
THE SCOTTISH PARLIAMENT

*partial success:
could do better?*

NIGEL SMITH



THE SCOTTISH PARLIAMENT – PARTIAL SUCCESS: COULD DO BETTER?

A personal assessment of the Scottish Parliament since the 1979 referendum and looking for possible reforms.

Angus Smith

The Scottish Parliament – Partial success: could do better?

A personal assessment of the twenty years since the 1997 referendum establishing the Scottish Parliament and some possible reforms.

Nigel Smith

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FOREWORD

Nigel Smith was a long-time supporter and campaigner for decentralisation and devolution. He played a central [and largely unknown] role in the 1997 Referendum campaign for a Scottish Parliament. In 2017 he submitted his views on Holyrood's performance to date to the Commission on Parliamentary Reform set up by the Presiding Officer, Ken Macintosh. Nigel was eventually persuaded that his views deserved a wider audience and he began to re-draft the document for publication. Suddenly, and unexpectedly, he died in January 2020 before he completed the task.

Nigel loved Scotland and actively enjoyed sailing on the west coast and walking in the hills and countryside. And he cared about the country. Nigel preferred to work in the background and did so assiduously and effectively, championing and lobbying for the causes he cared about across the political spectrum. He was admired and respected for taking a stand, arguing his case and for keeping confidences. All who came in contact with him knew and appreciated that he was a man of integrity. Over the past two years the Covid pandemic has meant that it has not been possible to arrange an event to allow those who knew and worked with Nigel to gather to reminisce and mark his significant contribution to public life in Scotland.

As two of his friends who shared his desire to see devolution working for the betterment of our fellow citizens, we felt that this analysis, which is both systematic and trenchant, should be in the public realm. Nigel's family happily agreed and have made publication possible, a fitting tribute.

Some of the specific detail is a little out of date but that cannot

be said of the analysis. That Nigel has less to say about the health service than about the economy and education is regrettable but does not detract from the force of his comments on governance, responsibility – and reform.

As to our editorial practice in finalising the document for publication, we sought only on occasion to clarify meaning and, where possible, to provide references to organisations and documents mentioned in the text. The arguments and conclusions are all Nigel's. We are only sorry we have been denied the chance to spend a few happy hours talking – and arguing – with him about the thoughts he presents here.

This is an important study from a man who cared about Scotland. We hope it will contribute to the debate about how Holyrood can best serve the interests of the people of Scotland.

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CHAPTER 1

INTRODUCTION

From the outset the founding culture of the Holyrood parliament was not that recommended by its own Constitutional Steering Group with its emphasis on consensual working. Instead a more adversarial practice was established and then intensified by the onset of the 2014 referendum and its aftermath.

The current structure of the parliament tends to over-represent government in its affairs which might have mattered less in a more consensual parliament but, given the founding culture, this has weakened the parliamentarians and reduced their effectiveness. Reforming procedures while obviously desirable may not be possible, so adverse is the current climate.

The result is the Scottish Parliament has been only a partial success, certainly less successful than campaigners hoped for at the outset in 1997. It can do better.

As Adam Ferguson said in 1782, 'Nations stumble upon their establishments, which are indeed the result of human action, but not the execution of any human design'. Looking back on the experience of establishing the Scottish Parliament, Ferguson's observations seem all too relevant ... there are many stumbles in the story which follows.

The political climate in Scotland is difficult at the moment so the risk of being completely misrepresented is high. Nevertheless, I have resisted the temptation to write a 'milk and water' assessment. Instead, I have tried to be even-handed, at least to the extent that my friend, the distinguished nationalist

the late Neil MacCormick, would not, I hope, have chided me too much.

Finally, I should stress that I am not an ideologue about devolution. Constitutional changes are embarked on because we believe they make life better for people. If they don't, we need to be honest about the shortcomings. That is what I have tried to do here.

My own perspective is a long one, beginning almost fifty years ago, in 1970, when I read the Kilbrandon report on decentralisation in post-war Britain.¹ I had been drawn to it by what I saw as the adverse effects of centralism in England. The report, with its recommendations – and dissenting opinions – opened the modern phase of constitutional devolution. From that day to this I have sought to contribute to the debate on devolution within the United Kingdom.

Although brought up in Scotland, the first twenty years of my business career were spent in England. I returned in 1976 to develop and invest in a Glasgow engineering business which led to membership of the Scottish Engineering Employers' Council and the Bank of England's Scottish Consultative Panel.

My involvement in the campaign for a Scottish Parliament started before 1992 and lasted for twelve years or so. My part in the 1995 Broadcasting for Scotland campaign followed by Scotland Forward in the 1997 referendum, both cross party campaigns which I chaired, meant I found myself trusted with confidences from politicians on all sides, and on the strength of these shared experiences, the confidences continued into the first two Scottish Parliaments. I have used these to provide insight and context for the following discussion and have tried to do so with respect and discrimination..

I was a member of the Scottish Constitutional Convention (SCC), a broadly based body established in 1989, and a member also of Fairshare, the campaign for reform of the local govern-

ment electoral system. I did what I could to support the campaign for the parliament in other smaller ways

After the 1997 referendum, I became involved in seven other referendums in Britain and an observer of another dozen or so in Europe and the United States.ⁱⁱ Consequently I have found myself being asked to give evidence to Holyrood and Westminster among other places.

From 2001 onward my focus shifted to London and opposition to joining the euro, a position which I knew would make me persona non grata in some quarters and probably rule out any prospect of serving Scotland further on its public boards. From then on I became an interested outsider but one who remains passionately committed to seeing devolution work for the people of Scotland.

CHAPTER 2

BEFORE THE FIRST PARLIAMENT

The emergence of new politics

The Scottish Constitutional Convention's scheme for a devolved parliament, Scotland's Parliament: Scotland's Right, was signed on St. Andrew's Day 30th November, 1995.ⁱⁱⁱ

No modern convention would be organised in the way this was, there being no Tories, no SNP and no voters involved. It had inched towards agreement in a very old politics way but thanks to the rhetoric of Episcopal clergyman Canon Kenyon Wright who became the chair, it sounded pretty good as well as being substantive. We didn't know it then but there would be less than two years to the referendum which would decide its fate.

As the Convention completed its work, Esther Roberton, who has had a distinguished career in the public sphere, was appointed to promote the scheme to civic and business groups across Scotland.

The rest of us turned to talking about the way the parliament might work and the policies which could emerge. There were many conferences throughout Scotland as a wider public began to engage with the potential of the parliament. George Robertson, as Labour's shadow Secretary of State for Scotland, often attended these gatherings and, though I suspect him to be an instinctive centralist, he was much exposed to the aspirations for a 'new politics'.

When Donald Dewar replaced Robertson after the general

election in 1997 all this hinterland was lost in an instant. Dewar had been totally committed as Chief Whip in Westminster to defeating the Tory government and ensuring there would be no repeat of Major's surprising general election win in 1992. The result was he had less first hand exposure to the developing aspirations north of the border. Instead the 'new politics' job was given to Henry McLeish who, although his deputy, was reputed not to command Dewar's respect. This change of personnel and partial demotion of the 'new politics' portfolio were important stumbles in the story.

The elements of new politics that emerged, it should be explained, included proper women's representation, reform of public appointments and exploiting Scotland's size to ensure joined-up government. The telematics committee, of which I was a member, was one of the most productive committees I have ever served on, and was the forerunner of the digital parliament. UCLA, the Constitution Unit of University College London, produced a comprehensive constitutional proposal written by Graham Leicester.^{iv}

The universal desire was for a more co-operative less adversarial parliament than the Westminster one. Bernard Crick and David Millar, both with a lifetime of relevant experience, wrote model standing orders for the parliament.^v Significantly, some people in the Labour party thought the model empowered parliamentarians and their committees too much.

At this stage most of the 'new politics' debate was confined to campaigners and a few newspaper columnists. Only later in the referendum campaign did it become a wider aspiration of the public. After the referendum, there was criticism that we had raised expectations too high. Not a criticism I accept then or now for I sensed that the establishment was reacting defensively to the prospect of major change.

This was how I put the aspiration in front of our leading politicians in a speech in New Parliament House in Edinburgh four days before the referendum in September 1997.

I have been in a privileged position in the last few months campaigning across parties and across Scotland.

I have taken heart from our opponents' campaign of fear. It means the logic of making the secondary business of Westminster the primary business of Edinburgh, is too powerful for them to take head on.

Perhaps the moment when the argument finally slipped away from them was the historic decision to adopt proportional representation. Then we knew for certain this would be a modern parliament for all parties and parts of Scotland.

I have taken heart in the number of people from all walks of life who recognise this and have confided to me that they too would like to serve in such a parliament.

It is beyond doubt that new blood will flow into our politics. There will be competition for places from which will spring a new vitality in our affairs and a parliament we can trust.

I have witnessed in many parts of Scotland the co-operation of the three parties at the top and at the grassroots.

This community of interest gives me hope that a more consensual style can be brought into our public life.

Settled will gives way to a referendum

Tony Blair's decision to make the establishment of the Scottish Parliament subject to popular approval via a referendum after the passage of the Scotland Act came like a bolt from the blue in June 1996. The subsequent storm arose partly because of the allegedly rigged referendum in 1979, in which the 'yes' side was obliged to win not only a majority among those voting, which it did, but also the assent of 40 per cent of the electorate, which it failed to do. The storm lasted a full six months, absorbing a tremendous

amount of political energy in the Scottish Labour Party that would have been far better spent preparing for the new parliament.

I recognised that a putative government claiming to be 'New Labour' could not back down without a damaging loss of credibility so I accepted the decision and started planning the referendum campaign. In taking up the chairmanship of the 'Yes' campaign I was mindful of the 1979 referendum and remembered the brilliant one-man effort to defeat devolution which had been mounted by the Labour MP Tam Dalyell, the heavyweight business opposition campaign and the disunited Yes campaigns then.

