

Unions, nations and states: A historical perspective

Robert Frost encourages us to look beyond our preoccupations with the United Kingdom and the European Union, and suggests that we can learn much from looking at political unions in the past



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We are currently obsessed with unions. In its 2014 referendum Scotland opted to remain within the United Kingdom of Great Britain and Northern Ireland. In 2016 the United Kingdom opted by a much smaller majority to leave the European Union. In both cases the referendum campaigns aroused deep and atavistic passions on all sides, and the wounds inflicted are still raw. In Scotland, many 'Yes' supporters focus their political hopes on a second referendum and dream of overturning the 2014 result. In the United Kingdom, passions remain equally high among the supporters of 'Remain',

who claim that the electorate was misled, and demand a soft Brexit, or a rerun of the referendum, and supporters of Brexit, who accuse Remainers of contempt for democracy and insist that the United Kingdom remove itself as rapidly as possible from Europe in order to restore sovereignty and control. Passions run high elsewhere. I write this piece in the aftermath of the Catalan independence

referendum: the media is full of images of violence and intransigence on both sides, as a state whose origins lie in a union first established in 1469 faces the most uncertain of futures. It has not been a good year for unions.

Unions and historians

Unions matter. Yet there are problems in studying them as a historical phenomenon. These arise from the fact that the principal object of study for historians of politics and political scientists is the beast known variously as the modern state, the unitary state, or the nation state. Joseph Strayer claims that as early as 1300 'it was evident that the dominant political form in Western Europe was going to be the sovereign state'.¹ Peter Alter has declared that, 'Since ... 1789, the nation-state has become the sole legitimating principle of the order of states.'²

Since 1789, the idea that the nation state is the natural unit of politics has appealed to many for very good reasons. For historians, the territorial nation state forms a convenient object of study. Territorial states have borders; nations have histories that can be imagined and projected backwards. Historians can chart the process

1. Joseph Strayer, *On the Medieval Origins of the Modern State* (Princeton, NJ, 1970), p. 57.

2. Peter Alter, *Nationalism* (London, 1989), p. 93.

of state-building: the construction of bureaucracies; the establishment of a national army; the development of national consciousness. All of these phenomena can be modelled, measured and charted. Most importantly, the national story resonates at a popular level. The nation forms; it fights; its children die for freedom and independence. Stories are woven of heroism against the odds and statues are raised to national heroes: William Wallace; Robert the Bruce; Garibaldi; Bohdan Khmelnytsky.

Few statues are raised to the makers of unions. If they are, they are erected for the elite, not the people. Crowds do not gather annually in Thionville, Luxembourg and Brussels at the feet of the statues of Robert Schuman, the Luxembourg-born French prime minister who helped launch the forerunner of the EU, as Scottish Nationalists gather annually to celebrate and commemorate at the feet of the huge statue of William Wallace overlooking Union Terrace Gardens in Aberdeen, where I live and work. At the other end of the gardens runs Union Street, Aberdeen's main thoroughfare, the building of which nearly bankrupted the city, and whose name was chosen to celebrate not the Anglo-Scottish union, but the Anglo-Irish union of 1800. Yet such celebrations of union are rare. The history of unions does not make good television, as the history of war and national struggle makes good television. It is a history of dull negotiations conducted by largely forgotten politicians; of dusty treaties with countless clauses in unreadable handwriting.

Moreover, unions disrupt and complicate the national story. If, as Hegel claimed, 'A nation with no state formation (a mere nation) has, strictly speaking, no history – like the nations that existed before the rise of states and others which still exist in a condition of savagery', then those who compromise national statehood by negotiating unions become villains expelled from the nationalist pantheon.³ In 1922 the Irish nationalist Michael Collins paid with his life for signing the 1921 Anglo-Irish treaty which, in the eyes of his nationalist assassin, compromised the cause of Irish independence and Irish nationhood by accepting partition and a continuing link with Great Britain. Similarly, the members of the Scottish parliament who voted for the union treaty of 1707 – the treaty that created Great Britain – have gone down in history in the words of Robert Burns as 'a parcel of rogues in a nation', who were 'bought and sold for English gold'.

