

Thoughts on the Scottish Parliament

David Edward

When Winnie Ewing opened the first sitting of the Scottish Parliament on 12th May 1999, she said: "The Scottish Parliament, adjourned on the 25th day of March, 1707, is hereby reconvened."

The notion that the Scottish Parliament of 1707 was a sleeping beauty, revived by the kiss of the Scotland Act 1998, would greatly have surprised David Hume. He would probably have classed it as yet another of the "imperfect, or rather fabulous annals which are obtruded upon us by the Scottish historians". He was no admirer of the old Parliament, and there is not much point in speculating as to what he would have thought of the new one. One can be pretty certain that he would have been sceptical. His view was, after all, that "All plans of government which presuppose great reformation in the manners of mankind are plainly imaginary".

In the years leading up to the final devolution settlement, many and varied voices were raised against the project. Following Dicey, it was argued that home rule was, not only undesirable, but constitutionally impossible: the creation of a Scottish Parliament would be the first step down the slippery slope to separation. So far, at any rate, events have proved them wrong. Ten years on, in spite of the troubles connected with the design and cost of the new building, the Calman Commission was able to report, on the basis of the evidence submitted: *'The last ten years have shown that not only is it possible to have a Scottish Parliament inside the UK, but that it works well in practice. Having a Scottish Parliament is in general popular with the people of Scotland, and they welcome the scope to have Scottish issues debated and decided in Scotland. The Scottish Parliament has embedded itself in both the constitution of the United Kingdom and the consciousness of the Scottish people. It is here to stay.'*

Perhaps ten years is too short a time in which to judge the success of the Parliament. (It may or may not be an omen that it is almost the same age as the Euro!) Its legislative output has been relatively low compared with Westminster but that, for some at least, will be a matter for satisfaction rather than criticism. A number of overdue reforms of the Scottish legal system have been implemented. Before devolution, they were delayed (sometimes for decades) for lack of parliamentary time and all too often were lumped together in a single Law Reform (Miscellaneous Provisions) (Scotland) Act.

What is perhaps more important in the long run is that it can no longer seriously be argued that the British constitution cannot accommodate the parallel existence of Parliaments at two levels.

It is true that no satisfactory answer has been found to the West Lothian Question – to which, indeed, there is no completely satisfactory answer. Most federal constitutions tolerate some degree of 'variable geometry' as a condition of securing the unity of the State and it is inherent in the idea of devolution that there will be some difference in outcomes.

Recent electoral results show that devolution is not an inevitable slippery slope to separation and indeed opinion polls continue to suggest a substantial Unionist majority unaffected by an SNP-led administration.

The Scottish experience has also shown that both coalition government and minority government are workable over quite long periods, and this experience was drawn upon in the negotiations for the Westminster coalition of May 2010. The committee system has been praised by the Auditor General as producing a level of scrutiny that is "much more extensive and robust than that which existed before devolution". As much as possible of the Parliament's work is conducted in public; the arrangements for public access and information are infinitely more user-friendly than at Westminster; and the procedure for hearing public petitions is being studied as a model by other parliamentary assemblies.

In terms, therefore, of constitutional innovation, the verdict on the first ten years of the Scottish Parliament must be positive. What is more questionable is whether the institution is temperamentally fitted to cope with a shrinking budget and the hard choices that will have to be made. Can it overcome the twin Scottish vices of victimhood and entitlement? Are existing party attitudes well adapted to the different type of politics that seems to be emerging in Westminster and which, on any view, an assembly elected by proportional representation requires?

At a more technical level, the question is whether the Parliament is sufficiently well organised and staffed to exercise effective scrutiny, both of the actions of the executive and of the quality of legislation. Calling the executive to account requires strong committees and scrutiny of legislation is not solely a political matter. Even if a statute appears to fulfil its political intention, it must be workable and technically fit for purpose. The willingness of the Parliament to address these issues will be a test of its maturity.

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