

THE UNITED KINGDOM AS A QUASI-FEDERAL STATE¹

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INTRODUCTION

The United Kingdom is classified as a unitary state. Parliament reigns supreme. There is no formal written constitution, much less a constitutional division of power. Yet, contained within this state are four countries, England, Scotland, Wales and Northern Ireland, countries with varying economies, histories, and nationalities. How is it possible for the Kingdom to remain unitary? In this paper, we will show that while the United Kingdom is nominally unitary, it is functionally quasi-federal. We will argue that, while the English belief in unity has thus far precluded federation as a solution to the need for divergent public policy to deal with the varying circumstances of the constituent units of the Kingdom, the principles of federalism have informed the devolution of administrative power to these units.

We will proceed in the following manner. First, we will establish working definitions of some terms crucial to our project. Second, we will undertake an historical survey of federalism in the UK, with particular emphasis on a period in British history when federal solutions to state challenges were considered. This will demonstrate that, far from being foreign to the UK, federalism has historically been an active force in political debate. Third, we will note the roots of the main impediment to federation in the UK, the idea of

indivisible parliamentary sovereignty. Fourth, we will consider two forces germane to the devolution debate since the 1960s: re-emergent peripheral nationalism and the central government's need to decentralise regional economic planning. We will show how these combine to produce pressure for political devolution. Fifth, we will examine the particular institutional expressions of territorially-based differences for Northern Ireland, Scotland and Wales prior to the recent changes effected by the Labour government of Tony Blair. We will show that these institutional differences are reflective of the underlying federal nature of the society of the UK, and that the institutional differentiation has been sufficient in each case to amount to functionally quasi-federal arrangements. Finally, we will consider some present trends and forces in British politics which suggest that federalism is not likely to fade.

TERMS DEFINED

There is much scholarly debate concerning the definition of federalism. Much of this derives from a conflation of normative terms with descriptive terms; i.e., principles confused with institutional structures. For the purpose of this discussion, we will adopt the definition of federalism suggested by Watts:

'Federalism' is basically not a descriptive term but a normative term and refers to the advocacy of multi-tiered government combining elements of shared-rule and regional self-rule. It is based on the presumed value and validity of combining unity and diversity and of accommodating, preserving and promoting distinct identities within a larger political union. The essence of federalism as a normative principle is the perpetuation of both union and non-centralization at the same time. (Watts 6)

This definition helps us clarify several issues. First, it separates federal institutional organization from federalism: federalists advocate federal political systems, but federalism is not synonymous with such systems. Second, it allows us to see that federalism can be present in states which do not have federal political systems; this may have

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political consequences. Third, it distinguishes federalism from pluralism; while pluralism also values diversity and the accommodation of distinct identities, federalism advances the idea that diversity and accommodation should be institutionalized in "multi-tiered government". Fourth, it notes the territorial aspect of federalism: federalists advocate "regional self-rule....within a larger political union". Finally, by acknowledging that federalism is not a positive or descriptive term but a prescriptive term, we are led to ask the right question of federalists; i.e., what is the nature of the unity and diversity you wish to preserve?

As the character of a particular federalism will be determined by the nature of the unity and diversity federalists wish to preserve, it is then clear where to look to discover this nature: the cultural and historical context. (Burgess *Federation* 8-9) As our definition makes clear, advocates of federalism in any historical period will have had conflicting tensions, of unity and preservation of distinctiveness, that they wished to reconcile. By examining their context, then, we will be able to uncover the character of their federalism. By extension, we will also be able to understand the institutional prescription which flows from this federalism.

'Federal political systems', by contrast to federalism, is a descriptive term applied to a category of political systems in which "there are two (or more) levels of government which combine elements of *shared-rule* through common institutions and *regional self-rule* for the governments of the constituent units" (Watts 7; emphasis in original). Federal political systems can also be defined by what they are not; i.e., they are not unitary systems, in which there is a "single central source of authority" (Watts 7). Unions, however, have been included as one type of federal political system, a type in which "polities are compounded in such a way that the constituent units preserve their respective integrities primarily or exclusively through the common organs of the general government rather than through dual government structures" (Watts 8). A sub-category

of this group, legislative unions, provide some assurance to constituent units of a degree of autonomy via some sort of "perpetual compact", but not via iron-clad constitutional guarantees. (Elazar *Exploring* 48) A federation is another type of federal political system, one in which there are dual governing structures, and "in which neither the federal nor the constituent units of government are constitutionally subordinate to the other" (Watts 7). Sovereignty is constitutionally divided in federations: each order of government gains its executive, legislative and taxing powers from a constitution, rather than from another order of government. (Watts 7)

