The Union under Strain
Constitutional Reform and the Territorial State

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State and Civil Society in the UK: the Informal Union

The territorial constitution of the United Kingdom is extraordinarily complex and its vocabulary ill-developed. Since the demise of the Soviet Union, it is one of the few remaining states whose title does not correspond with a nationality. There is not even an adjective to describe its citizens for, as Rose (1982: 11) puts it "no-one ever speaks of the 'Ukes' as a nation". Like other elements of the constitution, the rules for management of the various nations and regions of the UK are informal and unwritten but generally understood. They are underpinned not by a legal doctrine or the courts but by a series of social and political compromises reflecting a balance of forces. The argument presented here is that these compromises and understandings have been badly shaken in recent years, so calling into question the territorial constitution itself.

The United Kingdom is a unitary state, based on the principle of parliamentary sovereignty. There is no entrenched division of powers between arms of central government or between centre and locality. This appears at first sight to confer enormous powers on the central state. Yet in another sense, the British central state is very weak. The concentration of authority in the central institutions has been tolerated only on condition that the reach of the state be limited, leaving large areas of public life to the self-regulating institutions of civil society. Attempts at establishing royal absolutism in the seventeenth century failed and British monarchs were never able to set up a centralised bureaucracy or independent

standing army and had to share power with the landed oligarchy. In the institution of Parliament, monarchical authority and the political nation merged, so preventing the development of a doctrine of state supremacy. Nor were the democratic forces which advanced in the nineteenth century inspired by Jacobin doctrines of centralisation, nationalism and unity. Instead, they proceeded pragmatically, often emphasising local and municipal action. Large areas of public life, including education, the professions and the City of London, remained beyond the direct regulation of the state while enjoying legally guaranteed privileges and self-government. The working class, too, bought into the parliamentary system from the late nineteenth century, not to impose their project for society but to become part of the political nation. This would allow them to seek remedial action in social policy and to preserve their own independent and self-regulating position in civil society.

It is not necessary to accept the Whig historians' view of this as a beneficent progress to democracy, guided by the values of tolerance and liberty. The British state was guided by class interests, and at various times Catholics, Irish and the working class in general felt its repressive side. Yet the constitution was permeated by a sense of balance among competing interests and the need to find accommodation. The elaborate norms of parliamentary courtesy reflected not so much a general consensus on policy as a recognition that it was Parliament where this balance was worked out. No one seriously could claim that parliamentarism has rid Britain of class differences. The society even now remains riven by class distinction but has been able to manage these through successive adjustments of the regime. Yet for many years it was believed and written in text books that Britain had eliminated territorial conflict and established a homogeneous culture and politics fitting to its unitary constitution (Finer 1970; Blondel 1963). Some of these (Finer 1987) continue to perpetrate the more egregious error of using the terms Britain and England interchangeably. In fact, territorial politics, like the politics of class, was managed within the parliamentary regime by a variety of devices. Seldom remarked in the metropolis, the politics of territorial management has been a constant preoccupation in Scotland, Wales and, in a different manner, Ireland.

Wales, Scotland and Ireland were united with England in successive unions (in 1536, 1707 and 1800 respectively) so that by the nineteenth century all were represented in the Westminster Parliament. The union with Ireland proved a failure and successive Repeal and

Home Rule movements strove in the course of the nineteenth and early twentieth centuries to renegotiate its terms. The inability of the British Conservative Party to contemplate any form of territorial management other than the centralised Westminster Parliament doomed these to failure, leading to the secession of the larger part of Ireland and the subjection of the smaller part to the government of a bigoted and repressive ruling elite. In the last twenty-five years, Northern Ireland has been the site of a bitter and violent sectarian conflict which calls for exceptional solutions and more than mere constitutional change. Except in so far as this historic failure provides lessons for the present, Ireland will not feature in this paper. Instead, it will focus on the position primarily of Scotland but also of Wales within the British state and the need for a new constitutional settlement.

Territorial Management

Polls and other tests of opinion taken in Scotland have consistently and invariably shown a majority of the population in favour of a constitutional change which would give Scots greater control of their own affairs. In Wales, poll data is scarcer and the evidence less consistent, but there, too, constitutional change has long been an issue. In successive forms, as Home Rule in the late nineteenth century, self-government in the mid-twentieth century, devolution in the 1970s and Home Rule again in the 1980s, the issue has repeatedly returned to the political agenda. Yet nothing has been done about it and, the case of Ireland apart, the United Kingdom has not disintegrated as a result. The reason is that the peripheral nations have been managed by the UK state in complex ways so as to defuse the issue of Home Rule, divert it into other channels and sustain support for the state.

The mechanisms for territorial management can be summarised under three headings: culture, institutions, and policies. While the British state never engaged in the type of forced socialisation which occurred in some continental states, there was a large degree of cultural assimilation through the economy and civil society. The rate of advance of liberal democratic values was uneven through the British Isles but they did take root everywhere. Minority languages gave way to English except in the peripheral parts of Wales, Scotland and Ireland and even there the population was, by the mid-twentieth century, bilingual. Industrialisation and urbanisation affected England, Scotland, Wales and the north-eastern part of Ireland, bringing with them similar problems and issues. With the achievement of

universal suffrage, politics on the British mainland developed largely along class lines, blurring territorial differences. In Ireland, where a substantial peasantry remained, this did not take place. By mid-twentieth century, there was general support for the 'mixed economy' combining private enterprise with a degree of state intervention. The welfare state, too, gained general acceptance as a commitment to national solidarity and the embodiment of a class settlement, bringing the working class into the political nation.

