

## A Tradition of Excellence?

John P. Mackintosh Memorial Lecture

09 November 1999

**Donald Dewar MSP,  
First Minister of Scotland**

We were both elected to parliament in 1966, but as I was, rather inconveniently and carelessly, out of parliament from 1970 to 1978, re entering just over a year before John Mackintosh died, our paths crossed less than might be thought.

*In one important sense he set a daunting pace for fellow politicians - no one looked after a constituency more assiduously, or was more respected and liked by his constituents. He had the formidable record of having missed only one CLP meeting during his time in Berwick and East Lothian - and that was due to a breakdown in communication. The very existence of this lecture is evidence enough of the respect he was regarded with here in East Lothian.*

He was only in Parliament for thirteen years, with a short break between the two 1974 elections. He was only 48 when he died, but had written much and widely on politics. He had exercised great influence.

A restless intellect, he was perhaps as much an academic as a politician: indeed at the time of his death he was Professor of Politics at Edinburgh and Strathclyde Universities and still very much the working Head of that Department. He was a great teacher, lucid enthusing and as a teacher he would have been proud of the emphasis on education which is at the centre of our Partnership administration in Edinburgh.

He did not achieve office. There were cynics who argued John had come to Westminster to revise his book on cabinet government from the inside. I think this is extremely unfair. No doubt the intellectual impatience he showed for those less inventive and imaginative than himself was a factor in his failure to convince his political masters that he would be a sound member of a government. In my view it was their mistake - he had the ability to be an innovative and brave Minister.

He was one of an able, policy orientated group of backbenchers in the 1966-70 Parliament. David Owen and David Marquand were others in the circle. I was a junior on the edge but it was through their influence that I became Tony Crossland's Parliamentary Private Secretary.

John Mackintosh left a great legacy. His ideas had a lasting influence. It was a powerful advocate for devolution - a cause in which he believed passionately and which I've been involved with for many years.

John was something of a prophet, a mighty champion of reform at a time when constitutional change was not an approved and certainly not a fashionable cause.

At the core he always placed democratic control, the empowering of the people. He did not base his argument on nationalism. It was not the glorification of the Nation state. It was never Scotland right or wrong. His vision was good government, an equitable democracy, that borrowed, elevated, created opportunity for the citizen.

Democratic control of Scottish Ministers and their responsibilities was his objective and what the Scotland Act is designed to achieve.

He knew that devolution was not an end in itself. It was and is a means to an end. That end for John Mackintosh, and for many of us, is a democratic, socially just Scotland. Devolution provides the opportunity to improve the quality of life of all our citizens: to improve housing, health, and education to take but three examples. An opportunity to create a Scotland where opportunity and social justice were open to all.

I think we are all worried about the gap between those who cast votes and our elected representatives. We must try and engage, and convince people that they can be heard and communicate with those they elect. The Scottish Parliament is trying to bridge that gap.

I believe the broad constitutional settlement has given stability to our system that was previously lacking. But new systems must be motivated, looked at with a critical eye. And that is what I intend to do today, to take a first preliminary look at how the institutions of the parliament are functioning.

### **How the parliament is working**

We were without our own Parliament in Scotland for almost 300 years

Now we have that Parliament. In July there was much goodwill. That is still the case but there is impatience too. It has had its full powers for 10 days over four months. Reform, change, even the bedding down of administrative systems takes time. The learning curve is steep whether as a backbencher or First Minister. I know this as well as anyone.

### **How is the Parliament seen**

But there were high expectations as to how the parliament itself would look, how it would work.

The constant refrain was that it had to be different, modern, more approachable. Much has been achieved in gender balance - on this Labour lead the way - the mark

of the place is informality. And that means the hundreds looking at the parliament from the galleries, or by TV see a very different parliament - a Parliament which more accurately reflects the make up of the community it represents. Every day there are more in the galleries than there are members, which must say something about accessibility. But that, lack of formality ironically has been as much a source of criticism as of congratulation.

