



Folly and **Misfortune**

“History . . . is indeed little more than the register of the crimes, follies, and misfortunes of mankind.”

(Edward Gibbon: History of the Decline and Fall of the Roman Empire)

In these occasional papers, we at Cavendish endeavour to be scrupulously fair, as between parties and to individual politicians. We also seek to challenge received opinion, and to find new ways of looking at things which might shed some light on political developments.

The recent performance of the Prime Minister has tested this approach to the limit: whilst free from any hint of wrongdoing, Mrs May has made some terrible mistakes and, to be fair, has suffered some bad luck along the way. It is difficult to put any constructive gloss on recent events. The consequences for her personally have been disastrous; and for the country they are, and will continue to be for some time, momentous. Whether they will also be disastrous for the UK is still to be seen.

“I got us into this mess and I’ll get us out of it”

So declared the Prime Minister, three days after her humiliating defeat at the polls. Let’s be clear: it was a defeat. Given the circumstances, in which an election was unnecessary, only a majority of at least 50 (even this implying a gain of only around 15-20 seats) could plausibly have been described as a victory. To lose her overall majority, when she had called the election to give herself a personal mandate and to strengthen her position in Parliament, was a stinging rebuff. She should, perhaps, have resigned. Three factors probably decided her against doing so: first, her pride, mixed, perhaps, with a sense of duty (she had indeed created a terrible mess, and someone had to clean it up); secondly, although she had lost the election, no one else had won it – the parliamentary arithmetic meant that no other government was viable (see below), and to that extent the Prime Minister could not unreasonably argue (and tell herself) that she did indeed have a duty to carry on Her Majesty’s Government; thirdly, and luckily for her, none of the possible contenders to replace her chose, in the stunned hours following the election result, to challenge for the party leadership. If a Davis or a Johnson had broken ranks, or if Philip Hammond and Amber Rudd had gone to Number Ten and told the PM that she had to go for the good of the country, the party or both, or they would both resign, it would have been all over.

The fact that no challenge came and that the Conservative party was shocked, for once, into a moment of collective sanity was, paradoxically, due to the parliamentary numbers. A government had to be formed (there is no provision in the UK for a prolonged caretaker administration such as may endure for months in, for example, Belgium or the Netherlands); a legislative programme had to be put before the Commons and approved. Although David Cameron had stayed on as Prime Minister after the referendum until a new leader had been elected, the Conservative party had then relatively recently won a mandate; the circumstances this time were very different. Although constitutionally proper, and politically just about possible, the spectacle of a minority Conservative government squeezing a Queen’s Speech through

the Commons, then electing a new leader by, say, September, and then proceeding to govern as if nothing much had happened, would surely have provoked outrage and incurred a terrible political price in due course. Of course, no Conservative MP, leadership aspirant, Minister or backbencher, wanted another general election, which it was widely assumed Labour would comfortably win. So there was little choice but indeed to let Theresa May try to get them out of the mess she had created.

Once Mrs May knew that there would be no immediate challenge, was it an option to soldier on as a minority government? After all, putting the ten DUP MPs on one side, and allowing for the fact that Sinn Fein's seven would not take their seats, the Conservatives had two more seats than the other parties combined. Governments have survived for a time with such a slender majority, or indeed with no majority at all (as Harold Wilson's did from March to October 1974, and John Major's did from December 1996 to May 1997); and the Conservatives knew that the last person the DUP would want to put into Downing Street would be Jeremy Corbyn. It is unclear whether this option was ever seriously considered; if it was, what undoubtedly made a formal arrangement with the DUP seem a better bet, notwithstanding the potential reputational damage to the Tories of allying themselves with a party some of whose views are highly unpopular with many voters across the UK, was the looming Brexit negotiations. The hand which the election result has dealt the British government is bad enough as it is; to have entered the negotiations as a precarious minority government would have been even worse.

The negotiations: still stuck at base camp?

Almost the only common ground that Michel Barnier and David Davis have so far found is their shared interest in serious hill-walking. Both of them will know that the sensible walker sets off with a good map and a working compass; David Davis' challenge is that he isn't sure where he's heading. As has been widely observed, there is some tough negotiation taking place, but it is inside the British Cabinet.

