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Who's the Boss? An analysis of the vote on the 'European Union (Notice of Withdrawal) Bill' in the House of Commons

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ABSTRACT




Advisory ex ante referendums, such as the referendum on the UK membership in the European Union in 2016, provide MPs with a (more or less) clear mandate from their principal, but they are not legally binding. Implementation thus still requires a legislative act, usually by parliament. MPs therefore face the decision whether to follow the will of 'the people' or to decide according to their own judgement, and thus whether to act as delegates or trustees. Just as importantly, advisory referendums can create situations where Members of Parliament (MPs) as agents are faced with conflicting mandates by different principals – i.e. by the electorate as a whole, by their own constituency and/or by their party. Agents facing conflicting mandates cannot avoid voting against one or more of the mandates and thus have to choose, which principal to 'serve'. To explore this issue, the paper analyses MPs' votes on the European Union (Notification of Withdrawal) Bill, and thus on triggering or not the Brexit process. Given the outcome of the referendum as well as the fact that most MPs did vote in favour of triggering the Withdrawal process, our main interest lies in exploring the decision of MPs *not* to follow the mandate given by the country.

KEYWORDS

Referendum; Agent
Dilemma; Brexit; Parliament;
Delegate vs. Trustee

Introduction

The outcome of the referendum in the United Kingdom on membership in the European Union (EU) on 23 June 2016 is well known: With a turnout of 72.21%, 51.89% voted to leave the European Union. The referendum was advisory and thus not legally binding, yet the government had promised to respect the decision. A campaign leaflet distributed by the government had stated explicitly: 'This is your decision. The Government will implement what you decide' (HMG 2016). In early 2017, and only after a decision¹ of the Supreme Court, the UK parliament voted on the 'European Union (Notification of Withdrawal)' Bill, which authorised the government to notify the European Union of the UK's intention to withdraw from the Union under Article 50(2) TEU.² The Bill did not, of course, implement the referendum result; indeed, after a long and arduous process, the European Union (Withdrawal Agreement) Act finally received Royal Assent on 23 January 2020, and the UK ceased to be a member of the EU on 31 January 2020. The vote in February 2017 did, however, represent the last formal hurdle before the government was authorised to start the process known as Brexit.³ Thus, at least formally, Parliament could have withheld the authorisation thereby delaying – or even stopping – the Brexit process.

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 Supplemental data for this article can be accessed [here](#).

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Table 1. Vote on the bill by party.

	Labour	Conservatives	Lib Dem	SNP	Other ⁺	Total
<i>For</i>	162	320	0	0	12	494
<i>Against</i>	52	1	7	52	10	122
<i>Abstained/Absent</i>	17	8	2	2	5	34
<i>Total</i>	231	329	9	54	17	650

⁺ includes DUP, Greens, Independent, Plaid Cymru, SDLP, UKIP and UUP; Source: House of Commons Hansard (2017).

Few doubted the outcome of the vote, given the referendum result as well as the fact that the members of parliament (MPs) of the two main parties, Labour and Conservatives, were under a three-line whip to support the government proposal. Introduced in first reading in the House of Commons on 26 January 2017, both Houses of Parliament spent several days debating the proposal as well as amendments both in the chamber and in committee, before the Bill was indeed passed, without amendments, on 13 March 2017. Yet the Bill was not uncontested: 122 MPs voted against it in the third reading (Table 1), 34 MPs were absent or abstained.⁴ While Kenneth Clarke was the sole Conservative MP to vote against it, 52 Labour MPs defied their party's three-line whip, among them five shadow government members, who resigned to vote against, and three party whips.

While the referendum has already had, and will continue to have, a major impact on both the United Kingdom and the European Union, it is also a good example for the, in the literature so far unexplored, dilemma advisory referendums pose for MPs. In contrast to other types of referendums, advisory *ex ante* referendums provide MPs with a (more or less) clear mandate by the people, but they are not legally binding, and thus still require a legislative act by parliament for implementation. MPs therefore face the decision whether to follow the will of 'the people' or to decide according to their own judgement, i.e. whether to act as delegates or trustees. Yet just as importantly, advisory referendums can create situations where MPs as agents are faced with conflicting mandates by different principals – i.e. by the electorate as a whole, by their own constituency and/or by their party. In the case of the Brexit referendum, around 75% of MPs had voted 'remain' in the referendum, over a third of all MPs represented constituencies, where a majority of the voters had voted to remain in the Union (37%) and a little under 40% of all MPs faced conflicting mandates from two of their principals.⁵

The paper therefore analyses MPs' vote on the Bill, and thus on triggering or not the Brexit process. Given the outcome of the referendum as well as the fact that most MPs did vote in favour of triggering the Withdrawal process, our main interest lies in exploring the decision of MPs *not* to follow the mandate given by the country. While the main aim of the article is to make an empirical contribution to this special issue on the parliamentary dimension of Brexit, the goal is also to make a theoretical contribution by exploring potential dilemmas arising from *ex ante* advisory referendums more generally, an issue that to our knowledge has so far not been dealt with in the literature, and to provide an analytical framework for the investigation of other instances of advisory referendums. Using a principal-agent approach, we therefore first discuss the tensions arising from explicit, but conflicting mandates by MPs' different principals. Here, we argue that agents facing conflicting mandates cannot avoid⁶ voting against one or more of the mandates and thus have to choose, which principal to 'serve'. From a normative point of view, there is no easy answer to the question which principal is or should be the most important in case of conflict. The referendum was put to the electorate as a whole, but MPs are elected by and expected to serve their constituencies. At the same time, however, the electoral connection as well as the main accountability mechanism in the UK, as in most European parliamentary democracies, is provided by the parties. Finally, MPs also have to decide how they serve their principal(s) best, by following the principal's mandate as a delegate – or by acting as a trustee and basing their decision on their own judgement of what is in the best interest of their principal. Accordingly, we develop hypotheses based on a delegate and a trustee logic. Section 3 provides an overview over the data; the empirical analysis follows in section 4. Section five discusses the findings and concludes.

Agents and principals – the special case of referendums

Studies on legislative behaviour have frequently drawn on a principal-agent approach (instead of many, Strøm, Müller, and Bergman 2003), modelling representative relationships in parliamentary democracies as a simple chain of delegation from voters via parliament and the government to the administration (Strøm 2003). Delegation in representative democracy rarely entails the provision of specific mandates by the citizens to their representatives. Whereas party leaderships may, and often do, provide clear directives to their MPs, citizens or voters may, individually, have a variety of potentially conflicting interests – or even lack clear preferences due to incomplete information in the first place. As Lord and Pollak argue, “‘common interest’ may only be identifiable at such an abstract level as to leave unanswered the question of how to select between multiple “best” and equally justifiable courses of action’ (2010, 970). As a result, delegation from voters to legislators also generally means that it is the agents who set the agenda (Strøm 2003, 71). Rather than the principal defining clear-cut tasks for the agents and monitoring their fulfilment, agents propose (and implement) policies while the principals can sanction them at the next election. Put even more forcefully by Manin, Przeworski, and Stokes (1999, pp. 23–24), the ‘peculiarity of the principal-agent relation entailed in the relation of political representation is that our agents are our rulers: we designate them as agents so that they would tell us what to do, and we even give them authority to coerce us to do it’.