Devolution can be clearly distinguished from federation in that devolution "involves the dispersal of power from a superior to an inferior political authority", but with the retention by the superior authority of the right to take back such powers. (Bogdanor *Devolution* 2) As we have noted, by contrast, in a federation the division of powers is constitutionally guaranteed. In the case of a legislative union, however, the line is less clear, as the terms of the 'perpetual compact' between the parties can be less well-defined. As well, Livingston, while acknowledging the distinction between devolution and federation, avers:

Yet the two have many features in common. Devolution in practice demands from the parties concerned much of the attitude that is requisite for the proper functioning of federal government. So far as social psychology is concerned, there is a great deal of similarity between the two systems. (Livingston 276)

The United Kingdom, then, according to conventional definitions, straddles the line between unitary and federal political systems. It is undeniably unitary in that the Westminster Parliament is the single central source of authority,

the sole font of sovereignty.² Parliament is able, as we shall see, to devolve powers as it wishes and take back such powers at will. The UK is also, however, a legislative union: Wales and Scotland, united with England by Acts of Union in 1536 and 1707, respectively, have, in the absence of dual governing structures, maintained their identities in part through special provisions of the Westminster government; Northern Ireland, incorporated as part of all of Ireland in the Act of Union of 1801, and created as a separate entity in 1921, has moved back and forth between single and dual governing structures within the Union.

If political systems are categorized by their institutional design, is it then enough to merely take a survey of gross institutional design to describe a political system? Livingston highlights two factors which demonstrate the insufficiency of this approach:

a society may possess institutions that are 'federal' in appearance but may operate them as though they were something else; and, what is more likely, *it may possess a set of unitary institutions and employ them as though they were federal in nature. The institutions themselves...are only the surface manifestations of the deeper federal quality of the society that lies beneath the surface.* The essence of federalism lies...in the society itself. (Livingston 2; emphasis added)

First, since the institutions of a society may change more slowly than the society itself, it is often found that institutions may have to be operated in a way that fits the new reality, rather than the old. Second, federal political systems are prescribed by their antecedent federalism. To accurately assess a political system, then, it will be

necessary to look beyond the institutional design, to institutional operation and to society itself.

For our purposes, then, there are four salient points: that institutional designs will follow from the character of the underlying federalism; that federalism can exist without being institutionally expressed as federation; that devolution, although analytically distinct from federation, is less well distinguished from legislative union, and shares with these federal political systems the 'social psychology' of federalism; that, while we may look to institutions as indicators of society, we must also look at both how institutions are being operated and at society itself to accurately describe a political system.

Several scholars have described the United Kingdom's political arrangements following the present round of devolution as quasi-federal. (Bogdanor *Decentralisation* 188-9, Hazell 231, Keating *New* 67) We will define a quasi-federal system as one which functionally mimics the dual governing structures of a federation, but without the complete constitutional or institutional structure which would, if present, place it in the category of federation. To place the United Kingdom in the quasi-federal category prior to the present round of devolution, it will be necessary to show that it has, in a functional sense, been using its unitary institutions in a way which imitates the dual governing structures of a federation.

With these points in mind, we are now free to undertake an historical survey of federalism in Britain.

HISTORICAL CHARACTER OF BRITISH FEDERALISM

Wales was largely assimilated into English administrative control after 1536; the lack of Welsh institutional development at the time facilitated this assimilation. (Elazar *Federal* 296) Wales did, however, present the difficulties of "dissent from the established state religion, language and economic grievances" which led to

² We set aside, for the moment, that the UK is subject to restraints via its membership in the European Union.

periodic popular discontent.(Keating *Regionalism* 161) As we shall see, it was not until the nineteenth century that Wales obtained some special treatment, both legislative and administrative, from the English norm.(Keating *New* 37)

Scotland, by contrast, was brought into Great Britain via a negotiated pact, and mostly left under the control of local elites.(Keating *New* 37) It can be argued that the Union of Scotland and England falls within the ambit of compact theory.(Keating *Regionalism* 160-1) The Union was described in England as an Act, while in Scotland, as a Treaty. Accordingly, Scotland gave up its own parliament, as did England, but the terms included the continuation of Scottish traditions and institutions, including the Scottish legal system. However, in the absence of a formal, written constitution, much less a federal constitution, these terms could not be guaranteed.

