

Procedure Committee

Oral evidence: Motions under section 13(1) of the European Union (Withdrawal) Act 2018, HC 1664

Wednesday 31 October 2018

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Members present: Mr Charles Walker (Chair); Bob Blackman; Mr Peter Bone; Bambos Charalambous; Sir Christopher Chope; Nic Dakin; Sir David Evennett; Helen Goodman; David Linden; Melanie Onn; Nick Smith; Alison Thewliss; Mr William Wragg.

Questions 49 - 109

Witnesses

I: Rt Hon. Hilary Benn MP, Chair, Select Committee on Exiting the European Union.

II: Lord Hennessy of Nympsfield.

Written evidence from witnesses:

– [Rt Hon Hilary Benn MP](#)

Examination of witness

Witness: Rt Hon. Hilary Benn MP, Chair, Select Committee on Exiting the European Union.

Q49 **Chair:** We are now broadcasting live. Power stations are going into overdrive as people tune in.

Hilary Benn: I am relieved to hear that.

Q50 **Chair:** How long did you have this morning at your Select Committee? How long were you chairing that for? Was it a long time? Two hours?

Hilary Benn: It was over two hours.

Q51 **Chair:** We have no intention of keeping you here for that long. As a Committee, we don't even know what two hours looks like.

Hilary Benn: You have a slightly smaller membership than the Brexit Committee.

Chair: Slightly.

Hilary Benn: Although there is some crossover, which is now a chance for revenge.

Q52 **Chair:** Can I say you are among friends, or would that be stretching it slightly? Okay, enough jollity. Hilary, it is very kind of you to come here today. You wrote to me a few weeks ago—I think it was before the recess—asking the Procedure Committee to look into the meaningful vote. Can I ask why you wrote to us? What were you trying to achieve by that?

Hilary Benn: I will answer that, but to start with, thank you very much for inviting me to give evidence, and to the Committee for responding to the letter that I wrote. Can I reiterate what I said in my letter to you of yesterday? We have no intention, as the Brexit Select Committee, of treading on your toes in relation to this specific question. I will do my best to explain the Committee's thinking in making that recommendation to you, but if you ask me about other things—I am very happy to try to answer—it will be me answering, not speaking on behalf of the Committee.

Chair: Right.

Hilary Benn: The reason we did that was because we felt that it was important that the House of Commons had a chance to test a number of different responses to any withdrawal agreement. We took evidence, and in particular heard from Lord Lisvane, that under the normal procedures, when you get to the moment of interruption, you can vote on one amendment and then you come to the main motion. We thought that would not really give enough opportunity, given the diversity of views on what we should do about Brexit and what kind of withdrawal we would have, to enable the House to test those out.



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That is why we passed the ball to you and said, "Look, you are the experts. Could you please advise on how that might be done, and how you could construct a business of the House motion that would enable the Speaker to select a number of amendments?". The clear presumption of the Committee in making that recommendation to you was that the normal procedure would apply—namely, we would vote on the amendments first, and then come to the main motion, either as amended or not. I was surprised, I have to say, when the Secretary of State's memorandum appeared before you proposing a different approach, because that is not what any of us was expecting.

- Q53 **Chair:** But if it was not what anyone was expecting, I struggle to see why you or your Committee felt the need to involve the Procedure Committee. If you feel that the normal procedures should apply, in essence, what is it that we were meant to say beyond that the normal procedures should apply?

Hilary Benn: We did not. We thought that under the normal procedures, in the light of what Lord Lisvane said to us, you would get to vote only on one amendment at that moment, so we asked, "How could one give the House the chance to vote on more than one amendment before proceeding to the main Question?". That is why we passed it to you.

- Q54 **Chair:** It seems to me that your Committee wants us to follow one course of action, but you have seen the Government memorandum; they are quite keen for us to follow another course of action.

Hilary Benn: Indeed.

Chair: But the great thing is that the Committee is immune to those sorts of pressures, and we will ultimately recommend our own course of action. That is why it is so good that you are here to give evidence. We have so many questions for you.

- Q55 **Mr Wragg:** You mentioned the idea of an amendment specifically, Hilary. The Act is quite clear in terms of ratification of any withdrawal agreement. I think you said "what kind" of withdrawal agreement. It will not be a question of what kind. The thing that will be laid before Parliament will be what the Government have negotiated. The Act is quite clear that it has to be approved one way or another, so amending it is really not possible, is it?

Hilary Benn: It certainly is possible, because one can conceive of amendments of substance. For example, the House could say, "We approve the withdrawal agreement, but the Government should set out how it intends to keep the UK in a customs union with the European Union when it engages in the negotiations on the future relationship." Or the House could say, "We are happy to approve the withdrawal agreement, but we want the Government to give an undertaking that it will legislate to ensure that the House will have a vote on any treaty or treaties that emerge from the negotiations when the second phase, the future relationship, has been sorted." There is a very good paper, which I am



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sure you have seen, that Jack Simson Caird, Matthew Bevington and Alan Wager have produced, which has a very long list of possible amendments.

- Q56 **Mr Wragg:** I have not seen that, but I have the law in front of me. What it says is that it has to be approved. If something is amended, how can it be approved one way or the other?

Hilary Benn: I think it depends on the nature of the amendment. I realise that one of the arguments that the Government has made in support of the alternative approach that it suggested in the memorandum to the Committee is the question of legal uncertainty about what it is the House has decided. I do not recall—but I stand to be corrected—whether this was raised as a concern during the extensive debates we had on the withdrawal Bill. That is the first thing. Of course I am not a lawyer, and I bow to the greater knowledge and expertise of lawyers, but the second thing is that it seems to me that there are amendments to the withdrawal agreement that would certainly be fatal, such as the equivalent of a reasoned amendment to the Second Reading of a Bill—"declines to give Second Reading to the Bill because we don't like this, this and this."

- Q57 **Mr Wragg:** Would that not be the same, though, as voting against it?

Hilary Benn: Well, no, it wouldn't be the same, because—

- Q58 **Mr Wragg:** The effect would be the same.

Hilary Benn: It would have the same effect, in that the withdrawal agreement would not be approved, but it would be the House of Commons saying to the Government, "This is the reason why." The truth is we may end up with people voting against a withdrawal agreement for completely opposite reasons, and that is why the argument that we are putting is that there are a range of views in the House of Commons, and allowing those to be tested and voted on before you get to the Government's main motion seems to me to be a reasonable approach. That was the expectation in which the Committee made its recommendation that you look at the question of how a number of amendments could be considered.

- Q59 **David Linden:** You mentioned that there is a range of views across the House, but the majority view when the EU withdrawal Bill was going through was that there should be a meaningful vote. Just so this Committee is absolutely clear, what is your understanding of what a meaningful vote actually is?

Hilary Benn: I think a meaningful vote is one in which the range of views that there clearly is in the House of Commons can be debated and voted upon before the Government's motion is voted upon, either amended or unamended. Saying to the House of Commons, "There are only two choices—you can vote for our withdrawal agreement or we're leaving with no deal" is not a meaningful vote.

- Q60 **David Linden:** Following on from that, we are having this conversation in Parliament, but it seems to be going above everybody's head. What do you think the understanding of "meaningful vote" is among members of the public?



