

'The Brexit Referendum: taking the longer-term view'

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- Martin Westlake: 'Chronicle of an Election Foretold: The Longer-Term Trends Leading to the *'Spitzenkandidaten'* Procedure and the Election of Jean-Claude Juncker as European Commission President' (LSE LEQS N° 102/16 January 2016)
- <https://www.youtube.com/watch?v=LLCF7vPanrY>

Gabriel Garcia Marquez: *Chronicle of a Death Foretold* (1981)

- 'The central question at the core of the novella is how the death of Santiago Nasar was foreseen, yet no one tried to stop it.' (Wiki)
- Sense of growing inevitability

- Martin Westlake: 'The Increasing Inevitability of *That* Referendum' (to be published in William Outhwaite (ed.), *Brexit: Sociological Responses*, Anthem Press, 2017)
- Martin Westlake: 'The inevitability of gradualism: the origins of the 23 June 2016 'Brexit' referendum' (forthcoming LSE LEQS research paper)

The longer-term view

Trends and consequences, not just events

1. A world before referendums

- Clement Atlee, 1945: 'I couldn't consent to the introduction into our national life of a device so alien to all our traditions as the referendum which has only too often been the instrument of Nazism and Fascism.'
- Parliamentary sovereignty/Burkean concept of representation

- NATO (4 April 1949)? Council of Europe (5 May 1949)?
- 9 May 1950 Schuman declaration?
- 18 April 1951 Treaty of Paris?
- 25 March 1957 Treaty of Rome?
- UK's first application (1961) 'No agreement will be entered into until it has been approved by the House...' (Harold Macmillan)

Observations

- UK not alone (DK, NOR, IRE)
- Mobilisation of public opinion (the people against the Burkean majority)
- Splits within parties
- 22 November 1962, South Dorset By-Election (previously a Conservative safe seat):
 - Labour (Guy Barnett): 13,783 (15,357)
 - Conservative (Angus Maude): 13,079 (22,050)
 - Anti-Common Market (Sir Piers Debenham): 5,057

- Macmillan 1963 letter to his advisers (and reverse phenomenon now)
- The principle of entry (exit)
- The terms of entry (exit)

2. Enter the concept of a referendum (1967-1972)

- UK's second application (10 May 1967) – joined by DK, NOR, IRE – seen as a 'package'
- 23 April 1972 French referendum
- Ireland (10 May 1972) and Denmark (2 October 1972) referendums
- Norway (25 September 1973) referendum
- United Kingdom: *parliamentary vote* (28 October 1971)

December 1969 Bruce Campbell, MP, moves a bill

- ‘the electors should have the right to decide by way of a referendum whether Great Britain should enter the EEC’ and:
- ‘The three major parties have all declared themselves to be in favour of this country joining the Common Market. It therefore follows that this question will never be an election issue and the people will have absolutely no chance of ever being able to express their views on it through the ballot box at a General Election.’

- April 1972 Neil Marten and Enoch Powell table an amendment to the European Communities Bill calling for a consultative referendum.
- Labour supports!

Observations

- What if UK alone?
- Absence of a written constitution
- Absence of constitutional provisions

3. The referendum becomes a reality (1973-1975)

- 20 May 1971 Paris summit Georges Pompidou and Edward Heath...
the terms
- Labour's February 1974 General Election manifesto:
- 'A profound political mistake made by the Heath Government was to accept the terms of entry to the Common Market and to take us in without the consent of the British people.'

5 June 1975 referendum

- First-ever plebiscite (principle!)
- About the relationship
- About continued membership
- 'Europe was now an issue for parliamentary rebellion' (Crowson)

Potential discordance (Thatcher observation)

- **Mrs. Margaret Thatcher**
- ...It is said that the referendum is advisory or consultative. I believe that if there is a high poll and a clear majority, the result will in fact be binding on Parliament, whatever one may say in law about parliamentary sovereignty. I cannot envisage that a Parliament, whatever individual Members might have thought, if there were a clear vote against—*[Interruption.]* It is not advisory or consultative in the event of a clear result. It would be binding on everyone. [Hon. Members: "No."] It would bind and fetter parliamentary sovereignty in practice...
- **Mr. Jeremy Thorpe**
- The right hon. Lady has enunciated a constitutional principle which some of us found a little difficult to understand. She said that in practice, if there were a large turn-out and a majority one way or the other, Parliament as a whole would be bound. Is she saying that that would over-ride the obligations that Members of Parliament entered into with their constituents at the previous election, which might be entirely different?
- **Mrs. Thatcher**
- ...In law, the result could not fetter Parliament, but I believe that in practice it would... If there were an overwhelming decision one way or the other, I believe that in practice the decision in Parliament would follow the referendum result.
- Excerpt from Hansard HC [888/304-17]. Also available at Thatcher, 1975

4. Maastricht and the referendum Kraken awakes (1992-1997)

- EU membership increasingly consensual within the mainstream parties
- Single European Act (1986) – internal market as a Conservative/Thatcher project
- Growing friction points: Exchange rate mechanism, Social Charter

'Events' 1989 fall of the Berlin Wall and acceleration of history and the Maastricht Treaty

- Thatcher's resignation (22 November 1990)
- 9 April 1992 Major's election (majority of 21)
- 16 September 1992 'Black Wednesday'
- Labour tactics (because of the Social Chapter opt-out)
- Referendums in Italy, Ireland, France, Denmark (x2) (1992 & 1993)
- 7 June 1993 Thatcher calls for a referendum

Run-up to the 1997 General Election; Michael Heseltine ‘the worst judgement of my political career.’

