

Executive Summary	7
1. The Scottish Executive	9
1.1 The Ministerial Team	9
1.2 The Coalition.....	10
1.3 Legislative programme.....	10
1.4 Civil service issues.....	11
1.5 The Scottish Treasury and Cabinet Office?.....	13
1.6 Freedom of Information.....	14
1.7 Civic Participation	15
1.8 Public Bodies	15
2. The Scottish Parliament	16
2.1 Parliament and Reserved Issues	16
2.2 Cigarettes and Alcohol.....	18
2.3 MSP Expenses	19
2.4 The Scottish Parliament Committees	20
2.5 Committee Reports and Inquiries (12 March – 14 December 2005).....	22
2.6 Parliamentary Bills (12 March 2005 – 14 December 2005)	25
2.7 Non-Executive Bills	27
2.8 Sewel (Legislative Consent) Motions passed	29
2.9 Cross Party Groups and Petitions	30
3. The Media	31
3.1 Newspaper company sales and job losses	31
3.2 Media retrenchment.....	32
3.2 Comments and Campaigns.....	34
3.4 Scandals and Scalps	37
4. Public Attitudes and Elections.....	41
4.1 Attitudes towards devolution	41
4.2 National Identity	53
4.3 Social Issues.....	54
4.4 Party Fortunes	64
4.5 Attitudes towards Parties and Leaders.....	75
4.6 Evaluations of Public Services.	76
5. Intergovernmental relations	82
5.1 Intergovernmental meetings.....	82
5.2 Issues in informal intergovernmental relations	82
5.3 The Sewel convention.....	83
5.4 The Advocate General for Scotland in the Lords.....	84
5.5 Scotland's foreign and international development policy	84
5.6 Implications of the Comprehensive Spending Review.....	85
6. Scotland, Europe and International Relations	87
6.1 International Development Policy.....	87
6.2 The G8 Summit.....	90
6.3 Tartan Week Goes Canadian.....	90
6.4 Scotland and Europe: Partnership Regions.....	91
6.5 Reports of the European and External Relations Committee 2005.....	91
7. Relations with Local Government.....	93
7.1 Funding Settlement.....	93
7.2 Council Reform?	94
7.3 Improvement Service	95
7.4 Finance Review	96
7.5 Best Value	97
7.6 Single Status and Equal Pay.....	98
7.7 Planning.....	98

8. Finance	100
8.1 Budget Finance.....	100
8.2 Council Tax.....	101
8.3 Government Efficiency	102
8.4 Conclusions	103
9. Disputes and litigation.....	104
10. Political Parties	106
10.1 The UK General Election	106
10.2 The Lib Dems – From Wallace to Stephen.....	106
10.3 The Scottish Socialists – Suspension of MSPs	107
10.4 By-elections in Glasgow Cathcart and Livingston.....	108
10.5 The Conservative Leadership Crisis.....	109
10.6 The SNP and Independence.....	110
11. Public Policies.....	111
11.1 Change in the Public Services	111
11.2 Housing and Homelessness.....	112
11.3 Public Health.....	113
11.4 The NHS	114
11.5 Education.....	116
11.6 Economy.....	118
11.7 Fresh Talent Initiative.....	119
11.8 Law & Order.....	120
11.9 Legal and Social Issues	121
11.10 Rural and Environmental Issues.....	121
11.11 Transport	123
11.12 Energy	124
11.13 International Affairs	124

Table of Figures

Table of Figures	6
Figure 4.1. Support for Constitutional Options 1997-2004	42
Figure 4.2. Scotland's Voice in the UK	42
Figure 4.3. People's say in Government.....	43
Figure 4.4. Influence over running Scotland	43
Which of the following do you think has most influence over the way Scotland is run?	43
Figure 4.5. Working in Scotland's interests.....	44
Figure 4.6. Listening to People's Views	45
Figure 4.7. Knowledge Quiz	46
Figure 4.8. Knowledge of Government Activity	46
Figure 4.9. YouGov Election Poll.....	49
Figure 4.10. Opinions about Independence and Devolution	51
Figure 4.11. Powers of the Scottish Parliament	52
Figure 4.12. Knowledge of politicians.	52
Figure 4.13. Choice of National Identity.....	53
Figure 4.14. Banning Smoking	54
Figure 4.15. Rights of Unmarried Couples.....	56
Figure 4.16. Rights of Gay Couples.....	57
Figure 4.17. Sexual Relations	58
Figure 4.18. Levels of Social Trust	59
Figure 4.19. Scottish Attitudes on Reserved Issues (%)	62
Figure 4.20. Scottish Parliament Voting Intentions (%).....	65
Figure 4.21. Westminster Voting Intentions.	66
Figure 4.22. UK General Election Result in Scotland, 5 May 2005	70
Figure 4.23. Livingston Westminster by-election, 29 September 2005.....	71
Figure 4.24. Glasgow Cathcart Scottish Parliament by-election, 29 September 2005	72
Figure 4.25. Local Government By-election Results.	73
Figure 4.26. Job Ratings of Party Leaders	76
Figure 4.27. Perception of change in public services.....	77
Figure 8.1: Scottish Executive Budget Expenditure Plans 2004-05 to 2006-07.....	100

Executive Summary

Peter Jones

- Two political leaders resigned: Jim Wallace, Liberal Democrat, through choice, and David McLetchie, Conservative, because of pressure over media questions about his expense claims. Nicol Stephen was elected LibDem leader, and Annabel Goldie's nomination as Tory leader was uncontested.
- The row about McLetchie's expenses damaged both the Conservatives and the parliament as a whole, as did the resignation of Lord Mike Watson MSP following his tendering of a guilty plea to a charge of fire-raising.
- Election results produced little change in the political landscape. The LibDems overtook the SNP at the General Election, moving into second place in electoral support, but fell back in two autumn by-elections while the Tories stood still. The Scottish Socialist Party lost ground.
- Opinion polls suggested that public disillusionment with the parliament is deepening and that Westminster is now perceived as having a lot more power over Scotland than Holyrood. Yet there is no evidence that people wish to abandon devolution.
- Some friction with the UK Government over reserved issues emerged. Executive ministers were clearly unhappy at heavy-handed treatment of children in deportations by the Immigration Service. There was little evidence to support Executive claims of having modified Home Office policy. It was also apparent that the Home Office did not consult Scottish law officers in its consideration of the Terrorism Bill.
- However there appeared to be no disquiet from the Foreign Office at the Executive's strengthening of its international role. First Minister Jack McConnell led in establishing an aid and cooperation agreement with Malawi, marked by a visit he made there and by a visit by the President of Malawi to Scotland.
- Expected rioting duly accompanied the G8 summit at Gleneagles. The Executive sought to head off complaints that it paid a disproportionate share of the summit's policing costs with a much scoffed-at claim that the event generated vast and valuable publicity overseas for Scotland.
- The parliament took the lead in the UK when, emulating Ireland, it passed a bill banning smoking in all enclosed public spaces. Justified on health improvement grounds, the move went ahead of public opinion which only favoured a ban in establishments serving food.

- Kudos were lost, however, when the parliament got into a fankle over a reform of licensing law. Some Labour MSPs took fright that moves to devolve opening hours decisions to local licensing boards could be interpreted as opening the way to 24-hour drinking at a time of public concern about youthful binge drinking.
- This row, and jostling to claim credit for a decision to reduce business rates, exposed some minor cracks in the Lab-LibDem governing coalition.
- The business rates reduction was claimed by some newspapers as a victory for their campaigns to that end, particularly by *The Scotsman*. It made its own headlines when the Barclay brothers and their editor-in-chief, Andrew Neil, announced they were selling the newspaper to Johnston Press, a Scottish publisher with a big stable of weekly newspapers.
- Some signs that the devolution experiment, which has been amply financed by rising block grant Treasury allocations, is now moving into more difficult times, appeared when local government leaders loudly complained that the Executive was unfairly squeezing their budgets.

1. The Scottish Executive

Paul Cairney

1.1 The Ministerial Team

The resignation of Jim Wallace as leader of the Liberal Democrats marked the biggest shift of ministerial personnel. While defeated leadership candidate Mike Rumbles MSP suggested that if elected he would not seek ministerial office¹, Wallace's successor Nicol Stephen opted to succeed him as the Minister for Enterprise and Lifelong Learning (and Deputy First Minister). Reports suggest that Jack McConnell was unwilling to shuffle major ministerial portfolios in June (given the good performances following the reshuffle in October 2004) and this left Stephen with 'little room to manoeuvre'.² Ross Finnie remained Minister for Environment and Rural Development. Stephen's campaign manager Tavish Scott was promoted from Deputy Minister for Finance and Public Services to Minister for Transport and Telecommunications (with a cabinet seat but a junior minister's salary). Scott was replaced by George Lyon (new to the Scottish Executive) and Robert Brown (also new) replaced Euan Robson as Deputy Minister for Education and Young People. The only shift in Labour positions was at junior ministerial level with Lewis MacDonald moving from Environment and Rural Development to Health and Community Care and Rhona Brankin moving in the opposite direction. Signals of intent emerged in changes to some ministerial titles: Tom McCabe's title (originally Minister of Finance and then Minister for Finance and Public Services) became Minister for Finance and Public Service Reform. Although too much can be made of name changes, we may be seeing some Labour distinctiveness, with George Lyon's title referring to Finance and Parliamentary Business. Tavish Scott's title includes telecommunications but this does not signal a shift of functions from another department.³

Government priorities can be discerned from the presentation of ministerial responsibilities. Although the Bankruptcy and Diligence Bill is a justice matter, it was handled as a matter affecting enterprise by Nicol Stephen. Cathy Jamieson at Justice saw sectarianism added to her named responsibilities (in recognition of the provisions in the Police, Public Order and Criminal Justice (Scotland) Bill). Margaret

¹ H. MacDonell 13 May 2005 'Rumbles set to take on Stephen for leadership' news.scotsman.com/politics.cfm?id=517712005

² H. MacDonell 27 June 2005 'Stephen to take over helm of Enterprise' *The Scotsman* election.scotsman.com/topics.cfm?tid=783&id=705792005

³ www.alba.org.uk/scottish/cabinetscotland.html

Curran (Parliamentary Business) is responsible for freedom of information and civic participation. Tom McCabe has further commitments to efficient government and the Fresh Talent initiative. Patricia Ferguson (Tourism, Culture, Sport) is responsible for languages policy (following the Gaelic Language Bill) and Tavish Scott has an added interest in devolved aspects of the post office.

1.2 The Coalition

During the Liberal Democrat leadership election, Mike Rumbles expressed doubts over the value of coalition, while Nicol Stephen was more pragmatic.⁴ Yet the need to put forward a distinctive party stance in the run-up to the 2007 elections may strain relations within the coalition. This arose following Nicol Stephen's speech to his party conference in September when he told the audience that he was responsible for the Scottish Executive decision to cut Scotland's business rates.⁵ In November there was also a public split over the devolution of opening hours decisions to local licensing boards at Stage 3 of the Licensing Bill (see 2.2). Unattributed (perhaps exaggerated) comments from a Liberal Democrat minister and the parliamentary group suggest that Labour ministers 'caved in' to backbench concerns and that the coalition would now be looser.⁶

1.3 Legislative programme

The First Minister set out the Scottish Executive's future legislative programme and policies in a plenary debate on 6 September. He announced 19 bills to be passed within 19 months:

- Adoption Bill
- Children's Hearings and Integrated Services Bill
- Health Promotion, Nutrition and Schools (Scotland) Bill
- Scottish Schools (Parental Involvement) Bill – in progress
- Local Government (Electoral Administration and Registration Services) Bill
- Summary Justice Reform (Scotland) Bill
- Sentencing Bill
- Police, Public Order and Criminal Justice (Scotland) Bill

⁴ See A. Massie 15 May 2005 'Comment: Allan Massie: Power hungry Lib Dems will never divorce Labour' Sunday Times Scotland www.timesonline.co.uk/article/0,,2090-1613137,00.html

⁵ H. MacDonell 21 September 2005 'Labour coalition anger at Stephen claims' *The Scotsman* news.scotsman.com/topics.cfm?tid=782&id=1970302005

⁶ H. MacDonell 18 November 2005 'Lib Dem rebellion threatens coalition' *The Scotsman* news.scotsman.com/topics.cfm?tid=783&id=2259662005

- Legal Assistance and Legal Profession (Scotland) Bill
- Judicial Appointments and Removal (Scotland) Bill
- Scottish Human Rights Commission Bill
- Planning (Scotland) Bill
- Animal Health and Welfare (Scotland) Bill
- Aquaculture and Fisheries Bill
- Crofting Reform Bill
- Vulnerable Adults Bill
- Bankruptcy and Diligence Etc (Scotland) Bill
- Transport and Works (Scotland) Bill
- Tourism (Scotland) Bill

Crime and justice still appear to be highest on McConnell's agenda (see 11.8), with statements on the rights of children, education (11.5), health improvement and the economy also prominent.⁷

1.4 Civil service issues

There have been some new appointments to the senior management group of the Scottish Executive in 2005, with Alyson Stafford (public and private sector background) appointed as Finance Director in June and two new non-executive directors – Professor Bill Bound and David Fisher – in August. This adds to two key appointments at the start of the year – Richard Wakeford as Head of Environment and Rural Affairs Department (from the UK's Countryside Agency) and Dr Kevin Woods as Head of Health Department (academic and health management background). The issue of pay for senior civil servants arose in December following published details of pension schemes billed as 'golden goodbyes'.⁸ Pension levels were high on the agenda that month following the announcement of the findings of the Turner report (which recommended raising the retirement age and linking state pensions to earnings rather than inflation).⁹ Opposition MPs suggested that the provision for civil servants was excessive, while the Scottish Executive pointed out that senior civil service pay was a reserved matter. Relocation of civil service jobs

⁷ Scottish Executive News 6 September 2005 'Legislative Programme 2005' www.scotland.gov.uk/News/News-Extras/legprog2005; 7 September 2005 'Mixed reaction to First Minister's legislative statement' www.holyrood.com/nav/news/stories/story.asp?story=elec206

⁸ P. MacMahon 5 December 2005 'The 16 senior civil servants set to share £1.8m windfall – on top of their pensions' news.scotsman.com/scotland.cfm?id=2351402005. Senior civil service pay is published as part of the Scottish Executive's annual consolidated accounts.

⁹ BBC News 30 November 2005 'State pension age 'to rise to 68'' news.bbc.co.uk/1/hi/business/4484226.stm

continues to attract media attention and the Scottish Executive has published a revised Relocation Guide.¹⁰ In June 2005 Tavish Scott outlined plans to the Finance Committee for the relocation of health bodies and Communities Scotland to Glasgow.¹¹ In the opposite direction, the DWP is looking to concentrate job centre staff in a smaller number of offices.¹² Efficient Government initiatives will be monitored by the Scottish Executive, with Audit Scotland providing independent assurance and unlikely to 'micro-manage'.¹³

In July the Scottish Parliament Finance Committee completed its inquiry into civil service effectiveness, designed to be submitted to Westminster's Public Administration Committee.¹⁴ The report highlighted the continued and crucial importance of UK initiatives on public expenditure/efficiency and civil service reform, given that both are reserved matters. It also outlined competing views on the desirability of a 'Scottish public service', with the benefits of joined-up government weighed up against the costs of harmonising the terms and conditions of civil service, health and local authority employees. Civil service union and Permanent Secretary John Elvidge evidence showed reluctance to pursue civil service devolution in Scotland. Elvidge suggested that the Scottish civil service enjoys significant autonomy and that the UK civil service reform agenda of replacing generalists with three professional categories – policy expert, operational delivery, corporate services – was less relevant to a Scottish civil service with less service delivery involvement. The level of inward secondments outlined in evidence also suggests the continuous need to address policy capacity in Scotland. Yet any rise in civil service numbers always makes headlines.¹⁵

¹⁰ www.scotland.gov.uk/Topics/Government/Relocation/Introduction. J. Ross, 7 September 2005. 'New SNH HQ hailed as 'economic devolution'' *The Scotsman* news.scotsman.com/topics.cfm?tid=802&id=1900532005; Evening News 7 September 2005. 'Union slams Brankin over SNH 'success' claim' news.scotsman.com/topics.cfm?tid=802&id=1904202005

¹¹ Scottish Parliament Official Report, Finance Committee 28 June 2005 Col. 2698 www.scottish.parliament.uk/business/committees/finance/or-05/fi05-1702.htm#Col2698; 14 June 2005 'MSP welcomes Dumfries jobs as "first stage"'

www.holyrood.com/nav/news/stories/story.asp?story=bus16; 29 June 2005 'Relocation continues apace as NHS jobs move' www.holyrood.com/nav/news/stories/story.asp?story=heal38

¹² 15 November 2005 'PCS opposes benefit processing factories'

www.holyrood.com/nav/news/stories/story.asp?story=equ35

¹³ 14 June 2005 'Audit Scotland outlines efficiency role'

www.holyrood.com/nav/news/stories/story.asp?story=bus17

¹⁴ SP Paper 405 'Submission to the Public Administration Select Committee Inquiry into Civil Service Effectiveness' www.scottish.parliament.uk/business/committees/finance/reports-05/fir05-PASC-00.htm. This includes submissions by unions, John Elvidge, Richard Parry and Professor Robert Pyper.

¹⁵ 26 July 2005 'Tories attack "big government" approach'

www.holyrood.com/nav/news/stories/story.asp?story=elec150

1.5 The Scottish Treasury and Cabinet Office?

The Scottish Executive has begun informally consulting on public sector reform and efficiency. The process has a high priority for Tom McCabe and the First Minister. However, questions remain over the ability of the Finance department to direct and implement reforms. The UK history of public service agreements shows the importance of capacity. Service and efficiency targets were first overseen by a unit within No.10, then transferred to the Treasury in recognition of the 'weakness of the centre' and the strength of the Treasury, with control of public expenditure as 'an important lever and oversight over departments.'¹⁶ The Treasury became a key actor in domestic policy, involved in policy innovation and holding departments to strict performance and expenditure targets. The Finance department in Scotland does not enjoy the status or policy capacity of the Treasury, while the First Minister does not command the type of policy units apparent in No. 10. They have therefore worked best in the past when seeking consensus and working with departments and public bodies.¹⁷ However, noises from the Scottish Executive suggest a commitment to stronger public service leadership.

Two Finance Committee reports also focus on the need for a stronger centre. Members were impressed by a presentation from Professor Michael Barber, head of the Prime Minister's Delivery Unit during their inquiry on civil service effectiveness:

Departments must produce plans for achieving their goals; the Unit produces monthly reports on key data streams; stocktaking meetings are held between the Prime Minister and key Secretaries of State and therefore, Departments and their permanent secretaries must report to their Minister; the Unit holds priority reviews with Departments; from this, the Unit helps with problem solving/corrective action if necessary; and the Unit produces a delivery report. We commend this approach. It appears to us that the approach adopted by the Delivery Unit demands a high level of personal accountability from senior civil servants as well as Ministers. It has not been demonstrated to the Committee either in taking evidence for this inquiry or in our wider scrutiny role that this shared accountability exists in the Scottish Executive. Professor Barber described a streamlined approach whereby for each priority there are measurable goals and deadlines and for each goal there is a set of indicators. Targets have become fewer and more focussed, and the Delivery unit's work concentrates on helping Departments to achieve those targets which will deliver on the agreed top twenty priorities across the whole range of government activity.¹⁸

¹⁶ D. Richards and M. Smith (2004) "The 'Hybrid State': Labour's response to the Challenge of Governance" in (eds.) S. Ludlam and M. Smith, *Governing as New Labour* (London: Palgrave), p.188.

¹⁷ M. Keating (2005) *The Government of Scotland* (Edinburgh University Press), p.159; p.97.

¹⁸ Para 54-5 www.scottish.parliament.uk/business/committees/finance/reports-05/fir05-PASC-00.htm.

The committee is concerned that too much effort is spent on managing over 400 partnership agreement targets which are insufficiently focussed and difficult to measure and prioritise. It therefore recommends in its report on the 2006-07 Budget Process:

... a review of the scope and objectives of 'Changing to Deliver' in light of these concerns. The Committee also seeks clarity on the role of the Office of the Permanent Secretary in monitoring all Partnership Agreement commitments and its apparent evolution towards the role of the UK Delivery Unit and the Cabinet Office.¹⁹

The latter point alludes to the role of the Scottish Executive's Strategy and Delivery Unit, outlined by Elvidge in September. In this submission, Elvidge suggests that the Delivery Unit targets should be seen within the wider context of a greater number of Public Service Agreements. The focus on 21 targets also results in less attention to other priorities.²⁰

1.6 Freedom of Information

The Scottish Executive was always going to be ambivalent about freedom of information (Fol). While legislating to provide for Fol is laudable (and Scotland's Fol Act is more liberal than Westminster's²¹) implementation has adverse effects on costs and civil service time. In June the Scottish Parliament suggested that an Fol request dealt with by the civil service costs £20 per hour. Inevitably there were media reports of cases which seemed frivolous uses of public money.²² Yet for civil servants in departments with low capacity, the opportunity cost of the time lost is more important. In this context, the Scottish Executive launched a consultation on 'fine tuning' the legislation.²³ This may involve changing the fee structure. The Information Commissioner reported in October 2005 that public awareness of the Fol provisions is rising (to 57 per cent) but public belief that government is becoming more open and accountable has fallen (to 34 per cent). The high number of appeals to the Commissioner's office suggests that 'some authorities are still coming to terms with

¹⁹ Finance Committee 14 December 2005 '5th Report, 2005: Stage 2 of the 2006-07 Budget Process' SP Paper 471 www.scottish.parliament.uk/business/committees/finance/reports-05/fir05-05.htm, para 68.

²⁰ 'Evidence To The Finance Committee, August 2005 – John Elvidge, Permanent Secretary, Scottish Executive' www.scottish.parliament.uk/business/committees/finance/papers-05/fip05-21.pdf

²¹ See M. Keating et al 'Does Devolution Make a Difference? Legislative Output and Policy Divergence in Scotland', *Journal of Legislative Studies*, 9:3 (2003) pp.110-39.

²² P. McMahon 23 June 2005 'Price of freedom is put at £20 an hour'

news.scotsman.com/topics.cfm?tid=1255&id=689832005

²³ Scottish Executive News Release 12 December 2005 'Freedom of Information review' www.scotland.gov.uk/News/Releases/2005/12/12120142

the requirements of the Act'.²⁴ In 2005 the Commissioner ruled against health authorities on the release of childhood leukaemia statistics and the morbidity rates for surgeons. It also performed an interesting legitimising function – by confirming that the Scottish Executive had taken all reasonable steps to find historical records on state children's homes (as part of broader enquiries into institutional abuse).²⁵

1.7 Civic Participation

Despite some parliamentary debate, no more money is forthcoming to fund the Scottish Civic Forum which now predicts its own demise.²⁶ Much was made in media reports of the 904 consultations issued by the Scottish Executive since 1999 (see previous report 1.5). With the figure now around 1000, Scottish viewers of Newsnight were treated to Conservative MSP Murdo Fraser's Elvis-inspired call for a 'little less conversation' in August 2005. Yet the numbers themselves are misleading. A 'consultation' can be anything from sending out 60,000 documents on land reform or the more recent mass consultation on smoking, to sending out 5 emails on seed potato regulations to the usual suspects. The reported numbers also include 'consultations' which really involve the dissemination of information with a broad call for feedback (rather than a specific deadline). In agriculture and environmental policy at least half of the documents arise from the implementation of EU directives. These directives also lead to consultations by public bodies such as Scottish Water (e.g. on the situation of newly required sewerage treatment sites). The numbers are also high because the Executive re-consults on the same issue – including sending out the draft regulations for a final check. This is something to be lauded since this is the stage at which the detailed mistakes may be made and only those really interested will be involved.

1.8 Public Bodies

Concerns were raised that ethnic minorities were poorly represented on the boards of quangos.²⁷

²⁴ www.itspubliknowledge.info/resources/research/research5.htm

²⁵ www.itspubliknowledge.info/resources/media/pressreleases/pressreleases.htm

²⁶ www.civicforum.org.uk/briefing/pressrel/funding_crisis.htm . See also written answers S2W-21243 and S2W-18076.

²⁷ 25 August 2005 'Scotland 's quangos unrepresentative'
www.holyrood.com/nav/news/stories/story.asp?story=equ26

2. The Scottish Parliament

Paul Cairney

2.1 Parliament and Reserved Issues

Reports following Jack McConnell's announcement of a review of, and possible extension of, the Scottish Parliament's powers suggest that Scottish MPs are not enthusiastic.²⁸ The year also saw First Minister's Questions dominated by a number of reserved issues, with opposition parties suggesting that Jack McConnell is not pursuing Scottish interests in UK negotiations. While Tony Blair has re-opened the debate on the future of nuclear power, Labour and Liberal Democrats ministers in the Scottish Executive have stated that the issue of the safe disposal of nuclear waste would have to be dealt with before the nuclear option is considered in Scotland. However, there appears to be some confusion over the basis of this power. Media accounts tend to stress the use of devolved planning laws to prevent new nuclear power stations being built. But devolved powers under the Electricity Act as laid out in a Scottish Executive/DTI concordat make it clear that the Scottish Executive has power to grant and refuse permission for all new power stations. Whatever the basis, Jack McConnell has stated: 'We have the powers to stop new nuclear power stations being built in Scotland and we will use those powers until the issues of nuclear waste have been resolved.' In this example, a sense of Scottish Executive assertiveness is bolstered by pressure from within the Scottish Parliament and UK Governmental support for a Scottish decision.²⁹

Less UK support for Scottish discretion is visible following Scottish Parliamentary calls for a reform of 'dawn raids' used to expel unsuccessful asylum applicants from Scotland. The issue rose to prominence following the expulsion of the Vucaj family in Glasgow. Concern was raised about the effect of the raids on children when a 16-year old was handcuffed in contravention of the United Nations Convention on the Rights of the Child. The Parliament passed a motion (in the name of Green Party MSP Patrick Harvie but amended by the Scottish Executive) in 22 September 2005 which called for a recognition of the effect of dawn raids on children (particularly the

²⁸ K. Nutt and J. Allardyce 21 July 2005 'Labour MPs to reject more devolved power' *Sunday Times Scotland* www.timesonline.co.uk/article/0,,2090-1715666,00.html; 1 September 2005 'Scots support Holyrood power boost' www.holyrood.com/nav/news/stories/story.asp?story=elec188

²⁹ Peter McMahon, 'Doubts over Executive's nuclear veto', *The Scotsman* 5 December 2005 news.scotsman.com/scotland.cfm?id=2351282005; Concordat between the Scottish Executive (SE) and the Department of Trade and Industry, Annex F Energy Issues, www.scotland.gov.uk/concordats/dti-07.asp; Scottish Parliament Official Report, 12 May 2005, col. 16826-8

excessive use of armoured police), the inclusion of children and welfare services in the process and for Scottish Executive discussions with the Home Office to ensure best practice. In First Minister's Question Time the same day Jack McConnell gave an assurance that he would seek a 'protocol' with the Home Office on the issue, while the Communities Minister Malcolm Chisholm made public statements that the raids were 'heavy handed, unnecessary, and over the top'. Media coverage and opposition statements suggest that the Scottish Executive failed to secure a protocol and much debate surrounds the meaning of McConnell's initial assurance. Much was made of a Home Office briefing (before the visit of Home Office Minister Tony McNulty to Scotland) suggesting that no protocol would be produced, while the Scottish Executive suggested that the discussions were fruitful and a Scottish-influenced UK policy on the inclusion of was forthcoming.³⁰ Tommy Sheridan MSP was arrested for his part in a protest at the Glasgow immigration office in November, while MSPs Sandra White (SNP) and Rosie Kane (SSP) were prominent members of a similar protest in December.³¹

There are similar narratives on the success or otherwise of the Scottish Executive in securing changes to the UK law on airguns, while the outcome of Scottish Parliamentary pressure on 'rendition' flights is currently less certain.³² Opposition MSPs such as Colin Fox (SSP) were central to a protest at the airports believed to be used by the CIA for refuelling.³³ Perhaps closer to home, four SSP members were suspended from the Chamber from June 30th to September after a protest on the right to peaceful protest. The more pragmatic criticisms regarded their subsequent

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-05/sor0512-02.htm#Col16812

³⁰ Scottish Parliament Official Report 24 November 2005, col. 21126; [Scottish Parliament Official Report](http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-05/sor1208-02.htm) Col 19404, 22 September 2005; Scottish Executive Media Briefing 22 November 2005

www.scotland.gov.uk/News/This-Week/Media-Briefings/051122; John Knox (BBC News) 'Breaching protocol on immigration' 25 November 2005 news.bbc.co.uk/2/hi/uk_news/scotland/4472338.stm; *The Herald* 27 November 2005 'Holyrood Vs Westminster: The Battle Over Asylum'; 22 September 2005 'McConnell attacks Home Office asylum policy'

³¹ BBC News 21 November 2005 'Sheridan arrested at asylum demo' news.bbc.co.uk/1/hi/scotland/4455950.stm; BBC News 17 December 2005 'New protest against dawn raids' news.bbc.co.uk/1/hi/scotland/4537676.stm

³² See; BBC News 10 August 2005 'Pressure mounts for airgun action' news.bbc.co.uk/1/hi/scotland/4137262.stm; Scottish Parliament Official Report, 8 December 2005 col 21580 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-05/sor1208-02.htm; BBC News 8 September 2005 'New plans to limit airgun sales' news.bbc.co.uk/1/hi/uk/4225190.stm; Scottish Executive News Release 'Plans to restrict airgun sales' www.scotland.gov.uk/News/Releases/2005/10/13120621; BBC News 8 December 2005 'Prisoner flights warning to staff' news.bbc.co.uk/1/hi/scotland/4508520.stm

³³ R. Williams 19 December 2005 'Protesters target Scots airports allegedly used by 'torture flights'' *The Scotsman* news.scotsman.com/scotland.cfm?id=2428372005; 17 October 2005 'Greens want CIA torture flights stopped' www.holyrood.com/nav/news/stories/story.asp?story=int41

inability to vote on a key amendment on hepatitis C payments.³⁴ During this suspension a row developed over parliamentary privileges not afforded to Tommy Sheridan as stand-in SSP leader.³⁵

2.2 Cigarettes and Alcohol

The Smoking, Health and Social Care (Scotland) Act 2005 which received royal assent in August 2005 looks set to be the Scottish Executive's flagship policy of the second parliamentary session, despite the existence of an earlier bill introduced by the SNP's Stewart Maxwell.³⁶ There are also signs that this legislation enters into reserved territory. When Stewart Maxwell MSP introduced *The Prohibition of Smoking in Regulated Areas (Scotland) Bill* (withdrawn July 2005) he was advised not to mention workplaces in the same sentence as the bill since this would highlight the reserved aspects in health and safety and employment law. Yet the Scottish Executive's tobacco action plan and consultation document also discuss the health and safety restrictions³⁷ and draft regulations use workplaces in the definition of coverage.³⁸ Much drafting work was therefore required to establish the primary purpose of the legislation.³⁹

Drafting work of a different sort was required after the Scottish Executive decided to pursue a comprehensive ban. Maxwell's bill – like the UK bill – was restricted to places where food was prepared and consumed on the assumption at the time that a comprehensive bill would be unsuccessful (not unreasonable given the adverse reaction in 1999 to a BBC straw poll suggesting that 5 of 9 health committee members favoured some kind of ban).⁴⁰ The shift to a comprehensive bill removed the potential for food-definition loopholes (and addressed the class-based problems associated with the food/non-food distinction) but introduced the problem (solved with help from the Department of Health in Whitehall) of defining an 'enclosed public place'. The need to make the provisions 'watertight' is the official reason given in

³⁴ 30 June 2005 'Socialists ejected from Parliament' www.holyrood.com/nav/news/stories/story.asp?story=elec123; Scottish Parliament Official Report 30 June 2005 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-05/sor0630-02.htm#Col18717

³⁵ 29 September 2005 'Deputy Presiding Officer forced to apologise to Sheridan' www.holyrood.com/nav/news/stories/story.asp?story=elec279

³⁶ See P. Cairney (2005) 'Using Devolution to Set the Agenda: The smoking ban in Scotland', Paper presented to the Political Studies Association conference, Leeds, April.

³⁷ Scottish Executive. (2004) *A Breath of Fresh Air* www.scotland.gov.uk/library5/health/abfa-00.asp; Scottish Executive. (2004) *Smoking in public places, a consultation on reducing exposure to second hand smoke* www.scotland.gov.uk/consultations/health/sippc-00.asp

³⁸ www.scotland.gov.uk/News/Releases/2005/03/10091047

³⁹ See section 29.3 of the Scotland Act 1998 www.opsi.gov.uk/acts/en1998/98en46-d.htm

Parliament for rejecting rather than amending Maxwell's bill. There were some suggestions that smoking was tagged onto an existing miscellaneous bill already in progress, and the Health Committee expressed concern in its stage 1 report that this undermined effective scrutiny.⁴¹

There was (albeit limited) drama during the stage three process of the Licensing (Scotland) Bill in November. First, a series of late amendments accepted by the Presiding Officer caused confusion among MSPs grappling with the marshalled list. Bruce Crawford described a 'day of chaos' while Tommy Sheridan (never outdone in the hyperbole stakes) described the chamber as 'shambolic' and the process a 'disgrace'. The experience has led to calls from the Procedures Committee to experiment with a two-day stage 3 process for some bills.⁴² Second, (very small) cracks appeared in the Labour-Liberal Democrat relationship following differences in voting behaviour on the subject of devolving licensing decisions on opening hours to local boards (in the context of the debate on '24 hour drinking'). However, the Liberal Democrats still voted to pass the bill as a whole.⁴³ A similar break to the generally uniform voting behaviour of Labour MSPs was apparent on the issue of reducing the period of time for divorce (see 11.10), with 5 MSPs voting against. Again, this did not extend to voting against the bill as a whole.

2.3 MSP Expenses

The Scottish Parliament published an incredibly detailed account of member expenses in December 2005. This followed potential damage to its reputation after the resignation of Keith Raffan as an MSP and David McLetchie MSP as Conservative leader over expense claims, and addresses a rise in freedom of information claims made by journalists. There were few controversial entries, with the higher claimants coming from more remote constituencies.⁴⁴

⁴⁰ See Health Committee Scottish Parliament Official Report, [29.6.04](#) col. 1135; 'Parliament Retreat On Smoking In Public Ban' *Daily Mail*, 12 November 1999.

⁴¹ www.scottish.parliament.uk/business/committees/health/reports-05/her05-06-vol01-01.htm#executive

⁴² Scottish Parliament Official Report, Procedures Committee, 6 December 2005, Col. 1270
www.scottish.parliament.uk/business/committees/procedures/or-05/pr05-1502.htm#Col1272; *The Scotsman* 6 December 2005 'MSPs bid for extended debate time'
news.scotsman.com/latest.cfm?id=2360952005

⁴³ Scottish Parliament Official Report, 16 November 2005, Col. 20677
www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-05/sor1116-02.htm#Col20675; BBC News 16 November 2005 'Drinking laws passed amid chaos'
news.bbc.co.uk/1/hi/scotland/4440208.stm

⁴⁴ www.scottish.parliament.uk/nmCentre/news/news-05/pa05-122.htm; BBC News 13 December 2005 'MSP expenses published in detail', news.bbc.co.uk/1/hi/scotland/4522478.stm

2.4 The Scottish Parliament Committees

Relations between the Finance Committee and the Scottish Executive's Finance department have been suitably tense this year, with highly publicised exchanges in May 2005 over the substance of the Executive's 'efficiency savings'. This included the concern of Wendy Alexander MSP that the Executive was less ambitious than the UK Treasury in its pursuit of cost reductions and reported claims by Elaine Murray MSP that ministers should be sacked if they fail to secure cuts.⁴⁵ A particular thorn in the Executive's side has been the Finance Committee's adviser, Professor Arthur Midwinter who is always quick to point out when the Executive is less than forthcoming on the detail of its proposed savings.⁴⁶ The scrutiny culminated at the end of the year with the report *Stage 2 of the 2006-07 Budget Process* which took the Executive to task on claims that the UK Government was saving more money on reserved areas, and recommended that the Executive address the disproportionate effects of the efficiency drive on local authorities.⁴⁷ The Committee also criticised news in November that business rate cuts would be funded from a 'secret fund' held for the Scottish Executive by the Treasury (actually the account where Executive under-spending is held).⁴⁸ The Audit Committee's report *Overview of the Financial Performance of the NHS in Scotland 2003/04* questioned the benefits of pay modernisation, criticised the consultant contract and suggested that health boards were 'plugging gaps' rather than thinking 'holistically' about increased (and often over-) spending.⁴⁹ The Scottish Executive's reply suggested that the report was based on old figures.⁵⁰

The Procedures Committee report on Sewel motions attempted to defuse some parliamentary tension around the issue. For example, from 1999-2003 slightly less

⁴⁵ Scottish Parliament Official Report, Finance Committee, 10 May 2005, Col. 2561 www.scottish.parliament.uk/business/committees/finance/or-05/fi05-1302.htm#Col2559; P. McMahon 'Sack Ministers Who Fail to Cut out Waste says Labour MSP' *The Scotsman*. 13 June 2005. See also 9 September 2005 'Efficient government plans on track'

www.holyrood.com/nav/news/stories/story.asp?story=la11

⁴⁶ Scottish Parliament Official Report, Finance Committee, 20 September 2005, Col. 2805

www.scottish.parliament.uk/business/committees/finance/or-05/fi05-2002.htm#Col2805

⁴⁷ www.scottish.parliament.uk/business/committees/finance/reports-05/fir05-05-01.htm#report;

www.holyrood.com/nav/news/stories/story.asp?story=elec521;

news.scotsman.com/topics.cfm?tid=469&id=1969802005;

news.scotsman.com/index.cfm?id=517832005

⁴⁸ 8 November 2005 'Greens slam McCabe's secret fund'

www.holyrood.com/nav/news/stories/story.asp?story=elec386

⁴⁹ www.scottish.parliament.uk/business/committees/audit/reports-05/aur05-05-01.htm

⁵⁰ Scottish Executive Health Department Response, *Overview Of The Financial Performance Of The NHS In Scotland 2003-04* www.scottish.parliament.uk/business/committees/audit/reports-05/aur-05-05-response.pdf; 1 June 2005 'Health Minister attacks Committee's criticisms'

www.holyrood.com/nav/news/stories/story.asp?story=heal29; see also 13 October 2005 'Kerr – cancer waits will improve soon' www.holyrood.com/nav/news/stories/story.asp?story=heal77

than half (49 per cent) of the Sewel motions proposed were pushed to a vote (mostly by the SNP). From 2003-05 this rose to 73 per cent. The salience of the process, coupled with growing Green, SSP and Conservative opposition to the substance of many bills, also meant that on three occasions a Sewel motion was met with the maximum level of opposition that non-coalition MSPs could offer.⁵¹ The unfortunate timing of the beginning of the inquiry meant that the selection of witnesses in February 2005 took place in the run-up to the general election in May. This may explain why two potential witnesses who have been critical of the process (Barry Winetrobe and Gerry Hassan) were not called to give evidence. Hassan's non-appearance was even subject to a vote.⁵² However, following more substantive investigation the report partly succeeded in the aim of examining the process in detail so the tension surrounding the issue could be removed (although see 2.7). Its concrete recommendations – including changing the name to 'legislative consent' motions and formalising the procedure on referring motions to subject committees – were approved in a plenary motion on 23 November 2005.⁵³ Other recommendations made to the committee – such as the creation of a dedicated Sewel committee or the formalisation of links between the Scottish Parliament and Westminster were not accepted (although the Scottish Affairs committee in Westminster now plans to hold its own inquiry on the Sewel convention⁵⁴).

Parliamentary scrutiny of 'free personal care' (see also 11.42) continues in this period, with the Audit Committee suggesting that (understandably) the political imperative to introduce its flagship policy meant that the implementation timetable was tight and the Scottish Executive did not leave enough time to fully cost the proposal.⁵⁵ The Health Committee has announced an inquiry on the implementation of free personal care and the role of the Care Commission to be conducted early 2006.⁵⁶ In this context, the 'Proposed Cease the Sale of Homes to Pay for Residential Accommodation Bill' by John Swinburne MSP is significant since this provision is already part of the bill which introduced free personal care.

⁵¹ See P. Cairney (2005) Written evidence to Procedures Committee Report www.scottish.parliament.uk/business/committees/procedures/reports-05/pr05-07-vol02-01.htm#8; P. Cairney and M. Keating (2004) 'Sewel Motions in the Scottish Parliament', *Scottish Affairs*, 47, 115-34 www.scottish.parliament.uk/business/committees/procedures/papers-05/SMpaper6cairn.pdf

⁵² Scottish Parliament Official Report, Procedures Committee, 1 February 2005 www.scottish.parliament.uk/business/committees/procedures/or-05/pr05-0202.htm

⁵³ www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-05/sor1123-02.htm#Col20980

⁵⁴ www.parliament.uk/parliamentary_committees/scottish_affairs_committee/sac_051027.cfm

⁵⁵ Scottish Parliament Paper 313, Report on Community Care www.scottish.parliament.uk/business/committees/audit/reports-05/aur05-02-02.htm

⁵⁶ www.scottish.parliament.uk/nmCentre/news/news-comm-05/cheal05-013.htm

In West European terms, Scottish Parliament committees are relatively powerful given their small and manageable size, powers to conduct inquiries and initiate and amend legislation. This may be undermined by the amount of legislative scrutiny they face, but also the high turnover of key members which undermines policy specialisation. This regular backbench reshuffle was announced in June.⁵⁷

2.5 Committee Reports and Inquiries (12 March – 14 December 2005)⁵⁸

List of reports and inquiries (arranged by committee):

Audit:

Further Education Colleges, 11 October 2005

Bowel Cancer Services, 3 October 2005

Overview of the Financial Performance of the NHS in Scotland 2003/04, 1 June 2005

The National Galleries of Scotland, 12 May 2005

Report on Community Care, 21 March 2005

The 2003/04 Accounts of NHS Argyll and Clyde, 16 March 2005

Communities:

Stage 1 Report on Housing (Scotland) Bill, 22 June 2005

Education:

Stage 1 Report on the Joint Inspections of Children's Services and Inspection of Social Work Services (Scotland) Bill, 1 December 2005

Additional Support for Learning Code of Practice, 17 June 2005

Enterprise and Culture:

Report on Reform of Scottish Football, 1 December 2005

Stage 1 Report on the St Andrew's Day Bank Holiday (Scotland) Bill, 29 September 2005

Report into the Implications of BBC Scotland's Internal Reviews, 31 May 2005

Environment and Rural Development:

Animal Welfare Bill – UK Legislation, 8 December 2005

⁵⁷ 29 June 2005 'Labour MSPs rearranged in Committee roles'
www.holyrood.com/nav/news/stories/story.asp?story=elec117

Stage 1 Report on the Environmental Levy on Plastic Bags (Scotland) Bill, 6 December 2005

Inquiry into Rural Development, 13 October 2005

Stage 1 Report on the Environmental Assessment (Scotland) Bill, 7 June 2005

Report on Inquiry into Climate Change, 18 May 2005

Equal

Opportunities:

Preliminary Findings on Gypsy/Travellers – Review of Progress, 7 October 2005

European and External Relations:

Inquiry into the Scottish Executive's Fresh Talent Initiative Examining the Problems It Aims to Address, Its Operation, Challenges and Prospects, 17 November 2005

An Inquiry into the Scottish Executive's Preparations for the G8 Summit at Gleneagles and the UK Presidency of the EU and the Contribution Scotland Can Make to These Events, 16 May 2005

Finance:

Stage 2 of the 2006-07 Budget Process, 14 December 2005

Scottish Schools (Parental Involvement) Bill, 14 December 2005

Report on the Financial Memorandum of the Police, Public Order and Criminal Justice (Scotland) Bill, 29 November 2005

Report on the Financial Memorandum of the Abolition of NHS Prescription Charges (Scotland) Bill, 23 November 2005

Submission to the Independent Budget Review Group, 10 November 2005

Report on the Financial Memorandum of the Council Tax Abolition and Service Tax Introduction (Scotland) Bill, 9 November 2005

Report on the Financial Memorandum of the Interests of Members of the Scottish Parliament Bill, 18 October 2005

Report on the Financial Memorandum of the St Andrew's Day Bank Holiday (Scotland) Bill, 21 September 2005

Submission to the Public Administration Select Committee Inquiry into Civil Service Effectiveness, 8 July 2005

Agreement on the Budget Process between the Finance Committee and the Scottish Executive, 28 June 2005

⁵⁸ Excluding most annual reports, budget reports and reports on subordinate legislation. Reports with UK legislation in the title discuss Sewel motions.

Agreement on the Budget Process between the Finance Committee and the Scottish Parliamentary Corporate Body, 28 June 2005

Agreement on the Budget Process between the Finance Committee and the Scottish Commission for Public Audit , 28 June 2005

Report on the Financial Memorandum of the Family Law (Scotland) Bill, 25 May 2005

Report on the Financial Memorandum of the Housing (Scotland) Bill, 11 May 2005

Report on the Financial Memorandum of the Environmental Assessment (Scotland) Bill, 11 May 2005

Report on the Financial Memorandum of the Management of Offenders (Scotland) Bill, 27 April 2005

Report on the Financial Memorandum of the Smoking, Health and Social Care (Scotland) Bill, 18 March 2005

Cross-cutting Expenditure Review of Economic Development, 18 March 2005

Health:

Stage 1 Report on the Human Tissue (Scotland) Bill, 22 November 2005

Stage 1 Report on Smoking, Health and Social Care (Scotland) Bill Volume 1: Report, 21 April 2005

Reshaping the NHS in Scotland? Public Debate, 13 April 2005

Eating Disorders Inquiry, 22 March 2005

The Health committee has also begun an inquiry into the success of free personal care.

Justice 1 and Justice 2:

Stage 1 Report on Family Law (Scotland) Bill, 7 July 2005

University of Stirling Research Report, A Comparative Review Of Alternatives To Custody: Lessons From Finland , Sweden And Western Australia, 6 April 2005

Report to the Local Government and Transport Committee on the Licensing (Scotland) Bill, 16 June 2005

Stage 1 Report on the Management of Offenders etc (Scotland) Bill, 8 June 2005

Local Government and Transport:

Civil Aviation Bill – UK Legislation, 30 September 2005

Stage 1 Report on the Licensing (Scotland) Bill, 13 June 2005

Inquiry into issues arising from the Transport (Scotland) Act 2001, 22 March 2005

Procedures:

The Sewel Convention, 5 October 2005

Admissibility and Closure of Public Petitions, 16 September 2005

Private Legislation, 4 May 2005

Public Petitions:

The Committee's Equalities Report, 6 May 2005

Standards and Public Appointments:

Report on complaint against David McLetchie MSP, 15 September

Report on complaint against Karen Gillon MSP, 15 September

Draft Code of Practice for Ministerial Appointments to Public Bodies in Scotland, 8 September

Complaint against Colin Fox MSP, Frances Curran MSP, Rosie Kane MSP and Carolyn Leckie MSP, 1 July

Complaint against Kenneth Macintosh MSP, 9 June

Complaints against Jack McConnell MSP, 9 June

Subordinate Legislation:

Inquiry into the regulatory framework in Scotland, 30 June

2.6 Parliamentary Bills (12 March 2005 – 14 December 2005)⁵⁹

Executive Bills Passed:

- Budget (Scotland) (No.2) Act: Passed 9 February 2005, Royal Assent 17 March 2005 – annual bill to allow Scottish Parliament subject committees to scrutinise and make recommendations on the Scottish Executive's spending plans.
- Charities and Trustee Investment (Scotland) Act 2005: Passed 9 June 2005, Royal Assent 14 July 2005 – amends the law on fundraising and the investment powers of charity trustees.
- Fire (Scotland) Act: Passed 23 February 2005, Royal Assent 1 April 2005 – revises fire safety regulation, defines the role of a 'modern fire service' and sets objectives for fire and rescue authorities.
- Further and Higher Education (Scotland) Act 2005: Passed 20 April 2005, Royal Assent 1 June 2005 – creates a new body (Scottish Further and Higher

⁵⁹ www.scottish.parliament.uk/business/bills/index.htm

Education Council) to replace two separate bodies; brings fundable further and higher education bodies under the purview of the within the remit of the Scottish Public Services Ombudsman and provides (following consultation) for variable fees for certain courses. The latter reflects a decision to charge English medical students more in response to the UK's Higher Education Act 2004.

- Gaelic Language (Scotland) Act 2005: Passed 21 April 2005, Royal Assent 1 June 2005 – creates a Gaelic Language Board to promote and advise on the use of the language. Requires certain public bodies to prepare and implement plans which will set out how they will use the Gaelic language in the exercise of their functions. Unlike the Welsh Language Act 1993 passed by Westminster, the Scottish Act does not relate to Crown bodies.
- Management of Offenders etc. (Scotland) Act: Passed 3 November 2005, Royal Assent 8 December 2005 – see 11.9.
- Prohibition of Female Genital Mutilation (Scotland) Act 2005: Passed , Royal Assent 1 July 2005 – follows the Westminster Female Genital Mutilation Act 2003. The Act extends the offence for those taking women abroad for mutilation. Following parliamentary scrutiny, provisions were added to protect children, redefine mutilation in the future and prosecute non-UK nationals.
- Protection of Children and Prevention of Sexual Offences (Scotland) Act: Passed 2 June 2005 , Royal Assent 12 July – see 11.9.
- Smoking, Health and Social Care (Scotland) Act 2005: Passed 30 June 2005, Royal Assent 5 August 2005 – see discussion above. The provision for ministers to raise the age of sale of cigarettes from 16 to 18 followed an amendment by Duncan McNeil. The bill contains other elements including provisions for hepatitis C payments and some reform of dental and ophthalmic services.
- Transport (Scotland) Act 2005: Passed 29 June 2005, Royal Assent 5 August 2005 – establishes a national transport agency and creates regional transport partnerships in the pursuit of an elusive integrated transport system. Following scrutiny the rules on partnership boards were changes to establish the centrality of local authority representation.
- Water Services etc. (Scotland) Act 2005: 9 February 2005, Royal Assent 17 March 2005 – establishes the Water Industry Commission to promote the interests of Scottish Water customers. Following scrutiny, greater powers of investigate complaints were given to Water Customer Consultation Panels.

The Act also introduces competition for water and sewerage in the non-domestic sector (see also 2.7).

Private Bills Passed:

- Baird Trust Reorganisation Act 2005: Passed 15 June 2005, Royal Assent 19 July 2005

Executive Bills In Progress (latest stage reached)

- [Animal Health and Welfare \(Scotland\) Bill](#) (Stage 1)
- [Bankruptcy and Diligence etc. \(Scotland\) Bill](#) (Stage 1)
- [Environmental Assessment \(Scotland\) Bill](#) (Passed 9 November 2005, awaiting Royal Assent)
- [Family Law \(Scotland\) Bill](#) (Passed 15 November 2005, awaiting Royal Assent))
- [Housing \(Scotland\) Bill](#) (Passed 24 November 2005, awaiting Royal Assent)
- [Human Tissue \(Scotland\) Bill](#) (Stage 1)
- [Joint Inspection of Children's Services and Inspection of Social Work Services \(Scotland\) Bill](#) (Stage 2)
- [Licensing \(Scotland\) Bill](#) (Passed 16 November 2005, awaiting Royal Assent)
- [Police, Public Order and Criminal Justice \(Scotland\) Bill](#) (Stage 1)
- [Scottish Commissioner for Human Rights Bill](#) (Stage 1)
- [Scottish Schools \(Parental Involvement\) Bill](#) (Stage 1)

2.7 Non-Executive Bills⁶⁰

Concern was expressed at further restrictions on MSP's ability to use the Non-Executive Bills Unit.⁶¹ The Scottish Parliament Corporate Body introduced plans to prioritise bills based in part on size, scope and complexity. The decision according to

⁶⁰ All bills proposed or introduced to the Scottish Parliament are published along with supporting documentation at: www.scottish.parliament.uk/business/bills/index.htm.

⁶¹ 26 October 2005 'Green warning on new limits for backbench bills'
www.holyrood.com/nav/news/stories/story.asp?story=elec341

the criteria will be made by the SPCB.⁶² The Prohibition of Smoking in Regulated Areas (Scotland) Bill was withdrawn on 21 July 2005 to make way for the Scottish Executive's bill. The Prostitution Tolerance Zones (Scotland) Bill was withdrawn on 30 November 2005 following the announcement of the Scottish Executive's Sentencing Bill which will introduce a criminal offence of 'kerb crawling'. The Scottish Executive also plans to issue guidance to local authorities on how to use their powers to the same effect as this bill.⁶³

Members' Bills in Progress (latest stage reached) (member introduced by, party)

- Abolition of NHS Prescription Charges (Scotland) Bill (Stage 1) (Colin Fox, SSP)
- Council Tax Abolition and Service Tax Introduction (Scotland) Bill (Stage 1) (Tommy Sheridan, SSP)
- Environmental Levy on Plastic Bags (Scotland) Bill (Stage 1) (Mike Pringle, Liberal Democrat)
- St Andrew's Day Bank Holiday (Scotland) Bill (Stage 1) (Dennis Canavan, Ind)

Committee Bills in Progress:

- Interests of Members of the Scottish Parliament Bill (Stage 1)

Private Bills in Progress

- Edinburgh Tram (Line One) Bill (Consideration Stage)
- Edinburgh Tram (Line Two) Bill (Consideration Stage)
- Waverley Railway (Scotland) Bill (Consideration Stage)

Proposals for Members' Bills (in order of date lodged):

- Christmas and New Year's Day Trading in Scotland Bill (Karen Whitefield, Labour)
- Proposed Commissioner for Older People (Scotland) Bill (Alex Neil, SNP)

⁶² Scottish Parliament Official Report, 26 October 2005, Col. 19950
www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-05/sor1026-02.htm#Col19950

- Proposed Liability for Release of Genetically Modified Organisms (Scotland) Bill (Mark Ruskell, Green)
- Proposed Green Transport Bill (Chris Ballance, Green)
- Proposed Right to Die for the Terminally Ill Bill (Jeremy Purvis, Liberal Democrat)
- Proposed Civil Appeals (Scotland) Bill (Adam Ingram, SNP)
- Proposed Direct Elections to National Health Service Boards (Scotland) Bill (Bill Butler, Labour)
- Proposed National Register of Tartans Bill (Jamie McGrigor, Conservative)
- Proposed Home Energy Efficiency Targets Bill (Shiona Baird, Green)
- Proposed Third party Planning Rights of Appeal Bill (Sandra White, SNP)
- Proposed Greenhouse Gas Emissions Targets Bill (Mark Ruskell, Green)
- Proposed Local Government Elections (Scotland) Bill (Brian Monteith, Independent)
- Proposed Cease the Sale of Homes to Pay for Residential Accommodation Bill (John Swinburne, Scottish Senior Citizens Unity Party)
- Proposed Cairngorms National Park Boundaries (Scotland) Bill (John Swinney, SNP)
- Proposed Micropower (Scotland) Bill (Shiona Baird, Green)
- The Proposed Local Government Elections (Scotland) Bill fell after David Mundell resigned following election to Westminster.

2.8 Sewel (Legislative Consent) Motions passed (12 May– 15 December 2005)⁶⁴

Civil Aviation Bill

Alters Scottish Executive functions. Gives or clarifies Scottish ministerial powers to direct airports on appropriate levy charges on aircraft for atmosphere and noise pollution. No debate or vote in plenary.

Natural Environment and Rural Communities Bill:

⁶³ BBC News 29 November 2005 'MSP scraps her prostitution bill' news.bbc.co.uk/2/hi/uk_news/scotland/4482202.stm; 1 November 2005 'Crackdown on kerb crawlers promised' www.holyrood.com/nav/news/stories/story.asp?story=just82

⁶⁴ For notes on the substance of previous motions see P. Cairney (2005) Written evidence to Procedures Committee Report www.scottish.parliament.uk/business/committees/procedures/reports-05/prr05-07-vol02-01.htm#8. A full list of motions and links to Scottish Parliament Official Report discussions is provided by the Scottish Executive: www.scotland.gov.uk/Topics/Government/Sewel/SessionTwo

Mixture of changes. Allows British Waterways to sell 'grey' water to businesses in Scotland, gives ministers powers to alter agricultural levies, clarifies the role of UK bodies (the Joint Nature Conservation Committee and Inland Waterways Amenity Advisory Council), removes obsolete committees and extends the purpose of local nature reserves. SNP (and SSP) opposition was led by Richard Lochhead who opposed the continuation of a UK body to direct policy on Scottish waterways (and the excessive use of Sewel motions) (vote 89-35-0).

Equality Bill

Introduces a cross-border authority to direct Scottish public services. The Bill establishes a commission for equality and human rights for England, Scotland and Wales which will replace the Disability Rights Commission, the Equal Opportunities Commission and the Commission for Racial Equality by March 2009. The commission will influence a new duty on Scottish public authorities to promote gender equality (publish plans, conduct gender audits and outline equal pay agreements) and give direction on human rights (in consultation with the Scottish human rights commission). Concern was expressed in committee by a range of relevant Scottish bodies about the lack of Scottish expertise or representation on UK bodies, while in plenary Christine Grahame (SNP) expressed concern over the role of the UK body in devolved issues, particularly Scots criminal law. The SSP voted against and the SNP abstained (85-7-20).

2.9 Cross Party Groups and Petitions

The number of groups has risen from 35 in 2001 to 63 in 2005, perhaps suggesting that while new issues lead to new groups, relatively old groups are slow to end. The size prompted the Standards Committee to consider a review.⁶⁵ The Scottish Parliament's e-petitions system has been nominated for an award and is being emulated in Germany.⁶⁶

⁶⁵ Standards and Public Appointments Committee Official Report, 31 May 2005, Col. 430
www.scottish.parliament.uk/business/committees/standards/or-05/st05-0402.htm#Col430

⁶⁶ 28 October 2005 'Parliament's e-Petitions system nominated for Euro award'
www.holyrood.com/nav/news/stories/story.asp?story=elec350

3. The Media

Eberhard Bort

3.1 Newspaper company sales and job losses

On 19 December 2005, the Edinburgh-based newspaper publisher Johnston Press announced that it had bought *The Scotsman* newspaper from the Barclay brothers in a deal worth £160 million. The sale includes the *Edinburgh Evening News*, *Scotland on Sunday* and the free Edinburgh *Herald & Post*. Johnston Press acquired *The Scotsman's* entire issued share capital. Scotsman Publications has a total weekly paid-for circulation of 840,000 and a weekly free distribution of 254,000. Its website, Scotsman.com, registered more than three million unique users and more than 20 million page impressions in its most recent ABC audit. In the last financial year ended 31 December 2004, Scotsman Publications reported profit before interest and tax of £7.7 million on turnover of £63.5 million.

Editor-in-Chief Andrew Neil was quoted as stating: '*The Scotsman* and its sister papers will now have the advantage of being part of a larger Edinburgh-based group.' Johnston chief executive Tim Bowdler said: 'Scotsman Publications comprises one of Scotland's highest quality newspaper portfolios and *The Scotsman* and its website Scotsman.com are amongst Scotland's best known newspaper and internet brands. With its Scottish heritage, Johnston Press is particularly pleased to have reached agreement to acquire Scotsman Publications.'⁶⁷ Asked whether there would be job cuts, Johnston Press chief executive Tim Bowdler was quoted in the *Herald* (20 Dec): 'We don't take ownership until January, but we're not planning editorial cuts. First, we need to get in and understand the business.'

Many (ex-)readers of *The Scotsman* and *Scotland on Sunday* will have viewed Neil's contention that 'we are delighted to have reached an agreement with Johnston Press which not only recognises the value and improvements we have added to the titles over the decade but secures their long-term future' with some astonishment. The paper's daily circulation had dropped from around 75,000 at the time of the Barclay's purchase to below 60,000 per day in November 2005. It had for the past ten years, as the historian Michael Fry once put it, continuously annoyed its core readership and become, as the *Guardian* once commented, the most pronounced 'Labour-bashing' newspaper in Britain, and 'corrosive', according to Lord Steel, in its

⁶⁷ D. Milmo, 'Barclay brothers sell the Scotsman', *The Guardian* (20 December 2005); F. Sheppard, 'Scotsman bought in £160m deal', *The Scotsman* (20 December 2005).

coverage of the Scottish Parliament.