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Hilary Benn: I am not sure how much time the public in general has spent contemplating that question. I think it depends what view people take of Brexit. That would inform how they look upon the way in which we are handling this. For example, those who are arguing that there should be a people's vote would probably think that it would not be meaningful if there was not a chance for that view to be tested in the House. Others who think that what the Government may come back with would leave us much too closely aligned to the European Union might well want to be able to express that as a reason why they are declining to give support to the withdrawal agreement. That illustrates the point I made that there is a range of views.

That comes right the way back to the phrase "taking back control". Remember, there was a time when the Government was not proposing to give us, the House of Commons, a vote. I remember questioning the Prime Minister when she appeared before the Liaison Committee in December 2016. At that time, the Government's policy was not to answer the question, "Will we have a vote?". Now we have a vote, and the extensive debate during the passage of the withdrawal Bill was all about how to make that—in the language—meaningful.

Q61 **David Linden:** So you think the Government are trying to sell us a pup?

Hilary Benn: I think the Government is trying to maximise the chances that it will get its withdrawal agreement through. That is what I think the Government is doing. That is what all Governments would do in circumstances where they were trying to get something through that was a bit tricky. Brexit is definitely tricky.

Q62 **Melanie Onn:** Have there been missed opportunities? At the point when there was a strong push to get a vote on the deal before Parliament, were there missed opportunities to properly define what "meaningful vote" really meant and to get the Ministers and Secretaries of State who were in charge at the time to explain their understanding of that phrase?

Hilary Benn: That is a very good question. We spent a lot of time debating what different people thought was meaningful when the legislation was going through. This in part brings us on to the question of motions in neutral terms. In certain eventualities, we could end up with that. We also said in the Select Committee report that if we were facing no deal, we are clear that Parliament should be given a clear opportunity to express its view. Saying to Parliament, "Just take note of the fact that I've made a statement" would not be meaningful either, so it is an issue at different stages, depending on the outcome.

However, it is precisely because the Government is aware that there is a range of views that it is trying to structure things so that if it succeeds in getting a deal—we all hope that that will be the case, but that is not clear at the moment—it can bring it back and get it through. Ultimately, these are matters for Parliament, because Parliament can decide whether it likes the business motion that the Government has put down, and it can amend



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the business motion, and if this is about taking back control, we might as well exercise it as parliamentarians.

- Q63 **Helen Goodman:** Were the House to vote down the Government's motion on the withdrawal agreement, do you think a no deal would be inevitable?

Hilary Benn: No.

- Q64 **Helen Goodman:** Could you spell out for the Committee why you say that, given that the law as it stands does present us with that choice?

Hilary Benn: Because as I have said consistently—this is just my personal view—I do not believe that there is a majority in the House of Commons for leaving the European Union with no deal. There isn't; that is my assessment.

What would the Government do in those circumstances? It would be a huge rejection of two and a half years of negotiating, but although I cannot speak for the Government, I do not think the Government would sit on its hands and say, "Oh well, we're leaving with no deal," despite Ministers having repeatedly said that no deal is better than a bad deal. I just do not think the Government would do that, because of the publication of the technical notices that have come out over the summer, the issues that they raise, and the fact that we are, as a nation, patently not ready for the consequences of no deal organisationally.

There is also the evidence that Caroline Nokes gave yesterday in front of the Home Affairs Select Committee, in which she raised the very practical question of how employers will differentiate between an EU citizen who continues to have the right to work under the commitments that the Government has given, and one who arrived that morning, both of them bearing passports. That is a really practical example of how we are not ready to make this happen, never mind the economic consequences that the Government's own assessment—revealed to us thanks to the decisions of the House—show it would have, so I do not think it is inevitable. I do not personally believe that it will happen, because the Government and/or Parliament will decide, "Well, we need take a different approach."

- Q65 **Helen Goodman:** In that eventuality—if we were to vote down the main motion—you do not think that we would just canter on to 29 March with no action? At the same time, do you have a clear view of what the parliamentary route would be to avoiding a no deal?

Hilary Benn: I think the first responsibility would be on the Government. What is Government going to do if its strategy has been defeated? One option is to say, "Okay, we get the message; we're going to adopt a different strategy, for which we think we might be able to get a majority in the House of Commons." That is one option, so I would say that the first responsibility rests on the Government of the day not to permit that to happen.

- Q66 **Helen Goodman:** And how do you think our European partners would respond in that situation? Do you think they would be prepared to go



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back to the drawing board?

Hilary Benn: They would finally realise the extent of the political problem in trying to get the withdrawal agreement through, clearly, because it would just have been lost. I do not think they want no deal either. Now, there are options—there are options to extend article 50. Indeed, one of the recommendations that we made in our sixth report looked at precisely the question that you have been asking me. We did not accept that rejection of the deal would mean that we would inevitably leave with no deal, and we said that one thing that the Government should be prepared to do in those circumstances is extend article 50, so that is one option.

There is another option, which we were discussing this morning in our evidence session. The Government could come back later, if it wanted to hang in there and say, “Well, that's all there is; we're not changing our policy,” and put the matter to the House again. We asked the Clerk of the House this morning about whether there would be an absolute bar on considering the same motion again, and what he said to us was that if the House wants to look at that again, then it could do so, so that is another option.

Q67 **Helen Goodman:** I cannot quite bring them to mind, but there are some time limits in the Bill, though, aren't there?

Hilary Benn: There are time limits—on the Government making a statement and on motions to take note—but the Government could bring another motion to say, “We're going to change our policy”, or, “We're going to talk to our European partners and see what we can come back with further.” I don't think it will happen, but the Government could say, “We'll put the deal to a referendum of the British people, because the House of Commons is deadlocked and has not been able to approve it.” There are a number of options, but what I am saying in response to your very direct and pertinent question is that I simply do not believe that either the Government or Parliament will sit on their hands, watch the clock run down, and fall out with no deal at all from 1 April. I don't think that is going to happen, and I don't think that a responsible Government would do it—nor would a responsible House of Commons.

Chair: One more.

Q68 **Helen Goodman:** I was going to follow up on David's point. How significant do you think it is that, when the public watch the telly and watch the debate, they understand the procedures of the House?

Hilary Benn: We should do everything that we can to try to make them comprehensible, but they are not always comprehensible to all of us—let's be honest—

Helen Goodman: You are speaking to the Procedure Committee!

Hilary Benn: You are—I was talking about myself—the fount of expertise, subject to the advice that we get from the Clerks. But once you get into the debate and people are getting up to say, “I don't like this deal because it is too close to Europe”, “I don't like this deal because it is not going to



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guarantee that we'll continue to have friction-free trade with our European partners", "I don't like this because we're not sure whether Parliament will get a vote on the treaties that come out of the second part of the negotiation", or any one of a number of things, I think it will be reasonably clear to people what is being voted on. Those who are covering our affairs need to say, "This particular vote is about this issue." The procedure is there to enable us to take decisions, then it is our responsibility and that of others to explain to the public what we are discussing and what we have decided.

Sir David Evennett: Can I—

Chair: No. Alison.

Q69 **Alison Thewliss:** You mentioned in a Committee report that you reckon a minimum of five days would be required to debate this.

Hilary Benn: Yes.

Q70 **Alison Thewliss:** I am concerned about the timescales. We do not have long to go until the end of March. There are some suggestions that negotiations might carry on until very late in the day as well. How possible do you think that it is that we might get to the point where we are debating and voting on this, and still we won't know exactly what we are going to vote on?

