

A “Lingering Diminuendo”?

The Conference on Devolution 1919-1920

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DECLARATION

This work has not been submitted in substance for any other degree or award at this or any other university or place of learning, nor is being submitted concurrently in candidature for any degree or other award.

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Summary

This thesis offers the first detailed assessment of an event that has hitherto been consigned to the margins of the literature on devolution and territorial reform in the United Kingdom, the Conference on Devolution, 1919-1920. Sitting between October 1919 and April 1920, the Conference on Devolution was arguably one of the two moments in the UK's constitutional history when the territorial constitution was approached in a holistic fashion by policy makers and political elites (the other occasion being the Royal Commission on the Constitution, 1969-1973).

The primary aim of this thesis is to provide the first detailed analysis of the Conference on Devolution, to develop a fuller understanding of why it was established, what it debated and why it failed. Secondary to that objective, this thesis will also assess what relevance the Conference has for students of territorial governance in the UK today, at a time when the UK's constitution is in flux. In pursuit of these objectives, the thesis utilises the ideas and insights on territorial governance of James Bulpitt and James Mitchell, alongside an extensive catalogue of archival evidence, including the previously unstudied (in the context of the Conference on Devolution) personal papers of the Conference's Secretary, Gilbert Campion.

Using this methodology and archival sources, the thesis offers a considerable revision to previous understandings of the Conference on Devolution. It demonstrates that the Conference's fatal disagreement on how the devolved legislatures should be composed, was not, as has been previously portrayed, just a disagreement at the latter stages of the Conference's work, but was instead a cleavage that undercut the entirety of the Conference on Devolution. Finally, the thesis highlights the clear resonance between the issues deliberated by the Conference and many of today's territorial governance debates.

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1.1. Introduction: The Conference on Devolution, the case for a re-appraisal.

On 3rd February 1920, a draft of the coalition government's King's speech concluded with the following words,

The Report of the Devolution Committee is anxiously awaited and should it prove favourable to the idea [of devolution to English, Scottish and Welsh subordinate legislatures] immediate steps will be taken to prepare the legislation necessary to give effect to its recommendations (CAB 24/97/48).

Britain appeared a week away from a fundamental shift in her constitutional order. A polity that has traditionally been seen as an archetypal unitary state seemed to be on the verge of Home Rule All Round (the North and South of Ireland being dealt with separately with the Government of Ireland Bill that was then completing its final stages in Parliament). Seven days later, however, this commitment had disappeared from the final speech delivered by the Monarch when he re-opened Parliament (HC Deb (5th Series) 10th February 1920 Vol.125 c.5-9); it was never to resurface in any serious way.

The "Devolution Committee" referenced in the draft speech was the 'Conference on Devolution' which met 32 times between October 1919 and April 1920 (Lowther 1920: 3). Established by the UK Government following a successful resolution calling for the creation of a body to draw up proposals for subordinate legislatures (HC Deb (5th Series) 4th June 1919 Vol.116 c.2126), the Conference debated three key questions (Lowther 1920: 3-6). Firstly, the question of unit size: would devolution be based on regional or national lines, a debate which proved particularly problematic when it came to England. Secondly, it discussed the powers that would be devolved to these legislatures. Thirdly, the Conference grappled with the dilemma of the composition of

the subordinate legislatures and their relationship with the Imperial Parliament. While the Conference resolved internal differences to agree that devolution would be on national lines, and to agree the powers to be devolved to these subordinate national legislatures, the Conference ended its work evenly divided on the question of how the subordinate legislatures should be constituted (Lowther 1920: 6-7).

In the one camp were advocates of the 'Grand Council' plan proposed by the Speaker of the House of Commons, James Lowther. This was an intra-Parliamentary approach to devolution, with the proposed bicameral Grand Councils (each Grand Council would consist of a Council of the Commons and a Council of Peers) for England, Scotland and Wales constituted from existing Parliamentarians (Conference on Devolution 1920: 9). In the case of the lower chambers, the Councils of the Commons, its membership would consist of the MPs from each of those respective nations (Conference on Devolution 1920: 9). As for the upper chambers, the Councils of Peers, they would be composed of Peers, the number in each case being equal to half the number of MPs from their respective nation, selected by the Committee of Selection in the House of Lords (Conference on Devolution 1920: 9). These subordinate legislatures would sit for an initial five year period in a transitory state, with each Grand Council expected by the end of this period to decide whether to move to a system of direct election and become separate institutions from Parliament, to remain as presently constituted or to abolish themselves and return to former Parliamentary arrangements (Conference on Devolution 1920: 11).

Unlike Lowther's intra-Parliamentary approach to devolution, the alternative, proposed by the Liberal MP Murray Macdonald, was far more radical in nature. Arguing

that Lowther's plan would not result in a diminished workload for Parliamentarians (which was a key motive for advocates of federal devolution¹), Macdonald instead proposed the creation of separately elected subordinate legislatures (Conference on Devolution 1920: 13). Unlike the bicameral legislatures proposed by Lowther, Macdonald's plan would entail the creation of unicameral legislatures for England, Scotland and Wales, elected from the same constituencies as Westminster on a single member basis (thus resulting in representation in these chambers being equal to the number of MPs elected from each nation to Westminster) (Conference on Devolution 1920: 13).

In the decades since the Conference's proceedings concluded in stalemate, the Conference on Devolution has been consigned to the margins of political and constitutional history. Indeed, one could almost be forgiven for not knowing that the Conference ever happened, let alone what its conclusions were. For example, in his recent account of devolution in the United Kingdom, Mitchell (2009) offers only a little attention to the Conference on Devolution (Mitchell 2009: 96-97 and 196), despite arguing that it "proved to be the nearest that devolution all round, dealing with the English problem in a comprehensive way, came to being implemented" (Mitchell 2009: 97). In a similar vein, Bogdanor (1999), while admittedly discussing the Conference in Devolution in slightly more detail than Mitchell, still devotes only a very minor portion

¹ The devolution debates, as Chiao noted in his study of the Speaker's Conference, were often rather ambiguous and vague when it came to precise ideas for reform and in terms of the names given to proposed constitutional changes (Chiao 1969: 28). Federal Devolution, Home Rule and Federalism were generally used interchangeably not to represent federalism as would be understood in a comparative context i.e. a constitutionally guaranteed division of sovereignty between different levels of Government, but rather devolution as we would recognise it today with power transferred to sub-state institutions while sovereignty is retained at Westminster (Chiao 1969: 28).

of *Devolution in the United Kingdom* to the Conference (Bogdanor 1999: 48-50). The aim of this thesis will be to demonstrate that such spartan coverage among political scholars does a disservice to the Conference on Devolution, an event of constitutional significance that deserves serious analysis, particularly at a time of constitutional flux for the United Kingdom that has seen the idea of a Constitutional Convention raised by leading political actors.

1.2. Why did the Conference matter at the time?

The Conference on Devolution was established after a two day debate in the House of Commons held on 3rd - 4th June 1919. It concluded with the Commons voting by a clear majority of 187-34 in support of the following motion, moved by the Unionist MP (and future Lord Halifax) Edward Wood and supported by the Scottish Liberal MP, Murray Macdonald,

That, with a view to enabling the Imperial Parliament to devote more attention to the general interests of the United Kingdom and, in collaboration with the other Governments of the Empire, to matters of common Imperial concern, this House is of the opinion that the time has come for the creation of subordinate Legislatures within the United Kingdom, and that to this end the Government, without prejudice to any proposals it may have to make with regard to Ireland, should forthwith appoint a Parliamentary body to consider and report—

1. upon a measure of Federal Devolution applicable to England, Scotland, and Ireland, defined in its general outlines by existing differences in law and administration between the three countries;

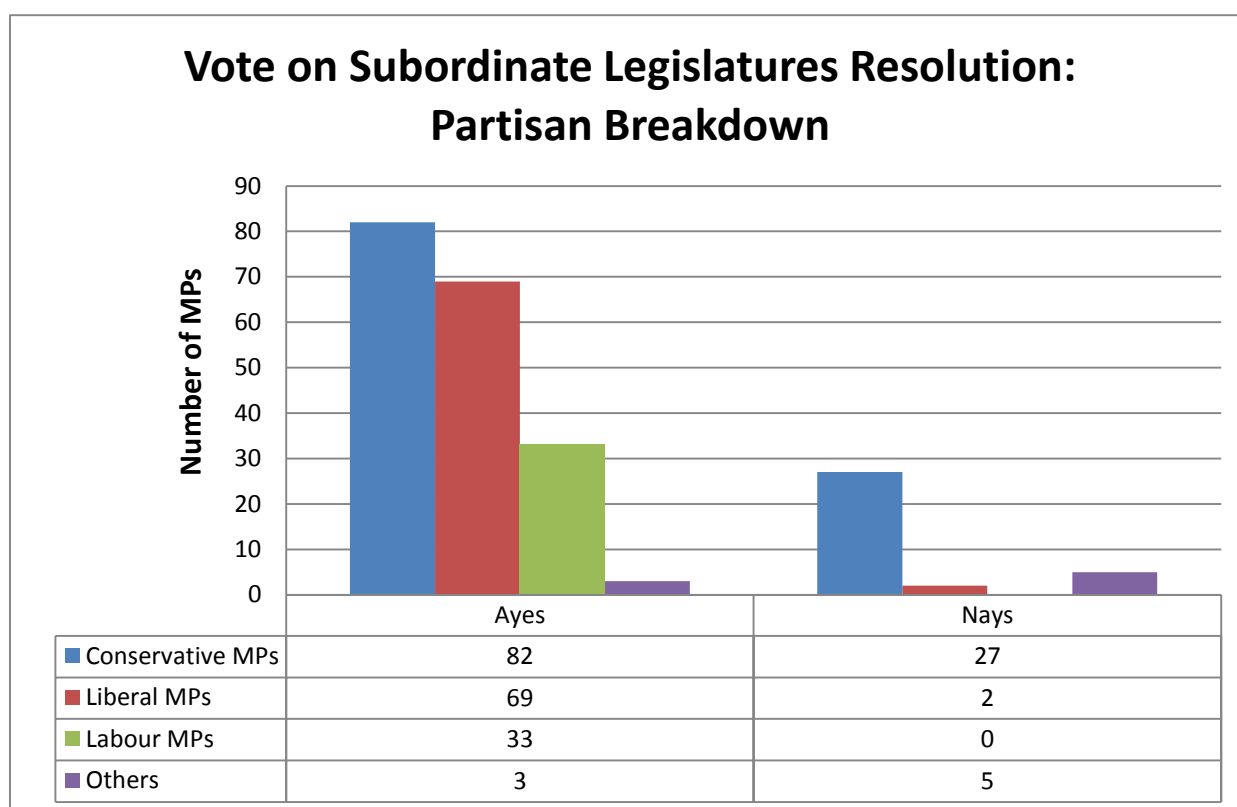
2. upon the extent to which these differences are applicable to Welsh conditions and requirements; and
3. upon the financial aspects and requirements of the measure (HC Deb (5th Series) 4th June 1919 Vol.116 c.2126).

While the attendance during the debate was admittedly poor (as Kendle has noted the debate was almost counted out² on two occasions (Kendle 1989: 217; for the moments when the debate was almost counted out see: HC Deb (5th Series) 3rd June 1919 Vol. 116 c. 1950, 1970)), the coalition of MPs that supported reform was significant. Of the 187 MPs that supported the motion, 82 were Conservative, 69 Liberal, 33 Labour, 2 independents and one was a National Democratic MP³. As the graphs below indicate, when broken down on a partisan and geographical basis, the resolution was able to command a mandate that drew strength from MPs from parties across the political spectrum and representing constituencies across Great Britain, from Oswald Mosley in Harrow to William Young in Perth (HC Deb (5th Series) 4th June 1919 Vol.116 c.2126). With the support of MPs from across the party and geographical spectrums, the result was the establishment, in October 1919, of the Conference on Devolution chaired by the Speaker of the House of Commons, James Lowther MP.

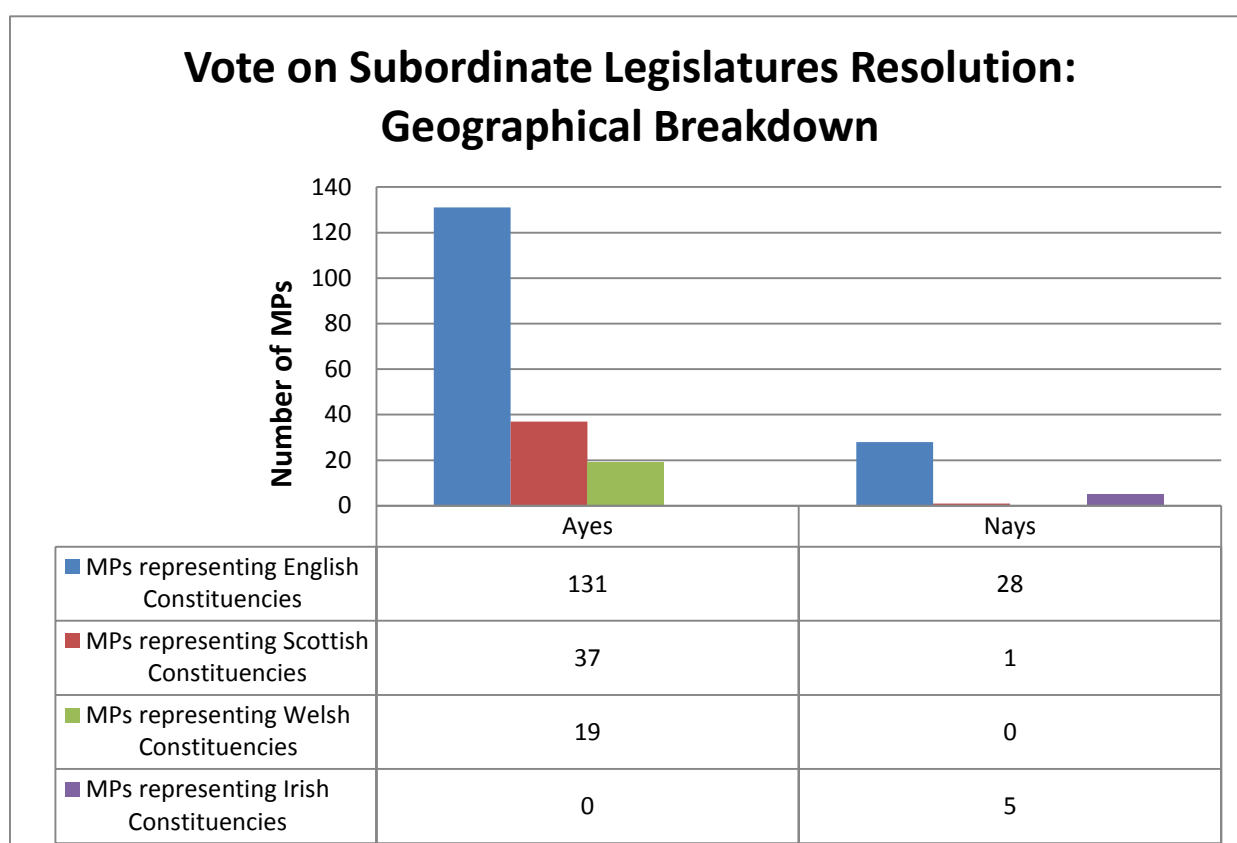
² In the House of Commons, a vote can be called to determine whether there is a quorum present (40 MPs). While this figure does not have to be permanently present in the chamber, if it is not met when a division is called then the debate is suspended and the Commons moves on to other business (House of Commons 2015: 43).

³ For reasons of simplicity and efficiency the Coalition Conservatives and extra-coalition Conservative blocs and Coalition Liberals and Asquithian Liberals have been combined to produce their respective tallies.

Graph 1: Partisan breakdown of voting behaviour on the devolution resolution



Graph 2: Geographical breakdown of voting behaviour on the devolution resolution



It is not just the breadth of Parliamentary support for this motion that should lead to a reassessment of the Conference's significance, but also the context that led to the passage of the motion and the establishment of the Conference. The conference can be seen as representing the denouement of a remarkable period in British constitutional discourse and introspection. This was a period, approximately the years between 1870 and 1920 (see discussion in Burgess 1995: 23, 115), which produced a rich vein of intellectual debates on the institutional future of both the United Kingdom and the Empire (Burgess 1995: 104-106). Major constitutional reforms, from Imperial Defence federation, to Home Rule all round, were the subject of discussion and serious consideration at times throughout the late nineteenth and early twentieth century (Burgess 1995: 66-67; Gibbons 2013: 508; Jackson 2004: 216-225). These were debates, involving the media, academia and politicians from across the political spectrum, that give the lie to orthodox conceptualisations of British constitutional history that have viewed the UK as a land of constitutional conservatism and stability; a constitutional 'Pax Britannica' that was only really broken by New Labour's constitutional reforms, including devolution, after 1997 (King 2007: 1-2; Bogdanor 2005: 73-74).

Among scholars and academics, we can see important contributions to these debates from the likes of A.V. Dicey with *England's case against Home Rule* (1886), and Sir John Seeley, whose *The Expansion of England* (1883) was a best-seller in Victorian Britain (Burgess 1995: 37-38). Furthermore, this was a discussion championed by organisations such as the Imperial Federalist League and the Round Table movement and newspapers such as *The Observer* and *The Times* (Burgess 1995: 37-38; Dicey 1973: v; Jalland 1979: 761). Federal devolution was therefore a subject of intense debate,

growing interest and saliency, in a period when, from the 1870s onwards, the British state's control of foreign affairs, economics and domestic politics, faced unique challenges and uncertainties (Jalland 1979: 784-785; Burgess 1995: 100-105). Certainly by 1919, the crisis in Ireland, changing Imperial relations with the Dominions and the burdens of post-war reconstruction on an already strained Parliamentary machine had resulted in federal devolution becoming an increasingly significant presence on the institutional agenda (Chiao 1969 [1926]: 5, 260-270; The Round Table 1919: 124-127; also see for example CAB/23/12/13; CAB/24/89/39).

Cabinet papers from the war Cabinet in 1918, for example, reveal the frequent discussions held on constitutional reform, a debate championed by two of the most senior Unionist members of the Government, Austen Chamberlain and Walter Long (see for example: CAB/24/5/12, CAB/24/50/86). For advocates such as Chamberlain and Long, devolution within the United Kingdom could prove to be the solution to these high politics challenges. On Ireland, the Cabinet minutes highlight Chamberlain's adamant belief that "in no other way than by means of a federal scheme could Ulster's consent be obtained [to Irish Home Rule]" (CAB/23/7/16: 5). Walter Long, the then Colonial Secretary, sought to justify his conversion to federal devolution on the grounds that it would assist a peaceful resolution of the Irish Question and, by rebalancing the Parliamentary workload, enhance Parliament's ability to fulfil its Imperial obligations (CAB/24/50/86). As Long noted in a memorandum on federalism on the 9th May 1918,

I cannot help thinking that even those who are most doubtful about Federalism today would welcome the change when they found that by it it became possible to meet our Imperial obligations, and at the same time satisfy the just demands of our people (CAB/24/50/86).

While Cabinet minutes, from the years 1918-1919, reveal the antipathy of senior figures such as Lord Curzon to any form of comprehensive pan-UK reform, they also show the seriousness with which federal devolution was considered by an increasingly desperate Cabinet faced with enemies both abroad and within the UK state (CAB/23/7/16: 4).

It is important to acknowledge the procrastination that defined the Cabinet's discussions on federal devolution. This, for example, can be seen during a Cabinet meeting in October 1919, when the Cabinet concluded a discussion on the growing crisis in Ireland by establishing a working group chaired by Walter Long to investigate potential solutions to the Irish question and the practicalities of "a general Federal scheme for the United Kingdom" (CAB/23/12/13). This was a decision that followed a general trend of postponing a firm decision on federal devolution and the Irish Question, as can also be seen in July 1918 when, "when the War Cabinet deferred further discussion on this subject [Home Rule all round] to a later date" (CAB/23/7/16). These examples of repeated deferment are arguably symbolic not just of a centre that was struggling to keep pace with developments in Ireland (Jackson 2004: 222, 225), but also of a Cabinet reluctant to cede significant constitutional reform.

However, even if the outcome was often procrastination and delay, the resilience of the federal idea in Cabinet discussions 1918-1919, including for example the commissioning and then discussion within the Cabinet of a draft Government of the United Kingdom Bill (CAB/24/89/39, CAB/23/12/9, CAB/23/12/13, CAB/23/7/16 and CAB/23/6/55), does stand testament to the significance of federal devolution as an agenda item in this period in British history. Indeed, it is worth noting that outside the core executive, a privately commissioned survey of Parliamentary opinion for Lloyd

George in 1918 suggested that as many as 340 MPs supported some form of federal reform (Burgess 1995: 104-106). Reform may not have commanded the whole hearted and enthusiastic support of the core executive, or the leadership of either the Tory or Liberal parties, but it did have some notable champions around the Cabinet table and within Parliament (Bogdanor 1999: 44-48; Burgess 1995: 105; Gibbons 2013: 509-510, 520).

Furthermore, as the 4th June division showed, federal devolution could also secure significant bi-partisan support in the Commons when actually pushed to a vote, while in the press it could count upon the patronage of Lord Northcliffe, the proprietor of *The Times* and the *Daily Mail*, and *The Observer's* J. L. Garvin (Kendle 1968: 350; Jalland 1979: 761). *The Times'* celebratory coverage of this vote declared that "ministers were greatly impressed by the volume of opinion expressed in favour of change" (*The Times* 6th June 1919: 18), while Walter Long was sufficiently confident to publicly use the language of "when" and not "if" to describe the prospect of federal devolution being applied across the United Kingdom (Long quoted in the *Times* 31st January 1920: 14).

The Conference on Devolution was, therefore, far from an insignificant event. Rather, it was a moment of potentially dramatic constitutional significance and it was not just the federalist press and politicians that appeared confident that the tides of history were on their side. In Ireland, a contemporary political commentator and businessman, Frederic Pim, argued in 1919 that federal devolution had moved from an idea "that, until quite recently, English public opinion had shown no willingness to entertain... treating with contemptuous ridicule" to a position where, as a result of the establishment of the Conference on Devolution, it was "on a footing that entitles it to

respectful consideration on its merits, instead of being laughed out of court” (Pim 1919: 16).

Alongside the deteriorating situation in Ireland, the challenges of managing an evolving relationship with the Empire (in particular, the major “white settler colonies” of Australia, New Zealand, South Africa and Canada were seen as having increased their political strength at the expense of Imperial, i.e. Westminster, sovereignty) (Boyce and Stubbs 1976: 56; Hall 1920: 196) and of post-war reconstruction all combined to provide a context that the American political scientist Ralston Hayden suggested at the time would “go far in securing favourable consideration for whatever proposals this conference may eventually make” (Hayden 1920: 476-477).

It was in this context, in which Kendle has argued that federal devolution appeared to be both “topical and possible” (Kendle 1971: 230), that the draft King’s Speech was prepared on the 3rd February 1920. While reform as a result of the Conference on Devolution was never certain, and strong opposition always existed, the very fact that Parliament had voted the conference into existence “was itself indicative of the impact of constitutional reform ideas upon Parliamentary opinion” (Burgess 1995: 106). If the resolution passed by the Commons on the 4th June 1919 was “itself indicative” of the impact these ideas of reform had upon Parliamentarians, then the draft King’s Speech is equally indicative of the impact the idea of federal devolution had upon His Majesty’s Government.

The Conference on Devolution may now seem but a footnote in modern histories of territorial politics in the United Kingdom, a “lingering diminuendo” of the centre’s

brief flirtation with federalism (Jackson 2004: 217-224). However, it was, as the dynamics outlined above indicate, “...potentially the most significant occasion for Home Rule” that existed prior to the devolution debates of the 1970s and 1990s (Gay 29th July 1997: 6). The Government was a week away from supporting the creation of devolved legislatures that would have radically altered the UK’s territorial constitution. That such far-reaching change was on the Government’s agenda so late in the King’s Speech drafting process is testament to the significance of the Conference on Devolution. The Conference did matter, reform was possible and a significant re-appraisal of the Conference on Devolution is merited.

1.3. Why does it matter now?

The Conference was not just an important aspect of early twentieth century debates on the constitution and territorial governance in the United Kingdom. A re-appraisal of the Conference could also be of potential relevance to understandings of contemporary political debates in the UK. Across the United Kingdom developments in the constituent territories have seen ideas of ‘federalism’, devolution all-round and even a constitutional convention emerge onto the political agenda in recent years.

Amid the build-up to, and the fall-out from, the 2014 Scottish independence referendum, the idea of a UK constitutional convention has been floated by figures ranging from the First Minister of Wales, the House of Commons Political and Constitutional Reform Select Committee, the Liberal Democrats and the Labour Party. Carwyn Jones, the First Minister of Wales, has been a prominent advocate of such a forum since 2012, arguing that it would enable a re-appraisal of the workings of the

UK's territorial constitution and the relationship(s) between the institutions of the centre and the constituent nations and regions of the United Kingdom (Jones 8th November 2012 [online], Williamson 28th March 2013 [online]; BBC 23rd January 2012 [online]). For the-late Political and Constitutional Reform Select Committee, a convention was recommended for consideration as a possible response not only to the independence referendum, but also a means of reflecting on the experience of fifteen years of devolved government in the United Kingdom (House of Commons Political and Constitutional Reform Select Committee 28th March 2013: 4).

In the run-up to the 2015 General Election, Labour committed itself to a constitutional convention and, like the Liberal Democrats and the Greens, made it a manifesto pledge (UCL Constitution Unit 30th April 2015 [online]). While the election resulted in the first Conservative majority government since John Major's shock triumph in 1992, this does not necessarily mean the idea of a convention is dead. In the immediate aftershock of the election result, leading figures from across the party divide spoke of the need for a federal solution to the UK's constitution, not least because of the SNP's remarkable success (Crerar 6th May 2015 [online]). The Mayor of London, Boris Johnson, for example, has talked of the need for a 'grown-up conversation' on a federal United Kingdom, while Alistair Darling has also called for a move towards a federal solution (BBC 11th May 2015 [online]). Finally, the former Leader of the House of Lords, Lord Strathclyde has publicly called for a Grand Committee and eventual Royal Commission into the future of the Union (Lord Strathclyde quoted in Hope et al. 7th May 2015 [online]).

So, while those parties who pledged a convention in their manifestos may be on the opposition benches in the current Parliament, the idea of convention or inquiry into the UK's territorial governance continues to remain on the political agenda. At the very least, with substantial constitutional reform awaiting England (in the form of English Votes for English Laws), Scotland and Wales (while further devolution legislation has also been promised for Northern Ireland) (HM Government (27th May 2015 [online])), there is a need to study a rare moment in our constitutional history when the territorial governance in this country was approached from a holistic, rather than an ad-hoc and piecemeal, basis. As such, one of the focuses of this thesis will be to identify whether there are areas where the deliberations of the Conference on Devolution, say perhaps on fiscal devolution, for example, may resonate with issues currently under discussion in today's territorial governance debates.

The Conference on Devolution represents a near-unique occurrence in the history of territorial governance in the United Kingdom. Approaches to territorial reform in the UK have, with the exception of the 1969-1973 Royal Commission on the Constitution, been typically piecemeal and nation specific, rather than holistic and pan-United Kingdom in nature.⁴ The Conference on Devolution, however, was the exact contrary to these conventional understandings of territorial politics in the United Kingdom, in that it approached territorial governance from a specifically holistic basis. The unique nature of the conference's operation and considerations only add to its relevance as a subject of analysis at a time when fundamental reform, across the United

⁴ For an assessment of both the Conference on Devolution and the Royal Commission on the Constitution and their lessons for any future constitutional convention/forum see: Evans, A. (2015a). Back to the Future? Warnings from History for a Future UK Constitutional Convention, *The Political Quarterly*, 86(1), 24-32

Kingdom, is on the institutional agenda, and a constitutional convention a political possibility.

1.4. Chapter plan

The next two chapters form Part One of the thesis, titled 'Methods and Context.' The first of those chapters, *Studying the Conference on Devolution*, will be focused on highlighting what is known currently about the Conference on Devolution and how this thesis will go about improving this knowledge. In terms of what is known at present, this chapter will provide a review of the Conference's treatment in the political science and political history literatures and in doing so highlight not only areas of academic consensus, but also the deficiencies of the existing literature. Following this *tour d'horizon*, the chapter will then outline the historical institutionalist method that this study will adopt. It will also explain the ideas from the territorial governance literature that will be used to study the Conference on Devolution, namely the work of James Bulpitt and James Mitchell. Finally, it will resolve the dilemma of whether the Conference on Devolution is or is not a 'Speaker's Conference.'

Following this chapter the thesis will then go on to explore the developments that led to the establishment of the Conference on Devolution. This chapter, *A system in crisis? The background to the Conference on Devolution*, will analyse the balance of forces which brought devolution from an idea on the margins in the 1870s into a practical proposition on the institutional agenda. This chapter will therefore include an analysis of the effect that the crisis in Ireland, challenges to British international and economic supremacy and growing strains on the Parliamentary machine had on policymakers in

the United Kingdom and on moving ideas of federal devolution from the periphery to the Cabinet table.

After this contextual chapter, the thesis then moves onto Part Two which is focused on an analysis of the Conference and its proposals. This section of the thesis will be broken down into three main chapters. Each of these chapters will focus on a specific aspect of the conference's deliberations, but in doing so will delineate more general themes and trends that will underpin the thesis' conclusions.

The first of these chapters will begin with the area that the conference found quickest and easiest to settle and where consensus was strongest: the powers of the devolved legislatures. This chapter will therefore detail the powers that the conference agreed to confer upon the devolved bodies as well as reserve to Westminster, including judicial and fiscal competencies that the conference also recommended for devolution. This chapter will seek to unpick the debates and arguments associated with these powers, assessing how they correspond to Bulpitt's concepts of a dual polity and a Westminster/Whitehall operational code based around the preservation of sovereignty at the centre. This chapter will also highlight the relevance of Mitchell's *State of Unions* concept, particularly in examining the role of asymmetry in the conference's deliberation of devolved powers.

The second chapter in this section will focus on what might be described as the 'little local difficulty' of the Conference on Devolution: the question of what unit size would be used for the subordinate legislatures. This was the first question with which the conference grappled, and it proved to be a long running source of difficulty. That

this was a source of ongoing problems for the Conference particularly resulted from the difficulties posed by containing England within a system of federal devolution. This debate that highlights deeper issues and questions for the Conference on Devolution and reformers. In particular, it is a debate that highlights the different motivations for reform; with a division existing between those who see high politics concerns (primarily improving the efficiency of Parliament as an Imperial legislature) as the primary goal versus those with a stronger focus on nationality.⁵ On this question of nationality, this chapter will underline the relevance of Mitchell's state of unions paradigm to the conference, this time as a means of explaining the attitudes of conference members and reformers towards Wales' case for treatment as a distinct national unit and perhaps most significantly, towards England. The latter resulting in the Conference, for over half of its existence, opting for procrastination, favouring instead to discuss subjects such as the powers, outlined in the previous chapter, that the devolved legislatures would enjoy.

Following this chapter, the thesis will then explore the work of the Conference on Devolution's judiciary sub-committee. Of particular importance will be the sub-committee's deliberations on the establishment of a Welsh judiciary. These discussions and the intense external lobbying from the Lord Chancellor's Office will be seen as a reflection of Wales' unique role and history in the UK state. This chapter will demonstrate that the debate over a Welsh judiciary cuts to the heart of Wales' status within the Union, arguing that the open-ended proposals agreed by the Committee and

⁵ While not claiming this to be a purely binary distinction, it nonetheless reflects the divergent motivations of Parliamentarians on the Conference on Devolution and the arguments expressed during the June 1919 Commons debate that led to the Conference's establishment (Conference on Devolution 1920; Hansard (House of Commons Official Report) 3rd-4th June 1919)

the role of the Lord Chancellor's Office can be seen as a legacy effect of Wales' stunted historical development and of her longstanding assimilation into the English legal system.

The final chapter of this section will focus on the second and ultimately the most significant source of rancour among the conference members, the question of how the subordinate legislatures should be composed. As this chapter will note, this subject was far more significant than has been previously understood in the literature, forming a cleavage that cut throughout the entirety of the Conference's proceedings. Furthermore, as this chapter will demonstrate, this was a debate that took place firmly *within* the 'centre.' In particular, Bulpitt's concepts of the centre's operational code and of a dual polity argued to be useful in understanding both Lowther's intra-parliamentary model of devolution and Murray Macdonald's scheme of directly-elected legislatures. Following this chapter, a postscript to Part Two of the thesis will outline the reaction to the publication of the Conference's report and outline reasons for its failure.

The concluding chapter will reflect on the Conference on Devolution, discussing the general themes that can be delineated from our study so far and their relationship to the concepts and theories of Bulpitt and Mitchell. On this latter note, this concluding chapter will contemplate the legacy and lessons of this unique moment in British constitutional history, not only in terms of the immediate reactions to the conference, but also what relevance the conference may have for contemporary debates on territorial governance in the United Kingdom.

Part One: Methods and Context

2.1. Studying the Conference on Devolution

This chapter will outline how the thesis will conduct its analysis of the Conference on Devolution. Firstly it will outline what is currently known about the Conference within the existing political science and political history literatures, highlighting some of the literature's key themes and deficiencies. After locating this study within the current historiography, the chapter will then explain the methodological approach of this thesis, which will use the historical case study method alongside the ideas of two modern analysts of territorial governance and politics in the UK, James Bulpitt and James Mitchell. This is a combination that will enable the thesis to explore the Conference as a case study of territorial governance in the United Kingdom. Finally, this chapter will resolve the question of whether the Conference on Devolution was a conference chaired by the Speaker or a Speaker's Conference.

2.2. The Conference on Devolution in the existing academic literature

As noted in the introductory chapter, the Conference on Devolution has all too often been relegated to the status of a footnote in the history of territorial politics in the United Kingdom. In terms of outlining what analysis of the Conference has been conducted it seems fitting to start with what Burgess has described as a "masterly account" of the Conference on Devolution (Burgess 1995: 106), *Devolution in Great Britain* written by Wan-Hsuan Chiao (1969 [1926]) while at Columbia University.

Devolution in Great Britain offers what might be described as a 'devolution all round' approach, with the book's nine chapters divided into assessments of the history

of devolution in the United Kingdom since 1874 (Chiao 1969: 10), the cases for and against devolution (Chiao 1969: 9-10) and the state of public opinion on the subject (Chiao 1969: 12). While *Devolution in Great Britain* is therefore aimed at providing an assessment of the broader devolution debate(s) that had existed in the British Isles from the 1870s up until the time of writing in 1926, it is also a study that is anchored in the considerations and proposals of the Conference on Devolution (Chiao 1969: 5).

That this monograph's analysis is framed around the Conference, in particular, was a result of Chiao's belief that even in 1926 the Conference and its proposals continued to be a live issue in British politics (Chiao 1969: 5). While this may be a somewhat questionable analysis of the Conference's vitality subsequent to its conclusion in April 1920, it is nevertheless central to understanding Chiao's purpose in writing *Devolution in Great Britain*. Indeed, this can be seen clearly in the introductory chapter where Chiao outlines the aims and objectives of his study as being to "discuss the merits or demerits of the proposed change [the proposals of the Conference on Devolution] and to consider the probabilities of parliamentary action" (Chiao 1969: 5).

However, while the Conference on Devolution provides an intellectual steer for *Devolution in Great Britain*, there are a number of problems with treating this study as an authoritative and detailed assessment of the Conference on Devolution. Firstly, and for reasons beyond Chiao's control,⁶ *Devolution in Great Britain* is highly dependent on secondary source evidence, with the few primary sources used coming from

⁶ At the time *Devolution in Great Britain* was written the critical archival documents from the Conference used in this thesis, such as the private papers of Gilbert Campion, were not deposited for public access. Campion's papers, for example, were not deposited in the Parliamentary Archives until the 7th November 1978.

Parliamentary publications such as Hansard (Chiao 1969: 282-284). Secondly, and more substantially, while the Conference on Devolution essentially acts as the anchor for Chiao's study, it is not so much a work dedicated to the Conference specifically, as it is an empirically based argument for devolution in Great Britain (1969: 269); as Chiao states in his conclusion, "throughout this study our aim has been to determine whether devolution is really necessary in Great Britain" (Chiao 1969: 269).

This is a focus that comes at the expense of a specialised examination on the Conference itself. While Chiao, as mentioned above, uses the Conference on Devolution as a point of reference for his analysis of the practicalities and possibilities of devolution in the United Kingdom, he devotes only a small portion of *Devolution in Great Britain* to an assessment of the Conference proposals and its subsequent failure (of the nine chapters only one is exclusively focused on the Conference on Devolution) (Chiao 1969: 183-215). The remaining eight chapters focus on the task of outlining the cases for and against devolution and on providing a historical overview of Parliamentary debates on devolution from 1874 to 1925.

Despite this, Chiao does provide a number of valuable insights with regards to the Conference on Devolution. It is, for example, worth considering that he clearly considers Parliamentary congestion as providing "the case for devolution" (Chiao 1969: 58), which as we shall discuss later is an opinion somewhat at odds with later scholars such as Jackson who have instead emphasized the Irish crisis in focusing political minds on the federal question. Despite this difference with Jackson, Chiao's emphasis on the importance of Parliamentary congestion does reflect the centrality of this issue to the Conference on Devolution's proceedings and in the Commons debate on the 4th June

1919 that led to its establishment (Lowther 1920: 2-7; Macdonald 1920a: 31-35; McNeil 1920: 36-38).

While concerns about Parliamentary congestion resulted in attempts at procedural reform within Parliament (including, for example, the establishment of more standing committees within the Commons) (Chiao 1969: 44-45), it was, Chiao argues, a subject that extended beyond the confines of Parliamentary introspection (1969: 97-108). It was a question about the fundamental ability of Parliament and in particular the House of Commons to function not only as the Parliament of the British state, but also as the Parliament of an Empire (Chiao 1969: 58). As Chiao notes,

Anyone who is acquainted with the work of Parliament knows that the House of Commons is overburdened, and almost overwhelmed by the multiplicity of its duties, the variety of its functions, and the diversity of its interests. The situation confronting the House of Commons is indeed without parallel in the history of the world. The Imperial parliament, which means the House of Commons for all practical purposes, is the sovereign authority, not only of the United Kingdom, but of the whole British Empire... the inevitable result of such a state of affairs is the congestion of business at the center [sic] and the neglect of much of the business of the localities (Chiao 1969: 58-59).

The overwhelming pressures on Parliament as an Imperial and domestic legislature, and the consequences of a diminished legislature vis a vis the Executive, are therefore considered by Chiao to be at the heart of the case for federal devolution in general, and the establishment of the Conference on Devolution more specifically (Chiao 1969: 68-93, 152-168, 214).

Moving on from the context that led to the Conference's establishment, Chiao actually offers only a limited analysis of the Conference on Devolution's proceedings and the proposals that emerged from the Speaker and Murray Macdonald (this was perhaps inevitable when considering the earlier mentioned unavailability of primary source materials relating to the Conference). Chapter Six, which is the sole chapter specifically dedicated to considering the Conference, is essentially a run through of the Conference report published in Spring 1920 (1969: 183-215) and it is only in the last two and a half pages (Chiao 1969: 213-215) that Chiao offers any personal conclusions on the Conference's proposals. Having outlined the arguments proposed by advocates of both schemes for devolution, Chiao decides in favour of Murray Macdonald's proposed model of directly elected subordinate legislatures (Chiao 1969: 213-215).

This, he argues, was a plan more in keeping "with the principles of devolution": such principles being firstly the reduction of Parliamentary congestion, and secondly satisfying the demand for Home Rule in Scotland and Wales (Chiao 1969: 213-214). As for Lowther's proposed scheme of Grand Councils derived from the existing members of both Houses of Parliament, Chiao is rather scathing in his criticism, declaring the plan unsatisfactory in meeting the two principles outlined above (Chiao 1969: 214). Furthermore he suggests that the critics of Macdonald's scheme were motivated by one consideration only, preserving their power and status within the current institutional arrangements, as he notes, "those who have power are loath to share it with other bodies" (Chiao 1969: 214). This is despite the risk, he argues, of change being forced upon the institutional and political order by unspecified "extra-parliamentary power groups" (Chiao 1969: 215).

At its best *Devolution in Great Britain* is a rigorous case for some form of devolution in Great Britain, but as a detailed and informed study of the Conference on Devolution it, for reasons admittedly not entirely in Chiao's control, leaves much to be desired. That it can be considered by Burgess to be a "masterly account of the Speaker's Conference of 1919-1920" indicates just how limited the historiography on the Conference on Devolution is (Burgess 1995: 106).

Indeed, a notable feature of the literature on the history of federalism in Britain is the curiously dismissive way in which scholars such as Burgess and Kendle actually treat the Conference. Burgess, for example, dedicates less than a paragraph (Burgess 1995: 106) to the Conference out of the hundred and ninety-seven pages of *The British Tradition of Federalism*. This is despite Burgess saying that the establishment of the Conference was indicative of "the impact of constitutional reform ideas upon parliamentary opinion," the very ideas to which Burgess devotes considerable attention in the preceding hundred and five pages (Burgess 1995: 106).

Elsewhere in *The British Tradition of Federalism*, Burgess describes the failure of federal devolution to emerge after 1918 as a "strange paradox" in Britain's relationship with the federal ideal (Burgess 1995: 105). Rather, it seems that the "strange paradox" is that having devoted a book to federalism and federal devolution, Burgess provides such scant attention to the only occasion, aside from the Royal Commission on Devolution between 1969 and 1973, when these ideas were actually provided with a firm institutional platform with which to be considered. This is even more of a curious oversight when one considers the role of the Conference on Devolution in the "strange paradox" of devolution's failure post-1918 (Burgess 1995: 105).

If Burgess' mention of the Conference in *The British Tradition of Federalism* seems rather cursory, it is positively extensive compared to Kendle's *Federal Britain: A History* (1997). Kendle does not actually directly refer to the Conference at all in this history of federalism, simply stating that no opportunity for "serious contemplation" of federal devolution after World War One arose until 1919 (when the Conference on Devolution was established)" (Kendle 1997: 75). Furthermore, the debates that did arise were elite affairs that largely "took place inside government offices and in the cabinet" (Kendle 1997: 76). As with Burgess, this treatment of the Conference by Kendle is rather astonishing. This is particularly so when both Burgess and Kendle acknowledge 1919 as the year in which the federal idea secured "serious contemplation" (Burgess 1995: 106; Kendle 1997: 75-76).

This treatment of the Conference on Devolution by both Burgess and Kendle is, to say the least, rather odd. Indeed, it seems almost inexplicable for works devoted purely to the history of federalism in the United Kingdom to essentially bypass the only time that these ideas were considered by a conference of Parliamentarians, particularly when this was a conference that emerged from the support given by the House of Commons to a resolution calling for devolution across the United Kingdom.

Instead, it is to the historian Sir Reginald Coupland in *Welsh and Scottish Nationalism: A Study* (1954) that one must turn to find greater justice given to the Conference on Devolution. While *Welsh and Scottish Nationalism: A Study* is not a specialist study of the Conference on Devolution (rather it was intended to be the first of

a series of studies of nationalisms within the Commonwealth⁷), it is nonetheless a highly useful resource for scholars of the Conference on Devolution.

As with Burgess and Kendle, Coupland spends considerable time discussing the years preceding the Conference on Devolution, but unlike the scholars mentioned above he provides a more extensive analysis of the Conference itself and its relationship to dynamics on the ground in Scotland and Wales (Coupland 1954: 311-333). Coupland details, for example, the post-war rise of national sentiment that occurred, not only in Ireland, but also in Scotland and Wales, highlighting the deputation sent by the Scottish Trades Union Congress to Lloyd George in 1917 seeking his support for Home Rule for Scotland, and the establishment in early 1918 of a Scottish 'National Committee' of Liberal and Labour MPs who sought the extension of Irish Home Rule legislation to the rest of the United Kingdom (Coupland 1954: 311). For Wales, he identifies the organisation in 1918 of a National Conference in Llandudno to discuss Welsh Home Rule (Coupland 1954: 311-312). Of those attending and voting, only one delegate, Coupland notes, opposed the Home Rule motion laid before the conference, and even more significantly eleven of Wales' then-seventeen county and county borough councils endorsed the resolution (Coupland 1954: 312).

Coupland, therefore, provides an important reminder of the Scottish and Welsh dimension that existed in the federal debates that were waged in the years leading to the Conference on Devolution. *Welsh and Scottish Nationalism* is also useful in outlining the broader nexus of motivations that underpinned these discussions. Coupland

⁷ For more details of Sir Reginald Coupland and Welsh and Scottish Nationalism see: Bodleian Library 27th June 2011 [online]

carefully notes, for example, the disjuncture between English and Scottish-Welsh interests in reform, arguing that English flirtation with federal devolution was based around pragmatism as opposed to the more sentimental and national identity based support for change in Scotland, Wales and Ireland (Coupland 1954: 315). In particular, the English were alleged to be focused on what Coupland calls the “question of good government” (Coupland 1954: 315), essentially how to combat the “evils of congestion” that blighted the Imperial Parliament at Westminster (Coupland 1954: 312-313). This emphasis on the difference between the more primordial Scottish and Welsh, as opposed to the essentially instrumental English, support for federal devolution is, as this thesis will explore in later chapters, incredibly important to conceptualising the Conference, both in terms of its proceedings and its eventual failure. As Coupland notes, “without English approval, or at least acquiescence, it [federal devolution] was plainly a hopeless cause” and that approval was clearly contingent on a model of devolution focused around improving the efficiency of Parliament (Coupland 1954: 313).

In terms of the vote that led to the establishment of the Conference, Coupland also offers a useful rebuttal to those that have chosen to highlight, as Kendle has, the poor attendance of MPs during both days on the 3rd and the 4th June 1919. In his opinion the debate was, regardless of the attendance, “the highest point yet reached by the ‘federalist’ movement,” a status based on the very fact that the resolution was passed and that an inquiry was agreed, an inquiry that he clearly considers of more political value than the number of MPs that either spoke or voted in the debate (Coupland 1954: 320). This is particularly so, he argues, because had the outcome of the inquiry been favourable, the feeling at the time was that “devolution would at last become a matter of practical politics” (Coupland 1954: 320). This is a claim that may seem rather bold when

one looks at the treatment of the Conference by Burgess and Kendle, for example, but it is an argument that appears to chime not only with the draft of the 1920 King's Speech, but also, and as outlined in the introductory chapter, with the views of contemporary political analysts both at home and abroad.

As for the Conference itself, Coupland provides an equally important contribution in dissecting the politics of the Conference's proceedings and proposals. He is dismissive of the Speaker's idea of Grand Councils composed of existing Parliamentarians, arguing that such a plan represented an "automatic small-scale reproduction of party politics in Parliament" and describes the scheme as "no more than an extension of the system of Standing Committees" (Coupland 1954: 325). Standing Committees that had been experimented with by Parliament during the turn of the nineteenth-twentieth centuries (Coupland 1954: 325) and, as Chiao notes, had been the subject of significant criticism from MPs (Chiao 1969: 98-105). This identification of the Lowther proposals as an intra-Parliamentary reform will be an important aspect of this thesis' discussion in later chapters and will be argued to be a clear display of the centre's desire to cede as minimal a reform as possible in order to ensure Parliamentary primacy.

Another interesting aspect of *Welsh and Scottish Nationalism: A Study* is Coupland's observation that the "only sentence in the whole report which directly asserts the claims of nationhood" was the statement made by Lord Aberdare, Henry Cowan, Charles Edwards, J. Hugh Edwards and W. Tyson Wilson when undersigning the

Speaker's proposed scheme of subordinate legislatures⁸ (Coupland 1954: 327). While, as Coupland acknowledges, national sentiment was an ever-present undercurrent in the Conference on Devolution's proceedings (Coupland 1954: 327), this is an observation that highlights how predominant practical concerns of good government and the congestion of Parliament were within these debates (Coupland 1954: 315, 327).

While the detailed assessment of the Conference on Devolution and the dynamics that led to its establishment occupies around only twenty pages of *Welsh and Scottish Nationalism*, it is quality rather than quantity of analysis that Coupland provides. Not only does he arguably provide more rigorous scrutiny of the Conference's proceedings (and the two devolution proposals) than can be found in Chiao's *Devolution in Great Britain*, and certainly in the earlier-mentioned federal histories of Kendle and Burgess; he also provides a rich and nuanced analysis of the context in which the Conference operated. Indeed, as this chapter will go on to argue, Coupland can be said to offer a more dynamic and fuller approach to the Conference than can be found elsewhere in the wider historiography of this period.

At the heart of Coupland's account is an argument for understanding the Conference and its proposals as products of dynamics that extended beyond the crisis in Ireland. Instead, Coupland can be seen as emphasizing the catalytical role played by concerns over the effectiveness of an increasingly overworked Parliament to function as

⁸ The statement itself read as follows: "We, the undersigned support the above scheme on the ground that it provides an immediate prospect for securing a considerable measure of Devolution *on national lines*, and at the same time paves the way for the larger scheme of subordinate Parliaments, which in our opinion can alone satisfy the national aspirations of both Scotland and Wales (Aberdare et al. 1920: 12). These members also signed Murray Macdonald's plan but stressed that they would accept the Speaker's proposals if Macdonald's ideas were "found impractical" (Aberdare et al. 1920: 15).

an Imperial and Domestic legislature (Coupland 1954: 315, 327). These were worries that, perhaps most importantly of all, were able to concentrate the minds of leading parliamentarians and provided a sufficient enough cause for a number of otherwise sceptical English MPs to consider the idea of devolution and indeed vote on 4th June 1919 for a devolution resolution (Coupland 1954: 312-320).

However, the role of Parliamentary congestion, as a catalyst for federal devolution debates in general, and the Conference on Devolution more specifically, is arguably a significant omission among the broader political history literature. In particular, there has been a tendency among certain historians to see the Conference, and the flirtation of certain actors at the centre with devolution in this era, almost exclusively through the prism of the crisis in Ireland, a conceptualisation that misses the importance of the other dynamics that motivated reformers and sparked these debates. Crucially in doing so, this also results in what appears to be a distorted perception of the Conference, one in which it resembles a straightforwardly monochrome and arguably predestined failure.

A prime example is found in Jackson's *Home Rule: An Irish History 1800-2000* (2004). Discussing the years between 1916 and 1921, Jackson describes them as representing a "period of exceptional political fluidity and fertility when the British Government was distracted, certainly, but when it was also relatively uncommitted and open to argument" (Jackson 2004: 204). However, rather than understanding and conceptualising the Conference on Devolution as a clear product and expression of this unique point in history, Jackson is rather dismissive of the Conference describing it as

part of a “lingering diminuendo” of the “federalist assault” on British politics (Jackson 2004: 217-224).

Spending little more than a page in discussing the Conference in detail, Jackson’s judgement of the Conference is as derisive as the above-mentioned quote itself suggests (Jackson 2004: 204-205). He focuses particular attention on the poor calibre of the Conference’s membership, its elitist basis and the “confused and divided report” that it produced (Jackson 2004: 204-205). Certainly the Conference proved unable to agree upon reform and even staunch federalists such as *The Times* considered its membership to be somewhat lacking in star quality (Parliamentary Correspondent 17th October 1919: 13). However to dismiss the Conference in such a terse manner fails to acknowledge, as Coupland has argued, that it still represented the single best institutional platform with which to achieve any form of devolution (Coupland 1954: 320). This is particularly so when one considers the mandate provided to the Conference from the Parliamentary resolution passed on 4th June 1919 (Coupland 1954: 320).

Fundamentally it seems that Jackson’s approach to the Conference on Devolution is shaped by an exclusive and partial outlook on the dynamics that underpinned the debates on federal devolution in the years leading to the Conference’s establishment. Rather than acknowledging the diverse range of forces that brought devolution onto the political agenda, Jackson appears to view the failure of federalism, and by association the Conference on Devolution, solely through the prism of Ireland. In particular, he considers the British Government’s flirtation with the idea of treating conscription and Irish Home Rule as part of a joint package in 1917 as a turn of events that signalled both

the “end of Home Rule, but...also marked the beginning of the end of the federalist engagement with Ireland” (Jackson 2004: 223). Furthermore, he clearly links the collapse of federal devolution debates to the inability of the British state to provide a federal settlement agreeable to Irish nationalist opinion (Jackson 2004: 217, 222-223). Ireland, as he acknowledges, was simply too far gone and among the British Government, the urgency required to initiate reform was, as a result, considerably diminished (Jackson 2004: 223).

Jackson is not unique in understanding the Conference on Devolution as part of an almost symbiotic relationship between federal devolution and the Irish question. In *Ireland and the Federal Solution* (1989) Kendle provides considerably more attention to the Conference on Devolution than in his earlier mentioned work *Federal Britain* (1997). In *Ireland and the Federal Solution* Kendle does acknowledge the role of Parliamentary congestion as a catalyst for the Conference on Devolution’s creation, quoting Lowther’s assessment that his plan’s main weakness (as shall be mentioned later) was its failure “to relieve overworked MPs” (Kendle 1989: 221).

Despite this, however, Kendle is resolute that regardless of the role played by concerns of Parliamentary congestion, it was ultimately Ireland that served to foil both the Conference (Kendle 1989: 224) and the prospects of devolution more broadly (Kendle 1989: 238).

Most of the Unionists became involved because they wanted to find some means of keeping Ireland within the United Kingdom. If it had not been for the threat of an independent Ireland which they [unionists] believed implicit in home rule,

they would have happily settled for reforms to Parliamentary procedure in order to resolve congestion (Kendle 1989: 238).

Though Kendle may have given more attention than Jackson to the role parliamentary congestion played in establishing the Conference, he similarly identifies Ireland as the key motor of the devolution debates in this period.

Ireland plays a similarly significant role in John Fair's (1980) interpretation of the Conference on Devolution and debates on federalism in the early twentieth century. A study recommended by Kendle (Kendle 1989: 233-235), Fair's *British Interparty Conferences* provided an analysis of the context behind the creation of the Conference on Devolution and of the Conference's proceedings that makes extensive use of Viscount Gladstone's papers, deposited in the British Library, and papers deposited in the Bodleian Library, including the diary of Lord Gorell (Fair 1980: 329-330). Despite this rich evidence base, the scope of *British Interparty Conferences* (an analysis of cross party conferences in Britain between 1867 and 1921, ranging from the disestablishment of the Irish Church in 1869 to the Anglo-Irish Treaty negotiations in 1921) means that Fair's discussion of the Conference is inevitably a rather hurried affair. The Conference on Devolution's proceedings therefore occupy only ten pages of a 354 page study (276 pages when one deletes the appendices, notes and bibliography) (Fair 1980: 233-243), resulting in an assessment that is more descriptive in tone, rather than offering a detailed and penetrating analysis.

Nonetheless, Fair is clear in his view of the reasons for federal devolution's rise in saliency in the early twentieth century and for the Conference on Devolution's genesis and for its eventual failure. As with Jackson and Kendle, Fair claimed that the

Irish Question was the preeminent factor in the rise and fall of federal devolution in the United Kingdom (see for example: Fair 1980: 224-225, 242-243). Indeed, he not only argued that the “main impetus” for federal devolution “derived from its intimate connection with the Irish issue”, but that the inability of UK political elites to secure support from among the Irish public for federalism, alongside the decision to decouple the Irish Question from the Speaker’s Conference, “plunged the federal issue into a state of academic obscurity” (Fair 1980: 224-225).

However, while Ireland was undoubtedly a crucial aspect of the devolution debates in this period, broad claims about its significance in both sparking and ultimately ending the centre’s flirtation with devolution risk underplaying the role played by other dynamics, in particular the role played by Parliamentary congestion.⁹ This is specifically important in understanding the forces that led to the Conference on Devolution’s failure, as Lowther himself makes clear in his memoirs (Lowther 1925: 269-270). Indeed, the idea that the Conference on Devolution was as much a child of Parliamentary congestion (and the evils that this was considered to represent to

⁹ While Fair, for example, acknowledges that ‘federalists’ had “shifted their emphasis from Ireland to the relief of the congestion in Parliament” by 1919 (Fair 1980: 230) and that this congestion was a “vital issue on which the conference [on devolution] was summoned” (Fair 1980: 236), there is a marked difference between the attention he pays to the issue of parliamentary congestion and to the Irish Question (Fair 1980: 224-243). Congestion is referred to sparingly, whereas Ireland dominates Fair’s discussion of the context behind the Conference on Devolution and of the Conference itself. Indeed, his account of the Conference plays greater emphasis on the threat of disruption posed by Ireland, than by the problems posed by the English Question (Fair 1980: 234). This is despite the fact, as Fair eventually concedes (Fair 1980: 236), that the Conference “absolved” itself of the Irish Question as a result of the UK Government’s work on the Government of Ireland Bill (Lowther 1920: 3), or that the only actual disruption to the Conference’s proceedings actually arose in response to the question of whether England should be retained as a singular unit or divided into regions (see: *The Times* 7th November 1919: 13; Lowther 1920: 3; Gorell’s diary, entry dated 6th November 1919).

Parliamentary sovereignty) as it was a child of the Irish crisis, can be seen from the very resolution that led to the creation of the Conference on Devolution:

That, with a view to enabling the Imperial Parliament *to devote more attention to the general interests of the United Kingdom and, in collaboration with the other Governments of the Empire, to matters of common Imperial concern*, this House is of the opinion that the time has come for the creation of subordinate Legislatures within the United Kingdom (Emphasis added HC Deb (5th Series) 4th June 1919 Vol.116 c.2126).

Therefore, while it would be foolish to understate the role of Ireland in underpinning the campaign for federal devolution, it would be similarly wrong to ignore the very strong and real concerns about the overload of Parliament's machinery in this era.

These were concerns, as the text above shows, which clearly acted as a catalyst for the creation of the Conference on Devolution. Similarly, the overloading of Parliament was a key factor in cultivating an environment which contemporary observers, such as Frederic Pim in Ireland and Ralston Hayden in America, believed would go far in securing a serious hearing for the Conference's proposals (Pim 1919: 16; Hayden 1920: 476-477). Indeed, somewhat ironically, Pim at the time actually offered one of the clearest rebuttals to the Irish-centric perspective of Jackson. Discussing the forces which had led to the establishment of the Conference on Devolution, he put particular emphasis on the significance of Parliamentary congestion,

The war has made it plain that our existing parliamentary system is no longer capable of dealing satisfactorily with the domestic affairs of the Kingdom and, at the same time, with foreign affairs and those of India and the Overseas Dominions...[devolution would leave Parliament] free to devote its whole time

and strength, for both of which there will be full occupation, to Imperial and foreign affairs, including the defence of the realm, and all other matters in which the Dominions and the Mother-country have a common interest, as well as the supervision of home affairs (Pim 1919: 16-17).

Far from being solely driven by the worsening crisis in Ireland, Federal devolution was, therefore, a prescription for ailments that struck at the very heart of the UK state, in particular the very functioning of Parliamentary democracy itself. Indeed, it is particularly telling that Lowther, the Conference chair and proposer of the Grand Council scheme, himself admitted (as is actually quoted by Kendle 1989:221), that the single most important weakness of his proposal “lay in the absence of relief to overworked MPs, the desire for which *was one of the chief incentives* for dealing with the matter at all” (Emphasis added, Lowther 1925: 269-270).