From the perspective of agency theory, referendums are often seen as a solution to the main problem of delegation in representative democracy, namely agency loss. Rather than delegating to a (potentially untrustworthy) agent, referendums enable the principals, ‘the people’, to decide directly on an issue or, depending on the type of referendum, to veto a decision by their agents *ex post* (e.g. Bergman and Strøm 2004; Freitag and Vatter 2000; Leeman and Wasserfallen 2016). Instances include both legislative referendums as, for example, in Switzerland, as well as abrogative referendums to repeal specific legislation as, for example, in Italy (Uleri 2002) or in a number of US states (Matsuoka 2017). In the latter case, legislators can usually not fully predict the preferences of their constituencies. Although they may, due to opinion polls or public (town hall) debates, have an idea of their constituents’ preferences, the (aggregated) preferences only become manifest after the legislative decision and once the abrogative referendum has taken place.

Advisory ex ante referendums, in turn, provide the principals with the option to explicitly express their preferences *before* a legislative decision is made and thus to provide their agents with clear mandates *ex ante* – mandates that the agents may have asked for in the first place. Although not legally binding, such mandates clearly have a politically binding impact, especially where, as was the case for the Brexit referendum, the government promised the electorate to respect result. Referendums are usually interpreted, at least by those of the winning side, as expressing the will of the majority – if only on a specific question at a given point in time. As a result, ‘[p]oliticians cannot be expected to commit electoral suicide by refusing to follow the “will of the people,” the expression of which they themselves had allowed for, even if only as part of a power game’ (Offe 2017, 22).

Who’s the Boss? Choosing the principal

Following the ‘will of the people’, however, is not always entirely straightforward. First, whereas agency theory usually defines the MPs’ constituency or party as the principal, the mandate issued by a referendum is given by the whole country. Thus, referendums provide agents with two sets of territorially defined principals, the voters (or, more inclusively, the citizens) of the whole country and those in the MPs’ constituency.⁷ Second, and as a result, the different principals of the agent may have expressed conflicting preferences in the referendum. Even though a majority of voters in the country may have voted one way in the referendum (i.e. leave the Union, in the Brexit example), the MP’s constituency may have voted differently (i.e. resulting in a majority for Remain). In addition, parties may have, by campaigning on either side of the

Table 2. Combinations of principals' mandates and resulting conflicts.

	1	2	3	4	5	6	7	8
UK result referendum	<i>leave</i>	<i>leave</i>	<i>leave</i>	<i>leave</i>	<i>leave</i>	<i>leave</i>	<i>leave</i>	<i>leave</i>
Constituency result referendum	<i>leave</i>	<i>remain</i>	<i>leave</i>	<i>remain</i>	<i>leave</i>	<i>remain</i>	<i>leave</i>	<i>remain</i>
Party line on the Bill	<i>for</i>	<i>for</i>	<i>against</i>	<i>against</i>	<i>for</i>	<i>for</i>	<i>against</i>	<i>against</i>
MP vote in referendum	<i>leave</i>	<i>leave</i>	<i>leave</i>	<i>leave</i>	<i>remain</i>	<i>remain</i>	<i>remain</i>	<i>remain</i>
Conflict?	no	yes	yes	yes	yes	yes	yes	yes

referendum or by explicitly whipping the vote on the Bill, provided MPs with a clear mandate as well. When faced with conflicting mandates from their principals, MPs thus have to choose which principal to 'serve'. Table 2 provides an overview of possible mandate combinations and resulting conflicts, and shows that out of eight possible combinations, only one, the first, is without conflict.

Given the outcome of the referendum as well as the fact that most MPs did vote in favour of triggering the Withdrawal process, our main interest lies in exploring the decision of MPs *not* to follow the mandate given by the country.

Here, our first expectation is that MPs take their constituency result into account. This is based on the assumption that MPs' most dominant interest is re-election and therefore in line with a more delegate-oriented type of parliamentary representation: As agents of their voters, MPs have to demonstrate responsiveness. Although candidates in the UK are, as in European parliamentary democracy in general, largely elected on the basis of their party affiliation, personal reputation is by no means irrelevant for re-election (Butler and Collins 2001; Jackson and Lilleker 2004; Lilleker 2005; Jackson 2011). In his study, Moore (2018) for example, found a positive relationship between constituency Euroscepticism and the probability of conservative MPs' to endorse leave in the 2016 referendum. Research has also more generally shown that MPs' voting records, at least regarding important decisions, can have an impact on their electoral performance (Pattie, Fieldhouse, and Johnston 1994; Kam 2009). Indeed, as Hanretty, Lauderdale, and Vivyan (2016) show, MPs' positions in the 2010 Parliament were responsive to constituency opinion on, inter alia, issues related to the EU. Given that MPs are elected by voters in their constituency rather than by the whole electorate, we therefore expect that the greater the majority for Remain in their constituency, the greater the pressure for MPs to follow that mandate – even against the overall mandate from the country.

H1: The greater the share of remain voters in their constituency, the more likely MPs voted against the Bill.

At the same time, we also expect this constituency pressure to depend on the MPs' seat safety. Marginal seats can be lost as a result of relatively small swings in the vote, so incumbent MPs in marginal constituencies may feel greater pressure to represent their constituents' views, whereas MPs in safe constituencies have less reason to worry about electoral consequences.

In Moore's study (Moore 2018), MPs' seat safety had surprisingly little impact on the relationship between constituency Euroscepticism and the MPs' decision to endorse leave, suggesting that 'MPs representing marginal seats were not more sensitive to constituency opinion than those representing safer seats' (Moore 2018, 18). It can be argued, however, that the MPs' endorsement and personal vote in the referendum, on the one hand, and the vote on the Bill, on the other, were significantly different, given that the latter concerned the implementation of the voters' choice already made. We therefore assume that constituency pressure increases the more, the closer the race in the last election, i.e. the more marginal the MP's seat.

H2: The more marginal their seats, i.e. the smaller their electoral majority in the last election, the stronger the impact of the share of remain in their constituency on the probability of MPs to vote against the Bill.

As mentioned above, the Brexit referendum presented voters with a question that Parliament had explicitly asked for, namely through the European Union Referendum Bill passed on 7 September 2015 with a cross-party majority in the House. We therefore also expect it to matter whether MPs had explicitly supported holding a referendum in the first place. If MPs had committed to submitting the decision to the voters, we can assume their voters to expect them to feel bound by the overall referendum outcome. MPs who had voted for holding the referendum can therefore be expected to feel more pressure to vote in line with the referendum outcome – even if they expected or hoped for a different result – than MPs who did not support holding a referendum in the first place.

