

British German Jurists' Association Conference, Edinburgh
Legal Implications, Advantages and Disadvantages of Independence,
Devolution and Federalism

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16 May 2014

Unitary states, federations and devolved institutions are products of the history of particular societies. What suits one society will not suit another. And what a society finds advantageous at one point in its history may be a disadvantage at a later date.

Today I will approach the subject of this session from a Scottish and British perspective. As it is a subject of current political controversy, I will not express personal views on the forthcoming referendum. That would not be consistent with my duty as a judge. I will look at the historical developments which have led to this political debate. I will seek to give a broad account of the main lines of the political arguments which we hear in the press and other media, without taking a stance on those arguments. And I will also discuss the possible legal implications of devolution and independence.

I start with history. Most European states, including Germany, France, Italy and Spain, are composites, built out of territories that were once autonomous.¹ The United Kingdom is no exception; as a multi-nation state, it is part of a European norm. But its structure differs from other European states. Napoleon Bonaparte is reported to have said that all history is geography. The geography of these islands, and in particular the distribution of population, plays an important role in determining the viability of different political structures. Of the UK's population of 63.7 million (in 2012), England makes up 84%. Geography is important in another respect. The South East of England is close to mainland Europe, which over the centuries has provided an important market for goods produced in these islands.

England is and always has been the dominant member of the United Kingdom. Before I went to university I spent several months working in a hotel in Kiel in Schleswig Holstein. Although I am a Scotsman by birth I got used to the guests referring to the UK as "England". Indeed the

¹ Lord Sumption's Denning Society Lecture 2013, "The Disunited Kingdom: England, Ireland and Scotland".

old German lady, with whom I stayed, sought to educate me in European and particularly German history. I remember enjoying the tune (although perhaps not the sentiment) of the famous marching song of the First World War, “Wir fahren gegen England”.

England’s dominance has created difficulties in the past for those who have argued for a federal structure within these islands. Unless people living in England wish to decentralise by creating several regional governments, and there is no sign of such a wish, the designers of federal polity would have to cope with a federation in which one member comprised about 84% of the population and the other three members under 9%, under 5% and 3% respectively.² It is not surprising therefore that the main candidates for the position of Scotland within these islands have been being part of a unitary state, independence or the intermediate position, devolution.

Uniquely within these islands, for Scotland and England the move from independent nations to unitary state was achieved not by conquest but by negotiation and legislation. The Parliaments of each country appointed commissioners to negotiate a union and each Parliament then enacted the terms of their agreement. As a result, the state of Great Britain came into existence on 1 May 1707. Modern opponents of the British state emphasise the self-interest and corruption of Scottish leaders who advocated the Union. They draw attention to the payment of bribes and to the economic and military intimidation. The motives of the leaders pressing for the Union have long been criticised. Robert Burns, Scotland’s national poet, complained

“We’re bought and sold for English gold,
Such a parcel of rogues in a nation!”

But there is another side to the story. There had long been forces at work which motivated political leaders, especially in Scotland, to seek a political accommodation between the neighbouring kingdoms. One powerful force was religion, a common Protestant ideology. When the Reformation reshaped the politics of Europe, both England and Scotland entered the Protestant camp. In 1560 the Scottish Protestant reformers turned to Elizabeth I of England to drive out the French, who had made plain their ambitions to colonise Scotland. Differences over church government weakened the potency of Protestantism as a binding force between the two kingdoms but over the next century and a half it was often Scottish leaders, rather than their English counterparts, who sought to bring about closer political ties within the islands.

² Office for National Statistics 8 August 2013 release.

The Union of the Crowns contributed to this process of accommodation. On the death of the childless Queen Elizabeth I of England, her heir was the Scottish king, James VI. He became James I of England in 1603. He was the king of two countries which were each parliamentary monarchies with separate representative legislatures in London and Edinburgh. His original blueprint was for a “union of hearts and minds”, followed by common citizenship, free trade, an assimilation of the elites of Scotland and England by intermarriage, a union of laws and then finally a union of political and religious institutions.³ He did not get far with this project as the English aristocracy did not warm to their Scottish counterparts.

