

Island Britain

EDITED BY
ALICE SPAWLS



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Where are we now?

Responses to the Referendum

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David Runciman

So who is to blame? Please don't say the voters: 17,410,742 is an awful lot of people to be wrong on a question of this magnitude. They are not simply suckers and/or closet racists – in fact, relatively few of them are – and they are not plain ignorant. You can't fool that many people, even for a relatively short period of time. And yes it was close, but it wasn't that close. The margin between the two sides – 3.8 per cent – was roughly the same as the margin by which Obama defeated Romney in the 2012 presidential election (3.9 per cent), and you don't hear a lot of people complaining about the legitimacy of that, not even Republicans (well, not that many). Plus, turnout in the referendum, at 72.2 per cent, was nearly 18 per cent higher than in the last presidential election. The difference, of course, is that a general election is a constitutional necessity whereas the EU referendum was a political choice. If you don't like the outcome, don't say it was the wrong answer to the question. It was the wrong question, put at the wrong time, in the wrong way. And that's the fault of the politicians.

Cameron must shoulder the lion's share of the responsibility. It was a reckless gamble, given that the stakes were so high. No one can say how this will play out, but it has already put enormous pressure on the basic functioning of the British state, something that Conservatives are meant to value above all else. As Scotland pushes for independence, Irish nationalists agitate for unification,

Wales explores its relationship with England, Labour faces a split that may lead some of the party to an explicit embrace of extra-parliamentary politics, and Farage stirs the pot, the situation is unlikely to resolve itself any time soon. This has the makings of a full-blown constitutional crisis that the Conservative Party, no matter who becomes its next leader, may struggle to contain. No Conservative leader, least of all one as essentially pragmatic as Cameron, would open the door to such a possibility lightly.

Prime among Cameron's reasons for doing just that was the belief he would win. When he went to Brussels earlier this year to brief his fellow European leaders about his plans, he is reported to have told them not to worry because he was a 'winner' and knew how to get the result he needed. This wasn't just bluster. Till last week's fatal reverse he had a remarkably successful track record: two general elections, two referendums (the 2011 one on the Alternative Vote system as well as the 2014 Scottish one) and before that winning the Tory leadership when the odds seemed stacked against him. What was different this time was that he wasn't able to take the key players in his party with him. Johnson's defection was perhaps to be expected – though Cameron does not appear to have prepared for it – but Gove's was not. Had Cameron known that his decision would split the Tory Party at the very top, including his own inner circle, it might have given him pause. The other difference is that neither of the two previous referendums was really Cameron's personal initiative: one was a sop to the Lib Dems, the other a concession to the SNP. This meant that his warnings of disaster carried some conviction, since he could plausibly say that none of it had been his idea. This time he had no one to blame but himself, and the voters could tell.

What about Corbyn? I don't believe that a different leader, fighting a more full-throated campaign, would have made much difference to the final outcome: most Labour voters went for Remain anyway and many of those who didn't were sufficiently alienated to be resistant to all persuasion. Nevertheless, if Labour had had a different leader there's a good chance we wouldn't be in this mess. Yvette Cooper might have been no better at convincing people in Labour's heartlands to turn out in support of an unloved and distant institution – she might well have been worse – but she would have been far better at convincing the Tory government to think a bit harder about the risks it was running in holding

the referendum, including the risk of defeat at a subsequent general election. Along with Cameron's recklessness we need an explanation for Johnson's and Gove's. Part of it, unquestionably, came from their sense that Labour was no longer a serious party of government and therefore that their own freedom of action was commensurably broader. The chancers chanced it because they thought they'd get away with it.

In politics, secondary effects matter just as much as primary ones. Corbyn's election as leader was designed to promote a new kind of politics, along with the values that underpin it. But it also loosened the constraints that held his opponents in check. So a very different kind of politics is what we've now got. The other secondary effect that has had profound consequences is the annihilation of the Liberal Democrats at the last general election. Had Cameron been forced into another coalition with the Lib Dems it would have been much harder for him to take a punt on this referendum; or to put it another way, it would have been much easier for him to renege on his manifesto commitment to hold it, as part of the price of remaining in office. The deep public anxiety that drove the Leave vote – especially about uncontrolled immigration – would not have gone away. Nor would the appeal of Ukip. But both would have had to be channelled through less incendiary mechanisms than a binary plebiscite.