The sale was widely welcomed in Scotland. Alex Salmond, the leader of the Scottish National Party, said: 'Johnston Press has an excellent reputation in terms of the papers in their stable, while conversely *The Scotsman* had a poor period under the previous owners. Hopefully this is a positive step into the future for important Scottish titles.'

Iain Macwhirter observed: 'the predominance of Tory views in the Scottish press is one of the most bizarre situations since devolution. The Scottish Tories have all but ceased to exist politically, but still occupy the editorial chairs of many Scottish papers.'⁶⁸

There is a lot of anticipation now as to how the editorial line of Scotsman Publications might change in 2006. It would be ironical if, now that there are the faintest signs of a Conservative revival, Scotsman Publications steered back to its traditional centre-ground politics.

3.2 Media retrenchment

The sale occurred at a time of journalistic job losses caused by dropping circulation and weakening advertising revenue.⁶⁹ A month before the *Scotsman* sale, seven journalists were made redundant at the title. Just two days after announcing the loss of 43 jobs (16 of them editorial) at the *Daily Record* and *Sunday Mail* in Glasgow (two of Scotland's biggest tabloid papers),⁷⁰ Mirror Group Newspapers announced on 8 December that it was cutting 29 jobs at the *Scottish Daily Mirror*.⁷¹ Their statement claimed that there was no question of the *Scottish Daily Mirror* closing but admitted that the operation was 'scaled back'. According to an insider, quoted in *The Scotsman*, the title is to retain just two reporters in Glasgow, and the title would henceforth be principally produced from Manchester and London. Scottish journalists in the Trinity Mirror group returned a vote of no confidence in the Scottish management, threatening strike action.⁷² The main reason for the redundancies is, according to Trinity Mirror, a fall in advertising revenues by 7.9 per cent in the second

⁶⁸ I. Macwhirter, 'Why does the press hate the parliament?', *Sunday Herald* (18 December 2005), pp.38-39.

⁶⁹ M. Magee, 'Stormy times ahead for newspapers', *Sunday Herald* (6 November 2005), p.5.

⁷⁰ G. Dixon, 'Record low for newspapers as Trinity mirror cuts deep in editorial staff', *Scotland on Sunday* (11 December 2005).

⁷¹ F. Sheppard, 'Scottish mirror cuts 29 jobs', *The Scotsman* (9 December 2005).

part of 2005.

In a surprise move at the beginning of December, Mark Douglas Home had resigned as the editor of *The Herald*. Joan McAlpine, the *Herald's* deputy editor, stepped into the breach, while Glasgow *Evening Times* editor Charles McGhee is tipped as becoming Douglas Home's successor.⁷³

Back in May, broadcasting unions at BBC Scotland (Amicus, the National Union of Journalists and Bectu) staged three days of strikes over job cuts across the corporation. The stoppages were in protest against plans to cut some 200 jobs in Scotland, releasing about £10 million by 2008. The corporation said the changes were needed so the BBC can invest more in programmes. Unions said the cuts were the most damaging in BBC history. Grahame Smith of STUC claimed that the cuts will seriously damage BBC Scotland and have serious implications for the Scottish economy, democracy and cultural identity. In April, BBC Scotland controller Ken McQuarrie had told MSPs that 176 jobs would go from content and output departments, representing 13.5 per cent of the corporation's 1,300 Scottish content, output and local support staff. These would be phased over the next three years 'where possible' through redeployment, natural staff turnover and voluntary redundancies. BBC Scotland National Union of Journalists' spokesman Pete Murray said: 'We do not have a problem with the BBC cutting jobs but we do have a problem with the director general Mark Thompson slapping down a portfolio of decisions and expecting the unions just to sit back and listen.'⁷⁴

By December the number of BBC job losses in Scotland was predicted as having risen to 300. At the same time, Scottish Television (SMG) announced the loss of 60 jobs, including fourteen in news and regional programming. The company said that the job cuts – branded by the SNP's Michael Mathieson MSP as 'draconian' and likely to 'severely undermine SMG's production capacity in Scotland', leaving viewers with 'a second-rate service as a result'⁷⁵ – were a response to the reduction in the number of news hours the STV and Grampian stations are forced to produce by regulator Ofcom.

⁷² L. Roberts, 'Journalists threaten strike action over record job cuts', *The Scotsman* (7 December 2005).

⁷³ F. Sheppard, 'Editor of Herald leaves title abruptly', *The Scotsman* (2 December 2005).

⁷⁴ BBC News online, 'BBC staff strike over job cuts' (23 May 2005)
<http://news.bbc.co.uk/1/hi/scotland/4572013.stm>.

Iain Macwhirter summed up the situation at the end of 2005 in his 'Holyrood Commentary' in the *Sunday Herald*: 'There is great uncertainty in the Scottish media this Christmas, with the closure of the Scottish Mirror, redundancies at the *Daily Record* and staff cuts at Scottish and Grampian Television. *The Scotsman* has seen a recent round of high-profile job losses and there is uncertainty at *The Herald* following the departure of Mark Douglas Home.'⁷⁶

In October, in an unprecedented move, the publishers of Scotland's daily newspapers joined forces for a £200,000 campaign to promote the benefits of print over other forms of media – hammering home the message 'You get MORE out of a PAPER'. The campaign was based on research for the Scottish Daily Newspaper Society (SDNS).⁷⁷

3.2 Comments and Campaigns

In the run up to the Gleneagles Summit and the massive 'Make Poverty History' demonstrations the *Sunday Times Scotland* and Scotsman Publications filled their columns with dire warnings about security. *The Sunday Times*, for example, wrote in May that protesters were planning to sabotage the Gleneagles summit by burning lorries and hanging human shields from railway and road bridges (29 May).

Another controversy broke out over the claim by the Scottish Executive towards the end of the year that Scotland actually profited from the summit to the tune of £5 million – let alone an advertising equivalent of over £600 million.⁷⁸

The widely reported murder case of 11-year old Livingston schoolboy Rory Blackhall, became the centre of a debate about bail after it emerged that the man believed to have murdered him was on bail at the time. The reportage of the funeral in September packed a huge emotional punch – 'Goodbye little Braveheart' (*The Daily Record*) and Rory's father hailing his son as 'my William Wallace' (*The Scottish Sun*) were combined with demands for changes in the bail system. This concerted media campaign led to the Executive's 'toughening up' of the bail system which, according

⁷⁵ M. Magee, 'Holyrood demands probe into media job losses', *Sunday Herald* (18 December 2005), p.5.

⁷⁶ I. Macwhirter, 'Why does the press hate the parliament?', *Sunday Herald* (18 December 2005), pp.38-39.

⁷⁷ B. Donnelly, 'Newspapers unite in circulation drive', *The Herald* (26 October 2005), p.9. The research found that 85 per cent of Scots read a daily newspaper; 73 per cent read a Sunday newspaper; and 11 per cent do not read a newspaper. 60 per cent of newspaper readers are described as 'vulnerable', 40 per cent as 'loyal' to newspapers. There are about 1.78 million papers bought daily in Scotland, about 1.75 million on a Sunday, as well as about 1 million weekly papers.

⁷⁸ J. Hjul, 'Tell us another G8 benefits story, Santa', *The Sunday Times* (18 December 2005), p.18.

to Jack McConnell, will form part of the Summary Justice Reform Bill to be introduced to parliament this year.

Earlier in the year, the *Sunday Herald* claimed that the justice system in Scotland faces 'meltdown'. The Scottish Executive's flagship scheme, it said, to use electronic tagging to stop criminal suspects re-offending while released on bail is in chaos.⁷⁹

Scotland on Sunday and *The Scotsman* could claim success for their sustained campaign for lower business rates in Scotland, when Jack McConnell announced a surprising U-turn on business rates in September. Had the government hoped that the move would smoothen relations with the business community, they were in for an unpleasant surprise at the 'Business in the Parliament' conference in the debating chamber, which some 200 business people attended on the Thursday and Friday of the first week of the new parliamentary year in September to debate the future of the Scottish economy with MSPs, when business leaders lobbed a litany of complaints at the Scottish Executive. 'Scottish business had digested the good rates news,' Alf Young commented dryly, 'and moved on to fresh fare.' He felt compelled to remind the business sector that they have 'every right to expect that government will tax responsibly, operate efficiently and avoid unnecessary barriers to fair competition. But,' he added, 'government also has the right to expect that business will take its responsibilities equally seriously, that it will invest in the future as well as distribute profits in the here and now.'⁸⁰

Both papers, and the *Sunday Times*, did not tire to pronounce on 'the astonishing extent to which state spending is propping up Scotland's economy' and how 'the ballooning public sector is strangling wealth creation'. This culminated in reports about John Ward, the leader of Scottish Enterprise, addressing MSPs on 'places like Ayrshire, (where) the dominance of the public sector was similar to that of countries in the old Eastern Bloc.'⁸¹

In September, a secret Whitehall dossier written 30 years ago revealed that Labour ministers were concerned about the case for Scottish independence. The information was apparently kept confidential at the time to keep Nationalism at bay. The paper,

⁷⁹ L. McDougall, 'Justice system faces meltdown with criminal tag scheme in chaos', *Sunday Herald* (8 May 2005), p.1.

⁸⁰ A. Young, 'Rate cut is fine...but what will business do in return?', *Sunday Herald* (11 September 2005).

⁸¹ E. Barnes. 'Chip off the old Bloc', *Scotland on Sunday* (9 October 2005), p.12.

by economist Gavin McCrone, was obtained by the Scottish National Party under freedom of information legislation.

This made more headlines than the SNP's launch of their roadmap to independence by 2011, which Alex Salmond set out just before St Andrew's Day. It did not even merit front-page news.⁸² Together with the lacklustre performance of the SNP in the two by-elections (Livingston – after the death of Robin Cook MP), and Cathcart (after the resignation of Mike Watson MSP), both won by Labour, and the underwhelming result for the SNP in May's General election (gain of two MPs, but in term of the vote share, a fall behind the Lib Dems into third place) these events have led to questioning the leadership of Alex Salmond and the course of the SNP.⁸³

During the autumn party conference season, new rumours about cracks in the Holyrood coalition were spread, based on the new Lib Dem leader Nicol Stephen's claims about Lib Dem parenthood of Holyrood policies – the latest the reduction of business rates. The Labour amendment on licensing which won the day was another contentious coalition issue. And nuclear power could be another question which could drive a wedge between the Executive partners, should McConnell budge to London.⁸⁴ But such rumours and predictions of imminent collapse have accompanied partnership government at Holyrood from its inception in 1999 – and the coalition has, so far, proved to be astonishingly resilient.⁸⁵

Quite a lot was made of the first visit of the new Tory leader David Cameron to Holyrood. Would the fact that, with Cameron and Annabel Goldie in Scotland, the Tories had now new leaders north and south of the Border, contribute to a revival of the fortunes of the Conservative party? Could the Tories in the North become more pro-devolution than the Executive parties? Demanding tax powers for the Parliament, as documented in the *Sunday Times* campaign for additional powers for the Scottish

⁸² T. Gordon, 'Salmond's independence blueprint', *The Herald* (29 November 2005), p.2; H. Macdonell, 'Salmond publishes Nationalists' plan for independence by 2011', *The Scotsman* (29 November 2005), p.14.

⁸³ I. Macwhirter, 'After Cathcart ... what next for the SNP?', *Sunday Herald* (25 September 2005), p.17; P. MacMahon, 'Time for the SNP to ditch the "mad hairies" and look to ... the Tories', *The Scotsman* (2 December 2005), p.31; I. Swanson, 'Nats' king cold as Salmond fails to hot up campaign', *Evening News* (22 September 2005), p.13.

⁸⁴ J. Allardyce, 'Insults fly as coalition cracks show', *The Sunday Times* (25 September 2005), p.11; I. Swanson, 'Will Labour's vote on licensing call time on coalition?', *Evening News* (24 November 2005), p.13;

⁸⁵ I. Macwhirter, 'Last orders for the coalition? Not just yet...', *Sunday Herald* (20 November 2005), p.43.

Parliament (27 November and 4 December)⁸⁶ and envisaging a 'peace-keeping' role in the case of a Labour-led administration in Edinburgh and a Tory government in London?

While *The Scotsman*, predictably, focused on Labour's 'dismay' at McConnell granting Cameron a 'tete-a-tete',⁸⁷ and saw it as a proof that the prospect of a Tory revival was on the cards,⁸⁸ perhaps even a future SNP-Tory coalition at Holyrood, the *Herald* concurred that the visit was a 'political coup'.⁸⁹

3.4 Scandals and Scalps

Freedom of Information (Fol) has upped the stakes of scrutiny. Liberal Democrat Keith Raffan MSP had clocked up an impressive number of miles in his wee Skoda – enough to circle the globe three times – criss-crossing his constituency even while, apparently, away on an official trip to the Isle of Man. All this is nicely listed by the Scottish Parliament under Freedom of Information legislation which had just come into effect and for which, of course, the Liberal Democrats claim credit. Not even MSPs have yet mastered the art of being in two places at the same time, and so he had to go.⁹⁰ No one has made more use of Fol than the Political Editor of the *Sunday Herald*, Paul Hutcheon – 449 out of the Executive's total of 1,649 requests were submitted by him.⁹¹ His big prize this autumn was Conservative leader David McLetchie who could not fully explain his £11,500 worth of taxi chits which he had claimed as expenses from the Parliament. After an ill-advised last ditch defence in the Scottish *Sunday Times*, he had to resign. But he was not the only one. Brian Monteith (Free-thinking Politician of the Year) had emailed Iain Martin, the editor of *Scotland on Sunday*, urging him to write a leader 'saying why the Letch should resign next week'. When McLetchie resigned, Monteith sang his praises on TV. And Iain Martin felt compelled to 'out' Monteith – the MSP had, first, to resign the Tory whip, then to leave the Party. Iain Martin also came under fire for revealing – some would say: betraying – his source.⁹²

⁸⁶ J. Allardyce and K. Nutt, 'Parliament needs more power, say leading Scots', *The Sunday Times* (27 November 2005), pp.1-2.

⁸⁷ H. Macdonell, 'Labour dismay at McConnell's tete-a-tete with David Cameron', *The Scotsman* (21 December 2005), pp.2-3.

⁸⁸ F. Nelson, 'Why McConnell is taking Cameron seriously', *The Scotsman* (21 December 2005), p.29.

⁸⁹ D. Fraser, 'Cameron calls on McConnell with future in mind', *The Herald* (21 December 2005), p.1.

⁹⁰ R. Dinwoodie, 'The question Keith Raffan must answer: do the figures add up?', *The Herald* (22 January 2005).

⁹¹ R. Nicoll, 'Blood on the tartan carpet', *The Guardian* (MediaGuardian) (21 November 2005), p.6.

⁹² J. Allardyce and K. Nutt, 'Strange case of the editor, the MSP, and the Tory plot', *The Sunday Times* (6 November 2005), p.2.

Ruaridh Nicoll, the *Observer's* Scottish columnist, analysed the propensity of the Scottish media for process and scandal, rather than analysis. He quoted Magnus Linklater who had used his column in *The Times* to fire a broadside at Scottish journalism under the title 'Foetid stench as hyenas relish another kill':

Each minor gaffe, indiscretion or ineptitude has been held up to ridicule, accorded the kind of exposure that would normally accompany a story of major significance, then tossed to the columnists as evidence of the terminal emtiness of the Holyrood venture... What is so bizarre is that the worst offenders are the Scottish papers.⁹³

He also quotes Mark Douglas Home as saying: 'A number of papers have an agenda where their interests lies in attacking the parliament as an institution.' With an obvious sideswipe at Scotsman Publications, he continued: 'There are still papers in Scotland that believe devolution shouldn't have happened. Every opportunity is taken to undermine it.'

One has only to look at the plethora of blown-out-of-proportion pieces on the defects of the Holyrood building to be found in the *Evening News*, *The Scotsman* and *Scotland on Sunday* – be it on water leaks, the perennial fight against pigeons, the invasion of parliamentary space by bikers and skateboarders, traffic flow problems at the Holyrood bus stop, etc – and there is always one of the usual suspect MSPs around who will oblige with a negative quote.

Another piece of gossip, picked up from a new biography of Jack McConnell, was gleefully spread out by the *Sunday Times*. It told how associates of Jack McConnell had said in that biography that he feels 'humiliated and betrayed' by Tony Blair who he believes is 'weak' and 'untrustworthy' (28 August)

This became more of a (serious) topic as the year progressed, with the problems of 'dawn raids' on asylum seekers and McConnell's attempt to get a protocol from the Home Office which would ensure more humane treatment in such cases – rebuffed by a brusque Whitehall briefing. While *The Herald* tended to take the side of McConnell,⁹⁴ *The Scotsman* accused the First Minister of 'deception',⁹⁵ and Paul Hutcheon saw the First Minister 'slapped down' and 'left high and dry' by the Home

⁹³ R. Nicoll, 'Blood on the tartan carpet', *The Guardian* (MediaGuardian) (21 November 2005), p.6.

⁹⁴ B. Briggs and R. Dinwoodie, 'McConnell angry at "cack-handed" Home Office briefing on asylum', *The Herald* (23 November 2005), p.1 – and leader comment on that same day (p.15).

⁹⁵ P. MacMahon, 'What's another word for "deception", First Minister?', *The Scotsman* (25 November 2005), p.35.

Office⁹⁶ in the *Sunday Herald*, while, in the same paper, Iain Macwhirter felt 'sympathy' for McConnell,⁹⁷ and *The Herald*, in another leader, clearly backed him.⁹⁸

Another area where potential conflict between Edinburgh and London loomed has been nuclear power, widely rejected in Scotland, but apparently favoured as an energy option by the Blair government. Will the Scottish Executive use the Parliament's powers to prevent new nuclear power stations being built north of the Border (despite the reserved nature of energy policy)? While *The Scotsman* warns Jack McConnell that he has to 'get off the fence', Douglas Fraser in *The Herald* has identified the nuclear issue as the 'next challenge' 'at the heart of defining Jack McConnell's relations with London'.⁹⁹

That the parliament is at least partly to blame for its bad press was never more devastatingly demonstrated than in the shambolic third-stage debate on the licensing bill in November. 'It turned out to be a pantomime, a farce, a shambles, a comedy of error,' wrote John Knox.¹⁰⁰ It was supposed to be the biggest reform of Scotland's licensing laws for a generation. But, in the words of one MSP, it was as ill-organised as a proverbial booze-up in a brewery. It ended up with the sale of drink being banned in supermarkets and off-licences from 10pm to 10am, for no apparent reason. Five years of consultation ended in what the *Sunday Herald* called the 'licensing fiasco'.¹⁰¹ Duncan Hamilton, ex-SNP MSP, called the debate 'a chilling reminder that we have a political culture of disturbing immaturity and a legislative process which is incapable of delivering considered, intelligent and focused law'.¹⁰² He has long been an advocate of a second chamber to increase scrutiny of proposed legislation.

One of the most thoughtful interventions this autumn, just before the licensing debate but as if anticipating it, came from Douglas Fraser, the Scottish Political editor of *The*

⁹⁶ P. Hutcheon, 'Holyrood vs Westminster: The battle over asylum', *Sunday Herald* (27 November 2005), p.38.

⁹⁷ I. Macwhirter, 'Direct asylum policy anger at Home Office, not Jack McConnell', *Sunday Herald* (27 November 2005), pp.34-35.

⁹⁸ *The Herald* (leader), 'Cross-border forays: Mr McConnell was right to speak out on asylum', (23 November 2005), p.23.

⁹⁹ H. Macdonell, 'First Minister will soon have to get off the fence', *The Scotsman* (29 November 2005), p.3; D. Fraser, 'Your next challenge, Jack, is to win over Westminster', *The Herald* (1 December 2005), p.16.

¹⁰⁰ J. Knox, 'Drinking antics cause stir at Holyrood', BBC News online, 18 November 2005) <http://news.bbc.co.uk/1/hi/scotland/4451106.stm>.

¹⁰¹ *Sunday Herald* (leader), 'It took five years to miss this chance to tackle Scotland's booze culture', (20 November 2005), p.36.

Herald. He highlighted the problems with the legislative process at Holyrood (bias towards Executive bills, lack of time for debate and scrutiny, lack of support for members' bills, abolition of Civic Forum) culminating in the warning that 'the tenets behind Scotland's parliament have been put at risk'.¹⁰³

¹⁰² D. Hamilton, 'Something is rotten in the state of Scotland – its parliament', *The Scotsman* (21 November 2005), p.23.

¹⁰³ D. Fraser, 'Scottish democracy has it had its day?', *The Herald* (Society) (15 November 2005), pp.8-9.

4. Public Attitudes and Elections

John Curtice

4.1 Attitudes towards devolution

4.1.1 *Scottish Social Attitudes Survey*

The 2004 Scottish Social Attitudes survey, published in summer 2005, was not entirely reassuring for the devolution project.¹⁰⁴ (Figures 4.1-4.3) The proportion preferring some form of devolution (to the status quo ante or independence) fell below 50 per cent for the first time since immediately after the devolution referendum. The proportion thinking that the Scottish Parliament gives people more say in how they are governed fell back to its 2002 low of 31 per cent. Meanwhile, the proportion believing that devolution gives Scotland a stronger voice in the UK, hitherto most likely to be perceived as devolution's positive attribute, fell to a new low of 35 per cent. This is perhaps important as the notion that the Scottish Parliament was strengthening Scotland's voice appears to be particularly important in encouraging unionist-minded people to support devolution.¹⁰⁵

Despite this apparent continuing disappointment with devolution, there still seems to be relatively little taste for returning to rule from Westminster. Around two-thirds still feel that the devolved institutions should have most influence over the way that Scotland is run. Only one in eight would accord that role to the UK Government at Westminster – more or less the reverse of what is felt to be the actual position at present (Figure 4.4).¹⁰⁶ Meanwhile although trust in the devolved institutions to work in Scotland's best interests fell back once again after increasing in 2003, so also did trust in the UK Government – from the already far lower level it enjoyed. Indeed it would appear that trust in both institutions rises in election years (whether UK or Scottish) and falls in non-election years (Figure 4.5). At the same time it appears that the more consultative style of decision making under devolution is recognised by a significant section of the Scottish public. They are twice as likely to say that the Executive is 'very' or 'quite' good at listening to people's views than is the UK Government (Figure 4.6).

¹⁰⁴ C. Bromley and L. Given, *Public Perceptions of Scotland after Devolution: Findings from the 2004 Scottish Social Attitudes survey*, (Edinburgh: Scottish Executive, 2005). Available at www.scotland.gov.uk.

¹⁰⁵ J. Curtice, 'Public Opinion and the future of devolution', in A. Trench (ed.), *The State of the Nations 2005: The Dynamics of Devolution* (Exeter: Imprint Academic, 2005).

¹⁰⁶ Readers will also note that there was a marked increase both in the proportion who feel that local councils actually have most influence and in the proportion who feel that they should. The reason for this increase is far from clear.

Figure 4.1. Support for Constitutional Options 1997-2004

Scotland should ...	May 1997 %	Sept 1997 %	1999 %	2000 %	2001 %	2002 %	2003 %	2004 %
be independent, separate from UK and EU or separate from UK but part of EU	28	37	28	30	27	30	26	32
remain part of UK with its own elected Parliament which has some taxation powers	44	32	50	47	54	44	48	40
remain part of the UK with its own elected Parliament which has no taxation powers	10	9	8	8	6	8	7	5
remain part of the UK without an elected parliament	18	17	10	12	9	12	13	17

Figure 4.2. Scotland's Voice in the UK

From what you have seen and heard so far...

Do you think that having a Scottish Parliament is giving Scotland...	1997 Ref*	1999	2000	2001	2002	2003	2004
	%	%	%	%	%	%	%
...a stronger voice in the United Kingdom	70	70	52	52	39	49	35
...a weaker voice in the United Kingdom	9	7	6	6	7	7	7
...or, is it making no difference ?	17	20	40	40	52	41	55

Note:

The question wording in each year was:

1999 'Will a Scottish Parliament...'

2000 'Do you think that having a Scottish Parliament is going to...'

2001-2004 'Do you think that having a Scottish Parliament is giving...'

* At time of devolution referendum in September 1997.

Figure 4.3. People's say in Government

From what you have seen and heard so far...

Do you think that having a Scottish Parliament is giving ordinary people...	1997 Ref*	1999	2000	2001	2002	2003	2004
	%	%	%	%	%	%	%
... more say in how Scotland is governed	79	64	44	38	31	39	31
... less say	2	2	3	4	4	4	6
...or, is it making no difference	17	32	51	56	62	54	60

Note:

The question wording in each year was:

1999 'Will a Scottish Parliament...'

2000 'Do you think that having a Scottish Parliament is going to...'

2001-2004 'Do you think that having a Scottish Parliament is giving...'

* At time of devolution referendum in September 1997.

Figure 4.4. Influence over running Scotland

Which of the following do you think has most influence over the way Scotland is run?

Which of these <u>has</u> most influence over the way Scotland is run:	1999*	2000	2001	2003	2004
	%	%	%	%	%
The Scottish Parliament / Executive**	41	13	15	17	19
The UK Government at Westminster	39	66	66	64	48
Local councils in Scotland	8	10	9	7	20
The European Union	5	4	7	5	6
(Don't know)	8	8		6	7
(Not answered)					*
<i>Sample size</i>	<i>1482</i>	<i>1663</i>	<i>1605</i>	<i>1508</i>	<i>1637</i>

Note:

* In 1999 the question wording was: 'When the new parliament starts work, which of the following do you think **will** have most influence over the way Scotland is run'

** Prior to 2004 the question referred to the Scottish Parliament. In 2004 an experiment was run whereby half the sample was asked about the Scottish Parliament and half was asked about the Scottish Executive. The change of wording made negligible difference to the responses given and so the combined results are shown here.

And which do you think ought to have most influence over the way Scotland is run?

Should have most influence over the way Scotland is run:	1999	2000	2001	2003	2004
	%	%	%	%	%
The Scottish Parliament / Executive*	74	72	74	66	67
The UK Government at Westminster	13	13	14	20	12
Local councils in Scotland	8	10	8	9	17
The European Union	1	1	1	1	1

* Prior to 2004 this question referred to the Scottish Parliament. In 2004 an experiment was run whereby half the sample was asked about the Scottish Parliament and half was asked about the Scottish Executive. The change of wording made negligible difference to the responses given therefore the combined results are shown here.

Figure 4.5. Working in Scotland's interests

How much do you trust the UK Government to work in Scotland's best long-term interest?

	1999	2000	2001	2002	2003	2004
	%	%	%	%	%	%
Just about always	3	1	2	2	2	2
Most of the time	29	16	20	17	19	20
Only some of the time	52	54	55	51	58	50
Almost never	14	26	22	26	20	26

How much do you trust the *Scottish Parliament/Executive to work in Scotland's best interests?**

	1999	2000	2001	2002	2003	2004
	%	%	%	%	%	%
Just about always	26	9	13	9	10	9
Most of the time	55	45	52	43	52	43
Only some of the time	14	34	29	34	31	37
Almost never	2	9	5	11	4	10

*Prior to 2004 this question referred to the Scottish Parliament. In 2004 an experiment was run whereby half the sample was asked about the Scottish Parliament and half was asked about the Scottish Executive. The change of wording made negligible difference to the responses given and so the combined results are shown here.

Figure 4.6. Listening to People's Views

In general how good would you say the UK Government/Scottish Executive is at listening to people's views before it takes decisions?

How good is ... at listening to people's views?	UK Government	Scottish Executive
	%	%
Very good	1	1
Quite good	14	31
Not very good	50	41
Not at all good	30	17
(Don't know)	6	10

Source: Scottish Social Attitudes Survey 2004.

In 2004 the wording of some of the questions referred to in the previous paragraph was altered. Hitherto, the questions referred to the UK Government at Westminster, but to the Scottish Parliament rather than the Executive at Holyrood. The wording, crafted before the term 'Scottish Executive' was invented and intended to be a generic reference to devolution, could be criticised as inviting comparison between an executive and a legislature, and that the latter would always (rightly) be regarded as the less powerful. However, as the knowledge quiz administered as part of the 2004 survey reveals, knowledge of the internal workings of devolution as opposed to the division of responsibilities between London and Edinburgh is relatively weak. In particular, only 31 per cent were clear that the Scottish Executive is not just another name for the Scottish Parliament. Thus it was not surprising that when half of the 2004 sample was asked questions referring to the Scottish Parliament and half questions about the Scottish Executive, the pattern of answers was almost identical. Thus, for example, when asked about which body has most power, 18 per cent of the sample given the Scottish Parliament version said it had most power, while 20 per cent gave the equivalent response when asked the version that referred to the Scottish Executive (Figure 4.7).

Figure 4.7. Knowledge Quiz

	Sc. Exec makes most decisions about how money should be spent on health service in Scotland	Sc. Exec. decides level of unemployment benefit paid to people in Scotland	Scottish Parliament has around 70 elected members	Scottish Executive is just another name for Scottish Parliament
	%	%	%	%
Definitely true	12	2	6	10
Probably true	40	17	41	31
Probably not true	22	29	6	13
Definitely not true	4	27	7	18
Can't choose	22	23	39	26

Source: Scottish Social Attitudes survey

One explanation for the public's disappointment with devolution might have been thought to be the relatively low visibility of the work of the devolved institutions. While what happens in the parliament and the Executive is extensively reported in the Scottish media, it receives little publicity in the British media to which people in Scotland have ready access. Equally the more consensual style of the parliament's committees does not necessarily attract media headlines. However the 2004 social attitudes survey found that people were almost as likely to say that they had seen and heard 'a great deal' or 'quite a lot' about the work of the Executive in the last few months as they had that of the UK Government (Figure 4.8).

Figure 4.8. Knowledge of Government Activity

How much would you say you've seen or heard about the work of the UK Government/Scottish Executive over the last twelve months?

How much seen or heard about ...	UK Government	Scottish Executive
	%	%
A great deal	11	9
Quite a lot	23	21
Some	29	30
Not very much	31	33
Nothing at all	5	7
(Don't know)	1	1

4.1.2 Other Polls

The 2005 UK general election prompted several opinion polls on a range of political issues, including attitudes towards devolution. Of particular interest is an extended set of questions included in a YouGov internet survey for the Daily Telegraph (Figure 4.9). This suggests that much the biggest disadvantage of independence in the public's mind is the potential cost and risk of moving towards independence. Clear majorities agree that independence would be 'extremely risky' and 'disruptive'. However, Scottish voters appear to be divided on the merits of independence. Both the 'nationalist' argument that as a nation Scotland should have its own state, and the 'functional' argument that Scotland's economy would be stronger under independence, divide the Scottish public down the middle. Thus it is not surprising that more people say they would be 'happy' than 'unhappy' if Scotland were to become 'a fully independent nation', and more also say they would vote against Scotland becoming a 'completely separate state outside the United Kingdom' than would vote in favour. In any event, whatever people's attitudes to devolution, only just over one in four think it is likely to happen 'within the next two or three decades', a result that echoes the findings of the 2003 Scottish Social Attitudes survey.¹⁰⁷

The degree to which the debate about Scotland's constitutional future continues to cause division in the nation's politics was underlined by the findings of a poll for BBC Scotland by ICM at the beginning of the election campaign (Figure 4.10). This poll (more details in section 4.3 below) asked people to indicate which of two options they preferred across several subjects. This produced an even bigger majority against independence than YouGov's poll. Noteworthy here is the degree to which attitudes towards independence divide each party's supporters, most notably the SNP, from the remainder. No other subject in this survey (see section 4.3) produced such a large division between each party's supporters. It has often been pointed out that vote choice and constitutional preference are far from being in perfect alignment.¹⁰⁸ But the strength of this alignment is still far greater than other vote/issue alignments, including that between voting Labour or Conservative and attitudes towards taxation and spending.¹⁰⁹

¹⁰⁷ P. SurrIDGE, 'A Better Union?', in C. Bromley, J. Curtice, D. McCrone and A. Park (eds.), *Has Devolution Delivered?* (Edinburgh: Edinburgh University Press, forthcoming).

¹⁰⁸ See, for example, R. Bond, R. and M. Rosie, 'National identities in post-devolution Scotland', *Scottish Affairs*, 40 (2002), pp. 15-35.

Meanwhile the apparent wish amongst the Scottish public to enjoy the advantages of 'independence' without the pain or risk of 'separation' is reinforced by another poll, conducted by MORI after the 2005 election (Figure 4.11). This found that no less than 58 per cent would like the Scottish Parliament to have more powers. This echoes a finding of the 2003 Scottish Social Attitudes survey. In response to a similarly worded question, it found that 59 per cent wanted more powers,¹¹⁰

The YouGov survey also examined attitudes towards two of the apparent anomalies of the current devolution settlement, the West Lothian question and the higher level of public spending in Scotland than in England. As a number of previous surveys have found,¹¹¹ a majority of Scots accept that their MPs should not be allowed to vote on matters that only affect England and Wales. On the other hand there is a reluctance to acknowledge (or perhaps simply a lack of awareness given that 30 per cent say they do not know what the position is) that public spending per head in Scotland is higher in Scotland than in England whereas taxation revenues are not.

A pre-polling day ICM survey for *The Scotsman* updated ICM's time series on constitutional preferences, which had lain fallow over the previous four years (Figure 4.10). This gave some confirmation of the Scottish Social Attitudes previous year survey finding (see previous sub-section) that support for devolution has fallen away. At 45 per cent, the proportion favouring devolution was eleven points down on the result on the last reading, undertaken at the 2001 UK general election. It was also lower than at any time since the question was first administered in its current form in February 1998.

The Scottish Social Attitudes survey persistently finds that most people think that the UK Government has more influence on what happens in Scotland than the devolved institutions. Yet, the ICM poll found that even during a UK general election, opinion was fairly evenly split between whether who wins a UK or a Scottish election makes more of a difference to Scotland.

¹⁰⁹ J. Curtice, 'Is Holyrood Accountable and Representative?', in Bromley et al (eds.), *Has Devolution Delivered?*

¹¹⁰ D.McCrone and A. Park, 'The devolution conundrum' in Bromley et al (eds.), *Has Devolution Delivered?*

¹¹¹ See, for example, J. Curtice, 'A stronger or weaker union? Public reactions to asymmetric devolution in the United Kingdom', *Publius: The Journal of Federalism*, 36:1 (2006), pp. 95-113.

A MORI survey for the Scottish Executive¹¹² found the proportion reckoning they know 'a fair amount' about their local MSP was not far short of the proportion who felt the same way about their local MP (Figure 4.12). Exactly the same proportion – 3 per cent – said they had contacted their local MSP as said they had contacted their local MP within the last year. The figure might be thought low given the claims sometimes made about the close relationship between constituency MPs/MSPs and their constituents. In some respects, at least, the devolved institutions do appear to have achieved approximate parity of esteem and impact with Westminster in the eyes of the Scottish public.

Figure 4.9. YouGov Election Poll

At the moment English and Welsh MPs cannot vote on matters that have been devolved to the Scottish Parliament, but Scottish MPs can still vote on matters that relate solely to England and Wales. Do you think that...

	%
Scottish Westminster MPs should not be allowed to vote on matters that only affect England and Wales	53
All Westminster MPs should continue to vote on all matters that come before the Westminster Parliament	38
Don't Know	9

Do you believe it is true or untrue that the UK currently spends more per head of population in Scotland than in England while not raising more in taxes per head of population?

	%
Yes it is true	32
No it is not	38
Don't Know	30

If it is the case that the UK spends more per head of population in Scotland than in England, and in that sense England could be said to be subsidising Scotland, do you think England should, or should not, continue to subsidise Scotland?

	%
Yes it should	42
No it should not	34
Don't Know	23

¹¹² S. Hope and S. King, *Public Attitudes to Participation*, (Edinburgh: Scottish Executive, 2005).

Would you personally be happy or unhappy if Scotland one day became a fully independent country?	%
I would be happy	44
I would be unhappy	32
I wouldn't be bothered one way or the other	17
Don't know	7
If there were a referendum on whether to retain the Scottish Parliament and Executive in more or less their present form or to establish Scotland as a completely separate state outside the United Kingdom but inside the European Union, how would you vote?	%
In favour of retaining the present Scottish Parliament	46
In favour of a completely separate state outside the UK	35
Would not vote	6
Don't know	12
Any separation between Scotland and the rest of the UK would be very disruptive and cost a great deal of money.	%
Agree	57
Disagree	32
Don't know	11
Scotland's economy would be stronger if Scotland became an independent country and the Scottish people would be better off.	%
Agree	40
Disagree	39
Don't know	21
It's simple: the Scottish people are a separate nation and they should have their own independent country to reflect that fact.	%
Agree	44
Disagree	41
Don't know	15
Independence would be extremely risky: it might work out all right but it might not	%
Agree	63
Disagree	24
Don't know	13
An independent Scotland on its own would be able to win greater advantages from the European Union than Scotland as only part of the UK	%
Agree	46
Disagree	30
Don't know	24

Regardless of your own views on the issue and of how you intend to vote on May 5, how likely do you think it is that Scotland will become independent within the next two or three decades? %

Very likely	8
Fairly likely	20
Fairly unlikely	45
Not at all likely	20
Don't know	6

Source: YouGov/Telegraph, 26-29/4/05

Figure 4.10. Opinions about Independence and Devolution

The MPs elected to the Westminster Parliament at the forthcoming General Election are likely to have to make some important choices over the next four years. For each of the following choices I read out, please tell me which one option you yourself would prefer?

	Westminster Vote Intention				
	All	Con	Lab	LD	SNP
	%	%	%	%	%
Allowing Scotland to leave the United Kingdom and become an independent country	33	8	27	21	70
Keeping Scotland within the United Kingdom as it is now	63	89	70	77	27

Source ICM/BBC Scotland -7/4/05

Generally speaking, who do you think makes more of a difference to what happens in Scotland?

	%
The winners of a general election to the House of Commons at Westminster	43
The winners of an election to the Scottish Parliament at Holyrood	40

Thinking about the running of Scotland as a whole, which one of the following would you like to see?

- Scotland being independent of England and Wales, but part of the EU
- Scotland remaining part of the UK but with its own devolved Parliament with some taxation and spending powers
- Scotland remaining part of the UK but with no devolved parliament.

	2005 May %	2001 May %	2001 Feb %	2000 Sep %	2000 Feb %	2000 Jan %	1999 Feb %	1999 Jan %	1998 May %	1998 Feb %
Independence	29	25	27	24	27	23	24	26	33	28
Devolution	45	56	53	55	46	54	54	53	48	48
No parliament	18	17	16	18	22	19	18	18	17	21

Source: ICM/Scotsman, 30/4-1/5/05

Figure 4.11. Powers of the Scottish Parliament

To what extent do you agree or disagree that the Scottish Parliament should be given more powers?

	%
Strongly agree	22
Agree	36
Neither agree nor disagree	8
Disagree	13
Strongly disagree	11
No opinion	10

Source: MORI/Scottish Television, 24-30/8/05

Figure 4.12. Knowledge of politicians.

How much do you feel you know about how much each of the following does?

	% 'a fair amount'
Your Local councillor	35
Your MP	29
Your MSP	21
Your MEP	7

Source: MORI/Scottish Executive, 26/1-5/4/05

4.2 National Identity

The latest Scottish Social Attitudes survey confirms the impression from the 2002 and 2003 surveys that, despite an initial increase in the proportion saying they were 'Scottish' in the immediate wake of devolution, there has been no lasting impact on the distribution of national identity in Scotland. When forced to choose, around three in four say they are 'Scottish' and one in five that they are 'British'. Not everyone, however, wants to choose. Indeed, prior to being forced to choose, 38 per cent of Scottish Social Attitudes respondents said they were both Scottish and British. The existence of dual identities was confirmed in YouGov's election survey, which explicitly asked its respondents whether they felt British as well as Scottish. No less than 57 per cent agreed. At the same time YouGov tapped some antipathy towards the superior position that they feel has been adopted by their English neighbours.¹¹³

Figure 4.13. Choice of National Identity.

Forced Choice National Identity

	1974	1979	1992	1997	1999	2000	2001	2002	2003	2004
	%	%	%	%	%	%	%	%	%	%
Scottish	65	56	72	72	77	80	77	75	72	75
British	31	38	25	20	17	13	16	18	20	19

Source: Scottish Election Studies 1974-1997; Scottish Social Attitudes Surveys 1999-2004.

I feel British as well as Scottish and do not want to stop being British	%
Agree	57
Disagree	34
Don't know	9
The English have lorded it over the Scots for far too long	
Agree	56
Disagree	36
Don't know	8

Source: YouGov/Telegraph, 26-29/4/05

¹¹³ For more echoes of this see S. Condor and J. Abell, "Vernacular accounts of 'national identity' in post-devolution Scotland and England", in J. Stapleton and K. Wilson (eds.), *Devolution and Identity* (Aldershot: Ashgate, forthcoming).

4.3 Social Issues

4.3.1 Smoking in Public Places

The passage of a ban on smoking in public places, due to take effect in March 2006, has been one of the more remarked upon pieces of legislation passed by the parliament to date. Yet it is a decision that seems to have been made in the face of public opposition. While the 2004 Scottish Social Attitudes survey found that just over half supported a complete ban on smoking in restaurants, at the same time a majority favoured allowing smoking to continue to take place in public houses, albeit restricted to certain areas. This continued willingness to tolerate smoking in pubs and bars, if not elsewhere, was also identified by the consultation exercise undertaken by the Executive when it originally proposed the legislation and by survey research undertaken on its behalf at the time.¹¹⁴ Rather than reflecting any apparent insensitivity of the devolved institutions to Scottish public opinion, the introduction of the ban appears to be better characterised as an attempt by Scotland's political elite to change the attitudes and behaviour of people in Scotland.

Figure 4.14. Banning Smoking

Here are some places where people might like to smoke. For each one please tick one box to show whether you think smoking should be allowed there, whether there should be restrictions, or whether smoking should be banned there entirely.

	Pubs and Bars	Restaurants
	%	%
Freely allowed	15	3
Restricted to certain areas	58	43
Banned altogether	25	53

Source: Scottish Social Attitudes 2004

4.3.2 Family Law

The year has seen major changes to family law in Scotland. The parliament passed the Family Law (Scotland) Act, which rendered the position of co-habitees (including those in same sex relationships) more similar to that of married couples in the event of death or dissolution of the relationship. It also gave unmarried fathers the same

¹¹⁴ S. Granville and A. Kinver, *Smoking in Public Places: Key Findings of Responses to a Public Consultation* (Edinburgh: Scottish Executive, 2004). MRUK Research Ltd., *Smoking in Public Places: A Consultation on Reducing Exposure to Second Hand Smoke: Report of an Omnibus Survey* (Edinburgh: Scottish Executive, 2004). Both available at www.scotland.gov.uk.

rights and responsibilities as married fathers. Meanwhile in December the Civil Partnership Act 2004, passed in Scotland by means by a Sewel motion, was implemented. This gave those in same sex relationships the right to register their relationship in law and thereby acquire many of the rights, including the right to apply to adopt a child, previously restricted to married couples.

The 2004 Scottish Social Attitudes found that the first of these policy developments was in tune with the balance of public opinion. Even in a space of just four years there has been a nine point increase to 65 per cent in the proportion saying that there was nothing wrong at all with sexual relations before marriage.¹¹⁵ There is virtual unanimity that unmarried fathers should have the same rights as their married counterparts to make decisions about the medical treatment of their child. Only one in ten think that a cohabiting woman should not have the same rights as a married woman to occupy the family home in the event of the death of their partner. Somewhat less popular was the proposal that co-habiting partners should enjoy the same inheritance tax advantages as married partners, but even here only around one in five they 'definitely' or 'probably' should not.

Attitudes towards the legal recognition of same sex relationships are more divided. While 39 per cent agree that gay or lesbian couples should have the right to 'marry', almost as many, 35 per cent, disagree. While two-thirds reckon that a same sex partner should not have to pay inheritance tax on the family home in the event of death, this is short of the three-quarters who take that view in respect of co-habiting heterosexual couples. Equally while no less than three-quarters would give the surviving partner of a same sex relationship the same occupancy rights as those enjoyed by the surviving partner in a marriage, this falls short of the 89 per cent who take the equivalent view in respect of co-habiting heterosexual couples. But the one right that many members of the public would prefer not to extend to same sex couples, is the right to apply for adoption. While those who say a lesbian couple 'definitely' or 'probably' should not be given the right are matched by an almost equal proportion who say that they should, over half 'definitely' oppose giving the same right to gay males.

¹¹⁵ For further details see F. Wasoff and C. Martin, *Scottish Social Attitudes Survey 2004 Family Module Report* (Edinburgh: Scottish Executive Social Research, 2005). Available at www.scotland.gov.uk.

Nevertheless, it appears that Scotland's attitudes towards homosexuality are continuing to become more liberal.¹¹⁶ So recently as 2000, more people said that sexual relations between adults of the same sex was 'always wrong' than said they were 'not wrong at all', but now the positions are reversed. It will be interesting to see whether the introduction of civil partnerships helps push attitudes in a yet more liberal direction in future.

Figure 4.15. Rights of Unmarried Couples

I would like you to think of an *unmarried couple* I who have been living together for ten years. The man dies. They live in a house bought in the man's name and when he dies he leaves the property to his partner in his will. Do you think the surviving partner *should* or *should not* be exempt from having to pay inheritance tax on the property in just the same way as a married person would be?

	%
Definitely should	50
Probably should	26
Probably should not	12
Definitely should not	9

Imagine another unmarried couple without children who have been living together for ten years and live in a house bought in the man's name. Say he dies without making a will. Do you think the woman *should* or *should not* have the same rights to keep the home as she would if she had been married to the man?

	2000	2004
	%	%
Definitely should	69	62
Probably should	23	27
Probably should not	4	5
Definitely should not	3	4

¹¹⁶ See also A. Park, "Scotland's Morals", in J. Curtice, D. McCrone, A. Park and L. Paterson (eds.), *New Scotland, New Society? Are social and political ties fragmenting?* (Edinburgh: Polygon, 2001).

Now imagine another unmarried couple who have been living together for ten years. They have a child who needs medical treatment. Do you think the father *should* or *should not* have the same rights to make decisions about his child's medical treatment as he would if he was married to the child's mother?

	2000 %	2004 %
Definitely should	85	84
Probably should	13	13
Probably should not	1	1
Definitely should not	1	1

Source: Scottish Social Attitudes 2004

Figure 4.16. Rights of Gay Couples

Thinking about two (men/women) who have been living together for ten years as a couple. One of them owns the house they live in. Say (he/she) dies without making a will, do you think (his/her) partner should or should not have the same right to keep the home as (he/she) would if they were a married couple?

	male couple %	female couple %	all %
Definitely should	41	46	44
Probably should	31	30	31
Probably should not	8	7	8
Definitely should not	15	10	12

Still thinking about these same two (men/women), say that when (he/she) died, the owner of the house left the property to (his/her) partner in (his/her) will. Do you think (his/her) partner partner *should* or *should not* be exempt from having to pay inheritance tax on the property in just the same way as a married partner would be?

	male couple %	female couple %	all %
Definitely should	38	41	39
Probably should	25	27	26
Probably should not	15	14	15
Definitely should not	15	13	14

Now think about two (men/women), both in their early thirties, who have been living together for 5 years as a couple. Should it be possible for them to adopt a child in exactly the same way as a married couple?

	male couple %	female couple %	all %
Definitely should	12	20	16
Probably should	17	26	21
Probably should not	14	14	14
Definitely should not	51	33	42

Gay or lesbian couples should have the right to marry one another if they want to.

	%
Agree strongly	9
Agree	30
Neither agree nor disagree	21
Disagree	16
Disagree strongly	19
Can't choose	4

Source: Scottish Social Attitudes 2004

Figure 4.17. Sexual Relations

If a man and woman have sexual relations before marriage, what would your general opinion be?

	2000 %	2004 %
Always wrong	8	4
Mostly wrong	7	8
Sometimes wrong	10	10
Rarely wrong	11	10
Not wrong at all	56	65
(Depends/varies)	3	2

What about sexual relations between two adults of the same sex?

	2000 %	2004 %
Always wrong	39	30
Mostly wrong	9	11
Sometimes wrong	8	8
Rarely wrong	8	7
Not wrong at all	29	37
(Depends/varies)	4	3

Source: Scottish Social Attitudes 2004

4.3.3 Social Trust

The 2004 Scottish Attitudes survey included some measures of 'social trust' and 'social capital' (concepts popularised by Robert Puttnam) whose alleged decline has been concerning some policy makers.¹¹⁷ The first of these measures is a widely quoted and used measure of generalised social trust. It suggests that the level of such trust actually increased between 2000 and 2004. While more specific indicators based on how comfortable people would feel asking a neighbour to do various things suggest that perhaps levels of neighbourly reciprocity and trust have changed little either way, it does not appear that there is any crisis of social capital in Scotland.

Figure 4.18. Levels of Social Trust

Generally speaking, would you say that most people can be trusted, or that you can't be too careful in dealing with people?

	2000 %	2004 %
Most can be trusted	46	54
Can't be too careful in dealing with people	54	45

¹¹⁷ R. Puttnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon and Schuster, 2000).

Suppose that you were in bed ill and needed someone to go to the chemist to collect your prescription while they were doing their shopping. How comfortable would you be asking a neighbour to do this?

	2000 %	2004 %
Very comfortable	58	59
Fairly comfortable	25	26
Fairly Uncomfortable	9	8
Very uncomfortable	8	7

Now suppose you found your sink was blocked, but you did not have a plunger to unblock it. How comfortable would you be asking a neighbour to borrow a plunger?

	2000 %	2004 %
Very comfortable	62	64
Fairly comfortable	27	27
Fairly Uncomfortable	5	4
Very uncomfortable	5	4

Now suppose the milkman called for payment. The bill was £5 but you had no cash. How comfortable would you be asking a neighbour if you could borrow £5?

	2000 %	2004 %
Very comfortable	22	23
Fairly comfortable	15	18
Fairly Uncomfortable	16	20
Very uncomfortable	45	38

Source: Scottish Social Attitudes Survey 2004

4.3.4. BBC Priorities Poll

A poll conducted by ICM for BBC Scotland at the beginning of the 2005 election campaign invited respondents to state which of two propositions on a series of issues 'reserved' to Westminster came closest to their own view (Figure 4.19 and see also section 4.1.3). It thus tried to paint a picture of Scottish voters' policy preferences on matters that the next UK Government and parliament would be likely to have to decide.

Two main themes emerged. First, the results confirmed Scots' preference for a more equal society and for the use of taxes to provide welfare services. Around three-quarters gave a higher priority to a more even distribution of wealth than the pursuit of economic growth. A similar proportion prioritised higher spending on health and education than reducing taxation. About three in five favoured increasing pensions via taxation rather than by encouraging people to save more for their retirement. In each case even a majority of Conservative supporters favoured these propositions, suggesting that in Scotland, the divisions between the Labour and Conservative parties on 'tax and spend' are not necessarily reflected by their electorates.

The second theme was that there were relatively high levels of support for 'tough' stances on immigration and security. Around two-thirds wanted to keep levels of immigration low, a result strikingly at odds with the official position of the Scottish Executive. Under its Fresh Talent initiative it is trying to encourage immigration to Scotland in order to counteract population decline. Public opposition to immigration was confirmed by the answers to a question included on another ICM survey, this time conducted for *The Scotsman* on the eve of polling day. Only 28 per cent agreed with the proposition that 'Scotland needs to attract more immigrants', while no less than 54 per cent disagreed. Even amongst Labour supporters, as many as 51 per cent disagreed.

On security, nearly three-quarters supported the introduction of measures such as identity cards that might enhance security even if they might also curb liberty. Thanks to Liberal Democrat opposition, the Executive has indicated that were identity cards to be introduced by the UK Government it would not require their use in order to access services funded by the Executive.

The ICM/BBC Scotland poll also found that Scottish public opinion was heavily divided on pulling British troops out of Iraq by the end of the year as opposed to keeping them there until the security situation improved. Much the same was true of attitudes towards relations with the United States.

There was a clear preference for meeting the country's energy needs through building more wind farms rather than more nuclear power stations, a stance that seems to be at odds with the tenor of UK Government statements made towards the end of the year on this newly emerging issue. Little discussed in the 2005 campaign,

this may well prove a controversial issue in the 2007 Scottish Parliament election, an election at which the Green Party will be hoping to make further advances.

The ICM/Scotsman poll also tested how strongly Scots felt about the amalgamation of some Scottish army regiments as proposed by the UK Government but opposed by both the Conservatives and the SNP. It appears that the issue did indeed have considerable resonance amongst the wider public, as no less than 41 per cent said that the retention of the regiments mattered to them 'a great deal'. Conservative and SNP supporters were indeed more likely to say that retention mattered 'a great deal', but not to such an extent as to suggest that the issue was a major influence on the outcome of the 2005 election.

Figure 4.19. Scottish Attitudes on Reserved Issues (%)

The MPs elected to the Westminster Parliament at the forthcoming General Election are likely to have to make some important choices over the next four years. For each of the following choices I read out, please tell me which one option you yourself would prefer?

	<u>Westminster Vote Intention</u>				
	All	Con	Lab	LD	SNP
Generating electricity by building more wind farms in Scotland.	73	63	70	79	80
Generating more electricity by building more nuclear power stations in Scotland.	17	24	21	18	14
Encouraging people to save more for retirement so taxes can be kept down.	31	39	32	20	29
Increasing the old age pension even it means taxes have to go up.	61	52	64	75	64
Keeping taxes down even if it means spending less on health and education.	19	38	15	10	19
Raising taxes in order to spend more on health and education.	76	56	82	89	72
Keeping the level of immigration into the country low.	68	84	73	51	68
Allowing more immigration.	23	15	20	35	23
Voting in favour of Britain signing up to the new European Constitution.	35	26	41	46	38
Voting against Britain signing up to the new European Constitution.	49	66	44	40	45

	<u>Westminster Vote Intention</u>				
	All	Con	Lab	LD	SNP
Make the country's economy grow as fast as possible	15	28	18	9	13
Ensuring that the country's wealth is shared out more evenly	79	65	77	87	82
Not restricting people's freedom even if it means an increasing possibility of terrorism	20	16	11	42	25
Introducing some measures, like identity cards, that might reduce everyone's liberty by a small amount but also might improve everyone's security	73	77	85	53	69
Pulling British troops out of Iraq at the end of this year even if security is still poor	51	39	46	53	57
Keeping British troops in Iraq until the security situation is better	40	59	48	35	40
Having closer relations with the US	37	57	50	19	45
Having less close relations with the US	50	36	43	75	47

Source: ICM/BBC Scotland -7/4/05

How strongly do you agree/disagree that Scotland needs to attract more immigrants?

	<u>Westminster Vote Intention</u>				
	All	Con	Lab	LD	SNP
Agree strongly	11	20	6	18	10
Agree	17	8	24	21	19
Neither agree nor disagree	9	11	9	10	7
Disagree	23	24	26	17	20
Disagree strongly	31	34	25	24	41

You may have seen or heard that some Scottish regiments in the army may be cut as part of a restructuring exercise. How much does it matter to you that the regiments under threat are retained?

	<u>Westminster Vote Intention</u>				
	All	Con	Lab	LD	SNP
A great deal	41	54	31	39	50
Quite a lot	21	22	20	24	25
Not very much	20	15	26	21	13
Not at all	14	9	20	14	11

Source: ICM/Scotsman, 30/4-1/5/05

4.4 Party Fortunes

4.4.1 Holyrood Voting Intentions

A new regular series of readings on voting intentions for Holyrood was inaugurated this year. A new quarterly omnibus survey, known as the Social Policy Monitor, was launched by MORI Scotland. Rather than being conducted in a matter of days, as is typical for most commercial polls, fieldwork is undertaken over a three-month period and adheres more closely, as does the Scottish Social Attitudes survey, to the principles of random sampling.¹¹⁸

The first two polls, taken during the period of the 2005 UK election, suggested that the advance of the Liberal Democrats into second place at that election (see section 4.4.3) could also mean that the SNP's status as the largest party at Holyrood might also be in peril. However, recorded Liberal Democrat support fell away somewhat in the third survey undertaken between August and October. Nevertheless there is little sign that the SNP currently look likely in 2007 to pose a threat to Labour's status as the largest party in the Holyrood legislature. In all three polls SNP support was similar to 2003 levels (24 per cent on the first vote, 21 per cent on the second). In the second and third surveys at least, Labour's tallies were well above their 2003 performance (35 per cent and 29 per cent). Still it should be borne in mind (see the next section) that the first survey at least appears to have significantly

¹¹⁸ Note that the figures for the August to October survey are somewhat different from those that were originally published. (See P. Lynch, 'Political Choice', *Holyrood*, 138 (24 October 2005), pp. 58-9. The original figures retained in the denominator on which the percentages for each party were collected, those who said they were certain they would vote but were not sure for whom they would vote. This procedure reduces the percentage share for each party, making comparison between the poll result and both the 2003 outcome and the results of other polls somewhat problematic. I am grateful to Simon Brauholtz of MORI Scotland both for supplying the information required to recalculate the result of this survey and for providing the results of the April-June survey, which have not previously been published.

underestimated SNP strength. Meanwhile, the poll failed to register any evidence of a significant advance in the Conservatives' position (17 per cent and 16 per cent in 2003), while both the Greens and (especially) the SSP were short of the near 7 per cent of the vote they recorded in 2003. It should be borne in mind that the polls tended to underestimate support for Scotland's smaller parties at the 2003 election.

The prospects for the SNP appeared to be much brighter in a YouGov internet poll conducted at the general election. Even though this poll correctly anticipated the SNP's fall into third place in the UK election (see the next section), it also reported that the SNP were in first place in voting intentions for Holyrood. However, this poll only asked people a single question about voting intentions for Holyrood: how they would cast their 'regional vote in a Scottish Parliament election' following the poll's question about UK voting intention. As MORI's survey data indicates, there is every reason to believe that the SNP remain more popular in Scottish Parliament elections than in Westminster ones. So there must be a suspicion that YouGov's procedure resulted in an overoptimistic picture of the SNP's prospects in an immediate Scottish election, perhaps because the procedure led some respondents into reporting their second preference party.

Figure 4.20. Scottish Parliament Voting Intentions (%)

MORI F'work	Con	Lab	LD	SNP	Other
26/1-5/4/05	20/15	36/31	21/18	20/23	7/13
4/05-6/05	13/11	40/36	21/23	22/22	4/8
2/8-2/10/05	16/15	40/34	17/18	22/24	6/9

Notes: Figures based on those certain to vote (N=457, 549 and 554)
 First figure is for constituency vote, the second for the list vote.
 Separate figures for SSP (1/2 and 3/3) and Greens (1/3 and 2/5) were published for the second and third surveys only

YouGov/Telegraph F'work	Con	Lab	LD	SNP	Other
26/1-5/4/05	15	27	19	31	9

Note: YouGov only asked respondents a single question about Holyrood vote intentions, viz. how they would cast their 'regional vote in a Scottish Parliament election',

4.4.2 Westminster Vote Intentions

Several polls measured Scottish Westminster voting intentions during the UK general election campaign. Just one of these, however, was a regular exercise: a series of weekly polls conducted by Scottish Opinion for the Daily Record. This poll, conducted by a company that is not a member of the body that aims to uphold poll standards in the UK, the British Polling Council, reported some figures that were very optimistic for Labour in the early part of the campaign. Scottish Opinion's estimate of Labour's strength fell significantly in its final poll, though it still overestimated Labour's final tally by three points. Meanwhile Scottish Opinion's polls failed to register the threat that the Liberal Democrats posed to the SNP's position in second place, while they also appear to have underestimated the Conservatives' strength.

The most accurate poll of the campaign was one conducted by ICM for *The Scotsman*. This was only one point out from the final result in its estimate of Conservative, Labour and Liberal Democrat strength, while it overestimated the SNP's tally by just two points. Meanwhile it accurately identified the fact that the Liberal Democrats were running in second place. So also did a poll conducted over the final weekend of the campaign by YouGov, though this poll – in contrast to the record of most British polls in 2005 – notably underestimated Labour's strength and overestimated that of the Conservatives. Both polls were closer to the final outcome than a MORI survey published at the start of the campaign that had been conducted over the previous three months (see also the previous sub-section). This caused a considerable stir – and also aroused considerable suspicion – when it suggested that the SNP had fallen to fourth place and that the Conservatives might be on course to recapture the second place they lost in 1997. While it may well be the case that MORI's poll overstated the SNP's difficulties (though it was conducted well before polling day), it did at least forewarn of the difficulties that lay ahead for the SNP.

