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THE CONNECTION BETWEEN BREXIT AND ATTEMPTS TO FIND AN ANSWER TO THE WEST LoTHIAN QUESTION¹

ABSTRACT: The article constitutes an attempt to deal with the paradox contained in the West Lothian Question (known also as the English Question) which remains one of the greatest anomalies of the British constitutional system. Since the 1970s (when this question was asked for the first time) there have been many legal and political disputes over that issue, and even the idea of ‘English votes for English laws’ (EVEL) was implemented by the British parliament.

The purpose of the article is to analyze and evaluate the potential impact of Brexit on that issue. By applying the historical method as well as the institutional and legal analysis method, the author verifies the hypothesis that Brexit will not be a breakthrough in finding an optimal solution to this legal and constitutional conundrum, even though in the post-Brexit reality this issue will keep returning, gaining a completely new meaning in the eyes of the British.

Keywords: devolution, England, United Kingdom, West Lothian Question, English Question, Brexit, nationalism

INTRODUCTORY REMARKS

Studying the constitutional system of the United Kingdom of Great Britain and Northern Ireland is a major challenge and often a highly complex and complicated process. It requires consideration of its extensive specificity resulting, for instance, from a legal

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system that is different than in the countries of continental Europe, as well as numerous other factors deeply rooted in the political history and tradition of the British state. A separate issue contributing to the uniqueness of this system is the sole structure of the United Kingdom and the legal and political relations between its member countries: England, Scotland, Wales, and Northern Ireland.

These relations are the source of a great anomaly of the British constitutional system, known since the 1970s as the West Lothian Question or the English Question. This peculiar legal and constitutional conundrum rose to prominence following the devolution reforms carried out by Tony Blair's cabinet at the end of the 1990s. Those reforms had a massive impact on the political system, since, as a result of the legal acts which were adopted by the British parliament and received the royal assent, separate parliaments and governments were established in Scotland, Wales, and Northern Ireland. They were also granted a specific (but not identical) degree of autonomy with respect to passing and enforcing their laws. At the same time, devolution did not apply to England, which, in practice, means that the law in the largest part of the United Kingdom is shaped exclusively by the British parliament, in which not only English MPs, but also representatives of Scotland, Wales, and Northern Ireland hold seats. Moreover, the MPs representing English constituencies, and, somewhat paradoxically, those who represent Scottish, Welsh, and Northern Irish constituencies in the House of Commons, have no say with respect to a number of issues that concern Scotland, Wales, and Northern Ireland since the authorities mentioned above, established under the devolution reforms, are exclusively competent to decide on them.

Over two decades, a number of legal concepts, some more realistic than others, were developed in order to solve this peculiar constitutional dilemma. And even though it never became the pivot of a political dispute or gained any special importance in public discourse, when the Conservative Party came to power in 2010, its leaders, including the then prime minister, David Cameron, announced that legislative works would be initiated in order to adopt legal regulations intended to comprehensively solve the issue encapsulated in the West Lothian Question. Ultimately, in 2015, the Tories were able to include a procedure in the Standing Orders of the House of Commons whereby the idea of 'English votes for English laws' (EVEL) was to be implemented. However, after several years, the House of Commons, still dominated by the Tories, decided to first suspend and then completely abolish this procedure.

In the meantime, one more event occurred: in the national referendum of 23 June 2016, the British decided to initiate the United Kingdom's withdrawal from the European Union. The outcome of the Brexit referendum once again demonstrated the dissonance between the countries of the United Kingdom: most of the English and Welsh voted to leave the European Union, while most of the Scots and Northern Irish wanted to remain in the EU. In analyses of the complex reasons that led to Brexit, the distinct revival of English nationalism is emphasized, including the suggestion that Brexit could be interpreted as a specific response from the English to devolution, a devolution that did not cover England.

All of this opens a broad discussion on the future of the United Kingdom, which, if it is to remain united and survive in an unmodified form, will most likely see even more devolution in the years to come. The purpose of this article is to contribute to this discussion by means of an analysis and evaluation of the potential impact of Brexit on the anomaly of the British constitutional system expressed through the West Lothian Question. By applying the historical method as well as the institutional and legal analysis method, I will attempt to verify the hypothesis that Brexit will not be a break through in finding an optimal solution to this legal and constitutional conundrum, even though in the post-Brexit reality this issue will keep returning, gaining a completely new meaning in the eyes of the British.