The importance of Parliamentary congestion was also emphasized by figures on the other side of the Conference’s devolution divide. For example, Ryland Adkins, the Liberal MP, Conference member and supporter of Macdonald’s rival plan of directly elected devolved legislatures, has little doubt as to the importance of Parliamentary congestion as a catalyst for the Conference’s establishment (Adkins 1920: 326-327). His assessment of the dynamics which have brought devolution onto the institutional agenda, provides a significant challenge to Kendle’s assertion of Ireland’s pre-eminent role in increasing the salience of devolution.

If Ireland had had no special history as regards controversies over self-Government, the problem of devolution from the Imperial Parliament to

legislatures in the four countries making up the United Kingdom would still be an urgent one (Adkins 1920: 326-327).

That devolution would still have been a subject of some urgency regardless of Ireland was, Adkins argues, the product of Parliamentary overload and the associated constitutional problem of an imbalanced relationship between a diminished legislature and increasingly powerful executive (Adkins 1920: 326-327).

As this review has highlighted, this perspective was not unique to Adkins. Fears about the consequences of Parliamentary overload were identified as a significant catalyst for the Conference on Devolution (and the devolution debates of the late nineteenth and early twentieth century more broadly) by contemporary analysts in the form of Chiao, Pim and Hayden, and crucially by actors on either side of the Conference on Devolution's divide. Yet by looking at the Conference on Devolution purely through the prism of the Irish Question, scholars such as Jackson and Kendle risk understating (or even omitting) the broader network of forces that were also integral to its establishment.

Moving from the historiography on federalism and territorial politics in Britain and Ireland, this literature review will now explore the modern political science literature on territorial governance in the UK and how this literature has engaged with the Conference on Devolution. The general trend here has been to treat the Conference in a rather cursory and perfunctory manner (see Wiseman 1958: 242; Kellas 1990: 426 and Hazell 2006: 40 for examples of this minimalistic approach to the Conference on Devolution). However, both Bogdanor and Mitchell, in their respective accounts of Devolution in the United Kingdom, offer some interesting observations on both the

Conference, and the dynamics that resulted in its establishment, which are worth considering here.

On the whole, Bogdanor in *Devolution in the United Kingdom* (1999) provides a rather descriptive approach to both the Conference's proceedings and its inability to agree on a scheme of subordinate legislatures (Bogdanor 1999: 48-50), and he essentially adopts a similar perspective to Jackson and Kendle in stressing the role of Ireland in providing the momentum for federal devolution. As a result, therefore, Bogdanor views the 1921 Government of Ireland Act, when Lloyd George dealt with Ireland separately to a pan-UK scheme of devolution, as the moment when any prospect of reform "disappeared entirely" (Bogdanor 1999: 50). However, he does suggest that the Conference was a far more practical event than the prevailing historiography might suggest. It was, he argues, a forum established not to deliberate on the merits of reform, but rather to "propose a practical scheme" (Bogdanor 1999: 48). In addition, by placing the Conference alongside other war and post-war reform initiatives such as the 1916-17 Speaker's Conference, which resulted in the 1918 Representation of the People Act, Bogdanor can be seen as further emphasizing the credentials of the Conference as a serious event aimed at securing meaningful devolution proposals (Bogdanor 1999: 48).

Mitchell, like Bogdanor, dedicates only a fraction of *Devolution in the UK* (2009) to the Conference on Devolution (the Conference is mentioned on pages 96, 97, 196 and 204, though it is only pages 97 and 196 that contain any detailed engagement with the topic). What stands out, however, from this rather limited coverage, is his apparent belief (a la Bogdanor, Kendle and Jackson) that Ireland dealt the death blow to the potential of federal devolution that might have emerged from the Conference (Mitchell 2009: 97). However, it is worth noting that while he claims that the Irish Question was

the “main driving force” of the Conference’s establishment, Mitchell does concede that “relieving Parliamentary congestion was one of the main motivations behind the establishment of the Conference” (Mitchell 2009: 97).¹⁰ This is a reminder, therefore, of the coalition of forces that underpinned the Conference’s existence.

This thesis therefore represents a significant break from the existing treatment of the Conference on Devolution within the political science and political history literatures. It will provide, for the first time, a truly detailed examination of the Conference. The thesis has been able to use a far richer set of archival primary source materials, enabling a much better informed analysis. Furthermore, whereas Chiao can essentially be seen as providing a normative case for Federal Devolution, in which the Conference acts as a discursive frame, this is a study devoted to exploring the Conference itself as a unique event in the history of British territorial governance.

However, this thesis not only stands apart from the existing literature through its use of primary source evidence and its strict empirical focus; it also provides a rare example of a study that takes the Conference seriously as an event, and as a failed critical juncture in the UK’s territorial governance history. Whereas scholars such as Jackson, Bogdanor, Mitchell and Kendle have all conceptualised the Conference and the debates on federal devolution through the prism of the Irish Question, this study will emphasize, instead, the broader balance of forces that underpinned the Conference on

¹⁰ It is worth noting, however, that Mitchell has more recently spoken of the origins of the Conference purely in relation to the Irish Question. For example, in *The Scottish Question* his only reference to the Conference is to claim that it was set up as a “result of pressure for a federal solution to the Irish Question” (Mitchell 2014: 90).

Devolution and as a result will produce a significant reappraisal of the Conference as an event in the UK's territorial governance.

Far from it simply being the 'lingering diminuendo' of the centre's flirtation with federalism as an answer to the Irish Question, the Conference on Devolution will be argued to be the product of a series of high politics concerns, ranging from Ireland to Empire and particularly focused around Parliamentary congestion. By emphasizing this broader balance of forces, this thesis will argue that the Conference had a far greater significance, and even potential for success, than the existing historiography has hitherto suggested. This is not just a study of the Conference on Devolution as a case study in the history of the UK's territorial governance; it is also a significant revision of prevailing wisdoms in the current historiography.

2.3. How to study the Conference on Devolution

The primary aim of this thesis is to examine the Conference on Devolution as a case study in the history of the UK's territorial politics and provide the definitive account of this event. In doing so, this thesis also has a somewhat secondary aim of delineating insights from the Conference that are of relevance to contemporary territorial politics in the United Kingdom. As such, this thesis will be adopting a historical institutionalist methodology, drawing in particular on the ideas of Jim Bulpitt and James Mitchell as useful interpretive frames for our understanding of the dynamics at play during the Conference on Devolution's proceedings and the debates on federal devolution in this period more generally.

According to Peters et al. the “assumption that policymaking systems tend to be conservative and find ways of defending existing patterns of policy, as well as the organisations that make and deliver those policies” is at the heart of the historical institutionalist approach (Peters et al. 2005: 1276). Similarly, Pierson has noted that historical institutionalism “recognises that political development must be understood as a process that unfolds over time... [and] stresses that many of the contemporary political implications of these temporal processes are embedded in institutions” whether these take the form of formalised rules, policy structures or norms (Pierson 2000: 264-265).

Historical institutionalism, therefore, essentially conceptualises policymaking and political change as a “discrete process, characterised by extended time periods of considerable stability, referred to as ‘path-dependency’, interrupted by turbulent ‘formative moments’”¹¹ (Peters et al. 2005: 1276). Path dependency, at its most basic, is the notion that “institutional choices made early in the development of a policy area delimit policy choices thereafter” (Lowndes 2010: 70). This concept and the associated claim that “history matters” are crucial to the appeal of historical institutionalism as a

¹¹ By this, Peters et al. are referring to the concepts of ‘punctuated equilibrium’ and ‘critical junctures’ (Thelen and Steinmo 1992: 15). According to this model, institutions are characterised by long periods of stability, which are periodically ‘punctuated’ “by crises that bring about relatively abrupt institutional change, after which institutional stasis again sets in” (Thelen and Steinmo 1992: 15). This notion of “critical junctures”, where radical changes in the external environment can bring about institutional change, has itself been the subject of criticism. It has, for example, been criticised on the grounds of being wise after the event, what Peters et al. call “retrospective rationality” (Peters et al. 2005: 1277). Thelen and Steinmo have also argued that a problem with this approach is that “institutions explain everything until they explain nothing” (Thelen and Steinmo 1992: 15).

methodology, as it provides the theoretical leverage “for understanding policy continuities over time within countries” (Thelen and Steinmo 1992: 10).

Historical institutionalism has been trumpeted as providing “the theoretical bridge between ‘men (who) make history’ and the ‘circumstances’ under which they are able to do so” (Rothstein quoted in Thelen and Steinmo 1992: 10). In order to maximise the utility of the historical institutionalist method in this regard, this thesis employs the ideas of two, scholars on territorial governance: Jim Bulpitt and James Mitchell. That both men have been selected is not only because both adopt broadly historical institutionalist approaches in their studies (Bradbury 2006: 559; John 2010: 352-353; Mitchell 2004: 3), but because utilising the ideas of both enables this thesis to provide a bridge between policy makers (the ‘centre’) in territorial governance and the peculiarities of the territories that they are seeking to govern.

2.4. Bridging Bulpitt and Mitchell: a holistic perspective on the UK’s territorial governance

As noted in the introductory chapter, the Conference on Devolution was an event encompassing key features from the territorial governance literature, whether it is the actors involved, from the central government to the constituent units of the state, to concepts such as the balance of power between these respective actors (Jeffery 2008: 545; Urwin 1982: 19-20; Wellhofer 1989: 341-343, 352; Keating 2008: 63-65). It is therefore an event that clearly lends itself towards being treated as a case study in the history of the United Kingdom’s territorial governance. However, while there is a rich vein of literature that can be used to provide the theoretical underpinning necessary for

“analytical generalization” (Klenke 2008: 70) to be established from this case, this thesis will rely primarily on the ideas of two political scientists, James Bulpitt and James Mitchell.

The work of James Bulpitt in *Territory and Power in the United Kingdom* (2008) is particularly useful as a means of understanding the strategy and motivations of the centre (a term which for the purposes of this thesis encompasses both governmental and parliamentary elites) in both the broader devolution debates of this era and the Conference on Devolution more specifically. In particular, Bulpitt’s value in this area is derived from *Territory and Power’s* clear focus on the centre’s territorial statecraft (Bulpitt 2008: 62). In analysing territorial politics through the lens of the centre, he provides insights that can be used in this thesis as a means of analysing the centre’s territorial management, including the motivations that underpin the centre’s territorial statecraft (2008: 20, 62, 99).

Of particular importance, is Bulpitt’s concept of the centre’s ‘operational code’ (Bulpitt 2008: 93, 115). At the heart of this code is a distinction between ‘high’ and ‘low’ politics, with the centre’s statecraft dominated by its desire to maintain control over high politics (Bulpitt 2008: 20, 50, 65) This is a focus that not only leaves the centre willing to delegate ‘low politics’ to institutions and/or agents in the periphery (what Bulpitt terms a dual polity) (Bulpitt 2008: 20, 65), but is also the source of constitutional reform, with territorial modernisation dependent on the emergence of critical junctions whereby governability and security crises threaten the political order and the centre’s control over high politics (Bulpitt 2008: 86). This latter point is of particular importance when considering the high political challenges facing the centre

in the period leading up to the establishment of the Conference on Devolution in 1919-1920.

While scholars such as John and Keating have identified the relevance of Bulpitt's conceptual toolkit in analysing contemporary approaches of the centre to territorial politics, specifically New Labour and its devolution programme in the 1990s (Keating 2009: 178-179; John 2010: 345, 356-357, 361-362), Bulpitt's concepts also appear to have significant value to add to a study of the Conference on Devolution. His idea of an 'operational code' seems particularly useful, for example, as a means of analysing the centre's approach to reform, not least because his claim that challenges to the centre's control of high politics are required for it to consider reform appears particularly relevant when one considers the domestic, economic and international challenges that faced the UK state in this period. In particular, this emphasis on high political challenges as a necessary condition for the centre to consider reform appears to have significant value in explaining the emergence of the Conference on Devolution, a Conference that appears to have been at least partly driven by fears that Parliament was an increasingly deficient high politics actor as a result of Parliamentary congestion and changing relationships between the Imperial centre and the Dominions and Colonies (Hayden 1920: 476-477; Hall 1920: 196).

The centre's focus on safeguarding its control over high politics is closely connected to Bulpitt's description of territorial 'modernisation' in the United Kingdom as a highly conservative process (Bulpitt 2008: 99). While the centre was willing, as was just discussed, to concede varying degrees of autonomy to the periphery on matters of low politics, (Bulpitt 2008: 143), any reform was limited in nature and studiously

avoided any changes that would diminish the centre's sovereignty (Bulpitt 2008: 160). With this centrist focus, Bulpitt's ideas may offer potentially important insights for this thesis' analysis of the Conference on Devolution, particularly in helping to understand how the Conference's membership (composed entirely of Parliamentarians) approached the question of devolution and the motivations of the different power blocs within the Conference.

Looking beyond the "centre" whether that is in terms of the Government or Parliamentary elites, we can find another source of concepts and theories of relevance to the Conference on Devolution from the work of James Mitchell, particularly the insights and arguments he outlines in *Devolution in the UK* (2009). While Bulpitt provides ideas that can be used to conceptualise the centre's engagement with the Conference on Devolution, Mitchell can help us to understand the relationship between the 'periphery' (i.e. the constituent nations of the UK) and the Conference. Of particular importance is Mitchell's conceptualisation of the UK as a 'state of unions,' a paradigm which essentially argues that analysis of territorial politics in the United Kingdom requires an understanding of all the unions that formed the United Kingdom (including the Anglo-Welsh 'union' and the unification of England) and the "persistence of their legacies" in the UK's continued development (Mitchell 2010: 86; Mitchell 2009: 12-13, 220-222).

As a result of these distinct nation-specific roles and histories within the UK state, it is unsurprising that Mitchell argues that territorial governance is asymmetric and nation-specific in nature (2009: 6, 220). For example, Mitchell quotes the former Lord Chancellor, Lord Irvine, who claimed that New Labour's devolution project was

asymmetrical, because “the UK is an asymmetrical entity” (Irvine quoted in Mitchell 2009: 153). Mitchell’s *State of Unions* paradigm also offers a useful frame when analysing the sub-state dimension of the Conference on Devolution. In particular, it provides a potentially important explanatory tool when assessing the demands and tactics of Conference members from the various nations and when examining the way in which the various nations, via these representatives, viewed each other.

Both Bulpitt and Mitchell therefore provide potentially important, historical institutionalist, perspectives on territorial governance. On their own, Bulpitt and Mitchell offer important, but somewhat exclusively focused, vantage points on territorial governance in the United Kingdom. Using both of their insights, however, can allow this thesis to understand both the tactics and statecraft of the centre during the Conference on Devolution, but also the territorial peculiarities that underpinned the Conference’s deliberations.

Bulpitt provides clear arguments that can help us understand what makes the centre, in a sense, ‘tick’ i.e. its prejudices when it comes to territorial governance and the motivations that might lead it to consider reform. Mitchell, on the other hand, focuses on the constituent nations and his *State of Unions* concept can better inform our analysis of how and why the different nations of the United Kingdom shaped the Conference’s proceedings. Using the ideas of both Bulpitt and Mitchell can help provide the “theoretical bridge”, between policy makers and the context in which these actors are operating, that historical institutionalism is meant to provide (Rothstein quoted in Thelen and Steinmo 1992: 10). In doing so it, can help shape an analysis of the Conference on Devolution that takes both the centre and the periphery seriously.

2.5. The evidence used for this thesis.

a) Primary Source Materials

Given the historical nature of the subject matter and the limited availability of secondary source materials examining the Conference on Devolution, archival work has been a pivotal aspect of this thesis. The collections of The National Archives, the British Library, the Bodleian Library and the Parliamentary Archives have been used extensively to collect essential primary source materials ranging from the proceedings of the conference to cabinet minutes and memoranda. In addition, this thesis has used the physical and digital archives of *The Times*, *The Daily Mirror*, *The Observer* and *The Manchester Guardian*.

Before going any further, it is worth noting the challenges that have faced this thesis in collecting primary source evidence. One particular challenge has been the absence of a detailed transcription of the Conference's proceedings, even within the papers of the Gilbert Campion, the Conference's secretary. This appears to be a failing that the Conference has in common with the 1916-1917 Speaker's Conference on Electoral Reform, of which Campion was also the secretary (Baker HL Deb 17th January 2011 Vol. 724 Part No.94 c.58). Indeed, the closest Campion's papers come to an account of the Conference's actual proceedings is a diary entry, dated 14th April 1920, dedicated to the "the concluding stage of the Speaker's Conference" (GCA/2/2). This entry covers the Speaker's "attempts", for want of a better word, to reconcile the differences over devolution within the conference and the negotiations, behind the

scenes, between the Speaker and sympathetic others, to counter Murray Macdonald's attacks on the Speaker's proposals for Grand Councils.

With this focus on the final stages of the Conference, Campion's diary entry actually complements the personal reflections on the Conference's proceedings provided by both Lord Gorell and Viscount Gladstone. Lord Gorell's diary entries, deposited with the rest of his personal papers in the Bodleian Library, for example, provide a useful account of the Conference's proceedings; however these entries diminish considerably after December 1919, a reflecting of his waning enthusiasm and increasing pessimism about the fate of the Conference (see for example: Gorell's diary, entries dated 2nd, 4th, 9th and 15th December 1919). As a result, the crucial closing stages of the Conference are not covered in the same degree of detail that can be found in Campion's diary.

Despite these limitations, Gorell's diary does, however, provide valuable commentary on the dominant role the Speaker played in the Conference's proceedings. This is an influence that is first regarded with admiration by Gorell, but is later viewed with hostility (see Gorell's diary entries for 6th November 1919, 9th December, 15th December and 16th December). Gorell's attitude shifts considerably from considering the Speaker to be "the most admirable chairman" (Gorell's diary, entry dated 6th November 1919), to seeing him, instead, as a Machiavellian operator "using every means in his power to get us [the Conference's members] to adopt" (Gorell's diary, entry dated 16th December 1919) a scheme described as "perfectly drivelling suggestion quite at variance with the elementary principle of real devolution" (Gorell's diary, entry dated 9th December 1919). This is a stark change of opinion that not only reflects the scale of

the divisions within the Conference on the question of how the devolved bodies should be composed, but also the tactics and conservatism of those, such as the Speaker, who were closest to the centre. Indeed, the Speaker is described by Gorell as a man that can only be able to see things “from a House of Commons point of view” (Gorell’s diary, entry dated 15th December 1919).

Viscount Gladstone’s papers, deposited in the British Library, are even more limited than either Lord Gorell or Campion’s personal papers when it comes to providing detailed accounts of the Conference’s sittings. Such entries, where they exist, are generally thumbnail, providing little detail of the actual meetings. For example, his notes on the Conference’s sitting on 4th December 1919 record little more than the fact that the Lords Charnwood, Gorell, Buccleuch and Harcourt were opposed to the division of England (Add. MS 46104). While the detail of these entries may be somewhat limited, they along with Gorell’s diary entries and media reports on the Conference (*The Times* is particularly valuable in this regard), help provide a broad timeline of the Conference’s proceedings (a letter from the Speaker to Bonar Law (BL/98/5/15) in December 1919 detailing the progress of the conference between its establishment in October 1919 up until the time of writing is also instructive).

Gladstone’s personal papers provide an invaluable collection of documents relating to the Conference, from the “Resolutions provisionally agreed to, 2nd and 4th December 1919” to the memorandums produced by himself (Add. MS 46104: On the Assumption that England is undivided’ 11th December 1919), Lowther (Add. MS 46104: Memorandum circulated by the Speaker at the request of the Conference, Christmas 1919) and by Macdonald (for example, Add. MS 46104: Memorandum circulated by

Murray Macdonald at the request of the Conference February 1920). In addition, Gladstone's private correspondence also contains a wealth of information about the Conference. This correspondence is not only invaluable in underlining the influence of Lowther in the Conference's proceedings, but also in demonstrating Gladstone's personal lack of enthusiasm for devolution.

As this thesis will demonstrate, these papers demonstrate that despite being a signatory to Macdonald's devolution scheme, Gladstone was naturally sceptical of such a reform and indeed he seriously considered endorsing Lowther's scheme of intra-parliamentary reform. While Gladstone's entreaties to Lowther for the Grand Council scheme to be applied solely to legislative, rather than administrative, powers has been mentioned briefly elsewhere in the literature (Fair 1980), this thesis is unique in providing a detailed assessment of Gladstone's devolution dilemma and the rationale behind his eventual endorsement of Macdonald's scheme.

This thesis' unique contribution, however, is its use of the personal papers of Gilbert Campion, the Conference's secretary. No other study of the Conference on Devolution has used these papers, though, as was mentioned earlier, this is partly attributable to the fact they were not deposited in the Parliamentary Archives until 7th November 1978. While Campion does not provide detailed transcripts of the Conference's proceedings, his personal papers include key papers and memoranda outlining the drafting of the speaker's proposal for grand councils, and the development, within the Clerk's office, of critiques of the Macdonald plan. The Campion papers, though limited in certain respects, are a particularly rich source in outlining the perspective of the centre (understood in this instance as both the Core Executive and

the Parliamentary elite) on the problems that faced the-then institutional status quo and the reforms that would be permissible.

These papers highlight a preference for as minimal a reform as possible, within intra-Parliamentary lines and display a fervent opposition to any reforms (i.e. directly elected devolved institutions) which might potentially diminish the prestige and influence of the Imperial Parliament. Similarly they also underline the hurdle to devolution represented by England. The English Question was not only, as Chapter Three will demonstrate a constant feature of the debates on devolution in the late nineteenth and early twentieth century, but it is also an ever present feature of the archival materials and is highlighted by, amongst others, the Conference Report and Campion's papers (GCA/6/16; Conference on Devolution 1920).

So, for example, these papers, while acknowledging a need for reform, simultaneously emphasize reforms that are as minimal as possible within a system of Parliamentary sovereignty. Indeed, one can see from the memoranda how the eventual Speaker's plan of Grand Councils emerged from an initial idea of enhanced Parliamentary Committees, with one paper (within the papers included in GCA/6/16) in particular essentially talking of the Grand Councils as "Local Standing Committees"- emphasizing both the intra-Parliamentary and subordinate nature of reform as envisioned by the Speaker and his supporters.

The motivations behind, and potential methods for, reform are further revealed in the papers of Sir Edward Goulding (the Conservative Member of Parliament for Devizes 1895-1906 and Worcester 1908-1922) who was a member of the Conference

on Devolution. Among these papers is a memo (WAR/6/8), in which he not only outlines the necessity of reform as a means of enhancing Parliament, but also aligns himself with Macdonald's plan as the necessary reform to reduce the Parliamentary workload. When one looks at Goulding's memorandum alongside the Campion papers, Macdonald's publications and cabinet memoranda, one can delineate a considerable degree of consensus behind the necessity of reform. Reform, however, is universally draped in the language of preserving Parliamentary sovereignty. In particular, reform is deemed necessary and frequently depicted as urgent due to Imperial and institutional considerations, most notably the sense in which Parliament has become less effective as a high politics operator.

Goulding's arguments in favour of reform are also echoed in the writings of Murray Macdonald, the key pro-devolutionist actor in the Conference. While Macdonald does not appear to have deposited his personal papers with an archive, this thesis has been fortunate that Macdonald was a prolific writer and commentator. Not only can we look at his memorandum included in the Conference Report, but we also have the several letters penned by Macdonald to *The Times* and a monograph, *The Case for Federal Devolution*, which he wrote in 1920 after the Conference reported. These sources detail not only Macdonald's defence of separately elected subordinate legislatures and the case, as he saw it, for federal devolution, but also provide a deconstruction of the Speaker's proposals.

Finally, while formally omitted from the Conference's considerations, as a result of the UK Government developing its own plans in the form of the 1920 Government of Ireland Act, Ireland nevertheless cast a shadow on the Conference as it did on the

debates on federal devolution more broadly in this period. In order to properly assess this influence and examine its relationship to the Conference on Devolution specifically, this thesis has made extensive use of Cabinet papers deposited in the National Archives (see for example: CAB/24/5/12, CAB/24/50/86 and CAB/23/12/13).

b) Secondary Source Materials

This thesis has sought to provide a thorough analysis of secondary materials and the existing literature on the conference, the debates on federalism and devolution and territorial governance more broadly in the United Kingdom. The literature review at the start of this chapter has outlined the existing academic engagement with the Conference on Devolution and while there is only a limited historiography on the subject, these materials will play an important role in the thesis. Of greater significance, however, will be contemporaneous secondary source materials, in particular press reports on the Conference and federal debates of that period more broadly. For example, as was noted in the previous section, *The Times* is a useful source of contemporary analysis of the Conference's proceedings. These reports, as with the academic literature that exists, will be of fundamental importance in contextualising our study of the Conference on Devolution.

2.6. Categorizational Questions: a Conference chaired by the Speaker or a Speaker's Conference?

Having placed this study in the context of the existing academic literature and having also outlined the manner in which this thesis will analyse the Conference on

Devolution, a final, but important, task for this chapter is to resolve an existential question: namely, whether it was a conference chaired by the Speaker or a Speaker's Conference. This may seem a rather arcane question, but, the case of the Conference on Devolution is a fine example of the ambiguity that exists over the definition of Speaker's Conferences more generally (White and Parker 1st December 2009: 10).

In a Lords debate on the Parliamentary Voting System and Constituencies Act of 2011, Lord Lipsey, in defence of a motion calling for a Speaker's Conference to be established on reforming the size of the House of Commons, alluded to the ambiguous position of the 1919-1920 Devolution conference vis a vis other Speaker's Conferences, "there is also the ambiguous case of the 1919 Speaker's Conference on Devolution, which was chaired by Mr Speaker Lowther, and nobody seems to be able to decide whether it was a Speaker's Conference" (Lipsey 17th January 2011 c.103). Indeed, the House of Commons Library note on Speaker's Conferences, published in December 2009, lists the Conference on Devolution under the category of "other conferences chaired by Speakers or former Speakers" (White and Parker 1st December 2009: 9). The aim of this section is, therefore, to assess whether such ambiguity is warranted, assessing what criteria exist for the categorization of Speaker's Conferences and the relationship of the Conference on Devolution to such benchmarks.

As a device which was used to discuss important aspects of twentieth century politics and constitutional reform and was resurrected by the previous UK Labour Government in 2007, one would presume that finding a definition of what constitutes a Speaker's Conference is relatively straightforward. Such assumptions, however, bear little relation to reality and practical experience. As the House of Commons Library note

on Speaker's Conferences acknowledges, "there are no fixed or statutory rules governing the creation of Speaker's Conferences" (White and Parker 1st December 2009: 10). This was a point raised by Lord Lipsey in the earlier mentioned 2011 Lords Debate,

I devoted a happy Sunday to examining the records of past Speaker's Conferences. Funnily enough, that is not as easy a task as you might think, partly because there is no agreement on how many Speaker's Conferences there are (Lipsey 17th January 2011 c.103).

In a state famous for its lack of a codified constitutional document, perhaps this absence of clear rules for what represents a Speaker's Conference is unsurprising. However, that does not mean that one cannot discern key principles and features of Speaker's Conferences, fundamentals that can enable us to judge whether the Conference on Devolution may or may not be deemed suitable for membership of that exclusive club:

- The state of origin question. Speaker's Conferences are argued by White and Parker to be the product of executive action: "Prime Ministers had, on a number of occasions during the twentieth century, asked the Speaker to establish and chair conferences to reach all-party agreement on reforms to electoral law" (White and Parker 1st December 2009: 3). Indeed, White and Parker go on to note in more strident terms that "it is notable that Speaker's Conferences have been brought into being as a result of executive, rather than Parliamentary action. The Speaker was chosen to chair the conference as a model of impartiality" (White and Parker 1st December 2009: 3). In his classic study *Royal Commissions and Departmental Committees in Britain*, T.J. Cartwright similarly defined Speaker's Conferences as a committee "which comes into existence upon an announcement by Mr Speaker acting at the request of the Prime Minister" (Cartwright 1975: 9).

- Speaker's Conferences are associated with electoral reform questions, but can also be seen as driven by the general principle that constitutional changes "should be agreed as far as possible on an all-party basis" (White and Parker 1st December 2009: 3).
- They are generally composed of members of the House of Commons, but this is not a golden rule-the 1916 and 1944 Conferences, both of which are recognised by the Commons Library Paper as Speaker's Conferences, included members of the House of Lords (White and Parker 1st December 2009: 10)
- In terms of publication, "the reports of the Conferences have usually been in the form of letters from the Speaker to the Prime Minister, published as Command Papers" (White and Parker 1st December 2009).

From the House of Commons Library note, the following appear to be defining characteristics of Speaker's Conferences: 1) A basis in Governmental, rather than Parliamentary instigation, 2) the chairmanship of the conference by the Speaker, 3) focus on electoral reform considerations requiring cross party consent, 4) normally composed of Members of the Lower rather than the upper house and 5) publication as a letter to the PM (a reflection perhaps of a Speaker's Conference's roots in executive ordinance) presented to Parliament as a command paper. The question now is how closely the Conference on Devolution meets these criteria.

1) A basis in Governmental, rather than Parliamentary instigation:

At first this may seem an immediate threshold that the Conference on Devolution fails to meet. As the Speaker wrote in his letter to the Prime Minister, among the

circumstances which led to the establishment of the Conference was a debate in the House of Commons on a motion proposing an inquiry into establishing subordinate legislatures (Lowther 1920: 2; see Hansard 3rd-4th June 1919 for details of the debate's proceedings). This resolution passed by the margin of 137 to 34 on 4th June 1919 and in October the Conference on Devolution was formally established.

However, while the roots of the Conference are in a resolution passed by the Commons this should not exclude the role of the Government in its establishment. The Prime Minister formally announced the membership of the Commission and invited the Speaker of the Commons to sit as Chair of the Conference with a responsibility to report back to the Government, a process which brings the Conference on Devolution into line with the formalities and technicalities of 'Speaker's Conferences' outlined in the House of Commons Library Paper (White and Parker 1st December 2009: 3, 10).

Furthermore, while the Conference's origins lie initially in a resolution of the House of Commons, as the aforementioned Library paper also notes, Parliament has also proved instrumental in the establishment of other 'Speaker's Conferences' (White and Parker 1st December 2009: 3, 5). Indeed, the first Speaker's Conference of 1916-1917 was established as a result of "a difficult debate in Parliament on the *Special Register Bill* in 1916" (White and Parker 1st December 2009: 3-4). A formal resolution may not have passed, but Parliamentary pressure was therefore of critical importance in the Government's decision to call a conference, with Asquith realising the necessity of a formal cross-party body as a means of quelling Parliamentary dissent (White and Parker 1st December 2009: 3-4). The 1944 Speaker's Conference was also rooted in

Parliamentary pressure, established following a two day debate in the House of Commons in February 1944 (Hitchner 1952: 418).

While the resolution voted on the 1st February 1944 was to welcome the “proposal of His Majesty's Government to set up a Conference on Electoral Reform and Redistribution of Seats and to invite Mr. Speaker to preside” (HC Deb (5th Series) 2nd February 1944 Vol. 396 c. 1288), the origins of this debate can be found in a Commons debate in 1940. This debate led the Government, as Herbert Morrison acknowledged in the Commons, to commit to further discussion on electoral reform, a commitment fulfilled by the establishment of the 1944 Speaker’s Conference (Morrison cited in White and Parker 1st December 2009: 5). In both the 1916-17 and 1944 Speaker’s Conferences, therefore, Parliamentary debates played an integral role in their establishment. To exclude the 1919 Conference on the grounds that it originated from a parliamentary resolution seems illogical and inconsistent.

2) The chairmanship of the conference by the Speaker:

On this benchmark at least the Conference on Devolution falls into line with recognised ‘Speaker’s Conferences.’ The Conference on Devolution, as appointed by the Prime Minister, was, on the basis of invitation, chaired by James Lowther the then Speaker of the House of Commons.

3) A focus on electoral reform considerations requiring cross party consent

The Conference on Devolution, as its very name indicates, was not a commission focused on questions of electoral reform, but rather the establishment of subordinate legislatures for England, Scotland and Wales. However, it appears more fruitful to look at the principles, rather than the specifics, which underpinned the Speaker's Conferences set up between 1916 and 2008. While all of these conferences focused on questions associated with electoral reform, at the heart of their existence was the notion that major political and constitutional reforms "should be agreed as far as possible on an all-party basis" (White and Parker 1st December 2009: 3). Though the 1919-1920 Conference was not focused on questions of electoral reform, the emphasis on cross party consent was at the heart of its operation (Lowther 1920: 2). Not only was the Conference, like the 1916-17 electoral reform conference, constituted on an all-party basis and chaired by the Speaker due to his position as being, at least in theory, above the partisan fray, but the inability of the Conference to produce a unanimous, cross-party model of devolution was considered a fundamental explanation for the Conference's ultimate failure (Lowther 1920: 6; Bogdanor 1999: 48-50)

4) Normally composed of Members of the Lower rather than the upper house

As with the other criteria that can be delineated from the House of Commons, this is not so much a hard and fast rule, rather a reflection on the general experience of the Speaker's Conferences. While the 1919-1920 Conference on Devolution appears to represent a deviation from this overall practice with representation split equally between members of the Lords and Commons (Lowther 1920: 2), it was, as the

Commons library note acknowledges, by no means unique in having Lords represented in its membership. The 1916-1917 Speaker's Conference, for example, was comprised of five members of the Lords and twenty seven members of the House of Commons and the 1944 Speaker's Conference included three peers alongside twenty nine MPs (White and Parker 1st December 2009: 3-4, 5, 10).

While the Conference on Devolution had an unusually large number of Lords as members, in comparison to the 1916-17 and 1944 Speaker's Conferences, it should be noted that the remit of the 1919-1920 conference was far more general and wide ranging than those examples, which essentially dealt with arrangements affecting the House of Commons. In addition, despite the unusually large number of peers, the 1919-1920 conference shared the same total number of members as the 1916-1917 and 1944 Speaker's Conferences (White and Parker 1st December 2009: 3-5).

5) Publication of the Conference report as a letter to the Prime Minister

As with the second criteria, this is an area where the Conference on Devolution quite categorically corresponds with the benchmarks outlined in the House of Commons Library paper on Speaker's Conferences. The Conference on Devolution report was initially sent in the form of a letter from the Speaker to the Prime Minister and then laid before Parliament as a Command Paper (Command Paper 692 1920).

6) *A constructivist debate?*

With no fixed rules underpinning the categorization of Speaker's Conferences it is also worth considering, alongside the general benchmarks outlined above, the question of how contemporary observers and participants viewed the Conference, particularly in relation to the Speaker's Conference of 1916-1917. In essence, did political actors at the time of the Conference see it as a Speaker's Conference, in the same way that the 1916-1917 one was, or did they see it as fundamentally different to that prior experience?

Chiao's *Devolution in Great Britain*, which remains the only dedicated analysis of the Conference on Devolution (Chiao 1969 [1926]), for example, refers to the conference as a "Speaker's Conference" (Chiao 1969: 5), as does Frederic Pim, a Southern Irish unionist political commentator and businessman, in his 1919 pamphlet *Home Rule Through Federal Devolution* (Pim 1919: 16). Among the broadsheets, *The Times* in its extensive coverage of the conference and federal devolution debates also routinely refers to the conference as "the Speaker's Conference" (see for example articles on the subject of federal devolution on 30th April 1921: 11; 6th July 1920: 15; 13th May 1920: 17; 27th April 1920: 16). Similarly, *The Observer* refers to the "Speaker's Conference on Federal Devolution" in a report discussing rumours of divisions between supporters of more radical and more minimalistic packages of reform (Parliamentary Observer 18th April 1920: 18).

Perhaps crucial are the opinions of those that sat on the conference. Murray Macdonald in *The Case for Federal Devolution* (1920b), published after the conference

report, refers, for example, to “the Speaker’s Conference” (Macdonald 1920b: 3, 55-57). Similarly, Gilbert Champion, the secretary of the conference and as assistant clerk to the House of Commons, refers to the “Speaker’s Conference” in his diary entry, dated 14th April 1920, on the conference’s proceedings (GCA/2/1-8). Furthermore, during the course of a 1920 deputation to the Prime Minister on devolution, John Clynes, a senior Labour parliamentarian, repeatedly refers to the conference as “the Speaker’s Conference” (LG/F/255/5/2-(11): 6-9) as indeed does Sir Ryland Adkins who sat on the conference as a Liberal MP (LG/F/255/5/2-(11): 11). It is also worth noting that Viscount Curzon also makes reference to the “Speaker’s Conference” in a letter to Andrew Bonar Law which complains about the absence of cabinet discussion prior to the Conference’s establishment (BL/98/1/5).

Finally, and perhaps conclusively, the then Speaker, James Lowther, in his memoirs *A Speaker’s Commentaries* (1925) situates the Conference on Devolution among the ranks of Speaker’s Conferences (Lowther 1925: 267). Comparing the 1919-1920 conference to the 1916-1917 Speaker’s Conference on electoral reform, Lowther appears in little doubt that the former is the same Parliamentary mechanism as the latter,

The conference was composed on *the same* lines as the Electoral Reform conference had been, and of an equal number of peers and commoners representative of all sections in proportion to their numbers in their respective Houses (Lowther 1925: 267 emphasis added).

Far from representing an “other” form of political enquiry, Lowther, the Speaker who had chaired what is universally recognised as a “Speaker’s Conference” in 1916-1917,

therefore appears to quite clearly consider the Conference on Devolution an equal to that earlier endeavour.

Having examined the five general benchmarks outlined in the House of Commons Library note on Speaker's Conferences, and the perceptions of contemporary political actors and observers, there appear to be no logical reasons for the ambiguity of the Conference on Devolution's status, or should that be the Speaker's Conference on Devolution. While it is true that the Conference does diverge from recognised Speaker's Conferences by focusing on a constitutional reform question other than electoral/franchise changes and does, arguably as a result of its more sweeping agenda, include a higher proportion of peers than the 1916-17 and 1944 Speaker's Conferences in its membership, the conference does not break with the essence of the currently recognised or accepted Speaker's Conferences.

Indeed, in the one other apparent departure from other Speaker's Conferences, the origin in a Parliamentary resolution, scrutiny has shown that this distinction does not provide a substantial barrier to the Conference on Devolution being recognised as a Speaker's Conference. Parliament was of similar value as a catalyst for both the 1916-17 and 1944 Speaker's Conferences and like all Speaker's Conferences, ultimately it was the Government of the day that established the Conference on Devolution.

The Conference on Devolution shares the same fundamentals as a Speaker's Conference and perhaps most importantly of all, it was recognised by contemporaries as a Speaker's Conference. Indeed, the then Speaker of the House of Commons, James Lowther, clearly saw no procedural difference between the 1916-17 Speaker's

Conference on Electoral Reform and the 1919-1920 Conference on Devolution. One is therefore left wondering whether posterity would have been so ambiguous about the status of the Conference on Devolution had it resulted in success rather than breaking down in ignominious deadlock (see the postscript to Part Two). Or, indeed, had the issue of devolution not disappeared from the political agenda for the best part of half a century after the Conference reported.

2.7. Conclusion

Having placed this study within the context of the existing academic literature, outlining the historical institutionalist method adopted and the importance of Bulpitt and Mitchell's insights on territorial governance, this chapter has outlined a clear blueprint for a study of the Conference on Devolution. This is a thesis that represents a stark break from existing approaches to the Conference on Devolution, such as they exist, within both the political science and political history literatures. Unlike Chiao and Coupland, this is a study that has been able to benefit from a greater access to primary, archival sources, and has used modern political science concepts to produce a robustly empirical and analytical account of the Conference on Devolution, one in which the wider relevance of the conference to territorial politics in the UK will be firmly outlined.

This thesis therefore represents an analysis that is rooted in clear methodological principles and, as a result of the historical institutionalist methodology adopted and combination of Bulpitt and Mitchell's different vantage points on territorial governance, will effectively analyse the Conference on Devolution as a case study in territorial governance in the UK. This will be a case study that is therefore able to

delineate important insights for scholars of territorial governance in Britain today.

These are lessons that could prove particularly useful at a time when a similar state-wide review of territorial governance could well move from the political to the institutional agenda.

3.1. A system in crisis? The background to the Conference on Devolution

This chapter will outline and explore the developments that led to the establishment of the Conference on Devolution in October 1919 and saw federal devolution move from an idea that had hitherto existed on the margins of the political agenda in the 1870s into a subject of serious political debate, championed by figures across the partisan spectrum and within the cabinet. While historians such as Jackson, Boyce and Kendle have asserted that the Irish question was the main driving force of the centre's consideration of federal devolution (Boyce 1991: 119; Jackson 2004: 216-224; Kendle 1989: 238), this chapter will instead demonstrate that Ireland was one part of a broader nexus of factors that enhanced the saliency of devolution and federalism to policymakers in this period.

Beginning with a discussion of Ireland, this chapter will move on to analyse the impact of Imperial considerations, concerns about parliamentary congestion, and the role played by national sentiments in the non-Irish periphery, in federal devolution's evolution from an idea on the margins of political discourse into the subject of a Speaker's Conference whose establishment was endorsed by the House of Commons. In doing so, this chapter will provide a rebuttal to Irish-centric historiographies of federal devolution in this period, underlining the need for a multi-dimensional approach to federal devolution more broadly and the Conference on Devolution specifically.

3.2. Ireland

Ireland, as was outlined in the preceding chapter, has been frequently considered to be the dominant force behind the rise of devolution as a subject of interest and political significance in the United Kingdom from the 1870s onwards. While Ireland's influence in the centre's consideration of constitutional reform is, unsurprisingly, often framed around the question of Irish Home Rule, as this section will highlight Ireland also played an important role in stimulating discussion on schemes of state-wide devolution (Boyce 2006: 60-61; Reid 2014: 333-334). Though this pan-UK dimension was rarely a predominant feature of the Irish Question, it was a dynamic that became particularly significant in the minds of Westminster elites by the latter stages of the Great War, fuelled by the continuing intensification of the crisis in Ireland.

The importance of Irish national sentiment to more expansive schemes of political and constitutional reform can be seen in the origins of the Irish Home Rule movement, in particular in the policy prospectus of Sir Isaac Butt (Reid 2014: 333). Butt, an Irish Member of Parliament, was a founding father of the Irish Home Rule movement who, through the formation of the Home Government Association in 1870 (which was then replaced by the Home Rule League in 1873), played a key role in the political mobilisation of Irish nationalism (Chiao 1969: 15-16; Reid 2014: 339, 344). However, at the heart of the Home Government Association's nascent programme was not a demand for Ireland to be given Home Rule in isolation (Chiao 1969: 14-17; Reid 2014: 334, 336-340). Instead Butt, described by Reid (2014) as an advocate of

“constructive unionism”¹² (Reid 2014: 337), envisaged a “federal arrangement” that would see “England, Scotland and Ireland, united under one sovereign... a common executive and a common national council for all purposes necessary to constitute them” (Butt quoted in Chiao 1969: 15-16). Right from the outset of the period 1870-1920, when ideas of Home Rule and devolution began to grow in salience and importance, a pan-UK dimension was present and, indeed, played an important role in framing Butt’s perception of Home Rule.

This Britannic dimension to Irish Home Rule faded, however, under the leadership of Charles Stewart Parnell. Parnell, who had been a more radical member of the Home Rule League during Butt’s leadership, oversaw the transformation of Irish Home Rule from an issue on the fringes of life in Westminster into a subject that would dominate British politics during the late nineteenth and early twentieth centuries. When the pan-UK dimension re-emerged after 1910, it would be a re-emergence that, at least initially, owed much to a resurgence in the influence of the Irish Parliamentary Party.

Buttressed by a landslide victory in the 1906 election, the Liberal Party had avoided serious engagement with the Irish Question during Campbell-Bannerman’s administration and the early stages of Asquith’s Premiership (O’Day 1998: 208). Asquith, in particular, sought to avoid the subject of Irish Home Rule (Jackson 2004: 123-125). Empowered by the massive parliamentary majority bequeathed by Sir Henry

¹² This concept is heavily influenced by the work of Colin Kidd’s *Union and Unionisms* (2008) and in particular Kidd’s argument that Scottish nationalism and unionism should not be treated as mutually exclusive ideologies (Kidd 2008: 260-263; Reid 2014: 356). Drawing attention to Kidd’s discussion of a discourse within nineteenth and twentieth century Scottish nationalism that sought the modification, rather than the destruction of the union, Reid claims that a conceptualisation of Butt’s support for Home Rule as a “nationally-minded unionism” “deserves scrutiny” (Reid 2014: 356-357).

Campbell-Bannerman in 1908, Asquith was initially able to chart a middle course (very similar to that he adopted on the question of female suffrage) of providing platitudinous support to Irish nationalists (aware that the Liberals may require their support in the future), while avoiding any serious and detailed engagement with what was “an unpopular cause in England” (Jackson 2004: 123-124). When Asquith did, therefore, advance an Irish Home Rule Bill in 1912, it would be the product of short-term political necessity, rather than conviction (O’Day 1998: 232; Bew 2002: 20).

Having lost their parliamentary majority in the January 1910 General Election, the Liberal Party’s rediscovery of Home Rule can therefore be seen as a product of instrumentality (Bew 2002: 20). As George Dangerfield noted in his seminal work *The Strange Death of Liberal England*, Asquith’s actions following the January 1910 election could be summarised succinctly, “in order to keep himself in power, he had made a bargain with the Irish” (Dangerfield 1997 [1935]: 34). To preserve a Liberal administration, to force the “People’s Budget” through a recalcitrant upper chamber, and to then pass legislation to curb the Lords’ power and prevent a similar crisis arising again, Asquith therefore had only one option: to abandon triangulation and provide a definite offer of Irish Home Rule to Redmond as the price for Irish nationalist support in the Commons (Dangerfield 1997: 32-35; Bew 2002: 20-22). The second General Election that year, in December, provided the constitutional means for action (O’Day 1998: 232). Irish Home Rule may have been “an abstraction, a cause with the glamour gone from it” (Dangerfield 1997: 42) for the bulk of Asquith’s Liberal Party, but with the passage of the Parliament Act (and the removal of the Lord’s absolute veto powers) Asquith was left with no room for manoeuvre vis-à-vis his patrons in the Irish Parliamentary Party (Dangerfield 1997: 42).

That it took the alignment of political dependency and the removal of a major excuse for procrastination to force Asquith to act on Home Rule (Jalland 1979: 757) clearly indicates the conservatism of the centre on questions of constitutional reform. Such conservatism appears very much in line with Bulpitt's notion of an 'operational code' that underpins the centre's territorial governance praxis (Bulpitt 2008: 93, 115). According to Bulpitt, this code focuses the centre's attention on matters of 'high politics,' the issues that fundamentally matter to the centre's sovereignty and prestige (Bulpitt 2008: 115). While the centre would be willing to allow varying degrees of autonomy over matters of 'low politics' to the periphery, the centre's approach to territorial governance more generally would be highly conservative, with serious constitutional reform only conceded at critical junctures when the centre's ability to govern was seriously threatened (Bulpitt 2008: 86, 99).

For Asquith this governability crisis appeared, at least initially, to be a question of survival in governmental office (O'Day 1998: 232; Jackson 2004: 124).¹³ However, for Asquith's cabinet colleague, Winston Churchill the case for constitutional reform extended beyond partisan politics (Muldoon 1996: 331). Churchill was instead motivated by the high politics of Empire and, in particular, the belief that devolution was necessary for the preservation of England's role at the heart of the Imperial order and as a means of eliminating the obstacles that hindered this Imperial mission (Muldoon 1996: 331).

¹³ However, as civil war in Ireland became an increasingly realistic prospect, the governability crisis posed by Ireland would rapidly evolve from a challenge to Asquith's Liberals ability to remain in public office into a crisis that threatened the entire state order (Bew 2002: 94, 106).

Churchill's initial foray into the devolution debate came in the form of proposals submitted to a Cabinet committee on Home Rule that was established by Asquith in 1911 (Toye 2007: 113).¹⁴ That only two ministers, Winston Churchill and Lloyd George, actually submitted ideas to this committee is arguably rather indicative of the centre's lack of interest in matters of constitutional reform (Jalland 1979: 764; Toye 2007: 113). However, it is also worth considering in more detail both the factors that led Churchill and Lloyd George to uniquely engage with this committee and what this might suggest about the centre's approach to both territorial management and, more specifically, federal devolution. According to Toye both men devised "proposals that tried to remove the issue's [Irish Home Rule] sting by including some measure of devolution for other parts of the United Kingdom too" (Toye 2007: 113), a strategy that would be a recurrent feature of the centre's ruminations on the Irish Question.

Of the two, however, Churchill's proposals were certainly the more radical (Jalland 1979: 765). He proposed a scheme of national devolution for Wales, Scotland and Ireland, with England sub-divided into ten units on the grounds that "it would be absolutely impossible that an English Parliament, and still more an English Executive, could exist side by side with an Imperial Parliament and an Imperial Executive" (CHAR21/22: Churchill 24th February 1911: 1). This in itself is a reminder of how longstanding a problem England has been for those contemplating territorial governance reforms in the United Kingdom. However, what is perhaps more significant is to understand why Churchill proposed a system of pan-UK Home Rule.

¹⁴ For detailed examples of Churchill's contributions on Federal Devolution see CHAR 21/22: Churchill, W. (9th March 1911). Devolution Memorandum. Printed for the use of the Cabinet, Churchill, W. (1st March 1911). Devolution. Printed for the use of the Cabinet, Churchill, W. (24th February 1911). Devolution. Printed for the use of the Cabinet.

The son of Lord Randolph Churchill, the Tory cabinet minister who was at the vanguard of unionist opposition to Home Rule in the Nineteenth Century, Winston Churchill was not a natural advocate of Home Rule, and was not sympathetic to the cause of Home Rule in and of itself (Muldoon 1996: 311-312). In an article examining Churchill's dalliance with reform, Muldoon (1996) notes that historians have been divided over whether Churchill was motivated by personal advancement within the Liberal Party, choosing Home Rule as a means of proving to doubters within the party of his genuine attachment to Liberalism¹⁵, or whether he was inspired by questions of high politics and in particular concerns over Britain's continued position of leadership in the Empire (Muldoon 1996: 311-312).¹⁶

Muldoon clearly considers Churchill's dalliance with Home Rule to be a clear product of high politics considerations (Muldoon 1996: 315-316, 331). On the Irish front, Churchill believed that Home Rule would remove "a source of tension and hostility within the Empire", but perhaps more importantly it would be a gesture that would boost Britain's image among the "numerous Irish diaspora in Australia, Canada and America" (Muldoon 1996: 316). Churchill, from this perspective, did not approach the Irish dimension in isolation, rather his Home Rule policy was based on broader considerations of Britain's place as a high politics power both within the Empire and more globally (Muldoon 1996: 315-316, 331; Jalland 1979: 765). Churchill's support for a package of devolution that extended beyond Ireland further underlines this, with

¹⁵ Churchill had "rattled" from the Conservatives to the Liberals in 1904 resulting in scepticism in some Liberal quarters as to his real motives and support for the Liberal Party (Muldoon 1996: 311-312)

¹⁶ As will be discussed later in this chapter, the turn of the twentieth century witnessed a rise in concerns about Britain's imperial and international position, with a growing distance between the metropolis and the dominions (Muldoon 1996: 331; Hall 1920: 196), while on the European continent there was increasing agitation between competing imperial powers (Muldoon 1996: 315).

Muldoon arguing that this scheme of devolution all-round was aimed at a “restructuring and fortification of the position of the Imperial Parliament at Westminster” (Muldoon 1996: 316).

National, or in the case of England regional, devolution would, Churchill believed, enable Westminster to be a more focused and efficient Imperial Parliament, delegating local issues to local legislatures and as a result “increasing its diplomatic weight in the capitals of Europe and reasserting its place at the centre of a changing Empire” (Muldoon 1996: 316). Churchill’s Home Rule plan was therefore far from a fit of constitutional radicalism, rather it was the epitome of the centre’s conservative statecraft, accommodating constitutional reform in order to preserve the sovereignty of the centre in high politics. As Churchill himself described his proposal, it would be “a strong national policy which shall be worthy of old England and fit her to *remain* the centre of the Empire” (emphasis added, Churchill quoted in Muldoon 1996: 331).

However, while Churchill’s proposal was a reminder of the predominant role of high politics in the centre’s statecraft, Lloyd George’s proposal took the conservatism of the centre further still (Jalland 1979: 767). As with that of Churchill, Lloyd George’s scheme had a pan-UK dimension, again underlining the importance of not treating Irish Home Rule in isolation from broader questions of territorial governance in this period. Lloyd George’s thinking on Home Rule, however, was defined more by calculation and political necessity than by ideas of imperial mission or national sentiment (Jalland 1979: 765-767; Toye 2007: 113-114). For example, while Lloyd George acknowledged that Home Rule “might work well enough” for Scotland and Wales, he argued that the onus should instead be on tackling the more pressing issue of the Irish Question, rather

than on the pursuit of Home Rule all round (Jalland 1979: 765-767). Not least because he believed that the English public was “wholly unprepared for such a scheme” (Lloyd George quoted in Jalland 1979: 766).

Lloyd George’s pragmatism appears, in retrospect, to represent what Bulpitt would have considered a classically centrist approach to territorial management (Bulpitt 2008: 20, 68, 93, and 99). Ireland, which provided the biggest challenge to the centre, should, in his mind, be the main focus of Governmental action, whereas in Wales, Scotland and England, areas where demand was less politically powerful, there could be merely a promise of future action. Indeed, in the interim Lloyd George suggested that such action could take the form of grand committees; a minimal degree of change which, as an intra-parliamentary reform, would result in no lessening of the Westminster Parliament’s sovereignty (Jalland 1979: 767).

Pragmatism and a focus on high politics were clearly the hallmarks of the attitudes of senior Liberals to the Irish question (and the associated subject of Home Rule all round). A number of Scottish and Welsh Liberals had sought to use the possibility of Irish Home Rule as a means of achieving “the devolution of legislative and administrative powers to a Scottish assembly” (Jalland 1979: 763; Chiao 1969: 124-142; Kendle 1989: 133-134). However, Asquith was able to return to a tactic of triangulation: allowing the Cabinet committee to discuss federalism in 1911, for example, while avoiding firm policy commitments to supporters of more expansive schemes of devolution (Jalland 1979: 768-770). One prime example of this statecraft can be seen with the 1912 Irish Home Rule Bill, a Bill that Asquith introduced as a step to a “larger and more comprehensive policy” (Asquith quoted in Jalland 1979: 770), even though he

had absolutely no intention to produce any such policy in reality (Jalland 1979: 770). His was a “token gesture” to the federal idea, driven purely by pragmatism and statecraft, ensuring that his obligations to the Irish nationalists could be met, while retaining “the support of the Welsh and Scottish nationalists and those Liberals who were lukewarm about Irish Home Rule” (Jalland 1979: 770). In his ambiguity, Liberals of all persuasions could find succour.

Unsurprisingly there can be no such ambiguity about the importance of high politics considerations to Asquith’s Irish policy. For example, while Asquith’s rhetorical presentation was suitably uncertain with respect to federalism, the 1912 Irish Home Rule Bill was explicitly drafted as a measure that reaffirmed the sovereignty of the Westminster Parliament (Jackson 2004: 127). That it was framed in such a manner is not surprising given the importance of high politics to Asquith’s statecraft, but it was arguably also a response to one of the more disturbing developments, from the centre’s perspective, in British politics post-1910: the increasing militancy of Conservative and Unionist opposition to Irish Home Rule (Bew 2002: xi, 20-24).

As Bew has noted, the Conservative Party’s behaviour in this period is a core component of a “toxic” legacy for unionism in the British Isles (Bew 2002: ix, xi). Indeed, Bew goes on to claim that “the descent of Ireland into violence after 1916 must therefore, at least partly, be the responsibility of the obdurate Ulster unionist and British Tory leadership in 1912” (Bew 2002: xi). The period following the 1911 Parliament Act had witnessed the Conservative Party’s descent from the norms of British political culture and tradition, with the party instead adopting an increasingly extra-parliamentary opposition to the Liberal Government’s Irish policy (Bew 2002: 20-

21). As Bew and Boyce have both noted, the passage of the Parliament Act became a key justification for this turn (Bew 2002: 20-21; Boyce 2006: 53-54). For a number of Conservative and Unionist politicians, the Parliament Act's origins in the grand bargain between the Liberals and the Irish nationalists not only meant that the Act was unconstitutional, but that the constitution itself was in a state of suspension (Bew 2002: 20-21; Boyce 2006: 53-54).

Denouncing both the Parliament Act and the 1912 Irish Home Rule Bill, the Conservative Party openly encouraged the militancy and foreboding rhetoric of unionists such as Sir Edward Carson (O'Day 1998: 138-154-155). According to Toye, Bonar Law's rhetoric showed "that the opponents of Home Rule were prepared to countenance the use of force" (Toye 2007: 114) in pressing their case, as can be further seen from the interventions of the extrovert Tory MP, F.E. Smith in 1912 (Jackson and MacRaild 2006: 232). Smith's speech at a Unionist rally in Belfast in 1912, for example, was laced with the language and symbolism of war (Jackson and MacRaild 2006: 232). Not only did Smith claim that "if the Unionists of Liverpool are told that they have no concern with the quarrel, and they must stand idly by while the liberties of Ulster are usurped, the rifles will go off by themselves" (Smith quoted in Jackson and MacRaild 2006: 232); at a speech later that year he even pledged "10,000 young men of Liverpool" in the event of civil war in Ireland (Smith quoted in Jackson and MacRaild 2006: 235). This may have just been the rhetoric of a man whose life was, to quote the historian David Cannadine, "shamelessly, successfully and simultaneously devoted to self-advancement, self-advertisement, self-indulgence and self-destruction" (Cannadine 1984: 10), but it does reflect the irresponsible role of many in the Conservative Party in the deepening Irish crisis pre-World War One (Bew 2002: xi).

Indeed, an even more sinister aspect of this Tory recklessness can be seen in the Unionist gun running conducted as a means of arming unionists for a potential civil war (Jackson 2004: 154). This gun-running not only involved organisations linked to the Conservative Party, such as the British Unionist Organisation, but Jackson has argued that “it is possible that the Conservative leadership knew about, blessed and (in the case of Walter Long) helped to fund gun-running in Larne in April 1914” (Jackson 2004: 154-155). With Ireland teetering on the brink of civil war and the breakdown of the traditional relationships between Government and Opposition “it seemed to many that the United Kingdom was on the brink of grave difficulties which only a scheme of federalism could possibly resolve” (Kendle 1968: 349).

