

NATIONAL ARCHIVES

IRELAND



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1. Present Position

1.1 England

As the dominant member of the United Kingdom, England has had little use for nationalism and little need for devolution. The British institutions of government are, by and large, English institutions, while England has fared consistently better economically than its fellow UK members. Due to its size and population, however, England has decentralised some power within the state to regional level. This process has continued apace since the time of the Second World War when ten main regions were established under Regional Commissioners with extensive civil defence powers. Government departments also decentralised and regional boards were later set up along functional lines. This led to a rather complicated conglomeration of regional bodies functioning for varying purposes within varied boundaries, although more recent efforts to standardise boundaries have had some success.

1.2 Scotland

The continued pressure of Scottish nationalism over the years, in one form or another, elicited a measure of devolution for Scotland. Equally, continued economic difficulties prompted the desire for greater independence from the political and economic lines drawn by England. Since the political and economic union in 1707, the area of devolution gradually expanded so that in 1939, when the present Scottish Office system was set up, a wide range of domestic functions was involved. The functions at present vested in the Secretary of State for Scotland include: Agriculture and Fisheries, Development, Education, Home and Health. The procedure for seeking approval for expenditure under these heads is much the same as for other Departments at Whitehall, except that the Secretary of State has marginally more discretion. He is assisted by a team of

three Parliamentary Under-Secretaries of State, a Minister of State and the Lord Advocate and Solicitor-General for Scotland. The Secretary of State also controls a number of Scottish statutory bodies and has certain responsibilities in other UK-wide bodies which operate in Scotland. Apart from defence and foreign affairs, the other major areas of responsibility not vested in the Scottish Office are Trade and Industry, Employment and Social Services, all of which are discharged from London. The churches and legal systems have remained quite separate. Most Scottish legislative and other business at Westminster is conducted through committees.

1.3 Wales

Whereas in Scotland pressures toward greater independence were political and economic, in Wales they were more cultural in genesis, although similar political and economic factors were relevant. An increasing measure of administrative decentralisation, particularly since the War, led to the inclusion of a Secretary of State for Wales in the British Government for the first time in 1964. Under the Secretary of State, the Welsh Office has direct responsibility for the health service, local government, forestry, agriculture (jointly with Whitehall), tourism, child care, and up to second-level education. The financial arrangement is similar to that for Scotland. At Westminster, some Welsh business is conducted through committees, while one day is reserved in each parliamentary session to discuss Welsh affairs. The system is basically similar to that in Scotland, except that a narrower field of executive responsibilities is involved.

1.4 Northern Ireland

Since 1920, Northern Ireland has had four systems of government:

- devolution of wide powers to Stormont Parliament with little Westminster involvement;

- direct rule, following the prorogation of Stormont, exercised by a Secretary of State;
- devolution of narrower powers to an Assembly and broadly-based Executive; and
- discharge of these powers by a Secretary of State following the breakdown of the system.

The Secretary of State for Northern Ireland is at present assisted by two Ministers of State and two Parliamentary Under-Secretaries of State. Necessary legislation on matters which were within the competence of the Assembly is effected by means of Orders-in-Council, which require the approval of both Houses of Parliament in Britain. According to news reports, this arrangement has not been extensively used and a substantial backlog of Northern Ireland legislation has now built up.

2. Kilbrandon Commission

2.1 Terms of Reference

The Commission was set up in 1969, against a general background of rising discontent, to examine the present functions of the central legislature and government in relation to the constituent parts of the UK and to consider whether any changes were desirable either in that context or in relation to the Channel Islands or the Isle of Man. The Commission decided to look at the problem of government as a whole but to confine any detailed examination and recommendations to issues of a primarily geographical nature. It concluded that Northern Ireland problems were "largely separable" from those of Britain, although at one stage the Commission considered this its top priority area. Northern Ireland is thus viewed mainly as a source of "lessons" for Britain.

2.2 Options Considered

Before going on to the question of devolution, Kilbrandon considers

and dismisses two other options. Separatism or independence for either Scotland or Wales is rejected on the grounds that both receive preferential treatment under the present system, outside of which their standard of living would drop, that it would not lead to better government and that there is not the necessary political will for such a step. Federalism is also rejected on the grounds that there is lack of demand, that it is an awkward system at best, that England would be dominant in any such arrangement and that it would not be in the interests of the UK generally. Kilbrandon then goes on to look at various forms of devolution: legislative devolution of a certain range of matters to an elected regional assembly; executive devolution to an elected regional assembly responsible, under Parliament, for local policy; regional councils with advisory functions; administrative devolution, involving decentralisation of suitable government departments; Parliamentary decentralisation, whereby regional business could be conducted at local committee level.

