

The EU referendum, devolution and the Union

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Introduction

On 2 October 2016, the newly-installed Prime Minister, Theresa May, addressed the Conservative Party conference. She advanced a set of proposals regarding the status of the European Union (EU) referendum result of 23 June. Taken together they can be labelled the 'May Doctrine' (see appendix a). It is a doubly important concept. First, it insists that a certain course of action – however vaguely defined in its specifics – is irresistible: United Kingdom (UK) exit from the EU. This outcome would have immense implications for the domestic and external orientation of the UK and for the wider global environment. Second, in asserting this inevitability and that the UK executive alone has direct responsibility for its implementation, the May Doctrine imposes a particular, and controversial, interpretation of the UK constitution.

To question the first manifestation of the May Doctrine is, unavoidably, to challenge the second. In other words, those who wish to prevent the UK from leaving the EU must also overcome the May Doctrine. Equally, those who are committed to exit are inclined to seek to close down discussion of the constitutional issues and any interrogation of the Doctrine. The EU referendum, then, has led on to pronounced divisions over constitutional issues as well as disputes over the substantive question it addressed. An acceptance of departure from the EU, particularly if executed in accordance with the May Doctrine, could amount simultaneously to conceding a shift in the constitutional order of the UK, towards a popular-executive form of democracy and away from the parliamentary-representative model.

Even those who support or are willing to acquiesce in UK departure from the EU would be advised to consider this prospect and whether they find it desirable. Those who are intent on resisting exit from the EU, if they dislike the idea of such a development, should recognise that the May Doctrine

raises the stakes of failure higher still. But it also clarifies the nature of the opponent they must defeat. The May Doctrine must be overcome if they are successfully to prevent cessation of UK membership of the EU. Furthermore, the Doctrine could offer resisters of EU exit a key to success. If the intellectual vulnerabilities and problematic implications of the Doctrine can be exposed, the case for leaving the EU might by extension be undermined.

But what is the nature of the May Doctrine? When describing her views to the Conservative Party conference on 2 October, May argued that the 'leave' vote had produced an irresistible imperative to act (see appendix a). According to her thesis, the only entity that had a direct role in implementing this mandate was the UK executive. An earlier Federal Trust pamphlet discussed the implications of the May Doctrine for the Westminster Parliament. The approach May was intent upon taking would leave the Parliament with no formal involvement in the decision to activate Article 50 of the Treaty on European Union (TEU, see appendix b), beginning a two-year period which would end in automatic exit from the EU (unless extended by unanimous agreement of member states, or the process is revoked by the UK, if one accepts that it is possible under the terms of the Article it is possible to do so).

Furthermore, May displayed a reluctance even to keep Parliament informed about negotiations as they progressed, stating that there would be no 'running commentary'. Therefore, not only would Parliament be denied a part in the crucial act of triggering Article 50, it might be hampered in performing its basic role of holding the government to account, for instance through the work of select committees, if their access to important information was circumscribed. The government assertion that it is lawful to use the Royal Prerogative to activate Article 50, and therefore that express statutory authorisation

from the UK Parliament is not required, remains at the time of writing the subject of legal proceedings. At High Court level, the government lost, but it has appealed to the Supreme Court, which is deliberating at the time of writing. This pamphlet engages not with this case but with political-constitutional aspects of the issue.

In a practical (though not legal) sense, the vote held in the House of Commons on 7 December 2016, in which a resolution was agreed calling upon the government to activate Article 50 by the end of March 2017, and to publish its 'plan for leaving the EU' before doing so, could be seen as representing a fraying at the edges of the May Doctrine (see appendix c). But it took place on opposition not government time; it did not specify the level of detail that the government should provide about its intentions; and a resolution does not have the legally binding status that an Act of Parliament does. Furthermore, the holding of a vote in the Commons at Westminster did not address a further dimension of the exclusivity of the May Doctrine: its denial of the territorial heterogeneity of the UK constitution.

The UK Parliament is not the only institution of representative democracy that the May Doctrine threatens to exclude from the response to the EU referendum. In her conference speech, May stated that the UK government would 'consult and work with the devolved administrations for Scotland, Wales and Northern Ireland', to help ensure that 'Brexit' would 'work in the interests of the whole country.' There would also be discussion with business and with leaders of municipalities throughout the UK. But:

Because we voted in the referendum as one United Kingdom, we will negotiate as one United Kingdom, and we will leave the European Union as one United Kingdom. There is no opt-out from Brexit. And I will never allow divisive nationalists to undermine the precious Union between the four nations of our United Kingdom.

