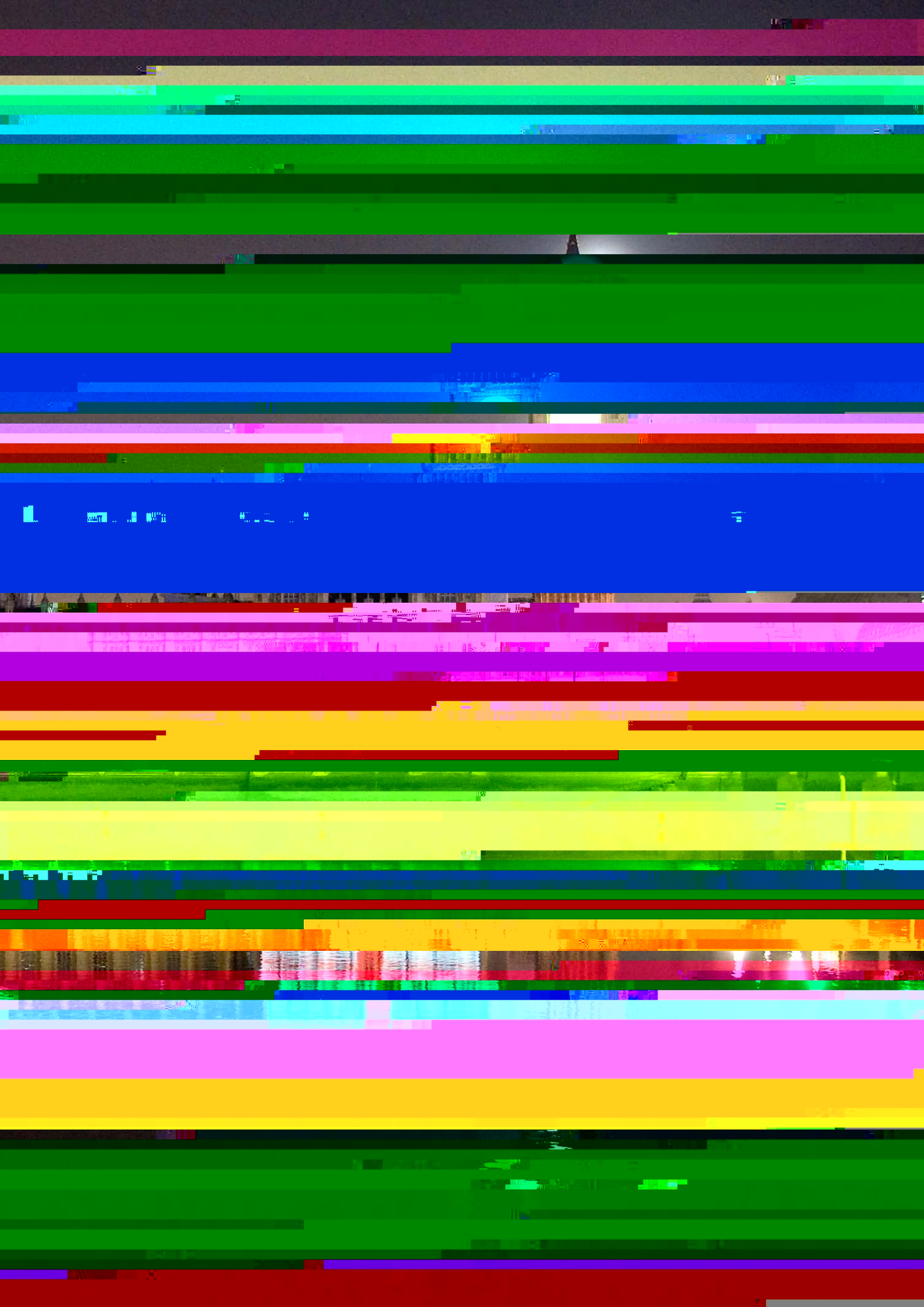

OPTIONS FOR AN ENGLISH PARLIAMENT

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In addition we received very useful comments on a fu

Executive summary

A key difference between the two main models of an English Parliament is that most dual mandate proponents do not envisage a separate English government; instead the UK government would continue to act for England. This makes the model look more incremental, and less disruptive, but could lead to major complications. Specifically, the UK government might not enjoy the confidence of the English Parliament – which could lead to territorial instability and concerns that such a body wasn't a parliament at all.

Proponents have said relatively little about the day-to-day organisation of an English Parliament. Despite the ostensibly incremental nature of a dual mandate body, it would raise some tricky questions about Westminster's organisation, including the extent to which mechanisms (and staff) would be shared between the two bodies. A separately elected English Parliament could more easily break free from Westminster traditions, and might adopt procedural innovations in the same way as did the other devolved bodies. A full review of procedural options would be sensible in planning for creation of a body on either model.

Creation of an English Parliament would inevitably have major consequences for the UK's central political institutions. So far, changes at the centre resulting from devolution have been fairly minor, but extending this to England would demand a root-and-branch review of the UK's territorial arrangements. The UK government would be left with responsibilities in areas such as defence, foreign affairs, national security and welfare, but would nonetheless significantly shrink. A notable feature of the existing devolution settlement is the lack of 'shared' or 'concurrent' competencies of a kind that exist in many other systems. This means that devolving to a powerful English Parliament would greatly reduce Westminster's policy levers, potentially removing it completely from areas such as education and health. There would be pressures towards formal federalism, and more robust intergovernmental arrangements would be required. Under a separately elected English Parliament the size of the House of Commons would almost certainly reduce, perhaps to 300 – 350 members, and under either model the role of the House of Lords would be brought into doubt.

An English Parliament under the dual mandate model would have the same number of members as there are currently English MPs (533, with a planned drop to 501). A separately elected body should probably have substantially fewer – perhaps around 300. This would be sufficient to populate committees and perform both frontbench and backbench roles, while not increasing the number of elected English politicians overall. While the other devolved bodies are unicameral, there is justification for thinking that the English Parliament could be bicameral, given England's greater size, and there is overseas precedent for this kind of mix. Nonetheless, political pragmatism might well result in a unicameral body.

A dual mandate English Parliament would (at least for the foreseeable future) be elected using Westminster's existing system of 'first past the post'. This has often resulted in the Conservatives winning the largest number of English seats, including sometimes when Labour has been in power at UK level. In contrast, a separately elected English Parliament

would almost certainly adopt a more proportional electoral system, most likely the ‘additional member system’ used in Scotland and Wales, or else the ‘single transferable vote’, used in Northern Ireland. These systems would probably result in no overall majority for any party, giving Labour and Conservatives similar chances of entering government, if able to garner support from smaller parties.

