1. what are the issues?

The constitutional framework within which British socialists think and work is changing much faster than is generally appreciated. At a time when Britain is facing unprecedented inflation and a retreat from the post-war commitment to full employment, the very political and economic existence of the United Kingdom is under serious challenge. The problems of Northern Ireland remain as intractable as ever and the possibility of an independent Ulster cannot be discounted. The Scottish and Welsh nationalists have established themselves as parliamentary parties and as electoral and propagandist machines.

The political discussion about "devolution" shows that British socialists have failed to establish a coherent view about or attitude towards pressures from Scotland and Wales for national assemblies. This lack of vision encourages decisions on crucial constitutional issues to be taken on the basis of what is at that moment is perceived to be short-term political expediency without thinking through their long-term significance. The Labour Government's thoroughly inept handling of the whole question reinforces this viewpoint. The publication of the June 1974 White Paper merely reiterated the schemes proposed in Kilbrandon and showed how few answers Kilbrandon had produced. The statement of the Scottish Executive of the Labour Party in response to that White Paper dismissed all the schemes as "constitutional tinkering" which were "not relevant to the needs and aspirations of the people of Scotland." This was adopted by 6 votes to 5, with only 11 of the 29 members present. The subsequent Special Conference of the Scottish Council of the Labour Party overturned the Executive statement. The hasty and badly prepared September 1974 White Paper published by the Labour Government was more of an election statement than anything else. The persistent delays in publishing the long promised Autumn 1975 White Paper together with rumours of disension in the Cabinet and the announcement that the Devolution Bill proper would be delayed until 1977, influenced the climate in which the White Paper would finally be received.

This pamphlet is intended to establish a coherent view about what is happening so that the Labour movement can anticipate some of the key decisions which are on the horizon, and not just respond to events when they arise. The question it seeks to answer is what attitude socialists (whether English, Scottish or Welsh) should take to devolution. This is not to say that everyone will come to the same conclusion, but it should be possible to establish some common ground of facts and analysis to which individuals can apply their own value judgements. As the Scottish and Welsh Assemblies will be set up by legislation which will soon be debated, this is an urgent task. The Labour Party will probably play an important role in them when they are established. The critical problem is whether these assemblies can be enduring bodies or whether they will merely be a prelude to independence. British socialists have traditionally supported claims for independence and self-determination. How uncomfortable it is when the demand for independence is from one's own doorstep!

The United Kingdom is drifting towards a federal type system of government without much thought or analysis. The voluminous Kilbrandon Reports were singularly unhelpful (see chapter three). The distinction between nationalism and devolution has not been clarified and the meaning of the word "devolution" itself has been left unclear. A glasification has been made between "remoteness" from government and physical distances. This view implies that changing the site of government decisions will lead to major improvements in decisions. The role of economic forces has been paid lip-service—but then ignored when making policy recommendations. There is clearly a danger that so much will be expected of the assemblies that they could never fulfil these expectations. In the following chapters the key features of the assemblies and the problems which must be resolved are discussed. The final chapter tries to plot out a suggested strategy for the Labour Party, aiming to clarify the dangers and opportunities ahead.
2. the nature of the discontents

It is essential that the underlying reasons behind the current waves of discontent in the United Kingdom are properly understood. The discontents will prescribe the treatment; faulty diagnosis will make inappropriate remedies likely to be the ones adopted. The next chapter will have some harsh comments to make about the proposals made in the KIlbrandon Reports and the sheer diversity of solutions put forward by them. It will suggest that their analysis of the reasons for the discontent and disillusionment is also inadequate. Large sections of the Majority Report give historical material on the constitutional and administrative history of the United Kingdom without demonstrating much insight into current problems. One glaring deficiency of this is the failure to distinguish between the separate but interwoven issues of "devolution" and "nationalism." This failure plays an important role in explaining the confusion about whether Scotland and Wales can justifiably be treated differently from the regions of England. The way in which the Reports discuss separatism and federalism as irrelevant or lacking support reinforces the view that the Commission failed to understand the issues involved: "The necessary political will for separation does not exist: the vast majority of people do not want it (Royal Commission on the Constitution, volume I, emend 5460 p.473), "The United Kingdom is not an appropriate place to introduce federalism and the present is not an appropriate time" (ibid, p.474).

These quotations suggest that either their analysis was wrong or that they failed to work out what devolution meant or that the political climate has changed since the deliberations of the Commission, or some combination of these possibilities. The Welsh and Scottish Nationalist Parties have established a Parliamentary presence in Westminster, but the outcome of the 1974 General Elections, has given them a strength out of all proportion to their numbers. The electoral danger posed to the Labour Party's traditional hegemony in Scotland and Wales led to a hasty and ill-prepared commitment to implement a version of Kilbrandon Scheme A in Scotland and a hybrid of Schemes B and C in Wales (see appendix I). In the present recession and inevitable unpopularity for the Labour Government, the Nationalist parties can look forward to a bright electoral future.

But why have forces been generated which threaten the future existence of the United Kingdom? It is instructive to consider these under certain headings: economic, political, cultural and nationalist.

Economic causes

The postwar record of the British economy has been disastrous compared with that of our advanced industrial competitors. The record of low growth, persistent balance of payments crises, stop-go and low investment has made the British economy one of the most vulnerable in Europe. In this atmosphere of persistent crises, there has been a failure to meet the expectations of higher real living standards. In a low growth economy there have been conflicts between the growth of public and private consumption which have probably contributed to the acceleration of claims for higher money wages. Demand management has a spatial dimension and deflationary measures hit hardest those areas which are most vulnerable. Scotland, Wales and the north of England. There are major disparities in social and economic conditions both between regions and within regions which discriminatory tax and incentive policies have failed to eliminate.

The table opposite sets out some very important economic statistics about the countries of the United Kingdom and about the standard English Economic Planning Regions. The information it summarises is useful in clarifying the economic and social inequalities which do exist within the United Kingdom and in also refuting the wilder allegations of neglect made by the Nationalist parties. The South East of England dominates the United Kingdom, both in terms of population size and economic prosperity; it is even more dominant if England is considered separately. The sheer size of...
the South East (now at factor cost of £23,590 in 1973) and its high per capita GDP (£1,305) mean that economic events there are of crucial importance to other regions. Regional policy has attempted to restrain developments in the South East and Midlands and redistribute economic advance to the economically and socially disadvantaged regions. Regional policy has been an important factor in promoting economic development in Scotland and Wales and the North of England. On the one hand, investment grants and regional employment premiums are used to provide incentives to firms to invest in the development areas. On the other, industrial development certificates are refused to firms wishing to expand in the prosperous areas. Although Scotland (£1,026) has a lower per capita GDP than England (£1,150), its GDP is better than the whole of England in the West Midlands and the North of England. It must be remembered that although Scotland is treated as a single region in economic statistics, it contains disparities within it as acute as those within England. The North of England as a whole is the least developed region of the United Kingdom (see table on page 3). Wales (per capita GDP of £954) and Northern Ireland (£788) do not have the same statistics with other parts of the United Kingdom.

The text also provides the most complete and recent figures available on the geographical allocation of public expenditure. Identifiable public expenditure in Northern Ireland (£756) followed by Scotland (£591) and Wales (£601) with England the lowest at £2582. On demographic, economic and social factors, one might expect Northern Ireland to have the highest, and England to have the lowest per capita public expenditure, but the size of the difference in public expenditure per head between Scotland and Wales is surprising. It could reflect the success of the Secretary of State for Scotland (a longer standing post than that of the Secretary of State for Wales) at lobbying for Scotland in the Cabinet. Comparable figures are not available for public expenditure per head in the English regions (Hansard, 15 December 1975, column 831). There are also no statistics available on tax revenues either by country or region. This inaccruable omission hampers informed debate. It makes it difficult to relate unsubstantiated claims and it is necessary to resort to very old data or those compiled with inadequate access to the data and embodying fairly arbitrary assumptions.

The absolute unemployment level, with its rapidly rising trend, is an indictment of the capitalist economic system under which we live and of our professed ability to manage it. It causes human misery and represents an appalling waste of economic resources on a scale which emphasizes the irrelevance of the national obsession with the days lost from strikes and "sickening" on the welfare state. Although Scotland has not suffered as badly from the current recession as it traditionally has, or as badly as other regions, 5.9 per cent unemployment is a horrifying level even as the most prosperous region, the South East, has a rate of 3.4. The effect of such national levels is devastating. The Labour movement should voice its anger that this has taken place under a Labour Government through Conservative policies would unquestionably make the figures much worse. What the Nationalists parties should not be allowed to distort is the fact that unemployment is a product of our economic system and affects all the countries. It is not a product of Government from Westminster. The vigorous regional policies initiated by and most strongly pursued under Labour Governments have helped to protect Scotland from the blast.

The regional inequalities within the United Kingdom are issues which must be tackled. What must not be forgotten, however, are the immense disparities within Scotland and Wales. The adjacent table shows the relative level of unemployment in the new local authority areas. It also includes local authority population sizes as the percent-
The overall failure of the United Kingdom economy to escape from persistent crises or to match the economic performance of the rest of Western Europe has played an important role in creating a climate in which the latent nationalism of the smaller countries could surface and present a vision of a better future. The discovery of oil in the North Sea has changed the economic attractiveness of a separate Scottish state. Although the separate Scottish Budget produced by the Treasury for the year 1967/8 was challenged by the Scottish National Party and its methodology criticised by some academics, reports noted that the existing constitutional arrangements were then beneficial to Scotland.

Gavin McCrone, writing in 1969, could confidently express this view. "Nationalists argue that Scotland subsidises England. Some of those who wish to believe it will no doubt continue to do so but the evidence is not the same as the support their case is to the English. Now, of course, the earth is flat" (Gavin McCrone, Scotland's Future: The Economics of Nationalism, Blackwell, 1969). In contrast, in 1975 Professor Donald MacKay of the University of Aberdeen who has made a detailed study of North Sea Oil development could argue an opposing view. "I will argue that as long as this assumption that the price of oil is constant and that the 1974 levels in real terms is not heavily qualified by the passage of time, then the chief benefits of oil (taxation revenues) will not necessarily go directly to Scotland under present constitutional arrangements."

An important factor in explaining the much greater success of the Scottish nationalists to date as compared to their Welsh counterparts is that the previously anticipated economic costs of independence have been transformed into probable economic gains for Scotland. The success of oil exploitation in the Celtic Sea will equally have an important bearing on the future strength of Welsh nationalism.

political causes

Despite the efforts by successive Governments to attract new industry and employment to the depressed parts of the United Kingdom, their success has been limited. Partly because Labour Governments have tended to be elected at times of economic difficulty and when deflationary policies have been "needed" Scotland and Wales have felt that their support for the Labour cause has been taken for granted. What has made this situation worse is the organisational bankruptcy of the Labour Party. The Labour Party has a great deal of superstructure in terms of Parliamentary seats, council seats and control of local authorities, but very little in the way of grass-roots. There are no realistic published figures on party membership (the cause of the number of 1,000 members) or on which constituencies and branches are properly functioning. What is probably even more depressingly apparent that since the last election, there are only 5 full time staff in Scotland. Only 2 constituencies have full time agents (Berwickshire and East Lothian—which is a marginal seat). In February 1974 to the Conservatives but recaptured in October 1974; and South Ayrshire which has a Labour majority of 14,748. There are also organisations for the cities of Glasgow, Edinburgh and Dundee, but these are not certain to survive the economies designed to stabilise the national party's finances.

Apart from the staff in the Welsh Coun cil, the Labour Party is only an official organisation in Wales (Swansea). The position in Scotland and Wales is even worse than the gloomy picture painted for the whole of the United Kingdom in the recent publication Can the Party Afford Full Time Agents produced by the National Union of Labour Organisers. The collapse of professional organisation and also of active membership has been accelerated by both inflation and the disillusionment among activists created by the failures in office of Labour Governments to live up to the hopes and expectations of those who worked for them. As the Labour dominance in Scotland and Wales comes under challenge from the nationalists, the party could hardly be less prepared to resist it.

The party's vulnerability is accentuated by the conspicuously low standards of many of its elected representatives. Its image at local government level in Scotland has been tarnished by cases and rumours of (usually petty) corruption. Ironically this is not the most serious problem: what is, is the lack of an effective organisation and of active constituency parties with strong and enthusiastic memberships. In Glasgow, the combination of large Labour majorities in inconstituencies has helped to make the party lose its sense of direction and fail to comprehend or tackle the massive problems of that city. Despite the existence of the post of Secretary of State for Scotland the party has not presented a single Cabinet Minister since the end of the Second World War! Whatever policies are adopted by the Government on devolution, it is these factors which make the party vulnerable to a challenge from the vigorous and youthful SNP. Ironically, despite all these factors, the West of Scotland has so far, with the exception of the Govan by-election, not proved to be a factor to be ignored. Their successes have been concentrated in the East and in rural seats but they have established themselves as second to Labour in 36 of the 41 Labour seats. Labour's success in the West of Scotland reflects the loyalty of working-class Roman Catholics (Jack Brand and Donald McCrone, The SNP from Protestant to National, 1974). Their survey data for Glasgow showed that of the people interviewed, 78.9 per cent of Roman Catholics had voted Labour, 11.0 per cent Conservative, 0.0 per cent SNP, 2.8 per cent other, whilst 31.0 per cent of Protestant Scottish Labour, 38.2 per cent Conservative, 24.0 per cent SNP and 7.7 per cent other in February 1974).

Nevertheless this loyalty may be under strain and a SNP landslide in the Assem-
bly elections, even in the West, is not impossible, as many seats would fall even on a moderate swing. What makes the West of Scotland so important is that it is very well outside the industrial belt of central Scotland. This follows the pattern indicated by Martin Linton in *Labour Weekly* (31 October 1975) which pointed out that Labour only held 7 of the 100 most rural constituencies in Britain. Labour's Parliamentary strength in Scotland has so far been maintained (41 seats out of 73 in 1974) at the expense of boundary changes, compared with 46 in 1966 and 1967, in 1974 compared with 39 in 1966) where seats have been lost, mainly rural ones (such as Caernarvon, Merioneth, Conway, Cardigan and Pembroke) to all parties.

**cultural and nationalist causes**

The upsurge of nationalism in the smaller countries of Ireland and Scotland has been viewed in England with incomprehension and confusion. Additionally the Scottish Nationalists pose a threat to the oil resources in the North and Celtic Seas which have not been exploited to their full extent. The criticism of Government ministers (especially Denis Healey) have arrived like manna from Heaven to solve all Britain's economic problems by a miraculous cure. The claim that this new found pinion is really "Scotland's Oil" is viewed with disbelief and outrage.

Much of this is quite hypocritical, although the Scottish Nationalists are clearly chauvinistic about oil, the British Government has shown no desire to share any of our carved up piece of the sea bed for the greater good of the rest of Europe. British socialists face a serious dilemma on the claims made for Scotland by the SNP. The Left in Britain has traditionally supported the claims of "nationalist" parties in colonial territories whether they were part of the British or anyone else’s Empire. The Fabian Society has played a leading role in educating the British to give up their Empire with dignity rather than with plot against Angola and Mozambique. Unfortunately, Scotland and Wales are near at

land, and little thought has been given to their place in Britain without an Empire. How uncomfortable to receive a claim for independence from one’s own doorstep especially when the balance of economic prosperity in the United Kingdom is changing rapidly. It is conceivable that only 10 years ago England might have accepted Scottish and Welsh independence as the closing up of a drain on the Exchequer in much the same way as many people now view Northern Ireland.

