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# Electoral System Formation in Scottish Parliament 1989-1995: Cooperation between party and civil society (2)

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A brief comment should also be mentioned with regards to this article (Electoral System Formation in Scottish Parliament 1989-1995 Cooperation between party and civil society (2)) as part two of further articles which will be in previous volumes.

## **4 Constitutional Commission and Implementation of AMS 1991-1995**

In this chapter, after the brief consideration of the political course of SCC in the period from 1991 to 1992, two questions are subsequently addressed. First, the question of why the seat allocation system formed is examined from 1993 to 1994 focusing on the role and discussion of Scottish Constitutional Commission. The experience of losing the 1992 general election enabled SCC to deviate the new institution called the Scottish Constitutional Commission, which intended for an independent organisation from party politics to complete the task of SCC. Thereafter the second question, why the number of seats was decided in 1995 should be answered here. The number of seats in a parliament affects the extent of disproportionality in the electoral system leading to limit the influence of a political party. It will be described by focusing on the internal discussion of Labour and the final negotiation between George Robertson and Jim Wallace. After reviewing this debate, will lead to the completion of the SCC's final report.

*Development of the electoral system-argument, settlement and its limitations 1991-1992*

The event 'Towards Scotland's Parliament' held in November 1990, was welcomed as a success. This leads to efforts being put into both political campaigns and an effort to resolve unanswered issues. Wright noted that the SCC needed a twin-track approach, campaigning, and a need to deal with the issues not being addressed (Wright 1997:153). The issue of the electoral system can be located as the latter, and the argument for this was developed from May 1991. Here, it will outline some of the vision of the electoral system and how it reached the consensus in 1992. Lastly, this section will address the gridlock due to the loss of the 1992 general election.

One of the core features in the debate around the electoral system could be recognised as a gender balance issue in the representation of parliament members. Especially important to those of the women's committee of STUC actively involved with proposing the system. The committee, collaborated with the Labour's women members and Isobel Lindsay who belonged to CSA and developed a campaign called 50:50. Lindsay argued for the system that two parliament members, both a man and a woman, should be elected from the constituency base and members should also be added through the national list by proportional representation. Its scale was assumed a degree of 140-180 members in total<sup>1</sup>.

In Labour's Conference in 1991, the argument around the electoral system was developed further. Labour's Executive committee published a statement on electoral reform in 1991, where the supported argument at that time held a stance on the party's ideals. At first, it confirmed the decision of refusing FPTP at the Dunoon conference the previous year with a view that the Scottish Parliament should be a radically different body from the Westminster Parliament, and listed some possible systems based on their assessment towards various electoral systems. It showed an apparent dissent of accepting

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<sup>1</sup> '50/50 with Flexible Top-Up BY ISOBEL LINDSAY-WOMAN'S CLAIM OF RIGHT', in " STUC Minutes February".

the system of using a list completely with no constituency base. They also disagreed with the Single Transferrable Vote on the ground that it would destroy the link between the elected member and his or her constituency. Consequently, it proposed two systems called the Alternative Vote, and the Additional Member System. In the former system, candidates would win if he or she got more than half of the vote cast to them, if this could not be achieved, the vote for the lowest candidate would be reallocated among the remaining candidates. The latter system, supported the most, was the Additional Member System. It should however still be differentiated from the current system, although partly being based on FPTP, the vote for party would be reallocated on the national basis in the vision at that time. In addition, it did not give detail on the seat allocation mechanism. It concluded with a remark of committing the equal representation for men and women through the proposed system<sup>2</sup>.

Wright also made the speech at the Labour conference. It was emphasised that the Scottish Parliament would work differently from Westminster with a truly representative parliament. Moreover, it mentioned the respect towards Labour for being willing to 'put the interests of the people before narrow party advantage'. However, at the same time he also expressed his fear that 'the Labour Party were to go back on its commitment within the Convention to reject first past the post and to seek a more<sup>3</sup> truly representative system'. Thereafter he clarified his position as apart from the party politics and argued the importance for the representativeness of SCC, the future of Scotland, and not the electoral success of any party<sup>4</sup>.

Interestingly, in Labour's argument and the STUC's women's committee

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<sup>2</sup> Labour Party Scottish Council (1991)'ELECTORAL REFORM', in "STUC Minutes April to May".

<sup>3</sup> Original text was written in this way.

<sup>4</sup> Wright, K. (1991)'EXTRACT OF SPEECH FOR LABOUR PARTY CONFERENCE', SPA/KW/1/1/1.

argument, some similarity could be observed in terms of the retainment of the link between candidates and a constituency which emphasised the consistent need to deny other systems such as Single Transferrable Vote. Even in other favoured systems, the continuation of the partial usage of FPTP was accentuated. With regards to the means of achieving gender equality, STUC had a relatively concrete plan, by contrast, Labour still had not proposed a set of plans on the issue at hand. The women's committee of STUC also were actively involved with proposing the system. Moreover, the Scottish Executive had envisioned the Scottish Parliament as a 'radically different body from Westminster'. It may be possible to speculate this as the SLA's argument becoming more mainstreamed. Here it is important to look at Wright's speech in more detail. He evaluated Labour for their commitment to Home Rule, along with curbing the growth of the logic of electoral success for Labour. This position was also continuously reflected in the last part of speech showing the position held by Wright was independent from party politics. It meant that despite a risk of confrontation of interest between the SCC and Labour, the SCC tried to push for the interest of Scottish people. Shortly, from this time, the campaign of SCC launched and developed the strategic campaign with a new director, and the member of the CSA, Harry Conroy (Conroy 1992).

Within the SCC, the argument for the new electoral system was fostered within two working groups. Both of these were set up by the SCC Executive, one for the electoral system for a Scottish Parliament, another for the Procedures and Preparations for a parliament<sup>5</sup>. The chair of the committee for the electoral system was assigned to Norman Shanks who was the convenor of the Church and Nation Committee of the Church of Scotland. Another committee was chaired by Bob McCreadie, a Liberal Democrats Lawyer (Wright 1997:153). Both of the working groups were asked to submit

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<sup>5</sup> STUC (1991) 'Minutes of the meeting of the organisation and policy committee 15th May 1991' in "STUC Minutes June".

a report tackling various issues by November of that year<sup>6</sup> and they did this by asking some professors for advice in completing the task including John Curtice from Strathclyde and Lindsay Paterson from Edinburgh<sup>7</sup>. In October, before the final report submission, though some work remained to be completed, the working groups, in the end, came to recommend some form of AMS<sup>8</sup>. Eventually, in the Executive committee of the SCC on the fifteenth of November, the two working groups' reports were discussed<sup>9</sup>. The proposed system by the working groups was a variant of the AMS with two members from 72 constituencies within the requirement of putting an equal number of men and women and the top-up system which elects additional members with a consideration of proportionality<sup>10</sup>. The reason behind this was to retain the boundary and to not cause disputes on any boundary change. The top-up system was also intended for guaranteeing proportionality and gender balance, which was tackled in further argument in the following year<sup>11</sup>. The Executive committee showed a broad consensus in the draft of the report given three consensuses of the electoral system;

- (a) there is agreement on the need to move towards closer correspondence between seats and votes;
- (b) there is acceptance of an Additional Member System as the means of achieving this; and

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<sup>6</sup> SCC (1991) 'All Members of the Convention' (5 September 1991) in "STUC Minutes November".

<sup>7</sup> Curtice, J (1991) 'An Electoral System for Scotland', Paterson, L (1991) 'Working Group on Electoral System', SPA/KW/1/2/2/1.

<sup>8</sup> STUC (1991) 'Minutes of the meeting of the general council 2nd October 1991' in "STUC Minutes November".

<sup>9</sup> STUC (1991) 'Agenda and general secretary's report the general council meeting 4th of December 1991' in "STUC Minutes December".

<sup>10</sup> STUC (1991) 'Minutes of the meeting of the general council 4th December 1991' in "STUC Minutes January to February".

<sup>11</sup> STUC (1992) 'Minutes of the meeting of the general council 8th January 1992' in "STUC Minutes January to February".

(c) there is acceptance of a statutory or other obligation on parties to put forward equal numbers of men and women candidates, and acceptance also that the Additional Member System should be used to achieve gender equality if not achieved by the constituency elections<sup>12</sup>.

After further discussions with little modification, the meeting of SCC was held on the twenty-eighth of February, and it published the report 'Electoral System for a Scottish Parliament'. In the report, it commended the working groups engaged with the creation and thoughtful questions which they helped produce in the report. The report proposed a directly elected Parliament using the existing Westminster constituencies with two members elected from that and there should be between 36 and 50 additional members to ensure the proportionality. The Executive committee discussed and imposed two reservations on the proposition. First, 'the scheme would not necessarily provide a sufficient degree of correspondence between votes gained and seats won; and second that the Parliament would be larger in numbers (it would be between 180 and 194) than might be desirable'. Moreover, in the broad consensuses, the sentence 'or other obligation' was deleted in the final version<sup>13</sup>. Looking back on this modification, Wright said 'this wording became a major source of friction' (Wright 1997:156). Furthermore, it raised the points remaining to be resolved, such as the machinery of the electoral system and the balance to be struck in competing objectives. The three following issues highlighted show this. It first argued for stopping endless fragmentation where the governing party was not decided by the electorate. Then, the detail of the AMS was questioned, especially in suggesting ways in how additional members would be selected. Options being through the use of the regional list from Euro constituencies or the need for an application for a threshold in the system. Lastly, the question of what method would be used

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<sup>12</sup> SCC (1992)'Electoral System for a Scottish Parliament' in "STUC Minutes January to February".

<sup>13</sup> SCC (1992)'Electoral System for a Scottish Parliament' in "STUC Minutes March".

to implement an equal representation of men and women, and the acceptance of a statutory obligation was debated once again. The relationship to voting arrangement and the size of the parliament were also briefly mentioned as other issues in the end of these minutes<sup>14</sup>.

The content and consensus of the report 'Electoral System for a Scottish Parliament' was implicative in terms of the development of the discussion as following. The main arguments can be reconsidered here. First, the way of achieving gender balance matters, on the gender equality issue, from the argument of STUC women committee to the discussion of the working group in the SCC, the stance of ensuring an equal number of candidates had been consistent. Notably, there was a minor shift from the report in January to February. The statutory obligation to achieve gender equality was implicative but it in some ways expressed a doubt towards political parties in achieving this. A substantial advancement in gender equality came in the following years.

Second, there was a conflict in the ways of allocating the seats and the overall acceptance of AMS. Here, as the Executive committee pointed with the expression of 'endless fragmentation', electing the additional members became the centre of discussion. The concern being the opposition towards radical proportional representation. The 'correspondence between seats and votes' was continuously valued though it is also interesting in that the SCC weighed the importance of the electorate's ability for choosing the governing party. Here it can be seen as a result of taking into account the balance. Acceptance of AMS was meaningful though its specific form was undecided. The use of Euro-constituencies as a regional list was leading to become the current system that would be formed.

These two points showed a leap from the previous discussion seen in the report 'Towards Scotland's Parliament'. In some ways, it can be argued this report was approximate to the final version of the system, and it played an

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<sup>14</sup> SCC (1992)'Electoral System for a Scottish Parliament' in "STUC Minutes March".

important role in system formation. Nevertheless, the size of parliament and how to achieve gender equality was still in debate. In the latter part, those issues will be addressed and show how the results of the 1992 general election were seen and their subsequent implication to the SCC.