Having said that the voters cannot be blamed for the consequences of this referendum, I can hardly blame them for not having foreseen the consequences of failing to keep a few more Lib Dems in post at the last election. Thinking through the secondary effects of the choices we make is incredibly hard. That's why constitutional arrangements matter too. There are many hypotheticals relating to the referendum result that are very difficult to assess. Would a concession from Merkel allowing an emergency brake on the free movement of workers have been enough to tip the balance? Would either Johnson or Gove have gone it alone if the other hadn't been there to provide cover? Did the murder of Jo Cox, counter-intuitively, harden rather than soften the resolve of some Leave voters not to be dictated to by politicians? But there is one 'what if' about which I am confident. We would not be in this situation if our electoral system worked on the basis of proportional representation. PR more or less guarantees a coalition government, which, as I've said, makes it

much harder for any prime minister to take such a leap in the dark. At the same time, the weakness of the Labour Party would not have encouraged him in such a step, because the party would already have split. Under those electoral conditions Corbyn might be leading a minority leftist party and would feel free to speak his mind on the desirability of leaving the EU. But the majority Labour Party representing the mainstream of Labour voters would have been able to counter him.

The primary cause of this referendum result is the first-past-the-post system, albeit through its secondary effects. It empowered Cameron to take a huge gamble despite his tiny minority. It forced the entire Labour movement to line up behind a leader who was not competent to lead them. It wiped out the Lib Dems, who for all their faults have been sorely missed. Proportional representation is usually dressed up as an issue of fairness, but as the AV referendum showed, that line of argument doesn't have much appeal for ordinary voters, who tend to see fairness in more bread-and-butter terms. But there is a better argument: it is a matter of basic security against misrule by careless and cavalier politicians. Of course, European countries that have proportional representation face profound challenges and politicians as a class are no more loved there than they are here. In Spain it is proving difficult to form a government at all. And if things really go wrong and the Euro project finally falls apart, PR will not save it. It isn't a panacea. But it also isn't a coincidence that the two places where truly destabilising populist politics have been let off the leash are Britain and the United States. Looking at what we have allowed to happen, Trump must be licking his lips. Under winner-take-all systems, people who are happy to gamble away their nation's security only have to get lucky once. Let's hope it is only once.

T.J. Clark

I voted Leave, without enthusiasm, mainly because I had promised to do so in Greece last July. What Dijsselbloem and Schäuble did to Greece back then seemed an indication of what the EU was truly for. It remains our best clue to how 'Europe' would act if a left government, of a nation less hopelessly enfeebled than post-Pasok Greece or post-Blair-and-Brown Britain, dared, say, to resist

TTIP's final promulgation of the neoliberal rule of law. Certainly the relevant point of comparison for the 17 million Leave votes is the No to 'austerity' registered by the Greeks, again in the face of all respectable opinion, a year ago. And everything will now be done, as then, to make sure the scandal of democratic refusal doesn't get in the way of business. I have no doubt that already, behind the smokescreen of Article 50, Dijsselbloem and Schäuble's intermediaries are sitting down with Carney and Osborne to settle the outlines of the no-but-on-the-other-hand-not-really.

Global capitalism, in other words, is inconvenienced by the verdict from the UK zones of sacrifice, and naively disdainful of it, but well equipped to cope with the casualties' ingratitude. It will soldier on. The intelligentsia can be depended on to froth in its favour. Facebook, an American friend tells me, 'has become an unbearable liberal wailing wall'. Conversations with young Southern European immigrants in London – one recently with a Bulgarian woman sticks in the mind – are a welcome reality check. They know all too well what the 'free movement of labour' means for people like them, and how much the discipline of the euro is responsible for driving them north. No lessons in the mechanics of wage suppression or Deutsche Bundesbank's anti-Keynesianism are needed.

It is one thing, however, to have an optimistic (or pessimistic) view of capitalism's ability to weather the storm blowing from working-class Britain, another to underestimate the system's endogenous vulnerabilities. What happened in 2008 will happen again. The break-up of the eurozone is one step nearer, the question now being whether it will be 'managed' from New York and Berlin or plunged into pell-mell. What political forms will be invented in response – what battle between successor Golden Dawns and Syrizas, Five Star Movements and Freedom Parties – remains to be seen. The risks are enormous here, the monstrosities close – the only words worth pondering from the Brexit charade are 'My name is Death to Traitors' – but there seems to me no turning back. The political question therefore is this: could there be a future circumstance in which such a moment of capitalist crisis, or sequence of moments, none of them 'final', could be greeted, in various nation-states (including a suitably shrunken and chastened Britain, robbed at last of its 'role in the world' and no longer 'punching above its weight' for Washington), by the

beginnings – the first steps in a long reconstruction – of a minimal anti-capitalist resistance?