By August 1996, the Convention, including George Robertson, the Shadow Scottish Secretary, had accepted my proposal for a cross-party campaign which would include the SNP. I did not reveal that there would have to be clear blue water between the Convention and the campaign if there was to be any realistic chance of the political initiative succeeding. That difficulty lay ahead.

The following week, telling nobody and well aware of the political risks posed by the impending general election, I met the SNP Chief Executive, Mike Russell (and Alex Salmond at the end of a phone) to explain the proposal. It was intended and accepted as a confidence building gesture. I told one other nationalist, my friend Neil MacCormick, and asked him to keep us all honest. Several months later Donald Dewar asked me if I had 'lines open' to the SNP. He was pleased to hear my answer.

A year later the cross party campaign came to pass and delivered a resounding 74 per cent majority in favour of the Scottish Parliament, winning in all 32 local authority areas.

The vacuum in Scotland after the referendum

The optimism after the 1997 May UK general election soon fused with that aroused in the September referendum to create a nervous and excited public mood in Scotland.

The SNP who had a 'good' referendum, were the principal beneficiaries. According to a poll at the time, well over 70 per cent of Scots thought Scotland would be independent 'within ten years' (that is independent by 2008) even though the majority didn't support the idea. The public mood looked set to boost the SNP in the first elections to the Scottish Parliament.

Although Labour could rightly say they were delivering the Scotland Act, somehow that failed to resonate with public feeling. There was also the sense that they were creating a body for which they hadn't yet developed any policies.

Another undercurrent in the Labour party and shared among social and business elites was the belief that 'it is only going to be regional government'. When a Labour minister leaned over me at a conference to tell the chair of a public body sitting beside me that he need not worry about the Scottish Parliament as he wouldn't be affected, that nod and a wink advice suggested a minimalist view of the new body.

Consultative Steering Group

It was in this atmosphere of heightened enthusiasm and contradictory undercurrents that the Consultative Steering Group (CSG) on the Scottish Parliament began its work. It had been set up by the then Secretary of State for Scotland, Donald Dewar, to turn the spirit of 'new politics' into a more comprehensive expression of guiding principles and rules of procedure for the new parliament, and its broadly based membership reflected that aim.

Henry McLeish, MP and later Scotland's First Minister, chaired a body which was exceptionally well resourced and supported by a committed civil service team. The subsequent report, *Shaping Scotland's Parliament*, was presented to the Secretary of

State for Scotland in December, 1998.^{vi} It is an outstanding document which reads as well today as it did then.

The Presiding Officer, Ken Macintosh, was right to say when he set up the Commission on Parliamentary Reform in 2016 that it did not need to revisit that report, seeking revisions. What needs revisited, however, is the failure to implement it fully in the first parliament. Part of what follows is one explanation of what happened.

The Scotland Act and its omissions

Jim Wallace, the leading Scottish Liberal, wrote to me in July 1997 to say there was no evidence of new politics at Westminster. Tam Dalyell, who on referendum night as the result became obvious gracefully promised to get us the best possible Scotland Act, said much the same thing. The Bill was being rammed through parliament; all political debate was confined to the new Labour ministers. With the Tories crushed by the landslide, parliamentary scrutiny barely existed.

Nevertheless the Scotland Act that received the Royal Assent late in 1998 was a triumph of legal drafting and Donald Dewar's political efforts. He had brought the Convention scheme into being, overcoming opposition within the Labour government.

Despite his achievement, I saw omissions and larger problems which led me to write to the London Times and Glasgow Herald in November 1998. The following extract, is focused on government obstruction of the idea of a BBC Scotland television news bulletin, which would have replaced the London based Six O'Clock News and Reporting Scotland and covered Scotland, the UK and the world. The obstruction has relevance way beyond that specific issue.^{vii}

Ruth Wishart explains the informal way members of the Government have made their preferences on the Six O'clock News known to the BBC. The Government could have legitimately instructed the BBC under the terms of the present Royal Charter to take full account of devolution in its home services. That it chose not to exercise its power has a wider significance for devolution.

By dealing with the BBC, the archetypal British organisation, in this way the Government has sent a very public signal to several hundred British bodies, largely representing the powers retained in London, that are considering what form their response to the Scotland Act should take. They are as diverse as the Bank of England, the Equal Opportunities Commission, Royal Mail, central government departments to obscure but important British scientific committees. The message is simple. In the face of radical constitutional reform, a conservative and minimal response from them is quite acceptable to the UK Government.

This apparent reaffirmation of the British status quo will be greeted with dismay by all those struggling to uphold the Scottish end of these institutions. John Smith understood the never ending nature of their difficulties which he expected to be eased by devolution. It is a pity his friends now in Government have allowed the impression to grow by this and other recent decisions that they are swithering between a broad and narrow view of devolution.

Scottish members of Cabinet who have spent a life time arguing that devolution and decentralisation would revitalise Scotland and strengthen the UK, need to rededicate themselves to the latter part of the proposition. For the Scotland Act is not just something done to Scotland, its proper context is Britain. It will strengthen Britain if the institutions by which we define Britain and share that element of our multiple identity, take full account of the reform.

The first problem we faced was that there was no British context for reform. I saw then what is now obvious. The British state created devolution north of the border then rolled on as before as if nothing significant had happened. Twenty years later there is still no reform at the centre of Britain. In the intervening years, the UK has poured more powers into the Scottish 'enclave' and now wonders why it behaves like a quasi-sovereign state.

Tony Blair failed to understand what was being done or to take any interest in it subsequently. Only recently, in a long interview, did he admit that he should have done more to hold Britain together. That is something of an understatement. If Blair's mistake was a refusal to take ownership of devolution, Gordon Brown's was an unwillingness to let go. It is no surprise that his fingerprints are all over the early years. Brown is now a ferment of ideas that he would have disowned as 'going down the nationalist route' back then. He could, twenty years ago, with a stroke of the Chancellor's pen, have implemented one of his current ideas to rename Britain's central bank the Bank of Britain.

Secondly, there was a clear mismatch between the older generation of Labour leaders like Brown, Blair, and even to some extent Dewar, who seemed to think they were creating a grander version of Strathclyde Regional Council (which they could control) and a younger generation in the Scottish Labour Action Group, like Jack McConnell and Wendy Alexander, who saw the need for a fuller, more free standing parliament. The gap between the two visions was concealed in Dewar's address at the opening of the Scottish Parliament. It would be five or more years before the older group conceded their mistake and let go but in the interim they did significant damage to the new parliament and their party.

Thirdly, they took insufficient steps to improve inter-governmental relations – or reform the offices of the Secretaries of State in Scotland, Wales and Northern Ireland – presumably a reflection of their valuation of the lowly vessel they thought they had created north of the border. Only when the governments in London and Edinburgh were formed from different parties after 2007 would the omission become obvious. At the outset, most powers devolved were discrete and thus only lightly 'impinged' on central powers.

Now, and especially following exit from the EU, most new powers are no longer discrete, no longer just 'impinge' on each other but are in effect shared or new central powers re-patriated from Brussels, for which there was no constitutional provision in the Scotland Act. The situation has completely outgrown the Joint Ministerial Committee, the consultative body established in 1999 to provide a discussion forum for the UK government and the three devolved administrations, and its cobbled together concordats.

The failure to give British coherence to devolution was the great omission of 1998. It falls to the current Conservative government to correct Labour's error. To describe any such endeavour as an attack on the Scottish Parliament couldn't be further from the truth.

The possibility that leaving the EU will correct the 1998 omission and strengthen Britain may be the silver lining of Brexit. This is how I put the opportunity immediately after the 2016 referendum

Brussels now has exclusive or explicit competence for trade, customs, competition, agriculture, fisheries, environment, consumer protection, transport, trans-European networks, energy, the areas of freedom, security and justice, and new powers over culture, tourism, education and youth. And considerable powers to set indirect taxation across 28 members.

Leaving the EU will therefore bring the biggest accession of powers to Westminster in my lifetime that has otherwise seen decolonisation, denationalisation, devolution and decentralisation as well as power shared with the EU and Ireland.

Some powers will flow or be devolved to Edinburgh. But the focus shouldn't be on immediately sending more powers to Scotland but on how the UK absorbs these powers, how British institutions work and the overall coherence of devolution and decentralisation. Only once this is settled should powers be devolved onwards.

The selection panels

With the Scotland Bill underway at Westminster and the CSG at work in Edinburgh, the parties started selecting candidates early in 1998. The 'new politics' to be recommended by the CSG would depend on the MSPs, each of whom would come with a hinterland. The resulting interaction between aspiration and experience would decide the outcome. I therefore took a great interest in the party selection process.

The Tories, likely to be the biggest beneficiaries of the proportional voting system for the parliament they had long opposed, took the opportunity to bring in fresh blood. David Mundell was one, Ben Wallace another (both later became Westminster MPs), and Mary Scanlon a third.

I already knew enough about the other parties' panels to judge the SNP had the most thorough selection process and the Liberal Democrats though smaller, were pretty well organised too, though subject to personal rivalries.

Although I was not a member of the Labour party (or any other party) Donald Dewar asked me if I would be one of the independent observers for the Labour party selection panels. As the party had the biggest task, with over six hundred applicants, and would almost certainly send the most MSPs to the new parliament, I agreed – earning a rap across the knuckles from the SNP for doing so.

There were several different adverse currents in the Labour panel process worthy of comment but I was simply not prepared for how London-centric the process was. It was basically not devolved. Panel members from England explained to me that Scotland was a rather small Labour branch compared to some in the rest of the UK. The office certainly felt small and poorly resourced. There was great emphasis in the interviews on 'loyalty';

too little on what a Labour-led new parliament could do. No job spec beyond loyalty and no general recruitment strategy.

Many local council applicants simply listed their committee memberships without explanation – as if they had the right to a Holyrood seat. These were mainly weeded out. Still there was no way of avoiding a tranche of individuals with local council experience going to the parliament and an over-emphasis on loyalty. This was in spite of many applicants volunteering that they expected the parliament to work ‘in new ways’. Minds did seem more open then than it looks in retrospect. On top of that and regrettably, there was a ‘hand of God’ operating in the late stages which simply excised more independent minded or politically awkward candidates from the list.

