

The **Constitution** Unit

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**D**EVOLUTION  
**M**ONITORING  
**P**ROGRAMME  
2006-08

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**Devolution and the Centre Monitoring Report**

**January 2007**

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**Akash Paun (ed.) and Ernest Lau**

**The Constitution Unit**

[www.ucl.ac.uk/constitution-unit](http://www.ucl.ac.uk/constitution-unit)



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## The Devolution Monitoring Programme

From 1999 to 2005 the Constitution Unit at University College London managed a major research project monitoring devolution across the UK through a network of research teams. 103 reports were produced during this project, which was funded by the Economic and Social Research Council (grant number L 219 252 016) and the Leverhulme Nations and Regions Programme. Now, with further funding from the Economic and social research council and support from several government departments, the monitoring programme is continuing for a further three years from 2006 until the end of 2008.

Three times per year, the research network produces detailed reports covering developments in devolution in five areas: Scotland, Wales, Northern Ireland, the English Regions, and Devolution and the Centre. The overall monitoring project is managed by Professor Robert Hazell and Akash Paun at the Constitution Unit, UCL and the team leaders are as follows:

- Scotland: **Peter Jones**  
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**Akash Paun**, The Constitution Unit, UCL

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WALES OFFICE



All devolution monitoring reports are published at: [www.ucl.ac.uk/constitution-unit/research/devolution](http://www.ucl.ac.uk/constitution-unit/research/devolution). Contact Akash Paun on [a.paun@ucl.ac.uk](mailto:a.paun@ucl.ac.uk) for further information.

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# **Devolution and the Centre Monitoring Report**

**January 2007**

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**Akash Paun (ed.) and Ernest Lau**

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## **Abbreviations and Acronyms**

AM	Assembly Member [of National Assembly for Wales]
DCA	Department of Constitutional Affairs
DCLG	Department of Communities and Local Government
DGN	Devolution Guidance Note
DTI	Department of Trade and Industry
EDM	Early Day Motion
GOWA	Government of Wales Act
LCO	Legislative Competence Order
JMC	Joint-Ministerial Committee
MEP	Member of the European Parliament
MSP	Member of the Scottish Parliament
WAG	Welsh Assembly Government

## **Executive Summary**

- With devolved elections and the 300<sup>th</sup> anniversary of the Anglo-Scottish Union in May, a major public debate is under way on the future of the UK. An SNP victory would put Scottish independence firmly at the top of the political agenda while disenchantment south of the border with the current constitutional settlement quo may pose an even greater threat to the Union.
- Some recent opinion polls have indicated majority support for English and Scottish independence, the establishment of an English Parliament, and a bar on Scottish MPs voting on English matters. However, the methodology used and the phrasing of the questions asked appear to have a major impact on the results. Other recent data suggests much stronger support for the status quo in both England and Scotland.
- At the party's autumn conference, the Conservatives emphasised their support for devolution in both Scotland and Wales. In the case of Scotland, the party appears to be moving closer to support for greater fiscal devolution. This would leave Labour alone in supporting the existing situation, where almost all revenue-raising powers are reserved to the Treasury.
- The government continues to make heavy use of the 'legislative consent convention', introducing four new bills that will require the consent of the Scottish Parliament as they stray into devolved policy areas. In response to a Scottish Affairs Committee report, the government has committed to making the convention operate more transparently.
- To an even greater extent, legislation for Wales continues to entangle the UK and devolved levels of government. Two bills in the new parliamentary session grant 'framework powers' to the National Assembly for Wales by a novel legislative mechanism. Meanwhile, preparations continue for the enhanced legislative role that the Assembly will take on after May, with concerns remaining at the veto powers held by Westminster and the Secretary of State for Wales. The Welsh Affairs Committee is preparing a report into how the new process will work.
- Northern Ireland has seen another major push by the British and Irish governments to restore devolution. The passage of the Northern Ireland (St Andrew's Agreement) Act gives the parties until March to resolve their differences and resume power-sharing. Until then, Northern Ireland remains subject to direct rule by primary legislation and orders in council.

- The direction of travel for English sub-national governance became a bit clearer in the autumn with the publication of the local government white paper. A select committee inquiry asking 'Is there a future for regional government?' is ongoing.
- The Joint Ministerial Committee on Europe – comprising representatives of the UK and devolved governments – met twice in autumn 2006. Elsewhere, intergovernmental relations remain fragmented and non-institutionalised. Recent developments include a Scottish-UK protocol for dealing with failed asylum seekers, and ongoing Welsh-UK discussions on the possible devolution of planning powers for large energy projects.

## **Chronology of Events: September to December 2006**

10 October	Meeting of Joint Ministerial Committee (Europe)
16 October	Communities and Local Government committee questions ministers as part of regional governance inquiry
24 October	Launch of English Constitutional Convention at Westminster
26 October	Government publishes white paper on local government
26 October	Intergovernmental meeting between Scottish First Minister Jack McConnell and Home Office minister Liam Byrne to discuss protocol on asylum seekers
27 October	Meeting of British Irish Council sectoral group on Indigenous, Minority and Lesser-Used Languages
8 November	National Health Service (Wales) Act granted Royal Assent
8 November	Prorogation of Parliament: End of 2005-06 session
15 November	Queen's Speech: Start of 2006-07 session
22 November	Northern Ireland (St Andrew's Agreement) Act granted Royal Assent
27 November	Meeting of Joint Ministerial Committee (Europe)
28 November	Wales Secretary Peter Hain appears before the National Assembly to discuss the Queen's Speech
7 December	Meeting of British Irish Council sectoral group on drugs
12 December	Local Council and Public Involvement in Health Bill receives First Reading in the Commons

- 12 December      Greater London Authority Bill receives Second Reading in the Commons
- 12 December      Northern Ireland Grand Committee meets in Belfast
- 13 December      Justice and Security (Northern Ireland) Bill receives Second Reading in the Commons
- 13 December      Robert Walter MP presents private member's bill to tackle West Lothian Question
- 13 December      Welsh Grand Committee meets to discuss the government's legislative programme
- 19 December      Parliament rises for Christmas recess

## **1. Monitoring the Union**

With the tricentenary of the Anglo-Scottish Union and the third devolved elections in Scotland and Wales to fall in the first week of May, a major public and political debate is under way on the future of the Union. On 3 May, Scottish voters will go to the polls with all eyes on whether the SNP can convert its opinion poll leads into electoral victory. If it manages to do so, holding a referendum on independence will be its major political objective, although it may struggle to find the votes among other parties to get legislation on this through the Scottish Parliament. Should it surmount this first hurdle, Alex Salmond's party will then have to win the referendum – which some current polls suggest is possible – negotiate the terms of separation with the UK Government and then rely on Westminster to formally dissolve the Union. In other words, independence for Scotland is far from imminent. However, the tenor of the current debate does confirm that the Government's proposition that devolution would kill nationalism 'stone dead' was no more than wishful thinking.

Further, while Scottish nationalism and predictions of SNP electoral victories are no new phenomena, the rise in English nationalist rhetoric does seem to mark a new source of tension in the Union. Resentment at the status quo among elements of the English seems to be focussed on two major issues: the constitutional anomaly known as the West Lothian Question, and the issue of finance, particularly the perception that England subsidises Scottish and Welsh public services. Polling evidence suggests growing awareness of these issues although whether opinions are strong enough to affect political and electoral behaviour remains to be seen.

The results of an ICM/Sunday Telegraph poll released on 27 November 2006 (see Figure 1) revealed majority support for Scottish independence among respondents from both England and Scotland.<sup>1</sup> 1003 respondents in Scotland and 869 in England were contacted, with 59 per cent in England and 52 per cent in Scotland stating that they 'approve of Scotland becoming an independent country'. 48 per cent in England and 45 per cent in Scotland were also in favour of England 'becoming an independent country from Scotland, Wales and Northern Ireland' (questions 1-2 in Figure 1 below). Significantly, however, the poll asked a simple yes/no question on whether respondents favoured independence for the two countries rather than

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<sup>1</sup> ICM/Sunday Telegraph Independence Poll, 27 November 2006  
[www.icmresearch.co.uk/reviews/2006/Sunday%20Telegraph%20-%20Independence/ST-nov06-independence.asp](http://www.icmresearch.co.uk/reviews/2006/Sunday%20Telegraph%20-%20Independence/ST-nov06-independence.asp).

offering multiple options. When asked whether they would prefer independence, devolution, or direct rule from Westminster, polls conducted in Scotland since 1998 have tended to reveal that fewer than 30 per cent favour full independence while around half favour the status quo.<sup>2</sup>

Figure 1: November 2006 Poll on Constitutional Preferences

Q1. Would you approve or disapprove of Scotland becoming an independent country?		
	England	Scotland
Approve	59%	52%
Disapprove	28%	35%

Q2. Would you be in favour or against England becoming an independent country from Scotland, Wales and Northern Ireland?		
	England	Scotland
In favour	48%	46%
Against	43%	47%

Q4. Because of the existence of the Scottish Parliament, MPs in the House of Commons representing Scottish seats are able to vote on laws that only affect people living in England and Wales, while MPs representing English seats do not have the right to vote on similar laws only affecting Scotland. Do you think that MPs representing Scottish seats in the House of Commons should or should not have this right?		
	England	Scotland
Should	34%	47%
Should not	62%	46%

Q5. Would you be in favour or against the establishment of an English Parliament within the UK, with similar powers to those currently enjoyed by the Scottish Parliament?		
	England	Scotland
In favour	68%	58%
Against	35%	31%

Source: ICM/Sunday Telegraph Independence Poll, 27 November 2006

The November 2006 polls also revealed high levels of support for barring Scots from voting on English matters and for the establishment of an English Parliament (questions 4-5 in Figure 1). Both these propositions received the support of over 60 per cent of English respondents. Again, however, the methodology used was to ask a single yes/no question. In addition, the phrasing of the first question included spelling out to respondents that 'MPs in the House of Commons representing Scottish seats are able to vote on laws that only affect people living in England and Wales, while

<sup>2</sup> A point made by Peter Jones, 'Is an independent Scotland about to be re-born?', Constitution Unit Comments, at: [www.ucl.ac.uk/constitution-unit/news/comment8.htm](http://www.ucl.ac.uk/constitution-unit/news/comment8.htm).

MPs representing English seats do not have the right to vote on similar laws only affecting Scotland'. Similarly, a question about finance reminded respondents that public spending was higher in Scotland than in England (60 per cent of the English and 36 per cent of Scots saw this as unjustified). While the figures may generate headlines, it must be borne in mind that opinion poll results can be heavily influenced by what information respondents are given.

This latter hypothesis is strongly supported by the results of a July 2006 poll in which English respondents were given three constitutional options for England: the status quo, powerful regional assemblies, or an English Parliament.<sup>3</sup> Half the sample was asked the question with only a vague preamble mentioning 'all the changes going on in the way different parts of Great Britain are governed'. Among this group support for an English Parliament was just 27 per cent. The other half of the sample was asked the same question but were reminded that the 'changes going on' included separate parliaments for Scotland and Wales. This single methodological change saw expressed support for an English Parliament leap to 41 per cent.

The clear conclusion to be drawn is that few voters are likely to rally to the cause of an English Parliament without being constantly reminded of the anomalies brought about by devolution. As a result, for English nationalist groups such as the Campaign for an English Parliament and the English Democrats Party, keeping the issue in the public eye is the priority. With this in mind, these and other organisations recently held the inaugural meeting of the English Constitutional Convention at the House of Commons on 24 October 2006. At this meeting, the former chair of the Scottish Constitutional Convention Canon Kenyon Wright voiced his support for establishing a 'strong English Parliament'. He professed to being convinced that England has a 'growing sense of national identity', and that 'there should be an English parliament if people want it'. He added that 'English Votes on English Laws' 'would create more problems than it would solve'.<sup>4</sup> The English Votes on English Laws solution remains favoured by many Conservatives, and is the subject of a recent private member's bill in the House of Commons (see section 5.1).

- The Government's former preferred answer to the English Question – strong elected regional assemblies – has been largely off the agenda since the November 2004 referendum defeat in the North East of England. A poll

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<sup>3</sup> Ipsos MORI, 'Views of English Devolution', 9 July 2006, at: [www.mori.com/polls/2006/ecc.shtml](http://www.mori.com/polls/2006/ecc.shtml).

conducted in that region to mark the second anniversary of the referendum suggested that a new referendum would be supported by 43 per cent of voters and opposed by only 31 per cent.<sup>5</sup> However, similar polls in 2004 had led the Government to believe that the original referendum would be won. In the event there was a four-to-one landslide against the proposal. Once again, the lesson is to exercise caution when interpreting polls into voters' preferences on complex constitutional or governance questions on which knowledge and strength of opinion is likely to be low.

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<sup>4</sup> 'Fresh call for English Parliament', *BBC News*, at: [http://news.bbc.co.uk/1/hi/uk\\_politics/6081130.stm](http://news.bbc.co.uk/1/hi/uk_politics/6081130.stm)

<sup>5</sup> Ipsos MORI, Devolution in the North East, 25 October 2006, at: [www.ipsos-mori.com/polls/2006/pdf/bbcnortheast.pdf](http://www.ipsos-mori.com/polls/2006/pdf/bbcnortheast.pdf).

## **2. Political Parties**

### **2.1 Labour**

Many of Labour's policy developments in the field of devolution have been or are being converted into legislation and consequently are covered below in the Legislation and Whitehall sections of this report. Having legislated for a stronger Welsh Assembly Labour is now committed to making the new Welsh settlement work and plans to wait at least 10 years before holding a referendum on full legislative devolution. Labour is also not in favour of significant changes to the Scottish devolution settlement. Nor does it see the need to tackle the West Lothian anomaly.

### **2.2 Conservatives**

At its party conference in October 2006, the Conservative Party continued to emphasise its newly-minted pro-Welsh-devolution credentials. Cheryl Gillan MP, the Shadow Welsh Secretary, confirmed that the Conservative Party is 'committed to devolution, localism and social responsibility in Wales'. She pointed out that 'by the elections next May the Assembly will have been in existence for eight years', and so 'the argument is no longer about whether we want devolution but how we make it work to deliver the best services for the people of Wales'. On the question of further devolution of legislative powers she said 'we're not going to call for full powers, but if the people of Wales vote for it in a referendum, we...will give that to them'.<sup>6</sup>

In the case of Scotland too, the party now regularly underlines its support for devolution. The Conservatives are apparently now keen on fiscal autonomy for Scotland, which would leave Labour as the only major party not favouring further devolution of financial powers. As part of a pre-election consultation process, the Scottish Conservatives' policy advisory group reported to the shadow cabinet on 5 October 2006. The group noted as a major problem of the current devolution settlement that there is 'no direct link between the politicians and the tax raised' except the level of council tax and business rates, and thus the 'politicians in the Scottish Executive are not responsible for raising the money they spend'. Possible solutions suggested include restoring 'the direct link between the taxpayers, the politicians and the money they raise and spend' and 'retaining the taxes raised in

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<sup>6</sup> Cheryl Gillan, 'No turning back the clock on devolution: Speech to the Conservative Party conference in Bournemouth' (2006), at: [www.conservatives.com/tile.do?def=conference.2006.news.story.page&obj\\_id=132687&speeches=1](http://www.conservatives.com/tile.do?def=conference.2006.news.story.page&obj_id=132687&speeches=1)

Scotland'. The group also recommended the establishment of a 'Scottish Treasury Department' to be created 'to oversee and provide advice on the new taxation responsibilities arising from administering taxation'.<sup>7</sup> The Scottish Conservatives may also fight the May 2007 election on a pledge to cut income tax by 3p.<sup>8</sup> Given the political sensitivity of fiscal policy, this step would be a clear sign that Cameron is serious about policy autonomy for the Scottish and Welsh Conservatives.

Cameron has already pledged to permit the Welsh party to adopt different policies in sensitive areas. He will allow the Welsh Conservatives to 'stick with their plans for university fees', according to the *Western Mail*. The Tories leader told the newspaper that 'this is a devolved issue, and if the party in other parts of the UK take a different view then that's OK. You have to believe in devolution head and heart.'<sup>9</sup>

Also at the October conference, the party reiterated its rejection of regional assemblies. Caroline Spelman MP, the Shadow Communities and Local Government Secretary, pledged to 'abolish the unelected regional assemblies' and to 'give power back to the local people'.<sup>10</sup>

The Conservative Party's Democracy Taskforce has yet to report with its recommendations for an answer to the West Lothian Question. The Tories have long been committed to the 'English votes on English laws' policy but amid doubts as to its workability a firm policy pledge is still awaited.

### 2.3 Liberal Democrats

Two policy papers relevant to devolution were discussed during the Liberal Democrats' conference, one titled *Your Community, Your Choice*<sup>11</sup> on Local Government in England and the other *Trust in People: Make Britain free, fair and green*<sup>12</sup> – a general policy paper.

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<sup>7</sup> Policy Advisory Group, Scottish Conservative and Unionist Party, 'Group Report 2006', Chapter 1, at: [www.scpag.info/index.asp?page=4#start](http://www.scpag.info/index.asp?page=4#start)

<sup>8</sup> 'Tories plan to give Holyrood greater power over taxation', *The Scotsman*, 5 October 2006.

<sup>9</sup> 'Wales can go its own way', *Western Mail*, 3 October 2006.

<sup>10</sup> Caroline Spelman, 'Regenerating our communities is a social, not just state, responsibility: Speech to the Conservative Party conference in Bournemouth' (2006), at:

[www.conservatives.com/tile.do?def=conference.2006.news.story.page&obj\\_id=132632&speeches=1](http://www.conservatives.com/tile.do?def=conference.2006.news.story.page&obj_id=132632&speeches=1)

<sup>11</sup> Liberal Democrats Federal Policy Committee, *Your Community, Your Choice: Policies for Local Government in England*, Liberal Democrats Policy Paper 73, at:

[www.libdems.org.uk/media/documents/policies/73%20-%20Your%20Community%20Your%20Choice.pdf](http://www.libdems.org.uk/media/documents/policies/73%20-%20Your%20Community%20Your%20Choice.pdf)

<sup>12</sup> Liberal Democrats Federal Policy Committee, *Trust in People: Make Britain free, fair and green*, Liberal Democrats Policy Paper 76, at:

[www.libdems.org.uk/media/documents/policies/Trust%20in%20People%20PP76%20v3.pdf](http://www.libdems.org.uk/media/documents/policies/Trust%20in%20People%20PP76%20v3.pdf)

In *Trust in People* the Federal Policy Committee of the LibDems called for the recognition of the right of all communities to 'set up their own decision making structures'. A more subtle institutional reform recommended by the group was the introduction of concordats between the UK Government and the local government in England that 'defines the rights and responsibilities of local government and limits the powers of central government to interfere in local decision-making'.<sup>13</sup>

*Your Community, Your Choice* dealt primarily with local government as well. Aside from calling for the introduction of concordats, it also argued that top-down decision making processes and 'one mode fits all' organisational models are inadequate to address local needs.

The Liberal Democrats have never seen the need for perfect uniformity. Tidiness is not an end in itself.<sup>14</sup>

In addition, the paper argued that many important decisions are taken by executive agencies and quangos that answer solely to the Secretary of State, which creates a considerable democratic deficit. While the paper criticised the Government's systematic transfer of powers to unelected regional chambers and called for more freedom and power for local government, the party is still formulating its policy on sub-national governance in England. The party's Better Governance Working Group, chaired by Lord Tyler, is working on a policy paper on this issue, which is due in March for discussion at the party's spring conference.<sup>15</sup>

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<sup>13</sup> Liberal Democrats Federal Policy Committee, *ibid*, p. 12. See also Working Group on Taxation, *Fairer, Simpler, Greener*, Liberal Democrats Policy Paper 75, at:

[www.libdems.org.uk/media/documents/policies/PP75%20Fairer%20Simpler%20Greener.pdf](http://www.libdems.org.uk/media/documents/policies/PP75%20Fairer%20Simpler%20Greener.pdf)

<sup>14</sup> Federal Policy Committee, *Your Community, Your Choice*, p. 12.

<sup>15</sup> Federal Policy Committee, *Your Community, Your Choice*, p. 5.

### **3. Devolution and Whitehall**

#### **3.1 Department for Constitutional Affairs**

The DCA has a responsibility for devolution as a whole and for managing relationships between Whitehall and the devolved administrations. In practice, devolution is now a marginal concern to the DCA itself, with the Scotland and Wales Offices – nominally part of the DCA – playing the lead roles in management of intergovernmental relations and the development of the devolution settlement(s).

#### **3.2 Scotland Office**

On 22 November, following a public consultation exercise, the Scotland Office announced a new one-page ballot paper for the May 2007 Scottish Parliamentary elections to aid public comprehension of the electoral system. This change was recommended in the Arbuthnott report which considered problems deriving from the use of four different electoral systems in Scotland and the ending of coterminous constituency boundaries for Westminster and Holyrood elections. In announcing the new ballot paper, Scotland Secretary Douglas Alexander stated that ‘I am pleased that this helps to take forward Sir John Arbuthnott’s recommendations for improving the voting arrangements for the Scottish Parliament’. In reality, however, a redesigned ballot paper was among the least controversial of Arbuthnott’s proposals. More substantive recommendations such as moving to an ‘open list’ proportional system await a formal response from the Government.

Since devolution the purpose of the Scotland Office has periodically come into question. Following the release of figures relating to its spending and activities, Liberal Democrat spokesperson on Scottish Affairs Jo Swinson argued that the department was ‘a staggering waste of money’ and called for it to be merged with the Wales and Northern Ireland Offices into a department for nations and regions. Scotland Office minister David Cairns defended his department, claiming it was one of the ‘leanest’ in Whitehall and represented ‘excellent value for money’.<sup>16</sup> In truth, while the Scotland Office does have few policy responsibilities to speak of, it is seen as playing an important role in facilitating relations between the Scottish Executive and other government departments and representing the interests of Scotland in Whitehall. That said, the idea of a merged department for devolution across the UK

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<sup>16</sup> Gerri Peev, ‘Scotland Office “a staggering waste”’, *The Scotsman*, 23 December 2006, <http://news.scotsman.com/scotland.cfm?id=1905432006>.

does enjoy some merit: it could bring benefits in terms of greater joined-up thinking between the various devolution settlements as well as cost savings.

### 3.3 Wales Office

The Wales Office has no bills to pilot through parliament this session, but was heavily involved in discussions about the framework powers for the Welsh Assembly included in two bills in the Queen's Speech. The Wales Office also has an important responsibility in ensuring a smooth transition to the new era of devolution in Wales that commences in May 2007. Following the Queen's Speech, Wales Secretary Peter Hain made the following announcement about the current workload of his department:

Vital work being is also being done to prepare the ground for Wales after the Assembly elections in May 2007. The Wales Office has a large amount of secondary legislation to undertake this session, in the wake of the Government of Wales Act 2006, with up to 12 Orders to make to ensure full implementation of the Act.<sup>17</sup>

The Wales Office is also known to be revising three of the Devolution Guidance Notes (DGNs) that act as a guide for Whitehall officials dealing with devolved issues. The three under revision are DGN1 on 'Common Working Arrangements' between the UK and devolved administrations, DGN4 on 'The Role of the Secretary of State for Wales' and DGN9 on 'Post-Devolution Primary Legislation affecting Wales'.<sup>18</sup>

### 3.4 Northern Ireland Office

The ongoing effort to restore devolved governance to Northern Ireland is a major preoccupation of the NIO at present.<sup>19</sup> While devolution remains suspended, however, the NIO also bears a wide range of policy responsibilities for the six counties which means that a regular stream of legislation comes out of the department (see section 4.3).

### 3.5 Department for Communities and Local Government

On 26 October 2006, the DCLG published its white paper *Strong and Prosperous Communities*.<sup>20</sup> This publication was principally focussed on government plans for

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<sup>17</sup> 'Parliament prepares ground for new era of devolution in Wales – Peter Hain', Wales Office press release, 15 November 2006, at: [www.walesoffice.gov.uk/2006/pn\\_20061115.html](http://www.walesoffice.gov.uk/2006/pn_20061115.html).

<sup>18</sup> The text of current versions of DGNs are available at: [www.dca.gov.uk/constitution/devolution/4](http://www.dca.gov.uk/constitution/devolution/4). The plan to revise three of these was revealed to the author by a DCA official

<sup>19</sup> Recent developments are discussed in section 4.3 and in greater detail in Robin Wilson and Rick Wilford, *Northern Ireland Devolution Monitoring Report: January 2007* (London: The Constitution Unit), at: [www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/NI\\_Jan07.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/NI_Jan07.pdf)

<sup>20</sup> A detailed analysis of the white paper can be found in Martin Burch and Alan Harding (eds.), *English Regions Monitoring Report: January 2007* (London: The Constitution Unit), at: [www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Regions\\_Jan07.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Regions_Jan07.pdf), section 1.2.

local and neighbourhood governance though it did also look at the potential for city-regional level governance. The Government was encouraging about greater coordination between local authorities within city-regions but argued that local demand rather than central government decisions should be the driver of institutional change at this tier of governance:

Models imposed from the centre onto local areas will be unlikely to reflect the individual circumstances of each place and so are unlikely to deliver the necessary local political leadership.<sup>21</sup>

### 3.6 HM Treasury

- For Northern Ireland, on 1 November the Chancellor of the Exchequer announced a funding package of £50bn over 10 years for the Northern Ireland Executive if a power-sharing deal is agreed upon, though it was unclear how much new money this would actually represent.<sup>22</sup>
- The Treasury announced its Pre-Budget Report in December,<sup>23</sup> with the Government claiming this would mean that ‘an additional £284 million will be made available to the Scottish Executive over the next four financial years’.<sup>24</sup>

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<sup>21</sup> Department for Communities and Local Government, *Strong and Prosperous Communities - The Local Government White Paper*, Cm 6939-1, October 2006 (London: The Stationery Office), at: [www.communities.gov.uk/pub/98/StrongandProsperousCommunitiestheLocalGovernmentWhitePaperVoj1\\_id1504098.pdf](http://www.communities.gov.uk/pub/98/StrongandProsperousCommunitiestheLocalGovernmentWhitePaperVoj1_id1504098.pdf). Para 4.102.

<sup>22</sup> ‘Chancellor sets out St Andrews agreement funding package for Northern Ireland’, Treasury Press Release, 1 November 2006, at: [www.hm-treasury.gov.uk/newsroom\\_and\\_speeches/press/2006/press\\_82\\_06.cfm](http://www.hm-treasury.gov.uk/newsroom_and_speeches/press/2006/press_82_06.cfm).

<sup>23</sup> HM Treasury, *Pre-Budget Report. Investing in Britain’s potential: Building our long-term future*, Cm 6984, December 2006 (London: The Stationery Office).

At: [www.hm-treasury.gov.uk/media/5CC/43/pbr06\\_completereport\\_1439.pdf](http://www.hm-treasury.gov.uk/media/5CC/43/pbr06_completereport_1439.pdf).

<sup>24</sup> ‘Pre-Budget Report Delivers for Scotland’, Scotland Office Press Release, 6 December 2006, at: [www.scotlandoffice.gov.uk/our-communications/release.php?id=3562](http://www.scotlandoffice.gov.uk/our-communications/release.php?id=3562).

