

# Sceptical Scot

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## Scotland's centres of power need reform: Part 2 (Holyrood)

May 15, 2023 by [James Mitchell](#) — 2 Comments

**But there is another centre that requires our attention. Our centre in Scotland needs to be addressed.**

[Nigel](#) (Smith) was perhaps over-optimistic back in 1992:

Edinburgh, being more alive to our peripheral status, is likely to improve our transport and travel links with our markets and to widen the definition of infrastructure to ensure businesses are supported by all the specialist services, and capital funding (February 29, 1992).

This had been a major concern in the devolution debates on the 1970s – the fear that the proposed Assembly would be Central Belt dominated, that it would ride roughshod over local government. There were concerns that the absence of its own revenue raising powers would mean its only way of maximising its budget would be by cutting grants to local govt and forcing local authorities to raise rates – a kind of backdoor revenue-raising mechanism. These were legitimate concerns that were not really addressed back then or since.

The experience of Scottish central-local relations in the 1980s and 1990s convinced many in local government that a Scottish Parliament, especially one elected with a degree of proportionality, would be more in tune with their interests. The establishment of a **Commission on Local Government and the Scottish Parliament** under Sir Neil McIntosh, former chief executive of Strathclyde Region, which reported within a month of the Parliament assembling indicated change. That report is well worth revisiting. Its series of recommendations were only partially implemented and its call for a new relationship – mutual respect and parity of esteem – has been absent in central-local relations in Scotland.

## What new politics?

Indeed, the situation that has prevailed in recent times is worse than feared in the 1970s. Not only has Scottish central government cut grants to local governments but it has blocked local authorities' ability to raise revenue through council tax freezes and ring fencing. Essentially, local government is left with fewer powers and fewer resources but plenty of responsibility. That is not self-government.

Another important document from the heady early days was the report of the Consultative Steering Group – '**Shaping Scotland's Parliament**' – which Nigel (Smith: see Pt 1) described as 'an outstanding document which reads well today'. This was a cross-party/non-party group that set out the four key principles which should guide the Parliament:

- Power sharing between people of Scotland, the legislators and the Scottish Executive;
- Accountability of the Scottish Government to the Scottish Parliament and the Parliament and Government to the people of Scotland;
- Parliament should be accessible, open, responsive and facilitate participation;
- Its operation and appointments should promote equal opportunities for all.

The hope and expectation that a 'new politics' would emerge has not happened. Scottish politics

remains afflicted, perhaps more so now, by hyper-partisanship rather than consensus. Take drug deaths – our shameful, appalling record of failure. Proposals came forward from those with real knowledge and expertise in a proposed piece of legislation – the ‘[Right to Addiction Recovery Bill](#)’ – that was put forward by the Scottish Conservatives in Holyrood and thereby has not had support from other parties, though full credit to the three MSPs from another party (*Ed: Scottish Labour*) who have given it support.



### *Drugs search*

‘Oor Bill’, as those who drafted the legislation refer to it, is aptly named – it doesn’t belong to any group. I am not making a plea for the Bill *per se* but that efforts to tackle a truly wicked problem ought to be taken out of the hyper-partisan politics. Of course it should be examined critically, scrutinised in detail but, in the spirit of mature policy-making, it should not be opposed simply because one group of Parliamentarians have given it fulsome support.

There have been examples of cross party collaboration and we ought to highlight, celebrate and learn lessons from these. The mesh issue is a case in point. Three MSPs – Jackson Carlaw, Neil Finlay, Alex Neil – worked well together on this issue, forcing the pace and preventing it falling off the

agenda. It may be that each MSP were sufficiently confident in their politics not to fear any accusation that collaboration with the 'enemy' would be taken seriously.

Twenty years on the CSG members reconvened and issued a **report** in October 2019. It expressed disappointment that devolution had led to a 'weakening of the position of local government in Scotland... a tightening of central control over local budgets and spending priorities' (CSG, 'Reflections on 20 Years of the Scottish Parliament', October 2019, paras. 13,14).

There has been little sharing of power. The same criticisms that Scottish Parliamentarians and Governments level against the UK Govt can equally be made against the Scottish Government by local authorities.

