The moral foundations of constitutional change in Canada and Scotland at the end of the twentieth century

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Throughout the twentieth century the governments of Canada and Britain have overseen the realignment of state power in relation to province and nation. Legislators have grappled with the erosion of economic, political and military independence of action caused directly and indirectly by a number of trans-national political and economic developments. While displaying remarkable resilience, the political structures of federalism in Canada and union in Britain have come under intense scrutiny. A series of constitutional debates took place in the response to these pressures, debates that highlighted the vitality of civil society in a constitutional world otherwise dominated by high politics. My purpose here is to examine how the global challenge to the nation-state allowed non-party political pressure groups and forums to take centre stage in constitutional change in Canada and Britain in the 1990s. With global trends also giving new vigour to the local, a process that theorists have dubbed 'glocalisation', nationalist groups have made the 'moral foundations' of their nation the rationale for administrative and constitutional challenge.[1] Embedded within the historical legacy of legislative and social 'milestones', this analysis examines how debate has been framed around notions of rights and distinctiveness of national character found in prioritised historical pasts. The legislation of 1867

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between Britain and Canada and of 1707 between England and Scotland has in the lead up to this period been 'recalled' to guide each nation along its future path. The decade of introspection which followed the failure of the Meech Lake and Charlottetown Accords (1987-1992) to be ratified, and in which referenda were held on Quebec sovereignty (1995), and Scottish and Welsh devolution (1997), is for each country one of the most crucial periods of constitutional reform.

In Canada and Britain demands for more constitutional power to be devolved are not confined to those who identify themselves as disadvantaged. Claims for regional autonomy have been seen in oil-rich Alberta and the financial powerhouse of London, the latter inaugurating the first elected mayor in the United Kingdom under local government reform in 2000. Each provides an example of nationalism where relative wealth not relative underdevelopment is the motor for change.[2] It has contributed to a broader nationalism that relies less on the rhetoric of 'we don't want to be governed by you', using instead the language of 'social justice', 'social inclusion', 'participation', 'opportunity', the 'third way' and the 'third sector'.[3] That language is also found in locales as diverse as Quebec and the Maritimes in Canada and Scotland and Wales in Britain, areas with their own mix of prosperity and disadvantage and where much of the constitutional debate has been focussed in the 1990s. In negotiations with the respective central states, the devolution of administrative governance has sometimes been aimed at fundamental reform but mostly it has been piecemeal and without obvious logic of gradual evolutionary change. Nor has separation (always) been the intended outcome, with power sharing being as much about strengthening control of the federal and union state structures, as it has about decentralisation. Yet the impact of globalisation on the nation-state has put new kinds of pressures on the local/central axis and, as it developed, left spaces for non-party political groups and forums to flourish; their appearance suggests that state engagement with civil society is, in the

medium term at least, to be anticipated when future constitutional reforms are proposed.

Beginnings and Constitutional Impasse

Opinion poll evidence from 1990 cites 60 per cent of Canadians having little or no confidence in government as an institution; a decade later 70 per cent thought their government was 'highly' or 'somewhat' corrupt.[4] The Law Commission's reflections on how Canadians voted in response to the constitutional debate of that decade are insightful as much for the questions asked as for the results obtained. How political parties were financed and how party discipline and political lobbying were enacted revealed the Commission's remit, along with electoral campaigning, the actions of special interest groups, as well as the current voting system, democratic participation, and values and issues of political and constitutional accountability.[5] It attempted to engage 'ordinary Canadians' in a political process that until the Constitution Act of 1982 had long been perceived as elitist.[6] The Law Commission survey found the federal government was no longer reflecting the diversity of Canada, that the global economy had undermined the influence of national governments, and that technology continued to alter how Canadians talked to one another, often in ways that the formal political process failed to engage with.[7]

That these failures were identified at the end of a period when quite fundamental political realignment was at the forefront of public consciousness suggests reforms are rooted in a heritage that is resistant to change.[8] Confirming the hold of the past over later constitutional debates, Roger Gibbons refutes any Canadian 'ahistorical' leanings by drawing parallels between constitutional developments of the nineteenth century and Canada in the 1990s. He identifies the importance of the Reciprocity Act of 1854 - following the removal of the British Corn Laws in 1844 and thus Canada's loss of protected British markets - as fundamental to Canada's modern economic development.[9] Driven by the desire for mutually beneficial tariff reductions with the

United States for non-manufactured products, and maintaining these relationships until 1866, it was long enough to allow the economies of the British North American Colonies to establish themselves in the post-protection world.[10] Despite failure to secure a second reciprocity act with the United States in the 1866-1900 period, and non-ratification of a proposed agreement in 1911, Canada's southern neighbour was increasingly influential at the expense of the colonial bind to Britain.[11] Replacing all these links with the creation of a new internal coherence became the economic basis of the Canadian nation.

Added to the mix was the Constitution Act of 1867 (the British North American Act). This was not just in terms of the constitutional creation of Canada, but also its long-lasting effect on Canadian identity. Of course Confederation and the slow creation of Canada from its provinces and territories was a case to be made. It was an argument, and a series of events, that LaSelva has termed the 'moral foundations of Canadian federalism'. For it to be successful it was based on the belief that Canadians who live in different provinces and possess diverse cultural identities, can, and importantly, should have a common way of life as well as maintaining a different way of life.[12] In this analysis, Canadian identity is not singular, but a balance of coexisting identities, of the national and the local community.[13] It is an interpretation not incompatible with multi-national, or multi-ethnic state nationalisms, and, indeed, would fit with other nation-state arrangements. Yet in Canada, LaSelva argues, Québécois separatists, Aboriginal sovereigntists and Canadian nationalists do not all believe in this version of Canada, projecting instead visions of an altered or abandoned Canadian federalism, and so do by offering an alternative set of moral foundations.[14] Looking back from the 1990s the question was asked to what extent was 1867 about a Canada of parts coming together as one, or was it a negotiation of equality between nations. Quebec nationalists have disputed the history of 1867, challenging its myth by asking was it really centralist or was it, in spirit, although

certainly not in words, a bargain of equality between nations? The historical significance of Confederation for Quebecois nationalists is the belief that it was forced on an unwilling people, and that Canada's federalism is 'illegal' because it is, at best, a quasi-federal structure where the state has remained remarkably unitary in form.[15] Yet while the 1867 Act was strongly centralised compared to the American and Swiss examples of federalism, it still allowed special status to Quebec, with its language and civil law maintained under the terms of the 1774 Quebec Act.[16] From this arrangement the moral foundation of Canada, it is countered, is of equal nations not disparate ways of life, of two traditions not a melting point of any number of identities. As Henderson points out, 'Quebecers preferred until the 1960s to consider themselves *canadiens français'* (just as the Scots were once amenable to the term 'North Britons'), both joined but separate.[17] These conflicting interpretations sustained the deliberations on constitutionalism in the 1990s and kept the focus on 'Quebec versus the rest'. While the milestone legislation of the nineteenth century was the origin of political and economic unity in Canada, through the balance of commonality and difference, its emphasis on equality between the English and French traditions, rather than on multiculturalism, created the tension that threatened to undermine the federal status quo in the last years of the twentieth century.

Globalisation, State and the Provinces
Globalisation was and remains a long historical process causing fast and mobile credit flows to be less and less restrained by territory. Amongst other impacts, it undermines the economic influence of nation-state governments and financial institutions.[18] This realignment of trade and economic decision-making suggests further challenge for Canada's economic heritage myth. The federal coherence created by the east-west economy forged by the National Policy of Sir John A. Macdonald, and the importance of railroad for physically as well as symbolically uniting the nation, have lost the economic and social relevance they

once had.[19] In his analysis of the 1990s, Gibbons argued that
the policies governments have used to manage these
processes were counterproductive to national unity: that the
promotion of north-south trade resulted in the US being
more of a threat than solution to national economic pros-
perity, that the relationship with Britain became more anti-
colonial than a partnership, and that English and French
Canadians turned their accommodation increasingly to
difference. What Gibbons, perhaps uncharitably, has
labelled the 'national dream' shows the challenge of history
to contemporary political reform.[20] Tomblin is another
who reminds us of the interrelated challenges to Canada's
foundation history where '[t]he fiscal imperative, another
national unity crisis, and Canada's ability to compete in a
globalising economy have all contributed to the rethinking
of both provincial boundaries and the role of provincial
government in the 1990s'.[21] The rethinking of internal
boundaries was seen in the Liberal economic platform in
1993, the year after the failed Charlottetown Accord, when
the need for 'joint action, and an integrated development on
the regional level' was emphasised as a response to external
economic pressures.[22] But the initial move to decentralisa-
tion had already come from the provinces, particularly in the
west and east. As early as 1953 the four Atlantic premiers
had come together along with leading business people to
create the Atlantic Provinces Economic Council (APEC), a
permanent non-governmental research body.[23] In 1973 this
alliance had spread south, with the first meeting of the Con-
ference of New England Governors and Eastern Canadian
Premiers held in Brudenell, Prince Edward Island. But it had
been two years earlier, in 1971, that the Council of Maritime
Premiers was formed as a means for the Maritime govern-
ments to work together on social and economic issues.[24] The
first of its kind in Canada and the most significant level of
cooperation between the three legislatures in nearly twenty
years, the legislation maintained the authority of each
parliament and protected the rights of all residents to partici-
pate in the economy, yet was about promoting common

'sustainable development to stand up to the future'. To the report's author Charles J. McMillan, clearly 'it was the very lack of cooperation throughout the Maritimes that was the greatest obstacle to Sir John A Macdonald's Canadian vision of 1864-1867'.[25] The rationale was to maintain language and cultural identities within a 'strong and united Canada', rhetoric that appeared in tune with Canada's foundation principles.