But now the question of oil ensures that the answer to the English economy if it loses the benefits of oil both in terms of the saving on the balance of payments and the direct revenues from oil taxation. Under these circumstances will Westminster be prepared to grant Scottish independence? Should the rights of Scotland to self-determination be accepted however unpleasant the cost? Undoubtedly many members of the SNP would like to see Westminster be prepared to grant independence if (and how we measure this) a rather different question the majority of Scots support it?

The fact that the future existence of the United Kingdom can be called into question raises important issues. What has caused these people to believe this? Has Scotland (in 1974, and Wales when the 1970s have been dominated by the prospect of entry into, and then possible economic and monetary union within, the EEC? Are there counterparts elsewhere in Europe (such as possibly the Basques, Bretons and Corsicans) which demonstrate that there are forces hounding to fragment the nation states of Europe in opposition to the EEC style integration? It is not generally realised that Home Rule for Ireland, Scotland and Wales was a radical platform in the late nineteenth and early 20th centuries. James Maxton and Keir Hardie both supported Home Rule for Scotland. Even more surprisingly, Home Rule was the policy of the Scottish Council of the Labour Party from 1915 until as recently as 1958. There is no doubt that the speed of events means that the Scottish and Welsh Labour Parties will have to rethink their "democratic centralist" policies of recent years (that is, the idea that the Labour Party should aim to win power at Westminster and use this to change society in the United Kingdom as a whole). Equally, the Labour Party in England will find that self-government for Scotland and Wales and any loss of seats from there will have major implications for the chances of electing a Labour Government.

The consciousness of the Scots and Welsh that they form a separate identity from the English has been heightened in recent years. The discontent and disillusionment which led to the Union of a major revival of the Liberal vote (but not seats) were channelled into the nationalist parties. Yet nationalism in its broader sense must not be confused with the electoral performance of the SNP or Plaid Cymru. In Scotland the traditional carriers of nationalism have been the Scottish Church, and the separate educational and legal systems which remained after the Act of Union of 1707; other institutions such as a distinct system of local government have successfully balanced relations with England which would render them or their functions unnecessary. Even for those not consciously affected by these differences, the Scotland/England football derby which has to be seen to be believed has emphasised the Scottishness of an otherwise divided Protestant and Catholic working class. The people of Scotland tend to think of themselves as Scottish rather than British (67.2 per cent of Brand and McCorrane’s respondents in 1974 identified themselves as Scottish rather than British). John Macintosh has argued that this was true of dual nationality, of being Scottish and British, was attractive after the Act of Union because of the economic prosperity and pride in the British Empire that it brought with it ("New Nationalism", *The New Statesman*, 27 September 1974). The British side of the dual nationality has become less attractive as a result of Britain’s decline from being a world power and of persistent economic failures. When the pride in being British faded, people in Scotland could emphasise their Scottish identity. In the 1960s, Scotland's economic advantage lay in being part of the United Kingdom but the discovery of oil in the North Sea has created visions of prosperity separate from England.

In Wales the nationalist upsurge has not yet been so pervasive and the electoral successes of Plaid Cymru have been concentrated in the rural, often depopulated, Welsh speaking areas. The Welsh language, once threatened with extinction (there were only 524,000 Welsh speakers in 1971 compared with 503,000 in 1961) is now accepted as a language of official forms and road signs as a result of the vociferous and often unlawful, campaigning of the Welsh Language Society. This close relationship between the Welsh language and Welsh nationalism has alienated many of the English speaking Welsh so that Plaid Cymru does not have the geographically widespread electoral support enjoyed by the Scottish Nationalists. Wales has, however, been much more assimilated with the English administration and legal systems, and also with the rest of Britain, than Scotland, and one can see legislation for Wales on local government, health service, education or housing as or on such local matters as divorce.

Wales' boundaries with England are also different from Scotland's. The England/Wales border cuts through an area of integrated economic activity and communications between England and Wales (that is, east/west) are generally better (and certainly more equal than those north/south within Wales, partly because of the physical terrain and partly because of settlement patterns.)

One of the main themes of this pamphlet is whether the United Kingdom can accommodate the national aspirations of the people of Scotland and Wales within a united or, indeed, a federal framework. Whether the disintegration of the United Kingdom is an inevitability. A subsidiary question is whether Wales can justifiably be treated differently from Scotland. Do the differences discussed above constitute a justification for the Welsh Assembly having only executive powers and no legislative ones, and what will Westmin-
ster's response be if and when the Welsh Assembly asks for comparable powers to those of the Scottish Assembly?

remoteness of government

This pamphlet argues that the debate on so-called devolution is mainly a question of how or whether the constitutional arrangements of the United Kingdom can be adjusted to accommodate the growing aspirations of Scotland and Wales with greater success than it did those of Ireland in the last century. But what is most disturbing about the Kilbrandon Report is the evidence itself of remoteness from Government and physical distances. Kilbrandon found discontent greatest among those living furthest away from London and concluded that having government decisions taken "dearer to the people" by regional groups would be the answer. But this kind of facile logic seems to suggest that geographical distance is the crucial variable and that changing the seat of power will solve the problem. This argument ignores the powerful economic forces which tend to reinforce prosperity in the south east of England. The table on page 3 showed the concentration of population and hence purchasing power in the South East. The industrial dislocation of northern England also makes it vulnerable both to recession and secular decline. Most firms have their headquarters in the London area and their location policies (especially cut backs in a recession) tend to hit other areas harder. Thus the economic problems of parts of northern England are similar to those of central Scotland and Wales. The resulting dislocation and alienation, however, has no obvious channel as it does have in Scotland and Wales. Although stressing the similarity of many economic problems, I am emphasising that the Welsh for their expression can be very different because of the inertia of the latent nationalism.

Devolution is a thoroughly ambiguous word. In the Kilbrandon Report and in much current debate, it is used inconsistently but its main significance is that it means geographical decentralisation of governmental power. It means taking government nearer to the people in the sense that the physical site of decision making has changed from London to Edinburgh, Cardiff or even Aberdeen. But it does not necessarily mean that the people play a more important or meaningful role in decision making. There are some important questions which a socialist must ask himself about the implications of decentralising decisions in the public sector when decisions in the private sector are increasingly taken by a number of large corporations, themselves increasingly unaccountable. The recent case of Chrysler UK shows the possibility of multinational corporations playing off two governments and workforces (Coventry and Linwood) against each other. This emphasises the difficulty of governments and unions establishing any control over multinational enterprises.

Socialists have been suspicious of the EEC with its liberal capitalist rules on competition but it is also possible that some multinational companies (possibly the oil companies who have tasted politics elsewhere?) might view the creation of a single market sale as an alternative strategic to the customs union. The contacts of the EEC could also have been an important part of the argument is that of the UK would affect the ability of a government to control its economy. The UK economy is increasingly dominated by multinational companies and a large proportion of exports and manufacturing investment. If Scotland and Wales become independent, and at what extent would their economies be controlled from outside? The question that must be put is how much control over the mainsprings of economic power does the acquisition of elected office bring with it? The English, Scottish and Welsh economies are closely integrated and disintegrated, if this became necessary after independence, would be costly.

The focus upon Scotland and Wales obscures the fact that differences in economic, demographic and social characteristics within them are greater than those between the three countries. Within an independent Scotland, economic interest between the different regions would be substantial: for example, how many resources are allocated to the rejuvenation of west central Scotland as opposed to new facilities in the booming north east? How would the policies pursued in England affect the markets for Scottish goods, remembering the relative sizes of the two countries. The political and social context in which these forces are unravelling themselves must be remembered: a world of recession, a retreat from the post-war commitment to full employment; cuts in projected and actual public expenditure; threats to the welfare state both from expenditure cuts and the new Toryism. Within this environment of gloom and despair, how does the Labour Party fight the SNP's claim that there is something in independent Scotland? The Duke of Buccleuch (who has not joined yet), the middle class, the working class, the unemployed, slum dwellers and others. The Labour Government is held responsible for the economic conditions it cannot control (and appears to be unwilling to face up to) whilst the SNP try to convince everyone that all its plans from Westminster and "English rule" and that all Scots stand to gain from independence. It is obviously a grain of truth in it: Scotland only forms 9 per cent of the United Kingdom population so that it is only a few of the benefits accrue to Scotland alone. There is more for everyone there. This assumes that the political consequences of actually owning the oil whether it is Britain's oil or Scotland's oil can be controlled, that the price of oil in real terms does not fall dramatically and is restricted to the price (actually quite short) for which the oil will last. The issues of the more unequal distribution of wealth and the feudal pattern of land ownership in Scotland can be subsumed into this period. Allan Harrison has estimated that the top 10 per cent of wealth holders own 78.2 per cent of the wealth in Scotland, compared with 68.4 per cent for the top 10 per cent in England. In The Distribution of Personal Wealth in Scotland, Fraser of Allander Institute, Research Memorandum 1, 1975. See also John McEwan and Jim Sillars on land ownership in Scotland in The Red Paper on Scotland.

There are no lines drawn on the UK con-
3. the Kilbrandon report and the government's plans

The Kilbrandon report was commissioned in 1965 by the Labour Government of the time. The report was prepared by a committee convened by the then Labour Prime Minister, Harold Wilson. The report made a number of recommendations for the devolution of power to Scotland and Wales. The recommendations included the establishment of elected legislative bodies in both countries and the transfer of certain legislative powers from the UK Parliament to these bodies.

The Kilbrandon report was seen as a milestone in the devolution process, and its recommendations were later implemented through legislation such as the Scotland Act 1998 and the Government of Wales Act 2006. The report's recommendations have been influential in shaping the modern devolutionary landscape in the UK.
on the head when he said that "either there is real devolution, and then one must risk departures from the (London) consensus, or it becomes a form of release on parole—govern yourself as long as you do not outrage our national sense of decency." (D. Eversley, "Devolution in the field of environmental planning," paper read at a seminar in London, September 1974, organised by Centre for Study in Social Policy, reprinted in E. Craven (ed), Regional Devolution and Social Policy, Macmillan, 1975). The incoming Labour Government in March 1974 inherited the Kibbrand report from its predecessor. It took the unusual step of appointing Dr Crowther-Hunt as its special constitutional adviser: odd in that he had written the Memorandum of Dissent. It produced the June 1974 White Paper which did nothing more than list the various schemes put forward in the Kibbrand Reports and a list of questions which only reflected how the Kibbrand Commission had produced. The White Paper was supposedly intended to provoke comment and debate yet it was published on 3 June and the deadline for comments was 30 June.

the September 1974 White Paper

The Government announced its decision on what action to take on the Kibbrand Report when it published another White Paper on 17 September 1974. This document was the policy declaration rushed out before the October 1974 General Election. This hasty preparation was reflected in the vagueness of the proposals contained in it. Nevertheless the Government committed itself to give Scotland and Wales directly elected assemblies so that their feelings of national identity could be harnessed to a greater degree of self-government. The crucial difference between the proposed Scottish and Welsh Assemblies was that Scotland’s would have legislative powers "within fields in which separate Scottish legislation already exists such as, for example, housing, health and education" (Cmnd 5732, page 8, paragraph 29, HMSO, 1974) whereas the Welsh Assembly would only have an executive role apart from assuming some of the Secretary of State for Wales’s powers with respect to delegated legislation (that is, statutory instruments). The Government was thus accepting scheme A (as proposed by B of the signatories of the Kibbrand Majority Report) for Scotland but some compromise of schemes B and C for Wales. Subsequent events have confirmed that the present author’s initial suspicion that the implications of such a commitment simply had not been thought through either by the Cabinet or the National Executive at the time of the Government. The significant features of the September 1974 White Paper were its departures from Kibbrand’s proposals and the wide areas on which no decision had then been taken. It proposed the retention of the posts of Secretaries of State for Scotland and Wales, the maintenance of the existing few Welsh and Scottish representation at Westminster and rejected proportional representation. No decisions had been taken on the organisation of the Executive, on the precise functions which would be devolved on the nature of Westminster’s veto or on whether the Assemblies would have a fixed term or whether they would have the power to dissolve themselves and call elections. Both the Scottish and Welsh Assemblies would be financed by a block grant from Westminster.

To the extent that the September 1974 White Paper was primarily intended to head off the nationalistic parties, the result of the October 1974 General Election appeared to vindicate this strategy. Instead of the crushing defeat expected, the election was dominated by a wave of anti-Scottish sentiment. Although the Scottish Labour Party’s campaign was supported by much leaked private Labour Party polls, Labour emerged with 41 seats in Scotland (compared with 40 in February 1974) having regained Berwickshire and East Lothian which had been lost to the Conservatives in February 1974. The 4 SNP gains were all at the expense of the Conservatives. In Wales the only loss was at Carmarthen where Labour had been retained by a margin of 1200. All expectations were Labour's failure to win Conservative held marginals in England and not any inroads made by the nationalists who deprived Labour of a secure majority at Westminster. Yet the number of seats won by Labour in Scotland obscured the progress made by the SNP which polled 30.4 per cent of the popular vote compared with 21.9 per cent in February 1974 and 11.4 per cent in June 1970. The SNP and Plaid Cymru made little progress in terms of popular vote even though they gained Carmarthen: 10.3 per cent in October 1974 compared with 10.7 per cent in February 1974 and 11.3 per cent in June 1970.

the press reaction

But Labour’s election by committee to elected Scottish and Welsh Assemblies created its own problems. A full 14 months elapsed between the September 1974 White Paper and the publication of the much-delayed Autumn 1975 White Paper on the devolution of the Parliament’s powers (Our Changing Democracy: Devolution to Scotland and Wales, Cmnd 6348, HMSO, November 1975). Its publication was preceded by another Cabinet division on the functions of the Assemblies that filled the newspapers. Under the Government’s plans in a worse light. The response of the Scottish media (and some members of the Labour Party) was little short of hysterical. The negative and depressing tone of the document could have hardly presented the Government’s plans in a worse light. Nevertheless it is worth quoting the reporting of the White Paper in the Scottish and English press. All socialists would expect the national press to exploit an opportunity to discredit the Government. The Scottish Daily Express, increasingly fervently “Scottish” now that it is printed in Manchester, could be expected to hostile. In the period that the White Paper was issued “on embargo”, quite lengthy supplements on it were prepared and the “bad” parts of the White Paper high-lighted. Much initial response was probably based more on speculation than on reading the newspaper summaries than on a careful study of the document. The Daily Mirror and of its Scottish sister, the Daily Record, are revealing.

The Daily Mirror said: “It’s the least that could be offered and also the most—that is the Mirror’s verdict on the Government’s plan to give more self-rule to Scotland and Wales... To offer more would risk the break-up of the United Kingdom. The Scots want more than their own Army or Navy. Nor have their own tax system. Nor control of economic policy. On most other things they will have a pretty free hand... On one point the Government plan is rightly firm: North Sea oil belongs to Britain. It is not Scotland’s private property. The oil is British oil, just as English coal and natural gas are British...” (Daily Mirror Editorial, 28 November 1975). The Daily Record said: “We were PROMISED more, now, WE WANT MORE because, Harold, your deal is just not good enough. It isn’t enough. Not nearly enough. Scotland expected more. We are the RECORD verdict on the Government’s much-trumpeted White Paper on devolution...” (Daily Record Editorial, 28 November 1975). The front page headline reads WANT MORE 14 inches high accompanied by a cartoon depicting Scotland playing Oliver Twist to Great Britain’s Beadle with Trade, Industry, Taxation and Oil powers firmly out of Scotland’s reach.

