

Introduction: Has Devolution Made a Difference?

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Devolution is still new. After being discussed for more than a century, it has been part of the constitution of the United Kingdom for only five years. To try to reach a judgement about it after such a short time is a questionable undertaking. However, that is the task undertaken in this year's *State of the Nations*. Although it is rash and may be premature, it is also timely; we have now had two elections to the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly, as well as one Westminster general election, since the introduction of devolution. We have yet to see an alternation in power, producing governments of markedly different political complexions in London, Cardiff or Edinburgh (and may not for some years). But we do now know enough to form an interim assessment about devolution as Labour has brought it into being. Many questions remain, some of which will have to await that alternation of power and some of which will have to await access to official documents (still twenty-something years away). However, we do now have a reasonable sense of the subject-matter. If newspapers are the first rough draft of history (as journalists sometimes claim), this book is a second draft.

Assessing the impact of devolution is not straightforward. The changes devolution has brought about cannot be described in one or two neat phrases, but vary from territory to territory and according to the issue involved. Any serious evaluation has to be nuanced. Jumping to conclusions about whether devolution has been a success or not is even more problematic, not only because it is very early to make such a far-reaching judgement but also because deciding on 'success' involves deciding what devolution should have achieved, and views about what devolution's objectives were, or should have been, vary widely. This book shies away from such broad-brush judgements, and seeks to look at the nature of the changes devolution has already brought about. At the very least this should make political debates about devolution better informed.

Thinking about the changes devolution has wrought has to be done in the context of several propositions that have now gained the status of

truisms.¹ The first is that devolution has quickly become a settled part of the UK's constitutional landscape, widely accepted across the UK as 'right' for Scotland and Wales. It commands broad political support from all major parties. The doubts about it that exist relate either to problems faced by the peace process in Northern Ireland or to its extension to the regions of England. Second, the predictions made before devolution by many figures, including notably Tam Dalyell and John Major but also such nationalists as Tom Nairn, that it would lead in short measure to constitutional chaos and the disintegration of the United Kingdom, have not been realised and now seem highly alarmist or optimistic, depending on one's point of view. Third, flowing from the first two, devolution has had a remarkably smooth ride so far. Fourth, because of that devolution remains essentially untested. Labour's control of the governments in London and Cardiff (since May 2003) and its dominance of those in Edinburgh and (between October 2000 and May 2003) in Cardiff means that serious intergovernmental tensions have not yet developed. Until there is real political conflict between administrations, which will require a change of government or serious pressure on their finances, hard questions about devolution will remain unanswered.

In the light of these propositions and despite a desire to maintain due academic caution, there are still some conclusions that can be reached about the record so far.

THE 2003 ELECTIONS: DEVOLUTION COMES OF AGE?

The most eye-catching event of 2003 was the May elections to the Scottish Parliament and National Assembly for Wales. The expected elections to the Northern Ireland Assembly were postponed, but eventually took place on 26 November even though the attempt to restart the peace process and resume devolution in October proved abortive. (That abortive restart is discussed in detail by Wilford and Wilson in chapter 4, and the election results — which appeared while the book was in press — are included as an annex.) The elections in Scotland and Wales and their implications are discussed in more detail in chapter 2 by Mitchell and chapter 3 by Osmond below. In Scotland, there were poor performances by Labour, the Liberal Democrats and the SNP, and strong ones by the Scottish Socialist Party (SSP) and Greens. Labour and the Lib Dems were still able to form a coalition, however, and were largely protected from serious attack by the fact that the SNP had done no better than they had. In Wales, a close result saw Labour gain 3 seats, and

¹ These have been discussed in earlier volumes in this series: Hazell, R., (ed.) *The State and the Nations: The First Year of Devolution in the United Kingdom* (Exeter: Imprint Academic, 2000); Trench, A., (ed.) *The State of the Nations 2001: The Second Year of Devolution in the United Kingdom* (Exeter: Imprint Academic, 2001); and Hazell, R., (ed.) *The State of the Nations 2003: The Third Year of Devolution in the United Kingdom* (Exeter: Imprint Academic, 2003).

despite a suggestion from Rhodri Morgan before the election that he might continue with a coalition administration he took advantage of a bare majority (30 seats of 60, with the Presiding Officer drawn from the opposition's ranks) for Labour to govern alone.