There will be such resistance, I am sure – though the days since the referendum in Britain only confirm how little our politics is likely to contribute to it. The Leave vote in England and Wales, with its unmistakable working-class character, including elements of dangerous rudderless vindictiveness, ought to have presented a movement of the left with a challenge and opportunity. A Labour Party capable of even the baby steps of political thinking would immediately have pivoted from its previous Remain position. The vote spoke irrefutably to the reality of Osborne-land. The Tories had once again proved their inability to reconcile their real-world City ‘internationalism’ with their unreal-world, but indispensable, dream of national sovereignty. No doubt they would pretend to put divisions behind them and govern (always they are better at this than Labour), but the pretence might have started to wear thin if it had been met by an EU exit strategy that truly countered the Conservative one, setting out the recalibrated priorities that Leave made possible. What might have then followed, in a Britain with a better politics, would be a battle to make the upshots of the Leave vote – the terms of a new social settlement – precisely those the right wanted never to be thinkable again. But that could have happened, clearly, only if Labour had recognised what the No in its heartlands signified.

I wake from my counterfactual. It is a week since the vote. The Tories appear to have found their Hillary Clinton, and disposed of their Donald Trump. The real Hillary Clinton will be breathing a sigh of relief. The Labour Party, precisely because it realised that Corbyn might be contemplating the kind of pivot described above, has risen in arms to preserve its essential City connection. What will remain of Labour as a result is not clear. Not much, by the look of it. A columnist in the Financial Times – always a good read when markets are roiling – reminds his constituency that ‘financial capitalism survived the 2008 global crash. Liberal democracy has not fared so well. There is a connection ... Capitalism needed saving, but in bailing out the financial institutions with taxpayers’ money, governments transferred the stresses from markets to politics.’ Racism and xenophobia are the stresses’ most familiar symptoms. And everything is conspiring in Britain, yet again, not to allow the stressed – the broken, resentful, precarious and

disoriented – the least chance of political representation.

Jonathan Coe

‘The story of the referendum,’ a friend wrote to me this week, ‘is one of people taking a joke too seriously.’ Always hard to tell, in the case of Boris Johnson, where the joke fizzles out and the cold ambition begins. Was the whole thing, to him, a jape that went sour at the end, or was it indeed a cynical grab for power that didn’t pan out? Now that we’ve been reminded, courtesy of Martin Fletcher’s celebrated Facebook post, that it was Johnson himself (as Brussels correspondent of the Telegraph in the 1990s) who created the whole fantasy version of the bureaucratic, undemocratic, Britain-bashing EU which, twenty years later, he successfully campaigned against, we have a new and somewhat awestruck sense of just how much damage the average Etonian’s talent for flippant and entitled prankery can do. Clearly I underestimated him when I wrote about him in these pages three years ago (LRB, 18 July 2013) and concluded merely that ‘Johnson has become his own satirist.’ His destructive powers have turned out to have been much greater than that and, although he has retired to the shadows to lick his wounds, he’ll be back.

Where that leaves the 51.9 per cent of voters (51.9 per cent of the 72.2 per cent who turned out to vote, that is) who placed their faith in Johnson and Gove to deliver more money for the NHS and significant curbs on immigration, God knows. The Leave campaigners threw around promises as if this were a general election and they were in a position to offer manifesto pledges. One of them has now scarpered and the other one has already gone back on a promise (not to stand for leadership of his party) which he once said he would be prepared to write on parchment using his own blood. It doesn’t bode well for the Brexit supporters who voted for them in good faith: if they come to think that they’ve been sold a pup there may be hell to pay, but the culprits are bound to find a way of avoiding responsibility. And sadly, the EU itself will no longer be there to serve as a lightning rod for everyone’s grievances.

As a passionate Remainer I’m trying to accept the result with good grace but it’s hard when it was brought about by a campaign

eloquently described by Robert Harris as ‘the most depressing, divisive, duplicitous political event of my lifetime’: words which, incidentally, were written before the announcement of the murder of Jo Cox, the defacement of London’s Polish Social and Cultural Association, and the prominent appearance of a member of Combat 18 among those celebrating the result on the front page of the Sun. I feel, at least, that I understand my country a little better now than I did before 24 June. But I love it a good deal less. Charlie Hebdo’s cover this week showed a bowler-hatted gent sitting on the loo, legs akimbo, pants round his ankles, reading the Sun, ensconced in a tiny wooden khazi on a tiny desert island, with the caption ‘Les Anglais enfin maîtres chez eux.’ It seems a brutally fair portrait of the nation we have revealed ourselves to be.