Yet as the German scholar Georg Jellinek pointed out as late as 1882, throughout history the unitary nation state had been and still was the exception, not the norm.⁴ Woodrow Wilson's 1917 call for national self-determination led to the break-up of three great Eu-

ropean empires, but even in 1920 the League of Nations was founded by 32 states, of which several, despite its name, were not nation states at all. The United Nations now comprises 193 states, many of them nation states, and nationalists from stateless nations, such as the Kurds, Catalans or Scots, campaign to join them, agreeing with Hegel that only statehood can confer the title of true nation upon them. Yet in the past it was different. While many of the states that existed in 1882 were empires rather than unions, as Jellinek pointed out, political unions were very common in European history. In recent years, thanks to the work of scholars like John Elliott and Helli Koenigsberger, historians have written much about composite states in late medieval and early modern Europe, recognising that most polities were what Strayer had called 'mosaic states', in which monarchs ruled over various dominions, each essentially separate, with their own laws, customs, and relationship to their monarch.

The intricate web of dynastic marriages and the high death-rate among royal children ensured that many kingdoms and principalities were brought together by marriage. Yet historians have generally been dismissive with regard to personal unions, which are usually regarded as not being proper unions at all, since they were accidental creations that, for the most part, by entrenching particularism and provincialism, seemed like obstacles to the onward march of the unitary state. Historians and political scientists interested in pre-modern unions usually ignore them, only taking an interest in unions considered to be 'proto-federal', such as Switzerland and the Dutch Republic. Murray Forsyth even excluded the United Kingdom from his 1981 study of comparative unions, since it could not be deemed a federal union.⁵

Only Jellinek includes personal unions in his comprehensive typology of political unions. As he points out, although many were short-lived, some personal unions, over time, deepened and grew into a closer relationship, despite considerable resistance from some quarters, to become real or – in Jellinek's terms – juridical unions: that is unions formed by foundation treaties which regulated the relationship and established varying degrees of institutional union. This is because, however separate the constituent parts of personal unions wished to remain, it was often difficult to do so. Formal institutions of government – state institutions – might remain separate, but the royal court was frequently a common, transnational institution in which power was brokered, cultural influences given play, and individuals from the monarch's several dominions mingled. Foreign policy was generally conducted in common. Legal systems had to take account of the problem of property ownership. Inevitably

3. Georg Friedrich Wilhelm Hegel, *Philosophy of Mind*. Translated from the *Encyclopaedia of the Philosophical Sciences* tr. William Wallace (New York, 2008; 1st edition 1894), p. 150.

4. Georg Jellinek, *Die Lehre von der Staatenverbindungen* (Berlin, 1882), p. 4.

5. Murray Forsyth, *Unions of States: The Theory and Practice of Confederation* (New York, 1981), p. ix.

cases arose which undermined attempts to ban outsiders from acquiring property in the other realm, not least because nobilities who met at court intermarried, and monarchs frequently granted their associates office or lands across the union. In England, there was powerful resistance to James I's 1604 proposal for a closer union to the English parliament, but a few years later the case of Robert Calvin, who was born in Scotland in 1606 and inherited land in England shortly after his birth, led to a 1608 judgement establishing that all Scots born after the 1603 union – the so-called *postnati* – were thereby deemed to be English subjects, and were entitled to the protection of English common law, which extended to property, but not to Scots born before 1603. Calvin was allowed to inherit. His case demonstrated that it was not always possible to maintain complete separation within a personal union, however carefully the peoples of both kingdoms sought to do so.

Despite the interest in composite states, however, for most historians the development of the unitary state remains central to the modernisation story. Yet the idea of an abstract state in which legal sovereignty was invested only emerged – and then gradually – from the second half of the 16th century, despite Strayer's projecting it back to 1300. The frequent assumption that unions were part of the process of state-building on the part of monarchs rests on shaky foundations. They could be, but such attempts frequently failed, as James I's attempt to create a British state failed: he might call himself James I of Great Britain, but his subjects continued to regard him as James VI of Scotland and I of England.

Unions that did become closer, as the British union did a century later, often did so for practical and pragmatic reasons, as was the case in the 1707 union of the parliaments, formed against the backdrop of a succession crisis during a war with France, which did indeed create a unitary British state, into which Scotland and England – although not yet Ireland – were incorporated; Wales had already been incorporated into England in the 1530s. Yet attention on the development of the British state should not deflect attention from the way in which the union, while creating a unitary state, did not create a unitary polity, and institutionalised difference: Scotland retained its own laws, its own legal system, its own education system, and its own church. Whatever one thinks of the union, its institutions provided a framework in which Scottish identity could remain separate, and could grow and develop.

