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 attemping 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 rationally. 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 Goverment 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.

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.*
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> *"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*.

[Restoring order to the classroom]

Ensuring that teachers have the authority to maintain order in the classroom has been one of the areas where the Government has been making progress since 2010. One of the changes Michael Gove brought in was to reduce the pages of guidance that teachers were expected to follow from 600 to 50. It was also clarified that a teacher could use "reasonable force" – for instance to remove a pupil who was disrupting a lesson. Teachers can now give detentions without notice.

There will certainly be some teachers who will never be up to what is a very difficult job – and it is much better for everyone that they should pursue alternative careers. But there are very many others who can or could maintain good order with the necessary support. Tom Bennett has already produced proposals to make teacher training more practical in this regard. (He offers his top ten tips for behaviour management here.)

Bennett has now offered some more recommendations for the Government – in the form of an independent review of behaviour in schools. He says that even if individual teachers are capable and well trained they will still struggle to maintain order in a badly run school. The head needs to provide the right culture in the school.

Naturally the permanent exclusion of a pupil is regarded as rather drastic and only happens to a small number. Bennett proposes "internal inclusion units to offer targeted early specialist intervention with the primary aim of reintegrating students back into the mainstream school community" – in other words the pupil is removed from the class and therefore the disruption ceases, but this is as a temporary measure.

More visits should be made to those schools that have succeeded with regards to school discipline – often despite challenging circumstances, says Bennett. He also suggests that Ofsted could do a better job at gathering the views of teachers and pupils on behaviour management. Research has confirmed that many teachers ignore "low level disruption" and just try to carry on as best they can.

Ebbsfleet Academy in a deprived area of north Kent is offered as a case study. It was previously the Swan Valley Community School and began in its present incarnation under new management in 2012:

"All staff had their classes monitored and performance management put in place. This resulted in many teachers resigning of their own accord and some being dismissed. The former leadership team was made redundant."

The school has "a leadership team with a clear culture, standards and vision for the school"; there is "attention to detail – strict rules, weekly equipment checks, detentions for such things as rubber or pen missing,

uniform infractions, colour of hair". While "any child caught with a mobile phone has it confiscated until the next school holiday".

Bennett quotes plenty of other heartening examples of schools doing well. He looks at the importance of assemblies and wall displays, of involving governors and catering staff as well as teachers in upholding the school ethos. There was recognition of the need for teachers to maintain punctuality.

In Passmores Academy in Harlow the school charter which pupils sign up to includes the behaviour expected of pupils on their way to or from school and when in uniform as well. There is a centralised detention system. This helps ensure the rules are consistent and that the teachers handing out the detention do not have to take up their own time to supervise it.

Bennett also argues that where exclusions are needed the school make the tough choice to proceed with them:

"When they are required, they should be used. Inspections must not unfairly deter schools from meaningfully using exclusions by treating their existence as an exclusively negative strategy. It is important to examine the patterns of exclusion carefully, and to consider the context of exclusions in order to understand how appropriate they are. In some schools, a temporary, high exclusion rate may be a sign of effective leadership, not weak or over punitive."

In the past, the reluctance to exclude has come from a concern that sending a child to a Pupil Referral Unit will set them on to a downward spiral. But the answer to that is to drive up the standards at these Units.

The Government's response to Bennett's report says:

"It is our ambition to give schools control of Alternative Provision budgets to enable them to commission AP for pupils who require it (including those who have been permanently excluded) as well as accountability for pupils' educational outcomes whilst they are in AP. Giving schools responsibility for commissioning AP and accountability for pupils' educational outcomes will incentivise them to take preventative approaches and to achieve value for money when identifying the best and most suitable alternative provision for any child that needs it."

There is plenty of good progress being made. On the other hand, attempts to evaluate the scale of disorder in classrooms have probably resulted in underestimates – due to many teachers and their heads being reluctant to acknowledge such difficulties. Bennett's report is positive and constructive but also honest about the scale of the challenge – and robust in identifying how it can be met.

Press release: Raytheon UK invests in North Wales

[unable to retrieve full-text content]Alun Cairns: Defence market place is a major driving force for Wales' economy

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Press release: Guidelines on reducing sugar in food published for industry

[unable to retrieve full-text content]Reduction programme could see 200,000 tonnes of sugar removed from the UK market per year by 2020.