The radical nature of the settlement must never be forgotten. We did take a tremendous gamble. We did innovate in a remarkable way.

The new voting system represents a victory for principle over immediate political advantage. Proportionality was bound to be a disconcerting experience for a party which had long enjoyed the first past the post bonus. Labour supported change because the balance of politics or more accurately the lack of it was hard to justify. There was something very odd about a system which saw a party get almost 20% of the vote and not a single seat.

But as no party had gained 50% of the Scottish vote since the Tories in 1955 the reformed electoral system put coalition government very much on the agenda. Labour did remarkably well gaining 53 of the 73 first past the post seats - but still needs a little help from friends to form a majority administration.

I believe stability is important in the democratic process.

The present partnership with the Liberal Democrats is built on a common approach in many areas particularly of social policy. Without that strength, that ability to deliver a majority vote, a system built on the assumption there would be an open accessible, approachable character to the parliament might become a handicap, leading to indecision if not paralysis. The joint programme has shown that the two coalition parties can work together on a common agenda. PR is meant to provide stability to the system. It would be ironic, if a great determination to have one policy accepted whatever the consequences endangered the partnership.

Our ability to make the new system work may have a real influence on the course of the debate on electoral change in other parts of the UK. For who would argue that reform should reach parts of our system previously untouched, a good conduct report from Scotland could be important. It is a factor those thirled to that cause might want to keep very much in mind.

And let us remember that this parliament, in its first days, has been watched more compulsively, commented on more fully, than any Parliament covering Scottish affairs in the past. Westminster is reported like a football highlights programme giving it a glamour which Holyrood may find hard to match. For the Press Parliament has been a remote prospect some 450 miles to the South and serviced by specialists shunting their copy up the line. Now they have found it and with a vengeance. It is like a cabbage patch in the back garden - something to explore, not something to treat with unnatural respect. The focus has been fierce. Editorials condemn the

housekeeping issues that dominated the reports - perhaps but the selection, in part at least, was made by journalists.

The impression of a legislative body at work is important. There is a danger that people, used to seeing highlights of PMQs in Westminster, will hold that any decent parliament should have a high drama rating. Of course our parliament will have its moments, but these should not diminish the basic workmanlike job which should be the mark of activity in the Chamber and in Committees. It is that level of competency, relevance and involvement that I support.

Question Time does not need to be confrontational even bear pit politics. It is about probing, informing the Chamber and the nation; about defining the Government's position, pinning down the criteria against which executive and ministers can be judged. It need not be dominated by the spectacle of politicians striving to inflict terminal damage on each other.

The machinery must however allow the probing and the harrying to take place. In my view, there is a need to review Question Time procedures even at this early stage. The Consultative Steering Group Report was work on the drawing board. Experience suggests that the flexibility which allows more than the original questioner to pursue the issue and the Minister, and if necessary to expand and press home a point would be positive reform which is now under active consideration.

### **Beyond appearances**

The new Parliament is a case of check against delivery: seeing if the Parliament is working as it should. We should have a good conceit of our achievements without ever being conceited about them.

We should not be scared to look at other models - including Westminster- to see if there are lessons to be learned.

### **Different from Westminster**

For Scotland there are essential differences between Holyrood and Westminster. Scotland does feel closer to the Parliament - and Scots know more about what is happening in it - than was ever the case at Westminster (I remember saying, rather too often, that with devolution the parliament will be nearer the people - positioned to take a kicking if they feel we are not doing what they want.)

Secondly, and of crucial importance is the weight of Scottish legislation which Westminster could never rival. We have also proved that we can act quickly when required.

One item on the charge sheet is that the first piece of legislation on the Statute Bill was an amendment to the Mental Health legislation passed on an emergency basis as a result of the Ruddle case. It was a complex affair completed successfully.