The urgent dilemma, therefore, for the centre was how to satisfy both nationalist sentiment in Ireland and at the same time overcome an increasingly bellicose and militant unionist opposition. In seeking to bridge these two contradictory forces, the idea of a broader, Britain wide dimension to Home Rule rose in salience among a number of Parliamentarians, including both Liberals and more moderate members of the Conservative and Unionist Party (Kendle 1968: 353). One such Unionist was Leo Amery, an MP who prior to 1913 had combined a vision of Imperial Federation with an opposition to federal devolution within the UK (Kendle 1968: 350). By December 1913, however, he had moved to a position urging moderation and the consideration of a convention whose “reference would be to ascertain the possibility of a federal or devolutionary scheme for the United Kingdom and the reforms *required to restore a working constitution*” (emphasis added, Amery quoted in Kendle 1968: 350). This sense of a political order in, or at the very least on the brink of, crisis became a powerful motivating force for federal devolution (Kendle 1968: 349) and by 1913 Austen

Chamberlain, the son of the man who broke with Gladstone over Home Rule, was well on his way to becoming one of the most prominent champions of federal devolution within the Conservative Party (Jalland 1979: 782-783; Kendle 1989: 165).

While the battle to win support for federal devolution among Conservatives and Unionists was an often lonely one for federalist unionists such as Lord Selborne and F.S. Oliver prior to 1914 (Jackson 2004: 217), the First World War became a critical moment in the British political elite's engagement with the Irish Question and federal devolution (Jackson 2004: 203). Jackson (2004) has described the period between 1916 (when Lloyd George replaced Asquith at the head of the wartime Liberal-Conservative coalition) and 1920-1 as the "historical consummation, the final resolution of Ireland's 'long' nineteenth century" (Jackson 2004: 203). It was in this, as it were, end-game period for Ireland's relationship with the union that federal devolution appears to have moved beyond the campaign of a spirited few individuals to become a major aspect of political debate in Britain (Jackson 2004: 203). This period, described by Bulpitt as a time of "crisis" for the centre (Bulpitt 2008: 114-120), created a unique opportunity for a more expansive pan-UK dimension to Home Rule and, as Jackson notes, saw "the first sustained and significant lobbying over a devolved or federalised United Kingdom" (Jackson 2004: 203-204).

Lord Selborne and F.S. Oliver would play a central role in this lobbying effort. Both men, as will be explored in the next section, were leading advocates of imperial federation in the early twentieth century and in particular would be at the forefront of the Round Table movement (an organisation established in 1909-1910 to make the case for a federated British Empire) (Burgess 1995: 71; Kendle 1968: 332-334, 340).

However, by 1916-1917 the rapid deterioration of the political situation in Ireland (particularly in the aftermath of the Easter Rising) resulted in both men dedicating considerable time and attention to resolving the Irish question (Boyce and Stubbs 1976: 63, 66-67). In pamphlets such as *Ireland and the Imperial Conference: is there a way to a settlement?* (1917), *Ulster and a Federal Settlement* (1918), and in a memorandum written for the 1917-1918 Irish Convention¹⁷, Selborne and Oliver consistently called for a scheme of domestic federation within the United Kingdom (Boyce and Stubbs 1976: 63-69). Such a scheme, allied to special status being provided for Ulster¹⁸, would, Selborne and Oliver believed, enable nationalist Ireland's wish for autonomy to be respected, while assuaging the fears of Ulster Unionists such as Sir Edward Carson (Jackson 2004: 221).

¹⁷ This memorandum is a testament to the diversity of forces which underpinned federal devolution between 1870 and 1920. For example, its recommendation of domestic federation within the United Kingdom was not only made on the ground of pacifying Ireland, but also as means of combatting "the congestion of business and overloading of the existing machinery [i.e. Parliament]" (Selborne and Oliver quoted in Boyce and Stubbs 1976: 68; Boyce and Stubbs 1976: 68). Furthermore, this memorandum also appears to align with Mitchell's concept of a 'state of unions' (Mitchell 2009) and the nation-specific nature of territorial governance in the United Kingdom (Mitchell 2009: 12-13, 220-222). For example, while England and Scotland (Wales was omitted from Selborne and Oliver's memorandum) would have the autonomy to adopt for their legislatures a form of constitution which 'it may judge to be most harmonious with its traditions and problems' (Boyce and Stubbs 1976: 68-69; Selborne and Oliver quoted in Boyce and Stubbs 1976: 69), the Irish legislature would have no such freedom and would instead be constituted of a single senate and a lower chamber each for Ulster and Southern Ireland (Boyce and Stubbs 1976: 69). Rather than a uniform system of devolution for the United Kingdom, the model posed by the memorandum would therefore have been asymmetric, at least at an institutional level.

¹⁸ At various points in Selborne and Oliver's musings this Ulster exceptionalism took the form of either exclusion from an all-Ireland Parliament, the creation of an Ulster-only chamber within a broader Irish Parliament, or the creation of two separate Parliaments: one for Ulster and one for the rest of Ireland (Boyce and Stubbs 1976: 68-71).

Selborne and Oliver's ideas secured serious consideration from political elites across the political spectrum and among members of the wartime coalition Government (Boyce and Stubbs 1976: 69; Jackson 2004: 217-222). The formation of a wartime coalition Government in 1915, first headed by Asquith and then Lloyd George in 1916, meant that for the first time both the Liberal and Conservative Parties had a stake in a resolution of the Irish crisis (Jackson 2004: 204; Gibbons 2013: 520). Such a resolution would become particularly pressing for the centre by the latter half of the Great War, with the intensification of the crisis in Ireland following the Easter Rising in 1916 (Bew 2002: 150; Jalland 1979: 783; Gibbons 2013: 520). The experience of the Great War served to normalise relations between the Conservative and Liberal Parties, with both parties bound together by the responsibilities of office at a time of national emergency (Jackson 2004: 217). This spirit and a mutual feeling of irritation and despair at having failed to pacify either nationalist or unionist Ireland, led to a reconsideration of federal devolution among the most senior members of the British political elite (Jackson 2004: 217; Boyce 2006: 61). The revival of interest in the Irish Question more generally was seen by *The Round Table* as emblematic of a Westminster elite desperate to avoid Irish secession (The Round Table 1919: 124-127).

One by-product of the centre's bid to avoid Irish secession and yet deliver Home Rule in a form that could pacify opinion in Ulster was the establishment of the cabinet's 'Long Committee' on Ireland (Boyce 2006: 62; Gibbons 2013: 508). This committee has been cited by Gibbons as evidence of the importance of federal ideas within the centre at the end of the Great War (Gibbons 2013: 508-510). However, it was also a committee panned by *The Round Table* in 1919 as little more than an exercise in procrastination that, in the opinion of that journal, had been "set up to explore for the thousandth time a

question the essentials of which have been familiar to everyone who has ever given 10 minutes consideration to the Government of Ireland” (The Round Table 1919: 125).

Even though the centre was engaging with the question of federal devolution, it was an engagement that appears to have been grudging and reactive, epitomising the centre’s instinctively conservative approach to political reform (The Round Table 1919: 125).

The effects of this half-hearted and belated approach can be seen from the disjuncture between what the centre believed could be offered to Ireland and what Ireland itself wanted. What the centre wanted appears to be relatively straightforward to discern: the avoidance of civil war and the maintenance of the union. This high politics goal can be seen in the comments of the former Liberal parliamentary candidate, Frederic Harrison, in the introduction to a 1919 pamphlet *Home Rule Through Federal Devolution*,

Reasonable Englishmen of all parties are now ready to accept any settlement of Irish problems that will not involve civil war, or abandoning the island to chaos and our enemies... short of that we are willing to adopt any kind of national government in which Ireland as a whole can be got to live and work in peace (Harrison 1919: 8-9).

While one does have to take Harrison’s sweeping rhetoric with a pinch of salt, particularly when one considers his history as both a long standing champion of Irish Home Rule and as a member of the radical wing of the Liberal Party (Biagini 2007: 63; Heyck 1974: 75; McCready 1954: 166), his essential argument, namely that the challenges posed to the centre by the deepening crisis in Ireland had forced the British political establishment to blink, has much to commend it. For example, Lloyd George, who had hitherto been lukewarm about a radical constitutional settlement to the Irish

Question (Jalland 1979: 766-767), was by this time actively promoting F.S. Oliver's pamphlet *Ulster and a Federal Settlement* as a means of ascertaining whether Northern Irish unionists would accept Irish Home Rule if it were framed within a scheme of pan-UK devolution (Jackson 2004: 222).

Significantly, these efforts were strongly influenced by Sir Edward Carson's private softening towards such a scheme (Jackson 2004: 221). Carson had become increasingly sympathetic to the idea of a federal UK as an answer to the Irish crisis, an attitudinal change was motivated by his fear (and that of Carson's colleague Lord Londonderry) that, without some concessions from Ulster Unionists, Home Rule could go ahead without an exemption for Ulster (Bew 2002: 22, 103-104; Boyce 2006: 61; Jackson 2004: 220-222). Elsewhere in the Conservative and Unionist fold, Walter Long and Austen Chamberlain both continued their campaign for federal devolution. Summer 1918 was a heady time for their campaign, with both Long and Chamberlain presenting memoranda to the Cabinet arguing for a scheme of federal devolution (CAB/24/5/12; CAB/24/50/86) and in June 1918 Walter Long's cabinet committee produced a draft Bill "for a federal system for the United Kingdom" (CAB/24/89/39).

This Bill, which was only ever debated within the confines of the Cabinet, proposed a radical scheme of federal devolution, providing Home Rule all round to "local national parliaments" in England, Scotland, Ireland and Wales (CAB/24/89/39). The Bill would have provided a reserved powers system of devolution¹⁹ to these sub-

¹⁹ Under a reserved powers model of devolution, all areas that are not explicitly reserved to Westminster are within the general competence of a devolved body (Tierney 2007: 740). A conferred powers system, on the other hand, limits the competence of a devolved institution to those powers specifically granted to it by Westminster (Trench 2010: 128).

state parliaments and would have reduced the size of the House of Commons dramatically, from over seven hundred members to “three hundred and fifty” (CAB/24/89/39). Walter Long’s conversion from being a staunch defender of an unreconstructed United Kingdom to a champion of constitutional reform could be seen as a reflection of the high political pressures felt by those at the centre. Yet, the Cabinet’s procrastination on the matter, from June, when the draft Bill was published, until the October 1919, when the Cabinet agreed to establish another cabinet Committee (again chaired by Long) on Irish and pan-UK Home Rule (CAB/23/12/13; Jackson 2004: 223), highlights the continued influence of the centre’s conservative approach to territorial reform.

Yet as *The Round Table* notes, even if Westminster was moving, uncertainly and hesitantly, towards Irish Home Rule as part of a package of pan-UK federal devolution, federalism held little attraction to the people of Ireland for whom this would be too little too late,

In the Ireland of today it [federal devolution] will be difficult even to get a hearing... thus it has come about that at the moment Great Britain seems to be much more interested than Ireland in the various plans which are being put forward on the other side of the channel for the solution of the Irish Question (The Round Table 1919: 126-127).

By the time the centre had begun to toy with ideas of a pan-UK settlement to the Irish Question, it was already too late (The Round Table 1919: 126-127). Nationalist Ireland had already gone too far from any feasible accommodation within the UK state (Jackson 2004: 222); a political reality that Jackson has highlighted as a critical reason for the ultimate failure of federal devolution (Jackson 2004: 222-224).

However, such an argument, while appealing in many ways, retrospectively presupposes that the campaign for federal devolution was uniquely driven by developments in Ireland. Indeed, it is worth looking at the Damascene conversion of Walter Long from stalwart defender of the unitary state to a federalist. While there is some ambiguity about the precise reason for this transformation in personal attitudes (The Round Table 1919: 124; Gibbons 2013: 508), it appears to have been a product of high politics considerations that extended beyond Ireland. Long himself claimed that his dramatic change in opinion was made “with an eye to the greater problems of Imperial reconstruction” (Long quoted in The Round Table 1919: 124), a point that reinforces the interconnection of the Irish debate with broader challenges to the centre. The reasons for Long’s adoption of federal devolution can be further seen in a memorandum he presented to the coalition Cabinet on 9th May 1918 (CAB/24/50/86).

Rather than an attitudinal shift driven by the Irish crisis, what instead emerges from this memorandum is Long’s belief in the need to realign Westminster’s relationship with her colonies and dominions and to reduce the burden on Parliament as both a domestic and imperial legislature, as he notes,

We must find some way of dealing with the vast amounts of business involving legislation which we must ask Parliament to pass if we are to take full advantage of the lessons we have learned in the War, and make the Empire really self-supporting and able to defend herself against the world (CAB/24/50/86).

Ireland, therefore, was but one of a broader range of factors that influenced Long’s federalism. It is to these other factors, Imperial relations and parliamentary overload

and their role in underpinning the devolution debates of the late-Nineteenth and early-Twentieth century that this chapter will now turn.

3.3. Empire

Ideas of a federated British Empire had a long history in the United Kingdom and were raised as early as the 1760s by Thomas Pownall MP (Colley 2014: 108). Pownall, who had visited the American colonies prior to his election to Parliament, was a man convinced not only of the similarities that endured between mother country and the colonies, but more pressingly “of the ways in which the colonies were becoming different people, and of the weaknesses of British authority over them” (Colley 2014: 109). Pownall’s prescription was for the political integration of Britain’s colonies, “for Britain to boldly convert itself into a new kind of transatlantic realm”, in short for Britain to become part of a federation (Colley 2014: 110).

Despite the best endeavours of Pownall, it would not be until the late nineteenth century that the United Kingdom’s political and intellectual elites would engage with federation in any systematic or serious way (Burgess 1995: 27). This growth in constitutional reform’s saliency among British intellectuals and political elites can again be seen as following Bulpitt’s idea of a centre reacting to high politics crises (Burgess 1995: 23). While, as was outlined in the previous section, Ireland played a hugely important role in this development, it was just one a nexus of forces that included changes in Britain’s world role and her relationship with her imperial periphery (Burgess 1995: 23). As Boyce and Stubbs (1976) note,

By the last quarter of the nineteenth century she [Britain] had conceded the principle of responsible government in Canada, the Australian colonies and New Zealand. Moreover, within the United Kingdom itself, a nationalist minority was threatening the unitary system of government established by the Act of Union with Ireland in 1801... Economically, Britain was facing the challenge of a rapidly industrialising world: tariff barriers erected by Germany in 1879, Russia in 1881, France in 1882 and the United States in 1890 began to raise questions about the efficacy of laissez-faire and free trade (Boyce and Stubbs 1976: 55).

The late nineteenth century was, therefore, a period dominated by a number of serious threats to the UK central state's power, domestically, economically and imperially, dynamics that represented a significant "challenge to traditional political certainties" (Burgess 1995: 23).

As a result, "imperial federation", a term coined in 1867 by the Rev. William Arthur, became the subject of intensive debate among civic and political society (Burgess 1995: 23-26) from the 1870s onwards. Indeed, it became a subject that was "ubiquitous" in the mid-Victorian literature of the 1870s (Burgess 1995: 27; Reid 2014: 335). In the printed press, editions of *The Contemporary Review* in January and April 1871 included articles on "Imperial Federation" and "An Imperial Confederation" (Burgess 1995: 26). Similarly, the conservative journal *Fraser's Magazine* in 1871 published two articles dedicated to the subject of "Great Britain Confederated" (Burgess 1995: 28).

Imperial federation was not, however, an idea that only gained vitality from internal and external shocks to the central state, it was also inspired by the values and ideas of the age (Boyce and Stubbs 1976: 55). The "Darwinian concepts of survival of

the fittest” would prove to be particularly influential for a number of advocates of imperial federation, who saw a federated Empire as a path to a continued survival of greatness “which no longer seemed to lie in Britain’s small islands” (Boyce and Stubbs 1976: 55). Unsurprisingly, therefore, the impulse to do something about the Empire was evident not just among intellectuals, but Parliamentarians also in this period (Burgess 1995: 27).

For Burgess, the vitality of this nascent movement for reform and the “novel” impulse to transform Britain’s Imperial relations can be witnessed in the conference held on the 19th and 20th July 1871 at the Westminster Palace Hotel, and attended by representatives of both the Liberal and Conservative parties, including the brother of the Conservative grandee and future Prime Minister the Marquis of Salisbury, Lord Eustace Cecil (Burgess 1995: 26-27). The presence of political grandees and members of leading Tory families such as Cecil was not just evidence of the importance of imperial federalism to Conservative political thought in the late nineteenth century (Burgess 1995: 26), but more fundamentally can also be viewed as a response to the aforementioned novel high political threats that the centre faced in this period (Burgess 1995: 26-28); a time in which “British primacy in industrial, commercial, foreign and military fields was challenged seriously for the first time” (Burgess 1995: 28). Facing new and significant challenges to the constitutional order, the British political elite appeared to be willing to entertain, along the lines outlined by Bulpitt in *Territory and Power*, constitutional reforms that one might view as an acceptance of change in the name of conservation (Bulpitt 2008: 81-82, 99). To quote the novelist Giuseppe Di Lampedusa, “if we want things to stay as they are, things will have to change” (Di Lampedusa 2007:20).

The campaign for imperial federation advanced further in 1884 with the formation of the Imperial Federation League, a body that can again be seen as the result of high politics considerations and threats. While, as Burgess writes, “no single reason explains the formation [of the league]”, it can be seen as (in part) a response to the,

Increasing activity of foreign powers in areas of the world which threatened the safety and independence of British colonies; and secondly, the persistence of agricultural and industrial depressions in the United Kingdom in the 1870s and 1880s (Burgess 1995: 35).

Two ballasts of British high politics, economic and imperial power and prestige, were quite clearly under significant threat in this period of time and it is not surprising, from a Bulpittian perspective on territorial reform, that these challenges acted as a catalysts for the formation of organisations such as the Imperial Federation League as mechanisms to restore the British political elite’s control of the high politics agenda (Burgess 1995: 28). Indeed, aside from the Imperial Federation League, this period also saw the establishment of the National Fair Trade League, an organisation which argued for imperial preference as means of insulating the Empire from the economic challenges posed by America and Germany (Burgess 1995: 37). Furthermore, in 1883, the Regius Professor of Modern History at Cambridge University, J.R. Seeley declared his support for imperial federalism in his Victorian best seller, *The Expansion of England* (Burgess 1995: 37; Boyce and Stubbs 1976: 56).

The Expansion of England, essentially an edited collection of lectures delivered by Seeley at Cambridge University, was a significant intellectual and political defence of imperial federation based on the high politics concern of Britain’s standing in the world

(Boyce and Stubbs 1976: 56). For Seeley, the country essentially faced a choice between two paths: the first would be to retain the status quo, leaving England on the “same level as the states nearest to us on the Continent, populous, but less so than Germany and scarcely equal to France” and left vulnerable to the power of Russia or the United States of America (Seeley 2010 [1883]: 15-16). Or, in Seeley’s opinion, the nation could choose an alternative path,

England may prove able to do what the United States does so easily, that is hold together in a federal union countries very remote from each other. In that case England will rank with Russia and the United State in the first rank of states, measured by population and area, and in the higher rank than the states on the continent (Seeley 2010: 16).

The UK state and its political elite therefore faced, in Seeley’s opinion, a question that went to the heart of the country’s prestige and power: should the UK, in the face of a changing international landscape, complacently drift into mediocrity, or should the centre seize the day and reform, via an imperial federation, to sustain the country’s position as a great power at the heart of a stronger Empire (Seeley 2010: 15-17). *The Expansion of England* is a volume that not only reinforces the importance of high politics and statecraft to debates on devolution and federalism in the UK, but also the seriousness with which imperial federation was considered in late nineteenth century Britain (Burgess 1995: 37).

The role of high politics as a catalyst in the rise in saliency of federal ideas can also be seen in the rhetoric of some opponents of federation. Among the reasons that inspired critics of federation was the allegation that federal reform ideas were tantamount to an exercise in stylistic reforms to the constitution, rather than a

substantial redrawing of power structures. As Burgess notes, “critics of the movement suspected imperial federation of being a ruse designed to perpetuate British hegemony rather than a scheme based upon the division of sovereignty between distinct and coordinate governments” (Burgess 1995: 53).

However, while some critics of imperial federation based their opposition on the belief that it would result in the effective retention of the existing political order, other opponents, such as the Victorian Conservative politician Sir Charles Adderley, feared the exact opposite. For both Adderley and Edward Freeman, the Regius Professor of Modern History at Oxford University (Burgess 1995: 50-55), federation represented a clear constitutional rupture which would violate parliamentary sovereignty and compromise the centre’s prestige and influence over high politics (Burgess 1995: 53-55). Indeed, Freeman would go as far as to declare that for imperial federation to be established “the Kingdom of Great Britain and its Parliament will have to sink to the level of the State of Rhode Island and its legislature” (Freeman quoted in Burgess 1995: 55). Freeman’s key concern was that federation would result in the creation of a new Imperial Parliament, reducing the British Parliament to a subordinate institution, equal in stature and in power to the Parliaments of New Zealand and Canada (Burgess 1995: 55). Federation, Freeman concluded, would render Westminster a diminished institution, a minor actor among a constellation of chambers within an Imperial federation, rather than maintain its then position at the apex of Empire (Burgess 1995: 55).

Whether as a force for change or a force for constitutional continuity, the dominance of high politics considerations can be clearly seen in the debates over

imperial federation in the late nineteenth century. A further example of this influence can be seen in the report of a committee established by the Imperial Federation League in July 1891 to produce definite proposals for federation that could be presented at a future colonial conference (Burgess 1995: 61, 66-67). Not only was the high politics issue of imperial defence cited as “the essential precondition of a federation of the Empire”, but it also formed the heart of the report’s rather vague proposal of an ‘Imperial Council’ (Burgess 1995: 69).

The Imperial Federal League’s proposals and the organisation itself were political and popular failures (Burgess 1995: 69-70). Gladstone’s Government swiftly rejected both the creation of an Imperial Council and the demand for a special colonial conference in 1893 (Burgess 1995: 69-70). Furthermore, while by 1893 the Imperial Federal League commanded a membership that spanned the territories and colonies of the Empire (including, for example, branches in British Guiana, Barbados, New Zealand and Cape Town), “it achieved only modest public support” (Burgess 1995: 69-70). Therefore, despite the League’s establishment as, at least in part, a response to high political challenges and threats to the British politico-economic order, it is clear that such threats were not deemed so compelling as to convince the centre to make the transition from debate and dialogue to decisions in favour of reform (Burgess 1995: 69-70). Simply it seems that imperial federation lacked the urgency that Bulpitt has argued is essential in convincing the centre to change (Bulpitt 2008: 86, 145, 150-151). Despite this, however, the late nineteenth century was, in retrospect, arguably the zenith of the imperial federation ideal.

For example, while the Imperial Federal League lacked a mass appeal, imperial federalism did command the interest of a number of political elites. This can be seen in the earlier mentioned imperial conference in 1871, and from the staunch support given to imperial federalism from leading political figures such as W.E. Forster, Earl Grey and, most notably, the Earl of Rosebery, who served as Prime Minister from 1894-1895 (Parry 2006: 368-371). Imperial federalism would re-emerge in the twentieth century as a subject of intellectual and political discussion, championed, in particular, by the Round Table movement (Burgess 1995: 71). However, these new advocates of reform would soon become less focused on achieving Empire-wide federation than on securing domestic reform, albeit in the name of Empire (Boyce and Stubbs 1976: 74).

After Gladstone's rejection of an Imperial council and colonial conference, the imperial dimension to federal reform did not reappear in any meaningful way until 1909-1910 with the establishment of the Round Table movement (Burgess 1995: 70). In the interim the Boer War had served to undermine the jingoistic pride of the 1890s, with the derisory personal fitness and health of British soldiers, and the associated humiliating longevity of the war, resulting in an introspective turn from the British public and the country's political elites (Judd and Sturridge 2013:1). Rather than imperial reform, domestic reform became the political issue of the early years of the twentieth century as was exemplified by the Liberal Party's landslide victory in 1906 on a platform of "peace, retrenchment and reform" (Herrmann 1997: 64).

It was amidst these less than precipitous political circumstances that the Round Table movement was established in 1909-1910 (Burgess 1995: 71). The Round Table,

an organisation heavily infused with the Whiggish notion of an “organic union”²⁰ between the peoples of the Empire that would provide the basis for the evolution of the Empire into a federation, “served as the crucial repository of Imperial federationist ideas in the United Kingdom” and would go on to dominate “British intellectual thinking about Empire-Commonwealth relations until the 1920s” (Burgess 1995: 71-73). Its influence, such as it was, was heavily dependent on its membership, which was recruited from political and social elites (Burgess 1995: 71). This elite membership base would prove particularly important in explaining the access of leading members, such as F.S. Oliver, to policymakers (Kendle 1968: 332-4, 340).

The rejuvenation of interest in imperial federation was largely inspired by the sense that Parliament as an institution was increasingly failing to conduct its duties in the fields of foreign and imperial affairs (Chiao 1969: 93-95). This was arguably a consequence of parliamentary congestion (a subject that, as will be explored in the following section, was in its own right a major catalyst for the discussion of federal devolution). Writing in *Devolution in Great Britain*, Chiao argued that foreign affairs is where “the failure of Parliament is most complete”, with a combination of inadequate knowledge and time resulting in MPs being unable to properly scrutinise the foreign policy of successive Governments (Chiao 1969: 93). The scale of congestion was such

²⁰ These ideas of an organic development of the Empire into federation were not unique to the Round Table movement, with the idea of an “organic bond” uniting the Anglo-sphere having been a popular theme in Victorian Britain, inspiring the Imperial federalism of the Liberal politician William Forster and popularised by Sir Charles Dilke in *Greater Britain: A Record of Travel in English-Speaking Countries during 1866 and 1867* published in 1868 (Burgess 1995: 33). This emphasis on the Anglo-sphere within Victorian federalist thinking is particularly important, with India the notable exclusion from that period’s ideas of federated Empire, a decision which according to Burgess showed that “without doubt, their conception of Empire was racial” (Burgess 1995: 31-34, 56-57).

that “dominion affairs have been practically neglected” in Parliament (Chiao 1969: 95). Between 1900-1909, Parliament, annually, spent an average of only a fifth of a day’s debate on Canada and Newfoundland, a tenth of a day’s debate on Australia, close to nothing on New Zealand, just short of five days debate on South Africa (a figure which was presumably skewed by the latter stages of the Boer War) and one and half days debate on Egypt and the Crown colonies (Chiao 1969: 95).

With such paltry attention paid to Britain’s imperial role as a result of parliamentary congestion, it is perhaps unsurprising that this period led to an increasing concern among politicians, such as the Liberal MP and pro-devolutionist Murray Macdonald, that “we shall not long continue to hold the Empire together, unless we give more time and sympathy to its affairs than is possible at the present time” (Macdonald quoted in Chiao 1969: 95). In a flashback to Pownall’s call for a federated Empire as a means of preserving the bonds between Britain and her American colonies, fears about the growing gap between the United Kingdom and her rapidly changing and empowered “white settler colonies” (Boyce and Stubbs 1976: 56) would intensify in the decade that preceded the Conference on Devolution (Hall 1920: 196).

This anxiety can be witnessed, for example, in Winston Churchill’s aforementioned enthusiasm for a scheme of constitutional reform (Muldoon 1996: 331). While his support for reform was to some degree influenced by the ongoing debates on Irish Home Rule and on parliamentary congestion, it was largely shaped by his “concern over Great Britain’s place in the international order” and in developing a policy that would “fit her [England] to remain the centre of the Empire” (Muldoon 1996: 331). His was a patriotic imperial federalism: the sort of instrumental, high politics

focused support for federal devolution that was typical of many of the supporters of imperial federation, particularly the members of the Round Table movement (Kendle 1968: 334).²¹

However, while members of the Round Table movement shared a belief in “the organic union of the Empire” (Kendle 1968: 333), the question of how to maintain the bonds of Empire and see them evolve, so as to further enhance the Empire’s power and prestige, became a matter of fierce contention among the members of the Round Table movement (Kendle 1968: 333-334). In particular, advocates of imperial federation would divide over the question of whether imperial federation should be a standalone goal of the movement, or whether domestic federation should form an important part of an Imperial federation (Kendle 1968: 334).

It is in part due to these discussions that the Irish question came to gain a degree of prominence within the Round Table movement (Kendle 1968: 334; Boyce and Stubbs 1976: 63). As Boyce and Stubbs (1976) note, the question of whether Ireland was a “domestic problem or an imperial one” played an increasingly important role in the intellectual and political development of the Round Table movement (Boyce and Stubbs 1976: 63). This was particularly because a degree of Home Rule for Ireland would have significant implications for their ambitions of a federalised Empire. Irish Home Rule, or so figures such as Earl Grey believed, would result in the development of

²¹ This would not be sufficient, however, to persuade the most senior members of the British political establishment of the need for a federated Empire, as was made clear by Asquith’s veto of imperial institutions at the 1911 Imperial conference despite the best endeavours of imperial federalist and Prime Minister of New Zealand, Sir Joseph Ward (Burgess 1995: 73).

multi-level government mechanisms that could provide a model for a similar pan-Empire scheme of federation (Boyce and Stubbs 1976: 63).

As such, Earl Grey (an imperial federalist and the-then Governor of Canada) was convinced of the necessity for domestic federation to be established prior to imperial federation, and it was in this light that he attached importance on achieving a degree of Home Rule for Ireland (Kendle 1968: 334). For Grey, Irish Home Rule was not just a domestic matter; it would have serious consequences for his vision of the Empire and would, he believed, provide a considerable boost for the cause of imperial federation (Kendle 1968: 334). Not all imperial federalists, however, were enthusiasts for Irish Home Rule. In particular, both Lord Selborne and F.S. Oliver, both of whom were on the Unionist wing of the Round Table movement, were notable critics of Asquith's 1912 Irish Home Rule Bill, a measure that Selborne considered to be "an impossible attempt to compromise between Colonial Home Rule and Federal Home Rule" (Selborne quoted in Boyce and Stubbs 1976: 63).

However, the issue of parliamentary congestion was also, as will be outlined in some more detail later, a prominent feature of the imperial federalists' deliberations (Kendle 1968: 334). In particular, many members, Lionel Curtis being a prominent example, were concerned about the ability of the Westminster Parliament to cope as a dual legislature for Empire and the United Kingdom, an apprehension that led a number of Imperial Federalists to support a scheme of domestic federation within the United Kingdom (Kendle 1968: 334-335; Robbins 1980: 87-88). Nevertheless, there were other members who supported imperial federation on high political grounds, yet simultaneously opposed domestic federation (Kendle 1968: 338-339). Leo Amery,

Lionel Hitchens and Viscount Milner were all, for example, Unionist imperial federalists who supported imperial federation for precisely the same reason they opposed Home Rule: a belief that Britain and the Empire's high political interests were best suited by political integration, rather than disintegration (Kendle 1968: 338-339, 344).

For men like Amery, imperial federation represented the ideal reform, one that would bind Empire closer together, whereas Irish Home Rule or domestic federation represented the worst-case scenario: a path to disintegration and a diminishing of the United Kingdom (Kendle 1968: 338-344). This division, between Imperial Federalists who sought to fully integrate Britain and the Empire, such as Leo Amery, and those, like Earl Grey and Murray Macdonald, who believed in a polycentric federation that included domestic federation, arguably reflects the broad range of motives that underpinned the debates on federal devolution in the period 1870-1920 (Boyce and Stubbs 1976: 64). Indeed, it is worth noting, that despite Selborne's dislike of the 1912 Irish Home Bill, he became an increasingly vocal and public supporter of a system of UK federalism alongside imperial federation (Boyce and Stubbs 1976: 64-65). His conversion from a scepticism towards domestic federalism to becoming an (admittedly reluctant) advocate was not necessarily the product of a genuine affection for Home Rule all round, but was rather a pragmatic response to the worsening situation in Ireland (Boyce and Stubbs 1976: 64-65).

As was noted earlier, by the latter stages of the Great War Selborne, Oliver and other members of the Round Table were increasingly preoccupied with domestic proposals for political and constitutional reform (Kendle 1968: 352), with both Selborne and Oliver prominent voices in the ongoing debate about how to answer the

Irish Question (Boyce and Stubbs 1976: 63-71). That Selborne and Oliver became such active participants in this debate, and attracted serious consideration and even support from British political elites (Jackson 2004: 217-222), may be seen as just further evidence of the Jackson-Kendle-Boyce thesis: namely the predominance of Ireland in the debates on federal devolution in the years preceding the Conference on Devolution. However, to adopt such a view would be to misunderstand the nature of Selborne and Oliver's engagement with the Irish Question.

Although Selborne and Oliver were, by 1916, increasingly focused on domestic, rather than imperial, schemes of federal devolution, imperial considerations remained the predominant motivator for these actors (Jalland 1979: 761; Burgess 1995: 83; Bell 2007: 135). As Jalland notes, the Round Table became interested in Ireland precisely "because the constitutional crisis appeared to threaten the welfare of the Empire" (Jalland 1979: 761). For example, Selborne's belief that the mounting chaos in Ireland represented a challenge to the stability of the Empire, led him, despite his opposition to the 1912 Irish Home Rule Bill, to discuss with Asquith his willingness to support Irish self-government, either as a dominion or as part of devolution for the whole United Kingdom, in order to restore order in the Empire (Boyce and Stubbs 1976: 66-67). Similarly, Selborne also proposed the temporary exclusion of Ulster from Home Rule, until a scheme of pan-UK devolution could be agreed (Boyce and Stubbs 1976: 65). Not only because such a scheme may restore peace and order, but also because he hoped that domestic federation may, "by its example... facilitate a wider union of the Empire" (Selborne quoted in Boyce and Stubbs 1976: 65).

F.S. Oliver, who had long dabbled with questions of Home Rule all round and the Irish problem in his musings in *The Times* (under the pen name 'Pacificus') (Boyce and

Stubbs 1976: 63), similarly saw Ireland and the Empire as two sides of the federal devolution coin (Boyce and Stubbs 1976: 67). For example, while Oliver's earlier mentioned pamphlet, *Ireland and the Imperial Conference: is there a way to settlement?* sought to persuade the British political establishment that a conference was required to resolve the Irish question, Oliver envisaged that it would take the form of an Imperial Conference (Boyce and Stubbs 1976: 67). This was sought on the grounds that Ireland represented "one of the gravest dangers which threatens the unity of the Empire" (Oliver quoted in Boyce and Stubbs 1976: 67; Jackson 2004; 219).

Even as late as 1918, Selborne was lobbying Lord Salisbury and Walter Long on the basis of what federation could do for the country and its imperial periphery (Boyce and Stubbs 1976: 72). He remained, therefore, driven by high political concerns that meant his federalism, while in many ways evolving in response to the Irish Question, was not merely a product of that particular crisis. British prestige, the safeguarding of the Empire and, importantly, the need to lessen the congestion of Parliament at a time when post-war reconstruction would soon be required, were all forces that shaped his federalist beliefs and his lobbying (Boyce and Stubbs 1976: 72).

Selborne and Oliver's interest in Ireland was, therefore, solely dependent on the fact that the Irish crisis represented "one of the gravest dangers which threatens the unity of the Empire (Oliver quoted in Boyce and Stubbs 1976: 67). Indeed, it is telling that by September 1918, when it appeared that no scheme of federation could satiate the Irish, Selborne and Oliver quickly abandoned the Irish dimension to the schemes of domestic federation (Boyce and Stubbs 1976: 76). Instead, both men focused on a

reformed mainland of Britain within the Empire, as can be seen in a letter from Oliver to Selborne on 23rd September 1918,

It seems to me that the wise course will be to leave Ireland out of the question altogether and go for Devolution in the law-abiding parts of the United Kingdom, as a means for reconstruction (MS. Selborne 84 fol. 140).

As this correspondence between the two philosopher kings of federal devolution highlights, as powerful a force as Ireland was, it was not the only catalyst for constitutional reform. This was a period when the federalist cause was a tangled web of high politics, domestic challenges and imperial ambitions, and while by 1919 imperial federation may have been essentially abandoned by even its formerly staunchest advocates, parliamentary congestion would prove a more resilient and influential call to arms.

3.4. Parliamentary Machine

Ireland and Empire were not the only catalysts that spurred intellectuals and policy makers to contemplate the efficacy of schemes of either pan-Empire, or UK-wide federal devolution. Another significant motivator was the concern that Westminster was too overburdened and congested to operate effectively as both an Imperial and domestic legislature (Jalland 1979: 759). Concerns about parliamentary congestion were not a recent phenomenon in British political history. For example, in 1846, the then Prime Minister and Tory leader, Sir Robert Peel, was reported to have recorded his concern at “the increased multiplication of details in public business, and the enormous task imposed on the available time and strength by the work of attendance in the House of Commons”, development that “was extremely adverse to the growth of greatness

among our public men” (Sir Robert Peel quoted by Murray Macdonald HC Deb (5th Series) 3rd June 1919 Vol. 116 c. 1884).

In 1860, Peel’s disciple, and the-then Liberal Chancellor of the Exchequer, William Gladstone similarly commented upon the “overwhelming mass of public business which has every year to be brought forward in such increasing degree, and of which they find a perpetual fountain head in the vast and almost over-extended Empire of Great Britain” (Gladstone HC Deb (3rd Series) 3rd May 1860 Vol. 158 c.631). It was in this context that Walter Bagehot, a contemporary of Gladstone, wrote in his celebrated study of British politics, *The English Constitution*, that “the greatest defect of the House of Commons is that it has no leisure” (Bagehot 2009 [1867]: 86). Burdened with “an amount of business brought before it such as no similar assembly has ever had” as a result of Parliament’s dual role as imperial and domestic legislature, Bagehot concluded that “the whole scene is so encumbered with changing business, that it is hard to keep your head in it” (Bagehot 2009: 86).

These concerns about the ever-increasing congestion of business in Parliament continued through the late nineteenth century and into the early twentieth century. For example, in an 1887 debate on the use of closure motions in parliamentary debates, Sir Albert Rollit, the Tory MP for Islington South, declared his “conviction” that “devolution in some form or other is the remedy for a great deal of the congestion which exists in this House” (Rollit HC Deb (3rd Series) 22nd February 1887 Vol. 311 c.348).

Furthermore, Lord Robert Cecil in 1913 moved the following amendment to the King’s Speech as a result of his concerns about the condition of the parliamentary machine,

...But humbly regret that there is no mention in the Gracious Speech of any intention on the part of His Majesty's Government to make proposals for the improvement of the procedure of this House (HC Deb (5th Series) 14th March 1913 Vol. 50 c.589).

That Parliament was dangerously overburdened and congested therefore seemed to be a point upon which politicians across the Victorian and Edwardian British party system could agree.

Indeed, the-then Prime Minister, Herbert Asquith responded to Cecil's amendment by agreeing "that there are features in our present procedure and our methods which no one who has at heart either the dignity of the House of Commons or its efficiency as a deliberative or legislative machine can regard with satisfaction" (Asquith HC Deb (5th Series) 14th March 1913 Vol. 50 c. 609). Even Gilbert Campion, who as the Conference on Devolution's secretary was closely associated with the Speaker's conservative and intra-parliamentary proposals for reform, conceded that "the steadily increasing pressure of legislative business in the House of Commons during the last (century) has made the problem of devolution one of first class importance" (GCA/6/15: Memorandum on Devolution and the Committee System). A subject of greater debate, however, was the question of how this congestion could be resolved.

One of the more immediate attempts to resolve parliamentary congestion was the creation of new standing committees within the House of Commons (Hayden 1920: 473). By 1914 six new standing committees had been established by the House of Commons authorities as a means of rebalancing the parliamentary workload (Chiao

1969: 51-52). This rise of the Committee system, however, was not without its critics. As Hayden (1920) noted in an article entitled *Changes in British Parliamentary Procedure*, the new standing and grand committees were the subject of substantial criticism from parliamentarians and political observers alike (Hayden 1920: 473). A particularly prominent aspect of this opposition was the claim that these procedural innovations demeaned the integrity of the House of Commons as an institution (Hayden 1920: 473).

The delegation of legislative power, the removal of many members from the House to the Committee rooms while the House is in session, and the consequent rush through the division lobbies of members who have not heard debated the question upon which they are voting were declared by many members to be changes which would destroy both the prestige and self-respect of the Commons (Hayden 1920: 473).

This criticism can be seen in the debate over Lord Robert Cecil's proposed amendment to the 1913 Queen's Speech. While Cecil bemoaned the overloaded and, what he believed to be, the obstructive nature of parliamentary business (Cecil HC Deb (5th Series) 14th March 1913 Vol. 50 c. 597-598), his proposed remedy was for the use of grand committees in parliamentary business to be expanded.

This suggestion attracted immediate scorn from his fellow Conservative Sir Frederick Banbury, on the grounds that such committees were ignored both by the Government and often by the MPs who were supposed to attend them (Banbury HC Deb (5th Series) 14th March 1913 Vol. 50 c. 600, 634). Cecil's proposal was also criticised by the Liberal MP William Chapple who considered committees to an inferior response to the challenges that Parliament faced, describing the proposal as,

The relegating of our work to Grand Committees, the shortening of the time occupied by Divisions, and the shortening of speeches, are mere bagatelles compared with the enormous amount of work that we have to do (Chapple HC Deb (5th Series) 14th March 1913 Vol. 50 c.663).

Similar criticism of the committee system can be seen in Chiao's *Devolution in Great Britain* (Chiao 1969: 51). Despite acknowledging the functional value of standing committees to the legislative process, Chiao nevertheless concluded that, "it [a standing committee] tends to diminish the responsibility of the House of Commons; it also tends to decrease the value and opportunity of discussion in the house; and lastly it imposes too severe a strain on the members" (Chiao 1969: 51). This belief that standing committees had undermined the prestige of the House of Commons was one of real importance in the years preceding the establishment of the Conference on Devolution in 1919 (Chiao 1969: 51) and would become a significant justification for those who preferred a more radical solution to the problem of parliamentary congestion.²²

If intra-parliamentary reform was one way in which the British political elite wrestled with lessening the workload of Parliament, another mooted change was the devolution of power to subordinate legislatures. One advocate was the Conservative intellectual, Sidney Low (King 2007: 27, 187). Low's support for devolution was not based on any strongly felt desire to see national sentiment recognised more clearly in the institutional apparatus of the British state (King 2007: 27, 187), rather he believed that,

²² It is also worth noting Chiao's claim that such committees increased, rather than lessened, the workload of MPs (Chiao 1969: 51), something that will become a prominent feature in our discussion of the Lowther devolution proposals later in the thesis.

...some machinery of subordinate legislatures and executives, some devolution on a large and systematic scale would be required in order to relieve the central Parliament of burdens beyond its strength (Low 1914 [1904]: xxvii).

As will be a recurrent theme in this section, Low's advocacy of devolution was not based on a desire to radically restructure the British state, rather it was based on a desire to preserve and enhance parliamentary government in the UK. Indeed, he sought subordinate bodies that operated "under the reserved *sovereignty* of a central legislature" (emphasis added, Low 1914: xxvii). Relief of Parliament was therefore cast as a means of defending Parliament at a time when it, and other institutions of the British state were "overloaded, indeed overwhelmed" with the multitude of domestic and imperial tasks within its jurisdiction (King 2007: 27).

Certainly Low was hardly unique in holding this view. Indeed, his concerns about the overloading of the "Parliament of the British Empire" were, unsurprisingly, shared by a number of Imperial Federalists (Kendle 1968: 334). Many of these ascribed to the view that "the congestion of business in the imperial Parliament prevented the proper consideration either of imperial affairs or of internal reforms" (Kendle 1968: 334). It was this belief that led the Round Table movement in 1910 to call for the establishment of a Royal Commission to examine proposals for devolution across the UK (Kendle 1968: 334). Lionel Curtis, one of *The Round Table's* founders and a man who had been closely involved in Britain's relationship with South Africa, was a particularly strong advocate of domestic federation (Kendle 1968: 335; Kendle 1967: 34). Indeed, in 1910 Curtis wrote a memorandum that found Parliament guilty of an inappropriate misuse of its time and resources and declared that "devolution or the establishment of separate parliaments, i.e. 'Home Rule all round' seemed the only logical solution" (Curtis quoted

in Kendle 1968: 335). Sir Edward Grey similarly believed that “the Empire could not properly be governed unless Westminster was relieved of much domestic business by a system of devolution” (Robbins 1980: 87).

This instrumental conceptualisation of devolution would become particularly prevalent among English politicians in the years preceding the Conference on Devolution (Coupland 1954: 312-315). Unlike the influence of national sentiment on the support for federal devolution among a number of political actors in Scotland and Wales (which will be explored in more detail in the following section), English political elites, were, along the lines of Low’s support, “almost exclusively concerned with the question of good government” (Coupland 1954: 312-313). This focus on good governance was heightened, Coupland argues, by a belief that “democracy needed saving from itself”, or more specifically that Parliament needed saving from the “evils” of congestion (Coupland 1954: 312).

For Lord Brassey, a leading advocate of devolution in the early twentieth century, Parliamentary congestion was at the forefront of the case for reform. In letters sent to Lord Lansdowne, Sir Edward Carson, Lord Selborne and Sir Thomas Whittaker, Brassey repeatedly stressed the urgency of devolution in order to allow good government and order to be secured. In his correspondence with Lord Lansdowne, Brassey declared the status quo to be “absolutely intolerable”, arguing that of the two Houses of Parliament it was “the House of Commons which needs reforming to enable it to transact its business properly” (Letter from Brassey to Lord Lansdowne 7th January 1913, reprinted in Partridge 1921: 213-214). This practical case for reform was further outlined in a letter to Earl Selborne who, as was noted earlier, had become increasingly

supportive of domestic devolution by 1914. In this letter, Brassey offered an important rebuttal to the Irish-centric historiography of the campaign for devolution with his claim that “were there no Irish question at all, devolution in some shape or other would be necessary to restore the efficiency of Parliamentary Government” (Letter from Brassey to Earl Selborne 31st January 1914, reprinted in Partridge 1921: 216).

While Brassey’s biographer, Frank Partridge, has noted the importance of the Irish question in Brassey’s thinking on devolution (Partridge 1921: 212), his personal correspondence highlights that it was just one factor that motivated his zeal for reform. Indeed, parliamentary congestion and a belief that “you cannot run a great Empire, do the business of the United Kingdom as a whole, and attend to the separate interests of each nationality of the United Kingdom with the same machinery and one set of men” appeared to be at the forefront of Brassey’s lobbying (Letter from Brassey to Earl Selborne 31st January 1914, reprinted in Partridge 1921: 216). This can be seen in a letter from Brassey to Sir Edward Carson, dated 23rd January 1918, in which he details his fervent belief in the “necessity for devolution in some shape or other if any form of Parliamentary Government is to be preserved” (Letter from Brassey to Sir Edward Carson 23rd January 1918, reprinted in Partridge 1921: 226). Even at the height of the Irish crisis, Brassey’s correspondence with the leader of Ulster Unionism continued to be dominated by his concerns about the effectiveness of parliamentary machinery.

These pressures on Parliament were only intensified as a result of the Great War as concerns about Parliament’s ability to cope as a dual legislature in the face of the reconstruction required, and the increased size of the Empire, post-war added a new urgency to the case for constitutional reform (Cohrs 2006: 38; Pim 1919: 20; Boyce and

Stubbs 1976: 72). Certainly, as correspondence from September 1918 reveals, this concern became an increasingly important aspect of Oliver and Selborne's thinking on federal devolution. In a letter to Walter Long on 31st May 1918, for example, Selborne argued that,

Devolution... has become an absolute necessity owing to the appalling prospective congestion of parliamentary business if the needs of the Empire and the domestic concerns of England and Scotland [note the absence of Wales] are not to suffer fatally from neglect after the war (MS. Selborne 84 fols. 120-122).

It is also worth recalling Oliver's letter from Selborne on 23rd September 1918, mentioned in the previous section of this chapter. While, as was discussed earlier, this letter marked Oliver and Selborne's abandonment of Ireland in favour of a scheme of devolution applicable to Great Britain only, it is also instructive to note that Oliver emphasised post-war "reconstruction" as providing the rationale for reform (MS. Selborne 84 fol. 140).

However, it was not only Selborne and Oliver who believed that the challenges of post-war reconstruction facing Parliament necessitated constitutional reform. Indeed, these fears became prominent features in newspapers sympathetic to the federal devolution cause, such as *The Times* and *The Observer* (Kendle 1968: 350; Burgess 1995: 105). For example, a 1918 letter to *The Times* from Unionist parliamentarians including Major Edward Wood²³ and Waldorf Astor urged the adoption of federal devolution, not

²³ Wood's support for devolution was but one part of a programme of progressive views, including support for the League of Nations, equal voting rights for women and industrial subsidies espoused by the faction of young Unionist MPs formed after the 1918 General Election (Roberts 2004 [1991]:12). Alongside Wood, this faction of 'rebels' included Lord Woolmer, Samuel Hoare, Walter Guinness, William

only as “the one road only” out of the current impasse in Ireland, but also as a means of resolving what they described as “the most dangerous congestion” of Parliament post-war (Hardy et al. 16th April 1918: 7).

The following summer, and just days before the House of Commons debate on the subordinate legislatures resolution, *The Times* continued this call to arms in an article entitled *The Machine of Parliament* (Parliamentary Correspondent 2nd June 1919: 13). The article did not pull its punches (presumably because of the forthcoming vote on federal devolution): it made a case for reform predicated on the claim that Parliament had become a diminished institution, a body in crisis (Parliamentary Correspondent 2nd June 1919: 13). In the opinion of the author, “something was radically wrong” with Parliament: parliamentary congestion (Parliamentary Correspondent 2nd June 1919: 13). Reform, it seemed, was both unavoidable and essential (Parliamentary Correspondent 2nd June 1919: 13).

These concerns would also form a central part of the lobbying efforts of federal devolutionists within the Cabinet, as can be seen from a memorandum drafted by Austen Chamberlain for the Cabinet in June 1918 (CAB/24/5/12). For Chamberlain, Parliament was simply unable to cope with the scale of social and industrial problems that would emerge from the war, issues he described as being of the “first magnitude” (CAB/24/5/12). These were issues that threatened to overwhelm both Parliament and Executive, particularly when one considers the additional imperial duties Parliament had been encumbered with and the worsening crisis in Ireland (CAB/24/5/12). As he

Ormsby-Gore, Philip Lloyd-Greame, Walter Elliot, J.C.C. Davidson, George Lane Fox, Lord Winterton and Sir John Hills, of whom “all but one” would go on to achieve ministerial office (Roberts 2004:13).

noted, “how is it possible for one Government and one Parliament to deal adequately with all these matters and at the same time perform the functions as the great central organs of Government of the Empire?” (CAB/24/5/12). Facing such challenges, the power, prestige and stability of the UK state was clearly considered by Chamberlain to be in considerable danger.

Indeed, to underline the urgency of the situation Chamberlain even raised the spectre of the collapse of the central state itself, warning of the threat of a communistic revolution if the problem of parliamentary congestion was not resolved (this of course being in the immediate aftermath of 1917 Russian revolution and in a period of organisational and electoral advance for the Labour Party²⁴),

When parliamentary institutions break down, whether from lack of authority or from overwork, Bolshevism has its opportunity. Unless means can be found to devolve a part of its responsibilities on other bodies, and to set the Imperial Parliament free for the work which it alone can do, I think we shall be in grave danger of revolution before many years are passed (CAB/24/5/12).

Chamberlain’s ‘Red Scare’ rhetoric may seem rather hyperbolic, but this should not mean that the urgency he attached to political and constitutional reform is underestimated. In Ireland, Redmond’s nationalists had been politically eclipsed by their more radical rivals in Sinn Fein and, as a result of the Curragh episode (in which sixty Army officers informed their commanding officer that they would rather resign than participate in direct military operations against loyalists in Ulster), “the capacity of

²⁴ Most of Chamberlain’s colleagues, however, looked to an increase in the power of the House of Lords, rather than devolution as a defence against socialism (Ball 2013: 55)

the government to pursue a military offensive” against paramilitaries in Ulster had been “more or less eliminated” (Jackson 2004: 153, 206, 222-223).

Under pressure from both communities in Ireland, on the mainland the centre and Parliament were both, Chamberlain feared, at risk of collapse under the increasing weight of their domestic and imperial workloads (CAB/24/5/12). On a number of fronts it seemed that the centre was in crisis and while Ireland provided a strong stimulus for action, so too did parliamentary congestion, as Chamberlain highlights in the conclusion to his memorandum,

The conclusions to which I invite the assent of the Cabinet are therefore -

1. That the attempt to solve the Irish question in isolation has always failed and is doomed to failure.
2. That the problem of decentralisation *is no longer an Irish problem only*, but that such decentralisation *would be required by Great Britain even if there was no Irish question* (Emphasis added, CAB/24/5/12).²⁵

Chamberlain’s memorandum, as with Long’s earlier mentioned briefing paper on federalism, is therefore a reminder that if procrastination by the centre was “no longer tenable” by 1918-1919 then it was not just a consequence of the crisis in Ireland.

The crisis in Parliament was also a serious driver of political reform. Indeed, writing in 1926, Wan-Hsuan Chiao went as far as to argue that the case for devolution

²⁵ This point would also be made by Asquith during his (successful) campaign to return to the House of Commons in the 1920 Paisley by-election. Asquith argued that the Irish Question while in need of resolution was “only an aspect of the wider question [of self-government] in the United Kingdom”, a question that he claimed needed addressing as a result of the damage inflicted to both the UK and the Empire from the “fact that Parliament is congested with local business.” Only devolution, he argued, could provide relief from this congestion (Asquith quoted, Special Correspondent 1st February 1920: 13).

in the United Kingdom “rests upon the congestion of the House of Commons” (Chiao 1969: 247). This was a verdict that chimed with other contemporary observers such as Professor Frederic Ogg in *The Governments of Europe* (1924: 204) and Ralston Hayden (1920: 476-477). In both the House of Lords and, more importantly the House of Commons, the spring/summer of 1919 would see two debates that highlighted the centrality of parliamentary congestion to the case for federal devolution.

The first of these debates took place in the House of Lords on the 5th March 1919, on the following resolution,

That for the purpose of (a) securing prompt and efficient handling of pressing domestic problems and better control over public expenditure, and (b) enabling the Imperial Parliament to devote more attention to the general interests of the United Kingdom and matters of common Imperial concern than is possible under the present system of a single Parliament and Cabinet, the establishment of local legislatures throughout the United Kingdom is an urgent necessity (HL Debates 5th March 1919 c.502).

It is little surprise, considering his earlier mentioned correspondence, that Earl Brassey’s speech, in moving this resolution, was dominated by the subject of parliamentary congestion. While acknowledging that parliamentary overload was “a very old theme” in British politics, he argued that the current situation was not only “ten times more serious than it ever was before”, but, in terms somewhat akin to Chamberlain, that “under present conditions it is impossible for Parliament to discharge its functions as a Parliament, that democratic principles cannot be maintained, and that the people through their representatives cannot control administration, legislation, or public expenditure” (Brassey HL Debates 5th March 1919 c. 504). For Brassey, as with

Chamberlain, reform was less an ideological crusade than a practical response to a high politics crisis, in which parliamentary congestion appeared to threaten the very fabric of parliamentary government in the UK (Brassey HL Debates 5th March 1919 c. 510-511).

Indeed, to further emphasize this *realpolitik* dimension to the cause of devolution in the early twentieth century, Brassey declared that he would not “for one moment advocate this policy of Devolution unless I sincerely and thoroughly believed that it would lead to the better control of the administration and better control of public expenditure” (Brassey HL Debates 5th March 1919 c.511). In the face of growing government and an ever increasing Parliamentary workload, devolution was, in Brassey’s opinion, a necessary reform if Parliament were to remain a high politics operator and, crucially, for her sovereignty to be retained (Brassey HL Debates 5th March 1919 c.503-505).

Similarly unsurprisingly, given his earlier mentioned advocacy of Imperial federation, Lord Selborne, who followed Earl Brassey in the debate, dedicated a portion of his speech to the role of devolution as a “necessary and an almost essential step towards the realisation of” a more integrated Empire (Selborne HL Debates 5th March 1919 c. 513). However, the substantive part of his contribution was similarly dedicated to a sense that, as a result of parliamentary congestion, Parliament was an institution in crisis. Echoing the alarm expressed by Brassey, Selborne’s defence of devolution was based on a belief that congestion had rendered Parliament a eunuch in matters of high politics and as an institution at the heart of the Empire,

I submit to you that Parliament is impotent to deal properly either with the domestic problems which confront us here in the United Kingdom, or with the

problems of the Empire which, until a true Imperial Parliament exists, must be dealt with by the present Imperial Parliament (Selborne HL Debates 5th March 1919 c.514).

Not only was Parliament enfeebled as a result of congestion, but so too, in Selborne's opinion, was the system of Cabinet government (Selborne HL Debates 5th March 1919 c.514). His message was clear: unless reform was undertaken, the consequences could be disastrous for the entire edifice of parliamentary government in Britain (Selborne HL Debates 5th March 1919 c.514).

Such comments may seem rather hyperbolic, but as Chamberlain's memorandum indicates they were concerns that were also expressed at the heart of Government. In what was a poorly attended debate (a point emphasized with what seems to have been particular relish by the Lord Chancellor in his response to Brassey's motion (Birkenhead HL Debates 5th March 1919 c.525)), Selborne and Brassey's concerns about parliamentary congestion were echoed by a number of peers, including Lord Crewe, Lord Charnwood and Lord Bryce (although Bryce voiced his opposition to federalism and his concern at the imbalance that would be caused in the event of England having its own legislature) (HL Debates 5th March 1919, c.501-521, 532-542). Nevertheless, in the face of fierce opposition from the Lord Chancellor, Lord Birkenhead, Brassey was left with little option but to withdraw his resolution (Brassey HL Debates 5th March 1919 c.550). Greater success for the devolutionist cause would be achieved by Brassey and Selborne's colleagues in the House of Commons on the 3rd – 4th June 1919.

On 3rd June 1919, Major Edward moved the following resolution,

That, with a view to enabling the Imperial Parliament to devote more attention to the general interests of the United Kingdom and, in collaboration with the other Governments of the Empire, to matters of common Imperial concern, this House is of the opinion that the time has come for the creation of subordinate Legislatures within the United Kingdom, and that to this end the Government, without prejudice to any proposals it may have to make with regard to Ireland, should forthwith appoint a Parliamentary body to consider and report—

1. upon a measure of Federal Devolution applicable to England, Scotland, and Ireland, defined in its general outlines by existing differences in law and administration between the three countries;
2. upon the extent to which these differences are applicable to Welsh conditions and requirements; and
3. upon the financial aspects and requirements of the measure (HC Deb (5th Series) 3rd June 1919 Vol.116 c.1873).

While not invoking the perils of Bolshevism outlined by Chamberlain to his cabinet colleagues, Wood, in moving the resolution, shared a similar assessment to Chamberlain, Brassey and Selborne of the urgency of reform and the dangers of continued inaction in the face of creaking and overburdened parliamentary machinery, “I do not think it is too much to say that, in the times immediately in front of us, what may tilt the scale between civilisation and disruption may be the confidence that our people have in their institutions” (Wood HC Deb (5th Series) 3rd June 1919 Vol.116 c.1874). In particular, Wood’s speech was a reminder of the linkages between parliamentary congestion and concerns about Britain’s role within the Empire,

particularly in the aftermath of the war (Wood HC Deb (5th Series) 3rd June 1919 Vol.116 c.1874-1876). Indeed, Wood warned his fellow MPs of the mounting pressure on Parliament's resources from developments in the Dominions and colonies and drew attention to the relationship between parliamentary congestion and the Empire,

Within the next few months, or within the next year, we in this House are going to be face to face with the consideration of a great many questions of immediate and common concern to ourselves and the Dominions. There are questions of defence, questions of trade, of naturalisation, of land settlement; and in regard to all of these, even without reckoning Indian reforms, Egypt, and so forth, the Dominions will be anxious to work and to build in conjunction with ourselves. But we must have time to do it. I have heard my right hon. Friend say—and I believe every other ex-Colonial Secretary has said the same thing—that when Dominion representatives come to this country they find it hard to understand how immersed we are in what to them seem to be our parochial concerns. If we are prepared to attend to these matters, we can build a structure in common. If we are not, we shall only have ourselves to thank if they proceed on the business without us, and the work is conducted independently of us (Wood HC Deb (5th Series) 3rd June 1919 Vol.116 c.1876).

