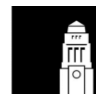
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The Conservative territorial code under strain

Richard Hayton

The Conservative Party, the late Jim Bulpitt (1982: 169) argued, 'is the party of central autonomy'. While the means to central autonomy may vary over time, its pursuit has, Bulpitt suggested, remained the defining feature of the Conservatives' territorial code since the nineteenth century. The party leadership has prioritised elite control over the main fields of 'high politics' in order to defend Conservative interests through the exercise of national power and to demonstrate governing competence as part of its electoral statecraft (Bulpitt, 1986). This chapter argues that since returning to power at Westminster in 2010, Conservative statecraft has broadly followed Bulpitt's schema. However, it also suggests that the party's territorial code has come under increasing strain, as the political and constitutional consequences of the independence referendum in Scotland and the referendum vote to leave the European Union have unfolded. The primary focus of the chapter is on the Conservative Party as a statewide actor, namely through the governments led by David Cameron (2010-16), Theresa May (2016-19), and Boris Johnson (2019-). In terms of statecraft and territorial politics, it concentrates on devolution and the centre's dealings with Scotland, and the place of Scottish conservatism, revived under the leadership of Ruth Davidson, in relation to its UK-wide counterpart.

Sovereignty, Unionism, and Scottish Devolution

The defining principle of the United Kingdom's constitution is parliamentary sovereignty, which for Conservatives is 'the cornerstone of the nation' (Aughey, 2018: 33). The Conservatives are also commonly regarded (and have regard themselves) as the party of the Union, a position that was embedded after the merger with the Liberal Unionists in the early-twentieth century, and encapsulated by the change of name to the Conservative and Unionist Party in 1909. If, as its official historian Lord Lexden (2015) has asserted, the 'the supreme object of the Conservative Party is the preservation of the nation' it has been through defence of the twin pillars of the Union and parliamentary sovereignty that this has been understood. Conservative opposition to Labour's plans for devolution, vigorously articulated by John Major at the general elections of 1992 and 1997, and then by William Hague during the referendum campaign on the creation of the Scottish parliament, was rooted in this worldview. This 'high unionism', as Arthur Aughey (2018: 92) terms it, continues to prevail in much of the Conservative Party, even as its proponents increasingly came to

acknowledge that it ran up against bald calculations of the party's electoral interests. The Conservatives' unionism could, as Seawright (1999) put it, be understood as an 'important matter of principle', although it was one that not all the party, especially in England, remained strongly attached to.

For Andrew Gamble alongside the Unionism that dominated the party in the twentieth century, an older tradition of English Toryism can also be identified, which has seen a revival in Conservatives circles since devolution to Scotland and Wales. For the English Tories, any accommodation with devolution was difficult as:

> What mattered most for Tories was that the principle of undivided national sovereignty – Crown-in-Parliament – should be upheld. This meant a strong, centralised executive authority whose writ could not be challenged within the territory of the British state. (Gamble, 2016: 362).

So, while 'English Tories have always considered the Union to be desirable' it is a secondary concern, behind their desire to preserve and defend the sovereignty of the Anglo-British state (Gamble, 2016: 360). While the leadership of the UK-wide Conservative Party has retained a unionist stance, Gamble detects that this 'makes less and less sense to many party members and MPs, and the political logic is leading the party away from defending the Union as a priority' (Gamble, 2016: 361). These sentiments have also found expression in influential elements of the Conservative commentariat and intellectual circles, for example in the writings of journalist Simon Heffer and philosopher Roger Scruton (see English *et al.,* 2009). As Ben Wellings (2012) has convincingly demonstrated, the Conservative attachment to parliamentary sovereignty inhibited the rise of English nationalism, which instead found its primary expression through Euroscepticism. This Anglo-Britishness rose to further prominence in the 2016 referendum on EU membership and has shaped much of the ensuing debate over how Brexit should be fulfilled (Wellings, 2019). The strength of ideological commitment in the Conservative Party to the reassertion of sovereignty through Brexit was starkly illustrated by polling of members which found that more than half of them (54%) prioritised it over the survival of the party, and almost two-thirds (63%) favoured leaving the EU even if it meant the break-up of the United Kingdom and Scottish independence (YouGov, 2019).

