

'BRITIZENSHIP': THE TOUCHY SUBJECT OF THE BRITISH STATE¹

By Willy Maley.

I'm a British subject, not proud of it
While I carry the burden of shame.
(UB40, 'Burden Of Shame', *Signing Off* [1980])

The Union Jack and the Jolly Roger – the two most familiar flags on the high seas.² One associated with perfidy and plunder, the other flown by pirates. I had the experience recently, renewing my membership at the British Library, of being bereft of my birthplace. The name of my nation was not to be found in the catalogue of possible countries of origin. There was a 'United Kingdom', a unionist monarchy, but no 'Scotland' on the long list of patriotic possibilities. I was not alone. Neither 'England' nor 'Wales' featured. Nor would any of those three nations be on the list of over 200 countries appearing at the opening ceremony of the last Olympics in Athens. One of the 'nations' competing at the first Olympics in Athens in 1896 was 'Great Britain and Ireland'.

This later became 'Great Britain and Northern Ireland', and is now 'the United Kingdom'. Still no sign of Scotland, I'm afraid.

It must be – it is – an odd experience to find your nation posted missing, yet this is akin to the experience that faced the

English (and the Scots and Welsh) at the turn of the seventeenth century, when the word 'Britain' was being mooted as the ideal solution to political friction and fragmentation. Forging Britain meant forgetting its constituent parts, although some were disremembered – and dismembered – more than others.

I read an interview with Alain de Botton in January 2005 in which he confessed to a soft spot for New Labour, something he thought would be unfashionable. His reasons were threefold: Tax, childcare, and architecture. His reasoning might not have gone down well in Fallujah, where dead (and orphaned) children are to be found among the ruins, the destruction of their country funded by the British taxpayer. Not in my name, but in the name of 'Britain' and of the old Empire now joined with the new. *Cymbeline*, the last

play in Shakespeare's British tetralogy – *Hamlet*, *Macbeth* and *King Lear* being the other three – is in part a play about tax (or tribute), childcare (adoption or surrogacy) and architecture (or at least interior decor), but as you might expect, Shakespeare's treatment of these themes is rather less smug and complacent than de Botton's. Those of us who dissent from New Labour and its old imperialism will be suspicious of anything it has to say about citizenship.

British citizenship is something of an oxymoron, or a contradiction in terms, because being British means being subject to a state that does not respect the right of nations to self-determination. As Marx remarked: 'A nation that enslaves another can never itself be free'. The British are 'Citizen Subjects', to borrow a phrase from Etienne Balibar, or 'Britizens', to coin one of my own.³ Must every nation have a state? Must it follow

the model of the state, in its pursuit of rights and of citizenship? The era of the nation-state is far from over as long as nations bereft of states are struggling for statehood. Multi-nation states, on the other hand, may well be a thing of the past. British citizenship could become part of history

together with Soviet citizenship or Yugoslavian citizenship. The anti-imperialist principle of the rights of nations to self-determination challenges unequal unions and expansionist states, but national citizenship always carries with it the risk of racism.

If for James Kelman 'good art is usually dissent', then for Cornel West good politics is usually 'dissensus'.⁴ West coins the term in order to attack the conservatism of consensus not simply within the ideology of the Right, but within a Left that seems equally eager to stifle dissenting voices. In what follows I'd like to revisit – and revise – the supposedly consensual notion of citizenship and unpack and unpick its sore points in a 'British' context, which, given the history of the British state and the present-day reality of its composition means also attending to the



question of Irish citizenship. Reading Maurice Roche's *Rethinking Citizenship*, I was struck by his use of the term 'subnational EC region' to refer to Scotland, or rather, to Scotland in the context of the UK.⁵ Should subnations be granted subcitizenship? Is the UK a national EC region or a supranational one, with its own supracitizenship to match that of the EC? Supracitizens who are subjects?

There's no such thing as the nation-state as such. The nation state – like the state itself, as Marx suggests in *Critique of the Gotha Programme* (1875) – is a convenient theoretical fiction, a useful abstraction that has to be tested in particular cases.⁶ There is no model nation-state that stands to be superseded or improved. There are only specific nation-states. Not all states are nation-states, not all nations have states. There are stateless nations and states composed of more than one nation.