On March 10<sup>th</sup>, in his campaign to be his party's leader, Humza Yousaf had signalled a new approach. A news release issued in his name was headed, 'HUMZA PLANS TO EMPOWER LOCAL COMMUNITIES AS SNP LEADER' and promised a series of changes:

1. *Negotiate a Bute House type agreement with local government.*
2. *Maximise local autonomy over spending power by reducing ring fenced budgets through a new fiscal framework.*
3. *Take forward the local Governance review to consider ways of empowering local communities including consideration of a local democracy bill.*
4. *Consider new ways of working across public sector boundaries with reform such as the single island authorities.*
5. *Give further consideration to improve financial support to local Councillors to improve diversity.*
6. *Accelerate the work of the City Centre Recovery Taskforce.*

It all sounds good – and very familiar. We shall watch carefully and with interest.

## Going into reverse gear

**Accountability** undoubtedly improved with devolution. Ministers and officials are called before elected representatives to an extent that would have been inconceivable before devolution. But it has stalled and in some respects has gone backwards. Three examples:

1. Fiscal accountability

## 2. Executive dominance of Parliament and within that the role of unelected but powerful Special Advisers (SPADs)

- Non Departmental Public Bodies.

### Fiscal accountability

How many people understand the Fiscal Framework? More importantly, how many MSPs – dare I ask, Ministers – really understand the complex fiscal framework? And accountability needs to reach beyond the Parliament. How many in civic Scotland, in the media understand the Framework? This is not to criticise any of these people but to highlight a major problem. Trying to teach/explain the Fiscal Framework, the operation of the Barnett Formula, Block Grant Adjustment is challenging. We need to improve our understanding of the system – and all credit to Audit Scotland and the Scottish Fiscal Commission for their efforts in this respect. But we cannot have fiscal accountability without greater fiscal literacy. And that is on all of us.

### Executive Dominance and Role of SPADs

First, we need to acknowledge that Holyrood is very much modelled on Westminster in key respects and most notably the way in which it is executive dominated. Holyrood is not the Parliament envisaged in which there would be a rebalancing of legislature/executive relations. It has not had the policy making role many anticipated but neither has it been as successful in its scrutinising function as it might have been. Is there really that much difference in the dominant role of the executive branch in London from Edinburgh?

We also need to address the accountability gap that exists with regard to Special Advisers (SPADs). The number has, in Nigel's words, 'exploded'. There is a need for communications expertise amongst SPADs but the balance has shifted away from policy expertise towards spin.

When we take account of the payroll vote in Holyrood – an extraordinary 26 SNP Ministers (40% of all SNP MSPs) plus 2 of the Green Ministers – we can see a problem. In his pamphlet Nigel reports Kerr Fraser – former Scottish Office Permanent Secretary and this University's principal – asking him 'what are they [MSPs] going to do all the time?' In retrospect, I don't doubt that MSPs have their work cut out but I do wonder what all of these Ministers do – though part of the answer lies in the constant campaigning so many engage in.

## Non Departmental Public Bodies

And then there is the world of Non Departmental Public Bodies (NDPBs). Back in 1993, Henry McLeish, a future First Minister, produced 'Who runs Scotland? A briefing paper on quangos and the Tory experiment to remove democratic accountability in Scotland'. In it, he noted the growth of Quangos – not only in numbers but in spending and how many competences formerly under local government had been removed from democratic accountability and handed over to bodies appointed by the Scottish Secretary.

