



Library Note

European Union (Notification of Withdrawal) Bill (HL Bill 103 of 2016–17)

The [European Union \(Notification of Withdrawal\) Bill](#) was introduced in the House of Lords on 8 February 2017 and is scheduled to have its second reading on 20 and 21 February 2017. It would give the Prime Minister power to notify the European Council of the UK's intention to withdraw from the European Union, under the procedure set out in Article 50 of the Treaty on European Union. The Explanatory Notes state that the Bill would also provide for the UK to leave the European Atomic Energy Community (Euratom). The Government has stated its intention to trigger Article 50 before the end of March 2017 and it has set out a case for fast-tracking the Bill to meet this timetable.

The Government has introduced this Bill following a Supreme Court ruling that an Act of Parliament is required to give notice of the UK's decision to withdraw from the European Union. The Supreme Court also concluded that the Sewel Convention (according to which the Westminster Parliament does not normally legislate with regard to devolved matters except with the agreement of the devolved legislature) does not give rise to a legally enforceable obligation. The Government has stated that the Bill does not contain any provision which gives rise to the need for a legislative consent motion in the devolved legislatures. On 7 February 2017, the Scottish Parliament voted in favour of a motion that the Bill should not proceed, although this has no legal force to block the Bill.

This briefing summarises the debates that took place on the Bill in the House of Commons. The Bill was given its second reading by 498 votes to 114, a majority of 384. Divisions were held at committee stage on: arrangements for parliamentary scrutiny of the Brexit negotiations; the status of EU nationals in the UK; the role and status of the Joint Ministerial Committee on EU Negotiations; EU funding in Wales; Northern Ireland and the Good Friday Agreement; parliamentary votes to approve deals negotiated with the EU; 'resetting' the UK's membership of the EU if a deal was not negotiated within two years; the case for a deal to be approved by the British people in a referendum; requiring the Government to report on the economic and financial impact of Brexit; setting statutory negotiating objectives; maintaining EU tax avoidance and evasion measures; the role of Gibraltar in the Brexit process; and the process for leaving Euratom. All of the new clauses and amendments were defeated and the Bill was not amended at committee stage. The Government gave an undertaking that both Houses of Parliament would be given a vote on the withdrawal arrangements and the UK's future relationship with the European Union before any agreement was concluded, and it expected to hold the vote before the European Parliament debated and voted on the final agreement. However, the Government said that there was "no need" to amend the Bill to reflect this. Keir Starmer described this as a "very important concession", but other MPs were less convinced that it represented an advance on what the Government had previously promised. The Bill was given its third reading by 494 votes to 122, a majority of 372.

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I. Background: *Miller* and the Supreme Court

Following the vote in the June 2016 referendum in favour of leaving the European Union, the Prime Minister, Theresa May, announced in October 2016 that she would trigger Article 50 of the [Treaty on European Union](#) by the end of March 2017.¹ Article 50 sets out a process for member states to follow should they decide to leave the EU. It provides that once a member state has taken the decision to “withdraw from the Union in accordance with its own constitutional requirements”, it shall “notify the European Council of its intention”, whereupon a formal exit negotiation process can begin.

The Government took the view that it was “constitutionally proper and lawful for the Government to begin to give effect to the decision of the people by the use of prerogative powers to invoke Article 50” and that “legally there [was] no obligation to consult Parliament on triggering Article 50”.² However, in 2016 a number of claimants, led by Gina Miller, brought claims for judicial review against the Government, arguing that “owing to the well-established rule that prerogative powers may not extend to acts which result in a change to UK domestic law, and withdrawal from the EU Treaties would change domestic law, the Government cannot serve a notice [under Article 50] unless first authorised to do so by an Act of Parliament”.³ On 3 November 2016, the High Court of England and Wales handed down a judgment in which it held that the Secretary of State did not have power under the Crown’s prerogative to give notice pursuant to Article 50.⁴ The Court accepted the claimants’ arguments that the Crown could not change domestic law and nullify rights under the law unless Parliament had conferred upon the Crown authority to do so by an Act of Parliament, and that the European Communities Act 1972 (ECA) did not give the Crown the necessary authority.⁵

The Government’s appeal against the High Court ruling was heard by the Supreme Court in December 2016, and the Supreme Court judgment was handed down on 24 January 2017. By a majority of eight to three, the Supreme Court dismissed the appeal and held that an Act of Parliament is required to authorise ministers to give notice of the UK’s decision to withdraw from the European Union.⁶

In response, David Davis, Secretary of State for Exiting the European Union, said it went “without saying” that the Government would respect the Supreme Court judgment.⁷ He made clear that it did “not change the fact the UK will be leaving the European Union” and that the Government would “deliver on the instruction that the people of the UK have given”. He said that within days he would introduce legislation to give the Government legal power to trigger Article 50 and begin the formal process of withdrawal. He also stated that the Government’s timetable for invoking Article 50 by the end of March still stood. Mr Davis acknowledged that Parliament would “rightly scrutinise and debate this legislation”, but said he “trust[ed] that no-

¹ BBC News, [‘Brexit: Theresa May to Trigger Article 50 by End of March’](#), 2 October 2016.

² [HC Hansard, 24 January 2017, col 161](#); and House of Commons, [‘Written Question: Parliament’](#), 28 July 2016, 43453.

³ Supreme Court, [Press Summary—R \(On the Application of Miller and Another\)\(Respondents\) v Secretary of State for Exiting the European Union \(Appellant\)](#), 24 January 2017.

⁴ [R \(Miller\) v Secretary of State for Exiting the European Union \[2016\] EWHC 2768 \(Admin\)](#), para 111.

⁵ *ibid*, paras 95–6.

⁶ Supreme Court, [Press Summary—R \(On the Application of Miller and Another\)\(Respondents\) v Secretary of State for Exiting the European Union \(Appellant\)](#), 24 January 2017. Lord Reed, Lord Carnwath and Lord Hughes dissented from the majority.

⁷ [HC Hansard, 24 January 2017, col 162](#).

one will seek to make it a vehicle for attempts to thwart the will of the people, or frustrate or delay the process of our exit from the European Union”.⁸

The European Union (Notification of Withdrawal) Bill was introduced in the House of Commons on 26 January 2017, two days after the Supreme Court judgment.

2. The Bill's Provisions

2.1 Overview

The [European Union \(Notification of Withdrawal\) Bill](#) (HL Bill 103 of session 2016–7) was introduced in the House of Lords on 8 February 2017, having completed its Commons stages earlier that day. It is scheduled to have its second reading in the House of Lords on 20 and 21 February 2017.

The Bill would give the Prime Minister power to notify the European Council of the UK's intention to withdraw from the European Union. The Bill consists of two clauses (the second of which simply sets out the Bill's short title). Clause 1, the operative clause, provides that:

- (1) The Prime Minister may notify, under Article 50(2) of the Treaty on European Union, the United Kingdom's intention to withdraw from the EU.
- (2) This section has effect despite any provision made by or under the European Communities Act 1972 or any other enactment.

Clause 1(1) would give the Prime Minister the power to trigger Article 50, but it does not contain an obligation to do so. The Bill does not specify any deadline or timescale for exercising this power. The Government has stated that clause 1(2) would confer this power “regardless of any restrictions which may arise from any other legislation, including the European Communities Act 1972” (ECA).⁹ The ECA legislated for the UK's accession to the EU. It enables EU law to have effect in the UK, and gives effect to the doctrine of supremacy of EU law. The Government intends to introduce a Great Repeal Bill in the next Queen's Speech to repeal the ECA so that it would cease to apply from the day of the UK's exit from the EU.¹⁰

Under the terms of Article 50, the UK would cease to be a member of the European Union from the date of entry into force of a withdrawal agreement negotiated with the EU, or failing that, two years after the UK had given notification of its intention to withdraw, unless the European Council, in agreement with the member states concerned, unanimously decides to extend the two-year period.

⁸ [HC Hansard, 24 January 2017, col 162](#).

⁹ [Explanatory Notes](#), p 4.

¹⁰ BBC News, '[Brexit: Theresa May to Trigger Article 50 by End of March](#)', 2 October 2016. For further details about the Great Repeal Bill, see: House of Commons Library, [Legislating for Brexit: The Great Repeal Bill](#), 21 November 2016.

2.2 Euratom

The Explanatory Notes state that the Bill also would also provide for the UK to leave Euratom:

The power that is provided by clause 1(1) applies to withdrawal from the EU. This includes the European Atomic Energy Community ('Euratom'), as the European Union (Amendment) Act 2008 sets out that the term 'EU' includes (as the context permits or requires) Euratom (section 3(2)).¹¹

The 1957 Euratom Treaty established the European Atomic Energy Community.¹² It deals with the peaceful use of nuclear energy within the EU, covering areas such as nuclear safety (the safe operation of nuclear installations), nuclear safeguards (ensuring nuclear materials are used only for the purposes declared by the users) and nuclear security (the physical protection of nuclear material and installations) and research into nuclear fusion. Although Euratom is a separate legal entity from the EU, it is governed by the EU's institutions. David Jones, Minister of State at the Department for Exiting the European Union, argued that this common institutional framework, "including the European Court of Justice, a role for the Commission and decision making in the Council" made Euratom and the EU "uniquely legally joined" and that "triggering Article 50 therefore also entails giving notice to leave Euratom".¹³

Steve Peers, Professor of EU Law and Human Rights Law at the University of Essex, has explained why this legal linkage in his view means that "in practice leaving Euratom is the inevitable consequence of Brexit":

The founding treaties [of Euratom and the EEC] were negotiated together, and they have always had the same membership. They shared some institutions from the outset in 1958, and all institutions from 1967, when the 'Merger Treaty' brought together the separate Councils and Commissions which the three Communities (the EEC, Euratom and the European Coal and Steel Community) had until then.

Since that point, the provisions on the institutions in the Euratom Treaty have been updated every time the corresponding rules in the EEC Treaty were amended. Those institutional rules are now split between the Treaty on the Functioning of the European Union (TFEU)—as the EEC Treaty is now called—and the Treaty on European Union (TEU). The link between the latter two treaties, which are the legal basis for the EU, and the Euratom Treaty, is now set out in Article 106a of the Euratom Treaty, which was inserted by the Treaty of Lisbon:

1. Article 7, Articles 13 to 19, Article 48(2) to (5), and Articles 49 and 50 of the Treaty on European Union, and Article 15, Articles 223 to 236, Articles 237 to 244, Article 245, Articles 246 to 270, Article 272, 273 and 274, Articles 277 to 281, Articles 285 to 304, Articles 310 to 320, Articles 322 to 325 and Articles 336, 342 and 344 of the Treaty on the Functioning of the European Union, and the Protocol on Transitional Provisions, shall apply to this Treaty.

As you can see, Article 50 of the TEU applies to the Euratom Treaty. That could be interpreted one of two ways. First of all, it could mean that a Member State is free to

¹¹ [Explanatory Notes](#), p 4.

¹² European Commission, '[Nuclear Energy](#)', accessed 13 February 2017.

¹³ [HC Hansard, 1 February 2017, col 1131](#).

leave the EU but *not* Euratom (or the other way around), if it chooses. Article 50 is the exit route for leaving *either* body separately, or both of them together, as that member state desires. Alternatively, it could mean that if a member state wants to leave the EU, it *must* also leave Euratom.

Which view is correct? In my view, the answer is clear if Article 106a is read as a whole. For it does not only refer to Article 50 TEU, but also to ten other Articles in the TEU, and 85 Articles in the TFEU. A large number of these Articles refer to the EU institutions. For instance, Article 13 TEU describes the institutional framework as a whole; Article 14 sets out the basic rules of the European Parliament; Article 15 the European Council; Article 16 the Council; Article 17 the Commission; Article 18 the Foreign Policy High Representative; and Article 19 the EU Court. Equally, the TFEU Articles which apply to the Euratom Treaty make up most of Part Six of the TFEU (Article 223-334 of that Treaty), which is the ‘Institutional and Financial Provisions’. They go into more detail about issues like determining the number of Members of the European Parliament and the jurisdiction of the EU courts.

In practical terms, this would mean that if the UK left the EU but not Euratom, it would *still have* Members of the European Parliament, a Commissioner, a role on the Council, judges on the EU courts, and so on. From a legal perspective, it’s hard to believe this odd scenario was intended by the drafters of the Treaties; from a political perspective, this prospect would surely dismay those who voted to leave.

[...] So the best interpretation of the current law is that a member state must also leave Euratom if it wants to leave the EU.¹⁴

However, some nuclear energy lawyers disagree with this interpretation, and maintain that the nexus between the treaties creates a parallel but separate legal process for leaving Euratom. Jonathan Leech and Rupert Cowan have argued that:

The point turns on the meaning of Article 106a of the Euratom Treaty, which states that (amongst other things) Article 50 of the Treaty on European Union “shall apply to this Treaty”. Article 106a then goes on to explain how Article 50 is to work in context of Euratom—inserting references to Euratom and the Euratom Treaty in place of references to the EU and EU Treaties. Re-writing Article 50 in this way creates a similar but separate exit process.

If Euratom was to be included in a single Article 50 process then Article 106a of the Euratom Treaty would simply have added references to Euratom into Article 50, retaining references to the EU. It does not do this. Triggering exit from the EU therefore has no legal effect on the UK’s membership of Euratom.

There is no legal need for the UK to trigger a Euratom exit at the same time as leaving the EU, or at all.¹⁵

Leech and Cowan argue that although the European Union (Amendment) Act 2008 “makes clear that, in UK law, references to the EU include Euratom”—a statement made by the

¹⁴ Steve Peers, ‘[The UK Brexits Euratom: Legal Framework and Future Developments](#)’, EU Law Analysis Blog, 30 January 2017.

¹⁵ Jonathan Leech and Rupert Cowan, ‘[Brexit and Euratom: No Rush?](#)’, *World Nuclear News*, 20 January 2017.

Government in its Brexit white paper and in the Explanatory Notes to the Bill—this cannot be read across to the treaties.¹⁶ Leech and Cowan maintain that the statement “overlooks the point that the 2008 Act does not apply to Article 50 of the Treaty on European Union—which is of course neither an Act nor an instrument made under an Act”. They go on to say that: “There is nothing in the 2008 Act to suggest that reference to the Treaty on European Union automatically includes reference to the Euratom Treaty”. In their view, the Government would need specific parliamentary authority to trigger exit from Euratom, and they suggest that “it would have been preferable to include separate authority for Euratom exit” on the face of the Bill.

It has been suggested by some that the Government’s intention to withdraw from Euratom has come as a surprise. Paul Blomfield, Shadow Minister for Exiting the European Union, said that the “revelation that the Bill will trigger our exit from Euratom” was “tucked away in the Explanatory Notes”.¹⁷ He was “pretty confident that the British people did not vote against our leading role on nuclear energy, safety and research” and it “certainly was not on the ballot paper”. Patrick Grady (SNP MP for Glasgow North) said that “the command paper that the UK Government published in February last year on the impact of Brexit made no mention of coming out of Euratom”.¹⁸ He felt that the UK was “being taken out of it without any warning”.

In July 2016, when asked whether the Government had any plans to leave the European Atomic Energy Community, Lord Bourne of Aberystwyth, then Parliamentary Under Secretary at the Department of Energy and Climate Change, said that: “The implications of the European referendum result for our membership of the European Atomic Energy Community have yet to be determined”.¹⁹ In November 2016, in response to a parliamentary question about whether the Government intended to withdraw from the Euratom Treaty, Baroness Neville-Rolfe, then Minister of State at the Department for Business, Energy and Industrial Strategy, said that the Government was “assessing the legal and policy implications of the public’s vote to leave the EU”, including “assessing the implications for the UK’s membership of Euratom”.²⁰

The Government has said that “our precise relationship with Euratom, and the means by which we cooperate on nuclear matters, will be a matter for the negotiations” but has stressed that “it is an important priority for us” and that “leaving Euratom does not affect our clear aim of seeking to maintain close and effective arrangements for civil nuclear cooperation, safeguards, safety and trade with Europe and our international partners”.²¹ David Davis, Secretary of State for Exiting the European Union, pointed out at the Bill’s second reading that the UK would remain a member of the International Atomic Energy Agency:

Euratom passes to its constituent countries the regulations, rules and supervision that it inherits, as it were, from the International Atomic Energy Agency, of which we are still a member. When we come to negotiate with the European Union on this matter, if it is not possible to come to a conclusion involving some sort of relationship with Euratom,

¹⁶ Jonathan Leech and Rupert Cowan, [‘Brexit White Paper Confuses Euratom Debate’](#), *World Nuclear News*, 8 February 2017.