It has been argued that the old models of citizenship have to be altered in a 'post-national' context, but citizenship remains part of national agendas. European citizenship does not quite square with British citizenship. Europe, as a multi-nation state, sits uneasily with Britain, itself a multi-nation state. A United States of Europe does not appeal to the United Nations of Britain. Any discussion of citizenship in a British context has to take into account the nature and composition of the British state.

To state the obvious, the British state is not a nation state, but a multi-nation state, a state composed of four nations – well, three and a bit – and many nationalities. It has its own statelet, in the Six Counties of Northern Ireland. The obvious has to be stated, because it's obviously not obvious enough. In theory – be it post-colonial, post-modernist, or general political theory – Britain and England are blithely interchanged as though they were the same thing, as non-theoretical shorthand. The phrase 'Anglo-American' is used to refer to relations between the British state and the United States, where 'Anglo' stands in for Welsh, Scottish, and 'Northern Irish'. The term 'Anglo-Irish' is likewise anomalous. When Jacques Derrida said that 'America is deconstruction', or that the state of theory is 'California ... even Southern California', he was being ironic, but he was also being serious.⁷ We can use these terms, blanket expressions like 'nation-state', in order to disguise our ignorance of particular nation-states, of particular nations and states, of the history and development, the cultural frontiers of nations and states. According to Derrida, there are no nation-

states without frontiers:

Every State-nation is based on the control of its frontiers, on opposition to illegal immigration, and strict limits to legal immigration and right of asylum. The concept of the frontier, no less than the frontier itself, constitutes the concept of a State-nation.⁸

Every state is a state of war, and until it withers away, or transforms itself into a responsible body, it threatens the very rights it purports to protect.

In a series of lectures delivered in North Carolina and published in the United States in 1960 under the title *Citizenship Today: England – France – The United States*, D. W. Brogan, Professor of Political Science at Cambridge University, opened by defining his terms:

First of all, I must justify my use of the word 'England' in this country where the words 'Britain' and 'British' have nearly driven out the older terms 'England' and 'English'. I do not deny – with my Irish and Scottish background it would be absurd to deny – that it is often useful to say 'British' instead of 'English'. But it is often misleading, too. For what I am concerned with is a historical phenomenon of great importance of a markedly individual character which is English in its origins, not British, and has remained English even since the creation of a British state in 1707 ... A second point, not altogether trivial but not as serious as the first ... is the ambiguity of the word 'citizen' as applied to a member of the British body politic. Legally, I am not a citizen but a subject. Or, rather, I am both, for if I am a subject at home, I am, so my passport tells me, a British citizen abroad. But the normal and ancient and respectable term is 'subject'.⁹

Normal, ancient and respectable it may be, but it's not quite citizenship, is it? It doesn't occur to Brogan – why should it? – for all his evocation of history in his subsequent analysis, to link his status as a subject at home with the structure and sovereignty of the British state, or with the preponderance of the English nation in that bottom-heavy 'body politic'. Brogan

speaks of Cromwell's failure to create a modern, middle-class state without referring to what, for Marx



BUDGE UP, LADS!

and others, was one of the chief causes of that failure – the conquest and subjection of Ireland. That Ireland was brought to its knees under an English Republic warns us against getting carried away about the automatic virtues of such a political form.

Unlike Brogan, Bernard Crick sees British subject status and the frontiers of the British state as synonymous: 'The English ideology of parliamentary sovereignty arose because from the end of the seventeenth century right up to the 1920 Government of Ireland Act, the major business of British politics was holding the United Kingdom together'.¹⁰ Policing the borders of a multi-nation state calls for stern measures, measures that are often incompatible with the rights of citizens. The interests of both Union and Empire have curbed the drive towards democracy. The fact that the two instantly recognisable unionist parties are based in Northern Ireland is significant, but that the Six Counties are the focal point for one forceful manifestation of unionism shouldn't blind us to the reality that the British state is by and large a Union-state, that a unionist party is always in power, that the major Opposition parties are unionist, or that far from British nationalism being a fringe phenomenon of the extreme right it is the ideology that informs almost every party in the British state other than the Green Party, Plaid Cymru, Sinn Fein, the SNP, the SDLP and the SSP. That the British government had to resort to an electoral pact with Ulster Unionists in 1993 to get agreement on the Maastricht Treaty points up the way in which the Tory Party – known historically in Scotland by its full title of Conservative and Unionist Party – sees Britishness as a buttress against Europe and a means of sustaining its grip on 'the Nation'. British nationalism is not a right-wing minority trait, but the bread and butter of British politics.

