

THE STEPHEN MAXWELL MEMORIAL LECTURE

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Politics, Parliament & Power

The case for a renewal of Scottish democracy

Good evening and thank you for the invitation to deliver the Stephen Maxwell Memorial Lecture.

I am very honoured and delighted to have been asked to share my thoughts with you this evening.

My own political awakening took place when I was a student at Aberdeen University in the 1980s. I subscribed to the political magazine, Radical Scotland, which, 6 times a year, delivered a varied diet of left-wing politics, Scottish culture and political theory to a young and inquiring mind.

Within its covers I first discovered the writings of Stephen Maxwell.

Since the establishment of the Scottish Parliament, I was in dialogue with Stephen on a range of matters. For example, I found an email exchange from 2004 discussing like Stephen's effort in the Community Empowerment Working Group of the Social Inclusion Network which had led to robust recommendations for asset-based development and the transfer of assets from public authorities to communities.

Soon afterwards, he reported that nothing had come of this but that the then Scottish Executive had agreed to develop *Agreed Standards for Community Engagement with Partnerships!*

As he concluded in his email "*It was a disappointing outcome*".

It is thus a source of some satisfaction that 13 years later I sat last week in the Local Government and Communities Committee scrutinising the Statutory Instruments that will provide communities with legal rights to take on the ownership of land and property held by public bodies.

This illustrates the far-sightedness of much of Stephen's thinking and the rather sober realisation that it often takes 10-20 years for even modest social reforms to take root.

My most recent correspondence with Stephen was in relation to policy proposals being adopted by the SNP conference to gain control over the Crown Estate - again efforts that now are paying off as the management - if not the revenues - of the Crown Estate are devolved to the Scottish Parliament.

So it is with genuine pleasure that I find myself now in Parliament contributing in a modest way to the delivery of some of the issues that Stephen cared about so passionately.

This evening I will provide some personal reflections on my own political journey, consider the state of democracy in Scotland today, say something of the continuing struggle to hold political and corporate power to account and conclude with some thoughts about this Parliamentary term and some recommendations for strengthening and revitalising democracy.

Thinking back on my own experience as a student at the University in Aberdeen, it was during studies for my forestry degree studies that I began to take an interest in the land question.

Some of you may remember the controversy that raged in the 1980s over commercial afforestation of the deep peatlands of Caithness and Sutherland. This was driven by tax breaks for wealthy people such as Terry Wogan and Shirley Porter. Whilst I was as concerned about the nature conservation arguments as others were, it was the politics of the situation that caught my attention.

One day, the Chief Executive of the company responsible for this activity gave a lecture and I asked afterwards why the Government was giving millions of pounds in tax breaks to wealthy people in London to plant trees in the far north of Scotland. Why, I asked did they not use the money they were foregoing in tax receipts to provide grants or even loans to the farmers and landowners who owned the land in Caithness so that **they** could plant the trees.

I don't recall the answer but afterwards, my Professor took me aside and suggested it was not a good idea to ask such political questions.

From that moment on I decided that asking such questions was a **splendid** idea and, the more it made folk uncomfortable, the more I enjoyed it and in a sense, that is all I have been doing ever since.

At the root of the land question is the same question that lies at the root of all injustice - an imbalance in power relations .

And it is the question that those on the progressive wing of politics are forever engaged with.

Tony Benn was famous for asking five questions of those who claimed to enjoy a position of power

"What power have you got? he would ask

Where did you get it from?

In whose interests do you use it?

To whom are you accountable?

How do we get rid of you?"

Benn would explain that "Anyone who cannot answer the last of those questions does not live in a democratic system."

“Only democracy gives us that right”, he would continue. “That is why no one with power likes democracy. And that is why every generation must struggle to win it and keep it—including you and me, here and now”

This then is the theme of my remarks tonight.

Politics, the Parliament and Power - the case for a renewal of Scottish democracy

Before exploring this further I want to reflect on the broader political context within which we find ourselves.

Across the world, western liberal democracies are currently being challenged by the rise of populist and nationalist movements.