Differences in editorial opinion are quite legitimate but English and Scottish readers would hardly realize that the comments related to the same document. These two newspapers are about the only ones to consistently back Labour. There is no danger that English, Scottish and Welsh opinion will be exposed to completely different pressures and become so out of step that conflicting demands cannot be reconciled.

The Government’s plans for Scotland and Wales as set out in the November 1975 White Paper are tabulated in appendix 2. This compares the different proposals for
Scotland and Wales in a similar form to that used in appendix 1 to enable the reader to trace the ancestry of the present proposals in the various schemes suggested by the Kilbrandon Commission. The format highlights the differences in the way in which devolution will be applied to Scotland and Wales. The remaining sections of this chapter will examine closely the Government's plans.

electing the assemblies

All the directly elected assemblies suggested by the Kilbrandon Reports envisaged that some scheme of proportional representation would be adopted in most cases the Single Transferable Vote method. One of the significant features of the September 1974 White Paper was the announcement of the Government's decision to continue to use the traditional "first past the post" or, more technically, the Relative Majority system. The Devolution Act will not devolve the power to alter the method of election either for the Assembly or local government elections. The "first past the post" system unquestionably operates to the advantage of the major parties and limits the chances of any third party. Not surprisingly, it has been roundly condemned by the Liberal Party who polled 609,070 votes in the February 1974 General Election but only won 14 seats. In the past it has hampered the emergence of the Scottish National Party but now, fortunately, it gives it a chance of outright control of the Scottish Assembly and possibly a majority of Scottish seats at Westminster.

Although schemes of proportional representation would make parliamentary contingents reflect the distribution of the popular vote more accurately, they would lead to other problems. It would be very likely that the party would emerge from elections and that minority parties (both in the sense of seats and popular vote) would constantly exercise the balance of power. The existing parties might well fragment into competing groups. Although the public may have a "greater say or choice", the key decisions would not be taken by putting them to the electorate in order to achieve a mandate by horse trading after the elections are over with the various candidates which had emerged. The chances of a coherent legislative programme emerging would be slim. The present author suspects schemes for proportional representation as an attempt to initiate a coalitionist (and probably anti-socialist) brand of politics. Many of the legislative achievements of the Labour Party would not have been achieved under such electoral arrangements. They would have to make a democratic socialist transformation of society even more difficult. The frequently disappointing performance of Labour Governments in office owes much to the fact that the acquisition of political office does not bring with it control over the financial and economic power. It is interesting that a Conservative MP, Malcolm Rifkind (Edinburgh, Leith) has urged the adoption of proportional representation as a way of "stopping the nationalising and the nationalists."

For the first elections, each parliamentary constituency will be divided into three or single member constituencies depending on whether the Parliamentary constituency has less than 75 per cent, between 75 per cent and 125 per cent of the average size of a Parliamentary electorate in Scotland. On present electorate, this would produce a 138 member Scottish Assembly and a 75 member Welsh Assembly. Although there are clearly advantages in making Assembly constituencies coterminous with Parliamentary constituencies, this formula might produce anomalies of a Parliamentary constituency with 74 per cent of the average electorate having only one Assembly member and one with 126 per cent having three.

A feature which seems just to have been picked up from the various Kilbrandon Schemes and which has subsequently attracted little comment is the fact that the assemblies will be elected for a fixed term of four years without the power to dissolve themselves. This will become a very important influence on the conduct of the Scottish Assembly in particular because of its legislative role. Governmental instability cannot be controlled by the holding of elections and, especially if the Assembly is a three or four way political split (between Conservatives, Labour, Liberals and Scottish Nationalists), the political situation could become exceptionally confused. The assembly elections might fall in the mid-term of a Westminster Parliament when anti-Government feeling was high and this could accentuate the bitterness between Westminster and Edinburgh. The power to dissolve itself and face the electorate could act as an important constraint on an Assembly which overplayed its hand in the elaborately posturing and bargaining which are inevitably part of block grant negotiations between two tiers of government.

the Scottish and Welsh administrations

The executive powers devolved to the Scottish Assembly will be exercised by a Scottish Executive, headed by a Chief Executive, and supported by the Secretary of State. The assembly can either accept or reject the list of Executive Members as a whole. The Secretary of State will appoint Assistants to the Executive on the recommendation of the Chief Executive but without the need for Assembly approval. Neither the Executive Members nor the Assistants need be members of the Assembly: those who are not will, however, have the right to speak but not vote in the Assembly. The White Paper does not really justify the need for such non-elected roles except, for example, to the assistance of special positions of law officers. The major difference from the Kilbrandon scheme is a terminological one which may or may not reflect intended status: the Scottish Premier and Cabinet are to be called as Chief Executive and Scottish Executive which should cause confusion with the senior official of the new local authorities. The White Paper rules out the possibility of a separate Scottish Civil Service and admits that this would be a long term option for the Assembly to explore. Although a separate Scottish Civil Service would unquestionably increase the cost of establishing the Assembly because of the loss of economies of scale, duplication of functions, it must be remembered that in the context of the current political and economic situation and that they were not worried about damaging their career prospects by alienating the Scottish Nationalists and the central Civil Service Department. The separate existence of the local government Equalities and Human Rights Council has probably played a significant role in securing committed advice from the officials.

The Scottish Assembly will have a highly developed committee system corresponding to the main devolved subject fields and the responsibilities of Executive Members. The subject committees will be chaired by a backbencher and will reflect the local composition of the Assembly. They will have their own staff answerable to them and not to the Executive, and will play a consultative role prior to the introduction of legislation.

The Welsh Assembly is totally different from the Scottish. The scheme of devolution is a hybrid of schemes B and C. Executive powers are not devolved in a fashion of scale and duplication of institutions. Instead, there is a more modest and streamlined local authority should be like (The New Local Authorities: Management and Structure, HMSO, 1972). The Devolution Act will require the Assembly to set up standing subject committees to cover all its main devolved functions. These will do most of the detailed work and their composition will reflect the political balance of the Assembly. Each subject committee will have the power to conduct the business impartially and a leader known as the Executive Member who will take the main policy and administrative initiatives. The Chairman and Executive Members will be appointed by the Assembly. A central co-ordinating
committee (known as the Executive Committee and now the equivalent of the Bains' Policy and Resources Committee) will oversee general policy and the allocation of resources. This will consist of Executive Members from Subject Committees plus any other Members (but not exceeding one quarter of the total) appointed by the Assembly. There will be a separate Welsh Civil Service even though this was part of both schemes A and C. The devolved functions which will be exercised by the Welsh Assembly are examined in chapter four whilst chapters five and six consider the constraints on their freedom of action. A major question which should be borne in mind is the relationship of this Welsh Assembly with the two tier local government structure beneath it. Unlike the Scottish Assembly, the Welsh Assembly, when it is established, will have no power to change this structure or reallocate functions, or abolish one of the tiers. Consequently, decisions about whether any further changes in local government are contemplated, are much more urgent with regard to Wales than for Scotland.

representation at Westminster

Future constitutional arrangements within the United Kingdom will be faced with the problem of population imbalance within it. Disparity in population between the component countries and within them means that each country will always obtain a representation of seats: Scotland has 9 per cent of the United Kingdom population; Wales 5 per cent; England 83 per cent and Northern Ireland 3 per cent. Any United Kingdom Parliament will be dominated by English members. The vital issue is, whether, within the framework of the political and economic unity of the United Kingdom, special provisions can be made for Scotland and Wales which are acceptable both to the people of Scotland and Wales and to the people of England. Professor Peacock's introductory note to the Memorandum of Dissent clearly sets out his judgement that "the system of government of the United Kingdom can only be based on equality of political rights for all citizens in the separate regions and nations. This is not only an important matter of principle but also a reasonable prediction of what would be politically acceptable in the long run" (Kilbrandon Memorandum of Dissent, Cmd 5460-1, 1973). This view precludes separate treatment for Scotland and Wales as compared with the regions of England. Although this view has been rejected by the Government, it does focus attention on the fact that the revised British system of government will contain an institutional bias in favour of Scotland as compared with Wales. Scotland and Wales will have their own assemblies whereas England will not.

The uniformity of political rights has applied in the past to England, Scotland and Wales but not to Ulster which had its own (Stormont) Parliament until 1972. The creation of Assemblies only in Scotland and Wales will disturb this uniformity. The aim of decentralisation is to produce justified differences between areas reflecting historical, geographic, social and economic circumstances. The problem is to decide which differences are justified and acceptable in the long run. Would the people of England be satisfied that Scotland and Wales each had their own Assemblies but England did not? The danger of an English backlash to the claims made for Scotland and Wales should not be under-estimated. For example, Labour MPs from the least prosperous parts of England will inevitably view with justifiable concern any special advantages granted to Scotland and Wales. Indeed, it is not inconceivable that the Scottish and Welsh nationalism could deliberately provoke hostility in order to produce a climate more conducive to separation.

A very sensitive issue is the number and role of Scottish and Welsh MPs at Westminster. The old basis of equal rights on all issues in the Westminster Parliament including legislation solely for England (that is, those issues concerning England which correspond to Scottish and Welsh devolved matters). There is no real possibility of representing at Westminster will very well have determined the party in power, which may pass legislation opposed by the majority of English MPs. These difficulties underline the dangers of using the Westminster Parliament for two distinct purposes. Firstly, as the Parliament for United Kingdom matters and, secondly, as the Parliament to decide "English" legislation on the equivalent of devolved matters. Kilbrandon concluded that it would be impractical to operate an "in and out" system where Scottish members could not vote on "English" issues. What is lacking is a separate English Parliament within an explicitly federal United Kingdom. Yet even this has relatively little to offer because of the dominance of England in terms of population.

A more immediate problem is the size of the Scottish and Welsh parliamentary contingents. Scotland is now represented by 71 MPs and Wales by 36. On the basis of population, these should be reduced to about 57 and 31. One of the traditional explanations of the fact that Northern Ireland has only 12 Westminster MPs instead of the 17 its population indicates has been the existence of a measure of self-government via Stormont. It is becoming an anomaly that Northern Ireland receives discriminatory treatment. It can be argued that because of disparities in population size, the separate national status of Scotland, Wales and Northern Ireland is justified different treatment. Scotland and Wales have also suffered net emigration and this in turn has reduced their shares of United Kingdom population. If Scotland had not suffered net emigration in the twentieth century, its present population would be roughly 60 per cent rather than now is (Economic Development and Devolution, Scottish Council Research Unit, June 1974). This provides no guidelines on the appropriate number of seats at Westminster, especially as there is not a democratically elected Upper House. One highly improbable course of action would be the abolition of the House of Lords and its replacement with a directly elected Upper House with suitably limited powers, especially over finance, but in which Scotland, Wales and Northern Ireland would have a larger share of seats than in the Commons. What cannot be denied is that changes in representation would clearly have important consequences on political strengths at Westminster. Nevertheless none of the United Kingdom parties would relish the thought of standing in Scotland or Wales on the platform of reducing their representation at Westminster.
4. Functions of the Assemblies

The pattern of constitutional relationships being established in the United Kingdom is extremely complex and the example of Ulster shows that it is also volatile. The decline in Britain's status from that of great imperial power has been reflected for the most part with substantial dignity. It is, therefore, appropriate to note that the greatest failure has been the attempted disengagement from Ireland. Resurgent nationalism within the United Kingdom is a phenomenon with which we will have to come to terms and devise mutually acceptable constitutional arrangements or accept the fragmentation of the United Kingdom which will ensue from that failure.

The Assemblies will have extensive powers over government within their countries. The major subject areas which will be devolved are local government, health, social work, education, housing, physical planning and environment, roads and transport, tourism and arts, museums and libraries. Some limited powers over development and industry and natural resources will be retained. There is a serious danger that discussion of the White Paper, at least in Scotland, will focus excessively on what is not to be devolved and fail to recognise the extent to which the Assembly will control domestic Scottish affairs. The subject fields to be devolved to Scotland are listed in the November White Paper's appendix N and those for Wales in appendix F (Cmd 6348). This will increase the extent of devolution proposed. The devolved matters in education will be school-level organisation and curriculum; further and higher education; research and development; certain student awards; adult education; youth and community services; national and local museums and libraries and the arts. Within the education field, the interested bodies are the universities, research councils, student grants on undergraduate and postgraduate courses. The exclusion of the universities, which will continue to be financed by the University Grants Committee, undoubtedly reflects both successive lobbying by the universities and the tendency of the White Paper to suggest that activities now carried out by the Scottish Office should be the ones to be devolved. In relation to housing, devolved matters will be the regulation of housing, public sector housing finance and control of rents in both public and private sectors. The exceptions are private sector housing finance and the regulation of housing. The Welsh Assembly Government will reserve powers to prevent or restrict both public and private sector rent increases as part of counter-inflationary policy. In relation to local government, the concept of administration and financial arrangements (including the decision on the total amount of Rate Support Grant, the approval of capital investment programmes and the detailed application of the local taxation system) will be devolved. Electoral arrangements (such as frequency of elections, qualifications to vote or stand for office and voting system) and power to legislate on the sources of local taxes and on borrowing will not be devolved.

The potential effectiveness of the Scottish Assembly rests clearly upon its ability to pass legislation on devolved matters for Scotland. Although it will inherit the existing laws for Scotland as enacted by Westminster, it will be able to amend, repeal or substitute new laws. Consequently, the Scottish Assembly could adopt a distinctive approach to Scotland's chronic housing problems, tailor its educational legislation to Scotland's particular problems and traditions or decide to reorganise local government once again. The reader is referred to appendix 2 of this pamphlet and the White Paper's appendix G in order to explore further such possibilities. There will, however, be inevitable constraints on the Assembly's freedom of action, such as on questions of finance, the terms of the Devolution Act, and the United Kingdom's reserve powers, which will be explored in chapter six.

In contrast, the Welsh Assembly will not have a legislative role. It will work within the framework of Westminster legislation and will take and supervise decisions taken at Westminster Act or statutory instrument, and plans for the Welsh Assembly's role will be determined by the government.

The initial powers of the Welsh Assembly will depend on how detailed each piece of existing legislation on devolved functions is and on how much discretion was allowed to the central government to make delegated legislation (that is, statutory instruments). At the present Westminster Parliament cannot bind its successors, the Welsh Assembly's eventual powers will depend on how prepared future United Kingdom Governments are to pass "framework" legislation and allow the Welsh Assembly Act to define the devolved functions. The Welsh Assembly will be able to debate White Papers and Green Papers outlining the government's plans and make representations to the Secretary of State for Wales, other Government departments and Welsh Members of Parliament. The devolved matters for Wales are summarised in appendix three below and are included in the White Paper's appendix F; they are broadly similar to those of the Scottish Assembly, except in relation to law functions. The crucial difference is that what are being devolved are executive and not legislative powers. Consequently, the devolution in Wales will in fact operate dependently on the Devolution Act but also on how future Westminster Governments decide to enact legislation relating to Wales.

The Assemblies and Local Authorities

The responsibilities of both the Scottish and Welsh Assemblies will be heavily concentrated in those spheres (such as social work, education, museums and libraries, housing, physical planning and environment and roads and transport) in which much of the actual expenditure will be undertaken by local authorities.