The process wasn’t really up to the task and had many minor injustices that would have been accepted, had the final rank unfairness not been imposed from elsewhere.

In the media storm after the list – which we had neither seen nor approved – was published Donald Dewar apparently asked why there was such a fuss about the omission of Esther Robertson, only ‘a housewife from Fife’. Leaving aside the misogyny in the remark, it showed once again that he was simply not aware of the new politics debate in which she had been a leading light.

The candidate process was further complicated by the constituency twinning arrangement to secure gender balance, and thus a few more independent minds were lost. The upshot was the biggest contingent in the new parliament came from local council backgrounds.

The Labour list had been shorn of some talent but the group eventually elected was, despite some hostile media commentary, not without ability. It contained for example Johann Lamont and Ken Macintosh. Both were to make their mark in the Scottish

Parliament and both had had distinct careers outside politics, vindicating the claim to there being 'new blood'.

Nevertheless there was no avoiding the fact that 41 per cent had local council backgrounds and another 20 per cent came from trade unions. Taken together it meant 2/3rds of the Labour group had prior experience which placed high value on loyalty and solidarity.

I have dwelt at length on this process because it is a core element in the story.

Warnings from the 1997 referendum

Immediately after the 1997 referendum campaign, several senior politicians from all three parties told me how much they had enjoyed the cross-party experience. While their response was gratifying, there were two lessons from the campaign that were less encouraging, had I possessed the wit to see their significance at the time.

Scotland Forward had formed successful local cross-party campaigns in more than 80 per cent of constituencies. But in a minority of constituencies, the level of partisanship was so high that no cross-party campaigning proved possible.

In one constituency, despite interventions from senior people on both sides, no compromise could be found, such was the gulf between Labour and the SNP. The big central Scotland Labour constituencies were the most difficult.

In another insight, a Labour councillor, subsequently a member of the Scottish Parliament, told me the best thing about the cross-party campaign was the normal Labour group rules against fraternisation had been suspended; she could go for a drink with her SNP opposite number after council meetings

without risk of reprimand. It was a pretty shocking indictment of the existing political culture.

With hindsight, we in the CSG were too focused on the dangers of importing the worst practices of Westminster when we should have been more alive to importing the worst practices of (mainly Labour) local government into the 'new politics'.

It had been a standard criticism that the new parliament would just be a version of local government. Ross Martin, himself a former Labour councillor, had warned that 'the mindset required for local government lacks the big picture skills of the next level up and was always going to be a challenge'.

On the importance of culture

Some commentators point to the last ten years as seeing a marked decline in the performance of the Holyrood Parliament and a rise in tribalism. It may or may not have been better in the initial period but there was no golden age. The aspirations were never truly met from the outset because the CSG report was never fully implemented.

All organisations need rules but if they have too many, they become hidebound and bureaucratic. Instead rules normally should exist in a culture, a set of values, which determine how to behave when no specific rules exist.

In my industrial experience, it is far easier, to establish the founding culture of a new organisation than to reform an existing culture. That is why the first parliament was a unique opportunity. Looking back – and to be blunt – we blew the opportunity.

Most other observers take a different line. Give the parliament time, they have said. My experience is quite the reverse – the first decisions, the initial tone and style of leadership, the character of

the inter-relationships set precedents when minds are most open to leadership and to change. That was the time to establish a radically different way of working, and it didn't happen.

Did that first Scottish government recognise and encourage the identity and independence of parliamentarians? In my view, it did not. It curtailed the freedom of members and asserted the primacy of party as far as it could. Given that government in a smaller parliament inevitably has a proportionally larger presence than at Westminster, we should have been much more careful.

The founding culture was wrong from the outset. What has happened since has intensified the initial error. Ultimately only members can decide to accept a new culture for their role as parliamentarians and make it work, regardless of whether their party is in or out of office. What I don't think we are looking for here is a simple MOT; a much more extensive overhaul is called for.

CHAPTER 3

CULTURE IN THE EARLY PARLIAMENTS

CSG report is presented to Parliament

On the 12th May 1999, Winnie Ewing, the veteran SNP politician, opened the new parliament with the historic phrase 'The Scottish Parliament, adjourned on the 25th day of March, 1707, is hereby reconvened.'^{viii} Less remembered was her accompanying hope 'that we all try to follow the more consensual style of the European Parliament and say goodbye to the badgering and backbiting one associates with Westminster.' She had served in both of these Parliaments.

One month later in June 1999, the CSG report, setting out how the consensual Scottish Parliament should work, was presented to parliament.

I joined Campbell Christie, former General Secretary of the Scottish Trades Union Congress, and Kenyon Wright in the Royal Box at the Assembly Hall to watch the debate. To my astonishment, as Henry McLeish rose to present his report, Donald Dewar, the First Minister, strolled out of the chamber. When he returned some time later, with McLeish still speaking, Dewar lingered at the back of the chamber talking to another member. Imagine a Prime Minister leaving the Commons as his chancellor rose to present the budget and the signal that would send.

It wasn't just careless leadership; it told me that the First Minister had no serious interest in the subject. He wouldn't oppose it but he wasn't likely to nurture it either and certainly

did not see it as anything as pretentious as a 'founding culture'. He was a Commons man through and through. John Pollock, when General Secretary of EIS, had confided to me that he had turned down numerous invitations to stand as an MP because he didn't like the adversarial style of Westminster. Here was someone who thrived on it.

The Presiding Officer

The Presiding Officer has the key role in establishing the border between government and parliament and setting the culture for the new institution.

For that reason, I wanted George Reid, the leading SNP politician, to be the first Presiding Officer because his experience outside politics running a substantial organisation seemed more valuable in the creation of the new parliament than David Steel's; the Liberal politician, although he had served with distinction at Westminster, had been in opposition throughout his life.

The Herald and the Observer ran editorials supporting Reid though the Scotsman was committed to Steel. But it was too late to start a debate and, anyway, Reid's previous sympathies for the Labour Party may have counted against him. John Pollock, who had been a chair of Scottish Labour, had warned me how unforgiving the party could be to those who left it (a tendency he disapproved of). The parliament voted in favour of David Steel by a substantial majority.

George Reid nearly didn't become Deputy Presiding Officer; only Dewar's clear support won him the place. A section of the Labour group decided to try and 'dish the Nats' by doing a deal with the Tories to put a Tory in place. It was very old politics.

In retrospect, I was proved right about the choice of Presiding Officer. David Steel cut Donald Dewar and his government too

much slack. It was months before the First Minister was ruled out of order. The relationship was not in any way collusive, perhaps a mix of personal character and long association but it didn't help the new parliamentarians to stand their ground.

The Chief Whip

The third key role is the Chief Whip (named at the outset – Chief Whip and Government Business Manager) filled at the time by Tom McCabe.

McCabe, to quote a leading Scottish journalist, was 'one whose demeanour was not given to indulgence of those colleagues with rebellious spirits. He came from a municipalist experience, where the practice is of councillor groups reaching common lines collectively and binding every member, unlike the Westminster tradition where ministers agree a common line and expect back-benchers to follow it, while leaving room for dissent.'

I soon got a flavour of what the journalist meant. Labour MSPs told me they had received formal warning letters from McCabe, others had informal but unmistakable warnings, including the hint of re-selection problems. Some had been removed from committees as member or convenor as a demonstration of power by McCabe, or, for the same motive, forced to return, quite unnecessarily, to Edinburgh to vote after being involved in government business in their constituency an hour and a half from the city. Several former MPs told me party control was stricter than at Westminster.

An email to me in January 2000, describes McCabe's essentially bullying response to Sir David, presumably in the Business Committee. There was more than one comment on Steel being weak. A Labour MSP in a note sent in November 2000 railed

against group whipping. Members may have been simply letting off steam but it left me in no doubt about McCabe's approach.

He was drawing, as we all do, on his own experience. In his case as a senior shop steward for 20 years at Hoover, one of the most 'organised' engineering businesses in Scotland. As an engineering employer myself, I knew something about this world. For the generation younger than me, those days have passed into history but they were focused on discipline and solidarity. The experience also made McCabe a successful council leader in Lanarkshire before he was elected to Holyrood.

Tom McCabe was efficient and hard working. Unfortunately his experience was from exactly the wrong culture from the one which had been aspired to in the CSG report.

In response to the tough Labour group whipping practice, the SNP soon did the same. Much of the vigorous policy debate moved from the floor of the chamber to the group leaders' meeting rooms. What resulted was less public dissent by members and less vigorous debate.

The CSG's consensual working recommendation had sunk in a Bermuda triangle surrounded by an overworked – and on this issue – uninterested First Minister, a hesitant Presiding Officer and a disciplinarian Chief Whip. The Chief Whip, from the outset, got a grip of his party, the Presiding Officer, the procedures and thus the parliament as a whole which has never since been sufficiently dislodged.

The parliament was moving away from the ideals set out in the CSG report, not towards them.

It wasn't just in the chamber that old ways were prevailing. I was told by Mike Russell, even then a senior SNP member, that there was precious little evidence of 'new politics' in the Business Committee from day one, even though the SNP had come to that committee prepared for co-operation. I had no

reason to disbelieve him, for the SNP had bust a gut to make the referendum campaign work and taken political risks with their fundamentalists to do so. The CSG recommendation is for –

a Business Committee, chaired by the Presiding Officer, comprising representatives of the political groups, to develop in a transparent, *and, insofar as possible consensual way*, proposals for the programme of business of the Parliament. (my italics)

It was clear the SNP thought the recommendation a dead letter under McCabe.

George Reid – Calls for CSG audit of parliament

Just four months after the CSG report was presented to Parliament, George Reid, suggested to a conference in Stirling that the CSG be reconvened to audit the performance of the Scottish Parliament. He gave a clear signal that there had already been a departure from the principles of consensus, openness and accessibility. He described ‘cantankerous rather than consensual days on the Mound’.

