

TOWARDS A DEMOCRATISED SCOTTISH OFFICE?

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The publication of **Scotland in the Union: A Partnership for Good** in March 1993 (Scottish Office 1993b), the outcome of the 'taking stock' exercise launched after the 1992 election, marks a new twist in the debate on the government of Scotland. The title itself is a play upon the word 'good', but in fact the Conservative Party goes further than before in acknowledging that the democratic legitimacy of the United Kingdom government in Scotland was not secured once and for all, 'for good', in 1707 but needs to be retained by the continuing consent of the Scottish electorate. As John Major says in his introduction, 'no nation could be held irrevocably in the Union against its will' (ibid, 5). The White Paper also places great emphasis on the role of the Secretary of State for Scotland and the Scottish Office. They are to be seen, not just as components of the United Kingdom government, but as distinctive local institutions, winning legitimacy by the quality of their representative functions. This makes it opportune to consider how far the Scottish Office can bear the democratic burden placed on it in the absence of a devolved legislature, a question I will address in the context of what 'democratisation' means in a world which increasingly seems sceptical about representative institutions.

The 1993 White Paper takes further, and perhaps to its limit, the transfer of functions to the Secretary of State. This is part of a process going back to the Balfour Royal Commission on Scottish Affairs of 1954, which under the fluent pen of its Secretary George Pottinger made similar points ('...Scotland is a nation and voluntarily entered into union with England as a partner and not as a dependency' (Scottish Office 1954, 12)). The pickings in **Scotland in the Union** are rather thin: responsibility for the arts (from April 1994) is a

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useful and substantive power, but that for training policy is to be determined 'within the framework of overall strategic priorities' set from the Department of Employment (ch 7), and industrial innovation and technology programmes are only to be reviewed to determine the scope for transfer. The more interesting point now is the failure to concede oversight of all 'non-imperial' functions to the Secretary of State; the Scottish Office is not to become a Scottish government under a Scottish Prime Minister. Social security in particular has a United Kingdom uniformity, with a regional boundary of the Benefits Agency straddling the border (a regressive move compared to the situation when Balfour reported). The Scottish affairs of government are not confined to the Scottish Office, a fact recognised by the title of the House of Commons Select Committee.

As for so much of its history, the Scottish Office floats in a constitutional limbo, clearly the central institution of Scottish government but with an uneasy basis in the democratic theory of the British state. Few would disagree that it needs to be 'under' some means of control and accountability. In one sense, this control will be exercised in exactly the same way as any other government department, allowing all doubtful questions to be resolved by the same constitutional processes (parliamentary supremacy, ministerial accountability etc). But there is no doubt - and **Scotland in the Union** concedes as much - that some special channels need to be established at the Scottish level. These too may rely on legal and parliamentary institutions, but they can also embrace the variables of reputation, publicity and consultation - the texture of accessibility and comment that gives a government organisation a less disembodied image, and locates it in the interplay of politics. To analyse this, I will look at three dimensions of the Scottish Office: those that derive from the constitutional position of any civil service department; those that relate to a territorial department; and those specific to Scotland. Then I will discuss some of the present means of democratisation and the ways they might be developed. Finally, I will suggest some possibilities for future democratisation that bypass the rather sterile 'waiting for devolution' positions customarily deployed during discussions of these matters, and take account of the impending reorganisation of local government into 28 unitary authorities in 1996.

THE SCOTTISH OFFICE IN BRITISH GOVERNMENT

There are two secure constitutional points in Scottish government - the office of the Secretary of State, and the complex of 'British government in Scotland', the network of public departments and agencies, some operating

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only in Scotland, others the branches of organisations at the British level. The Scottish Office is a mechanism for the discharge of only certain functions. Although much the largest 'Scottish department' it is formally only one of a number which report to the Secretary of State, and its integrated nature as 'The Scottish Office' has only been proclaimed and advertised in recent years (Parry 1991, 1992).

