

Introduction: Devolution's Second Year
But Mountains Left to Climb?

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“Labour says that devolution would promote the Union and give the Scots and Welsh more say over their own affairs. Whether it truly believes this I cannot say. I do know that devolution is more likely to break up the Union than promote it and that, in so far as it may offer the Scots and Welsh marginally more say over their own affairs in a few areas, this advantage is swamped by the disadvantages the advocates of devolution seek to hide...”

“Devolution would also have a devastating effect on business . . . The extra tier of government would delay decisions and burden firms — it would create uncertainty and hence cut investment and cost jobs. As Scotland and Wales became uncompetitive, they would become once again the unemployment blackspots that Conservative Governments removed over the past 18 years. So devolution would hurt business. It would hurt people. It would take power away from individuals and mean higher taxes for Scots. It would eventually lead to the break-up of the United Kingdom.”¹

Only the most hard-bitten aficionado could claim that devolution's second year has been exciting. While it has been a year full of incident, it is hard to find a clear and distinct theme to what has happened in devolution (or indeed elsewhere in public affairs) during the past twelve months. This is partly because the year has been overshadowed by other domestic events – most notably the UK general election in June 2001, but also the Foot-and-Mouth crisis during the late winter and spring, the ongoing travails of the Northern Ireland peace process, and reform of the EU treaties and UK membership of the Single Currency. That is to say nothing of matters in the wider world. It is also because devolution has, with the best will in the world, become rather boring. In many respects it is a very different year to 1999-2000.

There may have been few big devolution stories over the last year, but many detailed changes and events have occurred. The sheer quantity of what can seem like unconnected details can often hide the patterns of what is happening underneath. What has happened in Scotland, Wales or the English regions is often little known about outside those areas, and one aim of this

¹ From John Major, ‘Say no to this doomed enterprise’, *The Times* 30 August 1997.

book is to bring these events to a wider audience and to put them into a broader context. While what happens in Northern Ireland is much more news-worthy in the conventional sense, here too much of what is of interest is not well known. The big issues of devolution are in fact there, and things have been happening concerning them. Regardless of whether they become front-page news in the next year, the next decade or never, what has happened in the past year will shape the course of devolution in the UK for a long time to come.

Even if one accepts that devolution has become boring, that is in fact a considerable achievement. John Major's warning quoted above was only one of many predictions that devolution was a catastrophe waiting to happen. The major accomplishment for devolution's first year was that devolution happened, and happened smoothly. It went (to crib from Ron Davies) from being a process, to being an event that had happened, to being just normal. If the euphoria surrounding it has since evaporated and devolution has become a rather unremarkable part of the landscape of British public life, that is an even greater indication of how devolution has succeeded. It is no mean achievement, and one can easily forget both how extensive and how quick the change has been.

While the landscape of the British state changed in 1999, we still lack a reliable topography of that new landscape, and the official maps are not always accurate. The other task of this volume is to explore what that landscape looks like now we have had at least a little time to get used to it.

DEVOLUTION AND THE GENERAL ELECTION

The year was to a large degree overshadowed by the UK general election, the first since devolution. The ramifications of the general election are a recurrent theme throughout this book, discussed in all the 'Nations' chapters in Part I as well as several chapters in Part II, particularly those on Westminster and public opinion and attitudes. It still merits discussion here. Devolution itself was not much of an election issue; all the major British parties declared their commitment to it, now that it had happened, and all responded to it by issuing separate manifestos for Scotland and Wales as well as the UK as a whole.² The Liberal Democrats and Conservatives did have some ideas about developments in the framework of devolution, particularly in their Scottish and Welsh manifestos, and the nationalist parties in Wales and Scotland wanted to see dramatic increases in the autonomy of the devolved institutions in those nations (although the SNP was unclear about whether independence was an immediate objective or one to be achieved after a

² For a detailed analysis of the manifesto commitments of the Labour, Liberal Democrat and Conservative parties, the SNP and Plaid Cymru on devolution matters, see Trench 2001a.

transitional period). The outcome of the election was in little real doubt, however, which made Labour's manifestos the real focus of attention. Each of these included an identical section on devolution noting the achievement of implementing devolution and indicating that nothing would change except in the case of the English regions. Here Labour repeated the promise of elected regional assemblies for regions where there was support for them in a referendum, which was first made in 1997.³ For Labour, then, devolution was largely finished, a box ticked on Tony Blair's list of commitments. Would that it were so simple.