Prior to the election, the Scottish Grand Committee in Westminster launched the discussion publicly on the election and the SCC. The Secretary of State for Scotland, Ian Lang, who belonged to the Conservatives cast a doubt towards Labour and declared the negative prospect of introducing proportional representation by Labour<sup>15</sup>. In contrast, Donald Dewar confirmed the achievement of SCC as followed; 'The constitutional convention sought and found backing far broader than the support for any one party. Its success is characterised by the decision to move from first past the post to an electoral system that will give an effective voice to all areas and all significant strands of Scottish opinion<sup>16</sup>'. John McAllion insisted on SCC for hope that it would subsequently be 'another way forward for Scotland...It is the way of the Scottish Constitutional Convention. Party politics when pursued for selfish ends can only divide the Scottish people. What they need now is something to bring them together so that they can win for themselves a Parliament... On the ninth of April, the date on which we all believe the election will be held, a simple choice will face the Scottish people: they can ensure that the status quo remains unaltered by voting Conservative or Scottish Nationalist, or they can vote for change and for a Scottish Parliament by voting for us or the Liberal Democrats<sup>17</sup>'.

Conservatives criticised Labour in discussion, doubting its commitment to the electoral system and collaboration with Liberal Democrats. Against them, Dewar evaluated the significance of the SCC and McAllion valued the partnership with Liberal Democrats and SCC's trial.

However, the result of the general election in April was not desirable for

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<sup>15</sup> Scottish Grand Committee (1992)'Scottish Constitutional Convention'. pp7.

<sup>16</sup> Scottish Grand Committee (1992)'Scottish Constitutional Convention'. pp16.

<sup>17</sup> Scottish Grand Committee (1992)'Scottish Constitutional Convention'.pp62-63.

the SCC, Labour and the Liberal Democrats. The Conservatives got 41.9% of vote share with 336 seats per 651 seats in total. Labour got 34.4% and 271 seats whilst the Liberal Democrats got 20 seats with 17.8% share of votes<sup>18</sup>. In Scotland, the Conservatives got 11 seats with 25.6% vote share, Labour with 49 seats with 39% vote share and the Liberal Democrats with nine votes with 13.1% share. The SNP gaining overall three seats with 21.5% (Lynch 2013:207).

Due to this result, Scottish devolution and the scheme of SCC was not implemented in that year. For the SCC, it was a disappointment and Wright reflected that 'For the Constitutional Convention it was the start of a year in which we had to move forward from despair' (Wright 1997:163). After this, the Executive committee of SCC was held on the eighteenth of May 1992 and it discussed the referendum. In the course of discussion, it sought for the cooperation with SNP although this did not come true at this time. In the end it was the working group that was ultimately recommended<sup>19</sup>. The ninth meeting held on the thirtieth of September debated the Subsidiarity issues in Europe and some fundamental issues (Wright 1997:172-173). After the defeat of the election, various plans were discussed in 1992, but on the electoral system, due to this defeat, there was little development.

From 1991 to 1992, the three consensus of the report 'Electoral System for a Scottish Parliament' lead to a remarkable outcome due to the discussions and engagements of the working group of SCC. Before the election at least, there was hope that this scheme would be completed. However, the loss of the election at UK level created one of the hardest times for the SCC. In the next section, it will look at the recovery of the SCC with a plan for the Scottish Constitutional Commission, which contributed to the basis of the current electoral system.

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<sup>18</sup> UK Parliament(1992)'GENERAL ELECTION RESULTS, 9 APRIL 1992' (<https://www.parliament.uk/documents/commons-information-office/m13.pdf>).

<sup>19</sup> SCC(1992)'DISCUSSION MEETING' (18 May 1992) in "STUC Minutes April to June".

## **The advancement of the Scottish Constitutional Commission**

### *Establishment of Scottish Constitutional Commission and its operation*

There was an impasse for the discussion in 1992. Since the end of the year, SCC's role onwards and some problems that were unresolved will be examined. The Constitutional Commission was envisioned as an important organisation to tackle those issues, whose proposals were mostly adopted in the final report (Paterson et al. 2001:10), and therefore played a significant role in the system formation. This sub-section will address the background of its establishment.

The discussion on organisational reform and direction was put on the agenda from autumn that year. In the meeting in October, it discussed SCC's future role, structure and activities<sup>20</sup>. In the end of the year, Wright published the document themed SCC's future direction. First, it introduced the activities in the year listed as the demonstration in Edinburgh, the European Summit, and confirmed the whole direction of the SCC. Thereafter, it questioned the role of SCC, and he advocated twin-track policy. On the one hand, it proposed the widest possible unity in Scotland<sup>21</sup>, consisting of two different ways; political parties working together as closely as possible, and the widest possible range of Scottish organisations coming together in a Civic Summit. It simultaneously highlighted the point that those developments were not to diminish or question the continuing role of the SCC. It reassured the credibility and representativeness of SCC and finished the report with six-fold tasks suggestions<sup>22</sup>.

This policy continued in the informal meeting held on the second of March at Westminster. It said there was a strong case for short-term tactical unity

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<sup>20</sup> SCC(1992)'Minutes of Meeting of Executive Committee' in "STUC Minutes November to December".

<sup>21</sup> In the latter part of document, it mentioned as 'a wider unity with the Scottish National Party could only be on the most basic demand for democracy'.

<sup>22</sup> SCC(1993)'To Members of Scottish Constitutional Convention' in "STUC Minutes January to February".

involving SNP. Then it emphasised the need not to replace the work of the SCC and its distinctive role compared to the similar organisation such as Scotland United and Common Cause. Moreover, as a summary of decisions, it also confirmed political parties within SCC to have their own priorities and agendas, and their support would not involve the same investment of time and resources as was necessary prior to the election<sup>23</sup>.

From here, the SCC should be seen as a body which has two compatible roles, contributing to the broadest unity in Scottish society and having a distinctive role delivering the devolution. Especially in March's meeting, it is interesting to see SCC taking account of the party's request to limit the activity in the election period and leading a reorganisation of the SCC as a whole from this period onwards.

In April, 1993, it was eventually advocated for the establishment of the Constitutional Commission. The working group, consisting of Wright, Christie, McConnell, Black, and Andy Myles from the Liberal Democrats, assembled and compromised some of the recommendations. It defined SCC's first and primary task as 'to complete, communicate and commend its Scheme for Scotland's Parliament, working to a timetable geared to the next General Election'. Then for fulfilment of the objective, it proposed 'an independent Constitutional Commission to consider a number of matters which had been left unresolved by the Convention'. Moreover, it addressed on the articulation of opinions on constitutional issues over Scotland, a comprehensive review of the membership arrangements. Subsequently, it specifically argued about the forthcoming Constitutional Commission which would be chaired by a distinguished Scot, and report back in due course to the Executive Committee. Lastly, it had planned to report on arrangements and possible membership of the Commission<sup>24</sup>. Furthermore, it was seemingly anticipated

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<sup>23</sup> Wright et al (1993)'informal note of the agreement held in the House of Commons, Westminster' (2 March 1993), SPA/KW/SN/1/2/2/1.

<sup>24</sup> SCC (1993)'Minute of Meeting of Executive Committee held at Strathclyde House, Glasgow on 16 April'(16 April, 1993) in "STUC Minutes April to May".

that the Commission, comprising of one Chairperson and about six or seven members, would have a remit to prepare and publish a report within the next year. Then other political parties and STUC would consider the content of the report and be given an opportunity for its deliberation<sup>25</sup>.

According to Wright, the main task of appointing the Constitutional Commission member was a difficult job. Many recognised the difficulty of the task and time-consuming nature of it so refused to take part if offered. Later, Joyce McMillan, writer and journalist, and John Pollock, the retired General Secretary of Educational Institute of Scotland, co-chaired the Commission (Wright 1997:183). In September, the decision of establishment of the Commission was put on the main agenda, and the Executive committee recognised the proposed membership and espoused the remit of the Commission. Moreover, it was noted that the Rowntree Reform Trust was approached for funding. In addition to that, constituent groups of SCC agreed to provide basic financial support for the Commission, and COSLA gave a remit to consider the issue of local government to the Commission.

Thus, the Scottish Constitutional Commission was set up and this was a step forward in allowing for detailed consideration on the issues of the electoral system. From 1992 to 1993, the SCC although experienced a tough period, after the discussion, the Commission was expected with great hope for finalising the scheme. The subsequent role and profile of the Constitutional Commission should be examined next, and its goal, objects and advancement within discussion will be addressed as follows.

#### *The Goal of Constitutional Commission and advancement of the discussion*

The organisational structure and the goal of the Constitutional Commission should be referred within the Terms of Reference. According to the Terms of Reference in the Commission, first it was confirmed the appointment from the Executive committee of the SCC, and was presented as an independent

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<sup>25</sup> STUC (1993)'Minutes of the meeting of the general council 5th May 1993' in " STUC Minutes June".

membership in its operation. Recommendations were required in the field of 'proposals for elections to and representation in a Scottish Parliament including electoral system and gender balance provisions' and 'the constitutional implications at a United Kingdom level of the establishment of a Scottish Parliament'<sup>26</sup>. The Commission was finally launched on the twenty-fourth of September 1993<sup>27</sup>. Of course, from its remit, the discussion onwards centred on the issue of constitutional arrangements, electoral system as a whole and its relevant gender balance problems. Exploring its objects, 'the task of the Scottish constitutional commission' was helpful to gauge these issues. Here, Wright presented the personal opinion on the task of the Commission. First, he argued that the consensus achieved so far should be summarised in three documents. The first one was 'Towards Scotland's Parliament' was to show the detailed proposals for the Parliament. The second was the 'Electoral System for Scottish Parliament' published in February 1992, and tackled the electoral system and gender balance issue which needed to be further advanced. Third, published also in February 1992, was the 'Procedures and Preparation for Scotland's Parliament' which listed the issues unresolved by SCC at that point. As an electoral system, it was argued which electoral system best meets the six criteria adopted by the SCC, and should it be recommended in the first parliamentary election of the Scottish Parliament. Moreover, it addressed on the point of gender balance and fair representation of ethnic minorities. Lastly, it showed the posture of valuing the decision of the Constitutional Commission's report with considerable weight<sup>28</sup>.

From seeing the membership, the Constitutional Commission can be understood as independent from the SCC and also from political parties. As

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<sup>26</sup> SCC(1993)'Constitutional Commission- Terms of Reference' in "STUC Minutes October"

<sup>27</sup> *The Herald*, (25 September 1993).

<sup>28</sup> Wright, K. (1994) 'THE TASK OF THE SCOTTISH CONSTITUTIONAL COMMISSION (A Personal Reflection)', SPA/KW/1/1/2.

the main objectives were, the electoral system, gender balance and constitutional implication of Scottish Parliament which was expected to be explored within the SCC. From Wright's position, building consensus was emphasised throughout the whole process.

The first meeting was convened on the sixth of October 1993 in Edinburgh. The joint chairperson, Pollock said that the Commission was for the interests of all people in Scotland, not party factions, despite criticism witnessed from the Conservatives<sup>29</sup>.

In the meeting of the Executive committee of SCC in November, the progress was reported. It modified the Terms of Reference related to the issue of local government and with this the consultation process was advanced, and some financial support was confirmed<sup>30</sup>.

The discussion started on the electoral system after a few months passed. The important problems are listed in the form of questions. These being, firstly, in the sixth principles of electoral system, how are inherent conflicts in the SCC's six principles to be reconciled, and which one precedes. Second the precise definition of AMS should be clarified. As a practical issue, the number of members in parliament, constituency member's and additional member's selection/appointment were discussed, and also addressed on whether the threshold should be built in the system for the parties. Finally, gender balance regarding the issue of statutory obligation should be raised, and potential steps for the realisation of the maximum number of women should be considered<sup>31</sup>.

From here, it could be seen the major advancement on the issue of the electoral system. Regarding the principle, the possibility of conflicts and its precedence are examined, and it implies the development since then,

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<sup>29</sup> *The Herald*, (7 October 1993).

<sup>30</sup> SCC (1993) 'MINUTES OF MEETING OF EXECUTIVE COMMITTEE' (5 November 1993) in "STUC Minutes November to December".