From a UK-wide point of view, the most significant aspect of each was probably not the outcome, reinforcing Labour dominance in each case, but the low turn-out — a passable if poor 49.4 per cent in Scotland, but only 38.2 per cent in Wales. This suggests that devolved elections are indeed seen as 'second-order' elections by the electorate in general.² They may elect a government, but not *the* Government. That in turn suggests that the electorate do not see enough as being at stake in the devolved elections (whether in terms of the importance of the institutions elected or the likelihood of the election result leading to change in composition of the government) to justify people turning out to vote. This conclusion supports a broader one drawn by Curtice in chapter 9; that devolution has not succeeded — or not yet succeeded — in reconnecting voters with government. To what extent that was really a goal of devolution is another question, of course, as is whether it is in fact an appropriate standard by which to evaluate devolution.

However, the low turn-out and the rapid formation of governments substantially resembling the ones in office before the elections suggest that previous suggestions that these elections would mark devolution coming of age were overstated. (The present author eats humble pie as one of those who made such a suggestion.) They plainly have not transformed the nature of the devolved institutions or the process of devolution. They may yet mark the beginning of a transition, as First Ministers (neither of whom led their parties in the 1999 elections) now have their own mandates and may act in a more self-confident way as a result. The success of 'clear red water' in Wales, in contrast to Labour's experience in Scotland, may fuel that. But the real challenge will have to await real political differences between the UK Government and the devolved capitals, not merely differences of emphasis between Labour-dominated administrations.

NEW INSTITUTIONS, NEW POLITICS?

Devolution creates the space for different sorts of politics to develop in Scotland and Wales. The devolved institutions work in very different ways, and make different sorts of policy, to those at UK level. For example, they can involve a wider range of interest groups both through their formal procedures (such as the Public Petitions Committee in Scotland or the local government, business and voluntary sector partnership bodies in Wales) and

² For the importance of the distinction, see Jeffery, C., and Hough, D., 'Elections in Multi-level Systems: Lessons for the UK from Abroad' in Hazell, 2003.

informally, through their greater openness and their closeness to the electors. That does not stop problems arising or turning into scandals when they do (think of the rows about the new Scottish Parliament building at Holyrood, now the subject of a formal public inquiry, or mismanagement at Education and Learning Wales), but makes these different in nature when they do. The public inquiry into Holyrood chaired by Lord Fraser of Carmyllie QC contrasts with the lack of public investigation into the botched construction projects in London at Portcullis House in Westminster or the new British Library at St Pancras; the only detailed public investigation into either was carried out by the National Audit Office, gathering its evidence in private from a limited number of those involved.

With Northern Ireland, it is harder to form a view. This is not just because devolution as such (the institutions created under Strand 1 of the Belfast Agreement) has been subject to periodic suspensions, including the long suspension that started in October 2002, but because devolution has to be seen in the context of the ‘north-south’ and ‘east-west’ institutions created under Strands 2 and 3 of the Agreement. But even here devolution appears to have led to change, if only because policy issues (however defective, truncated or interrupted their development may be, as Wilson and Wilford point out in chapter 4) have started to become part of politics in Northern Ireland. They may only be a limited part, but they are now a part all the same. This ‘new politics’ may not match up to some of the aspirations of the early supporters of devolution. It is notable, for example, how quickly the National Assembly for Wales started to move away from the idea of an open and inclusive entity encompassing executive and deliberative or legislative functions, towards a more parliamentary model where the two were distinguished as clearly as they could be within the legal framework establishing the Assembly. All the same, it is a different approach to the sort of politics associated with Westminster.

MINIMAL ADJUSTMENT AT THE CENTRE

A further part of the picture is the minimal extent to which devolution has been accompanied by change at the centre of the UK state. Both so far as the civil service and the machinery of government in Whitehall and the UK Parliament at Westminster are concerned, little has altered since devolution. Lodge, Russell and Gay point out in chapter 8 that at Westminster, the Commons retains question-times for the territorial Secretaries of State, even though their functions are now largely limited to liaison behind the scenes with minimal responsibility for policy or programmes. The Commons also retains Select and Grand Committees for each territory, although these have little to do. Within the UK Government 2003 saw a partial change to the

nature of the office of the territorial Secretaries of State — they became part-time posts, combined with other portfolios, but nonetheless Scotland and Wales retained their own seats in Cabinet. Likewise the Scotland and Wales Offices remained in existence, but moved under the umbrella of the Department for Constitutional Affairs. The implications of this minimalist approach to change at the centre are discussed by the editor in chapter 7.

