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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

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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
Lab Co-op	Labour and Co-operative Party
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

Monday 11 March 2019

2.30 pm

Prayers—read by the Lord Bishop of Southwark.

Death of a Former Member: Lord Habgood *Announcement*

2.36 pm

The Senior Deputy Speaker (Lord McFall of Alcluith): My Lords, I regret to inform the House of the death of the noble and right reverend Lord, Lord Habgood, on 7 March. On behalf of the House, I extend our condolences to the noble and right reverend Lord's family and friends.

Cultural and Creative Industries: Diversity *Question*

2.36 pm

Asked by Baroness Bull

To ask Her Majesty's Government what assessment they have made of the impact on the diversity of those working in the cultural and creative industries of the low levels of provision of arts subjects at A-Level to those living in areas of the highest deprivation.

Viscount Younger of Leckie (Con): My Lords, the Government recognise the need for our cultural and creative industries to reflect the diversity of modern society. We are committed to ensuring that children enjoy a broad curriculum, including the arts, and are investing almost £500 million in arts education programmes between 2016 and 2020. The Government are also investing £2 million in a UK-wide creative careers programme which will improve awareness among young people of the careers that studying creative subjects can lead to.

Baroness Bull (CB): My Lords, contrary to the popular belief that talent is what counts, Labour Force Survey data shows that the creative industries are increasingly dominated by people born into privilege. In music and publishing, just 10% of the workforce is from working-class origins. I welcome the Government's investment in the creative careers programme, which will signpost pathways into the sector more broadly. Can the noble Viscount say how the programme's success will be assessed? Would he also consider encouraging employers to monitor socioeconomic diversity in the workplace, using the Government's recommended measures, published last year?

Viscount Younger of Leckie: The noble Baroness is right to raise the importance of young people engaging in the arts. She raised the subject of the creative

careers programme. This is a major programme and the Government are working with industry and inputting £2 million of seed funding. The way it will work is that leading figures from industry will visit schools across the country, including in areas of high deprivation, to offer advice and inspire young people who would not typically consider a career in the creative industries to do so. The Government will monitor this programme with care.

Baroness McIntosh of Hudnall (Lab): My Lords, notwithstanding what the noble Viscount said about the Government's intention to invest in better information about careers in the creative industries, would he agree that the mixed messages from Government over the last few years have meant that, in a number of schools, parents, teachers and students are unwilling to see the creative industries as a potential source of employment? Could he also tell the House what efforts, if any, the Government are currently making to get Russell Group universities to widen their very restrictive facilitating subjects list?

Viscount Younger of Leckie: The noble Baroness makes an important point about careers; it seems to be a theme. The Government launched the Careers & Enterprise Company, which was established in 2014, to help link schools and colleges to employers and to increase young people's exposure to the world of work. The National Careers Service provides free careers information, which will help not only pupils but head teachers, teachers and parents. This is very important and the strategy identifies the Gatsby benchmarks, which the noble Baroness will know about.

Lord Black of Brentwood (Con): My Lords, is my noble friend aware that, while 64% of schools in areas of least deprivation provide music at A-level, in areas of highest deprivation that figure is a shocking 14%? Is this not damning evidence that access to music education is becoming the preserve of the rich and elite? Will my noble friend agree that the only way to reverse this intolerable situation is wholesale reform of the English baccalaureate, which is forcing music out of state schools? I remind noble Lords of my interest as chairman of the Royal College of Music.

Viscount Younger of Leckie: My noble friend will know that I do not agree with what he said about the baccalaureate. Having said that, he will know, because it was announced by my noble friend Lord Agnew, that we have a national plan for musical education. We are working on this during 2019 and we are engaging with a lot of stakeholders. My noble friend makes an important point and we will take this very seriously.

Baroness Bonham-Carter of Yarnbury (LD): My Lords, picking up on something the noble Lord, Lord Black, said, Arts Council England has an Artsmark award—a quality mark awarded by ACE to schools that are embedding creative learning in their curriculum. Does the Minister agree that Ofsted should do the same and that no school should be marked "Outstanding" unless this is the case?

Viscount Younger of Leckie: I will certainly take that message back to Ofsted. I think I mentioned that Ofsted is, subject to consultation, taking a much more serious view on arts being taught in schools. That is something I will take back, particularly for areas of high deprivation.

Baroness Lister of Burtersett (Lab): My Lords, some organisations working with some of the poorest people in our society have identified access to arts and culture as a human right. What are the Government doing to make sure that children in some of the poorest areas and from the poorest families have adequate access to arts teaching in their schools?

Viscount Younger of Leckie: Much of the money channelled to this area comes through Arts Council England, which has supported a number of programmes aiming to address barriers to access, including the National Youth Dance Company and Youth Music, which focuses on providing music-making opportunities for disadvantaged children. Youth Music projects support 75,000 disadvantaged children. There are other ways the money can be channelled into these very important areas.

Lord Winston (Lab): My Lords, I reiterate what was said by the noble Lord, Lord—forgive me, he is the current chairman of the Royal College of Music and is actually my successor in that post, so I declare my interest. This is incredibly embarrassing; it is the high blood pressure as you get up to speak, basically.

The metrics show very clearly that music education improves literacy and memory, short-term and long-term.

Noble Lords: Oh!

Lord Winston: My Lords, I am musically ill-educated. It also, of course, improves collaboration and emotional development. It is very important for children. Most schools I visit show very clearly that there is not nearly enough music available to them.

Viscount Younger of Leckie: I hope my own memory serves me right, but music goes further than that. The noble Lord makes some very good points, because music impacts beneficially on mental health, where there are issues in areas of high deprivation in particular. We all know that Gareth Malone, who springs to mind, has done a lot of very good work in this area.

Lord Cormack (Con): May I remind my noble friend of the enormous contribution made to musical education by the cathedrals of this country?

Viscount Younger of Leckie: This has certainly cropped up before; my noble friend often mentions one in particular. That is certainly noted.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, has the Minister noticed that one of the astonishing growth industries in the creative sector is finding new, elaborate and innovative ways to avoid a meaningful vote?

Viscount Younger of Leckie: I am not sure I shall answer that. I am not sure how applicable it is to the particular subject matter.

Brexit: Food Labelling and Food Safety Question

2.44 pm

Asked by **Baroness McIntosh of Pickering**

To ask Her Majesty's Government what plans they have to ensure that food labelling enables traceability and for the United Kingdom to participate in the Rapid Alert System for Food and Feed following the United Kingdom's withdrawal from the European Union.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, food traceability is required by law and enabled by accurate record-keeping at all stages of the food supply chain, supported by mandatory on-label requirements. Existing traceability and supporting labelling requirements will be carried over into UK law through the European Union (Withdrawal) Act, ensuring continued high levels of safety. While comprehensive contingency plans are in place, the Government remain committed to negotiating full access to RASFF, recognising that continued data sharing will be mutually beneficial.

Baroness McIntosh of Pickering (Con): My Lords, I am grateful for that Answer. My noble friend will be aware that every 10 years or so, there is a potential food scare—I am thinking of BSE, foot-and-mouth and the fraud scandal of horse-gate. At the moment, there are 10 food alerts each day and Britain is one of the major beneficiaries from the European rapid alert system. Will my noble friend ensure that our remaining part of that scheme is concluded at the earliest possible time and if we crash out of the EU without a deal, we will take precautions? This is not the time for the UK to go UK-centric. We need to keep our food as safe as possible for both human and animal consumption.

Lord Gardiner of Kimble: My Lords, I entirely agree with my noble friend. It is absently paramount that there is confidence in our food and I believe that the FSA is well equipped to provide that. It has been upscaling to increase its capacity and capability. Of course, the optimum is that we should remain part of RASFF and in point of fact it is mutually beneficial because we are one of the most active contributors to it. However, we are also strengthening our links through the WHO's INFOSAN network, enhancing stakeholder engagement and improving through the FSA's strategic surveillance programme. I absolutely take the point that it is paramount that our food remains safe, and we are ensuring that.

Baroness Walmsley (LD): My Lords, the consumer portal of the rapid alert system is particularly useful for consumers who are concerned about food safety

and allergies. For example, in the last few weeks it has contained warnings about E.coli in cheese, norovirus in oysters and chocolate bars with peanuts in them that had no warning about peanuts on the wrapper. All those items came from the EU, so what advice will the Minister give to consumers about where they should go in future for this life-saving information? Are we to have our own portal and how quickly will it be set up?

Lord Gardiner of Kimble: My Lords, as I have said, the optimum is that we want to remain part of RASFF because we think that it is mutually beneficial. But that is one reason why we are upscaling our interest in INFOSAN, which has 180 countries including Australia, New Zealand and others as part of it. The noble Baroness raised the issue of allergens; we are undertaking a consultation on allergen labelling precisely because we think it really important that there is appropriate labelling for allergies.

Lord Rooker (Lab): Does the Minister accept that of the 32 RASFF members, the United Kingdom is in the top four of countries that issue the notifications that help others? The only countries that can be a member of RASFF, according to the statutory instrument that the Government put through the House last week to take us out of it, are members of the EU and the EEA. At last week's Select Committee and statutory instrument committee meetings, at no time could anyone tell us who is negotiating on behalf of the UK. They kept saying, "Talk to Defra Ministers"; well, we have a Defra Minister at the Dispatch Box now, so who is actually negotiating our position in RASFF? On the day after we leave, will we stop sending notifications around the rest of the EU to save the lives and futures of people there through food safety? Are we really going to opt out the day after and, if not, who is negotiating?

Lord Gardiner of Kimble: My Lords, Defra has certain responsibilities and the FSA is responsible to the Department of Health and Social Care. The Secretary of State for Defra will undertake the negotiations through Defra on the point raised by the noble Lord. In point of fact, this has to wait until the next phase of the negotiations—

Noble Lords: Oh!

Lord Gardiner of Kimble: It will, my Lords, because while we want to remain part of RASFF we cannot negotiate until we get to a certain point. We want to negotiate that continued membership because, as the noble Lord, Lord Rooker, says, we are a great contributor to RASFF. He knows that from all his experience. That is why there is a mutual interest in us remaining part of it, and why rapid alerts should of course go round the world whether through RASFF or INFOSAN. It is imperative that rapid alerts continue and that is what we will do.

Baroness Jones of Whitchurch (Lab): My Lords, can I press the noble Lord on that issue? My noble friend asked who is negotiating all this. I do not see why we

are not having those negotiations now, face to face, and why a new deal with the EU cannot be in place from day one after Brexit. Surely that is within the scope of the negotiations, whether there is a deal or no deal. As my noble friend has said, it is in everyone's interest that that deal is completed by day one of exit.

Lord Gardiner of Kimble: My Lords, we are all on the same page. We want to remain part of RASFF, but it is not just for us to decide. That is why there are negotiations between two parties, and it is not always possible for one party to insist. We think there is a mutual benefit to being a member of RASFF. That is our negotiating point, but we are negotiating on the matter, and I hope that we will succeed, as it is in everyone's interest.

Baroness Altmann (Con): My Lords, should there be a no-deal Brexit, will my noble friend reassure the House that there will be no threat to human health, and possibly life, from being locked out of some of the alerts that come from the EU?

Lord Gardiner of Kimble: I will be categorical on this because, under EU law, even without full RASFF access, the UK would still receive notification if a food subject to RASFF alert was dispatched to the UK from the EU. This is because the EU Commission is required under EU law to notify third countries where affected foods are dispatched to third countries. That is already in place and will continue. Although the Government and I very much wish there to be a deal, it is why the FSA, under the chair of Heather Hancock, has been working so hard to strengthen capability and capacity, to improve the strategic surveillance programme and to work with the 180-member-strong INFOSAN, so that our food is safe.

Occupied Palestinian Territories

Question

2.51 pm

Asked by **Baroness Tonge**

To ask Her Majesty's Government what discussions they have had with the Government of Israel about the increase in settlement building in the Occupied Palestinian Territories.

Baroness Goldie (Con): My Lords, we regularly raise concerns with the Israeli authorities, urging them to reverse their settlement expansion policy. Our ambassador to Israel raised concerns with the Israeli Ministry of Foreign Affairs on 29 January. The Minister for the Middle East issued a statement on 27 December 2018, expressing disappointment at plans to advance over 2,800 new settlement units in the West Bank.

Baroness Tonge (Non-Aff): I thank the Minister for that reply, but she knows that there are now nearly 800,000 settlers in the West Bank and east Jerusalem, and they are there illegally under international law. Why do we allow trade with the settlements in that

[BARONESS TONGE]

case? Surely it is illegal to trade with them, too. Given the scale of the occupation of the West Bank and east Jerusalem, when will the Government put pressure on Israel—wait for it—to consider one truly democratic state, with equal rights for all its citizens and the right of return for refugees?

Baroness Goldie: My Lords, in response to the latter part of her question, the noble Baroness will be aware of the United Kingdom's long-standing position, which is that we support a two-state settlement and we want to see that happen. We believe that a political settlement is the only way to bring progress for the two communities. On the issue of trade, she raises an important point. Trade is important, not just for the United Kingdom and Israel, but also for the United Kingdom and the Palestinian Authority. She is aware that our total trade in goods and services with the PA, for 2017, was £17 million. We entered into a new trade agreement with Israel just last month, and a separate one with the Palestinian Authority. The Israeli trade agreement excludes goods created in Israeli settlements in the OPTs.

Lord Garel-Jones (Con): My Lords, given the poor state of relations between the independent Palestinian territories and the State of Israel, what, if anything, are Her Majesty's Government doing to help promote better relations between those two parties and thus advance the prospect of a two-state solution?

Baroness Goldie: The United Kingdom endeavours to support the Middle East peace plan and we do that with funding through the Conflict, Stability and Security Fund. For 2019-20, that programme will be worth £10 million. We also offer help through DfID to the Occupied Palestinian Territories under three main headings: supporting Palestinian refugees across the Middle East; supporting the Palestinian Authority to deliver basic services, build stability and promote reform; and giving help to the Palestinian market development programme to strengthen the private sector in the OPTs.

Lord Grocott (Lab): My Lords, given the unremitting expansion of settlement activity despite international opposition, for how much longer do the Government consider that a two-state solution will remain a viable option?

Baroness Goldie: We continue to believe that it is a viable option and, as I indicated to my noble friend Lord Garel-Jones, the Government support that assessment with active financial help. That is a very important contribution to the Middle East peace process. Of course, our position on the settlements is clear: they are illegal under international law, they present an obstacle to peace and threaten the physical viability of a two-state solution. The noble Lord is quite correct to raise that concern. The United Kingdom believes that both communities will benefit from peace and we hope that the prospect of peace will facilitate a change in approach to a more optimistic outcome.

The Lord Bishop of Southwark: My Lords, I attend annually the Vatican-mandated Holy Land Coordination, as well as attending other things in the Holy Land. I shall be there in a week's time with my curates. In the visit of the co-ordination group in 2017, we noted the injustice of the separation barrier built across Palestinian land in the Cremisan Valley and the creeping annexation of territory through settlement building. Will the Minister accept the denial of hope to the young people of Palestine that this taking of their land represents and reconsider the Government's stand on delaying recognition of the state of Palestine in support of the two-state solution?

Baroness Goldie: I thank the right reverend Prelate for making a very important point. The situation he outlines is profoundly undesirable. That is why, as I have indicated, the United Kingdom is doing what it can to support both communities—the Palestinian Authority and the State of Israel—in trying to take forward a solution to what has been a challenging and anxious problem. On the question of recognition, we will recognise a Palestinian state at a time when it best serves the objectives of peace. Bilateral recognition in itself cannot, sadly, either end the occupation or achieve peace, but we believe that the work we are carrying out at the moment is an important contributor to helping both entities look to a future where peace might just be possible.

Baroness Northover (LD): My Lords, accountability and hope are clearly vital, as the right reverend Prelate has pointed out. The UN commission of inquiry into the deaths of 189 Palestinians in Gaza last year has just concluded that it has,

“reasonable grounds to believe that ... Israeli soldiers committed violations of international human rights and humanitarian law. Some of those violations may constitute war crimes or crimes against humanity”.

What is the Government's response to those conclusions?

Baroness Goldie: These are very grave conclusions and the United Kingdom will be determining its response to the report in conjunction with our global partners, not least in the UN.

Lord Hannay of Chiswick (CB): My Lords, was this issue of trade emanating from the settlements—the illegal settlements—raised in the negotiations undertaken to roll over the EU-Israel agreement to include the UK in the circumstances of Brexit? If the subject was not raised and if it was not made clear that we should not give preferential treatment to these, why not?

Baroness Goldie: I can tell the noble Lord that the agreements to which I referred are intended to take effect when EU trade agreements no longer apply to the UK. That will of course be on implementation of Brexit, either at the end of the implementation period or if the UK leaves without a deal. On the further matters he raised, I have made it clear that the trade agreement with Israel does not include products from the settlement areas of the OPTs: those products are

excluded. The agreement was laid before Parliament on 26 February, and there will be an opportunity for Parliament to scrutinise it.

Brexit: Research Funding Question

3 pm

Asked by Baroness Warwick of Undercliffe

To ask Her Majesty's Government what assessment they have made of the case for domestic replacement funding to be made available should the United Kingdom's access to European Research Council and Erasmus+ funds cease in the event of a no-deal Brexit.

Viscount Younger of Leckie (Con): My Lords, if the UK secures a deal with the EU, we will continue to have access to Erasmus+ and the European Research Council. This is of benefit to both. Without a deal, the Government's guarantee will cover the payment of awards to UK beneficiaries for all successful Erasmus+ and ERC bids until 2020 for the lifetime of the projects. Our continued involvement in these programmes relies on our reaching agreement with the EU.

Baroness Warwick of Undercliffe (Lab): My Lords, Erasmus+ is the most important programme for student mobility in the United Kingdom, particularly for underrepresented groups. We are just two weeks away from a potential no-deal Brexit and the Chancellor has still not confirmed that he will redeploy money that we would have routed through Brussels to fund opportunities for study abroad. Typically, 19,000 students would be expected to study abroad under Erasmus in 2019. Just as worrying is the fact that the UK research system will effectively lose something like £1.3 billion over the next 18 months if there is no national alternative to replacing ERC funding. That would be a total catastrophe for research funding in the UK. Can the Minister therefore confirm that the Treasury will redeploy money that would have gone through the Commission and use it to create UK alternative mechanisms for these schemes? If not, will he undertake to write to the Chancellor of the Exchequer, urging him to make this commitment as a matter of urgency?

Viscount Younger of Leckie: I will try to give some reassurance. In all scenarios, the UK will remain fully open to scientists, researchers and students from across the EU and beyond. The Government have prioritised investment in research talent in 2017-18 and 2018-19 as part of the wider government investment in R&D, and have committed to backing UK researchers and innovators by supporting measures in collaborative research, including in small businesses. We are seeking independent advice on this matter from Sir Adrian Smith. We are also considering developing a domestic alternative to Erasmus+.

Baroness Garden of Frognal (LD): My Lords, the number of applications for European language degree courses fell by almost a quarter between 2012 and 2017. This has clear consequences on the ability of the UK's workforce to trade, work and network

internationally. What are the Government doing to encourage more people to study modern languages? Can the Minister give the reassurances asked for by the noble Baroness, Lady Warwick—that the year abroad, which is often a compulsory part of a modern languages degree, will be fully funded?

Viscount Younger of Leckie: Beyond the guarantees we have given, I can say that there has been a lot of work from the Government to inform and communicate. In January we published a new technical notice providing detailed guidance to organisations and participants, which is further supported by a set of frequently asked questions. We are planning webinars and conference calls for stakeholder groups and beneficiaries in the HE sector, for schools and for further education, because it is very important that students in the UK continue to have those opportunities to travel abroad for experiences.

Lord Brooke of Alverthorpe (Lab): What is the Government's plan for after 2020?

Viscount Younger of Leckie: We have given certain guarantees on Erasmus+, which I have mentioned before, and there are ongoing discussions on what alternatives to it might take shape. The research side will very much depend on discussions with the EU, but Sir Adrian Smith is undertaking the independent review that I have already mentioned.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, with respect to the noble Viscount, he has not answered the question from my noble friend Lady Warwick. Will he undertake to discuss this matter with the Treasury and, having done so, write to her and put a copy in the Library?

Viscount Younger of Leckie: I can certainly alert the Chancellor to the Question that has been raised, and I am sure that he may wish to read a copy of *Hansard*. Beyond that, I am not prepared to give any guarantees.

Baroness Rawlings (Con): My Lords, does the Minister agree that learning other languages doubles people's chances of getting jobs?

Viscount Younger of Leckie: Of course it depends on which jobs they are seeking, but yes, I certainly fully endorse learning languages, and I am sure that all educationalists agree.

Lord Watson of Invergowrie (Lab): My Lords, despite several opportunities, the Minister has failed to say what will happen after 2020 when the Government's guarantees run out. He will be aware that last month the EU Committee of your Lordships' House published a report on the Erasmus and Horizon programmes, in which it noted that,

“it would take many years to emulate the tried and tested mechanism for international research collaboration provided by the EU framework programmes, the established research partnerships they support, and the EU's joint infrastructure capabilities”.

[LORD WATSON OF INVERGOWRIE]

I hope the Minister has taken note of that. With fewer than 20 days left until this country is meant to depart the European Union, can he give any kind of certainty to EU students and researchers about their futures after 2020?

Viscount Younger of Leckie: I have given the guarantees I can to the extent that I can. However, the Government are absolutely clear that ensuring that the UK is at the forefront of science and technological innovation will be at the core of next week's Spring Statement. The Chancellor will maintain the country's reputation as a pioneering and world-leading nation as it leaves the EU by investing £200 million in cutting-edge genetic research in Cambridge, state-of-the-art lasers in Oxfordshire, and a supercomputer in Edinburgh. Much action is going on in the UK, notwithstanding what might happen with EU exit.

Lord Campbell of Pittenweem (LD): My Lords, I declare my interest as the chancellor of the University of St Andrews, of which the noble Viscount is a distinguished graduate. Does he understand the extent of anxiety and apprehension in St Andrews University and other universities in the United Kingdom about the failure of the Government to give guarantees about anything after 2020? It drives at the very heart of the research on which the reputation of many of our universities in the United Kingdom is firmly based.

Viscount Younger of Leckie: First, I can understand the anxieties that people at all universities will feel, whether they are students or staff. However, as the noble Lord will know, it is the Government's priority to secure a deal with the EU—that is what we want—and we have given certain guarantees up to 2020.

Aviation: Boeing 737 MAX 8 Jets *Private Notice Question*

3.07 pm

Asked by Lord Tunnickliffe

To ask Her Majesty's Government what discussions they have had with the European Union Aviation Safety Agency and UK flight operators regarding the safety of those travelling on Boeing 737 MAX 8 jets, in response to two fatal incidents involving this model in the last five months.

Lord Tunnickliffe (Lab): My Lords, I beg leave to ask a Question of which I have given private notice.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Sugg) (Con): My Lords, following the tragic accident yesterday in Ethiopia, the Civil Aviation Authority is working with both the European Aviation Safety Agency and the UK operator to determine what future action may need to be taken. As more information becomes available, we will continue to consider all options to ensure the safety of our citizens here in the UK and across the globe.

Lord Tunnickliffe: My Lords, I flew the 737-200 and 300. In my day we had a rule: if it can go wrong, it will go wrong. The industry seems to have lost sight of that rule. I believe that everybody involved will be shown to be in dereliction of their duty: Boeing for pressing for a ruling that pilots did not need to be informed of the new system on cost grounds; the FAA for agreeing to it; EASA for giving in after initially opposing the Boeing position. The initial report strongly suggests that the latest crash is related. What will the Minister do? Can she explain why the Government are not taking immediate action to ground this aircraft until they have had a satisfactory explanation of the crash?

Baroness Sugg: My Lords, as the noble Lord pointed out, the investigation into the Lion Air accident is ongoing and obviously, the awful accident in Ethiopia happened only yesterday. We are working very closely with EASA, which is discussing the accident with the US Federal Aviation Administration, and any decision to ground flights is best taken at an international level. EASA, which is the validating authority, and the FAA, as the state certifying design, are best placed to take this decision, but of course, we will follow their guidance.

Lord Trefgarne (Con): My Lords, I add my condolences to those who were tragically killed in the accident yesterday and the previous one. Can my noble friend confirm that, following Brexit, the United Kingdom's Civil Aviation Authority will stand ready to do whatever is necessary once EASA lays down that role?

