

Newslinks for Thursday 30th March 2017

Article 50 has been triggered



'Nine months after Britain voted to leave the EU, the countdown on a two-year negotiating period began when Donald Tusk, the president of the European Council, was handed a letter by Sir Tim Barrow, Britain's permanent representative at the EU, invoking Article 50 at lunchtime. Boris Johnson, the Foreign Secretary, described it as "a magnificent moment", while in the House of Commons, there was jubilation from MPs as Mrs May announced: "The Article 50 process is now under way."' – [Daily Telegraph](#)

Editorials

Davis: We will build a great, global trading nation



'I genuinely believe our future outside will be better and brighter. Leaving

will allow us to get out into the world and show how great this country really is, standing on its own two feet. For the first time in over 40 years, we'll be free to make all of our own laws, forge trade deals of our own with the fastest-growing economies of the world, and be in complete control of our own borders. Put simply, Britain will be a truly sovereign nation once again. We can build a great, global trading nation that's respected around the world and stronger, fairer and more united at home.' – [David Davis, The Sun](#)

Verhofstadt suggests May is trying to 'blackmail' the EU over security co-operation



'Theresa May was accused last night of trying to blackmail the EU over a Brexit trade deal. In a show of steel that angered Brussels, the Prime Minister suggested she could withdraw co-operation on security unless a fair agreement was struck. She used her Article 50 letter, which launches a two-year divorce process, to warn the EU against trying to damage Britain at such a dangerous time. The 28-state bloc leans heavily on UK intelligence and policing expertise. Mrs May's warning was described as tantamount to blackmail by Guy Verhofstadt, the European Parliament's Brexit negotiator.' – [Daily Mail](#)

Merkel says trade talks must wait until after Brexit disentanglement





'Angela Merkel has pushed back against Theresa May's attempt to speed through a new trade deal with Europe, as the British premier set in motion two years of difficult talks on Brexit. Even as European diplomats welcomed the conciliatory tone in Mrs May's formal notification of Britain's withdrawal from the EU, the German chancellor struck a hard line on the sequencing of the talks, insisting the terms of the UK's future relationship could be discussed only after exit terms are agreed. Ms Merkel said she wants the Britain and the EU to remain close partners but added that the negotiation must focus first on disentangling the close links developed in 44 years of EU membership. The UK's rights and obligations had to be addressed first, she said.' – [FT](#)

- The Government wants both issues discussed in parallel – [FT](#)
- Hammond contradicts Boris on 'have our cake and eat it' – [The Sun](#)
- The main points for the negotiation – [The Sun](#)
- May faces a battle with her own backbenchers – [The Sun](#)
- Is Nicky Morgan the biggest hypocrite in politics? – [Leo Mckinstry, Daily Mail](#)
- Cameron says he has always been a Eurosceptic – [The Times](#) (£)

Sturgeon: I haven't been listened to



'The triggering of article 50 is also politically and constitutionally reckless. The full effects on Northern Ireland, which currently faces the possible reintroduction of direct rule, remain to be seen. Similarly, there has been no serious attempt to engage with compromise proposals that would keep Scotland – which voted decisively to remain in Europe – inside the single market. The result is that we must now ensure that people in Scotland are given a choice between the hard Brexit deal now being negotiated, and independence.' – [Nicola Sturgeon, The Guardian](#)

Truss pledges to 'leave no stone unturned' in fighting stalking and domestic abuse

'Plans to order courts to get tough on stalking, revenge porn and domestic violence were unveiled yesterday. Justice Secretary Liz Truss vowed to "leave no stone unturned" as new guidelines on harassment, stalking, controlling and coercive behaviour and domestic abuse were published. Offenders who send explicit pictures to victims' families or set up websites to cause maximum humiliation will face the harshest penalties. It's the first time guidelines have been drafted for courts dealing with malicious exes who post intimate sexual pictures of former partners without their consent. The offence, which currently carries a maximum prison term of two years, was introduced in April 2015.' – [The Sun](#)

- Neuberger joins chorus of judicial criticism – [FT](#)
- He's also pressing for the retirement age to be raised – [The Times](#) (£)

NHS Federation: patients must choose between swift operations and A&E



'Patients must be told they cannot have routine operations quickly if they also want short waits for A&E, cancer care and other treatments, an NHS leader has said. Simon Stevens, head of NHS England, is being urged to relax targets for waiting times as he prepares to lay out his reforms to the service today. Niall Dickson, chief executive of the NHS Confederation, which represents all health service organisations, said that it was unrealistic to pretend that patients could have everything they had come to expect when money was so tight. "It's not reasonable to say that all the current targets have to be met," Mr Dickson told The Times.' – [The Times](#) (£)

- The NHS forces nursing assistants to become sole traders – [The Sun](#)
- Pay more or accept reduced services – [The Times Leader](#) (£)

Glover: Why doesn't the Government sell off Channel 4?

