



# Brexit and the UK Parliament: challenges and opportunities



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Parties, Parliament and the Brexit Process:  
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Parliament is quite inefficient at making certain decisions, as we are finding out...if we sent Parliament off to buy a gin and tonic the questions would be what sort of gin? What sort of tonic? Would there be ice or no ice? Would there be lemon or lime?

The paralysis from that one decision would probably be something akin to what we have with Brexit at the moment...

Angus Brendan MacNeil MP (Scottish National Party), 25 March 2019

# Parliament & Brexit: Challenges



- Scale of change: 45 years of legislation
- Institutional capacity: time, expertise, information, coordination
- Strengthens executive: 'taking back control' to the executive rather than Parliament (e.g. Henry VIII clauses)
- Direct versus representative democracy
  - 73% of MPs elected in 2017 voted remain
  - Large majority voted to trigger article 50 but:
  - 47 Labour MPs rebelled on this. 7 were from 'Leave' constituencies

# Parliament & Brexit: Opportunities



- *R (Miller) v Secretary of State for Exiting the EU [2017]*
- Minority government
- Potential for cross-party cooperation (e.g. opposing a 'no deal' Brexit)
  - The Independent Group
  - All Party Parliamentary Group on EU Relations
  - But adversarial system limits inter-party cooperation

# Theory: UK Parliament influence vis-à-vis government

- Recent studies of UK Parliament by Meg Russell et al show influence of UK Parliament.
  - Large proportions of amendments to govt legislation have origins in backbench amendments.
  - Select committees can be effective in agenda-setting and via recommendations or anticipated reactions.
- Cowley shows how backbench rebellion rates have increased.
- Expect intra-party divisions and some parliamentary influence on this basis.

# Theory: National parliaments and the EU

- Work on national parliaments and the EU suggests a range of factors that explain variation in parliaments' ability and willingness to scrutinise EU legislation.
  - UK mid-ranking in ability to scrutinize EU legislation (Winzen 2012)
  - (Limited) effect of public Euroscepticism on activeness of national parliaments (Auel et al. 2015)
  - Expect Westminster to push hard to scrutinise Brexit process as Brexit referendum raised salience of EU issue in UK plus UK previously very active on reasoned opinions.

# The House of Commons and Brexit legislation: parliamentary influence?

- EU Withdrawal Act: Govt defeat on Grieve amendment and concessions
  - European Statutory Instruments Committee: recommended upgrade to affirmative procedure for 42 SIs (23%)
    - *The Sprouts and Seeds (Amendment) (EU Exit) Regulations 2019*
    - *The Exotic Disease (Amendment) (Northern Ireland) (EU Exit) Regulations 2018*
  - Govt has accepted vast bulk of these
- Govt defeat on amendment to Trade Bill, keeping UK in European Medicines Agency

# Govt defeats on 'meaningful vote' and related motions

- 15 Jan: Defeat by 230 votes on Withdrawal Agreement and future relationship (MV1)
- 29 Jan: Defeat on motion ruling out no deal
- 12 Mar: Defeat by 149 votes on Withdrawal Agreement (MV2)
- 13 Mar: Defeat via amendment ruling out 'no deal' (by 4 votes)
- 13 Mar: Defeat on amended motion with 13 ministers abstaining
- 25 Mar: Defeat on amendment suggesting indicative votes