Figure 4.21. Westminster Voting Intentions.

Scottish Opinion/Daily Record

Fieldwork	Con %	Lab %	Lib Dem %	SNP %	Others %
29/5-5/4/05	11	52	16	18	3
5/4-12/4/05	16	50	12	17	5
12/4-19/4/05	13	46	18	20	3
19/4-26/4/05	12	47	17	20	4
26/4-3/5/05	14	43	15	23	5

Note that some of these polls were only published retrospectively

MORI/Scottish Television

Fieldwork	Con %	Lab %	Lib Dem %	SNP %	Others %
26/1-5/4/05	21	43	18	13	5

Based only on those who say they are certain to vote (N=485).

YouGov/Telegraph

Fieldwork	Con %	Lab %	Lib Dem %	SNP %	Others %
26-29/4/4/05	19	35	22	20	4

ICM/Scotsman

Fieldwork	Con %	Lab %	Lib Dem %	SNP %	Others %
30/4-1/5/05	15	39	22	20	4

4.4.3 UK General Election, 5 May 2005.

The UK general election on 5 May 2005 saw the implementation of the reduction in the number of Scottish MPs at Westminster foreshadowed in the Scotland Act that established the Scottish Parliament. Instead of electing 72 MPs, the country elected just 59. However, this cut still failed to deliver parity of representation in the Commons for Scottish and English electorates. At 65,000 voters, the electorate of the average Scottish constituency was 5,000 lower than that in the average English seat. In drawing the new boundaries, the Boundary Commission for Scotland took account of the geographical difficulties of representing the Highlands and Islands by creating two extra seats rather than, as had hitherto been its usual practice, by reducing the level of representation of the rest of Scotland.¹¹⁹ It is also partly because population change since 2001, the year on which the Commission based its new boundaries, meant that the electorate of the average English seat had increased by nearly 100 while that of the average Scottish seat had fallen by no less than 1,800. The Scotland Act does not provide for any further cut in Scotland's representation should Scotland's share of the UK electorate continue to fall.¹²⁰

Estimates of what the outcome of the 2001 general election would have been under the 2005 boundaries suggested that at 46, Labour would have had ten fewer MPs while each of the SNP (4 seats), the Liberal Democrats (9) and the Conservatives (0)

¹¹⁹ J. Curtice, 'Should Britain follow the Caledonian Way?' in I. McLean and D. Butler (eds.), *Fixing the Boundaries: Defining and Redefining Single-Member Electoral Districts* (Aldershot: Dartmouth, 1996); The Boundary Commission for Scotland, *Fifth Periodical Report of the Boundary Commission for Scotland* Cm 6427 (Edinburgh: The Stationery Office, 2004).

¹²⁰ See also, J. Curtice, 'Reinventing the Yo-Yo? A comment on the electoral provisions of the Scotland Bill', *Scottish Affairs*, 23, (1998), pp. 41-53.

would each have lost one.¹²¹ The net estimated effect of the change was thus to reduce Labour's overall UK majority by seven, a smaller effect than might have anticipated from the debate about the alleged partisan consequences of Scotland's overrepresentation at Westminster.

In the event, Labour lost another five Scottish seats in the election as the party's percentage share of the vote fell by 4.5 points. Nevertheless, the fall in Labour's support was less than that endured by the party in England (-6) or in Wales (-5.9), suggesting that little of the blame lay with the party north of the border. As elsewhere in the UK, the party that appeared to benefit most from Labour's difficulties was the Liberal Democrat party, which leap-frogged the SNP to become the second largest party in votes for the first time in a UK general election in Scotland since before the First World War. Indeed, despite the fact that the party is in coalition with Labour in the Scottish Executive, the Liberal Democrats' share of the vote rose even more in Scotland (+6.3 points) than it did in either England (+3.5 points) or Wales (+4.6). In part at least this is a reflection of the fact that throughout Great Britain the Liberal Democrats advanced most where Labour were strongest.¹²² Nevertheless, this pattern certainly suggests that the election in Scotland was not influenced by the politics of Holyrood. Indeed in this respect, as was also the case in England, the Liberal Democrats advanced relatively strongly in constituencies with relatively large numbers of (university) students, even though the UK Government's decision to introduce 'top-up fees' does not apply north of the border.

The SNP, in contrast, saw its share of the vote fall to its lowest level in any election since 1987, losing the status of being the second most popular party in Scotland for the first time since 1992. The party's difficulties were however masked by its success in capturing the highly marginal Dundee East and the *sui generis* Na h-Eileanan Siar (Western Isles). That gave the party one more MP than it had had in the 2001-05 parliament, despite the reduction in the total number of MPs. Nevertheless the result strongly suggested that the restoration of Alex Salmond to the party leadership following the party's disappointing performance in the 2004 European elections has

¹²¹ D. Denver, C. Rallings and M. Thrasher, *Media Guide to the New Scottish Westminster Parliamentary Constituencies* (Plymouth: Local Government Chronicle Elections Centre, 2004).

¹²² J. Curtice, S. Fisher and M. Steed, 'Appendix 2: The Results Analysed', in D. Kavanagh and D. Butler, *The British General Election of 2005* (London: Palgrave Macmillan, 2005). For further commentary on the outcome in Scotland in particular see J. Curtice, 'Turnout and Electoral Behaviour in Scotland', in S. Herbert, R. Burnside and S. Wakefield, *UK Election 2005 in Scotland*, SPICE Briefing 05/28 (Edinburgh: Scottish Parliament Information Centre).

failed so far at least to reverse the persistent decline in its fortunes that the party has been experiencing since 1999.

The Conservatives did little more than tread water. Their share of the vote increased by just 0.2 points on the all-time low for a Westminster election it recorded in 2001, a performance that also compared unfavourably with the 0.5 point increase the party secured south of the border. The party only managed to avoid a wipeout thanks to the success of the MSP David Mundell. He achieved an estimated eleven point increase in the party's vote in the heavily redrawn Dumfriesshire, Clydesdale & Tweeddale constituency. The success in part seems to have been achieved thanks to a tactical squeeze on the Liberal Democrat vote amongst voters who had previously been in the former strongly Liberal Democrat Tweeddale, Ettrick and Lauderdale constituency.

As in 2001, the Scottish Socialist Party fought a nationwide campaign, contesting all but East Kilbride where the party stood down in favour of Rose Gentile, a campaigner against the Iraq war in which she lost a son. But its efforts came to nought. The party lost more than a third of the vote it won in 2001, an outcome that suggested the party had suffered badly from its decision to remove Tommy Sheridan as its leader. The Greens, in contrast, fought only four constituencies in 2001, averaging 3.5 per cent of the vote. This time the party extended its reach but still managed a similar average vote per constituency (3.4 per cent), and in so doing matched the record average share of the vote recorded by the party south of the border. This performance suggests that, unlike the SSP, the Greens are managing to consolidate the advance they made at the 2003 Scottish Parliament election.

At 60.8 per cent turnout in Scotland rose by just 2.8 points on the record low at the 2001 Westminster election. In this, however, Scotland was little different from England, where turnout only rose by 2.2 points, though the turnout was still considerably higher than the 49.4 per cent recorded at the 2003 Scottish Parliament election. This is despite the fact that people in Scotland were markedly less likely to register to vote by post than were their counterparts in England.¹²³ There is thus little reason to believe that the advent of devolution has had an adverse impact on the willingness of Scots to participate in a UK general election.

Figure 4.22. UK General Election Result in Scotland, 5 May 2005

	Seats	Votes	% vote	Change in % vote since 2001
Labour	41	922,402	39.5	-4.5
Liberal Democrat	11	528,076	22.6	+6.3
SNP	6	412,267	17.7	-2.4
Conservative	1	369,388	15.8	+0.2
SSP	0	43,514	1.9	-1.3
Greens	0	25,760	1.1	+0.9
Others	0	32,480	1.4	+0.7
Turnout			60.8	+2.7

Source: Adapted from results published by the Electoral Commission. Note that the Speaker is counted as Labour.

4.4.4 Parliamentary By-Elections.

Two parliamentary by-elections were held on the same day at the end of September. One in Livingston, was for the Westminster seat that became vacant following the death of the former Foreign Secretary, Robin Cook. The other in Glasgow Cathcart was for the Holyrood seat vacated by Lord (Mike) Watson following his conviction for fire raising. Neither contest excited much interest. Turnout in the former fell to below 40 per cent, a level unprecedented in any Scottish by-election prior to 1997, while at 31.9 per cent, the turnout in Cathcart was lower than in any previous Westminster or Scottish Parliament by-election.

Equally, neither result suggested that the SNP were beginning to make a serious challenge to Labour's pre-eminence in Scotland. Although superficially the outcome of the Livingston by-election, where there was a 10 per cent swing from Labour to the SNP, represented reasonable progress for the nationalists, this swing was from the very low level registered by the party in the UK general election the previous May (see previous sub-section). Once allowance is made for this, the result in Livingston looks uncannily similar to the modest 4 per cent swing achieved in Cathcart from the higher nationalist baseline in 2003. That result suggested the unfortunate

¹²³ C. Rallings and M. Thrasher, *The 2005 general election; analysis of the results*. Report prepared for the Electoral Commission. Available at www.electoralcommission.org.uk.

circumstances surrounding the resignation of the previous Labour MSP did not have much impact on Labour's fortunes. In both contests the swing from Labour to SNP was well short of the 16 per cent recorded (from the 1997 result) in the last Scottish parliamentary by-election (Falkirk West in December 2000) or indeed in most by-elections held in Labour seats since the nationalist revival that began with the nationalist victory in Glasgow Govan in 1988.

Nevertheless, the SNP did stem the advance of the Liberal Democrats who could do no more than hold their own in Livingston and record a modest advance in Cathcart. Meanwhile although the Conservatives advanced a little in Cathcart, they actually fell back in Livingston. But there were no silver linings in either result for the SSP whose vote fell by no less than 7.3 points in Cathcart, a seat close to Tommy Sheridan's Pollok heartland, and even fell back a little on its already disappointing 2005 vote in Livingston. The results seem to be a further warning to the party that it has suffered a serious loss of support and that it cannot regard the bridgehead it established in the 2003 Scottish Parliament elections as secure.

Figure 4.23. Livingston Westminster by-election, 29 September 2005.

		Votes	% share	change in % share since 2005
Devine	Labour	12,319	41.8	-9.3
Constance	SNP	9,639	32.7	+11.1
Dundas	Lib Dem	4,362	14.8	-0.6
Lindhurst	Con	1,993	6.8	-3.3
Robertson	Green	529	1.8	
Nimmo	SSP	407	1.4	-0.4
Adams	UKIP	108	0.4	
Brown	Ind	55	0.2	
Allman	Alln for Change	33	0.1	
Gardner	SPGB	32	0.1	
Swing from Lab to SNP			10.2	
Turnout			38.5	-19.6

Source: BBC

Figure 4.24. Glasgow Cathcart Scottish Parliament by-election, 29 September 2005

		Votes	% share	change in % share since 2003
Gordon	Labour	5,811	37.7	-1.5
Whitehead	SNP	3,406	22.1	+5.8
Cook	Con	2,306	15.0	+2.0
Sanderson	Lib Dem	1,557	10.1	+2.3
Lally	Ind	856	5.6	-5.2
Stevenson	SSP	819	5.3	-7.3
Stewart	Green	548	3.6	
Creighton	Ind	59	0.4	
McCormack	UKIP	54	0.4	
Swing from Lab to SNP			3.7	
Turnout			31.9	-13.6

Source: BBC

4.4.5 Local Government By-Elections

Most local government by-elections held during this period recorded an increase in SNP support – but also no more than a modest increase. While the party seemed to be garnering local by-election protest votes from Labour – whose vote fell in all but one contest – its performances did not suggest that a SNP breakthrough was about to take place (see also the previous sub-section). But the party that would seem to have most reason to be disappointed with their local by-election performance was the Conservative party. Its share of the vote fell in five of the seven instances where it had also previously contested the seat in 2003, while its share of the vote in those seats it did not contest in 2003 never exceeded 5 per cent. It appears that the Scottish party profited little from the spectacle of its UK leadership contest.

Research conducted for the Scottish Parliament published in June provided a detailed estimate of the impact that the introduction of the single transferable vote in Scottish local elections will have when it occurs in 2007.¹²⁴ It suggested that if the 2003 local elections had been held under the new system, the SNP would have won around 120 extra seats and Labour 100 fewer. The change would, however, have made only a small difference to the number of seats won by any of the other parties. Moreover, even in Labour's case three in five of the seats that the party would have lost were in just four council areas: Edinburgh, Glasgow, and North and South

¹²⁴ J. Curtice and S. Herbert, *STV in Local Government Elections: Modelling the 2003 Results*, SPICE Briefing 05/31, Edinburgh: Scottish Parliament Information Centre

Lanarkshire. In the latter three councils, Labour would still have had an overall majority. Overall, the estimates suggest that Labour would still have had overall control of six councils under STV, while it would have had half the seats in another two. This compares with an actual outcome under first-past-the-post of Labour control of 13 councils and the party having half the seats in a further one. The change of electoral system may well have rather less impact on Labour's position in Scottish local government than is often assumed.

Figure 4.25. Local Government By-election Results.

9 June 2005 Aberdeenshire, Huntly E	% vote	Change in % vote since 2003
Conservative	34.2	+1.0
Labour	3.1	-7.2
Liberal Democrat	29.4	-2.3
SNP	18.3	+4.5
Independent	14.8	
Turnout 43.0 (-3.0)		

9 June 2005 Borders, Kilnknowe & Clovenfords	% vote	Change in % vote since 2003
Conservative	29.4	+8.0
Labour	-	-
Liberal Democrat	16.4	
SNP	33.7	+6.9
SSP	-W	
Independent	18.7	-23.1
Independent	1.8	
Turnout 44.0 (-2.4)		

16 June 2005 North Lanarkshire, Kildrum & Park	% vote	Change in % vote since 2003
Conservative	0.8	
Labour	30.1	-3.8
Liberal Democrat	2.5	
SNP	58.8	+2.6
SSP	4.0	-5.9
Independent	3.7	
Turnout 44.6 (-6.1)		

11 August 2005	Falkirk, Herbertshire	% vote	Change in % vote since 2003
Conservative		2.8	-7.6
Labour		32.7	-21.5
Liberal Democrat		-	-
SNP		62.7	+27.3
SSP		1.8	I
Turnout 46.2 (-5.5)			

29 September 2005	Fife, Auchtertool & Burntisland E	% vote	Change in % vote since 2003
Conservative		4.1	I
Labour		24.6	-4.1
Liberal Democrat		5.4	-11.3
SNP		46.7	+21.9
Independent		19.1	-10.7
Turnout 41.0 (-10.3)			

13 October 2005	Dumfries & Galloway, Lochside	% vote	Change in % vote since 2003
Conservative		0.7	-2.1
Labour		75.5	+36.8
Liberal Democrat		-	-
SNP		6.3	-6.5
SSP		4.6	I
Independent		9.9	I
Independent		3.0	I
Independent		-	W
Turnout 42.2 (-6.9)			

10 November 2005	Edinburgh, Murrayfield	% vote	Change in % vote since 2003
Conservative		50.0	-0.4
Labour		4.3	-12.0
Liberal Democrat		32.4	+10.5
SNP		2.0	-5.7
Green		2.2	I
SSP		-	W
Liberal		0.5	I
UKIP		0.2	I
Independent		8.5	I
Turnout 43.9 (-10.1)			

10 November 2005 Glasgow, Knightswood Park	% vote	Change in % vote since 2003
Conservative	4.5	-5.1
Labour	54.2	-3.3
Liberal Democrat	13.1	+8.0
SNP	20.8	+3.6
SSP	5.4	-5.2
Green	2.0	I
Turnout 30.7 (-15.4)		

10 November 2005 Midlothian, Loanhead	% vote	Change in % vote since 2003
Conservative	0.8	-3.8
Labour	18.4	-15.4
Liberal Democrat	5.7	-5.3
SNP	45.4	+29.3
Green	0.5	I
Independent	15.8	-18.7
Independent	12.8	I
Independent	0.5	I
Turnout 49.7 (-2.2)		

8 December 2005 North Lanarks., Kirkshaws	% vote	Change in % vote since 2003
Conservative	4.3	I
Labour	68.9	-11.8
Liberal Democrat	-	-
SNP	23.0	+3.7
SSP	3.7	I
Turnout 21.0 (-22.8)		

Notes: I = Did not fight seat in 2003

W = Fought seat in 2003 but did not contest by-election

Source: www.gwydir.demon.co.uk/byelections

4.5 Attitudes towards Parties and Leaders

A MORI survey early in the election campaign (see section 4.4.1) gave a rare indication of the relative popularity of the four Scottish party leaders. It confirmed the finding of a YouGov survey conducted in February that the SNP leader, Alex Salmond, is more popular than the Labour First Minister, Jack McConnell, an advantage that Mr Salmond did not enjoy when he was up against Donald Dewar. However, only in the case of the Conservative leader, David McLetchie, did more people say he was doing a bad job rather than a good one. Mr McLetchie's lack of popularity with the wider public cannot have helped him as, ultimately in vain, he

attempted to save his political career in the autumn amid allegations about his parliamentary expenses.

None of the four Scottish party leaders has a high level of visibility. Nearly half of those polled were unable to rate the then Liberal Democrat Deputy First Minister, Mr Wallace, or Mr McLetchie, while even in the case of the First Minister, over a quarter did not have a view. These figures are far higher than those obtained by British polls when they ask about the British party leaders.

Figure 4.26. Job Ratings of Party Leaders

	Good	Bad	Don't Know
Jack McConnell	40	32	28
Jim Wallace	30	22	48
Alex Salmond	45	25	30
David McLetchie	22	30	49

Source: MORI/Scottish Television, 26/1-5/4/05

4.6 Evaluations of Public Services.

Prior to the UK general election, the Labour Party in Scotland found itself under pressure over the health service in Scotland. Unfavourable comparisons were drawn between waiting time lengths in England and Scotland, while the Executive was criticised for decisions to close or downgrade certain local hospitals. The 2004 Scottish Social Attitudes survey revealed that the public's evaluations of the state of the NHS in Scotland continued to be predominantly negative. But it is far from clear that this represents a negative judgement of how well the Executive is running the Scottish NHS. Both the survey and a poll by ICM for *The Scotsman* on the eve of polling day found that around 20 per cent more people think that the UK Government/Parliament has more responsibility for, or influence over, the NHS in Scotland than think the Scottish Executive/Parliament does. The ICM poll also found that only about one in three people in Scotland agree that the NHS in Scotland is 'less efficient' than its English counterpart. Even amongst those supporting the Conservatives (34 per cent) or the SNP (38 per cent) only a minority share this view.

In other areas evaluations are not so negative. According to the 2004 Scottish Social Attitudes survey, roughly the same number of people think that the standard of public

transport has increased over the previous 12 months as think it has fallen. Much the same is true of perceptions of Scotland's economy and of the quality of education, while somewhat more people thought the general standard of living has increased than think it has fallen. Yet here too there is an apparent continuing reluctance to give the Scottish Executive the credit or blame. Only in the case of public transport do more people think that the Scottish Executive has been primarily responsible, though on this topic there is a widespread feeling that neither Westminster nor Holyrood is responsible.

The degree to which the UK Government is still thought mainly responsible for what is happening in Scotland appears to be further evidence of the degree to which the Scottish Executive and Parliament are thought to be relatively weak (see section 4.1). Equally, the fact that the UK Government is particularly thought to be responsible by those who think that things are not going well¹²⁵ is consistent with earlier evidence that the public would prefer the devolved institutions to be more powerful.

Figure 4.27. Perception of change in public services.

Thinking back over the last twelve months, that is since (month) 2003, would you say that since then ...

... the standard of the NHS increased or fallen?	1999	2001	2003	2004
	%	%	%	%
Increased a lot	2	2	2	3
Increased a little	21	21	18	15
Stayed the same	35	29	25	31
Fallen a little	20	26	26	23
Fallen a lot	14	15	20	23
(Don't know)	8	7	8	5

Note:

The question wording in each year was:

1999 and 2001 'Thinking back to the UK general election in 1997'

2003 'Thinking back to the last Scottish election in 1999'

¹²⁵ See Bromley and Given, *Public Perceptions*

What do you think this has been mainly the result of?

	2001	2003	2004
	%	%	%
Mainly the result of the UK Government's policies at Westminster	53	38	42
Mainly the result of the Scottish Executive's policies	11	21	20
For some other reason	16	17	18
(Both Westminster and Scottish Executive)	4	7	7
(Don't know)	8	8	9
(Not answered)	7	8	5

And what about the quality of education in Scotland? Has it ...

... increased or fallen in last twelve months	1999	2001	2003	2004
	%	%	%	%
Increased a lot	3	3	3	3
Increased a little	23	24	22	23
Stayed the same	32	33	27	37
Fallen a little	17	16	18	15
Fallen a lot	7	5	11	7
(Don't know)	19	19	19	16

Note:

The question wording in each year was:

1999 and 2001 'Thinking back to the UK general election in 1997'

2003 'Thinking back to the last Scottish election in 1999'

What do you think this has been mainly the result of?

	2001	2003	2004
	%	%	%
Mainly the result of the UK Government's policies at Westminster	40	30	29
Mainly the result of the Scottish Executive's policies	19	25	28
For some other reason	14	12	15
(Both Westminster and Scottish Executive)	3	7	5
(Don't know)	5	7	7
(Not answered)	19	19	16

And what about the general standard of living in Scotland? Has it ...

... increased or fallen in last twelve months ?	1999	2001	2003	2004
	%	%	%	%
Increased a lot	2	3	4	4
Increased a little	27	27	30	27
Stayed the same	43	45	36	40
Fallen a little	18	15	17	18
Fallen a lot	6	4	7	6
(Don't know)	5	6	7	5

Note:

The question wording in each year was:

1999 and 2001 'Thinking back to the UK general election in 1997'

2003 'Thinking back to the last Scottish election in 1999'

What do you think this has been mainly the result of?

	2001	2003	2004
	%	%	%
Mainly the result of the UK Government's policies at Westminster	53	43	38
Mainly the result of the Scottish Executive's policies	12	18	18
For some other reason	18	16	24
(Both Westminster and Scottish Executive)	6	10	7
(Don't know)	7	8	9
(Not answered)	6	7	5

And what about the standard of public transport in Scotland? Has it ...

... increased or fallen in last twelve months ?	2004
	%
Increased a lot	5
Increased a little	20
Stayed the same	41
Fallen a little	14
Fallen a lot	8
(Don't know)	13

What do you think this has been mainly the result of?

	2004
	%
Mainly the result of the UK Government's policies at Westminster	17
Mainly the result of the Scottish Executive's policies	28
For some other reason (Both Westminster and Scottish Executive)	29
(Don't know)	5
(Not answered)	8
	13

And what about Scotland's economy? Has it ...

... got stronger or weaker in last twelve months ?	2004
	%
A lot stronger	3
A little stronger	25
Stayed the same	29
A little weaker	22
A lot weaker	5
(Don't know)	17

What do you think this has been mainly the result of?

	2004
	%
Mainly the result of the UK Government's policies at Westminster	28
Mainly the result of the Scottish Executive's policies	28
For some other reason (Both Westminster and Scottish Executive)	17
(Don't know)	6
(Not answered)	5
	17

Source: Scottish Social Attitudes survey

Taking everything into account, do you approve or disapprove of the Scottish Executive's record to date?	%
Approve	31
Disapprove	49
Don't know	20

Source: Yougov/Telegraph 26-29/4/05

How strongly do you agree/disagree that the national health service in Scotland is less efficient than the national health service in England? (%)

	<u>Westminster Vote Intention</u>				
	All	Con	Lab	LD	SNP
Agree strongly	16	24	15	19	21
Agree	16	10	17	12	17
Neither agree nor disagree	11	6	11	10	13
Disagree	20	26	22	20	15
Disagree strongly	17	17	23	18	19

Who do you think has most influence over the quality of the NHS in Scotland? (%)

The Westminster Parliament	52
The Scottish Parliament	35

Source: ICM/Scotsman, 30/4-1/5/05

5. Intergovernmental relations

Alan Trench

5.1 Intergovernmental meetings

There have been no meetings of the plenary Joint Ministerial Committee since the summer – or indeed, since October 2002. There have been no press statements of any other intergovernmental meetings, including functional formats of the JMC, either.

5.2 Issues in informal intergovernmental relations

Two issues appear to have been the particular focus of routine discussions at lower level. One is the question of asylum, and developing concerns about the treatment of asylum seekers to the UK who are in Scotland. This has been discussed in section 2.1.

The other has been the Terrorism Bill, considered in some haste at Westminster in response to the 7 July bombings in London. Although the bill has extensive effect in Scotland and on Scots law, it has not been the subject of a legislative consent (Sewel) motion. The UK Government's position is that terrorism is entirely a reserved matter.¹²⁶ (This position is in fact somewhat open to question, given that the relevant reservation in the Scotland Act 1998 relates only to '*special* powers, and *other special provisions*, for dealing with terrorism'; see Schedule 5, Head B, section B8; emphasis added. What 'special' means, exactly, is not clear in this context.) Provisions of the bill which relate to encouraging terrorism (clause 1), preparing for terrorist acts (clause 5) or training for terrorism (clause 6) and the proscription of terrorist organisations (clause 21) plainly fall within the reservation – although they are controversial, although the definition of terrorism to which they relate is broad, and although these provisions relate to otherwise devolved matters. Some provisions will fall under other reservations if they are outside the terrorism one (e.g. those relating to nuclear installations, under section D4 of Schedule 5 to the Act). Such an argument is perhaps more tenuous in relation to some of the broader provisions of the bill, however, such as those relating to searches. The UK Government (meaning in this case the Home Office) has taken a broad view in this case of what falls under the terrorism reservation.

What is perhaps more remarkable is the lack of consultation with the Scottish Executive that appears to have taken place over the Terrorism Bill. According to the BBC News website, the Lord Advocate was not consulted at all over the bill before its introduction, although the Home Office claimed the Crown Office was consulted (a claim on which the Crown Office declined to comment).¹²⁷ Such consultation is supposed to take place routinely on all bills which affect criminal justice matters in Scotland, whether they relate to devolved functions or reserved ones, to ensure that any proposed offences work (substantively and evidentially) in the context of Scots law and that the call on the resources of the Crown Office and the Procurator Fiscal service is manageable.¹²⁸ There similarly does not appear to have been consultation with the Justice Department. The UK therefore proceeded unilaterally with this legislation, although in so doing it breached its own guidelines for managing intergovernmental relations. (It is worth noting that this is not the only devolution-connected scrap that has recently afflicted the Home Office; it has also been the subject of criticism by the Commons Welsh Affairs Committee for its ignorance of devolution matters and its failure to consult the National Assembly for Wales.¹²⁹

5.3 The Sewel convention

As noted in section 2.4, the Scottish Parliament's Procedures Committee carried out an inquiry into the working of the Sewel convention during the spring and summer of 2005, and the committee published its report in October 2005.¹³⁰ One outcome of this is the inquiry announced on 27 October 2005 by the Commons Scottish Affairs Committee into 'The Sewel Convention: the Westminster Dimension'.¹³¹ However, the recirculation of Devolution Guidance Note 10 does not appear to be connected with the Holyrood inquiry, as the note is in its key provisions unchanged from

¹²⁶ See response of David Cairns (Parliamentary Under-secretary of State at the Scotland Office), HC Deb 15 November 2005, cols 808-9.

¹²⁷ BBC News, 'Home Office "snub" on terror bill', 8 November 2005, available at <http://news.bbc.co.uk/1/hi/scotland/4418538.stm>. See also BBC News 'MPs "shocked" in terror bill row', 3 November 2005, available at <http://news.bbc.co.uk/1/hi/scotland/4402286.stm> David Cairns also noted that the Crown Office was consulted: HC Deb, 15 November 2005, cols 808-9.

¹²⁸ Devolution Guidance Note 10, on Post-Devolution Primary Legislation Relating to Scotland, notes that bills which relate to non-devolved matters may affect devolved ones, and that there should be consultation with the Scottish Executive (in confidence if need be) over such matters. See particularly paras 7 and 11. DGN 10 was revised and recirculated in November 2005. It is available at www.dca.gov.uk/constitution/devolution/guidance.htm#10; the broader nature of consultation with the Executive has been identified during the author's interviews.

¹²⁹ See further the Wales Devolution Monitoring Report: January 2006, section 4.6, and House of Commons Welsh Affairs Committee, Session 2004-05 Fourth Report, *Police Service, Crime and Anti-Social Behaviour in Wales*, HC 46-I (London: The Stationery Office, 2005).

¹³⁰ The report is available at www.scottish.parliament.uk/business/committees/procedures/reports-05/pr05-07-vol01.htm

¹³¹ See www.parliament.uk/parliamentary_committees/scottish_affairs_committee/sac_051027.cfm

previous versions, and has not been amended to take account of the Procedures Committee's recommendations and concerns.

5.4 The Advocate General for Scotland in the Lords

One consequence of the reduction in the number of Westminster seats for Scotland that took effect at the 2005 UK General Election was that Dr Lynda Clark, the Advocate General for Scotland (the UK Government's law officer for Scots law) stood down from her seat. She retains her post as Advocate-General and now sits in the Lords as Baroness Clark of Calston. To date she has played only a small part in the House's activities, and gave her maiden speech on 24 October 2005 (to wind up the second reading debate on the Consumer Credit bill).¹³² Questions relating to the work of the Advocate General have been considered in the Commons as part of questions to the Secretary of State for Scotland, rather than to the law officers or otherwise in the Lords.

5.5 Scotland's foreign and international development policy

Scotland's existing international development policy has been developing over the last few months. Links between Scotland and Malawi have deepened, with a visit by the First Minister in May 2005, the launch of the Scotland Malawi Appeal Fund on 1 June, a visit by the Malawian President in November when he addressed the Parliament, attended the Scotland-Malawi Partnership Conference at Holyrood (which he chaired jointly with the Princess Royal), and the signing of a cooperation agreement between Scotland and Malawi.¹³³ The Executive's own international development policy also extends to areas affected by the Kashmir earthquake.¹³⁴

In addition, in May 2005 an action plan was signed between Scotland and Bavaria, to build on the cooperation agreement signed in 2003.¹³⁵ Conspicuously little had resulted from that cooperation agreement, reportedly because of inaction at the German end.

Although foreign affairs remains a matter reserved to the UK Government and Parliament, there is no objection or bar to the development of cooperation between devolved administrations and foreign sub-national governments on matters which are

¹³² HL Deb, 24 October 2005, cols 1052-58.

¹³³ The agreement is available at www.scotland.gov.uk/Topics/Government/International-Relations/internationaldevelopment/malawi/agreement

¹³⁴ See www.scotland.gov.uk/Topics/Government/International-Relations/internationaldevelopment/earthqukkashmir

within their common competence. Greater sensitivity attaches where there are links between a devolved administration and a sovereign state, but again these have side-stepped by two neat devices. One (notable in the case of the cooperation agreement with Malawi) is to limit practical and policy cooperation to what is already within the Parliament's jurisdiction. The other, used for providing financial help, is for the Executive not to provide assistance directly, but to provide it to Scottish NGOs and other bodies which are active in the areas targeted. (This is the approach used for both Malawi and Kashmir.) Thus any concerns which might exist at UK level about Scottish actions have little purchase.

5.6 Implications of the Comprehensive Spending Review.

HM Treasury announced in July 2005 that the next spending review, expected to take place in the spring and early summer of 2006, would be postponed a year and be a Comprehensive Spending Review.¹³⁶ This has major implications for Scotland. First, it is significant that the review – expected to signal bad financial news for Scotland, Wales and Northern Ireland – will take place after the 2007 Holyrood elections and not before them. Deferring the unfavourable outcome of the review until after the elections is likely to help Labour in contrast to the opposition parties. There is no reason to think that this was designed to achieve that – indeed, the evidence is that the Treasury did not consult any other parts of UK Government about this decision at all, but made a unilateral decision without considering the impact on elections in Scotland (or elsewhere).

Second, according to the Treasury statement the review will

- take a zero based approach to assessing the effectiveness of departments' existing spending in delivering the outputs to which they are committed;
- examine the key long-term trends and challenges that will shape the next decade and assess how public services will need to respond; and
- look at how the public expenditure framework can best embed and extend ongoing efficiency improvements and support the long-term investments needed to meet these challenges.

This implies a fundamental review of spending – which raises the question of how the Barnett formula will be affected by that review. On the one hand, the Treasury has

¹³⁵ See www.scotland.gov.uk/News/Releases/2005/05/06135730

denied any plans to change the Barnett formula.¹³⁷ Treasury officials have privately suggested that the process will be to take the outcomes for spending in England, and apply the formula to the resulting increases (or presumably reductions, if appropriate). It has also long been the Treasury position that any review of Barnett would need extensive consultation. On the other hand, there has been no express public statement to the effect that the review will not involve assessments of devolved spending, but will simply apply the Barnett formula to the outcome for England. Furthermore, a Comprehensive Spending Review (when the overall structure of public spending is reviewed) would be the logical time for a re-assessment of Barnett to take place. At the very least, the lack of clarity from the Treasury will fuel speculation.

¹³⁶ The Treasury's announcement can be found at www.hm-treasury.gov.uk/newsroom_and_speeches/press/2005/press_65_05.cfm

¹³⁷ See the response of the Chief Secretary at HC Deb, 18 October 2005, Col. 934W.

6. Scotland, Europe and International Relations

Peter Lynch

6.1 International Development Policy

2005 will be remembered as the year in which the Scottish Executive and Parliament became actively involved in international development policy. Such activity should be placed in the context of the UK Government's plans for the G8 summit in Gleneagles, the government's sponsorship of the Commission for Africa,¹³⁸ proposals for debt relief for developing countries as well as the Make Poverty History Campaign and associated campaigning. Thus Scottish Executive activism in a reserved area is nested within wider UK activism over development issues, making this a case of complementary policy-making as opposed to one in which the Executive is seen to be intruding into UK affairs.

The parliament had featured an international development group of MSPs for some time,¹³⁹ with a formal Cross-Party Group supported by a range of individuals and development organisations. However, the issue of international development took a new turn following the visit by a group of MSPs to South Africa and Malawi from 11-24 February 2005. The visit was sponsored by the Commonwealth Parliamentary Association and part-organised by the Scottish Parliament's External Liaison unit. The visit generated publicity as well as a lengthy report on development issues in the two countries.¹⁴⁰

However, the parliament's level of engagement on these issues was limited compared to the Executive. In the period from 1999 to 2005, the Scottish Executive had increased its administrative capacity in international and European affairs. The Executive created an International Group with 49 staff responsible for policy, strategy and administration. This group became the basis for the Executive's European Strategy,¹⁴¹ International Strategy¹⁴² and in March 2005, its International

¹³⁸. Commission for Africa (2005), *Our Common Interest – Report of the Commission for Africa*. London: Commission for Africa.

¹³⁹. www.scottish.parliament.uk/msp/crossPartyGroups/groups/cpg-idg.htm.

¹⁴⁰. Commonwealth Parliamentary Association/Scottish Parliament (2005), *Report of the Branch Visit to South Africa and Malawi, 11 to 24 February 2005*. Edinburgh: Scottish Parliament.

¹⁴¹. Scottish Executive (2004), *The Scottish Executive's European Strategy*. Edinburgh: Scottish Executive.

¹⁴². Scottish Executive (2004) *The Scottish Executive's International Strategy*. Edinburgh: Scottish Executive.

Development Strategy.¹⁴³ The International Development Strategy contained three specific strands:

1. Support for developing countries through the development and activities of Scottish-based NGOs – Executive financial support to build administrative capacity amongst international development organisations and help finance development work
2. A role for the Executive in coordinating international relief efforts at times of crisis
3. Raising awareness of development issues in Scotland and ensuring that Executive policies take account of the developing world – linking Executive procurement policies and corporate responsibility for example.

Of these three development goals, the provision of support for NGOs and financing of development activities has been the most prominent. The Executive created a fund to be used by NGOs and public organisations such as health boards to help finance work in developing countries though, in time, this came to be concentrated on one particular developing country, Malawi. This country was chosen due to its historic links with Scotland, specifically the role of David Livingston and Scottish missionaries in the country. Malawi citizens also had links with Scotland, most obviously the former 'life' President, Hastings Banda, who had attended Edinburgh University as a student. The Executive had funded a visit by health professionals to Malawi from 18 to 22 April 2005 to investigate health provision in the country. This report highlighted a range of issues for potential cooperation between Scotland and Malawi, specifically assistance in AIDS treatment as well as maternity provision.¹⁴⁴

The Scottish Executive's International Development strategy was published prior to the First Minister's visit to Malawi in May 2005. This visit generated a considerable level of publicity in Scotland through the newspapers and broadcast media. Political correspondents from *The Herald*, *Scotsman* and BBC were present on the trip,¹⁴⁵ with extensive radio and TV coverage from the BBC (including substantial reports on Reporting Scotland during the week of the FM's visit). The *Daily Record* also devoted

¹⁴³ Scottish Executive (2005), *Scotland – International Development*. Edinburgh: Scottish Executive.

¹⁴⁴ Scottish Executive International Development, *Report of Health Sector Visit to Malawi*, 18 to 22 April 2005.

¹⁴⁵ Hamish MacDonell. 'Malawi welcome for McConnell', *The Scotsman*, 24 May 2005, Douglas Fraser, 'McConnell on a mission in Livingstone's footsteps', *The Herald*, 23 May 2005, Brian Taylor, 'McConnell reaches out to Malawi', *BBC News*, 22 May 2005.

a number of pages to the visit and publicised a medical charity fund for Malawi set up by Scottish medical staff from Edinburgh.¹⁴⁶

On 1 June, the First Minister launched the Scottish Malawi Appeal Fund to attract public and private funds for development work. Given the limited financial assistance that could come from the Scottish Executive, a public appeal for funds was seen as one means to boost development finance for Malawi. However, despite some support from celebrities – author Alexander McCall Smith donated royalties from one of his books (*The Girl Who Married a Lion*) – it is difficult to tell how successful this appeal has been. It would certainly require a large influx of public funds to match the Executive's £3 million commitment.

The President of Malawi and First Minister signed a cooperation agreement between the two countries in November 2005, during the president's visit to Scotland. The agreement committed the countries to develop cooperation in the areas of civic governance and society, sustainable economic development, health and education.¹⁴⁷

The Executive established an International Development Fund to facilitate development work. The Executive also undertook research to determine how this money could be spent and the types of project the Executive should be involved in. The Executive proposed to help finance the UK pension contributions of 10 health professionals from Scotland for a two year period in Malawi. In a more concrete way, a grant of £245,000 was awarded to the Institute of Aquaculture at Stirling University to develop aquatic resources in Malawi through a 3-year programme of cooperation with Mzuzu University.

Whilst the development issues associated with Malawi seemed fairly straightforward, the political background was not. Whilst there was relative consensus within the Scottish Parliament over Malawi and development work, there was concern from the SNP in particular over the visit of President Mutharika to Scotland in November 2005.¹⁴⁸ The visit was controversial because of the political situation in Malawi, specifically that the president was under investigation for corruption with the

¹⁴⁶. Magnus Gardham, 'A Mum dies every six says in Malawi Maternity Hospital', *Daily Record*, 25 May 2005.

¹⁴⁷. Scottish Executive news release, 3 November 2005, 'Scotland and Malawi sign co-operation agreement'.

¹⁴⁸. 'McConnell's Anger at Malawi call', BBC News, 21st October 2005.

opposition in the Malawi parliament seeking to impeach the president. This issue featured at FM's question time and the in the media in advance of the president's visit, but did not cloud the visit itself as the SNP drew back from the issue.

6.2 The G8 Summit

The G8 summit was held at the Gleneagles Hotel at Auchterarder in July 2005. The summit was controversial from a number of different perspectives and questions about the success of the summit remained unanswered in the months that followed. One major difficulty with the G8 summit was its cost. The Executive had declined to put a figure on the cost of the summit, due in part to the fact that policing and security costs depended on the scale of protest activities. Given the presence of anti-globalisation protestors as well as the Make Poverty History demonstration plus concerts, policing costs were considerable with many police personnel transferred from other parts of the UK to cover the summit. This situation had to change fairly quickly with the London terrorist bombings on 7 July.

By December 2005, the Scottish Executive estimated that the summit had cost £91 million in total, including £72 million for policing costs. As the Treasury had agreed to pay £20 million and the Foreign Office £11 million towards the costs of the summit, this left the Scottish Executive needing to pay a large sum as part of its contribution. This became a major issue of debate within the parliament and the media. The Executive had commissioned a report from consultants to assess the financial benefits of hosting the G8. The consultants argued that Scotland had gained £600 million worth of advertising from the G8 summit, in addition to generating income of £54 million through business contracts, journalists and Make Poverty History campaigners visiting Scotland. However, such figures should be treated with caution, not least those attributed to the £600 million of advertising which was estimated by counting up international newspaper coverage of the G8 event and calculating how much this would have cost as advertising.¹⁴⁹

6.3 Tartan Week Goes Canadian

The Scottish Executive organised a series of events to promote Scotland during Tartan Week from 31 March to 7 April 2005. The Executive funded a promotional exhibit in Grand Central Station and undertook a range of political, sporting and cultural activities. Significantly, the week of events was extended to both Quebec and

Canada for the first time, with a delegation of MSPs to Quebec. The First Minister also made a visit to the USA and Canada in October 2005 to develop trade and economic development, in addition to promoting the Fresh Talent initiative both countries. The FM met with Donald Trump in New York as well as then Canadian prime minister Paul Martin in Ottawa as well as attending events involving the Scottish diaspora in Canada.

6.4 Scotland and Europe: Partnership Regions

The Scottish Executive had developed a small number of cooperation agreements with European regions since 2002. These tended to start with protocols/agreements on proposals for policy and economic cooperation, before formal agreements for specific cooperation were agreed. The most recent agreement was between Scotland and North Rhine Westphalia, published in January 2005. This agreement sought cooperation in the specific area of renewable energy, biotechnology, structural fund policy, entrepreneurship, EU policy, administrative reform and investment in infrastructure.¹⁵⁰ This was the fourth such cooperation agreement since devolution.

6.5 Reports of the European and External Relations Committee 2005

The Scottish Parliament European and External Relations Committee published three major reports in 2005, on the promotion of Scotland worldwide,¹⁵¹ on the Executive's preparations for the G8 summit and a third on the Executive's Fresh Talent initiative. The first report was dealt with in the previous monitoring report in April 2005. The two subsequent reports dealt with major issues of Scottish Executive business, one related to the G8 and one to the First Minister's Fresh Talent initiative to attract workers to Scotland to fill skills' gaps and reverse Scotland's population decline. The report on the G8 summit sought to examine the summit's agenda and potential outcomes, the range of activities that would be attached to it as well as the potential benefits for Scotland of hosting the event. It also sought to examine the UK Presidency of the European Union from July to December 2005 and its impact on

¹⁴⁹. Robbie Dinwoodie, 'Profit or Loss? Row Grows over G8 Claims', *The Herald*, 15 December 2005, p.2.

¹⁵⁰. Scottish Executive (2005), *Action Plan Between the Scottish Executive and State Government of North Rhine-Westphalia*, Edinburgh, 24 January 2005.

¹⁵¹. European and External Relations Committee (2005), *1st Report 2005: An Inquiry into the Promotion of Scotland Worldwide: the Strategy, Policy and Activities of the Scottish Executive*. Edinburgh: Scottish Parliament.

Scotland.¹⁵² The report on the Fresh Talent initiative was generally supportive of the Executive's policy. It recommended clearer goals for the policy, a clearer linkage between the initiative and economic development policy in Scotland. It also pointed out that, despite the need to attract foreign workers, the Executive also need to find ways to mobilise the estimated 688,000 economically inactive people in Scotland into the workforce. The committee also recommended that the Executive reveal details of its discussions with the Home Office over a special points system for migrants to Scotland and also sought to promote employment opportunities for asylum seekers.¹⁵³ However, the Fresh Talent initiative is not in the hands of the committee or even the Executive, as the Home Office controls the policy. Scottish progress in this area was always likely to be limited by the fact that the immigration is a reserved issue and that it is politically sensitive within the UK. Moreover, the *Sunday Herald* reported in December that a version of Fresh Talent was to be implemented in England to allow the retention of foreign graduates of English universities – effectively introducing the two-year visa extension process in England.¹⁵⁴

¹⁵². European and External Relations Committee (2005), *2nd Report 2005 (Session 2), An Inquiry into the Scottish Executive's Preparations for the G8 Summit at Gleneagles and the UK Presidency of the EU and the Contribution Scotland Can Make to These Events*. Edinburgh: Scottish Parliament.

¹⁵³. European and External Relations Committee (2005), *4th Report 2005 (Session 2), An Inquiry into the Scottish Executive's Fresh Talent Initiative Examining the Problems It Aims to Address, Its Operation, Challenges and Prospects*, Edinburgh: Scottish Parliament.

¹⁵⁴. Paul Hutcheon, 'Fresh Talent Initiative Lost as scheme rolled out in England', *Sunday Herald*, 11 December 2005.

7. Relations with Local Government

David Scott

7.1 Funding Settlement

The annual funding settlement for councils was announced by Tom McCabe, minister for finance and public services reform.¹⁵⁵ Total core funding through Aggregate External Finance for local authorities in 2006-07 would be £8.3 billion, he said, meaning that by 2008, funding would have risen by around 55 per cent since 1999. The announcement showed how the funding figure of £8.3 billion will be shared out among Scotland's 32 councils.¹⁵⁶ The average increase for Scotland is 3.2 per cent. Among individual councils, the rises vary from 2 per cent in Glasgow, Aberdeen, Dundee, Stirling, West Dunbartonshire, Western Isles and Shetland to 5.9 per cent in East Renfrewshire. Mr McCabe said that the settlement would mean that key services should receive increased funding of more than £300 million in 2006-07 and £540 million the following year. He called on councils to be innovative and rise to the challenge to bring long-term change in the way public services were delivered. 'I believe this – and other factors like aligning resources to priorities and ensuring income-generation is as efficient as possible – will allow local authorities to exert downward pressure on council tax levels,' the minister said.

First Minister Jack McConnell insisted that council tax bills in 2006-07 should rise by no more than 2.5 per cent. However, the president of the Convention of Scottish Local Authorities (COSLA), Pat Watters, warned that councils were left with no other choice than to look at cuts in frontline services. He added: 'Yes, councils can put a downward push on council tax but coupled with a tight settlement it would be at the expense of front-line services that we deliver day and daily to communities. No council in Scotland wants to raise council tax more than it needs to. but this is an extremely tight settlement for Scottish local government'.¹⁵⁷

The Executive also announced progress towards bringing the business rates poundage in Scotland in line with England by 2007. The poundage from April 2006 will be 44.9p compared with the current figure of 46.1p in Scotland and 41.5p in England. Full parity with the figures for England is due to be achieved by April 2007.

¹⁵⁵ Scottish Parliament, 23 November

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-05/sor1123-01.htm

¹⁵⁶ Aggregate External Finance increases 2006-07 and 2007-08

www.scotland.gov.uk/News/News-Extras/aeftable2005

The debate over council finance included controversy over the contribution required of local government to meet the Executive's efficient government agenda. In a critical budget report published in December¹⁵⁸ the Finance Committee of the Scottish Parliament reported on a projected local government funding shortfall of £84.9 million on top of an efficiency target saving of £58.5 million. It warned that, if councils were to make further savings this would require a council tax increase of 6.6 per cent even though the Executive had set a target limit of 2.5 per cent.

7.2 Council Reform?

The Scottish Executive's decision to review the future of public services led to speculation about whether Scotland has too many councils. The current structure of 32 unitary councils was created at the 1986 reorganisation of local government. The Executive's intention to examine the management of the wider public sector was first indicated by Tom McCabe in a radio interview earlier in the year and then confirmed by the minister at the annual COSLA conference in St Andrews.¹⁵⁹

In an article in *The Scotsman*,¹⁶⁰ Douglas Sinclair, chairman of SOLACE in Scotland, described the current public sector as a 'hotchpotch of 32 councils, 15 health boards, 23 local enterprise companies, 8 police forces, 8 fire brigades and 6 sheriffdoms.'

Mr McCabe questioned whether Scotland had too many chief executives and directors of finance. But he stressed that he did not believe in the 'enormous disruption of another reorganisation of local government'. He put the emphasis on working together and joining up both support services and the services delivered to the public.

Councils have been told to look at the possibility of joining up 'backroom' services like council tax collection departments and payroll departments. COSLA and the Scottish Executive invited local authority chief executives and council leaders to take part in a modelling project to examine options. *Public Finance* magazine¹⁶¹ reported

¹⁵⁷ Press Statement by Councillor Pat Watters, 23 November, 2005. Available at www.cosla.gov.uk

¹⁵⁸ Scottish Parliament finance committee report

www.scottish.parliament.uk/business/committees/finance/reports-05/fir05-05.htm

¹⁵⁹¹⁵⁹ COSLA decision to examine future of public services.

COSLA Connections, May 2005.

www.cosla.gov.uk/attachments/connections/connections20.pdf

¹⁶⁰ D. Sinclair: Councils are a Hotchpotch Ready for a Revamp, *The Scotsman*, 29 April 2005)

news.scotsman.com/politics.cfm?id=455972005

¹⁶¹ D. Scott: Scots plan single bodies to run services, *Public Finance*, 21-27 October (2005).

on 21 Oct 2005 that one of these options was the possible creation of a 'super council.'

This model would result in all public services, or the majority of these, being organised under the primary governance of a single elected body. The second potential model could result in two or three councils opting to establish a single unified education service. The third model would involve councils and their partners coming together to 'deliver a thematic approach to services.'

The Executive has stressed that it wants to involve the public sector in shaping the future of services and that it has no intention of adopting a 'top down' approach. George Lyon, deputy minister for finance and public service reform, told a seminar organised by the Chartered Institute of Public Finance and Accountancy (CIPFA) in November that the modelling project had no preferred models and it would not conclude by recommending one specific model for public services.

Councillor Pat Watters wants councils to lead the way in helping to reform the public sector, stressing that he does not believe a reduction in councils would lead to cost savings or improvements in services and that 'local accountability' must be preserved. He believes other parts of the public sector, including quangos, should be made more accountable. Towards the end of the year, Mr McCabe told a Unison conference he was determined to step up the pace of reform and that a discussion paper would be published early in 2006.¹⁶²

7.3 Improvement Service

An Improvement Service (IS) for local government was set up jointly by the Scottish Executive, COSLA and SOLACE.¹⁶³ Its aim is to promote learning and share good practice across local government so that duplication of effort is avoided and change is supported.

The new service, led by its chief executive, Colin Mair, formerly of Strathclyde University, will aim to work with both officers and members to help them increase their skills and knowledge and promote good practice across local government.

www.cipfa.org.uk/publicfinance/search_details.cfm?News_id=25565&keysearch=Scots%20plan%20single%20bodies

¹⁶² www.scotland.gov.uk/News/Releases/2005/12/02152552

¹⁶³ Information can be found at: www.scotland.gov.uk/Topics/Government/local-government/18777/14956

The IS says it will support learning sharing and capacity building; partnership and joint working; performance management and scrutiny, and local governance. It will also support the transition to the new electoral and ward arrangements due to be introduced in 2007. During September and October support staff were appointed, the IS moved into new premises in Broxburn and its first board meeting was held in November.

7.4 Finance Review

The independent committee set up by the Scottish Executive to review local government finance reported that it had received around 350 responses following the publication of a consultation document¹⁶⁴. Around 250 were from members of the public and about 30 per cent of these described themselves as pensioners. In addition, 450 postcards were received as a result of a Help the Aged campaign. The pre-printed postcards asked the committee to consider carefully the effect of local taxation on pensioner households with low or fixed incomes. The committee also received a petition seeking the introduction of a local sales tax in place of council tax.

The committee was set up by First Minister Jack McConnell with the remit of reviewing the different options for local taxation including reform of the council tax and identifying the pros and cons of implementing any changes to the local taxation system. As the committee reported, the biggest issue among members of the public was fairness. This was most usually expressed as being linked to ability to pay, although another factor sought was a closer correlation between payment and the number of people in a household. The issue of fairness also affected the public's views on other principles. One example related to the question of how much of a local authority's income should come from local taxation. Many people who expressed dissatisfaction with the fairness of council tax argued for a larger share of local government income to be funded from the Scottish Executive and/or for responsibility for some services to be transferred to the Executive because they thought national taxes tend to be fairer.

In its evidence to the committee in October, COSLA advised that the council tax must be retained but with a number of improvements to the way it operates. COSLA concluded that there was a case for increasing the number of property bands from

¹⁶⁴ www.localgovernmentfinancereview.org/public-consultation/feedback/consultation_feedback.aspx

eight to twelve. It argued that this would create greater equality in the council tax system and would help the lower paid.

7.5 Best Value

Reports on four councils – Inverclyde, West Lothian, Dundee and East Renfrewshire – were published by the Accounts Commission for Scotland as part of its rolling programme of Best Value audits.¹⁶⁵ These were established as a result of the Local Government in Scotland Act 2003. The audit assesses the extent to which each council is meeting its legal duty to improve service delivery, identifies where this is in doubt and outlines any improvement action that is required. Best Value audits for all 32 councils are being carried out as part of a three-year rolling programme.

The report on Inverclyde, which was strongly critical of both the council's political and administrative management, attracted widespread publicity. It called on the council to take urgent remedial action to address weaknesses in leadership and direction. The commission identified a number of key requirements which would need to be met if the council was to move to a position where it could provide Best Value. These included better leadership from senior managers and councillors.

Several weeks after publication of the report, the chief executive, Robert Cleary, resigned and the chief executive of COSLA, Rory Mair, was appointed interim chief executive. In its follow-up report, the commission said the council had made some progress but it added that there was still a long way to go and the pace of change had to be increased.

In contrast to the Inverclyde findings, both West Lothian and East Renfrewshire councils received very positive reports from the commission. It said West Lothian had a clear and ambitious strategic vision which was transmitted through effective planning into good services. East Renfrewshire Council was described as an ambitious and successful authority that had a culture of continuous improvement.

In its report on Dundee City Council, the commission said that while its services generally performed well for the community, more modernisation and better scrutiny by councillors would be required for the future.

¹⁶⁵ www.audit-scotland.gov.uk/publications/pubs2005.htm

7.6 Single Status and Equal Pay

*The Scotsman*¹⁶⁶ reported that Scottish councils were facing a bill of £500 million to settle thousands of equal pay claims from women workers. The newspaper reported legal experts as saying that more than 50,000 women council employees – including cleaners, clerical staff, care assistants and catering workers – would be eligible for payments averaging £15,000 each. Councils in the north east of England were said to have already paid out £75 million after claims involved 8,000 women workers.

The issue arose as a result of difficulties in implementing a Single Status agreement reached in 1999. While some progress had been made the gender issue was not resolved and pay differences between men and women doing similar jobs continued. One of the points of contention was the sum councils were prepared to pay in compensation to cover the period since 1999 when equal pay had not been implemented. Disputes between the employers and unions arose in Aberdeen and Moray when it emerged that equal pay schemes aimed at resolving the issue would result in big pay cuts for some employees.

Towards the end of the year, Scotland's biggest local authority, Glasgow City Council, offered a £40 million package to make compensation payments to all staff affected by the Single Status deal, with a pledge to pay the money before Christmas. Other councils were still trying to resolve the issue.

7.7 Planning

A white paper on planning¹⁶⁷ was published in June. The Planning (Scotland) Bill was then published in December¹⁶⁸. The bill aims to speed up decisions, reflect local views and allow quicker decisions for businesses that want to invest in areas. Key legislative proposals will include establishing a National Planning Framework and introducing a new process for the determination of applications for developments of national strategic importance.

There will be a move to a single tier of local development plans everywhere apart from the four largest city regions; a new statutory requirement for pre-application discussions; a transfer of responsibility of neighbour notification to planning authorities; early determination of appeals that are not well founded and changes that

¹⁶⁶ P. MacMahon, 'Equal pay failing may cost councils £500 million.' *The Scotsman*, 16 Aug 2005, p.1.

¹⁶⁷ Scottish Executive. Modernising the Planning System, June 9, 2005
www.scotland.gov.uk/Publications/2005/06/27113519/35231

will result in more frequent use of hearings to allow local people to present their views.

Despite earlier controversy about the possible introduction of a third party right of appeal, this was resisted by local government and has not been included in the bill, though it is likely to be considered by the Scottish Parliament's local government and transportation committee.

¹⁶⁸ Available at www.scottish.parliament.uk/business/bills/51-planning/index

8. Finance

Alex Christie

Some issues perennially grab newspaper headlines, others are under the spotlight for a week or so before sliding to the letters pages of newspapers and ministerial questions as the focus of attention moves elsewhere. This report examines issues surrounding the usual suspects: the budget and Executive support for councils and council tax levies. A developing issue is that surrounding the Executive's efficiency programme.

8.1 Budget Finance

The Executive published its first round plans for 2006-07 in early September.¹⁶⁹

Figure 8.1 shows real allocations (2005-06 prices) for this year and next and respective growth rates.

Figure 8.1: Scottish Executive Budget Expenditure Plans 2004-05 to 2006-07

	2004-05 Budget (£000s)	2005-06 Budget (£000s)	2006-07 Plans (£000s)	Growth rate 04/05- 05/06	Growth rate 05/06- 06/07
Justice	881,165	905,289	1,027,032	3	13
COPFS	91,381	92,575	96,474	1	4
Education and Young People	438,004	488,217	582,230	11	19
Tourism, Culture and Sport	238,699	255,239	283,050	7	11
Health and Community Care	8,248,952	8,799,893	9,280,398	7	5
Food Standards Agency	9,840	9,771	10,001	-1	2
Enterprise and Lifelong Learning	2,541,667	2,659,499	2,754,833	5	4
Communities	1,285,061	1,240,774	1,235,571	-3	0
Transport	1,362,484	1,487,773	1,753,497	9	18
Environment and Rural Development	1,228,922	1,282,607	1,248,113	4	-3
Finance and Public Service Reform	9,342,855	9,735,723	9,807,378	4	1
Capital Modernisation Fund	51,251	60,000	-	17	-
Administration	256,832	259,060	256,369	1	-1
Scottish Parliament and Audit Scotland	121,384	103,496	102,574	-15	-1
Contingency Fund	59,830	10,000	14,606	-83	46
Total	26,158,328	27,389,916	28,452,126	5	4

Restraint in public expenditure is starting to bite, but the Executive continues to receive significant funding increases. Although the increment has dropped from five per cent last year to four per cent this year, plans are still likely to allow the level of public expenditure in Scotland to near double over a decade. Priorities have changed over that period, but health, education, and recently transport (after years of relative neglect) receive significant increments. Of course absolute budget size determines the magnitude of relative budget increments and large absolute sums still make little impact on budgets such as health and finance. The small real terms increase for finance, most of which goes in Aggregate External Finance to local authorities, indicates the Executive's determination that councils can do more with the funding they already have. The councils, unsurprisingly, dispute this and have been backed by Professor Arthur Midwinter, the finance committee's special adviser.¹⁷⁰

8.2 Council Tax

The process of allocation to councils is ritualistic. The allocation announcement is made; COSLA, representing Scotland's local authorities, claims the money is insufficient; the Executive retorts that it is sufficient and that council tax rises can be kept down and services maintained and even improved. This year is little different, except that this time both sides seem to really believe what they are saying. The Executive is determined that local authorities must become more efficient: the local authorities insist that they cannot continue to meet their obligations with the level of funding they are set to receive without raising council tax more than by the rate of inflation (2.5 per cent). The truth probably lies somewhere in between.

Making cuts is never politically popular, but then neither is raising taxation. Professor Midwinter believes that a combination of both will be necessary if the announced grant is fixed and council tax rates are not to rise above inflation. If cuts are to be made they are often made where they are politically less costly rather than where efficiency rates are poorest. Given that the Executive has set targets for local authorities to achieve in terms of service provision this may prove difficult. For instance, on a standard measure of efficiency reducing class sizes is inefficient because there is a reduced output (pupils) per unit of input (teachers and classrooms). As long as input budgeting and measurement systems are employed in both central and local government it will be difficult to determine whether efficiency is

¹⁶⁹ The Scottish Executive's Draft Budget for 2006-07:
www.scotland.gov.uk/Publications/2005/09/06112356/23573.

being achieved and whether it is being achieved at the expense of desired outputs and outcomes. Local authorities may also think the Executive a little rich in demanding from councils efficiency savings it seems unable to achieve itself.