'It should not be the Government's first consideration to safeguard programme makers. No, its foremost responsibility is to reduce the national debt by selling off what it does not need to own. And there could be no more obvious candidate than Channel 4. When launched, it faced commercial uncertainties and, despite a zeal for privatisation, the Thatcher government felt it needed the protection that public ownership would confer. Moreover, it was then a serious TV channel committed to making programmes of a quality...Channel 4 no longer offers a distinct voice. It is no better, and often worse, than the BBC...As for its news coverage, the famously Left-leaning Channel 4 News even outdoes the politically correct BBC in its embrace of fashionable causes.' – [Stephen Glover, Daily Mail](#)

- Netflix pushes the average age of BBC viewers over 60 – [The Times](#) (£)

Livingstone speaks out about...guess who?



'Ken Livingstone has defended himself against accusations of anti-Semitism by claiming a Nazi policy "had the effect of supporting" Zionism. Jeremy Corbyn suspended the former Labour MP last year after he invoked Hitler to defend a colleague over anti-Semitic remarks and claimed that there was a "well-orchestrated campaign" against the party by the "Israel lobby". He said there is "no real evidence" against him, adding that "only a biased and rigged jury could find against me."' – [Daily Telegraph](#)

MPs want newspapers fined for misleading science coverage

'Newspapers should answer to a press regulator when they are judged to have misreported science stories, a committee of MPs has said. The politicians called for a "robust redress mechanism", possibly including fines, for outlets that write about research in an "inaccurate or outlandish way" or fail to state its limitations. It was unclear who would adjudicate on claims of distorted science reporting or what the assessment criteria would be. The cross-party science and technology committee said journalists had lost the trust of the public through faults such as "false balance", in which two views are presented as equally valid when the weight of the evidence lies on one side. They also said that the media "often have an agenda which allows inadequate place for opposing evidence".' – [The Times](#) (£)

Two new reviews into Parliamentary security



'John Bercow has announced two reviews into security at Parliament after a knife wielding terrorist ran into New Palace Yard and murdered hero cop PC Keith Palmer last week. He told MPs he was setting up an "external independent review" of how the Palace of Westminster is "secured and protected". In the moments before reaching Parliament evil attacker Khalid Masood had ploughed through crowds on Westminster Bridge killing three more. A further probe will be an "externally-led" review of what lessons can be learnt in the future. The first will report by April, and the further investigation asked to wrap up by June. Parliamentary authorities and the police have faced questions over last Wednesday's attack after it emerged the first armed line of defence were bodyguards for the Defence Secretary rather than machine gun-wielding policemen.' – [The Sun](#)

News in Brief

- Type 2 diabetes is 'not a real disease', says leading doctor – [Daily Mail](#)
- May criticises uSwitch – [The Sun](#)
- Helicopter missing over the Irish Sea – [Daily Mail](#)
- Allies drop 500 bombs a week in Mosul – [The Times](#) (£)
- The Government is failing in its duty to Hong Kong – [Catherine West, The Times](#) (£)
- Health targets threaten the size of chocolate bars – [FT](#)
- Some rural areas may never get broadband – [The Times](#) (£)

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[Good news – Fort Street](#)



Having long campaigned for road surface improvements for Fort Street, I was pleased to be recently advised :

“I have been advised that this road is to be upgraded in the near future either March or April 2017, subject to the continuation of current funding levels.”

Profile: Elizabeth Truss, who does not quite know how to talk to the judges, and vice-versa

It would be hard to exaggerate how angry the judges are with Elizabeth Truss. A few days ago, the Lord Chief Justice, Lord Thomas of Cwmgiedd, [condemned the Lord Chancellor](#) for failing to stand up for them in November, when the [Daily Mail](#) denounced them as “Enemies of the People”:

“I regret to have to criticise her as severely as I have, but to my mind she is completely and absolutely wrong about this, as I have said, and I am very disappointed. I understand what the pressures were in November, but she has taken a position that is constitutionally absolutely wrong.”

The Lord Chief Justice, who will soon retire, also complained that Truss’s officials had allowed her to make a serious error about the new arrangements to ease the ordeal of giving evidence in rape trials:

“Yesterday, I had to write to all the judges to explain that unfortunately what the ministry had said was wrong.”

