

'Gubutime' in Parliament?

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Gubu is an acronym made up of the words, grotesque, unbelievable, bizarre and unprecedented. It came into being when used by Prime Minister (*Taoiseach*) of the Republic of Ireland, Charles Haughey in 1982 in expressing his incredulity at a series of events that had befallen members of his government. 'Charlie', as he was known, was a man widely acknowledged by both supporters and detractors alike to, when it suited, to engage in skulduggery. In the summer of 1982 Haughey was under pressure due to regular news reporting of misbehaviour of people close to him; notably that double-murderer Malcolm MacArthur had been apprehended in the house of Irish Attorney General Patrick Connolly.

Though Theresa May is certainly a beleaguered Prime Minister, there can be no comparison with the administration of Charles Haughey. However, many believe that her inability to maintain control over the process to leave the EU means that she now lacks credibility. Events in Parliament in recent days have shown that Brexit is testing procedure to its limits and creating decisions that, hitherto, would have seemed astonishing.

The fact that Theresa May has been defeated twice on the withdrawal deal she has vested so much of her political standing in by historically significant margins would, in normal times, have resulted in the expectation that she resigns. That she has not demonstrates, regardless of what may be thought of her deal, a combination of doggedness and resoluteness to seeing through the overriding objective of ensuring the UK leaves the EU as voted for in the referendum of June 2016.

Over the weekend, particularly following Parliamentary votes last week intended to give MPs a say through indicative votes on Brexit, the government reconsidering how to present the withdrawal deal to Parliament for a third meaningful vote. The actual date for this vote was contingent on Theresa May and her closest advisors being confident that they had secured sufficient support from the Democratic

Unionist Party (DUP) and other Conservative MPs, particularly within the European Research Group (ERG) led by Jacob Rees Mogg to support the current withdrawal deal.

Though the 'mood music' suggested that support was increasing, entirely characteristic of the whole process of withdrawal from Europe, there was little certainty of success. Even though the DUP were engaged in extensive meetings with the government, and Chancellor Philip Hammond was involved to, it was believed, offer additional funding to Northern Ireland, nothing could be taken for granted.

Following her trip to Strasbourg last week to extract additional commitments concerning the 'Backstop', when it seemed that the deal had altered, it looked like Theresa May had achieved success and support for it would be agreed by those MPs whose feeling towards it had been, to say the least, unfavourable. The stakes had been raised by president of the European commission, Jean Claude Juncker, warning "there will be no third chance" to come back and ask for more.

Last week's rejection of the deal for a second time followed by MPs voting against a 'no-deal' withdrawal and voting for extension suggested that something dramatic was needed to avoid the UK 'crashing out' of the EU a week in Friday at 11.00pm GMT with, it is agreed, enormous economic and social consequences. Juncker's additional warning after the Strasbourg meeting that "It is this deal or Brexit might not happen at all", followed later in the week with the UK "need to say what they want, instead of asking us what we want" only added to the sense of edging towards the brink. Surely it was asked, this would be enough to create a solution to the impasse?

The ruling by House of Commons Speaker John Bercow that Theresa May will not be allowed to present her withdrawal deal to Parliament for a third vote without "substantial changes" has ensured that lack of certainty has turned into a crisis. This it, seems, is a 'Gubu' moment that has caused consternation, and not a little anger, among government ministers and members of the ERG who accuse him of using his powers to derail Brexit. Additionally, the fact that Bercow did not give the government warning of that he was going to do make his announcement has added to his unpopularity. Curiously, Bercow started his parliamentary life on the right of the Conservative Party.

Bercow, in his defence, as speaker to the House of Commons is expected to maintain order in debate and, crucially, to remain non-partisan to one side or the other. That he is being criticised for being partial to remain – possibly caused by the sticker in his wife’s car window – is, perhaps, not without some justification. However, as we are all discovering, in the absence of a written constitution, Parliament is governed by ancient tradition codified in a seminal text written by a former Clerk to the House of Commons, Erskine May whose *Treatise upon the Law, Privileges, Proceedings and Usage of Parliament* which was first published in 1844 and is now in its 24th edition.

