

# We have won but not by much – implications

Anthony Scholefield wrote this piece a week or so before the referendum. It considered the possibility of both a narrow win or a narrow lose for our side. Now the result has been announced, it is interesting to see how accurate these thoughts will prove.

My paper entitled '24th June' considered what might happen after Leave won the referendum.

The government, Parliament and the people, will be looking for urgent leadership. After all, 'scoping' negotiations will have to begin in a few weeks and an Article 50 Notice served within about a year (presumably all now agree Article 50 is the way forward).

An absolute necessity is for a clear aim, a clear plan and a clear timetable which can be put forward. (It should have already been done.)

The aim is to decide what exactly in the EU we need to leave and where do we want to go. The plan is how we execute the aim and the timetable is how we execute the plan.

Vote Leave has said it is up to the government to put forward proposals but the government will be in a state of shock and will be looking around for ready-made proposals as to what to do.

Otherwise it will dissolve in total incoherence. The Opposition Westminster parties will be in a similar position and are completely bereft of ideas to cope with this situation.

I believe we should be thinking now of what action is

necessary to take the initiative.

Are we ready to do this and to form the structures to do this?

We need a committee of all the various Leave groupings to meet and adopt a plan and get this endorsed by a conference within a month – but it needs senior political leadership. Global Britain has done some preliminary thinking on this. EuReferendum and the Leave Alliance has set out concrete proposals.

***(Anthony also considered what a narrow defeat would have looked like. This was his analysis)***

There will be extensive post-mortems but the critical decision is this. Frank Field has said on 'Question Time' that whatever the result we must accept it.

But this misunderstands the nature of the referendum. A referendum is a mere political instrument to achieve a political goal.

The basic political fact is that Remain can win a referendum but, as Enoch Powell said on the day after the 1975 referendum, such a result "is no more than provisional". The reason is that a supranational government in the EU is incompatible with a free democracy. Powell specifically compared the result of the 1975 referendum to the 1938 Munich Agreement and said either depended on ongoing parliamentary and popular support to remain valid.

The aftermath of the 2016 referendum will be quite different from the aftermath of the 1975 referendum. In 1975, the electorate did not know much about the EU and, whatever different opinions were held about it, it did not seem threatening. Now there are four existential forces at work in the EU. They are the ongoing crisis in the Eurozone, the migration crisis, the possibility of cross-border terrorist atrocities and the determination of the Eurozone countries (or

some of them) to push forward to far greater integration leaving the UK either bobbing in their wake or remaining one of two or three non-eurozone countries in a European Union absolutely dominated by the eurozone and its problems.

Moreover there will be a 40% plus irreconcilable part of the British people who will simply not accept, except in the short-term, that the referendum settles anything. That is why calls for 'constructive engagement' or 'acceptance of the decision of the people' are wrong. Parliamentary and public support for EU membership could vanish very quickly if the electorate concluded the wrong decision had been made at the referendum.

Almost immediately, the fact that almost half Conservative MPs have supported the Leave campaign means the government will be in a political minefield.

What happens to Cameron's 'reforms'? Are they likely to be even passed through the European Council? Are they likely to be derailed in the European Parliament? What will Cameron do then? The immediate future is fraught with difficulties.

Looking further ahead, as new Brussels' legislation turns up in parliamentary proposals or executive implementations, how will the almost 50% of Conservative MPs, who supported the Leave campaign, vote on these? Some may be passed with the help of Opposition MPs but how long can this continue? How can the leaders of the Leave campaign meekly vote through more Brussels' legislation?

There is already talk of a second referendum and a narrow win for Remain will make this most likely.

The referendum result to Remain depends for its validity on on-going parliamentary and popular support and events in the EU will drain this quickly.

So, a Remain vote will settle nothing. The election of Trump

may change the scenario as well.

It seems a coalition of the Leave campaigns, broadened to include all other supportive organisations, should remain in being as a second referendum or a Tory volte-face will not be long in coming.

The 24th June

Clausewitz

In discussion with a very senior leader of the Leave campaign, I mentioned that we ought to prepare for 24th June and plan now for the way ahead in the event of a Leave win.

His answer was that he had a referendum to win and was concentrating entirely on that. Yet this reply was a contradiction of basic strategy as put forward by Clausewitz, which was that "war is simply a continuation of political intercourse, with (the addition of) other means" [*mit anderen mitteln*]. In this case a referendum is also a continuation of politics with other means.

To hold a referendum has never been an aim in itself and it is a mere constitutional instrument to achieve a political goal or perhaps what is better described as a return to political reality. Remain supporters can win many referendums but, as Enoch Powell pointed out the day after the 1975 referendum, these results "are no more than provisional". The reason is that a supranational government in the EU is incompatible with a free democracy. Enoch Powell specifically compared the result of the 1975 referendum to the 1938 Munich agreement and that either depended on parliamentary and popular ongoing support to remain valid.

