



## Chapter 1

### Events Prior to 1 May 1997

#### The 1979 Referendum

- 1.1 Earlier proposals for a Scottish Assembly nearly came to fruition in 1979 when the UK administration held a referendum to offer this constitutional change to the Scottish electorate. The outcome of the March 1979 vote was controversial; not least because a clause had been inserted during the Parliamentary proceedings of the Scotland Act on the initiative of a Labour backbencher, George Cunningham MP. This clause provided that unless 40% of all those entitled to vote voted in favour the Government had to lay an Order before Parliament which, if passed, would repeal the Act.
  
- 1.2 The referendum saw a narrow majority of those who voted in favour of the devolution proposals but some parts of Scotland voted against and, with a turnout of only 62.9%, the 'Yes' vote fell considerably short of the required 40% of the electorate. The Labour Government accordingly tabled an Order repealing the Scotland Act 1978 although Parliament did not vote on the Order until after the change of Government in May 1979. The experience of 1979 may have played some part in the subsequent determination of the incoming Labour administration in 1997 to ensure that its devolution proposals, including a building for the Parliament, were irreversibly established. This has been asserted as being the reasoning behind the Secretary of State's swift move to secure a site for the Parliament so quickly after the success of the

1997 referendum. So far as I am aware there is no written record of a conclusion to this effect by Donald Dewar. If, however, this did influence his thinking it was erroneous.<sup>1</sup> The Conservative Party in Scotland recognised immediately after the 1997 referendum that a Scottish Parliament was going to be set up and ceased its hostility towards it. Furthermore, the Conservative Party in the United Kingdom had privately appreciated that it had virtually no prospect of winning the General Election after 1997 and had no plans to repeal the Scotland Act 1998. If he had so chosen, Donald Dewar could have proceeded in a more leisurely fashion with the selection of a site for the Scottish Parliament without putting the Government's devolution proposals in their entirety at risk.

### Scottish Constitutional Convention

- 1.3 In the period following the 1979 referendum a number of pressure groups were formed which were influential in keeping the issue of constitutional change in front of the public and the political parties during the period of the Conservative administrations. One such group was the Campaign for a Scottish Assembly. This "gathering of notables"<sup>2</sup> produced a report in 1988 *A Claim of Right for Scotland* which asserted the right of the people of Scotland to decide on their own constitution. A key recommendation of the report was that a convention should be brought into being to draw up a blueprint for a Scottish Assembly or parliamentary body.
- 1.4 Accordingly, a body calling itself the Scottish Constitutional Convention was set up and held its first meeting in March 1989. Although the Conservatives and the Scottish National Party declined to participate, the Convention included members of the other main political parties, local authorities, trade unions, churches and other organisations. The joint chairs of the Convention were Lord Ewing of Kirkford and Sir David Steel, and its Executive was chaired by Canon Kenyon Wright. The Convention's final report, *Scotland's Parliament, Scotland's Right*, was presented on St Andrew's Day 1995.
- 1.5 The report proposed the key elements of the constitutional changes that would form the backbone of the subsequent White Paper. The proposals were for a Parliament of 129 members, elected under an additional member system; a power to vary the basic rate of income tax by up to 3p in the pound; and substantial devolution of legislative and executive functions to a Scottish Parliament and an Executive formed from it. The report made only one reference to the accommodation that might be required by the proposed legislature. Under a chapter headed "What price accountability?" the Convention's report stated:

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<sup>1</sup> Evidence of Mr Kenneth Thomson on 3 February 2004, Par 85

<sup>2</sup> Himsworth C (The Scotland Act 1998) (2<sup>nd</sup> Edition) W Green & Son 2000

'The cost of Scottish democracy will certainly be no more than the current cost of government in Scotland. A building is waiting ready on Edinburgh's Calton Hill. The Parliament will have the power to set about replacing many of the undemocratic, accountable and expensive quangos which blight Scottish political life.'<sup>3</sup>

- 1.6 Convention confirmed that in its deliberations there had been little concern attached to the ultimate home for the proposed Parliament.<sup>4</sup> Some assumptions had, however, been made from the beginning; such as that the Parliament would be located in the capital city, Edinburgh, and that being so, the Old Royal High School (which had been earmarked to accommodate the Assembly had the 1979 referendum been successful) would provide a suitable location. It was stated to the Inquiry that the Old Royal High School building had been part of "the journey of devolution".<sup>5</sup> In his evidence Mr Henry McLeish, Minister of State for Home Affairs and Devolution, also suggested that, against some of the other daunting priorities at that time, the Parliament building itself was not a major consideration prior to 1997.