If we leave

Francis FitzGibbon, 16 June 2016

If Britain votes to leave the EU it will take several years to disentangle what’s to be kept and what discarded from our EU-saturated legislation. The law of the European Union has left few areas of life in the UK wholly untouched even though the EU can only legislate in areas for which it derives what are known as ‘competences’ from the treaties member states have ratified. The EU alone can legislate on areas in which the treaties have conferred on it ‘exclusive competence’. The Lisbon Treaty defined under this rubric competition rules for the single market, customs unions, commercial policy, and monetary policy in states that adopted the euro: the core business of the EU. ‘Shared competences’ – the EU and member states can both regulate on these matters, but the EU takes precedence – include the regulation of the internal market, transport, energy, environment and defined areas of social policy. Civil protection, health, education and sport are classed as ‘supporting competences’, and do not require the harmonisation of laws by member states. In other words, a web of EU law is superimposed on the law of member states, with some strands reaching further than others. In areas where the EU makes regulations, they have ‘direct effect’ in UK law without the need for any domestic legislation. By contrast, directives (such

as the Working Time Directive) have to be transposed into the law of member states by statute or statutory instrument, allowing countries to decide how to legislate in order to achieve a particular goal. EU law is part of the 'acquis communautaire', which is made up of all the EU's treaties and laws, declarations and resolutions, international agreements and judgments of the Court of Justice. It also covers joint action by member states in the field of justice and security and under the Common Foreign and Security Policy. New members are required to adopt all of this.

The laws governing the internal single market are vital to the working of the European Union, which has always operated as a 'common market'. Such laws include those governing workers' rights, including the right to work anywhere within the EU – which appears to be central to the Brexiters' enmity to the EU – as well as competition law, environmental protection, consumer law, health and safety, and aspects of criminal law. The Brexiters tend to ignore the fact that legislation in these areas isn't imposed by the EU; these are areas of 'shared competence'. The concepts of proportionality and subsidiarity are written into EU law: the former limits EU intervention to what is necessary to attain the objectives of the treaties all member states have signed and the latter provides that the EU may act only if an individual member state cannot otherwise achieve what it wants in areas outside the EU's exclusive competence. The UK has a record of 'gold plating' EU legislation, by far exceeding its requirements, in areas as diverse as animal welfare, MOT tests and the insurance industry. There may be domestic policy reasons for doing it, but Brussels should not be held responsible.

As part of the Lisbon Treaty negotiations the UK got an opt-out from most of the EU's Charter of Fundamental Rights. The charter reproduces the rights included in the European Convention on Human Rights, which isn't an EU treaty, but was adopted by the Council of Europe, with additions including rights for workers, rights to housing, rights for old people, rights for children and a right to linguistic diversity. The opt-out stops the European Court of Justice in Luxembourg from ruling that UK laws and administrative actions are inconsistent with the charter in certain spheres, and the additional workers' and social rights cannot be used in litigation in the UK unless they are specifically provided for in domestic law.

So while the EU has legal supremacy it is not the case that member countries are always bound to submit to its legislative will but rather that national courts have to ensure that their decisions are consistent with European law. Only the Court of Justice in Luxembourg can strike down a piece of EU legislation as invalid. In cases of conflict national courts interpret domestic legislation purposively – in other words, they take into account the intention of the EU legislation that the domestic law is supposed to implement – thus allowing for a degree of flexibility. As a last resort, national courts can declare local law to be incompatible with EU law. In some cases, they can seek clarification by referring questions of EU law to Luxembourg for a preliminary ruling.

This happened recently in a case brought against the British government by the Tory MP David Davis and Labour's deputy leader, Tom Watson. They challenged the government's blanket power to retain communications metadata, including emails, phone and internet activity, and the lawfulness of the police and other agencies being able to authorise their own access to them. The High Court ruled that the Act of Parliament that granted the power was unlawful because it breached European law on privacy, as stated in the Charter of Fundamental Rights. There was no rule restricting the use of stored data to the prevention and detection of serious offences, and no system of independent authorisation. The European Court had already struck down a directive on data retention as being incompatible with privacy rights, in a case brought against an Irish telecoms company. In the Davis and Watson case, the British government appealed against the High Court decision, and the Court of Appeal referred the matter to the Luxembourg Court. Judgment is pending. The irony of going to Luxembourg to demand freedom from interference by the British government cannot have been lost on Davis, a prominent Leaver. If he has his way, this means of redress for British citizens will be closed.