THE ORIGIN AND ESSENCE OF THE WEST LOTHIAN QUESTION

For a long time, the countries making up the United Kingdom of Great Britain and Northern Ireland functioned as separate kingdoms (or, in the case of Northern Ireland, as parts of such kingdoms). The establishment of a single state on their basis occurred in stages, through agreements and understandings, which not only laid down the principles of cooperation, but also granted varying degrees of autonomy.

Considering the structure of the United Kingdom today and the manner in which it has been formed, one could say that various internal legal and political tensions between the UK's components are, in a way, a natural element of its history. The nature of these tensions has always been (and remains) the same: the key issue is to define the boundaries within which the representatives of the particular countries are allowed to decide on their internal matters. The devolution reforms of the Labour Party in the late 1990s highlighted this problem, although it had been noticeable before.²

In Ireland, which had been part of the United Kingdom of Great Britain and Ireland from 1800 and had its representatives in the British parliament, discussion on some degree of autonomy (Home Rule) was in place already in the second half of the 19th century. The political rise of Irish nationalists towards the end of the 19th century in combination with acceptance from the Liberal Party and prime minister William Gladstone resulted in three bills on devolution in Ireland going through the British parliament between 1886 and 1914.³ Even though the last of these bills (restricting the number of Irish MPs in Westminster) came into effect as an act of parliament in 1914, it was suspended following the outbreak of the Irish War of Independence.⁴ Under the Government of Ireland Act 1920, two parliaments were established: one in Dublin and one in Belfast, as Northern Ireland remained part of the United Kingdom. However,

² For details on the history of devolution in the United Kingdom, see e.g. D. Birrell, P. Carmichael, D. Heenan, *Devolution in the UK: Politics, Power and Policies*, London 2023; J. Mitchell, *Devolution in the UK*, Manchester–New York 2009.

³ M. Russell, G. Lodge, *Westminster and the English Question*, London 2005, p. 16.

⁴ V. Bogdanor, *Devolution in the United Kingdom*, Oxford–New York 2001, p. 19.

even though the Northern Irish parliament (Stormont) enjoyed a wide range of prerogatives, the MPs from Northern Ireland kept their seats in the British parliament. This was the first case where MPs representing only one part of the United Kingdom had an influence on the legislation of the entire British state, while the same issues, when concerning only Northern Ireland, were decided upon in Stormont. Although the number of Irish MPs in the House of Commons was small (13, decreasing to 12 in 1948), their alliance with the Tories resulted in the 1960s in the Labour Party's initiative to nationalize the steel industry being blocked (even though this case did not concern Northern Ireland to any degree).⁵ Ultimately, in 1972, direct rule was introduced in Northern Ireland. Stormont was dissolved and the laws in force in Northern Ireland started to be passed in London. Additionally, the Northern Ireland Office, headed by the Secretary of State for Northern Ireland, was created within the British cabinet.

In the case of Scotland, the first tensions related to the legal and political status of the Scots appeared in principle immediately after the Acts of Union 1707 came into effect. However, in spite of the union with England, the Scots were able to retain a number of their traditional legal regulations concerning the educational system, the justice system, and local governments, for example.⁶ Moreover, the laws on which the British parliament worked usually contained special clauses concerning Scotland or explicitly stated that they applied exclusively to England and Wales. Irrespective of the above, the traditional distrust from the Scots towards the English resulted in the emergence, already at the end of the 19th century, of concepts regarding the establishment of a separate Scottish parliament; however, these lacked political support in London. The MPs representing Scottish constituencies in Westminster focused their attention primarily on laws concerning Scottish matters. In turn, at the government level, Scottish interests were represented mainly by the Scottish Office, headed by the Secretary of State for Scotland.