8.3 Government Efficiency

The UK Government's undertaking of an efficiency review by Sir Peter Gershon, published in 2004,¹⁷¹ prompted the Scottish Executive to consider their own spending allocations, concerned by the fact that signals from the Treasury indicated that Gordon Brown was to tighten public spending and therefore Scotland's consequential budget allocations. The First Minister was quick to claim that what Whitehall could do Scotland could do better. Recent press coverage has indicated that senior civil servants were wary of making such claims, at least before a proper analysis into the feasibility of such action had been undertaken.¹⁷² Plans were announced in June 2004 by the Finance Minister that £500 million per annum would be saved from the Executive's budget through efficiency savings. Emboldened, the Executive then increased that figure to £813 million in September 2005.

Recent analysis by Jo Armstrong, a former adviser within the Executive, showed where cash-releasing savings – cash that should be released to be redirected for spending on service provision – were to be made and therefore where the burden would lie.¹⁷³ Clearly if the saving target is a monetary figure rather than a relative percentage cut it is easiest to make small percentage cuts to big budgets to release large sums of money. As such, Health and Finance & Public Services are expected to save over 70 per cent of the £813 million target.

The target for efficiency savings in Scotland represents 4.4 per cent of the budget, while those set by the UK Government represent at least 7.4 per cent of the Whitehall budget. Devolution was intended so that Scotland could set its own priorities and determine what methods were to be employed to achieve them. It need not follow blindly what happens in the rest of the UK, but should not be surprised when it is compared against it. To start efficiency savings by claiming to 'out-Gershon Gershon' and then setting targets that are less demanding than those inspired by Gershon in Whitehall could leave the Executive charged with the accusation that this

¹⁷⁰ 'Council taxes will rise and frontline services fall despite £17bn grant' *The Scotsman* 24 November 2005.

¹⁷¹ www.hm-treasury.gov.uk/media/B2C/11/efficiency_review120704.pdf

¹⁷² 'Civil service warning to McConnell' *Scotland on Sunday* 30 October 2005

merely serves as further proof that Scotland's financial allocation from Westminster is at least comfortable.

8.4 Conclusions

Six and a half years of devolution have passed and attention is turning to the differences in policy outputs, choices and methods that have been adopted across the UK. Academic researchers, policy makers and the media are increasingly focussing on what Scotland gets for its money. The fact that Scotland receives more per head than in England, even after subtracting the automatic stabilisers of social security and other transfer payments, is now so well accepted as to be almost forgotten. The spotlight has usually shone on the Barnett formula instead and on what Scotland was going to do when the 'squeeze' inevitably led to the equalisation of spending per head with that in England on aggregate comparable services. It is now clear that the squeeze has not come about because the formula does not work as the textbook definition suggests. What is not so clear is what Scotland has done with the money. A record of below UK GDP growth, high public spending and large levels of public sector employment means that unless the Executive can answer its critics over its own efficiency claims, it is going to struggle when trying to enforce them on local authorities.

¹⁷³ 'Raising the Return: Scotland's Public Assets – efficiency savings for the public sector' Jo Armstrong – SCF/FAI seminar series

9. Disputes and litigation

Alan Trench

No devolution disputes have been considered by the Joint Ministerial Committee in this period, nor has there been any intergovernmental litigation before the Judicial Committee of the Privy Council. The last devolution cases (only technically so as they were appeals on ECHR grounds against criminal convictions) considered by the Judicial Committee were *Holland v. Lord Advocate* and *Sinclair v. Lord Advocate*, in which judgement was given on 11 May 2005.

On 15 December 2005, the House of Lords gave judgement in the case of *Davidson v. Scottish Ministers*.¹⁷⁴ The pursuer claimed conditions at Barlinnie gaol infringed his human rights. The legal issue was whether (and to what extent) the Crown Proceedings Act 1947 applied in Scotland, and whether the Scottish Ministers constituted 'the Crown' in Scotland or were merely its officers. (The latter issue was not resolved, but is likely to be considered in due course in the case of *Beggs v. Scottish Ministers*.¹⁷⁵)

As noted in section 5.4, the Advocate General for Scotland now sits in the House of Lords at Westminster, and has not answered questions on her activities since June. Anne McIntosh (Conservative MP for Vale of York, and a Scottish Advocate) has regularly sought information on this matter, which is not otherwise made public by the Advocate General or her office.

Miss McIntosh's questioning reveals that the number of 'devolution issues' considered by the Advocate General were as follows:

5 July – 18 October	228 ¹⁷⁶
18 October – 15 November	74 ¹⁷⁷
15 November – 14 December	62 ¹⁷⁸
TOTAL	364

¹⁷⁴ [2005] UKHL 74, available at www.publications.parliament.uk/pa/ld/ldjudgmt.htm

¹⁷⁵ See 'Two Scots appeals in the house of Lords' Scots Law News no. 525, available at www.law.ed.ac.uk/sln/index.asp?page=532

¹⁷⁶ HC Deb, 18 October 2005, col 684.

¹⁷⁷ HC Deb, 15 November 2005, col 807

¹⁷⁸ HC Deb, 14 December 2005, col 2048W

These cases all involved human rights issues, and none had an intergovernmental aspect. Only a few (precise figures are not given) attracted any sort of intervention by the Advocate General.

10. Political Parties

Peter Lynch

10.1 The UK General Election

The UK general election on 5 May 2005 was the first UK election in Scotland under the new post-devolution electoral boundaries following the reduction in Scottish seats from 72 to 59.¹⁷⁹ In Scotland, Labour won 39 per cent of the vote and 40 of the 59 seats (15 less than in 2001), compared to 22.6 per cent for the Lib Dems (11 seats), 17.7 per cent for the SNP (6 seats) and 15.8 per cent for the Conservatives (1 seat). The main outcomes were as follows. First, Labour lost a small number of seats to its competitors (just as at the 2003 Scottish election), but remained in a dominant position. Second, the Lib Dems emerged as the second party following reduced support for the SNP and took two seats from Labour. Whether this is a one-off or the beginning of a post-devolution realignment remains to be seen. Third, the SNP's performance was paradoxical – more seats but fewer votes. The party's support continued to decline from its highpoint in 1999, but it gained two seats – Dundee East and the Western Isles from Labour. Finally, the Conservatives lost their only Scottish seat, although boundary changes had made it narrowly Labour on the nominal 2001 result, but gained another, with victory in Dumfriesshire, Clydesdale and Tweeddale.. This latter development saw then MSP David Mundell elected to Westminster as the Tories' sole Scottish representative. Mundell later became Shadow Secretary of State for Scotland in David Cameron's first shadow cabinet in December 2005.

10.2 The Lib Dems – From Wallace to Stephen

Jim Wallace announced he was standing down as Lib Dem leader following the general election of 5 May 2005. Wallace had taken over as Scottish leader in 1992, having been MP for Orkney and Shetland from 1983 to 2001 and MSP for Orkney from 1999 onwards. Significantly, Wallace was both Deputy First Minister and Minister for Enterprise and Lifelong Learning in the Scottish Executive, so his decision to step down as Lib Dem leader in Scotland led to him vacating three different political positions. Wallace's decision did not merely raise questions for the Lib Dems in relation to his successor, but also about the continuation of the Lib-Lab coalition from 2005-07 and more specifically from 2007 onwards.

¹⁷⁹ This was part of the Scotland Act 1998, intended to mitigate the effect of the West Lothian question on English issues at Westminster.

The resultant leadership contest involved two contenders: Aberdeen South MSP Nicol Stephen and Aberdeenshire West and Kincardine MSP, Mike Rumbles. Stephen was clearly the favourite, and promoted as Wallace's successor in waiting. He was a member of the Scottish Executive ministerial team as Transport Minister, whereas Rumbles was a sometimes controversial backbencher and committee convenor in the parliament. Stephen's leadership pitch focused on challenging Labour more effectively at the 2007 election – to build upon its impressive second place at the Westminster contest of 2005 – and promoting reductions in business rates, fully funded student grants and opposing nuclear power. During the leadership campaign, Stephen appeared to open the door to a potential coalition deal with the SNP after the 2007 election, whilst Rumbles adopted a not dissimilar position by being critical of Labour's establishment status in Scotland. Rumbles also promoted the idea of more tax powers for the Scottish Parliament as well as a much tougher stance over the coalition deal in 2007.

Whilst Stephen appeared the clear favourite in this contest, the fact that the election involved an OMOV ballot of party members introduced some uncertainty. However, in the end, Stephen had a comfortable victory with 76.6 per cent of the vote to 23.4 per cent for Rumbles. Stephen sought to promote his party as pro-education, pro-economy, pro-business and pro-environment, with little sense that these issues might conflict with each other. As the transport minister who pushed through the M74 motorway extension against environmental protestors this was unsurprising.

10.3 The Scottish Socialists – Suspension of MSPs

The SSP has faced a difficult time since replacing leader Tommy Sheridan in 2004. Its media profile dipped following the controversy over Sheridan's removal. However, the prospect of linking the party to the anti-globalisation protest movement in anticipation of the G8 summit in Gleneagles provided the SSP with a clear opportunity in 2005. However, the party's protest tactics in the Scottish Parliament backfired spectacularly.

Four SSP MSPs staged a protest in the Scottish Parliament chamber on 30 June in support of the right of demonstrators to stage a march close to the Gleneagles hotel summit venue. Regardless of the SSP's efforts, demonstrators reached agreement on this issue with Perth and Kinross council and the police, leaving the SSP looking rather foolish. However, the parliament had experienced SSP disruption before and was in no mood to allow this particular episode to go unpunished. The result was that

the parliament banned the four MSPs from Holyrood for one month, starting in September 2005 (when the parliament would be in session, rather than over the summer months).

The ban's effect was magnified by the party's financial arrangements. The SSP is largely funded by donations from its MSPs, who take only the average working wage from their parliamentary salary and donate the rest to the party. The ban meant that four of the party's six MSPs lost both their salaries and their allowances for one month, costing it £51,708. The SSP responded by launching a financial appeal and by seeking to take legal action against the parliament to restore its allowances. The latter effort was abandoned as the SSP estimated that legal failure would cost the party a further £100,000 in costs.¹⁸⁰ In addition, the SSP website came to prominence for containing details of money received from abroad, illegal under UK election law, and prompting severe embarrassment and an Electoral Commission investigation.¹⁸¹ To cap this, the SSP failed to submit its annual accounts to the Electoral Commission, again breaching UK electoral law. Having missed a July 2005 deadline, it asked for a later deadline in August which it also missed, leaving itself open to a fine of £500-£5000 or police action.¹⁸²

10.4 By-elections in Glasgow Cathcart and Livingston

Two by-elections were held on 29 September, caused by quite different events. First, Mike Watson resigned as MSP for Glasgow Cathcart after his guilty plea in court to a charge of fire-raising at the 2004 Scottish Politician of the Year Awards. Watson had not resigned his seat in the time between the police inquiry and the court case but did so just as the court case began. The second by-election was caused by the death of Robin Cook MP from a heart attack in August. Both by-elections resulted in good showings for Labour. The party retained Livingston with a majority of 2,680 votes over the SNP. Despite the more controversial circumstances in Cathcart, Labour also held it with a 2405 majority over the SNP. The Nationalists did not perform well in this seat despite the Watson issue, the adoption of a controversial Labour candidate (former Glasgow council leader Charlie Gordon, who was a quoted critic of the First Minister and Executive), and the possible takeover of ScottishPower which employed large numbers of constituents. The turnout in this seat was only 31.97 per cent, the

¹⁸⁰. BBC Scotland News. *SSP drops legal move against ban*. 31 August 2005.

<http://news.bbc.co.uk/1/hi/scotland/4201998.stm>

¹⁸¹. *Sunday Herald*, 4th September, 2005, p.4.

¹⁸². BBC Scotland News *Debt-hit SSP faces watchdog wrath*. 6 August 2005.

<http://news.bbc.co.uk/1/hi/scotland/4748869.stm>

lowest by-election turnout in Scotland.

Several patterns emerged from these contests. First, Labour succeeded comfortably in each, despite the government's difficulties over Iraq. Though the Lib Dems had done well at the 2005 general election, both results were disappointing. Any hope of displacing the SNP was severely dashed. The SNP had some cheer because the party remained in good second places in each seat. In another year, the SNP might have expected to win one of these seats, but maintaining support after coming third at the general election was important.

10.5 The Conservative Leadership Crisis

David McLetchie resigned as Scottish Conservative leader on 31 October 2005. McLetchie had been embroiled in a scandal over his taxi expenses for months following freedom of information requests by Scottish journalists (largely the *Sunday Herald's* Paul Hutcheon). Previously, McLetchie had been forced to resign from his part-time job as a solicitor over potential conflicts of interest. The taxi expense issue revolved around discrepancies in the expenses McLetchie had claimed as parliamentary business. These included trips to the Conservative conference in Bournemouth and to a party function in Selkirk. In addition, there were many expense claims for taxis that contained no details of destinations and were rounded up so it appeared that the taxpayer was paying for McLetchie's tips to taxi-drivers. McLetchie eventually repaid his questionable claims.

McLetchie's resignation – delayed by a family holiday in New Zealand and by a hope that the issue would go away – opened up the interesting scenario of simultaneous Conservative leadership contests in Scotland and the UK. However, there was no contest in Scotland. Scottish Conservative MSPs prevented a contest by engineering a joint ticket of Annabel Goldie as party leader and Murdo Fraser (list MSP for Mid-Scotland and Fife) as deputy leader. There was no battle of ideas, just a continuation of business as usual. Since her selection as leader, Goldie has performed well at First Minister's questions but in contrast to David Cameron, it is very difficult to see the Goldie leadership doing much for the party in Scotland other than providing common sense and stability (not that these values should be under-rated).

The Conservative crisis had two consequences. One was the resignation of prominent MSP Brian Monteith following his exposure by Scotland on Sunday editor Iain Martin for suggesting in a private email that McLetchie should resign. Monteith

resigned from the Conservative group at Holyrood to sit as an independent, before being expelled from the party. This development not only cut the number of Tory MSPs and generated bad publicity, it also effectively ended Monteith's political career as he was thrown out of the party just at the time of reselections for 2007. The second was that on 13 December 2005, the Scottish Parliament published the details of expenses of all MSPs. The document published came to 700 pages, in excruciating detail. Rather than allow the parliament to be vulnerable to journalistic fishing expeditions using individual freedom of information requests, the parliamentary authorities had decided to release as comprehensive information as possible about MSP expenses, all at once.

10.6 The SNP and Independence.

Alex Salmond published a blueprint for how Scotland might achieve independence on 28 November. It contained the wording of a question to be asked in a referendum and how, following a 'yes' vote, the SNP would expect to negotiate an independence deal within the four-year term of a Scottish parliament.¹⁸³ It contained little that was new apart from SNP acceptance that the Queen would remain Head of State in an independent Scotland if the electorate so wished.¹⁸⁴ More interesting was the SNP's participation in an Independence Convention on 30 November in Edinburgh with the Greens and the SSP, who also support independence. Though the title is intended to echo the Constitutional Convention which drew up what became the groundwork for the Scotland Act, this Convention is as yet little more than a campaigning tool designed to promote the cause of independence.¹⁸⁵ It is significant, however, for it marks an acceptance by the SNP that its efforts alone are unlikely to win independence.

¹⁸³ SNP. *Raising the Standard*. Edinburgh. November 2005.

www.snp.org/homepagelatest/policy/raisingthestandard

¹⁸⁴ BBC Scotland News. *Salmond Hails Independence Plan*. 28 November 2005.

<http://news.bbc.co.uk/1/hi/scotland/4478818.stm>

¹⁸⁵ www.snp.org/homepagelatest/event/independenceconvention ; Russell, M. *Rewriting the home rule book* Sunday Herald. 4 December 2005 www.sundayherald.com/53158

11. Public Policies

Paul Cairney

11.1 Change in the Public Services

One of the key developing issues is the extent to which Scottish devolution has delivered better public services. Comparisons with public sector reform in England are inevitable, but a process of soul-searching is also apparent in Northern Ireland and in many ways the forthcoming debate in Scotland will resemble developments in Wales. The Welsh Assembly Government consultation document *Making the Connections*,¹⁸⁶ issued in October 2004, stressed that while policy conditions in Wales were not conducive to the market and competition-based reforms being piloted in England, there was a need to reform public services. The document suggested an approach based on cooperation between services to address a lack of capacity caused by the number of small local authorities and local health boards, as well as the need to merge or remove services in health and education to address historical oversupply. Various assurances have been given since that the intention to reorganize local authority boundaries is only a last resort. In Scotland, although there has been no formal announcement of intent, the early noises suggest a similar approach, with a need to address the lack of joined-up government (perhaps ironic given that this has traditionally been seen as a feature of Scottish administration) through service innovation and policy learning within Scotland. Fewer assurances have been given on local authority size, although the signs are that a similar deal will be offered: if the local authorities and others are cooperative and can show evidence of service improvement through cooperation, then the Scottish Executive will defer boundary reform indefinitely. Reform will begin with the push for shared financial and ICT support services. Changes to public procurement have already been announced.¹⁸⁷

A big part of the problem in Scotland and elsewhere is that the indicators of service performance are either non-existent, not sophisticated or subject to competition in the selection of evaluation tools. The general issue of productivity measures and the economy is addressed to some extent by the implementation of the UK's Atkinson Review.¹⁸⁸ Competition over evaluation is felt most in Scotland (and Wales) when

¹⁸⁶ www.wales.gov.uk/themesmakingconnection/content/mtc-document-e.pdf

¹⁸⁷ 13 December 2005 'Public procurement reform'

www.holyrood.com/nav/news/stories/story.asp?story=elec514

¹⁸⁸ Scottish Executive (June 2005) 'Implementing The Atkinson Review In Scotland'
www.scotland.gov.uk/Publications/2005/06/27134246/42491

NHS performance is compared with England. The performance agenda is still geared towards waiting lists rather than, say, patient satisfaction or the unintended consequences of following targets. This is addressed to some extent by a Scottish Executive commissioned report into health statistics which recommends greater focus on primary care and out-patient services.¹⁸⁹ The relatively high historical spend on health in Scotland (and Wales) also means that reform is synonymous with rationalisation. Therefore the promise of equal pain for all will not stop high profile local campaigns to maintain existing services.¹⁹⁰

11.2 Housing and Homelessness

Since devolution we have seen divergence in homelessness policy and convergence in policy towards housing stock transfer. Legislation on homelessness in 2003 extended the definition of 'priority need', to discourage local authorities from restricting its resources and highlight levels of 'hidden homelessness' (when people did not seek assistance on the assumption they would not qualify). Not surprisingly, the short-term effect of this policy has been a rise in homelessness statistics – from 46,540 applicants in 2001-02 (before the new arrangements) to 57,020 in 2004-05.¹⁹¹ Homelessness is perhaps one of the best examples of a Scottish Parliament characterised by business leaders (however unfairly) in the early years as a large social work department. In the second session the pendulum shifted, with social groups now suggesting that the implementation agenda has been lost after an initial flurry of excellent legislation. However, the necessary publication of these figures represents an annual impetus to a Scottish Executive committed to eradicating homelessness by 2012. The legacy of the legislation may therefore ensure that homelessness is higher on the agenda than we would otherwise expect, although it may be undermined by other policies such as the reduction in social housing caused by right-to-buy.¹⁹² An announcement on meeting the 2012 target is expected early in 2006.¹⁹³

¹⁸⁹ Scottish Executive News Release 15 December 2005 'Health report aims to improve services' www.scotland.gov.uk/News/Releases/2005/12/15144811

¹⁹⁰ L. Summerhayes 20 September 2005 'Hospital rethink pressure grows' Evening News news.scotsman.com/topics.cfm?tid=1196&id=1966802005; H. Puttick 9 December 2005 'Fears for local services as debt-ridden NHS board is split up' *The Herald* www.theherald.co.uk/news/52281.html

¹⁹¹ Scottish Executive 12 November 2005 Homelessness statistical bulletin 2004-05 www.scotland.gov.uk/Publications/2005/11/0193147/31478; F. Nelson 2 November 2005 'Scotland's homeless hits record number' news.scotsman.com/topics.cfm?tid=583&id=2181662005

¹⁹² H. MacDonell 'Nationalists berate Executive as child homelessness rates rocket' news.scotsman.com/topics.cfm?tid=583&id=2387442005; 13 September 2005 'Right-to-buy blamed for 'homelessness timebomb'' www.holyrood.com/nav/news/stories/story.asp?story=plan25

¹⁹³ BBC News 21 December 2005 'Minister makes homeless priority' news.bbc.co.uk/1/hi/scotland/4547452.stm; 19 December 2005 'Scots support action on homelessness' www.holyrood.com/nav/news/stories/story.asp?story=heal107

Policy in housing stock transfer shows signs of convergence given the Treasury rules on borrowing to repair or maintain the housing stock (available only to housing associations or their equivalent) and the promise to write off the council house debt if the stock is transferred. This, combined with the strength of Scottish Executive support behind the policy, means that stock transfer is the 'only show in town'. The only hitch to this inevitable development is that council house tenants in Edinburgh voted against the transfer in December (in contrast with Argyll and Bute which voted nine to one in favour). There will now be much head scratching for a council which made most of its plans on the assumption of transfer, and concern from homelessness groups looking forward to the promise of 10,000 new homes on the back of the new ability to borrow.¹⁹⁴ If the experience of the response in Wales is a good indicator, then Edinburgh Council will plan to wait a respectable period of time and ballot again.

11.3 Public Health

Bills were completed on both cigarettes and alcohol during this period (see section 2.2 of this report). There has been some expectation that moves in Scotland, Wales and Northern Ireland to introduce comprehensive bans on smoking in public places would shame UK ministers into doing the same. Following backbench pressure at Westminster it now appears that MPs will be offered a free vote with a total ban the likely outcome.. Divergence between Scottish and English smoking policy is thus likely to be averted though policies on smoking cessation, advertising and the potential for new rules on selling cigarettes to 18-year olds (however well enforced) are all similar in any case. With licensing, the differences in Scottish policy are more difficult to trace since both pieces of legislation address the issue of binge drinking associated with restricted opening hours and the need for more community involvement in licensing decisions. The Labour/ Liberal Democrat split (see section 2.2) over the devolution of decisions to local licensing boards (a key element of the Westminster bill) highlights *potential* for divergence, while George Lyon MSP argues that 'there is a presumption against 24-hour opening in the bill, which is completely

¹⁹⁴ www.holyrood.com/nav/news/stories/story.asp?story=plan32

different from the Westminster legislation'.¹⁹⁵ Figures released in December show a significant rise in alcohol related deaths in Scotland.¹⁹⁶

Drugs policy in Scotland has moved towards 'harm-reduction' since the mid 1980s following the belief among drug workers that police measures to confiscate injecting equipment caused the swift HIV spread in Lothian. HIV spread was addressed by prescribing methadone to reduce needle-sharing and harm-reduction has endured to this day, punctuated by the attempt of a baseball-cap-wearing Michael Forsyth to promote abstinence by establishing Scotland Against Drugs in 1996 (in the wake of public concern over ecstasy deaths). While SAD itself moved towards harm-reduction after 1997, its partial demise may still be symbolic.¹⁹⁷ The harm-reduction message is re-affirmed in the Scottish Executive response in December to recommendations on drug-related deaths.¹⁹⁸ This includes the need to train drug users and friends/ family in resuscitation techniques, ensure that police involvement does not discourage seeking emergency help, foster joined up working for voluntary and public services and ensure that NHS services are suitable for the distinct needs of a range of drug users. Prisoners are also given higher doses of methadone towards the end of their sentence to prevent drug overdoses when released.¹⁹⁹

11.4 The NHS

No news is good news in healthcare. The Scottish Executive came under fire at the end of 2005 for the legacy of agreeing to the terms of the consultant contract and spending NHS funds on 'crisis management' rather than long term capacity. This came after reports that some consultants in NHS areas which were struggling to meet end-of-year waiting list targets (e.g. appointments and treatment within six months of being referred by a GP) were receiving £1,500 per day overtime to clear the backlog, while £25 million had also been spent on private care to address the

¹⁹⁵ Scottish Parliament Official Report 16 November 2005 Col 20694

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-05/sor1116-02.htm#Col20675

¹⁹⁶ Scottish Executive News 19 December 2005 'Rise in alcohol-related illness and death' www.scotland.gov.uk/News/Releases/2005/12/19094632

¹⁹⁷ R. Dinwoodie 2 December 2005 'Scotland Against Drugs shut down over funding' *The Herald* www.theherald.co.uk/politics/51859.html; Scottish Executive News Release 1 December 2005 'Scotland Against Drugs' www.scotland.gov.uk/News/Releases/2005/12/02080844

¹⁹⁸ 13 December 2005 'Taking Action To Reduce Scotland's Drug-Related Deaths: The Scottish Executive Response to the Scottish Advisory Committee on Drug Misuse Drug-related Deaths Working Group, Report and Recommendations' www.scotland.gov.uk/Publications/2005/12/12114228/42289

¹⁹⁹ 6 June 2005 'High methadone doses for released prisoners' www.holyrood.com/nav/news/stories/story.asp?story=just28; 16 August 2005 'Scotland swimming in a sea of Methadone' www.holyrood.com/nav/news/stories/story.asp?story=just52

waiting list.²⁰⁰ Some concern was also expressed about the early operation of 'NHS 24'. Changes following the new GP contract meant that the demand for out-of-hours advice was higher than expected and this led to significant delays. The Independent Review Team Report was particularly critical of the use of 'call-back' – originally planned for a small number of low priority calls, this has become almost routine practice.²⁰¹ The Kerr report was published in April 2005, recommending small specialised services to establish a critical mass of clinical expertise combined with larger community services for most healthcare, a greater focus on health prevention and the need for systems to deal with long-term illness.²⁰² The report was well received, with the odd comment that the Scottish Executive has been promising variations on this theme since 2000.²⁰³ Part of the Scottish (and Welsh) problem is that too many use hospital services rather than GPs as a first point of health contact. The lack of knowledge of services is still apparent in recent surveys.²⁰⁴ Hospital waiting list cuts were announced in May, although SNP Leader Nicola Sturgeon suggested that this followed from the exclusion of certain patients to 'hidden lists'.²⁰⁵ In September Tony Blair was critical of the rejection of English NHS reforms in Scotland, while the Scottish Executive responded to suggestions that Scottish NHS performance lagged behind England:

While we take a different approach to the process of monitoring and supporting delivery, it is important to note that outcomes in Scotland are, in many cases, as good as or better than in England. For example, every NHS Board in Scotland has seen significant improvements in waiting times. We are now doing substantially better than England in respect of waiting times for inpatients and day case waiting times. Latest data indicates that 31.5 of every 100,000 population waited over six months in Scotland, compared to 83 in England. While no one in Scotland had to wait over nine months, almost one person in every 100,000 in England did so. Our median waiting time for inpatients and day cases is also better: 50 days in Scotland compared with 60 days in England. (Data as at March 2005.)²⁰⁶

²⁰⁰ R. Gray 18 December 2005 'Surgeons receiving £1,500-a-day extra to slash waiting lists' Scotland on Sunday news.scotsman.com/scotland.cfm?id=2426002005

²⁰¹ Final Report of the NHS 24 Independent Review Team. 5 October 2005

www.scotland.gov.uk/Publications/2005/10/NHS24Report; L. Gray 14 December 2005 'NHS 24 line rolled out too fast, says report' news.scotsman.com/topics.cfm?tid=57&id=2403532005

²⁰² Scottish Executive 25 May 2005 'Building A Health Service Fit For The Future'

www.scotland.gov.uk/Publications/2005/05/23141307/13104; 22 June 2005 'Health and social services must co-operate on home care' www.holyrood.com/nav/news/stories/story.asp?story=heal37

²⁰³ BBC News 25 May 2005 'Report reveals NHS overhaul plans'

news.bbc.co.uk/1/hi/scotland/4577821.stm;

²⁰⁴ 25 May 2005 'Scots ill-informed on health services'

www.holyrood.com/nav/news/stories/story.asp?story=heal22

²⁰⁵ 26 May 2005 'Hospital waiting times come down'

www.holyrood.com/nav/news/stories/story.asp?story=heal24; 12 July 2005 'Sturgeon attacks Executive on waiting lists' www.holyrood.com/nav/news/stories/story.asp?story=heal45

²⁰⁶ 'Evidence To The Finance Committee, August 2005 – John Elvidge, Permanent Secretary, Scottish Executive' www.scottish.parliament.uk/business/committees/finance/papers-05/fip05-21.pdf paras 16-

The issue of healthcare costs continue to make the headlines, with the Scottish Executive's first session flagship policy on 'free' personal care for the elderly coming under particular scrutiny (see section 2.4 on the parliamentary scrutiny of this). The Scottish Executive has commissioned a strategy to review the implementation of free personal care on the back of a report by the Auditor General for Scotland in 2004 and Audit Committee scrutiny in 2005.²⁰⁷ The biggest issue may be the use of top-up fees to fund a basic level of care (defeating the purpose of 'free'), although the additional cost of providing free personal care at home may be exaggerated since local authorities have in the past subsidised this by charging well below cost.²⁰⁸ UK reforms to postgraduate medical training were announced in August.²⁰⁹ The effects of dispensing policy is causing concern for rural GPs.²¹⁰ The significant Mental Health Act 2003 came into force in October.²¹¹

11.5 Education

The Further and Higher Education (Scotland) Act 2005 was passed on 20 April 2005. It fosters links across post-compulsory education by creating a new body which combines the functions of the higher and further education funding bodies. More controversially, it enables Scottish ministers to introduce variable fees for certain courses. This follows the introduction of top-up fees in England and the concern that more English students will study medicine in Scotland (crowding out Scottish students who are more likely to work in the Scottish NHS after graduation). Following a Mike Pringle MSP (Liberal Democrat) amendment the Act allows ministers to make the change only following a degree of consultation with groups such as the NUS (although the practical effect of this is uncertain).²¹² Given that the minister in charge of the legislation (Jim Wallace) was a Liberal Democrat, there were inevitable

17; 26 September 2005 'Blair attacks Executive over NHS reform'

www.holyrood.com/nav/news/stories/story.asp?story=heal72

²⁰⁷ Scottish Executive 13 July 2005 'Strategy To Evaluate The Implementation And Impact Of The Free Personal Care Policy' www.scotland.gov.uk/Publications/2005/07/13113027/30285

²⁰⁸ See P. Cairney (2004) 'Convergence and Divergence Following Devolution in Scotland: An Implementation Agenda',

www.abdn.ac.uk/pir/notes/Level3/PI3546/Convergence%20and%20Divergence%20Following%20Devolution%20in%20Scotland.%20An%20Implementation%20Agenda.doc

²⁰⁹ 2 August 2005 'Medical graduates to undergo broad training'

www.holyrood.com/nav/news/stories/story.asp?story=heal54

²¹⁰ 19 August 2005 'Dispensing doctors face uncertain future'

www.holyrood.com/nav/news/stories/story.asp?story=heal63

²¹¹ 5 October 2005 'Mental Health Act comes into force'

www.holyrood.com/nav/news/stories/story.asp?story=heal74;
www.scottish.parliament.uk/business/bills/billsPassed/b64s1pm.pdf

²¹² For the stage 2 and 3 debates see

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-05/sor0420-01.htm;

comparisons made between the Scottish Executive and Westminster Liberal Democrat policies on top-up fees.²¹³ The powers under the Act were used in July 2005 by Nicol Stephen. The fee per year for English (and of course Welsh and Northern Irish) students was raised from £1,200 (i.e. the amount that students in England – not Scotland – were paying before the enactment of the Higher Education Act 2004 at Westminster) to £1,700 while English medical students will now pay £2,700 per year. There was a mixture of concerns at the news – a handful of English students are taking a case of discrimination to court, while there is concern that this is the ‘slippery slope’ to top-up fees in Scotland.²¹⁴

Developments in compulsory education show convergence and divergence with England. The issue of public private partnerships (PPP) in schools continues to attract headlines, with the public sector union Unison particularly critical.²¹⁵ Average levels of PPP in the UK are higher than Scotland and Wales, but if we look at devolved areas such as school building projects then Scotland is roughly in line with England (with lower levels in Wales).²¹⁶ Like stock transfer (see section 11.2), the Treasury constraints on Scottish Executive and local authority borrowing (as well as more enthusiasm in Scotland compared to Wales) has led the Executive to treat PPP projects for schools as the ‘only show in town’. Media coverage this year suggests that key local authority decision makers are just as determined to deliver these schemes by the Scottish Executive’s 2009 schedule, although many have been delayed by the tendering process.²¹⁷ There is understandable concern from Scotland’s largest teaching union (the EIS) which feels that it has not been consulted enough over detailed plans for rebuild and refurbishment, while less predictable opposition has come from architects and builders concerned about build quality.²¹⁸

www.scottish.parliament.uk/business/committees/enterprise/or-05/ec05-0601.htm . For further ‘Medical crisis imminent’ see 5 September 2005 www.holyrood.com/nav/news/stories/story.asp?story=heal69

²¹³ The Guardian 21 April 2005 ‘Scottish MPs agree to top-up fees’ politics.guardian.co.uk/studentpolitics/story/0,1556,1469732,00.html

²¹⁴ K. Schofield 21 July 2005 ‘Anger as Executive imposes higher fees on English students’ *The Scotsman* news.scotsman.com/topics.cfm?tid=1235&id=1658962005; 21 July 2005 ‘Universities body welcomes end of uncertainty’ www.holyrood.com/nav/news/stories/story.asp?story=ed14

²¹⁵ *The Scotsman* 24 October 2005 ‘PFI under fire’ news.scotsman.com/topics.cfm?tid=571&id=2135482005; Unison ‘What is Wrong with PFI in Schools’ www.unison.org.uk/acrobat/13672.pdf

²¹⁶ Calculated from list maintained by the Treasury www.hm-treasury.gov.uk/media/F20/9F/ACF12A5.xls

²¹⁷ J. Ross 28 October 2005 ‘£617m schools plan go-ahead defies critics’, *The Scotsman* news.scotsman.com/topics.cfm?tid=571&id=2156022005; K. Schofield 13 August 2005 ‘Delays plague school building projects’, *The Scotsman* news.scotsman.com/topics.cfm?tid=571&id=1773782005

²¹⁸ See for example www.edinburgharchitecture.co.uk/PPP_scottish_schools.htm; K. Schofield 21 December 2005 ‘School building programme branded a waste of money’ *The Scotsman* news.scotsman.com/scotland.cfm?id=2439892005

Continued difference is apparent in the Scottish (and Welsh) decision not to publish detailed league tables on school performance. This seems to be a policy which local authorities and the media cannot agree on, with councillor Ewan Aitken often brought out to defend the status quo (e.g. on *Newsnight Scotland* in November 2005). The policy is also undermined annually by a newspaper which takes the publicly available information on schools and publishes performance tables.²¹⁹ The link between attainment and poverty was addressed to an extent by a keynote speech in September and the Scottish Executive announcement in December of £60 million for recruitment in deprived areas.²²⁰

In September's legislative statement, the First Minister reaffirmed his commitment to the school investment programme, as well as the creation of Scotland's 'Schools of Ambition'. The reform to school boards was discussed, with plans for an annual head teacher report to parents and the ability of parent bodies to request a school inspection under exceptional circumstances (although there is no signal of a shift away from central and local education authority control in Scotland towards the devolved governor approach in England). There are plans to build on the policy of free school meals with a commitment to ban fizzy drinks and encourage a healthier menu.

11.6 Economy

The economic impact of holding the G8 summit in Scotland was debated in December. There was some media criticism of the decision of the UK Government to fund around £30 million of the costs (leaving a net cost to the Scottish Executive of £60 million), while the Scottish Executive suggested that funding for staging such events was part of Scotland's block grant. A report commissioned on the positive economic benefits suggested that the event was worth £65 million to the Scottish economy, while the equivalent advertising costs would have ranged somewhere between £66-618 million (assuming that all coverage is good coverage).²²¹ The Scottish Economic Report was published in April 2005. The picture is mixed, with good Gross Value Added growth associated with the service sector but continued

²¹⁹ A. Denholm 15 December 2005 'Schools performance 2005' *The Herald* www.theherald.co.uk/news/52559.html

²²⁰ 22 September 2005 'Executive launch blitz on under-attainment' www.holyrood.com/nav/news/stories/story.asp?story=ed26; BBC News 16 December 2005 'Funds for teachers in poor areas' news.bbc.co.uk/1/hi/scotland/2781359.stm

²²¹ Scottish Executive News Release 14 December 2005 'Economic impact of G8 Summit' www.scotland.gov.uk/News/Releases/2005/12/13135034; BBC News 14 December 2005 'G8 event 'made £5m for Scotland'' news.bbc.co.uk/1/hi/scotland/4525472.stm

decline in manufacturing (which 'does appear to be bottoming out').²²² Private reports towards the end of the year suggest that economic growth and job market levels are better in Scotland than the rest of the UK.²²³ In October 2005 the Scottish Executive released an independent report on the progress of Smart Successful Scotland. The report suggests that most progress is being made on skills and learning, with less encouraging news on the rate of business growth.²²⁴ In September's legislative statement the First Minister announced the long-awaited reduction of business rate poundage in line with England.²²⁵ Since England's business rate was set after a re-evaluation and increase of rateable value, the decision in Scotland may reduce the level of business rates in Scotland compared to England.²²⁶ Doubts over the ability of local authorities to implement *Determined to Succeed* were expressed by the Institute of Directors.²²⁷

11.7 Fresh Talent Initiative

As discussed above, the fresh talent initiative to address the economic effects of population decline is subject to UK rules on immigration (for the non-EU population). In June much was made about the suggestion that the initial figure of 8000 people per year to address population decline was 'indicative' rather than a set target.²²⁸ This was addressed to some extent by General Register Office (October 2005) figures suggesting that the population would take 19 years longer than expected to fall below the symbolic five million mark.²²⁹ Also in June the Scottish Executive announced an agreement with the Home Office for the pilot scheme 'Fresh Talent: Working in Scotland'. It allows overseas students to apply to work in Scotland for two years after the end of their course without needing a work permit (provided they are studying for at least a Higher National Diploma).²³⁰ After some initial success (in which it was announced that 600 people had applied in a short time) came the

²²² www.scotland.gov.uk/Publications/2005/04/11172518/25219; 27 July 2005 'Scottish economic growth lags UK's' www.holyrood.com/nav/news/stories/story.asp?story=bus22

²²³ S. Ward 24 November 2005 'Scottish economy outpacing UK – for now' *The Scotsman* news.scotsman.com/topics.cfm?tid=216&id=2291252005; *The Scotsman* 7 December 2005 'Scottish economic growth outperforms UK' news.scotsman.com/topics.cfm?tid=216&id=2362612005

²²⁴ Scottish Executive (2005) 'Report assessing progress towards A Smart Successful Scotland, benchmarking Scotland's performance against that of comparator OECD countries' www.scotland.gov.uk/Publications/2005/12/0195717/57189

²²⁵ www.scotland.gov.uk/News/News-Extras/legprog2005

²²⁶ See M. Keating (2005) *The Government of Scotland* (Edinburgh University Press), pp.150-1.

²²⁷ 10 October 2005 'Business chief slates enterprise education delivery'

www.holyrood.com/nav/news/stories/story.asp?story=bus41

²²⁸ *The Herald* 22 June 2005 'Fresh Talent Key Target is Dropped'.

²²⁹ Scottish Executive News release 20 October 2005 'Population expected to rise and age' www.scotland.gov.uk/News/Releases/2005/10/20093932

²³⁰ Scottish Executive News release 16 June 2005 'Fresh Talent: Working in Scotland' www.scotland.gov.uk/News/Releases/2005/06/16102727; 21 September 2005 'Fresh Talent Challenge

announcement that England would follow Scotland's lead. This was highlighted by the Scottish Executive as a sign of policy achievement and learning, with the proviso from others that a similar scheme in England would undermine Scotland's advantage.²³¹ The UK adoption of the policy also reinforces the claims made by the SNP that the Scottish scheme was merely a pilot for a UK wide initiative.²³²

11.8 Law & Order

Law and order is still high on the Scottish Executive's legislative agenda, with two bills passed on sexual offences in 2005. The Protection of Children and Prevention of Sexual Offences (Scotland) Act addresses the crime of child 'grooming', and extends provision for civil preventative orders to be used by police on adults suspected to be potentially harmful to children. The Act also extends Scots law significantly, by extending protection to children up to the age of 18 (in line with EU and UN guidelines), but after parliamentary scrutiny the age level of potential *offenders* was removed.²³³ The Scottish Act in part builds on Westminster's Sexual Offences Act 2003²³⁴ and previous legislation in Scotland dealing with civil orders used by the police. The main aim of the Management of Offenders etc. (Scotland) Act is to address high rates of re-offending following release from prison. This includes the extension of electronic tagging for prisoners at the end of their sentence. The Act establishes Community Justice Authorities and requires police, local authorities and the Scottish Prison Service to maintain joint services for sexual and violent offenders. It provides for more stringent conditions on sex offenders released on license and allows the Criminal Injuries Compensation Board to recover money paid to victims from the perpetrators of the crime. As with most issues of crime, the Scottish difference in this is difficult to identify, with tagging in particular associated with previous Home Office initiatives.

Crime is also at the centre of Jack McConnell's statement on the upcoming legislative programme (September 2005). This includes the Sentencing Bill dealing with early release and the Police, Public Order and Criminal Justice (Scotland) Bill (currently at stage 1 in the Scottish Parliament) which introduces measures for football banning orders, mandatory drug testing, higher penalties for carrying a knife,

Fund announced' www.holyrood.com/nav/news/stories/story.asp?story=ed25
www.holyrood.com/nav/news/stories/story.asp?story=elec251

²³¹ H. McDonnell 12 December 2005 'Foreign graduates scheme to be copied' *The Scotsman*
news.scotsman.com/topics.cfm?tid=1235&id=2388472005

²³² www.ucl.ac.uk/constitution-unit/monrep/scotland/scotland_august_2004.pdf

²³³ www.scottish.parliament.uk/business/bills/billsnotInProgress-s2/children.htm

limiting the use of fireworks and placing conditions on sectarian marches.²³⁵ The statement also discusses cooperation with the home office on gun laws and immigration (see section 2.1). The UN's suggestion that Scotland is the most violent country in the developed world was met with criticism within Scotland.²³⁶

11.9 Legal and Social Issues

The Family Law (Scotland) Bill was passed in December 2005, introducing 'the most liberal divorce laws in the United Kingdom'²³⁷ (particularly since the relevant section in Westminster's Family Law Act 1996 was never implemented in full). The bill reduces the period of time for an uncontested divorce from two years to one, and five years to two for a contested divorce (while also increasing funding for conciliation services). It includes provisions for the rights of unmarried couples and the 'illegitimate' status of their children.²³⁸ Scottish Executive policy on adoption by gay and unmarried couples (as part of wider reform) was highlighted in June and outlined in the background to September's legislative statement.²³⁹ The Scottish Executive's consultation on reforming the system on complaints against solicitors ended in August.²⁴⁰ The issue of slopping out in prisons remains on the agenda following the details of compensation costs.²⁴¹

11.10 Rural and Environmental Issues

Agricultural and environmental issues are the best examples of 'multi-level governance' since, while these are devolved issues, the big decisions are made in the EU, with the UK as the member state. The big story this year for Scottish farmers is therefore Tony Blair's (lack of) success in exchanging a lower UK rebate for future

²³⁴ www.opsi.gov.uk/acts/acts2003/20030042.htm; see also 24 October 2005 'Jamieson responds to Irving Report on sex offenders' www.holyrood.com/nav/news/stories/story.asp?story=just75

²³⁵ Scottish Executive News Release 6 September 2005 'Legislative Programme 2005' www.scotland.gov.uk/News/News-Extras/legprog2005; 'Criminal Justice Plan aims to reduce re-offending' www.scotland.gov.uk/News/Releases/2004/12/06100103

²³⁶ 19 September 2005 'UN study on Scottish violence flawed' www.holyrood.com/nav/news/stories/story.asp?story=just63

²³⁷ J. Knox BBC News 17 December 2005 'Worldly wisdom on family affairs' news.bbc.co.uk/1/hi/scotland/4537396.stm

²³⁸ www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-05/sor1215-02.htm#Col21771

²³⁹ 10 June 2005 'Executive plans allow gay and unmarried adoption' www.holyrood.com/nav/news/stories/story.asp?story=ed10; www.scotland.gov.uk/News/News-Extras/bkgrdbrfgs#a1

²⁴⁰ 15 August 2005 'Law Society of Scotland responds to the Executive' www.holyrood.com/nav/news/stories/story.asp?story=elec169

²⁴¹ BBC News 2 August 2005 'Slopping out bill rises to £44m' news.bbc.co.uk/1/hi/scotland/4737245.stm; 20 July 2005 'Prison will "never be decent" while slopping out prevails' www.holyrood.com/nav/news/stories/story.asp?story=just42

CAP reform.²⁴² The UK Government agreed to the implementation of the 2003 CAP reform, which ‘decouples’ payment from production, being done ‘regionally’ (with some money held back for farmers not entitled to historical payments and spending on agri-environment schemes). Scottish Executive policy has been viewed (at least in *The Scotsman*) as more positive, with payments likely in December 2005 compared to May 2006. This is confirmed in a letter to farmers in November, with a target of 50 per cent of payments before Christmas.²⁴³ EU funds for rural diversification were announced in June.²⁴⁴ With fisheries policy the Scottish Executive has to balance contradictory aims of sustaining the industry but conserving the stocks. The lack of formal powers of negotiation in the EU for the Scottish Executive never seems to deter reports of ministerial bravado in the annual decision on fishing quotas, with Ross Finnie pledging to oppose a reduction in fishing days for cod.²⁴⁵ However, in June 2005 the Scottish Executive published a plan for sustainable fishing, emphasising the need for the fishing industry to listen to science to ensure long-term viability.²⁴⁶ The image of a responsible self-regulating industry was undermined by a high profile court case on a ‘black fish scam’.²⁴⁷

The Scottish Executive launched its sustainable development strategy *Choosing our Future* in December 2005.²⁴⁸ The document is an attempt to bring coherence to a series of measures already planned or in place – such as the commitment to sustainable development in Smart Successful Scotland and the role of public

²⁴² BBC News 1 December 2005 ‘UK prepared to reduce EU rebate’

news.bbc.co.uk/1/hi/uk_politics/4489682.stm

²⁴³ Scottish Executive (2005) ‘Single Farm Payment Scheme Payments’

www.scotland.gov.uk/Topics/Agriculture/Agricultural-Policy/CAPRef/News/SFPSPayments; J. Buchan 14 October 2005 ‘Scots farmers to get 70 per cent of SFP by year-end’ *The Scotsman*

news.scotsman.com/topics.cfm?tid=465&id=2085172005; see also SPICE (2004) ‘CAP Reform: Implementation in Scotland’ www.scottish.parliament.uk/business/research/briefings-04/sb04-12.pdf

²⁴⁴ 21 June 2005 ‘European funds for rural economy agreed’

www.holyrood.com/nav/news/stories/story.asp?story=env19

²⁴⁵ F. Urquhart 20 December 2005 ‘Finnie pledges to fight any EU cut to Scots fishing fleet’s time at sea’

news.scotsman.com/scotland.cfm?id=2433572005; BBC News 19 December 2005 ‘Days at sea key to fishing talks’ news.bbc.co.uk/1/hi/scotland/4535658.stm. See also F. Urquhart 3 December 2005 ‘Latest cut in fishing quotas ‘not a disaster’’ news.scotsman.com/topics.cfm?tid=15&id=2343982005; 22

December 2005 ‘Finnie says good fisheries deal secured’

www.holyrood.com/nav/news/stories/story.asp?story=env74

²⁴⁶ Scottish Executive (2005) ‘Sea Fisheries Strategy Document’

www.scotland.gov.uk/Publications/2005/07/07105456/54577; BBC News 28 June 2005 ‘Fishing framework plan published’ news.bbc.co.uk/1/hi/scotland/4629249.stm

²⁴⁷ F. Urquhart 18 October 2005 ‘Trawlermen ordered to repay nearly £1m over illegal catches’ *The Scotsman* news.scotsman.com/topics.cfm?tid=15&id=2104232005; BBC News 26 April 2005

‘Fishermen net £3.4m in catch scam’ news.bbc.co.uk/1/hi/scotland/4486347.stm. See also 21

September 2005 ‘Finnie wants protection for Scottish fishermen’

www.holyrood.com/nav/news/stories/story.asp?story=env42

²⁴⁸ Scottish Executive (2005) ‘Choosing Our Future: Scotland’s Sustainable Development Strategy’

www.scotland.gov.uk/Publications/2005/12/1493902/39032. It also reported its own annual performance – see Scottish Executive (2005) ‘Annual report of the Scottish Executives performance in 2004/05

against our environmental targets’ www.scotland.gov.uk/Publications/2005/12/16153024/30243

services in waste management. The strategy is based on the UK Government/ devolved administrations' joint document *One Future – Different Paths*, launched in March 2005 to coincide with the UK Government's strategy for sustainable development *Securing The Future*.²⁴⁹ The Environmental Assessment (Scotland) Bill was passed in November 2005. This implements the European Directive 2001/42/EC on 'Strategic Environmental Assessment' according to the terms of the Partnership Agreement.²⁵⁰ It ensures that plans made by public bodies are subject to environmental assessment before their implementation. The bill introduced by Liberal Democrat MSP Mike Pringle to imitate Ireland's tax on plastic bags looks unlikely to pass given the Scottish Executive preference for a voluntary scheme.²⁵¹ Sandra White MSP will pursue a member's bill on the third party right to appeal in planning decisions. This looks even less likely to pass following the Scottish Executive's rejection of the idea in favour of plans to address environmental and community concerns at an earlier stage in the process instead.²⁵²

11.11 Transport

The Scottish Executive was criticised by Green MSPs after Nicol Stephen's announcement on a second road bridge over the Forth at Kincardine. A report was commissioned on the long-term future of the Forth Road Bridge at Queensferry.²⁵³ There was also Green concern over Glasgow Airport's expansion plans.²⁵⁴ Funding for rural air transport was announced in November.²⁵⁵ The controversy over tendering for the Caledonian MacBrayne run services continues, while a non-Scottish firm was awarded a large Scottish Executive funded shipbuilding contract.²⁵⁶ Scotland's new powers on the rail network came into effect in October.²⁵⁷ Funding for improving a

²⁴⁹ See www.sustainable-development.gov.uk/publications/uk-strategy/framework-for-sd.htm

²⁵⁰ See the Policy Memorandum for the bill: www.scottish.parliament.uk/business/bills/pdfs/b38s2-introd-pm.pdf

²⁵¹ Environmental Levy On Plastic Bags (Scotland) Bill – Memorandum By The Scottish Executive To The Environment And Rural Development Committee Of The Scottish Parliament www.scottish.parliament.uk/business/committees/environment/papers-05/rap05-28.pdf ; BBC News 6 December 2005 'Plastic bag tax decision delayed' news.bbc.co.uk/1/hi/scotland/4501620.stm

²⁵² BBC News 20 December 2005 'In quotes: Planning law shake-up' news.bbc.co.uk/1/hi/scotland/4545028.stm ; 29 June 2005 'Planning White Paper: The Reaction' www.holyrood.com/nav/news/stories/story.asp?story=plan13

²⁵³ 15 June 2005 'New Forth road bridge at Kincardine' www.holyrood.com/nav/news/stories/story.asp?story=trans07; 11 December 2005 'Forth Road bridge assessment' www.holyrood.com/nav/news/stories/story.asp?story=trans28

²⁵⁴ 26 July 2005 'Glasgow Airport master plan unveiled' www.holyrood.com/nav/news/stories/story.asp?story=trans13

²⁵⁵ 7 November 2005 'McConnell backs rural airports' www.holyrood.com/nav/news/stories/story.asp?story=bus46

²⁵⁶ 19 July 2005 'EC says CalMac tendering inescapable' www.holyrood.com/nav/news/stories/story.asp?story=trans10; 4 August 2005 'Polish shipyard wins Scottish contract' www.holyrood.com/nav/news/stories/story.asp?story=env28

²⁵⁷ 18 October 2005 'Scotland acquires power over rail transport' www.holyrood.com/nav/news/stories/story.asp?story=trans26

notorious A9 stretch in Caithness was announced in November while the Aberdeen bypass will go ahead, but not through a special needs community.²⁵⁸

11.12 Energy

Energy policy is largely a reserved matter, but recent debates and questions in the Scottish Parliament have highlighted a Scottish role in the development of nuclear power policy (see section 2.1 on Parliament and Reserved Issues). The strain of controversy over pylons in the Cairngorms²⁵⁹ and the local effects of wind power projects prompted the Scottish Executive to produce 'Wind power: 10 myths explained' in April 2005 and embark on a 'roadshow' entitled 'It's Only Natural' from August to November 2005.²⁶⁰ It is also keen to promote other renewables to fulfil the aim of 40 per cent of Scottish energy from these sources by 2020. It announced a reduction in fees for small hydro-energy projects and began promoting a tidal turbine in the Orkneys.²⁶¹

11.13 International Affairs

International aid is another reserved issue. While the Scottish Executive could make policy around the devolved edges – e.g. by encouraging private donations and directing these to NGOs – the key is the sympathetic UK agenda on poverty in Africa. This should explain the absence of disputes over the Scottish role in Malawi and the extension of policy to medical training and maternity care.²⁶²

²⁵⁸ 28 November 2005 'A9 improvements approved' www.holyrood.com/nav/news/stories/story.asp?story=trans29 ; 1 December 2005 'Aberdeen road to bypass Camphill community' www.holyrood.com/nav/news/stories/story.asp?story=trans30

²⁵⁹ J. Ross 7 October 2005 'Pylon route 'would make park a joke'' *The Scotsman* news.scotsman.com/topics.cfm?tid=797&id=2051282005; J. Ross 20 December 2005 'National park says not on our land to wind farm' *The Scotsman* news.scotsman.com/topics.cfm?tid=797&id=2434112005

²⁶⁰ www.scotland.gov.uk/Topics/Business-Industry/infrastructure/19185/WindMythsExplained ; Scottish Executive News: 'Roadshow scotches renewable energy myths' www.scotland.gov.uk/News/Releases/2005/08/15124801

²⁶¹ Scottish Executive News Release 16 December 2005 'Renewable energy project' www.scotland.gov.uk/News/Releases/2005/12/16132016; 15 December 2005 'Fees cut for renewable energy developments' www.scotland.gov.uk/News/Releases/2005/12/15135918

²⁶² 24 May 2005 'First Minister unveils maternity help for Malawi' www.holyrood.com/nav/news/stories/story.asp?story=int10; *Scottish Executive International Development: Report of health sector visit to Malawi 18th- 22nd April 2005*, www.scotland.gov.uk/Publications/2005/06/15105055/50577

LIST OF FIGURES	7
EXECUTIVE SUMMARY	8
CHRONOLOGY: JANUARY-APRIL 2006	10
1. THE SCOTTISH EXECUTIVE	14
1.1 The Lord Advocate	14
1.2 Quangos and Civil Service Capacity	14
1.3 Scottish Executive Autonomy?	16
1.4 Freedom of Information	17
1.5 Bird Flu	18
1.6 What's in a Name? A train spotter's guide to titles.	18
2. THE SCOTTISH PARLIAMENT	19
2.1 Shirley McKie	19
2.2 Extradition	19
2.3 The Scottish Parliament Building and its Participants	20
2.4 The Scottish Parliament Committees	20
2.5 Committee Reports and Inquiries (15 December 2005 – 15 April 2006)	21
2.6 Parliamentary Bills (15 December 2005 – 25 April 2006)	23
2.7 Non-Executive Bills	24
2.8 Sewel (Legislative Consent) Motions passed	27
2.9 Cross-Party Groups	27
3 THE MEDIA	28
3.1 Changes in owners and Editors.	28
3.2 Coverage, Comments & Campaigns	28
4 PUBLIC ATTITUDES AND ELECTIONS	34
4.1 Attitudes towards devolution	34

4.2	National Identity	37
4.3	Other Issues	38
4.4	Party Fortunes	40
4.5	Attitudes towards Parties and Leaders	45
5	INTERGOVERNMENTAL RELATIONS	47
5.1	General	47
5.2	Adjusting the devolution settlement	49
5.3	The Advocate General for Scotland	49
5.4	Financial matters	50
6	SCOTLAND, EUROPE AND INTERNATIONAL RELATIONS	51
6.1	The Commonwealth Games	51
6.2	Partnership Agreements	51
6.3	Tartan Week 2006	51
6.4	Scotland and China	52
6.5	The Scottish Parliament, Europe and External Relations	52
7	RELATIONS WITH LOCAL GOVERNMENT	53
7.1	Council Tax	53
7.2	Councillors' allowances	54
7.3	Social Work Review	55
7.4	Accounts Commission	56
7.5	Pensions Dispute	57
7.6	Equal Pay	58
8	FINANCE	59
8.1	Public Sector Efficiency	59
8.2	Local Government Finance	61
8.3	Conclusion	62

9	DISPUTES AND LITIGATION	64
10	POLITICAL PARTIES	65
10.1	Green-SNP Coalition Talks	65
10.2	Dunfermline and West Fife By-election, 9 February 2006	65
10.3	The Steel Commission and the 2007 Election	66
10.4	Alex Salmond and Holyrood	67
10.5	The Nuclear Energy Debate and Devolution	67
10.6	The Moray By-election, 27 April 2006	68
11	PUBLIC POLICIES	70
11.1	Public Policy Divergence?	70
11.2	Divergence and Policy Styles	71
11.3	Nuclear Power	73
11.4	Economy	73
11.5	Education	74
11.6	Social Care	74
11.7	Health	75
11.8	Transport	75
11.9	Law and Order	76
11.10	Rural and Environment	76
11.11	Housing	77
11.12	Fresh Talent	77

List of Figures

Figure 4.1 Opinions about the Scottish Parliament	35
Figure 4.2 Support for Independence.	36
Figure 4.3 Identity and Sport	38
Figure 4.4 Opinions about Energy Supply.....	39
Figure 4.5 Opinion about the Shirley McKie case.	40
Figure 4.6 Voting intention In Scottish Parliament constituency elections.	41
Figure 4.7 Dunfermline and West Fife Westminster by-election, 9 February 2006 .	42
Figure 4.8 Moray Scottish Parliament by-election 28 April 2006	43
Figure 4.9 Local government by-elections, May-April 2006.	44
Figure 4.10 Opinion about coalitions.....	45
Figure 4.11 Opinion about party leaders.	46
Figure 8.1 Efficiency Savings in Scottish Budget portfolios if in line with UK efficiency target of 7.5% of the 2007-08 DEL	60
Figure 8.2 Percentage Increase in Aggregate External Finance and Council Tax for Scottish Local Authorities 2006-07.....	61

Executive Summary

- The Labour Party was humbled by the LibDems in the Dunfermline and West Fife Westminster parliamentary by-election; it was especially embarrassing because Gordon Brown, the Chancellor, is a neighbouring MP and played a large part in the campaign. The result caused tension in the Lab/LibDem Scottish Executive coalition.
- The Scottish National Party easily held on to Moray in a Scottish Parliamentary by-election, and the LibDems improved their vote share considerably. This, and the Dunfermline result, suggested that the LibDems and the SNP are competing for disaffected Labour voters with the Conservatives unable to make headway.
- The potential return of Alex Salmond, the SNP leader, from Westminster to Holyrood was signalled when he announced his decision to contest the Gordon constituency at the 2007 elections as well as the party's goal of 20 constituency seats.
- A proposal by the Forth Road Bridge authority to raise tolls caused a rift between Labour ministers in Edinburgh and London when Gordon Brown announced that the increase had been abandoned. In fact Scottish ministers had decided to defer a decision. The row provoked 'who rules Scotland?' headlines.
- Questions about the dual role of the Lord Advocate, Colin Boyd, as head of the prosecution service and as a politician in the Scottish cabinet arose in the Shirley McKie affair, a former police officer tried for perjury, acquitted, and then awarded compensation by the Scottish Executive. Boyd's decisions were questioned on whether they were motivated by political or legal considerations.
- Quangos came under scrutiny when it emerged that Scottish Enterprise had overspent its budget, the chairman of Scottish Water resigned, and it was announced that the Scottish Arts Council and Scottish Screen are to be merged. But ministers seem to have rejected the Welsh solution of putting quango functions under direct ministerial control.
- Nuclear energy emerged as a source of division between Labour, whose Scottish party conference voted that new nuclear power stations should be considered, and the LibDems, whose Scottish party conference voted that they should not.
- A significant row between the Executive and local government erupted when the Executive proposed to end practices allowing local government workers to retire early. After a day strike, the Executive back-tracked, saying it would seek a

derogation from EU rules which it said had compelled its proposal. Executive funding for councils also caused tension.