In those fields where there was no value consensus, the British state managed to provide distinctive treatment. The Act of Union with Scotland guaranteed the established Church of Scotland with its Presbyterian rite. Gladstonian Liberalism agreed to the disestablishment of the Church of Ireland which had the loyalty only of a small minority of the Irish population. Later, the Church of Wales was disestablished, but without bringing the established Church of England into question. Special laws on temperance were passed for Scotland and Wales and the existence of a separate legal system provided the opportunity for distinct Scottish laws on divorce and matters of personal morality such as homosexuality. Scotland's distinctive education system preserved its own set of values, not to mention myths, stressing more democratic or meritocratic values than its English counterpart. In the post-war period, the Welsh language issue was regulated by providing for vernacular education and services in the traditional Welsh speaking areas and a Welsh broadcasting media which provides both programmes for rural Welsh speakers and jobs for urban language militants.

British values and identity were sustained and reinforced by the experience of Empire. The peripheral nations, while preserving their own identities, saw themselves as part of the imperial mother country and provided disproportionate numbers of imperial troops and administrators. The imperial experience was one factor in moulding the UK and providing it with an external support system. Yet the simultaneous creation of the Empire with the United Kingdom itself inhibited the development of a singular UK national identity separate from that of Empire. Among generations of Scots, Welsh and even Irish, commitment to the British Empire could coexist with fierce attachment to their homeland and its traditions. This strong, if often self-contradictory, dual loyalty could not always be transferred to the post-imperial British state.

Interpretations of the economic effect of the union on the peripheral nations vary but, in the case of Scotland and Wales, it certainly seems to have aided industrialisation in the nineteenth century. Access to English and imperial markets was important to Scottish and Welsh mineral producers and manufacturers. Heavy, export-based industries became very important to their economies. There was a general consensus that the union was to their economic advantage and the economic risk has always been cited as the principal argument against separation. Evidence from Ireland is much more mixed. Union may have aided the manufacturing industries of the north-east but was not generally seen as an economic blessing in the agricultural south.

Institutional differentiation was provided both through civil society and through the state itself. Given the assignation of important fields of activity to civil society, these could be provided differentially throughout the United Kingdom. So Scottish lawyers could preserve their self-governing status alongside those of England and Wales. The Scottish educational profession, better organised than that of England, could exercise an important influence over the separate education system. The separate Scottish Church has already been mentioned. The media developed separately in the various parts of the United Kingdom.

The Act of Union guaranteed the maintenance of the distinct Scottish legal system, together with the royal burghs and the education and religious arrangements. For the negotiators of the treaty, it was more important to preserve the essential elements of Scotland's civil society than a parliament which had never developed to the extent of its English counterpart or to establish the principle of parliamentary sovereignty. The continued existence of Scots law, which is Roman in inspiration unlike the common law of England, allowed distinctive provision to be made within the unitary state and for a separate jurisprudence to continue to develop. In Ireland and Wales, by contrast, the English legal system was largely imposed.

As the British state extended its competences, many of these were entrusted to local government, allowing a degree of autonomy in implementation in the peripheral nations. In the case of Scotland, the independent role of the burghs goes back to the Act of Union, but the establishment of county councils throughout the UK from the 1880s marked a major step both in the consolidation of national administration and in the granting of limited territorial autonomy. Local government also enhanced the autonomy of the central state and Parliament by distancing it from local issues of service delivery and taxation. National

institutions were not penetrated by local interests as happened in other unitary states and there developed a sharp distinction between national and local political elites. This both enhanced the legitimacy of the central state and provided a tier of loyal collaborators in service delivery at the local level. It also focused attention on local rather than Scottish or Welsh level politics. Even in the case of Ireland, the establishment of county councils partially and temporarily defused the nationalist question, coopting the nationalist party into the administration of the state.

The most important of the institutional devices for territorial management have been the decentralised offices of central government to administer the affairs of the peripheral nations. In nineteenth century Ireland, authority was shared between the Lord Lieutenant and the Chief Secretary, both appointed by London and without any political base in Ireland itself. This quasi-colonial system was quite different from that adopted in Scotland from 1885 when a Secretary (of State) for Scotland was appointed from among the government's Scottish supporters. Gradually, a Scottish Office was built up, administering much of Scottish domestic policy from its base in Edinburgh. In 1964, the system was extended to Wales. The Scottish and Welsh Offices do not represent a devolution of power to the peripheral nations since they are part of central government and headed by a member of the UK Cabinet. Rather they are a mechanism for managing Scottish and Welsh affairs within the unitary state. They have three roles: to administer those matters which for historical reasons or reasons of convenience are organised on a Scottish or Welsh basis; to provide for minor adjustments of policy detail so that UK policy can be delivered in Scotland and Wales; and to lobby in government for resources for their respective nations (Midwinter, Keating and Mitchell 1991). One could perhaps add a fourth, symbolic role: to provide a visible token of locally-based government - ministers are fond of citing the proportion of civil servants based locally and the amount of work undertaken within Scotland and Wales.

The secretaries of state do not answer to or represent the local political majority but are, like other ministers, responsible to Cabinet, the majority party and Parliament as a whole. Yet there is a convention, much stronger in Scotland than Wales, that they should be locally elected MPs and at least have a substantial body of supporters within the nation concerned. They have a difficult mediating role, posing in Scotland and Wales as defenders of local interests at the centre, while at the same time being responsible for delivering the centre's policy locally. Civil servants, too, have this dual role, one which calls for great discretion

and political skill. Corresponding to the privileged representation of Scotland and Wales in Cabinet is an over-representation in Parliament. The origins of this are historical, reflecting the relative loss of Scottish and Welsh population while keeping a guaranteed number of seats. It is defended, however, as a compensation for the lack of self-government, privileged influence at the centre being traded for autonomy at the periphery.

