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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

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The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
Lab Co-op	Labour and Co-operative Party
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

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House of Lords

Wednesday 4 September 2019

3 pm

Prayers—read by the Lord Bishop of Birmingham.

Brexit: Food Standards Question

3.06 pm

Asked by Lord Carrington

To ask Her Majesty's Government how they will ensure that food imports after Brexit meet the same animal welfare, environmental and food safety standards as those required of food from British farmers.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, I declare my farming interests as set out in the register. This country has high food safety standards, and these will continue. We will remain global leaders in environmental protection and animal welfare standards, maintaining our high-quality produce for British consumers. The withdrawal Act will transfer on to the UK statute book all EU food safety, environmental and animal welfare standards. Our current high standards, including import requirements, will apply when we leave.

Lord Carrington (CB): My Lords, I also declare my interests as a farmer, as in the register, and thank the Minister for his reply. The Government have consistently said that they will not allow our food standards to be undermined by future trade deals, such as that proposed with the United States of America. This is reassuring, but regardless of any future trade deals, how do they propose to do this in light of the no-deal applied tariff schedule published last March? That would mean slashing tariffs on many agricultural goods, to zero in the case of eggs and cereals. How will the Government keep out goods produced to lower standards, especially as to do so on grounds of animal welfare and environmental harm would almost certainly breach our obligations under the WTO terms?

Lord Gardiner of Kimble: My Lords, as I referred to briefly in my opening remarks, we will retain all current UK import requirements. Existing UK import standards will apply. The level of a tariff does not change what can and cannot be imported. WTO rules allow WTO members to adopt and maintain trade-restrictive measures on specified public policy grounds, including the protection of human, animal and plant life and health, public morals and conservation.

Lord Stevenson of Balmacara (Lab): My Lords, surely the question here is why the noble Lord did not respond to the point about tariffs. It is the tariffs that will destroy farming activity in this country, because

the exports will be open to others, as currently arranged, and the costs will be passed on to consumers. Why have the Government not brought forward the statutory instruments required to put these in place?

Lord Gardiner of Kimble: My Lords, perhaps I am the one who is confused. I have made it absolutely clear that all the EU import requirements will remain, irrespective of the tariff regime. The noble Lord shakes his head but that is the truth. It will be the law. All the EU import requirements will continue and that is the precise point I am making. This is why the consumer is secure. All of these elements cannot be imported unless they have the standards currently in place.

Baroness McIntosh of Pickering (Con): My Lords, my noble friend will recall that a government amendment in the name of my noble friend Lady Fairhead was carried enhancing just these protections in the Trade Bill, which is currently still before the House of Commons. What is the fate of that Bill for rollover agreements? If it falls, will the Government be minded to ensure that this will be part of government policy?

Lord Gardiner of Kimble: My Lords, the first part of my noble friend's question might be above my pay grade, but I am absolutely clear—this is government policy—that all the requirements we are taking over will continue, including, as I emphasised, all the import requirements, whether for products of animal origin or high-risk, non-animal origin products. I have a long list of them. That is precisely why I believe we will continue with our very high standards.

Lord Clark of Windermere (Lab): My Lords, I will pursue the issue of the WTO regulations. I am advised that the WTO says that there will be no tariffs on agricultural products. Have the Government had proper legal advice that that will not apply to the UK if we leave without a deal and that it certainly will not apply to us in relation to the United States?

Lord Gardiner of Kimble: My Lords, particularly with animal welfare and agriculture, legal requirements that prevent the import of certain animal products will continue. Indeed, that is justified under Article XX of GATT. All imports of meat products must meet UK animal welfare slaughter requirements and come from an approved slaughterhouse. The Government have made it clear that the existing health and food safety restrictions on hormone treatment, antibiotics and chlorinated chicken will remain in place.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, given the plethora of health identification marks that will be needed for food products of animal origin should the UK exit the EU without a deal, there is considerable concern about the impact this will have on small farmers and producers. The larger conglomerates will manage, but the smallholders will struggle. What are the Government doing to ensure the public and farmers are protected from this confusion?

Lord Gardiner of Kimble: My Lords, obviously, as policy develops in future Parliaments and so forth, it will be very important, indeed essential, to look at labelling. We want, and it is our duty, to make sure that labelling is transparent and that the consumer knows what is required. We want to work with farmers on this—we want it to be a success for farmers, producers and consumers. That is why, as I said, the Government will be looking at vulnerable agricultural sectors and others, because small farmers—farmers of all sizes—are hugely important to our excellent food production.

Lord Rooker (Lab): Did the Minister not admit in this House some months ago, notwithstanding what he said, that animal products, particularly eggs, that do not meet our standards will be on sale in this country? He said, “Oh, they’ll be labelled to say they don’t meet our standards. They’ll be cheaper than ours, but they don’t meet our standards”. Does he now resile from what he told the House back in the summer?

Lord Gardiner of Kimble: I know what the noble Lord is referring to. Indeed, in my letter to him of 8 May, I made very clear the distinction between all the elements we are bringing over on sanitary requirements for eggs and marketing standards. That is the precise point: we will mirror everything to do with the sanitary and marketing standards that are currently in place during our membership of the EU. At the moment, eggs under marketing standard requirements can come into the EU, but if they are not up to the marketing standards—not sanitary standards—they have to be marked as “non-EU standard”. We will mirror that by marking them as “non-UK standard”.

Saudi Arabia: Human Rights *Question*

3.14 pm

Asked by Baroness Anelay of St Johns

To ask Her Majesty’s Government what progress they have made on human rights issues working together with the Human Rights Commission of Saudi Arabia.

The Minister of State, Foreign and Commonwealth Office (Lord Ahmad of Wimbledon) (Con): My Lords, the United Kingdom regularly engages with the Saudi Human Rights Commission. In July, I met the then president of the commission, Bandar Al-Aiban, and raised human rights concerns, including the detention of women’s rights activists. The commission played a key role in drafting the new regulation allowing women to apply for a passport and to travel without a guardian’s permission. This development followed sustained engagement by the United Kingdom and other countries.

Baroness Anelay of St Johns (Con): My Lords, I welcome the work that my noble friend is doing on human rights generally, and particularly with Saudi

Arabia. I also welcome the fact that the Government were prepared to make a public statement at the Human Rights Council criticising Saudi Arabia for arbitrarily arresting and detaining human rights defenders such as Loujain al-Hathloul, who campaigned to allow women to drive in Saudi Arabia. She was arrested over a year ago for her peaceful campaign and is still in prison. Translating words into deeds, how will my noble friend ensure that Loujain al-Hathloul, who suffered torture in prison, can be freed, and that others do not suffer her fate?

Lord Ahmad of Wimbledon: My Lords, first, I pay tribute to my noble friend’s exemplary work in this area when she served as Minister of State at the Foreign and Commonwealth Office. On the specific issue that she rightly raises, between May and August 2018 the Saudi authorities arrested a number of women’s rights defenders as part of a wider clampdown on political opposition. Currently, 12 women’s rights defenders are on trial, 10 at Riyadh Criminal Court and two at the Specialized Criminal Court. Two of the 12 have been held in solitary confinement since their arrest in August 2018. We continue to make representations. I recently held a bilateral meeting, and I plan to visit Saudi Arabia soon, where human rights, and specifically human rights defenders, will be on my agenda.

Baroness Blackstone (Ind Lab): My Lords, can the Minister tell the House what discussions the Government have had with the Government of Saudi Arabia about the very large numbers of people held in detention without trial and the large number of executions that have been taking place, including of children, or at least those who were children when they were arrested? What has been the response of the Government of Saudi Arabia to these discussions?

Lord Ahmad of Wimbledon: The noble Baroness is quite right to raise this issue. Previously, the Government—and I from this Dispatch Box—have expressed deep concern about the execution of detainees, some of whom were of a very young age. I assure the noble Baroness that we continue to raise these issues with the Saudi authorities. There has been some progress—the establishment of an albeit semi-autonomous commission has seen some traction—but clearly there is a great deal of work to be done on the issue of detention. We are also making representations to attend the trials of those detainees; we will continue to make those representations through our embassy and through bilateral engagement.

Lord Hannay of Chiswick (CB): My Lords, is the Minister aware of reports that two days ago the Saudi-led coalition launched an air strike in Yemen which killed more than 100 people in a detention camp? If he is, does he not think that that has something to say about Saudi Arabia’s respect for humanitarian law?

Lord Ahmad of Wimbledon: I am aware of the attack on the site in Dhamar on Sunday, and we are deeply concerned about the civilian deaths. I am sure I

speak for the whole House when I say that our thoughts are with the victims. We are urgently seeking more information, and are in touch with both coalition partners, who have referred the incident to the joint incident assessment team. They have publicly stated that the strike was targeting a weapons depot, but I assure the noble Lord that we will follow up on this issue.

Lord Campbell of Pittenweem (LD): My Lords, following the question asked by the noble Lord, Lord Hannay, does the Minister recall that, following the decision of the Court of Appeal of 20 June, the Government announced that they would appeal against that decision but in the meantime refuse to grant any new licences for the export of arms to Saudi Arabia? How many new licences have been refused? What is the financial value of arms exported to Saudi Arabia since 20 June under existing licences?

Lord Ahmad of Wimbledon: I shall write to the noble Lord on his second question, but he is quite right to raise the judgment. There were three rulings: two were in favour of the Government and one, as he rightly articulated, has gone to appeal. We disagree with the judgment. However, due process is being followed and I stress again that we have adhered to the undertaking to grant no new licences. On how much has been exported under existing licences, I shall write to the noble Lord.

Lord Lamont of Lerwick (Con): My Lords, have the Government monitored the trial of those who have been arrested and prosecuted for the murder of Mr Khashoggi in Turkey? Is that trial being held in public? Are the accused being given lawyers and are we satisfied that they are the real culprits and not carrying the responsibility for someone else?

Lord Ahmad of Wimbledon: My Lords, as my noble friend knows, the Government have condemned Jamal Khashoggi's killing in the strongest possible terms and we have continued to raise our deepest concerns. As referred to by my noble friend Lady Anelay, at the most recent Human Rights Council, as Human Rights Minister, I asked for the issue to be put into the UPR—universal periodic review—of Saudi Arabia. It was clearly understood that the detention and, as in this case, the murder of journalists is taken very seriously by the United Kingdom Government. As I said earlier, we continue to make representations to attend trials as part of an international observer group. Trial observation demonstrates to host Governments not just our continued interest in but adherence to legal procedures. I assure my noble friend that the United Kingdom has been clear that we need accountability for the horrific murder of the journalist Jamal Khashoggi, and we expect Saudi Arabia to take action to ensure that such violations are never repeated.

Lord Lea of Crondall (Lab): Does the Minister not agree that the separation hitherto of arms dealings and human rights is no longer sustainable in light of the example referred to by the noble Lord, Lord Hannay?

Should there not be further consideration of the way in which these two issues are handled in the Foreign Office and the Ministry of Defence?

Lord Ahmad of Wimbledon: I assure the noble Lord and all noble Lords that our arms export licences are reviewed continually. A specific case is currently on appeal. We respect judicial decisions in this regard. We will await the outcome of the trial, but existing arms controls are rigidly applied to every licence request that we receive.

Personal Healthcare Budgets: Sheffield Question

3.22 pm

Asked by **Lord Blunkett**

To ask Her Majesty's Government what was the difference in the number of people covered by personal health care budgets or Independent Living Fund payments in Sheffield between (1) January and June 2019, (2) January and June 2018, (3) January and June 2017, and (4) January and June 2015.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Baroness Blackwood of North Oxford) (Con): My Lords, the department does not collect the data requested in the specified format. However, the number of people with a personalised health budget is calculated on a quarterly basis within each financial year, which ends on 31 March. Currently, 53,143 people benefit from a personal health budget nationally. I shall write to the noble Lord this afternoon with a full breakdown of all the data that we collect in relation to Sheffield and place a copy of the letter in the Library.

Lord Blunkett (Lab): I am grateful to the Minister. Can she help me with a very practical question relating to the county council's publication last week, and that of the Institute for Government today, in respect of the funding of social care and the interim grant that was due to run out at the end of March next year, which constituted a third of government spending? Can we presume that the amount announced by the Chancellor of the Exchequer this afternoon is in addition to renewing that temporary grant? If it is, is it not a strange paradox that it is half a billion pounds less than the amount that he announced in respect of a no-deal arrangement with the European Union?

Baroness Blackwood of North Oxford: The noble Lord has asked a very important question and I am pleased that the Prime Minister has followed through on his commitment to improve the situation for local authorities and for social care, not only by increasing funding for social care by £1 billion today but by increasing funding for local authorities. This is a welcome change for local authorities, which need to ensure that they can fund the commitments that we have. In addition to the letter that I shall place in the Library, I

[BARONESS BLACKWOOD OF NORTH OXFORD] shall be happy to follow up on the specific challenge that the noble Lord raised regarding Sheffield following Questions.

Baroness Jolly (LD): My Lords, personal healthcare budgets and payments from the Independent Living Fund can offer an individual freedom and choice, but will the Minister tell the House what advocacy support accompanies these payments, so that members of the public can be well informed and choose the best providers for their needs?

Baroness Blackwood of North Oxford: Personal health budgets play a really important role, not only in supporting individuals to have personalised care but by making sure that we can seek support from social prescribing and community care, just as the noble Baroness mentioned. These plans are designed not only between the general practitioner and the supporter, but with the patient; therefore, the right information is provided to the patient in an open and transparent manner so that they can ensure they get the right care. It is important to note that those in receipt of this care have an 87% satisfaction that they are receiving the care they want in a much more effective way than they were before.

Baroness Wheeler (Lab): My Lords, NHS continuing healthcare is supposed to provide a lifeline when older people and their families are at their most vulnerable and face sky-high costs as the result of chronic health conditions. However, this system is confusing and the rules arbitrary, resulting in a significant postcode lottery. Since 2015 more than 4,000 adults have died while awaiting a decision on their care to be made. What action are the Government taking to ensure that every person in need gets the support they need promptly, regardless of where they live?

Baroness Blackwood of North Oxford: One of the actions we have taken today is increasing funding to local authorities to relieve some of the pressures on them, increasing real-terms spending on public health, and also £1 billion for social care. In addition to that, there is a clear impetus from the long-term plan to increase personal health budgets, which are a very important aspect of the solution, because it will lead to an integration of spending and an integrated assessment of NHS care and social care. This is a real gap within the solutions for those who receive this support, which is why we want to make sure that we roll this out much faster than we have before. There is a commitment to have 200,000 people on personal health budgets and we are ahead of our ambitions on that.

Professional Football *Question*

3.26 pm

Asked by Lord Greaves

To ask Her Majesty's Government what assessment they have made of (1) the collapse of Bury Football Club, and (2) the case for an enquiry into possible reforms of the ownership and governance of professional football.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran)

(Con): My Lords, the expulsion of Bury Football Club from the English Football League is a devastating loss to English football and to the people of Bury. It is right that questions are asked concerning the owners' and directors' test, and I am pleased that the EFL has already indicated its intention to undertake a review of the test. The Government support this and remain open to discussions with the football authorities to ensure that action is taken, where possible, to prevent further club failures.

Lord Greaves (LD): My Lords, I am grateful for that positive response. After the real shock of what happened to Bury and almost happened to the next town along, Bolton, do the Government accept that in such towns—bigger towns and smaller towns, particularly old industrial towns in such places as the north of England—football clubs are essential to the local community? They are integral to the town's status, its esteem, its cohesion, its sense of place and people's identity there. Too many football clubs are caught up in what somebody once called the unacceptable face of capitalism—the worst kinds of capitalism—when the new owners are speculative and interested in their own personal promotion and not that of the town. What they do is too often quite immoral and consists of financial jiggery-pokery, even if it is not always illegal. In these circumstances, will the Government promote the wider inquiry into the whole state of professional football in this country that is now required?

Baroness Barran: I empathise with the noble Lord's concerns and absolutely acknowledge the crucial role that football clubs play in their communities, both large and small, but the Government are clear that it is the responsibility of the football authorities to undertake any review. The Government are committed to supporting that if that is what they decide to do but are equally committed to making sure that lines of accountability should not be blurred.

Lord Griffiths of Burry Port (Lab): My Lords, I congratulate the noble Baroness and welcome her to her present responsibilities—living proof, if one needs it, that the profits of capitalism and social awareness and justice can coexist. I look forward to exchanges with her over time. I also take this opportunity to congratulate—at least, I think I want to congratulate—her predecessor on his promotion. Bury Football Club is not just a place where 22 people play the game of football. It is really—the words were used but recognition is more than words—a whole town coming together, a culture and community centre. I would like to hear the noble Baroness commit the Government to supporting the local Member of Parliament, the supporters' clubs, the local authorities and politicians from various backgrounds in their efforts to persuade the Football League to admit the precedent of readmitting Bury. Precedents are in the news at the moment. The Government seem ready to experiment with them; perhaps in this instance they might do so again.

Baroness Barran: I thank the noble Lord for his generous words. Like him, I look forward—who knows for how long—to debating these issues with him and

other noble Lords across the Dispatch Box. He will be aware that the Sports Minister has been very vocal in his concern about what happened at Bury and nearly happened at Bolton. I share his concerns but, equally, the decision about whether clubs should be readmitted or not is for the English Football League, and is one where the Government can share their experience and act as a sounding board but not where we can get directly involved.

Lord O'Shaughnessy (Con): My Lords, for the reasons pointed out by the noble Lord, Lord Greaves, what has happened at Bury Football Club is a tragedy for that community. It is sadly a fate that happened to the football club I support—Wimbledon FC, now AFC Wimbledon. The truth is that, without further radical action, it will be a fate endured by many more football clubs. Does my noble friend agree that these clubs need greater protection from greedy and incompetent owners? Does she also agree that encouraging greater fan and community ownership of these clubs is the best way to fix football's broken business model? I impress on her the urgency of this. We cannot wait for the FA to act; it has no track record of doing so. I encourage the Government to do more.

Baroness Barran: With regard to tightening up the regulation, my noble friend will be aware that the English Football League has announced a "lessons learned" review, which we welcome. It will include a review of the eligibility criteria for directors and owners. It is also discussing with other clubs the potential introduction of a salary cap. On the relationship with fans, my noble friend will remember that there was a review in 2016 which made recommendations about removing barriers for fan ownership. The fans fund was set up with funds to advise fans in an emergency about making bids for their local club.

Baroness Taylor of Bolton (Lab): My Lords, I am sure everyone acknowledges the good news about the survival of Bolton Wanderers, but everybody in Bolton is desperately worried about what has happened in Bury, and the more we hear the worse it gets. There is a police inquiry and an insolvency practitioners' inquiry, and I do not think that the Government can just say, "Let us leave a review to the football authorities". Does the Minister accept that the least that should happen is that every football ground in the country should be designated as an asset of community value and that every football club should have representatives of supporters on its board?

Baroness Barran: My Lords, I know that the noble Baroness is expert on the subject, having listened to her speech in the summer, and I share with the House my pleasure that Bolton has been rescued. Obviously, I cannot comment on the fraud investigation or some of the other allegations around the club. The Government's view is that the English Football League has a real interest, along with fans, in making sure that clubs are managed prudently. It must balance following its procedures with ensuring the integrity of the competition and maximising the survival of the clubs. I am aware

that the point she makes about the ownership of grounds affects the smallest clubs outside the league the most. The department is very alive to that at the moment.

Lord Addington (LD): My Lords, does the Minister agree that this is not a new problem but is just the most recent chapter in it, and that all the professional team sports in this country—rugby union, rugby league and football—have suffered from this for a while? They all have models of good practice, none of which seems to work that well. Is this not a classic recipe for making the Government bring everybody together so that they can find out what works and when?

Baroness Barran: I absolutely agree that this is not a new problem; noble Lords will know better than I do that this has gone on for a while. I am the proud owner of a few shares in Bath City Football Club, which had a community buyout. I am possibly not the most loyal supporter, but there it goes. I absolutely agree that this is not a new problem. The Government have done some convening and bringing together, but we are very clear that our role in this is to stay independent.

Business of the House

Motion on Standing Orders

3.36 pm

Moved by Baroness Smith of Basildon

Further to the resolution of the House of 28 January that Her Majesty's Government should provide sufficient time for this House to ensure the timely passage of legislation necessary to implement any deal or proposition that has commanded the support of the majority of the House of Commons, that:

(1) Standing Order 40(3) to 40(9) (*Arrangement of the Order Paper*) be dispensed with to allow proceedings on any bill sent from the House of Commons relating to the United Kingdom's exit from the European Union to start immediately after oral questions on Thursday, 5 September and immediately after Prayers on Friday, 6 September and to take priority over other public business.

(2) Standing Order 46 (*No two stages of a Bill to be taken on one day*) be dispensed with to allow more than one stage of any such bill to be taken on one day.

(3) Proceedings up to and including Second Reading and commitment of the bill, so far as not already concluded, shall be brought to a conclusion at 7pm on Thursday, 5 September and if the bill is read a second time then, notwithstanding Standing Order 47(1) (*Commitment of Bills*), it shall stand committed to a Committee of the whole House without Question put.

(4) Committee stage, Report stage, Third Reading and Passing of the bill, so far as not already concluded, shall be brought to a conclusion at 5pm on Friday, 6 September.

[BARONESS SMITH OF BASILDON]

(5) At the times stated in paragraphs (3) and (4):

a) there shall be no further debate;

b) if the mover of any motion or amendment before the House or Committee does not ask leave to withdraw, or if leave to withdraw is refused, the Question shall be put and decided immediately without further amendment or debate;

c) any further amendments shall be disposed of immediately without further amendment or debate and may be agreed only by unanimity;

d) any further Questions necessary to conclude proceedings under the relevant paragraph shall be put and decided immediately without further amendment or debate; and

e) notwithstanding Standing Order 29 (*No speaking after Question put*), no point of order is admitted.

(6) Amendments to the bill may be tabled only as follows:

a) for Committee stage, between First Reading and 30 minutes after the motion for Second Reading is agreed to;

b) for Report stage, for 30 minutes after the bill is reported from Committee or, if applicable, after the bill as amended in Committee is available in the Printed Paper Office;

c) for Third Reading, for 30 minutes after the end of consideration on Report or, if applicable, after the bill as amended on Report is available in the Printed Paper Office.

(7) The member in charge of the bill may propose adjournment during pleasure.

(8) If at the time stated in paragraph (4) a stage has not begun, it shall begin and be brought to a conclusion immediately without debate and no amendments shall be considered.

(9) The following Questions on the bill shall be deemed agreed to immediately without Question put:

a) House to be in Committee on the bill;

b) Report received;

c) Third Reading;

d) Adjournment during pleasure.

(10) No motion related to the bill, or in the course of proceedings on the bill, or to resume or adjourn the House, and not provided for in this motion, shall be tabled or moved, save one to amend this motion in the name of the Leader of the Opposition. Proceedings on any further Business of the House motion related to this bill, so far as not already concluded, shall be brought to a conclusion one hour after they commence and paragraph (5) shall apply.

(11) If proceedings under paragraph (3) have not been concluded at the sitting of Thursday 5 September, a further motion in the name of the Leader of the Opposition to provide for the disposal of the Questions

required to conclude proceedings on the bill shall be entered as first business on Friday, 6 September and decided immediately without amendment or debate.

Baroness Smith of Basildon (Lab): My Lords, the last time we had a Bill similar to this was the Cooper-Letwin Bill. As noble Lords will recall, its process was quite a drawn out and unpleasant one for your Lordships' House. Because of the urgency of taking the Bill in time and dealing with it, in order to have all the stages in one day, we had to propose the suspension of Standing Orders, and then the only time to debate the legislation was that which was left after the procedure Motion and any amendments.

Eventually, discussions took place and it was agreed to take a second day to complete all the stages, but I have to say that the whole process was pretty unedifying. There were seven closure Motions, there were seven Divisions on those closure Motions and then there were seven votes after that on the amendments themselves. At times, let us be honest, it did get a little bad-tempered.

I think we can do better than that. When we get a Bill such as the one we had then—

Lord Forsyth of Drumlean (Con): My Lords—

Baroness Smith of Basildon: If the noble Lord would let me have just a couple of sentences, I will be happy to give way, because I am sure we will spend quite some time discussing this.

When we get a Bill such as the one we are likely to get today from the House of Commons, like the one we had previously, it presents specific problems for how your Lordships' House deals with it. As I said, I think we can do better and look for a better way to manage it. On that note, I am happy to give way to the noble Lord.

Lord Forsyth of Drumlean: I am most grateful to the noble Baroness, for whom I have the greatest respect, as she knows. Having been involved in that exercise, which was described as a filibuster, does she recall that the filibuster was ended because the Front Benches reached a deal saying that a second day of debate would be provided and that never again would the procedures of this House be abused by the Opposition taking control of business?

Baroness Smith of Basildon: The second part of that is rather unusual. The Opposition are not taking control of business. If we in this House receive legislation from the other place, we should consider it in a timely and proper manner. It is right that, after lengthy discussions, agreement was reached; I would be very happy to see such an agreement again in future. However, as I said, we can do better by making those arrangements prior to long, bad-tempered, lengthy discussions. I have great regard for this House. We should conduct ourselves in the proper manner.

There are several principles here. First, we should always abide by the principle of the primacy of the House of Commons. As the noble Lord says, this is normally facilitated by the usual channels but, as he

and others know, that is not the case for non-government Bills, where the normal channels do not manage the business in the same way. A Bill such as this one presents a difficulty, but the principle of Commons primacy is absolute. We must ensure that we still consider and debate properly, including for suggested amendments, but that we never wreck a Commons Bill.

The other difficulty with this particular Bill, if we get it from the Commons today, is that there is a fixed end time not of our choosing. Your Lordships' House has no say or impact on that fixed end time, which has been decided by the Prime Minister through a rather unusual and controversial Prorogation.

Thirdly, we are, and were, aware of what would be a deliberate attempt to filibuster the Bill, not just the Motion before us. I do not think that any filibuster is in the best interests of your Lordships' House. We, as a self-regulating House, need to find a way to deal with those issues while at the same time ensuring that there is adequate and proper time for debate and amendments. How do we best manage that in the true traditions of how your Lordships' House works? As I said, we are a self-regulating House. Our procedures and conventions are different from those in the other place. Recognising that, if the usual channels cannot initially find agreement on the Bill, we as a House must find a way forward.

On 28 January, your Lordships' House passed a Motion—indeed, it is referred to in the amendment in the name of the noble Baroness, Lady Deech—by a majority of 152, with 283 votes to 131 votes. The Motion made it clear that this House was against no deal and that it should provide “sufficient time” for Lords consideration and conclusions if there was agreement in the House of Commons. Heaven knows that there has been little agreement on Brexit in the House of Commons, but if a Bill comes to us from the Commons at the end of business today or tomorrow on which the Commons has found agreement, we should facilitate discussion, deliberations and the conclusion of consideration on it.

