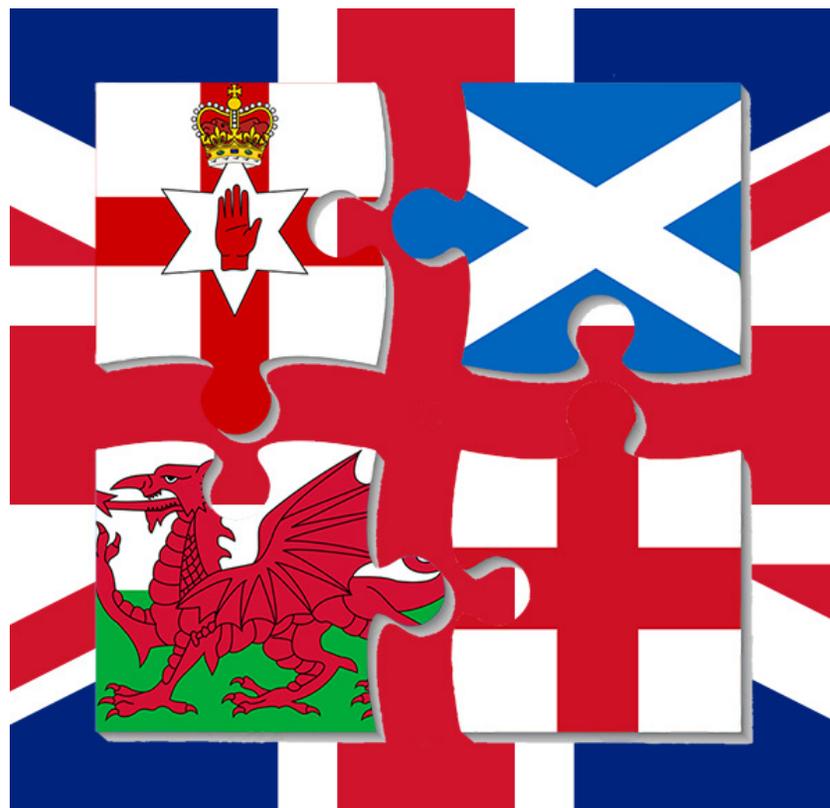


The State of the Union

Lessons for a shared, prosperous future

Arthur Aughey



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Executive Summary

Context and history

By any comparative international standards, the Union has proved both successful and durable as an arrangement of state.

- When placed in the broadest international context, the United Kingdom can sometimes look like an oddity. But the Union on which it is predicated is a remarkably enduring constitutional arrangement and – by almost any comparative standards – a surprisingly cohesive national state. Its endurance has been illustrated by what Vernon Bogdanor has called the “brute facts of electoral behaviour”.
- The Union has survived rupture (in the form of Irish independence) serious readjustment (in the form of devolution), historical trauma (from the decline of the British Empire to two world wars) and the Northern Irish “Troubles” and unexpected challenges (of which Brexit is the most pressing today). If one takes the original Anglo-Scottish Union of 1707 as a starting point, the Union far outlasts the history of many other major states, both in the Atlantic world and beyond. While one does not need to subscribe to a simplistic Whiggish version, it is too often forgotten that the Union is a story of success. Central to this is the fact that, as described by A.V. Dicey, the British constitution is a “personality”.
- One of the strengths of the Union, and the clues to its adaptability, is that it defies easy categorisation as an arrangement of state. For that reason, the Union has survived many vagaries in international affairs and is still well-equipped to do so in the ever-changing world. The capacity for adaptability is key and one must beware of fundamental or nostalgic attachment to the more centralised, post-war ‘unitary state’. But the Union of four nations in the United Kingdom is not a conventional nation state or “unitary state”, so much as a “union of states” or “a state of unions”. The practice of the Union is best described as “multi-national democracy”. The constitutional arrangement of the Union marries overall unity with a recognition of diversity, making it well-equipped for a modern liberal democratic society.

Endism: Running down the Union

For many years, negative narratives of the Union have predicted its death (“endism”) but some of these arguments are often based on falsifiable or insupportable suppositions.

- There is a long-established tendency in British political and intellectual life to run down the Union. The anti-Union narrative has both scholarly and more narrowly partisan manifestations, although the two often feed off each other. The anti-Union narrative has been ever-present in British political life and tends to wax and wane in influence depending on historical cycles. It often takes the form of “endism” (predictions that the death of the Union is only a matter of time) and is usually tied up with a “declinist” view of the United Kingdom, as constitutionally weakened, bereft of former self-confidence and purpose.
- Critiques of the Union have legitimacy, should be taken seriously and should be considered on their merits. Many of those who think and write about the Union focus on the idiosyncratic nature of the arrangement, and point to oddities and contradictions in it. Some of these – from doubts about the strength of a British national identity to imbalances in democratic representation – require the attention of pro-Union voices. It is true that the Union is in some ways an “artifice”, “constructed”, or “unnatural”, although this is to measure against criteria that many modern states would fail to fulfil.
- For over a century, nationalist critics of the Union have presumed that both history and the future is on their side, and that their logic of their argument would be proved irrefutably by the passage of time. Yet, while the imminent “break-up of Britain” is now an ageing prophecy, anti-Union narratives have proved to be poor predictors of the future of the United Kingdom. If the Union was as fragile, inauthentic, anachronistic or contradictory as it has been alleged so many times in the past, its survival has been nothing if not remarkable. As the paper notes, the promise of the nationalist ‘soaring dove’, breaking the limits of the old Union and fulfilling the potential of independence, is a constant challenge to the fact of the Union.

Making the case for the Union

For supporters of the Union, an intelligent political course needs to be charted between “unthinking unionism” (complacency) and “high unionism” (emotive, old-fashioned or urgent interventions in defence of the Union).

- Making the case for the Union has never been easy. It is easier to mobilise people around a dream of the future (soaring dove) rather than the defence of a somewhat clumsy and contingent status quo. The Union is a “historical fact” but for that reason it is hard to create great enthusiasm around it. Much of the story of the Union is one of practical compromise, and the balancing of competing interests, rather than one of noble struggle, liberation or attainment of the promised land.
- Those who want to advocate the case for the Union are often

caught in a Catch-22: having to make the case for the Union today sounds like admission of defeat; talking about the future of the Union risks destabilising it; attempting further adjustments (such as changes in devolution arrangements or responding to the impact of Brexit) contains within it an inherent risk. This feeds into a tendency towards an implicit unionism that dare not speak its name.

- There is a way to talk about the Union that avoids what might be called “high unionist” language (such as “our precious, precious Union”) or attempts to “cry up the Union” with sombre warnings about its imminent demise. The Unionist message should be confident and clear-headed about the fundamental logic of the Union, while remaining attuned to the sentimental and emotional undercurrents on which it also draws as well as being aware of those sentimental and emotional undercurrents which could undermine it.

Understanding what the Union is

The glue that holds the Union together is a composite of rational or “instrumental” considerations and a deeper electoral or democratic “affinity”, underscored by the principle of consent.

- The instrumental case for the Union ‘despite Brexit’ remains strong and unionists should not be reluctant to continue to make it. This holds that it is in the self-interest of the component parts of the United Kingdom – usually seen in terms of the prosperity and security of its citizens – to remain in the same Union for the foreseeable future.
- At the same time, there is an “imagined community” and sense of common allegiance across the Union that is not dependent on a single, one-and-indivisible, collective identity (sport comes to mind here). More precisely, the instrumental sharing of risks and resources is sustained by common affinities across the Union and enable the nations to choose to stay together. Unionists should remind people of that.
- The Union depends, above all, on the “principle of consent”. That consent can be measured by something that might be called “elective affinity”: people elect to associate together through various democratic means (from referenda on the Belfast Agreement or Scottish independence to votes for Union-orientated political parties). The principle of consent also accepts a degree of contingency: that people may choose to separate if, for example, the instrumental case for the Union is diminished; or the affinities that underscore these begin to fray beyond repair.

The Brexit challenge to the Union

Brexit presents a set of challenges to the Union, on the levels of both instrumentality and affinity, but also presents an opportunity for Unionists to adapt and reinforce the Union for the longer-term.

- Brexit presents a series of practical challenges for the United Kingdom as well as some specific risks to the instrumentality and affinity that hold the Union together. It has the potential to disrupt both the principle (consent) and practice (multinationalism) of the Union.
- Brexit can in part be explained by the return of the “English question” in a different form. This relates to the predominance (in terms of economic leverage and population share) of the English within the Union. The differential vote in 2016 – Scotland and Northern Ireland voting remain, England and Wales voting leave – leads some to argue that the “democratic contract” implicit in devolution has been breached fundamentally.
- The two greatest Brexit-related challenges to the Union relate to the consent of Scotland and the border in Northern Ireland. A question is now raised about the long-term validity of the Scottish referendum because, at the time, the consent of Scots to remain within the Union was also tied to the understanding that they would also remain within the European Union. The issue of the Irish border post-Brexit presents a different sort of challenge to the Union in that a number of outcomes could undermine UK sovereignty by isolating Northern Ireland as a special case.

Keynotes

- Confidence should inform the politics of the Union. It remains the case that the UK rests on much broader and firmer foundations of allegiance than its critics claim.
- Consent is the democratic foundation stone of the Union. It is conditional and contingent but it remains potent. It requires to be sustained by a continuing political ‘conversation’ in which citizens can participate in an imaginative debate about the Union’s history, politics, culture and society.
- Care should be taken in the use of language deployed to make the case for the Union in order to appeal to those not already persuaded of its value. However, the intellectual weakness of the case against the Union should be consistently highlighted.
- The Union’s multinational democracy, its elective affinity, far from being an idea whose time has gone, is an ideal of contemporary significance.
- It is important in forthcoming political deliberations to highlight the importance of ‘shared rule’ (the UK as a whole) as well as respecting the value of ‘self-rule’ (the rights of devolved institutions).

- It is likely that reform of what has become known as territorial “inter-governmental relations” will be necessary when Brexit eventually happens because many of the powers repatriated from Brussels will fall within the competence of the devolved administrations.
- It is worth revisiting reform of the Joint Ministerial Committee (JMC) and its terms of reference in order to provide a stable framework for relations of trust between Westminster and the devolved administrations.
- Consideration should be given to a Charter of the Union in order to lay down the principles of the territorial constitution’ and which might reverse the notion that devolution is eroding rather than strengthening the Union.
- More thorough-going constitutional reform may be necessary to accommodate the consequences of Brexit as well as accommodating the demands for greater recognition of England’s place in the Union.
- A solution on the Irish border which creates a special status for Northern Ireland or customs border between it and the rest of the United Kingdom in the Irish Sea should be resisted.

Paper Outline

Introduction

1 The contemporary Union question is this: post devolution and post Scottish and EU referenda, does the Union have any meaning? And the attendant political question is this: can it/should it endure?

Part One

2 The first part of this paper considers the intellectual ‘framing’ of the Union and how questions about its future can be traced to influential arguments according to history, identity and political trends. The second part builds a more positive understanding of the state of the Union, detailing how its strengths can be framed and re-phrased positively. The third part looks at the present challenge to the Union which can be stated in one word: Brexit.

3 The negative catechism of the Union generally consists of eight related parts.

- There is a UK Catch-22: having to make the case for the Union today sounds like admission of defeat.
- This is because unionist ‘values’ are unpersuasive.
- They are unpersuasive because UK appears increasingly an artificial political entity.
- There still exists a residual cost-benefit justification for the Union but that it is a very thin one and liable to change.
- Devolution has made the Union less secure as national identity waxes and British identity wanes.
- Though the Union is based on consent there is no parity of power because England is so dominant.
- The English effect is now subversive, especially because of the EU referendum vote.
- Therefore, the continued existence of the UK looks ever more provisional.

4 The intellectual lineage of that catechism is traced to changes in thinking about British history and the politics of identity. Much of that changed thinking is respectable and soundly argued but often it has been incorporated into an ideological project called here ‘endism’.

5 Endism provides a clear political plot line which interprets the past, selects what is relevant in the present and predicts the future as a neat package of connections. And the conclusion is the inevitable unfolding script of four nations and a UK funeral. Of course, while it must be conceded that the break-up of the UK can happen, the rhetorical function of endism is self-serving – it is to convince others that it is impossible to make a positive case for the Union.

Part Two

6 The second part of the paper proposes how the case for the Union can be made positively. Five important observations are made in unfolding a positive unionist narrative:

- The very ‘fact of the Union’ - while not a decisive justification – already implies practical expectations and assumptions which consciously and unconsciously derive from its existence. This solid bulk of things has been a powerful barrier to break-up.
- From one angle, the Union is an instrumental contract about ‘who gets what, where, when and how, those claims for money and resources by nations and regions and bargaining about resources with, and within, the centre. Yet contract and bargaining already assume that larger fact of the Union and they further assume principles of equity and social justice regulating such bargaining and its outcomes.
- For those principles to be made policy, it is necessary for there to be a sense of non-instrumental belonging of the sort which the word patriotism used to capture. Since the term patriotism is rather out of favour today, at least in polite circles, the expression which has emerged to replace it has been solidarity. It is solidarity – or non-instrumentalism – which continues to sustain the instrumental advantages of the UK.
- The practical outworking of contract and solidarity requires allegiance to the institutions of the UK. The word allegiance – rather than identity – is used deliberately because it better accommodates the identities of different national and ethnic parts within a larger association. For all the celebration of the aspirant ‘civic’ form of contemporary nationalist thinking, it can be said that the Union is there already, which is important when considering the question of the Union’s values.
- These reflections on the relationship between instrumentality, solidarity and allegiance provide a clearer perspective on the values held in common across the UK. These ‘values’ today are comprised of a principle and a practice. The principle is free association and the practice is multinationalism: reconciling national difference and collective unity; harmonising national identity and collective allegiance; making space for national self-rule without undermining the necessity of shared rule; accepting

the contractual nature of some relationships without undermining the collective solidarity upon which those contracts between nations and regions are based.