Hilary Benn: Well, it's possible, depending on how the negotiations go. As we stand at the moment, the European Council has not pencilled in a special Council in November. They appear to have said, "If we think that the negotiations are making progress and you can give us a nod, we might do that", but they did not decide to do that at the last meeting.

We recognised in our report, in fairness, that there may need to be some condensing of timetables depending on how far along the process we have got and how close to the wire we have come. Hopefully, we don't get to that point but, given the magnitude of the decision that we are taking—the British people decided that we were leaving the European Union, but the nature of our future relationship affects every single area of our national, public, business and personal lives, every single one—to say that we should have a similar period of time to debate this in the House of Commons as we had at the time we took the decision to join the Common Market all those years go seems pretty reasonable to me.

From the narrow Committee point of view, we noted the suggestion made by the Institute for Government that there should be two weeks between the deal being presented to the House and having the vote on it, not least because we as a Committee want to take evidence from the Secretary of State and Olly Robbins, and to produce a report to the House to assist the House in taking a decision. I think five days is perfectly reasonable.

You then have to have the WAIB—withdrawal agreement and implementation Bill—put on the statute book. We don't know how extensive that will be—we haven't seen it yet. I think it would assist if we



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saw it earlier, but it hasn't appeared yet, nor has the withdrawal agreement, nor has the political declaration, so we are somewhat in the dark.

Alison Thewliss: Yes, with a ticking clock.

Hilary Benn: With a ticking clock. That is correct.

- Q71 **Mr Bone:** As usual, Chairman, I tend to agree with what you are saying on this matter in relation to the fact that it does seem unlikely that there would be a no-deal scenario, for the reasons that you outlined, but of course who knows what would happen if the withdrawal agreement was voted down? It would be such a significant piece of Government legislation that the Prime Minister might even feel that she needed to resign if she lost that.

The Prime Minister today made it very clear that we are coming out of the European Union at the end of March, so it seems to be not reconcilable that if we have a vote even in December on the withdrawal agreement, we could somehow get another agreement sorted out before 29 March. The only solution that you propose, which seems logical to me, is that the House might vote to extend article 50. That is in complete contrast with what the Prime Minister said today very, very clearly at Prime Minister's questions. What is your view on that problem?

Hilary Benn: I think Governments hold to their policy until they are required by force of circumstances or change of mind to alter them. Of course, up until that moment, that is the Government's policy. If the Government were to lose the withdrawal agreement vote, we would be in a very different situation indeed, and the Government might decide to change their policy. If the Government say, "Okay, we are going to have a different approach", you might go back to the EU and say, "Can we adjust the political declaration to reflect that?" As we know, because we as the Select Committee have had three meetings now with Michel Barnier, he has always said from the start that there are basically two options, given the red lines—you can have a Canada deal, but if you are prepared to change your red lines then you can have a Norway deal, but what you can't have is something that we don't recognise. That is the difficulty with the Chequers proposal, because the EU said, "We don't recognise it. It doesn't work; it doesn't compute and therefore it isn't acceptable." So, it is possible for it to change.

- Q72 **Mr Bone:** Going back to the procedure, and we had some very good evidence last week from Dominic Grieve and Sir Oliver Letwin and one other person—

Chair: Chris Leslie.

Mr Bone: Chris Leslie. They all started with the position that they really would like to see an amendable motion, but I think at the end they accepted that the Government had to have a yes-no on the withdrawal agreement. I think they were looking at a series of motions prior to that vote where the House would divide, to test the will of the House. It might



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be about extending article 50, a second referendum or whatever, so that the Government would then be informed, or the House would be informed when they make that decision on either yes or no to the withdrawal agreement. Subsequently, if the withdrawal agreement was defeated, the Government would already know the views of the House moving forward. That seemed, I think, to get quite a lot of support from the three witnesses that we saw. Would that satisfy you?

Hilary Benn: This is my personal view. I think this has been called the smörgåsbord approach and it is somewhat akin to what happened with Lords reform in 2003 and 2007. In 2003, everything was voted down and in 2007, two of the options—80% and 100% elected, as I recall—were passed by the House, and nothing happened.

Q73 **Mr Bone:** Ah, no, I think you will find that the motion was passed substantially, but the programme motion wasn't put. It had one of the biggest majorities in the House. I do think the record should be clear that the House voted for Lords reform, but the Government did not have the courage to put the programme motion.

Hilary Benn: You are absolutely correct. There is maybe a semi-eternal truth about Lords reform—nothing ever happens, apart from the removal of most of the hereditaries.

I am not terribly attracted to that method—first, because you could end up with a number of options potentially getting a majority and secondly, I think it reduces the leverage, bluntly, that the House of Commons would have on the Government. If the Government know that what happens on an amendment could well affect the vote on the main motion, they might be inclined to give some assurances. For example, to ward off an amendment about guaranteeing the House a vote on a treaty or treaties that arise out of the future negotiations, the Government might say, "We will give an assurance that we will legislate in the WAI Bill to ensure that the House has a vote." That might be a way of warding it off.

Q74 **Mr Bone:** But why couldn't that be done in the motions before the vote?

Hilary Benn: You could do that then, but would the Government pay any attention? That is the point I am making: would they pay any attention to it? They might not. Their mind would be concentrated if the amendment were to their own motion, so if you link them, as is traditional—that is the way we normally do this—the Government have to focus, pay attention, and see how they are going to handle it. But in the end, regardless of what method is used, if the Government want to ensure they have a "clean vote"—I do not like that term, because it suggests amendments are attempting to contaminate, and the House of Commons' expressing a view is not contaminating anything; it is us doing our job—the Government just have to make sure they defeat all of the amendments, and they can have a vote on their motion. It is in the Government's hands.

Q75 **Bob Blackman:** You have mentioned two types of amendment. The first could amend the deal itself. So, for example, the Government come back with a proposed deal that has some form of customs arrangement, but



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colleagues feel that they want a customs union, as opposed to a customs arrangement, that would amend the deal. There are others, such as the process of agreeing treaties or whatever in future, which are a very different type of amendment.

Would you not accept the fact that given this deal, whatever it looks like, is going to have to be approved by the European Parliament, the 27 member states, the European Council and Parliament, any amendment that amended the deal—the actual package—would be fatal to the deal? Therefore, everything would have to go back to the drawing board if there is to be another deal, because the process of approval would hopefully have begun across Europe.

Hilary Benn: It is not unknown in negotiations for each side to go back to its members, in effect, and say, "I'm afraid there's a bit of a problem here. Can we do something about it?" I accept it is extremely difficult in these circumstances. I think there are diminishing degrees of fatality, if I may coin that phrase, in respect of the deal. The legally binding treaty is the withdrawal agreement, and that has four parts: the money, the transition, European citizens' rights, and—if they can reach agreement on it—the backstop for Northern Ireland.

Then there is the political declaration, which does not have the force of a treaty. It will be attached to it; it is part of a package. The European Parliament will look at the treaty, having regard to the political declaration, but if you have an amendment that says, "We're happy to approve this, but we want the Government to set out how, in the negotiations yet to come, they will ensure that we remain in a customs union with the European Union", I do not see that as fatal. That is about the objectives of the British Government in a negotiation that is yet to come, and as long as it is not inconsistent with whatever the words in the political declaration say about the future relationship, then I do not see that it is a problem.