¹⁷ [HC Hansard, 8 February 2017, col 449.](#)

¹⁸ [HC Hansard, 7 February 2017, col 371.](#)

¹⁹ House of Lords, [‘Written Question: Euratom’](#), 7 July 2016, HL911.

²⁰ House of Lords, [‘Written Question: Euratom’](#), 2 November 2016, HL2652.

²¹ HM Government, [‘The United Kingdom’s Exit From and New Partnership With the European Union’](#), 2 February 2017, Cm 9147, p 44.

we will no doubt be able to reach one with the International Atomic Energy Agency, which is possibly the most respectable international body in the world.²²

Tom Greatrex, Chief Executive of the Nuclear Industry Association (the trade association of the UK civil nuclear industry) and a former Labour Shadow Energy Minister, said that the UK civil nuclear industry had “made it crystal clear to the Government that our preferred position is to maintain membership of Euratom”.²³ However, if this was not possible, he said it was “vital” for transitional arrangements to be put in place “to give the UK time to negotiate and complete new arrangements with EU member states and third countries including the US, Japan and Canada who have Nuclear Cooperation Agreements within the Euratom framework”. He said that the UK should remain a member of Euratom until such arrangements had been put in place.

An amendment to make the process of leaving Euratom separate from the process of leaving the EU was defeated at the Bill’s committee stage in the Commons—see section 8.14 of this briefing for further details.

2.3 European Economic Area

Neither the Bill nor the Explanatory Notes make reference to the UK leaving the European Economic Area (EEA). On 3 February 2017, the High Court of England and Wales dismissed as “premature” an application for judicial review which had sought a declaration that the UK could only leave the single market by following the formal withdrawal procedure under Article 127 of the EEA Agreement and with Parliament’s prior authorisation in the form of an Act of Parliament.

In December 2016, Adrian Yalland and Peter Wilding, from the think tank British Influence, brought a judicial review application which sought to challenge the Government’s statement that the United Kingdom automatically would automatically leave the European Economic Area (EEA) on its departure from the EU under Article 50.²⁴ A parallel claim was brought by four anonymous individuals, described as a mix of EU, EEA and UK nationals.²⁵ British Influence (writing before the Supreme Court judgment in *Miller*) stated its case on its website as follows:

[...] the Government, along with the EU Commission, is arguing that we leave the EEA at the same time as we leave the EU. They use Article 126 of the EEA Agreement to support this case: Article 126 states that contracting parties must be part either of the EU or EFTA [the European Free Trade Association].

There are many legal arguments which appear to counter this view. The first key argument is Article 127 of the EEA Agreement, which requires contracting parties (of which the UK is one) to give ‘at least twelve months’ notice’ before leaving—which suggests a separate departure process from Article 50.

²² [HC Hansard, 31 January 2017, col 820.](#)

²³ Nuclear Industry Association, ‘[NIA Comment on EU Withdrawal Bill](#)’, 1 February 2017.

²⁴ Monckton Chambers, ‘[Single Market Challenge: Adrian Yalland and Peter Wilding v SSEU \(Article 127 EEA\)](#)’, 23 January 2017.

²⁵ Owen Bowcott, ‘[Fresh Brexit Challenge in High Court Over Leaving Single Market and EEA](#)’, *Guardian*, 29 December 2016.

The second is the existence of the European Economic Area Act 1993, a British Act of Parliament which enshrines the EEA in UK domestic law. What Parliament has enacted, Parliament will have to repeal in the normal way.

If it can be proven that the UK is a contracting party to the EEA in its own right, and not as part of the EU, then the EU will not be able to force us out of the single market. That gives Britain a cast-iron negotiating tool which would previously not have been available.

It may also mean that the Government will not be able to force us out of the single market without parliamentary approval. Not only could Article 127 be subject to a vote much as Article 50 may be (subject to the Supreme Court's ruling) but MPs would have to vote to repeal the European Economic Area Act 1993.²⁶

In response to press reports in November 2016 that British Influence was planning to bring legal proceedings, a Government spokesperson said: "As the UK is party to the EEA Agreement only in its capacity as an EU member state, once we leave the European Union we will automatically cease to be a member of the EEA".²⁷

A hearing into the judicial review application was held at the High Court on 3 February 2017. James Eadie QC, acting for the Government, argued that since ministers had not yet decided which legal route would be taken to leave the EEA, then the challenge was "premature" and should be rejected.²⁸ Mr Eadie said:

The court is being invited to embark on an exercise which is discretionary in an area which raises a series of thoroughly controversial issues where you would have to speculate as to which of these contingencies was or was not going to be in play and what the legal consequences might be.

It's entirely possible that Parliament will take a whole series of steps in relation to this.

This application is premature and should be dismissed for that reason.²⁹

George Peretz QC, acting for the lead claimants, maintained that the Prime Minister had already announced that the UK would be leaving the EEA and the single market.³⁰ In her Lancaster House speech on 17 January 2017, Theresa May said that she was "explicitly rul[ing] out membership of the EU's single market", but she did not specifically mention the EEA.³¹

²⁶ British Influence, '[EEA Briefing](#)', undated, accessed 14 February 2017.

²⁷ Laura Hughes, '[Theresa May Faces New Brexit Challenge Over Single Market Withdrawal](#)', *Telegraph*, 28 November 2016.

²⁸ Owen Bowcott, '[Fresh Brexit Legal Challenge Blocked by High Court](#)', *Guardian*, 3 February 2017.

²⁹ Gordon Rayner and Laura Hughes, '[Brexit Legal Challenge: High Court Throws Out New Case Over Single Market Vote for MPs](#)', *Telegraph*, 3 February 2017.

³⁰ Owen Bowcott, '[Fresh Brexit Legal Challenge Blocked by High Court](#)', *Guardian*, 3 February 2017.

³¹ Prime Minister's Office, '[The Government's Negotiating Objectives for Exiting the EU: PM Speech](#)', 17 January 2017.

The High Court dismissed the application for judicial review on the grounds that it was premature. The *Telegraph* reported that the judges gave the reasons for this decision as follows:

[...] the judges said: “On the evidence before us, there is at present no final decision by the UK Government as to how it proposes to act in relation to the EEA Agreement and in particular how the EEA Agreement might cease to apply to the UK.”

They said that because no decision had been made, they could not rule on whether any decision might be unlawful.

They went on: “In our judgment the present claims are premature. The court cannot be such which, if any of the issues raised will require adjudication by the courts”.³²

2.4 Financial Implications

The Explanatory Notes state that the Bill “is not expected to have any financial implications”.³³ A number of amendments and new clauses tabled at committee stage in the Commons sought to require the Government to publish various impact assessments or reports on the implications of the Bill in various policy areas, including on the economic and financial implications of Brexit. Those that were voted on were all defeated—see section 8.10 of this briefing for further details.

3. Reaction

Responding to the Supreme Court judgment, Jeremy Corbyn, Leader of the Labour Party, said that Labour respected the result of the referendum and would not frustrate the process for invoking Article 50.³⁴ He confirmed in an interview with Sky News on 26 January 2017 that he had issued a three-line whip for Labour MPs not to block the Bill.³⁵ Prior to the Bill’s publication, Mr Corbyn said that Labour would seek to amend it to “prevent Conservatives using Brexit to turn Britain into a bargain basement tax haven off the coast of Europe”.³⁶ Keir Starmer, Shadow Secretary of State for Exiting the European Union, said on the day of the Supreme Court judgment that Labour would be seeking to lay amendments to “ensure proper scrutiny and accountability throughout the process”.³⁷

Tim Farron, Leader of the Liberal Democrats, said that his party would “vote against Article 50 unless the people are given their say on the final deal”.³⁸ Tom Brake, the Liberal Democrat Spokesman for Foreign Affairs, said that the Liberal Democrats would seek to amend the Bill to “give the people their first say on the terms of the UK’s future relationship with the European Union”.³⁹

³² Gordon Rayner and Laura Hughes, [‘Brexit Legal Challenge: High Court Throws Out New Case Over Single Market Vote for MPs’](#), *Telegraph*, 3 February 2017.

³³ [Explanatory Notes](#), p 4.

³⁴ Labour Party, [‘The Government Has Today Been Forced by the Supreme Court to Accept the Sovereignty of Parliament—Jeremy Corbyn’](#), 24 January 2017.

³⁵ Sky News, [‘Jeremy Corbyn Tells His Labour MPs They Must Trigger Brexit’](#), 26 January 2017.

³⁶ Labour Party, [‘The Government Has Today Been Forced by the Supreme Court to Accept the Sovereignty of Parliament—Jeremy Corbyn’](#), 24 January 2017.

³⁷ [HC Hansard, 24 January 2017, col 163](#).

³⁸ Tim Farron, [Personal Twitter Account](#), 24 January 2017.

³⁹ [HC Hansard, 24 January 2017, col 176](#).

The SNP said that its MPs would introduce a reasoned amendment to reject the Bill because it “fails to deliver on effective consultation with devolved administrations; does not guarantee the position of EU nationals and still leaves far too many unanswered questions about the full implications of withdrawal from the single market”.⁴⁰ The SNP said it would introduce a further 50 amendments to the Bill.⁴¹

Nigel Dodds, the Democratic Unionist Party (DUP) spokesperson for Foreign Affairs and Reform and Constitutional Issues, said that legislation to deliver Brexit would be “in the national interest”.⁴² Colum Eastwood, Leader of the Social Democratic and Labour Party (SDLP) and member of the Northern Ireland Assembly, said that the Party’s MPs at Westminster would vote against any Bill that triggered Article 50.⁴³ Tom Elliott and Danny Kinnahan, the Ulster Unionist Party’s two Westminster MPs, said that they would vote in favour of triggering Article 50.⁴⁴ Hywel Williams, Plaid Cymru’s Leader at Westminster, said that his Party would submit amendments to the Bill and would “be supporting other parties in ensuring the views of all the UK’s countries [...] are represented, respected and reflected in the Bill”.⁴⁵ Caroline Lucas, co-Leader of the Green Party, called on Labour to “rethink” its support for triggering Article 50 “prematurely” and to “refuse to be pushed into Theresa May’s artificial Brexit timetable”.⁴⁶ She said she would table an amendment to block the Bill’s second reading.⁴⁷ Douglas Carswell (UKIP MP for Clacton), warned Parliament not to try to “subvert the will of the people” by opposing the triggering of Article 50.⁴⁸

4. Devolution Issues

The Supreme Court also considered devolution issues relating to the Government’s power to trigger Article 50. Devolution arguments relating to Northern Ireland were raised in proceedings brought by four members of the Northern Ireland Assembly—Stephen Agnew (Green), Colum Eastwood (SDLP), David Ford (Alliance) and John O’Dowd (Sinn Féin)—and by campaigner Raymond McCord. Their applications for judicial review were rejected by the High Court of Justice of Northern Ireland in October 2016, but on application by the Attorney General of Northern Ireland, the judge referred four issues in the *Agnew* case to the Supreme Court.⁴⁹ Following an appeal against the High Court decision, the Northern Ireland Court of Appeal also referred one issue in *McCord* to the Supreme Court. Scotland’s Lord Advocate and the Counsel General for Wales intervened in the Supreme Court case on behalf of the Scottish and Welsh Governments. The Supreme Court noted that:

Most of the devolution issues arise from the contention that the terms on which powers have been statutorily devolved to the administrations of Scotland, Wales and

⁴⁰ Scottish National Party, ‘[The Brexit Court Case: What it Means](#)’, accessed 27 January 2017.

⁴¹ *ibid.*

⁴² *Belfast Telegraph*, ‘[Brexit: Government Loses Supreme Court Battle—Parliament Must Give Article 50 Go-Ahead](#)’, 24 January 2017.

⁴³ Social Democratic and Labour Party, ‘[SDLP Leader Responds to Supreme Court Ruling](#)’, 24 January 2017.

⁴⁴ *Belfast Telegraph*, ‘[Brexit: Government Loses Supreme Court Battle—Parliament Must Give Article 50 Go-Ahead](#)’, 24 January 2017.

⁴⁵ Plaid Cymru, ‘[Plaid Cymru Responds to the Supreme Court Ruling on Article 50](#)’, 24 January 2017.

⁴⁶ Green Party, ‘[Green Party Responds to Supreme Court Judgment](#)’, 24 January 2017.

⁴⁷ Jessica Elgot, ‘[Article 50: Labour MPs Consider Rebellion Over Corbyn’s Three-Line Whip](#)’, *Guardian*, 26 January 2017.

⁴⁸ Ned Simons, ‘[Douglas Carswell Suggests Flooding Lords with 800 New Peers if it Attempts to Block Brexit](#)’, *Huffington Post*, 24 January 2017.

⁴⁹ *R (on the Application of Miller and Another) (Respondents) v Secretary of State for Exiting the European Union (Appellant)* [2017] UKSC 5, para 9.

Northern Ireland are such that, unless Parliament provides for such withdrawal by a statute, it would not be possible for formal notice of the United Kingdom's withdrawal from the EU Treaties to be given without first consulting or obtaining the consent of the devolved legislatures.⁵⁰

Having decided on the main issue that legislation was required to trigger Article 50, the Supreme Court went on to consider whether the consent of the Northern Ireland Assembly was required before the relevant legislation was enacted. It noted that this question “raises in substance the application of the Sewel Convention”.⁵¹ According to the Sewel Convention, the Westminster Parliament does not normally legislate with regard to devolved matters except with the agreement of the devolved legislature. The Convention was set out in a memorandum of understanding between the UK Government and the devolved administrations in 2001. The current memorandum of understanding was agreed between the UK Government and the devolved administrations in September 2012 and published in October 2013.⁵² The Sewel Convention is recognised in section 2 of the Scotland Act 2016 and, the Court noted, a substantially identical provision was proposed in the Wales Bill that was then before Parliament.⁵³

The Supreme Court judges unanimously concluded that the Sewel Convention does not give rise to a legally enforceable obligation.⁵⁴ In reaching this conclusion, they said that:

[...] we do not underestimate the importance of constitutional conventions, some of which play a fundamental role in the operation of our constitution. The Sewel Convention has an important role in facilitating harmonious relationships between the UK Parliament and the devolved legislatures. But the policing of its scope and the manner of its operation does not lie within the constitutional remit of the judiciary, which is to protect the rule of law.⁵⁵

The Government has stated that the Bill “does not contain any provision which gives rise to the need for a legislative consent motion in the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly”.⁵⁶ A legislative consent motion (sometimes referred to as a ‘Sewel motion’) is the means through which the devolved legislatures would signal their consent to the UK Parliament legislating on a devolved matter.⁵⁷ The memorandum of understanding between the UK Government and the devolved administrations provides for the devolved administration to seek consent from the legislature “on an approach from the UK

⁵⁰ [R \(on the Application of Miller and Another\) \(Respondents\) v Secretary of State for Exiting the European Union \(Appellant\) \[2017\] UKSC 5](#), para 6.

⁵¹ *ibid*, para 136.

⁵² Cabinet Office, ‘[Devolution: Memorandum of Understanding and Supplementary Agreement](#)’, accessed 27 January 2017.