There were differences in the election campaigns in England and in Scotland and Wales.⁴ Aspects of devolution were themselves issues, for one thing, and the existence of coalition governments also affected campaigning. Both the Scottish Executive and National Assembly Cabinet had to establish principles to enable ordinary government activity and inter-party co-operation to continue.⁵ Despite this, what was most striking about the UK general election was probably how little it had changed from those conducted before devolution. For one thing, having devolved institutions does not appear to have significantly affected turn-out in Scotland or Wales (or Northern Ireland, for that matter); while turn-out across the UK was lower than ever before, the reductions in Scotland, Wales and Northern Ireland were in line with those in England. It appears that the electorate across the whole of the UK continued to regard Westminster as being as important as it always had been.⁶

If devolution affected the issues that were at stake in the UK general election, however, it did so in a curious way. The logic of devolution implies that devolved matters should not be treated as election issues in a UK election — they are issues in the elections for the devolved assemblies and legislatures, but not for Westminster. However, in Scotland and Wales as much as England, health, education, and crime were prominent election issues even though these were devolved matters.⁷ While all the political parties were offenders in this, the worst were the Conservatives (across the whole of the UK) and in some ways the SNP. Only the Liberal Democrats distinguished between what was a UK matter and what was for the devolved institutions — although they did that by an all-purpose disclaimer in the British manifesto.⁸

³ The three manifestos were entitled *Ambitions for Britain*, *Ambitions for Scotland* and *Ambitions for Wales*. Labour also published a manifesto for the English regions, *Ambitions for the English Regions*, and at least one English regional manifesto, *Ambitions for the North East*, as well. The pledge regarding regional government is on pp. 34-5 of *Ambitions for Britain*. For the 1997 pledge, see *New Labour: because Britain deserves better* (Labour's 1997 manifesto), pp. 34-35.

⁴ See Electoral Commission 2001, especially pp. 68-72.

⁵ See McGarvey 2001, sections 1.1-1.3, for what this involved in Scotland.

⁶ See Electoral Commission 2001, pp. 69-70, and chap. 10.

⁷ For a detailed assessment of 'devolution literacy' as demonstrated in the election manifestos, see Trench 2001b.

⁸ *For a Liberal And Democratic Britain: Freedom Justice Honesty*. The party's Welsh manifesto, *A real chance for real change: Freedom Justice Honesty: the Liberal Democrat programme for Wales*

One could interpret this as showing that when it came to translating devolution from a 'policy' into the constitutional framework within which policy had to operate, the parties simply did not understand it. That view has a good deal to commend it; politicians would scarcely be alone in not understanding how devolution works let alone what it means. Perhaps a more sympathetic approach would be to say that the parties are aware of the restrictions devolution means for action by the UK Government. They are not disregarding those restrictions, but they are also conscious that they have to fight elections for the Scottish Parliament and National Assembly for Wales in 2003, and want to ensure consistency between their programmes now and their programmes then. They are also aware that these are the issues that concern the electorate. Even in Scotland and Wales, health and education are high on the list of voters' concerns, and a party which did not reflect that would be running a grave electoral risk. This view is supported by the fact that Labour's Scottish and Welsh manifestos set out distinctive positions from that in the UK manifesto on such key devolved issues as health and education – for example, neither embraced the private finance initiative with the enthusiasm of the British party.

The problem is that while this may reflect political reality, it also means that the parties collectively missed an opportunity to explain what devolution means to the public at large. The understanding of devolution is limited already, particularly outside the areas directly affected.⁹ A clear explanation of what the UK Government could, and could not, do after devolution would have done much to explain the nature of the changes to the general public particularly in England. That opportunity was missed, and with it a chance both to improve understanding of devolution and to parade Labour's achievement in delivering it.

