

Brexit: MPs fail their first test

Editorial

Last month, Gina Miller stood outside the supreme court and celebrated the judges' confirmation that parliament must sit behind the wheel in the Brexit process, not the prime minister invoking the medieval royal prerogative. A little more than two weeks later, the House of Commons has decided that Theresa May is the driver after all. Ms Miller fought long and hard, and at great personal cost, to ensure that the Commons could assert its lawful sovereignty over the Brexit process. On that morning in January she invited them to use "their invaluable experience and expertise" to set Britain's course. But as the European Union (notification of withdrawal) bill comfortably passed its third reading in the Commons she was entitled to ask herself whether her efforts have really been worth it after all.

It is tempting to say that MPs have been weighed in the balance and found wanting. That is because in many respects they have. Faced with a bill that sets in motion the UK's withdrawal from the EU, which is as profoundly mistaken a decision as any that the UK parliament has taken in the postwar era, MPs have essentially said that last year's referendum is sovereign and that they are powerless to put their foot on the brake or choose a different route.

Too many on both sides of the Commons nonsensically deployed their experience and expertise to vote for a bill they admitted to not supporting. Too many MPs genuflected to a referendum decision that sets Britain against its neighbours and its own place in the world and puts the UK economy at hazard. It fell hardest for Labour, a pro-European party with many leave constituencies, where the EU dilemma is entangled with other issues about Labour's future. It is a wrong decision because MPs have given far too little careful attention over the years to deciding the proper place, if any at all, of referendums in a representative democracy. The consequences of that have been painfully clear in the past two weeks.

Referendums are too often cuckoos in the nest of parliamentary sovereignty. But the passing of this bill is also wrong because this particular referendum made such a lamentable choice about the future of Britain. Britain should be part of Europe. That has not changed. However, the Brexit vote took parliament's authority away, politically if not constitutionally, and not even Ms Miller's heroic efforts have been able fully to restore that authority. Two thirds or more of MPs think that Brexit is the wrong course. But, as Wednesday night's vote confirmed, too many of them felt compelled to go through the lobbies in support of a bill that they believe, correctly in our view, will damage Britain. It is not they as individuals who have been found wanting. It is parliament.

Yet not all is lost. Three days of the committee stage of the bill this week, as well as the brief third reading debate, have exposed big Brexit-related issues on which the majority of MPs seek outcomes that Mrs May would have been reluctant to concede or contemplate in the absence of parliamentary pressure. In particular, Mrs May has been forced to make procedural concessions about parliament's later role in the process. Whether these concessions are real or a con will depend on how MPs act when the time comes. MPs have also made it clear that they expect the existing rights of EU citizens to live in the UK to be an inalienable part of any final deal. Other markers have also been laid down. These do not entirely compensate for the original wrong decision on Brexit or the second reading of the bill last week. But they mean the forces of openness and internationalism live to fight another day. And fight they must.

The most disturbing aspect of an admittedly difficult set of decisions for MPs and parties over the past two weeks has been the caution with which parliament's "soft Brexit" majority has behaved. That must change. Most opposition MPs and a large minority of Conservative MPs favour a soft as opposed to a hard Brexit. They must surely also want a good deal rather than either a bad deal or no deal at all. Yet cross-party cooperation has been too hesitant. Perhaps the vituperation of the rightwing press against "remoaners" has frightened too many in both main parties. Perhaps Tory liberals don't want to fall out with Mrs May too soon. Whatever the truth, pro-European MPs in all parties need to relearn the practicalities of using their power as effectively as the Eurosceptics learned to use theirs long ago. There will be plenty more opportunities. They must be taken.