When the Maritime Forum of Cabinets met in New Brunswick in June 1991 the aim was still to protect difference through unity. The stated priorities were to foster integration of agriculture, transport, government procurement, techno-logical innovation and diffusion, '… in which a coordinated approach to addressing issues of common concern have resulted in a cumulative benefit to each of [the] participating provinces'.[26] The outcome was the 1992 Maritime Economic Cooperation Act, put in place to foster economic self-reliance amongst the people of New Brunswick, Nova Scotia and Prince Edward Island. Again the ambition was to develop a single Maritime market to enhance mobility of people, goods, services, and capital, while at the govern-mental level opening up procurement opportunities to all three provinces. It was a co-ordinated plan of cooperation between the provinces to face down and debate federal policies.[27] While ostensibly core to the founding principles of the nation, this response to global trends in trade by-passed the federal government, despite, the concept of Western and Atlantic regionalism not being countenanced in a number of the provinces.[28] Changes in federal spending procedures and greater reliance on market-based decisions had made it easier to defend a regional cooperative agenda in Atlantic Canada. These poorer provinces argued they had little choice but to work together as federal-provincial transfers declined. The same forces, Tomblin continues, had the opposite effect in the West, where trade liberalisation enhanced the pull of north-south economic and political forces, encouraging the reduction of welfare subsidies and federal support for regional development, transportation,

and other east-west-orientated policies.[29] Norry and Percy thus argue that these alliances can be defended in principle as a rational response to the challenge of the new international economic environment and, at that time, the deficit and debt problems of Ottawa.[30] The barriers to trade flow between the provinces remained extensive while international barriers were being removed, even with federal attempts to reduce the burden.[31] One provincial estimate identified five hundred internal government restrictions on the movement of goods, services, people and capital in Canada at the start of the decade.[32] And while trade between the provinces was wallowing in paperwork, negotiation for the North American Free Trade Agreement (NAFTA) were begun in June 1990, taking 14 months until agreement in 1992 and then full implementation in 1994.[33] At that point, $12.5 billion was traded through customs to the United States, with $96.6 billion in return.[34] Problematic as NAFTA has become, the trading routes of NAFTA and Europe were now the key to successful provincial trade.[35] What made this challenge all the greater for federalism in Canada was that despite attempts at protection, this process has been encouraged by governments themselves, acting as the midwives of globalization in the pursuit of economic growth in ever more competitive markets.[36] Trade with America at the end of the 1990s may indeed have created the 'workable continent' of balance and coherence, not conflict and opposition[37], but it may have even further eroded the coherence of Canada's national economy.

'What's a nice country like Canada doing in a mess like this?'[38]

Canada's political structures have been challenged by the processes of globalisation and by those who dispute any claimed consensus of national foundation. The 'old nationalism' articulated in the Tremblay Report (1956) accepted federalism so long as it was understood as a classical variety that enabled Quebec to maintain its traditional way of life.[39] Federalism was perceived as necessary centralisation post-

Great Depression and post-1945 allowing the French and English traditions to co-exist with minimal interaction between one another. However necessary for that time, by the 1990s it is argued that Confederation had became unsatisfactory, privileging difference over assimilation despite Canada being the first nation to adopt a formal policy on multiculturalism in 1971.[40] Further contributing to division over integration within Canada, both the Meech Lake and Charlottetown Accords gave the provinces the opportunity to exclude themselves from federal policy and, importantly, to receive financial recompense for the implementation of an alternative policy at the provincial level.[41] The argument has been that the failure of the two Accords led to a 'deep philosophical difference' where there was no longer a belief in 'mega constitutional policies' and instead local provincial solutions were sought.[42] The Canadian government, accused of exacerbating the economic effects of globalisation and the realignment of the provinces, is now accused of prioritising difference over integration in its proposals for constitutional reform.

LaSelva's search for the moral foundations of federalism is derived conceptually from civil society. Here 'a complex form of fraternity … can promote a just society characterised by humanistic liberalism and a democratic dialogue'.[43] Despite the challenge to federalism so far examined, there is still to be found evidence of a Canadian belief in the founding principles of Confederation. But it was a belief, significantly, adapted to favour multiculturalism and, as important, saw recourse by the federal state to civil society. Completed on Canada Day in 1991, the year after the clock stopped on Meech Lake, the *Citizen's Forum on Canada's Future*, under the chairmanship of Keith Spicer, presented itself as 'a democratic process which Canadians have found liberating'.[44] The *Citizen's Forum* had begun with asking 'Does the Canadian family still want to live together? And if it does, how? If Canadians at the grassroots level could have a substantive role in shaping their country's future, what would be the Canada of their dreams?' Its

survey, in response to the possibility of Quebec's secession, and from other issues, came to the conclusion that '… a more thoughtful and heartfelt English speaking sense of community is in the making, and gaining quickly'.[45] It was an extensive survey, over 400,000 Canadians participated in the forum and 75,069 toll-free 'idea' calls were made. There were innumerable meetings, plays, songs, poems and letters as well as those who joined in with local organisers to work through government resource packs or the 300,000 elementary and secondary school children who contributed to the separate report *Young People Speak*.[46] The *Citizen's Forum* identified equality and fairness in a democratic society as the greatest wish of those consulted, and although fear was expressed over increasingly vocal minority interests, it was recorded that natives had been treated unfairly. There was a belief in conciliation and dialogue, the importance of accommodation and toleration, support for diversity (linguistic, regional, ethnic, cultural), a belief in Canadians' compassion and generosity, and an attachment to Canada's national security and world image.[47] It found that the majority of participants, except for Quebec, wished to see central government manage the economy and unify the different groups and regions of the Canadian nation.[48] Again outside Quebec, attachment to Canada was stronger than the provincial identity. The respondents did regard Quebec as a 'nation', but were vocal in denying it special privileges above those of the other provinces.[49] This reflected the rise of 'equality-seeking' groups, in particular the First Nation rebuttal of the 'consent' argument and the 'long history' analysis of Confederation.[50] The report of the *Citizen's Forum* agreed that the founding cultures idea objected to by Aboriginals was also undermined by the 37 per cent of all Canadians who were neither French or English in origin[51] (In 2001, 18.4 per cent of the Canadian population were born outside of Canada, the highest for seventy years[52]). The argument unearthed by the consultation was that all Canada's peoples could be accommodated because it had been done before, in the Confederation process. The

Citizen's Forum was an appeal to the inclusive Canada that 'English Canada' believed itself to represent, rejecting an alternative history of Confederation tied to the two traditions. Not 'English Canada' or 'French Canada', not even 'hyphenated Canadians' - but the respondents' recalled a federal Canada where all cultures could be integrated.[53]

The *Citizen's Forum* appealed to the foundations of Canada as a country grown out of difference, yet the first part of this article examined the argument that global economic and political developments undermined federalism, and that Quebec nationalism and First Nation claims will thwart any manufactured consensus around Confederation. If all parts of Canada are to stay within the federal arrangement, the lesson from this decade, through contemporaries' use of history and their recourse to civil society, is that some mechanism to accommodate diversity, both ethnic and national, has still to be found. If it is to happen, it will be because there develops a political will stronger than the centrifugal pressures of globalisation and because any future realignment reflects consensus on Canada's founding legislation. Perhaps the answer is to downplay structural change and appeal instead to 'common values'?[54] And while globalisation may overtake the founding principles of Canada, it also provides the potential means through which a new meta narrative could be found to revitalise federalism.[55] After all, the trick in a globalised world, argues Dyer, is that politics must also be globalised.[56] The ambiguity of the 'distinct society' clause within the Meech Lake Accord and, with its collapse, Quebec premier Bourassa declaring his intention to deal only with Ottawa and not the provinces, did little to promote multiculturalism or global values, playing up the two nation approach instead.[57] Various solutions have since been proposed: asymmetrical federalism; decentralisation to all provinces; or supra-federalism with a parliament for Canadian-Quebec issues; but the impasse remains.[58] Multiculturalism may be the contemporary view of Canada's foundation history in 'English Canada', but not elsewhere; constitutional reform is

challenged from developing alliances within the provinces, by globalisation undermining national economic and political unity, and by alternative histories. How likely it is that little change will occur until, as Dyer suggests, identity is globalised, and the impasse is sidelined? This deadlock stands in comparison to Britain in the same decade. In Scotland and Wales at least, a claim was made to the apparent 'settled will of the people', a dominant view of their respective nation's constitutional history within Britain.[59] By sidelining the formal political process, these were again debates mobilised in civil society.