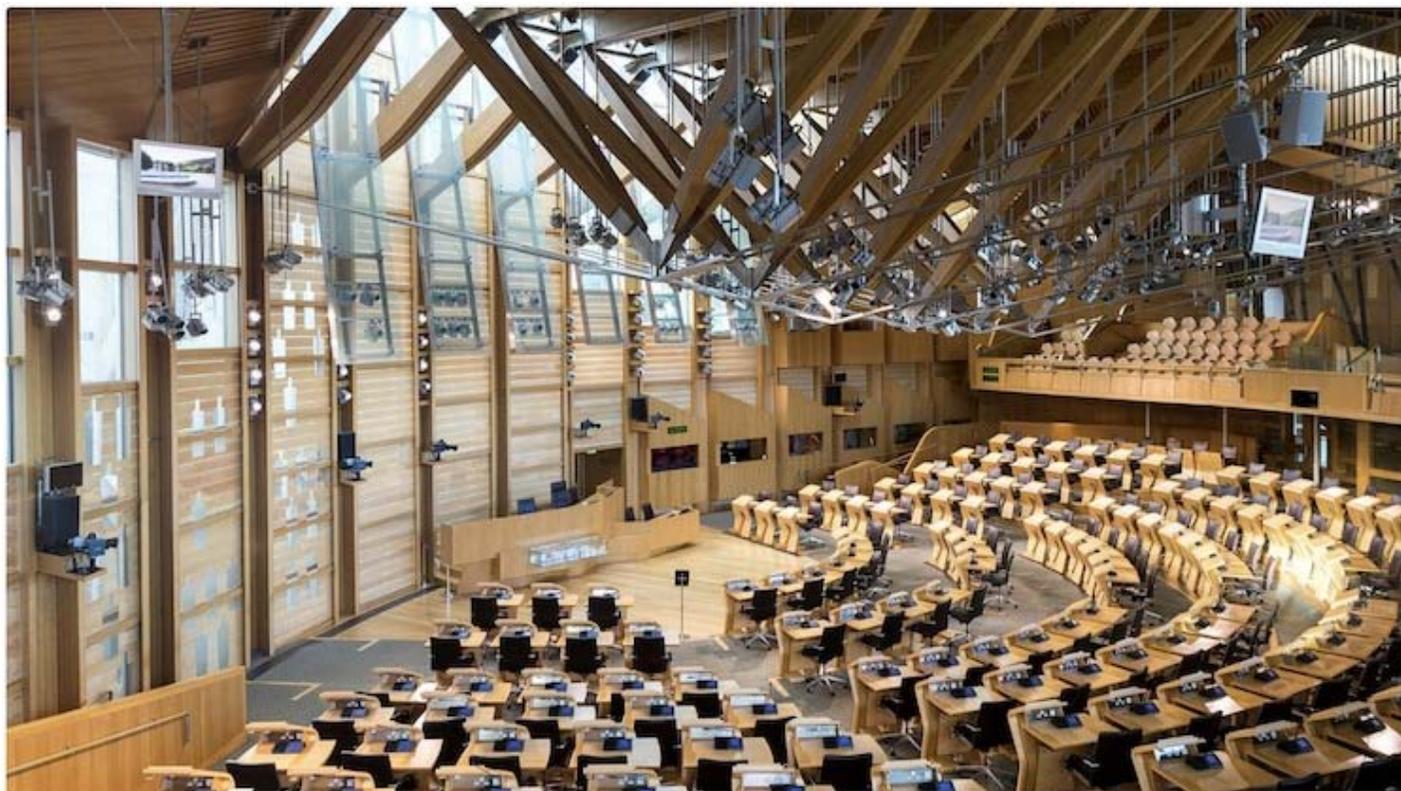
There was a tendency in the past to demand a 'bonfire of the quangos' but this demand invariably ran into the sand when the work of these bodies was almost always important. The work of NDPBs is essential but how do we make it more accountable? The issue is not the need for a bonfire. Greater accountability and that could occur in two ways:

1. Consider whether matters ought properly to be under local government control – we could, for example, explore public health and local economic development. We need a proper review of local governance – that has been long promised but never actually happened. We could do with looking abroad for inspiration. That was done successfully in the past. Indeed, Sir Daniel Stevenson learned much from his brother-in-law Robert Heidmann, who had been elected to the Hamburg Senate – and incidentally was a strongly supported the establishment of the University of Hamburg. Heidmann was a key figure in negotiations with Prussia – take note anyone who thinks that sub-state units of government should not be involved in extra-state activities.
2. There will always be a need for some NDPBs, appointments could be made more accountable. Bernard Crick and David Miller (two leading authorities on legislatures who we have since died) in a publication – *Making Scotland's Parliament Work* – proposed a **Public Appointments Committee** taking a 'leaf from the best US practice'. The idea was then pursued in the Scottish Parliament with a Members' **Public Appointments Bill in 2001**. Nigel gave it his strong support. He did 'not accept people heading quangos would be deterred from applying because they would have to demonstrate their fitness for the job' (Herald November 22 2001). He argued that it was no defence to suggest that public bodies spending 'millions and millions of pounds' should be led by people who could not face a committee. Such people should be robust enough to go before such committees or not be appointed. Nigel's comment on 'cronies' is worth recalling. He argued that he was not opposed to the appointment of cronies so long as they were 'competent cronies'.

## Genuine scrutiny committees

And then, of course, there are the Parliamentary committees. The best comment on committees in legislatures was made by a great political scientist who was perhaps less impressive as a politician. Woodrow Wilson, in *Congressional Government*, asserted that,

Congress in session is Congress on public exhibition whilst Congress in its committee-rooms is Congress at work (Woodrow Woodrow 1981 [1885], *Congressional Government*, Baltimore, Johns Hopkins University Press, 69).