The final institutional element is the party system and the parliamentary regime which it underpins. With the gradual arrival of universal suffrage, the British parties came to dominate politics in Scotland and Wales, though not without considerable tensions in the process. In Ireland, the party system developed on quite separate lines, around the national issue. In Scotland and Wales, this issue was fought out in the late nineteenth and early twentieth century within the parties (especially the Liberal and Labour parties) themselves. The establishment of an all-British party system meant that Scotland and Wales were represented in the governing majority at all times, though more strongly in Liberal or Labour governments. Two-party alternation in power meant that, even if the Scottish or Welsh majority did not correspond to the government of the day, it would have its chance at the next election. Dissident forces in the two nations therefore had an incentive to exercise 'voice' by working through the opposition parties rather than 'exit' by supporting secession.

Within Parliament, there is elaborate provision for dealing with Scottish business through separate committees. The need to staff these committees and handle Scottish legislative work and administrative scrutiny means that Scottish MPs tend to be absorbed in local affairs, unless they make a deliberate career choice to operate at the level of UK politics. Since there is little Welsh legislation, the burden is not so severe for Welsh MPs, yet the establishment of the Welsh Office has meant that, over the last thirty years, a distinctive Welsh level of politics and administration has developed, with its own agenda and personalities. The existence of these distinct political arenas helps the management of Scottish and Welsh affairs, since much 'low politics' and matters of detail can be debated and resolved within them, albeit within the limits of government policy. At the same time, they strengthen the sense of Scottish and Welsh identity and give it a political dimension, as well as creating expectations which, given the limited powers of the Offices, often cannot be met.

Territorial management is completed by policy and resource concessions made to the peripheral nations. Their representation in Cabinet allows them to defend historic advantages in the distribution of public expenditure, giving higher per capita spending on most public services. Interventions in Cabinet and committees allow the secretaries of state to defend Scottish and Welsh interests on other policy matters, within the limits of overall goverment policy. After the First World War, and again from the 1950s, the traditional heavy industries of Scotland went into serious decline. The United Kingdom now became important, not merely as a market, but as a source of assistance for economic development. From the 1960s, the Scottish Office put a great deal of effort into diversionary regional policies. As in other European countries, these represented an extension of Keynesian macro-economic management, intended to correct market deficiencies in the spatial allocation of investment and bring idle resources into use. Diversionary policy was presented as aiding the less developed or declining regions by providing investment and jobs, the prosperous regions by reducing congestion and inflationary pressure, and the national economy by permitting a higher level of aggregate demand. A number of major state and private investments were steered to Scotland and Wales after political intervention, and both nations benefitted greatly from the system of investment incentives to declining regions. In the mid-1960s, more elaborate forms of economic planning were put in place under the aegis of the Scottish and Welsh Offices, and in the mid-1970s Scottish and Welsh Development Agencies were established. These policies were intended to assuage Scottish and Welsh discontent, especially after the revival of nationalist parties in the 1960s, but they had the longer term effect of encouraging Scottish and Welsh actors to think of their nations as economic units and to raise the salience of regional development issues.

The Collapse of the Old Order

The last twenty five years and, more particularly, the years of Conservative government since 1979, have seen a gradual collapse of this elaborate system of territorial management and the emergence of the issue of Scottish and Welsh government as a central issue.

There is evidence that the former shared values among the constituent parts of Britain are weakening. In particular, the individualistic values of modern Conservatism are not shared as widely in Scotland. Notions of class and social solidarity remain stronger, as do

expectations of the state. Under Thatcher, this persistence of the values of the postwar welfare state became an obsession of the Scottish Conservatives, who blamed it for their steady decline. Self-identification has also changed, with Scots now more likely to describe themselves as Scottish than British, though most of them still regard the two as compatible. This is not because Scotland is stuck in an archaic social and economic structure. Conservative policy in the 1980s produced a massive economic and social restructuring. The old heavy industries almost disappeared so that by 1990 Scotland had a considerably lower percentage of its workforce in metal goods, engineering and vehicles than the UK average. For the first time in generations, a majority of the housing stock was in the private sector. Yet this did not produce a convergence of Scottish with English voting patterns. Scotland appeared set on its own path to modernisation and social change.

There is evidence, too, that Scots are increasingly doubtful of the economic benefits of the Union. In the 1970s, much was made of the value of North Sea oil which, if it were assigned to Scotland alone, would remove Scottish dependence on the UK and in the words of the Scottish National Party's crude if effective slogan, convert 'poor Britons' into 'rich Scots'. In the 1980s the salience of the oil issue greatly declined, but evidence persisted that Scots did not see the Union as an economic advantage, regarding Thatcher's policies in particular as geared to the interests of southern England. In the UK as in other European countries, diversionary regional policy has been run down in the face of globalisation and capital mobility, and the need to promote national competitiveness. All the major industrial plants brought to Scotland by regional policy in the 1960s had closed by 1993.

The attack on the independent institutions of civil society by post-1979 Conservative governments has been felt particularly acutely in Scotland and to a lesser extent in Wales, where these served as bearers of national identity and a means of providing informal Home Rule. Trade unions, previously tightly integrated into the British state, have moved decisively in favour of Home Rule. In the Scottish education system, there is concern at the imposition of change from London. The Churches, which have more social influence in Scotland than in England, have spoken out against the socially divisive policies of central government and come into the Home Rule camp. BBC Scotland and other broadcasting media have been subjected to a distinctly Scottish version of the bullying which the national BBC has suffered since 1979. Local governments, which previously regarded Home Rule as something of a threat to themselves, have changed tune since being emasculated by the