Whether things would have been any different if the negotiations had not been conducted in the shadow of the election debacle, we will never know; as it is, the EU side appears to be in better shape in every respect. They are certainly better prepared; they have some clear negotiating positions; they have been more transparent; and they are accordingly winning the PR battle by a country mile. They have chalked up the first victories, by winning the argument over the order in which items would be discussed and wringing a somewhat grudging acknowledgement from the British side that there are indeed continuing UK obligations to the EU which will need to be settled (though a House of Lords committee concluded in March that in theory the UK could walk away in March 2019 with no deal and nothing to pay).

How much of this disarray can be blamed on any individual is a moot point. David Davis cuts a cheery enough figure, apparently unfazed by criticisms of everything from the time he has personally spent in the negotiations to the gender (im)balance of his team. No doubt he has little option; walking round with a worried frown would not inspire confidence. But his breezy self-assurance needs to have some substance behind it, especially as the first phase of the negotiations will shortly start to become serious.

But in truth, the British team is negotiating from a position of appalling weakness. This goes right back to the referendum campaign, and the fact that the British people were not invited to choose between two competing visions of the future but to decide whether they wanted to stick with what they had ("or take the consequences" – Remain), or not ("declare independence day" – Leave). The failure by the Remain campaign to offer a positive vision of Britain in Europe may have cost them the referendum; the failure by the Leave campaign to offer a vision of what Britain outside the EU might look like condemned us to a potentially shambolic exit, once they had won. (The decision of David Cameron not to allow any contingency planning in the event of a No vote was also a huge error.) To be fair to the Prime Minister, she seemed to decide that it was her job to set out a roadmap for a post-EU Britain, and she attempted to do this, with some success, albeit in rather vague terms, in her January Chatham House speech. Although this was interpreted as leaning towards a "hard" Brexit, in reality it looks as if Theresa May was acknowledging the difficulty of having a bespoke deal which preserved what the UK wanted (access to markets) without submitting to what it didn't (free movement). Perhaps if the PM had expanded on this roadmap in the election campaign, she could have won a mandate which really would have strengthened her hand both in the Cabinet and in negotiations with Brussels.

In fact, the difficulties in which the British government finds itself have their origins even further back. As Giuliano Amato, the former Italian premier who helped to draft it, has said, Article 50 “was never meant to be used”. It was expressly drafted to make it exceedingly difficult to leave the EU, indeed to discourage any country (and it was always likely to be the UK who might be mad enough) from trying. John Bruton, the former Irish Taoiseach, has gone further: he says that it is the UK’s responsibility to make Brexit work not just for the UK but for the EU as well. Against this background, it is difficult to feel that the chances for a successful, let alone a smooth, Brexit are good.

Further rounds of negotiation are planned for later in September and October, leading up to the European Council on 19-20 October. This is the occasion on which the Council is supposed to decide whether sufficient progress has been made to enable phase two of the talks, which would include trade and transitional arrangements, to begin. It is hard to see what incentive there is for the Council to give an early green light for phase two. Certainly M Barnier is preparing the ground to give himself the option of recommending that phase one should continue for longer, which would put back the start of phase two in practice to at least the beginning of 2018, which in turn would increase the chances of there being no new arrangements for UK - EU trade in place by the assumed date of withdrawal in March 2019.

If the talks were to stall, or even break down for a period, is there any chance that Brexit might never happen? It seems unlikely. According to a YouGov poll conducted immediately after the election, 70% of the population thinks that the UK should proceed to leave the EU (26% were Remain voters who nevertheless believe that the outcome of the referendum should be respected). Half the population still supports the PM’s January negotiating objectives and believe they would be good for the UK. Not surprisingly, however, confidence in Theresa May’s ability to deliver her objectives has fallen: 37% believe she can do so, compared with 48% in March. Perhaps if the official Opposition was more vocal in its support for EU membership the situation might be more fluid, but Jeremy Corbyn and John McDonnell appear to have little interest in adopting a more aggressively pro-EU stance (they might have some difficulty in implementing their manifesto if the UK remained in the EU), and the failure of the Liberal Democrats to make a mark in the election will have convinced them that politically they have no need to shift position. This could still change if the talks go very badly, and / or it appears that the UK might have to accept humiliating terms, but much would depend on the circumstances in which the talks broke down or reached some kind of impasse. Rather than Labour positioning itself for this, the chatter – brought out into the open by former Davis adviser James Chapman – is that a new party (the “Democrats”) might be formed to campaign specifically to stop Brexit. More on this, and other potential “new parties”, below.

