None of the above
How the UK Voted but Didn’t Decide on Brexit

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1. Introduction

On 23 June 2016 the electorate in the UK cast their vote in a referendum on Brexit. The results showed a majority in favour of leaving the European Union. Consequently, Prime Minister David Cameron who was in favour of remaining in the European Union stepped down. Subsequently, Theresa May was elected as the new Conservative Party leader, becoming Britain’s 76th prime minister.2

Prime Minister May who used the slogan ‘Brexit means Brexit’ promised to deliver Brexit. However, the Withdrawal Agreement she negotiated with the European Commission was not accepted in the British parliament.3 The House of Commons voted three times on motions related to the Withdrawal Agreement, which was called ‘May’s deal’.4 But all three times the Commons voted her deal down.5 When she tried to arrange for a fourth vote on her deal she lost the support of her own party. Conclusively, she announced on 24 May 2019 that she was stepping down as Tory leader and therefore as prime minister, an office she had held for less than three years.

After the defeat of the government in each of the three so-called ‘meaningful votes’ on the Withdrawal Agreement, motions were presented that blocked a no-deal Brexit. Interestingly, all of these motions against a no-deal Brexit were passed.6 This implied that the British parliament did not want the UK to leave the EU with May’s deal but neither without a deal. As Prime Minister May stated: ‘The world knows what this house does not want. Today we need to send an emphatic message about what we do want.’7 In order to decide what alternative to May’s deal would be acceptable to Parliament a series of so-called ‘indicative votes’ were held.8 On 27 March 2019 a first round

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1 I have respectfully borrowed the title ‘None of the Above’ from the report by McLean, Spirling and Russell mentioned in footnote 28.
2 Robert Walpole is considered Britain’s first prime minister (1721-1742).
4 According to the most authoritative work on parliamentary procedure in the UK (Erskine May, Parliamentary Practice) the so-called 1604 rule states: ‘A motion or an amendment which is the same, in substance, as a question which has been decided during a session may not be brought forward again during that same session.’ Thus, the propositions put forward had to be formally different. However, in practice the question remained whether the Withdrawal Agreement was accepted.
5 Commons, meaningful votes: motion 293 (15 January 2019); motion 354 (12 March 2019); motion 395 (29 March 2019).
6 Commons votes on a no-deal Brexit: 29 January 2019 (motion 312, passed 318-310); 13 March 2019 (motion 359, passed 321-278); 3 April 2019 (motion 409, passed 313-312).
7 Debate in Commons 29 January 2019.
8 As a result of an amendment tabled by Oliver Letwin (motion 373 passed 329-302, 25 March 2019).
of eight indicative votes were held. However, all of these options failed. A second round of indicative votes was held on 1 April 2019 on four of the proposals that had failed in the first round but might pass if reconsidered. Surprisingly, however, none of these alternative options passed.

The issue I want to investigate is what actually went wrong? Could there have been a majority for one of these proposals, and why were there so many abstentions? Successively, I’ll discuss the referendum, the quantitative outcome and its perceived meaning, and the form and outcome of the ‘meaningful votes’ and the ‘indicative votes’ in Parliament, and some historical parallels with the unsuccessful voting efforts on reforming the House of Lords.

2. The Brexit Referendum

The question put on the ballot paper of the referendum on Brexit on 23 June 2016 was: ‘Should the United Kingdom remain a member of the European Union or leave the European Union.’ Nine days before the referendum took place, almost two hundred academics from universities in the UK led by Alan Renwick of University College London protested in an opinion in the Telegraph: ‘A referendum result is democratically legitimate only if voters can make an informed decision. Yet the level of misinformation in the current campaign is so great that democratic legitimacy is called
The main point was that the public, i.e. the voters were being deliberately misinformed and were therefore unable to make an informed decision.