In his Hamlyn Lectures of 1974, Lord Scarman summarised the pressures on English law to adopt a formal code of human rights. This pressure came from both beyond and within the frontiers of the British State. On the one hand, there were the precedents of the General Assembly's Universal Declaration of Human Rights and the European Convention on Human Rights, and on the other there was the abuse of human rights by the British parliament, crystallised for Scarman in both the Immigration Act of 1971 and the policing of the Six Counties. Scarman questioned whether 'the deeply disturbing practices of interrogation to which resort was had in Northern Ireland would have occurred, had British law possessed, at the time, a fully developed code of fundamental human rights'.¹¹ Scarman did not make a direct link between the absence of such rights and the British presence in Northern Ireland, but he recognised that political devolution would mean a greater role for

the courts and that would make more urgent the need for adoption of the European Convention. In May 1975 Lord Hailsham argued in *The Times* for a written constitution for the whole of the United Kingdom 'on terms not very different from that accorded to Ulster in the Government of Ireland Act of 1920'.¹² Thus, again, questions of rights and of citizenship were being posed at the frontiers of the State.

In 1977 the *Report of the Northern Ireland Standing Advisory Commission on Human Rights* found that while there was broad support in the Six Counties for a Bill of Rights, the majority favoured a UK Bill. The Committee concluded that the best guarantee of human rights in Northern Ireland was 'to make the European Convention part of domestic law' for the British State as a whole, or, if this proved unworkable, to pursue a 'charter of human rights for Northern Ireland alone'.¹³ In the same year, Leon Brittan, Opposition spokesperson on devolution, commented on the proposed amendments to the Scotland and Wales Bill that would make the European Convention effective in those countries: 'I believe ... that if ... the provisions relating to the Bill of Rights are seen to work in Scotland and Wales, the case for a United Kingdom Bill of Rights would be immeasurably strengthened'.¹⁴



The Republic of Ireland is the place where one would expect all of the problems of the British state, its frontiers and its framework, to be most pressing. In terms of citizenship, Ireland is certainly a special case. Irish citizens are deemed neither Commonwealth nor alien. For Ireland, Britain is a foreign country and its subjects are aliens. Under the provisions of

Irish nationality law, the inhabitants of Northern Ireland have Irish citizenship. Under British nationality law, they are British subjects. Irish naturalisation, from the accession of James I in 1603 until the Act of Union of 1801, had differed from English naturalisation. From 1801 'Ireland and Britain formed one national State, and the Irish were British Subjects in United Kingdom law'.¹⁵ Scots were heavily involved in the colonisation of Ulster in the early seventeenth century and predictably enough the history of Irish citizenship in the course of the last century has had a specific Scottish dimension. It was a native of Edinburgh who had served with the British Army in Ireland who formed the Irish Citizen Army in 1913. James Connolly had Irish parentage but was a Scot, schooled at St Patrick's in the 'Little Ireland' of the Cowgate. In a 1920 pamphlet entitled 'The Irish Tragedy: Scotland's Disgrace', another Scot, John MacLean had urged Scottish soldiers not to serve in the British Army in Ireland. And more recently, the Northern Ireland Assembly took as its model Scottish Devolution.

But to go back to the subject of Ireland's modern

narrative of citizenship, in the wake of Partition, the Irish Free State was recognised in British law in 1922. In 1935, a far-reaching Irish Citizenship Act was passed in which British subjects were declared aliens, but with an arrangement whereby 'British subjects in Ireland were granted the same treatment as Irish citizens while Irish citizens were afforded the rights of the subject in Britain'.¹⁶ In 1956, a further Irish Act conferred citizenship upon persons born anywhere in the 32 counties prior to the founding of the Free State, while from 1922 to 1948 the Irish remained British subjects in British nationality law. Under the 1948 British Nationality Act, the Irish Republic was excluded from the list of Commonwealth countries. Irish citizens were no longer officially British subjects, although their status changed little.

