

Who can delay our exit

This week I am told the government may ask Parliament to debate and approve a Statutory Instrument under the EU Withdrawal Act to delay the date it comes into effect. The government also says Brexit will be delayed by the EU Council offer to delay made to Mrs May. Some say EU law is still superior to UK law before the EU Withdrawal Act comes into effect and we therefore have to obey the Council offer.

I will oppose and vote against a delay SI. It also implies the UK government is not sure of its legal ground that it rightly wants Parliament to decide to delay. It clearly does not want to rely on the Council decision. There would at least be a conflict of laws if the UK Statute repealing all EU power on 29 March comes into effect whilst the Council assumes the delay is in force. Some will argue the whole point of the EU Withdrawal Act is to repeal The European Communities Act 1972 which is the foundation of all EU power over UK courts and government. What an irony if the EU tried to assert its own law over our very act of throwing off its powers.

To avoid legal doubt Eurosceptics advised the UK government to proceed to get us out under Treaty law by Article 50 and in domestic law by the EU Withdrawal Act. This latest ploy by Mrs May to sort of agree a delay runs the danger of muddling legal clarity. Parliament being full of Remain MPs may vote for delay to avoid testing this legal issue. It will only do so if Mrs May insists on this unpopular move against her own party, with many of us declining to support. She will need Labour votes to get it through. To be sure of delay the government will have to change UK law to do this.