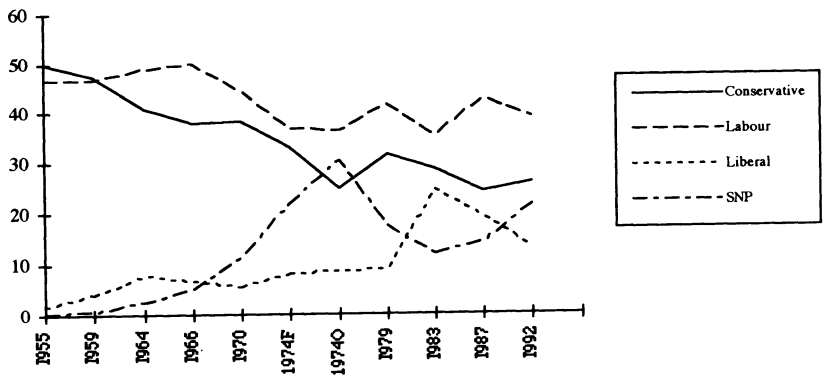
Conservatives, and in both Scotland and Wales have moved firmly into the Home Rule camp. The end of government consultation with interest groups had the same effect, reversing the process undertaken during the First World War which had proved decisive in bringing Scottish interest groups into the embrace of the British state. Although the Thatcher government had started out pledged to cut down on 'quangos', it ended up establishing new ones in an effort to circumvent local government. These, like existing agencies, were generally filled with businessmen, who were considered to be uniquely qualified to run anything from urban regeneration, to the arts, to the universities. In Scotland and Wales, where the Conservatives have been particularly reluctant to concede anything to their opponents, agencies have been filled with placemen, including defeated Conservative politicians - a form of patronage reminiscent of the management of Scotland in the eighteenth century. Scottish Office ministers Hamish Gray and Peter Fraser, defeated at the polls, were simply sent to the House of Lords and reappointed to the government.

The 1707 Act of Union, or Treaty as it is generally known in Scotland, was based in compact theory. Scottish negotiators agreed to surrender their parliament in return for guarantees for their civil institutions. In the years which followed, this contractual union slid into a doctrine of parliamentary omnicompetence, as the new Parliament of Great Britain assumed the prerogatives of its English predecessor. The Scots had failed to provide mechanisms, such as federalism or judicial review, through which the provisions of the Union could be enforced. Yet Scotland's distinct arrangements did represent part of the unwritten constitutional conventions of the state. Like others, these could be pushed only so far without falling foul of the spirit of the constitution.

The political parties have been weakening since the 1960s and this weakness has gone furthest in Scotland and Wales. The Scottish National Party (SNP) gained as much as 30 per cent of the Scottish vote in 1974, and in 1992 gained 21 per cent. The Welsh nationalists Plaid Cymru, have been less successful in gaining votes, their strength being largely confined to the Welsh speaking heartland. With their vote tightly concentrated, they were able to benefit spectacularly from the British electoral system to gain four seats in 1992. The weakening of the parties has meant that they are no longer able to function as an integrating force to the same extent as in the past. At the same time, support for these parties themselves has been increasingly differentiated territorially. In 1955, the Conservative Party gained 50 per cent of the Scottish vote. This fell steadily in the

following years to a low of 25 per cent in February 1974. The decline of the SNP saw a temporary Conservative revival but decline set in again in the 1980s. In 1987, the Conservatives gained just 24 per cent of the Scottish vote. It is a measure of their collapse that when they went up to 25.7 per cent in 1992, they claimed it as a triumph. In Wales, the Conservative vote revived briefly in the early 1980s but in 1992 they were down to just 28.6 per cent. Labour has become the dominant party of the periphery and is obliged to pay particular attention to issues of territorial politics.

Figure 1 Percentage share of vote, Scotland, 1955-92



Within Scottish society, nationalist consciousness has spread more widely since the 1970s, aided by a cultural revival and the rescue of Scottish culture from the vulgar 'tartanry' to which it had been reduced as a quaint but safe ornament in the days of Empire. Scottish art and literature deal with contemporary and political themes, with the national question often in the background.

All this has made the old politics of territorial management, which had catered for diversity within the unitary state and Parliament, more difficult. The Scottish Office has lost

influence because of the end of the consensus on diversionary regional policy, the weakness of the governing party's political base in Scotland, and the abortive devolution episode of the 1970s. The Welsh Office, starting from a lower level, has consolidated itself but has never become the lobbying force which the Scottish Office represented in its prime. In recent years, the Conservatives have struggled to find capable politicians to serve in these Offices, given the dearth of Conservative MPs in Scotland and Wales and the desire of the more able ones for senior UK portfolios.

Devolution and the Politics of Nationalism

Nationalist successes in the 1960s and 1970s frightened both major parties into promising schemes of devolution, though the Conservatives later abandoned their support. Until this time, the major parties had insisted on a trade-off between autonomy for Scotland and Wales and access to central government, insisting that Home Rule would entail a reduction in Scottish and Welsh influence in Whitehall and Westminster. They had also expressed fears that any concession to Home Rule would mean a 'slippery slope' to full independence. Labour's proposals for devolution for Scotland and Wales were an incremental scheme intended to avoid the larger issue of constitutional reform by providing elected assemblies for Scotland and Wales, the Scottish one to have legislative powers. In order to carry its English supporters, Labour insisted that the sovereignty of Parliament would be unabridged. To carry its Scottish supporters it promised that the old system would remain alongside the new. So the secretaries of state would retain their seats in Cabinet and Scotland and Wales would keep their full complement of seats in Parliament. The proposals aroused furious opposition among Conservatives, especially after Margaret Thatcher became leader, and among a section of the Labour Party in England, Scotland and Wales. This was sufficient to hobble the proposals in Parliament and subject them to a referendum in which a qualified majority was needed to pass them. In Wales, where devolution was associated with concessions to the nationalists and Welsh speakers, the proposals were soundly defeated. In Scotland, they passed, but not by enough votes to satisfy the qualified majority rule. The failure precipitated the fall of the Labour Government. In opposition, Conservative spokesman Francis Pym had declared, "On behalf of the Shadow Cabinet we can give a clear pledge to the people of Scotland that, if the Scotland Act is rejected, the Conservative Party will not regard this as a rejection of devolution" (*Guardian*, 28 July,

1978). Elder statesman Lord Home had called on Scots to vote "no" so that the Conservatives would produce a better scheme. In government, the Conservatives repealed the devolution legislation and declared the issue dead.