7 An attempt is made to put those five observations into the pithy formula of elective affinity: the component nationalities of the UK (continue to) elect to stay together with one another as parts of the UK and this choice declares (still) a collective affinity which gives (persistent) meaning to the term 'British'. For now, that choice implies an attendant affinity with the larger life of the Union, not just politically but in its broadest sense (the wish to sustain that multinational political 'conversation'). The words in brackets imply that this is always work in progress. People's choices may change and affinities wither, as some claim has already happened. Here Brexit looms large and the third part of the paper speculates on its possible effects according to four challenges: the international context; the constitutional context; the Scottish context; and the Northern Ireland context.

Part Three

8 The international context: Jim Bulpitt proposed that one of the key strategies of British policy is to secure an 'external support network'. Brexit has thrown into the air those cards which, for 45 years, have been in play in the 'external support network' game of the EU. How those cards will fall and whether any deal with the EU can be better than what the UK has already are unknown knowns. The consequent Union question is straightforward: can any imaginable external support network better sustain the integrity of the UK? On Europe the people have spoken, yes - but who are the people?

9 The constitutional context: the paper considers two challenges to constitutional thought. One concerns administration and policy and one concerns the democratic implications of devolution.

- First, it seems likely that reform of what has become known as territorial 'inter-governmental relations' will be necessary when Brexit eventually happens because many of the powers repatriated from Brussels will fall within the competence of the devolved administrations.
- Second, the differential vote in 2016 – Scotland and Northern Ireland voting remain, England and Wales voting leave – leads some to argue that the 'democratic contract' implicit in devolution has been breached fundamentally. If this claim has no legal weight it does have political purchase.
- Together they raise the question: if the UK is already 'quasi-federal' is it now logical to move to federalism or confederalism? Does parity of national esteem require parity of national power? Looming behind such questions is the great Union conundrum: where does England fit in? The paper notes some suggestions

about how these (very complex) constitutional issues might be addressed.

10 Scottish context: It remains possible to argue that the result of the EU referendum is a denial of Scottish democracy and therefore a ‘breach’ of the devolution contract. It is also possible to argue that Brexit is a breach of trust by the Union - that only by virtue of its membership of the UK could Scotland ensure continuity of its EU membership. It brings sharply into focus the notion of ‘contingency of consent’ for the Union and how, on that basis, a reversal of the result of the 2014 referendum can be envisaged. Even though the evidence of a welling of popular support for another independence referendum is absent (never mind indications that a second referendum would be won for independence) it would be wise for those wishing to retain the Union not to take anything for granted. It is possible that the experience of life outside the EU (rather than its prospect) could change the political game.

11 Northern Ireland context: The paper notes three issues which have arisen relevant to Northern Ireland’s place in the Union.

- The first concerns the ‘what’ of the border. The question here is the long running one of whether Brexit will mean a ‘soft’ border or a ‘hard’ border between the two parts of the island.
- The second concerns the ‘where’ of the border: would it be on the island or would it be in the Irish Sea?
- The third is the ‘border in the mind’ or the matter of identity.

All three issues are interconnected of course, but if Brexit has hardened anything in Irish politics, north and south, it has hardened the ‘border in the mind’. It has put the border back into unionist and nationalist politics in a way that has unsettled relations on the island.

The paper considers the challenge to Northern Ireland’s place in the Union on two counts: the claim that Brexit makes Irish unity inevitable and that the UK should persuade and facilitate it; and the argument that Brexit requires special status for Northern Ireland.

Conclusion

12 The paper concludes with five observations:

- The instrumental case for the Union ‘despite Brexit’ remains strong and unionists should not be reluctant to continue to make that case;
- The value of that instrumental sharing of risks and resources continues to be sustained by common affinities across the Union - unionists should remind people of that;
- The common interests of the whole of the UK need to be

articulated more directly in political debate while acknowledging and respecting the fact of devolution.

- The way in which those points are made should probably avoid 'high unionist' language which may not appeal to those not already persuaded. The unionist case must defend not only the constitutional architecture of the UK but also provide a positive statement of the value of the Union or, to put that otherwise, the entitlements secured by that architecture.
- Brexit will certainly be an enormous challenge to the principle (consent) and practice (multinationalism) of the Union but one which may be read also as an opportunity for democratic renewal.

Introduction

The Union is in question – but this is not new; the anti-Union narrative persists despite the resilience of the UK; devolution has changed the emphasis of the question not the question itself; the question can be answered positively as it has been in the past.

For some time now, the Union has been in serious question. The question which has been posed is this: post devolution and post Scottish and EU referenda, what does the Union now mean? And the attendant political question is this: can it/should it endure? Both questions often intimate a British Catch-22: if the meaning of the Union is given intellectual clarity and its enduring value re-stated such a conceptual and political enterprise may not only be unpersuasive but also may foster the very nationalism it seeks to prevent.

It should be noted that this dilemma is not a novel one. In his classic work *Understanding the United Kingdom* (1982) Richard Rose had identified the dangers of what he called ‘unthinking unionism’ at Westminster which, for most of the 20th century, had involved amnesia about the (former) Irish Question and had taken for granted the structures and practices of British politics (otherwise known as the ‘Westminster model’). In his 2008 study *Union and Unionisms: Political Thought in Scotland, 1500-2000*, Colin Kidd captured its existential mode for Scots in the term ‘banal Unionism’. However, Rose was not convinced that the alternative - ‘thinking unionism’ - on the part of politicians was capable of making a better fist of the meaning of the Union (that Catch-22 yet again). The attempt by New Labour under Gordon Brown, to give intellectual content to ‘thinking unionism’ did not fare well though not for the want of trying. And a decade ago, Lord Parekh’s judgement in *A New Politics of Identity* (2008) was that the ‘British debate on national identity remains disappointing’.

In the course of the last twenty years the key factor of constitutional change in the UK has been devolution. Devolution has often emphasised, naturally enough, the territorial parts of the Union rather than the whole such that what the whole now means has appeared to be less and less certain. The constitutional scholar Alan Trench (2008) summed up the emphasis of much of recent academic research and put the question of the Union’s meaning succinctly: ‘what is the United Kingdom for in the twenty-first century?’ Trench thought that the ‘big long-term issue arising from devolution is not so much about Scotland, Wales or Northern Ireland, but about the UK as a whole’. Moreover, he believed that England’s relationship to the whole and to the other constituent parts of the UK also needed to be addressed. Or, as the Commission on Scottish Devolution

noted in 2009: ‘if we are to consider developing devolution further within the Union, we need a better understanding of the nature of that Union’. That was true then. It is even truer now, yet in itself it is not enough.

Should recent history encourage pessimism amongst unionists that they no longer have good arguments and that the future belongs to their opponents? The short answer is no but to get to that answer requires taking a longer route. The first part of this paper is conceptual or what, less intellectually, may be called the ‘framing’ of political understanding. It starts by abstracting a set of propositions about the Union or Britishness from a recent article by Alex Massie (2018). The point is neither to criticise Massie nor to suggest that his reasoning is faulty for his journalism is always intelligent and thoughtful. The point is to show how critical assumptions have become part of the intellectual mainstream, even amongst those sympathetic to the Union. It goes on to examine how those assumptions about the Union can be traced to influential arguments framed according to history, ideology and nature. The second and related part builds a positive understanding of the state of the Union today upon which an optimistic politics can be framed. On the basis of that positive understanding or framing, the third part looks at the present challenge to the Union which can be stated in one word: Brexit. In 1982 Rose – like the Commission on Scottish Devolution 35 years later - argued that to ‘understand the parts we must also understand the government of the whole’. Today one would need to add: to understand the parts as well as the whole, we must also be able to convey the meaning of Union and articulate it persuasively.

The Union in a Questionable State?

The negative narrative of the Union could be titled: ‘Four Nations and a (possible) British Funeral’; Alex Massie provides an inventory of its script; it is one which has its intellectual origins in a change in historical perception (from providence to contingency) and a change in the significance of identity politics; the inventive incorporation of these changes into an ideology of ‘endism’ or the inevitable break-up of the UK; the particular weakness of endism identified.

Recently, the journalist Alex Massie (2018) did a health check of the Union and, sympathetic as he was, delivered a pessimistic judgement on its present state and future prospects. There were eight related points which suggested a political story according to a script entitled ‘Four Nations and a (possible) British Funeral’:

- **The UK’s Catch-22:** Massie noted Mrs May’s recent pronouncement that: ‘The UK contains four proud and historic nations, but together we amount to so much more than the sum of our parts and our Union is an enormous force for good’. He added: ‘But if you’ve got to say it, is it really true? And at ‘a certain point it begins to seem like protesting too much’. (Those comments will be familiar, if only because they were also made during his premiership about Gordon Brown’s statements on Britishness).
- **Unionist values are unpersuasive:** A new era of pan-British unity may sound good ‘but few people, I think, take this as anything other than mere blather’.
- **The UK appears increasingly an artificial political entity:** It ‘has never been a unitary state’ but its ‘complex, jury-rigged, even laughable, constitution’ of ‘a patchwork state’ looks increasingly alien. Even unionist language ‘implicitly buys into the idea there is something inherently artificial about the ideas of Britain and Britishness’.
- **Instrumentalism rules but it is a weak basis for stability:** If unionism is only – or even mostly – spoken of in terms of balance sheets and cost-benefit analysis then Unionism is shipwrecked if or when the people can be persuaded that these calculations and matters of accountancy no longer favour the Union.
- **Devolution has made the Union less secure:** Devolution ‘has changed the psychological balance of the United Kingdom’. As

a consequence, ‘the way we think about Britain changes too’. Independence for Scotland is a real possibility despite the vote in 2014. The ‘referendum changed many things and we are still in the process of just discovering how deep and significant those changes are’.

- **Consent in the devolved UK is a principle of unequal weight:** ‘Parity of esteem is not the same as parity of power’. And the reason for that is England.
- **The English effect is now subversive:** ‘England, with more than 80 per cent of the UK’s population, casts an over-mighty shadow on everywhere else’. Brexit in this view is the English elephant trampling others (Scotland and Northern Ireland, if not Wales). As a result:
- **The continued existence of the UK now looks provisional:** ‘The United Kingdom presently exists as a provisional entity’ and ‘remains on probation and will continue to do so’, especially as Brexit unfolds.

Massie’s article is an intelligent reflection on the state of the Union and its logic is today almost banal (in the intellectually consensual sense of Kidd’s term about old-style unionism). Therefore, it conveys a truth (not a fake perspective) even if it is not the whole truth. Interestingly, what it does very ably is to distil some of the key propositions of the critical academic literature and commentary on the Union which have appeared over the previous generation or more. It reveals the extent to which the arguments of that literature have influenced the current intellectual climate (even for someone like Massie who is favourably disposed to the Union’s survival).

What are those propositions? They can be summarised under three broad headings. The first two – history and identity – suggest a Union not only in flux but also defined by its fragility and insecurity. It is these two suggestive propositions which we find in Massie and they have an honest ring to them. The third – ideology – translates history and identity into a nationalist/disintegrative project and one which is convinced of its necessary success. Let’s consider each of these points in turn.

History

Eighty-seven years ago Herbert Butterfield identified the professional limits of *The Whig Interpretation of History* (1931) even though he later recognised its political value as national self-understanding during the Second World War in *The Englishman and his History* (1944). The historical limit and the political value proved to be one and the same: that the Union’s supposed exceptionalism could be attributed to providence. That the Union shared a peculiarly providential history was a popular belief – not merely as a record of past glories but also as a guarantee of its future stability (and, ironically, the Tories were more adept beneficiaries of this Whiggish providential history than their opponents). Providence in living memory even had its popular geographical expression not only in the UK’s security from invasion, not

only in its imperial civilising mission (as the Ulster Covenant put it in 1912) but also in its physical bounty as the ‘workshop of the world’ – that the Lord had put the Pennines where He did so that Lancashire would have sufficient rain for its cotton industry and Yorkshire sufficient shelter for its woollen industry (to which one could add coal in the Welsh valleys and the advantages of the Clyde and Belfast Lough for shipbuilding).

Two influential histories illustrate what one may call the intellectual shift from providence to contingency and the final nail in the coffin of such comforting stories. The first is Linda Colley’s *Britons* (1992) and the second is Norman Davies’ *The Isles: A History* (1999). Both contributed to doubts about the Union which had been around for a generation or more, albeit their respective emphasises were different.

