

Introduction: The Dynamics of Devolution

Alan Trench

The most famous single phrase about devolution is probably that of Ron Davies, late Secretary of State for Wales: ‘Devolution is a process not an event’. This book will look at some of the ways in which devolution is and remains a process, and examine some of the respects in which devolution is dynamic, and some of those areas in which it has proved to be less dynamic than expected. It is therefore concerned with the future of devolution, and some of the ways in which devolution may develop over the coming ten or twenty years. It does not seek to make firm predictions, but instead to look at important topics to identify what are, or might be, important questions. The goal of the book is to spark thinking about two issues in particular: first, the extent to which devolution is a dynamic process, and to identify what those dynamics are, and second, to examine what those dynamics tell us about the nature of devolution.

There is a widespread assumption that devolution is dynamic. In the early phase of writing about devolution (say, between 1997 and 2002) scarcely an academic article or book appeared without quoting Ron Davies, although more recently its popularity has declined somewhat. The same applied to much journalism. What writers understood by Davies’s remark varied a good deal and often had little to do with what he understood himself (he was commenting on the particular nature of the devolution arrangements for Wales, and how they would be ‘filled out’ over the coming months and years to produce a more comprehensive devolution settlement for Wales).¹ The more general use of the phrase appeared to reflect a view that it was necessary to see what actually happened to and with the new devolved institutions in order to see what devolution ‘meant’. This would appear to relate to two distinct views. One was that formal change counted for little in itself and that its significance would only emerge when use was made of those and new patterns of political behaviour and new forms of policy and policy-making developed. In other words, this was largely a way of saying ‘wait and

¹ R. Davies, *Devolution: A Process Not An Event, The Gregynog Papers*, 2 (2), (Cardiff: Institute of Welsh Affairs, 1999), especially pp. 9-12.

see'; only time will show what devolution means. The other was that devolution had some innate, usually separatist logic; once institutional change had happened, the floodgates would open, fissiparous forces would take over, and at the very least the United Kingdom would dramatically change in nature in short order. The more extreme versions of this view suggested that the UK would simply disintegrate. This view was shared by some strange bedfellows. One was John Major in arch-unionist mode:

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. ... 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.²

In this Major was following in the footsteps of Tam Dalyell, who led the charge against devolution in the 1970s.³ Another was the Marxist nationalist Tom Nairn, who wrote of a 'rolling mutiny' caused not so much by the strength of nationalist forces as by the character of the UK state, and what he called its 'sovereignty-vacuum'.⁴

Such macro-scale visions of the dynamics of devolution were accompanied by other more focussed ones. Such accounts looked less at whether the United Kingdom has a future than at what exactly its foreseeable future might be. A notable example was a predecessor of this book as a product of the Constitution Unit, the collection of essays entitled *Constitutional Futures: a history of the next ten years* published in 1999.⁵ The various contributors to *Constitutional Futures* assumed that constitutional change in general and devolution in particular were processes with an internal logic. Consequently, the institutional changes embodied in legislation mostly passed in 1998 (the Scotland, Northern Ireland and Government of Wales Acts, the Regional Development Agencies Act, the Human Rights Act, and also the Freedom of Information Act 2000 then still under discussion) would start a process that would lead to other changes to the fabric of the United Kingdom and its institutions in due course. One change would trigger others as a response: thus devolution of administration and legal powers would need to be matched in the financial sphere; Wales would seek greater autonomy to match the powers devolved to Scotland, possibly prompting further

² From John Major, 'Say no to this doomed enterprise', *The Times*, 30 August 1997.

³ T. Dalyell, *Devolution: The end of Britain?* (London: Jonathan Cape, 1977).

⁴ T. Nairn, *After Britain: New Labour and the return of Scotland* (London: Granta Books, 2000), p. 187, and see generally pp. 182-8.

⁵ R. Hazell (ed.), *Constitutional Futures: A history of the next ten years* (Oxford: Oxford University Press, 1999).

demands for devolution from Scotland to maintain the previous differential; retaining a single integrated civil service, or separate territorial Secretaries of State in Whitehall, would be untenable. Some of these changes would require new legislation, but much would not. Once set running, however, the machine would go of its own motion.⁶

Part of this was based on the assumption that devolution's asymmetry was itself unstable and unsustainable in the longer term. Devolution was therefore seen as affecting the structure of the UK state as a whole, not the relations of particular parts with distinctive histories and identities with the whole. Consequently, the expectation was that the state as a whole would change, and become increasingly symmetrical. Thus some form of devolved institutions, albeit ones with differing powers and internal structures, would be created for each part of the UK. These would spread across the UK, creating a profoundly new structure for the state. Scotland might be in the vanguard of this, followed by Wales and with the English regions in the rear, but there would be a single train heading in one direction at more or less the same speed.

With hindsight many of these assumptions appear to have assumed greater dynamism, or propensity to change, than has in fact manifested itself. As a summary *Constitutional Futures* included a table setting out minimal and maximal forms scenarios for constitutional reform by 2009 (reproduced below).

