

LIBERAL DEMOCRACY THE SCOTTISH



In 1997, the Labour government, fulfilling the promises of the Cook-Maclennan Agreement reached between Labour and the Liberal Democrats before the election, finally created the longed-for Scottish Parliament. The first eight years of the Parliament, after elections in 1999 and 2003, saw coalition governments

formed between the Liberal Democrats and Labour. **Caron Lindsay** examines the record of the coalitions, and the Liberal Democrat impact on them, and concludes that there are lessons from the first eight years in Scotland which might yet help restore the fortunes of the party at UK level.

ATS IN COALITION: SH RECORD

IN 1979, SCOTLAND had voted by 51.6 per cent to 48.4 per cent for a Scottish Assembly; however, despite the majority within the votes cast, the yes vote failed to meet the required threshold of 40 per cent of the total electorate. Eighteen years of Conservative rule then further intensified Scotland's desire for devolution. The 1979 referendum showed a three to one ratio in favour of a parliament, and two to one in favour of tax-raising powers. The Scotland Act of 1978 gave a parliament and Scottish executive control over most domestic matters and the never-used power to vary income tax by three pence.

Elections took place on 6 May 1979: Labour won fifty-six seats, SNP thirty-five, Conservatives eighteen, Liberal Democrats seventeen, and others three. Together, Liberal Democrats and Labour had a majority.

Both parties knew that the new Scottish Executive would have a great deal to prove. On the one hand, there was a great sense of optimism. The carefully built consensus among politicians and civil society on devolution was realised. There was talk of a better way of doing politics, where people could engage more with parliament and government. Sceptics, however, doubted that coalition could work. For years the prevailing narrative, spread by those in power with no appetite to share it, had been that proportional representation would lead to instability. Fears of a bland government which did nothing

Left: Scottish Parliament in session.

radical abounded. Would Scotland's first devolved government confound sceptics and be radical enough for optimists?

On 14 May 1979, Donald Dewar and Jim Wallace announced a Labour/Liberal Democrat Partnership Agreement. The parties governed together for eight years, through three Labour and two Liberal Democrat leaders, implementing landmark reforms. For Liberal Democrats, it was the first chance to govern in eighty years. How would inexperienced new ministers adapt to government and maintain the party's identity as the junior partner in coalition? This article aims to discuss the formation of the coalition, assess its impact on Scotland, the UK and the Scottish Liberal Democrats, look at how it governed as well as what it did, and draw some comparisons with the current UK coalition.

Constitutional convention

When Conservatives and Liberal Democrats sat down to negotiate after the 2010 general election, they were unfamiliar with each other. David Laws says in his account that he and William Hague had never previously met.¹ This was not the case in Scotland: the parties had been involved in tough negotiations in the Scottish Constitutional Convention which had established the blueprint for the Scottish Parliament.

For instinctively centralising Labour, giving away power is difficult. Tony Blair was always

sceptical about creating the Scottish Parliament. In his autobiography, he said:

I was never a passionate devolutionist. It is a dangerous game to play. You can never be sure where nationalist sentiment ends and separatist sentiment begins. I supported the UK, distrusted nationalism as a concept and looked at the history books and worried whether we could get it through.

The Scottish Constitutional Convention in its 1995 blueprint, *Scotland's Parliament, Scotland's Right*, set out that the parliament should contain 129 MSPs: seventy-three from constituencies and fifty-six elected from a top-up list. That figure was a compromise. The Scottish Labour party were willing to agree to 145 MSPs in total, but that would have set it against Westminster Labour who wanted just 108. Liberal Democrats had helped broker the eventual deal. As a result, by the time of the Holyrood election, Labour should have known that Liberal Democrats were tough but reasonable negotiators.

Coalition negotiation 1999

Labour as the largest party made a foolish assumption. They expected the Liberal Democrats to be so excited at the prospect of government that they would simply join Labour in implementing its policies. A two-page letter, inviting Liberal Democrats to join their

government, was immediately dismissed by Jim Wallace.