In Wales, the situation seemed to be the least complicated since its union with England had been the oldest (dating back to 1536) and the strongest, mainly because its key element was (and still is) the shared legal and court system. For this reason, legislative works in the British parliament concerned exclusively Welsh matters only in exceptional cases. Consequently, situations that could result in potential disputes were rare. These occurred in principle only when the House of Commons was dominated by the Tories, whose popularity in Wales (and Scotland, as well) was low, meaning that the underlying problem was purely political. However, over the course of the 20th century, the MPs representing Welsh constituencies successfully employed various means of exerting influence on the laws in force in Wales, both through the relevant parliamentary commissions and via the Welsh Office, headed by the Secretary of State for Wales.⁷

⁵ O. Gay, H. Holden, P. Bowers, *The West Lothian Question: Standard Note: SN/PC/2586*, London 2012, p. 5.

⁶ M. Russell, G. Lodge, *Westminster...*, p. 20.

⁷ *Ibid.*, p. 22.

The first serious attempt at establishing separate parliamentary assemblies for Scotland and Wales took place in the second half of the 1970s when the Labour Party, inclined towards devolution much more than the Conservative Party, was in power. On 14 November 1977, during one of the debates in the House of Commons, Tam Dalyell, an MP representing the Scottish constituency West Lothian, asked how long (should devolution occur) the English MPs would tolerate a situation where 119 members of the House of Commons from Scotland, Wales, and Northern Ireland exert a significant, and often decisive, influence on English policies, while being unable to have a say in the same matters when they concern Scotland, Wales, or Northern Ireland.⁸ Dalyell, who opposed devolution, pointed to the fact that this would lead to a situation where the Scottish members of the House of Commons (as well as the MPs from Wales and Northern Ireland) could continue to vote on all matters concerning England, while English MPs would have no influence over the same issues in Scotland (as well as Wales and Northern Ireland),⁹ as these matters were to be decided by local legislative assemblies established under devolution acts. This was when the legal conundrum started to be referred to as the West Lothian Question.¹⁰

DEVOLUTION AND ITS IMPACT ON THE DISCUSSIONS CONCERNING THE WEST LOTHIAN QUESTION

The above attempt to establish separate parliamentary assemblies for Scotland and Wales was unsuccessful. The relevant acts were adopted by the parliament, but never came into effect since the Scots and Welsh rejected them in referendums in March 1979. However, the topic of devolution returned in 1997 when the Labour Party won by a landslide and came back into power. Tony Blair's cabinet carried out the devolution of central power in Scotland, Wales, and Northern Ireland by means of the Scotland Act 1998, the Government of Wales Act 1998, and the Northern Ireland Act 1998. Each of these acts established both legislative and executive bodies, equipping them with a specific set of prerogatives and competences with respect to the matters covered by devolution.¹¹

One absolutely crucial consequence of the devolution reforms was the fact that, after such a long time spent on debates, discussions, and disputes, legislative assemblies with specific (although highly varying) prerogatives were finally established to pass laws applicable in Scotland, Wales, and Northern Ireland. At the same time, the

⁸ O. Gay, H. Holden, P. Bowers, *The West Lothian...*, p. 2.

⁹ See T. Dalyell, *Devolution: The End of Britain?*, London 1977.

¹⁰ The term was first used by Enoch Powell, an MP for the Ulster Unionist Party (UUP). In line with the parliamentary custom, referring in his speech to Dalyell, he did not use his name, but the name of his constituency (the "Honourable Member for West Lothian"). Accordingly, he proposed that, going forward, the matter be referred to as the West Lothian Question.

¹¹ For details, see e.g. J. Adler, *Constitutional and Administrative Law*, Basingstoke–New York 2013, pp. 341-359.

representatives of those parts of the United Kingdom retained their seats in the House of Commons,¹² which significantly changed their role and political importance. Since devolution did not cover England and there were no modifications to the mechanism of governing the largest part of the United Kingdom, these reforms emphasized even more strongly the constitutional paradox contained in the West Lothian Question. Once the reforms were implemented, the 'non-English' MPs from Scotland, Wales, and Northern Ireland not only influenced the laws in force in England, but also, in a specific political and party configuration, their votes could be decisive in some matters. In fact, during the Labour Party's spell in power, this was the case on several occasions. For instance, in 2004, the Scottish MPs determined the outcome of the vote on an increase in tuition fees at universities, even though the act concerned only English and Welsh universities, since Scotland has its own system of higher education that remains under the control of the Scottish parliament. If the vote had included only English and Welsh MPs, the bill would have lacked six votes to go through.¹³