While we are presently some four years short of that book's deadline, it does appear that come 2009 the UK will conform to the 'mini' rather than 'maxi' overall scenario set out there. In some respects it will not even reach the 'minimal' form. Thus we have a Scottish Parliament eschewing use of its tax-varying power, but no active Northern Ireland Assembly (and little sign that one will be restored in the near future); Regional Development Agencies and some regionalisation of central and local government in England, but no elected regional government and little interest in elected mayors outside London; few intergovernmental meetings of any sort, and limited reform of the House of Lords as a second chamber. Only when it comes to the removal of the Law Lords and the establishment of a supreme court does what has happened (or is clearly in the process of happening) approach the level of the 'maximal' scenario.

⁶ The most concise and direct expression of this is in R. Hazell and B. O'Leary, 'A rolling programme of devolution: slippery slope or safeguard of the Union', in Hazell (ed.), 1999, but it can also be found in numerous other contributions to *Constitutional Futures*.

Figure 1.1: Minimal and Maximal Scenarios for Constitutional Reform⁷

Area	Minimal	Maximal
Devolution	Scottish Parliament with legislative power, not exercising its limited tax raising powers	Scottish Parliament exercising legislative and tax raising powers. Independent Scotland?
	Northern Ireland Assembly with legislative but no tax raising powers	Northern Ireland Assembly with legislative and tax raising powers
	Welsh Assembly with secondary legislation making powers only	Welsh Parliament with legislative and tax raising powers
	Regional Development Agencies in England appointed by central government	Elected Regional Assemblies in some English regions; Regional Chambers elsewhere
	Elected mayors in a few cities with limited powers	Strong elected mayors in the major cities
	Joint Ministerial Committee on Devolution meeting infrequently; fire fighting only	Joint Ministerial Committee as strong part of the devolution settlement
	Council of the Isles as token consultative body	Council of the Isles developing wider functions
Parliamentary reform	Limited reform of the House of Lords, involving removing the hereditary peers and re-balancing party numbers. House of Lords remains a nominated body	A predominantly or solely elected House of Lords representing the nations, regions and cities. Some changes to strengthen its functions and powers
	Referendum rejects electoral reform for the House of Commons	House of Commons elected by proportional representation
	Closed list PR for elections to the European Parliament, enabling voters only to choose between parties	Open list PR for EP elections, enabling voters to choose between individual candidates

⁷ From R. Hazell, 'The shape of things to come: what will the UK Constitution look like in the early 21st Century?', in R. Hazell (ed.), *Constitutional Futures: A history of the next ten years* (Oxford: Oxford University Press, 1999), pp. 7-8.

A rights culture	ECHR as part of UK statute law but no Human Rights Commission to promote a new rights culture	ECHR as part of UK law, Human Rights Commission, domestic Bill of Rights either in preparation or already on the statute book
Openness	Restricted Freedom of Information regime, focused mainly on access to personal files	Liberal Freedom of Information Act enabling access to general government information
Judicial structure	Appellate Committee still sitting as members of the House of Lords. The Privy Council adapted to hear 'devolution' disputes	A new supreme court for the United Kingdom, separate from the House of Lords
Inter-governmental relations	Informal intergovernmental consultative processes based on Whitehall concordats	Formalised Council of British Isles with full time secretariat

It is not possible to say whether the doom-laden predictions of the John Major and Tam Dalyell school of thought will prove correct in the future; that is simply unknown and unknowable. But two things are clear. One is that these predictions have so far proven untrue. The British state has withstood the first wave of the changes triggered by devolution intact and indeed with minimal shock or adaptation. The UK Parliament, UK Government and its administrative arrangements, the UK parties and UK public attitudes all continue to function much as they did before devolution. The extent to which the system has not changed was charted by many of the contributors to this volume in *Has Devolution Made a Difference? The state of the nations 2004*.⁸ As Guy Lodge, Meg Russell and Oonagh Gay showed, change at Westminster has been quite minimal, with the West Lothian Question remaining notable as a dog that politically has not barked, despite the constitutional anomalies that give rise to it. As Alan Trench showed, the UK Government has also adapted itself fairly easily, but by making limited and incremental changes even for matters that are profoundly affected by devolution.⁹ Party organisation has similarly changed little, and remains in its essentials what it was before 1999.¹⁰ On the institutional level, much has

⁸ G. Lodge, M. Russell and O. Gay, 'The Impact of Devolution on Westminster: If Not Now, When?' and A. Trench 'The More Things Change, The More They Stay The Same: Intergovernmental Relations Four Years On', in A. Trench (ed.), *Has Devolution Made a Difference? The state of the nations 2004* (Exeter: Imprint Academic, 2004).

