

Submission to the House of Lords Select Committee on the Constitution
Inquiry: The Union and Devolution
Submitted: Wednesday 30 September 2015
From: A Force For Good, and written by Alistair McConnachie

About Us: A Force For Good

'A Force For Good' was launched by Alistair McConnachie on 21 March 2012 in order to campaign for a No vote at the referendum on 18 September 2014. It is both an Online and Physical Project located at **aForceForGood.org.uk** 268 Bath Street, Glasgow, G2 4JR (*admcc@sov250907.orangehome.co.uk* 07974 757 514). Alistair McConnachie was the first 'Individual' to register as a 'Permitted Participant' for a 'No'. The Project continued, full-time, after the referendum. It does not support any political party or religious group. He has a degree in Scots Law, and is happy to attend a Public Hearing.

A Force For Good – 4-Point Statement of Position

The Position upon which we stand, and from which we judge the Philosophy, Policy, Projects and Activity which we promote:

1. The United Kingdom of Great Britain and Northern Ireland shall be maintained.
2. The United Kingdom is, and shall remain, primarily a Unitary State and One Nation.
3. Ever Closer Union between all the people and parts of the United Kingdom – including but not limited to elements; social, cultural, educational, economic, legal, territorial and political – shall be pursued.
4. The House of Windsor shall continue to provide the Head of State for the United Kingdom.

Read more> <http://www.aforceforgood.org.uk/info/about>

The following 6 and a half pages address the Key Questions asked at

<http://www.parliament.uk/business/committees/committees-a-z/lords-select/constitution-committee/news-parliament-2015/devolution-launch>

KEY QUESTIONS

IS THE UK'S CURRENT CONSTITUTIONAL AND LEGAL FRAMEWORK ABLE TO PROVIDE A STABLE FOUNDATION FOR THE DEVOLUTION SETTLEMENT?

1. We do not use the word 'settlement' in relation to devolution since, clearly, nothing is 'settled'.
2. The basic constitutional and legal 'framework' of the UK is sufficient. The real task is educating our legislators to understand what *is* the United Kingdom (see para 6 below); to have a 'philosophy of Union' (see para 10 below) and to understand what *is* devolution (see para 16 below).
3. If these basics are not understood by our legislators then a stable foundation cannot be provided.
4. Unfortunately, the story of our constitutional and legal framework post-1999 devolution has been of a political class who don't understand these basics.
5. Consequently, they do not understand how the United Kingdom can be compromised and threatened by nationalist, separatist and federalist ideology and policy. Nor do they understand how it can be strengthened.
6. What *is* the United Kingdom? Contrary to the mistaken claim made in the Select Committee's 'Call for Evidence' document, the UK is **not** just a 'Union State', although it has elements of that nature. **It is primarily a Unitary State.** From the understanding of the UK as primarily a Unitary State, all else follows.
7. What is the difference? A Union State is 'a Union of 4 Nations'. A Unitary State is 'One Nation of Unions'. A Union State is 'a Family of Nations'. A Unitary State is 'a Nation of Families'.
8. The UK cannot be held together if the fundamental understanding of it is wrong! Imagining the UK merely as a 'Union State' is **to expose it and make it vulnerable** to nationalist, separatist and federalist ideology and policy – which, as we can see daily, only compromises its potential for unity and encourages division and dissolution.
9. Understanding the UK as primarily a Unitary State, however, ensures that the ideology and policy which feed it will tend towards its unity and survival. With this understanding comes the ability to protect the UK from fracture.

WHAT ARE THE KEY PRINCIPLES UNDERLYING THE UNION?