If the noble Baroness the Leader were to say today, in line with the Motion of 28 January and similar to the amendment in the name of the noble Baroness, Lady Deech, that the Government will ensure timely consideration of the Bill and ensure that those deliberations would conclude prior to Prorogation, it would remove the need for my Motion. If the Government ensure that we will act within the normal conventions of this House and ensure that the Bill is concluded prior to Prorogation, my Motion will be irrelevant and unnecessary. We would welcome that approach.

On the issue of our procedures, let me say something about the selection of amendments, which is different from that in the other place. All amendments in this place will appear on the Order Paper. All amendments can be moved, all amendments can be debated and all amendments can be voted on—even if they are exactly the same or almost exactly the same. Late last night, I heard that there were over 90 amendments to my Motion. I was ready to be wowed by the ingenuity of the noble Lords tabling them, but come this morning disappointment kicked in. Even the noble Lord, Lord Dobbs, with all his experience of exciting dramatic novels, could come up with only,

“at end to insert ‘except for the Committee of the whole House on the Rivers Authorities and Land Drainage Bill’”.

I much preferred *House of Cards*.

My Motion has been discussed with others, and I am grateful for the advice and support I have received. The proposal is that, as a self-regulating House, in the absence of the usual channels or a guarantee from the Leader of the House, we should decide how best we can manage this business. We propose that on Thursday we have a Second Reading until 7 pm. That would be seven hours for debate—considerably more than we had on 4 April and considerably more than will be had in the House of Commons. We could then have Committee and the remaining stages until 5 pm on Friday—considerably more time than we had last time and considerably more than in the House of Commons.

The other provisions give effect to those two key points. The Motion allows for seven hours for Second Reading and seven hours for Committee and the remaining stages. Most importantly, that timetable—in giving us the opportunity to have a full and proper debate, to take amendments and to debate an issue we have already debated many times before—would conclude the proceedings in time for Prorogation.

My Motion respects our conventions and ways of working. It respects the rights of your Lordships' House in dealing with legislation and the primacy of the elected House in dealing with legislation in good time.

3.45 pm

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): Before the noble Baroness sits down and amendments are called, I will say a few brief words about the Motion. I am afraid I cannot agree with the noble Baroness's description of it. I am afraid the Government will strongly oppose the Motion before the House today, because in our view it sets a dangerous precedent for the future of this House. I ask noble Lords and noble Baronesses across this House to reflect on how they would react if they were in government and faced such a Motion.

Under the terms of the Motion, I am afraid our ways of working and procedures are undermined. It limits the number of Members able to speak at Second Reading and changes the way amendments are considered and decided on, for instance. The scrutiny function of this House, which we rightly take pride in, is all but removed. Scrutinising and amending legislation is what this House does best, so the guillotining that the Bill prescribes prevents the House fulfilling its fundamental duty.

I have no doubt that, as the noble Baroness said, we will hear many concerns raised during the debate today, but I ask the House to think carefully about supporting a Motion that overturns the proven and widely respected ways in which this House operates and prevents noble Lords properly fulfilling their scrutinising role.

Baroness Smith of Basildon: My Lords, there are two points there. I put to the noble Baroness that the Prorogation is the guillotine. The second point I make is that, if the Government would guarantee that the

[BARONESS SMITH OF BASILDON]

normal conventions of the House would apply and we could conclude our business on this Bill in time for Prorogation, my Motion would be unnecessary. I beg to move.

Motion

Moved by Lord Forsyth of Drumlean

That the House do now resolve itself into Committee.

Lord Forsyth of Drumlean: My Lords, I am grateful for the opportunity to make the case for this business Motion to be considered in Committee. The Leader of the Opposition has made a very good job of presenting a wolf in wolf's clothing. She suggested that there is nothing unusual about what is proposed. As she sat down, she said that the guillotine was provided by the Prorogation. This business Motion has driven all our business off the agenda. It is proposed by the Opposition, when the conventions of this House and the other place are that it is the Government who propose business Motions. What has happened here is that a bunch of Liberal and Labour Party people have seized control of the agenda and prevented us discussing, for example, the Chancellor's extremely important Statement.

Noble Lords: Oh!

Lord Forsyth of Drumlean: Well, the Liberals say: "We would never do that". The Chancellor has announced major increases in expenditure on education, on health—

Lord Newby (LD): My Lords—

Lord Forsyth of Drumlean: I know noble Lords do not want to hear this—on health, education and social care. This very day I had a letter from the Secretary of State for Health in my capacity as Chairman of the Economic Affairs Committee responding very positively to the future of social care and the commitments being made. We have no opportunity to discuss that this afternoon. We have no opportunity to have the Statement because this game-playing by the Opposition continues.

Lord Newby: I am interested to know whether the noble Lord could give an example of when this House has taken the spending Statement by the Chancellor on the day on which it was made.

Lord Forsyth of Drumlean: The noble Lord knows perfectly well that this is a self-regulating House. If the Government and Opposition wished to do so, that would be possible. Can he give me an example of when, in the entire history of this House, anyone has put forward a guillotine Motion on the Order Paper? I will give way to him if he can, but he cannot, because it is utterly and absolutely unprecedented.

Lord Newby: I am sorry for interrupting the noble Lord, but I think it might be to the benefit of the House if I answer all his points sequentially when I make my speech.

Lord Forsyth of Drumlean: That would be a first. Getting an answer out of the noble Lord is not as easy as getting him to ask a question. The fact is that the use of the guillotine is an absolute outrage. It is constitutionally unprecedented and dangerous for our democracy. It is an abomination. These are not my words. They are the words of the former Lord Chancellor, the noble and learned Lord, Lord Falconer, in 2011 when David Cameron proposed tabling a guillotine Motion in this House. If it was an abomination then for the Labour Party and constitutionally unprecedented and dangerous for our democracy, so is it today. The noble Baroness should be ashamed of herself for being a party to it, no doubt on the orders of Mr Corbyn.

Turning to the Cross Benches, I do not know whether the noble Baroness, Lady D'Souza, is in her place, but at the time she said: "The Cross Benches will vote against this or fail to turn up". It will be interesting to see what happens today.

Baroness Smith of Basildon: Just to reassure the noble Lord, I have to claim credit for the Motion, along with other Members of your Lordships' House. When is he going to get to the point of his amendment?

Lord Forsyth of Drumlean: The point of my amendment is that these are very serious matters. We are making a dangerous and unprecedented assault on the part of this House, to quote the former Lord Chancellor, and this should not be nodded through as part of a business Motion. We should be in Committee and consider all the implications. The implications are enormous. The noble Baroness laughs, but this is a revising Chamber. What do we do? We take huge quantities of legislation from the other place which has not been discussed or even debated because it has a guillotine procedure. When I left the House of Commons in 1997, we did not have any of that. One had to go through numerous hoops to get a guillotine. Now everything is guillotined and everyone in this House knows how legislation comes here in a completely unscrutinised way. That is the purpose of this House. If we are to have a guillotine procedure in this House, Governments will absolutely love that. It is extraordinary that Opposition Members, of all people, should be proposing it.

Lord Strathclyde (Con): My Lords, is not the position even worse than that? The noble Baroness is currently Leader of the Opposition. She must have considered the possibility that in the next few weeks she could be Leader of the House—that is, if the Labour Party concedes to a general election. If the noble Baroness is willing to push forward a guillotine when in opposition, just imagine what she would do if she had the full powers of government behind her.

Lord Forsyth of Drumlean: My noble friend makes a very important point. Of course, we all know that Labour Party Members are busy making speeches around the country saying that they are standing up for democracy, when the very last thing they are prepared to do is give my right honourable friend the Prime Minister the opportunity to have a general election where they can put their views to the people.

Baroness Smith of Basildon: I am sorry to intervene on the noble Lord, but given that the noble Lord, Lord Strathclyde, was so happy to invite me to become Leader of the House, I put it to him that I am not pushing through a guillotine in any way. I am asking your Lordships' House whether it wishes to consider a better way, as proposed in my Motion, for dealing with its business. It is for this House to decide—not for any Government on any occasion—how to manage its business.

Lord Forsyth of Drumlean: I know what the noble Baroness is doing. We referred to the debate we had on the Cooper-Letwin Bill earlier this year, in which she gave an undertaking—now broken—that they would not take control of the business of this House and we would proceed as we always have by agreement between the usual channels. Not only has she done that today but she has added to it, bringing forward a guillotine procedure. That is an absolute outrage.

Lord True (Con): Having also been involved at the time, I know that this certainly is the breaking of an undertaking. Many of us agreed to facilitate the passage of Cooper-Boles on the basis that this would not happen again in your Lordships' House. There will be a lot of debating and a fundamental amendment will come forward from the Cross Benches about the very principle of the guillotine, which we can discuss. However, as I take it, the purpose of a Committee discussion—which perhaps could be confined to a short part of this—is that the person who is proposing unprecedented action in this House, the Leader of the Opposition, should be required to answer for that in the same way a Minister of the Crown is required to answer to the House. I put this to my noble friend as just one example, and I will have others later: did he hear the noble Baroness say that every Bill from the Commons should be dealt with? Does that mean immediately? How are we going to find out these things unless my noble friend's Motion is passed and we have a proper Committee discussion and interrogation?

Lord Forsyth of Drumlean: My noble friend makes a really important point. We need to remember that we are dealing with private Members' legislation because the procedures in the other place have been subverted and its Standing Orders undermined. The proposition here is that private business, which may or may not come to this House, should be dealt with using a guillotine procedure. These are revolutionary changes being proposed by the noble Baroness. As my noble friend says, she really ought to account to this place, if we are in Committee, for many of the issues which will arise.

I return to my point about the other place sending us vast quantities of legislation that has not been properly scrutinised and the establishment of a precedent that we can have a guillotine procedure in this House, which will be used by Governments of all parties. There were no guillotines, other than in exceptional circumstances and subject to exceptional rules, until Tony Blair became Prime Minister in 1997, and now everything in the other place is guillotined and not properly considered. All of us in this House know in

our heart of hearts how damaging that has been to the good conduct of government and the provision of legislation.

Lord Howard of Lympne (Con): May I take my noble friend back to the example he gave from 2011, when the former Lord Chancellor, the noble and learned Lord, Lord Falconer, expressed outrage about the possibility of the guillotine being introduced in your Lordships' House? The then Prime Minister withdrew his proposal. Is it not quite extraordinary that a Prime Minister would withdraw his proposal in the face of outrage expressed about a breach of procedural precedent, whereas the Leader of the Opposition in your Lordships' House, in the face of exactly the same protest, intends to pursue her plan?

Lord Forsyth of Drumlean: Indeed.

Baroness Jones of Moulsecoomb (GP): Does the noble Lord accept that a guillotine would not be necessary if noble Lords undertook not to filibuster?

4 pm

Lord Forsyth of Drumlean: That reminds me of the points that Screaming Lord Sutch used to make about the Monopolies Commission in various election campaigns. If there is a Division on this matter, I hope that the noble Baroness will join us in the Lobbies because she is making a very important point. In order to prevent the guillotine procedure being used in this House, it is necessary for us to table amendments—the only thing we can do—that will enable this House to keep talking until one minute past 10 am on Friday. I agree with the noble Baroness that it is outrageous that we should have to do that, but it is her doing. That is what we have to do in order to prevent this dangerous constitutional innovation in this House.

When I say “dangerous”, in agreeing with the former Lord Chancellor, I think it is dangerous for this reason—I am determined to make this point. If this House is going to be subject to a guillotine procedure, we will be in exactly the same boat as the House of Commons. If we are in the same boat as the Commons, we will not be able to do our job of scrutinising legislation, and if we are not able to do the job, what is the point of us continuing to exist? This Motion leads the way to unicameralism. My noble friend Lord Hailsham, who is not in his place, was burling on yesterday about the elective dictatorship. What this does is to transfer huge power to the Executive.

I know your Lordships do not want me to go on for too long, but we are discussing serious issues which point to us having to be in Committee. I shall make a point which may appeal to our friends on the Liberal Benches and in the Labour Party. If we get to a position where these guillotine Motions can be used in this House, we cannot have a situation where the Government do not have a majority of Peers, so with each change of Government we will end up with a House of about 1,500 to 2,000 Peers as the Government try to maintain that position. What the noble Baroness is doing in order to avert something she supposes may happen—that somehow this House will not operate in its normal way in considering legislation—is putting a

[LORD FORSYTH OF DRUMLEAN]

bomb under this Chamber and this institution. I hope that I might persuade your Lordships that we should sit in Committee and consider the implications.

Noble Lords will note that I have not sought to talk at length and I have not mentioned Brexit or any of the proceedings in the other place; I am entirely focused on the rights and opportunities of this House. I hope that every Member of this House, if they are not prepared to take this in Committee, will urge the noble Baroness to withdraw this wretched Motion. She said she will withdraw it if the Government give an undertaking to give safe passage to a Bill which has not even been passed in the other place. She might like to reflect on this. What is the Prime Minister meant to do when the Opposition are now so gutless that they are not even prepared to have a general election and let the people decide on these matters; when they are going around the country saying they want people to have more opportunity to discuss the issues arising, but they are bringing in guillotine Motions in this House to prevent us discussing those issues? It sounds like—are we allowed to say “hypocrisy” in this House? Is it parliamentary? Whatever the equivalent of hypocrisy is, that is what we are seeing from the Front Bench today. I beg to move.

Lord Newby: My Lords, I support the Motion of the noble Baroness wholeheartedly. I do so, according to the noble Lord, Lord Forsyth, as a member of a bunch of malcontents who, apparently, are being dictated to by Jeremy Corbyn. Well, you could have fooled me. The Motion is proposed by the Leader of the Opposition as a matter of convention, but it is supported absolutely by me and my colleagues on these Benches, by many on the Cross Benches—including many of the most distinguished parliamentarians, civil servants and former judges in this country—and by a significant number on the Conservative Benches. To try to characterise, to trivialise, the motivation behind the Motion as something to do with a plot by Jeremy Corbyn does the noble Lord and this House no service.

In supporting the Motion, I am not acting lightly. I have sat through many thousands of hours in your Lordships’ House, at literally every hour of day and night, when there has been no time limit. I have accepted, through stiff bones and weary eyes that, on balance, our normal system was preferable to that in the Commons where, as the noble Lord says, so many debates, however important, are severely truncated. I sat through 150 hours of debate on the withdrawal Bill, when debates on individual amendments often took several hours. I did so cheerfully, despite the odd moments of tedium, because I knew that we were debating issues of first importance for the country and that they deserved exhaustive deliberation. I would have been more than willing for the debates on the Bill that we expect from the Commons tomorrow, and which we have to make provision for today, to follow our normal procedures. But if I had done that, I would have had to acknowledge that there would be a real—

Lord Forsyth of Drumlean: I must point out to the noble Lord that we do not have a Bill. When he uses the phrase, “we have to make provision for it today”, the provision he is making is to prevent this House discussing it properly. How does he justify that?

Lord Newby: The provision we are making today is specifically to allow this House to debate it properly and in a proportionate manner. If, however, we had simply waited for the Bill to arrive and started debating it tomorrow under our normal procedures, I would have had to acknowledge the real possibility that it would not pass. The reason for that is straightforward: we are faced with Prorogation on Monday next, and if the Bill is to pass, it must receive Royal Assent by then. In the absence of some sort of time limits on our proceedings, even with good will—and even if we sit over the weekend—things would be, at best, tight. However, it became clear at an early stage that such good will, at least from the Government’s side, would not be forthcoming.

Last Thursday, I was contacted by a senior political journalist. She had just been in discussion with a Downing Street spokesperson. The Downing Street line was that if the Bill, which is being debated in the other place today, passes the Commons—as it is likely to do—it would not get through the Lords because there would be a government-inspired filibuster. I have no reason to believe that Downing Street was not accurately representing the position of the Government, although I am willing to be told that it was not. Indeed, the spate of amendments before us today, clearly co-ordinated, gives some support to that thesis. Given that I believe that this is an issue of the first importance for the future of the country and that we will face a filibuster on the Bill itself, what options lay before us, other than to shrug our shoulders and capitulate?

The first was that we could have repeated the performance that we had with the procedural amendments on the substance of the Cooper-Letwin Bill. As noble Lords know, we were able to get that through only because we repeatedly moved that the Motion be now put. We would have been faced with that prospect on the substantive issues of the Bill and some issues might well not have been debated at all. That did not seem to be a sensible way forward.

The only other alternative before us was a timetable Motion such as we have today. It has of course been objected to on the grounds that it goes against our normal practice, that it will set a baleful precedent and that it is intended to curtail debate. However, as has already been said, we are not seeking to stifle debate. I am happy to debate hours into the night with the noble Lord, Lord Forsyth—it is a peculiarity of mine that I quite enjoy it. However, the brutal, unprincipled Prorogation with which we are faced on Monday is specifically there to curtail debate, and it is in the context of that Prorogation that we have to decide what we do today. It goes against our normal practice. According to the noble Lord, Lord Forsyth, it is an abomination. That is a pretty strong word but frankly—

Lord Forsyth of Drumlean: It was the former Lord Chancellor’s word, aired in the press, to describe the threat of a possible guillotine Motion. “Abomination” is not my word; it was his.

Lord Newby: It was a word that the noble Lord happily appropriated. However, how does he describe the unprecedented Prorogation, the sole purpose of

which is to curtail debate? How does he describe a senior Cabinet Minister going on the television, as happened at the weekend, and saying that the Government would decide, after the event, whether to follow a piece of legislation duly passed by Parliament? I think that that is an abomination and that what we are proposing is eminently reasonable.

If we pass this Motion, your Lordships' House will have some 14 hours to discuss the Bill. That is over four times the amount of time being given to it in the Commons. It would give seven hours for the principle of the Bill to be debated. Is that unreasonable? Clearly not. By our normal standards, we are undoubtedly talking about a tight timetable, but in the circumstances it is an eminently reasonable timetable.

Of course, it has been suggested that this is the beginning of a slippery slope, but it is not unusual for your Lordships' House to take an entire Bill through all its stages in one sitting day. That is the norm for Northern Ireland legislation. However, as the noble Lord, Lord Forsyth, helpfully points out, that is normally done by agreement between the parties. This Bill is undoubtedly urgent and, in the absence of agreement between the parties and as a self-regulating House, it is for your Lordships to decide whether the proposals before the House today are proportionate and necessary in their own right. I hope that we never find ourselves in such a position in the future, but the only future that we should have in our minds today is the future prosperity, security and influence of our country, and in order to protect those we need this Bill and we need this Motion.

Lord True: I rise to second and support the proposition put by my noble friend. The coercion, or the instinct to coerce, could never have been put with more charm, eloquence and mildness than it has just been put by the noble Lord, Lord Newby. He made everything sound so reasonable, so normal and so in line with what we always do—that nothing we have here has never happened before. But when I went to the Table Office and saw that Motion in black and white, the like of which has never been tabled in this House in its history—by a Government, still less an Opposition—I must confess that, to appropriate a phrase, it was a dagger in my heart. It was the same thing that the Lord Hart of Chilton, who we all esteemed—

Lord Patten of Barnes (Con): I am jolly concerned about my noble friend's heart. I wonder what his cardiologist would have said when he learned about the longest Prorogation since the 1930s, at a time when this Parliament is engaged in extraordinarily important discussions about the national interest? Is that not a rather larger dagger—a rather larger guillotine—than anything we are talking about today?

4.15 pm

Lord True: I very strongly disagree with my noble friend, and I will discuss my heart when he discusses his soul on this matter. The question of Prorogation is not before us now. I will stick to the central point, which is the guillotine. Perhaps I should not have used the phrase used by the noble Lord, Lord Butler, about the dagger—but it was his phrase and that of Lord Hart of Chilton before that.

Setting that phrase aside, I suggest that very few noble Lords who were involved in the pre-cooking of this plot—because it is a plot—who were not shocked when they saw that Motion. Someone said that I should be ashamed of myself for putting the case that this House should never, never accept a guillotine.

I remember that, when I first came into the House, by chance the noble Baroness, Lady Symons, had a very memorable debate on the implications of coalitions. It was around the time that all this stuff was going on—the threat from David Cameron and what was said by the former Lord Chancellor. Her question was whether the House has to acquiesce—or acquiesce immediately—if a coalition brings something forward. Does it have the authority of the Salisbury doctrine? When the noble Baroness replies, it would be interesting to know whether she thinks that everything that comes from the Commons has the authority of the Salisbury doctrine.

In this case, we do not even have a formal coalition but an ad-hoc group of folk who have come together in the other place, cobbled together some sort of Bill, plan to send it up here and have got their minions here to put down something that will change the whole character of how your Lordships' House does business. I will give way to the noble Lord.

Lord Greaves (LD): Does the noble Lord agree that the question of the primacy of the House of Commons is nothing to do with the Salisbury doctrine; it is to do with the fact that it is elected and we are not?

Lord True: The Salisbury doctrine is very important for relations between the two Houses. It allows this House freedom to challenge and dissent on things that are not covered by the doctrine. If it is a manifesto measure or something that has been put before the people, this House must certainly defer, sometimes quickly.

Who put this proposition that we are told is coming up the Corridor to the people? Who actually published it? It was written by Sir Oliver Letwin and a few clever lawyers—perhaps some of them in this place—and put forward. What is the authority by which those people claim that this House should not only defer but defer to a guillotine to force it through? We will shortly come on to the amendment—

Baroness Hayman (CB): I am grateful to the noble Lord. Is the authority not from the majority in the House of Commons last night?

Lord True: My Lords, if that argument had been put before this great House for 700 years—with the House told that every time a vote in the other place produced a majority it must be silent—this House would not have endured. This House has a right and a duty to respond. I believe that we should consider the matter of the guillotine separately. On this I agree with the noble Baroness opposite that the sensible thing is for an accommodation to be reached between the opposition party and the governing party, which must involve a lot of things, including acquiescing to this general election, about which we do not know whether

[LORD TRUE]

they are keen. It is clear that the House of Commons is not functioning. In those circumstances, of course there would be no need for her guillotine and no need for our response—but that is certainly above my pay grade. That accommodation having not yet been reached is no excuse for her to come and present to the House something so exceptional, so draconian and so unprecedented, and then to complain when that gets an exceptional, unprecedented and possibly draconian response. If there is no guillotine Motion, I will shut up. But as long as this House is prevented—

Baroness Jones of Moulsecoomb: I thank the noble Lord. One way, of course, would be if Prorogation were delayed so that this House had plenty of time to discuss it. Will the noble Lord undertake to lobby the Prime Minister on that?

Lord True: No, I will not. I will not be sidetracked—

Noble Lords: Oh!

Lord True: I do not want to get into the issue of Prorogation, simply because of the time. But I spoke about Prorogation the last time we discussed these things. We all know that Prorogation is perfectly normal. There is always a Queen's Speech. There has been one every year and the next Government will introduce a Queen's Speech after the general election. In response to the noble Baroness, I will make the point that, if there were an election and a new Session, there would be more time to have such a Bill after that than there is in the next two days. There would be several days in which we could discuss it, not two days. It is not necessary to do it now. Indeed, after an election, if the party opposite won, we would not need a Bill because it would ask for an extension anyway—and if our side won, the Bill would not go forward. So the whole thing is entirely unnecessary, and this House is being asked to sign away hundreds of years of tradition on a pretext.

I support my noble friend. There are questions that the noble Baroness should answer. What does the Salisbury doctrine apply to? In her doctrine, we must defer to the Commons. Does self-regulation always mean a Motion from the Leader of the Opposition? Her guillotine says that if it passes, no one else may put any proposition to the House in the time that we are discussing this Bill, except the Leader of the Opposition. There are questions that need to be answered. I strongly support the view of my noble friend that we should take the Committee opportunity to get some answers from the Leader of the Opposition.

Lord Hayward (Con): Will my noble friend include on the list of questions that he is putting to the Leader of the Opposition that of whether this Motion would be necessary if we did not have Prorogation?

Lord True: The Motion is not at all necessary, irrespective of Prorogation. I just made that point. There will be more time in a new Parliament to deal with this Bill than in these two days.

Motion

Moved by **Lord Tunncliffe**

That the Question be now put.

The Deputy Speaker (Baroness Fookes) (Con): My Lords, I am instructed by order of the House to say that the Motion “That the Question be now put” is considered to be a most exceptional procedure and the House will not accept it save in circumstances where it is felt to be the only means of ensuring the proper conduct of the business of the House. Further, if a Member who seeks to move it persists in his intention, the practice of the House is that the Question on the Motion is put without debate. Does the noble Lord still wish to move the Motion?

Lord Tunncliffe (Lab): I wish to move the Motion.

4.24 pm

Division on Lord Tunncliffe's Motion

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Lord Tunncliffe's Motion agreed.

Division No. 1

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4.43 pm

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5.02 pm

Amendment to the Motion (1)

Moved by Baroness Deech

Leave out from “move” to the end and insert “notwithstanding the resolution of the House of 28 January that Her Majesty’s Government should provide sufficient time for this House to ensure the timely passage of legislation necessary to implement any deal or proposition that has commanded the support of the majority of the House of Commons, considers that a guillotine motion is entirely contrary to the spirit and practice of the House of Lords”.

Baroness Deech (CB): My Lords, here I stand; I can do no other. But I am fortified in my message by the examples of the noble Baroness, Lady O’Neill, the noble and learned Baroness, Lady Scotland, and the noble Lord, Lord Anderson of Swansea, who made similar protests about the use of the guillotine during the debate on the then parliamentary voting system Bill in January 2011. Like most noble Lords—or so I hope—I was raised to believe in the rule of law and its exemplification in the Parliament of the UK. I taught law, I have reformed law and I have regulated the legal profession. We took it for granted. I studied law because of my enthusiasm for fair treatment and justice.

More than that, the prestige of the legal profession and the prestige attached to our parliamentarians depended on this. I say “depended” in the past tense because, over the years, that prestige has been dissipated. I fear that it will now reach a new low. It began, most strikingly, with MPs’ expenses disclosures, such as for having a moat cleared or a piano tuned. It has continued with various misfortunes in both Houses, I am sorry to say. Noble Lords and honourable Members have ended up in prison, and some noble Lords have admitted serious breaches of our rules.

To be a parliamentarian today is almost to invite ridicule, and it is widely questioned why anyone would want the job. If this House accedes now to the constitutional outrage—the vandalism of procedures—represented by this Motion, I feel it will never recover. The viability of this House has been fragile for a while. Many see no utility in it, and many more resent it for its overwhelmingly remain attitude, flying in the face of those who voted leave for very good reasons and being cavalier about their attitudes, beliefs and very entitlement to the franchise.

