

# Parliament thwarts the government again

As I thought, the government was not allowed to re run Saturday by tabling the Withdrawal Agreement for another vote today. The Speaker decided that Parliament had the chance to vote for the Agreement on Saturday and had voted instead not to support the Agreement in principle but instead to look at the draft legislation it would need first. That is what the government now wishes to do tomorrow. The votes the government lost on Thursday on procedure and on Saturday over consideration of the Agreement proved lethal to their idea that Parliament would approve the Agreement.

The task remains difficult for the government. It needs to get agreement to a tight timetable for the legislation. It needs the Bill to clear all Commons stages in just three days, so it can pass to the Lords to leave open the chance of completing it by the October 31 deadline. It also needs to secure the Bill without any amendment to the provisions of the Treaty it is seeking to replicate, as that would require the government to go back and seek change from the EU.

The Remain forces in Parliament may try to move a reasoned amendment to the second reading motion of the Bill to attach conditions to it. They may wish to move amendments during committee stage to add a second referendum or a full customs union or single market membership or one of the many other permutations they have argued for over the last long three years since the referendum decision they regret. Anyone of these if carried could be unacceptable to the government, and in some cases could require returning to Brussels for renegotiation were Parliament able and willing to proceed with the legislation despite the government.

The opposition may argue the three days are insufficient for a "long and complex constitutional Bill", and resist the government pointing out Parliament has talked about little else than this Agreement for almost a year. They could try to vote down the timetable, or seek to impose a longer timetable of their own. There is also the issue of how the Lords will behave if and when they receive the Bill, as it is more difficult to timetable the Lords.

Meanwhile the government may strengthen the Bill with a sovereignty clause to help with the problem of excessive EU powers during the so called Implementation period stretching to December 2020.

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# My intervention during the debate on the European Union (Withdrawal) Acts, 21 Oct 2019

**John Redwood (Wokingham) (Con):** This debate should be about restoring the independence of our country in accordance with the votes of the referendum. Given that in the implementation period the EU will have massive powers over us, is there something that the Government can build into the draft legislation to give us reassurance that the EU will not abuse those very excessive powers?

**The Secretary of State for Exiting the European Union (Mr Stephen Barclay):** Yes, I am happy to give that reassurance to my right hon. Friend. That is something that we can commit to do as we move forward.

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## How to leave the EU

Over the last three days I have tried one more time to persuade the government that the best way to leave is to table a Free Trade Agreement based on EU/Japan and EU/Canada, and offer talks after we leave on 31 October. If the EU says Yes then we can avoid all tariffs and new trade barriers whilst the free trade issues are discussed, if necessary at length.

If they refuse this sensible offer which is much in their own interest we leave on the basis of WTO trade, cutting tariffs on our imports as we do so. This is leaving with a WTO deal, including arrangements and agreements for government procurement, haulage, aviation, customs, pipelines, transport links, energy and much else which are now ready.

I have given this consistent advice since 2016. Had Mrs May followed it we would have left a long time ago and would probably have an FTA by now. We would not have paid them large sums of money, not had a long and expensive delay in departure, and not had to face laws and regulations from the EU which we do not have a say on. If we did it now it would avoid the unhappy parts of the Withdrawal Agreement and the further 15 month delay in exit. Above all it would avoid the vexatious and difficult processes with the Withdrawal legislation that await us, offering Remain MPs more opportunities to delay or damage Brexit. It would save us a lot of money, avoid a period until December 2020 when the EU can legislate and overrule us, and deal with the issues on the Irish border.

What is happening in the Commons is a clear polarisation into Leave and Remain teams, with the Leave team getting behind the Withdrawal Agreement route. The Remain team including all Opposition parties seems united,

determined to use court actions, rushed hostile legislation and any Commons opportunity to delay or prevent Brexit. The poor negotiating by Mrs May, the loss of the Conservative/DUP majority, and the relentless pressure from the Benn Act and other Remain operations has weakened the UK bargaining position and placed the new government in a very difficult position. If the government does not recognise the need to table an FTA and choose a different route out, we are all left with sub optimal choices.

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## That letter

Yesterday I wrote about the Benn Act requiring the PM to send a letter asking for a delay to our exit date. I did so because I assumed the government would lose the Letwin amendment, and assumed there would be no vote on the Withdrawal Agreement. Those who want to know how I voted should know I voted against the Letwin amendment.

Today we need to think about what the PM should do over delay. The UK has already had two delay requests accepted. There does not seem to be any point in a further delay. The EU is not going to negotiate further. The EU is understandably indicating it does not welcome a further delay request and would not rush to assemble a new Council to respond to one

I think the PM should set out his legal case for not sending a signed letter. More importantly he should talk to the nation about why the Benn Act is just the Breaking the PM's promises Act I described yesterday which should not be deemed good law. The last thing we need now is delay.

The debate about Brexit needs moving on. It is not a debate between no deal and deal. No deal is a whole set of agreements and arrangements for a clean WTO exit which is the best outcome from here. This is not a debate about the minutiae of customs arrangements, but a debate about the restoration of a free and independent country. We want an accountable democracy. This Parliament is the lackey of Brussels, seeking to block the people's Decision.

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## What is a fair and effective Act of Parliament?

The criminal law in our country has for long been a mixture of common law principles and decisions by judges, and Statute law where Parliament legislates to clarify and guide common law practice.

There have been various disagreements between the courts and Parliament over the law. In the end Parliament can legislate to change the law for the future despite a previous pattern of judgements or in place of established court principles. In that sense Statute law is superior law.

In effect though courts still retain powers especially if the law may be unclear as drafted by Parliament or it may be unenforceable. Whilst Statute law is usually supreme, both courts and Parliament have to recognise there are limits to their respective powers to move the law in the way they wish.

Today given the fluid and uncertain constitutional background created by Remain campaigners and lawyers, we need to ask are there any limits on what laws Parliament can pass? Let us take three prospective cases of possible Acts of Parliament.

The first, "The Sunny Sundays Act" would widely be recognised as bad law. This Act states the government must ensure every Sunday is sunny so people can enjoy their day off. Any such idea would be void as it is unenforceable, as government does not have the power to ensure it happens.

The second, "The reduction of rough sleeping Act" is a bit more difficult. This Act says that the Prime Minister has to sleep rough once a week until Parliament thinks he or she has done enough to curb rough sleeping and passes a motion accordingly. Surely this too should be void, as it infringes the human rights of the Prime Minister and puts that office holder at security risks out on the streets.

The third is "The breaking of the Prime Minister's promises Act" which requires the Prime Minister to reverse certain specified policies he had set out and campaigned for, because opposition forces in Parliament do not like them. The opposition with a small temporary majority got this through in order to undermine the Prime Minister's popularity. Is this a fair and enforceable Act? Isn't our constitutional way of dealing with a PM who no longer commands a majority to remove him by a vote of No Confidence?

These hypothetical proposals show the difficulties of having a minority government and taking away from it the sole right to initiate legislation. The country can become ungovernable with a headstrong Parliament that cannot supply a majority government yet refuses an election.