The outcome of the UK general election means that what little doubt there was about the durability of devolution has gone. If we accept the judgement that so far devolution is a success, that raises the question, though, of the nature of this success. In 2000-2001 what have been the areas where devolution has succeeded?

DEVOLUTION'S SUCCESSES

Scotland and Wales are the clearest areas of devolution's success. In both countries new devolved institutions are established and are now up and running. Both have coalition governments, a first for modern Britain in peacetime, and in both the coalitions appear to work well. In the short time

and the UK deserves credit for carefully distinguishing which level of government would do what, including (in the case of the UK Government) making funds available or altering the powers of the National Assembly.

⁹ See Chapter 10 below, and also Curtice 2000 and Curtice and Seyd 2001.

since devolution took effect both have also coped with a change of First Minister, probably rather sooner than anyone expected in 1999 (and in Scotland's case in very sad circumstances). Both are now making their own distinctive policies in the areas devolved to them. All this is devolution working as it was expected to.

Both nations are starting to constitute themselves as distinct polities. This is much more obvious in Scotland than in Wales, as Scotland had retained or developed so many institutions that were separate from those south of the border. As a consequence Scotland has its national mass media, which have long kept an eye on national institutions such as education and the law. The extensive areas of policy devolved to Scotland have meant this has started to happen to a greater extent. Wales, of course, starts from a much lower base than Scotland, with fewer Welsh newspapers and magazines and less Welsh broadcasting. Yet it too has started the slow process of developing a distinctive Welsh approach to politics, as political issues unique to Wales start to emerge. What this process has involved over the last year is charted admirably in Chapter 2 on Scotland, by James Mitchell and members of the Scottish monitoring team, and Chapter 3 on Wales, by John Osmond. Inevitably this involves a great many detailed incidents, some of them apparently only of parochial interest and (in Wales's case) many involving the sensitive and distinctive issues of language and culture. The real importance of such incidents emerges when they are viewed as part of a process of creating a new political community. And with this comes a new political discourse, operating on several levels — whether it be policy development as carried out at the Institute of Welsh Affairs, serious news reporting as carried in the *Western Mail*, or the more light-hearted approach of Patrick Hannan.¹⁰ As John Curtice shows in Chapter 10, this process is also translating itself into public attitudes, which respond to the different political systems involved. None of this would have been conceivable before devolution.

Even here, however, there are serious problems. As John Osmond notes (and is also discussed in Chapters 7 and 8), the legislative arrangements for Wales create a great deal of difficulty — limited by the extent to which devolution to Wales has actually taken place (as the Welsh settlement is effectively re-written with each new Westminster Act), and adding considerably to the work of all those involved in policy-making for Wales. It is clear that many involved in Welsh public life see the key issue as acquiring primary legislative power, and to do so during the life of the second National Assembly, to be elected in May 2003. Whether that would be possible within the framework of the Government of Wales Act 1998 is doubtful; the Act would probably need to be re-written from scratch rather than amended.

¹⁰ Hannan 2000. His regular column for BBC Wales is available on the internet at www.news.bbc.co.uk/hi/english/uk/wales/default.stm

To describe Northern Ireland as a success for devolution may seem absurd and would be both premature and optimistic. It is of course impossible to separate devolution in Northern Ireland from the peace process and the implementation of the 1998 Belfast Agreement, of which the devolved institutions constitute only the first of three strands of institutional arrangements to deliver peace. Yet, as Robin Wilson and Rick Wilford show in Chapter 4, the devolved institutions in Northern Ireland have a number of successes to their credit, despite the effects of fits and starts in the peace process. While both Sinn Féin and DUP ministers, in their different ways, have failed to co-operate with each other and ministers from other parties as expected under the Belfast Agreement, ministers from all parties have delivered a number of developments that would not have been conceivable before devolution. The last year has at least seen glimmerings of 'normal' politics in Northern Ireland, even if it is unclear what that may lead to subsequently.

