

THE FEDERAL- CONFEDERAL LETTERS

**By David Melding and
Glyndwr Cennydd Jones**



Foreword by Will Hayward

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Letters
by
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and
Glyndwr Cennydd Jones**

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David Melding CBE was born in Neath in 1962. He attended Cardiff University (then UC Cardiff) and the College of William and Mary in the USA. While studying in the USA he first became interested in federalism as a possible answer to the UK's constitutional challenges.

David worked in the Conservative Research Department after returning from the USA (1986-9). He then had a career in the NGO sector at the Welsh Centre for International Affairs (Deputy Director) and Carers Wales (Director) before election to the inaugural National Assembly for Wales in 1999.

David Melding was the Welsh Conservative Party's Director of Policy from 2000 to 2011 and drafted the 2003, 2007 and 2011 manifestos. David served in the Senedd as one of the Conservative list members for South Wales Central until retiring in 2021. He was Deputy Presiding Officer between 2011-16, and he chaired several committees during his parliamentary career including the Health and Social Care, and the Legislation and Constitutional Affairs committees.

He is the author of *Will Britain Survive Beyond 2020?* (2009) and *The Reformed Union: The UK as a Federation* (2013). He is working on his third book- *Wales in an Age of Disunion*.



Glyndwr Cennydd Jones is a writer on constitutional matters and an advocate for a UK-wide constitutional commission. He released joint publications with Lord David Owen and Lord Elystan Morgan in 2017 and 2018 respectively titled *Towards Federalism and Beyond* and *Brexit, Devolution and the Changing Union*. In March 2022, he published a booklet of constitutional reflections titled *A League-Union of the Isles*, which includes a preface by Carwyn Jones, the former First Minister of Wales for almost 10 years, and an afterword by Lord David Owen. This work led to joint interviews with Professor John Denham (former UK Cabinet Minister), Professor Jim Gallagher (former UK Director General of Devolution), David Melding CBE, and Lord Carwyn Jones. Further, he provided advice to Jim Gallagher on his paper *Could There be a Confederal UK?* (2020). Glyndwr's constitutional proposals have featured in many other authors' publications over recent years and he was confirmed a Fellow of the Institute of Welsh Affairs in 2021. He is currently writing the book *Confederal-Federalism*.

Glyndwr works as the Director of a UK-wide industry body in the education and arts sectors, a position he has held since 2012. He previously had a senior role at an international awarding organisation for over 11 years and was awarded Honorary Membership of Trinity College London for outstanding services in the field of academic quality assurance and government accreditation globally in 2010. He is co-author of *A Manifesto for Arts Education* (2024) backed by Sir Cameron Mackintosh and the Andrew Lloyd Webber Foundation.

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Foreword by Will Hayward

Will Hayward is a leading journalist. He is a regular columnist at The Guardian as well as contributing to Times Radio, the BBC, Sky News and LBC. Will was previously Welsh affairs editor at WalesOnline and the Western Mail.

When I was a kid I was fascinated by politics.

There was something fundamentally exciting about the idea that people could come together and make decisions to improve the lives of everyone and make the country run better.

When you are young, you believe that this is how politics should work. People may disagree on how to make things better, but ultimately, they all have the same goal.

Once adulthood arrived, the rather depressing reality hit me that this isn't always (or indeed often) the case. After a decade working in political journalism, this reality has punched me in the face so many times it is hard to become enthused. There is something hopeless knowing that there is a long list of issues that need to be tackled by those leading us, but not only is action not taken, they often don't even acknowledge that the issues exist.

Whatever your political outlook, inherent biases, or where you live in the UK, it is obvious that the current constitutional framework we have in this country doesn't work. It clearly doesn't work for Wales or Scotland, but I think you can make a pretty strong argument that people in parts of England may be the worst served by it.

With that in mind I have to say that the series of letters from both David Melding and Glyndwr Cennydd Jones to each other was immensely uplifting and helped reawaken that early love I had for politics.

Though the pair are unified in the view that the current system needs to change, their proposed solutions are not, with some fundamental (and perhaps irreconcilable) differences. Add to this their contrasting party allegiances and political outlooks, and, given the nature of modern political discourse, you would expect an adversarial and confrontational exchange.

Yet instead what you end up with is a series of correspondence from two clearly thoughtful and interesting men who are earnestly seeking to explore the other's point of view in order to solve a serious problem. It was so refreshing!

At a time when most of us spend a depressing amount of our days on “social” media, it was wonderful to see a back and forth where people sought answers as opposed to “likes” and “clicks”.

This doesn't mean that you are left with an anaemic or stymied debate, far from it. Both were keen to fight their corner but with respect and without ego. It was a delight.

For those who are interested in how one of the oldest democratic systems in the world can run better it was a fascinating exchange. Within the space of a few paragraphs they moved from broad philosophical points on the nature of sovereignty to hyper specific investigations into bureaucratic practicalities such as who would be the “successor state” and take the UK's UN Security Council seat in the event of a confederal model.

What I really enjoyed was how you could really get a sense of the individual writer through the letters. Perhaps one of the hardest skills a writer can have is to make potentially dry discussions on constitutional theory accessible and interesting but they have done it. This is, in my view, because the letters are unequivocally in the voices of the respective writers. It brought a passion and authenticity that really helps the reader engage with the texts.

The nature of an exchange of letters was also a refreshing way to access the topic. Instead of feeling preached at (which so often is the case when reading political books), the reader feels taken along for the ride. This is somewhere we are going together and both writers are excellent guides.

Perhaps the biggest endorsement I can give is that throughout the letters, Wales is treated with respect. Depressingly this is so often not the case in many conversations about the UK. I had no doubt that this would be the case. I have been lucky enough to interview both men in my work as a journalist and perhaps their most overlapping trait (except a love of constitutional chats) is a passion for creating the conditions for Wales to be the best that it can be.

As someone immersed in politics every day, I am so grateful to be given the opportunity to write the foreword to this work. It was great to stretch my brain to understand concepts, rather than try and uncover the hidden agenda of the people involved. I sincerely hope that many of our elected representatives and decision-makers, both in London and Cardiff, take the time to read these letters. Not only for the content, but for the manner in which they were conducted.

March 2025

2023

Letter of 23 October 2023

David Melding

to Glyndwr Cennydd Jones

Dear Glyndwr,

I am pleased that we are embarking on an exchange of letters to consider the constitutional future of the UK and its constituent nations. It should offer us the opportunity of discussion without any attempt to find a winning argument (always a barrier to creative conversation). The epistolary form has a fine literary record and so I will jump a little sideways and start with a quotation from Tolstoy's magisterial novel about Russian nationhood, *War and Peace*:

"The Englishman's self-assurance comes from being a citizen of the best-organised kingdom in the world..."

This was published in 1867 when the United Kingdom of Great Britain and Ireland was at its zenith. The German philosopher G.W.F. Hegel had already singled out England- meaning the UK or perhaps England as the UK!- as something approaching the ideal political form in a constitutional monarchy. 1867 was the year of the most important parliamentary Reform Act which really did set the UK on the road to universal suffrage. But history, as Tolstoy never tired of reminding his readers, is never straightforward but rather replete with ramifications that take generations to work themselves out. History shapes man rather than man

shapes history, if you will excuse the 19th century idiom. After all 1867 marked 20 years since the worst year of the Irish famine. The Blue Books which did so much to undermine the confidence of Welsh speakers were also published in 1847. The Great Famine, we now acknowledge, made the Union of Great Britain and Ireland moribund. Could the Blue Books yet have a long historical reach and threaten the Anglo-Welsh union?

Nevertheless as the purpose of the state in Europe was being transformed- and often fused to nationalism- the UK stood out to many as the model. While nations such as Italy and Germany were pulling themselves together as states, the UK embarked on its high imperialistic age which only really ended with the Second World War. The geographical reach of the British Empire (another story in that title) reached its greatest extent in the 1920s. And it was at this time that the most eponymous British institution was created- the BBC. At the moment the BBC is running a series on the history of the Union which also asks the question whether the historical forces that enabled Anglo-Welsh-Scottish union over 300 years ago have weakened and been replaced by forces that are pulling us apart? David Olusoga who presents the series is in no doubt that the worth and even legitimacy of the Union is contested more vigorously today than at any time since the first half of the 18th century.

Noting this historical background, I think it is important for unionists to acknowledge not only the contingency of the Union but also that other ways of configuring the political geography of Great Britain and Northern Ireland are open to the citizens of the nations that make up the UK. But as we go along the line of constitutional options to the most radical- independence for the Home Nations- it is incumbent on reformers and unionists alike to consider the wider international dimension of our constitutional decision making.

The UK is no longer the exemplar state many around the world considered it to be in the 19th century. However the dissolution of the UK

would surely have consequences, what philosophers call “demonstration” effects. Nationalists in multi-national states across the world might more readily ask if independence should be their goal too. So secession is a powerful force that is hard to contain (if indeed it should be contained- some want a world of many, many small nation-states). Caution! Caution!! Caution!!!

This seems to take us to a position that much favours unionists, but such a conclusion constructs a Potemkin village, a fancy facade to distract proper attention. If multi-national states are worth protecting in the interest of international comity and stability, then a high value needs to be placed on their judicious reform. Where nationalists might be criticised for the speed at which they would dissolve states, unionists are liable to equally condign judgement if they refuse necessary reforms to make multi-national states more sustainable.

And so I arrive at the principle of federalism because it allows us to divide sovereignty and use its powers more constructively. I have argued for the greater use of federal mechanisms since Scotland and Wales voted for devolution in 1997. To my mind this constitutional watershed made the old reasoning of a unitary state founded on Westminster’s parliamentary sovereignty obsolete. In 2014 this new reality became even starker with the referendum on Scottish independence.

Let me return to War and Peace and Tolstoy’s view of the great man theory of history, so current in his time:

“In historical events great men- so called- are but labels serving to give a name to the event...Every action of theirs, that seems to them an act of their own free will, is in the historical sense not free at all but is bound up with the whole course of history and preordained from all eternity”.

Much as I admire and enjoy his work, Tolstoy is a little too Calvinistic here for my taste. I don't believe the Union was preordained but neither do I think its dissolution is inevitable. I am sceptical like Tolstoy of the influence of history's great men. It is historical forces that demand our deepest contemplation. But these forces can be channelled by the decisions of citizens.

I look forward to reading your response and even more to your own thoughts on the UK's constitutional future.

Best wishes,
David

Letter of 31 October 2023

Glyndwr Cennydd Jones

to David Melding

Dear David,

I am also delighted to be embarking on these exchange of letters on a topic which has influenced and shaped my life as well as sharing thoughts on the human struggle to make a difference within the context of territorial groupings and their wider interactions. This fight is as old as time immemorial and I would like to start by referencing two of history's great writers on the issue...

