

'There May be trouble ahead':

Brexit after the election

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In advance of the General Election of 8 June 2017, Theresa May presented her decision to bring about this early poll to a significant extent in European terms. She dwelt on the claim that a resounding victory would enhance her bargaining position in the coming negotiations with the European Union. A previous Federal Trust paper, *The 2017 General Election: a mandate for Brexit?* addressed this claim. It concluded that the size of the UK government majority in the House of Commons would not be a preeminent concern for the EU and its remaining member states, and would not in itself lead to their countenancing compromising fundamental material objectives. A more satisfactory explanation of the early election was that it was intended by May to service the requirements of domestic political management.

Specifically, May sought to strengthen her personal authority and that of her government within Parliament and beyond. She hoped to discourage resistance from the House of Lords and delegitimise any complaints from the devolved territories and any political opponents of Brexit. She hoped to obtain a mandate not only for Brexit but for Brexit of a particular variety – entailing clear departure from the Single Market and Customs Union – while reserving for herself the discretion to finesse the precise way in which these outcomes were attained. Crucially, May sought to insulate herself against rebellion from within her own party. It might come from a variety of wings according to the particular course of

developments. On past evidence, however, it was those who were particularly hostile to the EU who were most likely to create concerted difficulties for May, if they felt that a supposed obligation to attain a firm break from EU membership was not properly being implemented.

The attainment of all these political benefits was predicated on May securing a substantial increase – possibly reaching three figures – in the Commons majority she inherited from her predecessor as Conservative Prime Minister, David Cameron. When she sought the early dissolution, opinion research suggested such an outcome was likely, and the Labour Party appeared to be a likely weak opponent. However, in the event, May lost her majority in the Commons and is now dependent upon the Democratic Unionist Party (DUP) to retain its confidence. The decision to call the election was May's own. She did not consult with Cabinet. The precise nature, extent and durability of the political benefits that could have accrued to May had she secured a substantial victory are necessarily matters of speculation. That her failure to do so has inflicted serious damage upon her – along with her government and party – is not. The loss of a Commons majority is a clearly measurable problem. Less tangible but beyond doubt is the loss of credibility May has endured. Her decision to bring about the early election, the nature of the policy programme she constructed and the nature of the campaign she conducted – which, importantly,

focused on her personal leadership – all reflect poorly on the Prime Minister. But what precisely this serious and self-inflicted political wound means for the European issue, which was the major motive for her error, requires closer examination.

A first observation is that May's standing within Cabinet is diminished. Her political capital is reduced and her domineering style has been seen to fail. Cabinet members will feel more able to assert themselves than they would in different circumstances – and might see a need to do so in the difficult circumstances that face them. In advance of the election there was speculation – whether fed by her team or not – that she intended to bring about a more substantial reshuffle than ultimately she felt able to do. Consequently, some senior members of her Cabinet, who were on either side of the referendum, might feel that they only remain in their posts because of May's failure to secure a better result. A complication here from the EU perspective is that pressure on May can come from more than one direction. Philip Hammond, the Chancellor of the Exchequer, now seems more able to promote the idea of a Brexit that maximises continuity, with a significant transitional component. Yet it is equally likely that others in the Cabinet will feel less restrained than they might otherwise do in forcing her towards a more radical path of departure. A further problem May faces with her Cabinet is that if and when there is an effort to force her removal from office, participants in it – and possibly her successor as Prime Minister – will come from within it.

Similar considerations apply to the Conservative parliamentary party as a whole. The existence of a substantial group firmly committed to departure and suspicious of compromises in negotiations with the EU will persist as before. It is plausible that this wing could at some point be a source of demands that the UK opt for 'no deal', on the grounds that the exit terms on which the EU is insisting are unacceptable. Such a campaign is likely to find supporters within Cabinet itself. Yet in the new parliamentary environment other Conservative MPs who are less hostile towards the EU might also see an opportunity to assert themselves. They could seek to take advantage of a weakened leadership, and might regard the election result as calling into question the EU policy advocated by May. The prospect of a parliamentary rebellion is a problem for any government, especially when the party holding office lacks a majority of its own

in the Commons. An actual defeat is more serious still. It seems likely that a revolt by Conservatives less hostile to the EU, if it occurred, would connect with others in the Commons and perhaps thereby attain a majority, an option probably not open to Eurosceptic Conservatives defying their party's whip.