A fourth area of success is probably that of intergovernmental relations – certainly, that is how it is regarded by many of the participants. The system of relations between the four governments that appears to exist a year on is characterised by the use of informal procedures, a great deal of co-operation and information-sharing, and much consensus. It makes limited use of formal mechanisms and institutions, and that use is declining. It operates with strikingly few staff too. In short, it lacks all the hallmarks of pseudo-diplomacy exhibited by intergovernmental relations in established federal systems; perhaps Noreen Burrows is right to use the term '*intra-governmental relations*' instead.¹¹ The pitfalls that were foreseen in this area, which it was feared would lead to intense political rows or legal disputes between governments, have not happened. However, as Chapter 7 discusses, this success may be less than it appears. The system works so well because of deliberate attempts to avoid confrontation, by both politicians and officials. This involves a good deal of hiding of major issues and so avoiding potential disputes. Issues which could cause a serious fracture in relations are lurking underneath the surface and are likely to emerge later if not sooner. Moreover, the system depends heavily on mutual good-will and a shared commitment to making it work. If that were to change – for example, with the arrival of an administration with a significant nationalist element in Scotland or Wales – the position might be rather different. Intergovernmental relations are better regarded as an area of qualified success, but one which may not hold up if put under serious pressure.

DEVOLUTION'S FAILURES AND THE UNANSWERED QUESTIONS

In the same way as its successes are qualified, so are the areas where devolution has been less successful. One area is the central apparatus of the British

¹¹ Burrows 2000, p114.

state — the courts, the civil service and central executive, and Parliament at Westminster. Chapters 8 and 9 show that the changes made in these areas have been very limited. Each institution has done the minimum to accommodate itself to this changed landscape. That has resulted in a good many detailed adjustments of practice, but little attempt to re-think the role of the central institutions of the state in the light of devolution. The changes to the machinery of government made after the general election have consolidated responsibility for devolution policy, including the English regions, in a new unit within Cabinet Office, responsible to the Deputy Prime Minister John Prescott. However, most front-line Whitehall departments still deal with a patchwork of devolved and reserved matters, relying heavily on the competence of officials to ensure that devolution questions are identified and properly dealt with. Responsibility for the English regions is split between three departments (the Department for Transport, Local Government and the Regions and the Department of Trade and Industry as well as the Cabinet Office). Quite what the territorial offices, particularly the Scotland and Wales Offices, are to do in the longer term remains unclear; their liaison and advisory role looks increasingly redundant as devolution expertise is 'mainstreamed' across Whitehall. In short, Whitehall has made little attempt to re-consider its role or working since devolution, following instead a pattern of incremental and ad hoc adjustment familiar to any observer of British public administration.

At Westminster, the role of Scottish and Welsh MPs and the Select and Grand Committees is no clearer than it was, the more so now that none sit both there and at Holyrood or Cardiff Bay. As Roger Masterman and Robert Hazell point out in Chapter 9, it is especially hard to know what business there is for the Scottish Affairs Select Committee in the Commons to do now that it has looked at poverty in Scotland and the Scottish drinks industry, the two main areas reserved to the UK Government where there is also a distinct Scottish interest. What is happening to the Westminster statute book as a result of devolution is perhaps more interesting (and the point where Westminster and Whitehall intersect), but there is little clear evidence emerging there either. The exception is the courts, where the senior judiciary are now starting to consider matters afresh and to consider how the legal system should deal with the changed situation it faces, but that is a case where a debate has started rather than reached a conclusion.¹²

Policy toward the English regions is an area where change has started to happen, and at a dramatic pace. Despite Labour's commitment in the 1997 manifesto, the issue had sat on the back boiler until early 2001, overshadowed by initiatives to reform local government and particularly to introduce elected mayors. In Chapter 5 John Tomaney shows how a variety of factors, coming from both grass-roots movements and concern from UK-level

¹² For an example, see Bingham 2001.

politicians, have given the issue a new prominence. A White Paper is now due in late 2001 or early 2002, but whether that will deliver what proponents of regional government are seeking is doubtful. Yet England remains the big unknown in the institutional arrangements for a devolved United Kingdom. Robert Hazell, who has discussed this theme on a number of occasions, returns to it in the conclusion to this book.¹³ The fact that the question is now being seriously addressed can be regarded as a success, but the lack of more tangible progress over Labour's first term in office at UK level, and the lack of any clear timescale for achieving this objective in the second term, are both disappointing.