<sup>31</sup> SCC (undated) 'SOME KEY ISSUES TO BE CONSIDERED BY THE COMMISSION' in "STUC Minutes January".

arguably speculating the threshold being similar to that of the German system.

Moreover, in discussing the electoral system, the consensus was respected. FPTP was not recognised in the Scottish Parliament, and the fundamental point was suggested in forming a fairer system. Especially the need of a closer correspondence between seats and votes was confirmed, and the acceptance of AMS shows how this means was agreed with. Lastly, a statutory obligation to achieve gender equality was ensured at this time<sup>32</sup>.

After the establishment of the Constitutional Commission, Executive committee of the SCC was independently operated from the discussion of the Commission. Since November of 1993, the Executive committee tackled on the report called 'The State of the Nation'<sup>33</sup>. After that, the Commission advanced the consultation process. The working group consisted of representatives from Labour, Liberal Democrats, COSLA, STUC, and an independent Wright assembled together and debated about the situation of the Commission. In the committee, discussion included some difficulties faced within the Commission including financial issues, academic backup, and resignation of John Pollock who was co-chair of the Commission<sup>34</sup>. Although embracing some issues, the Commission also moved on and focused on looking at the process of consultation and putting effort to gather oral evidences.

In the meeting held in May, it could be observed the extent of advancement in the period. It first reported the evidence heard from Jim Wallace and Andy Myles from Liberal Democrats. Regarding gender balance, it shared that the Liberal Democrats did not want to concede the statutory

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<sup>32</sup> SCC (undated)'KEY EXTRACTS FROM CONSTITUTIONAL CONVENTION PROPOSALS FOR SCOTTISH PARLIAMENT' in "STUC Minutes January".

<sup>33</sup> STUC (1994)'Minutes of the meeting of the general council 1st December 1993' in "STUC Minutes January".

<sup>34</sup> STUC (1994)'Minutes of the meeting of the general council 2nd March 1994' in "STUC Minutes April to May".

obligation on the ground that the introduction of proportional representation would in itself expect to increase the number of women MPs<sup>35</sup>. On a proportionality, though they expressed some preference of STV (Single Transferrable Vote), showing some basic commitment towards AMS. Moreover, saying that existing FPTP produced an 'unhealthy and undesirable geographic and political polarisation in Scotland'<sup>36</sup>. In June, STUC was also invited to provide oral evidence<sup>37</sup>.

Interestingly, here it could be seen the significant development in a discussion of proportionality, and assuming that the correspondence between votes and seats leading to criticism toward FPTP. In a sense, it should be noted the idea that imbalance produced by FPTP that should be corrected was born out of the discussions had. As a background of electoral system formation, of course, there is a moment of compromise and negotiation between parties, but the core idea may be heavily involved with by the Commission, as completing the report was the main focus of the Commission.

The consultation process was finalised and according to the STUC, the meeting of the Executive committee in 23rd of September 1994, planned to present a final report by press release from Joyce MacMillan and John Jamieson, which had been finished on the seventeenth of October. The report would have been chiefly discussed in the meeting of the SCC on the second

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<sup>35</sup> Liberal Democrats also pointed in another documents the reason why they do not want to accept the statutory obligation because the obligation by legislation to the party was interference of the state to party's constitution. Furthermore, they said that 'it is not function of the electoral system to determine who should be elected, rather it is for the voters' (Scottish Liberal Democrats (undated), 'A response to the consultation paper issued by the Scottish Constitutional Commission', in NLS).

<sup>36</sup> Scottish Constitutional Commission (1994) 'Minutes of Meeting of Commission held on 16 May 1994' (16 May 1994), SPA/GF/ER.

<sup>37</sup> STUC (1994) 'Minutes of the meeting of the general council 1st June 1994' in "STUC Minutes August to September".

of December<sup>38</sup>.

Looking at the course of the discussion, in the first phase, it already addressed on the issue of the six principles correspondence and precedent left from the gridlock situation created by prior discussion. Looking at proportionality, the notable advancement was observable in terms of seeing the imbalance of FPTP and the move on to the vision of AMS. The result of the discussion and SCC's achievement will be highlighted in the following section.

### *Content of the final report and appearance of AMS*

At a press release on the twenty-fifth of October, the Constitutional Commission submitted the final report. By submitting this showed the completed task of a consensus view in areas the SCC were not able to compromise by themselves (Wright 1997:197). The Commission's report 'Further Steps Towards A Scheme for Scotland's Parliament' is composed of four chapters; these being, ① Introduction and Terms of Reference ② Elections to and representation in a Scottish Parliament ③ Gender balance and Ethnic minority representation ④ Constitutional implications of the establishment of a Scottish Parliament<sup>39</sup>.

To introduce, the establishment of SCC and organisational development of SCC will be described briefly. After the confirmation of the background of the Constitutional Commission and its Terms of Reference, it said that the Commission held 12 meetings and received documental and oral evidences from organisations, groups and individuals, and also confirmed the conclusion of the Commission based on the consensus or majority view of independent membership, informed by the consultation process<sup>40</sup>.

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<sup>38</sup> STUC (1994)'DEVELOPMENTS IN RELATION TO THE SCOTTISH CONSTITUTIONAL QUESTION' in "STUC October".

<sup>39</sup> Scottish Constitutional Commission (1994)' FURTHER STEPS TOWARDS A SCHEME FOR SCOTLAND'S PARLIAMENT', pp1-2, in NLS.

<sup>40</sup> Scottish Constitutional Commission (1994)' FURTHER STEPS TOWARDS A

In the second chapter, the electoral system suggested by the Commission will mainly be argued. With a consideration of the past arguments, it considers prospects of an electoral system and gender balance. The sixth principles and three agreements were introduced as showing the consensus of SCC, and interestingly, it also introduces the view that a statutory obligation should be withdrawn and 180-194 parliament members suggested in 1992 will be compromised, as it was seen to be larger than might be desirable. Then, in the next section, some issues and priorities are listed, including inherent difficulties of adjusting six principles. In concrete, it was a conflict between the special consideration for the needs of the less populous areas and the spirit of proportionality, giving power to the electorate and the complexity and misunderstanding in the system. However, it also recommended not to rank order in six principles, intending for greater proportionality and enhanced representation of women and ethnic minorities whilst maintaining simplicity and comprehensibility with speed of implementation. Based on this consideration, it agrees to suggest the following six parameters<sup>41</sup>.

First, it emphasises the need towards greater proportionality to avoid similarity to 'Westminster', which denotes the phenomena of a party achieving little more than 40% of the vote and winning an overall majority of seats. Second, it justifies AMS on the ground of familiar constituency element and a proportional element, along with meeting many of the requirements in the six principles<sup>42</sup>. Third, initially at least from the point of simplicity,

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SCHEME FOR SCOTLAND'S PARLIAMENT', pp3-4, in NLS.

<sup>41</sup> Scottish Constitutional Commission(1994) 'FURTHER STEPS TOWARDS A SCHEME FOR SCOTLAND'S PARLIAMENT', pp5-6, in NLS.

<sup>42</sup> It raised five criteria's as an example, ((a) that the electoral system should produce results in which the number of seats for various parties is broadly related to the number of votes cast for them, (c)that it preserves a real link between the number and his/her constituency, (d)that it is simple as possible to understand, (e )that it ensures adequate and some extents and (f)that the system be designed to place the greatest possible power in the hands of the

existing constituency boundaries were planned to be used in the election of Scottish Parliament. Fourth, the size of the Parliament was recommended to limit a range of 100-140 members with a preference for a relatively small and streamlined Parliament though conceding the difficulty of achieving proportionality in a smaller government. Fifth, there is a room for consideration of method in guaranteeing 50/50 representation of men and women in the Parliament, adding that greater proportionality would be likely to encourage improved representation of women and ethnic minorities. Sixth, the election of constituency MPs would be elected through FPTP, retaining the criteria of simplicity and preservation of a link between member and constituency, and under AMS achieving broad proportionality as a whole<sup>43</sup>. Thus, as a recommended system, it gave the following points;

- (a) That each elector shall be entitled to cast two “x” votes, one for the constituency MP of his/her choice, and one for the party or group “list” of his/her choice;**
- (b) That the votes in the constituency MSP section of the poll will be counted on a first-past-the-post basis in Westminster constituencies, thereby electing- subject to boundary changes in the intervening period- 72 constituency MSPs;**
- (c) That the votes in the party/group section of the poll will then be counted on a Euro-constituency basis(adjusted, where necessary, to make the Euro-constituency contiguous with Westminster constituency boundaries); and that five Additional MSPs will be allocated to each Euro-constituency so as to make the total representation of that area -including the individual constituency MSPs- correspond as closely as possible, within constraint of numbers, to the preferences expressed in the party/group section**

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electorate).

<sup>43</sup> Scottish Constitutional Commission (1994) 'FURTHER STEPS TOWARDS A SCHEME FOR SCOTLAND'S PARLIAMENT', pp7-8, in NLS.

**of the poll. Since there are eight Euro- constituencies in Scotland, this will produce a total of 40 Additional MSPs, creating a Parliament of 112 members<sup>44</sup>.**

Furthermore, in addition to the system stated above, three notes were attached. First, as note 1, the Commission discussed the method of allocation of Additional MSPs should be simply proportional in itself preserving pure distinction between the 'proportional' and 'constituency' section, or, 'it should be used correctively to compensate for the imbalance created in the first-past-the-post section, and to give greater overall proportionality in the Parliament'. It added that the pure distinction option would advantage every party and not only those who perform badly in terms of constituency seats, a clear stake in the additional member section of the poll. Next, as a note 2, the Commission took into account of whether electors ordering candidates or party or groups themselves list candidates. The majority view was not implementing the system at least in an initial phase. Lastly, in note 3, it debated the problem of threshold and concluded no requirement for a specific 'threshold' provision.

In the report 'Further Steps Towards A Scheme for Scotland's Parliament' contributed massively to form the current system for the Scottish Parliament, AMS. From here, it could be said that meeting the six criteria was an important guidance, and AMS was considered as a system which would utmost fit those standards. The usage of existing constituencies meant the simplicity and comprehensiveness were valued as a point. Compared to the version of the document in 1992, 'Electoral System for a Scottish Parliament', there are two significant modifications.

First, the scale of the Parliament was changed. In February 1992, it suggested 180-194 members though in the Commission's report it proposed 100-140 members from the viewpoint of efficiency and a tidy parliament. Second, means to achieve gender equality was reconsidered here. In the

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<sup>44</sup> Scottish Constitutional Commission(1994) 'FURTHER STEPS TOWARDS A SCHEME FOR SCOTLAND'S PARLIAMENT', pp7-8, in NLS

report, it recommended a withdrawal of a statutory obligation. When it comes to the attitude of respecting a consensus, these changes were influential and meaningful.

More importantly, it can be observed the significant development of ideas in note 1. Although the precise definition of AMS was undone enough until the work of the Commission, the section showed two allocation systems. One placed seats purely by proportion, and another was to allocate members correctively to compensate for the imbalance produced by FPTP, the latter got a majority support. Here, the core of the current seat allocation system was originated in this discussion, and the contribution of the Commission was noticeable in this regard. The Herald, leading newspaper of Scotland stated, 'The battle, to be resolved at a public meeting of the Scottish Constitutional Convention in December, hinges on whether these additional members be used proportionally or "correctively" which would deny Labour a majority'<sup>45</sup>. At the same time, it pointed out the possibility to deny Labour's overall majority and it is interesting to raise the idea of allocating 'correctively.' There was a major advancement in methods of seat allocation. However, the number of seats and gender equality issues were still controversial, therefore difficult to reach a consensus. The next sub-section will look at how the content of report was debated by the parties and how those two unresolved issues came to a conclusion in the end.