The one area where in normal times this House cannot be faulted is its scrupulous attention to the details of legislation that comes to us in draft form from the other place, as has already been mentioned. Today that very function, our modern *raison d’être*, may be about to be wiped out. Your Lordships know

very well how much time is spent improving that legislation and asking the other place to think again, whether it is for the protection of young people from social media ills, the preservation of neighbourhood pubs, the autonomy of universities or the reporting of child poverty. We have much to be proud of. All this good work is now to be set at naught in this attempt to force this House to abandon its rules, good sense and reputation and to make it subservient in every detail to the House of Commons’ wishes in order to promote a Bill that will make the whole nation subservient to the will of the European Union, which I cannot describe as good will.

There was a reference by a noble Lord on Tuesday to “elective dictatorship”. This is it: a cobbled-together majority—not even a straightforward opposition group but a crowd who think they know better than the leave voters and the upholders of the constitution—dictating to this House how to run or not run its affairs. The remainers have hijacked Parliament to prevent Brexit.

What about our scrutiny of this most important Bill, which if passed is likely to sabotage our well-being for years to come? The Motion indicates no Question put,

“brought to a conclusion at 5pm on Friday”,

no points of order admitted, mere minutes in which to table amendments and concluding stages without debate. It is all designed to prevent questioning and testing.

The Opposition have made it plain that they regard current circumstances as so extraordinary that only a fast-track procedure will do, and that it is therefore justified, but it is precisely when circumstances are extraordinary that normal procedures should be followed and calmer judgment allowed to prevail. Do not forget how the former Prime Minister, John Major, used the device of a confidence Motion to force the Maastricht treaty on us, or how Tony Blair decided not to wait for the resolutions of the United Nations before calling a vote on Iraq. How unfortunate was the result of getting a vote to start a war, setting aside the royal prerogative, and all the consequences of that?

It is true that there have been fast-tracked Bills in previous years. They often—but not always—concern terrorism, where there were real emergencies in, for example, 1974, 1998, 2001 and 2005. There have been others, not necessarily connected with an emergency. Your Lordships’ House was sufficiently concerned about these that the Constitution Committee’s 15th report in 2009 inquired into accelerated legislation. The committee said:

“While we accept that from time to time exceptional circumstances may arise requiring the Government to prepare, and Parliament to deliberate on, a bill according to an expedited timetable there are obvious risks, especially where the bill deals with a complex social and legal problem ... We have identified five constitutional principles which we believe should underpin the consideration of fast-track legislation”, including:

“The need to ensure that effective parliamentary scrutiny is maintained in all situations. Can effective scrutiny still be undertaken when the progress of bills is fast-tracked, even to the extent of taking multiple stages in one day?”.

Clearly not. The organisation, Liberty, of which the noble Baroness, Lady Chakrabarti, was then director, complained to the Constitution Committee that fast-tracking had been used when there was no real emergency,

that provisions were not being given proper scrutiny because the emergency need was overblown. How tunes have changed.

The report highlighted the need to maintain “good law”—that is, to ensure that the technical quality of all legislation is maintained and improved. There will be no opportunity to examine this most detailed, personal Bill, which undercuts sovereignty by subjecting what remains of it to the European Union. So much for taking back control. The ball is about to pass for all time to the EU. Both Houses and the Government will be stripped of their ability to determine the best outcomes for the British people. This House is proudly self-regulating. Today’s Motion regulates this House and its Members for motives that I question.

Then the Constitution Committee referred to:

“The need to ensure that legislation is a proportionate, justified and appropriate response to the matter in hand and that fundamental constitutional rights and principles are not jeopardised”.

The answer to that is plain. The entire constitution of this country and its standing in the world are at issue and are to be dealt with in hours. The need to maintain transparency is also at issue. An observer would not know what was being decided here—why, when or how. There would be little in *Hansard* to help future generations understand why their destinies were being handed over.

There is no emergency here. It is more a reflection of what the Constitution Committee report referred to as the “something must be done” syndrome. The possibility of no deal has been recognised for three years. I have heard the noble Baroness, Lady Smith, say outside this Chamber that we have said everything that could possibly be said about no deal. We would have been coming up to a recess, in any case. Yet both Houses, despite all this, have passed legislation requiring us to leave the European Union on a certain date and have constantly asked for updates on negotiation. There was plenty of time in the past and there will be time in October if there is a real emergency.

The only possible use of a no deal Bill such as this—not that I would ever approve of such a Bill—is when we know in mid to late October where the negotiations have got to. If nowhere, that might be the time for a rushed Bill, but the only purpose today of this accelerated procedure and the substance of the Bill is to signal to Brussels plainly that its remain supporters here are willing to accept whatever conditions, whatever payments, whatever handicaps in trade that Brussels wants. It is impossible for anyone to negotiate in those circumstances. It is like sending a naked gladiator into an arena of lions now rather than in October.

It is as plain as a pikestaff that if Brussels were convinced that no deal was acceptable, there would have to be a coming to terms and a real kickstart to negotiations on the grounds of partnership and equality, which have not so far come into play. This procedure and this Bill are frankly designed to keep us in the EU for ever, overturning the result of the referendum and to try to change public opinion by dangling the fearsome prospect of no fresh food and traffic jams at ports. Real risks they may be, but fear, whether of terrorism at the Irish border or delays in manufacturing, is not what should be uppermost in our minds.

The Constitution Committee report concluded that this House’s constitutional responsibilities are heightened in circumstances when fast-tracked legislation is being proposed. It is therefore incumbent on this House, it said, to ensure that the standards of legislative scrutiny are maintained. The Committee even recommended pre-legislative scrutiny. It called for greater justification of the need for a fast track—a justification which I believe is lacking in today’s circumstances.

5.15 pm

Why do I take this so seriously? It is because procedural propriety is a vital ingredient of the rule of law. Lord Bingham, one of the most distinguished judges of the previous century, left a legacy: his definition of the rule of law. He said, *inter alia*, that the law must be accessible, intelligible, clear and predictable; and that it must afford adequate protection for fundamental human rights. I do not know whether my human rights will be affected by any condition that the European Union might impose in the next few months. He said that the state must provide a way of resolving disputes which the parties cannot themselves resolve, and that the rule of law requires compliance by the state with its obligations in international, as well as national, laws. This Bill, if passed, will override not only all the legislation of the last three years—predicated on our leaving, first in March and then in October—but the requirement in Article 50 that we are out after two years. The procedures before us today are not fair because they do not allow the other side to be heard—or, as we lawyers say, *audi alteram partem*—and they trifle with precious freedoms.

Going back one stage, one can see how the separation of powers—the division of responsibilities between the Executive, the legislature and the judiciary—has been blurred in a damaging way in the last few months. The Government have had control over the business of Parliament since the 1880s, when the minority Government of William Gladstone voted to give themselves precedence over all other parliamentary business. This can be justified as ensuring that the manifesto of the governing party, for which the electorate voted, gets through. That is why there have been so many reports of another constitutional outrage; namely, the way in which the legislature has been able to take control over the Executive. We need, at this moment, utter propriety. I am sorry that the noble Baroness, Lady Boothroyd, is not in her place. How I wish that she were here to give us her opinion of how these constitutional manoeuvres have come about. This is a time when we need a political giant of impartiality to guide the way.

If, as some lawyers believe, it is possible to judicially review the decision to prorogue Parliament, bringing in the judges as arbiters over a political decision, then why not have judicial review of any law passed by an improper procedure, which I believe we are on the verge of doing?

I have said previously that this upending of procedure will one day be turned against those who now find it so useful. If—and one devoutly wishes that it will never come to pass—an extreme left-wing Government were to be in power, Members of the Opposition in

[BARONESS DEECH]

this House might find that their unpopular reforms could be prevented or, alternatively, that laws which would have a more damaging effect than any form of Brexit are rushed through Parliament to enable the extreme elements of a party to take control and get what they want before the electorate has realised what has happened.

The procedure that the Opposition are backing today is not only a constitutional outrage but a two-edged sword. If there is one thing worse, on any account, than a no-deal Brexit, it would be a Government led by Mr Corbyn. Those who are so keen to protect, as they see it, the security of the British public by blocking no deal and stopping Brexit are not so keen to protect the country, and ethnic minorities in particular, from an extreme left-wing Government. Those of us who care about the reputation of the House, of its role, its respect, its standing and its future, and about the quality and effect of draft legislation, are calling for this procedural impropriety and guillotine to be rejected, now and in the future. I beg to move.

The Lord Speaker (Lord Fowler): I inform the House that if Amendment 1 is agreed I cannot call any other amendments by reason of pre-emption.

Lord Cormack (Con): My Lords—

Lord Naseby (Con): My Lords—

Motion

Moved by Lord Stoneham of Droxford

That the Question be now put.

The Lord Speaker: I am instructed by order of the House to say that the Motion “That the Question be now put” is considered to be a most exceptional procedure and the House will not accept it save in circumstances where it is felt to be the only means of ensuring the proper conduct of the business of the House. Further, if a Member who seeks to move it persists in his intention, the practice of the House is that the Question on the Motion is put without debate. Does the noble Lord still wish to move the closure Motion?

Lord Stoneham of Droxford (LD): Yes.

5.21 pm

Division on Lord Stoneham of Droxford’s Motion

Contents 288; Not-Contents 173.

Lord Stoneham of Droxford’s Motion agreed.

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5.36 pm

Division on Baroness Deech's amendment to the Motion (1)

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Baroness Deech's amendment to the Motion (1) disagreed.

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 Carlile of Berriew, L.
 Cashman, L.
 Chandos, V.
 Christopher, L.
 Clancarty, E.
 Clark of Windermere, L.
 Clement-Jones, L.
 Cohen of Pimlico, B.
 Cooper of Windrush, L.
 Cormack, L.
 Corston, B.
 Cotter, L.
 Coussins, B.
 Crawley, B.
 Crisp, L.
 Cunningham of Felling, L.
 Davies of Oldham, L.
 Deben, L.
 Devon, E.
 Dholakia, L.
 Donaghy, B.
 Donoghue, L.
 Doocey, B.
 Drake, B.
 Drayson, L.
 Dubs, L.
 Dykes, L.
 Elder, L.
 Ely, Bp.
 Faulkner of Worcester, L.
 Featherstone, B.
 Finlay of Llandaff, B.
 Foster of Bath, L.
 Foulkes of Cumnock, L.
 Fox, L.
 Freud, L.
 Freyberg, L.
 Gale, B.
 Garden of Frogal, B.
 Garel-Jones, L.
 Giddens, L.
 Glasgow, E.
 Goddard of Stockport, L.
 Golding, B.
 Goldsmith, L.
 Gordon of Strathblane, L.
 Goudie, B.
 Greaves, L.
 Green of Hurstpierpoint, L.
 Grender, B.
 Grey-Thompson, B.
 Griffiths of Burry Port, L.
 Hailsham, V.
 Hain, L.
 Hamwee, B.
 Hannay of Chiswick, L.

Hanworth, V.
 Harris of Haringey, L.
 Harris of Richmond, B.
 Haskel, L.
 Haworth, L.
 Hayman, B.
 Hayter of Kentish Town, B.
 Healy of Primrose Hill, B.
 Henig, B.
 Heseltine, L.
 Hilton of Eggardon, B.
 Hoffmann, L.
 Hollick, L.
 Hollins, B.
 Hope of Craighead, L.
 Howe of Idlicote, B.
 Hughes of Woodside, L.
 Humphreys, B.
 Hunt of Kings Heath, L.
 Hussain, L.
 Hussein-Ece, B.
 Inglewood, L.
 Irvine of Lairg, L.
 Janke, B.
 Janvrin, L.
 Jay of Ewelme, L.
 Jolly, B.
 Jones of Cheltenham, L.
 Jones of Moulsecocomb, B.
 Jones of Whitchurch, B.
 Jones, L.
 Judd, L.
 Kennedy of Cradley, B.
 Kennedy of Southwark, L.
 Kennedy of The Shaws, B.
 Kerr of Kinlochard, L.
 Kerslake, L.
 Kidron, B.
 Kingsmill, B.
 Kinnock of Holyhead, B.
 Kinnock, L.
 Kirkwood of Kirkhope, L.
 Knight of Weymouth, L.
 Kramer, B.
 Krebs, L.
 Lane-Fox of Soho, B.
 Lawrence of Clarendon, B.
 Layard, L.
 Lea of Crondall, L.
 Lee of Trafford, L.
 Leeds, Bp.
 Leitch, L.
 Lennie, L.
 Levy, L.
 Liddell of Coatdyke, B.
 Liddle, L.
 Lipsey, L.
 Lisvane, L.
 Livermore, L.
 London, Bp.
 Low of Dalston, L.
 Ludford, B.
 Macdonald of River Glaven,
 L.
 MacKenzie of Culkein, L.
 Mackenzie of Framwellgate,
 L.
 Macpherson of Earl's Court,
 L.
 Maddock, B.
 Mair, L.
 Malloch-Brown, L.
 Marks of Henley-on-Thames,
 L.
 Masham of Ilton, B.
 Massey of Darwen, B.
 Maxton, L.
 McAvoys, L. [Teller]

McConnell of Glenscorrodale,
 L.
 McDonagh, B.
 McIntosh of Hudnall, B.
 McNally, L.
 McNicol of West Kilbride, L.
 Meacher, B.
 Mendelsohn, L.
 Mitchell, L.
 Monks, L.
 Morgan of Drefelin, B.
 Morgan of Huyton, B.
 Morgan, L.
 Morris of Aberavon, L.
 Morris of Handsworth, L.
 Morris of Yardley, B.
 Neuberger, B.
 Neville-Jones, B.
 Newby, L.
 Northbrook, L.
 Northover, B.
 Nye, B.
 Oakeshott of Seagrove Bay, L.
 Oates, L.
 O'Donnell, L.
 O'Neill of Bengarve, B.
 Osamor, B.
 Palmer of Childs Hill, L.
 Parminter, B.
 Patel of Bradford, L.
 Patten of Barnes, L.
 Pendry, L.
 Phillips of Worth Matravers,
 L.
 Pinnock, B.
 Pitkeathley, B.
 Prashar, B.
 Primarolo, B.
 Prosser, B.
 Purvis of Tweed, L.
 Puttnam, L.
 Quin, B.
 Radice, L.
 Ramsay of Cartvale, B.
 Randerson, B.
 Razzall, L.
 Redesdale, L.
 Rees of Ludlow, L.
 Reid of Cardowan, L.
 Rennard, L.
 Ricketts, L.
 Roberts of Llandudno, L.
 Robertson of Port Ellen, L.
 Rodgers of Quarry Bank, L.
 Rooker, L.
 Rosser, L.
 Rowe-Beddoe, L.
 Rowlands, L.
 Royall of Blaisdon, B.
 Russell of Liverpool, L.
 Sawyer, L.
 Scott of Needham Market, B.
 Scriven, L.
 Sharkey, L.
 Sheehan, B.
 Sherlock, B.
 Shipley, L.
 Shutt of Greetland, L.
 Smith of Basildon, B.
 Smith of Gilmorhill, B.
 Smith of Leigh, L.
 Smith of Newnham, B.
 Snape, L.
 Soley, L.
 Somerset, D.
 Southwark, Bp.
 Stephen, L.
 Stern of Brentford, L.

Stern, B.
 Stevenson of Balmacara, L.
 Stone of Blackheath, L.
 Stoneham of Droxford, L.
 Storey, L.
 Strasburger, L.
 Stunell, L.
 Suttie, B.
 Symons of Vernham Dean, B.
 Taylor of Bolton, B.
 Taylor of Goss Moor, L.
 Teverson, L.
 Thomas of Winchester, B.
 Tomlinson, L.
 Tonge, B.
 Tope, L.
 Touhig, L.
 Truscott, L.
 Tunncliffe, L. [Teller]
 Turnbull, L.
 Tyler of Enfield, B.
 Tyler, L.
 Tyrie, L.
 Uddin, B.
 Valentine, B.
 Vallance of Tummel, L.

Vaux of Harrowden, L.
 Walker of Gestingthorpe, L.
 Wallace of Saltaire, L.
 Wallace of Tankerness, L.
 Walmsley, B.
 Warner, L.
 Warwick of Undercliffe, B.
 Wasserman, L.
 Watkins of Tavistock, B.
 Watson of Invergowrie, L.
 Watts, L.
 Wheatcroft, B.
 Wheeler, B.
 Whitaker, B.
 Whitty, L.
 Wigley, L.
 Willis of Knaresborough, L.
 Wilson of Dinton, L.
 Winston, L.
 Woolf, L.
 Woolmer of Leeds, L.
 Worthington, B.
 Wrigglesworth, L.
 Young of Hornsey, B.
 Young of Norwood Green, L.
 Young of Old Scone, B.

5.52 pm

Amendment to the Motion (2)

Moved by Lord True

Leave out from first “Commons” to the end and insert “that this House believes that any Bill that has been allowed only one day’s consideration in the House of Commons, should receive full and unfettered consideration in the House of Lords and in the interests of orderly Parliamentary scrutiny deploras any attempt to curtail consideration in both Houses.”

Lord True: My Lords, we have just seen 288 Members of your Lordships’ House vote to close discussion on one of the most fundamental principles to come before this House procedurally: whether we should have a guillotine in this House. Two hundred and eighty-eight Members voted not even to discuss the matter after the most impressive speech by the noble Baroness, Lady Deech. Whatever our opinions on any question, is this the way that this House wishes to proceed?

A noble Lord: Yes.

Lord True: “Yes”, we hear from the putative Government of the future; this is what they will give us.

Lord Forsyth of Drumlean: Does my noble friend not think that for the Liberal Chief Whip to call a closure after only one speech had been made is one of the most disgraceful acts we have seen in this House?

Lord True: My Lords, I was coming to the Liberal Democrat Chief Whip. As the Liberal Democrats know, I am one of their greatest fans in the world, but my noble friend has of course made the point: the Liberal Democrat—democrat—Chief Whip, from a sedentary position, without even the courtesy to stand up to address the House—

Noble Lords: Oh!

Lord True: Our proceedings are filmed. He moved the closure on a fundamental question of procedure in this House without any opportunity for anybody to respond when it was clear that other noble Lords, including one noble Lord with extensive experience of presiding over the House of Commons, wished to contribute. I will not talk about repentance, because I saw four or five right reverend Prelates move in to support the principle of a guillotine—they clearly do not like dissent in their pews; they are not quite in the Anglican tradition—but I believe we might see some repentance from the Liberal Democrat Chief Whip and that he will not on this amendment, which allows the House—

Lord Marlesford (Con): My noble friend referred to the Lords Spiritual. That is quite interesting, because I noted this morning that the learned judge in Scotland in dismissing the case said that this question was not one for the judiciary, but a matter of high politics. I am a little surprised that the Lords Spiritual want to engage so actively in high politics.

Lord True: My Lords, I thank my noble friend for his intervention. However, returning to the fundamental point, are we really going to allow the acceptance of the principle of a guillotine to go forward without any dissenting voice being allowed? What the Liberal Democrat—democrat—Chief Whip offered the House was a guillotine of a guillotine. We started off today with the noble Baroness, Lady Smith, saying that there will be no developments, no further guillotines and that nothing will happen. We have moved from the presentation of the most draconian guillotine Motion ever seen in this House to a Cross-Bencher who wished to put some points about the principle of the matter being closed down from a sedentary position by the Liberal Democrat Chief Whip—a guillotine of a guillotine. In the long proceedings I anticipate on this there may well be many occasions when it might be apt to intervene. I do not like to see the closure used, but it might be understandable. For my part as a parliamentarian—

Lord Harris of Haringey (Lab): My Lords, the noble Lord has been speaking for four minutes and 39 seconds and is yet to address in any aspect the substance of the amendment he is moving. Is that not surely an abuse of the processes of this House?

Lord True: My Lords, what is an abuse of the processes of the House is for the noble Lord to come here and fail to read the amendment before the House. If he reads it, he will see that it is exactly to the point of the propriety of the guillotine and every point I have made has been germane. Perhaps he was asleep.

Lord Harris of Haringey: I appreciate that the noble Lord is hankering after the halcyon days he had in local government, but he is simply abusing the Liberal Democrats. I am very happy to abuse them on appropriate occasions, but we might try to carry out a debate focusing on the direct issues rather than streams of verbiage that do not get to the point.

Lord True: I repeat: perhaps the noble Lord would like to read the amendment before he keeps standing up and saying that what I have said is not germane. I might also say that, much as I have been tempted, I said in my speech that I am not attacking the Liberal Democrats. I am attacking the Liberal Democrat Chief Whip, one of the leading figures in this House, who behaved with such discourtesy to a senior Cross-Bench Peer and to other Peers who wished to speak. If the noble Lord, Lord Harris, wants to make general attacks on Liberal Democrats, there will be other times for that and I might well join in.

Perhaps those on the other side do not share the view that this House, after the disaster of 1911, became a great revising Chamber and a great debating Chamber because of its freedoms—freedoms that went with and must always go with responsibility. But if we are to become a House where, when some people do not want to hear the opinions of other people they shout, “Closure, we’ll hear no more”, what kind of House will we become? It would be a great and sad occasion, obviously, but it would be a farce to call that anything like a free Parliament. This is the kind of thing that happens in some Parliaments that none of us would ever wish to belong to in countries that some of us would never wish to live in: when somebody comes to stand up and make a point on a debate of fundamental importance, someone shouts that they cannot be heard. This is not the way we should go in this Parliament.

6 pm

Lord Forsyth of Drumlean: Why does my noble friend think that, when a closure is moved, our procedures require the Chair to remind people that this should be an exceptional procedure and invite the person concerned to revise their view? Why does he think that procedure is there, and what does he think about what has happened so far today?

Lord True: I do not want to be disobliging to my noble friend, whom I admire very much, but I say again what I said to the noble Lord opposite. I have been trying to make that point, and I am grateful to him for reinforcing it. It is the fundamental issue which I believe noble Lords should be allowed to wrestle with. Do we want to be the sort of House that we have just been, where we have voted by that large number—288 Peers—to close down, at the behest of a Peer, without any debate? I would like to have heard other Members from the Cross Benches responding to and commenting, from the viewpoint of their experience, on the noble Baroness’s speech. As I said at the start, I would like to have heard my noble friends Lord Naseby and Lord Cormack, who wished to speak.

I have tried to explain to the noble Lord opposite that my amendment addresses the same issue. Sometimes in life you get a second chance. This amendment offers the House a second chance to address and hear a little about why this great principle of freedom of debate should be cast aside, but on a more limited scale. I do not ask, as the noble Baroness, Lady Deech, did in her powerful speech, that the House should reject the principle of a guillotine. I put before your Lordships a proposition relating to any Bill that has been allowed

only one day's consideration in the House of Commons—we have not got this Bill yet, so it may be this Bill, but it could be any Bill—and we are discussing the principle here. This is an issue of principle about the guillotine. Surely any Bill that has been allowed only one day's consideration in the House of Commons should receive full and unfettered consideration in your Lordship's House.

I come back to the central point: what is this Chamber for if not to revise, consider, scrutinise and debate? I submit that there should not be curtailment of consideration on a Bill which is not an emergency Bill. There should not be a guillotine imposed in both Houses on legislation of this sort.

Baroness Browning (Con): I am grateful to my noble friend for giving way. When I was shadow Leader in another place during the William Hague administration, the Blair Government introduced guillotining at all stages for Bills going through the House of Commons, something that the Conservative Party robustly opposed at the time. Unfortunately, the Blair Government had their way, and that is what happens now. Having come to your Lordships' House from another place nine years ago, I am only too familiar with the fact that, at all stages of a Bill coming from another place, the guillotine will fall and at all stages large sections of those Bills never get debated. It is incumbent upon this House to look line by line at everything that has not had the benefit of Members of the House of Commons looking at it. If we give up that duty—and it is a duty—through this measure being introduced to the House today, then I say to my noble friend that what he is proposing is very serious in its consequences for any Bill. We might all be worried about what is coming in the next couple of days, whether you support it or not, but as he rightly says, this is a principle, and we shall rue this as far as the future of this House and its role is concerned.

Lord True: I am very grateful to my noble friend, particularly with her great experience in the other place. I never had the privilege of serving there, but I remember that in 1975, when I was a young researcher, the late, great Michael Foot—a remarkable parliamentarian, though not necessarily always the greatest Minister—introduced five guillotine Motions on the Floor of the House of Commons in one day. That was considered such a sensational and shocking thing to do that it was on the front pages of the newspapers, and people cried “Liberty”. And here we are, in my lifetime, as my noble friend just pointed out, we now see the House of Commons treated as the lapdog when it comes to whoever is in control, whether it is the Government—

Lord Reid of Cardowan (Lab): My Lords, I have listened with great intent and attention to the passion of the noble Lord's principles regarding curtailment of discussion. Is he intending to say a word about the fundamental and ultimate guillotine, which is the closure of Parliament through proroguing, which is the very reason that we have been forced into our current circumstances?

Lord True: The noble Lord has been a member of many Governments, and year after year has attended ceremonies of Prorogation with the sovereign there. He knows full well that it is a perfectly normal part of the parliamentary year. What is abnormal is that we have had years without a Prorogation and without a Queen's Speech. The noble Lord knows this far too well to try and pull that one.

Let me return to the point. The Liberal Democrat Chief Whip is not in his place, so I need not repeat what I have said about him, but since he is not here, I say to noble Lords who have the power over this House—the power of the closure Motion, the power to silence an individual Member in this House at will, without even standing up—please may we be allowed to hear from other noble Lords on the question of the propriety of a guillotine in this House, in general terms? Will they graciously vouchsafe, from their lofty places, permission for another Peer to address the points that I have made, and which the noble Baroness made on the previous amendment?

Lord Framlingham (Con): Can I suggest to my noble friend that part of the reason for what is happening is that all the Liberal Democrats, and a large number of the Labour Party, simply do not want to leave Europe at all, and that all this is just shenanigans and make-believe? They are not interested in debate. Why should they be remotely interested in any debate about how we leave or what is going on? They simply do not want to leave. I am not referring to anybody here personally, but this will prove to be the biggest political lie in history. Everybody is talking about how we leave, and what they should really be saying is that they do not want to leave at all.

Lord True: My Lords, my noble friend may be right, but I do not wish to follow on that point, because I believe that the principle applies to all legislation. In brief response, I pointed out in my earlier speech that it would be perfectly possible to pass in late October the Bill that we are allegedly getting; in fact, there would be more days, so in a sense an entirely false prospectus is being presented to us.

My fundamental point is a question of power. Is not Parliament really about discussing, shackling, scrutinising and considering power? The question of power is this: today, now, as has just been demonstrated on the previous amendment, they—the Labour Party and the Liberal Democrats—have the power to shut your Lordships up. They have the power to say, “We don't want to hear from anybody in this House who doesn't think that a guillotine is a good idea. We're having this guillotine. Shut up”. That in demotic language is what the closure Motion means. Those who have power, as they do today, should exercise it with wisdom and restraint.

