

The ultimate test for anti-Brexit MPs: will they resign their seats?

democraticaudit.com/2016/11/15/the-ultimate-test-for-anti-brexit-mps-will-they-resign-their-seats/

By Democratic Audit UK

15/11/2016

*MPs who feel strongly enough about a particular issue – whether Heathrow expansion, the Anglo-Irish Agreement or increasing pre-trial detention – have sometimes resigned their seats and stood again as independents or for another party. Will anti-Brexit MPs adopt this strategy? **Sean Swan** says it is fraught with risks, but resigning en masse would be the only conclusive test of whether public opinion has switched to Remain.*



Empty benches in the Commons. Photo: [UK Parliament](#) via [parliamentary copyright](#).

It is becoming increasingly clear that there will be no second referendum on UK membership of the EU. It is also becoming clear that there will be no early [general election](#). Yet we hear that

- People who voted Leave did so because they were [misled](#) by the claims of the Leave side;
- There is a substantial change of heart, 'regrexit', on the part of a significant number of Leave voters;
- Many of those who [failed to vote](#) now regret having done so, and most of them would vote Remain in any new vote.

Is there an alternative way, short of either a general election or second referendum, to have some form of second vote on the Brexit question? Yes.

The genius of the British constitution is that it is political, not legalistic. In a [famous passage](#) in the Introduction to the Study of the Law of the Constitution, Dicey points out that a sovereign parliament can do anything, including make blue-eyed babies illegal. But he then adds that only an insane public would accept it. Thus the true limits of power are not to be found in laws or formal rights but in public opinion. This fact has led to a long tradition of MPs resigning their seats and then standing for re-election in order to oppose a particular government measure by demonstrating that public opinion is against it.

In 2008 David Davis, then shadow home secretary, resigned his seat and stood for re-election in order to give the electorate the opportunity to demonstrate their disapproval of the Labour government's intention to increase the period a suspect could be held without trial from 28 to 42 days. In his resignation [speech](#) Davis stated that his

resignation might

mean I have made my last speech to the House. It's possible. And of course that would be a cause of deep regret to me. But at least my electorate and the nation, as a whole, would have had the opportunity to debate and consider one of the most fundamental issues of our day.

Douglas Carswell and Mark Reckless, two Conservative MPs who defected to UKIP in 2014, adopted a broadly similar strategy. Both resigned the seats they had won as Conservatives and stood for re-election as members of UKIP. Of course, these were individual cases. But there have been instances of the mass use of the 'resign and re-stand' tactic.

The [Anglo-Irish Agreement](#) was signed between the British and Irish governments in November 1985. It was intended as a means of bolstering support for the moderate nationalist SDLP in Northern Ireland, following the electoral rise of Sinn Fein. It gave Dublin a consultative role in the governance of Northern Ireland and, as such, was highly unpopular with unionists. In December that year, all 15 unionist MPs, members of the UUP, DUP and UPUP, resigned their seats in protest over the Agreement. They all stood for re-election in 15 by-elections held on 23 January 1986. This functioned as a *de facto* mini-general election or referendum on the question of the Anglo-Irish Agreement.

Zac Goldsmith has now adopted the 'resign and re-stand' tactic in protest at the government's intention to build a third runway at Heathrow. Goldsmith was pro-Brexit – in fact, he almost qualifies as a second generation Brexiteer, given the fact that the original Eurosceptic party, the Referendum Party, was founded by his father, the late Sir James Goldsmith. The forthcoming by-election is already being [touted](#) as an opportunity to hold something of a mini-referendum on Brexit (see [here](#) and [here](#)). The temptations of this for anti-Brexiteers are obvious: Goldsmith's Richmond Park constituency is '[one of the most pro-Remain constituencies in Britain](#)', having voted 69 per cent Remain in the referendum. It is now being [argued](#) by the Labour group Compass that Labour should not field a candidate in the forthcoming by-election in order to give the Lib Dems a clear run against Goldsmith (though in Compass' case the argument is anti-Goldsmith rather than anti-Brexit).

However, it is not obvious how this by-election can be turned into a clear 'referendum' on Brexit. It is being held only because the sitting Tory MP resigned in opposition to the third runway. While it might be true that his main rival, the Lib Dem, is also anti-runway, it is clear that the by-election is only being held because Goldsmith resigned in protest as part of an anti-runway campaign. His defeat could be construed as showing a lack of opposition to the runway – something which might give anti-runway voters pause. There is also the fact that what makes this constituency so attractive to Remain campaigners – the fact it is so anti-Brexit – is also its greatest weakness as a test case. Were a single united anti-Brexit candidate, presumably the Lib Dem, to stand against Goldsmith and get less than 69 per cent of the vote – hardly an unlikely outcome – it would be possible to maintain that that anti-Brexit sentiment was actually *declining*. In any case, because Goldsmith will not be an official Conservative candidate, his defeat would not formally be a defeat for the government.

A single by-election that has its origins in a runway protest is insufficient as a protest vote against Brexit. The only electoral route open for such a vote would be for all MPs who are anti-Brexit to resign *en masse* and stand for re-election specifically on the Brexit question, much as the Northern Irish unionists did over the Anglo-Irish Agreement. Of course such a step would be a drastic measure, not least because it would potentially cut across party lines (for example, the Labour leadership might oppose it and Ken Clarke might support it). It would also be far from risk-free.

The risks

By definition, only anti-Brexit MPs would resign to create such a 'semi-general election' and thus only anti-Brexit

seats would be at risk. It is possible that some of these seats would be lost. This was the scenario in Northern Ireland when the unionists resigned and re-stood in opposition to the Anglo-Irish Agreement – they [lost](#) the Newry and Armagh seat to the pro-agreement SDLP. Nor did this mass resignation have the desired effect, as the Anglo-Irish Agreement remained in force until it was superseded by the 1998 Good Friday Agreement.

David Davis' resignation was limited in impact by the fact that the Labour government refused to stand a candidate against him. This, to a certain degree, shot Davis' fox as, without a candidate to represent the government's pro-detention position, the by-election could not be portrayed as a clear choice between a pro- and anti-detention position. The fact that the Tories will not stand a candidate against Goldsmith in the upcoming Richmond Park by-election – despite the fact Goldsmith is not standing as a Conservative candidate – and that his main Lib Dem rival is also anti-runway, will tend to create a similar situation regarding the runway protest. In the event of mass resignation by anti-Brexit MPs, and assuming Tory party discipline held, the government would most likely formally ignore it and refuse to stand candidates in the subsequent by-elections. The nightmare scenario, from the perspective of the anti-Brexiters, would be if the Tories refused to stand but UKIP did – and succeeded in winning seats.

Nonetheless, if the opponents of Brexit are firm in their conviction that Brexit is an issue of supreme importance, and if they are sure that the mood in the country has changed since the referendum, and if they can unite, mass resignation is a viable strategy for demonstrating public opposition to Brexit– not in opinion polls, but in votes.

This post represents the views of the author and not those of Democratic Audit.

[Sean Swan](#) is a Lecturer in Political Science at Gonzaga University, Washington State.