## 4. Devolution and Westminster: Legislation

### 4.1 Scotland

The Government's 2006-07 legislative agenda includes a number of bills that are likely to invoke the legislative consent (Sewel) convention. According to a Scotland Office press release, issued on 15 November, seven of the bills in the Queen's Speech are 'likely to contain provisions that would require the consent of the Scottish Parliament'<sup>25</sup> either because they legislate in devolved areas such as criminal justice or because they amend the powers of the devolved institutions. However, on the same day, the Scottish Minister for Parliament, Margaret Curran, announced that the Scottish Executive intends to seek the consent of MSPs for only four of the seven bills identified.<sup>26</sup>

The four bills identified by Curran as definitely falling within the scope of the legislative consent convention were all introduced at Westminster prior to the Christmas adjournment. The Scottish Executive has published a Legislative Consent Memorandum for each of these, which will be scrutinised by a subject committee of the Scottish Parliament before a formal consent motion is moved.<sup>27</sup> The four bills are<sup>28</sup>:

- Consumers, Estate Agents and Redress Bill
- Further Education and Training Bill
- Statistics and Registration Service Bill
- Tribunals, Courts and Enforcement Bill

The other three bills identified by the Scotland Office as likely to require the consent of MSPs have not yet been introduced at Westminster. Curran's announcement makes clear that further Legislative Consent Motions for these bills may be required as their content becomes clearer. These three bills are:

- Child Support Bill

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<sup>25</sup> Scotland Office, 'New Legislative Programme Reflects Flourishing Partnership', 15 November 2006, at: [www.scotlandoffice.gov.uk/our-communications/release.php?id=3560](http://www.scotlandoffice.gov.uk/our-communications/release.php?id=3560).

<sup>26</sup> Margaret Curran MSP, 'Queen's Speech – Legislative Consent Motions', *Letter to Presiding Officer the Rt Hon George Reid MSP*, 15 November 2006, at: [www.scottish.parliament.uk/business/legConMem/pdf/06-1128ForthcomingUKBillsSubjectToLCMs.pdf](http://www.scottish.parliament.uk/business/legConMem/pdf/06-1128ForthcomingUKBillsSubjectToLCMs.pdf)

<sup>27</sup> The text of all Legislative Consent Memorandums and Legislative Consent Motions, as well as background information about the convention, can be found at: [www.scottish.parliament.uk/business/legConMem/index.htm](http://www.scottish.parliament.uk/business/legConMem/index.htm).

<sup>28</sup> Information on the content and progress of all UK Government bills can be found at: [www.commonleader.gov.uk/output/Page1745.asp](http://www.commonleader.gov.uk/output/Page1745.asp).

- Climate Change Bill
- Serious Crime Bill

## 4.2 Wales

In contrast to the 2005-06 session, which saw three substantive Welsh acts passed,<sup>29</sup> the 2006 Queen's Speech contained no Wales-only bills. However, according to Secretary of State for Wales Peter Hain – appearing before the National Assembly for Wales on 28 November and the Welsh Grand Committee on 13 December – over 20 bills in the Government's legislative programme 'will directly affect Wales'.<sup>30</sup> Of these, two include 'framework powers' granting wide legislative discretion to the Welsh Assembly: the Local Government and Public Involvement in Health Bill and the Further Education and Training Bill [HL], introduced on 12 December and 20 November respectively.<sup>31</sup>

The specific powers to be devolved to Wales under these two pieces of legislation are discussed in the January 2007 *Wales Devolution Monitoring Report*.<sup>32</sup> Of interest from a 'devolution and the centre' perspective is the legislative mechanism utilised to expand the Assembly's powers. In the Government's 2005 white paper *Better Governance for Wales* it set out a three-stage path towards full legislative devolution.<sup>33</sup> These bills appear to fall somewhere between stages 1 and 2: a stage 1.5, perhaps.

To recap, stage 1 would see the powers of the Assembly being increased by the use of 'framework powers' in Acts of Parliament covering England and Wales. Such acts were to contain detailed provisions for England, but in regard to Wales much of the detail and implementation would be left to the Assembly to fill in. The Education and Inspections Act 2006 and the NHS (Redress) Act 2006 contained framework powers for Wales in this sense. In stage 2 – from May – the National Assembly will request legislative competence in specific defined areas, which the UK Government and

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<sup>29</sup> These were the Government of Wales Act, the Transport (Wales) Act and the Commissioner for Older People (Wales) Act. In addition, the National Health Service (Wales) Act – a consolidation measure cleaning up law relating to provision of health services – received Royal Assent on 8 November 2006.

<sup>30</sup> Peter Hain, National Assembly for Wales Official Report, 28 November 2006, p. 38; Peter Hain, Welsh Grand Committee, 13 December, col. 16.

<sup>31</sup> Local Government and Public Involvement in Health Bill, [www.publications.parliament.uk/pa/cm200607/cmbills/016/2007016.pdf](http://www.publications.parliament.uk/pa/cm200607/cmbills/016/2007016.pdf); Further Education and Training Bill [HL], [www.publications.parliament.uk/pa/ld200607/ldbills/006/2007006.pdf](http://www.publications.parliament.uk/pa/ld200607/ldbills/006/2007006.pdf).

<sup>32</sup> Marie Navarro, 'The Legislative Process', in Richard Wyn Jones and Roger Scully (eds.), *Wales Devolution Monitoring Report: January 2007*, at: [www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Wales\\_Jan07.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Wales_Jan07.pdf)

<sup>33</sup> Wales Office, *Better Governance for Wales*, Cm 6582, (London: The Stationery Office), pp 19-27, at [www.official-documents.gov.uk/document/cm65/6582/6582.pdf](http://www.official-documents.gov.uk/document/cm65/6582/6582.pdf).

Parliament then decides whether or not to grant. The legal vehicle for transferring legislative power will be Orders in Council drafted by the Assembly, scrutinised by the Welsh Affairs Committee, introduced by the Secretary of State, and voted upon by each House of Parliament. On being passed, a 'Legislative Competence Order' (LCO) amends Schedule 5 of GOWA, by adding a 'Matter' where legislative competence is passed to Cardiff Bay. Stage 3 will see full legislative powers devolved following a referendum.

The two relevant bills introduced in Autumn 2006 were described by Peter Hain as including 'framework powers' but their actual effect is identical to that which the Stage 2 LCO will have: they add 'Matters' to Schedule 5 of GOWA. However, unlike in Stage 2, they do not do so on the basis of a formal request by the National Assembly for Wales but following confidential discussions between the Welsh Assembly Government (WAG) and the relevant Whitehall department – with input from the Wales Office.

In addition to the relative lack of transparency, a potential problem with the use of framework powers rather than LCOs lies in the limited opportunities for scrutiny afforded to elected representatives. Unlike for draft LCOs, the Welsh Affairs Committee will not have the opportunity to exercise pre-legislative scrutiny to framework powers (unless a draft bill is published). In addition, whereas LCOs can only be passed following a dedicated 90-minute debate in each House of Parliament, when parliamentary time is short framework powers may pass without being debated on the floor of the House, at least in the Commons. Richard Wyn Jones and Roger Scully, writing in the Constitution Unit's *Monitor* newsletter, argue that 'while doubtless innovative and interesting in their own right, [this] development is [not] unproblematic from the perspective of accountability and legitimacy.'<sup>34</sup>

For the UK Government, the use of framework powers grants an additional degree of flexibility to the devolution settlement while retaining important accountability safeguards. As with LCOs, WAG will submit an explanatory memorandum to Parliament setting out its policy objectives in this area so that MPs and peers can consider whether the scope of the framework power is appropriate. Further, unlike LCOs, framework powers will be subject to parliamentary amendments so the need for pre-legislative scrutiny is reduced. Finally, framework powers that add Matters to

Schedule 5 confer powers on the Assembly itself rather than the Welsh ministers, so any legislation made under these powers will be subject to the full Assembly scrutiny procedure.

The Wales Office has confirmed that it plans to continue using this additional legislative route after May. It also plans shortly to lay an Order adding to Schedule 5 of the GOWA the existing framework powers conferred by the NHS (Redress) Act and the Education and Inspections Act.

Pro-devolutionists have continued to express concern about the power of Westminster and the Secretary of State for Wales to block post-May requests for LCOs covering controversial policy issues such as electoral reform for local government, which media reports have suggested Hain would veto.<sup>35</sup> In a bid to assuage such criticism, Hain has stated that he 'expect[s] a new constitutional convention to be established, in which there is a clear presumption that Assembly requests for new powers will be agreed'. He also referred to an expectation that 'Parliament would not normally legislate on devolved matters, except with the agreement of the devolved legislature'.<sup>36</sup>

### 4.3 Northern Ireland

The Northern Ireland (St Andrew's Agreement) Act 2006 was rushed through parliament at the start of the new session, receiving Royal Assent on 22 November. The act puts into effect aspects of the 13 October 2006 agreement at St Andrews, repealing the Northern Ireland Act 2006 and replacing its 24 November 'final deadline' for the restoration of devolution with a new date of 26 March 2007, three weeks prior to which new elections to the Northern Ireland Assembly will be held. On the 26 March the Assembly – four and a half years after the suspension of devolution – will resume its legislative role for Northern Ireland, providing that cross-community agreement can be found on a power-sharing executive. Clause 2 of the act provides that:

If, at any time before 25 March 2007, the Secretary of State considers that there is no reasonable prospect that an Executive will be formed on 26 March 2007, he may make an order bringing Schedule 3 of the Bill into force (which

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<sup>34</sup> Constitution Unit, *Monitor* 35, January 2007, p4, at: [www.ucl.ac.uk/constitution-unit/files/monitor/monitor\\_35.pdf](http://www.ucl.ac.uk/constitution-unit/files/monitor/monitor_35.pdf).

<sup>35</sup> Martin Shipton, 'Hain's PR ban could result in a 'crisis' in Wales', *Western Mail*, 14 Nov 2006: [http://icwales.icnetwork.co.uk/0100news/newspolitics/tm\\_method=full%26objectid=18091254%26siteid=50082-name\\_page.html](http://icwales.icnetwork.co.uk/0100news/newspolitics/tm_method=full%26objectid=18091254%26siteid=50082-name_page.html).

<sup>36</sup> Peter Hain, *National Assembly for Wales Official Report*, 28 November 2006, p.39.

would in effect provide for the dissolution of the Assembly and the indefinite postponement of Assembly elections).<sup>37</sup>

Up until 26 March the UK Government retains its power to legislate directly for the six counties by means of Orders in Council. Should a power-sharing agreement fail once more to come about, then, Northern Ireland Secretary Peter Hain has made clear, the Government will exercise the power of dissolution granted by clause 2 and 'direct rule and plan B, with even closer co-operation with the Irish Government, will stretch into the foreseeable future.'<sup>38</sup>

The prospect of dissolution is designed to spur swift action by the Northern Ireland parties not only because of the setback to normalisation of Northern Ireland governance that this would represent, but also because it would deprive the parties of the salaries and expenses that the Government has continued to pay throughout the period of suspension. A further incentive to the unionists can be found in clause 21, which provides that the abolition of academic selection for secondary schools – which the unionists oppose – will be subject to affirmative resolution of the Assembly should restoration occur. If the restoration deadline is not met, then the Order abolishing selection will commence immediately.

The act also makes further provision for the planned devolution of policing and justice functions to the devolved bodies. Clause 18(1) places the following obligation on the Assembly:

The Northern Ireland Assembly must make a report to the Secretary of State before 27 March 2008 –

- (a) as to the preparations that the Assembly has made, and intends to make, having regard to paragraph 7 of the St Andrews Agreement, for or in connection with policing and justice matters ceasing to be reserved matters;
- (b) as to which matters are likely to be the subject of any request under section 4(2A) of the 1998 Act that policing and justice matters should cease to be reserved matters;
- (c) containing an assessment of whether the Assembly is likely to make such a request before 1 May 2008.

Policing and justice remains a key potential stumbling block for the entire political process in Northern Ireland. All eyes are on Sinn Fein, as without a clear

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<sup>37</sup> Northern Ireland (St Andrew's Agreement) Act 2006, at: <http://www.opsi.gov.uk/acts/acts2006/60053--b.htm#2>.

<sup>38</sup> Peter Hain, House of Commons Hansard, 21 November 2006, Col. 422.

commitment from the party that it will support the police service and justice system of Northern Ireland, power-sharing is likely to founder.

A detailed discussion of the St Andrew's Agreement and its implications can be found in this month's *Northern Ireland Devolution Monitoring Report*.<sup>39</sup>

- On 27 November, following the passage of the Northern Ireland (St Andrew's Agreement) Act, the Government introduced a Justice and Security (Northern Ireland) Bill. This piece of legislation seeks to facilitate the move towards security normalisation in Northern Ireland, by replacing the 'Diplock system' and creating a presumption in favour of jury trials. Recognising the continuing security problems in the Province, the bill also creates a new system of non-jury trials which provides 'the Director of Public Prosecutions for Northern Ireland with a discretion to issue a certificate stating that a trial is to take place without a jury' if the defendant or the crime is deemed to have links to proscribed terrorist organisations or sectarianism. The bill received its second reading on 13 December.
  
- As noted above, up until the full restoration of devolution, direct rule from Westminster remains in place. Specifically, the Northern Ireland Act 2000 permits the Government to legislate in devolved areas through Orders in Council made subject to the affirmative resolution procedure in each House of Parliament. In November and December of 2006, six such orders were made by Government.<sup>40</sup>
  - The Victims and Survivors (Northern Ireland) Order 2006 (SI)
  - The Rates (Amendment) (Northern Ireland) Order 2006 (SI)
  - The Electricity Consents (Planning) (Northern Ireland) Order 2006 (SI)
  - The Smoking (Northern Ireland) Order 2006 (SI)
  - The Housing (Amendment) (Northern Ireland) Order 2006 (SI)
  - The Water and Sewerage Services (Northern Ireland) Order 2006 (SI)

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<sup>39</sup> Rick Wilford and Robin Wilson, *Northern Ireland Devolution Monitoring Report: January 2007* (London: The Constitution Unit), at: [www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/NI\\_Jan07.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/NI_Jan07.pdf)

<sup>40</sup> The full text of all delegated legislation can be found at: [www.opsi.gov.uk/stat.htm](http://www.opsi.gov.uk/stat.htm).

## **5. Devolution and Westminster: Backbench Initiatives**

### **5.1 Private Members' Bills**

The prorogation of parliament in November brought about the demise of several non-government bills relating to devolution. These included Lord Baker's bill to tackle the West Lothian Question, Andrew Rosindell's bill to make St George's Day a public holiday, Lord Foulkes' bill to ban 'dual candidacy' in Scottish parliamentary elections, an SNP bill to transfer control of oil and gas reserves to the Scottish Parliament, and the Scotland (Petitions for a Referendum on Independence) Bill.

In the new parliament, a further member's bill relating to the West Lothian Question has been introduced by Conservative MP Robert Walter. His House of Commons (Participation) Bill will 'provide for the Speaker of the House of Commons to have power to determine the eligibility of members of the House of Commons to participate in certain legislative and other proceedings of the House'.<sup>41</sup> According to a press release from Walter's office,<sup>42</sup> the bill will enact the English Votes on English Laws policy to which the Conservatives have been committed for several years. Like Lord Baker's bill in the previous session, it will enable the Speaker to bar Scottish and Northern Irish MPs from participating in debates on 'English' legislation. Unlike Lord Baker, Walter will place MPs from England and Wales in a single category until full legislative devolution takes place, thereby avoiding the difficulty of disentangling English and Welsh matters. In addition, the bill will not extend to Northern Ireland bills, sidestepping the anomalous scenario wherein only Northern Ireland's 18 MPs (in practice 13, given the Sinn Fein boycott) would be able to vote on bills or orders applying solely to the six counties.

Even with these modifications, it remains questionable whether English Votes on English Laws could coexist with stable government. As previously discussed in these reports, it could lead to a situation where a government with a majority in the Commons as a whole would be unable to pass legislation for England and Wales in key areas such as Education and Health if it had no majority when Scottish MPs were taken out of the equation. In effect, in these circumstances there would be a different government party for English matters than for reserved all-UK matters.

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<sup>41</sup> House of Commons Hansard, 13 December 2006, Col. 888

<sup>42</sup> 'Bob Walter MP's bill will propose answer to West Lothian Question', Press Release, 13 December 2006, reprinted at: [www.thecep.org.uk/news/ViewItem.asp?Entry=1455](http://www.thecep.org.uk/news/ViewItem.asp?Entry=1455).

Given that many bills contain some provisions that do apply to Scotland and some that don't, there might even be a different effective government for different parts of the same piece of legislation. The confusion that would ensue is one reason why a common criticism of the policy is that its implementation would lead inevitably to a separate English Parliament and Government, if not the break-up of the UK.

Walter was drawn sixth in the ballot for private members' bills, meaning that his bill will be given a second reading debate in the Commons – scheduled for 9 March 2007.

## **5.2 Early Day Motions**

In the four-month monitoring period covered in this report (September to December 2006), a number of Early Day Motions (EDMs) concerning devolution have been tabled in the House of Commons.<sup>43</sup>

- Shortly before the end of the 2005-06 session, Conservative MP Andrew Rosindell tabled EDM 2923 backing the proposal to make burning the Union Jack a criminal offence. He retabled this motion as EDM 191 in the new session, gaining the support of 26 MPs. An SNP amendment proposed that the national flags of the nations that make up the Union should be protected as well.
- Andrew Rosindell MP also tabled EDMs calling for St. George's Day to be made an official public holiday in England (EDM 223) and for the 'historic counties' of the UK to be given greater official recognition (EDM 268). These motions were supported by 40 and 27 MPs respectively.
- SNP MP Angus MacNeil tabled EDM 296 supporting English independence; no further signatories have been added to this motion.
- EDM 299, backed by six Tory MPs, calls for Scottish MPs to be barred from voting on English and Welsh matters and for a reduction in public expenditure in Scotland.
- EDM 402 (tabled by Labour MP Graham Stringer) calls for the Barnett formula to be replaced, and argues that the financial settlement for devolution is stoking

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<sup>43</sup> The full text and list of signatories of all EDMs are available at: <http://edmi.parliament.uk/edmi/>.

separatism. This motion attracted 19 signatories including 13 from the Labour Party and 5 Conservatives.

## 6. Devolution and Westminster: Select Committees

### 6.1 Scottish Affairs Select Committee

The Government response to the Scottish Affairs Committee Report *The Sewel Convention: The Westminster perspective* was published on 17 October.<sup>44</sup> The committee's report had made a number of sensible recommendations about how to improve awareness and scrutiny of legislation that requires the consent of the Scottish Parliament under the terms of the 'Sewel' or 'legislative consent' convention.

In its response, the Government endorsed the establishment of formal communication between the Scottish and UK Parliaments to better inform MPs about the progress of Legislative Consent Motions moved by the Scottish Executive, while pointing out that the mechanisms of such communication are a matter for the parliaments themselves.

In addition, the Government accepted the recommendation for the 'tagging' of bills relating to which the Scottish Parliament has passed a legislative consent motion. The tag would appear on the order paper to alert members of both houses that the bill was legislating in a devolved area or amending the competence of the devolved bodies.

The Government also expressed its intention to 'introduce a new section in Explanatory Notes that will state explicitly if the Scottish Parliament's consent is required for provisions in a Bill', with the relevant provisions specified. The purpose of the new section is to 'supplement the existing Territorial Extent statement ... by explaining which provisions will trigger the Sewel Convention'.<sup>45</sup>

Finally, the Government agreed that in his post-Queen's Speech written statement, the Secretary of State for Scotland should detail which proposed bills are likely to invoke the legislative consent convention and for what reasons.<sup>46</sup> This innovation was put into effect with a statement issued by Douglas Alexander on 15 November 2006 (discussed in section 4.1).

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<sup>44</sup> House of Commons Scottish Affairs Select Committee, *Second Special Report - The Sewel Convention: the Westminster perspective: Government Response to the Committee's Fourth Report of Session 2005-06*, 17 October 2006, at: [www.publications.parliament.uk/pa/cm200506/cmselect/cm Scotaf/1634/1634.pdf](http://www.publications.parliament.uk/pa/cm200506/cmselect/cm Scotaf/1634/1634.pdf).

<sup>45</sup> *Ibid.*, para. 6.

The Government expressed reservations about the idea of a 'Super' Scottish Grand Committee composed of Scottish MPs, MSPs and MEPs. In particular, the idea that such a body might play a role in scrutinising the Sewel elements of bills was seen as problematic as it could lead to 'parallel scrutiny' with the provisions that trigger the Sewel Convention scrutinised in one committee and the rest of the bill scrutinised in another.<sup>47</sup> The Government also argued that the joint meeting of Scottish MPs, MSPs and MEPs 'could put at risk the distinction between legislatures' responsibilities and would potentially blur lines of accountability'.<sup>48</sup>

- The committee has begun to collect evidence for its two new inquiries on 'Poverty in Scotland' and 'The Effect of Tax Increases on the Oil Industry'. For the former inquiry, a memorandum was submitted by the Scottish Parliament Finance Committee.<sup>49</sup> Following its collaboration with the Scottish Parliament Procedures Committee during the Sewel inquiry, this represents a further, if minor, case of cooperative working between the Scottish Affairs Committee and a Holyrood counterpart.

## 6.2 Welsh Affairs Select Committee

### *Orders in Council*

On 19 December 2006 the committee held an oral evidence session to discuss the new legislative procedure for Wales involving the passage of Orders in Council under the Government of Wales Act 2006, which will grant legislative competence to the Assembly in specified areas.<sup>50</sup> Evidence was given by ministers from both the UK and Welsh governments and it was confirmed that the committee would be given right of first refusal to apply pre-legislative scrutiny of all such Orders. Junior minister Nick Ainger stated that the Government would 'be offering this Committee the opportunity to do pre-legislative scrutiny on every order in council' save in exceptional cases of urgency.<sup>51</sup> Taking into account its capacity constraints, the committee would then be free to decide how to proceed. Ainger suggested that the

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<sup>46</sup> Ibid., para. 7.

<sup>47</sup> Ibid., para. 11.

<sup>48</sup> Ibid., para. 12.

<sup>49</sup> House of Commons Scottish Affairs Select Committee, *Memorandum submitted by Finance Committee, Scottish Parliament*, 1 December 2006, at:

[www.publications.parliament.uk/pa/cm200607/cmselect/cmselect/cmselect/cmselect/ucxxx/001.pdf](http://www.publications.parliament.uk/pa/cm200607/cmselect/cmselect/cmselect/cmselect/ucxxx/001.pdf)

<sup>50</sup> Welsh Affairs Committee, *Uncorrected Transcript of Oral Evidence*, 19 December 2006, at:

[www.publications.parliament.uk/pa/cm200607/cmselect/cmselect/cmselect/cmselect/uc175-i/uc17502.htm](http://www.publications.parliament.uk/pa/cm200607/cmselect/cmselect/cmselect/cmselect/uc175-i/uc17502.htm).

<sup>51</sup> Ibid., Q.24.

committee might have to be 'quite selective in the type of orders in council where you go through the full pre-legislative scrutiny'.<sup>52</sup>

Ainger also drew the committee's attention to the view of the House of Lords Constitution Committee that scrutiny in the Lords 'should complement, rather than duplicate, the work of this committee, that it should be concurrent rather than consecutive and also any committee that is scrutinising in the Lords should have a real knowledge of Welsh affairs'.<sup>53</sup>

The committee plans to publish a report on the Orders in Council process before Easter.

### **Committee Reports**

The autumn of 2006 saw the release of Government responses to three of the reports of the Welsh Affairs Committee. These were published as the committee's fifth, sixth and seventh special reports of the 2005-06 session.

#### *Energy in Wales*<sup>54</sup>

In response to the committee's criticism of the lack of disaggregated carbon data for the nations and regions of the UK, the Government stated that it 'already produces annual greenhouse gas emissions data, including carbon dioxide emissions, disaggregated for England, Scotland, Northern Ireland and Wales'. The Government conceded that the disaggregated data was subject to a greater degree of uncertainty but affirmed its belief that the figures are 'accurate enough to aid Devolved Administrations in developing policy, setting targets and assessing progress'.<sup>55</sup> On an experimental basis, the Government also collects carbon dioxide emissions data for regions and local authority areas in England.

The committee had also criticised the Government over the issue of planning permission for large energy infrastructure which, unlike in Scotland, has not been devolved from central government. The committee had expressed particular concern at the slow progress of the Tripartite Group on Energy Consents, which consists of the Wales Office, the Department of Trade and Industry and the Welsh Assembly

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<sup>52</sup> Ibid., Q.37.

<sup>53</sup> Ibid., Q.29.

<sup>54</sup> House of Commons Welsh Affairs Select Committee, *Energy In Wales: Government Responses to the Committee's Third Report of Session 2005-2006*, HC 1656, October 2006 (London: The Stationery Office).

Government, and was set up to make recommendations about transferring competence in this area to Cardiff. The committee had argued that this body 'has been left to wither on the vine'. In response, the Government stated that the delay has been due to 'the changing landscape of energy policy in the UK' and that preparations had been made for the Group to meet again before the end of 2006 once the Eddington (transport) and Barker (planning systems) Reviews had reported' though no precise schedule for the work of the Group was outlined.<sup>56</sup> These two reviews published their reports in early December and at the turn of the year it remained unclear whether the Group had in fact reconvened.

### *Current Restructuring of the Police Force in Wales*<sup>57</sup>

As reported in the last report, June saw the abandonment of government plans to merge police forces across England and Wales. In its brief July report on the issue (following a lengthier report in February when the mergers were still on the table) the committee noted the demise of the plan and called for Government to reimburse Wales' four police forces for the expense incurred in preparing for the expected mergers. In its response, submitted to the committee in late October, the Government pledged 'to make a contribution to the additional costs which they had incurred in preparing for mergers'<sup>58</sup> On 30 October, a ministerial statement gave the details, promising to refund £4 million of the £6.5 million claimed by police forces. For the four Welsh forces, the Government offered to refund only £400,000 of the £900,000 claimed.<sup>59</sup> The Government's decision attracted criticism from opposition parties, with Conservative Home Affairs spokesperson David Davis arguing that the episode 'shows the folly of the Government's attempts to force regionalisation on our police forces'.<sup>60</sup>

### *Future of RAF St Athan*<sup>61</sup>

October 2006 also the publication of a response to the Welsh Affairs Committee report on the Future of RAF St Athan.

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<sup>55</sup> Ibid, p.2.

<sup>56</sup> Ibid, p.3-4.

<sup>57</sup> House of Commons Welsh Affairs Select Committee, *Current Restructuring of the Police Force in Wales: Government Response to the Committee's Fifth Report of Session 2005-2006*, HC 1656, November 2006 (London: The Stationery Office).

<sup>58</sup> Ibid. pp.1-2.

<sup>59</sup> Tony McNulty MP, House of Commons Hansard, 30 October 2006, Cols 3WS-5WS.

<sup>60</sup> BBC News, 'Police merger payouts criticised', 30 October 2006.

[http://news.bbc.co.uk/1/hi/uk\\_politics/6098518.stm](http://news.bbc.co.uk/1/hi/uk_politics/6098518.stm)

<sup>61</sup> House of Commons Welsh Affairs Select Committee, *Future of RAF St Athan: Government Response to the Committee's Fourth Report of Session 2005-06*, HC 1657, November 2006 (London: The Stationery Office).

### 6.3 Northern Ireland Affairs Committee

In response to the committee's July report on *Organised Crime in Northern Ireland*, Parliamentary Under Secretary of State for Northern Ireland Paul Goggins wrote to committee chair Sir Patrick Cormack MP. This letter is published as the ninth special report of the 2005-06 Session.<sup>62</sup>

Among the issues covered in the committee's wide-ranging report was the problem of fuel smuggling or 'oils fraud' across the border with the Republic of Ireland. The committee highlighted that the 'widely shared opinion' of those giving evidence was that reducing fuel duty in Northern Ireland to the level south of the border would 'deliver a fatal blow' to organised crime in this area. The committee urged 'urgent further consideration' of this though it noted potential legal difficulties arising from EU law on tax harmonisation. In its response, the Government expressed scepticism about the feasibility and desirability of introducing a lower fuel duty rate for Northern Ireland.<sup>63</sup>

- The committee is currently conducting an inquiry into Community Restorative Justice.

### 6.4 Communities and Local Government Committee

With regional policy floundering since the Government's 2004 North-East referendum defeat the CLG committee has been holding an inquiry asking 'Is there a future for Regional Government?'. As part of this, the committee held an oral evidence session on 16 October 2006.