When I conclude my remarks, I hope that even on the more limited proposition that I put before the House that a guillotine should not be applied to legislation in both Houses, at least one Peer may be allowed to say something. When I look around this House, I see noble Lords who sat in Cabinets, great judges, the right reverend Prelates, people of immense

[LORD TRUE]
experience, former heads of the Cabinet and the Civil Service. “Shut up. We do not want to hear from you. The Liberal Democrat Chief Whip does not want to hear from you. The Labour Party does not want to hear from you. We have our guillotine”.

A noble Lord: That is not true.

Lord True: Then do not impose the guillotine; do not use the closure Motion on this issue. I shall give way to a representative of a party that opposes power.

Baroness Jones of Moulsecoomb: Oh, not at all. I am so sorry; you are completely wrong on that. I thank the noble Lord for sitting down; I wish it were for longer. As I have said previously here, I voted leave; I did not vote for no deal. What I am trying to do here today is stop no deal. The person who had the power is the Prime Minister, who decided to prorogue Parliament, to close it down and to shut it up. It is not this side of the Chamber that is stopping debate; it is that side, and you have to take responsibility for that.

Lord True: That of course is entirely false, my Lords. The Prime Minister of Great Britain, whoever it is, has no power to enter this Chamber. He may come and stand at the Bar of this House and listen to its proceedings or sit on the steps of the Throne, but he has no power here. It is in your Lordships’ gift to decide whether to submit to the principle of the guillotine, and the guillotine of the guillotine, which has been put forward by the Liberal Democrat Chief Whip. “Shut up”. Is that what we are going to accept in future in this Chamber? I beg to move.

The Deputy Speaker (Baroness Garden of Frognal) (LD): My Lords, I should inform the House that if the amendment is agreed to, I cannot call any other amendments by reason of pre-emption.

Lord Cormack: My Lords, I have considerable sympathy with what my noble friend said about the precipitate action of the Liberal Chief Whip at the beginning of the previous debate, which never happened. I say very gently to my noble friend that speaking for 20 minutes or more does not encourage.

I speak here for one main reason. Of course, I am one of those who voted remain, but I have accepted, from the moment of the referendum, that we would come out of the European Union. All that I have been concerned about is how we come out and the terms on which we do so. I deeply resent the fact that certain colleagues—not all, by any means—suggest that we want to go back in. I wish we could, but we cannot. There has been a democratic decision. Only a general election or another referendum—and I do not favour another referendum; I never have—can alter that.

6.15 pm

What I am concerned about is the reputation of this House. I had the honour to serve for 40 years in another place and I shall always look back on that period as an enormous privilege. I look upon it as a

privilege to serve in your Lordships’ House. We are complementary houses. We do not want an American deadlock system. We add value here to the democratic system, and the main reason for that is that our procedures are different. I do not welcome guillotine Motions in your Lordships’ House, but exceptional times call—sometimes—for exceptional remedies.

I support the Motion before us in general terms, for two reasons above all others. One is the disingenuous explanation for the excessive prorogation. Of course, Parliament prorogues—not, I say sadly, as my noble friend indicated, in the presence of the sovereign, but in the presence of a number of extremely well-dressed Peers who form Her Majesty’s Commission—but we normally prorogue for a few days. This is the longest prorogation for some 90 years and there is only one reason for it: to foreclose debate on the greatest issue that has faced our nation in peacetime for the last two centuries. The other reason that I give my general support tonight is that I am incensed—I use the word deliberately—at the treatment meted out to 21 men and women who have given decades of service to their party and their country and who were dealt with in what I can describe only as a vindictive manner in another place last night.

I am therefore speaking in this debate, but I want to try to make one or two constructive suggestions. I do not think that it will serve the individual health of any of your Lordships or the collective reputation of your Lordships’ House if we carry on with this procedural business until one minute past 10 on Friday morning. I therefore appeal to the usual channels to get together this evening, as they did earlier in the year, to discuss how we can give this Bill decent scrutiny when it comes—if it comes—from the other place. We all accept that it has to be dealt with fairly quickly, as we have to accept on Northern Ireland legislation from time to time. Two days, the whole of Thursday and Friday, ought to be enough to consider the Bill properly and, if it has a majority in the other place—it will not come to us if it does not—to accede as we do to the request of the premier House. We all accept the supremacy of the elected House over the appointed House.

There is one other thing that I think we should do. I regret to say this, but we need a general election. The Prime Minister has now, partly by his own hand, completely lost any semblance of a majority. He has now lost 21 senior Conservatives, several of whom were in the Cabinet six weeks ago, several of whom consistently, bravely and valiantly voted for the former Prime Minister’s deal and were in fact frustrated by the present Prime Minister and his friends. An election is needed. He has to establish whether he really has the authority to carry on. I think we should have a Motion, under the Fixed-term Parliaments Act, with a date in it. People, rightly or wrongly, do not entirely trust the Prime Minister. Therefore, any Motion has to have a date in it—14 October, 15 October, but it has to be a date a good two weeks before 31 October, bearing in mind that the vital European Council meeting is on 17 October, although of course they could have another. If 31 October is to retain any relevance at all, it has to be at a time when Parliament can assemble quickly, within a week, and we can debate in both Houses.

I beg and implore the Front Benches on both sides to get together this evening and try to work out a civilised approach to this impending legislation and to the Motion before us tonight. It should be withdrawn on the basis of a firm agreement to have proper debate on the whole of Thursday and Friday—and indeed to go, if necessary, into Saturday. Parliament has met on Saturday before. I shall never forget one Saturday in April 1982 when I and all my colleagues on a Select Committee visit to Warwick University were summoned and came back to debate the Falklands. There are precedents. What will not do any of us any good, individually or collectively, is going on with this debate until just after 10 am on Friday.

Lord Forsyth of Drumlean: I agree with much of what my noble friend has said about procedure. I think it would be a good thing for the Front Benches to agree and for the Bill being considered by the House of Commons to make its passage, and for the Opposition leader to agree—we hear different things at different times—to give the Prime Minister the opportunity to take his case to the voters on a timetable, preferably on my birthday: 16 October. I think we would win a great victory and it would be a great celebration as I reach the age of 65. There is an opportunity here, and I very much welcome the fact that he is asking the Leader of the Opposition to withdraw the guillotine Motion, which has nothing to do with the Bill that is coming here and nothing to do with whether the House of Commons decides to give the Prime Minister the opportunity to take his case to the country.

Lord Cormack: I am very glad to have the support of my noble friend and I look forward to being invited to his 65th birthday, when he will be 15 years my junior. His support is very welcome, because we do not always agree on everything.

Baroness Noakes (Con): My Lords, I share the views of my young noble friend Lord Forsyth about what my noble friend said. His interesting speech covered a number of areas but did not cover one of the more outrageous elements, which is the use of the closure Motion. This, as noble Lords are aware, is designed to be used only in very rare circumstances, which is why the Lord Speaker or the Deputy Speaker always reminds the House that it is a very unusual procedure. It was used several times earlier this year and it seems to be being used as a routine tactic this evening, in a way it was never intended to be. My noble friend Lord True is quite right: it is the equivalent of saying “Shut up”, which is not the way we conduct our business. I would be interested to hear my noble friend’s views on how the way we conduct our business in this House is being harmed by the use of that procedure.

Lord Cormack: As my noble friend asked me to respond, let me say that any procedural device should be used sparingly. I have moved a closure myself, so I cannot pretend that I wholly disapprove of it, but I believe that filibustering does not do the House or the

individuals indulging in it any good at all. Of course, it should be used, but the main purpose of my speech was to try to lower the temperature and bring a little sense to both sides of the House, so that we can conclude our proceedings today in a seemly manner and deal with the legislation that is likely to arrive, in an equally seemly and sensible manner.

The Lord Bishop of Leeds: My Lords, I strongly endorse what the noble Lord has said. It seems to me that we have to be realistic. I speak as a Lord spiritual with an obligation to engage in what was called “high politics” earlier, as a Member of this House, noting that the Lords spiritual cannot be whipped and that we are not a party. It seems to me that we have to be realistic and say that this Prorogation has been disingenuously propagated as being just a little extension to recess, when we know that it is of a completely different order. We have Prorogation on one side and these procedural objections about closure and guillotine over here. The reality is that we are going to carry on with the sort of spectacle we have had thus far unless the Front Benches come to some agreement and conclusion. It would be grown-up to do that. I do not suspect, from what I am hearing, that anyone in this Chamber wants to spend day and night going through these Motions to achieve very little other than irritation, so I add my endorsement to what the noble Lord has said and encourage the Front Benches to do as he requested.

Lord Goldsmith (Lab): My Lords, from this Front Bench I thank the noble Lord, Lord Cormack, for what he said, which was in good tone and wise. The important thing is that he called on both Front Benches. Noble Lords will recall my noble friend Lady Smith, the Leader of the Opposition, saying at the beginning of the debate that if we could be clear that the Bill could get through in time—that means before Prorogation, because otherwise we know what would happen—then she did not see her Motion as necessary. I am not in a position to make promises on her behalf and certainly not in a position to say anything about general elections—that is way above my pay grade—but on the point about whether the Front Benches can agree a business Motion, as it were, to get the Bill through in time, that is something that I understood my noble friend to say she would welcome. At that time, the Leader of the House was saying something different. I am not going to put her on the spot, but if we knew that both Front Benches were saying that, that would be a very different matter and it would be welcomed by the House. I understand the House and the noble Lord, Lord Forsyth, to be accepting the proposition of the noble Lord, Lord Cormack. I am not going to say anything more, since I cannot, but I give way to the noble Lord, Lord Forsyth.

Lord Forsyth of Drumlean: The noble and learned Lord is being very constructive, but he has left out the key point. There needs to be a commitment from the Opposition that they will allow the Prime Minister to take his case to the country. I find it quite extraordinary that the Opposition do not want to fight a general election.

Lord Goldsmith: I have made it very clear that this is way above my pay grade, but I understand that what has been said is not that we are against a general election but that we are against a general election before the Bill has passed and we have clarified the position in relation to the possibility of crashing out without a deal. I am not going to say anything more, because some of this may be taken as an official statement from the Labour Party, which it is certainly not.

Lord True: I will not ask the noble and learned Lord to go further, but the fundamental point is that we cannot do the whole thing in this House. I endorse fully what has been said by others. We should have an arrangement and understanding between the three parties. It has also to involve the Front Benches in the other Chamber. If that can be achieved, that would be a good way to proceed.

6.30 pm

Lord Naseby: My Lords, I speak as a former Chairman of Ways and Means and Deputy Speaker who took the Maastricht Bill in another place. I remember meeting opposition spokesmen across all parties in my room as Chairman of Ways and Means and discussing that Bill. There is nothing to prevent discussions on a Bill taking place, but the Motion before us this evening is not really necessary for a subsequent Bill, the likes of which we do not know in any detail. The noble and learned Lord opposite shakes his head—perhaps he does know, but I do not, and I am quite sure that 90% of Members here do not, either.

We have already passed an amendment that this House will in the future have the opportunity to guillotine any Bill that comes. I take some objection to the Liberal Whip insisting from a sedentary position on putting the Question when a privy counsellor gets up. He must have known, or should have known, that I took the Maastricht Bill—all 26 days of it, all three whole-night sittings and all 600 amendments. The noble Baroness shakes her head, but that was quite a long Bill—but at least there was no filibustering on it. There was a lot of discussion. There have been subsequent Bills on Europe which have been much shorter.

None of us here this evening has any idea what is in that Bill. So I put it to this House that it is up to the two Front Benches to get together, talk about the Bill that is coming and, when it comes, reach some agreement. However, to change the whole procedures of the second House for a Bill that the country as a whole is divided on is not a procedure that should be welcomed by anyone. I look at the amendment that my noble friend has moved. Are we really saying that we will get rid of all the Standing Orders on how we operate in this House? That these notices, where you have precedence of notices of orders relating to public Bills, measures, affirmative instruments, negative instruments and reports from Select Committees of the House, can be varied on any day if the convenience of the House requires it—are we going to throw those procedures out of the window in the future? That cannot be a sensible way forward.

I say to noble friends on all sides of the House, and to the noble Baroness in the Chair, that I sat in the other place when a great argument was taking place. Good decisions were made in the end. This evening we should forget about this Motion. It is a pariah of democracy and, quite frankly, should not have been put forward. I understand the emotion behind the Labour Party putting it forward. I sat in a marginal seat with majorities of 179 and 142, so I do understand these things. So I ask the two Front Benches to come together and say, “Right, we’ll pull this Motion on condition that there is discussion on the future Bill”.

Lord Goldsmith: To be clear, is the noble Lord proposing this on the basis that there will be an agreement to get the Bill, when it has actually been published, through in time before Prorogation? If so, that is very helpful.

Lord Hope of Craighead (CB): I will just make my position clear on behalf of these Benches in returning to the point made by the noble Lord, Lord Cormack. I am very much in sympathy with the points made by the right reverend Prelate the Bishop of Leeds. All I will say is that I am willing to play my part as the leader of these Benches in trying to reach an accommodation as to how we resolve these proceedings without having to go through all the amendments one by one. However, I stress that this will happen only if those on the Government Front Bench are prepared to engage with, no doubt, the Bishops’ Benches, myself and the Opposition. It will not work without the willingness of the Government Front Bench.

Earl Howe (Con): My Lords, I will very briefly support the amendment of my noble friend Lord True, but before that I will clear up a point in the light of the remarks of the noble and learned Lord, Lord Goldsmith, and the proposal made by my noble friend Lord Cormack. As both rightly pointed out, in her opening remarks the Leader of the Opposition alluded to the prospect of her Motion becoming unnecessary if the Government were to guarantee safe passage for the Bill, should it arrive. I need to put on record, lest there be any misunderstanding, that no such prospect was raised prior to today’s sitting with my noble friend the Government Chief Whip. That was the first time we had heard of that proposal. By that time the noble Baroness had already placed her Motion in the hands of the House. All I can say is that the usual channels, at least in so far as the Government are concerned, are always open.

I will make some brief remarks on the amendment of my noble friend. I focus, as other noble Lords will do, on the practical effects of this Motion. Its main effect, as has been said, is a guillotine. Setting aside the issue of precedent, I do not think that one can dismiss this as some kind of run-of-the-mill measure. The practical effects of the guillotine will be wide ranging and deeply damaging to the ability of the House to scrutinise legislation as fully as it needs to. Many of us have observed over the years how much the House prides itself on the scrutiny of legislation and how seriously it takes its role in the legislative process. My

noble friend Lord Forsyth was quite right in all that he said earlier. The Business of the House Motion as tabled would shackle noble Lords to procedures that only the noble Baroness the Leader of the Opposition and the noble Lord, Lord Rooker, who I understand will pilot any Bill that arrives from the Commons, would have any control over. What does that do to the principle of self-regulation?

The House as a whole must be free to take important decisions about how and at what speed it conducts its business. As my noble friend the Leader of the House said earlier, the Motion would limit the number of noble Lords who could make meaningful contributions at Second Reading. It would mean that amendments not reached before the guillotines could be agreed only on a unanimous basis, meaning that noble Lords, no matter what experience they bring, would be unable to have their amendments debated or decided upon fairly. This Motion means that the House is being asked to agree that, should the Commons send us a Bill, that Bill should be passed without full debate and proper scrutiny, and that the role of Members of this place should be bypassed. No noble Lord, in my opinion, should find that even remotely acceptable.

Baroness Smith of Basildon: I apologise to the noble Earl—I caught him on the television and came in urgently to hear the rest of what he was saying. I understand the points he is making, and the Motion in my name is designed to ensure a full debate—far more so than in the House of Commons. But if the noble Earl could say that the Government would be prepared to ensure that the withdrawal Bill, if passed by the House of Commons, would be guaranteed to complete its stages in your Lordships' House prior to Prorogation—that is, by Friday—there would be no need for my Motion, because the Bill would be guaranteed to leave the House in good time. I think that that is all that anybody in your Lordships' House wants to achieve. Are the Government prepared to have those kinds of discussions to ensure that that can be achieved? That might deal with a lot of the issues of concern to noble Lords here today.

Earl Howe: My Lords, I indicated that the usual channels on our side are open, and I wish we had been alerted earlier. In answer to her question, of course we are prepared to discuss this. No noble Lord wants to see this debate unnecessarily perpetuated.

Baroness Smith of Basildon: I am extremely glad to hear that, because I made that suggestion earlier today to the noble Baroness the Leader of the House. My understanding, which I hope was a misunderstanding, was that there could not be such discussions. What the noble Earl has said is extremely encouraging. I would be happy at the conclusion of this debate to talk outside the Chamber to progress those discussions.

Lord Strathclyde: I just want to say that we have got ourselves into the most appalling political mess. We are getting ourselves into a constitutional mess and anyone looking in on this House must be completely bemused as to what we are debating. We have had these ludicrous closure Motions, which should be used extremely sparingly. I see that the noble Lord,

Lord Stoneham, has reappeared. I was rather hoping that he would feel that he should absent himself from the House, given his truly deplorable behaviour earlier of closing down the debate not on a political person but on a member of the Cross Benches, who had scarcely finished her words before that debate was closed down. I very much hope that he will send her an apology that the House was unable to debate her amendment, the first amendment due to be considered.

Baroness Smith of Basildon: I am very grateful to the noble Lord for giving way. None of us wants the temperature to rise any higher. I say to the noble Earl the Deputy Leader of the House: would it be helpful for the House to adjourn for pleasure at this point so that some discussion can take place? I hear that from around the House and see nods opposite. I therefore propose that the House adjourn for pleasure to return no later than 7.15. Would that be possible?

Lord Strathclyde: The noble Baroness was intervening on me.

Baroness Smith of Basildon: The noble Lord might propose such a measure.

Lord Strathclyde: I would like to make a suggestion to my noble friends on the Front Bench which might work for the House. I do not know whether it would be acceptable at this stage. I understand why the Government might want to see what actually happens in another place in the course of debate both on the Bill and whether it is passed but, secondly, on a Motion as to whether there should be a general election. That means that we could perhaps usefully fill our time with a debate due to take place in any case, probably in the middle of the night, on HS2, which is a rather interesting debate with a whole bunch of speakers. I wonder whether, if the Government were to consider bringing forward that debate, we could adjourn the debate on the noble Baroness's Motion, take a view later on and, with the discussion that could take place with the noble and learned Lord, Lord Hope, and others, take a better way forward.

I suspect that my noble friend Lord Howe is unable to accept this useful suggestion, but he might want to consider it and, if not, perhaps we could adjourn the House for half an hour or so for the other discussions to take place.

Baroness Smith of Basildon: I suggest to the noble Lord that the first debate in the other place is of more interest to this House—the legislation which concerns us. If we are honest, I think we are probably less concerned about general elections, which do not affect us in the same way. Perhaps a good time to conclude discussion and return would be when we have a decision from the House of Commons on passing the Bill. I am sure that, in the normal traditions of your Lordships' House, a commitment from the Government that they would ensure that any legislation passed from the House of Commons would be completed in the time available, which is before Prorogation, would be welcome.

Lord Mackay of Clashfern (Con): My Lords, it is worth noting that the House of Commons has passed the Bill by a majority of 29, according to my BBC announcement.

Baroness Smith of Basildon: Second Reading of the Bill has passed.

Lord True: It might help the House if I responded for 30 seconds to the amendment to withdraw the amendment, because I think that the spirit of the House is right on this. I shall not press the amendment because I do not want this great House to record a second vote in favour of a guillotine. That would be very sad, particularly against my Motion, which asked for the guillotine not to be applied in a case where a Bill has been guillotined in the other House.

In the heat of these debates—I acknowledge that I perhaps believe a bit too much in the sense of liberty of this House—it would be a great pity if we put on the record of the House that we had rejected Motions that I proposed and, by implication, supported guillotining a Measure in both Houses. I therefore intend to ask the leave of the House to withdraw the amendment, but I hope that there might be a little pause, as some have asked, and some consideration, because the reality is that there has to be a total deal, it involves the other place, the leader of the Opposition and the Prime Minister, and we cannot deliver that in this Chamber. In some way or another, because someone has to give something up—in a good deal, people on both sides give something up—this side of the House has to keep an insurance policy against the imposition of the guillotine if there is no deal.

6.45 pm

I therefore suggest that a pause, rather than going on to later amendments, might be helpful, but the mood of the House will decide absolutely. I do not want to proceed until 10.01 on Friday morning, but my goodness, I am prepared to do so to prevent the imposition of the guillotine. I hope that the end desired by all can be achieved by means other than a war of attrition.

Lord Forsyth of Drumlean: Are we not getting a little ahead of ourselves here? It is perfectly clear that none of us wants to go through all these amendments and be here until Friday morning, but they have been tabled because of the principle of the guillotine. It is also perfectly apparent, as the noble Lord, Lord Cormack, started his argument in a very constructive speech, that were the leader of the Opposition in another place to agree to give the Prime Minister his desire to go to the country—

Noble Lords: Oh!

Lord Forsyth of Drumlean: This is why no agreement will be reached. This House cannot actually decide that. It is not a matter between these two Front Benches, it is a matter between the Front Benches in the other place.

Baroness Smith of Basildon: I think the issue for this House is legislation, not general elections. The way in which the noble Lord, Lord True, spoke, was

extremely constructive and I am grateful to him. I welcome his comment, which was absolutely right, that agreement takes concessions on both sides. I should hope that the only thing of interest to this House is ensuring the primacy of the Commons and that we conduct ourselves in a proper manner.

Lord Forsyth of Drumlean: Then withdraw your Motion.

Baroness Smith of Basildon: I am being heckled by the noble Lord, Lord Forsyth, to withdraw my Motion. If we were sure that the legislation, if passed in the House of Commons tonight, would go through your Lordships' House in the usual way we do our business and it was guaranteed by all noble Lords that we would complete our deliberations and conclude prior to Prorogation, there would really be no need for my Motion.

Lord Newby: In an attempt to simplify matters, I support the idea of a simple, straightforward, short break, not to insert any other business, because that would be confusing, but to accept that any agreement reached among the usual channels in your Lordships' House at 7 o'clock might be conditional on various things happening in the Commons in the next few hours. In that way, we would know what to do in various circumstances. I am loath to see a long pause, because if for some reason the good will, which I am pleased to see breaking out, did not lead to an agreement, we would be back to where we were, and the sooner we got back to where we were, the better.

As it is now 18.48, I should have thought that if we had half or three quarters of an hour, that should be perfectly long enough to—

Lord True: I am attempting to withdraw my amendment. I agree with what the noble Lord is saying, but if we have to come back, of course we will go through all the amendments. However, let us hope that the spirit of amity continues. I beg leave to withdraw my amendment.

Lord True's amendment to the Motion (2) withdrawn.

Baroness Smith of Basildon: My Lords, may I propose that the House do now adjourn but that we return no later than 7.30 this evening?

Earl Howe: My Lords, the Leader of the Opposition has, very helpfully, proposed an adjournment. The difficulty I find myself in is that any discussions that we have through the usual channels will be predicated, at least from our point of view, on discussions with others in another place. At present, I cannot therefore accede willingly to her proposal to adjourn although in principle, as I said earlier, we are of course open to discussions at some point in the evening.

Baroness Smith of Basildon: I am slightly confused by what the noble Earl says. I sense that, across the House—I will talk for a moment so that the Chief Whip can catch up—we want to conduct our business in a timely, sensible and ordered manner. Perhaps we can do so through adjourning briefly. I hope that the

noble Earl is not saying that officials and Ministers in this House are unable to come to an agreement; however, I appreciate that we must understand what happens in the House of Commons first, which is why I suggested adjourning until 7.30 pm. I would appreciate the views of the Chief Whip on this issue.

Lord Ashton of Hyde (Con): I am grateful to the noble Baroness. I can inform the House that she and the Leader spoke earlier. Our position is that, until the House of Lords is clear on the decisions that it is making, which will come later this evening, that might be a sensible time—

Noble Lords: The House of Commons.

Lord Ashton of Hyde: The House of Commons—I beg noble Lords' pardon. We think that a suitable time to meet may be when the House of Commons is clear on the decisions that it will make tonight. The House does not need to adjourn during pleasure for that to happen.

Lord Cormack: My Lords, there does not seem a lot of point, particularly in view of the extremely helpful and constructive remarks from my noble friend Lord True, in continuing on this particular path. Surely other business on the Order Paper could be dealt with. I personally think that an adjournment during pleasure is by far the most sensible solution.

Lord Reid of Cardowan: My Lords, may I seek clarification from what was at least a partially constructive description of what might develop? I agree with everyone else that the noble Lords, Lord True, Lord Cormack and Lord Strathclyde, as well as other noble Lords, have displayed the spirit of the House. The Chief Whip referred to pending events in the House of Commons tonight. I can see that it is absolutely essential that we know what is happening with the Bill that will come here, but was he including in his embrace—in that precondition—what might happen as regards, say, a general election? If so, what is that to do with the conduct of this House or that Bill?

Lord Ashton of Hyde: I am not quite clear what the noble Lord means. As he rightly said, that includes the Bill, which will be voted on later—soon, I expect. Secondly, there will be a vote on the Fixed-term Parliaments Act. We would like to know how that goes as well.

Baroness Smith of Basildon: My Lords, the reason for proposing an adjournment was that there would be an opportunity for the usual channels to discuss how to manage the legislation that we expect to see tonight from the House of Commons. We may expect a result on that before 8 pm, I would think. I am not convinced that we need to wait for the result of the vote on the Fixed-term Parliaments Act because that does not have an impact on how your Lordships' House deals with legislation. Having said that, it would be helpful if the Government understood fully the point about the withdrawal (No. 6) Bill. It seems clear that, despite

the helpful comments from the noble Lords, Lord True and Lord Cormack, and others, the Government do not want any discussions—the Leader made this point to me earlier but I had hoped that things would have rather moved on since then—until after the results in the House of Commons.

Let me settle this: we should not adjourn at this point but we should hold early discussions with the Government through the usual channels. We want to discuss only the legislation and how this House deals with legislation in its normal way to ensure that we respect the primacy of the House of Commons and—*[Interruption.]* The noble Lord, Lord Forsyth, a former Member of Parliament, is shaking his head when I talk about the primacy of the House of Commons. It is an absolute given that we do not wreck Bills passed by the House of Commons. We do things only on that basis. I can say that quite easily because that is the position—*[Interruption.]* The noble Lord, Lord Callanan, should calm down and not shout at me from a sedentary position. As a Minister, he should know better.