Parliamentary congestion was not only, therefore, going to become of increasing concern in the wake of the increasing workload from the Dominions, but also posed a threat to the unity of the Empire (Wood HC Deb (5th Series) 3rd June 1919 Vol.116 c.1874-1876). Federal devolution was thus cast as a high politics solution to high political challenges, with devolution to subordinate legislatures considered to be a mechanism that could safeguard both Parliament and the UK state's position at the apex of the Empire, allowing tighter bonds of imperial fraternity to blossom by delegating the

local concerns of the Home Nations to new chambers (Wood HC Deb (5th Series) 3rd June 1919 Vol.116 c.1876-1877).

In a similar vein, Murray Macdonald, a longstanding supporter of federal devolution, argued that devolution was a necessary response to the growing social, industrial and imperial demands that had added for “nearly one hundred years, with constantly accumulating power and effect, to the mass and the volume of business of Parliament” (Macdonald HC Deb (5th Series) 3rd June 1919 Vol.116 c.1883). Indeed, to further underline the role of federal devolution as a reform aimed at enhancing Parliament as a high politics institution, Macdonald stressed that parliamentary sovereignty would be in no way be diminished, insisting instead that “the change which the motion proposes would not have this effect at all” (Macdonald HC Deb (5th Series) 3rd June 1919 Vol.116 c.1886).

Walter Long, while opposed to aspects of the resolution’s wording, in particular its reference to national devolution (he was opposed to Ireland securing special treatment and believed devolution should be on regional, rather than national lines) was also persuaded of the necessity of federal devolution if the centre’s grip on high politics was to be retained (Long HC Deb (5th Series) 3rd June 1919 Vol.116 c.1908-1910; Kendle 1989: 215). Federal devolution, as he outlined in his contribution to the debate, was essential in order to revive the key institutions of the central state and ensuring her continued leadership of the Empire (Long HC Deb (5th Series) 3rd June 1919 Vol.116 c.1908-1910),

In the Debate we have had, so far, and in previous Debates on this subject in and out of the House of Commons, has there been found anybody to deny that our

system today is not sufficient for our purpose and that our machine no longer can turn out the articles that the United Kingdom requires? But there are other evils. Does anybody deny that the demands upon this House for legislation have grown enormously in the last twenty or thirty years, and that, situated as we are now, with our present powers, we cannot hope to give reasonable effect to all these suggestions? Will anybody dispute that if he looks through the Order Paper, takes the number of Bills that are suggested here for our consideration, and further asks himself, What are the things we want done, and what prospect is there of getting them done?... I would, if I could honestly do so, vote preferably to leave things as they are. It is not the House that has failed. I do not think it is Ministers or Members who have failed.... Parliament today is as capable, as honest, as high-minded, and as devoted to work as ever was the Parliament of this country in all its great and glorious history.... It is not Governments; it is not Members of Parliament. No, it is that times have changed, and we have got to change with them (Long HC Deb (5th Series) 3rd June 1919 Vol.116 c.1908-1910).

The case for federal devolution, as elaborated by Wood, Macdonald and Long, was therefore for reform that would conserve the centre's control of high politics. The argument in the eyes of these advocates was straightforward: for Parliament to ensure its continued status as a powerful and prestigious institution at the heart of the Empire, it must address the realities of political life (i.e. parliamentary congestion) and the need for reform (Long HC Deb (5th Series) 3rd June 1919 c.1908-1909). While the Irish Question featured in a number of contributions (see for example: Walsh HC Deb (5th Series) 3rd June 1919 c.1941; O'Neill HC Deb (5th Series) 3rd June 1919 Vol.116 c.1971-1974), it was concern about parliamentary congestion that commanded a dominant role during the two day debate on the subordinate legislatures resolution.

In his summary of the resolution debate, Kendle noted that “most of the speakers simply reiterated the points already made about congestion, reflected on the division of powers, cast glances at Canadian or Australian or American guidelines, and emphasized the devolutionary as opposed to the purely federal nature of their intent” (Kendle 1989: 217). Indeed, a number of parliamentarians drew attention to the common references to parliamentary congestion made during the debate, albeit in a rather more enthused manner. Sir Donald Maclean, for example, claimed that there had been a “remarkable consensus of agreement in relation to the motion,” (Maclean HC Deb (5th Series) 4th June 1919 Vol.116 c.2064). The reason for such consensus, he argued, was the overburdened state of Parliament,

I do not think there can be any doubt that the reason for that consensus of agreement is to be found in the present experience of almost every hon. Member of the House of Commons now assembled. Our work has been more than doubled, in fact it is not any exaggeration to say it has been at least trebled (Maclean HC Deb (5th Series) 4th June 1919 Vol.116 c.2064).

Maclean was not alone in judging the mood of the House to be one of agreement, and an agreement rooted in the experience of parliamentary overload.

The Welsh Liberal MP, Hugh Edwards similarly noted, in the penultimate speech of the debate, the “remarkable” degree of consensus that had been witnessed during the debate,

There has been deep recognition of the fact that the business of the House is becoming congested, that the Parliamentary machine is in danger of being blocked, and that unless there is something in the way of devolution of function

Parliamentary government will break down (Edwards HC Deb (5th Series) 4th June 1919 Vol.116 c.2123).

This was a “practical unanimity” that was further confirmed by the vote at the end of the two day debate, a vote in which the House of Commons, by a majority of 187 to 34, endorsed the resolution calling for the Government to “appoint a Parliamentary body” to develop a scheme of federal devolution for England, Scotland and Ireland... and perhaps Wales (Division List, No. 40 HC Deb (5th Series) 4th June 1919 Vol.116 c. 2129). The stage was set and in October 1919, following a summer of speculation in *The Times* (see for example *The Times* 11th July 1919: 17 and *The Times* 6th June 1919: 18), the Government formally announced the establishment and membership of the Conference on Devolution (Lowther 1920: 2).

3.5. The periphery

While the House of Commons debate on the subordinate legislatures resolution highlighted the “practical unanimity” that parliamentary congestion was an evil that needed to be vanquished from the body politic in Britain, the debate also highlighted another dynamic in the federal devolution debates of the late nineteenth and early twentieth centuries: national sentiment in the periphery. This section of the chapter will therefore move from the somewhat ‘Bulpittian’ analysis of the centre’s “operational code,” and its role in discussions of federal devolution, to invoke Mitchell’s ‘state of unions’ paradigm that explores the distinctiveness of the home nations’ respective relationships to the centre (Mitchell 2009: 6, 220).

If the latter half of the nineteenth century saw an increase in salience for ideas of Irish Home Rule and Imperial federation, it was also a time in which ideas of Scottish and Welsh self-determination became more significant. In Wales, the third reform Act proved to be a watershed moment in the nation's modern history (Morgan 1965: 12). For arguably the first time Wales became a truly distinct political unit within the United Kingdom, with the 1885 General Election (the first following this franchise reform) resulting in a Liberal and radical non-conformist political dominance that was more reflective of Wales' non-conformist populace (Morgan 1965: 12). The new Welsh parliamentary bloc was a caucus dominated by figures such as Thomas Edward Ellis, David Lloyd George and D. A. Thomas, all of whom were "more militantly nationalist in their attitude and less content with servile obedience to the Liberal party leadership" (Morgan 1965: 13). Such figures, alongside key actors in the religious, educational and cultural community, would oversee a period of nation building that resulted in the establishment of national institutions such as the National Library and National Museum and led to the development of a programme of Welsh policies that included demands for Welsh disestablishment (Davies 2007: 450-451).

It was in this context, a time that the historian Kenneth O. Morgan has described as a 'rebirth of a nation' (Morgan 1980: 3-4, 56, 90), that a campaign for political recognition for Wales began in the form of Cymru Fydd (Jones 1994: 249-250). Established in 1886, Cymru Fydd spread rapidly throughout Wales and its height in 1895-1896 could command not only the support of half of Wales' MPs, but in Lloyd George a charismatic and populist figure that provided Cymru Fydd with "the potential for a mass nationalist movement" (Davies 2007: 452). However, despite Lloyd George's charisma and aura, he was also a divisive politician, who simultaneously served to

undermine the nationalist cause (Davies 2007: 452-453). Ultimately Cymru Fydd proved to be a failed endeavour, unable to attract sufficient popular and elite support (Davies 2007: 452-453). Not even Welsh Liberalism could be relied upon for unbridled support, as the rancorous meeting in Newport in 1896 that sealed the fate for Cymru Fydd made clear (Davies 2007: 453).

Greater success was found, however, in the mobilisation of Welsh public opinion behind the cause of Welsh disestablishment, a protracted campaign that yielded fruit in the aftermath of the Great War (Morgan 1965: 3, 10, 15-29). Similarly in the field of education Welsh political pressure brought about policy change, with the establishment of the University of Wales and the creation of a central Welsh board for examinations in the 1890s (Bogdanor 1999: 149). That religion and education, rather than political and constitutional reform, should have been areas where Welsh national sentiment would be most successful is perhaps unsurprising. Demand for national recognition in Wales had historically been associated with social, educational and cultural spheres, rather than in political and institutional affairs (Rawlings 1999: 23). The result was that Wales had been traditionally considered a cultural, rather than political nation and Welshness a cultural, rather than a political, identity (Davies 2007: 708-709).

The legacy effects of Wales' stunted political identity (rooted in five centuries of political and administrative annexation by England), which led the-then Bishop of St. David's, Basil Jones to describe Wales as a "geographical expression" in 1886 (Jones 1994: 276; Mitchell 2009: 8-9), can be seen in the attitudes of various proponents of federal devolution towards Wales from the 1870s right through to the resolution passed by the Commons on 4th June 1919. As Reid notes, "the needs of Wales were always a

little vague in Victorian and Edwardian schemes [of federalism]" (Reid 2014: 335).

Wales was, for example, noticeable in its absence from Isaac Butt's proposed scheme of Home Rule all round in the 1870s (Chiao 1969: 15-16). While Joseph Chamberlain, Lloyd George and Churchill all proposed schemes of devolution that would have treated Wales as a distinct political entity (Burgess 1995: 92, Toye 2007: 113), even by 1919 there still seemed to be a degree of ambiguity regarding the role of Wales within the United Kingdom.

One can see such ambiguity, for example, in Lord Selborne and F.S. Oliver's memoranda submitted to the 1917-1918 convention on Ireland, a memorandum whose proposed scheme of 'Home Rule all round' neglected to mention Wales (Boyce and Stubbs 1976: 68).²⁶ It can also be seen in the wording of the subordinate legislatures resolution that the House of Commons passed on 4th June 1919,

That, with a view to enabling the Imperial Parliament to devote more attention to the general interests of the United Kingdom and, in collaboration with the other Governments of the Empire, to matters of common Imperial concern, this House is of opinion that the time has come for the creation of subordinate Legislatures within the United Kingdom, and that to this end the Government, without prejudice to any proposals it may have to make with regard to Ireland, should forthwith appoint a Parliamentary body to consider and report—

²⁶ Indeed, Selborne was something of a repeat offender with regards to Wales as can be seen in his earlier mentioned letter to Walter Long, dated 31st May 1918, which spoke of devolution as a means of combatting parliamentary congestion and meeting the needs of the Empire and national needs of England Scotland, but omitted any mention of Wales (MS. Selborne 84 fols. 120-122).

1. upon a measure of Federal Devolution applicable to England, Scotland, and Ireland, defined in its general outlines by existing differences in law and administration between the three countries;
2. *upon the extent to which these differences are applicable to Welsh conditions and requirements*; and
3. upon the financial aspects and requirements of the measure” (emphasis added, Division No. 40 HC Deb (5th Series) 4th June 1919 Vol.116 c.2126)

While there appeared to be little doubt in the minds of Wood and Macdonald, the movers of the resolution, as to the equality of England, Scotland and Ireland as nations, the same can quite clearly not be said about Wales, which was explicitly isolated in the resolution for special consideration (Division No. 40 HC Deb (5th Series) 4th June 1919 Vol.116 c.2126).

Hesitancy about the status of Wales was a recurrent aspect of the Commons debate on subordinate legislatures. Even Murray Macdonald, arguably one of the staunchest supporters of federal devolution in the early twentieth century, referred in the debate to the UK Parliament’s role as the legislature for the Empire as well as “the local legislature for the peoples of England, Scotland and Ireland,” an omission that suggests he considered Wales to be less a fully-fledged nation than a rather awkward sub-unit of England (Macdonald HC Deb (5th Series) 3rd June 1919 Vol.116 c.1887). Indeed, Macdonald’s subsequent comments leave little doubt as to his preconceptions of Wales as a political nation and of her vis-à-vis England,

She [Wales] forms at present an integral portion of England. With a few very minor exceptions, the same law and the same administration runs through both countries.

How far it is consistent with the interests of Wales that she should have a legislature of her own, possessing the same powers as the legislature of the other countries, I do not know. In the Resolution the question is left an open one, and it is the opinion of Wales which must ultimately decide it (Macdonald HC Deb (5th Series) 3rd June 1919 Vol.116 c.1889).

Though Macdonald's contribution and the wording of the resolution left the door open to a measure of Welsh self-government neither can be considered particularly ringing endorsements of Wales' national status within the United Kingdom.²⁷

Unsurprisingly, the response from Welsh parliamentarians was vigorous protestation at this perceived slight. Sir Robert Thomas, the Welsh Liberal MP for Wrexham, argued that Wales had "every right, when the question of Devolution is discussed, to be considered at least on a level with Scotland and Ireland" (Thomas HC Deb (5th Series) 3rd June 1919 Vol.116 c.1949). Thomas' colleague, T.A. Lewis, was similarly opposed to the motion's implication "that Wales stands on a somewhat different footing... from Ireland, Scotland and England" (Lewis HC Deb (5th Series) 4th June 1919 Vol.116 c.2081). Criticism also came from Hugh Edwards, the-then Liberal MP for Neath, who noted his disapproval of "the way in which the motion refers to Wales" and of contributions, such as those of Wood and Macdonald, that had been "absolutely silent in regard to Wales" (Edwards HC Deb (5th Series) 4th June 1919 Vol.116 c.2123).

²⁷ As the periodical *The Welsh Outlook* commented, this debate, and in particular the way in which Macdonald framed the resolution, "indicates the distance which Wales must yet travel to put itself on a level with Scotland and Ireland as regards its adaptability for the exercise of legislative and administrative autonomy" (*The Welsh Outlook* July 1919: 165).

That these members were moved to “put in a plea for Wales”, to quote Hugh Edwards (HC Deb (5th Series) 4th June 1919 Vol.116 c.2123), underlines the asymmetric way in which Wales had been treated by federal devolutionists such as Wood and Macdonald. From a ‘state of unions’ perspective, such treatment can be seen as a wholly unsurprising product of the legacy effect of Wales’ historical footing within the British state and the stunted development of a distinct Welsh political identity (Mitchell 2009: 8-9). Indeed, it is worth noting, from such a perspective, that Edwards was moved, out of frustration, to invoke one of the most famous denigrations of Welsh national status and development: the Encyclopaedia Britannica’s entry for Wales “Wales-see England” (Edwards HC Deb (5th Series) 4th June 1919 Vol.116 c.2123).

The Scots, however, had no such trouble in the recognition of their national identity. Unlike the assimilationist union between England and Wales, the Scottish union with England in 1707 was one that encoded Scottish national distinctiveness into the very DNA of the newly formed British state, with Scotland’s educational, legal and religious traditions all preserved (Mitchell 2009: 9-11). This recognition of distinctiveness would prove to be an important feature of what Morton has termed ‘unionist nationalism’ in Scotland (Morton 1999: 56). ‘Unionist nationalism’ can be summarised as the accommodation of Scottish national sentiment within the union through the granting of a degree of political autonomy to Scotland, a territorial governance arrangement that Bulpitt termed a dual polity (Bulpitt 2008: 20, 65; Morton 1999: 43, 56). In the eighteenth and early nineteenth century, this dual polity involved a vibrant civil society with powerful structures of local government, the result being that the everyday governing of Scotland was conducted by Scottish local elites (Morton 1999: 22, 42-47). Later in the nineteenth century, the spirit of ‘unionist nationalism’ and

the dual polity could not only be witnessed in the establishment of the Scottish Office in 1885 (Keating 2009: 35), but also in the Scottish Home Rule campaign that was spearheaded by a number of Scottish Liberals (Jalland 1979: 771).

As in Wales, the late nineteenth century had witnessed a vocal campaign for Home Rule in Scotland (Jalland 1979: 759). A Scottish Home Rule movement, the Scottish Home Rule Association, was established in May 1886 partially as a response to the introduction of Gladstone's first Irish Home Rule Bill in April 1886 (Rembold 2000: 211). During the remainder of the nineteenth century and the first two decades of the twentieth century, Scottish Home Rule motions were tabled repeatedly in Parliament (Chiao 1969: 124-132). In 1894, for example, the House of Commons voted by 180 to 170 in favour of the following resolution, "That it is desirable, while retaining intact the power and supremacy of the Imperial Parliament, to establish a Legislature in Scotland for dealing with purely Scottish affairs" (Division List, No. 12 HC Deb (4th Series) 3rd April 1894 Vol. 22 c.1315). In 1895 the forces of Scottish and Welsh nationalism would combine in support of a resolution, again moved by Henry Dalziel, that called for Home Rule all round. However, unlike the result of the earlier division, the Commons opposed the motion by the narrow margin of 128 votes to 102 (Chiao 1969: 129-132).

The Scottish Home Rule movement was not a repudiation of the union between Scotland and England; rather, it depicted reform as a strengthening of the union (Rembold 2000: 212). In particular, reformers invoked the rhetoric of parliamentary congestion, exploiting concerns about the machinery of government as an avenue through which Home Rule in the periphery could be brought about (Rembold 2000: 211-212). This approach represented a distinctive shift from earlier attempts at

securing Home Rule on the basis of more explicitly nationalist grounds (Rembold 2000: 214). Henry Dalziel, the mover of the 1894 resolution and committed advocate of Scottish Home Rule, for example invoked parliamentary congestion as an important factor in the case for reform (Chiao 1969: 126-129; Dalziel HC Deb (4th Series) 3rd April 1894 Vol. 22 c.1287). Similarly in 1895 parliamentary congestion would again be an important rhetorical device for Dalziel and Lloyd George's attempt to secure the establishment of subordinate legislatures in Scotland and Wales (Chiao 1969: 129). Scotland was quite clearly a proud political nation, with a long history as an independent state and a distinctiveness that was enshrined in the very treaties that forged the union (Morton 1999: 8, 11). However, despite the fact the 1919 subordinate legislatures resolution enshrined the national equality of Scotland, England and Ireland (Division List, No. 40 HC Deb (5th Series) 4th June 1919 Vol. 116 c. 2126), asymmetry also defined the treatment of Scotland in the devolution debates that emerged post-1870.

This asymmetry is particularly apparent with regards to the divergent ways in which the centre reacted to national sentiment in Ireland and Scotland. Whereas the 1885 General Election would result in the concession of an Irish Home Rule Bill as a response to a mobilised and politically dominant Irish nationalism, the centre's response to Scottish sentiment was the creation of the Scottish Office in 1885, a reform that the centre calculated would satiate Scots without requiring a radical reform of the constitution (Keating 2009: 35). The centre's response to these competing national demands for recognition can perhaps best be conceptualised through McLean and McMillan's notion of differential threat levels posed by the home nations to the centre (McLean and McMillan 2007: 16-17). This idea, which draws heavily on Bulpitt, posits

that the higher the threat level to the centre, the greater the prospect of a pay-off from the centre in a bid to quell challenges from the periphery to its control of high politics and to its institutional order (McLean and McMillan 2007: 11-17).

In the period 1870-1920 there was a clear order of magnitude in terms of the threat levels posed by Ireland, Scotland and Wales respectively to the centre. Ireland not only posed a threat of secession, but also of civil war; it was thus able to dominate much of the debate on federal devolution (Kendle 1968: 353; Jalland 1979: 768-770). Despite Scotland's status a recognisable nation within the union, and the presence of Scottish nationalism as a "persistent undercurrent" within Scottish Liberalism (Jalland 1979: 771), Scotland was considered to be a considerably less dangerous challenge to the centre offering neither the risk of civil war nor secession (Jalland 1979: 763; Kidd 2008: 258; Rembold 2000: 210-212). The result was that the centre gave significantly less attention to the campaign for Scottish Home Rule, pursued doggedly by a number of Scottish Liberal MPs, than the campaign for Home Rule in Ireland (Jalland 1979: 763-771; Chiao 1969: 124-132). As for Wales, the threat level was even lower (Jalland 1979: 763; Chiao 1969: 251-252). However, while Bulpitt's ideas can be seen as useful in understanding this order of preference, so too is Mitchell's concept of a 'state of unions' (Mitchell 2009: 12-13, 220-222). This is particularly evident when one considers how the asymmetrical nature of the threat levels posed by the different nations of the UK was rooted in the respective and unique relationships of these nations to the UK state.

Ireland's threat level, for example, should be viewed in the light of her long-acrimonious relationship with the UK state and its historical predecessors (Bew 2002: 20, 85-86). As Reid, somewhat drily, highlights, "Ireland's experience of the Union and

the Union's experience of Ireland was, to state the obvious, complex" (Reid 2014: 333). Centuries of English mismanagement of Ireland, allied to the broken promises of union, (in particular the royal veto of Catholic emancipation) and the centre's complicit arrangement with the Protestant ascendancy in Ireland (Jackson 2012: 113, 198, 213-214, 356), created a perfect storm of animosity towards the central state (Jackson 2004: 203). With the passage of Catholic emancipation in 1829 and the third reform act in 1884, this hinterland of oppression and animosity would result in the election of a powerful bloc of Irish nationalists to Parliament (O' Day 1998: 93). This was a bloc that from 1870 to 1920 had a recurrent, albeit not continuous, role as governmental kingmakers for the Liberal party, providing parliamentary support for the Liberals during the hung parliaments of 1892-1895 and 1910-1914 (Bew 2002: 20; Jackson 2004: 93-95).

Ireland, therefore, posed a multi-dimensional threat to the state. Her political elites were able to pose a particular threat to the Liberals, and their hopes of governmental office at key points in this period, and as such were able to extract the promise of Home Rule legislation from both Gladstone and Asquith (Jackson 2004: 93-95, 124, 133). This threat was itself a manifestation of a broader and more dangerous threat, namely the hostility of the Irish people to the UK state order; a public antipathy rooted in centuries of ill-judged statecraft and territorial mismanagement from the UK centre (Pim 1919: 4-14; Dicey 1973: 280-282). Ireland's threat level to the UK state was made even more serious as a result of the inability of the 1801 union to resolve the tensions between the Catholic and Protestant traditions in Ireland, tensions that in response to the Home Rule debates of the 1870s onwards would produce the threat of civil war (Jackson 2012: 113; Bew 2007: 81-82, 86, 566).

Scotland, on the other hand, posed no such threat to the UK state. While, as was earlier mentioned, the union with England in 1707 enshrined Scottish national distinctiveness, Scotland was a more pliant nation within the state and despite tensions in the eighteenth century, would come to see itself an integral part and indeed partner of the British and then UK states (Jackson 2012: 112-113, 136). War, Protestantism and Empire would come to play an integral role in the creation of a British identity in the nineteenth century (Colley 1992: 6-11, 18-19, 35), with Empire in particular enabling Scotland to recover the prestige lost by the pre-union Darien colony fiasco; an abject failure that had resulted in bankruptcy for Scotland (Macinnes 2007: 91).

This successful integration meant that Scottish nationalism was not motivated by the same desire for secession that was present in Ireland; rather it sought empowerment within the union (Kidd 2008: 258; Rembold 2000: 210-212; Morton 1999: 43, 56). As was noted earlier, Scottish national sentiment can be best summed up as what Morton has termed a 'unionist nationalism,' that initially sought to accommodate Scottish patriotism within the union through a vibrant civil society and via local government in Scotland (Morton 1999: 22, 42-47, 56), before seeking Home Rule for Scotland in the late nineteenth century (Rembold 2000: 211-212).

Furthermore, while the Irish Parliamentary Party posed a serious threat to the Liberal Party's ability to secure elected office, the nationalists within the Scottish Liberals were unable to achieve similar influence and leverage (Jalland 1979: 762-764). While the Liberal Unionist split in 1885, and the hung parliaments of 1892-1895 and 1910-1914, had resulted in the Liberal Party's dependency on Irish nationalist support in order to secure office, they had also "demonstrated that the Celtic fringe represented

the backbone of the Liberal Party” (Jalland 1979: 762). However, while the Scottish Liberals sought to exploit their growing numerical importance (as a proportion of both the UK Liberal Party’s parliamentary representation and its vote share) to press for Scottish Home Rule (particularly after 1910), Asquith refused to seriously countenance such demands (Jalland 1979: 763-764). Instead, in an indication of the limited threat the nationalists within the Scottish Liberals were considered to pose, Asquith was again able to successfully fall back on a triangulation strategy of offering sympathetic gestures and rhetoric to these figures without providing any firm policy proposals (Jalland 1979: 764).

Wales, in contrast to both Ireland and Scotland, has been described by McLean and McMillan (2005) as traditionally the least threatening of all the devolved nations and thus the least able to extract concessions from the centre (McLean and McMillan 2005: 167-169). Unlike the Anglo-Scottish and British-Irish unions, the ‘union’ between England and Wales was not the result of negotiation and agreement between two sovereign states (Melding 2009: 35; Jenkins 2007: 130-133). Rather, the Laws in Wales Acts passed in the sixteenth century, now known as the Anglo-Welsh ‘Acts of Union’, were pieces of legislation passed by the English Parliament aimed at extending English systems of law and governance to an unruly and subordinate territory (Jenkins 2007: 130-131). These were developments that were gleefully embraced by a Welsh gentry that had been shackled by the centuries of penal legislation that had followed the Statute of Rhuddlan in the late thirteenth century (Davies 2007: 213).

Of the Celtic nations, Wales therefore had the closest and longest relationship with the ‘Anglo-British’ state of all the other devolved nations, having been politically

and legally integrated into the English state in the sixteenth century (Jackson 2012: 26; Morgan 1980: 3). Indeed, one could argue that it was only in the incorporation of Wales into England that the various communities and regions of Wales became unified within a shared political space (Jenkins 2007: 133). While a strong cultural identity existed in Wales (Bryant 2006: 117; Jones 1992: 209-210) a distinctively Welsh political identity had developed comparatively late historically, certainly in comparison to Scottish and (a predominantly Catholic and Southern based) Irish political identities (Morgan 1980: 3-4, 56, 90). While there is some debate about the precise period in which a Welsh political identity began to emerge (Morgan 1980: 3-4, 56, 90; Williams 1985: 150-151), there is a consensus about the increasing significance of a Welsh political identity during the nineteenth century (Williams 1985: 150-151; Davies 2007: 403-404). Of particular significance to this enhanced Welsh political identity were the passage of the third reform Act in 1884 and the subsequent general election in 1885 which, as was earlier mentioned, returned a nationalist and non-conformist Welsh Liberal caucus to Parliament (Williams 1985: 150-151; Davies 2007: 403-404).

Lacking the history of independent statehood of Scotland and the threat of political violence and instability posed by Ireland, it is little surprise that Wales can be seen as posing the lowest threat among the Celtic nations to the UK central state (Jalland 1979: 766-767). Indeed, Wales' credibility as a powerful negotiating force vis-à-vis the centre was not only compromised by intra-Welsh Liberal discord on Home Rule (as seen in the failure of *Cymru Fydd* in the 1890s) (Davies 2007: 452-453), but by the ease with which the UK Liberal Party's leadership could incorporate leading Welsh Liberals such as Lloyd George and Thomas Edward Ellis (Jalland 1979: 763). Both of

these were figures who were able to successfully neuter any dissent from Welsh Liberals on the parliamentary backbenches (Jalland 1979: 763).

As a result of the importance of this hierarchy of threat levels and high politics more generally to the centre's deliberations, it is unsurprising that the only times in which the centre seriously considered extending proposals for Irish Home Rule to Scotland and Wales were at moments when it suited broader statecraft concerns (Burgess 1995: 86; Jackson 2004: 216, 222). Whether, for example, as a means of emasculating Irish Home Rule (and providing a means to justify some measure of distinctive treatment for Ulster vis-à-vis Southern Ireland) (Burgess 1995: 86; Jackson 2004: 216, 222), or as part of a package of devolution aimed primarily as lessening the workload of the imperial Parliament (Chiao 1969: 185; Jalland 1979: 758, 763). Indeed, John Burns, the Liberal President of the Local Government Board, offered a neat assessment of the national asymmetry within the UK in his summary of the 1911 cabinet committee on Irish Home Rule's conclusions on a broader scheme of devolution: "Scotland may come. Wales must wait. England does not want it" (Burns quoted in Jalland 1979: 767). It is to the English dimension that this section will now turn.

England's role in the debates on federal devolution in this era is arguably one of the most powerful endorsements of Mitchell's 'state of unions' paradigm. Unlike with Wales there was little ambiguity about England's status as a political nation, but it would have a similarly unique relationship to the devolution debates of this period. The first reason for this divergence can be found in England's demographic dominance of the United Kingdom (Chiao 1969: 185). Constituting the overwhelming proportion of the UK's population, even prior to the partition of Ireland, the question of how England

would assimilate into a system of federal devolution was a vexatious one for advocates of reform (Chiao 1969: 185, 243; Pim 1919: 19).

England's dominance, it was feared, would result in tensions between an English Parliament and Westminster, and at times of intergovernmental conflict could see a dangerous tussle over legitimacy between the English and Imperial parliaments (Kendle 1968: 348-349). These fears can be witnessed, for example, in Churchill's memoranda on devolution to the 1911 Home Rule cabinet committee, in which he warned,

The grant of Home Rule to Scotland and Wales, would, if England is treated as a whole for local purposes, involve the creation of an English Parliament for English purposes, in juxtaposition with an Imperial Parliament. *But two such bodies could not exist side by side. The English Parliament would be too strong* (emphasis added, CHAR21/22: Churchill 24th February 1911: 1).

Faced with the prospect of unseemly constitutional conflict and gridlock between two rival legislatures, Churchill was clear as to the steps required for England to be contained within a scheme of pan-UK devolution, "England must, for the purposes of local legislation, be divided into provinces" (CHAR 21/22). Essentially this would entail the devolution of powers to England's "existing local authorities," a proposal that contemporaries described as an attempt to bring back the 'Heptarchy' (Addison 2005:66).

Churchill would not be the only person to struggle with accommodating England into a scheme of federal devolution. His colleague and the only other cabinet member to submit proposals to the Cabinet committee, David Lloyd George similarly saw England as a serious hurdle to the establishment of Home Rule all round (Jalland 1979: 766).

However unlike Churchill, Lloyd George opted for a scheme that would avoid England altogether, on the grounds that “England could not be divided” (Jalland 1979: 766). Furthermore, while Walter Long’s draft Government of the United Kingdom Bill proposed devolution to England as a single unit (CAB/24/89/39), the question of what to do about England continued to dog the devolution debates. This was made clear from the subordinate legislatures debate on 3rd-4th June 1919, a debate in which even supporters of federal devolution, such as Major Edward Wood, admitted their concerns about how England could be included in a scheme of federal devolution (Wood 3rd June 1919 c.1879).

But demography was not the sole reason for the asymmetrical treatment of England in debates on devolution during the late nineteenth and early twentieth centuries. Equally as significant was the perception that the English were uniquely indifferent, if not outright hostile, to federal devolution (Chiao 1969: 243-246; Kendle 1968: 342; Jalland 1979: 766-767). Sir Charles Adderley, a nineteenth century British Conservative government minister, claimed “there is about as much chance of the English people turning their ancient Parliamentary system into such a constitution [federalism], as of their deliberately restoring feudalism or the Heptarchy” (Adderley quoted in Burgess 1995: 53). Decades later that sentiment seemed to retain its relevance (Chiao 1969: 245-246). For example, in his aforementioned memorandum from 1911 calling for devolution, Churchill is moved to admit that “in England there is not, so far as I am aware, any evidence of a demand for provincial councils”, and indeed he doubts whether any such demand could ever be created (CHAR 21/22).

Indeed, it is worth acknowledging that the state of English public opinion became a prominent excuse for procrastination for the British political establishment, as can be seen from the Prime Minister's statement to a 1918 deputation of devolutionists (The Times 1st July 1918: 9). Lloyd George was well aware that England's demographic dominance of the United Kingdom meant that any scheme of federal devolution could founder on the altar of English public opinion (The Times 1st July 1918: 9; Jalland 1979: 766; Boyce and Stubbs 1976: 73). Therefore, while Lloyd George acknowledged that public attitudes in Scotland and Wales might be sympathetic to devolution, he left no doubt about where the real balance of power rested among the constituent nations of the UK,

I am not so clear about the state of opinion in England: *that is what really matters*.

After all, here is a population of 34,000,000 out of 45,000,000 and unless you have got a substantial majority of English representatives in favour of it, it is idle to attempt it [federal devolution] (Emphasis added, Lloyd George quoted in The Times 1st July 1918: 9).

The twin dilemmas of how one could accommodate England in a scheme of federal devolution, and how the English public could be persuaded to even accept devolution, are, therefore, clear examples of the asymmetric nature of the discussions on devolution during the early nineteenth and early twentieth century. As such, England further underlines the value of Mitchell's 'state of unions' paradigm in understanding federal devolution in this period and territorial governance in the United Kingdom more generally.

Whereas even cabinet members were willing to concede an appetite or a willingness to accept devolution in Scotland and, more ambiguously so, Wales (CHAR

21/22; Jalland 1979: 766), the English public represented a far more sceptical and challenging hurdle for reformers to cross (Jalland 1979: 766-767). Furthermore, this was an attitudinal divergence that compounded the challenge of fitting England and its might into a system of federal devolution (Jalland 1979: 766; CHAR 21/22).

Unsurprisingly, and as will be outlined in the following chapters, both of these English questions would continue to bedevil the cause of federal devolution during the proceedings and deliberations of the Conference on Devolution.

3.6. Conclusion

Reflecting on devolution's rise in saliency during the late nineteenth and early twentieth centuries, Boyce concluded that without the Irish Question, "it is safe to say that federalism would hardly have merited serious political discussion in the British Isles; or at least would not have moved beyond discussion and into the policy process" (Boyce 1991: 119). This was an assessment shared by Jackson who described the Conference on Devolution as part of a "lingering diminuendo" of a federalist cause that was destined for failure by the end of the Great War, a result of the centre's mismanagement of the Irish crisis and the rise of Sinn Fein (Jackson 2004: 222-224).

Therefore, from the Irish-centric perspectives of historians such as Jackson and Boyce, the fortunes of devolution between 1870 and 1920 were uniquely dependent on developments in Ireland. However, as significant as Ireland was as a catalyst for considerations of federal devolution over the course of this fifty-year period, it was neither the sole nor the sufficient condition for the centre's flirtation with reform. Irish Home Rule was, instead, one of a variety of interconnected challenges to the UK state

and its institutions that led the centre to consider reform. These challenges included changes to Britain's relationship with her Empire and the increasingly congested nature of Parliament (Burgess 1995: 83-85; Kendle 1997: 77-78; Ogg 1924: 204; Pim 1919: 16-17). Indeed when the House of Commons actually voted in favour of a scheme of state-wide devolution, in June 1919, it was in support of a resolution whose main focus was resolving the evils of parliamentary congestion (Lowther 1925: 267).²⁸ As James Lowther, the-then speaker of the House of Commons, would later note,

The object of this policy was to remove from Parliament the burden of business which could be properly called local and not affecting the Kingdom as a whole, and leave to the Parliament at Westminster more time for discussing foreign and colonial affairs and matters of general interest (Lowther 1925: 267).

Facing what could be described as a crisis at the centre, high politics therefore played a central role in the political establishment's consideration of devolution (Kendle 1997: 77; Burgess 1995: 23). Reform, when it was meaningfully discussed, was engaged with only as a means of reaffirming the centre's control of the high political agenda (Ogg 1924: 204; Coupland 1954: 312-315). Devolution was therefore toyed with as a means of enhancing the British political establishment's position at the heart of the imperial and international order, and of preserving Westminster's dignity and prestige as the imperial Parliament (Ogg 1924: 204).

²⁸ Indeed, writing in *The Times* in 1975, the political journalist and scholar Ronald Butt claimed that a major contrast between the demand for devolution in the context of the Conference on Devolution and in the 1970s was that in the former case "it came primarily not from the smaller nations [Scotland and Wales] but from parliamentarians at Westminster who had become convinced that central government and parliament had become overloaded to the point of inefficiency" (Butt 6th November 1975: 14).

These are dynamics that underline the value of Bulpitt's concept of an 'operational code' in understanding the centre's territorial statecraft and its deliberations on federal devolution (Bulpitt 2008: 93, 115). However, as this chapter has also highlighted, the centre's statecraft did not operate in a vacuum, rather it operated within a context of territorially specific circumstances and histories in England, Ireland, Scotland and Wales. Throughout this period these national distinctions resulted in proposals for territorial governance reform that were, to varying degrees, asymmetrical in nature. Such national asymmetries underline the utility of Mitchell's 'state of unions' paradigm to the analysis of territorial management in the United Kingdom (Mitchell 2009: 12-13, 220-222).

To understand federal devolution in the years and months preceding the Conference on Devolution is therefore to appreciate the value of all the dynamics that sparked deliberation and debate, rather than to laud one in isolation. As Burgess noted in *The British Tradition of Federalism*,

In this context the federal idea was both resilient and ubiquitous precisely because it bridged the three dimensions of the constitutional discourse: the imperial; the (multinational) United Kingdom state; and the constituent sub-state national territories of England, Scotland, Wales and Ireland (Burgess 1995: 83-85).

The Irish-centric historiography of Boyce and Jackson is understandable and intuitively appealing, but it simply does not capture the rich tapestry of forces that ultimately led MPs through the voting lobbies on 4th June 1919 and to the creation of the Conference on Devolution late that year.

Part Two: The Conference on Devolution

4.1. Chapter Four: Consensus: the powers to be devolved to the subordinate legislatures²⁹

The first part of this thesis outlined the context in which the Conference on Devolution was established, explored historiographical perspectives on the Conference and federal devolution in the early twentieth century and detailed the methods and ideas that will be used to study the Conference. This chapter marks the beginning of a detailed examination into the Conference itself. The immediate focus of this chapter will be the Conference's deliberations on the powers that should be devolved to the subordinate legislatures, retained at Westminster or even held concurrently (i.e. powers that could be exercised by either Westminster or the devolved legislatures). As will be explained at the beginning of this chapter, the question of where specific powers should reside was not the first subject that the Conference grappled with (that honour goes to the issue of the areas that the devolved legislatures would represent). It was, however, the topic where agreement was reached first (Lowther 1920: 3). Furthermore, it was the area where consensus *appeared* to be strongest, a claim that will be critically examined in this chapter.

4.2. To work: the Conference on Devolution in operation

Following the successful subordinate legislatures resolution in the House of Commons on 4th June 1919, the coalition Government, in response to a written question

²⁹ A revised and amended version of this chapter has been published as: Evans, A. (2015b). An Interlude of Agreement? A Reassessment of the Conference on Devolution's 'Consensus' on Powers, *Contemporary British History*, 29(4), 421-440

from Murray Macdonald, affirmed its intention to establish a commission on federal devolution (HC Deb (5th Series) 10 July 1919 Vol. 117 c.2003). Later that summer, the Government, again in response to a written question, announced on 4th August 1919 that the Speaker of the House of Commons, James Lowther had consented to chair the inquiry (HC Deb (5th Series) 04 August 1919 Vol. 119 c.21-22). In October that year, the Government announced the membership of the Conference on Devolution and its terms of reference (Lowther 1920: 2-3). Comprised of thirty-three members, sixteen from both House of Parliament and with the Speaker of the House of Commons as chair, the Conference was tasked with the following remit,

Terms of Reference.

To consider and report upon a scheme of Legislative and Administrative Devolution within the United Kingdom having regard to-

- 1) The need of reserving to the Imperial parliament the exclusive consideration of-
 - a) Foreign and Imperial Affairs; and
 - b) Subjects affecting the United Kingdom as a whole.
- 2) The allocation of financial powers as between the Imperial Parliament and the subordinate legislatures, special consideration being given to the need of providing for the effective administration of the allocated powers.
- 3) The special needs and characteristics of the component portions of the United Kingdom in which subordinate legislatures are set up (Lowther 1920: 3).

Encoded into the very heart of the Conference were two fundamental dynamics that have been the subject of repeated discussion in previous chapters. The first dynamic, the centre's focus on high politics considerations, can be seen in the prioritisation as the

first term of reference of reserving foreign and imperial affairs to Westminster. The second dynamic can be seen in the reference to “special needs and characteristics” of the constituent nations of the UK: namely the nation-specific and asymmetric qualities of territorial governance that had been shaped by the unique characteristics and histories of each of the constituent nations.

Following the announcement of the Conference’s membership and its terms of reference, the Conference on Devolution met for the first time on 23rd October 1919. The first of thirty-two sittings, this meeting outlined the procedure of future conference meetings, with sessions of the Conference, for example, scheduled for 11am-1pm on Tuesdays and Thursdays (Gorell’s diary, entry dated 23rd October 1919). As the Speaker of the House of Commons’ letter to the Prime Minister highlights, the first topic which “engaged the attention of the Conference was the question as to what ought to be the units of area to which a scheme of devolution should apply” (Lowther 1920: 3); in essence, whether devolution should proceed along national and/or regional lines.

However, this was not the first issue to be resolved by the Conference. The difficulties that the Conference faced on the question of the units to be used for devolution will be covered in the next chapter. Suffice to say, however, that these deliberations resulted in the Conference shifting its focus onto the question of the powers that might be enjoyed by the devolved bodies, whomever they represented and however they might be composed (Gorell diary, entries dated 4th November 1919, 6th November 1919, 11th November 1919; Lowther 1920: 3-4). It is these discussions on the balance of power in a devolved United Kingdom that will be the focus this chapter.

4.3. Dividing the Estate: the balance of power in a devolved UK

On 6th November 1919, at the sixth meeting of the Conference on Devolution, the Speaker announced that the Conference would, at its next meeting, consider a schedule of powers for a system of UK-wide devolution (Gorell diary, entry dated 6th November 1919). In the Conference report, Speaker Lowther described the Conference as having “substantially agreed upon” the allocation of powers in a post-devolution United Kingdom (Lowther 1920: 6). In private, the Speaker appeared to be similarly effusive. In a letter, marked ‘confidential’, to the Lord Privy Seal and Leader of the House of Commons, Andrew Bonar Law, on 18th December 1919, Lowther claimed that “the division of powers as between central, local and/or provincial bodies” had resulted in “practical unanimity” among the conference’s membership (BL/98/5/15).

Media reports of the Conference echoed Lowther’s claim of consensus. Commenting on the publication of the Conference’s report, *The Times* noted that the Conference’s membership were “at one as to the various powers to be devolved on each legislature, to be exclusively reserved to the United Kingdom parliament, and to be exercised partly by one body and partly by the other” (*The Times* 13th May 1920: 17). In its summary of the Conference report, *The Daily Mirror* similarly reported that “the areas which local legislatures should administer, viz., England, Scotland and Wales (including Monmouthshire), are one of the points on which the conference was agreed” (*The Daily Mirror* 13th May 1920: 3).

This image of harmony was repeated years after the Conference finished its work. In Speaker Lowther’s memoirs, published in 1925, Lowther reiterated his claim

that on the question of “administrative powers”, the Conference achieved “far greater unanimity [than on composition and areas to be administered] and in five sittings we have completed satisfactorily lists of topics which might fairly be administered by subordinate bodies” (Lowther 1925: 268). There appears, on paper at least, good reason for Lowther to depict the Conference’s deliberations in this area to have been relatively harmonious. Certainly, the Conference report highlights the aforementioned “practical unanimity” on the subject of powers, with both of the rival Lowther and Macdonald devolution schemes endorsing the allocation of powers laid out in Appendix iii of the Conference report (Conference on Devolution 1920: 10, 13, 16-18).

However, Lowther’s vision of harmony was not shared by all members of the Conference. Lord Southborough’s memorandum to the Conference report, for example, not only poured cold water on the likelihood of the Conference resulting in a journey into “the unexplored and unfathomed sea” of devolution (Southborough 1920: 26); more importantly for the purposes of this chapter, he also queried the essence of the schedule of powers agreed by the Conference: namely a separation of local and central issues (Southborough 1920: 26). Southborough’s memorandum warned that such a separation would risk voters focusing their attention on the local issues being debated in subordinate legislatures, a situation that he feared would risk Westminster sinking into “comparative insignificance or even contempt” (Southborough 1920: 26).

As will be discussed later in this chapter, Lord Southborough was not the only figure involved in the Conference to have concerns about the consequences of devolution. Ronald McNeill’s memorandum to the Conference report (signed by fellow

Ulster Unionists members of the Conference³⁰) not only indicates the displeasure of Ulster Unionists at the prospect of UK-wide devolution, but unsurprisingly also queries the extent of the powers suggested by both Lowther and Macdonald (McNeill 1920: 36-37). Indeed, McNeill implies that only self-restraint stopped the Ulster Unionists from a more vigorous critique of the schedule of powers adopted by the Conference (McNeill 1920: 37). This was a claim that would have likely raised eyebrows from the more pro-devolutionist members of the Conference such as Lord Gorell, who considered the Ulster Unionists to have been consistent thorns in the side of the Conference (Gorell's diary, entries dated 6th November 1919, 11th November 1919). Indeed, Gorell's diary alleged that the Ulster Unionists even opposed the Speaker's attempt to begin a discussion on the subject of powers (Gorell's diary, entry dated 6th November 1919). As will be discussed in later chapters, the Ulster Unionists would remain dogged opponents of devolution, particularly if it would be on national lines in the rest of the United Kingdom, a reminder of their unique and precarious role in the UK's 'state of unions.'

Aside from his remarks about the Ulster Unionists, Gorell's diary provides further evidence of the strong debate and arguments that defined the Conference's deliberations on the powers that should either be retained or devolved. Certainly, in the fields of marriage and divorce, policing and education there appeared to be considerable debate among the Conference's membership (Gorell's diary, entries dated 18th November 1919, 20th November 1919, 25th November 1919, 27th November 1919). On the subject of policing, Gorell, who had also served on the Committee on the Police

³⁰ Despite representing an English constituency (see Appendix 1), McNeill was a prominent Ulster Unionist and during the Conference on Devolution appeared to be the leader of the Conference's Ulster Unionist members (Ervin 2011 [2004] [online]).

Service (otherwise known as the Desborough Committee), was a particularly vocal opponent of the suggestion that the Metropolitan Police should be reserved for the Westminster Parliament (Gorell's diary, entry dated 25th November 1919).

Such a decision, he argued, would create the anomalous situation in which "an English Parliament will have no London police though responsible for good order etc. in London" (Gorell's diary, entry dated 25th November 1919; Conference on Devolution 1920: 15). In terms of the devolution of education, Gorell opposed the proposed reservation of university education to Westminster on the grounds that such a move would break the "chain between secondary and university education" (Gorell's diary, entry dated 18th November 1919). Furthermore, both Gorell and the-then Liberal MP, Henry Cowan strongly supported the devolution of responsibility for "marriage and divorce" to national legislatures, an issue that would dominate debate over two conference sittings on the 20th and 25th November (Gorell's diary, entries dated 20th and 25th November 1919).

However, despite Gorell's stands on education, policing, marriage and divorce, and even his attempts to amend the pace with which the legislatures could accumulate power (he proposed an incremental approach "on lines the British constitution has always followed"] (Gorell's diary, entry dated 27th November 1919), this does little to undermine the Speaker's aforementioned claim to "practical unanimity." On all of those issues, including on marriage and divorce (a subject which had required two sittings to be settled by the Conference), majorities were reached by the Conference's membership (Gorell's diary, entries dated 20th November 1919 and 25th November 1919). Similarly,

Southborough and McNeill's memoranda do not provide a substantial rebuttal to Lowther's argument that the Conference reached agreement on the subject of powers.

Indeed, this is a claim to consensus that appears to be further strengthened by the fact that not even the staunchest advocates of devolution on the Conference sought anything approaching federalism (Kendle 1989: 219-220). As Kendle has noted, the schedule of powers agreed by the Conference was "decidedly devolutionary and not federal" (Kendle 1989: 219-220). Not only did the schedule reserve all unspecified powers for Westminster and Whitehall (Kendle 1989: 219-220; Add MS 46104: 11), but Parliament would also have retained its ability, under either the proposals of Macdonald (who despite his support for devolution was also a believer in Parliamentary sovereignty³¹) or Lowther, to legislate on devolved subjects (Macdonald 1920b: 40; Conference on Devolution 1920: 10, 14; Add MS 46104: 11).

To further underline the modest, rather than radical nature of the reform envisaged one can look at the range of departments that would have been impacted by devolution. According to a Conference memorandum that grouped the schedule of powers by Government Departments and Agencies, fifteen ministries and Government agencies would have been focused solely on 'central' issues, whereas nine would have been impacted by devolution (Add. MS 46104: 2-5). Even for figures such as the Viscount Gladstone, who would become a supporter of Murray Macdonald's scheme of

³¹ As Kendle notes, neither Macdonald nor his fellow devolutionist, Earl Brassey were federalists (Kendle 1989: 220). Indeed, Brassey acknowledged this in his correspondence with the Liberal Unionist peer, the Marquis of Lansdowne, during which he informed his fellow peer that, "...you will note that the term 'Devolution' has been substituted for 'Federal.'" It more accurately describes what we are driving at" (Letter from Brassey to the Marquis of Lansdowne 22nd June 1914, reprinted in Partridge 1921: 220).

directly elected devolved legislatures, the local legislatures were to be firmly subordinate (Add. MS 46104: 13). They would “not be sovereign bodies” or equivalent to “Dominion Parliaments,” rather they “would approximate more closely to that of big County Councils and Municipalities rather than the House of Commons” (Add. MS 46104: 14).³²

Nevertheless, there is substantial evidence that does call Lowther’s claim to consensus on the subject of powers into considerable doubt, evidence that comes from one of his closest colleagues. While both Lowther and Macdonald believed in the importance of parliamentary sovereignty, they differed considerably in their vision of how this should co-exist with a scheme of devolution. Indeed, it is worth noting that Lowther’s memoirs referred to agreement on the devolution of *administrative* rather than *legislative* powers (Lowther 1925: 268).³³ While this might have been a straightforward failure of memory (his memoirs were written five years after the publication of the Conference report), it is arguably rather symptomatic of Lowther’s minimalist approach to devolution. This is an attitude that is evident throughout the briefing papers and memoranda prepared for Lowther by the Conference’s Secretary and assistant clerk in the House of Commons, Gilbert Campion (GCA/6/16).

³² As an additional emphasis of the subordinate nature of these institutions, Gladstone described the prospect of having local ‘Prime Ministers’ as “pompous and even ludicrous” (Add. MS 46104: 14). Indeed, he suggested that the local executives be headed by a ‘State President’, with departmental heads titled ‘Director or Administrator’, terms which bore no resemblance to the UK Cabinet (Add. MS 46104: 15).

³³ Administrative devolution refers to the devolution of executive functions, rather than legislative devolution which provides primary legislative power to subordinate legislatures (Rawlings 2003: 5). This is a distinction that might best be seen as a difference between implementing the law and creating the law.

A dominant theme within these papers was a sense of discomfort and indeed opposition to the idea that national and local issues could be easily separated.

Campion's memoranda repeatedly warned of the difficulty of dividing central and local issues, claiming that "the interconnection is so close that it might easily arise that the two kinds of parliament and government would have to interfere with each other's policy," and that it is,

...permissible to doubt whether they [the aspiration to disentangle local and national politics] can be attained without the sacrifice of valuable features of the present system, and secondly whether the fundamental condition on which they rest-the possibility of 'local' and 'central' issues can be realised at all (GCA/6/16).

Campion further outlined his concerns about the potential conflicts that might result from a separation of powers in a memorandum entitled *Is Separation of Local and Central Issues, in Mr. Murray Macdonald's sense, possible?* In this paper, Campion drew on examples from the Empire, namely Canada and Australia to argue that in those Dominions where "such a line [between central and local issues] exists... borderline cases are numerous enough to give the Courts plenty of work" (GCA/6/16).

Furthermore, Campion claimed that the danger of legal battles and uncertainty was magnified by the fact that "in the case of the United Kingdom, an existing centralised system has to be remodelled" (GCA/6/16). Unlike in Australia and Canada, it would therefore be far more difficult, Campion argued, to disentangle local and central issues.

Campion's memoranda can therefore be seen as pouring cold water on the prospects of a clear division between central and local subjects, despite the fact that Lowther, whose devolution proposal was designed by Campion, endorsed the very same schedule of powers as Murray Macdonald. This was not necessarily a contradictory

position, however. Rather, Lowther and Campion could maintain their scepticism about the desirability and possibility of a clear separation of central and local issues, while endorsing the very same schedule of powers as Murray Macdonald, because of the intra-parliamentary nature of reform they proposed. As will be explored in much greater depth later in the thesis, the ‘devolution’ envisaged by Lowther and Campion would have resulted in delineation of local and central issues, but crucially *within* Westminster (GCA/6/16). Local issues would be ‘devolved’ to Grand Chambers (an evolution of the Grand Committee model), manned by MPs and Peers from the respective home nations, while pan-UK issues would be debated by all parliamentarians in the House of Commons and House of Lords (GCA/6/16; Add MS 46104: 18-20).

As a further briefing paper prepared by Campion notes, “this method of separation would attempt to combine the separate treatment by each part of the United Kingdom in its own local affairs, with a unified treatment of affairs common to the United Kingdom as a whole” (GCA/6/16). In essence, and in keeping with Bulpitt’s thesis of the centre’s approach to territorial modernisation (Bulpitt 2008: 99, 160), it would be the minimum change possible consistent with meeting local sentiments and the preservation of parliamentary supremacy. This conservative, minimalist approach is further evident in Campion’s summation of the Lowther proposal in his briefing paper, *Memorandum on Devolution Scheme*, “this scheme fits the necessity of a division suitable to local circumstances while retaining for the full House an even control” (GCA/6/16).

These memoranda and briefing papers are of huge significance to an understanding of the Conference on Devolution’s proceedings and provide a significant qualification to Lowther’s repeated claims to consensus on the subject of powers.

Campion was not only the Conference's secretary, but as the-then Assistant Clerk of the House of Commons was a close colleague of Lowther in his duties as Speaker of the House of Commons. In Campion's entry in the *Oxford Dictionary of National Biography*, Lowther's devolution proposal is described as having "been substantially Campion's work" (Mackenzie 2008 [online]). Certainly Campion's diary and personal papers highlight the substantial contribution he made not only to formulating the Speaker's devolution scheme, but also in its defence against critics such as Murray Macdonald (see for example GCA/2/2: Campion's diary, entry dated 14th April 1920). The concerns and qualifications outlined in Campion's papers are, therefore, a notable challenge to the apparent orthodoxy that on the question of what powers should be devolved the Conference achieved consensus.

While Lowther and Macdonald agreed to the same schedule of powers for their devolution proposals, they differed fundamentally as to how this schedule would have operated in practice. Macdonald, as his memorandum to the Conference report outlines, was diametrically opposed to Lowther's attempt to combine a distinction of local and central issues within an intra-parliamentary model of devolution. Lowther's scheme, he argued, would not reduce the burden of local and national work placed on parliamentarians (Macdonald 1920: 31). More problematically, Macdonald feared that Lowther's attempt to separate central and local issues without a corresponding and clear separation of institutions would result in "grave trouble" at General Elections as the "present confusion of issues would be worse confounded" (Macdonald 1920: 31). This was a fear that can also be seen in Viscount Gladstone's claim that "the confusion of issues becomes more confounded" under Lowther's plans (Add. MS 46104: 146). As this

chapter will now move onto discuss, further doubt is cast on Lowther's claimed consensus when one considers the Conference's deliberations on fiscal devolution.

4.4. Finance

As part of the Conference's work, a sub-committee on finance, headed by Lord Chalmers, was established on 4th December 1919 (Conference on Devolution 1920: 19). This committee (whose membership also included Charles Edwards MP, Lord Faringdon, Sir Edward Goulding MP and Murray Macdonald MP) examined both the costs of subordinate legislatures, taking into account the list of powers that had been suggested for devolution, and the taxes that should be devolved to finance these bodies (Conference on Devolution 1920: 19). The estimates of the cost of subordinate legislatures are broken into two categories. While the committee accepted that its figures might require alteration in the light of the "more elaborate analysis which must precede legislative allocation", the first set of estimates used the 1919-1920 budget and Treasury assistance to calculate the budgetary costs of the schedule of powers for England, Scotland and Wales (Conference on Devolution 1920: 19).

Table 1

	England	Scotland	Wales
Home (or Scottish Office)	5,378,500	1,167,000	240,000
Board of Agriculture	1,400,500	465,000	87,000
Ministry of Health	9,954,000	1,438,000	728,500
Board of Control (Lunacy)	211,000	50,000	6,000
Education	28,723,000	4,779,000	2,502,000
Transport (Harbours)	197,500	1,000	4,500
Voted Total £	45,864,500	7,900,000	3,568,000
Add-			
Local Taxation Grants	6,800,000	1,200,000	420,000
Total £	52,664,500	9,100,000	3,988,000

(Conference on Devolution 1920: 19)

The committee also discussed the institutional, rather than the current, spending implications of devolution. In the opinion of Chalmers and his colleagues, the creation of subordinate legislatures was likely to create a number of additional costs:

- 1) *Additional National Ministers*: Some existing Ministers (e.g. the Foreign Secretary) will of course have no 'National' counterpart: other, such as the Minister of Education for England and Wales, will become National only; other again, like the Chancellor of the Exchequer, will remain central but will also be triplicated in the Nationalities.
- 2) *National Staff*: Concurrently, there will be an increase of cost of Administrative Staff, together with a wholly new outlay on Parliamentary officers and their incidental expenditure on printing, postage, &c., also to be borne by the new Nationalities

- 3) *Additional Parliamentary Expenditure*: If the Members of the National Parliaments are to be distinct from the members of the existing Houses of Parliament, then (a) there must be new election expenses, and (b) there may be new salaries.

As regards Election expenses; if it be assumed that the existing Register (which costs, say, 2,000,000*l.* [£] per annum, of which half is borne by the Exchequer) is used, and that the cost is the same as for existing House of Commons [elections], the amount per National election will be 275,000*l.* for England, 40,000*l.* for Scotland, and 15,000*l.* for Wales. The more frequent the elections, the heavier the annual burden on the Nationalities.