A final question is where an English Parliament would be located. Proponents have avoided this question, partly because it might split their supporters. A dual mandate English Parliament could in theory be located away from Westminster, but this is unlikely. Meanwhile concerns about ‘London-centric’ politics mean that coexistence of a separately elected body and the UK parliament in the capital city

1. Introduction

The territorial future of the UK remains unsettled. Labour's devolution programme in the 1990s created new institutions in Scotland, Wales and Northern Ireland, but left England's governance arrangements largely unchanged. The UK had long

Even now, 20 years on from the establishment of the CEP, and despite growing interest in the idea, there remains no single blueprint for an English Parliament. Yet, despite ongoing concerns by opponents that an elected body representing 85% of UK population would stoke territorial instability, it can no longer be considered a wholly fringe idea. As outlined in chapter 4, the term 'English Parliament' has in fact been used to refer to very different kinds of institution – primarily either a separately elected body equivalent to the devolved legislatures elsewhere in the UK, or one comprising of existing MPs for English constituencies holding a 'dual mandate'. But proponents of these models have provided few details of precisely what they envisage, and the two models could have very different consequences.

This report is the main output of a Constitution Unit project on 'Options for an English Parliament', funded by the Nuffield Foundation (see Acknowledgements). Its purpose is not to argue either in favour of or against the establishment of such a body. Instead it examines the main models that have been proposed, in the context of the objectives of their proponents, the concerns of opponents, and the available evidence regarding how such a body might in practice be designed. It seeks to confront objectively the various design questions that must be answered if the idea of an English Parliament is to be given serious consideration.[2] These unresolved questions are wide-ranging, and include:

What policy powers would an English Parliament have?
How might an English Parliament's policy responsibilities be financed?
Would there be an English government, and if so what form would it take?

Respondents filled in an online questionnaire containing questions similar to the eight listed

Part 1: Context

unbalanced as to be unworkable' (Royal Commission on the Constitution 1973: para. 531). The Labour government that unsuccessfully attempted to introduce Scottish and Welsh assemblies later in the 1970s agreed, ruling out an English legislature (Office of the Lord President of the Council 1976). The passage of the legislation for these proposed assemblies was frustrated by opposition from some Labour MPs (McLean 2016). They famously included Tam Dalyell, who drew attention to what became known as the 'West Lothian question' – the anomaly whereby MPs would no longer be able to vote on matters devolved to the new legislatures, but those representing non-English constituencies could still vote on equivalent matters applying only to England.[4] However, these opponents were seeking to argue against devolution to Scotland and Wales, rather than in favour of an English assembly. Dalyell (2016: 74) himself later recalled that he thought a federation featuring England would be 'completely out of balance' and 'just not workable'.

Ultimately Labour's plans for new elected bodies failed to secure the necessary level of public support at referendums held in 1979, which helped to precipitate the government's collapse. The Conservative government that followed was resistant to calls for devolution, despite establishment of a Scottish 'constitutional convention' composed of members of Labour and the Liberal Democrats together with civil society actors, which published a report outlining proposals for a Scottish Parliament (Scottish Constitutional Convention 1995). No significant similar proposals were made during this period regarding an English Parliament.

1997–2014

Following the 1997 general election, the new Labour government swiftly secured endorsement through referendums for its proposals for a Scottish Parliament and National Assembly for Wales. These were followed by a referendum on the Good Friday Agreement in Northern Ireland in 1998, which included plans to establish a Northern Ireland Assembly.[5] In response to these developments calls for an English Parliament began to be made, including within the Conservative Party. The most prominent early suggestion came from Teresa Gorman MP, who introduced a private member's bill calling for a referendum on an English Parliament which was debated in January 1998.[6] She later published proposals for such a body in a pamphlet (Gorman 1999). Gorman stressed in debate on her bill that she would have preferred not to have devolution at all, but that as it was happening Engl

Welsh MPs vote on exclusively English and Welsh matters' (Conservative Party 2001: 44). Similar commitments were included in every Conservative general election manifesto until EVEL's introduction in 2015 (Conservative Party 2005, 2010, 2015).

Post-2014

During the campaign for the Scottish independence referendum, the leaders of the three main UK-wide parties signed a 'vow', promising the Scottish Parliament increased powers (Dearden 2014). The morning after the result the then Prime Minister David Cameron declared that 'the millions of voices of England must also be heard' (Cameron 2014). His proposed response was EVEL. This went on to be introduced in 2015, albeit in a relatively weak form – using a 'double veto' system, whereby English MPs could block legislation certified as England-only, but such legislation could still potentially be blocked by the House of Commons as a whole (Gover and Kenny 2016). In the days and weeks following the Scottish referendum others in the Conservative Party called for a more radical reform involving the establishment of an English Parliament. John Redwood (2014a, 2014d) was particularly vocal in his support. David Davis, who after advocating an English Parliament in the 1990s had contested the Conservative leadership in 2005 and went on to be appointed to the cabinet as Secretary of State for Exiting the European Union in 2016, supported a different version of the idea in the (Davis 2014). A private member's bill proposing a federal structure for the UK, including an English Parliament, was introduced by Conservative backbencher Andrew Rosindell in November 2014, co-sponsored by Redwood, alongside the Chair of the Conservative 1922 Committee Graham Brady and several MPs from other parties.[11]

A key difference between this period and that which preceded it was an increased interest in the English question within the Labour Party. This was especially true following the party's disappointing general election result in 2015, as senior figures sought a way of appealing better to patriotic English voters who appeared to have deserted Labour in favour of the Conservatives or UKIP. Manifestations of such interest included an e-book, (Hunt 2016a), featuring essays from 10 of the party's 2015 election candidates,

can be seen as in part connected to pressure from UKIP, which recorded its best ever general election result in 2015 and performed particularly well during this period with those identifying strongly as English (Curtice and Ormston 2015). UKIP did not in fact repeat its 2010 call for an English Parliament at the subsequent general election (UKIP 2015), instead favouring EVEL. However, the proposal returned in more detailed form in its 2017 manifesto (UKIP 2017), at which time Paul Nuttall was briefly party leader. Political support for an English Parliament has also been expressed by some SNP figures, including former leader Alex Salmond (Andrew Marr Show 2015) and MP Pete Wishart (2017). Media interest peaked immediately following the Scottish referendum, with columnists from a wide range of political perspectives backing the idea, including Janan Ganesh (2014), Will Hutton (2014) and Louise Mensch (2015). Some academics also came out in favour around this time, including Colin (2014, 2018) and James Dennison (2014). Meanwhile, 20 years after its foundation the CEP continues to press the case for an English Parliament, while also tentatively indicating support for English independence as an alternative if its primary objective cannot be achieved (Cullen 2016).

