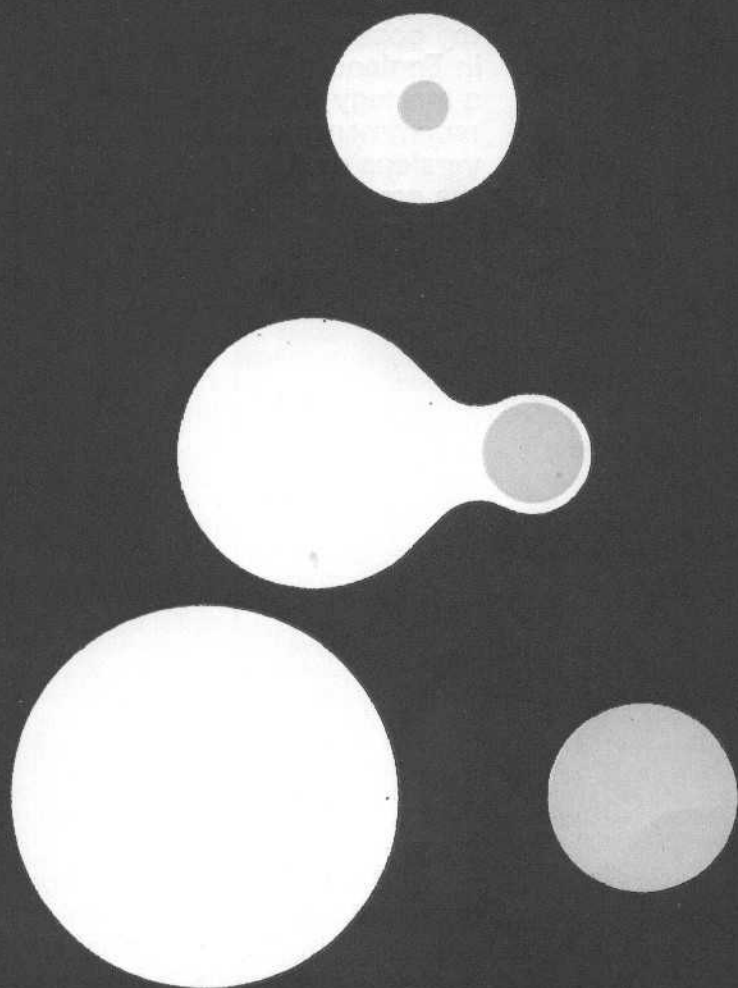


making devolution work

David Heald

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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 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 dissension 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 glib equation 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 diagnosis 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 manifestation 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 dismiss 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 cmd 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 bridgehead which, because of the outcome of the 1974 General Elections, has given them a strength out of all proportion to their numbers. The electoral danger they 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 1). 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

COMPARATIVE ECONOMIC STATISTICS FOR THE COUNTRIES AND REGIONS OF THE UNITED KINGDOM

country	1	2	3	4	5	6	7	8	9
	population 1974 mid-yr estimate (millions)	gross domestic product at factor cost 1973 £ million	£ per capita	identifiable public expenditure per head 1974-75 (provisional) £ million	unemployment Nov 75 %	unemployment Nov 73-Nov 75 %	increase in % age points	average gross weekly earnings of full time employees April 1975 men £	average gross weekly earnings of full time employees April 1975 women £
England	46.4	53,368	1,150	27,011	582	4.7	+2.7	60.9	37.7
Northern Ireland	1.5	1,220	788	1,169	756	9.4	+4.1	n.a.	n.a.
Scotland	5.2	5,345	1,026	3,611	691	5.9	+2.1	60.3	35.9
Wales	2.8	2,624	954	1,657	601	6.9	+3.8	59.0	35.8
English regions									
East Anglia	1.8	1,786	1,027	n.a.	n.a.	4.2	+2.6	56.2	34.8
East Midlands	3.7	3,732	1,082	n.a.	n.a.	4.2	+2.5	58.6	34.9
North	3.1	3,238	983	n.a.	n.a.	6.7	+2.7	60.5	36.2
North West	6.6	7,228	1,070	n.a.	n.a.	6.2	+3.3	59.1	35.8
South East	17.0	22,590	1,305	n.a.	n.a.	3.5	+2.2	65.3	41.0
South West	4.2	4,027	1,039	n.a.	n.a.	5.9	+3.6	56.2	35.7
West Midlands	5.2	5,836	1,130	n.a.	n.a.	5.2	+3.5	58.4	35.1
Yorkshire and Humberside	4.9	4,931	1,021	n.a.	n.a.	4.8	+2.4	58.4	35.6

note: Considerable care should be used in the detailed interpretation of this table. The original sources should be consulted for explanations of the methods and definitions used. Also note that these latest figures do not all relate to the same year.

sources: *Social Trends*, HMSO, 1975; Hansard, 15 December 1975, col 831 and 850; *Department of Employment Gazette*, December 1973, November 1975 and December 1975.

the South East (GDP at factor cost of £22,590 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, 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 GDP per capita than England (£1,150), it fares better than the North of England or Yorkshire and Humberside. 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 the United Kingdom as a whole (see table on page 3). Wales (per capita GDP of £954) and Northern Ireland (£788) do contrast unfavourably with other parts of the United Kingdom.

The table on page 3 also provides the most complete and recent figures available on the geographical allocation of public expenditure. Identifiable public expenditure per head is highest in Northern Ireland (£756) followed by Scotland (£691) and Wales (£601) with England the lowest at £582. 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 inexcus-

able omission hampers informed debate. It makes it difficult to refute unsubstantiated claims and makes it necessary to resort to very old statistics or those compiled with inadequate access to the data and embodying fairly arbitrary assumptions.

Equally it is puzzling that after the appointment of the Kilbrandon (originally Crowther) Commission in 1969 and the Layfield Committee into the Future of Local Government Finance in 1974, the importance of such statistics has not been appreciated. Dr King calculated that in 1964 the only regions which did not receive in public expenditure more than they generated in tax revenues were the South East and West Midlands. He also calculated that in 1968/69 there were substantial variations in public expenditure per head between different English regions (D. N. King, "Financial and Economic Aspects of Regionalism and Separatism," Research Paper number 10 for the Royal Commission on the Constitution, HMSO, especially tables 8 and 35).

Unemployment and earnings statistics also reveal substantial disparities. Column 6 shows unemployment in the countries and regions in November 1975, and column 7 the increase in percentage points of the unemployment rates over the period November 1973-November 1975 which roughly corresponds to the period of the current recession. Despite the world recession, Scotland's relative position, in terms of unemployment, has improved enormously. Scotland (+2.1 percentage points) has the lowest increase in the unemployment rate over this period, whilst Wales (+3.8), Northern Ireland (+4.1) and the previously very prosperous West Midlands (+3.5) have been badly hit. Scotland's unemployment rate has gone up less than that of any English region. This improvement in position is probably due to the cumulative effects of regional policy, oil development and the consequent "business confidence" generated by oil. Similarly, Scotland's position in the earnings table has also risen from a position well below average for the United Kingdom to third (for male employees) behind the South

UNEMPLOYMENT IN THE AREAS OF THE NEW SCOTTISH AND WELSH LOCAL AUTHORITIES

local authority	total population, June 1974	unemployment, November 1975
<i>Scottish regional councils</i>		
Borders	99,105	3.4
Central	267,029	5.4
Dumfries and Galloway	143,711	7.4
Fife	337,690	5.6
Grampian	447,935	3.0
Highland	178,268	6.6
Lothians	758,383	4.9
Strathclyde	2,527,129	6.8
Tayside	401,183	5.8
<i>Scottish island councils</i>		
Orkney	17,462	2.5
Shetland	18,445	3.2
Western Isles	30,060	18.4
Scotland	5,226,400	5.9
<i>Welsh county councils</i>		
Clwyd	373,300	8.7
Dyfed	320,100	7.5
Gwent	440,500	6.6
Gwynedd	223,500	10.2
Mid-Glamorgan	539,200	7.6
Powys	100,200	5.4
South Glamorgan	391,100	5.5
West Glamorgan	371,400	5.3
Wales	2,759,300	6.9

note 1: numbers unemployed are expressed as a % of estimated total number of employees (employed and unemployed) at mid 1974.

note 2: the unemployment figures cover "complete travel to work areas" as defined by the Department of Employment. These will not perfectly match local government boundaries.

sources: populations as estimated by the Registrar General at 30 June 1974. Unemployment statistics from *Department of Employment Gazette*, December 1975.

East and the North of England, and second (for female employees) behind the South East. Although badly hit by unemployment, Wales holds a middle position in the earnings table. What is most striking about the earnings statistics is that the regional inequalities are small relative to the massive differentials in all regions between male and female earnings.