Another attempt, initiated from Scotland, occurred when between 1638 and 1643 the covenanting leadership encouraged their English counterparts to accept a federal union. While the Solemn League and Covenant of 1643 addressed the future government of the three kingdoms and held out the prospect of a federation, it did not mature into a reality. In truth the English elite were not interested.

What eventually engaged their interest at the start of the eighteenth century was the prospect of the end of the Stuart dynasty and with it the end of the dynastic union. There was a fear that the Scottish Parliament, which had broken free from executive control in 1689, might choose a monarch who was not also the English monarch. It was a time of militant Catholic expansionism in Europe under the dominant leadership of Louis XIV of France when England was embroiled in European wars. The English government feared both the support for the ousted King James VII and II – Jacobitism - in the northern half of Scotland and a French invasion of Scotland to exploit that support. They did not wish their northern neighbour to pursue a different foreign policy from that dictated by London. To avoid this, they were willing to make concessions which before had not seemed necessary.

And Scottish businessmen were receptive. As England grew wealthy in the seventeenth century through its growing trade, especially with North America and the Caribbean, it, like other European countries which had colonies, sought to exclude foreign merchants from its prosperous colonial trade. Its Navigation Acts confined such trade to English merchants and English ships and its navy enforced that monopoly. To circumvent this, many Scots invested in an enterprise to establish a settlement in Central America near Panama between 1695 and 1700. This enterprise, known as the Darien scheme, ended in a financial collapse in which many

³ B.R. Galloway, “The Unions of England and Scotland 1603-1608” (1986).

suffered real hardship. Scottish business interests needed access to English colonial markets. That this was a strong incentive in favour of the proposed union can be seen by the voting pattern in the Scottish Parliament which passed the Act of Union by 110 votes to 69: the earlier vote on Article VI, which introduced freedom of trade, had 154 supporters and only 17 opponents.⁴

The Union deal addressed long-standing problems. The English government removed the danger of Scottish legislative autonomy by incorporating the Scottish legislature into the British Parliament. For that prize they conceded both free access to colonial markets and a proportionally generous representation of Scotland in the new Parliament; and they also preserved within the Union important Scottish institutions, particularly the Church of Scotland and the separate legal system. The historian, John Morrill, has suggested that “(i)f the English bought Scotland, the Scots sold themselves dear”.⁵

One of the reasons for the long-term success of the Anglo-Scottish union has been that the government of the United Kingdom allowed Scotland a large degree of autonomy within the union.⁶ While legislative power moved to London, central government did not involve itself in people’s lives in the way that governments now do. Beyond the fields of foreign policy, taxation and a degree of economic regulation, which were the preserves of central government, much government was local. Schools in Scotland were usually parish schools which were administered by the Church of Scotland. Scotland’s four universities, which provided several of the leading figures of the eighteenth century Enlightenment, maintained their independent existence. The separate Scottish legal system was maintained and was controlled by the Scottish judiciary in Edinburgh. There was no concerted attempt to create a uniform British national identity.

The existence of a common enemy contributed to the growth of a British identity. Both countries had supported the expulsion of James VII and II in 1688 because he was a Catholic and both had invited the Dutchman, William of Orange and his wife Mary Stewart, to succeed to the vacant throne because he agreed to uphold the Protestant religion. Catholicism in both countries was associated with absolutism in an age in which Louis XIV of France dominated European politics. Jacobitism was seen as a threat to both property rights and representative

⁴ Roy Campbell, “A Historical Perspective on the Union” in “Scotland and the Union”. Hume Papers on Public Policy (1994)

⁵ John Morrill, “The English, the Scots and the British” in “Scotland and the Union” (above)