Next to the issue of misinforming the public, the Royal Economic Society reported on the referendum question itself. From a scientific perspective of voting theory, Colignatus argued: ‘The Brexit referendum question can be rejected as technically unsatisfactory. One could even argue that the UK government should have annulled the outcome based on this basis alone.’ In short, the question is misleading. The problem is that this ‘question assumes a binary choice – Remain or Leave – while voting theory warns that allowing only two options can easily be a misleading representation of the real choice.’ The hidden complexity in the case of the Brexit question was: what does leave actually mean? Does leave imply the adoption of another framework, such as EFTA or WTO? Will the UK remain intact or split? Although heavily criticized, the Electoral Commission argued that the recommended question was clear and straightforward for voters.

Another difference from earlier referendums in the UK was that the Brexit referendum had no clear yes-or-no question but two statements about two different issues: leave and remain. The implicit other options were, for instance: leave with a deal, leave without a deal, or remain. The referendum, for instance in Scotland on the creation of a

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9 Renwick, A. et al., The Telegraph, 14 June 2016, Opinion.
11 Colignatus 2017.
12 Colignatus 2017.
national assembly contained the following statements: ‘I agree there should be a Scottish Parliament’ and ‘I do not agree there should be a Scottish Parliament’. Although the Brexit referendum statements were meant to be clear, the presence of other options left room for a stalemate. But even then, a deadlock was possible. One of these options is called a ‘cycle’. ‘Take for example three candidates A, B and C and a particular distribution of preferences. When the vote is between A and B then A wins. We denote this as A > B. When the vote is between B and C then B wins, or B > C. When the vote is between C and A then C wins or C > A. Collectively A > B > C > A. Collectively, there is indifference. It is a key notion in voting theory that there can be distributions of preferences, such that a collective binary choice seems to result into a clear decision, while in reality there is a deadlock in hiding.’

A third issue was the legal consequence of the Brexit referendum. Although a referendum as such in the UK is non-binding, the government unconditionally promised to implement the result of the referendum. That was an important difference from the referendums held in Scotland, Wales and Northern Ireland in 1997 and 1998 on a form of self-government and the creation of national assemblies. The Welsh, Scottish and Northern Ireland referendums were pre-legislative and ‘only’ investigating whether there was support for the creation of national assemblies. These referendums also stipulated that a national assembly could only be created if supported by at least 50% of the votes and 40% of the electorate. These minimum requirements were met and the national assemblies were created in 1998 (Northern Ireland) and 1999 (Scotland and Wales). These criteria, however, were not met in the Brexit referendum. In fact, the Brexit referendum had no criteria at all for meeting certain minimum requirements.

A fourth issue related to the Brexit referendum was the composition of the electorate. The four constituent countries of the UK: England, Wales, Scotland and Northern Ireland, do not have equal terms on the right to vote. Whereas the minimum age to vote is 18 years, in Scotland 16 and 17-year-olds were allowed to vote in the Scottish independence referendum of 2014. The Electoral Commission reported positively on this expansion: ‘This referendum showed that for young people, indeed for all voters, when they perceive an issue to be important and are inspired by it, they will both participate in the debate and show up on polling day’. The rationale was that young people would be most affected by the outcome of a referendum and therefore should take part. However, a proposal by the House of Lords to lower the minimum age to 16 years in the Brexit referendum was rejected by the House of Commons (303-253). The argument made on behalf of the government by Lord Faulks was: ‘We want to avoid any allegations of interference and we fear that changing the franchise, including this particular change, could be seen as doing exactly that and could seriously undermine the legitimacy of the referendum. (…) However, we have to ask ourselves the

14 The referendums in Wales and Northern Ireland contained the same type of yes-or-no statements: ‘I (do not) agree there should be a Welsh Assembly’, and: ‘Do you support the [Good Friday] Agreement reached at the multi-party talks on Northern Ireland and set out in Command Paper 3883?’
15 Colignatus 2017.
17 House of Commons, 8 December 2015, division 144 against the Lords amendment to extend the franchise for the European referendum to 16 and 17-year-olds (303-253). The House of Lords had accepted this amendment on 18 November 2015 (293-211).
whether, in our desire to enthuse 16 and 17-year-olds, we may be in danger of placing too great a responsibility on them’. Lord Tyler (Liberal Democrat) very subtly argued against this with the following rebuttal: ‘Will the noble Lord tell us whether he has seen the film ‘Suffragette’? The argument that he has just been advancing was the argument for not giving women the vote until after the First World War and then for not extending it to those under the age of 28. Those arguments were deployed by his contemporaries, as it were, of that period.