Colley’s book reminded readers of not only the recent historical emergence of the Union as a state but also that it was (and remains) a multinational artifice. Her specific, though ambivalent, usage was that the Union had been ‘forged’ in military struggle against the French ‘Other’. One unfortunate consequence of the word ‘forged’ was its incorporation into a fashionable – and not at all ambivalent – view that not only is the UK a constitutional artifice as Colley intended (for what state is not?) but also that its exceptionalism lies in being distinctively *artificial* and therefore in its constitutional practice and institutional structure, somehow democratically inauthentic – its ‘complex, jury-rigged, even laughable, constitution’ or ‘patchwork state’ as Massie puts it – altogether a very different view and a matter to which this paper will return.

Of course, Colley is a subtle historian and she has warned against a simplistic reading of historical contingency to imply that, if the Whig interpretation can be dismissed as a sort of *fake history* as Butterfield admitted, the UK is therefore also a *fake state*. She subsequently (2000) warned against the uncritical acceptance of ‘authentic’ nationalities (like the Scots and Scotland) versus ‘artificial’ identities (like British or the UK). However, in a political culture which now stresses authenticity and identity above much else one can recognise the potentially subversive effect of the loose usage of ‘forged’ by readers of Colley.

Norman Davies’s popular bestseller *The Isles: A History* (1999) put the existing body of knowledge on British history into a chronological and analytical setting in order to account for ‘the rise and fall of Britishness’. He illustrated the historical contingency of the present UK and its necessarily ephemeral condition by identifying fifteen preceding states which had constituted the Isles over the centuries. What had come into existence only in 1922, the United Kingdom of Great Britain and Northern Ireland, was likely to pass away as had the older 1801 Union of Great Britain and Ireland.

The (long) history of the kaleidoscopic political boundary changes in the Isles pointed to future disruption and disintegration of which Davies was certain, and he made much of the difficulty people had in describing the state to which they belonged as a sign of its obvious inauthenticity. The take-away political point from his massive study was that disintegration of the UK would happen – and it would happen soon. If that is your

assumption then it is a short step in logic to will the outcome as well as to anticipate it (for is it not dishonourable to live in a state – as Massie described it – forever ‘on probation’?). That is precisely the political conclusion required by step three, turning historical research into an ideological project. In 1999 Davies had expressed doubt that the Union would last to 2007, the three hundredth anniversary of the Anglo-Scottish Union. In *Vanished Kingdoms: The History of Half-Forgotten Europe* (2011) Davies amended the date of break up to 2014.

That the break-up of the UK has not happened according to Davies’s prediction does not mean, of course, that it will not happen. And Colley (2014) put in a note of caution: ‘As a historian, I do not believe that major developments and events in the future can be preordained, or are somehow inevitable’. That view challenges simplistic inferences from her work but it does not mean either that break up will not be a likely future.

Identity

To that intellectual association of the Union’s historical contingency with political artificiality one needs to add a further assumption – that behind the play of historical events and the coming and going of political arrangements, there exists something pre-political, constant and natural. If there is an emerging pattern in history – perhaps a new providential one – it is this: out of the contingent and forged multi-nationalism of the UK one can detect the return of suppressed national identity. Here the reference is to the authentic (who we *really* are) as opposed to the inauthentic (*external* political arrangements), to what is pre-political or natural (the nation) against what is constitutionally contingent (the artifice of the Union). As Massie observes, there has certainly developed a discursive trend which takes for granted the inherently artificiality of Britain and Britishness and with it, the vacuity of unionism. The sense that the fertile principles of political life are elsewhere explains the academic interest in territorial politics and devolution (which represents not just research interest following the money). Massie is also correct to note a change in ‘the psychological balance’ between the nations in the UK which makes that view seem persuasive.

A good example of its (often contradictory) style of thinking is Vron Ware’s *Who Cares about Britishness?* (2007). Her argument is that globalisation has undermined ‘the very idea of national as borders’ well as ‘separate spaces that demand special allegiance’. The UK now has no privileged standing and can be reimagined as a purely arbitrary, history-less, political ‘space’. That sort of identity claim is familiar in British politics and is one which mixes personal emancipation, multicultural recognition and commitment to an open, post-modern society. It is the text of the ‘Anywheres’ as David Goodhart (2017) described them and so it does speak to a real, and widely held, view of the world. And yet (as Ware’s book title implies) it is the Union alone which is so described and emptied of substantial meaning.

Ware writes that ‘Britain may be a country, but it is not really a place. When you emerge from the Channel Tunnel by train the steward welcomes

you to England, not to some abstract notion of the United Kingdom or Grande Bretagne'. Moreover, few people expect to be told 'they have arrived in Britain when they disembark in Glasgow or Cardiff'. It is only when you pass through immigration that 'your relationship to Britain defines who you are or what right you have, or don't have, to be there at all'. The implication is that it is the nations of the UK which have real historical personality, constitutive of the identity of distinctive peoples, whereas the 'Britain/British' does not. Citizenship of the UK is a mere statement of residence in a space – not belonging to a definite place.

This has always been a rather one-eyed argument, both historically and politically. And it is important to notice the date of the book's publication. 2007 in retrospect may be identified as the year of 'peak cosmopolitanism'. Things look rather different today. The point which unionists can make of the difference is to observe the contingency of certainty, particularly in the self-confident historical process which nationalists (as well as others) claim to have detected in the life cycle of the UK. But how has it been (and is it still) possible to reconcile such cosmopolitanism with forms of separatism? Is it not a contradiction in terms?

It can be so reconciled because substantive (nationalist) identity is reconciled with global rights by the addition of what Hayek might have called that 'weasel word' civic. Civic nationalism becomes now a progressive vocation which claims to be emancipatory, egalitarian and shorn of its old (regressive) ethnic character. Or, to put that otherwise: post-Union civic nationalism is held to be both a recovery of the natural (in acceptable liberal form, a 'Somewheres' identity) as well as the wave of the future (democratic, republican and open to 'Anywheres'). In this perspective, the anomaly of England presents itself as a serious problem as well as providing (respectable) opportunities for old prejudices. Formerly the 'absorptive patria' as Grainger (1986) once described it, which took precedence over the so-called Celtic 'fringe', becomes the laggard of historical destiny and, as one detects in Massie's phrase, it casts its (regressive) 'over-mighty shadow on everywhere else'.

If the Union is indeed 'bloodless, historyless and affectless' as David Marquand (1993) once described it, then of course, as Massie points out, materialist instrumentalism is likely to be its only characteristic. This was one of the themes in *State of the Union: Unionism and the Alternatives in the United Kingdom since 1707* by Iain McLean and Alistair McMillan (2006). They calculated that there would be a steady decline of the UK's political capital to such an extent that its break-up would become instrumentally attractive to its national parts. A decade later, Massie suggests that that stage is not too far off. Albert Einstein once remarked: 'I regard allegiance to a government as a business matter, somewhat like the relationship with a life assurance company'. That is the ultimate logic of purely instrumental thinking in politics and, if that is all there is, then no wonder the Union appears to be 'on probation' as not just the Scots, but everyone, recalculate the cost-benefit analysis of the Union.

Ideology

The third step in the process (the one which Massie does not take) invokes national destiny as the ideological imperative as well as the logic of history. There is no necessary connection between the first two steps and this one. Indeed, Colley (2014) observed astutely that the change over the last fifteen years has been not so much a rise in Scottish nationalism (certainly of the sort explored in Kidd's study of unionism) – or of Welsh and English nationalism either – as it has been the emergence of a *different kind* of nationalism, one no longer complementary – but hostile – to the Union. A large part of the appeal of this new nationalism is its ability to conscript historical contingency and political identity into the service of a narrative according to process (a contradiction usually ignored) which can be called *endism*.

In short, *endism* is shorthand for that familiar anticipation that each and every modification of the UK's constitutional architecture; each and every modification in popular opinion (more Scottish than British for example); and each and every change in the UK's international standing is yet another intimation of the inevitability of the Union's disintegration. Sometimes even pro-Union voices struggle to speak with energy or confidence in the babble of *endist* rhetoric.

The origin of this idea can be found in the work of that inventive melodist of contemporary nationalism, Tom Nairn, and it is an idea repeated subsequently by his less gifted acolytes. His original and now venerable *The Break-up of Britain* (1977) was an intellectual *tour de force*, a translation of the certainties of Marxist laws of historical development into the tradition of political nationalism. The relationship of ideas is contextual – the historical contingency of the Union fits neatly with the (inevitable) historical process of the Union's demise. Hence the attractively (self-serving) political claim: the uncertainty of the Union's present confirms the certainty of nationalist logic. It is a narrative which exists independently of historical events, even if it is not divorced from them, and the wished-for outcome (independence) is always parent to the interpretation of events.

Thus it is not uncommon for some commentators and academics to talk already of politics being *after* Britain, where the end is already assumed to be here – and not just in the minds of those who would define themselves as nationalist. For example there is: Mark Perryman (ed) *Breaking Up Britain: Four Nations after a Union* (2009); Michael Gardiner and Claire Westall (eds) *The Literature of an Independent England* (2013); Gerry Hassan and James Mitchell (eds): *After Independence* (2013); and Kevin Meagher *A United Ireland: Why Unification is Inevitable and How It Will Come About* (2016). Indeed, *After Britain* was the title of Nairn's book of 2000 and it is a tribute to Nairn's intellectual influence that he continues to frame the horizon of these interpretations. In 2000 Nairn wrote of the Union's 'transition from the management of decline into the management of disintegration, leading eventually to a suitable testament and funeral arrangements'. To argue that we are 'after Britain' implies that the fate of the Union has been decided already (and the significance of the relationship of 'decline' to 'disintegration' in the narrative is discussed below).

Therefore, endism provides a clear plot line which interprets the past, selects what is relevant in the present and predicts the future as a neat package of connections. Popular identity is elsewhere now. It is now bound up with the civic progressivism of being Scottish or Welsh (English and Northern Irish are much more problematical). These are the everywhere who are comfortable with being civically somewhere – but the key point is that they are no longer British. In short, as Alex Salmond once claimed, the Union is ‘past its sell-by date’ and at the time the former leader of the SNP made much of the prosperity which the arc of European small states demonstrated as the future trajectory of an independent Scotland. By the logic of endism, nationalists no longer need to delegitimise the Union for history has already done that job. Hence Massie’s doubt about Mrs May’s or anyone else’s unionism, a doubt which implies that those who keep faith with the UK are simple romantics, nostalgic about a world that has already gone and probably never existed. In short, they are deluded. All it takes is for people to acknowledge that truth and then act on it. And the seductive suggestion is that they should get on the right side of history. Though it has become recently a French slogan, the invocation here has its relevance to nationalist self-esteem: ‘we are *en marche*’.

According to Nairn (2008), putting ideological flesh on Ware’s conceptual bones, globalisation makes some larger states ‘irreversibly “smaller”, in the sense of rendering older styles of imperium and domination impossible’. In this new world order ‘smaller is, if not better, then at least just as good’ and it is no surprise that ‘the United Kingdom should be the one prime site’ for this to happen. Here was announced the spring time ‘of victorious dwarves’. And in this new world order Wales, Scotland and Northern Ireland would queue up to claim their places, confirming the analysis Nairn had set out 30 years earlier. In 2007 he had given the Union a life expectancy of five years (a similar framing of the future found in Davies’ history).

If the Union ever had a future, it is now behind us. ‘There’s ane end of ane auld sang’ the Chancellor of Scotland, the Earl of Seafield, proclaimed – meaning the end of Scotland’s sovereign independence in 1707. The ending here, and the auld sang, is the Union itself and this endist narrative, and variants of it, are so embedded in contemporary culture as to have become almost unremarkable – one is almost tempted to say, to use Rose’s term, ‘unthinking’. However, it does indicate a real change in political culture. Of course, it is very seductive to believe that history is on your side even though, to use a footballing analogy, historicism – and endism is a species of historicism – can be very good at plotting pleasing patterns of play but not so good at scoring goals. And this is the starting point of a unionist response. As David Cannadine (2009), like Colley, has argued, one should be wary of predicting what is going to happen next in terms of how political events *should* inevitably unfold (and the *should* is inextricably linked to inevitability).

Ideologically, endism reveals historical continuities with earlier thinking about ‘the state of the nation’ explored in Richard English and Michael

Kenny's *Rethinking British Decline* (2000). Like endism, what they called declinism assumed the UK to have an anti-modern social structure, to be dominated by political conservatism and to suffer institutional illusions about the extent of British power. As English and Kenny demonstrated, the ideological attraction of declinism had less to do with the evidence for these things and more to do with wished-for political outcomes – a country with a 'modern' social structure, liberal progressive, republican, European. Endism reveals the same character as declinism – what K O Morgan (1990) described as an 'obsession with Britain as a kind of museum piece of insular decay' - and the same judgement may be made of it. It is a style of thinking which assumes, as JGA Pocock (2000) observed in his criticism of Nairn, that 'modification must mean liquidation' (though one irony is that endism shares that same attitude to political change with the very thing it claims to reject – stern unbending Tory centralising unionism).