Any Irish citizen born before 1 January 1949 was entitled to write to the Home Secretary to claim to be a British subject. Such claimants were effectively British subjects without citizenship. They could register, on the same conditions as the citizens of other Commonwealth countries, as citizens of the United Kingdom and Colonies. In 1949, two years after the British left India, Ireland left the Commonwealth. The United Kingdom's Ireland Act of that year stated that although the Irish Republic was not part of 'His Majesty's Dominions, it was not a foreign country and that the Irish were not aliens'.¹⁷ It declared that 'a person born in the 26 counties before 6 December 1922, who was a British subject immediately before the passage of the 1948 Act, should not be deemed to be a British subject in 1949 unless he [sic] had been (a) domiciled on 6 December, 1922 in the twenty-six counties or (b) permanently resident there at the time of the Irish Citizenship Act 1935 or (c) registered before 1935 as a citizen of Eire'.¹⁸ These provisions meant that such persons born before 31 March 1922 are patrial under the 1971 Immigration Act, something that the majority of Irish citizens and British subjects without citizenship are not. Deportation, extradition, and the Prevention of Terrorism Act 1974 all compromised and qualified this domestication or duality. Another dimension is added by the fact that: 'Since the Republic of Ireland acceded to the EEC, its citizens now come under the protection of EEC law and have thereby certain rights of movement into the United Kingdom. They are the only non-British EEC nationals to have the rights of voting, jury service, work in the public service, etc., in the United Kingdom; they retain these rights by virtue of the Ireland Act'.¹⁹ Under the Good Friday Agreement citizens of Northern Ireland can hold either Irish or UK passports. There are 1,000,000 Irish citizens in the UK. Will they be forced to carry UK ID cards?



As a coda to all this I might add that I once toyed with the idea of applying for Irish citizenship, to which I am entitled by virtue of an Irish grandparent, but decided instead to remain a reluctant British subject, not proud of it, and a Scottish citizen-in-waiting. But recent events in Ireland have given me pause for thought. Ireland's referendum on citizenship in June 2004 was one of the most bizarre and perverse developments in the history of citizenship in that country.²⁰ Like 40 other republics, Ireland has always had citizenship based on birth. It has also had a generous disposition towards its Diaspora, hence the possibility of my playing for the Irish Republic despite the fact that my parents have never set foot in Ireland and were, like me, born in Glasgow. But a strange thing happened in Ireland. While young Irish women were leaving the country to get abortions, young immigrant women were going there to have babies who would then become Irish citizens. That racist ripping yarn lay behind the 2004 referendum. So has Ireland's open door policy on citizenship, by which it would embrace not just the North but the four corners of the earth, changed utterly? Or is it simply that the old racism that James Joyce warned of in his portrayal of the

Citizen in the 'Cyclops' section of *Ulysses* has come home to roost?²¹

What of Scotland, which now has, in the word of another Connolly, its own 'pretendy' parliament? Scotland, of course, was a nation-state until 1707. In July 1988, *A Claim of Right for Scotland*, the Report of the Constitutional Steering Committee, was presented to the Campaign for a Scottish Assembly in Edinburgh. The Introduction stated:

In this report we frequently use the word 'English' where the word 'British' is conventionally used. We believe this clarifies many issues which the customary language of British government obscures. Although the government of the United Kingdom rests nominally with a 'British' Parliament, it is impossible to trace in the history or procedures of that Parliament any constitutional influence other than an English one. Scots are apt to bridle when 'Britain' is referred to as 'England'. But there is a fundamental truth in this nomenclature which Scots ought to recognise – and from which they ought to draw appropriate conclusions.²²

A Bill of Rights for Scotland, drafted by the Scottish



Council for Civil Liberties in the wake of the *Claim of Right*, based itself, on the one hand, on the democratic tradition in Scottish political history, and, on the other hand, on the European Convention on Human Rights of 1953, the UN International Covenant on Civil and Political Rights of 1966, and the European Parliament Declaration of Fundamental Rights and Freedoms of 1989. The UK was then the sole member of the European Community not to have incorporated the Convention. The sovereignty of Parliament, its right to abuse the rights of its subjects and wage endless war on their behalves, is something that the British state wasn't ready to give up without a fight.

