

Iain Dale: May moves Article 50 – and the BBC plunges into a period of national mourning

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Listening to the BBC coverage of triggering Article 50 earlier this week, you'd have thought that we were entering a period of national mourning.

It started with the *Today* programme, which relished interviewing anyone who had anything negative to say – and believe me, most of their carefully-chosen guests did. In the section I listened to they had one pro-Leave business guest. She was given all of two minutes to make her case. The five or six Remainers were left to witter on with hardly a challenge from the presenters.

We're going to have two more years of this. But the die is cast. Article 50 has been triggered; there is no going back. I had hoped that there would be a realisation from the likes of Nick Clegg and Hilary Benn that the course to take now is unite behind Brexit, and make the best of it. I suppose it was always a forlorn hope. Clegg seems to have cast himself as Remainer in Chief, having declared that "the phoney war is now over", and that Brexiteers must be held to account "for their false promises".

If he wishes to go to war with the British people over the way they voted, that's up to him. We should admire those who stick to their principles – but we shouldn't have any truck with politicians who fight the battles of the last war. Everyone's attentions should now be directed to how we make a success of Brexit – or if you are of a less optimistic persuasion, make the best of a bad job.

It says a lot about the state of the British media that on the day before Article 50 was triggered, all we could talk about were the respective legs of the Prime Minister and the Scotland First Minister. Who'd have thighed it?

I wonder when Keir Starmer looks himself in the mirror – and with that gelled hair, he must do so quite often – does he see the reflection of John Moore staring back at him

A lot has been written about the rise in inflation during the last few weeks. Those who know nothing about economics appear to attribute it all to Brexit and the fall in the pound.

The truth is more simple. Since Brexit, the price of oil has risen by about 60 per cent, and the effect has now begun to come through in the inflation figures.

Were the rise in inflation all connected to Brexit, the rate would be far higher. In fact, it's only 0.1% higher than Germany's rate, and on a par with that of most of the rest of the main EU economies.

Alex Salmond is a genial cove. I host him every Wednesday afternoon for a half-hour phone-in on LBC. He and Nicola Sturgeon are adamant that Scotland should have its own deal, since voted to Remain by 62 per cent to 38 per cent.

I am sure that Salmond genuinely believes the case he is making. And of course, I am also sure that if Dumfries & Galloway or the Borders vote in a second Independence referendum vote to remain in the UK, he'd also allow them their own special deal to stay in the UK. And pigs might fly.

There were two new books out this week which may be of interest to ConservativeHome readers. Sayeeda Warsi has written a book called [The Enemy Within](#), which is allegedly how some people described her when she was a minister in the Cameron government.

It's certainly not a kiss-and-tell account of her time in government. Instead, it's a thoughtful tome about the place of Muslims in Britain today. It's incredibly well-researched (and heavily footnoted), and I hope it gets a much wider readership than simply Muslims who are interested to read about the views of Britain's first Muslim cabinet minister. It deserves to.

Douglas Carswell has also written a weighty tome called [Rebel](#). It's a call to arms to overthrow what he calls the oligarchs and political interests that control our society. It's a powerful polemic, and ought to have a readership across the political spectrum. It's certainly not a right-wing treatise; indeed, at times you think you're reading the words of someone on the far left.

Some of his solutions for dealing with out-of-control capitalism could come from the pen of Jeremy Corbyn. Indeed, if the latter has any sense, he will read this book and adopt a lot of its conclusions. But as I say, the key phrase there is "if he has any sense". No doubt he and his little helper Seumas Milne couldn't bring themselves to read a single word of a book they would regard as being written by someone on the extreme right. And therein lies their problem. Carswell is far more in tune with the views of the ordinary Brit than they ever will be.

I like interviewing Amber Rudd, although I don't do it that often. On Wednesday, she was on my LBS show talking about triggering Article 50. I

asked her if she thought that people on both sides should moderate their language and stop the insults.

“Yes,” she said: “they should”. I immediately retorted, “Well, that’s enough about you and Boris.” She giggled and said: “Well, I rather let myself in for that one, didn’t I?” Good on her. It’s a pity that more politicians don’t react in the same way rather than go all hoity-toity.

[The ambition for home ownership is stronger than ever](#)

The annual [English Housing Survey](#) came out this month. It suggested that in the last financial year 62.9 per cent of English households owned their own homes. So that was very slightly down on [last year’s figure of 63.6 per cent](#). A fall of 0.7 per cent, after a rise of 0.3 per cent the previous year. Some media coverage suggested [the fall was significant](#) – although the survey itself suggested it was within the margin of error. At any rate there has yet to be any progress getting back to the peak of 71 per cent in 2003.