Baroness Sugg: I thank my noble friend for his question. The UK is a leader in global aviation safety and we will continue to be so regardless of the outcome of our negotiations on Europe. We want to remain a member of EASA and very much hope to do so, but I confirm that the CAA, which already carried out many safety responsibilities, is fully prepared to do so in the event of no deal.

Baroness Randerson (LD): My Lords, the key to aviation safety is the sharing of information. Large batches of data enable the relevant safety agencies to spot trends and highlight specific problems. Yet, tomorrow, we will be discussing aviation safety regulations which, in the event of a no-deal Brexit, will cut us off from the automatic flow of information from EASA to which the Minister referred. They give powers instead to the Secretary of State, with no transparent decision-making. Forgive me if I am not brimming with confidence about that process.

There will clearly be an investigation of the safety of the Boeing 737 MAX 8 jets. It could well cross over until after Brexit. How will the Government ensure that we get full information from EASA and that we share fully our information on those planes?

Baroness Sugg: My Lords, as I said, we want to continue as a member of EASA. Safety is our priority and it is in both our interests for us to continue to be a member of EASA. Regardless of the outcome of the negotiation, we will of course continue to work very closely with our European and global partners to keep our people safe in the skies.

Lord Geddes (Con): Can my noble friend confirm the news that I heard this morning that the black box from the aircraft has been found? If that is so, when would she expect the results of the investigation to be promulgated?

Baroness Sugg: I have seen the same reports as my noble friend. The Air Accidents Investigation Branch has offered assistance to the Ethiopian authorities. That has now been accepted and a team is now being deployed.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, the Chinese authorities have grounded all 60 of their aircraft of this type. Would she care to speculate why they have done so and whether their action is premature?

Baroness Sugg: No, I would not wish to speculate why the Chinese have taken those decisions. As I said, the CAA is in discussion with EASA on any restrictions that should be put in place, but the current position is that more information is needed to warrant any grounding decision. As I also said, these decisions are best taken internationally. We have five 737 MAX 8s registered in the UK, but 350 are flying globally. Further conversations are of course ongoing and we are keeping in close contact with both the CAA and EASA.

Lord Rogan (UUP): My Lords, it is most unusual for two aeroplanes of the same model to crash within such a short period. Surely it would be prudent for the operation of these aircraft to be suspended until it is decided what caused these accidents.

Baroness Sugg: Following the Lion Air crash, Boeing, the manufacturer, issued an emergency safety bulletin and the FAA and EASA issued an emergency airworthiness directive. That mandated that 737 MAX 8 operators revise the flight manual and training procedures to prepare pilots to deal with the same incident that the Lion Air pilot appeared to experience. Of course, before the aircraft entered into service, the CAA conducted a safety assessment that took into account the preliminary findings from the Lion Air accident and the EASA airworthiness directive. As I said, this accident happened yesterday and we are keeping in close contact with those investigating it.

Lord Berkeley (Lab): My Lords, most people would believe that if Boeing issued new instructions and safety rules after the Lion Air accident four months ago, they were probably defective as another accident has happened. Will we have to wait another four months before any action is taken? That seems a risky policy.

Baroness Sugg: The accident happened yesterday and obviously, we are looking carefully into what caused it. As I said, an airworthiness directive was issued and acted on. We are working closely with EASA and the FAA on any further steps we should take.

Lord Pannick (CB): My Lords, what advice would the Minister give British citizens thinking of travelling on one of these aircraft in the near future?

Baroness Sugg: My Lords, as I said, safety is our number one priority. The Civil Aviation Authority leads the way on that for us in this country. As I also said, before any of the 737 MAX 8s entered into service, the CAA did a full safety assessment, taking into account the findings of the Lion Air accident. As noble Lords would expect, both the department and the CAA are in close contact with the operator to ensure that the aircraft are safe.

Baroness Harris of Richmond (LD): My Lords, which companies in this country fly this aircraft?

Baroness Sugg: My Lords, one operator in this country flies them: TUI, which has five UK-registered aircraft based out of Manchester. Of course, other airlines fly those aircraft into the country; there have been around 730 such flights so far this year.

Lord Tugendhat (Con): My Lords, does my noble friend agree that while safety must of course be the principal consideration, the confidence of air travellers is also very important? Two accidents involving a new model of aircraft in a short time is always a source of particular concern. In matters of this kind, it is usually better to err on the side of caution in taking action, or even to be premature, rather than letting things run on.

Baroness Sugg: I agree with my noble friend that it is right to err on the side of caution. The aircraft was a Boeing 737 MAX 8, as in the previous crash, and there has of course been lots of speculation as to whether there is a link. It is too early to speculate on the cause or any similarities, but that will be a line of investigation. As I said, we are working closely with our European and international partners to make sure that we are taking the correct action.

Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019

Conservation (Natural Habitats etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019

Environment (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019

Animal Welfare (Amendment) (EU Exit) Regulations 2019 *Motions to Approve*

3.16 pm

Moved by Lord Gardiner of Kimble

That the draft Regulations laid before the House on 28 and 31 January be approved.

Relevant document: 17th Report from the Secondary Legislation Scrutiny Committee (Sub-Committee A). Considered in Grand Committee on 6 March.

Motions agreed.

Further Developments in Discussions with the European Union under Article 50 of the Treaty on European Union

Motion to Take Note

3.17 pm

Moved by Lord Callanan

That this House takes note of further developments in discussions with the European Union under Article 50 of the Treaty on European Union.

The Minister of State, Department for Exiting the European Union (Lord Callanan) (Con): My Lords, this debate allows us the opportunity to debate further the discussions with the European Union under Article 50 of the Treaty on European Union. This House has played a significant role in shaping the process for the UK's exit from the EU and will continue to do so. The number of speakers on the list is testament once again to the extensive knowledge and experience this House has to contribute. The debate provides a significant opportunity to inform the debate ahead of the meaningful vote in the other place tomorrow.

The Prime Minister has long said that it is in the interests of both sides—the UK and the EU—to leave with a deal. That is what we have been striving to achieve. This afternoon in the other place, the Parliamentary Under-Secretary of State, the Member for Worcester, will set out the latest position in response to an Urgent Question from the leader of the Opposition. Following the meaningful vote in January, the Government have worked hard to secure the reassurances the other place required. As well as changes to the backstop, we have been working on a number of areas to secure support for the withdrawal agreement.

As my right honourable friend the Prime Minister has said, she, alongside my right honourable friends the Secretary of State for Exiting the European Union and the Attorney-General, and other Cabinet colleagues, has been working hard to find a solution to the backstop to ensure that it cannot be indefinite. The discussions with the EU are ongoing as I speak and I am sure that noble Lords will understand that I cannot go into the detail while these sensitive discussions are continuing at this time; nor, of course, would I want to comment on the huge amount of speculation and hypotheticals that are currently doing the rounds on social media. As soon as there is a conclusion to the negotiations, we will ensure that Parliament is updated at the earliest possible opportunity.

Over the past few days the Prime Minister has been speaking to fellow leaders. Yesterday evening she spoke to President Juncker by phone. The teams are continuing to talk throughout today. It remains our intention that the meaningful vote will take place in the other place tomorrow, Tuesday 12 March, and that the Motion will be tabled ahead of the debate. The other place will have the option to back the Brexit deal or to risk a delay that would mean months more of arguing about Brexit, prolonging the current uncertainty. It is important that we deliver on the result of the referendum and deliver this deal that works for the whole of the United

Kingdom. However, the Prime Minister remains committed to the Statement that she made to the other place with regard to the votes that would follow, should the other place not support the deal tomorrow.

The Government remain committed to delivering a smooth and orderly exit from the EU and continue to progress with extensive work to put in place much of the legislation, both primary and secondary, required for our exit from the EU. Noble Lords are playing a crucial role in ensuring that the statute book is ready for exit day, including by providing appropriate scrutiny to legislation. It would be wrong of me to discuss legislation without paying tribute once more to the work of the Select Committees of the House, whose reports, insight and expertise have been most valuable at every step of the process since the result of the June 2016 referendum. In particular, I am grateful to the chairs of the scrutiny committees, the noble Lords, Lord Trefgarne and Lord Cunningham, for their extensive work. Their reports have been excellent. They have made effective use of the temporary additional resources the House wisely gave them for this task, and we all remain in their debt.

As part of our preparations for exit day, the Government are working hard to ensure that the necessary SIs are in place ahead of exit day. Many of these ensure that on exit day there is continuity for citizens and businesses. I am aware that noble Lords have asked about SIs in different exit scenarios. I can confirm that should we no longer require certain SIs after exit day if a deal is secured, the EU withdrawal agreement Bill—WAB—will make provision to defer the SIs that are not required at exit day. We expect that this would be until the end of the implementation period. For the information of noble Lords, as of today, we have laid 497 and completed 312 of the SIs required before exit day.

It would be most unprecedented to have a debate in this Chamber on the UK's exit from the EU without the question of a second referendum arising at some point. Let me say for the avoidance of any doubt that the Government's position has not changed and we are not considering a second referendum. The referendum in 2016 was the biggest democratic exercise in our history and the Prime Minister has been clear that the will of the British people must be respected and delivered.

Noble Lords often laugh when I say this, but once again I greatly look forward to hearing the contributions of the many noble Lords signed up to speak today. The rest of the week will no doubt see this matter develop further in the House of Commons. That does not mean that this House does not have a role and, at the risk of repetition, I think that today's debate gives us all a valuable opportunity to take further stock. My noble and learned friend Lord Keen stands ready, as ever, to address any key points that are raised during the debate when he closes later on. I beg to move.

3.24 pm

Lord Goldsmith (Lab): My Lords, there are two preliminary issues. First, why am I standing here? The answer is that because we were promised some legal changes to the withdrawal agreement. We have seen in the newspapers stories about the peregrinations of

Attorney-General Geoffrey Cox going to Brussels and putting forward new texts, and we were going to see what the result of that was. It was thought that, as we were expecting such a text, it might be useful to noble Lords if a lawyer was here to respond, but there is nothing.

That leads to the second question which your Lordships may be considering. What are we actually debating today? I think the answer is that it is the same 611 pages that we debated the last time we had a debate: the withdrawal agreement and the political declaration. At the moment, there is not a single word changed. That is the issue before your Lordships today.

Can we expect a *deus ex machina* during this debate? There are rumours that the Prime Minister is in the air heading to Strasbourg. That comes from the Irish, so whether it is true is yet to be confirmed—no doubt the Minister will confirm it.

Noble Lords: Oh!

Lord Goldsmith: Let me be clear: that is not an attack on the Irish—quite the contrary. It is just that the Government have not yet confirmed where the Prime Minister is going—at least, not before I entered the Chamber. Before noble Lords get the wrong idea, when I said “*deus ex machina*” that was not intended as a compliment to the Prime Minister. The idea of a messenger arriving during a debate is one to which I will return. Of course, noble Lords have been in the position we are in today at least once before. When noble Lords came to debate the terms of the withdrawal agreement on 10 December, the debate was pulled because there had not been the movement the Government were hoping for so that there could be a more productive debate.

Noble Lords might recall that the theatre critic Vivian Mercer famously wrote of Beckett’s two-act play “*Waiting for Godot*” that, “nothing happens, twice”. Change the name of the principal from Godot to Cox and we could perhaps have a good depiction of what this House and the other place have been enduring. We are still waiting for this change, and the Prime Minister made it clear in a Statement to the other House on 29 January that what would be agreed would,

“involve reopening the withdrawal agreement”.—[*Official Report*, Commons, 29/1/19; col. 678.]

It has been common ground that there needs to be something legally binding to change the status of the withdrawal agreement as it is at the moment. By the way, I add a little poignant note that the theatre review I referred to was published in the *Irish Times*.

This idea of the theatre of the absurd is not without parallel. The absurdity of where we are at the moment was given a little additional twist when, answering questions in the other place, the learned Attorney-General said that the subject of the discussions he had been having had,

“come to be called ‘Cox’s codpiece’”.—[*Official Report*, Commons, 7/3/19; col. 1109.]

I prefer not to understand what imagery was intended by that phrase—better not to ask. The fact is that noble Lords have nothing but the existing text to debate today.

When the Minister comes to reply, will he be able to tell us whether it is correct that the negotiations involving Attorney-General Geoffrey Cox have stalled and that nothing more will come of that? Will it be the case, as some have suggested, that tomorrow the other place will be expected to look at potential words that might be put to the European Union? In that case, we all need advance sight of those words. Neither the other place nor we can express an opinion on what the effect of those words would be unless we have seen them in advance. I hope it will not be right at the 11th hour. I think the Minister has confirmed—it was a question many were considering—that the meaningful vote will in fact take place in the other place tomorrow. That is good to know. I understood him to say—but will he or his noble and learned colleague please confirm—that the other votes promised by the Prime Minister for Wednesday and Thursday, subject to the votes tomorrow, will go ahead as planned? I see the noble Lord, Lord Callanan, nodding his agreement, and I am grateful for that.

Given that there is so little substance to deal with at the moment, and that we hope to have the opportunity of dealing with it when we actually see what changes there are, I will go back to the theatrical analogy I was drawing before. Noble Lords may also recall that in the play I mentioned, “*Waiting for Godot*”, the character Boy—who is some sort of messenger, apparently from Godot—enters to inform the two principal characters, Vladimir and Estragon, that Godot could not come that evening but would come tomorrow, “without fail”. When the Minister comes to answer, will he tell us that we will see the new agreement tomorrow, without fail?

3.29 pm

Lord Newby (LD): My Lords, the reason given for having the debate today—the 12th on the Government’s withdrawal agreement with the EU and the political declaration—was so that we could debate the proposal that the Government were putting to a meaningful vote in the Commons tomorrow and express a view on it. We are all too well aware that the views of this House are now not pivotal to the Brexit process. But, under the terms of the withdrawal Act, we are given a minor role: that of debating what is proposed—and that is what we were hoping to do today.

The plan was that the Prime Minister would make a Statement at the start of business in the Commons this afternoon, setting out the basis on which she was asking the House to reverse its decision to reject the Government’s agreement and, if successful, to proceed to exit the EU on 29 March. For this to happen, the Government were to secure changes to the Irish backstop that would make it palatable to the DUP and a large number of otherwise dissident Tory Back-Benchers. Having failed to make any progress whatever in achieving a breakthrough on this, and facing another overwhelming defeat tomorrow, the Prime Minister is allegedly travelling to Strasbourg this evening to try to make more progress in an evening than a bevy of officials and Ministers—with or without a codpiece—has achieved in recent weeks.

Whatever the Prime Minister’s chance of success this evening, this sequence of events renders today’s debate almost totally pointless, as we have absolutely

[LORD NEWBY]

nothing new from the Government on which we can express a view. Indeed, were it not for the fact that some 40 of your Lordships have spent part of the weekend labouring over their speeches, I would be arguing that this debate should be scrapped—if only to spare Ministers the hideous ordeal of trying to explain what is going on and hearing 17 speeches from their own Back-Benchers, no doubt expressing 17 versions of what the future should look like.

However, as we are going on with the debate, I wonder whether the Minister could answer a couple of questions. First, is it true that the Prime Minister is going to Strasbourg this evening? Secondly, if she is, what is she taking with her that is new? Thirdly, if she is going and taking with her something new, on what basis does she believe she will have more success this time than on all the previous visits to Strasbourg and Brussels by officials over recent weeks?

Fourthly, by what mechanism do the Government believe the EU could express a definitive opinion on any new proposals before the planned debate in the Commons tomorrow? Fifthly, if the Prime Minister means there to be a meaningful vote tomorrow, how can it be achieved given that, presumably, no government Motion can be tabled tonight in advance of any talks taking place in Strasbourg on which a meaningful vote can be taken? Sixthly, if, by some procedural sleight of hand there were to be a meaningful vote tomorrow, this could be done on a Motion that had been before the Commons for only a few hours at most. Given that this is the most important decision MPs will be asked to make in their lifetime, how can this be seen as anything other than an extraordinary abuse of process by the Government?

Seventhly, we believe that the Government may have the meaningful vote tomorrow. However, if the EU states that it wants to take a decision tomorrow or later in the week in response to this unknown proposal that the Prime Minister might be taking forward, when might we then have a vote?

Over recent months, we have seen the Prime Minister repeatedly rebuffed by both Parliament and the EU. We have marvelled at her resilience. But this failure to make progress, coupled with her complete unwillingness to confront the facts, means that the Prime Minister really has now run out of road. Imagine if she were a chief executive due to make a major presentation to the board, and she said on the eve of the board meeting, “I’m sorry, there are no papers for this board meeting because my original business plan has failed. I’m hoping to amend it. I’m talking to my major customers overnight. I’m not sure whether I will be able to amend it, but, given that my sales directors failed to get them to agree to anything different, the likelihood is that I will fail to amend it. I hope you will still come to the board meeting tomorrow in the vague hope that you might have a proposal in front of you”. What would people say of such a chief executive? They would not still be there the day after tomorrow. But that is the position we find ourselves in with the Prime Minister.

As for the rest of the Cabinet, they are like sheep without a sheep-dog. We are told now that only two of them actually support the Prime Minister, and one of

them is Mr Grayling. That is not wholly reassuring. It has to stop. The Commons must take control of this process and the affairs of the country, because the Government have lost control of them. There must be a meaningful vote tomorrow and then, on the reasonable assumption that the Government will not prevail, on Wednesday as planned there should be a vote to reject leaving the EU without a deal, followed by a vote to extend the Article 50 period, as the Prime Minister promised.

However, this is not enough. If the Prime Minister is forced to go back to the EU and ask for an extension, it will understandably ask, “For what purpose?”. There can be only one sensible purpose, which is to give the people the opportunity to stop this whole self-damaging spectacle in a referendum.

Lord Grocott (Lab): The noble Lord has been very frank about that. The purpose of having a people’s vote, as he describes it, is nothing to do with consulting the people as far as he is concerned; it is to reverse the decision of the people. The noble Lord and all his colleagues—I will give them this credit—have been absolutely committed from the day of the referendum result in 2016 to reversing it. Should there be a people’s vote and should the people decide, as I believe they would, to reaffirm their previous decision to leave the European Union, what confidence can I or anyone else have that he and his colleagues here will walk through the Lobbies with enthusiasm—because this House would have to confirm that vote, as would the other—to implement that decision to leave?

Lord Newby: My Lords, every time I make this speech, the noble Lord stands up and asks me the same question.

Lord Grocott: I do not.

Lord Newby: He does. He may not have been listening, but I have said that, if the people decided in a further referendum that they wished to leave the EU, we would respect that decision. Would we go through the Lobbies with anything other than a very heavy heart? No, we would not. If we had another referendum and the people decided that the Prime Minister’s deal made the country better off, I would still not believe that to be the case. I would respect the decision, but that does not mean that I would suddenly say, “Oh, my word—for three years I have been mistaken”. The noble Lord knows that for a Liberal Democrat to lose a vote is not a totally new experience. If I lose another vote, it will not be new to me, but it will not mean that I stop thinking what I thought the day before I lost the vote—any more than the noble Lord, who has sometimes stood for Governments who have not prevailed, has stopped thinking that the Labour Party should remain in government. That is the nature of politics as I understand it.

We know now that the vast majority of young people believe that to leave the EU would be a bad mistake because it is bad for their future. We know that the majority of Labour voters, and the majority of voters in virtually every constituency, are in favour

of having a vote and in favour on that basis of then remaining in the EU. If the Minister and the Government Front Bench are so sure that their deal is a good one, what are they worried about? Let us have a vote. Get on with it. We have had previous elections, as the noble Lord knows—

Lord Robathan (Con): The noble Lord is being very honest about his position, and I respect that. Will he tell the House what question he would prefer to be put in the second referendum that he wishes to hold in order to overturn the first one?

Lord Newby: The logical question. The Government have a deal which they say is in the best interests of the country. We do not believe that it is in the best interests of the country. That is the logical choice to make. I suspect that there will be debates on exactly what the nature of the vote is, but that is the logical vote to have. The noble Lord believes that the Government's deal is in the best interests of the country. Is that not the logical thing to ask the country about? I think it is.

We have heard much about the will of the people. It is now time for the Government to respect it and give them a vote.

3.41 pm

Lord Hope of Craighead (CB): My Lords, now we move to the calmer waters of the Cross Benches. The noble and learned Lord, Lord Goldsmith, had his analogy, and I have mine. When I last attempted to speak in one of these debates I was in the air. I was in a holding pattern, metaphorically speaking, looking down time and again on Aylesbury, lamenting the fact that each time I looked down on Aylesbury, nothing had changed. Here we are a fortnight later, and I am still in this holding pattern and, again, nothing has changed in Aylesbury so far as I can tell. The feelings of frustration, boredom and irritation are still there, double what they were last time. The problem has been that last time I was expecting the pilot to announce that it was only 10 minutes to landing, but she seems to have failed to make contact with ground control and for one reason or another we are still there awaiting some clear signal from her that we are indeed about to land.

The signals we have received are conflicting. I heard last night that it was being suggested that the negotiations have stalled, but today the Minister has said that discussions are ongoing. The question that has been asked is whether the Prime Minister is really going to go to Strasbourg. We have yet to receive the answer, and whether these negotiations go ahead or not is very much in the air. I am still in the difficult position of not knowing exactly where we are going and I am still looking forward to an announcement that seems always to be delayed and still not coming.

I have been thinking of something that might be useful to say, and there is one aspect of the situation that I would like to say something about. If we look forward to what we have been told is likely to happen this week, tomorrow we have the meaningful vote. It is likely, from what we have been told, that the deal will be rejected. That means that the following day there will be a vote on whether there should be a no-deal

Brexit, and we expect that the vote will overwhelmingly reject the idea of that kind of Brexit. That brings us to Thursday, with a vote on a Motion that Brexit day should be delayed.

I am very uneasy about that Motion, when and if we get to it, assuming that simply asking for a delay would mean that we would get it from the member states of the EU. So far as I can see, a further delay will do nothing to remove the cloud of uncertainty which has been hanging over this entire process for far too long. Surely we risk an explosion of real anger from those who believe that this delay was not what they voted for but, if there is to be a delay, we need to have a very clear idea of exactly what its purpose is. I made this point last time. A vote simply in favour of delay will not do that, and no doubt those who vote in favour of it will have quite different views from different parts of the spectrum about what they expect to get out of it. We cannot expect to get a second chance, so, if we are to ask for a delay, we have to be crystal clear about the purpose and how long it is needed.

It has been suggested that there might be a case for a very short delay to complete the legislation that we need to have in place before Brexit, particularly a no-deal Brexit, but I do not think that that is what this version, if we reach it, is really asking for. It is looking for more negotiating time, but I find it hard to see what that could be expected to achieve in the period that one can be realistic about, bearing in mind that the European Parliament will dissolve on 18 April. There will then be a long period of inaction until the elections and the Parliament eventually meets. Nothing much can happen in that time and we do not want to be involved in electing further Members to the European Parliament. Therefore, the delay envisaged in this approach will be relatively short and I do not think that anything would be achieved by it. One has to bear in mind that we have not been engaged face to face with the negotiators. We do not know what, if any, are the weak points and what real chance there is of anything further being achieved.

Another alternative has been suggested—that we should ask for a much longer delay. A year has been suggested—I think that Kenneth Clarke has even suggested 21 months—in order that the transition period becomes the period of delay, which we go through while remaining a member of the EU. Whether the member states would agree to such a fundamental change in our approach to the Article 50 process must be questionable, and I am very doubtful that it would be achievable. Even if it were, we run into even further difficulty over breach of trust with those who voted in the majority in the referendum.

A further alternative is a delay so that a second referendum can be held. I know that there are not a few people who have been calling for a people's vote, and I, as one who voted against leaving, can understand the sentiments that give rise to it. However, I have always been, and remain, of the position that in principle a second referendum would be a huge mistake. I do not need to go over the reasons for that but I retain that view. A delay for that purpose seems to be wholly unacceptable. As I see it, we have to go with what we have. We must lie on the bed that we have created for ourselves for good or ill—mostly ill, as it now seems.

[LORD HOPE OF CRAIGHEAD]

Those thoughts bring me back to the position that I adopted at the outset. I favour supporting the Prime Minister's deal. I know that it has shortcomings but we must not overdo that criticism by building on to them the inevitable consequences of leaving, such as the fact that we have no control over what happens next. I, for one, am willing to give credit to the Prime Minister and the right honourable Attorney-General for having done the best they can. As I said, not being party to the negotiations, it is very hard for us to know whether anything more could be achieved. So far as I can tell from the noises coming from both sides, the matter has been taken as far as it can be. Therefore, for fear of anything worse, I would go along with the deal. Perhaps I am cautious by nature. However, there is too much at stake and too much to play for. It really is time to settle the matter so that we can move on to the next stage.