⁵³ [R \(on the Application of Miller and Another\) \(Respondents\) v Secretary of State for Exiting the European Union \(Appellant\) \[2017\] UKSC 5](#), para 147. The Wales Act 2017 received royal assent on 31 January 2017.

⁵⁴ Supreme Court, [Press Summary—R \(On the Application of Miller and Another\)\(Respondents\) v Secretary of State for Exiting the European Union \(Appellant\)](#), 24 January 2017.

⁵⁵ [R \(on the Application of Miller and Another\) \(Respondents\) v Secretary of State for Exiting the European Union \(Appellant\) \[2017\] UKSC 5](#), para 151.

⁵⁶ [Explanatory Notes](#), p 2.

⁵⁷ UK Parliament website, ‘[Legislative Consent](#)’, accessed 27 January 2017.

Government”.⁵⁸ It has been suggested that “in the absence of an approach” from the UK Government, “even the political basis for a Sewel motion may be questionable”.⁵⁹

David Davis welcomed the “clarity” of the Supreme Court ruling “clearly in the Government’s favour on the roles of the devolved legislatures in invoking Article 50”, but he added that it “in no way diminishes our commitment to work closely with the people and administrations of Wales, Scotland and Northern Ireland as we move forward with our withdrawal from the European Union”.⁶⁰

Scotland’s First Minister, Nicola Sturgeon, said it had become “crystal clear that the promises made to Scotland by the UK Government about the Sewel Convention and the importance of embedding it in statute were not worth the paper they were written on”.⁶¹ She argued that there remained a “clear political obligation” for the UK Government to consult the devolved administrations, and said that the Scottish Government would bring forward a legislative consent motion to ensure that the Scottish Parliament had the opportunity to vote on whether or not to consent to the triggering of Article 50.

Michael Russell, Scotland’s Minister for UK Negotiations on Scotland’s Place in Europe, subsequently explained that a formal legislative consent motion would have had to go through committee deliberation before it could be considered by the Scottish Parliament in plenary, which would have been “incompatible” with holding a vote before the committee stage had finished in the House of Commons.⁶² Instead, on 7 February 2017, the Scottish Parliament debated a motion tabled by the Scottish Government that the Bill should not proceed.⁶³ A Scottish Green Party amendment, which expressed concerns about the lack of transitional arrangements and noted that the Bill did “not respect the majority vote to remain part of the EU that was returned in every council area in Scotland”, was agreed to.⁶⁴ MSPs voted in favour of the amended motion by 90 votes to 34.⁶⁵

A Welsh Government spokesperson welcomed the Supreme Court judgment, which “preserves and recognises the importance of the Sewel Convention”.⁶⁶ The spokesperson said the Welsh Government would continue to work closely with the UK Government and the other devolved administrations to “influence the overall UK position”. Plaid Cymru announced that they would seek to table a legislative consent motion in the National Assembly for Wales.⁶⁷ Steffan Lewis, the party’s Shadow Cabinet Secretary for External Affairs, argued it was “a simple matter of democracy that the devolved legislatures should have a role in commencing the process of leaving the EU”.⁶⁸

⁵⁸ Cabinet Office, [Memorandum of Understanding and Supplementary Agreements Between the United Kingdom Government, the Scottish Ministers, the Welsh Ministers and the Northern Ireland Executive Committee](#), October 2013, para 14.

⁵⁹ Jim Duffy, [‘Defying Convention: Supreme Court Puts Sewel on the Sidelines’](#), UK Human Rights Blog, 26 January 2017.

⁶⁰ [HC Hansard, 24 January 2017, col 161](#).

⁶¹ Scottish National Party, [‘Nicola Sturgeon Responds to UK Supreme Court Ruling’](#), 24 January 2017.

⁶² Jenni Davidson, [‘MSPs to Vote on UK Government’s Article 50 Bill’](#), *Holyrood*, 3 February 2017.

⁶³ Scottish Parliament, [‘Motion S5M-03858’](#), lodged 6 February 2017.

⁶⁴ Scottish Parliament, [‘Motion S5M-03858.2’](#), lodged 6 February 2017; and Scottish Parliament, [Official Report](#), cols 79–81.

⁶⁵ Scottish Parliament, [Official Report](#), 7 February 2017, cols 83–5.

⁶⁶ Welsh Government, [‘Statement by the Welsh Government—Article 50 Supreme Court Judgment’](#), 24 January 2017.

⁶⁷ Plaid Cymru, [‘Plaid Seeks to Table Motion to Give Assembly a Say on Triggering of Article 50’](#), 24 January 2017.

⁶⁸ *ibid.*

On 7 February 2017, the National Assembly for Wales voted 38 to 18 in favour of a motion recognising the result of the referendum, welcoming the publication of the Welsh Government/Plaid Cymru white paper on *Securing Wales' Future*, reaffirming the importance of the Sewel Convention and calling on the UK Government to “fully respect” Wales’ priorities.⁶⁹ A Plaid Cymru amendment opposing the triggering of Article 50 unless the UK Government gave assurances that Wales could continue to participate in the single market was defeated by 46 votes to 10.

Following the collapse of the power-sharing Northern Ireland Executive, the Northern Ireland Assembly was dissolved on 26 January 2017, with an election scheduled to take place 2 March 2017.⁷⁰ David Davis said he had asked the Northern Ireland Executive to continue to send ministers to meetings of the Joint Ministerial Committee in the interim period before the election, and that he would “find some other bilateral way to proceed” if that did not work.⁷¹

5. Timetabling

The Government expects the Bill to pass through both Houses and gain royal assent before 31 March 2017.⁷² In December 2016, the House of Commons approved by 448 votes to 75 a motion calling on the Government to invoke Article 50 by the end of March 2017.⁷³ The Government has set out in the Bill’s Explanatory Notes its case in support of fast-tracking the Bill to achieve this timetable:

The judgment of 24 January 2017 required the Government to complete an additional (and unexpected) step before the formal process of leaving the European Union can commence. Completing this step through the normal Bill timetable would cause considerable delay to commencing the formal exit process, making it impossible to do so before the end of March 2017. In the Government’s view, [t]his would further generate uncertainty as to the timetable for our exit from the European Union.⁷⁴

The Bill had its second reading debate in the House of Commons on 31 January and 1 February 2017.⁷⁵ It was then considered in committee of the whole House on 6, 7 and 8 February, with the remaining stages also taking place in the House of Commons on 8 February. Announcing these arrangements, David Lidington, Leader of the House of Commons, said he thought that this was “plenty of time” for debate on a two-clause Bill.⁷⁶ In response, a number of Labour MPs expressed dissatisfaction about the length of time allocated to the Bill. For example, Ben Bradshaw (Labour MP for Exeter) described the proposed timetable as a “contempt of Parliament”, and Chuka Umunna (Labour MP for Streatham) accused the Government of “trying to muzzle the voices of people in Parliament”.⁷⁷ Alex Salmond (SNP MP for Gordon)

⁶⁹ National Assembly for Wales, [Votes and Proceedings—Plenary](#), 7 February 2017.

⁷⁰ Northern Ireland Assembly, [‘The Northern Ireland Assembly is Now Dissolved’](#), 27 January 2017.

⁷¹ [HC Hansard, 24 January 2017, col 175](#).

⁷² Department for Exiting the European Union, [‘Article 50 Bill Process Begins’](#), 26 January 2017.

⁷³ [HC Hansard, 7 December 2016, cols 333–6](#).

⁷⁴ [Explanatory Notes](#), p 3. This is in line with a recommendation made by the House of Lords Constitution Committee that the minister responsible for a Bill should be required to make an oral statement to the House of Lords outlining the case for fast-tracking, and include the same information in the Bill’s explanatory notes (House of Lords Constitution Committee, [Fast-Track Legislation: Constitutional Implications and Safeguards](#), 7 July 2009, HL Paper 116-I of session 2008–09, paras 185–7. For further information about fast-track legislation, see: House of Commons Library, [Fast-Track Legislation](#), 12 November 2012.

⁷⁵ [HC Hansard, 26 January 2017, col 455](#).

⁷⁶ [HC Hansard, 26 January 2017, col 460](#).

⁷⁷ [HC Hansard, 26 January 2017, cols 461 and 464](#).

also described the programme motion as “disgraceful”.⁷⁸ The programme motion was agreed to by 329 votes to 112, a majority of 217.⁷⁹

Lord Taylor of Holbeach, the Government Chief Whip, announced on 30 January 2017 that the Bill would have its second reading in the House of Lords on 20 and 21 February 2017, with committee stage to take place on 27 February and 1 March 2017, and report and third reading on 7 March 2017.⁸⁰ Lord Bassam of Brighton, the Labour Chief Whip, said that he was “pleased that we probably have a bit longer than our colleagues in the Commons to look into the details” of the Bill.⁸¹

Report stage and third reading are scheduled to take place on the same day. The *Companion to the Standing Orders and Guide to the Proceedings of the House of Lords* notes that:

Under SO [standing order] 46, no two stages of a bill may be taken on one day, except if a bill is not amended in committee of the whole House, in which case the report stage may be taken immediately thereafter. So, if it is intended to take more than one stage of a bill on one day, other than the report stage of a bill which has not been amended in committee of the whole House, SO 46 must be suspended or dispensed with; SO 86 requires that notice of this must be given.⁸²

The schedule set out by Lord Taylor departs from the recommended minimum intervals between the stages of a bill as set out in paragraph 8.04 of the *Companion*. The *Companion* notes that:

When these minimum intervals are departed from, notice is given by means of a § against the bill in *House of Lords Business*. However, such notice is not required when SO 46 has been dispensed with.

For any legislation subject to expedited procedures (‘fast-tracked’) the explanatory notes accompanying the legislation will contain a full explanation of the reasons for using a fast-track procedure.⁸³

6. White Paper

When David Davis set out the Government’s response to the Supreme Court judgment, Labour, the SNP and Plaid Cymru all called on the Government to publish a white paper setting out their Brexit objectives in detail.⁸⁴ They were joined by a number of Conservative MPs, including the former ministers Anna Soubry, Dominic Grieve, Alistair Burt and Nicky Morgan.⁸⁵ At Prime Minister’s Questions on 25 January 2017, Theresa May said she “recognise[d] there [was] an appetite” for a white paper, and confirmed that the Government would publish one.⁸⁶ The Government did not initially indicate when it would be published, and during the first day

⁷⁸ [HC Hansard, 26 January 2017, col 469.](#)

⁷⁹ *ibid*, cols 1142–4.

⁸⁰ [HL Hansard, 30 January 2017, col 977.](#)

⁸¹ *ibid*.

⁸² House of Lords, [The Companion to the Standing Orders and Guide to Proceedings of the House of Lords](#), 2015, para 8.02.

⁸³ *ibid*, paras 8.05–8.06.

⁸⁴ [HC Hansard, 24 January 2017, cols 163, 179, 180, 191 and 192.](#)

⁸⁵ *ibid*, cols 169, 171, 172 and 173.

⁸⁶ [HC Hansard, 25 January 2017, col 286.](#)

of the second reading debate, MPs from all sides of the House questioned the Government about when the white paper could be expected. Keir Starmer, Shadow Secretary of State for Exiting the European Union, stated that in his view it ought to be published before the end of the Bill's committee stage in the Commons.⁸⁷ Stephen Gethins, the SNP Spokesperson on Europe, said it appeared that the Government wanted to publish the white paper after the Bill had been passed, which would be “unprecedented”.⁸⁸

Mrs May announced on 1 February 2017, before the second day's debate on the Bill began, that the white paper would be published the following day.⁸⁹ On 2 February 2017, the Government published its white paper, [The United Kingdom's Exit From, and New Partnership With, the European Union](#), which built on the twelve points set out in Theresa May's Lancaster House speech in mid-January.⁹⁰ Keir Starmer called for time to debate and vote on the white paper, but David Davis said that its purpose was to “inform all the debates—not just today's—in the coming two years”.⁹¹

7. House of Commons: Second Reading

7.1 Debate

The Bill had its second reading in the House of Commons on 31 January and 1 February 2017. Opening the debate, David Davis, Secretary of State for Exiting the European Union, said that the Bill responded directly to the Supreme Court judgment of 24 January 2017; it was not about whether or how the UK should leave the EU, but “simply about Parliament empowering the Government to implement a decision already made—a point of no return already passed”.⁹² He said that the “democratic mandate is clear” and reminded the House that it had already passed a motion in December 2016 which supported the triggering of Article 50 by 31 March 2017.

Anticipating points raised by the SNP amendment to the second reading motion, Mr Davis said that the Prime Minister had set out a “bold and ambitious vision for the UK” and the Government had outlined its twelve objectives for the withdrawal negotiations.⁹³ Mr Davis pledged to continue to work with the devolved administrations “to make sure that the voices of Scotland, Wales and Northern Ireland continue to be heard in the negotiation process”, but he pointed out that “the devolved legislatures do not have a veto on the UK's decision to withdraw from the European Union”, and suggested that the British people would “view dimly any attempt to halt [the Bill's] progress”.⁹⁴ He promised that both Houses of Parliament would have a vote on the deal the Government negotiated with the EU before it came into force, and that ministers would continue to provide regular updates to Parliament. He also said that it would be for Parliament to “determine any changes to our domestic legislation in the national interest” after the Great Repeal Bill shifted the *acquis communautaire* (the body of EU law) into domestic law on the UK's departure from the EU. On guaranteeing the rights of UK citizens living in the EU and vice versa, Mr Davis said this was one of the Prime Minister's objectives,

⁸⁷ [HC Hansard, 31 January 2017, col 827.](#)

⁸⁸ *ibid*, col 833.

⁸⁹ [HC Hansard, 1 February 2017, col 1019.](#)

⁹⁰ [HC Hansard, 2 February 2017, col 1216.](#)

⁹¹ *ibid*, cols 1218–19.

⁹² [HC Hansard, 31 January 2017, col 818.](#)

⁹³ *ibid*, col 821.

⁹⁴ *ibid*, cols 821–2.

and the Government was ready to reach a deal straight away “if other countries agree”.⁹⁵ He made clear his position that there must be “no attempts to remain inside the EU, no attempts to re-join it through the back door, and no second referendum”.⁹⁶ Noting that Parliament had “voted to give the people the chance to determine our future in a referendum”, he called upon MPs to “trust the people” by supporting the Bill.⁹⁷

Responding for the Opposition, Keir Starmer, Shadow Secretary of State for Exiting the European Union, acknowledged that “for the Labour Party, this is a very difficult Bill”.⁹⁸ He described Labour as a “fiercely internationalist” and “pro-European” party that believed in international cooperation and collaboration, and said this was why Labour had campaigned to remain in the EU. Although he said it was a “difficult decision” as one third of Labour MPs represented constituencies that had voted ‘remain’ in the referendum, he argued that “as democrats, we in the Labour Party have to accept the result”. It therefore followed, he said, that “the Prime Minister should not be blocked from starting the Article 50 negotiations”.

Sir Keir said this did not mean, however, that the Prime Minister could “do as she likes without restraint”; he argued that she was “accountable to the House, and that accountability will be vital on the uncertain journey that lies ahead”.⁹⁹ For this reason, Labour had tabled “important” amendments “intended to establish a number of key principles that the Government must seek to negotiate during the process”, such as full tariff and impediment-free access to the single market, “robust and regular” parliamentary scrutiny, regular consultation with the devolved administrations, giving the Commons “the first say, not the last say, on the deal proposed at the end of the Article 50 negotiations”, and supporting workplace rights and environmental standards.¹⁰⁰ He also called on the Prime Minister to “act unilaterally to give assurance to EU nationals living in this country” about their future legal status. He warned that the Bill did not give the Prime Minister a “blank cheque”, and that any change to the domestic law on immigration, tax, employment, consumer protection or the environment could only be made through Parliament.¹⁰¹

Stephen Gethins, the SNP Spokesperson on Europe, moved an amendment which would have declined to give the Bill a second reading for the following reasons:

[...] the Government has set out no provision for effective consultation with the devolved administrations on implementing Article 50, has yet to publish a white paper detailing the Government’s policy proposals, has refused to give a guarantee on the position of EU nationals in the UK, has left unanswered a range of detailed questions covering many policy areas about the full implications of withdrawal from the single market and has provided no assurance that a future parliamentary vote will be anything other than irrelevant, as withdrawal from the European Union follows two years after the invoking of Article 50 if agreement is not reached in the forthcoming negotiations, unless they are prolonged by unanimity.¹⁰²

⁹⁵ [HC Hansard, 31 January 2017, col 823.](#)

⁹⁶ *ibid.*

⁹⁷ *ibid.*, col 824.