Conclusion

Interest in an English Parliament can be traced back over more than a century, but has been highly sporadic, and primarily in response to developments in other parts of the UK. Events since 1997 in particular, with the creation of new elected bodies in Scotland, Wales and Northern Ireland, have led to increased debate about the idea. The most recent such catalyst was the Scottish independence referendum of 2014, and the enhanced powers promised to the Scottish Parliament during the campaign – since delivered in the Scotland Act 2016. This and a number of other political factors led to increased interest in questions of English governance, which was only partially satisfied by the 2015 implementation of English votes for English laws.

Hence the number of proponents of an English Parliament has grown, and spread across the political spectrum, with increasingly credible figures having come out in favour within both the Conservative and Labour parties, partly under pressure from UKIP. Few of these individuals have yet shown sustained interest, and the English question has slipped down the political agenda once more following the 2016 EU referendum. However, the Brexit process has raised major new questions about devolution arrangements. It is therefore entirely possible that proposals for an English Parliament will again come to the fore. With growing interest in the possibility of an English Parliament it can no longer be considered a wholly fringe idea; the likely effects of creating such a body therefore deserve closer examination.

3. Arguments for and against an English Parliament

The previous chapter outlined the history of the English Parliament idea, charting its prominence in political debates. This chapter considers some of the key arguments that have been made in favour of the idea by its proponents, and likewise arguments made by opponents against the idea. The hopes of proponents, and fears of opponents, are important to our

may be conflicted,

Key arguments against an English Parliament

Despite growing support for an English Parliament among some in the political class, the majority of elite actors, including both politicians and academics interested in constitutional politics, have tended to dismiss the idea. The most central objection has been that already cited by the Kilbrandon Commission, that an English Parliament representing almost 85% of the UK's population, would make the Union 'so unbalanced as to be unworkable' (Royal Commission on the Constitution 1973: para 531). Contrary to the claims of some proponents above, who focus on the views of English voters, opponents' fear is that England's political and economic dominance over Scotland, Wales and Northern Ireland would fuel destabilising nationalism in those areas. The fact that SNP politicians have actively encouraged an English Parliament (Andrew Marr Show 2015), albeit through using arguments about the need for balance, tends to support this view.

For some opponents such a concern is strongly felt. In evidence to the House of Lords Constitution Committee, academic Adam Tomkins (now a Conservative MSP) went so far as to say that a powerful English Parliament would be 'a recipe for collapsing the Union' (Constitution Committee 2016c: 94). The committee largely accepted this analysis in its report on , concluding that such an institution 'would introduce a destabilising asymmetry of power' (Ibid.: 95). Former Prime Minister Gordon Brown (2017) has similarly argued that an English Parliament 'could finish off the union'. Such claims have also been made by well-known constitutional expert Professor Vernon Bogdanor (2015: 16), who has cited historical precedents suggesting that 'systems in which the largest unit dominates have little chance of survival', drawing attention to the examples of the USSR, Czechoslovakia and Yugoslavia. Elsewhere, reference has been made to the post-war German constitution, in which Prussia was deliberately broken up into smaller units 'to prevent it being disproportionately large and dominating the new Germany' (Hazell 2006a: 224). Such dominance need not be based solely on population size, but can also result from factors such as relative wealth and geographic position. England's size, geographical centrality and housing of the UK's capital city, could all be seen to add to these concerns.

England's relative size within the UK as a whole has also driven the second main objection to an English Parliament: that the 'transfer of responsibilities from a UK of approximately 65 million to an England of around 55 million would not deliver the benefits of decentralisation associated with devolution' (Blick 2016: 18). An English Parliament could hence 'exacerbate the political listlessness in many English regions' (Ferguson 2014). Combined with the concern about UK stability, this has made devolution to units within England rather than to En 1 3479.2 0.5(iat)04o0 size

advocated in some quarters (e.g. Blick 2016, Brown 2017, O'Callaghan 2014). Yet such calls are anathema to the Campaign for an English Parliament, which argues that creating regional structures would amount to 'the destruction of England' (Campaign for an English Parliament 2017b).

As with the arguments of proponents, resistance to an English Parliament by some in the political class can be seen as driven – at least in part – by pragmatic electoral concerns. While the idea gained significant support within the Conservative Party at times between 1997 and 2014, there were initially very few Labour supporters. The electoral context was one where from 1997 to 2014, and indeed for most of the period since 1945, Labour performed more strongly in Scotland and Wales than in England, while the Conservatives were relatively weak in these areas (see chapter 12). This meant that for many Labour politicians all-England institutions were a potential political threat. Such factors help to explain a strong resistance from Labour frontbenchers. In 2006 Lord (Charlie) Falconer, then the minister responsible for constitutional affairs, told a conference that '[t]o the idea of an English Parliament we say – "not today, not tomorrow, not in any kind of future we can see now"' (Mulholland 2006). As Prime Minister, Tony Blair described such a body as 'completely unworkable and completely unnecessary' (Mulholland 2007), while Gordon Brown was also strongly opposed (Bryant 2010). In recent years these dynamics have changed somewhat, but only to a limited extent. Despite increased support for the English Parliament idea by some within the party, many Labour politicians remain dismissive. As set out by Deputy Leader Tom Watson in 2016, Labour's official position is still to oppose establishment of such a body and instead to seek further decentralisation within England (Sparrow 2016).

Public attitudes to proposals for an English Parliament

In addition to these various objections, elite actors have frequently argued that there is insufficient public demand for an English Parliament (e.g. Bogdanor 2010, Hazell 2006c). Meanwhile, proponents often claim wide and growing popular support for the idea (e.g. Bone 2016, Redwood 2015). Evidence from public opinion surveys is in fact inconclusive, with considerably different outcomes produced when the question is presented in different ways.

The longest and most widely cited ti n has run since 1999, as part of the Bri tish Social Attitudes (BSA) survey.

