

**More engagement between Scottish Parliament and the public**

I am not sure if the idea of more engagement between the Scottish Parliament and the public has been deemed "a good thing" by the terms of your remit. I suspect it has. But the idea of such engagement proceeds on the basis that there will be some form of useful information gathered by the Parliament in this way. I wonder if that is always true.

***Lack of leadership qualities in MSPs***

After all, leadership is meant to be one of the qualities we look for in those we elect to Parliament. Consultation with interested parties is desirable, but at the end of the day, decisions have to be made by politicians and the public then judge them on their record in the next election. That's democracy. I'm afraid that what has become clear since the creation of the Scottish Parliament is that in many cases (perhaps even in the majority) the type of people who become MSPs have very little experience of life outside of deadbeat jobs in politics and elsewhere. These are not the kind of people to accept responsibility for anything. Consideration should be given to the possibility that more "engagement with the public" is sought in order for MSPs to avoid responsibility even more than they already do. The majority of them seem to have the typical Scottish public sector approach to work viz. that responsibility is something which should be avoided at all costs.

***MSPs: "media junkies"?***

It is very clear that most MSPs are driven by what they read in the newspapers and see on TV. So, for example, they invite whoever is in the news to their committee meetings to talk about their views on whatever subject is under discussion. As someone who has worked in Scottish journalism for nearly 30 years, and based on that experience, I know that such people are often "nutters". In fact all those who work in the relevant area know this - but MSPs in their wee insular world are quite oblivious to this truth. It is inevitable that a body such as the Scottish Parliament will attract the nation's premier lunatics, who are delighted to pitch up and give MSPs the "benefit" of the views they have cooking up for all of their insignificant lives. Lawyers' offices are just the same - i.e. they are visited regularly by crazy members of the public - as I know from many years of working as a lawyer. The difference between lawyers and MSPs is that lawyers know when they are dealing with bampots and act accordingly. MSPs don't have the expertise to realise this.

***Failure of MSPs to contextualise information gained by engagement with public***

The evidence from such people, in any event, is almost always confined to a single instance and has to be contextualised in order for the Parliament to make proper use of the information gleaned. (That's setting aside the fact that usually the information itself is of questionable quality.) The problem is that most MSPs have minimal real life experience and as a consequence are very naive. So they do not understand, for example, the elementary logical rule, that reaching a general conclusion from particular instance is the reasoning of the madman. Any scientific reasoning based on such a flawed approach would be rejected as irresponsible. We would all be dead if drug research proceeded on this basis. Anyone in business management knows this to be the case. But it is clear from their legislative record that MSPs use this absurd approach all the time. That's one reason why almost all of the Scottish

Parliament's legislation is useless, applying to hardly any situations in the real world. A law is a generalisation, and as such has to be based on the experience of a multiplicity of cases, never on a single instance.

***Result of above shortcomings in MSPs is the alienation of public from engagement with Parliament***

Taken together, the obvious naivete, and in many instances downright stupidity of MSPs, inevitably means that most of the public, particularly the intelligent and influential members of the public, wish to have nothing to do with the Scottish Parliament. Also, at the end of the day, it is crystal clear to the observant Scot, that the Scottish Parliament hardly ever does anything of significance. As a lawyer who has practised in Scotland for some 35 years, I believe it fair to say that it would have made no fundamental difference to our daily lives if we had not had the Scottish Parliament for the past 18 years. It should be appreciated by the Commission that the Scottish public are not nearly as dim as MSPs believe. Most of the voters in Scotland realise that Holyrood is an immature, insignificant body which does almost nothing which effects the lives of Scots. So why would they want to engage with such an institution?

**Can the Scottish Parliament clarify its identity as distinct from the Scottish Government**

***SNP MSPs are "Stepford Wives"***

This can't be achieved as long as the party with the greatest number of seats insists on mindless obedience from all its MSPs. How many times has any SNP MSP dared to "rebel" by not doing exactly what they are told to do by that party's "spin doctors" - who in effect control the SNP? The public can hardly be expected to distinguish between the Parliament and the Government against such a factual background. Also we fail to teach children the likes of the American "civics" subject at school. So many Scottish schoolchildren leave their school studies quite ignorant of the constitutional set-up of a democratic country.