This is thus an important time to consider questions of governance. Political developments here and abroad illustrate what, on the surface appear to be decisions made in a democratic fashion, but which on closer inspection reveal systematic structural weaknesses in our democracy.

In the US, more votes were cast for Hilary Clinton to be President than for Donald Trump but Trump won. The right to vote, hard won over centuries, is actively compromised in many US states by discriminatory laws.

But it is here in UK that the fragility of our democracy is increasingly visible.

The decision in the referendum to leave the EU exposed serious flaws in our democratic architecture.

I know that it is fashionable to say that, though I and others might have voted remain, that nevertheless we should respect the result of the referendum.

Whilst I accept the result of the referendum result, I personally do not accept the legitimacy of the referendum. Legitimacy is a central part of trust in the political process and I am entitled I think to this view.

I do not accept its legitimacy for the simple reason that the legislation that allowed for it was ill-conceived, hasty, bereft of any informed analysis of the consequences of leaving and was utterly silent on what would happen next with a vote to leave the EU.

By not specifying the consequences, what role there should be for Parliament, the timetable, the means of determining the UK's future relationship with the EU, the implications for the citizens of the UK, for EU citizens residing and working in the UK, and for NGO, business, universities and trades unions, we are now left in a position of extreme uncertainty with a fractious and divided electorate.

Meanwhile in the USA, a campaign characterised by lies and racism has led to a demagogue being elected as President of the USA.

To the extent that the reasons for the EU referendum result and the election of Donald Trump lie with a growing sense of alienation, disempowerment and revolt at the

established order, the solution must include strengthening, deepening and extending democracy so that people are engaged as agents of change in the political and economic decisions that shape their lives.

In April 1972, in his famous rectorial address at Glasgow University, Jimmy Reid opened by claiming that

“Alienation is the precise and correctly applied word for describing the major social problem in Britain today. People feel alienated by society.”

he continued,

“Let me right at the outset define what I mean by alienation. it is the crib of men who feel themselves the victims of blind economic forces beyond their control. it is the frustration of ordinary people excluded from the processes of decision making. The feeling of despair and hopelessness that pervades people who feel with some justification that they have no real say in shaping or determining their own destinies.”

That is remarkably prescient.

In his address Reid was arguing for greater **economic** democracy - the ability of people to be agents of economic policy rather than its components.

He also observed, however, that the concentration of power in the economic field was matched by the centralisation of decision making in politics.

“The power of Parliament”, he argued, “has undoubtedly been eroded over past decades with more and more authority being invested in the Executive. The power of local authorities has been and is being systematically undermined.”

“Local Government is to be re-structured”, he continued. “What an opportunity, now would think, for decentralising as much power back to local communities. Instead the proposals are for centralising local government. It is once again a blueprint for bureaucracy, not democracy.”

He was talking of course of the proposals then being debated in Parliament that would form the basis of the 1973 Local Government Act and the abolition of almost 200 local town councils across Scotland. But the point he was making remains a live issue today.

“If these proposals are implemented”, he argued, “in a few years when asked ‘where do you come from?’, I can reply: ‘The Western Region’. It even sounds like a hospital board.”

So what might Jimmy Reid make of the state of democracy in Scotland today?

Democratic reform in Scotland is, on the face of it, an uplifting story culminating in the establishment of a devolved legislature in 1999.

But the UK as a whole is a shoddy, ill-considered and archaic entity that retains an unelected head of state and an unelected upper chamber.

Not until 1999 did the UK constitution begin to acknowledge the limitations of unitary state government in a country with three independent jurisdictions within it.

Today there remains no codified and written constitution - the consequences of which are laid out before us in embarrassing detail in the Supreme Court this week.

But democracy is very much more than institutions. It is fundamentally concerned with the active participation of citizens over decisions that affect their lives. It is about feeling empowered, in control, listened to, respected and valued.

The growth of state power over the 20th century and the exclusive focus on representative forms of elected governance has arguably not done a great deal to strengthen democracy.

And today we face a situation where levels of trust in the political system and in politicians are extremely low - dangerously low in fact.

In the Veracity Index published by IPSOS MORI this week, the percentage of people who trusted various professions to tell the truth was revealing.

