

I voted for the Clause 38 override when I voted for the Withdrawal Act

I reproduce below part of my speech on the Withdrawal Act as it is very relevant today. I and like minded colleagues only voted for the Withdrawal Act because it provided a clear UK legal override if the EU did not keep to their promises of respecting UK sovereignty and working to a Free Trade Agreement.

My contribution to the European Union (Withdrawal Agreement) Bill debate, 8 January 2020

By JOHNREDWOOD | Published: JANUARY 9, 2020

John Redwood (Wokingham (Con)): Clause 38 is welcome. I pay tribute to my hon. Friend the Member for Stone (Sir William Cash) for being one of the co-authors of that excellent piece of Government-proposed legislation. I also support the Minister in opposing various new clauses and amendments before us.

It seems to come down to the question, "What is sovereignty?" and I think the public understand it so much better than many Opposition MPs seem to. The public fully understand that our constitution should be based on the proposition that the public decide who should represent them in the House of Commons and then the House of Commons decides what laws are appropriate, what taxes to raise and how to spend that money, and at the end of four or five years—or sometimes a shorter period—the public get to judge whether we collectively made a good job of it or not, or whether there is some new configuration of Members of Parliament that can make it better. So the public are ultimately sovereign but they trust us, their elected Members, with their sovereignty for a period of up to five years to exercise the powers of government.

When we first joined the European Economic Community, the country was assured that that sovereignty—that set of powers—would not be damaged in any way. To underwrite that promise the Government said, correctly then, that there would be no matter decided in the European Economic Community that could be forced on the United Kingdom against its will; we always had a veto so that if it proposed a law, a charge or a tax that we did not like, we could use the veto. Over our years of membership, we have seen those vetoes gradually reduced—those powers taken away—so that today, although we are still a full member of what is now the European Union, there are huge swathes of policy areas where we are not free to legislate where we wish, or in some cases not free to legislate at all, because it is entirely occupied territory under the Community acquis.

The ultimate sovereign power in the United Kingdom today is the European Court of Justice; that is the ultimate appeal of any legal issue, and it can overrule what the two Houses of Parliament decide, it can overrule a statute, and it can strike down a law passed in this place. It is that which a majority of the British people decided they thought was unsatisfactory.

When they had voted many years ago to support our continued membership of the European Economic Community it was called a Common Market and misrepresented as a free trade area, which of course is rather different from a customs union with complex rules, and they were given an assurance that their Parliament would still be able to choose their taxes, spend their money and pass their laws in the traditional way. That turned out not to be true.

The loss of those freedoms was progressive under the Single European Act, under the Maastricht treaty, under the Amsterdam treaty, the Nice treaty and, above all, the Lisbon treaty. The Lisbon treaty was the culmination of that journey towards a very strong European Government that was superior to the United Kingdom Government, and the implied substantial strengthening of the wide-ranging powers of the European Court of Justice, because every directive and every regulation that was passed—and there were thousands of them—not only produced a more directly acting legal power over our country that we could not modify or change, but also gave so much more extensive powers to the European Court of Justice because it is the ultimate arbitrator of that body of law.

It is that body of law which this legislation today is seeking to put under United Kingdom control. We have been arguing over this for three and a half years now. The public thought it was a very simple matter and told us to get on with it. We had a fractious and unhelpful Parliament until recently, which did all in its power to thwart the putting into law of the wishes of the United Kingdom electors.

I hope today, after a second general election and after a referendum where the British people made it clear that they wished their sovereignty to rest again with them and be delegated to their Parliament, that the Opposition might have understood that, and might have understood that currently, contrary to what we have been told by the Labour Front Bench, there are a very large number of areas where we cannot do as we please.