Ultimately, the calculation the government will have to make is whether the price it is being asked to pay to withdraw (not just in the “divorce settlement”, but in terms of mutual recognition of citizen’s rights, the jurisdiction of the European Court of Justice and an answer to the “Irish border question”) is worth paying and politically bearable in order to open negotiations on a post-withdrawal trade deal. Reaching a judgement on this may yet split the Cabinet. Even if the Cabinet and the Conservative party hold together in reaching this decision, the political implications could be considerable. Central to their judgement will be understanding what the election result says about the state of politics in the UK today.

The voters have spoken – but what did they mean?

To begin with a statement of the obvious: the 2017 election (perhaps we had better say “the June 2017 election”, because who knows?) was utterly extraordinary. It came completely out of the blue (which in fact turned out to be one of the Conservative party’s problems); there was another set of (local) elections in the middle of the campaign; an unprecedented opinion poll lead evaporated in equally unprecedented fashion during the campaign; the public perception of the two main party leaders switched in the course of it; and when the results were declared, the incumbent party of government had achieved a poll rating it had not managed since 1992 and had increased its vote share, and yet had still failed to secure a majority. What is even more remarkable is that the Conservatives managed to achieve what on the face of it was a very good result, in terms of vote share, despite:

- Calling an unnecessary election in the first place (contrary to months of previous unequivocal denials);
- Alienating its core support among older voters with its ill-thought-through and badly-presented proposals on long-term care;
- Running an unsubtle “Presidential” campaign, which fell apart when the PM had to take personal responsibility for the manifesto fiasco, refused to debate with her opponent and appeared ill at ease on the stump;
- Producing an uncosted manifesto, which also negated the usual Tory tactic of pointing out how much Labour’s pledges would cost (and if ever a Labour manifesto demanded such an appraisal, this was it).

The best that can be said for what was undoubtedly the most incompetent modern election campaign mounted by one of the main parties was that it contained a massive strategic flaw. If the party high command thought that by securing its core vote and the majority of UKIP supporters (the second of which it pretty much pulled off), it would achieve an impregnable vote share, they failed to spot one hugely significant factor, which ought to have become apparent during the campaign, if it had not been identified as a possibility before it: by pitching the vote as a binary, single-issue choice – “Who do you want to lead the Brexit negotiations?” and, subliminally, “Do you want a hard Brexit, or not?” – they invited everyone who didn’t want to support Theresa May on these terms to vote for Jeremy Corbyn. And that was what happened.

The British Election Study, supported by the universities of Oxford, Manchester and Nottingham, published its analysis of the election at the beginning of August. It makes for fascinating reading

(<http://www.britishelectionstudy.com/>). Their data is based on the responses of 30,000 voters throughout the campaign, and their findings illuminate what happened to voting intentions, and why, as the election progressed. Amongst their findings were:

- The dominant issue of the campaign was indeed Brexit (though it was rarely mentioned by the parties) – more than one in three voters named Brexit or the EU as the main issue, compared with fewer than one in ten who named the NHS and fewer than one in 20 who said the economy;
- Of UKIP's 2015 voters who also voted in 2017, more than half went to the Conservatives and only 18% to Labour (contrary to some claims immediately after the election);
- Labour did very well among Remain voters, winning significant numbers of Tory Remainers; roughly similar numbers of Tory Remainers voted Liberal Democrat;
- The most pro-EU party, the Lib Dems, lost Remain voters to Labour in equal numbers to those they picked up from the Conservatives;
- Although there was little more movement in voting intentions during the campaign in 2017 than there had been in 2015, and less than in 2010, what movement there was went overwhelmingly in the direction of Labour, who picked up 54% of switchers, including, as above, many direct (Remain) switchers from the Tories;
- On leader "likeability" scores, Jeremy Corbyn drew level with Theresa May by the end of the campaign, having started considerably behind.