Devolution to Scotland prompted some Tories such as Heffer (1999) to call for English independence. This was not a position entertained by the Conservative hierarchy at Westminster who, in the words of Lord Strathclyde, regarded English nationalism as 'of no serious intellectual interest to Conservatives, who are a United Kingdom Party' (quoted in Hayton, 2012: 85). Given their initial hostility to the proposed Scottish parliament, 'the Conservative approach to territorial management has proven surprisingly flexible' (Randall and Seawright, 2012: 107). William Hague (1998) claimed that devolution struck 'at the heart of the constitutional arrangement that has held our Union together for hundreds of years' but also acknowledged that the

Conservatives could not hope to 'unscramble the omelette', and instead had to find new ways to bolster the Union which accommodated devolution. Conservative attention at Westminster then turned to considering possible mechanisms for English votes for English laws (Hayton, 2012: 84-9). The Scottish Conservatives missed the opportunity, floated by some figures, to radically embrace devolution by endorsing full fiscal responsibility for Scotland (Torrance, 2012). For John Curtice, by advocating 'no' in the 1997 referendum, the party found itself 'on what proved to be the wrong side of the devolution debate', with lasting negative consequences for its electoral prospects in Scotland (2012: 117). Holyrood did, nonetheless, provide an institutional platform for the party in Scotland, and helped ensure its survival (*ibid.*).

Returning to Bulpitt's framework, in spite of their initial opposition, the Conservatives were able to accept New Labour's devolution arrangements as they did not threaten central autonomy (Convery, 2014). Indeed, they arguably reinforced the dual polity, as the activities of the devolved institutions were confined to matters of low politics (Bradbury, 2006) meaning that in 2010 the Conservatives 'inherited a set of arrangements which did not involve making painful concessions. Centre autonomy in terms of devolution had largely been achieved' (Convery, 2014: 29). Conservative Unionism, articulated forcefully by David Cameron as Leader of the Opposition between 2005 and 2010, focused on the benefits it brought to all parts of the United Kingdom in terms the centre's capacity for high politics, whether that be national security, foreign policy, or economic prosperity (Randall and Seawright, 2012: 109; Aughey, 2018: 92-3). The constitutional arguments were however, far from settled, as David Cameron would discover in office.

The Cameron premiership, 2010-16

David Cameron's commitment to the Union was seemingly heartfelt and pragmatic, yet his premiership encompassed two referendums which threw its continued existence into doubt, the consequences of which are still playing out. Cameron's pragmatic unionism was illustrated by his decision not to attempt to unravel the Barnett formula (Randall and Seawright, 2012: 109), and the implementation, via the 2012 Scotland Act, of the Calman Commission which recommended granting further powers to the Scottish Parliament (Convery, 2016: 29). In his assessment of the state of Conservative unionism elsewhere in this volume, Alan Convery convincingly portrays David Cameron as the 'supreme recent interpreter of the pragmatic approach' (Chapter 5). His acquiescence to the SNP's desire to hold an independence referendum following their victory at the 2011 Scottish Parliament elections can also be seen as integral to this outlook. While acknowledging that allowing a referendum was a 'massive gamble', Cameron (2019) justified the decision in his memoirs: 'Denying it would merely be delaying it; and delaying it would ignite a level of grievance that made independence inevitable'. So as much as unionists might dislike it, a referendum on the unambiguous question of yes or no to independence had become, in Cameron's view, the only way to secure the Union's long-term future.

The very occurrence of the 2014 referendum on Scottish independence illustrated how much unionism had shifted in the last few decades. Discussing the debate about devolution that took place in the 1970s, Richard Rose contrasted the position with regard to Northern Ireland to that on the British mainland:

> Whereas in Ulster the Westminster Parliament is ready to allow Northern Ireland to secede unilaterally, the 1974-9 devolution debate showed Westminster's adamant view that under no circumstances would Scots or Welsh be allowed to vote about independence in a referendum. Westminster is not prepared to admit that Scotland or Wales has the unilateral right to withdraw from the United Kingdom, should a majority there wish to do so. (Rose, 1982: 129-130).

After more than a decade of devolution and the ascent to majority government of the SNP in Scotland such a position would have been, as Cameron correctly calculated, untenable. So, while the UK government insisted its Scottish counterpart needed its permission to legally hold an independence referendum, it did not dispute where the democratic legitimacy to do so lay. The limitations on the capacity of the centre to use parliamentary sovereignty to uphold the territorial integrity of the United Kingdom were therefore laid bare. The place of Scotland within the UK depended on the continued consent of the Scottish people for it to do so. Sovereignty, it appeared, rested with them. Yet allowing the referendum posed a clear threat to high politics and Conservative statecraft, and some in the party fiercely opposed the decision (Cameron, 2019). While the Conservatives could accept devolution as it did not pose a threat to central autonomy, the break-up of the Union would be an entirely different matter, prompting multiple complex issues for Westminster to resolve.