Since 2011 a shorter time series has appeared in the Future of England survey. Unlike the BSA question, this has offered all four main options for English governance together as alternatives – the status quo, EVEL, an English Parliament and regional assemblies. This has found EVEL – again in its stronger form, where non-English MPs are excluded from English business – to be clearly the most popular option, with much lower support for the status quo than in the BSA results (see Table 3.2). Support for the English Parliament option has never exceeded 20%. In 2014, which was the year of the Scottish independence referendum, the Future of England survey also included separate agree/disagree questions on various options. At this point 54% of respondents agreed with the establishment of an English Parliament while 69% agreed with EVEL (Jeffery et al. 2014: 20). On the basis of these findings the authors asserted, contrary to Curtice, that there had been a significant English response to developments elsewhere in the UK. They suggested that the findings demonstrated 'an English desire for self-government', with English voters searching for an 'institutional recognition of England that can express their concerns better than the current political system' (Ibid.: 3).

Table 3.2: English support for alternative options for how England should be governed (Future of England Survey, 2011–14)

	2011	2012	2014

Table 3.3: English support for different governance arrangements (ICM, 2014)

	Total agree
Changing the rules in parliament, so that only English MPs can vote on laws that would apply only in England	55
English Parliament	43
UK government ministers for each of the regions of England	47
Secretary of State for England in the UK cabinet	43
New regional authorities based around the major cities in England	37

: Henderson, Jeffery and Liñeira (2015).

One-off polling asking whether or not an English Parliament should be established has also occasionally been carried out. In line with the Future of England Survey's agree/disagree question, these polls have tended to find much stronger public support for the idea than when it is presented among a list of options (see Table 3.4). The peak came in the immediate aftermath of the Scottish independence referendum, when in one poll 59% supported an English Parliament (with only 11% opposed). At other times support has also been close to 50%. The exact questions asked have varied, as shown in the table, but differences do not appear to have much effect on public responses.

Table 3.4: One-off polling questions regarding possibility of an English Parliament

	Support	Oppose	Don't know
a) The formation of a new English Parliament, similar			

been of high salience in the eyes of public.[15] The results of the surveys quoted above should therefore be interpreted extremely cautiously. To the extent that a clear conclusion can be drawn it is that the public appear to be instinctively more favourable to all-England solutions to the English question than to regional ones. Among these, EVEL appears to be more popular than an English Parliament. However, the form of EVEL set out in these surveys goes beyond that which was implemented in 2015 – suggesting that support for stronger all-England solutions could grow further in future. This might be especially likely if England-only legislation supported by a majority of MPs sitting for English seats were vetoed by MPs representing other constituencies in the UK (as further discussed in chapter 5).

Conclusion

This chapter has reviewed attitudes towards an English Parliament, among proponents, opponents, and the wider public. The arguments presented in favour of establishing such a body have been to a significant extent reactive and pragmatic. The most central argument has been the need to enshrine fairness and equity for the English following the establishment of the devolved institutions in Scotland, Wales and Northern Ireland. This leads to a claim that the system should allow the English their own distinct political 'voice', and distinct forums for political representation and expression – which already exist for citizens in other parts of the UK. Proponents of an English Parliament claim that without provision of such equity, representation and voice the English may turn their backs on the political Union, destabilising the territorial integrity of the UK. However, this latter claim is disputed by opponents of an English Parliament. One of the central arguments againelisingbr c

exploited successfully by political campaigners. Again, this underlines the importance of a more detailed analysis of the implications of the English Parliament idea.

4. Alternative models for an English Parliament

We have seen that elite interest in an English Parliament has increased in recent years, with support coming from a growing range of political

questions such as the size, location or electoral system for an English Parliament might split supporters.

Other advocates of the separately elected model have outlined a variety of different visions. Some explicitly propose an institution that would be located away from the Westminster parliament (e.g. Davis 2014, Dennison 2014, Ormond 1999). For example Billy Bragg (2000) has claimed that '[e]veryone agrees that too much power is already centralised in London and the south', suggesting that an English Parliament should be used to rebalance power away from these areas. In contrast, some proponents suggest that the new English Parliament and the UK parliament should find a way to share the Palace of Westminster (e.g. Field 2014, 2017, Gorman 1999, Salisbury 2015, UKIP 2017). The Constitution Reform Group (2015: 20), headed by Lord (Robert) Salisbury, suggested that 'in terms of ease of transition in many practical ways', this arrangement 'has attractions'. Advocates of this kind of approach support abolition of one of the existing chambers at Westminster, to enable a new body to be established without additional costs.

Although several different visions for a separately elected English Parliament have been presented, no existing proposal comes close to a detailed blueprint. Many of the proposals have been outlined only in short interventions such as newspaper articles, blog posts or lines in election manifestos. While some pamphlets have been published on the issue (Gorman 1999, Ormond 1999), these have again focused largely on the principled case for an English Parliament rather than the specifics. Many important questions arising from the model have therefore been largely overlooked. These include the major potential implications of a new separately elected English Parliament for the UK's existing central institutions (discussed in chapter 10 of this report), the possible structure, size and electoral system for such a body (see chapters 11 and 12), and the practical and symbolic implications of different possible locations (see chapter 13).

A fundamental unresolved question about this model relates to the consequences of a separately elected English Parliament for the territorial stability of the UK. As we saw in the previous chapter, Unionist critics of the model believe that it could be seriously destabilising, while English Parliament supporters suggest that it would instead help to hold the Union together. We return to this point in various places throughout the report.

The dual mandate model

The main rival vision to the separately elected model would involve existing members of the UK House of Commons who sit for English constituencies meeting as the English Parliament at certain times, while also continuing to sit in the UK parliament. This would build on the 2015 English votes for English laws (EVEL) procedures by completely excluding MPs representing Scottish, Welsh and Northern Irish constitu

2015 proposals for EVEL – for example, the 2005 Conservative manifesto proposed that 'exclusively English matters should be decided in Westminster without the votes of MPs sitting for Scottish constituencies' (Conservative Party 2005: 22). However, as explored below and later in the report, it would need to go further. We refer to this as the dual mandate model for an English Parliament.