An important part of the CSG report had been lost within those few initial months. In theory, the parliamentarians could en masse have rescued the CSG ideals but that was a big ask, given the group loyalties of the leading party in which more than 60 per cent of the members came from council or trade union backgrounds where discipline and solidarity were principles set in stone.

The identity and role of parliamentarians separate from government is a core principle of the CSG report and the consensual democracy it recommended. Both had been compromised from the start and eventually that corroded the committees and the chamber too, with the help of other factors.

The Scottish Parliament was intended to be a trailblazer.

Instead Westminster has innovated with more assertive committees and more dissent from governing party members, leaving Holyrood the laggard, preserving by accident a part of the old Westminster adversarial system.

But it would be completely misleading to say all was lost. Much of the CSG report was implemented and its influence continues to this day. Within a year, I had met several professionals who had given evidence to committees and did feel the process was worthwhile.

Henry McLeish as FM fails to revive CSG principles

After the tragic death of Donald Dewar, there was renewed hope that Henry McLeish, the man who had held the 'new politics' portfolio, chaired the CSG and had most claim to own it, would act to implement it fully and be supportive of a different culture. But it was not to be; McCabe continued as before, serving though McLeish's year of office unchecked.

McLeish's indiscriminate use of the word, 'consensus', showed he didn't really understand the idea, a central tenet of his own CSG report. His flagrant over-use of it simply debased its value to no more than a warm word.

I had been doubtful about his appointment as First Minister as he had already failed as Enterprise Minister to reform Scottish Enterprise.

In despair at his leadership, I sought the opinions of some of my fellow campaigners from 1997 on the progress of the parliament. All felt their organisations were consulted to death by the Scottish Government but somehow their views were never taken into account. All wanted to give the parliament more time 'to mature' whereas I felt the horse had already bolted!

Before I had finished consulting my colleagues, 'Officegate'

forced McLeish to resign, a personal tragedy as he was one of those few MPs who had chosen to leave Westminster for Holyrood, for something he believed in.^{ix}

As Jack McConnell took over, in a vain attempt to revive 'consensus' and promote its role in parliament, I drafted the following note on consensus and circulated it to all MSPs.

As 'new politics' have taken a battering recently, I write before the party battle resumes restating their value to Parliament.

David McLetchie's [Leader of Scottish Conservatives] view that 'Consensus is a false god' leading to false compromise is far from the whole story. The fact is consensus, accurately defined and properly used, is one of the most powerful motivating forces in business and politics.

The verbs reveal the difference: one cuts a compromise and builds a consensus – above all one does not appeal for one. Henry McLeish by appealing for consensus at every opportunity has contributed to the confusion about the word. At its best, it is a way of moving a radical idea from the fringes of opinion into the mainstream without losing its force.

Compromise does exactly the opposite, cutting off all the bits that are radical. So consensus and compromise are polar opposites not, as many people think, versions of each other.

Building a consensus takes time because people have to be won over by good argument and points have to be conceded. And because it takes time, it sits ill at ease with a political culture that needs an initiative every day and insists on absolute party discipline over all policy.

But the rewards for patience and freer voting remain tremendous. Not only is the problem likely to be better defined but the solution having won so much commitment is likely to stick and work, making the technique of value in complex problems or where no one party has a monopoly of knowledge.

There is a third way of settling policy and that is simply to impose it with the power of conviction. All three – compromise – consensus – conviction ought to be at work in parliament many times over. I urge Parliament to find a way of unlocking the power of consensus and putting it to work for change in Scotland.

Having to argue constructively with opponents requires a more tolerant political language in Scotland both for people and their ideas. While Parliament has already ceased to use the language of the snake oil merchant for individuals, the tendency still remains to sneer collectively at Tories for daring to be Tories, the SNP for holding to their founding idea of independence or Labour for having a full complement of women MSPs. It is surely time to move the language on again.

Stop strangling ideas at birth simply because they come from the wrong party. For too many decades in Scotland we have tolerated a highly polarised political culture which coalition government has unwittingly perpetuated. So SNP ideas on PFI are rubbished before the ink is dry and Scottish Executive policy on roads gets similar treatment. The practice spreads beyond Parliament.

A progressive newspaper, having dismissed outright the contribution on economic development from a right wing think-tank, has the nerve to call for a 'debate' of its own on the subject. This sort of partisan culture does not encourage Scots to be self confident and bring forward ideas. If Parliament wants a clash of ideas in order to find the best, it must first allow them onto the playing field.

Finally, I ask the new First Minister to use the good will likely to be accorded him in his first weeks in office to infuse the robust language of party debate with a new tone and encourage a more confident parliamentary treatment of new ideas from any source. It would be a clear sign to all that our Parliament is continuing to grow.

My insider pessimism

Within the first three years of the first parliament there had been four First Ministers (if Jim Wallace's serial deputising is included). Alex Salmond, leader of the opposition, had resigned and returned to Westminster just months before Donald Dewar died, so only Wallace of the triumvirate who had campaigned so successfully for the establishment of the parliament remained.

Besides the parliament appearing unstable, I saw the establishment closing over it. Not only had Scottish Enterprise escaped reform but when some of us from outside Holyrood

tried to reform the public appointments process in 2001, the permanent secretary was sent down to the relevant committee to squash the idea.

There were self-inflicted wounds like Section 28 arising from the relative inexperience of young ministers.^x A cabinet insider told me that Dewar also felt conflicted by his loyalties to colleagues, now his ministers, when he had to disappoint one of them in favour of another.

I agonised over the thought that this engaging man who had paid me a spontaneous public tribute at a Lothian lecture he gave with Bertie Ahern, was too self-effacing to provide the public leadership the new parliament needed and that perhaps we might have been better off with George Robertson, who, though a centralist, was perhaps a more pragmatic politician than Dewar, who could be thrawn.

My pessimism is caught in this note to a friend

... You are right to point out to Scotland the village. Before devolution we all thought it was one asset that could be turned to Scotland's advantage. But turned out it hasn't been, not even challenged. You call it village Scotland vibrant while I think it moribund. It is the dinner table leadership of Scotland, a place for insiders and the institutions of the managed society to exchange their inertias.

Some of us were naïve enough to think we were opening all this up to a blast of fresh air, so it worries me that you appear to give it a clean bill of health. Do you really sense the CBI or Scottish Enterprise are one whit different since devolution? Apart from laying a few more places at the dinner table for MSPs, all goes on as before.

While doing things in a stylish new way, I have this nagging sense that underneath we are still too close to the old system with too many people supporting it and too few challenging it ...

On the other hand, as noted above, I continued to meet professionals who had engaged with the parliamentary committees and had found the procedures and access better than was the case in London. So mine was an insider pessimism.

George Reid, new Presiding Officer

When David Steel retired, George Reid became Presiding Officer in the second parliament. Although he was not able to impose CSG ideals, he may have been able to soften some of the earlier practice. He said he did a 'little re-jigging of business – more time for speeches, more encouragement to take interventions, fair shares for the Greens and others'.

However his reach did not extend to the now well established party group whipping.

Reid was also busy bringing the costs of the new parliament building under control as they rose to £415m, and then with planning its opening in September 2004.

At the reception after the opening of the first parliament in 1999, I found myself standing beside two newspaper editors who were boasting of the rough time they had given the SNP during the first Scottish general election. How, in their words, the SNP 'didn't like it up em'. This destructive attitude soon turned on the new building as the costs rose tenfold. The pressure on the Presiding Officer and the parliament became enormous. Perhaps there was little energy left for a proper engagement with CSG ideals.

When parliament finally moved from the Mound in 2004 five years had elapsed since Winnie Ewing's opening words, by which time the consensual layout of the impressive new chamber was more of a fashion statement than a reality.

McConnell as FM and the second parliament

Jack McConnell as First Minister, although he started with a good old fashioned purge of the cabinet, eventually brought some stability, some flashes of radicalism and crucially, with the help of the Liberal Democrats, a proportional voting system for local

government. Today with 40 per cent of members still coming from councils that reform may, in due course, feed back into parliament.

It was received wisdom before the first parliament that coalition government was both inevitable and to be preferred to a Labour minority government. With the benefit of hindsight, coalition rather tamed the Liberal Democrats' interest in 'new politics'. Jim Wallace had been party to the 'new politics' debate before the parliament and a senior member of the CSG, but he didn't put much effort into defending its principles. However without coalition in the second parliament, proportional voting for local government wouldn't have happened. And, given the propensity of the PR system to produce hung councils and power sharing agreements, MSPs with a local government background may in future be less inclined to a confrontational approach.

Alex Salmond returns

John Swinney, who had succeeded Alex Salmond as leader of the SNP at Holyrood in 2000, resigned that post in June 2004 and Salmond was elected leader for a second time early in September 2004. As he was an MP and not a member of the Scottish Parliament, Nicola Sturgeon deputised for him at Holyrood.

In my judgement, the BBC's UK network news seriously misrepresented Scottish politics for the next two and half years until the 2007 Scottish general election. Throughout this period, Alex Salmond appeared on news and chat shows emanating from London while Jack McConnell, although First Minister, was confined to the Scotland only network. It is probably the nearest the structural problems of BBC broadcasting have come to influ-

encing an election, because the SNP beat Labour by one seat. It is hard not to believe that the differential exposure was worth one seat, although if McConnell had won, it wouldn't have done more than delay the SNP's rise to its dominant position at Holyrood.

CHAPTER 4

REFERENDUMS IN THE LATER PARLIAMENTS

The adoption of the referendum

Independence was kept out of the 1997 referendum by an understanding between us that we would concentrate on devolution – the issue on the ballot paper. Alex Salmond, having secured the backing of his party, would wave away any questions on independence ‘for another day’. In the Scotland Act, the UK retained control of its own dismemberment by reserving the power to hold a referendum on ‘another day’.

At the end of the first parliament, in April 2003, the SNP for the first time ever, promised a referendum before independence. It was a major policy change, the full significance of which was missed by many in the SNP and Labour. I welcomed the decision in a letter to the Herald explaining the probable effects.