Like all government departments, the Scottish Office is controlled through its minister. After a brief existence in the eighteenth century, the office of Scottish Secretary was revived in 1885 and has become one of the most stable in the Cabinet. It is no accident that its occupants have lacked flamboyance - all male, cautious in approach, nearly always a dependable ally of the Prime Minister. Early occupants were often peers and aristocrats, and recent ones have seemed ripe for ennoblement long before their Commons careers ended. Many have had notably respectful and courteous relationships with their officials, and might have been civil servants themselves. None has had a particularly high profile outside Scotland, even though both George Younger and Malcolm Rifkind have gone on to higher office as Defence Secretary. The tenure of Michael Forsyth as Scottish Office junior minister from 1987 to 1992 put into sharp relief the emollient style of nearly every other occupant of ministerial office in the department.

What this means is that the democratic location of the Scottish Office lies in a culture of reasonableness, of the management of pressure and the promotion of coalitions of consent. Ian Lang was an unexpected choice for John Major in 1990, but fits the role of unruffled grandee in a way worthy of his predecessors. In return, his officials offer a loyal ear for trouble and have tried to absorb the Conservative ideology of the 1980s that has never won the electoral consent in Scotland it has enjoyed in England, especially southern England.

The Whitehall Dimension

British government in Scotland rests on the Balfour principle that business should be discharged in Scotland and usually by Scots - but not necessarily in the Scottish Office: 'in the absence of convincing evidence to the contrary, the machinery of Government should be designed to dispose of Scottish business in Scotland' (Scottish Office 1954, 12). The big employers in Scottish central government are the departments dealing with individual cases - social security, employment, Inland Revenue, driver and vehicle testing and licensing - and Defence. In 1991, of the 46,823 non-industrial

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civil servants in Scotland, only 9,502 worked in the Scottish Office and another 3,675 in other departments reporting to the Secretary of State, the largest being the Scottish Courts Administration (Central Statistical Office 1992, table 9.4). In terms of senior posts, the Scottish Office is much more dominant. But **Scotland in the Union** rather misses the point when it says that it wishes to 'explore ways of improving the dialogue between The Scottish Office and the public it exists to serve' through enquiry points and the like (Scottish Office 1993b, 34); if such a dialogue is being sought, it is probably with the face-to-face service- providers of government, not the policy-makers serving the Secretary of State.

This leaves the Scottish Office with a dilemma: is it to be just one more department or Scotland's representative ministry ? Since the Gilmour report of 1937 the choice has been decisively for the latter (Parry 1987, 114). **Scotland in the Union** is quite happy to say that

the Secretary of State is able both to initiate policy in accordance with Scotland's own priorities (and often export that policy to other parts of the United Kingdom) and also refine United-Kingdom-wide policy to take account of particular Scottish circumstances. The Government are keen to encourage a distinctively Scottish approach to policy-making where that is in the interests of Scotland and renewed emphasis will be placed on identifying Scottish solutions for Scottish problems (Scottish Office 1993b, 19).

The Secretary of State's role as 'Scotland's Minister', with a right to speak for Scotland in the fields of other ministerial responsibilities, has been asserted since at least the 1930s, but it has the limitations of one based on advocacy and persuasion rather than formal powers.

The Territorial Department Dimension

Part of the problem with the Scottish Office is shared with the Welsh and Northern Ireland Offices - the need to relate to local elites, manage patronage, attract international economic investment, and orchestrate other public agencies. The problem is that by running these consultative networks in the absence of a local legislature there is a rootlessness; having no direct democratic legitimacy itself, the department shapes the representative channels that do exist into forms acceptable to the 'imperial' ideology. Time and again in the 1980s and 1990s adaptations of policy have been required in

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fields where local opinion would probably have rejected the policies entirely given the chance.

A related problem is that of running government at arm's length in a small polity. It is a curiosity of British government that the non-English nations, with their richness of tradition and culture, are very small in population and economic terms (17 per cent of the population, 15 per cent of economic activity). They require a greater number of government institutions relative to population than does England, which causes problems of control and recruitment (as revealed by the Public Accounts Committee investigation in 1992-3 of questionable financial management at the Welsh Development Agency). 317 of the 1,412 non-departmental Public Bodies existing in April 1992 were sponsored by the three territorial departments, whose Secretaries of State control many thousands of appointments: 3,973 in Scotland, 2,179 in Northern Ireland, 1,269 in Wales (Cabinet Office 1993, iv). Such appointments may be seen as a democratic instrument to bring a local elite into government and widen the range of advice open to the Secretary of State. More realistically, they recruit political sympathisers and so limit rather than promote democratisation.