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 emphasises the irrelevance of the national obsession with the days lost from strikes and "scroungers 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 especially as the male unemployment rate is much higher than this and the unemployment figures are recognized to omit many women who would not qualify for benefit. In Britain's crisis areas (such as Glasgow and Merseyside) the effect of such national levels is devastating. The Labour movement should voice its anger that this has taken place under a Labour Government—though Conservative policies would unquestionably make the figures much worse. What the Nationalist parties should not be allowed to distort is the fact that unemployment is a product of our economic system and has affected all other 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 sets out Department of Employment statistics for unemployment in the new local authority areas. It also includes local authority population sizes as the percent-

age unemployment figures on their own tend to be misleading. It is a gross oversimplification to suggest that Scotland's and Wales's economic problems result from Westminster control. The table vividly demonstrates the potential conflicts of interest between different parts of Scotland and Wales even after independence.

the economy of the UK and its regions

The United Kingdom has a very integrated economy but the official statistics on the interrelationships between the Scottish, Welsh and English economies are completely inadequate. The Treasury and the Department of Trade do not have statistics on the pattern of exports and imports between the countries, on capital inflows and outflows between them or on the location of ultimate ownership of their manufacturing capacity, exports or investment. John Firn has estimated that only 41.2 per cent of total manufacturing employment in Scotland in 1973 was ultimately owned in Scotland with 39.8 per cent owned in England and 17.1 per cent owned outside the United Kingdom (John Firn, "External Control and Regional Policy" in Gordon Brown (editor) *Red Paper on Scotland* published by EUSPB, 1 Buccleuch Place, Edinburgh, EH8 9LW).

The Fraser of Allander Institute of the University of Strathclyde is currently conducting a programme of research to provide statistical data on the Scottish economy which includes the preparation of input/output tables. With hard information so difficult to obtain, any assessment of the effect of independence or major devolution of economic control is highly speculative. What is clear is that the economies are closely interwoven and disentangling them would be a delicate and expensive task. As the table on page 3 shows clearly, the differences in population and hence market sizes between the countries are very pronounced and this, quite apart from the end of discrimination by United Kingdom regional policy in favour of Scotland and Wales, would be an important constraint on the freedom of action of independent Scottish or

Welsh governments. Some indication of the concentration of private ownership in a limited number of hands is given by the fact that the share of the top 50, 100 and 200 industrial companies in total UK exports was 27 per cent, 36 per cent and 47 per cent respectively (*Times* 1000, 1974/75).

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 in 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, most commentators accepted that the existing constitutional arrangements were then beneficial to Scotland.

Gavin McCrone, writing in 1969, could confidently express this view. "Some nationalists argue that Scotland subsidises England. Some of those who wish to believe it will no doubt continue to do so but the evidence gives no more support to their case than to those who believe that 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 so long as this assumption (that the price of crude oil will remain at 1974 levels in real terms) is not heavily qualified by the passage of time, then the chief benefits of oil (taxation revenues) will not accrue 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 ex-

ploration 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 grassroots. There are no realistic published figures on party membership (because of the minimum affiliation of 1,000 members) or on which constituencies and branches are properly functioning. What is known is almost unremittingly depressing. Apart from the staff of the Scottish Council (equivalent of an English regional office), 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—lost in February 1974 to the Conservatives but recaptured in October 1974; and South Ayrshire which has a Labour majority of 14,478). There are also organisers 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 of the Welsh Council of Labour, there is only one organiser 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 Labour Party Afford Full Time Agents* produced by the National Union of Labour Organisers. The collapse of professional organisation and also of active membership have 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 to get them elected. 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 calibre 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 large and enthusiastic memberships. In Glasgow, the combination of large Labour majorities with inactive constituencies 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, Glasgow has not produced a single Cabinet Minister since before the Second World War! Whatever policies are adopted by the Government on devolution, it is these factors which make it exposed to the 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 very fruitful to the SNP. To date 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 Protest to Nationalism" *New Society*, 20 November 1975. Their survey data for Glasgow showed that of the people interviewed, 79.3 per cent of Roman Catholics had voted Labour, 11.0 per cent Conservative, 6.9 per cent SNP, 2.8 per cent other, whilst 34.1 per cent of Church of Scotland voted Labour, 38.2 per cent Conservative, 24.0 per cent SNP, and 3.7 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 to Labour is that it is very weak 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 71 in 1974 after unfavourable boundary changes, compared with 46 in 1966) but less well in Wales (23 out of 36 in 1974 compared with 32 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 the United Kingdom 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, from the speeches 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 panacea is really "Scotland's Oil" is viewed with disbelief and outrage.

Much of this is quite hypocritical as, 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 fight abortive campaigns like that of Portugal in Angola and Mozambique. Unfortunately, Scotland and Wales are near at

hand, 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 severe damage will be done 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 view Scotland as one of the last of the colonies struggling to be free. Will Westminster be prepared to grant independence if (and how we measure this is 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 the nationalist revival in Scotland 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 working 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 have a separate identity from the English has been heightened in recent years. The discontent and disillusionment which led in England to 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 nationality 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 resisted the pressures of assimilation with England which would render them or their functions unnecessary. Even for those not consciously affected by these differences, the Scotland/England football rivalry (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 McCrone's respondents (*op cit*) in 1974 identified themselves as Scottish rather than British). John Mackintosh has argued that the idea 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 ("The New Appeal of Nationalism", *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 eco-

nomic 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 929,000 in 1901. Tony Heath, "Wales: A Nation gives tongue", *New Society*, 20 November 1975) has now been accepted as a language for 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. Unlike Scotland, there is no separate legislation for Wales on local government, health service, education or housing or on such legal 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 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 revised constitutional framework or 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 in the 1970s the national 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 Reports is the glib equation between remoteness from Government and physical distances. Kilbrandon found discontent greatest among those living furthest away from London and concluded that having government decisions taken "nearer to the people" by regional governments was 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 resolve 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 structure of northern England also makes it vulnerable both to recession and secular decline. Most firms have their head offices 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 disillusionment 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 vehicle for their expression can be very different because of the hitherto 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 and Cardiff. 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 multinational. 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 small nation states as an alternative strategy to the customs union of the EEC. There is also the question of how the fragmentation of the UK would affect the ability of a government to control its economy. The UK economy is increasingly dependent on a small number of corporations for a large proportion of exports and manufacturing investment. If Scotland and Wales became independent, to 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 the disentanglement, 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, the conflicts of interest between the different regions would be substantial: for example, how many resources are allocated to the rejuvena-

tion of west central Scotland as opposed to new facilities in the booming north east? How would the policies pursued in England affect the market 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 cut-backs 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 independence for Sir Hugh Fraser, the Duke of Buccleuch (who has not joined—yet!), the middle class, the working class, the unemployed, slum dwellers *et al.* 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 ill stems from Westminster and "English rule" and that all Scots stand to gain from independence. There is obviously a grain of truth in that: Scotland only forms 9 per cent of the United Kingdom population so that if oil benefits accrue to Scotland alone there is more for everyone there. But this assumes that the oil companies (which do actually own 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 period (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 submerged over this period (Alan 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, Alan Harrison, *The Distribution of Personal Wealth in Scotland*, Fraser of Allander Institute, Research Monograph 1, 1975. See also John McEwen and Jim Sillars on land ownership in Scotland in *The Red Paper on Scotland*).

There are no lines drawn on the UK con-

tinental shelf to distinguish which gas and oil fields would be within the Scottish, Welsh and English sectors if the United Kingdom did disintegrate. Although these boundaries would have to be negotiated, much of the oil, as opposed to gas, might be in the Scottish sector. But although it is true that oil revenues spread more thickly over Scotland than over the UK, the logic equally applies to Shetland which, with a population of only 18,445, could become the Abu Dhabi of North West Europe! It should be noted that the Shetland Council is most unenthusiastic about the prospect of rule from Edinburgh rather than London. The old Shetland County Council earned itself a reputation for tough dealing with the oil companies to an extent that has disgraced Britain's own negotiators. The Shetlanders themselves could prove the Achilles' heel of "Scotland's Oil."

The subsequent chapters will examine the proposals for change in order to assess whether they are capable of tackling the causes of discontent.

3. the Kilbrandon report and the government's plans

The Kilbrandon (originally Crowther) Royal Commission on the Constitution was appointed by the then Labour Government's Home Secretary, James Callaghan, in April 1969. That Government had been under siege because of economic difficulties and policy failures. The Labour Party had suffered humiliating by-election defeats and an unprecedented loss of seats and control in local government. Particularly frightening were the loss of "safe" Labour seats such as Hamilton (Labour majority of 16,576 transformed into a Scottish National Party majority of 1,799) and Carmarthen (Labour majority of 9,233 transformed into a Plaid Cymru majority of 2,436). The electoral fortunes of the British Labour Party have traditionally depended upon Labour holding a clear majority of seats in Scotland and Wales. Without this support, Labour would not have formed a Government after the General Elections of 1950, 1964 or either of the two elections of 1974. Only in 1945 and 1966 did England return a Labour majority.

Originally appointed to defuse a political situation, the publication of the Kilbrandon Commission's Reports in October 1973 ignited a time bomb. By then the Scottish and Welsh Nationalists had lost their impetus and Labour had regained both Hamilton and Carmarthen and the only Nationalist representation was for the peripheral seat of Western Isles. Other issues were dominant—housing legislation, incomes policy, unemployment and, significantly, oil. Stanyer could reasonably comment that "the subject matter—apparently vital in 1969—has lost its significance with the passage of time" (J. Stanyer, "Nationalism, Regionalism, and the British System of Government", *Social and Economic Administration*, volume 8, number 2, 1974). The SNP's by-election victory in Glasgow Govan, the conflict between the Heath Government and the miners which led up to the February 1974 election and the inconclusive result of that election completely changed the political context. The Labour Party entered the October 1974 election with a commitment to elected assemblies and the Nationalist parties emerged with more seats: the Scottish Nationalist Party with

11 seats and 30.4 per cent of the popular vote in Scotland, and the Welsh Nationalists with 3 seats and 10.8 per cent of the popular vote in Wales.