Article 50 of the Treaty on European Union (TEU) provides the mechanism for a member state to withdraw from the EU within a two-year period. It does not cover that state's future relations with the EU. If the UK votes to leave, it will have a choice to make. One possibility is membership of the European Economic Area (EEA), which is made up of the EU member states plus Norway, Lichtenstein and Iceland: this gives access to the single market

and other benefits at a price, with continuing application of EU regulations but no say in EU policy-making. Or there's the Swiss model: membership of the European Free Trade Area, again with Norway, Lichtenstein and Iceland, but not membership of the EEA, with the Swiss instead favouring bilateral agreements with the EU – more than a hundred of them. Switzerland has access to the free market of goods but not services, makes a financial contribution, and has no seat at the table. If the desire is for the EU to have no real influence over UK law, then Brexit would mean negotiating a single bilateral trade agreement with the EU and either replication or abandonment of all the other bits of law that have come with membership. This appears to be the Leavers' preferred option.

Exit negotiations, the remaking of agreements with the EU and other countries, and re-enacting or scrapping EU regulations will divert our shrunken civil service from its main duties for years. A House of Commons research paper in 2010 estimated that about 7 per cent of statutes and 14 per cent of statutory instruments enacted between 1997 and 2009 were 'European' in origin. Most of the regulations dealing with EU financial services are in the form of statutes. No one really knows how much primary and secondary legislation in this country represents EU law, or the *acquis communautaire* more generally. There must be thousands of legal instruments with their source in the EU. After 43 years of membership, UK law is so intertwined with the *acquis* that disentangling it will be a Herculean task. Huge amounts of parliamentary time will be needed to handle new primary legislation to re-enact or alter EU rules that require non-EU legal underpinning: for example, regulations for the pharmaceutical and telecommunications industries, and competition in general, have legal force here because of the direct effect of EU law rather than by UK statutes. If new versions do not harmonise with EU law, it will be harder to trade with the EU. The alternative is for ministers to seek Henry VIII powers, which would allow them to amend primary legislation without parliamentary scrutiny. That shortcut would sit badly with the Brexiters' complaints about the undemocratic nature of the EU.

A major difficulty when a country withdraws from treaties is the concept of vested rights, which are acquired by individuals through a treaty and can survive even if their state withdraws from that treaty. This is the greyest of areas, but it is reasonable to think

that the Luxembourg Court would, for example, reject attempts by a member state to expel UK citizens who have settled in that state if they became destitute. Whether UK businesses based in the EU or trading from the UK would continue to enjoy pre-Brexit rights as vested rights, indefinitely or at all, is a great unknown.

Many of the Leavers would claim to be tough on law and order. The Schengen Information System identifies EU nationals across the member states who are accused of crime and wanted in their home countries. The European Arrest Warrant makes it easy to extradite them. New bilateral arrangements would have to be made to replicate this warrant. Cross-border policing, currently funded and organised by EU bodies, would also have to be renegotiated. In addition, the UK will lose automatic access to the European Criminal Records Information System – which was designed by British specialists. Unless this too can be renegotiated, our courts and law enforcement will be deprived of information about the records of suspects and convicted criminals. These things are part of the hidden wiring of the criminal justice system. Why strip them out and start again? In civil law, the EU legislation that makes one member state's court judgments enforceable across the EU would cease to apply. The provisions would again need to be renegotiated with the EU or with individual states.

The Leavers have been coy about what would be done to protect workers' rights. EU legislation has shaped British law on discrimination, agency workers, working time, maternity and paternity leave, pensions and data protection. If we leave, Parliament will be free to remove any or all of these rights. If the go-it-alone version of Brexit prevails, the UK would be relieved of its obligation to admit workers from across the EU, but there is no guarantee that the EU would not reciprocate and obstruct British citizens from taking jobs in Europe.

EU law currently regulates standards for water and air pollution: unwelcome red tape to some, a guarantee of public health to others. The Environmental Impact Assessment Directive requires major developments to undergo environmental impact assessments, with public participation. Many of the rules on health and safety at work and elsewhere derive from EU law. If we leave, all this legislation can be altered and standards of protection, against injury at the workplace, for example, lowered.