In the end, Cameron's gamble on paid off and the threat to the Union was averted with a solid, if far from crushing, vote in favour of No (55% to 45%). However, while opponents of independence won the ballot, they arguably lost the campaign (Moran, 2017: 81). The largely negative case put against independence, stressing the economic risks and financial uncertainty it could bring was effective but did not appear to signal a rejuvenation of unionist sentiment. Panicked by the tightening polls, in the dying days of the campaign the leaders of the main unionist parties at Westminster – Cameron, Nick Clegg, and Ed Miliband – and made a 'vow' to the people of Scotland to deliver maximal devolution if they voted to remain part of the UK. In a move that he later conceded was probably poorly timed (Cameron, 2019), on the morning the referendum result was declared the Prime Minister announced that he now regarded it essential that 'England must also be heard' and English votes for English laws introduced at Westminster (Hayton, 2015).

Together, the decisions to endorse devo-max and English votes for English laws signalled the extent to which Conservative territorial statecraft had been transformed.

The traditional Westminster view of the United Kingdom as bound together by parliamentary sovereignty and a political union – a British political union – was being irreversibly altered. The central autonomy model had always meant that Conservatives were comfortable with the idea of the UK as a union, rather than a unitary, state. However, the English doctrine of parliamentary sovereignty meant that, as Keating (2018: 161) put it, the 'one thing unionism could not accept was the existence of parliamentary institutions in the component nations, arguing that, precisely because these were nations, such institutions would inevitably assume sovereignty rights themselves.' But this was now self-evidently the case. The 2016 Scotland Act, implementing 'the vow', acknowledged the permanence of the Scottish Parliament in the UK's constitutional arrangements, and stated that it could only be abolished if the Scottish people issued such an instruction through a referendum. The Act also gave legal recognition to the Sewel Convention. The ambiguities inherent in the UK's constitutional arrangements had long meant that they could be viewed rather differently from alternative vantage points, with English Tories able to retain their Dicean view of sovereignty while unionists north of the border could maintain that this did not hold true in Scottish constitutional law (Keating, 2018). However, what Convery (Chapter 5) characterised as the ultra-unionist view had seemingly become an historical anachronism, as the UK became a quasi-federal state.

In Ruth Davidson, Cameron (2019) felt that he had found a 'political soulmate' who 'came to embody the pro-devolution, anti-independence, modern, compassionate Conservative Party' that he wanted to see. Davidson's charisma and political skill as leader of the Scottish Conservatives was showcased in the referendum campaign, and undoubtedly helped fuel the unexpected revival in the party's fortunes in Scotland, securing second place in the 2016 elections to Holyrood (see Chapter 3 in this volume). Davidson's success in presenting unionism as a positive alternative to separatism suggested that the Conservatives had, finally, found a way to reconcile their commitment to the union with a positive approach to devolution, championing further powers for Scotland within the UK. This revised territorial code was, however, formulated in the context of British membership of the European Union, which had, as Keating (2018: 168) noted, 'provided an important external support system for the devolution process, compensating for its incompleteness'. Cameron's decision to hold an in-out referendum on Europe brought the sustainability of this territorial code into question.

Cameron's justification for holding a referendum on EU membership in 2016 echoed that he gave for consenting to the plebiscite in Scotland in 2014. He felt that the pressure to hold a referendum 'was strong and growing', and that if he did not promise to do so a future government soon would – quite possibly a Conservative administration recommending a vote to leave (Cameron, 2019). It was therefore better to grasp the nettle and have more control over the process than to allow further anti-EU resentment to build. In short, a referendum, he believed, 'was not only necessary to achieve the changes we required to secure Britain's interests *within the EU*; it was

needed to settle this issue *within the UK*' (Cameron, 2019, *original emphasis*). Of course, the idea that complex constitutional questions can be settled by way of a deceptively simple binary question was naïve at best, the shifting sands of the devolution 'settlement' since 1997 being case in point. Little, if any, consideration appears to have been given to the implications for territorial politics in the decision to hold a referendum on EU membership. The decision was instead largely driven by party political considerations related to internal party management and the potential electoral threat posed by the UK Independence Party. Given the presence of just one Conservative MP representing a seat north of the border, the Scottish dimension hardly figured in the calculation. It would be left to his successor, Theresa May, to grapple with the territorial fallout from this fateful decision, following the vote for Brexit and Cameron's decision to resign.