Former minister and now Director of the New Local Government Network Chris Leslie was the first witness. He defended the current tripartite regional arrangements of Regional Development Agency, regional chamber, and Government Office, arguing that although they 'need a lot of improvement... they are about inclusivity, about making sure that nobody is left behind'.<sup>64</sup> He was critical of suggestions that

<sup>62</sup> Northern Ireland Affairs Committee, *Organised Crime in Northern Ireland: Government Response to the Committee's Third Report of Session 2005-06*, Ninth Special Report of Session 2005-06, October 2006, HC 1642, p.23, at:

<http://www.publications.parliament.uk/pa/cm200506/cmselect/cmniaf/1642/1642.pdf>.

<sup>63</sup> Ibid., p.10.

<sup>64</sup> House of Commons Communities and Local Government Committee, *Uncorrected Transcript of Oral Evidence*, 16 October 2006, Q.610, at: [www.publications.parliament.uk/pa/cm200506/cmselect/cmcomloc/uc977-viii/uc97702.htm](http://www.publications.parliament.uk/pa/cm200506/cmselect/cmcomloc/uc977-viii/uc97702.htm).

new institutional arrangements at the 'city-regional' level should be created across the country, preferring 'variable geometry', which he defined as 'that rather clunky term think-tankers use to basically explain that there is a case to be made for having a different governance arrangement in some parts of the country to others.'<sup>65</sup> Leslie also raised the possibility of regional bodies between scrutinised by MPs – for instance by means of regional select committees – as well as local authorities from within the region.<sup>66</sup> Leslie is known to be close to the Treasury so his views are likely to have support within the Government.

Government ministers Yvette Cooper, Margaret Hodge and Phil Woolas were also questioned by the committee. The ministers defended the Government's record on reducing growth disparities between regions and highlighted the importance of inter-regional economic development strategies such as the Northern Way, the Midlands Way and the Thames Gateway.<sup>67</sup>

The ministers faced criticism over the accountability of the various regional structures. Responding to a question from Conservative MP Sir Paul Beresford, Yvette Cooper argued that 'If you abolished the regional assemblies, you would either have to re-invent them or you would end up giving a whole load of additional powers and responsibilities to central government.'<sup>68</sup> The Conservatives are pledged to abolish the regional assemblies/chambers if returned to office. Liberal Democrat Martin Horwood also expressed concern about the level of local accountability of Regional Development Agency activity and spending.<sup>69</sup>

Questioned about regional structures at Westminster Yvette Cooper appeared to have an open mind about creating regional committees of MPs.<sup>70</sup>

On the subject of government policy on city-regional structures, Phil Woolas confirmed that a new sub-national layer of governance was not about to be imposed across the country, stating that 'the policy of not having one-size-fits-all is very, very necessary'.<sup>71</sup> With the White Paper to follow shortly after this session, the ministers revealed little detail about how any city-regional layer might function though the

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<sup>65</sup> Ibid, Q.605.

<sup>66</sup> Ibid, QQ.619-28.

<sup>67</sup> Ibid. QQ.629-33.

<sup>68</sup> Yvette Cooper, Ibid., Q.646.

<sup>69</sup> Ibid. QQ.650-3.

<sup>70</sup> Ibid. Q.660.

<sup>71</sup> Ibid. Q.666.

general theme of the Government's evidence was that city-regionalism would be driven by local councils rather than centrally imposed.<sup>72</sup>

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<sup>72</sup> Martin Burch and Alan Harding discuss the latest developments in regional and local policy in great detail in *English Regions Devolution Monitoring Report: January 2007* (London: The Constitution Unit), at: [www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Regions\\_Jan07.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Regions_Jan07.pdf).

## 7. Devolution and Westminster: Grand Committees

### 7.1 Scottish Grand Committee

With virtually no Scottish legislation at Westminster to consider, the Scottish Grand Committee has not met since November 2003. The Government has rebuffed recent calls for the committee to meet<sup>73</sup> and also remains sceptical that a Super Grand Committee comprising Scottish MPs, MEPs and MSPs could serve any useful purpose (see section 6.1).

### 7.2 Welsh Grand Committee

On 13 December, the Welsh Grand Committee met for the first time in the new session. Following recent convention, this meeting was scheduled shortly after the Queen's Speech to give Welsh MPs the chance to discuss the Government's legislative programme as it relates to Wales and to question Wales Office ministers on the same. Much of the discussion covered similar ground to a debate held in the Welsh Assembly with Secretary of State Peter Hain in November (see section 4.2). Hain was again challenged over the possibility that requests for legislative competence from the Assembly would be blocked at Westminster. Hain confirmed that passage of 'legislative consent orders' would not be a given, stating that 'Parliament is, and remains, the sovereign body in the UK; it does not rubber-stamp anything'. He also repeated his earlier assertion that he expected a convention to arise that Assembly requests will normally be agreed.<sup>74</sup> Critics remained unconvinced. The Liberal Democrat Welsh Spokesperson Lembit Opik argued that 'A Pandora's Box of opportunity for anti-devolutionary parties, such as the Conservatives, has been opened'.<sup>75</sup>

The ministers were also asked about the procedures to be used at Westminster for consideration of Assembly requests. Junior minister Nick Ainger confirmed that the Welsh Affairs Committee would have 'an important role to play, particularly in the pre-legislative scrutiny of Orders in Council' though Plaid Cymru member Hywel Williams was critical of the lack of detail provided by the Government at this stage.<sup>76</sup>

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<sup>73</sup> As noted in Akash Paun & Amit Sibal, *Devolution and the Centre Monitoring Report: September 2006* (London: The Constitution Unit), p.35, at: [http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Centre\\_Sept06.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Centre_Sept06.pdf).

<sup>74</sup> Peter Hain, Welsh Grand Committee, 13 December 2006, col. 13.

<sup>75</sup> Lembit Opik, Welsh Grand Committee, 13 December 2006, col. 14.

<sup>76</sup> Nick Ainger, Welsh Grand Committee, 13 December 2006, col. 10.

### **7.3 Northern Ireland Grand Committee**

The Northern Ireland Grand Committee held its first meeting of the 2006-07 parliamentary session on 12 December. Following an oral question period with Northern Ireland Office ministers David Hanson and Maria Eagle, the Committee discussed Lifetime Opportunities, the Government's Anti-Poverty and Social Inclusion Strategy for Northern Ireland. An adjournment debate was held on alcohol abuse in the province.

This meeting was the first in the committee's history to be held outside Westminster – at the City Hall in Belfast. As reported in the September 2006, holding meetings of the Grand Committee in Northern Ireland had previously been opposed by the nationalist SDLP.

## 8. Inter-Institutional Relations

### 8.1 Joint Ministerial Committee

The UK and devolved administrations continue to relate to one another on a predominantly bilateral and informal basis. The formal dispute-resolution and consultation machinery – notably the Joint Ministerial Committee (JMC) system – is disused save for the JMC (Europe).

On 6 December 2006, a written parliamentary question ascertained that the JMC (Europe) had met on 5 occasions in 2006 though no further details about the sittings of this body are in the public domain.<sup>77</sup> A formal freedom of information request was required to discover the dates of these five meetings: 17 January, 13 March, 6 June, 10 October, and 27 November. Other details such as the list of attendees and the agendas of these meetings remain unknown though the meetings are assumed to be the venue for negotiations and consultations on the UK line in EU negotiations as well as budgetary issues such as the control of structural funds allocated by the EU to Wales. The level of secrecy surrounding these important intergovernmental meetings is explained by Government as necessary in order to ensure ‘free and frank’ discussions as well as preventing other EU countries from gaining a negotiating advantage. However, it is far from obvious to observers why even dates and attendance lists for JMC meetings cannot be made public. Even a summary of topics covered at these meetings would be unlikely to prejudice negotiations. Indeed the DCA used to publish communiqués of some JMC meetings (though never for the JMC (Europe)). The archive of communiqués was removed from the DCA website some time ago and not replaced.

### 8.2 Intergovernmental Issues

#### *Energy Policy in Wales*

As noted in the previous monitoring report,<sup>78</sup> planning permission for large energy projects (of over 50 mW) is not devolved to Wales. This means that the UK Government – through the Department of Trade and Industry (DTI) – could build new nuclear power plants in Wales over the objections of the Welsh Assembly and Assembly Government. Following a 2003 Assembly request for devolution of these

<sup>77</sup> House of Commons Hansard, 6 Dec 2006 : Column 482W.

<sup>78</sup> Akash Paun and Amit Sibal, *Devolution and the Centre Monitoring Report: September 2006* (London: The Constitution Unit) at: [www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Centre\\_Sept06.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Centre_Sept06.pdf), section 2.2.

powers a Tripartite Group on Energy Consents was set up between the DTI, Wales Office and Welsh Assembly Government. After a long period of inactivity the Government recently indicated that the Group would be meeting again before the end of 2006. In the event this meeting was delayed, but Wales Office officials have confirmed that the Group is now due to meet in January.

### ***Asylum Policy in Scotland***

Deportations of asylum-seekers have been a long-running source of controversy in Scotland. Asylum policy is a reserved matter but 'dawn raids' in which Home Office officials arrest and then deport families whose asylum applications have been rejected have repeatedly proved a political embarrassment for Jack McConnell's Scottish Executive. This has led to attempts by McConnell to agree a protocol with Whitehall on dealing with Scottish cases in a less heavy-handed manner. Most recently, on 26 October, he met with UK immigration minister Liam Byrne to discuss this issue leading to an agreement to create two new specialist teams based in Scotland to deal with applications and to increase the involvement of Scottish health, education and welfare professionals in the process.<sup>79</sup> This case exemplifies the informal nature of intergovernmental relations. At the outset of devolution, it was expected that such issues might be referred to a formal, multilateral Joint Ministerial Committee for resolution but ministers have preferred to resolve problems through ad hoc channels. Observers speculate that this informal system will come under strain should the SNP emerge as the largest party in the May 2007 devolved election.

### ***Trident Nuclear Submarines***

One major source of intergovernmental tension that could arise if the SNP wins the May poll relates to the deployment of nuclear submarines, a new generation of which the Government recently decided to invest in. On 4 December 2006, SNP leader Alex Salmond was reported as promising to use devolved environmental powers to block the deployment of nuclear weapons in Scotland.<sup>80</sup>

Events in the Scottish Parliament on 21 December confirmed that the issue is controversial within Scottish Labour too, raising the possibility of intergovernmental tensions even if Labour remains in power north of the border. An SNP-sponsored

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<sup>79</sup> 'Home Office Minister Visits Scotland', Home Office Press Release, 26 October 2006, <http://press.homeoffice.gov.uk/press-releases/Minister-Visits-Scotland>; 'Minister confirms asylum reform', *BBC News*, 26 October 2006, at: <http://news.bbc.co.uk/1/hi/scotland/6085930.stm>.

<sup>80</sup> Russell Jackson, 'SNP would use green powers to "order out Trident"', *The Scotsman*, 4 December 2006, at: <http://thescotsmen.scotsmen.com/index.cfm?id=1796532006>.

debate on nuclear weapons saw a number of Labour MSPs speak against the Labour line. Four – including Executive minister Malcolm Chisholm – then voted against the whip, and Chisholm later resigned over the issue. This episode further underlined the difficulty of clearly separating devolved and reserved policy spheres. Defence policy is reserved but the overlap with devolved environmental powers and the sheer strength of feeling about nuclear arms meant that Labour could not keep the issue off the devolved political agenda.

### **Taxation**

In Northern Ireland, there is widespread political support for a reduction in corporation tax from the UK rate of 30 per cent to 12.5 per cent, the rate in the Republic.<sup>81</sup> The Government has rejected this proposal, arguing that applying differential tax rates within the UK would be administratively complex and would fall foul of EU law.<sup>82</sup> For similar reasons, the Government also recently rejected a suggestion by the Northern Ireland Affairs Committee to harmonise fuel duty with the Republic (see section 6.3). However, the Government's interpretation of the relevant European Court of Justice ruling appears questionable as the judgment was not that regional differentiation of tax rates was illegal *per se*, but that it must meet certain conditions to be legal.<sup>83</sup> With this debate under way, there have been calls from opposition politicians for a similar reduction in corporation tax in both Scotland and Wales.<sup>84</sup>

### **8.3 Inter-Legislative Relations**

Linkages between the three functioning legislative bodies of the United Kingdom – Westminster, the Scottish Parliament at Holyrood, and the National Assembly for Wales at Cardiff Bay – remain limited and ad hoc, although a number of recent proposals have been made in this area.

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<sup>81</sup> This proposal is contained in Economic Research Institute of Northern Ireland, *Assessing the Case For A Differential Rate of Corporation Tax In Northern Ireland* (Belfast: ERINI, 2006).

<sup>82</sup> See Robin Morton and Mark Hookham, 'Tax cut campaigners slam Treasury stance', *Belfast Telegraph*, 22 December 2006, at: [www.belfasttelegraph.co.uk/business/article2095678.ece](http://www.belfasttelegraph.co.uk/business/article2095678.ece). The government's line on the issue was set out by Paymaster General Dawn Primarolo, House of Commons Hansard, 18 Dec 2006, Cols 1542W-1543W.

<sup>83</sup> Portuguese Republic v. Commission of the European Communities, Case C-88/03, Judgment at: <http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-88/03>. See also: Daniel Armesto, 'ECJ backs regional tax regimes in the Azores case', *International Tax Review*, October 2006, at: [www.internationaltaxreview.com/?ISS=22569&PUBID=35&Page=10&SID=653518&TYPE=20](http://www.internationaltaxreview.com/?ISS=22569&PUBID=35&Page=10&SID=653518&TYPE=20).

<sup>84</sup> See Martin Shipton, 'Wales should also have tax breaks given to Northern Ireland', *Western Mail*, 18 November 2006, at: [http://icwales.icnetwork.co.uk/0100news/newspolitics/tm\\_method=full&objectid=18115068&siteid=50082-name\\_page.html](http://icwales.icnetwork.co.uk/0100news/newspolitics/tm_method=full&objectid=18115068&siteid=50082-name_page.html); and 'Bourbon Brown Unwilling to Reduce Corporation Tax', SNP Press Release, 2 November 2006, at: [www.snp.org/press-releases/2006/bourbon-brown-unwilling-to-reduce-corporation-tax](http://www.snp.org/press-releases/2006/bourbon-brown-unwilling-to-reduce-corporation-tax).

**Links between Westminster and the Welsh Assembly**

In the case of Wales, clear linkages between Westminster and the Assembly are necessitated by the complexity of the legislative process – this will become even more true after May 2007, when Orders in Council start to devolve legislative competence in specific areas. Such orders will be introduced following a request from the National Assembly but will be scrutinised and debated at Westminster as well as Cardiff Bay. Junior minister Nick Ainger recently confirmed that the Welsh Affairs Committee would play an important role in this ‘particularly in the pre-legislative scrutiny of Orders in Council’.<sup>85</sup>

As for joint scrutiny between Westminster and Assembly Members (AMs), Welsh Government minister Jane Hutt suggested that the introduction of Legislative Competence Orders would mark ‘a good opportunity...to have joint scrutiny between the Assembly Committee and the Welsh Affairs Committee’.<sup>86</sup> Prior to the 2005 general election, a number of joint meetings to scrutinise draft Wales bills were held between the Welsh Affairs Committee and Assembly committees. Although no further joint meetings have been held since then, the Standing Orders were amended to allow joint working to continue and it is considered likely that AMs will be invited to work with the committee on scrutiny of Legislative Competence Orders.

**Links between Westminster and the Scottish Parliament**

A few recommendations in the area of inter-parliamentary relations came out of the Scottish Affairs Committee inquiry into the legislative consent (Sewel) convention. In its response to the committee, the Government welcomed the suggestion that formal communication channels between the two parliaments be used to inform MPs and peers when a legislative consent motion has been passed at Holyrood. The committee argued that this communication should take place between the clerks rather than the presiding officers of the two parliaments. The Government was unconvinced by the need for a Scottish ‘Super Grand’ Committee – comprising MPs, MSPs and MEPs.

The difficulty of clearly delineating devolved and reserved matters also led to a call in October 2006 by Scottish Conservative leader David McLetchie for greater

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<sup>85</sup> Nick Ainger, Welsh Grand Committee, 13 December 2006, col. 10.

<sup>86</sup> Welsh Affairs Committee, *Uncorrected Transcript of Oral Evidence*, 19 December 2006, at: [www.publications.parliament.uk/pa/cm200607/cmselect/cmwelaf/uc175-i/uc17502.htm](http://www.publications.parliament.uk/pa/cm200607/cmselect/cmwelaf/uc175-i/uc17502.htm), Q.32.

cooperation between the two parliaments. Speaking in a Holyrood transport debate, he said:

...because transport is a major area embracing both devolved and reserved aspects, inquiries might appropriately be undertaken by joint committees involving Scottish MPs as well as MSPs.

It remains a mystery and a disappointment to me that nearly eight years since the establishment of the Scottish Parliament we have failed to establish joint working arrangements between the Scottish Parliament and Westminster which would both enhance the union and give greater weight to our deliberations.<sup>87</sup>

Similarly, and also in October, former Deputy First Minister Jim Wallace wondered whether 'MSPs and Scottish MPs might meet or even establish a joint inquiry into issues where there is a shared responsibility – our future energy needs being one obvious and immediate example'.<sup>88</sup> So far, no such joint meetings or inquiries have taken place although the Scottish Affairs Committee and Scottish Parliament Procedures Committee collaborated to an extent on the former's Sewel inquiry (as reported in previous monitoring reports).

Wallace raised the possibility that with House of Lords reform back on the immediate political agenda, the Government might consider a partial 'federalisation' of the upper chamber, appointing the Scottish First Minister and other party leaders as well as equivalents from Wales, Northern Ireland and the English regions. Such a step, Wallace argued, would offer an opportunity 'to ensure views from the [Scottish] Parliament were made known and to help establish better personal contact'.<sup>89</sup> He noted that personal contact between members of devolved and national institutions was particularly important when formal structures such as the Joint Ministerial Committee were not used. A converse proposal was made by Independent (former Conservative) MSP Brian Monteith, who proposed that Lords reform should lead to Scottish peers 'sitting as a second chamber for the Scottish Parliament so that there is a check on its mob democracy and its legislation is better scrutinised'.<sup>90</sup>

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<sup>87</sup> Scottish Parliament Official Report, 25 October 2006, Col 28410

<sup>88</sup> Jim Wallace, '“There Shall be a Scottish Parliament” – An Insider's View of the Trials and Triumphs of Devolution', Lecture at the University of Glasgow, 30 October 2006. At: [www.gla.ac.uk/homepages/press/photos/0610JimWallace.pdf](http://www.gla.ac.uk/homepages/press/photos/0610JimWallace.pdf), p.9.

<sup>89</sup> *Ibid.*

<sup>90</sup> Brian Monteith, 'What we need is New Unionism across the UK', at: [http://conservativehome.blogs.com/platform/2006/10/brian\\_monteith\\_.html](http://conservativehome.blogs.com/platform/2006/10/brian_monteith_.html).

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**D**EVOLUTION  
**M**ONITORING  
**P**ROGRAMME  
2006-08

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**Devolution and the Centre Monitoring Report**

**April 2007**

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**Akash Paun (ed.)**

with contributions from Guy Aitchison and Mathieu Razé

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## The Devolution Monitoring Programme

From 1999 to 2005 the Constitution Unit at University College London managed a major research project monitoring devolution across the UK through a network of research teams. 103 reports were produced during this project, which was funded by the Economic and Social Research Council (grant number L 219 252 016) and the Leverhulme Nations and Regions Programme. Now, with further funding from the Economic and social research council and support from several government departments, the monitoring programme is continuing for a further three years from 2006 until the end of 2008.

Three times per year, the research network produces detailed reports covering developments in devolution in five areas: Scotland, Wales, Northern Ireland, the English Regions, and Devolution and the Centre. The overall monitoring project is managed by Professor Robert Hazell and Akash Paun at the Constitution Unit, UCL and the team leaders are as follows:

- Scotland: **Peter Jones**  
Honorary Senior Research Fellow, The Constitution Unit, UCL  
Former political correspondent for *The Economist*
- Wales: **Dr Richard Wyn Jones & Dr Roger Scully**  
Institute of Welsh Politics, University of Wales, Aberystwyth
- Northern Ireland: **Professor Rick Wilford & Robin Wilson**  
Queen's University, Belfast
- English Regions: **Martin Burch & James Rees**, IPEG, University of Manchester  
**Alan Harding**, SURF, University of Salford
- The Centre: **Professor Robert Hazell**, The Constitution Unit, UCL  
**Akash Paun**, The Constitution Unit, UCL

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WALES OFFICE



All devolution monitoring reports are published at: [www.ucl.ac.uk/constitution-unit/research/devolution](http://www.ucl.ac.uk/constitution-unit/research/devolution). Contact Akash Paun on [a.paun@ucl.ac.uk](mailto:a.paun@ucl.ac.uk) for further information.

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**April 2007**

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**Akash Paun (ed.)**

**with contributions from Guy Aitchison and Mathieu Razé**

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## Abbreviations and Acronyms

AM	Assembly Member [of National Assembly for Wales]
CASC	Constitutional Affairs Select Committee
CRJ	Community Restorative Justice
DCA	Department of Constitutional Affairs
DCLG	Department of Communities and Local Government
DGN	Devolution Guidance Note
DTI	Department of Trade and Industry
DUP	Democratic Unionist Party
EDM	Early Day Motion
EVEL	English Votes on English Laws
GOWA	Government of Wales Act
LCO	Legislative Competence Order
JMC	Joint-Ministerial Committee
MEP	Member of the European Parliament
MSP	Member of the Scottish Parliament
NIASC	Northern Ireland Affairs Select Committee
RDA	Regional Development Agency
SASC	Scottish Affairs Select Committee
SNP	Scottish National Party
WASC	Welsh Affairs Select Committee
WAG	Welsh Assembly Government

## **Executive Summary**

From a devolution perspective the major issues in the first few months of 2007 were the forthcoming elections to the Scottish Parliament and National Assembly for Wales, and the impending restoration of devolution in Northern Ireland. At the end of April, it seemed certain that the DUP and Sinn Fein were, at last, ready to form a power-sharing executive in Belfast. In Scotland, the SNP remained favourite to become the largest party at Holyrood, while in Wales, Labour looked certain to lose ground but without serious danger of being overtaken by either Plaid Cymru or the Conservatives.

The possibility of SNP victory raised some major questions about the overall stability of the UK's territorial constitution. Outright independence for Scotland is unlikely since there would be a majority of MSPs against holding a referendum on independence even in the best-case scenario for the SNP. Public opinion polls also reveal a majority in favour of staying in the Union but back up the Liberal Democrat preference for further devolution of power from London to Edinburgh. Even if Labour are returned to office in Edinburgh, less harmonious relations between the UK and Scottish administrations are a strong likelihood in the third term of devolution.

In Wales the National Assembly is set to take on an enhanced legislative role after the May poll, necessitating close collaboration between the UK and Welsh institutions irrespective of which parties are in power. The smoothness of the relationship between London and Cardiff will likely determine how quickly pressures mount for a move to full primary legislative devolution to Wales.

Opinion polls in England on the 300<sup>th</sup> Anniversary of the Union and St George's Day revealed majority support for the establishment of an English Parliament, though the issue remains of low political salience. An alternative answer to the West Lothian Question – English votes on English laws – has again been confirmed as the preference of the Conservative Party. However, the leadership neither backed a private member's bill to enact this policy nor included concrete recommendations in this area in the party's Democracy Taskforce report, begging questions about the strength of commitment to the policy.

With the government making another attempt to reform the House of Lords, the issue of territorial representation at Westminster was raised. The government white paper argued that the reformed upper chamber should be representative of the nations and regions of the UK. A backbench attempt has also been made to rectify the unequal representation in the Commons of the four nations of the UK.

Sub-national governance in England stayed on the agenda in the period covered by this report. The government indicated its support for the creation of a 'city-regional' cabinet centred on Liverpool, and the Commons Communities and Local Government Committee published a report supportive of the city-regions agenda and critical of the existing tier of regional government.

## **Chronology of Events: January to March 2007**

- 19 January 2<sup>nd</sup> Reading of the Sustainable Communities Bill
- 23 January Publication of Scotland Office response to the Commission on Boundary Differences and Voting Systems (Arbuthnott Commission)
- 25 January House of Lords holds a major debate on the 300-year-old Anglo-Scottish Union
- 30 January Northern Ireland Assembly is dissolved.
- 30 January Tony Blair meets with Bertie Ahern to confirm the date of 7 March 2007 for Northern Ireland Assembly election
- 1 February Wales Office Minister Nick Ainger questioned by National Assembly Education, Lifelong Learning and Skills Committee
- 5 February Lord Baker of Dorking introduces bill to equalise electoral quotas for four territories of the UK
- 7 February Government publishes its White Paper on House of Lords reform including recommendations for territorial representativeness
- 7 February 3<sup>rd</sup> Commons Reading of the Justice and Security (Northern Ireland) Bill
- 7 February Northern Ireland Affairs Select Committee publishes its annual report 'The work of the Committee in 2006'
- 21 February The Constitutional Affairs Committee announces new inquiry into 'Devolution: A Decade On'
- 22 February Scottish Affairs Select Committee publishes its annual report 'The work of the committee in 2006'
- 26 February Welsh Affairs Select Committee publishes its annual report 'The work of the committee in 2006'
- 27 February Northern Ireland Grand Committee considers draft budget order 2007
- 7 March Northern Ireland Assembly elections held
- 9 March Robert Walter's bill to tackle West Lothian Question falls at second reading stage
- 14 March Communities and Local Government Grand Committee reports on its inquiry 'Is there a future for Regional Government?'

- 14 March House of Commons approves the replacement of the UK nuclear submarine fleet by 408 votes to 160, with a majority of Scots MPs voting against
- 22 March Secretary of State for Wales Peter Hain formally makes new standing orders for the National Assembly for Wales,
- 27 March Northern Ireland (St Andrews Agreement) (No 2) Bill introduced and passed

## 1. Monitoring the Union

With the Scottish and Welsh election campaigns under way, the future shape of the UK's territorial constitution remains a live issue. In Scotland, with the SNP consistently ahead of Labour in the polls since the turn of the year, the independence question is the major issue of the campaign. Despite some attempts to emphasise other aspects of their platforms, the two leading parties appear to share a conviction that their own stance on the future constitutional status of Scotland is a vote-winner. The SNP lead, however, may not be a signifier of rising support for independence: rather, as argued by John Curtice,<sup>1</sup> it may reflect the unpopularity of the Labour governments in both London and Edinburgh, and the perceived personal strengths of Alex Salmond in comparison with incumbent First Minister Jack McConnell. When given a straight yes/no choice on whether they would support independence in a referendum, there seems to be a very even split between the pros and antis.<sup>2</sup> However, when the question asked offers respondents several constitutional options support for independence drops substantially. For instance, a March poll published in the *Times* gave voters four options and by far the most popular position was that Scotland should remain in the UK but with a stronger Parliament. This option was even preferred by 45 per cent of SNP supporters.

Figure 1: Support for different Constitutional Options in Scotland<sup>3</sup> (March 2007)

	Labour	SNP	Cons	LD	Others	Total
Too much power has already been devolved to Scotland from Westminster	5%	2%	21%	7%	7%	6%
The current situation with a devolved parliament in Scotland works well	21%	2%	18%	16%	9%	12%
Scotland should remain in the United Kingdom, but the Scottish Parliament should have more power to run affairs in Scotland	53%	45%	50%	60%	48%	52%
Scotland should be a fully independent state, separate from the rest of the United Kingdom	18%	49%	9%	15%	25%	27%

<sup>1</sup> John Curtice, *Public Attitudes to Scottish Devolution*, Presentation at ippr, London, 23 March 2007. See also Peter Jones (ed.), *Scotland Devolution Monitoring Report: April 2007* at: [www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Scotland\\_April07.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Scotland_April07.pdf)

<sup>2</sup> See for instance, the ICM/Scotsman February 2007 poll, which saw 46 per cent of respondents stating they would support independence, while 44 per cent were opposed (11 per cent gave no answer or did not know); [www.icmresearch.co.uk/reviews/2007/Scotsman%20-%20Feb/scotsman-feb-2007.asp](http://www.icmresearch.co.uk/reviews/2007/Scotsman%20-%20Feb/scotsman-feb-2007.asp), Q2.

