COMPENDIUM #39

IT'S TIME UNIONISTS LISTENED

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> *If now is not the time, when exactly is the time? A constitutional challenge on democratic thresholds, mandate legitimacy, and the framework for consent.*

For almost a decade, the debate over Scotland's constitutional future has been dominated by a simple Unionist response: now is not the time . The phrase has been repeated during changing political circumstances, changing governments, and changing constitutional realities. Yet despite its constant use, one fundamental question remains unanswered: If now is not the time, when exactly is the time?

This is not a question about whether Scotland should become independent. Reasonable people hold different views on that issue. Nor is it a question about whether the Union should continue. Unionists are entitled to argue for the continuation of the United Kingdom just as supporters of independence are entitled to argue for constitutional change. The issue is whether those who repeatedly reject another referendum have ever explained the circumstances under which one would become acceptable.

The modern debate intensified after the European Union referendum. Scotland voted by 62 per cent to remain in the European Union while the United Kingdom as a whole voted to leave. Whatever conclusions people draw from that result, it represented a major constitutional change from the circumstances that existed during the 2014 independence referendum. Following Brexit, calls were made for Scotland to be given another opportunity to decide its future. On 16 March 2017, Theresa May responded by stating: “My message is very clear, now is not the time.” She argued that voters should not be asked to make such a decision before the outcome of Brexit negotiations was known. [1] [2]

That position addressed the immediate circumstances of 2017. It explained why a referendum should not take place at that particular moment. What it did not explain was what circumstances would eventually make such a referendum legitimate. A distinction exists between arguing for delay and defining the conditions under which delay ends. The former explains the present. The latter provides a constitutional principle.

Years passed. Brexit negotiations concluded. The United Kingdom left the European Union. Political leadership changed and elections continued to be fought. The constitutional debate remained. In September 2020, Keir Starmer stated that Labour would make “the argument for the Union” and “the argument that we don't need a referendum.” [3] In June 2024, when asked whether he would negotiate on independence following an SNP electoral mandate, he answered simply “No.” The same report stated that a Labour government would not grant a second Scottish independence referendum. [4]

These statements establish a clear political position. Senior Unionist leaders have opposed another referendum. They have rejected requests for one and argued against holding one. That fact is not in dispute. [1–4] What is increasingly difficult to identify is the principle underlying that opposition.

The public record contains explanations for refusal but not a framework for consent. It contains reasons why a referendum should not happen but no clearly defined explanation of when it could happen. No

timetable has been identified. No constitutional threshold has been established. No democratic test has been publicly set out through which Scotland might know whether the issue can be revisited in the future. [5]

This matters because constitutional legitimacy depends upon rules that are understood and capable of public scrutiny. Democratic societies ask citizens to respect constitutional processes. Citizens are therefore entitled to understand how those processes operate. They are entitled to know the basis upon which major constitutional questions may be reconsidered.

For almost ten years, Scotland has been given reasons why another referendum should not take place. Brexit uncertainty was one reason. Later, the view was advanced that Scotland did not need a referendum. More recently, the position became that a referendum would simply not be granted. These are all documented political positions. [1–5]

What remains absent is the corresponding answer to a simple constitutional question: If these circumstances are insufficient, what circumstances would be sufficient? If electoral mandates are insufficient, what democratic expression would satisfy the requirement? If years of political debate are insufficient, what benchmark must be reached?

These questions do not arise from support for independence. They arise from the logic of the Unionist position itself. Every argument that a referendum should not take place naturally raises the question of what conditions would justify a different answer.

Opposition to independence is a legitimate political position. Opposition to another referendum is also a legitimate political position. However, a position based upon repeated postponement carries a responsibility to explain the conditions under which postponement ends. Without such an explanation, the argument remains incomplete.

The constitutional debate has now reached that point. General assertions that now is not the time can no longer substitute for a clearly stated constitutional principle. After years of repetition, the burden rests with those making that argument to explain what constitutional, political, or democratic circumstances would make the time appropriate.

Until that explanation is provided, a central weakness remains within the Unionist case. The public has repeatedly been told when the time is not. It has not been told when the time is.

That is not merely a question about independence. It is a question about democratic accountability, constitutional transparency, and political clarity. For nearly a decade the answer has been deferred. The responsibility now lies with those defending that position to provide the answer they have so far withheld.

The Question Before Them Is Straightforward:

“If now is not the time, when exactly is the time?”

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