Spain, where Catalonia, along with the rest of the crown of Aragon (of which it was a part), was inte-

grated into a unitary Spanish state in 1714, followed a slightly different path. Spain remained a union. Although Catalonia has enjoyed considerable autonomy in recent years, its opposition to the new Bourbon dynasty during the War of the Spanish Succession meant that – unlike the Basque Provinces and Navarre, which had backed the Bourbons (and unlike Scotland within the British union) – it was, like the rest of the crown of Aragon, stripped of most of its traditional laws and liberties between 1707 and 1716. Thus, while the Scots have a perfect right to call themselves a nation within the loose unwritten British constitution, article 2 of the Spanish constitution declares that it is founded on the 'indissoluble unity of the Spanish Nation, the common and indivisible *patria* of all Spaniards' (*indisoluble unidad de la Nación española, patria común e indivisible de todos los españoles*). Catalonia is merely one of 17 regions (*regiones*), and the Catalans one of the 'nationalities' (*nacionalidades*) granted autonomy within the unitary nation state. This may seem a trivial difference, but symbols and words matter. The Anglo-Scottish union of 1707 was based on an agreed treaty, and the unwritten British constitution is flexible enough to allow the renegotiation of relations between the nations of the United Kingdom, as occurred in 1997 when Scotland acquired – or regained – its own parliament. These differences help explain the different trajectories of the debates on Catalan and Scottish independence: the Spanish government and courts are constrained by a rigid constitution that enshrines the idea of an indivisible and unitary nation state.⁶ What room does that leave for the union of 17 autonomous regions that is still the formal basis of that unitary state?

The Polish-Lithuanian union

I am interested in another union, one of the longest-lasting in European history, but one which is largely forgotten outside eastern Europe.⁷ The union between the kingdom of Poland and the grand duchy of Lithuania lasted 409 years: it was only in 2013 that it was surpassed for longevity by the Anglo-Scottish union. Like the Anglo-Scottish union, it developed considerably over time. It began in 1386, four years after the death of Louis, king of Hungary and Poland, when the pagan grand duke Jogaila of Lithuania fulfilled a promise made six months earlier to accept Catholic baptism for himself and his Lithuanian subjects. In return, he was elected to the Polish throne and married Louis' 14-year-old daughter Jadwiga, herself elected queen of Poland in 1384.

With Louis' death, the short-lived Polish-Hungarian union ended; with the marriage, a remarkable union

6. I am grateful to Sir John Elliott FBA for his help and guidance with regard to the Catalan situation. His book *Scotland and Catalonia* will be published by Yale University Press in 2018.

7. Robert Frost, *The Oxford History of Poland-Lithuania, Volume I: The Making of the Polish-Lithuanian Union, 1385–1569* (Oxford University Press, 2015). The book arose from Professor Frost's British Academy Wolfson Research Professorship (2009–2012): see Robert Frost, 'The Polish-Lithuanian Union, 1386–1795', *British Academy Review*, 21 (January 2013), 7–10. Professor Frost has been awarded a Major Leverhulme Research Fellowship (2016–2019) to write Volume II: *The Polish-Lithuanian Commonwealth, 1569–1815*.

began. All the textbooks claim that it was a personal union, yet although there was little integration in the union's early years, it was very different to most personal unions, as it was established – like the Kalmar Union which united the three Scandinavian kingdoms between 1397 and 1523 – by a series of union treaties, which embodied a vision of union that went far beyond the person of the monarch.

For although it was launched by what amounted to a pre-nuptial pact between two dynasties, there was another party to the agreement, signed at Krewo, in what is now Belarus, in August 1385: representatives of the Polish community of the realm, the *communitas regni*, which had already fought a successful battle to prevent their monarchs alienating the territory of the Polish crown as they saw fit. Jogaila – or Władysław Jagiełło as he became on his baptism – promised this community of the realm that on his marriage to Jadwiga he would 'join' Lithuania to Poland. The Latin word used was '*applicare*'. Historians have spilt oceans of ink arguing what *applicare* meant in practice, but its very vagueness was, perhaps, the point. Historians, especially legal historians, like precision, but for the parties to a compromise, precision can be dangerous and room for flexible interpretation an advantage.

It is clear, however, that leading Polish politicians considered that Jagiełło had agreed to incorporate Lithuania into the kingdom of Poland. Led by Jagiełło's cousin Vytautas, however, the Lithuanians objected to this interpretation, claiming that the union was formed by a brotherhood between two peoples, a union *aeque principaliter*, to use the contemporary canon law concept: a union between equal partners, who remained separate, yet banded together for common purposes.