H3: MPs who had voted in favour holding a referendum were less likely to vote against the Bill.

Even though candidates are elected by their constituencies, and personal reputation of incumbents plays a role, party affiliation is still the most important factor for re-election. In addition, to be effective parties depend on the loyalty of their MPs. MPs therefore know that loyal party members are likely to get rewarded, not only with re-selection as candidates, but possibly with an appointment to a party office as well, while those who are seen to be ‘defecting’ are punished (Cox and McCubbins 1993, 91). The vote on the Bill was indeed placed under a three-line whip (in favour) by both Labour and the Conservatives, but we can assume that the leadership of the other parties, especially the Lib Dem and SNP leadership opposed to the Bill, expected their MPs to vote according to the party line as well. Yet as Moore (2018) argues, the impact of vote-seeking motivations depends on the realistic expectations of MPs of being offered a reward or punished, and we expect this to be true for crucial whipped votes as well. Drawing on Moore, we therefore distinguish between three groups of MPs, ‘experienced backbenchers’, ‘parliamentary newcomers’ and ‘frontbenchers’. The group of experienced backbenchers consists of the ‘group of exministers, those overlooked for government office and MPs who have chosen not to pursue a ministerial career’ (Moore 2018, 18), in other words, of MPs who have been in Parliament long enough to have little reason to expect a future reward in terms of (shadow) government office from the incumbent leadership. Frontbenchers, in turn, have not only the duty, but also the greatest incentive to follow the party line as they have the most to lose. Parliamentary newcomers, finally, are somewhere in between: they are less likely to rebel against the party position than the more experienced backbenchers given their more realistic hopes of being offered a (shadow) government post in the future. For the same reason, new MPs are less likely to endorse the party position than frontbenchers, as they do not hold a frontbench office yet. Following Moore, we therefore test the following hypotheses:

H4: MPs vote on the Bill was influenced by their status.

H4a: Frontbench MPs were the most likely MPs to vote with their party.

H4b: Experienced backbench MPs were the most likely MPs to rebel against their party.

H4c: Newly elected MPs were less likely to vote with the party line than frontbench MPs but more likely to do so than experienced backbench MPs.

Going Burke?

The discussion above is based on the assumption that MPs acted as delegates who feel bound by the mandate from their principals. In the case of conflicting mandates, MPs thus have to decide which of the principals is, at least in the specific case, more relevant, important or legitimate than the other(s). Yet acting as a delegate is, of course, not the only way of serving the principal. As famously argued by

Edmund Burke in his speech to the electors of Bristol, '[y]our representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion' (Burke [1774] 1854, 447). The distinction between trustees, who use their own judgement, and delegates, who follow the will of the voters regardless of their own opinions (developed explicitly by Wahlke et al. 1962) has had a profound impact on studies of parliamentary behaviour, but also been criticised extensively in the literature, inter alia for presenting a too stark and simplistic contrast (Rehfeld 2009). Pitkin, for example, argued that representing meant independent action involving discretion and judgement (Pitkin 1967, 209–210). Similarly, Piattoni (2013, 227) concludes that the 'two extremes of this relationship – the trustee, who never consults with the represented and relies uniquely on his judgment in pursuing their interests, and the delegate, who consults with the represented whenever he has to act and has no opinion of his own – lie outside the concept of representation altogether'. Indeed, research has found that MPs often identify as 'politicos' for whom 'it depends' on the specific circumstances whether they follow the will of their voters or their own judgement (Andeweg and Thomassen 2005; Andeweg 2012). Independent of its explanatory or classification value when analysing parliamentary behaviour in general, however, the distinction does seem salient when it comes to crucial individual votes, and especially votes on implementing referendum results. In line with a trustee style of representation, we therefore expect MPs to base their vote on the potential impact of their decision on their principals. The more negative the expected impact, the less likely MPs will support the decision.

H5: The greater the potential negative impact of Brexit on their constituency, the more likely MPs voted against the Bill.

Data and design

For the empirical analysis, we draw on a dataset of ten variables, put together from various sources as explained below.

Dependent variable

Vote on Bill: Our binary dependent variable measures whether MPs voted for (coded as 0) the Bill or against it (coded 1) in the third reading vote on 8 February 2017.⁸ For the analysis, we draw on two different groups of MPs. In a first step, we include the votes of all MPs. With the exception of Labour, however, MPs of all other parties voted either (almost) unanimously for (with Kenneth Clarke being the sole exception within the Conservative Party) or against the Bill. Thus, for all MPs except Labour MPs, party membership is probably the most important predictor for the vote, but one that cannot be tested due to lack of variation. Our main research interest therefore focuses on explaining the vote of Labour MPs. We did, however, decide to keep the group of all MPs as a dependent variable as a contrast for the Labour results. For both groups we omitted the 34 MPs who abstained or were absent. These included the speaker and the three deputy speakers, the four tellers, two MPs who had chaired some of the Bill's proceedings at committee stage and, following convention, did not vote on the Bill, as well as the four Sinn Féin MPs who never take their seats in the House. In addition, two seats were vacant at the time of the vote (Copeland and Stoke-on-Trent Central). The remaining 18 MPs varied regarding their own position in the referendum, the result in their constituency as well as the party they belong to, but given that some were ill or may have had other reasons not to attend the vote, we are unable to assess whether the absence from the vote was strategic or not or how they would have voted had they attended. In addition, we had to omit MPs representing the constituencies in Northern Ireland, for which data on estimated Brexit job losses are not available (see below). As a result, the analysis includes 602 MPs overall and 214 Labour MPs.

Independent variables

(Estimated) Remain Result Constituency: A continuous variable measuring the share of votes for remain in the referendum by constituency in per cent. As the referendum results were announced by local authority area, there is no complete official data on how all Westminster constituencies voted; the results are available only for 169 constituencies (House of Commons Library 2017). For the remaining constituencies, we use the estimations calculated by Hanretty (2017). Hanretty's estimations for the constituencies were widely shared in the (social and print) media and made available on the parliamentary website (House of Commons Library 2017), so it is unlikely that MPs were not aware of them. Indeed, in the debate on the Bill, many MPs referred to the result in their constituencies.

Majority. A continuous variable measuring the difference between the vote shares of the incumbent MP and the candidate who came second in the most recent elections in percentage points.