Constitutional Reform within Britain: campaigning in civil society

As the British state responded to the global pressures of the second half of the twentieth century, constitutional reform, as in Canada, was analysed amid suspicions of government practices that were no longer relevant.[60] The economic challenge had come from the enlargement of the European Union, deregulation of industry, and the impact of the global operation of multinational companies on national economies. The most vociferous proponents of constitutional change, and where comparison can usefully be made with the debate in Canada, were found in Scotland. In that nation it was eighteenth-century union, rather than nineteenth-century confederation, which acted as the historical conduit of democracy and social integration. The moral foundations of Scottish nationhood has been traced at various times even earlier, to the language of the Declaration of Arbroath (1320) and the heroics of medieval patriots William Wallace and Robert Bruce, but its constitutional debate hung on the equality of the nation in early eighteenth-century union with England.[61] The organised political manifestation of this identity was located in republicanism in the 1790s and 1820s, in federalism from the 1830s, in equality and empowerment for the localities in the 1850s, only turning into the political structure of 'Home Rule all round' – a federalist response – from the 1880s. Recognition of the

institutional difference of Scotland within the UK structure was the rationale for the creation of a Scottish Secretary and a Scotch, later Scottish Office in 1885 to administer that nation's affairs. Set up in London with a staff of six and budget of £3000, it was declared by Prime Minister Lord Salisbury that it would 'redress the wounded dignities of the Scotch people'. In many ways it was a thin response in contrast to what the Gladstonian Liberals were offering Ireland's push for self-determination. It fuelled dissatisfaction within the Scottish Liberal Party and the Scottish Home Rule Association formed to provide Scotland with its first nationalist organisation mobilising a parliamentary challenge to the union of 1707.[62] The Scottish Office had little role other than one of administrative negotiation between the local authorities and Westminster, but with its shift of site to Edinburgh (1934-39) it is credited with being central to significant changes in governance.[63] It acted as a hub around which a managerial class developed within Scotland, establishing an agenda and career structure that was Scottish within Britain.[64] By its centenary it had grown to a staff of 9,700 and the fifth largest spending department in the United Kingdom with a budget of £6.9 billion.[65] It existence meant the development of a semi autonomous Scotland, establishing administrative power of action and the remit to question all aspects of government. It was also part of the process which saw the transition of civil society away from its pre-twentieth century formation, a conglomeration of free-standing and modular organisations and associations, to a new layer of top-down government appointed administrative structures.[66] The 'commanding heights' of civil society became bound up in devolved structures as the Scottish Office gathered in powers and redistributed them through *ad hoc* committees and other semi-autonomous bodies. Civil society was no longer enshrined and empowered by the state as much as it was permeated and, compared to what had gone before, penetrated by the state.

The Scottish nationalists had politicised the foundation history of the nation in the early decades of the twentieth

century, but it was a nationalism never entirely captured by
political parties. From its formation in 1934 it was more
than a decade before the Scottish National Party achieved its
first elected MP in 1945. The seat was lost eight weeks later
and civil society still appeared the clearer channel when
nationalist luminary John MacCormick mobilised two
million to sign a Scottish Covenant in the year 1949-1950.
The party's sustained electoral breakthrough did not come
until November 1967 bang in the middle of a period in
Canada's constitutional history when bi-lingualism was the
subject of a Royal Commission.[67] In Britain, the Labour
Government had given Wales a Secretary of State in 1964,
the Conservative opposition leader Edward Heath made
his 'Declaration of Perth' in favour of devolving power to
Scotland in 1968, and in 1969 the Royal Commission on the
Constitution was established 'because there was obviously
some discontent with the workings of government, and the
outward signs of that discontent seemed to reflect especially
the frustrations of those living furthest from London'.[68]

The Commissioners directed their analysis on all the
regions and nations of the United Kingdom, including the
Isle of Man, the Channel Islands, the regions of England
but with especial attention on Wales and Scotland. The
perceived failure of a favourable economic return from
union with England was identified as the starting point of
Scotland's dissatisfaction with the current political arrange-
ments.[69] The Commissioners held 24 public sessions
throughout the UK, with television coverage of those in
Edinburgh and Cardiff being a first for a Royal Commis-
sion.[70] The Report identified a series of contradictory pres-
sures destabilising the constitution. Most notable, the
existence of a national feeling that made London rule
unpopular in Scotland, yet, in apparent contradiction, it was
also perceived that the powers of the Scottish Office were
too great and were without sufficient democratic account-
ability.[71] The Commissioners rejected the argument that
independence for Scotland or Wales would be economically
advantageous to those countries, even with the likely revenues

flowing from oil exploration in the North Sea.[72] Neither was federalism a popular option in the evidence presented to the Commissions; they concluded it was a system 'designed and is appropriate for states coming together to form a single unit, and not for a state breaking up into smaller units'.[73] The Canadian comparison was useful, but the pressures were different. Having rejected federalism, as well as independence or the status quo, and despite no agreement on the form it would take, devolved assemblies were proposed for Scotland and Wales.[74] The proposals from the Commission went beyond the report of the Scottish Constitutional Committee report in 1970 to Heath, which supported a very limited Scottish assembly.[75] With both Labour and the Conservatives now joining the nationalists in the push for devolution to regain the believed equality of the 1707 bargain, momentum for constitutional reform had grown.[76] The nationalists achieved their highest share of the vote at the 1974 (October) general election, gaining 11 MPs. Requiring nationalist support to stay in power, the minority Labour administration offered rapprochement through *Our Changing Democracy: Devolution to Scotland and Wales* published as a White Paper the next year.[77] It agreed with the Kilbrandon Report on the rejection of federalism and independence for any part of the United Kingdom[78], but stated 'that something more is needed – the creation of elected as well as administrative institutions distinctive to Scotland and Wales'.[79] The initial proposal called for an assembly of 142 members, two representatives for each of Scotland's 71 Parliamentary constituencies. It was 'to meet the growing desire to bring democratic control nearer to home', yet structured to keep power at the centre having determined 'there are several matters in the industrial and economic field which cannot be handed over to the Assemblies'. Those powers would remain with the Scottish and Welsh Secretaries and within the UK government.[80]

What was different in the 1970s from the previous 120 years of nationalist agitation was the advocacy for devolution from the political party in power amid support from its

rivals. Bruce Millan, the Labour Scottish Secretary of State, allowed himself to be pictured in the soon to be completed Assembly chamber in order to argue the nation's governance would be better managed under devolution.[81] Yet the Labour Party, as a UK party, and a party of state centralisation, was not unanimous in promoting measures that might lead to the break up of British-wide social and economic planning, most notably in matters of health, welfare and income management. Such doubt amongst Labour MPs meant conflicting interests and further, or any, constitutional change was far from likely. Their government's use of a single Bill to outline the devolutionary proposals for both Scotland and Wales was significant for framing the general disappointment and confusion with the proposed schemes, even amongst long standing proponents.[82] The Bill contained few specific principles on what was to be devolved to Edinburgh or reserved for Westminster; it was remarkably uninformative and bland in its rhetoric.[83] A late wrecking clause added by the Scots-born London Labour MP George Cunningham required that at least 40 per cent of those entitled to vote should endorse the measure if it was to make it onto the statute books. Prior to its third reading, *The Scotsman* published the voting record of all the Scottish MPs on the nine divisions on the Bill hitherto. It also showed the crucial support of five Labour MPs and all the Conservative members meaning that the 40 per cent amendment was passed by 168 votes to 142, with the Scottish MPs voting 33 against and 13 in favour.[84] The clause had the desired effect, turning victory into defeat for the devolutionists. Of the 2,387,572 ballot papers counted at the referendum, 1,230,937 voted yes, 1,153,502 voted no, while 3,133 papers were invalid.[85] With non-votes from the electorate counted as no votes, it was insufficient to change the constitution. Nationalists argued it was the weakness of the form of devolution that prompted its rejection.[86] About 66 per cent of the working class voters voted yes, while less than half of the middle class voters did so, and the Labour Party, confounded by the recently strengthened nationalists[87], and

unwilling to join forces[88], presented a disunited case. Yet it is hard not to conclude that the voters were more concerned with rising inflation and growing unemployment than a poorly drafted constitutional proposal that their party leaders could not agree on. Recent experience of local government reform, in 1974, was not immediately beneficial and loudly criticised for its expense. It inevitably led to doubts about another layer of government and fears over the cost of setting up something without powers sufficiently greater than already held within the Scottish Office. This had informed the persuasive rhetoric of the 'Say No' campaign: 'More taxes. More Government. More Conflict. More Bureaucracy. Less Power for us at Westminster. The Start of the Break-up of Britain'.[89] Defeat for devolution in Wales, its referendum was held simultaneously with that of Scotland, and its result was overwhelming, and the uncertainty of the vote in Scotland, made it untenable for the nationalists to continue to vote with the minority Labour administration; the Scotland Act was repealed and Labour lost a vote of no confidence. Two months later a general election was held which resulted in the arrival of Margaret Thatcher and the Conservatives into power. In a change of policy, Heath's declaration of Perth was 'buried'[90], and no longer would devolution be supported by the government of the day until Labour regained power in 1997.