10. We addressed this question in our speech on 18 June 2015 entitled, 'One UK: The British Union from 30 First Principles' which can be read in full at <http://www.aforceforgood.org.uk/strategy/firstprins> We identified 8 Broad Areas, and 30 Key Principles which underlie the British Union. In summary these are:

PRINCIPLES OF STATE

Principle 1: The United Kingdom is a Unitary State

Principle 2: The United Kingdom is One Country and One Nation

Principle 3: The United Kingdom is a Family

Principle 4: The United Kingdom is an End in itself, and not only a Means to an End

PRINCIPLES OF RELATIONSHIP

Principle 5: The Nature of a Union is Joint Commitment to a Greater Collective Good

Principle 6: It is Wrong to Demand More Powers and Expect to Remain in Union

Principle 7: A British Frame of Mind puts First the Interest of all Britain

Principle 8: Policy and Implications for all the UK is our Concern, not just for England, Northern Ireland, Scotland or Wales separately

PRINCIPLES OF EQUALITY

Principle 9: Any Discrimination, including Economic Discrimination, towards a British Citizen based on the Grounds of his or her Place of Residence in the UK shall be Prohibited

Principle 10: All British citizens must have Access to the Same Top-Rate Welfare Payments and Benefits

PRINCIPLES OF ECONOMY

Principle 11: The UK is a Sharing and Redistributive Tax Union

Principle 12: Mineral and Energy Resources throughout the UK belong to all British Citizens

PRINCIPLE OF IDENTITY

Principle 13: The British Identity requires Political Union

PRINCIPLES OF CONSTITUTIONAL UNITY

Principle 14: Any change to One Part of the United Kingdom has to have Regard to the Whole of the UK and the Whole of the UK has to be Involved

Principle 15: It Shall be Difficult to Break-Up the Country

Principle 16: All Constitutional Matters Regarding the Union of the United Kingdom must be Made by Primary Legislation

PRINCIPLES OF PARLIAMENTARY UNITY

Principle 17: Laws are Made by the British Parliament

Principle 18: The British Parliament has Complete Authority over all its Subsidiary Bodies

Principle 19: The British Parliament has a Responsibility to all the People of Britain to Retain its Complete Authority over all Actions of any Subsidiary Body

Principle 20: Every Law Passed in the British Parliament affects Everyone in the UK

Principle 21: All British Citizens Must have a Say over Governance in all Parts of the UK

Principle 22: Every British MP Represents, and Makes Decisions for, all of Britain

Principle 23: Every MP has a Right to Vote on Everything that comes before the British Parliament

Principle 24: The Constitutional Model must Allow for an MP from Anywhere in the UK to Become Prime Minister

PRINCIPLES OF DEVOLUTION

Principle 25: Devolution is British State Power Exercised by a Subsidiary Body

Principle 26: Devolution must be Consistent with the Maintenance of the UK as a Unitary State

Principle 27: Devolution is a Two-way Process

Principle 28: Devolution is Dangerous to a Unitary State in the presence of a Separatist Movement

Principle 29: Any Devolved Power can and will be Used by a Separatist Administration for a Divisive Purpose to Further its anti-UK Agenda

Principle 30: Scottish Separatism will Never be Appeased

ON WHAT PRINCIPLES ARE THE UK'S DEVOLUTION SETTLEMENTS BASED, OR ON WHAT PRINCIPLES SHOULD THEY BE BASED?