After sitting for four and a half years, the voluminous reports of the Kilbrandon Commission succeeded in throwing more fog than light on the devolution issue. The Commission seems to have been ill-fated from the beginning: two of its members, including its chairman, Lord Crowther, died; and three resigned. Two of these resignations were from people in the Labour movement, Douglas (now Lord) Houghton, formerly chairman of the Parliamentary Labour Party, and David Basnett, now General Secretary of the General and Municipal Workers' Union. The rump, including two replacements, broke up into two competing groups and two reports were issued: the Majority Report, written by the Commission's secretariat, and a Memorandum of Dissent, written by Dr Norman (now Lord) Crowther Hunt and also signed by Professor Alan Peacock. Even within those people who signed the Majority Report there is disagreement on virtually every major conclusion.

Appendix 1 on page 50 sets out the 7 different schemes to emerge from the Majority Report and the Memorandum of Dissent—subsequently labelled Schemes A to G by the Government's White Paper of June 1974 (*Devolution within the United Kingdom: Some Alternatives for Discussion*, HMSO, 1974). The tabulation of the schemes and of major characteristics such as methods of election, the range of functions exercised and sources of finance highlight a number of significant issues.

The Royal Commission produced a confused and confusing document and did not reach any convincing conclusions. There are so many combinations of proposals (both those illustrated in appendix 1 and other permutations that could easily be devised) that everyone can quote selectively with approval and find other sections to deplore. The Reports show great faith in how much can be achieved by changes in the machinery of government.

The Commission sat during the period when other major changes were being made to the organisational shape of the public sector. After the reorganisation of health, water and local government has been carried out, the present mood is one of scepticism about long term gains and anxiety about the costs whether in terms of money, time or disruption of services. The fact that a Royal Commission produced such a plethora of conflicting views suggests that we should treat its conclusions with suitable caution.

An early conflict within the Royal Commission was how it should interpret its terms of reference. Despite the political circumstances under which the Commission was appointed, it was given a very broad remit to examine the functioning and structure of the whole British political system. Nevertheless the majority of the Commission's members decided that the terms of reference were impossibly wide and that it should consider *how* (note, not *whether*) power should be devolved from Westminster. This narrow interpretation led to the eventual production of the Memorandum of Dissent which saw devolution not as a single major issue but as an important part of a package of constitutional reform. Yet both documents focus on the machinery of government and the levels of government at which certain decisions are taken. They implicitly assume that the acquisition of elected office brings effective power with it, and that political power is what really matters; they pay no attention to the distribution/devolution of economic, social and industrial power.

The eternal dilemma facing a democratic socialist party is how to bring under control and democratise private and unaccountable concentrations of power. Our debate on the machinery of government must not obscure the growing concentration of ownership and control of key sectors of the British economy and especially the increasing multinational dimension to that ownership. Changes in the structure of government must not make government vulnerable and ineffective: for example, we should beware of competitive incentives being offered to Chrys-

ler both by the West Midlands and West Central Scotland.

This narrow interpretation of the terms of reference led to the further mistake of discussing the devolution or decentralisation of decisions in the public sector without reference to the size or role of the public sector or the policy objectives which public intervention are intended to fulfil. There exists no consensus on which activities *should* be carried out by the public sector: contrast, for example, the arguments and value judgements put forward on health, education and social policy by pamphlets published by the Fabian Society with those of the increasingly influential Institute of Economic Affairs. A common thread running through IEA publications is the desirability and efficiency of dismantling public provision of such services and a reversion to individual choice operating through private market provision.

The prolific output of the IEA on this theme has gone largely unchallenged by the Left in Britain, an exception to this being David Collard's Fabian Tract of 1968 (D. Collard, *The new right: a critique*, tract 387) which remains as relevant now, if not more so because of the growing influence of the IEA's views, as when it was written. It is certainly not the responsibility of a Royal Commission to decide how large the public sector should be but its report should have recognised the implications for democratic control of public sectors of varying sizes and roles. Even more important, there is the question of the weight placed on "local or regional choice" as opposed to "equality of treatment of all citizens." If one regional government decided to move away from free public provision of education towards voucher-financed private education or to disband the Health Service, would this be acceptable, especially if the central government was providing the finance for these services? The Kilbrandon Report tries to evade these political dilemmas by commenting rather lamely that "it would be inconceivable, for example, that there should be a national health service in some regions but not in others." Eversley hit the nail

on the head when he said that "either there is *real* devolution, and then one must risk departures from the (London) consensus, or devolution 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 Kilbrandon 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 Kilbrandon Reports and a host of questions which only reflected how few answers the Kilbrandon 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 Kilbrandon Report when it published another White Paper on 17 September 1974. This document was essentially a 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 8 of the signatories of the Kilbrandon Majority Report) for Scotland but some compromise of schemes B and C for Wales. Subsequent events have confirmed 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 which at the time was much keener to make a firm commitment to an Assembly than the Scottish Council of the Labour Party. The significant features of the September 1974 White Paper were its departures from Kilbrandon'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 Scottish and Welsh 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 nationalist parties, the result of the October 1974 General Election appeared to vindicate this strategy. Instead of the crushing losses to the SNP suggested 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 which Labour had retained by a majority of 3 in February. Against all expectations it was Labour's failure to win Conservative held marginals in Eng-

land and not any inroads made by the nationalists which 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. In contrast Plaid Cymru made little progress in terms of popular vote even though they gained Carmarthen: 10.8 per cent in October 1974 compared with 10.7 per cent in February 1974 and 11.5 per cent in June 1970.

the press reaction

But Labour's election eve commitment 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 setting out the detail of the Government's plans (*Our Changing Democracy: Devolution to Scotland and Wales*, Cmnd 6348, HMSO, November 1975). Its publication was preceded by the announcement that the Devolution Bill proper would be delayed until the 1977 Parliament. Rumours and speculation about Cabinet division on the functions of the Assemblies filled the newspapers. Under these circumstances it was hardly surprising if its reception was not rapturous: in the event it was variously described as the "massive handover" and the "great betrayal." 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 be 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 reading the newspaper summaries than on a careful study of the document. The reactions of the *Daily Mirror* and of its Scottish sister paper, 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 and Welsh won't have their own Army or Navy. Nor 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 want more. That is the *Record* verdict on the Government's much-trumpeted White Paper on devolution . . ." (*Daily Record* Editorial, 28 November 1975). The front page headline WE WANT MORE was in type 1½ 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 clearly a 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 which polled 6,063,470 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, ironically, it will give 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 no majority party would emerge from elections and that minority parties (both in the sense of seats and popular votes) 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 but by horse trading after the elections among the various groupings 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 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 mainsprings of economic power. It is interesting that a Conservative MP, Malcolm Rifkind (Edinburgh, Pentlands) has urged the adoption of proportional representation as a way of "stopping the nationalists and the nationalists."

For the first elections, each parliamentary constituency will return 2 assemblymen: this will produce a Scottish Assembly of 142 members and a Welsh Assembly of 72 members. Subsequently the Boundary Commissions will divide up each Parliamentary constituency into 1, 2 or 3 single member Assembly constituencies depending on whether the Parliamentary constituency has less than 75 per cent, between 75 per cent and 125 per cent or over 125 per cent of the average size of a Parliamentary electorate in Scotland/Wales. On present electorates, 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 Assemblyman but 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 resolved 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 conflict between the Assembly and Westminster. The power to dissolve itself and face the electorate could act as an important constraint on an Assembly which overplayed its hand in the elaborate 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 formally appointed 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, the highly specialised position of law officers. The major difference from Kilbrandon scheme A is a terminological one which may or may not reflect intended status: the Scottish Premier and Cabinet are renamed 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 but 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 and duplication of functions, it must be remembered that in the tense and delicate negotiations and debates the Assembly would need to be convinced of its advisers' complete loyalty to the Scottish Administration and that they were not worried about damaging their career prospects by alienating the United Kingdom Government and the central Civil Service Department. The separate existence of the local government service 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 political 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 Administration is totally different from the Scottish. The scheme of devolution is a hybrid of schemes B and C. Executive powers are not devolved to a Welsh Executive but vested in the Assembly as a whole. Although this judgement may be over harsh, the proposal does closely resemble what the Bains Committee thought a modernised 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 a chairman to conduct the business impartially and a leader known as the Executive Member who will take the main policy and administrative initiatives. The Chairmen and Executive Members will be appointed by the Assembly. A central co-ordinating

committee (known as the Executive Committee and surely the equivalent of 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 not be a separate Welsh Civil Service even though this was part of both schemes B 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 mean that England will always obtain a preponderance 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, Cmnd 5460—I, 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 and Wales and against England. 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 put forward from 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 nationalists 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. They will have full voting 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). Their very presence at Westminster may 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 justifies 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 50 per cent higher than it 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 effected for the most part with substantial dignity. It is ironic, and perhaps symbolic, 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 devolved. 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 D and those for Wales in appendix F (Cmd 6348). Three examples will illustrate the extent of devolution proposed. The devolved matters in education will be schools (including organisation, attendance requirements and curricula); further and higher education (except universities); certain student awards; adult education; youth and community services; national and local museums and libraries and the arts. Within the education field, the important non-devolved matters 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 successful lobbying by the universities and the tendency for the White Paper to suggest that acti-

vities now carried out by the Scottish Office should be the ones to be devolved. In relation to housing, the 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 (such as building society mortgages) and the United Kingdom Government will reserve a power to prevent or restrict both public and private sector rent increases as part of counter-inflationary policy. In relation to local government, the control and supervision over structure, 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 problem, tailor its educational legislation to Scotland's particular problems and traditions or decide to re-organise local government once again. The reader is referred to appendix 2 of this pamphlet and the White Paper's appendix D 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 over whatever powers existing Westminster Acts have conferred on the central government, including the power to make delegated legislation. The

initial powers of the Welsh Assembly will depend on how detailed each piece of existing Westminster legislation on devolved functions is and on how much discretion was allowed to the central government to make delegated legislation (that is, statutory instruments). As 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 to decide the details. 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 two below and are listed 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 way in which the Welsh Assembly will in fact operate depends not just 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 tempted to focus their attention on the activities of the local authorities over which they have supervisory (and in the case of Scotland, legislative) powers, in order to impose the Assembly's 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 totals. In future, they will negotiate with a Scottish Administration which is itself dependent on a block grant.

