

# THE SCOTLAND REFERENDUM AND THE LESSONS FOR 2017

## No, it was not a Referendum on Independence

Regardless of the result, Scotland would not have become independent as a result of the 2014 referendum. The Scottish people were being sold a false prospectus.

There are two reasons:

The first is that the nature of the 2014 referendum was misunderstood. It was purely consultative; it was an 'expression of wish' referendum not a referendum on any actual concrete, practical proposals for an independent Scotland, as there were none. There were, of course, plenty of aspirations.

This misreading by the political class of the nature of different referendums cropped up repeatedly during the euro referendum that never was around the year 2000. At that time Tony Blair seems to have thought a referendum vote in the UK would decide British entry to the euro regardless of the EU treaties, rates of entry, ERM membership, etc., etc. when agreement to entry required consent from other participants. Alex Salmond seems to have also thought that winning a referendum would be decisive. But a referendum is an instrument, it isn't an aim or a plan. The final terms and the consent of other parties, especially the UK government, was not in Salmond's control.

Indeed, the YES campaigners went to great lengths to keep the Scottish electorate from hearing contrary views or thinking about hard facts. One remembers the assault on Nigel Farage in Edinburgh. It was infantilising and patronising for the YES campaign to suggest that Scotland could break away from the rest of the UK without pain but would flourish in the EU.

Nor did the Westminster parties treat the electorate as adults. Unlike the Spanish government, which stated the truth, that the independence of any part of the country was a matter for the whole country, the Westminster parties refused to allow any electoral participation in the rest of the UK, nor were

English politicians encouraged to campaign in Scotland – apparently the logic was that the Scots would be ‘upset’.

## **Types of Referendum**

Referendums fall generally into three categories. First, there are those that ask for confirmation of decisions already taken and implemented by the Executive (confirmatory).

Among these would be classified the French referendums which confirmed the various governmental constitutions during the French Revolution – the changing regimes of the Directory, the Consulate and the Empire.

Hitler’s referendums, which covered such matters as the merging of the Offices of Reich President and Reich Chancellor after the death of Hindenburg, approval for the reoccupation of the Rhineland and leaving the League of Nations, also fell into this category.

A second type of referendum is the enabling type. This is where the general proposition is put to the people with the details to be filled in by the executive at a later date. Classic cases of this type were the referendums in the 1990s in Scotland, Wales and London. In these cases, the details were on subordinate matters, not essentials.

The third type is the seeking of popular consent (“consent”) to a fully worked, proposed law. A referendum of this type was conducted in Denmark in 1992, where the government sought approval of Denmark’s consent to the Treaty of Maastricht after making available a million copies of the treaty. A similar referendum was held in Denmark in 2000 on whether or not Denmark should join the single currency. In this case most of the facts were in the public’s hands. The treaty had been distributed, the rate at which Denmark would enter the euro and all the conditions were known and Denmark complied with the conditions for entry to the single currency, including being in the ERM for over two years. There were defects in the actual question, but the basis for the question was reasonable.

The basis of the “consent” referendum is generally acceptable, provided the public receive balanced information and each ‘side’ has equal resources.

Some referendums have somewhat hybrid characteristics. The British referendum of 1975 fell partly in the “consent” category in that the Treaty of Rome was available to the electorate, though not distributed. Nevertheless the

matter in question, membership of the Common Market, had already been decided by Parliament and enacted previously so that it also had many elements of the “confirmatory” type. What has been objectionable is the pretence that the consent obtained in 1975 applied to all the various subsequent amending treaties that have turned the Common Market into the EC and now the EU with far greater powers than those given consent to by the British people in 1975.

## **Unique Referendum**

Once the types of referendums are classified, it is easy to see that the Scotland referendum of 2014 was unique. It was a classic referendum of the enabling type where the electorate gives approval to a general proposition with the details later filled in by the Executive. What was unique in Scotland was that the details were to be filled in by agreement between the Executive and a regional government. Because of the necessity of negotiations, the Scotland referendum exhibited a further uniqueness, it could not be executed by a single Executive but fulfilment was dependent on the outcome of negotiation between two parties and, to some extent, outsiders such as the EU institutions.

## **It is negotiations that will matter**

An independent Scotland would come into being via a Scotland Act passed by the British Parliament which would define the terms of separation and would have to command the support of a majority of MPs.

Any negotiated terms would be very different from the narrative put forward by the YES side. These terms and negotiations thereon would be going on against a background of capital flight as the Scotland bargaining position was eroded.