It is wrong to criticise the SNP for giving a cast iron guarantee that a decision on Independence would be put to the people in a referendum. The SNP is following a growing trend that important constitutional decisions need the specific approval of voters. It is hard to argue such decisions should be left to politicians though some of your columnists still do.

The promise of a referendum on a controversial issue goes a long way to remove it from immediate party politics. Tony Blair did this very effectively when he removed the Scottish Parliament and its controversial tax powers from the 1997 general election and again in the 2001 general election when he removed the issue of euro membership from the campaign. By this twice repeated tactic, Tony Blair ensured both elections concentrated on normal domestic issues.

So the SNP promise of a referendum makes possible a similar normalisation of Scottish politics. Instead of the Scottish election being overshadowed for a second time by a shrill debate about the merits and demerits of independence, we can talk about our schools and businesses.

But it doesn't stop there. The SNP, by making clear to voters of a unionist inclination that they can lend their vote to the SNP in a general election in support of their domestic policies and take their vote back in a referendum on independence, opens up a more competitive political landscape for Scotland where clash of ideas might lead to the best policies being put into practice.

The SNP still need to clarify how long a no vote would stand for if they failed to win a referendum and what sort of material change would have to occur before they felt another was justified. But leaving these important questions and the legalities aside, I have little doubt that their commitment to a referendum is an important democratic safeguard and by normalising politics will help make the Scottish Parliament work.

Decoupling independence from the rest of the SNP manifesto meant voters could lend their vote to the SNP and take it back in any independence referendum.

Although the referendum promise therefore spelt the almost certain end of perpetual Labour-Liberal Democrat coalitions, the Scottish Labour party were slow to spot the threat and undertake the necessary party and policy reform – at least on sufficient scale to register with the voters.

The referendum policy was adopted too close to the second Scottish general election in 2003 to have any effect on it. By the time of the third in 2007, and buoyed by Alex Salmond's return, the SNP became the first minority government at Holyrood.

The media immediately focused on the possibility of an independence referendum though, despite Salmond's teasing, it seemed unlikely to happen. Nevertheless there was a sense of policy being adjusted in its favour, with awkward issues sidelined.

The real value to the SNP of the referendum policy came in the 2011 Scottish general election when the party provided a safe way for voters, now disillusioned by Labour, to react positively to the 'SNP stronger for Scotland' campaign, without at that stage committing themselves either way on independence. The landslide catapulted the SNP into an absolute majority and the referendum could no longer be avoided. The Scottish Parliament voted unanimously to ask Westminster for its agreement.

There began more than three years of understandable division up to 2014. As independence polarised parliament, primary legislation became less controversial, and the volume of secondary legislation dropped by 20 per cent.^{xi} It was the longest referendum campaign ever seen in the world – by some considerable margin. There is no doubt the adversarial founding culture was intensified by the divisive nature of the referendum. Several long-standing members told me how tribal the parliament had become.

The referendum result – a margin of almost 11 per cent against independence on an 85 per cent turnout – looked decisive by international standards.

Lessons in the aftermath of the independence referendum

Three Scottish referendums, 1979, 1997 and 2014, let almost a generation pass between them – the first 18 years, the second 17 years. All too briefly, it looked as if the issue would be settled once again for a generation and that life would return to normal. But it was not to be. Instead a fourth referendum is now possible and, given the politics and logistics of organising one, could take place in the next three or four years.

It is not the right way to use referendums. There are at least four risks in abandoning the 'once in a generation' promise, with

immediate effects bearing on the remit, and beyond to the economy and society.

The legitimacy of the referendum

The First Minister, by refusing to accept a clear defeat, has licenced her opponents to respond in kind. Nicola Sturgeon has created a zone of contested decision. It means that Independence must win 'big' next time. Anything less than a ten point margin would be likely to bring a third independence referendum into play as her opponents forced a re-run or a ratification referendum. The worst case instability from 2011 to 2023 would represent two thirds of the briefly promised generation.

The First Minister will find that a slim margin of victory may renew an old state but it will not build a new one. For that a consensus is needed. Since the war, most states which have become independent have done so with upwards of 70 per cent support. The First Minister's stated target of 60 per cent is therefore only a modest move in the right direction.

Parliamentarians and democracy

The tribal division within parliament has been perpetuated beyond the 2014 referendum. There are now 79 members first elected in 2011 or 2016 – that is 62 per cent of the current parliament – who have known only a parliament riven by referendum politics for six years already – and now facing a prospect of ten or more years of the same.

The refusal to accept the result has already inflicted collateral damage on the parliament the SNP did so much to secure. A national leader now speaks for only half of Scotland, the effectiveness of parliament is reduced as business is shaped and debated

through the referendum prism. The result will be the stalling of any reforms in the way business is done at Holyrood, the continuing polarisation of voters – which has already occurred in three elections – and the shifting of parliamentary attention from the challenging domestic issues. If this approach emanated from any other quarter, it would be roundly condemned as an attack on parliament itself.

Business and the economy

The demand for another referendum warns investors to beware of investing in Scotland. All social democrats need to understand the chilling effect. It is not just a typical scary warning from business too often crying wolf.

This is how it works. First, those investors, in the position I was in myself forty years ago, faced with taking a new financial risk, just don't take it. Then existing businesses, make the easy decision to postpone investment. Finally, existing businesses if they can, take flight. Anyone with links in business knows that this latter option is already being considered. A decade of instability will be enormously damaging to an economy which already has zero growth.

Society

In the run up to the 2014 referendum we had all consented to three years of civilised division. Despite the apparent amity, the process was not stress-free. Many people now dread the prospect of reigniting old hostilities. The clash, as irritation at the prematurity meets head-on the urgency of those determined to seize their last chance, will be fierce and more damaging than the last referendum.

The journey from the consensual CSG report through McCabe's adversarialism to the intensification by referendums is complete. The Parliament has polarised, and has become tribal.

I now want to look at the structure of the Parliament which this culture inhabits.

CHAPTER 5

STRUCTURE AND BALANCE IN THE PARLIAMENT

Structure

An important distinction has to be made between government and parliamentarians. All government ministers, except law officers, are parliamentarians so the terms are not sufficiently distinct. Neither are the terms backbenchers or non-executive members sufficiently inclusive.

For this analysis, I have used the distinction between payroll members and non-payroll members of the Scottish Parliament to explain my thinking about structure and balance in this symbiotic relationship.

The payroll members are the Scottish Government minus its law officers but plus the parliamentary liaison officers. The other MSPs, less presiding officers, whether backbench or front bench, are non-payroll members of the Scottish Parliament and are my 'parliamentarians'.

The parliament voted into existence in 1997 is quite large compared with those to be found in the federal provinces of Canada or German Länder or other UK assemblies. The size stems from the refusal by Labour to consider a fundamental reform of the voting system.

The Scottish Constitutional Commission, chaired by Joyce McMillan, the distinguished Scottish journalist, tried but failed to settle the matter.^{xii} The options ranged from 145 members down to 110 elected more or less proportionally, to the additional member voting system(AMS), the only system Labour were pre-

pared to consider. The party reckoned this system would preserve their first past the post (FPTP) seats. AMS is, in essence, a corrective overlay on the (then Labour) FPTP party domination.

The final size of 129 members was a political compromise reached between George Robertson, the Westminster Labour heavyweight, (wanting it as small as possible) and Jim Wallace (wanting as big a corrective as possible) closeted together in the Edinburgh home of Liberal politician Menzies Campbell.

It was wrongly assumed that AMS would not only preserve Labour's position in its heartland but would deliver only minority government, itself an important modifier of political behaviour. In fact, since 2011, even minority government has barely been the case though the electoral process will no doubt restore a better balance in time.

Perhaps because of exhaustion from the long debate over the voting system and the size of the parliament, no thought was given to the size of government. Among all my Constitutional Commission papers (I was member for a short time at the outset) I find no reference to the size of government. I certainly never heard anyone express the thought that the Scottish Government would be as big as 25 ministers – or that with parliamentary liaison officers the parliament would have a payroll vote of 36.

If anything, the assumption was that in a consensual, more European style parliament there would be a greater overlap between the two spheres – government and parliamentarians – rendering the proportions of one to the other, somewhat less important. The understanding that it is a symbiotic relationship was absent, or at least never expressed.

The size of the payroll vote means the Scottish Government is more dominant in the Scottish Parliament than the UK Government is at Westminster and the capacity for scrutiny by the parliamentarians consequently reduced. This is the fundamental

structural problem that can only be partly eased by modifying procedures. It is obviously aggravated by the SNP's almost absolute majority and the more adversarial culture and referendum tribalism.

Parliamentary Liaison Officers

Parliamentary Liaison Officers (PLOs) were established in 2007 when they replaced Ministerial Aides (MPA). They are analogous to the Parliamentary Private Secretaries (PPS) at Westminster though nominally different. Besides assisting their minister, their formal role is to improve the links between parliamentarians and government. There are 13 of them, all from the governing party, a ratio of one to six parliamentarians which must mean a lot of 'liaising' compared to Westminster where the ratio is one to ten. This cannot be a desirable balance.

In theory, PLOs are not bound by collective responsibility but it is hard to see them voting against their government, given human nature and political ambition. Despite being unpaid, they count as part of the payroll vote just as at Westminster.

PLOs at one point could sit on the committees scrutinising their ministers. This practice is now effectively barred by the Scottish Government's Scottish Ministerial Code of 2018. That prohibition seems impossible to argue against.

Relative size of the payroll vote

The payroll vote in the House of Commons accounts for 22 per cent of the members. A report by the Public Administration Committee (PAC) in Westminster in 2010 found much evidence that the enlarged payroll vote at Westminster was 'clogging the system' so recommended substantial reductions to an upper limit of 15 per cent for the Commons.^{xiii} This has not happened.

By 2016, at Holyrood, the payroll vote had reached 30 per cent, double the PAC recommended figure, making the Scottish Government more pervasive in Holyrood than the UK Government at Westminster. Nobody anticipated this outcome.

A payroll vote representing 60 per cent of the governing party, compared with a Westminster figure of 40 per cent, gives business managers the upper hand when quelling dissent and constrains independently minded members. It also means the pool of replacement ministers is smaller.