On 10th January 1776, a pamphlet was published in Philadelphia and signed anonymously 'by an Englishman.' This pamphlet was aptly titled *Common Sense* and the author, Thomas Paine, a son of Norfolk, England, strongly influenced the direction of the American Revolution. Paine went on to write *Dissertations on Government* in the same year asserting that: 'wherever the sovereignty is, there must the freedom be.'

Two hundred years later, political philosopher Hannah Arendt, in her lecture *Freedom and Politics* (1960), suggested that: 'under human conditions... freedom and sovereignty are so little identical that they cannot exist simultaneously.' At first sight, this bold statement contrasts starkly with Paine's, but on closer scrutiny, is Arendt's perspective really so different?

In the years after the Second World War, Arendt inevitably saw the world in terms of human plurality, believing that we, as people, are not independent of the views and actions of others within our state and beyond.

On nationalism, Arendt considered its realisation, in all forms, as a narrow and inward-looking political narrative appropriating the state from individuals and collectives, with those regarded not being 'part of the nation' discriminated against or restricted access to residency and employment opportunities—thus limiting their interactions with the state's cultural and economic life. In even worse scenarios, Arendt feared that many states, if dependent only on domestic resources, could not even protect their populations from the aggressive intentions of more powerful neighbours.

Within the increasingly integrated global context of the 21st century, the belief that any state is independent in shaping its own foreign and economic policies, for example, is a fiction. No modern state is entirely sovereign by the standards understood in the early 20th century, as demonstrated by members of the European Union, United Nations and World Trade Organisation etc. This does not mean that the territorial connection of political rule has been undermined or that the borders between states are disappearing; the boundaries are simply becoming permeable with mutually recognised acts of a legislative and judicial character claiming effect on all.

In her essay *the Nation State and Democracy* (1963) Arendt decries the tendency for states to centralise power at their core. She wrote that: 'there can only be real democracy... where the centralisation of power has been broken, and replaced with a diffusion of power into many power centres of a federal system.' A founding father of the United States (US), Paine also appreciated that democracy functions well within a constituted

framework of clearly empowered territories acting together, in agreed areas, for the greater good.

Arendt writes that individuals and collectives are: 'almost always powerless against the monopoly of a centrally organised state apparatus, and the powerlessness of the citizen, even when all their rights are protected, stands in basic opposition to democracy in all its forms.' This echoes Paine's belief on the importance of political deliberation and participation in maintaining good parliamentary practices at all tiers of government. When people exercise their sovereignty, he asserts, they must have the 'rightful means' to query the decisions of their representatives and seek redress through debate.

Freedom or 'sovereignty of the individual' as Arendt describes is a far more complex concept to tackle. In the essay *Crises in Culture* (1961), she explains: 'that the capacity to judge is a specifically political ability, namely, the ability to see things not only from one's own point of view but in the perspective of all those who happen to be present.' For Arendt, freedom is eternally political, it materialises only when we act and communicate together publicly with our fellow citizens. Similarly, Paine posited that freedom, or the 'sovereign power' of individuals, could rationally be effected only to consent to a government protecting the people's basic rights, including the right to have a say in the state's affairs or the right to vote and to petition.

Therefore, Arendt's definition of freedom is neither sovereignty of the will nor independence from the influences of others. Paine affirms that though sovereignty belongs to each individual equally, it constitutes a collective power, a collective right and a collective will.

The most important application of sovereignty lies in protecting the democratic will of a politically united society with regard to the order that best suits it, which in today's United Kingdom (UK) is structured across

four parliaments through the devolution arrangements, not Westminster solely. In this context, the concept of Westminster's parliamentary sovereignty is problematic, and possibly rests at the heart of the inconsistency and lack of accountability demonstrated by the UK Government over recent years.

Why is this significant to our discussion?

Arendt presses us to understand how essentially dependent we are on others for our experiences of the world and of ourselves. This can be turned on its head to mean that in all endeavours there is responsibility, but the question remains to whom or to what?

I believe the answer is wider than that narrowly defined by the separate constitutional debates ongoing within the four nations of these isles today. In truth, we have a responsibility not only to others within our respective constituent parts, whether national or regional, but also to the whole, however understood in history or in future times.

Debates rooted in the language of freedom and independence should helpfully re-orientate to capture the vocabulary of individual and collective empowerment and solidarity. Self-government on matters nearest to the people is naturally right, as is the sharing of a few common strategic functions in economics and security for our greater good.

Consent is the foundation of trust in any political system. Rather than one section of the population striving to gain all that they wish constitutionally, we should encourage each section of our society to compromise to some degree. This would ensure the greatest support and traction for change and reform when the time comes.

Who knows, this may lead us to rethink our application of sovereignty as discussed in my booklet *A League-Union of the Isles* (2022). This publication

explores options of federalism, confederalism and a model in-between, confederal-federalism.

Whichever way forward, we should strive to balance the principles of *change with continuity* and *diversity with unity* in our deliberations.

Surely this is *common sense* to draw on Paine's phrase...

With good wishes,
Glyndwr

Letter of 16 November 2023

David Melding

to Glyndwr Cennydd Jones

Dear Glyndwr,

Thomas Paine indeed! You know how to antagonise a Burkean conservative like me. Paine was notoriously fractious and fell out with everyone- George III of course and the whole hierarchical system he stood for, but also the American and French revolutionaries. But he wrote one of the great political polemics which sparkles with energy even today. What Paine recognised was that the citizen must be at the heart of political life if we are to establish democracy. Washington thought this dangerous nonsense, he was a republican in the old fashioned Whig sense. Interestingly Burke's political thought was more accommodating to a concept of citizenship and civic life when he stressed the role of the "little platoons" in society. Burke's defence of the American rebels was based on their entitlement to the rights of Englishmen.

The 18th century was a period of vast political change. The way people thought about political society was transformed. This was sometimes arbitrary and shockingly violent- the Terror was feared even by keen reformers- yet the French Revolution is now viewed principally in terms of the ideas it generated and their remarkable influence. But the French Revolution failed totally in the attempt to construct a new form of political constitution. For that we must look to America. Once confederalism was

found wanting after only a few years, Americans turned to an old idea- federalism- and transformed it into a model for the modern era. In fact American federalism is rather unhelpfully in my view seen as the “classical” model. When critics dismiss federal ideas in relation to the British constitution, they really mean the that American version of federalism could not work here.

I thought your comments on Hannah Arendt’s work apposite. She was writing mid 20th century when the western world had been through it greatest and most deadly period of political destruction when millions of citizens lost their lives. While the late 18th century was infused with a political optimism, the Second World War finally ended such innocence and belief in political perfectibility. Now the citizen had to be protected from the power of the State, a power inconceivable in the 18th century. Arendt’s appeal to federalism as a way of protecting citizens from the powerlessness that is the consequence of a centralised State, is instructive. At the time she delivered her lecture “Freedom and Politics” (1963) US federalism was under a sustained critical assault because it was taken by many to be a barrier holding back the universal rights of the citizen. What today we call a “post code lottery” was seen as incompatible with the principle of equality. There is much more to explore here but in a later letter. For Arendt the lesson was clear, as you remark, power centres need to be diffuse if the most important rights of the citizen are to be protected. This logic also helped construct the international rules based order that was a response to Nazi tyranny and genocide.

Our times are turbulent too although in very different ways. The viability of democracy is now questioned by some in a world that can no longer distinguish political fact from fiction. AI will only add to the fog of confusion if it is used by malign political actors to generate deep fakes as a way to undermine democratic societies. Climate change is also set to alter economic and political life in ways still little understood but likely to be extensive. It seems to me that one response to such forces is to deepen

citizen participation in decision-making. A local federalism if you like. At times of stress and challenge there is greater opportunity to embrace change. The economic historian Julian Hoppit has amusingly described our situation thus:

“The UK constitution is now a Heath Robinson contraption, over-elaborate, poorly engineered and steam driven, rather than a precision tool benefiting a leading global economy facing grave threats.”

I rather think Paine would agree with this diagnosis a lot more than Burke. But perhaps Burke would have pointed out that there is nothing obdurate about a Heath Robinson contraption- it alters and adapts to circumstances! Take devolution in a still technically unitary state with absolute parliamentary sovereignty!! However such improvisation has its limits and there comes a time when innovation is also necessary. Here of course I advocate federalism. A federal prototype was considered in 1707 but rejected; fully developed and applied to the great British dominions Canada and Australia in the late 19th century; and considered and rejected as a way of preserving the United Kingdom of Great Britain and Ireland at various times between 1910- 1921. I hope we finally turn to federal mechanisms, especially those that enhance the political participation of citizens- the greatest force in a democracy.

Kind regards,

David

Letter of 15 December 2023

Glyndwr Cennydd Jones

to David Melding

Dear David,

You have indeed taken the constitutional conversation to concrete ground, which I know we both agree the topic demands!

In the lead up to independence, the American people broadly speaking considered the British Empire as a composition of distinct political entities, sharing a common King, but consisting of separate legislative authorities, a view which challenged the parliament in Westminster. Against this backdrop, it is little wonder that the states initially introduced the Articles of Confederation (1777) to establish their sovereignty status in the New World.

However, the legal status of the overarching 'Articles government' was no higher than that of ordinary legislation passed by a state legislature, and it lacked the power to compel compliance with the policy of the confederation on the part of its member territories. This lack of teeth resulted in both Federalists and those who eventually became anti-Federalists conceding that the system needed remodelling...

Sovereignty, as a concept, may have been connected with the development of the modern state, but no state is today sovereign in the

traditional sense. International law penetrates borders, with global bodies such as the United Nations, World Trade Organisation, International Monetary Fund, and North Atlantic Treaty Organisation, formed upon partnership arrangements between states.

The problem-solving capacities of individual territories have been challenged in recent decades by the need for firmer security and regulatory measures, driven by accelerating advancements in science and technology and their evolving military and commercial uses. States have therefore moved to create supranational institutions to tackle the cross-border issues apparent, delegating or transferring some sovereign authority or rights in the process. In turn, these supranational institutions exercise their clearly defined responsibilities with binding effect on states as seen, for example, in the European Union (EU).

Intriguingly, the EU has blurred the margins between contrasting constitutional models of a confederation of states and a federal state. The Union is fundamentally confederal in nature, due to the sovereignty status of its members, but operates in an appreciably federal mode in its spheres of competence. The power of individual states to govern ends at their borders, and they are not entitled to preside over others. Instead, externally based acts of rule emanating from agreed overarching supranational institutions, established and equipped with a measure of sovereign rights by members, claim precedence over national laws on clearly defined competences.