Ireland presented more severe problems following the Union of 1801, with little popular support for the regime.(Keating *Regionalism* 161) As we shall see, the disruptive influence of Irish politics at Westminster led to the greatest internal federative pressures on the British state to date. With the partition of Ireland in the 1921 settlement, this disruption at the centre was reduced to a manageable level, and the focus taken off territory as the primary cleavage in British politics.

Bulpitt suggests that the UK was originally put together as a unitary state only as a last resort.(Bulpitt 98-9) The preferred solution was a system of indirect rule, through territorial management by local elites. This system was designed to achieve the goals of the London authorities with the least commitment of resources. In this sense, the formal Unions of 1707 and 1801 were undertaken only when informal control began to fail to produce the desired results. This being so, Bulpitt points out that the British state has inherited a bargaining character of relations between the centre and the periphery which he

goes so far to characterize as “an operational federalism”(Bulpitt 83).

That this openness to sub-national territorial management was present at the earliest stages of the British state is significant for us. It suggests that the antecedent conditions for quasi-federal arrangements have been present in the British political system from before the institution of the UK as a unitary state. It also suggests that alternative responses to Britain's internal challenges were possible, including federal solutions. Burgess suggests that federation was “a perfectly *legitimate* alternative perspective” for the reform of the state at the times of the Unions.(Burgess *Roots* 23, emphasis in original) What was required was only the proper coincidence of internal and external challenges to the state to enable a federal solution to emerge as the most appropriate.(Burgess *Roots* 23)

In order to demonstrate the historical strength of federalism in the UK, it will be useful to consider a period when federal solutions to the challenges facing the country were seriously considered. This, the high-water mark of federalism in Britain, occurred in the period 1870-1918.(Burgess *Roots* 25) Two strains of federal ideas were circulating during this period: one based on the problems of Empire, and another based in the Irish problem.

Burgess notes 1870 as the year when a confluence of circumstances brought these two streams of federal ideas, present previously but not actively considered, into the mainstream.(Burgess *Roots* 25) These circumstances included a perception of British economic decline, a shift in international power relations injurious to British control, a breakdown of elite accommodation signified by escalation of the Irish problem, and a generalized increase in political uncertainty occasioned by the recent extension of the franchise. While these two streams of federal ideas became intertwined in some minds by 1918, we will briefly consider them separately as they represent solutions to two different problems.

Burgess notes that federal ideas were "ubiquitous in the public debate about how to consolidate the white self-governing Empire" in the post-1870 period. (Burgess *Roots* 26) Observers could see that the Empire as it had been known was disintegrating. Canada had achieved a measure of independence in 1867, and considerable autonomy was already established in Australia, New Zealand and the South African Colonies. It was clear that if evolution in the direction of colonial self-government continued, the logical conclusion would be independence for all, and the end of the Empire. For those hoping to maintain the unity of the Empire in some lasting way, while at the same time accommodating its growing diversity, the idea of imperial federation took hold.

A variety of organizations took up the cause of imperial federation, including the Royal Colonial Institute, formed in 1868; the Imperial Federation League, formed in 1884; and the Round Table movement, formed in 1909-10. (Burgess *Roots* 27) With membership which included the elite of both British and colonial societies, these organizations had great potential for influence. The Round Table movement, for example, inspired a 1911 proposal by the New Zealand Prime Minister for a bicameral Imperial Parliament of Defence. (Burgess *Roots* 31) The lower house was to be directly elected by the citizens of the UK, Canada, Australia, New Zealand, South Africa and Newfoundland, while the upper house was to be composed of equal numbers of appointees designated by their respective governments. The Round Table's influence was also instrumental in the formation of the Imperial War Cabinet in 1917, which briefly held executive powers and included representation of the Dominion governments. (Burgess *Roots* 33)

The nature of the federal ideas advocated by these groups was not always theoretically sound by today's standards, but nevertheless can be related to our definition of federalism. Clearly, these groups recognized the diversity which was arising in the white self-governing Empire. As well, they realized that self-government in domestic affairs

was a growing and inevitable development. The balance these groups sought to achieve was the maintenance of the unity of the Empire in the face of these facts.