The territorial departments are also constrained as organisations by the uniformity of the civil service. In terms of management, they might as well be located fully in Whitehall: pay, structures and especially recruitment are centralised by the Treasury, the Office of Public Service and Science, and the Civil Service Commission. Whitehall initiatives have been implemented, though not with vast shows of enthusiasm, notably Next Steps agencies (which since 1988 have organised most of the Civil Service into semi-autonomous agencies under accountable chief executives) and market-testing (the voluntary and selective civil service version of compulsory competitive tendering). With new means of communication abolishing distance for many tasks, the importance of location is diminished. This is a curious throwback to the position in the 1930s, when the Scottish Office was a London-based department and often recruited English staff.

Expenditure control of the territorial departments has been dominated by a tension between two principles: that Treasury control should not be compromised by distance, but that there should be some devolution of financial responsibility to the Secretaries of State. Much has been written about the 'Barnett formula' of 1978, which allowed limited switching within the expenditure blocks of the Secretaries of State for Scotland and Wales (Deakin and Parry 1993). Two points are most relevant for this discussion of

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democratisation. The first is that the system was designed with devolution in mind to avoid, not promote, discussion about just how much money was needed or deserved. The second is that the spending matters of concern to citizens - benefits and charges - are excluded from discretion, and so the effect of any change of priorities by the Secretary of State is for practical purposes invisible. A revival, with fuller documentation, of the annual evidence session on public expenditure matters given to the Select Committee on Scottish Affairs until 1987 would be welcome in opening up expenditure matters at the Scottish level.

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The ability of the Scottish Office to act as the Scottish democratic focus is therefore constrained by its position in British government. What now needs to be assessed is the strength of its Scottish base. Implicit in most discussion about the Scottish Office is that it serves as one of the guardians of Scottish civil society; as David McCrone puts it, 'the expression of a complex network of social organisations' (1992, 23). In the nineteenth century, this role was played by the law and the church, which had substantial autonomy in areas central to people's lives. Even then, the integrity of this guardianship was compromised by exchanges between the educational systems at an elite level. Central government boards and local authorities had responsibilities in their own sphere but could not serve an all-Scotland role. By the end of the century, the distinctiveness and vigour of Scottish educational and theological debate was declining. In its place, new priorities for government action were developing with economic and social change. New democratic instruments - local government and the Scottish Grand Committee of the House of Commons - also emerged, and the natural progression would have been to a local democratic legislature. When this route became blocked, a disproportionate weight was placed on the Scottish Office and the Secretary of State as the protectors within the Union of the Scottish interest. This was the basis of the integration of the Office in Edinburgh in 1939, and of the 'Council of State' of surviving Scottish Secretaries during the Second World War.

Far more than in Wales, the Scottish Office has had to manage the problem (in the words of the Balfour Commission) of 'needless English thoughtlessness and undue Scottish susceptibilities' (Scottish Office 1954, 13). The result was the principle that runs through **Scotland in the Union**: defence of the political Union need not in any way diminish the protection of non-political national characteristics nor require the promotion of uniformity;

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the White Paper argues that 'it should be a mark of Scotland's self-confidence as a nation that she shares her sovereignty with the other parts of the United Kingdom' (38). This is a curious argument (is it the self-confident nations that wish to share their sovereignty?), but it is ground the Conservative Party has been trying to claim since the 1950s, and despite diminishing political success it has been promoted under the Heath, Thatcher and Major governments, with John Major taking a notable personal interest in it. Partly it is used to conceal the fact that **Scotland in the Union** is reactive to nationalist pressures, a clear theme in the 1930s (Parry 1987, 113), the 1950s with the National Covenant prompting the Balfour Commission, and the 1970s with the SNP surge eliciting Labour's reluctant conversion to devolution in 1974. As political nationalism is resisted, the nationalistic identity of the Scottish Office is progressively reinforced, but it is not a role that a civil service bureaucracy can bear comfortably.