'The first glimmer [that] dawn was about to break'[91]
The strength of Thatcher's state centralisation and narrow British patriotism during her time as Prime Minister has been analysed persuasively as the cause of her party's support falling away in Scotland, despite strength in England, and for the eventual advancement of the case for devolution.[92] With divergence in the Conservative vote in Britain, and its stated policy of opposition to devolution, the debate and the stepping stones for constitutional action were to be found elsewhere. As Labour's Gordon Brown argued in the aftermath of the referendum, the very presence of administration would inevitably lead to something more

accountable: 'Now that Scotland is administered, not governed there is an overpowerful logic for full democratic control'.[93] But it would not come through the party political process because of hostility in government and the continuing failure of the SNP to take votes away from Labour. The Scottish National Party's Jim Sillars achieved victory in the Glasgow Govan by-election on November 11 1988 with a 38 per cent rise in the vote from the previous general election, the party's second biggest gain in its history. It revived memories of Winnie Ewing's dramatic by-election victory for the SNP in 1967 and prompted Sillars to declare 'Scotland Free by 1993'.[94] Yet a year later the SNP were unable to go beyond 30 per cent in the opinion polls with a new slogan, 'Independence in Europe'.[95] This failure to advance was despite headlines such as 'Scots worse off in UK cash payout', where the Scottish Office was presented as unable to compete with the Welsh Office for resources, let alone England, highlighting weakness in the current level of administrative devolution.[96] Added to this, the UK parliament's Scottish Affairs Committee had failed to meet at any time in the years 1987-92, leaving the Scottish Office exempt from Parliamentary scrutiny and with little opportunity for Scottish Question Time and pubic accountability of ministers.[97]

The constitutional debate of the 1960s and 1970s had politicised constitutional proposals in Scotland in a way that had been absent from Scottish nationalism since it first arose in its modern form, but it had met a political impasse with first the referendum defeat in 1979 and then the unflinching opposition from the Conservative government. As in Canada, the lack of consensus between state and electorate pushed the focus onto civil society. Magazines such as *Radical Scotland* (launched in 1983) and the broadsheet press kept up an increasingly vociferous commentary on the constitutional gridlock. The *Scottish Government Yearbook*, established in 1978 prior to the first referendum, morphed into *Scottish Affairs* in 1992, and created a public forum for academics, policy makers, journalists and politicians. From

once gaining over 50 per cent of the vote in the 1955 general election, the Conservatives were a minority party in Scotland, yet securely in power at Westminster. The rhetoric of Scotland's democracy was sharpened in opposition to this state, but rather than through the ballot box where its votes could not dislodge the preference of the English electorate, it was the campaigning groups within civil society which were to claim devolution as the moral right of the Scottish people under union with England.

'We say Yes, and We are the People'
Structuring this constitutional activity in the 1990s was *The Claim of Right for Scotland*. This report of the Constitutional Steering Group was presented to the Campaign for a Scottish Assembly in 1988, its title evoking the Claims of Right issued in 1689 and 1842, recalling especially the latter's opposition to state interference in spiritual government at the time of the Disruption in the Church of Scotland. Without a government appointed commission, as the Spicer Commission was in Canada, it was a group where personal influence created the agenda.[98] The document outlined the historical legacy of union, the 'illusion' of current democracy and the 'freedom than would entail from change'.[99] Its old-world gravitas inspired the political scientist Bernard Crick to describe its Epilogue as 'ris[ing] to the heights of the great democratic statepapers of a former age'.[100] The management committee of the Scottish Constitutional Convention, co-signatories of *The Claim of Right*, stated that with 'the production of the final scheme we have witnessed men and women from all walks of life, from differing political backgrounds and from various points of view, sharing historically the common purpose of producing agreed proposals for the way in which Scotland can decide its own destiny'.[101] This was not untypical rhetoric as groups, associations and discussion forums looked to assert legacies that empowered their actions in facing-down a government opposed to constitutional change.

Counter arguments focused on the benefits of union

enabling the economic underpinning of Scotland's institutions as well as the current constitutional arrangements in Britain. In a landmark speech to Aberdeen Chamber of Commerce that year, the Conservative Secretary of State for Scotland Malcolm Rifkand dismissed the demand for devolutionary change as the actions of a few, arguing that Scotland's institutions and identity would be marginalised by 'unilateral devolution' rather than remaining within the UK structure.[102] But there were few variations on the rhetorical challenge sustained in civil society to the policies of the government of the day. The continuing success of the Conservative party at the 1992 general election, despite picking up only 11 seats out of a possible 72 in Scotland, was the kind of result where, to borrow Rosie's sporting metaphor, 'The Tories got thrashed 3-1 and still got to win the cup'. In one response to this perceived democratic deficit, 25,000 people attended a rally in Edinburgh on 12th December 1992, when Britain hosted a summit meeting of European leaders, to highlight their grievance.[103] To quote the words of the pro-devolution group Scotland United: 'In a country where three-quarters of the people have expressed their desire to govern themselves through their own parliament, and where their government have treated that desire with contempt … 5,000 journalists from all over the world will be in Edinburgh to hear the lies from that unelected government. It is our duty to be there to tell the truth'.[104] *The Scotsman* newspaper paraphrased Rifkand's successor as Scottish Secretary, Ian Lang, and called it 'a rag bag' protest.[105] Historian Bruce Lenman went further, condemning the public squabbling between the political leaders who took to the march, with the leader of the SNP being accused of making 'mischief, and ashes, of the hopes of decent caring folks'.[106]

Despite the failure of the political parties to join with each other, and with the pro-devolution groups, it was a feature of the devolutionary debate that civil society was embraced as the means through which the moral foundations of Scotland's place in Britain was to be mobilised. The answer to a state that was so opposed to devolution was to

by-pass it with as much independence of action as was possible. By its nature, it took time to gain momentum. The Campaign for a Scottish Assembly - renamed as the Campaign for a Scottish Parliament - had been formed after the failure of the 1979 referendum with the aim of uniting cross-party support for home rule.[107] The Campaign for a Scottish Parliament brought about the Scottish Constitutional Convention. Five years after publishing *The Claim of Right* the group organised its own trial referendum, asking the 28,000 citizens of Falkirk for their views in 1993. Delivered by post and by volunteers, the ballot paper asked if Scotland should have its own parliament and, if so, should it be separate from England.[108] Results came from 7,788 returns, with 88 per cent in favour of a Scottish Parliament, 12 per cent against and, of those in favour, 54 per cent wished it to operate within the UK and 46 per cent wished it to be independent.[109] With the equivalent of 28 per cent voter turn out it was at the lower end of local election polling, higher than recent postal ballots. While the methodology and sampling is questionable, it is important for the argument here because not only was it an attempt to organise action through civil society, it was an endeavour to replicate the legitimacy of government through voter choice.[110] Other pressure groups were quick to follow. Common Cause, a group of academics and thinkers, became an influence on public opinion.[111] Scotland United was another. Set up in 1992, it was notable for its mass demonstrations in Glasgow. It proposed the sale of a 'Scottish Parliament Bond', ranging in value from £5 to £100, to fund the estimated £2.5m cost of a Scotland-wide referendum, with the bonds redeemable when the parliament was established.[112] Democracy for Scotland organised the high profile vigil on Calton Hill in Edinburgh, outside the Scottish Office and next door to the former Royal High School, the long identified home of a future Scottish parliament. Scotland Forward was launched with a gathering of 600 in Edinburgh's Assembly Rooms, using readings from writers such as Alisdair Gray, A. L. Kennedy, Liz Lochead and Douglas Dunn

plus comedy nights, ceilidhs and political debates to raise money for its activities.[113] The Coalition for Scottish Democracy acted as an umbrella organisation for these groups while the creation of a Scottish Civic Assembly to represent the whole breadth of Scottish civic life and society was adopted by the Coalition for Scottish Democracy.[114] A series of 'destiny marches' converged on Edinburgh to commemorate the first anniversary of the 24 hour vigil, and at every town passed on their way a 'Declaration of Calton Hill' was read, stating their demands; upon arrival at their final destination, a 'Democracy Cairn' was built.[115] With Doctors for Devolution making the case for the devolution of health care, without doubt the range and depth of organisational activity promoting constitutional change had reached a new intensity.[116]