Once again this is not to deny that endism may become a self-fulfilling narrative and ultimately be successful. It is a complacent illusion to expect questionable theses to be refuted by experience for they endure ideologically and even if not necessarily evidentially (as English and Kenny show). For example, one would have imagined that Nairn's announcement of the spring time 'of victorious dwarves' - which is supposed to have changed the international equation in favour of small nations such as Scotland, allowing them to reap the benefits of adjusting nimbly to world markets and making independence the natural choice - would look much less persuasive in the light of recent economic events. Surely such optimism would have been chastened by the experience of the Republic of Ireland at the hands of the Troika, by Russia's threat to the Baltic States or by the EU's response to Catalonian claims to independence?

However, very recently nationalist *Kleinstaaterei* has re-emerged unscathed, celebrated once more in Lesley Riddoch's column in *The Scotsman* (2018) where 'the beauty of being a wee country' confirms 'a stack of reasons to go for independence'. To which stack of reasons must also be added 'the certain expectation of economic growth' (note the interesting linkage of certainty and expectation). The lesson is never to be complacent nor to think that challenges to the Union have their own 'end'. They won't precisely because the belief is of an idea, a people, a party *en marche*.

As a preface to the next section, consider this comment on the state of the Union 40 years ago. Following a decade of intense constitutional debate about the future of the UK, Rose observed that too many books and articles had been published explaining events that did not happen. His point was that, despite much of what had been assumed and had been predicted, the UK had not broken up. The intellectual's interest in political crisis, he thought, should not detract from the reality of political continuity. If consent for the Union was contingent – as it was and as it remains - it was and is superficial to read into such historical contingency inevitable constitutional collapse.

However, if that historical example appears to give comfort to the unionist position on the one hand it takes it away on the other. For Rose

in his judgement of the times was talking about arguments for and expectation of devolution. A political generation later and devolution had become a fact of political life. Who, then, can be certain that break-up of the UK is also not a generation away unless, that is, a good case can be made for its survival and its advantages to citizens demonstrated clearly?

What then can be said positively?

Stating the Union Positively

Significance of the UK as a multinational state; the ‘fact of the Union’ as strength rather than weakness; the limits of the nationalist soaring dove and the possibility of Kant’s dove; the solid bulk of instrumental entitlements; the solidarity which such entitlements require; the multinational allegiance –rather than identity - upon which solidarity is based; the values which are embodied in citizenship; the Union defined as an ‘elective affinity’; and the relevance of elective affinity to the distinctiveness of UK multinationalism; multinational democracy, far from being an idea whose time has gone, is an ideal of contemporary significance.

It is important to take seriously the questioning of the Union outlined above for, as this paper has noted consistently, if the break-up of the UK is not inevitable, its survival is not inevitable either. Trench’s question: ‘What is the United Kingdom for in the 21st century?’ is both a practical and an existential question but answering it requires an initial definitional response.

The old term to describe the UK – ‘unitary state’ – is no longer fashionable, or possible. Amongst academics, ‘unitary state’ (which was mainly a post-war, welfare state usage anyway) has been replaced generally by the term ‘union state’ (even if it may not be on the tip of the tongue of Westminster MPs). This change is a revival more than an innovation. For example, Sir Ernest Barker (1942) used it to describe the UK’s distinctive ‘crossing’ and ‘bridging’, what he also called its ‘mixture of unity and diversity’. James Mitchell has gone so far as to call the UK ‘a state of unions’. Though his is an imaginative definition, it possibly gives too much emphasis to the parts (diversity) rather than to the whole (unity).

In short, the terminology matters. One has to be careful not to expend important political capital in the defence of a ‘certain idea’ of the UK (unitary state/Westminster model) which no longer adequately describes the political reality of the state of the Union. After 1945, British politics tended to stress collective solidarity for a centrally managed welfare state and the institutional structures thought appropriate to secure it. It is that ‘certain idea of Britain’ which is no longer fit for purpose and it is the waning of that (contingent) model which has prompted much of the endist thinking discussed above – not only amongst those who would wish to see the break-up of Britain but also amongst those who fear it.

Of course, any calling attention to those things which differentiate its parts always risks the UK’s capacity to see itself as a whole. That incapacity to see the UK as a whole is the perceptual backbone of the anti-Union narrative described above – that the ‘natural’ differentiation of the national parts will destroy/has already destroyed the ‘forged’ whole. It holds that

the Union is a *contradiction* (to use an old Marxist-Leninist term) which must unravel (though the limits of that sort of thinking should be clear already). The contradiction is held to be this: On the one hand, the UK is on dangerous ground if identity is appropriated by its national parts (like Scotland). On the other hand, its multinationality is contradicted by exclusive allegiance to an institutional identity (West-monster as Scottish nationalists like to describe it).

Yet there is no reason to be pessimistic. Colley (2014), for example, is convinced that ‘in regard to countries and peoples, the past contains the seeds of many possible futures’. As this paper has argued, history is not moving in a unilinear way at all. Here one is reminded of Michael Oakeshott’s (1991) understanding of a political tradition as ‘a flow of sympathy’ between past and present and that in it nothing is ever completely lost. He thought there is always a ‘swerving back to recover and make something topical out of even its remotest moments.’ Oakeshott added ‘and nothing for long remains unmodified’. In that light, perhaps the future actually bears resemblance to a road not taken, in this case not a conservative return to a nostalgic past, but what Bogdanor (2009) has called a belated constitutional triumph for ‘the nineteenth century liberal and radical movement’. However, it is always a dubious exercise to put words into the mouth of history. Some may feel that there is no link to be found, between the Union of then and now – but that is to be overly impressed by the novelty of the present circumstances.

It was the Irish historian George Boyce in *The Irish Question and British Politics 1868-1986* (1988) who put the Union’s definitional question both elegantly and succinctly: was the UK ‘inhabited by a single nation, however much regional or even patriotic differences might distinguish its component parts’; or was it ‘one whose national distinctions made it essential that they should be given some constitutional recognition?’ The change in terminology over the last 20 years can be described as the shift from the first of Boyce’s descriptions of the Union to the second. The short hand for this constitutional change in the last two decades is, of course, devolution.

As such, to capture the institutional and legal variations between the various parts of the state and yet also to confirm the whole, ‘multinational state’ seems appropriate. Though Colley (2014) preferred the term ‘state nation’, her definition fits well with ‘multinational’: ‘to acknowledge and protect the partial autonomy and separate rights and cultures of the various countries and regions that are contained within the state nation’ along with the corresponding requirement ‘to create and sustain and nurture a sense of belonging and allegiance with regard to the larger political community’ (the significance of Colley’s reference to allegiance is discussed further below).

In sum, the Union did not and does not require local patriotism to be exchanged for an exclusively metropolitan identity. It did not and does not demand a state one and indivisible. It did not and does not aspire to be a single ethnic community. It was always and remains a hybrid, what Elton (1992) once called a ‘nationality not a nation’ but a nationality embracing distinctive nations. What it did and does require is that local patriotism be

re-imagined within a wider constitutional arrangement that provides for degrees of differentiation within a collective political solidarity.

What framing flows from that understanding?

At least five important observations can be made in unfolding a positive unionist narrative.

Fact of the Union

It is necessary to identify, at least as a starting point, the very fact of the Union. This, for unionists, can sometimes be the defect side of Kidd's banal unionism. Because factuality is so pervasive as often to be rendered invisible, the very taken-for-granted-ness of the Union can make it difficult to explain or even to justify. Is not the Union the *fons et origo* of all problems which only independence can solve? Are not the limits of possibility which the Union imposes the reason why (any particular) devolved policy has been inadequate? Because it is 'constructed' or 'forged' or an 'artifice' and therefore 'imperfect' (as all political associations are) it is easy to declaim the existing UK's many real flaws and to propose that it should be replaced by the 'natural' or 'authentic' or 'legitimate' alternative of independent – and ideal – democratic statehood. And there is nothing wrong with proposing that alternative. Yet, to paraphrase TH Green, much of nationalist idealism assumes that there can be independence if thinking makes it so (hence the attraction of endism). This idealism is not always a strength and can be a limitation and that is an opportunity for unionists to render the nationalist alternative both implausible and unattractive.

Despite the waning of 'unthinking unionism' and the decay of 'banal unionism', the continued existence of the UK is significant, even if some would either ignore it or seek to eliminate it. The fact of the Union is not, of course, a decisive justification for its existence (or for anything for that matter) but it does draw attention to a reality – historical, political and institutional – which is often forgotten.

And it has been against this fact of the Union which the grand aspirations of the negative narrative of break-up and its invitation to independent self-determination have been dashed so far. This fact of the Union – and the very practical expectations and assumptions which consciously and unconsciously derive from it - constitute the instrumental value of the Union or what old-style Marxists would have called the 'material base' of the Union. This instrumentalism involves a utilitarian, cost/benefit, economic consideration of what the UK is 'for'. For Massie this is an insufficient basis for the Union and he is right. But it is not an insignificant starting point even if it cannot be the end point.

Instrumental Union

From an instrumental point of view alone, the UK is of value only if it has good consequences. In this view, to be British would be reduced to a set of contractual entitlements, expectations and opportunities, a business-like estimate of both individual and collective welfare. If states do not have friends but only interests then, according to mere instrumentalism, this

would apply to the calculations made by the ‘territories’ – national, regional and local – of the state. There is an obvious truth here which politicians of all parties and citizens of whatever political outlook can acknowledge.

In Northern Ireland such instrumentalism used to be known as being ‘loyal to the half-crown’ and indicated suspect (or absent) loyalty to the Crown. Yet as Sir Bernard Crick (2008) once observed of the hard case of Northern Ireland self-interest, or a utilitarian sensibility, that it ‘is not to be scorned or ignored’ and is only contemptible to those whose whole being is obsessed with national identity. Even in his *Reflections on the Revolution in France*, Edmund Burke understood the state to be a contrivance for the satisfaction of human wants (if that’s not all he understood it to be).

It is an understanding of politics in terms of contract, an understanding with a distinguished philosophical heritage. There is, of course, a contractual side to all politics which instrumentalism captures. It is what the American political scientist Harold Lasswell once famously described as ‘who gets what, where, when and how’. That sort of contractual relationship is indeed evident in the UK and it involves distinctive claims for money and resources by its nations and regions and a bargaining about resources with, and within, the centre. And yet contract and bargaining already assume that larger whole of the Union and they further assume principles of equity and social justice regulating such bargaining and its outcomes. Those principles of equity and social justice are not just territorial (Scotland, Wales, Northern Ireland, England) but also collective (welfare, social, class and so on which are UK-wide). That is instrumentalism’s larger political UK context which the very fact of the Union makes easy to forget.

For nationalists it is also easy to denounce. Their message can be described as the politics of the ‘soaring dove’ – in sum, un-caged from the constraints of the Union, the nations will soar free into the blue skies of liberated economic renewal. Rather than a soaring dove, unionists visualise ‘Kant’s dove’ (from his *Critique of Pure Reason*): ‘The light dove, cleaving the air in her free flight, and feeling its resistance, might imagine that its flight would be still easier in empty space’. In other words, take away the supposed ‘constraints’ of the Union – the argument that the potential of Scotland can only be achieved with independence – and the result will not be the blue skies of freedom but darker clouds of more onerous economic and social constraints.

The difficulty today of being sceptical of the soaring dove and referring to Kant’s dove is that one is likely to be labelled as a devotee of ‘Project Fear’ – a ‘project’ (if such it was) which was nothing if not a relentlessly graphic tracking of the plummeting of nationalist doves. It is a difficulty compounded by the nature of political debate in the UK both pre- and post-EU referendum (on both sides of the debate). 2014 and 2016 have probably made voters sceptical of all argument according to ‘expert’, instrumental, forecasting. Nevertheless, it is important to remind people that nationalism’s dove is more likely to be Kant’s dove and to remind people as well of the political and economic costs.

Instrumentalism of the purely materialist kind was tested in the

Scottish referendum of 2014. Interestingly, the key question determining the outcome was not: what is the UK for in the 21st century? The key instrumental question was really a different one. It was: what is national separatism for in the 21st century? Ironically, while arguing for the end of the political Union, the Scottish National Party proposed maintaining what it called the social union as well as, after independence, retaining close co-operation in terms of some administrative and cultural links.

Much debate in the campaign was also devoted to the argument about maintaining the UK's monetary union. Together, continuity of these functioning unions posed difficult questions for a separatist strategy which refused to accept the label 'separatist'. In short, apart from the emotional satisfaction of national identity what real benefit or added value would independence deliver? As Crick noted as well in the Northern Ireland case, nationalists 'may favour, in principle, the unity of Ireland, if that is the only question asked; but they sensibly want to know what is in the package for themselves and their families; how will it affect their day to day interests – welfare, unemployment, schools, health benefits, employment rights and so on'. To some extent those were the same or similar questions asked in Scotland (and they are questions which have re-emerged in Northern Ireland as the paper discusses in part three). In 2014 at least, Scots did not get persuasive answers to those questions.