2.3 Recommendations

Apart from the two signatories of Volume II of the Kilbrandon Report -a memorandum of dissent - there was a significant measure of disagreement even among those who felt able to sign the majority report. Of those eleven, two thought that a scheme of executive devolution, without legislative power, should be applied to all areas of the UK, including England. In relation to Scotland, eight favoured legislative devolution covering the fields of local government, education, health and social services, housing, agriculture, police and fire services and administration of justice. On other matters, such as public transport and broadcasting, limited powers would be given. An Executive would be appointed by the Crown from a 100-member regional elected assembly. Representation at Westminster would be proportional to population, while the Office of the Secretary of State for Scotland would be represented by a

Minister discharging other duties at Westminster. In relation to Wales, six favoured arrangements as above, except that legislative devolution would not extend to such matters as police, administration of justice and fire services. Three others favoured an Advisory Council for Wales while one favoured a similar Scottish Council. In relation to England, eight favoured regional co-ordinating and advisory councils, partly elected by local authorities (75%) and partly centrally nominated (25%). These would have neither legislative nor executive powers. In order to apportion central funds fairly between England, Scotland and Wales, eight members of the Commission advocated a nominated Exchequer Board independent of all three governments.

The Commission made only one specific recommendation in relation to Northern Ireland: that the level of representation should be related mainly to population. This is not the case in the UK at present. On such a basis, Northern Ireland's share of Westminster representation would rise from 12 to 17. By the same token, Scottish representation would fall from the present 71 to 57, Welsh representation would fall from 36 to 31, while England's would rise from 511 to 525.

2.4 Memorandum of Dissent

Because of fundamental disagreement about interpretation of the Commission's terms of reference, about the analysis made of the underlying causes of the alleged discontent which gave rise to the establishment of the Commission and because they reached different conclusions to those of the majority, two members wrote a memorandum of dissent, published as Volume II of the Commission's presentation. They felt that there should be a uniform solution to the problem and proposed a scheme for elected assemblies in England, Scotland and Wales, with certain executive and supervisory powers. These intermediate, regional governments could take over the existing functions of decentralised departments and statutory authorities in their respective areas and would adapt UK policies

and legislation to their own special needs. There would be a regional assembly in Scotland and Wales, with one in each of five English regions, having a certain measure of economic independence of central government, a Secretary of State for each of the three countries and unchanged Parliamentary representation.

2.5 Progress

Prior to the general elections in October 1979⁴, and subsequent to discussion on a government consultative document "Devolution within the United Kingdom - Some Alternatives for Discussion", the British Government issued a White Paper entitled "Democracy and Devolution - Proposals for Scotland and Wales". In this, the Government proposes the creation of directly elected assemblies for Scotland and Wales. It is proposed that the Scottish Assembly should have legislative devolution in regard to matters already devolved, such as housing, health and education. The same would apply on a more limited basis to Wales. The Government also proposes provisionally that the Assemblies should be elected from single-seat constituencies and should assume some of the executive functions of the Scottish and Welsh Offices and of other appropriate bodies. For such functions, the Assemblies would receive block finance, to be disposed of proportionally at their own discretion. Both Scotland and Wales would retain their present Westminster membership and their Secretaries of State in the Cabinet. (A nominated Exchequer Board would not be suitable for deciding on allocation of financial resources between the different countries.) In the White Paper, the Government announced its intention of legislating for the establishment of the Assemblies "as soon as possible", although "much work still remains to be done" both in finally deciding on the most suitable arrangements and in preparing legislation. However, in matters such as trade, industry and employment - a list that now embraces oil and other resources - the Government in London naturally remains extremely cautious about

devolving significantly, whether on a legislative or executive basis. In December last, the Government announced its decision to set up Scottish and Welsh Development Agencies, financed from central funds and responsible to the respective Secretaries of State. These are IDA-type bodies designed to promote economic development and will be in operation before the Assemblies are established. In addition, the headquarters of the Offshore Supplies Office - the main Government agency dealing with oil developments - was transferred from London to Glasgow. A second White Paper is being prepared at present and is due to be published in the autumn. In February of this year, it was envisaged that legislation would be introduced by the end of the year and that the Bill would receive the Royal Assent by mid-1976. It is not yet clear whether it will be possible for the British Government to adhere to this time-table.

3. N.I. Constitution Act 1973

Comparison of the Kilbrandon recommendations and the provisions of the N.I. Constitution Act reveals that both systems are broadly similar. Although accepting the provisions of the Constitution Act, the Commission recommends raising N.I. representation at Westminster, in keeping with the population criterion it proposes for Scotland and Wales. The other main differences, seen by the Commission as arising out of specifically N.I. circumstances, relate to the extent and exercise of devolved powers, the role of UK Ministers and the Executive structure.