The 'precious bond' under strain: Theresa May, 2016-19

In her very first statement as Prime Minister, Theresa May reaffirmed her party's long-standing attachment to the Union:

> ...not everybody knows this, but the full title of my party is the Conservative and Unionist Party, and that word 'unionist' is very important to me. It means we believe in the Union: the precious, precious bond between England, Scotland, Wales and Northern Ireland. But it means something else that is just as important; it means we believe in a union not just between the nations of the United Kingdom but between all of our citizens, every one of us, whoever we are and wherever we're from. (May, 2016a).

Like her predecessor, May's commitment to the union was heartfelt. It was integral to her understanding of conservatism, and of the vocation of the Conservative Party to which she had dedicated so much of her life. May is a practising Christian, and as Aughey (2018: 35) noted this statement of belief had an almost religious quality to it, 'much like the reaffirmation of a vow, of keeping faith with the sacramental rights of party tradition'. Seeking to stay faithful to this unionism, while also pursuing what she regarded as the central mission of her premiership – delivering Brexit in a form that satisfied an English Tory yearning for the reassertion of national sovereignty – would ultimately prove to be a contradiction May could not reconcile.

Perhaps inevitably, like most Conservatives May displayed an essentially English understanding of Unionism. From this vantage point, the United Kingdom becomes in essence an extension of England, 'an England with appendages' (Aughey, 2018: 38). The issue of Brexit would bring the neglected inconsistencies in unionist thinking to the forefront of national political debate. While it is possible to trace a tradition of Euroscepticism on the left of British politics, the current Brexit project is very much the child of the right, emerging from a longstanding and often bitter debate in Conservative circles about the UK's place in the European integration project. The

tensions can be traced to the ideological shift that took place in the Conservative Party in the Thatcher era, when the English Tory view of Crown-in-Parliament national sovereignty reasserted itself (Hayton, 2012: 62). The displacement of a more pluralist One Nation conservatism with this exclusivist view of sovereignty reflected the influence of Powellite thinking on Thatcherism. Enoch Powell was of course a fierce opponent of devolution to any part of the United Kingdom, believing the integration and integrity of the whole state, including Northern Ireland, were imperative to resist 'other threats to British nationhood' such as the EEC (Corthorn, 2012: 969). Unsurprisingly then under Margaret Thatcher the Conservatives' previous flirtation with Scottish devolution under Edward Heath was shelved. The Conservatives' journey from being the 'party of Europe' to the party of Brexit thus began in the Thatcher era, as the debate about European integration came to be framed in terms of this understanding of national sovereignty. The tagline of the 2016 Leave campaign, 'take back control', reflected this traditionalist Westminster model view of the UK as a unitary state (Keating, 2018).

This was a view that May embraced in her understanding of what delivering on the vote for Brexit entailed. Although she was widely ridiculed for the soundbite, 'Brexit means Brexit', which she coined during her party leadership campaign, May did have a clear view of what Brexit meant, which she spelled out repeatedly. As she told the Conservative Party conference in October 2016:

> Whether people like it or not, the country voted to leave the EU. And that means we are going to leave the EU. We are going to be a fully-independent, sovereign country, a country that is no longer part of a political union with supranational institutions that can override national parliaments and courts. And that means we are going, once more, to have the freedom to make our own decisions on a whole host of different matters, from how we label our food to the way in which we choose to control immigration. (May, 2016b).

As the Prime Minister repeatedly stated, her objective in negotiating Brexit was 'taking back control of our borders, money and laws', an aphorism that became the title of a government command paper justifying the withdrawal agreement made with the EU in November 2018 (HM Government, 2018). Borders in this context referred primarily to immigration which had been a major driver of the vote for Leave, and the government's policy of ending the free movement of people to and from the EU. But it was the specific territorial politics issue of the border between Northern Ireland and the Republic of Ireland, where both sides professed a commitment to avoiding a hard border 'including any physical infrastructure or related checks and controls' (European Commission, 2017: 7) that would become the key sticking point for May in her efforts to secure a deal.

The government and the EU agreed a 'backstop' position was needed to ensure an open border on the island of Ireland, in the event that the future trade relationship between

the bloc and the UK (to be negotiated post-Brexit) could not guarantee this. The initial backstop proposal was for Northern Ireland to remain in the customs union and single market, which would have necessitated a customs and regulatory border in the Irish Sea (Institute for Government, 2019). Such a solution would have effectively maintained central autonomy by leaving Westminster free to pursue alternative trade and regulatory policies for the rest of the UK, and would have been consistent with the long-term strategy of disengaging Britain from Northern Ireland pursued by both Conservative and Labour governments over the previous three decades. In the 1994 Downing Street Declaration, the British government had stated explicitly that it had 'no selfish or strategic interest in Northern Ireland' – in effect official recognition by John Major's administration that the bond between Conservative and Ulster Unionism had been broken some time previously (Gamble, 1995: 15). However, Theresa May found herself unable to accept this solution, declaring it a threat to the 'constitutional integrity of the UK' (quoted in Institute for Government, 2019).