That is not to say that nationalists (not only in Scotland but also in Northern Ireland) cannot come up with good answers in the future. Calculations of economic self-interest and financial cost-benefit do change and the *status quo* may become much less attractive than it is now (perhaps post-Brexit). The continuing sense of nationalism being *en marche* in Northern Ireland and Scotland comes from calculations that these instrumental terms of trade are changing in their favour. Perhaps, though, there has been too much focus on the economic aspect of contractual relations. For there is another dimension to it: a democratic dimension or what, under David Cameron's premiership became known as the 'respect' agenda. This particular aspect of contract is considered later in this paper when the multiple challenges of Brexit are considered.

Union of Solidarity

Simple instrumentalism or contract, of course, can never be enough. The Union (to adopt another of Burke's points) should be more than a mere partnership agreement 'to be taken up for a little temporary interest, and to be dissolved by the fancy of the partners', a reflection appropriate to any state and not just to the UK. There needs as well to be a sense of non-instrumental belonging of the sort which the word patriotism used to capture. The term patriotism is rather out of favour today, at least in polite circles (though it is worth noting here that historically patriotism – especially to the constitution – was often seen by liberals and the left as an alternative to jingoism). The expression which has emerged to replace it has been *solidarity*, and it was a term prominently deployed during the Scottish referendum campaign.

It is this multinational solidarity – in its historical longevity, in its historical distinctiveness and in its democratic entitlements – which (one may say) makes the Union.

Doing justice to what is distinctive to and what is common in the UK has always been a delicate enterprise. The objective of central government, or Westminster, has been to secure common rights of citizenship within the shared territory of the UK, where expressions of national difference need not conflict with the achievement of multinational purpose. That is the practical meaning of solidarity which underpins debate about who gets what, where, when and how. What devolution of power to the Scottish Parliament and Welsh and Northern Ireland Assemblies has done is to change the institutional framework for negotiating the general and particular balance of interests (or contract) in the UK. It now involves a more open political debate about priorities in public expenditure, as well as the opportunities to do some things differently.

The purpose of devolved democratic institutions has been to provide new – but not exclusive – locations for the expression of citizenship: participation in elections, lobbying representatives and identification with new public symbolism. And this means that the political bargaining between devolved institutions and the centre has become more transparent. And it has also become more confrontational. As Massie observed, devolution has also modified the psychological balance between the parts of the UK and his justified conclusion is that the way people think about the Union has modified accordingly.

Nevertheless, what the Scottish referendum also illustrated clearly is the following continuity: namely the interdependence of instrumentalism or contract and non-instrumentalism or solidarity. As Kidd (2012) observed at the time, one of the strongest cards for unionists to play was to remind people that ‘the interlocking set of effective UK-wide bureaucracies – however dull and uninspiring a subject for campaign slogans – is not to be lightly jettisoned without overwhelming good cause’. That interdependence of contract and solidarity posed another difficult question for nationalists: ‘If you want unions – currency and social - why secede from the political Union which makes both of them not only possible but also effective?’ Again, nationalists did not and still do not have a good answer to that question – though again it is not unimaginable that they will come up with one. One can argue furthermore that the UK’s ‘monetary union’ and its ‘single market’ remain the practical cornerstones of the UK’s collective ‘solidarity’. That truth is something we can understand much better now in the light of Greece’s recent experience and in the (on-going) democratic resistance of wealthier states to financial transfers within the Eurozone. None of this may sound very high flown or very heroic and yet the argument may be put simply: solidarity - or non-instrumentalism - is what sustains the very real instrumental advantages of the UK. It is the patriotism of everyday life.

One term of art in political science which helps capture the practical effect of non-instrumentalism is the *devolution paradox*. The paradox is that

while citizens in Scotland, Wales and Northern Ireland can appreciate the capacity of devolved institutions to deliver policy diversity there is also a wish for common standards of public service throughout the UK. If this appears either to deny common sense (at least as endists would understand it) or to be a case of ‘having your cake and eating it’ (as political economists would understand it) it is a social scientific measurement of that concern commonly reported in the media: namely, that citizens resent there being such a thing as a ‘postcode lottery’ – especially if that lottery might disadvantage themselves. In other words, citizens may favour difference in particular but also they expect common standards in general. And that relationship suggests devolved institutions accepting an enduring allegiance to the Union as well as an enduring sense of commonality across the UK.

McLean and McMillan probably downplayed too much the significance of solidarity. Their expression for it in 2006 was the rather dismissive term: ‘primordial’. Patriotism of the old kind, they thought, no longer served to integrate the nations and ‘United Kingdom Unionism is dead, except in Northern Ireland’. As they put it - a ‘union state without unionism’ may survive for some time but not for very much longer. Well, if it is defined by bowler hats and Orange bands they have a point - yet as this paper has suggested already, the language of the Union as well as its content can be (and has been) imaginatively re-stated. As Vernon Bogdanor (2002) has argued ‘the brute facts of electoral behaviour’ - and he wrote this before the Scottish referendum of 2014 - suggest that the UK is not ‘so artificial a construct or so imagined a community as many historians have suggested’.

Political fragility can be much overdone even if it cannot be ignored. Political change is not necessarily in the one direction of dissolving the UK and that is something which politicians in the devolved institutions may usefully remind politicians at Westminster. Moreover, they should argue that the Union’s adaptability has been its strong point.

Allegiant Union

It was argued above that Colley had got her definitions correct when arguing that the Union required a sense of *allegiance* to the UK. On the other hand, when charged with the task of delivering a ‘thinking unionism’, the former Justice Minister Michael Wills (2008) confused cultural identity with political allegiance, actually reversing their traditional relationship in the Union. British ‘identity’, he argued, should be distinguished from ‘other allegiances’ in the UK. A more accurate rendering would be that allegiance to the UK accommodates the identities of its different national and ethnic parts within that larger association of solidarity discussed above.

It is an ‘artifice’, yes, but it remains one with real historical substance. As Chris Rojek argued in *Brit-myth: Who do the British think they are?* (2007), ‘shared history makes it pointless to argue that England, Scotland, Wales and Northern Ireland consist of four autonomous elements’ if only because the ‘values of each nation in the union have been formed largely through their historical, economic, political and cultural relations with

the other three'. That is an excellent statement of the case, however 'contingent' one may believe those relations to be. Unfortunately, Rojek derived the wrong conclusion from that insight: that the Union is what is 'left over after account has been taken of the enumerated, distinctive traits of the four nations'. For the Union is not what is left over. It is – so long as it continues – the association which sustains relations between the nations for good (as unionists believe) or ill (as nationalists believe). To adapt a phrase of Lord Hennessy, the Union is both the functional hidden wiring and the symbolic framework of these historical, economic, political and cultural relations.

Allegiance, one can say, requires the fulfilment of obligations but does not require subscription to any common purpose or what the critics of the Union usually call its 'project' (or lack of one) now that Empire has gone (for there is an additional assumption that only Empire gave meaning to Union). And if one is looking for a theorisation of that distinctive understanding of the state, one can do no better than Michael Oakeshott's (1975) elaboration of the meaning of 'civil association'. One might even argue that allegiance is the common person's patriotism, an obligation based on what duty requires rather than what national devotion proclaims, the mood which Orwell's war writings convey so well.

Margaret Canovan (1996) put it this way: the substance of Union is less the characteristics its citizens possess as individuals than the inheritance they commonly share. Therefore, the Union does not require conformity to some exclusive British/unionist way of thinking. What allegiance captures is what she called the 'shared ownership of something outside us' and not (necessarily) the 'similarities inside us.' For all the celebration of the aspirant 'civic' form of contemporary nationalist thinking, it can be said that the Union has been there a long time already. Something additional about this sort of civic state will be said when considering the question of the Union's values.

Outside the exception of wartime experience if you like (and endism, one notices, takes often that wartime experience to be the rule against which the Union should now be measured) allegiance is where material entitlement and political solidarity meet in the everyday of politics – if only because the popular term 'dual identity' – Scottish and British, for example - doesn't capture properly the multinational character of the UK. In 1982 Rose judged that the debate about the future of the UK was between nationalists who wanted identity and allegiance to coincide in separate nation-states and unionists who both identify with their nation and maintain allegiance to the UK. That remains the case today and allegiance –identification and affective association with the institutions of the UK – has been the coping stone of the Union's stability.

Endists, of course, deny all of that. Peter Preston (2007) argued a decade ago that 'it is difficult, indeed impossible, to envision its [allegiance to the UK] effective deployment to mobilise the population' and any attempt to promote 'an elite-sponsored atavistic official ideology will have little purchase.' There is that Catch-22 again, stated as a political fact of life.

However, one suspects that it is also self-serving, its purpose being to dissuade unionists from even trying. It is probably true that high flown Unionist rhetoric – Mrs May’s ‘our precious, precious Union’ comes to mind – no longer appeals to contemporary public taste. The message is that the tone and pitch of the unionist message requires fresh thinking to speak to the constitutional realities of the new UK.

For example, it would be difficult today to find a hearing for Barker’s (1927) self-confident assertion that the Union – here he was adapting the words of George III – had taught ‘its citizens at one and the same time to glory both in the name of Scotsmen or Welshmen or Englishmen and in the name of Britons.’ When Barker (1933) was external examiner in Edinburgh he could observe that ‘all the young Honours candidates...cry up the Union, and pour scorn in their answers on Scottish nationalism’. He thought that was the ‘correct attitude’. That is unlikely to be the conclusion any external examiner would come to today in Scotland, or elsewhere in the UK. High unionist rhetoric glorying in being Britons will strike a false note. But that does not mean the case is not worth making; nor should one assume that nationalists have the best arguments; and unionists would be wise not to take the self-serving hint of their opponents and to vacate the field to endist rhetoric – the limitations of which this paper has tried to point out.

Values of Union

These reflections on the relationship between instrumentality, solidarity and allegiance should provide a clearer perspective on the values held in common across the UK. These once appeared relatively easy to specify: civil and religious liberty as the Ulster Covenant of 1912 put it (and, it should be remembered, that document avoided using either the word ‘British’ or the term ‘identity’). We have difficulty putting it so precisely today – for example, Gordon Brown as Prime Minister famously struggled to express those values persuasively. To his critics, Brown’s problem was that his British values appeared not to be exclusively British at all. And yet the same thing could be said of any state. What are the values, for example, of the Republic of Ireland; or of Germany; or of Italy, which together add up to a distinctive collective identity?

National identity, the historian Robert Colls (2011) proposed, is based on historical relationships, not on ‘national values’ and that these relationships, as well as our understanding of them, are always changing. But if these relationships remain relatively stable, then values are expressed day and daily in institutional practice – in law, government and administration. In sum, if you want to make sense of British national identity, thought Colls, it is best to start with law, constitution and history and not with values. Traditionally in the UK academic authorities (like Dicey and others) were accustomed to defend the constitution as a ‘personality’, and insofar as national identity was bound up with its constitution, the Union had its own ‘personality’ and ‘values’ through, and not against, its institutions. One can readily acknowledge today how the current public scepticism of politicians and political institutions can threaten that understanding of the British ‘genius’.

Whatever one's judgement of the trust in UK institutions, it is possible to argue that the values of the Union remain very political ones – reconciling national difference and collective unity; harmonising national identity and collective allegiance; making space for national self-rule without undermining the necessity of shared rule; accepting the contractual nature of some relationships without undermining the collective solidarity upon which those contracts between nations and regions are based. Multinational democracy can be defined in those very terms.

In sum, one can argue that the 'values' of the Union today are comprised of a principle and a practice. The principle is free association and the practice is multinationalism. The political shape of the Union at any time is negotiable and can change, as devolution has shown. The Union does not presume that everyone and everywhere are the same: there is a contractual character even in the UK's very origins in Acts of Union. What sustains the UK is that practical expression of multinationalism: solidarity. Since people today can only be convinced by those constitutional arguments which they themselves are already prepared to accept, the practice of multinationalism – contractual and solidaristic - assumes the principle of consent.

As Lord Bew remarked in *Being British: The Search for the Values That Bind the Nation* (2009), consent was once the territorial principle that dared not speak its name, but that it has now become the acknowledged rule of constitutional legitimacy. Certainly, it distinguishes the permissive constitutionalism of the UK from the fettered constitutionalism of Spain. One big question (which is considered further in the next section) is whether those institutional practices and relationships, which together constitute the UK's constitution, remain sufficiently robust, sufficiently legitimate or sufficiently consensual to sustain the allegiance of all parts of the Union. It also has to be said that it is not a novel question, reminding one of Barker's assessment in 1927 that the UK would fall apart into as many democracies as there were nationalities unless there was a popular will to secure the state.

A similar point was made 90 years later by the UK's Chief Rabbi who described the dangers of a Union without the popular will to secure the state (or a Union without solidarity). His analogy was of a hotel in which guests live in different rooms, rarely interact with one another and the hotel administration is merely a useful service provider. In constitutional terms, that would be an invitation to all of us to 'check out' from residence in the mere political 'space' of the Union and to accept the sovereign responsibility of independence. That is precisely what nationalism invites – that we should all act out the four nations and a British funeral script.