I am reminded of the advice in Hilaire Belloc's cautionary poem about Jim. Noble Lords may remember that Jim was the boy who ran away from his nurse while at the zoo. He encountered a lion and was slowly eaten by it, bit by bit.

"Always keep a-hold of Nurse",
we are told,

"For fear of finding something worse".

3.48 pm

Lord Bridges of Headley (Con): My Lords, I start with an apology, as my remarks are grouped around three of the most irritating phrases in the English language: "I told you so"; "I would not have started from here"; and—a newcomer that the noble and learned Lord just mentioned—"Nothing has changed".

I shall start with "I told you so". Exactly three months ago, I warned that, if the Government's deal were rejected, they would win a vote of confidence, the EU would refuse to make any meaningful concessions on the backstop, Parliament would then attempt to block no deal and we would land up in a constitutional crisis, fuelling economic uncertainty and putting in doubt whether the UK would leave the EU at all. I told you so. There are many reasons why we have landed in this chaos, but the main ones are these: the lack of honesty from the start about the choices we face; there being no clarity as to what is more important, trade or sovereignty; the Government losing their parliamentary majority; and their failure to prepare effectively for no deal.

I should like to focus briefly on that last point. Last month, the Government published a report on their preparedness for no deal, which said:

"In December 2018, the Government took a decision to make preparations for a no deal exit the principal operational focus within Government".

December 2018 was just four months before we are due to leave; that should have happened back in January 2017, when the Prime Minister said that,

"no deal is better than a bad deal".

The Government should have gone into overdrive then, to ensure that the UK was ready to leave without a deal. But let us look at what has happened instead. A

third of the most critical projects for no deal are not on track, just six of the 40 EU trade deals have been grandfathered, and just 15% of the 240,000 businesses that trade with the EU have signed up for an economic operator registration and identification number, which, in the Government's words,

"greatly increases the probability of disruption".

Then, as noble Lords will remember, there was the dress rehearsal of the lorry traffic jam in Kent, described by the Road Haulage Association as "too little too late", and, of course, the fiasco of giving a ferry contract to a company that has no ships. It has been a sorry episode, which reads like a cross between "Dad's Army"—"Don't panic, Captain Mainwaring"—"Blackadder"—"I have a cunning plan"—and "Carry On Brexit". It might be amusing but for the fact that the stakes could not be higher. I would not have started from here.

I turn to my third phrase, "Nothing has changed". Since January, there has been no material change to the withdrawal agreement or the political declaration. If we leave, we will still be walking the gangplank into thin air. Despite this, I remain of the view that the consequences of rejecting this deal, as the noble and learned Lord said, remain worse. Since January, however, two things have changed.

First, as the noble and learned Lord just mentioned, if Parliament rejects the deal, it will now be given the choice, and the chance, to vote to extend the negotiations. An extension—especially a long one—would be an admission of failure by Parliament that it cannot fulfil its primary purpose: to decide and legislate for our country's future. Worse, a long extension would throw us into Brexit limbo—which no doubt will be christened "Brimbo"—fuelling uncertainty and throwing Brexit into doubt. How long will the extension be? What if Parliament votes for six months but the EU says it must be 21 months, or vice versa? Will we agree with the EU? More importantly, as the noble and learned Lord asked, what is the purpose of an extension? What is going to change? If, at the end of six, nine or 21 months, Parliament still cannot agree, what then?

Some hope a long extension would give us time to prepare more effectively for no deal. But Parliament, as I have said, will remain opposed to no deal unless we have a general election that creates a parliamentary majority for no deal. Others see a long extension as their chance for a second referendum. I am opposed to a second referendum and I do not believe it could ever be delivered by a Conservative Government, so that too would require a general election.

I repeat what I have said before: I voted Remain, but I believe that we must honour the result of the referendum and leave the EU, with a deal, as soon as possible. Our nation's future cannot continue to twist in the wind.

If Parliament rejects the deal, I believe there are only two options that avoid Brexit limbo. Either the Prime Minister ditches her red lines and seeks a cross-party consensus on the future relationship between the EU and the UK, or she makes a vote on her deal a vote of confidence. Both options may split the Conservative Party, and both may lead to a general election, but the democratic imperative is to deliver on the wishes of

17.4 million people who voted to leave. If Parliament cannot decide on what is best, or if the Prime Minister cannot convince Parliament to support her policy and refuses to compromise, it is time for a new Parliament.

3.54 pm

Lord Pearson of Rannoch (UKIP): My Lords, it is an honour to follow the noble Lord, Lord Bridges, with his unique insight into the processes which have been going on. However, I hope his drastic solution will not have to come about.

I have spared your Lordships a speech in our two most recent Brexit debates, so my last contribution was in our debate on 14 January this year. Listening to and reading those debates, and previous ones, I continue to be struck by the large majority of your Lordships who still believe that the project of European integration has brought peace to Europe and that it has been and is good for our trade—in short, that it is a good thing.

One important influence which prevents many people from seeing the EU as an idea which has failed is the BBC. Here I must declare an interest as the secretary of a cross-party group of Eurosceptic MPs, which has been sponsoring research into the BBC's EU coverage by the News-watch media monitor. An almost unbelievable statistic to emerge from this work is that there appears to have been only one programme since the referendum which has examined the opportunities of Brexit—not promoted those opportunities, but just examined them. The BBC cannot point us to any others.

Since the referendum, the ratio of BBC interviewees has never been less than two against Brexit to one for, and sometimes up to six to one. Going further back, of the 4,275 guests talking about the EU on Radio 4's flagship *Today* programme between 2005 and 2015, only 132, or 3.2%, were supporters of the UK's withdrawal from the EU, yet British public opinion in favour of withdrawal hovered around 40% to 50% for the whole of that period.

I suppose we have to accept that the BBC is the *Guardian* newspaper of the airwaves. That is a pity, because it should be dispassionately helping the British people to see through the mess that our politicians and bureaucrats are making of Brexit. However, it is not; it is batting for the remain side.

Coming to that mess, there remains a very simple and speedy way out of it, which I have mentioned before and with which every leading businessman who understands Europe and with whom I have discussed it agrees. Businessmen know how to do deals, but the Government clearly do not. So I will try again. We should sidestep the Commission and make a public offer to the people of Europe, via COREPER and the Council. We should offer them continuing reciprocal residence for, say, two years. This is more in their interests than ours, because there are some 4 million of them living here and only 1.2 million of us living there.

We should also offer to continue our present free trade together after 29 March, but under the auspices of the WTO, not the Luxembourg court. This would get rid of the Irish border problem and is not the same as trading under normal WTO terms in the event of no deal. This is also more in their—and their exporters'—

interests than ours, because under normal WTO terms, they would pay us some £14 billion per annum in new tariffs, where we would pay them only £6 billion. That is according to a recent government Answer, HL13121, from 23 January this year. When that has been agreed, we could discuss how much money we may give them—which should of course be nothing, if it is not agreed. We could also go on collaborating on intelligence and any scheme which is in the national interest of both our peoples. We would agree to do that later, as a sovereign nation.

Of course, the sticking point for the Commission and Brussels will be allowing EU exporters to continue in free trade with us under the WTO, rather than the Luxembourg court. However, leaving the EU should end that court's jurisdiction anyway, so why not do it now? Why are the Government so reluctant to ignore paragraphs 2 to 5 of Article 50, which force us to deal through the Commission, when we have resiled from 52 multilateral treaties since 1998—see the Government's Answer to me on 27 November, HL11478—and the Luxembourg court has said that we are free to do so? Why do we not just tell Brussels and the people of Europe that this is our offer and that if they do not accept it we will leave on 29 March anyway, not pay them the £39 billion we have foolishly discussed and look forward to pocketing another £8 billion per annum under normal WTO tariffs? Of course, the silliest thing the House of Commons could do on Wednesday is rule out no deal.

I would be grateful if the Minister would reply to this concept when he comes to wind up. I ask him not to repeat what his colleague, the noble Lord, Lord Callanan, has said in the past to the effect that we cannot break with Article 50 because we are a law-abiding country and Article 50 says that we have to negotiate with the Commission. Surely the Government can see that we will never get a sensible or honest deal out of the Commission because its only aim in life is to stop us making a success of Brexit and therefore prolong its unfortunate project. Why do we not just do it? Incidentally, why should it take more than a fortnight?

4.01 pm

Lord Howard of Lympne (Con): My Lords, I hope the noble Lord, Lord Pearson, will forgive me if I resist the temptation to turn this debate into one on the BBC.

In the debate that took place in your Lordships' House on 27 February, my noble friend the Duke of Wellington, who is of course in his place, said:

“The sad truth is that our political system has failed badly in the two and a half years since the referendum”.—[*Official Report*, 27/2/19; col. 273.]

I respectfully agree, and it is perhaps worth spending a few brief moments on the reasons for this unhappy state of affairs.

The referendum delivered a result that most of our political class neither expected nor wanted. Most Members of the other place voted to remain. The proportion of Members of your Lordships' House who did so is even greater. Of those Members of both Houses, some recognised that, since the decision on this fundamental issue had been delegated by Parliament to the people,

[LORD HOWARD OF LYMPNE]

it was their duty to embrace the result and fully implement it. Others recognised the existence of that duty but, in the words of Mr Nick Timothy, the Prime Minister's former chief of staff, saw the fulfilment of it as an exercise in damage limitation, rather than an opportunity that could bring great benefits to our country. Others—far too many others—in both Houses have consistently attempted to thwart the will of the people and to seek, by one means or another, to reverse the decision that was clearly made in 2016. That, combined with the intransigence of the European Union, is why we have come to this pretty pass.

Today's debate comes when it looks as though the Attorney-General's efforts to negotiate an acceptable way out of the backstop have failed. I am a great admirer of the Attorney-General. He is a man of outstanding ability and, I believe, great integrity. I do not, for one moment, think he would change his advice on the backstop unless the results of his negotiation made it possible for him to do so.

The basic problem the Attorney-General faced—which we face—lies in the terms of the agreement that was so overwhelmingly defeated in the other place. The unique achievement of that agreement was to substitute for our untrammelled, unilateral right to leave the European Union without having to ask anyone's permission to do so a regime which we could leave only with the permission of the European Union. That is the nub of the problem, and that is why it is so impossible for many of us to support the Prime Minister's agreement.

It is often said that those of us who hold those views should be prepared to compromise. I cannot speak for anyone else, but I am certainly prepared to compromise. There are many aspects of the withdrawal agreement which I dislike, but I would be prepared to put up with them all if we can get out of the backstop. I do not even ask for the backstop to be replaced, as was required by the Brady amendment which was passed in the other place. A legally binding codicil enabling us to leave would be enough for me, but it does not look as though we are going to get it.

So what should be done? It is essential that we leave the European Union on the 29th of this month. As the noble and learned Lord, Lord Hope, has said, it might very well lead to an explosion of anger if we do not. We owe it to the 17.4 million people who voted to leave, and we must do it if we are not to inflict incalculable harm on the democratic fabric of our country and the bond of trust between people and Parliament, which has become so badly frayed and which must be restored.

The set of circumstances in which we would leave without an overarching agreement is usually described as a “no-deal Brexit” but, as has frequently been pointed out—not least by my noble friend Lord Forsyth during “Any Questions?” on Friday night—this is a very misleading description. Agreements have already been reached on a number of issues, ranging from aviation and road haulage to shipping and nuclear energy. I would have liked there to be many more. Following my noble friend Lord Bridges's mantra of “I told you so”, if the Government had taken the advice that I offered in the debate in your Lordships'

House on 5 December, when I urged them to co-ordinate their preparations with the European Union, there would by now be many more. It is not too late.

The noble Lord, Lord Liddle, who would, I think, be alarmed to hear that I am about to quote him with some approval, even if it is rather qualified, suggested the way forward in his speech in your Lordships' House on 27 February. He quoted the evidence that Sir Ivan Rogers had given to his committee. Sir Ivan had said that, if there was no deal, within a week British officials would be on their way to Brussels to negotiate solutions to all the problems we have heard that would create. I differ from the noble Lord and Sir Ivan only on the timing. The discussions to which they referred would not take place a week after we leave; they would take place before we leave, and as soon as it became clear that we are leaving without an overarching agreement.

That is what would happen if the political system to which my noble friend the Duke of Wellington referred was not failing us so badly. That is what would happen if the political class had been determined to honour the result of the referendum and held its nerve, and it could still happen. It would lead to a temporary extension of the current trading arrangements during which we could negotiate a permanent agreement with the European Union, which would benefit both parties. It could happen, and I hope that it will happen. It probably will not happen, and our political system will, alas, continue to fail us.

4.08 pm

Baroness Quin (Lab): My Lords, faced with our likely imminent departure from the European Union, I feel alarmed and concerned about our country's future. But I should say, too, that I feel great personal sadness as 40 years ago this year, at the beginning of my political life, I was elected to the first directly elected European Parliament. I remember that date as one of hope and idealism—things not always associated with debates on Europe. I also remember with affection and respect some German MEPs who had opposed Hitler and had been in concentration camps. I remember leaders such as Willy Brandt. I also remember our first President of the European Parliament, Simone Veil, one of the most remarkable and inspiring women of the 20th century—courageous, honest, intelligent and compassionate—who herself had, against enormous odds, survived both Auschwitz and Bergen-Belsen.

Furthermore, at the end of my time at the European Parliament, we saw the collapse of the Berlin Wall and the enlargement of the European Union, which Britain had championed. It was an enlargement which, in the days of the Cold War, had seemed an impossible dream. During that time, we also saw and helped the efforts that Britain and others made in creating the European single market, which many people now seem keen to turn their backs on.

So my experience of Europe over the years has been far from the caricature of the EU by some. For example, I do not remember ever being dictated to by faceless bureaucrats, being run by Europe or bullied by Europe. In four years of attending European Council of Ministers meetings in agriculture, justice and home affairs, general

affairs and foreign affairs, I do not remember us ever being outvoted. We protected our interests successfully, but we also co-operated with other countries in the interests of all of us.

Furthermore, Britain has shown over the years that flexibility, rather than rigidity, is often the outcome in the EU. We and others did not join the euro; we did not join Schengen. Yet, somehow, we have swallowed the myth that Europe dictates to us and is capable of moving in only one centralist direction. It is interesting to read some of the foreign press, because you get a different impression of Britain, which is often described as being highly successful in pursuing its interests. Of course, we are extra-lucky in that our language is the main means of communication.

Bringing the situation up to date, on 26 February the Government published their statement on the implications for business and trade of a no-deal exit. I am amazed that there has not been more outrage about what that document contains, not least the forecast that no deal would mean the economy in my home area of the north-east of England shrinking by a staggering 10.5%. The figures for other parts of the UK, Scotland, Wales and Northern Ireland, were also dramatic. Even if those figures were only half accurate, they should be enough to take no deal off the table straightaway. I only hope that the House of Commons ensures that this week the idea of leaving the EU without a deal is firmly laid to permanent rest. Surely the EU is not about making regional inequalities, which are already great in our own country, even greater. The figures for the north-east alone would make me oppose Brexit and I hope the Minister, as a fellow north-easterner, agrees with me.

Lord Pearson of Rannoch: I am most grateful to the noble Baroness. Does she not agree that, if the solution were to continue free trade with our friends in the European Union, as we do at the moment, the problems to which she refers will not arise?

Baroness Quin: By far the best way forward would be not to leave the European Union, so that we would continue to benefit from the very good deal we have at present. I am also astonished that industry and the trade unions are being so little heeded at present, and dismissed as being part of some project fear. Yet it is businesses throughout the land that are alarmed at the practical negative economic consequences of Brexit and of making life difficult, in a highly competitive world, with our biggest and nearest market. This simply does not make sense.

The concerns and fears of our universities over research and student exchange programmes, of our health service over access to drugs and life-saving treatments, of our scientists, of those worried about food safety, which was rightly raised in this House earlier today at Question Time—all these serious issues keep being airily waved away as though they were of no consequence. Added to these problems are the political threats to our own union, the United Kingdom, with the dangers of heightening tension in Northern Ireland and the threat of reopening the prospect of Scotland breaking away.

It is true, as the Minister often tells us, that the referendum turnout was impressive, but the result was close and the amount of misinformation—on both sides—was shocking. I recently looked again at the main leave leaflet, which must surely win the prize for the most dishonest leaflet ever issued during a public vote. It struck me that, despite it having been claimed ever since that we voted against being part of the single market, in this main leave leaflet there was not one mention of the single market.

What I would like to see, but have little hope of seeing, is the Prime Minister, Mrs May, firmly putting country before party. She should be honest and say to people that she has tried her very best, as I think she has, to deliver on the referendum, but that her deal or a catastrophic no deal both fall far short of the benefits we currently enjoy as a full EU member and that, in consequence, she would like people to be given the chance to think again in the light of everything that has happened, or failed to happen, in the last two years. I hope, too, that the Commons will this week begin this process of rethinking with a resounding vote against no deal.

4.16 pm

Lord Thomas of Gresford (LD): My Lords, like the noble and learned Lord, Lord Goldsmith, when I put my name down for this debate I was expecting the Attorney-General to have come back with something that we could discuss on a legal plane. We have to admire the tenacity of the Attorney-General in refusing to temper his original note of 3 December, despite the overwhelming political pressure on him to do so. He has said, in terms, that his professional reputation as a lawyer is far more important to him than his reputation as a politician. He advised in December that the Northern Ireland backstop is intended by all parties to be temporary, and the assumption is that it will be superseded by a relationship agreement between Brussels and London. In the absence of such an agreement, the backstop is intended to endure. He said that the solution in such a scenario would be political and not legal.

This has not been sufficient for the Brexiteers. Their view, as expressed by the noble Lord, Lord Pearson of Rannoch, in his inimitable way, is that the European Union is a continuing conspiracy to hold the United Kingdom fast within its grasp. Their demands are for a time limit to the backstop or a unilateral exit route. The alternative arrangements they also propose would involve the development of a technology that does not exist, or at least does not operate satisfactorily, anywhere in the world. They demonstrate a complete lack of trust in the European Union. Similarly, the DUP. That party, which does not represent the majority view in Northern Ireland, seems totally incapable of perceiving the potential economic benefit to that Province if it were able to trade directly and freely in a customs union and single market with the EU and at the same time have direct and free access to the UK. Instead of promoting the positives, they mouth with suspicion the negatives.

So Mr Cox was sent off to negotiate legally binding clauses to add to the Northern Ireland protocol. This shows a gratifying, if unexpected, trust in the legal

[LORD THOMAS OF GRESFORD]

profession and the judiciary. Lawyers, under this plan, would determine when the backstop has served its purpose—a massive decision with implications for the people of this country. Yet, in the absence of political agreement, it is seriously proposed that lawyers should be instrumental in prising open the economic, social and legal ties which have bound us together with the EU for more than 40 years. The withdrawal agreement provides for an arbitration process, but that model was apparently not sufficient. If a decision cannot be agreed in the joint political committee, the issue, under the withdrawal agreement, goes to a panel of five arbitrators, but any issue as to the interpretation of EU law must be referred to the European Court of Justice. Of course, for reasons I have never been able fully to fathom, the European court is anathema to the Brexiteers as a matter of faith, although the United Kingdom has the best record of success in that court of any EU country.

No matter—Mr Cox has done his ingenious best. It seems he has proposed a separate arbitration panel, with no access to the European court, to decide when the backstop has served its purpose. The membership we do not know, but let us assume it is similar to the panel agreed in the withdrawal Agreement. He has rightly conceded that it cannot be the purpose of lawyers, however eminent, to determine whether the sovereign United Kingdom or the EU and its sovereign states are acting in bad faith. Unless you are a truly head-banging conspiracy theorist, you cannot expect a panel of arbitrators to determine that a sovereign state, in legitimately pursuing its own interests as it sees them, is acting in bad faith.

Mr Cox sought therefore to introduce the Brussels negotiators to the concept of “the reasonable man”—the man on the Clapham omnibus. That is a legal tag which has done the rounds in the field of the law of negligence in every common law country—it recently surfaced in Hong Kong as the “man on the Shau Kei Wan tram”. The issue he proposed for the arbitrators to decide was whether the UK would be acting “reasonably” if it sought to terminate the backstop.

The arbitrators would not be concerned with construing a difficult line of legal text but with deciding a question of opinion: is the UK, or the EU, acting “reasonably” in accordance with the standards of the man on the Clapham omnibus? I do not knock the Clapham omnibus; the No. 87 bus which runs from Westminster to Clapham has many distinguished regular passengers, not just myself and my noble friend Lady Walmsley, but the noble Lords, Lord Faulkner of Worcester and Lord Cope, the noble Baronesses, Lady Gale and Lady Morris, and, above all, the noble Lord, Lord Taylor of Holbeach—although he generally does not go much beyond the Tate Gallery. It would be very hard for arbitrators and lawyers in Brussels or elsewhere to guess what we on the 87 bus collectively thought was reasonable. Hence, I regret to say that terms such as “crazy” and “bizarre” have been reported from the EU side on its introduction to this entertaining concept invented by a Victorian judge.

The plane was standing by at Northolt, and may have taken off, but what possible gain can there be for the Prime Minister to plead with Mr Barnier to repeat

for the umpteenth time that the backstop is intended by the EU as well as the UK to be temporary? Why do not the ERG, the DUP and sundry other leavers take him at his word? Can diplomacy exist at all in the world without a measure of trust? Can there be compromise, as the noble Lord, Lord Howard, talked about, without trust? Mr Cox said in December that the solution as to when the backstop would end would be political and, of course, he was absolutely right. Let us leave it at that.

4.23 pm

Lord Saatchi (Con): My Lords, etiquette is very important in foreign affairs, especially in war and peace. In the case of the EU Brexit treaty, there has been a breach of etiquette. Our Prime Minister has been negotiating with the wrong people. She has been dealing with the staff—EU officials and civil servants below her pay grade. It is the equivalent of the American President coming on a state visit to Britain to meet the Permanent Secretary at the Foreign Office. The US Government would never allow that to happen, but we did. Now we need a straightforward conversation between grown-ups, the people in charge, the only people who matter—our Prime Minister, the French President and the German Chancellor. We need a real conversation with the right people. There is not much time left—it should take place tomorrow.

I will see whether I can express it. This is the Prime Minister and them—the German Chancellor and the French President—preferably tomorrow.

“Prime Minister: Don’t.

Them: Don’t what?

Prime Minister: Don’t be angry with me.

Them: Why not? You haven’t been very charming. You haven’t been understanding. You haven’t even been conversational.

Prime Minister: I’m sorry. Really I am. But lately, it seems that we can’t talk without arguing. I’d be lost without you—that’s the truth.

Them: So what now?

Prime Minister: We need to have a little talk, that’s all.

Them: About what?

Prime Minister: We’re through. Out. You know that.

Them: We don’t really care whether you come or go. All we care about is that you don’t set a precedent for anyone else.

Prime Minister: What about the Irish border problem?

Them: Northern Ireland? Where is that again?

Prime Minister: We want a deal.

Them: Of course—trade deals. My assistant will book a conference call.

Prime Minister: I know it annoys you to set a precedent. I’m not asking for any exceptions for us—just a few changes in the EU for the benefit of all fellow members.

Them: All members? From you? You think only of yourself. You’ve been sulking for years. Variable geometry! Two-speed Europe! Opt-outs!

Prime Minister: Yes, sorry about that.

Them: Well, what is it you want?

Prime Minister: We don't want anything. We're leaving anyway. But you keep saying how very sad you are to see us leaving.

Them: So?

Prime Minister: So I've got only one question for you. What if we were to remain?

Them: That would be different.

Prime Minister: How different? What would you offer us?

Them: What would you like?

Prime Minister: I thought you'd never ask! Well, now you mention it, only two things.

Them: Go on.

Prime Minister: We want equality—to be equal to you in voting rights, not to be a subordinate or a junior member. We don't want you to boss us around, and we don't want to boss you around. We want equality—with you.

Them: What else?

Prime Minister: We want to recognise free movement of people but also legitimate concerns among members about uncontrolled immigration.

Them: Is that it? Anything else?

Prime Minister: No, nothing else. That's it. You could call it remain-plus.

Them: Then you'd stay?

Prime Minister: Yes.