This passage tacitly conceded but did not expressly acknowledge a particular set of problems connected to the EU votes. Just as May's notorious 'Brexit means Brexit' maxim becomes harder to sustain under close analysis, so does the statement that 'we voted in the referendum as one United Kingdom.'

The EU referendum lies at the centre of one of the most divisive episodes in UK political history. The vote may – for the time being at least – have enabled the Conservative Party to attain a degree of outward unity around the broad principle that it must abide by the result. But beyond this group the result has not eliminated controversy about whether the UK should leave, and if so how we should go about doing so, and the terms we should seek. Some of this disagreement matches geographical division in the UK.

Accordingly, this pamphlet considers the EU referendum from the perspective of devolution and the union. It discusses how a more inclusive approach, reflecting the multi-nation character of the UK, might have been taken; and what the implications of not doing so could be. In its minimisation of the UK Parliament, the May Doctrine arguably seeks to bypass constitutional principles of ancient lineage, in particular parliamentary

sovereignty and the rule of law. In playing down the importance of the territorial components of the UK, the Doctrine compounds this difficulty with another. It overlooks a further long established feature of the UK constitution: its pronounced internal diversity. At the same time it fails to register the significance of a recent change, namely the development of devolution.

The pamphlet takes as a central premise that to 'respect the wishes of the United Kingdom as expressed in the referendum on 23 June', as the Commons resolution of 7 December put it, does not mean to follow the path to which the country is currently seemingly committed. To 'respect' should not be equated with implementing without question at whatever cost; and it is surely possible to 'respect...wishes' while reflecting on whether and how they might be put into effect. Moreover, it is appropriate that the word 'wishes' should be used rather than the singular, since the electorate expressed no one clear 'wish' at the referendum. Even among the plurality – approximately 37 per cent of the total electorate – who voted leave, visions of the precise desired outcome surely differed, and cannot be discerned from the binary referendum question.

Moreover, 'wishes' differed across the UK. Majorities of those voting in Wales (52.5 per cent) and England (53.4 for 'leave', though Greater London supported 'remain', at a level of 59.9 per cent) chose 'leave'. In Scotland, on the other hand, there was a 'remain' majority (62.0). In Northern Ireland (55.8), another 'remain' territory, the position was more complicated still. Here there was seemingly a split within a split, a 'remain' majority within the Republican community while the Unionists supported 'leave' (by a smaller margin than their counterparts voted 'remain'). From this perspective, even if 'we voted in the referendum as one United Kingdom', as May put it on 2 October, 'we' did not all vote the same way. A reflection on this divergence is vital to a critical assessment of the May Doctrine, and the EU controversy to which it relates; as well as the constitutional past, present and future of the UK.

The referendum and devolution

The UK constitution has changed in significant ways in the period since European Economic Community (EEC) membership commenced in 1973. A prominent development has been the emergence of devolution. National/territorial diversity expressed in constitutional differentiation is the essence of the UK as a Union state. It came into being through three main incorporations: England and Wales, completed in the sixteenth century, England (including Wales) and Scotland into Great Britain in 1706-7; and Great Britain and Ireland into the United Kingdom in 1800. Each arrangement was different from the other, and the latter two 'unions' included protections for the particularities of the different parties. Hence the variation in provisions for religion, local government, education and even different legal systems across the UK. Subsequently, further constitutional provisions reflecting the diversity of the UK were introduced, such as secretaries of state for Wales, Scotland and Northern Ireland. For half a century from the 1920s, Northern Ireland had a system of devolved government.

However, from the late 1990s, a qualitative change occurred. There was a roughly simultaneous establishment in different

parts of the UK – primarily Wales, Scotland and Northern Ireland – of forms of government that provided expression to their national/territorial identity. The crucial difference from earlier institutions (with the exception of the previous devolved governance in Northern Ireland) was that they possessed their own immediate democratic legitimacy. This quality has two bases. One is that the legislatures established, all now enjoying primary law-making powers, and to which the executives are accountable, are directly elected by voters in the territories concerned. The other is that the formation of these devolved systems followed in each case approval in referendums, again in the geographical areas involved (in the case of Wales, there was a further referendum – with an affirmative outcome – on the extension of the powers of the Assembly, in 2011).