11. Again, we do not use the word 'settlements' since the devolution situations are changing all the time – 'Devolution Reactions', or 'Devolution Instabilities' would be more accurate terms.
12. These devolution situations are not based on any firm principles whatsoever. They are reactionary in nature, thoughtless in character, and heedless of – what we term – the Big Picture of Britain.
13. That is to say, any proposals for devolution (hitherto, and at present) merely react to the power of the Nationalists. They seek to give more powers to them without any thought of where, politically, that will place the Nationalists in a few years; and they do so without any heed to how it will affect the Big Picture of the unity of Britain.
14. The Smith Commission proposals, and the content in the current Scotland Bill, are both perfect examples of this reactionary, thoughtless and heedless approach.
15. Neither Smith nor the Scotland Bill pay any attention to what 'devolution' is even *meant to be* in theory.
16. Our 'Principles of Devolution' (above) identified 6 Principles upon which Devolution should be based, the most basic of which is Principle 25: '**Devolution is British State Power Exercised by a Subsidiary Body**'.
17. That is, the political power should remain entirely with the central British State, albeit exercised at a subsidiary level. That means the British State should retain the power to veto, take back, and even abolish – otherwise we do not have devolution.
18. It should retain these powers because devolution is not the casting-off – the abandonment – of British state power from the centre, and its establishment in a new sovereign body in a new state. In a case where the central power – the British State – abandons its law-making power and its position as the supreme arbiter, and where it no longer retains, even in theory, the power to veto, take back devolved powers, or even to abolish, then we do not have devolution. We have the granting of **slow independence** – a completely different policy.
19. Elements in the current Scotland Bill amount to a granting of slow independence. For example, making the Scottish Parliament 'permanent' in law, and the idea that the British Parliament should not be able to veto policies of the Scottish Parliament.
20. Why are these things wrong to be included in the Bill? The answer is that the British Parliament must be able to veto devolved policies (and take back powers, and even abolish Holyrood if only in theory) because the British Parliament stands for and represents the entire United Kingdom; and so long as we are in Union then **everyone** in the UK has a stake in what Holyrood, or any devolved institution may do.
21. For example, if Holyrood does something which prejudices or endangers the rest of the UK, then the rest of the UK must have a say and an ability to stop it, via the British Parliament. If we don't even believe this, then we may as well just grant independence to Holyrood – because we would already be conceding to it a form of 'slow independence'.
22. It is fair to say that the Nationalists at Holyrood have absolutely no respect for this conception of devolution. But then again, it is not as if any pro-UK politicians are making the case for this either.

WHAT IS THE EFFECT ON THE UNION OF THE ASYMMETRY OF THE DEVOLUTION SETTLEMENT ACROSS THE UK? IS THE IMPACT OF ASYMMETRY AN ISSUE THAT NEEDS TO BE ADDRESSED? IF SO, HOW?

23. Again, we don't use the word 'settlement' and it seems absurd to use such a word given the obviously unstable, and endlessly destabilising, nature of 'devolution' in the UK.
24. However, to answer the question: It is not the 'asymmetry of the devolution' which is the primary concern. Rather, it is **the context and the content of the devolution** which is the primary concern – and the resulting **attitude** of the Nationalists towards the rest of the United Kingdom.
25. Focusing on the 'asymmetry' is missing the fundamental problem, as far as keeping the UK together is concerned.

26. After all, it could be possible to imagine an 'asymmetric' devolutionary arrangement which did not damage the integrity of the UK – if the context of it was not submission to a Nationalist agenda (para 13 above) and the content of it was respectful of the primacy of the British State (para 16 above), and everyone's attitude was supportive of the UK.
27. It is **not** possible to imagine it at present, though, because devolution has still to be properly understood by our politicians as **British State Power Exercised by a Subsidiary Body** (para 16 above), rather than as simply a convenient short-term way of appeasing Nationalists by granting them 'slow independence'.
28. How would we address the 'asymmetry' – or rather what would we do to address the fundamental problem with its context and the content in which it is located?
29. The first and best way of dealing with this 'asymmetry' is not to make it worse!
30. More legislative 'devolution' (slow independence) via the present Scotland Bill, will continue to undermine the unionist case for the UK, which depends upon shared political institutions and laws, and the blurring not highlighting of difference. It will continue to make some people in England upset about 'asymmetry', possibly leading to potential crisis.
31. Secondly, we addressed the matter of 'How to Do Devolution Properly' in our article of that name at: <http://www.aforceforgood.org.uk/devo/admin>
32. We made **4 Recommendations**, which we repeat here and which help to address the 'asymmetry' – but which is really the fundamental problem regarding the **context and content**, and **attitude** towards the devolution situation:

Recommendation 1: Do Not Devolve on the Basis of Identity

33. If legislative powers are devolved on the basis of presumed 'local', 'regional' or 'national' identity, then this can encourage factionalism. It can lay the ground for potential future regionalist or nationalist platforms, and consequently, the break-up of the wider British State.
34. Some people say they want to respect local differences. That seems fair enough. But there is a big difference between respecting local, regional or national social and cultural differences, and **highlighting and amplifying** those differences. The first can help people to get along, while the second can lead to division.
35. This is especially so when Nationalists are in the ascendant. The separatists will use any powers which they acquire in order to accentuate differences, and make it impossible for them to be reconciled; in order to promote their long term goal of division. There is no power available which they cannot exploit for this end.