- 4) *New Buildings*: (a) For purely administrative purposes, there would be little or no need for building new departmental offices either in England or even in Scotland; but provision would need to be made for Wales in this respect.

(b) If new Parliament buildings are to be assumed for each Nationality, heavy capital outlay may be entailed, the amount varying not only with the needs, but with the *amour propre* [sic.] [Self-esteem] of the several Nationalities. Wales would certainly require a new building; Scotland might decide to build new Law Courts and house her National representatives in the historic Parliament House; England, unless she could arrange for accommodation in the existing buildings at Westminster, would be faced with a difficult and expensive problem in finding a site convenient to existing Government Offices and in erecting buildings (not inferior to those of the London County Council) adequate to hold her existing quota of 492 members (Conference on Devolution 1920: 19-20).

However, while Chalmers' committee identified the above as likely sources of increased costs for any scheme of federal devolution, the committee was unable to produce firm estimates for these areas (Conference on Devolution 1920: 20). Instead, the committee noted that such developments would "involve a lump sum addition" to the costs outlined in the table above (Conference on Devolution 1920: 20). Regardless of ambiguity surrounding these additional costs, the committee's report underlined the need for subordinate legislatures to access revenue streams and "bear the financial responsibility" of both their existence and their powers (Conference on Devolution 1920: 20). In identifying how the subordinate legislatures could become "masters in their own houses", the committee ruled out the "facile plan" of each body being entirely financially dependent on "a lump sum Grant-in-Aid" (Conference on Devolution 1920: 20). This was dismissed on grounds of expense for the "Imperial Exchequer", but also because of the limitations such dependency would have on the subordinate legislatures' independence and their "scope for growth" (Conference on Devolution 1920: 20).

If the subordinate legislatures were to be, at least partially, self-sufficient, this raised the question of what tax revenues would these bodies enjoy (Conference on Devolution 1920: 20). Such a question, as the committee's report notes, resulted in the high politics quandary of ensuring that revenue streams could be provided for the devolved legislatures, while avoiding an impairment of the "Imperial Exchequer's essential resources" (Conference on Devolution 1920: 20). Indeed, the tax revenues that the committee found easiest to recommend were precisely those that did not "form an integral and indissoluble part of the Imperial system as a whole" (Conference on Devolution 1920: 20). Such readily transferrable revenues were,

- (i) Liquor Licenses (dealers' and retailers' but not producers')

- (ii) "Establishment" License (carriages, motor-cars, gun, game licenses, &c.)
- (iii) Traders' Licenses (auctioneers, hawkers, pawnbrokers, &c.)
- (iv) Entertainment Duty (Conference on Devolution 1920: 20).

In addition, the committee also recommended that the following revenue streams should be devolved to the subordinate legislatures,

- (v) Inhabited House Duty
- (vi) Land Value Duties
- (vii) Death Duties, if (as we believe will be the case) the general question of domicile can be satisfactorily settled, lend themselves to transfer without undue difficulty. The objection to such transfer arises chiefly from the fluctuating yield of these Duties, an objection which grows with the proportion of their yield bears to the total tax revenue on which a nationality depends, and might, perhaps, necessitate an equalisation fund to ensure the solvency of a National Exchequer in a lean year (Conference on Devolution 1920: 20).

As a result of these recommendations, the committee calculated that the following tax revenues would have, in the financial year 1919-1920, produced the following yields for the devolved nations,

Table 2

	England	Scotland	Wales
(i) Liquor Licenses	913,000	70,000	58,000
(ii) Establishment Licenses	2,104,000	214,000	123,000
(iii) Traders' Licenses	236,000	32,000	16,000
(iv) Entertainments Duty	8,100,000	1,040,000	590,000
(v) Inhabited House Duty	1,717,000	130,000	53,000
(vi) Land Value Duties	380,000	97,000	69,000
(vii) Death Duties	28,905,000	4,242,000	1,565,000
Total £	42,355,000	5,825,000	2,474,000

(Conference on Devolution 1920: 21)

As can be seen from a comparison between these figures and the expenditure outlined earlier in this section, the subordinate legislatures would have been faced with annual deficits of, if the estimates were remotely accurate, £10,309,500 for England, £3,275,000 for Scotland and £1,514,000 for Wales (Conference on Devolution 1920: 21). As a consequence, the Chalmers' committee (with the exception of Sir Edward Goulding) recommended the gift of grants-in-aid (essentially fiscal transfers from Westminster) to cover the subordinate legislatures' budget deficits (Conference on Devolution 1920: 21).

Faced with the dilemma of providing fiscal empowerment to bodies outside of the central state, the committee therefore opted, as Bulpitt's 'operational code' would have predicted (Bulpitt 2008: 93, 115), for a conservative approach (Conference on Devolution 1920: 19-21). Not only did the committee recommend the transfer of revenues from, what were in the main, minor taxes, but these revenues were to be *assigned*, rather than completely *devolved*, meaning that while the subordinate

legislatures would receive the yield of these taxes, the tax rates themselves would continue to be set centrally (Conference on Devolution 1920: 21). The same aversion towards any diminution of the centre's grip on high politics that led the committee to reject income tax assignment (on the grounds that such a move "saps Imperial potentialities of resource" i.e. leads to a significant reduction of funds at the centre), can thus be witnessed in the committee's decision to retain effective control of even those minor taxes, mentioned above, at the centre (Conference on Devolution 1920: 21).

As with the broader schedule of powers, there again appeared to be a high degree of consensus on finance among the broader membership of the Conference on Devolution on this subject. Indeed, if one looks at the finance provisions in both the Lowther and Macdonald devolution proposals, they are practically identical (Conference on Devolution 1920: 12, 14-15). Indeed, the following text was present in both schemes,

In order to meet the expenditure on the transferred Services (including those covered by Local Taxation Grants) there shall be handed over annually for a period of five years to the Grand Councils in Great Britain/subordinate legislatures [the former appearing in Lowther's proposals and the latter in Macdonald's] *with power to vary* those particular duties the following sources of revenue:-

- (1) Liquor Licenses (Dealers and Retailers but not Producers)
- (2) Establishment Licenses
- (3) Traders' Licenses
- (4) Entertainment Duty
- (5) Inhabited House Duty

(6) Land Values Duties

Together with the equivalent of the net yield of so many pence in the pound of the annual Income Tax (excluding Super Tax) as will, at the outset, balance the account. After the end of five years the whole situation with regard to allocated funds and allocated taxes shall be reviewed (emphasis added, Conference on Devolution 1920: 12, 14).

The above text suggests a striking degree of agreement on the question of devolved finance. Both schemes included the same commitment to fiscal devolution, accepting the overwhelming majority of the commission's report (the only exceptions being the ability for the subordinate legislatures to vary the devolved taxes and the omission of death duties) (Conference on Devolution 1920: 12, 14; Conference on Devolution 1920: 19-21). The omission of death duties was particularly important, not only because it was the most bountiful revenue stream proposed by the Chalmers committee (according to the sub-committee's report, death duties would have represented 68% of the tax-based revenue for England, 73% for Scotland and 63% for Wales) (Conference on Devolution 1920: 21), but because it provided a further reminder of Macdonald's moderate, rather than radical, conception of devolution.

While the Lowther and Macdonald schemes would have allowed the subordinate legislatures to vary the rates of taxes devolved to them, the removal of revenues from death duties would have resulted in such capacity being little more than a veneer of fiscal accountability for bodies that would, in reality, be incredibly dependent on the income tax yield assigned to it from the centre (Conference on Devolution 1920: 12, 14). This was precisely the "facile" reliance on a "lump sum grant-in-aid" that the sub-

committee had warned about (Conference on Devolution 1920: 20). Murray Macdonald, however, was wholly committed to this fiscal centralisation. Macdonald's pamphlet *The Case for Federal Devolution*, published shortly after the Conference reported, provides a rigorous defence of fiscal centralisation at Westminster, arguing that "the Parliament of the United Kingdom must... have powers over both direct and indirect sources of revenue" (Macdonald 1920b: 47). The alternative, the devolution of responsibility for income taxes and death duties, "by far our most important sources of revenue", he warned would result in the breakdown of tax administration in the United Kingdom (Macdonald 1920b: 47-50).

However, while Macdonald continued to defend the Conference's proposals on fiscal devolution the consensus on the finances of devolution (as with the broader issue of the schedule of powers) was far more qualified than the Conference report would suggest. Returning to Champion's personal papers, we find that the same memoranda that queried the very desirability and practicality of separating central and local issues as part of a critique of Macdonald's proposals unsurprisingly provided a similarly critical view of financial devolution and the fiscal consequences of his scheme. For example, despite the fact that both Lowther and Macdonald's schemes would have relied overwhelmingly on fiscal transfers from the Treasury as a means of balancing the respective accounts of the subordinate legislatures, Champion specifically marked Macdonald out for criticism on this front, warning that such an arrangement would encourage multi-level turf wars between the centre and the devolved bodies over finances (GCA/6/16).

This criticism is a recurrent feature of the briefing papers and memoranda prepared by Campion for Lowther. For example, in the memorandum *Is separation of local and central Issues, in Mr. Murray Macdonald's sense, possible?*, mentioned earlier, Campion repeated the argument that the devolved bodies would not be their own financial masters, stressing that “under the scheme approved by the conference they will only be able to raise taxes to the extent of 25% of their expenditure and will have to rely for the balance on grants in aid” (GCA/6/16). The result, Campion claimed, would be an impasse where local parliaments would be “encouraged to press upon the ‘central’ parliament demands for increased expenditure”, while the centre would be similarly encouraged to resist those demands. This scenario of inter-institutional rancour is reasserted by Campion in *Notes on Mr. Murray Macdonald's Memorandum of April 1st* in which he asserted that “the more advanced their [a local legislature's] policy, the more need they will have of money and the greater their demands on the central Parliament” (GCA/6/16). The dependency of the subordinate legislatures on the central parliament was thus a central element of Campion's criticisms of Macdonald's devolution scheme, despite the fact that this dependency on “grants-in-aid” would have equally applied to Lowther's proposals.

Indeed, Campion admitted as much in this briefing paper acknowledging that “Mr. Murray Macdonald may say that this is inevitable under any scheme, and is as inseparable from the Grand Council scheme as from his own” (GCA/6/16). The crucial difference, however, for Campion is that whereas “under his [Murray Macdonald] scheme the friction would be between separate bodies... under the Grand Council scheme it would be between different groups in the same body” (GCA/6/16). The key to understanding the simultaneous consensus and disagreement between Macdonald

and Lowther on the subject of powers was quite simply the differing structure of their devolution proposals.

As noted in the previous section, Campion and Lowther were able to critique Macdonald, despite having on paper the same fiscal devolution proposals, because of the intra-parliamentary nature of their devolution scheme. As Lowther's 'in-house' approach thus lessened the practical problems of separating local and central subjects, so too it lessened the potential problems of self-sufficiency and financial dependency that Campion believed would be inherent in the 'complete disassociation between "local" and "central" matters' proposed by Macdonald (GCA/6/16). Consensus on financial devolution may have existed on paper, but as with the schedule of powers adopted by the Conference this must be qualified by the fundamental division between Lowther and Macdonald as to how these financial powers would have operated in practice.

4.5. Conclusion: consensus?

The idea that Conference on Devolution reached a broad agreement on the powers that should either be devolved or reserved to Westminster seems itself to be the subject of consensus. Not only did Lowther project this image of harmony during the Conference's lifetime and in his memoirs, but it was a perception shared by the historian John Kendle who described the Conference's agreement of a schedule of powers as an "impressive achievement" that represented an "interlude of agreement" in the Conference's proceedings (Kendle 1989: 219). At first glance it seems difficult to disagree with either Lowther's claims or with Kendle's verdict, particularly in relation

to the difficulties the Conference experienced elsewhere in its proceedings (as will be explored in the next two chapters). Certainly, the Conference Report provided little evidence of any significant disagreement on the subject of the schedule of powers, nor on the fiscal powers that should also be devolved to the subordinate legislatures.

However, as the chapter has highlighted, this picture of relative unity requires serious qualification. While Gorell's diary, alongside the memoranda of Lord Southborough and Ronald McNeill, suggested that only a fringe of Conference members openly and vigorously disagreed with aspects of the schedule of powers, the private papers of Gilbert Campion suggest that the strongest challenge to Lowther's claims of consensus came from within the Lowther camp itself. As this chapter has demonstrated, Campion's papers provide a powerfully discordant note to the apparent harmony among Conference members on the schedule of powers and the fiscal powers of the devolved bodies. Indeed, as this chapter has highlighted, the very points upon which Lowther claimed consensus become important planks of their assault on Murray Macdonald's devolution scheme.

That Lowther and his associates could credibly turn areas of joint agreement into lines of attack was a result of the different understandings of what devolution meant and therefore how these powers would operate in practice. While both camps had signed up to essentially identical commitments on powers and finance, there was no consensus on the practical consequences of either the schedule of powers or of financial devolution. Unlike the more substantial impact of the schedule of powers and fiscal devolution in a system of devolution with distinct local and central legislatures Macdonald proposed, Lowther's "in-house" scheme would have meant a reallocation of

responsibilities within a shared Parliament at Westminster. As this chapter has shown, while consensus on powers may have existed on paper, it certainly did not exist in practice.

5.1. A little local difficulty: national or regional devolution and the English Question

As noted in the previous chapter, the power of the devolved legislatures was not the first item on the Conference's agenda. Instead, the first substantive issue the Conference faced was the question of the units the devolved legislatures should represent. While, as Speaker Lowther's letter to the Prime Minister highlights, "it was generally accepted that Scotland and Wales should form separate and undivided areas" (Lowther 1920: 3), the question of what to do about England dominated the Conference's protracted discussions on this subject. The Conference's discussions on the areas that would be represented by devolution broke down into two distinct phases. The first phase ran from the first sessions of the Conference in October 1919 to 6th November 1919, when the Conference turned its attention to the powers that the devolved legislatures should enjoy. The second phase began in early December 1919 and flickered until the Conference concluded its proceedings in April 1920.

This chapter will explore the Conference's deliberations on the areas the devolved units would represent, paying particular attention to the protracted discussions on England and to the ambiguity that surrounded Welsh claims to a national legislature. As with the Conference's agreement on the schedule of powers, this chapter will demonstrate that despite Lowther and Macdonald's schemes both proposing the retention of England as a singular unit, there was considerable divergence between these two camps as to how this would operate in practice. Furthermore, it will highlight the significance of Mitchell's 'state of unions' concept in interpreting both the Conference's prolonged discussions of the English Question and Murray Macdonald's hesitancy regarding the extent of devolution that should be offered to Wales.

5.2. The English Question

Following the Conference's first meeting on 23rd October 1919, which was dedicated to housekeeping arrangements (such as the days on which the Conference would sit), the second session on 28th October 1919 marked the beginning of the Conference on Devolution's substantial work (Add. MS 46104: 197; Gorell's diary, entry dated 23rd October 1919). It was in this meeting that the Conference began to grapple with the question of unit size: namely whether the devolved legislatures should be constituted on a national or on a regional basis. In his summary of the House of Commons' subordinate legislatures debate on 3rd and 4th June 1919, Kendle noted that the "question of whether or not powers should be devolved to nationally or regionally defined areas surfaced in a number of speeches", dividing those who sought national devolution, such as Murray Macdonald, from regionalists such as Walter Long and even Sir Edward Carson (Kendle 1989: 215).

Despite this, however, it appeared that for Scotland and Wales the question of whether or not the units for devolution should be national or regional was relatively straightforward. According to both Lowther and Gorell, it did not take much time for the Conference to agree that Scotland and Wales should be represented via national legislatures (although as will be discussed later in the chapter this was, in fact, rather less clear cut with respect to Wales) (Lowther 1920: 3; Gorell's diary, entry dated 30th October 1919). Indeed, according to Gorell, by only the Conference's third session, the members were "more or less agreed as to Scotland and Wales each having their own Parliaments" (Gorell's diary, entry dated 30th October 1919).

England's representation, however, proved to be a far more contentious issue, something which became apparent at the very outset of the Conference's discussions on the areas to be represented by devolution. As Viscount Gladstone's notes from the Conference's second sitting on 28th October detail, this session saw Brassey and Macdonald make the case for the principle that the "units of area should be based on nationality" for England, Scotland and Wales; only to be faced by opposition from Ulster Unionist members of the Conference (Add. MS 46104: 197). Ronald McNeill argued, instead, that no legislative unit "should be larger than others in combination" (Add. MS 46014: 197) and, according to Gorell, "spoke for an hour" insisting that such legislatures should be based around the principle of economic resource equality (Gorell's diary, entry dated 28th October 1919).

McNeill's arguments were not particularly subtle. The first strand of his contribution (that no unit could be larger than all others combined) was a clear attempt to prevent the establishment of a national legislature for England (an attempt repeated by McNeill and his colleagues in the following sitting on the 30th October). The second strand (economic resource equality) was a similarly transparent bid for a model of pan-UK regional devolution that would not only make provincial government for Ulster the norm, rather than an exception, but which also ensure financial parity for an Ulster legislature with those elsewhere in the United Kingdom.³⁴ This strategy can be seen as a further example of the UK as a 'state of unions', in this case reflecting Ulster's unique

³⁴ Parity would, unsurprisingly, become an important part of Ulster Unionist thought and public policy during the existence of the old Parliament of Northern Ireland (1921-1972) (see Mitchell 2006a). Indeed, the policy of parity with the UK Government's welfare and social security policies has resulted in a serious and protracted debate in Northern Ireland over the application of the UK Government's welfare reform policies between 2012 and the present day (Young and McHugh 26th May 2015 [online]).

(and Unionists feared precarious) position in the union and the Ulster Unionists' desire to avoid "special treatment" of Ireland (and thus Ulster) (Kendle 1989: 216) that would render provincial devolution in Ulster an aberrant fixture in a scheme of national devolution across the British Isles. As Gorell commented in his diary, "his [McNeill's] real motive was to smooth the way for Ulster" (Gorell's diary, entry dated 28th October 1919).

However, the problems facing the Conference with regards to England were not simply a by-product of Ulster Unionist machinations. As was discussed in the final section of the third chapter, the English question had already established itself as a source of discomfort for devolutionists by the time the Conference on Devolution was established in 1919, not least because of difficulties that arose from England's demographic dominance of the United Kingdom (Chiao 1969: 185, 243-246; Kendle 1989: 348-349).

This problem, as was noted earlier in the thesis, manifested itself during the Asquith Government's cabinet committee on Home Rule in 1911 and the proposals for pan-UK reform put forward by Churchill and Lloyd George. Fearing that an English Parliament would prove too powerful for Westminster to contain, Churchill's response to the English Question led him to propose the subdivision of England into provinces for the purpose of devolution (CHAR 21/22; Addison 2005: 65-66). Lloyd George, on the other hand, responded to the English Question in a manner akin to Lord Irvine's famous quote that "the best thing to do about the West Lothian question is to stop asking it" (Lord Irvine HL Deb 25th June 1999 c.1201). While Lloyd George declared that "England could not be divided", he also saw England (as a result of its size and a perceived lack of

public appetite for reform) as a serious hurdle in the way of pan-UK devolution (Jalland 1979: 766). The result was a proposed scheme of pan-UK reform that omitted England altogether (Jalland 1979: 766).

It was, therefore, not particularly surprising that, as *The Times* reflected on 29th October 1919, “there was bound to be a considerable difference of opinion as to whether England should form one area or several” during the Conference’s proceedings (The Times 29th October 1919: 12). Not only did England monopolise the Conference’s sitting on 28th October, but it did so again on 4th and 6th November. To quote Lowther’s letter to the Prime Minister, “considerable doubt arose” (Lowther 1920: 3) during these sessions as to how the English question should be resolved. As a result, the Conference was left with little choice but to postpone, at its fifth meeting on 6th November 1919, discussions on the subject in favour of “an examination of the powers which might appear suitable to be devolved” (Lowther 1920: 3; Gorell’s diary, entry dated 6th November 1919; The Times 7th November 1919: 13).

While tensions bubbled under the surface, the Conference, apparently in agreement on the subject of powers, returned in December 1919 to the question of England’s representation in a devolved UK. In this second phase of deliberations, Lowther’s letter to the Prime Minister appears to suggest that rapid progress was made. According to this letter, the Conference’s deliberations on powers had served to clarify matters with regards to devolution for England, with regionalisation considered to “present such formidable administrative difficulties that... [it] ought not to form a feature of such a system in its initial stage” (Lowther 1920: 3). In short, devolution for England would be national and not regional in nature. As with the question of powers,

at first glance there again appears to be good reason to believe that the Conference indeed managed to come to a swift resolution, following their resumption of deliberations on the English Question in December 1919. Indeed, by this time both the pro-devolutionist and more conservative wings of the Conference appeared to be working on the assumption that England would be retained as a singular unit.

For example, on 11th December 1919, Viscount Gladstone presented a working paper to his pro-devolutionist colleagues entitled 'On the Working Assumption that England is undivided' (Add. MS 46104: 13-17). Around the same time as Gladstone and his devolutionist colleagues were discussing a scheme of devolution that included a national legislature for England, the embryonic stages of the Speaker's intra-parliamentary devolution proposals were presented to the Conference (see Add MS 46014: 18-20). The precise detail of the Speaker's scheme will be explored in the seventh chapter, but for the purposes of this discussion it is important to note that they also envisaged retaining England as a singular unit (Add. MS 46104: 18-20).

That both pro-devolutionists and more conservative elements within the Conference were working on the basis of keeping England intact was confirmed by the Speaker himself on 18th December 1919, in a letter to the Conservative Party leader and Lord Privy Seal, Andrew Bonar Law updating Law on the progress of the Conference to-date (BL/98/5/15). While Lowther acknowledged that "considerable divergence of view[s] arose as to the advisability of treating England as one unit", his letter went on to note that of the two schemes of devolution that had begun to emerge by December 1919, both involved retaining England as a singular unit (BL/98/5/15).

The idea that the Conference had managed to resolve its prior difficulties on the English Question gains further traction from the Conference report itself. Not only did the report confirm Lowther's comments in his letter to Bonar Law, with both Lowther's and Macdonald's schemes treating England as a singular unit for the purposes of devolution (Conference on Devolution 1920: 9, 13), but the memoranda of two of the more sceptical members of the Conference, Lord Southborough and Ronald McNeill implied that this was an inevitable outcome of the Conference's proceedings. In his memorandum, McNeill, for example, wearily claimed that there was "no alternative" to an English national legislature (due to the demands of Scottish and Welsh members of the Conference for devolution in those areas to be based on national grounds), while Southborough similarly stated that this principle of nationality "must be applied to England" (Southborough 1920: 26).

However, while Lowther's letter to Bonar Law, as well as the memoranda mentioned above, would suggest that the issue of England's representation had been resolved by Christmas 1919 (or at the very latest April 1920 when the Conference published its report) this was not the whole story. As was the case with the schedule of powers, tensions (and indeed anxiety) simmered under the surface. Despite his earlier mentioned memorandum, even Viscount Gladstone was rather conflicted on the question of an all-England institution. Indeed, despite dismissing fears about an English national institution as mistaken (Add. MS 46014: 14), he himself admitted a certain degree of reluctance and concern, stating that "if forced to choose [between the subdivision of England or a singular legislature], singular, yet [I] do see the danger" (Add. MS 46014: 233).

Macdonald was similarly lukewarm on the subject of an English Parliament, despite advocating an English legislature both prior to and during the Conference's proceedings and concluded his memorandum (published in the appendices of the Conference report) with a defence of an English Parliament³⁵ (Macdonald 1920a: 34). Reflecting, following the Conference's conclusion, on Lowther's comments about the "formidable administrative difficulties" raised by regionalisation, Macdonald claimed that such problems were not "insuperable" or "of such a nature as by themselves to outweigh the *undoubted advantages* of partition" (Macdonald 1920b: 34-35). Indeed, far from administrative practicalities acting as the barrier for the sub-division of England, the "real difficulties", Macdonald argued, were legislative in nature (Macdonald 1920b: 35).

Unlike the Dominions and colonies, *tabula rasa* upon which administrative and legislative systems could be imposed, England was a nation of complex and closely woven domestic interests. Moreover, "one law, regulating these interests, has, in many cases, run through the country from end to end" (Macdonald 1920b: 35). England, as Macdonald concluded, "is too old a country... too long accustomed to regard her life as

³⁵ Macdonald's defence rested on high politics considerations and provided further evidence of his support for reform that guaranteed, rather than threatened Westminster's sovereignty. While he conceded that "in population and wealth England in a marked sense was the 'predominant partner'" in the United Kingdom, the House of Commons' continued sovereignty would be guaranteed by its control of the "main resources of the country" and of matters of high politics, "all the great matters vital to the United Kingdom itself, and to the Empire at large" (Macdonald 1920a: 34). Furthermore, Macdonald argued that the electorate would act as a brake on the ambitions of an English Parliament, claiming that voters would refuse to tolerate any actions "which conflicted with the *supreme* authority of the House of Commons (Emphasis added, Macdonald 1920a: 35). Indeed, he claimed that to suggest anything otherwise would be to claim that, among the English public there was "something sinister and revolutionary against the Parliament of the United Kingdom" an outlook he contended would have found prior expression in the attitudes and policies of England's MPs (Macdonald 1920a: 35).

one and indivisible, to make it safe to cut and hack her now” (Macdonald 1920b: 37). Macdonald’s support for an English Parliament was, therefore, less an ideological commitment than it was recognition of the historic character of the English nation and, more importantly, of the difficulties inherent in unpicking centuries of shared English legislation (Macdonald 1920b: 35). In essence, England’s unique history within the ‘state of unions’, her early unification as a nation and the “myth of England as an ancient kingdom” governed as a unitary state that resulted from this legacy (Mitchell 2009: 7), acted as a bulwark against regionalisation.

Further evidence that the Conference’s settlement of the English Question was less definitive than implied in the Conference report can be found in the private papers of Gilbert Campion. While Lowther and Macdonald both endorsed the principle of England being represented by a singular institution, as was the case with the schedule of powers, they differed considerably on the question of how this would look in practice. Campion’s papers again demonstrate this difference of opinion and the way in which England became another means by which to critique Macdonald’s devolution proposals. High politics concerns were at the forefront of Campion’s discussion of an English legislature, particularly the rather familiar fear that an English legislature would find itself in conflict with, and perhaps ultimately overwhelming, the UK Parliament (GCA/6/16). This was closely linked to Campion’s critique of a separation of central and local issues outlined in the previous chapter. Indeed, Campion argued that separation of issues would be more problematic in the case of an English Parliament that would “be so nearly equal in strength to the United Kingdom as a whole” (GCA/6/16). The result, he argued, would be a “situation full of possibilities and friction” (GCA/6/16).

In a further memorandum, Campion described the “predominant importance of England” as one of the main drawbacks of Macdonald’s scheme. Again the separation of powers is a prominent theme in this line of argument, with Campion repeating the claim that an English legislature would make it more difficult to delineate local and central issues “especially in finance.” The consequence, he argued, would be intergovernmental friction between Westminster and an English Parliament that would leave the former a diminished institution (GCA/6/16). One way in which this enfeebled Westminster would be brought about was, Campion claimed, through the decline in calibre of politicians elected to the UK Parliament. This would be a particular problem, he suggested, at times of international calm when an English legislature “might offer such superior attraction to energetic and capable men”, something he feared would leave the United Kingdom Parliament an inferior institution and perhaps even “an asylum of rejected local candidates” (i.e. the home to those who failed to get elected at the devolved level) (GCA/6/16).

Campion’s concerns were further outlined in his memorandum on *Local Standing Committees* (as will be further detailed later in the thesis the title of this memorandum referred to the origins of Lowther’s scheme of devolution in Parliamentary machinery). In this paper, Campion again highlights the centrality of the English question to the question of devolution, albeit in this case he argued that both the retention of England as a singular unit and the alternative of regionalising England would be problematic. In the former case, Campion repeated the familiar argument that you would “have an English Parliament representing a body of voters not very much smaller than the Imperial Parliament” and the equally familiar warning that such a mandate would pose significant problems for the Imperial Parliament in the event of intergovernmental

conflict. As regards the sub-division of England, Champion acknowledged, in terms similar to Lowther's comments in the Conference report, that such a settlement would create even more complexity, raising "all kinds of administrative problems", particularly in the absence of "coordinating machinery" (GCA/6/16). As was earlier mentioned, it was this consideration that, according to the official Conference report, led members of the Conference to accept the principle that England should be recognised as a singular unit within a system of devolved government across the UK (Lowther 1920: 3).

However, despite this awareness of the difficulties that might result from a subdivision of England, Champion's real focus remained on the problems of an English legislature. For example, these concerns were at the forefront of a paper Champion produced for Lowther in response to Macdonald's April 1920 memorandum (GCA/6/16). In this paper, which critiqued both Macdonald's criticism of Lowther's scheme as well as Macdonald's own proposals, Champion reheated his previously mentioned criticisms about the possibility or desirability of separating central and local issues, arguing that an English Parliament would risk intergovernmental friction and imperil the Imperial Parliament. Not least because an English Parliament, particularly if elected more recently than the Imperial Parliament, could command a stronger mandate than its UK counterpart in the event of such tension.

Therefore, despite being the author of Lowther's devolution scheme, which proposed national legislative devolution for England, Champion not only repeatedly warned of the dangers of an English legislature, but these concerns were also at the forefront of his criticism of Macdonald's proposals. As was the case with the question of the powers the devolved institutions should enjoy, Champion and Lowther sought to

attack Macdonald's proposal for an English legislature, despite the fact that Lowther's own devolution proposals would have provided for such a body. In both instances, the schedule of powers and an English legislature, Campion and Lowther could do so without facing accusations of inconsistency because of the intra-parliamentary nature of the reform they envisaged, as opposed to the directly elected legislatures proposed by Macdonald.

While this will be the subject of more detailed analysis in Chapter Seven, the practical consequences of these differing interpretations of devolution are themselves mentioned by Campion in his briefing papers for Lowther. In *Notes on Murray Macdonald's Memorandum of April 1st*, for example, Campion makes this case explicitly. While this paper saw Campion acknowledge (in response to a claim made by Macdonald), that some degree of rivalry between UK and English (and other sub-state ministers) would be possible under even his and Lowther's scheme, he argued that this danger "is not lessened but increased" by the creation of a directly elected English legislature (GCA/6/16). Such a body, he argued, would by its very nature be forced into direct conflict with the UK Parliament "whenever its policy requires a large additional grant of money which the majority of the Central Parliament is not willing to concede" (GCA/6/16). Such a situation would inevitably arise, he further claimed, because of the fiscal dependency of the English Parliament (and that of the other devolved parliaments) on the UK Parliament (GCA/6/16).

Campion's aforementioned concerns about the diminished interest in the Westminster Parliament are similarly intertwined with the directly elected nature of devolution proposed by Macdonald. Indeed, in another briefing paper he claims that this

is “one of the fundamental weaknesses” of Murray Macdonald’s plan (GCA/6/16). For example, Campion’s fear that Westminster would be reduced to the parlous position of an “asylum of rejected candidates” can only be understood in reference to the directly elected scheme Macdonald proposed. The same can be said regarding his fear, intertwined with the previous concern, that an English legislature could command a democratic mandate that rivalled Westminster’s. The intra-parliamentary nature of Campion and Lowther’s scheme meant that their preferred model of an English ‘legislature’ would pose no comparable challenge to Westminster.

5.3. The other national question: a Parliament for Wales?

As was mentioned at the outset of this chapter, while England proved to be a subject of considerable difficulty for members of the Conference on Devolution and a source of procrastination during a number of the Conference’s sessions, it appeared that no similar problems could be ascribed to the question of whether Scotland and Wales should be represented by national legislatures or regionalised (Lowther 1920: 3). Certainly, Gorell’s diary, as was noted earlier, suggested that as quickly as the Conference’s third session (essentially the second session dedicated to substantive issues following the house keeping-dominated first sitting), the Conference’s members had “more or less agreed as to Scotland and Wales each having their own Parliaments” (Gorell’s diary, entry dated 30th October 1919).

While this certainly appears to have been the case for Scotland, matters were less certain with regards to Wales. Despite the fact that the Conference had endorsed national devolution for Wales early on in its proceedings, and had also approved a

schedule of powers providing for equal responsibilities for all the devolved bodies, the legacy of Wales' annexation by England, as opposed to Scotland's union with England, was once again apparent. In Macdonald's memorandum put before the Conference in April 1920, this asymmetry would be particularly apparent. According to Macdonald, Wales:

Has a small area, half the population of Scotland, and possesses no administrative framework... it seems however an open question whether her actual requirements calls for an elaborate microcosmic application of all the administrative machinery required in the case of England and Scotland. We can only draw attention to this important question which arises with equal force in connection with the GC [Grand Council] scheme (Add. MS 46104: 104).

If the difficulties the Conference experienced regarding the representation of England were a manifestation of England's unique position in the UK's 'state of unions,' then the same can be said of Macdonald's memorandum for Wales. As was discussed in the third chapter, Wales had a somewhat ambiguous place among the devolution plans of the late nineteenth and early twentieth centuries: a legacy of Wales' institutional and political underdevelopment, and her historically close ties with the 'Anglo-British' state as a result of her political and legal incorporation into England in the sixteenth century (Jackson 2012: 26; Morgan 1980: 3).

Not only had this legacy previously resulted in Wales being omitted from Isaac Butt's proposals for Home Rule all round in the 1870s, but, as Chapter Three argued, it also led to Wales being explicitly isolated for special consideration in the text of the resolution that led to the Conference's establishment (Division No. 40 HC Deb (5th

Series) 4th June 1919 Vol. 116 c.2126). Indeed, Macdonald's speech during that Parliamentary debate was a forewarning of his April 1920 memorandum,

She [Wales] forms at present an integral portion of England. With a few very minor exceptions, the same law and the same administration runs through both countries. How far it is consistent with the interests of Wales that she should have a legislature of her own, possessing the same powers as the legislature of the other countries, I do not know (Macdonald HC Deb (5th Series) 3rd June 1919 Vol. 116 c.1889).

As was documented in chapter three, Macdonald left the door open to Welsh self-government, stating that "it is the opinion of Wales which must ultimately decide it" (Macdonald HC Deb (5th Series) 3rd June 1919 Vol. 116 c.1889). Nevertheless, his contribution highlighted the uncertainties that surrounded Wales' claims to national recognition, claims that appeared to be far more susceptible to challenge and debate than those of England, Scotland and Ireland.

On paper at least, and as was noted at the beginning of this chapter, national devolution for Wales was accepted at an early stage in the Conference's proceedings, and formed part of Lowther and Macdonald's rival devolution proposals. Indeed, there is little evidence, aside from Macdonald's memorandum of April 1st 1920, that members seriously considered offering Wales anything other than the same deal for Scotland and, eventually, England. However, Macdonald's memorandum and his comments during the Commons subordinate legislatures debate on 3rd June 1919 highlight the ambiguities that continued to surround Wales' claims to national recognition vis-à-vis those of England and Scotland in 1919-1920. As Macdonald noted in *The Case for Federal Devolution*, published shortly after the Conference's conclusion, "Scotland has never been, nor was it ever possible that it should be, a part of England in the sense of

which Wales has been a part of it” (Macdonald 1920b: 38). This difference between Scotland and Wales within the UK’s ‘state of unions’ will come to the fore in the next chapter’s discussion of the Conference’s judiciary sub-committee.

5.4. Conclusion

From the outset of the Conference on Devolution, the question of whether devolution should be framed on regional or national lines proved to be a source of considerable disagreement and procrastination. Or rather, the question of how England should be represented proved to be a source of considerable disagreement and procrastination. Unable to reach agreement on whether England should be retained as a singular unit for the purposes of devolution or divided into regions, the Conference had to suspend this debate on 6th November 1919, opting instead for a discussion of the powers that devolved bodies should enjoy. However, as this chapter has discussed, one could be forgiven for thinking that the Conference’s difficulties were swiftly resolved when it resumed its discussions on English Question in December 1919. Lowther’s letter to the Prime Minister suggested that the work on the schedule of powers resulted in the Conference adopting a national scheme of devolution for England due to the “formidable administrative difficulties” posed by regionalisation (Lowther 1920: 3). In addition, by December 1919, papers circulated among pro-devolutionist and more conservative members of the Conference show that both wings of the Conference were operating under the assumption that England would secure national devolution. When the Conference reported in April 1920 both Lowther and Macdonald’s rivals schemes shared a commitment to national devolution for England.

However, as this chapter shows, the apparent consensus between Lowther and Macdonald fails to withstand detailed scrutiny. As with the schedule of powers, England was used as an important arsenal in Lowther and Campion's critique of Macdonald's devolution scheme. Indeed, Campion's papers repeatedly critique the desirability and practicality of an English legislature, despite Lowther's agreement that legislative devolution should be applied to an all-England body. Once again this state of affairs can only be understood by an awareness of Lowther and Macdonald's different perspectives on devolution more generally. Unlike Macdonald's proposal of directly elected sub-state legislatures, Lowther's intra-parliamentary conception of devolution enabled Campion (the architect of Lowther's scheme) to warn of the dangers of an English legislature whilst proposing national 'devolution' for England.

Nevertheless, this was but one of the undercurrents of the Conference's discussions on the units represented by devolution. In his 2009 work *Devolution in the UK*, Mitchell advocated that the paradigms of the UK as a 'unitary state', or indeed a 'union state' should be replaced by a conceptualisation of the UK as a 'state of unions' (Mitchell 2009: 3-6).³⁶ While an idea articulated the best part of a century after the Conference concluded can hardly be said to have directly influenced its deliberations, the interpretive value of this perspective can be seen in an examination of its proceedings. This is particularly true of the Conference's discussions on how the nations of the UK should be represented under devolution. In the case of England, for example, it was not only her sheer predominance within the UK that influenced the conference's

³⁶ To recap, the essence of this concept is that the United Kingdom is the product of a "series of diverse unions, each leaving an institutional legacy" (Mitchell 2006b: 153), institutional legacies which have shaped (and continue to influence) the (asymmetric) territorial governance arrangements of the UK's constituent nations (Mitchell 2009: 6, 14-15).

deliberations, but also the legacy effects of her historically early unification and centralisation as a unitary state. Indeed, as this chapter has demonstrated, it was precisely for those reasons that Macdonald supported retaining England as a single unit for the purposes of devolution.

Wales' place within this 'state of unions' also influenced, though in a less prominent manner than was the case for England, the Conference's deliberations on Welsh devolution. As this chapter has shown, despite the issue of a Welsh national legislature having been apparently resolved as early as the third session of the Conference on Devolution (alongside national devolution for Scotland), Macdonald's April 1920 memorandum highlighted that Wales' national claims were considered to be the subject of greater ambiguity than those of Scotland and England. Indeed, Macdonald's memorandum was just one part of a broader uncertainty expressed by this leading figure in the federal devolution movement when it came to Wales.³⁷ Macdonald's hesitancy on the Welsh Question was, as this and the third chapter argued, a legacy effect of Wales' stunted (in comparison to Scotland and England) political identity, rooted in five centuries of political and administrative annexation within England.

As the Conference's prolonged deliberations on the English Question were an expression of England's predominant role within the United Kingdom, so too the uncertainty with which Macdonald treated Wales before, during and after the

³⁷ Recall also that the wording of the subordinate legislatures resolution that led to the creation of the Conference similarly isolated Wales for special consideration as opposed to the apparently more straightforward needs of Scotland, England and Ireland (Division No. 40 HC Deb (5th Series) 4th June 1919 Vol. 116 c.2126).

Conference on Devolution was a reflection of Wales's unique historical development and position within the UK's 'state of unions.' As the next chapter will demonstrate, this historical legacy would prove to be an equally significant factor in the work of the Conference's sub-committee on the judiciary.

6.1. Wales: nation or region? The Conference on Devolution's Judiciary Sub-Committee

In December 1919, the Conference established two sub-committees, one on finance and one on the judiciary (Conference on Devolution 1920: 5, 22). While the former has already been discussed, this chapter will examine the work of the Judiciary sub-committee. Aside from a recent blog post by the eminent Welsh legal scholar, Professor Thomas Watkin and a perfunctory reference by Chiao (Watkin 2012 [online]); Chiao 1926: 192-193), this sub-committee, established to explore the consequences of devolution for England, Scotland and Wales' judicial arrangements, has hitherto escaped commentary. It would be the latter nation that would dominate the sub-committee's proceedings. As with the ambiguous treatment of Wales by Macdonald mentioned in the previous chapter, this focus on Wales was a legacy of her historical development. In this case, the overwhelming attention given to Wales by the judiciary sub-committee was a reflection of her unique relationship to England, in particular the historic assimilation of Wales in a shared legal jurisdiction with England.

This chapter will begin with an overview of the sub-committee's deliberations, before focusing in greater detail on the asymmetric attention given to Scotland and Wales by the sub-committee. Following this, the chapter will then delve into the efforts undertaken by the Lord Chancellor's Office to persuade the sub-committee against recommending a Welsh judiciary. This chapter will, once again, draw upon Mitchell's concept of the United Kingdom as a 'state of unions', demonstrating the relevance of this perspective in understanding the asymmetrically intense attention paid by the sub-

committee and the Lord Chancellor's office to the devolution of the judiciary in Wales as opposed to Scotland.

6.2. Lord Stuart of Wortley's Judiciary Sub-Committee

As the Speaker's Letter to the Prime Minister explains, Lord Chalmers' committee on finance (discussed in chapter four) was not the only sub-committee established by the Conference on Devolution (Lowther 1920: 5). In the same month that Chalmers' sub-committee was appointed, December 1919, a sub-committee on the judiciary was set up under the chairmanship of Lord Stuart of Wortley³⁸ (Conference on Devolution 1920: 24). Dividing its work into three parts, dedicated to Scotland, Wales and England respectively, the sub-committee was tasked with the following remit,

To consider the existing organisation of the Judiciary (including the appointment of judges and the constitution of, and relations between, the higher and lower Courts of Law) in the United Kingdom as a whole and in its several parts; and
To report what changes will be necessary in order to adapt the existing organisation of the Judiciary to a scheme of Devolution which creates subordinate legislatures in the several parts of the United Kingdom (Instructions to Judiciary Sub-Committee: LCO 2/507).

³⁸ Aside from Lord Stuart of Wortley, the sub-committee on the judiciary's membership also included Ryland Adkins (a Coalition Liberal MP for Middleton and Prestwich), Lord Charnwood (an academic, philosopher and Liberal member of the House of Lords), J. Hugh Edwards (Coalition Liberal MP for Neath and formerly a leading figure within Cymru Fydd) and Donald Macmaster (Conservative MP for Chertsey and a former member of the Canadian House of Commons) (Conference on Devolution 1920: 24).

In the Conference report, the Speaker summarised the judiciary sub-committee's recommendations as the following,

- 1) That, in the case of England, Scotland, and Wales, the definition and punishment and the regulation of procedure in the trial of major crimes (*mala in se*), adopting for this purpose the list usually found in Extradition Treaties, should be reserved to the United Kingdom Parliament, and that such changes as may hereafter be found necessary in other matters should be left to the local legislatures to determine.
- 2) That the Scottish judicial system should remain unchanged, and that any change with regard to Wales, the implications of which are set out in the Report, should take place on if and when asked for by the Welsh legislature.
- 3) That, as to the county of Monmouth, it is suggested that when devolution takes place Monmouthshire should be taken out of the Oxford circuit and added to the South Wales circuit (Lowther 1920: 5).

Perhaps unsurprisingly, however, this summary failed to capture the most striking feature of the sub-committee's report: namely the asymmetry in the attention paid by the sub-committee to England, Scotland and Wales.

As the committee noted, Scotland "enjoys and always has enjoyed a separate judicature of her own, administering a body of substantive law differing in many of its fundamental conceptions from that of England" (Conference on Devolution 1920: 22). With a longstanding tradition of judicial and legal autonomy that predated the Anglo-Scottish union in 1707, "all the necessary separate administrative apparatus" already existed in Scotland (Conference on Devolution 1920: 22). Hence the sub-committee

(and the Conference more generally) recommended that only a “minimum of change” was required for Scotland (Conference on Devolution 1920: 22).

On the subject of judicial appointments, for example, the committee recommended that those higher judicial appointments which had hitherto been appointed by the Crown on the recommendation of the Prime Minister should continue to be nominated by the UK Prime Minister, rather than the leader of a devolved Scottish administration (Conference on Devolution 1920: 22). For those appointments made on the advice of the Secretary for Scotland, the committee recommended that, post-devolution, they should be made “on the advice of the Minister discharging, under responsibility to the local legislature, duties substantially analogous to those now discharged by the Secretary for Scotland” (Conference on Devolution 1920: 22).³⁹ All other appointments should, they recommended, “continue so far as possible to be made in the same way as they now are” (Conference on Devolution 1920: 22). The reforms proposed by the sub-committee were therefore limited to the definition and punishment of major crimes (“adopting for this purpose the list usually found in Extradition Treaties”) to be reserved to Westminster alongside the “regulation of procedure in the trial of such crimes in Scotland” (Conference on Devolution 1920: 22).

In contrast to the prompt manner with which the sub-committee dispensed with Scotland, the question of a Welsh judiciary went on to dominate around three quarters of their report (Conference on Devolution 1920: 22-24). This level of discussion and the eventual, rather cautious, conclusion it reached on the subject was indicative of Wales’

³⁹ The post did not secure full Secretary of State status until after the passage of the *Secretaries of State Act 1926*

distinct history and role in the union, in particular the absence of a Welsh legal tradition comparable to that which existed in Scotland, and uncertainty as to the strength of national sentiment in Wales. For example, while the committee's report noted that they had been "assured that a strong sentiment exists in Wales in favour of the re-establishment in some form of a separate judiciary for Wales" (a reference to the Courts of Great Sessions that existed until 1830), it demurred to pass judgement on the strength of this demand. Instead, the sub-committee claimed that the only "competent judge" of such demand would be "a separate Welsh legislature or other legislative authority specially constituted under a scheme of devolution to represent the people of Wales" (Conference on Devolution 1920: 23). Having avoided entangling itself in the question of Welsh national sentiment, the committee proceeded to discuss the practicalities of a Welsh judiciary. In yet another sign of their different national histories and circumstances, the committee noted that, quite unlike the rather easy 'transition' envisaged for Scotland, a Welsh judiciary would need to take several considerations into account (Conference on Devolution 1920: 23).

The first such consideration was that of expense. Aided by evidence from Lord Justice Eldon Bankes, Mr Justice Sankey and the Lord Chancellor's office (all of which will be examined in further detail later), the committee suggested that between nine and ten judges would be required to undertake the work currently undertaken by High Court Judges at Assizes and by County Court Judges in the Welsh County Court districts, alongside the hearings of Welsh cases currently tried in London (Conference on Devolution 1920: 23). A similar number of judges would be required, the committee recommended, even if the High Court and County Court jurisdictions were united in the same bench of judges (a suggestion that the report implied was more 'blue skies'

thinking than a strongly advocated proposal) (Conference on Devolution 1920: 23). Further expense would arise from the “necessary installation of a Central Office for the administration of a Welsh judicial system”, with potentially more costs arising if the present District Registrars of the High Court in Wales were turned into full-time roles (Conference on Devolution 1920: 23).

A Welsh judiciary would also, the sub-committee suggested, raise the question of how best, “with due regard to economy”, to deal with appeals from the Welsh courts (Conference on Devolution 1920: 23). As the committee’s report discussed, one possible solution would be to make use of the existing bench with an appeals system similar to the Exchequer Chamber (a court that dealt with matters of equity) prior to 1873 (Conference on Devolution 1920: 23). An alternative proposal, however, would be the establishment of a special Appeal Court for Wales, something that would require an additional number of judges to the nine/ten figure mentioned previously (Conference on Devolution 1920: 23).

However, the committee did note that any decision regarding appeals tribunals would have to give “due regard to the possible preference of the great commercial and industrial interests in South East Wales for the greater prestige... of an appeal tribunal sitting in London” (Conference on Devolution 1920: 23). The sub-committee similarly suggested that “a Welsh legislature could not overlook the fact that a journey from Beaumaris to Cardiff is well-nigh as long and difficult as a journey to London” (Conference on Devolution 1920: 23). The committee’s discussion of a Welsh appeals system was thus as much a reminder of Wales’ longstanding close relationship to England (or rather the close East-West ties between North Wales and the North of

England and South Wales and the South of England) as much as it was of Wales' centuries old shared legal system with England.

Indeed this legacy was precisely why the committee recommended that, as with Scotland, a devolved judiciary for Wales should involve only a "minimum of change" (Conference on Devolution 1920: 23). However, the committee suggested this should be for "exactly opposite reasons" as for Scotland (Conference on Devolution 1920: 23). Whereas Scotland enjoyed a legal system and legal institutions that were different from those in England, Wales, despite the existence of the Courts of Great Sessions between the 16th and 19th centuries, had no comparable tradition of legal autonomy and distinctiveness. Instead, in Wales, as the committee's report recorded, "the law is the same as the English law, and subject to changes made by a future Welsh legislature within the limits of its powers, is likely to remain as familiar as it now is to the judicial authorities now administering it" (Conference on Devolution 1920: 23).

The committee therefore opted to "survey the field" and examined which of the existing judicial institutions "would actually require to be changed if Devolution should come into force" (Conference on Devolution 1920: 24). Again this was a considerably more detailed analysis than that provided for Scotland. Starting with minor civil jurisdictions, the committee recommended that the jurisdiction of Wales' county court judges could "with small changes be made to coincide exactly with the territorial limits of Wales (and Monmouthshire)" (Conference on Devolution 1920: 24). Furthermore, the committee claimed that the existing practice of selecting Welsh-speaking judges in the Welsh County Courts meant that for "small debts and other minor civil matters" there

already existed “Welsh tribunals for Welsh areas” (Conference on Devolution 1920: 24).⁴⁰

With regards to minor criminal tribunals, the committee suggested that any changes to the Quarter Sessions and Petty Sessions (described as “essentially local institutions, manned by magistrates of the County and Borough Benches in Wales”) should be left to the discretion of a Welsh legislature (Conference on Devolution 1920: 24). However, the committee’s report did note that they had been “assured that Welsh national sentiment would probably be content” if the current arrangements for judicial and magisterial appointments in Wales (appointments made on the advice of the Lord Chancellor) remained in place post-devolution (Conference on Devolution 1920: 24). This was in direct contrast with the sub-committee’s recommendations for Scotland, which where, as outlined earlier, that only select higher judicial appointments would continue to be made on the advice of Whitehall (with other appointments devolved to the relevant minister in a future Scottish administration) (Conference on Devolution 1920: 24).⁴¹ Again this asymmetry can only be understood as a result of the very different historical and institutional contexts in Wales and Scotland, and the absence of a heritage of legal autonomy in Wales (and autonomous Welsh legal institutions) comparable to that which had existed for centuries in Scotland.

⁴⁰ As will be seen later in this chapter, this argument would be used by Sir Claud Schuster, the-then Permanent Secretary of the Lord Chancellor’s Office, as part of his opposition to the establishment of a fully devolved Welsh judiciary.

⁴¹ Despite this, the committee also recommended that such a judiciary, “if so desired, should be... equal in independence to that of Scotland” (Conference on Devolution 1920: 24).

On the subject of major criminal and civil jurisdictions, the Committee suggested that as those cases were currently tried in Welsh counties by Circuit judges, these arrangements could easily remain in place “pending the decision of a Welsh legislature as to the creation of a separate Welsh system” (Conference on Devolution 1920: 24). Because the North Wales Circuit as it then stood included Chester, and Monmouthshire was on the Oxford Circuit, the committee recommended that following devolution Monmouthshire should be brought into the South Wales Circuit. However, in a further reflection of the close cross border and institutional ties between England and Wales, the committee proposed that, unless a Welsh legislature proposed otherwise, “no change should be made in the present connection between Cheshire and the North Wales Circuit”, citing the convenience of holding some Welsh cases in Chester (Conference on Devolution 1920: 24).

As briefly mentioned earlier, the sub-committee’s conclusion on the subject of a Welsh judiciary was rather tentative in nature. Indeed, the committee suggested only that a Welsh judiciary should be created “if and when the Welsh legislature shall ask for it” (Conference on Devolution 1920: 24). As such it recommended that any devolution legislation should include a clause “providing in express terms that Wales may have a separate Judiciary and all needful accessory judicial institutions on application to the United Kingdom Parliament by the Welsh legislature” (Conference on Devolution 1920: 24). With these remarks the sub-committee signed off their report to the Conference on Devolution.

However, much like the summary of the judiciary proposals included in Lowther’s letter to the Prime Minister, the official report of the judiciary sub-committee

also captures only a small part of its story and provides only a partial understanding of their deliberations. The next section will address a chapter of the sub-committee's story that has had, even by the standards of the Conference, little academic attention, the extraordinary role (by the Conference's standards) that Sir Claud Schuster played in attempting to lobby the sub-committee against a Welsh judiciary.

6.3. "A very great anxiety": Sir Claud Schuster and the creation of a Welsh judiciary

In the sparse literature on the Conference on Devolution, one intriguing story has hitherto gone almost entirely uncharted⁴²: the sustained efforts made by the Lord Chancellor's Office to prevent the sub-committee recommending a separate Welsh judiciary (LCO 2/507). Between 13th February and 26th April 1920, Sir Claud Schuster, who served as the Permanent Secretary to the Lord Chancellor's Office between 1915 and 1944, was a frequent correspondent with judges and figures involved with the Conference on the subject of a Welsh judiciary. These letters not only reveal his determination to be called as a witness to the sub-committee⁴³ (see for example his letters to Lowther on 13th and 14th February 1920: LCO 2/507), but his "very great

⁴² The only other individual to discuss this story appears to be the eminent Welsh legal scholar, Professor Thomas Watkin, who mentioned Schuster's efforts in a lecture at the National Eisteddfod, 2012 (Watkin 2012 [online]). However, Schuster is not mentioned at all by Watkin in his more detailed study, *A Legal History of Wales* (Watkin 2007).

⁴³ The judiciary sub-committee (as with the finance committee) appears to have been unusual in seeking evidence from external parties. Indeed, the Conference's failure to seek outside expertise, aside from the examples of the sub-committees, would be the subject of criticism by Lord Emmott in a letter to his fellow Conference member, Viscount Gladstone (Letter from Lord Emmott to Viscount Gladstone 16th March 1920: Add MS 46084).

anxiety” (Undated letter to Lord Charnwood: LCO 2/507), about the prospect of the sub-committee (and the Conference more generally) endorsing a Welsh judicial system.

One particular stream of correspondence during this period was between Schuster and a Welsh County Court Judge, Rowland Rowlands. While this dialogue was initiated by Rowlands, it was dominated by Schuster and his determination to prevent a Welsh judiciary being recommended by the sub-committee. Markedly inferior in rank to Schuster, Rowlands’ particular use of it seems was as a ‘man on the ground’, an individual able to report on, and perhaps to some degree influence, Welsh sentiment on the subject of judicial devolution to Schuster. As such Schuster not only used his correspondence with Rowlands to request that he inform him “at the earliest moment possible” (Letter to Rowlands 27th February 1920) if he became aware of proposals that had been made to the sub-committee, but also as a means of lobbying Rowlands to personally oppose any fundamental reform to the England and Wales judicial system (Letter to Rowlands 1st March 1920: LCO 2/507).

These efforts can be seen, for example, in a reply to a letter Rowlands had sent outlining his preference for a “better and more workable scheme” of judicial devolution than one that would see Wales “cut away from England for judicial purposes” (Letter from Rowlands to Schuster 29th February 1920: LCO 2/507). Such an alternative, Rowlands suggested, could include the formation of a body of Welsh circuit judges (made up of the County Court judges in Wales) that would then constitute the Welsh Division of the High Court of Justice (Letter from Rowlands to Schuster 29th February 1920: LCO 2/507). In response, Schuster outlined his opposition to even that level of reform, stating that he did not “understand what would be gained by turning the Welsh

County Court judges into Welsh circuit judges” (Letter to Rowlands 1st March 1920: LCO 2/507). He similarly dismissed the demand for change to Wales’ legal and judicial arrangements as being driven by “vague national sentiment” (Letter from Schuster to Rowlands 1st March 1920: LCO/2507).

Clearly frustrated with this subject, Schuster’s letter pleaded for Rowlands to inform him “what more... the Welsh want than they have got at present [?]” (Letter from Schuster to Rowlands 1st March 1920: LCO/2507). Particularly when, Schuster argued, “the Welsh do not seem anxious to take advantage of these facilities [ability for local trials to take place within the county court system and in Assizes of all other King’s Bench sections] judging by the amount of civil work which in fact there is on Assize” (Letter to Rowlands 1st March 1920: LCO 2/507). His letter, a mix of conservatism and exasperation bordering on bafflement, concluded with the rather plaintive question to Rowlands, “what is the matter with the present system” (Letter to Rowlands 1st March 1920: LCO 2/507).⁴⁴

Schuster’s correspondence with Rowlands was but one part of a much more intensive campaign against a Welsh judiciary. On 4th March 1920, for example, he wrote to B. J. Bridgeman, the-then superintendent of the county courts department at the Treasury, requesting the costs of running the judicial system in Wales (Letter to B. J. Bridgeman 4th March 1920: LCO 5/207). As Schuster acknowledged, this request was made so that both he and the Lord Chancellor could, “suggest to the Committee that if

⁴⁴ In further correspondence, on 13th March 1920, Schuster reiterated his continued opposition to both a separate judicial system for Wales, describing himself as “impenitent” on the subject (Letter to Rowlands 13th March 1920: LCO 2/507), or indeed anything more than minor amendments to the current judicial arrangements.

they cut off Wales from England, Wales would either have to bear the financial consequences of the separation or receive a subsidy from England” (Letter to B. J. Bridgeman 4th March 1920: LCO 5/207).

In addition, Schuster asked Bridgeman to confirm whether it was “not also true in the County Court that so far as the larger courts make up the deficiency on the small Courts, Wales would lose by the separation inasmuch as the more remunerative courts looked at all round are England and the less remunerative courts Welsh” (Letter to B. J. Bridgeman 4th March 1920: LCO 5/207). Schuster’s strategy was, thus, plain to see: to prove that the judicial system in Wales, as it then stood, was dependent on England and thus a separate Welsh judiciary was financially unsustainable (Letter to B. J. Bridgeman 4th March 1920: LCO 5/207).⁴⁵

Further to this, Schuster also sought to demonstrate that there was an insufficient caseload to sustain a Welsh judiciary. On 6th March, Charles Stubbs, on behalf of B.J. Bridgeman, wrote to Schuster providing him with details of the number of days spent at the North Wales and Chester Assizes for both criminal and civil cases in

⁴⁵ Bridgeman replied to Schuster on 22nd March 1920 providing figures for the Welsh County Courts and District Registries for 1913, “the last normal year” (i.e. the last year before the Great War), as well as for 1919. The figures were as follows:

1) County Courts	1913	1919
Fee Revenue	£47, 156	£16,132
Voted Expenditure (C.C. [County Court] Vote Only)	£45,433	£40, 253
2) District Registries	1913	1919
Fee Revenue	£2, 031	£1, 236
Registrars’ Remuneration	£1,244	£750

(Letter from Bridgeman to Schuster 22nd March 1920: LCO 2/507).