We now turn to the second strain of British federal ideas alive at the same time, a strain which proposed federal solutions to the problems of internal governance in the UK.

From the 1870s to the 1920s, the Irish problem was rarely far from the top of the political agenda. Irish Home Rule Bills in the mid 1880s, 1893, and 1914, split political parties and threatened the survival of governments. This climate also provided the impetus for the search for innovative constitutional solutions, of which federal solutions were an important part.

Isaac Butt, the Irish parliamentary party leader in the House of Commons, first proposed a federal solution for the UK in the 1870s. (Kendle 58-9) Under his proposal, there were to be national parliaments in England, Scotland and Ireland, as well as an imperial parliament responsible for defence and foreign policy. Butt's proposal was influential in the thinking of Joseph Chamberlain, leader of the Radical faction of the Liberal Party at the time of the first Home Rule Bill. (Burgess *Roots* 29-30) Seeking to preserve the Union in some form, Chamberlain proposed the adoption of an American style constitution, complete with separate legislatures for England, Scotland, and Wales; two separate legislatures in Ireland, one for Ulster and one for the rest of the island; a parliament at Westminster to handle foreign and colonial affairs; and, finally, a supreme court. (Kendle 60) The Prime Minister failed to take up Chamberlain's solution, however, and subsequently saw his own devolutionary/colonial scheme, in the form of the first Home Rule Bill, defeated in the Commons. The second Home Rule Bill, in 1893, met a similar fate, going down to defeat in the House of Lords.

The Round Table movement was again the instigator of federal solutions in the third debate

over Irish Home Rule. Under its influence, the debate in the 1910-14 period included proposals for 'Home Rule All Round', not just Ireland. (Burgess *Roots* 34-5) One of their converts was the First Lord of the Admiralty of the time: Winston Churchill. Churchill endorsed a Round Table proposal for national legislatures in Ireland, Scotland, and Wales, regional legislatures in England, and an overarching Imperial Parliament, which was to include representation of the Dominions. This proposal thus linked solutions to both the Irish and colonial problems. Again, however, this proposal failed to gain acceptance, and the Home Rule Bill for Ireland alone passed in September 1914; the bill was then held in abeyance while the War was prosecuted.

In early 1918, with the end of the War nearing, the Irish question was back on the table. Federal solutions were again in vogue: a survey conducted by the Prime Minister found "340 M.P.s spanning virtually the entire party political spectrum" in support of a federal solution; the Irish Committee conducted its hearings within the context of federal ideas; and the Prime Minister was sympathetic to federal solutions to the Irish problem which would fit within a 'Home Rule All Round' framework. (Burgess *Roots* 35) By late 1918, however, with the War over and reconstruction the new priority, and with the War Cabinet uninterested in constitutional discussions, comprehensive federal solutions fell by the wayside.

From this historical survey, then, we derive the following points of our argument. Federalism, in the form of openness to sub-national territorial management, was present in Britain even before the establishment of the United Kingdom. Although circumstances in the event produced a unitary state structure, federal solutions were possible. Later, as challenges to the unity of both the Empire and the United Kingdom itself arose, federalism was an active force, and federal structures were seriously considered by governing elites. Before we move on to show how this underlying federalism in British society has found

expression, we must first note the main impediment to British federation.

WHY NOT FEDERATION?