All of this has led to doubts whether laws concerning exclusively England (or England and Wales) should be treated and adopted in exactly the same manner as the laws covering the entire United Kingdom. In a broader sense, a discussion was opened on how to solve the legal problem created by the devolution reforms coming into effect in Scotland, Wales, and Northern Ireland. The discussion primarily involved the political elites and representatives of academia; it also forced the main British political parties to work out their standpoints on the matter. In the first decade of the 21st century, various concepts were put forward in order to solve the problem of the West Lothian Question.¹⁴ These concepts can be divided into two main categories. Some of them were intended to empower England in such a way that its political importance within the United Kingdom would become even greater; others were aimed at ensuring the decentralization of power in England.¹⁵

The empowering of England could take place, for instance, by establishing the English state or a separate English parliament, with its MPs elected only by the English, following the model functioning in Scotland, Wales, and Northern Ireland. However, these solutions were deemed too far-reaching and thus unrealistic, as the adoption of any of them would have led to a constitutional revolution in the United Kingdom.¹⁶ Another way of empowering England that was considered and discussed at the beginning of the 21st century was the idea of 'English votes for English laws' (EVEL), which consisted of a proposal that non-English MPs would completely lose their influence over the legislation that concerns England. The decision on whether the given bill (or

¹² Currently, following the 2023 review of constituencies in view of electorate quotas, out of the 650 seats in the House of Commons, Scotland has 57, Wales has 32, and Northern Ireland has 18.

¹³ M. Russell, G. Lodge, *Westminster...*, p. 13.

¹⁴ See e.g. R. Hazell (ed.), *Constitutional Futures Revisited: Britain's Constitution to 2020*, Basingstoke–New York 2008, pp. 73–89.

¹⁵ R. Hazell, *The English Question*, London 2006, p. 4.

¹⁶ For more on this topic, see e.g. P. Leyland, *The Constitution of the United Kingdom: A Contextual Analysis*, Oxford–Portland 2012, p. 277.

a part of it) concerns only England (or England and Wales) would be made by the Speaker of the House of Commons.

This idea was not a novelty as a similar solution (called the ‘in and out solution’) was proposed at the end of the 19th century with respect to Ireland by the then prime minister, William Gladstone. The Tories, who opposed the idea back then, returned to it a century later and started to push it through as an optimal solution to the problem created by the devolution reforms. This was because it was the Conservative Party that criticized devolution the most, undermining the right of non-English MPs (especially Scottish ones, due to their large number in the parliament) to vote on bills concerning only England (or England and Wales). The Labour Party opposed EVEL, which was justified by its leaders claiming that adopting such a solution would lead to the emergence of two categories of MPs and a ‘parliament within a parliament’, which in turn would cause chaos and confusion in the legislative process.¹⁷

Importantly, the diverging opinions of the two main British parties on EVEL were also a result of political factors. For the Tories, the restriction of the rights of non-English MPs would be much more beneficial, mainly because this party has traditionally enjoyed the highest support in England. In turn, for the Labour Party, the adoption of this solution would mean serious problems in terms of getting the required majority in votes concerning English matters as there were cases in history where, in spite of being in power, the Labour Party had fewer English MPs than the Tories.¹⁸

The Labour Party was much more in favour of those concepts of constitutional reforms that were intended to decentralize power in England (primarily at the regional level), so that the English would be able to decide on the matters that concern them. For instance, following the example of Greater London, where the mayor had been elected in universal and direct elections since 2000, Tony Blair’s cabinet wanted to implement the same solution in other cities, both with respect to mayors and regional assemblies. However, this was not met with acceptance from local communities, which rejected the solution in referendums. Probably the most spectacular defeat of the Labour Party in this area was the referendum in the North East in November 2004 regarding the establishment of the North East Assembly, whose members would be elected.¹⁹

THE RISE AND FALL OF THE IDEA OF ‘ENGLISH VOTES FOR ENGLISH LAWS’

When in opposition, the Conservative Party consistently advocated EVEL, either promising its implementation in its manifestos or regularly bringing up the topic in

¹⁷ For more on the criticism of the idea of “English votes for English laws”, see e.g. M. Russell, G. Lodge, *Westminster...*, pp. 25-27.

