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Session 5) Plenary Discussion Panel: New Directions in Federalism

A PROCESS, NOT AN EVENT

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"The Scottish Parliament, adjourned in March 1707, is hereby reconvened"

With these words the veteran Nationalist Dr Winnie Ewing -- who was in the chair as the oldest Member -- opened our new legislature in Edinburgh in May this year. There was a ripple of applause right across the party spectrum. But were the words more than a romantic fancy? Is there really any historical continuum from our first parliament in the thirteenth century? Was Dr Ewing doing any more than nodding back to the sovereign state which we once had been, and nodding forward to the sovereign state which she and her colleagues hope we shall be yet again?

I must immediately make it clear that hers is a minority view of only one-third of Members. The position of the British Government and of the Scottish Executive on the issue is perfectly clear. Sovereignty remains at Westminster. Power devolved -- in the words of Enoch Powell -- is power retained. By establishing a legislature in Edinburgh with authority over Scots domestic business, democracy is enhanced and the British Union strengthened. And, finally, Scotland will have a stronger voice in world affairs as part of that British Union than she ever would as a small country on her own.

Between these two apparently irreconcilable positions there is, however, a constitutional chink. Pressed on the subject, Scots politicians of all persuasions will concede that what we are currently engaged in is a process, not an event. Our devolution is dynamic. The Executive regards that dynamism as being somewhat off in the distant future while the Parliament beds down. The Leader of the Opposition, Alex Salmond, and his Nationalists would like the process to start now.

Process it must be, however, because what we currently have in the United Kingdom is asymmetrical devolution within a quasi-federal Britain within a quasi-federal Europe. A Parliament with legislative and tax-raising powers in Scotland. In Wales, an Assembly with no powers of primary legislation or tax. An Assembly coming -- provided the peace process endures -- in Northern Ireland. And waiting

in the wings, a possible Council of the Isles which would allow parliamentarians from Belfast, Cardiff, Dublin, Edinburgh and London to discuss matters of common interest, loosely modelled on the Nordic Council.

Make no mistake about the magnitude of the constitutional revolution within the United Kingdom. Why it has happened, the models of governance which it is assuming, and where it may be heading should be of significance to other states facing the challenges of globalisation and of restless minorities.

Now sometimes -- as the politicians among us know, but maybe not the institutional theorists -- symbols and sub-texts in politics can be every bit as important as substance. So let me ask you to consider another quote, this time from the Presiding Officer of the Scottish Parliament, Sir David Steel, at the official opening ceremony:

"I welcome your Majesty, as Queen of Scots"

Not, you note, as Queen of Great Britain and Northern Ireland, nor even as queen of Scotland. The sub-text is significant. The United Kingdom is one of the few states in the world with two quite separate systems of law, with separate supreme courts in both Edinburgh and London. In English law, sovereignty is vested in the Crown in Parliament. In Scotland, sovereignty is vested in the people.

Mary Queen of Scots was not Queen of Scotland either. She did not own the land. She was monarch by consent of the people over whom she ruled. In that historical tradition, it is important that even opponents of Scottish devolution and independence (Mrs Thatcher included) have accepted the formal statement by MPs and civic Scotland at the inaugural meeting of the Constitutional Convention which launched the whole process of change, acknowledging:

"the sovereign right of the Scottish people to determine the form of Government best suited to their needs"

The sub-text of Sir David's remarks shows in other ways. At the opening of the Parliament, the Scots Crown -- the oldest in Europe -- was borne through the streets and placed centre stage. It was not, however, placed on the Monarch's head. Instead, it sat in solitary splendour in the well of the Chamber, where Members sang the great hymn of Robert Burns to egalitarian internationalism, "A Man's A Man for Aa That":

"A Prince may mak a belted knight, a marquis, duke and aa that... his ribbon, star and aa that... but an honest man's abune them aa, he looks and laughs at aa that

"For aa that, an aa that. It's coming yet, for aa that. That man tae man the world

ower, shall brithers be for aa that".