The issue did not die out in the 1980s, but underwent an important transformation. Previously, nationalism had been an issue external to the political class, forcing them to react to electoral pressure. This they had done by marginal devices, tacked on to a largely unchanged constitution. Labour had always contained a Scottish and Welsh nationalist element, but these were a minority and for the most part Labour politicians and activists regarded it as a secondary issue, to be managed and massaged, but not to form the central plank of the party platform. After 1979, the party began to convince itself of the merits of its own policy.

Indeed, the question was posed as to whether the Conservatives had a 'mandate' to govern Scotland at all. This was based on two contentions, that Scots had voted for Home Rule in the 1979 referendum, and that the Conservatives did not enjoy popular support for their policies in Scotland. According to conventional interpretations of the British constitution, of course, such a contention is untenable. The Conservative Party, enjoying an overall majority at Westminster, may do as it pleases. Constitutional quibblers might object that the Scots Parliament never recognised the doctrine of sovereignty and that the Act of Union has been misinterpreted. More important is the argument that the Westminster constitution works only because of a series of conventions and understandings in the context of a functioning and autonomous civil society. The post-1979 Conservative governments had breached these understandings by their attacks on civil society and their introduction of policies seriously out of line with Scottish opinion. Particularly resented was the practice of trying out contentious policies first in Scotland where the very absence of a Conservative presence in local government and on the parliamentary backbenches removed the constraints which governments usually face from the reactions of their own supporters. It was in Scotland that the poll tax was pioneered, but the chastisement which the Conservatives received as a result in the 1987 election deterred them not at all.

The lack of alternation of power at Westminster broke another of the unwritten conventions which allow the territorial constitution at work. In earlier periods when the Scottish electoral and parliamentary majority was out of line with the Westminster majority, in the

late nineteenth century and in the early 1920s, this had sparked nationalist or Home Rule movements. It is not surprising to find the same thing in the 1980s, not confined to self-styled nationalists or SNP supporters but across a broad spectrum of Scottish opinion (discussed in the chapters of Gallagher 1991). This is a more mature and forward-looking nationalism than that of the past, largely freed from the parochialism and small-town mythology of the early nationalist movement. The debate has been framed by widely shared opposition to the Thatcherite project and the belief in Scotland as a bastion of alternative values. Serious questions are being raised and explored about economic and social development in Scotland, with a burgeoning academic literature and research institutes. (My 1975 Ph.D. thesis had just eight references to books on modern Scottish politics; our 1991 book *Politics and Public Policy in Scotland* has fifty five. At least a dozen have appeared since then).

Equally important changes have taken place in Wales, where devolution was rejected in 1979 by a margin of four to one. A new nationalist consciousness has arisen, less tied to the language issue or defence of traditional culture. Through concessions in education and broadcasting, the language issue has largely been settled as a matter of public policy, though it is still capable of arousing great emotions. Welsh identity now centres rather on issues of economic development and modernisation. Like the Scottish Office in earlier decades, the Welsh Office has provided a focus for lobbying and for organisation on an all-Wales basis. Margaret Thatcher's exile of her 'wet' Tory minister Peter Walker to the Welsh Office was seen initially as a form of punishment for both Walker and the Welsh nation. Yet he used the position to promote the Welsh Office and publicise his efforts to exact more resources from London as well as pressing for a return to traditional, socially inspired Tory policies which would accord better with Welsh political opinion.

A critical element in the realignment of Scottish and Welsh politics has been the European issue. In the 1960s and 1970s, Scottish and Welsh public opinion and that of their politicians was generally hostile to the European Community. One reason was the concern that their peripherality would be exacerbated within the larger market. Sectoral concerns, including the steel industry, fisheries and hill farming, further fuelled hostility. Peripherality also had a political dimension. Scottish and Welsh nationalists, concerned with the achievement of national sovereignty, did not regard Brussels any more favourably than

London. Those opposed to centralization feared that rule from Brussels would be even more remote.

To the nationalist concern was added the class and partisan bias. The Labour Party and the trade unions tended, despite some vacillating, to oppose EC membership from the 1960s until the late 1980s. Labour interests were not only more strongly represented in Scotland and Wales but Labour and the trade unions in the peripheral nations were more strongly anti-EC than their counterparts in England. So national, sectoral, partisan and class biasses cumulated to produce greater opposition to the Community in Scotland and Wales than in England.

For a long time, the debate on British membership of the European Community had little to do with these territorial questions within the United Kingdom. Britain's governing elites saw the Community as a new external support system for the British state following the demise of Empire, not as the basis for a new constitutional order. The debate on Europe was replete with metaphors about the cold showers and rude shocks, but less by way of serious consideration of Britain's competitive shortcomings. On the institutional side, there was an almost total resistance to the constitutional implications of entry including supranationalism and the surrender of national sovereignty. In the post-entry referendum of 1975, the YES side comprised the defenders of the post-war consensus, albeit in modernized form. In this respect, it was a recognizable precursor of the SDP-Liberal Alliance of the 1980s. On the NO side were an assortment of Conservative right-wingers opposed to a surrender of parliamentary sovereignty; the Labour left, commited to a radical programme of national reindustrialization and protection; and representatives of the territorial periphery.

In the late 1980s, attitudes on the British periphery started to change, and the questions of Community membership and territorial self-government began to come together. An important factor in this was the ill-disguised hostility of Margaret Thatcher, identified with southern English conservatism, to the social and political dimensions of the European project, together with the centralising practice of her government. Territorial, class and partisan oppositions were naturally inclined to look favourably on anything which Thatcher so obviously detested. Shut out of access to the British central state, they sought other means of influence, including local government, a renewed commitment to devolution, and

the European Community. The trade unions were the first to take the Community seriously, grasping the proposed Social Charter as a means of protecting the social and labour market gains of the post-war settlement against the Thatcherite onslaught. Soon the Labour Party itself followed suit, reversing its commitment to withdrawal and gradually adopting more of the new European agenda, including the Exchange Rate Mechanism and elements of monetary and political integration.