This could in many ways be understood as a form of confederal-federalism. In such a model, the degree to which state sovereignty is modified depends on the extent of the sovereign rights obtained by overarching institutions, i.e. whether their functions are broadly or narrowly defined, and if any members have been awarded the privileges of veto. Globally, and due in no small part to the fact that various functions are better administered at different levels, the majority of

populations today live within systems of multi-level government, encompassing regional, state and supranational structures. Meanwhile, in the UK, a great deal of our ongoing constitutional deliberations are really about which tier of governance should do what?

Whilst it may once have been correct to describe the UK as a unitary system with power centred in the Westminster parliament, it is now at the very least a unitary state with three special-status national territories possessing their own devolved institutions. A few observers have optimistically described these arrangements in terms of a multinational state or a voluntary union. However, such assertions are premature, at best, or misleading, at worst, as they imply the existence of a federally minded settlement with clear attribution of sovereignty across the whole, rather than that assigned solely at Westminster.

The essential components of the UK have never been set down. In lieu of a written constitution, as found in nearly all other states internationally, its governance arrangements depend largely on custom, practice and a series of statutes. The long-standing asymmetry between the UK's constituent nations, arising from their different circumstances, culture, geography and politics, demonstrates an enduring tension between unity, as the territories came together through incorporations and unions, and diversity, as they developed increasingly separate administrations. Remarkably, England, encompassing 85% of the UK population, remains without a national devolution settlement of its own and whilst the internal, regional 'devolution deals' provide some decentralised power to a good proportion of the English people, the extent and nature of these provisions leave much to be desired.

Support for devolution in Scotland and Wales has firm democratic mandates. The electorates of both nations have voted in favour of extending devolved powers to their national institutions through referenda, and have consistently, if not overwhelmingly, backed

pro-devolution or independence parties. In England, opposition to introducing elected regional assemblies is often cited on the basis that the North East voted against the idea in 2004. Scotland and Wales did similarly in 1979, but changed their minds by 1997. The North may be experiencing a comparable context today, and structures for decentralising English democracy can take various forms.

All multinational or federally minded systems of government aim simultaneously to recognise diversity and to maintain unity. They allocate limited functions to overarching institutions on the basis of promoting collective prosperity and security, thus allowing empowered democratic institutions nearest the people to take all other decisions, with parliamentary relations across the whole clearly defined. To return to the US, the Federal Constitution and the individual state constitutions have two different but overlapping authorising bodies of sovereignty—the pooled populace of the US in the case of the former, and the people of each separate state in relation to the latter.

In the context of the radically different population sizes of the UK constituent nations (i.e. Wales c. 3.2m, Scotland c. 5.5m, Northern Ireland c. 1.9m and England c. 56m) such an approach might be considered problematic politically as it would likely entrench the power imbalances underpinning the status quo. In contrast, at the time of ratifying the Federal Constitution in 1788, the US states were in their infancy. The later formula of ‘an indestructible union of indestructible states’ undermined the principle of secession, which could usefully act as a moderating influence on any excessive actors at the centre of a multi-level system or within. Pertinently, the UK’s stark withdrawal from one union, the EU, has intensified debates in Scotland and Wales about whether it should lead to the departure of their territories from another, the UK. The situation in Northern Ireland is more complex, but the inevitability of a border poll on Irish unity at some point in the future is increasingly acknowledged.

The UK is genuinely a construct of ancient nations, each of which has the potential to enact its own form of sovereignty. To quote from my booklet *A League-Union of the Isles* '...under devolution, Westminster delegates a measure of sovereign authority to the devolved institutions. Confederalism, or its more collaborative manifestation, confederal-federalism, turns this approach on its head, advocating four sovereign nations, of radically different population sizes, delegating some sovereign authority to central bodies in areas of agreed common interest such as enacting power on aspects of defence, diplomacy, internal trade, currency, and macro-economics.'

The accepted distinctiveness and common interests of the constituent nations of the UK demands a new form of governance: firstly to ensure that the link between the people of each territory and their respective democratically elected parliaments is articulated in terms of their sovereignty rights, at a national level, and secondly to remind the overarching, central structure that, when administering the pooled responsibilities, it exists to serve the peoples of all four nations. Intergovernmental relations should therefore be redefined on a stronger formal footing and codified in a new constitutional framework which enhances arrangements for self-government and secures mechanisms for effective isles-wide collaboration.

In my next contribution I would like outline how we might move from the status quo to that of my preferred confederal-federal order of governance...

With good wishes,
Glyndwr

2024

Letter of 12 February 2024

David Melding

to Glyndwr Cennydd Jones

Dear Glyndwr,

We have reached the departure gates and are heading in different directions. But let me start with two important points of agreement. As you note the articles of confederation which predated the USA did not enable a stable central authority to operate and so prompted the strongly contested move to a federal government which has its own sphere of sovereignty. It is fair to say that the principal problem facing confederal structures is the ability to establish a viable central authority.

Secondly, state sovereignty is now diminished by the need to tackle a range of international challenges, some of them of existential importance. However it is worth noting that few states have ever had anything approaching self-sufficient sovereignty. Perhaps the UK in the 19th and the USA in the 20th centuries came closest when they combined the roles of world banker and policeman. Today the pretence of Westphalian sovereignty cannot convince (it only ever had real application over religion) and we are in a way back to the pre-Reformation world of multiple sovereign-like actors. Now of course international organisations and international law and conventions have replaced the Church as the supranational authority.

I also agree with you that the EU is a confederal-federal hybrid; but I am not convinced it is a particularly stable one which accounts for its failure at the turn of the millennium to agree a new constitution. This is because the EU is an entity in motion towards a fuller union. Was this not Jean Monnet's vision- a path to fuller union starting with Economic integration? It is one of the great political ironies that this journey was started in earnest with the Single Market which Mrs Thatcher did so much to advance in the 1980s. Monnet was a very committed anglophile- he did not think the EU could be complete without the UK. He would have welcomed the Single Market as proof of the leadership role the European supranational project needed the UK to play. Sadly things soon started to fall apart in the 1990s and not just in the UK, and one can argue that the rush to create the Euro made the supranational vision more not less precarious. That said, the EU has navigated this turbulence with some success, Brexit apart.

It will not surprise you then that I see the EU model- albeit substantially modified no doubt- as a weak prescription for the UK. Despite being a substantial difficulty this, alas, is not the biggest problem I see with your confederal-federal vision. Surely to get to first base a confederal-federal UK requires the Home Nations to be independent contracting entities? This means that your vision is one of a post-independence political structure for the British and Irish (to some extent) archipelago. As such it would be a highly welcome development in that highly changed world! But that is what it seems to me to be: a vision of Home Nations' independence complemented by a confederal EU-like structure. Essentially it is a nationalist vision which promotes the axiom that nations and states should ideally be coterminous but with a commitment to unity through confederal-federal agreements- and I grant the gravity and importance of this qualification.

I do accept that the UK is a multinational state that under certain circumstance permits secession. Whether it was ever wise to reach such a position is another matter (it certainly makes the UK an outlier in the international community) but it is not reversible without major political trauma. So I can

honestly say that should Scottish independence ever occur I hope something like your confederal-federalism accompanies it. Yet this might require very generous hearts among the political actors. A confederal-federal structure emerging out of the dissolution of the UK seems a hopeful expectation in the short to medium term. Returning to the EU, it was a coming together not a splitting apart process and one that took the upheaval of a world war to instigate.

To call a confederal-federal entity a voluntary union is fair up to a point, but one can perhaps argue whether a highly dependent central authority (the confederal conundrum again) is much more than a body promoting unity in the shadow of national vetoes. Would newly independent states agree to strictly limited national vetoes? Union does not necessarily exclude the possibility of secession but as long as it endures the central government is not dependent on substates granting it a sphere of operation. Union requires a sphere of sovereignty. It is permanent unless amended by mutual agreement, or unless it is dissolved by acts of independence. A federal UK would be a voluntary union even though it would probably contain a secession process.

My vision then is a federal settlement that helps to prevent Home Nation independence but does not prohibit it. As long as it endures the central government in a federal UK would operate under the authority of its own sphere of sovereignty. Not that this view had much traction in the deliberations of the Commission on the Constitutional Future of Wales. While a viable option for Wales and the UK the Commission detected little appetite for a federal settlement, particularly in England. This mirrors establishment orthodoxy that has existed in the UK since the early 1920s (the last time federalism was seriously considered). What I find close to unfathomable in this orthodox position is how it remains so steadfast despite the fact that the UK has become a deep though informal federation. Have they not noticed? The federal option I advance is better termed one that removes the design flaws of our informally federal settlement. England seems the tap root for the complacency of establishment orthodoxy. England wants to remain highly

centralised not devolved! Really!? Not devolved on the Scottish and Welsh model perhaps (but the London Authority is similar to the early version of Welsh devolution). Meanwhile the city and regional mayoralities across England are driving towards a super-municipalism that looks pretty quasi-devolved to me.

The Commission concluded that Welsh independence was viable but high risk. I have little difficulty with this- a population of 3 million could be independent as long as it was prepared to bear the economic costs in the short to medium term (the point Southern Ireland reached in 1922). The Commission's assertion that while independence is viable the current arrangements are not struck a London Welsh friend of mine as entirely baffling and I tend to agree. I do not think the current arrangements are optimum nor free of potentially serious flaws, but unviable in contrast to independence!? They have worked after a fashion for 25 years and survived different governments, politically opposed governments, and a secession referendum. You have to read between the lines to discern the Commission's favoured option as they chose not to endorse one explicitly. Enhanced devolution seems what the Commission is pushing towards, believing it to be the Welsh Government's best negotiating option. Here there would be statutory permanence for devolved institutions (and a formalisation of the Sewel convention), strong intergovernmental structures, and a reform of the House of Lords to contain a national element. It is worth noting in passing that the Brown Commission recommended reform of the Lords to make it a chamber of the UK's nations and regions and having the power to safeguard the constitution. All this enhancement seems pretty federal to me, but despite all the quacking, waddling and flying, I dare not call it a duck...

With best wishes,
David

Letter of 10 March 2024

Glyndwr Cennydd Jones

to David Melding

Dear David,

I persist in thinking that, whether or not we agree to call it a duck, there are more salient similarities between the approaches we outline than there are significant differences.

Thinking in terms of both the existing union, and a potential future, looser one, it is important to reflect seriously on what binds us? What still gives us a commonality and goals that allows us to live together? What is the purpose of a union, and what are its benefits?

Let me begin by addressing some of the unifying factors, as I see them.

The union, in its current form, aims whether successfully or not to reflect the unity and diversity that makes up the UK. It comprises of nations, regions and people with a shared history, yet distinctive local or national identities, in which many may experience partially conflicted, if not overlapping, personalities encompassing both British and Scottish/Welsh/Irish/English/Northern English/Cornish etc.