Something is stirring in Scotland. It certainly does not presage anti-monarchism, for the Queen is well respected. It does not presage the inevitability of independence, even though the former British Prime Minister John Major agreed this week with Mr Salmond that Scotland may well achieve that status before the Union celebrates its 300th birthday in 2007. What it indicates is a different way of doing things. A Scottish way of relating to ourselves and to the wider world. As a London newspaper put it -- watching thousands of schoolchildren parading through the streets of Edinburgh as part of the opening celebrations -- "it was a curiously non-British day. It felt, frankly, more Scandinavian social democratic..."

Now I am not going to deal in detail with the nuts and bolts of the parliament. For those academics and researchers who have asked me for papers, they will find them at our remarkably comprehensive website: www.scottish.parliament.uk. So just some key principles on practice and procedure:

The Parliament looks and feels far more European than might be normal in a child born of Westminster.

Members are elected on the same system as Germany: 73 constituency members and 56 members elected from proportional party regional lists. Currently there are 56 Labour Members, 35 from the Scottish National Party, 18 from the Scottish Conservatives, 17 from the Scottish Liberals, 1 Scottish Socialist, 1 Green and 1 Independent.

Proportionality means it's difficult to establish an outright majority. Labour is therefore in coalition with the Liberals. And while proportionality ensures that Nationalist seats now equals the Nationalist vote, it means that Mr Salmond -- since Oppositions do, in time, tend to become Governments -- will find it difficult to make a single leap to Independence.

The powers of the Parliament are based largely on the model adopted for the Government of Ireland Act 1922. The assumption being that what is not specifically named is, ipso facto, the concern of Edinburgh.

Very broadly, the Parliament has power over all domestic Scots life apart from Foreign Affairs, Defence, macro-economic policy and social security. A series of Concordats cover relations between the two governments in these areas.

The real engine of the Parliament is its powerful Committees: which not only process legislation, but can initiate it and launch enquiries into matters of their own choosing. In a unicameral legislature like ours, with no House of Lords as a revising chamber, it is particularly important to get things right the first time round. The Executive is therefore required to consult extensively with interested

parties and, if the Committee examining the proposals before they go to the House feel these to be insufficient, it can launch its own extensive round of consultation with civic society. Key to the whole process is that social partnership with the people is mandatory.

Why has such a fundamental change occurred within the United Kingdom of all places? What can it tell participants in this forum about managing the inter-relationships of citizen and state in the new millennium?

Firstly, it has not happened in isolation. Citizens everywhere, through the electronic revolution in communications and information technology, know they are part of a global village. The old certainties are gone. They want to know who they are, and how they fit.

But it's even more global than that. A decent shop-steward from a factory in my constituency came to see me recently. He was, he said, Scots through and through. But in his multinational company, which was Korean, his foreman was German and his production manager Dutch. The plant director was Korean. The European headquarters was in Holland. The global headquarters were outside Seoul. There might be a holding company in Liechtenstein. A major part of his daily life was now run from Edinburgh. But macro-economic decisions were taken in London. And he was subject to a whole string of directives emanating from Brussels. Both attracted to, and repelled by, the forces of globalisation, he was nonetheless far too sensible to be against multinationals. He too simply wanted to know how he fitted and where he belonged.

The state these days, he said, is simultaneously too big and too small. Britain is too big, too remote, for his Scottishness. But it is too small to address companies that straddle the globe and whose annual turnover dwarfs the revenues of almost two-thirds of the states in the United Nations.