Furthermore this was before Gavin Barwell, the Housing Minister, sent out the [depressing message](#) that there was to be less emphasis from the Government on wider home ownership. A better response would be for the Government to redouble its efforts – notably with [a right to shared ownership](#) and a big expansion in supply to ease affordability with a crackdown on [state land banking](#).

The most startling figure in the survey was how the determination to buy has actually increased. The “proportion of renters who expect to buy” is at 44.1 per cent, up from 41.0 per cent last year. That increase is probably more than the “margin of error” (the survey is based on interviews with 13,300 households). It is also the highest since the survey began. One might have thought that the expectation of home ownership would decline as property prices rose. This indicates that the ambition is very strong. Politicians would be well advised to take note – rather than assume everyone on average incomes has just shrugged and given up on such aspirations.

Another point of interest is that the number of us living in tower blocks continue to decline. Those in “purpose built flat, high rise” consisted of 516,000 dwellings according to the 2014/15 estimate. The latest Survey puts it at 425,000. The number of Council tower block homes is down over the last year from 139,000 to 113,000. They were the future once.

[home ownership Housing](#)

Eurosceptic MPs must resist the temptation to meddle with the Great Repeal Bill

No sooner was Article 50 triggered than David Davis's "Department X" sprang into action. The Secretary of State has today [launched the white paper for the Great Repeal Bill](#).

The Bill gets its name from its immediate, crucial effect: the repeal of the European Communities Act 1972. This is the prerequisite to restoring full Parliamentary sovereignty over our laws, but it isn't the only thing that needs to happen to ensure a "smooth and orderly exit".

It's for that reason that, despite its name, the Bill's second effect will be to vastly extend the UK statute book, effectively copying and pasting all current EU law into UK law. This means inserting thousands of regulations and directives into British statute, a reminder of the degree to which Brussels exerted its powers during our membership.

Doing so has two benefits – first, it ensures that on the day after Brexit there is no immediate disruption by a sudden reversion either to pre-1972 laws or to a vacuum in areas where Westminster hadn't the power to legislate while we were in the EU. And second, it ensures that any deviation from or scrapping of EU laws that takes place as part of Brexit will require Parliament's approval – a right and proper restoration of democratic control.

This approach brings with it two complications, one objection and one temptation.

The first complication relates to the role of the European Court of Justice. ECJ case law – the thousands of judgments on how EU law should be interpreted – is an important extra element of the way in which EU law operates in this country. To copy across the legislation and regulations but not to incorporate the case law would blunt the effect of the Bill, meaning that Brexit would still see sudden adjustments in the law overnight.

Davis's solution is for the Bill to "provide that any question as to the meaning of EU law that has been converted into UK law will be determined in the UK courts by reference to the CJEU's case law as it exists on the day we leave the EU." This means that May will remain true to her promise to end the authority of the ECJ over our law post-Brexit – no new rulings in Luxembourg will have any power. Parliament will be able to overrule and alter those past judgments, as will the Supreme Court. In effect, a current snapshot of EU law, including its case law, will be transposed, to be edited at will by sovereign British institutions whenever they might wish to do so.

The second complication is that a perfect, word-for-word, copy of EU law won't quite do the job once we leave the EU. For obvious reasons, it routinely refers to the powers of EU institutions, to the EU treaties and to all manner of other organisations and legal structures that we will have left once we leave the EU.

To take a random example, the legislation which defines [the framework for agricultural regulation](#) is needed for all the other, product-specific, agricultural regulations to function and make sense; Parliament would want to retain that, at least in the short term, to ensure a smooth Brexit. But in its current form it empowers the EU Commission to change the definitions of products and alter how tariffs apply to them; Parliament obviously wouldn't want to give the Commission that power after we have left the EU.

This means that there are many small amendments that need to be made during the copying across process in order to make these laws work in a solely British context – mostly changing references from EU institutions to UK institutions, and altering references to the treaties to become references to other parts of the Great Repeal Bill.

This could all just be done in the drafting of the Great Repeal Bill. But that would take time up-front, and would risk bogging the important principles of the Bill down in niggling. Davis's answer is for the Bill to provide for a power to make these alterations through secondary legislation after the Bill has become an Act.