With very little control over their total budget sizes, the Assemblies will be left to determine the position on the activities of the local authorities over which they have supervisory (and in the case of Scotland, legislative) powers, in order to achieve the spending priorities upon them. They will possess administrative and financial means to achieve this end — using departmental circulars, and adjustments to Rate Support Grant. The Scottish Assembly will be able to completely restructure local government once again as local government legislation is a devolved matter. Scottish local authorities have traditionally negotiated for Rate Support Grant with the Secretary of State for Scotland who, as a member of the United Kingdom Cabinet, was party to decisions on public expenditure. In future, they will negotiate with a Scottish Administration which is itself dependent on a block grant.

The restructuration of the organisational shape of the public sector in the 1970s has lacked any coherence. The re-organisation of health, social service and local government have achieved the much more fundamental questions now being asked whereas logically such decisions should have hinged on a prior decision about devolution to Scotland, Wales and the English regions. The financial weakness of local government was not tackled as an integral part of re-organisation and the Layfield Committee of Enquiry was only set up belatedly as a response to local government's challenge of 1974. This local government's personal health responsibilities to the National Health Service and of water and sewerage to nominated local bodies (except in Scotland) reflected a misunderstanding. Even though the Government's plans do not involve any change in the functions or structure of local government it seems inevitable that both in Scotland and Wales the creation of Assembly will mean that the structure of local government and local government structure and especially of whether a tier system is desirable. Ever since 1965 it has been the policy of the Welsh Council of Labour to have a single tier of purpose local authorities. One position can be expected to mount in Scotland in favour of disbanding the regional councils. Although this would be within the devolved legislative powers of the Scottish Assembly, the White Paper, rightly in my view, warns that any further change will be both costly and disruptive of services at a time when restraints on public expenditure will make
the determination of spending priorities the major short term task.

A favourite target of anti-devolutionists has been the number of tiers of government which will emerge from the proposed changes. The argument that Scotland will become the most over-governed country in the world has frequently been heard. There is no doubt that many different tiers will be involved in policy making: the European Economic Community (especially if at least those are given the direction of eventual political union); the United Kingdom Parliament; the Scottish/Welsh Assemblies; the upper tier of local government (Scottish regional councils and the Welsh County councils); the lower tier local government (district councils) and the non-executive community/town/parish councils. Great clarity and precision will be required in specifying where responsibility lies for the various aspects of major services such as education.

The experience of having divided planning responsibilities between the two tiers of local government is not auspicious and this emphasises the potential for conflict between tiers, wasteful duplication of specialist skills or the emergence of gaps in services. The need for clear division of roles is clear. But a new study of the Kilbrandon Report and the Government’s three White Papers fails to establish the criteria which are being used to allocate functions to particular levels of government. This contrasts with the much more thorough and systematic approach of the Wheatsley Commission on Local Government Reforms in Scotland. Most of the discussion on devolution has failed to bring out clearly the two distinct ways in which the activities of government may be divided: firstly, by distinguishing between the Assemblies (like education and housing) and, secondly, by distinguishing activities which occur within each service (for example, approval of capital investment schemes, setting criteria for services). The failure to make this distinction has also confused the debate on whether the Assemblies could be given any economic or industrial responsibilities. The division of responsibilities for services between different levels of government will produce a degree of work which undermines the effectiveness of management tools (such as corporate planning) which have become fashionable since the publication of the Bains and Paterson reports on local government management structures (The New Local Authorities: Management and Structure, HMSO, 1972, and The New Scottish Local Authorities: Organisation and Management Structures, HMSO, 1973).

The absence of explicit criteria for deciding whether a particular function should be devolved encourages scepticism that the most important factor has been whether the function was already decentralised to Edinburgh. This then influenced which functions will in future be decentralised to the Secretary of State for Wales or devolved to the Welsh Assembly. The White Paper is consequently littered with what seem to be anomalies—at least to the outsider—through some actions are more serious than of service. The whole of the educational system is devolved except for the universities and students grants for degree courses: the former has maintained its separate structure and is still under the Scottish educational system. So motor traffic reaching Scotland by motorway will be relieved that the speed limit will be the same (for safety reasons) but may find that Scottish time is different! The section of the White Paper relating to Scottish law and legal system is complex, confused, and, fortunately, still very much open to amendment. The view that the responsibility for police and prosecution must remain with the Secretary of State for Scotland and the Lord Advocate, both responsible to the United Kingdom Parliament, continues with the fact that Scotland does have its own legal system; and that the Assembly can create new criminal offences, abolish old ones and determine penalties and modes of treatment. The administration of criminal law in Scotland is separate from the Scottish legal system seems a highly appropriate function for the Scottish Assembly. There has been little recognition even in Scotland that the legislation emerging from Edinburgh on such topics as abortion, homosexuality, divorce or alcoholic limits will produce a service and coordination which will undermine the effectiveness of management tools (such as corporate planning) which have become fashionable since the publication of the Bains and Paterson reports on local government management structures (The New Local Authorities: Management and Structure, HMSO, 1972, and The New Scottish Local Authorities: Organisation and Management Structures, HMSO, 1973).

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The economic management
The sharper criticism of the functions devolved to the Scottish Assembly has focused on its limited powers in the economic field: industrial and employment policies. Public debate has confused revenue raising powers with economic management. Chapter five argues that there is an overwhelming case for granting substantial revenue raising powers to the Scottish and Welsh Assemblies. Economic and industrial functions raise much more complex and less easily reconciled problems. A pamphlet, Scottish Labour and Devolution, co-authored in 1974 by four Scottish Labour MPs (Alex Eade, Harry Ewing, John Robertson and Jim Sillars) argued persuasively that a Scottish Assembly should exercise an economic responsibility over such matters as transport and airport development, internal transport and energy. If it is accepted that much of Scotland’s discontent springs from the inability to solve its severest economic and social problems in the fields of employment, trade and industry, housing and environmental conditions, this has important implications for the kind of Assembly which can tackle these deeply rooted causes. Minor re-allocations of public expenditure, especially at a time when it is a question of allocating cuts, will not be sufficient. A weak Assembly will be exploited by the growing and intransigent Scottish National Party in order to show that Scotland needs independence. Nevertheless, within the United Kingdom, the most important economic decisions affecting Scotland, Wales, and the English regions will continue to be taken by the Westminster Government; these include macro-economic policy and the highly sensitive controls over the exploitation of oil resources and the use of oil revenues. If the Scottish and Welsh Assemblies are allowed to follow separate policies on investment grants and other forms of industrial assistance, it raises the spectre of competitive incentives being offered to the prosperous East of England and the normally prosperous but now recession-hit West Midlands. Industrial location policies have in the past benefited Scotland, Wales and the North of England and a free-for-all in investment incentives would be damaging to Scotland and Wales which are further from the large markets of the East and Europe.

Despite these very important reservations about possible economic powers, it is clear that the present proposals reflect a strange mixture of historical evolution and compromise. Responsibility for the newly created Scottish and Welsh Development Agencies will be divided between the Assemblies (which will supervise the environmental and factory building functions but subject to Government control of the terms of disposal) and the Westminster Parliament (which will supervise their industrial and commercial functions). The Assemblies will be responsible for transfers of funds to their respective agencies and will be consulted by the Secretary of State before he makes the appointment of Chairman of the agency. In contrast, responsibility for the Highlands and Islands Development Board is fully devolved, subject to a system of guidelines and cash limits on individual projects relating to the Board’s functions in reserved fields such as assistance to industry, fishing and agriculture. Nevertheless the Highlands and Islands Development Board will be able to decide its priorities within these constraints. A similar approach should be adopted with respect to the Scottish and Welsh Development Agencies, with the United Kingdom Government setting down guidelines and criteria for eligibility, but with responsibility for execution resting with the Assemblies. The establishment of the Committees of the Secretaries of State for Scotland and Wales will be enhanced by the transfer of responsibility for manpower functions (control of half the national Manpower Services Commission, the Training Services Agency and the Employment Services Agency) in addition to their existing responsibility for economic
planning and industrial assistance under the Industry Acts. The White Paper states firmly that "there can be no question of breaking up the main nationalised industries or splitting responsibility for them" (paragraph 140). Although the economic prospects of "Scottish Rail" (with few, if any, "viable" routes) or of a "Scottish Coal Board" (with many high cost pits) would be dim, the argument that a division of responsibilities is unacceptable can be confronted with the fact that responsibility for the electricity industry in Scotland (the South of Scotland Electricity Board and the North of Scotland Hydro-Electricity Board) has long rested with the Secretary of State for Scotland and paragraph 280 of the White Paper states that this will continue.

The preceding paragraphs have shown how complex and finely balanced the arguments about economic and industrial powers are. The importance of the nationalised industries to the economies of Scotland and Wales in both output and employment terms emphasises this dilemma. The granting of economic powers would also disturb the other regions of the United Kingdom to a much greater extent than present proposals. Nevertheless it is clear that a proper recognition of the distinction between setting the legislative and policy framework and supervising the execution of those policies can improve the relationship between the Assemblies and, especially, their Scottish and Welsh Development Agencies.

**ad hoc bodies**

The establishment of the Scottish and Welsh Assemblies will provide an opportunity to tackle the question of accountability of the host of *ad hoc* bodies whose existing lines of accountability to overburdened Secretaries of State leave much to be desired. This is an area where patronage has removed crucially important public functions from adequate democratic scrutiny. The Assemblies will control those bodies operating solely in Scotland or Wales. Appendices B (Scotland) and F (Wales) of the White Paper show the large numbers of bodies involved and their significance in the respective countries. Some of the most important are the Health Services, New Town Development Corporations, Arts Councils and (in Scotland only) the Scottish Transport Group and the Scottish Special Housing Association. Nominees operating in Scotland and Wales on devolved matters but organised on a United Kingdom basis can act as agents for the Assemblies or the Assemblies can make new arrangements.

Possibly the most sensitive political issue in Wales is "Welsh water" which has an emotional charge not unlike "Scottish oil." The 1973 Water Act reorganised the water supply industry by setting up *ad hoc* nominated boards to take over the water and sewerage responsibilities of local government and statutory companies. It created the Welsh National Water Development Authority (WNWDA) to run the industry in most of Wales. The Daniel Report on *Water Charges in Wales* (Welsh Office, HMSO, 1975) documents the events which led to 422 per cent increases in water charges in Anglesey in 1974/75. Rate Support Grant was no longer payable on any water or sewerage services. The Department of Environment Working Group on the "Economic and Financial Obligations of the Water Industry" made recommendations that the Water Authorities should move quickly to a position of self-financing by applying commercial principles and the working group recommended detailed interim proposals for 1974/75. Consequently the charges of the WNWDA are the highest of all the water authorities. But, at the same time, as the conditions which make distribution costs high are also conducive to reservoirs and so much of the English Midlands obtains its water from flooded Welsh valleys at a price much lower than those charged by the Welsh National Water Development Authority!

In order to match river basins, the WNWDA has to include part of England and the Severn-Trent Regional Water Authority part of Wales. Both bodies will become responsible to the Assembly for their activities in Wales. The Assembly will provide or nominate the majority of members of the Severn-Trent Regional Water Authority. It will be responsible for water recreation and amenity planning throughout Wales. Water is clearly a subject which requires sensitive and tactful treatment and the Assembly control should make this more likely—within, of course, the constraint set by the 1973 Water Act.
The Scottish and Welsh Assemblies will have devolved powers extending over a wide area of their domestic affairs and appear to be potentially powerful bodies in shaping the future of their countries. The proposed financing arrangements, however, will undermine much of this independence and greatly accentuate any conflict between the Assemblies and Westminster. The Assemblies will depend almost completely on the block grant which is negotiated with Westminster. Consequently, they will have little control over their total expenditure and it will be limited to a fixed percentage of their public expenditure. It will be for the Assemblies to judge among competing priorities within Scotland and Wales in the light of their own assessment of their communities' needs; as between, for example, hospitals and roads or schools or houses. (Cmd 5732, paragraph 31). Although this ability to determine expenditure priorities is clearly important, it should be recognised that control over its total budget is essential if the legislative powers granted to the Scottish Assembly are going to be effective in allowing it to pursue policies of its own. Most legislation involves central government often neglects when it attacks the spending of local government. The Scottish Assembly must have independent revenue raising powers of its own or else its ability to legislate will be constantly frustrated by the size of the block grant negotiated with the Westminster Government. The ability to levy taxes would give it control over its budget size and enable it to choose between implementing its programmes and levying higher taxes to finance it or to trim its programme.

The table on page 27 tabulates the information provided in the White Paper on the approximate level of expenditure on devolved services in 1974/75 and on how they would have been financed under the proposed arrangements. Expenditure on devolved services would have amounted to nearly three fifths of identifiable public expenditure in Scotland and to more than a half of identifiable public expenditure in Wales. The only significant source of revenue for the Assemblies will be the block grant and the block grant negotiations will be of immense economic and political importance. Any friction between the Assemblies and Westminster will focus on the block grant negotiations and will be particularly acute whenever

<table>
<thead>
<tr>
<th>Estimated Expenditure and Financing of Devolved Services, 1974/75</th>
<th>£ million</th>
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<tbody>
<tr>
<td>Scotland</td>
<td>Wales</td>
</tr>
<tr>
<td>spending</td>
<td></td>
</tr>
<tr>
<td>public expenditure on services</td>
<td>2000</td>
</tr>
<tr>
<td>loan charges met by local authorities</td>
<td>100</td>
</tr>
<tr>
<td>total expenditure</td>
<td>2100</td>
</tr>
<tr>
<td>financing</td>
<td></td>
</tr>
<tr>
<td>block grant</td>
<td>1300</td>
</tr>
<tr>
<td>local authority taxation</td>
<td>300</td>
</tr>
<tr>
<td>borrowing</td>
<td>500</td>
</tr>
<tr>
<td>unexplained residual</td>
<td>20</td>
</tr>
<tr>
<td>total expenditure</td>
<td>2100</td>
</tr>
</tbody>
</table>

Note: Although the White Paper makes it clear that these figures are approximations, it would have helped if the expenditure for devolved services in Wales had equaled the financing. The "unexplained residual" of £20 million is caused by this discrepancy.

Source: Cmd 6348, paragraphs 99 and 223.

The stability of the new constitutional arrangements will be greater if substantial revenue raising powers are granted to the Assemblies. Without them, the Assemblies will point to the inadequate block grant from Westminster as the source of all evil, failure and disappointment. The Scottish National Party will exploit economically an economic situation in which public expenditure, at best, will rise only very slowly and perhaps even fall in real (constant price) terms. They will contrast the ineffectual Assembly, starved of funds by Westminster which steals Scotland's oil revenues, with the vision of an affluent and independent Scotland. Although the substantial proportion of the Assemblies' expenditure will inevitably be financed by the block grant, independent taxation powers, and the consequent ability to take decisions on the total of public expenditure as well as on its mix, would provide much greater flexibility. Additional taxes could be levied in Scotland and Wales to finance expenditure which the Assembly believed was so important that it was prepared to raise the revenue itself and subsequently face its electorate on this basis. This would prove a much more acid test of how important the expenditure is thought to be than if Westminster can just be blamed.
the main beneficiaries of the Rate Support Grant have been Scotland, Wales and the North of England and the only contribu-
tions (in the sense that they pay the taxes which are redistributed) have been the South East and West Midlands. Scotland has benefited from a much higher percentage rate of Rate Support Grant than that for England and Wales (74 per cent in 1976/77 compared to 65.5 per cent). The explanation for this differential of 8.5 percentage points is in the historical development of grant systems rather than in any rationale in terms of relative needs.