1919 (Letter from Stubbs to Schuster 6th March 1920: LCO 2/507). The figures for the North Wales and Chester Assizes can be seen in the table overleaf and demonstrate the limited workload of the Welsh Courts. For example, only two days were spent in total in 1919 on criminal and civil cases in Welshpool/Newtown, with 3 days a piece spent in total in Mold (all on criminal cases) and Dolgellau (1 day on criminal cases, with 2 spent on civil cases). Even the busiest Welsh town, Caernarvon (which spent 8 days in total on criminal and civil cases, was easily outstripped by Chester, where the Assizes spent 12 days a piece on criminal and civil cases (Letter from Stubbs to Schuster 6th March 1920: LCO 2/507).

Table 3: Number of Days Court sat North Wales and Chester Assizes 1919

	Winter Assize		Summer Assize		Autumn Assize		Total Year 1919	
	Crime	Civil	Crime	Civil	Crime	Civil	Crime	Civil
Welshpool or Newtown		1	1				1	1
Dolgellau		1	1	1			1	2
Caernarvon	1		2	3	2		5	3
Beaumaris	1			1			1	1
Ruthin	2		2		2		6	
Mold	1		2				3	
Chester	3	4	4*	7*	5*	1*	12	12
*On one of those days both criminal and civil work was undertaken- thus reducing the grand total for the year by two days								

(Letter from Stubbs to Schuster 6th March 1920: LCO 2/507)

Similarly, three days later, on 9th March 1920, Schuster wrote to Stephen Coleridge, a leading figure within the England and Wales legal establishment, requesting figures on the number of days judges “sat for civil and criminal business respectively at each of the towns in South Wales during each of the three Circuits in 1919?” (Letter to Coleridge 9th March 1920: LCO 2/507). No response could be found in Schuster’s files, but on 12th March, he received further information on the financial costs of the legal system in Wales. This letter, from the Supreme Court Pay Office, provided the following figures: in the North Wales Circuit expenses during 1918-1919 amounted to £206 4s 8d with salaries totalling £950 (Letter from the Supreme Court Pay Office 12th March 1920: LCO 2/507). While in South Wales, expenses for that year were £361 2s 9d with salary costs of £1000 and additional officer fees of £40. 19s (Letter from the Supreme Court Pay Office 12th March 1920: LCO 2/507). The total sum for the Welsh circuits during 1918-1919 therefore came to £2568 6s 5d (Letter from the Supreme Court Pay Office 12th March 1920: LCO 2/507).

Around this time, Schuster was also in close communication with those figures within the judicial establishment that had been asked to appear before the judiciary sub-committee. One such person was John Sankey, a Judge who would go on to become Lord Chancellor under Ramsay Macdonald as part of both the Labour and then National Governments between 1929 and 1935. On 7th March 1920, Sankey wrote to Schuster asking for an informal meeting the following day with the Lord Chancellor. Explaining that he had been called to give evidence before the Conference on Devolution’s judiciary sub-committee, Sankey, although stating that he proposed to avoid expressing a view “on the opinion on the desirability or the necessity of change”, expressed his reservation about the competency of the sub-committee and their awareness of the “tremendous

difficulties they are up against if they wish to alter the present system” (Letter from Sankey to Schuster 7th March 1920: LCO 2/507).

Schuster’s response to Sankey’s letter was rather predictable. While informing Sankey that he was “endeavouring to arrange a time” for a meeting with the Lord Chancellor, he also sought to arrange a meeting with Sankey himself (Letter from Schuster to Sankey 8th March 1920: LCO 2/507). Expressing his frustration at the committee’s preference to take evidence from people “some eminent like yourself, and some not so eminent” before they went through “the more pedestrian task of learning the present system”, Schuster asked Sankey for his assessment of the proposals that had, so far, been made to the committee and for advice as to how “how best to arrange” the evidence that he would “some time or other” be called upon to make (Letter from Schuster to Sankey 8th March 1920: LCO 2/507).

Throughout March 1920, Schuster remained resolutely focused on the issue of a Welsh judiciary. Indeed, this can be clearly seen from his response to a letter from Campion that enclosed the précis of Lord Dunedin’s evidence submitted to the sub-committee (Letter from Campion to Schuster 8th March 1920: LCO 2/507). Dunedin’s evidence was, unsurprisingly (as a former Secretary of Scotland and Lord Advocate), focused exclusively on the “existing Civil and Criminal jurisdiction in Scotland” and how devolution should effect “Scotch judicial institutions and procedures” (Précis of Lord Dunedin’s evidence, undated: LCO 2/507). However, as influential as Dunedin’s evidence appears to have been in shaping the judiciary sub-committee’s

recommendations for Scotland⁴⁶, Schuster appeared to be rather uninterested. Instead, Schuster suggested to Campion that “it would be of greater assistance” if he could have a précis of the evidence given by Lord Justice Bankes (Letter from Schuster to Campion 9th March 1920: LCO 2/507).⁴⁷

6.3.1. *“Continuing as far as possible the existing state of things under which the same law prevails in Wales as in England”: Sankey and Bankes’ evidence to the judiciary sub-committee*

On 15th March, while awaiting the précis of Bankes’ evidence, Schuster was sent a summary of the evidence Sankey had given to the sub-committee on 10th March (Letter from Campion to Schuster 15th March 1920: LCO 2/507). As he had informed Schuster in his correspondence of 7th March 1920, Sankey avoided expressing a personal opinion on either the desirability of, or the necessity for, a separate judiciary in Wales (Précis of Sir John Sankey’s evidence, 10th March 1920: LCO 2/507). Furthermore, like the sub-committee, he had also tried to side-step the issue of national sentiment in Wales, noting only that while he “considered that there was sentiment towards national entity... he would not like to say how strong that was” (Précis of Sir John Sankey’s

⁴⁶ The sub-committee’s recommendations that judicial devolution in Scotland should be brought about with a “minimum of change”, that “the definition and punishment of major crimes (*mala in se*) adopting for this purpose the list usually found in the Extradition Treaties” should be reserved to Westminster and the continuation, post-devolution, of those higher judicial appointments i.e. those “conferred on the advice of the Prime Minister” appear to have been taken word for word from Lord Dunedin’s evidence (Conference on Devolution 1920: 22; Précis of Lord Dunedin’s evidence, undated: LCO 2/507).

⁴⁷ Bankes was not only a Lord Justice of Appeal, but was also a Welshman who served as Chair of the Flintshire Quarter Sessions for 33 years between 1910 and 1943 (Landon 2004 [online]; Dod’s Peerage 1918: 241).

evidence, 10th March 1920: LCO 2/507). Instead Sankey sought to focus on the grounds which might necessitate a Welsh judiciary,

1. The greater convenience to Welsh litigants.
2. The question of delay and consequent injustice that might arise under the present system” (Précis of Sir John Sankey’s evidence, 10th March 1920: LCO 2/507).

With regards to these criteria, Sankey conceded that the current administration of justice in Wales had not been error free. For example, he quoted an example of the sorts of delays that has occurred previously, including an appeal case from South Wales which took only three days to be heard in London, but which necessitated seven journeys from Cardiff to London and back due to the “defects in the management of the Appeal Court List” (Précis of Sir John Sankey’s evidence, 10th March 1920: LCO 2/507). However, he stressed that such delays were a thing of the past (Précis of Sir John Sankey’s evidence, 10th March 1920: LCO 2/507).

Despite having been noncommittal on the desirability or necessity of a Welsh judiciary, Sankey nevertheless outlined suggestions on the “lines upon which a separate judiciary might be set up” (Précis of Sir John Sankey’s evidence, 10th March 1920: LCO 2/507). Unlike Scotland where, “for historical reasons”, a separate judicial system continued to exist, the absence of a Welsh court system led Sankey to consider it “desirable” to “avoid needless disturbance to the present practice and procedure” (Précis of Sir John Sankey’s evidence, 10th March 1920: LCO 2/507). After the rather uncontroversial recommendation that the decisions of the English Court of Appeal “up to the time of separation must be binding,” Sankey then proposed a Welsh Civil Appeals

system based on the Exchequer Chamber that had existed until the late nineteenth century (Précis of Sir John Sankey's evidence, 10th March 1920: LCO 2/507).⁴⁸

On the subject of criminal law, he similarly argued that criminal appeals should "go to a Welsh criminal appeal court constituted under the same conditions as the English Court of Criminal Appeal" (Précis of Sir John Sankey's evidence, 10th March 1920: LCO 2/507). As for the appointment of Judges, Sankey suggested that, because of the pressures of establishing an entirely new judiciary, "it would be advisable for first appointments at least, to be made by the Lord Chancellor" (Précis of Sir John Sankey's evidence, 10th March 1920: LCO 2/507).

Shortly after receiving a summary of Sankey's evidence, Schuster was sent a précis of the evidence Bankes had originally given to the sub-committee on 11th February 1920. Unlike Sankey, Bankes (who gave his evidence to the sub-committee on February 11th 1920) had little hesitancy in revealing his true feelings on the subject of a devolved Welsh judiciary (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507: LCO 2/507). Perhaps emboldened by the fact that he was a Welshman (see Footnote 45), Bankes told the committee that he entertained "considerable doubt whether Wales would gain much, if any, advantage from any further devolution of the Judiciary than exists at present under the County Court system" (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507: LCO 2/507).⁴⁹

⁴⁸ As was earlier noted, this suggestion was mentioned by the sub-committee's final report.

⁴⁹ In particular, Bankes was sceptical that any system could be introduced which "would secure efficient judges and yet not be objected to upon ground of expense" (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507).

As a result, when Bankes did offer suggestions⁵⁰ as to how devolution could operate they were grounded in a belief that this should entail only a minimum degree of change, “continuing as far as possible the existing state of things under which the same law prevails in Wales as in England” (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507). Unsurprisingly, therefore, Bankes recommended that the legislative competence of the Welsh legislature should be carefully circumscribed in the legislation establishing such a body, thus limiting the potential amount of future legal divergence between England and Wales” (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507).

As for how the law should be administered in Wales, post-devolution, Bankes reminded the sub-committee that “Wales has a history”, highlighting the existence of the Courts of Great Sessions up until 1830 and more significantly, for the purposes of his argument, the County Courts Acts of 1846 and 1888 (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507). According to Bankes, this legislation meant that a “devolution of the Judiciary with a restricted jurisdiction in Civil matters is, therefore, already an accomplished fact” (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507).⁵¹ As for criminal matters, justice was also “administered locally, either summarily or in the Court of Quarter sessions.” Further devolution,

⁵⁰ Bankes acknowledged that his evidence was “desired upon the question as to the lines upon which any devolution of the Judiciary should proceed”, rather than on the actual desirability of devolution (this was rooted in the Conference’s terms of reference which were also focused around the mechanics of devolution rather than the desirability of reform) (Précis of Lord Justice Bankes evidence, 11th February 1920).

⁵¹ This view would be echoed by the sub-committee, whose report described the County Courts as providing “Welsh tribunals for Welsh areas” (Conference on Devolution 1920: 24) and as will be explored shortly was also an argument deployed by Schuster.

Bankes concluded, would therefore be confined to civil and criminal matters that were outside the jurisdiction of the County Courts, Courts of Quarter Sessions and local Justices of the Peace (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507). However, Bankes argued that “with the single exception of the industrial area of South Wales”, the volume of work arising from this business in Wales was small, “therein lies the difficulty of suggesting a scheme for any further devolution of the Judiciary” (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507).

If a Welsh Judiciary was to be established, Bankes noted, then it would require full-time Judges, and yet if the existing County Court system was to be maintained then, he argued, there was “not enough business to justify the appointment of any considerable number of men” (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507). The image Bankes painted for a future Welsh Judiciary was thus one of a catch-22 situation, unable to financially justify the creation of a sizeable body of Judges and yet without such a cohort, “it seems doubtful whether quite a small number could cover the ground satisfactorily” (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507).

The only solution, to this quandary, which came to Bankes’ mind was for the distinction between the County and High Court jurisdictions to be abolished, with a “Body of Judges”, assisted by Registrars and similar officials, to conduct all civil business in Wales (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507). He also recommended that these judges should also be charged with the criminal work that was at present undertaken by the Judges of Assize, “and if thought advisable, with the criminal business of Quarter Sessions” (Précis of Lord Justice Bankes evidence, 11th

February 1920: LCO 2/507). There remained, however, the supply side issues of expenditure and talent.

“Sufficient salaries”, Bankes claimed, would have to be offered in order to attract “the best available men” (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507). Yet “even if substantial salaries are offered,” he feared that attracting such candidates would be a difficult task due to the nature of the work they would be charged with (as was earlier mentioned the low level of major civil and criminal work would mean a workload dominated by more minor cases) and the travelling required to administer justice across Wales (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507). Nevertheless, were sufficiently talented judges able to be recruited and “a sufficiently elastic system of procedure [in place] to enable them to adapt their sittings to circumstances”, then Bankes believed that it could offer a model of judicial devolution that “would work satisfactorily” (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507).

An additional “question of real importance” that would need to be resolved was whether the Welsh Court’s jurisdiction would be exclusive,⁵² or concurrent with England (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507). According to Bankes, unless the jurisdiction was exclusive, as in Scotland and Ireland, it would seem “hardly worthwhile to set up a separate Judiciary for Wales” (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507). Even then, Bankes

⁵² Bankes suggested that no fewer than eight judges would be required in the event of an exclusive Welsh jurisdiction and, in the first place, recommended that the current County Court Judges of the Welsh Circuits be appointed Welsh Judges (Précis of Lord Justice Bankes evidence, 11th February 1920).

preference clearly remained for only a modest degree of reform. Hence his recommendation that the appetite for an exclusive jurisdiction and Welsh Judiciary among the commercial community of South Wales should be ascertained before any steps were taken in that direction (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507).

Similarly, he also suggested that in matters of Equity “it might be convenient to allow a concurrent jurisdiction with the Chancery Division of that High Court of Justice as the machinery of the Court is so specially adapted for dealing with certain classes of Equity matters” (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507). In addition, he proposed that Welsh judges to be appointed by the Crown “on the recommendation of the Lord Chancellor”⁵³, hold office on the same terms as the English Judges, with it “rendered impossible for the Bar to impose any restriction upon *any* Barrister appearing in any of the Welsh Courts” (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507). Taken as a whole, these were recommendations that, if followed, would result in a Welsh jurisdiction with much more bounded autonomy vis-à-vis that which already existed in Scotland, a reflection of Wales’s historic integration into the English legal system.

⁵³ As was earlier demonstrated, this proposal would form part of the sub-committee’s recommendations and also represented a significant point of departure from the judicial devolution envisaged for Scotland.

6.3.2. *“A very grave injury upon the interests of the Principality”: Claud Schuster’s evidence to the judiciary sub-committee.*

Having received summaries of Sankey and Bankes’ evidence, Schuster was himself called to appear before the sub-committee.⁵⁴ This evidence represented the culmination of Schuster’s two-strand strategy, which, as outlined earlier in the chapter, queried both the financial sustainability, and the caseload, of a Welsh judiciary (as well as his more general belief in the effectiveness of the existing judicial arrangements in England and Wales) (Schuster’s evidence to the judiciary sub-committee: LCO 2/507).

Like Bankes, Schuster argued that usage of the courts in Wales was largely for minor cases (such as debt repayment and local cases), whereas more serious cases, where defences are established and are “sufficient to cause the action to go to a trial” were “either non-local or are of such a nature that in the view either of the litigants or the master they ought to be tried in London” (Schuster’s evidence to the judiciary sub-committee: LCO 2/507). To further press this argument, Schuster pointed to the example of Glamorganshire where, despite the presence of a “local Welsh bar”, experience suggested “that the Glamorganshire litigant prefers to be tried in London” (Schuster’s evidence to the judiciary sub-committee: LCO 2/507).

Even when suggesting that certain changes could be possible, Schuster’s comments were tempered by his innate conservatism and hostility to reform of the England and Welsh judicial system. For example, despite suggesting the possibility of

⁵⁴ The precise date of his evidence is not made available in the archives, but thanks to other, dated, documentation in the archives it would appear to be sometime between and 23rd and 30th March.

his “detaching Chester from the North Wales circuit and putting it on the Northern Circuit” (as well as decoupling Monmouthshire from the Oxford circuit), Schuster then qualified these comments by warning that “a substantial injury would be inflicted upon the Bar of the North Wales circuit” if Chester was detached (Schuster’s evidence to the judiciary sub-committee: LCO 2/507). Furthermore, he claimed that dividing county courts along the boundary between England and Wales would lead to inconvenience being inflicted upon inhabitants of both the North and South Wales circuits (itself another reminder of the historic linkages and integration between England and Wales, especially between the North of Wales and North-West England and South Wales and Southern England) (Schuster’s evidence to the judiciary sub-committee: LCO 2/507).

However, those potential inconveniences paled into insignificance when compared to the problems that Schuster argued would follow from the establishment of a Welsh judiciary. According to Schuster, the costs of any such judiciary would be considerable, not least because under the existing arrangements the Welsh courts were financially reliant, indeed “a burden”, on the Exchequer (Schuster’s evidence to the judiciary sub-committee: LCO 2/507). Furthermore, even under the different funding arrangements that existed pre-war (whereby courts were largely able to self-finance as a result of their caseload, with the Treasury only bearing the cost of the salaries for County Court Judges and of the buildings in which Courts sat), the Welsh Courts had been dependent on more remunerative Courts in England (Schuster’s evidence to the judiciary sub-committee: LCO 2/507). As a result, if the Welsh Court system was to be “severed” from Courts in England, the consequence, Schuster claimed, “would be to relieve England of a considerable charge and to impose that charge upon Wales” (Schuster’s evidence to the judiciary sub-committee: LCO 2/507).

This was but one of a broader field of dangers that Schuster warned would face a Welsh judiciary. For example, he argued that a separate Welsh bar and a separate solicitors' profession in Wales "would, in my view, inflict a very grave injury upon the interests of the Principality and its inhabitants" (Schuster's evidence to the judiciary sub-committee: LCO 2/507). Furthermore, he warned that the establishment of a "central seat of justice with offices and trained officers and clerks, especially for the Chancery work", that would necessarily follow the establishment of a Welsh judiciary, would raise regional animosities over the location of said office (Schuster's evidence to the judiciary sub-committee: LCO 2/507). Perhaps even more significantly, Schuster queried the talent pool that a Welsh judiciary would be able to draw upon, returning to his earlier comments about the lack of caseload in Wales, he claimed that this "would not be sufficient to support a bar strong enough in its turn to produce nine such men [Judges of the Welsh High Court]" (Schuster's evidence to the judiciary sub-committee: LCO 2/507).

These problems would be intensified, Schuster argued, because of the flight of talent that a Welsh judiciary would face (Schuster's evidence to the judiciary sub-committee: LCO 2/507). Making the argument that "however strongly national sentiment may operate, there will always be a tendency for the aspiring lawyer to come where the biggest prizes are offered", Schuster claimed that the attractions, and potential rewards, of a legal career in London would be such "that the young Welshman, if he can, will come to London, and that Wales and the Welsh Bench and Bar will be the poorer for his absence" (Schuster's evidence to the judiciary sub-committee: LCO 2/507). The biggest casualties of judicial devolution would, in Schuster's opinion, be the Welsh people and the Welsh legal profession with young, ambitious and talented

legal professionals in Wales left with a choice “between a desperate struggle in London apart from their native associations, and on the other hand a cramped and limited life in their own country” (Schuster’s evidence to the judiciary sub-committee: LCO 2/507).

A Welsh judiciary would therefore represent, at least in the mind of Claud Schuster, a damaging breach with the status quo; a status quo that he believed not only worked, but was the best of all worlds for Wales. He claimed for example that,

It is difficult to suppose that in a country the size of Wales the arrangements for the education, admission and discipline of both branches of the profession can be as perfect as while England and Wales form a complete whole, and have the advantage of historical development which has been brought to perfection in the latter half of the Nineteenth Century (Schuster’s evidence to the judiciary sub-committee: LCO 2/507).

For this Whiggish view of England and Wales’ legal development, which in itself can be seen as reflecting Wales’ position in the UK’s State of Unions, the status quo was not only a good deal for Wales, it was a state of “perfection” that had taken centuries to develop.

Schuster’s evidence came at the end phase of the sub-committee’s proceedings. On 30th March 1920 Schuster received a letter from Judge Rowlands, which included a clipping from the previous Friday’s Western Mail discussing the sub-committee’s deliberations on a Welsh judiciary. According to this excerpt, the judiciary sub-committee was not only about to endorse a devolved Welsh judiciary, but they were to do so with Bankes and Sankey apparently “agreed on the general principle of Wales having its own judiciary” (Extract from the Western Mail enclosed in letter from

Rowlands to Schuster 30th March 1920: LCO 2/507). This provoked a predictably hostile response from Schuster, who described the Western Mail's report as "a most extraordinary version of what has taken place" and which "entirely misrepresents the views of both Bankes L.J. [Lord Justice] and Sankey J [Judge]" (Letter from Schuster to Rowlands 31st March 1920: LCO 2/507).

Schuster appears to have produced no further correspondence on the subject of a Welsh Judiciary until 26th April 1920, when he wrote to Hugh Edwards in response to the publication of the Conference on Devolution's report. While this letter included a critique of specific elements of the sub-committee's recommendations, it was essentially a restatement of his previous arguments against a Welsh judiciary. For example, Schuster took particular exception to point 22 of the sub-committee's report (Letter from Schuster to Edwards 26th April 1920: LCO 2/507). This not only recommended that "the creation of a Welsh Judiciary should be effected if and when the Welsh legislature shall ask for it", but, and as was earlier noted, also proposed that devolution legislation should include a clause "providing in express terms that Wales may have a separate Judiciary and all needful accessory judicial institutions on application to the United Kingdom Parliament by the Welsh legislature" (Conference on Devolution 1920: 24).

Unsurprisingly, Schuster fervently disagreed with this proposal, arguing that it would be "looked upon as an invitation to the Welsh Parliament to pass a statute separating the judiciary", with "disastrous" consequences (Letter from Schuster to Edwards 26th April 1920: LCO 2/507). He was similarly disparaging about paragraph 23 of the sub-committee's report, which recommended that the first judges appointed

to a new Welsh judiciary should be such drawn from “present judges of the High Court of Justice for England and Wales as may have special Welsh experience or familiarity with Welsh judicial or other public business” (Conference on Devolution 1920: 24). In Schuster’s opinion there was not “the smallest possibility that any Judge or Lord Justice who now holds office in the Supreme Court⁵⁵ would abandon that office in order to have a place in a separate Welsh judiciary” (Letter from Schuster to Edwards 26th April 1920: LCO 2/507).

6.3.3. Some remaining questions: why did Schuster care so much about a Welsh judiciary and why did he fail?

To the last Schuster, therefore, remained an implacable opponent of a devolved Welsh Judiciary. Yet while there can be no doubt about the strength of his feelings on the subject, one is left wondering why he cared so much about it. In particular, why, despite arguing that the administrative costs of the justice system in Wales were borne by the English and that there was insufficient caseload to sustain a Welsh Judiciary, Schuster felt “very great anxiety” at the prospect of the judiciary sub-committee recommending such a reform (Undated letter to Lord Charnwood: LCO 2/507). Reading through Schuster’s private correspondence and his evidence to the judiciary sub-committee, one could almost be forgiven for thinking that his opposition was borne out of a genuine concern about the viability of a Welsh judiciary. There may be, however, a more prosaic explanation.

⁵⁵ This refers to the Supreme Court of Judicature which existed between the 1870s and 1981, now known as the Senior Courts of England and Wales, and not the modern Supreme Court created by the Constitutional Reform Act 2005

This potential answer, rooted in Bulpitt's concept of the centre's operational code and the idea of departmental culture, was that Schuster was simply opposed to any reform which might, in some way, diminish his department's status and power. According to the political scientists and public policy specialists David Richards and Martin Smith, departments are "organisations with institutionalised policy preferences which privilege certain policy outcomes", preferences which are products of a department's culture/philosophy (Richards and Smith 1997: 62-63). As Dorey explains, at the heart of this idea is "the notion of 'custom and practice'", i.e. "how we do things here", with these norms and values ingrained into civil servants through the course of their careers (Dorey 2014: 110). As a result of this internalisation and socialisation process, "each bureaucracy reflects the historical development and institutional context of its administrative setting" (Judge 2005: 127). This concept of departmental culture (memorably described by Kaufman as 'departmentalitis' in the case of Government Ministers who go 'native' (Kaufman 1997: 15)) appears to be particularly applicable to Claud Schuster. Schuster spent a total of 29 years (1915-1944) as Permanent Secretary to the Lord Chancellor's Office, a tenure that led to him being described as "one of the most influential Permanent Secretaries of the 20th century" (Hall and Martin 2003: x).

This blend of Bulpitt's concept of the centre's operational code and the idea of departmental cultures might, for example, explain Schuster's muted response to the committee's work on a devolved Scottish judiciary in contrast to his sustained and energetic lobbying efforts against a Welsh equivalent. After all, the Scots already had a distinctive legal system, headed by the Lord President of the Court of Session (and not the Lord Chancellor as in England and Wales) (Kellas 1989: 4, 23). Wales had no such tradition of judicial independence and the degree of administrative devolution it had in

the legal sphere, the Courts of Great Sessions, had been abolished nearly a century before the Conference began its work. Unlike Scotland, judicial devolution for Wales therefore posed a far more substantial loss of power and territorial reach for the Lord Chancellor's Office.

A broader view of Schuster's career lends weight to this explanation of his motives during the judiciary sub-committee. During his tenure as Permanent Secretary, he doggedly preserved, and indeed enhanced, the power of the Lord Chancellor's Office (Napier 2004 [online]). In 1932, for example, he authored the report of the Committee on Ministerial Powers that helped reduce the judiciary's scope in administrative matters, enabling the civil service to retain extensive decision-making powers (Napier 2004 [online]). Indeed, in 1934 he would be subject to a personal attack by the Lord Chief Justice, Lord Hewart. Hewart used a speech in the House of Lords to implicitly accuse Schuster of conspiring to enhance the power of the Lord Chancellor, and importantly his permanent officials, at the expense of the judiciary, through the creation of a Ministry of Justice (Hall and Martin 2003: 216-219; Napier 2004 [online]). Schuster's fervent opposition to a devolved Welsh Judiciary thus appears to be just one chapter of a career defined by power accumulation, rather than decentralisation (Napier 2004 [online]).

Bulpitt's 'operational code' may be equally applicable as a means of interpreting the evidence of Bankes and Sankey. While not (at least at that period of time for Sankey) members of the core executive, Bankes, Sankey and Schuster were all pillars of the judicial 'centre' in England and Wales. As such Bankes and Sankey's shared belief that if devolution were to happen it should continue, "as far as possible the existing state of

things” (Précis of Lord Bankes evidence, 11th February 1920: LCO 2/507) and “avoid needless disturbance to the present practice and procedure” (Précis of Sir John Sankey’s evidence, 10th March 1920: LCO 2/507), appears to correspond very closely with the conservative approach to territorial modernisation Bulpitt ascribes to the centre in *Territory and Power* (Bulpitt 2008: 99, 160). Even Judge Rowland Rowlands’ support for a modest scheme of reform that would avoid Wales being “cut away from England for judicial purposes” (Letter from Rowlands to Schuster 29th February 2011 appears to conform to Bulpitt’s ideas in *Territory and Power*. In this case, Rowlands can be seen as having acted as a local agent of the centre in a judicial dual polity. Remember, Schuster, Bankes and (ultimately) the sub-committee all argued that Wales already had a form of judicial devolution, courtesy of the County Courts (Précis of Lord Justice Bankes evidence, 11th February 1920: LCO 2/507: LCO 2/507; Conference on Devolution 1920: 24), a (limited) dual polity in which Rowlands served as a County Court Judge.

While Bulpitt’s ideas in *Territory and Power* may help us understand the varying degrees of conservatism displayed by Schuster, Bankes, Sankey and Rowlands, there still remains the question of why, even after such fierce opposition from the Lord Chancellor’s Office, the sub-committee recommended that a Welsh judiciary should be created if sought by a Welsh legislature. One answer might be that there was strong demand for devolution among the Welsh legal profession. Watkin, in his discussion of the judiciary sub-committee, claims that “there was a lot of support for the idea of a separate judicial system for Wales amongst the country’s lawyers, especially amongst the judiciary and the bar in south Wales” (Watkin 7th August 2012 [online]).

The evidence provided for this suggestion is Rowlands' letter to Schuster on 24th February 1920, which talked of a "powerful backing" in Wales for a separate judiciary (Letter from Rowlands to Schuster 24th February 1920: LCO 2/507). The scale of this backing, however, is left vague by Rowlands in his correspondence with Schuster. For example, in a letter dated 10th March 1920, Rowlands argued that "national sentiment is no doubt largely responsible for the desire for complete severance between England and Wales" (Letter from Rowlands to Schuster 10th March 1920: LCO 2/507). In neither letter, however, does Rowlands provide further evidence, including names of Welsh legal professionals, to justify these claims.

Nevertheless, it is worth recalling that the sub-committee report itself referred to a "strong sentiment" in Wales for a "re-establishment in some form of a separate judiciary for Wales" (Conference on Devolution 1920: 23). Unfortunately, as with Rowlands correspondence to Schuster, the sub-committee does not provide any more details on the nature of this sentiment and who had assured them of it, though it does mention two tracts on Welsh legal history written by the lawyer and former Liberal politician, Llewellyn Williams K.C, both of which were named *The Making of Modern Wales* (one was an article in the magazine of the Hon. Society of Cymrodorion, published in 1916, and the other was a book length study published by Macmillan in 1919) (Conference on Devolution 1920: 22). Furthermore, Llewellyn Williams is mentioned in the *Western Mail* extract attached to Rowlands' letter of 30th March 1920 as preparing a "detailed memorandum" for the sub-committee on the question of a Welsh judiciary. However, such a memorandum has not, as of yet, been found in either the documents relating to the judiciary sub-committee archived at the National Archives or in Williams' own deposited papers in the National Library of Wales. Indeed, it is likely that were

such a document available then Professor Watkin would have referred to it in his own well-researched lecture on a Welsh legal jurisdiction.

Instead, it would perhaps seem more likely that the messenger of the “strong sentiment” was the sole Welsh member of the sub-committee, J. Hugh Edwards a coalition Liberal MP for Neath 1918-1922 (he had previously sat as a Liberal member for Mid Glamorgan between December 1910 and 1918). Certainly Edwards had political credentials that would imply support for devolution and a Welsh judiciary. During the 1890s, for example, he had been an active member of Cymru Fydd, representing Cardiganshire at the famous South Wales Liberal Federation meeting in 1896 that had proved ultimately fatal to the movement (Charmley 2011 [online]). It is also important to recall the debate on the subordinate legislatures resolution of 3rd-4th June 1919 in which Edwards spoke up to “put in a plea for Wales” and bemoaned Macdonald and Wood’s “absolute silence” on the subject of Welsh devolution (Edwards HC Deb (5th Series) 4th June 1919 Vol. 116 c.2123).

While Edward’s role in Cymru Fydd and his contribution in the subordinate legislatures debate suggest that it was he who convinced the sub-committee of a strong Welsh demand for a separate judiciary, there are some grounds for hesitancy in coming to a definitive judgement on the matter. For one, Edwards was a loyal political lieutenant of Lloyd George throughout his career,⁵⁶ whose seat in the Commons was dependent on Lloyd George’s patronage (he secured the ‘coupon’ in the 1918 General

⁵⁶ As Charmley notes, Edwards’ “ostentatious identification with Lloyd George” was the subject of ridicule among a number of his fellow Welsh Liberals (Charmley 2011 [online]). Indeed, *The Welsh Outlook* noted “the inveterate habit of many Welshmen of treating him [Edwards] as a politician “*pour rire*” (The Welsh Outlook November 1919: 270).

Election) (Charmley 2011 [online]). In light of Lloyd George's deliberately ambiguous approach to devolution throughout his premiership (see for example: LG/F/255/5/2-(5); LG/F/255/5/2-(11)), it would seem likely that Edwards was similarly opaque on the subject.

Indeed this thesis appears to be borne out by a letter from Schuster to Edwards on 26th April 1920. In this correspondence, which followed the publication of the Conference's report, Schuster discusses, among other things, how a Welsh legislature might vote on the subject of a Welsh judiciary. Take note of the language used by Schuster when he argued to Edwards that, "if they [a Welsh legislature] came to consider the matter on its merits and in perfectly cold blood, I think that they, *like you*, would decide in favour of a continuance of the present union of the judicature" (Emphasis added, Letter from Schuster to Edwards 26th April 1920: LCO 2/507). While we cannot be absolutely certain, it appears, at least according to this letter, that though Edwards had previously supported a Welsh judiciary he may have changed his mind by the time the Conference actually reported (Letter from Schuster to Edwards 26th April 1920: LCO 2/507).

However, national sentiment was not the sole reason why the sub-committee, despite Schuster's best efforts, recommended that a Welsh judiciary should be in the gift of a Welsh legislature. An alternative explanation for this decision was rather more structural in nature and relates to the terms of reference of both the Conference on Devolution and the sub-committee on the judiciary. The Conference's remit, as earlier mentioned, was to deliver a scheme of devolution (not to decide whether it should or should not happen at all) (Conference on Devolution 1920: 3). As such it is not

surprising that when the judiciary sub-committee was established, it too was charged with recommending the changes required for the judiciary to adapt to “a scheme of Devolution which creates subordinate local legislatures in the several parts of the United Kingdom” and, crucially, to the schedule of powers agreed by the Conference (Instructions to Judiciary Sub-Committee: LCO 2/507).

This schedule of powers provided, as Chapter Four outlined, for equal administrative and legislative devolution, at least in terms of powers⁵⁷, for the devolved territories (Conference on Devolution 1920: 16-18). Having conceded, by the time the sub-committee was in progress, a Welsh national legislature with powers equal to those elsewhere in the United Kingdom, it would have been highly unlikely (particularly in light of the terms of reference for both the Conference and the sub-committee) that the sub-committee could ever have acquiesced to Schuster’s demands.

6.4. Conclusion

One might think that the judiciary sub-committee was a rather uncontroversial and tame chapter in the story of the Conference on Devolution. It is, after all, an event that has been barely mentioned in the existing literature of the Conference (Fair, for example, omits it altogether from his discussion of the Conference) and the summary of the committee provided in the Speaker’s letter to the Prime Minister suggests that it

⁵⁷ While the Conference was committed to an equal distribution of administrative and legislative powers, this did not mean that the institutional face of devolution had to be the same in England, Scotland and Wales (Add. MS 46104: Resolutions provisionally agreed to, Thursday, 11th December). In this light the sub-committee’s recommendations, which would have seen a slightly weaker model of judicial devolution for Wales in terms of judicial appointment, was in keeping not only with the schedule of powers, but other resolutions passed by the Conference on Devolution more generally.

was a relatively straightforward and uneventful event (Lowther 1920: 5). Furthermore, the committee's report also implies that there had been none of the divisions and difficulties that had dogged the Conference's deliberations on the units to be represented by devolution or (as will be discussed in the next chapter) on the composition of the devolved legislatures.

However, as this chapter has demonstrated, there was much more to the judiciary sub-committee than these perspectives would imply. In particular this episode of the Conference on Devolution can be seen as providing the clearest illustration of Wales' place within what Mitchell has termed the UK's 'state of unions.' The legacy of Wales' annexation with England was a constant undercurrent during the judiciary sub-committee's deliberations and proved influential in shaping the evidence submitted to the committee from figures such as Bankes and Sankey and ultimately the tone and form of the committee's recommendations for a Welsh judiciary.

This chapter has also revealed the unique role played by Sir Claud Schuster of the Lord Chancellor's Office in attempting to dissuade the committee from recommending a Welsh judiciary. In no other area of the Conference on Devolution can one find a similar external effort to influence the Conference's deliberations, yet this story has been almost entirely overlooked by academics. As this chapter contended, this campaign, which proved ultimately to be a failure, appears to correspond quite closely with Bulpitt's idea of the centre's 'operational code.'⁵⁸ Indeed, Schuster's colleagues in what

⁵⁸ As detailed earlier, this idea posited that the centre's approach to territorial modernisation would be conservative in nature, with the centre reluctant to cede any autonomy than was strictly necessary to the periphery (Bulpitt 2008: 99, 160).

might be termed the judicial centre, Bankes and Sankey also adopted a (slightly more temperate) conservative approach to the subject of judicial devolution to Wales, arguing that any such devolution should preserve as much of the status quo as possible. As will be demonstrated in the following chapter, this conservative approach to territorial reform would prove to be of fundamental, indeed fatal, importance to the final subject the Conference addressed: the composition of the devolved legislatures.

7.1. Keeping it in the family? The composition of devolution and the relationship between subordinate legislatures and Whitehall.

While the judiciary sub-committee ruminated on the creation of a devolved Welsh judiciary, the main focus of the Conference on Devolution was on the question of how the devolved legislatures should be composed. This debate, which pitted advocates of directly-elected legislatures against proponents of intra-parliamentary model of 'devolution', ultimately proved fatal for the Conference, splitting it in two and, in the process, stymieing any prospect of even a modest scheme of devolution being realised.

This chapter will explore how the Conference reached this stalemate, addressing first the Speaker's intra-parliamentary, 'Grand Council' proposal for devolution, before discussing Murray Macdonald's proposals for directly-elected legislatures. However, having explored the two proposals which divided the Conference, the chapter will then proceed to explain that this was not a simple 'black and white' division, through an analysis of the personal correspondence of Viscount Gladstone. Overall, the chapter will highlight the importance of Bulpitt's 'operational code' as an interpretive lens for these debates and its relevance for understanding both Lowther's highly conservative proposals and Murray Macdonald's rather more ambitious scheme.

7.2. A "House of Commons point of view": Lowther's Grand Councils proposal

In December 1919, shortly before the Conference adjourned for its Christmas recess, Speaker Lowther circulated a memorandum to his fellow members. This memorandum would outline, on paper, Lowther's proposal for devolution and thus

spark a debate on the composition of the devolved legislatures which would end in stalemate and the Conference's ultimate failure. To read Lowther's memorandum is to read a paper that positively drips with what Bulpitt would term the centre's 'operational code' (Bulpitt 2008: 93, 115). From the very start of Lowther's memorandum, the conservative nature of the devolution he envisaged was clear. Discussing the trend of Parliament to accumulate and guard power, Lowther counselled that "if anything is to be done in the latter direction [i.e. devolution and decentralisation], it should be undertaken gradually and with the least possible disturbance" (Add. MS 46104: 18). Too radical a reform, he cautioned, "might end in disaster" (Add. MS 46104: 18). Having spent his career immersed in the Palace of Westminster⁵⁹, Lowther's warning was as much a testament to his own conservative instincts as it was of Parliament's.

Warming to his theme, Lowther questioned whether, even if Parliament could be persuaded to accept a major reform, a clear separation between Westminster and the subordinate legislatures would actually be desirable. For Lowther, it would be "extremely desirable" to retain a "close touch between the central authority and the newly created bodies" (Add. MS 46104: 18). Not simply because of the value that might be gleaned from the "experience of present members in starting the new system", but in order to guarantee that "the spirit and ancient traditions of Westminster be infused into the new local bodies" (Add. MS 46104: 18). The implication is unavoidable:

⁵⁹ By the time of the Conference's establishment in 1919, Lowther had served as a Member of the House of Commons for around thirty five years (aside from a brief stint as the Member for Rutland, 1883-1885, he served for the remainder of his career as the Member of Parliament for Penrith, 1886-1921), of which fourteen had been spent as Speaker of the House of Commons (elected Speaker in 1905, Lowther would serve in the chair until 1921 (Matthew 2008 [2004] [online])).

Lowther's 'devolved' legislatures would be pliant and trusted local agents in what Bulpitt called the dual polity (Bulpitt 2008: 20, 65), creatures of Westminster in spirit and form, governing the locality in Westminster's interests.

Indeed, to guarantee their defence of Westminster's interests, Lowther proposed that these bodies should be based on the Scottish Standing Committee within the House of Commons. This body, Lowther claimed, provided "the germ of a system which could be extended and strengthened" (Add. MS 46104: 19). The Scottish Standing Committee was thus cast, by Lowther, as having been "the first step towards devolution", a step which "sets out the direction which we might well follow" (Add. MS 46104: 19). The existence of tried and tested machinery, in the form of the Scottish Standing Committee, was not, however, the only rationale put forward by Lowther for this proposal.

The multi-national nature of the United Kingdom, in particular, formed an important part of Lowther's defence. Highlighting the asymmetrical levels of national sentiment and identity in England, Scotland and Wales, Lowther warned that this "diversity of interests... [would] probably require different treatment in each case" (Add. MS 46104: 19). Developing separate constitutions for England, Scotland and Wales would, however, be a laborious process for the Conference. As such, Lowther asked, "would it not be best to leave the solution of this matter to the countries themselves. A suit of one cloth will not fit three different individuals" (Add. MS 46104: 19). This obviously raises the question of how Lowther's proposed standing committee system avoided creating a one size fits all solution, a question Lowther appears to have anticipated with his suggestion that these bodies could be empowered to design their own constitutional futures (Add. MS 46104: 20).

Even at this early stage, Lowther claimed seven main advantages to his proposed scheme of devolution,

- 1) continuity of system, 2) preservation of parliamentary traditions, 3) subordination of the new authorities, 4) economy of administration, 5) complete freedom of choice, i.e. self-determination, 6) possibility of further development, 7) tentative character (Add. MS 46104: 20).

Blending high politics concerns with a rhetoric of open mindedness regarding the future, this scheme was, at least in Lowther's opinion, the best of both worlds. Warning, prophetically, that "if the labours of our Conference should end in a sharp division of opinion, or in several reports being presented, our labours will probably have been in vain" (Add. MS 46104: 20).

While conceding that "complete unanimity is perhaps not obtainable", Lowther nevertheless held that,

There would seem to be nothing in my scheme which would commit any member supporting it to the expression of an opinion from which he could not subsequently advance or retire. It seems to provide the greatest common measure of agreement as hitherto manifested (Add. MS 46104: 20).

Lowther's memorandum was thus an appeal to his fellow members of the Conference to accept a model of devolution which was suitably ambiguous and malleable for all shades of opinion. Its tentative nature, alluded to above, would provide, Lowther claimed, the flexibility for devo-sceptics to abandon the experiment of 'devolution' after five years, or for pro-devolutionists to develop the standing committees into a directly-elected body. Yet, though it was both tentative and experimental as it was, at its heart Lowther's intra-parliamentary proposal was, above all, conservative in nature. Furthermore, it was a

scheme which was framed in such a way as to ensure that advocates of more substantial devolution [i.e. directly-elected legislatures] would be charged with the burden of proof: they would have to show why the status quo, and indeed perhaps the status quo ante, was undesirable and why a more radical model of devolution was necessary.

During the remaining weeks and months of the Conference, more and more flesh was added to Lowther's proposals. During December 1919, for example, he rechristened the standing committees as "Grand Councils." By the publication of the Conference Report in April 1920, Lowther envisaged a scheme of devolution that included Grand Councils for "England, Scotland and Wales (including Monmouthshire)." These Grand Councils would be bicameral in nature, consisting of a lower chamber, "The Council of the Commons" composed of the MPs from that respective nation, and an upper chamber, "The Council of Peers" which would include a number of members of the House of Lords (the total number equating to half the number of MPs returned for that area). These peers would be chosen by the Committee of Selection of the House of Lords (Conference on Devolution 1920: 9).

Furthermore, Lowther's scheme proposed that administrative powers should be handed to an Executive Committee for each Grand Council (Conference on Devolution 1920: 10-11). This was a committee which would consist of a Chairman, selected by the Grand Council, and heads of devolved Departments, appointed by the Chair (Conference on Devolution 1920: 10-11). Members of the Executive Committee could only serve for six months without actually being a member of the Grand Council (the same provision was made in the Government of Ireland Act 1920) (Conference on Devolution 1920: 11). At least one member of the Council of Peers would have to be appointed to the

Executive Committee, with the Home Secretary acting as the conduit for “communications between an Executive Committee and the Imperial Government [UK Government]” (Conference on Devolution 1920: 11).

While much more detailed in nature, Lowther’s final proposals in the Conference report thus retained the essence of the scheme outlined in December 1919. This included the transitory scheme of devolution that Lowther had championed in a bid to win support from across the devolution spectrum. Lowther’s final scheme, included as part of the Conference’s report, suggested that this ‘transitional period’ would consist of,

- (a) A period of three years after the coming into operation of the Act embodying this scheme during which the duties of the Grand Councils shall be confined to exercising the powers (both legislative and administrative) devolved upon them.
- (b) A further period of two years during which it shall be incumbent on each Grand Council to consider its further constitution.
- (c) A final period of one year during which any schemes devised by the Grand Councils shall be submitted to Parliament (Conference on Devolution 1920: 11).

As Lowther implied in his initial memorandum in December 1919, under his proposals parliamentarians from England, Scotland and Wales would be able to adapt their respective devolution settlements to suit their own particular needs and wishes. In the first period (the first three years) of this transitional stage, Lowther proposed that the Grand Councils should conduct their business normally, with both chambers sitting separately (Conference on Devolution 1920: 11). In the second stage (the remaining two

years), the Grand Councils, in addition to their everyday tasks, would also sit as a “constituent council”, with joint sessions of the Council of Commons and Council of Peers (Conference on Devolution 1920: 11). The President of the Council of Commons in each territory (i.e. the individuals chosen to be the Speakers of these chambers) would be the ex-officio President of the joint session (Conference on Devolution 1920: 11).

The duties entrusted to these constituent councils would be to submit to Parliament, within the time allotted, one of the following proposals,

- (a) To substitute for itself a separately elected legislature of one or two Chambers, or
- (b) To continue as at the time constituted, or
- (c) To revert to the *status quo ante*, or
- (d) To continue as at the time constituted for a further limited period...
- (e) To make any other proposals it chooses, dealing exclusively with the composition and organisation of the body or bodies to which it proposes to entrust the functions then discharged by itself (Conference on Devolution 1920: 11).

On paper at least, there was no pre-destined fate for each nation’s devolution journey. How far those nations went on the road to separate institutions rested in the hands of their respective parliamentarians. As earlier mentioned it was this flexibility which Lowther hoped could be the trump card for his devolution scheme, a constructive ambiguity which could attract support from both the more conservative and more radical elements of the Conference.

Repeating the advantages he had claimed for his scheme the previous December, Lowther stressed that this was a model of devolution which “leaves the choice open to each of these nations either to adopt a constitution involving separate elections, or to revert to the position prior to devolution, or to continue as constituted, *just as experience may dictate*” (Emphasis added, Conference on Devolution 1920: 9). In the finest “muddling through” traditions of British constitution making (Flinders and Curry 2008: 117), the prospect of future reform (either backwards or forwards) based on pragmatism and learning from experience was thus an essential component of Lowther’s proposal. However, if he thought that this triangulation would secure consensus within the Conference, he would be sadly mistaken.

7.2.1. A “perfectly drivelling suggestion”?: The Conference’s response to Lowther’s devolution proposals

Lord Gorell, already thoroughly disenchanted with the Conference, was particularly scathing in his verdict of Lowther’s plan.⁶⁰ In his diary entry for 9th December, when he spent a “boring morning at the federal devolution conference”, he described Lowther’s idea that the subordinate legislatures should be composed of the MPs for those nations as a “perfectly drivelling suggestion quite at variance with the elementary principle of real devolution [namely the establishment of directly-elected devolved bodies]” (Gorell’s diary, entry dated 9th December 1919). Six days later,

⁶⁰ By 2nd and 4th December, the 13th and 14th sittings of the Conference, Gorell’s diary entries had become particularly brief, an indication of his increasing disenchantment (for examples of this disenchantment see: Gorell’s diary, entries dated 2nd and 4th December 1919). One of these entries is particularly instructive, with Gorell recording that, “it [the Conference] is not making much headway, too many talkers who know nothing whatever about it [devolution]” (Gorell’s diary, entry dated 4th December 1919).

Gorell's diary records a meeting held between Gorell, Lord Selborne (who would join the Conference in February 1920) and the veteran imperial federalist Lionel Curtis. According to Gorell's diary, this meeting was dominated by the subject of the Conference and in particular their shared concerns "about the way the Conference is going", concerns that had become particularly pressing as a result of the "Speaker's silly proposal" (Gorell's diary, entry dated 15th December 1919).

While Lowther's scheme appeared to take Selborne and Curtis by surprise, Gorell was resigned to the fact that Lowther could "see things now, I think only from the House of Commons point of view and also doesn't want his work on electoral reform [a reference to the 1916-1917 Speaker's Conference on Electoral Reform that Lowther had also chaired] to need alteration⁶¹" (Gorell's diary, entry dated 15th December 1919). Lowther's devolution proposals, as Gorell saw them, were not just the product of his establishment status, but also a means to protect his political legacy.

Even Lowther was aware, despite all the apparent virtues he lauded upon his proposal, that there was a major weakness in his plan. As he acknowledged, in a letter to Viscount Gladstone on 14th December, "the chief objection" to his scheme would be that it would not address the issue of parliamentary congestion that had been so important in the Conference's establishment (Add. MS 45014). With the Grand Councils constituted of MPs from the respective nations of Great Britain, the workload of MPs

⁶¹ This is a reference to the 1916-1917 Speaker's Conference on Electoral Reform which Lowther had also chaired. As Herbert Morrison would later note, the recommendations of this Conference "were embodied almost without alteration" in the Representation of the People Act 1918, the most famous of which being the enfranchisement of women over the age of 30 (HC Deb (5th Series) 1st February 1944 Vol. 396 c. 1154).

would not actually be diminished, instead it would just be re-categorised (and quite probably increased). As Lowther anticipated, this would be a source of considerable criticism from his fellow members of the Conference.

For Gladstone, not only did the Grand Council scheme fly in the face of the terms of reference (he claimed that it “rationally follows” from the Conference’s remit that the subordinate legislatures should be separately elected), but it would “add seriously to the already too great demands on the time and strength of members” (Add. MS 46104: 134, 145-146). Gladstone also feared that the Grand Councils would add further confusion to the workload of parliamentarians. As he noted, “candidates would have to show where they stand as regards two legislative bodies and two executives⁶²,” with General Election campaigns becoming, in effect, dual campaigns on matters of central and local issues (Add. MS 46104: 145-146).

In addition, Gladstone complained that Lowther’s proposal was unduly limiting the potential talent pool of elected representatives in a devolved United Kingdom. By proposing a system of devolution based on intra-parliamentary lines, Lowther’s scheme, Gladstone noted, excluded “many classes of persons excellently qualified to take part in local business” (Add. MS 46104: 150). Such well qualified, but excluded, individuals included those members of the House of Lords not selected by the chamber’s Committee of Selection, all those candidates who failed to win election to the House of Commons and “the class of very capable men and women who have not time or money to stand for Parliament” (Add. MS 46104: 150).

⁶² As will be discussed later, the issue of executives would be a prominent feature of Gladstone’s, rather tortured, rejection of Lowther’s scheme.

While Gorell and Gladstone spared little time in drafting criticisms of the Speaker's proposals, it was Murray Macdonald who would launch the most vigorous opposition to Lowther's and in the process become the architect of a rival devolution plan. In February 1920, shortly after the Conference reconvened after the Christmas recess, Macdonald circulated his own memorandum to the Conference on Devolution's membership. Carefully worded (in a sign of the respect in which Lowther was held and his political status, Macdonald described Lowther as "one of the great figures of our parliamentary life"), this memorandum honed in on the question of parliamentary congestion, arguing that the demand for devolution had "sprung, not from the outside, not from the people of England, or of Scotland, or of Wales, but from those actually engaged in the working of Parliament" (Add. MS 46104: 39-42). It was, he claimed, "the congestion of business in parliament" that had therefore made devolution a political issue and had brought the Conference into existence (Add. MS 46104: 41-42). From the outset, therefore, the battle between Lowther and Macdonald was one framed in terms akin to Bulpitt's 'operational code'; namely how best to preserve Parliament's sovereignty and pre-eminence as a high politics actor (Bulpitt 2008: 93, 115). Their disagreement was on how best this could be achieved, not on its importance.

Having outlined the significance of parliamentary congestion to the devolution debate, Macdonald then proceeded to question the timetable that Lowther proposed for Grand Council sittings. Lowther had proposed that the spring and summer months of the parliamentary year would be reserved for "the ordinary session of Parliament", i.e. central issues, while the autumn would be reserved for the Grand Councils (Conference on Devolution 1920: 9). Using figures from the 1904-1905 and 1907-1908 sessions, Macdonald argued that the UK Parliament would be left with only 16 days a year, under

Lowther's proposals, "for measures of UK legislation introduced by the Government [excluding financial legislation such as the finance bills, the Indian budget and the supply and consolidated fund bills] and for emergencies" (Add. MS 46104: 46-47). As he drily noted, "whether it would be sufficient each of us must judge for himself" (Add. MS 46104: 47).

As for the Grand Council sessions, Macdonald freely admitted that he had "no means of estimating" how Grand Council sessions would balance out, but he did highlight the fact that the 1902 Education Bill "occupied 52 days of the session that year", the 1906 Education Bill similarly absorbed 31 days, the 1904 Licensing Bill 18 days, the 1908 Licensing Bill 30 days. That was despite the fact that in most, "if not all", of those cases, a "severe form of closure was applied" (Add. MS 46104: 47). On these examples alone, Macdonald suggested that an English Grand Council would struggle to complete its work in 80 days (Add. MS 46104: 47).⁶³

⁶³ In what would today be described as a fact checking exercise, the Speaker ordered the circulation of his own analysis of the time spent in 1905 and the 1907-1908 sessions. According to this paper, the time spent in 1905 on central issues was 77 days, while 24 and a half days were spent on local business (a marked reduction from the figures published by Macdonald), while in 1907 the balance had been 78 and a half days on central issues and around 42 on local business (Add. MS 46104: 61-62). 1908, on the other hand, appeared to see a marked increase in local business, the balance this time being 75 days on central issues and 70 on local, this increase, according to the paper, was a result of a corresponding growth in general legislation and procedural business (Add. MS 46104: 63).

The paper also produced an estimate of days in 1907-1908 that would have been occupied by central and local business had this business been divided in accordance with the schedule of powers and the Speaker's devolution proposal (Add. MS 46104: 64). On this estimate, in 1907 the central legislature would have spent 102 and a quarter days, or 22 and a half weeks (at 4 and a half days of business per week), while the local legislatures would have occupied the following amounts of time: England and Wales (unable to decouple Wales) 45 days over 10 weeks; Scotland 31 days over 7 weeks (Add. MS 46104: 66). In 1908, the central legislature would have required 99 days for its business, or 22 weeks. As

Not all members of the Conference, however, greeted Lowther's scheme with criticism. Lord Chalmers, for example, was confident that the Grand Councils could work and he readily embraced Lowther's transitional argument, noting that "in any case [the Grand Councils] could... gain the practical experience which alone could determine whether separate bodies could be created in one or more of our three [British] nationalities" (Add. MS 46084: Letter from Chalmers to Gladstone 9th February 1920). Indeed, as will be mentioned later in the chapter, Chalmers had plans for the Grand Council model to be trialled initially in Scotland [due to the aforementioned existence of a Scottish Grand Committee] (Add. MS 46084: Letter from Chalmers to Gladstone 9th February 1920).

Ronald McNeill, who acted as the spokesman for Ulster Unionist members of the Conference, also endorsed the Speaker's proposal, although this was done reluctantly and purely on the basis that the Conference's terms of reference were "held by Mr. Speaker, the Chairman of the Conference, to preclude consideration of the question whether devolution be a wise and practicable policy" (McNeill 1920: 36). Having been sceptical of devolution throughout the entire Conference, McNeill's endorsement of the Speaker's proposal was predicated largely on the tentative nature of his proposals (McNeill 1920: 38). As for the criticism that had been levelled against the scheme, McNeill merely noted that it "only proves that no scheme of devolution can be suggested is free from objection", the question instead was "which scheme is likely to create the

for the local legislatures, England and Wales would have occupied 68 and a half days, or 15 weeks, on its business, Scotland 45 days, or 10 weeks (Add. MS 46104: 67).

fewest difficulties" (McNeill 1920: 38). "For that reason, if no other", the Speaker's scheme, McNeill believed, was "greatly to be preferred" (McNeill 1920: 38).

Southborough was similarly unconvinced of the case for devolution, but also endorsed the Speaker's proposals. As with McNeill, this support was based on the "experimental and transitory character" of Lowther's scheme (Southborough 1920: 27). Southborough emphasized that Lowther's plan would make "the least possible change in our present constitutional arrangements compatible with any scheme of devolution" (Southborough 1920: 27). Furthermore, it could be "brought into effect without any great delay, and whilst providing an immediate experiment in devolution, it gives time for further experience, consultation, and consideration before finally committing the country to a violent change in its constitution" (Southborough 1920: 27). This was, thus, a vision of territorial modernisation that closely aligns with Bulpitt's 'operational code': that is, one in which reform was a highly conservative process with the centre conceding only the minimum degree of change necessary (Bulpitt 2008: 93, 99, 115, 160; Southborough 1920: 27). For both McNeill and Southborough this meant endorsing a proposal which was only experimental in nature and which, crucially, ensured that MPs retained control over the future of territorial reform.

7.3. The Case for Federal Devolution: Macdonald's scheme of direct election

As a leading critic of Lowther's plan, it is little surprise that the veteran devolutionist and Scottish Liberal MP, Murray Macdonald was the author of a rival devolution plan submitted to the Conference on Devolution in the form of a memorandum dated 1st April 1920. It is similarly unsurprising in the light of

Macdonald's previous comments on the case for devolution (see chapters 3, 4 and 5) that his memorandum focused on the issue that was Lowther's Achilles heel: the problem of parliamentary congestion. This, Macdonald argued, was an ill which had resulted in the House of Commons becoming increasingly out-of-touch with its work, thanks to the increasing use of Grand Committees as a means of lessening the chamber's congestion, and to the decline of cabinet collective responsibility in the face of increasing workload for ministers (Add. MS 46104: 85-86).

Macdonald's vision of devolution was as firmly rooted in high politics as Lowther's. Indeed, his case for territorial modernisation can be seen as equally corresponding to Bulpitt's 'operational code' which emphasized the centre's willingness to concede a degree of reform in order to preserve the centre's sovereignty over matters of high politics (Bulpitt 2008: 86, 93, 115). After all, as was earlier noted, Macdonald was not a federalist, and he was committed to the supremacy of Parliament; furthermore, the package of powers that he proposed to devolve were exactly the same as those formally signed by Lowther. The debate that would rage between Lowther and Macdonald's rival camps in the latter stages of the Conference was thus a debate *within* the centre about how best to ensure its continued dominance of high politics.