Them: And what do we get out of it?

Prime Minister: You get what you always wanted. Unity. No breakaways. No precedent for anyone else. We all stick together. Peace. Security. And for the EU to be a vanguard force. A frontier spirit. An economic power to rival America and China. What say you?

Them: OK! Done! Let's go! When do we start?"

We need that conversation now, because, as other noble Lords have said this afternoon, none of the current least worst options will heal our relationship with the EU and with each other—everyone will be a loser. A new approach is necessary; another 585 pages of codicils, protocols and appendices will not do the job. New creativity is necessary. Without achieving that, there will always be a perpetual EU crisis of war and conflicts, and none of us will live in peace and tranquillity.

We can do it; it is called remain-plus, and it means that we will have won a lot for our years of political anguish: equal voting power to France and Germany and a reasonable control of immigration. Lead, not leave: we would take our rightful place as at least one of the big three in Europe. That would make it all worth while, would it not? If anyone says to your Lordships that the EU would never accept that, here is Manfred Weber, who is the leader of the biggest parliamentary group in the EU and the front-runner to replace Mr Juncker as the President of the EU Commission. He says:

“Brexit is absolutely an example that people can see in reality ... why our main message ... is that it's better to reform the European Union where we need a reform, than to leave or even destroy it”.

Remember that the Chancellor of Germany and the French President have a big motive. In France, 40% of the population is interested in Frexit and Austria, Greece, Italy and France will apparently all express their unhappiness with the current EU set-up in the forthcoming European elections.

We are at an historic moment of maximum power in Europe. I repeat: this is a moment of our maximum power in Europe. Now all we have to do is use it: one conversation to change history. We can do it.

I was very pleased to hear my noble friend say that the Government welcome our contribution. Your Lordships' House has been here, is here and will always be here, playing our usual constructive role. But there is another example of poor etiquette: this time between the House of Commons and the House of Lords. I am told that it is something to do with the democratic mandate.

Like all humble people, we do not mind looking up to our superiors in another place as long as we are not taken for granted, but so far we have been the dog that did not bark in the night, with not even a growl. We have the expertise—we all know that—and we have the power, as confirmed by the Library, which confirmed to me that the usual powers of the House of Lords would apply to the passage of any Act of Parliament to do with Brexit.

I encourage the House not to be satisfied with these take note Motions. We should not accept that the other place is voting on the historic choice facing our nation tomorrow while today we are debating only a take note Motion. That will not help us on the day of judgment, when we have to stand responsible for what we have done in this House.

I am very proud of our House—as your Lordships know—and what it can do. I would like it to end the current dismal choice between the least worst options that nobody wants. Let us give the people of Britain and Europe something they both want. It is ready and waiting, I can tell you: it is in the Printed Paper Office and on page 19 of today's Order Paper. It is the EU Membership Bill, and I hope that your Lordships will consider it. We might then hear, loud and clear, what we want to hear: the Clerk's immortal words in the House of Commons, “Message from the House of Lords”.

4.32 pm

Lord Hannay of Chiswick (CB): My Lords, I am delighted to be following the noble Lord, Lord Saatchi, because, despite some misgivings in the early stages of what he said—the feeling that nature abhors a vacuum and some pretty odd things then dash in—he ended up, as far as I understand him, by saying that he believed we ought to remain.

We have not had a series of take-note debates, we have had a series of debates on Motions voted through by substantial majorities in this House in January and February, which deal with all the main issues being considered in another place this week. We considered

[LORD HANNAY OF CHISWICK]

the Prime Minister's deal that she agreed last November and believed that it would leave the UK less prosperous, less secure and less influential than it is now. That is pretty clear. We urged that exit with no deal should be categorically rejected—that is pluperfectly clear—and we called for adequate time to put in place all the legislation required before exit, which now, on 11 March, one can say cannot conceivably be achieved before the end of the month. Those positions have not changed since we voted them through, and the Government's take-note Motion at the end of this debate does not seek to change them. They stand on the record.

As to the legal writhings in Brussels over the Irish backstop which have dominated reporting over the past few days, one can pay tribute to the perseverance and grim determination of the Prime Minister and her team while regretting that those qualities were not devoted to a rather better cause. All this has been necessitated by a fundamental contradiction built into the Government's position at the outset between one objective, which was to avoid any new border controls in Ireland, and the other, of leaving the EU single market and customs union and operating an independent trade policy. That contradiction was fashioned by the Prime Minister, not Parliament, and remains completely unresolved.

For all its warm words and fancy phrases, what looks like it is being described as a joint interpretative note—if it emerges—will change nothing in what was already on offer in the November deal and the conclusions of the European Council in December. The Government say that they cannot accept the backstop provisions being of “indefinite duration”. That is slightly odd because they started by saying that they could not accept them being permanent, which clearly they are not. They now take issue with “indefinite”, but that is surely the nature of the role of an insurance policy. It is conditions-related and not arbitrarily limited in time or exitable by one party to the deal.

So where should we go from here? Clearly, we must wait for the outcome of the votes in another place, all three of which could well be described as meaningful. If the Prime Minister's deal does not get a majority, leaving without a deal is ruled out and more time is demanded, we will be in what the Prime Minister described correctly as “uncharted waters”. Personally, I would advocate a substantial extension of the 29 March deadline: one sufficient for a proper rethink of the whole process, not just to organise a third, even more desperate, attempt to get the November package through; and one that would provide sufficient time to consult the electorate on an outcome which has no resemblance whatever to what they were promised in 2016. Clearly, there are complications over the European Parliament elections in May, but that is a matter for all 28 countries, not just us, to resolve. We can hope that it will be handled with sensitivity and common sense.

Apart from that, a prolongation will not be very different from the transition period in the Prime Minister's deal, except that we will remain in the EU's institutions with a voice and a say during a period when much of what is important to us, whether we are inside or outside the European Union, will be under discussion. Is the possibility of remaining in those institutions

during a so-called transition period to be spurned just because it is unappealing to those on the wilder shores of Brexit, with their desire for instant gratification?

4.37 pm

Baroness Noakes (Con): My Lords, there may well have been further discussions on the withdrawal agreement since last month, but there have been no developments of note since the House first debated the agreement last year. To use that irritating phrase, nothing has changed. There is nothing to debate.

Like other noble Lords, I put my name down to speak in the hope that there would be something of substance to debate today—but it was clear over the weekend that Monsieur Barnier's best and final offer was not worth the five tweets that he used to deliver it. The response of my right honourable friend the Secretary of State for Exiting the EU was rightly robust, and the talks now seem officially deadlocked. So where does that leave us? The Government ought to invite the other place to reject the withdrawal agreement tomorrow as they have failed to achieve a replacement for the Northern Ireland backstop, as the other place clearly demanded in January via the Brady amendment. If the Government persist in asking the other place to approve the unamended withdrawal agreement tomorrow, I have every confidence that it will be rejected again, and the other place will be right to do so.

All the focus has been on the backstop, and many have become reconciled to approving a withdrawal agreement if the EU were to shift its position sufficiently on it. But the backstop is merely the worst bit of the withdrawal agreement. Even if it were fixed, it would still be a terrible deal for now, and the political declaration promises no better for the future. If the other place rejects the package tomorrow, it will be doing a great service to our country.

What happens next is the big question. Noble Lords who have heard me speak before will know that I am not afraid of leaving the EU without an immediate deal. I would regret the fact that we had left without a deal, but I would have no regrets whatever if we left without this particular deal. I continue to believe that the Prime Minister did at least get it right when she said that no deal was better than a bad deal. The most recent polling evidence from ComRes is that the public increasingly agree with that. Support for no deal is up six percentage points at 44%, with rejection of no deal trailing at 30%. I hope that all Members of Parliament, particularly in the other place, will reflect on the fact that Parliament has been out of step with the country as a whole since the referendum result. If Parliament continues to work against the express will of the people, I fear the consequences for our democracy.

In the past few weeks we have seen increasing activity on both sides of the Channel to prepare for a no-deal scenario. Planes will continue to fly. Goods will continue to flow between the UK and the EU—in particular, if common sense prevails, around the Calais-Dover crossing. Citizens' rights are being protected. Financial services will not grind to a halt. The scare stories on everything from radioisotopes to toilet rolls have been shown to be not much more than the product of feverish imaginations. Even the Governor

of the Bank of England has significantly toned down his message on the impact of leaving the EU with no deal. Project Fear is gradually being unmasked.

There is more to do to prepare for our exit, as my noble friend Lord Bridges reminded us, and the road may well have a few bumps in it. But an exit on WTO terms would not be the end of the world. An even better way forward would be for us to work with the EU so that we can continue to trade on a tariff-free basis. We can do that on a temporary basis under Article XXIV of the General Agreement on Tariffs and Trade. It would need only a skeleton trade deal of perhaps a couple of pages, and it would give us up to 10 years to negotiate a free trade agreement—and even the pessimists do not think that we would need that long.

We could not do this alone. The EU would have to agree, and that may require a degree of flexibility that we have not seen evidence of to date, but it would be a triumph of common sense over dogma. If we could work together to achieve this, it would be important for all of us. Importantly, unlike with the withdrawal agreement, we would be set free to pursue our own trade agreements with other countries and to determine our own policies on tariffs with the rest of the world.

To date I have been proud that our Government and the vast majority of our party have remained committed to delivering the result of the referendum. I hope that we will now hold our nerve and complete the task of leaving the EU on 29 March.

4.43 pm

Lord Sherbourne of Didsbury (Con): My Lords, for most of the time I have strongly supported Conservative policy on Europe. I welcomed our entry into the common market under Mr Heath. I supported the development of the single European market under Mrs Thatcher and I was strongly opposed to Britain joining the European single currency. But when it came to having a referendum, I was uneasy and cautious. I voted for the referendum Bill. It was in the manifesto on which the Conservative Government were elected in 2015 and it had been passed by the elected House of Commons.

The referendum had two objectives, clearly set out in David Cameron's Bloomberg speech. The first—today I can hardly say this with a straight face—was, “to settle this European question in British politics”,

once and for all. I am afraid there is not much hope of that. There was also a wider objective set out in the Bloomberg speech: to acknowledge the frustration of the electorate at decisions being, “taken further and further away from them”.

So it was argued that a referendum would empower the voters. I understood this argument: while in general elections the voters had a choice between the mainstream political parties, this did not give them a choice between whether they wanted to remain in or leave the European Union. A referendum, unlike a general election, would give them this choice. In so doing, it was argued, a referendum would restore the voters' trust in our political parties and reinforce their confidence in our democracy.

Post referendum, the very reverse is happening. Trust in our political parties—in the Conservative Party, the Labour Party and the Liberal Democrats—is

low. Confidence in the competence of government is falling and faith in our democratic system is ebbing away. Yet now, at this of all times, Members of Parliament may decide this week not to honour the decision of the people's vote in 2016 to leave the European Union. I am afraid that millions of people, whether we like it or not, would see this as an act of betrayal. The question is: would our political and democratic system withstand this? I hope it would. Over the years it has proved remarkably resilient, and maybe it would again—but maybe not. For all these reasons, I hope the House of Commons will vote to leave the EU and on the terms of the Prime Minister's deal.

4.47 pm

Lord Wigley (PC): My Lords, we are approaching the Brexit end game and are three weeks away from the cliff edge of no deal—a crisis that was totally avoidable. There is a real danger that this week we will again see a round of political games in the House of Commons, with the livelihoods of working people and the future of businesses in Wales and throughout these islands at stake.

My views about Brexit are familiar to the House. I was a committed remain voter, as were a majority in my county of Gwynedd, a majority of Welsh speakers and a majority of those who identify their nationality as Welsh—as shown by Professor Richard Wyn Jones of Cardiff University only this weekend. If they were voting now, as YouGov has shown, the people of Wales would vote to remain by twice the margin by which they voted to leave in 2016. I suspect that is why Brexiters are profoundly opposed to holding a confirmatory referendum. They know full well that, now the people know the deal the Government have negotiated, a majority would reject it out of hand.

People in Wales would now vote to remain for three reasons: they have seen the implications for our manufacturing industry and our farmers; our tourist industry fears losing lucrative overseas visitors and EU nationals working in the hospitality sector; and our universities are shedding jobs and our young people want to retain the right to live, study and work in other European countries.

The Prime Minister's deal has been overwhelmingly rejected by MPs. She has failed to get any significant improvement to it, and it will probably be defeated again tomorrow evening. If that happens, on Wednesday we must have a clear-cut vote to reject a catastrophic no-deal Brexit, and the Government must undertake unequivocally that, if MPs so vote, they will move an order to withdraw the cliff-edge 29 March deadline, by seeking either a postponement of Article 50 or its withdrawal altogether. There is no earthly point in having an Article 50 application if we have not the foggiest idea of what sort of relationship we want in place of our current EU membership.

As I have previously stated, I was willing to accept that the referendum vote was to leave the EU but without specifying the new relationship Brexit voters wanted with the EU. My colleagues and I were willing to compromise, provided we retained unfettered single market access and continued to have the benefits of the customs union, vital to the Welsh economy. We recognise that some parts of England have problems

[LORD WIGLEY]

arising from high levels of inward migration, with a perception—rightly or wrongly—that this undermined local indigenous workers. We are certain that this could have been tackled by negotiating a regionally applied emergency brake, which the EU was willing to consider. There was an agreement available to meet the economic concerns of Wales, which was acceptable to Scotland and which avoided the Northern Ireland border issue. Mrs May drew red lines in the sand far too early, and did not have the flexibility to see that these would have to be adjusted to secure a consensus on Brexit.

Let not the Brexiteers claim that the failure to negotiate an acceptable Brexit is the fault of civil servants or of the wicked Scots or Irish; or a BBC plot, as we heard earlier; or double-dealing by EU negotiators. All the leading roles in the Brexit negotiation have been held by Brexit-backing Cabinet Ministers: by David Davis, who over a two-year period negotiated for just four hours with Monsieur Barnier; by Liam Fox, who said that this was the easiest negotiation ever; by Boris Johnson, who insisted he could have his cake and eat it; and by Dominic Raab, who negotiated the current deal, then resigned in protest over what he had achieved. Let not the Brexiteers blame others for not getting a deal; it is the fault of their own political friends, and let the people fully understand that reality.

Where do we go from here? I suggest three steps. First, if the May package is approved by MPs, it should be put to the people in a confirmatory referendum, and Article 50 should be amended by order to provide the necessary time for a confirmatory vote. The choice between the May package and the status quo should be on the ballot paper. Secondly, if the May package is again rejected, MPs should vote on a no-deal Brexit. If they back no deal, it should be put to a confirmatory vote, between a no-deal Brexit and the status quo. Thirdly, if MPs reject the May deal and a no-deal Brexit, they should then vote to suspend Article 50 for the time needed for cross-party talks to establish a consensus proposal, which may well involve a customs union or a single market deal, or a Norway-type deal, and for that to be put to a confirmatory referendum with the option of remaining in the EU on current terms. Such a process does exactly what the Brexiteers demanded in the referendum: that control be put back in the hands of MPs. A confirmatory vote on the outcome does exactly what the Brexiteers wanted: it gives the people the final word.

If the Government lose their deal and reject all these options, the Prime Minister should surely do the honourable thing and stand down. At that stage, senior people in each party should come together to form a cross-party Government to lead Parliament through the alternatives I have described. Then, after the confirmatory vote, they should call a general election to establish a new Government to take matters forward as sanctioned by the people.

Small though we be, my party, Plaid Cymru, is willing to play a constructive role alongside other parties that recognise the vital importance of the European Union but also accept the need for the people to have the final say. I hope that the people of good will across the House will accept something

along these lines as absolute necessary if we are to extricate ourselves from the mess in which we find ourselves today.

4.53 pm

The Duke of Wellington (Con): My Lords, as always, I declare my European and agricultural interests as detailed in the register, including my membership of the European Parliament from 1979 to 1989—indeed, I was elected to the European Parliament on the same day as the noble Baroness, Lady Quin.

It is difficult to believe that we are today again debating the EU withdrawal agreement. Article 50 was triggered nearly two years ago. The withdrawal agreement of over 500 pages has been negotiated between our Government and the European Union and agreed last November. Under the terms of the withdrawal Act we leave in under 20 days, yet the House of Commons does not appear to be minded to agree the terms of the withdrawal. So, as we have all thought on many occasions, we could not have made this up—a British Government unable to get their business through the House of Commons and a House of Commons apparently incapable of deciding what it wants.

This Parliament and our way of governing ourselves has been admired for centuries. But at this significant moment in our history, as we extricate ourselves from our 46-year close treaty with our European partners, we are failing. The noble Lord, Lord Howard, referred to me having said that before and I apologise for repeating that phrase, but the fact is that we are failing. Every member of the Government and every Member of this Parliament must take some responsibility for that.

From the moment of the 2017 general election, I believe that we became irrevocably committed to honouring the result of the referendum, much as I and many others regretted that. Now we must leave, but with a deal. No Minister of the Crown, nor member of any British Government, can allow the country to leave without a transition period. The risks to so many fragile commercial activities are just too great, and every day we hear of new potential problems.

Should the Prime Minister's deal not be approved tomorrow, it is almost certain that the other place will vote to reject no deal the following day. At that point, there is no alternative to seeking an extension to the Article 50 process. There have been suggestions that any extension would be a betrayal of the British people, but nothing, actually, could be further from the truth. A short extension of no more than three months is simply a practical way to gain more time to try to reach an agreement and avoid leaving without a deal and all the inherent dangers of such an eventuality. I well understand the misgivings of the noble and learned Lord, Lord Hope, the noble Lord, Lord Bridges, and others about a delay, but the lesser risk is to seek a little more time.

Any MP voting against the Prime Minister's deal who does not recognise that we will have to seek an extension is in denial. The ultras, who still have an ideological desire to leave at any cost and without a deal, are seriously misguided and cannot be allowed to

inflict such damage on the country. Although I have said it before, I feel obliged to repeat my plea to all parties, factions and groups to compromise at this moment. The deal is what we have. It gets us to 29 March and an orderly departure. It gives us 21 months or longer to negotiate our long-term new treaty with the EU. There will be no shocks on 30 March as nothing will change, provided that we leave with a deal. But the negotiation of the long-term arrangements must then have cross-party and intraparty agreement on what we want. We cannot again allow a lengthy and detailed treaty to be negotiated until the Government of the day are confident that they have broad support in the House of Commons.

We are not in a good place, but it is clear to me that the only way out now is to approve this less-than-perfect agreement and move to the next but much more important phase.

4.59 pm

Lord Kerr of Kinlochard (CB): It is a pleasure, as always, to follow the noble Duke, the Duke of Wellington—lots of soldiers have done so successfully.

Since there are no new facts in this debate, we have to deal with the fantasies of the weekend. Mr Johnson told us that the EU has treated the Attorney-General with contempt. The Attorney-General's argument that the Irish protocol, which we negotiated, might itself be a breach of the European Convention on Human Rights seems to be an argument that might be treated with polite disdain. I do not think that the EU reacted with contempt when Mr Barnier reminded us that its original preferred offer of an all-Ireland customs union was still on the table.

The noble Lord, Lord Howard of Lympne, said that the EU is intransigent; it is worth remembering that it was to suit us and Dublin that the EU came forward with the Irish protocol, breaching two of its guiding principles—the indivisibility of the four freedoms and the impossibility of extending single market status to a non-EU member, Northern Ireland. We may now not like the backstop, but our Government asked for it, our Government signed up to it in principle in December 2017, to Mr Johnson's loud applause, and our Government signed up to it in detail in November 2018, to Mr Johnson's loud disgust. It was Mr Barnier who persuaded some reluctant EU member states to allow us to have it, so it is no wonder that they are a bit baffled about the position now taken by the Attorney-General.

Mr Johnson today tells us that it would be preposterous to take the option of no deal off the table as it is vital that we do nothing further to weaken our negotiating position. Here I strongly agree with the noble Duke, the Duke of Wellington, that a threat to shoot ourselves in both feet continues to surprise the EU but provides us with no negotiating leverage whatever. Mr Johnson's preferred solution today seems to be a slight misreading of the Malthouse proposal. Mr Johnson would like us to leave on 29 March but with a longer transition period which he describes as,

“a mutually agreed standstill in the existing arrangements, so that we can use the period to the end of 2021 ... to do a proper free-trade deal”.

That is a fantasy. The fact is that we cannot have our cake and eat it—that has been established over the past three years. When we leave, we lose control. We have no voice, no vote and no veto. We are obliged to follow EU rules with no say in their making. That is what Mr Johnson used to call a “vassal state”.

There are also fantasies around even in the austere columns of the *Financial Times*. Mr Münchau says that it would be easier to reconcile the Norway option with the Irish backstop and that the Norway option offers a smooth transition. That is a fantasy. The fact is that the Norway option would create a customs frontier across Ireland. I do not see how that is easier to reconcile with the Irish backstop. The frontier across Ireland would be just like the Sweden/Norway frontier, but with many more crossing points and much more difficult to man. It in no way solves the backstop problem. Nor is the Norway option immediately available. It would require amendments to the EFTA treaty, with five ratifications required, and then the EEA treaty, with 31 ratifications required.

I hope and believe that tomorrow the other place will again vote against the draft treaty and the political declaration because I believe it is a humiliatingly bad deal. I know it is in no way determinant of the future UK/EU relationship and I think it is a recipe for years and years of rancorous negotiations stretching far into the future.

Like the noble Duke, I hope and believe that the other place will, again, firmly reject the grossly irresponsible idea of leaving with no agreed divorce terms, no understandings, however sketchy, about the future relationship, and no transition period. Only Mr Johnson, with his well-known respect for business views, could recommend such a course. However, if the other place rejects the deal and rejects no deal, it will be five to midnight and the only third option will be an Article 50 extension. Two and two make four; you cannot reject both the deal and no deal and not want an extension.

The noble and learned Lord, Lord Hope, asked what the extension would be used for. It might allow us to rethink our red lines; in fact, we have already fudged two of them a bit. The backstop gives the ECJ a role in dispute settlement, and of course it leaves us stuck—in my view, probably for a very long time—in a partial, unequal, unsatisfactory form of customs union. A real customs union, which this House voted for on Wednesday, would be much better. We have always known that if we changed our view on the red lines, the EU 27 would change their mandate. They have always said so and they would go on saying so. An extension would also allow us to check that all this really is what the country wants. I suspect that the Government know it is not, and that this is what the Prime Minister meant when she said in Grimsby on Friday:

“If we go down that road”—

the road of a second referendum—

“we might never leave the EU at all”.

Quite. It is called democracy.

I suspect that somebody may have shown the Prime Minister the latest YouGov poll—in only two out of 632 constituencies is there now a majority in favour of

[LORD KERR OF KINLOCHARD]

leaving—or maybe she has been shown the BMG poll, in which over 75% of the more than 2 million voters who have joined the electoral roll since 2016 would vote to remain.

Mr Baker of the ERG—this is one more fantasy—told us this weekend that any delay beyond 29 March would mean that democracy in this country was effectively dead. I am not sure. No one in June 2016 voted for the date of 29 March 2019. Some may have voted on the basis that the Irish frontier would in no way be affected, because that is what the then Secretary of State for Northern Ireland told them during the referendum campaign. Some may have voted on the basis that Turkey was about to join the EU, because that is what a number of senior members of the campaign—some still in the Government—told them. Some may have voted on the basis of what was said on the side of the bus about the NHS. Some may have believed that the deal with the EU would be the easiest in history, and that all these trade agreements would be lined up ready to sign, pre-negotiated and ready to go, and that “they need us more than we need them”.

If the Prime Minister cannot get her deal through the House of Commons, the honourable course will be to take her case to the country, but I do not think that she will. I believe she knows that the country, now knowing the real exit terms, would not vote to leave. I believe the Prime Minister is, to use the words of a greater Prime Minister, frit.

Lord Pearson of Rannoch: I was waiting for the noble Lord to finish his peroration. His experience of matters in Brussels is probably unparalleled in your Lordships’ Chamber. Does he think that Brussels would allow us to continue in our existing free trade with the European Union, but under the WTO and not the Luxembourg court, and, if not, why not?

Lord Kerr of Kinlochard: I am not sure I caught all of the noble Lord’s question. If he is asking whether the EU wishes to have free trade agreements with the UK, the answer is yes, it does; tariff-free trade has always been part of the EU’s mandate. If the noble Lord’s question is whether in the event of a no-deal crash out we would secure tariff-free trade with the EU, the answer is no; the EU would on 30 March impose the common external tariff against our goods.