Main stream legislation has to be properly considered, examined, probed and justified before it proceeds to the statute book. That is essential if interest groups, pressure groups and simply public opinion are to have the chance to exert influence. The efficient discharge of such duties is one of the safeguards against abuse in an unicameral system. The system is not unique. Look to Scandinavia. We have a special responsibility, as there is no second opinion. However it allows us the opportunity to pass a great deal of legislation in comparison with Westminster.

In the 1860's George Joachim Goschen asked the Prime Minister, Lord Palmerston what legislation there would be in the next session. "Oh there really is nothing to be done. We cannot go on adding to the statute book ad infinitum" said the great man. Now it will be very different.

At Westminster the Secretary of State for Scotland joined the queue to get a slot which would allow perhaps two Bills of substance and the odd bit of bric-a-brac. In the Scottish Parliament the planned programme is eight Administration Bills and a shifting cast of Private Members Bills. Education, National Parks long overdue reform of the law on adults with incapacity, land reform - the scope is ambitious. The room, the opportunity to legislate will make a difference but the Parliament must get it right and not simply pursue the legislative equivalent of a high batting average year on year.

### **Parliamentary scrutiny**

The balance between the executive and the legislature is the key to the good running of parliamentary government. It has been famously debated anent Westminster over the years. The power of Downing Street, the subordination of the legislature, the dangers of an elected dictatorship as defined by Lord Hailsham are common topics for debate and dispute. The death of Parliament is greatly exaggerated but the balance is the stuff of controversy.

The Scottish Parliament has set out to make changes which amount to a minor revolution. The balance of power has shifted significantly to the floor of the chamber and the legislature. I strongly support this. I think it is right. However it does make for teething problems and adjustments.

Let me set out the evidence for this claim.

At Westminster the executive dictates the business of the House. There may be negotiations through the usual channels but nothing as complex as steering the weekly diet through the Parliamentary Bureau made up of the business managers of the four main parties. In extremis the Government can vote its strength in the bureau - if it has a majority in the Parliament - but the dynamics contrast sharply with the Commons. It is not so much a case of taking a decision as the practice of diplomacy.

It does not make life easy for an administration.

A Private Members Bill in the Commons can become law but only if it is totally non-controversial and it has the tacit or open support of Government. In the Scottish Parliament it is a case of 11 supporting signatories and the Bill is potentially up and running. Private Members legislature is not confined to well defined slots - a Bill may come at any time breaking into and cutting across the administration's programme. It can commandeer time and, given general support, go all the way.

These differences are the result of a deliberate shift in the balance of the Parliament. At the heart of it lies the Committee system. Their members discipline and work rate, their willingness to work with the Executive are central to the efficiency of the Parliament and to public perception. They must succeed if the Parliament is to command confidence.

We have tried to find a new way forward, creating committees of great scope and potentially of great power and influence.

The committees sit as standing committees to consider bills, and they also function as select committees. This is imaginative and radical. It underlines the importance of their work.

But it also means the committee must engage responsibly and properly in the process of government. The dangers and the pitfalls in not doing so are all too apparent.

The test will be formidable in particular for those who occupy the chair. When acting as a Select Committee the Chair must lead the examination, guide the shape of the enquiry in the public interest. The Chair must be independent of party. A Select Committee then becomes a Standing Committee examining, amending an Administration Bill. The relevant Minister or the promoter of a Private Members Bill under consideration will then be added to the Committee as a non-voting member. This advocacy role on a committee that will have developed its own corporate personality will not be easy.

The committee is a hybrid combining the role in Westminster terms of both select and standing committee. In the latter mode chairing is almost inevitably a partisan activity. In the Commons the Chair is occupied by a member drawn from a panel who has neither the right to speak or vote during the consideration of the Bill. It is the role of moderator alone. In Holyrood the Chair is a full member with the right to speak and with both a deliberative and casting vote. It will be even more complicated if the person concerned is also the front bench spokesperson of his or her party. The room for conflict of interest is all too obvious.