### **The acceptance and final construction of the completed report**

#### *Constitutional Commission's report and parties' response*

On the eleventh meeting of the SCC, held on the second of December, the Commission's report was put on the agenda, however, opinions differed widely (Wright 1997:202). In his speech, Wright confirmed two major tasks. First, to enlarge consensus in the remaining areas and second, to present the scheme and demonstrate to the people and the institutions of Scotland. Through evaluating the Commission's work, it reiterated the need for

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<sup>45</sup> *The Herald*, (26 October 1994).

consensus<sup>46</sup>.

In October, Robertson, whilst accepting the size of Parliament and AMS, at the division of seats, reacted by stating to 'look carefully'. He also regarded the way of the allocation system was a very important point in the discussion<sup>47</sup>. After the meeting in December, in contrast, he welcomed the report warmly with a need for consensus. Jim Wallace, from the Liberal Democrats, also agreed which showed the willingness to discuss proportional representation from the viewpoint of creating a 'less confrontational and more deliberative' parliament (Wright 1997:202). Here, it seems Robertson converted his attitude. Wallace, by contrast with his processor Bruce having an adversarial style, emphasised an idea based discourse similar to the position of SCC.

From January, the argument of the electoral system entered the final phase. The Executive committee of SCC held in January discussed the development after the release of the Constitutional Commission's report. In the introduction, it strongly argues the need of consensus, pointing out the deficit of mutual understanding. Then, the remaining issues were listed as the electoral system and size of Parliament, the achievement of gender balance, Scottish representation at Westminster, and the constitutional role of Local government. Moreover, it confirmed giving priority to reach a broad consensus in time for the party conferences in March and April, thus not taking a fixed position in the meantime. At last, it showed a prospect to hand in the updated version of 'Towards Scotland's Parliament' which formed the basis of the policy statement and manifesto commitments. As a conclusion, it said that 'we must remember the Convention is not just a coalition of parties but includes broad sectors of Scotland's "civic society"'. Therefore, the scheme should be involved to be representatives of large sections of the people of

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<sup>46</sup> Wright, K.(1994)'TOWARDS SCOTLAND'S DEMOCRACY THE NEXT STEPS Address to Scottish Constitutional Convention, 2 December 1994',SPA/KW/1/1/2.

<sup>47</sup> *The Herald*, (26 October 1994).

Scotland<sup>48</sup>.

At the same time, Labour also started the consideration of the Commission's report. In the Scottish Labour Party Executive committee, they discussed the policy document involving the scheme for Scottish Parliament for the Scottish Conference of the party. It was also agreed to have a discussion with the Scottish Liberal Party and with SLP/STUC women's representatives<sup>49</sup>. In February, Assistant General Secretary, Tommy Sheppard sent a letter to George Roberson presenting the party's strategy and discussions for Scottish Parliament. By looking at this argument, it will show the position of Labour at that point.

Sheppard suggested three precedence objectives in the debate. First, it pointed out that Labour's Home Rule policy should be presented as a clear and distinct constitutional proposal. SNP and the Conservatives have an incentive to mispresent Labour as sitting on the fence. They are caricatured as watered-down nationalists from the Conservatives, and as unionists, and watered-down Tories from the SNP. Second, the emphasis on presenting the worthiness of the Scottish Parliament was argued as a body of making a difference, because SNP described it as a 'toothless one' and the Conservatives as another layer of 'expensive bureaucracy'. Third, it said that Labour should be seen to stand up for Scotland and satisfy the aspiration of the Scottish people. Regarding to those three issues, he also gave concern about the concept of a parliament inside and strengthening the UK may leave Labour vulnerable to attack. As a strategy, he implied the need to take a more offensive position against other parties and secure Labour's own position. Moreover, he argued that the devolution enabled the union to continue through easing democratic frustration and justifying their

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<sup>48</sup> Wright, K.(1995)'The Convention's Strategy'(24 January 1995), SPA/KW/1/1/2.

<sup>49</sup> Scottish Labour Party (1995)'MINUTES OF THE MEETING OF THE SCOTTISH LABOUR PARTY EXECUTIVE COMMITTEE'(11 February 1995), SPA/BM/SLP/3.

constitutional position. Accordingly, from his view, it is important that Labour 'are seen to argue this as a consequence of devolution, and not a reason for it'. With an emphasis on the parliament being what people wanted, he presented the case 'to the Scottish electorate first, and the consequential beneficial effects of the proposal on the UK second'. Lastly, relating to the point, he suggested along with the lines of 'a Scottish parliament as part of a new Labour Britain'<sup>50</sup>.

The background of the document 'A Parliament for Scotland' was published in a party conference in 1995. The report starts with the introduction of Robertson, it shows the adversarial attitude against other political parties, and confirm the point of SCC's plan deliberately prepared and argues the work of SCC should be basis for Labour's legislative plan. In the section 'Scotland's Parliament- Labour's plan', it summarises the discussion so far and confirms that MPs will be elected by a more proportional electoral system with ensuring equal representation for men and women. Accordingly, it proposes a modern legislature in tune with Scotland's needs. Then, describing the work of the Constitutional Commission and introducing the report, it outlines the response to the final report subsequently. Labour shows the endorsement to the Commission's view on the boundary of constituencies, keeping simple, comprehensive and ensured speed of implementation. In order to ensure the fair geographical representation, it justifies the usage of the local list than national list, and argues European constituencies should be used to elect additional members. Despite the fact that the Commission recommends 72 FPTP members with 40 list members, it implies increasing the number of seats will help the democratic objectives for the Parliament<sup>51</sup>.

With regards to equal representation for men and women, Labour actively ensures the equal measure of achieving gender equality, and shows the

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<sup>50</sup> Sheppard, T (1995) 'George Robertson MP House of Commons' ,(21 February 1995), SPA/GR/SN/PARL1.

<sup>51</sup> Scottish Labour Party (1995) 'A Parliament for Scotland Report to the 80th Annual Conference of the Scottish Labour Party', pp1-3, SPA/GR/SN/PARL2.

regret that the Commission could not suggest a statutory method for enhancing women's representation. Based on this understanding, it said that Labour pursues the mechanism for gender equality in SCC. In the conclusion part, it focuses on the advantage of SCC's scheme as provision of stability and giving people in Scotland real power. Finally, it argues that Labour is firmly committed to delivering a Scottish Parliament and is the only party to realise positive constitutional reform<sup>52</sup>.

In March 1995 was when substantial discussion kicked off. From this time, the moment of party politics became remarkable. On the one hand, the Executive committee of SCC showed the direction of task and agenda forward and simultaneously its cross-party nature as embracing a large part of civil society in Scotland. On the other hand, it shows Labour's focus on the strategies as a political party in this period, especially in the letter of Sheppard. It pushed the own Home Rule policy though conceding the fear against attack from other parties due to their constitutional position. From here, it can be seen as a strong attitude to defend their interests against other parties. In Labour's report of the Conference, it showed their broad support for the Constitutional Commission's report. Moreover, it is noteworthy they had a position to enlarge the number of seats even though it might be a disadvantage for them to discourage their reliable support. Conversely, as a gender equality issue, it argued the deficit of the report because it did not take a statutory method so clearly they were opposing regarding this issue. In this phase, Labour generally supports the recommendation from the Commission, but the number of seats and gender equality issues were yet to achieve the consensus and continued to be of discussion. The next section will look at how the debate developed from April onwards.

### *The battle on the number of seats and gender balance*

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<sup>52</sup> Scottish Labour Party (1995) 'A Parliament for Scotland Report to the 80th Annual Conference of the Scottish Labour Party', pp3-4, SPA/GR/SN/PARL2.

From March 1995, it activated the discussion for consensus building. Wright pointed out the three obstacles in this period, which was Entrenchment, Gender balance, and the Electoral system (Wright 1997:207). Discussions of Gender balance and the number of seats was a time-consuming process. About its size, STUC also prepared for a response to the Commission's report and presented the preference in larger parliament as it increased the number of seats<sup>53</sup>. In the initial phase, every party and organisation's view were at variance; Labour suggested 112, Liberal Democrats 145, and STUC 214 members (Wright 1997:212). However, since then, the main arguments were conducted between Labour and the Liberal Democrats.

After the party conference, Labour developed the argument in detail. In April, in the Executive committee of Labour, the discussion centred on the gender equality issue. It was noted that adoption and implementation by each party procedures to select an equal number of men and women candidates were discussed between Labour and the Liberal Democrats. Regarding the issue, Electoral contract was proposed between two parties. In the draft, it consisted of four agreements to achieve an equal number of men and women for the first Scottish Parliament, and the parties had to commit to the following criteria:

- ① **taking into account both the Constituency and Additional Member List candidates to select and field an equal number of male and female candidates for election;**
- ② **ensure that these candidates are fairly distributed with a view to the winnability of seats;**
- ③ **use the Additional Member System(AMS) for election;**
- ④ **ensure that the size of the Scottish Parliament is large enough to facilitate effective democratic government**

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<sup>53</sup> STUC (1995) 'Minutes of the meeting of the organisation and policy committee 15th March 1995' in "STUC Minutes April to May".

In addition to the four criteria, it noted the Liberal Democrats wished to add the fourth part to clarify the number and with 145 members. Here, showing the concern of increasing the number from 112 to 145. After that, it reported the full meeting of SCC had been planned for the ninth of June, which needed to approve a new version of 'Towards Scotland's Parliament'. Lastly, the CLPs (Constituency Labour Party) and affiliates were asked for approval of four points stated above, and the consultation included the size of the Parliament<sup>54</sup>.

Then, the Liberal Democrats, in the Motion in party conference, also showed the endorsement of the Commission's report and accepted AMS comprising 73 constituencies by FPTP and 72 additional members to achieve proportional representation. It regards 'Electoral Contract' as successful though giving two reservations in which any system does not achieve good proportionality being rejected and statutory imposition of a 50/50 solution to the achievement of a gender balance<sup>55</sup>.

In this time, to look at the discussion between two parties, the number of seats and gender balance was still debated. Labour supported 112 members, Liberal Democrats, in contrast, proposed 145 members. Otherwise, Labour agreed to give larger proportionality in the fourth point of Electoral Contract so it can be said that they positioned generously in terms of number. On gender balance, Liberal Democrats did not want the statutory method to achieve gender equality. The reason behind was stated already, as unwillingness toward interference from states by law and proportional representation naturally encourage women's representation.

On gender balance, the electoral system, envisioned in 1992, was built in as a form of statutory obligation to improve women's representation. Although after the proposition of the Commission, it encouraged a reconsideration to

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<sup>54</sup> Scottish Labour Party (1995)'Scottish Constitutional Convention progress report' (22 April 1995), SPA/BM/SLP/3.

<sup>55</sup> Scottish Liberal Democrats (1995)'Motion 11 SCC' (29 April 1995), SPA/BM/SLP/3.

the issue of method to achieve gender equality. In so far as Labour showing an active attitude to have statutory obligation, the debate then still lingered on at this time (see Table 2).

**[Table 2] The point at issue in early of 1995 between Labour and Liberal Democrats**

Party \ Issue	The seat of number	Gender balance
Labour	112	Statutory Obligation
Liberal Democrats	144	Against Statutory method

Otherwise, Labour also offered some posture for compromise as to the number of seats, and it moved on the issue from May. Around this time, Labour and the Liberal Democrats sought to compromise and complete the scheme on two issues. Then, Sheppard raised the following three issues as remained areas to be resolved and conducted consultation with CLPs and affiliated organisations (including trade unions).

First, it was the principle of a multi-party agreement on equal representation. The Scottish Executive asked CLPs and affiliates to endorse the principle of an agreement with other parties on the fielding of male and female candidates. Sheppard made clear it was a voluntary agreement, and he cast a doubt to the any electoral pact. However, he also said that it was possible to understand methods of selection, and parties in SCC should persuade other parties to follow the same way. On that basis, he questioned the endorsement of the principle and entry of Labour into an understanding with other parties. Second, the amendment of procedures for selection was questioned in order to provide for the selection of equal numbers of male and female candidates. Third, the size of Parliament was questioned. It introduced the view of the Commission's report as 112 and followed the number of 142, which legislation drafted in the late 1970s for a parliament without proportional representation. Next, it confirmed the acceptance of AMS and suggested the simplest way to vary the size of the Parliament was to increase or decrease the number of seats in local list part.