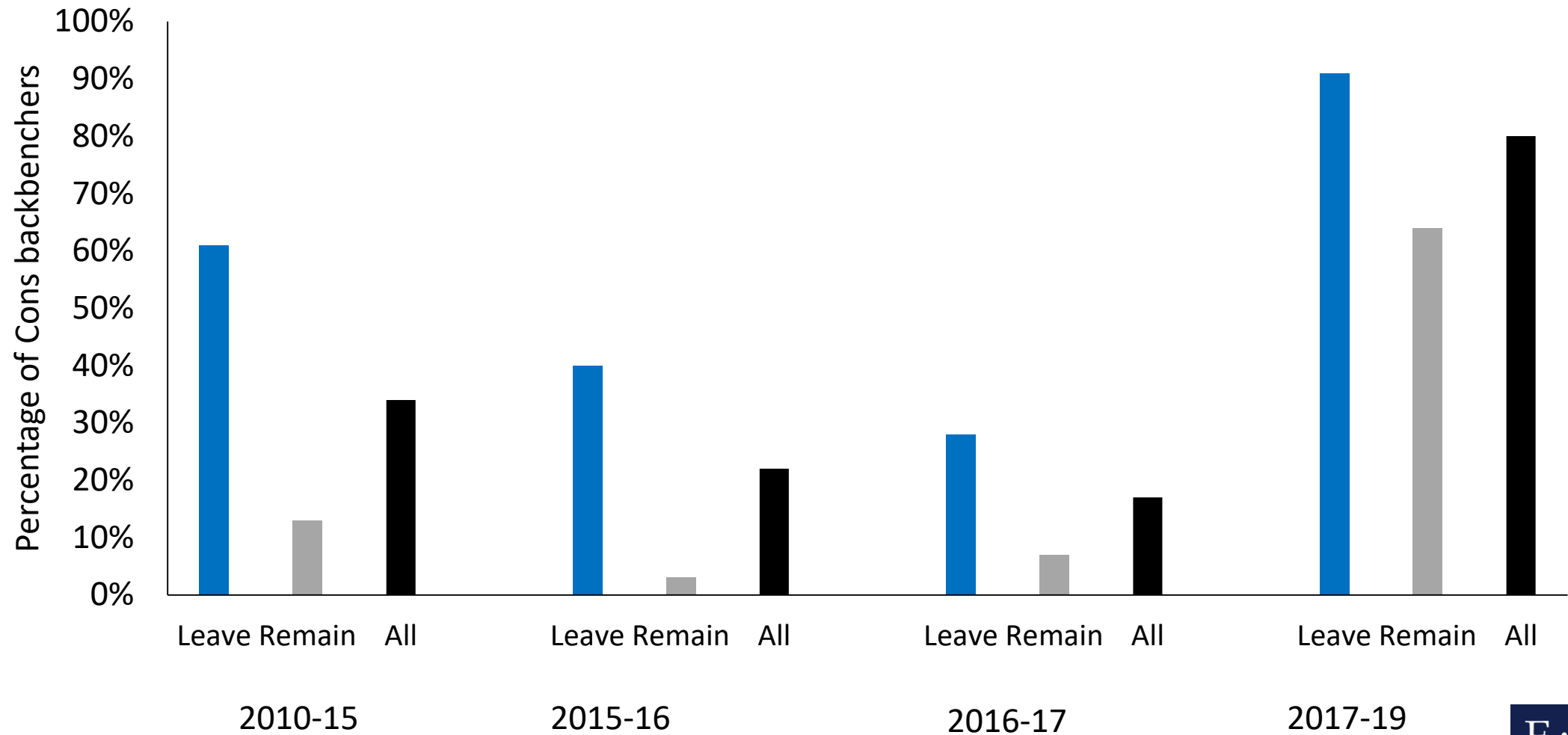
# Erskine Mayhem?

- Speaker's decision to allow amendments to business motion (Jan 2019) *in contrast to precedent*
- Speaker *followed precedent* by insisting govt could not bring back substantially the same motion for a third time on Withdrawal Agreement
- Parliament taking over? Letwin amendment suspended government control of agenda for part of Wed 27 Mar
  - Standing Order 14(1) 'Save as provided in this order, government business shall have precedence at every sitting'

# House of Commons & the Brexit process, 2017-19

- 25 Urgent Questions on Brexit; 5 emergency debates
- ‘Humble addresses’ on sectoral impact assessments & govt economic analysis; legal advice -> contempt of Parliament motion
- Many other Brexit debates e.g. 17 govt statements, 17 Westminster Hall debates
- Exiting the EU committee: divided but influential
- 63 other departmental select committee inquiries on Brexit