Our shared journey includes the bonds of family and kin that ignore national boundaries and have grown over generations, perpetuated by a

common language, joint institutions and ties of popular culture. This is not limited to the collective development of the society in which we now live, but also embraces the rise and fall of the British Empire, worldwide trade, centuries of migration across the UK and around the globe, two world wars in the 20th century, Brexit, and more than one global pandemic.

Then there is the set of core values, common across these isles, including belief in democracy, equality, personal liberty and the rule of law. These values are not unique to the UK, but they are intrinsic to the union, rooted in recent history, and widely shared by the people and institutions of all four nations. They are values which any self-respecting democracy would espouse, and are therefore common to unionists and non-unionists, who wish to set up their own states, alike. Admittedly, recent events at Westminster have challenged these assumptions in the absence of a written constitution.

Then comes our economic union i.e. the single UK market, with its common currency and macroeconomic framework. This aspect of union assures a large and diverse economy, and protects against asymmetric risks and shocks, including emergencies such as flooding be they local, regional or national. It also secures a leading role for the UK in international organisations such as the G7, World Trade Organisation (WTO), International Monetary Fund (IMF) and the Organisation for Economic Co-operation and Development (OECD).

Next is our social union, which rests on principles of fairness and equal rights between citizens, including spending on a basic level of common welfare which, since it is done on the basis of need, is one of the significant ways in which wealth is redistributed. Pooling funding at a UK level means that the nations and regions are not forced to rely on their own tax base for supporting their public services, instead calling on a block grant to support a measure of equalisation.

The final, and perhaps most widely cited core element of the union is the security and defence aspect. This is represented by the British Armed Forces—the Army, the Royal Navy and the Royal Air Force—the UK security services, and a single border and immigration policy. Significantly, the UK is one of five permanent members of the UN Security Council and a leading influence in North Atlantic Treaty Organisation (NATO).

The three elements of economic union, social union, and security and defence union - informed by our shared journey, and underlying set of core values - collectively provide advantages to the constituent nations of the UK that go beyond what each could achieve on its own, as elaborated upon in the House of Lords report *The Union and Devolution* (2016). However, they do require a measure of political union for their delivery, and it is indeed here that our models diverge significantly.

Under current arrangements, the UK's political union, creates a common UK citizenship that embodies shared civil and political rights. Its single voice, projected through a network of embassies, high commissions, consulates, and the British Council, is heard internationally, with more influence than any individual nation of the union. This is in turn aided by the global use of English in politics, business and scientific research and in the creative industries.

So far so clear and, generally speaking, so far so good, but there is little escaping the fact that England with 85% of the population is more loudly represented.

This is why the UK's territorial constitution exists in an ongoing state of flux. Some in Scotland still call for a second independence referendum. The Independent Commission on the Constitutional Future of Wales is recommending fundamental reform of isles-wide structures. Northern Ireland's political settlement remains fragile and English discontent with

how the present union works has become a matter of increasing concern for policymakers and observers alike. There is also unease about the piecemeal approach that successive governments have taken to devolution to date, progressing it on a nation by nation basis (and now, in England, region by region), rather than collectively looking at the overarching architecture.

We look to the political union to both allow for the expression of discrete national (and regional) identities, manifested by decentralised institutions and their relationship to Westminster, and also to provide a structure by which all the constituent parts of the UK can support one another while working towards common objectives and ideals. Whilst the way these elements are expressed has evolved, and will undoubtedly continue to change, over time, there are nonetheless some overarching principles that inform the ongoing development of these critical relationships.

The first is consent, which has become fundamental to the advancement of decentralisation in the UK, and should continue to be a guiding tenet in the future through use of referenda and approval, for example, by relevant national institutions. The second is clarity. It is important that the public understand exactly where power lies if the democratic process is to work effectively. The division of powers must be made as clear as possible, to aid public understanding. Whilst voters can assess the outcome of public policies, they cannot accurately express a judgement on their elected representatives at the ballot box if they are ill-informed about the division of responsibilities between different levels of government.

The third is solidarity as an expression of our unity. The solidarity that binds together the citizens of these isles as neighbours should guide the activities of decision-makers across all constituent nations in a broader fashion: particularly in dealings over shared or concurrent powers, or in

policy areas where decisions taken by one administration could have an impact on others.

The fourth is subsidiarity as a recognition of our diversity. Where powers can be exercised more effectively at the decentralised level of government, then they should be assigned there, but only when doing so would benefit the people of that nation or region and without detriment to our shared values. There is a powerful argument that giving people control, particularly over their domestic affairs, and thereby also the responsibility for raising the money to pay for them rather than relying on getting disproportionate sums of money from the centre, is a perfectly legitimate discipline to apply.

Our main point of disagreement seems to me to be that you perceive federalism as a feeding out of sovereignty from Westminster to what some may consider grateful recipients in the constituent nations, whereas I perceive confederalism as a framing together of equals to pool sovereignty which they already possess of right. I have already highlighted the intrinsic democratic bond between today's national institutions and their respective electorates and why now this should be recognised for what it actually is i.e. popular sovereignty resting with the people of each nation.

The former option need not necessarily precede the latter, though it would require a nuanced constitutional framework and a measure of enlightened political thinking, I grant you, to ensure the safe delivery of the confederal-federal model. However, I believe it is not only possible, but necessary...

With good wishes,
Glyndwr

Letter of 26 March 2024

David Melding

to Glyndwr Cennydd Jones

Dear Glyndwr,

In your last letter you outlined a vision of a looser union but one that would still permit economic integration and the joint political decision making necessary to sustain it. As a political union has profound implications for its members, you emphasise the need for the principles of consent, clarity, solidarity and subsidiarity to operate. Here I think you reasonably believe that such a political community would occupy the ground between confederalism and federalism. I have said before that this looks to me to constitute a version of the EU made to fit a post-UK Britain and (possibly at least in part) Ireland. This vision has an inner coherence- the EU works well enough after all- but quite how the circumstances could occur or be arranged to bring it about leaves me sceptical about its practical relevance. However, I thought it would be useful in this letter to suspend my reservations and examine how confederation (of a deep part federal nature) might yet be the UK's best shot at maintaining a union.

The whole matter turns on the question of sovereignty. You state that "I perceive confederation as a framing together of equals to pool sovereignty which they already possess of right" and later you add that this a situation of "popular sovereignty resting with the people of each nation". These are emphatic statements which can only be valid if you believe that these

nations have a unilateral right to independence- which they may or may not exercise- because their sovereignty stands prior to that in any political union such as the UK. While few outside the UK and possibly Canada accept this view of sovereignty, is it not what we have to contend with in the UK today? Helen Thompson, the Cambridge political philosopher, has commented that as a consequence of the Scottish referendum on independence, “Westminster explicitly or implicitly acknowledged that the non-English peoples of the UK were the sovereign authority regarding their participation in the Union”. If this is indeed a fact of our political life as a union, the implications are profound.

At a push federation is still possible on this basis as long as it is accepted that member states possess the right to leave a federation. Ultimately therefore the federal sphere of sovereignty could be dissolved by unilateral acts of secession. It is questionable whether such radical contingency is however compatible with an effective federal authority. Perhaps it is better to look at confederation, as you suggest, as a more realistic way to deal with the consequences of inalienable Home Nation sovereignty.

As you advocate a large measure of economic and political union in a British confederation (hence the concept confederal federalism) and not mere co-operation and co-ordination to promote unity among neighbours, some questions of constitutional design become very important. Rhetorically one might ask “what’s in it for England?”. If the present union is to be dissolved by one or all of its Celtic members, would there be a rush to form a new looser one? The most optimistic scenario is that the break-up of the UK (rather than its federal reform) had been undertaken in a generous, respectful manner with a full recognition of the need for future comity. At one stage of the Scottish independence referendum, Alex Salmond was keen to stress that the union of the Crowns would remain as would a social union. His views were not uncontested among nationalists in Scotland, but it is still possible to see a

process of secession being combined with the simultaneous creation of successor political structures promoting some aspects of union. This might mollify English nationalist sentiment or enthuse otherwise indifferent political actors keen just to move on. More farsighted politicians in England could be expected to value the international prestige England would preserve by promoting comity among the nations of Britain and Ireland post independence.

Let us assume that England would place considerable importance on constructing some form of British confederation. The design questions that would stand out include the extent of national vetoes in joint decision-making, the operation of weighted voting among the nations, the status of a confederal authority (government or commission?), whether the confederation would also be a transfer union and single market, the operation of a single currency, the nature of defence agreements, and whether the confederation would have a parliament. This is a formidable list but it does not justify a simple rejection of confederalism as impracticable. All political associations and organisations are complex and face a huge range of challenges- that's why they are important and we need them to create the best conditions for security and wellbeing! National vetoes would operate in a confederation (otherwise you are in a federation). The more extensive they are the more limited the scope for deep joint decision-making. Perhaps more tricky would be the question of weighted voting. Too little and England might simply find the political costs of confederation unacceptable; too much and the Celtic nations would complain that they are dominated by England. The nature of the confederal authority- for instance more like a government than a commission- would create considerable legitimacy questions that in turn might determine the scope of any confederal parliament.

I assume the confederation would not be a state. This would probably require England to be designated the successor state with the UK's current status in international organisations (most importantly the UN and the

seat on the Security Council). England would retain the nuclear arsenal which might or might not create the space for the confederation to secure agreements on other aspects of defence. Here England's rights as the successor state to the UK should incline it to participate in a confederation as the costs of not doing so might reduce its international prestige.

All this political effort seems to me better directed at reforming the current union into a federation. This would be less disruptive and would have the stability afforded by the UK's existing statehood. Confederation on the other hand would start with the great disruption of secession, or at least be coterminous with the replacement of the UK by a looser union. That said I must concede that confederation does seem to treat the current understanding of sovereignty in the UK more coherently. Of course I believe that further consideration is warranted on the sovereignty question and that would be a central component of a federal settlement. I also concede that the daunting political construction that a confederation would require is achievable should the peoples of the UK ever want it. One can surely point to our joint history over many centuries as a source of optimism.

With best wishes,
David

Letter of 13 April 2024

Glyndwr Cennydd Jones

to David Melding

Dear David,

Devolution at national level acknowledges that today's UK is a construct of formerly discrete entities whose diverse histories and identities are enduringly recognised at an institutional level. Decentralisation within England, by contrast, involves the reorganisation of power within one territory of significant population size (c. 56 million) in order better to align the decision-making process with local democratic demands and priorities.

Our approach to constitutional reform should take account of these different characteristics of governance, distinguishing between reinforced arrangements for national self-government in Scotland, Wales and Northern Ireland on the one hand, and the need for increased devolution within England on the other. Through both, the deeply asymmetric nature of the UK can therefore be addressed.