⁹⁸ *ibid.*

⁹⁹ *ibid.*, cols 824–5.

¹⁰⁰ *ibid.*, col 825.

¹⁰¹ *ibid.*, col 826.

¹⁰² *ibid.*, col 832.

Mr Gethins described it as a “disgrace” that the Government had not published a white paper setting out its detailed Brexit plans “nearly a year after the referendum”.¹⁰³ With regard to consultation of the devolved administrations, Mr Gethins claimed that although the Secretary of State “says a great deal about listening”, he himself had “not seen anything that has changed so far from all this listening that has been going on”.¹⁰⁴ He commended the plans published by the Scottish and Welsh Governments, setting out “compromise” arrangements which would allow “a future of continuing progress and prosperity whereby we maintain a close relationship with our partners in Europe”.¹⁰⁵ He maintained that voting in favour of the Bill and against the SNP amendment would be “a backward and damaging step, and an act of constitutional and economic sabotage”.¹⁰⁶ On the second day of debate, Alex Salmond (SNP MP for Gordon) declared that the SNP would “not allow this non-vision—this act of madness from this House” to take Scotland out of its “1,000-year history as a European nation”. He argued that if it was possible, as the Prime Minister had said, for there to be a “frictionless border” in Ireland, the same arrangement could exist in Scotland, and that the Prime Minister “has it within her power and capacity to accept the Scottish Government’s compromise proposals and allow Scotland as a nation to retain its trading place in the European context”.¹⁰⁷

Nick Clegg, the Liberal Democrat Spokesperson for Exiting the European Union, spoke of his “growing sense of anger” at what he considered to be the Government’s “deliberate distortion” of the mandate received from the British people in the referendum.¹⁰⁸ He said that the referendum gave the Government a mandate to “pull the United Kingdom out of the European Union”, but not “to threaten to turn our country into some tawdry, low-regulation, low-tax, cowboy economy”. He argued that the people should have their say in a referendum “when we finally know what Brexit means in substance, rather than in utopian promise”. He therefore believed that MPs had “not a choice but a duty” to vote against the Bill, not to stop Brexit but to “urge the Government to go back to the drawing board and to come back to this House with a more sensible and moderate approach to Brexit”.¹⁰⁹ Tim Farron, the Liberal Democrat Leader, made a similar case on the second day of debate, arguing that “voting for departure is not the same as voting for a destination”.¹¹⁰ He questioned how anyone could “pretend that this undiscussed, unwritten, un-negotiated deal in any way has the backing of the British people”. Mr Farron maintained that a second referendum was “the only way to hold the Government to account for the monumental decisions they will have to take over the next few years”.

Nigel Dodds, Leader of the Democratic Unionist Party (DUP) at Westminster, said that although Northern Ireland had voted in favour of remaining in the EU, he could “think of nothing that would be more calculated to undermine the Union between Northern Ireland and the rest of the United Kingdom than for Northern Ireland to be able to thwart the will of the people of the United Kingdom as a whole”.¹¹¹ In contrast, Margaret Ritchie (SDLP MP for South Down) said that leaving the EU “poses huge questions for the principles of the Good Friday Agreement” which she said had been “built on our continued membership of the European

¹⁰³ [HC Hansard, 31 January 2017, col 833.](#)

¹⁰⁴ *ibid*, col 834.

¹⁰⁵ *ibid*, col 835.

¹⁰⁶ *ibid*, col 836.

¹⁰⁷ [HC Hansard, 1 February 2017, col 1038.](#)

¹⁰⁸ [HC Hansard, 31 January 2017, col 843.](#)

¹⁰⁹ *ibid*, col 844.

¹¹⁰ [HC Hansard, 1 February 2017, col 1046.](#)

¹¹¹ *ibid*, col 1049.

Union”.¹¹² She was concerned about the effect on “the border on the island of Ireland, and for our economy”. She maintained that “Northern Ireland’s place in the EU should be a decision for Northern Ireland alone”.

Hywel Williams, Leader of Plaid Cymru at Westminster, warned that leaving the EU had “profound implications for the constitutional set-up in the United Kingdom itself”, and for that reason he called for “the fullest possible debate”. He emphasised that his priority was “Wales’s national interests”, which he said meant “prioritising the economy” and “ensuring full and unfettered access to our important European markets”.¹¹³

Caroline Lucas (Green Party MP for Brighton, Pavilion) argued that the Prime Minister had “no mandate for the extreme Brexit she is pursuing”.¹¹⁴ She felt that there was “no contradiction” between respecting the outcome of the referendum and withholding consent to trigger Article 50 “when the kind of Brexit that has been set out is so profoundly damaging to the people of this country, and when it is being pursued in profoundly undemocratic ways”.

The chairs of the two European Union committees in the House of Commons expressed differing views about the benefits of EU membership, but both indicated they would support the Bill. Sir William Cash (Conservative MP for Stone), chair of the European Scrutiny Committee, described the referendum as “a massive peaceful revolution by consent, of historic proportions”, and said that the Bill “at last endorses that revolution”.¹¹⁵ In his view, “those who vote against the Bill will be voting against the referendum”, which had been “fought to unshackle the United Kingdom from increasingly undemocratic European government”.¹¹⁶ Hilary Benn (Labour MP for Leeds Central), chair of the Exiting the European Union Committee, expressed regret that the UK was leaving the European Union, but argued that Parliament had “a responsibility to respect the outcome of the referendum, however much some of us might disagree with it”, and that voting for the Bill was “the democratic thing to do”.¹¹⁷ He suggested that the Government had had to be “pushed, cajoled and prodded at every stage into giving Parliament its proper role”, and called on it to recognise that “Parliament should not be a bystander but a participant in what is probably the most complex and significant negotiation that this country has ever faced”.¹¹⁸

On the Conservative benches, some MPs expressed whole-hearted support for the Bill. John Redwood (Conservative MP for Wokingham) maintained that “the thing that most motivated all those voters for leave was that they wanted the sovereignty of this Parliament to be restored”.¹¹⁹ He said that this was “what the Bill allows us to do by our exiting the European Union, and then making our own decisions about our laws, our money and our borders”. He called on MPs to support the Bill and “vote to make the once and future sovereign Parliament of the UK sovereign again”.¹²⁰ Jacob Rees-Mogg (Conservative MP for North East Somerset) celebrated the fact that “on 23 June, the people voted that parliamentary sovereignty would be restored to this House”.¹²¹ He said that the Bill would simply implement that “noble, brave and

¹¹² [HC Hansard, 31 January 2017, col 974.](#)

¹¹³ *ibid*, col 977.

¹¹⁴ *ibid*, col 936.

¹¹⁵ *ibid*.

¹¹⁶ *ibid*, col 838.

¹¹⁷ *ibid*, cols 838–9.

¹¹⁸ *ibid*, cols 839–40.

¹¹⁹ *ibid*, col 854.

¹²⁰ *ibid*.

¹²¹ *ibid*, col 908.

glorious decision that the people made”, and any amendments to it were “flotsam and jetsam designed to obstruct the will of the British people”.¹²² Sir Gerald Howarth (Conservative MP for Aldershot) said it was “patronising” to suggest, as some had done in the debate, that “the public were not told that a leave vote would require us to leave the single market”.¹²³ He made the case that “recovering control of our borders” and “a return of sovereignty”, which were both “at the heart of the debate”, were “completely incompatible” with membership of the single market.

Other Conservative MPs expressed their intention to vote for the Bill although they had campaigned for the ‘remain’ side in the referendum. For example, Anna Soubry (Conservative MP for Broxtowe) said that it was “with a heavy heart” and against her “long-held belief that the interests of the country are better served by our being a member of the European Union” that she would support the Bill, but that in supporting the legislation establishing the referendum, she had “agreed to be bound by the result”.¹²⁴ George Osborne, the former Chancellor of the Exchequer, said that although he had campaigned passionately for ‘remain’, he was not prepared to “vote against the majority verdict of the largest democratic exercise in British history” as doing so would “risk putting Parliament against people, provoking a deep constitutional crisis in our country and alienating people who already feel alienated”.¹²⁵ However, he warned that “we cannot assume that the British public gave a set of answers to the questions we now face as a Parliament”, and suggested that there would have to be “lively debates” about issues such as free trade, immigration and state aid.¹²⁶

The former Chancellor of the Exchequer, Kenneth Clarke, was the only Conservative MP to vote against the Bill.¹²⁷ He made the case that EU membership had “restored us to our national self-confidence and [given] us a political role in the world”, as well as bringing economic benefits.¹²⁸ He argued that the question of EU membership, “with hundreds of complex issues wrapped up in it” had been “particularly unsuitable” for a binary referendum. He suggested that the idea that “countries throughout the world are queuing up to give us trading advantages and access to their markets that we were never able to achieve as part of the European Union” was a “wonderland”.¹²⁹

While many MPs on the Labour benches expressed similar views to those of Keir Starmer and Hilary Benn, others spoke in the debate to explain their decision to vote against the Bill in spite of the Party’s three-line whip to support it. Meg Hillier (Labour MP for Hackney South and Shoreditch) was one of the backbench Labour MPs who tabled a reasoned amendment declining to give the Bill a second reading.¹³⁰ (This amendment was not selected for debate or voted on.) She said she would vote against the Bill because she could not “walk blindly through a lobby to trigger a process without a shred of detail from the Government”, there being “no real guarantee of parliamentary oversight”, “not a word of succour for EU citizens resident in the UK” and “no answer about how the many regulations that will need to be transposed into our law will be dealt with”.¹³¹ Tulip Siddiq (Labour MP for Hampstead and Kilburn) explained that

¹²² [HC Hansard, 31 January 2017, col 909.](#)

¹²³ [HC Hansard, 1 February 2017, cols 1050–1.](#)

¹²⁴ [HC Hansard, 31 January 2017, col 849.](#)

¹²⁵ [HC Hansard, 1 February 2017, col 1034.](#)

¹²⁶ *ibid*, cols 1034–6.

¹²⁷ *ibid*, cols 1136–40.

¹²⁸ [HC Hansard, 31 January 2017, cols 828–9.](#)

¹²⁹ *ibid*, col 831.

¹³⁰ House of Commons, [Order Paper](#), 31 January 2017.

¹³¹ [HC Hansard, 31 January 2017, col 862.](#)

she had reluctantly resigned her shadow ministerial role to vote against triggering Article 50 because if she supported the Bill, she would be “abandoning my duty to my constituents, who have overwhelmingly and unwaveringly made the point that they do not want to leave the EU—75 percent voted to remain”.¹³²

In contrast, Kate Hoey (Labour MP for Vauxhall), a former co-chair of the Labour Leave movement, said that she would be “wholeheartedly” voting to trigger Article 50, and although the borough in which her constituency is situated had voted ‘remain’, she emphasised that “this was a United Kingdom referendum, not a constituency or borough-based referendum”.¹³³ She described as “patronising” those who argued that people “who voted to leave did not understand what it meant”, suggesting that such attitudes were “part of the reason why many people voted to leave—they were fed up of being treated as if they knew nothing and as if those in power knew more than them”.¹³⁴

Winding up the debate for the Opposition, Jenny Chapman, Shadow Minister for Exiting the European Union, repeated that the Labour Party would table amendments to the Bill to enable the House to have proper scrutiny, to publish regular reports, to allow British MPs the same oversight as Members of the European Parliament, and to secure the position of EU nationals living in the UK “as a matter of urgency”.¹³⁵ She said that the Labour Party would “not neglect its duty to challenge the Government when we think they are getting Brexit wrong” and warned that if the Prime Minister and her negotiators “fail to achieve a deal worthy of our country”, they would not achieve the consent of the House.¹³⁶

David Jones, Minister of State at the Department for Exiting the European Union, concluded the debate by saying that the Bill was “the most straightforward Bill possible”, “necessary to implement the referendum result and respect the judgment of the Supreme Court”.¹³⁷ He declared it was “positively not a vehicle for determining the terms of the broader negotiations that will follow”. He urged MPs to “trust the people” and commended the Bill to the House.¹³⁸

7.2 Divisions

The House divided on the SNP’s reasoned amendment to deny the Bill its second reading. The amendment was defeated by 336 votes to 100, a majority of 236.¹³⁹ Four other reasoned amendments to decline to give the Bill its second reading were tabled by Caroline Lucas (Green Party) and others; a group of Labour backbenchers; the Liberal Democrats; and Hywel Williams (Plaid Cymru) and others.¹⁴⁰ None of these amendments was selected for debate or voted on.

The Bill was given its second reading by 498 votes to 114, a majority of 384.¹⁴¹ Of the MPs who voted, the Conservatives (with the exception of Kenneth Clarke), the DUP, the Ulster Unionist Party and UKIP voted in favour of the Bill. The SNP, the Liberal Democrats, the SDLP, Plaid Cymru and the Green Party voted against it. Despite the Party’s three-line whip to support the

¹³² [HC Hansard, 1 February 2017, col 1062.](#)

¹³³ [HC Hansard, 31 January 2017, col 851.](#)

¹³⁴ *ibid*, cols 851–2.

¹³⁵ [HC Hansard, 1 February 2017, col 1127.](#)

¹³⁶ *ibid*, col 1128.

¹³⁷ *ibid*, col 1129.

¹³⁸ *ibid*, col 1132.

¹³⁹ *ibid*, cols 1133–5.

¹⁴⁰ House of Commons, [Order Paper](#), 31 January 2017.

¹⁴¹ [HC Hansard, 1 February 2017, cols 1136–40.](#)

Bill, Labour's vote was split, with 167 Labour MPs voting in favour of the Bill and 47 voting against it.

There was also a division on the programme motion, which allocated three days (6, 7 and 8 February 2017) for the Bill's committee stage and third reading. The programme motion was agreed to by 329 votes to 112, a majority of 217.¹⁴²

8. House of Commons: Committee Stage

8.1 Overview

Committee stage took place over three days, 6 to 8 February 2017, in a committee of the whole House. The programme motion specified that debate on each day would focus on new clauses and amendments relating to particular subject areas, as follows:

- First day: Parliamentary scrutiny of the process for withdrawing from the EU; issues relating to devolved administrations and legislatures.
- Second day: A vote on the final terms of the UK's withdrawal from the EU; impact assessments.
- Third day: priorities in negotiations for the UK's withdrawal from the EU; clauses 1 and 2; any remaining new clauses and schedules.¹⁴³

A large number of new clauses and amendments were tabled. Sections 8.2 to 8.14 of this briefing give details of those new clauses and amendments that were put to a division. None of these were successful and the Bill was not amended at committee stage. On the second day of committee, the Government gave an undertaking that both Houses of Parliament would be given a vote on the withdrawal arrangements and the UK's future relationship with the European Union before any agreement was concluded, and it expected to hold the vote before the European Parliament debated and voted on the final agreement. However, the Government said that there was "no need" to amend the Bill to reflect this. Keir Starmer described this as a "very important concession", but other MPs were less convinced that it represented an advance on what the Government had previously promised—see section 8.7 of this briefing for further details.