The Constitutional Convention comprised 80 per cent of Scotland's MPs and MEPs plus councillors from the Regions, Districts and Islands. It included representatives from the Scottish churches, from industry, and members of the Scottish Labour Party, the Social and Liberal Democrats, the Green Party, the SDP and the Communist Party.[117] It also embraced the Scottish Trades Union Congress and a number of civic groups, but the Scottish Conservatives and the Scottish National Party were not involved. After six years of campaigning the Convention and the Labour and Liberal coalition came to a proposal for a 129 member Scottish parliament with tax-varying powers. Its proposals were made in an announcement full of foundation history symbolism connected to the Union of 1707 and its descent from equality into 'greed, grab and gluttony' that was now to be 'righted'.[118] It was an emotive launch on St Andrew's Day 1995 where the headlines were captured by Canon Kenyon Wright, the co-Chair of the Convention, who asked: 'What happens when that other voice we know so well says, 'We say No, and We are the State'. Well, we say Yes, and We are the People'.[119] The Convention's document *Scotland's Parliament, Scotland's Right* outlined the historical argument for devolution and proposed the form it could take.[120] The principle of subsidiarity, where decisions are

taken at the lowest possible level, was built in to the scheme.[121] Its tax-varying powers of 3p in the pound were described as a 'Tartan Tax' by Scottish Secretary Michael Forsyth.[122] Forsyth had explored the option of devolution as a response to the perceived remoteness of London rule, but came to the conclusion that more need only be devolved to the local authorities and to present himself as the 'listening Secretary of State'.[123] Forsyth made a high profile attempt to appease national identity in Scotland with the return of the Stone of Destiny after 700 years. The Stone, upon which the kings of Scotland were crowned, was removed from Scotland by Edward I in 1296 or 1297.[124] Perhaps because of the mixed message of monarchical symbolism at a time of fierce democratic debate, the crowds that witnessed its return stood in hushed silence.[125] But it was the economic argument, not the symbolic one, which sustained the Unionist opposition to devolution, an analysis picked up by others. Writing in 1996 the Montreal based journalist Sean Denny's contribution to the debate noted that throughout the year since Quebec narrowly voted to remain part of Canada the talk of independence had undermined investors' confidence. He informed a Scottish readership that the corporate world had helped people travel from all over Canada to attend the No rally in Montreal on 27th October, with some Canadian airlines offering up to 90 per cent discounts on fares for some of the 150,000 who gathered there.[126] Yet in Scotland the fears from the business community were receding in comparison to their anxieties at the general elections of 1979 and 1992 (when Labour was close to victory and promising an Assembly).[127] Debates, and attacks, about what Scotland received via the Barnett formula, first devised in 1978 to determine Scotland's block grant from Westminster, continued but were no longer decisive.[128] The SNP's refusal to participate in the Constitutional Convention was set aside, along with their insistence that independence be their only cause, as they joined the political-civil society coalition and supported the 'Yes, Yes' campaign in the 1997 referendum.[129]

For the Liberal Democrats, the publication of the White Paper on devolution for Scotland and for Wales was a route to UK-wide constitutional change embracing more open government, a Bill of Rights, electoral reform and further decentralisation.[130] It was accompanied by plans, later abandoned, for regional devolution in England.[131] The SNP's *Citizens not Subjects* blueprint called for a written constitution and a single chamber parliament, with sovereignty resting with the people not the Crown.[132] The white paper was filled with words that would not be out of place in classic subscriber based voluntary organisations of the nineteenth century, including 'confidence', 'prosperity', 'fairness', 'investment' and 'democracy'.[133] Labour Scottish Secretary Donald Dewar declared at is launch: 'The time is right, the scheme is right – now is the time for Scotland to choose.'[134] Notable was the proposal to gain democratic control of over 100 unelected quangos, the state-grab of civil society which had increased over recent decades. It was a long-term target of the broadsheet press, and an example of unfinished business being dealt with.[135] But not all regarded this as the 'settled will' of the people. The white paper was insufficient to appease the Scottish Socialists who maintained a demand for independence[136], while for others it was but a pause before the 'inevitable': *Scotland on Sunday* produced a mocked-up version of its front page declaring Scotland's vote for independence, arguing that devolution was but a means to that end.[137] The joint Labour-Liberal campaign for the 1997 referendum, 'Yes-Yes' (yes for a Scottish parliament and yes for tax-varying powers), resulted in 74 per cent who voted in favour of a Scottish parliament while 63 per cent voted for that Parliament to have tax-varying powers.[138] In November 1998, the Campaign for a Scottish Assembly announced its dissolution after nearly nineteen years of activity.[139] The parliament began its first session in May 1999 with Winnie Ewing, as the oldest member, given the honour of presiding, and proclaiming three-century-old foundations: 'The Scottish Parliament, which adjourned on the 25th day of March 1707, is hereby reconvened'.

Creation of the parliament has not stopped debates over an apparent democratic deficit in Scotland, but it continues with less vibrancy. Gerry Hassan suggests one of 'The Myths that hold Scotland Back' is that it is a free and open social democratic country. He continues the criticism of the unelected quangos still to be found in the gap between civil society and the devolved parliament despite earlier attempts to disempower them.[140] Others think the Scottish Parliament should do more. An ICM Poll in the first year of the new parliament found 61 per cent believed it should use its tax-varying powers to increase government spending.[141] Surveys by the Joseph Rowntree Reform Trust found that 72 per cent wanted to strengthen the parliament's powers at that time and 66 per cent when the same question was asked in 2004.[142] The 'settled will' that brought the parliament into being is unclear about how far that power should be used. Others warned the fledgling institution to tread warily. Former Scottish Secretary Malcolm Rifkind compared post parliament Scotland with the never ending constitutional debates in Quebec and the negative effect that uncertainty had on the provincial economy compared to the rest of Canada. He asks if Scots want to give their parliament a chance to achieve stability or 'do we want a period of constitutional turmoil with serious consequences for our economic wellbeing?'[143] Some maintain that devolution has gone far enough. A group of English MPs in Westminster complained to the Scottish Affairs Committee in 2006 about the continuing influence of Scottish MPs and voiced opposition to a Scottish MP ever becoming Prime Minister.[144] When such fears became reality with Gordon Brown (representing Kirkcaldy and Cowdenbeath) succeeding Tony Blair as Prime Minister in 2007, and his appointment of Alistair Darling (Edinburgh South West) as Chancellor, complaints of unfair treatment continued.[145]

The many constitutional proposals and reforms that have dominated politics and society in the last quarter of the twentieth century have seen 'English Canada' and 'English Britain' persist in laying claim to particular histories, just as

those provinces and nations within each country have called upon their own foundations. In Canada and Britain the principles of past settlements are different, in each there is variation in the constitutional parameters within which national identity is formed. But both examples have shown how civil society became the preferred home of democratic renewal for all shades of opinion. When the state could not achieve consensus on constitutional change, as was the case in Canada, the people were consulted through a civic forum to seek the way forward. Regional and inter-Province co-operation came to support federalism but also to provide a challenge to its coherence. Civil society was proffered as the solution to an impasse, and increasingly so as support for Quebec's independence declined from a 1990 high when that option was narrowly defeated in the 1995 refer-endum.[146] When the state was opposed to a perceived 'settled will' of the people, as in Scotland, civic groups were formed to by-pass that state. In both cases the democratic deficit of the state had widened under the pressures of the global market, exacerbating lost legitimacy.[147] It suggests that civil society developed greater claim over the moral foundations of the nation in the lead up to this period and that it continued to claim this legacy. Change could not and cannot be effected without the power of the state, but the will of the people, however expressed, is paramount. One cannot readily predict what further developments will occur in Canada and Scotland, yet the lesson from the end of the twentieth century is that much will depend on how, and by whom, the moral foundations of the nation are commanded.