Accepting that the UK is truly a multinational state in origin, we should work to renew the structural relationship between the devolved governments in Edinburgh, Cardiff and Belfast, and the government in London—in its dual capacity as legislating for both the UK as a whole,

and for England. Of course, were widespread devolution to become a reality across England, much of the work of the English government would sit under local/regional direction, leaving the parliament in Westminster to focus on its strategic isles-wide functions.

As recommended by Gordon Brown's Commission on the UK's Future, the House of Lords should move forward with purpose to represent the various regions within all four UK territories in its composition. At the same time, and so as not to confuse the concerns of regional devolution in England with those of its relationship with Scotland, Wales and Northern Ireland, it would be important for the existing Joint Ministerial Committee for intergovernmental relations to continue in its current form, as a forum of nations.

Looking further, greater separation of the UK Parliament's dual role—a model for which is explored in my booklet *A League-Union of the Isles*—would be desirable. The proposition describes a confederation of England, Scotland, Wales and Northern Ireland with aspects of federal-type control built into key policy portfolios to reflect the principles of solidarity and equality among territories.

As an overview, a **Council of the Isles** acts with mechanisms in place to address the asymmetry between population sizes of member nations, specifically through the composition and distribution of seats. Members of the Council are typically elected for a five-year period by the electors of each nation, convening annually for a fixed time unless urgent business is demanded. The Council assumes its own standing orders, confirming a Presiding Officer and Executive whose Prime Minister and Ministers are responsible for enacting power on specific matters involving defence, diplomacy, internal trade, currency and macro-economics.

Each Bill considered by the Council is circulated to the National Parliaments of England, Scotland, Wales and Northern Ireland, in advance of final reading, with member nations empowered to make objections or suggest amendments before voting. This provides a counterweight to any aspirations of the centre to aggregate power within its core, and to act unilaterally on issues such as defence and foreign affairs. On passing, the Head of the League-Union confirms the Bill as an Act of the Council of the Isles. The ultimate authority on the legitimacy of any laws and rights assigned to the centre remains with the Supreme Court.

A Committee of Member Nations (comprising the Council's Prime Minister and the First Minister of each member nation), convenes regularly to discuss more general considerations which demand a degree of cooperation and harmonisation of laws across borders, over and above the key functions enacted in Council. These include: postal, telephonic and internet communications; railways, roads and associated licensing; airports, ports and traffic controls; coastguard and navigational services; energy, water and related infrastructure; income and corporation taxes; rates of sales, weights and measures; copyrights, patents and trademarks; scientific and technological research; broadcasting; meteorological forecasting; environmental protection; civil defence; emergencies, and the prevention of terrorism and serious crime.

The Committee, with the support of the Council, also holds controls for confirming contractual-type arrangements for supplying any requested public services to member nations. To cover the common functions and agreements in place, the Council levies charges upon each member nation according to a defined proportion of their GDP annually relative to that of the League-Union as a whole. These monies are paid into a consolidated fund from which the interest on the UK public debt continues as a standing charge. The centre aims

to promote equality across all territories by sharing a measure of baseline investment for infrastructure projects, operating formal instruments for resolving disagreements. National Parliaments are discouraged from misusing any advantages they possess in areas of potential contention including, for example, the economy of England, the oil of Scotland, and the water of Wales. Some central responsibility is assigned for a common basic level of welfare and what are currently termed National Insurance Contributions (appropriately renamed), mitigating elements of financial risk and promoting ongoing solidarity. Further, federal-type mechanisms may be introduced to support fiscal decentralisation from the UK position.

The **National Parliament of each member nation** sits as the legislative and representative body of its people, enacting powers and laws on every issue not identified as within the Council's competence. A Government with executive powers, comprising a First Minister and other ministerial positions as required to oversee the various offices, is appointed from the nation's parliamentary members. The superior judges are nominated on the advice of an independent authority. Nations further sub-divide their lands through Acts of National Parliament, defining the composition and responsibilities of local or regional authorities.

The scheme affords the opportunity to introduce devolved assemblies across the English regions, if desired, in tandem with new parliamentary arrangements for England. Further, the member nations independently hold four seats at the UN General Assembly but retain the single collective permanent seat on the UN Security Council, representative of the League-Union's common defence arrangements, so as strongly to represent our shared geopolitical and geographical interests at the top diplomatic table.

If we acknowledge that the UK is a genuine union of four nations, each of which has the potential of sovereignty, is there a way of charting a smooth transition from the status quo towards that proposed above?

For example, we may wish to transform:

- A future-elected House of Lords, comprising representatives from the nations' regions, into the Council of the Isles with its associated structures, or to use a different term, a Senate
- The House of Commons at Westminster into the National Parliament of England once enhanced parliamentary arrangements are in place for Scotland, Wales and Northern Ireland
- The Joint Ministerial Committee for intergovernmental relations into the Committee of Member Nations
- The Supreme Court into a similarly titled isles-wide body for matters regarding laws and rights assigned to the centre (N.B. member nations operate distinct legal jurisdictions)
- The British monarch's role as head of state into head of the confederation.

The changes could be initiated in an evolutionary way, balancing change with continuity, and promoting diversity and unity simultaneously. This should be achieved by assigning sovereignty to the nations who, in turn, delegate some sovereign authority to central bodies in areas of common interest. Even whilst national and regional leaderships may champion different decisions and innovations, we would still elevate isles-wide solidarity and equality through central strategies.

Confederal-federalism could be described as a strategic compromise between independence and incorporation: a mixture of self-rule and shared rule. Rather than one section of the population securing everything they want, each compromises to some degree to create the conditions in

which a renewed, stable isles-wide partnership of modern states would become a reality.

Such a concrete ambition is worthy of deliberation...

With good wishes,
Glyndwr

Letter of 3 May 2024

David Melding

to Glyndwr Cennydd Jones

Dear Glyndwr,

I remain something of a disciple of the conservative philosopher Michael Oakeshott. He disliked the ultra rationality involved in asking binary questions about complicated social and political matters. Rather than asking if some political construct or attitude was true or false he advised us to examine whether it seemed coherent. Does a particular interpretation of a political phenomenon increase our understanding of what is happening in practice? I have the confidence therefore to doubt that federalism is really foreign to British political experience. Those that see it as foreign have to explain such factors as the development of parliamentary federalism for use in the dominions, the nature of the UK as a union of nations (with the implied right of secession), and the extensive use of federal mechanisms in the territorial governance of the UK. To state the case mildly, it is not fully coherent to say that federalism is foreign to British political experience and so it is reasonable to examine the case for the greater use of federal mechanisms in the UK.

Oakeshott believed that tradition offered a useful guide to what is likely to work in practice. To illustrate, for the UK to replace its parliamentary tradition with a congressional system would be an abrupt and risky change. It would work against the grain of our political experience. Hence my desire to reform

parliamentary sovereignty locating it in each of the UK's parliaments in a division that establishes spheres of authority that can only be altered by mutual consent. Some see tradition as a conservative axiom condemning change. But this is to view tradition as an archaic concept to (presumably) preserve privilege. To be coherent- that is useful for the times we find ourselves in- tradition has to adapt and be open to innovation. The 1832 Reform Act was successful because it strengthened Parliament and opened the door to eventual universal suffrage which in turn became the basis of parliamentary authority in the modern era.

The executive function was changed substantially in the 18th century long before Parliament was reformed. It was a process of adaptation and innovation in response to the question (always implicit of course) is current practice coherent and able to meet the current challenges of political life? The Glorious Revolution was glorious because it was not a revolution. It both returned the executive function to a more collegiate model which had been the medieval practice, and extended the reach of government (for example by establishing the Bank of England) in response to the demands of trade and commerce. In 1700 the Crown ruled with Parliament, by the second quarter of the 18th century it was the Crown and Parliament, by century's end it was Parliament with the Crown. And yet in this brisk political motion enough was preserved for Edmund Burke to call it organic change. In France innovation, particularly in matters fiscal, was so lacking that the regime collapsed. But note in France the revolution started as a process of reform that run away and ended up in Terror! A lack of innovation is very difficult to make good in a deep political crisis.

The fundamental challenge we are trying to grapple with in this exchange of letters is how do we make sense of and use coherently the reality of Home Nation sovereignty becoming an active principle? Your position is to affirm that all sovereignty rests initially with the Home Nations who you hope will then realise the need to pool some of this sovereignty in a central authority. Is this the most coherent way forward? Is it practical (the essential challenge

here is how do you get England to accept such an arrangement)? Note that the policy areas requiring pooled sovereignty to operate are hugely significant and often very contentious: foreign affairs, defence, macro economic policy etc. Can we really expect a central authority to exercise such powers effectively under the threat of nullification (a Home Nation withdrawing from a pooled function)? The problem with confederalism is that it rather reverses the design flaw of devolved governance under the sufferance of parliamentary sovereignty. The ultimate sovereign giveth and he taketh away!

If the UK is to renew itself coherently as a union of nations it has little choice other than to recognise that our sovereignty needs to be divided into spheres. This would maintain the authority of national (sub state) and state government within their spheres of sovereignty. Functionally this is surely where we stand today although the threat of encroachment by Westminster muddies the constitutional waters somewhat. Should such encroachment reach a critical point- most likely by the use fiscal restraints- then the Union would be in real peril. Thus I urge the greater use of federal mechanisms and hope for a fully federal settlement. This is the most coherent way to move forward and build anew on the valuable material of the British parliamentary tradition. The union state based on Westminster's absolute parliamentary sovereignty has run its course. Confederalism offers no safe harbour against the storms that are likely to brew from time to time in the waters of pooled governance. It really is a federal UK or bust!

With best wishes,
David

Letter of 7 June 2024

Glyndwr Cennydd Jones

to David Melding

Dear David,

Most of my writings over the years spring from both my desire to find an acceptable constitutional middle ground for the majority of the populations of England, Scotland, Wales and Northern Ireland, and from my aspiration to reach a compromise that is both strategic, in that it might lead to a constitutional framework which is lasting as a working solution, and realistic in addressing the ongoing necessity for some shared powers across these isles.

To achieve such a position, we should begin with an understanding that no one part of the UK populations can secure everything they wish for. Each will need to give to a degree, most likely obtaining much of what they want, but not everything. Opinions on the discussion's harder fringes, those of entrenched unionism and nationalism, admittedly pose challenges to this reasoning. Not least because they share one characteristic in common: an inclination towards separatism, expressed as a general unwillingness to accept that any territory shares concerns with its neighbours that require some key mutual functions.

This shared characteristic is evidenced equally by those UK unionists who insisted on our radical withdrawal from the European Union, especially

the single market, as by those Scottish and Welsh nationalists who propose models for independence that contain red lines concerning separate currencies and defence. Fortunately, there are plenty of moderates on both sides of the debate who appreciate the importance of reaching consensus and working together.