In fact, the separatists would be in a remarkably weak position, similar to Blair would have been over the euro, as explained at length in my book, *‘Why Mr. Blair will not win a Euro Referendum’*. Having won a referendum, but having an unsatisfactory negotiation, what exactly would the Scottish separatists do then?

There is a prevailing assumption that Scotland and the UK would agree a deal. This is highly unlikely. More likely is a complete deadlock in negotiations. There would be no pressure on the UK side to agree any deal at all, although obviously they would **appear** to be reasonable. Even if Scotland agreed to hand over the Faslane base in perpetuity, agreed it would not have sterling as its currency, took on its fair share of UK debt, agreed to migration controls, agreed

a division of oil as a favourable basis to the rest of the UK, agreed to take on all liability for Scottish pensioners – and these are the minimum terms the rest of the UK should and would insist on – dealing with the question of EU membership is outside the UK's powers, there are other parties involved.

### **Capital Flight**

The second reason that Scotland will not become independent regardless of any purported 'yes' vote is, of course, flight of English capital (followed by Scottish capital) from Scotland – regardless of whether or not there is a shared currency. Indeed, the question of a shared currency was a misleading issue. The real issue was that English savers would not wish their assets to be in one country and their liabilities in another. In the same way, despite Germany and Portugal, sharing a currency, German savers, pensions and institutions keep their assets in Germany not in Portugal. Institutions and corporations would have a fiduciary duty to rectify a mismatch of assets of liabilities. Whether there was a shared currency or not would be irrelevant.

And, of course, Scottish financial institutions are all heavily dependent on English capital.

So, the Scottish financial sector would have to go into exile in England when English savers exercised their vote and there would be a massive transfer of English capital into England.

### **There was a previous independent 'Scotland'**

Another area which has never been considered by the YES Campaign or the Westminster parties is 'people flight'. There has, of course, been a previous 'Scotland'. It was Ireland becoming a dominion in 1922 and leaving the Union even if the political and financial background was different. Ireland then was a rural economy without any significant systemic role in the financial structure of the UK. It could detach itself from the UK with some damage to itself but of little relevance to the rest of the UK.

Two things happened demographically after 1922. Almost immediately there was an exodus of English born Irish residents or Protestant Irish born. This was followed by an ongoing exodus of Irish born people which lasted for 70 years up till the 1990s and has resumed again in 2008. Between 1926 and 1972 (that is, after the initial exodus of English born people) it is estimated that about one-third of the potential Irish population between 1922 and 1972 was exported; that

is to say, the number of Irish born and their descendants leaving after 1926, was 50% of the Irish population in 1972. If one adds in the pre-1926 exodus plus the further exodus after 1972, the figure was higher.

Why should Scotland be any different? The heavy welfare state planned by the SNP cannot be sustained without English financial support and will have to be drastically reduced.

The economic losses when a political and economic union breaks up tend to be equal by definition on both sides, unless there are special factors. But the capacity of each side is vastly different. So what would be a relatively small loss for the UK was a crushing loss for Ireland and would be a crushing loss for Scotland.

Indeed it is hard to say that Ireland ever became truly independent. Ninety years after 1922, the UK extended an emergency £7 billion loan to Ireland (£10,000 for every Irish family), this has recently been extended to 2042 (120 years after 'independence'). While, no doubt the act of a good neighbour, it is hard not to read some dependence into this. Indeed, if Scotland followed the path of Ireland, it would never become truly independent.

### **Emigration from Scotland**

Moreover it is difficult to see why English born people would wish to stay permanently in Scotland, a country that specifically voted to separate itself from England.

Of course, the UK could impose migration controls on Scotland, especially as the arrival of Scottish migrants would impose enormous infrastructure costs on the UK, as well as pushing down wages.

### **Conclusion**

In short, the Separatists will fail because they do not have a clear aim, defining exactly what are the essentials of their independence proposition nor a clear plan, defining how to secure separation without massive self-harm to Scotland's economy.

Their secret wish must be the sheer feebleness and lack of any foresight or planning by the UK government, which could agree separation terms which are damaging to the rest of the UK by taking on liabilities, both financial and other,

to Scotland under the guise of 'good relations' and leave the Scottish state a permanent pensioner of the English taxpayer.

However, otherwise, once the capital exodus and the people exodus begin - and they would begin immediately after a YES vote - it is difficult to see how the Separatists could act other than by reneging on a YES vote.

The lesson for EU withdrawalists is clear. They must win the 'enabling' question, that is to say, an 'expression of wish', but must also have a clear aim and clear plan to be executed the day after the result.