8.2 Parliamentary Scrutiny (NC3)

Matthew Pennycook, Shadow Minister for Exiting the European Union, moved Labour's new clause 3, which would have stipulated that the Prime Minister could not trigger Article 50 until she had given an undertaking to report to Parliament at least every two months on the progress of negotiations, to lay before Parliament copies of any documents relating to the negotiations provided by the European Council or European Commission to the European Parliament, and to make arrangements for parliamentary scrutiny of confidential documents.¹⁴⁴ Mr Pennycook said the purpose of the new clause was to "improve the Bill" by providing Parliament with the means to "effectively monitor" and "actively contribute" to the

¹⁴² [HC Hansard, 1 February 2017, cols 1142–4.](#)

¹⁴³ *ibid*, col 1140.

¹⁴⁴ [HC Hansard, 6 February 2017, col 49.](#)

negotiations.¹⁴⁵ He described this “robust parliamentary oversight” of the negotiation period as the second of three pillars of accountability that Labour was seeking—the other two being the provision of a detailed plan published prior to the start of the negotiations, which he said the Government had conceded by publishing the white paper, and a “meaningful debate and vote” in Parliament on the proposed deal before it was signed off by the European Council and European Parliament.

He acknowledged that ministers would need “sufficient room for manoeuvre” and could not “consent to the micromanagement of the process by parliamentarians”, but argued that “active and robust parliamentary scrutiny” would “aid the negotiations by testing and strengthening the Government’s negotiating position” and would “help bind the wounds of the referendum”.¹⁴⁶ In terms of access to documents, he said that Labour was asking “for no more and no less than the European Parliament will get”. He pointed out that the provisions of Article 218 of the Treaty on the Functioning of the European Union set out the European Parliament’s right to access to information on the negotiating of agreements, and that the Secretary of State for Exiting the European Union had already given assurances that the House “can expect not only to match, but to surpass” this “baseline of European parliamentary scrutiny”.¹⁴⁷

Mark Harper (Conservative MP for Forest of Dean) questioned what new clause 3 “really adds to the process”, arguing that ministers had already “furnished the House with a significant amount of information” and there would be future debates on the Great Repeal Bill and other Brexit-related legislation, such as on immigration and customs matters.¹⁴⁸

A number of Conservative MPs also argued that the terms of the new clause would be unworkable. Mark Harper and Sir Oliver Letwin (Conservative MP for West Dorset) expressed concerns that enshrining in primary legislation a commitment to report to Parliament on the progress of negotiations would make that commitment justiciable, and “therefore bring the courts into the question of whether the Government’s reports were sufficient and [...] appropriate”.¹⁴⁹ Sir William Cash (Conservative MP for Stone) argued that the requirement for Parliament to have access to confidential EU documents was “simply nonsense” and “cannot be brought into effect”.¹⁵⁰ He said that in his role as chair of the House of Commons European Scrutiny Committee, he had had “an enormous amount of trouble” over the handling of EU documents marked as ‘limité’.¹⁵¹ He pointed out that “Parliaments other than the European Parliament are not allowed to refer to them because they are of a confidential nature”.¹⁵² Although he thought these handling restrictions were “overdone”, he said it would be “stretching a point to absurdity” to impose a legal duty on the Prime Minister to break the rules relating to limité documents. Sir Hugo Swire (Conservative MP for East Devon) declared it was “impossible, irresponsible and unthinkable” to have to conduct negotiations with the EU in public by imposing a requirement to report back to Parliament every two months, and by

¹⁴⁵ [HC Hansard, 6 February 2017, col 58.](#)

¹⁴⁶ *ibid*, col 59.

¹⁴⁷ *ibid*, col 60.

¹⁴⁸ *ibid*, col 64.

¹⁴⁹ *ibid*.

¹⁵⁰ *ibid*, col 76.

¹⁵¹ *ibid*, col 75. ‘Limité’ is a distribution marking used for confidential internal documents of the Council of the European Union. They may be distributed to officials of national administrations of EU member states, the European Council, the European Commission and the European External Action Service, and may be made available to the chairpersons of relevant European Parliament committees upon written request to the Council, on the understanding that the European Parliament will not make them public without prior authorisation ([Council of the European Union, 11336/11, 9 June 2011](#)).

¹⁵² [HC Hansard, 6 February 2017, col 75.](#)

revealing confidential documents to every MP, which he suggested would leak “pretty quickly” on to social media or into the press.¹⁵³

However, Hilary Benn (Labour MP for Leeds Central), chair of the House of Commons Exiting the European Union Committee, rebutted these arguments, maintaining that there was “nothing in the new clause forcing the Government to reveal their hand”. He suggested it was possible for the Government to find a way to make access to EU documents possible in a way that was consistent with legal obligations.¹⁵⁴ He supported the new clause as it “adds accountability”.¹⁵⁵

Responding to new clause 3, David Jones, Minister of State at the Department for Exiting the European Union, said that the Government had “aimed at all times scrupulously to fulfil Parliament’s legitimate need for information” and would “continue to do so”.¹⁵⁶ He maintained that the Government was “absolutely resolute that the House will not be at an information disadvantage compared to the European Parliament”, but new clause 3 was “flawed, simply because the United Kingdom Government may not be privy to what information is passed confidentially” between EU institutions. However, he confirmed that as soon as more was known about how the EU institutions would share their information, the Government would give more information on what Parliament would receive, and the mechanisms for disseminating it, including arrangements for the scrutiny of confidential documents.

New clause 3 was defeated by 333 votes to 284, a majority of 49.¹⁵⁷

8.3 Status of EU Nationals in the UK (NC57)

Harriet Harman (Labour MP for Camberwell and Peckham), chair of the Joint Committee on Human Rights (JCHR), spoke to new clause 57, which she had tabled with fellow JCHR members Jeremy Lefroy (Conservative MP for Stafford) and Karen Buck (Labour MP for Westminster North). New clause 57 would have allowed EU citizens lawfully resident in the UK on the day of the referendum to maintain their residence rights after the UK’s withdrawal from the EU. The member’s explanatory statement on the new clause noted that it was intended to “ensure those rights do not fall away automatically two years after notice of withdrawal has been given, if no agreement is reached with the EU”.¹⁵⁸ The new clause would have implemented a recommendation made by the JCHR in its report on the human rights implications of Brexit that the Government should address the issue of residence rights “urgently”, for instance “by providing an undertaking to the effect that all of these legally resident at a reasonable cut-off date would be guaranteed permanent residence rights”.¹⁵⁹

Ms Harman argued it was “unthinkable” that EU nationals living in the UK “would be deported and their families divided because we have decided to leave the EU”.¹⁶⁰ She said that her new clause would “put their minds at rest”. She noted that many EU nationals had been living in the UK for decades and had children and grandchildren here, and that certain sectors of the

¹⁵³ [HC Hansard, 6 February 2017, cols 80–1.](#)

¹⁵⁴ *ibid*, cols 84–5.

¹⁵⁵ *ibid*, col 84.

¹⁵⁶ *ibid*, col 119.

¹⁵⁷ *ibid*, cols 123–7.

¹⁵⁸ *ibid*, col 57.

¹⁵⁹ Joint Committee on Human Rights, [The Human Rights Implications of Brexit](#), 19 December 2016, HL Paper 88 of session 2016–17, para 53.

¹⁶⁰ [HC Hansard, 6 February 2017, col 72.](#)

economy such as agriculture, care homes, tourism and food production “could not manage” without EU migrants.

Earlier in the day, making a statement about the informal European Council held in Malta on 3 February 2017, Theresa May had said:

On the issue of acquired rights, the general view was that we should reach an agreement that applied equally to the other 27 member states and the UK, which is why we think a unilateral decision from the UK is not the right way forward. As I have said before, however, EU citizens living in the UK make a vital contribution to our economy and our society, and without them we would be poorer and our public services weaker. We will therefore make securing a reciprocal agreement that will guarantee their status a priority as soon as the negotiations begin, and I want to see this agreed as soon as possible, because that is in everyone’s interests.¹⁶¹

Ms Harman accused Mrs May of sending “mixed messages” in this statement, arguing that on the one hand “she says anyone who is lawfully here has nothing to worry about”, but “on the other hand, she says she cannot commit to giving them residency rights because their future must be part of the negotiations”.¹⁶² Ms Harman maintained that EU nationals resident in the UK “cannot be used as a human shield as we battle out in Europe for our UK citizens in other countries”.¹⁶³ She also made the case that her new clause was “legally necessary” to prevent the Government “bargain[ing] away people’s human rights”, as the right to family life was guaranteed by Article 8 of the European Convention on Human Rights.

Matthew Pennycook said that the Labour front bench supported new clause 57.¹⁶⁴ He agreed that “EU nationals who have put down roots in the UK are part of the fabric of our nations and communities” and they “deserve to be treated with respect”, not “used as bargaining chips in the negotiations”.¹⁶⁵ While he recognised the efforts of the Prime Minister to reach a reciprocal agreement, he argued that “the uncertainty must be brought to an end by unilateral action on the part of the Government”.¹⁶⁶

Several members—both in favour of and opposed to the new clause— argued that resolving the future status of EU nationals currently in the UK was more complicated than many people realised.¹⁶⁷ Mark Harper (who did not support new clause 57) explained that any EU national could come to the UK for three months, but to stay in the country for a longer period, they needed to be either working, looking for work, self-sufficient, or a student.¹⁶⁸ Anyone in the latter two categories would be in the UK lawfully only if they had comprehensive health insurance. He suggested that many people did not have such an insurance policy, and “so technically are not here lawfully at all”. He also made the case that issues such as reciprocal healthcare arrangements and the status of EU national prisoners in the UK would need to be resolved as part of this question. Philippa Whitford (SNP MP for Central Ayrshire) echoed Mr Harper’s point about insurance, and noted that because of this, some people who had “tried to seek security by applying for permanent residency” had been turned down and received

¹⁶¹ [HC Hansard, 6 February 2017, col 24.](#)

¹⁶² *ibid*, col 74.

¹⁶³ *ibid*, cols 74–5.

¹⁶⁴ *ibid*, col 63.

¹⁶⁵ *ibid*, col 61.

¹⁶⁶ *ibid*, col 63.

¹⁶⁷ *ibid*, col 71.

¹⁶⁸ *ibid*.

“prepare to leave” letters.¹⁶⁹ Alistair Carmichael (Liberal Democrat MP for Orkney and Shetland) said that the process of applying for permanent residency was “expensive” and the “unreasonable” amount of supporting evidence required was “putting an enormous burden on those seeking this small measure of reassurance in the short to medium term”, with 30 percent of applications currently being refused.¹⁷⁰ He called for the process to be revisited.

In response, David Jones said:

This is less an issue of principle than of timing, with a few EU countries insisting that there can be no negotiation without notification, and that therefore nothing can be settled until Article 50 is triggered. We could not be clearer about our determination to resolve this issue at the earliest possible opportunity, ensuring that the status of UK nationals is similarly protected [...] Members have suggested that we should, in effect, offer a unilateral guarantee to EU nationals in the UK while at the same time failing to achieve security for our own nationals abroad. That is a course that would carry the risk of a prolonged period of stressful uncertainty for them, which we are not prepared to accept.¹⁷¹

New clause 57 was put to a vote on day three. It was defeated by 332 votes to 290, a majority of 42.¹⁷²

8.4 Joint Ministerial Committee (NC4 and NC26)

Jenny Chapman, Shadow Minister for Exiting the European Union, moved new clause 4, which would have put the Joint Ministerial Committee (JMC) on a statutory footing during the period of Brexit negotiations.¹⁷³ The Joint Ministerial Committee was established by a memorandum of understanding between the UK Government and the devolved administrations of Scotland, Wales and Northern Ireland to provide central coordination of the overall relationship between the administrations.¹⁷⁴ Representatives from the UK Government and the devolved administrations agreed at a plenary meeting in October 2016 to set up a Joint Ministerial Committee on EU Negotiations (JMC(EN)) to take forward multilateral engagement on Brexit.¹⁷⁵ New clause 4 would have required the UK Government to “take into account” the views of the JMC at least every two months and before signing any agreements with the European Commission, and to “seek to reach a consensus” with the devolved administrations on the terms of withdrawal from the EU and the framework for the UK’s future relationship with the EU.

Ms Chapman acknowledged that in the *Miller* case, the Supreme Court had decided unanimously that the devolved legislatures did not have the power to block the Government from triggering Article 50, but she said that “did not mean the devolved legislatures can be

¹⁶⁹ [HC Hansard, 6 February 2017, col 73.](#)

¹⁷⁰ [ibid](#), col 101.

¹⁷¹ [ibid](#), cols 121–2.

¹⁷² [HC Hansard, 8 February 2017, cols 556–60.](#)

¹⁷³ [HC Hansard, 6 February 2017, col 129.](#)

¹⁷⁴ Northern Ireland Office, Cabinet Office, Office of the Secretary of State for Wales and Scotland Office, ‘[Devolution of Powers to Scotland, Wales and Northern Ireland](#)’, 18 February 2013.

¹⁷⁵ Joint Ministerial Committee, [Joint Ministerial Committee Communiqué](#), 24 October 2016. For further information about the Joint Ministerial Committee on EU Negotiations, see: House of Lords Library, [Leaving the European Union: Machinery of Government Changes](#), 16 December 2016.

ignored”.¹⁷⁶ She believed it was “only right” for the devolved legislatures “to be respected” and for “the different desires, concerns, aspirations and needs of the devolved administrations to be taken fully into account”. She said that Labour was “not arguing for a veto” for the devolved administrations, but “arguing for inclusion” because “Brexit will be better for all the people of Britain if all communities up and down the country are properly involved”.¹⁷⁷ Sir Oliver Letwin questioned how the Government could “take into account” the view of the Scottish Government when triggering Article 50 if the SNP did not wish to proceed with it.¹⁷⁸ Ms Chapman said that new clause 4 did not require consensus to be achieved, but “the fact that consensus is not easy does not mean that we should not at least try”.¹⁷⁹ Mark Harper expressed concern that putting this into legislation would make it justiciable, a court “could then be asked to adjudicate on whether the Secretary of State had tried hard enough to reach consensus”.¹⁸⁰

Tasmina Ahmed-Sheikh, SNP Westminster Group Leader for Trade and Investment, spoke to the SNP’s new clause 26, which she described as “the teamwork clause”.¹⁸¹ New clause 26 would have prevented the Prime Minister from invoking Article 50 until at least a month after all members of the JMC(EN) had agreed a UK-wide approach to and objectives for the UK’s negotiations for withdrawal from the EU. SNP MPs suggested that the Prime Minister had changed her position on the level of involvement of the devolved administrations in invoking Article 50—Alex Salmond, SNP Westminster Group Leader for International Affairs and Europe, quoted a *Telegraph* article from July 2016 which reported that Mrs May had said she would “not trigger the formal process for leaving the EU until there is an agreed ‘UK approach’ backed by Scotland”.¹⁸² Ms Ahmed-Sheikh went on to contrast this with the language used in the white paper, which states that the JMC(EN) will continue to “seek to agree a UK approach”.¹⁸³ Ms Ahmed-Sheikh said that new clause 26 would mean that Article 50 would not be triggered until “the Team UK approach was agreed by each individual member of the team”, asking rhetorically “Is that not what the Prime Minister said?”.¹⁸⁴

Ms Ahmed-Sheikh argued that the Scottish Government had made clear its willingness to “make fundamental compromises to ensure that we can agree a UK-wide approach”.¹⁸⁵ She referred to the Scottish Government’s white paper, *Scotland’s Place in Europe*, which she said set out a series of options “that could be taken if this House so wished, to protect the precious Union that Members talk so often about—to protect Scotland’s political, social and economic interests in Europe while also remaining part of the United Kingdom”. *Scotland’s Place in Europe* advocates a “differentiated solution” for Scotland:

In the event that the UK Government does not pursue the option of retaining membership of the EEA [European Economic Area], the Scottish Government is committed to exploring with the UK Government, in the first instance, the mechanisms

¹⁷⁶ [HC Hansard, 6 February 2017, col 135.](#)

¹⁷⁷ *ibid*, col 138.