- Controversy hit the Scottish Parliament building again when a roof beam in the main chamber swung loose and compelled the evacuation of the chamber. MSPs had to seek temporary accommodation for several weeks while the cause, faulty installation, was remedied.
- The Parliament's finance committee questioned the Executive's efficiency drive, suggesting it put unequal burdens on different areas and lagged the UK equivalent programme. Reports suggested that the Treasury was also concerned about slow progress.
- A comprehensive ban on smoking in enclosed public places came into effect in March with next to no reports of people defying the ban.
- The more limited use of antisocial behaviour orders north of the border suggests that differences in implementation may be important in measuring north-south policy divergences. 'Divergence by stating the same' may also be important as Scotland showed disinclination to follow English health reforms or school selection.
- Media hysteria over bird flu erupted over the discovery of a bird-flu infected swan corpse in Fife, but then rapidly subsided as it emerged the swan was an isolated migrant.

Chronology: January-April 2006

5 January. Death of Rachel Squire, Labour MP for Dunfermline and West Fife, aged 51. She had suffered from brain tumours.

5 January. Existence of informal talks between Greens and SNP on areas of parliamentary cooperation disclosed by *The Herald* and interpreted as paving the way for possible coalition after 2007 elections.

10 January. Cost of free bus travel throughout Scotland for old people has risen from an estimated £10m to £25m in 2005-06, parliament's finance committee told.

11 January. Recommendation by Scottish Parliament health committee that a Scottish Socialist Party bill to abolish prescription charges should be supported is rejected by Andy Kerr, health minister.

12 January. Remarks by Cardinal Keith O'Brien, head of the Roman Catholic Church in Scotland, to a BBC Radio Scotland programme that he has a mission to 're-Christianise' Scotland upset representatives of Muslim and Hindu faiths.

13 January. Increase in public sector staff numbers in Scotland by 7,000 in 2005 to 487,000, and a 10.3 per cent increase since 1999, disclosed by Scottish Executive.

17 January. Decision by Scottish Executive to end early retirement provisions for local government workers as incompatible with EU age discrimination laws is announced.

17 January. Sandra White, a SNP MSP, forced to backtrack by party leaders after issuing a press release describing the Union flag as a 'butcher's apron'.

17 January. Bill to bar Scottish MPs from voting on English legislation at Westminster introduced in House of Lords by Lord Baker, a former Conservative cabinet minister.

18 January. Intentions to hold ballots on strike action against ending of early retirement provision are announced by unions representing local authority workers.

18 January. During campaigning in Dunfermline and West Fife Westminster by-election, statement by neighbouring MP Gordon Brown welcoming scrapping of Forth Road Bridge toll increases is denied by Scottish Executive spokesman who says a decision on changes has merely been deferred.

19 January. Jack McConnell, first minister, effectively rules out Forth Road Bridge toll increases during questions at Holyrood, prompting opponents to ask whether he, or Gordon Brown, runs Scotland.

19 January. Patricia Ferguson, culture minister, announces Executive to take control of national arts companies from Scottish Arts Council which is to be merged with Scottish Screen, a film promotion quango, into a new quango, Creative Scotland.

23 January. Alistair Darling, Scottish Secretary, calls for a campaign to build second Forth Road Bridge.

27 January. Scottish Local Authority Remuneration Committee recommends average 29 per cent pay increase for councillors.

6 February. Scottish Executive publishes death rates of patients treated by each surgeon working in Scottish NHS.

7 February. Shirley McKie, a former Strathclyde Police officer, is paid £750,000 compensation for wrongful identification of a murder scene fingerprint by Scottish Criminal Record Office as hers. The wrong ID led to McKie being prosecuted in 1999 and acquitted of perjury.

7 February. Integrated Community Schools project, aimed at making schools one-stop shops for education, health and social work, launched by Donald Dewar in 1989, is dropped after an HM Inspectorate of Education report said implementation had been patchy and it had failed to improve pupils' attainment and attendance rates.

9 February. Liberal Democrat Willie Rennie ousts Labour in winning Dunfermline and West Fife Westminster by-election with 16 per cent swing from Labour.

20 February. Alan Alexander, chairman of Scottish Water, an Executive-owned company, resigns after failing to satisfy ministers that the company can deliver required 2006-10 investment programme.

21 February. Report by HM Inspectorate of Education says that while majority of school pupils are performing well, too many pupils are let down by an unacceptable variation in teaching quality and weak school leadership.

22 February. Malcolm Wicks, UK energy minister, says in newspaper interview that Scots should grow up and be open-minded about new nuclear power stations.

22 February. The Lord Advocate, Colin Boyd, and Cathy Jamieson, justice minister, reject MSP calls for a public inquiry into misidentification of Shirley McKie fingerprint.

23 February. Health Minister Andy Kerr announces number of people waiting more than six months for hospital treatment has fallen to an all-time low, but opponents claim people have been moved onto hidden waiting lists.

24 February. Scottish Labour party conference at Aviemore passes motion criticising Executive actions on local authority workers' pension rights.

26 February. Scottish Labour party conference approves motion saying nuclear power should be considered as part of future energy programme.

1 March. Transport Minister Tavish Scott says planning for new Forth Road Bridge must start now.

2 March. The Scotsman reports that OFWAT has found Scottish Water to be the least efficient, highest charging and poorest serving water company in Britain.

2 March. Roof beam swings loose in Holyrood debating chamber, causing it to be cleared for safety reasons.

6 March. Liberal Democrat Commission chaired by Lord Steel calls for more powers for Scottish Parliament including control over most taxation.

6 March. Jack McConnell rejects calls for public inquiry into Shirley McKie case.

13 March. Jack McConnell puts case for Glasgow to host 2014 Commonwealth Games at 2006 Commonwealth Games in Melbourne.

13 March. Figures by Scottish Parliament researchers putting the public sector share of Scottish GDP at 51 per cent is disclosed by *The Scotsman*.

15 March. Office of National Statistics publishes figures showing Scottish unemployment at 133,000, the lowest since records began.

16 March. Transport Minister Tavish Scott announces cost escalations and delays on major transport infrastructure projects including airport rail links.

21 March. Death of MSP Margaret Ewing, who had suffered from breast cancer.

23 March. *The Scotsman* reports that Scottish Executive Ministers reject Westminster pressure to follow UK government spending allocations in deciding how to spend £87m extra money allocated to Scotland from budget spending increases.

24 March. Nicol Stephen, Scottish LibDem leader, says in *Scotsman* interview that demands for local income tax and a ban on new nuclear power stations will be at heart of 2007 election manifesto; party conference at Aviemore and Sir Menzies Campbell, UK leader, endorse anti-nuclear stance.

26 March. Comprehensive smoking ban in all enclosed public places comes into effect; Commonwealth Games in Melbourne ends with Scottish athletes winning a record 29 medals, 11 of them gold.

28 March. An estimated 200,000 Scottish public sector workers stage day strike in protest at Executive plans to remove rights to early retirement.

29 March. Finance Minister Tom McCabe says he will seek exemption from European law which he claims is forcing an end to local government early retirement.

30 March. External audit of Scottish Enterprise by KPMG ordered by Nicol Stephen, enterprise minister, following news of agency's £30m overspend

31 March. Margaret Smith, LibDem, becomes first MSP to marry her same-sex partner in civil partnership ceremony.

3 April. Tartan Week begins in the US.

5 April. Swan corpse found in harbour at Cellardyke, Fife, and reported to DEFRA on 29 March is confirmed as infected with bird flu.

7 April. Convention of Scottish Local Authorities conference hears of plans for Scottish-only solution to council workers' dispute over early retirement, and backs call for Forth and Tay Road Bridge tolls abolition. Fife and Dundee MSPs say they will present toll abolition bills at Holyrood.

9 April. SNP publish early manifesto outline promising replacement of council tax with local income tax and reduced local tax burden, also transfer of local enterprise company functions to local government.

11 April. Scottish Trades Union Congress rejects call to ban new nuclear power stations.

19 April. After resignations of Richard Lochhead (SNP) and Mary Scanlon (Con), both regional list MSPs, to fight Moray by-election, Maureen Watt (SNP) and Derek Petrie (Con) are sworn in as replacements. Ms Watt takes the oath of allegiance in Doric, a Scots dialect peculiar to North-east Scotland.

21 April. Overhaul of Scottish Fingerprint Service announced by justice minister.

26 April. Jack McConnell writes to George Reid, Scottish Parliament presiding officer seeking review of mortgage cost payments to MSPs.

27 April. Richard Lochhead, SNP, wins Scottish parliamentary by-election in Moray constituency with a 6,385 majority over Conservatives.

1. The Scottish Executive

Paul Cairney

1.1 The Lord Advocate

Questions of possible conflict between Colin Boyd's roles as Lord Advocate (chief legal adviser and member of the Scottish Cabinet) and Scotland's chief prosecutor arose following scrutiny of his position during the Shirley McKie case (see also sections 2 and 11).¹ A fingerprint found at a 1997 murder scene was identified by four fingerprint experts at the Scottish Criminal Records Office (SCRO) as belonging to McKie, a Strathclyde police officer. She denied having been in the house. In 1999, after several defence fingerprint experts from outside Scotland testified the print was not hers at her perjury trial, she was acquitted. Since then, the SCRO experts have insisted their identification was not wrong. McKie has also campaigned for an inquiry into the SCRO, and for compensation for the wrongful accusation and loss of her police career. In February, just before a civil action for compensation, the Scottish Executive settled out of court, awarding McKie £750,000 for what ministers said was an 'honest mistake'.² The conflation of prosecutorial and political roles is not present in the English system which has a separate Director of Public Prosecutions and Attorney General.³ In addition to questions about whether any of Boyd's decisions were motivated by political rather than legal considerations, there was a focus on how much he knew about doubt within the Scottish Fingerprint Service before deciding to prosecute McKie. This was furthered by his elevation to the Lords and criticism over the Crown Office's conduct (withholding of evidence from the defence) in a high profile murder trial.⁴

1.2 Quangos and Civil Service Capacity

Section 11.1 suggests that policy divergence following devolution can be tracked by examining not only policy change in Scotland but the public policy changes Scotland is **not** making. The Scottish Executive went some way down the Welsh route of bringing quangos directly under the control of the assembly government when it changed the

¹ E Barnes, 'Prosecutor unaware of doubts over McKie case', *Scotland on Sunday*, 5 March 2006 ; and E Barnes, 'Colin Boyd "must lose Cabinet role"', *Scotland on Sunday*, 16 March 2006.

² <http://news.bbc.co.uk/1/hi/scotland/4689218.stm>.

³ www.cps.gov.uk/about/dpp.html;

www.cjsonline.gov.uk/the_cjs/departments_of_the_cjs/office_of_the_attorney_general/index.html.

status of Communities Scotland to an executive agency, but it has always resisted doing the same to Scottish Enterprise. Its will over the issue was tested this year when it became clear that Scottish Enterprise had overspent its £530m annual budget by £34 million. Following several annual underspends (approximately £10 million) because of project delays, the agency gambled it could fund more projects than it could afford within a single year's budget on the assumption that not all would progress far enough to be fully funded. Unfortunately, the gamble did not pay off this year. The KPMG report on the affair (commissioned by Enterprise Minister Nicol Stephen) reported that senior managers in Scottish Enterprise were slow to act when it became clear what would happen, and much has been made since of senior management understanding of the Resource Accounting and Budgeting rules.⁵ The experience prompted Brian Wilson (ex-Labour MP and former minister in charge of Scottish Enterprise before devolution) to call for reform along Welsh lines, with a Scottish minister as chairman. Alex Neil (SNP) MSP was strongly critical of Scottish Enterprise senior managers, although he perhaps offered implicit support of the status quo when suggesting that the Enterprise and Culture Committee of the Scottish Parliament, which he chairs, held Scottish Enterprise to account. Chief executive Jack Perry was robustly defended Scottish Enterprise policy when facing Neil's committee (see section 2.4).⁶

Similar turmoil within the publicly-owned Scottish Water became apparent when its chair, Professor Alan Alexander, resigned in February. This followed argument about Scottish Water's proposed investment plan for 2006-10. Scottish Water originally proposed to achieve ministerial objectives by investing £3.4bn with above-inflation increases in charges. The Water Industry Commission, the regulator, rejected the plan and said ministerial objectives could be met with investment of £2.1bn and below-inflation increases in charges.⁷ Following Scottish Water's revised submission, the Scottish Executive statement suggests that Scottish Water had failed to provide an adequate infrastructure investment plan within the budgetary constraints of no real increase in

⁴ L MacDougal, 'Latest revelations are a further blow to Lord Advocate Colin Boyd and Scotland's justice system' *Sunday Herald*, 12 March 2006, www.sundayherald.com/54551; 'Honour for prosecutor causes row', *BBC News*, 10 April 2006, <http://news.bbc.co.uk/1/hi/scotland/4896744.stm>

⁵ www.scotland.gov.uk/Resource/Doc/982/0027364.pdf; www.hm-treasury.gov.uk/about/resourceaccounts/resourceaccounts_index.cfm.

⁶ 'Enterprise overspend "good value"', *BBC News*, 25 April 2006, <http://news.bbc.co.uk/1/hi/scotland/4940782.stm>

⁷ Scottish Water, *Response to Water Industry Commission*, 26 September 2005,

www.scottishwater.co.uk/portal/page?_pageid=219,2447173&_dad=portal&_schema=PORTAL

charges. The requirements themselves were extensive: 'improve customer service, deliver further improvements in drinking water quality, improve environmental compliance and support new housing and economic developments'.⁸ An alternative explanation provided by Unison was that Alexander was effectively forced out when he was faced with the need for significant investment in the water and sewage infrastructure but obliged to adhere to below inflation increases in charges.⁹ *The Scotsman* reports that the Scottish Executive began looking for a replacement for Alexander two weeks before he resigned.¹⁰ In retrospect they may have wished for Alexander to stay on long enough to be held responsible for unfavourable comparisons with the privatised companies in England (which raised the issue of Scotland going down the same road).¹¹

Quango-merging and more ministerial control emerged as key features of arts policy in an announcement by Patricia Ferguson, culture minister on 19 January. She said that the Scottish Arts Council, which distributes funding to literary, theatrical, musical, and visual arts bodies, would be merged with Scottish Screen, which funds film-making. The new body, to be called Creative Scotland, would come into being after legislation in 2007. She also said that the Executive would take control of funding the five national bodies – Scottish Opera, Scottish Ballet, the Royal Scottish National Orchestra, the Scottish Chamber Orchestra, and the National Theatre of Scotland – from the Scottish Arts Council.¹² The move reflected ministerial annoyance at persistent over-spending by Scottish Opera which resulted in the company shutting down for six months in 2005.

1.3 Scottish Executive Autonomy?

Finance was a key aspect of the classic pre-devolution debate on whether or not there was such a thing as a 'Scottish Political System'. Kellas argued that although Scotland did not raise its own taxes it enjoyed considerable autonomy over the direction of spending. Midwinter et al contended that while the Scottish Office could be regarded as

⁸ Scottish Executive News Release, 'Scottish Water Chair resigns', 20 February 2006, www.scotland.gov.uk/News/Releases/2006/02/20172622

⁹ Unison Scotland, 'Water Chair's forced resignation sparks concern in workforce', 21 February 2006, www.unison-scotland.org.uk/news/2006/janfeb/2102.htm

¹⁰ P McMahon, 'Search for new water chief two weeks before "resignation"', 14 March 2006, <http://business.scotsman.com/utilities.cfm?id=380382006>

¹¹ P McMahon, 'Scottish Water 'costs more but gives worse service than all English firms' *The Scotsman*, 2 March 2006, <http://business.scotsman.com/topics.cfm?tid=512&id=315562006>; P McMahon, 'A Scottish Water sell-off could be triple whammy for the Treasury', *The Scotsman*, 31 March 2006, <http://business.scotsman.com/topics.cfm?tid=512&id=495022006>

¹² www.scotland.gov.uk/News/Releases/2006/01/19093710

Britain's largest pressure group, it was also one (and not a particularly influential one) of many Whitehall departments and was treated as such. Post-devolution, the same debate appeared in discussions of Treasury control of Scottish Executive expenditure. For example, while Bell and Christie pointed to the Barnett squeeze as a key constraint on Scottish policy divergence, Midwinter was keen to stress that incrementalism would always be a feature of spending decisions regardless of how the money was raised. There is a sense of circularity when we examine specific examples since devolution. A Treasury 'victory' is apparent over the issue of Attendance Allowance claw-back following the introduction of free personal care in Scotland. But in other areas, Scotland gained much more than it lost after Treasury agreement to write off debts on council housing stock after transfer (which in turn is a key UK policy commitment).¹³ So the wording and emphasis is central to these discussions. In this context, it is worth distinguishing between different interpretations over the issue of Scottish Executive under-spend this year. The Scottish Executive explanation (as reported in *The Scotsman*) is that 'the Chancellor had no influence on how Scotland's money was spent, only on when it was handed over'. But a Treasury official apparently suggested that: 'the Executive had to be treated like "any other department" ... There has to be a system of ensuring that money is spent in a sensible way which fulfils wider government objectives.'¹⁴

1.4 Freedom of Information

In April *The Herald* reported Scottish Information Commissioner Kevin Dunion's concerns over the possibility of up-front charges for freedom of information requests. The comments arose in light of the Scottish Executive's review of its current system.¹⁵ To make things more interesting, *The Herald* is arguably being portrayed as one of the organisations abusing the current system. The answer to Labour MSP Helen Eadie's question on the costs to the Scottish Parliament of freedom of information requests revealed that *The Herald* and *Sunday Herald* accounted for over £50,000 of work. This

¹³ Kellas, J., *The Scottish Political System*, 4th edition (Cambridge University Press, 1989); Midwinter, A., Michael Keating and James Mitchell, *Politics and Public Policy in Scotland* (Macmillan, 1991); Rose R. (1982) *Understanding the United Kingdom* (London: Longman); Bell, D. and Alex Christie, 'Finance – The Barnett Formula: Nobody's Child?' in Trench, A. (ed), *The State of the Nations: The Second Year of Devolution in the UK*, (Exeter: Imprint, 2001); Midwinter, A., 'Financing Devolution in Practice: The Barnett Formula and the Scottish Budget, 1999-2003', *Public Money and Management*, June 2004, 137-44.

¹⁴ 'Executive denies Brown spending plans veto', *Evening News*, 24 April 2006.
<http://news.scotsman.com/topics.cfm?tid=867&id=614372006>

will no doubt be used to support Parliamentary Business Minister Margaret Curran's suggestion that some journalists are 'verging close to abuse of the Act by the number and content of their requests'.¹⁶

1.5 Bird Flu

There is always a level of risk when deciding whether or not to return home during a period of 'crisis'. Yet, much was made of Jack McConnell's decision to stay in the US to promote Tartan Day rather than to return and deal with bird flu. A similar problem was faced by then First Minister Henry McLeish on foot-and-mouth disease.¹⁷

1.6 What's in a Name? A train spotter's guide to titles.

In the previous report (section 1.1) it was suggested that, although we should not go too far with these names, signals of intent could emerge in differences between ministerial titles. However, if the billing of Tom McCabe – but not his Liberal Democrat Deputy – as Minister for Finance and *Public Service Reform* was a signal of difference, this has now been rectified.¹⁸

¹⁵ R Dinwoodie, 'Watchdog criticises plan to use information-for-cash system' *The Herald*, 10 April 2006, www.theherald.co.uk/politics/59783-print.shtml

¹⁶ 'Herald tops FOI costs', 19 January 2006, www.holyrood.com/nav/news/stories/story.asp?story=elec636

¹⁷ E Barnes, 'Scottish Executive catches bird flu bug' *Scotland on Sunday*, 9 April 2006.

¹⁸ 'Virus outbreak "can be contained"', *BBC News*, 7 April 2006, <http://news.bbc.co.uk/1/hi/scotland/4886258.stm>

¹⁸ www.scotland.gov.uk/About/Ministers/Ministers-Introduction

2. The Scottish Parliament

Paul Cairney

2.1 Shirley McKie

Governments routinely reject most calls for public inquiries since these calls are made almost daily. Yet with hindsight the Scottish Executive may wish it had made an exception with the Shirley McKie case.¹⁹ An inquiry would have deflected much of the media glare on the Scottish Executive and might have cost less than the time taken by civil servants to cover all its bases in parliament. Jack McConnell may also be increasingly concerned about his statements being pounced on and picked apart. Last year much was made of his declaration of a 'protocol' over the treatment of asylum seekers (see section 2.1 of the previous report). This time much was made over his suggestion that: 'an honest mistake was made by individuals. I believe that all concerned have accepted that'.²⁰ Instead of a public inquiry there will be a parliamentary inquiry by the Justice 1 Committee. The committee's remit is to learn lessons from the McKie case as part of a wider investigation into the running of the Scottish Criminal Record Office and Scottish Fingerprint Service (see also section 11.8 Law and Order).²¹

2.2 Extradition

Debates over the reserved or devolved nature of policy tend to be dealt with behind closed doors between executives. There was therefore some surprise that the Justice 2 committee decided (albeit in a 'private' session) to write to the Home Office about extradition arrangements with the US. Extradition is reserved, but there is an element of executive devolution and the committee currently has some legitimate involvement. Its concern arose from scrutiny of the legislative consent (Sewel) motion on Westminster's Police and Justice Bill. The bill seeks to amend powers already conferred on Scottish Ministers.²² The issue is complicated by the fact that Labour MSP Trish Godman's son is currently fighting US attempts to extradite. While *The Scotsman* suggests this represents

¹⁹ SPOR 2 March 2006 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-06/sor0302-02.htm#Col23675

²⁰ SPOR 9.2.06 Col 23255 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-06/sor0209-02.htm#Col23250

²¹ www.scottish.parliament.uk/business/committees/justice1/inquiries/scro/j1-scro-call.htm

²² www.scottish.parliament.uk/business/legConMem/pdf/policePublicLcm.pdf

the 'most serious rift to date between Holyrood and Westminster', this may be because very few disputes arise between Parliaments (rather than their executives).²³

2.3 The Scottish Parliament Building and its Participants

It is never good when a parliament's building receives more attention than its occupants. There was more embarrassment in March when roofing problems caused the main debating chamber to be cleared, with works not due to be completed until mid-May and no real prospect for recourse to contract guarantees or insurance to pay for the works.²⁴ Little was made of the Scottish Parliament building winning another design award this year.²⁵

The suspicion that MSPs are making a killing in the Edinburgh property market – by using parliamentary allowances to pay mortgages on a second Edinburgh home, but being free to pocket any profit from a sale – may be addressed following a letter from Jack McConnell to Presiding Officer George Reid.²⁶

2.4 The Scottish Parliament Committees

The Finance Committee published its extensive inquiry into deprivation in April. This is a tricky subject since much depends on types of employment and the levels of benefits, as well as devolved aspects such as housing and access to public services. A key recommendation seems to mirror the English approach of making very clear distinctions between the commissioners and providers of services. However, the report also recommends that providers be given discretion in how they deliver measured outcomes. If the recommendations are followed it will be interesting to monitor Scottish group perceptions of the accountability process in the light of reports in England of excessive centralisation and inflexible measures of delivery.²⁷

²³ H MacDonell, 'Westminster and Holyrood split on extradition to the Land of the Free', *The Scotsman*, 20 April 2006 <http://thescotsman.scotsman.com/index.cfm?id=594172006>.

²⁴ H MacDonell, 'Bill for parliament's roof fiasco set to fall on taxpayer' *The Scotsman*, 20 March 2006, <http://news.scotsman.com/topics.cfm?tid=177&id=434802006>; Scottish Parliament, 'Stage one of Chamber solution begins', 18 April 2006, www.scottish.parliament.uk/nmCentre/news/news-06/pa06-036.htm

²⁵ I Swanson, 'It's unsafe but parliament still has architecture fans beaming', *The Scotsman*, 3 April 2006, <http://news.scotsman.com/topics.cfm?tid=177&id=511162006>

²⁶ H MacDonell, 'McConnell: let's review MSPs' flat allowance', *The Scotsman*, 27 April 2006, <http://news.scotsman.com/topics.cfm?tid=867&id=629972006>

²⁷ See e.g. NCVO, *The Reform of Public Services: the role of the voluntary sector* (2005), www.ncvo-vol.org.uk/asp/uploads/uploadedfiles/1/635/reformpublicservicesjune2005.pdf

The Enterprise and Culture Committee had a mixed relationship with Scottish Enterprise this year. First, its inquiry into business growth praised Scottish Enterprise's focus of public investment in six key sectors. Then in April it engaged in a full and frank exchange of views with the chair and chief executive over the handling of Scottish Enterprise's shortfall in funding at the end of the financial year.²⁸ The committee's chair, Alex Neil MSP, may be up for the prize of busiest parliamentarian since he is also heavily involved in the Justice 1 inquiry into Shirley McKie.

Sandra White's bill on the third party right of appeal in planning has enough support to go to stage 1 consideration. However, the more likely scenario is that the Scottish Executive's [Planning etc. \(Scotland\) Bill](#) will go through instead. This bill is designed to foster enough meaningful community participation at the start of the planning process to remove the need for appeal at the end. The prospects for this process to work in practice were questioned by a range of community groups in a round table discussion convened by the Communities Committee.²⁹

2.5 Committee Reports and Inquiries (15 December 2005 – 15 April 2006)³⁰

List of reports and inquiries (arranged by committee, with weblinks if underlined):

- Education:

[Stage 1 Report on Scottish Schools \(Parental Involvement\) Bill](#), 2 February 2006

- Enterprise and Culture:

[Business Growth – the next 10 years](#), 14 March 2006

[Report on Legislative Consent Memorandum on the Company Law Reform Bill – LCM \(S2\) 2.1](#), 9 March 2006

- Environment and Rural Development:

[Inquiry into developments in the biomass industry](#), 29 March 2006

²⁸ Enterprise and Culture Committee Official Report 25 April 2006

²⁹ Communities Committee Official Report 8 March 2006

www.scottish.parliament.uk/business/committees/communities/or-06/co06-0802.htm#Col3217

³⁰ Excluding most annual reports, budget reports and reports on subordinate legislation. Reports with UK legislation in the title discuss Sewel motions.

- European and External Relations:
[Interim Report on an Inquiry into Possible Co-operation Between Scotland and Ireland](#), 29 March 2006

- Finance:
[Cross-cutting Expenditure Review of Deprivation](#) , 13 April 2006
[Finance Committee Report on the Financial Memorandum of the Planning etc. \(Scotland\) Bill](#), 24 March 2006
[Report on the Financial Implications of the Local Authority Single Status Agreement](#) , 23 March 2006
[Scottish Executive's supplementary response to 5th Report 2005: Stage 2 of the 2006-07 Budget Process](#) , 14 March 2006
[Financial Memorandum on the Bankruptcy and Diligence etc. \(Scotland\) Bill](#), 2 March 2006
[Scottish Executive's response to 5th Report 2005: Stage 2 of the 2006-07 Budget Process](#), January 2006.
[Finance Committee's 5th Report 2005](#), 26 January 2006

- Health:
[Legislative Consent Memorandum on the Health Bill – LCM \(S2\) 1.1](#), 11 January 2006
[Abolition of NHS Prescription Charges \(Scotland\) Bill](#) , 11 January 2006

- Justice 1 and Justice 2:
[Scottish Commissioner for Human Rights Bill](#), 23 February 2006
[Stage 1 Report on the Police, Public Order and Criminal Justice \(Scotland\) Bill](#), 23 January 2006

- Local Government and Transport:
[Stage 1 Report on the Council Tax Abolition and Service Tax Introduction \(Scotland\) Bill](#), 23 January 2006

- Procedures:
[Procedures relating to Crown appointments](#) , 9 March 2006
[Private Bill Committee assessors](#) , 6 January 2006

- Public Petitions:

[The Committee's Equalities Report](#), 6 May 2006

[Resubmission of Public Petitions](#), 8 February 2006

- Subordinate Legislation:

[Budget \(Scotland\) \(No.3\) Bill](#), 9 February 2006

[Human Tissue \(Scotland\) Bill as amended at Stage 2](#), 1 February 2006

[Joint Inspection of Children's Services and Inspection of Social Work Services \(Scotland\) Bill](#), 19 January 2006

2.6 Parliamentary Bills (15 December 2005 – 25 April 2006)

Executive Bills Passed:

- [Budget \(Scotland\) \(No.3\) Bill](#) (Passed 9 February, Royal Assent 21 March 2006) – annual bill to allow Scottish Parliament subject committees to scrutinise and make recommendations on the Scottish Executive's spending plans.
- [Environmental Assessment \(Scotland\) Bill](#) (Passed 9 November, Royal Assent 15 December 2005) – implements the European Directive 2001/42/EC on 'Strategic Environmental Assessment'. It ensures that plans made by public bodies are subject to environmental assessment before their implementation.
- [Family Law \(Scotland\) Bill](#) (Passed 15 November 2005, Royal Assent 20 January 2006) – introduces provisions on divorce, as well as the rights of unmarried couples and their children (see section 11.9, previous report).³¹
- [Housing \(Scotland\) Bill](#) (Passed 24 November 2005, Royal Assent 5 January 2006) – includes provisions to give local authorities more powers over privately owned homes in disrepair, new measures for tenants to pursue housing repairs from their landlords, a new type of survey for sellers of homes, and provisions on mobile homes (see also section 11.12, this report).
- [Human Tissue \(Scotland\) Bill](#) (Passed 2 February, Royal Assent 16 March 2006) – following expert advisory group recommendations, it addresses public confusion regarding the difference between procedures for organ donation and post-mortems, updates legislation referring to the 'spouse' of the deceased and

³¹ www.ucl.ac.uk/constitution-unit/research/devolution/Monitoring%20Reports/Jan06/Scotland%20Jan06.pdf

seeks more emphasis on the wishes of the deceased in decisions of organ donation.

- [Joint Inspection of Children's Services and Inspection of Social Work Services \(Scotland\) Bill](#) (Passed 19 January, Royal Assent 22 February 2006) – addresses the desire for ‘joined-up government’ in children’s services which span a number of public agencies. Part of wider reforms of children’s services (see section 11.5).³²
- [Licensing \(Scotland\) Bill](#) (Passed 16 November, Royal Assent 21 December 2005) – see sections 2.2 and 11.3 of previous report.³³

Executive Bills in Progress (latest stage reached)

- [Adoption and Children \(Scotland\) Bill](#) (Stage 1)
- [Adult Support and Protection \(Scotland\) Bill](#) (Stage 1)
- [Animal Health and Welfare \(Scotland\) Bill](#) (Stage 2)
- [Bankruptcy and Diligence etc. \(Scotland\) Bill](#) (Stage 1)
- [Criminal Proceedings etc \(Reform\) \(Scotland\) Bill](#) (Stage 1)
- [Crofting Reform etc Bill](#) (Stage 1)
- [Legal Profession and Legal Aid \(Scotland\) Bill](#) (Stage 1)
- [Local Electoral Administration and Registration Services \(Scotland\) Bill](#) (Stage 1)
- [Planning etc. \(Scotland\) Bill](#) (Stage 1)
- [Police, Public Order and Criminal Justice \(Scotland\) Bill](#) (Stage 2)
- [Scottish Commissioner for Human Rights Bill](#) (Stage 1)
- [Scottish Schools \(Parental Involvement\) Bill](#) (Stage 2)
- [Tourist Boards \(Scotland\) Bill](#) (Stage 1)

2.7 Non-Executive Bills

In January the Health Committee’s took the unusual step of endorsing the basic principles of a bill not favoured by the Scottish Executive.³⁴ Colin Fox (SSP) MSP’s bill

³² www.scottish.parliament.uk/business/research/briefings-05/SB05-72_001.pdf

proposed to abolish prescription charges, while the Scottish Executive favoured revisiting the types of exemptions instead. The committee involvement was notable for its 'double whammy' of Labour party differences. The endorsement relied on a split in Labour voting (since Liberal Democrat Mike Rumbles' vote was effectively cancelled out by Conservative Nanette Milne's). It also marks a divergence between Scottish and Welsh Labour policies (notably, a committee delegation visited Wales and reported a lack of evidence base for the decision to abolish charging³⁵). The bill was then rejected at stage 1 plenary on 25 January.³⁶ Much of the Scottish Executive's opposition to the bill rested on disputes over the cost and the argument that the measures would benefit the middle classes most. Some suspicion was raised about the timing of the Scottish Executive announcement to consult on its own policy plans.³⁷ Committee support was not as forthcoming for (SSP) Tommy Sheridan's bill which proposed to replace council tax.³⁸ In other areas, proposals for members' bills are used to set the agenda rather than seek realistic legislative success. It should be noted that despite the SSP often being criticised for their conduct, the legislation they propose often finds sympathy even within the Scottish Executive. For example, fairly constructive discussions could be found on Rosemary Byrne MSP's motion on drug treatment.³⁹

Members' Bills in Progress (latest stage reached) (introduced by)

- [Christmas Day and New Year's Day Trading \(Scotland\) Bill](#) (Stage 1) (Karen Whitefield, Labour)
- [Environmental Levy on Plastic Bags \(Scotland\) Bill](#) (Stage 1) (Mike Pringle, Liberal Democrat)
- [Health Board Elections \(Scotland\) Bill](#) (Stage 1) (Bill Butler, Labour)
- [St Andrew's Day Bank Holiday \(Scotland\) Bill](#) (Stage 1) (Dennis Canavan, Ind)

Committee Bills in Progress:

- [Interests of Members of the Scottish Parliament Bill](#) (Stage 2)

³³ www.ucl.ac.uk/constitution-unit/research/devolution/Monitoring%20Reports/Jan06/Scotland%20Jan06.pdf

³⁴ www.scottish.parliament.uk/business/bills/35-abolitionNHS/35-abolitionNHS-summary.pdf

³⁵ Health Committee Official Report 29 November 2005 Col 2390

www.scottish.parliament.uk/business/committees/health/or-05/he05-2902.htm#Col2390

³⁶ www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-06/sor0125-02.htm#Col22709

³⁷ 'MSPs retain prescription charges', *BBC News* 25 January 2006,

<http://news.bbc.co.uk/1/hi/scotland/4645162.stm>

³⁸ www.scottish.parliament.uk/business/bills/31-councilTax/31-councilTax-passage.pdf

Private Bills in Progress:

- [Edinburgh Airport Rail Link Bill](#) (Consideration)
- [Edinburgh Tram \(Line One\) Bill](#) (Passed 29.3.06)
- [Edinburgh Tram \(Line Two\) Bill](#) (Passed 22.3.06)
- [Glasgow Airport Link Rail Bill](#) (Consideration)
- [Waverley Railway \(Scotland\) Bill](#) (Consideration)

Proposals for Members' Bills (in order of date lodged)

- Commissioner for Older People (Scotland) Bill (Alex Neil, SNP) – The proposal has gathered sufficient support for a bill to be introduced
- Liability for Release of Genetically Modified Organisms (Scotland) Bill (Mark Ruskell, Green) – The proposal has gathered sufficient support for a bill to be introduced
- Green Transport Bill (Chris Balance, Green)
- Right to Die for the Terminally Ill Bill (Jeremy Purvis, Liberal Democrat) – The proposal has not gathered sufficient support and falls
- Civil Appeals (Scotland) Bill (Adam Ingram, SNP) – The proposal has gathered sufficient support for a bill to be introduced
- National Register of Tartans Bill (Jamie McGrigor, Conservative) – The proposal has gathered sufficient support for a bill to be introduced
- Home Energy Efficiency Targets Bill (Shiona Baird, Green) – The proposal has gathered sufficient support for a bill to be introduced
- Third party Planning Rights of Appeal Bill (Sandra White, SNP) – The proposal has gathered sufficient support for a bill to be introduced
- Greenhouse Gas Emissions Targets Bill (Mark Ruskell, Green)
- Local Government Elections (Scotland) Bill (Brian Monteith, Independent)
- Cease the Sale of Homes to Pay for Residential Accommodation Bill (John Swinburne, Scottish Senior Citizens Unity Party)
- Cairngorms National Park Boundaries (Scotland) Bill (John Swinney, SNP)

³⁹ SPOR 20 April 2006 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-06/sor0420-02.htm#Col24761

- Micropower (Scotland) Bill (Shiona Baird, Green)
- Energy Efficiency And Micro-generation (Scotland) Bill (Sarah Boyack, Labour)
- Setting and Retention of Non-domestic Rates Bill (Tommy Sheridan, SSP)
- School Meals and Snacks (Scotland) Bill (Frances Curran)
- Drug Treatment and Rehabilitation (Scotland) Bill (Rosemary Byrne, SSP)

2.8 Sewel (Legislative Consent) Motions passed⁴⁰

London Olympics Bill (passed 10 November 2005)

Addresses IOC requirements on ticket touting, advertising and street trading near stadiums used for Olympic events. Gives direction to Scottish police authorities. There was short discussion in committee and no debate or vote in plenary.

Animal Welfare Bill (passed 15 December 2005)

Introduces reciprocal arrangements to allow for court orders banning people from keeping animals to be recognised throughout the UK. In committee Richard Lohead MSP (SNP) suggested that the Sewel motion was unnecessary since similar bills were going through Holyrood and Westminster. The Scottish Executive response was based on administrative convenience and the uncertain trajectory of both bills. There was no debate in plenary but the SNP abstained in a vote.

2.9 Cross-Party Groups

Some concern was expressed about the disproportionate influence that some organisations may have within cross-party groups. Particular mention goes to firms seeking to lobby ministers and other MSPs on commercial projects.⁴¹

⁴⁰ A full list of motions and links to SPOR discussions is provided by the Scottish Executive: www.scotland.gov.uk/Topics/Government/Sewel/SessionTwo

⁴¹ K Nutt, 'Revealed: Holyrood's 'backdoor lobbying'' *Sunday Times Scotland*, 29 January 2006 www.timesonline.co.uk/article/0,,2090-2015338_1_00.html

3 The Media

Eberhard Bort

3.1 Changes in owners and Editors.

In March, Dundee-based media group DC Thomson beat Johnston Press, owners of *The Scotsman*, to buy Aberdeen's major newspapers, *The Press and Journal* and the *Evening Express*, from Daily Mail and General Trust (DMGT) for £132 million.⁴²

David Dinsmore took over as Editor of the *Scottish Sun* on 20 February. Asked about political coverage, he said: 'We don't want to be too negative about things. I think people are quick to knock the Scottish Parliament, but it is in its infancy and will grow. About 80 per cent or 90 per cent of the legislation that affects our everyday lives comes from there and there should be more coverage of that.'⁴³ In the same interview, Dinsmore did not rule out a return to the days of split politics – when the *Scottish Sun* supported the SNP while the *Sun* south of the Border backed the Tories. On 30 January, Charles McGhee took over the editorial chair of *The Herald*. Formerly the editor of the *Evening Times*, he replaced Mark Douglas-Home who had left in December.⁴⁴ Iain Martin left the editor's chair of *Scotland on Sunday* in late April to join the *Daily* and *Sunday Telegraphs*. There is no sign of a successor yet.

Despite the rebranding of SMG's Grampian Television and Scottish Television as STV, both will continue to run as separate licences.⁴⁵

3.2 Coverage, Comments & Campaigns

Among all the news stories – from the problems of Scottish Enterprise to the reform of public services, the council workers' strike and the coming into force of the smoking ban (seen overwhelmingly as positive),⁴⁶ the feel-good news from the Commonwealth

⁴² Fergus Sheppard, 'DC Thomson wins race to buy P&J in surprise £132m deal', *The Scotsman* (Business), 28 March 2006, p.36.

⁴³ Steven Vass, 'New editor rising to meet the challenges of The Sun', *Sunday Herald* (Media), 5 March 2006, pp.10-11.

⁴⁴ 'McGhee is *The Herald's* new editor', *The Herald*, 28 January 2006.

⁴⁵ Fergus Sheppard, 'A licence to thrill as regional channels survive', *The Scotsman* (Media & Marketing), 23 March 2006, pp.42-43.

⁴⁶ 'A triumph for health and a testament to the power of devolution', *Sunday Herald* (editorial), 26 March 2006, p.32.

Games in Melbourne,⁴⁷ McConnell's travels (Melbourne, China and US Tartan Day celebrations), etc – three matters commanded the lion's share of media interest: the Dunfermline & West Fife and Moray by-elections; the demands for a public inquiry in the Shirley McKie case; and the loose roof beam at Holyrood.

3.2.1 Dunfermline and West Fife By-election.

Following the demise of Charles Kennedy as LibDem leader, described in an *Evening News* editorial as 'the brutal eviction of Ross, Skye and Lochaber MP Mr Kennedy by a cabal of conspirators,' (24 January 2006) and the revelations of Mark Oaten and Simon Hughes about their sexual orientations, *The Scotsman*, in an editorial, spoke of the 'sobering prospect for Lib Dems' (9 January 2006); the *Evening News* diagnosed a 'Lib Dem meltdown' (24 January), and a *Herald* editorial saw 'The Lib Dems in crisis' (27 January 2006). Douglas Fraser even mused about Labour fears that the Lib Dems could come a poor fourth, concerned 'that if its partners lose momentum going into next year's Scottish elections, their joint majority could be at risk.'⁴⁸

But the by-election campaign turned out to be a nightmare for Labour. It started with accusations of 'fixing' Catherine Stihler's candidature, leading to comments that Labour was 'in disarray.'⁴⁹ Then 700 workers lost their jobs at the Lexmark factory. A rift between Westminster Labour ministers and the Labour-led Executive opened over Forth Road Bridge tolls. This 'farrago' led to questions of 'who runs Scotland?' and 'who runs the Labour party in Scotland?'.⁵⁰ On 2 February, Kennedy visited Dunfermline. TV screens and newspaper columns were full of the affection which was shown to 'the party's greatest asset and its greatest loss.'⁵¹ More important, was Kennedy's signal that he did not bear grudges. On the eve of the election the media still predicted a narrow Labour victory, with support for Lib Dems and SNP seen as 'finely balanced, neither has been strong enough to challenge Labour on their own.'⁵²

⁴⁷ Peter Jones, 'Has Scotland got the Melbourne message?', *The Scotsman* (Opinion), 28 March 2006, p.29.

⁴⁸ Douglas Fraser, 'Contest shifts up a gear in race to the finish', *The Herald*, 3 February 2006, p.3.

⁴⁹ Paul Hutcheon, 'Labour accused of 'fix' over candidate', *Sunday Herald*, 29 January 2006, p.2.

⁵⁰ Ian Bell, 'McConnell remains resolute as Forth bridge farrago takes its toll', *The Herald*, 27 January 2006, p.8; Hamish Macdonell, 'So who is really in charge of the Scottish Executive? McConnell in U-turn on Forth Road Bridge', *The Scotsman*, 20 January 2006, front page and pp.2-3; and Robbie Dinwoodie, 'By-election rift as McConnell defies Brown on Forth tolls', *The Herald*, 25 January 2006, p.10.

⁵¹ Tom Gordon, 'Kennedy factor still lights a fuse as the big guns shoot into town', *The Herald*, 3 February 2006, p.3.

⁵² Hamish Macdonell, 'Labour set to scrape election win', *The Scotsman* (Opinion), 9 February 2006, p.8.

Labour's loss of 'a safe seat in Gordon Brown's backyard' to the Lib Dems was seen as damaging Gordon Brown's chances of a quick move to No 10 Downing Street.⁵³ Peter Jones, a *Scotsman* commentator, saw the 'devolution concordat' crumbling. He argued that the 'Dunfermline by-election shenanigans', London's 'meddling' and McConnell's 'resistance' was 'a defining moment in the relationship between the devolved government in Edinburgh and the UK government in London.'⁵⁴

While the Lib Dems celebrated, claiming that they now 'can win seats from the Labour Party in all parts of Scotland',⁵⁵ Labour MPs (and some MSPs) cried foul over the Lib Dems' 'amoral campaign'; Dishonest, dublicitous, untrustworthy, irresponsible, lack of discipline and 'no obvious sense or honour' were accusations hurled at the Lib Dems for their, as Labour saw it, blaming Labour at Holyrood for all unpopular decisions while claiming the popular ones for themselves.⁵⁶

This tension, coupled with the Scottish Labour conference's adoption of nuclear power, rejected by the Lib Dems,⁵⁷ and the demands by the Steel Commission for greater powers for the Scottish Parliament, including new tax powers,⁵⁸ was seen as 'a dramatic shift in the balance of Scottish politics'. *The Scotsman* interpreted the Steel report as 'Lib Dems open door to coalition with SNP' in a front-page headline on 7 March, and Iain Macwhirter said it was 'little short of a declaration for independence.'⁵⁹

Coming a poor third was 'grim news for Alex Salmond.'⁶⁰ For the former SNP-leader

⁵³ Douglas Fraser, 'Shattering result raises doubt over Brown's chances of No 10', *The Herald*, 10 February 2006, p.2.

⁵⁴ Peter Jones, 'The devolution concordat finally crumbles', *The Scotsman*, 31 January 2006, p.25; see also Hamish Macdonell, 'Irritated by London? Yes, yes, yes, yes', *The Scotsman*, 30 January 2006, p.12; Iain Macwhirter, 'Why our Jack the lad has an air of Jack the Nat about him', *The Herald*, (Comment & Opinion), 1 February 2006, p.14; Ruth Wishart, 'Has Holyrood found the guts to speak up for itself?', *The Herald* (Comment & Opinion), 30 January 2006, p.12; and Douglas Fraser, 'McConnell to speak out more on Westminster issues', *The Herald*, 30 January 2006, p.3.

⁵⁵ Ian Swanson, 'Red Nose Day for Labour: Lib-Dems are jubilant after stunning by-election ambush', *Evening News*, 10 February 2006, pp.1-2.

⁵⁶ Catherine MacLeod, 'Angry Labour calls to break coalition with the Lib Dems', *The Herald*, 13 February 2006, front page.

⁵⁷ Rob Edwards, 'Nuclear power: splitting the Lib Dems and Labour', *Sunday Herald*, 5 March 2006, pp.12-13; Hamish Macdonell, 'Lib Dems lay down nuclear battle lines/Is this the end of Lab-Lib Dem pact?', *The Scotsman*, 24 March 2006, front page and p.2.;

⁵⁸ Douglas Fraser, 'Lib Dems urge tax powers shift', *The Herald*, 7 March 2006, p.6.

⁵⁹ Iain Macwhirter, 'Yet another step towards declaring independence?', *The Scotsman* (Comment & Opinion), 8 March 2006, p.14. See also Eddie Barnes, 'Steel Commission calls for major powers over tax and economy to go to Holyrood', *Scotland on Sunday*, 5 March 2006, p.9; and Ian Swanson, 'Steel allies must show mettle with poll not far away', *Evening News*, 9 March 2006.

⁶⁰ Douglas Fraser, 'Shattering result raises doubt over Brown's chances of No 10', *The Herald*, 10 February 2006, p.2.

Gordon Wilson his party leadership had 'lost its way'. After the 'by-election humiliation', former MSP and SNP chief executive Michael Russell diagnosed the SNP as 'fighting for its survival',⁶¹ and ex-SNP MSP Duncan Hamilton saw his party 'in the doldrums'.⁶²

After a disappointing result for the Tories, David Cameron told the party to 'focus its fire on the Labour and Liberal Democrat politicians running Scotland, rather than the institution at Holyrood.' Annabel Goldie formulated her 'strategic objective' to become the 'principal party of opposition' at Holyrood.⁶³ But her deputy, Murdo Fraser MSP, contended that the Tories would only regain power if they were prepared to enter into coalition, perhaps with a 'pro-business SNP', which led to speculations about a split on this strategic issue at the top of the Tories.⁶⁴ Paul Hutcheon came to the conclusion that a Tory revival north of the border was 'still a long way off'.⁶⁵

3.2.2 Moray By-election

The media were united in their appreciation for the late Margaret Ewing MSP (SNP).⁶⁶ At the by-election campaign start, Tory Mary Scanlon found herself enmeshed in problems. Letters of endorsement, allegedly by independent Moray councillors and distributed in leaflet form, were disowned by two councillors. Another leaflet, emphasising Scanlon's friendship with Ewing and presenting her as the 'continuity candidate' – but omitting the fact that she was a Tory – was fiercely criticised by the SNP.⁶⁷ The Lib Dems were also accused of 'dirty tricks', as their candidate Linda Gorn and her team were likened to 'snake-oil salesmen' by the editor of the local weekly paper, the *Northern Scot*, for falsely suggesting in a leaflet that the paper was backing her candidature.⁶⁸

The electoral success of the SNP candidate Richard Lochhead was seen by the media as a boost for the party's hope of becoming a credible challenger to Labour in the 2007

⁶¹ Douglas Fraser, 'SNP has lost its way, ex-leader claims in wake of "humiliation"', *The Herald*, 4 March 2006, p.6.

⁶² Duncan Hamilton, 'SNP's sails hang limply in the doldrums while other ships fly by', *The Scotsman* (Opinion), 6 March 2006, p.23.

⁶³ Murdo MacLeod, 'Goldie's not for turning on devolution to the dismay of Tory hardliners', *Scotland on Sunday*, 5 March 2006, p.11.

⁶⁴ Paul Hutcheon, 'Top Scots Tories split over deal with SNP', *Sunday Herald*, 5 March 2006, p.6.

⁶⁵ Paul Hutcheon, 'A Scottish Tory revival is still a long way off', *Sunday Herald* (Comment), 5 March 2006, pp.34-5.

⁶⁶ Robbie Dinwoodie, 'One of the few politicians without an enemy', *The Herald*, 22 March 2006, p.7.

⁶⁷ Frank Urquhart, 'Police urged to investigate 'deceitful and dishonest' Tory election tactics', *The Scotsman*, 15 April 2006, p.2; Robbie Dinwoodie, 'Dirty Tricks claims as councillors disown Tory leaflet', *The Herald*, 15 April 2006, p.6.

⁶⁸ Frank Urquhart, 'Now Lib Dems are accused of dirty tricks in bitter battle for Moray', *The Scotsman*, 19 April 2006.

Holyrood elections. Labour's 'slump' to fourth position saw Scotland's governing party as 'the biggest loser on the night.'⁶⁹ The Lib Dems' 7 per cent increase was seen as further fuelling rivalries within the Holyrood coalition.

With the trials and tribulations of the Blair government at Westminster, the papers as well as STV and BBC Scotland made the prospects of Labour in electoral trouble a top issue a year before the Holyrood poll. STV's 'Politics Now' devoted an entire programme to the parties' prospects for 2007 (4 May), and Newsnight Scotland followed on 8 May. Ian Bell diagnosed 'an outbreak of panic within Scottish Labour' and speculated that the 2007 election 'may be bringing Labour's Scottish hegemony to a close.'⁷⁰

3.2.3 *The Shirley McKie Case*

In rare unison, the print and broadcast media have demanded a public inquiry into the case, implicating the Scottish Fingerprint Service (part of the Scottish Criminal Records Office – SCRO).⁷¹ *The Scotsman* demanded a public inquiry in an editorial of 13 February, a *Sunday Herald* editorial on 5 March stated: 'Executive must order public inquiry'. *Scotland on Sunday* editorialised: 'McKie demands cannot be ignored' (26 March 2006), accusing the Executive of 'stubbornly' retreating 'into tactics of obstruction' and calling Cathy Jamieson's conduct 'reprehensible'. It argued: 'There is only one outcome that will satisfy the demands of natural justice and a concerned public and that is a fully independent judicial inquiry.' Just after Easter, the *Guardian* devoted four pages in its G2 section to the case and its political fall out, seeing the 'calls for a public inquiry mounting.'⁷²

3.2.4 *The Holyrood Beam*

On 2 March, the beam struck, and the Holyrood building was back in the headlines. The media had a field day. 'Holyrood scare as roof beam collapses over heads of MSPs,' titled *The Scotsman* in dramatic fashion (3 March 2006). 'Holyrood shut down after roof beam breaks free,' was the slightly less dramatic take by *The Herald* (3 March 2006). 'Holyrood is falling down,' blared the front page of the *Scottish Daily Mail* (3 March 2006), topping that inside with the headline 'Sorry, we've had to cancel Holyrood

⁶⁹ Ian Swanson, 'SNP boosts Holyrood hopes with Moray by-election win', *Evening News*, 28 April 2006; 'SNP's joy at by-election victory', *BBC News*, 28 April 2006, <http://news.bbc.co.uk/1/hi/scotland/4949432.stm>.

⁷⁰ Ian Bell, 'Policy that gives voters a chance to play havoc', *The Herald*, 9 May 2006, p.13.

⁷¹ Michael Howie, 'Justice committee to probe McKie affair', *The Scotsman*, 23 March 2006, p.9.

⁷² Eamonn O'Neill, 'Mark of innocence', *The Guardian* (G2), 18 April 2006, pp.6-9.

questions because the new £431m parliament is falling to bits'.

4 Public Attitudes and Elections

John Curtice

4.1 Attitudes towards devolution

4.1.1 Scottish Parliament Corporate Body Survey

A poll commissioned by the Scottish Parliament Corporate Body (SPCB) shows the Scottish Parliament is perceived reasonably well by the public. More people are satisfied than dissatisfied with the way the parliament is doing its job. The dissatisfaction level is similar to that for local councils or for Westminster. Twice as many think that what the parliament has achieved so far has been good for Scotland as think that it has been bad. Just 36 per cent say that they know 'a great deal' or 'a fair amount' about the Scottish Parliament – little different from the equivalent statistic for the UK Parliament (40 per cent) and people's local council (34 per cent), but above the equivalent figure for the EU (20 per cent). It is above the 27 per cent who said in a 2003 SCPB survey that they knew 'a lot' or 'a fair amount' about the Parliament (see May 2004 monitoring report⁷³). As equivalent figures for Westminster and local councils are also up, the increase may be due to differences in question wording.⁷⁴

The parliament appears to be most widely regarded as successful in two ways – making government in Scotland more open and accessible, and in being trusted to make decisions in Scotland's best interests. However, it has apparently not made people feel more in touch with the way they are governed. The ready agreement with the notion that the parliament is sometimes a useless talking shop is not surprising; a similarly worded item about Westminster might have evoked a similar response. More surprising is that 37 per cent feel that the parliament has reduced Scotland's influence on the UK government. This contrasts sharply with the 2004 Scottish Social Attitudes survey finding that just 7 per cent feel that having the Scottish Parliament has resulted in Scotland having a weaker voice in the UK (see January 2006 monitoring report).⁷⁵

⁷³ *Scotland Devolution Monitoring Report: May 2004* (London: The Constitution Unit), www.ucl.ac.uk/constitution-unit/monrep/scotland/scotland_may_2004.pdf.

⁷⁴ Much the same observation applies in respect of the fact that the reported level of satisfaction with the parliament in this survey is higher than the proportion (28 per cent) that in the earlier survey said they had a 'very' or 'mainly favourable' view of the parliament.

⁷⁵ Bromley, C., and L. Given, *Public Perceptions of Scotland after Devolution: Findings from the 2004 Scottish Social Attitudes Survey*, (Edinburgh: Scottish Executive, 2005). Available at www.scotland.gov.uk.

Nevertheless, despite the degree of satisfaction with the parliament, only one in three feel that it works well. Like Scottish Social Attitudes survey previous findings, this does not translate into a wish to be rid of the institution, but into a preference that it should be strengthened. Nearly half, 48 per cent, say they would like the body to have more powers, 12 per cent would like to weaken or abolish the parliament,⁷⁶ while only 33 per cent say they are happy with the present arrangements. Although 35 per cent of those wanting more powers are simply seeking independence, the more popular of the specific demands for more powers include taxation (29 per cent) and the economy (23 per cent). It is an indication that the continuing elite level debate about giving the parliament some degree of 'fiscal autonomy' may be capable of touching a popular nerve.

Figure 4.1 Opinions about the Scottish Parliament

Which of these statements best describes your opinion of the Scottish Parliament	
	%
Works extremely well and could not be improved	1
Could be improved in small ways but mainly works well	32
Could be improved quite a lot	38
Needs a great deal of improvement	23

To what extent do you agree or disagree that the Scottish Parliament....		
	% agree	% disagree
Has made government in Scotland more open and accessible to the public	49	28
Can be trusted to make decisions in the best interests of Scotland	48	31
Gives the Scottish people more control over the important decision that will affect Scotland's future	44	38
Takes proper account of the range of views that exist across communities in Scotland	38	34
Has made me feel more in touch with the way we are governed	37	44
Has given Scotland more direct influence over decision made in the European Union	28	38
Has reduced Scotland's influence on the UK government	37	31
Spends too much time debating issues over which it has no power	57	15

Scotland Devolution Monitoring Report: January 2006 (London: The Constitution Unit) available at: www.ucl.ac.uk/constitution-unit/research/devolution/devo-monitoring-programme.html.

⁷⁶ Just over half of this group (51 per cent) do not want a Scottish Parliament. Amongst the specific areas of responsibility that the remainder would like to remove, by far the most popular (supported by 30 per cent) was health, an indication perhaps of the unfavourable publicity that the Scottish Executive has received for its handling of the health service in Scotland.

To what extent are you satisfied or dissatisfied with the way each is doing its job these days?		
	% satisfied	% dissatisfied
Your local council	44	28
The Scottish Parliament	41	27
The UK Parliament	37	29
The European Union	22	24

How much influence, if any, do you think the decisions of each of the following will make to the lives of people in Scotland over the coming years?	
	% a great deal/a fair amount
The UK Parliament	59
The Scottish Parliament	57
Local councils in Scotland	56
The European Union	44

Source: MORI/Scottish Parliament Corporate Body; 26/01-6/04/06

4.1.2 SNP Poll

An SNP-commissioned survey reflected the SNP's priorities, albeit conducted by a well established research agency, YouGov. Hence their question asking simply whether people supported or opposed independence. This format evinces higher support for independence than does asking people to choose between independence, devolution, and no parliament. At 46 per cent, the support for independence in the SNP survey was similar to that 47 per cent obtained a January 2000 ICM survey which asked respondents if they would vote for or against independence in a referendum (see the February 2000 monitoring report⁷⁷). There is thus no reason to believe that support for independence has increased. Whatever the views about the merits of independence, there is widespread support for an independence referendum. But surveys regularly find people like referendums, whatever the issue. It does not necessarily follow that because people prefer a referendum that they also feel the issue to be sufficiently pressing for a referendum to be held immediately.

Figure 4.2 Support for Independence.

Do you support or oppose Scotland becoming a country independent from the rest of the UK	%
Support	46
Oppose	39
Don't Know	15

⁷⁷ www.ucl.ac.uk/constitution-unit/monrep/scotland/scotfeb00.pdf.

Regardless of whether you support or oppose independence, do you agree or disagree with this statement? 'The right way to settle the issue of independence is by a referendum of the people of Scotland, rather than in any other way.'	%
Strongly agree	48
Tend to agree	34
Tend to disagree	8
Strongly disagree	4
Don't Know	6

Source: Yougov/SNP: 30/3-3/4/06

4.2 National Identity

A BBC UK-wide poll with boosted samples in Scotland, Wales and Northern Ireland, revealed considerable sympathy for England's cause in the football World Cup. That around two-thirds of Scots said that they backed England in the World Cup contradicts popular folklore that Scots back 'anyone but England' when the near-neighbours are playing. This is not the first poll to uncover this. A Scottish Opinion poll conducted shortly before the 2002 World Cup found that 29 per cent would support England while only 18 per cent would back their opponents, with the remainder not caring (see August 2002 monitoring report⁷⁸). The BBC poll does reveal that Scotland is distinctive in having a notable minority who would prefer England not to win. In both Wales and Northern Ireland over four in five would back England against Germany, far higher than the proportion of Scots. Equally, if Brazil were England's opponents, 80 per cent of people in Wales and 74 per cent in Northern Ireland would back England. Note that the survey was conducted amongst the general public, and not regular football followers; fans may have distinctive views.