The second objective of grants to lower level governments is to provide them with revenue which is either difficult or undesirable for the area to levy itself. The third objective of Rate Support Grant and other block grants is to provide the Treasury with a policy tool for controlling the aggregate expenditure of local authorities. By altering the total amount of grant available, the Treasury can influence budgeting decisions. When a local authority is receiving three quarters of its revenue from central government grants, there is an important factor affecting whether it tries to increase its own expenditure above the level agreed in the grant settlement. For example, a 10 per cent increase in its expenditure would have to be financed entirely from its own resources (no more will be forthcoming) and the increase in its tax rate will be 40 per cent and not 10 per cent. Although the local authority can increase its expenditure, there are powerful incentives to follow the Treasury line.
ESTIMATED UNITED KINGDOM CENTRAL GOVERNMENT TAXATION REVENUE, FINANCIAL YEAR 1975/76

1975/76 estimated yield

inland revenue

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount (£ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>income tax</td>
<td>14,008</td>
</tr>
<tr>
<td>surtax</td>
<td>85</td>
</tr>
<tr>
<td>corporation tax</td>
<td>2,125</td>
</tr>
<tr>
<td>capital gains tax</td>
<td>325</td>
</tr>
<tr>
<td>estate duty</td>
<td>165</td>
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<tr>
<td>capital transfer tax</td>
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<td>stamp duties</td>
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| customs & excise

<table>
<thead>
<tr>
<th>Description</th>
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<tbody>
<tr>
<td>value added tax</td>
<td>3,275</td>
</tr>
<tr>
<td>oil</td>
<td>1,550</td>
</tr>
<tr>
<td>tobacco</td>
<td>1,675</td>
</tr>
<tr>
<td>spirits, beer and wine</td>
<td>1,475</td>
</tr>
<tr>
<td>betting and gaming</td>
<td>275</td>
</tr>
<tr>
<td>car tax</td>
<td>170</td>
</tr>
<tr>
<td>other revenue duties</td>
<td>10</td>
</tr>
<tr>
<td>protective duties</td>
<td>530</td>
</tr>
<tr>
<td>local authorities vehicle excise duties</td>
<td>40</td>
</tr>
<tr>
<td>total taxation revenue</td>
<td>26,851</td>
</tr>
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</table>


IMPROVE control over the public sector has been markedly worse than in other countries with much more decentralised public sectors. The above table shows the estimated yield of Central Government taxation in financial year 1975/76. For the reasons explained above, no regional allocation of taxes is available. A regional analysis of corporation tax would be very difficult to prepare and almost worthless as there would be immense problems relating to companies with plants in many parts of the United Kingdom. The most promising candidates among existing taxes might be income tax, some of the customs and excise duties and vehicle licence duties. The adjacent table classifies some of these duties.

This illustrative example demonstrates the variety of possible arrangements—

collecting the taxes could be either the use of existing United Kingdom authorities on an agency basis or the setting up of completely separate Scottish and Welsh bodies. In the example of income tax, separate bodies would cause substantial extra administrative costs (borne by the Scottish and Welsh Assemblies) and extra compliance costs (incurred by the taxpayers). The Parliament who has to balance the assessment forms and on employers if they deduct income tax on a PAYE basis from their employees). On the other hand separate Scottish and Welsh bodies would be more attractive to certain excise duties or a retail sales tax.

There is no point making concrete proposals until statistics on the yields of these taxes which can be conceptually identified to the countries and regions are published. Nevertheless the following tentative suggestion should help to stimulate discussion. The basic rate of United Kingdom income tax is now 35 per cent which is applied to taxable income minus allowances for family and other commitments. The basic rate of United Kingdom income tax applicable to Scotland and Wales should be reduced to 25 per cent. The Scottish and Welsh Assemblies would be financially active in levying other devolved taxes, partly by the block grant and partly by levying a Scottish and Welsh income tax. The block grant would be calculated on the assumption that the Assemblies levied a Scottish/Welsh income tax of 10 per cent: this would be a flat rate based on taxable income which is, after deduction of all allowances which will have already been calculated for United Kingdom income tax purposes. The Assemblies would then declare the rate of Scottish/Welsh income tax which could be any percentage from zero to a maximum of say, 15 per cent. A maximum rate would have to be set by Westminster because the interaction of the Scottish/Welsh tax rate with the higher rates of United Kingdom income tax could otherwise produce a marginal rate in excess of 100 per cent. The tax would be collected on behalf of the Scottish/Welsh bodies by the United Kingdom Inland Revenue. Rules about residence would obviously be required.

This devolved income tax might or might not be accompanied by an equalisation scheme which would bring the tax yield of a per cent rate up to a standard amount per head. Without this, it is probable that Wales would be less favourably placed than Scotland.

By far the most explosive political issue on taxation powers is the question of the use of oil revenues. The discovery of North Sea oil has been persistently hailed as a panacea which will transform Britain's economic position in the world. Unquestionably its prospects are huge, but the balance of payments has enabled the Government to finance the trade deficit by overseas borrowing to a much greater extent than would otherwise have been possible and consequently harsher deflationary measures have been adopted. What is also extremely important is that the economic prospects of an independent Scotland have been transformed by the extraction of oil from the United Kingdom continental shelf off the Scottish coast. Although there are no boundaries within the UK sector, much of the oil would probably be in a Scottish sector and would have to be delineated by negotiation and arbitration. The taxation revenues from North Sea oil will be massive even in the context of the United Kingdom but even more so in the context of Scotland. The table below shows Donald MacKay's estimate of taxation revenues. The taxation arrangements are very complex and the table should be interpreted remembering three important points. Firstly, the table includes fields which are relatively advanced to towards production and excludes other oil fields which are likely to be on-stream by 1980. Secondly it assumes that the price of crude oil will remain at 1974 levels in real terms (which Professor MacKay states is the balance of expert opinion although he believes that the real price will tend to fall). Thirdly, it assumes that the devolution of production and exploration costs, which has been a marked feature of the period 1972-75, will be moderated. MacKay concludes that, unless points two and three are heavily modified by the passage of time, the chief benefits arising from North Sea oil
ESTIMATED GOVERNMENT TAKE FROM KNOWN COMMERCIAL FIELDS 1975-8 (million rounded)

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<tr>
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<td>35</td>
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<td>50</td>
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<td></td>
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<tr>
<td>revenue tax</td>
<td>130</td>
<td>440</td>
<td>540</td>
<td>870</td>
<td>890</td>
<td>860</td>
<td>570</td>
<td>380</td>
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<td>450</td>
<td>600</td>
<td>880</td>
<td>920</td>
<td>1,960</td>
<td></td>
<td></td>
</tr>
<tr>
<td>total government take</td>
<td>10</td>
<td>80</td>
<td>220</td>
<td>550</td>
<td>1,230</td>
<td>1,450</td>
<td>1,600</td>
<td>2,040</td>
<td>2,250</td>
<td>1,940</td>
<td>2,740</td>
</tr>
</tbody>
</table>

source: Donald MacKay, North Sea Oil through Speculative Glasses, Fraser of Allander Institute Speculative Paper number 4, October 1975, table 3.

will not accrue directly to Scotland under present constitutional arrangements. He believes that the total government take by the early 1980s will be about £3,000 million per annum which is massive when compared with Scotland's Gross Domestic Product of £5,245 million in 1973. He considers that the direct effects of oil will be much more limited resulting in a peak employment level of 60,000 (which includes the multiplier effects) but which will fall as the manufacturing and construction phase ends and the production phase begins. The fundamental economic issues which arise here includes whether the proposed Scottish Assembly will have, as of right, access to a major part of the oil revenues and the financial discretion to use these revenues for Scottish economic development (ibid. page 17, italics added).

The White Paper totally rejects the view that "oil revenues should be controlled directly by both parts of the United Kingdom off whose shores the oil is found ... The Government believes oil must be treated in the same way as other national resources (like the big coal deposits discovered recently in England and the natural gas off its shores) and the benefits brought into the national pool for distribution in accordance with relative needs. Any other course would destroy not only economic unity but also political unity. Those who wish to reserve to Scotland oil or other revenues arising there are in effect demanding a separate Scottish state. The circle cannot be squared; it is not possible for Scotland or any other part of the United Kingdom to enjoy rights which can only go with separatism yet not to have separation it self" (White Paper, paragraph 97).

The Scottish and Welsh Assemblies will be constitutionally subordinate to the Westminster Parliament which has created them. They will always remain subject to Parliament's laws and will not be free to alter the devolution settlement. These points were clearly going to be part of any Devolution Act and Kilbrandon's scheme A (see appendix one) provided that Westminster could veto Scottish and Welsh Assembly legislation, pass legislation on devolved issues if the Assemblies refused to pass a bill when so requested by Westminster and ultimately set aside decisions of the Assemblies in the same way as Westminster suspended Stormont in 1972. Scheme A also anticipated that financing would be by block grant (though the total would be decided by a谈判 between Edinburgh and Westminster and suggested roughly the same set of functions to be devolved as proposed in the White Paper). Scheme A also recommended that Scotland's and Wales's parliamentary representation should be reduced and that they should lose their respective Secretaries of State. This comparison suggests that the White Paper proposals are generous to Scotland when compared with the devolution of April 1977 which was described as "maximal" proposals. Ironically it is in Scotland, which is to obtain a scheme A Assembly and keep both its Secretary of State and its Westminster representation, that the White Paper has been described as an "insult" or a "sell out" because it does not go far enough. In contrast, in Wales, which will receive much less, most of the argument is about whether the proposals are far too much.

Part of the explanation for the appalling reception which greeted the White Paper has already been suggested. The Labour Party and Government allowed itself to be embarrassed into a firm commitment before the full implications of any devolution proposals had been worked out.

Too much reliance was placed upon the Kilbrandon report's analysis of the problem and its conclusions. The dramatic rise in the electoral fortunes of the SNP, the potential Assemble of the knife edge Government majority and the worst economic recession since the 1930s have shifted the political sands much faster than anyone in London had realised. What has made these factors even more potent is that the long delay in actually publishing the White Paper, widely believed to be because of fundamental disagreements in the Cabinet, had built up a sense of expectation which could not be fulfilled.

I have shown that most of the content of the White Paper was very close to what might realistically be expected. However, the presentation of the White Paper is assistance of such conclusions to the devolution of control on domestic affairs is difficult to appreciate when reading the document because of the thoroughly negative tone, all the hedges and qualifications and some unworkable mechanics. I would be delighted to see the original version of the White Paper before all the amendments and qualifications were inserted to soothe the fears of other Cabinet ministers and the devolution documents. Suddenly people in London have woken up to appreciate the substance of the debate in 1974 in the Labour movement in Scotland between the devolution Committee and the government who were yet to outflank the nationalists electorally in 1974 has proved costly. The attitude of the Scottish Nationalists has been whetted. A rival Scottish Labour Party has been formed by Alex Neil, the research officer of the Scottish Council of the Labour Party before he resigned over the White Paper, supported by one of the leading devolutionists in the Labour Party, Jim Sillars (MP for South Ayrshire) and John Robertson (MP for Paisley).

It is difficult not to sympathise with Willie Ross and Ted Short who will bear the brunt of the attack on the White Paper whilst other people are far more worthy of blame.

The sections of this chapter will discuss the means by which the Scottish and Welsh Assemblies will be subject to Westminster's continuing control. A careful distinction has to be made between the existence of such controls which inevitably follow from the Government's broad acceptance of Kilbrandon's scheme A for
Scotland and of schemes n/c for (Wales) and the circumstances and manner in which they might actually be used.

**financial controls**

A complete chapter of this pamphlet has been devoted to the immensely important issue of the financing arrangements. The conclusion of that analysis was that the granting of taxation powers created unnecessary instability and conflict. The Assemblies will face no financial discipline from their electorate and will consequently always regard the block grant as totally inadequate. The United Kingdom Government will retain the power to determine the sources of local taxation (but not the detailed application) and control total borrowing by public authorities. The Devolution Act will set up Scottish and Welsh counterparts to such existing Westminster financial institutions as the Consolidated Fund, the National Loans Fund, the Comptroller and Auditor General, the Public Accounts Committee, and Appropriation Acts. Responsibility for financial control and for accounting for Assembly expenditure will rest squarely with the Assemblies. Westminster's role will be to vote the blocks approved by single items and it will not intervene in the Assemblies' financial decision making and accountability. The system for authorising expenditure and for reporting on the accounts is consistent with the Devolution Act but its operation is fully devolved.

**Secretaries of states' powers over the assembly**

Kilbrandon's scheme involved both Scotland and Wales losing their respective Secretaries of State. Few people outside those concerned appreciated the power and influence exercised by either incumbent. He depends on the patronage of the United Kingdom Prime Minister for his appointment and builds a dual role. He is the country's voice in the Cabinet and safeguards its interests in the policy debates and decisions in the Cabinet. His wide ranging subject responsibilities, crossing what in England are many departmental boundaries and ministerial responsibilities, give him a key position in the Cabinet and in Scotland's case, legislation (this is particularly true of the Secretary of State for Scotland). Secondly, he is the Government's spokesman in his country and sometimes has to press policy and, in Scotland's case, legislation which is opposed by the majority of Members of Parliament from his country.

This fate is most frequently faced by Conservative Secretaries of State because of their party's poor electoral performance in Scotland and Wales. Nevertheless, a recent research project has shown that Scottish MPs are prepared to attack a Secretary of State of their own party when they believe that he has not done well enough for Scotland (Michael Keating, *The Role of the Scottish Member of Parliament*, CMAA doctoral thesis, Glasgow College of Technology, 1975). The Secretary of State for Scotland promotes separate legislation for Scotland on topics for which there is already a separate Scottish law. Most of the legislation tends to parallel that of the Westminster Parliament and the local government of Wales. The major policy decisions underlying the Scottish legislation are taken by the United Kingdom Cabinet. Nevertheless, administrative initiatives or inertia differ in different ways. The Secretary of State for Scotland is the architect of the legislation for Scotland, as the Social Work (Scotland) Act is an example of earlier and more far sighted legislation emerging for Scotland—but is an exception rather than the rule. The Secretary of State's lobbying role in the Cabinet should not be underestimated. Steel investment has been diverted from England to Rasselas (Motherwell) and to Wales (1961) by the Drax power station. The vehicle plants of Bathgate and Linwood, the Invergordon Aluminium Smelter (1968) were enticed to Scotland and the Rugeley Upper Clyde Shipbuilders (1969) and the Linwood Upper Clyde Shipbuilders (1971). The whole of Scotland has development area status. It is widely believed that the threatened reorganisation of the Ministry of Agriculture, Fisheries and Food for Scotland would be a significant loss in the Chrysler rescue and the comparatively favourable way in which Linwood emerged in relation to Coventry. The White Paper proposes that Scotland should have a scheme A type Assembly but will not require the Secretary of State in the Cabinet to continue to monitor decisions on how non-departmental functions affect Scotland. Wales will have an Assembly with only executive powers and also keep its Secretary of State: this does follow the scheme B's approach. The very favourable position which this confers upon both Scotland and Wales has been counteracted by the new Secretaries of State in search of a job. Even though the Secretary of State will lose much of their existing charge to the newly created Assemblies, it has to be accepted that the growing acquisition of responsibilities of the Secretary of State for Scotland were making the position almost embarrassingly burdensome.