<sup>3</sup> Populus/The Times Poll, 28 March 2007, at: [www.populuslimited.com/poll\\_summaries/2007\\_03\\_28\\_times.htm](http://www.populuslimited.com/poll_summaries/2007_03_28_times.htm)

The prospects of independence are set back further by the fact that even as the largest party at Holyrood the SNP will probably need the support of the (pro-Union) Liberal Democrats to pass legislation authorising an independence plebiscite. Recent media reports raised the prospect of a new Constitutional Convention on the powers of the Scottish Parliament and/or a multi-option referendum as being a possible way for the SNP and the Liberal Democrats to form a workable coalition without either side having to abandon their position on the constitutional status of Scotland.<sup>4</sup>

In Wales too, Labour faces a challenge to its supremacy from a 'nationalist' party. However, while the SNP is committed to holding a referendum on independence within its first four-year term in office, Plaid Cymru plans only to hold a referendum on the devolution of full primary legislative powers ('creating a proper parliament for Wales') with the 'i-word' only making a brief appearance as the party's 'long-term vision' in its manifesto *make a difference*.<sup>5</sup> Provision to hold such a referendum is already on the statute book, on account of the Government of Wales Act 2006, but section 104 (1,b) of that act requires the support of two-thirds of the National Assembly for the public vote to go ahead.<sup>6</sup> As a result, Welsh Labour are likely to wield an effective veto over the transition to full legislative devolution even if consigned to opposition, though debate in the Assembly on this matter will be predominately on questions of timing rather than principle.<sup>7</sup>

In addition to an SNP victory, the other major potential threat to the constitutional stability of the UK comes from south of the border, where concerns about the 'English question' rumble on. May's tercentenary of the Treaty of Union occasioned a significant amount of media coverage and polling work on the state of Anglo-Scottish relations and the perceived inequities in the devolution settlement. The 'imperial parliament' at Westminster also turned its mind to the future of the UK: the Lords held a major debate on the Treaty of Union on 25 January while on 9 March the Commons debated a private member's bill seeking to resolve the West Lothian Question.<sup>8</sup>

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<sup>4</sup> See *inter alia*, Severin Carrell and Jonathan Freedland, 'Salmond ready for compromise on independence vote' *The Guardian*, 24 April 2007, at:

[www.guardian.co.uk/guardianpolitics/story/0,,2064152,00.html](http://www.guardian.co.uk/guardianpolitics/story/0,,2064152,00.html)

<sup>5</sup> Plaid Cymru, *Make a difference*, 13 April 2007, at: [www.plaidcymru.org/uploads/publications/264.pdf](http://www.plaidcymru.org/uploads/publications/264.pdf)

<sup>6</sup> Government of Wales Act 2006, [www.opsi.gov.uk/ACTS/acts2006/60032--e.htm#104](http://www.opsi.gov.uk/ACTS/acts2006/60032--e.htm#104)

<sup>7</sup> Further discussion of the respective party positions can be found below in section 2. See also: Richard Wyn Jones and Roger Scully (eds.), *Wales Devolution Monitoring Report: April 2007* at:

[www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Wales\\_April07.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Wales_April07.pdf)

<sup>8</sup> House of Commons Participation Bill,

[www.publications.parliament.uk/pa/cm200607/cmbills/022/2007022.pdf](http://www.publications.parliament.uk/pa/cm200607/cmbills/022/2007022.pdf)

## 1.1 English Question Polling

Proponents of an English Parliament received good news from two opinion polls conducted in January, 300 years after the Acts of Union. The 'End of Union Survey'<sup>9</sup> (conducted by ORB for *Newsnight*) and the less apocalyptically-named 'Anniversary of the Union Poll'<sup>10</sup> (conducted by ICM for the *Daily Mail*) found respectively 61 per cent and 51 per cent backing for the establishment of a separate English legislature.

However, as noted in the previous monitoring report, poll findings such as these must be taken with a pinch of salt because (a) respondents are offered a simple yes/no choice on whether an English Parliament should be set up, ignoring other possible reforms such as regional devolution, and (b) the questions are phrased in a somewhat loaded manner, in that the existence of Scottish and Welsh devolved institutions is underlined to respondents, before it is asked whether an English-only body should also be created.<sup>11</sup> A poll in July 2006 that avoided both these pitfalls found 27 per cent support for an English Parliament, compared with 18 per cent support for regional assemblies. The most popular option – with 44 per cent – was 'for England to be governed as it is now, with laws made by the UK Parliament'.<sup>12</sup> It is to be hoped that this question is included in future polls to gauge whether the extensive media coverage of devolution-related issues over the past year has had an impact on opinion in this area.

Other polling evidence from early 2007 suggested that English dissatisfaction with the Union was not, in fact, a major phenomenon. When asked by ORB 'Would you like the Union to continue as it is or would you like to see it come to an end?', only 16 per cent opted for dissolution of the UK, as compared with 73 per cent support for the constitutional status quo.<sup>13</sup>

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<sup>9</sup> Opinion Research Business, 'End of the Union', BBC Newsnight Survey, conducted 5-8 January 2007, sample size: 883 in England and 543 in Scotland, results at:

[www.opinion.co.uk/Documents/End%20of%20Union%20Results.doc](http://www.opinion.co.uk/Documents/End%20of%20Union%20Results.doc), Q5.

<sup>10</sup> ICM Act of Union Anniversary Poll, conducted 5-9 January 2007, sample size: 545 in Scotland and 883 in England, results at: [www.icmresearch.co.uk/reviews/2007/Daily%20Mail%20-%20Scotland%20Union%20Poll/daily-mail-anniversary-union-poll.asp](http://www.icmresearch.co.uk/reviews/2007/Daily%20Mail%20-%20Scotland%20Union%20Poll/daily-mail-anniversary-union-poll.asp), Q3.

<sup>11</sup> Akash Paun (ed.), and Lau, Ernest, Devolution and the Centre Monitoring Report: January 2007, at: [www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Centre\\_Jan07.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Centre_Jan07.pdf), pp 12-13.

<sup>12</sup> Ipsos MORI, 'Views of English Devolution', 9 July 2006, sample size: 798 in England, at: [www.mori.com/polls/2006/ecc.shtml\\_Q1](http://www.mori.com/polls/2006/ecc.shtml_Q1).

<sup>13</sup> Opinion Research Business, op cit, Q3.

Figure 2: 'Moreno' National Identity in England and Scotland (January 2007)<sup>14</sup>

<i>Q13. Which one of the following options best describes how you feel about your national identity?</i>	<i>England</i>	<i>Scotland</i>
British not English/Scottish	19%	10%
More British than English/Scottish	12%	5%
Equally British and English/Scottish	41%	24%
More English/Scottish than British	11%	26%
English/Scottish not British	11%	24%
Neither English nor British	3%	2%
Don't Know	2%	8%

The ICM poll also posed the standard 'Moreno' question of national identity. As shown in Figure 2, the results point to a continued strong attachment to Britishness among the English. Of those who replied, some three quarters considered themselves to be either more British than English or equally British and English. In Scotland that figure was under 50 per cent.

On the other hand, also in January, the annual British Social Attitudes survey was published, revealing a growth in English as opposed to British national identity, although it should be noted that these figures date from 2005. The BSA press release summarises the findings thus:

In 1992, 63% of people living in England said that 'British' was the best or only way of describing their national identity; now just 48% of people say this. This is partly explained by an increase in 'Englishness': 31% of people in England chose this as their best or only identity in 1992 compared with 40% in 2005.<sup>15</sup>

## 1.2 House of Lords Debate on the Treaty of Union

On 25 January the House of Lords held a major debate on the 300-year-old Anglo-Scottish Union.<sup>16</sup> With no SNP members of the upper chamber, the only peer expressing support for Scottish independence was the Earl of Mar and Kellie (Liberal Democrat). He cited the success of other independent small nations in Europe such as Belgium, Norway, Finland, and Ireland. Opening the debate, former Conservative Scottish Secretary Lord Forsyth of Drumlean made a strident critique of the

<sup>14</sup> ICM Act of Union Anniversary Poll, op cit, Q13.

<sup>15</sup> NatCen, 'Class Identity in Britain Remains Strong; Religious and 'British' Identity Decline', press release at: [www.natcen.ac.uk/natcen/pages/news\\_and\\_media\\_docs/BSA\\_%20press\\_release\\_jan07.pdf](http://www.natcen.ac.uk/natcen/pages/news_and_media_docs/BSA_%20press_release_jan07.pdf), p2.

<sup>16</sup> HL Deb, 25 January 2007, cols 1206-1266.

devolution settlement, arguing that the creation of the Scottish Parliament had weakened the Union and that the West Lothian Question and the differential levels of public spending in Scotland and England must be resolved. Other notable speakers included Lord Steel of Aikwood – the former Presiding Officer of the Scottish Parliament – who made a case for devolving further powers to Holyrood, and the Lord Chancellor, Lord Falconer of Thoroton, defended the status quo and attacked the Conservative policy of English Votes on English Laws as representing ‘a significant step towards the break-up of the union.’<sup>17</sup>

### 1.3 West Lothian Question (almost) returns

Despite the reduced Labour majority at Westminster since the 2005 election, the West Lothian Question has not fully reared its head, in the sense of a substantive vote on non-Scottish legislation being carried (or defeated) due to the votes of Scottish MPs.<sup>18</sup> On 28 February 2007, the third reading of the National Offender Management Bill presented all the necessary conditions for this to occur: a bill applying only in England and Wales unpopular with Labour backbenchers and opposed by Tories and LibDems. In the event the bill was carried by 293 votes to 268. If all Scottish MPs had abstained the government would still have triumphed but with a majority of only 5 (257 to 252). Both Northern Ireland MPs voting also backed the government line though with devolution to Belfast suspended their participation in votes on ‘English’ matters is less controversial.

- On 14 March 2007 the House of Commons approved the replacement of the UK nuclear submarine fleet by 408 votes to 160. Although the vote was on the strictly non-devolved matter of defence, the result generated some controversy because the nuclear submarine fleet is based at Clyde and a majority of Scottish MPs opposed the decision.<sup>19</sup>

### 1.4 House of Commons (Participation) Bill

On 9 March, a bill designed to prevent Scottish MPs from voting on certain divisions had its second reading debate in the Commons. Robert Walter MP (Conservative) had come third in the ballot for private member’s bills meaning that his House of

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<sup>17</sup> Ibid, col 1264.

<sup>18</sup> However, a ‘programme motion’ relating to the Education and Inspections Bill 2006 would have fallen had it not been for the participation of Scottish MPs. The bill did not extend to Scotland. See Akash Paun, *Devolution and the Centre Monitoring Report: May 2006*, at: [www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Centre\\_May06.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Centre_May06.pdf), pp 18-19.

<sup>19</sup> Anonymous, ‘Scots Labour MPs rebel on Trident’ *BBC News*, 14 March 2007, at: <http://news.bbc.co.uk/1/hi/scotland/6452275.stm>

Commons Participation Bill<sup>20</sup> was entitled to up to five hours debate on a 'private members' Friday.<sup>21</sup> In the event, the bill – which would empower the Speaker to bar Scottish MPs from voting on legislation not applying in Scotland<sup>22</sup> – fell at this first hurdle. No attempt was made by Mr Walter or the bill's supporters to move a closure motion on the bill – necessary to prevent it being 'talked out'. Although attendance records are not kept, the reason for this was presumably that there were less than 102 supportive members present, this being the number required to force the closure and move on to a vote on the second reading question. It appears that the Conservative leadership declined to wholeheartedly support this bill: Shadow Constitutional Affairs Secretary Oliver Heald was present but did not make a speech. The Tories' Democracy Taskforce also recently published an interim report that did not even mention the West Lothian Question,<sup>23</sup> despite the known enthusiasm of its chair Ken Clarke for tackling the issue. The evidence suggests that Cameron remains less than fully committed to 'English votes on English laws' (EVEL) and unlikely to prioritise it in the event of Tory victory in 2009/10.

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<sup>20</sup> House of Commons (Participation) Bill, Bill 22 2006-07, at:

[www.publications.parliament.uk/pa/cm200607/cmbills/022/07022.i-i.htm](http://www.publications.parliament.uk/pa/cm200607/cmbills/022/07022.i-i.htm).

<sup>21</sup> See House of Commons Standing Order 14(4) to 14(6).

<sup>22</sup> Formally, the bill would divide MPs into different categories depending on the territory of the UK in which their constituency is located, with the Speaker certifying which categories of members could vote on particular divisions. Hence, although the bill's main effect would be to restrict the voting rights of Scottish members, if a Scotland-only bill were before parliament, non-Scottish MPs could be excluded from participation in the same way. The bill makes special provision for Northern Ireland, such that all MPs would be eligible to vote on Northern Ireland bills relating to non-devolved matters such as policing and security (s.4).

<sup>23</sup> Roger Gough, *An End to Sofa Government, Better working of Prime Minister and Cabinet*, The Conservative Democracy Taskforce, March 2007.

## 2. Territorial Representation at Westminster

### 2.1 House of Lords

The government published its White Paper on House of Lords reform on 7 February.<sup>24</sup> The debate on Lords reform has been dominated by the question of introducing an elected element into the upper chamber for the first time. An interesting side-issue, however, is that of territorial representation in the upper chamber. This issue previously arose in 2003 when research revealed a regional imbalance in Lords membership, favouring London, the South East and Scotland (more recent data on the regional balance of the entire House of Lords is not readily available).<sup>25</sup>

In making appointments of non-party political peers, the House of Lords Appointments Commission already has as a criterion 'to attract as wide a range of nominees as possible from all parts of the UK'.<sup>26</sup> The government now raises the prospect of following international precedent in giving the upper chamber a formal representative role for the territories of the UK:

A reformed House of Lords should be set up to ensure that representation of the nations and regions is inbuilt, serving the interests of the whole of the United Kingdom, no matter what method of composition is chosen. Whilst members would not represent the interests and views of an individual constituency or assist with the problems of individual constituents as MPs do, their membership would as a whole be representative of the views held right across the nations and regions of the United Kingdom.<sup>27</sup>

- Last autumn, the former deputy first minister Jim Wallace suggested that the Scottish and Welsh first ministers might be given seats in the House of Lords as an alternative way to ensure that voices from across the UK were heard at Westminster. This proposal was positively received by Scotland Secretary Douglas Alexander, though Alex Salmond has let it be known he would not accept a peerage.<sup>28</sup>

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<sup>24</sup> HM Government, *The House of Lords: Reform* (London: The Stationery Office), February 2007.

<sup>25</sup> Data from Andrew Holden, *Constitutional Reform: Next steps for the House of Lords*, October 2003, at: [www.dca.gov.uk/consult/holref/responses/hl040.pdf](http://www.dca.gov.uk/consult/holref/responses/hl040.pdf)

<sup>26</sup> House of Lords Appointments Commission, 'Criteria Guiding the Assessment of Nominations for Non-Party Political Life Peers', at: [www.lordsappointments.gov.uk/criteria\\_guiding.aspx](http://www.lordsappointments.gov.uk/criteria_guiding.aspx)

<sup>27</sup> HM Government, *The House of Lords: Reform* (London: The Stationery Office), February 2007, p28

<sup>28</sup> 'Call to give First Minister seat in Lords', *The Scotsman*, 8 November 2006, at: <http://news.scotsman.com/topics.cfm?tid=346&id=1652072006>

## 2.2 House of Commons

In 2005, the number of Scottish MPs was reduced from 72 to 59, to tackle the perceived anachronism of Scottish over-representation in the House of Commons. As shown in figure 3, the 'electoral quota'<sup>29</sup> for Scotland is still lower than that for England, while those for Wales and Northern Ireland are lower still. To tackle this anomaly, Lord Baker of Dorking recently introduced a private member's bill to equalise the electoral quotas of the four territories (and to reduce the overall size of the Commons to 581). If English representation were to remain unchanged, but Scotland, Wales and Northern Ireland had their electoral quotas brought into line with that of England, they would lose four, eight and three seats respectively.

Figure 3: Territorial representation at Westminster

Territory	Electorate <sup>30</sup>	No. of MPs	Effective electoral quota (Electorate ÷ No. of MPs)
<b>Scotland</b>	3,872,901	59	65,642
<b>Wales</b>	2,243,244	40	56,081
<b>Northern Ireland</b>	1,070,265	18	59,459
<b>England</b>	37,588,775	529	71,056
<i>London</i>	<i>5,103,642</i>	<i>74</i>	<i>68,968</i>
<i>North East</i>	<i>1,943,725</i>	<i>30</i>	<i>64,791</i>
<i>South East</i>	<i>6,123,232</i>	<i>83</i>	<i>73,774</i>
<i>East Midlands</i>	<i>3,286,374</i>	<i>44</i>	<i>74,690</i>
<i>East of England</i>	<i>4,200,295</i>	<i>56</i>	<i>75,005</i>
<i>Yorks and Humber</i>	<i>3,775,904</i>	<i>56</i>	<i>67,427</i>
<i>North West</i>	<i>5,187,958</i>	<i>76</i>	<i>68,263</i>
<i>South West</i>	<i>3,928,051</i>	<i>51</i>	<i>77,021</i>
<i>West Midlands</i>	<i>4,039,594</i>	<i>59</i>	<i>68,468</i>
<b>Total</b>	<b>44,775,185</b>	<b>646</b>	<b>69,311</b>

There are those who believe that going further – reducing representation for the devolved territories to two-thirds of the English level – would be a way to defuse the West Lothian Question that avoids the uncharted constitutional waters of EVEL or an

<sup>29</sup> The electoral quota equates to the average number of registered voters per constituency. Hence, the lower the quota, the greater the per capita representation of that territory.

<sup>30</sup> National Statistics, *UK Electoral registers 1 December 2006; Parliamentary electors*, at: [www.statistics.gov.uk/STATBASE/Expodata/Spreadsheets/D9566.xls](http://www.statistics.gov.uk/STATBASE/Expodata/Spreadsheets/D9566.xls)

English Parliament.<sup>31</sup> This policy has precedent in the UK in that Northern Ireland's representation was reduced to two-thirds during the operation of the Northern Ireland Parliament (1922-72) and it could form part of David Cameron's constitutional reform agenda as either an alternative or a complement to EVEL.

The data in figure 3 show that not only is there significant difference in the per capita representation of the four nations of the UK – with England under-represented – but also, there is a disparity in the effective electoral quota of the nine English regions, ranging from 77,021 in the South West to 64,791 in the North East. This variation helps to explain the current pro-Labour bias of the electoral system, which will be partly rectified by boundary changes before the next election.<sup>32</sup>

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<sup>31</sup> See for instance, MacLean, Iain, 'Barnett and the West Lothian Question: No nearer to solutions than when the devolution programme started'. Paper for ESRC Devolution Programme Conference, London, December 2005, p11.

<sup>32</sup> Boundary Commission for England, Fifth Periodical Report, 26 February 2007, Cm 7032, at: [www.official-documents.gov.uk/document/cm70/7032/7032.pdf](http://www.official-documents.gov.uk/document/cm70/7032/7032.pdf)

### 3. Political Parties

#### 3.1 Labour

Threatened by the prospect of defeat by the SNP, Scottish Labour have focused on two key themes: the damage that they predict independence would do to the Scottish economy and the risks involved in entrusting government to an un-tested party who, it is claimed, would stir up 'conflict and chaos' to achieve their aim of separation.<sup>33</sup> While urging Scottish voters to resist the temptation to give him one last kicking in the elections, Tony Blair stressed the divisiveness of nationalism and that, with the SNP, 'from day one the chaos and instability will start'.<sup>34</sup> This was echoed by Jack McConnell, who in response to Alex Salmond's recently more conciliatory tone, accused him of a campaign to 'pull the wool over the eyes' of Scottish voters, concealing the single-minded ruthlessness with which he will pursue independence.<sup>35</sup>

The positives of the existing settlement and the opportunities it affords in terms of co-operation between the two parliaments (especially with Labour in power in both capitals) have also been emphasised, with the party warning that its 'Partnership Pledges' on important policy issues 'can only be delivered by parties committed to working together'.<sup>36</sup> According to Labour's manifesto, Scotland has the 'best of both worlds' as a member of the United Kingdom, enjoying the 'strength and stability of a large and powerful nation and the dynamism and drive of devolved government'.<sup>37</sup> Whilst the SNP support independence and the Scottish Liberal Democrats favour greater powers for the Scottish Parliament, Scottish Labour's manifesto does not commit it to any changes to the current devolution settlement. Rather, the party promises only to 'continue to use the flexibility in the Scotland Act to allow any necessary changes we need to make Scotland stronger'.<sup>38</sup>

Welsh Labour has taken a similar approach to their Scottish counterparts, running a campaign that stresses policy delivery over constitutional issues and the benefits that a Labour victory brings in terms of harmonious inter-governmental relations. The

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<sup>33</sup> *Labour's Partnership Pledges for Scotland, Building Scotland not Breaking up Britain*, p2

At: [www.buildingscotland.org/downloads/Labour\\_Partnership\\_Pledges\\_Scotland.pdf](http://www.buildingscotland.org/downloads/Labour_Partnership_Pledges_Scotland.pdf)

<sup>34</sup> BBC News, Tuesday 1 May 2007, At: <http://news.bbc.co.uk/1/hi/scotland/6610061.stm>

<sup>35</sup> At: [www.scottishlabour.org.uk/snpchaos/](http://www.scottishlabour.org.uk/snpchaos/)

<sup>36</sup> *Labour's Partnership Pledges for Scotland, Building Scotland not Breaking up Britain*, p2

<sup>37</sup> *Building Scotland, Scottish Labour Party Manifesto*, p4

At: [www.buildingscotland.org/downloads/Labour\\_Manifesto\\_Final.pdf](http://www.buildingscotland.org/downloads/Labour_Manifesto_Final.pdf)

<sup>38</sup> *Scottish Labour Party Manifesto*, p97

Tories, claim Rhodri Morgan, are trying to get in 'through the back door' in coalition with other parties, and the choice is between a 'strong partnership with Labour at Westminster or an opposition which wants to go it alone'.<sup>39</sup> The party has re-iterated its opposition to proportional representation in council elections, as championed by Plaid Cymru and the Lib Dems, and promised to use the 2006 Government of Wales Act to seek new powers to tackle problems ranging from environmental pollution to lack of housing.<sup>40</sup>

### 3.2 Conservatives

A self-consciously positive approach to devolution is in evidence amongst the Scottish and Welsh Conservatives in the run up to the May elections, with both branches of the party keen to emphasise their commitment to the principles of devolution and to making the existing settlement work.

Whilst acknowledging that there is a 'debate to be had' about the powers of the Scottish Parliament, the Scottish Conservatives claim that Scottish political discussion is 'far too centred around the Union, and the constitutional debate'.<sup>41</sup> Their 'overriding priority' is to 'make better use of the current powers to benefit the people of Scotland'.<sup>42</sup> In a recent speech to the Scottish Conservative Conference Annabel Goldie echoed David Cameron in emphasising the need for policy 'delivery' over constitutional change whilst claiming that the Conservatives were the true party of the United Kingdom, capable of being trusted with devolution.<sup>43</sup> Presenting themselves as a unionist alternative to Labour, the party suggests that the Scots 'don't want a new country', they 'simply want a new government'.<sup>44</sup>

However the Conservatives' enthusiastic commitment to devolution is qualified elsewhere by a manifesto pledge to reduce the number of MSPs from 129 to 108.<sup>45</sup>

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<sup>39</sup> *Building a Better Wales, Welsh Labour Election Manifesto 2007*, p1

At: [www.welshlabour.org.uk/](http://www.welshlabour.org.uk/)

<sup>40</sup> Ibid, p 6,26, 34

<sup>41</sup> *Scottish Conservative Manifesto*, Scottish Parliament Election 2007, p17

At: [www.scottishconservatives.com/pdfs/Manifesto%202007.pdf](http://www.scottishconservatives.com/pdfs/Manifesto%202007.pdf),

and [www.scottishconservatives.com/yourvoiceinparliament/union.asp](http://www.scottishconservatives.com/yourvoiceinparliament/union.asp)

<sup>42</sup> Ibid, p17

<sup>43</sup> Annabel Goldie - Scottish Conservative Conference speech 12/03/2007

At: [www.scottishconservatives.com/speeches.asp?article=592&curpage=1](http://www.scottishconservatives.com/speeches.asp?article=592&curpage=1) and David Cameron - Speech to Scottish Conservative Conference 12/03/2007

At: [www.scottishconservatives.com/speeches.asp?article=589&curpage=1](http://www.scottishconservatives.com/speeches.asp?article=589&curpage=1)

<sup>44</sup> At: [www.scottishconservatives.com/yourvoiceinparliament/union.asp](http://www.scottishconservatives.com/yourvoiceinparliament/union.asp)

<sup>45</sup> *Scottish Conservative Manifesto*, p16

The Conservatives also continue to play to the English gallery: following his speech to the Scottish Conservative Conference, David Cameron promised that, if elected, he would ‘correct one of the remaining issues of devolution’, the West Lothian Question, by implementing a system of English Votes on English Laws.<sup>46</sup> By stripping the Scottish MPs of their right to vote in Westminster on ‘English issues’, the Conservatives would also be removing an important party-political advantage currently enjoyed by Labour in the House of Commons. As noted in section 1.4, however, the party has not in practice seized recent opportunities to push this policy forward.

The Welsh Conservative manifesto confesses that, ‘despite our fears in 1997’, Welsh Conservatives now believe that ‘devolution is necessary for a strong Britain’.<sup>47</sup> And whereas the Welsh Conservatives’ 2005 election manifesto promised voters the chance to abolish the Assembly,<sup>48</sup> they currently see their task as ‘using devolution imaginatively to make Britain stronger’.<sup>49</sup> This new position was dramatically underlined when the Conservative councillor Peter Davies was suspended from the list of approved candidates for the Welsh Assembly after publicly calling for its abolition.<sup>50</sup>

Despite this, the party’s half-hearted enthusiasm for a strong assembly is revealed in its opposition to the Government of Wales Act 2006, with the manifesto complaining that ‘Labour has sought to make the Assembly a law-making body without the express consent of the Welsh electorate’. Nonetheless the party’s manifesto contains pledges that would require using the new legislative mechanisms such as a call for mental health reform. In a reference to the law banning dual candidacy the party has also promised to ‘restore the reputation of Wales by abolishing the Labour Party’s much condemned manipulation of the Assembly’s election rules’.<sup>51</sup> Surprisingly, the party pledges to review the electoral system used in local government elections, with the possibility of referendums on the issue.<sup>52</sup> This last policy position is manifestly designed with potential post-election coalition negotiations in mind.

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<sup>46</sup> *The Scotsman*, Tuesday 27 March 2007

<sup>47</sup> *Vote Welsh Conservatives for a change*, Manifesto for the elections to the National Assembly to Wales 2007, p35, at: [www.conservatives.com/tile.do?def=wales.info.publications.page](http://www.conservatives.com/tile.do?def=wales.info.publications.page)

<sup>48</sup> Welsh Conservative General Election Manifesto 2005, at: [www.conservatives.com/tile.do?def=wales.info.publications.page](http://www.conservatives.com/tile.do?def=wales.info.publications.page), p21.

<sup>49</sup> *Vote Welsh Conservatives for a change*, op cit, p35

<sup>50</sup> BBC News, Tuesday 6 February 2007, At: <http://news.bbc.co.uk/1/hi/wales/6335749.stm>

<sup>51</sup> *Vote Welsh Conservatives for a change*, op cit, p35

<sup>52</sup> *Vote Welsh Conservatives for a change*, op cit, p31

While the party has (more or less) come round to accepting Scottish and Welsh devolution, its opposition to English regionalism remains strong. Shadow Secretary of State for Communities and Local Government, Caroline Spelman MP, recently repeated the pledge to abolish regional assemblies, accusing them of being 'fake devolution, a fig leaf to conceal the fact that true power still lies in the centre' and claiming that Assemblies cost each household £580 to maintain.<sup>53</sup>

### **3.3 Liberal Democrats**

Both the Scottish and Welsh Liberal Democrats used their manifestos to re-affirm their commitment to the transfer of greater powers from Westminster to the devolved governments and to the strengthening of local authorities through the decentralisation of power.