Over 90% trusted nurses and doctors.

Over 70% trusted judges and the police.

Lawyers didn't do so well at 52%

but at the bottom of the pile were Government Ministers (20%) and politicians generally (15%).

My favourite result was that 52% trusted the ordinary woman or man in the street to tell the truth.

Finally, given that this is a poll, you should be aware that only 49% of people polled actually trusted the pollsters to tell the truth.

Why this should be so continues to be the subject of great debate and whilst there are recent events that we can point to - such as the MPs expenses scandal and the financial crash - that have undermined trust, such calamities are not new.

My view is that this erosion of trust, this **alienation** that Jimmy Reid identified in 1972 and which appears to be just as prevalent today is in part at least due to an erosion in the status, capacity and agency of democratic institutions themselves - particularly at the local level.

One hundred years ago, following a General Election in Edinburgh, it was the tradition that a ceremony would be held at Waverley Station where newly-elected MPs would be sent off with a speech from the Provost, a pipe band perhaps and other symbols of respect for those elected to head to Westminster and sue for peace in the Sudan, secure the extension of the franchise or promote bills to extend the London to Edinburgh railway line.

The MPs would subsequently have limited contact with their constituents for the simple reason that the vast majority of concerns that the good citizens of Edinburgh had would be dealt with by the Edinburgh Corporation and it would be to the City Chambers that people would look for a resolution of disputes over the hours of opening of the fruit market, the state of the street-lighting or sanitation and the state of the schooling in the parish.

The Corporation would, in addition have been responsible for raising most of its own finance through local taxes, fees and levies - on, for example, the fruit market and flesh market.

That division of power and authority still exists today of course but the distinction in the public mind of who does what and under what authority has been blurred to the point where I would contend that people may well understand less of how they are governed than they did so a century ago

A few weeks ago I saw a copy of an Edinburgh MPs newsletter. It contained a breakdown of casework and revealed that 88% of inquiries dealt with were within the competence of the Scottish Parliament or the Council. Fully 73% of all casework was in relation to Council services

None of this 88% is the concern of a Member of the UK Parliament.

In a similar vein, I observed the activity of Edinburgh's newly elected MPs on the first weekend back in Edinburgh after the 2015 General Election.

One was meeting constituents concerned about a housing development on the green belt. Another was meeting with residents campaigning against a planning application and yet another was visiting parents of secondary school children to discuss some matter of concern.

None of these issues are within the responsibility of MPs. None of them are even within the responsibilities of MSPs. They are all matters within the competence and jurisdiction of the City of Edinburgh Council.

If we are concerned to tackle disillusionment with the political process, with strengthening democratic engagement, overcoming alienation and curbing the excesses of populism we should, I believe we should ponder what is happening here.

Local Government in Scotland has been systematically hollowed-out over the past few decades.

The reforms of 1996 has bequeathed us today with the most centralised and weakest system of local governance in the whole of Europe.

In Scotland we have 32 local authorities, yet in the Netherlands they are 408, Norway, has 428, Belgium 589 while in Germany there are over 11,000 councils at this lowest tier of governance.

And whilst there has been some amalgamation undertaken in these countries, there has been nothing like the stripping away, the hollowing out and the elimination of local governance that has taken place in Scotland. At the beginning of the 20th century, Scotland started out with over 1100 councils at the lowest tier – a century later there are now only 32 in total.

As the McIntosh Commission noted in 1999

"It could be said that Scotland today simply does not have a system of local government in the sense in which many other countries still do. The 32 councils now existing are, in effect, what in other countries are called county councils or provinces"

Elsewhere in Europe, by contrast state, regional and municipal power centres are strictly defined in written constitutions and where substantial autonomy exists at the local level accompanied by significant fiscal autonomy and freedom.

The council tax freeze, for example, would be illegal in Germany where Article 28 of the Federal Constitution prohibits interference in the financial affairs of the Lander and municipalities.

In a Scotland with turnouts of 39% in the last local elections, we need to pay far greater heed to the state of local governance

In Iceland, by contrast, where turnout in its municipal election fell below 80% for the first time in the recorded history of voter turnout, there was a great deal of soul-searching and academic inquiry as a consequence.