¹⁸ Ł. Danel, “Brytyjskie dylematy konstytucyjne ‘pytania z West Lothian,’” *Studia Polityczne*, vol. 45, no. 4 (2017), pp. 120-121.

¹⁹ *Ibid.*, pp. 122-123.

parliamentary debates and in the public space. The Tories came to power in 2010, forming a coalition cabinet with the Liberal Democrats. In their campaigns, both these parties mentioned the issue of the status of England within the United Kingdom, pointing to the need to address the West Lothian Question. The independent McKay Commission, appointed after the election specifically to deal with this matter, published a report in 2013, in which it recommended changes where consent to decisions concerning English matters would be granted in the House of Commons by a majority of the MPs representing English constituencies.²⁰

In the meantime, one more significant event took place in this context: an increase in the political importance of the Scottish National Party (SNP) reinforced the Scottish drive for independence. The 2014 referendum on the matter ended in failure, but resulted in amendments to the Scotland Act, further increasing devolution in Scotland. For the then prime minister, David Cameron, this was a pretext to stand up for the rights of the English, who, in his opinion, were disadvantaged by the situation. Consequently, in their 2015 manifesto, the Tories promised to intensify works on procedural changes in the House of Commons that would finally lead to the English MPs having a decisive influence on legislation concerning England. In other words, they promised to implement the idea of 'English votes for English laws'. In spite of objections from the opposition, the Conservative majority introduced these new procedures in the House of Commons already in October 2015. They were applied for the first time in January 2016.

Under the new rules, the Speaker of the House of Commons confirmed which bills (or parts of bills) concerned only England (or England and Wales, or England, Wales, and Northern Ireland). If the entire bill concerned England, at the committee stage, the committee would be made up exclusively of English MPs. At the subsequent stages of working on the bill (and in the final vote), all MPs were allowed to participate. The situation was slightly different if only part of the bill concerned England (or England and Wales, or England, Wales, and Northern Ireland). In that case, an additional stage was added to the traditional legislative path: after the report stage, those specific parts of the bill had to be accepted by the Legislative Grand Committee composed of all of the English (or English and Welsh, or English, Welsh, and Northern Irish) MPs. At the other stages of working on the bill, all MPs were allowed to participate. As for the House of Lords, no changes were made in its rules of procedure. However, if an amendment proposed by the Lords was considered by the Speaker as concerning exclusively England (or England and Wales, or England, Wales, and Northern Ireland), its acceptance in the House of Commons required a double majority: majority of the total number of MPs, but also majority of the MPs representing English (or English and Welsh, or English, Welsh, and Northern Irish) constituencies.²¹

²⁰ See O. Gay, *The McKay Commission: Report of the Commission on the Consequences of Devolution for the House of Commons: Standard Note: SN/PC/06821*, London 2014.

²¹ Cabinet Office, *English Votes for English Laws: An Explanatory Guide to Proposals*, July 2015, at https://assets.publishing.service.gov.uk/media/5a8169d8e5274a2e8ab53db4/English_votes_for_English_laws_explanatory_guide.pdf, 12 May 2024.

The first opinions on the new procedures were quite favourable.²² British constitutionalists pointed out that a number of practical and constitutional obstacles related to such reforms had been overcome, at the same time noting, however, that the votes of the English MPs had not been strengthened in any clear manner.²³ Much changed after the 2017 election. The Tories stayed in power, capturing most of the seats in the House of Commons, but, in terms of the general majority, they became highly dependent on the Northern Irish Democratic Unionist Party (DUP) and its own MPs representing Scottish constituencies. This meant dependence on MPs the Conservative Party could not rely on in matters concerning exclusively England (or England and Wales), for instance during the votes in the Legislative Grand Committee. This, in turn, had extensive political implications.²⁴ However, following the next snap election (2019), the situation reverted to normal: the Tories captured most of the seats in the House of Commons (including those reserved for English MPs), which allowed them to use the EVEL procedure comfortably.