Special advisers and greater government

The extension of Government influence isn't just limited to the payroll vote of 36.

The practice of appointing unelected special advisers to ministers to provide advice in addition to what they receive from civil servants was not recorded in the CSG report, probably because such individuals existed in relatively small numbers before 1997. Since then, the number of special advisers has exploded both in the British Government (18) and Scottish Government (13). Their role has attracted a good deal of criticism though they seem here to stay.

The appointment of Stewart Maxwell, until the 2016 election an SNP member of the Scottish Parliament, as a special adviser is a reminder of how political these advisers are. They have no vote, but they form an influential part of the government.

Having lobbied in both capitals, I note special advisers in London operate in a much denser, more competitive environment with more push-back from elected members than in Edinburgh. In comparison, unelected advisers in Edinburgh can bear down on Scottish parliamentarians and the civil service to a

greater degree than London and have a stronger say on policy formation than is desirable.

As well as the 13 powerful special advisers, the government commands the resources of the civil service, has the ability to reach, prompt and co-opt supportive experts to give evidence to committees, as well as being able to call on the daily exercise of discipline in the chamber and committees which derives too much from the founding culture. This process is inevitably intensified in a small country.

To counterbalance the weight of government are less than 90 parliamentarians. Thus the first 'check and balance' looks set too much in favour of government. It is clearly not an ideal arrangement, to judge by the outcomes.

The symbiotic relationship – government and parliament

In a parliamentary system, government is formed from parliament and requires the continued confidence of parliament to do its work. Any criticism of government carries an implicit criticism of parliament, though this rarely becomes obvious. Parliamentarians have a key role in holding policy and execution to the highest standard.

In practice at Holyrood much work is still done by consensus; only the more difficult policy areas go tribal. But this is the boundary limit that governments observe. The policy they propose is what they judge they can get through. Thus the willingness of parliamentarians to dissent in a formal vote or more often by 'making their views known' informally, defines the boundary that government will observe and the quality of subsequent policy outcomes.

There need to be more occasions such as when Kenneth Gibson, MSP for Cunninghame North, dissented on his party's

policies, or Bruce Crawford, MSP for Stirling, and later a minister, penned a stinging letter on the budget process, or the chamber rejected aspects of the government's education policy. But it is the informal process, unseen by the rest of us, that is crucial. More informal dissent would lead to higher standards, better ideas and support for cross-party proposals when justified by merit. The bar for government has to be made higher through the greater independence of members.

So given the unbalanced structure, how well has parliament performed and how good are the policy outcomes?

CHAPTER 6

SUCCESS AND FAILURE IN PARLIAMENT

The parliament over its life has produced 260 Acts, reviewed 7,300 Statutory Instruments, promulgated 150 or so Legislative Consent Motions and discussed many policies. It has not been inactive. The question about performance is more qualitative than quantitative – how well has life been improved by the Scottish Parliament?

Many areas of Scottish public life, probably numbered in hundreds, have felt the benefit of policy properly taking into account circumstances specific to Scotland in areas ranging from marine conservation to mental health. Westminster would never have had time to legislate on these subjects in detail nor could it have had the local input. While there are areas of failure like the administration of farm payments or rail franchising any fair balance sheet would show a clear win for voters in the policy outcomes in what I would describe as Tier Two issues. I expect that verdict to be borne out by other observers.

The advantage brought by the parliament is much less obvious in Tier One issues.

These are complex issues with interacting sub-policy areas in which the full ramifications are not immediately obvious, are usually costly and central to the lives of the majority of voters. They often involve strong interest groups, require full evaluation of new ideas and great care in policy formulation, consent and execution. Ultimately they need thorough and robust monitoring by parliament.

Health, social justice, education are clearly in Tier One.

As is the economy. The Scottish Government has toyed with Scottish Enterprise for twenty years, from the outset with Henry McLeish as Enterprise Minister to the present day under a junior minister and a part-time chief executive at the agency. Successive governments have never seemed quite sure what to do with the agency which is Holyrood's own Industry department yet separate from it. Wealth creation and enterprise need a higher priority; the economy is not getting the attention it deserves from the parliament.

Forty years ago, more than 100,000 people moved from the central belt and elsewhere into the North-East, attracted by the rising job opportunities as oil was discovered. They now face a difficult future as oil runs out. Yet there is no evidence that the Scottish Government has any sense of the scale of the impending problem or is developing a strategic response. Nor does there seem to be much concern in parliament.

The Scottish Government will claim it lacks essential powers. Where that is true, it could show greater willingness however to co-operate effectively with the UK Government. What it lacks is not power but the understanding that the most important power is already in its own hands. It could send out the message far and wide that the Scottish economy is open for business. Instead it signals the opposite; the freeze on fracking (whether it is right or wrong), land tax, increased income tax and sustained political instability over another referendum give no help to the 100,000. It is no adequate defence to list the benefits of living in Scotland while quietly ignoring the direction of travel on tax and stability that matter far more to entrepreneurs and investors.

The Scottish entrepreneurial deficit pre-dates the setting up of the Holyrood Parliament but as one of the few business people to support publicly its establishment, and one whose engineering

company traded internationally, I can state categorically that the existence of the Scottish Parliament has made matters absolutely worse.

In education failure cannot be disguised or blamed solely on the current government and that failure is more easily understood by everyone.

‘Scotland has taken part in every PISA study since 2000 [exactly coterminous with the life of the Scottish Parliament]. In 2000, Scotland’s results were above the OECD average in all three subject areas.^{xiv} Its performance is not now above average in any subject area. It is no longer credible to describe Scotland’s education as world leading.’ So said Keir Bloomer, chairman of the Commission on School Reform.^{xv}

Westminster has done somewhat better than Holyrood, which raises the embarrassing possibility that Scottish education, if it had remained under the Scottish Office, might have done better still. Criticism has naturally been directed at the current Scottish Government which has been in office for ten years but all three parties who campaigned for devolution have been in power at some point during this period of relative decline.

None of the campaigners in 1997, Salmond, Dewar or Wallace or we lesser fry, not one among us, remotely contemplated the possibility that the Scottish Parliament would preside over relatively worse education for the generation of children born in 1997 and since. We were dedicated to the idea that the Scottish Parliament could do better for the 600,000 children in our schools – and it hasn’t. That sobering fact can’t be disguised, nor should it be.

After 20 years, across three different parties, five parliaments and seven first ministers, criticism can no longer be confined to the current and past governments but must extend to the Scottish Parliament as a whole – in other words the parliamentarians have also fallen short.

Here is the clearest possible evidence that parliamentarians are not demanding sufficient quality in legislation or policy, are too easily brought to heel by strong government operating in a structure that favours control, or are too easily neutralised by tribal loyalties. It is vital that this deeper, more fundamental interpretation is not lost in the current party political clash over education.

The parliament has done well in the Tier Two areas which are numerically predominant. But in the bigger, more complex areas, few concrete examples of success exist. There is more often an illusion of competence than competence itself.

Judging by policy outcomes, the parliament must offer a greater challenge to the Scottish Government on the quality of its ideas and the quality of its administration.

Parliamentary system shares blame

Why is parliament failing in Tier One? I have already suggested some reasons but would now add three more – political values, ideas and the ability to discuss public policy in ways that bring the best options to the fore.

Political heritage

Some will reach for the old criticism, referred to earlier, that the Scottish Parliament is simply a glorified council. However tempting that explanation might seem, it is inadequate.

The parliament has the standing, the infrastructure, the information service and the public support to do the job. It has members in all parties who would be a credit in any legislature. Much of what has been done well is beyond the competence of local government. It has successfully led on moral issues and in novel policies like renewables. Even Tier One is not without its

successes like NHS24 and digital records. I have already explained the impact of municipal experience on the parliament's cultural DNA but that criticism need go no further. This is not a super council.

There is a problem in the political complexion from another direction. The parliament was never the socialist imagining of its wilder critics and though some detect in the top-down control an element of democratic centralism, that criticism doesn't stick either.

However it is undeniable that the parliament inclines to the social democratic left, somewhat like the Nordic countries. Only the voting system ensures there is a full spectrum of political opinion.

The parliament might have been a little more centrist had the CBI engaged with the Convention in 1992 but, under the influence of the Conservatives, it turned away. Instead a subtle bargain seemed to develop – if business would stay out of devolution then devolution would stay out of business.

The nature of the parliament's political centre of gravity leads directly to the next point.

Value for money – no premium on ideas

Soon after the 1997 referendum, I asked my fellow campaigner, Matt Smith, the leader of Unison, one of the bigger public sector trade unions, why his organisation had been so supportive of the Scottish Parliament when Unison was likely to be one of its first targets.

We both understood the parliament would need to look for value in the use of public money. (Compared to other parts of the UK, Scotland spends a disproportionately larger amount because of its expensive geography and the social effects of its failing economy). Smith acknowledged the point but said that

the union had taken a wider view of the need for a parliament. It was an unselfish answer that reflected well on his members.

However my question was premature, more than ten years premature. The parliament was born with a silver spoon in its mouth. From the outset it was flush with money as the Barnett formula automatically benefited Scotland because of the greatly increased social spending of the second and third Blair governments in London.^{xvi}

Social democratic politics could therefore continue to hold at arm's length any need to confront the issues of value for money in the public sector and the encouragement of wealth creation in the private.

Instead there developed, in a rather conservative middle class social democracy, a strong inbuilt bias towards the less risky status quo, at least around the big Tier One issues. Ideas and policy innovation were not at a premium since there was no overwhelming necessity for them.

All that ought to have changed after the financial crash of 2008. But the coincidence of the referendum and a lag in block grant flows combined to disguise much of this reality, and subsequent declines in the block grant could be attributed to Westminster austerity. Only now, with the advent of tax powers, is financial reality having to be confronted. From now on the Scottish Parliament will, out of necessity, be obliged to embrace ideas that its political culture has for too long been able to ignore. There will have to be a different attitude to ideas and innovation.

Policy innovation for the Tier One issues is becoming crucial.