This also relates to the role that you play since, arguably, the voluntary sector now finds itself delivering many of the services that would once have been the responsibility of local councils and which, across Europe, remain the responsibility of local municipalities and kommunen.

On reflection this may be well and good but I do not think we can confidently take that view without a deeper inquiry

Which brings us to what appears to me to be the central cleavage in the debate on strengthening communities and democratic engagement.

This central cleavage relates to the meaning of the word community and how decisions at a community level are made.

In short, if community empowerment is the answer, what exactly is the question?

All sorts of associations such as churches, voluntary groups, and trades unions act as the locus for community action. Members of SCVO are the embodiment of much of that action.

But I contend that there is a difference - a big difference - between community empowerment (which is voluntary and partial) and local governance (which is statutory and universal).

Evidence was presented during the passage of the Community Empower Bill that these new powers would be taken up disproportionately by communities with agency, capacity and affluence.

Those communities that are most disadvantaged, that have greatest to gain from greater empowerment would miss out on these opportunities.

Reading the statutory instruments setting out the rules for asset transfer and participation requests it is certainly very evident that a substantial effort is going to be needed for communities to be aware of the existence of these powers, to understand how to use

them, have the energy to incorporate themselves into the required entities, to follow the process, make an application and, if successful, to implement whatever the outcome.

A community that needs action on local matters should not have to **rely** on voluntary effort that in turn requires it to be constituted into some form of corporate entity to make a statutory participation request to a local authority.

The powers that are required should be substantially and readily available through the democratic structures within the community.

Empowering communities AND strengthening and deepening democratic institutions are complementary as too are other important approaches such as introducing more participating budgeting and greater community engagement.

I want to turn now to the role of corporate influence in our democracy.

One of the surprises to me as a new MSP has been the extent of lobbying that takes place. Perhaps I was naive but I now realise this is normal and perhaps to be expected. Some concerns over lobbying were addressed by the Lobbying (Scotland) Act 2016 but formal lobbying is the tip of the iceberg.

Corporations have evolved quite sophisticated means of privileging themselves in gaining the attention and the ear of politicians and their advisers.

Sometimes this is by simply promoting the narrative of jobs and the economy without any thought as to what sort of jobs and what sort of economy.

The salmon farming industry is one example. It is lauded by politicians for the role it pays in Scotland's food exports but its environmental impact and its reliance on wild fish often from faraway places like Chile highlights a very big question over its sustainability.

The oil industry is another obvious example. With scientists clear that we need to leave around two-thirds of known reserves in the ground to prevent runaway global warming, many Scottish politicians continue to support this dirty industry when the real priority should be a rapid transition plan to a fossil-fuel free Scotland.

Sometimes the privilege is openly-spoken of but often missed.

Like the occasion, for example, when the then Rural Affairs Minister, Richard Lochhead addressed the centenary conference of the National Farmers Union of Scotland in 2013 and made the startling admission that for the past six years

"I have had the honour of being your representative in Government"

The last time I looked, Richard Lochhead MSP was the representative of the people of Moray and as a Minister in the Scottish Government he represented the interests of the people of Scotland.

This elite capture is all too prevalent in politics. And it has its roots in the easy conflation of the interests of the economy with the interests of business.

In the globalised economy, these pressures are now more acute.

The Scotch Whisky Association, for example is challenging the Government in the courts over minimum unit pricing. And yet, as Dr Alastair MacGilchrist, consultant liver specialist at the Royal Infirmary of Edinburgh observed in Third Force News at the beginning of November,

“The two ways that you can influence price are by taxation or the idea of setting a threshold below which alcohol cannot be sold. Minimum unit pricing very selectively targets the heaviest drinkers because they are the ones who are drinking the very cheap alcohol; you couldn’t invent a better public health policy”

And why is the Association taking the Scottish Government back to the Supreme Court?

Because, I would suggest the industry is now largely owned by multi-national alcohol companies whose interests lie as more in dissuading other countries from pursuing such measures than in supporting a vital public health measure in their host country.

