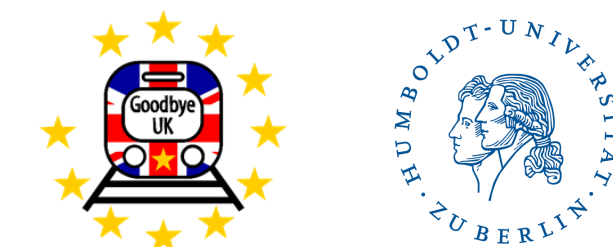


# The Making of the Brexit Bill: Why Parliament Did Not 'Block' Brexit

by Lena Nüchter



## A Bill Becomes Law<sup>1,2</sup>

**26.01.: First Reading.** The bill was presented to the **House of Commons**. This is a formal reading of the bill's text which is not followed by debate.

**31.01. and 01.02.: Second Reading.** The House debated a number of issues around the bill for two days. The bill passed with a comfortable majority.

■ AYE ■ NO



**06., 07., 08.02.: Committee Stage.** The bill was debated in a committee of the whole House so that all MPs had a chance to bring forward their concerns. A large number of amendments were discussed during these three days, but none of them gained enough votes to be added to the bill's text.

**08.02.: Third Reading.** The bill was passed with no amendments and went on to the House of Lords.

■ AYE ■ NO



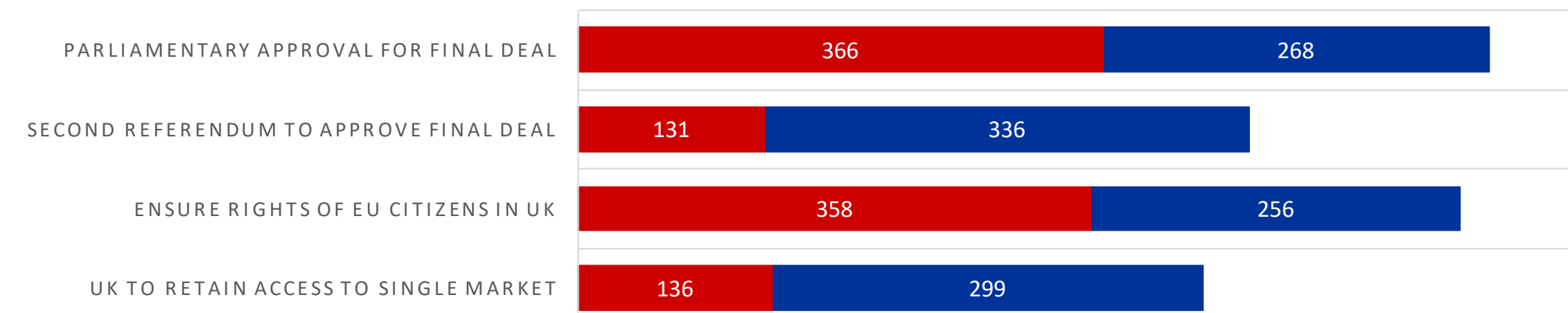
**20. and 21.02.: Second Reading.** The bill was debated in the **House of Lords** for two days. Members e.g. discussed the rights of EU citizens in the UK and possible parliamentary scrutiny of the final result of the negotiations. The debate was attended by 184 members and was the second-largest on record.

**27.02., 01.03. and 06.03.: Committee Stage.** All Lords could take part in this stage, where the bill was debated clause by clause. A great number of amendments were discussed, including:

- requiring the Prime Minister to negotiate on the basis of keeping the UK in the Single Market
- **guaranteeing the rights of EU and EEA citizens** living in the UK
- requiring another referendum to approve the eventual agreement with the EU
- **requiring the approval of Parliament** for the outcome of negotiations

The importance of the matter is clearly shown by the number of members attending. The vote on parliamentary approval had a turnout of 634 members - the largest vote on record in the House of Lords.

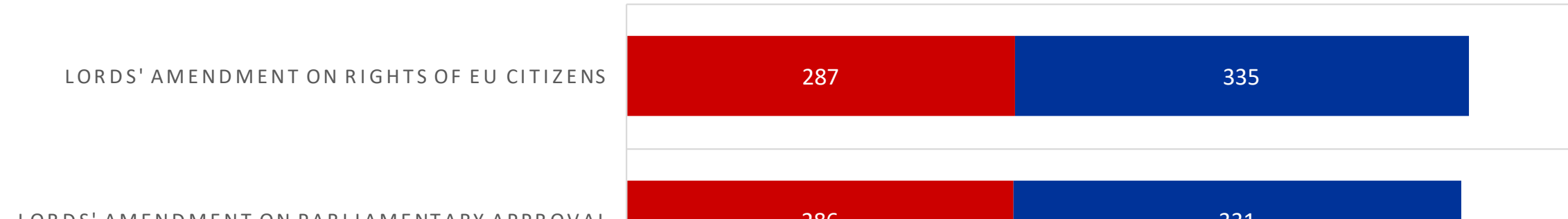
■ AYE ■ NO



**06.03.: Third Reading.** Members voted on not allowing the bill to pass since it did not allow a vote on the terms of the new relationship between UK and EU. However, the motion was declined by 95:340, and the bill was passed back to the House of Commons with its two new amendments.