¹⁷⁸ *ibid*, col 135.

¹⁷⁹ *ibid*.

¹⁸⁰ *ibid*, col 139.

¹⁸¹ *ibid*, col 149.

¹⁸² *ibid*, col 148; and Laura Hughes, ‘[Theresa May Suggests Brexit Could Be Delayed As She Says No Article 50 Until Scotland Gives Go-Ahead](#)’, *Telegraph*, 15 July 2016.

¹⁸³ [HC Hansard, 6 February 2017, col 148](#); and HM Government, *The United Kingdom’s Exit From and New Partnership With the European Union*, 2 February 2017, p 17.

¹⁸⁴ [HC Hansard, 6 February 2017, col 149.](#)

¹⁸⁵ *ibid*, col 150.

whereby Scotland can remain within the EEA and the European single market even if the rest of the UK chooses to leave.¹⁸⁶

Ms Ahmed-Sheikh referred to a BBC interview in which David Mundell, the Secretary of State for Scotland, had said that such a differentiated deal was “not impossible”.¹⁸⁷ She argued that such a deal was “optimal”, “deliverable” and “essential” for protecting Scotland’s interests, and called on the Prime Minister to “keep her promises to Scotland—as she said, a ‘UK approach’, for all of ‘Team UK’”.¹⁸⁸ Apparently hinting at the possibility of a second Scottish independence referendum, she warned that:

If the Scottish people can no longer trust the UK Government to act in their interests, it will be for the people of Scotland to decide the best way to rectify this unsatisfactory situation of an increasingly disunited kingdom.¹⁸⁹

Mark Harper objected that new clause 26 would mean that “a single member of the Joint Ministerial Committee could veto the entire process, which would not be welcome”.¹⁹⁰ John Redwood (Conservative MP for Wokingham) argued that the referendum was a “national, UK-wide referendum” and therefore “we will of course take into account the views of everybody because we are following the mandate of United Kingdom referendum”.¹⁹¹

Responding for the Government, Robin Walker, Parliamentary Under Secretary of State for Exiting the European Union, said that it “would not be appropriate” to make the JMC a legislative or statutory body as proposed by new clause 4 because doing so would “undermine” its role as “a neutral forum for confidential discussions”.¹⁹² He continued:

We are committed to engaging closely with the devolved administrations and all parts of the country to secure a deal that is in the best interests of the whole United Kingdom. However, as the Supreme Court ruled, relations with the EU are not a devolved matter, and no part of the UK is entitled to a veto.¹⁹³

New clause 4 was defeated by 333 votes to 276, a majority of 57.¹⁹⁴ New clause 26 was defeated by 333 votes to 62, a majority of 271.¹⁹⁵

8.5 EU Funding for Wales (NC158)

New clause 158 would have prevented the Prime Minister from invoking Article 50 until the Government had laid a report before Parliament and the National Assembly for Wales outlining the effect of Brexit on Welsh finances. Research published by the Wales Governance Centre at Cardiff University before the referendum estimated that Wales received £245 million more from the European Union than it paid in, an overall estimated net benefit of £79 per head in

¹⁸⁶ Scottish Government, *Scotland’s Place in Europe*, December 2016, para 107.

¹⁸⁷ [HC Hansard, 6 February 2017, col 150](#); and BBC News, ‘[Indyref Should Not Happen Says David Mundell](#)’, 5 February 2017.

¹⁸⁸ [HC Hansard, 6 February 2017, col 153](#).

¹⁸⁹ *ibid.*

¹⁹⁰ *ibid.*, col 142.

¹⁹¹ *ibid.*, col 154.

¹⁹² *ibid.*, cols 182–3.

¹⁹³ *ibid.*, col 184.

¹⁹⁴ *ibid.*, cols 184–9.

¹⁹⁵ *ibid.*, cols 189–92.

2014, in contrast to a net contribution of £151 per head for the UK as a whole.¹⁹⁶ The Research Service of the National Assembly for Wales has identified the following as the most relevant sources of EU funding to Wales:

- **Structural Funds:** under the 2014–2020 round Wales has been allocated almost £2 billion from the EU—with £1.6 billion going to West Wales and the Valleys and over £325 million to East Wales.
- **Common Agricultural Policy (CAP):** under the 2014–2020 round Wales receives around £250 million of funding each year in direct payments to farmers in addition to €355 million for its 2014–2020 rural development programme.
- **Horizon 2020:** is the EU’s programme to support research and development and innovation. Up to May 2016 Wales has secured around €45 million from Horizon 2020 for 95 projects, including around €10 million for the COFUND initiative, with Welsh Higher Education accounting for around €28.5 million of this total.
- **Erasmus+:** the EU’s programme to support mobility in the field of education and training.¹⁹⁷

In response to a written question about whether the UK Government would match the level of funding for Wales that is currently provided by the EU, David Gauke, Chief Secretary to the Treasury, gave some commitments regarding funding in the short-term, but said that longer-term arrangements were to be determined between the UK and Welsh Governments:

The UK Government will guarantee EU funding for structural and investment fund projects in Wales, including agri-environment schemes, signed before we leave the EU. It will be for the Welsh Government to make an assessment of which projects should be pursued in areas of its competence, and this guarantee will apply to any such projects. The agricultural sector in Wales will receive the same level of funding that it would have received under Pillar I of the CAP until the end of the Multi-Annual Financial Framework in 2020.

As a result of these steps taken by the UK Government, individuals and organisations in receipt of EU funds now have a greater degree of certainty about funding over the coming years. The UK Government will work with the Welsh Government to consider future funding arrangements once the UK has left the EU.¹⁹⁸

In their joint Brexit white paper, *Securing Wales’ Future*, the Welsh Government and Plaid Cymru stated that they were determined to “hold to account the campaign promises that Wales outside the European Union would not be a penny worse off than it would otherwise have been within the EU”.¹⁹⁹

¹⁹⁶ Wales Governance Centre, [Wales and the EU Referendum: Estimating Wales’ Net Contribution to the European Union](#), May 2016, p 4.

¹⁹⁷ National Assembly for Wales Research Service, ‘[Brexit in Wales—EU Funding, Research and Investment](#)’, National Assembly for Wales Blog, 7 October 2016.

¹⁹⁸ House of Commons, ‘[Written Question: Public Expenditure: Wales](#)’, 17 October 2016, 46769.

¹⁹⁹ Welsh Government, [Securing Wales’ Future](#), 23 January 2017, p 19.

Speaking to new clause 158, Jonathan Edwards, Plaid Cymru’s Treasury Spokesperson, said that the Bill was “loaded with a Brexit that pays no regard to the promises made during the vote leave campaign”.²⁰⁰ He recalled shortly before the referendum, Andrew RT Davies, Leader of the Conservatives in Wales, had promised that “funding for each and every part of the UK, including Wales, would be safe if we vote to leave”.²⁰¹ Mr Edwards said that Mr Davies had been repeating a pledge made in an open letter written by a group of pro-Leave Conservative ministers. The open letter, whose signatories included Boris Johnson (now the Foreign Secretary) had stated that:

It is therefore clear that there is more than enough money to ensure that those who now get funding from the EU [...] will continue to do so while also ensuring that we save money that can be spent on our priorities.

If the public votes to leave on 23 June, we will continue to fund EU programmes in the UK until 2020, or up to the date when the EU is due to conclude individual programmes if that is earlier than 2020.²⁰²

Jonathan Edwards said that his Party would “not accept a penny less from the UK Government” than Wales would have received from the EU had the UK remained a member, because “that was the specific pledge by the leave campaign in our country”.²⁰³ He criticised the UK Government’s white paper for making “no commitment to uphold the funding pledges, which were no doubt very persuasive in Wales during the referendum”, and accused UK ministers of not being prepared to “listen to a word” that the Welsh, Scottish or Northern Ireland representatives said during JMC meetings. As Mr Edwards spoke to his new clause and others tabled by Plaid Cymru that sought a differentiated deal allowing Wales to remain in the single market and a veto for the devolved legislatures over a final agreement on the terms of leaving the EU, Charlie Elphicke (Conservative MP for Dover) reminded him that “the people of Wales voted to leave the European Union”.²⁰⁴

Robin Walker, the Parliamentary Under Secretary of State for Exiting the European Union, did not respond specifically to new clause 158, but he said that the Government would continue to engage the devolved administrations through the JMC process.²⁰⁵

New clause 158 was defeated by 330 votes to 267, a majority of 63.²⁰⁶

8.6 Northern Ireland and the Good Friday Agreement (Amendment 86)

Amendment 86, tabled by the SDLP, would have created a statutory requirement for the power to notify withdrawal from the EU to be exercised with regard to the constitutional, institutional and rights provisions of the Belfast Agreement, also known as the Good Friday Agreement.²⁰⁷ Clause 1(2) of the Bill specifies that the Prime Minister would have the power to

²⁰⁰ [HC Hansard, 6 February 2017, col 162.](#)

²⁰¹ *ibid*, col 163; and BBC News, ‘[Welsh EU Cash ‘Maintained’ After Brexit, Say Vote Leave](#)’, 14 June 2016.

²⁰² Vote Leave, ‘[Leave Ministers Commit to Maintain EU Funding](#)’, 14 June 2016.

²⁰³ [HC Hansard, 6 February 2017, col 163.](#)

²⁰⁴ *ibid*, cols 164–5.

²⁰⁵ *ibid*, col 184.

²⁰⁶ *ibid*, cols 192–7.

²⁰⁷ House of Commons, [Committee of the Whole House Amendments as at 6 February 2017 \(2nd Revision\)](#), 6 February 2017, p 105.

invoke Article 50 “despite any provision made by [...] any other enactment”. Mark Durkan (SDLP MP for Foyle) argued that this “denies any regard whatever to protecting the constitutional, institutional or rights provisions of the Good Friday Agreement or their due reflection in the Northern Ireland Act 1998”.²⁰⁸ He said amendment 86 would create an exception for the Northern Ireland Act 1998 and would also “uphold the collateral principles in the other part of the Good Friday Agreement, which is between the governments of the UK and Ireland, and is not fully reflected in the 1998 Act”. Mr Durkan argued that references to the EU ran through the Good Friday Agreement:

[...] the EU is mentioned in [the Agreement]. It is there in strands 1 and 2—one of the most expansive references is in relation to the competence of the North South Ministerial Council; it is there in strand 3; and, of course, it is there in the key preamble of the agreement between the Government of the UK and the Government of Ireland, which refers to their common membership of the EU.²⁰⁹

He suggested that since “various ministers have told us that they have no intention of allowing Brexit to undermine the agreement”, the Government should find “no difficulty in having that commitment in the Bill”.²¹⁰ He cautioned that anyone who thought “Brexit has no implications for the Good Friday Agreement” did “not understand the politics that will upset the workings of that agreement because of the implications of Brexit”.²¹¹

Conor McGinn (Labour MP for St Helens North), speaking in support of amendment 86 and a new clause he had tabled which would have had a similar effect, said that the Good Friday Agreement was “at the heart of progress made in Northern Ireland and with respect to relations between Britain and Ireland”, progress that had been “forged by and through our common membership of the European Union”.²¹² In his view, the vote to leave was causing “uncertainty”, given that “the drafting and signing of the Good Friday Agreement, and all the architecture surrounding it, were in the context of both the United Kingdom and Ireland being members of the European Union”.²¹³ He called on the Government to commit to “upholding in both letter and spirit” provisions in the Good Friday Agreement such as: the free movement of people, goods and services on the island of Ireland; citizenship rights (both the rights of Irish nationals in the UK and the right of people born in Northern Ireland to choose British, Irish or dual citizenship); and the North-South institutions established by strands 2 and 3 of the Good Friday Agreement.²¹⁴

Recalling that the principle of consent enshrined in the Good Friday Agreement meant there was agreement that “Northern Ireland will remain part of the United Kingdom until such time as the majority of the people there decide otherwise”, Mr McGinn expressed concern that leaving the EU was a constitutional change “that has been done without the consent of the people in Northern Ireland, because they voted to remain”.²¹⁵ He said that this “unsettles what has been a very delicate political balance that both Labour and Conservative governments have

²⁰⁸ [HC Hansard, 6 February 2017, col 171.](#)

²⁰⁹ *ibid*, col 169. Strand 1 of the Good Friday Agreement relates to the creation of a democratically elected assembly in Northern Ireland; strand 2 to the creation of a North/South Ministerial Council; and strand 3 to the creation of a British-Irish Council and the British-Irish Governmental Conference (Northern Ireland Office, ‘[The Belfast Agreement](#)’, 10 April 1998).

²¹⁰ [HC Hansard, 6 February 2017, col 171.](#)

²¹¹ *ibid*, col 175.

²¹² *ibid*, col 159.

²¹³ *ibid*, col 160.

²¹⁴ *ibid*, cols 160–1.

²¹⁵ *ibid*, cols 161–2.

sought to protect”. Mark Durkan similarly argued that it was the principle of consent that had been “the key for quite a number of people to say, ‘Physical force has no more place in the course of Irish politics’”.²¹⁶ He warned that “anything that diminishes or qualifies or damages that key precept will damage the agreement”.

Ian Paisley (DUP MP for North Antrim) questioned why such an amendment to the Bill was necessary given that the Government had already committed to the principles enshrined in the various agreements relating to Northern Ireland.²¹⁷

Owen Paterson (Conservative MP for North Shropshire), a former Secretary of State for Northern Ireland, spoke to “correct the narrative that the EU played a key role” in the Northern Ireland peace process.²¹⁸ He argued that EU funding received by Northern Ireland could be “easily replicate[d]” and that it was the main political parties in the UK, the Republic of Ireland and the United States that were the guarantors of the peace process, not the EU.²¹⁹ He said the Government’s intention to protect the common travel area with Ireland was clear in its white paper, and he believed that there would be “continued close relations and close movement, which is to the advantage of all citizens in Northern Ireland and the Republic”.

Robin Walker, Parliamentary Under Secretary of State for Exiting the European Union, said that the Government’s “absolute commitment” to the Belfast Agreement and its successors was reflected in the white paper.²²⁰ He assured the House that the Government respected the agreements, and so amending the Bill was unnecessary.

Amendment 86 was put to a vote on the third day of committee. It was defeated by 327 votes to 288, a majority of 39.²²¹

8.7 Parliamentary Approval (NCI and NCI10)

Keir Starmer, Shadow Secretary of State for Exiting the European Union, began the second day of committee stage by moving new clause 1, which would have required parliamentary approval by both Houses for any agreement with the EU on the UK’s withdrawal terms or future relationship with the EU before final terms were agreed with the Commission and prior to endorsement by the European Parliament and Council.²²² Once a withdrawal agreement had been negotiated between the UK and the EU, it would need to be agreed to firstly by a simple majority in the European Parliament, and secondly by a super majority in the Council— 72 percent of Council members (ie 20 of the 27 remaining member states) representing at least 65 percent of the total population of the remaining member states.²²³ It is not yet clear if the withdrawal agreement will also cover the terms of the future relationship between the UK and the EU, or if that will be set out in a separate agreement.

In her Lancaster House speech on 17 January 2017, Theresa May said that the Government would “put the final deal that is agreed between the UK and the EU to a vote in both Houses of

²¹⁶ [HC Hansard, 6 February 2017, col 172.](#)

²¹⁷ *ibid*, col 160.

²¹⁸ *ibid*, col 168.

²¹⁹ *ibid*, cols 168–9.

²²⁰ *ibid*, cols 183–4.

²²¹ [HC Hansard, 8 February 2017, cols 546–51.](#)

²²² [HC Hansard, 7 February 2017, col 260.](#)

²²³ For more detailed information about the process, see: House of Commons Library, [Brexit: How Does the Article 50 Process Work?](#), 16 January 2017.