This fascinating insight into how voters' minds worked (and in some cases, changed) during the campaign leads to some interesting conclusions which may also give some pointers as to how things may develop from here.

Bearing out the YouGov data referred to above, it looks as if Remain voters by and large accepted that Brexit would happen, and therefore were not particularly attracted by the Lib Dems' offer of a second referendum on the final Brexit deal; what they did want to see was a soft Brexit, and they evidently felt that that was also Labour's position and that a vote for Labour was most likely to help achieve it. Alongside this, Jeremy Corbyn's performance so much exceeded (admittedly low) expectations, and Theresa May's fell so far below what she had promised, that the idea of Mr Corbyn in Number Ten in place of Mrs May no longer seemed ridiculous. In fact, some of Mr Corbyn's interview performances were no better than Mrs May's, and other Labour frontbenchers had a torrid time in the studios, but in the softer aspects of campaigning and the enthusiasm generated by his campaign – in the "image stakes" – Mr Corbyn won hands down. A campaigning style honed in two leadership elections in two years meant that the Opposition Leader came across as a nice bloke, the reasonable chap putting

across commonsense views, and definitely not the threatening bogeyman of media caricature. Add in to the mix the highly effective social media campaign which galvanised young voters, which paid off so spectacularly in university cities such as Canterbury, and Labour hoovered up votes from Remainers who had previously voted Conservative, Lib Dem or Green, as well as attracting first-time voters.

Of course the big question is, Could Labour repeat this at another election? Did Remainers who switched from Conservative to Labour like Labour's policies, or did they put them on one side as being of less importance than the overriding issue of what kind of Brexit would emerge? Classically, an Opposition which had achieved what Labour did in June would seek to consolidate its new-found supporters by tacking towards them, softening its more left-wing edges to appeal to middle Britain. That is evidently not going to happen under the current leadership. The Conservatives made almost no attempt to attack Labour's manifesto; they will surely not make that mistake again. There is therefore a case to be made that the June election was a one-off, an unrepeatable triumph for a left-wing Labour party under a leader who, for all his campaigning abilities, remains vulnerable to being painted as an ideologue espousing policies which seem well past their sell-by date.

And yet. There did seem during the election campaign to be a perceptible shift in the public mood, towards an anti-austerity, anti-establishment position. The awful events at Grenfell Tower subsequently gave new impetus to this growing mood. Perhaps the UK is not after all to be immune from the wave of populism sweeping the developed world. Mr Corbyn was perceived to have won the election; indeed, from some of his pronouncements afterwards about being ready to form a government, Mr Corbyn may have begun to believe he had won. But the momentum (no pun intended) is with Labour; they have a lead in the polls (for what that's worth), the government appears to be in disarray, and all Labour may have to do is to ride the public mood and wait for the government to disintegrate.

The outcome of the referendum last year opened a period of anxiety for many people, and no doubt hope for many others, though not untinged with uncertainty about what the future might hold. Mrs May thought that in a time of doubt and difficulty, voters would choose pragmatism and experience over ideology and passion. She was almost right, but she underestimated the residual anger over Brexit and she underestimated her opponent.

Where do we go from here?

There are so many (known and unknown) unknowns, that it is difficult to see through even to the autumn, let alone the end of the year or the end of the parliament (scheduled, theoretically, for May 2022). It is inconceivable that Theresa May will lead her party into the next election; and we can be sure that the Conservative party will do everything to avoid another election for as long as possible – but May 2022 seems impossibly distant. Since the manifesto pledge to repeal the Fixed-Term Parliaments Act was dropped from the Queen’s Speech (for purely party political reasons), another election can in effect only be called if it is impossible to form a government or two-thirds of MPs vote for an early election. Since Conservative MPs will not vote for one for the foreseeable future, the minority Conservative government, supported by its confidence and supply agreement with the DUP, will continue in being for some time to come; the agreement is due to last for the entire parliament (though it can be reviewed “by mutual consent”).