Establishment of a new, separately elected English Parliament would clearly require very active decision-making and considerable upheaval. In contrast, the main selling point for the dual mandate model is that it could be seen as a natural next step from the current EVEL procedures, providing a strong degree of continuity. This appears consistent with the piecemeal and pragmatic way in which the British constitution has often developed, notably regarding Westminster's responses to pressures for devolution. Proponents suggest that change might be achieved relatively straightforwardly, and the incremental approach makes this model appear – if anything – the more likely to be implemented in the short term. The dual mandate model would clearly deal with the key grievance from English Parliament supporters regarding the voting rights of non-English MPs. Nonetheless, the Campaign for an English Parliament (2017c) dismisses it as 'English Parliament lite', because it would still not provide equity with the other devolved areas of the UK. The English Democrats are likewise opposed to the dual mandate model – a senior party figure describing it to us in interview as 'unworkable' – while other supporters of a separately elected body have described it as 'a recipe for confusion and disaffection' (Copus 2018).

The dual mandate model has been championed particularly by English Parliament supporters from the right of politics. The most high profile proponent has been John Redwood (2006), who argues that the model would prevent MPs representing non-English constituencies from voting on English matters, while avoiding 'enormous cost to the taxpayer'. He has provided little further detail, aside from envisaging the English Parliament meeting 'at times when the Union parliament is not meeting' (Redwood 2015) and having powers equivalent to those of the Scottish Parliament (Redwood 2014a, 2014d). Other advocates of the model have included voices from the free-market Adam Smith Institute think tank (Clougherty 2007, Pirie 2016), the journalist Simon Heffer (2008, 2014), and Conservative MP Andrew Rosindell.[16] It also appeared in UKIP's 2010 manifesto (UKIP 2010).

A major area in which the dual mandate model remains underdeveloped relates to executive arrangements (discussed in chapter 8), which proponents have said relatively little about. As delineated by Welsh Conservative AM David Melding (2009), this model would make an English government unnecessary, as the UK government would continue performing a dual role as the executive for both the UK and England.[17] A key supporter of the model that we interviewed also held to this view. Nonetheless some dual mandate advocates (e.g. Clougherty 2007, Heffer 2008) have suggested that there could be an English First Minister and cabinet. In this report we focus largely on the variant with no separate English government, as the version of the dual mandate model supported by its main proponents.

The possibility of having an English Parliament but no separate English government raises some big questions that supporters have left unaddressed. These result, in particular, from the potential for a UK government to be formed that does not enjoy a majority in the English Parliament – what Vernon Bogdanor (2014) has called 'bifurcation' when arguing against EVEL. Other important unanswered questions about this model include how financial arrangements would work (discussed in chapter 7), what roles such a body would have beyond consideration of legislation and the extent to which it could share facilities and functions with the House of Commons (discussed in chapter 9), plus its relationship with the House of Lords (see chapter 11). Despite its apparent incrementalism, there are also questions about the dual mandate model's implications for the UK's central institutions (see chapter 10) and for the future of the Union – just as there are with the separately elected model.

Other models

Most proposals for an English Parliament can be placed within the separately elected or dual mandate categories. There are other possibilities, however, which merit brief consideration. One is that an English Parliament might be separate from the UK parliament but be indirectly rather than directly elected, with the members drawn from local and/or regional tiers of government. This proposal is extremely embryonic, but has recently gained support from some Labour figures. In practice it is hard to see how such an institution could be established without wider reform of English constitutional arrangements to create more powerful sub-national bodies. It is also difficult to envisage this kind of indirectly-elected body being handed the range of policy powers that a separately elected or dual mandate English Parliament would be likely to receive (see chapter 6).014 Tm3tooded would therefore clearly fall well short of English Parliament supporters' demands for equity. It is at present so underdeveloped, and difficult to envisage, that we do not discuss it further in this report.

Another possibility is for an English Parliament to be established not in a continuing UK, as most of the proponents above assume, but in an independent England. English independence has few elite advocates and there is not so far any evidence that it commands significant public support (Jeffery et al. 2014). Nonetheless, senior individuals within both the CEP and the English Democrats have in recent years begun to float the possibility (BBC News 2014a, Cullen 2016), and it is not inconceivable that an independent England could eventually be arrived at as a result of developments elsewhere in the UK. Our focus014 in this report is solely on the possibilities for an English Parliament in a continuing UK.

Conclusion

The two models for an English Parliament that command the most support and which have

Hence just as during the 19th-century home rule debates (see chapter 2), the two primary alternatives remain creation of a separate body beyond the existing Westminster institutions, or accommodating demands for change somehow within parliament itself.

While recognising other possibilities we focus on these two alternatives in the remainder of the report. The separately elected model would most clearly meet the goals set by proponents, but would require major constitutional upheaval, and active decision-making about the UK's territorial future. The dual mandate model, in contrast, might appear more likely to be implemented given its apparently incremental character, which would build upon the existing system of English votes for English laws. However, it falls short of some of the key objectives held by supporters of an English Parliament.

These two models are very different from each other in various important respects, but are united by the fact that their proponents have

5. UK and overseas experience

The subsequent chapters in this report all begin with sections summarising, respectively, relevant experience from the UK's devolved institutions, and from overseas. The broad UK and international context for debates about the possibility of an English Parliament is hence set out in this chapter, as background to those sections and to the report as a whole. The discussion of UK experience below outlines the broad development of territorial arrangements. The section on overseas experience includes some brief reflections on the nature of decentralised states, then introduces the 10 overseas systems used as co

While the creation of these new bodies took place in parallel, it did not represent any overall plan to reform the UK's territorial constitution along more federal lines. There was no overarching devolution statute, with each body instead legislated for separately. Important differences existed in the detail of their design, as indicated in later chapters of this report. These new arrangements reflected differing political contexts, as well as divergence in the previous 'administrative devolution' systems (Jeffery and Wincott 2006). This resulted in a manifestly 'asymmetrical' settlement, described by some as 'Labour's strange constitutional design' (Ward 2000), and by others as 'unstable and even rickety' (King 2007: 354). Since the 1990s the three systems have continued to develop separately, with changes from the original settlements resulting from pragmatic responses to pressures from within each territory rather than any overall review of UK arrangements. In Scotland change has been driven largely by nationalist pressure for increased policy and financial powers, especially since the election of a Scottish National Party government in 2007. Reforms to Welsh devolution have instead been driven mostly by dissatisfaction with the practical operation of the original model. In Northern Ireland, meanwhile, institutional changes have tended to result from developments in the continuing peace process. Devolution in Northern Ireland has often been unstable, and at the time of writing no Executive has been in place since January 2017.