⁹ See also ESRC Devolution & Constitutional Change programme Briefing No. 15, January 2005

¹⁰ There has been little discussion of parties and devolution to date, but a notable exception is M. Laffin, E. Shaw and G. Taylor, 'The Political Parties and Devolution', in A. Trench (ed.), *Devolution and Power in the United Kingdom* (Manchester: Manchester University Press, forthcoming 2006).

been left to 'goodwill' and common approaches because of shared points of view, rather than restructuring institutions or establishing formal mechanisms for liaison or co-ordination. John Curtice showed how public attitudes in Scotland and England settled down soon shortly after devolution to a broadly-satisfied acceptance of the new status quo, with opinion in Wales keen on extending devolution to a more extensive form of devolution along Scottish lines.

The second thing that is clear about devolution so far is that the British state has proved itself to be more robust than had been predicted or believed. It has been able to absorb or contain changes that are far-reaching in their potential effect. A significant factor in this has been the willing participation of political forces across the UK. This has obviously included Labour politicians, dominating government across Great Britain, but it has included representatives of the other parties too. Support comes not just from long-term supporters of devolution like the Liberal Democrats. It also comes from nationalists who look to devolution as the first step to greater independence or autonomy for Scotland and Wales, and from Conservatives in Scotland and Wales to whom devolution has sent an electoral lifeline. That has created a very supportive political climate, but it is not the only factor. Favourable economic conditions, including generous increases in public spending which have worked their way through to the devolved administrations thanks to the Barnett formula is a second. A third has been the response of the civil service, in adapting to dramatic organisational change, developing or (in the case of Wales) building a capacity to develop policy, and undertaking the large amount of liaison and coordination needed to make an informal system of intergovernmental relations function.

This robustness may come as a shock to many, like Tom Nairn, who thought the British state fragile and at least on the verge of a terminal decline if not in its death throes. And it is not the first time that the British state has proved itself capable of responding to a major shock so effectively: in recent times it has similarly adapted to the impact of membership of the European Communities (as they were in 1973). Another possible example is the response of the UK to decolonisation in the twenty years or so after World War II, although that is more debatable. This suggests that the British state ought to be the subject of more research; that for too long assumptions have been made about its character which have neither been fully thought through nor tested empirically. Such an undertaking is beyond the scope of this book, however.

WHAT ARE THE DYNAMICS OF DEVOLUTION?

Devolution's dynamics take various forms. For convenience, this introduction (and the book more generally) will examine them as they relate to institutions, to parties, to policy and policy-making, and to society and public attitudes, themes which recur throughout the book. These are categories of convenience: they are not exclusive or definitive, and one could perfectly well examine devolution by reference to other dimensions. But they serve the purpose of illustrating the range of ways in which devolution has developed (and will continue to do so), and of pointing up the most important part of this dynamism – that what really counts is not any of these categories in itself, but how each relates to the others. It is in the interplay of its various factors that devolution's power to cause fundamental change lies.

Dynamics of Attitudes and Society

What has happened to public attitudes following devolution is complex. One generalisation is that the present arrangements are accepted as legitimate across the UK: public opinion in England (as well as Scotland and Wales) accepts asymmetric devolution, without demanding similar changes for England as well. Beyond that, the picture becomes complicated. In Chapter 6, John Curtice identifies a relationship between public attitudes toward constitutional arrangements in Scotland and Wales – a sense of mixed British and Scottish/Welsh identities translating into a preference for devolution, as opposed to independence or control from London. Despite a measure of disappointment with what devolution has actually delivered there is underlying support for the devolved institutions (and an ability to distinguish between the institutions and what they have done, or not done). In England, however, he finds no such relationship, noting that 'neither national nor regional identity seems to make much difference to people's views about how they should be governed' (p. 132). Instead there is general acceptance of what has happened for Scotland or Wales without demanding elected regional government or something similar. On this basis, he concludes that the present basis of devolution in public opinion is sound, and that (at least outside Wales) there is little demand for further change. This has to be read against James Mitchell's analysis of Scottish politics after devolution, and his suggestion that what Scots have come to understand as 'Britishness' relates not so much to a territorial state as to the welfare state. This implies that the Scottish attachment to Britishness that Curtice finds would prove to be fragile if the UK were to seek to undermine or significantly to restructure the welfare state.

Yet even this apparent satisfaction with the constitutional status quo takes us only so far. It is also clear that public attitudes in England have been

sheltered, so far, from any reconsideration of what the UK is for or why it is there. A number of politicians are sensitive to these concerns, as recent speeches by Gordon Brown about ‘Britishness’ and David Blunkett about ‘Englishness’ show.¹¹ A form of national identity is used by both the UK Independence Party (and its offshoot Veritas) and the British National Party, and helped both to do well in the 2004 European Parliament elections. For UKIP and the BNP, ‘Britishness’ is clearly a proxy for ‘Englishness’; their electoral bases are almost wholly in England, and both performed very poorly in Scotland and Wales.¹² The choice of election may have helped boost both parties’ performances, with European Parliament elections being ‘second-order’ ones, encouraging protest votes, and also being to the only elected institution within the European Union (EU), thus serving as a convenient way for anti-EU objections to be manifested. There is no evidence, however, that this reaction is caused by or affects the UK state internally, and relations with Scotland, Wales or Northern Ireland. It is about the UK’s place in Europe and a wider world, not the UK’s own territorial politics.