The Scottish LibDems are in favour of a 'new settlement based on more powers for Scotland within the UK', and call for a second constitutional convention to consider the issue and build a consensus on how change should be brought about. Recent polls have lent support to the party's claim that 'many more' people support further powers for the Scottish Parliament, than support independence.<sup>54</sup> The possibility of a power sharing agreement with the SNP is rendered more likely by Alex Salmond's recent remarks agreeing in principle to a 'multi-option' referendum that includes an option of a stronger question within the Union.<sup>55</sup>

The party's manifesto makes a number of key proposals on the allocation of these powers and raises the possibility of a 'joint committee of the Scottish and UK Parliaments' working in partnership with a new category of powers, such as those relating to asylum and immigration, and employment law. As well as increasing significantly the taxation powers of the Scottish Parliament, the Lib Dems believe that it should be given 'exclusive competence' over the electoral system, the civil service, energy policy, transport powers and marine policy, whilst the second constitutional convention should consider extending powers to include betting and gaming, public holidays, human rights and equalities, and broadcasting.<sup>56</sup>

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<sup>53</sup> Spelman, Caroline, in *Conservatives and Localism*, London: NLGN, March 2007.

<sup>54</sup> Populus/The Times Poll, 28 March 2007-04-24

[www.populuslimited.com/poll\\_summaries/2007\\_03\\_28\\_times.htm](http://www.populuslimited.com/poll_summaries/2007_03_28_times.htm)

<sup>55</sup> *The Guardian*, Tuesday 24 April 2007

<sup>56</sup> Scottish Liberal Democrats Manifesto, *We Think Scotland Has a Bright Future*. 2007  
[www.nicolstephen.org.uk/assets/Full-LD-Manifesto-web.pdf](http://www.nicolstephen.org.uk/assets/Full-LD-Manifesto-web.pdf), p86

The Lib Dems would also seek to entrench the position of local government by means of a Governance of Scotland Bill which would 'reserve powers to ministers and devolve all others to local government'.<sup>57</sup>

The Welsh Liberal Democrats claim that the new procedures governing devolution – according to which the Welsh Government must seek the power to introduce new laws on a case by case basis subject to veto at Westminster – have created a 'second-class Assembly'. They favour a 'full parliament with real powers' but in the interim commit to 'stretch the Assembly's new powers to the maximum', using the 'Orders in Council' process to gain new powers. The party also favours tax-varying powers, a needs-based financial settlement, borrowing powers equivalent to those of the NI government, and electoral reform (a move to STV), all of which Labour opposes.<sup>58</sup>

The Lib Dems may hold the balance of power after the May elections in both Scotland and Wales, giving the party major influence over the future development of devolution. In Scotland, the party's preference for stronger legislative and fiscal powers for Holyrood seems more likely to come to fruition in the medium term than either independence or no change (as favoured by Labour). In Wales too, the party appears to represent the centre of gravity of political opinion, though Welsh Labour will retain a veto over the timing of a referendum on devolution of primary legislative powers thanks to the statutory requirement for a two-thirds Assembly majority.

- At the UK 'federal' party level, a recent policy paper raised the anomaly of the West Lothian Question. The paper discussed a range of proposed solutions including an English Parliament, English votes on English laws an English Grand Committee, and regional assemblies. The paper concluded that a new mechanism is needed to arrive at a solution appropriate to England, and suggested that an English Constitutional Convention, modelled on that of Scotland, might be suitable for this purpose.<sup>59</sup>

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<sup>57</sup> Ibid, p86

<sup>58</sup> Welsh Liberal Democrat, *A Fair, Green Future*, Manifesto for the Welsh General Election 2007, [www.welshlibdems.org.uk/documents/FairGreenFuture.pdf](http://www.welshlibdems.org.uk/documents/FairGreenFuture.pdf), p57, and p45.

<sup>59</sup> Liberal Democrats Policy Projects Team, *Federal Policy Consultation Paper No. 85*, January 2007, (p18)

### 3.4 SNP

The SNP manifesto describes the Anglo-Scottish Union as an unequal and archaic arrangement that is no longer 'fit for purpose'. Having won the election, the party would pave the way for independence by publishing a white paper 'detailing the concept of Scottish independence in the modern world as part of preparations for offering Scots the opportunity to decide on independence in a referendum, with a likely date of 2010'.<sup>60</sup>

Alongside familiar arguments for independence the manifesto contains proposals for departmental re-structuring and for more participative forms of democracy. The party would 'bring parliament closer to the people' by introducing mechanisms for citizens to propose debates in parliament and for popular public petitions to be turned into legislative proposals.<sup>61</sup>

Until independence is achieved the SNP is stressing that they will work with the UK government to enhance Scotland's position within the EU in relation to devolved areas of policy. They would 'improve direct contacts with the Commission, reform parliamentary scrutiny of [European] legislative proposals and seek closer relations with other parliaments'.<sup>62</sup> The manifesto also details proposals for a 'wholly devolved' Scottish civil service and makes clear that, despite what Labour has claimed, an SNP-controlled Scottish Executive would strengthen co-operation with Whitehall in devolved matters of policy.<sup>63</sup> However the prospects of harmonious inter-governmental relations are somewhat diminished by the stance taken by the SNP on issues such as Trident, nuclear power stations and Scotland's control of its oil and gas resources.<sup>64</sup>

Post-independence Scotland's new constitutional arrangements would be clarified in a 'written constitution for an independent Scotland to guarantee the rights and liberties of citizens and limit the power of government'.<sup>65</sup>

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<sup>60</sup> SNP: *It's time*, Manifesto 2007, p8.

[www.snp.org/policies](http://www.snp.org/policies)

<sup>61</sup> SNP: *It's time*, Manifesto 2007, p15

<sup>62</sup> SNP: *It's time*, Manifesto 2007, p16

<sup>63</sup> SNP: *It's time*, Manifesto 2007, p17

<sup>64</sup> SNP: *It's time*, Manifesto 2007, p7,17,29

<sup>65</sup> SNP: *It's time*, Manifesto 2007, p66

### 3.5 Plaid Cymru

Plaid Cymru launched its manifesto on 28 March 2007. Unlike their Scottish counterparts, independence is not at the centre of the Welsh nationalist agenda. The party favours an early move to full devolution of primary legislative powers but in the mean time, its priorities include:

- The devolution of all powers over mental health to the National Assembly through an order in council.
- The devolution of necessary powers to create a National Care Fund.
- The enactment into Welsh law of the Sustainable Communities Bill.
- The transfer to the Assembly of powers over planning matters
- The passage of legislation to introduce the single transferable vote for all elections in Wales.
- The replacement of the Barnett Formula for a needs-based distribution of funds within the UK.<sup>66</sup>

### 3.6 Minor Parties

Thanks to the 'additional member system' used to elect members of the Scottish Parliament and the National Assembly for Wales, a number of parties outside the Scottish and Welsh 'big four' stand a realistic chance of gaining seats in the May 2007 poll. Changes to the current devolution settlement feature on the agendas of many of these groupings.

The Scottish Green Party, which currently has 7 MSPs, emphasises the 'urgent need for greater fiscal autonomy for Scotland'. The Greens also back independence for Scotland, 'not out of nationalistic fervour, but as a means to create a more locally-based, sustainable, and democratic future'. The party hopes that independence will pave the way for a written constitution and a Scottish Bill of Rights, and has not ruled out the possibility of taking part in a coalition government so long as no steps are taken towards new nuclear power stations in Scotland.<sup>67</sup>

Both the Scottish Socialist Party (SSP) and Tommy Sheridan's Solidarity are in favour of Scotland becoming an 'independent socialist republic', with the SSP committed to a referendum on independence within one year and Solidarity

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<sup>66</sup> The six policy pledges listed here can be found on pages 21,23,29,31 and 34 of Plaid Cymru Manifesto 2007, *Make a difference*. [www.plaidcymru.org/uploads/publications/264.pdf](http://www.plaidcymru.org/uploads/publications/264.pdf)

<sup>67</sup> Scottish Green Party, Manifesto: *Act Now: Choose a Green Government*, 2007, p24-25. [www.scottishgreens.org.uk/site/id/4518/title/Manifesto.html](http://www.scottishgreens.org.uk/site/id/4518/title/Manifesto.html)

committed to holding one within the lifetime of the next parliament.<sup>68</sup> The SSP, like the Greens hope that independence will lay the foundations for a codified constitutional settlement. The party's manifesto goes into some detail on the form Scotland's independent socialist constitution should take. Their proposals include the abolition of the monarchy, the use of proportional representation for all elections, and the greater use of referenda.<sup>69</sup>

In Scotland UKIP are campaigning with the slogan 'sack the MSPs, restore democracy and leave the EU'. Their plan entails the dismissal of the 129 MSPs as 'an additional and wasteful layer of government' and their replacement by 59 Scottish MPs, who would spend three weeks at Westminster, followed by one week in the Scottish Parliament. During this time English MPs would remain at Westminster to debate laws that only affect England in an 'English Parliament'.<sup>70</sup>

In Wales, UKIP's proposals follow a similar logic to their Scottish manifesto: Assembly Members would be sacked, with Welsh MPs spending a week per month on Welsh business and the rest of their time in Westminster.<sup>71</sup>

The Welsh Greens, who are hoping to gain their first member in the National Assembly, take a quite different approach to the issue. They propose to increase the number of Assembly Members (and to decrease the number of Welsh MPs) and 'turn the National Assembly into a Parliament with tax varying powers like those in Scotland' and powers that 'cover the benefits system'.<sup>72</sup>

Forward Wales, which currently has one AM, echoes the Plaid line on establishing a new formula to determine public spending levels within the Union, whilst arguing that Wales should 'enjoy parity with Scotland within the current constitutional arrangements in the UK' and that it 'should enjoy no fewer powers than any other of the UK nations or regions should any further devolution arrangements be enacted'.<sup>73</sup>

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<sup>68</sup> Scottish Socialist Party: *People Not Profit*, SSP Manifesto 2007, p4 and *Solidarity: Scotland's Socialist Movement*, Manifesto 2007, p33.

[www.ssp-election-2007.org.uk/storage/election2007/manifesto/SSP\\_Manifesto\\_lowres.pdf](http://www.ssp-election-2007.org.uk/storage/election2007/manifesto/SSP_Manifesto_lowres.pdf)

<sup>69</sup> Scottish Socialist Party: *People Not Profit*, SSP Manifesto 2007, p4, p13-15, p56.

[www.ssp-election-2007.org.uk/storage/election2007/manifesto/SSP\\_Manifesto\\_lowres.pdf](http://www.ssp-election-2007.org.uk/storage/election2007/manifesto/SSP_Manifesto_lowres.pdf)

<sup>70</sup> UK Independence Party Scotland, Manifesto: *Scottish Parliament and Local Elections* 3 May 2007, pp1-2. [www.ukipscotland.org/pdf/ukipscottishmanifesto.pdf](http://www.ukipscotland.org/pdf/ukipscottishmanifesto.pdf)

<sup>71</sup> UK Independence Party Wales, Manifesto: *Welsh Assembly Election*, 3 May 2007, p1, at: [www.ukip.org/pdf/welshmanifesto2007.pdf](http://www.ukip.org/pdf/welshmanifesto2007.pdf)

<sup>72</sup> Wales Green Party: Manifesto, *One Wales. One Chance.: National Assembly Elections* 2007, p7.

<http://wales.greenparty.org.uk/site/downloads/WGPMAN2007En.pdf>

<sup>73</sup> [www.forwardwales.org/principles.html](http://www.forwardwales.org/principles.html)

## 4. Devolution and Whitehall

### 4.1 Department for Constitutional Affairs

On 29 March, the Prime Minister announced an important set of 'machinery of government' changes.<sup>74</sup> The Home Office is to lose its responsibility for prisons, probation and criminal law to a new Ministry of Justice, to which the functions of the Department for Constitutional Affairs (DCA) will also be transferred. It is presumed that this means no change for the Scotland Office and Wales Office, which retain their separate institutional status and Cabinet ministers despite formally being part of the DCA. In practice, the DCA plays little day-to-day role in the management of devolution, with the judicial system its main area of interest. In the new Ministry of Justice devolution policy is likely to be even more marginalised, which could potentially become a problem if rising intergovernmental tensions call for strong joined-up thinking on devolution matters from Whitehall.

### 4.2 Scotland Office

#### *The Union*

On 16 January, the Scotland Office hosted a low-key event marking the tercentenary of the Anglo-Scottish Treaty of Union at which the government launched a commemorative £2 coin. Few other events have been planned by government to celebrate the Union.<sup>75</sup>

#### *Scottish Electoral Administration*

January 2007 saw the Scotland Office finally publish an official response to the Commission on Boundary Differences and Voting Systems (Arbuthnott Commission), which had reported to the UK and Scottish governments in January 2006.<sup>76</sup> The Commission had called for single transferable voting (STV) to be introduced for European elections, for a move from 'closed' to 'open' lists for Holyrood elections, and for Holyrood and local councils elections to take place on different days. In a response published by the Scotland Office, the UK government ruled out the first two of these recommendations, arguing that there was no clear case for adopting a different European electoral system for Scotland than for England/Wales (Northern

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<sup>74</sup> Tony Blair, 'Prime Minister's Written Ministerial Statement', 29 March 2007, [www.number10.gov.uk/output/Page11376.asp](http://www.number10.gov.uk/output/Page11376.asp)

<sup>75</sup> Scotland Office, 'United into one kingdom – to coin a phrase', Scotland Office press release, 16 January 2007, at: [www.scotlandoffice.gov.uk/our-communications/release.php?id=3565](http://www.scotlandoffice.gov.uk/our-communications/release.php?id=3565).

<sup>76</sup> The Commission on Boundary Differences and Voting Systems, *Putting Citizens First: Boundaries, Voting and Representation in Scotland*, 19 January 2006

Ireland already uses STV), and that a move to open lists 'would over-complicate the voting system'.<sup>77</sup> The proposal to decouple the dates of local and Holyrood elections was rejected in a separate statement by the Scottish Executive on the grounds that 'it is in the best interests of the voters and turnout that these elections should continue to be combined'.<sup>78</sup> As previously reported<sup>79</sup>, voters in the 2007 elections will be given only one ballot paper rather than two. The government hopes that this reform will improve understanding of the electoral system, which the Arbutnott Commission identified as a problem.

### **4.3 Wales Office**

#### ***New Standing Orders***

On 22 March Secretary of State for Wales Peter Hain formally 'made' the new standing orders for the National Assembly for Wales, as he is required to do by the Government of Wales Act 2006. In a written parliamentary statement, Hain noted that 'Unlike the Assembly's Standing Orders under the 1998 [Government of Wales] Act, these new procedures were developed in Wales, for Wales, by the elected representatives of the people of Wales'.<sup>80</sup>

#### ***Nick Ainger questioned by Assembly Committee***

On 1 February Wales Office Minister Nick Ainger participated in a meeting of the National Assembly's Education, Lifelong Learning and Skills Committee to discuss the Welsh aspects of the Further Education and Training Bill. As discussed in section 5.2, this bill devolves to the Welsh Assembly legislative competence over significant aspects of the further education sector.

### **4.4 Northern Ireland Office**

This monitoring period has seen significant progress in re-establishing home rule in Northern Ireland, in which developments the Northern Ireland Office has been centrally involved. Assuming that power-sharing rule does become fully operational this May, the Northern Ireland Office will lose its responsibilities for 'devolved' policy

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<sup>77</sup> Scotland Office, 'Government responds to Arbutnott Commission report on boundary differences and voting systems', 23 January 2007, [www.scotlandoffice.gov.uk/our-communications/doc.php?id=79](http://www.scotlandoffice.gov.uk/our-communications/doc.php?id=79), response to Commission recommendations 8 and 13.

<sup>78</sup> Scottish Executive, 'Executive response to Arbutnott Commission report', 23 January 2007, at: [www.scotland.gov.uk/News/Releases/2007/01/23105546](http://www.scotland.gov.uk/News/Releases/2007/01/23105546), response to Commission recommendation 12.

<sup>79</sup> Paun Akash (ed) and Lau Ernest, Devolution Monitoring Report, (London, Constitution Unit) January 2007.

[www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Centre\\_Jan07.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Centre_Jan07.pdf)

<sup>80</sup> Peter Hain, HC Deb, 22 March 2007, Col 58WS. See also: *Report of the Committee on Standing Orders: Standing Orders of the National Assembly for Wales*, January 2007, at:

areas in the six counties. It will retain responsibility for the broad constitutional structure of Northern Ireland as well as its justice and security systems, at least until it is agreed by all parties to transfer these latter 'reserved' matters to the control of the Northern Ireland Assembly.<sup>81</sup>

#### 4.5 DCLG: The Regional Devolution Agenda(s)

A significant development in the city-regions agenda in England was announced in March 2007 in Merseyside. Following a meeting between Local Government Minister Phil Woolas and the leaders and chief executives of six local authorities in and around Liverpool, it was announced that a new sub-regional cabinet would be set up for what will be known as the Liverpool City Region, with the cabinet chair rotating between the six council leaders. It was also revealed that a proportion of the city region's business rates would be handed to the new cabinet to spend though the precise functions of this new structure are yet to be finalised.<sup>82</sup>

In parallel to the city-regions agenda there are pressures on government to improve the performance and accountability of England's existing regional tier of governance – consisting of the bodies such as the Regional Development Agencies, regional chambers and government offices for the eight non-London standard regions. A recent New Local Government Network report<sup>83</sup> set out a range of options for reform, arranged in a spectrum with 'strong democratic control' structures such as directly-elected mayors and elected regional assemblies at one extreme. At the other end of this axis fall 'light touch accountability' options such as requiring regional bodies to cooperate and share resources.<sup>84</sup> Closer to the centre are more politically feasible ways of enhancing democratic accountability of regional governance such as 'co-decision' processes based on a recognition of Westminster and local councils as 'the twin poles of accountability in the UK constitution'. For instance, a regional executive body such as an RDA could be made jointly accountable to a federation of local councils and a committee of MPs from the region.<sup>85</sup> Chris Leslie – director of the NLGN and co-author of the report – is known to be close to Gordon Brown so it will

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[www.wales.gov.uk/documents/cms/2/DocumentsLaid/37B1A02600BF4FD0000436C00000000/23869e1c4a8e1c80d44933cac4bc6115.pdf](http://www.wales.gov.uk/documents/cms/2/DocumentsLaid/37B1A02600BF4FD0000436C00000000/23869e1c4a8e1c80d44933cac4bc6115.pdf)

<sup>81</sup> For a detailed discussion of developments in the governance of Northern Ireland, see Rick Wilford and Robin Wilson, *Northern Ireland Devolution Monitoring Report: April 2007*, at:

[www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/NI\\_April07.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/NI_April07.pdf)

<sup>82</sup> Larry Neild 'Revealed: blueprint for a new city region', *Liverpool Daily Post*, 13 March 2007

<sup>83</sup> Chris Leslie and Owen Dallison, *Redesigning Regionalism: Leadership and Accountability in England's Regions* (London: New Local Government Network, 2007).

<sup>84</sup> *Ibid*, p41.

<sup>85</sup> *Ibid*, pp 43-44.

be interesting to see how influential such ideas come to be as Brown sets out the policy agenda for his premiership.

March also saw the publication of a House of Commons Communities and Local Government committee report whose recommendations were supportive of the development of the city-regional level of government, while also recommending reforms to the existing regional structures in England. This report is discussed further in section 7.4.<sup>86</sup>

#### 4.6 HM Treasury

Gordon Brown's last Budget as Chancellor was widely seen as his most 'political' so far and contained a number of implications for the devolved institutions. He announced spending increases for the Scotland and Wales Offices, which – according to Treasury figures – will amount to a £1,835 million increase in the budget for the Scottish Executive and an additional £1,001 million for the Welsh Assembly Government.<sup>87</sup>

One of the central claims made by Scottish Labour in the 2007 election campaign has been that the SNP's sums don't add up. Brown's decision to cut his estimates for North Sea oil revenue by a further £11 billion over the next five years has been seen as an attempt to further undermine the nationalists, who have emphasised the importance of North Sea Oil revenue in financing an independent Scotland.<sup>88</sup> Alex Salmond responded for the SNP, arguing that the Treasury's own figures contradicted Brown's claims and that the Chancellor was 'playing games on oil'.<sup>89</sup>

#### 4.7 Home Office

In March 2007 the UK government announced the appointment of junior Wales Office minister Nick Ainger to the National Policing Board.<sup>90</sup> The Board was established in July 2006 'to help strengthen the governance of policing in England and Wales'<sup>91</sup> but until March 2007 had no specific Welsh representative. Labour is opposed to Liberal

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<sup>86</sup> House of Commons Communities and Local Government Committee, *Is there a Future for Regional Government?*, Fourth report of Session 2006/07, HC 352, March 2007

<sup>87</sup> Budget 2007 in Scotland, Regional Press Notice, 21 March 2007, p1; and Budget 2007 in Wales, Regional Press Notice, 21 March 2007, p1.

<sup>88</sup> *The Herald*, At: [www.theherald.co.uk/budget2007/speech/display.var.1279817.0.0.php](http://www.theherald.co.uk/budget2007/speech/display.var.1279817.0.0.php)

<sup>89</sup> At: [www.snp.org/press-releases/2006/brown-in-political-panic-over-oil/view?searchterm=budget%202007](http://www.snp.org/press-releases/2006/brown-in-political-panic-over-oil/view?searchterm=budget%202007)

<sup>90</sup> Wales Office, 'Nick Ainger appointed to National Policing Board', 21 March 2007, at: [www.oss.wales.gov.uk/2007/pn\\_20070321a.html](http://www.oss.wales.gov.uk/2007/pn_20070321a.html).

<sup>91</sup> Home Office, 'National Policing Board', accessed 12 April 2007, at <http://police.homeoffice.gov.uk/police-reform/nat-policing-board>.

Democrat and Plaid Cymru proposals to devolve responsibility for policing to Wales but Ainger's appointment to the Policing Board indicates a desire on the part of the government to demonstrate sensitivity to Welsh interests in this area.

## 5. Territorial Legislation at Westminster

### 5.1 Scotland

There are a total of five bills currently before Westminster that have required the consent of the Scottish Parliament under the legislative consent – ‘Sewel’ – convention, meaning that they legislate for Scotland in devolved areas or change the powers of the devolved bodies (see figure 4). Each legislative consent motion at Holyrood is preceded by an Executive memorandum setting out the reasons for allowing Westminster to legislate. These memoranda are usually scrutinised in committee before the motion itself is moved in plenary. Three of the five current Sewel bills were opposed in plenary, underlining the fact that this process remains controversial.

Figure 4: Sewel Bills under Consideration at Westminster<sup>92</sup> (as of 31 March 2007)

	<i>Sewel motion passed at Holyrood</i>	<i>Latest stage reached at Westminster<sup>93</sup></i>
Consumers, Estate Agents and Redress Bill [HL]	17 January 2007 (No vote)	2 <sup>nd</sup> Reading in Commons (19 March 2007)
Further Education and Training Bill [HL]	17 January 2007 (Passed 88-30)	1 <sup>st</sup> Reading in Commons (7 March 2007)
Statistics and Registration Service Bill	01 February 2007 (Passed 57-36)	2 <sup>nd</sup> Reading in the Lords (26 March 2007)
Serious Crime Bill [HL]	08 March 2007 (Passed 88-9)	Committee stage in the Lords (7 March 2007)
Tribunals, Courts and Enforcement Bill [HL]	31 January 2007 (No vote)	Committee Stage in Commons (15 March 2007)

The SNP led the opposition to the Statistics Bill, their Shadow Enterprise Minister Jim Mather arguing that:

We oppose the motion on principle, on the basis that legislation that will materially affect Scotland should be scrutinised, debated and passed in Scotland, not at Westminster. There is no doubt that the motion, if agreed to as it stands, will have a materially adverse effect on Scotland.<sup>94</sup>

<sup>92</sup> The text of all Legislative Consent Memorandums and Legislative Consent Motions, as well as background information about the convention, can be found at:

[www.scottish.parliament.uk/business/legConMem/index.htm](http://www.scottish.parliament.uk/business/legConMem/index.htm).

<sup>93</sup> Information on the content and progress of all UK Government bills can be found at:

[www.commonleader.gov.uk/output/Page1745.asp](http://www.commonleader.gov.uk/output/Page1745.asp).

<sup>94</sup> Jim Mather MSP, Scottish Parliament Official Report, 1 February 2007, Col 31781.

Nationalist and socialist MSPs also opposed the legislative consent motion on the Further Education and Training Bill, on the basis that the bill could tie the hands of the Scottish Parliament if it wished to legislate in this area in future.<sup>95</sup> And the Scottish Greens opposed the motion relating to the Serious Crime Bill on civil liberties grounds, for introducing a new form of civil preventive order that may be used to restrict the freedom of people who have not been convicted of a crime.<sup>96</sup>

At Westminster, awareness of the 'Sewel' implications of bills is generally minimal. And since Sewel motions will have been approved by the Labour-LibDem Executive in Edinburgh, critical Scottish voices at Westminster are rarely heard: only 7 of 59 Scottish constituencies are held by parties other than Labour or the Liberal Democrats, while the Lords has no SNP members, the party which most frequently objects to the invocation of the convention. Proceedings on Sewel bills are typically dominated by scrutiny of the substantive provisions of the legislation with little or no debate of whether and why Westminster should be legislating for Scotland in the policy area in question.

To improve accountability of this process, a number of minor reforms have been implemented in line with recommendations made by the Commons Scottish Affairs Committee<sup>97</sup> and the Scottish Parliament Procedures Committee<sup>98</sup>. As previously reported, one innovation was the written statement of Scotland Secretary Douglas Alexander after the Queen's Speech in which the government outlined which bills the consent of the Scottish Parliament would be needed for.<sup>99</sup> The government has also indicated its approval of plans for the clerk of the Scottish Parliament to communicate to the clerks of the Houses of Parliament any decision taken at Holyrood on a legislative consent motion. Arrangements for this are being finalised.<sup>100</sup> In addition, Explanatory Notes published for each bill now usually set out clearly whether and how they apply in devolved areas in Scotland. For instance, from the Explanatory Notes of the Serious Crime Bill:

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<sup>95</sup> See Fiona Hyslop MSP, Enterprise and Culture Committee Official Report, 9 January 2007, Col 3552.

<sup>96</sup> See Patrick Harvie MSP, Scottish Parliament Official Report, 8 March 2007, Col 3308-3309.

<sup>97</sup> House of Commons Scottish Affairs Committee, *The Sewel Convention: the Westminster Perspective*, HC 983, Fourth Report of Session 2005-06, (July 2006), at: [www.publications.parliament.uk/pa/cm200506/cmselect/cm Scotaf/983/983.pdf](http://www.publications.parliament.uk/pa/cm200506/cmselect/cm Scotaf/983/983.pdf)

<sup>98</sup> Scottish Parliament Procedures Committee, *The Sewel Convention*, SP Paper 428, Seventh Report, October 2005. At: [www.scottish.parliament.uk/business/committees/procedures/reports-05/pr05-07-vol01.htm](http://www.scottish.parliament.uk/business/committees/procedures/reports-05/pr05-07-vol01.htm)

<sup>99</sup> See Akash Paun (ed), and Lau, Ernest, *Devolution and the Centre Monitoring Report: January 2007*, pp21-22.

<sup>100</sup> See House of Commons Scottish Affairs Select Committee, *The Work of the Committee in 2005/2006*, HC 308, paras 14-24.