Despite the important differences between the devolution arrangements in Northern Ireland, Scotland and Wales, the greatest asymmetry in the UK's post-1990s territorial arrangements is that between the devolved territories and England. Policy powthes7(Pots0.5(htS0.5.91th)86.325( )TJ-0.0779T

federal states, we include examples of both 'coming together' and 'holding together' federations. We also consider some non-federal states from among the larger countries in Western Europe, because there is no certainty that the UK would meet the formal definition of federalism even following the establishment of an English Parliament. These include differing degrees of decentralisation, with France considered highly centralised (notwithstanding its regional structures). We do not claim that the comparator countries are a comprehensive group of those from which insights might be gained, but they provide useful illustration. However, it is important to point out that none of them demonstrates anything similar to the arrangements envisaged by proponents of a dual mandate English Parliament. We are not aware of any current example of this anywhere in the world (though a form of dual mandate operated in Belgium from 1981 to 1993, as discussed briefly in chapter 8).

Table 5.2: Number and relative size of sub-state units in comparator countries

Country	Total population	Sub-state units*	Largest sub-state unit	Population of largest sub-state unit	Pop. of largest

population size. The most dominant sub-state unit in these terms is Flanders, in Belgium, at 58% of total population. New South Wales in Australia accounts for only 32% of the population, and California in the US for only 12%.

Conclusion

Part 2: Powers and functions

retained the ability to legislate on any devolved

Overseas experience

Table 6.2 provides information about the constitutional division of policy powers in our comparator countries. Many countries, such as Australia and the US, adhere to something like a UK 'reserved powers' model, where the constitution lists powers reserved to the central state and remaining, or 'residual', powers are available to the sub-state units. Others, such as Canada and India, use something more like the 'conferred powers' model originally used in Wales, with residual powers falling to the centre. A particularly notable feature is that 'concurrent' powers,

Table 6.2: Division of policy powers in comparator countries

Country	Central level policy powers	Sub-state level policy powers	Notes
Australia	Listed in Constitution, e.g. currency, defence, foreign affairs, immigration, international trade, social security.	Residual powers, e.g. commerce and industry, education, emergency services, environmental protection, health, housing, transport.	Central level has gradually assumed more responsibility in formally sub-state policy areas. Financial control an important reason for this.
Austria	Listed in Constitution, e.g., civil and criminal law, defence, foreign affairs, immigration, transport. Areas where central level is responsible for legislation and the for administration also listed, e.g., education, housing, nationality, social security.	Residual powers in principle available, but are very few. Includes some powers relating to cultural institutions, local planning, local policing.	One of the most centralised federations in the world. However, there is a very strong tradition of co-operation between the central level and the states.
Belgium	Residual powers, e.g. defence, foreign affairs (except matters falling within regional and community competences), judiciary, railways, national security, some aspects of social security.	Regional powers listed in 'special laws' and linguistic community powers in the Constitution. Generally regions have territorially contained powers (e.g. housing, public works, transport), communities those related to individual (e.g. education, health). Both have power to make international treaties relating to matters within their competences.	Limited co-operation between levels as federation designed to avoid the need to find common solutions for all communities.
Canada	Listed in Constitution Act, e.g. currency, defence, social security. Concurrent powers also listed, e.g. agriculture, immigration, pensions.	Listed in Constitution Act, e.g. health, education, public works. Concurrent powers also available, but central law takes precedence.	As a result of central government's ability to raise more revenue than the provinces, it has frequently used its spending power in areas of provincial jurisdiction. Quebec has some powers not held by other provinces.
France	All primary legislative powers.	Central statutes allocate regions administrative responsibilities relating to e.g. culture, education and transport.	Reforms in 2015 increased responsibilities of regions, but they still have no primary legislative powers.
Germany	Listed in Basic Law (constitution), e.g. defence, foreign affairs, immigration, international trade, monetary system, nationality, nuclear energy. Concurrent responsibilities also listed, e.g. agriculture, health, justice, social security, transport.	Residual powers, e.g. education, local government policing, universities. Concurrent powers also available in principle, but once central legislation has been passed these are no longer available to the .	In practice much of the work of the relates to implementation of central laws.

India	Residual powers, e.g. citizenship, defence, foreign affairs, international trade, railways. Concurrent powers listed in the Constitution also available, e.g. civil law, criminal law, education, social security.	Listed in Constitution, e.g. agriculture, health, land policy, local government, police, prisons. Concurrent powers also available, but central law takes precedence. There are special provisions for Kashmir, Nagaland and Meghalaya.	The Constitution includes provision for transfers of powers from states to the central government in the case of emergency or otherwise by two-thirds majority where in the 'national interest'.
Italy	Listed in Constitution, e.g. citizenship, civil law, criminal law, currency, defence, foreign affairs, immigration, public order, social security. Concurrent powers are also listed, e.g. education, health, planning, transport.	Residual powers, e.g. agriculture, housing, tourism. Concurrent powers are also available, though exercised within central frameworks. Five 'special' regions have powers set out in autonomy statutes.	The main difference between the 'ordinary' and 'special' regions is that the statutes establishing the 'special' regions have constitutional status, though there are also some differences in powers.
Spain	Listed in Constitution, e.g. defence, foreign affairs, justice, immigration, international trade. Social security is a concurrent power. Residual powers are also available.	Each autonomous community has its own 'statute of autonomy' setting out powers. What these may include is listed in the Constitution, e.g. agriculture, health, housing, local government, planning, police. In practice most regions have similar powers to each other, though there is some variation.	Catalonia and the Basque Country originally had greater powers than the other autonomous communities, but these differences have now been largely eliminated. The Constitution allows for the Spanish state to suspend the powers of an autonomous community. These powers are currently being used in relation to Catalonia.
United States	Listed in Constitution, e.g. citizenship, currency, defence, foreign affairs, immigration, international trade. Concurrent powers are also specified, e.g. courts, roadbuilding.	Residual powers, e.g. education, housing. Plus powers listed in the Constitution, e.g. health, local government. Concurrent powers are also available, but central law takes precedence.	The 'grant-in-aid' system means that in practice the central level has exercised considerable influence over areas that are formally state responsibilities such as education and health.

: Relevant constitutions, available at https://www.constituteproject.org/, accessed 27 October 2017; Palermo and Kössler (2017). In addition: Australia – Saunders (2005); Austria – Gamper (2006); Belgium – Deschouwer (2005), Goossens and Cannoot (2015); Canada – Knopff and Sayers (2005); France – Cole (2017); Germany – Kramer (2005); India – Majeed (2005); Italy – Arabia (2014), Newell (2010); Spain – Gunther and Montero (2009), Gunther, Montero and Botella (2004); United States – Tarr (2005).