Party Dynamics

The immediate consequence of devolution was to create new arenas for the political parties to compete electorally with one another. That has meant more than simply creating more spaces for Labour, Conservatives, Liberal Democrats, the Scottish National Party (SNP) and Plaid Cymru – to compete with each other. That can itself have very far-reaching implications, altering the way formal institutions operate, and creating meaningful territorial politics even in what had previously been a highly centralised state.¹³ In the UK, devolution has also created new political environments (in Scotland and Wales) in which the political parties must operate. In these environments, Labour has meaningful competition from the left (notably from the SNP and Plaid Cymru), which affects its strategy quite profoundly. Labour in Wales (and to a lesser degree Scotland) is more ‘old’ than ‘new’ not just because of the inclinations of party membership or leadership but because that is where votes are, and it is from there that other parties can take votes Labour would otherwise be able to count on. This argument is further developed by Alan Trench in Chapter 7. However, the big question (examined by Charlie

¹¹ G. Brown, British Council Annual Lecture, 7 July 2004, available at: www.hm-treasury.gov.uk/newsroom_and_speeches/press/2004/press_63_04.cfm; D. Blunkett, ‘A New England: an English identity within Britain’ Speech to Institute for Public Policy Research, 14 March 2005, available at: www.ippr.org.uk/ecommm/files/a%20new%20england.pdf.

¹² In the 2004 European Parliament elections, UKIP and BNP combined polled an average of 22.85 per cent of the vote across England, 8.35 per cent in Scotland and 13.31 per cent in Wales.

¹³ An intriguing recent discussion of this in comparative context can be found in E. L. Gibson (ed.), *Federalism and Democracy in Latin America* (Baltimore, Md: Johns Hopkins University Press, 2004), particularly the chapters on Brazil by Samuels and Mainwaring, Venezuela by Penfold-Becerra and Mexico by Ochoa-Reza.

Jeffery and Dan Hough in *The State of the Nations 2003*) is that of the extent to which such ‘domestic’ considerations drive electoral choice in the devolved parts of the UK.¹⁴ They noted significant ‘devolution bonuses’ for the nationalist parties in devolved elections in Scotland and Wales, and suggested that we should not be surprised if devolved elections behave in different ways to Westminster ones, with the nationalist parties benefiting from attempts to ‘build the nation’, while voting in Westminster elections followed a more normal ‘UK’ pattern.

How have parties responded to the electoral challenge of devolution? In Wales Labour managed in 2003 to recover ground lost to Plaid Cymru in 1999, at least partly because Rhodri Morgan was able to claim that there was ‘clear red water’ between London and Cardiff. In other words, he improved his standing in the Welsh arena by separating Welsh Labour from the UK party. As a result he managed to gain 30 Assembly seats, a bare majority of one seat (given that the Presiding Officer was elected as a Plaid Cymru candidate and is neutral, and his deputy is a former Labour AM but now outside the party).¹⁵ In Scotland Labour did not so change. It was fortunate that it did not face serious competition in 2003 from the SNP, but the effect was to strengthen the Liberal Democrats to a degree and fringe parties more so – not just organised groups like the Greens or the Scottish Socialist Party but also successful individual candidates like Dr Jean Turner opposing local hospital closures and John Swinburne representing pensioners. It might be going too far to say that the UK has four party systems after devolution, but that would not be a great exaggeration. If they are not different, they are at least differentiated.

Northern Ireland is of course different, if only because the UK parties do not contest elections there. Robin Wilson and Rick Wilford argue in Chapter 4 of this book (as they have long argued) that the electoral system chosen for the Assembly (the single transferable vote) has had a polarising effect. In a divided society, where there are two distinct communities each voting only for communal parties, the effect of the electoral system has been to encourage the votes of more extreme parties in each community and so to strengthen the parties least likely to agree with each other. This has been coupled with a rejection of the Belfast Agreement by the Democratic Unionist Party, by the IRA’s failure to comply with the Agreement’s express

¹⁴ C. Jeffery and D. Hough, ‘Elections in Multi-level Systems: Lessons for the UK from Abroad’, in R. Hazell (ed.), *The State of the Nations 2003: The third year of devolution in the United Kingdom* (Exeter:

¹⁵ In April 2005 Labour lost that majority, with the departure from the Party of Peter Law AM, long regarded as the group’s most awkward member. Law was angered by the party’s imposition of a women-only shortlist for the Westminster constituency of Blaenau Gwent (which he represented in the Assembly), and stood as an independent candidate in the May 2005 UK general election. Although he had already indicated his intention to quit the party group in the Assembly, his independent candidature led to his formal expulsion.

provisions about decommissioning and its spirit (actions justified by Sinn Féin), and so with the suspension of devolution and the peace process going into a deep freeze.