There have been considerable pressures for change, including official reports calling for it, for example from the Commons Procedure Committee in 1998 and the Lords Constitution Committee in 2003.³ By and large the action following such reports has been limited and grudging. The centre has made only those adjustments it has had to, rather than embraced devolution as an opportunity to re-think how UK Government operates or how to approach the government of England more systematically.

THE LOSS OF THE AWKWARD SQUAD

Devolution has however relieved the UK Government from the task of administering what had (under the Tories) been fractious parts of Great Britain which resented both the institutions administering them and the policies produced by those administrations. Resentment of the institutions of government has largely passed (Northern Ireland being a partial exception), and if it remains, it is no longer the UK Government's problem. The same largely applies to the policies made by the devolved institutions. At the very least, devolution has relieved the UK Government of a fair amount of onerous and politically unrewarding work. The same applies to Westminster; instead of incessant and time-consuming questions and debates initiated on the floor of the House by opposition parties about both institutional and policy matters, those issues have largely disappeared from the agenda. One might have expected the West Lothian question to serve as a partial replacement, but while it has occasionally reared its head (in 2003 more than ever, over Parliamentary votes on foundation hospitals for England and jury trials in England and Wales, and over Dr John Reid's appointment as Health Secretary) these have so far proved to short-lived episodes, not a sustained attempt to raise the constitutional issue.

THE IMPLICATIONS OF POLICY DIVERGENCE

As a result of these other factors, policy divergence is becoming increasingly a reality. That means that the UK now works in a different way. *The State of*

³ House of Commons Procedure Committee, *The Procedural Consequences of Devolution*, Fourth Report Session 1998–99, (The Stationery Office: London, 1999); House of Lords Select Committee on the Constitution, *Devolution: Inter-institutional Relations in the United Kingdom*, Session 2002–03 2nd Report, HL Paper 28, (London: The Stationery Office, 2003).

the Nations 2003 contained chapters looking at the policy of free personal care of the elderly in Scotland and at how health policy has started to develop along very different lines since devolution.⁴ It is too early to reach any sort of conclusion, and the policy differences Greer noted are unlikely yet to have had very marked effects that users of the NHS would notice. However, in an area like health (which is devolved in all three territories) institutional change has created, in effect, a laboratory for public policy that will enable the devolved administrations to follow very different paths in the future. How this works is likely to depend heavily on a variety of factors, including the political will of the administrations involved and the sorts of competences and policy instruments available to them. Such policy areas provide a testing-ground for how intergovernmental relations actually work. As the editor shows in chapter 7, it is easy to overlook the background to this in the structural characteristics of devolution — in particular its asymmetry and the nature of the functions retained by the UK Parliament and Government.

The policy area considered in this volume is rather different to health. If health is an area where conditions permit the maximum degree of policy divergence, social exclusion is very different. Fawcett's discussion of social policy in chapter 10 points out that during the 1980s and 1990s, one of the ideas underlying demands for devolution in Scotland related to promoting a vision of equity and social justice that was at odds with the policy and goals of the Thatcher and Major administrations. It is therefore something of a paradox that the functions of the Scottish Parliament and Executive in this area are very limited. Policy regarding many matters — notably social security and the welfare state, and employment matters — is reserved to the UK Government and Parliament. The range of policy instruments available to a Scottish Executive wanting to make a major impact on social inclusion is therefore restricted, even if a good deal is at stake politically — the Executive can use its influence in related areas such as housing, planning and local government and criminal justice to influence what happens, but otherwise has to rely on its ability to persuade the UK Government to adopt policies that are compatible with the Scottish ones. The Executive has had some successes, but these have derived from the fact that to a large degree Edinburgh and London want to do the same things, in largely similar ways. Differences are in process (the way policy is made), or how arrangements work on the ground.