Macdonald's scheme, in essence, proposed legislatures that were "subordinate to, but separate from, the Parliament of the United Kingdom" for England, Scotland and Wales (Conference on Devolution 1920: 13). However, unlike with Lowther's scheme, each of the legislatures proposed by Macdonald would consist of a directly-elected chamber, with the same number of members as those currently elected to represent England, Scotland and Wales in Parliament, using the same constituencies (Conference

on Devolution 1920: 13). These legislatures would sit for a five year term, “unless sooner dissolved” (Conference on Devolution 1920: 13). This directly-elected component was the crucial difference between Macdonald and Lowther’s rival devolution schemes. It was the difference between a system of devolved legislatures elected independently of Westminster (and thus with their own legitimacy and mandates that could, in the case of England, be seen to rival Westminster’s) (Macdonald’s proposal) and a series of ‘Grand Councils’ composed of MPs, elected at UK General Elections and Peers (Lowther’s scheme). As was explored in earlier chapters, this distinction explains why a consensus on the schedule of powers did not exist in practice, despite apparently existing on paper (see Chapter Four). Furthermore, the split between Lowther’s intra-parliamentary model of devolution and Macdonald’s directly-elected proposal explains why Campion could use the threat of an English legislature in his criticism of Macdonald’s scheme, despite being the author of Lowther’s Grand Council scheme which also envisaged England being retained as a singular unit (see Chapter Five).

Lacking any information on public attitudes to whether the subordinate legislatures should be unicameral or bicameral, Macdonald proposed that any decision on second chambers should be “left to the Government to determine” (Conference on Devolution 1920: 13). However, regardless of what the Government determined vis-à-vis second chambers, Macdonald proposed that current members of the House of Lords would not be disqualified for election to “the popularly elected Chambers” (Conference on Devolution 1920: 13). On the subject of the executives, there was considerable overlap between Macdonald and Lowther’s schemes, with Macdonald also proposing the establishment of local executive committees (Conference on Devolution 1920: 14).

The main difference, however, was that local ministers, under Macdonald's scheme, would, like members of the UK Government, be ministers of the Crown (Conference on Devolution 1920: 14).

In total, this was a proposal which Macdonald recommended as "the only possible scheme of devolution which would secure" the relief of parliamentary congestion, would strengthen voters control over their representatives, would ensure that the local executives were effectively held to account by devolved legislatures and would avoid

that hopeless confusion of political issues and responsibilities inseparable from a scheme which charges the same representatives, acting in separate and independent legislatures, with the control and management both of local and central interests (Conference on Devolution 1920: 13).

By placing the relief of parliamentary business at the top of the purported benefits of his scheme, Macdonald was re-emphasising his scheme's claim to be a rational, high politics solution to the problem of parliamentary congestion that, as has been previously discussed, was considered by a range of actors to be a major impediment to Parliament's ability to fully discharge its duties as an imperial and UK legislature. Macdonald's argument would be recognised by Bulpitt as essentially the rationale for what he termed a 'dual polity', namely that devolution of certain functions by the centre in order to ensure that its grasp over 'high politics' remained intact. In this case the creation of directly-elected legislatures was to be undertaken in order to relieve Parliament of 'local' business and to allow it to focus instead on 'central' and imperial affairs.

Predictably, however, just as Lowther's plan was heavily criticised by the devolutionist faction within the Conference on Devolution, so too were Macdonald's proposals by the more sceptical members of the Conference. In a memorandum prepared for the Speaker, Gilbert Campion outlined three major disadvantages of Macdonald's scheme: firstly, the multiplicity of elections; secondly, the danger posed to Parliament through the loss of popular interest and rivalry of an English Parliament and finally, expense. On the first charge, Campion noted that Macdonald's scheme would result in voters having to vote in at least two General Elections (one for Westminster and one for the respective devolved legislature) at least twice every five years "and probably oftener" (GCA/6/16). Such a state of affairs, he claimed, would greatly increase inconvenience for voters and risked electoral fatigue that could result in "a tendency either for both central and local bodies to be returned by a low percentage of votes, or, more probably, that the electors would concentrate interest in one of the bodies, and be apathetic towards the other" (GCA/6/16).

This latter possibility touches on the second disadvantage outlined by Campion, that of a risk to the reputation of Westminster. As explained in Chapters Four and Five, Campion feared that in circumstances of electoral fatigue, the House of Commons "would be more likely to suffer in this respect than the local Parliaments", a reflection that the local parliaments would be charged with business of more everyday concern than that charged to Westminster, post-devolution (GCA/6/16). The situation would be worse, Campion argued, in the case of an English Parliament. As was previously discussed (again in Chapter Five), Campion argued that an English Parliament would, especially at times of international peace, represent a superior attraction than Westminster for both voters and politicians, resulting in the central Parliament

becoming a rapidly diminished body and potentially manned by politicians of an increasingly inferior standard (GCA/6/16). Parliamentary sovereignty, he feared, would be further challenged at times of intergovernmental conflict, with an English Parliament representing four fifths of the UK's total population and wealth (GCA/6/16).

A final objection, on similar lines to those aired by Chalmers in his earlier mentioned letter, was that of expense. Campion claimed that Macdonald's plan would result in total expenditure (including salaries of local members, provision and maintenance of new buildings and salaries of ministers and civil servants) in the region of some "six to ten millions and an annual charge of nearly a million." While he acknowledged that some of this expense was unavoidable under any scheme of devolution, he noted that a proposal that mitigated these costs [i.e. the Speaker's] would "appear at any rate *prima facie* preferable" (GCA/6/16).

Again, the differences in the composition of the 'devolved legislatures' proposed by Lowther and Macdonald's schemes is crucial to understanding Campion's objections. Not least because, the intra-parliamentary model of 'devolution' outlined by Lowther (and Campion) would prevent any loss of esteem for Westminster or interest in General Elections (Grand Councils being formed, in part, from the MPs returned at said elections). Furthermore, the intra-parliamentary nature of Campion and Lowther's scheme meant that their conceived English 'legislature' would pose far less of a challenge to Westminster. Equally, the cost Campion ascribed to Macdonald's devolution would be somewhat mitigated (although, as mentioned above, Campion acknowledged that there would be some costs that were unavoidable under either scheme) under Lowther's plan as a result of it utilising existing MPs (GCA/6/16).

A number of Campion's objections were shared by other figures within the Conference. Lord Southborough, for example, echoed Campion's concern about the multiplicity of elections, suggesting that this would result in "almost continuous party warfare" as parties are forced to increase their activities to cope with an expansion in the number of elections fought across Great Britain (Southborough 1920: 26). He also shared Campion's fears about the dignity of Westminster in the event of directly-elected subordinate legislatures, claiming that "there is a grave danger that the latter [Westminster] may be obscured by the former [local legislatures] and sink into comparative insignificance or even contempt" (Southborough 1920: 26).

Again as with Campion's memorandum, Southborough considered this to be particularly problematic with regards to an English Parliament; an institution that he also feared could "easily be brought into collision" with Westminster, resulting in an "extremely dangerous situation" developing (Southborough 1920: 26). These arguments were also repeated by Ronald McNeill, whose memorandum not only dismissed Macdonald's "optimistic view" that an English Parliament would pose no threat of rivalry to Westminster (McNeill 1920: 37), but rehearsed the earlier mentioned argument that, outside of times of national emergency or international crisis, Westminster would slide into popular insignificance vis-à-vis the proceedings of the local legislatures (McNeill 1920: 37).

7.4. Shades of grey amidst the black and white: Lord Gladstone and devolution

With an equal number of supporters on either side (Conference on Devolution 1920: 12, 15) and fierce mutual criticism of either camp's proposals, it is perhaps

somewhat easy to see the Conference as simply concluding in the “sharp division of opinion” that the Speaker had warned of in December 1919 (Add. MS 46104: 20).

However, while it is undoubtedly true that the Conference ended in stalemate between two markedly divergent conceptions of devolution, this perspective gives little attention to the nuanced nature of much of this debate. It was not simply a ‘black and white’ case of two rival camps, each passionately defending their schemes to the last. Indeed, while thirteen members apiece supported the Speaker and Macdonald’s proposals, five members⁶⁴ gave their support to both schemes, stating their willingness to accept Lowther’s proposal as providing an “immediate prospect for securing a considerable measure of Devolution on National lines” (Conference on Devolution 1920: 12, 15).

An arguably more significant example of the nuances within the composition debate can be found in Viscount Gladstone’s struggles on the devolution question. On 9th February 1920, Lord Chalmers wrote to Gladstone imploring him to consider endorsing Lowther’s Grand Council scheme, asking him to “think it over whether we could begin with Scotland alone [a reference to enhancing the aforementioned Scottish Standing Committee]?” (Add. MS 46084: Letter from Chalmers to Gladstone 9th February 1920). Chalmers had good reason to hope that Gladstone might be swayed on the subject of Grand Councils. Though Gladstone had previously authored a memorandum proposing directly-elected legislatures (Add. MS 46104: 13-17) and, according to Champion’s diary, became a leading critic of Lowther’s proposals during the Conference’s final meetings (GCA/2/2), his private correspondence actually revealed a considerable degree of ambiguity on the subject of devolution.

⁶⁴ Lord Aberdare, the Scottish Liberal MP Henry Cowan, the Welsh Labour MP Charles Edwards, the Welsh coalition Liberal MP J. Hugh Edwards and the English Labour MP W. Tyson Wilson

This can be seen in the objections Gladstone raised against Lowther's proposal. For example, in a draft dated 15th December 1919, Gladstone outlined what he believed to be the "two serious difficulties" that might arise from Lowther's plan. The first difficulty, and one which hints at Gladstone's discomfort with devolution, was that the Grand Councils might spark a domino effect of parliamentarians from the home nations calling for "full blown parliaments" (Add. MS 46084: Draft letter from Gladstone to Lowther, dated 15th December 1919).⁶⁵ On the surface, Gladstone's hesitancy on the question of "full blown legislatures" may seem surprising in light of both his December 1919 devolution memorandum and his eventual endorsement of Macdonald's scheme, but it is not altogether surprising.

In the aforementioned devolution memorandum authored by Gladstone, for example, he not only argued that fundamental principles of devolution should include guarantees that "the new legislative bodies must be subordinate" and "must not imperil the position and authority of the House of Commons", but that they should be considered more like "big County Councils and Municipalities" rather than the House of Commons or even "Dominion Parliaments" (Add. MS 46104: 13-15). More significantly, Gladstone not only privately conceded to Lowther that he did not "like separately elected 'Parliaments'", but acknowledged that "very likely England doesn't want one" (a familiar refrain against devolution as chapter three documented) (Add. MS 46084: Draft letter from Gladstone to Lowther, 20th December 1919).

⁶⁵ The second difficulty Gladstone highlighted was the risk that the plans put forward by the Grand Councils, during their incarnation as constituent councils, might "fall into the throes of a General Election which might radically alter the composition" of the Grand Councils. If these "radically altered" Grand Councils had substantially different views on devolution than their predecessors, then the plans of the 'constituent councils' could be easily swept aside (Add. MS 46104: Draft Letter from Gladstone to Lowther, dated 15th December 1919).

Gladstone's ultimate refusal to support Lowther's proposals, therefore, had little to do with any personal enthusiasm for directly-elected legislatures. Rather, it was borne out of his scepticism about how administrative devolution could coexist with Grand Councils, as Gladstone would make clear in his correspondence with both Lowther and Lord Chalmers. Gladstone, for example, complained to Lowther that he was "absolutely at sea" on how Lowther's proposed executives would function in practice. Noting that several important departments would be "transformed as a result of administrative and legislative powers being devolved to Grand Councils", Gladstone asked what would happen to UK cabinet seats, for example, for health, education or agriculture (Add. MS 46084: Draft letter from Gladstone to Lowther, 20th December 1919). Presumably, he noted, they would lose their seats in the cabinet. He also queried how the different ministers should be paid, should they all secure equal salaries or would asymmetries be permitted (Add. MS 46084: Draft letter from Gladstone to Lowther, 20th December 1919).

Finance ministers, for example, would be dealing with highly technical work in comparison to some of their executive colleagues (Add. MS 46104: Draft letter from Gladstone to Lowther, 20th December 1919). Similarly, Gladstone asked, should ministers in Wales be paid the same amount as those responsible for administration in England (Add. MS 46084: Draft letter from Gladstone to Lowther, 20th December 1919)? Much more significantly, Gladstone feared that the establishment of three additional governments "within the existing House of Commons" would upset the balance of the unitary state with potentially significant political and constitutional consequences (Add. MS 46084: Draft letter from Gladstone to Lowther, 20th December 1919).

With these concerns about the role of local executives under Lowther's Grand Council plan, Gladstone asked Lowther whether it would be possible to limit the Grand Council plan to legislative powers (with administration of the devolved territories still the purview of Whitehall) (Add. MS 46084: Draft letter from Gladstone to Lowther, 20th December 1919). Such a plan, Gladstone claimed, would still represent devolution "and it gets rid of session of complicated legislation [from the Imperial Parliament]" (Add. MS 46104: Draft letter from Gladstone to Lowther, 20th December 1919). Describing it as a plan which would "satisfy England and probably Scotland and Wales would not object", Gladstone proposed that administrative responsibilities would remain reserved to the UK Parliament and UK Government, with ministers attending the respective Grand Councils "when necessary" (Add. MS 46084: Draft letter from Gladstone to Lowther, 20th December 1919).

For example, the Secretary for Scotland would attend certain sessions of the Grand Council, with Gladstone conceding that a "Deputy Minister" could be created for Wales (another indication of the low esteem in which Wales was held in the devolution debates of the early-Twentieth Century) (Add. MS 46084: Draft letter from Gladstone to Lowther, 20th December 1919). That suggestion and Gladstone's recommendation that the English and Welsh Grand Councils could sit together for certain business was a reminder of Wales' historical assimilation within England and thus can be viewed as a further reflection of the consequences for Wales of her unique place within the UK's 'State of Unions' (Add. MS 46084: Draft letter from Gladstone to Lowther, 20th December 1919).

While the copy of Gladstone's letter in the archives is marked 'draft' it appears that this (or a rather similar letter) was indeed sent to Lowther as, on 23rd December, Lowther wrote to Gladstone responding to his comments and suggestions on the Grand Councils. With respect to Gladstone's concerns about the executives under the Grand Council scheme, Lowther noted that accepting devolution would mean accepting "the certainty that the political complexion of some portions of the United Kingdom will be diametrically opposed to the complexion of the whole" (Add. MS 46084: Letter from Lowther to Gladstone, 23rd December 1919). As a result of the differing political environments and patterns of party support across the United Kingdom, Lowther stressed that it would be even more important that ministers "possess the confidence of the Grand Councils, otherwise their positions will be impossible" (Add. MS 46084: Letter from Lowther to Gladstone, 23rd December 1919). In sum, administrative devolution would have to work hand in glove with legislative devolution.

To further press this point, Lowther illustrated a picture of a Grand Council being governed by ministers whose parties may have won a majority across the UK, but not in the nation in question. For example, he asked Gladstone whether it would have been credible in 1892 for England's education to be in the hands of a Liberal minister, when, despite the fact the Liberals were in power at UK level, the Tories had a 71 seat majority over the Liberals in England (Add. MS 46084: Letter from Lowther to Gladstone, 23rd December 1919). Similarly, he asked Gladstone whether he could imagine a Conservative minister in Scotland in such a scenario in 1895, when he would have been facing a Grand Council with a Liberal majority of six against him (Add. MS 46084: Letter from Lowther to Gladstone, 23rd December 1919).

Grand Councils, if they were to work at all, would thus require distinct executives in England, Scotland and Wales. As such, local ministers for devolved matters in England, Scotland and Wales would not “necessarily form any part of the King’s majority for the United Kingdom”⁶⁶ (Add. MS 46084: Letter from Lowther to Gladstone, 23rd December 1919). In this potentially confusing state of cohabitation within the Palace of Westminster, Lowther argued that these ministers would not be Ministers of the Crown. As a means of further distinguishing them, and in the course of doing so reasserting the supremacy of the UK Parliament and Government, Lowther recommended that the local executives should be structured on “County Council lines [rather] than on Parliamentary” (Add. MS 46084: Letter from Lowther to Gladstone, 23rd December 1919).⁶⁷

This did not mean that Lowther was particular enthusiastic about administrative devolution. As he noted, in conclusion, he was naturally sympathetic to Gladstone’s proposal, conceding that a purely legislative model of devolution was “attractive” and “less complicated”, however, it would not comply with the terms of reference provided to the Conference (Add. MS 46084: Letter from Lowther to Gladstone, 23rd December

⁶⁶ In addition, UK ministers for devolved subjects “would of course disappear, because their occupation would be gone”, though where only part of a department’s workload was devolved than a UK Government minister would be retained to liaise with the respective Grand Council executive members (Add. MS 46084: Letter from Lowther to Gladstone, 23rd December 1919).

⁶⁷ At this period of time, as Lowther helpfully explains, County Councils worked on a committee system, with chairs of committees able to build up expertise” and held to account not only by their committee, but also the council’s membership as a whole (Add. MS 46084: Letter from Lowther to Gladstone, 23rd December 1919). Lowther “anticipated that very much the same procedure will be adopted by the Grand Councils” (Add. MS 46084: Letter from Lowther to Gladstone, 23rd December 1919). Decades later this local government model of devolution would form the basis of the Wales Act 1978 and was emphatically proposed by the-then UK Government in the 1997 White Paper *A Voice for Wales* (HM Government 1997).

1919). Whether Gladstone, or even Lowther, liked it or not, local executives would thus have to form part of any scheme the Conference proposed, including Lowther's Grand Council plan.

Indeed, this point was reiterated by Lord Chalmers in a letter sent to Gladstone on 31st January 1920. Chalmers did not "think it at all possible to give legislative powers without administration" (Add. MS 46084: Letter from Chalmers to Gladstone, 31st December 1920). In a further attempt to convince Gladstone to swallow his doubts and support Lowther's scheme, Chalmers focused on the practical considerations of devolution. One such consideration was that of the infrastructure required for separately elected legislatures, "unlike the walls of Troy, new Parliament houses for aspiring nationalities will not rise at the mere sound of music, even from the harp of the Welsh bard and wizard" (Add. MS 46084: Letter from Chalmers to Gladstone, 31st December 1920).

Furthermore, he wondered where these new legislatures would be housed in the period where their new chambers were being built, a question he believed was particularly pressing in the case of England (Add. MS 46084: Letter from Chalmers to Gladstone, 31st December 1920). Finally, in a plea that was straight out of the Lowther playbook, Chalmers asked Gladstone "who are we to decide in advance what these bodies (as represented today by their MPs) conceive to be best for themselves" (Add. MS 46084: Letter from Chalmers to Gladstone, 31st December 1920). Rather than a pre-destined scheme of devolution, shouldn't the nations themselves, Chalmers asked, be given the autonomy, offered by the Grand Council scheme, to decide their futures themselves?

Despite Chalmers' plea, Gladstone remained unconvinced. In fact he appeared to be even less open to Lowther's plan than before. In an unsent letter to Chalmers, Gladstone noted that "the more detailed examination I give it [the Speaker's plan] the more impossible it seems as a workable, or initial, solution" (Add. MS 46084: 'Cancelled' Letter from Gladstone to Chalmers, undated). Having once been taken a rather agnostic approach to Lowther's scheme and having indicated a lack of enthusiasm for the alternative of directly-elected legislatures, Gladstone now appeared to have all but ruled out supporting the Grand Council scheme (Add. MS 46084: 'Cancelled' Letter from Gladstone to Chalmers, undated). Indeed, Gladstone's new found opposition was not only based on his prior concerns about the role of the executives in Lowther's scheme, but a belief that the Conference should at the very least justify its existence.

Increasingly "afraid we [the Conference] shall land on the rocks", Gladstone appears to have become convinced that even if failure beckoned, the Conference should propose a scheme of workable devolution that was consistent with its terms of reference (Add. MS 46084: 'Cancelled' Letter from Gladstone to Chalmers, undated). Lowther's scheme, he claimed, was an attempt to shove difficulties "off our line", but "for what [reason] have we been appointed?" (Add. MS 46084: 'Cancelled' Letter from Gladstone to Chalmers, undated). While conceding that the Conference was, in large part, established for the Government's "convenience" (i.e. as a means of kicking the issue of devolution into the long grass), he nevertheless believed that members "must assume that we are expected to offer a plan based on examination, such experience as we have, and on evidence" (Add. MS 46084: 'Cancelled' Letter from Gladstone to Chalmers, undated). The Conference might be doomed to failure, but that did not mean that the Conference should shirk its responsibilities.

Though Gladstone reiterated his belief that the Grand Councils scheme could only work if it was limited to legislative powers, he now condemned it as a plan which made “no attempt at the solution indicated by the reference in terms” (Add. MS 46084: ‘Cancelled’ Letter from Gladstone to Chalmers, undated). Furthermore, he was unpersuaded by Chalmers’ suggestion that it was for the parliamentary representatives of the home nations, rather than the Conference, to determine the structure of their respective devolution settlements (Add. MS 46084: ‘Cancelled’ Letter from Gladstone to Chalmers, undated). MPs, Gladstone argued, were simply not tasked to make such a decision. Not only, he argued, were the current Members of Parliament not elected for this purpose, but they were “mere sheep” who would be “confounded” by the issue at stake (Add. MS 46084: ‘Cancelled’ Letter from Gladstone to Chalmers, undated). What was needed instead, Gladstone suggested, was a “committee of about 12 or 15 of our very best men, including 2 or 3 civil service heads” to explore the subject of devolution.

Gladstone conclusion to this ‘cancelled’ letter underscores his struggle between his doubts on the subject of devolution, on the one hand, and his belief that the Conference should not abdicate its responsibilities, on the other.⁶⁸ Initially declaring that he “could not possibly accept the Speaker’s proposal as it appears to me,” Gladstone then admitted he could yet be persuaded by the counsel of “trained and experienced

⁶⁸ Having aired the idea of a post-conference committee to explore the subject in greater depth, Gladstone wrote to Lowther on 22nd February 1920 to recommend that the report should be “exploratory” in tone, carrying more than one, if required, proposal (Add. MS 46084: Letter from Gladstone to Lowther, 22nd February 1920). This idea garnered the support of Lord Emmott who suggested that the report should “simply lay down general lines [recommendations] and indicate the kind of smaller committee which should deal with the detail” (Add. MS 46084: Letter from Emmott to Gladstone, 16th March 1920)

men”⁶⁹ (Add. MS 46084: ‘Cancelled’ Letter from Gladstone to Chalmers, undated), before finally concluding that directly-elected legislatures would “lessen complication with the UK Government” (Add. MS 46084: ‘Cancelled’ Letter from Gladstone to Chalmers, undated). While Gladstone would spend the final meetings of the Conference opposing Lowther’s Grand Council scheme and he ultimately signed his support for Macdonald’s scheme of directly-elected legislatures, as this section has demonstrated, this was a decision he made with little relish.

7.5. Conclusion

The division between Lowther and Macdonald over the composition of devolved legislatures was arguably the most significant aspect of the Conference on Devolution’s proceedings. It alone explained the tensions that bubbled under the surface of the Conference’s ‘consensus’ on the schedule of powers (see Chapter Four) and the apparent acceptance that England would have to be retained as a singular unit for the purposes of devolution (see Chapter Five). With members unable to bridge these differences between Lowther’s intra-parliamentary ‘Grand Council’ proposal and Macdonald’s scheme of directly-elected legislatures, the subject of composition was also the reason why the Conference concluded its proceedings in stalemate, leaving the Speaker able to claim only that the Conference had “thrown new light upon the problem [of devolution]” (Lowther 1920: 7).

⁶⁹ Crucially, Gladstone used these precise words in his description of Lowther, whom he called a “*trained and experienced* [man who] knows the House of Commons and its business in and out” (Emphasis added, Add. MS 46084: ‘Cancelled’ Letter from Gladstone to Chalmers, undated).

However, as this chapter has sought to demonstrate this was also a debate that took place firmly *within* the ‘centre,’ with Lowther and Macdonald both firmly committed to the sovereignty of Westminster. This was a disagreement about how best this sovereignty could be preserved. Indeed, Bulpitt’s concept of the centre’s ‘operational code’ in territorial governance can be seen as applicable to either set of proposals. Lowther’s conservative, intra-parliamentary proposal can be understood as a reflection of the minimalistic approach to territorial reform ascribed to the centre by Bulpitt (Bulpitt 2008: 99, 160). But Macdonald’s scheme can also be viewed as embodying what Bulpitt termed a ‘dual polity’ (Bulpitt 2008: 20, 65). Indeed, that this was a difference of opinion *within* the centre, helps explain why there was not simply a binary split between Macdonald and Lowther’s camps. As this chapter has demonstrated, not only were both proposals signed by a group of four parliamentarians, but, more significantly, Viscount Gladstone found himself internally conflicted on the subject.

Despite being recorded as a leading signatory of Macdonald’s scheme, Gladstone, as this chapter has demonstrated, was not naturally sympathetic to devolution and spent much of the latter months of the Conference’s existence flitting between his suspicion of directly-elected legislatures, his concerns about Lowther’s proposals and his sense of duty. This was an internal conflict firmly rooted in high politics and a belief in Parliamentary supremacy. Certainly, it is difficult to conceive, considering the attitudes outlined in his personal papers (see: Add. MS 46084, Add. MS 46104), that Gladstone would have consented to support a proposal that was deliberately intended to challenge, rather than enhance, Parliament’s authority as a high politics institution. Regardless of these shades of grey, as the following postscript will detail, the schism

between Lowther and Macdonald would prove crucial in ensuring that when the Conference reported, its' "deliberations were stillborn" (Bogdanor 1999: 50).

Postscript to Part Two: the response to the Conference on Devolution and reflections on its failure.

Having concluded its deliberations in stalemate on the issue of composition, the Conference on Devolution's final report was sent, in the form of a Letter from the Speaker, to the Prime Minister on 27th April 1920. Some 38 pages in total length, the document comprised a six-page Speaker's letter (Lowther 1920: 2-7) and a series of appendices (there were six appendices in total)⁷⁰ (Conference on Devolution 1920).

The letter itself can be divided into three substantive parts. The first provided a recap of the background to the Conference's establishment. This section saw the Speaker, "for the sake of greater clearness", remind the Prime Minister of the "circumstances in which the Conference originated" (Lowther 1920: 2), including the resolution of 4th June 1919 and the terms of reference given to the Conference in October 1919 (Lowther 1920: 2-3). The second section consisted of a summary of the Conference's deliberations: "the units of areas to which a scheme of devolution might apply"; the powers that the Conference agreed for devolution; the financial powers that the devolved legislatures might enjoy; the Conference's agreement on the judicial arrangements for the devolved nations; and, finally, the issue of how the devolved

⁷⁰ The appendices consisted of the following: Appendix 1) The Transitional Scheme proposed by the Speaker (Conference on Devolution 1920: 9-12); Appendix 2) Murray Macdonald's Scheme (Conference on Devolution 1920: 13-15); Appendix 3) The Schedule of Powers (Conference on Devolution 1920: 16-18); Appendix 4) The report of Lord Chalmers' sub-Committee on Finance (Conference on Devolution 1920: 19-21); Appendix 5) Report of Lord Stuart of Wortley's sub-Committee on the Judiciary (Conference on Devolution 1920: 22-24. Appendix 6) Memoranda was broken into three parts: 1) A memorandum by Lord Southborough (with Addendum (Conference on Devolution 1920: 26-30); 2) A memorandum by Murray Macdonald (Conference on Devolution 1920: 31-35); 3) A memorandum by Ronald McNeill (Conference on Devolution 1920: 36-38).

legislatures should be composed (Lowther 1920: 3-6). Unsurprisingly, particular attention was paid to this latter issue, with Lowther conceding that “neither the scheme proposed by myself [intra-parliamentary ‘Grand Councils’] nor that proposed by Mr. Murray Macdonald [directly-elected subordinate legislatures]... [secured] a substantial majority in its favour” (Lowther 1920: 6).

The third and final part of Lowther’s letter saw the Speaker provide a brief summary of the overall process of the Conference. According to Lowther, the Conference had been “substantially agreed” on a number of important points including: the powers “which could be properly devolved upon a local legislature” and those which should be reserved to Westminster/exercised concurrently; the “areas which the local legislatures should administer, viz. England, Scotland, Wales (including Monmouthshire)”; financial arrangements between the devolved and central Governments and finally, the judicial arrangements for a devolved UK (Lowther 1920: 6). However, it was unable to reach agreement on an issue that Lowther (and this thesis) highlighted as absolutely “fundamental” (Lowther 1920: 7), namely “the character and composition of the local legislative bodies themselves” (Lowther 1920: 6).

With the Conference unable to agree on such a critical issue, Lowther was forced to conclude that it had “thrown new light upon the problem [devolution]” and, rather forlornly, wished that the stalemate on composition “should not be allowed to nullify” the rest of the Conference’s discussions (Lowther 1920: 7). Lowther then closed his letter, rather fittingly, by expressing his gratitude “to the services rendered to the Conference” by Gilbert Campion, whose time and experience had “materially lightened our labours” (Lowther 1920: 7).

The response to the Conference's report, even from official channels, was a portent of the status – or, rather, lack thereof – it would go on to achieve in the historical literature. Despite the Conference report being dated 27th April 1920, it appears only to have reached the attention of Downing Street on 7th May, when a copy of the report was passed to the Prime Minister by Joseph Davies, the MP for Crewe and a key figure in the Prime Minister's Secretariat (LG/F/166/4/1; Turner 1980: 2, 24-25). Written on the front page of the report was a note from Davies informing the Prime Minister that the "Speaker wishes to know whether he can present this to the House on Monday next" (LG/F/166/4/1). As will be mentioned shortly, Lowther's wish would prove fruitless.

While the report was addressed as a Letter from the Speaker to the Prime Minister, this thesis has found no archival evidence that the Prime Minister ever responded to Lowther himself. Instead, it was left to Lloyd George's deputy, Andrew Bonar Law, to respond to the Speaker. Writing on 10th May, Bonar Law expressed his and the Government's thanks, stating that he was "sure the Prime Minister will express to you the thanks of the Government", before saying to Lowther that they were "indebted to you for having undertaken the difficult task [of chairing the Conference] and for the skill, patience and energy with which you have conducted it" (BL/102/3/1).

It says much about the fate of the Conference's report that this anodyne response, a task seemingly handed down to his deputy from an uninterested Prime Minister, was as good as it got. Despite Lowther having sought the Prime Minister's permission to table the Conference report, when it was finally laid on the Table of the House of Commons on 10th May it was not even afforded a parliamentary debate

(Kendle 1989: 233). There was little attention paid to its publication among the press, save for *The Times* which echoed the sentiments of the five Conference members who endorsed not only Macdonald's scheme, but also Lowther's in the "hope that by accepting the first scheme now they may eventually arrive at the second" (*The Times* 13th May 1920: 17). Following their logic, the paper concluded that there "seems to be good reason for supporting the Speaker's scheme, if only on the grounds that in so radical a departure from the constitutional practice of the kingdom, it is well to look before we leap" (*The Times* 13th May 1920: 17).

Nevertheless, and while some attempts were made by pro-devolutionists to keep the issue alive, including a deputation of devolutionists to the Prime Minister in December 1920, the Conference slipped quickly into historical insignificance. Indeed, the rapidity of this descent into ignominious irrelevance could be seen in the Labour Government's reflections on devolution, four years later in 1924. During a debate on a Private Members Bill for Scottish Home Rule, on 9th May 1924, the Secretary for Scotland had indicated that the Government not only supported "the general principle involved in the Bill", but that it was in favour of "the appointment of a Committee to examine the whole question [including devolution to the rest of Great Britain] and to report to the House" (CAB/24/167/25).

That the Government should favour such a solution raised clear parallels with the Conference on Devolution, as the-then Lord Privy Seal, John Clynes noted in a memorandum presented to the Cabinet on 29th May 1924, yet the amount of attention paid to the Conference, and Clynes' verdict on it, were indicative of the low regard with which it was by then already viewed (CAB/24/167/25).

As Clynes highlighted, the last occasion “on which the principle of Devolution was examined” was the Conference on Devolution in 1919. Clynes’ memorandum leaves little doubt as to his feelings towards the Conference, a body described as “not fruitful of useful results” and an experience that he strongly recommended against repeating as a result of its “serious disadvantages” (CAB/24/167/25). Even among office holders in a pro-devolution Labour administration, the Conference was thus treated as a half-forgotten, ignominious failure, a legacy that the Conference has enjoyed, in the footnotes of political history, to the present day.

Why did the Conference fail?

This leaves us with the questions of not only why the Conference failed, but why it should have become such a footnote in British constitutional failure. Its failure may seem rather inevitable in retrospect, particularly for those, like Jackson and Boyce, who emphasize the primacy of the Irish Question in stimulating the federal devolution debates of the early-Twentieth Century (see Chapters Two and Three). Ireland, after all, had posed a major challenge to the stability of the UK state, as “one of the gravest dangers which threatens the unity of the Empire” (F.S. Oliver quoted in Boyce and Stubbs 1976: 67).

For Jackson and other Irish-centric historians, the Conference on Devolution was a lingering diminuendo of a federalist movement that had failed to win over popular opinion in Ireland (and mainland Britain) (Jackson 2004: 203, 223 and 225). This, allied to the radicalised dynamics of Irish politics, post-1916, and the passage of the Government of Ireland Act 1920, has led scholars such as Jackson and Kendle to argue

that the imperative for the centre to embrace federal devolution had gone by the time the Conference had reported (Jackson 2004: 217, 222-223; Kendle 1989: 238; Boyce 2006: 63).

From a Bulpittian perspective, this argument is clearly appealing: the centre, challenged by developments in Ireland, flirted with pan-UK territorial reform as a means of retaining the state's territorial integrity and its autonomy over matters of high politics. When it became clear that such a scheme would fail to satisfy Nationalist sentiment in Ireland and that Nationalist Ireland was too far gone to accommodate such a settlement, the rationale for the centre's interest in UK reform was lost (Kendle 1968: 353). Ireland was thus decoupled from the rest of the UK debate as the centre instead pursued the partition of Northern and Southern Ireland with the Government of Ireland Act 1920 (Gibbons 2013: 509).

However, just as this thesis contended that Ireland was an important, but by no means the sole, reason for the establishment of the Conference on Devolution in 1919, it is not the case that Ireland was the sole, or even the most immediate, reason for the Conference's failure. This is not to say that Ireland was not significant in shaping the broader context in which the Conference was operating, but rather that there are rather more mundane and proximate reasons for its lack of success (indeed, it is telling that the Irish-centric historiography of Jackson, Kendle and Boyce largely refers to the failure of federalism more generally in this period, rather than the Conference of Devolution specifically) (Boyce 2006: 63; for a sustained example of this approach see: Jackson 2004: 203-232). In particular, there are two reasons that specifically relate to the Conference's failure.

The first, and perhaps most obvious, is the fact that the Conference simply could not agree on the fundamental issue of composition, an issue which, as this thesis has demonstrated, was a cleavage that cut through its entire proceedings. Secondly, and similarly problematic, was the poor quality of the Conference's membership, something which, as the comments of Gorell and Gladstone highlight, raised the spectre of defeat early on in the Conference's proceedings. As this postscript will also note, even had those two difficulties been averted/resolved, the Conference would still have faced challenges from the arcane nature of the main argument for reform: parliamentary congestion.

The Composition Problem

The Conference's problems regarding the composition of the proposed devolved legislatures have been extensively discussed elsewhere in the thesis. However, it is difficult to downplay the damage done to the Conference's prospects, as marginal as they may have been, by a failure to submit a unanimous, or near unanimous, report. As Bogdanor has commented, this failure resulted in a "stillborn" report that was never taken seriously by policy-makers (Bogdanor 1999: 48-50).

Lowther himself was conscious of this potential outcome and placed heavy emphasis on the need for the Conference to agree to a scheme that could satisfy the diverse interests of Conference members (indeed, as Chapter Seven highlighted, this formed a key rhetorical justification for Lowther's conservative scheme of reform) (Add MS46104: 18). As Lowther had warned in his December 1919 memorandum to the Conference, "if the labours of our Conference should end in a sharp division of opinion,

or in several reports being presented, our labours will probably have been in vain” (Add MS 46104: 20).

So it proved, with the Conference split evenly between two schemes that were radically divergent thanks to the composition question and, as Chapters Four, Five and Seven detailed, the spill-over of this question into areas where agreement appeared to have existed on paper. As has been detailed extensively in the preceding chapters, these rival schemes not only saw the Conference conclude in deadlock, but in a stalemate defined by heated passions on either side. Neither camp considered their opponents’ schemes to be adequate to the task in hand, making any form of post-publication consensus building that might have kept the Conference report alive a near-impossible task.

This problem was made worse by the failings of the one scheme that might have been seriously considered by the centre and attracted wavering Conference members such as Gladstone: Lowther’s ‘Grand Council’ scheme. As Lowther himself admitted, and has been mentioned earlier, his proposal failed to tackle the issue of parliamentary congestion and the workload of parliamentarians, “the desire for which *was one of the chief incentives* for dealing with the matter at all” (Emphasis added, Lowther 1925: 269-270). It is rather ironic that the intra-parliamentary characteristics of Lowther’s plan, championed by the Speaker as offering the best chance of achieving reform (Add MS46104: 18), were in themselves his scheme’s Achilles heel. However, there was another, more structural, reason for the Conference’s failure: its calibre of membership.

“Too many and I’m not impressed with most of them”: the Conference’s membership

Concerns about the quality of the Conference’s membership appear to have surfaced from the very outset. One of Gorell’s first recorded observations on the Conference was the poor calibre of his fellow members. As he noted in his diary entry for the 23rd October 1919 (the date of the Conference’s first meeting), sixteen members from each House of Parliament was “too many and I’m not impressed with most of them” (Gorell’s diary, entry dated 23rd October 1919).

This attitude only hardened during Gorell’s time on the Conference, resulting in increasing degrees of disdain for both his fellow members and the Conference itself. By December 1919, Gorell’s diary entries on the Conference had shortened considerably in length. His entries for the 2nd and 4th December, for example, recorded little more than his frustration both at the lack of progress he felt the Conference was making, a product of “too many talkers who know nothing whatever about it [devolution]” (Gorell’s diary, entries dated 2nd and 4th December 1919). His diary entry, a week later was used only to bemoan “more wasted time at the Federal Devolution Conference” (Gorell’s diary, entry dated 11th December 1919). Fast forward to 12th February 1920, and Gorell’s diary again lambasts that day’s Conference session (this time it was a “waste, a morning of recapitulated talk”), noting that his fellow devolutionist⁷¹, Lord Selborne “could hardly speak calmly so great was his sense of the stupidity and ignorance around him” (Gorell’s diary, entry dated 12th February 1920).

⁷¹ This was not simply a case of devolutionist snobbery from Gorell. His diary entry for the 13th November, when the Conference adjourned its session out of respect for the death of Lord Brassey, saw Gorell describe his former pro-devolution colleague in the Lords as a “not very clever specialist on devolution” (Gorell’s diary, entry dated 13th November 1919).

As this entry suggests, Gorell was not alone in feeling his fellow Conference members were somewhat less than the best that Parliament could offer. Much as Gorell's initial reaction to the Conference's membership had not been one of admiration, *The Times* was similarly unimpressed. Describing the Conference as "an undistinguished commission", the paper argued that it lacked the prestigious membership required to "impose its recommendations on the two Houses of Parliament" (Parliamentary Correspondent 17th October 1919: 13).

Rather ironically given Gorell's aforementioned comments, Lord Brassey was also unenthused with his fellow members on the Conference. In a letter to Sir Thomas Whittaker MP he bemoaned the absence of a number of informed and committed devolutionists from both the Unionist (namely members of the Unionist Federal Committee in the House of Commons) as well as Liberal Parties (such as Whittaker and J.W. Wilson) (Letter from Brassey to Sir Thomas Whittaker dated 25th October 1919, reprinted in Partridge 1921: 232). Indeed, the poor calibre of member led Brassey to ponder whether it was an act of sabotage by the Government (Letter from Brassey to Sir Thomas Whittaker dated 25th October 1919, reprinted in Partridge 1921: 232).

This suggestion was not entirely fanciful. In a letter to Bonar Law on 7th August 1919, Lord Curzon, the figure responsible for selecting Unionist members of the Conference (Fair 1980: 232; Kendle 1989: 283) not only expressed his frustration that the Cabinet had not discussed or agreed the establishment of a conference, but at the alleged demand by the Speaker of the House of Commons that every "member of the Conference should... be a partisan of devolution" (BL/98/1/5). In turn, Curzon vowed that he would refuse to "supply the Speaker with 15 tame sheep who will promise to

nibble the pastures into which he leads them” (BL/98/1/5). That such a large proportion of the Conference’s membership was in the gift of a man who was so clearly hostile to its creation raises a serious question. Namely, whether, having been unable to prevent its creation, Curzon used his powers to appoint the “undistinguished commission” that, as *The Times* feared, would fail to secure reform (Parliamentary Correspondent 17th October 1919: 13).

Certainly, the calibre of membership appeared to spark concerns, from within the Conference, about its remit. Yes, the Conference had a clear commission from the House of Commons to develop proposals for “a scheme of Legislative and Administrative Devolution within the United Kingdom” (Lowther 1920: 2-3). But that did not stop figures such as Lowther from suggesting that this did not extend to a mandate “to produce a cut and dried constitution for each of the countries comprised within the United Kingdom” (Add. MS 46084: Letter from Lowther to Gladstone, dated 14th December 1919).

There were obvious reasons for Lowther to suggest that the Conference’s remit was somewhat more limited than might have been implied by its actual terms of reference. In particular, this suited his centrist conservative view of territorial reform. Indeed, he sought to convince Gladstone that “the most we could do would be to make a few vague suggestions” (Add. MS 46084: Letter from Lowther to Gladstone, dated 14th December 1919). One of which, unsurprisingly, being his modest scheme of intra-parliamentary devolution (Add. MS 46084: Letter from Lowther to Gladstone, dated 14th December 1919).

While Lowther's reasoning is, in the light of this thesis' argument, hardly surprising, the calibre of the Conference's membership provided him with a clear means of justification. However, it wasn't just the calibre of the membership that bolstered Lowther's case for the Conference to embrace a more tentative approach to devolution. The territorial diversity of the Conference's membership was also seized upon by the Speaker. As he noted to Gladstone, "except for Sir Ryland Adkins and Mr Tyson Wilson, we have not a single Englishman, who is also an English Member [MP], on our body" (Add. MS 46084: Letter from Lowther to Gladstone, dated 14th December 1919). For Lowther this underrepresentation provided an additional reason for the Conference to accept a more reduced remit and thus adopt a more tentative and modest approach to territorial reform; an approach that happily coincided with his conservative proposals (Add. MS 46084: Letter from Lowther to Gladstone, dated 14th December 1919).

Though Gladstone (initially) resisted Lowther's call for the Conference to produce "few vague suggestions", the calibre of the Conference's membership also loomed large in his mind. For example, while Gladstone insisted that the Conference "must assume that we are expected to offer a plan based on examination, such experience as we have, and on evidence", he was scathing about the quality of his fellow members (Add. MS 46084: 'Cancelled' Letter from Gladstone to Chalmers, undated). Critically, this was something he linked directly to what he believed was the Conference's likely conclusion in failure, noting that "the personnel of the Conference with few exceptions is incompetent" and that he was "afraid we shall land on the rocks" (Add. MS 46084: 'Cancelled' Letter from Gladstone to Chalmers, undated).

However, as on the composition question, Gladstone was again rather inconsistent in his approach. In a letter to Lowther, dated 22nd February 1920, he appears to have moved towards his colleague's aforementioned preference for the Conference to be rather more vague and tentative, than provide a definitive proposal of constitutional reform (Add. MS 46084: Letter from Gladstone to Lowther, dated 22nd February 1920). Gladstone thus recommended that the report should be made in an "exploratory sense, making alternative suggestions, but no positive recommendation" (Add. MS 46084: Letter from Gladstone to Lowther, dated 22nd February 1920). This was not only because of the emergence, by this point, of the two rival devolution schemes, but was also a consequence of poor calibre of membership. As Gladstone noted, even if the report was unanimous it would only carry the weight of "average opinion", a clear indication from Gladstone of the low esteem in which he held his colleagues (Add. MS 46084: Letter from Gladstone to Lowther, dated 22nd February 1920).

Taken together, the Conference's inability to come to an agreement on the fundamental question of how the devolved legislatures should be composed and the structural problem of the Conference's weak calibre of membership provide two clear explanations for the Conference's failure and historic legacy as a "disappointment" (Kendle 1989: 217) that was "not fruitful of useful results" (CAB/24/167/25). However, it is worth highlighting one final handicap the Conference faced in securing any sort of success. Namely, the arcane nature of the main argument for the Conference's establishment: parliamentary congestion.

“The public thinks this is something which does not concern it”: the Janus face of parliamentary congestion

If, as was earlier argued, the intra-parliamentary nature of Lowther’s scheme managed to be both a key source of strength and its Achilles heel, then the same can be said of parliamentary congestion. As Chapter Three argued, concerns about parliamentary congestion, while not the only reason for the Conference’s establishment, played a leading role in its creation. As earlier demonstrated, this high politics concern, about the ability of Parliament to effectively discharge its duties as both a domestic and imperial legislature, dominated the thinking of federal devolutionists such as Murray Macdonald and Major Edward Wood and was conceded by the Speaker himself, as was noted in the preceding section, as one of the “chief incentives” for the Conference’s existence (Lowther 1925: 269-270).

Even after the Conference reported, the issue remained a key motivator for devolutionists, as can be seen from the transcript of the deputation of pro-devolution MPs to the Prime Minister in December 1920.⁷² For Walter Long, by this time near the end of his career in frontline politics and unable to attend personally (he sent a letter instead which was read out by Murray Macdonald), devolution remained “the most vital question we have yet to decide” (LG/F/255/5/2-(11)). As in June 1919, Long’s support was rooted in high politics and his support for enhancing the United Kingdom’s and Westminster’s role in the Empire. In particular, Long emphasized “the immense

⁷² The deputation consisted of Murray Macdonald (Liberal), John Clynes (Labour), Sir Ryland Adkins (Liberal), Leolin Forestier-Walker (Conservative), Major Edward Wood (Conservative), William Graham (Labour) and Colonel Charles Yate (Conservative). Lloyd George was accompanied by Austen Chamberlain (LG/F/255/5/2-(11)).

advantage which the Imperial Parliament will derive from the definite distinction between Imperial and local questions” were devolution to be enacted, and “the relief it will give to the Imperial Parliament” (LG/F/255/5/2-(11)). If Long was re-treading old ground, so too was Murray Macdonald who declared that “we [the deputation] ground ourselves primarily in the congestion of business in the House of Commons” (LG/F/255/5/2-(11)).

However, parliamentary congestion was a Janus faced driver of reform. While, it can certainly be seen as having played a key role in the Conference’s establishment, it was also a major weakness of devolution. As *The Times* noted in the months after the Conference on Devolution reported, the case for devolution was not an issue that engaged the masses (The Times 6th July 1920: 15; The Times 7th July 1920; The Times 9th July 1920: 17). Indeed, this was something that members of the pro-devolution deputation to the Prime Minister in December 1920 were willing to concede. Murray Macdonald, for example, made clear that this debate was “largely, if not entirely, a Parliamentary problem”, adding that “the public outside have not taken interest in it [devolution] because they do not understand the question” (LG/F/255/5/2-(11)).

From the perspective of the centre and Bulpitt’s idea of its’ ‘operational code’, this was an important ‘get out of jail’ card, enabling Lloyd George to wriggle free of providing anything more than warm words. The transcript of this deputation highlights the skill with which the Prime Minister was able to exploit this lack of popular interest in devolution. Much of his response to the deputation was dominated by platitudinous support for the principle of devolution, including references to his early enthusiasm for Home Rule in the late-Nineteenth Century (“I thought it was right [in the 1880s], and I

have never changed my view since then”) (LG/F/255/5/2-(11)). Yet despite these warm words Lloyd George refused to act, using the excuse, when challenged by Edward Wood, that “the government cannot move in advance of public opinion. If it does it gets into difficulty” (LG/F/255/5/2-(11)).

Parliamentary Congestion, that key source of strength in many ways for pro-devolutionists and one of the most important reasons for the Conference’s creation, was, therefore, also its’ Achilles heel. The congestion of Parliamentary business may have been a major irritant and concern for Parliamentarians, providing the necessary high politics impulse to initiative the Conference on Devolution, yet the very arcane nature of this issue resulted in there being negligible public demand for reform. Securing change would have been entirely dependent on devolutionists successfully jumping over the most formidable hurdle of all: convincing the institutions of the Centre, both Westminster and Whitehall, of the high politics case for territorial modernisation.

8.1. Conclusion: ‘a lingering diminuendo’? The Conference on Devolution, 1919-1920

This thesis has sought to shed new light on an event which has been consigned to the margins of political history, the Conference on Devolution, 1919-1920. *Chapter One* introduced the Conference, explaining why it mattered at the time and why it continues to matter today. Regarding the former claim, the chapter highlighted that the Conference represented the denouement of a prolonged period of debate (1870-1920) on the British and indeed Imperial constitution. In particular, the increasing instability in Ireland, allied to concerns about parliamentary congestion and Britain’s leadership of the Empire, produced a context in which federal devolution appeared to be both “topical and possible” (Kendle 1971: 230). Indeed, as Chapter One demonstrated, despite an admittedly poor attendance, the subordinate legislatures resolution that led to the creation of the Conference secured the support of MPs from across all corners of the United Kingdom and from across the partisan spectrum.

On the latter issue, that the Conference matters today, the chapter drew attention to current constitutional developments and in particular the idea of a UK Constitutional Convention, pledged by Labour in their 2015 General Election manifesto. In the light of these developments, the chapter argued that there is a need to study one of only two moments in our constitutional history when territorial governance was approached from a holistic basis, rather than the ad-hoc and nation-specific approach that has conventionally been adopted towards the territorial constitution. As such, the Chapter made clear that a secondary aim of the thesis (the primary objective being to provide the definitive account of the Conference) would be to delineate areas of relevance from the Conference lessons from for those interested in current

constitutional debates. One of the tasks for this concluding chapter will be to delineate what these points of relevance might be.

Part One: Methods and Context

Having outlined the reasons *why* the Conference on Devolution should be studied, *Chapter Two* focused on *how* to study it. This chapter outlined the methodological approach that has been adopted in this study. As such, it explained that this was a historical institutionalist inspired analysis of the Conference on Devolution, that has utilised the ideas of Jim Bulpitt and James Mitchell as useful interpretive guides to understand the forces and dynamics that shaped and defined the Conference on Devolution. As explained in the chapter, Bulpitt focuses on territorial governance from the perspective of the ‘centre.’ Mitchell, on the other hand, can be seen to offer more of a ‘bottom-up’ approach to the territorial constitution, looking at the different unions that constitute the UK and how their legacies continue to shape territorial governance in the United Kingdom. This thesis has employed the ideas of both Bulpitt and Mitchell to provide a bridge between the attitudes and norms of policy makers at the centre and the dynamics and histories of the nations that constitute the United Kingdom.

In addition to providing analysis of the previously unresolved question of what distinguishes a ‘Speaker’s Conference’ from other cross-party commissions, this chapter also sought to place the thesis within the existing literature on the Conference on Devolution. As a result of this literature review, the chapter argued that this thesis represented a significant break from the limited treatment of the Conference within the political science and political history literatures. Notably, this study has used a far richer

set of archival primary source materials than other assessments of the Conference, in particular through the previously unexplored personal papers of Gilbert Campion, the Conference's secretary. Furthermore, this chapter contended that this thesis stands apart from the previous literature because it takes the Conference seriously as an event, and an event that was underpinned by a far broader balance of forces than simply the Irish Question, which has tended to dominate previous understandings of the Conference's establishment and subsequent failure.

This argument, that the Conference was rooted in a far broader coalition of dynamics than is acknowledged elsewhere in the literature, was developed in far more depth in *Chapter Three*. Challenging the contention, championed by respected academics such as Boyce, Jackson and Kendle, that the issue of devolution in the late-Nineteenth and early-Twentieth century was more-or-less wholly dependent on the Irish Question, this chapter demonstrated that, while significant, Ireland was neither the sole, nor the sufficient, condition for the centre's flirtation with reform in this period.

Instead, as this chapter showed, Irish Home Rule was just one of a variety of interconnected challenges to the UK state and its institutions that led the centre to consider reform. These challenges included changes to Britain's relationship with her Empire and the increasing congestion of business (both domestic and imperial) in Parliament (Burgess 1995: 83-85; Kendle 1997: 77-78; Ogg 1924: 204; Pim 1919: 16-17). Indeed, as this chapter demonstrated, when the House of Commons actually voted in favour of a scheme of state-wide devolution, in June 1919, it was in support of a resolution whose main focus was on resolving the issue of parliamentary congestion (Lowther 1925: 267).

These threats to the centre's control of high politics were not, however, the only dynamics at play in the federal devolution debates of the late-Nineteenth and early-Twentieth century. As this chapter highlights, the centre's statecraft, and responses to the Irish Question, a changing Empire and the problem of parliamentary congestion, operated within a context of territorially specific circumstances and national histories in England, Scotland, Ireland and Wales. As noted in this chapter, the result of these local peculiarities was the development of proposals for territorial governance, between 1870 and 1920, that were, to varying degrees, asymmetrical in nature. Overall, this chapter can therefore be seen as an appeal for an approach to the Conference on Devolution that fully captures the rich tapestry of forces that led to its creation, an awareness that is lacking in the existing literature.

Part Two: The Conference on Devolution

Having explained why and how the Conference on Devolution will be studied and the context in which it was established, *Chapter Four* marked the beginning of the thesis' detailed examination of the Conference itself. This chapter discussed the Conference's deliberations on the powers that the devolved legislatures in England, Scotland and Wales should enjoy. While this was not technically the first substantive issue discussed by the Conference (that was the question of whether devolution should be on a national or regional basis), it was the first to be agreed.

Indeed, as this chapter discussed, the idea that, on this area at least, the Conference reached a broad agreement has itself become the subject of consensus. Lowther, the Conference chair, projected this image of harmony in his memoirs, while

Kendle has referred to Conference's agreement of a schedule of powers as an "impressive achievement" that represented an "interlude of agreement" in the Conference's proceedings (Kendle 1989: 219).

However, as impressive as this image of harmony may appear on first glance, as this chapter has demonstrated it is in reality a false one. Using the private papers of Gilbert Campion, this chapter shows that the strongest challenge to Lowther's claimed consensus came from within the Lowther camp itself. Indeed, as this chapter highlighted, the very points upon which Lowther claimed consensus become important planks of the assault by his supporters on Murray Macdonald's devolution scheme.

That Lowther and his associates could credibly turn areas of joint agreement into lines of divisional attack was, this chapter contended, a result of the different understandings of what devolution meant and therefore how these powers would operate in practice. While both camps had signed up to essentially identical commitments on powers and finance, there was no consensus on the practical consequences of either the schedule of powers, or of financial devolution. Unlike the more substantial impact of the schedule of powers and fiscal devolution that would have followed from Macdonald's proposed system of directly-elected devolved legislatures, Lowther's "in-house" scheme would have meant a reallocation of responsibilities within a shared Parliament at Westminster. Ultimately, this chapter demonstrated that while consensus on powers may have existed on paper, it certainly did not exist in practice.

In *Chapter Five*, attention returned to the Conference's deliberations on the question of whether devolution should be on national or regional grounds. In reality, as this chapter demonstrated, this was a debate about how England should be governed post-devolution (the Conference had swiftly agreed that devolution to Scotland and Wales should be on a national basis). Initially postponing discussion on the subject, hence why the question of the powers enjoyed by the devolved bodies became the first to be resolved by the Conference, the Conference's membership appeared to have overcome its internal divisions on England when it resumed its deliberations on the topic in December 1919. Indeed, as this chapter noted, both Lowther's letter to the Prime Minister and papers circulated by both the pro-devolution and conservative wings of the Conference's membership appeared to suggest agreement existed on national devolution for England by December. Furthermore, as the chapter noted, when the Conference reported in April 1920 both Lowther and Macdonald's rival schemes shared a commitment to national devolution for England.

However, as this chapter went on to show, the apparent consensus between Lowther and Macdonald on this point again fails to withstand detailed scrutiny. As with the schedule of powers, England was used as an important weapon in Lowther and Campion's critique of Macdonald's devolution scheme. Indeed, Campion's papers repeatedly critique the desirability and practicality of an English legislature, despite Lowther's agreement that legislative devolution should be applied to an all-England body. Once again this state of affairs can only be understood through an awareness of Lowther and Macdonald's different perspectives on devolution more generally. Unlike Macdonald's proposal of directly elected sub-state legislatures, Lowther's intra-parliamentary conception of devolution enabled Campion (the architect of Lowther's

scheme) to warn of the dangers of an English legislature whilst simultaneously proposing national 'devolution' for England.

The centrality of England to the Conference's deliberations on the units to be represented by devolution was argued, in this chapter, to be a manifestation of the UK's multi-national dynamics. Using Mitchell's conceptualisation of the United Kingdom as a 'state of unions' as an interpretive lens, this chapter argued that the historical and political legacies of England's early unification and centralisation as a unitary state had a powerful influence in the Conference's discussions. Indeed, it noted that it was precisely for those reasons that Macdonald supported retaining England as a single unit post-devolution.

The 'state of unions' concept was also argued to be particularly useful in understanding the Conference's deliberations on Welsh devolution. As this chapter demonstrated, despite having apparently been resolved as early as the third session of the Conference, as late in the Conference's proceedings as April 1920, Macdonald issued a memorandum querying Wales' claims to parity with the proposed devolution settlements for England and Scotland. Macdonald's hesitancy was argued to be a legacy effect of Wales' stunted (in comparison to Scotland and England) political identity, rooted in five centuries of political and administrative annexation by England.

Wales' historical legacy was at the forefront of *Chapter Six's* discussion of the Conference on Devolution's judiciary sub-committee. As this chapter highlighted, while the judiciary sub-committee was established to explore the consequences of devolution for England, Scotland and Wales, it was the latter nation which dominated its sub-

committee's proceedings. As with the ambiguous treatment of Wales by Macdonald mentioned above, this focus on Wales was, this chapter argued, a legacy of her historical development - in this case, the historic assimilation of Wales in a shared legal jurisdiction with England. This legacy was a constant undercurrent during the judiciary sub-committee's deliberations and proved influential in shaping the evidence submitted to the committee from figures such as Bankes and Sankey and, ultimately, the tone and form of the committee's recommendations for a Welsh judiciary.

This chapter also broke new ground by providing the first detailed academic analysis of the role Sir Claude Schuster, Permanent Secretary to the Lord Chancellor's Office, played in attempting to dissuade the committee from recommending a Welsh judiciary. The chapter therefore details the unparalleled efforts made by Schuster and explained his campaign as corresponding closely to Bulpitt's concept of the centre's 'operational code.' Furthermore, this chapter also contended that Schuster's colleagues in what might be termed the judicial centre, Bankes and Sankey also adopted a (slightly more temperate) conservative approach to the subject of judicial devolution to Wales, arguing that any such devolution should preserve as much of the status quo as possible.