In truth, May's hands were tied following her disastrous 2017 general election campaign, which left the Conservatives without a majority at Westminster. Following this, her government was dependent on the support of the Democratic Unionist Party (DUP) of Northern Ireland. For the DUP, any proposal which divided Northern Ireland from the rest of the UK was unacceptable, and the idea was dismissed. Following this, the backstop included in the Withdrawal Agreement finalised in November 2018 included a UK-wide customs territory. However, this proved unacceptable to hard Eurosceptics on the Conservative benches, who argued it limited UK sovereignty by potentially tying the UK to the EU for an indefinite period. In short, a compromise between the desire to assert national sovereignty and manage the territorial questions posed by Brexit could not be found.

For virtually all Conservatives, including May, the decision to leave the EU was one that 'the country' as a singular entity took. The fact that two of the nations of the United Kingdom, Scotland and Northern Ireland, voted to Remain is of no greater consequence than the fact that a region within England (London) did so. The government therefore rejected the suggestion that the consent of the devolved administrations was required. However, this desire to uphold this principle of undivided national sovereignty brought the Conservative territorial code into question, undermining the party's unionist credentials by bringing Westminster into direct conflict with the Scotland in particular. In pushing through the EU Withdrawal Act 2018 in the face of the refusal by the Scottish Parliament to grant legislative consent, May's government defied the Sewel Convention, asserting Westminster sovereignty (a position upheld in 2017 by the Supreme Court). In essence, as Convery (Chapter 5) argues, the government adopted an 'ultra-unionist' position. Although this arguably strengthened the power of the central state in constitutional terms, it weakens the revised central autonomy model pursued by David Cameron, built on respect for the nations and their democratic institutions, and shared consent for constitutional changes. In short, whether Theresa May intended it or not, the primacy

in her party of English Toryism, over unionism, was asserted. This was a direction of travel that would be continued under her successor, Boris Johnson.

'Do or die': Boris Johnson, 2019-

If David Cameron and Theresa May could both be plausibly thought of as conforming to the tradition of Conservative and Unionist leaders who took seriously, as the latter put it, both elements in their party's name, the same could not be said for Boris Johnson. Johnson's carefully constructed political persona of bumbling, caddish, public school-educated amateurism, embodied the new English Toryism that Gamble (2016) identified, as did his previously expressed views on the Union. In one of his *Daily Telegraph* columns for example, just a couple of years into the process, he argued that 'Devolution is causing all the strains that its opponents predicted, and in allowing the Scots to make their own laws, while free-riding on English taxpayers, it is simply unjust… I propose that we tell them to hop it' (Johnson, 2001). In the 2019 Conservative Party leadership election, Ruth Davidson made clear her unease regarding a possible Johnson premiership, endorsing first Sajid Javid, then Michael Gove, and, in the final run-off Jeremy Hunt, over the eventual winner. Davidson was joined by a majority of Conservative MSPs in backing Hunt, who they praised for his willingness to prioritise the protection of the Union above all else – even Brexit (*The Scotsman*, 27.06.2019). For Johnson, by contrast, Brexit was 'do or die', a sentiment that resonated with the majority of (largely English) Conservative members, who backed him by a margin of two-to-one in the final all-party ballot.

In a wide-ranging reshuffle following his arrival in Number 10, Johnson sacked the Secretary of State for Scotland, David Mundell, who tweeted that from the backbenches he would hold the new Prime Minister to account 'on his commitments to the Union'. Mundell, like Davidson, had favoured Remain in the EU referendum, and his apprehension regarding Johnson centred around his insistence that the Conservatives must back a 'no deal' Brexit if an agreement could not be reached before the Article 50 deadline of 31 October. A no deal Brexit, Mundell had warned during the leadership election, would fuel Scottish nationalism and put the future of the Union in peril (*Guardian*, 6.07.2019). Davidson had expressed similar sentiments and indicated that she would not back a no deal outcome, which raised the prospect of every political party in Holyrood opposing the position of the Westminster government on the biggest issue facing the country in decades. Her resignation as Scottish Conservative leader, barely a month into Johnson's premiership, was driven by the conflict of loyalties she found herself facing, unable to commend to the electorate a Prime Minister she feared threatened the Union, the campaign to defend she had become the political figurehead of (Deerin, 2019).