If the political declaration said, "We both agree that never in a month of Sundays is the UK going to be in a customs union with the EU", you would have a bit of a problem, but I doubt that it will say that. I expect it will be somewhat more general, so saying to one negotiating sides, the UK Government, "This is what we want you to go and seek in those negotiations" does not seem fatal to me. I really do not see how that could be fatal—or, indeed, get someone to go to the court and say, "You shouldn't have approved it."

- Q76 **Bob Blackman:** Given that, do you think there should be two separate series of votes: one on the deal, which is the withdrawal deal, and one on the future negotiating position, which could arguably have a series of proposals—an à la carte menu—that the House could vote on to instruct the Government to go away and inform their future negotiations?

Hilary Benn: I do see that as an option. My concern about it, and why I don't favour it, is the same as I gave in answer to the previous question: I

think separating it out would reduce the House's leverage over the Government in this process.

- Q77 Sir David Evennett:** This has been really interesting, and I take on board a lot of what you said. There are three questions that I want to ask. The majority of my constituents just want us to get on with it. They don't want to have endless debates and everything else. They expect the Government to come forward with a proposal, and then the House to vote on it. If the House votes it down, the question remains, as Peter says, whether the Government and the Prime Minister can continue.

I can't quite see why you are so adamantly against having a general debate beforehand, in which people can put their points of view and get a feel. If there was a yes/no vote only without amendment and it was defeated, the Government would be well aware of the debates that had taken place previously. I can't see what is wrong with that approach. The Government have to govern and lead. They would come back with proposals and we would have five days, or whatever time it is, to debate them. They would then have an idea. My fear is that, as you highlighted, everything could be voted down, like the House of Lords. You were rather more upbeat that one or two might get through, but I would look at it the other way: maybe none of them will.

Hilary Benn: Withdrawing from the European Union is a complex process and is going to take a long time, for reasons that have become more apparent to everybody than was the case when the referendum took place. The reason why I don't support that proposal is that, although it allows the House of Commons to express a range of views, does the Government have to pay any attention? No, it doesn't.

- Q78 Sir David Evennett:** But the House of Commons could vote down the Government's proposal.

Hilary Benn: Well, it could do that. Of course it could do that. It could do that under the whole range of options, which is why we are having a discussion in the first place. This is our moment as the House of Commons. This is a hugely important decision for the future of the country. To say, "Well, let's have a vote on this, and a vote no that and the other. The Government might pay attention or it might not," and so on doesn't, in my view, quite rise to the scale of the task. I would argue that the reason why the Government put in the memorandum proposing to change the approach is because it recognises that there is a range of views. The Government is not unaware of the different views. Blimey! After all the debates and arguments that there have been right across the House, the Government is not unaware of the different views about how we should deal with this.

If we make it that there are amendments to the Government's motion, and they are voted on first, the House, first, has the chance to test whether there is support for an alternative approach, which could be in addition to the withdrawal agreement or in complete opposition to it, or it could add some process. Secondly, it would force the Government to take

the House of Commons seriously. My personal view is that that is the best method in those circumstances on this really, really important issue.

Sir David Evennett: Thank you.

- Q79 **Bambos Charalambous:** Just moving on from the things discussed by the previous questioners, if the Government lost an up/down, deal/no-deal vote, then won a motion of confidence, and there was no prospect of a second referendum or a people's vote, do you think there should be provision for Parliament to express its view that the Government should go back and negotiate further? I think you said earlier that there is a majority in Parliament for a deal of some description. Do you think there should be some sort of vote following a no-deal vote so Parliament can express its view?

Hilary Benn: The first answer I would give is, it depends in what context the withdrawal agreement has been voted down. If it is just a straight defeat, it doesn't really assist the Government in understanding the reason why a majority of people decided to vote it down. We know from the range of views that you can have people opposing it because it keeps us too closely tied, or because it doesn't build a strong enough relationship—completely opposite reasons. That is the argument for having a series of amendments so the majority of the House can come together if they want to. If they don't want to and are happy with the withdrawal agreement, they vote them all down and say, "Yes, that's fine. Off you go." That is the process. If we do it that way, the Government will have a clear idea why, and they will then have to make a decision on what to do, which brings me to the answer I gave to Helen a moment ago. Responsibility falls first on the Government, and they will have to do something. If their plan has been defeated, they will have to come up with another. If they do not, the House of Commons should absolutely have the chance to express its view about what should then happen.

- Q80 **Chair:** Hilary, you mentioned that nothing ever happens on Lords reform, but we do not have that luxury with the UK's leaving the EU. That is happening on 29 March, so something has to happen. I hope that the Government are negotiating in good faith, with the national interest at the centre of the negotiations.

My problem with a number of the positions that are emerging is that everybody seems to want to have it their own way. The Government obviously have their concerns. You have come here and said that what happened in October 1971 was particularly good, with five days of debate, but that you did not like the second half of that, which was that only one amendment was tabled and was not called.

I think that the British public will be amazed. It is not as if the deal will be announced on a Monday and we will all gather on a Tuesday and vote that evening. The deal will be announced and there will be a period of time for reflection, media calls and global statesmen traveling around the world. I understated—I think the British public will be completely bemused if there was not a clear vote on whether the UK Parliament accepts the deal or



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not. That is my concern.

I do not care when that vote comes. I do not really care whether it comes at the beginning or end of the five days, but somewhere—for the sake of our electorate, businesses and employers—a clear decision has to be given when the deal is put to the House.

Hilary Benn: I absolutely understand that argument, and it is open to the House to give that clear decision, because it can defeat all the amendments and say yes or no.

Q81 **Chair:** But as you are attracted to the 1971 option, why don't we just follow that procedure, with one amendment being tabled and not called? Would you be happy with that?

Hilary Benn: No, because the Committee—I am now speaking for the Committee again—said it thought that there should be the possibility of selecting a number of amendments. That is why we passed to you the particular challenge of advising how that could be done. It is not like the Government side are all of one view and the Opposition are all of another in the normal, binary way. Brexit is not like that. We have differences of view, certainly within the two largest parties.

I am not persuaded, as you can tell, that we should depart from the normal process of voting on the amendments first before voting on the main motion. That is the first point I wanted to make, because it came as a surprise when the Government suggested that they wanted to.

The second point is that the range of views about our future relationship are reflected among the public. It is really important to understand that. Members of the public have hopes, from leaving and having nothing to do with the EU right the way across to wanting a people's vote, and all the points in between.

To say that, by the process that we may adopt, depending on your recommendations—that is entirely a matter for you; I look forward to what you have to say—we are organising it this way, because there are a range of views— We might as well be honest about the different views and the future.

Remember that there are two parts to this. On the withdrawal agreement, provided that the Northern Ireland thing is sorted, there is more or less consensus, on things such as on citizens' rights, on money—although there is a bit of argument on that in one or two places—and on the transition, which everyone is now converted to. However, all this will do is start a process about the future.

At the moment, while we are going down a road that will lead to that future, for Parliament to say, "This is the kind of relationship we want you to go and negotiate when you get to part 2 of the negotiations," seems to me quite easy to explain to people and a perfectly reasonable thing for the House to seek to do.