At introduction, the Bill contains provisions that trigger the Sewel Convention. The provisions relate to creating an offence of breach of a Serious Crime Prevention Order (with reference to Part 1 of the Bill) and detained cash investigations and power of forced entry (with relation to Part 3 Chapter 2). Should further provisions be included by amendment, the Scottish Parliament's consent will be sought in line with the Sewel Convention. The Convention states that Westminster will not normally legislate with regard to devolved matters in Scotland without the consent of the Scottish Parliament.<sup>101</sup>

There is still some apparent inconsistency in how Sewel bills are handled at Westminster: for instance, the explanatory notes for the Statistics and Registration Service Bill do not mention the fact that the bill triggered the legislative consent convention. Nonetheless, it is to be welcomed that the direction of change is towards greater transparency and clarity of the role of Westminster in legislating for Scotland in devolved areas.

## 5.2 Wales

Two bills currently before Parliament extend the legislative competence of the National Assembly for Wales, by adding to the Government of Wales Act 2006 'matters' on which the Assembly may legislate.

- The Further Education and Training Bill confers a number of significant powers on the Assembly relating to the establishment, dissolution, regulation, financing and inspection of post-16 education institutions in Wales. During Lords committee debates on the bill, concerns were expressed at the use of an act of parliament – rather than a legislative competence order (LCO) under section 95 of the Government of Wales Act 2006 – to transfer legislative powers from Westminster to Cardiff. Education minister Lord Adonis gave the standard government response: that an LCO – which will be initiated by the Assembly rather than the UK Government – is to be used only when there is 'no suitable bill in the government's programme to address the Assembly's needs'.<sup>102</sup>

The bill as originally published was also to have conferred executive powers upon the Welsh Ministers to intervene in the running of FE institutions – for instance by dismissing college principals. However, the Lords defeated the government on

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<sup>101</sup> Explanatory Notes to Serious Crime Bill [HL], HL Bill 27 EN 06-07, at: [www.publications.parliament.uk/pa/ld200607/ldbills/027/en/index\\_027.htm](http://www.publications.parliament.uk/pa/ld200607/ldbills/027/en/index_027.htm), para 13.

<sup>102</sup> Baroness Morris of Bolton and Lord Adonis, HL Deb, 25 January 2007, Col GC440-GC441.

this issue,<sup>103</sup> on the grounds that this power (also to be granted to Learning and Skills Councils in England) would compromise the independence of the FE sector.

- The Local Government and Public Involvement in Health Bill implements many of the proposals contained in the government's recent white paper *Strong and Prosperous Communities* in regard to England. Part 14 and schedule 14 of the bill devolve to the Welsh Assembly significant powers to reorganise the structure of Welsh local government. Unlike in Scotland, power over the controversial matters of local taxation and the electoral system for local elections in Wales remains at Westminster.

### 5.3 Northern Ireland

- The Northern Ireland (St Andrews Agreement) (No 2) Act<sup>104</sup> was introduced and passed as an emergency bill on 27 March, and had the effect of extending to 8 May the deadline for the restoration of devolution.<sup>105</sup>
- As part of the security normalisation process in Northern Ireland, the government's Justice and Security (Northern Ireland) Bill seeks to abolish the 'Diplock courts', creating a presumption in favour of trial by jury in the six counties. This will be subject to a fall-back arrangement for a small number of exceptional cases for which the Director of Public Prosecutions will be able to issue a certificate stating that a trial is to take place without a jury.<sup>106</sup> Having been introduced to the Commons in November 2006, the bill completed its Lords committee stage on 21 March 2007.

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<sup>103</sup> Division No. 1, HL Deb 27 February 2007, Column 1536

<sup>104</sup> Northern Ireland (St Andrews Agreement) (No 2) Act, at:

[www.publications.parliament.uk/pa/pabills/200607/northern\\_ireland\\_st\\_andrews\\_agreement\\_no\\_2.htm](http://www.publications.parliament.uk/pa/pabills/200607/northern_ireland_st_andrews_agreement_no_2.htm)

<sup>105</sup> For analysis see Robin Wilson and Rick Wilford (eds), *Northern Ireland Devolution Monitoring Report: April 2007*, at: [www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/NI\\_April07.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/NI_April07.pdf)

<sup>106</sup> Peck M, Strickland, P, Danby, G. Research paper 06/63, The Justice and Security (Northern Ireland) Bill, House of Commons Library, 2007

## 6. Devolution and Westminster: Backbench Initiatives

### 6.1 Private Members' Bills

- As noted in section 1, the Conservative MP Robert Walter took advantage of his high placing in the private members' bill ballot to propose a bill that would implement the 'English votes on English laws' (EVEL) solution to the West Lothian Question. The bill failed to get a second reading on 9 March and now stands no chance of reaching the statute book.
- As noted in section 2.2, Lord Baker of Dorking – who sponsored a bill to implement EVEL in the 2004-05 Parliament – has now proposed a less radical solution to the English Question. His Parliamentary Constituencies (Amendment) Bill would reduce the number of parliamentary constituencies to 581 and create a legal requirement for the four territories of the UK – England, Scotland, Wales and Northern Ireland – to be equally represented in the Commons in per capita terms.<sup>107</sup>
- Nick Hurd MP, who came first the private members' bills ballot, has introduced a Sustainable Communities Bill that seeks to enhance the economic, social and ecological sustainability of communities in England and Wales.<sup>108</sup> This bill received its second reading in the Commons on 19 January 2007 – despite the opposition of government ministers present – and as of April 2007 is being considered in a Public Bill Committee.
- With support from members across the House, Hywel Williams of Plaid Cymru introduced a Bilingual Juries (Wales) Bill on 16 January 2007. The bill would amend section 10 of the Juries Act 1974 and create a requirement for members of a jury to be bilingual in Welsh and English in certain cases.<sup>109</sup>

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<sup>107</sup> Parliamentary Constituencies (Amendment) Bill, HL Bill 39 2006-07, at: [www.publications.parliament.uk/pa/ld200607/ldbills/039/07039.1-i.html](http://www.publications.parliament.uk/pa/ld200607/ldbills/039/07039.1-i.html)

<sup>108</sup> Sustainable Communities Bill, Bill 17 2006-07, at: [www.publications.parliament.uk/pa/cm200607/cmbills/017/07017.1-7.html#j01](http://www.publications.parliament.uk/pa/cm200607/cmbills/017/07017.1-7.html#j01)

<sup>109</sup> Bilingual Juries (Wales) Bill, Bill 46 2006-07, at: [www.publications.parliament.uk/pa/cm200607/cmbills/046/07046.i-i.html](http://www.publications.parliament.uk/pa/cm200607/cmbills/046/07046.i-i.html).

## **6.2 Early Day Motions<sup>110</sup>**

- Marking the tercentenary of the Anglo-Scottish Union, Shadow Scottish Secretary David Mundell MP tabled EDM 623 calling for the Union to be celebrated on the grounds that all four countries benefit from the Union and ‘achieve much more together than they would as separate nations.’ This motion had received the support of 92 members by end April 2007. EDM 638, tabled by Danny Alexander MP, also calls for the Union to be recognised as an ‘enormous contribution to its constituent nations’ receiving the support of 36 MPs.
- Andrew Rosindell MP tabled EDM 677 calling for the Union flag to be raised on every parliamentary building throughout the year, not only when Parliament is in session. He received the support of 31 MPs.
- Frank Field MP tabled EDM 670 calling for the House to note that the issue of an ‘English parliament’ is now a top priority for constitutional reform according to opinion polls. This motion was signed by 19 MPs by end April.
- SDLP leader Mark Durkan MP tabled EDM 1198 supporting the restoration of the Northern Ireland Assembly on 26 March and its dissolution if no agreement is reached between the parties. This motion was supported by 126 MPs.

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<sup>110</sup> The full text and list of signatories of all EDMs are available at: <http://edmi.parliament.uk/edmi/>.

## 7. Territorial Committees at Westminster

### 7.1 Scottish Affairs Select Committee

In its report on 'The Work of the Committee in 2006'<sup>111</sup> the Scottish Affairs Committee (SASC) noted the inapplicability of many of the 10 'core tasks' for select committees set out by the Liaison Committee. This is due to the minimal policy and executive responsibilities of the Scotland Office, scrutiny of which is the responsibility of SASC. Reflecting the unusual status of the territorial committees since devolution, standing orders confer on SASC the function of maintaining relations with the Scottish Parliament.<sup>112</sup> On this account, SASC considered 2006 to have been 'a most constructive year'<sup>113</sup> principally thanks to the cooperation between SASC and the Procedures Committee of the Scottish Parliament during each committee's inquiry into the 'Sewel Convention'. As noted in section 5.1 of this report, this collaborative approach has borne fruit, with a number of SASC's recommendations being acted upon by the government.

- The committee collected is currently collecting oral evidence on the subject of poverty in Scotland. A report will be published later this year.

### 7.2 Welsh Affairs Select Committee

On 26 February WASC published its annual report noting – like SASC – that as the Wales Office now has few executive functions, the committee's own tasks are rather different to those of other departmental select committees. WASC's scrutinises policy from across Whitehall as it affects Wales, as the committee states in reference to the eight inquiries it undertook in 2005-05:

These inquiries covered the work of the Home Office, Ministry of Defence, and Department for Trade and Industry. That coverage demonstrates that our role is greater than scrutinising the Wales Office, and that we cast our net widely in scrutinising Government policy that directly affects Wales.<sup>114</sup>

WASC has also previously played a role in pre-legislative scrutiny of Wales-only bills and is expected to do likewise after May vis-à-vis LCOs conferring powers on the

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<sup>111</sup> House of Commons Scottish Affairs Select Committee, *The work of the Committee in 2005/2006*, HC 308.

<sup>112</sup> House of Commons, Standing Orders 2007, p143.  
[www.publications.parliament.uk/pa/cm200607/cmstords/405/405.pdf](http://www.publications.parliament.uk/pa/cm200607/cmstords/405/405.pdf)

<sup>113</sup> House of Commons Scottish Affairs Select Committee, *The work of the Committee in 2005/2006*, HC 308, p8.

<sup>114</sup> House of Commons Welsh Affairs Select Committee, *The work of the Committee in 2005-06*, HC 291, p4.

National Assembly. The committee also plays an important role in maintaining relations with the Assembly through informal consultations, evidence-taking from Assembly Members, and also through formal joint working. The right of WASC to hold joint meetings with Assembly committees is provided for by standing order 137 and was used in scrutiny of the draft Transport (Wales) Bill in the 2003-04 session.<sup>115</sup>

The committee report confirms that:

formal joint working is expected to form part of the standard scrutiny process for the examination of Orders in Council introduced under the Government of Wales Act 2006.<sup>116</sup>

In preparation for the new legislative process to come into effect, WASC held an evidence-session in December 2006. A report is due to be published in spring 2007.

At Easter 2007, WASC was collecting evidence or preparing a report for three other inquiries, the subjects of which re-emphasise the broad interpretation the committee makes of its scrutiny remit:

- Energy in Wales: follow up
- Globalisation and its Impact on Wales
- Welsh Prisoners in the Prison Estate<sup>117</sup>

### 7.3 Northern Ireland Affairs Committee

The committee published three reports in the first three months of 2007.

#### ***The work of the committee in 2006***<sup>118</sup>

On 7 February 2007 NIASC published its annual report for 2006. As noted in the report's introduction, the committee's remit during the suspension of devolution is to scrutinise the work of the Northern Ireland Executive as well as that of the Northern Ireland in Whitehall. In the event that power-sharing devolution is successfully restored as planned in May, the committee's remit will be adjusted, with the Northern Ireland Assembly taking responsibility for scrutinising the NI Executive.<sup>119</sup>

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<sup>115</sup> The experience is discussed in House of Commons Welsh Affairs Committee, *The Work of the Committee in 2004*, First Report of Session 2004-05, HC 256, pp8-10.

<sup>116</sup> Ibid, pp11-12.

<sup>117</sup> Up-to-date information on all WASC inquiries can be found at:

[www.parliament.uk/parliamentary\\_committees/welsh\\_affairs\\_committee.cfm](http://www.parliament.uk/parliamentary_committees/welsh_affairs_committee.cfm)

<sup>118</sup> House of Commons Northern Ireland Affairs Committee, *The Work of the Committee in 2006*, Second Report of Session 2006-07, HC 294.

<sup>119</sup> Ibid, paras 1-3

The report detailed the committee's activities in 2006, which included regular visits to Northern Ireland and one trip to Dublin. Following a second visit to the Republic of Ireland in January 2007 the committee plans 'to make visits to Dublin a regular feature of [its] work programme'.<sup>120</sup>

Assuming that devolution is successfully restored in May it will be interesting to see what role NIASC comes to play. Initially, at least, policing and criminal justice in Northern Ireland will remain controlled from Whitehall so these policy areas are likely to be a major focus for the committee, as indeed they have been until now.<sup>121</sup> It is planned, however, that these 'reserved' matters will be transferred to the Northern Ireland Assembly and Executive in May 2008<sup>122</sup> which would reduce the committee's remit still further. As noted above, both SASC and WASC see maintaining relations with the devolved legislatures as important functions for them to fulfil. But given the utterly different party complexion of the Northern Ireland Assembly, it may be more difficult for NIASC to play this role.

#### ***A draft protocol for community-based Restorative Justice Schemes***<sup>123</sup>

In its first report of the 2006-07 session, the committee set out its findings on the functioning of restorative justice schemes. The report argued that 'community restorative justice [CRJ] has an important role to play in the criminal justice system in NI, and provides a very cost-effective means of dealing with low-level criminal activities and anti-social behaviour'. However, the Committee also expressed its concern about paramilitary involvement in CRJ schemes and emphasised that the role of CRJ 'must be complementary to and not parallel to the work of the police, the PPS and the courts'.<sup>124</sup>

#### ***Tourism in Northern Ireland and its economic impact and benefits***<sup>125</sup>

This report highlighted policy fragmentation and poor departmental co-ordination relating to the tourist industry in Northern Ireland. Consequently, the committee recommended that the Secretary of State allocate overall responsibility for tourism to one of the Northern Ireland Ministers. The committee also urged that the new NI

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<sup>120</sup> Ibid, para 5.

<sup>121</sup> Since 2005, NIASC issued 7 reports related to police and justice issues in NI.

<sup>122</sup> House of Commons, Northern Ireland (St Andrews Agreement) Act 2006, section 18.

[www.opsi.gov.uk/acts/acts2006/20060053.htm](http://www.opsi.gov.uk/acts/acts2006/20060053.htm)

<sup>123</sup> House of Commons Northern Ireland Affairs Committee, *A draft protocol for community-based Restorative Justice Schemes*, First Report of Session 2006/07, HC 87, January 2007

<sup>124</sup> Ibid, para 88.

<sup>125</sup> House of Commons Northern Ireland Affairs Committee, *Tourism in Northern Ireland and its Economic Impact and Benefits*, Third report of the Committee, Session 2006/07, HC 119, March 2007

Assembly should examine the scope for rationalising departmental involvement in tourism policy and should appoint a Minister for Tourism.

#### 7.4 Communities and Local Government Committee

On 14 March, the committee reported on its inquiry 'Is there a future for Regional Government?'.<sup>126</sup> The committee noted the tension between the developing city-regions agenda and the existing regional tier of governance (see section 4.5), recommending that:

The Government now needs to determine how the specific powers, resources and governance structures of each city-region can be best designed whilst avoiding undermining the capacity of the Regional Development Agencies [RDAs] to support and promote prosperity in surrounding areas.<sup>127</sup>

The committee further noted that if the city-regions prove successful over the longer term 'it might well be determined that RDAs had in any case outlived their usefulness'. With this in mind, the committee opted:

to encourage the Government to commit itself to a clear city-regions policy, indicating the extent of city-region feasibility, and the powers and resources which will be made available, so that this alternative to regional governance can be properly explored.<sup>128</sup>

The committee also made more specific criticisms of the performance of the existing regional institutions, arguing that DCLG should take a stronger lead in coordinating the demands placed by different Whitehall departments upon Government Offices for the Regions, and that the government should clarify that regional assemblies had full scrutiny rights over the expenditure budgets of the RDAs. To reflect the increasing importance of the regional tier, the committee further urged an increase in scrutiny of the regions at Westminster, possibly via the creation of select committees for each region.<sup>129</sup>

The committee published three other reports in the last three months:

- The work of the committee in 2006
- Coastal towns
- DCLG annual report 2006

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<sup>126</sup> House of Commons Communities and Local Government Committee, *Is there a Future for Regional Government?*, Fourth report of Session 2006/07, HC 352, March 2007

<sup>127</sup> *Is there a Future for Regional Government?*, op cit, para 184.

<sup>128</sup> *Is there a Future for Regional Government?*, op cit, paras 185-188.

<sup>129</sup> *Is there a Future for Regional Government?*, op cit, 'Recommendations', pp66-68.

## **7.5 Constitutional Affairs Committee**

On 21 February the Commons Constitutional Affairs Select Committee announced a new inquiry called 'Devolution: A decade on'.<sup>130</sup> Its call for evidence set out eight key questions to be addressed:

1. Westminster: How does Parliament deal with devolution issues, e.g. legislating for Scotland and Wales.
2. What issues remain outstanding, e.g. 'the English question.'
3. Whitehall: What impact has devolution had on Whitehall? Has there been a change in culture? How have they responded to the divergence in policy making? How have the Concordats developed, and are they working?
4. Intergovernmental relations: How are bodies such as the British Irish Council working? What about representation at the EU level?
5. What is the future of the current Secretaries of State for Scotland, Wales and Northern Ireland? Are the current arrangements for the Wales and Scotland offices within the DCA appropriate?
6. Devolution and the Courts: have there been legal disputes in the context of devolved/reserved issues and policy divergence?
7. What are the other outstanding issues around reserved and devolved issues? How could these be best resolved? Is the UK's model of asymmetric devolution sustainable?
8. What are the broader consequences of devolution for the future of the UK's constitution?

Future monitoring reports will discuss the progress of this inquiry.

## **7.6 Territorial Grand Committees**

The Northern Ireland Grand Committee met on 27 February 2007 to consider the Draft Budget (Northern Ireland) Order 2007. The order was duly approved. Oral questions to Northern Ireland Office ministers were also posed, during which junior minister David Cairns confirmed that a restored Northern Ireland Assembly could reverse the controversial decision to impose water charges but pointed out that such a decision would leave a sizeable hole in the budget.<sup>131</sup>

No meetings have been held in 2007 of the Scottish or Welsh Grand Committees.

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<sup>130</sup> House of Commons Constitutional Affairs Committee, Press Notice no.11, Session 2006/07, 21 February 2007

<sup>131</sup> Northern Ireland Grand Committee transcript, 'Draft budget order 2007', 27 February 2007, Col 8,

## 8. Inter-Institutional Relations

### 8.1 Joint Ministerial Committee

The Joint Ministerial Committee (JMC) forum for intergovernmental relations no longer meets, save for in sectoral form as a Joint Ministerial Committee on Europe. The JMC(E) met five times in 2006 in the Cabinet Office in London but dates of meetings in 2007 are not yet in the public domain.

Other than dates of meetings, most information on JMC(E) activity is withheld by government. In March and April 2007 the UK government, Scottish Executive and Welsh Assembly Government responded to freedom of information requests relating to the agendas of and attendance at JMC(E) meetings in 2006. All three governments declined to release any significant information on these meetings, citing exemptions to the respective UK and Scotland freedom of information (FOI) statutes.<sup>132</sup> The UK and Welsh governments cited section 35 of the UK FOI Act 2000 which exempts information relating to the 'formulation of government policy'. The Welsh Government also invoked section 28 which exempts information pertaining to relations between different administrations within the UK, arguing that the benefits to the public interest delivered by disclosure were outweighed by the harm that would be caused to Welsh relations with the UK government.

The Scottish Executive, for its part, withheld the information under section 3(2)(a)(ii) of the FOI (Scotland) Act 2002.<sup>133</sup> The reference to this section indicates that details of JMC(E) meetings are held by the Scottish Executive 'in confidence, having been supplied by a Minister of the Crown or by a department of the United Kingdom'. The use of this exemption indicates that the JMC(E) can be regarded as a UK Cabinet Committee to which devolved ministers are invited, rather than a genuine inter-governmental forum at which the devolved administrations are equal partners.

In private conversation, Scottish Executive officials have shed some light on what goes on inside the JMC(E). Meetings are usually chaired by the Foreign Secretary or another minister from the FCO. The utility of the JMC(E) is confirmed by the fact that meetings usually attract 12 to 15 UK ministers. The Scottish Executive is most often

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<sup>132</sup> Correspondence with author.

<sup>133</sup> House of Commons, Freedom of information Act 2000, [www.opsi.gov.uk/Acts/acts2000/20000036.htm](http://www.opsi.gov.uk/Acts/acts2000/20000036.htm)  
House of Commons, Freedom of Information (Scotland) Act 2002, [www.opsi.gov.uk/legislation/scotland/acts2002/20020013.htm](http://www.opsi.gov.uk/legislation/scotland/acts2002/20020013.htm)

represented by Tom McCabe, Minister for Finance and Public Service Reform, but the Welsh Assembly Government does not always send a spokesperson despite First Minister Rhodri Morgan's well-known interest in EU matters. Welsh non-attendance is often due to Labour's precarious hold on power in the National Assembly (with 29 out of 60 seats), which often requiring ministers to stay in Cardiff to vote. In this situation the only Welsh voice at the JMC(E) comes from a Wales Office minister, while the Northern Ireland Office also sends a representative. The leader of the Labour group of MEPs often attends too.

In practice, the JMC(E) operates as a forum for information exchange rather than negotiations. The UK line in any upcoming EU negotiations is presented by the Foreign Office with other departments commenting on it. For the Scottish Executive, the meetings are important as a way of raising awareness among British ministers of Scottish priorities. But there are concerns that for Whitehall ministers, Scotland (and Wales) seem marginal – a problem exacerbated by declining personal contact since devolution between officials in the different administrations. In response to these problems, plans are being developed to use a future session of the JMC(E) to set out to UK ministers the Scottish priorities in the European sphere.

Cooperation between the Scottish and Welsh administrations on EU policy-making issues does take place though not to a great extent. Assuming that devolution in Northern Ireland is fully reestablished the scope for cooperation among the devolved administrations is expected to increase.

A more significant change this spring would be the entry into government of the Scottish National Party. Should the SNP win in May, the JMC(E) and the rest of the intergovernmental machinery may be put under strain. Although the constitutional position is clear – that the UK government sets the country's negotiating line in Brussels and the devolved bodies must comply with and implement EU legislation – an SNP government could cause political difficulties for the UK by making public the details of disagreements and pushing the line that Scottish interests are insufficiently taken into account. This type of controversy briefly erupted in January when a document written for First Minister Jack McConnell by the Scottish Executive's Brussels office was leaked to the press.<sup>134</sup> Its apparent conclusions were that

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<sup>134</sup> Douglas Fraser, 'Scotland "frozen out of Brussels": Leaked report reveals Whitehall ignores executive', *The Herald*, 22 Jan 2007

Whitehall often displays 'misunderstanding and ignorance' of the devolution settlement and disregards Scottish views when formulating the UK line while Scottish ministers are sometimes physically excluded from Council meetings due to lack of space.

## **9.2 Intergovernmental Issues**

EU matters are just one source of potential intergovernmental conflict in the third term of devolution starting in May 2007. Despite the fact that Alex Salmond has repeatedly stressed his desire to establish a constructive working relationship with the UK prime minister, a number of commitments in the SNP manifesto would be fiercely resisted at Whitehall. In particular (as noted above in section 3.4), the SNP plans to open negotiations on control of gas and oil fields in Scottish waters and the creation of a separate Scottish civil service, to use the Scottish Parliament's powers to block the deployment of nuclear weapons and the construction of nuclear power plants in Scotland, and to abolish council tax while demanding that the Treasury hands over savings made from Council Tax Benefit.

Conflict between the UK and Wales administrations could also erupt, even if Labour remains in power. One likely source of tension would be pressure from likely coalition partners the Liberal Democrats to devolve powers over the electoral system for local council elections.

Particularly if the era of Labour dominance in all three capitals ends on 3 May, Gordon Brown – as prime minister – may be well advised to take active measures to prevent inevitable disagreements degenerating into open conflict. It may be necessary for the British government to take the lead in the debate around further constitutional reform, by setting out a coherent UK-wide vision for the distribution of powers and functions of national, devolved, English-regional and local government. He may also need to establish new mechanisms for the British and devolved institutions to resolve differences and coordinate policy: for instance by holding regular summits with the first ministers of Scotland, Wales and Northern Ireland, or by forming committees of parliamentarians from the four parliamentary bodies of the UK to jointly consider policy issues affecting the whole country.

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The **Constitution** Unit

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**D**EVOLUTION  
**M**ONITORING  
**P**ROGRAMME  
2006-08

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**Devolution and the Centre Monitoring Report**

**September 2007**

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**Akash Paun & René Holbach**

**The Constitution Unit**

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## The Devolution Monitoring Programme

From 1999 to 2005 the Constitution Unit at University College London managed a major research project monitoring devolution across the UK through a network of research teams. 103 reports were produced during this project, which was funded by the Economic and Social Research Council (grant number L 219 252 016) and the Leverhulme Nations and Regions Programme. Now, with further funding from the Economic and social research council and support from several government departments, the monitoring programme is continuing for a further three years from 2006 until the end of 2008.

Three times per year, the research network produces detailed reports covering developments in devolution in five areas: Scotland, Wales, Northern Ireland, the English Regions, and Devolution and the Centre. The overall monitoring project is managed by Professor Robert Hazell and Akash Paun at the Constitution Unit, UCL and the team leaders are as follows:

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# **Devolution and the Centre Monitoring Report**

**September 2007**

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**Akash Paun & René Holbach**

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## **Abbreviations and Acronyms**

AM	Assembly Member [of National Assembly for Wales]
DBERR	Department for Business, Enterprise & Regulatory Reform
DCLG	Department of Communities and Local Government
DTI	Department of Trade and Industry
DUP	Democratic Unionist Party
EDM	Early Day Motion
GOWA	Government of Wales Act
LCO	Legislative Competence Order
JMC	Joint-Ministerial Committee
MEP	Member of the European Parliament
MLA	Member of the Legislative Assembly (Northern Ireland)
MOU	Memorandum of Understanding
MSP	Member of the Scottish Parliament
NIASC	Northern Ireland Affairs Select Committee
RDA	Regional Development Agency
SASC	Scottish Affairs Select Committee
SNP	Scottish National Party
WASC	Welsh Affairs Select Committee
WAG	Welsh Assembly Government

## **Executive Summary**

This monitoring report covers the May-August 2007 period, an eventful time in devolution terms. The headline developments are well-known: the SNP took power in Edinburgh, Welsh Labour and Plaid Cymru formed a coalition in Cardiff, and devolved governance resumed in Belfast, while a certain Scottish Labour MP with an interest in 'Britishness' became the UK's Prime Minister.

With the UK's political landscape shaken up in this way, the key question is whether, from the perspective of 'the centre', territorial politics in the UK has entered a qualitatively new phase or whether its fundamentals remain unchanged. This report seeks to draw some early conclusions on this matter.

The policies of the new governments in Scotland, Wales and Whitehall place constitutional matters at the centre of the political agenda. The SNP administration has launched a 'national conversation' on independence and further devolution to the Scottish Parliament. Meanwhile, the Labour-Plaid coalition is committed to holding a referendum on full legislative devolution to the National Assembly for Wales. Labour's Scottish branch under new leader Wendy Alexander has also adopted a more sympathetic line on reopening the devolution 'settlement'. With three independent-minded executives elsewhere in the UK (that of Northern Ireland included), a new era of intergovernmental relations beckons, with a potential for the three devolved administrations to take a common line in negotiations with the British government.