The success of the committee system is important for another reason. Unicameral government - the absence of a revising chamber - will always be open to criticism. Some will argue that reform of the House of Lords gives an opportunity to bind

Scotland to the UK by giving the second Chamber the power to review Scottish legislation. It could be done by using the peers equivalent of the Scottish Grand Committee. It would allow a second opinion to be taken and give a strong justification for a Scottish input to the Lords. While some would no doubt put that case one of the reasons I have concentrated on the Committee system is that I believe that an effective Committee system is the best way of examining legislation and testing the executive's actions.

It is far too early to make a judgement. Committee work has only just begun, but a review in the light of experience may be necessary.

There is already a tendency to think that the key power of committees is to summon a Minister to give evidence. Of course it is a power which underpins the authority of each and every committee. But it must not become the norm just because it is an easy answer to the inevitable question 'what are you going to do?' Committee agendas should not be dominated by the morning headlines and their potential for spawning press releases.

The process of scrutiny must rest on the thorough examination of major issues, well prepared beforehand by both Minister and the committee with due notice given. If it is done too regularly - and at short notice - is it not devalued, for all concerned?

### **Lessons from Lobbygate**

- openness, accountability

The maintenance of standards in the Parliament is a particularly sensitive issue. Lobbygate illustrated that. I would not expect many such enquiries but when they do occur should a Commissioner be appointed to assist in the process of investigation? The outcome of the recent enquiry - that no ministers has acted improperly - did put in perspective the extent of press coverage generated by the affair. There can be no doubt the image of the parliament itself was damaged.

That is not an argument for keeping such issues under wraps, or denying the press proper access - but I believe that it does argue the case for tidying the procedures.

The Committee in this case very sensibly decided to appoint a special adviser to sift the evidence, to reduce to good order facts which were being hopelessly obscured by speculation and rumour. They were right to do so as an aid to the efficient and speedy conduct of business. There is a case for a Commissioner to fill that role.

The Commissioner would have to deal with the registration of members' interests, to advise and make recommendations to the committee, and to take responsibility for investigating complaints from MSPs and members of the public. The Commissioner would then report to the main committee, who would of course remain responsible for the conduct of the enquiry - deciding who would be called to give evidence, what weight should be given to that evidence, what inferences should be drawn from it and above all what action if any should be taken.

## **Need to prove the stability of the system**

The public must have confidence in the integrity and stability of the system. The Committees, the procedural rules, the internal decision making process must relate each to the other. There must be a coherent framework that allows for sensible delivery on policy and administrative action.

I would take this opportunity to pay tribute to colleagues in the civil service for their hard work and dedication. Politicians are often the butt of satire but they are not alone. 'Yes Minister' has immortalised Sir Humphrey. When he first met Jim Hacker he reminded him of a past encounter at the Public Accounts Committee.

Sir Humphrey: You came up with all the questions I hoped nobody would ask.

Hacker: Well Opposition's about asking awkward questions.

Sir Humphrey: And Government is about not answering them.

Hacker: Well you answered all my questions anyway.

Sir Humphrey: Well I'm glad you thought so, Minister.

Stability is a virtue in government a necessary virtue. The reforms have put the civil service under strain in a way few predicted. The critics are already calling for the sweeping extension of service and parliamentary activity while bitterly criticising any over-run on expenditure. They can't have it both ways.

The estimates of expenditure for the Parliament's first year could not be based on precedent because there was none. No one anticipated the growth in the work load. Question Time once a month has become Question Time once a week with all the pressures that entails. The number of written PQs has increased three-fold. In the Parliament's first four months the number put down was 2,271. The average number in a whole year to the Scottish Office at Westminster has been around 2,000. Each and every one has to be answered with care, cleared by Ministers. Green folder correspondence - replies requiring Ministerial signatures - is up by 35%. These are indicators of pressure at a time when the Scottish Executive is coping with radical change: adjusting to the much wider demands for policy innovation and instigation which are part of moving away from Westminster and living off your won resources.