⁶ See, for example, Lindsay Paterson, “The Autonomy of Modern Scotland” (1994).

government. The elites in both countries would support a monarchy only if it respected their political power and their property. British identity came to be associated with Protestantism, which in turn was equated with political liberty and economic success.⁷

Perhaps the principal reason for the success of the Union was the economic prosperity which followed the end of English protectionism and opening of its colonial markets to Scottish business interests. Glasgow, a westward looking port, initially prospered by tapping into the Atlantic tobacco trade and, shamefully, the slave trade. It and the surrounding towns of the Clyde valley developed heavy industry, particularly iron and steel and shipbuilding, exploiting local resources including the plentiful iron and coal deposits of central Scotland. Glasgow became known as “the second city of the Empire”. Dundee also prospered in the nineteenth century through its connections with India. At its height about 50,000 workers were employed in its jute mills.

The colonial empire also created many opportunities for Scots to earn a living overseas. Many middle class Scots emigrated to become planters of rubber in Malaya, tea in India and Ceylon (Sri Lanka) and coffee in East Africa. Many Scots of all economic backgrounds settled in Canada, Australia and New Zealand as well as in the United States. The Empire gave those generations a shared sense of adventure.⁸

The result was the development of a British identity alongside but not in substitution for a Scottish identity. That Scottish identity came to be promoted in the Victorian era, which had a great capacity to invent tradition. One of the best examples of such invention was the promotion of tartan and the kilt as a symbol of Scottish identity, initially by Sir Walter Scott, when organising George IV’s visit to Scotland in 1822. Lowland Scots had not worn the kilt or tartan in the past; but it has become the norm for formal dress throughout Scotland.⁹

For some time, forces have been at work which have weakened the sense of Britishness. Central government has come to play a much larger role in people’s lives. As a response to the increasing centralisation of government and the loss of the autonomy of local government there has been a long-term trend of increasing devolution of power from London to Scottish

⁷ Linda Colley, “Britons: Forging the Nation 1707-1837” (1992).

⁸ T M Devine, “Scotland’s Empire 1600-1815” (2003); Michael Fry, “The Scottish Empire”. (2001).

⁹ Hugh Trevor Roper, “the Highland Tradition of Scotland” in E Hobsbawm & T Ranger, “The Invention of Tradition” (1992).

institutions. It began in 1885, when the issue of Irish Home Rule had become pressing, with the creation of the Scottish Office in London as a department of state under the leadership of the Secretary for Scotland. In the early 20th century before the First World War, the Liberal Party, which was then one of the two leading political parties, embraced the idea of home rule for all of the constituent parts of the UK. That programme was interrupted by the First World War; and the emergence of nationalist movements in Scotland and Wales may have been postponed by the Second World War. The devolution of power within the UK towards the end of the twentieth century can be seen as the resumption of the interrupted business of 1880-1914.¹⁰

In 1939 the Scottish Office moved from London to Edinburgh. In 1979 an attempt by a Labour government to create legislative devolution failed to obtain the needed majority in a referendum. When the Labour Party returned to power in 1997 it promptly held a pre-legislation referendum in Scotland on the creation of a devolved Scottish Parliament with tax-raising powers. 74% of those who voted supported the establishment of the Parliament and 63% supported the proposed powers to vary the basic rate of income tax. While many in the Labour Party believed that devolution would undermine the power of the Scottish National Party, the SNP became the largest single party in the Scottish Parliament and formed a minority government in 2007; and in the 2011 election they won an outright majority. They are committed to a referendum on Scottish independence, which will take place on 18 September 2014.