This second source of democratic legitimacy is of particular importance in the context of the May Doctrine. Departure from the EU, if it occurs, will have immense direct consequences for the devolved institutions. The requirement to act within the framework of European law is built into the devolution statutes. Therefore, exit from the EU would remove a central pillar from the constitutional structures of the devolved systems. Moreover, it could well have extensive implications for spheres of operation such as agriculture that are both devolved and (presently) within the remit of the EU.

The May Doctrine presents the proposition that the result of the EU referendum has a unique constitutional status, overriding all other forms of political decision-taking. This idea is questionable from the point of view of established doctrines such as the rule of law and parliamentary sovereignty, and is in tension with the system of representative democracy. But even if we were to accept the view May has expounded, we would then be presented with a further conundrum. Is it acceptable for the 2016 referendum to provide a basis for the fundamental alteration of systems that are themselves founded in referendums? This proposition, if accepted, is a problem for all three of the major devolved systems. Moreover, in the case of Scotland and Northern Ireland, voters might feel that the views they have expressed in two referendums, over devolution and the EU, are being countermanded.

An advocate of the May Doctrine might argue that, since the devolution systems themselves will not be abolished, then the referendum result is not being contravened. This view would place a notably narrow construction on the meaning of previous referendums; while the May Doctrine insists that an exceptionally wide mandate and obligation arises from the 2016 vote. This inconsistency might suggest that the May Doctrine is more the product of the requirements of political convenience on the part of the government of the day than of genuine reflection on matters of constitutional principle. As such it is questionable as a basis for decisions about the fundamental operation of the system, particularly in relation to such an important issue as possible exit from the EU.

Another possible reason the 2016 referendum could be held implementable regardless of the devolution referendums is that a decision taken by the whole UK can trump that of individual constituent parts. While, ultimately, it may be that an individual component of the UK should not necessarily be able veto a course of action supported by a majority voting in the whole, the

May Doctrine appears to go further. It seems to imply that the referendum was purely a matter for the UK as undifferentiated whole; and that the implementation falls purely to the UK authorities (and at this level, only the executive and not the Westminster Parliament). In this account, any involvement for the devolved institutions is simply as one among a number of outside participants consulted by the executive, which has ultimate control over the policy to be pursued.

The federal dimension

Federal analysis is useful as a means of revealing the problems with this approach. The UK can be said, since the advent of devolution from the 1990s, to have developed in an increasingly federal direction. To recognise this pattern is not to argue that the UK is on an irreversible or inevitable path to full federalism, much less that it has yet reached such a destination. But it is clear that the UK constitution today displays more of the characteristics associated with a federal state than it did in 1997. Most importantly, the devolved territories resemble in important respects the 'states' of a federal system.

Moreover, these federal qualities are intensifying. Over time the devolved legislatures and executives have acquired or are in the process of acquiring enhanced powers. The *Scotland Act 2016* places in law the previously non-statutory 'Sewel Convention' that the UK Parliament will not normally legislate for devolved matters without the approval of the Scottish Parliament; and asserts a guarantee that the devolved government and Parliament in Scotland are permanent, and could be abolished only following approval through a referendum in Scotland. Similar provisions are contained in the Wales Bill currently passing through Parliament. They resemble to some extent the protections provided for the position and rights of 'states' within a federal system.

There also exist mechanisms and practices to ensure that the devolved institutions can interact and cooperate, including in the taking of decisions that are in legal terms reserved to the centre. The devolution *Memorandum of Understanding* refers to a principle that the devolved administrations will be engaged as far as is possible in the consideration of approaches to take over EU matters and foreign affairs, if they involve devolved business. The same memorandum describes a Joint Ministerial Committee comprising members of the devolved and UK executives, to provide a forum for such discussions. In some senses these provisions resemble the incorporation of 'states' in federal constitutions into decisions taken at federal level, and the creation of institutions to facilitate these processes.