This observation leads to consideration of the wider parliamentary position. The Conservative government now lacks a majority in each House. One of May's apparent motives for the General Election was to be able to claim a democratic mandate. She seemed to hope she could extend the compliance over Brexit she had so far enjoyed in the Commons to the Lords. Instead she has expanded uncertainty from the Lords to the Commons. In both the Commons and the Lords supporters of 'leave' in June 2016 seemingly comprised only minorities. Yet the supporters of "remain" have so far largely felt obliged to appear to abide by the referendum result (with slightly more resistance to the particulars coming from the Lords). Perhaps this position could change.

The idea that elections (or indeed referendums) can imbue proposals such as those contained in manifestos with a special status overriding the more regular principles of representative democracy is always deserving of scepticism. But since no party won the election outright, this doctrine of the mandate becomes unsustainable, even within the terms of those who adhere to it. May has already dropped prominent elements from her manifesto: is there any reason, from this point of view, that the version of Brexit she advocates, or indeed leaving the EU at all, could not follow them? A counter argument here involves the Labour Party. Following the referendum, the Leader of the Opposition, Jeremy Corbyn, who did not campaign for the 'remain' side with the same enthusiasm he displayed during the 2017 General Election, accepted Brexit as a *fait accompli*. Consequently both the main parties contested the recent parliamentary election on the same basic premise, that leaving was a foregone conclusion. Supporters of Brexit have therefore noted that parties committed to UK departure from the EU received the overwhelming majority of votes cast and seats won (the Liberal Democrats were the party most clearly committed to a revision of the policy).

Their point cannot be ignored. But we should not necessarily conflate a vote for a party with support for

the entirety of its manifesto, or a given component of it. (Indeed, some patterns, especially in London and the South East, should properly be construed as suggestive of tactical voting against the Conservative Party over the EU issue.) The idea of some kind of composite mandate based on an arbitrary comparison of election programmes has no clear place in established constitutional thought in the UK. There are problems inherent in the proposition that a party of government can supplement insufficient levels of authority from the programme of an opposition party which it fought at a recent election. No Conservative was claiming in advance of the election that those who supported Brexit might just as well vote Labour as Conservative. They preferred instead to stress the idea that only May could be trusted to deliver the best outcome for the UK. As with some of the interpretations that have been placed on the EU referendum result, there is necessarily selective retrospective inference at work. Furthermore, those who see in the General Election a definitive popular endorsement of departure from the EU are firm in their rejection of the idea of a further referendum – suggesting that their confidence in public opinion is not as great as they might claim. Moreover, even if the General Election could be held to have produced some kind of enhanced Brexit mandate, for how long does it apply? Labour is not subject to the same expectation as the Conservatives that it needs to maintain the policy stance on which it contested the election, since it did not form a government. It is entirely acceptable for the opposition to review its approach – indeed to do otherwise would seem peculiar.

Whatever the position taken by Labour and other opposition parties at the General Election and afterwards, it is the Conservatives who hold office. It is they who now have to govern on a basis of diminished formal and practical authority and with a questionable mandate. In the Lords, they may assert that the so-called ‘Salisbury Addison’ principle still applies to their legislative programme. But decisions that members of the second chamber make about the extent to which they should assert themselves always contain a political component. They will now feel more able to resist than they would if faced with an enlarged Conservative majority in the Commons.