As early as 1973, some Scottish MPs had begun to make a connection between the revived Scottish constitutional issue and European integration. Labour MP Jim Sillars founded the Scottish Labour EC watchdog committee, a group of MPs to monitor developments in the Community as they affected Scotland. Sillars' position at this time was that Britain should withdraw from the EC and Scotland should have a devolved assembly but that, if Britain remained in the Community, Scotland should have as much independence as would give it independent representation in Brussels. He was moving rapidly in a more nationalist direction and in 1976, after the referendum had confirmed EC membership, quit the Labour Party to form the short-lived Scottish Labour Party (SLP) with a policy of Scottish independence within the EC. The idea had little appeal outside the ranks of Sillars' party, however, and died with the SLP after the general election of 1979. In the 1980s, Sillars joined the SNP and helped convert them to EC membership. In a November 1988 by-election he rode to victory over Labour in the inner city constituency of Govan on the slogan *Independence in Europe* (provoking Labour to respond with the oxymoron *Independence in the UK*).

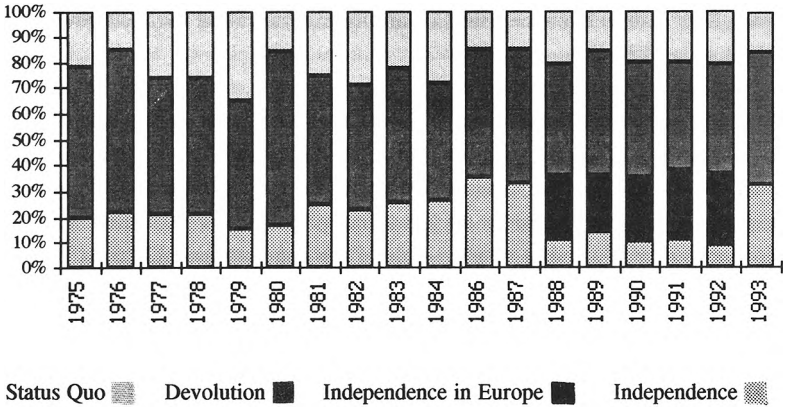
Plaid Cymru came to terms with the Community rather earlier. While there had always been a pro-Europe element in the party which had regarded British membership as a means to loosen the grip of the Westminster Parliament, the change in policy was largely the result of the 1975 referendum which showed strong support in rural Welsh-speaking Wales for the benefits of the Common Agricultural Policy. Following the 1979 devolution debacle, the party saw Europe as the way to resuscitate Welsh identity, placing it in the context of European nations. Subsequently, Plaid Cymru has become more enthusiastically European, praising the Community's commitment to maintain the small family farm and welcoming the European Parliament's support for the languages and cultures of regional and ethnic minorities. At the same time, it has compared Wales' fate, trapped within the British state, unfavourably with that of the small member states. Welsh nationalism has always been less

uncompromisingly separatist than its Scottish counterpart, stressing the values of community and freedom and the need for cultural diversity rather than national independence. This enabled it to accept the Community as a framework for a self-governing Wales without undue difficulty.

Independence in Europe carries reassurance to Scots and Welsh fearful to take a leap in the dark. Like the turn of the century policy of Home Rule within the Empire, it promises an external support system in a dangerous world and allows nationalists to disclaim the separatist label. There is no doubt about the importance of this reassurance factor. Support for Scottish independence mounted steadily in the 1980s, after stagnating around 20 per cent for some fifty years. Since 1988, MORI polls have included the option of independence in Europe. This has increased support for independence to around 40 per cent. These figures must be interpreted with great caution, since close analysis reveals a substantial number of respondents who will support both independence within the EC and continued membership of the United Kingdom. What they do show is dissatisfaction with the status quo and a desire for some form of new arrangement for Scotland in relation both to the EC and the UK. A poll published by the *Western Mail* in 1990 revealed a strong surge in support for Welsh devolution, with 56 per cent favouring a Welsh Assembly. Almost half (44 per cent) of those supporting this preferred the option "Independent within Europe", with the strongest support coming from the Gwynedd heartland of Plaid Cymru.

Class, sectoral, partisan and territorial oppositions have thus moved from hostility to the Community to seeing it as a means of outflanking a centralising, right wing UK government. The drift of the Conservatives away from the enthusiastic Europeanism of the Edward Heath leadership, together with the collapse of Conservative support in the periphery, has reinforced this trend. So the EC, from being an external support system for a failing British state, is seen as a support system for an alternative. By the 1990s, there was widespread support among the political class in Scotland and Wales for closer direct links with Europe as part of a modernised social democracy. The problem is how to attain this.

Figure 2 Opinion on constitutional options in Scotland, 1975-93



The Failure of Reform Efforts

Opinion polls have consistently shown a substantial majority of Scots in favour of constitutional change and the establishment of an elected Scottish assembly or parliament with broad powers over Scottish domestic affairs. They have equally consistently shown that most Scots do not want complete separation. Yet, in a hundred years of intermittent effort, it has proved impossible to achieve their goal. As in the case of Ireland in the late nineteenth and early twentieth centuries, the Westminster Parliament and particularly the Conservative Party, remain resolutely opposed. This very obduracy in the face of what appears a rather modest constitutional innovation is itself testimony to the underlying power of Scottish nationalism, for British unionists fear that any elected assembly representing the nation of Scotland will inevitably challenge Westminster as the basic seat of sovereignty. Devolution thus would lead ineluctably to independence. This argument is usually combined with the quite inconsistent contention that the Scots really have no interest in constitutional change and are happy with the status quo. This latter contention is supported by evidence that Scots rarely place constitutional change at the top of their priorities and that they are not rioting in the streets. In fact, Scots are a law-abiding and highly constitutional nation with a culture which places a heavy emphasis on due procedure and democratic legality.