A lengthy discussion took place between Major and Chancellor Ken Clarke, with the Prime Minister pushing for the prospect of a referendum ‘to achieve the semblance of party unity.’ The discussion moved on to the single currency and Heseltine suggested that: ‘as we were not going to do other than keep open the option in the light of events at an unpredictable time, we could consider a referendum if, after the election, we decided to join. This was the formula we agreed and which John subsequently announced. The limitations of the commitment were swept aside by the media. The rest is history, as David Cameron followed much the same route in his bid for the Tory leadership.’ (Heseltine, 2016, pp. 19-20)

A (the?) turning point?

- A Time-Lapse Map of Every Nuclear Explosion Since 1945 - by Isao Hashimoto
- <https://www.youtube.com/watch?v=LLCF7vPanrY>

5. The proliferation of referendum promises (1997-2015)

- 1997
 - Conservative Party
 - Referendum on single currency
 - Labour Party
 - Referendum on the voting system
 - Referendums on devolution in Scotland and Wales
 - Referendum on establishment of London mayor
 - Referendums on regional governments
 - Referendum on single currency
- Liberal Democrat Party
 - Referendums for constitutional issues
 - Referendum on 'any transfer of power to European institutions'
 - Referendum on single currency

2001

- Conservative Party
We will keep the pound
Referendum on 'surrender' of 'any more of Parliament's rights and powers to Brussels'
- Labour Party
Referendum on the voting system
Referendum on single currency
- Liberal Democrat Party
Referendum on the voting system
Referendums on elected regional assemblies
Referendum on single currency

2005

- Conservative Party
We will not join the euro
Referendum on the Welsh assembly
Referendum on the EU Constitutional Treaty
- Labour Party
Referendum on the voting system
Referendum on the EU Constitutional Treaty
Referendum on single currency
- Liberal Democrat Party
Referendum on the EU Constitutional Treaty
Referendum on single currency

2010

- Conservative Party
 - Referendum lock on 'any proposed future treaty that transferred areas of power, or competences'
 - Never join the euro
 - Referendum on any use of a 'major' ratchet clause in the Lisbon Treaty
- Labour Party
 - Referendum on the voting system
 - Referendum on reform of the House of Lords
 - Referendum on single currency
- Liberal Democrat Party
 - Referendum on national constitution
 - In/out referendum 'the next time a British government signs up for fundamental change in the relationship between the UK and the EU'
 - Referendum on single currency

2015

- Conservative Party
 - No change to voting system
 - No to the euro
 - In/out referendum on a negotiated 'new settlement for Britain in Europe' before the end of 2017
- Labour Party
 - 'We will ... give more power to people'
 - No to the euro
 - In/out referendum lock on any 'transfer of powers from Britain to the European Union'
- Liberal Democrat Party
 - In/out referendum on 'any Treaty change involving a material transfer of sovereignty from the UK to the EU'

6. The proliferation of referendums in and about the EU

- Amsterdam: Ireland (1998) and Denmark (1998)
- Nice: Ireland (x2) (2001 & 2002)
- Single currency: Denmark (2000) and Sweden (2003)
- 2004 nine candidate countries
- Constitutional Treaty: Spain (February 2005), France (May 2005), Netherlands (May 2005) Luxembourg (July 2005)
- Lisbon: Ireland (x2) (2008 & 2009)
- 2012 Ireland fiscal compact
- 2013 Croatia
- 2014 Denmark Unified Patent Court
- 2015 Greece bailout conditions
- 2015 Denmark JHA opt-out
- 2016 Netherlands Ukraine Association Agreement

7. Tactics and contortions

- Major 'don't bind my hands' (1997) (Single currency)
- Blair's U-turn (2004) (European Constitution)
- Cameron 'cast-iron guarantee' (2009) (Lisbon Treaty)

8. The rise of the referendum parties

- The Anti-Federalist League (1991) – anti-Maastricht
- The Referendum Party (1994) – anti-Maastricht
- The United Kingdom Independence Party (1993) – anti-Maastricht
- irony of PR

9. The constitutionalisation of referendums (2000, 2011)

- 2000 Political Parties, Elections and Referendums Act
- 2011 European Union Act ('referendum lock')

10. Conclusion: chronicle of a referendum foretold

- Referendum as a device was first legitimized, then constitutionalised, and, simultaneously popularized.
- From Heath to Cameron
- But also from Attlee to Wilson to Blair to Miliband
- Transition from parliamentary sovereignty to popular sovereignty

What if?