So, even when absorbed in the practicalities, polling and strategy of the referendum campaign, those who want to Leave the EU should already be looking ahead to what happens on June 24th and afterwards, assuming a Leave majority in the

referendum. (The interview between Robin Day and Enoch Powell in June 1975 is worth reading in full and has been helpfully put up on the YouGov website.

### **'The Critical Path' out of the EU**

In 2014 and 2015 I produced some papers outlining the Critical Path to leaving the EU based on the 'Stepping Stones' strategy put forward by Sir John Hoskyns, which formed the basis of much of the early Thatcher government and also on policy fundamentals put forward by Gladstone in one of his speeches.

"The critical path ahead centres on two areas: winning a referendum to leave and actually organising an effective and beneficial departure from the EU. These two matters are interrelated."

Yet there has been, quite naturally but wrongly, an overwhelming focus on winning a referendum and little focus on the "effective and beneficial departure".

I also noted how, in Switzerland, those winning a referendum against the advice of the Swiss government, took notice of three matters. These were:

The clarity of the aim behind the majority vote;

The meshing in of the referendum result with existing laws and treaties, and

Sometimes a timed longstop for action.

Switzerland has been having referendums for over a century. They know the dynamics of a referendum. Should we not take account of their approach?

### **Veering off the 'Critical Path'**

I noted that the Leave campaign (Vote Leave and Leave EU) all veered off the critical path and ignored the Swiss experience.

## **The UK Constitutional Situation**

Leaving the EU has to be implemented by an executive and a Parliament whose members are likely to have voted the other way.

It is not simply a case of replacing the existing government by a government which would be made up of supporters of 'leaving'. That putative government, and especially a Parliament to support it, does not exist. This is unlike the situation in 1975 when Harold Wilson made it plain he would implement either an IN or OUT vote and would be able to command the votes in Parliament to do so.

What is being asked is for the executive and the legislative to implement a crucial and massive change which they have by substantial majority voted against. A decision to offer 'no plan' to leave will simply mean the 'plan' decision will be passed to the government who can interpret the decision in any way it wishes. The present composition of Parliament would facilitate this.

## **The 24th June**

At present, the official Leave campaign is not offering a clear cut plan and strategy for post-referendum action. The reason given is that the Leave campaign will not be organising or putting into effect Britain's departure but the government will be doing so. Some have commentated on the absurdity of this argument, which would make think tanks, the policy arms of political parties and, indeed, the ideas of individual politicians, worth less and futile unless they were part of the government. It is said the official Leave campaign will close down on June 24th.

This is poor strategy even in the context of the referendum. To offer a clear aim, a clear plan and a clear timetable is precisely what Swiss referendum campaigners do. It demonstrates leadership and that will attract voters.

Moreover, on 24th June this becomes an acute problem. With no clear aim, no plan and no timetable offered by Leave, the decisions will be passed to the government and to Parliament, which has an overwhelming Remain majority.

## **Convulsions**

It is not possible or fruitful to consider the party political outcome, the future of the Prime Minister, the possible discussions within the Conservative Party or all the other excitements of Westminster.

However, we can be certain that the government will formally accept the result and, in Parliamentary debate, will probably put forward a motion to accept the result and work towards it but that is all it will commit itself to do.

## **What happens then?**

As mentioned, the official Leave campaign will consider its task completed and will leave the organisation of an effective and beneficial departure to the government.

## **What would Parliament do?**

Immediately there would be a cacophony of proposals, some from various factions within the movement, others, perhaps put forward by those unfriendly to Leave, designed to brake or trip up the departure process. The crisp aim, plan and timetable of the Swiss will be lost altogether.

Among the alternatives put forward will doubtless be a call for more and better negotiations. Others will, no doubt, say that a narrow majority is not sufficient to do more than allow some tinkering around the edges of the present EU status. Somewhere in the mix may be proposals for another referendum.

Fundamental questions, such as agreement on whether the UK should stay in the EEA and whether the UK can stay in the EEA or whether the UK would have to re-join EFTA, must be cleaned

up before an Article 50 notice is served.

The potential for a Parliamentary and governmental quagmire is now really present.

And it all comes back to the lack of the clear aim, a clear exit plan and a clear timetable.

## **Conclusion**

We are trying to win a referendum and win it in such a way that a pro-EU Parliament must carry it out, as in Switzerland.

The way to do that was to have a clear plan which was the electorate's instruction to Parliament. This should have been specifically put forward. We are not in a competition for establishing the very best theoretical basis for Britain in a post-EU world, we need a clear, tested, business-friendly plan which should take on the aura of inevitability such as preceded the establishment of American and Indian independence.

Plainly, the Leave campaign has not done this. But on the 24th June, the need for such a clear plan will become an existential necessity otherwise all the hard work, the campaigning, the leaflets, the speeches, the polling, the banks of telephone workers and social media contacts will be frustrated.