Let us start with the money. Yes, we wish to take back control of the money. This Parliament cannot decide to reduce the amount of money it pays to the European Union. They decide that: they determine the bill and they enforce the bill. I hope that Ministers can reassure me that after December, at the end of the implementation period, that will cease and we will only pay when there is an agreement between us and the European Union that we accept for services or joint policies that we wish to undertake as a sovereign nation. We cannot go on accepting their hand in our pocket, taking our money under their legal powers.

I personally think it is a great pity that we have had such a delay to exit, because I resent the net £1 billion or more a month we are paying in. That will continue, I am afraid, throughout this year. I would like that money for priorities in Wokingham and in the constituencies of other colleagues here in the House of Commons. I find it very odd that so many MPs are so dismissive of the significance of the money, given the quite important role it seemed to play in the referendum campaign and given how colleagues are normally very keen to see increases in expenditure on public services in our country. They do not make the connection that if we carry on paying very large sums to the

European Union, it limits our scope to make the increases they would like.

It also means we do not control our own taxes, so our country cannot choose the power to tax any of our sales; that is determined for us. It has to be the VAT tax system. We had to introduce that when we joined the European Union. There are arguments for continuing with some kind of VAT system, but surely we want to decide what rate it is levied at and what items it is levied on. There are quite a number of items that I think it should not be levied on, where I think I would find agreement across the Committee. However, we are not allowed today to remove VAT from green products, for example, because that is against European Union rules. I therefore look forward to our opportunity to shape our own taxation system as soon as we are properly out.

There is then the issue of when we actually have control over our law. What I hope clause 38 will achieve is that if the European Union decides during the implementation period to pass laws that are particularly penal on the United Kingdom or are damaging to our commercial and economic interests, we can use that reassertion of parliamentary sovereignty before the expiry of the implementation period to ensure that that particular law does not apply to the United Kingdom. Otherwise, there is an invitation to anyone of bad will in the European Union to think of schemes that would be disadvantageous to the United Kingdom during the implementation period.

On borders, where again those on the Labour Front Bench seem surprisingly dismissive of a very important question that has been in our debate throughout the referendum and in subsequent general elections, I think there is a general view in the country, which goes well beyond Conservative voters, that there should be a fair system of entry between EU and non-EU people. At the moment, the EU gets preference. I think a lot of people feel that there should be some overall limitation on the numbers of people coming in seeking low-paid work or speculatively seeking work. They favour some kind of a work permit system, which is quite common in many other advanced civilised countries. Because we wish people who join us to be welcomed, because we want them to live to a decent standard and because we accept the commitment to pay them benefits and find them subsidised housing if that is their requirement, surely it should be in our power to decide how many people we welcome in this way, and to decide that that should be related to our capacity to offer them something worth while, and to our economic needs. I give way to my right hon. Friend, who has done so much in this area.

Sir Iain Duncan Smith (Chingford and Woodford Green) (Con): May I just pick up on one point? My right hon. Friend talks about, "should we wish to give them benefits". The reality now is that the British Government have to pay benefits even to families of people working over here when their families are not with them. That is roundly disliked across Europe, but those countries all accept there is nothing they can do about it because the European Court of Justice imposed that as part of freedom of movement. It was never debated as part of freedom of movement and it was never supposed that it would happen. It is an end to sovereignty when one can no longer make a decision to change something like that.

John Redwood: My right hon. Friend puts it brilliantly; that is exactly the kind of limitation of our sovereign power, and of our freedom to make decisions that please our electors, that I have been talking about. It is quite important, given the history of this debate.

The speech then went on to make the case for England having a say in these matters....

[We still need a stronger recovery](#)

GDP figures for July showed growth of 6.6%, continuing the recovery that started in May as the lock down began to ease. It still leaves the UK economy 11.7% down from the February peak.

Within the totals manufacturing is now down 8.7% on February. Areas like computers have regained all the losses, and pharmaceuticals are ahead. Trailing at the bottom of the pack comes transport equipment including cars, still down 26.7% on February. I have set out the special factors that are depressing this output in previous blogs.