**13.03.:** Consideration of Amendments in the **House of Commons**. The bill now returned to the House it originated in. Both of the Lords' amendments were debated and voted on, and accordingly dismissed.

■ AYE ■ NO



On the same day, it returned to the **House of Lords**, where it was passed without further amendment, as the Lords recognized the superiority of the elected representatives in the House of Commons.

**16.03.: Royal Assent.** The monarch gives assent to the bill, thereby making the new **European Union (Notification of Withdrawal) Act 2017** law. By convention, royal assent is a mere formality nowadays: the last monarch to refuse it was Queen Anne in 1708.

## A Big Issue

The European Union (Notification of Withdrawal) Bill, informally called the Brexit Bill, gave the Prime Minister the power to **announce the UK's intention to leave the EU**. Its approval by both Houses of Parliament was thus a vital step towards Brexit.

The Brexit Bill's journey was comparably short, but tumultuous: after a decision by the **Supreme Court** had forced the government to have its mandate confirmed by Parliament, a very brief and simple draft was presented to the House of Commons. While numerous MPs criticized its **vagueness** and lack of clear aims, only the House of Lords voted to change its contents. However, after a public outcry questioning the role and existence of the unelected upper chamber, the Lords backed down.

Many have wondered why Parliament has willingly given up all its possible influence on the outcome of the negotiations by passing this bill without amendments. But would rejecting the bill have stopped Brexit or ensured a more decisive role for Parliament? Or would it only have served to further escalate the debate surrounding the referendum, with its volatile rhetoric and anti-establishment sentiment?

## Was Democracy At Stake?

The House of Commons' reluctance to take a firmer stance against the bill originated in a number of issues. First of all, defying the bill would not have meant stopping Brexit. The **bill did not authorize Brexit**, it simply regulated the process of beginning it.<sup>3</sup> It did, however, ensure that MPs would have no legally secured influence on the outcome of the negotiations - thus it still appears that Parliament, as the supreme law-making body in the UK, gave up its voice on that issue without putting up a fight.

But the wider context of the bill had made it hard for Parliament to put its foot down. The emotionally charged atmosphere of the referendum campaign had fed into a **hostile public mood** that allowed some **media** to call Supreme Court judges "enemies of the people"<sup>4</sup> for enforcing the right of democratically elected representatives to vote on an issue that would directly affect their electorate. Headlines like "Fury of voters after their Remainer MPs defied their own constituents by trying to BLOCK Brexit in Commons vote"<sup>5</sup> put further pressure on MPs to wave the bill through, as every attempt to make amendments could be interpreted as not **respecting the will of the people**. Democracy itself was made out to be at stake.

**Party politics** had also played a role. The Labour Party, for instance, was caught in a dilemma: their traditional heartlands had tended to vote Leave, while the inner cities had usually voted Remain. It appeared inevitable that by declaring their position, the party would alienate part of their electorate. But after Labour leader Jeremy Corbyn had been criticized for not taking up a clear enough position during the campaign,<sup>6</sup> in January he decided to propagate unity and imposed a whip on his MPs to back the bill.<sup>7</sup>

## An Outdated System?

The House of Lords has a special position: its members are not elected. Instead, they are a mixture of old nobility, experts, and distinguished public figures who have been given a 'life peerage'. There are certain **advantages** to this system: since members are not elected, they are theoretically free from short-term party politics and voter-pleasing tactics, and are not bound by loyalty to a specific government. They also have a considerable amount of technocratic legitimacy due to their expertise in various matters.

However, their **unelected position** also makes the Lords **vulnerable**. Since the 20<sup>th</sup> century, their competencies have been drastically cut.<sup>8</sup> While one of the functions of the House of Lords remains to scrutinize legislation, they are facing **increasing pressure** to recognize the superiority of the elected representatives in the House of Commons.

Many calls for **reforms of the Lords** have been made over the past years - and since reforms are stalled for the moment simply because there is no agreement between the main parties in the House of Commons as to how such reforms should look like,<sup>9</sup> the Lords' position is more precarious than it might appear at first glance. A government source had threatened the Lords with abolition if they delayed Brexit;<sup>10</sup> and a **petition** to Parliament to abolish the House has reached over 120,000 signatures,<sup>11</sup> with a surge in signatures being linked to the Lords' amendments of the Brexit bill by some newspapers.<sup>12</sup> Other voices are calling for a decisive reform after the general election in June.<sup>13</sup>

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