But I think that there are a number of other significant factors in play here, which lead the vast majority of voters to take little interest in the affairs of the Scottish state - and accordingly to fail to have a clear idea of the kind of distinction mentioned in this question. This is simply a wider aspect of the public's detestation of party politics and party politicians. On any occasion when the citizen observes the actions of the Parliament or the Government (or both) then s/he is repulsed by a numerous aspects of what s/he sees. Let me widen this part of my argument by listing some of the things which I believe have led to the present state of things, in which only weirdos and "anoraks" take an interest in Scottish state affairs (everyone else finding such matters both boring and depressing):-

***Public's lack of interest in party politics***

Trust in politicians in democracies is at all time low. Many of us think this is a consequence of political parties and politicians being ruled by the desperate desire to achieve good media coverage.

Having met and dealt with many Scottish politicians in the course of my work as BBC Scotland's in-house counsel, I understand that it will be almost impossible for these

politicians to accept that the public don't find them or their actions remotely interesting. But that is the case. The audience for TV programmes such as "Question Time" and "Newsnight" is minimal. It is mainly "political anoraks" who view such output. In the independent TV sector there is a public service obligation imposed on broadcasting companies in order to force them to make political programmes. The audience is so small and the advertising sales accordingly so low priced, that such programmes are an economic millstone to private broadcasters. They wouldn't be made by the independent TV sector if there were no legal obligation on them to do so. Politicians delude themselves into thinking that the general public watch these political programmes and find them fascinating. The facts are very different. When I was still at BBC Scotland, a BBC survey showed that while viewers were happy for politics to be covered on a daily basis, but they wanted party politicians excluded from the coverage (that's why we now have a token non politician on "Newsnight").

***MSPs unattractive people who behave like infants when carrying out their work***

Unkind commentators say politics is show-business for the ugly. Even ignoring such barbs, it is difficult to imagine that spending time with any MSP would be anything other than a waste of your time and terribly tedious. They are not attractive people. I know of nobody who would wish to "engage" with them. Most are dreary folk - and of course behave like 5 year olds in the Chamber. I took my daughter and two of her classmates to the Scottish Parliament when they were aged 11 (Primary 7). The girls laughed and laughed at the politicians' antics. Afterwards they explained to me that this was because these grown-ups were behaving like the children in the lower Primary School classes. They told me that if they had dared to behave like that (in Primary 7) they would have been given a spectacular row. Politicians are often so divorced from reality so as not to know how they seem to others. They appear to be pre-pubescent, ill behaved children. I feel that many more people would wish to engage with the Parliament, if its members seemed to be sensible adults instead of petulant infants.

***Worldwide rejection of party politics and party politicians - politicians increasingly divorced from reality***

Numerous surveys demonstrate that the public seldom pay very much attention to what politicians are doing - unless there is a direct effect on the individual or that individual's family. It's really only at Election time that the public at large take any interest in party politics. Worldwide, in democracies, at the present time, voters hold party politicians in contempt. A recent American poll found that party politicians were less popular than haemorrhoids. The Presidential Election in America has demonstrated that party politicians are now the objects of such extreme public hatred so as to lead to the election of Donald Trump

I realise MSPs will not accept that this is the case (despite all the incontrovertible evidence). That's because they don't know any normal people. They live in their little fantasy land talking only to their own weird kind. Having observed them for quite a long time, I would judge that politicians inhabit an introverted, unreal world in which their most important regular interaction with other human beings is almost all with other politicians and with political journalists - the latter being every bit as much in the private fantasy land as the politicians themselves.

***Government MSPs pursuing own interests (media coverage) to detriment of their real job (governing)***

One of the reasons the public detest party politicians is that they are elected to carry out the work of governing . But in fact they spend about two thirds of their time pursuing party politics - which is not what we the taxpayers pay them for. Party politicians in effect steal public money by the device of the "special adviser" These are highly paid journalists (paid by the public purse) whose job is to ensure that the voters never know the truth about what is happening in their name by the government. They are in effect employees of the political party in power. This set-up is basically a fraud and nothing other than crude corruption. The political party (in the guise of the current government) defrauds the public purse of substantial amounts of money in order to pursue party political objectives. Legally this is not within the function of government.

**Has the Scottish Parliament the right checks and balances in place to enable effective conduct of parliamentary business*****Is Commission able to answer this point?***

This question is one which should be properly put to those with experience of the internal workings of a Parliamentary system in a democratic country. For example the Clerks Office in the House of Commons would provide the most informed, and readily obtainable view available. But perhaps for reasons of racism this would not be acceptable to the current Scottish Government? On any view, it is extraordinary to pose a complex legal question, which requires particular expertise on constitutional law and its practice, to a Commission which doesn't contain even one lawyer as a member - never mind one who is expert enough to articulate a useful view on this matter.