This conservative approach to territorial reform proved to be of fundamental importance to *Chapter Seven's* discussion of the final subject the Conference addressed: the composition of the devolved legislatures. This debate, as the chapter explained, saw the Conference divided into two camps: those, associated with Lowther, who supported a model of intra-parliamentary devolution (what Lowther called 'Grand Councils') and those, allied to Murray Macdonald, who proposed the establishment of directly-elected legislatures. This impasse between Lowther and Macdonald over the composition of

devolved legislatures was arguably the most significant aspect of the Conference on Devolution's proceedings. It alone explained the tensions that bubbled under the surface of the Conference's 'consensus' on the schedule of powers and the apparent acceptance that England would have to be retained as a singular unit for the purposes of devolution.

While this debate ultimately saw the Conference irrevocably divided, it was also, as this chapter demonstrated, one that took place firmly *within* the 'centre.' Lowther and Macdonald may have fundamentally disagreed about the institutional dimensions of devolution, but both were firmly committed to the sovereignty of Westminster. Instead, this was a disagreement about how best this sovereignty could be preserved. As this chapter contended, that this was a difference of opinion *within* the centre, helps explain why this was not simply a binary split between Macdonald and Lowther's camps, despite the impression to the contrary in the existing literature. As this chapter demonstrated, Viscount Gladstone found himself spending much of the latter period of the Conference's existence prevaricating on whether to support Lowther or Macdonald's proposals, before ultimately endorsing the latter - a hesitancy that this chapter contended was rooted in Gladstone's determination to protect the sovereignty of Parliament and its status as a high politics institution.

Following this chapter, there was a brief postscript to Part Two of the thesis, outlining the response to the Conference on Devolution's publication and reasons for its failure. As this postscript made clear, the Conference attracted minimal comment when its report was produced, slipping quickly into the footnote status that it has enjoyed

until the present day. Indeed, as early as 1924 it appeared that the Conference's legacy as a failed event, deserving of little comment was secure.

As for the Conference's failure, while the postscript acknowledged the importance attached to the Irish Question's role in the failure of federalism in the early-Twentieth century by historians such as Boyce and Jackson, the postscript argued that there are other, more proximate, reasons for the Conference's lack of success. The first reason being the Conference's inability to produce a unanimous, or even a clear majority, report, due to their disagreements on the fundamental issue of how the devolved legislatures should be composed. The second reason identified by the postscript was that of the poor calibre of the Conference's membership, an issue flagged up at the time before participants in, and observers of, the Conference.

Finally, the postscript drew attention to one final handicap the Conference faced, namely the arcane nature of one of the main cases for reform. As Chapter Three argued, parliamentary congestion was a leading reason for the Conference's establishment, yet as the postscript outlined it was an issue that few members of the public were aware of or interested in. While we can only speculate, this lack of mass support may have provided policymakers with a powerful justification for rejecting reform had the Conference actually managed to produce a unanimous report.

8.2. The thesis and its contribution to the literature on the Conference on Devolution

The first key contribution this thesis makes to the existing literature on the Conference on Devolution is simply to demonstrate that the Conference should be taken

seriously by scholars of territorial governance in the UK. Approaches to territorial reform in the UK have been typically piecemeal and nation specific, rather than holistic and pan-United Kingdom in nature. The Conference on Devolution, however, was the exact contrary to these conventional understandings of territorial politics in the United Kingdom, in that it approached territorial governance from a specifically holistic basis.

Yet, despite this, there has been little in the way of academic analysis of one of the only occasions when territorial reform was approached in the round, an occasion, furthermore, that has been described as “potentially the most significant occasion for Home Rule” that existed prior to the devolution debates of the 1970s and 1990s (Gay 29th July 1997: 6), and also as “the nearest that devolution all round, dealing with the English problem in a comprehensive way, came to being implemented” (Mitchell 2009: 97). Instead, as the first two chapters of this thesis have illustrated, the Conference has been routinely marginalised within the literature on territorial governance and even within the cottage industry of federal studies of the United Kingdom.

In *Federal Britain* (1997), for example, Kendle fails to discuss the Conference at all, while Burgess’s *The British Tradition of Federalism* (1995) does little more than name check it. While constitutional specialists such as Hazell (2006), Mitchell (2009) and Bogdanor (1999) discuss the Conference in their respective studies on devolution in the United Kingdom, these accounts are still highly limited in nature. Indeed, this is a problem common to those texts which do mention the Conference: despite being lauded by Burgess (Burgess 1995: 106), only one chapter of Chiao’s *Devolution in Great Britain* is exclusively focused on the Conference on Devolution’s proceedings (Chiao 1969: 183-215). While Kendle’s *Ireland and the Federal Solution*, and Fair’s *British Interparty*

Conferences both provide more detailed assessments, neither were able to access the papers of Gilbert Campion that have played a crucial role in understanding the true scale of divisions within the Conference.

These papers are at the heart of the major contribution that this thesis makes to the existing literature. Analysis of the Conference on Devolution, based on this hitherto neglected evidence, has identified the major source of division that ultimately saw the Conference conclude in stalemate: the difference of opinion as to how the devolved legislatures should be composed. However, while this split between directly elected legislatures and intra-parliamentary ‘grand councils’ has been widely recognised as the source of the Conference’s failure, the existing literature has failed to appreciate its full significance.

However, thanks to the papers of Gilbert Campion, this thesis has been able to demonstrate the full extent of the Conference’s division on the composition of the devolved legislatures. As this thesis has shown, this was a cleavage that cut through the entire proceedings of the Conference, explaining why the Conference’s apparent ‘consensus’ on powers did not actually exist in practice and why, despite both sides apparently having agreed that England should be retained as a singular unit for devolution, the threat of an English legislature was used by Campion to attack Macdonald’s more radical scheme of devolution. These findings represent a significant development in our understanding of the Conference. Rather than the Conference finding itself only irreconcilable on one major issue, the composition of the devolved legislatures, in reality this disagreement filtered into every pore of the Conference, including in areas where the Conference appeared to have reached agreement.

8.3. Centre and periphery: the thesis and the territorial governance literature

As was outlined in Chapter Two, this thesis has employed the theoretical insights of Bulpitt and Mitchell as useful interpretive frames for understanding both the Conference on Devolution and territorial governance in the United Kingdom more generally. Bulpitt and Mitchell, as was previously explained, approach territorial governance in the United Kingdom from different vantage points. Bulpitt adopts a centrist, top-down perspective that emphasizes the importance of the centre's motivations and norms in territorial reform. Mitchell, on the other hand, approaches territorial governance from the bottom-up, highlighting the influence of the historical legacies of the constituent nations of the United Kingdom in their respective constitutional development.

On their own both offer interesting and powerful approaches, but are far from a complete account of the dynamics that influence territorial governance in the United Kingdom. Combined, however, they can offer a far more expansive and inclusive understanding of the forces that underpin territorial policymaking in the United Kingdom. That has been the aim of this study - to provide a richer and more dynamic understanding of the Conference on Devolution in the hope that this can, in turn, shape our understandings of territorial governance in the United Kingdom.

As such, it has used both Bulpitt and Mitchell's insights as a means of bridging the centre's approach to territorial reform and the local peculiarities of the territories that the centre is seeking to govern. This thesis has highlighted how these two dynamics were at play during the Conference on Devolution. For example, the ideas outlined by

Bulpitt in *Territory and Power* regarding the centre's operational code and desire to defend its sovereignty over matters of high politics can be seen to be particularly appropriate for understanding much of the Conference on Devolution's deliberations. In particular this was because the desire to ensure that Parliament remained sovereign and the pre-eminent high politics institution was shared by both pro-devolution and more devosceptical elements within the Conference.

Indeed, this mutual emphasis on the role of Parliamentary sovereignty can be seen in the cleavage that defined the Conference: between indirectly elected legislatures and separately elected devolved bodies. In essence this cleavage revolved around the question of who could best defend and enhance the centre's role in high politics and Parliamentary sovereignty. Lowther's conservative, intra-parliamentary proposal can be understood as a reflection of the minimalistic approach to territorial reform ascribed to the centre by Bulpitt (Bulpitt 2008: 99, 160). For advocates, this scheme represented the best of both worlds: a measure of moderate reform, but one that left the door open to further and more substantial change in the future. This allegedly measured and flexible approach, which sought to keep sovereignty in the hands of parliamentarians, was cast in opposition to a model of directly elected devolution that, Campion and Lowther believed, risked rendering the UK Parliament a diminished institution and threatened her control of high politics (GCA/6/16)

For Murray Macdonald, the author of the rival devolution scheme, Lowther's plan failed precisely because it did not safeguard Parliament as a high politics institution. For Macdonald, the case for reform could be found in the congestion of Parliament, with Westminster increasingly overburdened with domestic and imperial

duties to discharge both effectively (Add. MS 46104: 85-86; Conference on Devolution 1920: 13). His scheme of separately elected national legislatures was thus recommended as the “only possible scheme of devolution” which could reduce the strain of parliamentary congestion, in contrast to Lowther’s plans which would have merely repackaged Parliamentary business and offered no meaningful alleviation of MPs workloads (Conference on Devolution 1920: 13). In essence, Macdonald’s vision of devolution can be viewed as embodying what Bulpitt termed a ‘dual polity’ where certain powers over matters of low politics are delegated to trusted prefects on the ground in an attempt to strengthen the centre’s sovereignty in matters of high politics (Bulpitt 2008: 20, 65).

The influence of these ‘top down’ high politics pressures on the Conference on Devolution can also be further seen in areas such as Lord Chalmers’ sub-committee on finance and the actions of Claud Schuster regarding a Welsh judiciary. While Chalmers’ sub-committee recommended a scheme of fiscal devolution to England, Scotland and Wales, it was highly averse to any scheme of fiscal devolution that would hinder the capacity of the centre in matters of high politics - for example, rejecting the devolution of income tax on the grounds that such a move “saps Imperial potentialities of resource” (Conference on Devolution 1920: 21). As such, the sub-committee rejected the devolution of income tax, and even a number of more minor taxes (Conference on Devolution 1920: 21).

Bulpitt’s concept of the ‘operational code’ was also employed to understand the politicking that surrounded the sub-committee on the judiciary’s deliberations on Wales. It was used to explain why Schuster was so agitated by the committee’s

recommendations for a Welsh judiciary, in contrast to his muted response to their Scottish proposals. However, as this thesis has demonstrated, Schuster was not alone in adopting a centrist approach to the question of a Welsh judiciary. His colleagues in the judicial centre, Bankes and Sankey also adopted a (slightly more temperate) conservative approach to the subject of judicial devolution to Wales, arguing that any such devolution should preserve as much of the status quo as possible.

So far, this section has focused on the usefulness of Bulpitt's ideas in *Territory and Power* and thus top-down pressures on the Conference on Devolution's proceedings. At the same time, however, this thesis has identified the salience of countervailing forces on the Conference: namely the impact of the constituent nations of the UK and their respective historical developments on the Conferences' proceedings. In examining the significance of the constituent nations of the UK in the Conference's deliberations, this thesis has employed the Mitchell's conceptualisation of the United Kingdom as a 'state of unions.' Essentially, this paradigm argues that analysis of territorial politics in the United Kingdom requires an understanding of all of the unions that formed the United Kingdom (including the Anglo-Welsh 'union' and the unification of England) and the "persistence of their legacies" in the UK's continued development (Mitchell 2010: 86; Mitchell 2009: 12-13, 220-222).

Sure enough, these legacy effects can be witnessed in the Conference on Devolution's deliberations, particularly during the Conference's protracted discussions of an English Parliament and the ambiguity that continued to exist regarding Wales' claims to national equality with Scotland and England. Regarding the former issue, that of an English Parliament, one of the biggest dilemmas facing the Conference was not

simply the fact that England was so considerably larger, on a demographic basis, than Scotland and Wales, but that she had been unified and centralised as a unitary state far earlier than those nations. While regionalising England had obvious attractions for the Conference, the difficulties inherent in unpicking centuries of centralisation of English administration and legislation, and the historic character of the English nation, were powerful inducements for both Macdonald and Lowther to propose retaining England as a single unit for the purpose of devolution (Macdonald 1920b: 35; GCA/6/16: Local Standing Committees; Lowther 1920: 3).

As for Wales' claims to nationhood, the influence of Wales' centuries old union with England and her assimilation into the English legal and administrative systems can be seen not only from the ambiguity that surrounded Wales' status as an equal to England, Ireland and Scotland in the subordinate legislatures debate of 3rd-4th June 1919, but also during the Conference. This legacy is evident in Murray Macdonald's April 1920 memorandum, which questioned, in light of Wales' administrative integration within England, whether it was "consistent with the interests of Wales that she should have a legislature of her own, possessing the same powers as the legislature of the other countries" (Macdonald HC Deb (5th Series) 3rd June 1919 Vol. 116 c.1889). However, as this thesis demonstrated, the legacy of Wales' union with England would have a much more central role in the debates that surrounded the Conference on Devolution's judiciary sub-committee.

As Chapter Six highlighted, the legacy of Wales' annexation with England was a constant undercurrent during the judiciary sub-committee's deliberations and proved influential in shaping the evidence submitted to the committee from figures such as

Lords Bankes and Sankey and ultimately the tone and form of the committee's recommendations for a Welsh judiciary. Furthermore, it also underpinned Claud Schuster's aforementioned lobbying efforts, with this historical legacy key to explaining why Schuster was so animated about a Welsh judiciary, yet uninterested in the sub-committee's recommendations for Scotland. As such this episode provides one of the clearest illustrations of the relationship between top-down and bottom-up influences on the Conference on Devolution (the top-down force being Schuster's desire to concentrate as much power as possible within the Lord Chancellor's Office, an ambition aided by Wales' centuries old assimilation into the England and Wales legal system).

By employing the insights and concepts of both Bulpitt and Mitchell, this thesis has sought to provide an account of the Conference on Devolution that captures the importance of both the centre and the periphery, not just in this particular case, but in the UK's territorial governance more generally. This thesis does not posit some grand theory, but rather a practical demonstration of how a more rounded, multi-dimensional understanding of territorial politics in the United Kingdom, that bridges policy makers at the centre and the peculiarities of the territories they are seeking to govern, is possible. In doing so, it lays out a methodology that could be adopted for future assessments of territorial politics in the United Kingdom, an obvious contender being the only other occasion when the territorial constitution was approached in the round: the Royal Commission on the Constitution, 1969-1973.

8.4. Why the Conference on Devolution matters today

As stated in the introductory chapter, one of the aims of the thesis has been to delineate lessons from the Conference for our understanding of territorial politics not just in the early-Twentieth century, but in the early-Twenty First century. In short, why does the Conference on Devolution matter today? As this section will demonstrate, it matters because of the nature of the constitutional debate in the United Kingdom over the past few years. In the build-up to, and in the aftermath of, the Scottish independence referendum, the concept of a constitutional convention has been aired by a number of prominent political figures. It has been championed by the First Minister of Wales, Carwyn Jones since 2012 and in 2013 the House of Commons' Political and Constitutional Reform Select Committee recommended that the UK Government consider a convention as a possible response to the independence referendum's results and as a means of reflecting on the experience of fifteen years of devolved government in the United Kingdom (House of Commons Political and Constitutional Reform Select Committee 28th March 2013: 4). Furthermore, at the 2015 General Election, a constitutional convention was a manifesto pledge for the official opposition, Labour, the-then junior coalition partner, the Liberal Democrats and the Green Party of England and Wales (UCL Constitution Unit 30th April 2015 [online]). Despite the failure of Labour to win enough seats to form a minority government or of the Greens and Liberal Democrats to hold the 'balance of power', the prospect of a constitutional convention has not entirely been dashed.

During the early hours of the 8th May and in the immediate aftermath of the General Election, senior political figures from across the political divide, from Boris

Johnson to Alistair Darling, referred to the necessity of a federal solution to the UK's constitution (BBC 11th May 2015 [online]; Crerar 6th May 2015 [online]). Similarly, Lord Strathclyde, the former Leader of the House of Lords and chair of the Scottish Conservatives recent review into further devolution, has spoken of the need for a Grand Committee encompassing politicians from all four nations to examine "the relationships between the Parliaments and assemblies" that would ultimately feed into a Royal Commission (Lord Strathclyde quoted in Hope et al. 7th May 2015 [online]). In this climate, the only occasion (with the exception of the Royal Commission on the Constitution, 1969-1973) when the governance of the Union, or rather the Unions, was approached in a holistic fashion, has increasing resonance.

This resonance is particularly striking when one looks at the issues under debate during the Conference's deliberations and their modern parallels. One clear parallel can be seen in the form of the English Question, for example. The question of how England should be governed has become particularly prominent in the sixteen years since devolution to Scotland and Wales. This rise in salience has been particularly fuelled by increasing discontent among the English public at the constitutional status quo and at the perceived inequities of the West Lothian Question and the Barnett formula. How England's needs, post-devolution, should be addressed, however, has been the subject on which there is little agreement.

While significant developments have come, and look set to continue, in the form of localist reforms to England's governance, such as City Regions and Combined Regional Authorities, there is no evidence of meaningful public support for these initiatives or of previous proposals for regional devolution. Indeed, the opposite

appears to be firmly the case. Voters not only rejected, by a margin of around 4:1, a regional assembly for the North-East of England in 2004, but in 2012 they also rejected the-then coalition government's proposals for directly-elected Mayors in nine of the ten cities polled (Bristol, the smallest city voting, was the sole exception). While in the first Police and Crime Commissioner elections, also held in 2012 (albeit, controversially, in November), only 15.1% of electors in the 41 England and Wales police authority areas polled turned out to vote (Electoral Commission March 2013: 3).

Instead, voters seem to want, as the Future of England surveys conducted by the IPPR, Cardiff and Edinburgh Universities and YouGov have consistently highlighted, “constitutional recognition of England as a whole as a political unit” (Jeffery et al. 2014: 19). The debate on how England might be recognised as a “political unit” has tended to be dominated by two suggestions: the establishment of an English Parliament or English Votes for English Laws.

As Hazell has noted, the idea of an English Parliament, on first impression, appears to provide a “neat solution” to the democratic deficit created by devolution (Hazell 2006: 40), offering a comprehensive tidying up of Britain's asymmetrical and idiosyncratic constitution, by establishing a federal system and thus, one would presume, a fully codified constitution (Hazell 2006: 40; House of Commons Justice Committee Report 2009: 54). However, no federation in the world contains a component state/nation that comes anywhere near the population size, relative to that other constituent units, of England (Hazell 2009 [online]; House of Commons Justice Committee 2009: 53-54). This vast asymmetry has, quite naturally, led to concerns that the lopsided demographics of the United Kingdom would result in an English

Parliament that would be too dominant to work effectively in a federal system (Bogdanor 2010: 160).

Quite simply, due to England's size, an English Parliament could potentially be a recipe for constitutional mayhem. Critics of an English Parliament have highlighted the potential crisis over who, out of the UK and English institutions, would have the most legitimacy in times of intergovernmental conflict (Bogdanor 2010: 160; House of Commons Justice Committee 2009: 54; Hazell 2006 [online]). With an English Parliament likely to command resources, as well as a mandate, to a scale rivalling UK institutions (House of Commons Justice Committee 2009: 54), the central fear is that English institutions would simply be too big to contain within a system of devolution all round, or even federalism (House of Commons Justice Committee 2009: 54). There has thus been cross party agreement over the threat to the Union posed by such a solution (BBC 10th March 2006 [online]), resulting in an unsurprisingly weak level of support for an English Parliament (Hazell 2009 [online]).

In contrast to an English Parliament, EVEL has both mass and political support. The Future of England surveys, conducted by YouGov, the IPPR and Cardiff and Edinburgh Universities, have consistently found clear majority support for such a reform (Jeffery et al. 2014:20), while successive Conservative Party leaders since William Hague have endorsed (varying schemes of) EVEL. Following their victory in the 2015 General Election the Conservatives have been able to implement a system of English Votes for English Laws through amendments to the House of Commons' Standing Orders (House of Commons 22nd October 2015).

However, while EVEL has, for the time being, become a political reality, it is the subject of considerable criticism. Neither, Labour nor the Liberal Democrats are, to put it mildly, enthusiasts for EVEL and while both parties have moved towards an acceptance of English Votes for English Laws, the variants proposed by each are quite different to that being championed by the Conservative Party (HM Government December 2014: 28-32; LabourList 12th December 2014 [online]). Labour had proposed, prior to the General Election, a model of EVEL that would see an English-only Committee Stage for English-only Bills (LabourList 12th December 2014 [online]). The Liberal Democrats, meanwhile, proposed what they've termed 'Fair English Votes for English Laws', with the composition of any English Grand Committee reflecting the votes cast at the General Election in England rather than the total number of MPs elected for each party (this is rooted in the party's longstanding call for proportional representation) (HM Government December 2014: 30-31). Crucially Labour's proposal was dependent on a constitutional convention being held for the United Kingdom (Labour Party 2015: 64).

Aside from the rather tepid approach to EVEL from Labour and the Liberal Democrats, academics have also identified some serious issues regarding how it would operate in practice. The first and perhaps most fundamental, is the question of what actually constitutes an English only matter (Bogdanor 2010: 163-164). Whilst for rhetorical purposes it may be profitable to speak of "English only" matters, the reality is far more complex (House of Commons Justice Committee 2009: 57). There is, for example, no English legal jurisdiction and due to the way in which powers have been devolved to Wales, there are uncertainties over the boundaries between what areas

constitute 'England and Wales' affairs and what are purely English/Welsh matters (Thomas 2011: 24).

Furthermore, distinguishing 'English only' matters is made even more problematic by the fact that the formula underpinning the funding of devolution, the Barnett formula, is based on spending in England (House of Commons Justice Committee 2009: 57; Bogdanor 2010: 163-164). This means that many decisions made for England have consequences for all the other nations within the United Kingdom, thus making it difficult to isolate matters as "English only" (House of Commons Justice Committee 2009: 60). As a result of these spillover effects, Bogdanor has argued that as there is a continued mandate for MPs from the devolved nations continuing to vote on English affairs (Bogdanor 2010: 163-164), at least as long as the Barnett formula remains in place.

One of the most serious concerns raised about EVEL has been of the potential for bifurcation at Westminster, whereby a party may win a majority across the United Kingdom as a whole, but the opposition wins a majority in terms of English MPs (Bogdanor 2010: 162). Such a scenario would result in the spectacle of alternating majorities on English and United Kingdom matters, to the detriment of the governance of the United Kingdom (Bogdanor 2010: 162). This would be particularly problematic in light of the Conservatives' preferred variant of EVEL, with a Government potentially unable to get its legislative and perhaps even fiscal programme through the new Grand Committee envisaged in the Conservative manifesto.

Many of the elements in these contemporary debates on how England is governed, whether it should be regionalised or whether it could be retained as a single unit post-devolution can be found in the deliberations of the Conference on Devolution. The Grand Councils scheme, endorsed by half of the Conference's membership, can, for example, be seen as the grandfather of English Votes for English Laws. In essence, these Grand Councils would have taken the form of legislative Grand Committees for England, Scotland and Wales not too dissimilar in nature from the Grand Committee proposed for England by the Conservatives in 2015 (albeit the Grand Councils would have been bicameral in nature).

While the bulk of the criticism of the Grand Council plan focused on the issue of parliamentary congestion, Gladstone's concerns about the relationship between the Grand Councils and the Executive (particularly his fears about how the establishment of additional legislative and executive bodies "within the existing House of Commons" would affect the balance of the UK state) have clear resonance with current concerns about the potential of bifurcation and the establishment of a 'Parliament within a Parliament' under EVEL (Add. MS 46084: Draft letter from Gladstone to Lowther, 20th December 1919). Similarly, many of the criticisms aired against an English Parliament during the Conference would have been familiar to those interested in current debates. Warnings that such a legislature could "easily be brought into collision" with Westminster (Southborough 1920: 26) and would, thanks to England's demographic predominance, provide a formidable challenge to Parliamentary sovereignty in the event of such conflict (GCA/6/16), clearly chime with those, more recent, fears of an English Parliament that were outlined earlier.

The Conference can also be seen to have resonance with elements of the current devolution debates in Wales, in particular the varying demands for Wales to receive equal treatment to the devolution dispensation for Scotland, or to at least be offered the option of similar powers to Scotland (the Carwyn Jones scenario) (BBC News 27th November 2014 [online]). This line of argument, essentially that Wales should be treated in a similar fashion to the other 'Home Nations', has a clear parallel with the debates on Wales' claims to national devolution during (and before) the Conference on Devolution. While, as this thesis highlighted, the Conference agreed that Wales should have been given national devolution with the same package of powers as England and Scotland, the issue of parity still bubbled under surface.

This could be seen in Macdonald's comments in his April 1920 memorandum, when he queries whether in light of Wales' administrative integration within England, it was "consistent with the interests of Wales that she should have a legislature of her own, possessing the same powers as the legislature of the other countries" (Macdonald HC Deb (5th Series) 3rd June 1919 Vol. 116 c.1889). It also featured heavily during the work of the sub-committee on the judiciary, with the issue of whether Wales should have judicial autonomy, along the lines of Scotland's, a source of particular difficulty and debate. In both, Macdonald's memorandum and the sub-committee on the judiciary, these debates were legacy effects of Wales' union with (or rather assimilation into) England.

The judiciary sub-committee's investigation of a Welsh judiciary has further resonance when one considers recent discussions of a Welsh legal jurisdiction, post-devolution. The Welsh Government consulted on a Welsh legal jurisdiction in 2012 and

while this did not come out in favour of a jurisdiction at the present time, it is believed that the First Minister, Carwyn Jones and his Counsel General, Theodore Huckle favour such a move in the longer term (Huckle 18th November 2012 [online]; Trench 11th June 2012 [online]). While certain details of the current debate differ from those during the sub-committee's work, fundamental issues remain. Namely, the long integration of Wales in a shared legal jurisdiction with England, and the associated level of work, namely institution building, that would be required to decouple Wales from this jurisdiction (Conference on Devolution 1920: 22-24; Huckle undated [online]; Huckle 18th November 2012 [online]).

For example, the sub-committee's extensive analysis of the institutional developments and changes that would be required for a Welsh judiciary, "including the necessary installation of a Central Office for the administration of a Welsh judicial system" (Conference on Devolution 1920: 23), far outweighed the very minimal discussion provided to Scotland where "all the necessary separate administrative apparatus" already existed (Conference on Devolution 1920: 22). Eighty-Two years later and Theodore Huckle, in a speech to the Society of Legal Scholars, provided a similar illustration of the scale of institutional change that would be required for a Welsh legal jurisdiction to be established (Huckle 18th November 2012 [online]).

According to Huckle, respondents to the Welsh Government's consultation on a jurisdiction outlined the following as the institutional machinery that would be entailed in such a development: a Welsh judiciary; a Welsh court structure; a Welsh Judicial Appointments Commission; a Welsh Courts and Tribunals Administration Service; a Welsh Law Commission; a Welsh judicial training board (Huckle 18th November 2012

[online]]. While Huckle was careful to make clear that he did not necessarily agree with all these suggestions, he conceded that they nevertheless illustrated that a jurisdiction “would be no small matter” (Huckle 18th November 2012 [online]).

Unsurprisingly the question of cost, which featured significantly in the sub-committee’s deliberations and the evidence provided to it, has also been mentioned in current debates on a Welsh legal jurisdiction. Where figures from the legal establishment, most notably Claud Schuster, drew attention to the financial costs of a Welsh judiciary in 1920 (see for example: Conference on Devolution 1920: 23; Schuster’s evidence to the judiciary sub-committee: LCO 2/507), so Theodore Huckle has also queried the cost implications for Wales, asking whether Wales can “afford to do this [establish a legal jurisdiction], and can we be confident, with the resources we can deploy, that the quality of service provided for people in Wales can be maintained or enhanced?” (Huckle 18th November 2012 [online]; see also: Huckle undated [online]).

A final area where the Conference on Devolution’s proceedings have clear parallel with recent constitutional debates can be found in the field of fiscal devolution. The idea that the devolved institutions in Scotland and Wales should be more fiscally accountable for their spending decisions became a subject of increasing importance during the Conservative-Liberal Democrat coalition Government in the 2010-2015 Parliament. Fiscal powers have been devolved to the Scottish Parliament through the 2012 Scotland Act. Further fiscal powers, among others, are on the horizon for the Scottish devolved institutions with the promised implementation of the Smith Commission’s report (for the Government’s white paper, including draft legislative clauses incorporating the Smith Commission report, see: HM Government January

2015). Similarly, the Wales Act 2014 has provided for the devolution of minor taxes such as the Aggregates Levy, Stamp Duty Land Tax and the Landfill Tax, with provision for partial income tax powers to be devolved if a referendum is called by the Welsh Government and won.

The question of how devolved institutions should be financed and the balance between fiscal accountability and grants from central government was equally important to the Conference on Devolution. As Chapter Four highlighted, these issues dominated the work of the sub-committee on Finance, chaired by Lord Chalmers. Having denounced the idea that the devolved institutions should be entirely dependent on Whitehall for their budgets as a “facile plan” (Conference on Devolution 1920: 20), Chalmers’ sub-committee sought to develop a scheme of fiscal devolution that balanced the need for, at least partial, self-sufficiency, while avoiding an impairment of the “Imperial Exchequer’s essential resources” (Conference on Devolution 1920: 20).

As such, the committee recommended the devolution of taxes that did not “form an integral and indissoluble part of the Imperial system as a whole” (Conference on Devolution 1920: 20), an approach that has deep resonance with the minor taxes devolved to Wales in the 2014 Wales Act. Where that Act devolved taxes like the aggregates levy and landfill tax, the sub-committee recommended the devolution of Liquor licenses, Establishment license, Traders’ licenses, Entertainment duty, Inhabited house duty, Land value duties and Death duties (Conference on Devolution 1920: 21). As the figures in Chapter Four demonstrated, this would have still necessitated a “grant-in-aid” from the Exchequer to make up the shortfall in revenues generated from these

taxes and the total budgets required to fulfil the devolved institutions functions (Conference on Devolution 1920: 21).

As then, so today. Even if the partial income tax powers are unlocked, the Wales Act 2014 means that the block grant provided to the National Assembly for Wales and Welsh Government via the Barnett Formula will still account for around 75% of devolved spending (Commission on Devolution in Wales 2012: 144). This figure rises to 99% in the, currently likely, event that the Welsh Government does not call an income tax referendum, or having called one the Welsh public votes no (Commission on Devolution in Wales 2012: 144). This is in stark contrast to Scotland, where the considerably more radical Smith Commission proposals would result in around 53% of Scottish Government spending coming from devolved tax revenues (Phillips 2014: 12). From fiscal devolution, to the question of how England should be governed in a devolved United Kingdom, the Conference matters today, quite simply, because many of the same themes that dominated its proceedings continue to dominate discussions on territorial governance.

8.5. A Failed, forgotten critical juncture? The Conference on Devolution, 1919-1920

This thesis has been dedicated to a study of one of the more forgotten chapters in the United Kingdom's constitutional story, the Conference on Devolution, 1919-1920. Neglected by much of the literature on British political history in the twentieth century, this thesis has demonstrated that the Conference was of far greater significance than might be assumed from its footnote status. It has done so by challenging a number of

assumptions within the British political history literature and the existing academic literature on the Conference on Devolution.

For example, while the Conference and its failure has been viewed from the prism of the Irish Question by a number of scholars, most notably Jackson, Boyce and Kendle (see Chapters Two and Three for a full discussion of this perspective), this thesis has challenged this perspective and the associated orthodoxy that the Conference's failure was guaranteed by developments in Ireland (principally the refusal of Irish Nationalists to accept a federalised UK). Instead, it has shown that Ireland, while important, was one of a nexus of forces that drove the devolution question onto the political agenda and led to the establishment of the Conference on Devolution. Indeed, as Chapter Three of this thesis has shown, Parliamentary Congestion appeared to play a more direct role in the establishment and failure of the Conference.

This thesis has also challenged the existing literature's understanding of the divisions that racked the Conference. Hitherto, studies of the Conference have, rightly, focused on the question of composition as the fatal source of division. However, while the literature has diagnosed the cause of death, it has failed to recognise just how widespread this problem was. As this thesis has demonstrated, the divide between supporters of intra-parliamentary devolution and directly-elected legislatures was a cleavage that undercut the whole proceedings of the Conference on Devolution, even before the composition question was formally debated by the Conference. This cleavage alone explains why, despite appearances to the contrary and in contrast to the assumptions in the academic literature, the Conference's apparent 'consensus' on powers did not actually exist in practice. Furthermore, it explains why, despite

apparently both sides having agreed that England should be retained as a singular unit for devolution, the threat of an English legislature was used by Campion to attack Macdonald's more radical scheme of devolution. By demonstrating just how significant and far-reaching this cleavage was, this thesis has thus represented a significant development in historical understandings of the Conference on Devolution.

Furthermore, this thesis has contributed to the existing literature on the Conference and the literature on territorial governance in the United Kingdom, through its adoption of the concepts and insights of Bulpitt and Mitchell. As explained in Chapter Two and earlier in this chapter, by using Bulpitt's centrist perspective on territorial governance and Mitchell's bottom-up approach, this thesis has sought to provide an account of the Conference on Devolution that captures the importance of both the centre and the periphery in understanding territorial governance in the United Kingdom.

Finally, it is important to note that this study has not been solely dedicated to challenging assumptions in the literature on the Conference or on British political history more generally. As the preceding section of this chapter has highlighted, this thesis has also sought to highlight the relevance of the Conference today. One of the most striking aspects of this study of the Conference on Devolution has been the extent to which many of the issues under deliberation in 1919-1920 resonate with today's territorial governance debates. The question of how England should be governed post-devolution, the balance between fiscal responsibility and fiscal transfers from the Exchequer and the treatment of Wales vis-à-vis other 'Home Nations' are all areas of discussion both during the Conference and in current debates on constitutional reform.

Significantly, much of the content of these debates also hold true today. For example, the criticisms attached to the idea of an English Parliament are broadly the same today as they were in 1919-1920, while Lowther's Grand Council scheme and its critics have a close parallel in the current debate on English Votes for English Laws. As was detailed earlier in this concluding chapter, the tenor of the recent discussions of a Welsh legal jurisdiction closely parallel with arguments deployed in the proceedings of the Conference's judiciary sub-committee.

It rather sums up the manner with which posterity has treated the Conference on Devolution that, when its report was tabled in the House of Commons in April 1920, it was not even afforded a parliamentary debate (Kendle 1989: 233). Oft-forgotten in the academic literature, it has become a footnote in history, a forgotten, failed critical juncture in the UK's constitutional history. Yet, the only thing that appears to have been more forgotten than the Conference itself is that it was, as Gay and Mitchell appear to be unique in highlighting (Gay 29th July 1997: 6; Mitchell 2009: 97), the occasion when devolution, or Home Rule, all-round came closest to realisation. It was one of only two occasions in the UK's notoriously asymmetric and piecemeal constitutional history when the territorial constitution was approached in the round. If only for those reasons, let alone the deep resonance between the issues debated in the Conference and the constitutional debates ongoing today, the Conference on Devolution matters.

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- 2) A written note from Lowther requesting that funds be released by the Government to compensate Gilbert Campion for his work on the conference
- 3) Written notes outlining the speaker's scheme

- 4) Further memoranda on the various schemes, with a particular bias towards the speaker's over Macdonald's
- 5) Memo outlining case for reform and local standing committees
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Appendix 1: Members of the Conference on Devolution⁷³

Chair:

The Speaker of the House of Commons, James Lowther. Lowther served as a Conservative Member of Parliament for Rutland between 1883(elected at a by-election) and 1885, before being elected for Penrith in 1886, a seat that Lowther would hold until his retirement in 1921 (Matthew 2008 [online]). Elected as the Speaker of the House of Commons in 1905, Lowther would serve in the Chair for 16 years during which time he chaired the 1916-1917 Speaker's Conference on Electoral Reform, before being asked to head the Conference on Devolution in 1919 (Matthew 2008 [online]).

The House of Commons' representatives:

Sir W. Ryland Adkins: Adkins was a Liberal Member of Parliament for Middleton (1906-1918) and Middleton and Prestwich (1918-1923), between 1918 and 1922 he sat as a Coalition Liberal. A veteran supporter of devolution, Adkins had been a supporter of the Federal Union Committee, a body which had been established in 1901 to advocate "legislative and administrative devolution... to the several countries of the United Kingdom" with the ultimate goal of a "federation of the Empire for common ends" (Benson 1902: 5; Kendle 1989: 89), prior to his election to Parliament (Benson 1902: 6), and in 1920 authored an article outlining the case for 'Home Rule for England' for the periodical, *The Contemporary Review* (Adkins 1920: 326-331).

⁷³ A simple list of names, rather than biographical details, can be found in the Speaker's letter to the Prime Minister (Lowther 1920: 2)

Sir Henry Cowan: first elected as a Liberal MP for Guilford in 1906, Cowan was returned as the Member for Aberdeenshire Eastern in January 1910 (until 1918) and Aberdeen and Kincardine East (1918-22), before being elected as a Unionist MP for Islington North in 1923 (serving as the constituency's MP until 1929) (Rayment undated [online]). A passionate supporter of devolution, at least during his Liberal incarnation, Cowan had been the architect of the 1913 Scottish Home Rule Bill (Finlay 2006: 34).

Captain Charles Craig: Craig served 26 years as an Ulster Unionist Member of Parliament, 19 as the Member for South Antrim and seven for Antrim. His brother, Lord Craigavon (James Craig), was the first Prime Minister of Northern Ireland (Bogdanor 1999: 64).

Mr. Charles Edwards: Edwards served as the Labour MP for Bedwellty from 1918 to 1950, during which time he spent two years as joint-Chief Whip, 1940-1942, in the wartime National Government (Worley 2005: 65, Brooke 1992: 54).

Mr. J. Hugh Edwards: elected as the Liberal MP for Mid Glamorgan in December 1910, Edwards would go on to represent Neath as a coalition Liberal between 1918 and 1922 and Accrington as a Liberal (aside from a brief spell as a 'Constitutionalist') from 1923 until 1929 (Charmley 2011 [online]). A divisive personality, Edwards had been a leading figure within Cymru Fydd during its heyday in the 1890s before becoming a loyal lieutenant of Lloyd George for the remainder of his career (Charmley 2011 [online]).

Sir Leolin Forestier-Walker: elected as a Unionist MP for Monmouth in 1918, Forestier-Walker held the seat until his death in 1934 (Stenton and Lees 1981: 118; Morgan 2007: 53; HC Deb (5th Series) 29th May 1934 Vol. 290 c.1).

Sir Edward Goulding: initially elected for Devizes in 1895, where he served until the Liberal landslide of 1906, Goulding was a Conservative Member of Parliament for Worcester from 1908 until his elevation to the peerage in 1922 (Sykes 2008 [2004] [online]). Never appointed to ministerial office, Goulding was considered to be a maverick Tory backbencher, particularly on the issue of tariff reform (Sykes 2008 [online]).

Mr. William Graham: Graham served as the Labour Member of Parliament for Edinburgh Central from 1918 until the disaster of the 1931 General Election (Williamson 2008 [2004] [online]). Prior to his defeat, Graham had served as the President of the Board of Trade in the ill-fated Labour Government of 1929-1931 and Financial Secretary to the Treasury as part of the even briefer Labour administration in 1924 (Williamson 2008 [online]). Before his ministerial career, Graham carved out a niche as the “obvious Labour representative for various bodies” in which guise he served as a member of the Conference on Devolution (he also served as a member of the Royal Commission on Income Tax, also in 1919, the Royal Commission on the universities of Oxford and Cambridge, 1920-22, the committee on railway agreements, 1920, and a departmental committee on grants to local authorities, 1922) (Williamson 2008 [online]).

Mr. James Myles Hogge: a former protégé of the Rowntree family, Hogge was elected as the Liberal Member of Parliament for Edinburgh East at a by-election in 1912 and held the seat until the 1924 General Election (Elder 2001: 20-22, 32).

Mr. Murray Macdonald: over a Parliamentary career that spanned three decades and three constituencies (Bow and Bromley 1892-1895, Falkirk Burghs 1906-1918, Stirling and Falkirk Burghs 1918-1922), Macdonald consistently championed the cause of ‘federal devolution’, both inside and outside Parliament (Kendle 1997: 68, 72). A prolific writer on the subject of devolution (Kendle 1989: 86, 224), Macdonald’s greatest success came in June 1919 when the House of Commons endorsed the subordinate legislatures resolution that he had co-sponsored with Major Edward Wood.

Sir Donald Macmaster: born in Canada, Macmaster began his career as a Conservative Member of Parliament in the Canadian House of Commons (representing Glengarry from 1883 to 1887), before emigrating to England and securing election as Conservative MP for Chertsey in the January 1910 General Election, a seat he held until his death in 1921 (Parliament of Canada undated [online]).

Mr. Ronald McNeill: born in Devon to a family of Antrim landowners, McNeill was elected to the House of Commons as a Unionist in the St. Augustine’s constituency (later known as Canterbury) in July 1911, holding the seat until 1927 (Ervine 2011 [2004]). McNeill was a fervent Ulster Unionist and member of the ‘die-hard’ faction of Tory MPs who opposed any measure of Irish Home Rule, led by Sir Edward Carson (Ervine 2011 [online]). McNeill would, unsurprisingly, go on to oppose the 1921 Anglo-Irish Treaty and in 1922 published ‘the classic unionist text’, *Ulster’s Stand for Union* (Ervine 2011

[online]; Bew 2002: 110). Despite a notorious temper and penchant for extreme views, McNeill was appointed to a number of ministerial offices, including serving as British representative to the League of Nations and, between August and December 1928, acting Foreign Secretary (Ervine 2011 [online]). During the Conference on Devolution, McNeill, despite representing an English seat, would act as the leader of the Ulster Unionist members of the Conference.

Mr. Thomas Moles: Moles served as an Ulster Unionist MP from 1918 until 1929 when he retired from the House of Commons (Harbinson 1973: 100). Moles was also a Member of the Northern Irish House of Commons and served as Deputy Speaker of the Northern Irish House of Commons from 1921 until his death in 1937 (Harbinson 1973: 100).

Mr. Gideon Murray (Gideon Oliphant-Murray): a former colonial administrator in British New Guinea, South Africa, Saint Lucia and the Windward Islands, Murray was elected as a Unionist Member of Parliament for Glasgow St Rollox at the 1918 General Election (Who Was Who 2007 [online]). Murray did not contest his seat at the 1922 General Election, but returned to Parliament in 1927 when he succeeded his father as Viscount Elibank (Who Was Who 2007 [online]).

Mr. Tyson Wilson: first elected for Labour in the breakthrough election of 1906, William Tyson Wilson represented West Houghton in the House of Commons for 15 years, when he died of a brain haemorrhage in 1921 (Kelly 2006: 221). Appointed a whip in 1915, Wilson became the Labour Party's Chief Whip in 1919 (Kelly 2006: 225).

Sir Frederick W. Young: a former member of the South Australian House of Assembly (1902-1905, 1909-1915), Young was elected as a Coalition Unionist Member of Parliament for Swindon in 1918, serving until 1922 (Northey 1990 [online]).

The House of Lords' representatives:

Lord Aberdare: the second son of the Henry Austin Bruce, the former Liberal cabinet minister and first Lord Aberdare, Henry Campbell Bruce entered the House of Lords, following his father's death, as the second Lord Aberdare in 1895 (The Times 21st March 1929: 19). Like his father, Aberdare was a Liberal peer, though he did not play a prominent role in either the party of the House of Lords, but did play a significant role in Welsh civic life as President of the University of Wales and of the National Museum of Wales (The Times 21st March 1929: 19).

Earl Brassey: Thomas Allnutt Brassey, who succeeded his father as Earl Brassey in 1918, was a devoted champion of devolution in the United Kingdom and across the Empire (The Times 13th November: 1914). He doggedly, if not brilliantly, pursued the subject during his brief time in the House of Lords and on 5th March 1919 he moved the unsuccessful devolution resolution in the upper chamber (HL Debates 5th March 1919 c.502).

Tragically, after advocating federal devolution for the best part of three decades, Brassey died shortly after the Conference began its work, in a motor accident in November 1919 (The Times 13th November 1919: 14) and was replaced with **Lord Strafford**. The heir to an "ancient and historic family", Francis Edward Fitzherbert-

Stafford succeeded his uncle to the peerage in 1913. He appears to have made little mark politically, with his obituary in *The Times* noting only that he “was a keen sportsman and agriculturist” who “took a great part in the social life of the country” (The Times 19th September 1932: 14).

Duke of Buccleuch: Described as a “a great Scottish noble” in his obituary in *The Times*, John Charles Montagu Douglas Scott, the seventh Duke of Buccleuch, succeeded his father, the sixth Duke, in 1914 and sat in the Lords as Earl of Doncaster until his death in 1935 (The Times 19th October 1935: 14). Prior to his elevation to the House of Lords, Scott had also served as a Unionist Member of Parliament for Roxburghshire between 1895 and 1906, using the courtesy title Earl of Dalkeith (The Times 19th October 1935: 14).

Lord Inchape: a highly successful business man and colonial administrator, James Mackay was raised to the peerage in 1911 and he served in the House of Lords until his death in 1932 (The Times 24th May 1932: 19). Inchape sat on a number of committees and official inquiries during the course of his long career, including the Imperial Defence Committee during the Great War (The Times 24th May 1932: 19).

During the course of the Conference, Inchape stood down and was replaced with **Lord Chalmers**. Chalmers was a career administrator who had served as Permanent Secretary to the Treasury, 1911-1913 and was the 21st Governor of Ceylon, 1913-1915, before his peerage in 1919 (Thomas 1939: 328-334).

Lord Charnwood: formerly a Liberal MP for Woodstock, 1892-1895, Godfrey Rathbone Benson was elevated to the House of Lords as Lord Charnwood in 1911 (The Times 5th February 1945: 6). A strong advocate of 'Home Rule all round' academic, Charnwood was also a noted academic and authored a highly acclaimed biography of Abraham Lincoln (The Times 5th February 1945: 6).

Lord Denman: a member of Sir Henry Campbell-Bannerman's and Herbert Asquith's Liberal Governments between 1905 and 1911 (as a junior Whip, 1905-1907, and Government Chief Whip in the Lords, 1907-1911), Thomas Denman also served as Governor-General of Australia between 1911 and 1914 before returning to the House of Lords and serving as the Liberal Party's Chief Whip in the House of Lords, 1919-1924 (Cunneen 1981 [online]).

Marquis of Dufferin and Ava: the third Marquis of Dufferin and Ava, Frederick Temple Hamilton-Temple-Blackwood was elevated to the House of Lords on the death of his brother, second Marquis, in February 1918. Dufferin's main political contribution came in Northern Ireland where he served as the first Speaker of the Northern Irish Senate (The Times 22nd July 1930: 16). Dufferin resigned from the Conference in February 1920, but was not replaced.

Lord Emmott: a former Deputy Speaker of the House of Commons, 1906-1911, and Liberal Member of Parliament for Oldham, 1899-1911, Alfred Emmott was elevated to the peerage as Baron Emmott in 1911 (Singleton 2008 [2004] [online]). Aside from his tenure as Chairman of Ways and Means in the House of Commons, Emmott also served as Under-Secretary of State for the Colonies, 1911-1914, and as First Commissioner of

Works from 1914 until 1915, when he was appointed Director of the War Trade Department (Singleton 2008 [online]). Despite this experience, Emmott was not regarded particularly highly by his contemporaries or by posterity, being described as a “politician of middle rank” (Singleton 2008 [online]).

Lord Faringdon: a stockbroker and financier, Alexander Henderson had twice served as a Conservative Member of Parliament (1898-1906 in West Staffordshire and 1913-1916 for St. George’s, in both cases he entered the Commons through by-elections) before his elevation to the House of Lords in 1916 (Daunton 2004 [online]).

Viscount Gladstone: the son of the famous Liberal Prime Minister William Gladstone, Herbert Gladstone was first elected to Parliament at the Leeds by-election in May 1880 (Matthew 2010 [2004] [online]). Gladstone represented Leeds until 1910, during which time he flew the ‘Hawarden kite’ (in December 1885 Gladstone wrote a letter to *The Times* supporting Home Rule and preceded to inform leading journalists that his father had become an advocate of Irish Home Rule) and, under the leadership of Sir Henry Campbell-Bannerman, became the Liberal Party’s Chief Whip and in this guise negotiated the Lib-Lab electoral pact ahead of the 1906 General Election (Matthew 2010 [online]). Gladstone served as Home Secretary under both Campbell-Bannerman and Asquith between 1905 and 1910, before being appointed Governor-General of South Africa in 1910, serving until 1914 (Matthew 2010 [online]).

Lord Gorell: entering the House of Lords in 1917 following the death of his brother, the second Baron Gorell, Ronald Barnes combined a passion for literature, he authored a number of novels and was also an enthusiastic poet, and public service (The Times 3rd

May 1963: 17). He only briefly served in ministerial office, serving as Under-Secretary of State for Air during the death throes of the Lloyd George coalition Government, between July 1921 and October 1922 (The Times 3rd May 1963: 17).

Viscount Hambleden: a scion of the WH Smith family, William Frederick Danvers Smith succeeded his family in Parliament on two occasions during his career (Davenport-Hines 2006 [2004] [online]). In 1891, Smith followed his father as a Conservative Member of Parliament for the Strand, holding the seat until the January 1910 General Election when he stood down from the Commons. In 1913, following the death of his mother, the Viscountess Hambleden, Smith returned to Parliament as Viscount Hambleden, although “he was not prominent in the upper chamber” (Davenport-Hines 2006 [online]).

During the Conference, Viscount Hambledon resigned and was replaced with **Lord Elgin**. Edward James Bruce, the 10th Earl of Elgin, entered the House of Lords following his father’s death in 1917 (The Times 29th November 1968: 12). Elgin served in a number of public roles, including a tenure as Lord High Commissioner of the Church of Scotland, 1925-1926, chairman of the Carnegie United Kingdom Trust and between 1952 and 1956 he sat on the BBC’s General Advisory Council (The Times 29th November 1968: 12).

Viscount Harcourt: Lewis Vernon Harcourt was another of the Conference’s members who followed in the wake of a famous father (in his case, William Vernon Harcourt had been the Leader of the Liberal Party, 1896-1898, Chancellor of the Exchequer, February-July 1886 and 1892-1892, and Home Secretary, 1880-1885) (Jackson 2008 [2004]

[online]]. Following his victory at the Rossendale by-election in 1904, Harcourt served on the Liberal frontbench, being appointed First Commissioner of Works by Sir Henry Campbell-Bannerman in 1905 and in 1910 was promoted to the post of Colonial Secretary by Asquith, where he served until 1915 (after which he returned for a brief stint as First Commissioner of Works until 1916) (Jackson 2008 [online]). Harcourt was raised to the peerage as Viscount Harcourt in 1917, though he “rarely appeared” in the upper chamber in the sessions that followed the passage of the 1918 Representation of the People Act (Jackson 2008 [online]).

Harcourt was another of the Peers that resigned from the Conference, and in early 1920 he was replaced by **Lord Selborne**. Initially a Liberal and then Liberal Unionist Member of Parliament for Petersfield, 1885-1892, and then Edinburgh West, 1892-1895, William Waldegrave Palmer was elevated to the upper chamber as Lord Selborne in 1895 following his father’s death (Boyce 2008 [2004] [online]). Once in the Lords, Selborne’s career came to focus on colonial and naval affairs, he was Joseph Chamberlain’s deputy in the Colonial Office for five year, 1895-1900, before being appointed First Lord of the Admiralty, 1900-1905 (Boyce 2008 [online]). In 1905, Selborne was appointed the High Commissioner for South Africa where he came into close contact with young imperialists, including Lionel Curtis, who advocated the federation of South Africa (Boyce 2008 [online]).

Selborne and Curtis would go on to form a close association, particularly on the subject of imperial federation: as Chapter Three intimated this would be theme that would play a dominate role in Selborne’s political career in the decade that followed his return from South Africa in 1910, in particular through his partnership with F.S. Oliver (Boyce 2008

[online]]. Selborne served for a brief period as President of the Board of Agriculture (1915-1916) in the wartime coalition government, but he resigned in opposition to the Government's conduct of negotiations between Unionists and Nationalists in the aftermath of the Easter Rising (Boyce 2008 [online]). This would mark the end of his ministerial career with Selborne refusing later offers of the viceroypalties of India, Ireland and of a marquissate (Boyce 2008 [online]).

Lord Oranmore and Browne: the scion of a family “of high antiquity in Ireland”, Sir Geoffrey Henry Browne, succeeded his father to the title in 1900 and was elected as an Irish representative peer in 1902 (The Times 1st July 1927: 19). Browne served as a member of the 1917-18 Irish Convention and in 1921 was elected as a Senator in the ill-fated Southern Irish Parliament (The Times 1st July 1927: 19).

Lord Southborough: a career civil servant, Francis Hopwood was created Baron Southborough in November 1917. During the long span of his career, Southborough worked as Permanent Under-Secretary of State for the Colonies (1907-1911), Civil Lord of the Admiralty, secretary to the Irish Convention (1917-18) and had chaired the Franchise Committee examining the suffrage in India (1918-19) (The Times 18th January 1947: 7).

Lord Stuart of Wortley: a member of the Bute family, Charles Beilby Stuart-Wortley was raised to the peerage as the first Barton Stuart of Wortley in 1917 (Norgate 2009 [2004] [online]). Prior to his elevation to the upper chamber, Wortley had been a Conservative Member of Parliament for Sheffield, 1880-1885, and then Sheffield Hallam from 1885 until his resignation from the House in 1916 (Norgate 2009 [online]). His

ministerial career consisted of two stints as Under-Secretary of State at the Home Office, 1885-1886 and 1886-1892 (Norgate 2009 [online]).

The Conference's secretariat

Secretary, Mr. G.F.M. Campion. Appointed a clerk of the House of Commons in 1906, Campion served the House until his retirement in 1948 (Mackenzie 2008 [online]). After spells as second clerk assistant, 1921-1930, and clerk assistant, 1930-1937, Campion became the Clerk of the House of Commons in 1937, a role he would enjoy for the next eleven years (Mackenzie 2008 [online]). Described as ranking “with the greatest of his predecessors at the table of the house”, Campion’s services to the House were rewarded with a peerage in 1950 when he became Baron Campion (Mackenzie 2008 [online]).

Assistant Secretary, Captain C.R.P. Diver. Diver was a longstanding clerk of the House of Commons who combined his Parliamentary career, with a pioneering role in nature conservancy (The Times 19th February 1969: 10). Joining the House of Commons after the Great War, Diver’s appointments included Clerk to the Select Committee on National Expenditure, 1939-1945, Clerk of Financial Committees (appointed in 1945), rising to Clerk of Committees in 1948 (The Times 19th February 1969: 10). Outside from the House, Diver played a considerable role in the field of conservation, sitting on the Wild Life Conservation Special Committee (1945-1947) and served as Director-General of the Nature Conservancy, 1948-1952 (The Times 19th February 1969: 10).

Appendix 2: Allocation of Powers

LIST A) POWERS DEVOLVED ON LOCAL LEGISLATURES

1. Regulation of Internal Commercial Undertakings, Professions and Societies.

- Advertisements,
- Amusement Places and Theatres,
- Auctioneers,
- Building Societies and Loan Societies,
- Licensing (Liquor),
- Markets and Fairs.

2. Order and Good Government.

- Cruelty to Animals,
- Betting and Gaming,
- Charities and Charitable Trust Acts,
- Inebriates,
- Police (other than Metropolitan Police),
- Poor Law and Vagrancy,
- Prisons,
- Reformatories.

3. Ecclesiastical Matters.

- Burial Law,
- Matters affecting religious denominations.

4. Agriculture and Land.

- Commons and Enclosures,
- Game Laws,
- Land:-
 - (a) Drainage,
 - (b) Improvements,
 - (c) Settled Land Acts,
 - (d) Distress and Tenure.

5. Judiciary and Minor Legal Matters.

- Coroners,
- County Courts,

- Criminal Law, Minor Offences (procedure, definition, and punishment),
- Law of Inheritance,
- Intestates Estates,
- Conveyancing and Registration of Land,
- Minor Torts,
- Trustees, guardians and wards.

6. Education.

- Education:-
 Primary
 Secondary
 University (except Oxford, Cambridge and London).

7. Local Government and Municipal Undertakings.

- County Council and Municipal Bills,
- Fire Brigades,
- Local Legislation:
 (Private Bills, Gas, Water, and Electricity undertakings.)
- Municipal Government:-(including Local Franchise).

8. Public Health.

- Public Health Matters:-
 (a) Preventative measures,
 (b) Contagious diseases,
- Hospitals,
- Housing,
- National Health Insurance,
- Lunacy and Mental Deficiency.

LIST B) POWERS RESERVED FOR THE UNITED KINGDOM PARLIAMENT

1. Crown and Matters relating thereto.

- (a) Succession to the Crown,
- (b) Regency,
- (c) Civil List,
- (d) Crown Properties,
- (e) Treasure Trove.

- 2. Peace and War.**
- 3. Navy, Army, and Air Services.**
- 4. Foreign Affairs and Extradition.**
- 5. Dominions, Colonies and Overseas Possessions.**
- 6. Dignities and Titles.**
- 7. Treason and Alienage.**
- 8. Postal, Telegraph and Telephone Services.**
- 9. Submarine Cables.**
- 10. Wireless Telegraphy.**
- 11. Aerial Navigation (Civil).**
- 12. Lighthouses, Buoys, and Beacons.**
- 13. Currency, Coinage, Legal Tender, and Weights and Measures.**
- 14. Trade Marks, Patents and Copyrights.**
- 15. Regulation of Trade, Banking, and Commercial Law.**
 - Law of Agency,
 - Banking,
 - Census of Production,
 - Internal Commerce,
 - Company Law,
 - Bills of Exchange and Negotiable Instruments,
 - Insurance Companies,
 - Sale of Poisons,
 - Bankruptcy,
 - Bills of Sale,
 - Sale of Goods,
 - Shipping and Pilotage,
 - Quarantine.
- 16. Fisheries, Forestry, and certain Agricultural Services.**
 - Forestry Commission,
 - Ordinance Survey,
 - Animals, Import and Diseases of,
 - Fisheries:-
 - (a) Inland,

(b) Sea.

17. Industrial Relations.

- Employers' Liability and Workmen's Compensation,
- Factories and Workshops,
- Industrial Disputes
- Regulation of Hours and Wages,
- Truck Acts,
- Law of Master and Servant,
- Unemployment Insurance,
- Mines and Quarries,
- Trades Unions,
- Friendly Societies,
- Old Age Pensions,
- Development Commission.

18. Railways and Canals.

19. Registration and Census.

20. Food Regulations.

21. Marriage, Law and Divorce.

22. Vivisection.

23. Criminal Law.

- Major Offences (Procedure, Definition and Punishment).

24. Civil Torts.

- Major Torts.

25. Education.

- University (Oxford, Cambridge and London).

26. Metropolitan Police.

**LIST C) POWERS TO BE PARTLY EXERCISED BY THE UNITED KINGDOM
PARLIAMENT AND PARTLY BY LOCAL LEGISLATURES**

1. Corrupt Practices.

2. Explosives.

3. Harbours.

4. Land.-Acquisition for Public Purposes.

5. Transport.-Roads and Highways.

All other matters not expressly enumerated in the above lists are reserved to the United Kingdom Parliament.

(Conference on Devolution 1920: 16-18)