The perceptions of Scottish Office officials themselves about their nationhood are difficult to measure. In the 1970s, stoutly pro-devolution officials - Kerr Fraser and Jim Ross - were put in charge of the Scottish Office end of the Labour government's proposals to steady their more nervous colleagues. Both have gone on to post-retirement eminence as respectively Principal of Glasgow University and pressure group activist; and each embodies the sense of Scottish nationhood found in most parts of the Scottish Office. The Management Team is now a firmly home-grown group: Sir Russell Hillhouse, Hamish Hamill, Peter Mackay, Kenneth MacKenzie, Harold Mills and Gerald Wilson are literally or metaphorically 'pillars of the Kirk'. With the departure of Graham Hart to be permanent secretary of the Department of Health in 1992, what had at times seem to be the 'statutory English post' on the Management Team was not filled. Perhaps this is an accident, but it may be surmised that the domestication of the Scottish Office has now been conceded by the Treasury and the Cabinet Office - unlike the Welsh Office under its very English new Secretary of State, John Redwood (already attacking the Welsh 'quangocracy'), and its new Permanent Secretary, Michael Scholar, imported from the Treasury. Whether having quintessentially Scottish personalities in high official positions amounts to any real kind of democratisation is open to dispute, but it cannot hinder the promotion of Scottish interests within existing constitutional structures. The Whitehall and territorial department dimensions bear more heavily when seen from inside than from outside government, but the clear Scottish identity of senior officials should not be underestimated and has potential democratic force.

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MEANS OF DEMOCRATISATION

I now turn to the possible ways that democratisation might be improved in the government's own terms - that is, without legislative devolution and radical changes in the machinery of government. Undoubtedly, serious tensions have developed because of the Conservative Party's weakness in Scotland - since 1987, it has held 9 to 11 of the 72 Scottish seats in the House of Commons, whose working relies on the principle that its committees are a microcosm of the whole house. Even without this weakness, though, it is unlikely that the government's 'taking stock' proposals are a complete answer. We can analyse possible means of democratisation under four headings, formal and problem-solving parliamentary proceedings, consultation networks, and the media.

Formal parliamentary channels

A central principle in **Scotland in the Union** is that the Scottish Grand Committee (all 72 MPs) is to become on occasion a mini-Westminster with a Question Time (involving the questioning of House of Lords ministers as well as MPs), debates (including debates on second reading of Scottish bills) and adjournment debates on constituency issues. The Grand Committee dates from 1907 and has become the symbol of a rather jealous guardianship of separate Scottish business in the House, even on the part of anti-devolution MPs (Midwinter, Keating and Mitchell 1991, 64-70). It has become a more Scottish body under the Conservatives, since additional English members were dropped in 1980 and the Committee started to meet in Edinburgh on occasion from 1982, in the debating chamber intended for the Scottish Assembly. The Committee can take the second reading and report stage of Scottish bills (subject to formal ratification on the floor of the House) and it conducts 6 days of general debate and 6 debates on estimates each year.

The problem with the government's proposals is that they try to breathe life into procedures which are largely available at present but have not proved useful. Since the Committee is unrepresentative of the House, it cannot be allowed to take votes. The two Scottish Standing Committees, which do vote on committee stage amendments, are topped up with English members and will continue to be even with their new power to take oral evidence on bills. The power of second reading debate has existed since 1948 but has been little used, because the Opposition usually wish to dramatise their objections to controversial bills on the floor of the House. Scottish question time is a problem at the moment, being unusually ritualistic even by Commons

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standards as the opposition jeer at the thin ranks on the Conservative benches, filled out by English 'intruders'. A Grand Committee version would deprive the Opposition of this theatre without releasing any more information.

Above all, Scottish MPs have shown no desire to absent themselves from the main action at Westminster. The Edinburgh Grand Committee debates have been disappointing, and even inconvenient to many members forced to change their familiar return-to-London travel plans on a Monday. The White Paper promises that meetings may be held elsewhere in Scotland, but it must be doubtful that any higher public interest could be kindled. Demarcation of Scottish business soon runs into the rights of all members to raise business about any part of the United Kingdom and to do so on the floor of the House, where alone full reporting and publicity is guaranteed. If we are in search of democratisation we will have to look beyond formal parliamentary procedures.