Ideas and Scotland's public discourse

Holyrood has made laws such as the smoking ban and the restrictions on plastic bags use which have been adopted by the rest of

the UK. Sir Richard Wilson, who was Cabinet Secretary for the UK government for the first four years of the Scottish Parliament, told me in 2003 how much he welcomed the end of the idea that 'the man in Whitehall knows best'. Coming from the top man in the UK civil service, I took this as an early endorsement of devolution. Devolution innovation has continued as Scotland, encouraged by the UK Roads Liaison Group, pioneers lower alcohol limits for drivers.

However while offering options to other parts of the UK, the Scottish Government seems reluctant to reciprocate by taking up ideas from elsewhere, especially London. Not emulating Westminster seems more important than finding the best options for Scotland. Perhaps a sign of political immaturity or political machismo but it is a weakness.

The establishment/expansion of think tanks in Scotland after 1997 was slow but there gradually appeared the International Futures Forum, Reform Scotland, Carnegie Institute, Centre for Scottish Public Policy and others. However Scotland, with the same population as Yorkshire, cannot afford to replicate the nexus of think tanks in London so it needs to cast widely for policy and be more receptive to ideas from all quarters.

Public discourse is too managed or self-censored

It is not enough to have ideas. They have to be discussed in a manner likely to bring the best option and the potential obstacles to the fore. This raises another problem.

For most of my lifetime there has been too narrow a public discourse in Scotland. Once the post-war consensus represented by the Scottish Council and the Tothill report was abandoned, Scotland entered a partisan world dominated by the Scottish Secretaries of State.^{xvii} Particular ideas were in or they were out

depending on who was the principal occupant of St. Andrew's House.

All this pre-dated the Parliament which I expected to break the binary pattern and usher in a new more diverse, tolerant public discourse. Instead Scottish governments, from the outset, simply utilised the big tent mono-culture, adding as gatekeepers special advisers who would decide what is permissible and what ideas are beyond the pale. There is a risk in a small country that government is the one big player able to dominate the debate and all else is sidelined. This is not healthy nor does it build the confidence needed to tackle the big issues well.

Unfortunately the Parliament's existence has coincided with a coarsening and fragmentation of media discussion, particularly on social media, and that makes public discourse harder still. In this context the policy community have tried to serve but the Scottish Parliament has not made their task easier. The parliamentarians need to open a new channel for ideas in Scotland and to give these ideas a longer, less partisan, airing beyond the reach of the special advisers and the government big tent.

CHAPTER 7

PARLIAMENTARIANS – THE KEY TO SUCCESS

Symbiosis again

I have laid bare the current weakness of the symbiotic relationship. Parliamentarians are not demanding high enough standards of government but could if they chose to do so.

There are some other necessary reforms which would help this process.

Re-balance the structure

After removing the payroll members and adjusting for the presiding and law officers, there are fewer than 90 parliamentarians. If, in a strict interpretation, the eight convenorships that fall to the governing party are also subtracted, the total falls to nearer 80 members.

Either way, the monitoring and scrutiny capacity of the Scottish Parliament fills a double decker bus – but with a tribe on each deck. Each tribe is broadly the size of the government's payroll vote. The lack of a consensual approach to policy making hands government yet another advantage in its management of affairs.

The structure needs reformed. I would reduce the government payroll vote in two ways.

Government should be limited to a maximum of 18 ministers. The Länder governments in Germany and other sub-national governments work with fewer ministers, certainly fewer than the 18 – the lowest number ever appointed to the Scottish Government.

Secondly, the number of PLOs should be reduced to 9, (the same proportion as at Westminster). Together these two changes would add 11 members to the number of parliamentarians – more than a 10 per cent increase, as well as reducing government control and re-balancing the structure in favour of parliamentarians.

Reform the electoral system

I have explained the political deal that settled on 129 members. We can be sure there is no appetite from any quarter to increase this number but there are other ways to give greater capacity and independence to members.

The most obvious would be to abandon the Additional Member System for a better one. Its greatest weakness is the control the political parties gain over their MSPs by determining their rank on the list. Andrew Wilson, the chair of the SNP Growth Commission, was himself ‘demoted’ in the SNP AMS list in 2003 and so ended his parliamentary career after one session. With a different electoral system, he would have spent the last 10 years inside government, probably being instrumental in rescuing the economy instead of being outside belatedly advising upon it.

The only party supporting AMS in 1996 was Labour, the incumbent beneficiaries of First Past the Post constituencies. The SNP, as the new beneficiaries, may now be less keen on change. Note in passing, the FPTP dis-proportionality at Westminster where after the 2015 UK election, the SNP held 95 per cent of the seats on 50 per cent of the popular vote.

The Scottish Conservatives’ proposal to reduce the number of MSPs is a vestige of their original opposition to the parliament. It would only make sense if there was also a complete

change to a more proportional electoral system, one which weakens the party role, strengthens the independence of individual politicians and limits the size of government.

There are more likely reforms!

The workload of parliamentarians

The CSG wanted committees to have a greater role in policy formation (analogous perhaps to the Westminster green paper process), the power to scrutinise proposed legislation, and the post-legislative effects of newly made laws, and even the power to propose their own legislation based on their own policy ideas – and as well as to experiment with outreach to communities and organisations across the country.

In 2006, physiotherapists in Scotland found that an important part of their practice had been made illegal by a law badly drafted in the Scottish Parliament. The law, to regulate the body-piercing risks posed by tattooists, failed to take account of acupuncture practice in physiotherapists' clinics. Such an oversight would have been spotted by a revising chamber. Though it is possibly an unfair example, with no parallels, it reminds us that revising, the work of the Lords, also falls to the committees at Holyrood.

In practice, scrutiny of current legislation and policy has consumed most of the committees' time, leaving alternative ideas either undeveloped or unexplored.

There are 16 committees with 140 places which means parliamentarians serve on at least two committees and, with substitutes, even more. Each committee holds around 25 meetings a year.

I have already demonstrated that there is a qualitative problem around the Tier One issues but there is also a quantitative one. Members don't seem to have enough capacity despite the

complaint of some Conservative members of a lack of new legislation.

Less legislation more leadership

Twenty years ago, Sir William Kerr Fraser, a supporter of devolution, posed the question to me – what are they [MSPs] going to do all the time? As he had been for ten years Permanent Secretary to the Secretary of State for Scotland, I took his doubts seriously.

The question should therefore be asked – is the government too focused on legislation? Does it really need to pass 15 acts and 430 statutory instruments each year?

Does it also threaten to increase the burden of parliamentary oversight by centralising power? Scotland has a plethora of institutions, including 32 local authorities, 23 NHS bodies, 20 universities, 43 colleges, and over 100 other non-departmental public bodies. The eight police forces have already been merged into one force. Sensible rationalisation could easily lead to more legislation or at least, more administration and oversight.

To the powers coming from Westminster and now Brussels could be added powers from local government, since Holyrood administrations have shown themselves to be keen to take to the centre responsibilities which, it could be argued, might be better left with councils. There is a prospect of a rising tide of legislation and administration that threatens to drown the committees.

Sir William's question should be a reminder that government is not only about legislation. In a small country especially, government can lead, even inspire, collaborate, licence and leverage its public quangos and spending to change society – without legislation and parliamentary involvement.

However the non-legislative leadership of the Scottish Government is another temporary casualty of the ongoing referendum debate.

Sitting for longer?

Before the parliament was established in 1999 there was some discussion about how long it would sit for – would it be part-time or full-time? This idea might sound strange but not all representative bodies around the world are full-time. The argument in favour of part-time legislators is that it keeps politicians rooted in everyday experience. We should not lose sight of this potential benefit.

I myself considered standing on a part-time basis as it would have allowed me to run my business and fulfil parliamentary duties. But Alex Salmond soon put a stop to my ambitions when he publicly insisted parliament should be a full-time job. The irony is that Salmond was himself to hold a dual mandate in the Scottish and Westminster parliaments not once but twice. The SNP member, who recently attacked Conservative members for going off to referee a football match and teach the next generation of students, should recall Salmond's record and, more seriously, the wider value of current experience from outside parliament.

The electoral system squeezed out Andrew Wilson's business experience. Mine is another example of unintended consequences – a loss of on-going business experience (always presuming voters had agreed to elect me!) that has proved one area of continuing weakness in the parliament.

What is full-time anyway? The Conservative, MSP Jackson Carlaw's proposal that the parliament should sit for longer – one obvious way of increasing capacity – should be considered firmly

in the context I have just set out. He calculates that at the moment Holyrood sits – 36 weeks a year for 3 days per week at 7 hours a day – roughly equivalent to ten full time weeks a year.

But I would be cautious about a big increase in sitting days. We do not need a dogged parliament; a few more decisive interventions, a more regular pattern of dissent and more push-back from parliamentarians will raise the quality of Scottish Government much more effectively.

Discipline and dissent

I have already recorded how discipline was exercised in the governing group in the first parliament, including the ability to remove members from committees if not carrying out the whips' will. I believe the founding culture is still extant in the fifth parliament.

There seem to be more dissenting voices and votes in the Commons, especially since 2010, than at Holyrood. I can find no comprehensive figures to back my view but, if correct, it suggests that dissent takes place and is resolved elsewhere than the chamber and committees, pointing to a more tribal culture in Edinburgh, one dominated by the government and its business managers.

Parliamentarians and their committees will have to be helped in other ways by revisiting the original CSG proposals for the increased use of reporters, non-voting co-opted committee members and the close support of the Civic Forum or other direct engagement of the public.^{xviii}

Procedures and committee size

The committees themselves have recommended many procedural reforms. For example, the Conveners' Group Legacy Reports for

the third and fourth parliaments^{xix} and the report of the Standards, Procedures and Public Appointments Committee on Committee Reform in 2016.^{xx} Tricia Marwick, Presiding Officer for five years, and Jackson Carlaw MSP have also set out reform proposals. Though they don't always agree, there is much common ground. Professor Paul Cairney of Stirling University has also written in detail about procedures, without ever losing sight of the big picture.^{xxi}

There is no need to repeat their specific proposals here except to be broadly supportive of the general direction envisaged. It is telling that there is not sufficient collective will among the parliamentarians to do the job themselves even though they are well aware of what is needed.