Accordingly, he proposed six factors to consider in deciding the number required for adequate legislative and Executive function, the balance between the number of seats, the public perception of various sizes of Parliament, further mechanism like quotas, international comparisons of devolved legislatures, and overall political balance within the Parliament. Based on that, it questioned the number of members there. Then it had planned to get a response by the eighteenth of August 1995<sup>56</sup>.

As the consultation process went on, it agreed that the office and the Executive would have to take a flexible attitude to responses received<sup>57</sup>. The meeting of the Executive of SCC on July planned to do initial consideration on the first draft and to consider the draft of the final report ideally to be completed on the tenth of September<sup>58</sup>.

In the discussion between May and August, the consultation process was conducted to affiliates and CLPs especially in the letter of Sheppard. Various points were addressed to consider the number of seats and gender balance in system formation despite some delay by preparation for the by-election<sup>59</sup>. From the end of August, as a result of this consultation, it proceeded the electoral system formation and decided the details.

Sheppard, documented the end of August as reporting each committee the results of the consultation. First of all, it confirmed the content of consultation with CLPs, affiliated trade unions, and socialist societies on a voluntary multi-party agreement on achieving equal representation between men and women, and options for its size. It also showed the prospect of this consultation

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<sup>56</sup> Sheppard, T(1995)'To Constituency Labour Party, Womens Sections, Affiliated Trade Unions, Socialist Societies', (31 May 1995), SPA/BM/SLP/3.

<sup>57</sup> Scottish Labour Party (1995)'MINUTES OF THE MEETING OF THE SCOTTISH LABOUR PARTY EXECUTIVE COMMITTEE', (10 June 1995), SPA/BM/SLP/3.

<sup>58</sup> Scottish Labour Party (1995)'Policy Development', (10 June 1995), SPA/BM/SLP/3.

<sup>59</sup> Scottish Labour Party (1995)'Policy Development', (10 June 1995), SPA/BM/SLP/3.

exercise should be contained in the updated version of SCC's report. As following a confirmation, it introduced the result of consultation, and it amounted to 32 written responses including 21 from CLPs, two from Women's Sections, three from Socialist societies, and six from trade unions. On multi-party agreement, the overwhelming view was to endorse the Scottish Executive in seeking a voluntary agreement to political parties to field an equal number of men and women. Only three responses disagreed, and four were silent. As selection procedures, it also got substantial support. With regards to the size of the Parliament, there was a greater diversity of opinion. Six of the responses were in support of 112/113 members, one response argued for a smaller parliament of 90 members and only two suggested a large number in excess of 200. Nevertheless, the most popular option was 144/145 members, this being the view of 19 of the respondents. The respondent group encompassed two different approaches. One was for those who wanted a parliament comprised of 144 members elected by FPTP with one man and one woman to be elected from each of 72 constituencies from four CLPs. Another was the those who favoured a parliament of 72/73 constituency members elected by FPTP with a further 72 additional members elected by local lists, which was a majority position, supported by 14 respondents. Accordingly, it recommended the multi-party agreement designed to get equal numbers of men and women, new procedures aimed at selecting equal numbers, and the Executive notes the views of the party on the size of the Parliament with the objective of securing an overall agreement within the SCC<sup>60</sup>.

Otherwise, the discussion on the Executive committee of Labour in September was directed in another way. The member of the Executive committee, and the member of SLA, Bob McLean reported its content in Scotland south of CLP. The consultation process was intervened by George Robertson MP, and as a result, the Executive committee supported the deal

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<sup>60</sup> Sheppard, T (1995) 'Scottish Parliament- results of consultation process', (23 August 1995), SPA/BM/SLP/3.

of Robertson with Liberal Democrats Leader Jim Wallace. Robertson initially favoured a smaller 113 members of Parliament, but in the consultation process a majority preferred the 145 members model. Robertson persisted the opposition against the number and surprisingly finalised the discussion as he made a deal with 73 FPTP members, and 56 additional members amounted to 129 in total in the morning of the seventh of September. Originally it had planned to discuss after the day, and from the process the Executive committee was swept out by the pre-empting of Robertson.

Nonetheless, the Executive members, including McLean, supported the deal with Robertson. He subsequently explained the reason as followed. First, if the Executive had refused to back George, it would have been seized upon by Forsyth<sup>61</sup> and others, and the media would have been full of 'Robertson Undermined' stories. Second, it was his assessment that party members on the constituency would want to avoid that scenario. Third, a sense of perspective, as in 1988 when he launched a pamphlet 'a fair elections to a Scottish Parliament', many people ridiculed the suggestion and argued that Labour would never agree to break with FPTP. In a sense, at the time, the shift from FPTP and results of 129 members with AMS would have been out with his most optimistic expectations<sup>62</sup>. After that, the final report had been announced by the meeting in the thirtieth of November<sup>63</sup>.

In the final report, 'Scotland's Parliament, Scotland's Right' was published and it was a basis of the current electoral system, AMS with 73 members elected from constituencies corresponding to the existing constituencies of Westminster, except that of Orkney and Shetland which will become two separate constituencies, elected with FPTP. The second vote cast to a party or group counted within the eight Euro-constituency, and the seven seats

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<sup>61</sup> Secretary of State for Scotland at that time.

<sup>62</sup> McLean, B. (1995) 'SCOTTISH EXECUTIVE REPORT September 1995', SPA/BM/SLP/3.

<sup>63</sup> Scottish Labour Party (1995) 'MINUTES OF THE POLICY, ELECTIONS & CAMPAIGNS COMMITTEE', (26 October 1995), SPA/BM/SLP/3.

from each will be allocated so that there is total representation from each area. It will correspond as closely as possible with the share of the vote cast for each party in the area. With regards to the issue of gender equality, the electoral agreement was noted as the cross-party agreement which accepted the principle that there should be an equal number of men and women as members. This committing the parties to field and select candidates for election, and ensuring these candidates are distributed with a view to the winnability of seats<sup>64</sup>.

Thus, it tries to summarise the discussion from 1991 to 1995. The role of the Constitutional Commission was significant in the system formation, because it succeeded to produce a prototype of AMS based on the idea that the imbalance produced by FPTP would be corrective by the seat allocation of additional members. Notably, the discussion of the Commission was processed by the independent membership from the party and based on the consensus of SCC. Therefore, the process of formation of AMS should be understood by intra-party negotiation, and it should be understood as a sum of the gradual consensus-building of SCC including the six principles of 1990's report and three consensus of the document in 1992. The number of seats was decided on the basis of the report of the Commission, Labour and the Liberal Democrats proposed each preference, but in the course it got stalled. However, Labour showed an attitude of a willingness to compromise and the Electoral pact was assigned, enabling to conclude to widening of the number of seats. Especially within the consultation process, the increasing number would be in favour by the affiliated organisations. Nevertheless, an unpredictable consequence by the intervention of Robertson and his negotiation process with Wallace occurred.

There are two points that remained as a puzzle. First, why Labour accepted the report of the Commission from an early phase, and why Robertson pre-empted the process and prevented the enlargement of the number of seats. In answering these questions, in the next chapter, it will

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<sup>64</sup> SCC (1995) "Scotland's Parliament, Scotland's Right", owned a copy by author.

interpret the process of electoral system formation from 1989 to 1995 based on the framework of two territorial logics. The causal mechanism of the system formation will lead out by the operation of the logic of autonomy and the logic of union, and from the constituent of the logic, it will consider the substance of the logic.

## **5 Discussion: Logics of political parties in territory and cooperation**

This chapter will go on to reflect the process of the electoral system formation from 1989 to 1995, demonstrating the operation of logic of autonomy and the logic of union and examining how the two logics could explain the causal mechanism of the system formation. Additionally, by answering the questions I set above, the theoretical framework of this article, the logic of autonomy and the logic of union will be assessed, its functions being extracted from the process as these were described through chapter three and four. The primary question of this article was why Labour formed a disadvantageous system for themselves in terms of the number of seats. Subsequently, one of the sub-question was why proportional representation's introduction was realised as necessary in the period between 1989 to 1990. This question will be tackled by demonstrating the logic of autonomy, which worked through the active involvement of Labour in Home Rule commitment and its decision to accept proportional representation. Then, it also analyses the seat allocation system formation by focusing on the role and contribution of Constitutional Commission, which could be understood as a product of collaboration between Labour and SCC under the logic of autonomy. The question, left at chapter four, was the reason of acceptance of the report from the Commission and the reason of intervention by Robertson in deciding the number of seats, will be addressed through demonstrating the logic of union, which is exerted by Labour. By exploring both of the logics, the properties and the substance of the two logics will be presented, and thereafter, under what conditions are considered as the logic precedes within the parties. Lastly, the implication of these two logics will be presented.

## Cooperation between Labour and the SCC: logic of autonomy

### *Interaction between SCC and Labour*

In this section, it will consider the operation of the logic of autonomy. First, the definition of the logic of autonomy is confirmed. Under the logic of autonomy, a party behaves as an agent of the territory to push for the agenda of autonomy for expressing the demand in territory even though it disposes of vote-seeking behaviour in an election. Thus, a party can collaborate with civil society or other actors for realisation of the agenda of autonomy. The goal of a party under this logic was the advancement of the specific policy being inherent to the territory and enwidening the autonomy within the state regardless of the constitutional form as following; an establishment of parliament, constitutional reform to the federal state, and independence. Through proper observation of the case, it will consider how the process worked, its properties and limitations.

From the establishment of the SCC in 1989, and the event 'Towards Scotland's Parliament' held in November 1990 in the document 'Electoral System for a Scottish Parliament' in 1992, there is a process of system formation and building a consensus. The process should be revisited from the aspect of the operation of logic of autonomy. One of the fundamental issues that influenced the system formation was the acceptance of proportional representation. In 1989, there was a variance in choice of which electoral system would be adopted, including the current system for Westminster Parliament and FPTP. The consultation document 'Towards A Scottish Parliament' introduced the principle of 'one person, one vote' rule as saying that was operated in 'tandem with the "relative majority" or "First-Past-The-Post" rule<sup>65</sup>'. In this phase, through listing possible alternatives, it presented different systems and a continued usage of FPTP was described in the document. Until March 1990, before Labour had held their conference, the

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<sup>65</sup> SCC (1989) "TOWARDS A SCOTTISH PARLIAMENT CONSULTATION DOCUMENT AND REPORT TO THE SCOTTISH PEOPLE", pp.36, National Library of Scotland (NLS).

formal and minimum consensus was only limited in certain bounds 'any Scottish Parliament should be as genuinely participative and representative of the people as is possible'<sup>66</sup> and it remained as a level of the ideal. The group, which had a strong influence was the SLA, which promoted an autonomy issue within Labour.

In the document 'Proposal for Scottish Democracy', FPTP was criticised, and the Alternative Votes was argued instead. Interestingly, in the pamphlet, it was pointed out that the policy position of proportional representation was accounted by Liberal Democrats and SNP though it did not dominate the public opinion in Scotland for an extended period of time. Besides, it expressed a concern of FPTP<sup>67</sup>. Here, SLA did not refer to AMS; however, they showed the direction towards reform of FPTP. Moreover, the argument of 'dual mandate' was to 'seek a specific Scottish mandate' (Hassan and Shaw 2012:55), and it was relative to the idea of logic of autonomy. Furthermore, the four criteria, raised in the pamphlet 'Real Power for Scotland' and the six principles in the SCC's report 'Towards Scotland's parliament' have similarities. Thus, SLA's argument was succeeded to the SCC and therefore created a collaboration between SLA and SCC in the consultation process.