If the UK faced the problems of attempting to combine diverse national communities in one state, and federal solutions were clearly on offer as a way to accommodate this situation, why has Britain not taken these up? On this point there is substantial consensus: in England the principle of parliamentary sovereignty is synonymous with unity. The unity of parliamentary sovereignty is taken to mean that there can be no division of sovereignty, as is necessary for federation. Keating notes that on this principle "is built the whole 'Westminster regime'", from Cabinet government and collective responsibility to Parliament, to the maintenance of a unitary, homogeneous, civil service, to the two-party system which produces the majorities necessary for Cabinet government. (Keating *Regionalism* 158-60)

Kendle traces the English fascination with unity to the tradition of the centralized English state built up since the thirteenth century. (Kendle 171) When the debate occurred in the seventeenth century over the method of political union with Scotland, the concept of parliamentary sovereignty had only recently become widely accepted, and the thought of dividing it was too radical: the political upheaval of the civil war was too fresh to risk the newly reconstituted political stability. By the eighteenth century, the concept of unity was further entrenched, supported by the "concentration of English power in London and its immediate area, the lack of any strong or well-defined English regional units, the subjugation of the Irish, the incorporation of Wales into the English state and the emasculation of the Scots' political identity after the Act of Union of 1707" (Kendle 171). In the nineteenth and early twentieth centuries, influential writers such as A.V. Dicey and Edward Freeman, imbued with the need for stability and order, championed unity as the guarantor of these qualities, and federation as a threat. (Kendle 172)

The UK has been faced, then, with a populous centre, England, committed to unity, and a less populous periphery, Ireland, Scotland and Wales, desirous of some regional autonomy. Thus, instead of federation as a solution to the underlying federalism of the society of the UK, the central government turned to devolution as a way of dealing with the challenge of reconciling unity with diversity. In this way, it hoped to maintain the myth of unity, while practising federalism.

THE 1960S AND THE PRESSURES FOR FEDERALIZATION

As we have seen, the fact that the UK is a multinational³ state has posed serious problems for the unitary regime historically. With the 1960s onward have come new or resurgent pressures for greater autonomy for the regions of the UK. In this section we will consider two main sources of these pressures, and how, overall, these have contributed to the growing federalization of the British state.

The traditional response of central government to territorial grievances has been a "limited degree of policy differentiation and an extensive system of administrative devolution"(Keating *Regionalism* 161). These took the form of classic elite accommodation techniques: territorial bargaining within the government and administrative asymmetry. Using these, central government was successful in containing demands for greater substantive change, via either federal or 'Home Rule' solutions. In Cabinet, elite accommodation of both Scottish and Welsh concerns was reflected in special consideration for expenditure demands by their respective Secretaries of State. In Parliament, legislation applicable to Scotland was

handled in special committees, while the Welsh Grand Committee debated matters relating to Wales. These measures were the extent of accommodation to territorial demands that central government was prepared to countenance before the 1970s.(Keating *Regionalism* 161)

Peripheral nationalism saw a resurgence in the 1960s. With this, the system of territorial management via elite accommodation began to break down, leading to renewed constitutional debate.(Keating *Regionalism* 161) In Northern Ireland, the corrupt Stormont regime proved unable to maintain law and order, and was dissolved in 1972. In both Scotland and Wales, separatist parties emerged as a challenge to both the unitary state itself, and to the prevailing two-party system.(Keating *Regionalism* 161)

The central government's initial response to peripheral nationalism was more of the same; i.e., more *administrative* devolution. When this proved insufficient to turn back nationalist feeling, *political* devolution, in the form of regionally elected assemblies, was proposed for both Scotland and Wales. As Keating notes, the purpose of political devolution was to sate Scottish and Welsh demands for more autonomy, while forestalling the escalation of those demands into calls for federation.(Keating *Regionalism* 162) The present round of political devolution, the moves to establish elected assemblies, can be seen in the same light: as an evolution in institutional structures designed to reflect the underlying federalism of the peripheral nationalities of British society.

A second source of pressure for changes in the territorial management of the UK in the 1960s originated in the central government itself.(Keating *Regionalism* 162) Regional economic disparities were a factor not only between the national territories, but within England as well. While administrative devolution to Scotland and Wales could assist in the management of disparities in those areas, there existed no competent regional bodies within England to provide regional

³While a description of the state as 'multinational' is in many states highly controversial, it is a sufficiently accepted characterization of the UK *within that state* that I pass over it here with little comment. For a possible explanation of the lack of intense contention on this issue in the UK case, see Bogdanor *Devolution* 4-9.

