CHAPTER 6

The Unsettled Settlement: Scottish Independence or United Kingdom Devolution?

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1 Introduction

On 18 September 2014 Scottish voters will go to the polls in a referendum to decide whether Scotland will formally secede from the United Kingdom (hereinafter UK) in a voluntary, peaceful and democratic approach to independence. In the history of the UK, this is the closest that it has ever come to political disintegration, even allowing for the threat of Irish Home Rule during the late nineteenth and early twentieth centuries. How and why has it come to this? What circumstances have combined to produce such an unanticipated constitutional predicament? After all, it was only in the late 1990s that the Labour government of Tony Blair—prompted by the Scottish Constitutional Convention—introduced a bumper package of constitutional reforms that included Scottish and Welsh devolution together with important adjustments to the place and role of Northern Ireland in the UK. Together, these reforms constituted the centrepiece of the Blair government’s new constitutional settlement for the territorial dispersion of power from London to the constituent national units of the multinational UK. It seemed that a long-standing desire for limited territorial decentralization, especially in Scotland, had been formally recognized and justified the new appellation of the UK as a ‘union’ rather than a ‘unitary’ State.

This purpose of this short chapter is to answer the questions raised above by investigating the contemporary political circumstances that have brought this situation about and to reflect upon the future of the UK in the twenty-first century. Scotland must be construed once again as the leading protagonist of major constitutional change, but this time with an enhanced status: it is now formally a subnational unit of the UK with a subnational government, which

* The paper was originally written up to January 2014.
has decided to challenge the current territorial status quo by engineering the break-up of the Union. It would appear, therefore, to have confirmed the anxieties and suspicions of those critics who opposed UK devolution because they feared that it would merely whet the appetite of Scottish national separatists and lead ultimately to political disintegration. This interpretation of recent events and circumstances is driven by the logic that constitutional appeasement is a calculated gamble because it creates or strengthens the institutional capacity of subnational units to stand on their own two feet and actively encourages them to challenge the integrity of the State. In contrast, those who favour devolution see in it the twin merits of bringing decision-making closer to the people and strengthening the political union by making it more legitimate. Accordingly, this reduces or completely removes the incentive to separate. Together, these broadly negative and positive outlooks characterize many regional and federal States when contemplating constitutional reform and they furnish the basis of a state-wide constitutional conversation in elite–mass relations.

However, before we can understand how and why devolution has led ultimately to political mobilization in Scotland for a referendum on secession, it is important to situate our task in its historical context, one that dates back at least to the late nineteenth century. From its creation in 1801 up until 1921 the UK comprised England, Scotland, Wales and Ireland (the whole of the island of Ireland), after which point the partition of Ireland into Northern Ireland and what was then known as the Irish Free State (1922) reconstituted the UK as England, Scotland, Wales and Northern Ireland. The Government of Ireland Act 1920 was therefore the first and so far the only rupture in the UK body politic. In 1937 the Irish Free State was renamed the Republic of Ireland with its own independent written Constitution. The current UK, then, is actually only about 90 years old and, strictly speaking, is younger than the United States of America, which was formally constituted in 1789. It is no wonder that Richard Rose described the UK as an “intellectual puzzle.”

From the standpoint of the late nineteenth century, when we first witnessed the emergence of separate Irish and Scottish home rule movements, one particular observation looms large: the extent to which the roots of the

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1 For further details, see M. Burgess, The British Tradition of Federalism (London: Leicester University Press, 1995).