The union survived despite this fundamental disagreement over its nature, but there were frequent bitter arguments, most notably over the election of the common monarch. Renaissance republicanism provided the formula that broke the deadlock. The Polish political system was built from the bottom up: from the mid 15th century, the key institutions were district and provincial dietines (*sejmiks*), which elected delegates to a central parliament, the *sejm*. From 1505, the king could make no new law without the consent of the *sejm*. As wealthy Poles and a smaller, though growing, number of wealthy Lithuanians travelled to northern Italy for their education from the late 15th century, they imbibed the values of Renaissance humanism, and in particular the republican thought of Florence and the republic of Venice, whose university of Padua was particularly popular.

From the 1550s, there was increasing pressure from the Poles for closer union in the context of the renewal of Lithuania's wars against Muscovy, which had cost the grand duchy one third of its territory between 1492 and 1533, and a growing proportion of whose cost was now borne by Poland. The Poles were willing to vote taxes to

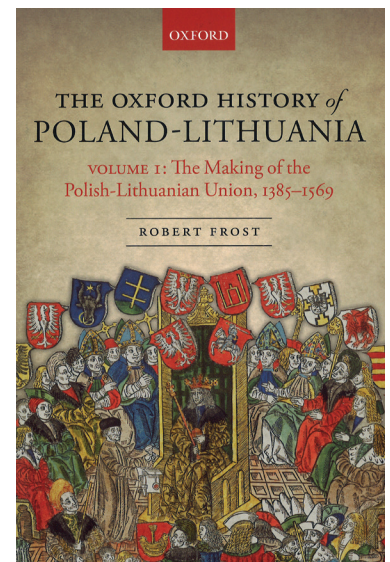
support the war, but demanded more control, through a central union parliament, of the union's common foreign policy. The grand duchy's narrow elite resisted, but there was pressure in the 1560s from the lesser Lithuanian nobility – who paid taxes to sustain the war and had to serve in the army – for closer union. In 1566 the Polish system of local *sejmiks* was extended into Lithuania; in 1569, at a turbulent *sejm* in Lublin, the definitive union treaty was agreed.

The Lublin act of union represented a victory for the Lithuanians. For the key clause stated:

That the Kingdom of Poland and the Grand Duchy of Lithuania already form one indivisible and uniform body and are not distinct, but compose one common Republic, which has been constituted and formed into one people out of two states and two nations

This was a remarkable declaration. The act, written in Polish, not Latin, used *państwo*, the modern Polish word for state, in a way that is recognisably modern. Yet its aim was not to create a union state, but a republic that encompassed two different states and – in a notably radical formulation – was formed by two different nations coming together into one 'people' – *populus* to use the contemporary Latin term – that is, a civic nation of citizens that could encompass separate nations. The Lithuanians had won the argument, and the formula recognised the equal status and parity of esteem they had craved for so long, with all the necessary attributes of statehood: their own government ministers, their own army, and their own legal system.

Thus, although at first sight the Polish-Lithuanian union seems to parallel the course of the British union, in moving, as the textbooks state, from a loose personal union to form the only other full parliamentary union of the early modern period, the two unions were fundamentally different. The British union of 1707 fits easily into the paradigm of state-building, since it created one British state, ruled from Westminster, in addition to one common parliament. Perhaps that is why British eurosceptics associate European federalism with direct rule from Brussels: a union can only lead, they think, to a unitary state. Yet the Polish-Lithuanian union was very different: it created a common *Republic*, conceived as an Aristotelian polity – a community of citizens, not an



In October 2017, the first volume of Robert Frost's *The Oxford History of Poland-Lithuania* was awarded the *Pro Historia Polonorum* prize by the Polish Historical Association, on behalf of the Senate of the Polish Republic, for the best work on Polish and Central European history published in a foreign language by a foreign author between 2012 and 2016.



Tapestry with the coats-of-arms of the Kingdom of Poland and the Grand Duchy of Lithuania flanking the goddess of Victory. Jan van Tieghem, Brussels, c. 1555. The Royal Castle on Wawel, Cracow, Poland.

abstract Hobbesian leviathan – and was based on the Renaissance vision of the self-governing republic.

The concept of the union-republic ended the argument about the nature of the union, and the 1569 settlement was never challenged again. But the problem of how the republic was to be governed by its elected kings within a system that embodied the republican concept of self-government in the local and provincial sejmiks was never satisfactorily solved. And there was the separate problem that there were other nations in the union: Prussians and Livonians of German culture, many of them Lutherans, and the orthodox, east-slavic Ruthenians, the ancestors of Belarusians and Ukrainians, who formed a large majority of the grand duchy's inhabitants until 1569. The widespread adoption of the Polish language by this multinational elite, and the increasing identification of the citizen people as a Catholic people brought problems that led to the outbreak of the great Cossack revolt in the republic's Ukrainian lands in 1648. Exclusion or relegation to the status of second-class citizens are never good principles for republics to follow.