Estimated Resident Job Loss (%): To measure the potential impact of Brexit on the constituencies, we draw on data on the estimated loss of jobs by *residents* in the constituency as a result of Brexit, irrespective of whether such jobs are located in the same constituency, or are located in other constituencies to which the residents commute (data provided by the UK Trade Policy Observatory, UKPTO, published by Conservative Group for Europe 2018; see also UKPTO 2018a, for further information on sources and methodology see; Serwicka, Winters, and Jiang 2018). Here, we calculated the percentage of estimated resident job losses out of the overall working population (age 16–64) for each constituency using data provided by the House of Commons Library (2019). The data covers the 632 constituencies in England, Scotland and Wales, but unfortunately excludes the 18 constituencies in Northern Ireland. It has to be noted that this not a very encompassing or complete measure of even the potential *economic* impact of Brexit. In addition, it is, of course, an *estimation* and not a prediction of the potential job loss. As a result, we can neither say for certain that these estimations were correct or, more importantly, that MPs shared these expectations for their constituencies. Especially given competing claims regarding the economic and other effects of Brexit ('project fear'), it is entirely possible for MPs to have assessed the impact of Brexit to be far less negative or even beneficial for their constituency. Yet the data represent one of the only two measures of the potential Brexit impact available at the constituency level. The other measure, also provided by the UKPTO (2018b), estimates the loss of employment, i.e. the loss of jobs by people *working*, and thus not necessarily residing, in the constituency. We assume that MPs are first and foremost concerned about the potential impact on their residents and used the first measure related to residents. The regression results using the estimated workplace losses can be found in the appendix (table A2). Here, the variable is no longer significant for Labour MPs at the 95% level, but all other results remain substantially the same.

Support Referendum: A binary variable measuring whether MPs voted for (= 1) the European Union Referendum Bill in third reading on 7 September 2015 or did not (= 0).

Office Status: Following Moore (2018), we created a categorical variable with three categories: *Experienced Backbenchers* includes MPs elected before 2015 (= 0) and serves as the baseline. *Parliamentary Newcomers* are MPs elected in or after 2015 (= 1), and *Frontbenchers* includes MPs who held an office on the shadow frontbench (= 2) on the day of the vote. This variable is coded for Labour MPs only.

The regression models also include three control variables.

Age: A continuous variable measuring the age of MPs in 2017.

Female: A binary variable coded as 1 for female MPs.

Seniority: A continuous variable counting the number of years that MPs had served as MPs in 2017.

Table 3 provides an overview over the descriptive statistics for all variables.

Results

Table 4 presents the regression results regarding the MPs' vote. For all four models, we used a logistic model estimating the binary outcome of whether MPs voted against (= 1) or for (= 0) the

Table 3. Descriptive statistics.

Variables	Obs	Mean	Std. Dev.	Min	Max
Vote on Bill	602	.196	.397	0	1
Remain Result Constituency	602	48.03	11.48	24.35	79.52
Majority	602	24.31	14.03	.1	81.1
Estimated Resident Job Loss (%)	602	1.83	.37	.87	3.39
Support for Referendum	602	.51	.5	0	1
Seniority	602	10.19	8.77	1	47
Office Status	214	.86	.93	0	2
Age	602	49.83	10.25	22	82
Female	602	.30	.46	0	1

Table 4. Regression results.

	(1)	(2)	(3)	(4)
	All MPs	All MPs	Labour MPs	Labour MPs
Remain Result Constituency	0.171*** (0.0317)	0.233*** (0.0232)	0.131*** (0.0213)	0.222*** (0.0461)
Majority		0.0789 (0.0556)		0.117 (0.0668)
Remain Result Constituency # Majority		-0.002** (0.001)		-0.003* (0.001)
Support Referendum	-2.748* (1.332)	-3.182* (1.523)	-1.048 (0.797)	-1.203 (0.840)
Parliamentary newcomers			-0.544 (0.656)	-1.354 (0.795)
Frontbenchers			-1.123* (0.468)	-1.452** (0.499)
Impact Resident Jobs	-2.064*** (0.557)	-2.165*** (0.546)	-1.482 (0.864)	-1.753* (0.882)
Age	0.001 (0.009)	-0.009 (0.013)	-0.006 (0.019)	-0.011 (0.019)
Female MP = 1	0.239 (0.391)	0.426 (0.402)	0.705 (0.413)	0.897* (0.437)
Seniority	-0.035 (0.034)	-0.011 (0.037)		
Constant	-5.538*** (1.479)	-7.521*** (1.631)	-4.767** (1.660)	-7.995** (2.564)
Observations	602	602	214	214
Adj. count R ²	0.517	0.525	0.250	0.365
LR	298.964	317.009	77.341	87.621
Prob > LR	p < 0.001	p < 0.001	p < 0.001	p < 0.001

The table reports the coefficients of the logistics regression with standard errors in parentheses, * $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Adj. count R² reports the adjusted share of correctly predicted outcomes from the model.

Bill. Models 1 and 2 include all MPs and are clustered by party, models 3 and 4 include Labour MPs only. For both all MPs and Labour MPs we fit the regression once only with the remain result in the constituencies (models 1 and 3) to test H1 and once with an interaction of the remain result and the MPs' electoral majority (models 2 and 4) to test H2 on the impact of seat safety on constituency pressure.

Given the difficulty of interpreting logistic regression coefficients, we base our discussion in the following on the predictive probabilities for the remain result in the constituency based on models 1 and 3, and for the other independent variables based on the full models 2 and 4. All predictive probabilities were calculated holding all other variables at their observed values (for all average marginal effects see table A3 in the appendix).

As [Figure 1](#) shows, the share of Remain in their constituencies did increase the probability of MPs to vote against the Bill in both groups. Although the results confirm hypothesis 1, the effect is far from linear: In both groups, MPs representing a completely divided constituency (share

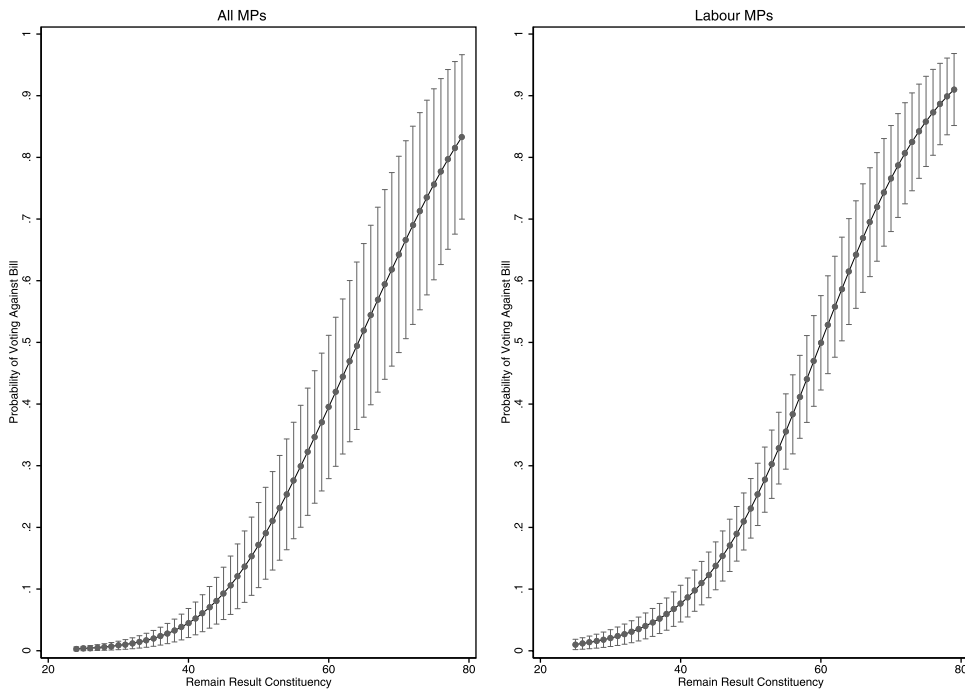


Figure 1. Predictive margins of constituency with 95% CI.

remain = 50%) still only have a probability of voting against the Bill of just 17 (all MPs) and 23% (Labour MPs). This probability only reaches 50% once the share of remain in the constituencies is fairly solid, i.e. at around 64% for MPs in general and at 60% for Labour MPs.

