

Sovereignty

We voted for Brexit to take back control. Brexit voters wish to live in a free self governing independent country. Remain politicians thought the vote should be about trade. They wrongly asserted we would definitely be better off in and thought that was all that mattered.

I have always thought sovereignty mattered more. I also think that we can follow policies that increase our prosperity once we restore our full powers of self government. I have set out at some length how we can be better off out. I can no more guarantee that than Remain politicians can guarantee greater income if we stay in. It will depend on how we use our freedoms and how the EU use theirs.

The Remain politicians have used a variety of ploys and devices to try to delay, dilute or prevent our exit. One of their first was the court case to prevent Ministers sending in our notice to quit without further Parliamentary processes, despite the clear referendum vote. The Miller case produced a useful defence of Parliamentary sovereignty in the verdict. I had always urged Mrs May to hold a Parliamentary vote on a one clause Bill to speed us up and was not surprised by the Court decision, even though it was clearly a delaying tactic.

The Judges said

“This is because Parliamentary sovereignty is a fundamental principle of the UK constitution, as was conclusively established in the statutes referred to in para 41 above. It was famously summarised by Professor Dicey as meaning that Parliament has “the right to make or unmake any law whatsoever; and further, no person or body is recognised by the law as having a right to override or set aside the legislation of Parliament” – op cit, p 38. The legislative power of the Crown is today exercisable only through Parliament. This power is initiated by the laying of a Bill containing a proposed law before Parliament, and the Bill can only become a statute if it is passed (often with amendments) by Parliament (which normally but not always means both Houses of Parliament) and is then formally assented to by HM The Queen. Thus, Parliament, or more precisely the Crown in Parliament, lays down the law through statutes – or primary legislation as it is also known – and not in any other way “

This is now very helpful to the cause of Parliament legislating to sort out our border, customs and trade issues for the UK, notwithstanding the EU’s view of the Withdrawal Agreement. The Withdrawal Agreement is only the law because of the Act of Parliament that brings it into UK law. The UK Parliament is therefore free to amend it as it sees fit.

There are those who still seem to think it would be bad faith for the UK to exercise its sovereign powers in this way, and claim it is a breach of international law to do so. This Agreement between the UK and the EU is not some world law enforced by some world court. It is an international Agreement

where the two sides disagree about its meaning and each claim bad faith about the other. Such disputes have to be sorted out between the two parties. This dispute could still be sorted by negotiation. Otherwise it will be sorted by the UK exercising its sovereignty over our single market and customs union, and the EU exercising its powers over its own. Doubtless neither side will like the other's settlement. Each has to respect the powers of the other, as clearly stated in the Withdrawal Agreement itself.