They are accordingly outraged when their efforts at constitutional change, channelled through these legal and constitutional mechanisms, are dismissed as of no account, particularly by the so-called party of law and order. It is true that constitutional change rarely features as the highest priority for Scottish electors, but this is because they quite sensibly refuse to see it as a priority which competes with substantive issues like employment, housing or the environment. On the contrary, they tend to see it as something which could help in the achievement of substantive policy objectives but are not prepared to postpone the latter until the dawn of self-government. Given the attitudes of Westminster towards self-government, this, too, appears an eminently sensible position. Yet, given the rules of the Westminster constitution, there is almost no way in which they can achieve their aim of self-government in a legal and peaceful way. They cannot themselves command a majority in Parliament. When they help to vote in a UK party which is committed to constitutional change, it is sabotaged in Parliament and they are told a referendum is necessary. During the referendum they are mendaciously told that the Conservatives will bring in a better scheme if they vote NO. When they vote YES, they are told that they have not met a special requirement, invented for them alone, so that YES counts as NO. The Conservatives then declare that, there being no interest in the subject, they intend to do nothing about it. When Scots then reject this governing party by massive and increasing majorities and vote in MPs committed to change, they are told that this is meaningless, since it is only the UK majority which counts. This is a serious matter, which in the case of Ireland, led to violent conflict and secession. In Scotland, it has led to series of initiatives to get around the blockage.

The most important was the Scottish Constitutional Convention. This stemmed from the Campaign for a Scottish Assembly, founded in the aftermath of the 1979 election to keep the Home Rule issue alive. After the 1987 election had confirmed the Conservatives in power and their resolute opposition to Home Rule, the Campaign launched the Convention, a traditional Scottish device to assemble support for constitutional change. The idea was to mobilise the political class and civil society around an agreed project for Home Rule which could be put to Westminster in the event of a favourable parliamentary majority. The Conservatives predictably refused to attend and the SNP, after some internal argument, decided on a boycott. Labour, which had previously kept aloof from the Campaign (though many individual members were involved) changed tack and decided to participate. The Liberal Democrats and minor parties were on board. Politicians were joined by

representatives of the churches, of local government, of trade unions and some small business groups. Despite the absence of Conservatives, SNP and the Confederation of British Industry, this was representative of a broad swathe of Scottish politics and civil society. It represents a sharp break in the British tradition of adversary politics, not for the Liberal Democrats, who have long preached the need for this type of approach, but for the Labour Party. It also broke new ground in asserting that the Scottish people had a right to negotiate a new constitutional settlement with the British state rather than have it handed down to them from on high (Claim of Right, 1988). This is a serious breach in the doctrine of parliamentary sovereignty. The Convention's deliberations were, in true Scottish style, low key and serious, but a scheme for a Scottish Parliament was produced. Labour was even persuaded to accept proportional representation. At the 1992 General Election Home Rule was a central issue and parties supporting the Convention gained an absolute majority of Scottish votes and 58 of Scotland's 72 seats. Great hopes were raised that, in the event of a hung parliament, this would be one item around which a governing majority could be organised. In the event, the Conservatives won again and declared that nothing would be done. They even declared that their marginal increase in vote share, from 24 to 25.7 per cent, represented a rejection of Home Rule by the people of Scotland! The Labour and Liberal Democrat parties themselves appeared at least partly convinced by this analysis and decided to de-emphasise the issue in the future. Following the election, no less than seven groups emerged to try to keep the issue alive. A demonstration at the European Council summit meeting in December 1992 drew 25,000 people. Their message was the discrepancy between the British government's insistence on the principle of subsidiarity in Europe and its denial of that principle at home. Yet, in a parliamentary system, there is little that can be done except to wait for the next general election in hopes of a non-Conservative government. In contrast to 1979, there is certainly more optimism in the Home Rule camp, a feeling that they have won the argument in Scotland and that, sometime, they will be victorious.

In Wales, too, Home Rule came back on the agenda in the 1980s but in a rather different form. No longer tied to the issue of nationalism, to concessions to Plaid Cymru or to the language issue, it carries a broader appeal. As in Scotland, Labour and Liberal Democrats are supportive, as are the trade unions. Local government, previously hostile, is now on their side and the Assembly of Welsh Counties has gone on record as supporting an elected Welsh Assembly or Senate. Since nationalism is weaker in Wales and separatism is no

longer seen as a credible threat, opposition to Home Rule has diminished. Opinion polls now show solid majorities in favour. For this reason, the Welsh issue may be easier to handle than the Scottish one, despite the Welsh rejection of devolution in 1979. On the other hand, change must await a change of government and, for any non-Conservative government, Wales is likely to have to wait behind Scotland.

The Unionist Option

In 1898 Arthur Balfour had declared that "We object to Home Rule whether it begins with Ireland and ends with Wales or begins with Wales and ends with Ireland." Conservative attitudes have changed a little since that time. They now support devolution in Northern Ireland, where there is little evidence of popular support, as a means of distancing British central government from the problems of the province. Yet they remain as resolutely opposed to devolution in Scotland and Wales. This is not a matter of electoral calculation since it has frequently been suggested that the Conservatives could gain political advantage by establishing Scottish and Welsh assemblies with limited financial resources, allow Labour to take the difficult spending choices there and seek to rebuild their local fortunes by constituting themselves as the local opposition. At the same time, they could reduce the number of Scottish and Welsh MPs, so consolidating their own majority at Westminster. They have been unwilling to do this because of a deep attachment to a particular version of the Union and of parliamentary sovereignty.