These unionist fears were not without grounds. One poll conducted during the Conservative leadership election campaign gave Johnson an approval rating of minus 37 in Scotland, and indicated a 6 percentage-point lead for 'yes' in an independence

referendum held under his premiership (*The Times*, 23.06.2019). Analysis of the polling evidence showed a consistent uptick in support for independence in 2019, and that the source of this was an increase amongst voters who had backed Remain in the EU referendum, 51 percent of who now favoured independence (up from 47 percent a year earlier). Amongst Leavers, 64 percent continued to oppose independence (Curtice, 2019).

For all her insistence that 'no deal would be better than a bad deal', Theresa May's cautious unionism made the chances of her ever sanctioning it remote. The unexpected revival of the Scottish Conservatives in the 2017 general election, winning 13 seats in their best result since 1983 (Chapter 3), also meant that their voice, and votes, could potentially have been decisive should such a scenario have arisen under May. Johnson's arrival in Number 10, and his determination to push for a general election if his pathway to Brexit continued to be blocked by the House of Commons, changes that dynamic and opens up the possibility of the Conservatives campaigning for no deal against what they would portray as a 'Remain alliance' of assorted opposition parties. The outcome is impossible to foresee, but in what might yet be a crucial move, the Scottish Conservatives, under Davidson's interim successor Jackson Carlaw, shifted position to back Boris Johnson on a potential No Deal Brexit (*Herald*, 29.09.2019). As in England, in a late-2019 or 2020 general election the Conservatives in Scotland would be doubling down on their support amongst Leave voters, which given the overlap with anti-independence sentiment (Curtice, 2019) may make electoral sense.

It is worth remembering that for all the focus on the possibility of a no deal Brexit under Boris Johnson, he has repeatedly stated that it is not his preferred outcome, describing such an eventuality as 'a failure of statecraft' (*Guardian*, 2.10.2019). In rejecting the withdrawal agreement negotiated by his predecessor, Johnson's insisted that the backstop it contained was unacceptable. He proposed an alternative plan to the EU in October 2019, which would involve Northern Ireland effectively remaining in the EU's single market for goods, but being part of the UK's customs territory. This would necessitate regulatory checks in the Irish Sea, and customs checks between Northern Ireland and the Republic of Ireland. Stormont would have democratic oversight by reapproving the plans every four years. At the time of writing it appears unlikely that Johnson's plan will find favour with the EU, but it is revealing of his approach to territorial politics. He has shown some willingness to treat Northern Ireland differently, allowing it to align its regulations in sectors such as food production with the south to facilitate an all-Ireland zone and ease cross-border trade. The proposed role for Stormont also indicates a desire to shift matters to the periphery. Tariffs, however, have been reserved for Westminster as a matter of 'high politics', as Brexiteers such as Johnson see the capacity for the UK to negotiate its own trade deals as a crucial component of their vision of a 'Global Britain' (Daddow, 2019). Compromising UK territorial integrity, in that sense, is not something they are willing to countenance.

Conclusion: strained to breaking point?

The consequences of the vote to leave the EU continue to reverberate throughout the British political system. As the chief architects of Brexit the Conservatives find themselves at the eye of this storm, struggling to devise, articulate or implement an effective statecraft strategy to manage the multiple challenges that it presents. Nowhere is this truer than in the field of territorial politics, where the party's operational code has come under intense strain. The pro-devolution unionist position that the party had arrived at under the leadership of David Cameron and Ruth Davison provided for central autonomy and sub-state national differences in politics and policy, and sidestepped more profound questions regarding national sovereignty. As an instinctive unionist Theresa May initially sought to uphold this framework, but was unable to find a path through the competing demands she faced from different the different wings of her party. Brexit has brought the English Tory view of sovereignty firmly into the ascendency, most obviously through the installation as Prime Minister of Boris Johnson, and led to the reassertion, at least temporarily, of the power of Westminster over all of the UK and the devolved institutions. This has undermined central autonomy by drawing the UK government into conflict with the devolved institutions and into the quagmire of the Irish border issue, which had been effectively depoliticised through the peace process.