Next, we tested whether the marginality of MPs' seats affected the impact of the constituency result. Here, we expected the constituency result for remain to have a greater impact on the probability of the MP to vote against the Bill the closer the electoral race was at the last election. Figure 2 therefore plots the predicted probabilities for different constituency referendum results dependent on the majority (models 2 and 4).

It shows that for all MPs, increasing majority has practically no effect on the impact of the constituency result for MPs representing solid leave constituencies. In other words, MPs representing solid leave constituencies were generally unlikely to vote against the bill – and thus against their constituency – irrespective of their seat safety. Yet, the higher the share of remain in the constituency, the more seat safety mattered: MPs representing remain constituencies had a higher probability of voting against the Bill – and thus in line with their constituency – the smaller their majority, which is in line with our expectation.

For Labour MPs, in turn, a safer seat does increase the probability of MPs representing solid leave constituencies to vote against the Bill – and thus *against* the mandate from their constituency – somewhat more substantially. For MPs representing remain constituencies, the opposite is the case: the closer the race, the greater the impact of the remain share in their constituency on the MPs probability to vote against the Bill – and thus in line with their constituency.

To give some examples: For Labour MPs in the most marginal seats, the probability to vote against the Bill increases markedly with a growing share of remain voters in their constituency, namely from basically 0% in constituencies with 25% remain, to 15% in borderline leave constituencies (45% remain) to 54% for borderline remain constituencies (55% remain) and finally almost 100% in the strongest remain constituencies. For MPs with the safest seats, in turn, the result in their

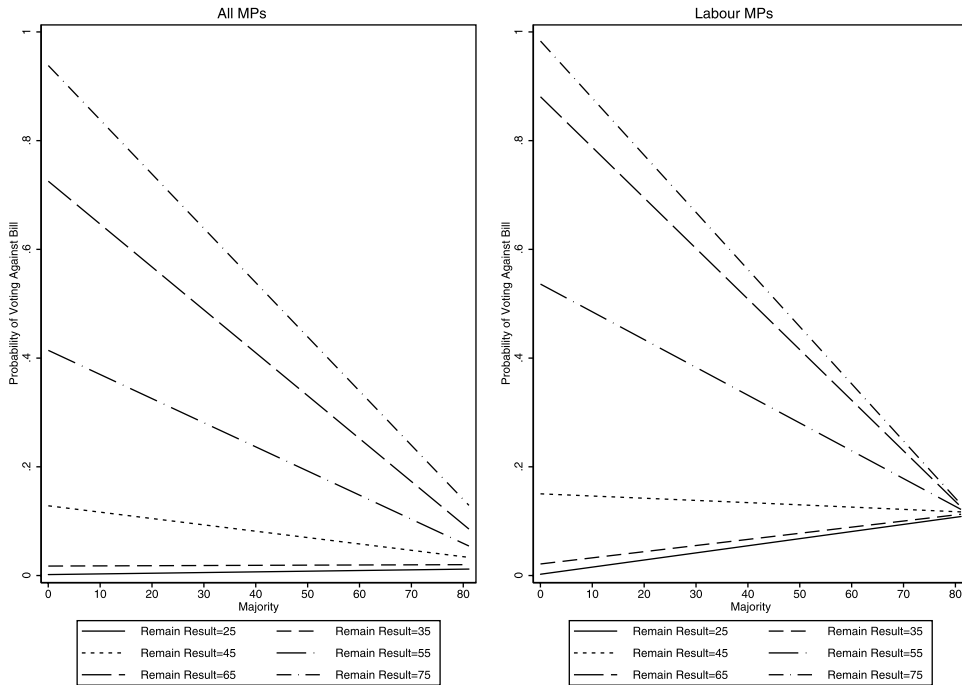


Figure 2. Predictive margins of constituency result remain dependent on seat safety.

constituency hardly mattered, the probability for them to vote against the Bill remains between 11 and 13% for Labour MPs, and between 1 and 12% for all MPs. Thus, our expectation that constituency pressure depended on the seat safety of MPs is overall largely met.

We now turn to the question of whether MPs had explicitly supported holding a referendum by voting for the European Referendum bill in third reading on 7 September 2015. [Figure 3](#) provides the predicted probabilities and shows that for both groups of MPs, the explicit commitment to the referendum had a negative impact, although it is weaker and not statistically significant for Labour MPs. Within the group of all MPs, those who had voted in support of holding a referendum are predicted to be almost 5 times as likely to vote for the Bill (29% probability) than MPs who had not (6% probability). For Labour MPs, by contrast, where only 20 MPs explicitly voted in support of holding a referendum, the effect is weaker (25% vs. 14%) and, as mentioned, the result is not statistically significant. It needs to be mentioned, however, that the Labour leadership only decided not to support holding the referendum in the vote on the third reading of the 2015 Referendum Bill. As a result, most Labour MPs abstained in the vote. In the second reading of the 2015 Referendum Bill, by contrast, Labour MPs had largely voted in favour. We therefore also fit the regressions with the data from the second reading to test if the results still hold (for the results see table A4 in the appendix). For all MPs, having voted in support of the referendum still significantly decreased the probability to vote against the Bill, yet for Labour MPs, the results are now weakly positive (increasing from 23% probability if they did not support the referendum to 24% if they did), but still not statistically significant. Thus, in both cases, we can confirm our expectation for all MPs, but not for Labour MPs.