Confederalism is a word which current UK political discourse appears afraid of. It is hard to see why, when it offers an apt representation, in constitutional parlance, of the genuine historical journeys of the nations of these isles; pushed together and forged in a melting pot of demands for collaboration as they have been since earliest times. Today, with modern devolved institutions already established in three of the four territories, we have the opportunity to extend and formalise the democratic links between them and their respective populations, through an expression of popular sovereignty of the people at national levels.

Westminster parliamentary sovereignty is unsuited to the 21st Century context, fostering a lack of accountability and transparency at the heart of UK Government. It represents interests which, on the one hand, control the population of England, a nation of some 56 million people, through the over concentration of powers at Westminster and Whitehall at the expense of Northern English regions generally and, on the other, are reluctant, despite letting go of the UK's former overseas territories, to loosen their grip on the smaller home nations from the initial acts of consolidation.

My letters have focused on the better constitutional articulation of the relationships between the governance structures of England, Scotland, Wales, Northern Ireland and, naturally, across the whole. I have explored much needed devolution of powers within England and its required new parliamentary arrangements, along with a view that the island of Ireland will one day more likely be one. Who knows, with some reimagining, there may be a way of inviting a unified Ireland to play some part in a

confederal framework of sorts, providing possible comfort and security to the bulk of Northern Irish unionists at the point of unification. Of course, there are many uneasy echoes of history here, not least from the early 20th Century and the days of Michael Collins who at one point sought a compromise 'Dominion' solution.

The singular focus on traditional federalism, in our constitutional circles, occasionally puzzles me. The current devolved arrangements mirror many of that model's key elements but without the formal checks and balances of a written constitution. There is little to advocate it as a starting point for building a flourishing future framework of nation-states, especially when reflecting on our long dysfunctional inter-parliamentary workings. Federalism, to me, serves helpfully as a negotiating stance for many forward thinking unionists who understand the imperative of now offering a concrete alternative to the status quo. There is welcome recognition here of the imperative for much needed change and reform, and it is to this spirit that open-minded reflection of other constitutional models might appeal too?

I experienced first-hand how communities of similar backgrounds and languages were divided into two polarised camps of unionism and nationalism in 1970s Wales. It may have been the only time the nation was at some potential of slipping towards the level of political tension seen in Northern Ireland (as described by others in the publication *Three Votes*, Parthian Books, August 2024). Our western neighbours' journey towards peace and reconciliation through the process of the Good Friday Agreement has always inspired. We must heed the lessons learned, in that context, of what the consequences of sowing the seeds of division on national psyches and the distrust caused by entrenched political positions can be.

In some ways, the irreconcilable choices of federalism and independence are present in our societies today. These divergent stances are strongly

reflected in the recent Independent Commission Report on the Constitutional Future of Wales (Welsh Government, January 2024) and, more actively, within Scotland through Labour and the Scottish National Party. Sinn Féin's electoral success in Northern Ireland, and subsequent formation of a government at Stormont, provides some opportunity at least to explore more progressive ways of cross-border working. Yet, England, remains without its own parliamentary arrangements to address the internal economic and social imbalances experienced. The current inertia towards fundamental change risks our isles drifting apart. We do need to explore, dare I say, a 'third way!'

So why not release sovereignty to the four nations of the UK to firm up the direct democratic link between their respective populations and parliaments? And why not then delegate a measure of sovereign authority from these parliaments to central isles-wide structures in support of much needed collaboration and key shared functions? Our peoples have freely worked, traded, resided, moved and married across the landscape of these isles since time immemorial, coming together for our common security too over recent centuries.

I often wonder whether my confederal-federal model could be more simply expressed as Confederalism Minus or even Federalism Plus, that is C- or F+. I suspect Lord David Owen, a well-reasoned and seasoned negotiator who supported my constitutional continuum project of options from the outset, recognised the possibilities. The C- or F+ model could aspire to both satisfy the desires of unionism for central controls in areas of defence, diplomacy, internal trade, currency and macro-economics, and the wish of nationalists to confer sovereignty, and the responsibility for power, on the nations. Importantly, the legitimate priorities of both groups would be safeguarded through codified constitutional checks and balances.

It is surprising that the only UK-wide Royal Commission on the Constitution to take place reported in 1973. Whatever the future holds, individually and collectively, we need each other's 'buy in' to successfully co-exist on this relatively small island in an ever integrated world.

In summation, my instinct, being neither unionist nor nationalist, is that a confederal-federal model mirrors some fundamental truths about the story of these isles. Yes, it represents a challenge to the UK unitary state and those entrenched in the status quo, but also to those intent on throwing the baby out with the bathwater, wishing to destroy everything and start afresh.

Only time will tell how these incompatible positions will evolve...

All I know is that change is not only possible, but inevitable.

As always,
Glyndwr

Letter of 27 September 2024

David Melding

to Glyndwr Cennydd Jones

Dear Glyndwr,

The thoughts we have exchanged in these letters now need to take account of the recent general election. Exactly a century ago the 1924 general election saw the demise of the Liberals as one of the two great parties of state and their replacement by Labour. A political duopoly was nevertheless maintained. Today, despite its record low vote, the Conservative party has a chance to maintain its position as a major party of state unlike the Liberals in 1924. For now at least, Reform UK lacks the organisational strength Labour possessed in the early 1920s; and their ability to consolidate the centre right from a robustly right-wing position is surely limited. Remember, Labour did not absorb all of the former Liberal vote, about a third of it went to Baldwin's Conservative party. Meanwhile the Liberal Democrats lack the ideological motivation to become a centre party drawing on a moderate right hinterland- should this change the threat to the Conservative party would be existential. On the constitutional matters that concern us, the Conservatives are likely to emphasise their unionists credentials in the Scottish Parliament and Senedd elections in 2026 as part of their recovery process. Not much change there.

Labour's 2024 landslide was won with a little less than 34% of the vote- a record low for a majority government in the UK. And what a majority- 63% of the seats for a third of the vote, the most disproportionate result in British

history! While the Labour government will want to be more devo friendly, it probably lacks the electoral foundation for ambitious constitutional reform. The weak performance of both Labour and the Conservatives delivered the lowest combined share of the vote (58%) since the Lab-Con duopoly was established in 1924. This might indicate radical change. One interesting feature of this potentially radical change is that the minority parties are all advocates of far reaching constitutional reform. The Lib Dems secured something of a breakthrough by winning roughly the number of seats their proportion of the vote warranted. One odd consequence of Lib Dem success is that Reform UK are now the biggest victim of the UK's first past the post electoral system. Unsurprisingly they have become PR's greatest champions. Should the UK's transformation into a truly multi-party system continue, the cost to the Conservatives of any alliance with Reform UK is likely to be PR for Westminster elections (or perhaps a reformed House of Lords?).

Constitutional issues did not figure significantly in the 2024 campaign. Even the SNP's attempts fizzled out as its campaign to turn the election in Scotland into a referendum on independence was abandoned in the face of its looming defeat. While Labour's recovery in Scotland was striking, nearly every seat there is now marginal making a SNP bounce back distinctly possible. Labour kept silent on Brexit and said little on devolution beyond a timely commitment to better intergovernmental working through a new "Council for the Nations and Regions". This received criticism in some nationalist quarters because the Council will include England's mayors of Combined Authorities. I think this criticism is to be expected because any move to devolve more powers to England's regions also moves the whole of the UK in a federal direction. A stable federal settlement would in my view be the best defence of the Union. One can understand why the SNP in particular fears it.

While hard electoral facts are seen by Labour as limiting its scope for constitutional innovations, its manifesto also indicated a narrow field of vision. On devolution it promised "A reset between Westminster and

Holyrood, Cardiff Bay, and Stormont". Welcome no doubt but hardly much of a demarche. Regarding the House of Lords, the manifesto committed Labour to its "immediate reform" and eventual replacement "with an alternative second chamber that is more representative of the regions and nations". This does seem to run with two opposing ideas: reform and replacement! It reminds me of the preamble to the 1911 Parliament Act "whereas it is intended to substitute for the House of Lords as it at present exists a second chamber constituted on a popular instead of hereditary basis, but such substitution cannot be immediately brought into operation". It never arrived... The King's speech outlined a Bill to remove the appendix of hereditary peers still in the House of Lords and a retirement requirement for all peers (at 80 they will be required to retire at the next general election). But this is all small beer. The UK is a parliamentary union. The House of Lords has huge potential to become a revising chamber that could also be entrusted to safeguard the Union. For over a century it has sought greater legitimacy and now a practical and, I would argue, necessary reform offers itself. Does unionism have the vision and ambition to take this step or will delay again turn into ever longer postponement?

Understandably, Labour's main goal is economic change to restore growth to something approaching its trend before the financial crash of the late 2000s. It wants the devolved administrations to play a part in this with greater control over structural funds. The health of the Union is also likely to improve in a climate of economic growth widely distributed. However constitutional questions cannot be put off indefinitely and complacency is a danger to the Union.

In some respects historians looking back at our times in a hundred years might see the transformation of the UK into a multi-party democracy no longer dominated by the duopoly that defined British politics from the 18th century, as the most significant change to our political life. But the Union if still then extant would also have been transformed. And if I had to put a political prediction into a time-capsule today it would be this: should the UK

not have become a federal state by 2036, the Union's quinentenary, then Scottish independence would have occurred long before 2124...

All best wishes,
David

Letter of 19 October 2024

Glyndwr Cennydd Jones

to David Melding

Dear David,

The outcome of the July 2024 General Election has provided us with the opportunity to address the constitutional and democratic deficits extant across these isles with fresh energy and impetus, much as when, in 1997, Tony Blair established a new Labour Government on the back of a landslide result, moving on to the devolution agenda in 1998.

Today, the fabric of structures, practices and assumptions which have underpinned the UK Union's management of our national territories and regions until now has proved inadequate. The institutional, policy and cultural reforms necessary to establish a more stable, consensual and effective governance structure need to be seriously examined. Decades-long shifts of public opinion and national party-political dynamics across Scotland, Wales, Northern Ireland and England are leading to divergent views about their constitutional future, a situation only exacerbated by Brexit, and its aftermath.

Looking forward, robust improvements to the arrangements for intergovernmental relations across our parliaments in Westminster, Edinburgh, Cardiff and Belfast are essential as a matter of priority, not just in themselves, but also as the foundation for a better set of

constructive negotiations on constitutional change should the need arise. As was only too obvious following the Brexit referendum, and its associated campaigns, such acrimonious debates can result in a worsening of entrenched divisions and hardening of views, making agreement difficult to secure subsequently.