Problem-solving parliamentary channels

In terms of 'getting at' departments and civil servants, the departmental select committees introduced in 1979 have proved to be a major democratic instrument. Until then, select committees operated only in certain fields - including Scottish affairs from 1968 to 1972. The latter-day Scottish Select Committee has had a melancholy history. It has always had a Labour chairman, but the ablest MPs have preferred a front-bench position, notably its one-time chair Donald Dewar; and like all Select Committees it has to have a majority of government members. After 1987 this was a major problem as there were so few Scottish Conservative backbenchers, two of whom (Sir Nicholas Fairbairn and Bill Walker) were mavericks and unwilling to serve. With an opposition happier to advertise this fact than to insist on a Committee in some form, it lapsed until 1992. It is now slightly smaller (11 members against 13) and with two English alongside four Scottish Conservatives.

Table 1
Select Committee on Scottish Affairs investigations 1979-87

1979/80	Inward Investment
1980/81	Dispersal of Civil Service Jobs to Scotland
1981/82	Youth Unemployment and Training
1981/82	Rural road passenger transport and ferries
1982/83	Prestwick Airport
1982/83	Steel Industry in Scotland
1983/84	Dampness in Housing
1983/84	Scott Lithgow: economic and social consequences of closure
1984/85	Highlands and Islands Development Board
1984/85	Impact of airport privatisation
1985/86	Proposed closure of BSC Gartcosh
1985/86	Fisheries Protection
1986/87	Hospital provision

Source: HMSO Annual Index

What is interesting is that the Committee has exploited its remit on Scottish affairs and not just the Scottish Office to focus on wider economic matters which would not have been devolved under the 1978 proposals (table 1). Of the major investigations, only Dampness in Housing and Hospital Provision are matters which would have been removed from Westminster. Partly this is a matter of the general Westminster orientation of Committee members, but partly it may reflect a lack of interest in lower-level administrative detail in Scottish Office fields. This might have been different had the Committee been granted its request to be able to set up sub-committees.

Consistently better at opening up the Scottish Office has been the Public Accounts Committee, the nineteenth-century creation serviced by the Comptroller and Auditor General. By tradition, all the secretaries of Scottish departments have been accounting officers, and quite a few of them are summoned. If we look at the three occasions between October 1992 and

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March 1993 when Scottish Office officials were summoned to the committee room, two of them were to the PAC (table 2).

Table 2
Select committee evidence sessions,
Scottish office official, October 1992-March 1993

21 October 1992	Select Committee on Scottish Affairs <i>The Future of Scotland's Transport Links with Europe</i> Alastair Findlay, Under-Secretary and John Dawson, Chief Roads Engineer, Industry Department for Scotland
9 November 1992	Public Accounts Committee <i>NHS Accident and Emergency Departments in Scotland</i> Don Cruickshank, Chief Executive, NHS Management Executive and others
17 February 1993	Public Accounts Committee <i>The Sale of Scottish Power and Hydro-Electric</i> Peter Mackay, Secretary, Industry Department for Scotland and others

Source: House of Commons Papers 217, 378, 509 1992/93

While the Scottish Affairs Committee looked at a transport issue - a typical topic which produced some uninspiring probing of constituency complaints (including, as recorded by the Hansard writer, the state of the 'Bells Hill' bypass) - the PAC elicited useful detail on the NHS and the conduct of privatisations. Scrutiny by parliamentary committees has come to be seen as a principal means of the democratisation of bureaucracies, because it substitutes a problem-orientated approach for one based on political conflict that allows problems not to be taken seriously. At present, the Scottish Office is escaping lightly. Probably the best approach would be to have standing sub-committees of the Scottish Affairs Select Committee, perhaps linked to one or other of the Scottish Standing Committees. A Conservative minority might have to be conceded by the government on these sub-committees. Inquiries might take three forms: major inquiries involving much expert

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evidence and special advisers, and producing major reports; rapid responses to the issues of the day, based on oral evidence from ministers and officials; and regular reviews of matters like public expenditure and appointments to public bodies.