Holyrood's committees vary in size from 12 down to 5 members. Nearly half have 11 or 12 members, which seems too high to be effective. Their size is more suitable for occasional forums than frequent meetings, forensic questioning of witnesses and intense collaborative work. I note education (12) and the economy (11) two policy areas of significant difficulty have the large format. Even nine may be too big – the Culture Committee (9) didn't really get to the heart of the matter when interviewing the Director General of the BBC in 2017.

Apart from cutting membership size, I would recommend that

- Members should elect convenors, thus pushing government back from the parliamentarians and giving them more scope to be independent.
- PLOs should be permanently excluded as members of committees.
- A reset on consensual working should be sought when a more propitious moment arrives.

Perhaps in a more consensual culture, party managers would be more relaxed about their representation on committees and the sizes could be reduced.

The Convenors' Group is not a committee but an informal group composed of the convenors of the 16 committees. Although it has been said that David Steel didn't do detail, he left a gem when he suggested the establishment of this group. It has gathered authority and standing which ought to be put to further use. It could promote policy innovation by asking committees or extra-parliamentary groups to examine ideas, to stimulate wider debate beyond the reach of government gatekeepers. Not replicating their committees' work or adding to its own workload, but using its standing to encourage tolerance and diversity in Scotland's policy discourse.

Training of new members

I went to South Africa soon after the 1997 referendum and, knowing the new SA constitution had just been agreed, I phoned South Africa House to ask for a copy. It was a pleasure to talk to a Zulu-speaking African in a place that had been the object of our anti-apartheid demonstrations. She sent me the post-apartheid constitution.

My specific interest was this. The South Africans were setting up not one parliament but ten – one national and nine provincial – posing a massive training challenge. Of course the circumstances couldn't be more different but I saw the value in the principle of training new parliamentarians.

I was already involved in an initiative to establish what was rather too grandly described as the Scottish Parliamentary College but would now probably be described as 'pop-up induction training'. Initially, there would have been sufficient time for the

preparatory work required but the decision to bring forward the first elections to the Scottish Parliament by many months killed the idea. Another accident in a chapter of accidents.

There needs to be more training for our MSPs, especially those elected for the first time, of whom there have been 79 since 2011. The training should be independent of party, concentrating on members' role as parliamentarians and founded on the idea that even the newest and youngest MSP is not there solely as a representative but has a role in keeping up the quality of government.

Public engagement means more work?

George Reid in his Stirling conference speech referred to earlier called for the new methods of public engagement recommended in the CSG report to be implemented, including the establishment of a Civic Forum, but he hinted that Jack McConnell, then the Finance Minister, was unwilling to spend money to establish the new framework.

Late in 2000, when I consulted some of my fellow campaigners, I discovered that the new framework had not progressed. Although committees have since visited various parts of the country and the petitions system seems to be working, some of the other ideas for engagement seem to have fallen by the wayside.

Martin Sime of the Scottish Council for Voluntary Organisations, in 2016 argued that the original CSG framework of which the Civic Forum was a big part, has never been implemented.^{xxii} His criticism that the Commission on Parliamentary Reform is not ideal for the secondary task of public engagement may be fair but he does rather ignore the efforts various parliamentary committees have already sought to engage in through new media as well as through more traditional methods.

Neither live streaming of the Parliament and its Committees nor social media existed in 1999. The latter has come to play a big part in the lives of the younger generation. At the same time the traditional Scottish press has suffered a real decline and fragmentation as well a loss of resources for investigative journalism. I have no answers though I judge it important that the Parliament adapts.

CHAPTER 8

CONCLUSIONS

I return to Adam Ferguson's observation that 'Nations stumble upon their establishments which are indeed the result of human action but not the execution of any human design', for he got it right.

It is a warning to those of us, myself included, who wished to leave the EU, and to those who would make Scotland independent, that plans go wrong: in Ferguson's view, inevitably go wrong.

The Scottish Parliament has been only a partial success, failing too often on the bigger issues. I have suggested some reasons why this has happened and have sought to demonstrate that most remedies are in the hands of parliamentarians – if only politics will allow.

But there is one larger issue that needs to be confronted.

Almost since the 1998 referendum and certainly for more than ten years, the consensus has been that Holyrood should acquire more powers. Both the Calman Commission and the Smith Commission added powers by consent.^{xxiii} Now Brexit promises still more. But does it really make sense to add new powers, let alone sovereign powers, when there is such obvious failure to use existing powers for the benefit of the people?

There is a saying in business that companies get 'big by being good; not good by being big'. Would it not be better to halt the granting of new powers for a period of five years while parliament improves its performance? The First Minister herself

has recommended new social justice powers are paused in London for a few years as their premature transfer, in her view, would be risky.

Of course the idea of a pause, however well merited, will not fly easily in the current highly charged atmosphere but it would be dishonest and timid of me not to challenge the consensus that so far been undisturbed by the Scottish Parliament's failures.

Most of us are not ideologues. Most of us want to make life better for people – for the 100,000 oil workers, the 600,000 children and all our fellow citizens. Nothing more.

But for those absorbed by the constitutional debate, I reiterate my earlier warning that 'more powers without UK reform' is a policy with diminishing returns for unionists. More powers in isolation works fine for those whose ultimate destination is independence.

Finally, many will see this paper as a recantation. It is nothing of the sort. To a decentralist, there is no reason why Scotland cannot have a strong and effective parliament within the UK. It has such a parliament – if it would only use it properly. I wish it well.

NOTES

- i <https://web-archives.univ-pau.fr/english/kilbrandonchap10.pdf>
- ii See <https://www.parliament.uk/get-involved/vote-in-general-elections/referendums-held-in-the-uk/>
- iii Scottish Constitutional Convention Scotland's Parliament: Scotland's Right. Edinburgh: Convention of Scottish Local Authorities, 1995.
- iv See <https://constitution-unit.com/tag/graham-leicester/> for extensive discussion of this and related issues.
- v Bernard Crick and David Millar. To Make the Parliament of Scotland a Model for Democracy. Glasgow: John Wheatley Centre, 1995.
- vi https://archive2021.parliament.scot/PublicInformationdocuments/Report_of_the_Consultative_Steering_Group.pdf
- vii See Philip Schlesinger "Communications Policy" in The Media in Scotland, ed. Neil Blain and David Hutchison. Edinburgh: EUP, 2008.
- viii See https://www.youtube.com/watch?v=PB_aOAO0c4g
- ix McLeish resigned in November 2001 after just a year as First Minister, as a consequence of a scandal involving allegations that he had sub-let part of his constituency office, while he was a Westminster MP, without it having been registered in the official register of interests.
- x This was a section of the UK Local Government Act of 1988 – 'A local authority shall not: a) intentionally promote homosexuality or publish material with the intention of promoting homosexuality; b) promote the teaching in any maintained school of the acceptability of homosexuality as a pretended family relationship.' It was removed in Scottish law in July 2000, but only after an acrimonious public debate.
- xi Primary legislation is an Act which has been passed by the Parliament. Secondary legislation can make small changes to an Act. Secondary legislation can also create new rules or add more details to an Act.
- xii Joyce McMillan is a journalist who has combined theatre reviewing with wide-ranging commentary on Scottish life and politics. She was heavily involved in the campaign which led to the establishment of the Holyrood parliament.
- xiii See <https://publications.parliament.uk/pa/cm200910/cmselect/cmpubadm/457/457.pdf>, 8ff.
- xiv PISA is the OECD's programme for assessing student abilities. The three subjects which Bloomer refers to are reading, mathematics and science.
- xv See <https://reformscotland.com/category-school-reform/>
- xvi For an explanation of how the formula works, see <https://www.instituteforgovernment.org.uk/explainers/barnett-formula>
- xvii See www.scdi.org.uk for information on the Council. The Tothill Report was the result of a 1961 inquiry into the Scottish economy commissioned by the Council.

- ^{xviii} The Forum existed from 1999 till 2005. For an analysis of its work see <https://www.change.org/p/public-petitions-committee-reinstate-the-scottish-civic-forum-for-all-the-people-of-scotland-5f907d4e-3d59-4f23-be69-9246991ce688>
- ^{xix} See <http://archive.scottish.parliament.uk/s3/committees/committeeConvenersGroup/documents/ConvenersGrouplegacypaper-Session3.pdf>, <https://www.change.org/p/public-petitions-committee-reinstate-the-scottish-civic-forum-for-all-the-people-of-scotland-5f907d4e-3d59-4f23-be69-9246991ce688>
- ^{xx} <https://archive2021.parliament.scot/parliamentarybusiness/CurrentCommittees/95670.aspx>
- ^{xxi} See <https://paulcairney.wordpress.com/tag/scottish-parliament/>
- ^{xxii} The editors have not been able to source this comment but are reasonably confident about its accuracy.
- ^{xxiii} <https://commonslibrary.parliament.uk/research-briefings/sn04744/> and https://webarchive.nationalarchives.gov.uk/ukgwa/20151202171017/http://www.smith-commission.scot/wp-content/uploads/2014/11/The_Smith_Commission_Report-1.pdf



An Ayrshire man, Nigel Smith (1941–2020) began his business career in project development with a number of companies in England including Costains and Rank Hovis McDougall. He returned to Glasgow in 1976 and bought a small family engineering company, David Auld Valves, becoming the Managing Director. Throughout his life he was a committed campaigner, from the Camden Race Relations Committee in the 1960s through to the 90s and beyond, when he worked for de-centralisation and devolution. He advised the BBC and led the Broadcasting for Scotland campaign to strengthen the production sector away from London. He was a central figure in the drive for a Scottish Parliament, and in 1997 chaired the cross-party campaign, Scotland Forward: Devolution Yes. Over the last few years he continued to campaign for a stronger and more integrated approach to devolution throughout the UK, and in his final days was meeting senior politicians to argue his case.