AM: Mr Hammond, you sit around the Cabinet table, you eyeball all these guys, how many of them, - and women – how many of them do you think are going to be on the other side when it comes to the actual debate?

PH: Well I think people want to wait and see what the deal is and clearly there are one or two people whose minds probably are made up, but I hope that there are others who are genuinely open to looking at the deal that comes back and considering their position on it.

AM: Do you think both Michael Gove and Boris Johnson will be on the same platform as you?

PH: You’ll have to ask them. I can’t speak for others.

AM: I certainly will. Gisela. This point that we talked about earlier on about whether or not we are still underneath the influence of the European Court of Justice is very important. We began to talk about it, but surely that is the crucial question. If we are going to get the powers back for this country, if we’re going to reclaim sovereignty we have to deal with European Court of Justice, don’t we?

GS: Yes and I think one of the big things when Philip Hammond earlier mentioned the various opt outs in terms of benefits and things, we don’t know how the European Court of Justice is going to interpret that once it’s challenged. If you go back to the Danish example in the early 90s when they got various opt outs, they thought they had opt outs about citizenship. The ECJ when it came to it overruled it time and time again, so unless things are entrenched in treaty changes and therefore cannot be challenged in the courts, they’re not going to be worth the paper they’re written on.

PH: But the important point about what’s being proposed here is that there will be an international law decision which is binding on the member states and, which the court itself in the Rottmann
Case famously confirmed, it has to take into account whether heads of state and government in a binding decision give an interpretation of the treaties, the court has to take that interpretation into account.

GS: As a lawyer, taking into account is not the same thing as saying you can’t do it.
PH: It’s a very important consideration that will guide the court.

AM: Very, very quickly, is it fair that people like you are able to make the case for staying in the EU, as you have been, whilst all those in the government who don’t want to stay in have to stay quiet, zip their lips?
PH: Just to be clear, I will make the case for staying in the EU if we get the right deal. I haven’t seen the deal yet. We don’t know what deal is going to come out of Thursday or even if a deal is going to come out of Thursday.

AM: There will be a rabbit, in the end, thank you both.

Ends