As a result, the consultation leaflet 'A Parliament For Scotland' noted 'The Convention does not believe that the Westminster Parliament is a model to be automatically followed'<sup>68</sup>. SLA responded to this in 'Real Power for Scotland' as it argued that current Westminster Parliament became a caricature of what modern democratic legislature could be. Following, it showed the rejection of FPTP as proven potential for the abuse of power<sup>69</sup>. The tendency of refusing FPTP was gradually developing. In February of

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<sup>66</sup> SCC (1989)'A PROGRESS REPORT FROM THE EXECUTIVE REPORT TO THE MEETING OF THE SCOTTISH CONSTITUTIONAL CONVENTION'(7 July 1989), SPA/KW/SN/1/2/1.

<sup>67</sup> SLA (1989)'PROPOSALS FOR SCOTTISH DEMOCRACY', NLS.

<sup>68</sup> SCC (1989) 'A PARLIAMENT FOR SCOTLAND DISCUSSION LEAFLET', SPA/JMC/SN/CC.

<sup>69</sup> SLA (1989)'REAL POWER FOR SCOTLAND', SPA/JMC/SN/CC

1990, the Deputy General Secretary of STUC mentioned on electoral reform 'there was a growing feeling that the 'first past the post' system would be unsuitable for a Scottish Parliament<sup>70</sup>. Consequently, the resolution of refusal of FPTP and support for 50/50 representation for men and women was passed at Dunoon Conference in 1990<sup>71</sup>. By this, the argument of SCC for 'Towards Scottish Parliament' was advanced dramatically, and the report concluded the refusal of FPTP and six principles.

As confirmed above, proportional representation was fostered in Labour by contribution of the SLA, supported by John McAllion, and member Jack McConnell who at the same time was member of the Executive committee of SCC<sup>72</sup>. From here, it can be said that the SLA and other groups advocating for autonomy in Labour and the SCC were working together. The advancement of SCC's argument could not be imagined without the acceptance of proportional representation by Labour. It is observable that the idea of criticism to FPTP and 'Making the Scottish Parliament Truly Representative' was brought together by the SCC. The result was seen in the report 'Towards Scotland's Parliament,' as it established that 'the first-past-the-post has produced weighed results' and 'open, accessible and democratically accountable government and a participatory democracy'<sup>73</sup>. Additionally, the argument of equal representation between men and women, discussed in STUC women committee was not taken as a part of AMS, but connected to the report of 'Electoral System for a Scottish Parliament' in

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<sup>70</sup> STUC (1990) 'Minutes of the meeting of the general council 7th February 1990' in "STUC Minutes February to March".

<sup>71</sup> Actually, the resolution was a close-run result. According to Saren and McCormick, it was 'won only by some traditional trade union vote fixing and a recognition that the Constitutional Convention could go no further without a deal on voting reform' (Saren and McCormick 2004:95).

<sup>72</sup> SCC (1992) 'Schedule of Membership' ,(28 September 1992), SPA/KW/SN/1/2/2/1.

<sup>73</sup> SCC (1990)"TOWARDS SCOTLAND'S PARLIAMENT",pp12, SPA/KW/SN/1/2/2/2.

1992<sup>74</sup>.

This interaction could be interpreted as conducted under the logic of autonomy for developing a new fairer system for Scottish people based on the specific territorial interest. This idea is common with the concept of 'new politics.' By sharing this attitude, Labour can consistently put in effort to value consensus-building and leading discussions. Thus, the process of system formation from 1989 to 1992 can be described as collaboration by sharing the logic of autonomy. In a sense, it worked as a flagship of diverse organisations advancing self-autonomy. Thus, the logic of autonomy has acted as a principle of a party as well as a shared idea between various actors.

Otherwise, there would be some counterargument, especially in the aspect of disposal of vote-seeking behaviour. It may be not facile to clearly define and observe Labour, especially in the acceptance of proportional representation which would in some ways be interpreted as being an expense of vote seeking behaviour. Nevertheless, this article answers that on the following grounds. First, though there was electoral reform in the democratic regime, it still is important to think about the commitment to Home Rule and shift towards reform as a highly contingent background. Again, in 1978, the Scotland Act did not show the attitude for reform at that time<sup>75</sup>. The direction of reform should be a watershed moment for Labour. Bob McLean also mentioned '(published in a pamphlet in 1988) at the time, many people ridiculed the decision and argued that the Labour Party would never agree to break with first past the post<sup>76</sup>'. From the subjective perspective of a Labour member, it would be agreeable to say it was a big move. Regarding

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<sup>74</sup> It was not built in electoral system as a mechanism but Labour applied a 'twinning(pairing)' system, which was some form of voluntary quota, realising gender equality in representation. Interestingly SNP also placed women high on the party list too (Brown 2000:551).

<sup>75</sup> Scotland Act 1978 (<https://www.legislation.gov.uk/ukpga/1978/51/contents/enacted>).

<sup>76</sup> McLean,B.(1995)'SCOTTISH EXECUTIVE REPORT September 1995', SPA/BM/SLP/3.

this point, SCC's chair also evaluated Labour in the same way. Wright also perceived Labour as putting 'the interests of the people before narrow party advantage'<sup>77</sup>. Therefore, at least in 1990s political context, Labour's decision towards proportional representation was a massive change, and it may be possible to interpret it as a partially sacrificed seat-maximisation interest. Hence, it can be concluded that Labour acted on the principle of logic of the autonomy to advocate for the territorial interest. The next section will consider the limitations of this.

*The substance of logics of autonomy and its operation*

Here, with a focus on the collaboration with other organisations, it considers the substance of the logic of autonomy as an example of the Constitutional Commission. It first looks at how Labour and SCC actively called for other parties.

Then, it is a necessity to consider how SCC and Labour dealt with the SNP who joined initially and exited and the Conservatives who refused in the first place. Collaboration with SNP was proposed by the SCC. The initial attempt was in June 1989, when SCC started to operate. General Secretary of STUC, Campbell Christie sent a letter to the leader of SNP, Gordon Wilson, to suggest a joining in SCC. In the letter, it showed that Bill Speirs, Deputy General Secretary, asked a few times about the possibility for the participation from February till then. In the letter, Christie tried to persuade Wilson for the potential of possibility joining<sup>78</sup>. The STUC called for support from SNP and unity towards an establishment of the parliament. In contrast, Wilson replied that SNP would not be able to join the SCC, because they could not accept the request from SNP, a multi-option referendum including

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<sup>77</sup> Wright, K. (1991)'EXTRACT OF SPEECH FOR LABOUR PARTY CONFERENCE', SPA/KW/1/1/1.

<sup>78</sup> 'From Campbell Christie to Gordon Wilson(19 June 1989), in "STUC Minutes June to July".

the status quo, devolution, and independence. It also criticised that Labour got a majority in SCC and it did not have a democratic mandate<sup>79</sup>.

SCC offered cooperation with SNP though SNP did not take the offer because it valued a multi-option referendum as their policy position. SCC also approached the Conservatives for working. Wright attended the party conference of Conservative asking them to join<sup>80</sup>. In the consultation process in 1989, SCC also asked for response towards the constitutional issue. In describing the Conservatives, Wright said 'If any group in Scottish society is not fully part of this national discussion it will certainly not be because we closed any doors, but because it has excluded itself<sup>81</sup>'. Thus, SCC seemed to promote themselves as 'cross-party organisation' beyond Labour's talking shop due to its appeal to the other two main parties in Scotland.

In May 1993, the organisation called 'Coalition for Scottish Democracy' was set up<sup>82</sup>. The organisation made a lobby on the issue to do with a European matter, and did petition activity to the European Parliament regarding self-determination. The petition was conducted by MPs including George Robertson from Labour, Jim Wallace from Liberal Democrats, and interestingly Alex Salmond from SNP. It was also followed by some notable civil society members including Campbell Christie from STUC and Isobel Lindsay from the Campaign for a Scottish Parliament<sup>83</sup>. This organisation is not identifiable with SCC, of course, but still important to recognise its collaboration among the actors involved with the Home Rule issue. Even in SCC, it planned a partial cooperation with SNP in short-term strategy. This

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<sup>79</sup> 'From Gordon Wilson to Campbell Christie'(22 June 1989), in "STUC Minutes June to July".

<sup>80</sup> *The Herald*, (16 May 1989).

<sup>81</sup> *The Herald*, (24 October 1989).

<sup>82</sup> STUC (1993) 'Minutes of the meeting of the general council 5th May 1993' in "STUC Minutes June.

<sup>83</sup> STUC 'PRESS RELEASE COALITION FOR SCOTTISH DEMOCRACY PETITION TO THE EUROPEAN PALIAMENT ON SCOTTISH DEMOCRACY ' in "STUC Minutes January"(1994).

meeting was seated by Black, Wright from SCC, Christie from STUC, Tom Clarke and McConnell from Labour and Steel and Wallace from the Liberal Democrats<sup>84</sup>.

Moreover, the establishment of the Constitutional Commission was driven by the importance of finalising the scheme for the parliament. As described in chapter four, the Commission was set up to answer the unsolved issue of SCC by an independent organisation. Party members such as McConnell was involved in the setting, but in terms of membership, it was independent from party politics. Labour took a risk that the scheme formed by the Commission would disadvantage them and on that basis, it agreed to set up the Commission. Moreover, SCC themselves considered broadening its membership at that time to be a more opened organisation<sup>85</sup>.

From here, it can be possible to regard the operation of logic of autonomy, under which enabled Labour to promote the Home Rule issue and cooperate with other actors as reason to advance the argument of completing the scheme smoothly. By that, it contributed to the activity of SCC with other parties and other organisations involved with the autonomy issue in that it had some kind of an inclusive character. Otherwise, at the same time, it can be observable that the Conservative excluded themselves from the process of SCC. Even the SNP cooperated in the 'Coalition for Scottish Democracy' though, in the early phase, SCC could not succeed to persuade SNP due to the confrontation in the multi-option referendum. Rather it might argue there was logic of independence. Thus, some inclusivity of the logic of autonomy has limitations only applied to the organisation committing to Home Rule, and even so, with regards to the constitutional issue, there is a still limit. In the same way, Labour themselves were no exception. The criticism of FPTP was conducted on some subtle and delicate balance of their position. In the SLA

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<sup>84</sup> Wright et al (1993) 'informal note of the agreement held in the House of Commons, Westminster'(2 March 1993), SPA/KW/SN/1/2/2/1.

<sup>85</sup> SCC (1993)'Minute of Meeting of Executive Committee held at Strathclyde House, Glasgow on 16 April'(16 April, 1993) in "STUC Minutes April to May".

pamphlet, it said 'the British people, and the Labour Party have been poorly represented by the current electoral system<sup>86</sup>'. It implied FPTP was not an appropriate system for the UK as a whole. For SLA, and Labour, if they had criticised only on the Scottish interest basis, it would have been difficult to promote themselves as a 'national party.' Thus, in support of proportional representation, they considered the balance between promoting a self-autonomy for Scottish people and remaining in the UK as a national party. Thus, on the constitutional issue, they needed to establish the position, 'remaining in the UK whilst establishing a parliament for Scotland'. That is where the two logics cannot be smoothly compatible too. Referring to the logic of union, this idea will be examined further in the next part.

### **Labour's inherent logic: logic of union**

#### *The logics of union and the process of seat number decision*

Here the logic of union is considered and once again, the definition should be revisited. In the logic of union, a party behaves as an agent of territory too, but its goal is the maintenance of the constitutional position of the party at national level. To achieve the goal, the party behaves by seeking widening support and sustaining influence in a territory. Then, with a reflection of the case, it considers the operation of the logic and the properties it has.