Lord Thomas’s evidence on rape trials, delivered to the Lords Constitution Committee [and watchable here](#) (one of the most damning outbursts, quoted above, occurs at 10:57:38), reveals a history of acute dissatisfaction with the department which long predates Truss:

“To make clear what I am saying, we fought – there can be no other

word for it – the ministry from 1999 right through to about 2015 to get the pre-recording of children’s evidence brought into effect. It had been recommended by Judge Pigot in 1989, but we were told, ‘No money, no this, no that’. Through the very hard work of three judges, Judge Collier at Leeds, Judge Goldstone at Liverpool and Judge Ader at Kingston, we have made the pilot work, and we want to roll it out carefully. It is quite difficult to change the culture. Instead of what we said was sensible, which was to move it to the adult victims of sexual crime and to start piloting that at the same courts, it was announced that this would be rolled out across the country. It was a complete failure to understand the impracticalities of any of this. That is the kind of thing that is very troubling.”

Truss and her civil servants between them managed first to misinform the press about this, and then to take quite a long time to clear up the misinformation. Were it not for the wider Brexit story, the deterioration in relations between her and the judiciary would be attracting far more attention.

But Jacob Rees-Mogg MP this week told ConservativeHome that it is quite wrong of Lord Thomas to use “his authority as Lord Chief Justice to undermine and belittle the Lord Chancellor”, and continued:

“He can’t expect politicians to defend the independence of the judiciary if he behaves like a Labour Party activist.”

In Rees-Mogg’s view, “an independent judiciary is an apolitical judiciary”, and “it is unwise of judges to make statements other than from the bench”. The public trust them “because they don’t seem to have any preconceptions”.

It follows that “what the Lord Chief Justice did was deeply disgraceful and improper”, for it meant “getting involved in politics in a very sensitive way”, and this in a case in which “he was personally involved”, as one of the three judges who heard the Brexit case in the High Court and were attacked by the press.

In Lord Thomas’s defence, it should be repeated that he accurately reflects opinion among his colleagues. They feel Truss deserted them in their hour of need, when they could not defend themselves because the Brexit case had not yet ended.

Lord Judge, who preceded Lord Thomas as Lord Chief Justice, brushed aside the statement in support of judicial independence which the Lord Chancellor did at length issue as “too little, too late”, and told [The Times](#):

“The words she used were almost exactly the same as the Prime Minister used a couple of hours later. That’s my explanation why it took her so long.”

The judges see a Lord Chancellor who takes orders from Theresa May, who in turn is more anxious to keep on the right side of Paul Dacre, the editor of the *Daily Mail*, than to defend judicial independence.

A Lord Chancellor with a proper understanding of the grandeur and antiquity of the office, far more ancient than that of Prime Minister, would not have waited for clearance from Downing Street before upholding the rule of law. One need not be a judge to wonder whether Truss will ever have the intellectual self-confidence to speak her own mind.

But as Charles Moore [this week pointed out](#), it is Tony Blair's fault, not hers, that the lord chancellorship is no longer held by a lawyer steeped in legal tradition, and presiding from the Woolsack over the House of Lords. Blair failed to abolish but

"succeeded in downgrading the post. He created a Justice Ministry (another continental idea) and tacked the Lord Chancellor's residual roles on to that. So being Justice Secretary and Lord Chancellor became just another political job rather than one requiring legal learning. There was no more reason for a lawyer to have to occupy the post than for a doctor to be Health Secretary.

"So the governmental system has lost its umbilical connection with the judiciary. The judges are right to regret this, but it is partly their fault. Most of them were in favour of the changes I have described above."

Truss is the third non-lawyer, after Chris Grayling and Michael Gove, to be Lord Chancellor, and the first woman. Grayling became immensely unpopular with the judges, and amazed me, when I [interviewed him for ConHome](#), by saying it was an advantage for him not to be a lawyer, because this meant he was not biased in favour of the legal profession.

Gove profited from not being Grayling, and from a natural eloquence which made him a ready defender of ancient liberties as well as modern prison reforms. But he spent only just over a year in office.

To Truss now falls the tricky task of trying to settle relations with a judiciary suffering from low morale and potentially very severe recruitment problems, and brought into unaccustomed prominence by the Brexit case. It cannot be said she has made a very promising start.

Her defenders say the judiciary condescend towards her because of her youth (she is only 41), her lack of legal experience, and because she is a woman. They add that although she consults with Number Ten, she does not take orders.

Her detractors say she rubs people up the wrong way, supposes she is more charming than is actually the case, and is an embarrassingly bad public speaker, who has inflicted some "toe-curling" performances on the Conservative Party Conference. They admit, however, that she is very bright.

Truss herself insists that she takes “very seriously” her duty under her oath of office to defend the independence of the judiciary. But in [a letter to *The Times*](#) she went on:

“However there is another principle at stake here: the freedom of the press. I believe in a free press, where newspapers are free to publish, within the law, their views. It is not the job of the government or lord chancellor to police headlines, and it would be a dark day for democracy if that changed.”

It ought to be feasible to defend both the judiciary and the press. The two are not mutually exclusive. Nor does one need to get hung up on “headlines”: general remarks about the indispensability of the rule of law, and how fortunate we are to live under it, would be quite sufficient.