Lord Pearson of Rannoch: My Lords, that was not quite my question—

Baroness Goldie (Con): I am sorry. A question was posed and the noble Lord has done his best to respond to it. I suggest that noble Lords exchange correspondence.

Shamima and Jarrah Begum *Statement*

5.10 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, with the leave of the House I will repeat a response to an Urgent Question given by my right honourable friend the Home Secretary in the other place:

“Mr Speaker, we estimate that over 900 people left the UK to engage with the conflict in Syria and Iraq. Many have been killed fighting; some remain there; some have returned; others could still come back. Some irresponsibly took young British children with them. Some had children whilst there, as part of their mission to expand the so-called caliphate.

We have made it very clear since 2011 that no British citizen should travel to Syria. Those who have stayed until the bitter end include some of the most devoted supporters of Daesh. One of the ways we can deal with the threat they pose to the UK is to remove British citizenship from those holding another nationality. Since 2010, this power has been applied to around 150 people of a range of nationalities. It would not be appropriate for me to comment on the details of an individual case—although, clearly, the loss of any child is a tragedy. But if I may, I will address some of the issues raised.

First, these decisions are made very carefully. Where citizenship deprivation is being considered due to national security concerns, the decision is based on advice and intelligence from the security services, counterterrorism police and specialist security and legal officials in the Home Office. When people dedicated to keeping our country safe give an informed recommendation, any Home Secretary should listen very carefully.

Secondly, we are unable to provide support to British nationals within Syria, as the UK Government do not have a consular presence there. Thirdly, the status of a child does not change if their parents’ British citizenship is subsequently revoked.

There are no easy answers. I must think also about future conflicts and the precedents we set. I do not want any more children brought into a war zone because their parents think they will automatically be bailed out, no matter what the risk. But the UK is doing all we can to help innocent people caught up in this conflict. We have committed £2.8 billion to Syria since 2012—our largest ever response to a single humanitarian crisis. And we are on track to resettle 20,000 vulnerable refugees who have fled the country, with our national resettlement programme resettling more than any other EU member state in 2017.

I understand the public interest, so I have asked my officials to expedite the publication of our next transparency report on disruptive and investigatory powers, including the most up-to-date annual figures on deprivation of citizenship. This Government remain committed to protecting our citizens around the world. But I will not shy away from using the powers at my disposal to protect this country”.

5.13 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, the decision taken by the Home Secretary to strip Shamima Begum of her citizenship was the wrong one. The route should have been for her to return to the UK and be fully investigated. If evidential tests were then met, she should have been prosecuted to the full extent of the law. If the tests were not met, appropriate prevention order measures should have been put in place.

The death of an innocent baby is a tragedy. Can the Minister please tell the House how the Government ensure that the rights of children—innocent young children and babies—are properly taken into account when decisions regarding their parents' citizenship are made? Will she tell the House, when they decide to strip a child's parent of their citizenship, how leaving that child in a more dangerous and risky situation—effectively abandoned by their country—complies with Articles 2, 3, 6, 19, 22, 38, 39 and 41, in particular, of the UN Convention on the Rights of the Child?

Baroness Williams of Trafford: I thank the noble Lord for that question. Of course, the death of any child is an absolute tragedy. In the camps in Syria, two-thirds of all deaths are children under the age of five. The situation in northern Syria is absolutely dire, and I know the noble Lord will agree that any parent who takes a child to that region, despite all the advice to the contrary, puts not only themselves beyond help but their child too.

Baroness Hamwee (LD): I thank the Minister for repeating the explanation of the deprivation of British citizenship. I had understood that this should be used only as a last resort, but it now seems to be used as a first response. The Statement refers to removing British citizenship from those “holding another nationality”. Could the Minister confirm whether that means currently holding another nationality, or—as I believe is the case with Shamima Begum—entitled or possibly entitled to another nationality?

The noble Lord, Lord Kennedy, asked about taking the interests of the child into account in a fairly objective way. With regard to the particular child, we have heard—not specifically from the Statement—that the Home Secretary said that he took the interests of the child into account. Could the Minister tell the House how that was done?

Finally, there is obviously concern about safeguarding individual children. I believe that there is also an obvious concern about the new generation of children now in the region who will grow up to see the UK as an enemy, despite the fact that they have British citizenship. Can the Minister explain how we will prevent that situation getting much worse?

Baroness Williams of Trafford: My Lords, we must make no mistake; the noble Baroness talked about making the situation worse, but it is hard to think how it could be any worse. As I said to the noble Lord, Lord Kennedy, two-thirds of the people who die in the camps are children under the age of five.

On people who hold another nationality, my right honourable friend the Home Secretary has been absolutely clear that he will not deprive someone of their citizenship unless they possess the citizenship of another country.

On the interests of the child, the Home Secretary said that he took the decision based on all the facts of the case, which included the interests of the child. It would be very difficult to establish how one could take a child out of Syria, when it would be wrong to send British officials there to remove the child. The noble Baroness talked about safeguarding. Speaking of

“safeguarding” in Syria seems to be a contradiction in terms: any parent who takes their child to Syria puts not only themselves beyond help but their child too.

Baroness Berridge (Con): My Lords, in relation to this matter, I raised the specific situation of children twice in previous Urgent Questions. Our law has a strong history of not just taking the interests of a child into account: in our family courts the interests of the child are paramount. How can it be that we do not have any legal process for the interests of the child to be considered separately from those of the parent?

The Statement said that children were taken out of the jurisdiction into Syria. Is it not the duty of a local authority to get this matter before our family courts, so that the interests of these children can be represented separately from those of their parents, and a decision made on whether it is safe to get them out of that situation if they should be separated from their parents?

Baroness Williams of Trafford: My noble friend is absolutely right that the interests of a child should be paramount for local authorities. However, if that child is not in this country and is, for example, in Syria, they are—it is sad to say—beyond our help.

Lord Jay of Ewelme (CB): My Lords, the Minister rightly said that this case involves a highly complex set of issues—Britain's security, the need for effective justice and the possibility of human rights abuse. But would she not agree that the tragic death of little Jarrah illustrates a much wider issue: that the British Government have a responsibility to British citizens, whoever they are, wherever they are and whatever they have done, and that the right thing is to bring them back to face justice, which we believe in and which surely has the right combination of fairness and robustness?

Baroness Williams of Trafford: The noble Lord raises a very important question. Of course, if British people who go to Syria return, they face the full force of the law as to why they travelled to that country when the Government had given every advice against doing so. The noble Lord will know of many cases where citizens return. However, to go into a war zone and retrieve someone is beyond what the Home Secretary is willing to do. Of course, the other point is that the Government put a huge amount of money into the region in humanitarian assistance, but the Home Secretary has rightly said that he will not risk the lives of British officials to go to retrieve foreign fighters—or, indeed, the children they have brought with them.

Lord McConnell of Glenscorrodale (Lab): My Lords, to focus on the practicalities of recovering a child from Syria is to go down the wrong road. At the core of this problem is the fact that a decision was made within days, without any due process, using television and newspaper interviews to judge a teenager and without taking into account the interests of their child, and eventually to decide that that individual, if they were so dangerous that they could not come back to this country, should be dumped on our Commonwealth

[LORD MCCONNELL OF GLENSCORRODALE]
partners in Bangladesh. Everything about this decision was wrong. What will the Government learn from this experience? They directly contradicted what they said last year was their policy on a returning young mother from Syria in a decision so soon after publishing that policy; surely they should learn from this experience, review the process and publish a transparent due process that will be used in every case, rather than responding to newspaper headlines.

Baroness Williams of Trafford: My Lords, what the noble Lord said is interesting, because responding to newspaper headlines is quite often what happens in both Houses of Parliament. The Home Secretary makes decisions based on information that he is given—robust legal advice, including on the interests of the child. Over 150 cases of deprivation have been made since 2010, so I dispute the noble Lord's assertion. On transparency, as I said in my Statement, we are looking to provide a transparency report shortly with the most up-to-date figures.

Further Developments in Discussions with the European Union under Article 50 of the Treaty on European Union

Motion to Take Note (Continued)

5.24 pm

Lord Dobbs (Con): My Lords, it is a pleasure to follow the noble Lord, Lord Kerr of Kinlochard. If only he were just as willing to follow me on one or two of the issues that we discuss, but we always do so in a spirit of dignity and good humour. Long may that be the case when it is so often lacking in these discussions.

Over the weekend, I went to see the Magna Carta in Salisbury. It is one single, magnificent sheet of parchment—not 611 pages, just one—and it got me wondering precisely what our rather dusty barons of Runnymede were about. I suppose at the heart it was the question of who owns Britain. In the eight centuries since Magna Carta the answer has moved steadily, if not always inexorably, in one direction: the people. It is the people who are the ultimate source of our power and authority—except that recently, the people started discovering that they were losing their power. There were things that they could not change, not even through an election. They no longer owned this country. We pretended otherwise, of course. We even gave the people a referendum and promised that they would decide but that was not strictly honest, was it? The noble Lord, Lord Sherbourne, who is sadly not in his seat any more, described that to us so eloquently just a few minutes ago. And so we have created this momentous mess.

For the moment, I would like to focus my remarks on our relations with Ireland and make three points. First, perhaps I am a little naive but I do not actually understand what is meant by a hard border. I know it is absolutely central to everything—the backstop and the whole of Brexit—but what is a hard border? Is it a line on a map or a white line on the road? Is it CCTV cameras or barbed wire? We have spent so long talking

about it that there must, I am sure, be a definition. I would be grateful if my noble and learned friend would take pity on my naivety and give us a precise definition of what the Government think a hard border is. I am in a state of heightened expectation.

Secondly, can I be allowed to express my astonishment that no one in this Government seems to have made it their passion to tell the people of Ireland that we understand their concerns—that we embrace them and will not let them down—and that whatever is decided in Brussels it will not be the British who build border posts? The Irish have a special place in our past and in our future. For me, Ireland is more than a friend and neighbour; it is practically family. We have all fought so hard, suffered so long and endured so much to bring our relations out of the pit of despair. So why are not we doing more? It is never too late.

My third point is this. The United Kingdom and Ireland have made so much progress in the last 20 years, yet Brussels seems to be trying to wrench our two nations apart again and to turn fraternity into rivalry by imposing a deal that threatens to divide the United Kingdom itself. Do your Lordships remember how ferociously angry the Germans got when someone suggested that the unification of their country might be a bad idea? That is nothing compared to the fury that would erupt in Germany if they were told that it had to be divided once again. Yet division is precisely what the EU is now advocating for the United Kingdom. Monsieur Barnier was reported in the French current affairs magazine *Le Point* as saying in 2016:

“I'll have done my job if, in the end, the deal is so tough on the British that they'd prefer to stay in the EU”.

To me, that sounds like punishment and the imposition of penalties, and it has been a consistent theme of EU policy these past two years.

I have never known a time like this. We have a flat-pack Cabinet that threatens to collapse every time you switch the telly on. I have never known a House of Commons like this: there are MPs who treat the future of this country like feudal lords, the sort we kicked out of this House generations ago; who treat their manifesto promises like discarded Christmas wrapping paper; who walk out of the prison gates and straight back into the House of Commons to vote on the laws that we are going to live under. It is extraordinary. How on earth did we get here?

Nobody in their right mind ever pretended that Brexit would be without its challenges, so I go back to the question posed by our dusty barons of Runnymede. Who is in charge here? Well, perhaps we will find out tomorrow. If it all goes screwy again, however, sources are suggesting that the Prime Minister might resign. That would of course be a personal tragedy.

Lord Butler of Brockwell (CB): I am grateful to the noble Lord. I think the barons at Runnymede would have been surprised by the suggestion that the people were in charge of the country. They would have thought that they were.

Lord Dobbs: I am grateful for that point. The barons of Runnymede insisted that we live under the rule of law, which is what we are talking about here,

right now. The barons of Runnymede said that there must be change and, over 800 years, there has been a huge amount of change. It has taken a few beheadings of noble Lords, I would submit, but we have got where we are and been admired for the parliamentary democracy that we have built in this country—until now.

I return to the point that the Prime Minister's future seems in jeopardy and, if she were to resign, it would be a personal tragedy. She has worked so hard but, in the circumstances, perhaps it would be constitutionally understandable. I wonder what a new Prime Minister's first words from the steps of Downing Street might be; not "Brexit means Brexit", surely. That one has been a bit overdone. But perhaps he or she might start the long process of restoring people's trust by turning to them and saying that this is your country, your future; it was your choice. I hope, on their behalf, that we can still find the wisdom to get on and deliver the Brexit they voted for.

5.32 pm

Lord Rooker (Lab): My Lords, I invite the noble Lord, Lord Dobbs, to take a trip around the external borders of the 27 EU member states and the EEA, and he will see what a hard border is like. They want to know what is coming in, where there is free movement of goods and services, if it is safe, undermining competition or fraud. That is a hard border, and so it is easy to work out what a hard border between Northern Ireland and the Republic of Ireland would be like.

I enjoyed the speech of the noble Lord, Lord Saatchi, but I am afraid it is about three years too late. The message was exactly there, but about three years too late. I last spoke in the December debate—the one the Prime Minister ran away from before withdrawing the motion in the Commons—so I look on tomorrow as, in reality, the third time she has asked the Commons to vote on her deal. She asked them in December and they went through a couple of days' debate, as we did in this House, before she ran away from it. But you cannot ask the same question enough times for the Prime Minister—while denying the British people the chance for a first vote on her deal. That is the reality.

I missed only one speech. I regret it, but there is a crucial meeting to try to save the Labour Party going on in Committee Room 8 upstairs, chaired by Tom Watson, so I had to make my mark in it. I missed the speech of the noble Lord, Lord Kerr, but nobody has mentioned the 15.8 million who have been dismissed and forgotten. There is a lot of talk about the 17.4 million. I know it is the bigger figure, but 15.8 million people have been given no consideration or shown no concern by the Government since 23 June 2016. There are still arguments about the way that result was achieved.

I accept it is a bad deal and, as I said in December, I have read part of every page of the deal and it is Brexit in name only. It stops a trade deal with the United States of America, which I think is a good thing at present, but we will become rule-takers. There is no question about that. We were told originally that the plan would be to leave knowing what the future relationship with the EU will be. That plan was torn

up. The withdrawal agreement is the easy bit, because we are going to have two, three, four or maybe five years of negotiations to try to get a deal with the European Union. It will go on for ever, as far as the public are concerned. They will think it is all over if, this week, some arrangement is made. That is not true. The hard work starts then.

I want to raise one point today, which relates to young people. Their future is most affected by the decision to leave, and they should have a say. The Scottish independence referendum convinced me to support voting at 16. I had opposed it until then, but I would support it now. There should be a people's vote on the deal and the voting age should be 16. By this summer, the earliest time for a review or vote, it will be three years since the EU referendum. Those too young to vote in 2016 will, even under the current rules, have the opportunity to vote and have their view on record. It will be around 2 million extra young people. I freely accept that the polls, from 2016 to those of today, indicate that an overwhelming majority of young people would vote to remain. Yesterday in the *Guardian* online, the results of a BMG poll carried out on behalf of some anti-Brexit youth groups showed 74% of those too young to vote in 2016 would back remain. This rises to 87% support among those who said they would definitely take part.

Lord Vinson (Con): Does the noble Lord believe that, as you get older, you should get wiser? That would possibly have some bearing on how people vote.

Lord Rooker: There is no question about that: I have got a lot wiser, because I voted no in 1975. This same poll showed that 55% of young voters would be angry if the UK left the EU without a public vote, compared to 9% who would be happy to leave without a vote.

The point is that I do not have to rely on a media report of a poll. In fact, the only reason I put my name down for today's debate was that I thought something might have changed. But I also knew, by the middle of last week, that I was going to a sixth-form college on Friday to have a chat about Brexit and to listen. I was at Hereford Sixth Form College with a group of about 100 students. The straw poll at the beginning of our discussion mirrored exactly what that BMG poll said—it was about four or five to one in favour of remain—but after an hour we left the meeting with two key questions that they raised after consideration. They were really concerned whether, if there is another vote, 16 year-olds would be able to vote, "as it is our future", and whether—because they are citizens of the world—it would be more difficult to address climate change when we are outside the EU. I did not discuss that with them but I can tell noble Lords that we will be outside the emissions trading system and the integrated electricity market, and it will be virtually impossible for the UK to give a lead to anybody on anything if we leave the EU.

We have led on climate change in many ways. We boast about our Bill having been the first to be legislated: I presented its Second Reading in this House. Young people are thinking about their future and that of the

[LORD ROOKER]

planet; the group in Hereford are a credit to today's young people. In fact, I trust them far more than I do the inadequate political leadership in all our parties, particularly the two main parties, at present.

Lord Green of Deddington (CB): The noble Lord has been talking about extending the franchise to 16 to 18 year-olds. Does he believe that it should continue to include the 1 million to 2 million people who are not British citizens?

Lord Rooker: There is a fine argument to be had about “no taxation without representation”. Many foreigners—a term that I do not normally use—who are resident in this country and paying their taxes have the right to vote in local elections; there are some restrictions about general elections. That is up for debate and I have no problem about that—it is part of our democratic system—but age and the franchise is a different issue. We ask 16 and 17 year-olds to take on a lot of responsibilities these days, and I think they should have the responsibility of voting.

5.39 pm

Lord Hodgson of Astley Abbots (Con): My Lords, like the noble Lord, Lord Rooker, I am a member of his noble friend Lord Cunningham's Secondary Legislation Scrutiny Committee Sub-Committee B. My noble friend Lord Callanan was kind enough to say some nice words about the committee members in his opening remarks. I hope that that includes the staff, because our ability to perform well and effectively is very much dependent on the backup we get from the staff, who have done a terrific job. When my noble and learned friend comes to reply, I hope he will make it clear that the nice remarks, which I am sure the noble Lord, Lord Rooker, and I are happy to accept, include the staff, who have worked so hard to sort out and make sense of these extremely difficult and complex issues.

So many noble Lords speak this afternoon with great authority and certainty. I fear that I do not have certainty. I am a mild Brexiteer. I do not believe that the day after we leave the European Union the sun will come up shinier and brighter than ever before, nor do I believe that it will not come up at all, or hardly at all. Indeed, in many ways, following the remarks of my noble friend Lord Howard, I think that in almost any combination of outcomes we will find that commercial and other imperatives will drive this country and the European Union to find a way to work together and that for many people, therefore, despite some major changes, life will go on much as before. If that sounds eccentric, even complacent, perhaps I may underline my reputation for eccentricity by going a stage further. Despite all the sound and fury that is being devoted to this topic now, when we come to 2030 or 2035 and look back 10 or 15 years, I think that this will be seen to be a second-order event, because we stand the edge of two huge shifts of the tectonic plates which are going to transform the way this country lives and the way it relates to the rest of the world.

The first of these is the irreversible shift of wealth from the West to the East. In the 1990s the G7, of which this country was a member—the seven most prosperous countries in the world—accounted for about 56% of world output. By 2040, it is estimated that it will account for 22%. We are going to be, whether we are inside or outside the EU, in a very slow part of the stream. That will pose great strains on this country at every level, including our social cohesion. Social scientists will tell you that it is not absolute wealth that is the determinant of happiness; in many cases, it is relative wealth: how I am doing vis-à-vis my neighbour. As people in this country see other countries in the Far East begin to move up alongside us, they will begin to question what this country stands for, the way the system works, our approach and indeed our structures.

The second factor is the impact of the fourth industrial revolution. It is hard for us to estimate just what that is going to do for this country, the way we live and the way we work, over the next 10 or 15 years. The central estimate at the moment is that about 7.5 million jobs in this country will either disappear or be radically changed. My noble friend Lord Ridley, who is not in his place, will say not to worry about that too much, because we will be able to create more jobs: they will be destroyed, as has always been the case in the past. He may be right—indeed I hope he is—but it is a pretty heroic scale of job creation over a very much shorter period than in other industrial revolutions, which have lasted 50, 75 or 100 years. Whether he is right or not, it is going to be a time of great change which will also impose huge strains on our society. So the background to my Brexit position is the key question: does membership of the European Union help or hinder our ability to face up to and resolve these challenges? In short, will economic power, large power blocs, be the key determinant, or will it be the ability to be flexible and speedy in our response? I have concluded that, in fact, flexibility will be by far the most important factor. I fear that the structures and member states of the EU will not be able to react fast enough—a fast reaction will be critical—nor will they be able to forge a common purpose among them.

Against that background, I turn to the proposed transaction—the Prime Minister's deal. During a lifetime in the City in which I watched and participated in negotiations on the outcome of which hung fame, fortune and reputation, two features predominated. The first was that, as these fierce negotiations drew to a close, both parties would feel dissatisfied and disappointed and that if somehow they had played the cards better, a better outcome could have been achieved. For me, the question is not whether this is a good deal; it was never going to be a good deal. The question is whether it is a good enough deal for us to want to back it. The second feature was that the toughest issues always had to be sorted out at the eleventh hour. The idea that hard issues could be sorted out early in a negotiation is fanciful.

The noble Lord, Lord Thomas of Gresford, referred to the old phrase, “the man on the Clapham omnibus”. Perhaps I may introduce a much more vulgar and politically incorrect phrase—“It ain't over till the fat lady sings”. As we enter March, the fat lady is starting to warm up. That means that, as the noble and learned

Lord, Lord Hope of Craighead, said—and as the noble Lord, Lord Hannay, did not say—any extension of the Article 50 period would be a great mistake. It is only the pressure of an end date that will force the concessions and agreements that have to be reached to make this deal happen. Otherwise, everybody relaxes and the fat lady goes back to her dressing room and waits for a chance to warm up in a month or two.

In my view the Prime Minister's proposed deal is good enough, although we must remember, as the noble Lord, Lord Rooker, has just reminded us, that it is only half a deal. There is another whole chunk still to go in negotiating our future relationship. Of course it would be helpful to get some movement on the backstop, but I feel that the EU is unlikely to want to hold us within its structure if we are paying no subscription. Many of us have felt, and evidence is now emerging, that, given the relatively low volume of trade across the land border, technology will provide an answer.

It may be unfashionable to say this, but I believe that the Prime Minister has played an impossible hand pretty well. Assailed by equal and opposite forces within both the Conservative and Labour parties, she has plodded into the storm enduring unceasing ridicule and criticism. I hope she will get the necessary backing for her transaction so that this country can reorientate itself to the new situation and begin to address not only the big strategic issues I mentioned earlier in my remarks but the many short-term problems that we face.

5.47 pm

Lord Armstrong of Ilminster (CB): My Lords, I have hesitated to take part in this debate for two reasons: first, because everything possible has already been said in the many debates we have already had on the subject; and, secondly, because the crucial decisions are, and will continue to be, taken in another place—that is just as it should be.

But we are now 18 days away from the date on which we are due to leave the European Union. If the House of Commons votes by a majority in favour of the deal suggested by the Prime Minister, glossed or modified as it may be, no doubt the deal will be ratified and we shall leave the EU on 29 March. If that deal is rejected by the House of Commons, we shall to all intents and purposes be back where we were on 24 June 2016, with only 18 days, instead of two and three-quarter years, to go until B for Brexit day.

It is nearly 70 years since I joined the civil service. In all that time I do not think that I have ever felt, even at the time of Suez, a stronger sense of shame at the spectacle which we are presenting to an astonished world. As one journal put it, Brexit is breaking British politics. A country once envied for its political stability, steadiness and maturity has descended into a chaos of division and indecision. Both the main parties are deeply divided, as indeed is the nation. The constitutional arrangements which have stood us in good stead for at least a century are being put under severe strain. The principle of collective responsibility, which is an essential condition of effective government, has been abandoned—I devoutly hope only temporarily.

Even if the withdrawal agreement proposed by the Prime Minister is approved tomorrow, the negotiations on the future relationship with the EU will drag on for many months, if not years, and the problems of Brexit will continue to dominate political discussion and the business of government and Parliament. If the withdrawal agreement is again rejected in another place tomorrow, and the House of Commons votes decisively against leaving the EU with no deal, it will be too late for the Prime Minister to kick the can down the road again. We shall have to seek an extension to the Article 50 deadline.

The Prime Minister has spoken of a strictly limited extension of three months, to the end of June. I understand that the elections to the European Parliament may complicate any idea of going beyond that date, but is three months long enough to negotiate a deal which will be acceptable to the European Union and to the House of Commons—something we have failed to do over the last two years? Would that not merely postpone the cliff edge, and leave us with a continuing chaos of division and indecision? Shall we not need a longer period of extension? If need be, perhaps the existing British Members of the European Parliament could be invited to serve in the new parliament until whatever date is fixed for finally leaving the EU.