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Chair: It is, isn't it? We cite the public. There is the public that writes to us, which is a fraction of a fraction, and they tend to be at either end of the argument, and there is the public that does not write to us, and most of them, when you meet them in the street, say, "For crying out loud, just get on and get a deal so we can move on to other things." Shouldn't we reflect that view in the House?

Hilary Benn: Indeed, and I understand the frustration, but it is for Parliament to make that decision. I voted for article 50—talking for myself again—because I accept that we on the remain side lost the referendum, but there is a huge debate about what the future economic relationship is going to be. We all recognise that, and this is a particular moment when the House has a chance, in effect, to mark the Government's card about what it would like them to do in the future. That may be different from what the Government are hoping for. Another of the difficulties with this process is that we may not be very clear at all about what the Government seek to negotiate in part two, because if we end up with a vague political declaration, we will have the four bits we know about and fine words about wanting a close relationship. If someone came to me and said, "Well, will that involve us being in a customs union or not?" we would have to say, "We haven't got a clue."

Q82 **Nick Smith:** Apologies for the lateness, Chair. Hilary, I accepted the result of the referendum and voted for article 50. I think that there is a very healthy majority in the House for membership of a customs unions because it protects trade, jobs and also deals with the Northern Ireland problem. What do you think the best process would be to arrive at that outcome?

Hilary Benn: I think, first, for the House to have the chance to give some negotiating instructions to the Government for phase two—the future partnership negotiations—we would need to assume the withdrawal agreement was passed. Secondly, we would need to get the Government to commit to a vote on the treaty or treaties that emerged from those negotiations. At the moment, there is no such commitment. You have the CRAG process, which allows Members to pray against, but that does not guarantee that time will be made available for a vote, and Parliament might therefore just have to sit there and watch a treaty that it does not like go through. I do not think that is taking back control. Trade agreements involve a lot of important issues—some highly political and contentious—and legislatures should say, "We want to have some say on this and not just leave it to Governments to negotiate and approve using the royal prerogative."

Q83 **Sir Christopher Chope:** Hilary, your premise is that if we were to leave without a deal, that would be a disaster. I do not accept that premise, and nor would a large number of my constituents. They think that it would be much better to leave without a deal rather than being forced into having a bad deal, which seems to be the direction in which the Government are going at the moment. If you have a five-day debate on this, as long as people are allowed to put down amendments in order, they can speak to those amendments during the debate and the



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Government and the public will have an idea of where the balance of opinion lies for all those who participate in the debate—almost everybody who wants to will be able to participate in a debate of that length. Do we need to get hung up on the procedure? As long as everybody can express their view, do we really want to confront the Government on the issue of whether we should be able to amend a motion so that it becomes of dubious legality? Do we really want to do that?

Hilary Benn: Yes, I think we do. If one were to take the argument that you have just put and apply it more generally to Parliament's work—why we don't do that all the time? Just have a chat, express a view and then leave the Government to get on with it. The argument that I am making is that we do not do that, we have an established procedure for amendments that are taken before the main motion—that is point No. 1.

Point No. 2 is that this is of such importance for the future of the country for the reasons that I tried to set out earlier that it is even more important that we have a process that enables Parliament to express its view clearly and that the Government should feel that they have to take full account of that and respect and accept it, rather than just say, "Well, that was all very interesting, but we are going to go on and do what we were going to do anyway."

Q84 **Sir Christopher Chope:** But you accept that there is no way that Parliament can force the Government to do anything if we vote down that motion?

Hilary Benn: I'm not a lawyer, and I suppose legally that is correct, but politically it is not correct. If the Government cannot get their policy through the House—whether or not there is a no confidence motion and it is carried—they have a very big problem, and the Government in those circumstances would have to say, "Right, we've got a big problem. Our preferred course of action has just been voted down; we're going to have to do something else." That is the pressure that we bring to bear, and that is the way in which Parliament shows it does have power in this process, because the Government in those circumstances surely would have to listen to what Parliament has had to say.

Q85 **Sir Christopher Chope:** But surely it would not be the Government who would be at fault. Basically, the Government would be saying, "We've done our best with these intransigent people in the European Union. This is the best they are prepared to deliver us. Do you in Parliament think that what they are prepared to give us in a deal instead of a no deal is worth having, or not?" We then have a vote on it, and if Parliament says, "We prefer to have no deal rather than what is on offer," will not my constituents—though perhaps not so many of yours—be throwing their hats in the air and saying, "That's great!"? There was a binary choice: we either leave or remain, and there is no point in being half in and half out.

Hilary Benn: This goes to the heart of the argument about what the referendum result meant. That is the raging debate in British politics. I am clear that it means that we are leaving the institutions of the European Union at the end of March. I am also clear, speaking personally, that that



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referendum did not decide the nature of our future relationship with our friends and neighbours. It seems to me that that is the argument. I cannot conceive of circumstances in which the House of Commons would vote to leave with no deal, but this is the political debate. I come back to my original point: precisely because there are these differing views, the House ought to have a chance to hear them and to vote on them as the Government put their withdrawal motion.

- Q86 **David Linden:** I want to follow up on a point Sir Christopher made—that we could have this five-day debate and people could table amendments, if not necessarily move them. I find myself in a bit of a difficult position here, because since I was elected to this House in June 2017, every single Opposition day vote that has taken place in this House the Government have just ignored. What makes you think that the Government would respect even a meaningful vote?

Hilary Benn: Because of the nature of the issue, it would be a huge blow to the Government if their preferred strategy, and the deal they had brought back in pursuit of that, was defeated. The idea that on this the Government would say, “Well, that was all very interesting—get lost,” I just do not think would happen.

- Q87 **David Linden:** Could you foresee a situation where they do what they have been doing with Opposition day votes, where they say they will spend 12 weeks considering it and come back with a statement?

Hilary Benn: I don’t think they can do that in this case, because on an Opposition day motion where the Government have not participated in the vote nothing else will happen. In this case—tick-tock, tick-tock—the clock is running down. If you accept the argument I put—that I don’t think any Government would sit on their hands and result in our leaving with no deal—that is the pressure that will require the Government to act. The nation would say, “Well, Parliament has given you a view, given you some instructions and said it does not like what you’re doing. You need to stand up and say what you are going to do now.” The Government would have to respond, and they could not wait 12 weeks to do so.

Chair: The nation might say that, or it might say, “For crying out loud, what have you clowns just done? We thought we had a deal here and now we’ve not got a deal and we could leave without a deal.” The nation could cut both ways on this.

Helen Goodman: The nation expresses itself through how we vote as individual Members of Parliament.

Chair: Exactly, but the nation could react in many different ways and none of us has a monopoly on insight into how it might react.

- Q88 **Melanie Onn:** I just wonder what you think really would come out through the course of a further five days of debate and further motions. What new ideas, arguments or conversation would be brought to the table that had not already been covered at extraordinary length?



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Hilary Benn: I assume a lot of Members would want to contribute to the debate.

Q89 **Melanie Onn:** But would there be anything new?

Hilary Benn: I'll tell you what will be new: we do not know what any Northern Ireland backstop will look like. We have no idea what the future partnership document will say—I do not know whether we will see a draft of that before they finally conclude it.

Q90 **Melanie Onn:** But that relies on the Government giving us that information, doesn't it?