Corporate interests are regular sponsors of events, receptions and dinners. Earlier this year, for example, I was invited to attend the Scottish Politician of the Year Awards. After discovering that each table costs over £2000 and are paid for by businesses who then enjoy a few hours exclusive access to MSPs, I politely declined.

At the awards ceremony this year, for example, was Edinburgh Airport Ltd who had a particularly interesting guest at its table.

Edinburgh Airport, like much of our formerly public infrastructure such as the Port of Leith is now in private hands and so, when the Airport launched a consultation on changes in the use of its airspace to accommodate more flights, I pondered who would benefit from this expanded capacity in what is the public realm of airspace.

Edinburgh Airport Ltd is owned by a company called Green Midco Ltd. Green Midco Ltd is, in turn owned by Green Topco Ltd registered in the Cayman Islands. The public are not able to inspect the company registers of Grand Cayman but it is understood that further links are to investment funds in Luxembourg and New York.

So when MSPs, MPs, regulators and planning authorities engage with the wide range of issues relating to the provision of aviation services at Edinburgh Airport, where is the line between the public interest and the private interest – can we even know?

Behind all of this is a growing army of public affairs companies, some of which adopt ethical codes of practice including publishing a list of their clients. Others, such as Charlotte Street Partners – an alliance of big business, media and politics with formers MSPs, Special Advisers and journalists on the payroll - refuses to divulge such information and thus it is difficult to monitor or audit any conflicts of interests that arise in political and public affairs.

These examples would provide no surprises to Stephen Maxwell who in his 1985 essay, Beyond Social Democracy, argued that

"today's received social democratic orthodoxy [which] too easily accepts the centralisation of power even to the point of legitimising the corporate state; which supports a mixed economy even when the mix is increasingly one between centralised state and private corporation."

To begin drawing matters to a close.

What is surprising on reading Stephen's essay from over 30 years ago is how relevant the political analysis remains today and how valid are the policy prescriptions such as a programme of radical democracy and radical decentralisation of power, the idea of mutual and co-operative newspapers, and neighbourhood law centres.

Such ideas were bold in 1985 and remain bold today, 17 years after the establishment of the Scottish Parliament.

In concluding I want to share some thoughts about how to renew, refresh and revitalise Scottish democracy, and to redistribute economic and political power.

I have been in and around the Scottish Parliament frequently since 1999. I was reminded of this recently when one of the Committee Clerks came up to me and said that she felt she must tell me that she was the author of a Committee report that I had described in a blog some years ago as "one of the worst Stage 1 reports I have ever read"

I believe that the Scottish Parliament has the potential to be far bolder, far more imaginative and far more creative in its approach to a great many matters of import to Scotland. That is why, after some considerable thought, I decided to stand for election in the first place.

Given the nature of Parliamentary work which has I confess taken me by surprise in its intensity, volume and complexity, I have adopted three guiding principles for my work

to be organised,

to be focussed

and to be creative.

We are confronted with some very significant challenges. Just this week we were reminded of the stark reality of climate change with a 98% decline in the population of kittiwakes on St Kilda with the population now close to collapse because of a decline in their food source due to warming oceans.

The challenges we now face in moving to a low-carbon economy are focussed around heat, transport and agriculture - three areas where vested interests have consistently conspired to resist the kind of radical transformation in how we plan our communities and lead our lives.

So this Parliament must be bolder, not only on this issue but on a range of others such as the perennial imperative to reform local taxation.

A cross-party commission recommended the end of council tax. The Scottish Government's own adviser on poverty and inequality, Naomi Eisenstadt, told the First Minister that she needs to be bold on local tax reform, introduce a new system that is in her words "genuinely progressive" and to focus on the bottom 40% of the income distribution in order to tackle income inequality effectively.

Instead we still have the grubby, miserable council tax which even after the Government changes will remain probably the most regressive tax in the UK where, according to analysis by Scottish Parliamentary Information Centre, the bottom 10% of households by income will be paying around 9% of their equalised household disposable income in Council Tax with the top 10% paying a mere 3%.

Nevertheless I am optimistic that a Parliament of minorities, with a five year term, where over a third of MSPs are new, and to which new powers are accruing, can, if it puts its mind to it, rise and meet these challenges.