Finally, the right to vote was limited to: British citizens, Irish citizens, or Commonwealth citizens, who were resident in the UK or Gibraltar, were registered to vote and were not legally excluded from voting. Additionally, British citizens who had lived abroad for less than 15 years were also allowed to vote. Thus, British citizens who had been living abroad for a longer period were excluded. Also excluded from voting were EU citizens resident in the UK, whereas a possible Brexit would probably have substantially influenced the legal status of these latter categories.

3. Results of Brexit Referendum

The outcome of the Brexit referendum ‘stunned’ the world, so it seems on reading the Washington Post or the BBC website. But if one studies the polls and the comments more closely it is not improbable that a too-close-to-call prediction was overruled by a combination of wishful thinking and gamblers who simply did not believe that Brexit could really happen.

The often-stated result of the referendum was that 48% voted to remain and 52% to leave the EU. However, that is not the whole picture. The first remark is that this is the overall result of the UK. If one looks at the results per country there is an interesting difference. Two countries, Scotland (62%) and Northern Ireland (56%) voted to remain, whereas the other two countries Wales (53%) and England (53%) voted to leave. One might call that a draw. However, if you include those who did not vote, either because they were not interested or because they did not know what to vote for, the picture becomes different: each of these three categories gets about a third of the votes. This also means that only 38% of the electorate voted to leave, which would not meet minimum requirements in other referendums. As mentioned above, however, there were no minimum requirements to meet in this referendum.

18 House of Lords, 18 November 2015, volume 767, c.175-176.
19 *Suffragette*, movie by Sarah Gavon (2015), on the struggle for women in 1912 in UK to obtain the right to vote.
20 House of Lords, 18 November 2015, volume 767, c.177.
The actual differences between the number of leave voters (17.4 million) and remain voters (16.1 million) was 1.3 million: 2.7% of the electorate of 46.5 million. Interestingly, the number of abstentions (28%) was ten times the majority of 2.7%. The results of the Brexit referendum have been analysed, for instance on the issue of age. According to the website ‘Lord Ashcroft Polls’ age correlates with voting behaviour: ‘The older the voters, the more likely they were to have voted to leave the EU.’ So, if the 16 and 17-year-olds had been allowed to vote then the electorate would have increased by some 1.5 million voters. If there is a clear correlation between age and voting behaviour, it would be fair to state that three-quarters of these young voters would have voted to remain. Considering a small percentage of abstentions amongst these youngsters, probably about 1 million extra remain votes would have been cast, which would have almost closed the gap between leave voters and remain voters.

If we also take into account the preferences of the 3.8 million EU citizens resident in the EU and the 1.3 million British citizens who had been resident in the EU for more than 15 years, who had not been allowed to vote, one might seriously question whether the outcome of the Brexit referendum actually reflected ‘the will of the people’.

### 4. May’s Deal in Parliament

Prime Minister May tabled her deal on Brexit three times and lost these meaningful votes three times in the Commons. These results are interesting if the changes in voting behaviour are observed. First, it has to be noted that the defeat decreased: from the historical loss of 230 on the first Brexit vote (202-432), the loss was reduced to 149 in the second vote (242-391) and finally ended with a loss of 58 (286-344) in the third. Overall, one might say that each time May’s deal was tabled, the results ‘improved’: the second vote showed a reduced gap of 81 (from 230 to 149) and the third vote reduced that gap again to 91 (from 149 to 58). Simple mathematics would have recommended having a fourth vote: another reduction of an average between 81 and 91 would have changed the defeat into a victory: 328-300. That, however, did not happen: politics never obeys the logic of a mathematical model.