The alternative is the idea of the UK as a home in which a common political allegiance complements distinctive national identities. What it requires is a continuing 'conversation' in which citizens wish to participate - an imaginative debate about the Union's history, politics, culture and society. The evidence is, for the moment, that they still do though its scope should be extended. Michael Kenny (2014), for example, concluded his study of contemporary Englishness by arguing that there needs to be a

larger conversation than the devolution debate so far and it must be one which includes England. He argued for ‘a broader democratic conversation about what ought to be the content of the entitlements and rights associated with UK-wide citizenship.’ This is something the paper returns to when considering the potential Brexit effect on the UK.

Of course, there is no guarantee that people will always wish to continue the conversation but the fact of the Union – instrumentally, non-instrumentally and politically – remains more deeply rooted than any pessimistic, or fatalistic, or endist, view suggests. It is worth emphasising that point. The former Director of the Constitution Unit, Robert Hazell (in words rather like those of Bogdanor), argued that confidence – not foolish optimism – should be one of the operative principles of the Union and by that he meant the UK rests on much broader and firmer foundations of allegiance than its critics assert.

Summary: Union as an elective affinity?

Clearly, the UK exhibits the dual aspect of contract (instrumental bargaining between nations and regions) and solidarity (mutual support/risk sharing across all parts of the UK which that bargaining already assumes). The devolution paradox shows how intimately related they both are and – as it used to be said about love and marriage – that politically you can’t have one without the other.

Is it possible to summarise the arguments made so far into a concise identification of the character of the Union? Can one capture that principle of consent and that practice of multinationalism in a simple form of words? Is there some way of stating succinctly the relationship between instrumental interest and collective solidarity, a constitutional relationship which affirms, and does not deny, the identities of Scottish, English, Welsh, and Irish/Northern Irish? Is there an expression which can express the current complex of self-rule and shared rule defined by electoral choice (Bogdanor’s ‘brute facts of electoral behaviour’) as well as Hazell’s (1999) confidence in the firmer foundations of popular allegiance? Moreover, is it possible to do so in a language which does not suffer from the limitations of that high unionist rhetoric which most people think of as nothing other than ‘mere blather’?

Here is one suggestion. Perhaps the Union can be summed up pithily as an *elective affinity*. Elective affinity means that the component nationalities of the UK (continue to) elect to stay together as parts of the UK and this choice declares (still) a collective affinity which gives (persistent) meaning to the term ‘British’. For now, that choice implies an attendant affinity with the larger life of the Union, not just politically but in its broadest sense (the wish to sustain that multinational political ‘conversation’). The words in brackets, however, imply that the Union’s elective affinity is always a work in progress, which is the truth of arguments according to historical contingency and the truth of arguments according to the waxing and waning of national identity. People’s choices may change and affinities may wither.

And if one were looking for a prosaic though appealing manner in which to make the case (avoiding the pitfalls of unpersuasive ‘blather’ or unpersuasive ‘high unionism’) then one might refer to this passage in McLean, Gallagher and Lodge *Scotland’s Choices: The Referendum and What Happens Afterwards* (2013): ‘Belonging and sharing march together. We are more willing to pool resources with those with whom we have a common bond of identity and citizenship; but sharing risks and resources is one of the ways of creating that common bond’. And they conclude that those who want to emphasise the value of the Union or to give it effect can point to sharing risks and pooling resources as a measure of the reality of that identity. That sort of unionism may be prosaic, but it may be where we are in the rhetorical game of politics.

The Challenges of Brexit

Brexit as a ‘moment’ which threatens the stability of the Union; four contexts of Brexit, international, constitutional, Scotland and the Irish border; judgement of the consequences must be speculative; challenges easy to identify; also the opportunity to re-imagine the architecture of the Union – intergovernmental relations, federal, confederal; dealing with the English question; democratic trust in Scotland; the border in the mind in Ireland.

If the Union exists contingently, what we are talking about today is what Harold Macmillan probably didn’t say: ‘Events, dear boy, events’. And the most challenging of those events in British politics is, of course, the challenge of Brexit - all the more challenging because the result of the EU referendum was for most people an unexpected one.

Forty five years ago, Andrew Schonfield (1973) described the UK’s entry to the EEC as ‘a journey to an unknown destination’. The UK’s exit from the EU is also such a journey. The EU referendum in 2016 coincided with the 400th anniversary of Shakespeare’s death and, to paraphrase the Bard, where the tide of affairs is taking us, we fear we cannot tell. 1973 signified a shift not only in UK’s foreign but also in its domestic policy with Lord Denning famously likening the consequences of the Treaty of Accession on legislative sovereignty to ‘an incoming tide. It flows into the estuaries and up the rivers. It cannot be held back’. The EU referendum result established another constitutional moment and requires the British government to do what Canute failed to do - turn back the tide.

Brexit intimates yet another ‘framing’ of the Union but, if much is unknown, it is possible to set out the particular issues which inform or will inform that reframing of the Union. The four key issues are these:

- The international context
- The constitutional context
- Scotland
- Northern Ireland and the border

These are addressed in turn below and though much of what follows involves speculation some general points can be made.

The international context

In the early 1980s, Jim Bulpitt’s influential thesis about *Territory and Power in the United Kingdom* proposed that one of the key strategies of the UK has been to secure an ‘external support network’ for British policy. For Bulpitt (1983) such an external support system was designed ‘to minimise the

impact of external forces on domestic politics, or ensure that these forces are favourable to the maintenance of domestic tranquillity'. The substance of the argument was that the Empire had been one such network and that the EEC (as it then was) had become another. The domestic dimension to the international enterprise of European engagement, in other words, was to help sustain the conditions for Union. Though Bulpitt (1992) was a Eurosceptic before that term was coined, his political realism obliged him to believe that no British government – however significant the turns to what he called the integrationist 'Euro-ratchet' – would be bold enough either to draw a line in the sand or to commit to leave the European 'support network'. And in the 2016 referendum, the British government did not advocate withdrawal.

In 2016, the European issue provided an ironic commentary on Bulpitt's *Realpolitik*: that it had become clear that a major issue in British politics had become 'the impact of external forces on domestic politics' (read: the role of Brussels) precisely because it was unsettling 'domestic tranquillity' (read: the impact of UKIP) and the commitment by the Conservative Party to hold a referendum was intended to deliver an outcome (officially to remain, of course) 'favourable to the maintenance of domestic tranquillity'. After the result of the EU referendum, the Conservative government did commit to leaving the EU, its customs union and its single market as a democratic contractual obligation. In doing so – to adapt Andrew Gamble's (1974) celebrated distinction – the government appears to be engaged in a transformation of the prevailing politics of power according to the demands of the politics of support and not, as Gamble believed had always been the norm, persuading the electorate to accept the requirements of power – economic, political and strategic (as the then Foreign Secretary Lord Home put it when the UK's first application was made to the Common Market: 'If, as is certain, power is to lie in Europe, then I think it is there that Britain ought to be').

Each element of that particular framing of the referendum result will divide those who voted leave and those who voted remain. Leave would argue that the power rhetoric was always a delusion and that the choice today is not Europe or bust. The choice is between European entanglements at odds with the UK's self-interest and access to world markets or what was once called the 'open sea'. Remain would argue that Brexit will diminish the UK's standing in the world and isolate it from strategic decisions in Europe vital to its self-interest. Wherever one stands on that matter it is hard to gainsay James Forsyth's judgement (2018) – with a faint echo of Dean Acheson – that one of the 'questions that this country must begin to answer in the next few years is what its role in the world will be after Brexit' (the same edition of *The Spectator* editorialised that the Commonwealth 'is the perfect alliance for the 21st century'). For those familiar with the debates about Europe in the 1960s these arguments have a 'back to the future' character.

What can be said is that Brexit has thrown into the air those cards which, for the last 45 years, have been in play in the 'external support

network' game of the EU. How those cards will fall and whether any deal with the EU can be better than what the UK has already are unknown knowns. The immediate question is straightforward: can a post-Brexit external support network be constructed, and what would it look like? A variety of options have been suggested – the Anglosphere; Canzuk; Global Britain for example – although none of these would appear to have the strategic institutional character of remaining a member state of the EU.

And the territorial or Union question follows from this. Can any imaginable external support network be sufficiently helpful to sustain the integrity of the UK? On Europe the people have spoken, yes - but who are the people? Kidd (2016) asked in a rephrasing of the unionist 2014 campaign slogan in Scotland: 'Better Together': yes, but 'Better Together with whom?' It is a very good question and one which indicates the extent to which Brexit can so easily disorder, has so easily disordered, expectations about and relationships in the Union. It brings up in this case the other side of the Union 'contract', not material instrumentalism but democratic consent. This matter is introduced in the next section and considered again more closely when discussing Scotland and Northern Ireland.

Brexit and the constitution

There is an interesting paradox in constitutional understanding of the Union, one captured by AV Dicey (2008) in the first of his lectures on the *Relation between Law and Public Opinion in England during the Nineteenth Century*. 'France is the land of revolution, England is renowned for conservatism, but a glance at the legal history of each country suggests the existence of some error in the popular contrast between French mutability and English unchangeableness'. In France, it was the habit of constitutionalism which told against the 'promotion of that constant legislative activity' which characterised the UK.

In the endist narrative, the UK is characterised (ironically) as a sort of French *ancien régime* frozen in time, incapable of forgetting its great past and incapable of learning anything about the modern world. And yet, as Dicey would have understood it (whether he would have agreed is another matter), devolution as well as the other constitutional changes which have taken place in the last two decades – in 2009 Bogdanor detailed their effect to constitute a *New British Constitution* - were possible mainly because of the absence of rigid constitutionalism (or a 'written constitution' as it is usually described) in the UK.

In principle, Bogdanor argued that devolution modified democratically, rather than revolutionised, that traditional constitutional practice. And yet he also believed that Dicey's old doctrine has been supplanted, albeit in a very British way. 'Formally, the doctrine of the sovereignty of parliament has been maintained, and no explicit attack has been made upon it; but, nevertheless, all of the reforms have served to limit the power of what had hitherto been an omniscient government.' One could put that otherwise – textbook use of the term 'unitary state' no longer captured the reality of politics.

Therefore, Massie's references to a changed 'psychological balance of the United Kingdom' as well as how we 'think about Britain' flow from the constitutional reforms of the last 20 years. While the devolved institutions in Scotland, Wales and Northern Ireland in theory could be removed - as it was said of the old Stormont in 1972 - by the stroke of a prime ministerial pen, politically and psychologically this is now unthinkable. If Northern Ireland has had a fitful experience of the value of devolution (to put it politely), it has become a constitutional reality in Scotland and Wales. This is the Union today. And it has brought its own problems.

Concern about the constitution of the Union may be summed up in Nevil Johnson's (2001) warning: that the piecemeal/*ad hoc* nature of constitutional change, celebrated as the great, distinctive, genius of British politics (see above), carried real dangers of disintegrative incoherence. Johnson observed how devolution of power should require in the deliberations of the territorial institutions an explicit effort to uphold the idea of the UK 'as the overarching political structure within which devolution is embedded'. And yet, he argued, there existed no overt requirement (he was speaking mainly of Scotland) for devolved institutions to 'respect the needs and interests of the other parts' of the UK. Similarly, the Conservative academic and peer Lord Norton (2007) shared that concern and likened the course of New Labour's constitutional reform to the voyage of Christopher Columbus to America: 'when he set sail, he did not know where he was going; that when he got there, he did not know where he was; and when he got back, he did not know where he had been'.

There have been two considered responses.

- On the one hand, there is the proposition that current constitutional arrangements – all other options considered - are working as well as they can. Post devolution, incremental change and asymmetrical adjustments, tweaks and twiddles, organic adaptations, should continue to be the rule for that is the British way.
- On the other hand, there is the proposition that such incrementalism will not do any longer. There is already a new political reality and the Union requires a comprehensive, written, constitutional settlement to make sense of it. Brexit simply demands it - if it hasn't already undermined the possibility of sustaining the Union as some would argue.

So far, the first response has mainly carried the day - as the amendment of House of Commons standing orders to accommodate English votes on English laws (EVEL) confirmed (Gover and Kenny 2016). However, it may be that Lord Macauley's comforting idea of British constitutionalism - nothing of symmetry and much of convenience, never removing an anomaly merely because it was an anomaly – which served so well in the past, may be no longer fit for purpose. In 1982 Rose had put it this way: 'Historical anomalies do not deny constitutional fundamentals. Multifunctional

institutions are consistent with the maintenance of the Union so long as all partners to the Union continue to accept the authority of the Crown in Parliament'. It may be that the anomalies are just too great today, especially since Brexit will bring its own constitutional changes. Attractive though the option of preserving anomaly may be still, the concern of both Johnson and Norton about the coherence of the devolution legacy is making its voice felt increasingly.

The second – the need to embed devolution into the UK's constitution – has convinced many legal scholars, political commentators and politicians that the time has come for some formalisation of relationships between the nations and regions of the UK. Why should this be a more urgent consideration in the light of Brexit? There are two reasons, one concerning administration and policy and one concerning the point mentioned earlier – the democratic implications of contract.