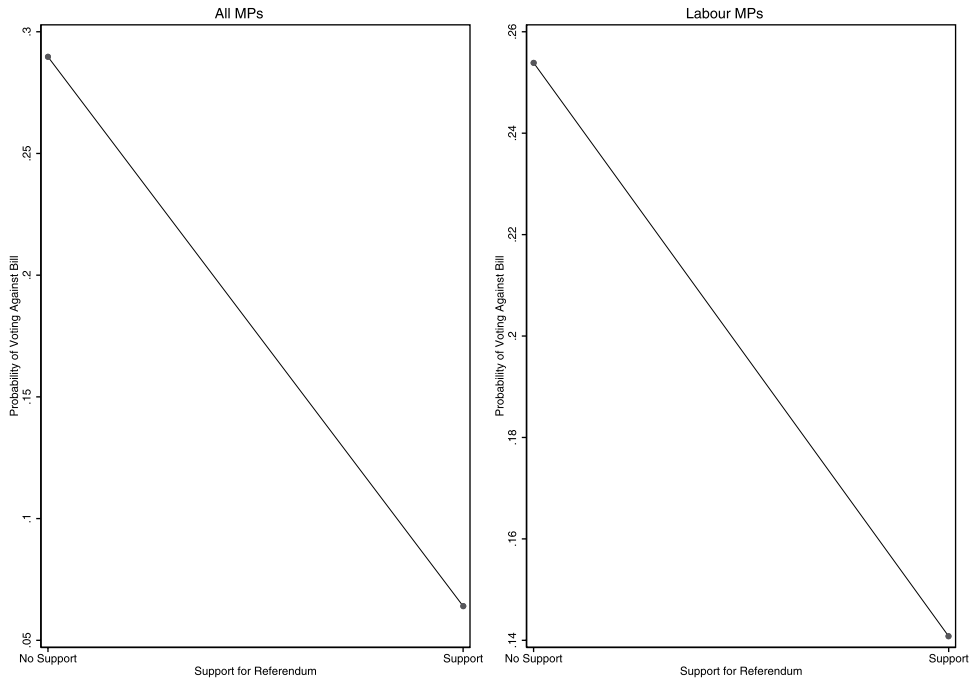


Figure 3. Predictive margins of support for referendum.

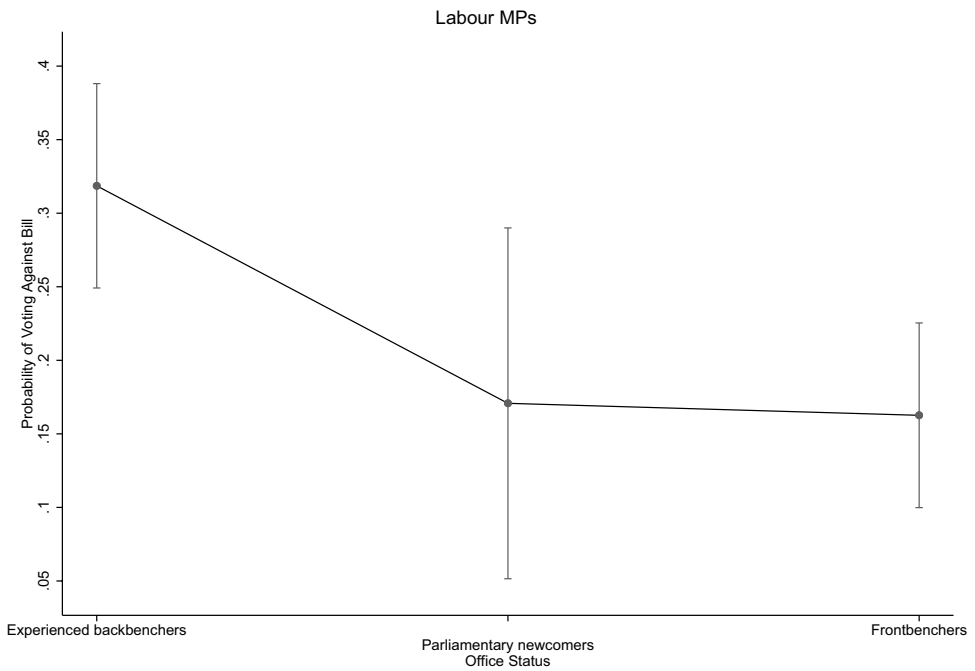


Figure 4. Predictive margins of office status (Labour MPs only) with 95% CI.

Finally, we turn to the impact of the party office status of MPs. Unfortunately, we were only able to test this for the Labour MPs. As [Figure 4](#) indicates, office status had the expected effect: experienced Backbenchers were twice as likely to vote against the Bill than Frontbenchers (32 vs. 16%), with parliamentary newcomers in between, but closer to the frontbenchers with 17%. Note, however, that the CI for the parliamentary newcomers overlap with those of the other two groups; indeed, the coefficient is not statistically significant. Hypothesis 4 can thus be confirmed for experienced backbenchers (H4a) and Frontbenchers (H4c), but not for parliamentary newcomers (H4b).

While the results presented so far all test hypotheses based on a delegate logic, albeit for different principals, our final hypothesis (H5) was based on a trustee logic, assuming that MPs take the potential impact of Brexit on their constituency into account when deciding whether to vote for or against triggering the Withdrawal process. Here, [Figure 5](#) shows the predicted probabilities of the estimated impact of Brexit regarding resident jobs in the constituencies. Surprisingly, and against our expectation, higher estimated resident job losses due to Brexit overall have a negative effect, although this effect becomes slightly weaker as the job losses increase. Still, the greater the estimated job loss within the constituency, the less likely MPs voted against triggering the Brexit process.

One explanation for the surprising result could be that the constituencies themselves voted against their own interests in the referendum. However, as [Figure 6](#) indicates, this was not the case, the referendum outcome in the constituencies did, in fact, reflect the vulnerability of the constituencies regarding a potential job loss: we find a positive relationship between the estimated resident job loss and the share of remain voters, although it is stronger for Labour

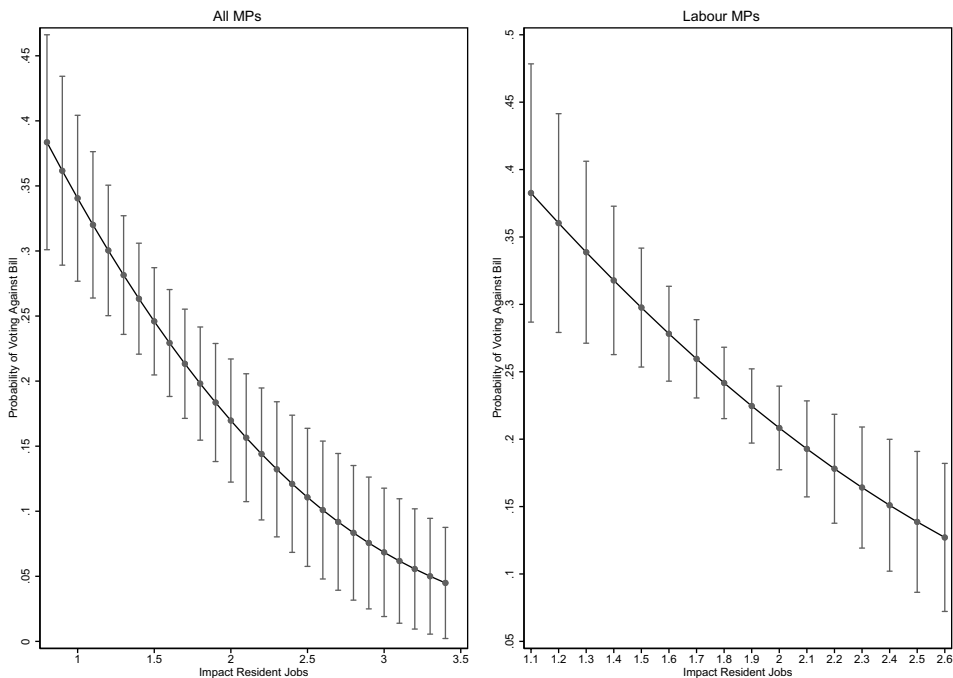


Figure 5. Predictive margins of estimated resident job loss due to Brexit with 95% CI.