But while such arrangements suggest movement towards a federal system, they also demonstrate the limited extent of this development. Ultimately, the UK government has the final word in areas – such as external policy – that are reserved to it. Moreover, the UK Parliament remains, in legal theory, 'sovereign'. It can override other institutions and previous laws of its own, including those that purport to limit the use of its own legislative authority. There is no federal constitution acting as a source of fundamental rules, interpreted by the judiciary, and to which even the UK Parliament is subject. Furthermore, devolution in its fuller manifestation is limited to

Wales, Scotland and Northern Ireland (and even each of these units has a different variant of devolution). Devolution is in the process of being extended to parts of England. But the form it has taken in England has involved the downward transfer of far fewer powers than elsewhere. The whole of England is not yet covered by the regional units created for devolution. Furthermore, England does not have a single set of national institutions of its own comparable to those of Wales, Scotland and Northern Ireland. Under a more complete federal system, all or nearly all of the territory of the UK would be included within one or other 'state'; and the powers and functions of the 'states' would broadly be uniform. These principles do not apply to the UK.

There were, therefore, no arrangements in place to provide the devolved territories with a formal, legally defined role in deciding whether or not to hold the EU referendum; what should be the nature of the vote itself; and how to respond to it. Yet it is clear that the issue of possible departure from the EU directly engaged devolved interests. Moreover, it might be held that the UK constitution has developed to a point where, beyond the specific impact in devolved spheres, the devolved institutions have a right to participation in key decisions with major potential consequences for the UK as a whole. In the 1960s and 1970s, the decisions to seek EEC membership for the UK, over how to negotiate entry, over accession itself, and subsequently to remain within the EEC, were taken by UK-level governmental institutions, and through a UK-wide referendum in 1975. Changes in the intervening period, in particular the rise of devolution, make such an approach more difficult to sustain (though even in 1975 concerns were raised about the possibility of different nations and territories of the UK producing majorities in opposite directions. They did not materialise on this occasion).

Devolution gave expression to pre-existing variety in the UK constitution, but entrenched and intensified it to the point that qualitative change occurred. It is now implicit in the UK system that the devolved territories should have a specific role in a decision such as that entailed by the EU referendum. Unfortunately, none was expressly provided. Well in advance of the vote, commentators warned of the possibility that – within the context of a 'leave' outcome across the whole UK – one or more of the devolved territories might vote 'remain', but would be overwhelmed by the sheer size of the English electorate. A territorial supermajority could have been stipulated in advance – requiring, for instance, that a majority of Wales, Scotland, Northern Ireland and England support 'leave' before this course of action could be instigated. Such a threshold could have ensured that a change as radical as departure from the EU would be contemplated only on a basis of some kind of consensus across the nationally and territorially diverse UK state. However, the same groups within and beyond the Conservative Party that so forcefully and persistently demanded the holding of the EU referendum would surely have resisted the idea of such a qualification with a similar level of determination, since it would have represented an obstacle to the attainment of their ultimate goal.

In fact, in the sense that the referendum was not formally binding, there was no need to insert thresholds. In advance of the vote, few on either side of the debate wished to discuss the issue of it

lacking direct legal force. Reluctance to acknowledge this point has continued subsequently. Yet, however politically difficult a course of action it may seem at present, the UK government and Parliament are to treat the referendum as advisory only.

Such an approach should certainly take into account that, among those who voted on 23 June 2016, 51.9 per cent supported the 'leave' option. But it would do so in proper perspective, alongside various other important considerations. For instance, the referendum question was remarkable for its vagueness, providing no information about the form of departure from the EU that might be sought, if this course was embarked upon. We cannot know the views of the 51.9 per cent on this vital matter; and it may be that there are irreconcilable divisions between them. It seems likely that no particular variety of exit would represent the views of a majority of those taking part in the referendum on 23 June, given the relatively small percentage size of the lead for 'leave'. Furthermore, of the entire electorate, only 37 per cent voted for the 'leave' proposition. That a majority did not support exit; and that 48.1 per cent of participants actively advocated remaining, require recognition in the formulation of post-referendum policy.

All of these qualifications suggest two important preliminary conclusions. First, the referendum does not produce an irresistible obligation to enforce any particular outcome. Many possibilities legitimately remain open, including varieties of exit both anticipated and not yet conceived of – and that the UK might remain within the EU. The inability of the referendum to provide a clear programme for action is indicative of some of the limitations on direct democracy. The institutions of representative democracy are needed to discern the way forward. Second, given the complexity and indeterminacy of the position, and the high stakes involved, the approach taken should be formulated in the most inclusive way possible. The idea that it would be proper for the UK executive to dominate proceedings in the way it has proposed is not sustainable.