But I wonder whether the problem is even more profound than that. If the Prime Minister's deal is rejected tomorrow, the question will be whether there can be any deal for our withdrawal from the EU that is acceptable both to the EU and to the House of Commons as now constituted. If there cannot, any attempt to find such a deal is doomed to failure. If that were so, any extension of the deadline would be unavailing; it would just be prolonging the existing agony.

The one thing for which there appears to be a majority in the House of Commons is that it is not acceptable to leave the EU without a deal. If leaving with no deal is not acceptable and if there is no possibility of finding a deal which would be acceptable to a majority in the House of Commons as presently constituted, the only remaining option is no Brexit. Only in that event would an extension of the Article 50 deadline serve any useful purpose. We should be obliged to revoke the notice of withdrawal from the EU and undertake not to submit a notice to withdraw from the EU during the lifetime of the present Parliament. Of course, no Parliament can commit its successor.

I wonder whether the time has come for a change of direction. We have been negotiating with the European Union on the terms on which we should leave it. Has not the time come for us to negotiate with the European Union on the changes that might enable the Prime Minister to recommend to the British people that we stay despite the mandate of 23 June? We hear much of the 17.4 million people who voted to leave but rather less of the 16-odd million who voted to stay. It would be worth pursuing the possibility of discovering rather more closely what issues inclined 17.4 million people to leave the EU, and then to negotiate with the EU to see what could be done to remedy those issues. It would be a change of direction and of discussion. However, having drained the current discussion almost to the dregs, it would surely be worth looking at

[LORD ARMSTRONG OF ILMINSTER]

something that would enable us to call to the Union for something which would positively allow us to recommend to the British people that we should stay in the European Union. In a sense, that follows the recommendation of the noble Lord, Lord Saatchi, who is no longer in his place, that we should look at that sort of possibility. The Prime Minister would probably want to talk in the first place to the President of the French Republic and the Chancellor of Germany to see what possibilities there were. However, those possibilities are now important and very much worth pursuing.

Finally, the European Union is not perfect. It is recognised that it is in need of reform, and with the EU, reform is an agonisingly slow process. However, the reasons why and the purposes for which it was set up remain valid and vital. In or out of the EU, the UK is part of Europe. Our historic role has been to provide a balance of power in conflicts between the larger continental powers. Surely it is in our interest to take part in a process of reform of the EU, which many people want and see coming. It would be in its interest as well as in our own if we were able to contribute to shaping and directing the process of reform.

5.57 pm

Lord Bethell (Con): My Lords, like the noble Lord, Lord Armstrong, I have not spoken in the European debates. I had rather hoped that the Attorney-General would provide an opportunity this afternoon to talk about reconciliation and renewal, but instead we have a degree of delay and rancour, and, as my noble friend Lord Bridges put it so well, a general spirit of “I told you so”. However, it is sometimes at the darkest hours such as these that we need to remind ourselves of what is important, so I will try to soldier on with two observations, one hopeful and one fearful, about reconciliation and renewal. The world outside is moving on without us. We have been heavy on observations about the London political beltway and the Brussels negotiation rooms, but I fear that if we do not take this opportunity of taking the deal, we may miss the boat. I will give your Lordships two examples.

On a characteristically positive note, I saw a wonderful glimmer of hope in recent polling figures about attitudes to immigration. Around the world, attitudes to immigration are hardening; that story is told in the huge Ipsos MORI poll, which, although flawed, is about as good a guide as we will get. However, in Britain, the trend is different, which flies completely in the face of what we hear and see. Since 2011, the number of people who think that immigration has a positive impact on the UK has increased in a steady line from a rather depressing 19% to a more impressive 48%, while the number who think it has had a negative effect has fallen dramatically from 64% to 26%. My noble friend Lord Sherbourne rightly reminded us that trust is in a perilous state in the country.

The figures that I talk about are a good cause for hope. The bottom line is that there is a chance that Brexit, despite all the current rancour, might have lanced the boil. There is hope that the public are beginning to see that the politicians are listening to

them, and that, at a time when many countries face challenges of populism and intolerance, Britain has somehow addressed some of the issues that people are worried about and will emerge from this process stronger. We need desperately to nurture these positive developments. I fear that if we delay the Brexit vote further, as the noble Lord, Lord Hope, put it so well earlier, it will be a profound breach of trust that would put those green shoots in jeopardy.

My second point is fearful and less optimistic. We are not out of the woods. We face huge divisions, as widely discussed in this debate. I ran a campaign against the British National Party and have kept an eye on the growth of the far right and the far left ever since. I pay tribute to the police and security services for their diligent focus on those groups. It is not an exaggeration to say that we are sitting on a powder keg of popular extremism that could easily convert into violence and disarray. For briefings, I thank the Institute for Strategic Dialogue, Quilliam, HOPE Not Hate and the International Centre for the Study of Radicalisation and Political Violence at King’s College London.

One trend stands out from my study of this area: the formal and casual collaboration between extreme groups from Europe and America, which means that the vicious tactics and nasty aspirations of the American alt right, the French gilets jaunes, the Hungarian highwaymen’s army and countless other nasty extremist groups are having an effect on our political culture. We must accept that we in Britain are not immune to political turmoil because of some kind of cultural superiority or political resilience.

My recommendations are these: we must accept that we are living in an extended period of uncertainty around our relationship with Europe, a point well made by a number of Peers. We must accept that populism will be part of our lives, probably for the rest of our lives. Therefore, we need really strong political leadership.

I believe that can start tomorrow with a vote for a deal that is not perfect but is on the table and to accept all the challenges it involves. But political leadership does not end tomorrow. We need to maintain clear advocacy for all that is great in this country, we need political leaders who can articulate a clear vision for our future and we need to make tough choices to get us back on course. I fear that if we do not decide to support the Prime Minister’s deal now, we run the risk of losing the opportunity for reconciliation with which Brexit presents us and letting the extremists feed off the result.

6.02 pm

Lord Bilimoria (CB): My Lords, today is Commonwealth Day, with a Commonwealth of 53 countries and 2.4 billion people—India makes up more than half of them with 1.25 billion people. A big part of the leave campaign was about global Britain doing more trade with Commonwealth countries. The reality is that 9% of our trade at the moment is with Commonwealth countries, versus 50% with the EU and another 17% through EU trade deals, now including that with Japan which has just been formed, the biggest trade deal in history.

Recently, I taught a negotiating class at the Cambridge Judge Business School, on which I chair the advisory board. It was on negotiations, with Brexit as a case study of how not to do it. As Sun Tzu says, every war is won or lost before it is even started. The starting point of all this was a 52:48 narrow position, whereas the previous two national referenda we had were won by two-thirds majorities—quite conclusive. The next thing is that we rushed into it. Prime Minister David Cameron went to Brussels and came back empty-handed, especially on the emergency brake on migration, which was a big issue at the time. Why has no one spoken—why did he not speak—about the EU regulation in 2004 that allows every EU country to repatriate EU nationals after three months if they cannot show that they can support themselves? Other European countries, including Belgium, use this regulation to control EU migration and have repatriated thousands. We have never done that. Finally the Government acknowledged that to me, but will the noble and learned Lord tell me why it has not been brought to the notice of the public? In 2015-16, immigration was one of people's biggest fears—the migration crisis, the sad, sad stories that we saw. Today, concerns about immigration are the lowest in more than 15 years.

It is now almost three years since the referendum. The world has changed: we have Trump, trade wars—I could go on. People did not know much about the European Union three years ago; now everyone knows much more. Northern Ireland was barely mentioned in the referendum; now it has become the Achilles heel.

As has been said, we were told that a trade deal with the EU would be so easy to do. In reality, the Government rushed into imposing Article 50, one of their biggest bargaining points, and we have wasted two years on this withdrawal agreement. What is the withdrawal agreement? Agreeing to citizens' rights between the EU and Britain? We cannot have people used as bargaining chips. To me, it was obvious that we had to sort that out. As for the £39 billion, what is £39 billion in the context of Britain, which has a £2 trillion a year economy in the long run? It is an immaterial figure in the bigger picture. Finally, there is the backstop. That is it. That is all we have done. We were meant to roll over all these EU deals; we are ready to roll over only six of them, including with the Faroe Islands. We have had three Brexit Secretaries.

The biggest difference is that Europe negotiated properly: it negotiated the process first and substance later. What did the Prime Minister do? Set red lines: no more customs union, no more single market, no more ECJ, no more free movement of people. On top of that, the EU had a clear mandate from 27 countries and one negotiator: Michel Barnier. It said very clearly: "You cannot have your cake and eat it too. You cannot have the same terms as you have now"—rightly so—"and you have already had the best of both worlds. You are not in the euro, you are not in Schengen, you measure your roads in miles, you pour your beer in pints. Now you want to opt out and want all the opt-ins".

The EU has been united throughout this period, whereas we have a Prime Minister without a majority, reliant on the DUP. We have both major political

parties, the Government and the Opposition, split. The EU and the world are looking on this great country saying, "Why are you shooting yourself in both feet with both barrels?" The noble Lord, Lord Armstrong, with his years of experience, used the term a "sense of shame".

This deal is a blindfold Brexit. It will be to infinity and beyond. It is the worst of all worlds. It is bad regardless of the backstop; it is the worst of all deals. If it is voted down, as logically it should be unless something miraculous appears overnight, Parliament must then take no deal off the table. No deal is causing uncertainty. The CBI's chief economist, Rain Newton-Smith, said:

"With Brexit stuck in stalemate, this only means growing damage today and a weaker economy tomorrow. Growth is at a near standstill and investment is evaporating; the economy is undoubtedly slowing down ... the spectre of no deal is holding them back from investing in new factories, new overseas markets and new jobs".

The next thing we as a Parliament must do is seek an extension to Article 50. That would give the Government, the Conservative Party and the Labour Party a chance to compromise on a Norway-style deal. Remember: we had a vote over here during the withdrawal Bill. I was one of the signatories to the amendment when we voted overwhelmingly that the EEA option was the least bad option.

Putting the decision back to the people would be the best option by far. As the noble Lord, Lord Kerr, pointed out, 2 million more youngsters—including my younger son, who will be 18 on 21 March—are now eligible to vote, at least 75% of whom would vote to remain. Sadly, about 1.5 million older voters have left this world since the referendum, most of whom voted to leave. Look at the demographics: 1.5 million versus 2 million. On top of that, the youngsters who did not turn out in June 2016 regret it. How many times have we heard, "Respect the will of the people, the 17.4 million", in debates? Which 17.4 million? One and a half million of them are not even here. What about the others? Today's electorate and democracy—the reality of today—matter.

I conclude with a point on the essence of it all. In a recent debate, when the Minister pointed out that the Prime Minister's deal would leave us 7% better off than no deal, I asked him whether he agreed that the best option for our economy by far would be remaining. Why are we forcing ourselves into this position? In a business, you go to the shareholders, who make a narrow decision and say, "Go and do the deal". The board of directors and managers then try to do the deal, but if they find the deal so bad that it might destroy the company, do they still implement it? If they go back to the shareholders and say, "Are you sure you want to do this deal? It will destroy our business", do the shareholders say, "We made the decision. You've got to do it"? That is the reality. Why is our country doing this? The British people, the people of this great country, deserve better. We deserve to take back control. Ironically, the best way to do that is to remain in the European Union.

6.10 pm

Lord Horam (Con): My Lords, we are in a mess. Apart from the effect on our external reputation, as expressed so eloquently by the noble Lord, Lord Armstrong of Ilminster, what dismays me as much as anything else is the amount of time we have had to spend on this subject at the expense of other critical subjects, such as sorting out universal credit, skills or apprenticeships.

In economics, there is the concept of opportunity cost. The opportunity cost of Brexit has already been extremely high. Add that to the business cost: I noticed this morning in the *Daily Telegraph* business section—which has a rather more factual approach than its editorial side—that nearly £1 trillion of assets have been taken out of this country already, largely to Dublin or Luxembourg. Add that to the administrative cost to both businesses and government and the overall cost is very big indeed. Sadly, as has been pointed out, that will continue for several years to come.

We need decisions. Indeed, I am almost in the position of my colleague in the other House, Sir Oliver Letwin, who said that any decision would be welcome at this stage. Of course, that is dangerous; politicians will recognise the moment when some humourless ideologue has been going on for so long on the subject that all reasonable people just want to give in to something they later regret. I hope that we will hang in there and continue with the debate, even if it means more debates such as this one.

In my view, we should support the Prime Minister's plan. I am with the noble and learned Lord, Lord Hope of Craighead. It is obviously flawed but it gives us a transition period in which we can look at the situation. Frankly, even the disadvantages of the backstop were exaggerated. There is no incentive for the European Union to keep the backstop going because it would mean that we could stay in the customs union and pay no costs. It is ludicrous to think that it would want it to carry on. It will be in our mutual interest for us to get out of it when it is appropriate to do so.

However, we know the situation. The Prime Minister's plan may not go forward, in which case there will be no deal—or no overarching deal, as the noble Lord, Lord Howard of Lympne, pointed out. That will be disruptive. In the “told you so” section of his speech, my noble—and good—friend Lord Bridges pointed out how little had been done in the time available: so little, so late. We in this Parliament should always remember the truth: the people who are most disrupted are not us or Members of the other place, but the most vulnerable in society—that is, the illest, the poorest and those least able to resist the sort of disruption that is likely with a problem departure from the European Union.

Hard-line Brexiteers say, “Well, we can use WTO terms, no problem”. Very few people use WTO terms, per se. For example, between the European Union and the United States, there are no fewer than 100 sectoral agreements. All of that has to be reproduced in new schedules so it is hardly surprising that Liam Fox, who was so insouciant earlier in his career as International Trade Secretary, is now one of those who are strongest in favour of saying that we must support the Prime

Minister's deal. He knows the score. The fact is that we need that agreement and the trade agreements that will flow from it.

I remind the House that in coming out of the European Union, we will go into a situation where we will have to sell the idea of doing a deal with a country of 65 million people rather than a unit of 500 million people. That will be especially difficult and we do not actually know what our future relationship will be with the 500 million people who remain in the European Union. I suspect that the Prime Minister, who is a very responsible person and deeply conscientious, will be very unlikely to allow a no-deal exit to happen, as Yvette Cooper has said. We are therefore back with the votes this week. A lot has been said about what the opinion polls are going to say, but we do not know enough about what the Commons is thinking as regards the various alternatives. MPs should be given the chance to hold some indicative votes to determine whether there is a solution that commands a majority vote in the House of Commons.

We know broadly what the two alternatives are. One might be called Norway and include a customs union, while the other might be called “clean break Canada” or whatever. Those are the two alternatives. They have been described by the columnist Matthew Parris as either humiliation or ruin. I do not go along with that—Matthew is getting slightly overwrought in his present concerns—but we do have to decide between those two alternatives. There are responsible and sensible arguments both ways, but we should know what is likely to go through the House of Commons. As the noble Duke, the Duke of Wellington, pointed out, what is the point of going back to the European Union if you do not know what you are going to get through your own Parliament? We cannot make that mistake again. We have to find out what the Commons thinks by some form of indicative vote. If the Government cannot manage, frankly, the Commons will have to, and the sooner the better.

6.17 pm

Lord Inglewood (Non-Aff): My Lords, I declare my interests as set out in the register and I shall begin as the noble Lord, Lord Horam, did, with the proposition with which we can all concur: we are in a mess.

I had planned to make a longer speech but everything has been said. It is just important to underscore the fact that Brexit is both a cause and a symptom of our domestic political problems. We need to bear that in mind in the context of this debate. What has slightly surprised me is the number of speakers who have said that there has been no change. There has been one very important change, and that is that time has moved on. As Dr Johnson put it, the prospect of being hanged on the morrow concentrates the mind.

I think we can all agree that, basically, there are three possible choices before the country. We accept the Prime Minister's deal, there is no deal, or we seek an extension. For my part, I dislike the Prime Minister's deal for the reasons spelled out by the noble Lord, Lord Kerr. In particular, we in this country have not fully appreciated that there is a great difference between negotiating in a group of 28 where you are all part of

the same side as opposed to being one against the other 27. I dislike no deal more than that, which leaves the third option.

As a general political principle, as the noble Lord, Lord Armstrong, said, Parliament is sovereign and cannot bind its successors. It therefore seems entirely legitimate that if Parliament does not like either of the two other possibilities, it should see whether it can seek an extension and we shall see what happens. What happens will be revealed to us in general terms by the end of the month. If we cannot get an extension that we wish to proceed with, we do not have to do it.

And then there were two. We are in world unfamiliar to our great country. We are in one of, in Harold Macmillan's words, "Events, dear boy". It is a strange irony that a campaign launched under the banner of taking back control should be delivering a political crisis where it is "Events, dear boy" that will determine the outcome.

6.19 pm

The Earl of Caithness (Con): My Lords, I liked the way my noble friend Lord Sherbourne introduced his speech. He reminded us that the purpose of the referendum was to settle the question of Europe once and for all. All it has done is divide the country more and more over the past two years. I voted to remain because I believed that the case to leave the EU had not been made and that we could do better by staying within the tent and trying to reform the EU from within. I have slightly changed my mind on that.

I hoped when the result of the referendum was announced that we would discuss both the leaving of the EU and the next stage: the trade deal. Certainly, that was what we were led to believe when I was on the EU sub-committee of this House and we took evidence from respected people. They thought that the whole thing would be dealt with together rather than be separated. That separation is causing immense problems. The noble Lords, Lord Rooker and Lord Kerr of Kinlochard, said exactly that: this is a long drawn-out affair. But it is rather like having multiple fractures on one arm. We have one arm and we are about to go into the second arm but, as both noble Lords said, that will take even longer and there will be more multiple fractures. Having spent some time in hospital over the past three years, multiple fractures are ghastly. A clean break is so much easier. It heals more quickly and your body gets better; relationships can be restored.

Inevitably, the noble and learned Lord, Lord Goldsmith, and the noble Lord, Lord Newby, blamed the Prime Minister and the Government for the mess that we are in, but this is a negotiation. I stand back a little from that view and blame both sides. Neither side has come out of the past two years with any credit. When Nelson Mandela came out of prison, he was asked what his red lines were in a negotiation. After 27 years in prison he said that everything was up for negotiation—we are prepared to negotiate on anything and everything. That is not the situation with the EU. The EU is far too legalistic a structure to bend or to adopt that approach.

This leads me on to the point about remaining in the EU that the noble Lord, Lord Armstrong, and my noble friend Lord Saatchi mentioned. That is a position

I would have liked to adopt, but I now believe that, having gone through this period, if we were to stay in the EU there would be only one choice for the UK: to become part of a fully integrated EU. It is inevitable that, in order to survive, the EU will have to get much closer together, and President Macron is driving that. The legal structure of the EU prevents it treating Britain as an equal partner. So I believe we are now faced with a choice: if we stay we will have to become part of the eurozone and to commit fully to a much more federal Europe. We do not have any provisions in our legislation to have referendums on any treaty change—that was abolished soon after the referendum took place—so there is a stark choice. We would not go back to exactly the same position we were in three years ago.

The situation in the country since the referendum was well encapsulated by the noble and learned Lord, Lord Hope of Craighead, who said that the country is frustrated, bored and irritated with the process. I believe that is a correct summary. The more I talk to people, the more people have said to me, "Let's just get on with it, one way or the other".

That takes me to the three options that confront the other place, possibly in the next three days. I start with the last: the delay; the postponement of Article 50. I firmly believe that would cause only more irritation and frustration. Yes, it has been a mess and we are in a mess, but the extraordinary thing is that I do not think there is any other country that could have gone through what we have gone through in the last two years without people taking to the streets. I believe people will take to the streets if there is a further delay to Brexit. The way this country has behaved will put it under strain and it will break, so to delay Article 50 would be quite wrong.

Let us move on to the no-deal Brexit. I believe the criticism of that has been wildly overblown. Two years ago I firmly believed that a no-deal Brexit would have been a terrible disaster. I do not believe that any more. I do not like it as an option, but it does give us a clean break and a chance to allow businesses to decide what to do. For the past two years, businesses have been waiting for the Government to make a decision. That is why they are not investing or performing as they should. It is perhaps the least good of the two options.

So we come to the Prime Minister's deal. The latest information I can get from the news is that the Prime Minister is on her way to Strasbourg at the moment. Let us hope she can pull something out of the bag. If she can change her deal—which I do not believe is a very good deal—and get the reassurances, it is the duty of the MPs, who in my view have so far behaved rather badly, to come behind the Prime Minister and say, "Yes, this is a way forward that takes us out of the EU and fulfils the decision of the referendum". Then we can get on and businesses can build up a new and better Britain.

6.27 pm

Baroness Crawley (Lab): My Lords, I have a confession to make: I deserted the field of battle in the last two Brexit debates as I felt I had run out of things to say and the indignation to go with them. But I am back

[BARONESS CRAWLEY]

for one last rant—or maybe it will not be the last. Who knows? That is surely the point: no one knows what is going on. My next-door neighbour does not know what is going on, as he continually tells me. Honda certainly does not know what is going on. The CBI does not know what is going on and neither, it seems, does our Prime Minister—in the air or on the ground. Never has such uncertainty gripped this country, I believe, in peacetime. Uncertainty is bad enough for the country's mental health, but the fact that people are starting to lose their jobs and financial security because of it makes the Government seriously negligent in their primary safeguarding responsibilities. If they were a local authority they would be in special measures by now.

We have less than 600 hours to go to a possible no-deal Brexit, and the Government's own 26 February analysis of no deal—even on the assumption of, as they put it,

“a smooth, orderly transition to WTO rules”—

is the stuff of nightmares, as my noble friend Lady Quin said in her powerful speech. In the long term our economy is predicted to be up to 9% smaller—and exceeding that in areas such as the Midlands and the north-east, with Wales and Scotland also being hit badly.

For Northern Ireland, the news is even worse. The Government's analysis suggests:

“Overall, the cumulative impact from a ‘no deal’ scenario is expected to be more severe in Northern Ireland than in Great Britain, and to last for longer”.

Of course, we all know what happens in Northern Ireland when the economy tanks. In their analysis, we are told that the Government are to publish shortly—they had better hurry up—further details of their immediate temporary arrangements for trade between Northern Ireland and Ireland in a no-deal scenario. Then comes the menacing sentence:

“The Government would need to work urgently with the Irish Government”—

and here I recall the words of the noble Lord, Lord Dobbs—

“and the EU to find any sustainable longer-term solution”.

That sounds like giving up to me. So, in a no-deal scenario, not only will the economy in the UK go to hell in a handcart but it will send Ireland and the EU that way too.

The Government give us their health warning on all this: despite the steps they are taking to,

“manage the negative effects of no deal, there are a number of areas where the impact on trade, businesses and individuals would be particularly significant”.

So it is bad, but you ain't seen nothing yet.

What we have seen is the stuffing of no-deal statutory instruments through the parliamentary system, day after day, like Greggs's new vegan sausage rolls. As vice-president of the Chartered Trading Standards Institute, I had a particular interest in the statutory instrument on product safety and metrology we dealt with last Monday. At over 600 pages long and several kilos in weight, I could hardly carry it into the Grand Committee. There had been no public consultation on

this massive SI on vital consumer safety, as is the case with so many of them. Then there was the rather brave assertion that its impact on business would be de minimis. How can we be certain about that? What is certain is that fraudsters and rogue traders will find their way through any accidental loosening of these consumer safety regulations as a result of cramming them through in this way.

Noble Lords may ask why, if the Opposition feel so strongly about this, they do not simply back the PM's deal. We will not. As we see it, this deal is anti-jobs and anti-prosperity, takes us out of the customs union and out of the single market, and, up until the past few days, would see no prospect of future progress in rights for people at work in line with EU minimum standards. If the PM would even now call for an extension of Article 50 and be willing to look again at her red lines, as the noble Lord, Lord Bridges, suggested, many in my party—although not I—would support her. My support would come if she put not only her deal in front of us but the prospect of remaining in the European Union on any ballot paper in a public vote. Noble Lords may say that I can live in hope, and I can.

In conclusion, 8 March was International Women's Day, and during our debate last week I made a point which I repeat today. It may well be the last International Women's Day when our country is part of the European Union. That is a dismaying thought for me as a former MEP, as the EU has been the bedrock of women's and family rights legislation for four decades. While we quite rightly discuss the Irish backstop a great deal in this Chamber, the EU's historic backstop in the protection of people's rights at work is a story still to be told. Perhaps I should start writing that story in the uncertain days ahead—I think there are going to be many of them.