The restructuring of the organisational shape of the public sector in the 1970s has lacked any coherence. The re-organisations of health, water and local government have preceded 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 the "rates revolt" of 1974. The loss of local government's personal health responsibilities to the National Health Service and of water and sewerage to nominated *ad hoc* bodies (except in Scotland) reflected a continuing trend. Although 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 Assemblies will re-open the question of local government structure and especially of whether a two tier system is desirable. Ever since 1965 it has been the policy of the Welsh Council of Labour to have a single tier of most purpose local authorities, with an elected Council for Wales to act as a top tier and to bring under more direct democratic control the growing number of *ad hoc* appointed bodies. Opposition 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 allegation that Scotland will become the most overgoverned 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 steps are taken in the direction of eventual political union); the United Kingdom Parliament; the Scottish/Welsh Assembly; the upper tier of local government (Scottish regional councils and the Welsh County councils); 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 for which no organisation has a clear responsibility. Even a close 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 Wheatley Commission on Local Government Reform 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 services (for example, between education and housing) and, secondly, by distinguishing activities which occur within each service (for example, approval of capital investment schemes, setting criteria of eligibility and providing the service). 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 problems of service co-ordination 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).

The absence of explicit criteria for deciding upon 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 either 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 outside observer—though some of them are more curious than of serious importance. The whole of the educational system is devolved except for the universities and student grants for degree courses: the former has maintained its separateness from the rest of the Scottish educational system. The motorist 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 prosecutions must remain with the Secretary of State for Scotland and the Lord Advocate, both responsible to the United Kingdom Parliament, contrasts markedly with the fact that Scotland does have a quite separate legal system, and that the Assembly can create new criminal offences, abolish old ones and determine penalties and modes of treatment. The administration of 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 licensing might be highly restrictive and that the fact it is made in Edinburgh will not make it any more palatable.

economic management

The sharpest criticism of the functions devolved to the Scottish Assembly has focused on its limited powers in the economic, fiscal, industrial and employment fields. 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 Eadie, Harry Ewing, John Robertson and Jim Sillars) argued persuasively that a Scottish Assembly should exercise an economic responsibility over such matters as sea-port and airport development, internal transport and energy. If it is accepted that much of Scotland's discontentment springs from the inability to solve its severe 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 deep 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 strident Scottish National Party in order to show that Scotland needs independence. Nevertheless, within the United Kingdom, the most important economic decisions affecting Scotland, Wales, Northern Ireland and the English regions will continue to be taken by the Westminster Government; these include macro-economic policy and the highly sensitive issues such as the rate of exploitation of oil resources and the use of oil revenues. If the Scottish and Welsh Assemblies were allowed to follow separate policies on investment grants and

other forms of industrial assistance, it raises the spectre of competitive incentives also being offered by the prosperous South 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 furthest from the large markets of the South 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 half the appointments 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 economic role of the Secretaries of State for Scotland and Wales will be enhanced by the transfer of responsibility for manpower functions (control of the operation of the 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 E (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 Service, New Town Development Corporations, Arts Councils and (in Scotland only) the Scottish Transport Group and the Scottish Special Housing Association. Nominated bodies 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 prices and the working group recommended detailed interim proposals for 1974/75. Because Wales is a sparsely populated part of the United Kingdom, distribution costs are higher than elsewhere. Consequently the charges of the WNWDA are the highest of all the water authorities. But, at the same time, 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 constraints set by the 1973 Water Act.

5. financing the Assemblies

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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 will be limited to decisions on the functional mix of 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" (Cmnd 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 expenditure—a fact that 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 legislative programme 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 create a choice between implementing its programmes and levying higher taxes to finance it or to trim its programme.

Otherwise the Assembly will have less financial independence than a local authority (which decides its own rate poundage) and will tend to regard the funds it receives via the block grant as having zero cost (as it does not have to levy the taxes to raise the funds, it will attempt to maximise its grant and still complain that it is inadequate). It is perverse logic which argues that local authorities can have their own sources of taxation but that to grant them to the Scottish and Welsh Assemblies would either

undermine the integrity of the United Kingdom or make economic management impossible.

The White Paper proposes that the Assemblies will effectively have no taxation powers. There are two qualifications to this statement. First, the Assemblies will have a general power to levy a surcharge on local authority taxation which, at present, means on the rates although it might be wider if any proposals for additional local taxes are contained in the Layfield Committee's Report and are subsequently implemented. This seems to be more likely a piece of black humour than a serious suggestion. The suggestion produced howls of protest from the media, ratepayer groups and the local authorities themselves. Local rates are already a badly overstretched tax and, if any additional taxes are to be given to local authorities, this makes the decision not to grant revenue raising powers to the Assemblies even more indefensible. An illustrative example of how much extra revenue could be raised in this way is that in 1974/75 a 10 per cent surcharge on the rates would have yielded £30 million in Scotland and £15 million in Wales; both these sums are small in relation to the total expenditure of the Assemblies. Second, the Assembly could reduce the proportion of local authority expenditure it financed by Rate Support Grant and make the local authorities depend more heavily on rates and charges for services.

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

ESTIMATED EXPENDITURE AND FINANCING OF DEVOLVED SERVICES, 1974/75

	£ million	
	Scotland	Wales
<i>expenditure</i>		
public expenditure on services	2000	850
loan charges met by local authorities	100	60
total expenditure	2100	910
<i>financing</i>		
block grant	1300	650
local authority taxation	300	90
borrowing	500	150
unexplained residual	—	20
total financing	2100	910

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 equalled the financing! The "unexplained residual" of £20 million is caused by this discrepancy.

source: Cmnd 6348, paragraphs 99 and 223.

political control of the Assemblies and Westminster rests in opposing hands.

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 electorally 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 a 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 Scot-

land 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!

An important constraint on the activities of the Scottish and Welsh Assemblies is that devolution must not undermine the ability of the United Kingdom Treasury to retain macro-economic control over the economy. Taxation and expenditure decisions have important macro-economic impacts outside the region initially affected. Consequently there are the conflicting objectives of maximum freedom of action for the new Assemblies together with the need to assert control over public expenditure totals and other economic variables such as output, employment, inflation, economic growth and the balance of payments. The block grant machinery fulfils several different purposes which are very similar to those of the existing Rate Support Grant which distributes funds from the United Kingdom Exchequer to local authorities. First, it provides a degree of what is technically known as "equalisation" between regions; grants are paid not in relation to the taxation revenues generated in that area but in relation to the relative needs of each area. Local authorities which have low rateable values in their area have the revenue they receive from a penny rate "topped up" from the United Kingdom Exchequer (this part of Rate Support Grant is known as the Resources Element). Another part (the Needs Element) is distributed on the basis of factors (such as population, number of schoolchildren, number of old age pensioners, population density, population increase or decline) which are weighted by using sophisticated statistical techniques (regression analysis). Unfortunately the actual distribution of Needs Element does not necessarily bear much relation to any normal concept of relative need partly because, despite the sophistication of the techniques, they start from the heroic assumption that present patterns of expenditure are closely related to patterns of need. In broad terms

the main beneficiaries of the Rate Support Grant have been Scotland, Wales and the North of England and the main contributors (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 8½ percentage points is in the historical development of grant systems rather than any rationale in terms of relative needs. The second objective of grants to lower level governments is to provide them with revenue which it 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 "gearing" effect if 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 grant 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.