One characteristic of these differentiated party systems is that concerns about institutional issues arise to differing degrees and affect them in different ways. The status of the peace process and the institutions established under the Belfast Agreement is a prime concern (sometimes the only concern) of politics in Northern Ireland. The future of the devolved institutions in Wales is high on the political agenda there, with the determination of the Labour Party not to implement the recommendations of the Richard Commission creating a deep gulf between it and the opposition parties in the National Assembly. In Chapter 3 John Osmond argues that a grand coalition of all the non-Labour parties is a realistic prospect after the 2007 elections, as a way of obtaining power in Wales and putting pressure on London for legislative devolution. Some journalists have made suggestions about a similar coalition arising in the shorter term, after Labour became a minority administration following Peter Law's departure from the party.¹⁶ There is something of an air of unreality about such arguments, given that the Welsh Conservatives are divided about devolution and the institution of the National Assembly and some remain deeply hostile to it. Even if Plaid Cymru were to seek a coalition with them (which would involve very considerable political risks), it is unclear if the Conservatives would cooperate. But the argument and the issues it raises are important as well as provocative. If devolution has changed attitudes toward politics in Wales – if the institutions have indeed acquired a momentum of their own – this should affect how all the parties approach politics there, and create at least an interest in holding a limited measure of power rather than being confined to opposition for the indefinite future. Moreover, such a coalition appears to offer the only way to seek to secure the implementation of the Richard Commission's recommendations, given the divisions in Welsh Labour and the support for devolution expressed by a majority of the Welsh population.¹⁷

Scotland has been largely immune from similar pressures, however. There, the party-political dynamics have been rather different, for two key reasons. First, Scottish Labour has (at least since the departure of Henry McLeish) been closer to UK Labour, and much less inclined to embark on policies that depart from UK ones. Second, since devolution the SNP has been in difficulties in staking out a distinctive position, although that may be changing following the re-election of Alex Salmond as leader in September 2004. The issue in Scotland has rather been a rejection of the dominant

¹⁶ See for example M. Shipton, 'A nervous new year for Rhodri', *Western Mail*, 3 January 2005.

¹⁷ See John Curtice, Chapter 6, this volume, Figure 6.1.

parties at the 2003 elections, with votes leaving Labour and SNP and heading to the Scottish Socialist Party and the Greens,

Policy Dynamics

One common indicator used to judge the significance of devolution, if not its success, is whether it leads to divergence in policy between the UK Government and the devolved administrations. Contributions to various *State of the Nations* volumes (as well as a growing literature elsewhere) have sought to make sense of this. In *The State of the Nations 2003* Scott Greer of the Constitution Unit explained the ways in which, even then, it was obvious that health policy was beginning significantly to diverge across the four parts of the United Kingdom.¹⁸ Each part of the UK was clearly developing both substantive policy and approaches to the making of health policy that were distinctive. This sort of innovation has been much less marked in other areas. In *Has Devolution Made a Difference?* Helen Fawcett of the University of Strathclyde traced the creeping attempts of the Scottish Executive to develop its own policy on social exclusion, like health a field where Scotland has distinctive and pressing needs but unlike health an area where relatively few policy levers have been devolved.¹⁹ She found that despite brave attempts the Scottish Executive had neither succeeded in establishing its own policy nor succeeded in influencing significant changes in UK-wide policy to deal with the particular problems found in Scotland.

This volume includes a consideration of policy relating to regional economic inequalities, by John Adams and Peter Robinson of the Institute for Public Policy Research. They find that devolution has had disappointingly little impact on regional economic performance across the UK. What is less clear from their analysis is why that is so. One possible answer is that the devolved administrations lack the means (whether in money or legal powers) to make such a policy work. However, similar problems persist in parts of the UK for which the UK Government is responsible, where the UK Government does have the necessary means. If the devolved administrations have performed ‘poorly’ by some external yardstick (and that begs the question of whether the yardstick is an appropriate one), they are not alone in doing so.

One conclusion does emerge from the work done as part of the devolution research, however. It is simple: powers matter. Mark Sandford reached a similar conclusion about the effectiveness of the Greater London Authority in *Has Devolution Made a Difference?*²⁰ New (devolved) institutions are

¹⁸ S. Greer, ‘Policy Divergence: Will It Change Something in Greenock?’, in R. Hazell (ed.), *The State of the Nations 2003: The third year of devolution in the United Kingdom* (Exeter: Imprint Academic, 2003).

¹⁹ H. Fawcett, ‘The Making of Social Justice Policy in Scotland: Devolution and Social Exclusion’, in Trench (ed.), 2004.

