Session 2
Brexit and the UK Constitution
Anthony Barnett
After the Deluge
Remaking the Constitution
Bonavero Human Rights Centre
Oxford 22 February 2019
EPIC FAIL

How Britain was betrayed by the political class

By Jonathan Powell
What is a Constitution?

Constitutions lay down the rules for changing the rules

1. They set out the power relations between different institutions
2. They set out the powers of citizens vis a vis authority
3. They establish their societies’ aspirations
A race through British history (1688 – 1988)
CHARTER 88

A Bill of Rights
Freedom of Information
Accountable government
A fair electoral system of proportional representation
A reformed House of Commons
A democratic Upper House
Reform of the judiciary
Redress for all state abuse
Independence for local government
Scottish and Welsh Parliaments
Devolution of power
A written constitution
A Citizen’s Democracy
The Rt. Hon. John Smith QC MP
Leader of the Labour Party

Our crumbling constitution can no longer be dismissed as a sideshow. It is at the heart of what is wrong with our country. People care, and they want change.”

CHARTER 88
The Deluge
From the Prime Minister's Chief of Staff

26 February 1998

Dear Anthony,

Thanks for your note of 13 February which the Prime Minister has seen. He found it extremely helpful and we will give the issue some thought. We will be back in touch in due course.

we might do a speech a

Yours sincerely,

JONATHAN POWELL

Anthony Barnett, Esq.
The Genie and his Bottle
To those who say devolution has let the genie out of the bottle, I say, look at the Tories. They clung to the status quo; they do not have a single seat in Scotland or Wales to show for it. (Applause) The enemies of the Union are the advocates of the status quo and the separatists alike. We have defeated the one and we will defeat the other. (Applause)
FROM THE RIGHT HONOURABLE THE LORD IRVINE OF LAIRG

HOUSE OF LORDS,
LONDON SW1A 0PW

Anthony Barnett Esq
2 Hugo Road
LONDON
N19 5EU

1 November 1998

Dear Mr. Barnett,

Many thanks for sending me your Memorandum setting out your thoughts on the need for a new constitutional settlement for Britain. It is most interesting and I have passed it on to my officials for further consideration. I am also grateful for the copy of Gordon’s speech.

As you say it is important to recognise the links between the Government’s various constitutional reforms. It is for that very reason that the Prime Minister charged me with overseeing our constitutional programme. You also rightly point out these are matters requiring change over time, but with a clear objective in mind. In framing that objective the contribution made by you and Charter 88 has been and will, I am sure, continue to be of great value.

Yours sincerely,

Prime Minister
We either embark on an ambitious and risky plan of further democratic reform - an English Parliament, federal Britain, a written constitution - or we will end up, one day, in a chilly churchyard of the mind, throwing handfuls of clay on the Union Flag. Which is it to be?

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Andrew Marr
The trouble with many of the politicians engaged in the argument over Brexit is that they have not absorbed that duty and have let their passion and the means they are prepared to use overcome their sense of proportion. They are also disregarding the consequences, intended and unintended.

The reason this particularly matters in Britain is that we have an unwritten constitution. It depends largely on convention and precedent rather than written rules. It is a delicate balance and when people no longer care about the means they use or the consequences of their actions then it risks collapse. We have seen Brexit MPs challenging the good faith of the Speaker, the government being held in contempt of parliament for the first time in history and Brexiteer rebels arguing that pro-European parliamentarians are usurping the role of the executive.
“After us, the deluge”
Trying to milk a vulture: if we want economic justice we need a democratic revolution
When we look at how to *remake the constitution* we have to work through the most difficult aspect of it: the meaning it gives to society as a whole.
Paul Gillespie
Table 1: The UK’s Dual Sovereignty Crisis in its External and Internal Relationships: Four Constitutional Future Scenarios

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<thead>
<tr>
<th>Centralised</th>
<th>Future Scenario 1</th>
<th>Future Scenario 2</th>
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<tr>
<td></td>
<td>Breakup of UK</td>
<td>Renegotiated UK</td>
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<td>Suggested impacts</td>
<td>Suggested impacts</td>
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<td>Unity option NI + RI</td>
<td>BA muddles through/up</td>
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<td>Failure of unionism</td>
<td>Unionism reimagined</td>
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<td>Britishness weakened</td>
<td>Britishness reconfigured</td>
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<td></td>
<td>I-B links renewed</td>
<td>I-B links renewed</td>
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<tr>
<td></td>
<td>Irish border poll</td>
<td>NI + RI debate unity</td>
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<td>Scottish independence</td>
<td>Scottish discontent</td>
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<td>English sovereignty</td>
<td>English resentment</td>
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<td></td>
<td>Welsh independence</td>
<td>Welsh discontent</td>
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<th>Dispersed</th>
<th>Future Scenario 3</th>
<th>Future Scenario 4</th>
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<td>Differentiated UK</td>
<td>Federal UK</td>
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<td>Suggested impacts</td>
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<td>NI stays in CU + SM</td>
<td>BA reaffirmed</td>
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<td>Unionism weakens</td>
<td>Unionism inscribed</td>
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<td>Britishness erodes</td>
<td>Britishness reinvented</td>
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<td></td>
<td>I-B links renewed</td>
<td>I-B links renewed</td>
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<td></td>
<td>RI + NI shift to unity</td>
<td>NI + RI deepen links</td>
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<td>Scottish resentment</td>
<td>Scottish stability</td>
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<td></td>
<td>English discontent</td>
<td>English satisfaction</td>
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</tr>
</tbody>
</table>

Note: BA = Belfast Agreement; I-B = Irish-British; NI = Northern Ireland; RI = Republic of Ireland; CU = EU customs union; SM = EU Single Market. [Source: Paul Gillespie, Institute of British-Irish Studies, University College Dublin, pegillespie@gmail.com]