It was not just Labour who had to learn to take Liberal Democrats seriously. During the negotiations, a senior civil servant was asked to leave the room because of a perception that they felt they were there to serve the largest party. David Laws talked about these experiences in 2010 in the wake of the Westminster deal:

David Laws was asked whether he would wish to see the involvement of the Civil Service in any future coalition negotiations. His feeling was, based on the evidence of Civil Service involvement in Scottish negotiations, that this may act as a hindrance to proceedings. In this instance his view was that the Civil Service had shown a preference towards the stronger party, and that their presence stifled more frank and open discussion.²

Laws discussed the negotiation process at a Liberal Democrat History Group fringe meeting in 2009, outlining his seven rules for coalition negotiations which are recounted in full by Mark Pack. They are:

- 1 There is huge pressure from the media and others which requires a deal to be struck quickly if at all.
- 2 About 20 per cent of colleagues will be happy with any sort of coalition, 30 per cent will oppose any sort of coalition and the rest will decide on the details of the proposal.
- 3 Any coalition has to address issues of policy substance.
- 4 You have to be tough and prepared to walk away to get a good deal.
- 5 But you can agree to postpone tackling some large complicated issues if more time is genuinely needed to work out a compromise – and if there is always the threat that the coalition will end if it is not reached.
- 6 You need to get commitments in writing about the administrative details of how coalition government will work.
- 7 Vigorous internal party debate over the proposed terms is vital for any deal to stick.³

A joint meeting of Lib Dem MSPs and the Executive and Policy Committees gave a green light to the deal, but little effort was made to get the wider party on board, leading to resentment. This was changed for the 2003 elections, with much wider consultation taking place, involving local party and regional office bearers.

When the deal was announced⁴ on 14 May 1999, topmost in commentators' minds was the question of what would happen on the controversial issue of tuition fees. This issue dominated the election: Labour wanted to charge for university tuition; Liberal Democrats were implacably opposed. If anyone had wanted any wiggle room, David Steel removed it during the last week of the campaign, saying that if you voted Liberal Democrat on Thursday, tuition fees would be dead by Friday.

Maintaining free higher education was the Liberal Democrats' top priority, and Labour were not in a mood for negotiation. The Liberal Democrats held their ground, and insisted on implementing Laws' fifth rule, as illustrated by the following excerpt from the Partnership Agreement:

We are agreed that the controversial issue of tuition fees is too important and too complex to be decided in the short period of time between the elections of 6 May and the formation of this Partnership Government. The Universities and other Higher Education bodies have emphasised to us the need to proceed through careful and thorough examination of all of the options. The Liberal Democrats stood on a manifesto commitment to abolish tuition fees. The Liberal Democrats have maintained their position on it. The partnership agreement does not mean abandonment of that position.

The staging post in the agreement was that the parliament would be asked to set up a review that would report by the year's end.

Liberal Democrat approval of the deal seemed alienly inclusive to Labour but too exclusive to Liberal Democrat grassroots. A joint meeting of Lib Dem MSPs and the Executive and Policy Committees gave a green light to the deal, but little effort was made to get the wider party on board, leading to resentment. This was changed for the 2003 elections, with much wider consultation taking place, involving local party and regional office bearers. There are lessons to be learned from this for future Westminster negotiations. While the 2010 Coalition Agreement

was accepted by a Liberal Democrat Special Conference with little opposition, it was very much a take it or leave it affair. More widespread consultation prior to the agreement being finalised is needed: votes of the Parliamentary Party and the Federal Executive are not enough.

Achievements in the first term

In May 1999, Scottish Liberal Democrats produced a document outlining forty-eight pledges in the Partnership Agreement – 'one a month for four years'. Labour were, however, better at selling their wins and the Liberal Democrats were roundly criticised in the media and within the party for making too many compromises.

By the 2001 Westminster election the forty-eight pledges became 185 measures that had been either implemented or were on the way to being so. Jim Wallace wrote:

You only have to compare the actions of the Liberal Democrat/Labour partnership government in Scotland to those of the majority Labour government in London to see the difference:

- Tuition fees – gone in Scotland, still there in England
- Free personal care for the elderly – coming soon in Scotland, no sign of action in London
- A fair deal for teachers England's teachers are demanding a deal like those of their Scottish counterparts
- Freedom of information – the UK government's proposals are a shadow of our Scottish plans.⁵

The first term saw some forty-eight pieces of legislation passed by the parliament – and there were some complaints that parliamentary committees were being overworked. Here are some of the highlights:

Free personal care

This is an example of Liberal Democrats exerting their influence within government to enact a radical reform. The Liberal Democrat manifesto committed us only to:

Promote an early dialogue with all interested parties throughout the UK to establish a common

way forward in achieving the recommendations contained in the Royal Commission on Long Term Care.⁶

That Royal Commission, chaired by Stewart Sutherland, had radically recommended that:

The costs of care for those individuals who need it should be split between living costs, housing costs and personal care. Personal care should be available after an assessment, according to need and paid for from general taxation: the rest should be subject to a co-payment according to means.⁷

The Westminster government rejected the Commission's recommendations on affordability. Scottish Labour thought similarly. This did not stop Liberal Democrats, in particular Mike Rumbles and Margaret Smith, pushing the executive to implement free personal care. Labour's Henry McLeish, who became First Minister on Dewar's death, favoured the policy and the landmark legislation was passed in 2002.

Higher education

The outcome of the tuition fees dilemma, reached in January 2000, was a deal which guaranteed no front-end fees but introduced a graduate endowment of £2000, to help those from a poorer background attend university.⁸

This was not well received, presaging the rage eleven years later in England. Liberal Democrats took a hammering: MSPs were abused in the street and thirty pieces of 'silver' were delivered to their headquarters. The SNP minority government with Liberal Democrat support eventually abolished the endowment in 2008.

Jim Wallace's personal achievements

Jim Wallace became Minister for Justice and introduced seventeen pieces of legislation which had a significant impact on individuals and communities, earning him wide respect amongst the justice community. These include:

- Enabling civil marriages to take place outside a registry office.
- Significantly stronger Freedom of Information legislation than

south of the border allowing a straightforward right of access to information, fewer grounds for exemption and quicker time frames.

- Radical land reform which gave walkers the right to roam and enabled community buy-outs of land put up for sale, such as on Gigha, where it rejuvenated the island.
- Abolition of personal cross examination by rape accused of victim in court if previous sexual history of victim being admissible evidence.
- Reforming criminal justice giving more power to victims and restricting corporal punishment of children.
- Simplifying arrangements regarding personal debt.

This contrasts with Nick Clegg's situation in the current Westminster coalition. His attempts at reforming the House of Lords and party funding were blocked by both Labour and the Conservatives through little fault of his own.

Nursery for three and four year olds

We now take for granted that our three and four year olds go to nursery for two and a half hours a day, giving them the best possible start. Liberal Democrats are now extending places for two year olds in England.

Housing and homelessness

A radical target of ending homelessness by 2012, modification of the right to buy, and more rights for social tenants went some way to dealing with the shortage of affordable housing, although it would be wrong to say that it has resolved the issues.

Foot and mouth

The measure of a government is tested when it faces a crisis. In 2001, foot and mouth disease spread into Scotland. In England, the consequences had been catastrophic. Prompt and efficient action ensured that the outbreak was contained. The executive was able to prove itself as a competent administration and the reputation of Ross Finnie was enhanced.

Section 28

The repeal of Section 28, or Section 2A as it is more correctly known in Scotland, was much easier than

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in England but was still traumatic. Liberal Democrats maintained pressure for the repeal, as Labour support wobbled, particularly from central-belt MSPs who received robust representations from the Catholic Church. The Keep the Clause campaign run by millionaire Stagecoach owner Brian Souter sent a postal ballot paper to every house and claimed massive opposition to the measure.

Four more years

In 2003, Scottish Liberal Democrats – for the first time in living memory – went into a national election asking for ‘four more years’ and ran proudly on their record. The election strengthened their hand: the seventeen Lib Dem seats were retained, whereas Labour lost six seats and the SNP lost eight seats. This paved the way for an extra fourteen Green, Socialist and Independent MSPs. They could have been a powerful force within the parliament had they worked together constructively. It was an opportunity lost for more diverse politics.

Labour approached the 2003 coalition negotiations in a spirit of simply continuing the government of the past four years. Liberal Democrats wanted a whole new deal and were prepared to be robust to get it. After press stories suggested that the Liberal Democrats had ‘ripped up their manifesto’, Jim Wallace put his foot down. He told Labour he would not negotiate until they stopped briefing. I wonder what would have happened if there had been a similar rebuke to William Hague's public comments about an AV referendum in 2010.