The government has an effective majority of 12 over the other parties (taking into account its ten DUP votes), putting on one side the seven SF MPs and the Speaker. It could therefore afford to lose six seats in by-elections and still have a nominal majority. It would be extremely unlucky for a governing party to lose six MPs in the course of say the next two years, though it would be likely that almost any Conservative seat which was contested in a by-election would be lost, no matter how large the majority. On the other hand, it would be quite possible to lose six seats in the course of five years: the Major government lost eight by-elections between 1992 and 1997, all created by the deaths of sitting MPs. Of course if there were to be any defections from the parliamentary Conservative party (and both Anna Soubry and Heidi Allen have publicly mused on the circumstances in which they might do so), the arithmetic becomes even tighter.

Since the calculation that leadership contenders have made (see above) is that replacement of the PM would, especially at the moment, lead to calls for an election which might be hard to resist, it seems likely that Mrs May is relatively safe in her position for the time being. The working assumption must be that Mrs May will battle on until March 2019, and the putative date for formal UK withdrawal from the EU. This would prove an opportunity to bow out with dignity, and an orderly transition to a successor as party leader and Prime Minister. But the timing of her departure will probably be influenced by a judgement about the likely ability of her successor to govern without calling an election, unless the electoral prospects of the Conservative party have improved significantly by that time.

The possibility of a change of leader necessitating a general election may well have an impact on the result of any leadership election. The Conservatives would in effect be choosing a leader to go head-to-head (we can be certain that there will be leadership debates next time!) with Mr Corbyn, so campaigning and debating skills would be to the fore. Would this favour Boris Johnson? David Davis’ chances would seem to hang almost entirely on the success or otherwise of the Brexit negotiations, though a prolonged attack by his former chief of staff could sink his chances. Philip Hammond, whose stock has been gradually rising as he

has asserted himself after being sidelined in the campaign, would be a possible “damage limitation” candidate. Amber Rudd will no doubt want to throw her hat into the ring, though she now has a very marginal seat. Nicky Morgan might well stand. Candidates from the younger generation, such as Priti Patel, are more likely to sit this one out and wait for a more promising opportunity.

The Tories will also calculate that their best (if slim) chance of winning the next election (and assuming that they have achieved some half-decent form of Brexit), is to play the long game. Above all, they don’t want the election to be about Brexit; which is one reason why the Cabinet can largely agree that any transitional deal should end by 2022. Perhaps, also, the current enthusiasm for Mr Corbyn will wane; now that he is seen as a genuine contender for the top job, he will be subject to more careful scrutiny, as will Labour’s policies.

The odds then must be that, barring some complete meltdown in the Brexit negotiations, the Conservative government, propped up by its allies, will limp on for a couple of years. They will lose any seats they have to defend in by-elections; and the London borough election results next May will be catastrophic: they could lose control of almost every borough they hold, including flagships such as Westminster and Wandsworth. But they will have to plough grimly on. Surviving for five years looks unlikely.

Prime Minister Corbyn?

Mr Corbyn has two ways of becoming Prime Minister: winning the next election, whenever it comes, or, perhaps at some point in the second half of the parliament, either the ending of the DUP confidence and supply agreement or the loss of the government's majority through by-election defeats could see the Conservatives defeated in the Commons. At that point, in theory at least, the much talked of "Progressive Alliance" could put him in Downing Street (with potentially interesting consequences for Scottish politics).

In one sense, therefore, Jeremy Corbyn has simply to sit back and wait. But he has two tactical issues to consider, and has one (possible) cloud on the horizon. His tactical challenges relate to policy and personnel. Should he shift ground towards the centre, in order to appeal to middle ground voters who voted Labour in June but are not natural supporters, a move which would also appease some of his critics in the parliamentary party? And should he rein in some of his lieutenants who appear eager to force mandatory reselections on Labour MPs, with the aim of making the Labour parliamentary party more representative of the membership?