One might characterise this as a common language spoken with different accents, rather than different tongues altogether. It is hard to avoid the conclusion that a large part of the reason is the nature of the powers available to the Scottish Parliament and Executive. Sandford's conclusions about the

⁴ Greer, S., 'Policy Divergence: Will It Change Something in Greenock?' and Simeon, R., 'Free Personal Care: Policy Divergence and Social Citizenship' in Hazell, R., (ed.) *The State of the Nations 2003: The Third Year of devolution in the United Kingdom* (Exeter: Imprint Academic, 2003).

Greater London Authority (GLA) in chapter 6 support this. The GLA, he finds, has been most effective where it has real powers, with funding to deliver them. It has made some impact with its 'strategic' functions, but this is limited in comparison to more substantive functions (or the expectations attached to the mere existence of a 'voice for London').

CONTINUING CONSTITUTIONAL DEBATES

Devolution has not put an end to constitutional debates, even if it has largely moved them out of Westminster. They continue in a number of diverse ways. The fact of devolution to Scotland or Wales is not part of them; as Curtice shows in chapter 9, while enthusiasm for the devolved institutions has declined following their establishment, and the general public regards them as having caused little improvement (if also no deterioration) in how well their territories are governed, there remains solid support for their existence. The new constitutional debates are about loose ends and unfinished business instead. One arises from the emergence of niggles in the settlement for Scotland, such as the size of the Scottish Parliament or the number of deputy presiding officers.⁵ Another has been the ongoing debate about the powers of the National Assembly for Wales. As Osmond points out in chapter 3, these started in the National Assembly itself and have moved to centre stage in the work of the Richard Commission, in the evidence given to it and the report it will produce (expected in February 2004, about when this book appears). A third has been debate about the appropriate institutional arrangements for devolution within Northern Ireland, which as Wilson and Wilford suggest in chapter 4 starts with questions about how appropriate the arrangements set out in the Good Friday Agreement were and the extent to which those reinforced rather than reduced communal divisions.

The last relates to England; whether there should be regional government for parts of England, what form that might take and what regions might be in line for it. Tomaney and Hetherington show in chapter 5 the extent to which this debate has been marked by ambivalence on the UK Government's part, characterised most clearly by the hurdle erected in the May 2002 White Paper that regional government could not be implemented without establishing single-tier local government in the regions affected (thus involving all the expense and complication of yet another local government reorganisation, less than ten years after the last one).⁶ Another hurdle placed in the way

⁵ Both are fixed by the Scotland Act 1998. The size of the Parliament is tied to the number of Scottish MPs at Westminster, which will be reduced following devolution to end the proportionate over-representation of Scotland that has lasted since Union in 1707. Neither is within the power of the Scottish Parliament to alter itself. See chapter 7 for further discussion.

⁶ Office of the Deputy Prime Minister and Department for Transport, Local Government and the Regions, *Your Region Your Choice*, Cm 5511 (London: The Stationery Office, 2002).

has been the limited functions which elected regional assemblies would have; all the signs are that these will be strategic in nature, with assemblies having only limited powers to act or do things for themselves. The model for regional governments is clearly the new Greater London Authority, but Sandford shows in chapter 6 the limited value of such ‘strategic’ powers. In some cases they can combine with policy issues looking for an institutional home to increase the impact of an institutionally-weak organisation, but this is far less effective than the ability to make and deliver a real policy. Sandford’s verdict about the overall success of the GLA is ambivalent; its entrepreneurial politicians and officers have been unable to overcome the obstacles of its limited legal powers and finance, and cumbersome internal arrangements.

The debate within the UK about how it should govern its territory is far from over, and can be expected to continue over the coming years if not decades. How that is likely to play out over the next few years is discussed by Hazell in chapter 11, where the issues of change for Wales and the English Regions are identified as the key areas of change and the many obstacles in their path considered in detail. If devolution has a political and institutional dynamic that has not reached its conclusion but which is going to be interrupted or constrained, major questions arise for the future of devolution.