Even more worrying is the continued poor performance of education and health. In July education output was still 21.9% below February. This will now correct given the successful return of most schools this month. Health output was still down 25.7%. More work needs to be done to get a full range of treatments, operations and surgery appointments to start tackling the big backlog. This should be an overriding priority of government.

Naturally arts, entertainments and catering remain very depressed as social distancing is continuing to take its toll.

[How to tackle the virus](#)

The government waited until the virus had fallen to very low levels. It then began a gradual relaxation of controls, essential to economic recovery and allowing freedoms back.

Its policy to control the virus switched to testing people to seek to ensure that all those with it or in contact with carriers self isolated, so the rest of us could lead a more normal life. It added to the measures by still not allowing some sectors to go back to work, and insisting on varying measures of social distancing for everyone.

With more testing today more cases of the virus are being identified, and the graph is going up again, as it has already done in places like Spain and France. So far it seems to be spreading more amongst the younger and fitter, so there are still not so many severe cases and deaths. Some say this pattern will continue. Others think it is only a matter of time before more vulnerable people get it and the serious cases rises.

The government and Councils turned to local lockdowns as a supplement to testing and isolating more people. In places where there was a surge in cases normal life was further interrupted to seek to control the spread. Now the government is moving back to national restrictions again as the cases still increase.

Yesterday the PM said he now wanted the NHS to develop a much faster test so people could get the result shortly after taking it. He would want to see a massive increase in the number of tests, perhaps a fifty fold increase on current levels. The idea is we could go to an event but be tested on the way in. Meanwhile current levels in excess of 200,000 tests a day are not backed up by sufficient laboratory capacity to give quick results, and some people are being told to wait several days or travel very long distances to get a test.

It leaves people asking some questions. Why can't the NHS test more people locally? When will the current testing system be fixed? Who is now working on a rapid test and how many would it be possible to make when there is one? How will the public react to a prolonged period of restrictions on freedoms? How much more economic damage will be incurred if the virus does continue to flare up?

[The reason for the Single market legislation](#)

The government's Single market Bill is a necessary piece of legislation to ensure the smooth running of the UK's single market and customs union, and to provide the base for our independent trade policy after leaving the EU single market and trade policy on January 1. At the time of the Withdrawal Agreement and Political Declaration the EU signed up to two important propositions. They agreed that the core of our new relationship with them would be a free trade agreement with no tariffs, and they would respect UK sovereignty. If the EU keeps to its promises there will be no need for the arrangements envisaged for the Irish border in the current legislation. If they do not pursue these promises then the UK government has the right under Clause 38 of the EU Withdrawal Act to establish control over its borders and trade, notwithstanding the Withdrawal Agreement. This is expressly recorded in UK law. It was also clear to the EU at the time when we legislated in this way

that was the UK's understanding of the Withdrawal Agreement, as we put it into primary legislation.

Qualifications for the class of 2021

Yesterday I raised in the Commons some questions about how exams should be set and marked and how standards of our main educational qualifications should be upheld for the class of 2020.

Ofqual has come up with ways of modifying the exams for next year to take into account the interruption to education experienced by pupils in some schools who did not teach a full timetable from March to September by on line means. It has also changed arrangements for field work and oral exams to respond to CV 19 social distancing rules.

As a result pupils will be offered more choice in content for the exams in History, Geography and Ancient History. In English literature pupils will be able to take three of the four blocs of work for the exam. Fieldwork in Geography and Geology will be dropped and the questions on it in the written papers. Foreign languages and English will no longer have a formal oral or spoken language requirement.

It is important next year that we get back to an exam based system. Ofqual and the Exam Boards are still considering what is best to do on dates of exams. Should they be a bit later to give schools more time to make up for lost teaching time this year? How much later can they go without jeopardising University entrance procedures?

I hope they work out a system which is fair to all students and upholds the standards established in past years. Next year they have to span the range from pupils who got a full education for the full syllabus between March and July to pupils who got very little formal education during lock down.