It isn't hard to see the entire process stretching out for years,

accompanied by litigation at every step. If the substance of most of our EU-derived laws and regulations stays in place, will Brexit have been worth it for the sake of what is jettisoned? One of the Brexit supporters' main complaints is the influence of the European Court of Human Rights over UK law. But Brexit would not mark the end of that. Signing up to the European Convention of Human Rights and the jurisdiction of the Strasbourg court is a necessary condition for membership of the EU, but not the other way round: the convention and the court are not under the EU's control. The convention was drafted by the Council of Europe, whose members include non-EU states such as Russia, Ukraine and Turkey, and it is responsible for the Strasbourg court. The Conservatives obsessively link the Court of Human Rights and the EU, but they are mistaken and ignorant. Theresa May, the home secretary, calls for Britain to leave the convention while staying in the EU: it can't sensibly be done.

England prepares to leave the world

Neal Ascherson, 17 November 2016

I never thought I would see this opera again. 'Rule Britannia!' peals, the curtain parts, and there is a mad queen poling her island raft away into the Atlantic. Her shrieks grow slowly fainter, as the mainland falls behind. The first performance was in the 1980s. Who could forget Margaret Thatcher's ear-splitting arias? But she never took the raft to the horizon, and never finally cast off the cross-Channel hawser mooring her to Europe. This revival is different. Theresa May says she's bound for the ocean, and she means it.

Or rather, she means it because she doesn't mean it. Nothing in British history resembles this spectacle of men and women ramming through policies everyone knows they don't believe in. Never mind the few genuine Brexiteers. Amber Rudd, Philip Hammond and Theresa May – among others in government – all tried to keep the UK in the European Union. Now they are trying to take it out again, apparently on the terms that will do their country most damage.

There's a kind explanation, a white-coated one and a coarse

one. The kind account says that they feel democratically obliged to carry out the wishes of the English people, whatever their private opinions. (A variant suggests that they think themselves duty-bound to save the country from the worst consequences of a disastrous decision, but their recklessness over Brexit doesn't support that.) The white-coated shrink account is that they are pathologically over-compensating out of guilt for backing the wrong side. And the coarse explanation is that they just want to stay in power.

This is a government that stamps and shouts in order to hide its inner weakness. Its majority in the House of Commons is tiny; the Conservative Party is noisily divided; the quarrelling cabinet – despite the 'no running commentary' proclamation – leaks and briefs daily about Brexit. And it's led by a politician whose show of flinty determination conceals – I increasingly suspect – awful fears about her own ability to control her party and something close to panic as she leads Britain into the black cloud of unknowing that covers Brexit negotiations, the trembling economy and the future of the United Kingdom itself.

It's insecurity, not complacency, which is prompting such Little England deafness and blindness to the outside world. May stowed Boris away in the Foreign Office as if it were a scullery cupboard: nothing in there mattered to her. She and the other Tory leaders simply didn't notice that Amber Rudd's plan to name and shame British firms that didn't list their foreign employees provoked days of horrified media coverage all over Europe and America. When the outside world asked if the country that wanted to 'anglify' the NHS, block European students and use EU residents as bargaining chips was really the Britain they had known and loved, May's ministers shrugged.

At the EU Bratislava summit in September, the defence secretary, Michael Fallon, proclaimed that he would veto European plans to co-ordinate national armies – even though Britain would be long out of the EU by the time anything of the sort could take place. More recently, May told EU leaders in Brussels that Britain intended to use its right to interfere up to the last hour of its membership. When Jean-Claude Juncker commented on May's performance with a loud raspberry, British journalists, accustomed to reporting every EU meeting as if Britain were the only item on the agenda, pretended to be shocked. But the other 27 nations

must be wondering when they can tell May to mind her own business.

England is dragging the other nations of the United Kingdom with it as it leaves not only the European Union but the world. Does anyone think seriously that Canada or Australia, comfortably embedded in the American and Asian trade regions, will turn back towards 'the mother country'? Somebody commented that Theresa May was the best person to build a better yesterday (many would say the same about Jeremy Corbyn). It's the way back to a bedraggled exceptionalism, the 1970s pretence that Britain was still at the top table of the Big Three or Four, a Victor Power of the Second World War which should never be classed with mere nation-states like France or Albania.

Back then, the media and politics thrived on the patriot superlative: this or that British bridge or factory chimney or ancient monument regulation was the longest or the tallest or the most protective in Europe/the world/the universe. Often these claims were quite untrue. But then followed a more sober period, in which European comparisons worked their way into the media. English education was set against German school attainment; British healthcare outcomes against French; our public spending on culture and heritage against that of Austria. Britain sometimes did poorly by these measures and was spurred to catch up. But now that invaluable habit – judging British standards by those of other European members – will die out again. The kingdom will become once more nonpareil – incomparable. Or incorrigible.