A number of factors may have contributed to the weakening of the sense of common endeavour and the growth of a sense of Scottish distinctiveness since 1945. The disappearance of the Empire and the sense that Britain had a world role is a factor. So also is a loss of a belief, which survived into the 1960s, that the British constitutional structure was a model for constitutional democracies everywhere. As international responsibilities were relinquished, the shrinking of the British Army weakened a respected institution to which Scotland had contributed disproportionate numbers of troops. The loss of world power was combined with the country's comparative economic decline. In Scotland that manifested itself in the loss of shipbuilding to Japan and Korea, reducing the once dominant Clydeside to the production of warships for the British government. The disappearance of the steel industry and the car industry were significant blows to Scotland's industrial economy. The social problems in the West of Scotland, including poor housing and multiple urban deprivation, have required greater state intervention and a public sector which is proportionally substantially larger than in England.

¹⁰ Linda Colley, "Acts of Union and Disunion" (2014).

More positively, the prolonged peace in Western Europe and the development of the European Union, which has made it unthinkable that the major European powers will settle their differences by force, have removed a sense of a shared enemy which was an important unifier in the eighteenth and nineteenth centuries and for much the twentieth century. At the same time the development of free trade in Europe, initially in the European Economic Community and now in the European Union, is seen by many as superseding one of the principal reasons for the 1707 Union.

The secularisation of the United Kingdom and of other countries in Europe during the twentieth century has reduced the significance of confessional differences, at least between Christian churches, and undermined the role of a Protestant identity in maintaining a sense of British distinctiveness. A sense of Scottish identity has developed at the expense of British identity.

A political agenda has grown up in Scotland, which is significantly different from that of London. The second half of the twentieth century has seen the collapse of support for the Conservative party in Scotland. There is a widespread perception that in domestic matters the Scottish electorate support a more left-of-centre agenda than the UK as a whole. Some who wish to carry out such an agenda see independence or at least further devolution as a *sine qua non*. As a result, the current debate in Scotland has focused on the options of further devolution or independence. Even if no further changes were to be enacted, Scotland will receive further devolution of powers in 2015 and 2016 when the provisions of the Scotland Act 2012 are implemented.

As I have said, the decentralisation of the United Kingdom is a long-term trend. It affects not only Scotland. Both Wales and Northern Ireland have made demands for greater devolution of power. The current Scottish debate takes place in a context in which the Scottish Government and Parliament already have very extensive devolved powers. The Scottish Parliament is responsible for 60% of public money spent in Scotland and the Scottish government makes its own policies on health, education, justice, policing, transport and local government. Macro-economic policy and social security (welfare) are currently controlled by London, which sets policies for the whole of the UK. Foreign policy and defence are also determined by the UK Government and Parliament.

A summary of the political arguments

It may be useful, particularly for those who are not familiar with the debate, if I summarise the principal arguments that each side has advanced on the relative advantages and disadvantages of independence and devolution.

The Scottish Government in its White Paper, “Scotland’s Future”,¹¹ set out its case for a “yes” vote in the independence referendum. One of the central themes of the argument for independence can be seen in the introductory letter of the First Minister, Mr Alex Salmond, in which he states:

“I believe in independence because I believe it will be better for all of us if decisions about Scotland are taken by the people who care most about Scotland – the people who live and work here. It is my absolute conviction that Scotland’s future should be in Scotland’s hands.”

As the status quo is extensive devolution, the Scottish Nationalist government is principally looking for control over (a) taxation, (b) the social security (welfare) system and (c) foreign policy and defence. Presently the Scottish Government controls 7% of the taxes raised in Scotland. When the increased devolved powers, enacted in 2012, come into effect that figure will rise to 15%.¹²

The White Paper argues that Scotland has many economic advantages, including extensive natural resources and a strong university sector. It lists, among the leading Scottish industries, food and drinks, energy, creative industries, tourism, life sciences, insurance, wealth management and engineering. It argues that Scotland’s output per capita¹³ and public finances have been stronger than the UK as a whole.¹⁴ It suggests that

“Independence will release a period of energy, effort and ambition which has the power to realise our hopes and expectations and transform our country.”¹⁵

¹¹ Published in November 2013

¹² White Paper, pp 5, 68

¹³ It should be “per caput” but I succumb to current norms.