From 1989 to 1994, Labour and SCC could cooperate with the precedence of the logic of autonomy over the logic of union. However, in this process, there are some chances to reconsider the relationship. The content of the informal meeting at Westminster was an example of this moment. It discussed the collaboration with SNP, but it simultaneously reconsidered the distance between a civic organisation and a political party. Thus, it confirmed the fact that political parties had their own priorities and agendas in their prioritisation of resources in elections, this being seen in the 1995 by-election in Perth and Kinross. Due to the effort in the campaign, the consultation process was delayed. Moreover, the winner of the election was SNP. It may

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<sup>86</sup> SLA (1989) 'REAL POWER FOR SCOTLAND', SPA/JMC/SN/CC.

have had an effect in Labour's strategy. Based on that background, this section will reconsider the process of a decision regarding the number of seats.

At the meeting in December 1994, Labour supported 112 members as the Constitutional Commission was suggested. In Labour's argument, it can be expected they had a willingness for the consensus. In the report published for the party conference in April 1995, it said that on the premise that the background thinking of the Commission was understood, 'we will want to discuss with our Convention partners whether an increased number of seats might help achieve the democratic objectives we set for the parliament'<sup>87</sup>. This attitude presents its preparation for the consensus, and it means an increased number still meets objectives set by Labour. It may have intended to eschew the criticism in advance when the number changed later by the negotiation with the Liberal Democrats.

However, the direction of the debate seemingly changed at the end of May 1995. In the letter, on the thirty-first of May, Sheppard raised the issue of gender balance, selection procedures, size of the parliaments as points and started the consultation process with affiliated organisations. In considering, he listed six factors for the basis of decision. In the part of the public perception of various sizes of parliament, 'there may come to a point where the size of the parliament and the expense associated with servicing it becomes so great, that the credibility of the institution is damaged in the eyes of the public.' More interestingly, in the part about overall political balance within the parliament, he said 'The larger the number of additional members the more the share of seats in the parliament for each party will approximate towards their share of the vote, and the harder it becomes for any party to form a majority administration. With a parliament of 112 it would be possible, on the basis of the 1992 general election vote...With a larger parliament, of say 145 members, an administration could only be

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<sup>87</sup> Scottish Labour Party(1995)'A Parliament for Scotland Report to the 80th Annual Conference of the Scottish Labour Party', pp3, SPA/GR/SN/PARL2.

formed, on the basis of the 1992 results, by an alliance of two or more parties<sup>88</sup>. Within his writing, he asked an appropriate number of parliament members in the consultation process.

This shows an obvious concern from Sheppard to increasing number of seats in parliament. It induced a decrease of number as a response. Here, it was conscious of the winnability in election and the possibility of majority administration and for that not increasing number would be the choice. Limiting the number was related to the strategy for the election. Otherwise, it should be reconsidered the background of this thinking. For that, it would go on to analyse the letter from Sheppard to Robertson, published in February. It expressed the direction of Labour as a party.

First, it argued that Labour's constitutional proposal should be a clear and distinctive one. The other parties' strategy was an inseparable aspect of the Home Rule issue. On the analysis of how the Conservatives and SNP describes Labour, it was noted the need to convince people that the parliament is worth having. Moreover, he had a concern of vulnerability in the idea of being 'inside of and strengthening the United Kingdom.' Also stating the importance of being seen as a consequence of devolution, and not a reason for it. Furthermore, for Labour, the Scottish Parliament 'will ease the democratic frustration evident in the current constitutional situation...it will have a tendency to save rather than destroy the union of nation within Britain'. He also added 'the overwhelming argument for a Scottish parliament is the fact that it is what the people of this country want'<sup>89</sup>.

Sheppard wanted Labour to retain the influence by winning an election so that he could promote the case to reduce the number of seats in parliament. It also had a logic that Labour should establish their own constitutional

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<sup>88</sup> Sheppard, T (1995)'To Constituency Labour Party, Womens Sections, Affiliated Trade Unions, Socialist Societies', (31 May 1995), SPA/BM/SLP/3.

<sup>89</sup> Sheppard, T (1995)'George Robertson MP House of Commons' ,(21 February 1995), SPA/GR/SN/PARL1.

position by exerting their influence. That is, how Labour should impress the electorate as gaining the mandate from them and simultaneously, consolidating their position for the commitment to parliament and maintenance of the United Kingdom. This was the logic of union by Labour, which was at that time, their position. Labour functioned in realising what the Scottish people want, and in that sense, worked as an agent of the territory.

Thus, in this section, it pointed out the factor of the logic of union by referring to the argument of Sheppard. Especially, it made clear that the logic was highly connected with Labour's constitutional position at that time. It also was partly promoted due to a loss in the by-election. In the next section, how the logic of union had an adversarial property against SNP will be demonstrated and show how Sheppard's view was put into practice by Robertson. The consultation process was accounted for through increasing the number of members to 144 though it decreased to 129 by the negotiation with the Liberal Democrats. For considering the confrontation between SNP, and reason for limitations of the number, it focuses on Robertson's vision and sees the operation of the logic of union from his perspective.

#### *Relationship with SNP and Robertson's vision*

In the end of May 1995, the consultation process eventually proceeded, and the results were gathered at the end of August. The majority of response was in support of 145 parliament members. From McLean's view, the probable majority on the Executive was in favour of 145. However, due to the deal with Roberson and Wallace, it was settled as 129 members. According to him, the deal was 'designed to pre-empt the discussion of the Policy Committee and the Executive and to head off a decision in favour of 145'<sup>90</sup>. Looking back at the content of the previous section, it prioritised the win in the election, and for maintaining its constitutional position, as Robertson purposely

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<sup>90</sup> McLean,B,(1995)'SCOTTISH EXECUTIVE REPORT September 1995', SPA/BM/SLP/3.

intervened in the process to reduce the number of seat in parliament. It was not a coincidence that Sheppard sent his letter to Robertson. The Sheppard and Robertson coalition will be examined next and why it came to value the winnability in election and maintenance of the constitutional position in Scotland. The previous section analysed from the aspect of the establishment of the parliament and maintenance of the United Kingdom, though this section would focus more on the party politics and their relationship with other parties. Specifically, Roberson's image to the election of Labour should be considered.

For examining that point, the move of SNP should be noted. Prior to the discussion between Labour and the Liberal Democrats, SNP published the press release to attack Labour UK wide. The statement, was titled as 'Salmond slams Labour's devolution U-turn -Blair can't be trusted to deliver Scots Parliament'. In the statement, it pointed out that Labour changed their policy due to Conservative pressure regarding the issue of English regional devolution. Referring to this fact, it put a caveat to the argument in Scotland as 'it is Scotland's turn, as Labour do a U-turn on the principle of Scottish sovereignty'<sup>91</sup>. Labour did not question the sovereignty and established the parliament with retaining sovereignty in Westminster, so in this phase it may be argued as too harsh a criticism, furthermore, looking at how Robertson seen the SNP during this period.

In the memorandum to the Scottish group of Labour MPs, he discussed the strategy towards SNP. First, confirming that the constitutional issue would be a bigger issue in the general election than before. Then he said what Labour proposed should be understood by voters on the perception that devolution is seen as a radical position for many people. Then, in evaluating the SNP, was described as a respectable, naïve collection of nationalists, and their policy would not get the scrutiny it deserves. From that view, their policy of breaking-up the country was dangerous to him. Hence, it was emphasised to appeal to the public how dangerous SNP's position would be in

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<sup>91</sup> SNP (1995) 'SNP News Release', (30 July 1995), SPA/GR/SN/PARL1.

damaging the whole country, regarding both the costs and traumas caused by separation. In considering the Scottish Parliament, he insisted that Labour's case for a Scottish Parliament was based on better governance, returning power to the people from Whitehall. Furthermore, regarding the electoral system, made clear the following point ;

**They are<sup>92</sup> also right in spotting that the proportional system to be used for the Scottish Parliament will produce an insurmountable roadblock on the road to a separate state. It will be virtually impossible for the SNP to get a majority of seats in the Scottish Parliament unless they get the next-to-impossible majority of the Scottish vote. It has to be said that this hurdle has not been widely noticed by the Scottish press, but it is in reality a much greater brake on the slippery slope than any reliance on the existing Westminster election system.**

Five domains to deal with SNP including the drawing attention to referendum in Quebec were listed, publishing material on the real route to a separate state, speeches and articles in the South showing the benefit of devolution, highlighting the darker side of nationalism, and recording the SNP in local government<sup>93</sup>.

From here, the fear and aggressiveness against SNP on the basis of interest in maintaining the constitutional position was expressed. Moreover, AMS was received as the strategy to prevent SNP from gaining power. Here, it can interpret the logic of union as having worked to protect the electoral base from SNP. In a sense, acting for Scottish people to let them know the possible danger of SNP.

In 1997, Robertson also told Blair about Labour's political strategy in

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<sup>92</sup> It meant the faction of persisting on the independence within SNP.

<sup>93</sup> Robertson, G (1995) 'MEMO TO THE SCOTTISH GROUP OF LABOUR MP', (19 September 1995), SPA/BM/SLP/3.

Scotland in the memorandum to him. Referring to the result of the general election, it was evaluated as steady about the situation of support of Labour in Scotland. However, it also mentioned a vulnerability of the support due to the possibility of Labour switching with SNP noting the result of recent by-election. As Labour's objectives, it was intended to be seen as a 'vigorous, family-friendly, prosperity-creating, radical, caring, competent party'. Through that, it would try to be the real national party of Scotland. Additionally, it planned to marginalise and reduce the credibility of the SNP and erode the performance of the Scottish Conservatives. It also highlighted the slogan as 'New Scotland in a New Labour Britain'<sup>94</sup>. Here, Labour's subject rivalry with both SNP and the Conservatives was distinct, especially with regards to the constitutional issue.

Accordingly, Labour actively acted as an agent of the Scottish people whilst it competed with the Conservatives and SNP to broaden the electoral base to protect Scotland in the United Kingdom. The logic of union of Labour apparently exclusively worked to maintain the electoral support. The seat allocation system was interpreted as preventing the SNP by Robertson<sup>95</sup>. Thus, the reason for accepting the system and attitude to receive this was attributed to this goal. Here, the logic of union was extracted from Sheppard's letter and Robertson's document regarding the acceptance of seat allocation and the process of deciding a number of seats. In the next section, the relationship of these two logics and their implication will be examined.

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<sup>94</sup> Robertson, G (1997) 'MEMO TO T BLAIR FROM GEORGE ROBERTSON', (31 January 1997), SPA/GR/SN/PARL1.

<sup>95</sup> It should be highlighted that this system itself was created essentially by the Constitutional Commission. As a reason for acceptance, it would be assumed the SNP's prevention would be attributed to it. In the literature, stopping SNP was introduced as primary reason to form AMS (Convery and Lundberg 2018), though it would not be fitted the analysis of this article because the system itself was made under the Commission.

*The logic of autonomy and the logic of union; their dynamics*

In the argument so far, from the SCC's establishment in 1989 until 1994 of the report of the Constitutional Commission, there is a function of logic of autonomy to foster the collaboration between Labour and the SCC. Among those who shared the interest in self-autonomy, the logic of autonomy helps cooperate, and contribute to making the final scheme. Labour valued the consensus throughout the period, and SCC had an independent influence with parties though the report was advanced through the help of Labour. In 1990, the report 'Towards Scotland's Parliament' was the product of this cooperation. In 1993, the establishment of an independent committee, the Constitutional Commission also could develop the argument that was independent from the party. Again, these are interpreted as the work of logic of autonomy.

Conversely, the logic of union especially worked in 1995, when finalising the plan for parliament was to do with the number of seats. The work signified the coalition between Sheppard and Robertson, which nullified the internal decision-making process, and it was initiated by the strong leadership of Robertson. It should be highlighted that the process was never expected and it was conducted whilst Labour generally prepared to compromise with the Liberal Democrats with a vision of a sizable government. The plan was not implemented in the end because of concern within Labour from both Sheppard and Robertson. Here, the behaviour of Labour to retain electoral base was rooted in the motivation towards the maintenance of a unified United Kingdom and promoting the autonomy. In this process, Labour during this period exclusively exerted the logic of union to have distance with an adversarial party, the SNP and Conservatives. The electoral system was partially accepted under the same grounds.