The previous (unfortunately very technical) paragraph enables us to understand the proposed financing arrangements. The Government has stressed that distributing among the different parts of the United Kingdom according to relative need is the "cardinal fact about our whole system of allocating public expenditure. Resources are distributed not according to where they come from but according to where they are needed. This applies between geographical areas just as much as between individuals" (Cmnd 6348, paragraph 20). The first objective of a block grant, that of equalisation between regions, will be fulfilled. The block grant

for Scotland and Wales will be based not on the tax revenues generated in them but on the need for expenditure. Unfortunately, "need" is a slippery concept when we try to translate it into money terms and disagreements will inevitably occur between the Assemblies and Westminster. The level of public expenditure and the size and role of the public sector are controversial political issues and Labour controlled Scottish and Welsh Assemblies would clearly disagree vehemently with a Conservative Government at Westminster—especially one led by someone of the views of Margaret Thatcher or Keith Joseph! The White Paper explains carefully the process of negotiation of the block grant and appendix c gives an illustrative calendar of how the negotiations would fit into the annual public expenditure survey procedures. These suggestions have much to commend them but no procedures will be able to cope with the inevitable disputes. Although the block grant can be spent on devolved services in any ways the Assembly decides appropriate, the total grant will be calculated by a committee of officials from the Assemblies and Westminster which will build up a detailed costing of services in order to reach a final total. Disagreements about what range of services the public sector should provide (for example, the extension of community legal services or a reduction in publicly provided health and education in favour, say, of voucher financed education in public/private schools) will be almost impossible to reconcile. Unless the Scottish Assembly has revenue powers of its own, an extension in community legal services could only be achieved by cutting back some other services such as health, housing or education. Under any circumstances, resolving disagreements will be difficult and will require goodwill, patience and a desire to make the new constitutional arrangements work.

The Labour Government rejected the Kilbrandon scheme a proposal that there should be a nominated Exchequer Board, independent of the Scottish, Welsh and United Kingdom Governments, which would decide the total of the block grant. The political decision on the size of the

Scottish and Welsh Budgets is thereby removed from politics! Although the Kilbrandon Commission intended this as a safeguard device to protect the Assemblies from the Treasury, it is fundamentally unsound and undemocratic that such decisions, involving political responsibility as well as technical judgement, should be taken by a nominated body. The Government rejected this proposal, quite properly in my view, but the Treasury's near monopoly of information suggests that there is a need for an independent research unit to provide the factual and statistical information which is indispensable to such bargaining. If no agreement can be reached on the block grant total, the United Kingdom Government will decide the total and ask Parliament to vote the amount for devolved services. This solution is justified by the fact that the Westminster Parliament consists of English, Northern Irish, Scottish and Welsh Members of Parliament. What will prove significant is the frequency with which such imposed settlements actually happen. If the Assemblies financed a proportion of their total expenditure from taxes levied by them, it is less likely that an imposed settlement would be necessary.

The Government's rejection of revenue raising powers for the Assemblies reflects the centralist thinking of the Treasury and the dominant position that it enjoys in Whitehall. Its evidence to Kilbrandon rejected the idea of the Assemblies having taxation powers and it is difficult to believe that, even if the Layfield Committee does report in favour of giving new sources of revenue to local authorities, the Treasury will agree. Despite all the grandiose claims of past years about reorganising local government to give it more vitality and responsibility, it is instructive to note that the Scottish Office has issued (almost certainly on Treasury prompting) a circular telling each local authority just how much it should budget for financial year 1976/77 (Scottish Office Finance Circular 75/1975). This train of thought is encapsulated in the White Paper's explanation of why the Assemblies cannot have tax raising powers (paragraphs 106-110). It makes the

assumption that only a minimal proportion of revenue should come from the Assemblies' own revenue sources. It quotes from studies (which no-one outside has seen and therefore cannot evaluate) that the costs of a retail sales tax or supplementary income tax would be excessive. One reason given is, surprisingly, that "collection systems . . . would still have to be maintained and paid for whether or not any extra taxes were levied in a particular year." Then follows the suggestion of a general power to levy a surcharge on local authority taxation (at present local rates) which could be guaranteed to provoke hostile comment and almost certainly would never be used. The Treasury's research effort into the impact of public expenditure and taxation was lashed by the General Sub-committee of the Expenditure Committee in their enquiry into the *Financing of Public Expenditure* (House of Commons Paper 69, 1975/76). The Treasury should be told to publish its research work and the statistical information on the regional analysis of taxation revenue, so that outside opinion can examine the evidence on which they base their conclusions. It is astonishing that a regional analysis of tax revenue is still not available six years after the appointment of the Commission on the Constitution (Hansard, 15 December 1975, column 837). Hopefully the Layfield Committee Report should contain statistical information which will be invaluable and assessments of the administrative feasibility from a less hostile viewpoint than that of the Treasury.

There is no magic percentage of revenue from own resources which can be guaranteed to protect the Assemblies from over close Treasury control. If the Assemblies could finance 30-40 per cent of their expenditure from their own revenues and a further 10-20 per cent from local authority taxes, they would have substantial freedom of action but the "gearing effect" of the block grant (which was explained earlier) would still enable the United Kingdom Treasury to influence the Assembly's total budget size. Although the Treasury would be horrified by such a suggestion, it is worth noting that economic management in Britain with cen-

ESTIMATED UNITED KINGDOM
CENTRAL GOVERNMENT TAXA-
TION REVENUE, FINANCIAL YEAR
1975/76

		1975/76 estimated yield £ million
collected by	tax	
	inland revenue	
	income tax	14,008
	surtax	85
	corporation tax	2,125
	capital gains tax	325
	estate duty	165
	capital transfer tax	150
	stamp duties	220
	value added tax	3,275
	oil	1,550
	tobacco	1,675
	spirits, beer and wine	1,475
	betting and gaming	275
customs & excise	car tax	170
	other revenue duties	10
	protective duties, etc.	530
	agricultural levies	40
	vehicle excise duties	773
local authorities		
total taxation revenue		26,851

source: *Financial Statement and Budget Report*, 1975-76, HC317, Session 1974-75.

tralised 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 taxes 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 alternative schemes of taxation which might be adopted.

This illustrative example demonstrates the variety of possible arrangements—

each having different implications for the amount of flexibility for the Assemblies, the administrative and compliance costs and actual revenue yield. The Assemblies could have the power to set their own tax rates (a devolved tax) or Westminster could continue to set the tax rate but the revenue accrue to the Assemblies (a shared tax). The tax base (the amount of income on which the tax is levied) could be the taxable income of Scottish residents or a percentage share of taxable income in the United Kingdom possibly based on Scotland's or Wales's share of United Kingdom population. If the second basis was adopted, we would be equalising taxable resources so that the Welsh Assembly was not unduly handicapped by the relatively low taxable income per head in Wales. Similar principles already apply to the Rate Support Grant and there is a wealth of theoretical literature and actual schemes in operation in different countries. (For a more complete discussion see David Heald, "Financing Devolution", *National Westminster Bank Review*, November 1975 and Diane Dawson, "Revenue Equalisation in Australia, Canada, West Germany and the USA", Research Paper number 10 for the Royal Commission on the Constitution, HMSO.) The arrangements for

ILLUSTRATIVE EXAMPLE OF A
TAX TO FINANCE THE
ASSEMBLIES

tax	income tax	
	authority levying	(a) Scottish/Welsh Assembly.
tax (i.e. sets tax rate)		(b) Westminster Government.
	basis of assessment	(a) taxable income in Scotland or Wales.
		(b) A percentage share of taxable income in the United Kingdom — based, for example, on Scotland's / Wales' percentage share of United Kingdom population.
collecting agency	(a)	United Kingdom inland revenue.
	(b)	Scottish/Welsh inland revenue.

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 (imposed on the taxpayer who has to complete 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 much more attractive for certain excise duties or a retail sales tax.

There is no point making concrete proposals until statistics on the yields of those 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 (gross 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 financed partly by 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 (that 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 Assemblies 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 1 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. Undoubtedly its prospective impact on 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 avoided. What is also extremely important is that the economic prospects of an independent Scotland have been transformed by the exploitation of oil on 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 which 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 on page 32 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, it only includes those fields which are relatively advanced towards production and excludes some other 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 escalation of North Sea production 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

6. Westminster's control over the assemblies

ESTIMATED GOVERNMENT TAKE FROM KNOWN COMMERCIAL FIELDS 1975-85 (£ million rounded)

	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985
royalties	10	80	200	350	460	540	570	550	510	450	400
petroleum											
revenue tax	—	—	—	130	440	540	580	890	860	570	380
corporation tax	—	—	20	70	330	370	450	600	880	920	1,960
total government take	10	80	220	550	1,230	1,450	1,600	2,040	2,250	1,940	2,740

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 £5,345 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 issue which faces us" he concludes "is whether the proposed Scottish Assembly will have, as of right, access to a major part of the oil revenues and the fiscal and financial discretion to use these revenues for general Scottish economic development" (*ibid.*, page 17, *italics added*).

The White Paper totally rejects the view that "oil revenues should be controlled directly by those parts of the United Kingdom off whose shores the oil is found . . . The Government believe that oil must be treated in the same way as other national resources (like the big coal deposits recently found 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 separatism it-

self" (White Paper, paragraph 97). Although the White Paper dilutes the force of its argument by linking the argument about oil revenues to that refusing the Assembly the power to levy taxes on income or retail sales in Scotland, the rejection of the claim for the Scottish Assembly to control oil revenues almost certainly reflects the political realities facing the United Kingdom. Although English, Northern Irish and Welsh Members of Parliament might well agree to Scottish taxpayers paying more income tax, it is highly unlikely if they would agree to Scotland gaining control of oil revenues while it still remained part of the United Kingdom. Scotland could tap a rich source of revenue whilst Wales would get nothing. It might be acceptable for part of oil revenues to be paid into a regional development fund to help all depressed regions of the United Kingdom but the right for the whole of Scotland being designated a development area is very questionable. As chapter two and especially the table on page 3 revealed, Scotland's relative position in the United Kingdom has substantially improved over recent years. Scotland itself has its own glaring contrast between the relatively prosperous east and the deprived west (for a survey of the evidence, see Peter Taylor, *Evidence on Deprivation in Glasgow* prepared on behalf of Glasgow Kelvingrove Constituency Labour Party for a conference held in Glasgow on 20 September 1975) which are just as pronounced as any differences between England and Scotland.