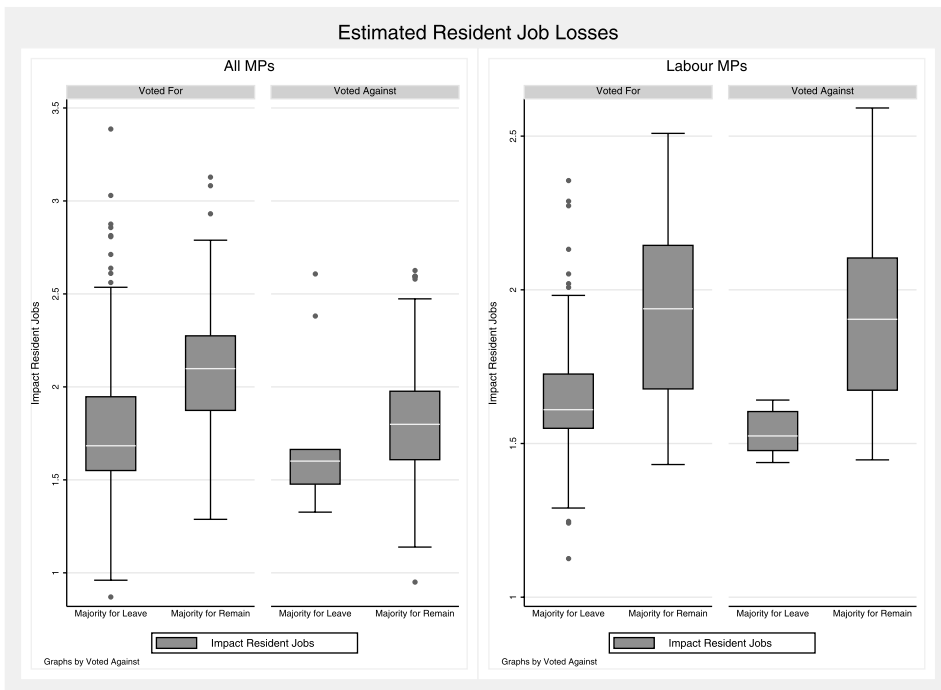


Figure 6. Estimated resident job losses due to Brexit and referendum result by constituency and MP vote.

constituencies (Pearson's $r = .488$, $p > .001$) than for all constituencies (Pearson's $r = .291$, $p > .001$).

Discussion and conclusion

In this paper, we have argued that advisory referendums may prove rather challenging for MPs. Since the referendum does not preclude a legislative decision, they not only have to decide whether to follow the outcome or their own, possibly different judgement, but they may also be faced with opposing mandates from different principals, such as the voters in their constituency who sent them to parliament or their party. In line with the overarching topic of this special issue, the parliamentary dimension of Brexit, we explored how MPs dealt with this dilemma using the case of the Brexit referendum on membership in the European Union and the parliamentary vote on the Bill on 8 February 2017, which authorised the government to start the Brexit process in late March 2017. The following will summarise and discuss our main empirical results illustrated by quotes from the parliamentary debates on the Bill. Results based on a single case are, of course, not conducive to any form of generalisation. Beyond the specific empirical contribution to this special issue, however, the aim was to make a theoretical contribution by exploring potential dilemmas arising from ex ante advisory referendums more generally, an issue that to our knowledge has so far not been dealt with in the literature. Here, the article also provides an analytical framework for the investigation of other instances of advisory referendums.

Although the Bill did not yet implement the referendum result by withdrawing the UK from the EU, it was nonetheless a momentous decision for MPs to take, and the parliamentary debate on the Bill reflects the dilemma that many MPs felt: a large majority of them had, often passionately, campaigned for the UK to remain in the EU and now had to decide whether to follow their conviction or to authorise the government to start the implementation of the referendum outcome. Yet as the

outcome of the vote shows, there is little indication that MPs generally followed their own preferences, quite the opposite. Most chose to follow the mandate of the whole country, as illustrated by the following quotes from the parliamentary debate.

I campaigned to remain in the EU, but I accept the result of the referendum and will vote for this Bill tomorrow. ... I call it democracy. We held a national referendum. Those of us on the remain side might not like the result, but we have to accept it. It was close, but it was clear – and it was clear in my constituency (Emma Reynolds, Labour MP for Wolverhampton North East, known leave result 67.7%, 31.01.2017).

If this Parliament were to say to the people, 'You did not know what you were doing, only 37% voted leave, the referendum was only advisory and there were lots of lies' – whether or not we agree with some of those assertions – we really would have a crisis of confidence in our politics ... That is why the democratic thing to do is to vote for this Bill, and I shall do so tomorrow (Hilary Benn, Labour MP for Leeds Central, estimated leave result 46%, 31.01.2017).

In this decision, whether or not MPs had supported holding the referendum in the first place was a strong predictor for MPs in general.

I ... voted for the referendum to give our people a choice on our future, so it would be entirely inconsistent to reject the verdict of that referendum, even if it is at odds with my own view. I voted and campaigned for the UK to remain in the EU, and I was disappointed by the result. Some 71% of my constituents voted to remain. In the past week, I have received literally hundreds of letters telling me that I should represent them tonight and vote against the Government. ... [Yet], I too am a defender of democracy. ... Tonight, therefore, I will be in the Lobby voting to trigger article 50 (Stephen Hammond, Conservative MP for Wimbledon, known leave result 29.4%, 01.02.2017)

For Labour MPs, in turn, of whom only 20 MPs had voted in favour of the referendum Bill in 2015 in third reading, explicit support for holding the referendum also decreased the likelihood to vote against the Bill, but the result was not a statistically significant predictor. One reason may be that Labour had indeed supported the referendum with a large majority in the second reading in June 2015 and only decided to withhold that support in the final vote in September 2015.