Notes

[1] On the globalisation of the local, see A. Appadurai, 'Disjuncture and Difference in the Global Cultural Economy', *Theory, Culture and Society*, 7: 2-3 (June 1990), pp. 295-310 and P. Dicken, 'The Roepke Lecture in Economic Geography: Global-Local Tensions: Firms and States in the Global Space-Economy', *Economic Geography*, 70: 2 (April 1994), pp. 101-128. The title of this chapter is indebted to S.V. LaSelva, *The Moral Foundations of Canadian Federalism: Paradoxes, Achievements, and Tragedies of Nationhood* (Montreal and Kingston: McGill-Queen's University Press, 1996).

[2] The clearest exponent of the underdevelopment thesis is E. Gellner, *Nations and Nationalism* (Oxford: Blackwell, 1983); For the debate in Scotland, see M. Hechter, *Internal Colonialism: The Celtic Fringe in British National Development, 1536-1966* (London: Routledge and Kegan Paul, 1975), chs. 1-2 for the theory, and chs. 3-6 for the empirical evidence. For the counter argument, see T. C. Smout, 'The core and periphery in history', *Journal of Common Market Studies*, 18: 3 (1980), and, in reply, M. Hechter, 'Internal Colonialism Revisited', *Cencrastus*, 10 (1982). T. Nairn, *The Break-up of Britain*, 2nd edition (London: Verso, 1981) ch. 1; D. McCrone, *Understanding Scotland: the sociology of a stateless nation* (London: Routledge, 1992), pp. 57-62; A. Giddens, *The Nation-State and Violence* (London: Polity, 1985), pp. 161-171, 209-221.

[3] A. Giddens, *The Third Way and Its Critics* (Malden, Mass., Cambridge: Polity Press, 2000). In practice, see *An Accord between the Government of Canada and the Voluntary Sector* (Cat. No. CP32-75/2001, December 2001).

[4] *Renewing Democracy: Debating Electoral Reform in Canada. Discussion Paper* (Law Commission of Canada, Catalogue number: JL2-20/2002), pp. 5, 11.

[5] *Renewing Democracy*, pp. 2-4, 13-14. The Commission based its approach on *The Royal Commission on Electoral Reform and Party Financing* (Lortie Commission) of 1992.

[6] The argument for the dominance of 'democratic elitism' in Canada is made in M. Burgess, 'Obstinate or Obsolete? The State of the Canadian Federation', *Regional and Federal Studies,* 9:2 (Summer 1999), p. 7.

[7] *Renewing Democracy*, p. 11.

[8] Burgess, 'Obstinate or Obsolete', pp. 9, 11, 13-14.

[9] This is also known as the Elgin-Marcy treaty.

10 R. Gibbons, *Conflict and Unity: An Introduction to Canadian Political Life*, 3rd edition (Ontario: Nelson Canada, 1994), pp. 16-17.

11 D.C. Masters, 'Reciprocity', in W.S. Wallace (ed.), *The Encyclopaedia of Canada*, Vol. V (Toronto: University Associates of Canada, 1948), pp. 228-230. A Whiggish history, entitled 'The Road to the Agreement' is outlined in the Canadian government's *The Canada-US Free Trade Agreement: Synopsis*, second edition, 17-11-88. (Published by the Minister of Supplies and Services Canada, 1988), pp. 2-4.

12 LaSelva, *The Moral Foundations*.

13 LaSelva, *The Moral Foundations*, p. 9

14 LaSelva, *The Moral Foundations*, p. ix

15 LaSelva, *The Moral Foundations*, p. x

16 Savoie has argued that MacDonald created an easily understood concept of the 'centre' which the provinces could readily regard as beneficial, D. J. Savoie, *Governing from the Centre: The Concentration of Power in Canadian Politics* (Toronto, Buffalo, London: University of Toronto Press, 1999), pp. 20-22; A. Henderson, *Hierarchies of Belonging: National Identity and Political Culture in Scotland and Quebec* (Montreal and Kingston: McGill-Queen's University Press, 2007), p. 22.

17 Henderson, *Hierarchies of Belonging*, p. 45.

18 P. Hirst & G. Thompson, *Globalization in Question* (Cambridge: Polity, 1996); M. Linklater, 'Globalization of the Media: the impact on national cultures', in J. M. Fladmark (ed.), *Sharing the Earth: Local identity in global culture* (London: Donhead, 1995); M. Mann, 'Nation-states in Europe and other countries: Diversifying, developing, not dying', in G. Balakrishnan (ed.), *Mapping the Nation* (London: Verso, 1996); I. Wallerstein, *The Modern World System* (New York: Academic Press, 1989); G. Morton & A. Morris, 'Civil Society, Civic Community: breaking the rural-urban continuum in the global age?' in C. Di Domencio, A. Law, J. Skinner, M. Smith (eds.), *Boundaries & Identities: Nation, Politics and Culture in Scotland* (Dundee: University of Abertay Press, 2001).

19 Gibbons, *Conflict and Unity*, p. 22.

20 Gibbons, *Conflict and Unity*, p. 17.

21 S.G. Tomblin, *Ottawa and the Outer Provinces: The Challenge of Regional Integration in Canada* (Toronto: James Lorimer & Co. Publishers, 1995), p. 1

22 Liberal Party of Canada, *Creating Opportunity: The Liberal Plan for Canada* (Ottawa: Liberal Party, 1993), p. 59.

23 Tomblin, *Ottawa and the Outer Provinces*, p. 80.

24 *Council of Maritime Premiers In the Sprit of Cooperation: Laying the Foundation 1991-1993*, p. 6. A review of their activities can be found in

their *20th anniversary report*, published by the Council of Maritime Premiers, pp. 11-12.

[25] *Standing Up to the Future: the Maritimes in the 1990s* (The Council of Maritime Premiers, December 1989), pp. 1-3.

[26] *The Maritime Forum of Cabinets*, June 17-18, 1991, held in Moncton, New Brunswick produced reports on, amongst other matters, 'Economic Integration of Maritime Agriculture', Transport Regulation', 'Government Procurement and Contracting', and 'Improving Technological Innovation and Diffusion', p. 1.

[27] *Council of Maritime Premiers In the Sprit of Cooperation*, pp. 7-8, 9-13.

[28] Tomblin, *Ottawa and the Outer Provinces*, p. 5.

[29] Tomblin, *Ottawa and the Outer Provinces*, p. 9.

[30] K. Norrie and M. Percy, 'A Canada-Quebec partnership: the Economic Dimensions' in R. Gibbins & G. Laforest (eds.), *Beyond the Impasse: Toward reconciliation* (Montreal: Institute for Research on Public Policy, 1998), p. 85.

[31] J. Shields & B. M. Evans, *Shrinking the State: Globalization and Public Administration 'Reform'* (Halifax: Fernwood Publishing, 1998), p. 25.

[32] *Canadian Federalism and Economic Union: Partnership from Prosperity* (Minister of Supply and Services Canada, 1991), pp. 1, 17-21.

[33] *NAFTA What's it all about?* (External Affairs and International Trade Canada, c.1994), pp. 10-11. The initial success of NAFTA was recorded as a 97% 'very satisfied' rate amongst its clients in 1994, *NAFTA Secretariat, Canadian Section, 1999-2000 Estimates A Report on Plans and Priorities* (Honourable Sergio Marchi, Minister for International Trade).

[34] *NAFTA What's it all about?*, p. 3.

[35] Shields & Evans, *Shrinking the State*, p. 30.

[36] J. Brodie, 'The Challenge of Governing: Women and Changing State Forms', in J.J. Guy (ed.), *Expanding Our Political Horizons* (Toronto: Harcourt Brace), p. 386.

[37] Victor Konrad, quoted in A. Smith, 'Doing the Continental: Conceptualizations of the Canadian-American Relationship in the Long twentieth Century', *Canadian-American Public Policy*, 44 (Dec. 2000), p. 25.

[38] *The Economist*, 'A Survey of Canada', (June 29th 1991), p. 3.

[39] *The Tremblay report; report of the Royal Commission of Inquiry on Constitutional Problems*. Edited and with an introduction by David Kwavnick, Royal Commission of Inquiry on Constitutional Problems (Toronto: McClelland and Stewart, c.1973).

[40] LaSelva, *The Moral Foundations*, p. 178.

[41] Gibbons, *Conflict and Unity*, p. 30. The notwithstanding clause has its origins in *Canadian Charter of Rights and Freedoms* (1981) and in a

decision of the Supreme Court of Canada in 1988 on the use of the French language in the cases of *Chaussures Brown* and *Devine*.

42 D. G. Lennihan, G. Robertson, R. Tassé, *Canada: Reclaiming the Middle Ground* was published as part of the IRPP's Governance Project, 'Canadian Federalism: Options for Change' (Montreal: The Institute for Research on Public Policy (IRPP), 1994), pp. 5-6.

43 LaSelva, *The Moral Foundations*, p. xiii. Examination of the concept of civil society in a number of national settings can be found in G. Morton, B. de Vries and R.J. Morris (eds.), *Civil Society, Associations and Urban Places: Class, Nation and Culture in Nineteenth-Century Europe* (Aldershot: Ashgate, 2006).