Consultative network channels

It is possible to compensate to some extent for the absence of a devolved legislature by the use of appointed executive and advisory bodies, but Scottish experience shows the limitations of this approach. Governments naturally turn to safe appointees to ensure compliant organisations and reward their supporters; but they usually feel impelled not to take this principle too far in order to retain balance and competence. Since 1979 the partisan nature of appointments has become a more pointed issue. Conservative governments have often been accused of going beyond the norm in packing public bodies with their friends, especially in Scotland. Published criteria (especially in the National Health Service) speak of personal rather than representative qualities, and I would suggest that rather than being overtly political the government is seeking people with a businesslike mentality which is not incompatible with social democracy but is antithetical to the collectivist culture which has been dominant in Scotland in recent years.

The record of the Conservatives on public appointments is not as bad as their opponents make out. The gender balance is better than the civil service average, 36 per cent being female against 26 per cent, with the Welsh Office as low as 18 per cent; but were childrens' panel appointments to be excluded the female level would fall to 19 per cent (Cabinet Office 1993, p. vi). There are only 5 ethnic minority appointments out of 3,973 (ibid, p. vii). **Scotland in the Union** states that 'the Secretary of State is committed to selecting names from more diverse backgrounds and experience and to appointing individuals who reflect local interests. He is now taking active steps to consult more widely about public appointments, and this will continue' (Scottish Office 1993b, 36). There is some evidence of this from the latest information dug out by the assiduous Henry McLeish MP: the Board of Scottish Enterprise looks quite well-balanced, with academic, trade union and local authority representation. Health boards, on the other hand, have moved in the opposite direction: the introduction of executive directors has reduced the number of non-executives to six, with a concentration of company directors and retirees. Trades union representation is now virtually absent (House of Commons Hansard 1993).

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Recent Conservative policies have increased the number of appointments to be made. Those chairing the 17 National Health Service Trusts earn £19,285 and the five directors £5,000. A similar pattern of occupation is evident to Health Boards - solicitor, farmer, housewife, retired nurse (ibid). A couple of 'Conservative' names stand out in their former candidates Aileen Bates and Marcus Humphrey, but a bigger issue is the problem of recruiting so many people with the necessary competence and local connection. With more than 30 more Trusts due to become operative in April 1994, the appointments overload on the Scottish Office becomes more pressing, and the democratic virtue of all this patronage from the centre more dubious.

One answer is to remove organisations from the public sector altogether so that the Secretary of State is no longer responsible for their board members. This has been done for Scottish Nuclear, now a public limited company, and for the central institutions that have become universities. Local enterprise companies, popularly thought to be a new source of patronage, are similarly 'private', relying on the supervision of Scottish Enterprise and Highlands and Islands Enterprise to ensure the quality of their senior staff and non-executive directors. The result is to cut publicly-funded organisations adrift from even the imperfect democratic control of the Scottish Office, and render even more questionable the use of consultative networks as a means of democratisation.

Media channels

The symbiotic relationship between politics and the media has now reached the point where the quality of coverage of political issues is a major aspect of the democratic scrutiny of them. From the media's point of view, this centres on the concept of the 'story' (an amalgam of what is important and what is eye-catching, usually fusing the political and the personal). Here we can identify a weakness of the present Scottish arrangements. With no local parliament, the action shifts to Westminster, where stories centre on the immediate preoccupations of MPs as the small pool of Scottish ministers and Scottish lobby correspondents trade information. A devolved legislature in Scotland would provide a focus for media attention on Scottish government, but it is not necessarily the determining factor in the improvement of the scrutiny of bureaucratic processes.

The Scottish Office is discussed in print, but usually at a less detailed or analytical level than in, for instance, writing on the Treasury. James Grassie's column in the Scotsman has been useful but respectful, as was Peter Jones's

