

Taxes and sovereignty

When Parliament fell to debating various versions of a Withdrawal Agreement between the UK and the EU some of us had no wish to enter binding arrangements with the EU that could continue to prevent us making sovereign decisions for ourselves through elections and Parliamentary votes. I along with 27 other Conservative MPs voted three times against Mrs May's Withdrawal legislation because it did not restore full Parliamentary sovereignty. We tried to get her to insert a sovereignty override clause to reassure us that in the event of disputes with the EU we could legislate ourselves out of trouble, but she refused. Indeed her advisers said to put in such a clause would render the Agreement void as it undermined the rights of the EU built into it.

When we were asked to support Mr Johnson's versions of the Agreement we again expressed misgivings about parts of it, particularly over fish and Northern Ireland. The government agreed to insert the all important sovereignty clause. It assured us the parts of the Agreement we did not like would be improved in the Future Trading Agreement, and were by any chance they to still fall short then we would have the ultimate lock of a proper sovereignty clause. It was on that basis the EU Withdrawal Act passed. It is important today to remind people just how comprehensive Clause 38, the sovereignty clause is. It leaves no one in any doubt Parliament is sovereign and can exercise its sovereignty as it wishes, whatever interpretation the EU may place on the ambiguous Withdrawal Agreement.

The immediate issue is VAT in Northern Ireland. I see no clause in the Protocol which says the UK Parliament cannot change taxes in Northern Ireland if it wishes. If government lawyers think there is some issue, then they should furnish the government with the draft clause for the VAT legislation which uses the sovereignty powers in Clause 38 to ensure the removal of VAT from NI transactions as well as GB transactions is legal.

Clause 38 of the Withdrawal Act:

Parliamentary sovereignty

(1) It is recognised that the Parliament of the United Kingdom is sovereign.

(2) In particular, its sovereignty subsists notwithstanding—

(a) directly applicable or directly effective EU law continuing to be recognised and available in domestic law by virtue of section 1A or 1B of the European Union (Withdrawal) Act 2018 (savings of existing law for the implementation period),

(b) section 7A of that Act (other directly applicable or directly effective aspects of the withdrawal agreement),

(c) section 7B of that Act (deemed direct applicability or direct effect in relation to the EEA EFTA separation agreement and the Swiss citizens' rights

agreement), and

(d)section 7C of that Act (interpretation of law relating to the withdrawal agreement (other than the implementation period), the EEA EFTA separation agreement and the Swiss citizens' rights agreement).

(3)Accordingly, nothing in this Act derogates from the sovereignty of the Parliament of the United Kingdom.