It is this power that gives rise to the objection. Such powers, known rather arcanelly as "Henry VIII" powers, inevitably reduce Parliamentary scrutiny over the changes that are being made. The Government argues that the timing is too tight to have full debates and votes on every one of what could be thousands of what are really technical edits. Furthermore, the White Paper points out that some of the detail won't be agreed until when (or if) a Brexit deal is struck – and waiting on the whole process until then is impractical given the need to ensure an orderly Brexit. Critics fear that ministers will use their new power to change the nature, rather than just the technical wording, of the law – ditching particular regulations outright, for example. The words "Tory power grab" are sure to issue forth from one Labour, Lib Dem or SNP MP before long.

The White Paper includes a promise that this won't happen: "The Great Repeal Bill will not aim to make major changes to policy or establish new legal frameworks in the UK beyond those which are necessary to ensure the law continues to function properly from day one." Opposition MPs might not find that sufficiently reassuring, but there is another aspect which allays their concerns rather more strongly. Because EU law is also in effect in the devolved nations, the Great Repeal Bill will also give the same power to ministers in the devolved administrations. Even if May and Davis harboured a secret desire to implement sweeping policy changes without Parliamentary approval, they would be very unlikely to grant Labour in Cardiff and the SNP in Holyrood the opportunity to do the same. Devolution acts as a disincentive for the UK government to over-reach itself.

This leaves us with the temptation presented by the Great Repeal Bill. The power of the moment – the return, at last, of full democratic control over our laws – and the name of the Bill itself whets Eurosceptic appetites to start instantly tearing up the EU laws that they have railed against for so long. Why not start tabling amendments to the Bill now, to delete bad regulations and torch red tape instantly, without having to wait to undo it after March 2019?

There is plenty of demand for a bonfire of EU red tape. [This site called in November](#) for the Chancellor to establish a task force to advise on a new and better post-Brexit regulatory regime. The *Daily Telegraph* followed our call [this week](#) and has launched a campaign on the topic.

But it would be a serious error to go jumping in with attempts to deregulate instantly by meddling with the Great Repeal Bill. There is a good reason why we and the *Telegraph* have both suggested that the Government should prepare for action after Brexit, rather than start cutting out particular EU laws in the Brexit process. Those who wish to hobble Brexit, or even prevent it entirely, are studying the Bill with a wolfish eye. They can see that it is complex, and that it must run on a tight timescale. They know that complexity equals opportunities to raise concerns, mount attacks and perhaps inspire rebellions. They view it as a major opportunity for their promised “fightback”.

If Eurosceptic MPs were to start trying to mess with the Bill, they would be giving Farron, Heseltine et al exactly what they want. They might even find themselves in the same lobby as those who loathe everything they believe in.

Last year’s referendum victory was the product of a sustained exercise in self-denial. When Eurosceptics indulged our temptations, talking high theory and dragging out historical analogy, we lost. When we exercised self-denial, studying to learn what would win and working to focus on the issues that interested less obsessive voters, we won. This trial is just the same: do what makes you feel good, and risk losing the great prize; knuckle down and do what must be done, and finally secure what you have always wanted.

[WATCH: Wallace debates Article 50 – “People who thought themselves powerless get to see the powerful do what they want”](#)

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2 comments for: WATCH: Wallace debates Article 50 – “People who thought themselves powerless get to see the powerful do what they want”

[Money for the EU. A pause before migration falls. An interim role for the ECJ. Fine – but May must remember that Brexit means Brexit.](#)

The section of Theresa May’s Article 50 letter which made the most waves was the part on security. “In security terms a failure to reach agreement would mean our cooperation in the fight against crime and terrorism would be weakened,” it said. “It is for these reasons that we want to be able to agree a deep and special partnership, taking in both economic and security cooperation.”

The Government’s critics have accused her of attempting blackmail – of a thinly-veiled threat to withdraw information held by our security services and police, or perhaps military co-operation delivered through NATO and other means, if she doesn’t get what she wants in the negotiations. Bang on cue, for example, here’s Guy Verhofstadt: “I tried to be a gentleman towards a lady, so I didn’t even use or think about the use of the word blackmail.”

Ministers protest that this is a misreading. They say that the letter clearly refers to arrangements that are part of EU-wide agreements – the European Arrest Warrant, the European Investment Order, the Schengen Information System, and the Prum Agreement which covers fingerprints, DNA details and vehicle records. If Britain leaves the EU without a deal, they say, there will be no legal basis for Britain and the EU 27 to act in ways covered by these arrangements. The Prime Minister meant no more or less than that.

Two MPs that ConservativeHome spoke to yesterday evening said that this section of the the letter wasn’t clear enough, and the Government had moved slowly to correct these misapprehensions. Some may argue that any threat May was making was implicit rather than explicit: our security services are the best in Europe, they claim she was suggesting – so you, the EU27, will be

especially badly affected if there is no basis for co-operation.