6.34 pm

Lord Finkelstein (Con): My Lords, it has been a genuine privilege to listen to many compelling speeches; I do not say that for the sake of my usual politeness—I have found it really illuminating and I thank those who have spoken before me.

The euphoria that greeted the Conservative unity on the Brady amendment was something to behold, was it not? Now that unity had been achieved on the Conservative Benches, it was going to be easy to get this thing through; all that had to be done was to go to Europe and explain that the Brady amendment had gone through. It reminded me very much of the story of the matchmaker in the shtetl visiting the peasant and saying, “I've got a match to propose. I would like to marry your son to the daughter of the tsar”. The peasant said, “But we are peasants, and my son is stupid”. The matchmaker then said, “Never mind that. Do you agree to the match?” The peasant said, “Well, of course”. “Excellent”, said the matchmaker, “I'm half way there”.

To my mind, it is remarkable that, at this late stage, there appears to be little appreciation that there is more than one party to a deal. We have a deal, and of course it is not exactly what we want because there is more than one party to the deal—and because leaving is not a very good idea. Blaming the deal for the intrinsic flaws of Brexit is a transparent strategy.

I understand that, in the other place, it is likely that the deal will be rejected and Parliament will be asked to rule out no deal. One noble friend said to me in the Library, “You can’t negotiate with the EU if you’ve ruled out no deal”. I responded, “We are not just negotiating with the EU; we’re also negotiating with you”. I want my Brexiteer friends to understand fully how strong is the determination that many of us have to stop us leaving with no deal. I have supported leaving because we had a referendum. It was my parliamentary duty to do so, having voted to have that referendum. I never thought it would be a good deal—I did not think that was possible—but leaving with no deal is another thing altogether.

First, there is no mandate for no deal. The Vote Leave website and manifesto say:

“Taking back control is a careful change, not a sudden stop—we will negotiate the terms of a new deal before we start any legal process to leave”.

That is quite clear, and it is still there on the website: there is no mandate for no deal.

Secondly, as far as I am concerned, no deal is morally unacceptable. It is not a way to treat an ally. It is not a way to treat our European friends. It is not a way to treat the citizens of this country who live in other countries and it is not a way to treat European citizens who live in our country. That is not the country I live in. We pay our bills. We keep the law. We do our duty and our word is our bond. We will not leave without a deal while I have to take responsibility for that.

Thirdly, no deal would be a huge economic blow. That is not why I became a Conservative—to pursue ideological plans that damage ordinary people’s incomes and their prospects. I became a Conservative because I believe in bourgeois stability. I said in my maiden speech that my mother had been in Belsen and my father had been in Siberia—and Pinner was nicer. That is basically my politics and I do not follow this ideological idea.

Fourthly—and this is my response to the excellent speech of the noble Earl, Lord Caithness—no deal would not be a clean break. It will not last. We will not end up having no deal. We will have a deal in the end, having first sustained a major economic blow, so no deal is not what has been touted: the end of everything and we can now get on with other things.

Finally, I want to make a broader point that is perhaps slightly more difficult for the majority in this House to accept. This House has fought at all stages for Parliament to take control and, rather to my embarrassment, I have often found myself out of sympathy with that. The greater the control we have taken, the greater the fiasco has become. I have opposed all these measures because it all sounded so fantastic—Parliament should take control; the great history of this country and so on—but actually, it meant that Jacob Rees-Mogg and Jeremy Corbyn should be in charge. That has always struck me as a sub-optimal idea.

Having taken control, the people who wanted it had better be sure that they can produce a majority for something. I have heard a lot of people say that they will vote against the Prime Minister’s deal because

they want a second referendum. Do they really think they will achieve that? I have heard a lot of people say that we should reject the Prime Minister’s deal because then we will get a softer Brexit. Are they absolutely certain that they will get this softer Brexit, much of which consists of things that the Opposition whipped against when we had debates on the subject—even though on one occasion they lost? Just saying that you are against no deal does not guarantee that there will be a deal. In my view, the safest way to deliver and do our parliamentary duty is for the House of Commons to support the Prime Minister’s deal, with all its flaws.

6.40 pm

Lord Cavendish of Furness (Con): My Lords, my noble friend Lord Finkelstein never fails to amuse. Less often does he convince me. He says, as so many people do, that no deal will give an economic blow and, like everyone else who says so, does not explain why, but I will come to that later. As I intend to make passing reference to my family business, I start by declaring an interest, which can be found in the register. Before moving to more general matters, I want to raise an important issue on which I would welcome a response from my noble and learned friend the Minister when he winds up. I have given notice of this, although very late in the day.

On 14 January at col. 40, I drew your Lordships’ attention to the deeply held concerns of the noble and gallant Lord, Lord Guthrie, former Chief of the Defence Staff, and Sir Richard Dearlove, former head of MI6. They contend that the withdrawal agreement undermines, perhaps fatally, the ability of the British Government to discharge their primary duty: the defence of the realm. They have now joined forces with Professor Gwythian Prins—I hope I have pronounced his name right—emeritus research professor at the LSE, and have addressed the issue by proposing a defence treaty between the UK and EU.

These three highly distinguished men implore Parliament to prioritise national security in these words:

“We commend it to Government and Parliament and urge its immediate adoption as a safe re-statement of long-established tenets that are essential to maintaining the defence of this Realm”.

What consideration are the Government giving to this proposal, having in mind the huge implications that it contains? Given that the party opposite’s leadership has a habit of siding with those who are not always our friends, perhaps the noble Baroness, Lady Hayter of Kentish Town, may wish to comment on the proposed defence treaty and her party’s commitment to keeping this country safe.

It is fair to say that the affection in which I hold my country and its people, far from being corroded by the cynicism that sometimes accompanies growing old, is actually growing warmer. Over six decades or so, I have at intervals been deeply disappointed by the results of those general elections that did not go the way of my choosing. With hindsight, I understand now that the people were always right and, accordingly, I have an ever-increasing respect for and trust in my fellow country men and women.

When the people lend the political class their wisdom, they are owed something in return. I have read and

[LORD CAVENDISH OF FURNESS]

listened to a large number of contributions over the last few months from people from all walks of life who voted to remain in the EU but who not only accept the result but embrace it and seek to explore the opportunities that leaving the EU may present. That such people have experienced disappointment is of course beyond doubt and I pay warm tribute to them for their acceptance of the democratic process. I have been told by several speakers today that the minority never get a look-in, but I have shown my respect to that section repeatedly.

There is a distinctly different cohort who have been referred to, who also voted to leave, who refuse to accept the result, often pretending that they do, and resort to every kind of device to reverse Brexit or at the very least salami-slice it to the point where it becomes Brexit in name only. It is not the beliefs of these “reversers” that are so objectionable; it is their insistence that they are right and that the people are wrong. They are members of a readily identifiable elite who openly conspire to overturn the referendum result by trying to delegitimise the vote using specious arguments essentially denying the mental or moral capacity of ordinary voters to decide important issues. With those who challenge the intellectual or moral capacity of ordinary voters, there is always an underlying assumption that somehow the more educated sections of the population have more wisdom or judgment in making political decisions. It is plainly the case, and history surely shows, that the highly educated are no more gifted with political wisdom or insight than anyone else. I tend to side with William Buckley who said in 1963 that,

“I should sooner live in a society governed by the first two thousand names in the Boston telephone directory than in a society governed by the two thousand faculty members of Harvard University”.

However, I wonder whether there is not something else at work here: fear among the political class surrounded by things of which they perhaps have incomplete understanding. Here I include some of the mandarin class, having listened to some of that class this afternoon. There are many people, not least in your Lordships’ House, whose intellect I envy and whose achievements I hugely admire, but the regrettable way in which our institutions have evolved has meant that pitifully few of these clever and able people ever get anywhere near the rock face of our nation’s entrepreneurial journey. I look at this speakers’ list and I think I could count on one hand the contributors who have ever built, grown, manufactured, marketed or exported anything.

As I have said before, I do not know what a so-called deal will mean for my family. I suspect there will be problems and that we will not be able to avoid them. It will be no different from the usual surprises that regularly confront those of us who take risks. We intend to be ready for them. I rather take the view that the pain and disruption will never exceed the pain and disruption visited on us at regular intervals by the Labour Party’s paymasters. I am utterly bewildered by the spineless defeatism on the part of a majority of politicians and, of course, most of the media in the face of a clean break. Many speakers say how much they dislike no deal, as did my noble friend Lord Finkelstein, but rather fewer say why.

The people of this country want their stolen sovereignty returned to them. They want to be governed once more by people who are accountable, and they want the issue resolved now. In 2016 the electorate was asked to give a verdict, in 2017 Parliament overwhelmingly endorsed it, and now is the time for Parliament to ensure its delivery. Trust in our political system is at stake. The cost of betrayal will have no limits. The millions who feel betrayed will seek remedies in ways that we have no means of predicting. The noble and learned Lord, Lord Hope, said that he fears an explosion of rage, and so do I.

6.47 pm

Lord Green of Deddington: My Lords, I have not spoken in previous Brexit debates. I do so now to introduce some new and different material into the debate, and because I believe that a key aspect of it is going very badly wrong. Indeed, it could well inflict yet further damage to public confidence in our entire political system.

I refer to the scale of immigration—a matter of real importance to the general public that is not often mentioned in your Lordships’ House. In raising this matter, I speak for some 38 million of our fellow citizens who broadly share my concerns. In doing so, I declare an interest as the chairman, on a voluntary basis, of Migration Watch. It is not in question that control of our borders was a major factor in the outcome of the referendum: nor is there any doubt that immigration remains a major issue and will be a key measure by which the public will judge the outcome of Brexit.

My noble friend Lord Armstrong suggested that we look for issues that could be remedied in order for us to remain a member of the EU, and this must surely be a candidate. I accept that there is some evidence that concern about immigration has fallen away since the referendum. The refugee crisis in Europe is less acute, many assume that Brexit is now in train and will deal with it, there is much less coverage in the press of the issue, and, finally, net EU migration has fallen sharply. The noble Lord, Lord Bethell, drew our attention to an interesting recent poll. It asked whether immigration had been generally negative or positive for the UK. It found that 48% of people said that it had had a positive effect, which was much higher than the 35% at the time of the referendum. That, of course, is very good news, and I welcome it.

However, the real problem is not immigration—none of us has ever said that that was a problem—but the scale of immigration. If you ask about that, you get an entirely different view. A Channel 4 Deltapoll poll conducted last June found that 73% of respondents supported what was then the Government’s commitment to reduce net migration to fewer than 100,000. Given that the population of the UK over the age of 18 is currently 52.4 million, arithmetic will give you the 38 million people to whom I referred earlier. Of course, they do not all vote—it might be a good idea if they did. The poll also indicated support by a majority of Labour and Lib Dem supporters and remain voters as well as a majority of 18 to 24 year-olds, so it is a very widespread view. I might mention that among Conservatives it was 88%.

Unfortunately, this very strong and important public opinion was ignored in the recent White Paper on immigration policy. The effect of the proposals set out in that paper would be to open between 2 million and 5 million UK jobs to worldwide competition, depending on the salary threshold that is decided. Not only that, but the present 4 million jobs already exposed to worldwide competition would be further exposed by the removal of the cap and the labour market test. Our analysis suggests that there will be very little reduction in net migration. Indeed, there could even be an increase back towards, and maybe surpassing, the record level of one-third of a million a year. If so, a British Government would yet again be seriously underestimating the immigration pressures on our country, just as we saw in 1998 and 2004. We could find ourselves sleepwalking into another wave of immigration.

The public may not be well versed in the technicalities, but they are well aware of the pressures of population, and its impact on housing, public services and the nature and scale of our society more generally. To take just one example, between 2001 and 2016, immigration added 1 million to our population every three years. That is the population of Birmingham every three years. These are astonishing figures. They are simply not being paid sufficient attention.

Before I conclude, I will say a word about the so-called Norway solution, which was mentioned by one or two noble Lords. In theory, Norway can take migration safeguard measures unilaterally. However, in practice, the EU-EEA treaty severely limits the scope of the Norwegians to take such action. The measures are permitted only in response to problems of a sectoral or regional nature, they are restricted in scope and duration and the measures have to be reviewed by a joint committee every three months. Most importantly, such action might expose the state in question to retaliatory measures by the EU—and that is a reason that Norwegian officials have given to explain why they have never gone down this road. So if you hear any more about the Norwegian solution, bear in mind that it would have serious implications for one of the most sensitive issues in the whole debate.

To conclude, immigration remains a major public concern. That concern is justified and the public want it tackled. Failure to do so post Brexit, when it was, and is, such a major public concern, would result in further and very serious damage to public confidence in our country's political system—confidence that is already at an extremely low level.

6.54 pm

Lord Shinkwin (Con): My Lords, in just over a fortnight, government will become more accountable than it has been for more than 40 years for laws that affect the everyday lives of the British people. Parliament, including this House, will become more powerful in holding government to account, and the voters will know that, when they hire and fire a Government, policies will actually change. There can be no more hiding behind Brussels to justify inertia. There can be no more gold-plating of regulations which other EU member states ignore, to our disadvantage. There will

be no more pumping billions of taxpayers' money into a political project that actively undermines national democracies.

Noble Lords may already have heard that a ComRes poll at the weekend showed that 44% of the British public now favour leaving on WTO terms over this withdrawal agreement, representing a six-point increase since January. So the tide is turning, and yet, like King Canute, many are still in complete denial, determined to do anything they can to thwart the result of the people's vote of 2016, as my noble friend Lord Howard of Lympne, who is in his place, said in his excellent speech.

The current situation reminds me of when a Labour MP described his party's 1983 manifesto as the longest suicide note in history. But that was only 39 pages long; this deal runs to almost 600. No wonder some Labour MPs are supporting it. After all, what is there not to like for Labour when you know that the Conservative Party will be saddled with the blame, perhaps for a generation or perhaps even as indefinitely as the backstop? I fear that if my party pushes this deal as it stands through Parliament, we might as well write our own political obituary.

No one can accuse the Prime Minister of not bending over backwards to accommodate Brussels. She may have acted in good faith, but it has most definitely not reciprocated. So I say to my colleagues in the other place: if you believe in poverty of aspiration, and that the UK should reconcile itself to inexorable decline as a vassal state of the EU, please go ahead and vote for this deal; if you believe that the British people are so stupid that they will not realise we are surrendering £39 billion of their hard-earned money just for permission to start the real, interminable negotiations, please go ahead and vote for this deal; and if you believe that the 17.4 million people who voted to leave are somehow going to fall for the farcical claim that it honours the result of the people's vote of 2016, please go ahead and vote for this deal. But if you have the slightest doubt about any of the above, and if you believe that the British people deserve better than to be fed this foul-tasting fudge, please vote against it, vote against taking no deal off the table, and vote against extending Article 50—which, as my noble friend Lord Caithness said, would lead to people taking to the streets.

My noble friend Lord Cavendish mentioned fear; he was right to do so. The first disabled leader of the free world had something timeless to say about fear. His inaugural address on 4 March 1933 is famous for his assertion that,

“the only thing we have to fear is fear itself—nameless, unreasoning, unjustified terror which paralyses needed efforts to convert retreat into advance”.

But FDR's concluding remarks are even more pertinent. He said:

“We do not distrust the future of essential democracy. The people ... have not failed. In their need they have registered a mandate that they want direct, vigorous action”.

They have done so again. The people need us to respect the result of the referendum, honour our manifesto promises to leave the EU, the single market and the

[LORD SHINKWIN]
 customs union on 29 March, and bring accountability home, with or without a deal. The future of our democracy depends on it.

7.01 pm

Lord Cormack (Con): My Lords, I am sure there is no one in your Lordships' House who does not admire the courage of my noble friend Lord Shinkwin; I certainly do. But I have to say that I could not disagree more profoundly with the speech he has just given. I remind him gently that FDR was the man who brought the New Deal to the United States, who understood what people needed and who delivered.

I have taken part in most of these debates, apart from two when I was in hospital, and each has its own flavour. I shall remember from today's debate two things in particular: the speech of the noble Lord, Lord Armstrong of Ilminster, who talked of his shame—one of the greatest public servants of the last century talking of his shame—and the witty, scintillating and very profound speech of my noble friend Lord Finkelstein. On the day of our last debate he had written a brilliant article in the *Times*. I doubt whether as many people will be able to read his speech as read his article, but it was on a par with that.

Along with my noble friend Lord Finkelstein, the noble and learned Lord, Lord Hope, and many others who have spoken in this debate, I very much hope that the Prime Minister will carry the day tomorrow in the other place. Of course, her deal is not perfect but, as I have said before, if you leave a club or institution, you cannot expect to retain all the benefits of membership. Her deal is a brave one and I believe she deserves to succeed. Having said that, one has to be realistic. I hope that, as I speak, she is speaking in Brussels or Strasbourg, or wherever she has gone, and will be able to come back tomorrow with something more than a piece of paper. If she does not, I shall still support her deal and I hope that many more in the other place will support it than did so last time, as we approach 11 pm on 29 March.

However, I want to spend a little time on what we need to do if her deal does not carry tomorrow and we have the other two votes: one on no deal and the other on timing. One has to acknowledge, in parenthesis, that if the deal is carried as I would wish, some adjustment of time will almost certainly be needed to get all the consequential and necessary legislation through the two Houses; but let us put that to one side. If, following the failure of her deal—which, again, I hope does not happen—there is a large majority for no deal, then I agree strongly with my noble friend Lord Finkelstein that there will have to be a delay. I hope it will not be inordinately long, but there will have to be a delay.

What we have now to address is what we do if the deal falls during that period of delay. We all have a duty to put country before party, and to seek to come together in both Houses—separately and collectively—to come up with something that does indeed honour the result of the referendum but does not unnecessarily impoverish and endanger our country, our economy or our people. How do we do that? Again, I apologise for repeating a suggestion I have made before but, if

Parliament is going to take any sort of control, it must shelve party ideology and preference and come together. I have said before, and I say again, that I believe there would be great wisdom in having a joint Grand Committee of both Houses to examine the various options.

Before that committee met, it would be sensible to have indicative votes so that we know where there is likely to be a chance of capturing a parliamentary majority in the other place; that is where it counts. But we have something that we can contribute to a Joint Committee: there is enormous expertise in your Lordships' House, and long experience. Of those of us with a largely political background, some of us were there when we went into the European Economic Community on a free vote—the Common Market as it then was. Beyond the political, there are those in your Lordships' House who have held high diplomatic office in the Civil Service and who have a degree of collective experience and wisdom that can and should be pooled in the interests of the nation.

If we are to recapture a degree of allegiance for our democracy in the nation, we have to act as a national assembly that puts the country's interests first. I ask my noble friend on the Front Bench who will wind up to comment on this and to say that he will pass on this suggestion to those who have to make decisions. I hope it will not be necessary; I hope the Prime Minister will get her vote tomorrow. However, if she does not, we have to come together with our colleagues in the other place, regardless of our political ideologies and backgrounds, to try to rescue something that honours the result of the referendum, but does not impoverish our nation.

7.09 pm

Lord Brown of Eaton-under-Heywood (CB): My Lords, it is always a great pleasure to follow the noble Lord, Lord Cormack, although this tends to throw into sharp relief the inability of many of us to match his enviable skills of extemporaneous exposition.

Over recent months, I have found much of the Brexit process deeply depressing and disheartening, not least the apparent total disregard paid by the other place to the debates held in your Lordships' House. It is true of course that under Section 13(1)(b) of the 2018 withdrawal Act only the House of Commons has to approve any deal, although under Section 13(1)(d), an Act of Parliament, and therefore your Lordships' agreement, is required to implement the withdrawal agreement element of any overall deal. Why, however, does Section 13(1)(c) of that Act require a debate on any deal in your Lordships' House unless it is thought likely to assist the House of Commons in its consideration of these questions? Does it? Do they read our debates in *Hansard*? Frankly, and sadly, I question that.

In these debates, time and again, I am struck by the quality of your Lordships' contributions and the depth of expertise and experience that informs so many of them. I say this in relation to the views expressed on all sides of the debate, not merely those that happen to coincide with my own. When I speak of all sides of the debate, there are basically three approaches urged here: one is to buy into the deal; another is to remain in the EU; and the third is to leave with no "overarching deal", as the noble Lord, Lord Howard, puts it. That

final view—the outcome which he and a number of others who have spoken in this debate plainly prefer—is surely there and we need to have regard to it, frightening though I find it, and strongly opposed to it though I am. Therefore, I question whether the binary question of the further referendum proposed by the noble Lord, Lord Newby, which totally ignores and overlooks it, would be the proper one to put before the country.

I am opposed to any future referendum. I am now converted to the view that we should leave the Union on the terms offered, with no further referendum, on 29 March, or as soon as possible thereafter—an extension of a few weeks may be required to enact the necessary implementing legislation. I have no doubt that a short extension would be granted, for the explicit purpose of implementing a deal. As to the sort of long delay proposed by some—Sir John Major, for example, sought 12 months in his letter in Friday's *Times*, and the noble Lord, Lord Adonis, suggested a 21-month extension in his “Thunderer” article in today's *Times*, in neither case indicating with any clarity what precise purpose such an extension would be intended and expected to achieve—I am profoundly doubtful about whether the other 27 member states would unanimously agree to that. In any event, for my part, I strongly share the view of the noble and learned Lord, Lord Hope, the noble Lord, Lord Bridges, and several other participants in this debate that we should not request this in the first place.

I said earlier how impressed I had been by the contributions of your Lordships on all sides of the debate, but I should perhaps make one exception to that encomium. There appear to be one or two among your Lordships—it would be invidious to name them—who, to my mind, are labouring under a profound misapprehension on our entitlement to extend the Brexit process to negotiate a fresh and better deal. In our latest Brexit debate on 27 February, one of your Lordships said that we should seek a very long extension, if necessary, for a further referendum. So far so good, though as indicated I personally strongly disagree. The speech then went on in a way that seemed clearly to indicate a total misunderstanding of the legal position. It suggested:

“The deadline must be extended well beyond 29 March. Article 50 must be revoked—we are still in time to do that. Then, as full and remaining members of the European Union, we should embark on orderly negotiations to leave the European Union. Once those have crystallised into a concluded agreement, regulating the ultimate arrangements between ourselves and the European Union, that agreement”—[*Official Report*, 27/2/19; col. 267.]

here I paraphrase—could then be the subject of a further referendum, or, if the electorate were to agree, it would be left to Parliament.

The short point is that if Article 50 is revoked, that precludes any possible right to embark on orderly negotiations. We can revoke Article 50, to quote the language of the CJEU, the Luxembourg court, only if that revocation is,

“unequivocal and unconditional, that is to say that the purpose of that revocation is to confirm the EU membership of the Member State”.

Such a revocation would necessarily imply that the United Kingdom is now, after all, intent on remaining

a fully committed member of the EU and that we do not simply intend to give a further notification. Abuse of right is an established principle of EU law and it is really difficult to give any more obvious illustration of such an abuse than revoking the Article 50 notice essentially as a device to circumvent the requirement for unanimity of the other 27 for any extension of the two years allowed. There can be no question of the other 27 renewing or continuing negotiations on such a revocation.

I have no wish and indeed no time to weary your Lordships by repeating arguments that I advanced in early debates—although I spared your Lordships in the last one—in favour of accepting this deal but, in common I believe with the great majority of the population of this country and most of those with business interests, I urge the other House to buy into this deal on offer.

Lord Pearson of Rannoch (UKIP): My Lords, would the noble and learned Lord care to comment on a Written Answer I recently received from the Government to the effect that—

Lord Taylor of Holbeach (Con): My Lords, I think the noble Lord is perhaps testing the patience of the House by his constant interruptions. The noble and learned Lord had indeed sat down. I do not think that it is right that the noble Lord should raise another issue. He is entitled to raise purely points of clarification.

Lord Pearson of Rannoch: “Masters unfair to Molesworth.”

7.18 pm

Lord True (Con): My Lords, I will not enter into that one, but I will declare my interest as a resident for nearly 40 years of Italy and a lover of that great country and its people. That experience has influenced my attitude to what the European Union has now become.

I have not spoken lately on the subject, but my view has not changed. It is simple: the British people were asked by Parliament to decide this question. In the greatest ever exercise of democracy in our history they did so, by a majority of 1.25 million. Parliament then made law for us to leave on 29 March—in 18 days' time. Those are the facts, that is the expectation—and leave we should.