Recommendation 2: Devolve Across Local, Regional and National 'Borders'

36. Following from Recommendation 1 – that devolution should not be on the basis solely of identity – we should therefore always involve a 'cross-border' element which seeks to bind everyone in common cause.
37. For example, it might involve say, 'the western islands of Scotland and parts of the west coast of Scotland' or 'the southern counties of Scotland and the northern counties of England' ('the Middleland' as it has been called by Rory Stewart MP), or various cities and localities working in partnership throughout the UK. In the latter regard, the British Government's 'City Deal' programme is on the right lines.

Recommendation 3: Relate Everything Back to the Overall Context of 'One UK'

38. We need to keep reminding ourselves of the bigger picture of unity. If devolution is not to degenerate into 'slow independence' and parochial forms of factionalism and nationalism which are destructive to the cohesion of the wider society, then the Big Picture of Britain, and its Unitary (not 'Union') characteristics, must be kept centre stage.

Recommendation 4: Concentrate on Administrative Devolution: Scottish Office to Local Councils (Bypassing Holyrood)

39. Put the emphasis on Administrative Devolution, rather than Legislative Devolution. The former does not threaten the authority of the Unitary State. The latter is a playground for nationalism, separatism and federalism.

40. For example, devolution of powers to Local Councils should be (and always should have been from the start) directly from the British centre. That is, the Scottish Office (representing the British Parliament in Scotland) should have the control and should devolve powers, administratively not legislatively, directly to the Local Councils. This leaves the British Parliament – representative of all the British people – in ultimate control.
41. However, any kind of Legislative Devolution of local powers from the British Parliament, to Holyrood, and then from Holyrood to Local Councils, simply empowers Holyrood – which is to say, the SNP for the foreseeable future.
42. Of course, the Nationalists will howl blue murder at such a recommendation, because it frustrates their total grip on power, but those of us who believe in the UK should be very clear about the democratic reasons for such an arrangement, as well as the constitutional reasons for such a balance.
43. As we said in more detail in our article, 'How to Do Devolution Properly' (para 31 above), this would also have the advantage of building up the Scottish Office again. It would help to put the British Parliament back at the heart of Scottish political life and local affairs. It would help to re-establish the centrality of the wider British Context (para 26 above); and to make relevant once more the rest of the UK, and all its people, to Scotland.
44. In this regard, we used the example of how the devolution of Crown Estate powers – which is proposed in the current Scotland Bill – should instead be devolved administratively to Local Councils, instead of legislatively to Holyrood.

WHAT MIGHT BE THE EFFECT OF DEVOLVING POWERS OVER TAXATION AND WELFARE ON THE ECONOMIC AND SOCIAL UNION WITHIN THE UK? ARE THERE MEASURES THAT SHOULD BE ADOPTED TO ADDRESS THE EFFECTS OF THE DEVOLUTION OF TAX AND WELFARE POWERS?

45. We are wholly opposed to the devolution of taxation and welfare powers, on principle.
46. However, if this is to go ahead, then we believe that there is a way to mitigate the inequality, and potential tax and welfare-envy, which will arise UK-wide as a result.
47. We believe that it could be mitigated by the establishment in UK law of our **Principle 9** above: '**Any Discrimination, including Economic Discrimination, towards a British Citizen based on the Grounds of his or her Place of Residence in the UK shall be Prohibited**'.
48. We call this the British Equality Principle, or the Non-Discrimination Clause.
49. This Principle means that every British citizen must be treated the same; and regardless of where they move to, or where their main residence is found to be located, should not be disadvantaged economically, or advantaged economically, under any form of state-related payment such as, but not limited to, welfare and benefit payments, student-related payments, or pension payments; and regardless of from whom, or where, the taxes for such payments are raised.
50. Prior to devolution, this Principle used to exist in the UK – without it having to be said! Since devolution, it has become compromised.
51. If Holyrood is to get powers over tax and welfare, then this British Equality Principle will be further compromised.
52. It seems wrong that while Britain will abide by the EU rules on such equality matters, it is prepared to compromise this important general principle in relation to its own citizens, and put at risk our shared sense of social solidarity.
53. So if these substantial tax powers are going to be devolved throughout the UK – and we don't want them to be but if they are – then one way of mitigating the potential dangers of them, and redeeming, to an extent, their negative consequences upon our social union, would be for the British Government to state that this principle of Non-Discrimination must govern the spending behaviours of the devolved parliaments and assemblies on the matter.
54. We explain our ideas further under **Principle 9** at <http://www.aforceforgood.org.uk/strategy/firstprins>
55. Following from Principle 9, our **Principle 10** above states: '**All British citizens must have Access to the Same Top-Rate Welfare Payments and Benefits**'.