²⁰ M. Sandford, ‘The Governance of London: Strategic Governance and Policy Divergence’ in Trench (ed.), 2004.

able to make a difference where they have real powers. In such areas, they can make and deliver policies that respond to local needs and political demands. When they do not have such powers, they can achieve little. This point seems trite to the degree of being blindingly obvious, but it needs making. New Labour has become enamoured of 'strategic' policy in a range of areas, apparently believing that things will get better if someone publishes a document saying they should. It is now clear that scepticism about this approach was justified. If a problem is to be tackled, a government has to have the powers and money needed to tackle it. Documents identifying a good approach or policy which encourage others to act together to achieve those ends are not enough.

A second conclusion is that, for policy, what is important is the arena or setting in which policy is made. Different forces are at work in each part of the UK, and policy-making reflects how those forces work. This argument, sketched above, has been made most fully by Scott Greer in his book *Territorial Politics and Health Policy*.²¹ The four different policy environments which devolution brought into being create quite different political interests and forces at work across the UK. Thus England is able to develop and implement a highly ideological policy. Scotland has come to rely on powerful and established professional groups. Northern Ireland remains mired in approaches that have not changed for many decades. Wales, lacking both the forces to resist change that are at work in Scotland or Northern Ireland and the powerful and effective health service management system present in England, has seen policy largely captured by another existing interest group (in this case, local government), and by a concern with public health. This has led to a lack of governmental concern (at least until 2004) in the issue of waiting lists which had dominated policy in England, and led to a ballooning of waiting lists and waiting times in Wales. This approach may reflect a particular characteristic of health policy, which is both extensively devolved to the four parts of the UK and a highly-developed policy area boasting a clear set of policy actors. That is much less the case for economic policy areas, where the actors are overwhelmingly concerned with the UK level rather than its constituent parts. While securing economic development is a major concern for the devolved administrations, the other interests in that field have only limited interest in the devolved territories and little presence there.

But if we are to regard the arenas in which policy is made as important, we have to think about how these might be changing. The influence of the European Union has been quite pervasive since devolution started. Chapters on intergovernmental relations in previous volumes of *The State of the Nations* have discussed institutional aspects of European Union policy-making, and

²¹ Manchester: Manchester University Press, 2005.

the ways in which the devolved administrations have been able to influence this both through the UK Government's positions and through the Brussels institutions directly. Two chapters in this book address this issue more thoroughly than has been possible in the past. Charlie Jeffery looks in detail at these institutional issues. He notes the contrast between the UK's approach, which is informal but generally gives the devolved administrations a high level of involvement in forming the UK 'line', and that of other member states (notably Germany and Belgium) which tend to be much more formalistic but in fact appear to give less scope to the constituent units to influence policy. In those states, the rights of the constituent units may be more secure, but they are also less extensive. That raises, of course, the question of how matters will work in the UK when there start to be political differences between the devolved administrations and the UK Government – especially if the UK Government should become more Euro-sceptic than it presently is. Scott Greer addresses a different issue: what is the impact for the devolved administrations as (or if) the EU starts to enter an area of devolved competence where it has not hitherto been engaged? Many areas of devolved competence, notably agriculture and fisheries, and also criminal justice (for Scotland) are already within EU competence and have been regulated to varying degrees by the EU. Greer discusses the development of EU involvement in health policy, an area hitherto outside EU competence. This involvement could have far-reaching implications for the devolved administrations, stripping them of autonomy to make policy that they have only recently won and subjecting them to various forms of regulation which were not anticipated and which appear to have a limited recognition of how the UK, in contrast to continental countries, organises its services.²² While Greer's analysis derives from health, the principles underlying what he says apply equally to other areas of growing EU activity. Education is the most likely candidate for this, but may not be the only one.

A further vital factor in policy divergence is finance. One virtue of the Treasury's grant-and-formula approach to funding the devolved administrations is that it has no direct control over their finance. The block grants can be allocated by each administration as it sees fit. Yet this is unlikely to be a sustainable approach in the longer term. As David Bell and Alex Christie show, the financial resources available to the devolved administrations bear no relation to their needs; the present system exposes the devolved administrations to the possible (if not actual) influence of the Treasury in London; and it means that the devolved administrations lack both fiscal autonomy and responsibility. These seriously question the viability of the present arrangements based around the Barnett formula. Alan Trench also examines

²² Both Charlie Jeffery's and Scott Greer's chapters were written before the results of the referendums on the EU's constitutional treaty, in France and the Netherlands, on 29 May and 1 June 2005, were known.

the present system, more from a political point of view. This is no accident; finance is a key area of intergovernmental tension in all federal or decentralised systems, and in the UK is one of the key points at which the interests of the devolved administrations and the UK Government are likely to conflict.