Parliament, before it comes into force”.²²⁴ Speaking at committee stage, Keir Starmer repeated that the argument he had made over the past three months about the terms of a parliamentary vote was that it “must cover both the Article 50 deal and any future relationship” and that it “must take place before the deal is concluded”.²²⁵

David Jones, Minister of State at the Department for Exiting the European Union, intervened to announce that the Government was now undertaking to hold a parliamentary vote before a deal was finally concluded:

[...] we intend that the vote will cover not only the withdrawal arrangements but also the future relationship with the European Union. Furthermore, I can confirm that the Government will bring forward a motion on the final agreement, to be approved by both Houses of Parliament before it is concluded. We expect and intend that this will happen before the European Parliament debates and votes on the final agreement.²²⁶

Mr Jones later clarified that the text to be voted on would be “the final agreed draft of the agreement before it was submitted to the European Parliament”.²²⁷ The Government had said that it “expected and intended” the vote in Parliament to take place before a vote in the European Parliament because “what the Commission does with the information it sends to the European Parliament is out of our hands”—although the Government would do its “very best” to ensure that Parliament voted first, it could “not control what the Commission does”.²²⁸

Keir Starmer described this as a “huge and very important concession”, noting that it answered the “great fear” that the vote would be on an already concluded deal, which would render it “meaningless”.²²⁹ He said the Minister’s statement “meets in large part everything I have been driving at in new clause 1”.

Alex Salmond, Keir Starmer and Kenneth Clarke all called on the Government to set down its undertaking in writing, for example as an amendment to the Bill.²³⁰ Dominic Grieve (Conservative MP for Beaconsfield), a former Attorney General, suggested that it could be difficult to draft language that could cover “a whole series of conditionalities” and that would not “fetter the Government’s discretion” to reach a deal if negotiations with the EU ran “until the 11th hour, 59th minute and 59th second” before the negotiating deadline expired.²³¹ David Jones said he had given a “serious commitment”, which should be “accepted as such” and there was “no need for a further amendment”.²³²

In response to questions from MPs about what would happen in various circumstances, David Jones said he thought that if the House of Commons voted down the agreement, “it would be highly unlikely that it would ever be put to the European Parliament”.²³³ He explained that if there were no agreement at all, which he described as “an extremely unlikely scenario”, then “ultimately we would be falling back on World Trade Organisation arrangements”, as the Prime

²²⁴ Prime Minister’s Office, ‘[The Government’s Negotiating Objectives for Exiting the EU: PM Speech](#)’, 17 January 2017.

²²⁵ [HC Hansard, 7 February 2017, cols 264–5.](#)

²²⁶ *ibid.*, col 264.

²²⁷ *ibid.*, col 326.

²²⁸ *ibid.*

²²⁹ *ibid.*, cols 265–5.

²³⁰ *ibid.*, cols 266, 268 and 305.

²³¹ *ibid.*, cols 304–5.

²³² *ibid.*, col 272.

²³³ *ibid.*, col 271.

Minister had previously made clear.²³⁴ In response to a question about whether there would still be a vote if the Government was unable to reach a deal, Mr Jones said that it was “hard to see what meaningful vote could be given if there had been no deal at all”, but in these circumstances the “absence of an agreement would be the subject of statements to this House”.²³⁵

Following further questions, he stressed that “what the Government are proposing is as much as possible in terms of a meaningful vote at the end of the process”.²³⁶ He explained that the vote “will be either to accept the deal that the Government will have achieved [...] or for there to be no deal”. Chuka Umunna (Labour MP for Streatham) argued that for the vote to be meaningful, the Commons needed “the opportunity to send the Government back to our EU partners to negotiate a deal if one has not been reached”, because defaulting to World Trade Organisation (WTO) rules would be “deeply damaging for our economy and wholly unacceptable”.²³⁷ However, David Jones declared he could not “think of a greater signal of weakness than for the House to send the Government back to the European Union saying that we want to negotiate further”.²³⁸ He described it as the “surest way of undermining our negotiating position and delivery a worse deal”.

Ed Miliband (Labour MP for Doncaster North) suggested that this put the UK Parliament in a weaker position than the European Parliament, as “if the European Parliament votes down the deal, Europe will carry on negotiating” but “if the British Parliament votes down the deal, that will be the end of the negotiations”.²³⁹ However, David Jones said that “there can be no assurance that there would be further negotiations” if the European Parliament withheld consent from a deal agreed by the European Council.²⁴⁰

Chris Leslie (Labour/Co-op MP for Nottingham East) spoke to his new clause 110 which would have required that no “new Treaty or relationship” could be concluded with the European Union without approval by both Houses of Parliament.²⁴¹ This approval would have to be given before terms were agreed with the European Commission for putting to the European Parliament and Council. Mr Leslie explained that new clause 110 “deliberately talks about a new Treaty or relationship”, because the new relationship might not involve the signing of an agreement. He insisted that “we should have a vote if that relationship includes no deal”, and said that it was “extremely disappointing” that the Minister had said this would not be the case. He described Mr Jones’s concession as “disappointing and deflating” and “quite hollow” because Mr Jones had said that if Parliament voted against a draft deal, the Government would not go back into further negotiations. He argued that it would strengthen the Government’s negotiating hand to be able to say “Parliament is really keen for a better deal”. He rejected the Government’s “Hobson’s choice, take-it-or-leave-it style votes” as “not acceptable and not good enough for Parliament”.²⁴²

Anna Soubry (Conservative MP for Broxtowe) and Yvette Cooper (Labour MP for Normanton, Pontefract and Castleford) described new clause 110 as not “revolutionary” and “not that

²³⁴ [HC Hansard, 7 February 2017, col 272.](#)

²³⁵ *ibid.*

²³⁶ *ibid.*, col 273.

²³⁷ *ibid.*

²³⁸ *ibid.*

²³⁹ *ibid.*, col 274.

²⁴⁰ *ibid.*

²⁴¹ *ibid.*, cols 299–300.

²⁴² *ibid.*, col 302.

radical”.²⁴³ Ms Cooper said it would “simply [...] include in the Bill what the Minister has already said he will do” and would provide reassurance to Parliament, “with the added benefit of clarity that there will be a vote if there is no deal and we go down the WTO route”.²⁴⁴

Responding for the Government, David Jones said that new clause 110 was “unnecessary” as he had already promised there would be a vote on the final draft treaty and any other agreement.²⁴⁵ He also pointed out that the new clause 110 called for a vote before terms are agreed with the European Commission, “leaving it open to the Commission to change its mind or position without any apparent recourse for this place”.

Like Chris Leslie, Kenneth Clarke indicated that he did not think the Government’s undertaking really represented a new offer—he suggested that a vote on a “done deal” with the European Commission and Council on a “take it or leave it” basis, with WTO terms as the only alternative, was simply “exactly what was offered in the white paper a few days ago”.²⁴⁶ Keir Starmer, however, listed what he saw as a number of new elements in what the Government had committed to:

[...] until today there was never a commitment to a vote on both the Article 50 deal and the future agreement with the EU; there was never a commitment to a vote before the agreement was concluded, on a final agreed draft—it is simply rewriting history to suggest there was—and there was never a commitment to a vote in this House that is intended and expected to take place before the vote of the European Parliament. Those three things have never been said before [...] For anybody to suggest that this is not a significant concession is to be blind to these developments.²⁴⁷

Sir Keir said he would not press new clause 1 to a division in order to allow time for other new clauses to be voted on.²⁴⁸ A vote was held on new clause 110, which was defeated by 326 votes to 293, a majority of 33.²⁴⁹

8.8 ‘Resetting’ EU Membership (NC180)

There has not been a legal ruling on whether or not Article 50 is irrevocable. As both the Government and the claimants argued in the *Miller* case that Article 50 cannot be revoked once triggered, both the Divisional Court and the Supreme Court accepted that this was common ground between the parties and did not rule on this point. Dominic Grieve, a former Attorney General, observed during the committee stage debate that “there is a powerful legal argument that it is capable of being revoked”.²⁵⁰ Jolyon Maugham, a London tax lawyer, has started legal proceedings in the Republic of Ireland to seek a ruling from the European Court of Justice on whether a notification of withdrawal under Article 50 could be unilaterally withdrawn without the consent of the other 27 member states.²⁵¹

²⁴³ [HC Hansard, 7 February 2017, cols 310 and 316.](#)

²⁴⁴ *ibid*, col 316.

²⁴⁵ *ibid*, col 327.

²⁴⁶ *ibid*, col 326.

²⁴⁷ *ibid*, col 329.

²⁴⁸ *ibid*.

²⁴⁹ *ibid*, cols 329–34.

²⁵⁰ *ibid*, col 277.

²⁵¹ Reuters, [‘Irish Court Case on Whether Brexit Can Be Reversed to Start This Month’](#), 13 January 2017.

Alex Salmond (SNP MP for Gordon) argued that if Article 50 was irrevocable, it would place the UK in a weaker negotiating position, and leave Parliament without a real choice in what it was voting for:

If Article 50 is irrevocable—if after the two years, unless there is unanimous agreement from the other 27 members of the European Union, the negotiations stop, the guillotine comes down and we are left with a bad deal or no deal—any vote in the House against that sword of Damocles hanging over the House will not be a proper, informed judgment.

[...] If the other side know that after two years the sword of Damocles comes down, it puts them in a much more powerful position in the negotiation.²⁵²

To solve this problem, he proposed new clause 180, which he described as “the reset amendment”.²⁵³ It would have prevented the Prime Minister from triggering Article 50 until she had sought agreement from the European Council that if Parliament did not approve the terms of the UK’s withdrawal from the EU, then the UK could “reset to our existing membership of the European Union on the current terms and try again”, only approving a deal “once we believed its terms were in the interests of this country”.²⁵⁴

Speaking generally about new clauses and amendments intended to secure a second round of negotiations if Parliament did not like the first deal proposed, Dominic Raab (Conservative MP for Esher and Walton), a former Foreign Office lawyer, dismissed the likelihood or the utility of this happening:

[...] on the assumption that it would take at least 18 months to agree all the terms of any new relationship agreement, the idea that Parliament voting down any deal would send the UK back to a further round of meaningful negotiations, before Britain formally leaves [under the Article 50 two-year deadline], is at odds with the Lisbon Treaty, and I find it neither feasible nor credible.

[...] Many of the amendments and new clauses we are considering are counterproductive precisely because in seeking to fetter the Government in negotiations they would weaken our flexibility and negotiating position and, critically, make the risk of no deal more likely.²⁵⁵

New clause 180 was defeated by 336 votes to 88, a majority of 248.²⁵⁶

8.9 Report on Ratification Referendum (Amendment 43)

Tim Farron, the Liberal Democrat Leader, spoke to amendment 43, which would have required the Prime Minister, before triggering Article 50, to publish a report on the process for ratifying the UK’s new relationship with the European Union through a public referendum. He said the amendment was concerned with “the issue of democracy at the end of this process as well as at the beginning”.²⁵⁷ He asserted that there was “an overwhelming case for a people’s vote on

²⁵² [HC Hansard, 7 February 2017, cols 276–8.](#)

²⁵³ *ibid*, col 278.

²⁵⁴ *ibid*.

²⁵⁵ *ibid*, col 318.

²⁵⁶ *ibid*, cols 334–7.

²⁵⁷ *ibid*, col 289.

the final exit package that the Government negotiate”, since “voting for departure is not the same as voting for the destination”.²⁵⁸ He argued that it was “utterly bizarre” that “having claimed that we were ‘taking back control’” in the referendum campaign, control should now be ceded “to those occupying the smoke-filled rooms of Brussels and Whitehall” and “to have a stitch-up imposed upon the British people”.²⁵⁹

Richard Benyon (Conservative MP for Newbury) argued that providing for a second referendum would “tie the hands of our negotiators” and ensure that “we could only be offered a bad deal”.²⁶⁰ Sir Oliver Letwin (Conservative MP for West Dorset) dismissed the amendment as “a clear determination to undo the effect of the referendum”.²⁶¹

Amendment 43 was put to a vote on the third day of committee. It was defeated by 340 votes to 33, a majority of 307.²⁶²

8.10 Economic and Financial Impact of Brexit (NC5, NCI43 and Amendment 11)

Matthew Pennycook, Shadow Minister for Exiting the European Union, moved Labour’s new clause 5.²⁶³ This would have required the Treasury either to publish any impact assessments it had carried out since the referendum on the UK’s future trading relationship with the UK, or to lay a statement before Parliament to confirm that no such assessment had been carried out, before Article 50 could be triggered. Mr Pennycook said that when it came to “the crucial issue of the impact of different trading models on our economy”, the Government’s white paper “fall[s] far short of what it required to ensure that we are able to have informed discussions and debates”. He dismissed it as “offer[ing] little beyond assurances that the Government will prioritise securing the freest and most frictionless trade possible in goods and services”. He knew “the analysis that we want published exists” because ministers had made it clear that the Government was “conducting a broad range of analyses at macroeconomic and sectoral levels to understand the impact of leaving the EU”. He maintained that publishing these assessments would not reveal the Government’s negotiating hand.

Iain Duncan Smith (Conservative MP for Chingford and Woodford Green) questioned why these analyses were of “vital importance” when Treasury forecasts had been wrong in the past.²⁶⁴ He suggested that rather than being “a helpful attempt to get information to the House”, new clause 5 was “clearly a back-door attempt to make it almost impossible for the Government to get on and trigger Article 50”.²⁶⁵ Michael Gove (Conservative MP for Surrey Heath) agreed that new clause 5 and the other new clauses and amendments in the group were intended to “frustrate the democratic will of the people”.²⁶⁶ He also questioned the value of impact assessments and said it was “a profound misunderstanding” to believe that “we cannot proceed until we have that so-called, single, definitive canonical view”.²⁶⁷

²⁵⁸ [HC Hansard, 7 February 2017, cols 289–90.](#)

²⁵⁹ *ibid*, col 292.

²⁶⁰ *ibid*, col 290.

²⁶¹ *ibid*, col 296.

²⁶² [HC Hansard, 8 February 2017, cols 544–6.](#)

²⁶³ [HC Hansard, 7 February 2017, col 347.](#)

²⁶⁴ *ibid*, col 349.

²⁶⁵ *ibid*, col 350.

²⁶⁶ *ibid*, col 361.

²⁶⁷ *ibid*, col 362 and 365.

Chuka Umunna spoke to his amendment 11, which would have required the Prime Minister to publish a report on the effect of Brexit on national finances, including the impact on health spending, before Article 50 could be triggered.²⁶⁸ He said that the importance of “the key pledge” of the Leave campaign—that “if we leave the European Union, £350 million a week will go to the NHS”—“cannot be overstated” and was “inextricably linked to why millions of people voted to leave [...] and, therefore to this Bill”. He stated that he was not trying to re-run the referendum campaign, but wanted “to make sure that the promises these people made are delivered”.²⁶⁹

Karl McCartney (Conservative MP for Lincoln) suggested that the Government should not be held to the £350 million figure as the slogan had been used by the Vote Leave campaign, not the Conservative Party.²⁷⁰ In response, Mr Umunna argued that “all the key Vote Leave campaigners were Members of this House” and should be held accountable in Parliament for the promises they had made.²⁷¹

Patrick Grady (SNP MP for Glasgow North) spoke to the SNP’s new clause 143, which would have required the Chancellor of the Exchequer to publish an assessment of the UK’s financial liabilities to the EU on withdrawal and to make a statement to the House of Commons on the economic impact of leaving the single market, before Article 50 could be triggered.²⁷² Mr Grady said that it would “test [...] the Government not only the practical costs of Brexit, but the hard money, because we know that the financial costs will be high” because it was “simply not in the interests of the remaining member states for the UK to be better off as a result of Brexit”. It has been reported that the European Commission “calculates that the UK has €60 billion of charges to settle” on withdrawal from the EU.²⁷³ Mr Grady also stated that exiting the single market would “lead to an enormous hit on our economy”, citing “leaked reports of the Government’s assessment that a hard Brexit could cost the UK economy up to £66 billion a year—9.5 percent of GDP—if we revert to WTO terms”.²⁷⁴

Robin Walker, Parliamentary Under Secretary of State for Exiting the European Union, said that MPs should “be in no doubt that policy relating to EU exit is underpinned by rigorous and extensive analytical and assessment work”.²⁷⁵ However, he said it was “not the standard practice to give a public commentary as the analysis develops”, although the Government had promised to “lay out as much detail as possible on EU exit, provided that doing so does not risk damaging our negotiating position”. He argued that these new clauses and amendments all required the Government to “publish information at a time when it could either delay the triggering of Article 50 or jeopardise the UK’s negotiating position”.