56. It is not enough to have access to the same basic welfare payments; not if some parts of the United Kingdom can top-up the basic rate to a much higher level! For the principle of non-discrimination to exist, every British citizen has to have access – not to the lowest level, but – to the highest level of any particular welfare payment, regardless of where in the UK they are resident, or where the higher level is located. Otherwise, this is a form of economic discrimination based on residence, which again is contrary to the British Equality Principle.
57. The establishment of a British Equality Principle would go some way to mitigating the negative effects of such devolved measures, as well as reasserting the importance of the shared British identity at the heart of our tax and welfare system.
58. And as per our **Principle 11**, above: '**The UK is a Sharing and Redistributive Tax Union**'. This was one of our key arguments for the Union at the time of the referendum. For this now to be compromised means that we will struggle to make this argument again, if there were ever another referendum.
59. In addition, the establishment of a separate Scottish tax collecting organisation – paid for on the back of the British taxpayer – also means that "Her Majesty's Revenue and Customs" risks being downgraded, replaced and ultimately driven out; thereby reducing and removing yet another British institution in Scotland.
60. We argued effectively against the huge set-up costs of such an unnecessary organisation during the referendum. Now we find that this expenditure is going to be made, *after all*, and paid for by *all the British taxpayers* instead – not just the ones in Scotland, as would have been the case under independence. This also removes another argument against separation if there were to be another referendum.
61. In effect, this amounts to the British Government enlisting all the British taxpayers to help build the institutions of a new and potentially separate Scottish state. How the SNP must be laughing!

WHAT PRACTICAL STEPS, BOTH LEGISLATIVE AND NON-LEGISLATIVE, CAN BE TAKEN TO STABILISE OR REINFORCE THE UNION? HOW SHOULD THESE BE IMPLEMENTED?

62. The aim of a Union, legislatively, socially and culturally, is to blur differences, not to highlight them in sharp relief.
63. At present – because legislators are conceiving of the UK as a 'Union State' rather than the Unitary State which it is – all the legislative direction is towards separation. Yet, there is an alternative way. As each day passes, we should be bringing everyone in Scotland, and throughout the UK, closer together. As each day passes, we should not be finding ways to drive ourselves apart, or to accentuate our differences, or create division where none existed before, but we should be finding ways to bind all the British people together in common understanding and cause.
64. What to do? **The first requirement is 'Don't Make Matters Worse'**. Unfortunately, the present Scotland Bill is an example of something which could not be better designed to *make matters worse*.
65. While it is not possible to imagine it being ditched – even though the Government has the majority to do that – there are Clauses which could and should easily be dropped, and which would help protect the pro-UK majority.
66. For example, drop the devolution of the British Transport Police. As soon as the Nationalists acquire this power they will abolish 'the British' bit, leading to the death of another British institution in Scotland. They do this as part of their agenda to make the social and cultural struggle harder for pro-UK people in Scotland.
67. Drop any requirement for the British Broadcasting Corporation to answer to Holyrood via Ofcom. It is the long-term aim of the Nationalists to subvert and convert the BBC, through pressure, into a 'Scottish Broadcasting Corporation' answerable to them. Any subservience of the BBC to the Scottish Nationalists would further damage the social and cultural identity of pro-UK people in Scotland.
68. Drop the devolution of road signs. Road signs are widespread, hugely visible **potential political banners**. This is why the SNP wants control over them. If it controls this competency, it could make all signs dual-language; brand all signs with 'Scottish Government' logos; invent new road symbols *just to be different from English roads*; change everything to metres, and possibly kilometres – and even though 'Measurements' are a reserved matter, it will argue (correctly) that it is doing it within a competence which is devolved. This could lead to a separate Highway Code for Scotland; which would lead to a separate Driving Licence for Scotland.