A Lord Chancellor who possessed a greater affinity with the Establishment would have no difficulty in producing that sort of thing on demand. But Truss is not that kind of person, which is one reason why she so disconcerts the judges.

They do not quite know how to talk to each other.

In the old days, by which I mean the era before 23 June 2016, if the Lord Chief Justice was worried about something, someone in his office would ring one of the private secretaries in Number Ten or the Treasury, with both of which they had direct lines of communication, and very likely the trouble would be sorted out.

The Lord Chancellor did not necessarily have to be involved. But the people at both ends who oiled the wheels have now moved on, or been moved on, and a different atmosphere prevails in Downing Street.

The Prime Minister and her joint chiefs of staff, Nick Timothy and Fiona Hill, want quite naturally to be in control. The avoidance of friction is not one of their instinctive preferences. For them, friction can be good.

An essential element in their style of government consists of showing that they will not be pushed around, and in particular that they will not yield a point just because a lot of high-minded liberals say how much easier and more pleasant life would be if a concession could just this once be made.

An obvious example is the proposal to remove students from the immigration figures. Almost all the friendly, civilised, liberal people say that doing so would make life easier and more pleasant, and May has refused to do it.

The judges are, for the most part, as friendly, civilised and liberal a group of people as you could hope to meet. They are delightful. Some years ago, when I used often to have lunch in the Terrace Cafeteria at the Palace of Westminster, I would usually see four or five of the Law Lords eating together in that long, modest, unassuming room, surrounded by researchers, police officers, cooks on their break and other Commons staff. How ready they

were to be amused, and how completely without side.

A friend of mine who was a barrister used to lament that the abolition of the death penalty had removed much of the drama from criminal trials. It has certainly been accompanied by a change in the character of the judiciary. The majesty of the law, emphasised by occasional outbursts of eccentric savagery, is no more. Hangers and floggers are no longer required on the bench.

This may be a very good thing, but it makes the judiciary less frightening. Why should Truss, educated at a comprehensive school in Leeds, after which she read PPE at Oxford, defer to its opinions? Why should she not think instead that the judges need to loosen up a bit, become less worried about describing what their work entails?

In a profile of her [published three years ago on ConHome](#), I recorded the toughness she showed in hanging on to the Conservative candidacy in South-West Norfolk in the face of opposition from “the TurnipTaliban”, as the press dubbed a group of local Tories displeased by the discovery of a scandal some years before in her private life.

A few days ago, [The Times](#) sided firmly with Lord Thomas, and with the rest of the legal Establishment, in a leading article. But its suggested remedy was a bit feeble:

“Ms Truss has not impressed so far in the job. She needs to take a good look at herself and ask whether she is up to it.”

Surely the person who will decide “whether she is up to it” is May. If anything, the attacks on Truss by the judiciary must make it less likely that in the near future she will be moved. The Prime Minister’s determination not to be pushed around will override other considerations, and will, one imagines, be shared by the *Daily Mail*.

[The future of Mr Carswell](#)

Knowing how keen some of my contributors are to discuss UKIP and its role, I feel I must mention the recent loss of UKIP’s one elected MP. Mr Carswell no longer feels UKIP has a task given the decision to leave the EU. He believes that was its main proposition, and therefore thinks it is redundant now that has been adopted by the public. Others in UKIP think there is a continuing role in the future for the party, as they seek to define its stance on a range of issues other than our relationship with the EU.

I am not going to express an opinion on this difference within UKIP. I would be interested to hear from those on either side of the argument. Some will

think Mr Carswell has behaved sensibly and has explained how voters and elected officials need to move on now the issue of EU membership has been resolved by popular vote. Others will think Mr Carswell was wrong, and will see a future for UKIP.

What kind of a party should UKIP be going forward if you think, unlike Mr Carswell, it has a future role? What should be its distinctive policies and platform?

The response of the EU to the letter

It is curious that some in the EU seem to think there needs to be a long negotiation over the UK's exit. The UK has announced its intention to leave, and can do so after two years or before by mutual agreement. It is difficult to see why these democratic friendly nations would want to keep us in the EU for a whole two years if we just want to leave and if they do not want to talk about the future relationship. Of course the UK will pay its regular bills up to the point of departure. There is no legal requirement to pay anything else.

The UK is making a very friendly and generous offer – full tariff free access to our market, full rights for all EU citizens currently here, continuing defence and security collaboration and much else. All we ask is the same courtesies in return. I always defend the other member states and EU from allegations that they want to damage themselves and us during this process. I now look forward to them living up to the fine ideals of democracy, co-operation and free trade which they say are part of the EU scheme. I would expect them to see that free access to our market is an important advantage for their farmers and others who would face higher tariffs under WTO rules.