44 *Citizen's Forum on Canada's Future, Report to the people and Government of Canada*, 1991, p. 2.

45 *Citizen's Forum*, p. 3.

46 *Citizen's Forum*, p. 16.

47 *Citizen's Forum*, pp. 35-42. Survey work in 1995 found this self confidence continuing with 97% of Canadians regarding their country as the best in the world, quoted in H.D. Clarke and A. Kornberg, 'Choosing Canada? The 1995 Quebec-Sovereignty Question', *PS: Political Science and Politics*, 29:4 (December 1996), p. 676.

48 *Citizen's Forum*, p. 47.

49 *Citizen's Forum*, pp. 49, 65. To quote the report: 'Forum participants were very often quite willing to recognise Quebec's cultural and linguistic distinctiveness. What they cannot accept is that the provincial government of Quebec should have special powers deriving from this cultural distinctiveness that would have the effect of creating two different definitions of the rights and obligations of Canadian citizenship', pp. 54-55.

50 Lennihan, Robertson, Tassé, *Reclaiming the Middle Ground*, pp. 63, 68, 86-7.

51 *Citizen's Forum*, p. 57.

52 *Ethnic Diversity Survey: Portrait of a Multicultural Society* (Statistics Canada, Catalogue no. 89-593-XIE, Minister of Industry, 2003), p. 4.

53 *Citizen's Forum*. p. 88.

54 Lennihan, Robertson, Tassé, *Reclaiming the Middle Ground*, pp. 6, 58, 61, 101-102. See also, P.R. Russell, 'The End of Mega Constitutional Politics in Canada?', *PS: Political Science and Politics*, 26:1 (March 1993).

55 Lennihan, Robertson, Tassé, *Reclaiming the Middle Ground*, pp. 36, 55. The opportunity for exploiting communication changes in the modern globalisation process is discussed in A. Morris and G. Morton, *Locality, Community and Nation* (London: Hodder and Staughton, 1998), pp. 119-131.

[56] G. Dyer, 'Globalization and the Nation-State', *Behind the Headlines*, 53:4 (September 1996), p. 14.

[57] R. Sheppard. 'The Road to Meech Lake', in Granatstein and McNaught (eds.), *"English Canada" speaks out*, pp. 44-5.

[58] Whittaker, 'With or Without Quebec?', p. 19.

[59] The phrase is attributed to Labour leader and Scottish MP John Smith who died in 1994 while in office.

[60] This debate focused on Thatcherism and 'rolling back' the state in the 1980s before attention turned to expansion of the European Union in the 1990s. S. Hall and M. Jacques, *The Politics of Thatcherism* (London: Lawrence and Wishart, 1983); D. Kavangh, *Thatcherism and British Politics: The End of Consensus?* (Oxford: Oxford University Press, 1990); S. Kendrick and D. McCrone, 'Politics in a Cold Climate: The Conservative Decline in Scotland', *Political Studies* 37: 4 (1989); P. John, 'Centralisation, Decentralisation and the European Union: The Dynamics of Triadic Relationships', *Public Administration*, 74: 2 (1996).

[61] G. Morton, *William Wallace: Man & Myth* (Stroud: Sutton Publishing, 2004) charts the use of the Wallace myth in national identity since the sixteenth century.

[62] G. Morton, 'The First Home Rule Movement in Scotland, 1886 to 1918', in H.T. Dickinson & Michael Lynch (eds.), *The Challenge to Westminster: Sovereignty, Devolution and Independence* (East Linton: Tuckwell Press, 2000), pp. 120-121.

[63] I. Levitt, 'The Scottish Secretary, the Scottish Grant Equivalent and the Treasury, 1885-1970', *Scottish Affairs*, 28 (Summer 1999); I. Levitt, *The Scottish Office, 1919-59* (Edinburgh: Scottish History Society, 1995).

[64] A. Brown, D. McCrone and L. Paterson, *Politics and Society in Scotland* (Houndsmills and New York: Macmillan Press and St Martin's Press, 1996), pp. 12-16.

[65] *The Scotsman*, 15 December 1984. Four years later it had a staff of 6500 and a budget of £8 billion.

[66] G. Morton, 'Civil society, municipal government and the state: enshrinement, empowerment and legitimacy, Scotland, 1800-1929', *Urban History*, 25:3 (December 1998), pp. 348-367.

[67] The Scottish National Party's Winnie Ewing won the Hamilton by-election in Scotland while the *Royal Commission on Bilingualism and Biculturalism in Canada*, which was set up in 1963, reported in 1967 and resulted in the Official Languages Act implemented two years later by Prime Minister Trudeau. *The Royal Commission on the Constitution in the United Kingdom* was established in 1969 under Lord Crowther and, after his death, chaired by Lord Kilbrandon under whose name it became known. Tom Nairn used the term 'neo nationalism to compare Scotland and Quebec in this period with each being a nationalism borne out of relative advantage', see his *The Break-up of Britain*.

[68] *Royal Commission on the Constitution, 1969-1973, Volume 1: Report* (Cmnd. 5460) (Chairmen, Lord Crowther, Lord Kilbrandon), p. 3. Hereafter, *Kilbrandon Report*.

[69] *Kilbrandon Report*, p. 25.

[70] *Kilbrandon Report*, p. 11.

[71] *Kilbrandon Report*, pp. 107-108. 112-114.

[72] *Kilbrandon Report*, pp. 140, 146.

[73] Their plan to have around 125 members, directly elected, that would sit in Edinburgh for about 40 days each year to scrutinize Scottish legislation, was deemed inadequate, *Kilbrandon Report*, p. 157.

[74] 'Eight of us favour a scheme of legislative devolution for Scotland. Of those, all but two favour legislative devolution for Wales also. Those two favour for Wales an assembly with deliberative and advisory functions. One of us favours assemblies with deliberative and advisory functions for both Scotland and Wales, with the addition in the case of the Scottish assembly of some powers in relation to Parliamentary legislation. Two of us, who support the principle of uniformity, favour schemes of executive devolution for both Scotland and Wales (and for the regions of England)', *Kilbrandon Report*, pp. 336-7.

[75] *Kilbrandon Report*, p. 293.

[76] Lord Willie Ross was Heath's Scottish Secretary who continued to remind his party of its manifesto commitment to a Scottish Assembly, *The Scotsman* June 11 1988 describing the constitutional debate of the 1970s.

[77] Cmnd. 6348 (HMSO: November 1975).

[78] Cmnd. 6348, p. 4.

[79] Cmnd. 6348, pp. 4, 9.

[80] *Devolution: The new Assemblies for Scotland and Wales* (Central Office of Information, London: 1976), pp, 3. 13.

[81] *Yes!* (Scottish Region of the General Executive Council of the Transport and General Workers Union, c.1979).

[82] J.P. Mackintosh, 'Weakness of the devolution Bill', *The Scotsman* 6 December 1976.

[83] This point is made by Anthony Lester in the amusingly entitled 'A Mess of English Porridge', *The Sunday Times* 12 December 1976.

[84] *The Scotsman* 22 February 1978.

[85] *Referendum on Scottish devolution: certificate of the Chief Counting Officer*, Sessional Papers 1979-80, Cmnd. 7530.

[86] The former Conservative prospective MEP and writer Michael Fry, despite supporting the Act, reflected on its failure to deal the West Lothian Question (that is, Scottish MPs being able to vote on English matters but not, once a Scottish Assembly was in place, English MPs

voting on Scottish issues), the danger of excessive government, over-representation of Scotland at Westminster and the proposed method of election, M. Fry, 'Claim of Wrong', in O. D. Edwards (ed.), *A Claim of Right for Scotland* (Edinburgh: Polygon, 1989), p. 96.

[87] N. Ascherson 'Back from the depths on Black Friday', *The Scotsman* 3 March 1979.

[88] Helen Liddell, at the Labour party's launch of the Yes campaign, declared her party would not 'soil its hands' with cross-party coopera-tion, G. Hassan (ed.), *A Guide to the Scottish Parliament* (Edinburgh: The Stationary Office, 1999), p. 26.

[89] *The Assembly. Know Your Mythology* (Glasgow: Scotland Says No Campaign, c.1979).

[90] *The Observer* 4 March 1979.

[91] K. Wright, *The People Say Yes. The Making of Scotland's Parliament* (Glendaruel: Argyll Publishing, 1997), p. 23.

[92] McCrone, *Understanding Scotland*, pp. 146-173.

[93] G. Brown, 'Radical strategy for a Scottish Assembly, *The Scotsman* 11 April 1980, extract from H.M. Drucker and G. Brown, *The Politics of Nationalism and Devolution* (London: Longman, 1980).