The big Liberal Democrat win, arguably the most major of the eight years, was the introduction of proportional representation by the Single Transferable Vote for local government. Prior to the 2007 election, Labour did not have to try in many areas under first past the post. In 2003, seventy-one Labour councillors were elected in Glasgow. Between them, the opposition parties mustered eight. Although Labour continues to have a majority there, they now have a significant opposition. In addition, many other fiefdoms have gone. The Electoral Reform Society, in its study of the first elections held under the new system said:

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Councils across Scotland are now much more representative of the views of their voters. No longer are there councils where parties have majorities that cannot be justified by electoral support; where parties with significant support have no, or few, seats; or where the largest parties in terms of seats are not those with most votes.⁹

Liberal Democrats also won on the health promotion agenda. While Labour's emphasis was on building more hospitals, Liberal Democrats wanted free eye and dental checks and won. Other financial priorities included historic investment in further education colleges by both Jim Wallace and Nicol Stephen, which the Nationalists have been paring back ever since. In contrast, Liberal Democrats in the UK coalition have made significant cuts in this area.

Justice

Despite Jim Wallace's move to Enterprise and Lifelong Learning, significant concessions were won from Labour on anti-social behaviour. Plans to jail parents of persistently offending children were watered down considerably. Labour had also wanted a paradoxical centralised community justice system. Liberal Democrats prevented the retention of DNA of anyone arrested and the introduction of an ID card to access to devolved services.

Process of government

The Partnership Agreement in 1999 explicitly set out how the government would work, particularly when it related to an issue not covered in the Partnership Agreement. This section on the Role of the Deputy First Minister was interesting:

The parties agree that, subject to the approval of the Parliament, the Leader of the Scottish Liberal Democrats should be nominated to hold the office of Deputy First Minister in the Partnership Executive.

It is essential that the Deputy First Minister is kept fully informed across the range of Executive business so that he can engage in any issue where he considers that appropriate. The

procedures to be established for handling business within the Executive will require officials to copy all relevant material to the offices of the leaders of both parties in the Executive. The Deputy First Minister will have appropriate official, political and specialist support to enable him to discharge his role effectively.

The 2003 equivalent¹⁰ cleared up an omission – specifying that the First Minister should also be copied in on everything – and went into more detail about issues not covered by the Partnership Agreement, so that events such as the Iraq war did not destabilise the coalition.

Despite that agreement, there was, according to one former minister, a need for vigilance. If issues arose, Labour would instinctively revert to their policy to find a solution and had to be pulled back.

Labour ministers would go along to Liberal Democrat Parliamentary Party meetings. The minutes of the meeting of 29 January 2002 show that Labour Health Minister Malcolm Chisholm would be invited to the next meeting to discuss a dispute between care home owners and local councils. The minutes of 4 March 2003 indicate that Liberal Democrat MSP Robert Brown withdrew an amendment on the Homelessness Bill after Labour Minister Des McNulty had come to the meeting. Last year Brown, asked for this article if that type of interaction helped intra-coalition relations and maintained discipline, wrote:

Being in Coalition gave you an inside track to Ministers who needed your support both in Committee and in the Chamber. There was therefore a lot of interchange on the detail of Bills. We lodged amendments, sometimes serious, sometimes probing, to get Ministers to give explanations, make concessions, say things on the Record, etc. The Party spokesman would make recommendations to the Group for discussion and usually a satisfactory resolution was obtained.¹¹

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Jim Wallace told *Holyrood* magazine in 2011 about the lengths the coalition partners could go to in order to find an acceptable compromise:

Discussions between coalition partners can be very robust and that's important because you have to be able to do that and carry on the business of government and sometimes it can be very funny. I remember on my very last night as deputy FM when we had had a cabinet meeting earlier that day and the planning [of the] white paper had to be finalised and there was one paragraph that was very difficult, I think about third party right of appeal, and Jack [McConnell] and I resorted to a thesaurus to find a word that we thought could square the circle and would mean we both had a different word and yes, we saw the funny side at the time. I can think of many occasions when Jack and I could easily have reached agreement on some policy issue but we had to go through a negotiation because we had to be sure we could bring our respective parties along with us, so you had to rehearse any of their views or objections and given the nature of the Lib Dems, we had a very large number of consultations!¹²