None of this answers a bigger question about devolution – whether it is in fact appropriate to expect policy divergence to happen and to increase, as many seem to assume. There is a larger question of whether such divergence is in fact an appropriate measure of the success of devolution at all. It is perfectly proper to argue that the point of devolution is to recognise (both symbolically and practically) the distinctive character of parts of the UK. For that to happen, it is not necessary for those devolved institutions to pursue different courses of action (although it is likely that at least on occasion they will) and it is misleading to use policy divergence as the sole measure of devolution's success. What is also important is the existence of the devolved institutions and the recognition it gives to those nations or regions.²³ This position has at least one intriguing implication for Scotland: that devolution will succeed when Scotland adapts its already-distinctive policies so that they resemble those of England more, not less. That would demonstrate Scottish self-confidence, as the need consciously to do something different to England/UK would have vanished.²⁴ (The point applies much less to Wales or Northern Ireland because both territories have been so linked to the UK that they have many fewer existing differences from England to start with.)

Institutional Dynamics

Underlying the visions of the future set out in *Constitutional Futures* was the expectation that institutional change would have its own momentum. Once change had started, it would lead to consequential demands for other changes. To a startling degree this has not happened.

Northern Ireland has of course been an instance of stop-go devolution, with the UK Government assuming the power to suspend devolution and having done so four times, most notably since October 2002. As Robin Wilson and Rick Wilford show, that has reflected the nature of the peace process and the process of reviewing the framework of the Belfast Agreement.

The story has been rather different in Great Britain. The one appreciable revision to the 1998 devolution arrangements in Great Britain has been breaking the link between the number of Scottish MPs at Westminster and the number of MSPs at Holyrood, itself a decision taken after a protracted consultation exercise and much deliberation by the Secretary of State for

²³ See A. Kay, 'Evaluating devolution in Wales', *Political Studies*, 51 (1): 51-66, (2003).

²⁴ I am indebted to James Mitchell for this suggestion.

Scotland. In other respects the Scottish settlement has not been touched; it has proved adequate to the demands made on it, and while big questions remain about how Scottish and UK governments of different parties would deal with each other they have not needed any immediate answer. Underlying that, James Mitchell shows in Chapter 2, is a new issue in Scottish politics; how the underlying question for the future development of the Scottish institutions is not an institutional one, but that of how Scotland more generally comes to understand itself and its place in the world.

Similarly, expectations that devolution in the UK's Celtic fringes would lead to demands for devolution from the English regions have been proved false. Despite promises that there would be referendums on elected regional government in three northern regions, only one took place (in the North East, in November 2004), and that resulted in a crushing defeat for those supporting elected regional government. In Chapter 5 Mark Sandford and Peter Hetherington analyse the reasons for the defeat and its implications, and find an interesting parallel between that result and the defeat that devolution for Wales received in the 1979 referendum. Their argument about the continuing attractiveness of administrative regionalisation for central government is another element of the debate about regional government that has been overlooked so far, but which will loom large. In effect, the question for England to answer is not whether or not to have regional government, but whether there should an elected element in that regional government. For that reason alone, this is an issue that will return to the debate sooner or later.

The settlement for Wales has been under almost perpetual review since 1999, but the lack of enthusiasm with which Welsh Labour greeted the Richard Commission's report in the spring and summer of 2004 was startling. That report was a thoroughgoing expression of a view that the half-way house could not be left to continue. Wales needed an Assembly with proper legislative powers, along the Scottish model but with more limited powers (not including policing or criminal justice, or land and the civil law). Tax raising or varying powers were treated as optional. The executive should be formally and legally separated from the Assembly, the number of elected members increased from 60 to 80 and the electoral system changed to the single transferable vote. All this should take place over a lengthy timescale, with the Assembly not assuming its new powers until 2011 (after the next but one Assembly election, and two Westminster elections too), during which time the Assembly's powers should be gradually expanded by 'framework legislation' at Westminster.²⁵

What was more startling than the report itself was the response of Rhodri Morgan, hitherto regarded as strongly supporting devolution and wanting to

²⁵ Commission on the Powers and Electoral Arrangements of the National Assembly for Wales, *Report of the Richard Commission* (Cardiff; National Assembly for Wales, 2004).

see it extended. Rather than embracing the report and seeking to secure its implementation as quickly as possible, he immediately declared that its recommendations regarding STV would not be pursued by the Assembly Government, then dropped the recommendation to increase the size of the Assembly, then suggested that what was necessary was not to grant the Assembly primary legislative powers but to increase its powers on a case-by-case basis through Westminster legislation and with enhanced powers to repeal existing legislation under what are known as 'Henry VIII' clauses. In unusually opaque language, he called this '13.2 plus, looking backwards as well as forwards' (box 13.2 being that part of the Richard Report outlining a version of this as an interim measure on the route to primary powers). This approach was adopted by the Welsh Labour Party at a special conference in September 2004, which also decided that what exactly this meant and how it should be delivered would be put in the hands of the Secretary of State for Wales.²⁶ Subsequently the UK Government announced that this would result in a White Paper, which was also foreshadowed in Labour's manifesto for the 2005 UK general election.²⁷ That White Paper was expected to appear in June 2005, shortly after this book went to press. The upshot has been that Peter Hain has become the chief arbiter of Wales's constitutional future – a curious outcome when the purpose of devolution was supposed to be to broaden participation in decision-making about Wales, not confine it to the person of the Secretary of State.