These twin observations point towards a need fully to involve not only the UK Parliament, but also the devolved legislatures and executives. To do so is to recognise a further qualification that might be placed on the supposed 'leave' majority of June 2016: in Scotland and Northern Ireland, even a 'leave' plurality was absent. Excluding the devolved institutions from a full role in post-referendum policy-formation entails failing to recognise the nature of the contemporary UK constitution, and the particular complexities and concerns that the EU issue raises. If proper engagement is not secured, the outcome could be disastrous for the UK, and so divisive as to threaten its continued existence.

This territorial divergence and the failure to incorporate it are already having a destabilising impact. Within the two components of the UK that voted to 'remain', Scotland and Northern Ireland, participation in the UK was already the subject of pronounced controversy, with significant groups supporting independence. In Scotland, nationalists can plausibly claim that Scotland is being forcibly ejected from the EU, contrary to its wishes. This complaint carries added piquancy because a chief argument of the pro-Union 'Better Together' campaign during the Scottish Independence Referendum of 2014 was that an independent Scotland would not automatically become a member of the EU in its own right, and might face a long

period before accession. Now, it is possible for advocates of Scottish departure from the UK to invert this logic, claiming that only through independence would it be possible for Scotland to remain within the EU.

In Northern Ireland there are other complications arising from the referendum. Any threat to stability here might involve not only an undermining of political cohesion, but a possible return to the more intense violent conflict of earlier decades. It seems the community connected with a desire to join with the Republic voted to remain within the EU; while the group that supports remaining within the UK favoured 'leave'. This division goes beyond a mere difference of opinion over the desirability of the future of the UK inside or outside the EU. From the Republican perspective, EU membership is a fundamental requirement, while participation in the UK is an arrangement that should one day come to an end: the reverse of the position for some others in Northern Ireland and elsewhere in the UK.

The text of the Belfast or 'Good Friday' Agreement of 1998, the central document of the peace process, demonstrates that membership of the EU was a central assumption of the cross-community settlement. While the Agreement does not specifically exclude departure from the EU, such an act would clearly undermine the Agreement. Furthermore, the UK government has yet to offer a convincing account of how it will avoid the reintroduction of the land border between the Republic and the North if the UK leaves both the European Single Market and the Customs Union. Such an act would cause difficulties for the whole island of Ireland, and surely be detrimental to the goal of lasting peace. For these reasons alone, mishandling of the EU referendum could prove disastrous.

Conclusion

The EU referendum has drawn attention to the increasingly federalised nature of the UK; that it requires mechanisms for the taking and implementing of major decisions that reflect this strengthening constitutional dynamic; and that it lacks the very mechanisms that are needed. A frequently recurring subject of discussion in the UK has been whether it should – in reflection of its diverse national/territorial makeup – adopt a fully federal constitution. Interest in this area has revived significantly in recent years, prompted by the instigation of devolution from 1997 and more lately the rise of the Scottish independence cause over the past decade.

One argument against federalism is that it represents too great a challenge to ingrained principles, in particular parliamentary sovereignty and the lack of a written constitution. Another is that there is not an easy way to incorporate England into a federation. Its size makes its inclusion as a single 'state' problematic; while there are difficulties in finding an acceptable set of sub-unit English regional 'states'. A final case against a federal UK has been that the political will required to bring about such a substantial change is lacking; and that the political crisis that might be required to generate the necessary overriding urge does not exist, and is not likely to appear.

This latter line of criticism of the idea of a federal UK, which for many in the past seems to have been decisive, is now difficult

to sustain. We now face an unquestioned political crisis. It takes a twin form. The substantive issue of possible EU exit is not only the subject of unsurpassed controversy, but also of unsurpassed importance in UK history, with implications not only for UK external policy, but for its domestic order, for the remainder of the EU, for the continent and its neighbouring regions as a whole, and for the global community. It spreads across a variety of different policy areas, from economics and finance, to diplomacy, to justice and human rights, to military affairs and security issues. There is a wider connection to the apparent international rise of populism, which poses a genuine challenge to representative democracy as widely understood.