The Polish-Lithuanian commonwealth of the two nations, as it was called, was perfectly capable of defending itself down to 1648, although it always struggled to develop a coherent theory as to how the republic should be governed. Executive responsibility lay with a king elected by the whole citizen body. Kings, seeking to assert their authority, were accused of thereby planning to destroy the republic by introducing absolute monarchy, and the commonwealth's ability to defend itself was compromised by the resultant political crises. By

the 18th century, its open consensual system was manipulated by its neighbours, above all by Russia, whose rulers interfered directly to promote political anarchy. Rulers of Russia have a long history of defending and exploiting for their own ends the liberties of other peoples – liberties that they refuse to extend to their own subjects.

The partition of Poland-Lithuania at the end of the 18th century has long been presented as the inevitable outcome of a failed state. Its disappearance explains why – beyond the partitions – the history of the Polish-Lithuanian commonwealth has been largely forgotten in the west. Yet the republic had, for its citizens, been a considerable success. It had fashioned a real political community whose members fought for its restoration after it was destroyed without their consent: Prussia, Austria and Russia did not bother with referenda.

Lessons for today

Poland-Lithuania's story demonstrates that a history of European politics focused narrowly on the story of the rise of the modern state fails to take full account of the complexity of late-medieval and early modern politics. The obsession with the state also makes it harder to understand and resolve the dilemmas faced in the early 21st century. The destructive wars of the last century, and the poisonous rise of radical nationalism have caused many to wonder if the nation state is, after all, an entirely healthy political organism. The power of the modern state allied to radical nationalism allowed Hitler to lay

waste a continent. It was in reaction to this disaster that the European project was launched by Schuman and his allies after 1945.

Europe has struggled ever since to define what kind of union it wishes to build. A study of early modern unions might help. Every union in late medieval and early modern Europe was different. Unions were pragmatic arrangements, built on bargains and compromises, not empires acquired by conquest and suppression. Those who formed them did not think in terms of indivisible state or national sovereignty, and were not obsessed with uniformity or rationality. Scholars endlessly study their foundation treaties, but union was a process not a moment. Unions grew and changed constantly, as the Polish-Lithuanian and British unions adapted to changing circumstances, seeking to provide a framework in which neighbours could collaborate rather than fight, and regulate their relations through laws that applied across the union.

Unions can form one unitary state, as established in the United Kingdom in 1707 and 1800, but – as the history of Britain's relations with Ireland, and the UK's relations with Europe indicate – the concentration of power can cause problems. Much of the British opposition to the European Union stems precisely from the impatience of Jean-Claude Juncker and some – though by no means all – European politicians to hurry along the path to a unitary European state. Yet the European union does not need to hurtle or even creep towards such a destination. Unions can, as the past shows, be highly flexible, and it is likely that any future European state will fall far short of the highly centralised system of Brexiteer mythology: states themselves come in many forms.

A significant proportion of 'Yes' voters in Scotland in 2014 were actually supporters of what was termed Devolution Max, a system that would see most powers devolved to Edinburgh, but some retained in London for the UK within a redesigned union. Yet, as many

commentators on all sides pointed out during the campaign, the 'No' campaigners in Scotland failed to produce a clear vision of how a reformed British union might look, campaigning relentlessly on the economic case for union and largely ignoring the big question of how British identity might be reconfigured for a new century. This failure led many Scots who were not necessarily natural supporters of full independence to conclude that they might, actually, be better apart. Yet many among those who voted 'No' wonder how the disproportionate political and economic power of England, so dominant on this small island, might harm Scottish interests when no longer constrained by the bonds of union. The unitary state has many advantages, especially in time of war, but as both the British and Spanish examples demonstrate, the concentration of power brings problems in the regions, provinces and former kingdoms that it embraces.

There is a strong sense among supporters of unions that, in a rapidly globalising world, the nation state may well be limited in what it can achieve, and that co-operation is essential for economic prosperity and international peace. Both Scottish nationalists and Brexiteers call for more control over their own affairs; their opponents worry that, in a globalised world of powerful transnational corporations and institutions, that sense of control may prove illusory. If unions are to flourish, however, they need to develop a different sense of what their purpose is, and cease to present the alternatives in terms of a stark dichotomy between national independence and the unitary state. Leviathan still casts a long shadow as the British government tries to negotiate its way out of one union, while struggling to preserve a different kind of union. Whether it can succeed in either aim remains to be seen. More consideration of why and how unions have been created in the past might help all sides in the debate. The unitary state was never the only political game in town. ■