Given their unwillingness to contemplate constitutional change, Conservative territorial management has alternated between two modes. One, which was practised in Scotland in the mid and late 1980s, is based on the view that the peripheral nations are suffering from a type of retarded political development, mired in the collectivist attitudes of the post-war era. Hence the way to build up Conservative support is to wean them off the 'nanny state' by rigorous Thatcherite policies of privatisation, public sector retrenchment and deregulation. This was accompanied by an attack on Scotland's high levels of public expenditure by Conservative MPs from English constituencies, many of whom were expatriate Scots. Margaret Thatcher herself particularly enraged the British periphery by her patronising attitudes, constantly preaching and telling Scots, Welsh and Northern English in effect that their problems were of their own making, while praising the ostentatious wealth

of the English south-east (Dickson 1989). By the end of the 1980s, with the Conservatives reduced to minor party status in Scotland, the failure of this strategy was apparent to all but the most die-hard Thatcherites, such as Michael Forsyth, minister of state at the Scottish Office.

A more traditional Conservative strategy is that of 'killing Home Rule by kindness.' After the 1992 General Election, John Major told Scots that the government would "take stock." Forsyth was moved to a UK ministry and the Government promised that it would listen to Scots. Harsh rhetoric was toned down and the threatened drastic cuts in Scottish and Welsh spending levels, earlier heralded by leaks, failed to materialise. Such a conciliatory policy had been followed early in Wales under Peter Walker. Since in a reversal of historic practice, the recession of the early 1990s hit Scotland and Wales less hard than the rest of the UK it was assumed that their discontent would diminish and their voting come back in line. Relative prosperity indeed was certainly one reason for the small Conservative recovery in some parts of Scotland in 1992. In March 1993, the Government issued the white paper *Scotland in the Union, a partnership for good*. This curious paper made large rhetorical concessions to Scottish nationality, the prime minister noting in his introduction that "no nation could be held irrevocably in a Union against its will." Yet in practical terms, it offered no more than a few administrative changes affecting the Scottish Office and a proposal that the Scottish committees of Parliament should meet more often in Scotland. The weakness of this stance is that these symbolic gestures to Scottish national sensitivities will in the longer term help strengthen national consciousness and ensure that political issues are increasingly framed in Scottish national terms - without providing the means for Scots to resolve issues among themselves.

Constitutional Reform

There is no shortage of schemes and models for constitutional reform in Scotland and Wales. The problem lies in the political conditions in which reform could occur and in its implications for the UK as a whole. One scenario is that a non-Conservative government could introduce a scheme for Scottish Home Rule as a single item, in order to keep faith with its Scottish supporters and contain the issue. A Welsh version might follow. The principal objection to this in the past was that it would create an asymmetry in British

constitutional arrangements. It is not clear why this should be a fatal objection in a constitution which contains such curiosities as the House of Lords. More seriously, it is objected that Scottish MPs at Westminster would be able to vote in English domestic issues but that neither they nor English MPs could vote on Scottish domestic issues. This, of course, is not a problem for the Scots but for the English though they seem singularly unconcerned about the matter. In practice, it has become another convenient roadblock in the way of Scottish Home Rule. Finally, it is argued that recognition of Scotland's distinct national status as more than just another region of the UK would inevitably lead to separation. It has always been difficult to see how separation could happen by stealth, given the extensive airing which the issue has had. If, on the other hand, a majority of Scots were to decide to leave the UK, then not even the most die-hard Unionist nowadays would wish to prevent them by force. In my view, an assembly for Scotland alone would likely develop into something more than a mere regional government, especially in the context of Europe. Whether this should be a cause of alarm is a matter of opinion.

A second scenario is that Scotland might provide the spearhead for a broader programme of constitutional reform for the UK as a whole. Either Scottish Home Rule would be wrapped up in a package of reforms to make it palatable to English opinion or, more likely, the establishment of a Scottish Parliament would be followed by agitation for change in Wales and then in the regions of England. Provision could be made for nations or regions desiring greater autonomy to accede to it over time, as happened in Spain in the 1980s. Some English reformers have looked to Scotland to provide such a lead, to prise open the constitution. This might have worked in the 1970s but by the mid-1990s matters have probably moved beyond this. Discussions on constitutional reform in Scotland are no longer framed in terms of the British constitution. The word "devolution", with its implication of power condescendingly lent from the centre, has largely disappeared from use. There is more interest in Scotland's contribution to Europe, alongside other stateless nations and regions.

Given a continued refusal of Westminster to concede Home Rule, it is possible that Scotland could secede. This remains unlikely. Nationalism is a widely felt sentiment in Scottish society and support for Home Rule is strong. Yet there remain powerful forces for integration in society and within the political parties. Observers and party leaders have consistently misunderstood the meaning and strength of Scottish nationalism and support for

Home Rule. When the SNP is rising and the media are full of the issue, they take fright, frantically make concessions and adopt nationalist rhetoric and postures themselves lest Scotland slide into separation. When the Scots fail to respond violently to Conservative and Unionist stone-walling, they conclude that the issue does not really matter after all. Ian Land, Secretary of State for Scotland, dismissed the matter after the 1992 election by noting that he had received only eighteen letters on the subject. As Marr (1992: 236) aptly comments, "Perhaps the most astounding thing is that there were eighteen Scots so naive as to think writing Mr. Lang a letter when all else had failed would do the trick." Yet the evidence is there that Scots *do* care about the issue but *do not* want separation. Scots are *British* but, to return to the confusion mentioned at the beginning of this paper, they are not *English*. They have made their views on this clear in repeated consultations. Leaders in civil society, through the Convention and the media, have similarly indicated their position, creating a consensus covering all but the die-hard Unionists and the hard-line separatist element in the SNP. British constitutional apologists usually stress the existence of consensus as a necessary and sustaining element in our constitutional settlement. Scotland has achieved this, but the famously flexible and adaptable British constitution cannot accommodate it.

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