Equally, while having a single team in the Olympics represents the majority view in Scotland, it is still less widely supported in Scotland than in either Wales (66 per cent) or Northern Ireland (59 per cent). There is clearly a substantial minority in Scotland that wishes their country's distinctiveness to be represented in sport, but on the sporting field at least it would appear that the Union is still reasonably strong.

⁷⁸ www.ucl.ac.uk/constitution-unit/monrep/scotland/scotaug00.pdf.

Figure 4.3 Identity and Sport

Some people have said they would prefer England, Wales, Scotland and Northern Ireland to enter separate teams for the 2012 London Olympic Games while others think the current position of Team GB (Great Britain) entering a united team is better. Which option do you yourself prefer?	%
Separate teams for England, Wales, Scotland, NI	43
A united team GB	54
Don't Know	7

I would now like you to think about the football World Cup, which takes place in Germany this year. Would you like to see England do well or badly?	%
Well	67
Badly	25
Don't Know	8

If England reached the World Cup final, would you support them if they were playing....?		
	Germany	Brazil
Yes	69	65
No	28	32

Source: ICM/BBC; 24-28 March 2006 (N=501)

4.3 Other Issues

4.3.1 BBC Energy Poll

The UK government's energy review, and the possibility that new nuclear power stations should be built as a means of reducing carbon emissions, has impacted on political debate in Scotland (see sections 10.5 and 11.3). A BBC Scotland survey suggests that there is considerable public unease about the prospect of new nuclear power stations. Only one in three would like to see them being built while seven in ten would oppose one being built close to where they live. People would much prefer Scotland's energy needs being met by renewable sources, and less than one in four would oppose a wind farm close to where they live. These views are particularly prevalent amongst those aged under 55. On the other hand, over half say they would support nuclear power stations if it reduced reliance on imported energy, suggesting that for many their opposition to nuclear power is conditional rather than absolute.

Figure 4.4 Opinions about Energy Supply

To what extent would you yourself support or oppose each of the following being built close to where you live	
	% oppose
A wind farm	23
A coal or gas fired power station	50
A nuclear power station	70

Which one of the following sources of energy would be your most preferred method of meeting future energy demands in Scotland?							
	Age			Social Grade			
	All	18-54	55+	AB	C1	C2	DE
	%	%	%	%	%	%	%
Renewable sources of energy like wave, tidal, solar or wind power	52	58	37	64	51	54	43
Gas fired power stations	21	20	23	14	17	21	28
Nuclear power stations	15	11	21	16	16	14	14
Coal fired power stations	6	6	9	3	9	8	7

	Age			Voting Intention			
	All	18-54	55+	Con	Lab	Lib Dem	SNP
	%	%	%	%	%	%	%
Support nuclear power stations being built in Scotland	33	29	41	50	33	30	34
Support nuclear power stations in Scotland if they helped to avoid us being dependent on energy imported from overseas	54	69	57	69	57	55	47
Support nuclear waste being stored or disposed of in Scotland	14	12	16	29	14	13	14

Source: ICM/BBC Scotland; 24-28/2/06

There might then be considerable support for an Executive decision not to permit new nuclear power stations, though this support is not guaranteed. However, it is far from clear that the issue should be a deal breaker for supporters of Labour and the Liberal Democrats. The views of the two sets of supporters are virtually identical, and in line with those of the Scottish public as a whole. Only Conservative supporters' views stand out as distinctive, being more inclined to support the building of new nuclear power stations than are Scots as a whole.

4.3.2 Shirley McKie case

There was considerable controversy during the period of this report about the Shirley McKie case (see sections 1.1 and 2.1 for details). It would appear that the public shares opposition politicians' concern about it. No less than two-thirds told YouGov in the poll commissioned by the SNP that they felt that there should be a full public inquiry. However, with nearly one in four saying they 'don't know' it is far from clear how salient this issue is in the public mind despite the considerable publicity that the case has received.

Figure 4.5 Opinion about the Shirley McKie case.

Taking what you know about the case of Shirley McKie, do you think there should be a full public inquiry into the actions of the Scottish Executive and the Scottish Criminal Records Office in this case?	%
Yes	66
No	10
Don't Know	24

Source: YouGov/SNP: 30 March – 3 April 2006

4.4 Party Fortunes

4.4.1 Opinion Polls

The absence of regular polling in Scotland means that there was only a survey commissioned by the SNP in this period. It only asked people how they would vote on the constituency ballot of a Holyrood election. The nationalists chose to highlight the figures for those respondents who said that they were certain to vote, on which measure, at 29 per cent, the SNP were only one point behind Labour. However, YouGov usually reports the figures for all respondents, and on this measure, reported here, the SNP were four points behind Labour.

Nonetheless, the survey confirms the impression arising from by-election results in this period that the Labour party may well face a difficult task in retaining its current strength in the Scottish Parliament. The poll implies a five point drop in Labour support since 2003, with the spoils being shared by the SNP (up two) and the Liberal Democrats (up four), while the Conservatives remain becalmed (down three). If the changes in vote shares implied by this poll were to occur throughout Scotland Labour would lose six of its constituency seats, a loss that would not necessarily be made up in increased list seats, especially if the party's list vote were also to fall. The Liberal Democrats would not

acquire any further constituency seats on these figures. Given that the current coalition only has an overall majority of five, the poll exposes the danger that Labour and the Liberal Democrats together might not have an overall majority after next year's election. However, Labour will doubtless comfort themselves with the thought that YouGov significantly underestimated the party's strength in Scotland at the time of the 2005 UK general election.

Figure 4.6 Voting intention In Scottish Parliament constituency elections.

	Con %	Lab %	Lib Dem %	SNP %	Others %
Voting Intention	14	30	20	26	10

Note: Poll only ascertained constituency vote. Amongst others, 4 per cent said Green, 4 per cent SSP. Fieldwork: 23 March – 3 April 2006. Source: YouGove/SNP
Source: YouGov/SNP

4.4.2 Parliamentary By-Elections

February's Dunfermline by-election produced one of the biggest shocks in Scottish by-election history. In a little anticipated result, the Liberal Democrats captured a seat from Labour for the first time in a Scottish by-election since World War 2. Local factors appear to have played a significant role. Labour got itself into difficulties over proposals to increase the tolls for the Forth Road Bridge after the UK Chancellor, Gordon Brown, prematurely announced the proposals would not be implemented, an announcement that had effectively to be denied by the First Minister. (The proposals were indeed not implemented, but this decision was only announced after the by-election by the Liberal Democrat Scottish Transport Minister, Tavish Scott). There also appears to have been considerable discontent with the state of Dunfermline town centre. Nonetheless, the Liberal Democrats' success has a wider significance. It confirmed the party's new found ability, first demonstrated in the Brent East by-election in September 2003 and confirmed in the 2005 general election, to profit from discontent with Labour in 'traditional' Labour territory. This was the first by-election in one of the many seats in which the Liberal Democrats acquired second place to Labour in the 2005 general election. It appears the party may now have a particularly strong potential to make advances in such constituencies.

Figure 4.7 Dunfermline and West Fife Westminster by-election, 9 February 2006

		Votes,	% share	change in % share since 2005
Rennie	Lib Dem	12,391	35.8	+15.7
Stihler	Lab	10,591	30.6	-16.8
Chapman	SNP	7,261	21.0	+2.1
Ruxton	Con	2,702	7.8	-2.5
McAllion	SSP	537	1.6	-0.1
Hargreaves	Christian	411	1.2	
Minogue	Anti-Tolls	374	1.1	
Borland	UKIP	208	0.6	-0.9
Rodgers	Common Good	103	0.3	
Swing from Lab to Lib Dem			16.2	
Turnout			48.7	-11.2

Source: BBC

The Moray Scottish Parliament contest in April was the first time the SNP had to defend a seat in a by-election. It emerged from the test with flying colours. It was widely acknowledged that the previous MSP, Margaret Ewing, had secured a substantial personal vote. Indeed the SNP's vote fell to just 30 per cent when the seat was first not contested by her when she stood down in the 2001 Westminster election. Yet the nationalists increased their share of the vote by four points to secure their highest-ever share in the constituency. At the same time, however, the Liberal Democrats provided further evidence of their increased popularity, winning their highest-ever share of the vote in the constituency since it was first created in 1983. Labour's vote meanwhile slumped to its lowest level locally since 1983.

The Moray result lifted nationalist spirits after the party found its usual role as the principal beneficiary of discontent with Labour usurped by the Liberal Democrats in Dunfermline, and after relatively disappointing performances in last September's by-elections (see January 2006 report⁷⁹). However, success in the party's north-east heartland may not signal an ability to advance in the crucial central belt. Still, the Moray result provided no comfort for the Conservatives at all. As in Dunfermline, they failed, despite considerable effort, to prove that the accession to the UK leadership of David Cameron has helped to transform the party's fortunes in Scotland.

Figure 4.8 Moray Scottish Parliament by-election 28 April 2006

		Votes,	% share	change in % share since 2003
Lochhead	SNP	12,653	46.1	+3.9
Scanlon	Con	6,268	22.9	+0.4
Gorn	Lib Dem	5,310	19.4	+7.2
Keith	Lab	2,696	9.8	-9.3
Brown	NHS First	493	1.8	
Swing from Con to SNP			2.1	
Turnout			45.5	-0.8

Source: BBC

4.4.3 Local Government By-Elections

Council by-elections gave more evidence of Labour's current electoral difficulties north of the border. The party's share of the vote fell by more than ten points in four out of five contests – compared with four out of nine in the first eight months after last year's UK general election. In each case the decline cost Labour a seat – including the seat of the former Labour leader in South Ayrshire whose resignation had already enabled the Conservatives to secure control of the council.

However the beneficiaries of Labour's misfortune varied considerably. In Stirling and in Milton ward in Glasgow it was the SNP. However, in the King's Park ward in Glasgow it was the Liberal Democrats, while in South Ayrshire an intervention by an Independent was primarily responsible for Labour's demise. This heterogeneous pattern suggests, much as did the two parliamentary by-elections and the SNP poll, that a tussle is taking place between the SNP and the Liberal Democrats as to who is best placed to profit from the apparent decline in Labour's popularity.

⁷⁹ www.ucl.ac.uk/constitution-unit/research/devolution/devo-monitoring-programme.html.

Figure 4.9 Local government by-elections, May-April 2006.

2 Feb 2006: South Ayrshire, North Carrick & Maybole East		
	% vote	Change since 2003
Conservative	27.6	-0.3
Labour	23.2	-23.7
Liberal Democrat	-	-
SNP	21.4	+1.0
SSP	-	W
Independent	27.2	I

Turnout 51.0 (+4.1)

16 Feb 2006: Glasgow, Milton		
	% vote	Change since 2003
Conservative	1.5	I
Labour	40.0	-12.6
Liberal Democrat	2.8	-1.4
SNP	49.6	+17.1
SSP	6.0	-4.6

Turnout 32.5 (-5.0)

30 March 2006: Glasgow, Kings Park		
	% vote	Change since 2003
Conservative	12.3	-1.4
Labour	26.2	-17.0
Liberal Democrat	31.7	+21.9
SNP	23.9	+0.3
SSP	2.4	I
Green	2.1	I
Independent	1.3	-8.3

Turnout 32.4 (-12.7)

30 March 2006: South Lanarks., Avondale South		
	% vote	Change since 2003
Conservative	51.0	+9.3
Labour	20.7	-6.8
Liberal Democrat	3.9	-5.1
SNP	14.5	-7.3
Green	4.7	I
Independent	5.2	I

Turnout 39.8 (-13.1)

30 March 2006: Stirling, Borestone		
	% vote	Change since 2003
Conservative	5.9	-5.8
Labour	34.8	-16.1
Liberal Democrat	17.1	+9.1
SNP	38.8	+16.5
New Party	1.9	I
Independent	1.5	I

Turnout 45.5 (-7.2)

I Did not fight seat in 2003; W Fought seat in 2003 but did not contest by-election

Source: www.gwydir.demon.co.uk/byelections

4.5 Attitudes towards Parties and Leaders

4.5.1 Parties

Interestingly, despite the fact that the survey uncovered more Labour supporters than SNP ones, the SNP's YouGov poll found that slightly more people favoured the idea of a SNP/Liberal Democrat coalition than a Labour/Liberal Democrat one.⁸⁰ There is also little opposition to the SNP talking to the Greens about collaboration between those two parties after next year's election. These findings suggest there is a degree of public support for a change in the political composition of the Scottish Executive in 2007. Indeed, the poll also found that 56 per cent agree that 'the Labour Party has been in power for too long in Scotland', while only 28 per cent disagree. However, the SNP have not released the results of a further question that asked whether the party is too inexperienced for government or not. This may suggest that the poll indicated that whatever discontents the public may have with Labour, people are still unsure whether the SNP can provide an effective alternative.

Figure 4.10 Opinion about coalitions.

If there were to be a coalition, and these were the available options, which one would you prefer?	%
SNP and Liberal Democrat	28
Labour and Liberal Democrat	25
Labour and SNP	15
None	21
Don't Know	11

The SNP and Greens were right to hold talks, as they did recently, to see if they can co-operate in a future government of Scotland.	%
Strongly agree	21
Tend to agree	45
Tend to disagree	10
Strongly disagree	4
Don't Know	20

Source: YouGov/SNP, 30/3-3/4/066

4.5.2 Leaders

The SNP's poll confirmed the impression from a MORI poll conducted before the UK general election that the SNP leader, Alex Salmond, is a more popular leader than Jack

McConnell, though both clearly outstrip any of the other party leaders. The same poll revealed the party's deputy leader, Nicola Sturgeon, has a higher profile than Scottish Secretary, Alistair Darling, or the Scottish Conservative or LibDem leaders, Annabel Goldie and Nicol Stephen, even though Mr Stephen is Scotland's Deputy First Minister.

Figure 4.11 Opinion about party leaders.

Leaving aside your own party preferences, which of these politicians do you think would make the best First Minister for Scotland?	%
Alex Salmond	30
Jack McConnell	19
Annabelle Goldie	9
Nicol Stephen	7
Robin Harper	2
Colin Fox	1
Don't Know	31

	Know a Lot or Something About	Know Little About	Not Heard Of
Alex Salmond	87	9	2
Jack McConnell	84	11	3
Nicola Sturgeon	60	24	13
Alasdair Darling	55	37	4
Annabel Goldie	41	30	24
Nicol Stephen	36	25	35
Robin Harper	25	21	46
Colin Fox	19	32	44
Murdo Fraser	13	34	47
Jo Swinson	13	24	58

Source: YouGov/SNP, 30/3-3/4/066

⁸⁰ I am grateful to Hamish Macdonell of *The Scotsman* for making the material from the SNP poll reported in this sub-section available to me. At the time of writing it is not included in the version of the details of the poll published on YouGov's website.

5 Intergovernmental relations

Alan Trench.

5.1 General

There have been no meetings of the plenary Joint Ministerial Committee since December's report (or since October 2002). There have been no press statements of any other intergovernmental meetings, including functional formats of the JMC, either. The website of the Devolution branch of the Department for Constitutional Affairs has however, been revised and the archive of press notices of JMC meetings has now been removed. Such notices are now only available (with some difficulty) from the websites of the devolved administrations.

As regards ministerial meetings, the JMC (Europe) continues to meet, but communiqués are not issued after its meetings and the dates are not made public either. Agriculture ministers continue to meet (outside the JMC framework), most months, and finance ministers also meet roughly every six months, again outside the JMC framework and without any public information being issued about their meetings.

A sectoral meeting of the British Irish Council took place on 3 March 2006 in Edinburgh, at the Scottish Parliament, to discuss social inclusion.⁸¹ Scotland and Wales are the lead administrations for this, and the meeting was chaired by Malcolm Chisholm MSP. The attendance list suggests this was not a high priority for the other governments (except for Mr Chisholm and Seamus Brennan TD from the Republic of Ireland, the larger administrations were all represented by junior or deputy ministers).

The House of Commons Scottish Affairs committee has apparently completed receiving evidence for its inquiry into *The Sewel Convention*, and is considering its findings and whether these should take form of a report or not.

The working of the UK's devolution arrangements was addressed by Lord Falconer of Thoroton, Lord Chancellor and Secretary of State for Constitutional Affairs, when he

spoke at the final conference of the Economic and Social Research Council's Devolution and Constitutional Change programme on 10 March.⁸² He robustly defended the UK Government's present approach, including the asymmetric nature of the UK's arrangements. He praised devolution for its success in 'stymieing' support for nationalist parties in Scotland and Wales and so strengthening the Union (without discussing what role the Union serves in the modern world). He described the Government of Wales bill as a package of sensible reform to enable the National Assembly to get on with the job rather than being hamstrung by the present settlement, and characterised it as a development of the devolution settlement not a fundamental change. He rejected suggestions of changes in the role of the UK Parliament or in MP's voting rights. Blocking Scottish or Welsh MPs from voting on legislation affecting English-only matters, was proposed in the Parliament (Participation of Members of the House of Commons) Bill, a private member's bill introduced in the Lords by Lord Baker of Dorking).⁸³

He also defended the present practice of intergovernmental relations, saying:

The boundaries of the settlement have been respected. Everyone knows who is responsible for what. The real effort goes on making sure that we're joined up in terms of handling and co-ordination. The relationship between the Scotland Office and the Scottish Executive in managing the Sewel Convention is a model of this work. And this work will continue. But let's be clear: committees can't trump politics; if people want to disagree then the best administrative structures in the world will not stop them doing so. I have no doubt that there will be significant variations in policy in future years. But we – the Government, the Scottish Executive and the Welsh Assembly Government – will work together to make devolution work. And that work will be based on a pragmatic approach to problem solving.

It is not complacency that approach. It is good government. Making sure that unexpected hiccups don't obstruct delivery and making sure that the settlements themselves are respected and functional. And we will continue to focus on this approach, not on obsessing about administrative architecture.

This confidence that the boundaries of devolution are knowable and agreed is unlikely to be shared by many involved in making devolution work. It also suggests a reluctance to engage with the public or to make devolution transparent, which is shared by other parts of the Lord Chancellor's department.

⁸¹ The meeting's communiqué is available at www.british-irishcouncil.org/documents/socinc2.asp. See also the Scottish Executive's press notice, at www.scotland.gov.uk/News/Releases/2006/03/03131636.

⁸² Available at www.dca.gov.uk/speeches/2006/sp060310.htm.

⁸³ Lord Baker's bill is available at www.publications.parliament.uk/pa/ld200506/ldbills/061/2006061.htm.

However, a rare glimmer of a sense of what purpose the Union might serve emerged during Tony Blair's speech at the Scottish Labour conference in Aviemore on 24 February. The interesting aspect (reported only in *The Herald* the following day) was Blair's attempt to distinguish between the impact of reserved UK matters such as tax credits on social welfare, and that of the devolved institutions. This bespeaks at least a degree of subtlety in distinguishing between the two levels of government that has often been absent from Blair's thinking on constitutional matters.⁸⁴

On the informal and official level, the key areas of activity appear to have related to Home Office affairs (notably immigration and asylum, anti-terrorism legislation, and policing), and issues arising from the Scottish ban on smoking in public places.

5.2 Adjusting the devolution settlement

One characteristic of the UK's devolution arrangements is that the 'settlement' is, in fact, constantly in flux in matters of detail, particularly regarding the boundary between reserved and devolved matters (set out in Schedule 5 to the Scotland Act 1998). Ten such orders have been made since January 2006. Most of these have been made in consequence of Holyrood legislation (the Gaelic Language (Scotland) Act 2005, the Charities and Trustee Investment (Scotland) Act 2005, the Water Environment and Water Services (Scotland) Act 2003, the Management of Offenders etc. (Scotland) Act 2005, and the Smoking, Health and Social Care (Scotland) Act 2005). Two orders have amended executive devolution and the functions transferred to Scottish Ministers. Full details are available at www.opsi.gov.uk/legislation/scotland/scotact.htm.

5.3 The Advocate General for Scotland

On 18 January 2006 Baroness Clark of Calton (Dr Lynda Clarke QC) resigned as Advocate General for Scotland, the UK Government's law officer for Scottish law, on appointment as a Senator of the College of Justice (i.e. a judge of the Court of Session). The appointment of her successor, Neil Davidson QC, was announced on 21 March.⁸⁵ Mr Davidson is, inter alia, a former Solicitor General for Scotland. Like Dr Clark, Mr

⁸⁴ See Daniel Wincott, 'State of the Union', *Guardian Unlimited*, 10 March 2006, available at www.guardian.co.uk/comment/story/0,,1727265,00.html

⁸⁵ The Scotland Office's press notice of the appointment is available at www.scotlandoffice.gov.uk/our-communications/release.php?id=3522

Davidson has become a life peer as Baron Davidson of Glen Clova. Questions addressed to the Advocate General in the Commons have normally been answered by the Secretary of State for Scotland (or otherwise dealt with as part of Scottish questions), a practice that no doubt will continue. (See also section 9.) In addition, the Lord Advocate, Colin Boyd QC, was included in the list of working peers announced on 10 April. Mr Boyd is not an MSP. He will sit as a cross-bencher at Westminster.⁸⁶

5.4 Financial matters

The UK Budget brought the usual discussion of its implications for Scotland (according to the Treasury's 'regional (sic) press notice', it resulted in an extra £87 million for Scotland).⁸⁷ Behind the scenes, preparatory work for the 2007 Comprehensive Spending Review has begun. Concern over Treasury treatment of accumulated Scottish Executive underspends at the end of the financial year caused excitement for *The Herald* in April.⁸⁸ However, if anything the story serves only to emphasise the extent to which Scotland remains tied into the United Kingdom, despite devolution, and especially in relation to finance, and this means that the same rules apply to the Scottish block grant as apply to Whitehall departments.⁸⁹

⁸⁶ See <http://news.bbc.co.uk/1/hi/scotland/4896744.stm>. Membership of the Lords as a cross-bencher would normally imply selection on merit by the House of Lords Appointment Commission, not on the recommendation of a political party. It is not clear what process was followed in Mr Boyd's case.

⁸⁷ The notice is available from www.hm-treasury.gov.uk/budget/budget_06/press_notices/bud_bud06_pressregindex.cfm

⁸⁸ See 'Brown puts shackles on Executive spending', *The Herald*, 24 April 2006; 'U-turn on control of Scots spending', *The Herald*, 25 April 2006.

⁸⁹ For a detailed discussion, see Heald, D. and A. Macleod 'Embeddedness of UK Devolution Finance within the Public Expenditure System', *Regional Studies*, vol 39:4 (2005), pp. 495-518.

6 Scotland, Europe and International Relations

Peter Lynch

6.1 The Commonwealth Games

The Commonwealth Games in Melbourne provided the Scottish Executive with the opportunity to pitch for Glasgow to host the 2014 Games. The Executive, Glasgow City Council and the Commonwealth Games Council for Scotland presented the Glasgow bid,⁹⁰ alongside competitor cities Abuja and Halifax, Nova Scotia. Melbourne was also an opportunity for the Executive to influence Commonwealth member countries in relation to the Glasgow bid as well as to learn from Melbourne. There was also some promotional activity: a Mackintosh exhibition was held in Bendigo just north of Melbourne as part of the cultural festival to accompany the Commonwealth Games.

6.2 Partnership Agreements

Following on from the First Minister's trip to the Melbourne Games, McConnell signed a partnership agreement with the State government of Victoria on 14 March, with the agreement focused on social policy.⁹¹ Subsequently an agreement between the two governments regarding life sciences development has been concluded.⁹² As is often the case with the partnership agreements, the details of the co-operation and what exactly the Executive expects to gain from it remains to be seen.

6.3 Tartan Week 2006

Tartan Week in the USA ran from 28 March to 8 April. Events in New York and Washington DC featured film and literature plus the usual parade in New York. In the United States for Tartan Day, the First Minister again emphasised the importance of life sciences, and formally (with the Presiding Officer and the Finance Minister) inaugurated a new 'Friends of Scotland Caucus' at the US Congress.⁹³ There was some discussion with the US Congress about giving Tartan Day official status as a public holiday.

⁹⁰ www.glasgow2014.com/uploads/A35260-2014-Brochure.pdf.

⁹¹ Scottish Executive news Release, 'Scotland and the State of Victoria', 14 March 2006.

⁹² See www.scotland.gov.uk/News/Releases/2006/04/18120028

⁹³ The Executive's news release is at www.scotland.gov.uk/News/Releases/2006/04/05152003

6.4 Scotland and China

China has been on the political agendas of the UK and Scottish governments for some time. Key Scottish organisations from businesses such as the Royal Bank of Scotland and Standard Life to the Scottish Qualifications Agency and Scottish universities have been involved in developing links with China. The Executive's major initiative was the First Minister's visit to China after leaving Melbourne. The Beijing visit saw the Chinese government, following talks with the Chinese education minister, agree to finance one of their Confucius Institutes in Edinburgh University to promote Chinese language and culture.⁹⁴ At the same time VisitScotland launched a series of golf tourism packages in Beijing to attract Chinese golfers to visit Scotland.⁹⁵

6.5 The Scottish Parliament, Europe and External Relations

As usual, the European and External Relations Committee hosted an open briefing meeting by the Ambassador of the incumbent European Union Presidency. The Austrian ambassador spoke at the parliament on 26 January to discuss the *Plans and Priorities of Austrian Presidency of the EU*.

The Committee produced one report during this period, into co-operation between Scotland and Ireland.⁹⁶ This was a reporter-led inquiry – led by committee member Denis Canavan – which recommended that the Scottish Executive participate in cross-border funding schemes with both Northern Ireland and Ireland part-financed by the European Union. What was interesting about this report was that it was attempting to shape Executive policy rather than simply scrutinise it.

The Committee agreed a series of inquiries for the remainder of 2006. In March it agreed to examine the European Union's *Strategy for Growth and Jobs* (the Lisbon Agenda) to determine its effect on Scotland. On 26 April, the Committee launched an inquiry into the delivery of the structural funds in Scotland from 2007-2013, with a focus on future spending of the reduced level of structural fund support post-enlargement, in addition to evaluation of spending from 2000-2006.

⁹⁴ Scottish Executive News Release, 'Confucius Institute for Scotland', 21 March 2006.

⁹⁵ Scottish Executive News Release, 'Golf packages for Chinese Tourists', 20 March 2006.

⁹⁶ European and External Relations Committee, *1st Report 2006: Interim Report on an Inquiry into Possible Co-operation Between Scotland and Ireland*, (Edinburgh: Scottish Parliament, 2006).

7 Relations with Local Government

David Scott

7.1 Council Tax

The year began with a bitter dispute between councils and the Scottish Executive over council tax. Jack McConnell, the First Minister, and Tom McCabe, minister for finance and public service reform, insisted that tax rises, on average, need not exceed 2.5 per cent.⁹⁷ Mr McConnell warned that local authorities with bigger council tax rises would have to explain this to voters.⁹⁸ The Convention of Scottish Local Authorities (COSLA), however, argued that it would be difficult to keep within 2.5 per cent, or even below 5 per cent, because the funding deal discriminated against councils. It would result in above-average council tax rises or service cuts.⁹⁹ When he announced the local government finance settlement, McCabe had contended that councils should be able to keep down their tax increases because of a funding settlement of £8.3 billion for 2006-07.¹⁰⁰

In the weeks prior to council tax figures being announced, COSLA conducted an unprecedented campaign aimed at highlighting what they regarded as the unfairness of the settlement.¹⁰¹ This included a snapshot survey showing the number of councils struggling to keep council tax rises below 5 per cent; a statement claiming that local government's share of Scottish public spending had fallen to an all-time low of 26 per cent while the share for 'unelected' quangos had risen to 40 per cent; an open letter signed by council leaders and conveners accusing the Executive of 'bully boy tactics'; and the issuing of statistics showing that councils had not been offered the same financial protection as their counterparts in England and Wales.

This further soured relations between councils and the Executive. When the tax increases¹⁰² were announced by councils on 9 February, they were smaller than had

⁹⁷ P. MacMahon and H. MacDonell 'Executive at war with councils over tax rise' *The Scotsman*, 24 January 2006, http://news.scotsman.com/latest_scotland.cfm?id=119722006.

⁹⁸ Press Association, 'McConnell's tax warning to voters', 9 February 2006, http://news.scotsman.com/latest_scotland.cfm?id=207242006.

⁹⁹ COSLA Press release, 'Council Tax Snapshot Survey', 31 January 2006, www.cosla.gov.uk/news_story.asp?leftId=1000195C9-10766761&rightId=1000195C9-10771676&hybrid=false&storycode=1000195CA-15372516

¹⁰⁰ Statement in Scottish Parliament, 23 November 2006.

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-05/sor1123-02.htm#Col20965

¹⁰¹ COSLA press releases, 31 January-8 February 2006, www.cosla.gov.uk.

¹⁰² COSLA press release, 9 February 2006,

been suggested in some newspaper headlines. Scotland's biggest local authority, Glasgow City Council, surprised everybody by announcing a stand-still, with Band D tax frozen at the previous year's level of £1,213. Among other councils, the increases ranged from 2.25 per cent in West Dunbartonshire to 4.9 per cent in four councils areas – Clackmannanshire, East Ayrshire, East Renfrewshire and Moray.

7.2 Councillors' allowances

The Scottish Local Authorities Remuneration Committee (SLARC) recommended that councillors should receive a basic salary of £15,452, with committee conveners receiving £38,631 and council leaders up to £51,508.¹⁰³ There would be a severance scheme for councillors retiring at the 2007 election, providing £1000 for every year of service up to a maximum of £30,000. For the first time, a pension scheme would be introduced for councillors, based on the scheme for local government employees.

McCabe announced later that he had accepted most of SLARC's recommendations. This included the proposed basic salary of £15,452 for councillors. However, he cut the SLARC recommendation for councillors with special responsibilities, with the amounts paid ranging up to £46,457 in the largest councils, including Edinburgh and Glasgow.¹⁰⁴ McCabe also limited the severance payments, aimed at encouraging older councillors to make way for younger council members, to a maximum of £20,000. There would be three levels of payment, linked to length of service. As recommended, a mandatory roles description and personal development plan for councillors would be introduced. The current basic allowance system and the arrangements for responsibility payment will be abolished. McCabe emphasised that the Executive had accepted the 'vast majority' of the committee's recommendations and that the adjustments made would result in the scheme costing about £750,000 less than under the SLARC proposals. He said ministers had always stressed that they would need to consider the 'affordability and

www.cosla.gov.uk/news_story.asp?leftId=10001EA05-10766761&rightId=10001EA05-10771676&hybrid=false&storycode=10001EA05-15417735

¹⁰³ Scottish Local Authorities Remuneration Committee, *Review of Remuneration for Local Authority Councillors*, 27 January 2006,

www.scotland.gov.uk/Publications/2006/01/25090631/1.

¹⁰⁴ Scottish Executive Press release, 'Councillors allowances to be reformed', 23 March 2006, www.scotland.gov.uk/News/Releases/2006/03/23143146.

public acceptability' of the proposals. Councillor Pat Watters, president of COSLA, was disappointed, saying the Executive had failed to live up to expectations.¹⁰⁵

7.3 Social Work Review

The Scottish Executive published what it said was the biggest overhaul of social work for 40 years.¹⁰⁶ A review group set out 13 recommendations. These aimed to personalise the delivery of services, take a public sector-wide approach to prevention, strengthen the social work profession, develop an organisational approach to risk management and governance and develop a culture of performance improvement in social work services.

Peter Peacock, the minister for education and young people, announced an action plan. This included setting national social work priorities, developing and improving standards, strengthening the role of the chief social work officer, devolving more responsibility to front-line social workers and creating 'par-professionals' to work under the direction of social workers. The plan also included allowing experienced social workers to progress their career while remaining at the front-line, involving users and carers more in decisions about their own care, reviewing education and training programmes and legislating to provide the framework for national priorities and continuous improvement.¹⁰⁷

COSLA social worker spokesperson Councillor Eric Jackson noted that there was general agreement between local government and the Scottish Executive on the overall thrust of the review. However, he said COSLA had sought the development and introduction of some basic service standards and also called for the introduction of a single social work plan to replace all other planning documents. Cllr Jackson said COSLA was willing to work with the Scottish Executive to make sure there was a dynamic partnership with local communities and the Scottish Executive.¹⁰⁸

¹⁰⁵ COSLA Press release, 'Remuneration proposals fail to live up to expectations', 23 March 2006 www.cosla.gov.uk/news_story.asp?leftId=10001F385-10766761&rightId=10001F385-10771676&hybrid=false&storycode=10001F386-15466366.

¹⁰⁶ Scottish Executive publications, 'Report of the 21st century social work review group for the future of social work services in Scotland', www.scotland.gov.uk/Publications/2006/02/02094408/0.

¹⁰⁷ The Scottish Executive Press release, 'Major social work modernisation programme', 7 February 2006, www.scotland.gov.uk/News/Releases/2006/02/07102051.

¹⁰⁸ COSLA Press release, 'No time to waste in changing lives for the better says COSLA', 7 February 2006, www.cosla.gov.uk/news_story.asp?leftId=100011037-10766761&rightId=100011037-10771676&hybrid=false&storycode=100011037-15407321.

7.4 Accounts Commission

7.4.1 Overview Report

The Accounts Commission published a local authority overview report for 2005 calling on councils to speed up their pace of change and improvement.¹⁰⁹ The report noted that local authorities were working in an environment of major change as government sought to reform and modernise public services. Councils had to deliver Best Value and lead on community planning. They also faced substantial financial pressures including equal pay and increasing pension contributions. According to the commission, councils need to concentrate on developing their longer term financial planning and improving the information they have about service performance. The report highlighted the importance of having well-defined strategic objectives, matching resources to priorities and ensuring clear understanding of what local people wanted and needed from service.

The report said councils had responded well to the commission's plea that they should have clear policies on levels of financial reserves and balances and on how these will be used. Improved disclosure in the accounts gave more detail about amounts held in the general reserve. Of the total as at 31 March 2005, £241 million was unallocated. This was about 2.6 per cent of the £9.3 billion net cost of council services. The commission said this sum seemed reasonable in light of the financial pressures council faced.

7.4.1 Housing Transfers

A further Commission report, *Council Housing Transfers*, said the hand-over of more than 100,000 council homes to new landlords since 1998 had brought more investment in properties and promoted tenant control. Investment in Glasgow had doubled. The commission also found that transfers had increased repairs and maintenance and the building of new homes while rent increases were being kept down.¹¹⁰

The seven completed transfers examined in the report will result in £3.2 billion of investment into properties over the next 30 years, significantly more than the previous council owners had spent. Annual rent increases would be one per cent or less in real terms compared with average real rises of three per cent under council ownership.

¹⁰⁹ Audit Scotland publications, 'Overview of local authority audits', 30 March 2006, www.audit-scotland.gov.uk/publications/pubs2005.htm.

¹¹⁰ Audit Scotland report, 'Council housing transfers', 24 March 2006 www.audit-scotland.gov.uk/publications/pubs2005.htm.

These results, the commission said, were possible partly because the Treasury is paying off the historic housing debt of councils undertaking transfers. This allows rental income to be invested in improving tenant services and refurbishing homes rather than paying for debt. The report recommended that the Scottish Executive should reinforce its approach to transfers with clearer goals and measures for quality of service and tenant involvement, thus increasing the overall impact and the value for money of transfers. During this year and next six more councils will transfer a total of 50,000 homes.

7.5 Pensions Dispute

It was reported¹¹¹ that thousands of council workers would lose their right to claim a full pension at the age of 60 because of a decision by the Scottish Executive to remove the so-called 'rule of 85.' This allows members of the local government pension scheme to retire without a pensions penalty when they reach 60 and their age and years of service add up to 85. McCabe emphasised that the Executive remained firmly of the view that the EC Equal Treatment Framework directive 2000/78/EC had rendered the rule of 85 in local government pensions discriminatory in terms of age. However, he said that if the courts decided that the union's position was correct then the Executive would act in line with that finding.¹¹² This is controversial: those in health, teaching and the civil service have 60 as a retirement age; only in local government is 60 seen as early retirement.

The public sector union Unison disputed the Executive's interpretation. It claimed that the proposed change would discriminate against low-paid workers and that the pension scheme was part of a contract accepted when members joined local government.¹¹³ For COSLA, Councillor Watters voiced sympathy for the trade union position but emphasised that the way forward was through discussion.¹¹⁴ *The Scotsman* reported that the Executive was set to defy Westminster by agreeing a deal with trade unions over pensions and said COSLA was prepared to go it alone with a proposal to meet demands for retirement benefits to be preserved. The report said actuaries had been

¹¹¹ P MacMahon, 'Council staff to work extra 5 years for pension' *The Scotsman*, 18 January 2006 <http://news.scotsman.com/politics.cfm?id=82812006>.

¹¹² Scottish Executive Press release, 'Local government strike', 28 March 2006 www.scotland.gov.uk/News/Releases/2006/03/28143137.

¹¹³ Unison Press release, 'Unions call for pensions rethink', 28 February 2006 www.unison-scotland.org.uk/news/2006/janfeb/2802.htm

¹¹⁴ COSLA Press release, 'Trade unions mandate for strike action', 15 March 2006, www.cosla.gov.uk/news_story.asp?leftId=100017A6C-10766761&rightId=100017A6C-10771676&hybrid=false&storycode=100017A6C-15451461

instructed to come up with plans to preserve retirement conditions similar to the rule of 85 for existing pensions members.¹¹⁵

7.6 Equal Pay

Some councils continued to try to resolve disputes over equal pay. The issue arose as a result of difficulties in implementing a Single Status agreement reached in 1999. Most councils have failed to resolve differences in pay between men and women and there have been claims for back-dated compensation. In a number of areas, it was reported that council workers were preparing for industrial action over threats to jobs.¹¹⁶ Various packages, some involving wage cuts, were put forward by councils in an attempt to resolve the dispute.¹¹⁷ The Parliament's finance committee said it was gravely concerned over the amount of time taken to implement the Single Status agreement and claimed the local government employers were guilty of a 'massive failure to engage in constructive negotiations.'¹¹⁸ The COSLA president, Councillor Watters, responded by saying there was no simple solution. Negotiations are continuing.¹¹⁹

¹¹⁵ P MacMahon, 'Executive reveals plan to end 'rule of 85' pensions strike' *The Scotsman*, 8 April 2006, <http://news.scotsman.com/politics.cfm?id=538702006>.

¹¹⁶ G Smith, 'Scores of council jobs face the axe to finance deal on equal pay' *The Herald*, 11 January 2006

¹¹⁷ Billy Briggs, 'Equal pay at a price for 1800 as council staff face wages scheme to adjust salary grades' *The Herald*, 7 February 2006.

¹¹⁸ Scottish Parliament finance committee report, 23 March 2006.

¹¹⁹ COSLA Press release, 'COSLA tells finance committee – no simple solution on equal pay', 23 March 2006, www.cosla.gov.uk/news_story.asp?leftid=10001978E-10766761&rightid=10001978E-10771676&hybrid=false&storycode=10001978E-15462135.

8 Finance

Alex Christie

The Chancellor's announcement of spending changes in his March Budget means that an extra £87m will be passed to the Scottish Parliament as a result of the workings of the Barnett formula. With the budget process for financial year 2006-2007 already well under way this sum is likely to be pretty inconsequential in terms of spending priorities. The other two subjects: the efficiency programme and the council tax settlement have remained the principle focus of public finance debate in the past four months.

8.1 Public Sector Efficiency

The Scottish Parliament Finance Committee issued their report into stage two of the budget process for 2006-2007 in mid-December last year. The report criticised the Executive's system of allocating savings targets within its Efficient Government Initiative and its policy of permitting some departments to retain savings made rather than have them centralised and subsequently redistributed. The committee also questioned why the Executive's targets for efficient government lagged behind those set by the UK government and produced figures, reproduced below in figure 8.1, to show the impact of applying the UK standards across Scotland's budget portfolios.

The difference of £801m is highly significant and would represent a three per cent increase in the Scottish DEL for 2006-07 could it be achieved, but the calculation serves as little more than a point of interest. Efficiency improvements demand achieving the same output with less input or more output with the same input. There is no reason to believe that a seven and a half per cent saving over all budget lines represents economic efficiency, since the benefit derived from marginal expenditure changes is unlikely to be identical across budget lines. All the table shows is that greater efficiency without wishing to increase service levels or quality leads to more funds being freed for other purposes.

The committee commented, although they did not make a specific recommendation, that the process of how appropriate efficiency savings and funds saved are subsequently reallocated should be made clearer. This was answered in part in a letter from Tom

McCabe, the Minister for Finance and Public Sector Reform, in January. He noted that the Executive had chosen not to apply a uniform efficiency target since the assumption of service provision homogeneity was unlikely. His response did not mention the process by which savings were reallocated. A simple analysis would state that savings should be allocated where the marginal benefit from additional expenditure is greatest. A more realistic, and therefore more complex, answer, would stress how difficult it is to measure potential marginal benefits and that it is likely financial restrictions in fact mean cuts in services or reductions in service quality.

Figure 8.1 Efficiency Savings in Scottish Budget portfolios if in line with UK efficiency target of 7.5 per cent of the 2007-08 DEL¹²⁰

Portfolio	Scottish 2007-08 DEL, £'m	Scottish Efficiency savings (cash and time)	Scottish Efficiency savings as % of the DEL	Scottish 2007-08 DEL, £'m	7.5% of the 2007-08 DEL, £m (i.e. the UK target)	Difference between Scottish and UK (£m)
Administration	263.7	8.4	3.2%	263.7	19.5	11.1
Communities	1,306.1	9.1	0.7%	1,306.1	96.7	87.6
COPFS	100.5	3.1	3.1%	100.5	7.4	4.3
Education & Young People	665.5	45.8	6.9%	665.5	49.2	3.4
Enterprise & Lifelong Learning	2872.1	59.8	2.1%	2872.1	212.5	152.7
Environment & Rural Development	942.3	8.8	0.9%	942.3	69.7	60.9
Finance & Public Service Reform	6978.6	243.5	3.5%	6978.6	516.4	272.9
Health and Community Care	10279.4	515.1	5.0%	10279.4	760.7	245.6
Justice	1100.7	84.3	7.7%	1100.7	81.5	-2.8
Tourism, Culture & Sport	290.9	1.8	0.6%	290.9	21.5	19.7
Transport	1386.9	18.9	1.4%	1386.9	102.6	83.7
Other – non NHS procurement	n/a	150	n/a	n/a	n/a	n/a
Total DEL	26,346	1148.6	4.4%	26,346	1,949.6	801.0

The Executive has committed to making efficiency savings of at least £197m over three years. However, it would appear that the Chancellor and the Treasury remain to be convinced about the breadth and depth of the Executive's efficiency plans. The Executive has failed to draw down its full spending allocation for the last financial year and the Treasury now seems unwilling to permit these funds to be released stating, according to a Treasury spokesman, that 'the Treasury controls public sector spending'.¹²¹ While this is true at the aggregate level it is not normally considered appropriate that the Treasury are involved in the subsequent allocations made by the Executive and scrutinised by the Scottish Parliament and Audit Scotland. The increasing budget deficit and subsequent borrowing requirement and how the Treasury treat devolved administrations' underspends may become a point of contention to be recorded in future reports. If the issue develops, and ignoring the obvious political and constitutional difficulties that may follow, the Executive's efficiency programme may well now have another interested party.

8.2 Local Government Finance

The last report noted that a stand off was developing between Scotland's local authorities and the Executive over Aggregate External Finance, the central funding allocation from the Executive to local authorities. The Executive has been keen to extend the Efficient Government Initiative to local government and has requested 4 per cent equivalent savings. Figure 8.2 shows the percentage increases in both Aggregate External Finance and council tax for Scotland's councils for 2006-07.

Figure 8.2 Percentage Increase in Aggregate External Finance and Council Tax for Scottish Local Authorities 2006-07¹²²

	AEF % increase	Band D Council Tax % increase
Aberdeen City	2.0	2.9
Aberdeenshire	5.4	4.5
Angus	4.5	3.4
Argyll & Bute	5.4	3.49
Clackmannanshire	3.0	4.9
	AEF % increase	Band D Council Tax %

¹²⁰ Source: 5th Report, 2005: Stage 2 of the 2006-07 Budget Process, SP Paper 471, Scottish Parliament

¹²¹ 'Brown puts shackles on spending by Executive' *The Herald*, 24 April 2006.

¹²² Figures from Scottish Executive (www.scotland.gov.uk/News/News-Extras/aeftable2005) and COSLA (www.cosla.gov.uk/attachments/news%20releases/200607increaseBandDd.doc).

		increase
Dumfries & Galloway	3.7	3.0
Dundee City	2.0	2.63
East Ayrshire	3.9	4.9
East Dunbartonshire	2.4	3.9
East Lothian	5.1	2.5
East Renfrewshire	5.9	4.9
City of Edinburgh	2.4	2.3
Eilean Siar	2.0	4.5
Falkirk	3.6	4.6
Fife	3.1	3.9
Glasgow City	2.0	0
Highland	4.1	4.5
Inverclyde	3.3	2.5
Midlothian	2.5	2.9
Moray	3.5	4.9
North Ayrshire	3.5	4.65
North Lanarkshire	3.7	3.5
Orkney	5.2	3.5
Perth & Kinross	4.7	4.4
Renfrewshire	2.3	4.8
Scottish Borders	4.3	4.4
Shetland	2.0	3.7
South Ayrshire	3.2	4.5
South Lanarkshire	2.7	3.46
Stirling	2.0	4.5
West Dunbartonshire	2.0	2.25
West Lothian	4.1	2.5

8.3 Conclusion

There is no doubt that the funds available to local authorities have increased dramatically in real terms since the Chancellor's commitment to follow the previous Conservative government's spending aggregates ended in 1999, but the same applies to almost every other part of public spending. The Executive and the United Kingdom government both insist that levels of funding, in real terms, are broadly sufficient and that greater efficiencies rather than greater levels of funding are now necessary. Although the two governments have taken different approaches, as might be expected under devolution, they both want to achieve roughly similar ends. It remains to be seen whether either can achieve those ends without cuts in service levels or quality, and perhaps whether the UK Government and the Treasury in particular seek to impose a different set of financial relations between Whitehall and Holyrood as the government's belt tightens. Central government has a history of seeking to influence local government

in times of financial difficulty, the Scottish Executive's attitude to the recent local government financial settlement demonstrates this, but the Treasury may find the political pressures of seeking to micro-manage Scottish spending too great. It may then decide that the best alternative is to seek to control Scotland's spending aggregate, which may just see the Barnett formula come unstuck.

9 Disputes and litigation

Alan Trench

There have been no devolution disputes considered by the Joint Ministerial Committee during the period covered by this report.

The Judicial Committee of the Privy Council gave judgment in two cases that technically constitute devolution issues on 6 February 2006. The cases are *Arthur Kearney v. Lord Advocate* and *Kevin Ruddy, Martin Robertson and Seamus O'Dalaigh v. Procurator Fiscal*, and both are appeals from the High Court of Justiciary. Both cases concern relatively technical points of court procedure and its compliance with the European Convention on Human Rights.¹²³

The vacancy in the office of Advocate General for Scotland (see section 5) has reduced the number of devolution issues considered. (It appears that, at least in a technical sense, the functions of Advocate General were discharged by Alistair Darling, Secretary of State for Scotland, and a non-practising advocate, during the vacancy in the post.) However, the total number of devolution issues notified appears to be:

13 December 2005 – 24 January 2006	91 ¹²⁴
1 – 28 March	59 ¹²⁵
Total	150

¹²³ The full judgments are available at www.privy-council.org.uk/output/Page524.asp.

¹²⁴ HC Deb, 24 January 2006, col, 1293.

¹²⁵ HC Deb, 28 March 2006, col, 665

10 Political Parties

Peter Lynch

10.1 Green-SNP Coalition Talks

The 2005 Scottish Green Party conference had proposed that the party hold talks with its competitors about political co-operation and coalition in advance of the 2007 Scottish election. The first party to take up this public offer was the SNP. The two parties held informal talks before Christmas 2005 – though this development was not announced to the media until 5 January 2006.¹²⁶ The two parties already had some co-operation (also involving the SSP) through the medium of the Independence Convention mentioned in the previous monitoring report. The purpose of this meeting was to discuss some common ground and examine the prospects for different forms of co-operation after the 2007 election such as formal coalition and parliamentary co-operation short of coalition.

10.2 Dunfermline and West Fife By-election, 9 February 2006

The Dunfermline and West Fife by-election result had major implications for devolution and relations between the political parties. First, the contest occurred during much political uncertainty and negative headlines for the Liberal Democrats – leaderless after Charles Kennedy’s resignation over alcohol problems and a period of party infighting as well as subject to ridicule over leadership contender Mark Oaten’s affair with a rent boy. Despite this, and in line with the electoral pattern of increased support at the 2005 general election – in which Scottish Lib Dems came second with 22.6 per cent – the party did extremely well. Second, the by-election campaign itself saw considerable cross-party conflict within the coalition Executive and also between the Executive and UK Ministers over the Forth Road Bridge. The Forth Estuary Transport Authority had been involved in examining a range of options for the bridge such as new tolls, congestion charging, etc. However, the Secretary of State for Scotland (and Transport) and the Chancellor of the Exchequer tried to rule out such initiatives during the by-election campaign despite not being in a constitutional position to do so. The issue had additional spice as the Scottish Executive Transport Minister was a Liberal Democrat. Given the importance of the bridge to commuters between Dunfermline and Edinburgh and that fact that Dunfermline had expanded as a commuting town in light of Edinburgh

¹²⁶ *BBC News*, 5 January 2006.

housing costs, it is not surprising that the future of the bridge became an issue. The issue also put Labour Ministers in the Scottish Executive in a difficult political position as they had to stick with their coalition partners on the bridge, despite pressure from senior UK ministers when the main challenger to Labour in the Dunfermline seat was the Lib Dems. Third, whilst Labour tried to paint the by-election defeat as a consequence of a set of local issues – the local hospital, the closure of a printer factory bringing 700 job losses as well as the controversy over the bridge – the fact remains that Labour lost a safe seat formerly held by a popular local MP. Not only that, but the Chancellor, Gordon Brown, lives in the seat and represents an adjacent constituency. This was the Chancellor's political backyard and, also most obviously, the backyard of the next Labour Prime Minister. Yet despite his heavyweight involvement in the by-election, the seat was lost. Fourth, the SNP performed slightly better in this seat than at the 2005 general election, but – especially compared to the Lib Dems – the party's by-election machine did not get off the ground. Though Alex Salmond had given the SNP the target of winning 20 extra constituency seats at the 2007 Scottish election, such a poor performance in promising territory like Dunfermline is a major setback. Whilst the SNP increased its support slightly, there was no crumb of comfort for the Conservatives who lost support. No sign of the Cameron effect here.

10.3 The Steel Commission and the 2007 Election

The Scottish Liberal Democrats published the Steel Commission report on powers for the Scottish Parliament on 6 March 2006.¹²⁷ The report – *Moving to Federalism – A New Settlement for Scotland* – was a result of a year-long internal party inquiry into the operation of devolution since 1999. The report contained a strong UK dimension – discussing federalism and involving non-Scottish Lib Dem members – and made suggestions about progressing devolution in the context of a new written UK constitution. The report proposed that any move to change the Scotland Act to increase the policy powers for the parliament should come about through a new constitutional convention to generate cross-party support for change. Setting up a new convention is likely to be a Lib Dem proposal for coalition talks come the 2007 Scottish election and, perhaps, a requirement for coalition participation. This latter fact could have an interesting impact on

¹²⁷ See www.scotlibdems.org.uk/news/0603061.shtml.

the other parties, not least Labour. The report spent a good deal of time discussing fiscal autonomy¹²⁸ but proposals in this area were rather inconclusive.

10.4 Alex Salmond and Holyrood

Alex Salmond was selected to contest the Holyrood seat of Gordon at the 2007 election in January. Salmond has been the MP for Banff and Buchan since 1987 (and was the MSP from 1999-2001). Gordon sits next to Banff and Buchan and, since the Boundary Commission's reorganisation in 2005, the Westminster constituency of Banff and Buchan contains about 10,000 Gordon voters. This development removed the need for any seat-switching between Salmond and the Banff and Buchan MSP Stewart Stevenson (which had occurred in 2001). Salmond has also placed himself in the front line of his own strategy of gaining 20 first-past-the-post constituency seats at the Holyrood election. Gordon has been held by Liberal Democrat Nora Radcliffe since 1999. The Lib Dems won the seat in 2003 with a majority of 4071. The SNP were in third place behind the Conservatives.

10.5 The Nuclear Energy Debate and Devolution

Given clear signs of the UK Government moving to support construction of new nuclear power stations, it was not surprising that the issue became prominent in political debate in Scotland. The first signs of a change in position were evident with the decision to debate the nuclear issue at the Scottish Labour Party conference at the end of February 2006, which followed Jack McConnell's decision to hold an internal consultation exercise on nuclear energy in January 2006.¹²⁹ However, despite Executive scepticism over the nuclear question – most clearly over the treatment and storage of nuclear waste – Scottish Labour adopted a trade union-sponsored conference resolution. This stated that the party should 'support the fact that immediate plans must be started to replace or renew our existing coal-fired and nuclear generating stations where required.' A similar resolution was passed at the Scottish Trades Union Congress conference in April. The trade unions – especially those with members in the nuclear industry – were not alone in seeking to open up the nuclear question. UK Government energy minister Malcolm Wicks, had asked for a 'grown-up debate' over energy in advance of the Scottish Labour

¹²⁸ Pages 32-47 and 90-109.

¹²⁹ *The Scotsman*, 16 January 2006.

conference.¹³⁰ Whilst Wicks' maintained he was 'neutral' over nuclear power, this statement was taken as criticism of both Scottish Labour and its coalition partner.

The twin difficulties of UK-Scottish disputes over nuclear power and also internal coalition conflict over nuclear power gained more fuel at the Scottish Liberal Democrats' conference in March 2006. The Lib Dems re-stated opposition to nuclear energy and pointed to the problems of nuclear waste disposal. There is every prospect of nuclear energy becoming a coalition-maker or breaker in 2007, given the Lib Dem position as well as the anti-nuclear stances of the SNP, Greens and SSP. Indeed, the only pro-nuclear party in Scotland is the Conservatives. However, given the timing of the UK energy review and the consequent timing of any decisions on nuclear energy in Scotland, any decision will take place after the current coalition has left office. This makes life easier now – conflict postponed – but is likely to make the nuclear issue a central question at the 2007 Scottish election and after.

The Sustainable Development Commission, the UK Government's environmental advisor, published a report on 6 March that opposed an expansion of nuclear energy in favour of cheaper, sustainable energy sources.¹³¹ In April, British Energy, owner of Scotland's two nuclear generating stations, proposed that Hunterston B could operate for 10 more years after its decommissioning date of 2011, and the life of Torness could be extended from 2023 to 2033.¹³² However, despite such encouraging news, further pressure on Scottish Labour came when the UK Government's Committee on Radioactive Waste Management produced an interim report on 27 April which recommended deep geological disposal of nuclear waste, but did not identify disposal sites.¹³³

10.6 The Moray By-election, 27 April 2006

Margaret Ewing's tenure of the Moray constituency as an MP since 1987 and as an MSP since 1999 had turned it into a safe SNP seat. But her death on 22 March meant the

¹³⁰ *The Scotsman*, 23 February 2006.

¹³¹ Sustainable Development Commission, *Nuclear Energy in a low carbon economy* (2006).

¹³² *The Scotsman*, 21 April 2006.

¹³³ Committee on Radioactive Waste Management, *The Options for Long-term Management of Higher Active Solid Radioactive Wastes in the United Kingdom*, 2006.

SNP having to defend a seat in a by-election for the first time.¹³⁴ Ewing had already announced she was standing down at the 2007 Scottish election and a successor, Richard Lochhead (a regional MSP from the North East of Scotland), had been selected. Parliamentary rules meant Lochhead had to resign his list seat to stand in the by-election as did the Conservative candidate, Mary Scanlon, a Highland list MSP. This brought two new list MSPs to Holyrood – Maureen Watt for the SNP and David Petrie for the Conservatives.

Moray was crucial to the SNP and Alex Salmond's goal of gaining an additional 20 first-past-the-post seats at the Scottish election in 2007 in order to win a share of power at Holyrood. That goal did not look particularly realistic after the Dunfermline and West Fife by-election. SNP strategy would have been in tatters had the party performed badly in a seat as safe as Moray. As it was, the SNP did well, albeit in a safe seat in the SNP's North East heartlands. For the other parties, Moray was less important. The Conservatives did put a great deal of effort into the contest, personalising the campaign round a 'star' candidate rather than the party. Yet support for the party barely moved. For the Lib Dems, this was a difficult seat, as the party had seldom performed well here since the SNP began contesting this seat in 1970. However, their share of the vote rose – a reflection of their increased popularity at the 2005 UK general election at which the party took second place in Scotland. It places them in a strong position for the 2007 Scottish election. For Labour, the fall in support reflects the party's reduced popularity across Scotland and the UK. The party expects some loss of seats in 2007 and the decline in support in Moray seems to support that view. At its peak in this seat in 1999, Labour took second place with 26.5 per cent of the vote, part of a trend of growing support for Labour in rural and semi-rural Scotland that took place in 1997 and 1999 (Dumfries, Inverness, Ross, Skye and Inverness West, Tweeddale, Ettrick and Lauderdale, etc.). Support in such areas has now fallen back, with Labour now more confined to urban, Central Scotland – a factor which could make the 2007 election much closer and require more than a two-party coalition government at Holyrood.

¹³⁴ The Scottish Parliament constituency of Banff and Buchan featured a by-election in 2001 on the same day as the UK general election as Alex Salmond shifted from Holyrood to Westminster.

11 Public Policies

Paul Cairney

11.1 Public Policy Divergence?

Analysis of Scottish public policy usually compares it with policy made in London – to see if devolution has ‘made a difference’. This is not straightforward. On occasion, similar issues are dealt with legislatively at similar times, as with the decision (following a free vote in Westminster in February) to ban smoking in all public places in England.¹³⁵ Yet even such examples are clouded by implementation differences, as seen by the use of Anti-Social Behaviour Orders (ASBOs) in Scotland and England. Figures released by the Scottish Executive in April suggest that very few ASBOs or dispersal orders have been used in Scotland, in contrast with England where the agenda has moved on to so-called ‘super asbos’.¹³⁶ A further complication comes in the form of policy innovation and the source of divergence. One reason for devolution was the view that policy needs in Scotland were not met by a Westminster Parliament with limited legislative time for dedicated Scottish Acts.¹³⁷ Yet the devolution narrative also stressed unfinished business in 1979 and the feeling that a Scottish Parliament could have saved Scotland from the worst excesses of Thatcher governments.¹³⁸ The latter point suggests that divergence is often signalled by Scotland **not** making public policy changes and so some monitoring of topical English issues such as NHS reform¹³⁹ or selection in secondary schools¹⁴⁰ may be necessary to show the most significant examples of ‘divergence by staying the same’. This is becoming more important as governments, the media and academics look to compare service delivery.¹⁴¹ It is also important to gauge the extent to

¹³⁵ ‘Smoking ban in all pubs and clubs’, *BBC News*, 14 February 2006, http://news.bbc.co.uk/1/hi/uk_politics/4709258.stm.

¹³⁶ R Dinwoodie, ‘Goldie accuses Labour of losing “war on neds”’, *The Herald*, 21 April 2006, www.theherald.co.uk/politics/60550.html.

¹³⁷ Keating, M., L. Stevenson, P. Cairney & K. MacLean, ‘Does Devolution Make a Difference? Legislative Output and Policy Divergence in Scotland’, *Journal of Legislative Studies*, 9:3 (2004).

¹³⁸ McCrone, D. and B. Lewis, ‘The 1997 Scottish referendum vote’ in B. Taylor and K. Thompson *Scotland and Wales: Nations Again?* (University of Wales Press, 1999)

¹³⁹ ‘Chronic reform fatigue’, *The Guardian*, 31 January 2006, <http://society.guardian.co.uk/health/comment/0,,1699027,00.html>.