economic planning. In an attempt to overcome this problem, central government initiated, in 1964, a corporatist solution: Regional Economic Planning Councils. While these Councils persisted in some form until the Thatcher victory of 1979, they were regarded as institutional failures well before that time. While Keating notes several causes for their failure, two related causes stand out for the purpose of our discussion: the Councils had no political legitimacy, as they were unelected and had no formal powers; and the role of the Councils was contradictory, as they were at once supposed to articulate and represent regional concerns, while at the same time tasked to carry out central government policy in the form of the 'National Plan'. (Keating *Regionalism* 162-3) The failure of these institutions can be contrasted with, as we shall see, the relative success of the Scottish and Welsh Offices. With political legitimacy, the ability to affect policy, the capacity to mediate between societal interests and central government, and the ability to tailor policy implementation, these latter institutions have been able to thrive, even given the same conflicting pressures faced by the Economic Planning Councils. These conflicts are, we suggest, inherent to *federal* societies, and the reason why administrative devolution alone eventually reaches a dead end in such societies. That the UK came to such a pass lends support to our thesis of underlying federalism in UK society. The need for legitimate decentralised economic planning, then, is another reason why the UK has had to turn to political devolution.

The failure of the proposals of the late 1970s (neither Scottish nor Welsh assemblies were instituted) had some lasting effects in England. First, the debate alerted the English populace to the political equality implications of having Scottish M.P.s voting on English affairs at Westminster, while English M.P.s would have no reciprocal right to vote on the same issues when discussed in a potential Scottish assembly. This problem became mythologized in British politics as the 'West Lothian Question', after the constituency of the M.P. who most strenuously articulated

it. (Bogdanor *Devolution* 161) Second, it publicized the regional inequality of public expenditure; the benefit to the periphery of the system of elite accommodation in Cabinet was exposed. (Keating *Regionalism* 167-8) The former of these effects conduces to consideration of greater division of powers among legislative jurisdictions. The latter leads to a 'modern' English demand for more open government dealings, reducing the scope for a return to elite accommodation in the future.

In summary, the resurgence of peripheral nationalism and the need for decentralised economic planning combined to produce pressure for further devolution. However, the system of administrative devolution had, by the 1970s, reached its limits in Scotland, and policy-makers could foresee a similar trend in Wales; proposals for political devolution ensued. While these proposals for increased institutional federalization failed, the debate they inspired exposed to English voters the political and financial inequities involved in territorially-based accommodations.

INSTITUTIONALIZATION OF TERRITORIALY-BASED DIFFERENCES

The overall operation of the Parliament of the UK has been well-documented to have federal features since the 1707 Acts of Union. (Livingston 269-72) A study in 1912 concluded that only four of the fifteen members of Cabinet who customarily dealt with domestic affairs exercised their functions over all of the UK, the others having their functions restricted to only parts of it. The same study found that only 252 of 458 Acts passed between 1901 and 1910 applied uniformly over England, Scotland and Ireland. (Livingston 270)

Constitutional change in Britain also follows a course laid by federalism. While statutes of a constitutional nature legally require a process no different from any other statute, in fact any such change is only made after wide consultation and deliberation. The federal nature of this consultation is seen in that the interests and representatives of the *constituent units* of the Kingdom are

canvassed, and the opinion of a constituent unit is given particular attention if the change is likely to differentially affect it.(Livingston 271-2)

The way referenda have recently been used as a means of legitimising changes regarded as constitutional has reinforced the recognition of the constitutional claims of the constituent units of the Kingdom. In the referenda concerning the establishment of elected assemblies in Scotland and Wales in 1979, and in those concerning Scotland and Wales in 1997 and Northern Ireland in 1998, only the registered electors of those areas had the right to cast ballots. Hazell notes that these referenda have thus set a precedent for such referenda to become the norm for certain types of constitutional change.(Hazell 236) Bogdanor goes even further, suggesting that the referendum in Scotland may mean the implicit acceptance by Westminster of a Scottish right to self-determination.(Bogdanor *Decentralisation* 186)

There remains, however, no legal impediment to the interests of a constituent unit being overridden, as there might be in the written constitution of a federation. The argument here is only that the political processes for what is regarded as constitutional change follow what one would expect of a federal system.

Outside of Parliament there are other features of government familiar to federal systems. For example, England, Scotland and Northern Ireland each have had separate, non-interchangeable benches of judges, along with their own Attorneys-General.(Livingston 270-1)

We now turn to some specific features of the relationship of each of the peripheral nations of the UK to the centre, features which delineate a functionally quasi-federal system.