In the circumstance that a successful referendum/border poll should take place in Scotland or Northern Ireland, Westminster would greatly benefit from having informed itself thoroughly as to the common interests of the remaining constituent nations. Without such an understanding, developed well in advance, and in sufficient nuance and detail, tensions will quickly emerge. For instance, one very likely scenario would involve greater cross-border friction and interruption of trade.

As I have proposed, a close confederal type arrangement encompassing a sovereign Scotland remaining comparatively integrated in an isles-wide internal market could help smooth the road ahead. Ongoing cooperation in aspects of foreign affairs, security and defence might also appeal. Similar cross-border initiatives could be offered to a reunified island of Ireland, on a permanent or transitional basis, with the purpose of alleviating any tensions amongst communities in the North. In either case, Wales's constitutional position would come straight to centre stage.

I have repeatedly stressed the importance of balancing diversity with unity, and change with continuity, with the shared purpose of crafting a common framework of state relationships that could work for the benefit of all populations and territories in times to come. People need to feel at ease with the political roof over their heads. As emphasised in my first letter: 'Consent is the foundation of trust in any political system.'

Successful governance, as we have discussed, depends significantly on the nature and quality of interactions between different tiers of administration whether central, devolved or local. Covid 19 brought into

sharp focus the lack of adjustment and sensitivity at the UK centre – Westminster and Whitehall – to the actualities of devolution and territorial management on the ground. On top of the prevalent perception that the London-based UK government holds the Southeast foremost in its mind when making decisions, the pandemic highlighted the day-to-day reality that the UK Prime Minister's role applies mostly in England only.

It is my view that some sort of federally inspired reconstitution of these isles that balances on the one hand the contrasting aspirations of unionism and its centralising forces and, on the other, national ambitions for cementing sovereignty, is a model of territorial governance which is likely to succeed. Underpinned by a deep, developed understanding of the history and nature of our island journey, this is how we could ensure the greatest support and traction across the whole structure; as individual nations and with our shared British experience.

We may as well accept that a measure of friction is, and will always be, a feature of our isles-wide interactions and relationships at both political and governmental levels. To mitigate this predictable aspect demands great maturity in approach on the part of our parliamentarians, and institutional arrangements robust enough to formally understand, manage and consider differing priorities. Through firstly embracing variations in territorial contexts, and, secondly, promoting our shared values and visions, we can confidently advance the legitimate expectations of citizens' rights and political representation across all these isles, including those of England and its regions.

Today, a large proportion of the English population is left disenchanted by the way in which its sole national forum, tangled within the UK Government at Westminster, operates, not least in the manner in which state funds are allocated, and in growing concern over regional inequality. The piecemeal rollout of a half-hearted form of regional devolution within

England over recent times has done little to influence opinion that Westminster and Whitehall have for too long undermined the powers and fundraising abilities of the nation's local governments. Further, the feelings of disempowerment that are the consequence of this disillusionment with the UK government may well have been at the core of the overwhelming support for Brexit amongst the English population in 2016. Did many blame the wrong Union for their plight?

The central place of England and its parliamentary arrangements in the formulation of any strategy to stabilise our isles-wide framework of governance must now be considered seriously. Future relations between Westminster and the parliaments in Scotland, Wales and Northern Ireland urgently need reframing on principles of partnership working and collaboration, where all parties seek to promote a culture of mutual learning, respect and engagement between legislatures as a matter of course.

Returning to Tony Blair's victory in 1997 and the devolution story thereafter, Professor Michael Kenny in his book *Fractured Union* (2024), affirms that: 'introducing such important and impactful changes to the structures of British government without a clear, overarching conception of their constitutional status and purpose, was bound to have consequences down the line – as these reforms added up to a very significant body of change which, in turn, posed some hard questions about Britain's state institutions and established habits of governance.'

Since that time, national attitudes across the UK have evolved substantially and the nature of party-political dynamics competing for power across the various territories has changed beyond measure. Westminster must better understand these shifts in identity and stances, and strive for a constitutional compromise, one of strategic significance that will address the challenges and aspirations of all peoples, nations and regions of our isles, and will renew, if not replace, our piecemeal system

of territorial governance, one which has emerged 'bit by bit' over time, with one that is more coherent, stable and fit for purpose for the 21st Century.

David, it is to our credit that throughout our discussions, despite the fact that you and I are from what some may badge differing political outlooks, we have together been able to conduct a mature, and non-partisan debate on these significant constitutional matters. Not only that, but we have done so amicably, constructively, and in measured terms, with an enthusiasm and energy that match both the importance of the constitutional future of these isles, and the significance of this debate to our future generations.

Thank you for your insights and observations.

Diolch o galon,
Glyndwr

2025

Letter of 30 January 2025

David Melding

to Glyndwr Cennydd Jones

Dear Glyndwr,

In this my final letter I want to pose two questions. First, has devolution more or less worked? And secondly, has this success or failure impacted the wider cause of constitutional reform in the UK? The magnitude of the devolution scheme has never been doubted. For 292 years Great Britain was governed under the authority of a single legislative body. So central was Westminster's sovereignty to the British constitution that the settlement of 1707 was commonly termed a parliamentary union. The Blair government had few encouraging precedents to follow. The 1970s devolution proposals were aborted. The Stormont parliament in Northern Ireland divided rather than unified its political community. More distantly Grattan's Parliament in pre-Union Ireland only lasted 16 years before its abolition in 1798. Devolution to Wales and Scotland could have failed such was the antipathy of many unionists to legislative plurality. Yet in utter contrast there has been no serious attempt to repeal the devolution Acts. Both Labour and Conservative governments have amended the Acts to strengthen devolution, most notably by asserting that the devolved institutions are "a permanent part of the UK's constitutional arrangements". While Scottish devolution has not "killed nationalism stone dead" as some foolish unionists hoped, the Union survived the Scottish independence referendum of 2014. Moreover the devolved institutions have operated with an authority that can only come from

entrenched popular support; this was seen most clearly during the Covid pandemic, a test as severe as political institutions can expect to face. Finally, and surely a huge achievement, the UK's territorial governance is in broad balance between the forces of union and plurality- the devolved parliaments have not withered on the vine nor run away and smothered Westminster's authority over reserved matters as they apply to Wales and Scotland. This despite an active independence question in Scotland. Only the failure of the devolved institutions to generate a new and less contentious style of political discourse appears abject, but even in 1999 such highfalutin expectations seemed fanciful.

I do not believe that we can come to any other judgement than that devolution has been a success. This should not be confused with an assessment of political performance- on this judgements will vary considerably. Well designed institutions allow politics to function, they do not guarantee the quality of political decisions. Nor does it mean that devolution has created an optimal scheme of territorial governance (hence our exchange of letters). Indeed an argument can be advanced that the more successful devolution appears the greater the confidence many might feel to go further and embrace independence. But if the institutions had failed or been fatally encroached by Westminster, then territorial governance in the UK would be in the deepest crisis. Happily something near the reverse has happened. Has this success advanced the chances of wider reform to the increasingly dilapidated British constitution?

The devolved parliaments have been elected using proportional systems. Not perhaps at the purer end of PR but a radical departure from unadjusted First Past the Post (FPTP) as used to elect the House of Commons. The appetite for electoral reform at Westminster has not increased as a result of its use in the Celtic nations. True, a forlorn referendum was held in the UK in 2011 on the Alternative Vote system for election to Westminster. It was heavily defeated. But AV is not in any case a form of PR- it is just less worse according to its supporters than FPTP because at least the winning candidate receives more

than 50% of the vote. The political philosopher Karl Popper argued that the saving grace of FPTP was that it allowed the electorate to hire and fire governments. This view continues to hold sway in Westminster, and it is a strong advantage in keeping governments democratically accountable. It is combined with a distaste for coalition governments, although Britain has had many of them. However a greater reality looms: FPTP is only properly functional in a two party dominated system (hence it continues to function tolerably well in the USA). The UK now has a multi-party system in the making and while it has long tolerated governments with a minority of the vote, the winning percentage on three occasions in the last 20 years has only been in the mid 30s. Governments with such a slight popular mandate are subject to enfeeblement when faced with significant challenges.

The House of Lords is another enfeebled limb of the British body politic. I looked at its possible reform in an earlier letter and will not repeat myself here. Enough to say that it is a wasted asset for the Union. Even Gordon Brown, who is arguably one of the most distinguished unionists of the last 30 years, has not been able to break through the baffling torpor that grips most senior politicians when it comes to House of Lords reform. Devolution has increased the need for reform but not its likelihood.

Finally, devolution has led some to call for a written constitution. Of course the case for a written constitution does not rest on the presence of devolved governance but it surely strengthens the need for such codification. The adoption of a written constitution would be a mega-moment in Britain's political history. Some commentators have argued that it could be part of a political and cultural programme to reassert our shared British identity. Others have favoured a written constitution as the institutional expression of popular sovereignty rather than Westminster. I favour something of a middle way and have backed the call by Lord Salisbury and others for a new Act of Union which would codify our basic constitutional law. Using an Act of Union to achieve this reform would allow constitutional developments to be determined by Parliament (with I hope a reformed House of Lords

prominent) rather than a matter for the courts. In this way constitutional amendments would not face the near insuperable barriers they do in the USA for instance. Could this leave the devolved institutions vulnerable to a UK government intent on abolition? It hardly seems a practical proposition. Its mere attempt would potentially spark that most ultimate expression of popular sovereignty- the right to revolution in response to tyranny. That right, while rarely expressed, goes back to the 17th century!

Best wishes,
David

Letter of 12 February 2025

Glyndwr Cennydd Jones

to David Melding

Dear David,

According to the doctrine of the sovereignty of the Westminster Parliament as it currently exists in the UK no other entity, not even the people of these isles themselves, can be recognised as sovereign. However, there is a definite imbalance of power between the three distinct parts that make up that Parliament whereby the House of Commons has an obvious dominance and democratic mandate, whilst the House of Lords, which acts as a revising chamber, and the Crown, have relatively little power.

When they sit in the House of Commons, Members of Parliament (MPs) are, rather than automatically carrying out the electorate's direct wishes, instead expected to deliberate matters of parliamentary business and use their better judgement to make legislative decisions on behalf of the state (i.e. the UK) as a whole. However, the system of parliamentary discipline known as whipping, ensures that the Government's majority vote is maintained on most occasions.

For this reason it can be said that it is not the Westminster Parliament encompassing Commons, Crown, and Lords together that holds actual sovereignty but the Commons only, more specifically the Government's

Ministerial Cabinet or Executive within which imposes its political will through use of the party's Whips.

The situation, whereby MPs feel forced to vote according to the Executive's wishes not only in line with policies promised in an election manifesto but also on all other issues, despite their own best judgement, erodes the deliberative process of scrutiny and reasoning, and hinders the legislature's ability to hold that Executive truly accountable.