¹⁴⁰ ‘Blair wins crunch education vote’, *BBC News*, 15 March 2006, http://news.bbc.co.uk/1/hi/uk_politics/4810898.stm

¹⁴¹ E.g. A. Alvarez-Rosete et al, ‘Effect of diverging policy across the NHS’, *British Medical Journal*, 331 (2005), 946-50 <http://bmj.bmjournals.com/cgi/content/full/331/7522/946>; L. Peev and L. Gray, ‘Health Secretary uses Speaker’s return to take pot-shot at Scots NHS’ *The Scotsman*, 19 April 2006), <http://news.scotsman.com/topics.cfm?tid=57&id=589072006>. The sight of John Reid joining the protest on Monklands hospital also sparked debate on Newsnight Scotland about NHS comparisons.

which seemingly UK-wide stories apply to Scotland. For example, Professor Alyson Pollock suggested on Newsnight Scotland (24 April 2006) that fewer NHS deficits would occur in Scotland since England was spending so much money on breaking up and privatising the NHS. Similarly, much was made of the unlikelihood of Scottish GPs being paid £250,000 per year.¹⁴²

11.2 Divergence and Policy Styles

Given the 'new politics' hope of 'inclusiveness', 'power sharing' and a consensual policy style in Scotland, it may also be interesting to compare policy styles when formulating public policy. The example of mental health seems to reinforce caricatures of both systems. While professional groups and mental health charities praised the process behind the Mental Health Act in Scotland in 2003 and reviews on related issues since¹⁴³, there has been widespread opposition (since the late 1990s) by to the English process by similar groups in England. The latest result was a decision to withdraw the English draft bill in March.¹⁴⁴ Similar stirrings of opposition surround Home Office plans to reform the probation service.¹⁴⁵ Both examples suggest that in England, more is made within government of public and media pressure while the Scottish Executive relies more on the opinions of the relevant professions. Yet the examples of dental checks and pension reform suggest that Scottish ministers are not averse to seemingly unilateral decisions.¹⁴⁶ This charge was aimed at Lewis MacDonald, Deputy Minister for Health, when he decided to measure commitment to the NHS by the number of NHS fee-paying patients treated by dental surgeries. The British Dental Association says it has never had such angry communication from its members over the unintended consequences of the policy (for example, the lack of incentive payments to surgeries with a high level of NHS

¹⁴² S Ross, '£250,000 GP salaries 'unheard of in Scotland', *The Scotsman*, 19 April 2006, <http://news.scotsman.com/topics.cfm?tid=57&id=588362006>; M Frith, 'Angry nurses "could be driven to strike"', *The Independent*, 25 April 2006, http://news.independent.co.uk/health_medical/article359947.ece.

¹⁴³ P Cairney (2004) [Convergence and Divergence Following Devolution in Scotland. An Implementation Agenda.doc](#); 20 April 2006 'Minister launches mental health nursing plan' www.holyrood.com/nav/news/stories/story.asp?story=heal137

¹⁴⁴ www.mentalhealthalliance.org.uk/mentalhealthbill/index.html

¹⁴⁵ A Travis, 'Home Office retreats on probation reform' *The Guardian*, 3 April 2006 <http://society.guardian.co.uk/crimeandpunishment/story/0,,1745641,00.html>. The comparison is also complicated by different arrangements, since in Scotland probation comes under a social work purview.

¹⁴⁶ The consultation on Law Society reform has also been criticised – 25 April 2006 'Law Bill could be too strong' www.holyrood.com/nav/news/stories/story.asp?story=just129

but non-fee-paying patients).¹⁴⁷ The proposal to end local government workers' entitlement to retire at 60 if they had 25 years of service (see section 7.5) was significant for the style of announcement – in a written parliamentary answer and not through the tripartite group (unions, COSLA and Executive) which discusses such issues. The Executive's relationship with Unison on the issue seems no better than in the UK, with Unison Scotland criticising McCabe's insistence that the decision was necessitated by the EU Employment Directive. The Executive's decision to seek 'derogation' (exemption) from the directive may signal a change in style.¹⁴⁸ Still, the Scottish Parliament's self-congratulatory air when discussing the 'reverse-Sewel' motion giving Scottish ministers discretion on this issue now seems ironic.¹⁴⁹ There may also be differences in the use of targets. Again, Whitehall is seen as the home for a culture of performance assessment not followed by the devolved governments. Indeed, when expressing concern about the top-down and simplistic use of (often misleading) targets in England, the House of Commons Public Administration Select Committee pointed to Scotland as an exemplar in some areas.¹⁵⁰ Yet the Scottish Executive can be no less averse to muddying the waters of performance assessment. The potential for the Scottish Executive to mislead the public on its six-month guarantee for NHS treatment was revealed in written answers to Conservative MSP Nanette Milne. A census is taken every three months and only those waiting longer than 6 months on a specific date are included in the figures (meaning that someone waiting 5 months and 30 days on March 30 and not seen until June 29 would not show up on the census). The result is that fewer people (20,000) were classified as waiting longer than the guaranteed time, not including those on 'hidden waiting lists' or excluded from the figures because they did not meet the terms of the guarantee.¹⁵¹

¹⁴⁷ L Moss 22 March 2006 'Hundreds of dentists set to leave NHS due to Executive funding gaps' *The Scotsman* <http://news.scotsman.com/topics.cfm?tid=1254&id=446482006>; 14.3.06 'BDA calls for SEHD to reconsider stance on NHS commitment' www.bda-dentistry.org.uk/advice/news.cfm?ContentID=1719

¹⁴⁸ P MacMahon 30 March 2006 'McCabe folds on pensions' *The Scotsman* <http://news.scotsman.com/index.cfm?id=487512006> 24 February 2006 'Speech to Scottish Conference by Tom McCabe MSP, Minister for Finance and Public Service Reform' www.scottishlabour.org.uk/mccabespeech2006/?print=friendly&searchword=

¹⁴⁹ Scottish Parliament Official Report, 6 Feb 2003, col 17837 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-03/sor0206-02.htm#Col17835; P Cairney (2005) Written evidence to Procedures Committee on the Sewel Convention www.scottish.parliament.uk/business/committees/procedures/reports-05/pr05-07-vol02-01.htm#_ftnref2; Procedures Committee Official Report 26 April 2005 Col. 950 www.scottish.parliament.uk/business/committees/procedures/or-05/pr05-0602.htm#Col945

¹⁵⁰ 'On Target? Government By Measurement' HC 62-I

www.publications.parliament.uk/pa/cm200203/cmselect/cmpubadm/62/62.pdf

¹⁵¹ S2W-23572 www.scottish.parliament.uk/business/pqa/wa-06/wa0309.htm#18; L Moss 11 March 2006 'Health service waiting times 'conning public' *The Scotsman*

11.3 Nuclear Power

Nuclear power is a bone of contention between Labour and the Liberal Democrats. The coalition's stance is that no new nuclear power stations will be built until the issue of nuclear waste is decided. This means waiting until the Committee on Radioactive Waste Management reports to the UK Government later this year, and that subsequent decisions could be deferred until after the 2007 Holyrood election. So party conference decisions by Scottish Labour and the Scottish Liberal Democrats to welcome/oppose new nuclear power stations may not affect the coalition this side of 2007.¹⁵² Alistair Darling, Secretary of State for Scotland, did not clarify the matter when appearing on *Newsnight Scotland* on 27 April. Asked if he would respect Executive opposition to any more nuclear power stations, Darling did not question the Executive's right to oppose, but said this discretion is situated within a wider UK decision-making process:

Yes, because they're the planning authority ... they've also got to give their consent under the Electricity Act for stations of that size ... Scotland as part of the UK as a whole, we've got to reach a judgement on how we ensure that we've got secure and sustainable energy, and that's a decision we all play a part in.

11.4 Economy

The Scottish Economic Report for December 2005 showed the usual mixed picture, with better-than-the-annual-level of Gross Value Added growth associated with services but manufacturing struggling.¹⁵³ In UK GVA per head regional rankings, Scotland is 4th and slightly below the UK average. Excluding London and the South-East, Scotland's figures are higher than the average. Its manufacturing sector appears to be in less decline than the rest of the UK, with CBI Scotland keen to praise recent Scottish Executive policy on business rates and R&D investment.¹⁵⁴ The issue of poverty and welfare incentives shows the extent to which Scottish success depends on measures taken elsewhere.¹⁵⁵

<http://news.scotsman.com/topics.cfm?tid=57&id=367322006>; L Gray 24 February 2006 'NHS hits target on waiting times for patients' *The Scotsman* <http://news.scotsman.com/health.cfm?id=284532006>; 6 February 2006 'Waiting times fall' www.holyrood.com/nav/news/stories/story.asp?story=heal124

¹⁵² www.scotlibdems.org.uk/conference/spring06.shtml#6; P. McMahon 27 February 2006 'Labour decides Scotland must have nuclear future', *The Scotsman*

<http://news.scotsman.com/topics.cfm?tid=1343&id=298462006>

¹⁵³ 20 February 2006 'Business figures help Executive to tackle NEETs'

www.holyrood.com/nav/news/stories/story.asp?story=bus79

¹⁵⁴ Scottish Executive 2 December 2005 Scottish Economic Report

www.scottishexecutive.gov.uk/Publications/2005/12/01160340/03406; 25 April 2006 'Scottish manufacturing outperforms UK' www.holyrood.com/nav/news/stories/story.asp?story=bus102

¹⁵⁵ 18 April 2006 'Welfare reforms risk hurting the poorest'

www.holyrood.com/nav/news/stories/story.asp?story=equ44

11.5 Education

While the NHS is often highlighted as the best test of political devolution, the quality of Scotland's education system has more to live up to – as a test of the need for Scottish distinctiveness in the Union. Add in the greater emphasis on performance measures and public service delivery since devolution and the result is a prominent role for the HM Inspectorate of Education in Scotland. Its comprehensive report from pre-schools up to colleges – *Improving Scottish Education*¹⁵⁶ – is generally positive but expresses concern about the level of headteacher and senior management leadership in education, the variations in school performance, and the difficulties in prioritising from many Executive requirements. This and other reports shows the overspill from evaluating the delivery of government policy (in part to reassure the public on education quality) into signalling to the Executive how policy should change (for example, in comments on how the school curriculum should be reformed). The value of HMIE's evidence may be demonstrated by the Executive's abandonment of integrated community schools (a Donald Dewar plan to put health and social services into schools) after the HMIE described implementation as 'patchy'.¹⁵⁷ The STUC criticised Executive removal of ministerial powers to direct College boards (done to help retain their charitable status).¹⁵⁸ In March the Executive reported better-than-expected progress towards reducing class sizes.¹⁵⁹

11.6 Social Care

Jack McConnell demanded improvements to joined-up-government in child protection when discussing the case of an 11-year-old heroin addict.¹⁶⁰ The review of child protection services rose up the agenda after a report on the case of eight year-old Danielle Reid, murdered by her mother's boyfriend. The report criticised lack of coordination between health and social services.¹⁶¹ Scotland's implementation of free

¹⁵⁶ www.hmie.gov.uk/documents/publication/hmieise.pdf

¹⁵⁷ K Scofield 8 Feb 2006 '£100m integrated community schools project is dropped' *The Scotsman* <http://news.scotsman.com/politics.cfm?id=197262006>

¹⁵⁸ 21 February 2006 'STUC alarm at Executive college power grab' www.holyrood.com/nav/news/stories/story.asp?story=ed58

¹⁵⁹ Scottish Executive News Release 28 March 2006 'Teacher numbers 'ahead of target'' www.scotland.gov.uk/News/Releases/2006/03/28100719

¹⁶⁰ 20 February 2006 'First Minister slams care agencies in heroin case' www.holyrood.com/nav/news/stories/story.asp?story=heal125

¹⁶¹ Scottish Executive News Release 7 March 2006 'Report into Danielle Reid case' www.scotland.gov.uk/News/Releases/2006/03/07120308; J Ross 8 March 2006 'Better agency link-ups 'may have saved murdered Danielle'' *The Scotsman* <http://news.scotsman.com/topics.cfm?tid=716&id=348702006>

personal care was highlighted by the Joseph Rowntree Foundation as a valuable lesson for the forthcoming White Paper on social care in England.¹⁶²

11.7 Health

This case of consultant contracts demonstrates the limited room for Scottish Executive manoeuvre in health. A crucial driver was the need to reduce consultant working hours to meet the European Working Time Directive. The English contracts, affected by the threat of defection to the private sector, had influence, but the driver for the Scottish Executive was more likely to be defection to England if contracts significantly differed. The contracts' value came under scrutiny in March when Audit Scotland published its findings on the other key driver – tying increased spending to policy outcomes. The report found that promised improvements to health board planning and the ability to influence health service priorities have yet to materialise.¹⁶³ Scotland's ban on smoking in public places came into effect on 26 March, with early reports suggesting no major problems of implementation.¹⁶⁴ The introduction of free eye tests started in April.¹⁶⁵

11.8 Transport

Bridge toll charges featured strongly thanks to the Dunfermline and West Fife by-election, but no policy change resulted. Road tolls reappeared in the Executive's national transport strategy consultation. This suggested that new projects could be fast-tracked if there was enough support for tolls to pay for them. There is also discussion of dropping aspirations to achieve traffic levels in 2020 no higher than in 2000 and a discussion of reliance on UK policy to help Scottish transport aspirations.¹⁶⁶ Theories of 'multi-level governance'¹⁶⁷ are often relevant to Scotland since devolved policies are subject to European, UK and local government influence. However, an often overlooked aspect – governance – focuses on hazy boundaries between formal/informal or public/private

¹⁶² 1 February 2006 'Free personal care for elderly fair and good value'

www.holyrood.com/nav/news/stories/story.asp?story=heal119

¹⁶³ Audit Scotland (March 2006) Implementing the NHS consultant contract in Scotland www.audit-scotland.gov.uk/publications/pdf/2005/05pf14ags.pdf; 9 March 2006 'Extra millions for consultants yield little benefit' www.holyrood.com/nav/news/stories/story.asp?story=heal131

¹⁶⁴ A Picken, 'Enforcers hand out first smoke-ban warnings' *Evening News*, 6 April 2006.

<http://news.scotsman.com/topics.cfm?tid=663&id=530332006>

¹⁶⁵ Scottish Executive 31 March 2006 'Free NHS eye checks'

www.scotland.gov.uk/News/Releases/2006/03/31123423

¹⁶⁶ Scottish Executive 20 April 2006 'Scotland's National Transport Strategy: A Consultation' www.scotland.gov.uk/Publications/2006/04/20084756/0; D Fraser and D Ross 20 April 2006 'Drivers told: pay tolls to speed up key road projects' *The Herald* www.theherald.co.uk/news/60469.html

¹⁶⁷ See e.g. Bache, I. and Flinders, M., *Multi-Level Governance* (Oxford University Press, 2004)

decision-making. This process may involve governments giving subsidies to, or leaning on, private businesses to change behaviour, rather than attempting to legislate or force action. An example is the agreement between Tesco and Eddie Stobart to switch deliveries from road to rail. The sweetener is £200,000 from the Executive's Freight Facilities Grant.¹⁶⁸ Free bus travel for older and disabled people began in April.¹⁶⁹

11.9 Law and Order

Criminal justice policy was high profile for the wrong reasons after the settlement out of court of the Shirley McKie case.¹⁷⁰ Refusing calls for an independent judicial inquiry, the Executive initiated its own review and published a 25-point plan to overhaul the Scottish Fingerprint Service.¹⁷¹ More success appeared at the end of the asylum 'protocol' saga (see section 2.1 of the previous report). The Home Office announced Scottish Executive influence on the treatment of the families of failed asylum seekers.¹⁷²

11.10 Rural and Environment

Media hysteria over the discovery of a bird flu-infected swan corpse in the Fife village of Cellardyke prompted a high profile press conference response from the Environment minister Ross Finnie, flanked by Scotland's Chief Veterinary and Chief Medical officers. Executive policy is still mainly directed towards public reassurance and scientific surveillance following the lifting of the Wild Bird Protection Zone two weeks after it was imposed.¹⁷³ The ban on British Beef is to be lifted in May and the Executive announced plans to push the export of Scottish meat.¹⁷⁴

¹⁶⁸ Scottish Executive News, 'Funding to move heavy freight from road to rail', 26 April 2006, www.scotland.gov.uk/News/Releases/2006/04/26091038

¹⁶⁹ Scottish Executive News Release, 'Green for go for free bus travel', 31 March 2006, www.scotland.gov.uk/News/Releases/2006/03/31110440

¹⁷⁰ "Relief" over fingerprint verdict', *BBC News*, 7 February 2006, <http://news.bbc.co.uk/1/hi/scotland/4689218.stm>

¹⁷¹ Scottish Executive News Release, 'Action plan for fingerprint service', 21 April 2006, www.scotland.gov.uk/News/Releases/2006/04/21101601; 'New plan for fingerprint service', *BBC News*, 24 April 2006, <http://news.bbc.co.uk/1/hi/scotland/4929608.stm>.

¹⁷² Scottish Executive News Release, 'Treatment of asylum seeking families', 27 March 2006, www.scotland.gov.uk/News/Releases/2006/03/27132042

¹⁷³ Scottish Executive, 'Ten commonly asked questions about Bird Flu', 13 April 2006, www.scotland.gov.uk/News/News-Extras/bird-flu-10-answers; Scottish Executive, 'Easing of bird flu restrictions', 20 April 2006, www.scotland.gov.uk/News/Releases/2006/04/20163509

¹⁷⁴ F Maxwell, 'NBA says exports will lift beef prices 20%', *The Scotsman*, 25 April 2006. <http://news.scotsman.com/topics.cfm?tid=671&id=616702006>; Scottish Executive News Release, 'Lifting of beef export ban', 3 March 2006, www.scotland.gov.uk/News/Releases/2006/03/03115027

11.11 Housing

Devolution may well signal an irony in housing policy. While Scotland and Wales pursue more extensive measures on (for example) homelessness and housing quality standards, England has put more money behind less ambitious schemes (for example, the resources devoted to enforcing housing standards). Here, it will be interesting to track the implementation of the new [Housing \(Scotland\) Act](#), aimed at the state of repair of the private sector housing stock. The legislation follows work done by the Housing Improvement Task Force since 2000.¹⁷⁵ It also requires house sellers to commission the fairly controversial 'single survey' – intended to reduce the need for multiple surveys on the same house and for more details to be available to potential purchasers than the cheapest surveys allow.¹⁷⁶ In the wake of an Audit Scotland report, the Scottish Executive has declared stock transfer a 'resounding success'.¹⁷⁷ It has also declared its central heating programme for the elderly the 'envy of the UK'.¹⁷⁸

11.12 Fresh Talent

The Home Office's new points-based managed migration system was announced in March. The policy was supported by the CBI and TUC but was also accompanied by sporadic stories about the plight of certain workers (notably foreign junior doctors unable to complete training).¹⁷⁹ The Scottish Executive has declared some success in gaining flexibilities within the points system. For example, those who qualify under the Fresh Talent initiative will be given time before being subsumed into their respective skill categories (tiers) in the Home Office scheme.¹⁸⁰

¹⁷⁵ See SPICE briefing, *The Housing (Scotland) Bill*, 21 March 2005, www.scottish.parliament.uk/business/bills/40-housing/sb05-16.pdf

¹⁷⁶ Scottish Executive, 'Single survey scheme', 3 March 2005, www.scotland.gov.uk/News/Releases/2005/03/03155624

¹⁷⁷ Scottish Executive News Release, 'Analysis of housing stock transfers', 24 March 2006, www.scotland.gov.uk/News/Releases/2006/03/23132940.

¹⁷⁸ Scottish Executive News Release, 'Central heating programme extended', 14 March 2006, www.scotland.gov.uk/News/Releases/2006/03/14114324.

¹⁷⁹ www.homeoffice.gov.uk/about-us/news/points-based-system-announced ; www.bma.org.uk/ap.nsf/Content/imgactionplan

¹⁸⁰ Scottish Executive News Release, 'New managed migration policy', 7 March 2006, www.scotland.gov.uk/News/Releases/2006/03/07155329.

List of Figures	3
Executive Summary	4
Chronology	6
1. The Scottish Executive	12
1.1 The Lord Advocate and the Senior Judiciary	12
1.2 Quangos.....	12
1.3 Relocation	13
1.4 Legislative Programme.....	13
1.5 Freedom of Information	14
1.6 The Senior Management Group	15
2. The Scottish Parliament.....	16
2.1 New Politics Old and New – Petitions and Subordinate Legislation	16
2.2 The Scottish Parliament Committees	17
2.3 Committee Reports and Inquiries	18
2.4 Parliamentary Bills (26 April 2006 – 10 September 2006)	20
2.5 Non-Executive Bills	22
2.6 Sewel (Legislative Consent) Motions passed.....	24
3. The Media.....	26
3.1 Media and Devolution.....	26
3.2 The Election Campaign starts here	27
3.3 BBC Scotland Job Cuts	28
3.4 The Tommy Sheridan Show	28
3.5 No ‘silly season’?	29
4. Public Attitudes and Elections	30
4.1 National Identity	30
4.2 Attitudes to the NHS and Free Personal Care.....	32
4.3 Party Fortunes.....	39
5. Intergovernmental relations	43
5.1. General.....	43
5.2 Adjusting the devolution settlement	43

6. Scotland, Europe and International Relations	47
6.1 China and the China Strategy.....	47
6.2 Malawi.....	48
6.3 Scotland's external relations	48
6.4 Fresh Talent and Inward Migration.....	48
7. Relations with Local Government.....	50
7.1 Antisocial Behaviour Orders.....	50
7.2. Shared Services	50
7.3. Public Sector Reform.....	51
7.4 Free Personal Care.....	52
7.5. Public Sector Pensions	53
7.6. Community Planning	54
7.7. Social Services	54
7.8. Council Tax Collection	55
8. Finance	56
8.1 Summary.....	56
8.2 Scottish Economic Report	56
8.3 End-Year Flexibility	57
8.4 Budget Review Group.....	57
8.5 Scottish Enterprise.....	58
8.6 Conclusion.....	59
9. Disputes and litigation.....	60
10. Political Parties.....	61
10.1 The Scottish Socialist Party on Trial.....	61
10.2. Platforms and revolutionary socialism.....	63
10.3. Political and constitutional implications of SSP break-up.	65
10.4. The Moray By-election: The Cost of Failure.....	65
10.5. Candidate Selections for the 2007 Scottish Election	66
10.6. A Resurgent Scottish National Party?.....	67
11. Public Policies	69
11.1 Implementing Policies.....	69
11.2 The Public Sector	72

11.3 Health and Social Care	73
11.4 Education	75
11.5 Crime and Punishment	76
11.6 Environment and Agriculture	76
11.7 Nuclear Energy	77
11.8 Transport	77
11.9 Housing	78

List of Figures

Figure 4.1 Forced Choice National Identity 1974-2005	31
Figure 4.2 Trends in Moreno National Identity, 1992-2005	31
Figure 4.3 Who is Scottish?	32
Figure 4.4 Satisfaction with the NHS in Scotland and England	33
Figure 4.5 Net satisfaction with some NHS services, Scotland and England	34
Figure 4.6 Waiting in the local NHS, Scotland and England	35
Figure 4.7 The Choice Agenda	36
Figure 4.8 The Impact of Waiting and Choice	37
Figure 4.9 Payment for Personal Care	39
Figure 4.10 Holyrood voting intentions	40
Figure 4.11 Westminster Voting Intentions	41
Figure 4.12 Local Government By-election Results	42

Executive Summary

- Tommy Sheridan SSP MSP, won a libel case against the News of the World which had alleged he had engaged in extra-marital affairs. The jury awarded him £200,000 and the newspaper said it would appeal, believing the verdict to be perverse.
- After the libel case, in which SSP MSPs and members gave evidence conflicting with Sheridan's account, the SSP split acrimoniously. Sheridan formed a new party - Solidarity - along with Frances Curran MSP.
- Quangos came under scrutiny, especially Scottish Enterprise, Scotland's main economic development agency after it admitted overspending its £500m budget. The Executive gave it an extra £50m and announced it would lose control over training which would go to Careers Scotland, another quango.
- The final Executive legislative programme of the session announced Bills on crime, children's services, school meals and food standards, transport and aquaculture.
- An article in the *Economist* magazine describing Scotland as "inward-looking and Anglophobic" and the Scottish Executive as governing like "teenagers on an allowance" was among media reports criticised by the Parliament's presiding officer George Reid as "sexed-up" and "damaging to the country's fledgling democracy".
- Football's World Cup unexpectedly stirred up tension between Scotland and England following Jack McConnell's admission that he would be supporting Trinidad & Tobago, not England.
- Opinion polls put the SNP either ahead of, or neck-and-neck with, Labour. Although electoral geography gives Labour an advantage over the SNP in seats, the possibility the 2007 election producing an SNP-LibDem coalition Executive has strengthened.
- The Executive is pushing local authorities to consider sharing major services such as education as part of a public service reform agenda aimed at cutting administration costs. Councils say they will cooperate provided the agenda covers other public sector organisations.
- A report on finance by a Budget Review Group (headed by local government chief officials) set up by the Executive has proved controversial when the Executive decided to keep it under wraps meantime rather than publishing it as was expected. This prompted speculation that it contained unwelcome news for the Executive.
- The ban on smoking in pubs, restaurants and other public enclosed spaces appears to have been a success, with few prosecutions for infringements.

- The policy of free personal care for the elderly as proved to be troublesome with waiting lists for care emerging in many areas. The parliament's committees have criticised incomplete implementation.

Chronology

- 1 May. You're hired, First Minister Jack McConnell tells Donald Trump, appointing the American property tycoon to the GlobalScot Network, which promotes Scottish interests overseas. Mr Trump is seeking to develop a golf course in Aberdeenshire and his mother, Mary MacLeod, was born in Stornoway.
- 1 May. Christine Grahame, MSP, publishes officially sourced figures showing number of pensioner households spending more than 10 per cent of their gross income in council tax has risen from 60,000 in 2000 to 110,000 in 2005.
- 4 May. Office of Fair Trading says it may use powers to force reform of Scots law to enhance competition and make legal services more customer-friendly, changes already well advanced in England and Wales.
- 5 May. Cabinet re-shuffle promotes Douglas Alexander to Transport and Scottish Secretary, replacing Alistair Darling who moves to Trade & Industry.
- 5 May. Frank McAveety, Glasgow Shettleston MSP, accuses LibDem ministers of "pork barrel" politics in holding up plans to move Sportscotland quango's 154 jobs to Glasgow from an Edinburgh LibDem constituency.
- 5 May. McConnell says local authorities are doing a disservice to communities by not using ASBO powers against people causing neighbourhood nuisance.
- 7 May. Cathy Jamieson, Labour justice minister, refuses to answer when asked during BBC interview if Tony Blair is an electoral asset for Scottish Labour.
- 9 May. Holyrood committee approves plan to spend £174m on 31-mile Edinburgh-Borders rail line aimed at boosting Borders region economy.
- 10 May. Bill Clinton, former US president, speaks at Glasgow lunch organised by three Glasgow businessmen.
- 10 May. Audit Scotland reports that there is no evidence that the McCrone deal raising teachers' pay by 23 per cent has raised educational attainment or been value for money.
- 10 May. Scottish Schools (parental Involvement) Bill passed. (Royal Assent 15 June)
- 11 May. Scottish Enterprise given an extra £50 million to help meet £60m deficit in its £500m budget.
- 11 May. Duncan McNeil, Labour MSP for Greenock, calls for contraceptives to be put in methadone heroin-substitute to stop drug addicts having children.

- 12 May. BBC-commissioned poll shows 55 per cent of English voters agree that a Scottish MP should not become prime minister.
- 15 May. Executive investigation into accountability and remits of growing number of tsars, inspectors, and ombudsmen disclosed in evidence to parliament's finance committee.
- 16 May. Speech by Tony Blair saying nuclear power is "back on the table with a vengeance provokes row in Scotland between pro- and anti-nuclear parties.
- 18 May. Executive announces Sportscotland and its 133 jobs are to move from Edinburgh to Glasgow.
- 18 May. Deal agreed to sell South Uist Estate, covering 93,000 acres of the Western Isles, to local community for £4.5m, biggest such sale under land reform laws.
- 19 May. The *Economist* magazine says Scotland has "regressed into an inward-looking, slightly chip-on-shoulder, slightly Anglophobic country with no clear sense of direction."
- 19 May. Solicitors at special meeting of the Law Society of Scotland vote to stop co-operating with Scottish Executive in row over "inadequate" legal aid fees.
- 21 May. McConnell, on visit to N. Ireland, says Rangers/Celtic must do more to combat sectarianism because the clubs influence Ulster youth culture.
- 21 May. SNP promise to cull quangos and public sector bureaucracy in manifesto.
- 22 May. Lord Advocate Colin Boyd announces tougher sentencing policy for those convicted of carrying knives.
- 23 May. McConnell speaks at Stirling University, his *alma mater*, and says that radical thinking is needed on education for Scotland to raise its game.
- 23 May. Call by Christine Grahame, SNP MSP, to change Scottish Executive name to Scottish Government rejected by parliament's procedures committee.
- 24 May. McConnell criticised for saying that, like Alex Salmond, he will not support England in the World Cup, but will back Trinidad & Tobago.
- 24 May. Nicol Stephen, as enterprise minister, announces £20m for renewable energy research and, as Scottish LibDem leader, confirms LibDem manifesto will oppose new nuclear power stations
- 25 May. Police, Public Order, and Criminal Justice (Scotland) Bill passed. (Royal Assent 4 July 2006).
- 26 May, *The Scotsman* publishes Executive staff survey showing only 28 per cent of staff think Executive has a culture of sound financial management.

- 26 May. Greens say they hope to win 10 seats next May, plus number of councillors in first STV council elections. Also say they may offer a minority coalition support without seeking ministerial posts provided coalition pledges opposition to nuclear power and a halt to motorway building.
- 26 May. Alan McCombes, SSP official, jailed by High Court for failing to hand over party minute sought by lawyers defending the News of the World in libel action brought by Tommy Sheridan.
- 29 May. Tommy Sheridan accuses other SSP MSPs and officials of "vile lies" that he is involved in people trafficking and drug dealing. McCombes released after SSP decides to hand over minute.
- 30 May. Prince Charles visits Scottish Parliament and is reported to have found the architecture fascinating.
- 31 May. Roman Catholic adoption agencies ask MSPs to oppose Executive plans to allow gay couples to adopt children.
- 31 May. Animal Health and Welfare (Scotland) Bill passed. (Royal Assent 11 July 2006)
- 1 June. Judges and advocates believe that Executives proposed reforms may undermine independence of judiciary, the *Herald* newspaper reports.
- 1 June. Long illness of Lord President of Court of Session, Scotland's most senior judge, disrupts legal system and forces Executive to rush short Bill through Parliament allowing his duties to be temporarily performed by a deputy.
- 2 June. Scottish police forces announce that all officers will be asked to declare their religion to check on extent of any anti-Catholic discrimination.
- 2 June. Commission for Racial Equality Scotland says it has received two complaints about anti-English racism and warns that World Cup must not be used as excuse for such behaviour.
- 5 June. Scottish Universities warn they need more money from Executive to compete with English universities' extra income from top-up fees.
- 5 June. Report by parliament's enterprise committee says adding St Andrews Day to national public holiday list would cost economy £134 million. Executive remains opposed despite opinion poll evidence that public likes the idea.
- 6 June. University lecturers' 13.1 per cent pay rise deal provokes warning of possible job cuts unless Executive substantially increases higher education funding.
- 8 June. Sir Ian Byatt, chairman of Water Industry Commission for Scotland, says in Scotsman interview that Scottish Water should be turned into a mutual or

- cooperative to avoid future big bill increases. Executive says it will stay public. Conservatives and SNP welcome idea.
- 8 June. Scottish Parliament publishes every last detail of MSP's expense claims down to 42p for a half-litre of milk.
- 8 June. McConnell criticises lawyers' boycott of legal-aided sex crime cases in fees dispute with Executive as "shocking and disgraceful".
- 12 June. Scottish Renewables, a green power lobbying body, says Scotland will meet 2010 target of generating 18 per cent of electricity from renewable sources by end 2007, and could reach 50 per cent by 2020.
- 12 June. Solicitors extend legal-aid case boycott to family law cases.
- 13 June. Executive survey finds 5,000 pensioners on waiting lists for free personal care. Executive says it gave councils the money they sought for the policy but some councils had under-estimated costs.
- 14 June. MSPs vote 114-1 to spend £155m on 31-mile Edinburgh-Borders railway line closed in 1969, now due to reopen in 2011.
- 14 June Eilish Angiolini, Solicitor-General, publishes plan to improve Scotland's rape case conviction rate, one of the lowest in Europe.
- 15 June. Ross Finnie, Environment minister, denies conflict of interest in award of £8m shipbuilding contract to company run by a friend.
- 15 June. Fol request by John Swinney, SNP MSP reveals Executive commissioned report into additional tax powers. Executive refuses to publish report.
- 15 June. Executive publishes road accident statistics for 2004 which shows deaths at lowest total for 50 years.
- 15 June. Senior Judiciary (Vacancies and Incapacities) (Scotland) Bill passed. (Royal Assent 27 June 2006)
- 19 June. AuditScotland reports deficit of £53 billion deficit in public sector pension schemes. Report criticised as a valuation that will never occur in reality.
- 19 June. Westminster's Scottish Affairs Select Committee report warns that failure to deal with West Lothian Question is threatening the Union.
- 20 June. Institute of Public Policy Research publishes pamphlet by Michael Wills, Labour MP for North Swindon arguing further reform to resolve Scotland's anomalous position in the Union is needed.
- 21 June. Tom McCabe, finance minister, says that local authorities are talking to hi9m about council mergers and sharing administration.

- 21 June. Tony Blair condemns attacks in Scotland on 7-year old boy and a disabled man, who were wearing England football strips.
- 22 June. Parliament's Enterprise Committee accuses Jack Perry, chief executive of Scottish Enterprise of breaching legal duty to ensure proper spending of public money. McConnell expresses confidence in Perry.
- 22 June. Royal Society of Edinburgh report warns of power black-outs in 2015 if decisions to build new power stations are not taken now.
- 22 June. Local Electoral Administration and Regulatory Services (Scotland) Bill passed (Royal Assent 1 August 2006).
- 23 June. Actor Sir Sean Connery cancels appearance at August Festival of Politics in Scottish Parliament after George Reid, presiding officer, says he will quiz Connery about violence against women, reviving a controversy dating from 1993 when the actor allegedly said slapping a woman was not the "cruellist" thing.
- 23 June. Adam Ingram, defence secretary draws ire of SNP by saying in a radio interview that Trident nuclear missile replacements will be based in Scotland.
- 28 June. Educational Institute of Scotland, biggest teaching union, threatens strike over Executive failure to set targets for class size reduction, day after Executive figures show increased teacher numbers enabling some class size reductions.
- 29 June. Executive backs down in dispute with council workers over pensions reform by allowing existing early retirement provision to stay until 2020.
- 29 June. McConnell says in TV interview that Scotland could survive as an independent country but journey to independence is a big problem.
- 30 June. Ipsos MORI poll gives SNP a two-point lead over Labour in Holyrood constituency and regional list voting.
- 2 July. Press reports say that LibDems studying plans to pledge to use "tartan tax" powers to cut basic rate income tax by 2p.
- 4 July. Libel action brought by Tommy Sheridan MSP against the *News of the World* begins at High Court in Edinburgh.
- 6 July. Bernard King, principal of Abertay University, suggests Scottish universities should become private fee-charging institutions on American lines.
- 10 July. Murray Ritchie, former *Herald* political editor, now convenor of Independence Convention, writes *Scotsman* article suggesting idea of Independence in the UK, keeping Union of Crowns and defence cooperation but Scotland being independent in all other respects.

- 10 July. Executive announces proposals that all big new property developments should include micro-renewable energy generating plant; SNP publish energy plan envisaging clean coal and imported gas electricity generation until renewable capacity is built up.
- 14 July. Sheridan sacks legal team and conducts his own case in libel trial.
- 28 July. Registrar General for Scotland publishes statistics showing Scottish population in 2005 increased for third year in a row thanks to immigration, but number of female deaths from alcohol abuse at record high.
- 31 July. Committee on Radioactive Waste Management recommends underground storage of radioactive waste; McConnell refuses to commit Executive to being for or against new nuclear power stations.
- 4 August. Sheridan wins libel case against News of the World and is awarded £200,000 damages on a 7-4 jury majority verdict.
- 7 August. Council of Law Society of Scotland accepts improved offer for legal aid fees by Scottish Executive.
- 8 August. Peter Peacock, education minister, says Executive considering scrapping Standard Grade (Year S4) exams for pupils planning to take Higher Grade (Year S5) exams; 2006 Higher pass rate is 70.8 per cent.
- 8 August. Protestors against use of Prestwick airport by US military flights break into airport for third night running, gaining access to US Air National Guard plane.
- 15 August. Scottish Transport Survey shows car journeys in 2005 down by 1 per cent on 2004, bus journeys up 2 per cent, train up 9 per cent, plane up 5 per cent.
- 16 August. David Cameron, Conservative party leader, publishes policy document which cedes Scottish policy autonomy to Scottish party, and accepts its policies may differ from those of UK Conservative party.
- 20 August. Susan Deacon, Labour MSP and health minister 1999-01, announces she will not stand at next election and gives interview interpreted as critical of McConnell for not delivering change on scale and pace necessary.
- 21 August. First Gaelic-medium school for children aged 3 - 18 opens in Glasgow.
- 22 August. All witnesses in Tommy Sheridan libel case to be investigated for perjury, Crown Office announces.
- 28 August. Report in *The Scotsman* cites letter from Conservative activists urging members to de-select existing MSPs to allow new thinking.

1. The Scottish Executive

1.1 The Lord Advocate and the Senior Judiciary

The Lord Advocate Colin Boyd remained in the spotlight in this period after he agreed to release the previously confidential, but much-leaked, MacKay report on the Shirley McKie case to the Justice 1 committee (see previous monitor). Then, when giving evidence to the committee, he confirmed that the future of the fingerprints experts at the centre of the case was in doubt since their testimonies in criminal cases were likely to be challenged.¹ In June the Scottish Executive passed an emergency bill following the lengthy illness of Lord Hamilton, the Lord President of the Court of Session. The bill ensures that the functions of this post, and those of the Lord Justice Clerk (the two most senior judges in Scotland), can be carried out by other senior judges when the positions are vacant or the incumbent is too ill to fulfil his/her role.

1.2 Quangos

Given their numbers and the amount of public money they spend without *appearing* to be directly accountable, quangos are always open to criticism regardless of the usefulness of their functions and the value of keeping their operations at 'arms-length' from ministers. Yet this was still a relatively bad period for the image of the quango. Scottish Enterprise is still reeling from parliamentary criticism over the way it handled its overspend (see previous report) and it has now been critiqued by high-profile business, council and university leaders looking to trim its functions. This follows Enterprise Minister Nicol Stephen's decision in March to separate Scottish Enterprise and Careers Scotland. The call is for the funding for workforce development (£200 million per year) to go to Careers Scotland.² Not surprisingly, opposition parties have spotted a chance to exploit the unpopularity of Scottish Enterprise. While the Conservative deputy leader Murdo Fraser (albeit a critic of Scottish Enterprise when it was less fashionable) suggests devolving many of its functions to local authorities, the SNP has gone much further down the 'bonfire of the quangos' route so popular at election time, with

¹ L. Gray 13.9.06 'Fury as 'notorious' fingerprint team in McKie case offered deals to quit' *The Scotsman*, <http://news.scotsman.com/topics.cfm?tid=1385&id=1350532006>; M. Howie 13.7.06 'Parliament committee wins right to McKie report' *The Scotsman* <http://news.scotsman.com/topics.cfm?tid=1385&id=1017342006>

² E. Barnes 27.8.06 'Campaign to cut SE quango down to size' *Scotland on Sunday* <http://news.scotsman.com/topics.cfm?tid=367&id=1264062006>

additional plans to 'abolish' Communities Scotland and SportScotland and reform health and police authorities.³

The criticism of Scottish Enterprise is mild compared to the recent experience of the Crofters Commission. As the Enterprise and Rural Development Committee states in its stage 1 report on the Crofting Reform Bill: 'The Committee was struck by the range of negative comments and the depth of frustration and long-standing dissatisfaction expressed by witnesses about the Commission's practice'.⁴ Much unhappiness concerns powers over (for example) owner occupier absenteeism or neglect. The Commission argues that the bill will give it the necessary powers to act. Critics counter that this represents re-legislation for existing powers, the problem being an unwillingness to use them. The Executive signalled it would respond positively to the committee's recommendations during its statement on the legislative programme (see below).

1.3 Relocation

The Scottish Executive policy of moving civil service jobs from Edinburgh to other parts of Scotland received unusual levels of publicity following Jack McConnell's suggestion to Edinburgh's *Evening News* that the move was beneficial to Edinburgh.⁵ McConnell's argument that the move boosted the private sector in Edinburgh was pounced on by opposition and Liberal Democrat MSPs as well as outgoing Labour MSP Susan Deacon, with suggestions that the claim was insensitive to the families of those affected and that the policy was expensive and has resulted in a huge public sector presence in Glasgow.

1.4 Legislative Programme

With less than a year until the next election, the annual statement on the Scottish Executive's legislative programme focussed on priorities and progress rather than the introduction of a range of new policies.⁶ However, there are also some late additions:

³ P. McMahon 27.6.06 'Tories in call to devolve Enterprise quango powers to councils' *The Scotsman* <http://news.scotsman.com/topics.cfm?tid=367&id=936372006>; P. McMahon 22.5.05 'SNP will pledge to cull quangos and slash bureaucracy in next manifesto' *The Scotsman* <http://news.scotsman.com/topics.cfm?tid=367&id=756712006>

⁴ <http://www.scottish.parliament.uk/business/committees/environment/reports-06/rar06-11-Vol01-02.htm#refoo>

⁵ I. Swanson 'Taking your jobs is good for you' 30.8.06 *Evening News* <http://news.scotsman.com/topics.cfm?tid=802&id=1280672006>

⁶ Statement to Parliament by Margaret Curran, Minister for Parliamentary Business 22.6.06 <http://www.scotland.gov.uk/News/News-Extras/legprogupdate>

- A bill on sentencing to clarify the rules on early release, restrict the sales of knives and swords, shift the blame for prostitution to men who use them, and legislate on hate crimes in response to working group recommendations.
- A bill to address recommendations from the Bichard report (set up to investigate the use of vetting procedures which allowed Ian Huntley, the Soham killer of two girls, to work in a school).⁷ This also means a sooner-than-expected section on the reform of children's services (including hearings) will be introduced in the same Protection of Vulnerable Groups Bill.
- Taking over responsibility for Des McNulty MSP's bill on asbestos-related compensation and passing a legislative consent motion to further similar moves in Westminster (see 1.2 Scottish Parliament).
- A bill to improve the take-up of free school meals and instruct schools on the content of food/ drink consumed there.
- A Transport and Works Bill to streamline arrangements to process new transport applications. This is in part based on the experience of the private bills on the borders rail link and Edinburgh tram lines (see 1.2).
- An Aquaculture and Fisheries Bill to reinforce the fish farming industry's voluntary code.

In the subsequent debate, the continued primacy of criminal justice policy in the legislative programme was highlighted by SNP MSP Alasdair Morgan's criticism of the delay in introducing the Judicial Appointments Bill and the potential for overload in the Justice 1 and 2 committees.⁸

1.5 Freedom of Information

The extent of freedom to successfully demand public information (and the cost involved in fulfilling or resisting requests) is set to be tested following Scottish Executive plans to appeal several decisions made by the Information Commissioner Kevin Dunion. These involve information on a Scottish Executive circular to schools on sex education, a planning application in Ayrshire, plans to open legal services up to competition and

⁷ <http://www.bichardinquiry.org.uk/about/>

⁸ Scottish Parliament OR Col 26824 22.6.06

<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-06/sor0622-02.htm#Col26818>

statistics on childhood leukaemia in areas closest to the Sellafield nuclear plant.⁹ Dissatisfaction with the staff costs of fulfilling requests (often to journalists and businesses) has spread to local authorities as well as civil servants.¹⁰ This perhaps explains why so many complaints about public bodies not fulfilling requests have been made, with plans floated to 'name and shame' the worst culprits.¹¹ However, the view of Dunion is that the legislation has worked well so far:

My experience, as Scottish Information Commissioner, is that the Freedom of Information (Scotland) Act 2002 has been successfully implemented and is being well used in Scotland. Information is being proactively put into the public domain by public authorities, and is being disclosed in response to information requests or is being released as a consequence of decisions made on application to me. As a result, more information is being made available and the shift towards a culture of more transparency and accountability is underway.¹²

1.6 The Senior Management Group

There have been two new appointments, with Paul Pagliari becoming Director of Change and Corporate Services (including HR and IT) and Philip Rycroft becoming Head of Enterprise, Transport and Lifelong Learning Department (ETLLD) in May following the retirement of Eddie Frizzell.

⁹ M. Howie 6.5.06 'Ministers set for legal fight to overturn information rulings' *The Scotsman*
<http://news.scotsman.com/topics.cfm?tid=1255&id=679632006>

¹⁰ 13.5.06 Freedom of information requests 'too much' *Evening News*
<http://news.scotsman.com/topics.cfm?tid=1255&id=717712006>

¹¹ M. Howie 17.4.06 'Complaints soar as public's right to know is denied' *The Scotsman*
<http://news.scotsman.com/topics.cfm?tid=1255&id=578992006>

¹² 'The Scottish Information Commissioner's Response to the Scottish Executive Freedom of Information Consultation' 24.3.06
<http://www.itspublicknowledge.info/Documents/Responsetoreview.pdf>

2. The Scottish Parliament

2.1 New Politics Old and New – Petitions and Subordinate Legislation

The petitions process reflected hopes (associated with 'New Politics') that the Scottish Parliament would be more open, accessible and accountable to the 'people' than is Westminster. Early post-devolution literature suggested that Westminster procedures on accepting petitions were complex with no demonstrable end result¹³, but the Scottish system was 'a vivid example of bottom-up democracy in action'.¹⁴ Yet there is rarely a tangible public policy effect and petitions rarely get further than committee consideration. The Procedures Committee suggests that we should not expect too much from petitions since their role was limited from the start - they are most effective as a means to 'set the agenda'.¹⁵ Even this function is rare given the limited time that petitioners have to state their case formally, but it was certainly achieved by a petition proposed by the Road Haulage Association on the future of road freight. However, the outcome of the Local Government and Transport Committee report (see below) shows that setting the agenda and achieving the desired outcomes are not the same things. While it recommends practical measures to help the industry, its main conclusion supports Scottish Executive policy to explore fully the other options in rail, water and air transport.

In contrast, there may be (in context of course) exciting developments in the processing of subordinate legislation. As the Subordinate Legislation Committees draft Inquiry into the Regulatory Framework in Scotland states: 'Most statutory law is not contained, as one might expect, in Acts of the Scottish Parliament or the Westminster Parliament, but in what is known as subordinate legislation made under these Acts'. As a result, the vast bulk of public policy is proposed and processed out of the public eye.¹⁶ It is therefore particularly important that the procedure for scrutinising this aspect of policy is effective. The committee proposes to replace the 'complex and archaic' system

¹³ Lynch, P. and Birrell, S. (2001) "Linking Parliament to the people: The Public Petitions Process of the Scottish Parliament", *Scottish Affairs*, 37 Autumn, 1-14

¹⁴ Cavanagh, M., McGarvey, N. and Shephard, M. (2000) 'Closing the Democratic Deficit: The First Year of the public Petitions Committee of the Scottish Parliament', *Public Policy and Administration*, 15, 2, 67-80

¹⁵ Procedures Committee 3rd Report 2003 *The Founding Principles Of The Scottish Parliament*. <http://www.scottish.parliament.uk/business/committees/historic/procedures/reports-03/prr03-03-vol01-04.htm>

¹⁶ See Page, E. (2001) *Governing by Numbers* (Hart Publishing).

inherited from Westminster in favour of a simplified system which reduces the likelihood of overload by the Scottish Executive.

2.2 The Scottish Parliament Committees

Many committee reports in this period displayed qualified satisfaction with Scottish Executive policies. The Health committee notes the successes of free personal care for the elderly: reduced bed-blocking, more people cared for at home and many given greater 'security and dignity'. However, it also points to concerns over implementation: the uncertainty over funding (which is not index-linked) and arrangements with local authorities, the use of waiting lists and delayed assessments for care, and the lack of clarity over responsibility to prepare meals. The Audit Committee report on NHS waiting times commends progress made in their reduction (and there is certainly more praise than this time last year), but also expresses concern about the ability of health boards to achieve future targets without living beyond their means. The committee points to the need to tackle long-term causes of relevant conditions rather than divert resources into short-term targets. It pays particular attention to the use of the Golden Jubilee National Hospital (formerly the National Waiting Times Centre and bought by NHS Scotland from the private sector) to cut waiting times at a higher unit cost, as well as the problem of patients with Availability Status Codes (ASC) – i.e. those who do not qualify for the six-month treatment guarantee because they were unfit or unavailable for the original treatment date (33,000 patients). From December 2007 the targets for many treatments will fall to 18-weeks and the ASC system will be dropped. The Communities committee's stage 1 report on planning is largely supportive of the Executive's plans, although it is dissatisfied with the lack of detail in proposed regulations. There is also dissent from some members on the issue of third party rights of appeal. The Education committee supports Executive plans on adoption, while making some recommendations on the details. The Environment and Rural Development welcomed the long-awaited bill on crofting but called for a withdrawal and resubmission of proposals to reform the Crofting Commission. This unusual move reflected a high degree of dissatisfaction expressed by witnesses on the current operation of the commission. The Justice 1 committee welcomes Scottish Executive plans to reform criminal proceedings, but points to more work required to explain the 'root cause' of people not attending court hearing. It also expresses concern about the implementation and clarity of the range of proposals. The Justice 2 committee was the forum for much Law Society disquiet over

Scottish Executive plans to reform the complaints process against lawyers. So, while the committee broadly welcomes the plan it suggests that no fees should be paid by a lawyer when a complaint is not upheld.

Of course, the levels of parliamentary attention devoted to scrutiny of Executive legislation and policy reinforces the idea that the Scottish Parliament rarely sets the policy agenda. Further, even when committees branch out into inquiry work there may be a suspicion of Executive-led or influenced research (as is the case with many Member's Bills). However, while it would be unrealistic to expect committees to pursue areas inconsistent with Scottish Executive policies, there may still be significant agenda-setting influence. Often the key is to highlight and encourage action in an area which government is sympathetic but relatively inactive. Inquiries therefore become mechanisms to spur action or focus attention on particular aspects of policy (and therefore at the expense of others). In this vein, two Education committee reports remind the Scottish Executive of their responsibilities on early years education and prompt more action to address pupil motivation. An Environment and Rural Development report encourages more action on public procurement to protect the rural economy from the excesses of supermarket power. And a European and External Relations report prompts the Scottish Executive to address the reduction in European Structural funds (for example by making joint applications with Ireland).

The Enterprise and Culture committee stands out as relatively critical of the Scottish Executive. It is no surprise that it criticises Scottish Enterprise's financial management (see previous report). However, it also criticises the Scottish Executive's decision to create 'metro-region' planning units to run alongside existing local enterprise companies. In its stage 1 report on bankruptcy, it expresses concerns about homelessness if homes can be sold to repay unsecured debts.

2.3 Committee Reports and Inquiries

List of reports and inquiries (arranged by committee, with weblinks if underlined, 16 April 2006 – 10 September 2006¹⁷):

¹⁷ Excluding most annual reports, budget reports and reports on subordinate legislation. Reports with UK legislation in the title discuss Sewel motions.

Audit:

[The 2004/05 Audit of Inverness College](#), 5 July; [Tackling waiting times in the NHS in Scotland](#), 8 June

Communities:

Stage 1 Report on the Planning etc. (Scotland) Bill, 10 May [Volume 1](#) [Volume 2](#) [Legislative Consent Memorandum on the Housing Corporation \(Delegation\) etc. Bill](#), 28 April

Education:

[Stage 1 Report on the Adoption and Children \(Scotland\) Bill](#), 29 June; [Early Years](#), 14 June; [Pupil Motivation](#), 19 April

Enterprise and Culture:

[Report on the management of budgets at Scottish Enterprise and the proposed restructuring of the enterprise agencies](#), 22 June; [Stage 1 Report on the Tourist Boards \(Scotland\) Bill](#), 8 June; Stage 1 Report on the Bankruptcy and Diligence etc. (Scotland) Bill [Volume One](#) [Volume Two](#), 17 May

Environment and Rural Development:

[Stage 1 Report on the Crofting Reform etc Bill](#), 05 July; [Report on an Inquiry into the Food Supply Chain](#), 12 June

European and External Relations:

[Committee's response to the European Commission's White Paper on a European Communication Policy](#), 28 June ; [Report on an inquiry into the Scottish Executive's plans for future structural funds programmes 2007-13](#), 27 June; [Report on an Inquiry into Possible Co-operation Between Scotland and Ireland](#), 22 June

Finance:

[Report on The Financial Memorandum of the Adult Support and Protection \(Scotland\) Bill](#), 6 Sept; [Report on the Adoption and Children \(Scotland\) Bill](#), 30 May; [Report on the Financial Memorandum of the Legal Profession and Legal Aid \(Scotland\) Bill](#), 16 May; [Report on the Financial Memorandum of the Tourist Boards \(Scotland\) Bill](#), 11 May; [Report on the Financial Memorandum of the Criminal Proceedings etc. \(Reform\) \(Scotland\) Bill](#), 11 May.

Health:

[The Implementation Of Direct Payments For People Who Use Care Services](#) , 25 July
[Report into Care Inquiry](#), 13 June

Justice 1 and Justice 2:

[Stage 1 Report on Criminal Proceedings etc. \(Reform\) \(Scotland\) Bill](#) , 05 July;
[Legislative Consent Memorandum on the Northern Ireland \(Miscellaneous Provisions\) Bill - LCM \(S2\) 5.1](#) , 20 April; Stage 1 Report on the Legal Profession and Legal Aid (Scotland) Bill [Volume 1: Report](#) [Volume 2: Evidence](#) , 30 June; [Scottish Executive response to the Stage 1 Report on the Legal Profession and Legal Aid \(Scotland\) Bill](#), 7 Sept; [Legislative Consent Memorandum on the Police and Justice Bill](#) , 26 April

Local Government and Transport:

[Report on Inquiry into Freight Transport in Scotland](#) , 4 July ; [Report on the Local Electoral Administration and Registration Services \(Scotland\) Bill](#) , 18 April

Public Petitions:

[Equalities Report](#) , 2 June

Subordinate Legislation:

[Local Electoral Administration and Registration Services \(Scotland\) Bill as amended at Stage 2](#) , 21 June; [Animal Health and Welfare \(Scotland\) Bill as amended at Stage 2](#) , 31 May; [Police, Public Order and Criminal Justice \(Scotland\) Bill as amended at Stage 2](#), 24 May; [Inquiry into the Regulatory Framework in Scotland - Draft Report](#), 23 May

2.4 Parliamentary Bills (26 April 2006 – 10 September 2006)

Executive Bills Passed (Royal Assent):

- [Animal Health and Welfare \(Scotland\) Bill](#) (11 July 2006) – part 1 extends Scottish ministerial powers to slaughter and vaccinate animals during disease outbreaks such as BSE in cattle (within the confines of EU directives often making slaughter obligatory).¹⁸ Part 2 aims to tighten laws on animal welfare, including provisions on fighting/ entertainment, tail docking and government intervention. It does not alter existing legislation on farm animal welfare.¹⁹
- [Local Electoral Administration and Registration Services \(Scotland\) Bill](#) (1st August 2006) – provisions include setting performance standards for returning

¹⁸ <http://www.scottish.parliament.uk/business/research/briefings-05/SB05-70.pdf>

¹⁹ <http://www.scottish.parliament.uk/business/research/briefings-05/SB05-71.pdf>

- officers and piloting 'personal identifiers' to address election fraud. Responsibility is devolved but the Scottish provisions mirror UK law to ensure uniformity.²⁰
- [Police, Public Order and Criminal Justice \(Scotland\) Bill](#) (4 July 2006) – part 1 creates the Scottish Police Services Authority, a single organisation to oversee common police services; and an independent Police Complaints Commissioner for Scotland to investigate non-criminal complaints against the police. Part 2 introduces public order measures: football banning orders, parades regulations, higher penalties for knife possession (from 16 years of age), and firework restrictions. Part 3 introduces police powers on taking fingerprints outside of a police station, taking names/addresses to identify suspects on the criminal records system, and obliging drug tests on certain suspects. It also makes statutory the provisions for reduced sentences in exchange for cooperation.²¹
 - [Scottish Schools \(Parental Involvement\) Bill](#) (15 June 2006) – replaces school boards with parent councils. The latter have wider membership (in theory all parents) but fewer powers.²²
 - [Senior Judiciary \(Vacancies and Incapacity\) \(Scotland\) Bill](#) (27 June 2006) – to ensure that the functions of the two most senior judges in Scotland (the Lord President of the Court of Session and the Lord Justice Clerk) can be carried out by other senior judges when the positions are vacant or the incumbent is too ill to fulfil his/ her role. The emergency bill was necessary given the illness of the Lord President of the Court of Session (Lord Hamilton).²³

Executive Bills in Progress (latest stage reached):

- [Adoption and Children \(Scotland\) Bill](#) (Stage 1)
- [Adult Support and Protection \(Scotland\) Bill](#) (Stage 1)
- [Aquaculture and Fisheries \(Scotland\) Bill](#) (Stage 1)
- [Bankruptcy and Diligence etc. \(Scotland\) Bill](#) (Stage 2)
- [Criminal Proceedings etc \(Reform\) \(Scotland\) Bill](#) (Stage 1)
- [Crofting Reform etc Bill](#) (Stage 1)
- [Legal Profession and Legal Aid \(Scotland\) Bill](#) (Stage 1)
- [Planning etc. \(Scotland\) Bill](#) (Stage 2)

²⁰ <http://www.scottish.parliament.uk/business/research/briefings-06/SB06-07.pdf>

²¹ <http://www.scottish.parliament.uk/business/research/briefings-05/SB05-57.pdf>

²² <http://www.scottish.parliament.uk/business/research/briefings-05/SB05-69.pdf>

- [Schools \(Health Promotion and Nutrition\) \(Scotland\) Bill](#) (Stage 1)
- [Scottish Commissioner for Human Rights Bill](#) (Stage 2)
- [Tourist Boards \(Scotland\) Bill](#) (Stage 2)
- [Transport and Works \(Scotland\) Bill](#) (Stage 1)

2.5 Non-Executive Bills

Given the recent focus on restricting the use of the non-executive bills unit to ensure fewer but better quality members' bills, it is notable that none of the members' bills in progress set the heather on fire. Of more note – particularly given the cost, a substantial part of which will be met by the Scottish Executive - are the private bills which passed in this period: a bill to create a borders rail link and two bills to continue the process of creating tramlines in Edinburgh. Of the proposed members' bills, Karen Gillon's choice is the most notable. It follows the possibility – mooted in December 2005 – of the Scottish Executive legislating separately on corporate homicide and going further than UK policy when identifying negligent senior executives in companies. However, in what was described as a 'legal decision' (rather than a negotiation between executives) the problem was reserved to Westminster legislation on the basis of health and safety, with Gillon's proposal addressing the devolved/ criminal aspects of culpable homicide.²⁴

Members' Bills in Progress (latest stage reached) (introduced by)

- [Christmas Day and New Year's Day Trading \(Scotland\) Bill](#) (Stage 1) (Karen Whitefield, Labour)
- [Environmental Levy on Plastic Bags \(Scotland\) Bill](#) (Stage 1) (Mike Pringle, Liberal Democrat)
- [Health Board Elections \(Scotland\) Bill \(Stage 1\)](#) (Bill Butler, Labour)
- [St Andrew's Day Bank Holiday \(Scotland\) Bill](#) (Stage 1) (Dennis Canavan, Ind)

Committee Bills Passed:

- [Interests of Members of the Scottish Parliament Bill](#) (Royal Assent 13 July 2006) – introduced by the Standards Committee, it creates a register of Members' interests.