Every MP who was allowed to vote did so in the first vote (15 January 2019). In this period there was a vacant seat (Newport West) so the totals did not add up to 650 but 649. The only non-voting MPs were those who never vote, i.e. the MPs of Sinn Fein (7), the Speaker (1) and his deputies (3), and the Tellers (4). Thus, the total number of votes was 634 and an absolute majority could be reached with a minimum of 318 votes. Although everyone voted in the first vote, this changed in the second and third votes. The second vote (12 March 2019) showed one abstention. The third vote (29 March 2019) showed 4 abstentions. The only abstention in the second vote came from Mr Douglas Ross, Conservative MP for Moray. Mr Ross had voted No in the first and abstained in the second. Interestingly, Mr Ross changed his mind again in the third round and voted Aye. The remaining changes comparing votes1 and 2 were not unexpected: 39 Conservatives and 1 Labour MP changed from No to Aye. The third vote showed another 41 Conservatives and 2 Labour MPs changing from No to Aye. Apart from the move of Mr Ross, 4 MPs abstained in the third vote (2 Labour, 1 SNP and 1
Independent). These changes were very effective. The ratio of the change in majority over the number of changing votes is the effectiveness ratio. This ratio varies between 0 (no effect) and 2 (maximum). The change in majority in vote 2 (81) was caused by 41 MPs; an extremely high effectiveness ratio of 81/41 = 1.98; vote 3 provided a change of 91 with a comparable high effectiveness ratio of 1.90.

### Table 1 Meaningful votes on May’s deal

<table>
<thead>
<tr>
<th>Ayes</th>
<th>Noes</th>
<th>Majority</th>
<th>Abstentions</th>
<th>subtotal</th>
<th>Others</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brexit vote-1 motion 293 15-01-2019</td>
<td>202</td>
<td>432</td>
<td>-230</td>
<td>0</td>
<td>634</td>
</tr>
<tr>
<td>Brexit vote-2 motion 354 12-03-2019</td>
<td>242</td>
<td>391</td>
<td>-149</td>
<td>1</td>
<td>634</td>
</tr>
<tr>
<td>Brexit vote-3 motion 395 29-03-2019</td>
<td>286</td>
<td>344</td>
<td>-58</td>
<td>4</td>
<td>649</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>change vote 1-2</th>
<th>change vote 2-3</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$\Delta$ votes</td>
<td>$\Delta$ maj.</td>
</tr>
<tr>
<td>all parties</td>
<td>41</td>
<td>-81</td>
</tr>
</tbody>
</table>

An interesting phenomenon occurred every time after these lost votes on May’s deal. The Commons voted three times against a no-deal Brexit, meaning that although May’s deal was voted down a majority of the Commons was against leaving the EU without a deal. These three motions were not the same, due to the ‘1604-rule’. However, the tenor was the same: to prevent the UK leaving the EU without a deal. The first vote had a majority of 8. The second even had a majority of 43, but the third and last vote had the smallest margin possible: just one. The changes did not occur within one party. Vote 1 compared to vote 2 showed for the Conservatives: 5 moving from No to Aye; 2 from Aye to Abstention; 1 from Abstention to No; and 26 from Abstention to No. Thus, 34 Conservatives changed their mind resulting in a majority change of 33 (effectiveness ratio of 0.97). Labour was divided: 3 changed from Aye to Abstention, but another 3 changed from Abstention to Aye, an effectiveness ratio of zero. The results of the third vote against a no-deal Brexit showed 52 changes. However, of the 26 Conservatives that changed in the second vote from No to Abstention, 24 changed back in the third vote from Abstention to No. Likewise, 4 Conservatives who changed in the second vote from No to Aye, changed back from Aye to No in the third vote.

24 ‘Others’ refers to votes which are not cast: Speaker (1), Deputy Speakers (3), Sinn Fein (7) and Tellers (4).

5. Indicative Votes on the House of Lords Reform

In contrast to the meaningful votes on May’s deal, the indicative votes on 27 March 2019 and again on 1 April 2019 showed a different, less organised pattern of voting. Holding a series of indicative votes was meant to break a deadlock by investigating other options. In theory, it promised a way out. First, MPs could put forward their preferred alternative to May’s deal to the Speaker. Second, the Speaker selected the proposals which would be debated and third, after the debate, the MPs could vote on each proposal.