Ireland

One way of accommodating constituent units is to give them special representation in central government. The Act of Union of 1801 gave

Ireland at least one hundred seats in the Commons, an over-representation of fifty percent, as well as special representation in the House of Lords.(Livingston 270)

A second possibility is to effect a form of constituent self-government. Prior to 1922, the Lord Lieutenant presided over a separate Privy Council and executive for Ireland.(Livingston 270) While the Government of Ireland Act of 1920 was rejected by the south of Ireland, the system of government set up by it remained in effect for Northern Ireland. Northern Ireland had its own Parliament, Cabinet and courts.(Livingston 273) The Stormont parliament was empowered to make laws for the 'peace, order and good government' of the province.(Hadfield 2) The wide-ranging area of jurisdiction of the Stormont regime is reflected in the short list of excepted and reserved subjects of legislative authority which were retained for Westminster, i.e., the Crown, foreign affairs, defence and certain areas of taxation. In addition, the Stormont legislature had a power not enjoyed by many constituent units in federations: the residual authority to legislate rested with Stormont.(Livingston 274) Even certain provisions of the Act that created it were open to change by the Stormont parliament; it was, for instance, able to alter its own electoral laws.(Hadfield 2)

The citizens of Northern Ireland were of course still represented at Westminster during the Stormont regime. Northern Ireland's M.P.s continued to take part in debates on issues of general interest to the whole of the UK; however, where debate arose, in respect to Great Britain, on subjects which had been devolved to Stormont, they did not take part: by convention, the Speaker did not recognize Irish members during these debates.(Livingston 274)

The Stormont regime broke down in 1972. However, the Northern Ireland governmental departments have persisted. Since 1972, they have been under the control of the Secretary of State for Northern Ireland, who sits in the UK Cabinet.(Elazar *Federal* 297) The Secretary of

larger neighbour", similarity in policy outcomes between Scotland and England does not prove political dependence. (Paterson 5, 30) Paterson concludes that the Scottish Office has provided Scotland sufficient control to effect "a similar degree of autonomy to the component parts of formal federations such as Germany, the USA or Canada" (Paterson 5).

The election of nationalist M.P.s in the late 1960s in both Scotland and Wales led to the Royal Commission on the Constitution. (Keating *New* 65) When this body reported in the early 1970s, it recommended elected assemblies for both Scotland and Wales, the Scottish version to have legislative powers. Any further attempt to reconcile devolution with the continuance of unitary legislative authority was, in Scotland, an exercise in futility; i.e., "real devolution to Scotland would have to be legislative" (Keating *Regionalism* 164).

In the debate leading up to the referendum on these proposals, the essentially federal nature of the attitudes of the Scottish populace can be detected. The independence movement was not the mainstream; instead, interest groups debated the merits of having their areas of expertise devolved rather than centralized. (Keating *Regionalism* 167) In the end, the 1979 referendum gained a small majority of those voting, but failed to get the required percentage of the total Scottish electorate, an indication of the ambivalent attitude of Scots as regards autonomy versus unity.

Survey research performed regularly since the mid-1980s provides further evidence of the federal nature of Scottish society. The sense of a Scottish national identity has persisted. However, a majority of Scottish respondents, and often more than two-thirds of Scottish respondents, assert dual identity (Scottish and British) rather than a single national identity. (Brown 209; Dummett 220)

During the term of the Thatcher/Major governments, legislative devolution of power was pushed off the political agenda. With the return of the Labour government under Tony Blair, a

referendum was held once more in September 1997. With the experience of the Thatcher regime still fresh, voters in Scotland embraced a greater measure of autonomy. However, there persisted a large degree of ambivalence in the results: the turnout was only 60 percent, 74 percent of whom voted for a Scottish legislature, and 63 percent of whom voted to give the legislature the power to make minor variations in the basic rate of income tax. (Keating *New* 67)