Hilary Benn: Indeed, but by the time we come to a debate, whether it is five or whatever number of days, that will happen only if the Government have reached an agreement and published the final version of the withdrawal agreement. A lot of that is in green, which means it has been agreed. We read in the newspapers that the Government have reached agreement on other things such as the dispute resolution mechanism, but I cannot tell you what that is because we have not seen it.

There will be significant new elements that we will not have seen, but they will depend on how truncated the timetable is. The Government will appear at the Council, shake hands and say, "We have a deal," and come back to the House. The deal will be published straight away, I am sure. Time will be given so that the Select Committee can hear from the Secretary of State and produce a report—we would do that very swiftly. We will then have the debate and have the vote. There will be certain new things that we will need to take into account that we will not have seen before. It is not all known.

Chair: We may have grilled our witness for long enough.

Hilary Benn: Lightly toasted, I think.

Chair: Forty-five minutes, which is longer than we like to keep most people.

Hilary Benn: I hope it has been helpful. I have enjoyed it.

Chair: It has. Thank you very much.

Examination of witness

Witness: Lord Hennessy of Nympsfield.

Q91 **Chair:** Lord Hennessy, thank you for sitting through the previous session. Would you like to make an opening statement?

Lord Hennessy: Yes, thank you. I am genuinely honoured to be asked to come today, but it is an honour coated with humility, because I am not one of nature's proceduralists. You know the ways and anthropologies of your House far better than I ever will. One has to be careful, if one is an unelected Member of the other House, not to interfere in Commons

business, so I am coated with humility and respect before I say anything else.

That said, I am fascinated by your task, which it seems to me is to embroider a banner we can all rally around, wherever we stand on the European question—a procedural banner that will enable everyone to feel that what matters to them has had its moment in the Chamber of the House of Commons, as we engineer the greatest shift in our country's place in the world since we disposed of the territorial empire over 40 years between 1947 and 1980.

Brexit is stress-testing our nation's institutions and its constitution through a series of interlocking questions, of which Parliament is but one, though an absolutely crucial one. For a time, your Committee will be in the eye of the storm in a way that Procedure Committees rarely are. Future historians will linger long over the choreography that you craft as a result of this inquiry. For a fleeting moment, the whole Brexit process will rest on you. No past Procedure Committee, as far as I can tell, has ever had to carry such a weight.

I hope above all that that can produce what Philip Ziegler once described to my MA students as an "instantly invented precedent" to carry us through this extraordinary set of events—one that is regarded by the public and everyone else as fair, produces a clean and unambiguous outcome, and above all is comprehensible to the electorate and the people. Every fibre of me wishes you well as you seek to put the meaning in the meaningful vote.

Chair: Gosh, if only I could speak like that.

Lord Hennessy: That is very kind of you.

Q92 **Chair:** Absolutely wonderfully put. Where does this meaningful vote stand in the pantheon of votes taken since 1946?

Lord Hennessy: Well, I suppose one has to start with the Norway debate in 1940, which was extraordinary—the vote that was won by the national Government but brought down Neville Chamberlain none the less. That takes the power for the most significant vote probably ever in modern times. However, it certainly stands with the vote on 28 October 1971, when Ted Heath got his majority of 112 to approve the White Paper that had the terms of the agreement in it, in principle. It is known as the clavichord debate, isn't it, because he went back to No.10, overcome with emotion, and sat down at his clavichord and played, I think, the prelude to Bach's "Well-Tempered Clavier", Book One, and then composed himself. So it's known as the great clavichord moment.

It is very instructive to revisit that one—we can come back to that one in a minute—because it is the only sliver of precedent we have got for what you are facing, and it is not in any way near an exact precedent. But I do think it was extraordinary.



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I would add—although no way is this part of folk memory—that the greatest chunk of sovereignty we ever gave away was through article 5 of the NATO treaty. It dwarfs the sovereignty we gave away—it turns out, temporarily—to the EEC and its successor Community bodies. But the House of Commons wasn't exercised by that, particularly. That wasn't a great showdown, and we tend to remember only the great showdown votes. Of course, if we get a deal, it will be a great showdown occasion, and that's right, because in a country like ours—an open society in a parliamentary system—the greatest showdowns should take place in the elected Chamber. This is a first-order question, but there is very little to guide us from the past, and given that the great Kenneth Pickthorn said in a House of Commons debate in 1960 that "Procedure is all the constitution the poor Briton has", there is a lot resting on you.

Chair: That is a happy little thought.

- Q93 **Mr Wragg:** Lord Hennessy, you are renowned for your great regard for Parliament and the constitution, unwritten as it is. Of course this is the Procedure Committee, so it is perhaps not the forum for questioning procedure, and the nuances, permutations and combinations of it that we can have, but in your experience, what is the impression that you think would be created if there were not that straightforward aye or no on the deal that the Government bring back—if that were not put first?

Lord Hennessy: If I was a Member of your House, I would be very much persuaded by the evidence you were given by Oliver Letwin and Dominic Grieve about the need for a clean vote in the process somewhere. I think that's absolutely crucial.

The balance of power between the Executive and the legislature is something that we all worry about; there's a kind of floating exchange rate phenomenon. It is day by day, and we all know that. You have lived with it a long time, all of you, in this Chamber. Having said that, however, the Government needs its moment on the Floor just as much as anybody else does.

One of the properties that has made the European question so difficult for the British people to handle—I mean, there are many reasons why we can't handle it: it doesn't fit our left/right structure of politics, and we didn't invent the idea in the first place. There are all sorts of psychological problems we've got with it, but it has this terrible property: it can turn into a grievance question, a grudge question.

Indeed, I have just been rereading the White Paper of 1971, which, by the way, is beautifully written. I don't want to sound like an old buffer—of course that's exactly what I do sound like, standing before you like a tweedy old husk—but White Papers were beautifully written in those days; it's before the management consultants got anywhere near Whitehall. Whatever you think about certain passages, particularly that one saying there would be no serious "erosion of national sovereignty", which lit a fuse beneath the whole enterprise as it turns out, it is beautifully written.

I am losing my way now. What was my point?



Q94 **Mr Wragg:** The impression that would be created if there was not a clearcut vote at first—

Lord Hennessy: Oh, yes. Absolutely. Everybody must feel they have had their moment in that five-day debate—and it surely cannot be less than five days, even though nobody would have any new formulations to bring to the table, particularly. You need to go through it. A process of catharsis and choreography is very necessary. However, everybody who is partisan or party to the European question, which is all of us, must feel that the thing that they care about most had its moment, and that the House was given a chance to express its mind on it. I was very taken with the way that both Dominic Grieve and Oliver Letwin put it to you.

Chair: Helen, I will come to you, but first I have to go to David.

Q95 **David Linden:** I have been asking this question to every witness who has come before the Committee. When the legislation was going through, what was your understanding of what a meaningful vote was?

Lord Hennessy: It was all wonderfully vague, as these things are. There is a great line of Winston Churchill's in the Second Reading debate on the Iron and Steel Bill in 1948 that the British "never draw a line without blurring it." There is a lot of that going on.

As for the meaning of "meaningful vote", you are refining it from the evidence you are getting, but I repeat what I said a moment ago: the test of it, and the test of what you produce, is that people do not feel even more aggrieved with the outcome at the end of the five days—that they have had their moment.