Again today, those of us who hold that view have been called “wild” or “extreme”. “Extreme” is a favourite adjective of those who do not want Britain to leave the European Union at all. I confess that I am extremely committed to the decision of the British people being respected in full, and not in name only. I am extremely depressed by the obduracy and arrogance of EU negotiators, and by the weakness of our own handling of negotiations. Like the noble Lord, Lord Kerr of Kinlochard, I am extremely concerned at the prospect of a humiliating draft agreement that would prolong rule-taking and wrangling for years, perhaps indefinitely. I am extremely distrustful of a Labour leader who promised to take Britain out, then in every Division in either House has whipped the bulk of Labour votes—the votes needed to break Labour's word to the people. And I have to say that I am extremely dismayed that so

[LORD TRUE]

many in this oh-so-superior-feeling Parliament have spent recent years plotting, week in, week out, to undermine and dilute the referendum result. Remember that? Leave—17.4 million times leave.

We have a Commons immune from dissolution, which, as my noble friend Lord Dobbs so powerfully said, has forgotten the promises on which it was elected and set itself against the people. In a crisis of Parliament against the people there is, in a democracy, only one party that must bend, or be made to bend, and that is Parliament—better by its own wise judgment before a general election, but, if necessary, after one. However many twists and turns there are in Westminster, on this great question the British people had their say and, in the end, they will have their way. How much better if that were to come on 29 March, as millions expect.

Nine hundred and ninety-one days after the referendum—what the noble Lord, Lord Hannay, earlier called “instant gratification”—many today tell us that they want more time. How much time? Nine days? Ninety days? Nine hundred and ninety-nine days? On what conditions, and to what end? I share the worries of the noble and learned Lord, Lord Hope, about that. But if there is a long delay—for which, for example, the noble Lord, Lord Hannay, asked—the chance surely must be taken for Britain, as a continuing member of the European Union, to take part in elections to the European Parliament. Let us see what manner of verdict the British people return at those elections and then judge the case for a second referendum.

We hear a call for trust. I fear that trust was a little dissipated along the road from Lancaster House to the backstop. Trust was certainly corroded by Project Fear’s calculated falsehoods. I think that trust would dissolve if the Cabinet, having lost their deal—although the Prime Minister alone could take that decision—sent a Minister to the Dispatch Box of the Commons to rub the 29 March exit day out of the expectations of the British people.

There is also a call for unity. Unity, such as I never recall in this party or Parliament, was squandered by clinging to the coat-tails of the very institution the British people voted to leave. Lately, unity has been undermined by a new doctrine of Cabinet irresponsibility, when Cabinet Ministers publicly declare opposition to Cabinet policy and are rewarded for it. Trust in politics would be best served if all, from the topmost in the land to the foreshores of Aberdeen and Hastings, returned to the bosom of country and party, where the majority voted not to remain, not to rule-take but to leave.

Every Member of the House of Commons must this week ask themselves, “Do I stand by the promises I gave my electors and let my country leave, as we in Parliament have already voted to do, on 29 March? Or do I continue in the weevil-ridden ship this Parliament has sadly become?”—a ship which it seems a piratical crew is now ready to seize to hoist the 12-starred banner of a second referendum, in which we heard today that leave would not be allowed on the ballot paper. Of course, we must examine whatever piece of paper the Prime Minister brings home this evening—but

I, for my part, would respect the people’s call to leave. That must mean voting down the withdrawal agreement as it stands, rejecting the call to disarm Britain by taking a deal on WTO terms off the table and rejecting the call to delay for no certain purpose.

I have no doubt that the noble Baroness who will follow me—a European Unionist to my European—will say that that is irresponsible. But I could never count it irresponsible to do as the people have twice decided, once in a referendum and then in a general election. They still say that people did not know what they were doing when they voted to leave. I think that after 43 years’ experience of living in the EU, they had a pretty good idea of what they were leaving. As for not understanding, I ask: did they vote for more billions to be paid to the EU, to be rule-takers without any say in making the rules and for more influence for Brussels over Britain’s defence? Did they vote for foreign bureaucrats to try to divide our kingdom within itself, for us not to compete to attract business and create jobs and for us to have to beg for permission to leave? Did they vote to be still in 1,000 days later, or did they vote to be out—and out, frankly, long before 29 March?

When it comes to not understanding what people were voting about, I submit that the failure to understand lies not with what the British people said but with those in Parliament who do not want to listen: “There’s none so deaf as those who will not hear”. I hope even now that the Government and Commons will cashier Project Fear, reject delay, have the courage to come out of the EU in the manner that my noble friend Lord Howard of Lympne so powerfully described earlier, and step into that free-trading world that is on offer—and do it just 18 days from now. Further delay would prolong uncertainty and have grave implications for our body politic.

7.26 pm

Baroness Ludford (LD): My Lords, I am as bereft of inspiration for novelty of thought as other noble Lords, such as the noble Lord, Lord Armstrong, and the noble Baroness, Lady Crawley, have expressed themselves to be this evening. In any case, I fully agree with the substance of what many other noble Lords have said, not only my usual suspects, such as my noble friends Lord Newby and Lord Thomas of Gresford, the noble Lords, Lord Hannay and Lord Kerr, and my fellow ex-MEPs, the noble Baronesses, Lady Crawley and Lady Quin—including the latter’s much-appreciated warm tribute to Simone Weil—but much of what was said by the noble Lord, Lord Finkelstein, strongly resonated with me, as did almost everything said by the noble Lord, Lord Armstrong.

We are in the middle of the theatre of the absurd. The Prime Minister is in Strasbourg negotiating the finer points of the backstop, on the basis, as my noble friend Lord Thomas said, of the reasonableness of the man on the number 87 bus. We heard reference to “Waiting for Godot” from the noble and learned Lord, Lord Goldsmith, and to a combination of “Dad’s Army”, “Blackadder” and Carry on Brexit from the noble Lord, Lord Bridges. Even as a child, I was never a fan of “Through the Looking-Glass” and I do not

think that anyone can be a fan of the way that the Prime Minister is behaving now.

This is now not just a Brexit crisis but a constitutional crisis. That this Government have trashed our country's reputation for good governance and for being stable and orderly is self-evident. We have had Cabinet irresponsibility as well, as the noble Lord, Lord True, said. I agree with him on that—maybe only on that. The UK has been made into a laughing stock for being a dysfunctional and out-of-control basket case. Like the noble Lord, Lord Cormack, I will remember the noble Lord, Lord Armstrong, expressing his shame at the situation. The noble Lord, Lord Inglewood, pointed out the contrast between this out-of-control situation and the slogan "Take back control". It is quite ironic.

I agree with the noble Lord, Lord Bridges of Headley, that the responsibility for this situation lies squarely with this Conservative Government and Conservative Party. It does not lie, as the noble Lord, Lord Howard, and latterly the noble Lord, Lord True, suggested, with remainers. It never has and it never will.

Even worse, the UK's reputation for being a reliable negotiating partner and for acting in good faith has been thrown on the scrapheap, which is ironic given the reproach to the EU over the backstop and its good faith over exiting that mechanism. As my noble friend Lord Newby noted, towards Parliament the Prime Minister has acted through sleight of hand and abuse of process, and even with sharp practice.

Not only that, the UK's respect for the rule of law and due process has been put seriously in doubt. The noble Lord, Lord Howard, regrets that we are following the Article 50 process of the treaty that we ratified and consented to be bound by. Many noble Lords believe that the Shamima Begum case also raises doubts about the Government's observance of the rule of law and, one could add, their respect for another Commonwealth country: Bangladesh. These seem strange messages to be sending as the 70th anniversary of the Commonwealth is celebrated.

There are also serious questions about this Government's real respect for the people and the trust that is necessary for democratic governance. We have heard much about how, if Brexit is not delivered, public trust will be destroyed. Apart from the fact that most of the public are watching in appalled disbelief, if they have not switched off entirely, it is ridiculous to say, as the noble Lord, Lord Bridges, did, that the "democratic imperative is to deliver on the wishes of 17.4 million people who voted to leave". Apart from the fact that the Brexiters cannot decide precisely what those wishes are, it is typical disregard of the majority of our population, who either voted remain, did not vote at all or have come on to the register since 2016. I share the anger of the noble Lord, Lord Rooker, at the way all these groups have been ignored.

How can a Government who insist that they must deliver Brexit also insist on holding over the people the threat that they may not be able to deliver their food and medicine? The noble Lord, Lord Dobbs, pursued the theme that the EU is punishing us. It is not punishment to be denied, as a non-member, the benefits of membership. You would have thought that fairly simple to understand. On the contrary, it is

cakeism to expect to continue to enjoy all the privileges without all the obligations. The noble Lord, Lord Bridges, was right to say there was a lack of honesty about the need to make choices in the trade-off between economic advantages and sovereignty.

I give your Lordships as a prime example of the effrontery of Brexiters refusing to recognise that you cannot have it all the article in today's *Evening Standard* by former Minister George Eustice. Free movement has been demonised by the Brexiters. The Prime Minister enthusiastically took up that cause; indeed, she cited it as the top achievement of her withdrawal agreement that free movement would end, ignoring that free movement is enjoyed by many British people. George Eustice is a keen leaver who has just resigned as a Minister to champion a hard no-deal Brexit, but in today's *Standard* he writes:

"Think of the waitress who served you coffee today, the cleaners working late tonight, the care worker who will help your grandmother start the day tomorrow or the farm worker who has been out in the rain to put fresh vegetables on your table. Do we value these people and the work they do?"

Yes, remainers value these people. He concludes that we need a scheme for lower-skilled, not just high-skilled, employment, which is precisely what we have enjoyed for all the years of EU free movement. You really could not make it up.

The Justice Minister Rory Stewart said at the weekend that every alternative to May's deal is unknown and uncertain. That is not true. We know what we have as a member of the EU. To some extent, we also know what no deal means: huge chaos, cost and extra bureaucracy. The thing we do not know much about is what the future relationship will be, as it is largely a blindfold Brexit. The only honourable thing for the Prime Minister to do now is to put the matter back to the people to choose between her package and the known known we enjoy now. That, of course, needs an extension, which sounds, according to tweets, almost in the bag, with only the length of that extension in question. The Prime Minister thus has a last-minute chance to redeem some of her and her country's reputation by doing the right thing during that extension.

7.35 pm

Baroness Hayter of Kentish Town (Lab): My Lords, the noble Lord, Lord Hodgson of Astley Abbots, says, "It ain't over till the fat lady sings". I am not sure whether he is expecting me to break into song to signal that we are near the end of this debate, or whether he was referring to the Prime Minister, who is touching down about now in Strasbourg.

Lord Hodgson of Astley Abbots: May I say to the noble Baroness that I was not referring to her in any way? The man on the Clapham omnibus is a theoretical person and so is the fat lady in the example I gave.

Baroness Hayter of Kentish Town: Listening to Ministers—not tonight, but on other occasions—one might think that the lack of an agreement is all the EU's fault. However, of course, it is we who chose to leave the EU: that is, we as a country, not necessarily as individuals. Mrs May chose her red lines before she understood the task or consulted those who did. Mrs May chose to trigger Article 50 and thus our exit day. It was the Prime Minister who chose our negotiating lead: he

[BARONESS HAYTER OF KENTISH TOWN] resigned. Mrs May chose our second negotiating lead: he resigned. Mrs May chose our third negotiating lead: he could not hack it, so she then sent the Attorney-General over, and now we find that he cannot hack it.

The truth is, of course, that all those faults lie with the Prime Minister. She failed to reach out to the 48%—who, my noble friend Lord Rooker reminded us, are 15.8 million people—who might accept that they lost the referendum but surely still have the right to a Brexit that would be the best possible one for the country. She failed to reach out to the Opposition, even after she lost her majority, to see whether a deal could be honed which could be supported across the Commons. She failed to heed anyone other than the ERG, whose concerns for the countries, regions and interests of the UK have yet to be demonstrated. She negotiated a deal that she cannot even sell to her own Parliament: it was defeated by 230 in the House of Commons and looks set for a similar defeat tomorrow. Is it any wonder that one Cabinet source told the *Telegraph*:

“I would say there are only two ministers in the Cabinet who still support her”?

We heard earlier that one of these is “Failing Grayling”.

How much better it would have been for the country and, indeed, for her premiership, had the Prime Minister heeded this House, but also the Opposition, and crafted a deal which would see us in a customs union with the EU, solving much of the Northern Ireland border checks issue and, importantly, preserving our supply chains and our manufacturers’ major trading routes. Blinded by those ludicrous red lines, the Prime Minister ignored the one path out of her dilemma. In doing so, she ignored the majority of those who voted in the House of Commons against her deal, seeking to bend only to a minority of those who voted against her: the hard Brexiters. Of course, they fixated on the backstop because, truth be told, they had never considered the Northern Ireland dimension of Brexit before 23 June 2016. As the noble Lord, Lord Kerr, reminded us earlier, it was the UK which proposed a backstop. The EU agreed to it and now the UK is saying, “Oh, we do not now agree with our own proposal, so please will the 27 change it?”

Throughout this sorry saga, the Prime Minister and her team have shown little respect for the EU, its Parliament, which has to agree the deal, or its key players, who find themselves addressed via a lecture in Grimsby, rather than across the table.

The Government have failed to respect both the EU negotiators and staff who have devoted untold hours to implementing a decision taken by the UK and the 27 rather busy Prime Ministers who keep having to add this to their already demanding agenda. Indeed, it hardly seems conducive to a better outcome for our Foreign Secretary to threaten that relations with the EU will be “poisoned for many years” if Brussels fails to budge in the talks and that,

“future generations, if this ends in acrimony ... will say the EU got this wrong”.

There is no blame to our government; everything is the fault of the EU. Perhaps that is what leads the noble

Lord, Lord Armstrong of Ilminster, to say that he has never felt a greater sense of shame.

As the noble Lord, Lord Finkelstein, has made clear, the one way not to leave the EU is without a deal, because of the sudden imposition of WTO tariffs and the ending of existing commercial relationships all built on zero tariffs and shared rules—all without even a transition period for business, importers, exporters and our ports to prepare. As for holidaymakers, perhaps 1.5 million of their passports may not work across the 27 member states because there is not enough time left on them. Their health cover will be lost; there will be queues at Eurostar and ports. This is to say nothing of their not being able to take their pets with them. They will not like that hard crash out as reality bites. Crucially, it would leave our UK citizens living across the 27 countries in a legal limbo, their healthcare, residency, jobs, and even driving licences uncertain. That is all without the opportunity costs mentioned by the noble Lord, Lord Horam, and the health, crime, housing and education issues that we are not dealing with because of the attention and money being spent considering no deal.

The noble Lord, Lord Howard of Lympne, warned of a loss of trust if we fail to leave on the 29th of this month. But there will be a much greater loss of trust if we leave in such a way as to damage the very people who voted for Brexit. So where do the Government go from here? It is possible they are going to need a Bill I have just been sent. It is the Bill on how to revoke Article 50—the draftsman was worried that the Government did not have it, so just in case they need it I offer it to the Minister.

If the Prime Minister fails to engage with the Opposition, with those willing to take the country forward on a consensual, constructive route, she risks being written up in history, either as my noble and learned friend Lord Goldsmith described—as Vladimir waiting for Godot, perhaps with the noble and learned Lord, Lord Keen, as the boy, waiting for an impossible majority to arrive—or perhaps, more seriously, as a chapter in the next Christopher Clark version of *The Sleepwalkers*. This is the book on how the 1914 leaders took Europe to war by simply sleepwalking into it. She may do the same by dozing on the job, so that the UK falls, heedlessly and unnecessarily, into the economic insecurity and diplomatic catastrophe of an unplanned, unwarranted and unnecessary no-deal exit from the near half-century of co-operation, growth and development we have had with our near neighbours in the EU.

It is not for this House to pass judgment on whether the Prime Minister has the confidence of the Commons. But I can say with absolute confidence that the Opposition have little faith in her approach to Brexit, in her deal and in her ability to negotiate an acceptable way forward in the interests of the whole of the UK. Our future is in her hands. I hope that makes others sleep easy, because it does not me.

7.44 pm

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, mere words can hardly do justice to my feelings on being invited to close yet another debate on Brexit, particularly so shortly after a debate that covered the same territory and since

when, it is acknowledged, so little has changed. If there is one element of this debate that will stand out for me, it is the suggestion from the noble Baroness, Lady Hayter, that I would still be able to play the boy. The noble and learned Lord, Lord Goldsmith, sought to draw an analogy between the role of my right honourable and learned friend the Attorney-General and that of Godot, but of course it will be obvious to all in this Chamber that my right honourable and learned friend had far greater presence and substance on the EU stage than Godot ever managed in a two-act play.

That continues; the noble and learned Lord asked whether those negotiations have stalled, and the answer is most certainly no. My right honourable friend the Prime Minister is, as some have already discerned from the media, traveling to Strasbourg, where it is proposed she will meet with Mr Juncker at 9 pm Strasbourg time, which is 8 pm our time. That meeting is being held with a purpose, and it is being held because there continues to be dialogue between us and the European Union over the withdrawal agreement. I am sure noble Lords will appreciate that it is not for me at this time to anticipate the outcome of those discussions; nor is it for me to disclose the scope of those discussions at this time. However, it is sufficient perhaps to observe that such discussions will take place, and we look forward to their outcome once it becomes clear.

My noble friend Lord Hodgson of Astley Abbots made the clear and well-established point that, in the context of negotiation—which, as my noble friend Lord Finkelstein observed, requires more than one party when you are doing a deal—the tough issues are always sorted out at the 11th hour. Indeed, I have no doubt that the noble and learned Lord, Lord Goldsmith, will recall from his own experience in commercial litigation that, at least in the past, the most intractable and difficult disputes were very often finally resolved at the door of the court. These agreements almost invariably occur at the 11th hour.

In that context, I turn to the questions raised by the noble Lord, Lord Newby. He enumerated seven, but I respectfully observe that they tend to merge with each other. It is true that the Prime Minister is going to Strasbourg—indeed, she may already be there—and it is certainly true that she is taking with her a willingness to listen and to discuss further the resolution of the issues surrounding the withdrawal agreement. She is proceeding in a mood of optimism, as one would in the context of any such discussion. That will lead on tomorrow to the meaningful vote in the other place. It may be that further news will become available before any Motion is moved tomorrow, but that is the nature of negotiation, and that will be accommodated as and when it is required.

The noble and learned Lord, Lord Hope of Craighead, referred to the issue of delay; I concur with his and other noble Lords' observations about the dangers of delay in the context of the ongoing process. It may be that there will be an amendable Motion in respect of exit day. However, a statutory instrument would also be required in the event of further changes to the exit date, assuming there was consent from the European

Union, because of the definition of that term already contained in the 2018 Act. But it could be done. As for Little Jim, I am beginning to feel some sympathy for his condition. Slow he may have been devoured, but at least it was the end.

The noble Lord, Lord Pearson of Rannoch, and my noble friend Lord Saatchi suggested that negotiations be carried on with other parties in some other manner but, with great respect, Article 50 provides that we negotiate with the European Union, and the European Union has appointed the Commission to negotiate on its behalf. That is where we stand.

Lord Pearson of Rannoch: My Lords, will the Minister therefore comment on the Written Answer received from the Government, which states that the United Kingdom has resiled unilaterally from 52 treaties since 1988 and answer why we cannot do that now in the interests of continuing free trade with the people of Europe, the disappearance of the Irish problem and the peace and prosperity in front of us?

Lord Keen of Elie: There is a very material distinction between being able to resign from a treaty which makes provision for such a move and denunciation of a treaty. We have no intention of denouncing our obligations. We have proceeded under the mechanisms provided for by the Lisbon treaty—namely, Article 50.

The noble Baroness, Lady Quin, alluded to her background and experience in Europe, which I acknowledge, but I notice that we have seen the European Economic Community transmogrify through Maastricht and Lisbon into something quite distinct from that ever anticipated by its founders.

The noble Lord, Lord Thomas of Gresford, wondered why the DUP could not see the economic benefits of the backstop. I have no doubt that the DUP can recognise such economic benefit as there may be, but it sees more clearly the constitutional challenges that could be presented. It is that which has caused it concern.

My noble friend Lady Noakes observed that there was really nothing to debate at this stage. It appears to me that noble Lords have raised several issues for debate here, but of course we are left in anticipation of what may occur during the course of negotiations that are still to come.

The noble Lord, Lord Wigley, made it quite clear that, in his mind, all roads lead to Rome—or perhaps not Rome but a second referendum. I acknowledge his desire to go in that direction.

My noble friend the Duke of Wellington made a plea to all parties to compromise, and that is indeed what we seek to do here. He underlined how important it was that we should leave on 29 March with a deal. It is the Prime Minister's wish that we should leave on that date with a deal.

The noble Lord, Lord Kerr of Kinlochard, in his inimitable fashion, observed that there were no new facts and that it was therefore necessary to deal with fantasy. I respond: it is never necessary to deal with fantasy and I would not intend engage with it at this stage.

[LORD KEEN OF ELIE]

The noble Lord, Lord Dobbs, asked about the meaning of a hard border. That is a border that includes any physical infrastructure with related checks and controls. It is not something that anyone desires for the island of Ireland.

The noble Lord, Lord Rooker, in alluding to the proposition that 16 year-olds should have the vote in a second referendum, observed that it was their future. I say, albeit with a degree of optimism, that I also regard it as my future. Therefore, I claim an equal interest in the outcome of the present negotiation, albeit not for necessarily the same length of time.

The noble Lord, Lord Bethell, alluded to the difficulty and dangers that would face us if we were found to breach the trust that has been placed in Parliament as a consequence of the referendum. I say no more of that.

The noble Lords, Lord Horam, Lord Armstrong and Lord Inglewood, referred to the proposition that we find ourselves in a mess. We find ourselves in a very challenging position because we are engaged in a deep and difficult negotiation in which we should expect the EU 27 to represent properly their interests, not ours. I acknowledge that, but I would observe that the darkest hour is often just before the dawn. As dawn rises in Strasbourg, we hope to see the outcome of the further, potentially final, negotiations that will bring the withdrawal agreement before the other place tomorrow.

The noble Baroness, Lady Crawley, alluded to EU minimum standards in the context of workers' rights. I would point out that the United Kingdom stands well above those minimum standards in many areas, particularly in relation to maternity benefits, paternity benefits and elsewhere. Indeed, it has been reported that we stand second only to Sweden in the standards we maintain, so we are not driven by Europe on such standards. Indeed, I suggest that we drive Europe forward in many instances.

Baroness Crawley: I remind the Minister that if we look at the maternity leave directive back in the early 1990s, I am afraid that this country was brought kicking and screaming up to the minimum standards required.

Lord Keen of Elie: The birth of an idea often involves a degree of kicking and screaming. We arrived there.

The noble Lord, Lord Cavendish of Furness, asked about the claims by Sir Richard Dearlove and the noble and gallant Lord, Lord Guthrie, regarding defence and security. We challenge entirely their assertions in this area, which we suggest are neither correct nor well founded. The withdrawal agreement does not threaten the national security of the United Kingdom. It does not place control over aspects of our national security in foreign hands. The withdrawal agreement and political declaration in no way cut across our NATO membership, our bilateral relationships—including with the United States—or our Five Eyes intelligence co-operation. I hope that that will put his mind at rest.

I acknowledge the point made by the noble Lord, Lord Green of Deddington, that the control of our borders was a major issue in the referendum. I also note that concern over immigration has lessened in the recent past. That is to be commended but we are conscious of the position.

My noble friend Lord Cormack invited me to comment on his suggestion for a joint Grand Committee. I note his suggestion.

The noble and learned Lord, Lord Brown of Eaton-under-Heywood, referred to the observations of the noble Viscount, Lord Hailsham—I am sorry, the unnamed noble Lord—regarding the proposition to revoke Article 50 so that we could proceed to negotiate a different deal to withdraw. I concur entirely with the noble and learned Lord's observations regarding the interpretation and application of the judgment in the Whiteman case. It does not appear to me—I believe I said this at the time of the previous debate—that we could proceed with that course of action.

In view of the time, I will conclude. The noble Baroness, Lady Ludford, began by saying that I am bereft of inspiration for novel thoughts. For once, we find ourselves in agreement. I am obliged to noble Lords for their contributions to the debate.

Motion agreed.

House adjourned at 7.58 pm.