Rhodri Morgan's attitude appears to have been driven by a desire to improve his standing within the Welsh Labour Party. He has sought to appeal to party rather than to a broader constituency supportive of devolution but outside the Labour camp. He has preferred party unity to commitment either to his own long-standing principles or an attempt to make Labour more emphatically the party of devolution in Wales, and seek to win support from those presently voting for other parties or for none. He has therefore taken a significant gamble, not just with his own position but also that of the Labour Party. The extent to which he was ignoring the view of the general public in Wales was illustrated by an opinion poll carried out by NOP for ITV1 Wales in May-June 2004. This showed that 60 per cent of the public in Wales agreed that the Assembly should be given greater law-making powers, with majority support for that proposition from people intending to vote for Labour, the Liberal Democrats and Plaid Cymru (66 per cent, 62 per cent and 81 per cent respectively), and strong support from Conservative supporters too (45 per cent supported greater powers). Only 28 per cent of the public overall disagreed with the proposition, and even

²⁶ *Better Governance for Wales: A Welsh Labour policy document* (Cardiff: Wales Labour Party, 2004).

²⁷ *The Labour Party Manifesto 2005: Britain forward not back* (London: The Labour Party, 2005), p. 108.

among Tory voters that amounted to only 47 per cent of people.²⁸ This strong cross-party support for broader devolution could have been mobilised by Morgan to secure broader powers, through a referendum if need be. Such a strategy might have paid electoral dividends, by entrenching Labour as the party which delivered self-government for Wales, and so undermining (in particular) Plaid Cymru's claim to be 'the party of Wales'. By choosing to advance a narrower set of party interests, the First Minister ducked this challenge for a more comfortable but possibly, in the longer term, more dangerous approach.

The effect of Rhodri Morgan's choice is that decisions about Wales's constitutional future are not to be made in Wales, but principally in Whitehall and Westminster, by the Secretary of State. This is not a friendly setting, as interest in Wales there is limited, and there is considerable hostility toward the Assembly from a number of Welsh Labour MPs to whom Peter Hain looks for support. Securing time for new legislation and the passage of that legislation will not be straightforward, and the position taken by the First Minister both risks further dilution in the course of drafting a White Paper and translating that into legislation, and sacrifices that broader base of support for devolution within Wales.

This can be seen as an instance where party ties have proved remarkably strong. Their strength has been such that it has managed to overcome the many objections to the existing arrangements for Wales, and the problems presented by a complex and unstable Welsh settlement.

A similar story can be found in Whitehall and Westminster, where predictions of extensive change and restructuring have not been realised either. The lack of change in the central institutions of the UK state, including those established to accommodate devolution (such as the Joint Ministerial Committee), indicates a deep-seated resistance to institutional change. The cause of this appears to be the absence of immediate pressure for such changes – the fact that there is no crisis, so no urgent need to create new arrangements or alter existing arrangements. In such circumstances, neither a reactive civil service nor politicians with other matters on their mind wish to make more work for themselves – even if there are good reasons to make such changes in readiness for future challenges. The ability of the British state to withstand such a significant shock as devolution is itself something worth further consideration and investigation. Whether it will last, given the impact of an eventual change in government in Scotland or Wales as well as at Westminster, as well as the challenges of a changing domestic and European political environment, is perhaps the biggest of the questions devolution poses for the future.

²⁸ Reported by J. Osmond in the *May 2004 Wales Devolution Monitoring Report*, available at www.ucl.ac.uk/constitution-unit/nations/monitoring.php, p. 51.

THE PURPOSE OF THIS BOOK AND ITS CHAPTERS

This book as a whole does not seek to make predictions about the future. Rather, it seeks to raise questions about what the dynamics of devolution are, as they have been revealed by its first six years of practice. On that basis, each raises – often implicitly rather than explicitly – questions for the future. We are not offering so much a roadmap for the future as a way of indicating what the key decisions might be, and what answers to them will suggest. In doing this, the aim of the editor and the authors is to spark debate rather than reach conclusions. Where we do have conclusions to offer, we do so – but our aim is to provoke rather than to declaim solutions. Given this, the approach of the book is deliberately varied and eclectic, with chapters on a range of subjects which approach their subject-matter in a number of ways. Throughout the book, there is a heavy emphasis on the financial aspects of devolution – a deliberate choice, as this is the point at which the strains implicit in the present arrangements are most likely to manifest themselves, whether they are strictly speaking financial in nature or not.

The chapters in Part I combine the various thematic approaches more than the others, concerned as they are with particular nations or regions within the UK – Scotland, Wales, Northern Ireland and the English Regions. Part II addresses four UK-wide issues: public opinion and attitudes, intergovernmental relations, finance and the Barnett formula, and the impact of the EU. Part III turns to policy issues: health policy and the EU, and regional economic inequalities. The conclusion surveys briefly some of the implications of the 2005 UK general election, as well as trying to develop some more general arguments about the future development of devolution.

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