Both Secretaries of State retain responsibility for the industrial and regional development functions which they have previously exercised and which the Government has decided not to devolve to the Assemblies. They are responsible for selecting the Industrial Development Board and promotion; their powers of selective industrial assistance under section 7 of the Industry Act 1972; the industrial role of the Scottish and Welsh Development Agencies; the administration of the Development Board; the appointment of half of their members and also of the chairmen after consultation with the Assemblies. The Secretary of State for Scotland retains his agriculture and fisheries responsibilities and passes them to the Minister of Agriculture, Fisheries and Food to the Secretary of State for Wales. The Secretary of State for Scotland retains the geographical area of the Highlands Development Board and lays down a system of guidelines and cash limits for the Board's activities in non-developed areas such as the new rural development of the Highlands and Islands. Both Secretaries of State acquire responsibility for the activities in their country of the Manpower Services Commission, the Training Services Agency and the Employment Services Agency. Paragraph 283 of the White Paper rules out the possibility of devestating the Secretary of State's responsibilities in some or all of the operations of the nationalised industries without appearing to acknowledge the anomaly of the Secretary of State for Scotland already exercising responsibility over the electricity industry in Scotland.

Discussion of the continuing role of the Secretary of State for Scotland has focused on what has been described as his role as a "colonial Governor-General". This does not apply to Wales because of the non-executive style of administration proposed for Wales. The Secretary of State for Scotland has extensive responsibilities with regard to the Assembly including those which relate to the initial establishment and also ongoing roles. His initial responsibilities are unobjectionable and are relinquished as soon as the Assembly is able to take over. These are the setting of the time and place of the first meeting and making of the parliamentary arrangements for the pay and allowances of members of the Assembly and the drawing up of Standing Orders. Some of the ongoing responsibilities of the Secretary of State are also imposed on the Chair of the Assembly and at least misguided and at worst potentially explosive. Cumulatively the effect is to remove the impression that the Assembly is subservient to the Secretary of State. The Secretary of State's on-going responsibilities include a general oversight over Assembly elections, making rules for them on such matters as election expenses, and setting the maximum number of Executive Members and Assistants.

Much more significantly, he will invite a prospective Chief Executive to form an administration. Provided that there was a clear majority party in the Assembly, this would be a formality. If this was not the case, the government or coalition, this assumes substantial political importance despite the fact that the Assembly has the right to approve or reject the proposed Executive.
The Executive legislation will also be dealt with more frequently. Cumulatively these factors make the proposed role of the Secretary of State an impossible and dangerous one.

Although it is not explicitly stated in the White Paper, it is probable that the Secretaries of State for Scotland and Wales will conduct the block grant negotiations with the Assemblies on behalf of the United Kingdom Government. They will be seen as the grantor (or, more likely, denier) of funds to the Assemblies and their role will become an ambiguous one especially in the light of their traditional lobbying function which, in part, will remain. The arrangement will hardly make the Secretaries of State the most popular men in their countries but is probably seen to have two advantages. The Scottish and Welsh Assemblies will have a right to their own grant with a Scottishman and Welshman respectively and the Treasury will be able to exert its influence which, in general, will not be exercised.

The Secretary of State for Scotland also has a further role as the channel through which all Scottish legislation must pass and might get stranded. Before it receives the Scottish Legislative Assemblies, two separate issues are seen to be involved when the whole question of veto and other reserve powers is discussed in the next section: firstly, what kind of powers should be reserved to Westminster and, secondly, how should they be operate?

Westminster's reserve powers

The Devolution Act will establish directly elected Assemblies in Scotland and Wales but, although certain powers and functions will be devolved, it will not remove the final legislative sovereignty of the Westminster Parliament. Although there are justifiable criticisms of the machinery proposed in the White Paper, some of the attacks on the document have expressed astonishment at the reserve powers existing. On the contrary, such reserve powers are an integral part of the scheme of devolution which the Government adopted from the Kilbrandon Report. It is a quite different issue whether Kilbrandon's proposals for the creation of an explicitly Federal Union, with separate independent Scottish, Welsh, and English states or, for that matter, the merits of the status quo. Separatists and federalists will inevitably find any vestige of Westminster powers as something to be denounced. Yet support from devolutionists (that is, those who see the creation of Assemblies as an end in itself) is not just as a staging post on the path to independence. For these attacks stresses the need to focus clearly on the mechanics and on the mechanisms proposed in the White Paper.

The retention of the legislative sovereignty of Westminster on all matters means that, in the last resort, Westminster reserves the right to legislate on all matters, including the ability to revoke the Devolution settlement. Anyone who has just been through the devolution process in horror at this thought should remember that Westminster Government has been much maligned for its unwillingness to become involved or interfere in the government of Northern Ireland (by way of the creation of Assemblies). Such a parallel is inadmissible in the case of Scotland and Wales. The realistic cases can be conveniently subdivided into those relating to the English part of Scotland and to the English part of the Assemblies and to executive actions of either the Scottish or Welsh Assemblies.

The Scottish Assembly will be responsible for passing legislation for Scotland on the subject areas outlined in chapters three and four. There are two distinct sets of circumstances under which legislation passed by the Assembly might be vetoed by the United Kingdom Government. The first case is when a piece of Assembly legislation is ultra vires (that is, outside the powers of the Assembly as defined by the Devolution Act). The procedure as envisaged in the White Paper is that when a Bill is presented to the Assembly, the presiding officer, on the advice of his council, will either refer the bill to the Government, or the advice of its law officers, will decide whether any part of the Bill is ultra vires. If this is the case, the Secretary of State will send the bill back to the Assembly with a clear statement of the reasons. If the bill is then resubmitted in a form which is still ultra vires, the Secretary of State will inform the Assembly of this and the bill will fall. The major criticism of this procedure is that it is a simple and indisputable fact. The Devolution Act is likely to be an immensely complicated piece of legislation which, partly because of the division of functions between Westminster and the Scottish Assemblies, will create considerable ambiguities. There is a danger that the ultra vires veto might be used—or thought to be—by a United Kingdom Government hand-picked by Westminster legislation to find politically odious (and which the Scottish opposition might find odious) when it does not in fact do so.

The Westminister's reserve powers are vested in bills as ultra vires. The White Paper calls for comment on whether some form of judicial review of ultra vires should be built into the system. It is important that the complex arguments on ultra vires are taken by a body seen to be independent and where the issues are openly discussed. This would act as a safety valve for a great deal of political friction which would focus on the question of ultra vires to the mutual benefit of both the United Kingdom Government and the Scottish Executive.

"unacceptable" policy

The second case is when the Secretary of State will have decided that the bill is unacceptable because of the policy content of the bill. The White Paper announces this in a
The devastating sentence which appears to reiterate all the powers that are to be devolved upon the United Kingdom Government and its Assembly Executive is an obvious one. Kilbrandon himself has repeatedly stated that the Bill is unacceptable on general policy grounds. It is in this context that the lack of real thought into the problems of resolving conflict between the United Kingdom Government and any regional assembly is sorely missed. Kilbrandon wanted to devolve legislative powers but remained most uneasy at the possibility of regional assemblies adopting policies he regarded as intolerable in some regions or by Parliament and the central Government or policies which, while not unreasonable in themselves, would, when taken together, be so incompatible as to undermine political and economic unity, or at least to have consequences that would be regarded as unacceptable.

(Kilbrandon Report, paragraphs 758-61).

Devolution of power is valuable provided it does not lead to genuine diversity. It is astonishing that anybody could produce such an inept platitudinous and vacuous solution as a cost of £893,993. At the heart of the whole question of devolution there has been the question of how much weight should be placed upon uniform access to public services for all United Kingdom citizens on one hand, and how much weight should be placed upon the divergent preferences of the different regions and countries on the other. The White Paper does not suggest that the Government is thinking of progressing much further—at least if the White Paper is regarded as a final position contrary to the basis for the Great Debate which the Prime Minister told the Commons that he hoped would provoke the White Paper for 1976 Jans 13 January 1976, Col 208.

Very little political sophistication is needed to appreciate that either Kilbrandon’s or the White Paper’s ground for devolution is a guaranteed recipe for conflict as virtually any piece of legislation emerging from Edinburgh might be regarded as unacceptable on policy grounds especially in cases of political control resting in opposing hands. Devolved functions include policy on private hospital practice both within the National Health Service and outside it; the role of private schools; on the organisation of the state education sector, including comprehensive education and the introduction of educational vouchers; on housing finance in the public sector (but significantly excluding mortgage tax relief which means that policy on these issues will continue to develop in isolation).

Two examples will illustrate that these are not pure hypothesis. A Labour controlled Assembly might abolish all private education and medical care in Scotland—even though many of the facilities might relocate at Carlisle. A United Kingdom Government led by Margaret Thatcher would unquestionably view these policies as a breach of the “right to be unequal.” A Conservative controlled Assembly might introduce educational vouchers which a Labour Government at Westminster would regard as an attempt to dismantle the welfare state. The fact that such policies were actually being funded by Westminster via the block grant mechanism would, however, make them less acceptable.

A Scottish National Party controlled Assembly would probably pass legislation in order to deliberately provoke the veto. Under these circumstances it would not simply be a question of Westminster deliberately denying the “aspirations of the Scottish people.” Every interest group opposed to the legislation and the minority in the Assembly would lobby the Secretary of State to veto it. An abstract principle of respecting the separate powers of the Assembly would be sorely put to the test by actual conflicts over important and heated political issues. These veto powers will be a focus for political conflict and tension between Westminster and the Assembly. It is absolutely essential that the inevitable difficulties which will arise are anticipated so that machinery can be designed in order to minimise the dangers of constitutional crisis.

Although a solution to this difficulty will prove elusive, the White Paper proposals are misconceived. All Assembly Bills are submitted to the Secretary of State to establish whether they are both intra vire and “acceptable on general policy grounds.” If a Bill is not acceptable on policy grounds, the Secretary of State may return it back explaining the reasons. If it is resubmitted still in an unacceptable form, the Secretary of State must, within a set time period, lay before Parliament a notice of motion praying for the Bill’s rejection. If Parliament accepts this motion, the Bill fails. If Parliament rejects the motion, the Bill goes for Royal Assent. Although the White Paper stresses that the veto powers will provoke the veto, it does not face up to the question of what “seriously harmful” means.

Now that the decision has been taken by the Government that Scotland should have a directly elected Assembly, there should be a presumption that the legislation that Assembly pass as intravires should not be vetoed unless it clearly has adverse consequences of great magnitude on the rest of the United Kingdom. Some form of arbitration procedure leading to a judicial or consensual method of breaking the deadlock of the Government and the Assembly would be preferable to concentrating the power in the hands of the Secretary of State and compromising him further in the process.

Ultimately, the final decision will rest with Westminster, but such arbitration measures should prove valuable as safeguards. Similar policies did exist under section 75 of the Government of Ireland Act, 1920 for the Westminster Parliament to legislate on Northern Ireland transferred matters, but this power was never used except at the request and with the consent of the Northern Ireland Government. Royal Assent was never withheld. In any event, the Northern Ireland Government never exercised the potential for divergent legislation envisaged in the Government of Ireland Act, this precedent provides some reassurance. The most extreme case would be one in which Westminster would pass legislation on a devolved subject if the Scottish Assembly refused to pass legislation as requested by Westminster. What must be recognised is that frequent use of the veto or of the power to pass legislation on devolved matters would devalue the Assembly and almost certainly strengthen the separatist camp.

The controls which Westminster retains on executive actions relate to both Scotland and Wales. If either the Scottish Executive or Welsh Assembly take or fail to take executive actions (including “delegated legislation”) which have serious consequences for the United Kingdom as a whole, the United Kingdom Government has three possible courses of action open to it. Firstly, it can take action prohibiting such actions. Secondly, the United Kingdom Government can hold an Assembly or revoking an action already taken by the Assembly. Thirdly, it can resume responsibility for the devolved subject to the minimum extent necessary if the Assembly refuses to comply with Westminster’s request to take earlier actions or to put right omissions. All these steps require an affirmative resolution to be passed by Parliament although, in the second case, the annulment order can be issued in emergencies subject to an affirmative resolution within a short period. Similar criticisms can be applied to these reserve powers as to those relating to legislative actions. Indeed, it is difficult to see from the White Paper why such powers are not adequate to prevent the scope for distinctive and possibly unacceptable—policies through executive actions is much more limited than that contained in the power to pass legislation. It creates the impression that a sleight of hand is being used to crack a nut and detracts from the attractiveness of the proposals for Scotland and Wales.
7. The possibility of devolution in England

Most of this pamphlet has concerned the future government of Scotland and Wales rather than England. This emphasis reflects the attitudes which will be evident on Scotland and Wales. Nevertheless, the Kilbrandon Report did relate to the United Kingdom as a whole and this chapter will survey the possibilities of devolution in England but not in the intractable problems of Northern Ireland. Appendix I shows that four of Kilbrandon’s schemes related to England. These are:

(a) Executive Devolution (scheme a) as proposed in the Memorandum of Dissent for uniform application throughout Great Britain;
(b) Executive Devolution (scheme c) as proposed by one of the signatories of the Majority Report for uniform application throughout Great Britain;
(c) Regional Co-ordinating and Advisory Councils for the English Regions (scheme e) as proposed by eight of the signatories of the Majority Report;
(d) a Scheme for Co-ordinating Committees of Local Authorities (scheme c) as proposed by one of the signatories of the Majority Report.

What is again striking is that signatories of a Royal Commission Report may subscribe to such divergent conclusions as schemes a, f and c on the basis of the same facts and analysis. There are two striking similarities between these two schemes. First, they are both proposals to create a comparable status to the English regions as far as Scotland and Wales. This raises the questions of the powers to be exercised in chapter two about the status of the English regions. A key concern is whether the English regions (despite comparable population base) and claim a higher status than the lower tier authorities within a Union. Schemes b, e, and c offer Scotland and Wales a much less than it already enjoys. Second, the devolution may be viewed as the delegation of power from the centre, the critical questions remain on what are the lines of accountability. The distinction must be between, on the one hand, the delegation of administration and responsibilities to regional outposts of government with the retention of full accountability to the centre and on the other, the creation of a democratically elected body to control either an existing or newly created tier of administration. Schemes a, e and c create bodies which are indirectly elected and which have co-ordinating and advisory roles. While not necessarily unimportant, these are quite different from what is envisaged in schemes b and c, which is the uniform application throughout the UK of directly elected regional Assemblies with substantial executive powers.

The intentions behind the proposal for scheme b or c, or assembly would be that England were first, the desire to create a stronger democratic control and scrutiny over the developing outputs of central government; second, to establish a direct democratic control over the proliferation of ad hoc bodies which have accompanied the growth of the public sector, increasing enormously the power of patronage of the government of the regions. The reports of the regional strategies show it is clear that the independent decisions and actions of regional outposts of central government departments preclude any coherent planning of a regional package of public expenditure. What is clear is that the region perceives its priorities in allocation decisions. This perception—the extent that any forum now exists to ensure that it is followed by a regional debate—is important because it may differ markedly from that of individual departments in Whitehall which are preoccupied with their own programmes and unaware of the impact and interaction of their spending with other public expenditure or with broader economic forces. Yet, even if regional institutions could be created to design, implement or monitor such a regional package, other difficulties would emerge. If government departments are considered that preferred to build prisons or old people’s homes rather than higher education establishments, what would happen to the Department of Education and Science’s higher education places? And how would the development of new businesses into other regions be contained? The most important decision to be taken is whether the English regions should be treated in a similar or unique way to Scotland and Wales. Are the regions, however, their boundaries drawn, similar to the separate nations of Scotland and Wales? A political fact is that there have to be faced is that the United Kingdom is made up of separate nations and that these are, in the reasons analysed in chapter two, increasingly conscious of their separate identity. This, in itself, does not preclude the constitutional arrangements under which the nations should be governed, but a failure by the English to recognize this separation will unquestionably lead to a breakdown of the UK. The use of the term “English” to mean “British” is a particularly offensive conflation. It is easy to see that the immediate response of parts of England, especially the economically depressed and socially deprived, may be to react to the newly found Scottish and Welsh assertiveness by opposing the Government’s devolution plans by demanding comparable assemblies for themselves.