First, reform of what has become known as territorial 'inter-governmental relations' will clearly be necessary when Brexit eventually happens because many of the powers repatriated from Brussels will fall within the competence of the devolved administrations. The Conservative manifesto of 2017 made two statements which were designed to balance the powers of the parts and integrity of the whole:

- 'We expect that the outcome will be a significant increase in the decision-making power of each devolved administration';
- And 'we must also ensure that as we leave the EU no new barriers to living and doing business within our own union are created'.

The Conservative manifesto, in a further balanced formulation, also committed to working closely 'with the devolved administrations to deliver an approach that works for the whole of the United Kingdom and reflects the needs and individual circumstances of Scotland, Wales and Northern Ireland'. Note again the relationship which this formulation assumes: systematic consultation and subsequently systematic administrative coordination. Can it be delivered? It will be a challenge but also an opportunity.

A recent report by the Institute for Government (2018) put it this way: 'Brexit has put devolution in the UK under serious strain. It has highlighted the stark divide between how existing devolution arrangements are interpreted in Westminster and Whitehall and how they are interpreted in Cardiff and Edinburgh. And it has divided the main parties in Northern Ireland, whose inability to form a government has largely silenced Belfast's voice in discussions of devolution after Brexit'. There are serious challenges ahead to put it mildly, though the IfG report was confident that Brexit equally provided 'an opportunity to rebuild the relationship between the UK and the devolved nations'. And that requires not only respect for devolution but also respect for the whole.

Perhaps the most important recommendation that report made was that there should be reform of the Joint Ministerial Committee (JMC), its terms

of reference and, significantly, ‘a commitment from the four nations to co-operate in a spirit of trust’. That sounds a wise recommendation which the government should take on board. Moreover, heed should also be taken of Jim Gallagher’s (2016) view that the return of powers post-Brexit ‘will make the devolved administrations more like equal partners to the UK government, and will mean, for the first time in the UK, genuine inter-governmental negotiations from which both sides need agreement’.

Second, the differential national vote in 2016 – Scotland and Northern Ireland voting remain, England and Wales voting leave – raises Barker’s old fear that the UK will fall apart into as many democracies as there are nationalities unless there is a popular will to secure the state. To repeat: the people have spoken but who are the people? (There is a historical irony: in the first European referendum the concern in Westminster had been that Scotland and Northern Ireland would vote to leave). Yes, one can legitimately argue that the EU referendum was a UK-wide vote and not dependent on differential territorial consent (and this was the judgement of the Supreme Court in 2017). Yet like the formality of sovereignty and its reality, ‘psychologically’ things appear different now. It is hard to gainsay the claim that the Scots and the (Northern) Irish are being compelled to leave the EU against their will. Though the claim is couched in the language of democratic contract, it actually echoes an old medieval principle: that ‘what touches all must be approved by all’.

Here the English question rears its head yet again for the implication of the previous argument is that in some way the democratic contract between the nations implicit in devolution has been breached fundamentally.

Massie’s response has been noted above: first, that consent is revealed to be a principle of unequal weight and ‘esteem’ between the nations has little purchase on the exercise of ‘power’; and second, that England ‘casts an over-mighty shadow on everywhere else’. (It should be noted that the tendency to blame the Brexit vote on the English involves another delicious irony. It reverts to that old dictionary definition: ‘For Wales, see England’). That view – looking into England from north of the border or from west of the border – reads the English question in a very different way from many English looking out from England north and west of the border.

In his magisterial *The English and their History* (2014), Robert Tombs (who is also an articulate advocate of Brexit) considered England also to be – in a rather unflattering analogy – ‘the front legs of the pantomime horse, taking the main part in setting the common direction’ for the Union. One can suggest that such an arrangement can gallop along well enough so long as the back legs and the front legs wish to go in the same direction and according to the same rules. Brexit (unlike the result in 1975) means that the pantomime horse no longer looks so sweetly in step.

In the referendum the decisive weighting was English and post referendum the sovereignty of Westminster has been re-asserted and for some equally problematically (Johnson had thought that Westminster ‘can hardly avoid becoming more and more a purely English Parliament, notwithstanding the responsibilities it still has for matters of great

importance affecting the United Kingdom as a whole'). Of course, both of the English weighting of the vote and the English weighting at Westminster can be defended constitutionally. Yet they now come up against that alternative legitimacy which others claim devolution has institutionalised: the consent of the nations. Indeed - but then looking out from England there appears to be another paradox.

If Scottish remainers feel that the English elephant is throwing its weight around then there has developed a corresponding English feeling, brewing for two decades, that constitutional change has been unbalanced (and that what touches all in the devolved UK has not been approved by all). England, as Robert Hazell (2006) observed, is 'the gaping hole' in the devolution settlement. In other words, the English complain - and they are 85 per cent of the Union - that since devolution they have not been accorded 'parity of esteem' never mind 'parity of power'. That may be questionable reading of events but it may have become psychologically true.

Brexit may be the opportunity to address the 'anomalies' of the devolved constitution but it may be an opportunity which is a mixed blessing for the Union (which is why comprehensive constitutional reform has been avoided so far). At a minimum - and despite all the controversy about the role of the House of Lords - heed should be paid to Lord Norton's (2018) speech on the Second Reading of the EU (Withdrawal) Bill: the immediate responsibility is 'to strengthen the position of Parliament, to provide certainty for the courts and to meet the concerns of the devolved Administrations'.

It has been suggested that the constitution already can be regarded as loosely federal when viewed through a lens that is not pedantically legalistic or that it is already 'quasi-federal' as Bogdanor has argued. Perhaps it is the way of UK politics to acknowledge a new political reality not in a prospective declaratory way (a very French habit) or as a concept (a very German habit) but in the retrospective manner of discovery. Brexit, Bogdanor (2018) is equally convinced, will do something unprecedented in constitutional history by withdrawing the UK from a protected constitution to an unprotected one. As he continued: 'revealing the nakedness of our unprotected constitution, may, paradoxically provide a powerful impetus to the process of completing our constitutional development by enacting a codified constitution' and this may be the UK's 'constitutional moment'.

Other scholars and politicians have become convinced that the time has come to formalise constitutional relationships. Some, like the cross-party Constitution Reform Group (2015) have suggested as one possible model, a federal Union - including an English Parliament - if only because of the problems, identified by Johnson two decades ago, of an anglicised Westminster acting on behalf of the Union. Gallagher has identified another and more radical possibility. His argument is that when to the substantial increases in devolved powers already in train one adds the return of powers from Brussels, you have a picture of a quite different UK. It is more like 'a confederation of nations of radically different sizes, sharing things that matters hugely, like economic management, access to welfare services and defence, but prepared to let the small nations be quite different. People

often talk about federalism as if it were a solution for the UK. In truth the UK is already moving beyond it, to a more confederal solution’.

If full federation is too advanced an option, and a confederal outcome even more advanced than that, the report by the Bingham Centre (2015) *A Constitutional Crossroads: Ways Forward for the United Kingdom* favoured a written constitution in order to ‘provide clear ground-rules to serve as a framework for our territorial arrangements and to secure their permanence’. As a first step, it also proposed a Charter of Union to ‘lay down the underlying principles of the UK’s territorial constitution’. Lord Norton (2017) has made a similar point, arguing for a constitutional convocation as a sort of stock-taking mechanism ‘for looking at our constitution in the round—where we are now, how the different elements fit together, and the constitutional principles that underpin those arrangements’.

It is time perhaps to consider finding some way for everyone in the UK to give consent to a Charter of Union. This would be another sort of ‘what touches all must be approved by all’ formula. In this case a UK-wide investment in a Charter of Union might help to reverse the present popular expectation that every moment of the devolutionary process, especially the extension of powers post Brexit, is eroding rather than strengthening the Union.

Scotland and Brexit

The Scottish referendum of 2014 demonstrated that the majority who voted ‘no’ to independence for Scotland actively consented to remain part of the UK. It was a vote which was supposed to have settled the question for a generation. Of course, that never happened because between 2014 and 2016 the Scottish National Party under Nicola Sturgeon certainly appeared to be *en marche*. The timescale for another referendum was shortened and the question became not if, but when it should take place. The result of the EU referendum seemed to provide the SNP leadership with the opportunity to call for another referendum as soon as possible as well as the very good chance to win it.

The matter of democratic contract was discussed in the previous section of the paper. It provides a referendum cause, at least for nationalists: that the outcome of the EU referendum, irrespective of the Supreme Court ruling, is a denial of the democratic will of the Scottish people. Moreover, there is another matter as well which questions not only the legitimacy of the Brexit vote for Scots but also the value of the Union for them. It comes down to a matter of constitutional trust.

One of the issues of the referendum in 2014 concerned the future of an independent Scotland’s membership of the EU. The EU’s position on Scotland was similar to its response to the Catalan Question. It refused to facilitate or to encourage secession (though it may be noted that if this is a consistent principled position, then the EU’s standpoint on Northern Ireland post-Brexit appears to be inconsistent). However, one plank of the Better Together platform in 2014 was the argument that only by virtue of its membership of the UK could Scotland ensure its continuity of EU

membership. Brexit has kicked out that plank, hence the significance of Kidd's remark: better together with whom?

It is possible to compose (rather, re-compose) a nationalist narrative which frames the UK as an oppressive prison-house of the nations, frustrating the ambitions of gallant little democracies. And it raises serious questions about the value of allegiance to sovereign institutions which (so it can be argued) are committing everyone in the UK to a nostalgic, or little England, course. For the English, according to Roger Scruton (2014), those governing institutions are best observed 'through an autumnal haze'. For the Scots looking down to London, those institutions may look autumnal in a rather different sense – no longer full of positive political life but already 'passed from being one of the soundest properties on the international ideas market (liberal, trustworthy, decent, first among equals, "Mother-of" this-and –that, Progressive, haven, etc.) to being a down-market left-over' (Sturm 2003). This would seem to be very fertile ground for the revival of classic nationalist objectives. Yet are things so clear cut?

The British Election Survey (BES) figures appear to show that an upsurge in nationalist alienation from the UK, post the EU referendum, has not happened, at least yet. Sir John Curtice's judgement is that even though 62 per cent in Scotland voted Remain, Nicola Sturgeon has made 'little headway' on making the case for Indyref 2 and the polling evidence shows no 'major rift' with the English on Brexit. Moreover, these findings seem to be confirmed in a recent report *Brexit and Public Opinion* by the independent research group The UK in a Changing Europe.

According to that study (2018), Scottish polling evidence suggests that 'despite the differential referendum result in Scotland, leaving the EU may not represent the constitutional game-changer that some expected. The prevalence of Euroscepticism in Scotland, coupled with attitudes towards the shape of Brexit that correspond more closely with those of Westminster than Holyrood, hint at an electorate that may not reflect the resolutely pro-European outlook of the SNP'. Crucially, the report continued, 'it appears that the very people required to change their minds in order to push support for independence over the 50 per cent mark – those who voted No in the 2014 independence referendum, and Remain in the EU referendum – may not be so attached to the EU as to be willing to break up the Union with the rest of the UK to retain Scotland's EU membership'.

Part of the reason for that polling evidence may be that a proportion of the 62 per cent who voted remain are Scottish Conservatives and who would not consider exchanging the UK Union for the European Union at any price. If they did consider doing so then they would be acting according to the SNP script of 'independence in Europe' and not at all to a Conservative one of maintaining the Union. Furthermore, it is clearly the case that a proportion of nationalists also voted leave such that the complex pattern of the vote makes it difficult to use the EU referendum alone as leverage for another independence referendum - even if the Scottish Government is not going to go gentle into the good night of Brexit compliance, even to the extent of breaking ranks with the Welsh Assembly Government.

Nevertheless, it would be wise for those wishing to retain the Union not to take anything for granted. It is possible that the experience of life outside the EU (rather than its prospect) could change the political game. Certainly, the result of the EU referendum should be warning enough to Scottish unionists that contingency of consent certainly rules – but then they know that all too well.

Brexit and Northern Ireland

Brexit affects Northern Ireland more directly than any other part of the UK. And it also affects the Republic of Ireland more directly than any other member state of the EU. Northern Ireland and the Republic of Ireland are on the Brexit front line. In particular, Northern Ireland will be the only part of the UK with a land border with another EU state. However, there is more to be said politically.

For unionists, the Good Friday/Belfast Agreement of 1998 took the border out of politics – there had been a deep concern about North/South institutional arrangements as a transition to Irish unity but the outworking of Strand II has meant that the issue for most unionist voters and leaders fell off the political radar. For nationalists, the Agreement helped to take the border out of the island allowing them to feel more comfortable in Northern Ireland as part of the UK. Common UK/Republic of Ireland membership of the EU, it can be argued, helped to contextualise being either British or Irish or both in Northern Ireland (as the Agreement specified). Brexit changes that context.

The UK's White Paper of February 2017 stated that the objective of its EU withdrawal strategy is to achieve 'a practical solution that recognises the unique economic, social and political context of the land border between Northern Ireland and Ireland. An explicit objective of the UK Government's work on EU exit is to ensure that full account is taken for the particular circumstances of Northern Ireland'.

