her own party. We can now see the result: a deal with no clear position for the UK after the end of the transitional period; a deal wreathed in uncertainty about the medium-term future; a deal with humiliating supplicatory features. The Prime Minister's determination has been admirable, her political skills—I am afraid—less so. As my noble friend Lady Smith put it, we are heading for a blindfold Brexit that offers no certainty after the implementation period for the working people and businesses of our country.

The best that can be said about the deal is that it is better than no deal—that disruptive act of self-harm, which still, rather surprisingly to me, has its adherents in this Parliament. On its own merits, however, the deal does not pass the awkward exam the nation posed to the Government in June 2016. What we need now is greater clarity about the future. The political declaration, in effect, just sets out a long difficult agenda of complex issues for further work and negotiations, all to be tackled in the transitional period. Much weight would rest on the phrases “best endeavours” and “good faith”, which are in the agreement.

I do not doubt the initial good intentions and good faith on both sides, but they are not certain to win through, and after a row on, say, fishing rights or Gibraltar—or it could be one of many other things that we cannot yet see—the whole negotiation could be blown way off course. The Swiss arrangements with the EU mean that the Swiss are involved in complex continuing negotiations as they chafe at the agreement they originally made. That is some kind of vision of hell for the future of this country—tied into perpetual negotiations trying to sort out problems with 27 countries from the position of an outsider. The only certainty is that this deal will leave the nation poorer than we are now, as the Bank of England tells us on a regular basis.

I want to touch on concerns about workers' rights, which the TUC has expressed to Members of this House. There is a risk that during the transition period, rights in the UK would start to fall behind, despite the welcome assurances about UK employment rights mirroring those in the EU. This is because EU rights develop rather slowly, time is taken to secure an agreement, and then time is added on for national parliaments to implement them. Measures on the work/life balance,

the gig economy and handling migration better are in the pipeline, but may not be ready until the transitional period ends, so British workers could well miss out—unless the Government commit themselves to mirror those rights in the longer term in UK law.

There are also problems with rights during the period of any Irish backstop, and with not being able to secure enforcement of rights once access to the ECJ ends. That, taken together, does not look like the basis for a level playing field for British workers to me. A temporary customs arrangement would help to avoid an immediate resurrection of a harder Irish border—although not necessarily for the medium or longer term; that is why the Irish backstop is there, after all—but how would a temporary customs arrangement help the UK to handle the movement of labour from the EU coming through Ireland to the UK? How would we combat the people traffickers who would stop unfettered access for all EU citizens to the UK via Irish airports and ports? The customs union alone does not tackle this major problem.

I agree with the Irish Congress of Trade Unions, which said recently that,

“there is no such thing as ‘a good Brexit for working people’ in Northern Ireland or in the Republic of Ireland”.

I cannot see a good outcome for working people in the UK. I therefore live in hope that we can find a way to reconsider our approach to Brexit. The road to another popular vote, with a remain recommendation, is difficult to see. As a precursor, it would need determined leadership from Parliament and the Government and a degree of common will, which is not evident at present. If we cannot get there, we should look again at remaining in the European Economic Area and rejoining EFTA, not as a temporary arrangement but on a long-term basis. We should look to a revived and strengthened EFTA, exerting greater influence than it can at present.

I do not accept the characterisation of Norway as supine to the EU, as was made by the noble Lord, Lord Newby, and others. We could make that option work if my preferred option—to remain—proves elusive. In the meantime, I ask the House to back the Motion in the name of my noble friend Lady Smith of Basildon. Let us start again and go down a different path.

9.01 pm

Baroness Watkins of Tavistock (CB): My Lords, I declare my interests as outlined in the register. I will focus my remarks on my area of expertise. The questions before us are of great importance; I am aware that the vote in the other House will inform the future of the UK's relationship with the EU.

A no-deal Brexit could result in the possibility of an immediate risk to both the provision of safe and effective healthcare and collective efforts to improve public health. Following the UK's vote to leave the EU, nurses and midwives from Europe are leaving the UK register at a faster rate than those joining because of the uncertainty about their right to remain.

Healthcare leaders have consistently argued that there needs to be a transition period following our withdrawal from the EU, particularly in relation to free movement of workers. A no-deal Brexit without a

transition period would likely cause significant challenges for the health and social care sector. Indeed, my noble friend Lady Campbell told me yesterday that four of her five personal assistants are from the European Union.

In the NHS in England, there are 41,000 registered nurse vacancies despite the fact that 30,000 European registered nurses work here. In addition to filling vital gaps in our workforce, nurses from Europe and all our international nursing staff add to the cultural richness of the NHS.

A no-deal Brexit also poses significant risks to our public health efforts. The EU plays a vital role in maintaining public health across all its member states. There are sector-wide concerns that Brexit and the withdrawal of EU funding for public health measures could negatively impact on the health of the UK population, especially if the UK were to crash out of the EU without a deal. The UK could even lose its membership of the European Centre for Disease Prevention and Control, which would mean our exclusion from important reporting mechanisms about emerging public health threats, comparing important surveillance data on communicable diseases and other health threats.

Other risks of a no-deal Brexit may include our loss of access to immediate medications and a lack of protection for workforce regulations. There is a possibility that the UK will find it more difficult to access medicines and medical devices, which may cause delays in new drugs and repeat drugs being made available for patients. I know that there is considerable stockpiling, but there would still be a significant risk with a no-deal Brexit.

Making any changes to the EU regulatory framework for clinical trials would also significantly increase the burden on UK researchers and pharmaceutical companies. In fact, this could make the UK a much less attractive place to conduct clinical trials, with knock-on effects for access to new medicines and international participation in multi-centred trials.