Victor Rothschild, whom I used to know a little—he was head of Ted Heath's think tank—once said that government is like Aldous Huxley's description of life: routine punctuated by orgies. The trouble with the European question is that when it is routine, it is unbelievably boring—it takes the palm for tedium—and then all of a sudden, with nothing in between, it becomes orgiastic. It makes the political weather and drives otherwise calm people to distraction. That is why we need a proper five-day debate.

Q96 **David Linden:** I definitely did not expect to be discussing orgies in the Procedure Committee.

I have another question. Obviously we have constituents and are guided by the public. What do you think the public actually think of this process? What do you think they want to see out of it?

Lord Hennessy: What I hear everywhere, including from yourselves, is that the public just wants to get on with it. Disposing of a big geopolitical relationship is always more difficult and time-consuming than acquiring it, although of course there were great fights from the 1961 application onwards—the resistance was very eloquent, on sovereignty grounds in particular, in the run-up to Ted Heath getting his 112 majority vote. But people are fed up to the back teeth with it. Even if you are a nerd—I was born a nerd and am a complete nerd—it is very difficult to keep in your



head exactly what the European Community has been about at any particular time. We all have a different map in the mind of what it is. It became the lightning conductor both for extraordinary hopes and for deep resentments right from the beginning. People are just fed up to the back teeth with it. I think they would settle for a period of tedium and stability, and that is the one thing that we are not going to get.

We historians love dividing things up into Questions, with a capital Q. We are living with seven questions in a symbiotic relationship. One is the European question, of course, but it has powerfully reopened the question of Britain's place in the world, and it has reopened the Irish question. In the long term, it has probably given a great boost to the question of the very Union of the UK, with the possibility of a Scottish separation in the mid-2020s. It has reopened the question of the condition of Britain, to use a Disraelian phrase; even those of us who thought we knew about the differences in lives and life chances within our borders had not fully appreciated them until the vote expressed it—I certainly had not.

It has also reopened, as part of the stress testing, the very question of Parliament. If Parliament is not central to the outcome in the way it conducts itself and the influence that it has through its votes on the final deal—if we get one—it will diminish this institution at a time when the last thing we need is anything to diminish the reputation of Parliament.

Of course, there are all sorts of spectres at the feast that come crowding in. I was listening to Hilary Benn's evidence. The House of Lords is an absolute nightmare. Everybody worries about the House of Lords votes as a harbinger of what might be about to happen on the European question, but the House of Lords is the Bermuda triangle of British politics, isn't it? Every two generations, politicians go in and try to sort it out. Some never reappear, while others come back singed and dazed, vowing one thing: never to go anywhere near the question again. The House of Lords is not exactly a red herring, but it does not help very much, and that is worrying people.

That was a very mixed answer. I am sorry about that.¹

Q97 Nic Dakin: Parliament needs to be central, and the process needs to have some transparency to the public. In the evidence that we heard last week from Dominic, Oliver and Chris Leslie, there was a focus on the need for clarity around a vote, a concern that there should be something amendable, so that it was clear, and the idea of focusing down to a final decision. How important do you think it is that we are able to consider amendments in this process?

Lord Hennessy: I think it is crucial to it—and that it be before the clear-run vote. That would be my preference if I were here. The 1971 five-day debate only helps a little bit, because there was only one amendment, and it was Willie Hamilton's. In fact, he turned it into a confidence motion—a

¹ *Note by the witness: the seventh question to be opened up by the stress testing is the standard model of the British party political system.*



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motion that meant that the Prime Minister should be required to hold a general election because the Heath Government was so disastrous on all the fronts of unemployment, lack of investment and all the rest of it. The Speaker—who I think was Selwyn Lloyd—declined to give reasons.² The debate opened with Willie Hamilton trying to get the Speaker to give his reasons why he would not take an amendment, and he declined to do so. I think it differs because it did not affect the main motion. All it did affect was the confidence motion, so that does not help you at all, really. It was just the one amendment. It was a try-on, wasn't it?

Willie Hamilton was a great man and indeed he was a pro-European, of a slightly mild, sceptical sort, as he said in that debate. That one amendment in October 1971 does not really help you, does it? But I do think it is important that the mind of the Commons is apparent to everybody. That is the way to do it, I would have thought.

I should not presume—I am presuming now—but I am sure you will write a report that is convertible into a comprehensive account of Parliament's procedures and the centrality of Parliament in those, but also the novelty of it. You are treading where nobody has had to tread before. This is constitutionally and procedurally a very creative moment for you. It will take a bit of explaining. If it were falling to me—but I thank God it is not.

When I was a journo on *the Times*, long ago and far away, when we thought the first language of the readership was Latin, because that it is how old I am, we were taught to write as if we were writing for a clever sixth former in the north of England—I don't know why the north of England was chosen—who had bags of curiosity but no prior knowledge. That is one of the tests that you might need to apply to your report. Would that actually work, if it were in a current affairs discussion in a school sixth form? Would they be able to understand the procedures you are outlining, and where they fit or do not fit within the normal procedures in the House of Commons and what has gone before?

You might need a preamble that sets the context and leads the reader to understand exactly why this is special and what is novel in the requirements that you will lay down, whether you recommended one route to it, or whether you have a set of options. That is me speaking as an old journo; I hope you do not think I am being presumptuous.

Q98 Nic Dakin: But you are very clear that the normal process, whereby we have a motion that has amendments to it, and those amendments are taken first, would work very well in terms of helping Parliament to assert itself in a way that has clarity to the public.

Lord Hennessy: I find that argument persuasive, yes, but you know your House better than I do.

Nic Dakin: I am not sure about that.

Helen Goodman: Lord Hennessy, I am a bit puzzled. You have said two

² Note by the Clerk: Name corrected from Horace King.



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completely contradictory things in the last half hour.

Lord Hennessy: Do help me out.

- Q99 **Helen Goodman:** I will take a step back. You are saying that this is an important moment for Parliament. Do you take that to mean that this is a moment when Parliament asserts its authority and holds the Executive to account?

Lord Hennessy: Yes, while saying also that the Government must have their clean run.

- Q100 **Helen Goodman:** This is where I am just completely confused by what you are saying. On the one hand, you have just said to my colleague Nic Dakin, "Let's have amendments and then a vote." On the other hand, you have said what you thought about the evidence produced by Oliver Letwin and Dominic Grieve last week, which would pull the teeth from Parliament's power, because resolutions in parallel to the main motion would have no force whatsoever. Which of those propositions do you really believe?

Lord Hennessy: I must have misunderstood. I thought I read Dominic and Oliver Letwin's evidence carefully, too. Forgive me; it is my misreading, or at least you think it is my misreading, of what they said. I take Nic's point; I think that is the way to do it.

Helen Goodman: I see. Thank you.

Lord Hennessy: Thank you for helping me out!

- Q101 **Sir David Evennett:** I am intrigued by what you have said to us this afternoon. There are two things. I can't see why a general debate before the substantive motion cannot elucidate all views in the House of Commons. We could then have a vote on the Government's proposal afterwards. However, if we went down your route, and had the amendments as you suggested, what happens if all of the amendments fail, as they have done in previous House of Lords reform things, and the Government motion fails as well? We are kind of nowhere.

Lord Hennessy: I wish I knew, because we have never been in a position like that.

- Q102 **Sir David Evennett:** That is why it is a unique experience.