Both the *Claim of Right for Scotland* and *A Bill of Rights for Scotland* attempted to counter a parliamentary dictatorship (the hegemony of Crown-in-Parliament, or divine right of Westminster) that is largely English in origin, stemming from the 'Glorious Revolution' of 1688, and the Act or Treaty of Union of 1707. Blackstone in the eighteenth century insisted that in English law parliament was sovereign, 'this being the place where that absolute despotic power, which must in all governments reside somewhere, is entrusted by the constitution of these kingdoms'.²³ A former Lord President of the Court of Session in Edinburgh (Lord President Cooper) noted that: 'The principle of the unlimited sovereignty of Parliament is a distinctively English principle which has no counterpart in Scottish constitutional law.'²⁴ Scotland has a very different tradition, one of 'limited government' and 'popular sovereignty', which can be traced back to the Declaration of Arbroath in 1320, which asserted that the King of Scots reigned subject to the assent of the community of the realm.

The non-English nations of the British state may be leading the way in terms of rights and citizenship. The despotism of parliamentary sovereignty, the despotism of the divine right of British sovereignty, the obverse of which is the rightless subject, may be something that can only change with a change in the structure and formation of the British state, towards a federal union that is less anti-European and imperialistic, for instance. In other words, it may be that British subjects can only become citizens through the break-up of the British state. That is, they can only become English, Irish, Welsh, or Scottish citizens, or European citizens. Otherwise they are citizen subjects, in short, 'Britizens'. Scots will remain rightless subjects in a stateless nation, providing the cannon fodder for an empire whose profits, such as they are – and they are mainly the political capital of firelock and forelock tugging – accrue in London and never 'the provinces'.

A republic may offer the best hope for citizenship. If national sovereignty produced a national citizenship that replaced a multi-national monarchal subjecthood, that could be a step in the right direction, but citizenship, in its most radical manifestation, is arguably incompatible, not just with particular nation-states, but with the nation-state itself. Any critique of British imperialism, if it is to be thorough and consistent, has to concern itself as much with the dissolution of Great Britain as the end of Greater

Britain, with empire as well as state. Personally, I would like to see a British Museum that has as its prize exhibit 'Britain', stuffed and preserved in formaldehyde. It may be that citizenship for the people of England, Scotland, Ireland and Wales can only be properly written in a post-Unionist context, in *The Kingdom Formerly Known As United*. But if the example of Ireland teaches us anything it is that even in a republic with a long anti-imperialist tradition, boasting a generous Diaspora attitude to its own Diaspora, the spectre of racism can threaten to extinguish the spirit of freedom. When citizenship becomes not a bridge but a barrier, it's time to think again. It is as citizens of the world, and not as patriots, that we can begin to plan for a society without frontiers.

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Footnotes

¹ I began thinking about this topic at a conference on Citizenship and Cultural Frontiers at Staffordshire University in September 1994. This was long before Bulldog Blunkett and Bomber Blair, and before the so-called 'War on Terror' that has riddled discussions of citizenship with racism and paranoia. Then again, as the recent referendum on citizenship in Ireland attests, the subject always carries with it the danger of exclusion and animosity to others. My image now of British citizenship is of a skinhead wearing a sovereign ring.

² The origins of the Union Jack are shrouded in misery. The Scottish King who introduced it did so without consulting both of his parliaments: 'In "A Proclamation declaring what Flaggs South and North Britaine shall beare at Sea" of 12 April 1606, omitting ... any reference to the traditional names of England and Scotland, James decreed "... that from hencefoorth all our Subjects of this Isle and Kingdome of great Britaine and the members thereof, shall beare in their Mainetoppe the Red Crosse, commonly called St. Georges Crosse, and the White Crosse commonly called S Andrewes Crosse, joyned together". The new composite flag, imposed without parliamentary consultation, formed part of a strategy to replace local symbols, including coins and official seals, with ones that represented a single united nation.' See Michael J. Redmond, "'My Lord, I fear, has forgot Britain": Rome, Italy, and the (Re)construction of British National Identity', *Shakespeare Yearbook* 10 (1999), p. 307. As for the Jolly Roger, since the British became the biggest buccaneers on the high seas, it is effectively the second flag of the empire, a bit like the away strip.