The “region” in England

The English region is a nebulous concept, one that has been in the standard economic planning regions which were the basis of the Regional Economic Planning Councils and Boards established by the previous Labour Government in 1965. They have proved inadequate to cope with the challenges faced, and the regions have been given a new status under the Department of Environment, the sponsoring department of the Planning Councils, the Department of Planning for the English regions. This partly reflects administrative inertia but also the varying catchment areas for different services or groups of services. At no point do either the Kilbrandon Report fully tackle the problem of drawing boundaries in as densely populated and urbanised a country as England. The Majority Report simply adjourns the boundaries of the Economic Planning Regions to correspond with those of the new counties. The Memorandum of Dissent simply adopts Senior’s five provinces from his own Memorandum of Dissent to the Redcliffe-Maud Report, which were drawn expressly on the assumption that there would be no return to political union from central government in all. It is worth stressing that Senior, although supporting the establishment of strong regional assemblies in England, has explicitly repudiated these provinces as being appropriate “regions.” (Derek Senior, “Regional Devolution and Local Government,” E. Coveney (ed.), op cit.) On these shaky foundations the Kilbrandon Report constructed regional governments (schemes a, e, and c) which could not be, as he proposed for Scotland and Wales.

The sense of regional identity in England is much more localized than the regions which these proposals imply: a person identifies himself as a Yorkshireman or Lancastrian and not as a North Easterner or North Westerener. One should ask, what is the nature of Englishness and whether this would make devolution from Manchester or Liverpool (scheme b) or from Newcastle (scheme c) more acceptable than it takes place in London? Would a decision on introducing comprehensive devolution be more acceptable than one taken there, given the greater sense of identity? Surely the answer is to give more powers to local authorities which more closely reflect local communities. This introduces the question of the function and roles of local government. A major difficulty in producing desirable results is the need to control and plan land use efficiently and effectively. This is the role of local government. In Senior’s words, “local government must be made structurally and functionally capable of running a unified health service...” (Derek Senior, op cit.)
land is the need to establish effective
democratic control over the ad hoc bodies
which have proliferated in the post-war
world, partly as a result of the expansion
of the public sector. Yet the 1972 Local
Government Act set up a structure which
made it inevitable that water supply and
sewerage would be taken from local gov-
ernment and handed to the newly formed
National Waterways Service. There is no
reason, apart from the resistance from the
medical establishment to any kind of
democratic control, why the National
Waterways Service as well as the water ser-
vice should not have been made respon-
sible to a suitably designed system of
local government. The contrast should be
made with Scotland where the new local
authorities are irony set up by the same
Tory Government which botched up
England, and are responsible for the unified
water service. Before any decision is taken on
regional assemblies in England, the Lab-
or should make a decision on whether it
is prepared to change the new
structure of local government. The worst
features of the Tory reform are easy to
call to mind: the fragmentation of the major
cantons; the two tier structure with its
division of planning responsibilities; the
vitality of the future urban and transporta-
tion planning; local government’s
cosmopolitan counties which deliberately
excluded the smaller burgs, which is
vital to urban and transportation planning;
local government’s
inability to run the health and water ser-
ces; and its inability to operate any
new taxes, which the Layfield Committee
might consider should be allocated to
local authorities. But should the Labour
Party commit itself to any more traumatic
periods for local government, health and
water when the gains from such changes
as those passed by the Tories are long
true, if they exist at all, while the costs
in terms of disruption to services and
irritation to ratepayers, consumers and
employees are too immediate? My
own view is that the benefits of organi-
sational changes are probably exaggerated
and that, in a period of undermined
inflation, rising unemployment and a major
downward revision of what public ex-
penditure growth, if any, can be expected
in the next decade, the energies of the
Government and Party should be on ex-
penditure priorities and on making sure
that whatever cuts back there are are con-
centrated on the most expendable pro-
jects such as motorway building. Yet
looking back at the Report of the Red-
cife-Maud Royal Commission on Local
Government in England (which proposed
58 unitary authorities and 3 two tier
metropolitan counties) and Derek Senior’s
Memorandum of Dissent (which pro-
posed a predominantly two tier system of
35 regional authorities and 180 district
councils together with the creation of 5
appointed provinces), it is impossible not
to reflect that either of these would have
made much more sense than the structure
inflicted upon us by the 1972 Local Gov-
ernment Act. What is now required be-
fore any further upheaval is careful re-
search and monitoring information about the
effects of reorganisation and its ben-
efits and costs. It is amazing what changes
Governments are prepared to implement
without making adequate provision for
independent monitoring. In the meantime,
ad hoc responses will be required to tackle
some of the worst features of the new
structure.

The decisions on devolution in England
are much further on the horizon than
those for Scotland and Wales. The
National Executive of the Labour Party
does not publish urgent discussions
but the discussion document (Devolution
and Regional Government in England, Lab-
or Party, 1975) to provoke comment and
debate in the Labour Movement, and will
be consulted with affiliated organisations
and suggesting Regional Conferences. It
sets no less than seven schemes which
have been suggested for England. As the
date of October 1976 approaches, the Party
will be considering consultation be-
tween local authorities and not to any specific
scheme it provides a starting point for
discussion.

boundaries and the
distribution of power

This pamphlet urges caution on this sub-
ject. Drawing boundaries in England is
a difficult exercise. Political control of
some assemblies would often result in one
party rule for long periods. Look for
example at the sparse number of Labour
MPs returned from the south and south
east of England outside London, and
look also at the damage done to the
vitality of the party in the north east of
England and the central and south central
by semi-permanent Labour rule coupled with
moribund local parties and constituencies.
Similarly, a Labour Government at West-
minster could see its priorities upturned
by a Tory controlled south east which
would swamp Labour’s majority in Lon-
don. How much discretion are we pre-
pared to give to local or Regional Gov-
ernments? Two recent cases are the
Housing Finance Act and the circulars on
comprehensive education. Given the
polarisation of political support in Eng-
land between Labour in the north and
midlands and the Tories in the south, do
we really want to create an intermediate
 tier which can frustrate the plans of a
Labour Government at Westminster or
Labour controlled local authorities?

David Eversley (op cit) has argued that
there is an important class of decisions
(what he calls the “technology of the en-
vironment”) which are expensive and
indivisible projects, which though
often primarily of regional significance,
involve the national government both as
the principal source of finance and in the
development of policies and developments in
other regions. These cover such topics as
airport, energy, railway, water resources and
ports policy. The
central resource distributing function of
central government is illustrated by the
distribution of Regional Assistance
and by industrial location policies which
carries between regions. These are
growing in number of projects and areas
between regions in the form of competitive
incentives to companies to locate in their
region. Finally it must be recognised that
whatever regional boundaries are chosen,
the south east will dominate England in
the same way as England now dominates
the United Kingdom because of its much
larger population. (Using the Regional
Economic Planning regions with minor
modifications to the change local
authority boundaries, the south east has
17 million of the total English popula-
tion of 46 million. Using the five regions
proposed in the Memorandum of Dissent,
the south east has 22 million out of 46
million.)

In no sense are Scotland and Wales
“regions” in the sense we are now dis-
scussing, for they owe their cohesion to the
culture and nationality which they
have. But if it is decided to follow
schemes B or C and set up regional gov-
ernments in England with executive
powers, the most promising starting point
is neither of the schemes of the Kil-
brand Report but the suggestion by
Derek Senior that 12 to 15 regional units
are the most appropriate, using complete river
basins or groups of them, which he claims
cannot be faulted from the viewpoint of
social geography. Initially he would see
them taking over central Government out-
posts and ad hoc bodies but then acquiring
from local government the functions of
land assembly, structural planning,
transportation, urban and agricultural
infrastructural investment. Local govern-
ment could then be reduced to a single
 tier.

Devolution in England should be based on
the possibility of creating regional assemblies making a constructive
contribution to good government rather than
as a simple analogy to what is happening in
Scotland and Wales. This will require careful
consideration to ensure that the decisions on
whether the Tory reorganisation of local
government, water and health is not
allowed to stand. What will certainly hap-
pen is that in the immediate future is that the
English Regional Planning Councils will
acquire a new lease of life monitoring,
and possibly vocally opposing, the
Government’s plans for Scotland and Wales.

In future, there must be far greater openness
about comparative expenditure levels in
and tax revenue generated by different
regions, which have often been sub-
merged and not publicly discussed.
Different treatment will have to be justified
in terms of relative need in a way
never possible in the past because of
statistical inadequacies and, possibly,
a desire to conceal subsiding of some
regions by others. Although this pamphlet
has stressed the importance of making
8. a strategy for Labour

The critical—and sometimes harsh—tone of this pamphlet’s analysis of the Government’s plans and how it has reached them should not be allowed to obscure the fact that the pamphlet is a major attempt to make a constructive contribution to the debate on the future of the United Kingdom. We must know where we are now and how we arrived here before we can chart a course for the future. The pressing need is to secure public support for the White Paper as a whole, not just its specific arguments within the Labour movement. It may create tensions which will shatter both the political and industrial wings of the British Labour movement to the detriment of the whole and of its component parts. One of the underlying strengths of the Labour Party has been its ability to attract mass electoral support and accommodate within its ranks a rich diversity of views. Yet its vitality has been sapped by frustrating periods of Labour Governments repeatedly failing to match the expectations and hopes of the Party members and activists who have worked to secure its election. The Party formation of a breakaway Scottish Labour Party by members dissatisfied with the White Paper is highly disturbing, regardless of its success. It will drain members and potential members away from the task of revitalising the official Party at all levels.

Devolution threatens to become an ever more dominant issue. Although it is essential that the Labour Government and Party establish a coherent view of what is happening and a strategy for the future, the Party must not lose sight of all the other issues demanding our attention. Unemployment is at levels unparalleled since the 1930s. Inflation, though decelerating, remains unacceptably high. Public expenditure will face an onslaught from both the Treasury and any incoming Conservative-Labour government as constructed in the post-war period and the social programmes on which Labour fought the 1974 elections. There is little sign of a “regeneration of British industry” by either Government action or capitalist initiative. Everyone who sees this catalogue of problems as a reason for supporting a separate Scottish/Welsh state should ponder the fact that any alliance between Scottish/Welsh nationalism and the working people is a recent creation. Scottish capitalists (for example, in coal mining and shipbuilding) were generally the worst capitalists, whose sense of national identity has never prevented them from exporting their capital abroad. Chauvinistic attempts to set English, Scottish and Welsh working people at each other’s throats should be fought for what they are. The support of the British Labour movement for an active regional policy even when it has meant less car workers in the West Midlands should be brought to Linwood or Halewood in a spirit of unity.

These explosive tensions have been generated not so much by what the Government has decided but by the muddled way in which decisions have been reached and how they have been presented to the public. When the incoming Labour Government of March 1974 inherited the Kilbrandon Report, two contrasting positions were tenable. First, the whole question of devolution could be dismissed as a dangerous irrelevance. Any concessions to the Nationalist parties were guaranteed to meet their appetites, fail to meet the wild claims of what directly elected Assemblies could achieve and provide the Nationalists with a launching platform for independence. This is the celebrated “slippery slope” argument whose best known exponent has been Tam Dalyell, MP for West Lothian, although it also secured the support of the Scottish Executive of the Labour Party and, in the 1960s at least, of Willie Ross. Although the Nationalist parties might win Westminster this time there would be no more than they would have in 1974. Much of the activity of the Scottish Nationalists is aimed—indeed, with great success—not at the Westminster audience but at the Scottish media. The Plaid Cymru MPs tend to vote with the Government anyway. What really matters is to bring economic prosperity to Scotland—jobs, better pay, better schools, hospitals.
and houses. Simply sit the Nationalists out as they can make little impact at Westminster and they will lose their seats—so, indeed, they did. This was one of the major parties, in which they secured a majority of Scottish seats and withdraw from Westminster to Edinburgh. In 1970 they established a "Scottish Parliament": a constitutional nationalism gave way to violence.

The second tenable position was that a genuine devolution was possible in Scotland with sufficient powers to make a major impact on Scottish public life and institutions. This position was argued cogently by such Labour Party members as John Mackintosh, Mr. for Berwickshire and East Lothian, and Andrew Hargreave, both in the Kilbrandon Commission when it took evidence and in earlier publications (J. P. Mackintosh, The Devolution of Power, Penguin, 1968; A. Hargreave, The Third Choice, Fabian Tract 392, 1969). A powerful restatement of this position was made in 1974 stressing the importance of devolving certain economic functions by a group of Scottish Labour MPs (A. Eadie, H. Ewing, J. Robertson and J. Sillars, Scottish Labour and Devolution, 1974).

Ironically, in the light of Jim Sillars' decision to play a leading role in the break- away Scottish Labour Party, he had taken a strong anti-nationalist stance at the time of the earlier Scottish National Party electoral breakthrough in the late 1960s (A. Eadie, Jim Sillars, Butcher Scotland's Future, 1968). This second school of opinion argued that nothing short of extensive devolution would save off independence. Its shortcoming was that the Assembly, the Scottish National Party had a powerful vehicle to manoeuvre into conflict with Westminster and thus provoke a series of constitutional crises.

What actually happened was that instead of adopting any of these (admittedly untestable in advance) positions, the Labour Party in Scotland simply dithered and was indecisive. The eventual commitment in September 1974 was a response to the Nationalist threat in the north. The SNP and not part of any carefully worked out strategy. It completely closed the first option. It ensured that all the credit for the announcement would accrue to the Nationalist parties for extracting such a firm commitment. It symbolised a policy of grudging concessions which, when delivered, would never live up to expectations. As chapters two and three demonstrate, the SNP was showing signs of a status quo, of accepting the proposed assemblies or of immediate independence, such a stage managed attempt to secure a vote on separation might well reverberate in Scotland against the United Kingdom Government which attempted this.

It is essential that the seriousness of the present situation be fully recognised. The Devolution Bill will not only be a measure of immense constitutional importance but also an extremely complicated piece of legislation. Only clairvoyants can tell us what all the consequences will take to it but it will provide them with a magnificent opportunity to consume parliaments and to secure the Government's legislative timetable. English Labour MPs (those representing English constituencies) will come under intense pressure from regional and local opinion to ensure that the new powers for Scotland and Wales do not damage their interests. One of the three Labour MPs who actually voted against the Government's motion to take note of the White Paper was James Lamond, a former Lord Provost of Aberdeen and now the MP for Oldham East. The Yorkshire and Humberside Regional Economic Planning Council has already expressed its alarm at the White Paper as it believes that Scotland and Wales already have far too much autonomy and development cake. The Nationalists will be delighted to create as much alarm as they can by their own intransigence and to allay the apprehensions of the local community which have their own massive unemployment and social problems. Scottish and Welsh Labour devolutionists will have to convince their English colleagues to support the White Paper proposals and, even more so, any strengthening of them. Devolution will have to be seen as a very rough ride trying to get the Bill through Parliament especially if the Conservatives decide on outright opposition. Everyone should remember the disastrous consequences of Gladstone's failure to secure the passage of the 1886 Irish Home Rule Bill. If the Devolution Bill fails, the next General Election might produce an electoral landslide in Scotland for separatists and Nationalists which has not been generated. The concept of devolution is the idea that when they secure a majority of Scottish seats, they should withdraw from Westminster to Edinburgh and regard themselves as the "legitimate" Scottish Parliament. There is no constitutional way for a small country to secede from a larger union except by consent of the united Parliament. If Westminster refuses devolution, will it voluntarily concede independence? A further disturbing thought is that there is little chance that the parliamentary Scottish Nationalist Party will be able to control the nationalist fervour which has been generated. The consequences of the failure to resolve the emerging tensions developing should be recognised now as far reaching and potentially violent.