One party other than the Conservatives that will have a direct impact upon government is the DUP. Its

approach to the EU issue exemplifies almost to the point of caricature some of the tensions in the Brexit agenda and the difficulties that the Conservative government is likely to face in pursuit of its present policy. The DUP was among the most enthusiastic advocates of a ‘leave’ vote; yet is also as hostile as any regarding the consequences of the course of action it supports. It demands departure from the EU, yet also that there should be no negative impact for the part of the UK that has a land border with it. How this attitude will manifest itself as negotiations unfold remains to be seen, but parliamentary arithmetic means that the position of the DUP now has a magnified importance out of proportion to the strength of the party in the House of Commons and irrespective of the rationality or otherwise of its stance. In fact, it might be argued that the idea of a minority group imposing its will is a familiar one to observers of the rise of Euroscepticism within the Conservative Party. It is only the extent of the discrepancy between size and influence, rather than the basic proposition, that enhances the absurdity.

At present political speculation in the UK centres around the question of how long May can continue as Prime Minister. Certainly it seems implausible that she will be allowed – or wish – to lead the party into another General Election. But the party will at present wish to avoid another poll, which it will genuinely fear that Labour could win. Moreover, the proposition of removing May is problematic. There is as yet no obvious successor, and not even much evidence of a credible candidate who wishes to take on the role. A contest, if it occurred, would be difficult to manage in conjunction with a minority government and ongoing Brexit negotiations, particularly if it called into doubt what might be the stance towards the EU of the new Prime Minister. One calculation could be that it is better to let May oversee Brexit and then depart. She could retain the premiership until this point entirely by default.

But to assume this scenario is possible could well be to underestimate the disruptive force of the European question within the Conservative Party and UK politics. It is, after all, the main reason for the present turbulence and instability. To expect more upheaval is reasonable. It is beginning to become manifest that the bargaining position of the UK with respect to the EU is not as great as some Brexit enthusiasts believed or suggested it

might be. For instance, any idea that work on a Free Trade Agreement could be commenced in parallel with exit negotiations and discussion of citizenship has now been dispelled. From the Eurosceptic perspective, the 'bad deal' to which 'no deal' is supposedly preferable may be coming on to the agenda. Those who share this disposition could come to insist that the UK withdraw from negotiations, particularly when issues such as compensation payments for leaving and transitional periods become prominent. At this point a concerted effort to remove May could begin. If a leadership contest were to occur, others who were less hostile to the EU could consider entry on this platform. Or if May capitulated to pressure and opted for 'no deal', it might be the time to challenge her. If any one of these scenarios came about, it would be plain that, in holding a referendum on EU membership, David Cameron did not manage to prevent a more serious conflict in the Conservative Party, but ultimately only postponed it, and possibly made it more pronounced when it did occur.

Because of the General Election that has precipitated the latest variant in the post-EU referendum instability afflicting the UK, it is important to consider the parliamentary role of parties other than the Conservatives. It seems unlikely at present that the DUP will see any advantage in triggering another General Election or supporting another government than the current minority administration. An administration that did not include Conservative MPs in its base of support would, in any case, be exceptionally fragile. However, if a 'no deal' Brexit became likely, or if public opinion visibly turned against the Brexit enterprise either because of this threat, or a growing perception that a moderated form of Brexit is a pointless exercise, the time might become ripe for a majority in the Commons, comprising both Conservative and Labour MPs, to consider its position. It might be that a change of policy is not attainable within existing party structures; and aside from the problems with May, the presence of Corbyn in the Labour leadership could be an obstacle both to a change of approach over Europe and to cross-party collaboration. It will fall to the judgement of those concerned to determine whether circumstances call for a reconfiguration of the British party landscape, whether of a temporary or more lasting nature. But a majority in the Commons can achieve much, and can certainly override the minority with which May's miscalculation has left her.

Appendix

Party representation in the House of Commons at the outset of the 2017 General Election (figures for the close of the 2015-17 Parliament in brackets)

Conservative	317 (330)
Labour	262 (229)
Scottish National Party	35 (54)
Liberal Democrats	12 (9)
Democratic Unionist Party	10 (8)
Sinn Fein	7 (4)
Plaid Cymru	4 (3)
Green Party	1 (1)
Independent	1 (4)
Speaker	1
Social Democratic and Labour Party	0 (3)
Ulster Unionist Party	0 (2)
UK Independence Party	0 (1)
Total	650 (649)