¹⁴ White Paper, p. 66f.

¹⁵ White Paper, p.23.

More concretely, it proposes to counter the gravitational pull of London by fixing its corporation tax rate at 3% below the rest of the United Kingdom.¹⁶ In this it seeks to repeat the economic success of the Republic of Ireland in attracting investment from international corporations. Recognising the disadvantages of geography, it also proposes to reduce Air Passenger Duty by 50% to encourage more air flights to and from Scotland and boost tourism and business travel.¹⁷ It proposes to provide significantly increased childcare to enable parents to work and boost Scotland's competitiveness.¹⁸ It also proposes to set aside a proportion of future oil and gas revenues as a stabilisation fund.¹⁹

It argues that an important consequence of independence is that "the people of Scotland will always get governments we vote for" rather than what it characterises as "the democratic deficit".²⁰ It seeks a more social democratic model, with distinctive taxation policies to reduce the gap between rich and poor, with promises to enhance the minimum wage, protect the pensions of the elderly and review the timing of the increase in the retirement age to 67, and with a distinctive welfare system including the abolition of unpopular restrictions on housing benefit.²¹ It also proposes that the Scottish Government would avoid the privatisation of public services, including the National Health Service.

In foreign policy, the White Paper proposes that Scotland would continue to be a member of the European Union, but not join the Eurozone. Instead it proposes to retain the pound sterling. It sees independence as an opportunity to argue for interests of the Scottish farming and fishing industries, which, it suggests, have been traded off for other UK priorities in EU negotiations.²² It also states that Scotland will not seek membership of the Schengen area but will remain part of the Common Travel Area, which currently covers the UK, Ireland, The Isle of Man and the Channel Islands.²³ It will seek a close relationship with the EU as an active member and will avoid the risks to its economy posed by the UK Government's proposal for an "In/Out" referendum.²⁴ In relation to defence, it proposes that Scotland will seek to join NATO but it

¹⁶ White Paper, pp. 97, 120.

¹⁷ White Paper, pp.98-99, 119-120.

¹⁸ White Paper. p.79.

¹⁹ White Paper, pp. 305-306.

²⁰ White Paper, p.333.

²¹ White Paper, Part 3 chap 4.

²² White Paper, p. 278.

²³ White Paper, p.224.

²⁴ White Paper, p213.

requires the removal of nuclear weapons, including the Trident nuclear defence system, from Scotland.²⁵ It also proposes distinctive policies towards immigration.²⁶

Among the other policies that it proposes are that The Queen should continue to be the Head of State, that there should be a written constitution and that there be a new public sector broadcaster, the Scottish Broadcasting Service. The White Paper proposes that, after negotiations with the Westminster Government, Scotland should become an independent nation on 24 March 2016.

The campaign against independence has been led by a cross-party organisation called “Better Together” under the leadership of Mr Alistair Darling, a Scottish MP and former Chancellor of the Exchequer in the UK Government. The case which “Better Together” and other opponents of independence advance can be summarised under three headings: economic, political and identity.²⁷

The economic arguments focus on the disruption which independence would cause to the highly integrated UK economy and Scotland’s dependence on declining and volatile oil revenues, which are only 2% of the UK’s revenue but would be 20% of Scotland’s revenue. Scotland’s trade is highly integrated with the rest of the UK, with 70% of its non-oil exports going there in 2013. It is argued that Scotland benefits from the economic and job opportunities of the much larger UK economy. It is the third most prosperous part of the UK after London and the South East. Scotland’s very large financial services industry, which has assets worth 12.5 times its gross domestic product, depends upon the market of the rest of the UK and benefits from a uniform legal and regulatory regime. Doubts have been expressed whether major banks and insurance companies could remain domiciled in Scotland if it were to vote for independence. Several financial companies, including the Royal Bank of Scotland, TSB and Standard Life have expressed concerns. “Better Together” has questioned whether an independent Scotland could have bailed out the major Scottish-based banks during the economic crisis of 2008 in the way the UK government succeeded in doing. Oil companies, including BP and Shell, have expressed a preference for the preservation of UK-wide regulation. Workers’ unions are worried about the

²⁵ White Paper, pp.232-233.

