

# Is Parliament voting for its own irrelevance?

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The return of the EU Withdrawal Bill to the Commons this week raised an important question regarding the 15 amendments voted through during the Bill's passage through the House of Lords. This was particularly important in respect of one amendment regarding the ability of Parliament to reject the 'no deal' scenario, and require the Government to return to the EU to further negotiate in the event of a deal that Parliament did not approve of. This has probably been the most publicised of the amendments put forward by the Lords, as the report<sup>[1]</sup> discusses the right of Parliament to vote to remain in the EU alongside the options of accepting the deal negotiated with the EU, or leaving the EU with no terms agreed.

Aside from the political arguments that this amendment and the vote in the Commons on Tuesday have raised, the issue of the 'meaningful vote' raises important questions for the role of Parliament and Government in the process of negotiation and agreement of a withdrawal agreement and trade agreement with the EU. The Government's argument is that this amendment 'binds the hands' of the Government's negotiators as the EU's negotiators know that any deal has to be approved by Parliament, and in the event of it being considered a 'bad deal' that the possibility of remaining in the EU would therefore be an alternative option available to Parliament. This, it is argued, would incentivise the EU to delay the negotiating progress until time had run out as this would result in a choice between 'remain' and 'no deal'.

The counter-argument is that to allow the Government to conclude a deal that Parliament is unable to reject on any other terms than 'take it or leave it' would effectively make the Parliamentary vote a Hobson's Choice in a situation where the Government's own assessment<sup>[2]</sup> makes no deal look more economically damaging than any of the possible deal scenarios considered in the report, and therefore on an economic analysis, Parliament would be more likely to approve the deal if 'no deal' is the only alternative.

This goes to the heart of the UK's 'constitutional arrangements' (a phrase brought to prominence by the wording of Article 50 of the Treaty on the Functioning of the European Union and the *Miller* case) as it raises questions of who is accountable to who, and who has the final decision on this matter. The Government has pointed out that it is the role of Government and not Parliament to negotiate international treaties. However, the Government is accountable to Parliament for its actions, (a fact that is less of an issue when the Government has a majority in the Commons but more of one with a minority Government with 2 rebellious factions and a Confidence and Supply agreement with the DUP) and that accountability needs to be meaningful. Indeed, Parliament has exercised meaningful oversight over previous European treaty changes (notably the Maastricht Treaty). In his resignation letter on Tuesday, Dr. Phillip Lee raised the point about his responsibility towards protecting the interests of his constituents, even though his constituency had a majority 'leave' vote in the EU referendum. As the Withdrawal Bill progresses, it therefore raises questions about what 'taking back control' means as stated in the referendum campaign, and where the accountability for that control lies.

1. Coleman, C. and N. Newson, *European Union (Withdrawal) Bill: Lords Report Stage HL Bills 79 and 102 of 2017–19*, in *House of Lords Library Briefing*. 2018.
2. House of Commons Exiting the European Union Committee, *EU Exit Analysis Cross Whitehall Briefing*. 2018.