I see little point in adjourning now but we must have urgent discussions; not doing so would do this House a great disservice. Looking at the faces of Members opposite, apart from those on the noisy Front Bench, I believe that that is what the House wants. This House wants to do its business properly. We will do all that we can to facilitate that. If the Government agree that we will use the normal procedures and allow the legislation to complete its passage, my Motion will not be necessary. I will forget a Motion to adjourn now but I expect discussions to take place urgently.

Amendment to the Motion (2A)

Moved by Lord Marlesford

After first “Commons” to insert “, and in recognition of the fact that the vote of 17.4 million people in the 2016 referendum to leave the European Union is no longer relevant and may be ignored or further deferred”.

Lord Marlesford: My Lords, my noble friend Lord True asked me to speak to this amendment; it is an interesting amendment to speak to. The amendment relates particularly to the 17.4 million people who voted for Brexit and the effect of this guillotine on them. I point out that fact because, in the past, noble Lords have not always read the amendment. As the amendment says, it comes,

“in recognition of the fact that the vote of 17.4 million people in the 2016 referendum to leave the European Union is no longer relevant and may be ignored or further deferred”.

That is a very depressing situation for those people. They are not following the intricacies of what is happening in your Lordships' House today. They will be as mystified as some of us are. None the less, all I can say is that a dangerous impression is being given by today's proceedings and, to some extent, by yesterday's proceedings in another place: that the view of the people is being ignored through Parliament's hijacking of what they said. I suggest that that will have an interesting ripple

[LORD MARLESFORD]

effect if and when an election takes place, not least because the terms of an election have changed—in recent hours, almost.

Not long ago, the movement was for a fresh referendum. At that stage, the discussion was all about what the question in the referendum should be. In fact, the Brexit side worried considerably about whether the question would divide the Brexit vote. This morning, of course, Sir Keir Starmer, on behalf of the Labour Party, gave a clear, unequivocal and, I hope, binding view that, in a general election, the Labour Party would campaign to remain. By doing so, he has succeeded in dividing the remain vote because, in that situation, the remain vote will be divided between the Liberal Democrats, who have always believed in remain, and the Labour Party, which has not always believed in remain. In fact, it has been very difficult to know what it does believe in. Perhaps we ought to look at the backdrop to all this. Why on earth are we in this position at all? I had better declare my own position very clearly, in case it is of interest to anyone: in the referendum I voted, marginally, to leave. If there were to be another vote or referendum, I would vote enthusiastically to leave because of what I believe has been happening in Europe. I would like to remind noble Lords of the backdrop to all our discussions.

In my view, the EU project is proving a tragic example of weakness through strength. The original purpose of bringing peace to a war-torn Europe in the treaty of Rome 1957 was achieved long ago. The successor objective of bringing together for free trade and economic collaboration an enthusiastic group of like-minded democratic European countries to enhance their mutual stability and prosperity was a success for many years. As President de Gaulle famously described it in 1962, the year in which the common agricultural policy was launched, it was meant to be a group of nation states retaining their cultures and their legal, political and national identities and traditions: a “Europe des patries” or “Europe des nations”—I think he used both phrases.

7 pm

Earlier, the American states had joined together to forge a new democratic identity in a rather similar way. The world flocked to the United States to become American and to find wealth. The rights of states were set out with admirable clarity in 1791 in the 28 words of the 10th Amendment to the American constitution. It was not until 200 years later, in the EU Maastricht treaty in 1991—30 years after the signing of the treaty of Rome—

Lord Goldsmith: I understand the points the noble Lord is making, but the amendment proposed is to add some words to the Motion to make a political statement that can be made without that appearing in the Motion. I wonder whether the noble Lord might agree that it does not advance the debate in this House to consider the addition of these words. We should be considering whether the House will finish consideration of this Bill, when it arrives, by the end of Friday. That is the real point before us. I wonder whether the noble Lord would agree that that is what we should be considering.

Lord Marlesford: I am afraid I do not agree at all. If the noble and learned Lord is proposing to move the closure of my speech, let him go ahead and do so. I wish to make my own speech, and I do not wish to be told by him what or what not to say. Is that clear? I thank him very much.

At any rate, it was not until Maastricht that we attempted to have in Europe a policy similar to the rights of states; it was spelled out in many pages of Brussels jargon that the EU should not assume powers better exercised at national level. By then it was too late, but since then the Eurocrats have had many happy hours finding exceptions to limit the impact of subsidiarity. The introduction of a single currency without central economic government was always a challenge. The European Central Bank, established in June 1998, has done a fine job, with distinguished and successful presidents who have resisted the pressure to accommodate political priorities of individual euro states. The introduction of European monetary union, with fixed exchange rates in January 1999, paved the way for a smooth final arrival, three years later, of a single currency—the euro—for 300 million people. Since then, the ECB has successfully coped with the difficulties.

The problem of the EU—the problem that has caused all this to happen, from 2016 up to and including today—is that the EU Commission, based in Brussels, has one nationally appointed Commissioner for every country, and every Commissioner is expected to subordinate their national interest to the collective good. The Commission has the sole right to propose new European legislation. It has sought to aggregate to itself more and more power. In theory, the Commission is answerable to the European Council of Ministers representing the national Governments at the head or departmental level. In practice, everything is sorted out behind the scenes by Commission officials in consultation. Many states have been unhappy for a very long time at the way in which the Commission has been behaving. I believe that is the main reason why there has been such an enfeebling of the European Union.

Lord True: I declare an interest as a part-time resident of Italy, as my noble friend knows and the House will know. Does he agree that the points he is making are exemplified by what we have seen lately in Italy, where unelected Commissioners descend and lecture elected Governments about what budget they might be allowed to present? Even more recently, an effective parliamentary coup—something we may get used to this country shortly—has taken place to install an unelected Government.

Lord Marlesford: Yes, indeed. Of course, all that is what caused David Cameron to call a referendum in the first place. One must realise that when we voted to leave the EU, the Commission was outraged. It was also fearful. Once one country had taken such a step, others might follow and the whole edifice could come crashing down. Methodically and skilfully, it set about making the UK’s departure either impossible or too difficult and expensive to pursue. In this it had the

collaboration of senior British civil servants, who had been equally shocked by the referendum result. The Commission has repeatedly made it clear that there are no circumstances in which the withdrawal agreement offered to Mrs May in November 2018 and subsequently, as we all know, rejected three times by the House of Commons—by the British Parliament—will be reopened for further negotiation.

The main sticking point has been the land border between Northern Ireland and the Irish Republic. The EU Commission has insisted on a so-called backstop clause in the withdrawal agreement, which—this has been said and cannot be said too often—could mean that the UK would have to remain indefinitely in the EU customs union to avoid a hard border. Absurdly, it is felt by both sides that a hard border of any sort could cause the fighting between the two sides to start again. I simply do not believe that is true. The traumatic effect of the fighting was far too great. The Good Friday agreement, which took place with the help of the Americans, is much safer than people think.

The obvious example is an invisible sea border. It is interesting that only today—this is all happening now and is relevant to the legislation—it is suggested that it might be possible to have one island for the purpose of agricultural trade. If we were to have one island for agricultural trade, in my view, and presumably in the view of those who put forward this idea, this does not break the concept or idea of having a Northern Ireland which is part of the UK. I therefore hope very much that this could be extended to all sides. That would be very much better.

Mrs May, who was respected for her fortitude but not admired for her lack of flexibility in negotiating, has landed us in a state where we have to discuss this emergency legislation today. The Conservatives suffered a crushing defeat in the May elections for the European Parliament—the Labour Party even more so. That is why we have had a change of Prime Minister. The Labour Party is in even greater difficulties, largely because its leader, Mr Corbyn—this is totally relevant to the legislation that the House of Commons is in the process of passing—has been unable to make it clear whether he believes in staying or leaving.

I happen to know why that is the case. I read the *Morning Star* rather regularly. On 18 January this year, an article headed “Communists slam plots to halt Brexit” quoted the Communist Party’s political committee. The general secretary of the Communist Party, Mr Robert Griffiths—in case noble Lords did not know his name—said,

“We may well see Article 50 extended, allowing extra time either to renovate Prime Minister May’s ‘bogus Brexit’ deal or to hold a second referendum in the hope that almost three years of hysterical anti-Brexit scaremongering will reverse the results of the first ... In any event, the aim will be the same: to maintain Britain’s subjection to pro-big business EU rules that would obstruct the policies of a future left-led Labour Government”.

Below, there is a lovely advertisement, “Corbyn and the Star”, offering a T-shirt which bears,

“the two great left symbols of our era—Jeremy Corbyn and the Morning Star”.

7.15 pm

This is the big problem of Europe. It has divided politics in a most unproductive manner. I hope very much that we will not continue with the sort of discussion which the party opposite has put down in the form of a guillotine for its legislation. It will be very bad for the future of this House, which is rather more important than it seems to think.

Lord Willoughby de Broke (Non-Afl): My Lords, I support the excellent amendment moved by the noble Lord, Lord Marlesford. It is badly needed, because, as so often over many years, this House seems to have forgotten the result of the referendum. It has forgotten that it voted for the referendum Bill, that it voted for Article 50 legislation, and that it voted for the withdrawal Act.

I need to remind noble Lords that the referendum, at which 17 and a half million voted to leave, as the noble Lord, Lord Marlesford, said, was the biggest single democratic vote this country has ever had. I am always surprised in this House when noble Lords—

Lord Harris of Haringey: May I clarify a point? I am slightly surprised at the noble Lord’s position, given what I understood were his views on these matters. He is supporting an amendment which will say that the referendum, “is no longer relevant and may be ignored”.

Lord Willoughby de Broke: I am supporting the noble Lord, Lord Marlesford.

Lord Harris of Haringey: The amendment moved by the noble Lord, Lord Marlesford, is to add that the, “referendum to leave the European Union is no longer relevant”.

Lord Willoughby de Broke: Yes, I agree with that.

Lord Harris of Haringey: Ah, good.

Lord Willoughby de Broke: Those words should be in the Bill.

Lord Marlesford: I thought that the noble Lord, Lord Harris, would have realised that we were trying to make clear the implications of the guillotine Motion which we are discussing, which is an extremely arrogant Motion.

Lord Willoughby de Broke: I am grateful to the noble Lord, Lord Marlesford, for clarifying the issue for the noble Lord, Lord Harris.

The fact is that this House too often forgets the result of the referendum. I must correct the noble Lord, Lord Marlesford, on one very small point. David Cameron did indeed legislate for the referendum, but only because of the electoral pressure he was under from UKIP. I am delighted that my noble friend Lord Pearson is here tonight. We had the referendum because the then Conservative leadership was frightened of losing even more voters and MPs to UKIP.

[LORD WILLOUGHBY DE BROKE]

Passing on from that, the Brexit voters in the referendum have continually been misrepresented as a lot of ignorant backwoodsmen. Of course, that is not the case at all. A huge number of people voted to leave. We have heard the cries from noble Lords who are not here now—the noble Lord, Lord Bilimoria, and others—for a people’s vote. I thought that the referendum was probably the biggest people’s vote we have ever had. I remember sitting in the Chamber in April when it was said that we needed another people’s vote and all the banners outside said: “Let’s have a people’s vote”. Well, in June, we did have another people’s vote. We had the European elections, when the Brexit Party smashed every other party to smithereens. It got twice the number of votes of the Conservative and Labour parties put together. I congratulate the Liberal Democrats, who got 17% of the vote, just under half the Brexit Party vote.

The idea that leaving the EU is some oddball movement and that Brexiteers are deranged is far from the truth. I hope the Government will understand that. I hope the Prime Minister understands that and continues the course that he has set so far. I believe it is important that the House accepts the amendment moved by the noble Lord, Lord Marlesford, because it makes it quite clear what this is all about. It is about Brexit. In the end, this whole arrangement and this debate today are about Brexit. It is about why people voted to leave and not letting them down. I support the amendment.

Baroness Noakes: My Lords, perhaps I can help the noble Lord, Lord Harris of Haringey. My noble friend Lord True’s amendment, which was moved by my noble friend Lord Marlesford, is trying to perfect the Motion in the name of the noble Baroness, Lady Smith of Basildon, by inserting the true motive behind it. It is not that my noble friend Lord Marlesford agrees with the sentiment that the referendum result should be ignored—far from it. I am sure the noble Lord is aware that my noble friend Lord Marlesford and many of us in the Chamber this evening fully wish to respect the result of that referendum. My noble friend is trying to make plain what this Motion is all about.

Lord Harris of Haringey: Of course I understand that it is intended to be some sort of ironic statement. But noble Lords who support this amendment must be clear that, if they vote for it, their names will go down in *Hansard* as believing that the referendum result no longer matters. That is what their vote will be cast as saying.

Baroness Noakes: I do not think that that would be the case. If anybody reads in *Hansard* what my noble friend Lord Marlesford has said this evening, they will know exactly what he thinks about the result of the referendum.

I would like to make an additional point in respect of the referendum result, in which 52% of the country voted to leave the European Union and 48% voted to remain. In your Lordships’ House, we have never come close to reflecting the political reality in the country—far from it. That is why, whenever a Motion

relating to Brexit is moved, the result always opposes that of the referendum in one way or another. This House needs to think carefully about its legitimacy if it continues to act in a way that is out of line with popular feeling in the country. I believe that this applies also to the other place, where parliamentarians vote in a way that is wholly unlike the referendum result.

Lord Patten of Barnes: Perhaps I can help my noble friend. I think that the Prime Minister is about to canter to her rescue. He has told us that he will appoint to the House of Lords, as soon as he can, scores—maybe a hundred—heroes of Brexit, who will be able to enjoy themselves on these Benches. It was in the newspapers—indeed, it was in the *Daily Telegraph*—so it must be true. The heroes of Brexit will come cantering to the rescue and make credible this legislature.

Baroness Noakes: I am very grateful to my noble friend for reminding me of that. If he followed me on Twitter, which I do not suppose he does, he would know that I have said that the idea of a hundred new Brexit-supporting Peers coming into your Lordships’ House would be a great start in remedying the imbalance that exists.

Lord Patten of Barnes: A great start!

Baroness Noakes: A great start, but not necessarily the finish, to getting the right balance in your Lordships’ House. I believe that this House and the other place need to think very carefully when acting so out of line with the result of the referendum. Through that referendum, Parliament ceded control of the decision to the people—the people are the ultimate source of authority in the country—but has been trying ever since to take it back, both in this place and the other place. We run the risk of doing serious harm to the institutions of Parliament.

Lord Goldsmith: My Lords, the issue before the House is whether or not to agree the amendment moved by the noble Lord, Lord Marlesford. I suggest first that the noble Lord withdraws it, but I suspect that that is not going to happen, and, secondly, that the House does not accept the amendment. The reasons are those that have been given already. It does not add to the point about the programme Motion, which says that the Bill, if it reaches us, should be dealt with in accordance with a procedure which would give two clear days for it to be dealt with. I respectfully suggest, as was the point of my intervention on the noble Lord, Lord Marlesford, that it is not helped by adding this statement, whether ironic or political. The real question ultimately is whether or not the programme Motion should be agreed. On that basis, I invite the noble Lord to withdraw the amendment. If not, we will oppose it.

Lord True: Does the noble and learned Lord not think that the public are entitled to understand what the motivation is? Is he unhappy about the lending of the girdle of honesty by this amendment to the motivation for the Motion before us?

Lord Goldsmith: The motivation is very clear and has been clearly expressed. What we are trying to avoid is a situation in which the United Kingdom crashes out of the European Union without a deal. That is what the Bill, which has been published, does. It requires that there should be either a vote of the House of Commons approving exit without a deal or an agreement that is approved. That is what it does, and the British people can see that. No doubt the noble Lord and others might say that there is a different reason for it. They are fully at liberty to make that point however they want, but it does not need to be stated in legislation.

Lord Framlingham: The noble and learned Lord used the words “crashes out”, which is the slogan of remainers, day after day, everywhere you look. Does he accept that “crashing out” is an opinion?

Lord Goldsmith: I am not going to engage in this debate; we have had it so many times. We have seen it so many times in predictions, and most recently in the Yellowhammer report. Whether or not the noble Lord likes my language, I am making the point that this amendment should not be accepted. That is what I invite the House to do.

Lord Cavendish of Furness (Con): The noble and learned Lord talks about the feelings of the people. Something I want to endorse from my noble friend's intervention is that, since 1910 or thereabouts, your Lordships' House and the people have walked hand in hand. “The Peers and the people” has been an expression that had real meaning. I fear that that is not the case any longer and my impression, as an inhabitant of the north-west of England, is that people are beginning to question the point of your Lordships' House if it ceases to be on their side. This particular Motion would put paid for ever to the respect that this House has among the people.

Lord Dobbs (Con): My Lords, I say to my noble colleague that this is about much more than what happens with Brexit. This is about how we govern ourselves, what Parliament is about and the role of the people. We have already had some banter about parliamentary sovereignty and stuffing this place with a hundred Peers. Of course, soon it will be a discussion not about the role of this House but about the point of this House, if it carries on as it is.

We have had impassioned speeches over the course of these debates, which have been going on for three years. I know that people are getting very wound-up about the fact that they might have a few fewer days to discuss these matters, but we have been going on for a very long time. We have had all sorts of discussions about the principles of parliamentary sovereignty. I remember my noble friend and much-loved colleague Lord Patten making an impassioned speech, some time ago, in which he talked about parliamentary sovereignty in his erudite way. I seem to remember that he had picked up a copy of AV Dicey, the fount of all knowledge and principle on parliamentary sovereignty.

Lord Patten of Barnes: I can relieve my noble friend of the rest of his anecdote because one of the shames of my life is that, even though I did papers in constitutional history at the University of Oxford, I have never opened AV Dicey in my life. I have read Tom Bingham and a lot of Burke; I know the difference between Burke and Rousseau and am on Burke's side, which is where my views on parliamentary sovereignty come from.

Lord Dobbs: My noble friend will forgive me then for my errant message. While he is quite clear that he did not open AV Dicey, my memory is that he quoted from it. He will forgive me, I trust, if my memory is playing tricks on me. My noble friend mentioned Burke, who has been much quoted on the role of a Member of Parliament. I remind the House that, at the very first opportunity after Burke made his pronouncement, the electorate threw him out and never allowed him back into the House of Commons.

This is one of the most honest amendments, if I may put it that way. It talks about recognising the fact that the vote of 17.4 million people to leave the European Union is no longer relevant. Why do we forget that the people were made a solemn and sincere vow at that time that it would be their choice and that their decision would be honoured? They had that vow not only in political speeches but in writing. Those leaflets were put through the letterboxes of every house in the country. It should have come as no surprise because the Liberal Democrats had long campaigned for a referendum at that time. Noble Lords may remember the leaflet bearing the image of Mr Clegg which went out in which the Liberal Democrats campaigned for a real referendum. “You will decide”, it said. I do not know what happened to Mr Clegg, or what he is doing now, but I know what happened to that promise. The people were given that promise at a referendum. Every single party said it would honour the result of that referendum.

7.30 pm

Lord Garel-Jones (Con): My noble friend perhaps is not aware of the statement by the Supreme Court after the referendum which said that the statute authorising the referendum simply provided for it to be held without specifying the consequences and that the change in the law required to implement the outcome of the referendum must be made in the only way permitted by the UK constitution, namely, by legislation.

Lord Dobbs: Yes, of course, but I am sure that my noble friend—he is a dear friend—is not suggesting that the promise that was given to those 17.4 million people, indeed to the entire country, has actually been fulfilled. We know what the object of so much of this is: it is not actually to decide which way we are going to get out of the EU. Out there and in this Chamber, there are people who are not worried about no deal; they want no exit. That is absolutely clear.

Lord True: Does my noble friend agree that, ironically, they are the no-dealers because they want everything to stay the same? They do not even want an adjustment

[LORD TRUE]
of a withdrawal agreement or anything of that sort. They want no deal. They want us to stay in the Community.

Lord Dobbs: I entirely agree with my noble friend. It is one of those ironies that the Lib Dems started this with those leaflets with Mr Clegg's face on promising a real choice, a real referendum. Mr Clegg and the late leader of the Liberal Democrats at the time said that it was an instruction from the people, not a bit of advice, perhaps something that we would think about, but an instruction from the people. It is one of the great ironies of this fiasco that we are going through right now that the Lib Dems have now come full circle. Having promised us that there would be a referendum and having campaigned for that, now their leader says that even if there were a second referendum to endorse the first—and, of course, a second referendum would endorse the result of the first referendum—they would not even then in those circumstances put forward Brexit and pursue that policy. They wear a coat of many colours, but it has got a little ragged at the hem and they are in real danger of falling flat on their faces.

We talk about the role of this House and of the House of Commons and the Queen, but there are four pillars of government in this country: the Queen, the House of Commons, the House of Lords and the people. We talk about parliamentary sovereignty, but in my book it is the people who are sovereign when they have been given such an explicit promise as they were given three years ago and they have consistently said that they want that promise honoured. That is why this amendment is one of the most honest amendments on the very long list this evening.

Lord Garel-Jones: Does my noble friend not accept that, while the British people voted to leave—he is quite right about that—they are entitled to know the terms and conditions of that departure and that that is what the Supreme Court said?

Lord Dobbs: That brings us to the point that we have got ourselves into a dialogue of the totally deaf. We know that a deal has been suggested and that it has been turned down time and time again down there. There is no deal that is likely to get through that House as things stand at the moment.

The Prime Minister has said, "Let's solve this by putting it back to the people. Let's have an election". My noble friend may not remember, but several months ago when we were debating these issues I said that the only constitutionally principled solution to a problem such as this when Parliament cannot make up its mind, when the parties cannot come together on anything, is to put it back to the people through a general election, which I believe is what the Labour Party has been campaigning for for two years. No ands, ifs and buts; no, we want an election, which is what the Prime Minister is now suggesting we have. Brenda in Bristol will have to put up with it.

The time has come when we need the people to put us right. We need their advice, we need their input, we need their instruction. We have been very bad at

listening to their instructions for the past three years. It is time to go back to them for a further instruction in the form of a general election.

Motion

Moved by **Lord Harris of Haringey**

That the Question be now put.

The Deputy Speaker (Baroness Finlay of Llandaff) (CB): I am instructed by order of the House to say that the Motion "That the Question be now put" is considered a most exceptional procedure and the House will not accept it save in circumstances where it is felt to be the only means of ensuring the proper conduct of the business of the House. Further, if a Member who seeks to move it persists in his intention, the practice of the House is that the Question on the Motion is put without debate. Does the noble Lord still wish to move the Motion?

Lord Harris of Haringey: Yes.

7.36 pm

Division on Lord Harris of Haringey's Motion

Contents 277; Not-Contents 131.

Lord Harris of Haringey's Motion agreed.

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7.53 pm

Division on Lord Marlesford's amendment to the Motion (2A)

Contents 103; Not-Contents 284.

Lord Marlesford's amendment to the Motion (2A) disagreed.

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8.07 pm

Baroness Smith of Basildon: My Lords, it may be helpful to the House to know that the House of Commons has passed the European Union (Withdrawal) (No. 6) Act by 327 votes to 299, a majority of 28. Given that we now know the views of the House of Commons on this piece of legislation, it would be helpful to open discussions with the Government as soon as possible on how our business may proceed. I have already told your Lordships' House that I am happy to have those discussions as soon as possible. We want to have a timely, ordered approach to business between now and Prorogation to ensure that we give effect to decisions taken by the House of Commons. So I propose that we adjourn during pleasure until 8.39 pm.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, without any commitment at all on the part of these Benches, we do not seek to oppose the Motion for an adjournment for the period indicated by the noble Baroness, Lady Smith.

Baroness Smith of Basildon: I am grateful to the noble Lord, because I think that it would be helpful to have those discussions. I know that he said, "no commitment", but I am sure that he will have heard the mood of the House earlier today—from his own Benches and everyone else—that discussions should open up and would be very helpful for the interests of the House. So I am grateful to the Government for not opposing this.

8.09 pm

Sitting suspended.

8.39 pm

Baroness Smith of Basildon: My Lords, I am grateful to the House for adjourning. I had hoped that during that time, we would have had discussions about the role of this House in dealing with legislation, given that the Commons has completed its consideration on the withdrawal Bill, which was passed with a significant majority, and will be coming to your Lordships' House. What we managed to achieve was talks about talks. The Government have agreed to talk to us, but, unfortunately, not until 9.45 pm. I am slightly cautious. I have worked with the noble Lord, Lord Ashton, before, and know him to be a man of integrity. What concerns me is the point made by the noble Lord, Lord Forsyth, that somehow, how we in this House conduct ourselves on legislation is dependent on what happens in the House of Commons on the Motion regarding a general election. As I made clear earlier, I think that is totally irrelevant to how we deal with legislation.

We are in a unique and difficult situation. We have so many amendments to this Bill. I was very grateful to the noble Lord, Lord True, for his comments on how we consider this, which helped enormously, but these amendments are designed to frustrate not only this Motion, but also the legislation, and that would

[BARONESS SMITH OF BASILDON]

not be the right thing for this House to do. I know that on the point about legislation, the noble Lord agrees with me.

If all we did was sit continuously and vote on all these amendments, we would probably be here until Saturday. Given that these amendments are designed to frustrate the Motion and the Bill, we are seeking just one thing: a categorical assurance that this House and the Government will abide by the normal conventions and rules of this House in dealing with legislation, and ensure that the Bill, passed by our friends in the House of Commons, will be able to complete its passage through this House prior to Prorogation. With that assurance, my Motion becomes unnecessary. We must respect the work that MPs have put in, coming together to agree something. We have an assurance of talks with the Government at 9.45 pm. That is the assurance we will be seeking from them at the meeting, and I hope that the noble Lord, Lord Ashton, agrees with our intention.

Lord Ashton of Hyde: My Lords, I am grateful to the noble Baroness. I think “talks about talks” is reasonably good shorthand for what happened when the usual channels met. Some of those we need to involve in those talks were not immediately available, so in the meantime, we would like to consult some of the other people who are interested. We are not going to do nothing between now and 9.45 pm. We will try to form some proposals to put to the noble Baroness. It is difficult to say more at the moment, but the talks will continue, and we will certainly be ready to talk to her at 9.45 pm.

Baroness Smith of Basildon: I am grateful for that. The Minister says that he is waiting for others who are involved—I understand that they are in the House of Commons. Can he confirm that they would not be involved in matters of procedure for your Lordships’ House and that we are talking about a matter of procedure for this House and not about a policy matter? I am slightly puzzled, because I would have thought of the Minister, “He’s the guy in charge”.

Lord Ashton of Hyde: I understand the noble Baroness’s confusion. It was not just the other place that I was talking about; there are other parties and people involved, not least some other Peers. It is slightly more complicated than it might first appear. I have made the offer that I have made, which is consistent with what I said earlier, and I conveyed that to the Opposition Chief Whip.