Overall, MPs were more likely to act as delegates of their constituencies, thus deviating from the popular mandate and, in the case of Labour, from a three-line whip, if they represented strong remain constituencies and if they held a more marginal seat. Here, our findings for Labour contrast the findings by Moore (2018): Moore not only found that seat marginality played no role regarding the decision of Conservative MPs to support either remain or leave in the referendum, but also that in the case of a potential conflict between an MPs' personal views and the position on EU membership within their constituency, Conservative MPs were more likely to be guided by their own views. While this is not necessarily an indicator for differences between the two main parties, we do assume that it is an indicator for differences between the two decisions MPs had to make. In the case of the referendum, MPs could hope to sway their constituency's position through their campaign, but regarding the decision itself, they were citizens with a single vote just like their constituents, who had to make a personal choice. For the vote on the Bill, by contrast, they were representatives who had to decide whether or not to follow a decision the country and/or their constituency had already made.

Our results on the impact of the party mandate do, in turn, mirror those of Moore (2018). Here, we found Labour shadow frontbenchers and parliamentary newcomers were almost equally less likely to vote against the Bill and thus to defy the three-line party whip than the experienced backbenchers, although the result is not statistically significant for the newcomers. Although this shows that MPs who had more to lose in terms of (prospective) party offices were overall less likely to defy their party leadership, it also has to be noted that 5 shadow frontbenchers representing remain constituencies resigned to be able to vote against the Bill.⁹

In turn, our analysis found no direct evidence that MPs assumed a more trustee-oriented role, quite the opposite. Surprisingly, MPs were less likely to vote against the Bill, the more vulnerable their constituencies to estimated resident job losses due to Brexit. As we have shown, this was also not a result of constituencies systematically voting against their own economic interests. Still, interpreting the results in terms of a causal relationship would assume that MPs *intentionally* voted against their constituents' economic interest, an assumption that seems rather far-fetched.

As mentioned, the analysis is based on an estimated economic impact, and MPs may have assessed the potential impact of Brexit on their constituencies differently. And even where they feared a negative economic impact, it seems more likely that they felt compelled to support the Bill *despite* such concerns:

Although I accept that decision and I will vote for the Bill, I fear that its consequences, both for our economy and our society, are potentially catastrophic (Margaret Beckett, Labour MP for Derby South, estimated result 61.4%, leave 31.01.2017).

I campaigned passionately for remain, and I am in no doubt that the result of the referendum will eventually weaken our economy, erode our sovereignty, and diminish our place in the world; but I am, above all else, a democrat. The debate in this country was had. The votes were cast, the ballots were counted, and my side of the argument lost (Stephen Kinnock, Labour MP for Aberavon, estimated leave result 60.1%, 31.01.2017).

Some also explicitly rejected the notion of acting as a trustee:

'I do not think it is possible for me, as a democratically elected Member of Parliament who entered into the referendum process having accepted that we were going to have a referendum, then to tell the public that somehow I know better, and that I am not going to honour the outcome of that referendum (Clive Efford, 31.01.2017, Labour MPs for Eltham, known leave result 51.5%, 31.01.2017).

There are, however, some exceptions. Of the seven Labour MPs who voted against the mandate of all their principals, some argued their case from a trustee perspective in the parliamentary debate:

I know that many of my constituents will disagree with me, and maybe they will take it out on me, just as it was taken out on Burke in Bristol. In the end, there is no point in any of us being a Member of this House if we do not have things that we believe in and that we are prepared to fight for and, if necessary, lay down our job for (Chris Bryant, Labour MP for Rhondda, estimated leave result 60.4%, 01.02.2017).

On the doorstep, people did not tell me they would be happy to lose their workers' rights, to lose their jobs, to have lower standards of living or goods, or to have reduced opportunities for their children and grandchildren... I cannot keep on voting for a process that gives the people of Bridgend no assurance of a secure future for them and their children. I will not be voting to trigger article 50 (Madeleine Moon, Labour MPs for Bridgend, estimated leave result 50.3%, 01.02.2017).

To the people of Wakefield I say that I have always sought to act in their best interests. My duty is to use my judgment to make their lives better. They did not elect me to make them poorer, destroy their jobs, and weaken their public services. ... I can no more vote for this Bill than I can vote against my conscience. I cannot vote for it because it is against my values, and I can no more vote for it than I can vote against my own DNA (Mary Creagh, Labour MP for Wakefield, known leave result 62.8%, 01.02.2017).

It is impossible to say, of course, to what extent the reasons – and emotions – expressed in the debates in general, and in the quotes cited in the text, are sincere. As Umit and Auel (2020) show, MPs were far more likely to speak in the debates on the Bill if they voted against either their constituency or the whole country. This indicates that MPs felt the need to justify their decision to those principals they voted against, either for strategic considerations, i.e., to avoid a potential electoral fallout, or out of sincere conviction. At the same time, however, it is also an open question whether and to what extent constituents really do firmly expect their MPs to act as their delegates on such crucial decisions and will punish defection – or whether they respect an opposing decision based on their MPs' convictions. As it turned out, of the seven Labour MPs who voted against the Bill despite a different mandate from *all* their principals, six stood again at the 2017 general election – and all were re-elected by their constituencies.

Notes

1. On 24 January 2017, the Supreme Court ruled that ministers cannot give Notice according to Article 50(2) TEU without prior sanction from the UK Parliament (Supreme Court 2017, para.100–101). As argued by the Supreme Court in its decision, '[w]here, as in this case, implementation of a referendum result requires a change in the law of the land, and statute has not provided for that change, the change in the law must be made in the only way in which the UK constitution permits, namely through Parliamentary legislation' (Supreme Court 2017, para.121).

2. In the following referred to as the Bill.
3. The vote was therefore also more important than the resolution of the House of Commons on 7 December 2016, calling on ministers to give the Withdrawal Notice by 31 March 2017. As the Supreme Court (2017, para.123) argued, a 'resolution of the House of Commons is an important political act. ... [But] only legislation which is embodied in a statute will do. A resolution of the House of Commons is not legislation'.
4. In the House of Commons (and the House of Lords) no official record is kept on abstentions, information on divisions only lists Ayes and Nos. It is therefore impossible to say whether MPs abstained or were absent from the vote.
5. See section Data and Design below.
6. MPs can, of course, avoid the legislative decision altogether by abstaining or not attending the vote, and studies have indeed found supporting evidence for a strategic use of both in the face of competing principal demands (Mühlböck and Yordanova 2017, with further references).
7. Unless, of course, the two are the same, as in the Netherlands with its single nation-wide constituency.
8. We fit the regression with the data on the second reading vote on 1 February 2017, and the results remained substantially the same (see table A1 in the appendix).
9. These were Tulip Siddiq (Shadow Minister for Early Years), Jo Stevens (Shadow Welsh Secretary), Dawn Butler (Shadow Minister for Diverse Communities), Rachael Maskell (Shadow Secretary of State for Environment, Food and Rural Affairs), and Clive Lewis (Shadow Secretary of State for Business, Energy and Industrial Strategy).

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