A no-deal Brexit and its potential economic impact could have significant implications for EU-derived worker protections. Were there to be a significant economic hit from a no-deal Brexit scenario, the UK Government may be tempted to reduce worker protections in order to cut costs. This could negatively impact on patient care, further undermining nursing as a career of choice if nurses find themselves left exhausted and unprotected in their employment terms.

In May 2018, Royal College of Nursing members debated the implications of Brexit, resulting in a vote to campaign for a referendum on any final deal. As the debate made clear, the implications of Brexit for the health and social care system are numerous. The UK's nursing shortage risks being further worsened because of uncertainty surrounding the status of EU nursing staff. Settled status has been guaranteed by the Home Office irrespective of whether there is a deal or no deal with the EU before March 2019. I welcome the introduction of the settled status pilot scheme for invited EU staff working at selected trusts in the north of England. However, its rollout appears to be very slow.

The Prime Minister has made a convincing argument for recommending that Parliament accepts the withdrawal deal that has been negotiated and that no better terms

are available. It is difficult to find a more realistic solution, although several noble Lords have suggested some today. In reality, it is the Government's responsibility to keep the people they represent safe in terms not only of security but also in terms of the nation's health and wealth.

Many people who voted to leave the EU believed it would result in a more prosperous United Kingdom. While this may be so in the long term, current forecasts suggest that in the short term we will be significantly worse off. Poverty is detrimental to people's health. Major investment in the NHS has been announced and yet we know that it will be almost impossible to achieve the NHS five-year plan without sufficient staff to meet the needs of the service.

Many nurses from the EU wish to remain in the UK but not at the expense of being unable to retain their full rights to return home. In the absence of the paper on immigration which we have been promised, it is not surprising that some NHS staff from Europe are considering returning to their homelands earlier than planned.

Therefore, I believe that if the other House supports the deal on offer, we should accept this decision and move towards the next phase of our negotiations secure in the knowledge that we have at least two years to reach long-term solutions to the UK's future relationship with the EU. However, under no circumstances would a no-deal Brexit guarantee protecting the health of our nations. I will therefore support the Leader of the Opposition's Motion to ensure that we do not have a hard Brexit.

9.08 pm

Lord Griffiths of Fforestfach (Con): My Lords, it is a great pleasure to take part in this debate. We have had a long day and I have been given a very short straw. I want to make three points but before I do so I should declare an interest. I voted for Brexit with terrific enthusiasm. As I thought back, the first time I ever debated publicly in favour of Brexit was with Sir Christopher Soames when he was a European Commissioner back in the 1970s. At least I have a track record of some consistency.

In a debate such as this, we can easily become bogged down in the technicalities of economic forecasts or legal protocols. If I had been asked to make a speech such as this pre the referendum, it would have been a very different kind of speech. It would have been very gung-ho in putting a strong case for Brexit.

However, I have been profoundly impressed by the referendum. It gave a voice to people. They spoke loudly and clearly, and it exposed the deep divisions in our society—on which the most reverend Primate the Archbishop of Canterbury spoke eloquently this morning. These divisions will not be solved by the technicalities of customs unions, tariffs and so on; they go much deeper. When the Prime Minister says of Brexit that we are taking back our borders, our laws and our money, that is a vision of the kind of society we want to be; it is not just about the technicalities of trade and economics.

[LORD GRIFFITHS OF FFORESTFACH]

It would be a terrible mistake if we did not realise that, in this move, we are handing something on to our grandchildren and great-grandchildren. Therefore, the debate must have breadth. It is about society, culture and our values—about being at one with ourselves as a society as well as where we go economically. It needs a long time horizon. We are doing something which has at least a 50-year time horizon.

One thing that I have missed in the debate, not least from people who would be pro Brexit, is a sense of hope. What we do must give hope for the average person in Britain that their future can be better than the past.

The worst option that we now have—I hate to say it because it seems as if I am attacking political opponents when I am not; I say it because I really believe it—is a second referendum or a people’s vote. The vote was constitutional; it was approved by both Houses. It was a simple question. The rules regarding the result were known in advance. There was a clear majority. No election or referendum that I have taken part in ever exposed all the potential questions connected with it, and this was no different. A new referendum would undermine trust. Already the political class of which we are part is discredited. As the most reverend Primate the Archbishop of York was reported in the press as saying—he was after all a High Court judge in the country of his birth—such a lack of trust leads to a permanent loss of confidence in political institutions and the road to civil unrest and violence.

I make my third point with a slightly heavy heart. I have been very critical of the Prime Minister. Yet, as I look at the alternatives, I see that all of them involve risk. Frankly, even if there was a second referendum and we went back into the EU, that would involve risk as well. I have come to feel that the deal is the best we can do at present. It is on the table and it has taken two years to get here. I agree with former civil servants who have said in this House that the civil servants who have been negotiating have integrity. Against that background, I am now strongly in favour of supporting the Prime Minister, even though there are many qualifications that one would want to make. The main advantage as I see it is that we leave the EU. There are risks going forward that we have to face then.

Finally, I would like to give a personal note; I do not often make these. This is the end of the day, but I will go back to the beginning of the day. I do not often make Prayers in this House. During the right reverend Prelate the Bishop of Carlisle’s Prayers this morning—the two psalms that we read, and the prayers, which were followed by the most reverend Primate the Archbishop of Canterbury—I was particularly struck by them saying that our prayers are real. I was struck by our praying, first, to lay aside prejudices—that really hit me between the eyes—secondly, for wisdom greater than our own; and thirdly, that we should have above all, as we approach the subject, humility.

Debate adjourned until tomorrow.

House adjourned at 9.16 pm.

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