Lord Hennessy: I have got a terrible record as a forecaster and a horizon-scanner. This is where the humility gland kicks in again. I have no idea. We will be in terra incognita and we can only guess at the fluidity of the political circumstances and the raw politics of it, can't we? In a House of Commons where the parliamentary arithmetic is fluid at the best of times—you live with it every day—it will be fluid with a capital F. I have no idea how we come out of that.

- Q103 **Sir David Evennett:** Yes, and that is the thing. Hilary made the point that there are so many different views. It was before my time—I was still at LSE enjoying education in those days—but there were huge



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differences, and it wasn't only on a party political basis, when Heath took us into the European Union. It was not that different then, as the Chairman highlighted, to now, in the sense that the parties are split and divided.

Lord Hennessy: And over the same questions in many ways, although it was about trade and the economy at that time; the political union was there in the treaty and the White Paper was quite eloquent about how one day we'll get round to all the politics of it.

I remember, and I wish I could remember the words exactly, when Enoch Powell went to the Brussels press club in September 1972, when the legislation was passed but before we acceded. He said in so many words that the British people will wake up to the fact that this isn't just about trade—that it is about employment, the environment, industry and, yes, even immigration. In a strange way, he was very prophetic about the way the debate went.

When you look again at those debates, the sovereignty question has always been lurking—more than lurking; it is predominant. I am a remainer, but the force of the sovereignty arguments of my leave friends has always been the one that has had the greatest force for me. All the ingredients were there before.

Do you remember the great Alan Watkins, the political columnist in *The Observer*? He used to reckon that British politics was like an old Movietone newsreel—it just reran the same stories, sometimes in colour and sometimes with better sound than others, but essentially British politics was a rerun of the same questions in a slightly different form. The European question has been exactly like that since Jean Monnet turned up out of the blue from Paris in May 1950 with the Coal and Steel Community and our left-right politics couldn't handle it then. I have always thought that the real problem stems from that.

When you think about institutions, you think about the mind out of which the first bit of the concept came and who were they and what their formation was. The Coal and Steel Community idea comes out of the mind of clever, Catholic, left-wing, French bureaucrats. Most Brits have a problem with three of the five—I haven't, as it happens. If we had invented it, it would be so different. It would be a tiny secretariat in an area of high unemployment, which would put out perhaps four letters a year to the participating nations—"Would you mind doing a little bit more on free trade here and here, and maybe here, but only if you have got time?" But it didn't come out of our heads, did it? And we have been living with those consequences ever since.

The other problem since 1975 is that we have found it so difficult to handle this question through our normal representative democracy that we have outsourced to referenda. You are classically in the eye of this storm. Running two systems of democracy in parallel is very tricky. You are trying to bring the consequences of plebiscitary democracy within the proper orbit of representative democracy. It is extremely difficult to do. That, I



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think, is the big picture. That is what the PhD students in 50 years' time will descend upon above all. They will descend upon you in particular.

Chair: Melanie, do you have a question?

Melanie Onn: No, I am enjoying the evidence very much.

Q104 **Chair:** Just to go back to what Helen and Nick said, if this is the challenge, we have got to find—I am not sure we will—a procedure that is compatible with this. It may be for others who have even greater brains than this Committee's collective brain to decide on it. Parliament, in an ideal world, can express a strong view, but likewise the Government can have their question put in a way that is clean and that the public understand. We have to match those—

Lord Hennessy: That is what you have to do above all.

Q105 **Chair:** I wish you did know about procedure, because perhaps then you could tell us how we could do it.

Lord Hennessy: I wish I had that kind of mind, but I very quickly lose my way when one gets into what I call the Natzler-Lisvane country.

Q106 **Chair:** That is the challenge for this Committee.

Lord Hennessy: I think that is what it is, looking at you sympathetically from outside, if I may put it that way. If you can find a way through, then hosannas of a grateful nation would be yours for the taking, wouldn't they? You are looking very serious, Chairman.

Chair: I think Chris can ask a question and then we will call it a day, because I promised I would only keep you here for 15 minutes, Lord Hennessy.

Q107 **Sir Christopher Chope:** Can I ask you, Lord Hennessy, whether you think it is more important to ensure that we are able to give Parliament a view on a clean issue—whether they approve of the withdrawal agreement—or is it more important that Parliament should be allowed to amend that withdrawal agreement motion in such a way as may make it impossible for the Government to accept it because it will amount to a failure to approve?

Lord Hennessy: I was very struck by what Hilary said about varying degrees of fatality. It is not the undertaker's view of fatal, because you are either dead or not, but there are degrees of fatality, are there not? Hilary was very interesting about the Government coming back with something else, which the withdrawal Act allows for, does it not? It prescribes the period of time after which the Government have to come back with something if the House of Commons does not go along with it.

Q108 **Sir Christopher Chope:** In answer to your question, it does not have to come back with anything other than a statement. That is all. It does not have to do anything. One thing that seems to have emerged in the evidence is that it will be possible to amend the approval motion if the amendments relate to what would happen after the implementation of



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what is being approved—for example, if they relate to the future relationship. If such amendments could be in order and would not undermine the approval motion if passed, would you see that as a way forward?

Lord Hennessy: This is where my non-proceduralist mind gets a bit stuck. I can see that argument. There are all sorts of possibilities with the declaration of the future relationship, and we haven't talked about that much. Even if it goes well for the Government, it will almost certainly be a wonderfully imprecise declaration of the future relationship, won't it? The possibilities for amendment then will be considerable, I would have thought.

Q109 **Sir Christopher Chope:** Finally, as a Member of the other place, you will be charged with looking at any withdrawal agreement implementation Bill. How long do you think you and your fellow lordships will want to spend discussing that Bill?

Lord Hennessy: My colleagues in the House of Lords react to this question in a way that they react to no other. Vast numbers of people want to speak, always. The metabolic rate—how can one put it tactfully? I have to be very careful here. People get very agitated by this, so I suspect it will be quite a long time. Also, we have as a House a gift for being what Hugh Dalton once accused the Treasury civil servants of being when he was Chancellor—we are congenital snag-hunters. That is one of the functions of the House of Lords—to be congenital snag-hunters. That is what a revising Chamber is for. So I suspect that a long time will be required.

There is another factor in the House of Lords that I find fascinating as a historian. One of the great pleasures of being in the Lords if you are a historian of modern British politics is that you get to have lunch with your exhibits. I think the average age is 69 or something like that. There are many people in there who have devoted their lives to getting us in in the first place—the more senior—and making it work while we were in the European Community in its various forms. Equally, there are people who have devoted their entire political lives to getting us out.

What is so vexing for my colleagues—although I am being presumptuous now, speaking in this way—as it is for many in your Chamber, is that nobody on either side of the debate is entirely satisfied with what is likely to emerge, because people on both sides of the great argument feel that their position is being caveated away. It is a deeply depressing spectacle. Again, it is like nothing else that we have faced. You need an anthropologist really to explain a lot of this, but boring it ain't.

Also, I long for the days when the only regular irritation to reach our shores from Europe was our inability to win the sodding Eurovision Song Contest, but those days are long away.

Chair: What an appropriate place to stop—the Eurovision Song Contest. It is something that certainly captures the hearts and minds of many of my constituents. Thank you very much, Lord Hennessy, for giving us your



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time, wisdom and insight. We will meet in private for a little while before wending our way into the gloaming, so thank you very much.