THE CHALLENGES FOR POLITICIANS

Devolution creates major challenges for the political parties in Scotland and Wales. The Conservatives and the Liberal Democrats appear to have dealt with these best. Both have created structures that allow the Scottish and Welsh parties considerable autonomy. Both have managed to develop distinctive identities that are not tied so closely to the UK party that they are seen as local clones of the UK politicians. Both have been substantial beneficiaries of the voting systems used, allowing a substantial measure of proportional representation. Labour has faced the challenge in different ways — in Wales by taking a very different tack to the UK party, following an ‘old Labour’ approach with ‘clear red water’ to distinguish it from ‘new Labour’. In Scotland, under Jack McConnell Labour has cleaved more closely to the ‘new Labour’ approach. This has partly been an attempt to have a lower profile and have an Executive that does less, better, rather than to ape London Labour, but to judge from the 2003 election results the Welsh strategy has been more successful than the Scottish. While Labour in Wales held its share of the vote on a reduced turnout, won back constituency seats it had lost in 1999 and secured half of the Assembly seats as a result, in Scotland Labour lost votes and seats, and found opposition growing to its left in the form of the Scottish Socialist Party and the Greens. The challenge Labour

faces is how to respond when it has to deal with voters wanting more radical government than new Labour offers them, in territories where there are parties that challenge Labour from the left as well as the right.

The parties with the largest problems, however, are the nationalist parties. Neither Plaid Cymru nor the SNP have yet found a clear way of stating what they stand for after devolution — what the relationship is between the constitutional elements of their stance and their approach to more bread-and-butter policy matters. In addition, they have not succeeded in making it clear to the electorate what difference independence rather than devolution would mean. Internal debates continue within both parties, in Plaid Cymru's case resulting in a new leader with a commitment to 'independence' rather than merely 'full national status'. As Curtice shows in chapter 9, around a quarter of the Scottish electorate support independence, and a solid majority supports remaining in the UK with a Parliament (which may or may not have powers over taxes). In Wales, remaining in the UK with a parliament or assembly also commands support from a very solid majority of the electorate, while only 12 per cent of the electorate support independence.⁷ Those figures have remained largely constant since 1997 (with a small upward blip for Scottish independence in 1997, at the time of the referendum on devolution). Despite their support for it, devolution has not helped the nationalist parties at all. To make progress, they need to find a programme that will attract broader appeal than they have since 1999. One temptation may be to occupy space to the left of Labour, and seek to build support on the basis of a firm commitment to progressive social policies. Given the control of a number of key functions in this area at UK level, that creates a way to combine a popular political position with a reason for needing further, large-scale, constitutional change.

However, that approach contains a major hazard. This is the sort of approach taken in the recent past by the secessionist Parti Québécois (PQ) in Quebec. The PQ has long been committed to a progressive social programme. Through the 1980s and 1990s, its position was that Quebec needed to become independent in order to deliver that programme, which (it was said) was not possible within the framework of the federation; key areas of policy were beyond Quebec's control, in the hands of the Parliament and Government of Canada. The PQ needed to show that it could make a real difference to the lives of its electorate and so did its best, sometimes going beyond Provincial powers but not facing legal challenges from a prudent federal government. By the time the April 2003 Provincial elections came, the PQ lacked an answer to the question of why independence was needed; it had delivered its social programme, within the constraint of Provincial competences and the framework of a federal Canada. It could no longer

⁷ See Table 9.2, page 222.

sustain the argument that independence was necessary for Quebec to have its \$5-a-day childcare, the Quebec Pension Plan, good-quality healthcare or support for students at university. True, there was also a strong sense that it was running out of steam as a government, and that the people of Quebec were fed up with incessant debates about independence and secession. Change was in the air. But the lack of a credible intellectual argument for separation fatally undermined the PQ, not despite but because of its policy success.

For the SNP and Plaid Cymru the need to map out a new agenda is a real challenge. They need to steer between the Scylla of appealing to their own members with an appeal to independence as soon as possible and the Charybdis of diluting that commitment for other policies that turn them into a replica of other parties. That is a tough balancing act, but they need to find an answer to it if they are to disprove Labour's belief that devolution would kill nationalism dead. So far, for practical purposes Labour's belief seems to be winning.

QUESTIONS FOR THE FUTURE

In this context, devolution appears to be a reform half-completed. On one hand it is accepted widely, by elected politicians and political parties, the public and civil servants. It has very rapidly become part of the furniture of the British constitution. On the other, it still awaits its biggest challenges — large-scale divergence in policy, nationalist parties offering real alternatives to Labour, institutional change that is really disruptive to existing political or administrative arrangements. There is also the prospect, lying behind those factors, of a real political challenge, which will only occur when different parties are in office in UK Government and one or more of the devolved capitals. How devolution develops over the next few years will be intriguing to watch.