This had been done before. The preamble to the Parliament Act 1911 states that the Act is a temporary measure only: ‘it is intended to substitute for the House of Lords as it at present exists a Second Chamber constituted on a popular instead of hereditary basis, but such substitution cannot be immediately brought into operation’.26 This House of Lords reform was debated several times in the Commons. However, three attempts to bring this substitution into operation failed in 1949, 1968 and most recently in 2003. This effort to reform the constitutional structure of the UK was to a certain extent comparable with the efforts to deliver on Brexit: it failed repeatedly.

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26 Preamble Parliament Act 1911 (1 & 2 Geo. 5 c.13).
In 2003, eight propositions were put forward in a series of indicative votes on the House of Lords reform. These proposals varied from: (a) abolishment of the House of Lords; (b) wholly appointed; (c) wholly elected; (d-h) six different options for a hybrid House of partly elected and partly appointed peers. Voting took place in a regular manner: a division was called and MPs had to walk through one of the lobbies to register their vote. Thus, the planning was that eight divisions would be called.

At the end of the day, the Commons had rejected all options: a surprising result. McLean, Spirling & Russell have written a rather interesting article on this attempt to reform the House of Lords trying to explain what Parliament did. ‘How, then, did the Commons come to vote against all eight options put up to it, leading itself into the contradiction of voting for the status quo by voting against the status quo?’ The authors provide three hypotheses to explain the paradox. First, the loss of the abolition vote could have triggered actions from a group of MPs, which influenced the outcome of the other votes. Second, MPs did not succeed in coordinating their votes across the seven remaining options. Third, some MPs made mistakes, which made a crucial difference given the closeness of the outcome on some options. The last hypothesis is illustrated by the fact that in the absence of party whips to direct the MPs into the ‘correct’ lobby to vote, and the fact that a number of divisions were not called, some MPs did not vote on the vote they thought they were voting on. After the division on the wholly elected option, it was expected that a division would be called to vote on the 20% elected option. However, that did not occur: The Speaker called the division off and his judgment was not challenged. Subsequently, the Speaker presented the next option and called a division on the 80% elected option. However, not all MPs were aware of that and had their no vote for what was assumed the 20% elected option registered for the 80% elected option which they actually supported. Through this mistake the 80% elected option failed (283-286); without the mistake it would have passed (287-282), and the House of Lords would have been reformed in 2003.

6. Indicative Votes on Alternative Brexit Deals

Initially, 16 proposals were put forward to the Speaker of which 8 were selected. As none of the 8 proposals passed in the first series, a second series of indicative votes were held on 4 favourable options. The voting method was using ballot papers, rather than having MPs walk through one of the lobbies to register their vote. Some have argued that the indicative votes held on Brexit would have worked better had a different voting system been used – either “exhaustive voting”, the “alternative vote”, or “majority judgement”. Anyhow, this method of indicative votes using ballot papers had no precedent as the 2003 votes on the House of Lords reform used ‘classical’

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27 These options were: 20% elected - 80% appointed; 80%-20%; 40%-60%; 60%-40%; and 50%-50%.
division on each option. Four proposals as an alternative to May’s deal were put forward twice: (1) Customs Union (between the UK and the EU) (Conservative); (2) Common Market 2.0 (membership of EFTA and EEA) (Conservative); (3) Public vote (to confirm any Brexit deal) (Labour); (4) Revoke Art. 50 (no Brexit at all) (Scottish National Party).