The three key words here are practical/unique/particular. They provide a lot of wriggle room to negotiate a deal which can take account of Northern Ireland's relationship with the Republic and the EU as well as maintaining its integral place within the Union. The UK government also must work within the parameters noted above: to 'deliver an approach that works for the whole of the United Kingdom and reflects the needs and individual circumstances of Scotland, Wales and Northern Ireland'. Where the emphasis should be between the 'whole' and 'individual circumstances' remains fraught and many Irish complications have been encountered since 2016.

- On the one hand, prioritising individual circumstances could take Northern Ireland down a route towards 'special status' separating it from the UK customs union and single market.
- On the other hand, prioritising the whole suggests a limited modification for Northern Ireland within the UK's comprehensive deal with the EU.

Following the referendum, one would have expected negotiations about Northern Ireland between the UK and the EU to have been aligned closely towards the second option – for a range of political reasons concerning not only the UK’s integrity (Scotland, Wales or even London might also claim ‘special status’ too) but also because the EU is an organisation of states and not regions.

The EU negotiating guidelines made priorities of the Irish border and protection of the Good Friday/Belfast Agreement in all its parts. The UK government made similar statements as did the Irish government. In principle, here are good intentions on all sides. But there was no guarantee that good intentions would be enough. It was once said of the original Irish Question that solving it would require the ‘brains of a Gladstone and the balls of a Munster Fusilier’. The same can be said of the Irish border and Brexit – especially if some parties to this new Irish Question are determined to make it difficult to agree.

This paper is not the place to discuss all the technical and political issues of the negotiations on exiting the EU (for a range of practical options see Gudgin 2018). One can suggest that the dreary steeples of Fermanagh and Tyrone have re-emerged because the Irish border provides EU negotiators with strategic leverage on bigger issues. Correspondingly, one can suggest that the Irish government has chosen to interpret the EU referendum result and the UK government commitment to implement it as (in diplomatic language) an ‘unfriendly act’ which requires of it the duty to complicate rather than to facilitate its outworking on the border. Those positions are understandable if not particularly conducive to stability in Northern Ireland. Moreover, they are positions which may change. For the purposes of this paper there are really three related border issues which have arisen relevant to the Union.

The first concerns the ‘what’ of the border. The question here is the long running one of whether Brexit will mean a ‘soft’ border or a ‘hard’ border between the two parts of the island. The second concerns the ‘where’ of the border: would it be between Newry and Dundalk (on the island) or would it be between Northern Ireland and Great Britain (in the Irish Sea)? The third is the ‘border in the mind’. In 1966, the historian J. C. Beckett argued in his conclusion to *The Making of Modern Ireland* that the real border in Ireland is not on the map ‘but in the minds of men’. It is therefore a matter of identity.

All three issues are interconnected of course, but if Brexit has hardened anything in Irish politics, north and south, it has hardened the ‘border in the mind’. Brexit has not created but it has provoked agitation on identity, politics and the constitution and put the border back into unionist and nationalist politics in a way that has unsettled (at the very least) those fond expectations 20 years ago of defusing the Irish Question. This change was predictable – as well as predicted – and it has immediate consequences for the Union.

In his study of *Ideology and the Irish Question* (1994), Paul Bew quoted a Ballymoney Free Press editorial of May 1912 at the height of the Irish

Home Rule crisis. ‘The statement of Unionist Ulster’, it announced, ‘is that it merely wants to be let alone’. Unfortunately, ‘since Satan entered the Garden of Eden good people will not be let alone’. We are again at one of those moments which echo that *Ballymoney Free Press* editorial. Today, unionists encounter two familiar propositions: that their allegiance to the UK is an obstacle to progress to Brexit or (more likely) non-Brexit; and that a united Ireland is now inevitable as a consequence of Brexit.

What has changed is the sense of urgency and opportunity which these propositions convey. Usually Irish unity has been pitched a generation away. It has been always (another) ‘20 years’ hence - near enough to disturb unionists who want to be left alone but distant enough not to test the practicalities of nationalist destiny. Now we have breathless announcements of the march of history resuming and Brexit bringing the end in sight. For example, Siobhan Fenton (2017) announced that ‘for the first time in my life, the prospect of a united Ireland is not only credible but inevitable’. Here is the Irish version of endism, set out by Kevin Meagher - a former special adviser to Shaun Woodward, Secretary of State for Northern Ireland from 2007 to 2010 - in his book *A United Ireland: Why Unification is Inevitable and How It Will Come About* (2016). Meagher’s argument is a familiar and representative endist one and it is composed of the same elements - packaging wished-for outcomes as historical and political certainties - albeit without the discursive intelligence and imagination of a writer like Nairn.

The argument runs as follows. Irish unity is the modernising position; the Union is the last redoubt of nostalgic romantics; Brexit reveals both the nostalgic romance of UK sovereignty and the progressive status in the EU of the Irish state; the long-term interest of Northern Ireland requires participation in the dynamic all-island, globalised, economy secure within the EU; and the long-term interest of the UK is to encourage Ulster unionists to accept their fate. This is especially the case (as Jonathan Powell claims as well) when some unionists can now recognise the importance of EU citizenship over UK citizenship. Would remain unionists so easily switch allegiance? Well, who knows - yet the idea that those unionists who voted remain were also voting for Irish unity if leave won is dubious to say the least. Moreover, the re-emergence of rhetoric which many thought no longer respectable in Irish nationalist discourse, the perception of the uncooperative attitude of the Irish government as well as the insensitive position of the European Commission has probably made remain think twice, not about staying in the UK, but about a happy future in a united Ireland.

Meagher’s argument - like all endist arguments - involves a contradictory combination of historical certainty (Irish unity is inevitable) and contingency (Brexit shows that nothing is certain in politics any longer). Despite posing as progressive, one detects a reversion to former positions rejected by the commitments in the Belfast/Good Friday Agreement of 1998. The first of these is that the UK government should become a ‘persuader’ for Irish unity. When Meagher writes: ‘We’re just not that into Northern Ireland. Perhaps it’s time we said so’, who exactly is this ‘we’?

One suspects that if a similar remark were made about persuading any other UK minority to leave, the response would be outrage (especially on the anniversary of Enoch Powell's 'rivers of blood' speech). In short, it is a species of 'repatriation'.

The second invitation is for the UK to become a 'facilitator' of Irish unity by agreeing to maintain its financial contribution for the foreseeable future. To put it politely, here is a curious naivety. Brexit is read as selfish English nationalists – as even the liberal Irish political columnist Fintan O'Toole has taken to describing them – deciding irresponsibly to vote everyone out of the EU on the promise of £350 million a week. Yet those same selfish English nationalists are somehow required to continue to subsidise Irish unification to the tune of £10 billion per annum. It would be interesting to see how that proposition would go down in the financially pressed housing estates of Sunderland and Hull. From what was said in the previous part of this paper, the instrumental claim of continued subsidy is inconceivable without the solidarity based on common UK allegiance.

There is a further illogicality in the Irish unity proposition as a Brexit 'consequential'. The substance of the criticism of Brexit is that it has been an act of economic self-harm by romantic Ulster unionists in league with equally romantic English nationalists who have put the illusion of state sovereignty before rational self-interest. Yet here is a demand for Irish self-determination which is acknowledged to be an act of economic self-harm (requiring British subsidy to mitigate its effect) but all in the cause of the romantic idea of Irish unity.

The Brexit fate for the UK remains to be seen but there is an example from history of which unionists could usefully remind nationalist 'soaring doves' (and it is worth Brexiteers keeping in mind as well). As the then Chancellor of the Exchequer, Winston Churchill, observed in 1925, 'As the price of autonomy the Free State has already accepted a lower standard of public expenditure than in this country'. However, that was a price which Irish nationalist leaders were prepared to accept and without expecting the old enemy to pay for it – unlike the cake and eat it separatists of today.

If Fenton and Meagher can be said to represent an 'advanced' nationalist position, there is another Brexit-related argument which is more official and it proposes that a post-Brexit 'special status' for Northern Ireland is the only way to secure the principles of the Good Friday/Belfast Agreement. This is another argument according to democratic contract (Northern Ireland voted remain) as well as being the central commitment of Irish government strategy. However, if provision was made for Northern Ireland, as some suggest, to stay in the Single Market and/or the Customs Union while rest of the UK exited, then it alone, across a vast range of matters, would continue to be an EU 'rule taker'. And since the UK Government would not be involved in making those rules - as it would then be ex-EU - that would imply, by default and by extension, Northern Ireland taking those rules from Dublin (which would be at the Brussels table) and not from London (which would not). Such an outcome would have profound implications for the institutional and democratic processes of Strands 1

and 2. Furthermore, it would render more or less redundant Northern Ireland's political representation at Westminster.

This would breach UK sovereignty in Northern Ireland – which despite the supposedly famous 'constructive ambiguity' of the Belfast/Good Friday Agreement is what was actually legislated for. Sovereignty is not a minor matter of detail but is fundamental to the 1998 Agreement. Some may think that special status is desirable in order for Northern Ireland to remain within the EU (as it voted for in 2016) – but the point is straightforward: such an outcome would bear no relationship to the substance of what people signed up for in 1998 and would constitute an even bigger breach of democratic contract.

Such a prospect is neither acceptable nor desirable and it is not sellable. The UK's response so far has been robust. It is a position to which the UK government should hold. In this case Northern Ireland is not an outlier. Its position is central to the state of the Union. Rose (1981) once considered Northern Ireland to be the test case of the UK as a state. On Brexit, the same may be said, irrespective of one's view of its economic and strategic wisdom.

Conclusion: Union in the 21st Century

Unionists should be confident, not pessimistic, about the future.

This paper began by asking the question: should recent history encourage pessimism amongst unionists that they no longer have good arguments and that the future belongs to their opponents? The short answer it said is no and, after a long explanatory journey, the conclusion has been reached and the short answer re-stated: no.

Those who have seen the film *Blade Runner* will recall the interrogation scene where Dr Eldon Tyrell says to Harrison Ford's Deckard: 'I want to see a negative before I provide you with a positive'. This paper considered first the negative narrative of the Union, aspects of which have filtered into the intellectual culture of the UK in (to adapt Kidd's term) a banally critical form. It is assumed that the Union is in a fragile state; that it is difficult to explain any longer what the UK is for; and that it has now reached its end point. If the conditions for this end are contingent, it is also the outcome of a historical process. These are longstanding assumptions (at least of forty years standing when first systematically formulated by Tom Nairn) and the paper has tried to demonstrate that the arguments for the break-up of the Union are questionable and often contradictory even if they are clearly politically influential.

Nationalists – often predisposed to unwarranted optimism – believe that the future belongs to them. Perhaps we should all heed General de Gaulle's remark: 'The future lasts a long time.' The future belonging to nationalists is still a long time coming too – which, as the paper has also been at pains to observe, is not to say that their time will not come. Complacency on their part should not encourage complacency on the part of unionists. On the other hand, unionists – predisposed to unwarranted uncertainty recently – should perhaps have more confidence in the future of the UK.

The positive exposition of the unionist case tried to demonstrate that it remains stronger and more coherent than is often assumed. The reason for that strength and coherence relies not only on what might be called the solid bulk of things – the fact of the Union – but also on the relationship between the instrumental arguments for the UK and the solidarity which makes sharing risks and resources possible. Allegiance to the UK permits the union of different national identities such that the values of the UK express the principle of free association and the practice of multinationalism.

The paper tried to capture this distinctive identity by the term 'elective affinity': that consent means people elect to associate together (which

was tested by the recent referendum on Scottish independence) and that affinities – or common bonds - which exist between the parts of the UK continue to sustain the Union. However, it also accepts that people may choose to separate (as Barker admitted almost a century ago) into as many democracies as there are nationalities if the popular will to secure the UK is no longer demonstrated or if affinities decay. The greatest current challenge is Brexit, clearly a complex of Rumsfeldian known and unknown unknowns.

Of course, much of what is considered in that third section of the paper is obviously speculative. The prospect of Brexit not only divides the UK as a whole down the middle but it also involves a serious challenge to the Union ‘contract’ in Scotland and Northern Ireland. In both cases, the potential of Brexit to encourage the break-up of the Union was predictable and predicted, in Scotland for example by Ruth Davidson and in Northern Ireland by Mike Nesbitt, then leader of the Ulster Unionist Party. Yet, as the paper tried to show, the evidence for imminent break-up – in either Northern Ireland or Scotland – remains unproven (though it is not to be dismissed).

It seems very likely that Brexit will require yet another look at the UK’s constitution, if only because it will involve significant repatriation of powers to Scotland, Wales and Northern Ireland. And such repatriation of powers will also put the English Question back on the political agenda.

In sum:

- The instrumental case for the Union ‘despite Brexit’ remains strong and unionists should not be reluctant to continue to make that case;
- The value of that instrumental sharing of risks and resources continues to be sustained by common affinities across the Union which enable the nations to choose to stay together and unionists should remind people of that;
- The way in which those points are made should probably avoid ‘high unionist’ language (‘our precious, precious Union’ comes to mind) which may not be appealing to those not already persuaded (in Barker’s expression) to ‘cry up the Union’.
- Brexit will certainly be an enormous challenge to the principle (consent) and practice (multinationalism) of the Union but also it may be read as an opportunity for renewal.

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