

The 'Brexit' Parliament 2017-19

Amidst the sound and fury of the general election campaign, Dr Jack Simson Caird takes a step back to assess how the 'Parliament of two halves' contributed to the Brexit process

The 2017 Parliament was brought to an end with the Prime Minister citing parliamentary opposition to Brexit in justification of an early general election. Parliament's role in the Brexit process has been a focal point of political debate since 2016, culminating in the 'People vs Parliament' narrative which is now part of the Conservative Party's message to the electorate.

We can divide the 2017 Parliament into two distinct periods either side of 14 November 2018, the publication of the final version of the Withdrawal Agreement negotiated by Theresa May's government.

The period between the state opening of Parliament on 21 July 2017 and publication of the Withdrawal Agreement was, in hindsight, remarkably productive. May first announced 'the Great Repeal Bill' in a speech to the Conservative Party Conference in September 2016. It is striking that the government's approach to the Bill, the centrepiece of the legislative programme under May, was a model of good practice in terms of engagement with Parliament. Before the Bill was formally introduced on 13 July 2017, a White Paper trailed its approach. The Bill's second reading took place in September 2017, nearly two months after publication. The Bill spent 12 days in the House of Commons and the government only suffered one defeat on the Bill. On 12 December 2017, the House of Commons voted for the Dominic Grieve QC MP amendment designed to limit the government's ability to implement the Withdrawal Agreement through secondary legislation before Parliament had approved said treaty via an Act of Parliament. The European Union (Withdrawal) Act 2018 gained Royal Assent on 26 June 2018 and represents the 2017 Parliament's principal contribution to Brexit. The 2018 Act expressly endorses leaving the EU, and prepares the statute book for a number of different Brexit outcomes - including leaving without a deal.

The parliamentary dynamic after publication of the Withdrawal Agreement was completely different. After months of debate over the procedure to govern the so-called 'meaningful vote' on the Brexit deal, it became immediately apparent after the deal was published that there was little chance the government could persuade a majority of MPs to approve it. Parliamentary opposition to the substance of the Withdrawal Agreement, particularly from pro-Brexit Conservative MPs, meant that leaving with a deal before 29 March 2019 was going to be impossible. The coalition of MPs that had voted for the 2018 Act could not be held together.

At this point, the debate in Parliament shifted dramatically and became dominated by the government's commitment to leave the EU 'deal or no deal' on 29 March. The parliamentary pressure that led to the successive extensions to Article 50 have been masterfully documented in a briefing paper by the House of Commons Library. The debate over both the substance of the Withdrawal Agreement, particularly the Protocol on Ireland/Northern Ireland, and the damaging consequences of no deal, showed that the real locus of political debate were the negotiations with the EU rather than domestic legislative process. The problem was that Parliament had no direct oversight or control over negotiations with the EU.

Johnson's government has shown a willingness to take a different approach. The EU (Withdrawal Agreement) Bill, published in September 2019, contained a provision that the government had to secure House of Commons approval for its negotiating

mandate before it begins formal talks with the EU on the future relationship. Whether this provision gets on to the statute book depends on the outcome of the General Election. If it does become law, its political salience will depend on the size of the government's majority. In all scenarios, we can only hope that the right lessons are learned from the 2017 Parliament.

This piece has been [cross-posted](#) from the [Counsel magazine website](#) .

URL: <https://binghamcentre.biicl.org/comments/75/the-brexit-parliament-2017-19>