Jim Wallace as acting First Minister First Minister Donald Dewar's hospitalisation for heart surgery thrust Jim Wallace into the media spotlight as acting First Minister for three months. His performances at First Minister's Questions against the SNP's Alex Salmond saw him being depicted in a newspaper cartoon as a Roman gladiator with his foot on Salmond's chest. In *Neither Left nor Right? The Liberal Democrats and the Electorate*, Andrew Russell quotes one Liberal Democrat insider as saying:

I think a lot of people in the Labour Party just could not see how the government of Scotland could continue with Wallace in charge, but in fact Jim has done a very good job and has got a very good press out of it and I think that has to some extent solidified

the relationship between at least the Lib Dem and Labour members of the Executive.¹³

Jim had to act twice more as First Minister, on Dewar's sudden death in October 2000 and a year later when Henry McLeish resigned over expenses mistakes. Jim deserves great credit for managing transitions to new First Ministers. It is worth considering whether such an arrangement could possibly take place at Westminster. Would Nick Clegg be able to command a majority of the House of Commons in similar circumstances?

Wallace's and Dewar's personal friendship was vital both in establishing the executive and in its ongoing work. Henry McLeish and Jack McConnell were less well disposed towards Liberal Democrats, but Jim was able to establish effective working relationships with both of them. It was the Liberal Democrats who provided the stability, particularly in the early days of the coalition.

In 2007, the coalition ended and the SNP formed a minority government. Their well-funded 'It's Time' campaign compared well with Labour and the Liberal Democrats. The latter had been too busy governing to develop a narrative that would resonate with the electorate. The Liberal Democrats only lost one seat, but there were two major barriers to forming a further coalition with the SNP. Firstly, the parties did not have enough seats between them to make a majority. Secondly, Liberal Democrats had insisted that they would never agree to an independence referendum, which quickly proved a deal breaker.

Comparison with Westminster

The discipline in Scotland is not repeated at Westminster, with frequent rebellions by both Conservative and Liberal Democrat MPs. It is accepted that some people will not support particular measures and ministers push ahead regardless. In Scotland there was much more emphasis on getting everyone on the same page before legislation was agreed, which had the effect of keeping the individual party groups together.

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In Scotland, the Liberal Democrats governed at a time of economic prosperity. A generous budget and plenty Barnett Formula consequentials to spend as we wished meant that there was enough cash to satisfy both parties' policy agendas. Lib Dem ministers at UK level were not so lucky. Taking office after the banking collapse, under threat of a sovereign debt crisis, in the worst economic circumstances in eighty years, is significantly more challenging. Despite that, Liberal Democrats have ensured tax cuts for those on low and middle incomes, free school meals and extra money for disadvantaged children in school.

A major difference is that, because of PR, the Scottish people get the parliament they asked for. If that had happened at Westminster, there would be 140 Liberal Democrats – which would have strengthened the Lib Dem hand in negotiations. It is to Lib Dem ministers' credit that they have managed to fulfil so many key pledges from that position.

There is still much that Westminster MPs can learn from those who have been through it in Scotland. Jim Wallace's experience could be better used.

Conclusion

The Labour/Liberal Democrat coalition proved three major things. Firstly, that two parties could work together at national level. The two parties had a respectful and disciplined approach and showed that coalition could succeed in providing stable government. Secondly, the coalition succeeded in enacting substantial, radical and lasting reform. And, finally, it proved that different systems could be in place in different parts of the UK and the sky would not fall in. Free personal care, free university tuition, free eye and dental checks, robust freedom of information legislation are all examples of enduring reforms which take a different approach than in England and Wales.

When the Liberal Democrats were formed a quarter of a century ago, I cannot imagine that many people predicted that eleven out of our first twenty-five years would be spent in government at a national level. There are lessons from the first eight years in Scotland which might yet help restore the fortunes of the party at UK level.

Caron Lindsay joined the SDP on her sixteenth birthday in 1983. Since then she has held various offices at local and national level. She is currently Treasurer of the Scottish Liberal Democrats and a member of the Federal Executive. She is also co-editor of Liberal Democrat Voice.

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