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 suspend 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 nominated Exchequer Board) and suggested roughly the same set of functions to be devolved as proposed in the White Paper. Scheme A recommended that Scotland's and Wales's parliamentary representation at Westminster 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 Kilbrandon's "maximalist" 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 stampeded 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 significance of oil, 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 astonishingly inept: even the very extensive devolution of control on domestic affairs is difficult to appreciate when reading the document because of the thoroughly negative tone, all the hedgings 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 their departments. Suddenly people in London have woken up to appreciate the substance of the debate in 1974 in the Labour movement in Scotland between the devolutionists and anti-devolutionists. The decision to outflank the nationalists electorally in 1974 has proved costly. The appetite of the Scottish Nationalists has been whetted. A rival Scottish Labour Party has been founded by Alex Neil, the research officer of the Scottish Council of the Labour Party before he resigned over the White Paper, supported by two 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 B/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 not granting taxation powers created unnecessary instability and conflict. The Assemblies will face no financial discipline from their electorates 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 block grants as single sums and it will not intervene in the Assemblies' financial decision making and accountability. The system for authorising expenditure and for reporting on the accounts will be established in the Devolution Act but its operation is fully devolved.

secretaries of states' powers over the assembly

Kilbrandon's scheme A involved both Scotland and Wales losing their respective secretaries of state. Few people outside these countries appreciate the power and influence exercised by either incumbent. He depends on the patronage of the United Kingdom Prime Minister for his appointment and fulfils a dual role. Firstly, he is his 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 central local government relations (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*, CNA doctoral thesis, Glasgow College of Technology 1975). The Secretary of State for Scotland promotes separate legislation for Scotland for topics for which there is already a separate Scottish law. Most of the legislation tends to parallel the legislation for England and Wales. The major policy decisions underlying the Scottish legislation are taken by the United Kingdom Cabinet. Nevertheless, administrative initiative or inertia and different political pressures do influence the legislation for Scotland. 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 Ravenscraig (Motherwell) and to Wales (1958); the Dounreay fast breeder reactor (1966), the vehicle plants of Bathgate and Linwood, the Invergordon aluminium smelter (1968) were enticed to Scotland and aid given to Upper Clyde Shipbuilders (1968-69) and its successor Govan Shipbuilders (1971). The whole of Scotland has development area status. It is widely believed that the threatened resignation of Willie Ross, Secretary of State for Scotland, played a significant part 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 still keep its Secretary of State in the Cabinet to continue to monitor decisions on how non-devolved functions affect Scotland. Wales will have an Assembly with only executive powers and also keep its Secretary of State: this does follow scheme B's approach. The very favourable position which this confers upon both Scotland and Wales has been obscured by much criticism of the role of the Secretaries of State in relation to the Assemblies. Shorn of many of their existing departmental responsibilities, the announcement in the September 1974 White Paper that the posts would remain had created the spectre of men in search of a job. Even though the Secretaries 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 impossibly burdensome.

Both Secretaries of State retain responsibility for the economic and industrial functions which they have previously exercised and which the Government has decided not to devolve to the Assemblies. These include their responsibilities for economic planning, industrial steering 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 and the appointment of half 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 parallel ones are transferred from the Minister of Agriculture, Fisheries and Food to the Secretary of State for Wales. The Secretary of State for Scotland defines the geographical area of the Highlands and Islands Development Board and lays down a system of guidelines and cash limits for the Board's activities in non-devolved fields such as assistance to industry, fisheries and agriculture. 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 decentralising to the Secretaries of State responsibility for 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 ones which relate to the initial establishment and also on-going ones. His initial responsibilities are unobjectionable and are relinquished as soon as the Assembly is able to take them over. These are the setting of the time and place of the first meeting and making other necessary arrangements, the setting of the pay and allowances of members of the Assembly and the drawing up of interim standing orders. Some of the on-going responsibilities of the Secretary of State are also innocent but others are at least misguided and at worst potentially explosive. Cumulatively the effect is to create 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; making minor alterations to the election day to secure a convenient date and setting down 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 and there was to be a minority government or coalition, this assumes substantial political importance despite the fact that the Assembly has the right to approve or reject the proposed Execu-

tive as a whole. He also appoints Assistants to the Executive on the recommendation of the Chief Executive but without the need for Assembly approval. Executive Members and Assistants do not necessarily have to be members of the Assembly. Changes in the Executive (including dismissals) are made formally by the Secretary of State on the recommendation of the Chief Executive and do not require the approval of the Assembly—though, of course, it could always pass a vote of censure or no confidence. Most importantly “the Secretary of State could in the last resort dismiss the Executive if he judged that it was holding on to office without commanding adequate support in the Assembly” (paragraph 49) and then “appoint a ‘caretaker Executive’ to carry on business until a new Assembly approved Executive can be appointed” (paragraph 50). I trust that this was originally misconceived before the dismissal of the Australian Labour Government by the Governor-General, Sir John Kerr, even though it held a majority in the House of Representatives, and that the Government will amend the proposals to ensure that the power to dismiss an Executive rests firmly in the hands of the Assembly by means of a motion of no confidence. Although such difficulties may only arise under hypothetical circumstances in the future and have probably been exaggerated in the initial reactions to the White Paper, two points must be stressed. Firstly, the position of Secretary of State is a highly political one and, given the likelihood of different political control at Edinburgh and London for much of the time, he is much too involved in the everyday political battles to assume such a role—even a purely formal one. Secondly, the fact that the proposed Assembly has a fixed term and that it cannot dissolve itself if deadlock is reached means that opposition parties and rebel Executive backbenchers cannot be intimidated by the threat of an immediate election. An Executive which loses its majority because of by-election losses or defections cannot try to restore its majority by calling an election. Under these circumstances it is probable that there will be much more instability in the Assembly than at Westminster and that

Executive legislation will also be defeated 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 granter (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 to argue about the grant with a Scotsman and Welshman respectively and the Treasury will be able to exert its influence behind the scenes rather than face the public scrutiny which it scrupulously avoids.

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 Royal Assent. 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 operated?

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 that reserve powers existed. 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 properly explored the possibility of creating an explicitly federal United Kingdom or separate independent Scottish and Welsh 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 and not just as a staging post on the path to independence) for these attacks stresses the need to focus clearly on the underlying issues and on the mechanics 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 thrown up their hands in horror at this thought should remember that Westminster Governments have been much maligned for their unwillingness to become involved or interfere in the government of Northern Ireland before the eventual suspension of Stormont. Such a parallel event is inconceivable in the case of Scotland and Wales. The realistic cases can be conveniently subdivided into those relating to legislation (only applicable to Scotland) and those relating 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 counsel, will advise members on whether the bill is likely to be declared *ultra vires*. This will not stop the bill passing through

its parliamentary stages but will alert the Assembly to future difficulties on this count. When completed, the bill will be submitted to the Secretary of State, and the Government, on 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 assumes that whether a bill is *ultra vires* is itself 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 decided upon, and also because of the inherent complexity, 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 to dispose of legislation it found politically odious (and which the Scottish opponents of the bill wished to be vetoed) when it dare not use the policy grounds veto. Equally, an Assembly dominated by the Scottish Nationalists who wished to discredit the Assembly as worthless might deliberately pass bills with the precise intention of forcing Westminster to confirm the Assembly's limited discretion by vetoing bills as *ultra vires*. The White Paper calls for comment on whether some form of judicial review of *vires* should be built into the system. It is important that the complex arguments on *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 tension which would focus on the question of *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 decides that a bill is not acceptable because of the policy content of the bill. The White Paper announces this in a

devastating sentence which appears to repudiate all the powers to be devolved. "The Government will also consider whether the Bill is acceptable on general policy grounds" (paragraph 57). It is on this question that the lack of real thought into the problems of resolving conflict between the United Kingdom Government and the Assembly Executive is so evident. Kilbrandon wanted to devolve legislative powers but remained most uneasy at the possibility of regional assemblies adopting "policies so extreme as to be regarded as intolerable in other 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 valued provided it does not lead to genuine diversity. It is astonishing that anybody could produce such an inept platitude—especially after 4½ years and a cost of £483,993. At the heart of the debate on devolution should have 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 on the divergent preferences of the different regions and countries on the other. The White Paper does not suggest that the Government's thinking has progressed much further—at least if the White Paper is regarded as a final position as opposed to a basis for the Great Debate which the Prime Minister told the Commons that he hoped the White Paper would provoke (*Hansard*, 13 January 1976, Col 208).