On policy, there has been no sign of any movement away from the June manifesto, and none seems likely, especially in view of the election result. On reselections, the leadership may decide to tread more carefully. It already has pretty much what it wants in policy terms; the main strategic challenge is to ensure that Jeremy Corbyn's eventual successor will also be from the left of the party. To achieve that, the current leadership rules will have to be changed (requiring nomination by 15% of the party's MPs). An amendment to reduce the threshold to 5% will be voted on at the party conference in September, though it looks, at present, unlikely to be carried.

The other option for the party leadership to influence future leadership elections is to try to increase the number of left-leaning MPs. The quickest way of doing that would be to revert to a rule which obtained from 1979 to 1990, which required a full reselection process for MPs before each election. However, that would be controversial, and would be particularly difficult to apply in the current circumstances. Since an election could happen soon, but may not actually take place for some years, some (or even quite a few) sitting MPs could be deselected say next year and then face three or four years as MPs knowing that they would not be able to stand as the Labour candidate at the next election. That would spell huge problems for party management.

The other factor which Jeremy Corbyn and his leadership allies need to take into account is the rumours of a possible new political party. On the face of it, these are somewhat hard to credit. Ever since the referendum, there has been talk of a possible "stop Brexit" party being formed, though whether it would be a fully-fledged political party or effectively a single-issue campaign which would try to prevent Brexit and then dissolve itself has never been clear. There are undoubtedly pro-EU Tories who are very disgruntled; and there are some Labour MPs who are dismayed either by Jeremy Corbyn's evident reluctance to adopt a more pro-EU stance or more generally by his left-wing policies, or both, who might be attracted by a new party (all the more so if the threat of deselection was hanging over them).

Enthusiasts for a new force in British politics point to the astonishing success of Emmanuel Macron in France; at last there is a positive role model for populist politics. But that is to ignore the fact that the French political and party system is very different; in the UK, the political parties are very well-entrenched. It might well be that in the current climate a new, centrist pro-European party (but don't we already have the Liberal Democrats?) could do very well for a short time, particularly in response to stalled or failing Brexit negotiations. The irony is that the Liberal Democrats' very name bears witness to the fact that the ultimate beneficiary of the SDP breakaway was the existing centre party – so why not just cut out the middle-man and join the Lib Dems? Labour MPs will also be mindful that the other beneficiary of the SDP split was Margaret Thatcher. So for a new party to be genuinely attractive it would have to include centrist Tories as well. Whether James Chapman's "Democrats" could be this vehicle seems doubtful. Westminster is abuzz with rumours of other possible developments; and press reports last year linked Alan Milburn and Richard Branson to a new anti-Brexit party, or campaign.

Jeremy Corbyn, then, must not overplay his hand. He hasn't won anything yet, and his coalition of Remainer Tories, tactically voting Lib Dems and Greens, and enthusiastic young people may yet dissolve. But for a man who was allowed on to the leadership ballot as a courtesy, he has come a long way, and it would be foolish to bet against taking his extraordinary career one step further.

Conclusions

Our working assumption is that Theresa May will hold on as Prime Minister until around spring 2019, and that by then the UK withdrawal will be complete and that some form of transitional arrangements will be in place. But the Brexit process has begun badly, and could yet fall apart, leading to withdrawal on a “no deal” basis. If that were to happen, the government would probably fall, putting Mr Corbyn in Number Ten. Even then, however, a reversal of Brexit seems most unlikely, even supposing it is permissible under the EU Treaties.

Realignment of political parties has been discussed almost constantly since the mid-1970s. The one attempt to make it happen, in the 1980s, ended in failure. European policy and a Labour party moving sharply leftwards were catalysts for that attempt to “break the mould”. The conditions for another attempt may be repeating themselves, as they may be, also, for another failure.

Mrs May personally, is, to coin a phrase, in the “last chance saloon”. Another act of folly, even another misfortune, and – notwithstanding the electoral nightmare haunting the Conservative party – she will be history.

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