²⁶ White Paper, pp. 267-271.

²⁷ In what follows, I have drawn on Mr Alistair Darling’s lecture to the University of Glasgow in July 2013, “We belong together: the case for a United Kingdom”, the factsheets which are on “Better Together’s” website, and also the Oxford Economics report.

future of Scottish shipbuilding, which has been dependent on the UK Government's procurement of warships for its survival.

“Better Together” and the Westminster parties have also challenged the assumption that an independent Scotland could join a formal currency union with the rest of the UK. They assert that the only realistic options are a separate currency or joining the Euro. They foresee higher borrowing costs for Scottish government and Scottish businesses.²⁸ They and others – including the President of the European Commission - have also called into question whether and if so on what terms Scotland would be able to obtain membership of the EU.²⁹

Attention has also been drawn to the economic cost of duplicating work which is already performed for the UK as a whole, for example in creating a separate Treasury, revenue service, financial regulator and compensation scheme, and pensions regulator. “Better Together” also point to the benefit of sharing the burden of State pensions and welfare costs in a larger economy and the cost to businesses operating throughout the UK in providing pensions to employees because of the EU's cross-border pensions rules.³⁰

Oxford Economics have produced a report on the potential implications of independence for businesses in Scotland.³¹ They recognise that independence would bring control over policy-making closer to the people of Scotland. But they warn that an independent Scotland would need to tax Scottish businesses more heavily, that those businesses would be likely to face higher funding costs and transition and transaction costs, that independence might adversely affect Scottish exports to the rest of the UK (rUK), and that there would be new complexities for businesses providing pensions to their employees. They question the economic strategy based on a lower corporation tax when the UK and other countries are lowering their rates. They conclude their report:

“Abrogating the Acts of Union in a sophisticated and highly integrated modern economy would not be easy. Scotland's economy could succeed under independence, and it would be in rUK's interests to facilitate that success as far as possible. But it would create a

²⁸ The rating agency, Moody's, has suggested that Scotland would have a rating two levels below the UK. Financial Times 2 May 2014.

²⁹ Better Together Factsheet, European Union.

³⁰ Better Together Factsheet, Pensions.

³¹ This report was commissioned by the successful Scottish engineering company, Weir Group, to provide it with impartial economic advice and was published in April 2014.

number of costs and uncertainties, and fewer, more uncertain benefits, for those businesses so vital to the future prosperity of the country, as it goes its own way.”³²

The political arguments which “Better Together” advance are linked to the size of the state. The UK is the third largest economy in the EU and the sixth largest in the world. It is the second largest provider of overseas aid and an important member of many international organisations, including the UN Security Council. The UK also has the 4th largest defence budget in the world. “Better Together” argue that the UK’s size gives it greater influence and provides better security to its citizens.

The arguments about identity concentrate on the shared experience of the citizens of the UK over 300 years and the evidence that the majority of Scots consider that they have a multiple identity. They refer to a shared history and to people’s attachment to British institutions including the BBC, the National Health Service and the welfare state. They refer also to an existing social union and to the social integration of the UK, with a significant percentage of Scots living elsewhere in the UK and many who now live in Scotland having been born elsewhere in the UK.

In summary, “Better Together” argue that Scotland gets the best of both worlds in the UK, having a strong Scottish Parliament and at the same time enjoying the strength and security of being part of the bigger UK.³³

The legal implications

Turning to the legal implications of constitutional change - if Scotland votes yes, there will be profound legal changes as the 300 year union is dismantled.³⁴ In brief, in international law, the rest of the UK would be the “continuator” state and would retain membership of international organisations. It would be necessary for an Order in Council or an Act of the UK Parliament to authorise the negotiation of the terms of Scottish independence. There would be very complex negotiations on, among others, currency, division of moveable assets, the share of national debt,

³² Oxford Economics Report p. 80.