# Proportions of Cons MPs rebelling at least once on EU-related issues (by Leave or Remain)



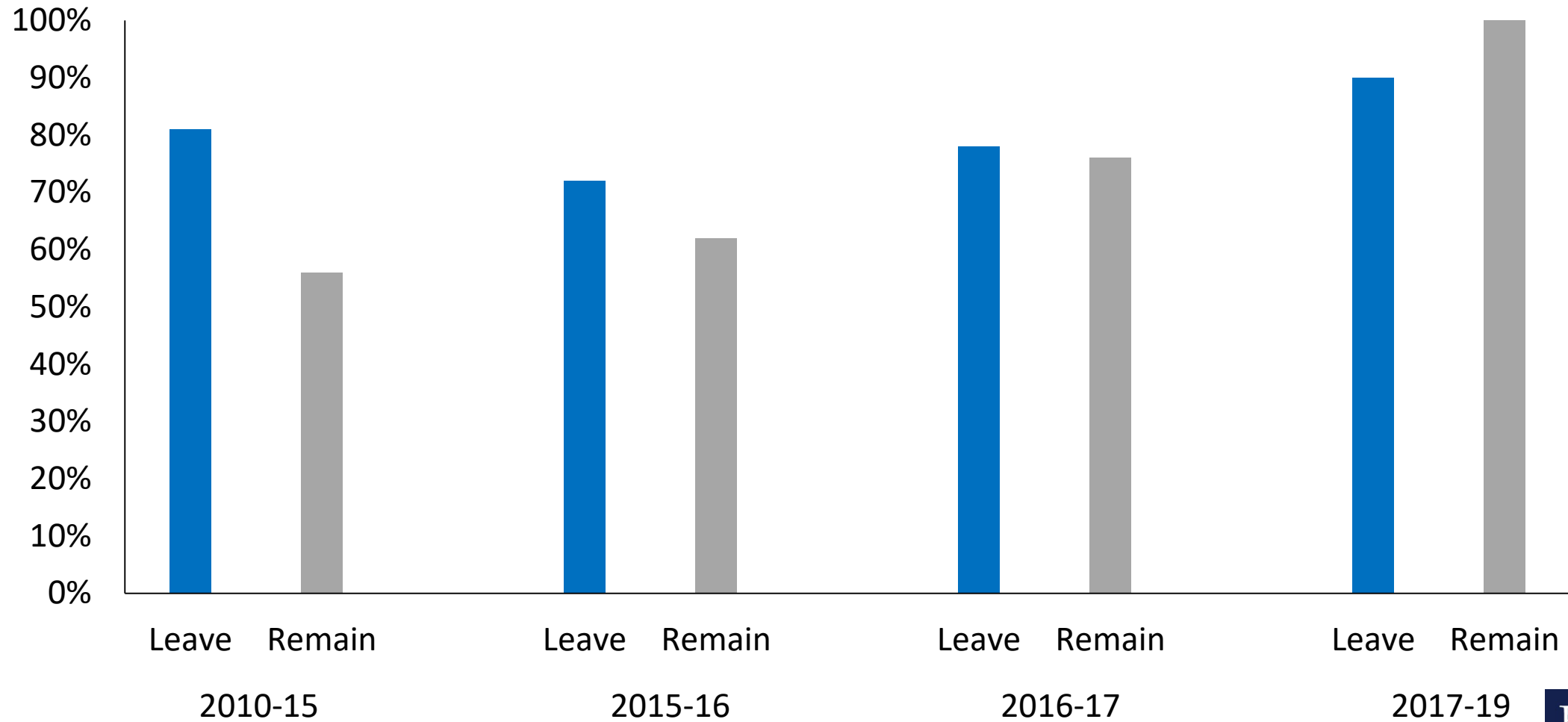
# Most rebellious MPs 2010-15 on EU issues

MP	Remain/Leave	Number of rebellions
<i>Conservatives</i>		
Philip Hollobone	Leave	43
David Nuttall	Leave	41
Peter Bone	Leave	35
Philip Davies	Leave	31
Bill Cash	Leave	30
<i>Labour</i>		
Dennis Skinner	Leave	23
Kelvin Hopkins	Leave	18
Kate Hoey	Leave	17
Graham Stringer	Leave	14
John Cryer	Leave	11

# Most rebellious MPs 2017-19 on EU issues

MP	Remain/Leave	Number of rebellions
<i>Conservatives</i>		
Kenneth Clarke	Remain	62
Anna Soubry	Remain	34
Dominic Grieve	Remain	22
Philip Lee	Remain	20
Sarah Wollaston	Remain	18
<i>Labour</i>		
Kate Hoey	Leave	63
Frank Field	Leave	59
Graham Stringer	Leave	51
John Mann	Leave	21
Ronnie Campbell	Leave	19

# Proportions of Cons MPs engaging in Parliamentary activity at least once on EU-related issues (by Leave or Remain)



# Departmental Select Committees



- Activity

- questioning of ministers and expert witnesses
- cross-party consensus on many reports (e.g. Treasury, Home Office, BEIS, NI)
- many recent reports reject 'no deal', support regulatory alignment & close links with EU agencies etc.

- Challenges

- divisions on some select committees
- coordination
- will select committees focus on EU developments after Brexit?

# Exiting the EU select committee

- Divisions
  - 14 DExEU committee members supported Remain, 7 Leave
  - Average Rice Index value on committee votes is 30
  - Leavers vote as a bloc on almost all occasions
  - Just one Labour split but Cons often split (rice index = 44)
- Influence
  - recommended White Paper, transition period, 'meaningful vote' etc.
  - questioning of ministers and expert witnesses
  - published sectoral analyses and EU exit analysis



# What next? Indicative votes, 27 March