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chapter on the Scottish Office in Linklater and Denniston's **Anatomy of Scotland** (1992) (inspiring thoughts of how lucky we are to have such splendid chaps serving our rulers). Television in Scotland has not found the internal workings of the Scottish Office newsworthy, and interviews of officials have been rare. Traditionally they have been literally faceless to the public. Slight signs of change are evident: the 1993 edition of the public expenditure plans **Serving Scotland's Needs** has organisation charts giving first names rather than initials, a symbolic breach (Scottish Office 1993a). The chief executives of the 7 Next Steps Agencies will take on a higher profile: the best-known of them is Eddie Frizzell of the Scottish Prison Service who is expected to answer for prison troubles; his predecessor Peter McKinlay became perhaps the first media-attuned Scottish Office official and is now chief executive of Scottish Homes. The NHS Management Executive also had a high profile under its first chief executive, Don Cruickshank (now the OFTEL regulator), but his successor Geoffrey Scaife has a more conventional civil service background. Many Scottish Office officials have the personality to flourish in an atmosphere of fuller public discussion of their activities, and whatever the constitutional framework this is one of the most effective means of democratisation available.

IMPROVING DEMOCRATISATION

I have suggested that there are deficiencies in the democratic scrutiny of the government of Scotland even if the non-devolutionary framework set by the present government is accepted. This has been illustrated by the recent handling of local government reorganisation. A government political decision sought legitimacy by claiming to rely on the best advice and to interpret the popular will as revealed by 'consultation exercises' (which in fact were scarcely more than straw polls). The consultation document **Shaping the New Councils** (Scottish Office 1992) was a fairly careful statement of the issues, though based on the dubious premise that there is a consensus in favour of single-tier authorities. To be offered maps of four possible structures (15, 24, 35 and 51 units) was unusually frank for the Scottish Office. The problem was that the eventual 28-unit structure - to be included in legislation without further scrutiny - was not mentioned. The kindness of this structure to the Conservative Party compared to the 24-unit option of October is clear. In particular, Central, Lothian and Borders are divided differently to give, on 1992 voting, 2 Conservative councils out of 6 as opposed to 0 out of 5. Ayrshire and Renfrewshire are divided unequally to give one likely Conservative council in each. East Renfrewshire is defined

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bizarrely by reference to a parliamentary constituency based on pre-1975 councils which ceased to exist in 1983.

Given that local affinity will be a criterion for drawing authority boundaries, the solidarity of a Conservative area in opposition to its Labour hinterland might be seen as a legitimate principle to be recognised. What is of concern here is the democratic logic with which a 'technocratic' principle in October becomes a 'political' one in July. Analysis by the Unit for the Study of Government in Scotland of the 3,300 responses to the consultation exercise showed that there was no consensus in favour of a particular structure (only 15 per cent expressed a preference) and that most responses were concerned with local issues (Scottish Local Government, June 1993). This gives some support to the Government's claim that 'what does emerge from the responses is that a uniform structure throughout Scotland is neither possible nor appropriate. Local solutions are required to meet local circumstances and the Government have reached their decisions on that basis' (Scottish Office Environment Department 1993, 1). Individual boundary decisions are not justified: the lack of uniformity is attributed to 'the diverse settlement pattern in Scotland', with the four cities 'counterbalanced by neighbouring and surrounding authorities which provide a degree of symmetry and will facilitate the planning of infrastructure and other services around the cities'. This is indeed true in terms of *political* settlement patterns and *political* symmetry, but Scottish Office ministers would scarcely be prepared to acknowledge the fact. Few have been happy with the mixture of Scottish Office orthodoxy on minimum authority size (with some brave decisions in favour of large authorities in rural areas) and the political interests of the governing party which cannot be expected to be suppressed.

Local government reorganisation shows how difficult it is to try to distinguish the democratisation of the Scottish Office from that of Scotland itself. The replacement of large regions by 28 unitary authorities will make the problem more urgent by increasing the power of central government relative to local. We cannot expect the Scottish Office to act autonomously from its ministers, because it has sought consistently to service its political chiefs and not assert a strong view of its own, in contrast to the Treasury or Home Office. It can no longer be accused of not being Scottish in its recruitment and composition, even if it lacks formal autonomy in these areas. Its democratic credentials in the limited sphere it occupies could stand fuller scrutiny in the simple form of a 'Whitehall' level of media and select committee exposure. Exchanges of personnel with other public sector

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organisations are also a possibility, and would be particularly valuable around the time of local government reorganisation.