These developments – and others such as the Welsh government's review of finance and Alex Salmond's calls for greater control of Scotland's oil revenue and finances – have caused jitters in Whitehall, where Gordon Brown's own constitutional agenda centres on the need to bolster 'Britishness' and the ties between the peoples of the UK. Brown must also face down calls from the Conservatives and elements of his own party to tackle the 'West Lothian Question' and the unequal level of public spending in the different territories of the UK.

In Whitehall, the departments with a role in devolution policy have been adapting to the new political environment. The Wales Office has begun to use the new mechanisms for transfer of legislative competence; and the Scotland Office may have to extend its role in facilitating relations between the Scottish Executive and

Whitehall. Nonetheless, both the Scotland and Wales Secretaries remain part-time and only have the support of a single junior minister each, which does not suggest that these departments role is expected to increase substantially. The Northern Ireland Office now has a full-time Secretary of State, but with most of its responsibilities devolved once again, it has been reduced in size and now has only a single junior minister. Responsibility for the English regions continues to be divided between several departments, though the appointment of regional ministers promises a more 'joined-up' approach.

The role of the territorial select committees may also now have to evolve. The Northern Ireland Select Committee is expected to focus even more on police and security matters (which remain 'reserved' for now); that of Wales will have a key part to play in scrutinising the legislative instruments that transfers power to Cardiff; and that of Scotland may develop a greater interest in relations between the UK and Scottish governments rather than concrete policy matters. The government has also proposed the creation of select committees for each of the English regions.

## **Chronology of Events: May to August 2007**

- May Wales Office Annual Report published.
- 3 May Elections to the National Assembly for Wales and the Scottish Parliament held as well as to local councils in England and Scotland. SNP outpolls Labour for first time in Scotland while Labour remains largest party in Wales.
- 8 May Restoration of devolved government in Northern Ireland.
- 8 May Secretary of State for Scotland makes statement to the Commons on the problems of spoilt ballots in the Scottish elections.
- 11 May Scotland Office Annual Report published.
- 16 May Alex Salmond elected as First Minister of Scotland at the head of a minority SNP administration with support of Green MSPs.
- 25 May Labour's Rhodri Morgan re-elected First Minister of Wales after talks between three opposition parties break down.
- 5 June Northern Ireland Office Annual Report published.
- 5 June Welsh Affairs Select Committee publishes report on Legislative Competence Orders, which are to be used to extend the powers of the Welsh Assembly.
- 6 June First bilateral meeting between representatives of the new SNP Scottish Executive and the UK government (Richard Lochhead and Ben Bradshaw respectively).
- 27 June Gordon Brown appointed Prime Minister.
- 27 June Labour-Plaid-Cymru coalition contract, *One Wales*, signed.
- 3 July Gordon Brown makes major statement on constitutional reform in the House of Commons; *Governance of Britain* green paper subsequently published.
- 13 July Jack Straw becomes the first UK Cabinet Minister to meet with Alex Salmond since the latter's election victory.
- 15 July British-Irish Council meets in Belfast.
- 17 July *Review of sub-national economic development and regeneration* announces government's plans to phase out regional assemblies.

- 17 July Secretary of State for Scotland, Des Browne, and Minister of State David Cairns, give evidence to the Scottish Affairs Select Committee.
- 19 July Sir John Elvidge, the Permanent Secretary at the Scottish Executive voices plans for a separate Scottish civil service.
- 20 July Welsh National Assembly votes for an independent commission to investigate its funding.
- 24 July Secretary of State for Wales Peter Hain gives evidence to the Welsh Affairs Select Committee.
- 24 July Northern Ireland Grand Committee meets to discuss Policing Reform in the six counties.
- 30 July Publication of government response to Welsh Affairs report on Legislative Competence Orders.
- 13 August The leaders of the three opposition parties publish joint statement condemning the SNP plans to publish a white paper on independence, but pledging to engage in debate on reform of devolution settlement.
- 14 August SNP issues white paper on independence, *Choosing Scotland's Future: A National Conversation*.

## 1. Monitoring the Union

The period covered by this monitoring report was dominated by the third set of devolved elections in Scotland and Wales and their aftermath as well as the resumption of full devolved governance in Northern Ireland after its long hiatus. From the perspective of 'the centre', these developments – and in particular the coming to power of the Scottish nationalists – have raised some questions about the stability of the UK's current territorial constitution.

Figure 1: Results in devolved elections

Party	% of constit vote (change on '03)	Constituencies won	% of regnl. vote	Regional seats won	Total seats won
<b>Scotland</b>					
Labour	32.2 (-2.5)	37 (-9)	29.1 (-0.1)	9 (+5)	46 (-4)
SNP	32.9 (+9.1)	31 (+12)	31.0 (+10.2)	26 (+8)	47 (+20)
Lib Dem	16.2 (+0.9)	11 (-2)	11.3 (-0.5)	5 (+1)	16 (-1)
Con	16.6 (-)	4 (+1)	13.9 (-1.6)	13 (-2)	17 (-1)
Others	1.9 (-7.5)	0 (-2)	14.7 (-8.1)	3 (-12)	3 (-14)
<b>Wales</b>					
Labour	32.2 (-7.8)	24 (-6)	29.6 (-6.9)	2 (+2)	26 (-4)
Lib Dem	14.8 (+0.6)	3 (-)	11.7 (-1.0)	3 (-)	6 (-)
Con	22.4 (+2.4)	5 (+4)	21.4 (+2.3)	7 (-3)	12 (+1)
Plaid	22.4 (+1.2)	7 (+2)	21.0 (+1.3)	8 (+1)	15 (+3)
Others	5.6 (+4.2)	1 (-)	16.2 (+4.3)	0 (-)	1 (-)

As discussed in this report's Scottish cousin,<sup>1</sup> the new SNP government in Edinburgh has played a canny game, publishing a white paper that emphasises the party's commitment to an independent Scotland while also encouraging a debate on the devolution of additional powers to Holyrood short of that eventual goal. Alex Salmond's party has also taken opportunities to challenge the status quo on issues where public opinion might be somewhat favourable. Examples include Salmond's calls for broadcasting powers to be devolved to Scotland,<sup>2</sup> and for Scotland to lead

<sup>1</sup> Paun, A. (ed.), Scotland Devolution Monitoring Report: September 2007 (London: The Constitution Unit), at: [www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Scotland\\_Sept07.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Scotland_Sept07.pdf).

<sup>2</sup> Salmond, A., 'The case for devolution of broadcasting powers', National Museum of Scotland, Edinburgh, 8 August 2007, at: [www.scotland.gov.uk/News/This-Week/Speeches/broadcasting](http://www.scotland.gov.uk/News/This-Week/Speeches/broadcasting).

the UK delegation in EU fisheries negotiations.<sup>3</sup> These and other moves have undoubtedly caused jitters in Whitehall and Downing Street, where various initiatives to strengthen Britishness (see section 2 below) are being developed, partly in order to weaken the separatist nationalisms of the various territories of the UK.

In Wales meanwhile, Labour remains in power, so the prospects for challenges emerging to the UK government's strategy of 'territorial management'<sup>4</sup> might be expected to be more limited. However, with only 26 seats in the 60-seat *Senedd*, Rhodri Morgan's party eventually sealed an unprecedented coalition agreement with the Welsh nationalists, committing Welsh Labour to voting for a referendum on full legislative powers for the Welsh Assembly within four years and to setting up a commission into the funding arrangements for devolution.<sup>5</sup> Both these commitments raise the possibility of tensions with the UK Labour Party.

The dynamism of the Scottish and Welsh constitutional settlements represents one prospective challenge to national unity, though with support for independence remaining low, it is further devolution to both countries rather than dissolution of the UK that is the likeliest scenario. However, it may be *English* nationalism that forces the government to rethink certain aspects of the territorial constitution – in particular the voting rights at Westminster of non-English MPs and the financial arrangements that fund the devolved bodies (the West Lothian Question and the Barnett Formula, in political short-hand). Much depends on the line taken by the Conservatives - who have failed in past elections to make political capital out of the English Question. The West Lothian Question was raised in the period of this report by Tory leader David Cameron, who was quoted as saying 'the Union has become weaker, undermined, and I believe we can strengthen the Union by dealing with this outstanding question'<sup>6</sup>. He is committed to 'English votes on English laws', with precise details due to emerge from the party's Democracy Taskforce, under the chairmanship of Ken Clarke. The main alternative proposed solution is to create a separate English Parliament with responsibility for 'domestic' matters while Westminster deals with

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<sup>3</sup> BBC News Online, 'Scotland "should lead fish talks', 12 July 2007, at: <http://news.bbc.co.uk/1/hi/scotland/6289602.stm>.

<sup>4</sup> To use the terminology of Bulpitt, as discussed in Bradbury, J., 'Territory and Power Revisited: Theorising Territorial Politics in the United Kingdom after Devolution', *Political Studies* 54 (2006), 559-582, at p.567-8.

<sup>5</sup> Labour and Plaid Cymru, *One Wales: A progressive agenda for the government of Wales*, 27 June 2007, at: [http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/27\\_06\\_07\\_onewales.pdf](http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/27_06_07_onewales.pdf), p.6.

<sup>6</sup> Livingstone, T., 'I'll stop you having say on England', *icWales*, 20 July 2007, at: [http://icwales.icnetwork.co.uk/news/wales-news/tm\\_headline=i-8217-ll-stop-you-having-say-on-england&method=full&objectid=19482714&siteid=50082-name\\_page.html](http://icwales.icnetwork.co.uk/news/wales-news/tm_headline=i-8217-ll-stop-you-having-say-on-england&method=full&objectid=19482714&siteid=50082-name_page.html).

truly UK-wide issues such as foreign policy and macroeconomic regulation. This policy was advocated in August by off-message Conservative MP Mark Field, who criticised his party's policy on the grounds that 'attacking Scottish MPs comes across as partisan and negative' and that the Conservatives' 'mission should be to maintain and strengthen the union and avoid promising a solution that could be portrayed by our opponents as putting the union at risk'.<sup>7</sup>

Labour remains opposed to either of these solutions. In his June statement on constitutional reform, Prime Minister Gordon Brown stated that 'we do not accept the proposal for English votes for English laws, which would create two classes of Members of Parliament – some entitled to vote on all issues, some invited to vote on only some. We will do nothing to put at risk the Union'.<sup>8</sup>

The PM's focus on 'Britishness' received some backing in a poll conducted on 20-22 July. 54 per cent of respondents agreed with the statement that 'Gordon Brown is on the right track and we need to be more willing to celebrate Britain and its achievements'. 16 per cent thought Brown was 'on the wrong track' and that 'celebrating Britishness will not really achieve very much' and 42 per cent thought that Brown is emphasising Britishness because 'being a Scot, he thinks that he needs to'.<sup>9</sup> From the PM's perspective, it will have been especially encouraging to see that support for his agenda was as high in Scotland as across the UK as a whole.

### **1.1 Multiple Mandates**

At the time of the first devolved elections in 1999, many members of the new Scottish and Welsh legislatures were MPs who retained their seats at Westminster providing a form of linkage between the UK and devolved political spheres. For the most part, however, this state of affairs lasted only until the 2001 UK general election when MSPs and AMs gave up their dual mandates to focus on their new roles in Edinburgh and Cardiff. Following the 2007 elections, the only remaining dual mandates among Scottish or Welsh parliamentarians are those of Alex Salmond MSP MP, Lord Foulkes MSP (Labour) and Lord Elis-Thomas AM (Plaid Cymru/Presiding Officer). Northern Ireland provides a different picture, where it is the rule, rather than the exception, for MLAs also to be represented at Westminster (14 MLAs are currently

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<sup>7</sup> Settle, M., 'Tory MP wants federation of UK parliaments', *The Herald*, 9 August 2007, at: [http://www.theherald.co.uk/politics/news/display.var.1605060.0.tory\\_mp\\_wants\\_federation\\_of\\_uk\\_parliaments.php](http://www.theherald.co.uk/politics/news/display.var.1605060.0.tory_mp_wants_federation_of_uk_parliaments.php).

<sup>8</sup> *House of Commons Hansard*, 3 July 2007, col. 818.

<sup>9</sup> Communicate/Theos Poll at: [www.communicateresearch.com/poll.php?id=109](http://www.communicateresearch.com/poll.php?id=109).

MPs and two are peers). It is worth noting, however, that the Northern Ireland Assembly and Executive Review Committee is conducting an inquiry into multiple mandates, which it hopes to complete in May 2008.<sup>10</sup>

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<sup>10</sup> The committee's website is available at:  
[www.niassembly.gov.uk/assem\\_exec/2007mandate/assem\\_exec.htm](http://www.niassembly.gov.uk/assem_exec/2007mandate/assem_exec.htm).

## 2. Cabinet Reshuffle

Following Gordon Brown's appointment as Prime Minister, a Cabinet reshuffle saw the appointment of a new Northern Ireland Secretary (Shaun Woodward) while the Scotland and Wales Secretaries retained their jobs. These two latter posts continue to be part-time, with Des Browne now in charge of the Ministry of Defence and Peter Hain the new Secretary for Work and Pensions. The importance of Messrs. Browne and Hain's 'other' posts means that they will have limited time to devote to devolution business. Mr Browne defended his decision to take on both jobs to members of the Scottish Affairs Select Committee (SASC) on 17 July, explaining that he had 'looked at the level of support that I would have both in the Ministry of Defence and here in the Scotland Office...and I took the view that it would be possible to do both jobs'. Most of the day-to-day running of the Scotland Office is likely to be handled by promoted junior minister David Cairns, with Huw Irranca-Davies playing a similar role in Gwydr House. The reduced workload of the Northern Ireland Office in the light of resumed devolved governance is indicated by the scaling back of that department to a single junior minister, Paul Goggins.

The Cabinet reshuffle also included the appointment of ministers for each of the English regions.<sup>11</sup> All of these individuals hold other positions in government that are expected to take up the bulk of their time. In his statement to the House of Commons on 3 July, however, the Prime Minister revealed that these ministers would answer questions in the House of Commons.<sup>12</sup> *The Governance of Britain* outlined their functions as follows:

- advise the Secretary of State for Business, Enterprise and Regulatory Reform on the approval of regional strategies and appointment of RDA Chairs and Boards;
- represent regional interests in the formulation of central government policy relevant to economic growth and sustainable development in areas that have not been devolved to the RDAs;
- facilitate a joined up approach across government departments and agencies to enable the effective delivery of the single regional strategy;
- champion the region at high level events and with regard to high profile projects (including through a programme of regional visits); and

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<sup>11</sup> Downing Street Press Release, 'Ministers for the Regions', 28 June 2007, at: [www.number10.gov.uk/output/Page12189.asp](http://www.number10.gov.uk/output/Page12189.asp).

<sup>12</sup> Brown, G., *House of Commons Hansard*, 3 July 2007, at: [www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070703/debtext/70703-0003.htm#07070334000391](http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070703/debtext/70703-0003.htm#07070334000391), Col 814.

- represent the Government with regard to central government policy at regional select committee hearings and at parliamentary debates focused specifically on the region.<sup>13</sup>

Figure 2: Regional Ministers<sup>14</sup>

<b>Minister</b>	<b>Regional Portfolio</b>	<b>Other Portfolios</b>
Nick Brown	North East of England	Deputy Chief Whip
Beverley Hughes	North West	Minister of State for Children, Young People & Families
Caroline Flint	Yorkshire and the Humber	Minister of State, Dept. of Work & Pensions
Tessa Jowell	London	The Olympics
Ben Bradshaw	South West	Minister of State, Dept. of Health
Gillian Merron	East Midlands	Parliamentary Secretary, Cabinet Office
Liam Byrne	West Midlands	Minister of State for Immigration, Home Office
Barbara Follett	East of England	Parliamentary Under-Secretary of State, Dept. of Work & Pensions

<sup>13</sup> Ministry of Justice, *The Governance of Britain*, CM 7170, July 2007, at: [www.official-documents.gov.uk/document/cm71/7170/7170.pdf](http://www.official-documents.gov.uk/document/cm71/7170/7170.pdf) pp. 37-38.

<sup>14</sup> Source: 'Her Majesty's Government – Ministers for the Regions', at: [www.number-10.gov.uk/output/Page12189.asp](http://www.number-10.gov.uk/output/Page12189.asp).

### 3. Political Parties

#### 3.1 Labour

On 3 July the Prime Minister outlined his plans for constitutional reform in the United Kingdom in his first ministerial statement to the House of Commons.<sup>15</sup> This statement was accompanied by a Ministry of Justice green paper entitled *The Governance of Britain*.<sup>16</sup> For the most part this does not touch directly upon devolution, making no mention of possible changes to the Scottish, Welsh or Northern Irish devolution arrangements, or to the West Lothian Question. On the other hand, the green paper made a number of proposals to put flesh on the bones of the PM's vaunted intention to strengthen 'Britishness'. Specifically, the government pledged to:

- initiate an inclusive process of national debate to develop a British statement of values;
- work with Lord Goldsmith to conduct a review of British citizenship;
- launch a Youth Citizenship Commission, looking at citizenship education, ceremonies and the possibility of reducing the voting age; and
- consult on the current guidance on flying the Union Flag from government buildings and Westminster Parliament.<sup>17</sup>

Some of these ideas – as well as others such as a new 'Britain Day' – were previously floated in a Fabian Society pamphlet by ministers Ruth Kelly and Liam Byrne in June.<sup>18</sup>

But while UK Labour emphasised its unionist credentials at every opportunity, the party's Welsh and Scottish wings was forced by political realities to adopt a more nationalist line. In Wales, as noted, the coalition deal with Plaid Cymru – described by an unidentified former Labour minister as 'a sea change on par with a Labour coalition with the Tories in London'<sup>19</sup> – committed the party to holding a referendum, and campaigning for a yes vote, on primary legislative powers for the Welsh Assembly. Consequently, the Labour First Minister Rhodri Morgan could rely on a stable majority in the Assembly for the first time in four years. Nonetheless, it was somewhat embarrassing for the UK party that its Welsh branch committed to a referendum before Wales Secretary Peter Hain's carefully constructed compromise

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<sup>15</sup> *House of Commons Hansard*, 3 July 2007, Col 815.

<sup>16</sup> Ministry of Justice, *The Governance of Britain*, CM 7170, July 2007, at: [www.official-documents.gov.uk/document/cm71/7170/7170.pdf](http://www.official-documents.gov.uk/document/cm71/7170/7170.pdf).

<sup>17</sup> *The Governance of Britain*, pp. 58.

<sup>18</sup> As reported by Peev, G., 'Call for "Britain Day" to boost patriotism', *The Scotsman*, 6 June 2007, at: <http://thescotsmen.scotsman.com/index.cfm?id=883882007>.

<sup>19</sup> At: <http://news.bbc.co.uk/>, 13 June 2007.

version of primary legislative powers for the Assembly had even been tested.<sup>20</sup> Meanwhile Labour in Scotland, under new leader Wendy Alexander, indicated its readiness to consider a debate on new powers for the Scottish Parliament,<sup>21</sup> a direct contradiction of the position taken by UK Secretary of State for Scotland Des Browne.<sup>22</sup>

### **3.2 Conservatives**

In the Tory reshuffle that followed Gordon Brown's appointment, David Mundell, the sole Tory MP representing a Scottish constituency, remained Shadow Secretary of State for Scotland. Cheryl Gillan continued to shadow the Wales Office and Owen Paterson replaced David Lidington as Shadow Secretary of State for Northern Ireland. These positions are all held on a full-time basis.

As in the Labour Party, the Conservatives' Scottish and Welsh arms had to distance themselves from the UK party to some extent, to display a more pro-devolution line than many of their colleagues at Westminster feel comfortable with. In Wales the party was at the centre of attempts to create a 'rainbow coalition' with Plaid Cymru and the Liberal Democrats that would have committed the party to policies including a referendum on full law-making powers for the Assembly, the devolution of significant new policy areas, and a move to proportional representation for local council elections.<sup>23</sup> All are policies that remain anathema to most Tory MPs. In the event the negotiations failed only because of divisions within the Lib Dems. Nick Bourne, the Welsh Tory leader, further indicated his intention to chart his own course when setting up a new policy committee that excluded the three Welsh Conservative MPs. Nick Bourne explained this on the grounds that 'this is an Assembly policy committee and therefore Assembly Members past and present, as well as former candidates, will play a key role in its decisions'.<sup>24</sup>

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<sup>20</sup> The new legislative arrangements for Wales are discussed at length in past issues of the *Devolution and the Centre Monitoring Report*.

<sup>21</sup> Carrell, S., *The Guardian*, 29 August 2007, at:

<http://politics.guardian.co.uk/scotland/story/0,,2158114,00.html>.

<sup>22</sup> MacDonell, H., 'Holyrood needs no new powers, insists Scottish Secretary', *The Scotsman*, 20 August 2007, at: <http://thescotzman.scotsman.com/index.cfm?id=1315892007>.

<sup>23</sup> Wyn Jones, I., Bourne, N. and German, M., *All-Wales Accord: Agreement Establishing An All-Wales Government*, May 2007, at: [www.rhodriglynthomas.org/blog/wp-content/uploads/the\\_all-wales\\_accord\\_may\\_2007.pdf](http://www.rhodriglynthomas.org/blog/wp-content/uploads/the_all-wales_accord_may_2007.pdf).

<sup>24</sup> Shipton, M., 'MPs surprised at exclusion from Tory committee', *Western Mail*, 5 June 2007 at: [http://icwales.icnetwork.co.uk/news/politics-news/tm\\_headline=meps-surprised-at-exclusion-from-tory-committee&method=full&objectid=19246038&siteid=50082-name\\_page.html](http://icwales.icnetwork.co.uk/news/politics-news/tm_headline=meps-surprised-at-exclusion-from-tory-committee&method=full&objectid=19246038&siteid=50082-name_page.html).

Scottish Conservative leader Annabel Goldie, meanwhile, signed up to the joint declaration with the Scottish Labour and Lib Dem leaders in which the three unionist parties expressed their willingness 'to enter into debate jointly about the way in which devolution within the UK can best develop in the years to come'.<sup>25</sup>

Goldie was also swift to quash a call for an independence referendum made by Richard Cook, Vice-Chairman of the Scottish Conservatives. Cook stated that 'I want Unionists to lead the debate, make the case positively for the Union and indeed to bring forward the referendum bill and set the question if it's appropriate'.<sup>26</sup>

### **3.3 Liberal Democrats**

Roger Williams took over the Welsh portfolio from Lembit Öpik, who nevertheless remained the leader of the Welsh Liberal Democrats. Alistair Carmichael was made spokesman for both Scotland and Northern Ireland, replacing Jo Swinson in the Scotland post.

In Cardiff the Lib Dems were responsible for the collapse of the 'rainbow coalition' negotiations (with Plaid Cymru and the Tories) after the failure of its executive to approve the coalition policy blueprint. This was despite the fact that the draft coalition agreement included commitments to key Lib Dem policies such as proportional representation in local elections. Ieuan Wyn Jones, leader of Plaid Cymru, stated that 'the Liberal Democrats have now shown that they are unable to take serious decisions and are undeserving of government'.<sup>27</sup>

The Liberal Democrats reiterated their call for the abolition of the Scotland Office in early August, after an answer to a parliamentary question revealed that the department handled just 39 pieces of parliamentary correspondence per year. Alistair Carmichael, Scotland spokesman for the Liberal Democrats, also pointed to the 32 per cent rise in the department's entertainment budget, which, at £23,000 per year, is almost double that of the Wales Office. Mr Carmichael said 'As tensions between Westminster and Holyrood grow, the Scotland Office appears to be more concerned with hosting soirees than communicating with Edinburgh'. He further stated that the 'Scotland, Wales and Northern Ireland Offices should merge to create a Department

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<sup>25</sup> McConnell, J., Goldie A. and Stephen, N., 'Statement on Independence', 13 August 2007, at: <http://news.bbc.co.uk/1/hi/scotland/6944185.stm>

<sup>26</sup> *The Herald*, 18 June 2007.

<sup>27</sup> BBC News Online, 'Labour lined up for minority rule', 24 May 2007, at: <http://news.bbc.co.uk/1/hi/wales/6685033.stm>.

for Nations and Regions, with a full-time seat at the cabinet table'. His accusations were quickly rebuffed by Scotland Office minister David Cairns, who accused Carmichael of oversimplifying the Office's role.<sup>28</sup>

### **3.4 SNP**

Mr Salmond, having taken on the role of First Minister in Scotland, has been replaced by Angus Robertson as SNP leader in Westminster. Mr Salmond has subsequently come under attack for his performance as an MP. The Liberal Democrats marked his 100<sup>th</sup> day of absence from the House of Commons with calls for his resignation as an MP.<sup>29</sup> Salmond has participated in under a quarter of all divisions in the 2005 Parliament<sup>30</sup> and has made just one appearance in Westminster since the May election – on 25 July when he spoke in a debate about constitutional reform.

Some controversy surrounded Mr Salmond's receipt of two salaries (being eligible both for a Scottish First Minister's and a MP's salary). In response to criticisms he pledged to donate the MSP part of his salary to charity.<sup>31</sup>

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<sup>28</sup> Settle, M., 'What is the point of the Scotland Office, ask LibDems', *The Herald* online \*3 August 2007).

<sup>29</sup> This was widely reported, including by BBC News Online at:

<http://news.bbc.co.uk/1/hi/scotland/6275708.stm>.

<sup>30</sup> Data can be found at:

[www.publicwhip.org.uk/mp.php?mpn=Alex\\_Salmond&mpc=Banff+%26amp%3B+Buchan](http://www.publicwhip.org.uk/mp.php?mpn=Alex_Salmond&mpc=Banff+%26amp%3B+Buchan).

<sup>31</sup> MacDonell, H., 'Salmond pledges £17,000 a year to charity in parliamentary pay row' *The Scotsman*, 10 July 2007, at: <http://thescotsman.scotsman.com/index.cfm?id=1071862007>.

## 4. Devolution and Whitehall

### 4.1 The End of the Unified British Civil Service?

Controversy was stoked in July when Sir John Elvidge, the Permanent Secretary at the Executive, voiced plans to sever the links between the Scottish and the UK civil service and create a separate institution along the Northern Irish model,<sup>32</sup> which would take forward an SNP manifesto commitment.<sup>33</sup> Reports suggest that there have already been changes in the way the Scottish civil service operates, with informal contacts with London civil servants, formerly commonplace, reduced since the SNP came to power.

### 4.2 Ministry of Justice

In light of the implementation of the Government of Wales Act 2006, the Ministry of Justice has revised its devolution guidance note for Whitehall officials and ministers relating to primary legislation that affects Wales.<sup>34</sup> Among other things, the note confirms that the government intends to operate a version of the 'Sewel' or 'legislative consent' convention, under which the UK parliament only legislates on devolved matters in Scotland with the express consent of the Scottish Parliament. However the guidance note reveals differences between the government's approaches to the two devolved territories that indicate a greater reliance on informal inter-executive consultations in the case of Wales. Specifically, it is stated that when Westminster legislation amends the functions of the Welsh Ministers or adds to the legislative competence of the National Assembly only the consent of the Welsh Ministers will be required, whereas any changes to the powers of the Scottish devolved bodies must be approved by a resolution of the Parliament itself. The consent of the National Assembly, on the other hand, will be required when Westminster legislation includes 'Provisions that have a negative effect on the legislative competence of the Assembly or which is on matters within the legislative competence of the Assembly'.<sup>35</sup> The note further advises departments to liaise with the Welsh Assembly Government and the Wales Office when drafting bills affecting Wales.

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<sup>32</sup> McMahon, P., 'A very civil separation', *The Scotsman*, 19 July 2007, at: <http://news.scotsman.com/politics.cfm?id=1124542007>.

<sup>33</sup> Scottish National Party, *It's Time: Manifesto 2007*, at: [www.snp.org/policies/our-manifesto/2007-04-12.0866446519/download](http://www.snp.org/policies/our-manifesto/2007-04-12.0866446519/download), pp. 15.