Bercow was able to use a parliamentary convention, not necessarily a rule, dating back to April 2nd 1604 that a defeated motion could not be brought back in the same form during the course of a parliamentary session. As some are pointing out, no doubt with cognisance to the potential ramifications of Brexit for the union, this a year after what is known as ‘The Union of the Crowns’ when James VI of Scotland acceded to the thrones of England and Ireland that resulted in the unification of the three realms. As some also point out, 1604 is a year before the ‘Gunpowder Plot’.

The key question, as always, is what do we expect to happen next. There has been talk of using what is known as *prorogation* which is what the period between the end of a session parliament and the “State Opening” of parliament that begins the next session is known as. This would require the Queen to become involved as she formally prorogues Parliament, on advice from the Privy Council, before an announcement is made to the House of Lords on her behalf. It would, to say the least, be pretty dramatic as a way to ensure that Theresa May gets the opportunity to present her withdrawal deal for a third time. As some ask, what would happen if it failed again?

What is known is that May is going to request an extension of Article 50 to 30th June in a letter to Donald Tusk, the European council president. This, it is believed, is intended to allow her ‘wriggle room’ to negotiate sufficient support for her deal. However, even if this were possible, there remains the challenge of how to deal with Bercow’s ruling? Brexit Secretary, Stephen Barclay, not always known for his own consistency in voting for motions he has argued for, believes that it would be possible for another vote on the withdrawal deal next

week, particularly if the withdrawal deal contained ‘tweaks’ extracted from the other 27 EU leaders in a meeting Theresa May is attending on Thursday in Brussels.

Alternatively, it’s speculated, should the government feel confident it has support for the deal, they might move a vote to overturn Bercow’s ruling. As Barclay asserts, Bercow has himself stated in the past that if Parliament is guided only by precedent it is possible that “nothing ever would change”.

Robert Peston, the ITV journalist, in a tweet has stated his thoughts on what will be contained in Theresa May’s letter:

“Her ministers think she will request a delay until 30 June, predicated on her somehow getting her deal ratified by MPs – with an option of an extension to the end of 2020 in the event she ever concedes her own Brexit plan is definitely an ex-parrot (or dead, for the few of you too young to remember Monty Python).

“May’s hope is that if this delay schedule is agreed as a legally binding text then it would have the effect of amending her deal – such that the speaker could not then block her holding the meaningful vote for a third time.”

Should Theresa May have to request a much longer extension to Article 50 than three months, though the potential for a long extension offers comfort to those who disagree with Brexit because they believe it will mean it becomes so bogged down it ultimately means the process has failed, such a threat would cause consternation among Brexiteers. The government undoubtedly calculate that faced with a long delay causing ‘no Brexit’, those MPs who hate the current withdrawal deal would see it as the lesser of two evils.

It should be remembered that, unless there is a vote in Parliament to the contrary, the only certainty is that the UK will leave the EU on 29th March. Whilst such a change may appear to be entirely logical to avoid economic catastrophe, Brexit, from the moment that David Cameron announced the intention that there would be a referendum on continued membership of the EU, has shown that nothing can be taken for granted.

Brexit has caused infighting among MPs in the two main parties and undermined authority in their leaders. Brexit has created serious challenges to Parliamentary procedure. Brexit has potentially soured relationships with the other EU members that will require sustained effort to improve. Brexit continues to undermine business confidence with the attendant consequences for investment, growth wealth and, of course job creation and prosperity that is urgently needed.

Most worryingly, Brexit has created divisions in communities across the UK, particularly in Northern Ireland which has experienced over 20 years of peace since the signing of the 'Good Friday Agreement' in 1998. As very recent events show with appalling clarity, those who believe violence is legitimate pursuing their objectives need little encouragement.

We appear to be experiencing 'Gubu' moments on what seems like a daily basis. Parliament needs to find a way to resolve the current crisis surrounding Brexit with urgency. What is absolutely certain is that continued delay will heighten uncertainty and tension. This is not good for any of us.