³ Etienne Balibar, 'Citizen Subject', trans. James B. Swenson Jr., in Eduardo Cadava, Peter Connor and Jean-Luc Nancy (eds.), *Who Comes After the Subject?* (London: Routledge, 1991), pp. 33-57.

⁴ See Kirsty McNeill, 'Interview with James Kelman', *Chapman* 57 (1989), p. 3; Cornel West, 'Minority Discourse and the Pitfalls of the Canon', in Jessica Munns and Gita Rajan (eds.), *A Cultural Studies Reader: History, Theory, Practice* (London and NY: Longman, 1995), p. 416.

⁵ Maurice Roche, *Rethinking Citizenship: Welfare, Ideology and Change in Modern Society* (Cambridge: Polity Press, 1992).

⁶ Karl Marx, *Critique of the Gotha Programme* (Moscow: Progress Publishers, 1978).

⁷ Jacques Derrida, *Memoires for Paul de Man: Revised Edition*, trans. Cecile Lindsay, Jonathan Culler, Eduardo Cadava, and Peggy Kamuf (New York: Columbia University Press, 1989), p. 18; Jacques Derrida, 'Some Statements and Truisms about Neologisms, Newisms, Postisms, Parasitisms, and other Small Seismisms', trans. Anne Tomiche, in David Carroll (ed.), *The States of 'Theory': History, Art, and Critical Discourse* (New York: Columbia University Press, 1990), p. 63.

⁸ Jacques Derrida, 'The Deconstruction of Actuality: An Interview with Jacques Derrida', conducted by Brigitte Sohm, Cristina de Peretti, Stéphane Douailler, Patrice Vermeren and Emile Malet, trans. Jonathan Réé, *Radical Philosophy* 68 (1994), p. 34.

⁹ D. W. Brogan, *Citizenship Today: England – France – The United States* (Chapel Hill: University of North Carolina Press, 1960), pp. 8-9.

¹⁰ Bernard Crick, 'For my Fellow English', in Owen Dudley Edwards (ed.), *A Claim of Right for Scotland* (Edinburgh: Polygon, 1989), p. 153.

¹¹ Michael Zander, *A Bill of Rights* (London: Barry Rose, 2nd ed., 1979), p. 15.

¹² Zander, *A Bill of Rights*, p. 17.

¹³ Zander, *A Bill of Rights*, pp. 26-7.

¹⁴ Zander, *A Bill of Rights*, p. 26.

¹⁵ Ann Dummett, *Citizenship and Nationality* (London:

Runnymede Trust, 1976), p. 35.

¹⁶ Dummett, *Citizenship and Nationality*, p. 35.

¹⁷ Dummett, *Citizenship and Nationality*, p. 35.

¹⁸ Dummett, *Citizenship and Nationality*, p. 36.

¹⁹ Dummett, *Citizenship and Nationality*, p. 36.

²⁰ On the background to this ugly affair see Colin Graham, 'Review of Steve Garner, *Racism in the Irish Experience* (London: Pluto, 2004)', *Variation* 2, 20 (2004), pp. 24-25; Ronit Lentin, 'From Racial State to Racist State: Ireland on the Eve of the Citizenship Referendum', *Variation* 2, 20 (2004), pp. 7-8; and Suzanna Chan, 'Some Notes on Deconstructing Ireland's Whiteness: Immigrants, Emigrants and the Perils of Jazz', *Variation* 2, 22 (2005), pp. 20-21.

²¹ On Joyce and the politics of 'race' see Vincent J. Cheng, *Joyce, Race, and Empire* (Cambridge: Cambridge University Press, 1995).

²² Owen Dudley Edwards (ed.), *A Claim of Right for Scotland* (Edinburgh: Polygon, 1989), p. 13.

²³ Crick, 'For my Fellow English', p. 156.

²⁴ Alan Miller, *A Bill of Rights for Scotland* (Glasgow: Scottish Council for Civil Liberties, 1992), p. 6.