A so-called soft Brexit, staying in the European single market and customs union, was favoured by Ruth Davidson as the best way to safeguard the future of the Union. While it would certainty have circumvented many of the problems that have arisen, it is incompatible with the English Tory understanding of national sovereignty which has come to frame the Brexit debate in the Conservative Party and beyond. On the other side of the equation, it is difficult to avoid the conclusion that a no deal Brexit would make the break-up of the United Kingdom more likely, possibly leading to a vote on Irish re-unification, and raising demands for a second referendum vote in Scotland. Boris Johnson has suggested that he would refuse to sanction any request for IndyRef2, but such a strategy would further fan the flames of Scottish nationalism (Kenny and Sheldon, 2019: 11). Brexit might, on the other hand, make the practicalities of Scottish independence all the more complex, as the border question in Ireland could be writ large between England and Scotland. In short, the territorial politics of the UK remain highly unstable. As Jim Bulpitt (1982: 144) remarked, 'for the Conservative Party the United Kingdom is, and always has been, a particularly difficult piece of political real estate to manage'. Whether the party can navigate Brexit and devise a new territorial code to hold the Union together is far from clear. If it cannot, it will go down in history as the greatest failure of Conservative statecraft.

Author Biography

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References

Aughey, A. (2018) *The Conservative Party and the Nation*, Manchester: Manchester University Press.

Bradbury, J. (2006) 'Territory and Power Revisited: Theorising Territorial Politics in the United Kingdom after Devolution', *Political Studies*, 54(2): 559-582.

Bulpitt, J. (1982) 'Conservatism, Unionism and the Problem of Territorial Management', in P. Madgwick and R. Rose (eds.) *The Territorial Dimension in United Kingdom Politics*, Basingstoke: Macmillan.

Bulpitt, J. (1986) 'The Discipline of the New Democracy: Mrs Thatcher's Domestic Statecraft', *Political Studies*, 34(1): 19-39.

Cameron, D. (2007) speech: 'Stronger Together', 10 December.

Cameron, D. (2019) *For The Record*, London: HarperCollins.

Convery, A. (2014) Devolution and the Limits of Tory Statecraft: The Conservative Party in Coalition and Scotland and Wales', *Parliamentary Affairs*, 67(1): 25-44.

Convery, A. (2016) *The Territorial Conservative Party*, Manchester: Manchester University Press.

Corthorn, P. (2012) Enoch Powell, Ulster Unionism, and the British Nation', *Journal of British Studies*, 51(4): 967-997.

Curtice, J. (2012) 'Why no Tory revival in Scotland?' in D. Torrance (ed.) *Whatever Happened to Tory Scotland?* Edinburgh: Edinburgh University Press, pp. 114-126.

Curtice, J. (2019) 'Could Brexit Yet Undermine the Future of the British State?' Accessed 2 October 2019 at: http://blog.whatscotlandthinks.org/2019/07/could-brexit-yet-undermine-the-future-of-the-british-state/

Daddow, O. (2019) 'GlobalBritain™: the discursive construction of Britain's post-Brexit world role', *Global Affairs*, 5(1): 5-22.

Deerin, C. (2019) 'Ruth Davidson's resignation is a new moment of danger for the Union', 29 August. Accessed 2 October: https://www.newstatesman.com/politics/scotland/2019/08/ruth-davidson-s-resignation-new-moment-danger-union

English, R., Hayton, R. and Kenny M. (2009) 'Englishness and the Union in Contemporary Conservative Thought', *Government and Opposition: an international journal of comparative politics*. 44(4): 343-365

European Commission (2017) *Joint report from the negotiators of the European Union and the United Kingdom Government*, 8 December. Accessed 25 July 2019 at: https://ec.europa.eu/commission/sites/beta-political/files/joint_report.pdf

Gamble, A. (1995) 'The Crisis of Conservatism', *New Left Review*, 214: 3–25.

Gamble, A. (2016) 'The Conservatives and the Union: The 'New English Toryism' and the Origins of Anglo-Britishness', *Political Studies Review*, 14(3): 359-367.

Guardian (2019) 'Scottish secretary warns Johnson: no-deal Brexit could split UK', 6 July. Accessed 5 August 2019 at: https://www.theguardian.com/uk-news/2019/jul/06/top-tory-warns-johnson-no-deal-brexit-would-be-gift-to-snp

Guardian (2019) 'Brexit: dismay in Brussels as Boris Johnson finally reveals plan', 2 October. Accessed 3 October 2019 at: https://www.theguardian.com/politics/2019/oct/02/boris-johnson-unveils-brexit-plan-for-alternative-to-backstop

Hague, W. (1998) 'Change and Tradition: Thinking Creatively about the Constitution', speech to the Centre for Policy Studies, 24 February.