It is true that our security services are effective: their hard work prevented an Islamist terror attack in Britain between 7/7 and last week, a gap of some 12 years. And it is also the case that, since we are a member of the "five eyes" arrangements, they have access to American intelligence information that other members of the EU27 do not. This will sometimes be shared with them if agreement can be obtained from the United States.

But such intelligence-sharing is not dependent on EU-wide arrangements. It will continue regardless of whether an agreement is obtained. And one well-briefed MP poured scorn on any hint that our security services and police are more or less efficient than those of some of our counterparts. The French help to ensure that guns don't reach British terrorists as they help to police the Channel Tunnel: please note that Khalid Masood, last week's killer, had a knife and not an automatic weapon. The Germans have tip-top information from Mossad.

At any rate, the row draws attention to what each side of the negotiation believes are its most powerful points. This is very much a Home Office-flavoured Government, so it is unsurprising that the need for security co-operation was stressed in May's letter. Ministers also say that most of the EU27 see the importance of preserving the wealth and health of the City, since they need the sweep and scope of its capital markets to raise funds.

Above all, they continue, Britain has a very strong card to play: the EU needs our money. Britain made a net contribution of some £8.6 billion last year. That's an £8.6 billion that the EU27 must now find between them. Little wonder that Michel Barnier has tried an audacious £60 billion opening shot, a bill drawn up largely on the basis of pension liabilities, other costs (such as nuclear site clean-up costs) and money yet to be paid for future projects.

The Government will vigorously dispute the latter, arguing that our obligations end when we depart, and that in any event the EU's calculations are drawn up under what one backbencher describes as "a bizarre French bookkeeping technique that died out in the rest of the world years ago". But the EU27 and the institution also have bull points to push. Henry Newman cited an important one on [this site yesterday](#): timing. We want discussions about the divorce settlement and a full deal to run simultaneously. The EU27's position is: divorce talks first.

Furthermore, we also want access to the Single Market on terms as near to those we presently have as possible, minus the role of the European Court of Justice. Some say that since the EU27 have a trade deficit with the UK, they are in no position to resist us. But our market as a share of their exports is smaller than theirs as a share of ours. Some of the EU27 are big exporters to the UK in certain sectors, others rather less so.

And it isn't clear whether, in the short-term at least, economic self-interest will win out over the ideological requirements of the EU project. We Brexiteers like to argue that the EU27 and the institutions will act

rationality. But if the EU was acting rationally it would never have constructed the Euro as it is in the first place. The pleas of German car-makers and French wine-sellers may fall on deaf ears, at least for the time being.

At any rate, the scope of the negotiation is yet to take shape. The Government's position on some key issues, however, is forming – revealed, very often, as much by what Ministers don't say as what they do. A very rough sketch of the outline on three of these might look like this. First, we will pay for Single Market access, but a lot less than £60 billion, and the arrangement will be dressed up as forking out for participation in one EU-based project or another, such as the Europol or the European Space Agency or the European Patrols Network.

Second, will be free of the jurisdiction of the ECJ – but not until any interim deal lapses and even then, perhaps, not if no alternative oversight can be found for some joint arrangements. Finally, immigration from the EU27 will come down, but it will continue to be treated differently from other migration, probably through a special work permit system, along the lines of [that floated on ConservativeHome](#) by Andrew Green of MigrationWatch.

And the reduction will be slow, at least if Ministers have their way. Andrea Leadsom has farmers on her back over seasonal labour; Sajid Javid builders on his over homebuilding. We have got used to relying on Polish housebuilders or Latvian crop-pickers. It will take a while to train up our own long-term unemployed and NEETs, or recruit a bigger slice of retired people back to the labour market, or to switch resources from higher education to vocational training, especially if the economy continues at full employment, or something like it.

This site has no objection to most of this – or to interim arrangements, at least in principle. Nor, as far as we can see to date, can Brexiteering backbenchers. But it is none the less necessary to fire a warning shot across Ministers' bows. Just as the Government must satisfy Remain voters and others over Single Market access, so it must satisfy Leave ones over what the referendum plumped for: taking back control.

UKIP may be seem to be holed below the waterline, with Douglas Carswell and Arron Banks departing it (in separate lifeboats). None the less, time and experience are showing that western governments are vulnerable to populist backlashes. Theresa May must tread very carefully, particularly over the ECJ. After all – as a phrase that she will recognise puts it – Brexit means Brexit.