Further, the Executive commands many of the powers once held by the Crown, such as Orders of Council. This archaic prerogative remains in respect of signing treaties, and in 2016 was employed by the Government in an ungainly attempt to bypass parliamentary approval on whether to trigger Article 50 of the Lisbon Treaty to advance EU withdrawal after the Brexit referendum.

This concentration of actual sovereignty within a highly centralised UK Government Ministerial Cabinet means that the party-political dynamics at play do not fairly represent either the popular will of the isles-wide electorate in the Commons or the extant intergovernmental forces of national devolution in Scotland, Wales and Northern Ireland.

Worse still, the Executive at Westminster comprises many Ministers whose duties rest almost exclusively within England. In effect, the UK Prime Minister doubles as the English First Minister, an unhappy situation that introduces wide ranging conflicts of interest into policymaking and causes confusion as to where various responsibilities lie in the eyes of the electorate(s) and even those of Whitehall's civil servants.

A.C. Grayling, in his book *Democracy and Its Crisis* (One World, 2017/18), succinctly sums up the situation: '... with an unwritten constitution and

the putative sovereignty of Parliament, a single vote majority in the House of Commons can result in any violation of the constitutional tradition or citizens' liberties, a degree of arbitrary power that is not acceptable in a diverse and complex modern society where most interests are minority and require protection.'

Some of the challenges of imbalance and intransparency would be alleviated were the outdated First Past the Post (FPTP) system of MP elections for the Commons to be replaced with Proportional Representation (PR), in all likelihood resulting in greater cooperation or even coalition working at Westminster.

Under FPTP, the winner takes all: those who vote for other candidates/parties are effectively disenfranchised, and those who express their dissent by not voting at all effectively lend their support to the majority. It could be argued that in retaining FPTP, the voting system and UK electoral franchise merely sets out to demonstrate popular consent for the Westminster Parliament, despite clear dissatisfaction with the institution's operation amongst large parts of the electorate particularly, for example, in Northern England. Casting a vote to elect an MP is an explicit act of consent, whereas accepting the laws made by the Parliament—even if one had little or no influence over who serves as its Member—is an implicit act, a problematic view when considering declining voter turnout.

Crucially, FPTP neither distributes democratic power equitably between the UK's political communities, nor does it actively share Westminster's parliamentary sovereignty with the peoples of these isles and their national parliaments through the consolidation, and even extension, of devolved powers within a formally codified, federally-inspired, constitution.

Whether written or unwritten, every state has a constitution encompassing its institutions, the responsibilities, powers, and officials that go along with it, as well as the relationship of its citizens to the whole. Surely we can all agree that across these isles, our governance institutions and practices, including policy analysis and evaluation, should be trustworthy and open, immune to manipulation by political parties or influential individuals. In support of this, nearly 200 states are underpinned by written constitutions in today's world. Perhaps surprisingly, the UK is not.

Without a written constitution the framework for government is determined by precedent and custom which can be interpreted by partisan, transitory interests as it suits them. With a written constitution, these key elements are expressly and unequivocally articulated, with checks and balances in place for judicial review against their improper application. Further, in the latter case, amendments, when demanded, can be approved through a process of supermajority voting in parliament or referenda to ensure that any changes have a democratic basis.

To quote again from A.C Grayling's book: 'A written constitution constrains government in ways that an unwritten constitution does not. The Government is subject to it, whereas with an unwritten constitution it is the constitution which is subject to the Government...' He explains that 'the Human Rights Act, in the UK, goes some way to entrenching citizens' liberties, but because it does not give the Supreme Court power to strike down legislation or restrain Government action when either is at odds with the Act, the effect is not as powerful as a fully written constitution.'

More critically, the absence of a codified isles-wide framework of inter-governmental and parliamentary relations, duties, and dispute resolution processes poses a serious challenge to the smooth running and harmony of the UK multinational state. The time has come for fundamental constitutional reform, commencing with extensive consultation, examination of alternative governance models, and evaluation of

experiences based on the views of all political parties and elements of English, Scottish, Welsh, Northern Irish and British society. In order to guarantee that our Union, in whatever future form, moves forward through a durable settlement of strategic significance, the negotiations should also determine how consent for change is to be obtained.

The most important application of sovereignty lies in protecting the democratic will of a politically united society with regard to the order that best suits it—which in today's UK is structured across four parliaments through the devolution arrangements, not Westminster solely, as stated in my first letter.

Establishing a new written framework for these isles, with the support of the parliaments, could prove invaluable across the political spectrum. Some will find reassurance in attempting to articulate the more distinctive elements of the UK's practices in a codified federal constitution, whilst others will seek to cement the sovereignty position of the four nations individually in relation to a common confederal British structure. What is important is that the debate is had, and had publicly.

We should note that political participation and democracy function more effectively within a framework of territories and are increasingly diluted by remote central bodies, which can undermine the process of opinion formation and feedback sharing between elections to Government from those governed.

Parliaments are created to serve the people. In order to safeguard the democracies of our multinational Union, this principle must now be codified in a formal system of intergovernmental relations across these isles with popular sovereignty and political accountability rooted at its heart.

As ever,
Glyndwr

Endnote by the authors

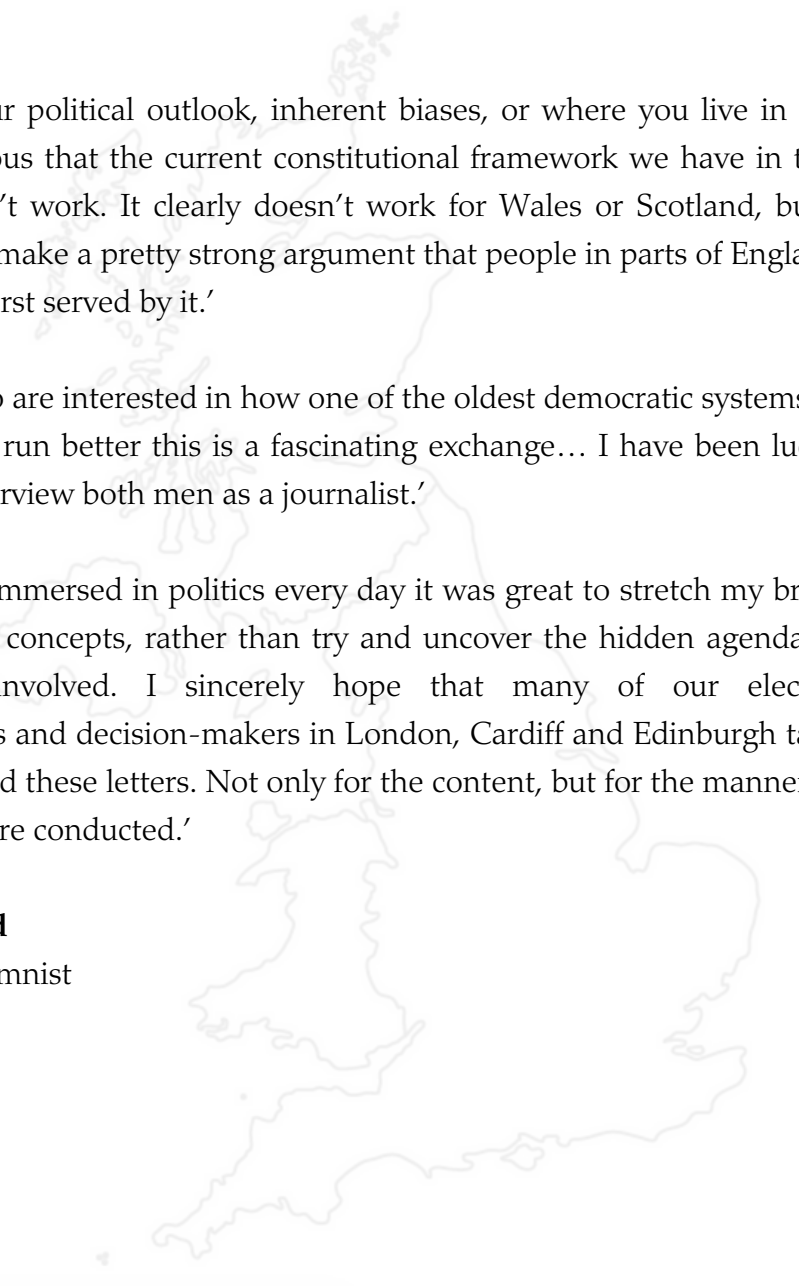
When we embarked on this correspondence roughly two years ago, in the context of a different government, nations gradually emerging from beneath the carapace of Covid, and the start of Russia's full-scale invasion of its neighbouring democracy, Ukraine, we neither of us knew quite what to expect.

Although we had known of one another for many years, it was not until Glyndwr returned from a holiday on the island of Sark having read *The Reformed Union* that we were in touch directly. This was in summer 2018 a few months before Glyndwr released his essay *These Isles* and David his essay *Unionism and Nationalism in Welsh Political Life*.

We first met in person as panellists at a joint conference arranged by the Federal and James Madison Trusts in Westminster London during October 2022, going on to appear in two episodes of a podcast for the Institute of Welsh Affairs in June 2023, and it was shortly after these that we agreed to explore further. Our intention was to have an open and creative conversation, not a narrow argument, and we hope to have succeeded. To us personally it has been a rewarding dialogue from which we have learned much.

To coin a phrase from Lao Tsu, our thoughts, in the form of these letters, have become words. For our words to become the actions of others will, of course, require a wider forum, and more voices. In the roomy perspective of historical time, we are but thinking aloud, though pleased to have made a contribution to the continuation of this important debate.

March 2025



‘Whatever your political outlook, inherent biases, or where you live in the UK, it is obvious that the current constitutional framework we have in this country doesn’t work. It clearly doesn’t work for Wales or Scotland, but I think you can make a pretty strong argument that people in parts of England may be the worst served by it.’

‘For those who are interested in how one of the oldest democratic systems in the world can run better this is a fascinating exchange... I have been lucky enough to interview both men as a journalist.’

‘As someone immersed in politics every day it was great to stretch my brain to understand concepts, rather than try and uncover the hidden agenda of the people involved. I sincerely hope that many of our elected representatives and decision-makers in London, Cardiff and Edinburgh take the time to read these letters. Not only for the content, but for the manner in which they were conducted.’

Will Hayward

Guardian columnist

David Melding is author of *Will Britain Survive Beyond 2020?* (2009) and *The Reformed Union: The UK as a Federation* (2013). He is working on his third book *Wales in an Age of Disunion*.

Glyndwr Cennydd Jones is author of *A League-Union of the Isles* (2022). He is currently working on the book *Confederal-Federalism*.