With regards to the property of two logics, the logic of autonomy worked inclusively here. However, it had a condition only limited among the actors who shared the interest to promote self-autonomy in territory. It also meant, if the tension to do with constitutional issues were high, the cooperation would be difficult notably in the case of the SNP and SCC in the early period.

It can be applicable to the case in the logic of union. Conversely, the logic of union allegedly worked adversely in this period, however, it could have had an opposite effect. The Conservatives excluded themselves throughout the devolution scheme in the 1990s though this cooperation may have been possible in a different period. For example, in 2014, there was a referendum questioning the independence of Scotland. In the campaign, Labour and the Conservatives partially collaborated in calling for the maintenance of the United Kingdom<sup>96</sup>. Accordingly, in the period of the 1990s, there was a logic of union which worked against the cooperation, but in essence functioned to strengthen each party's constitutional position in the territory.

It is briefly examined how these two logics were preceded or were strongly issued depending on the situation. On the logic of autonomy, it seemingly had two factors. First, SCC took over some legacy of the Home Rule movement. In the second chapter, it quickly described the history of the issue of Home Rule advancement. For example, the argument in CSA was taken over to SCC to some extent in terms of human resource. The social network was formed through Labour and some notable activists. Second, there was a void in the election. Especially from 1989 to 1992, there were stable development period, and it meant parties did not have to put many resources into campaigning. Under those two factors, the logic of autonomy functioned strongly to have an effective influence over the logic of union.

On the logic of union, two factors were also detectable, along with the assumption a historical aspect also being a factor. First, although there was an apparent, relatively large convergence in Labour regarding Home Rule, otherwise some internal division still existed. Actually, in the 1970s referendum, there were severe confrontation in campaigning within Labour. Interestingly, from the other side, there was division in the Conservatives on the Home Rule issue in the 70s though it seemed converged in the period of the 1990s<sup>97</sup>. Second, the election seemingly affected the thinking of actors.

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<sup>96</sup> *The Herald*, (22 July 2014).

<sup>97</sup> McLean,R.(Scottish Labour Action) (undated) 'Labour and Scottish Home

The result of the by-election had an influence in individual's behaviours in 1995 regarding the decision of seat numbers, as shown in Robertson's letter to Blair prior to the 1997 general election. In both these factors, the logic of union was strengthened significantly in 1995.

The historical party division and election can be extracted as a condition to affect the influence and precedence of the two logics. Moreover, it reconsiders the two factors, and the party division can be classified as a long-term effect of the party's decision on constitutional issues, whilst the election was captured in short-term effect. Thus, these two factors can be hypothesised as two kinds of conditions of the two logics. Again, the two logics can be overlapping whilst working synchronically, though which logic precedes may be identified by the analysis of those two factors.

#### *Civil Society's effect and Territorial Party's logic?*

Lastly, here would examine the possible theoretical development of prospect research of this article. Thus, it would be considered as a trial to present the possibility of how these two logics can be argued in the territorial party politics and how civil society would be positioned through this process.

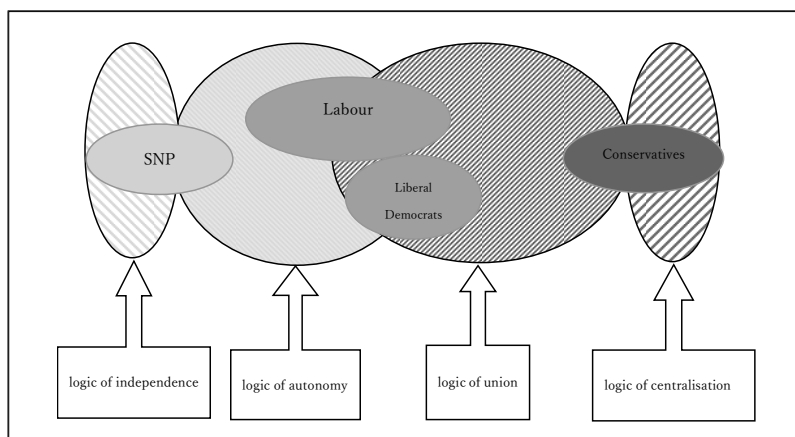
Reconsideration on the explanation of this article, the logic of autonomy helped cooperation between the SCC and Labour to form the AMS even offsetting some vote maximisation motivation of the party. Thereafter, the logic of union worked for Labour, and under that logic, Labour tried to maintain its constitutional position by protecting the electoral base from other parties, especially against the SNP. These two logics were also switched and preceded by two factors: the election and the historical party division. Looking back the properties of the two logics, both of the logics can be inclusive within the power depending on the side of the party. In concrete, in this case, the party and organisations which shared the self-autonomy interest, could work together. Conversely, the logic of union worked exclusively to be against each other in the 1990s though, in a different time

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Rule', Scottish Labour Action, SPA/BM/SLP2.

such as in 2014, it worked inclusively to maintain the United Kingdom. Thus, with regards to the constitutional issue, the logics would form the basis of political power depending on the time. By examining the previous section, SNP also cooperated in some aspect with Labour, but sometimes had adversarial relations. This meant SNP also had a specific constitutional position as described before, it might be called 'the logic of independence'. As the Conservatives also excluded themselves in the process having a specific constitutional position, they may be referred to as 'the logic of centralisation'. These two logics can be exclusive only to those two parties and, as examined, these logics can be compatible with other logics. The relationship with parties and these logics can be on the political spectrum as charted below.

**[Chart 1] Territorial party spectrum**



Accordingly, the effect of civic organisations would be examined with this territorial party spectrum by considering the chronal process. Two logics were preceded by the two factors, however, in the long run, the election existed throughout the history in 20th centuries of course. In this way, the effect of the election was short-term. Ultimately, the factor of party division was influential in this electoral system formation process, and can be rooted in the historical process. Moreover, with a consideration of the time-span in

this period, the difference between the 1970s and the 1990s was the existence of civic organisations. In this regard, the civic organisation might help the convergence and consolidation of the logic of autonomy in this process. From a historical comparison, there was a variance in the constitutional process in the 1970s, but since then, the network of advocates who intended for self-autonomy was organised and the civil society, sustained by idea of self-autonomy, might help this process.

To sum up, these are limited to the range of predictions from the findings based within this article. Further research will explore both the possibility of this territorial party spectrum and the possible effect of civil society in the party spectrum.

## 6 Conclusion

In presenting the contribution and the implication of this article finding, answered the question of why Labour formed a disadvantageous system for themselves in terms of the number of seats maximisation. This was analysed through the operation of the logic of autonomy and the logic of union between the party and civic organisation, and it made clear how this was created by steps with a description of the process of system formation. Moreover, it considered the property and implication of the two logics, along with the condition of their effects. Then, lastly this chapter will confirm the possible contributions of this article and note the subsequent limitations presented. Based on those recognitions, it will present the possible development of this research.

First of all, this article can be understood in the field of territorial politics regarding to a party as it contributes to the understanding of the party's behaviour within territory. The literature of this field tries to theorise through the framework of national politics (Convery and Lundberg 2018) or it generalises in the framework of party politics research (Hepburn 2018). Of course, the generalisation of the party at national level was valuable as notable work which has been addressed. Otherwise, its deviant situation of the party system in territorial politics was pointed out in the empirical

studies with a point of regionalisation (Caramani 2004). This article proposes that it would help with the understanding towards specific variable in territory and why it may be beneficial to use the concept specific to territory. Moreover, in party politics literature, there were well-known behaviours of party objectives as seen in votes, office and policies (Strom 1990). Although revisiting party behaviour in the territory may be possible, because Labour's behaviour was against the benefit of the seat maximisation, and the benefit to the office which was, to some extent, limited by the work of the system. In terms of policy, of course devolution can be an example of the policy, though the decision of seat number was driven by the constitutional issue and this aspect was deemed more important than others.

This can also contribute to another field of research. In modern Scottish political literature, the idea of 'new politics', argued in the previous work, was understood approximate to the thinking of the logic of autonomy. The original idea of 'New politics' was argued in SCC. The idea was, pointed out the introduction, critically viewed in some of the research, but it can be re-evaluated as the idea that played a role in the system formation period. The literature also evaluated the outcome of the role of the select committee, an increased number on the Member's Bill in the Scottish Parliament (Arter 2004; Cairney 2006) and the system of petition was recognised too (Cairney 2011). Some of the success in the reform can be attributed to the outcome of the system formation period. The consensus-building of the party and the civic organisation can be grasped to be seen as an ethos of 'New politics'. Lastly, regarding literature on the electoral system change, this article may contribute to revisit the existing framework. The collaboration between a civic organisation and party can provide a unique pattern in the studies. The 'elite-mass interaction' was captured by the active citizens to promote the reform and politicians behaved to receive the request from citizens. Moreover, in the 'elite-majority imposition', people do not have an interest in reform and do not penalise the politicians, so the elites imposed the reform (Renwick 2010). From two categorisations, this article's case shared the interest for a whole devolution scheme, and politicians also acted to realise

the reform. Hence this system formation can be positioned as an example of 'elite-citizen cooperation'.

On the other hand, there was a few limitations and problems within this article. First, the understanding of this article in the electoral change studies can, to some extent, be arguable. Most studies presented were on the 'reform', so the reformers were also the people concerned by the results of the reform. As opposed to this understanding, the case was positioned as 'formation'. In that way, the system was newly formed, and it may be misleading to refer to various mentioned studies because the case cannot be explained fully by the individual interest of the politicians. Otherwise, the point of argument towards seat-maximisation being offsetting was interesting to note.

Second, as a methodology, this article only treated the single case so that the effect of civic organisations, and some possible argument of the territorial party spectrum was untestable only by this article. Thus, it would be significant to compare this finding with other cases in the future research agenda to test the theory. Although, this study would seemingly provide enough evidence to reconsider the literature based on the party-negotiation centred one (Curtice 1996, 2006) or dual explanations of new politics and rational choice (Convery and Lundberg 2018).

At last, the biggest issue was the effect of civic organisation and their independence from the party. It is defined as 'cross-party' though surely contained the party. From the demonstration of the process, in function, it can be described to some degree as work beyond the parties. However, it may not answer the question of the independence fully. Especially with a focus on the internal discussion of the Constitutional Commission, it will make clear the effect and independence in the future research agenda. It may also lead us to consider the point argued from other literature that the electoral system idea created by Labour was used to prevent SNP from success. However, another way to view this is that the idea was used by Labour to persuade Labour politicians who opposed the electoral system, being utilised as justification to accept the decision of the new system made by the both the Constitutional Commission and SCC.

For solving the issues as listed above, this study would be extended to comparative studies in territory. The possible direction would be classified as two ways. First, the comparative study within Scotland should be conducted. As discussed partly in this article, the argument in the 1970s was worthy of considering. A civic organisation such as SCC did not exist in the period, and the party's constitutional position was varied more within the party in that period. Here, it created the system of FPTP as a result. This outcome was remarkably different from that of the 1990s. Thus, this convergence and divergence of constitutional position in parties can be clarified more by the analysis of comparative viewpoint between 1970s and 1990s. From this demonstration, the theoretical framework will be tested, and the effect of the civic organisation can be examined.

It is also important to look at different contexts beyond Scotland. Notably, Wales was a significant example, which introduced AMS in the 1990s without the civic organisation such as SCC. Moreover, the support to AMS was more significant in Wales, and the influence of regional party can be limited compared to Scotland. These system formation process' were seemingly different from that of Scotland, as in 1994, FPTP was chosen as one of the influential choices in Wales (Deacon 1997:219-220). These differences and the mysteriously same outcome can be tackled by the theoretical framework of this article.

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