<sup>34</sup> Ministry of Justice, *Devolution Guidance Note 9: Post-Devolution Primary Legislation Affecting Wales*, updated June 2007, at: [www.justice.gov.uk/docs/dgn09.pdf](http://www.justice.gov.uk/docs/dgn09.pdf)

<sup>35</sup> *Devolution Guidance Note*, pp. 8.

- The Ministry of Justice has appointed Dr. Jim Gallagher – formerly head of the Scottish Executive Justice Department – as its Director General (Devolution Strategy). As argued in previous issues of this report, the government’s approach to devolution has often been characterised by the absence of much strategic or joined-up thinking, so it will be interesting to assess the effects of Dr. Gallagher’s appointment in the months to come.

### **4.3 HM Treasury**

In July there was some speculation that Gordon Brown was harbouring plans to scrap the Barnett Formula, which governs the distribution of central government funds to the devolved institutions. Anonymous Treasury sources were quoted as stating that under the current arrangements there were ‘some discrepancies in the way funding is allocated to the devolved administrations and the English regions’ and that ‘the department is considering ways of ironing out the differences’.<sup>36</sup> The eponymous Lord Barnett was also cited in favour of scrapping the formula, which was introduced as a temporary measure.

As Scotland currently receives more money per capita than do England or Wales, it is the Scottish Executive that stands to lose the most from any such move. However, with the SNP in power in Edinburgh, the Labour government will approach the subject with care so as to avoid giving Alex Salmond’s party any ammunition in its campaign to convince the Scottish people that they would be better off outside the UK. The government will expect to face some pressure to take action from Conservative MPs – if not necessarily the more cautious the Conservative leadership – but will have been more concerned at reports of dissatisfaction on his own backbenches.<sup>37</sup>

The National Assembly for Wales weighed in to the debate on the Barnett formula by launching an independent commission to investigate how its government is funded. The commission was backed unanimously in the Assembly, but its aims were rebuffed by a Treasury spokesman defending the Barnett formula as ‘a fair allocation which reflects population shares in different nations of the United Kingdom.’ Other parties, such as Plaid Cymru prefer ‘a needs-based formula to fund Welsh public

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<sup>36</sup> Brady, B. & Elias, R., ‘Treasury to scrap £20 bn ‘subsidy’ from Westminster’, *Scotland on Sunday*, 1 July 2007, at: <http://scotlandonsunday.scotsman.com/index.cfm?id=1026182007>.

services' according to their leader Ieuan Wyn Jones. The commission will also consider the tax-raising and borrowing powers of the Assembly Government.<sup>38</sup>

Scotland's new Health Secretary Nicola Sturgeon also reopened a dispute concerning attendance allowances with the Treasury. She believes that Scotland is owed some £23m in attendance allowances, which used to be paid to pensioners to help offset their personal care costs. Upon the introduction of free personal care in Scotland, these payments were halted, but 'the Scottish Executive believes the money should still come to Scotland and that the UK Treasury has profited from the introduction of free care for the elderly'.<sup>39</sup> Though the previous Labour-Lib Dem administration tried in vain to recover these funds, Ms Sturgeon believes she will now succeed by commissioning a review of the issue and conducting talks with various Whitehall departments, including the Department of Works and Pensions and HM Treasury.

Further potential for dispute with the Treasury lies in the commitment by Alex Salmond for the Scottish Executive to receive a bigger share of the oil revenues. Mr Salmond said 'it is the case that there are precedents within the United Kingdom. For many years, the Isle of Man enjoyed a direct subvention from Scottish oil resources, as did the Northern Ireland government'. This statement was rebuffed by the Treasury, whose spokesman stated that 'NI gains no additional spending power from the North Sea oil revenue. Any royalties are taken into account when the NI grant is set.'<sup>40</sup>

- In July the Treasury, jointly with the DBERR and DCLG, published its *Review of sub-national economic development and regeneration* which set out plans to phase out the unloved regional chambers for the eight standard English regions outside London. The paper states that 'Regional Assemblies in their current form

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<sup>37</sup> Reported widely, including by Carlin, B., 'Labour MPs warn Brown of backlash on Scots spending', *The Daily Telegraph*, 9 July 2007, pp. 2.

<sup>38</sup> BBC News Online, 'Tax and budget review for Wales', 20 June 2007, at: <http://news.bbc.co.uk/1/hi/wales/6223504.stm>.

<sup>39</sup> Macdonnell, H., 'Sturgeon wants £23m benefits clawback', *The Scotsman*, 15 June 2007, at: <http://thescotsmen.scotsman.com/index.cfm?id=935852007/>

<sup>40</sup> Dinwoodie, R., 'Salmond Warned over oil revenues', *The Herald*, 5 July 2007, at: [www.theherald.co.uk/search/display.var.1520822.0.salmond\\_warned\\_over\\_oil\\_revenues.php0](http://www.theherald.co.uk/search/display.var.1520822.0.salmond_warned_over_oil_revenues.php0).

and function will not continue. Instead, local authorities in the regions will be responsible for agreeing the regional strategy with the RDAs'.<sup>41</sup>

#### **4.4 Scotland Office**

New Secretary of State for Scotland Des Browne has had to repeatedly rebuff criticism for his job-sharing between the Scotland Office and the Ministry of Defence. In an oral evidence session before SASC on 17 July he stated that he believed the jobs were perfectly compatible given the extensive support he had at both departments. Furthermore he dismissed any notion of his current post being merged in the near future, or even ending up in the Department of Communities and Local Government. He also denied that there is any conflict of interest between his two jobs in handing out large defence contracts, many recipients of which are locations in Scotland.

The Scotland Office also published its response to an FOI request seeking all information about the Office's preparations for the possibility of an SNP victory in the 2007 election. The Scotland Office had apparently briefed other Whitehall departments on the upcoming Scottish Election, and provided manifesto clippings, which have now been published. The clippings relate to each of the main parties' manifesto pledges which might affect Scotland's relations with the UK Government. Highlighted in the SNP manifesto, for example, are the commitments to a referendum on independence, as well as the pledge to cut Executive departments from nine to six.<sup>42</sup>

With tensions between the Scottish and UK government likely to rise (see section 7), the role of the Scotland Office as interlocutor between Scottish ministers and Anglo-centric Whitehall departments will be important. In testimony before the Scottish Affairs Committee on 17 July, Des Browne stated his willingness to work with the new Scottish Executive, having already met the First Minister three times and phoned him twice. Browne sought to demonstrate his cooperative approach by informing SNP leaders of the contents of the Prime Minister's statement on constitutional

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<sup>41</sup> HM Treasury, Department for Business, Enterprise & Regulatory Reform, Department for Communities and Local Government, *Review of sub-national economic development and regeneration*, July 2007, London: The Stationary Office. pp. 95

<sup>42</sup> Preparations in the event of an SNP-controlled administration etc, can be found at: [www.scotlandoffice.gov.uk/freedom-of-information/release.php?id=58](http://www.scotlandoffice.gov.uk/freedom-of-information/release.php?id=58)

reform. As he stated, 'I intend to make sure that the UK government keeps the First Minister up to speed with events that affect Scotland and the Scottish people'.<sup>43</sup>

#### **4.5 Wales Office**

The Wales Office published its annual report in May 2007.<sup>44</sup> Of particular interest is the extended discussion of 'Delivery against Objectives' in the year gone by. The report highlighted the passage of the Government of Wales Act (GOWA) 2006, which it deems to be the department's 'greatest achievement to date'.<sup>45</sup>

Shortly prior to the summer recess, the Office published a draft National Assembly for Wales (Legislative Competence) Order 2007 which will transfer to the Welsh Assembly legislative powers in the field of education for people with learning difficulties and disabilities.<sup>46</sup>

In answer to an oral question, Wales Office Minister Huw Irranca-Davies has stated that there will be a legislative competence order on the Welsh language at some time this autumn. Preparations are being undertaken in concert with the Welsh Assembly Government.<sup>47</sup>

#### **4.6 Northern Ireland Office**

The Northern Ireland Office published its annual report on 5 June.<sup>48</sup> The report outlines the Office's performance against various targets set for itself in the fields of confidence in policing, Catholic representation and the courts system.

It also noted that the role of the NIO had been significantly diminished with the end of direct rule on 8 May, as all the 'devolved' powers are once again vested in the Assembly at Stormont. The NIO nevertheless retains important control in the areas of security and justice, though these areas are earmarked for future devolution. If and when this occurs, the NIO would be reduced to an advocacy and liaison role similar to that of the Scotland Office.

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<sup>43</sup> MacLeod, C., 'London keeps SNP leaders in the loop on constitutional reform plans', *The Herald*, 2 July 2007, at: <http://www.theherald.co.uk/politics/news/display.var.1511218.0.0.php>.

<sup>44</sup> Wales Office, Annual Report, May 2007, at: [www.walesoffice.gov.uk/2007/AnnualReport2007.pdf](http://www.walesoffice.gov.uk/2007/AnnualReport2007.pdf).

<sup>45</sup> Wales Office, Annual Report, pp. 27

<sup>46</sup> Wales Office, *National Assembly for Wales (Legislative Competence) Order 2007*, March 2007, at: <http://www.opsi.gov.uk/Si/si2007/20070910.htm>.

<sup>47</sup> *House of Commons Hansard*, 4 July 2007, col. 947

<sup>48</sup> Northern Ireland Office, Departmental Report, May 2007, at: [www.nio.gov.uk/nio\\_departmental\\_report\\_2007.pdf](http://www.nio.gov.uk/nio_departmental_report_2007.pdf).

#### **4.7 Department for Communities and Local Government**

Papers recently released under the Freedom of Information Act clarify how and when Cornwall's campaign for regional government was rejected by the UK government. The released correspondence between Andrew George, MP for St Ives, and the Office of the Deputy Prime Minister dates from November 2002. Nick Raynsford, then Minister for Local Government and the Regions, wrote 'we do feel that an elected body restricted to an area of the size and population of Cornwall would not be a regional assembly as we envisage it, as we feel the benefits of joining up policies that attract a far wider area would be lost.' In his rebuttals, Mr George cited a Constitution Unit report<sup>49</sup> which concluded that Cornwall could be an economically sustainable region and suggested a unitary council for the entire county.<sup>50</sup> As noted in the latest *English Regions Devolution Monitoring Report*, Cornwall is now on track to have a single unitary county council.<sup>51</sup>

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<sup>49</sup> Sandford, M., 'The Cornish Question—Devolution to the South-West', London: The Constitution Unit, September 2002. Details can be found at: <http://www.ucl.ac.uk/constitution-unit/unit-publications/94.html>.

<sup>50</sup> Verkaik, R., 'How Cornwall's battle for regional independence was lost', *The Independent*, 8 June 2007, pp. 55.

<sup>51</sup> Birch, M., Harding, A., and Rees, J., *English Regions Devolution Monitoring Report: September 2007*, London: The Constitution Unit, at: [www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Regions\\_Sept07.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Regions_Sept07.pdf), pp. 49.

## 5. Territorial Legislation and Motions

### 5.1 Scotland

There have been no bills triggering the legislative consent convention since the Scottish elections, raising speculation about what will happen when this does occur. In opposition, the SNP frequently voted against these motions, and is expected to continue to take a tough line in office. The party will be aware, however, that Scottish Parliament standing order 9B.3 allows for legislative consent motions to be introduced by non-ministers if the Executive declined to do so. Although this has not happened to date, the SNP government's minority status leaves it open to defeat by a coalition of the three unionist parties at Holyrood should such a situation arise.

### 5.2 Wales

In June the Welsh Assembly Government's draft legislative programme (formulated by Labour prior to the coalition with Plaid Cymru) outlined plans to seek the power to legislate on child poverty, environmental protection, special needs education, non-residential social services, affordable housing, and the Welsh language.<sup>52</sup> Such powers would be transferred by means of a legislative competence order (LCO) drafted by the Welsh Assembly Government, introduced by the Secretary of State for Wales and voted upon by both Houses of Parliament. The Labour-Plaid Cymru coalition agreement further commits Rhodri Morgan's government to seeking powers over mental health, and also to 'consider the evidence for the devolution of the criminal justice system within the contexts of (a) devolution of funding and (b) moves towards the establishment of a single administration of justice in Wales'.<sup>53</sup> This is in addition to the commitment (see section 3.1) to hold a referendum on the devolution of full legislative powers to the Assembly.

As noted in section 4.5, the first draft LCO was published in July.

### 5.3 Northern Ireland

On 24 May, the Justice and Security (Northern Ireland) Act received Royal Assent. The main effect of this legislation was to create a presumption of a right to trial by jury in Northern Ireland – as part of the broader process of political and security

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<sup>52</sup> BBC News Online, 'Labour unveils assembly programme', 6 June 2007, at: <http://news.bbc.co.uk/1/hi/wales/6726975.stm>

<sup>53</sup> Labour and Plaid Cymru, *One Wales*, 27 June 2007, at: [http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/27\\_06\\_07\\_owales.pdf](http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/27_06_07_owales.pdf), pp. 29.

'normalisation' – though with the Director of Public Prosecutions for Northern Ireland retaining a discretionary power to determine that trials can still go ahead without a jury if certain specified conditions are met. Other effects of the Act included to extend the powers of the Northern Ireland Human Rights Commission and to provide the police and armed forces with additional powers, including powers of entry, search and seizure.<sup>54</sup>

#### **5.4 London**

The passage of the Greater London Authority Bill was delayed in the early summer by conflict between the two Houses of Parliament over certain aspects of the bill, which all served to extend the Mayor of London's role in a number of areas. Among other things, amendments passed by the House of Lords imposed a two-term limit on the Mayor (which would exclude incumbent Ken Livingstone from standing in the next election), and gave the London Assembly the power to amend the Mayor's budget on the basis of a simple majority, rather than the two-thirds majority proposed by government. The government will seek to overturn these amendments in the Commons.

#### **5.5 Early Day Motions**

- Karen Buck tabled EDM 1754, criticising Conservative attempts to introduce term limits in the Greater London Authority. It was signed by 30 MPs.
- Erik Martlew tabled EDM 1691, which opposes plans to create a unitary council for all of Cumbria, thereby abolishing district councils. It was signed by six MPs.
- Frank Field tabled EDM 1432 calling upon Members from Scotland, Wales and Northern Ireland to abstain from voting on devolved issues, as members of the SNP do. This motion was signed by ten MPs.
- Greg Mulholland tabled EDM 1319, which calls for a national anthem other than 'God Save the Queen' to be played when England rather than the United Kingdom or Great Britain is competing in international sporting events. This was signed by 23 MPs.

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<sup>54</sup> *Justice and Security (Northern Ireland) Act 2007*, at: [www.opsi.gov.uk/acts/acts2007/pdf/ukpga\\_20070006\\_en.pdf](http://www.opsi.gov.uk/acts/acts2007/pdf/ukpga_20070006_en.pdf), Chapter 6.

## **6. Territorial Committees at Westminster**

### **6.1 Scottish Affairs Select Committee<sup>55</sup>**

SASC conducted an oral evidence session on the Scotland Office's Annual Report on 17 July 2007. This marked the committee's first encounter with Des Browne in his new post as Secretary of State for Scotland. A range of subjects were covered, but a particular focus was the negotiations between the British and Libyan governments that may lead to the return to Libya of the man convicted of the Lockerbie bombing, and which had apparently been conducted without the Scottish Executive being consulted. Mr Browne referred the committee to the fact that international negotiations remain a UK reserved matter.

The committee is also engaged in an enquiry on poverty in Scotland, as part of which it held three public evidence sessions in May and June.

### **6.2 Welsh Affairs Select Committee<sup>56</sup>**

WASC is engaged in a series of inquiries and published reports in June on Legislative Competence Orders in Council (to which the Government replied in July) and Welsh Prisoners in the Prison Estate. It is currently drafting a follow-up report on Energy in Wales and is still engaged in an inquiry on Globalisation and its Impact on Wales.

As part of the latter enquiry Peter Hain gave evidence, and was asked for his views on holding a referendum on full legislative powers for the Welsh Assembly. Mr Hain stated that he was generally in favour of a referendum but believed that the new powers need more time to 'bed down'. When pressed on the question of whether he would approve a referendum, he said 'I will not be an obstacle to anything, but I would want to be satisfied, that the conditions were right for winning this referendum'. The Secretary of State repeated his opposition to a combined 'Department of Devolved Affairs' and defended the Barnett formula, saying 'If you are asking me do I think that Barnett gives a fair funding arrangement for Wales, I do think it has done so'. He argued that since per capita expenditure is 11 per cent higher in Wales than

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<sup>55</sup> Full details of all activities of the Scottish Affairs Committee can be found at: [www.parliament.uk/parliamentary\\_committees/scottish\\_affairs\\_committee.cfm](http://www.parliament.uk/parliamentary_committees/scottish_affairs_committee.cfm).

<sup>56</sup> Full details of all activities of the Welsh Affairs Committee can be found at: [www.parliament.uk/parliamentary\\_committees/welsh\\_affairs\\_committee.cfm](http://www.parliament.uk/parliamentary_committees/welsh_affairs_committee.cfm).

the UK average, it was unlikely that a revision of the formula would achieve the desired result of more money for Wales.

### **6.3 Northern Ireland Affairs Select Committee**

NIASC is engaged in an inquiry into the Northern Ireland Prison Service. It has also published two reports, on *Tourism in Northern Ireland and its Economic Impact and Benefits: Government Response to the Committee's Third Report of Session 2006-07* and a *Draft Protocol for Community-based Restorative Justice Schemes: Government Response to the Committee's First Report of Session 2006-07*.<sup>57</sup>

### **6.4 Regional Select Committees**

Having appointed nine regional ministers for England, the government also proposed that regional select committees be created to scrutinise the ministers' work. The government had originally scheduled an announcement of the structure and details of these committees on the Wednesday before the start of the recess, but this was postponed. One key point of controversy is whether the composition of these committees will reflect the party balance in the House as a whole (giving Labour a majority on all nine) or the party balance in the region in question. If the latter, then Labour would have a majority on only six, while the Conservatives would control the South East and East of England committees, and the South West committee would be 'hung' with Labour the third largest party. Questioned about this in July, Leader of the House Harriet Harman responded only that the committees' 'membership will be decided in the usual way'.<sup>58</sup>

### **6.5 Constitutional Affairs Select Committee**

CASC has re-issued its call for evidence in its inquiry into 'Devolution: A Decade On'. The committee apparently plans to take this inquiry forward in the 2007-08 parliamentary session.<sup>59</sup>

### **6.6 Territorial Grand Committees**

On 24 July, the Northern Ireland Grand Committee met to discuss the ongoing process of police reform in the six counties. The Welsh Grand, Scottish Grand and Regional Affairs Committees did not meet during the time-frame of this report.

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<sup>57</sup> NIASC reports and transcripts of oral evidence sessions are available at: [www.parliament.the-stationery-office.co.uk/pa/cm/cmniaf.htm](http://www.parliament.the-stationery-office.co.uk/pa/cm/cmniaf.htm).

<sup>58</sup> *House of Commons Hansard*, 19 July 2007, col. 435.

<sup>59</sup> Constitutional Affairs Committee, Press notice No. 45 of Session 2006-07, 25 July 2007, Call for Evidence, at: [www.parliament.uk/parliamentary\\_committees/conaffcom/cacpn270707.cfm](http://www.parliament.uk/parliamentary_committees/conaffcom/cacpn270707.cfm).

## 7. Inter-Institutional Relations

### 7.1 Intergovernmental Structures

Shortly after taking office Scottish First Minister Alex Salmond expressed a desire to revive the intergovernmental Joint Ministerial Committee, at which the leaders of the UK and devolved governments can meet, but which since 2002 has only operated in the form of its Europe subcommittee. Speaking to *The Herald*, he said 'I don't think you could possibly argue that when you have administrations across the country of different political complexions, you have to have a proper process by which areas of joint interest can be progressed, areas of difference reconciled'.<sup>60</sup> In the absence of formal channels for communication between the Scottish and UK governments he asked, rhetorically: 'Are we meant to get a Labour MSP to raise a question at First Minister's Questions, or am I meant to get an SNP MP to raise a question at Prime Minister's Questions?'<sup>61</sup>

Signs of strengthening relations between the devolved institutions came in mid-June when the leaders of the Executives of Scotland and Northern Ireland met in Belfast. Northern Ireland's First Minister Ian Paisley expressed sympathy for Alex Salmond's campaign to resurrect the JMC, saying that Wales, Scotland and Northern Ireland had interests in common and that 'if we go to the British Government in harness, we will get more out of them'.<sup>62</sup>

The close relationship between Messrs. Paisley, McGuinness (Northern Ireland Deputy First Minister) and Salmond has come under heavy criticism from Ulster Unionist David Burnside MLA. Mr. Burnside argued that 'the unholy alliance will antagonise English MPs at Westminster and end up in conflict and pressure from England to end the Union. He further added that 'loyalty to the Crown, the Union and to the Protestant faith is our fundamental belief and allegiance and true unionists should beware of the route we are being taken down by the First Ministers of

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<sup>60</sup> Dinwoodie, R. 'Salmond wants 'formal' talks with PM Benefit money on agenda', *The Herald*, 28 May 2007.

<sup>61</sup> Ibid.

<sup>62</sup> Devlin, K., 'Salmond and Paisley in bid to squeeze Brown', *The Daily Telegraph*, 19 May 2007, at: [www.telegraph.co.uk/news/main.jhtml?xml=/news/2007/05/18/nsalm18.xml](http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2007/05/18/nsalm18.xml).

Scotland and Northern Ireland'.<sup>63</sup> Paisley's pronouncements also led to some debate over whether he is less Unionist than 'Ulster nationalist'.<sup>64</sup>

Intergovernmental relations in the UK took to the front pages in mid-July when the leaders of the Northern Ireland and Scottish Executives, the Deputy First Minister of Wales, and the British and Irish Prime Ministers met in Belfast for a meeting of the British-Irish Council. Mr Brown signalled his willingness to work with Mr Salmond as well as supporting the continuing work of the power-sharing executive in Northern Ireland.<sup>65</sup>

## 7.2 Intergovernmental Issues

Labour remains in power in both Westminster and Cardiff, but as noted elsewhere in this report, Rhodri Morgan's coalition with Plaid Cymru raises the possibility of clashes over the timing of a referendum on legislative powers and reform to the funding arrangements for devolution. These may emerge as problems for UK-Wales relations later in the National Assembly's third session, when the Welsh Assembly Government may step up its campaign for a referendum, and the independent commission on funding completes its work. In the meantime, the challenge for the two administrations is to cooperate over the gradual transfer of legislative powers to the Assembly under the provisions of the *Government of Wales Act*.

With the Scottish nationalists in power in Edinburgh, UK-Scottish relations have been somewhat more fraught. The relationship appeared to get off to a poor start when Tony Blair neglected to congratulate Mr Salmond on his election success. Alex Salmond had to wait until 13 July to meet a UK Cabinet minister, in the shape of Justice Secretary Jack Straw.<sup>66</sup> In contrast, Mr Blair had apparently been among the first to congratulate Salmond's counterparts in Belfast and Cardiff. Since then, tensions have arisen over the Scottish Executive's campaign for further powers for the Scottish Parliament and a number of other issues that have arisen:

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<sup>63</sup> Gray, L., 'Unionist in religious attack on SNP', *The Scotsman*, 11 July 2007, at: <http://news.scotsman.com/politics.cfm?id=1077892007>.

<sup>64</sup> See *inter alia*, Newton Emerson, 'Is Ian Paisley really a unionist?', *BBC Online*, 14 June 2007, at: [http://news.bbc.co.uk/1/hi/northern\\_ireland/6754487.stm](http://news.bbc.co.uk/1/hi/northern_ireland/6754487.stm)

<sup>65</sup> This was, again, widely reported, including by the *Times* (17 June 2007) and *BBC News* online (16 June 2007).

<sup>66</sup> Gray, L., 'Hit the road Jack? Well, no. But they're not a picture of joy', *The Scotsman*, 14 July 2007, at: <http://news.scotsman.com/topics.cfm?tid=184&id=1098302007>

- One minor skirmish followed negotiations between the UK and Libyan governments on a memorandum of understanding on prisoner transfers. This could, in theory, apply to Abdelbaset Ali Mohamed al-Megrahi, who is in jail in Scotland following his 2001 conviction for the Lockerbie bombing.<sup>67</sup> Mr Salmond said to the Scottish Parliament that 'At no stage was the Scottish Government made aware of the content of the memorandum prior to its signing and therefore no opportunity was given to contribute or to raise concerns about the potential implications for Scotland'.<sup>68</sup> Appearing before the Scottish Affairs Select committee on 7 July, Des Browne countered by stating that 'as I recollect it the Government signed a Memorandum of Understanding to commence talks with the Libyans on a number of separate matters including judicial cooperation and prisoner transfer'. He subsequently acknowledged that the situation could have been better handled.
- Another mini-spat centred on the role of the Scottish Executive in EU fisheries negotiations: the SNP argues that it should lead the British delegation as the majority of the British fishing fleet is based in Scotland. Richard Lochhead, the Scottish Rural Affairs Secretary, made the case for this in a meeting with Ben Bradshaw, UK fisheries Minister, on 6 June, which was predictably rebuffed. Like his predecessors, Lochhead took part in the fisheries negotiations in Brussels in June as part of the UK delegation.<sup>69</sup>
- In early July the Scottish Executive announced that it was pulling out of UK-wide talks on radioactive waste disposal (the new administration is also determined to prevent any more nuclear power stations being built in Scotland). As a result, local authorities at the Sellafield site currently used for storing the UK's nuclear waste stated that they might refuse Scottish nuclear waste in the future.<sup>70</sup> In response, there were some suggestions that the Trade and Industry Secretary should revoke the powers over planning that allow the Executive to veto new nuclear power plants. Said Labour's Anne Moffat MP: 'I don't think it should be ruled out and I am convinced it is on Darling's mind. The energy supply and the

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<sup>67</sup> This was widely reported, including by Gray, L., 'Salmond in call for leaders' summit', *The Scotsman* online, 11 June 2007, at: <http://thescotsmanscotsmans.com/index.cfm?id=909922007>.

<sup>68</sup> Scottish Parliament Debate, 7 June 2007, col. 586-589.

<sup>69</sup> BBC News Online, 'Lochhead attends "valuable" talks', 11 June 2007, at: [http://news.bbc.co.uk/1/hi/scotland/north\\_east/6739255.stm](http://news.bbc.co.uk/1/hi/scotland/north_east/6739255.stm).

<sup>70</sup> Macleod, M., 'Bury your own nuclear waste, Executive told', *Scotland on Sunday*, 1 July 2007.

security of the supply are so fundamental that I don't think we can risk it in the hands of an irresponsible Executive in Scotland under any circumstances'.<sup>71</sup>

- Mr Salmond undertook steps in late June to end 'dawn raids' in Scotland, wherein failed refugee families are removed from their homes in the early hours of the morning. He proposed to 'do everything I can... to pursue this issue until the blight and stain of dawn raids is removed from our country'.<sup>72</sup> This follows the negotiation of an agreement between the former Labour-Lib Dem Executive and the Home Office on this issue in March.<sup>73</sup>
- The new Scottish Executive pledged to examine evidence in relation to Scottish Airports being used by the CIA to facilitate the 'extraordinary rendition' of terrorism suspects. On this issue Mr Salmond stated that he 'would certainly invite the organisations, including Justice – the organisation which looks at civil liberties south of the border – to come and meet the justice secretary in Scotland'.<sup>74</sup>

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<sup>71</sup> Brady, B & E. Barnes, 'Labour MPs plot to strip Salmond of nuclear veto powers', *Scotland on Sunday*, 27 May 2007.

<sup>72</sup> Gray, L., 'Salmond pledges to end dawn raids on asylum seekers', *The Scotsman*, 22 June 2007, at: <http://thescotsman.scotsman.com/index.cfm?id=975862007>.

<sup>73</sup> See Paun, A., (ed.), *Devolution and the Centre Monitoring Report: January 2007*, at: [www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Centre\\_Jan07.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Centre_Jan07.pdf), pp. 40

<sup>74</sup> BBC News Online, 10 June 2007