***Failure of Committees because political parties have corrupted system***

When the Scottish Parliament was set up, great store was placed on the fact that it was to work through its committees rather than have all business take place on the floor of the assembly. But the MSPs in the majority party just now - and perhaps from the outset of the Parliament in 1999 - has completely undermined that system by putting MSPs from the majority party in place as Chair of the the Committees. This is so utterly ridiculous that it would be quite funny if it were not so tragic. Then they compound their corruption of the intended vigorous committee review system, by using party discipline on committee MSPs on which way they are to vote. So the whole thing is de facto merely a pretence of proper review of the Govt's business. As a result it is probably not going to far to say that the Committee system makes a negligible contribution to the work of the Parliament.(Lots of Reports containing lots of words are valueless of themselves.)

For a committee to work properly as a check on Government power it must:-

- (a) have a Secretariat which supplies information to all members of the committee irrespective of party;
- (b) have a Chair who is not a member of the party or parties who form the government;
- (c) have no party whip or party discipline applied to the way committee members vote.

All these can be covered by Standing orders.

### ***Dire legislative record of Scottish Parliament***

The quality of the legislative output from the Scottish Parliament is atrocious. I know of no lawyer who says otherwise - including those who are vigorous supporters of the institution and of an independent Scotland. The legislation is rarely managed to be put in proper English. This results in the procurator fiscal, the Court and lawyers being unable to understand what it is trying to do. The anti-sectarian football legislation was described as "mince" by Sheriff Davidson at Dundee Sheriff Court when he was asked to pronounce on a case. (The Scottish Government has now asked Lord Bracadale to help them fix it.) The foxhunting legislation has recently been adjudged by Lord Bony to be gibberish. The daft "named-person" legislation was ruled to be nonsense by the Supreme Court - and the Scottish Government were ordered to produce something in proper English by a certain date. I am pretty sure that they failed to meet this deadline - presumably because they don't have anyone bright enough to write an articulate piece of law in statutory form. The Parliament passed law relating to Scottish agricultural tenancies. The stated aim was to make the tenant's position stronger. In fact the utter incompetence of the Parliament has meant that they did the very opposite of what they set out to do. Farmers have been thrown off land they have farmed for generations as a result of this incompetence. Understandably these farmers are now suing the Scottish Government in the Courts.

### ***Pathetic appeal by Scottish Govt to Judges to "correct their homework"***

The Scottish Government and the Parliament are such babes in the wood, so as not to realise that in a democracy, the assembly legislates while the Judges interpret the final laws as placed on the statute book. They have asked Judges to remedy their incompetence by helping them to write coherent and sensible laws. This is the ultimate degeneration of the body. By taking this absurd step, it has admitted its own idiocy and its inability to overcome its own shortcomings without external help.

Scots law has kept Scotland different from the rest of the UK since 1707. All Scots lawyers are proud of the independence of our Scots law and have worked hard to maintain high standards in our legal system. The damage done to Scots law by the downright stupidity of the Scottish Parliament in the last 20 years has easily outstripped any damage done by the Westminster Parliament in the previous 300 years.

### **Recommendations**

*(1) The political parties are the underlying problem. We pay politicians to govern or (if in opposition) to review and criticise the government's proposals. We do not pay them to spend well over half their time putting out press releases aimed at securing good media coverage for the particular politicians and his/her political party. So a contract of employment should be given to all MSPs. They should be obliged to carry out the work we pay them for- not to spend huge percentages of their time and the public's money advancing their own interests. After all, the public have to observe and obey the terms of their contracts of employment or loose their jobs. Why should MSPs be allowed to do otherwise?*

*(2) All Committees must be chaired by MSP's from a party which is not in the majority in the Chamber. Party whips must not be applied to committee work. See above Paragraph headed "Failure of Committees"*

*(3) The Scottish Government should publish annual figures showing the Scottish public how many of their "special advisers" are in fact journalists whose task is to advance the cause, not of the government, but of the political party which makes up the government - which is a totally different thing. The total salaries of these special advisers should be published. This is simply openness and transparency as applied to government.*

*(4) The very worrying shortcomings of many MSPs might be addressed to some degree if they would simply acknowledge that they know very little about anything and act accordingly. Plenty of people who are not particularly bright have made great successes of their lives, simply because they are willing to follow the sound advice of others. Surely it can't be beyond MSPs to work out who knows what they are talking about and follow their suggestions? This is a basic life skill. Are many of our MSPs such oddballs that they can't even do this?*

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