Baroness Smith of Basildon: I am grateful to the noble Lord; that is helpful in many ways. I think that we are grateful to MPs for coming up with a Bill that is clear-cut in terms of their views and that we can now consider, and we will do all we can to ensure its safe passage.

To reiterate, the Minister knows that my Motion becomes unnecessary with guarantees from the Government of the normal conventions of this House. I am happy to stand by that commitment to him as long as we have the assurance that the Bill is completed in this House before Prorogation.

8.45 pm

Lord True: What the noble Baroness has said is important, but unfortunately there is something in it which I cannot accept—the idea that there is something normal about the procedure. I must ask the noble Baroness to accept at least this: it is not normal to slap down a massive guillotine Motion without notice; it is not normal to expect this House to deal forthwith with whatever legislation comes from the House of Commons, and it is not normal to apply those principles to any Bill that is not covered by the Salisbury doctrine. I cannot accept those contentions, but that does not mean that I resile from my position when I withdrew my amendment. The noble Baroness should be under no illusion that, if the Front Benches are not able to come to an arrangement, those of us who find a guillotine utterly repugnant will not feel free to continue. I hope that I do not have to be in that position personally—I cannot speak for others—but I cannot accept that this procedure is normal.

Baroness Smith of Basildon: I thank the noble Lord for those comments. There is very little that is normal at the moment. I do not want to put a guillotine Motion before this House; I was trying to help the House. It is not normal to have so many amendments; it is not normal to have such a Prorogation. We are trying to make the best of a difficult situation and see our way through it.

Lord Cormack: May I express the hope, having introduced this earlier, that my noble friend will indeed accept that these are exceptional times? Prorogation has never been like this for 90 years—and not even then. We want an orderly end that allows this House to preserve its image and reputation and not to shred them by talking through until one minute past 10 on Friday.

Baroness Smith of Basildon: My Lords, I suggest that we continue with the Bill in the normal way at this stage and, following the discussions that we have, I will be happy to report back to the House on how those discussions have proceeded.

Amendment to the Motion (2B)

Moved by Baroness Noakes

After first “Commons” to insert “, and believing that the United Kingdom’s departure from the European Union on 31 October should be prevented”.

Baroness Noakes: My Lords, at the request of my noble friend Lord True, I will speak to Amendment 2B. The amendment we considered before the adjournment was described by the noble Lord, Lord Harris of Haringey, as “ironic” and by my noble friend Lord Dobbs as a “bit of honesty”. I should like to continue in that vein with an amendment that, we believe, would contribute more honesty to the Motion that the noble Baroness, Lady Smith of Basildon, has put before the House.

Lord Harris of Haringey: I am grateful to the noble Baroness. We had an exchange earlier about irony and the value of having ironic insertions into this Motion. I am assuming that, on the basis that this is another example of the ironic wit of the noble Lord, Lord True, which she is now channelling on his behalf, this will be an extremely brief introduction, because we have already done the irony bit, and we can then move on.

Baroness Noakes: I cannot promise the noble Lord something extremely brief, as I am sure he is aware. To be clear, this is about ensuring that the Motion is framed in wholly honest terms.

The Earl of Courtown (Con): My Lords, I apologise to the House, but there is a great deal of noise as Peers leave the Chamber and I ask them to be quiet.

Baroness Noakes: I thank my noble friend the Deputy Chief Whip for that, though I did not really mind talking over noble Lords leaving the Chamber.

The Motion in the name of the noble Baroness, Lady Smith, refers to the 28 January resolution that focused on the desirability of achieving a deal and then the need for the timely passage of legislation for a deal that commanded the support of the other place. I hope it has never been in dispute that the Government wanted to achieve a deal with the EU. My right honourable friend the previous Prime Minister spent nearly three years wrestling with that and her failure to do it brought about the demise of her political career. The current Prime Minister has said that he wants a deal and is committed to achieving one. He has been clear about that and I hope nobody will challenge his integrity on it. This should not be an issue about dealing with a resolution of the House focused on the achievability of the deal. We should be clear about the motives of those who originally supported the Motion on 28 January this year and those who continue to put obstacles in the way of achieving a deal.

Taking no deal off the table, as this current exercise aims to do, simply weakens the Government's hand in negotiating with the EU. There is no doubt about that. Ask anyone in the business world. Donald Trump, who might not be admired by all as a President, nevertheless had a highly successful business career, for which he is entitled to respect. He has been clear that no deal is an essential part of the negotiating armoury: nobody in business goes into negotiations with their hands tied behind their back or having given away their negotiating cards.

It is very clear that most, though not all, noble Lords who proclaim their opposition to no deal are in fact disputing the result of the referendum and are against Brexit in its entirety. I believe that they cynically use the difficulties of achieving a satisfactory deal with the EU—it certainly is difficult—as cover for their real aim, which is to defeat Brexit. The Liberal Democrats have been admirably honest about their intentions. While they have railed against exiting without a deal at regular intervals, we should be under no illusion that their real aim is to reverse the outcome of

the 2016 referendum. Their EU Parliament election campaign earlier this year was explicit on this. Indeed, their MEPs proudly, if that is the correct term, wear those vulgar T-shirts with “Bollocks to Brexit” printed on them as a badge of honour—not an attractive advertisement for the UK at the opening of the European Parliament.

The position of the Labour Party is much less clear. It is not a united party on this issue, but its true colours have been emerging as another champion of remain. Whether they call it a confirmatory referendum or some other euphemism, they want to remain and are talking about campaigning for remain. There may well be a few honourable souls left in the Labour Party who respect the clear message from the referendum, particularly those in Labour seats where the leave vote was strong; they are likely to be the minority. I shall say nothing today about my noble friends on these Benches who share the views held on the Benches opposite. I regret that if they continue to hold their views, they will not support this Government in seeking a deal on the best possible terms. I hope that, despite their reservations on Brexit, they will see that the Motion before us puts the Government in an impossible position, and I hope to see them voting in our Lobbies again. I hope that they are not simply trying to undermine the results of the referendum. I will similarly say nothing about those on the Cross Benches who have been in similar opposition to the Government in their attempts to get the best possible deal on Brexit, because I hope that they too will see, if for no other reason, that this business Motion is no way for us to work as a successful revising Chamber.

Rejecting no deal is about first putting off the day of our exit again and then again. We have done it twice so far. How many more times? Of course, the ultimate objective for those who reject the referendum result is to end up eventually revoking Article 50. That has been the explicit aim of some who align themselves with this and some of those shadowy organisations outside Parliament—

Lord Warner (CB): I say respectfully to the noble Baroness that the speech she has made is one that should be made on the Bill itself when it comes here. We can all have a good go at what people's views are on leaving the EU, but today we are supposed to be debating a process Motion about how we deal with that piece of legislation, not its merits, demerits and history. I would be grateful if the noble Baroness would bring her conclusions to a rapid end so that we can take a decision on it.

Lord True: If I could help my noble friend against a most absurd attack, if I may say so, we have just had a great disquisition from the Front Bench opposite—from the Leader of the Opposition, no less. The whole thing we have been trying to say is that it is about procedure in this House—I have, anyway—but she has said it is all about Brexit, all about the people on this side wanting to stop Brexit, et cetera. It is perfectly reasonable for my noble friend to follow the course charted by the noble Baroness, Lady Smith of Basildon.

Baroness Noakes: I thank my noble friend for that. I say to the noble Lord that this amendment is about the Motion before us and about describing the Motion correctly. It is not debating the Bill. I look forward to debating the Bill as and when it arrives in this House if we have time, but this is about correctly describing the Motion and being honest about what it is really about.

One of the very worst bits about the Bill that this is designed to enable, as the noble Baroness the Leader of the Opposition has made clear, is that it would hand the timing of our exit entirely to the EU. I agree that we are not debating the Bill today.

Baroness Altmann (Con): I am most grateful to my noble friend for giving way. It really seems that this is an attempt to make us unable to carry out our duty, which is to scrutinise and, if necessary, revise or pass legislation passed in the other place and that it wishes us to carry through. Is my noble friend saying that she does not wish this legislation to be taken by this House, because obviously we are facing the Prorogation timetable? If my noble friend wishes the Bill to come to us and be debated, this Motion offers the opportunity for that to happen.

Baroness Noakes: I am well aware of where my noble friend is coming from. I just say that we have no objection to the Bill coming here, as we never have to Bills that come from the other place, provided that they come in the ordinary course. We are objecting to the Motion in the name of the noble Baroness, Lady Smith of Basildon.

Lord Patten of Barnes: How can it come in the ordinary course, given the decisions taken for pretty shameless political reasons on Prorogation by the Prime Minister? How can that possibly be regarded as normal?

Baroness Noakes: I have to tell my noble friend that we normally have prorogations every year. We are long overdue a prorogation. Prorogations are a normal part of parliamentary life, as I am sure he is aware from his long career in Parliament. At this point, noble Lords do not like this particular juncture of prorogation—I understand why—but prorogation is a perfectly normal, healthy activity for Parliament to engage in.

Lord Patten of Barnes: My noble friend is very kind to refer to the longevity of my career, but it has not been long enough to go back to the last time we had a prorogation of anything like the length of this one—in the middle of a real matter of concern for the national interest. We know what the reason for this prorogation is, and there is a certain impertinence in pretending that we are all fools.

9 pm

Lord Dobbs: Perhaps I may help my noble friend. Why are we pretending that these are normal times? These are not normal times. Parliament has shown itself to be incompetent in dealing with the instruction that it was given three years ago and, down the other end, they cannot make up their minds. These are not normal times; we must find new ways to address them.

Lord Harris of Haringey: My Lords, I think we are drifting, I beg to move that the Question be now put.

Baroness Noakes: I have to advise the noble Lord that I have not yet moved the amendment. I am only speaking to it; the Question cannot be put.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): Yes, I cannot accept a Motion that the Question be now put if the Motion itself has not been moved. If the noble Baroness, Lady Noakes, will move the Motion, we can move to the second one.

Baroness Noakes: I will move the amendment when I have finished what I have to say on it.

I return to the issue of prorogation. I thank my noble friend Lord Dobbs for assisting me on that, but I think the people who are getting excited about prorogation are just looking for excuses to get excited about what they do not like, which is that we are leaving the EU. It is no more than a substitute, a smokescreen, for something that, deep down, they do not really like and do not want to get on with.

Lord Forsyth of Drumlean: Does my noble friend not agree that, until quite recently, it was normal for us not to sit in September at all, for us to come back only after party conference and for us to add that to the period of recess? The only indication we have is that those people who are trying to frustrate the wishes of the British people were planning to extend the recess to undermine the decision taken by the British people. There is this idea that this is an abnormally long prorogation. Does she further recall that on several occasions, Members opposite, including the noble Lord, Lord Foulkes, have been complaining about the length of this Session because the number of days available to the Opposition for debates was being limited? Do we not see a certain amount of hypocrisy here?

Baroness Noakes: I completely agree with my noble friend: hypocrisy describes well what we see in the way that many people are referring to prorogation.

Lord Kerr of Kinlochard (CB): I am most grateful to the noble Baroness, and I remember an occasion on which we agreed about something.

I cannot accept what the noble Lord, Lord Forsyth, just said. There is nothing abnormal about prorogation, but a prorogation to permit or require a five-week suspension at this particular time—which, as the noble Lord, Lord Dobbs, rightly said, is not a normal time—is a scandal; it is abnormal.

I say to the noble Baroness, who earlier in her remarks attributed some motives and concerns to the Cross Bench—I cannot speak for the Cross Bench; we do not have a collective view—that a common view among those on the Cross Bench to whom I have spoken tonight that it is quite extraordinary, and against all the traditions of this House, that we have a Bill that has passed the House of Commons, and we have 84 amendments, a planned filibuster and people

planning to argue that it is more important to debate bat habitat preservation than the Bill which the House of Commons has passed today.

Baroness Noakes: My Lords, we have never actually said that we should not debate the Bill. We have said that we are very happy to debate the Bill in the ordinary way. Our objection, and all the amendments to which the noble Lord referred, are about the business Motion before us, because of its seriously deleterious nature compared with the way in which this House does its normal business. The Motion is designed only to accomplish that Bill.

Baroness Altmann: I thank my noble friend for giving way, but the Leader of the Opposition, who moved the Motion, has already said that if the Government are willing to take the Bill in the normal way, she will abandon her Motion. This seems to me to be some kind of government filibuster to prevent us debating the Bill.

Baroness Noakes: My Lords, I am not part of the Government; like my noble friend, I am a mere Back-Bencher. This is not a government Motion at all. Unless and until there is an agreement between the Front Benches, the existing rules will apply. The noble Baroness, Lady Smith, is trying to overrule the normal rules with her Motion, which is why we oppose it. We do not oppose the Bill; we oppose the Motion and, therefore, the way in which the procedures of our House are being subverted—not just in this instance, although we know that the motive for moving such a Motion is to achieve this particular Bill, but because it could do this House long-term harm. That is what I care about and what I know many of my colleagues care about.

Lord True: This is not a government-inspired matter. I am not grand enough to aspire to writing my memoirs but if I were ever to do so, history would show that the Government had very little to do with these proceedings, which result from the genuine anger on all sides of the House at the device being put forward. We hear all this stuff about how we must rush through this and that but is it not the case that this Parliament voted, and it is the law of the land, that we should leave the European Union and do so on 31 October? This has been debated ad nauseam. We are seeing a desperate attempt by a bunch of remainder ditchers to reverse not only the verdict of the people but the prior verdict of this Parliament. Is that not the real disgrace in these circumstances?

Lord Warner: Let me say something to the noble Lord and to some of the other noble Lords who have spoken in defence of the noble Baroness moving this Motion. The noble Lord, Lord Forsyth, gave the game away. He is now trying to pose as a defender of the people, as we heard from the remarks he just made. The truth of the matter is that, whether we like it or not, the House of Commons has passed a piece of legislation that its Members, as the elected Members of this Parliament, think is in the best interests of their

constituents. It is our job to get on and look at that piece of legislation, rather than spending nearly a whole day discussing in a rather nitwitty way the set of processes by which we do so.

Lord True: Would the noble Lord like to pass me a copy of the Bill?

Lord Warner: It is a shame that the noble Lord has not read it.

Noble Lords: Oh!

Lord True: I have. The noble Lord is a little more fly than I expected. I thought that he might not have read it but I give him credit.

Baroness Noakes: We must remember that we are debating how the Bill is being handled, not the fact that it has been approved by a majority in the other place. Of course, when Bills come here with a majority from the other place, we do what we normally do: receive and scrutinise them. The purpose of the Motion before us is to limit the way in which we normally receive and scrutinise Bills from the other place, so we should be careful to ensure that we are comfortable with that. In particular, the Motion in the name of the noble Baroness, Lady Smith of Basildon, would introduce a guillotine Motion, which was discussed during the debate on an earlier Motion.

Lord Framlingham: Does my noble friend not find all this a little shameful? Bearing in mind that the Motion is just paving the way for getting the Bill quickly through the House, it is completely stifling debate and introducing a guillotine for the first time ever in this House. These matters are very serious. It is only 9 pm. Already, there is huge pressure here. Only a handful of us in this House are standing up for the 17.4 million people out there. We are hugely outnumbered; we know that. We are being sneered and sniggered at and pressurised, as we have been for the past three years. I am totally with my noble friend: the way that things are being handled tonight is shocking and I hope that she will finish her remarks in her own time.

Baroness Noakes: I thank my noble friend for his remarks. The guillotine is, of course, the thing we find most difficult. Earlier this afternoon, the House decided without debate not to go into Committee to discuss, in effect, the use of the guillotine. I think that was an error by the House, because that is how we should have discussed that really important change in our procedures. The noble Baroness, Lady Deech, thoughtfully introduced her amendment in relation to the guillotine. Again, noble Lords opposite closed that down without any debate whatever. This is really important for the future way in which this House operates, and noble Lords here should be in no doubt that they are perpetrating a form of constitutional vandalism by insisting on a guillotine Motion. That is what we are fighting against and will continue to fight against.

Lord Marlesford: I very much echo what my noble friend says. It is a disgrace that the closure Motion is constantly moved, and on one occasion—after the brilliant speech of the noble Baroness, Lady Deech—before anybody else had any chance of commenting. The Liberal Benches did it; they have not apologised and they should. Then, to make it all worse, the noble and learned Lord, Lord Goldsmith, took it upon himself to tell me what I should and should not say in my speech.

Lord Goldsmith: I may have given the noble Lord advice, but I did not expect him to take it.

Baroness Noakes: Noble Lords should have got the understanding that we are not trying to debate the Bill but the Motion, and therefore the mechanism of achieving the Bill. We do not believe that it is right and proper to use the guillotine Motion. We believe that the House should look at that extremely carefully before ever contemplating it. To come back to my amendment—I am sure noble Lords opposite would like me to return to my amendment, although I am happy to take any other interventions—

Lord Forsyth of Drumlean: The noble Lord, Lord Warner, mentioned me by name and made the assertion that we were somehow preventing the consideration of the Bill from the House of Commons. Should we not take account of the fact that this Bill has been taken through the House of Commons by abandoning the normal procedures and subverting our constitution? Notwithstanding that, and given that it will come to this House, if the noble Baroness, Lady Smith, the Leader of the Opposition, would care to withdraw this outrageous guillotine Motion, there is nothing whatever to stop the House getting on with considering the Bill from the House of Commons now.

Lord Warner: Is the noble Lord seriously suggesting that the former Members of the Cabinet were actually trying to subvert the constitution?

Lord Forsyth of Drumlean: Yes, I am. And they did so with the aid of the Speaker, who has acted in a way that is, to say the least, somewhat novel. It is an important point, because those Standing Orders in this House and the other place are our constitution, and if they are to be torn up or changed by people who do not accept the result of what the people and Parliament—both Houses by a big majority—voted for, that is a crisis, and it is a far bigger crisis than anything that arises from having a longer period of Prorogation.

The Lord Speaker: My Lords, we really need to have a Question before us, otherwise we are having a debate at this stage. The noble Baroness has now been on her feet, or around her feet, for about 23 minutes. It is the custom to use this not for debate but to put a Question.

Baroness Noakes: I say to the Lord Speaker that I have not been encouraging the debate but trying to introduce and speak to my amendment. Of course, other noble Lords have wished to raise a number of

other matters, and obviously I feel it necessary to let noble Lords have an opportunity to have their say on those things.

Lord Forsyth of Drumlean: It is worth noting that this is the first time that I can recall where the Chair has intervened in a matter such as this.

Baroness Noakes: Perhaps we can leave that to consider on another day. Let me go back to what I said at the outset. My amendment is about being honest about why the Motion is before us. It is not just about not achieving no deal; it is really about having no Brexit. My amendment does not affect the substance of the Motion from the noble Baroness, Lady Smith, but merely makes plain the actual motivations of those who seek to promote this extraordinary parliamentary device and to partake in the constitutional vandalism to which I referred a few moments ago. Put simply, they are designed to prevent the UK's departure from the EU. There is no more to it than that. That is what my amendment is trying to do. I believe in calling a spade a spade. I beg to move.

9.15 pm

Motion

Moved by **Lord Harris of Haringey**

That the Question be now put.

Lord Harris of Haringey: My Lords, since we have already had a de facto debate, I move that the Question be now put.

The Lord Speaker: I am instructed by order of the House to say that the Motion “That the Question be now put” is considered to be a most exceptional procedure and the House will not accept it save in circumstances where it is felt to be the only means of ensuring the proper conduct of the business of the House. Further, if a Member who seeks to move it persists in his intention, the practice of the House is that the Question on the Motion is put without debate. Does the noble Lord still wish to move the Motion?

Lord Harris of Haringey: Yes.

9.16 pm

Division on Lord Harris of Haringey's Motion

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Lord Harris of Haringey's Motion agreed.

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9.31 pm

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9.45 pm

Amendment to the Motion (2C)

Moved by Lord Framlingham

After first “Commons” to insert “, and in recognition of the fact that promises made in election manifestoes in 2017 to ensure the United Kingdom’s departure from the European Union are not binding”.

Lord Framlingham: My Lords, I will speak to this amendment on behalf of my noble friend Lord True. It is to do with how binding or otherwise manifestos are. Before I begin, I will respond to the noble Lord who asked whether we were—or someone was—suggesting that ex-Cabinet Ministers could be trying to harm the Government’s programme. I respectfully remind your Lordships that the Member of Parliament who was the Chancellor of the Exchequer just a few weeks ago is now the principal saboteur of the Government’s programme. I think that speaks for itself.

Baroness Wheatcroft (Con): I am grateful to my noble friend for giving way. I cannot quite believe that I heard him refer to the former Chancellor of the Exchequer as a saboteur. Would he like to withdraw that slight against somebody who worked extremely hard as Chancellor of the Exchequer and restored the finances of this country?

Lord Framlingham: I understand that debates such as this do raise emotions. I feel particularly strongly about it. Perhaps “saboteur” is an ill-chosen word, but I am talking about somebody who for three years pretended to be working towards a sensible Brexit while—we now know—all the time doing exactly the opposite.

Baroness Wheatcroft: That is absolutely untrue. There is no evidence for that at all. Again I ask: will my noble friend withdraw his remark? As far as I am aware, the Chancellor of the Exchequer was working very hard to secure a deal. He is now working to ensure that this country does not leave the EU with a very damaging no-deal Brexit.

Lord Framlingham: The noble Baroness can put her spin on it. I retain my views—

Lord Cormack: Does my noble friend really think he is assisting to enhance the reputation of this House by trashing the reputation of someone who has given decades of service to our country and our party?

Lord Framlingham: My Lords, I think it is time for a little honesty. I have watched over the last three years—day in, day out—people pretending to do one thing and doing another, while the 17.4 million people who voted to leave Europe have been very badly served. I am not prepared to put up with it any longer.

Lord Hamilton of Epsom (Con): I am grateful to my noble friend for giving way. Will he not admit that one thing the former Chancellor was guilty of was not funding no deal, and so completely undermining our negotiating position with the EU?

Lord Framlingham: It is increasingly clear that our Chancellor was in many ways less than helpful; let us put it no more strongly than that. I want to talk about the role of manifestos—

Lord Faulkner of Worcester: I respectfully draw the noble Lord's attention to paragraph 4.43 of the *Companion*, which says that:

“No Member of the House of Commons should be mentioned by name, or otherwise identified, for the purpose of criticism of a personal, rather than a political, nature”.

Lord Framlingham: I am sorry; I had not read that. However, I will not withdraw it, because the House can tell how strongly I feel. If I am not careful, I will make it worse. I will consult the *Companion* and, if I have erred greatly, I will make sure I do not do it again.

The proposition that promises made in manifestos are not binding strikes at the very heart of our system of government. Manifestos are long and detailed. Few people will read and understand every single detail, but they are the only way that the electorate can know what any party or candidate proposes to do and bring them to account after the election. They are also crucial as a point of reference when controversial issues arise in government and are frequently referred to and quoted. Minor issues may perhaps be overlooked, or not carried out quite as they ought to be, but for something as vital as leaving the European Union, there could be no room for doubt or misunderstanding.

In its 2017 election manifesto, the Labour Party did not say that it would leave the EU only on terms agreed by a second referendum. At that stage in our proceedings, it was understood that both parties were prepared to leave the European Union. The truth is that all these shenanigans are designed simply to hide the fact that the Labour Party does not know which way to turn. It is still prepared to inflict significant damage on our House and our constitution, and prevent the Government doing what the vast majority of the people now want. To this end, it is still prepared to deny its manifesto commitments.

Lord True: In my judgment, my noble friend's point is entirely correct. As he noticed, and as I have pointed out to the House before, in both Houses, in Division after Division on measure after measure to advance Brexit, the Labour Party has consistently delivered more than 200 votes in the Division Lobbies to frustrate the Brexit process. Does he not believe that the Labour Party has dishonoured its manifesto and that the British people need to know that, without the Labour Party's obstruction, Brexit would have been delivered?

Lord Framlingham: I think the British people are now totally confused and utterly fed up with politicians and Parliament, and they simply want Brexit done, in the way the Prime Minister proposes. We should get on with it.

This guillotine Motion is outrageous, but it is only another blow, in a long line of such actions, to the workings and stature of the House. The opposition parties will use any device, existing or created by them, to frustrate normal government. Their treatment of the Northern Ireland Bill is a very sad case in point.

Lord Harris of Haringey: Could I draw the attention of the noble Lord, Lord Framlingham, to paragraph 4.23 of the *Companion*? I appreciate he will not have it with him, but it says that:

“Debate must be relevant to the Question before the House”. While his remarks about Northern Ireland are very interesting, they are not relevant to the item before the House.

Lord Framlingham: I assure the noble Lord that I will take a copy of the *Companion* with me when I go home. I am talking about the guillotine Motion and all that relates to it. The guillotine is what we are talking about now. We are about to introduce an extraordinary measure; I do not know why the House is so relaxed about it. We will come on to the essence of guillotines later, but I am talking about manifestos at the moment. The idea that the House of Lords should introduce a guillotine is quite ridiculous.

I was making the point that the Northern Ireland Bill was used to bend normal rules. To try to force the Government to report to the House of Commons in the period leading up to 31 October, the Opposition sought to table an amendment in the House of Commons. The Speaker did not allow it, so, taking advantage of our lenient rules on tabling amendments, they persuaded someone here to table it. It was duly passed in our House, where the Opposition, in this case, have a guaranteed majority. When it arrived back in the Commons, it was then deemed to be within the scope of the Bill. The Opposition promptly tabled their own amendment and it was passed. Finally, it was passed again by us. What a crafty and very sad way of circumventing our normal proceedings.

I will briefly read a quote relating to that from a Member of the other place responsible for it. I will not name him in case I am in error again. He said, as they were trying to do this:

“Would my right hon. and learned Friend first agree that the reason that Mr Speaker quite rightly did not select new clause 14 is that it would not have been within the scope of the Bill as

unamended, but that, if amended by my right hon. and learned Friend's amendments, new clause 14 would probably be brought into scope? Secondly, does he agree that their lordships in the other place take a rather wider view of scope than is typically taken here, and therefore there is ample reason to suppose that, given the majorities we know to exist in the House of Lords, new clause 14 in some form is actually likely to be added to the package and therefore to be operative?"

His colleague said:

"Yes, I do agree. That is certainly one of the reasons this should go to the other place".—[*Official Report*, Commons, 9/7/19; cols. 243-44.]

There you are: that is how we are used and abused when it is appropriate.

Baroness Wheatcroft: The noble Lord referred to a crafty way of subverting the processes of the House. Would he agree that the sort of filibustering we are watching this evening seems a very crafty way to subvert the Bill we wish to get to?

Lord Framlingham: No, I do not agree with that at all. I am just getting on with it as fast as I can. I am not trying to filibuster.