Very little political sophistication is needed to appreciate that either Kilbrandon's or the White Paper's grounds for vetoing legislation 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; on the role of private schools; on the organisation of the state education sector including comprehensivisation 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 purely hypothetical problems. 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 would make them even less acceptable. A Scottish Nationalist controlled Assembly would probably pass legislation in order to deliberately provoke the veto. Under these circumstances it will 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 will lobby the Secretary of State to veto it. An abstract principle of respecting the separate powers of the Assembly will be sorely put to the test by actual conflicts over important and heated political issues. These veto powers will be flashpoints 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 vires*

and "acceptable on general policy grounds." If a Bill is not acceptable on policy grounds, the Secretary of State sends it back to the Assembly 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 falls. If Parliament rejects the motion, the Bill goes for Royal Assent. Although the White Paper stresses that the veto powers will probably rarely be used, 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 built into the legislation that Assembly legislation which is *intra vires* 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 either of a judicial form or consisting of backbench members of both the House of Commons and the Scottish 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 powers 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 to a Northern Ireland Bill. Although 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 "seriously harmful" consequences for the United Kingdom as a whole, the United Kingdom Government has three possible courses of action open to it. Firstly, it can issue a direction prohibiting a certain prospective course of action if it has anticipated the action in time. Secondly, it can issue an annulment order revoking an action already taken by the Assemblies. 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 revoke 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 specified time 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 exactly what kind of actions these elaborate reserve powers are designed to prevent. The scope afforded for distinctive—and hence 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 sledgehammer 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 much more imminent decisions 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 the intractable problems of Northern Ireland. Appendix 1 shows that four of Kilbrandon's schemes related to England. These are: (a) Executive Devolution (scheme B) as proposed in the Memorandum of Dissent for uniform application throughout Great Britain; (b) Executive Devolution (scheme C) as proposed by two 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 F) as proposed by eight of the signatories of the Majority Report; (d) a Scheme for Co-ordinating Committees of Local Authorities (scheme G) as proposed by one of the signatories of the Majority Report.

What is again striking is that signatories of a Royal Commission Report can subscribe to such divergent conclusions as schemes C, F and G on the basis of the same facts and analysis. There are two crucial differences between these four schemes. Firstly, schemes B and C give comparable status to the English regions as to Scotland and Wales. This raises the issues explored in chapter two about the distinct sense of national identity felt by the Scots and Welsh and whether this is paralleled by similar perceptions of regional identity in England. Scotland and Wales may be unwilling to view themselves as an equal with an English region (despite comparable population sizes) and claim a much higher status within the Union. Schemes B and C offer Scotland much less than it already enjoys. Secondly, although devolution may be viewed as the delegation of power from the centre, the critical question remains of what are the lines of accountability. The key distinction must be between, on the one hand, decentralisation 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 F and G 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—that 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 assemblies throughout England were first, the desire to create closer democratic control and scrutiny over the developing outposts of central government; second, to establish 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 Government. The reports of the regional strategy teams have made it 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 which would reflect what the region perceives as its priorities in allocation decisions. This perception—to the extent that any forum now exists to enable it to develop—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 half the regions decided they 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 forward plans of available places and how would the spillover of students into other regions be contained? The most important decision to be taken is whether the English regions should be treated in a similar or equal way to Scotland and Wales. Are the regions, however their

boundaries are drawn, similar to the separate nations of Scotland and Wales? A political fact of life which will have to be faced is that the United Kingdom is made up of separate nations and that these are, for the reasons analysed in chapter two, increasingly conscious of their separate identity. This, in itself, does not prescribe the constitutional arrangements under which the nations should be governed, but a failure by the English to recognise this separateness will unquestionably lead to a break-up of the UK. The use of the term "English" to mean "British" is a particularly offensive confusion. 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 or by demanding comparable assemblies for themselves.

the "region" in England

The English region is a nebulous concept: most discussion relates to 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. These have subsequently tended to fade into insignificance or simply act as pressure groups for their regions. Despite their existence, Government departments have increased their regional presence in the post-war period but many of the schemes of decentralisation, including those of the Department of Environment, the sponsoring department of the Planning Councils, do not correspond to these standard regions. This partly reflects administrative inertia but also the varying catchment areas for different services or groups of services. At no point do either of the Kilbrandon Reports fully tackle the problem of drawing boundaries in as densely populated and urbanised a country as England. The Majority Report simply adjusts 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 was to be no devolution from central government at 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. Craven (ed), *op cit*). On these shaky foundations the Kilbrandon Reports constructed regional governments (schemes B and C) with powers comparable to what they proposed for Scotland and Wales.

The sense of regional identity in England is much more localised than the regions which these proposals imply: a person identifies himself as a Yorkshireman or Lancastrian and not as a North Easterner or North Westerner. One shudders at what the citizens of Workington would make of devolved government from Manchester or Liverpool (scheme B) or from Newcastle (scheme C). Would decisions on public expenditure mix be more acceptable if taken there than if taken in London? Would a decision on introducing comprehensives be more acceptable from that quarter than if it came from London? If to "take decisions nearer to the people" is the real policy objective, surely the answer is to give more powers to local authorities which more nearly reflect local communities. This introduces the question of the structure and functions of local government. A major difficulty in producing desirable results in the spheres of strategic and land use planning is the botched up job the Tories made of local government reform in England. In Senior's words, "local government was deliberately made structurally incompetent to run a unified health service . . . a unified water service . . . to handle satisfactorily the functions still nominally left to it in the field of urban planning and development . . . In these circumstances structure planning has become virtually a non-event . . ." (Derek Senior, *op cit*).

A major justification advanced for the creation of regional assemblies in Eng-

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 extension 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 government and, together with the reformed National Health Service, handed to unelected, nominated boards. There is no reason, apart from the resistance from the medical establishment to any kind of democratic control, why the National Health Service as well as the water services could not have been made responsible to a suitably designed system of local government. The contrast should be made with Scotland where the new local authorities, ironically set up by the same Tory Government which botched up England, are responsible for the unified water service. Before any decision is taken on regional assemblies in England, the Labour movement must 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 catalogue: the preservation of the shire counties; the two tier structure with its division of planning responsibilities; the tightly drawn boundaries of the metropolitan counties which deliberately exclude much of their hinterland, which is so vital to future urban and transportation planning; local government's inability to run the health and water services; 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 term, if they exist at all, while the costs in terms of disruption to services and irritation to ratepayers, consumers and employees are only too immediate? My own view is that the benefits of organisational changes are probably exaggerated and that, in a period of unimagined inflation, rising unemployment and a major downward revision of what public expenditure growth, if any, can be expected in the next decade, the energies of the

Government and Party should be on expenditure priorities and on making sure that whatever cutbacks there are are concentrated on the most expendable projects such as motorway building. Yet looking back at the Report of the Redcliffe-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 proposed a predominantly two tier system of 35 regional authorities and 148 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 Government Act. What is now required before any further upheaval is careful research and monitoring information about the effects of reorganisation and its benefits 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 has published an extremely interesting discussion document (*Devolution and Regional Government in England*, Labour Party, 1975) to provoke comment and debate in the Labour Movement, and will be consulting with affiliated organisations and suggesting Regional Conferences. It sets out no less than seven schemes which have been suggested for England. As the October 1974 Manifesto committed the Party only to consultation about devolution in England 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 subject. 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 west central Scotland by semi-permanent Labour rule coupled with moribund local parties and constituencies. Similarly, a Labour Government at Westminster could see its priorities upturned by a Tory controlled south east which would swamp Labour's majority in London. How much discretion are we prepared to give to local or Regional Governments? Two recent cases are the Housing Finance Act and the circulars on comprehensive education. Given the polarisation of political support in England 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 environment") relating to relatively 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 degree of technical co-ordination with 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 Rate Support Grant and by industrial location policies which discriminate between regions. These are geared to suppressing competition 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 reflect changed 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 discussing, 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 governments in England with executive powers, the most promising starting point is neither of the schemes of the Kilbrandon Report but the suggestion by Derek Senior that 12 to 15 regional units can be put together, 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 outposts and *ad hoc* bodies but then acquiring from local government the functions of land assembly, structural planning, transportation, urban development and infrastructural investment. Local government 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. It cannot be considered separately from the decisions on whether the Tory reorganisations of local government, water and health will be allowed to stand. What will certainly happen 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 submerged 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 subsidisation of some regions by others. Although this pamphlet has stressed the importance of making

8. a strategy for Labour

the Scottish and Welsh Assemblies viable institutions, the needs of the English regions cannot be neglected. Different treatment in terms of public expenditure and development status will have to be seen to reflect need and not just lobbying power. One explanation of why the Government is unlikely to devolve control of oil revenues to Scotland is that it would provoke great hostility from the English regions and possibly claims for equal access to oil or natural gas revenues from those regions which have resources off their coast.

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 to secure public support for the White Paper as a whole must not stifle serious argument within the Labour movement on how its proposals could be improved. There is a danger that Devolution will become as divisive an issue as the Common Market has been in the past, creating new orthodoxies and heresies. 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 hasty formation of a break-away Scottish Labour Party by members dissatisfied with the White Paper is highly disturbing as, 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 over 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 Government imperilling the welfare state 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. Anyone 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 capitalism 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 so that jobs could be brought to Linwood or Halewood is a tribute to its 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 whet 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 seats, their impact there would be negligible. Much of the activity of the Scottish Nationalists is aimed—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 wait for them to lose their seats—as, indeed, they did at Hamilton and Carmarthen in 1970. The potential catches to this line of argument were situations in which the Nationalist parties secured a balance of power between the major parties; in which they secured a majority of Scottish seats and withdrew from Westminster to Edinburgh to establish a “Scottish Parliament”; or in which constitutional nationalism gave way to violence.