What English Parliament supporters have said

Our review of existing proposals found broad agreement among proponents of an English Parliament that such a body should have similar policy functions to those currently held by the Scottish Parliament. The Campaign for an English Parliament (CEP) states this demand prominently on its website:

> We campaign for an English Parliament with powers at least as great as those of Scotland's, i.e. a Parliament and Executive (Government) that can make Acts (primary legislation) on the same domestic issues (e.g. health, welfare & education) that are devolved to the Scottish Parliament (Campaign for an English Parliament 2017a).

John Redwood (2014a), the most prominent supporter of the dual mandate model, has also suggested that the policy powers of the English Parliament should mirror those of the Scottish Parliament. Writing in the immediate aftermath of the 2014 Scottish independence referendum, he said that '[a]s we now seek to put into legislation what Gordon Brown called Home Rule for Scotland we must do the same for England'. Other politicians who have advocated an English Parliament with equivalent powers to the Scottish Parliament include David Davis (2014), Frank Field (2014) and Paul Nuttall (2011). Responses to our public consultation from supporters of an English Parliament also generally proposed that any such body should have similar powers to the Scottish Parliament. Those deviating from this consensus tended to argue that the English Parliament should be responsible for all domestic policy and therefore have powers than the Scottish Parliament. Many respondents suggested that, alongside the establishment of an English Parliament with powers similar to or greater than the Scottish Parliament, the National Assembly for Wales and Northern Ireland Assembly should also be given the same powers.

That supporters of an English Parliament should demand equivalent powers to the Scottish Parliament is unsurprising given their emphasis on the need to restore equity between the four nations of the UK. It is possible to imagine a settlement conferring powers on an English Parliament that were less than those of the Scottish Parliament, but this would add even further complexity to an already complicated devolution settlement – creating an elaborate patchwork of different policy competencies, with the Westminster parliament retaining different powers in different geographic areas. It could also leave specific grievances of proponents unresolved, in particular the continued ability of MPs representing non-English constituencies to vote on England-only matters at Westminster.

How and where would the policy powers of an English Parliament be defined?

In determining which policy powers should be devolved to the English Parliament one possibility would be to follow the subsidiarity principle (Peterson 1994). By this logic the powers of the new institution would be those deemed to be most efficiently exercised by it, rather than

by the UK parliament or by local government institutions. This would require making in principle decisions about the level at which each group of powers could best be exercised. The difficulty with such an approach is that it could open up questions about the allocation of powers to the existing UK devolved institutions, which would be controversial. If designing from the outset a new devolution settlement including an English Parliament, the UK might perhaps have adopted a different type of system, for example a German-style shared powers model, enabling the centre to retain involvement in matters such as health and education.

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the consent of the English Parliament. In line with this, a system of legislative consent motions (LCMs) would probably need to be developed for the English Parliament, equivalent to those for the existing devolved legislatures, to signal consent where the UK parliament wishes to legislate on devolved matters (Trench 2016). There is no legal requirement for an LCM to be passed by the devolved legislatures in such circumstances, but an expectation has developed that one should be.

In practice, if such an approach were followed, the need for any legislative consent motions would probably reduce following establishment of an English Parliament, as many key competencies would be universally devolved. There would hence be less reason for the UK parliament to legislate on such matters. However, this would remove key policy levers from the UK government, and result in a quite fragmented system. There would probably still remain occasions where there were strong practical grounds for proceeding with UK-wide legislation rather than introducing separate bills to the UK and English parliaments – for example in areas such as transport where there is a complex mix of competencies, meaning the minority of provisions of a mostly UK-wide bill might relate to devolved matters. In other fields where the four UK nations wanted to proceed in similar ways, legislating through Westminster might also prove convenient. But such developments could create a kind of 'back door' shared powers

limited public support for such reform (see chapter 3), and the upheaval and cost that it would involve, this seems unlikely in the short term.

Powers devolved to Scotland and Northern Ireland but not to Wales

More complex issues are raised by the possible devolution to an English Parliament of those powers that are currently devolved to the Scottish Parliament and Northern Ireland Assembly but not to the National Assembly for Wales. A significant range of powers fall into this category, illustrated by the fact that during the first year of

Powers beyond those devolved to Scotland, Wales and Northern Ireland

As noted above, some supporters of an English Parliament have called for such a body to be responsible for all domestic policy, leaving only foreign policy and some aspects of economic policy to the UK parliament. In the cases of Scotland, Wales and to a lesser extent Northern Ireland, the devolved legislatures have accrued additional powers over time on top of those they were initially granted. The powers of an English Parliament could develop in a similar manner, though in the context of a more symmetrical Union it is probable that England, Scotland, Wales and Northern Ireland would gain new powers together rather than in isolation.

Were further powers to be devolved beyond those already applying to Scotland these might include currently reserved powers over immigration and in the areas of energy, pensions, trade and industry or welfare. This would be radical, yet there are international examples of the devolution of some policy areas that are currently reserved in the UK. For example the Canadian provinces' powers over immigration were ci0.5(t)0.e0.5(i328me.3403 Tm[(o ( )3694 Tw po Tm(s probabl22 4(

responsibilities such as health, education, housing and local government. This would give the English Parliament powers roughly equivalent to those of the National Assembly for Wales. Such arrangements would require the UK parliament to continue to legislate on various topics for the jurisdiction of England and Wales, which would be both complex and unpopular with some English Parliament supporters.

Table 6.3: Possible powers of English Parliament and UK parliament

Powers likely to be devolved to an English Parliament	Powers that may or may not be devolved to an English Parliament	Powers likely to be reserved to the UK parliament
Economic development	Abortion	Broadcasting
Education, including further and higher education	Agriculture, fisheries and food	Constitution
Elections to the English Parliament (if separately elected)	Charities	Defence
Fire services	Civil justice, including family law, land law, contract law and tort	
Forestry	Criminal justice, including courts and prisons	
Health and social services	Crown Estate	
Housing and planning	Environmental protection	
Internal transport	Onshore oil and gas extraction	
Local government, including finance and elections	Police	
Renewable energy schemes and energy efficiency	Social security	
Tourism		
Water supply		

The powers likely to be retained by the UK parliament are shown in the third column, and include areas such as foreign policy, defence, immigration, national security, most working age benefits and pensions (as further discussed in chapter 10). Although these powers are significant, it is clear that establishment of an English Parliament would – in the absence of shared competencies – exclude the UK parliament from many key areas of policy making. It would also create an institution (given England's centrality and share of the population) with enormous political clout. These issues are further explored in future chapters.