- (i) The Constitution Act provides that an Assembly Executive must command such support in the Assembly as would render it "likely to be widely accepted throughout the community;
- (ii) Under the Constitution Act, the list of transferred matters can be varied by Order-in-Council, while the Assembly may legislate on a reserved matter (or on an excepted matters' ancillary provisions) with the Secretary of State's consent. Kilbrandon proposed no such discretion in respect of the Scottish and Welsh Assemblies;

- (iii) The Constitution Act confers much wider legislative powers on the Assembly - relating to trade, industry, social security, price measures, agricultural grants and subsidies - than would the Commission's proposals;
- (iv) Both local and general elections are excepted matters in Northern Ireland, whereas they are not under Kilbrandon;
- (v) There are extra human rights protection provisions in Northern Ireland - listed in Part I, para. 8 - which place restrictions on the use of devolved powers. These were not proposed for Scotland and Wales under Kilbrandon;
- (vi) Under the Constitution Act, the post of Secretary of State remained, his general role being to oversee UK interests in Northern Ireland and to represent NI interests in the UK Government. Kilbrandon's proposed discarding of the posts of Secretary of State for Scotland and Wales - in the context of the new Assembly proposals - has since been rejected by the UK Government;
- (vii) The Constitution Act provides for a consultative committee system in the Assembly, representative of party strengths, and for the appointment by the Secretary of State of the heads of department and Chief Executive from among members of the Assembly. Kilbrandon saw no need for these provisions in Scotland or Wales.

4. Political Attitudes

4.1 Britain

All of the major political parties in Britain support devolution or decentralisation to some degree. As to the degree of change favoured, the Conservative Party is most conservative, followed in order of radicality by the Kilbrandon Commission, Labour Party, Plaid Cymru, Liberal Party and Scottish National Party. The Conservative Party favours an indirectly elected Scottish Assembly with delegated powers, in concert with the Secretary of State, to administer the Scottish portion of the UK budget and to deal with the main part of Scottish legislation. They favour no change in Scottish representation at Westminster or in the role of the Secretary of State for Scotland. In the case of Wales, they envisage expanding the Welsh Office and giving the Secretary of State power to administer the Welsh portion of the UK budget. The Office expansion in influence and power would necessitate the establishment of a new Select Committee of Welsh MPs at Westminster to examine Welsh affairs. The Conservatives also favour expanding

the Welsh Council - an advisory body appointed by the Secretary of State - to include local authority nominees. The attitude of the Labour Party is naturally at one with the Government position, outlined in para. 2.5. Plaid Cymru wants an Assembly which would receive a block grant, have revenue-raising powers, be a policy-making and not merely executive body, and finally have a wide range of legislative powers. The only excepted matters would be the Crown, defence, foreign affairs and UK free trade legislation. The Liberal Party favours a phased federal system for Britain, beginning with early adoption of the Kilbrandon recommendations and ultimately arriving at a federal system for all the constituent parts of Britain, including Assemblies in the regions of England. The Liberals support the concept of full self-government for Scotland and Wales. In the short-term, the Scottish National Party seek a Scottish Prime Minister, with a Scottish Cabinet; Scottish Departments responsible for all existing Scottish Office functions, plus trade, industry, employment and social services; and Scottish control over both the nationalised industries and oil. SNP sees the Government's proposals as an interim step to self-government and to eventual independent representation in Brussels. This could still be accommodated, say SNP, within the framework of a confederation in the UK similar to the Nordic Union.

Notwithstanding the official party views as outlined above, there is some evidence of widely divergent opinions on the subject in the House of Commons, cutting across party lines. The differences relate mainly to the causes and implications of nationalist electoral support in Scotland and Wales and to the possible long-term consequences of devolution ^{for} the main political parties and for the integrity of the United Kingdom itself. While some have interpreted the pro-ELC votes in Scotland and Wales as an indication of a reversal in the nationalist trend, it seems likely

that the expectations generated in these areas will be satisfied only by significant devolutionary concessions.

4.2 Northern Ireland

All of the political parties in Northern Ireland are, for varying reasons, in favour of some measure of devolution, some form of local administration. When the Kilbrandon report was issued, the then Stormont Prime Minister, Mr. Faulkner, welcomed it as "a logical addition to the Constitution Act" and asked to have N.I. representation at Westminster increased without delay. Mr. West also said at the time that he would be prepared to accept a Kilbrandon-type solution for Northern Ireland. UUUC policy is that N.I. should be treated as a region (in the context of devolution to the regions), should have "parity of representation" at Westminster and should have "democratic local government" as in the rest of the UK. Within the UUUC umbrella there is also some support for complete independence for Ulster, enunciated mainly by Mr. Taylor and Mr. Barr. The Unionist Party of Northern Ireland is against total independence, on the basis that it would break the Union and would, moreover, lead to instability. The party apparently continues to support the Constitution Act, with power-sharing, and generally supports devolution with the UK. The Northern Ireland Labour Party (Mr. Bleakley) feels that direct rule may be the only possibility in N.I. for a very long time but welcomes the opportunity afforded to socialist Ministers to challenge the existing N.I. patterns. The Alliance Party also supports power-sharing and the Union and is totally opposed to independence for Northern Ireland. SDLP policy is based on power-sharing and the Irish dimension. While no statements seem to have been issued in the matter, the SDLP implies that it would be in favour of full legislative devolution, assuming viable power-sharing.

The UVF's Volunteer Political Party rejects both UDI and a United Ireland and seeks autonomy similar to the Kilbrandon proposals for Scotland. The various extreme Republican military and political groups are the situation in an all-Ireland context and would presumably favour total independence for Northern Ireland as a first step towards a thirty-two county, federal, socialist Republic.

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