### Labour's 1997 Manifesto

- 1.7 The Labour Party manifesto for the 1997 General Election included a pledge to enact as soon as possible after the election legislation to allow the people of Scotland and Wales to vote in referendums on devolution proposals to be set out in White Papers. Those referendums were to take place not later than the autumn of 1997. For Scotland the manifesto proposed the "creation of a parliament with law-making powers, firmly based on the agreement reached in the Scottish Constitutional Convention". There was a further manifesto commitment, subject to the outcome of the referendum, to introduce in the first year of the (UK) Parliament legislation on the substantive devolution proposals.<sup>6</sup> The White Paper that would set out the detail of these proposals would require to be a wide ranging document addressing those matters to be reserved to Westminster, the structure of government in Scotland, relations within the UK and with the European Union, local government, as well as tax raising powers, financial, electoral and parliamentary arrangements.<sup>7</sup>
- 1.8 As with the Convention's proposals, in the scheme of the Labour party manifesto the accommodation arrangements for the new Parliament was not mentioned at all.

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<sup>3</sup> *Scotland's Parliament, Scotland's Right*, Page 17

<sup>4</sup> Evidence of Sam Galbraith on 28 October 2003, Para 100

<sup>5</sup> Evidence of Henry McLeish on 29 October 2003, Para 23

<sup>6</sup> "New Labour: Because Britain Deserves Better", The 1997 Labour Party Manifesto

<sup>7</sup> White Paper - <http://www.scotland.gov.uk/government/devolution/scpa-00.asp>

## Briefing for Incoming Ministers

1.9 The Inquiry had it confirmed that it has been the long-standing practice of the Civil Service to anticipate the various potential outcomes of General Elections and to undertake a detailed scrutiny of political manifestos with a view to identifying how parties' policies could be implemented. The Permanent Under Secretary of the Scottish Office at the time, Sir Russell Hillhouse, spoke of the tasks and pressures facing officials in evidence to the Inquiry:

“What always happens when an election is declared is that, throughout the government machine, senior civil servants get together and prepare briefing for incoming Ministers of both main parties. In fact, usually these days, work is done for other parties as well. This normally takes the form of a fairly lengthy incoming brief, divided into subjects, which picks up all the main points in the manifesto, and which also briefs them on all the running issues which they will encounter as soon as they step in the door, or which may turn up in the first two or three weeks.

In the case of Labour in 1997... we did have this very, very major commitment which would affect the Scottish Office, and which had very acute time constraints. Therefore, for devolution in 1997, we made rather special efforts and we did identify, in good time, small teams of capable officials whom we could put together as soon as the election campaign began in earnest, and who would have to work up quite detailed papers in order to get early decisions from our Ministers, which they could then try to work through the Cabinet process, since it was clear to us that one would have to produce a White Paper, fully cleared, explaining the Government's plans for a Scottish Parliament, well in advance of a referendum date. The referendum, in turn, would have to take place in time to clear the way for the introduction of a Bill — assuming the referendum was won — and all that meant a very tight timetable indeed.”<sup>8</sup>

1.10 On taking office on 2 May 1997 the incoming Labour Ministers were presented with such a briefing which had been prepared under the direction of Mr Robert Gordon, who was then Head of Constitution Group. One part of that briefing addressed the accommodation needs of the Scottish Parliament and stated:

“New Parliament House (the former Old Royal High School) is available under the City of Edinburgh Council's ownership and we assume that Ministers will want that to be the Parliament building. While the Debating Chamber appears to be suitable the condition of the structure is unknown and the building's interior is very inflexible. However, use of the building would avoid a potentially difficult debate about alternative sites and it is likely, in the short term at least, to be cheaper than purpose built new accommodation.”<sup>9</sup>

<sup>8</sup> Evidence of Sir Russell Hillhouse on 30 October 2003, Para 236-237

<sup>9</sup> SE/2/169-180 – Briefing from Mr Robert Gordon for Incoming Ministers, May 1997

- 1.11 Mr Gordon suggested to the Inquiry that the content of the briefing on these matters would have involved contributions from staff in Accommodation Division, Estate Services and possibly the Building Directorate. He also assumed that the City of Edinburgh Council might have been consulted in connection with references to New Parliament House.<sup>10</sup> The Inquiry has uncovered no evidence, either in documentation or in oral testimony, to suggest that Scottish Office officials had any expectation prior to May 1997 that an incoming Labour Government would do other than consider the Old Royal High School building as the preferred home for the proposed Scottish Parliament.

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<sup>10</sup> Evidence of Mr Robert Gordon on 4 November 2003, Para 29