7. Financial arrangements for an English Parliament

Regardless of what powers an institution might have on paper, financial resources are required in order to exercise them effectively. This chapter discusses the options for financial arrangements for an English Parliament. It concludes that such a body would be very likely to be funded through a mix of revenues from devolved taxation and borrowing, together with grant funding from the UK government. On either the separately elected or dual mandate model it is likely that an English Parliament's fiscal (i.e. tax-raising) powers would be equivalent to those of the Scottish Parliament. Grant funding for an English government could not be determined by the Barnett formula currently used for Scotland, Wales and Northern Ireland. This means that, at least under the separately elected model for an English Parliament, the formula could no longer be used in the rest of the UK either and a new formula would be needed. More incremental change might be possible under the dual mandate model, but this raises questions of its own.

Existing UK experience

The UK's existing devolved administrations receive a large proportion of their funding through block grants from the UK government. Annual changes in the size of these grants are determined by the Barnett formula. This was first introduced in the late 1970s, as a way of setting the budgets of the territorial departments, and then adapted to the post-devolution environment (Select Committee on the Barnett Formula 2009). Under the formula UK government spending programmes for England are classified by whether they are 'comparable' to devolved functions in Scotland, Wales or Northern Ireland.[24] Following each spending review the change in spending on 'comparable' programmes is reflected in the annual change in the size of the block grants. An increase (or decrease) in UK government spending in England on matters devolved elsewhere therefore results in an equivalent increase (decrease) in the block grants. The devolved governments can then decide how to spend the grants as they see fit. This system of funding has long been subject to criticism on the grounds that it has contributed to some parts of the UK (in particular, Scotland) being 'overfunded' and others (in particular, Wales, but also England) being 'underfunded' and

Table 7.1: Fiscal powers of the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly

Type of taxation	Scotland	Wales	Northern Ireland
Income tax	To set rates and thresholds on non-saving and non-dividend income.	To introduce a Welsh rate (not commenced).	n/a
VAT	Assignment of first 10% of revenue raised by standard rate and first 2.5% of revenue raised by reduced rate of VAT.	n/a	n/a
Other taxation powers	Land transaction, waste disposal, air travel, aggregates levy, business rates (exercised by local govt.), council tax (exercised by local govt.).	Land transaction, waste disposal, aggregates levy, business rates (exercised by local govt.), council tax (exercised by local govt.).	Air travel (long-haul flights only), Regional Rate on top of the District Rate (equivalent to business rates and council tax), corporation tax (not commenced*).
Borrowing powers	Up to £1.75 billion (annual limit of £600 million) for revenue purposes and up to £3 billion (annual limit of £3 billion) for capital spending.	Up to £500 million (annual limit of £200 million) for revenue purposes and up to £500 million (annual limit of £125 million) for capital spending.	Up to £200 million per year for capital spending.

: Bowers (2016), National Assembly for Wales Research Service (2016), Price Waterhouse Coopers (2013), Seely and Keep (2016).

* Subject to agreement between the UK government and Northern Ireland Executive on the impact on Northern Ireland's budget (Seely 2017).

The other source of funding for the devolved governments is taxation raised by or allocated to them. Initially the post-1998 devolution arrangements involved only extremely limited fiscal devolution (Hazell and Cornes 1999). However, this has changed somewhat and all three devolved legislatures now possess some fiscal powers (see Table 7.1). The Scotland Act 2012 and Wales Act 2014 brought about the devolution of taxation powers relating to land transaction and waste disposal, in place of the previously UK-wide Stamp Duty Land Tax and Landfill Tax (Ifan and Poole 2016, Seely and Keep 2016). At this point Scotland also gained greater powers to vary income tax rates, beyond the initial (unused) band of 3%. These powers were further extendhis has c6).

raising approximately half of devolved expenditure (Sandford 2015). Fiscal powers in Wales have not yet developed to the same extent and even if income tax is devolved, for which there is statutory provision, the Welsh government will still be responsible for raising only around one fifth of devolved expenditure (Poole, Ifan and Phillips 2016). The Northern Ireland Executive can set a regional tax rate to be levied on top of Northern Ireland's equivalent to council tax, the 'District Rate', for the purposes of funding services run by the Northern Ireland Executive (PricewaterhouseCoopers 2013). Air Passenger Duty has also been devolved for direct long-haul flights, and corporation tax devolution is planned. All three devolved legislatures have borrowing powers, but these are limited (as shown in Table 7.1).

Overseas experience

Table 7.2 provides information about financial arrangements in our comparator countries. In almost every case sub-state units are funded by a mix of directly raised taxes and revenue transfers from elsewhere (central government and other sub-state units).[25] The exact balance varies considerably. While Canadian provinces raise as much as 80% of their money directly and US states 70%, Austria's have only limited tax-raising powers (Federal Ministry of Finance n.d., Trench 2013b). Taxes raised at sub-state level often include land, sales and consumption taxes, the rationale being that these are levied on less mobile sources and relate to areas for which sub-state governments are usually responsible. Income tax, which tends to be the largest single source of tax revenue, is often shared between the two levels, as for example in Canada (Knopff and Sayers 2005) and India (Majeed 2005). Taxes levied on more mobile sources, for instance corporation taxes, are usually raised by central government, though revenues are sometimes shared with the sub-state level (Trench 2013b).

Despite the existence of fiscal powers at sub-state level, in most systems these are insufficient to provide the public services for which governments at that level are responsible (Trench 2013b). This creates a 'vertical fiscal gap', typically filled through grants from central government. The formulae determining the size of these vary considerably between different systems. One common feature is a redistributive element – that is, units with greater per capita revenue-raising capacity receive less generous grants than those with lower capacity, so that overall each unit has a similar ability to provide public services. These grants are often referred to as equalisation payments. In Canada the redistributive principle is entrenched in the Constitution Act, which states that the federal government is committed to 'making equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation' (Knopff and Sayers 2005: 125). Grants from central governments s Tm(s)T gove

Table 7.2: Financial arrangements in case study countries

Country	Tax-raising arrangements	Revenue sharing arrangements