Trying not to show how frightened they are, this governing crew are backing into the future. But this is a way of ensuring that old problems crawl after you, snarling as they catch your eye. Britain's gross social inequality, only briefly reversed in postwar decades, will continue to increase. A return to grammar schools in England is one sign. Another is the stealthy return of references to 'the poor'. Until the other day, politicians and journalists tried to avoid that ancient term, talking instead of 'families in multiple deprivation' or 'children in poverty' or 'the less fortunate' – categories suggesting individuals who can be rescued. But now 'the poor' are back, a dark, dishevelled tribe who may be our fault but are definitely not our brothers and sisters. The Victorians used to say that 'the poor are always with us,' and now, once more, the losers in a free-market economy are labelled as an inevitable

sludge that forms at the bottom of any growth society. Do Britain's right-wingers really hope that 'the poor' will subside into an 'underclass'? An archipelago of wired-off ghettos on basic welfare, where criminality is assumed to be genetically inherited? Tories passionately deny that. And yet their policies seem designed to bring it about.

Westminster was the one place where May seemed to be showing harsh resolve. But the High Court judgment striking down her plan to trigger Article 50 without parliamentary consent humiliated her before her own front bench. She set out to kick aside constitutional convention in order to get her way on Brexit: no Commons vote but instead the use of Crown Prerogative to bypass Parliament. All this to stifle debate on Britain's heaviest decision since 1945. What happened to parliamentary democracy? Was May setting out to be a new tsar? It seems, however, that she lacks an autocrat's backbone. And what befell parliamentary democracy was that it stood helpless with its trousers round its ankles – until High Court lawyers, not politicians, came to the rescue and pulled them up again. That failure by MPs to defend their Chamber's boasted rights won't soon be forgotten.

Nothing that May was proposing was unconstitutional. There is no constitution. It was an archaic convention she was violating: the peculiar English belief in 'parliamentary sovereignty'. The slogan in the referendum was 'Take Back Control.' But of what and from whom? The establishment Leavers said: 'Take back the sovereignty of Parliament, the Ark of the English Covenant. England isn't England if Parliament can be overruled by anyone – least of all by foreigners.' But the mass of more plebeian Leavers asked something different: why should they obey laws they didn't want, made somewhere else by politicians they didn't elect? (Did some Scotch git at the back say something?) It was the imagined rights of the nation they wanted to take back, not of Westminster. It wasn't parliamentary sovereignty they were after, but something paradoxically un-English and European: the sovereignty of the people.

The muddled argument still goes on. Impassioned Remainers march and demonstrate and demand that Parliament have the last say – in the hope that a majority of MPs might even now reject Brexit, hard or soft. But the Leavers, some of whom still suspect that the government will buckle in negotiations and sell them

out over immigration controls, retort that the will of the people expressed through a referendum amounts to supreme law. In other words, superior to whatever an elected parliament might decide.

May chose the second view. The people had spoken, and politically she felt obliged to obey. But English constitutional doctrine says the opposite: Parliament, not the people, is absolute. At the end of the 17th century (putting it crudely) the so-called Glorious Revolution took absolute power away from the monarch and bestowed it on Parliament. Over the years, that quick fix has become a jewel-encrusted shrine. Its high priest, the late Victorian sage A.V. Dicey, intoned: 'Each successive generation from the reign of Edward I onwards, has laboured to produce that complete political unity which is represented by the absolute sovereignty of the Parliament now sitting at Westminster.' That was rubbish history. But it confirmed the idea of absolute authority, a top-down flow of power from the Crown in Parliament (better called the 'elective dictatorship' of a cabinet) to the smallest local authority. In theory, this rejects the whole Enlightenment ideal of popular sovereignty (the 'subsidiarity' on which other European state systems are based). It implies that civil rights can be no more than a loaned-out privilege. In practice, this Anglo-British power doctrine makes it horribly difficult for the state to devolve its authority in any coherent way. It's obliged to do it more and more, but grinds and screeches as it does so: the old machine just isn't made for that. And this is why Nicola Sturgeon's requests to admit the Scottish government as an equal partner in Brexit negotiations, or to share Home Office control of immigration, make May so cross. The fact that the British constitution is invisible often makes it inflexible.