New clause 5 was defeated by 337 votes to 281, a majority of 56.²⁷⁶ New clause 143 was defeated by 333 votes to 79, a majority of 254.²⁷⁷ A division was held on amendment 11 on the third day of committee. It was defeated by 337 votes to 288, a majority of 49.²⁷⁸

²⁶⁸ [HC Hansard, 7 February 2017, col 355.](#)

²⁶⁹ *ibid*, col 356.

²⁷⁰ *ibid*, col 358.

²⁷¹ *ibid*, col 359.

²⁷² *ibid*, col 372.

²⁷³ Alex Barker, [The €60 Billion Brexit Bill: How to Disentangle Britain from the EU Budget](#), Centre for European Reform, 3 February 2017.

²⁷⁴ [HC Hansard, 7 February 2017, cols 372 and 373.](#)

²⁷⁵ *ibid*, col 391.

²⁷⁶ *ibid*, cols 394–8.

²⁷⁷ *ibid*, cols 399–402.

²⁷⁸ [HC Hansard, 8 February 2017, cols 540–3.](#)

8.1 I Statutory Negotiating Objectives (NC2)

Paul Blomfield, Shadow Minister for Exiting the European Union, moved new clause 2, which would have set out statutory objectives for the Prime Minister to have regard to during the Brexit negotiations.²⁷⁹ These were: maintaining a stable and sustainable economy; preserving peace in Northern Ireland; having trading arrangements with the EU free of tariff and non-tariff barriers and further regulatory burdens; cooperation with the EU in research and science, environmental protection, and preventing and detecting serious and organised crime and terrorist activity; and maintaining all existing social, economic, consumer and workers' rights. He said that this would enable the Government to be held to account on "the issues that matter" to "the people of this country":

[...] jobs; the conditions under which our businesses operate; how we keep our country safe and secure; how we protect our environment for future generations; and how we ensure that we remain at the cutting edge of science and research and that we have an economy that is able to fund our NHS and all the services that are vital for our social fabric.²⁸⁰

He said that this clause would address "many of the concerns not only of the 48 percent [who voted to remain] but of many of the 52 percent—those who voted to come out but did not vote to lose out".

Iain Duncan Smith (Conservative MP for Chingford and Woodford Green) criticised new clause 2 for "missing any reference whatsoever" to immigration being an important matter in the balance of the negotiation.²⁸¹ Similarly, Suella Fernandes (Conservative MP for Fareham) questioned why new clause 2 contained no requirement for the Government to have regard to the costs to the UK of the customs union and the common commercial policy, and Charlie Elphicke (Conservative MP for Dover) questioned why it did not "include as a priority the fact we should leave the internal market".²⁸² John Redwood (Conservative MP for Wokingham) indicated that new clause 2 was unnecessary because "it is a statement of white paper policy".²⁸³ He argued that the Government had "made it crystal clear" that "all those things are fundamental to the negotiating aims of the Government". However, he cautioned against embedding it in legislation, because this would imply an obligation that the Government should deliver all these objectives, when they "are not in the gift of this Government or Parliament [but] will be decided by the other 27 members" of the EU.²⁸⁴

David Jones, Minister of State at the Department for Exiting the European Union, said that the Government had already set out its strategic aims for the negotiation in the white paper published on 2 February 2017.²⁸⁵

New clause 2 was defeated by 336 votes to 291, a majority of 45.²⁸⁶

²⁷⁹ [HC Hansard, 8 February 2017, col 434.](#)

²⁸⁰ *ibid*, col 443.

²⁸¹ *ibid*, col 444.

²⁸² *ibid*, cols 499 and 507.

²⁸³ *ibid*, col 451.

²⁸⁴ *ibid*, cols 451–2.

²⁸⁵ *ibid*, col 522.

²⁸⁶ *ibid*, cols 525–9.

8.12 Tax Avoidance and Evasion (NC7)

Paul Blomfield also spoke to new clause 7, which would have given ministers a statutory duty during Brexit negotiations to have regard to the public interest in maintaining all existing EU tax avoidance and evasion legislation, and to comply with the EU Code of Conduct on Business Taxation.²⁸⁷ He said the new clause endorsed the work that the Government had been doing with partners in the Organisation for Economic Cooperation and Development (OECD) “on efforts to avoid a race to the bottom on corporation tax”.

In her Lancaster House speech, Theresa May said that if there were no deal with the EU, the UK would “have the freedom to set the competitive tax rates and embrace the policies that would attract the world’s best companies and biggest investors to Britain” and “free to change the basis of Britain’s economic model”.²⁸⁸ In an apparent reference to these remarks, Caroline Flint (Labour MP for Don Valley) said it was “unfortunate that some of the Prime Minister’s comments seem to rail against some of the positive efforts that have been made to tackle tax evasion and avoidance and some of the issues relating to tax havens”.²⁸⁹ She argued it would be “a huge step back” if the UK “were seen to step away from something [...] on which we could be leading the world”.

Responding for the Government, David Jones said that the Prime Minister had made it clear that the *acquis* (the existing body of EU law) would be converted into British law on the UK’s departure from the EU, and that thereafter it would be for Parliament “to decide on any changes to that law, with appropriate scrutiny”.²⁹⁰

New clause 7 was defeated by 336 votes to 289, a majority of 47.²⁹¹

8.13 Gibraltar (Amendment 29)

Gibraltar is a British Overseas Territory for whose international relations the UK is responsible. Gibraltar has been in the EU since 1973 under the UK’s membership, although the customs union, the common commercial policy, the common agricultural policy, common fisheries policy and the requirement to levy VAT do not apply in Gibraltar.²⁹² The 1972 UK Act of Accession to the then European Economic Community (EEC) applied the EEC Treaties to Gibraltar, with the exception of these policy areas. In the referendum in June 2016, 96 percent of Gibraltarians voted to remain in the EU, on a turnout of 84 percent.²⁹³

Mike Gapes (Labour MP for Ilford South) spoke to his amendment 29, which would have required the Government to undertake consultation with the Government of Gibraltar before triggering Article 50.²⁹⁴ He recalled that the Bill which became the European Union Referendum Act 2015, which legislated for the referendum, had not initially included any wording related to Gibraltar, but it was amended through the “strenuous efforts of a number of Conservative backbenchers” to ensure that “Gibraltar’s citizens, even though they are not part of the United

²⁸⁷ [HC Hansard, 8 February 2017, col 448.](#)

²⁸⁸ Prime Minister’s Office, ‘[The Government’s Negotiating Objectives for Exiting the EU: PM Speech](#)’, 17 January 2017.

²⁸⁹ [HC Hansard, 8 February 2017, col 490.](#)

²⁹⁰ *ibid*, col 522.

²⁹¹ *ibid*, cols 530–4.

²⁹² House of Commons Library, [Effect of the EU Referendum on Gibraltar](#), 18 July 2016.

²⁹³ Electoral Commission, ‘[EU Referendum Results](#)’, accessed 13 February 2017.

²⁹⁴ [HC Hansard, 8 February 2017, col 478.](#)

Kingdom, but are part of the European Union [...] had a vote in the referendum”. He found it “strange” that although the referendum legislation explicitly mentioned Gibraltar, there was no mention of it in the present Bill. He argued that “the self-determination of Gibraltar is important”.²⁹⁵

Mr Gapes gave examples of how the day-to-day relationship between Gibraltar and Spain could “at the whim of some official or politician in Madrid, be made difficult”.²⁹⁶ He said that while the UK was an EU member, the Government could “ensure that there is no funny business and that no silly things emerge from some draft document produced somewhere about territorial waters, environmental issues, flights and trade matters”.²⁹⁷ However, he was concerned about the UK losing the ability after Brexit to block Spanish attempts in the EU “to up the ante to make life more difficult for Gibraltar”.

Joanna Cherry (SNP MP for Edinburgh South West) also referred to what she described as the “rather curious” omission of Gibraltar from the Bill, and questioned whether it was “an oversight”.²⁹⁸ The SNP had tabled an amendment which would have required the Prime Minister to obtain consent from Gibraltar before triggering Article 50, and a new clauses specifying that the Act covered Gibraltar. She said that the Government of Gibraltar supported amendments “to get Gibraltar brought within the ambit of the Bill” so that its “interests could be taken into account in the triggering of Article 50”.²⁹⁹ She pointed out that Gibraltar already had a “differential agreement” whereby it is in the EU but not in the customs union, and said that “they would like to be involved a Brexit deal that guaranteed continued access to the single market”.

David Jones, Minister of State at the Department for Exiting the European Union, said that the Government was “clear that Gibraltar is covered by our proposed exit negotiations” and the Government had “committed to fully involving Gibraltar” as it prepared for the Brexit process.³⁰⁰

Amendment 29 was defeated by 338 votes to 288, a majority of 50.³⁰¹

8.14 Euratom (NCI92)

Labour’s new clause 192 would have made the process of leaving Euratom separate from the process of leaving the EU, and would have provided that nothing in the Bill affected the UK’s membership of Euratom. Paul Blomfield, Shadow Minister for Exiting the European Union, said he believed it would “fly in the face of common sense to throw away membership of an organisation that brings such unequivocal benefit”.³⁰² He pressed ministers to give “greater clarity on their intentions” because he said the Government had “so far been ambiguous” on their future plans for nuclear cooperation.³⁰³ Mr Blomfield also declared that the Government’s “obsessional opposition” to the European Court of Justice was leading them to “rip up our

²⁹⁵ [HC Hansard, 8 February 2017, col 479.](#)

²⁹⁶ *ibid*, cols 478 and 479.

²⁹⁷ *ibid*, col 479.

²⁹⁸ *ibid*, cols 456 and 465.

²⁹⁹ *ibid*, col 465.

³⁰⁰ *ibid*, col 522–3.

³⁰¹ *ibid*, cols 534–8.

³⁰² *ibid*, col 449.

³⁰³ *ibid*, col 450.

membership of an organisation on which 21 percent of UK electricity generation relies and that supports a critical industry providing 78,000 jobs”.³⁰⁴

At second reading, Edward Vaizey (Conservative MP for Wantage) said that he and other MPs in neighbouring areas had been “inundated with countless emails” from workers at the Culham Research Centre who feared losing their jobs.³⁰⁵ During the committee stage debate, he reminded the House that “the main research into nuclear fusion—the holy grail of sustainable energy” was taking place at Culham, and it was also the site of the Joint European Torus (JET).³⁰⁶ The JET is Europe’s largest fusion device, and is funded by the European Commission.³⁰⁷ He described some of the issues that he believe would arise if the UK left Euratom:

[...] a requirement to conclude new bilateral cooperation agreements with the United States and approximately 20 other countries to maintain our access to intellectual property and nuclear technologies; removing the requirement for the UK to comply with Euratom’s safety regimes, which would prevent other countries from collaborating with us; and further potential delays and cost increases to the nuclear new build programme.³⁰⁸

He expressed the hope that the Government would publish a document explaining their strategy as soon as they were able to do so, and said that he had been engaging with ministers who were “putting in a great deal of energy” to “ensuring that the implications of our technical withdrawal from Euratom are minimised, and that we can restore our de facto membership in the coming months”.³⁰⁹ James Berry (Conservative MP for Kingston and Surbiton) suggested that Euratom was “one of those organisations from which the other EU member states would have absolutely no interest in excluding the UK” and that therefore “a quick agreement” on the future relationship was “likely”.³¹⁰

Kit Malthouse (Conservative MP for North West Hampshire) was less concerned about the UK leaving Euratom. He argued that it would “not affect [...] at all” bilateral cooperation with France, the only other “serious nuclear power in the EU”.³¹¹ He believed that countries such as Japan, India and South Korea, with which the UK already had bilateral arrangements, were “really where innovations are happening in nuclear research”.

In response, David Jones restated the Government’s position that legally “it would not be possible for the UK to leave the EU and continue its current membership of Euratom”.³¹² He explained that the Government’s aim for the future relationship with Euratom was “clear: to maintain the mutually successful civil nuclear cooperation with EU nations”. However, the exact relationship would be subject to negotiation, which he said could not start until Article 50 had been triggered. He promised to “continue to engage closely with MPs, industry and stakeholders”.

³⁰⁴ [HC Hansard, 8 February 2017, col 450.](#)

³⁰⁵ [HC Hansard, 31 January 2017, col 957.](#)

³⁰⁶ [HC Hansard, 8 February 2017, col 471.](#)

³⁰⁷ EUROfusion, ‘[Europe’s Largest Fusion Device—Funded and Used in Partnership](#)’, accessed 11 February 2017.

³⁰⁸ [HC Hansard, 8 February 2017, col 472.](#)

³⁰⁹ *ibid*, cols 472–3.

³¹⁰ *ibid*, col 493.

³¹¹ *ibid*, col 485.

³¹² *ibid*, col 523.

New clause 192 was defeated by 336 votes to 287, a majority of 49.³¹³

8.15 Clauses 1 and 2 Stand Part

A vote was taken on the question that clauses 1 and 2 stand part of the Bill. It was agreed to by 496 votes to 111, a majority of 385.³¹⁴

9. House of Commons: Remaining Stages

As the Bill was considered by a committee of the whole House and was not amended, there was no report stage on the Bill. Bills that have been considered by a committee of the whole House in the House of Commons are given a report stage only if they have been amended.³¹⁵

The Bill's programme motion specified that third reading proceedings must conclude within seven hours of the start of proceedings on the Bill on the third day.³¹⁶ By the time all the votes had taken place at the end of the committee stage, this left no time for a third reading debate. Alex Salmond (SNP MP for Gordon) voiced his dissatisfaction about this:

The Government's refusal to accept a single amendment means there will be no report stage. The programme motion means there is no debate on third reading. I am informed by the [House of Commons] Library that the last time that combination happened was the Defence of the Realm Act 1914, which was about the First World War. For this to happen on any Bill would be an abuse; for it to happen on this Bill is an outrage. What is it about the procedures of this place that allows a Bill of this constitutional significance to be railroaded through in this disgraceful fashion?.³¹⁷

The Deputy Speaker reminded Mr Salmond that the House had voted in favour of the programme motion.³¹⁸

The Bill was given its third reading by 494 votes to 122, a majority of 372.³¹⁹ As at second reading, of the MPs who voted, the Conservatives (with the exception of Kenneth Clarke), the DUP, the UUP and UKIP voted in favour of the Bill. The SNP, the Liberal Democrats, the SDLP, Plaid Cymru and the Green Party voted against it. Despite the Party's three-line whip to support the Bill, Labour's vote was again split, with 162 Labour MPs voting in favour of it and 52 voting against.

³¹³ [HC Hansard, 8 February 2017, cols 561–5.](#)

³¹⁴ *ibid*, cols 552–5.

³¹⁵ Robert Rogers and Rhodri Walters, *How Parliament Works*, 2015, 7th edition, p 198.

³¹⁶ [HC Hansard, 1 February 2017, col 1140.](#)

³¹⁷ [HC Hansard, 8 February 2017, col 565.](#)

³¹⁸ *ibid*.

³¹⁹ *ibid*, cols 566–70.

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