Hayton, R. (2012) *Reconstructing conservatism? The Conservative Party in Opposition, 1997-2010*. Manchester: Manchester University Press.

Hayton, R. (2014) Conservative Party Statecraft and the Politics of Coalition', *Parliamentary Affairs*, 67(1): 6–24.

Hayton, R. (2015) 'The Coalition and the Politics of the English Question', *Political Quarterly*, 86(1): 125-132.

Heffer, S. (1999) *Nor Shall My Sword: The Reinvention of England*. London: Weidenfeld & Nicolson.

Herald (2019) 'Jackson Carlaw breaks with Ruth Davidson line and swings Scots Tories behind Boris Johnson on No Deal Brexit', 29 September. Accessed 2 October at: https://www.heraldscotland.com/news/17935304.jackson-carlaw-breaks-ruth-davidson-line-swings-scots-tories-behind-boris-johnson-no-deal-brexit/?ref=twtrec

HM Government (2018) *EU Exit: Taking back control of our borders, money and laws while protecting our economy, security and Union* (Cm 9741). London: Stationery Office.

Institute for Government (2019) 'The Northern Ireland backstop', 12 March. Accessed 25 July 2019 at: https://www.instituteforgovernment.org.uk/explainers/northern-ireland-backstop

Johnson, B. (2001) 'Scots can build Jerusalem, but not with English money', *Daily Telegraph*, 1 February. Accessed 25 July 2019 at: https://www.telegraph.co.uk/comment/4259128/Scots-can-build-Jerusalem-but-not-with-English-money.html

Keating, M. (2018) 'The United Kingdom's Evolving Constitution', in P Requejo (ed.), *La Evolución de los Modelos Territoriales: Reformulación versus Ruptura*. Vol. 10, Fundamentos, Junta General del Principado de Asturias, Oviedo, pp. 157-182.

Kenny, M. and Sheldon, J. (2019) *Will a no deal Brexit lead to the break-up of the UK?* Cambridge: Bennett Institute.

Lexden, Lord Alistair (2015) 'Letter on the Union', *Spectator*, 2 May, www.spectator.co.uk/2015/05/letters-what-has-happened-to-the-instinctive-tory-faith. Accessed 2 September 2019.

May, T. (2016a) 'Statement from the new Prime Minister Theresa May', London, 13 July, www.gov.uk/government/speeches/statement-from-the-new-prime-minister-theresa-may. Accessed 25 July 2019.

May, T. (2016b) 'Britain after Brexit A vision of a Global Britain', speech at the Conservative Party conference, 2 October. Accessed 25 July 2019: https://press.conservatives.com/post/151239411635/prime-minister-britain-after-brexit-a-vision-of.

Moran, M. (2017) *The End of British Politics?* London: Palgrave.

Randall, N. and Seawright, D. (2012) 'Territorial Politics' in T. Heppell and D. Seawright (eds) *Cameron and the Conservatives: The Transition to Coalition Government*. Basingstoke: Palgrave Macmillan.

Rose, R. (1982) 'Is the United Kingdom a State? Northern Ireland as a Test Case', in P. Madgwick and R. Rose (eds.) *The Territorial Dimension in United Kingdom Politics*, Basingstoke: Macmillan.

Seawright, D. (1999) *An Important Matter of Principle: The Decline of the Scottish Conservative and Unionist Party*, Aldershot, Ashgate.

The Scotsman (2019) 'Majority of Scots Tory MSPs join Ruth Davidson in backing Jeremy Hunt'. Accessed 27 July 2019 at: https://www.scotsman.com/news/politics/majority-of-scots-tory-msps-join-ruth-davidson-in-backing-jeremy-hunt-1-4954943

The Times (2019) 'Boris victory will end Union', 23 June. Accessed 25 July at: https://www.thetimes.co.uk/edition/scotland/boris-victory-will-end-union-lbmrc09vt

Torrance, D. (2012) 'The Wilderness Years', in D. Torrance (ed.) *Whatever Happened to Tory Scotland?* Edinburgh: Edinburgh University Press, pp. 93-113.

Wellings, B. (2012) *English Nationalism and Euroscepticism: Losing the Peace*. Bern: Peter Lang.

Wellings, B. (2019) *English nationalism, Brexit and the Anglosphere*. Manchester: Manchester University Press.

YouGov (2019) 'Most Conservative members would see party destroyed to achieve Brexit.' Accessed 10 September 2019: https://yougov.co.uk/topics/politics/articles-reports/2019/06/18/most-conservative-members-would-see-party-destroye.