The Government's major objective should be to establish Assemblies which will both stand the test of time and the attempts to wreck them which will be made by the Nationalists. The earlier part of this pamphlet demonstrated forcefully that important parts of the mechanics proposed in the White Paper require rethinking. The recent movement to the White Paper should be one of reasoned amendment and not of hysteric denunciation. The key areas where change is required are where the devolution process (or cancellation) will damage the coherence of government, the fixing of public expenditure and distort the policy options available: the time arrangements and the relationships between the Assemblies and the respective Secretaries of State. The greatest danger is that far too much will be expected from the Assemblies. A clear view is needed
the potential they offer, for example, in terms of establishing more direct democratic control over the already extensive bureaucratic decentralisation to Edinburgh and Cardiff. Although this may be regarded as a major gain, it will not content those who have represented Scottish Office decisions as examples of Westminster's malice. The broader economic forces at work will largely determine the climate within which the Assemblies will function: such economic factors as the rate of inflation, the level of unemployment, the balance of payments, the rate of growth and the outlook for public expenditure. Switching political debate from London to Edinburgh and Cardiff does nothing to counteract the growth control exercised over the economy by very large and often multinational companies whose investment and pricing decisions have immense implications for employment, growth and the balance of payments. Exaggerated expectations of what can be achieved will inevitably lead to frustration, despair and, probably, the eventual disintegration of the United Kingdom.

In this extremely difficult economic and parliamentary situation, the Labour Government and the movement as a whole must clarify its thought and work out the options available. A realistic assessment of the future survival of the United Kingdom as a unit is essential. However, unattractive as the Scottish Nationalists or Plaid Cymru might present, the right of both Scotland and Wales to self-determination should be recognised. Whether they remain part of the United Kingdom or not should be the decision of the people. Lessons should have been learned from the past that to deny independence to a "constitutional nationalist" party is a guarantee that violence will ensue. For Scotland the balance of short-term economic advantage probably favours independence although there are so many imponderables such as, for example, the extent to which the trading relationships with the rest of the United Kingdom would be disrupted. The people of Scotland might, at some point in the future, have to balance the social, economic and political arguments for and against the maintenance of the Union. A future constitutional crisis might require such a referendum although, as the case of Northern Ireland shows, not everyone may accept that verdict. The movement towards separation is much less far advanced in Wales—in part, at least, reflecting the difference that oil has made. It is possible that despite the importance of North Sea oil to the British economy, Scotland's price for staying in the Union (that is, control and use within Scotland of oil revenues) may be too high. Glaring inequalities would develop between those parts of the United Kingdom with access to oil and those without, which would be politically unacceptable.

Although the devolution issue has been dominant in Scottish politics for some time, its importance can be exaggerated. Despite the recession, opinion polls are a booming Scottish industry. The danger of Government by opinion poll has already been highlighted in the discussion of the circumstances surrounding Labour's September 1974 White Paper commitment to directly elected Assemblies. Their details are too ephemeral to report here. Nevertheless, the interpretation of them in the Scottish press has suggested two, apparently irreconcilable, trends: first the Scottish electorate want an Assembly with powers over oil, or independence; second, the Conservative party (which is unclear whether it supports a directly elected Assembly) has won back support from its low level of October 1974. Whether elections or a referendum come will probably be affected much more by the level of unemployment, the rate of inflation and general economic prospects than most people now think.

The importance of open and informed debate about the White Paper and the Devolution Bill must be recognised. The undoubted strength of the nationalist parties is the single purpose for their existence which enables them to submerge the deep political divisions within their ranks. The Scottish National Party projects different images and candidates in different parts of Scotland with great electoral success. Yet if the Scottish Assembly is established incorporating the amendments to the White Paper suggested in this pamphlet, these internal divisions will be much less easy to suppress especially if the Government can gain popular support for the Assemblies to be a success. Devolution carries with it important messages for the Labour Party itself. It cannot hope to survive as the major party in Scotland if it disintegrates into official and breakaway parties. Neither in Scotland nor in Wales does the party have the professional organisation, research capacity, membership or propaganda machine to fight off the Nationalist challenge. The time has come for the Scottish and Welsh Councils of the Labour Party to be transformed into autonomous, self-governing bodies affiliated to the British Labour Party in parallel to the existing arrangements of the Conservatives and Liberals. This development is likely to be set back in time by the creation of the self-styled Scottish Labour Party as a breakaway group. Yet what must also be accepted is that the Party in Scotland and Wales must put its own house in order. It should look at the quality of its elected representatives, the moribund state of many constituencies and branches and its failure to generate the funds necessary to run a political party outside elections without relying on Transport House for funds it does not have. If the Houghton Report on the financing of political parties recommends some state financing, this should provide an important opportunity. Labour's future in Scotland and Wales depends on it translating its majority from paper ones which might go with the wind into a vibrant political movement.
appendix 1. Recommendations of the Kilbrandon report

scheme A
Proposed for: Scotland and Wales only.
Proposed by: 8 of signatories of Majority Report for Scotland and by 6 for Wales.
Labelled: Legislative Devolution.

features
1. Assembly: (a) Directly elected; (b) single transferable vote; (c) 100 members for a fixed term.
2. Ministers: Premier and Cabinet supported by separate Civil Service.
3. Westminster representation: To be reduced to the same proportion to population as for England. Scotland's MPs would fall from 71 to about 57 and Wales' from 36 to about 31.
4. Functions: Legislative powers will be devolved on "transferred subjects." (a) both Scotland and Wales: local government, town and country planning, new towns, housing, building control, water supply and sewerage, ancient monuments and historic buildings, roads (including the construction, use and licensing of vehicles), road passenger transport, harbours, other environmental services (e.g. prevention of pollution, sea protection and flood prevention), education (probably excluding universities), youth and community services, sports and recreation, arts and culture (including Welsh and Gaelic languages), social services (including, for Scotland, probation and after-care), health, miscellaneous regulatory functions, agriculture, fisheries and food (except price support), forestry, Crown estates, tourism; (b) Scotland only: police, fire services, criminal policy and administration, prisons, administration of justice, legal matters including law reform, Highlands and Islands development including crofting, sea transport.
5. Finance: Nominated "Exchequer Board," independent of Scottish, Welsh and UK Governments, would determine Scotland's and Wales' "fair share of UK resources." Freedom of Assembly to allocate expenditure on transferred services according to its own priorities. Allocates "block grant."
6. Future of Secretaries of State: Office of Secretaries of State for Scotland and Wales disappear, but there will be a minister in the Cabinet to safeguard their interests.
7. Veto: Westminster can veto Scottish and Welsh legislation and pass legislation on transferred issues if the Scottish/Welsh assemblies refuse to pass a bill. Ultimately, Westminster could suspend the Assemblies.

scheme B
Proposed for: Scotland, Wales and 5 English regions.
Proposed by: The 2 signatories of the Memorandum of Dissent.
Labelled: Executive Devolution.

features
1. Assembly: (a) directly elected; (b) single transferable vote; (c) 100 members for a fixed term.
4. Functions: No devolution of legislative powers. Elected assemblies (in the regions of England also) would assume control of all regional offices and local offices of central Government departments. Would also take over ad hoc authorities operating in their area. Would adjust UK policies to the special needs of the areas and put them into effect. Would make "ordinances": (a) to implement UK policies and legislation and to adapt it to the special needs of the area; (b) to give effect to their residual competence to act for the welfare and good government of the people in their area; they would not be subject to the ultra vires rule which means that local authorities cannot do anything unless they have statutory authority.
5. Finance: Assemblies would have "some independent revenue raising powers to give it sufficient financial 'independence' of Central Government, to give them the requisite degree of freedom to carry out their duties and responsibilities."
6. Future of Secretaries of State: They would both remain in the UK Cabinet even though their departments had been taken over by the Assemblies. They would be responsible for safeguarding the interests of Scotland and Wales. A new minister would be made responsible for the English regions.

scheme C
Proposed for: Scotland, Wales and 8 English regions.
Proposed by: 2 of signatories of Majority Report.
Labelled: Welsh Advisory Council.

features
1. Assembly: (a) directly elected; (b) single transferable vote; (c) 100 members for a fixed term.
2. Ministers: Not applicable as only forum for debate.
4. Functions: To scrutinise, debate and make representations to the Secretary of State for Wales about Government policies and activities in Wales. It would replace the existing Welsh Council. It would have no legislative, executive, or administrative powers but only advisory ones. It would review such issues as the Welsh economy, employment, road development, land use, public services and Welsh language.
5. Finance: Expense would be met by UK Exchequer.
6. Future of Secretary of State: Secretary
of State for Wales would receive advice from and consult this Council.

7. Veto: Not applicable.

scheme E
Proposed for: Scotland only.
Proposed by: 1 of signatories of Majority Report.
Labelled: Scottish Council with advisory and legislative functions.

features
1. Assembly: Directly elected.
2. Ministers: Not applicable.
4. Functions: Similar advisory powers as the Welsh Council of scheme D. Would take the 2nd Reading, Committee and Report stages of Scottish bills referred to it by the House of Commons. Could take a third Reading and send for Royal Assent those non-controversial bills which the Leader of the House of Commons will agree this procedure.
5. Finance: No specific proposal on finance. But it would almost certainly be financed from UK Exchequer.
6. Future of Secretary of State: Secretary of State for Scotland would consult and receive advice from this Council.
7. Veto: Not applicable.

scheme F
Proposed for: England only.
Proposed by: 8 of signatories of Majority Report.
Labelled: Regional Co-ordinating and Advisory Councils for English Regions.

features
1. Assembly: Indirectly elected representatives of local authorities.
2. Ministers: Not applicable.
4. Functions: A formal system of regional committees to co-ordinate the planning of

local authorities. Prior approval by Regional Committee mandatory before plans can be submitted to the minister.
5. Finance: No specific proposal, but a precept on local authorities would be in the spirit of the proposals.
6. Future of Secretary of State: Not applicable.
7. Veto: Not applicable.
appendix 2: the government's proposals for Scotland and Wales

Scotland

1. The Assembly: (a) directly elected; (b) relative majority (i.e. first past the post); (c) for first election, 142 members, 2 from each parliamentary constituency; for subsequent elections, the Boundary Commission will define 1, 2 or 3 single member Assembly constituencies, within parliamentary constituencies, depending upon the size of the electorate. The formula would produce a 138 member Assembly; (d) fixed term of four years.

2. The Executive: Executive powers exercised by a Scottish Executive headed by a Chief Executive. Secretary of State for Scotland invites someone from the Assembly to form an Executive and the Assembly can then accept or reject the list of proposed Executive Members as a whole. Secretary of State appoints Assisting Ministers to the Executive on the recommendation of the Chief Executive. This does not require Assembly approval. Executive Members do not necessarily have to be Members of the Assembly. Those who do not have the right to sit and speak in the Assembly, but not to vote. Highly developed committee system with committees corresponding to main subject fields. Committees will reflect political balance of Assembly, chaired by backbenchers. Own staff. Consultative role prior to legislation. There will be no separate civil service.

3. Representation at Westminster: Existing representation unchanged.

Wales

1. The Assembly: (a) directly elected; (b) relative majority (i.e. first past the post); (c) for first election, 128 members, 2 from each parliamentary constituency; for subsequent elections, the Boundary Commission will define 1, 2 or 3 single member Assembly constituencies, within parliamentary constituencies, depending upon the size of the electorate. The formula would produce a 130 member Assembly; (d) fixed term of four years.

2. The Executive: No executive body distinct from the Assembly. Standing Committee will have the power to conduct business (imperially) and a Leader, known as the Executive Member (to take the main policy and administrative initiatives). The Assembly will appoint the Chairmen and Executive Members. A central co-ordinating committee (known as the Executive Committee) to oversee general policy and the allocation of resources. It will consist of the Executive Members from subject Committees plus any other members (not exceeding one quarter of the total) specially appointed by the Assembly. There will be no separate civil service.

4. Secretary of State: Post remains as automatic Westminster Cabinet position, although he loses a substantial part of existing departmental responsibilities to the Assembly. Retains economic and industrial powers and responsibility for the industrial role of Welsh Development Agency. Acquires responsibility for the activities in Wales of Government employment and training agencies.

5. Functions: Executive Devolution only. Westminster remains responsible for legislation. For example, such as changing local government structure, which requires primary legislation is outside the Assembly's powers. Delegated legislation (i.e. statutory instruments) come within the Assembly's powers.

6. Veto: Final legislative sovereignty of Westminster is maintained, including the power to revoke the Devolution Act and suspend the Assembly.

Veto on legislation: (a) ultra vires legislation is not sent for Royal Assent; (b) legislation "unacceptable on general policy grounds" to the UK Government can be sent back to Assembly and if rejected in a similar form, an affirmative resolution of Parliament is required to veto it; (c) right of Westminster to pass legislation on devolved matters if the Assembly refuses.

Veto on executive actions: (a) affirmative resolutions of Parliament can prohibit prospective courses of action and annul previous ones; (b) parliament can resume responsibility for the devolved subject in dispute.

7. Other restrictions: All Assembly actions must respect the following requirements: (a) general standards relating to consumer affairs, safety, hygiene, trade unions and the rights of employers and competition policy; (b) international and European Economic Community requirements; (c) government control over public sector for counter-inflationary purposes.

8. Finance: Annual block grant voted by Westminster, after negotiation with the Scottish Executive. Assembly has power to levy a surcharge on local authority taxation. Establishment of Scottish counterpart to Consolidated Fund, National Loans Fund, Comptroller and Auditor General, and the Public Accounts Committee.

power to revoke the Devolution Act and suspend the Assembly.

Veto on legislation: Not applicable as no legislative powers are devolved.

Veto on executive actions: (a) affirmative resolutions of Parliament can prohibit prospective courses of action and annul previous ones; (b) parliament can resume responsibility for the devolved subject in dispute.

7. Other restrictions: All Assembly actions must respect the following requirements: (a) general standards relating to consumer affairs, safety, hygiene, trade unions and the rights of employees and competition policy; (b) International and European Economic Community requirements; (c) Government control over pay in the public sector for counter-inflationary purposes.

8. Finance: Annual block grant voted by Westminster, after negotiation with the Welsh Assembly. Assembly has power to levy a surcharge on local authority taxation. Establishment of Welsh counterparts to Consolidated Fund, National Loans Fund, Comptroller and Auditor General, and the Public Accounts Committee.

9. Administrative cost of devolution: Capital Costs of £1.2 million. Initial extra annual running costs of £5 million and eventually around £12 million, although there should be some offsetting savings in UK departments as a result of work being transferred to Wales.

note: Any tabulation runs into the danger of oversimplification. The reader is urged to consult Cmd 6348 for further information.


The Young Fabian Group exists to give socialists not over 30 years of age an opportunity to carry out research, discussion and propaganda. It aims to help its members publish the results of their research, and so make a more effective contribution to the work of the Labour movement. It therefore welcomes all those who have a thoughtful and radical approach to political matters.

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