69. We do not exaggerate. We know this because *this is what the SNP does!* **It creates difference for the sake of it in order to create division for its own political ends.** Our politicians need to be alert to the cultural danger of the Road Sign Clauses and drop them forthwith. We wrote more on this: <http://www.aforceforgood.org.uk/devo/unionvid2>
70. Do not make Holyrood 'permanent' in law. As above (paras 19-21 above), that would compromise the idea that the British Parliament is the supreme governing body.
71. Ensure the British Parliament is able to veto Holyrood decisions. This ensures that in theory, at least, the British Parliament remains the governing body and that 'Devolution is British State Power Exercised by a Subsidiary Body'.
72. We've already mentioned the importance of strengthening the Scottish Office by switching some of the legislative devolution in the Scotland Bill, to administrative devolution (paras 39-44 above).
73. **The second requirement is to ensure 'ever closer union' legislatively.**
74. Just as the EU frames its laws to encourage 'ever closer union' within the EU, it should be a principle and an aim of the British Government at all times, and the administration at Holyrood – when it is under unionist control – to ensure 'ever closer union' within the UK.
75. In this regard, we should **establish in law** our **Principle 27** above that: '**Devolution is a Two-Way Process**'. This means it should be considered natural for devolved powers to be moderated, adjusted, rescinded or returned to the British centre, where appropriate. This is in keeping with the idea of the UK as a Unitary State.
76. After all, if we accept that the Union must be maintained, and that the Scottish Parliament is intended to 'strengthen the Union', and if we believe in the principle of 'ever closer union' for the UK, then there should be no reluctance – in principle – to moderate, adjust, rescind or return a devolved competence if that competence is being used in a way which is damaging to our Union. There should be an assumption that it is possible. There should be nothing controversial about that assumption. It should be written into law, and all legislation related to devolution, including the current Scotland Bill, should state this assumption.
77. **Other ideas: Establish a UK Constitutional Veto: Safeguard against Future Rogue Laws by an additional Paragraph in the Scotland Act 1998:** For example, in order to safeguard against future devolved rogue laws which damage the Union, a further paragraph 'c' should be added to Section 35 (1) of the Scotland Act 1998 (Power to intervene in certain cases) which should state something along the lines of: "If a Bill contains provisions which the Secretary of State has reasonable grounds to believe would be incompatible with the principle of ever closer union for the United Kingdom, or contrary to the principle that devolution must strengthen the Union, or incompatible with the principles of equality of opportunity and non-discrimination throughout the United Kingdom, he may make an order prohibiting the Presiding Officer from submitting the Bill for Royal Assent."
78. **Establish a Ministry, and Minister of State, for the Union:** To bring everything together we need the British Parliament to set up a specific Ministry, and a UK Minister, for the Union. Its task would be to promote the social and cultural value of the United Kingdom, and to spot and prevent and defeat legislative threats to the Union.
79. **The third requirement is to understand the importance of the social and cultural element of politics.**
80. Some of the Clauses we have highlighted above in the current Scotland Bill (for example, paras 66-72) indicate clearly that the British Government, 'unionist' MPs (and civil servants who come up with this stuff) have absolutely **no clue** about this vital element of politics. What else explains their willingness to offer up the BBC to SNP oversight, or endanger the British Transport Police (both a form of cultural sacrifice), or the complete absence of any Clause in the Bill which might strengthen the bonds of unity in the UK?
81. Socially and culturally, we made several suggestions in our speech of 18 June 2013, entitled, 'Ever Closer Union: Over 50 Suggestions to Promote the Social Union and the Cultural Value of the United Kingdom'. It can be read here: <http://www.aforceforgood.org.uk/vision/uk12>

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