There is a second aspect to this crisis, with which the present pamphlet engages. The UK constitution has been revealed both as opaque and suffering from important weaknesses. The precise way in which the decision to leave can be taken and put into effect is unclear. Moreover, whatever mechanisms do exist for handling the issue seem likely to exacerbate already existing divisions, and to undermine the integrity of the UK. If a crisis is required for the creation of a federal UK, such a crisis is now upon us. It would have been better if mechanisms for federal-level governance that incorporated the territories of the UK were already in place. They were not. The establishment of a Joint Ministerial Committee on EU Negotiations on 24 October 2016 represented both a recognition and underestimation of the challenge; and certainly did not sufficiently address the problems involved (see appendix d). Any more substantial attempt along these lines is not presently on the political agenda. But a wider attempt to change course over the EU, if it comes to be made, could adopt federal values as a core part of its approach; and in the process help to place the UK constitution as a whole on a firmer footing.

May is correct to identify a threat posed by 'divisive nationalists' who seek 'to undermine the precious Union between the four nations of our United Kingdom.' However, the referendum result itself, her absolute intent on implementing the 'leave' result, and the way in which she intends to go about doing so are substantially augmenting divisions within the UK, and creating opportunities for those who seek to dissolve it. Her position is backed by a brand of nationalist rhetoric of her own. In some quarters it might be perceived as English rather than UK nationalism. It could become as great a threat to the future of the UK as any other form of nationalism.

Appendices:

a) The 'May Doctrine': Excerpts from speech by Theresa May to Conservative Party Conference, 2 October 2016

But first, today, we're going to talk about Global Britain, our ambitious vision for Britain after Brexit. Because 100 days ago, that is what the country voted for... even now, some politicians – democratically-elected politicians – say that the referendum isn't valid, that we need to have a second vote.

Others say they don't like the result, and they'll challenge any attempt to leave the European Union through the courts.

But come on. The referendum result was clear. It was legitimate. It was the biggest vote for change this country has ever known. Brexit means Brexit – and we're going to make a success of it.

...Britain is going to leave the European Union.

Now I know there is a lot of speculation about what that is going to mean, about the nature of our relationship with Europe in future, and about the terms on which British and European businesses will trade with one another. I understand that. And we will give clarity – as we did with farm payments and university funding – whenever possible and as quickly as possible.

But we will not be able to give a running commentary or a blow-by-blow account of the negotiations. Because we all know that isn't how they work. But history is littered with negotiations that failed when the interlocutors predicted the outcome in detail and in advance.

Every stray word and every hyped up media report is going to make it harder for us to get the right deal for Britain. So we have to stay patient. But when there are things to say – as there are today – we will keep the public informed and up to date.

So I want to use today to tell you more about the Government's plan for Brexit, and in particular I want to tell you about three important things. The timing, the process – and the Government's vision for Britain after Brexit.

The timing for triggering Article Fifty

First, everything we do as we leave the EU will be consistent with the law and our treaty obligations, and we must give as much certainty as possible to employers and investors. That means there can be no sudden and unilateral withdrawal: we must leave in the way agreed in law by Britain and other member states, and that means invoking Article Fifty of the Lisbon Treaty.

...Having voted to leave, I know that the public will soon expect to see, on the horizon, the point at which Britain does formally leave the European Union. So let me be absolutely

clear. There will be no unnecessary delays in invoking Article Fifty. We will invoke it when we are ready. And we will be ready soon. We will invoke Article Fifty no later than the end of March next year.

The process for triggering Article Fifty

Now I want to tell you a little more about the process for triggering Article Fifty.

The first thing to say is that it is not up to the House of Commons to invoke Article Fifty, and it is not up to the House of Lords. It is up to the Government to trigger Article Fifty and the Government alone.

When it legislated to establish the referendum, Parliament put the decision to leave or remain inside the EU in the hands of the people. And the people gave their answer with emphatic clarity. So now it is up to the Government not to question, quibble or backslide on what we have been instructed to do, but to get on with the job.

Because those people who argue that Article Fifty can only be triggered after agreement in both Houses of Parliament are not standing up for democracy, they're trying to subvert it. They're not trying to get Brexit right, they're trying to kill it by delaying it. They are insulting the intelligence of the British people. That is why, next week, I can tell you that the Attorney General himself, Jeremy Wright, will act for the Government and resist them in the courts.