Noble Lords: Oh!

Lord Framlingham: If the House does not like what I am saying, I apologise, but I am hardly filibustering. Sadly, those opposed to us leaving the European Union will stop at nothing and manifesto commitments clearly can be dispensed with. The result will be that the public will lose even more of their trust in politics and politicians when they go to the country. The implication for our political system is frightening. We must return to the tried and trusted ways of running our affairs and seek to win back the trust of the people. I urge Members opposite who are supporting these measures, and who I feel sure care about our Parliament and our constitution, to look into their hearts and draw back from these dangerous and draconian measures.

I will end with a brief manifesto from myself. I believe this should be our vision for the United Kingdom. As a nation, with all we have to offer the world, we should show self-belief without arrogance, conviction without pomposity, determination without aggression, competition without rancour, and leadership without conceit. We must champion our deep-rooted belief in the value and integrity of the nation state and our distrust of blocs that attempt to harmonise and formalise unnatural groupings. Europe should be a flexible jigsaw of independent nation states, working closely together but each one able to flex separately in response to its individual needs. Cementing nations together in blocs or unions produces a stultifying rigidity, tension, friction and ultimately cracking and break-up, which is now beginning to happen in the EU. We are not tearing ourselves out of the heart of a thriving organisation, but sensibly detaching ourselves from an ailing bloc that has within it the increasingly obvious seeds of its own destruction. We will provide more help and support to the EU in the long term as a strong and independent ally, not as a permanently disgruntled partner. We must have the courage of our convictions, faith in our country and determination to honour the decision we

took in the referendum. There might be short-term problems, but most of them are hugely exaggerated and a bright and stable future awaits us.

Lord Harris of Haringey: I beg to move that the Question be now put.

The Lord Speaker: Is this a suitable time to intervene before the closure Motion?

Noble Lords: No.

Motion

Moved by **Lord Harris of Haringey**

That the Question be now put.

The Lord Speaker: I am instructed by order of the House to say that the Motion "That the Question be now put" is considered to be a most exceptional procedure and the House will not accept it save in circumstances where it is felt to be the only means of ensuring the proper conduct of the business of the House. Further, if a Member who seeks to move it persists in his intention, the practice of the House is that the Question on the Motion is put without debate. Does the noble Lord still wish to move the Motion?

Lord Harris of Haringey: Yes.

10 pm

Division on Lord Harris of Haringey's Motion

Contents 274; Not-Contents 104.

Lord Harris of Haringey's Motion agreed.

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10.15 pm

Division on Lord Framlingham's amendment to the Motion (2C)

Contents 85; Not-Contents 273.

Lord Framlingham's amendment to the Motion (2C) disagreed.

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 Parminter, B.
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 Pendry, L.
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 Stephen, L.
 Stern of Brentford, L.
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 Suttie, B.
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 Taylor of Bolton, B.
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 Teverson, L.
 Thornton, B.
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 Tonge, B.
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 Tunncliffe, L. [Teller]
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 Tyler, L.
 Tyrie, L.
 Uddin, B.
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 Young of Old Scone, B.

Lord True: My Lords, I am encouraged by every cry of “Oh no”, so please continue. In speaking to this amendment, I should explain that for convenience, to get these amendments down quickly, I agreed to have my name put to all the manuscript amendments that were tabled, which is why other colleagues, whose amendments they really are, have been speaking to them.

I agreed to raise this point. I do not wish to dwell on it because I am conscious of the sub judice rules and conventions in the House, as well as the extent to which we are able, or unable, to discuss pending cases because of the implications; if one looks at the relevant section of the *Companion*, one has to be extremely careful in talking about civil cases that have been committed for hearing.

We heard a lot today about so-called improper Prorogation, and so on and so forth. Improper Prorogation has been one of the main pretexts used by those who wish to import this extraordinary guillotine procedure into the House. In fact, it has been the main intervention I have had in my speeches: “What about this Prorogation?”. Well, what about it? As I understand it, the matter is being tested in the English courts. I think my noble friend Lady Noakes will talk about the situation in Scotland, where I believe there has been a resolution.

10.30 pm

My point is that, with due respect to the courts and the system in this country, it seems extraordinarily odd to come forward with a Motion based on the pretext of Prorogation while urgent litigation is pending where a resolution is expected well in time, if it goes one way or the other, to enable more time to be given to this legislation. I have to some degree a mild spirit of concern but also an intention to point out that there is something of a paradox in some of the arguments here. I would not want to see any guillotine Motion in future in this country, but I believe that if those things are to be considered, we should be mindful of any contingent factors happening in the law courts before we commit and constrain ourselves to a course of action that might have been informed by something that is imminent.

I do not express myself well, but I think most people will certainly understand what I am saying. I put this down to really draw attention to my concern about this paradox and to ask what reaction the Opposition—the people with the power in this House now—would have if there were any change in the law or practice of the land as a result of changes in the courts. What impact would that have on their view about putting forward Motions such as this dreadful guillotine Motion? Because of sub judice issues, I may be unfairly restraining myself but, not being a lawyer, I do not understand these matters.

Lord Strathclyde: I intervene on my noble friend now, because if he moves his amendment the noble Lord, Lord Harris, will move the closure and I will not be able to—

Lord Harris of Haringey: It is not my turn.

10.28 pm

Amendment to the Motion (2D)

Moved by Lord True

After first “Commons” to insert “, and only once any current legal proceedings relating to prorogations in the English courts have been concluded”.

Lord Strathclyde: The noble Lord is not going to move the closure; he has given up. That would be a marvellous thing, would it not? It would be interesting to know whether my noble friend envisages, under his amendment, that a vexatious litigant could indefinitely stop a Bill by raising legal issues in different courts—for instance, in the English courts and/or the Scottish courts at the same time. Would that make it impossible for any kind of legislation to ever get through? I just wondered if he has thought through the implications, or perhaps he expects the Front Bench to have an answer to that question.

Lord True: Here is a reversal of roles. I spent about 13 years—I hesitate to say it—drafting the odd amendment for the noble Lord, Lord Strathclyde. Here is the noble Lord, Lord Strathclyde, suggesting there might be a flaw. I was really seeking a prop to inquire how the Opposition see all these legal actions—I believe some of them are not too far away—impacting on these proceedings and whether they think it is prudent to put the House of Lords through all this before awaiting an outcome of what is before the courts.

Lord Forsyth of Drumlean: I am uniquely disadvantaged as well, because I am not a lawyer, but I always understood that the courts did not get involved in proceedings in Parliament. That would seem to be what has happened in Scotland today; the matter before them was considered to be not judiciable.

We ought to pay tribute to Gina Miller. Had it not been for her, we would not have been forced to ensure that Parliament passed the requirement for us to leave the European Union by a huge majority.

Lord True: My noble friend makes that point extremely well. I think all of us on this side feel very grateful for that and I fully endorse what he has said.

Lord Warner: Will the noble Lord clarify this point? I recall in what he said about people who tried to use the courts to stop the progress towards Brexit that his former boss for whom he used to write speeches, somebody called John Major, seemed to be one of the people who was involved in that activity.

Lord True: I made my comments on Sir John Major's action in a speech in this House a month or two ago and I do not need to repeat them. I am trying to avoid referring to these proceedings, perhaps unwisely. If the noble Lord, Lord Warner, wishes to google "Major" in my speeches, he will find my opinion of some of the actions we have seen lately.

I do not want to prolong this speech. I am just interested to know how the Opposition, who are leading and pressing on this, see this range of legal actions fitting in to what they plan and propose. They are purporting to run the business of our House. Have they given any consideration to what may be happening in the law courts? As I have said, that is where the power is. We do not have the power. In a spirit of inquiry, perhaps the noble and learned Lord, Lord Goldsmith, will tell us whether he has given any

consideration to any litigation. He has certainly referred to the Scottish matter in putting forward this draconian guillotine.

Lord Goldsmith: As the noble Lord invites me to speak, I have a question for him. I notice that there are three amendments—one relating to the English courts, one relating to the Scottish courts and one relating to the Northern Irish court—all in his name. All are otherwise identical with the same principle—do we consider the Bill before that litigation has concluded? Does he intend that those should all be dealt with separately, one after the other, taking the time that that undoubtedly will? If that is what he intends, does he not agree that is a clear case of wasting the House's time and delaying getting on to the legislative business?

Lord True: That is an extraordinary intervention from the noble and learned Lord. I try to avoid lawyers as much as possible. As human beings, I regard them as friends, but as professionals I try to avoid them. I thought that the English court system, the Scottish court system and the system in Northern Ireland were separate systems and they went on separate tracks. There is a separate political establishment in Scotland as well. The litigation in Scotland has been concluded whereas in England, as I understand it, it has not been started. I am amazed that a lawyer of the experience of the noble and learned Lord, Lord Goldsmith, can come to this House and suggest that three jurisdictions and three separate tracks should be wrapped into one. It is perfectly legitimate to inquire of him and the Opposition whether he has any regard for the other jurisdictions. Perhaps he is not interested in the results in Scotland because the case has not come out in the way that he wanted. Perhaps he does not want my noble friend Lady Noakes to talk about it. I do not accept his criticisms.

I do not know whether the noble and learned Lord was in his place earlier when we were trying to come to a point when we did not need to do this. The only reason we are here is because an exceptional, unprecedented, draconian, repugnant guillotine Motion was put down. Those opposite have the power. The only power that the minority have in Parliament is the power to resist; we still have that freedom. The right of Members to put down amendments is precious in this House and should not be criticised. The impatience of power which one hears from the noble and learned Lord, Lord Goldsmith, is unattractive, however charmingly he puts it, as he always does.

For my part, I am totally unrepentant, but I cannot speak for others. I hope there will be an agreement and do not believe that this is the way to do business in the House. In any conflict, everyone says, "They started it", but in this case, they did start it. Any extreme action provokes a counterreaction, and the counterreaction here is to defend the liberties of this House. The moment that the noble and learned Lord, Lord Goldsmith, stands up to withdraw the guillotine Motion, I will scrub every amendment in my name. I cannot speak for others, although I see my noble friend Lord Forsyth nodding, because it is entirely down to them.

[LORD TRUE]

Until then, we will advocate and speak for those freedoms. Perhaps we could be enlightened on how the Opposition, who are leading this, view the interrelation between the court cases and what they are doing on this Bill. I beg to move.

Lord Warner: I suggest that the Question be now put.

The Lord Speaker: I am instructed by order of the House to say that the Motion “That the Question be now put” is considered to be a most exceptional procedure and the House will not accept it save in circumstances where it is felt to be the only means of ensuring the proper conduct of the business of the House. Further, if a Member who seeks to move it persists in his intention, the practice of the House is that the Question on the Motion is put without debate. Does the noble Lord still wish to move the Motion?

Lord Warner: No.

Lord Strathclyde: My noble friend has moved his amendment. It would be normal, when discussing an amendment to a major Motion, for somebody from one of the Front Benches to reply to him. In this case, the Motion was moved by the noble Baroness the Leader of the Opposition, so one would assume that someone from the Front Bench would wish to intervene. They do not have to but it is entirely normal practice. It adds to the flavour that something ugly is happening in this House when the Opposition refuse to interact in the debate. I put this to them: suppose that, on another occasion, there is a Bill before the House sponsored by the Government and noble Lords opposite make impassioned speeches and my noble friends on the Front Bench simply sit there, happily. Would that be okay? I assume that it would. For those reading this in *Hansard*, Members of the Opposition are nodding their assent.

Lord Goldsmith: I am surprised. The noble Lord, Lord Strathclyde, who I admire enormously, heard the intervention I made on the noble Lord, Lord True, which made it very clear what the position is on this amendment. It is a filibustering amendment, which is shown by the fact that the same amendment is proposed to be made three times.

Lord Henley (Con): The noble and learned Lord says that the same amendment has been put down three times. As my noble friend pointed out, the amendments deal with three completely separate jurisdictions. If the noble and learned Lord opposite is not prepared to answer the various questions put by my noble friend, obviously he will have to come back to this again and again, as he has the opportunity to do when we come to the later amendments. It might actually speed up the process if the noble and learned Lord took the trouble to answer some of the points that my noble friend has made. In that case, when my noble friend gets to those later amendments, whenever that may be, he might not feel it necessary to intervene

on them. It would assist the House if the noble and learned Lord gave us the views of the Opposition Front Bench on this amendment.

Lord True: My Lords, I had sat down. I had hoped for a response from the noble and learned Lord, Lord Goldsmith. There was an attempt to move a totally unnecessary closure. In view of the failure to respond and the attempt to move a closure, which I am very grateful to the noble Lord for withdrawing, I wish to test the opinion of the House.

10.45 pm

Division on Lord True's amendment to the Motion (2D)

Contents 73; Not-Contents 272. [The Tellers for the Not-Contents reported 272 votes; the Clerks recorded 271 names.]

Lord True's amendment to the Motion (2D) disagreed.

Division No. 11

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 Smith of Newnham, B.
 Soley, L.
 Somerset, D.
 Southwark, Bp.

Stair, E.
 Stephen, L.
 Stern of Brentford, L.
 Stevenson of Balmacara, L.
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 Young of Norwood Green, L.
 Young of Old Scone, B.

11 pm

Amendment to the Motion (2E)

Moved by Baroness Noakes

After first “Commons” to insert “, and only once current legal proceedings relating to prorogations in the Scottish courts have been concluded”.

Baroness Noakes: My Lords, Amendment 2E in the name of my noble friend Lord True was going to be moved by my noble friend Lord Forsyth. However, as our business has not progressed as quickly as we expected, he is on his way to catch the sleeper train to Scotland. I can tell that the House is disappointed that he is not taking part in dealing with this amendment.

I am pursuing what my noble friend Lord True started with the previous amendment: trying to find out how those who have tabled this Motion see the

interaction between it and the proceedings taking place in the various courts mentioned. My noble friend Lord True dealt with the English court action. Amendment 2E deals with the proceedings relating to Prorogation in the Scottish courts.

The temporary interdict, as I think it is called in Scotland—those of us who learned our law elsewhere call it an injunction—was not granted. We had Lord Doherty’s judgment today. He said:

“This is political territory and decision making which cannot be measured against legal standards”.

He also said that accountability should rest with, “parliament, and ultimately the electorate”.

From the point of view of those initial proceedings—this was in response to those taken by a number of MPs and noble Lords—that seems to be settled. However, as I understand it, there is a possibility of that decision being appealed.

Putting it more directly to the noble and learned Lord, Lord Goldsmith—who I believe is answering on the Front Bench at the moment—since the original action has now been settled against those seeking an interdict, if the decision is appealed and it is determined that Prorogation should not take place, does that affect how the Motion is put together? Given that many noble Lords said earlier today that they believed they were forced into this action because of the nature of Prorogation, it seems to me that the need for this Motion falls away if Prorogation falls away.

These amendments have been drafted to establish the interconnection between the Motion and whether Prorogation is allowed to remain in place or is defeated by the various legal actions. I am trying to find out Her Majesty’s Opposition’s position on this from the noble and learned Lord, Lord Goldsmith. I beg to move.

Lord Goldsmith: My Lords, it is hard to resist an invitation put by the noble Baroness, Lady Noakes, but the position is quite straightforward: legislation is one thing, litigation is another. At the moment, Prorogation is going to take place; no court has said that it will not. In those circumstances we are faced with the ultimate guillotine, if your Lordships like, of seeing the business in this House stopped. That is why we want to agree the Motion moved by my noble friend Lady Smith of Basildon: to make sure this House has a full opportunity to deal with the Bill, which has now arrived from the other place. It arrived during the debate and we will, we hope, be taking it. As it stands at the moment, as I said, Prorogation will take place.

Lord Strathclyde: The noble and learned Lord helpfully mentioned the Bill that has just arrived from the House of Commons. Can he or a member of the Front Bench tell us when it will be published in the form in which it was passed by the House of Commons, so that we will be able to look at it, table amendments to it and see whether indeed any amendments were made to it in the House of Commons?

While I am on my feet, I will share an interesting thing that has happened. The noble Lord, Lord Foulkes of Cumnock, who adorns the Back Benches on the

other side, used to be my Member of Parliament. I remark that this is the first time I can ever remember that the noble Lord has not spoken on a matter to do with Scotland. I hope this is the shape of things to come.

Lord Hamilton of Epsom: It is a very strange phenomenon that the noble Lord, Lord Foulkes, has not said anything. It suggests that perhaps he has been muzzled by his Front Bench who have leaned on him in such a way that he feels he cannot contribute, which is very unusual because we enjoy his contributions.

Lord Cashman (Non-Affl): My Lords, I feel I need to rise and speak to this. Sometimes our personal lives intervene in ways that we never imagined they would and this can affect our ways and means of communicating with others, even in your Lordships’ House.

The Deputy Speaker: Am I to assume that the noble Baroness is pressing the amendment or seeking to withdraw?

Baroness Noakes: I wish to test the opinion of the House.

11.08 pm

Division on Baroness Noakes’s amendment to the Motion (2E)

Contents 74; Not-Contents 258.

Baroness Noakes’s amendment to the Motion (2E) disagreed.

Division No. 12

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11.21 pm

*Amendment to the Motion (2F)**Moved by Baroness Noakes*

After first “Commons” to insert “, and only once current legal proceedings relating to prorogations in the Northern Irish courts have been concluded”.

Baroness Noakes: My Lords, again I move this amendment on behalf of my noble friend Lord True, and I can be briefer than we have been to date. It concerns the Northern Irish courts, where, as I understand it, there are other proceedings taking place in relation to Prorogation. I do not think that we have had a satisfactory answer to the question put in the previous two amendments, so I beg to move this amendment.

11.22 pm

Division on Baroness Noakes's amendment to the Motion (2F)

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opinion on the Cross Benches. I find it entirely extraordinary that the Labour Party and the Liberal Democrats, having forced through legislation in the House of Commons for perfectly good reasons of their own, now wish, before the Bill had even been presented—it has now been presented, we saw it arrive—to force a guillotine on this House. It is, again, the Liberal Democrats and the Labour Party, with some noble Lords in other parties; the bulk of the votes are there. Our proceedings are being broadcast, if anybody is watching. Those sitting opposite are on the Labour Benches; next to them are the Lib Dem Benches.

Lord Cormack: Can my noble friend not accept that there are a considerable number of his colleagues in this House who have given long and devoted service to the Conservative Party and who believe that the Conservative Government are on the wrong track?

Lord True: I think I have grasped that point on one or two occasions before from my noble friend. I do not deny that other people share that view, but the reality is that a power play is going on here, with the use of an instrument to control Parliament, to control this House, which has never been seen in this House before—the guillotine.

I am honoured to be a member of your Lordships' Constitution Committee, which is one of the most important committees of the House—thank goodness that your Lordships' House has such a committee. That committee is currently considering some of the issues that arise from fixed-term parliament legislation, and I hope that when its report is issued, it will be helpful to all of us in this House. But today, we are seeing constitutional issues on the make in front of us. We have an unprecedented, far-reaching Motion proposed which would, if it became part of the practice of this House, as it has become part of the practice of the other House, change the nature of parliamentary government in this country. That is absolutely the case.

Lord Griffiths of Burry Port (Lab): Having heard an identical speech many times in the course of this evening, I wonder whether the noble Lord could speak to his amendment so that we may hear the substance? It seems to me that we are being driven towards losing time by the prevarication of those who are speaking at great length and so often.

Lord True: This is entirely germane to the constitution. This amendment is about the need for the Constitution Committee of this House to consider the implications of such a dramatic change to the normal procedures of this Chamber. Surely we pride ourselves on the quality of our committees: that is one of the reasons why we are respected, in so far as we are still respected in this nation.

I am surprised by the concern about and hostility towards the idea of the Constitution Committee being involved to consider these matters. I think that it would be profoundly helpful. Is there some fear that the Constitution Committee might think that this is not a particularly helpful way to proceed in this House?

11.36 pm

Amendment to the Motion (2G)

Moved by Lord True

After “House of Commons, that” to insert “an urgent report be requested from the Constitution Committee on the propriety of the use of a guillotine motion, and should that Committee recommend its use, that”

Lord True: My Lords, I am further encouraged by the increasing numbers of “No” on the other side. I remind the House, and everybody who takes any interest in this debate, that the power lies on that side—there with the Liberals and the Labour Party, which have seized control in the House of Commons.

Lord Harris of Haringey: This is about the 15th time that the noble Lord has made this point. Could he remind the House that the decisions being taken are being made by the whole House on a vote? It is not something which is just the product of the Labour Party or the Liberal Democrats. It is a decision of the House, and that is how it should be.

Lord True: The noble Lord can put his interpretation on it as he wishes; the Division lists will demonstrate who is closer to the truth. There will be a balance of

Viscount Ridley (Con): I am most grateful to my noble friend for giving way. Does he recall, as I do, Members of this House, particularly from the Opposition Benches, asking on many occasions for things to be referred to the Constitution Committee because they wanted to check whether something was constitutional? It seems to me that there is a surprising degree of hypocrisy here.

Lord True: I do not normally like to use the H word, but it will be printed in *Hansard* and I will not be applying for it to be expunged.

Baroness Kennedy of The Shaws (Lab): I have listened to repeated references to hypocrisy, but the greatest hypocrisy of all is taking place before our eyes. I have listened to the noble Lord all afternoon: you have repeated over and over again the same matters. You are filibustering. You are preventing us reaching a Bill of importance to this country, and you are doing it because you want to waste time. You do not want us to reach that Bill, which is about preventing no deal. That is the shocking thing. You are not interested in following through on what the elected House has done. The noble Baroness, Lady Noakes, gave it away in a moment when someone asked, “Why are you making a Second Reading speech; you can make that on the Bill when it comes”, and she said, “If we reach it, I will make it”. She, you and many others are trying to prevent us reaching that Bill. That is disgraceful. It is a real disgrace, and you should be ashamed. I am ashamed watching this. This House has the respect of the country. You are bringing it into disrepute.

Lord True: I would like to think that the noble Baroness will reflect on the discourtesy of her words.

A noble Lord: Shame!

Lord True: There is nothing that I am doing, have done or have said at any stage of these proceedings which is other than trying to defend—

Lord Cavendish of Furness: My Lords, will the noble Lord remind the noble Baroness, Lady Kennedy, that we are not discussing the Bill? The House got the Bill only an hour or two ago, if that. We are discussing the Business of the House Motion—and nothing more.

Lord True: That is absolutely correct. I am sorry, but from the start the noble Baroness has not been in her place throughout these debates. She may shake her head, but I have been here. My point is that this is about a guillotine, not the Bill. If the noble Baroness had been here earlier, she would have heard some exchanges across the Floor in which I made it very clear—for example, through withdrawing an earlier amendment—that there is a route to accommodation here, that there is no need to go on with this procedure and that the guillotine Motion could be dropped. We on this side would certainly not risk considering in those circumstances, as I said earlier, continuing to press amendments. There should be a sensible usual channels deal; that deal is available and is being discussed at the moment, as I understand it. But no one, presented

with a pistol put to their heads, as is the nature of this guillotine, would say, “Okay, all right, I trust you never to pull the trigger when you have bust into my house and changed the way that I have lived and worked in this place for 700 years”. We would not say, “Oh yes, I trust you”.

11.45 pm

Baroness Kennedy of The Shaws: The noble Lord accused noble Lords on these Benches of hypocrisy. In reply, I want to say that the greatest act of guillotine to take place was the introduction of a Prorogation to avoid debate. That was a fundamental guillotine that flew in the face of our democracy. That is why people up and down the country feel affronted by it. I regret to say so, but the noble Lord is carrying on that affront with what is happening in this House tonight. The continuation of this nonsense is an affront to our democracy.

Lord Dobbs: May I try to lower the temperature a little and smooth these choppy waters? I came into the House during the time of the coalition Government. I saw everything that I needed to know about filibustering from the Labour Benches when they tried to oppose so much of the then coalition Government’s constitutional programme. From an outside perspective, it appears that the general public look at us as Tweedledum and Tweedledumber. Can we back away from the idea that all fault lies on one side or the other and listen to my noble friend’s wise words?

Lord True: I thank my noble friend for that. I was not expecting such a vigorous attack. I said that I am not used to the courts or the law, but perhaps that is the way in which business is conducted in the courts of law; I would rather that it were not so in Parliament.

Lord Patten of Barnes: I am not sure that my noble friend Lord Dobbs was defending my noble friend Lord True. I think he was saying that the Labour Party has filibustered in the past, so its Members cannot grumble tonight about my noble friend filibustering; that is what he seemed to be saying. My noble friend has a very good degree from Cambridge—not everyone is perfect—so perhaps he can explain this to us: if this is not a filibuster, what is?

Lord Dobbs: My Lords—

Noble Lords: Order!

Lord True: Perhaps the House will allow my noble friend to make remarks later.

My noble friend is very polite about my degree. I have tried to sustain an interest in what I learned in those days and what I learned from him when I was younger. He gave me my first job, so he is to blame. He needs to be extremely careful. There is the guilty man to whom the noble Baroness, Lady Kennedy of The Shaws, should direct her criticism. I would never have got involved in politics in the first place if the noble Lord had not given me a job.

On the question he asked, we have a guillotine hanging over us in this House. We are asked to put our head on the block for the blade to fall and for the nature of business in this House to be changed for ever. If I had been in the French Revolution, I would not have been one of those who marched readily and easily to have my head cut off in the guillotine. I would have wriggled and fought to make sure that we did not have the guillotine chop our necks off—or, in this case, chop our powers.

I am sorry that the Opposition—the people actually controlling the business in this House—cannot see that to use their power in this way is undesirable and deeply disappointing. I fought battles alongside the Liberal Democrats under the Labour Government, often in defence of coercive proposals put forward by the Blair and Brown Governments on things such as detention without trial; I was working here. We always fought for the liberties of the parliamentary system and the liberties of this country. That is what we are doing and what I am seeking to do in this place. Surely, let us have an independent judgment. Maybe the noble Baroness, with all her vigour, and—

Lord Warner: If the noble Lord looks around this House, he will see that there are almost as many people on the Cross Benches as on the Liberal Democrat Benches who I seem to have seen in the same Lobbies that I have been voting in for the last few hours. If I may say so, we represent an independent view on many of these amendments, and I thought the noble Lord had rather understated the role we have played in trying to progress so that we can get to the Bill itself. Perhaps the noble Lord would like to pursue that path.

Lord True: I acknowledge that the noble Lord moved from the Labour Benches to the Cross Benches after a long period. Having been invited to comment—I said something about the right reverend Prelates earlier that I perhaps should not have—I say that when I first had an acquaintance with this House, the Cross-Benchers in this House were the absolute guardians of the way in which this House should conduct itself. When things were put forward that were unusual, out of the ordinary, procedurally questionable or whatever, you knew that the Cross-Benchers would find that difficult and hard to accept. I cannot conceive that in 1999 the Cross-Benchers would have voted for a guillotine Motion of this kind. If history shows that things are changing, that is depressing and we will have to accept it.