[94] *The Guardian* 12 November 1988.

[95] The Labour party responded with their own slogan, 'independence within the UK', to stress the advantages of devolution over indepen-dence. On Sillars, see: *Scotland on Sunday* 5 November 1989.

[96] *The Scotsman* 17 November 1989.

[97] *Observer Scotland* 8 July 1990. In 1993 The Conservatives were unable to fill their six places on the Scottish Affairs Committee with MPs representing Scottish constituencies, a further sign of Scotland's democratic deficit, *The Scotsman* 18 July 1993. The Conservatives had won 11 seats at the 1992 election (compared to 49 Labour seats) and won no seats in either Scotland or Wales in 1997 (Labour returned 56 MPs in Scotland).

[98] The role of public opinion in the construction of civil society has been more forcibly analysed by Habermas, see J. Habermas, *The Structural Transformation of the Public Sphere. An Inquiry into a Category of Bourgeois Society*, trans. Thomas Burger (Cambridge: Polity Press, 1989).

[99] *A Claim of Right for Scotland* (Edinburgh: Report of the Constitu-tional Steering Committee Presented to the Campaign for a Scottish Assembly, 1988), clauses 2.1-2.8, 3.1-4.9, 7.1-8.5.

[100] B. Crick, *Labour and Scotland's Rights* (East Lothian Constituency Labour Party, c.1989), p. 17.

[101] *Towards Scotland's Parliament. A Report to the Scottish People by the Scottish Constitutional Convention* (Edinburgh: The Scottish Constitutional Convention, 1990), p. 3.

102 *Glasgow Herald* 16 April 1988; *The Scotsman* 16 April 1988.

103 The importance, or not, of this turnout was the subject of an open letter debate between writer William McIlvanney and Shadow Scottish Secretary George Robertson, published in *Scotland on Sunday* 10 January 1993.

104 Scotland United, *Target Edinburgh 12.12.92 Demand Democracy* (flyer). The reference is to the three-quarters of the electorate who chose political parties in favour of devolution at the 1992 general election.

105 *The Scotsman* 17 December 1992.

106 Bruce Lenman, 'This common behaviour devalues the cause', *The Scotsman* 18 December 1992.

107 *Scotland's Parliament. Scotland's Right. The Blueprint for Scotland* (Campaign for a Scottish Parliament, n.d., c.1997).

108 *The Guardian* 9 December 1993.

109 *Campaign for a Scottish Parliament, Edinburgh Branch Newsletter*, February 1994; *The Scotsman* 14 December 1993.

110 *The Scotsman* 14 December 1993. The organizers noted that with only 50 volunteers, rather than the 200 they believed necessary, they were unable to collect every completed questionnaire, *Campaign! The Newsletter of the Campaign for a Scottish Parliament*, 4 February 1994, p.1.

111 Common Cause described itself as 'a civic forum on Scotland's democratic future'. Its trustees were: Neil Ascherson, Moira Craig, Judith Gillespie, Billy Kay, Isobel Lindsay, Bob McReadie, Jean McFadden, William McIlvanney, Joyce McMillan, Stephen Maxwell, Alan Miller, Andrew Morton, Tom Nairn, Marion Ralls, Debra Storr, William Storrar.

112 *The Scotsman* 29 December 1992.

113 Scotland Forward, *The Campaign for Scotland's Parliament*. Newsletter one (n.p., c.1997).

114 *Campaign for a Scottish Parliament, Briefing Note No. 15 (Replacing No. 4 'The Scottish Senate')*.

115 The Scottish Secretary threatened to sell this building which had become a nationalist totem, see *Agenda of the National Autumn Conference of the Campaign for a Scottish Parliament*, 20 November 1993. That the Royal High School was overlooked in favour of the Holyrood site for the Scottish Parliament provides further confirmation of this opposition. *The Scotsman* 10 April 1993, *The Scotsman* 11 April 1993.

116 *Campaign for a Scottish Parliament, Briefing Note No. 17*. An insightful anthropological study of devolution campaign in civil society is provided by J. Hearn, *Claiming National Scotland: National Identity and Liberal Culture* (Edinburgh: Polygon, 2000).

[117] Scottish Constitutional Convention *A Parliament for Scotland: Discussion Leaflet* (n.p., n.d.).

[118] *The Guardian* 1 December 1995.

[119] *The Scotsman* 1 December 1995. The sub-headlines were grabbed by Rev Robert Waters' description of the Union as being married to a prostitute, with England depicted as a faithless harlot unable to resist the material goods that selling her body could bring. Wright notes the uncomfortable reception accorded this speech by Waters and his own attempts later that day to stress the respect for all nations held by the members of the Convention, Wright 1997, pp. 225-6.

[120] *Scotland's Parliament, Scotland's Right* (Edinburgh: Constitutional Convention, 1995).

[121] *The Scotsman* 18 October 1995.

[122] *The Herald* 11 July 1995. He also described the proposed tax powers as producing a 'jobs holocaust', *The Scotsman* 24 October 1995. Michael Forsyth replaced Rifkand as Scottish Secretary of State for Scotland in 1995.

[123] *The Scotsman* 18 October 1995, *The Scotsman* 5 October 1995.

[124] For a brief history of the Stone, see F. Wallace Connon, *The Stone of Destiny* (London: The Covenant Publishing, 1951).

[125] See the report of its arrival in Edinburgh Castle overseen by the Scottish Secretary Michael Forsyth and, representing the Queen, Prince Andrew, in *Scotland on Sunday* 1 December 1996. For its journey from England, see: *The Guardian* 16 November 1996.

[126] Sean Denny from the *Montreal Gazette* writing in *Scotland on Sunday* 17 November 1996.

[127] *Scotland on Sunday* 3 November 1996. One prominent businessman called for a government taskforce to ease the private sector into home rule, and help end the business community's isolation from the debate, *The Scotsman* 23 April 1996.

[128] *The Scotsman* 14 November 1997.

[129] The questions were: '1. I agree that there should be a Scottish Parliament or 2. I do not agree that there should be a Scottish Parliament'; then: '1. I agree that a Scottish Parliament should have tax-varying powers; or 2. I do not agree that a Scottish Parliament should have tax-varying powers'.

[130] *The Scotsman* 29 August 1997.

[131] *The Scotsman* 1 December 1997.

[132] *Citizens not Subjects: The parliament and constitution of an independent Scotland* (Edinburgh: Scottish National Party, 1997). *The Scotsman* 7 February 1997.

133 *The Herald* 25 July 1997. See R. J. Morris, 'Civil Society, Subscriber Democracies and Parliamentary Government in Great Britain', in N. Bermeo and P. Nord (eds.), *Civil Society Before Democracy: Lessons from Nineteenth-Century Europe* (New York: Rowman and Littlefield, 2000); R. J. Morris 'Urban Associations in England and Scotland, 1750-1914: the formation of the Middle Class or the Formation of a Civil Society', in Morton, de Vries and Morris (eds.), *Civil Society, Associations and Urban Places*.

134 *The Herald* 25 July 1997, *The Scotsman* 25 July 1997. The Government issued an information leaflet on the proposals: *Scotland's Parliament. Your Choice* (The Scottish Office: The Stationary Office Scotland J13420 8/97, 1997).

135 Scotland Forward, *The Campaign for Scotland's Parliament*, Newsletter two (n.p., c.1997).

136 *Campaign for Genuine Self-Determination* (n.p., c.1997).

137 *Scotland on Sunday* 12 January 1997 prior to the general election and subsequent referendum vote that year.

138 Preliminary results in *The Scotsman* 12 September 1997; full results in *The Scotsman* 14 September 1997.

139 *Campaign. Newsletter of the Campaign for a Scottish Parliament* (November 1999).

140 Gerry Hassan 'The myths that hold back Scotland. The contradictions at the heart of Scottish social democracy have to be faced up to', *The Scotsman* 17 July 2000.

141 *The Scotsman* 4 February 1999.

142 Cited in *The Scotsman* 20 December 2000, 'State Of The Nation Poll', The Joseph Rowntree Reform Trust Ltd., 2004, p. 9.

143 *The Scotsman* 15 January 2001.

144 BBC News website 19 June 2006, http://news.bbc.co.uk/1/hi/scotland/5094178.stm. It is notable that the 'devolution Prime Minister', Tony Blair, born in Edinburgh, emphasized his loyalty first and foremost to the England of his childhood.

145 'Brown urged to get rid of the 'Scots Mafia'', *Scotland on Sunday*, 1 June 2008; *The Herald* 2 June 2008.

146 Henderson, *Hierarchies of Belonging*, p. 72.

147 See: M. S Weinert, *Democratic sovereignty: authority, legitimacy, and state in a globalizing age* (New York: University College London Press, 2007); Mann, 'Nation-states in Europe and other countries'.