However, this did not last too long. Firstly, in 2020, the application of EVEL was suspended in order to facilitate parliamentary procedures during the COVID-19 pandemic. Subsequently, on 13 July 2021, the House of Commons approved the Conservative Party's motion to completely abolish EVEL as a procedure that had caused significant chaos in the work of the parliament, unnecessarily complicating and slowing down the legislative process.²⁵ The representatives of both the government and opposition were in agreement that EVEL had failed to eliminate the constitutional anomaly contained in the West Lothian Question; it also did not elevate, in the symbolic sphere, the status of English MPs or increase their political importance.

THE WEST LOTHIAN QUESTION AND BREXIT

The Conservative Party's decisive win in the 2015 election, resulting in it holding a majority in the House of Commons, allowed David Cameron not only to implement the EVEL procedure, but also to organize the referendum concerning United Kingdom's continued membership of the European Union, which he had promised should the outcome of the election be as such. The referendum was held on 23 June

²² See e.g. D. Gover, M. Kenny, *Finding the Good in EVEL: An Evaluation of 'English Votes on English Laws' in the House of Commons*, Edinburgh 2016.

²³ For a more detailed analysis, see e.g. D. Gover, M. Kenny, "Answering the West Lothian Question? A Critical Assessment of 'English Votes for English Laws' in the UK Parliament," *Parliamentary Affairs*, vol. 71, no. 4 (2018), pp. 760-782.

²⁴ For more on that issue, see R.B. Taylor, "The West Lothian Question, EVEL and the 2017 General Election," *UK Constitutional Law Association*, 13 June 2017, at <https://ukconstitutionallaw.org/2017/06/13/robert-brett-taylor-the-west-lothian-question-evel-and-the-2017-general-election/>, 15 May 2024.

²⁵ "Commons Scraps English Votes for English Laws," *BBC*, 14 July 2021, at <https://www.bbc.com/news/uk-politics-57828406>, 17 May 2024.

2016; the majority of the British (51.9%) who participated in it voted for the United Kingdom to leave the European Union after nearly 50 years of participation in European integration processes. Following many months of negotiations concerning the terms of the 'divorce' and the rules of future cooperation between London and Brussels, Brexit finally took place at midnight on 31 January 2020.

It was an analysis of the results of the 2016 referendum in combination with a detailed analysis of the reasons for Brexit that reopened discussion on the West Lothian Question. This is because the decision to leave the European Union is seen from the angle of the revival and strengthening of nationalism, which was strongly present not only during the pre-referendum campaign, but also in the years immediately following the referendum.²⁶ In order to see the full picture, both English and British nationalism should be analyzed,²⁷ but in the context of deliberations on empowering England within the United Kingdom, it seems crucial to focus specifically on English nationalism. This phenomenon manifests itself in the functioning of various political groups and movements that promote English culture, history, and language.²⁸ Today, English nationalism is gaining particular importance especially in the case of discussions concerning devolution and the alleged disadvantage at which England was put as a result of these reforms.²⁹ Many of the English believe that the legal and institutional empowerment of Scotland, Wales, and Northern Ireland was a historical injustice for England. One side effect of devolution was therefore a growing belief that England is being used by the other parts of the United Kingdom, which in fact are, for instance, financially dependent on England and London.³⁰

The outcome of the referendum once again demonstrated a crack between the particular parts of the United Kingdom: most of the English and Welsh voted to leave the European Union, while most of the Scots and Northern Irish wanted to continue membership of the organization. In England, people voting for Brexit outnumbered those voting against by nearly two million. Considering the fact that the English constitute 84% of British society (with the Welsh making up 5%, the Scots 8%, and the Northern Irish 3%), one could claim that the decision to withdraw from the European Union was made to a disproportionately large extent by the English rather than by the residents of the other countries making up the United Kingdom.

²⁶ For more on that issue, see e.g. C. Calhoun, "Populism: Nationalism and Brexit," in W. Outhwaite (ed.), *Brexit: Sociological Responses*, London–New York 2017, pp. 57–76.

²⁷ See e.g. Ł. Danel, "Eurocepticism or Nationalism — Which Better Explains the Decision of the British to Leave the European Union?," *Studia nad Autorytaryzmem i Totalitaryzmem*, vol. 43, no. 1 (2021), pp. 131–135.