The second tenable position was that a genuine desire did exist in Scotland for a Scottish Assembly with sufficient powers to make a major impact on Scottish public life and institutions. This position had been argued cogently by such Labour Party members as John Mackintosh, MP for Berwickshire and East Lothian, and Andrew Hargrave, both to the Kilbrandon Commission when it took evidence and in earlier publications (J. P. Mackintosh, *The Devolution of Power*, Penguin, 1968; A. Hargrave, *Scotland: 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 strongly anti-nationalist stance at the time of the earlier Scottish National Party electoral breakthrough in the late 1960s (A. Eadie and J. Sillars, *Don't Butcher Scotland's Future*, 1968). This second school of opinion argued that nothing short of extensive devolution would stave off independence. Its shortcoming was that, having established an 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 either of these (admittedly untestable in advance) positions, the Lab-

our Party in Scotland simply dithered and was indecisive. The eventual commitment in September 1974 was a response to the Nationalist threat in the forthcoming election 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 demonstrated, the potential strength of the case for maintaining the *status quo* was greater than Kilbrandon recognised and was never conveyed sufficiently forcefully in public. But the option of retaining the *status quo* is now shut—at least as far as a Labour Government is concerned. Now that we have made a firm commitment to set up directly elected Assemblies, the crucial task is to ensure that their powers and responsibilities are suitably designed so as to secure their potential endurance and stability.

future pressures

The Government's parliamentary dilemma is that the more extensive devolution proposals for Scotland are being attacked because they do not go far enough whereas the much more limited proposals for Wales have been attacked by several Welsh Labour MPs as being too much. Although popular support in Wales for an elected Assembly is less firm than in Scotland, the Welsh MPs are ignoring the longstanding commitment (since 1965) of the Welsh Council of Labour which supports the White Paper proposals. Crucial decisions will have to be taken after proper consultation both within the Labour movement and outside, based on a more complete awareness of their future implications than the erratic drifting of the Government has so far suggested. The Government may be faced with pressure to introduce separate legislation for Scotland and Wales. The danger of treating Scotland and Wales so differently is that it will make it very unlikely that the devolution settlement will be enduring. Comparable treatment for Wales would be

very difficult to deny whenever the Welsh Assembly demanded it. Expectations that the settlement would not be lasting would severely undermine efforts to make the new institutions work. Pressure may also mount for a referendum on whether the Assemblies should be established. Although this course of action may have had a potential place in the past, the firm election and White Paper commitments to set up directly elected Assemblies make such an event appear an attempt to backslide. If the purpose of the referendum were to give the options of retaining the *status quo*, of accepting the proposed assemblies or of immediate independence, such a stage managed attempt to secure a vote against separation might very 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 what attitude the Conservative Party will take to it but it will provide them with a magnificent opportunity to consume parliamentary time and to disrupt the Government's legislative timetable. English Labour MPs (or, more correctly, 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 get too much of the public expenditure and development cake. The Nationalists will be delighted to create as much alarm as they can by their chauvinism and to alienate MPs from areas such as Merseyside 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. The Government will have 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 falls, the next General Election might produce an electoral landslide in Scotland for separatist parties. Deeply embedded in Scottish nationalist mythology 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 response of the Labour movement to the White Paper should be one of reasoned amendment and not of hysterical denunciation. The key areas where change is required are where the division of functions (as in education) will disrupt coherent planning of a sector of public expenditure and distort the policy options available; the financing arrangements and the relationships between the Assemblies and the respective Secretaries of State. The great danger is that far too much will be expected from the Assemblies. A clear view is needed of

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 growing 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 a visage 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 their decision. 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 impediments such as, for example, the extent to which 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 maintain-

ance of the Union. A future constitutional crisis might require such a referendum though, as the case of Northern Ireland shows, not everyone might 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 be reported 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. What will happen when 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 majorities 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, coast protection and flood prevention), education (probably excluding universities), youth and community services, sports and recreation, arts and culture (including Welsh and Gaelic languages), social work 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.

2. *Ministers:* Organised on local authority pattern of functional committees. Own Civil Service.

3. *Westminster representation:* No reduction.

4. *Functions:* No devolution of legislative powers. Elected assemblies (in the regions of England also) would assume control of all regional outposts 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 their 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.

7. *Veto:* Not clearly specified.

scheme C

Proposed for: Scotland, Wales and 8 English regions.

Proposed by: 2 of signatories of Majority Report.

Labelled: Executive Devolution.

features

1. *Assembly:* (a) directly elected; (b) single transferable vote; (c) 100 members for a fixed term.

2. *Ministers:* Organised on local authority pattern of functional committees. Policy committee of chairmen forms the Scottish or Welsh Cabinet. Own Civil Service.

3. *Westminster representation:* No reduction.

4. *Functions:* A more limited form of "Executive Devolution" than scheme B. It would not have the wide "ordinance"

making of scheme B and would not necessarily take over all *ad hoc* public bodies in its area. Initially, it would not necessarily take over all the existing functions of the Scottish Office.

5. *Finance:* Block grant from Central Government without any independent revenue-raising powers.

6. *Future of Secretaries of State:* Secretaries of State would go, but there would be a member of the Cabinet responsible for Regional Affairs.

7. *Veto:* Not clearly specified.

scheme D

Proposed for: Wales only.

Proposed by: 3 of signatories of Majority Report.

Labelled: Welsh Advisory Council.

features

1. *Assembly:* (a) directly elected; (b) single transferable vote; (c) about 60 members for fixed term.

2. *Ministers:* Not applicable as only forum for debate.

3. *Westminster representation:* No reduction.

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.

3. *Westminster representation*: No reduction.

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*: (a) about 80% would be councillors "elected" by local authorities in the region. About 20% nominated by Minister; (b) about 60 members for a term of 4 years.

2. *Ministers*: Not applicable.

3. *Westminster representation*: No reduction.

4. *Functions*: to;—(a) take over the work of existing nominated regional economic planning councils; (b) advise on Government spending in region; (c) advise Government and nationalised industries of impact of activities on region; (d) have important co-ordinating function in local government, especially about land use and structure planning.

5. *Finance*: Expenses met by precepting on the local authorities in the region.

6. *Future of Secretary of State*: Not applicable.

7. *Veto*: Not applicable.

scheme G

Proposed for: England only.

Proposed by: 1 of signatories of Majority Report.

Labelled: Co-ordinating Committee of Local Authorities.

features

1. *Assembly*: Indirectly elected representatives of local authorities.

2. *Ministers*: Not applicable.

3. *Westminster representation*: No reduction.

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 Assistants 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 are 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.

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 Scottish Development Agency. Acquires responsibility for the activities in Scotland of Government employment and training agencies. He and the Lord Advocate continue to exercise Law and Order functions relating to Police and Prosecutions respectively. He exercises what has been described as a

"Governor-General" role — overseeing elections, appointing Executive and all legislation must be submitted through him.

5. *Functions*: Legislative as well as Executive Devolution. The Assembly inherits existing legislation but can repeal it and pass new laws. Powers to pass secondary legislation (i.e. statutory instruments) are also devolved.

Major devolved areas: local government; health; social work; education (excluding universities and Research Councils); arts, museums and libraries; housing (except private sector housing finance); physical planning and environment; roads and transport; tourism. Rather unclear extent of devolution on Scottish Law functions. Control of nominated bodies operating only in Scotland. Those operating on UK basis in devolved areas can act on an agency basis for the Assembly or the Assembly can establish new bodies.

Less extensive devolution on: development and industry—operation of Highlands and Islands Development Board and the environmental and factory building functions of the Scottish Development Agency; some limited natural resources powers relating to forestry, fisheries and agriculture.

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 re-submitted 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 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 Scottish Executive. Assembly has power to levy a surcharge on local authority taxation. Establishment of Scottish counterparts to Consolidated Fund, National Loans Fund, Comptroller and Auditor General, and the Public Accounts Committee.

9. *Administrative cost of devolution*: Capital cost of £2.3 million. Extra annual running costs of around £10 million.

Wales

1. *The Assembly*: (a) directly elected; (b) relative majority (i.e. first past the post); (c) for first election, 72 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 75 member Assembly; (d) fixed term of four years.

2. *The Executive*: No executive body distinct from the Assembly. Standing subject Committees to cover all main devolved fields will do most of the detailed work and their composition will reflect the political balance of the Assembly. Each Subject Committee will have a Chairman (to conduct business impartially) 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.

3. *Representation at Westminster*: Existing representation unchanged.

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, anything 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.

Major devolved areas: local government; health; personal social services; education (excluding universities and Research Councils); arts, museums and libraries; housing (except private sector housing finance); physical planning and environment; roads and transport; tourism; control of nominated bodies operating only in Wales; responsibility for the activities in Wales only of the Welsh National Water Development Authority and The Severn-Trent Regional Water Authority.

Less extensive devolution on: development and industry—control of the environmental and factory building functions of the Welsh Development Agency; some limited natural resources powers relating to forestry, fisheries and agriculture.

6. *Veto*: Final legislative sovereignty of Westminster is maintained, including the

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 Cmnd 6348 for further information.

source: *Our Changing Democracy: Devolution to Scotland and Wales*, Cmnd 6348, HMSO, November 1975.

young fabian group the author

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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