³³ Better Together: The case for the UK.

³⁴ I have been greatly assisted in this aspect of my talk by an address which Professor Dawn Oliver gave on the constitutional implications for the UK of Scottish independence: Middle Temple Lectures. 17 March 2014. See also Adam Tomkins, “Scotland’s choice, Britain’s Future” in [2014] 130 LQR 215-234.

liability for State pensions, nuclear weapons and Scottish membership of international bodies. Those negotiations may be complicated by a UK General Election in May 2015. In the lead up to independence, the role of Scottish MPs would be anomalous and it might be necessary to regulate their participation in rUK business by House of Commons standing orders. Legislation would be needed both in Westminster to terminate the UK's responsibility for Scotland and in Edinburgh for the continuation in force of existing laws until changed by the Scottish Parliament. The Inner House of the Court of Session in Edinburgh would become the Scottish Supreme Court. The UK government could assist Scotland's negotiation of membership of the EU in the period before independence and also its membership of other international organisations. Scots residing in rUK would probably have dual UK/Scottish citizenship and as Commonwealth citizens would be entitled to vote in UK Parliamentary and local government elections.

If Scotland votes no, there will in 2015 be the further devolution of power enacted in 2012 and the Unionist parties promise the transfer of additional tax-raising powers. That itself may not have major legal implications as the Anglo-Scottish union has changed over time. But many expect Wales and Northern Ireland to make increasing demands for further devolution of power. The ad hoc way in which devolution was introduced in the 1990s did not purport to provide a lasting settlement. Politicians spoke of a process and not an event. The argument is gathering force that an arrangement in the UK, in which England alone lacks its own legislature, has become unsustainable. It risks creating the appearance in the other parts of the UK that the Westminster Parliament is the English Parliament. And at the same time it causes resentment in England when non-English MPs can vote on English matters but English MPs cannot vote on devolved matters. To address this we may need to move to a more openly federal system with a written constitution. That constitution could identify the cross-border issues, which would be the responsibility of a Westminster Parliament, and the very extensive powers that would be the responsibility of the four national parliaments and local or regional authorities. It is becoming increasingly hard to see an ad hoc asymmetric devolution of power as a viable long-term strategy.

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³⁵ See Linda Colley, "Acts of Union and Disunion" (2014), chap 15.

Conclusion

While economic arguments have dominated the political debate so far, they are not the only issue. The idea of self-determination and the concept of a democratic deficit depend on a sense of identity of what Michael Ignatieff called “blood and belonging”,³⁶ us and them. People have different views of who are “we” and who are “they”.

The UK Prime Minister has acknowledged that there has been a strengthening of a Scottish identity at the expense of a sense of “Britishness”. A recent survey of national identity suggested that 23% of Scots saw themselves as Scottish but not British. 30% saw themselves as more Scottish than British and an equal percentage saw themselves as equally Scottish and British. 5% saw themselves a more British than Scottish and 6% saw themselves as British, not Scottish.³⁷ The United Kingdom is not alone in facing these changes. Decentralisation within nation states may be a world-wide trend. There are certainly parallels in within several European states.

Whatever the outcome of the Scottish referendum, people in Scotland will need to reconcile after the bruising political battle. And people in the different parts of these islands will need to cooperate with each other to share a better future. I keep in mind the concluding words of Robert Burns’ poem: “A man’s a man for a’ that”:

“For a’ that, an a’ that,
It’s coming yet for a’ that,
That Man to Man, the world o’er
Shall brothers be for a’ that.”

³⁶ M Ignatieff, “Blood and Belonging: Journeys into the New Nationalism” (1993).

³⁷ Scottish Social Attitudes Survey 2012.