I will conclude my remarks, which I was trying to do before I was interrupted by the former Labour Peer, the noble Lord, Lord Warner—

Lord Lilley (Con): Before my noble friend concludes his remarks, can he reflect on the fact that the only remotely plausible argument against the case he has been making is a shortage of time, but some 900 days ago Parliament initiated the Article 50 process, which meant that from that point onwards it was the law of the land that we left the European Union with or without a withdrawal agreement? We have had some 900 days for Parliament, if it objected to the second option, to legislate in the way it is now trying to do at

the last minute to prevent that option. For them to claim after 900 days that there is a shortage of time is implausible at best.

Lord True: My noble friend is entirely right. I had started to say that there is a difference of opinion across the House, but surely that means that there should be an independent judgment on the propriety of this procedure. We in this House all accept the wisdom of our cross-party committees. Why should it not be put to the Constitution Committee whether this kind of procedure is conducive to the good operation of our constitution and parliamentary government?

I remember that when the European withdrawal Bill was going through, not so very long ago, my noble friend Lord Taylor of Holbeach, who was then the Chief Whip of our party, was constantly put under pressure by some people on our side—I was not one of them because I detest the idea of a guillotine—to constrain proceedings. No one would say that certain Peers in this House were short of words during proceedings on that Act. However, my noble friend did not do that. He had the power but did not use it to constrain the House. Unfortunately, today we are seeing that the other side have a different view.

All my amendment asks is that an independent verdict be sought from the Constitution Committee on whether it is a good thing—

Viscount Goschen (Con): My Lords, with regard to a referral to the Constitution Committee, of which my noble friend is a member, what would be the likely timing for how quickly the committee could meet, could take the evidence it requires and could produce a report? Timing clearly is one of the issues that is of significant concern to the House.

On the broader point, I urge the House to think very carefully before agreeing the precedent of introducing a guillotine. It is a major move. I have held my counsel during these debates but have been drawn to my feet by this issue and by the importance of the reference to the Constitution Committee. We should not nod this through, despite the lateness of the hour and despite the intensity of the political situation that is going on both here and in another place. I think the House would like to know how quickly the noble Lord, as a member of the Constitution Committee, believes that this could be done.

Lord True: The Constitution Committee meets weekly on Wednesdays. It would have been possible—

Noble Lords: Prorogation.

Lord True: My Lords, the reality is that possibly we are not going to that point. If, as I hope, there is an agreement through the usual channels and we can get the guillotine Motion withdrawn, it will be perfectly possible later this month for the Constitution Committee to consider this issue and report back.

Baroness Stroud (Con): My Lords, I add my concern to the concern just expressed about the guillotine Motion. When we all received our Letters Patent from the Queen, there was a phrase:

“I give you a seat, a place and a voice in the House”.

[BARONESS STROUD]

For me, being given a voice to speak in the House was one of the greatest gifts that one could possibly be given. In my maiden speech, I committed myself to using the voice I have to speak up for those who could not speak for themselves. There are many people whose voices cannot be heard in this House and we have a responsibility here not to give away our voice but to ensure that we express it in this House. The guillotine Motion curtails that responsibility that we have been given. I would like my noble friend to comment.

Lord True: I thank my noble friend for that eloquent intervention. I agree—

Noble Lords: Oh!

Lord True: Is it not extraordinary that when a noble Baroness stands up and makes a heartfelt and serious contribution, we get guffaws from the tieless mob on the Back Benches?

Midnight

Lord Greaves: I do not mind being called a mob, if that is what the noble Lord wants to call me, but we have rules for debate in this House, one of which is that speeches should be kept to 15 minutes, as at paragraph 4.36 in the *Companion*, if the noble Lord would like to consider it. He has now been speaking for 23 minutes, according to the annunciator. Does he think it is time to move on?

Lord True: The *Companion* actually says that anybody who is introducing an amendment is entitled to speak for 20 minutes. I was not proposing to speak for as long as that but I have taken a whole series of interventions which has consumed far more time than that. I therefore do not accept the criticism from the noble Lord. I have to say that, when I first came into the House, I did not find that he had the reputation of being one of the least loquacious Members of your Lordships' House.

Happily, having heard the point made by my noble friend, one could consider removing the words “and should that Committee recommend its use”, if it is not possible to have that. But the principle that we should have a report from the Constitution Committee is so important that I hope we can least agree that we have a report later this month or next month on the matter. I beg to move.

Baroness Royall of Blaisdon (Lab): My Lords, I simply want to point out to the noble Lord that committees of this House and the other House cannot meet during Prorogation. Therefore, the timescale is rather tight.

Motion

Moved by Lord Willoughby de Broke

That the Question be now put.

The Deputy Speaker (Lord Lexden) (Con): Noble Lords are familiar with the words that I must now read. I am instructed by order of the House to say that

the Motion “That the Question be now put” is considered to be a most exceptional procedure and the House will not accept it save in circumstances where it is felt to be the only means of ensuring the proper conduct of the business of the House. Further, if a Member who seeks to move it persists in his intention, the practice of the House is that the Question on the Motion is put without debate. Does the noble Lord still wish to move the Motion?

Lord Willoughby de Broke: Yes.

12.02 am

Division on Lord Willoughby de Broke's Motion

Contents 253; Not-Contents 94.

Lord Willoughby de Broke's Motion agreed.

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12.17 am

*Division on Lord True's amendment to the Motion (2G)**Contents 88; Not-Contents 252.**Lord True's amendment to the Motion (2G) disagreed.*

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Amendment to the Motion (2H)

Moved by Lord Framlingham

After “House of Commons, that” to insert “an urgent report be requested from the Constitution Committee on the propriety of the use of a guillotine motion, and should that Committee recommend its use, that”

Lord Framlingham: My Lords, my noble friend Lord True has asked me to deal with this amendment and I am pleased to do so. It basically relates to the role of the guillotine in our proceedings and the advisability if we had time, which I fear we do not, of referring it to the Procedure Committee.

It is sometimes forgotten that historically the Opposition’s main weapon against the Government or bad legislation has always been time—time to look at things in detail, but also simply time. When I first became a Member of the House of Commons there was no such thing as a guillotine. The subject before you was treated with respect. Sometimes things took a long time and sometimes they did not, but you were very conscious that, particularly on complex, difficult problems, you had enough time. You would not do the wrong thing because you did not have enough time. That was absolutely crucial.

Then, of course, along one day came the guillotine. It was very rare in those days, but then it became the programme Motion, so it went from being used very rarely to being used occasionally and then becoming, as it is now, entirely routine. The trouble is that, when a Bill in the other place is sent to Committee, the programme Motion decides how much time will be spent on different aspects of the Bill. That is, at very best, a good guess. It is frequently wrong, with the result that too much time—far too much time sometimes—is spent on some sections of the Bill and other sections do not get dealt with at all.

Sometimes, given the increased volume of legislation coming from the other place to your Lordships’ House, this has created great problems. Lots of undigested legislation comes down to us almost like a sausage factory and we have to deal with it and make sure that it is right. To do that we have to have the time that it no longer has. It will be absolutely crackers if we use guillotines as it uses guillotines and give up our right to do the job that it should have done. The public whom we serve will not be well served by that. If we pursue this course, lots of Bills will not be dealt with as efficiently as they are now. To introduce the guillotine to your Lordships’ House just for one specific thing is outrageous, and the thin end of the wedge. Once it is done, once the Rubicon has been crossed, it is much easier to do it again. We should think very carefully before setting this terrible precedent. It smacks of a

heavy-handed, authoritarian approach to matters, which, if it were ever translated into government, would have frightening consequences for the people of this country.

Lord Cormack: Has it not just had frightening consequences?

Lord Framlingham: I do not know how to respond to that. I know my noble friend’s position on this matter. He has stated it time and again. He is not going to change, so I do not think it is worth engaging with him in this way—

Lord Hunt of Kings Heath (Lab): My Lords, the Prime Minister’s decision to prorogue Parliament: was that not a guillotine?

Lord Framlingham: No, it is called a Prorogation. It is a long word. I am not giving way until I have explained to the noble Lord and answered his earlier query.

A noble Lord: We have plenty of time.

Lord Framlingham: We have. That is what we are here for. Prorogation is not a suspension. It is sometimes said that a Prime Minister “has suspended Parliament”. These are emotive words, used for a purpose. It is a Prorogation. Parliament is normally prorogued regularly. This last Session has been particularly extended before it is done. I am the first to acknowledge that there are other issues at play too. However, it makes overall sense to deal both with the parliamentary programme and with Brexit all at one time. The Prime Minister is absolutely justified and right in doing it, and in no way is it the extraordinary event that is being portrayed. Constitutionally, it certainly pales in comparison with the idea of guillotining your Lordships’ House.

Can I finish by saying this?

Noble Lords: Yes!

Lord Framlingham: Thank you. In May, I said the following:

“My Lords, the days that we have spent debating amendments to the Bill have been very dark days for your Lordships’ House. Sometimes when we have successfully scrutinised a piece of legislation in the past, it has been described as the House at its best. Without any doubt, these days will go down in history as the House of Lords at its worst ... Noble Lords, some of whom have been elected to or worked in Parliament for many years, have used and abused the gentle, forgiving system in your Lordships’ House to further their own ends of stopping us leaving the EU. I have watched and listened with growing concern and incredulity as people who should know better have tabled and spoken to amendments, most of which have been technically out of order and nothing to do with the Bill. I speak as an ex-Deputy Speaker in the other place: it is interesting to note that if we had a Speaker—and that day may now be much nearer than we think—none of the amendments put down by wreckers of the Bill would have been called and the Bill would have been back in the Commons long ago”.—[*Official Report*, 16/5/18; col. 683.]

That does not relate to today’s business, but it is about the same matter. I can say only that, if I said that those days would go down as the House of Lords at its worst, today is even worse.

Viscount Waverley (CB): My Lords, does the noble Lord think that there are lessons to be learned from this evening? While I originally had considerable sympathy with the guillotine Motion put before us, I fear that it is simply not working. Would it not therefore be more effective to have the whole guillotine Motion removed even from this circumstance and for the Constitution Committee to consider the practicality of such guillotine Motions being used in this regard?

Lord Framlingham: The noble Viscount will realise that I am totally opposed to the whole idea of a guillotine in your Lordships' House. If it were to be considered, it should certainly be referred to the appropriate committee, but, there again, we come upon the problem of time. We need time to do that, time to absorb it and time to think about it. Rushing it will be bad, and that applies to this guillotine, too.

The Deputy Speaker decided on a show of voices that Lord Framlingham's amendment to the Motion (2H) was disagreed.

Amendment to the Motion (2J)

Moved by **Baroness Noakes**

Leave out paragraph (1) and insert—

“(1) Standing Order 40(4) to 40(9) (*Arrangements of the Order Paper*) be dispensed with in relation to any bill sent from the House of Commons relating to the United Kingdom's exit from the European Union.”

Baroness Noakes: My noble friend Lord True is detained elsewhere at the moment, but I will not disappoint noble Lords by not allowing the House to hear about Amendment 2J. We are moving on to amendments to paragraph (1) of the Motion in the name of the noble Baroness, Lady Smith, so noble Lords may wish to note that we are making progress—we have got past the initial preamble to the Motion and are now on paragraph (1).

Paragraph (1) of the Motion provides that, “Standing Order 40(3) to 40(9) ... be dispensed with”, to allow proceedings on the Bill to be handled. Amendment 2J suggests removing only Standing Order 40(4) to 40(9), leaving Standing Order 40(3) extant. The purpose of tabling the amendment is to explore with the mover of the Motion why the quite draconian suspension of Standing Orders, which have served this House very well, is needed in this case. Standing Order 40 has been in our Standing Orders since 1954.

Standing Order 40(3) says:

“Subject to paragraph (1), notices relating to the Business of the House and to the Chairman of Committees' Business, if he so desires, shall have priority over other Public Business”.

Standing Order 40(1) says:

“Oral Questions shall be entered before other business”.

The Motion in the name of the noble Baroness, Lady Smith, would remove the provision about notices relating to private business and the Chairman of Committees, if he so desired, being entered before public business—in other words, before handling any Bill that came. We do not think that a case has been made for removing this important part of our Standing Orders—certainly, no argument has been put for any part of the Motion.

We believe that the Standing Orders are an important part of the way this House operates and has operated well over many years. We have them to ensure that we know how business will be conducted, so any suggestion that we should remove or suspend any part of our Standing Orders should be taken seriously by your Lordships' House, because we would be overturning many years of tradition. The purpose of the amendment is, as I said, to reinstate Standing Order 40(3), because we believe that it is important. I beg to move.

The Deputy Speaker (Lord Lexden) (Con): I should inform the House that if any of Amendments 2J to 2Q are agreed I cannot call Amendments 3 to 27 by reason of pre-emption.

Lord Mancroft (Con): My Lords, my noble friend has made an important, useful and helpful point to the House, which needs addressing. When noble Lords introduce Motions or move amendments in your Lordships' House, the normal course of events is that they explain their purpose—what wrong they are trying to right and what purposes and effects they will have. The noble Baroness, Lady Smith, in moving her Motion talked generally about its effect, and we understand that, but she did not mention this at all.

This is a significant change and it is not quite clear why it is necessary. This area of the Standing Orders—the arrangement of business—is quite an old one and the reason why it has not been changed is that it works very well. It is, as my noble friend said, a tradition, but that is probably not its most important point. Standing Orders are practicalities, there for the practical purposes and workings of the House so that we all know how business is arranged, how it is conducted and why it is set out. There is a helpful little book, which I am sure all your Lordships have read—the *Companion to the Standing Orders*—which explains why those things are and how they work.

12.45 am

If we are suddenly going to change Standing Orders, it is not unreasonable that the House should have it explained why this change is necessary, what effect it might have and what the advantages and disadvantages are. That has not yet been done. It is not unreasonable that that should be done now. The House should have it explained why this change is required, as it would be deeply inconvenient to have changes where none of us really understood what they were for or why they were needed without having them explained. We should be reasonably confident that they are for the better management of business in this House and not to the detriment of it.

Lord Goldsmith: My Lords, when my noble friend Lady Smith introduced the Business Motion this morning, she explained that the purpose behind it was to ensure that the House would have adequate time to consider the Bill, which has now arrived from the other place. To do that, certain things needed to be done, including making sure that other business could not be slotted in to displace your Lordships' consideration of the Bill.

Time, as we all know, is short. The reason it is short is that we have Prorogation hanging over us. We believe that we cannot afford to find a situation in which this House cannot complete its consideration of the Bill,

which has come today from the other place. To do that, the Bill needs to take priority over other business. We need to make sure that we can get through the different stages. Amendments are put down and there needs to be time. To ensure that that can happen, one thing that has to be done is making, for the purposes of this Bill and in these circumstances, these changes to the Standing Orders. That is the purpose behind the Motion. I hope that that helps the noble Lord and the House.

Lord Cavendish of Furness: My Lords, I regret to say that I feel the noble and learned Lord has been negligent, and not for the first time today. Surely, as my noble friend Lord Mancroft has said, it is only reasonable to explain the rationale for a part of the process. Again, the noble and learned Lord has failed to do so, so the House needs to look for a proper explanation of this part of the Motion.

Baroness Noakes: I thank all noble Lords who have spoken, in particular my noble friends Lord Mancroft and Lord Cavendish. I do not think that we have heard a good reason why Standing Order 40(3) should be removed so that notices relating to the business of the House and the Chairman of Committee's business should not be allowed to take priority over other public business. I wish to test the opinion of the House.

12.48 am

Division on Baroness Noakes's amendment to the Motion (2J)

Contents 69; Not-Contents 241.

Baroness Noakes's amendment to the Motion (2J) disagreed.

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1.02 am

Amendment to the Motion (2K)

Moved by **Baroness Noakes**

Leave out paragraph (1) and insert—

“(1) Standing Order 40(3) and 40(5) to 40(9) (*Arrangements of the Order Paper*) be dispensed with in relation to any bill sent from the House of Commons relating to the United Kingdom’s exit from the European Union.”

Baroness Noakes: My Lords, I had already arranged with my noble friend Lord True that I would speak to Amendment 2K. It is similar to Amendment 2J, which I moved on behalf my noble friend. It relates again to Standing Order 40. Paragraph 1 of the Motion tabled by the noble Baroness, Lady Smith, dispenses with

Standing Order 40(3) to 40(9). This amendment would dispense with Standing Order 40(3) and 40(5) to 40(9) but would leave in place Standing Order 40(4), which says:

“On all sitting days except Thursdays, notices and orders relating to Public Bills, Measures, Affirmative Instruments and reports from Select Committees of the House shall have precedence over other notices and orders save the foregoing”.

As I said when I moved the previous amendment, we should play around with Standing Orders only when it is absolutely necessary. I do not think that we had a convincing explanation from the noble and learned Lord, Lord Goldsmith, as to why these parts of Standing Order 40 have been chosen to be dispensed with to speed up the Bill that has come from the other place.

Standing Order 40(4) says that,

“On all sitting days except Thursdays”,

these notices and orders are important. Of course, the Motion relates only to Thursday and Friday, which is not a normal sitting day. It is open to question why the preparers of this Motion have decided to eliminate Standing Order 40(4). We should override Standing Orders, which are there to help us to do business efficiently and properly on a regular basis, only when we completely understand why they are being removed. Amendment 2K is designed to ensure that Standing Order 40(4) remains intact despite the Motion proposed by the noble Baroness, Lady Smith of Basildon. I beg to move.

Lord Goldsmith: My Lords, the answer on this amendment is the same as that on the last amendment. The Motion tabled by my noble friend Lady Smith of Basildon has been drafted to ensure that this House will have the maximum time to consider the Bill that has come from the other place if the Motion is passed and be able to complete the Bill before Prorogation. The need to avoid that problem is at the heart of all this. Those who are experienced in the procedures of the House know that there are ways in which time can be taken and things can be undermined so that the House will not have the time to consider the Bill. That is what this is all about.

I have to say to the noble Baroness that this is no different from the previous amendment. She has seen what the House thought of that. It was rejected overwhelmingly. In those circumstances I respectfully suggest that the noble Baroness have the courtesy to accept that that is what this House will do on this amendment—and indeed the subsequent amendments which are in exactly the same form—and withdraw it.

Baroness Noakes: My Lords, I understand that the noble and learned Lord, Lord Goldsmith, wishes to curtail discussion on this Motion. However, I do not think that he has explained why we should dispense with Standing Order 40(4) and I wish to test the opinion of the House.

1.09 am

Division on Amendment 2K

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Altmann, B.	Clancarty, E.
Anderson of Ipswich, L.	Clark of Windermere, L.
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Barker, B.	Crisp, L.
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Benjamin, B.	Davies of Oldham, L.
Berkeley, L.	Deben, L.
Bichard, L.	Devon, E.
Bilimoria, L.	Dholakia, L.
Birmingham, Bp.	Donaghy, B.
Birt, L.	Drake, B.
Blackstone, B.	Drayson, L.
Bonham-Carter of Yarnbury, B.	Dubs, L.
Bowles of Berkhamsted, B.	Finlay of Llandaff, B.
Boycott, B.	Foster of Bath, L.
Bradley, L.	Foulkes of Cumnock, L.
Bragg, L.	Fox, L.
Brinton, B.	Freyberg, L.
Brooke of Alverthorpe, L.	Gale, B.
Brown of Cambridge, B.	Garden of Frogna, B.
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Bull, B.	Golding, B.
Burnett, L.	Goldsmith, L.
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Hollick, L.	Purvis of Tweed, L.
Hope of Craighead, L.	Puttnam, L.
Howe of Idlicote, B.	Quin, B.
Hughes of Stretford, B.	Radice, L.
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Hussain, L.	Razzall, L.
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Inglewood, L.	Redesdale, L.
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Judd, L.	Russell of Liverpool, L.
Kennedy of Cradley, B.	Sawyer, L.
Kennedy of Southwark, L.	Scott of Needham Market, B.
Kennedy of The Shaws, B.	Scriven, L.
Kerr of Kinlochard, L.	Sharkey, L.
Kerslake, L.	Sheehan, B.
Kidron, B.	Sherlock, B.
Kinnock, L.	Shipley, L.
Kirkhope of Harrogate, L.	Shutt of Greetland, L.
Kirkwood of Kirkhope, L.	Smith of Basildon, B.
Knight of Weymouth, L.	Smith of Gilmorehill, B.
Kramer, B.	Smith of Newnham, B.
Krebs, L.	Somerset, D.
Lawrence of Clarendon, B.	Southwark, Bp.
Layard, L.	Stair, E.
Leeds, Bp.	Stephen, L.
Lennie, L.	Stern of Brentford, L.
Liddell of Coatdyke, B.	Stevenson of Balmacara, L.
Liddle, L.	Stone of Blackheath, L.
Lipsey, L.	Stoneham of Droxford, L.
Listowel, E.	Storey, L.
Lisvane, L.	Strasburger, L.
Livermore, L.	Stunell, L.
London, Bp.	Suttie, B.
Ludford, B.	Symons of Vernham Dean, B.
Macdonald of River Glaven, L.	Taylor of Bolton, B.
Maddock, B.	Taylor of Goss Moor, L.
Mair, L.	Teverson, L.
Malloch-Brown, L.	Thornton, B.
Mandelson, L.	Tomlinson, L.
Marks of Henley-on-Thames, L.	Tonge, B.
Massey of Darwen, B.	Tope, L.
McAvoy, L. [Teller]	Touhig, L.
McDonagh, B.	Tunnicliffe, L. [Teller]
McIntosh of Hudnall, B.	Tyler of Enfield, B.
McNally, L.	Tyler, L.
McNicol of West Kilbride, L.	Valentine, B.
Meacher, B.	Vallance of Tummel, L.
Mendelsohn, L.	Vaux of Harrowden, L.
Monks, L.	Wallace of Saltaire, L.
Morgan of Drefelin, B.	Wallace of Tankerness, L.
Morgan of Huyton, B.	Walmsley, B.
Morris of Handsworth, L.	Warner, L.
Morris of Yardley, B.	Warwick of Undercliffe, B.
	Wasserman, L.
	Watkins of Tavistock, B.

Watson of Invergowrie, L.
Watts, L.
West of Spithead, L.
Wheatcroft, B.
Whitty, L.
Willetts, L.
Willis of Knaresborough, L.

Woolmer of Leeds, L.
Worthington, B.
Wrigglesworth, L.
Young of Hornsey, B.
Young of Norwood Green, L.
Young of Old Scone, B.

Lord Ashton of Hyde: My Lords, I am pleased to say that we have concluded our usual channels conversations. Subject to confirmation by the Leader of the Opposition, we have agreed that consideration of the current Business of the House Motion will be adjourned and a new Motion tabled tomorrow to allow the Bill to complete all stages in this House by 5 pm on Friday 6 September. We have also received a commitment from the Chief Whip in the House of Commons that Commons consideration of any Lords amendments will take place on Monday. It is the Government's intention that the Bill be ready to be presented for Royal Assent.

This agreement also has implications for noble Lords who have tabled amendments to the Motion today. I hope that they will support the agreement reached in the usual channels and not seek further to frustrate the process at either Second Reading or at the amending stages on Friday.

Baroness Smith of Basildon: I thank the noble Lord in what is probably his first major outing as Chief Whip in your Lordships' House. It has been quite a night. This has been a long debate and I am grateful to all noble Lords who have stayed the course and are still here. It shows how much this House values both the importance of the work we do and of the issue we are debating.

We can now confirm that we shall be able to complete all the stages of the Bill in your Lordships' House in a time-honoured way by 5 pm on Friday. It was not an easy decision to table a Motion to ensure that we could continue our deliberations on the Bill and conclude them in good time. I understand the anxieties that were so eloquently stated by noble Lords who spoke in support of the amendments that this House has considered this evening. We recognise that such a Business Motion is a wholly exceptional response to the very unusual circumstances of the imminent Prorogation. We hope that it will not be treated as a precedent and that it will not have to be deployed again.

I thank all noble Lords for their patience. I had hoped to come back to your Lordships' House earlier about the arrangements that were being made. Tomorrow morning, I shall be tabling a new Business Motion, which will confirm that we shall complete our consideration of the Bill by 5 pm on Friday 6 September.

Lord Newby: My Lords, I endorse the words of the Government Chief Whip and of the Leader of the Opposition. Passions run very high on this issue in your Lordships' House, as they do across the country. It is not surprising that they have been high today. Carrying on through 24 or 48 hours, as we have been doing, in a sort of pathetic attempt to set a new Guinness world record for consecutive votes in your Lordships' House, would not do anybody any favours.

These Benches felt it was key to ensure that this Bill, which we shall be debating tomorrow, was able to finish its passage in your Lordships' House before the weekend and that it would then get Royal Assent before Prorogation. With the assurances that we have had from the Minister, I feel confident that this will happen, so this is a positive outcome.

I cannot finish without thanking colleagues on my and other Benches who have supported us during a very long period. I am pleased that I will not be needing to use my duvet.

Lord True: My Lords, I am grateful for what has been said. I had my toothbrush as well. I think that we were in a good place some hours ago. In this House, it is always wise to reach agreement. I believe that I speak for all my colleagues, who never had any intention to frustrate.

Noble Lords: Oh!

Lord True: It is extraordinary that, when one is trying to round something off amicably, some people mutter in that way. The purpose of all the amendments—the noble Baroness on the Front Bench opposite was extraordinarily gracious on this point—was to guard against the guillotine, something that the noble Baroness said was not desirable in this House. As far as I am concerned, we will give an undertaking that we will abide by any usual channels agreement, as Back-Benchers in this House always do. Certainly, if another attempt is ever made to bring forward a guillotine Motion of this kind, it can expect the same sort of resistance, irrespective of the issue concerned.

I am grateful to those who have been tolerant and to those who have not been quite so tolerant. I am grateful to those who have been kindly and to those who have been less than kind. Everybody wishes the best for this great House and I think that a sensible deal has been reached. I thank all my colleagues who have stayed, supported, thought and voted. I hope that they will support 100%, as I do, the spirit and letter of the agreement. I thank all those involved.

Lord Ashton of Hyde: My Lords, I omitted to say that I am very grateful to all noble Lords on all sides of the House for staying so long. For the avoidance of doubt, we are not taking the rest of the business tonight.

Baroness Smith of Basildon: I beg to move that further debate on the Motion standing in my name be adjourned.

Motion withdrawn.

1.29 am

European Union (Withdrawal) (No. 6) Bill

First Reading

The Bill was brought from the Commons, read a first time and ordered to be printed.

House adjourned at 1.29 am.

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