But the dilemma remains: can effective democracy be secured this side of devolution, with its conventional apparatus of parliamentarians, lengthy proceedings, committees questioning civil servants, and air time to fill? Behind this approach lies a whole tradition of liberal and pluralist political thought, classically articulated by Tocqueville and Mill in the nineteenth century, which emphasises the importance of representative and open government. In this view, however skilled a technocratic governing class might be, it is no substitute for an acknowledged public sphere of political deliberation. Democratisation is best promoted by lively, local parliamentary procedures and an active exchange of views on policy.

How do the present and likely future forms of Scottish government relate to this tradition? Conventional wisdom would insist that demand will remain strong for a Scottish Parliament as a democratic prerequisite for an effective public sphere (in varying degrees of relationship with the rest of the United Kingdom). But we have to consider seriously whether the failure of devolution in the 1970s was related to a lack of attraction for the generation of parliamentary activity. Legislatures come at a direct cost, however modest, and high and continuing public interest cannot be guaranteed. Although a Scottish Parliament would be a serious political forum, shorn of the rather comical Ruritanian trappings of the former Northern Ireland Parliament, it might find it difficult to sustain the level of coverage now accorded to Westminster. From a 'democratic deficit' of an unaccountable bureaucracy, we might soon have a 'democratic surplus' of ignored parliamentary proceedings and unread reports (and would there be an HMSO to print them?)

We may have to move away from the two positions characteristic of mid-twentieth century debate on Scottish government: either that only a Scottish Parliament is the answer (because only parliaments promote democratic political debate) or that the Scottish Office and its Secretary of State are the guarantors of Scotland's national interests (because they can be trusted to exploit Scotland's leverage within the United Kingdom). The first puts a bigger trust in politicians than the modern world seems prepared to accord them; even in 1979, arguments about the cost and patronage of the Scottish Assembly were potent beyond their real substance. The second is unsatisfactory because it suppresses Scottish policy preferences and has to

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manoeuvre around bureaucratic rules set in Whitehall and a political majority sustained at Westminster.

One response, from the new right, is to seek to replace the public sphere altogether by a multitude of individual transactions. This approach seems to have influenced Scottish Office ministers. **Scotland in the Union** reaches heights of rhetoric when it speaks of empowerment, of 'an increasing number of clearly defined rights for each Scottish citizen, each meeting important and identifiable needs. That truly will put power in the hands of the Scottish citizen' (Scottish Office 1993b, 37) - presumably in contrast to working through a boring old-fashioned local authority or health board. Conservatives need to think more about what this means in practice and how it squares with their proposition that 'Government in Scotland must be more visible because if government is invisible the benefits of the Union may become so too' (ibid, 39).

A better response would be the more modest one of making the Scottish Office a leader rather than a laggard in the openness and liveliness of policy debate in British government. Single-tier local government and NHS Trusts will load responsibility on to the centre, and a strict construction of ministerial responsibility and keeping the government out of trouble might cause even greater strains than at present. The remedy is a cumulative one: ministers making a more diverse range of public appointments, officials chancing their arm in media and academic debate, co-operation and exchanges within the public sector (at the moment, for instance, the Scottish Office is employing management consultants to advise them on the market-testing in which local authorities have built up expertise for years). MPs have a particular responsibility to maximise the quality of their scrutiny, in particular through well-advised Select Committees. Scottish journalists will need to write more of the 'public policy' stories found in the London press. The political situation in Scotland may lack the stability and consensus to make this possible, but it does represent a distinctive orientation on the process of government to set alongside the debate between conservatism and nationalism

Officials in the Scottish Office will probably say to all this: openness, of course, but what exactly do you mean? What must we do that we aren't doing already? Ministers are in charge, you know, and we must serve them and be sure not to embarrass them. That is the problem with democratisation. Service of the constitutional protocols might seem sufficient, but in fact democracy is an organic, qualitative matter, a spirit rather than an artefact.

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Constitutional strain about Scotland's place in the world seems inevitable for many years ahead, even under 'independence in Europe'. 'Waiting for devolution' no longer seems sufficient, and the approach of **Scotland in the Union** is at heart cosmetic. What will go on, come what may, is the public administration apparatus, focused on the Scottish Office, and it is here that we need to look for better decisions, better taken and better scrutinised.

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September 1993