## **Scotland's links with Westminster and Europe**

We are constantly hearing of growing hostility to the European Union. It was especially depressing to see Norman Tebbit proclaiming at the last Tory conference that he was a happy Tory again buoyed up by the rabid anti-Europeanism, now endemic in his party.

We have shown the positive way forward. We remain absolutely certain that Scotland is best represented in the European Union as part of the United Kingdom. That will continue. It is through the UK that we can best voice our opposition to the increasingly strident views of the Tory party, demonstrated last month by Thatcher and Tebbit at their conference. Indeed Thatcher summed up this new hostility when she said that everything bad in had come from Europe. It is as extreme a position as



that argued by those that claim that everything bad that has happened to Scotland has come from London.

I oppose both views with equal vigour. And devolution shows that Scotland can benefit both from our presence in the UK and in the EU. Just as it is to the UK that we look for the economic strength from which we benefit, so it is to, with its market of almost 400 million people, we look to provide our trade opportunities. Scotland's voice must be heard at the heart of both Britain and Europe. And so of course there is advantage in having our presence in Brussels, with the new Scotland House now open for business in Brussels.

Whilst we rightly have pride in what we have done, the task for the future is to go on building confidence that devolution will deliver for Scotland. All those who have argued the devolution cause over the years, not least Mackintosh himself, have done so because they saw devolution helping to deliver the social justice agenda for Scotland, delivering the improvement in people's lives over the wide range of policy that affects them. Confidence in the system, and in the new institutions we have created is a key part of that.

The chance is there. The government has built an impressive economic platform standing much criticism, sometimes from old friends in the process. The Bank of Scotland has just published its report on the economy for the period till the end of October.

Let me summarise -

- Manufacturing output rose for the eighth consecutive month increasing at the fastest rate since January 1999.
- Service sector business activity rose for the twelfth months running.
- Service sector employment increased for the ninth month running.
- Manufacturing employment rose at the fastest rate in the survey's history.

Daniel Defoe described the Union as based on policy not affection. It was probably fair comment 300 years ago but it is no longer so. Today there are strong bonds built over the centuries and economic ties reinforce the case for an old connection. Scotland exports more goods and services to the rest of the UK than to the rest of the world put together. The good health of the UK economy is central to hopes and aspirations.

I am confident about our future in Britain. I remain very firmly of the John Mackintosh school of thought. One of his themes was dual nationality. North of the Border we were Scottish and British and proud of it. I might well add Europe whose influence is growing. It is my stance today.

The Economist magazine has been making news this week. It accuses the Government of 'Undoing Britain'. Backed up with a somewhat confused opinion poll the Economist lines up with the Tory right in seeing destruction and disaster on every front. I am not convinced that a poll asking with which of two or three from a long list of alternatives the respondent identifies is likely to be conclusive. The total vote added up to 200% and more of the sample. It is perhaps put in perspective by the finding that in the Principality almost 10% more of those polled identified with Wales than the Scots in the sample did with Scotland.

The question put influences the result. The Referendum established definitively that more than two-thirds of the Scottish electorate want the new settlement offered in the Government's White Paper. The general election result and the mass of polling evidence taking lead on the independence option forcibly argue that Scots do indeed look to Scotland but a Scotland in Britain contributing to and drawing on common experience, shared aims. Devolution touching as it does every part of the UK is the mark of a radical administration which is not afraid of change. It is proof positive that the UK can adapt to Scotland's needs. In so doing it reinforces our links with the rest of this country of ours.

I believe that if we continue as we have started, that if we are always prepared to look afresh at what we have done to evaluate and improve then devolution will be the established, accepted basis for a new period of consolidation and progress.

News Release: SE1244/1999

09 November 1999