This is not just an issue for the industrialised world. For fifteen years I worked as a director of the International Red Cross. I have seen too many peoples -- faced by spiralling debt, in triple transition from war to peace, from one party state to pluralist democracy, from state planned economy to the free market -- turn for salvation to the rigid certainties of fundamentalism. I have seen Eritreans, napalmed and strafed by Colonel Mengistu's jets, with whom I argued that only federalism within Ethiopia was the answer (for surely the OAU would never allow state frontiers to be adjusted to suit minorities, since otherwise all Africa might be unpicked?), and across the centuries, from a raggle taggle group of combatants with no idea of where my country was, give the same answer as the Scots gave to the invading English armies in the early 14th century: "We fight not for glory nor riches, but for freedom alone -- which no good man gives up but with his life".

In 1998/99 I lived in the Soviet Union at the very time communism was starting to implode. I heard many fine words about national liberation then too. I saw Armenia, Azerbaijan, the Ukraine, Moldova, Tajikistan all go. Sometimes I saw the nomenklatura, berated by the crowds, scuttling into the party offices only to emerge -- to plaudits -- as the National Salvation Party for this or that country shortly afterwards.

I can well understand, therefore, the concerns expressed yesterday by our Russian delegates on the situation in Dagestan and Chechnya. Perhaps I can speak to that, briefly from a Scottish perspective, from my experience in their country.

The greatest frustrations of my year in the Soviet Union stemmed from two factors that are important to the democratic process. First, there was no middle management. If you could make contact with the top man in the party, things would happen fast. But decades of democratic centralism had left a void when it came to taking decisions further down the line.

Second, there was no tradition of civic society. And this I believe to be crucial in the forms of governance we shall share in the twenty-first century. As the state contracts, as the social welfare bill expands beyond the ability of the taxpayer to fund, it is our not-for-profit organisations that will keep a decent, vibrant society alive. Politicians and parliaments will no longer be the sole source of policy development or expertise. Whatever institutional model of government we choose for our countries, it is social partnership with the Third Sector that will keep it healthy.

Which brings me, finally, I suppose back to Scotland. Our Parliament, in many ways, was not created by the politicians. Over 700,000 of our 5-million people volunteer regularly. When membership of the trades unions and churches is added, civic Scotland amounts to well over half of our people. This was the constituency that built the coalition for a Parliament.

The process was accelerated by two factors. First, during the long years of Thatcherism, Scotland continued to vote overwhelmingly for parties of the Centre Left. We therefore had imposed on us a government for which we did not vote. In addressing this democratic deficit, all parties became tartanised.

Second, there was the increasing impact of the European Union. While loss of sovereignty is a matter for real agonising in England, it has been a much less painful process in Scotland. There are times, it seems to me, that Dean Ascherson's jibe -- about England losing an empire without finding a role -- is pretty close to the mark. There may still be a wish, in some traditional circles, to sit at the centre of Churchill's three concentric circles -- the Empire (the Commonwealth these days), North America and Europe. In Scotland, however, there is far greater willingness to look at shared sovereignty in Europe as the

means of ensuring that we have a future for our past.

Within this new Europe, a pattern of variable political geometry is beginning to emerge. Scottish Ministers, for example, can attend Council of Ministers with their Westminster counterparts -- or even lead for Britain. This will work when the same party is in power in both London and Edinburgh but what happens, say, if there is a Conservative administration down south and a Nationalist Executive up north?

So where are we at in Scotland? We are part of a global revolution, a response to the "who I am and how I fit" questions of the information society of the twenty first century. Key to the process is the participation of civic society. And if there are concepts which describe where we are heading with the EU they are "subsidiarity" -- decision making tailored to the level of governance which is most natural to a community -- "negotiated governance" and "variable political geometry".

When Scotland lost her Parliament in 1707, and entered the Union with England, the bells of Edinburgh tolled out a new pop song: "Why am I sad on my wedding day"? Lord Seafield, the Lord Chancellor -- the Presiding Officer of his day -- pronounced: "There's ane end to ane auld sang".

Well, now we have started to sing a new song for a new Scotland. An event, it ain't. A process of change -- an ongoing process of change -- it most certainly is.

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