However, finance is perhaps the single greatest unanswered question in the devolution arrangements. The Barnett Formula, used to allocate funding from the UK Government to the devolved institutions, has been the subject of increasing public discussion since devolution took effect. In Chapter 6 David Bell and Alex Christie assess that debate and look at the workings of the formula and the extent to which it gives the devolved administrations the financial resources they need to develop policies that are different to those of the UK Government. Their answer is not optimistic; for all its virtues, Barnett will not work well in the coming years. Already the devolved administrations are facing a slowing rate of growth in the resources available to them, as a consequence of the 'Barnett squeeze'. The effect of this will be to limit further their room for manoeuvre in policy terms. And that is without considering the claims of the English regions for higher levels of spending, to bring them up to the levels enjoyed by the devolved territories.

This of course comes at a time when policy divergence is starting to become a reality. That too was a goal of devolution. Both Scotland and Wales have started to develop their own home-grown policies, which are discussed in Chapters 2 and 3. Northern Ireland is rather behind the Scottish and Welsh pioneers but has started to develop different approaches too. Whether the new policies relate to free personal and nursing care for the elderly as in Scotland, or free prescriptions for young people as in Wales, these policies start to have an effect on other parts of the UK, and it is here that the logic of devolution becomes hardest for the public to accept and understand. On one hand, in England people still find it hard to understand why policy should be materially different in Scotland or Wales, even though in fact it has been for many years, if only on the administrative level (and what else do local governments do in England?). The larger amounts of public money spent in Scotland, Wales and Northern Ireland under the Barnett Formula aggravates this. On the other hand, spending money on a different policy involves making a choice about the use of that money. When funds are limited, it means not only that Scotland (or Wales, or wherever) has 'more' of one thing, but by implication that it will have less of something else. The issue is not simply whether

¹³ See Hazell 2000a, the introduction to Hazell 2000b and Hazell 2000c.

Scots have better arrangements for caring for the elderly than the English, but whether they will accept (say) worse arrangements for acute hospital care to pay for that. That is aggravated by the Barnett squeeze; the increases in the funds available to those administrations will continue to slow as overall public spending grows. While people in established federal states are used to such policy divergence as a normal part of life, such an understanding of what has changed has yet to come very readily in the UK, and the financial pressures will worsen it. The ramifications of this are also discussed by Robert Hazell in his conclusion.

How all this plays with the general public is also hard to tell. In Chapter 10 John Curtice has used a great deal of public survey evidence to see what people make of devolution. It appears to be accepted if not embraced with enthusiasm throughout the UK, but much more supported where there are devolved institutions than it is in England. Yet there is still a widespread view that the UK Government remains by far the most important source of power in the UK, even where there are devolved institutions. The material elsewhere in this book suggests that this view remains correct. For all that the landscape has changed, it has not changed enough to deliver what devolution promised. The expectation that there would be a genuine and significant transfer of power to the devolved institutions has not yet been fully realised. Instead, it has become apparent that devolution is a reform half-completed, and the agenda for the next few years will be to complete that process. These issues may not have been prominent in 2000-01 but their importance is growing. Paradoxically, the longer they remain invisible and action to deal with them is deferred, the greater their impact is likely to be when they do break the surface.

Perhaps one way to look at the progress that has been made is a climbing analogy. In 1997, when we were on the valley floor, we set our sights on the vast mountainous bulk of a devolved structure and set out to climb to that height. In 1998-99 we scaled the slopes we saw and thought we were nearing the summit of our ambitions. It is now apparent that in fact we did not reach the peaks, just a plateau. That plateau is high above the valley floor and it is quite an achievement to have got here, especially with the relative ease we have. Despite the dire predictions of figures like John Major, the sky did not fall on our heads as we climbed. But from here we have a clearer perspective. We can now see that we have not reached the real summit, but we can also see more clearly where that summit lies and what we must climb to achieve it. I hope this book gives a clear guide to the achievements made, the objectives that remain and the hurdles in the way of them.

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