The new Scottish parliament has been widely described as a quasi-federal body. (Bogdanor *Decentralisation* 188-9, Hazell 231, Keating *New* 67) Indeed, the shift of legislative control from Westminster to Edinburgh will have significant political legitimacy implications of the sort noted above for the Stormont regime. However, for the most part, the new Scottish parliament represents only a new democratic oversight body for a previously established executive; i.e., the administrative machinery of the Scottish Office became the new Scottish Executive. The limited power to vary income tax rates and the grant of the residual legislative power are the two most notable gains for the new Edinburgh regime. (Hazell 231)

There are thus four elements to the argument that a functional quasi-federal arrangement has existed with respect to Scotland. First, there is the over-representation of Scotland in Parliament. Second, there is the distinct treatment of Scottish legislation at Westminster. Third, there is the extensive degree of parallel function which the Scottish Office accrued. Fourth, there is the intermediary role the Scottish Office has played between Scottish society and the central government, conceded even by Scottish Office 'minimalists'. Underlying these institutional developments is, we argue, the latent federalism of Scottish society as evidenced by the referendum results in 1979 and 1997, as well as the survey data indicating a high degree of dual political identity. The establishment of the new Scottish parliament, we argue, is a matter of institutional reform confirming a functional reality.

Wales

While the earliest instances of Welsh institutional differentiation occurred in the late nineteenth century, significant changes began in the immediate post-World War II period. (Jones 388-9) The need for special consideration for the Welsh education system, in order to respond to concerns about the Welsh language, sparked the formation of a Welsh Joint Education Committee, with responsibility for the development of curriculum and the setting of examinations. Next, in 1948, came a Council for Wales and Monmouthshire, to advise the central government on the impact of government policy on Wales. In 1949, special provision was made for Wales in the House of Commons: no matter what shifts in population might occur, Wales was guaranteed a minimum of 35 Commons seats. (Jones 390-1) In 1960, the Welsh Grand Committee was formed in Parliament; the Committee meets three times per Parliamentary session to debate issues relating to Wales.

The Welsh Office was formed in 1964, together with the appointment of a Secretary of State for Wales who sits in the Cabinet. (Jones 390) The initial administrative responsibilities of the Welsh Office were quite limited, but even so extended to regional planning, housing, water, sewage, some economic planning, as well as an oversight function with reference to the ministries of education, health, agriculture, transport, labour, and the Board of Trade. By 1979, the growth in responsibility of the Office created the need for a Select Commons Committee on Welsh Affairs to provide parliamentary supervision of its operations. (Jones 391) By the 1990s, the Welsh Office had primary responsibility for education, health, forestry and agriculture, local government, tourism, and some industrial and investment policies. (Jones 390)

As in Scotland, the Welsh Office came to represent an intermediary between the Welsh and the central government. Even before the recent decision to establish the Welsh assembly, with

increased powers, it was clear that, with the exception of the Home and Foreign Offices and the Ministry of Defence, "the Welsh Office [was] for most purposes the expression and means of government in Wales" (Jones 390).

Since 1967, the Welsh language has had 'equal validity' with English. (Jones 390) In practice, this has meant that most government forms are bilingual; that evidence in Court, in certain circumstances, may be given in Welsh; and that Courts are expected to provide translation services. In 1993, these language rights were extended by the Welsh Language Act.

The Welsh populace exhibits a 'dual identity' which parallels that found in Scotland. About two-thirds of Welsh respondents in recent surveys assert a dual (Welsh and British) identity, rather than a single national identity. (Brown 213; Dummett 220)

Jones notes that the party political landscape in Wales has been distinct from that in England. (Jones 402-3) In addition to Labour and the Conservatives, the Liberal Democrats and the nationalist Plaid Cymru have been important electoral forces, yielding more of a multi- than two-party system. Both the latter parties are pro-European, and sympathetic to the idea of divided sovereignty as an antidote to control from London. In short, "across the political spectrum in Wales, the twin principles of British sovereignty and parliamentary supremacy are now subject to sceptical appraisal" (Jones 403).

The Welsh Office has been instrumental in the growth of quasi-non-governmental organizations -- quangos -- in Wales. (Jones 392) While now ubiquitous in the UK as a whole, quangos in Wales were fostered early by the Welsh Office, and have contributed to the development of the Welsh administrative and political identity. In turn, the proliferation of quangos led to increased demands for an elected Welsh assembly to take over the function of democratic oversight of these organizations. (Jones 393)

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