²⁸ For more on English nationalism, see e.g. J. Black, *English Nationalism: A Short History*, London 2018; K. Kumar, *The Making of English National Identity*, Cambridge 2003.

²⁹ See e.g. A. Henderson et al., "How Brexit Was Made in England?," *British Journal of Politics and International Relations*, vol. 19, no. 4 (2017), pp. 631–646.

³⁰ Ł. Danel, *Zrozumieć Brexit. Przyczyny wystąpienia Zjednoczonego Królestwa Wielkiej Brytanii i Irlandii Północnej z Unii Europejskiej*, Warszawa 2022, pp. 153–154.

Naturally, this leads to the question of whether Brexit was a product of English nationalism and how justified it is to interpret it as a response of the English to the asymmetric devolution carried out by the Labour Party at the end of the 20th century. However, a deep analysis of this phenomenon shows that an attempt to explain Brexit by means of English nationalism is too much of a simplification. Even if 'Englishness' was a significant factor in building support for the idea of the United Kingdom's withdrawal from the European Union (similarly to many other social and demographic factors), Brexit became a fact as a result of a decision made not only by the English, which means that it should be analyzed in the context of the UK as a whole.³¹ Devolution and the sense of the historical injustice mentioned above undoubtedly mobilized the English, but the purpose of that mobilization was primarily to demonstrate (and, in fact, to confirm) the dominant position of England within the United Kingdom. This is important not only politically, but also psychologically, since domination has always been an element of the political DNA of England and the English.³²

However, could this have far-reaching consequences in the near future when it comes to an intensification of the attempts of the English to achieve a greater legal empowerment of England? And in consequence, will it lead to the West Lothian Question finally being answered? Not much seems to suggest that this will be the case. Therefore, it is difficult to expect that Brexit could be a breakthrough in finding an optimal solution to this legal/constitutional conundrum.

CONCLUSIONS

The West Lothian Question is an extremely interesting, but not the only, anomaly of the British constitutional system. It is a natural element of the legal and political structure of the British state and *de facto* became prominent as soon as England started to build what is today the United Kingdom of Great Britain and Northern Ireland. However, when it comes to the importance of the paradox contained in the Question, a turning point was the devolution reforms of the late 20th century, which equipped Scotland, Wales, and Northern Ireland with their own institutions of political power, at the same time keeping the representatives of those countries in the British parliament. The attempts to correct these reforms with a view to empowering England have so far been unsuccessful; the most spectacular example in this respect was the introduction (by a Conservative Party government) and then the abolishment (also by a Conservative Party government) of the 'English votes for English laws' procedure.

The negative consequences of Brexit are still strongly present in the United Kingdom. They are primarily of an economic and political nature but leaving the European

³¹ Ibid., pp. 154-155.

³² R. Dunin-Wasowicz, "Long Read: Is Brexit the English Reaction to Devolution?," *LSE*, 10 October 2019, at <https://blogs.lse.ac.uk/brexit/2019/10/10/devolution-brexit-and-english-nationalism/>, 15 July 2024.

Union has also produced a number of constitutional problems the British political elites have to tackle. In fact, Brexit has questioned the future of the British state and increased, at least initially, the pressure on even more devolution. All of this made the West Lothian Question resurface with a completely new meaning following the 2016 referendum.

However, as demonstrated in this article, Brexit was not a product of English nationalism; neither could it be clearly classified as an English response to (unfinished) devolution. Consequently, it is difficult to expect that the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union will directly translate to any constitutional changes intended to modify the legal and political status of England or its representatives in Westminster.

The current political situation does not suggest such developments either. After the fall of the concept of EVEL, the Conservative Party government did not take any other actions in this direction; neither did it make it one of its political priorities or start a public debate on it, focusing mainly on economic and international challenges instead. The election of 4 July 2024 resulted in a spectacular political success of the Labour Party, which returned to power after 14 years. At the same time, the election ended in disaster for the Scottish National Party, which extinguished much of the discussion on Scottish independence. Naturally, the issue of devolution, including its potential expansion, will return, since the cabinet of Sir Keir Starmer will probably make the relevant adjustments in this respect. In connection with that, one cannot completely rule out the possibility that the West Lothian Question will return, like a boomerang.

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