The theatre of the Holyrood chamber with First Minister's Questions makes for good copy but has a limited role in scrutiny and accountability. The real work is done in committees.

The resources available to Parliamentary committees have not kept pace with increased devolved competences, with greater fiscal autonomy and greater complexity. This has meant that devolution has seen the executive branch grow more powerful at the expense of Parliament. That needs to be addressed. It may mean more MSPs – but only if accompanied by changes in party selection processes as greater accountability will not come about with more MSPs under the thumb of party leaders.

Finally, let me turn to one of Nigel's more controversial proposals, but one that was consistent with all that he sought to achieve. Nigel built the campaign for the Scottish Parliament by seeking a consensus.

As noted earlier, he did not want a repeat of the 1979 referendum campaign. In 1997, support for the principle of devolution won 74% and support for tax varying powers won 63%. He wanted a clear, decisive, unambiguous result – one that would not be subject to challenge.

In October 2016, he raised the possibility that instead of a bare 50% voting for independence, it would be better to build a stronger consensus with a ‘super-majority’. He suggested 55%. But he did so not to create a hurdle similar to the 40% rule in the Scotland Act 1978. He saw hope in the SNP’s view – articulated frequently by some senior members and officials but never so far as I’m aware publicly – that it would press for a referendum when polls consistently went over 60%.

I am not advocating 55% but we should recognise that this suggestion was motivated by a genuine desire to ensure change is built on consensus. An alternative – one which I have advocated for over thirty years – would be to offer more choice with preferential voting. It is not a sign of weakness to acknowledge that it would be far easier to build an independent Scotland on that level of support rather than the narrowest of victories like the 51.9% achieved by Brexit supporters in 2016 – in turn only about 0.3% higher than achieved in the 1979 devolution referendum.

## Conclusion

Nigel’s conclusion in his pamphlet was that devolution had been a ‘partial success, certainly less successful than campaigners hoped for at the outset in 1997’. He knew it was secure, built as it was on a broad consensus and it had won over many who had opposed it. The Scottish Parliament is not a delicate flower that needs protection but a robust institution that required robust critiques, especially from those who support it.

Devolution has had positive impacts across the four CSG principles (See Pt 1) but it remains a work in progress, as I’m sure it always will be.

Access is more open though far from open enough and more open for some than others. There are now far more – though still nowhere near enough – women and people from diverse backgrounds involved in public life. We have an Asian Scot as First Minister with another Asian Scot waiting in the wings and hoping to succeed him.

I want to conclude with words from a member of Nigel’s family. Speaking at her father’s memorial service, his daughter Laura described how Nigel had: an incredible ability in conversation, to engage with anyone, on any topic... whether a Peer of the Realm or a stranger on the street, Dad could gain

anyone's confidence within a few sentences. This talent came down to two things. One, a conspicuously honest interest in hearing what the other person had to say and, two, a complete disregard for any gain other than the riches of knowledge, of stories, and of human experience.

*This is the second part of edited extracts from Prof Mitchell's Stevenson Lecture of May 9 at Glasgow University on Scotland and its twin centres of power*

see also: Kirsteen Paterson, New deal for local government?, [Holyrood Magazine](#)

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### About James Mitchell

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## Comments

Keith Macdonald says

May 15, 2023 at 8:29 am

I don't think many objective observers would disagree with Professor Mitchell's analysis of what is wrong with Scottish politics. The question is what we do about it.

Any great opening up will have to come from the Scottish Government. I see no chance of that at present. The overwhelming objective of the SNP and Greens is withdrawal from the UK. That depends on very tight, if misleading, messaging during a rerun of 2014. In addition, there must be a sense that power is slipping away after many years and people do not usually respond to that situation by becoming more open.

Something needs to shake things up and the obvious prospect is a Labour government after the General Election and perhaps Labour becoming the largest single party at that election. There are people in the SNP, like Ben Macpherson, who are clearly willing to contemplate the end or suspension of the long campaign for the Scottish version of Brexit but their

thinking will only gain traction if it becomes a lot clearer that one more heave will not work.

For real change inside Scotland to happen we will need to have a less hostile UK Government and a very different kind of Scottish one. It would be a coalition led by Labour but including Liberal Democrats and some SNP and Greens. The constitutional revolution of leaving the UK would be off the table but domestic reform would be very much on it.

[Reply](#)

fraser cameron says

May 15, 2023 at 8:57 am

This is a powerful argument for the teaching of civics in schools – to give future citizens a basic understanding of how the Scottish Parliament and devolved government is organised and financed.

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