Likewise, the negotiations between the United Kingdom and the European Union are the responsibility of the Government and nobody else. I have already said that we will consult and work with the devolved administrations for Scotland, Wales and Northern Ireland, because we want Brexit to work in the interests of the whole country. And we will do the same with business and municipal leaders across the land.

But the job of negotiating our new relationship is the job of the Government. Because we voted in the referendum as one United Kingdom, we will negotiate as one United Kingdom, and we will leave the European Union as one United Kingdom. There is no opt-out from Brexit. And I will never allow divisive nationalists to undermine the precious Union between the four nations of our United Kingdom.

b) Text of Article 50 of the Treaty on European Union

1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.

2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate

and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.

4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it.

A qualified majority shall be defined in accordance with Article 238(3)(b) of the Treaty on the Functioning of the European Union.

5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 49.

c) Text of motion passed by the House of Commons, 7 December 2016 (Division No.103, Ayes 448, Noes 75)

That this House recognises that leaving the EU is the defining issue facing the UK; notes the resolution on parliamentary scrutiny of the UK leaving the EU agreed by the House on 12 October 2016; recognises that it is Parliament's responsibility to properly scrutinise the Government while respecting the decision of the British people to leave the European Union; confirms that there should be no disclosure of material that could be reasonably judged to damage the UK in any negotiations to depart from the European Union after Article 50 has been triggered; and calls on the Prime Minister to commit to publishing the Government's plan for leaving the EU before Article 50 is invoked, consistently with the principles agreed without division by this House on 12 October; recognises that this House should respect the wishes of the United Kingdom as expressed in the referendum on 23 June; and further calls on the Government to invoke Article 50 by 31 March 2017.

d) Joint Ministerial Committee 24 October 2016: statement

A Downing Street spokesperson said:

Prime Minister Theresa May today told the devolved administrations she would strike a bespoke Brexit deal that works for the whole of the UK.

Speaking at the first meeting of the Joint Ministerial Committee (JMC) for 2 years, the Prime Minister told leaders from Scotland, Wales and Northern Ireland that how the UK leaves the EU should not be seen as a series of binary choices.

The Prime Minister also told the devolved administrations that she wanted their input in shaping the negotiations to leave the EU – and that the final agreement will make a success of Brexit for everyone in the Union.

Following a constructive meeting lasting 2 hours, a new cross-nations forum on Brexit talks will be set up, to be chaired by Brexit secretary David Davis.

It was agreed that by the time of its first meeting in November a work programme would be established for this Joint Ministerial Committee on EU Negotiations to integrate it with the wider process of exiting the EU.

The Prime Minister also said she wanted the JMC meetings to take place more regularly and would set up another session early next year.

The Prime Minister set out her commitment to the Union at the meeting, and said her vision for working with the devolved governments was for a relationship built on principles of mutual understanding and consensus and co-operation.

Following the meeting, Prime Minister Theresa May said:

Working together, the nations of the United Kingdom will make a success of leaving the European Union – and we will further strengthen our own unique and enduring union as we do so.

The great Union between us has been the cornerstone of our prosperity in the past – and it is absolutely vital to our success in the future.

The country is facing a negotiation of tremendous importance and it is imperative that the devolved administrations play their part in making it work.

The Prime Minister told Nicola Sturgeon, Carwyn Jones, Arlene Foster and Martin McGuinness that how the UK leaves the EU should not be seen as a series of binary choices and will instead amount to a bespoke agreement for the UK.

She said:

We have important work to do for the UK in terms of negotiating

a smooth exit from the EU and getting the best possible deal for the whole of the UK.

The UK has chosen to leave the EU and we're going to make a success of it.

The JMC was also attended by David Mundell, James Brokenshire and Alun Cairns – the secretaries of state for Scotland, Northern Ireland and Wales.

The group held constructive discussions on the possibility of a new memorandum of understanding to put the JMC on a new formal footing, with guaranteed annual meetings.

There was also agreement among the 4 administrations that with the memorandum of understanding having been drafted before the outcome of the referendum was known, it would need further work to make sure it reflected the result.

It also heard from Business Secretary Greg Clark, who outlined the government's new industrial strategy and called upon the devolved administrations to play a part in helping to shape it.