### Indicative votes on Brexit alternatives

<table>
<thead>
<tr>
<th></th>
<th>Customs Union</th>
<th>Common Market</th>
<th>Public vote</th>
<th>Revoke Art. 50</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>vote-1</strong></td>
<td>Ayes</td>
<td>Noes</td>
<td>Ayes</td>
<td>Noes</td>
</tr>
<tr>
<td></td>
<td>265</td>
<td>271</td>
<td>261</td>
<td>268</td>
</tr>
<tr>
<td><strong>vote-2</strong></td>
<td>273</td>
<td>276</td>
<td>268</td>
<td>280</td>
</tr>
<tr>
<td><strong>Majority</strong></td>
<td>−6</td>
<td>−3</td>
<td>−94</td>
<td>−21</td>
</tr>
<tr>
<td><strong>Abstention</strong></td>
<td>102</td>
<td>89</td>
<td>166</td>
<td>95</td>
</tr>
<tr>
<td><strong>Others</strong></td>
<td>11</td>
<td>11</td>
<td>11</td>
<td>11</td>
</tr>
<tr>
<td><strong>total</strong></td>
<td>649</td>
<td>649</td>
<td>649</td>
<td>649</td>
</tr>
</tbody>
</table>

Next to the fact that all these options were defeated, it is clear that revocation of Art. 50, which would call off the deal completely including the ticking clock of Brexit day, was the least supported option. The majority of Noes only changed from 109 to 101. However, it took 60 MPs to get this change of 8 (effectiveness ratio: 0.13). This was caused by opposing efforts: 10 MPs changed from Aye to Abstention, but 19 changed in the opposite direction from Abstention to Aye; 3 changed from Aye to No, but 1 moved from No to Aye; and 15 from No to Abstention, but 12 from Abstention to No. One might think that such a change was caused by one of the parties. In this case, it was not. Changing one’s mind in opposite directions occurred within parties. On this proposal, 20 Conservatives changed their vote resulting in a majority change of 1 (effectiveness ratio: 0.05). With Labour, a similar thing happened although less effectively: 31 votes changed the majority to 14 (ratio: 0.45).

The story with the Customs Union is a bit different. Although both indicative votes failed, the majority remained very small: −6 and −3. The effectiveness ratio here was even smaller than the one for the revocation option: 0.08. It took 38 changing votes to

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33 Tellers were not used.

34 10 more Labour Ayes and 4 less Labour Noes.
change the majority to 3. If this effectiveness is inspected on party level, big differences become apparent. 21 Conservatives changed their vote only influencing the majority by 1 (0.05). On the other hand, 8 Labour MPs changed their vote influencing the majority by 6 (0.75). The LibDems were very effective in this vote: 4 changing votes changed the majority to 4. Finally, 5 Independent MPs changed their vote in such a way that their effectiveness was zero. The votes on the Common Market option showed the biggest change of majority. This change of 73 was caused by 138 changing votes (ratio: 0.53). Here 31 Conservatives changed the majority to 7 (0.23), and 58 Labour MPs changed the majority to 59 (1.0) in the opposite direction. 32 SNP MPs changed the majority to 32 (1.0), and 4 LibDems caused a majority change of 2. Overall, 22% of the MPs changed their vote in an uncoordinated way. Subsequently, it still failed but the majority moved from -94 to -21. The fourth proposal in the series of indicative votes was to hold a public vote and was the only proposal by the Labour Party showing a decreasing majority from -27 to -12. This change of 15 was brought about by 36 votes (ratio: 0.42). Interestingly, this was the only vote that showed a decrease in the majority (of Noes) by all parties.35

7. So?

There was a misleading campaign, an ambiguous question, an unclear choice, a non-binding referendum on which the results would nevertheless be implemented, and an electorate whose composition was at least not optimal. So, one might seriously question whether the outcome of the Brexit referendum actually reflected ‘the will of the

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35 Except for the SNP that realized only one change from Aye to Abstention.
people’. Initially, it seemed implausible that all options were voted down, but it happened. In particular the number of abstentions that could have made a difference is noticeable. Most likely the absence of coordination of voting and a questionable choice for the method of the indicative votes (ballots) determined the negative results. British politics has manoeuvred itself into a deadlock. Looking back, one might say that Murphy’s law applied: ‘if there’s any way they can do it wrong, they will’. The real question is whether British politics is able to admit that there is a crucial difference between voting and deciding.