But it cannot do it on its own.

Over the past few months, as I have met a wider range of individuals and organisations than I have ever met before, one thought keep recurring and is reinforced by the turbulent times in which we seem to be living.

That thought is that many organisations outside Parliament need also to be bolder.

The routine business of meeting health charities, business associations, campaign groups and professional bodies is characterised by the production of briefings and appeals to take on board key concerns or policies.

I met a small health charity recently and I asked them what was occupying their attention. I was told that they were awaiting a new strategy from the Scottish Government.

Why wait, I asked. Why not draft the strategy yourselves?

Politics should not simply be about making demands of elected representatives, important though that is.

In my view, organisations such as those represented here need to start - and I know some have been doing this for some time - scaling up their level of engagement by going beyond the policy papers and the briefings to draft their own legislation - to engage in creative activism, subversive democracy, transparency initiatives and the unmasking of corporate power that will challenge the often complacent process of public policy-making and inject a bit of risk, danger, excitement and creative energy.

Which leads me to some recommendations as to how we can deepen and strengthen democracy, hold power to account and create a new more local, engaging and relevant political debate.

My first suggestion is therefore the establishment of a co-operative that will engage a network of trainers to deliver a series of modules and courses in creative activism, radical democracy, legislative expertise and para-parliamentary activity to communities, NGOs

and others to empower them to engage and to pre-empt the conventional political processes of local and national governments and legislatures.

We need a wiki-politics for Scotland.

My second suggestion is to transform local democracy to create in Scotland an exemplary framework of democratic engagement as close to the citizen as possible with real economic, fiscal and political power exercised at locality level. Again, Stephen had much to say on this throughout his life and this remains substantial unfinished business.

My third suggestion is to deepen economic democracy – for example by revitalising the mutual, co-operative and social enterprise sector – a sector that has and continues to deliver remarkable results but which remains still in the shadows. And we should be bold here too. For example, there will be a Bill this Parliament to complete the devolution of forestry. But Scotland is missing its targets for forestry expansion. What role might there be for a Scottish Forestry Co-op that could engage hundreds of thousands of people in a substantial programme of reforestation? Energy is the other obvious area in which this can and should be done and there are current good examples of this.

My fourth suggestion is that however we move forward on local democracy, we need, just as Westminster and Holyrood have, a fiscal framework to govern the financial relations between Holyrood and local government and to provide predictability and clarity around fiscal transfers and powers. We need to get beyond the ride politics of the council tax freeze - a policy promoted by national politicians in the past who had no power or authority to deliver and had to effectively hold local government to ransom to implement it. This is a policy which, as I noted earlier, would be illegal in Germany.

My fifth suggestion is to extend transparency in all areas of public life.

To open up to free public inspection, for example, the registers of landownership and to create a public portal of information on all aspects of our land and environment so that there are no secrets anymore about the distribution of power and influence exercised over land ownership and use. Going further, I would require all public officials to publish their tax returns, to open to public inspection all bank accounts with balances of over, say £100,000, and to free up data by, for example removing Crown Copyright from our national mapping agency.

The new economy will be built on information and data and it should as far as possible be made freely available to the citizen.

My final suggestion is one you can all take up immediately.

And that is to engage with the recently established Commission on Parliamentary Reform. This is the first substantial review of the workings of the Parliament and of how it might engage better with the people of Scotland whom it serves.

To conclude, there has been and there will continue to be a debate about Scotland's constitutional future - a debate that Stephen was engaged in for most of his life.

But there must also be a richer, more nuanced and more fundamental debate about governance, local democracy, power and equality.

As we await President Trump and the ongoing process of EU exit negotiations, we must find the time to attend to the ecology of power and how we can, in our communities, take back control as it were of the political and economic forces that have for too long been exercised in ways that disempower the citizen, entrench inequalities and diminish the lived experience of too many of our fellow citizens.

That is what Stephen Maxwell attended to in his life and why we owe such a debt of gratitude to the dedication he gave to such matters.

It is why I am privileged to now be in a position to try and take forward these matters in my new role.

Thank you.