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'If you believe you are a citizen of the world you are a citizen of nowhere.' Mrs May will pass into folklore with that line, just as Mrs Thatcher is remembered for 'There is no such thing as society'. It's her own Mad May Queen utterance. And yet the sentence reveals a lot. It comes out of a solid, unexamined nationalism. It's becoming clearer than ever that for millions of English voters 23 June was just what Nigel Farage said it was: England's independence day. It was almost as much an independence referendum as the one in 2014 which saw so many patriots ask for 'Scotland's future in Scotland's hands'. But, true and tragic, the real dependence of

England was never on foreigners and 'Brussels' but on London: on Britain's ancient fusion of politics and money power into a single densely matted elite. So the consequence of the Leave victory has been to put those English voters under the control of an even smaller and more extreme establishment, or *Obrigkeit*. True and sad, great numbers of good people who wanted to liberate the country they loved were misled into wounding it, ensuring pain and damage for a generation. But what matters now is to recognise that the Brexit choice was largely driven by a force that must no longer be ignored: English nationalism.

The *New Statesman* recently sought answers to the Scottish Question and the Irish Question. What about the English Question? In the multinational Habsburg Empire, the only component nation that didn't have special cultural and political privileges and festivals of identity was the one supposed to form the imperial core itself: the Germans of Austria. In the United Kingdom, where 86 per cent of the population is English or lives in England, the imbalance is even more absurd. Scotland, Wales and Northern Ireland have self-government while England has only 'the imperial Parliament' of the UK. While the empire lasted, Englishness dozed quietly under the cloak of Great Britishness. Now the cloak is off, and Englishness wakes in a sour temper. England is well administered but badly governed. Populist disgust with existing parties and rulers is as sharp among ordinary people here as in many other European countries. But organised English nationalism – the campaign for an English parliament, for instance – is still weak, though growing. This is because, in contrast to the common European experience, England's educated middle class has refused to foster and guide the embryo of a national movement, seeing it as a vulgar commotion akin to football hooliganism. Even *Ukip*, which would probably have reached solid ground as an openly English party, tried to play safe as a defender of 'British' identity.

For at least twenty years, the sense of England as an affronted and neglected nation has been growing, but its expression has been formless, generally noticed by the media only when it turns racist and xenophobic. Devolution to Scotland and Wales was taken as a slight, discriminating against the biggest partner in the United Kingdom. Then came a surge of approval for the rather abstruse 'English Votes for English Laws' project in 2015, limiting the right

of Scottish MPs to shape legislation affecting only England. It was a warning sign of the simmering disaffection which erupted in the EU referendum; not only the post-industrial north of England voted Leave but swathes of the semi-rural south as well.

Two readings of English nationalism compete. One comes from Tom Nairn, who named it 'perpetually regressive', with a 'stalled and pathological character'. His books have argued that English political imagination has been 'stunted' by Britishness, and that only the break-up of the British state can transform English nationalism into a modernising, progressive force. Michael Kenny, on the other hand, in his book *The Politics of English Nationhood*, thinks that a civic and popular English nationhood is attainable within the UK framework. But only if liberal-minded people stop holding their noses and 'engage England as the site for a positive and progressive nationality'. No sign of that yet.

But England, that tough, funny and normally tolerant nation with a unique sense of fairness, does deserve its independence. What irony, if it's true that only Scottish independence can bring the English to their own! With no 'British' mirror to confuse them, the people who live between the Tweed and the Channel might get a grip on their real 'controllers', that alliance of private money and public power which maintains such shocking contrasts of wealth and such shameless unfairness in the distribution of opportunity. So must an EU Brexit lead to a UK 'Scoxit'? More people think so in London than in Edinburgh, where the obstacles to a successful 'Indyref2' – some old but some new – are more clearly seen. In the May-Sturgeon standoff, Sturgeon has more to lose if May concedes nothing and forces her into another referendum defeat. Yet I sense again that May is much less confident than she seems. She isn't a coward – remember how she faced down the Police Federation as home secretary. But she is tidy-minded and hates a gamble. In time, she may give the first minister some of what she wants – just enough, perhaps, to allow Sturgeon to put off that referendum. Scottish opinion polls are pretty stagnant, and campaigns to revive the old 'Yes' enthusiasm don't yet seem to have much traction. But standing back from daily politics, you can watch Scotland's place in the union growing steadily looser, almost month by month, as one shock or disappointment follows another. Like an old front tooth ready to drop out. 'Aye,' a friend said, 'but where's the tooth fairy?'