²³ <http://www.scottish.parliament.uk/business/research/briefings-06/SB06-50.pdf>

²⁴ See Cairney, P. (forthcoming) 'Venue Shift Following Devolution: When Reserved Meets Devolved in Scotland', *Regional and Federal Studies*; *The Herald* 18.7.06 'Westminster to rule on corporate killing'

Private Bills Passed (Royal Assent):

- [Edinburgh Tram \(Line One\) Bill](#) (8 May 2006) – the bill provides the necessary planning permissions (e.g. related to listed buildings) and purchase orders required to construct a tram line.
- [Edinburgh Tram \(Line Two\) Bill](#)
- [Waverley Railway \(Scotland\) Bill](#) (24 July 2006) – provides for the creation (and related orders in, for example, compulsory purchase) of a rail link between the Borders and Edinburgh as part of the national rail network.

Private Bills in Progress:

- [Edinburgh Airport Rail Link Bill](#)
- [Glasgow Airport Link Rail Bill](#)
- Airdrie-Bathgate Railway and Linked Improvements Bill

Proposals for Members' Bills which have gathered sufficient support for a bill to be introduced (in order of date lodged):

- Commissioner for Older People (Scotland) Bill (Alex Neil, SNP).
- Liability for Release of Genetically Modified Organisms (Scotland) Bill (Mark Ruskell, Green)
- Civil Appeals (Scotland) Bill (Adam Ingram, SNP)
- National Register of Tartans Bill (Jamie McGrigor, Conservative)
- Home Energy Efficiency Targets Bill (Shiona Baird, Green)
- Third party Planning Rights of Appeal Bill (Sandra White, SNP)
- Cairngorms National Park Boundaries (Scotland) Bill (John Swinney, SNP)
- Micropower (Scotland) Bill (Shiona Baird, Green)
- Energy Efficiency And Micro-generation (Scotland) Bill (Sarah Boyack, Labour)
- School Meals and Snacks (Scotland) Bill (Frances Curran)

Proposals for Members' Bills which have not yet gathered sufficient support to be introduced (in order of date lodged):

- Road Traffic Reduction Targets (Scotland) Bill (Chris Balance, Green)
- Greenhouse Gas Emissions Targets Bill (Mark Ruskell, Green)
- Local Government Elections (Scotland) Bill (Brian Monteith, Independent)

- Cease the Sale of Homes to Pay for Residential Accommodation Bill (John Swinburne, Scottish Senior Citizens Unity Party)
- Setting and Retention of Non-domestic Rates Bill (Tommy Sheridan, SSP)
- Drug Treatment and Rehabilitation (Scotland) Bill (Rosemary Byrne, Solidarity)
- Sunbed Licensing (Scotland) Bill (Kenneth Macintosh, Labour)
- Abolition of the Tay Bridge and Forth Road Bridge Tolls Bill (Bruce Crawford, SNP)
- Asbestos (Improved Compensation) Bill (Des McNulty, Labour)
- Provision of Rail Passenger Services (Scotland) Bill (Tommy Sheridan, Solidarity)
- Local Government Elections (Scotland) Bill (David Davidson, Conservative)
- Legal Rights on Succession (Scotland) Bill (Rob Gibson, SNP)
- Culpable Homicide (Scotland) Bill (Karen Gillon, Labour)
- Abolition of Tay and Forth Road Bridge Tolls (Scotland) Bill (Helen Eadie, Labour)

2.6 Sewel (Legislative Consent) Motions passed²⁵

69. Health Bill (passed 19.1.06)

Amends the Medicines Act 1968 to give Scottish ministers powers to allow pharmacists to delegate prescribing outwith business premises. Also extends the NHS recovery scheme relating to motor accidents. Although the NHS is devolved, the Department of Work and Pensions collects the money from UK-wide insurance companies. The Health Committee convenor points to the short notice of the motion and the feeling of being 'bounced' even following the introduction on new procedures. There was no debate in plenary but the SSP abstained and Canavan voted against (105-1-5).

70. Company Law Reform Bill (passed 16.3.06)

The UK counterpart to Scotland's Bankruptcy bill dealing with technical matters on executive devolution. It gives powers to the Lord Advocate and Scottish ministers over audit report regulation and extends UK provisions on 'rogue traders' and small charity auditing procedures. There was a short discussion in committee and no debate or vote in plenary.

71. Police and Justice Bill (passed 4.5.06)

Provisions on an English police authority training Scottish staff, inspections of UK police bodies, Scottish ministerial powers on extradition and a UK-wide approach to computer crime. The Justice 2 committee further pressed its concern over arrangements with the US on extradition (see previous monitor) with an amendment (agreed without vote) to the motion. The motion passed despite SSP opposition and Green abstention (101-6-7).

72. Housing Corporation (Delegation) etc Bill (passed 10.5.06)

A short bill to provide retrospective permission for the Housing Corporation board to delegate decision-making to officials. This relates to the pre-devolution operation (until 1989) of the Housing Corporation in Scotland. There was a short discussion in committee and no debate or vote in plenary.

73. Compensation Bill (passed 29.6.06)

Addresses the issue of illness related to asbestos. It establishes clearer mechanisms to claim compensation when more than one employer may have been liable. For reasons of expediency (those with this illness rarely live 18 months) the motion (based on a draft UK bill) was treated in the same way as an emergency bill, with no committee consideration. The nature of the issue ensured an unusual level of all-party consensus.

²⁵ A full list of motions and links to SPOR discussions is provided by the Scottish Executive:
<http://www.scotland.gov.uk/Topics/Government/Sewel/SessionTwo>

3. The Media

3.1 Media and Devolution

Scotland has become “inward-looking and slightly Anglophobic” since devolution, was the gist of an article in the *Economist* magazine, written by Johnny Grimond and published in May.²⁶ His verdict on Holyrood was that it governed “like teenagers on an allowance”. The echo in Scotland was predictably negative. A spokesman for the First Minister dismissed it as “the rambling thoughts of someone on a day trip from London”.²⁷

The Presiding Officer, George Reid, exemplified this as typical of a list of “erroneous” stories since the creation of the Scottish Parliament which had a negative impact. At the International Press Institute congress in Edinburgh at the end of May he claimed that “sexed-up” stories criticising the Scottish Parliament are “damaging the country’s fledgling democracy”.²⁸ He maintained that, despite tales about MSPs “flooded out, locked out, roasted, frozen, expelled, in revolt and falling into ponds”, devolution “had not been a disaster, but neither had it turned Scotland into a land of milk and honey.” He added: “It has raised the awkward issue, though, of being no longer able to blame London for what goes wrong. If we make mistakes now, they are our mistakes.”²⁹

Reid’s theme had been aired by his predecessor, Sir David Steel, in September 1999. Steel accused parts of the Scottish press as “trivializing” politics and practicing “bitch journalism” – a sign of the strained relationship between the media and devolved politics. Reid was joined by *The Herald*’s columnist Ian Bell in August. He attacked BBC2’s *Newsnight Scotland*, a 20-minute opt-out from the London-based *Newsnight* screened only in Scotland, as “failing Scotland”. He argued that the programme, broadcast since October 1999, “has become home rule’s most relentless, even obsessive, critic,” with an editorial policy “to proceed from the assumption, on every possible occasion, that devolution has indeed failed.” He contended that a ‘Scottish Six’ – a main news bulletin edited and broadcast from Glasgow, as proposed and repeatedly rejected since 1999 –

²⁶ ‘Home truths about home rule’, *The Economist*, 18 May 2006,

<http://www.economist.com/world/displaystory.cfm?story_id=6941798>

²⁷ ‘Magazine attacks Scottish devolution’, BBC News online, 19 May 2006

<<http://news.bbc.co.uk/go/pr/fr/-/1/hi/scotland/4997606.stm>>

²⁸ ‘Reid bemoans ‘sexed up’ reporting’, BBC News online, 29 May 2006

<<http://news.bbc.co.uk/go/pr/fr/-/1/hi/scotland/5027528.stm>>

²⁹ Ibid.

would never adopt this “assumption that devolution is a wash-out [which] has become Newsnight Scotland’s default position,” ignoring “consistent polling evidence demonstrating that a majority of Scots want home rule and their parliament to continue, despite an understandable aversion to politicians.”³⁰

3.2 The Election Campaign starts here

The elections of May 2007 have cast a long shadow – since May there has been a flow of speculation on likely outcomes. STV’s Politics Now had a panel discussion on 4 May, titled ‘365 days before the election’, where George Lyon MSP repeated the Lib Dems’ position that there were “no no-go areas’ for them. Ian Bell led the speculation of what could happen if the SNP were the leading government party after May 2007. He posed the question whether the SNP could win the election but perhaps fail in getting a ‘yes’ vote in the promised independence referendum which would follow their electoral victory – and what the consequences of such a scenario might be.³¹

The football World Cup in Germany – with England participating and Scotland not (and Jack McConnell publicly supporting England’s opponent Trinidad & Tobago) – gave the media a field day of speculations about alleged Scottish ‘anti-Englishness’ and the ‘English backlash’, which found, it was argued, its expression in the growing English dissatisfaction with the unresolved ‘West Lothian Question’. “The World Cup is having a remarkable impact on the tense political relationship between England and Scotland,” wrote Nicholas Leonard in the *Irish Independent*,³² basing his comments also on strong poll support for the SNP. A report by the Westminster Scottish Affairs Committee (BBC Newsnight 19 June 2006) was widely interpreted as proof that ‘the English’ are unhappy with Scottish devolution,³³ and with the voting rights of Scottish MPs on purely English matters – a claim denied by the government.³⁴ This was combined with the question of when Blair would step down, and how much this would be appreciated by Labour in Wales and Scotland (BBC Newsnight 8 May 2006) and whether Brown – as a Scottish

³⁰ Ian Bell, ‘Why the BBC is failing Scotland’, *The Herald*, 26 August 2006.

³¹ Ian Bell, ‘Why SNP risks defeat over symbolic gesture’, *The Herald*, 29 August 2006, p.13

³² Nicholas Leonard, ‘Push for Scottish independence signals growing gulf between states’, *Irish Independent*, 19 June 2006.

³³ ‘English “unhappy” with devolution’, BBC News online, 19 June 2006

<<http://news.bbc.co.uk/go/pr/fr/-/1/hi/scotland/5094178.stm>>

³⁴ Blair dismisses voting shake-up’, BBC News online, 12 July 2006

<http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/scotland/5173386.stm>

MP – could become Prime Minister (BBC Newsnight 15 May 2006). On 12 June, BBC Newsnight Scotland focused on McConnell's alleged warning to Blair that the SNP could win in 2007 – with commentators Paul Hutcheon (Sunday Herald), James Mitchell and John Curtice seeing this as, in turn, a “wake-up call to the UK ministers” by McConnell, a sign of the “dissociation of the Labour partnership between London and Edinburgh”, and indicating “mounting pressure” on an “unpopular Blair”. The Scotsman reported growing criticism of McConnell from inside the ranks of his own party.³⁵ And while John Curtice saw the Tories as the “dark horse” capable of a surprise next May (BBC Newsnight Scotland 12 June 2006), the Tory MSPs could read about party officials and Holyrood candidates plotting to oust the present incumbents for their inefficiency.³⁶

3.3 BBC Scotland Job Cuts

On 12 July, BBC *Newsnight Scotland* reported on itself. Blair Jenkins had resigned as Head of Current Affairs, which raised further questions concerning cutbacks in staffing and budgets at BBC Scotland. While the BBC itself saw Jenkins' demise as a “peripheral resignation”, the NUJ called it “one of the most significant resignations since Hutton”. The media pundit Philip Schlesinger saw it as casting doubts on the overall strategy of the BBC indicating a wider crisis of BBC management. While Schlesinger saw the rise of “competitive regionalism” within the BBC, with its building up of Manchester, Alex Neil MSP (SNP) saw it raising “a series of new questions about the BBC's position north of the border.” He was worried about the impact of cuts on the wider media landscape of Scotland – “brain drain” or “take-over” from the South? He saw “the case for devolving media policy to the Scottish Parliament ... growing by the day”.

3.4 The Tommy Sheridan Show

All political and media manoeuvring was quite put in the shade, however, by a court case which provided red tops as well as broadsheets and broadcast media with the juiciest of summer shows. Tommy Sheridan MSP, founder of the Scottish Socialist Party, took on the *News of the World* (which had published stories about his alleged extramarital sexual exploits) and his own party, and won. Sexual capers – two, three,

³⁵ Eddie Barnes, ‘Jack knifed’, *Scotland on Sunday*, 20 August 2006, p.13; Peter MacMahon, ‘McConnell fights for his political future as fewers mount of uprising’, *The Scotsman*, 21 August 2006, p.8.

four in a bed (Tom Gordon commented on Newsnight Scotland, it could be “sixes and sevens” before too long) – provided the voyeuristic shock value. The problem was that Sheridan could only prove his case by proving his party to be a basket case. It was his word against that of four of his fellow MSPs – somebody had to be lying in court. The jury ruled in favour of Sheridan, who turned round calling his former comrades “scabs” (a term he later regretted) and, on Sunday, 3 September, formed ‘Solidarity’, his own break-away Socialist Party.³⁷ *The Scotsman* predicted that the most “acrimonious” and “bitter” contests in next year’s election would be fought between these two rival socialist parties: “The anti-Sheridan faction believes Mr Sheridan is an egotist and a liar and wants nothing to do with him. The pro-Sheridan faction believes he has been the victim of a vicious attempted coup and that he is still the best political leader in Scotland.”³⁸

3.5 No ‘silly season’?

“Normally, August is the ‘silly season’,” the *Scotsman* summed up this media summer in its typical fashion: “But not this August, when the Scottish political scene has been anything but quiescent. The Scottish Socialist Party has self-destructed in the wake of the Tommy Sheridan trial. A new opinion poll gives the SNP a four point lead over Labour, and it is set to be the largest party next May. Meanwhile, inside Labour ranks, there is growing criticism of the First Minister. One political party alone seems to fail to capture any headlines – Scotland’s Tories. The same poll that puts the SNP firmly ahead of Labour indicates a slump in Conservative fortunes – the party has dropped seven points to only 10 per cent. At this rate, they could be overtaken by the Scottish Greens.”³⁹ Even a superficial glance at the media over the past few months will corroborate the view that the election campaign for May 2007 is well under way.

³⁶ Hamish Macdonell, ‘Rebels urge party embers to oust all Tory MSPs at Holyrood elections’, *The Scotsman*, 28 August 2006; H Macdonell, ‘Top Tory adds “lunacy” jibe to rebellion against MSPs’, *The Scotsman*, 29. August 2006.

³⁷ Douglas Fraser, ‘Solidarity wins on decibel level’, *The Herald*, 4 September 2006, p.2

³⁸ ‘Same old socialist stand-offs’, *The Scotsman* (Leader), 4 September 2006, p.21.

³⁹ ‘Scottish Tories are all at sea’, *The Scotsman* (Leader), 28 August 2006, p.21.

4. Public Attitudes and Elections

4.1 National Identity

First results from the 2005 Scottish Social Attitudes survey included the results of questions on national identity. In one question, respondents are asked to choose which of a series of possible descriptions applies to them. Should they choose more than one, respondents are then invited to say which applies to them best. Figure 4.1 shows responses over the last thirty years to this 'forced choice' identity question. Adherence to Britishness has declined between the 1970s and the advent of devolution in 1999 (and especially between the 1970s and 1992). However, there is no consistent evidence that the creation of the Scottish parliament has caused any further erosion of a willingness to claim adherence to Britishness – though at 14% the proportion saying in 2005 that they are British is lower than in most recent years. A second method is the so-called 'Moreno' question.⁴⁰ This recognises the existence of dual Scottish and British identities by asking people which of a possible balance of those two identities applies to them. This confirms the picture painted by the first measure. The proportion describing themselves as 'Scottish, not British', increased from 19% in 1992 to 32% in 1999, but has subsequently simply fluctuated around that figure. Meanwhile the proportion saying they are exclusively predominantly British has continued to fluctuate at a little below 10%.

Given the predominance of Scottish national identity, its character is important. It has been debated whether it is a 'civic' identity to which anyone who lives and works in Scotland can lay claim, or whether it is an 'ethnic' identity to which only those with a line of Scottish ancestry can lay claim.⁴¹ The 2005 Scottish Social Attitudes survey found no evidence that one potential implication of an ethnic conception of Scottishness – that only those who are white are Scottish – has significant support. No less than 90% say that they would definitely or probably regard a non-white person with the most obvious cultural mark of Scottishness – a Scottish accent – as Scottish. Meanwhile the proportion willing to regard as Scottish an English-born non-white person with various possible links to Scotland is almost exactly the same as in the case of a white person.

⁴⁰ L. Moreno, 'Scotland and Catalonia: The path to home rule', in D. McCrone and A. Brown (eds.) *The Scottish Government Yearbook 1988* (Edinburgh: Unit for the Study of Government in Scotland, 1988).

⁴¹ A. Hussain and W. Miller, 'Islamophobia and Anglophobia in post-devolution Scotland', in C. Bromley, J. Curtice, D. McCrone and A. Park (eds.), *Has Devolution Delivered?* (Edinburgh: Edinburgh University Press, 2006).

On the other hand there is clearly a reluctance to regard as Scottish someone not born in Scotland. The absence of such a link may be 'mitigated' by apparent evidence of having lived in Scotland and being acculturated into Scottish society (by having a Scottish accent) but a link of birth is clearly considered important. Thus the survey found that only 32% agreed that anyone who comes to live and work in Scotland has the right to call themselves Scottish, while no less than 54% disagreed. In contrast, 75% said they would definitely or probably regard as Scottish someone who had never lived in Scotland for long but had been born in the country. It would seem that the children of immigrants to Scotland who are born and brought up in the country are readily accepted as Scottish, irrespective of race or colour, but that their parents will be some degree be regarded as 'outsiders'.

Figure 4.1 Forced Choice National Identity 1974-2005

	1974	1979	1992	1997	1999	2000	2001	2002	2003	2004	2005
	%	%	%	%	%	%	%	%	%	%	%
Scottish	65	56	72	72	77	80	77	75	72	75	77
British	31	38	25	20	17	13	16	18	20	19	14

Sources: Scottish Election Studies 1974-1997; Scottish Social Attitudes Survey 1999-2005

Figure 4.2 Trends in Moreno National Identity, 1992-2005

	1992	1997	1999	2000	2001	2003	2005
	%	%	%	%	%	%	%
Scottish not British	19	23	32	37	36	31	32
More Scottish than British	40	38	35	31	30	34	32
Equally Scottish and British	33	27	22	21	24	22	22
More British than Scottish	3	4	3	3	3	4	4
British not Scottish	3	4	4	4	3	4	5

Sources: Scottish Election Studies 1992-7; Scottish Social Attitudes survey 1999-2005

Figure 4.3 Who is Scottish?

% definitely/probably regard as Scottish	Non-White Person	White Person
Scottish accent	90	-
Born England, Scottish accent	42	44
Born England, English accent	11	15
Born England, English accent, children born Scotland	19	18

Source: Scottish Social Attitudes

4.2 Attitudes to the NHS and Free Personal Care

4.3.1 Attitudes towards the health service

'Reform' of the health service in England has been a big objective of the UK Labour government. It wants to reduce drastically the time that people have to wait to see a consultant or have an operation by means including the restoration of a market within the NHS and the purchase of services by the NHS from the private sector. The theory is that people, used to exercising choice in the capitalist market place, will increasingly want to do the same with public services.

The Scottish Executive has been less keen on this agenda.⁴² Greater reliance has been put on the ability of medical professionals to provide an efficient health service. Significant health inequalities and high cancer and heart disease death rates have led to resources being focused on the prevention and treatment of these diseases rather than on shortening waiting times for less serious conditions. The substantial rural population has meant a higher concern to ensure that people have access to a local hospital than with the ability to exercise 'choice'. Malcolm Chisholm, the health minister until October 2004 was reluctant to buy in private sector services to reduce waiting times, although his successor, Andy Kerr, has appeared more amenable to this approach. This policy divergence has resulted in some unfavourable comparisons being drawn between the Scottish Executive's handling of the health service and that of the UK government, especially in respect of waiting times.⁴³ But how far these criticisms are reflected in

⁴² S. Greer, *Territorial Politics and Health Policy* (Manchester: Manchester University Press, 2004).

⁴³ Audit Scotland, *An Overview of the Performance of the NHS in Scotland* (Edinburgh: Audit Scotland, 2002); K. Schumuecker and J. Adams, 'Divergence in priorities, perceived policy failure and pressure for convergence', in J. Adams and K. Schumuecker (eds.), *Devolution in Practice 2006* (Newcastle-upon-Tyne: Institute for Public Policy Research North, 2005).

public perceptions of the health service in Scotland is less clear. To investigate, the 2005 Scottish Social Attitudes survey carried questions on attitudes to the health service which had also been asked in the 2004 British Social Attitudes survey. By extracting responses of English-domiciled people from the latter, we can see whether the health service in Scotland is evaluated more or less favourably than its counterpart in England. The comparison is not ideal: by 2004 not all the English reforms had been implemented nor had they had a chance to make an impact,⁴⁴ Meanwhile by 2005 the Scottish Executive had placed a higher priority on reducing waiting times.

Overall satisfaction with NHS performance in Scotland in 2005 appears to have been a little lower than it was in England a year earlier. While 40% said they were 'very' or 'quite' satisfied with the service, 43% were dissatisfied, a net satisfaction score of -3. In contrast in England, 44% were satisfied with the health service while 36% were dissatisfied, a net dissatisfaction score of +8. On the other hand, net satisfaction levels with parts of the health service were in some cases a little higher in Scotland than in England, most notably in respect of inpatient and outpatient hospital services. The one clear difference between the two sides of the border was in respect of their NHS telephone advice services, NHS24 in Scotland and NHS Direct in England. NHS24 was the subject of some highly unfavourable media coverage as a result of a number of teething difficulties experienced by the survey in its early days. This has clearly had an adverse impact on its public image. However, NHS24 apart, it is not evident that levels of public dissatisfaction with the NHS in Scotland in 2005 were markedly or consistently higher than they were in England twelve months earlier.

Figure 4.4 Satisfaction with the NHS in Scotland and England

	Scotland 2005	England 2004
	%	%
Very satisfied	7	8
Quite satisfied	33	36
Neither	16	20
Quite dissatisfied	27	23
Very dissatisfied	16	13

Sources: Scottish Social Attitudes survey 2005; British Social Attitudes survey 2004

⁴⁴ Many of the questions included on the 2005 Scottish Social Attitudes were in fact also included on the 2005 British Social Attitudes. Thus eventually it will be possible to compare attitudes in the same year. However, the 2005 British data are not in the public domain as of the time of writing.

It is often argued that those who actually use a public service are typically more likely to express satisfaction with that service than those who are reliant on the media or other second-hand sources of information. This appears to be true of the health service in Scotland. Those who had actually been an in-patient or an out-patient during the previous twelve months were more likely than those who had not to express satisfaction with those services (as indeed they were the NHS as a whole). However, those most critical of the service were people who had a close family member or friend who had been an outpatient or inpatient. This seems to suggest that the burden of waiting for an outpatients' appointment or the experience of hospital treatment weighs more heavily on other family members than on the patient - who will often be grateful for having been 'cured'. However, it would be wrong to place much emphasis on either pattern. Once age is taken into account – and the fact that older people (who are more likely to have been patients) are generally more satisfied with the health service – neither the greater satisfaction of users with inpatient services nor the greater dissatisfaction of close family and friends with either inpatient and outpatient services is statistically significant.

Figure 4.5 Net satisfaction with some NHS services, Scotland and England

	Scotland 2005	England 2004
GPs	50	54
Outpatients	37	31
Inpatients	27	23
Accident & Emergency	21	15
Dentists	-1	2
NHS 24/NHS Direct	-8	19

Net satisfaction of Outpatients and Inpatients by service experience.

	Self	Friend/Relative	No Contact
Outpatients	46	27	37
Inpatients	54	12	26

Sources: Scottish Social Attitudes survey 2005; British Social Attitudes survey 2004

But how much dissatisfaction is there in particular in Scotland with waiting for NHS services? The first table in Figure 4.6 shows people's responses when asked whether aspects of the experience of waiting for NHS services in their local area were either satisfactory or in need of improvement. In some respects there is a widespread feeling that the Scottish NHS needs improvement. This is true of the time it takes to get a consultant appointment and the waiting time for a non-emergency operation – the two

waiting times that have been the focus of ministers' attention. However in neither respect was the perception of the position in Scotland any different from that in England a year earlier. Indeed, in some respects, such as waiting times in accident and emergency, the NHS in Scotland appears to have been evaluated somewhat less unfavourably than its counterpart in England. Equally, only a minority of people in Scotland and England think that they would 'definitely' or 'probably' get an outpatients' appointment within three months if they had been referred to a hospital consultant. In fact, a Scottish Executive survey in spring 2004 found that 73% actually get an outpatient appointment within three months.⁴⁵

Figure 4.6 Waiting in the local NHS, Scotland and England

	Scotland 2005	England 2004
	% very good/satisfactory - % in need of improvement	
GPs waiting areas	+65	+59
999 waiting times	+20	+10
Outpatient waiting areas	+12	+4
GPs appointment systems	-3	+2
A&E waiting areas	-3	-13
Condition hospital buildings	-13	-24
Waiting in o/patients	-31	-41
A&E waiting times	-44	-55
Non-emergency op waiting lists	-50	-53
Consultant waiting times	-63	-63

Expectations of Outpatients Appointments, Scotland and England

Would get within 3 months	Scotland 2005	England 2004
	%	%
Definitely would	8	10
Probably would	34	38
Probably would not	37	35
Definitely would not	19	15

Scots are not only dissatisfied with waiting times, they also value 'choice'. Nearly two-thirds think that patients should have 'a great deal' or 'quite a lot' of choice in determining which hospital they go to or the time of an outpatient appointment. Moreover

⁴⁵ N. Rose and R. Glendinning, *Public Attitudes to the National Health Service in Scotland* (Edinburgh: Scottish Executive, 2004).

in this they are no different from people in England. Thus the lack of emphasis on choice north of the border cannot be justified on the grounds that there is less demand for it than in England. Meanwhile few people in Scotland feel that they currently have much choice about the hospital they attend or the time of an outpatient appointment. So perhaps the lack of choice is an important source of dissatisfaction with the health service in Scotland. Here, however, we should note that if it is, it would seem to be no more likely the case than in England where also in 2004 relatively few felt that they had much choice.

Figure 4.7 The Choice Agenda

% say patients should have great deal/ quite a lot of choice over...	Scotland 2005 %	England 2004 %
Hospital they go to	63	63
Time of o/p appointment	63	66
Kind of treatment	50	54

% say patients do have great deal/quite a lot of choice over...	Scotland 2005 %	England 2004 %
Hospital they go to	10	9
Time of o/p appointment	11	14
Kind of treatment	17	18

Further analysis reveals however that perceptions of the amount of choice that patients have are much less strongly related to levels of satisfaction with the health service than are opinions about the length of waiting times. For example, net satisfaction with the health service in Scotland amongst those who think that the length of time people have to wait in their area for a consultant is 'very good' is +55, while the equivalent figure amongst those who think it needs 'a great deal of improvement' have a net satisfaction score of -35. This gap of 90 points compares with equivalent gaps of 44 points in respect of perceptions of how much choice people have about the hospital they attend or just 35 points in respect of choice of outpatient appointment time.

Thus the lack of emphasis in Scottish health policy on 'choice' can be defended on the grounds that although people in Scotland say that they would like 'choice', its perceived absence is not a major source of dissatisfaction with the health service. On the other hand the perception that people have to wait too long for NHS treatment clearly has an

adverse impact on people's levels of satisfaction. Therefore, we should not be surprised that the Scottish Executive has now set itself a similar target in respect of waiting times as that set by the UK government.⁴⁶

Figure 4.8 The Impact of Waiting and Choice

Expect to get hosp. Appointment in 18 months	Net NHS Satisfaction	Consultant Waiting Times	Net NHS Satisfaction
Definitely would	+38	Very Good	+55
Probably would	+26	Satisfactory	+50
Probably would not	-20	Need improvement	0
Definitely would not	-25	Need great deal of improvement	-35

Amount of say patients do have in Hospital they go to	... Time of o/p Appointment
	Net NHS Satisfaction	
Great Deal/Quite a Lot	+27	+17
A little	-1	+2
None at all	-17	-18

4.3.2 Personal Care

One of the iconic post-devolution differences in public policy between Scotland and England has been the introduction of so-called 'free' personal care for older people in Scotland, a policy rejected by the UK Government for England. Questions on attitudes towards funding the needs of old age in the 2005 Scottish Social Attitudes survey now reveal what the Scottish public thinks about this policy.⁴⁷

The principle of 'free' personal care has majority support. Nearly three in five say that the government should pay for the personal care of an older person, no matter how much money the person has. In contrast, just over two-fifths feel that government support for personal care should be means-tested. Nevertheless, the level of support might be regarded as rather less than would be anticipated given its status as a celebrated

⁴⁶ Schmuecker and Adams, *op. cit.*

⁴⁷ The results of this research, together with some comparative data for England, are reported more fully in R. Ormston, J. Curtice and H. Fawcett, 'Who should pay for my care – when I'm 64?', in A. Park, J. Curtice, K. Thomson, M. Johnson and M. Phillips (eds.), *British Social Attitudes: the 23rd report* (London: Sage, 2007).

example of the advantages to Scotland of devolution. Unsurprisingly, older people (63% of those aged 65 and over) are more supportive of the policy than younger people (53% of 18-24 year olds). But despite the arguments used by opponents of the policy that it disproportionately (and unfavourably) benefited the middle class⁴⁸, support amongst routine and semi-routine workers (63%) was somewhat higher than amongst employers and managers (54%). Still, the difference in the level of support between those in middle class and working class occupations is less than it is in respect of policies towards pensions.⁴⁹

Indeed it appears that Scots adopt a very different attitude towards who should be responsible for funding the costs of care than they do towards pensions. Half agree that it is an individual's responsibility to save if they want a decent pension, but just one in six feel that people have a similar obligation to save in order to meet the costs of long-term care that they might need when they are older. Yet people seem to be highly sceptical that the state will provide enough money. Only 16% agree that there is 'no need for people in Scotland to save for care because the government will pay for it', while no less than 68% disagree.

One source of opposition to the means testing of personal care is undoubtedly the potential consequence that people may have to sell or mortgage their homes in order to pay for care. No less than 76% agree that nobody should have to do this, no matter how valuable their home is; only 13% disagree. Another is probably that older people are regarded as a deserving group on whom to spend money. Certainly, no less than 69% say they would be in favour of an increase in income tax of a penny in the pound if the money raised were set aside to pay for personal care for the elderly. Of course there are some who argue that this is precisely what have to happen in the long-term (using the tax varying powers of the Scottish Parliament) if the policy is maintained.

⁴⁸ J. Joffe, and D. Lipsey, (1999), 'A Note of Dissent', in Royal Commission on Long Term Care, *With Respect to Old Age: Long Term Care – Rights and Responsibilities*, Cm 4192-I, London: The Stationery Office

⁴⁹ Ormston et al, *op. cit.*

Figure 4.9 Payment for Personal Care

	%
Government should pay for personal care, no matter how much money the person has	57
Person should pay, no matter how much money they have	1
Who pays should depend on how much money the person has	41

	People's responsibility to save...	
	...for a decent pension	...so can pay for any care needed when older
	%	%
Agree	50	16
Neither	18	16
Disagree	32	66

Source: Scottish Social Attitudes 2005

4.4 Party Fortunes

4.4.1 Holyrood Voting Intentions

Much excitement was caused in June when a MORI survey taken over the previous three months put the SNP two points ahead of Labour on both constituency and list votes for next year's Holyrood election. Although, when extrapolated, such an outcome might still leave Labour three ahead in seats thanks to the more favourable geographical distribution of its constituency vote, the poll still suggested a real prospect that Labour might actually 'lose' the 2007 election. It was, moreover, not the only straw in the wind. A widely leaked private poll conducted for the Labour party in April was reported as showing that Labour would lose as many as a dozen seats. When fuller figures were reported in *The Sunday Times*, a loss of seven seats seemed more realistic. But the fuller figures did indicate that Labour and the SNP were neck-and-neck on both the constituency and the list vote. Meanwhile, although never fully published, a telephone poll conducted for the SNP at the end of April had been reported by *The Times* as putting the SNP no less than six points ahead. At the same time Labour's fortunes had fallen in Britain-wide opinion polls, with the party consistently trailing the Conservatives for the first time in nearly 14 years.

Labour's problems were confirmed by a further SNP poll that was leaked to *Scotland on Sunday* at the end of August. This suggested that the two parties were still neck-and-

neck. However, three polls conducted over the summer by System Three and released by them in September painted a different picture - that Labour was both still at the level of support it enjoyed in 2003 and comfortably ahead of the SNP.

All the polls agreed on one thing. Despite the modest revival that the Conservatives were now enjoying in Britain-wide opinion polls, there was no sign of any advance by the Scottish party on the 16-17% that it secured in 2003. It appeared as though the David Cameron-inspired Tory revival had stopped at the border - although polls in Scotland have historically had a tendency to underestimate Conservative support.

Less widely noticed but arguably of equal significance, most of the polls also suggested that the Liberal Democrats were currently in a better position than the 15% and 12% that they secured on the constituency and list vote respectively in 2003. Neither Labour nor the SNP seems likely to emerge with as many seats as Labour did in 2003. So the Liberal Democrat gains suggested by these polls implies that the party would be able to claim in any new coalition with either Labour or the SNP at least one more seat at the cabinet table than the two they have at present.

Meanwhile most of the polls suggested that the Greens have a reasonable prospect of at least repeating the 7% of the list vote that they secured in 2003. Such a result might put them in a pivotal position in the next parliament should Labour and the SNP continue to be close to each other. The prospects for the SSP in contrast looked rather less certain even before the recriminations from the Tommy Sheridan libel action engulfed the party in August.

Figure 4.10 Holyrood voting intentions

Fieldwork	Con	Lab	Lib Dem	SNP	Green	Others
	%	%	%	%	%	%
Labour/Late April	15/14	30/27	17/21	29/26	Na	10/12
MORI/Apr-June	15/16	28/26	19/19	30/28	4/6	4/5
Scottish Opinion/ SNP/late Aug	10	33	19	33	5	2

Notes: Figures in each cell are constituency vote/list vote. The name of the agency that conducted the Labour poll was never published. It did not produce a separate figure for Green and SSP. The MORI survey estimated SSP at 1% on both votes. Scottish Opinion only asked a single vote intention question and did not produce a separate figure for SSP.

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Others
	%	%	%	%	%	%	%
29/6-4/7/06	11/9	37/29	14/17	31/33	3/5	3/5	1/2
27/7-1/8/06	13/10	37/29	14/15	29/32	2/8	3/4	2/2
24-29/8/06	12/11	36/28	17/19	28/27	3/8	4/6	1/1

Note: Figures in each cell are constituency vote/list vote

Source: TNS System Three

4.4.2 Westminster Vote Intentions

Only a MORI poll provided any estimate of the parties' standing in Westminster elections. It demonstrated a continued disparity between the popularity of Labour and the SNP for Holyrood and that for Westminster. Nevertheless Labour's 36% rating was both eight points down on its standing in the equivalent survey conducted between January and March, as well as three points down on its general election standing. It thus echoed the losses Labour was suffering in the British polls over the same period. Meanwhile the SNP had at least appeared to have recovered the second place in Westminster electoral politics that they had lost to the Liberal Democrats in the 2005 general election.

Figure 4.11 Westminster Voting Intentions

Fieldwork	Con	Lab	Lib Dem	SNP	Others
	%	%	%	%	%
MORI/Apr-June	17	36	17	24	6

Source: MORI

4.4.3 Local Government By-Elections

Four local by-elections held during this period revealed a rather mixed picture of the strength of the SNP challenge. The nationalists lost to the Conservatives the seat of a formerly popular local councillor in the constituency of the Conservatives' only Westminster MP, David Mundell. The outcome suggests that Mr Mundell is having some success in consolidating his position in the constituency he captured only last year. In contrast the SNP captured from Labour a seat in West Dunbartonshire that Labour had successfully managed to defend in a by-election just a year earlier. Indeed, with Labour's share of the vote down in all four by-elections, the party once again consistently lost ground in local contests. Meanwhile the SSP vote fell in both the two

by-elections it contested, confirming the evidence of previous local by-elections that the party's support has declined.

Figure 4.12 Local Government By-election Results

11/5/06 South Lanarks./Biggar, Black Mount & Symington	% vote	Change in % vote since 2003
Conservative	33.1	+20.5
Labour	5.1	-3.5
Liberal Democrat	-	-
SNP	30.4	-34.1
Independent	17.1	I

Turnout 49.3 (-4.3)

18/5/06 East Ayrshire/Altonhill, Hillhead & Long Park	% vote	Change in % vote since 2003
Conservative	14.7	+6.1
Labour	24.4	-6.8
Liberal Democrat	-	-
SNP	59.0	+4.4
SSP	1.9	-3.6

Turnout 42.2 (-2.2)

15/6/06 West Dunbartonshire/Dumbarton West	% vote	Change in % vote since 2003
Conservative	4.4	I
Labour	44.8	-16.4
Liberal Democrat	-	-
SNP	45.1	+24.5
SSP	5.7	-12.5

Turnout 46.2 (-0.2)

10/8/06 Highland/Lochardil	% vote	Change in % vote since 2003
Conservative	4.2	I
Labour	9.2	-6.9
Liberal Democrat	43.9	I
SNP	18.1	I
Independent	22.4	-6.3
Independent	2.2	I
Independent	-	W

Turnout 53.9 (-5.3)

Notes: I Did not fight seat in 2003

W Fought seat in 2003 but did not contest by-election

Sources: www.gwydir.demon.co.uk/byelections; www.alba.org.uk

5. Intergovernmental relations

5.1. General

There have been no meetings of the plenary Joint Ministerial Committee since the April report, nor any publicised meetings of either functional formats of the JMC or intergovernmental ministers outside the JMC framework. (From a UK point of view, the most pressing intergovernmental issue has been the Parliamentary consideration of the Government of Wales bill, which received royal assent on 26 July.)

A summit (plenary) meeting of the British-Irish Council (BIC) took place in London on 2 June 2006, chaired by John Prescott MP (the UK Deputy Prime Minister) and Dermot Ahern TD (the Irish Foreign Minister). The Scottish Executive was represented by Nicol Stephen MSP, the Deputy First Minister and Ross Finnie MSP, Minister for Environment & Rural Development. The meeting was concerned mainly with the environment, and in particular climate change issues.⁵⁰ This is a matter for which the UK Government leads work within the BIC. A further sectoral meeting on the environment took place in Guernsey on 26 June 2006, chaired by Ian Pearson (UK Government Minister of State for Climate Change and the Environment).⁵¹

Jack McConnell visited the Northern Ireland Assembly at Stormont on 22 May, where devolved politicians have until 24 November to agree on how devolution may be restored. Otherwise the UK Government will abolish the Assembly.⁵² The goal of the visit appears to have been gentle encouragement; McConnell reportedly told MLAs:

“I am not here to promote the benefits of devolution for any political purpose. I don't want you to think that I believe everything or even anything we have done in Scotland is automatically appropriate or desirable in Northern Ireland's context. I'm not here to give any view on the politics of devolution for Northern Ireland. But I am here to offer you Scotland's hand of friendship.”

5.2 Adjusting the devolution settlement

The only order made varying the devolution settlement since May is The Scotland Act 1998 (Agency Arrangements) (Specification) Order 2006, SI 2006 No. 1251. This

⁵⁰ The meeting's communiqué is at

http://www.britishirishcouncil.org/documents/london_summit2.asp

⁵¹ The communiqué is available at <http://www.britishirishcouncil.org/documents/environment7.asp>

⁵² A news release is at <http://www.scotland.gov.uk/News/Releases/2006/05/22141155>

empowers the Scottish Ministers to purchase a fire radio control system by authorising them to do so as agents of the UK Government.

5.3 The West Lothian Question

Issues relating to the West Lothian question have crept up the agenda. The Commons Scottish Affairs Committee produced (rather suddenly) a report following its inquiry into the Sewel convention.⁵³ The report's conclusions and recommendations regarding Sewel were rather anodyne, essentially following earlier recommendations from the Lords Constitution Committee and Scottish Parliament's Procedure Committee that such matters should be handled between the legislatures rather than between executives, as happens at present. Slightly odder was the report's section about the West Lothian Question (whether Scottish MPs should participate at Westminster in business which, by virtue of devolution, does not affect Scotland). This section attracted considerable media interest, as the report suggested that a failure to address the issue "could actually undermine the whole devolution settlement" (para. 50). Other contributions to this debate included an article by Michael Forsyth (a former Scottish Secretary and now Lord Forsyth of Drumlean) in the *Daily Telegraph*. This suggested that the UK Government should endorse Lord Baker of Dorking's Lords private member's bill to stop Scottish MPs voting on matters affecting England or England and Wales where the equivalent issues affecting Scotland have been devolved to the Scottish parliament. He also suggested that Scottish MPs should sit at Holyrood to determine devolved Scottish matters, replacing separately-elected MSPs⁵⁴. Michael Wills MP (a former junior minister at the Lord Chancellor's Department, and reportedly close to Gordon Brown) wrote a wide-ranging paper for the Institute of Public Policy Research. He contended that the asymmetric devolution settlement had popular support, and that there was little popular support for an English Parliament. However, he also argued that a 'new covenant' defining the constitution was needed, to deal with outstanding constitutional matters

⁵³ House of Commons Scottish Affairs Committee *The Sewel Convention: the Westminster Perspective* Fourth Report of Session 2005-06 HC 983 (London: The Stationery Office, 2006). Available from <http://www.publications.parliament.uk/pa/cm/cmsscotaf.htm>

⁵⁴ Michael Forsyth 'English tolerance is at breaking point - but there is a solution' *Daily Telegraph* 25 June 2006; available at www.telegraph.co.uk/opinion/main.jhtml?xml=/opinion/2006/06/25do2503.xml

including the place of Scotland and Wales in the United Kingdom, to be framed by an elected constitutional convention.⁵⁵

Politically, the most remarkable contribution came from Jack Straw (Leader of the Commons following the May reshuffle) speaking to the Hansard Society on 11 July 2006. He robustly attacked the suggestion of excluding Scottish MPs from voting on matters devolved in Scotland which therefore affected only England or England and Wales.⁵⁶ This attack on the proposals in Lord Baker's bill was couched largely in terms of practicality and attendant technical problems. But it went on to aver that this "would start to dissolve the glue which binds our Union, and over time would lead to the break-up of the United Kingdom itself."

He continued:

"Let us be clear. The United Kingdom – Great Britain and Northern Ireland – is a union which works to the equal benefit of all four nations of the union. The whole is greater than the sum of the parts. But the other three nations have not done England a favour by joining the union. Historically, England called the shots to achieve a union because the union was seen as a way, amongst others things, of amplifying England's power worldwide. And the reverse would certainly be true. A broken- United Kingdom would not be in the interests of Scotland, Wales Northern Ireland, but especially not England. Our voting power in European Union would diminish. We'd slip down in the world league GDP tables. Our case for staying in the G8 would diminish and there could easily be an assault on our permanent seat in the UN Security Council."

He also said:

"It is correct that at any one time whilst the Scotland Act is in force, some legislative matters which for England (and to some degree Wales) would be dealt with in the Westminster Parliament, are for Scotland to deal with in the Scottish Parliament. But the only legal reason why the Scottish Parliament has this power is because the Westminster Parliament has delegated – devolved – its powers over these domestic areas to the Scottish Parliament. Power devolved is not power ceded – quite the reverse. The Scotland Act 1998 only came into force

⁵⁵ Michael Wills *A New Agenda: Labour and democracy* (London: ippr, 2006); available from <http://www.ippr.org/publicationsandreports/>

⁵⁶ The speech is at http://www.hansardsociety.org.uk/assets/Hansard_society_speech.pdf

after a referendum in Scotland, and it would in my view be both unwise and a breach of faith with the Scottish people for any significant changes in the Scotland Act to be made without the consent of the Scottish people in a further referendum. But, legally, the Scotland Act is no different from any other Act of Parliament. It is not specially entrenched law. No Parliament can bind its successor. So in theory, the majority of English MPs could – however unlikely it might be – change or repeal the Scotland Act.”

Whether such comments are altogether politic will be seen during the looming Holyrood election campaign.

6. Scotland, Europe and International Relations

6.1 China and the China Strategy

The Scottish Executive published its China Strategy on 28th August 2006.⁵⁷ Scottish Ministers, including the First Minister, have made several political and business trips to China in the last few years (see previous monitor), with Chinese leaders visiting the Scottish Parliament and signing an educational agreement with the Executive. The strategy identified 10 targets for Scotland to be delivered by 2010, focused on economic development, tourism, and education. The Executive also signed a specific partnership agreement with Shandong province.⁵⁸ Shandong is one of 5 priority regions within China. The agreement focuses on trade and investment, science and technology, tourism, education and environment. The overall China strategy is to be overseen by a China desk within the International Division of the Executive, as well as through the designation of a Scottish Affairs Office and First Secretary within the British embassy in Beijing.

Of course, the China strategy raises several questions. First, here is yet another Scottish Executive international strategy – number four in fact – which involves yet more partnership agreements (to add to four European regions, the state of Victoria, Malawi etc). Scotland seems to be having partnerships with multiple partners, which suggests a fragmented focus within the Executive – a kind of scattergun approach. Moreover, until agreements generate specific action plans which are then measured over time, it's difficult to determine the success of such partnerships. Second, this strategy is focused on China as opposed to any of the other BRIC (Brazil, Russia, India, China) countries and the question is why (educational opportunities in the English language plus a burgeoning middle class might be the answer)? And, is it wise to pick some countries rather than others (are we picking the right ones?). Third, there is the question of relations with other Asian countries and, specifically, economic links and inward investment from Japan.⁵⁹ Is Scotland changing focus from traditional partners and how will they react?

⁵⁷. Scottish Executive, *Scotland's Strategy for Stronger Engagement with China*, 2006.

⁵⁸. <http://www.scotland.gov.uk/News/News-Extras/shandongprovince>

⁵⁹. Douglas Fraser, *The Herald*, 29th August 2006, p.6.

6.2 Malawi

Scottish Executive Culture Minister, Patricia Ferguson, visited Malawi in May to discuss the implementation of the co-operation agreement between Scotland and Malawi. Part of the visit was to facilitate assistance in tourism from VisitScotland to examine how the organisation could assist Malawi to develop and market tourism.⁶⁰ In a parliamentary debate on 29 June, Ferguson listed some of the Scottish organisations working in Malawi. Scottish International Relief, a charity, with Executive funding, was feeding 80,000 children. The Health department, alongside DfID, was working to improve maternal care and dealing with HIV/AIDS infection. The BBC, STV and Napier University's journalism department to develop public information broadcasting and journalism. Scottish Ombudsmen services were working to improve access to services in rural areas and Scottish schools were being encourage to build links with schools in Malawi. The Executive had also paid for a Malawi choir to perform at Orkney's St Magnus Festival.⁶¹

6.3 Scotland's external relations

Scotland's latest overseas links are with Estonia, where an official of Scottish Development International has been posted to develop trade with the Baltic Republic.⁶²

6.4 Fresh Talent and Inward Migration

Scottish Executive efforts to attract skilled migrants through its Fresh Talent initiative have continued, with a focus on Poland as one particular source of inward migration. The Executive launched a guide for Polish workers in June, with a special Polish language website created to provide advice and information to potential migrants.⁶³ Whilst it is difficult to determine what proportion of new migrants come from Poland to Scotland, Poles are the largest group of migrants from the accession states to apply to come to the UK under the government's Worker Registration Scheme. Scotland has gained 32,135 migrants from the accession states from 2004-6 and a total of 447,000

⁶⁰. Scottish Executive News release, 23rd May 2006.

⁶¹ www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-06/sor0629-02.htm#Col27097

⁶² See <http://www.scotland.gov.uk/News/Releases/2006/05/19121419>

⁶³ <http://www.szkocja.eu/>

people have participated in the worker registration scheme across the UK from 2004-6.⁶⁴ In Scotland, it is estimated that about 20,000 Poles have taken advantage of the new scheme, and new migrants from the accession states have clustered in certain sectors of the economy - 27% in hospitality and catering, 20% in agriculture and 15% in administration, business and management.⁶⁵ Overall, such developments have had implications for population figures across Scotland and the UK. According to the Office of National Statistics, population increased across the UK to over 60 million for first time. Moreover, the Scottish population increased to 5,094,800 (8.5% of UK population) as of mid-2005.⁶⁶

Of course, whilst Scottish Ministers are keen to stress that the migration figures are signs of the success of Fresh Talent, it is arguable whether the policy has had any great effect. The large numbers of migrant workers coming to the UK from the accession states would have delivered thousands of workers to Scotland regardless of initiatives such as Fresh Talent. And, Polish workers were employed in Scotland from 2004 onwards – i.e. a long time before the Executive produced information documents and a Polish-language website on Scotland. Fundamentally, there is also the question of whether the ‘fresh talent’ that is being attracted is in the right economic areas for the future – as opposed to filling current vacancies in hospitality and catering and agriculture. Finally, there is the question of these migrants staying to give a permanent boost to the Scottish population and skills base (and birth rate) or merely staying for a few years before returning home.

⁶⁴. Statistics from Home Office Immigration and Nationality Department, *Accession Monitoring Report, May 2004 - June 2006*, available at http://www.ind.homeoffice.gov.uk/6353/aboutus/Revised_data_MT.final.pdf

⁶⁵. Ibid.

⁶⁶. Data from Office of National Statistics, 2006, available at <http://www.statistics.gov.uk/cci/nugget.asp?id=6>

7. Relations with Local Government

7.1 Antisocial Behaviour Orders

Antisocial Behaviour Orders (ASBOs) continued to be controversial. In May, Jack McConnell, the First Minister, called on Scotland's communities to demand greater use of antisocial behaviour powers at local level. He told a conference in North Lanarkshire⁶⁷ that the area had led the way on the use of ASBO powers and others across Scotland should follow that lead. McConnell said communities must demand greater use of the powers available within their neighbourhoods if there is to be an end to violence and public disorder.

This was taken as a criticism of the failure of councils to use the powers. However, councils insisted they were doing everything possible to rid communities of vandalism, intimidation by gangs of youths and other antisocial behaviour problems. Councillor Pat Watters, president of the Convention of Scottish Local Authorities (COSLA) was quoted as warning of a danger that ASBOs could become 'badges of honour through indiscriminate use'.⁶⁸ It was reported later in the month that councils rebuffed pressure from ministers to increase the use of ASBOs on young people, only four orders having been issued in two years.⁶⁹ The COSLA social work spokesperson, Councillor Eric Jackson, said councillors were closer to the people affected by antisocial behaviour and knew better how to tackle it.

7.2. Shared Services

A consultation paper on a national strategy for shared services in local government and the public sector was published by Tom McCabe, finance minister.⁷⁰ Forecasting potential savings of between £250 million and £750 million a year across the entire Scottish public sector, he said shared corporate support services and business

⁶⁷ Scottish Executive Press release, 'Call for greater use of ASB powers,' 5 May 2006, <http://www.scotland.gov.uk/News/Releases/2006/05/05115300>

⁶⁸ Michael Howie and Scott Macnab, The Scotsman, 6 May 2006, 'McConnell decries low use of ASBOs'. <http://news.scotsman.com/scotland.cfm?id=679742006>

⁶⁹ Douglas Fraser, The Herald, 26 May 2006, 'Councils block executive's ASBO plans' http://pqasb.pqarchiver.com/smgypubs/results.html?st=advanced&QryTxt=Asbo+plans&sortby=REVERSE_CHRON&datetype=6&fromday=24&frommonth=05&fromyear=2006&today=27&tomonth=05&toyear=2006&By=Douglas+Fraser&Title=&publications=0&x=47&y=7

⁷⁰ Scottish Executive Press release, 'Shared services strategy.' 5 May 2006. <http://www.scotland.gov.uk/News/Releases/2006/05/05110720>

processes could deliver significant savings and improve the quality of services. He pointed out that the new shared services strategy on which the Executive was seeking views was central to its Efficient Government initiative which aimed to tackle bureaucracy and duplication in the public sector. The minister was reported as warning that the Executive's search for cuts would mean "difficult decisions" on staff numbers, portending a battle with unions over job losses⁷¹. The consultation document lists information technology, finance, human resources, procurement, property/facilities management and legal services as the most popular public sector areas for shared services. As an example, it states that the collection of local taxes and payments of housing benefits could become the responsibility of a single national organisation operating on behalf of Scottish local authorities.⁷²

7.3. Public Sector Reform

Wider issues of public sector reform were discussed in a long-awaited consultation document published by the Executive in June.⁷³ This did not set out any plans for structural change and gave no specific options. Instead, it stressed the Executive's desire to consult and seek the views of the public sector on the way forward. Tom McCabe offered Scotland's public services the "unprecedented bottom-up opportunity to shape their own future" and said the Executive was not proposing top-down solutions. "We are calling on everyone with a stake in public services to consider how best to move forward,"⁷⁴

These ideas could result in some councils being merged to form single units or particular services, like education, becoming a shared service. *The Scotsman* reported that council leaders were holding talks with ministers to cut the number of local authorities and that

⁷¹ Tom Gordon, *The Herald*, 6 May 2006, 'Job cuts warning as McCabe claims sharing services can save £750m', http://pqasb.pqarchiver.com/smgpubs/results.html?st=advanced&QryTxt=Jobs+cuts+warning&sortby=REVERSE_CHRON&datetype=6&fromday=05&frommonth=05&fromyear=2006&today=08&tomonth=05&toyear=2006&By=Tom+Gordon&Title=&publications=0&x=47&y=12

⁷² 'A shared approach to building a better Scotland', Scottish Executive, May 2006, <http://www.scotland.gov.uk/Publications/2006/05/11102023/0>

⁷³ 'Transforming public services: the next phase of reform,' June 2006, <http://www.scotland.gov.uk/Publications/2006/06/15110925/0>

⁷⁴ Scottish Executive Press release, 'Executive offers public services the chance to shape their own future – McCabe,' 15 June 2006, <http://www.scotland.gov.uk/News/Releases/2006/06/15153531>

councillors and officials had offered to merge their councils.⁷⁵ COSLA has agreed to co-operate with reform provided it is not confined to local government. In a statement which coincided with the publication of the consultation document, Cllr Watters commended Mr McCabe for his inclusive approach and described the planned reform as an “opportunity to make real and lasting meaningful change in public services for the people of Scotland.”⁷⁶

7.4 Free Personal Care

The Executive’s flagship policy of providing free personal care for the elderly roused debate after a disclosure that elderly people were being forced on to lengthy waiting lists because councils were not being given sufficient funds to finance the scheme. Almost 5,000 pensioners were said to be on waiting lists according to figures from a snapshot survey in February 2006.⁷⁷ Of this number, 4,005 were waiting for a council assessment of what support they should get while the remaining 709 had been assessed but had to wait for actual services.

A report by the Parliament’s health committee concluded that free personal care had been a success and had been well received. However, it called for a remodelling of the care budget, the removal of a legal loophole allowing councils to maintain waiting lists, a law change to make assistance with preparation of food clearly eligible for support and a new minimum period for assessment, or the back-dating of claims, to remove the incentive to local authorities to delay assessments.⁷⁸ COSLA’s spokesperson, Councillor Eric Jackson, was delighted with the committee’s conclusion. He said that problems affecting a few councils resulted from costs being considerably higher than those estimated when the policy was implemented in 2002. Cllr Jackson agreed that some legal and practice issues surrounding waiting lists needed to be clarified.⁷⁹ The

⁷⁵ Peter MacMahon, ‘Behind-the-scenes talks on local authority mergers,’ *The Scotsman*, 22 June 2006. <http://thescotzman.scotsman.com/index.cfm?id=911322006&format=print>

⁷⁶ COSLA News Release, ‘COSLA praises enlightened and inclusive finance minister,’ http://www.cosla.gov.uk/news_story.asp?leftId=10001E4DF-10766761&rightId=10001E4DF-10771446&hybrid=false&storycode=1000110CC-15556561

⁷⁷ Hamish MacDonell, ‘5,000 pensioners are forced to wait for free personal care.’ *The Scotsman*, 14 June 2006, <http://news.scotsman.com/politics.cfm?id=871842006>

⁷⁸ ‘Care Inquiry,’ 13 June 2006, <http://www.scottish.parliament.uk/business/committees/health/reports-06/her06-10-vol01-00.htm>

⁷⁹ COSLA Press release, ‘Health committee shares COSLA view on success of free personal care,’ 13 June 2006, http://www.cosla.gov.uk/news_story.asp?leftId=10001E4DF-10766761&rightId=10001E4DF-10771446&hybrid=false&storycode=1000110CC-15556561

Executive published a study by University of Stirling researchers.⁸⁰ It concluded that there was broad support for the policy but stressed the need for greater clarity on how to calculate the costs of free personal care.

7.5. Public Sector Pensions

In a statement aimed at resolving a dispute over local authority pensions, the Executive announced it would consult on implementation of a transitional protection for existing members of the local government pension scheme.⁸¹ This arrangement is necessary because of the abolition of the Rule of 85 which allows local government employees to retire early without an actuarial reduction in their pension if their age and years of service add up to at least 85. The Executive insisted that the rule had to be removed by October 2006 to comply with European Commission law. Local authorities and the unions disputed the Executive's interpretation of the EC law and workers had taken nationwide industrial action over the issue.

In the Executive statement, Tom McCabe proposed full transitional protection to 2020 for existing members who decide to retire before 65 if they had attained the age of 60 and satisfied the rule by that date. The minister also promised continuing discussions with the trades unions and COSLA and to consult widely on costed, realistic options for a new look local government pension scheme, specifically tailored for Scotland, with the objective of having modernised arrangements in place for April 2008.

It was claimed the 2020 cut-off gave Scottish workers a more generous deal than their counterparts south of the Border where a 2016 deadline applied.⁸² Audit Scotland also published a report dealing with the six main public sector pensions schemes in Scotland. It pointed out that greater life expectancy was increasing the value of pension liabilities and that the combined funding shortfall and unfounded liabilities of these schemes could be as high as £53 billion.⁸³

⁸⁰ 'Establishing the evidence base for an evaluation of free personal care in Scotland,' 20 June 2006, <http://www.scotland.gov.uk/Publications/2006/06/16110823/0>

⁸¹ Scottish Executive news release, 'Local authority pensions,' 29 June 2006, <http://www.scotland.gov.uk/News/Releases/2006/06/29153120>

⁸² Peter MacMahon and James Kirkup, 'Pensions rule of 85 upheld to 2020,' The Scotsman, 30 June 2006, <http://news.scotsman.com/politics.cfm?id=953552006>

⁸³ 'Public sector pensions schemes in Scotland,' 20 June, 2006, <http://www.audit-scotland.gov.uk/>

7.6. Community Planning

Increasing emphasis is being put on community planning as a system in which councils can join with other public bodies to improve public services. Audit Scotland reported that community planning partnerships had made progress but needed to do more to show how their work was improving public services.⁸⁴ The report also stated that partnerships' complex remit made it difficult for them to achieve their aims and called on the Executive to support community planning more effectively. According to Audit Scotland, all councils have established community planning partnerships but it is too soon to find much evidence of the effectiveness of individual partnerships in improving local services. The report stated that different geographical boundaries and accountabilities could make it hard for organisations to work well together and the large number of national policy initiatives each with their own funding arrangements could also make it difficult for partnerships. One of Audit Scotland's conclusions was that partnerships now need to do more to demonstrate improvements for communities, COSLA responded that it was pleased with the progress in delivering community planning but stressed that this had to be built on in terms of improving services.⁸⁵

7.7. Social Services

The Scottish Executive published a five-year plan for social services.⁸⁶ This followed the earlier report, 'Changing Lives, the 21st century review of social work'. Nearly 100 actions for the Executive, service providers and professionals were detailed in the implementation plan, backed by funding of £15 million over the first two years. The plan proposed national leadership and co-ordination of the implementation process and a social work services forum to bring together for the first time a broad range of bodies involved in social work services. The plan set out a five-year programme for overhauling the service and a timetable for action over the next two years.

⁸⁴ Community planning: an initial review, 16 June 2006, <http://www.audit-scotland.gov.uk/index/06pf03ag.asp>

⁸⁵ COSLA Press release, 'Community planning progress must be built on, says COSLA,' 16 June 2006, http://www.cosla.gov.uk/news_story.asp?leftId=1000184B6-10766761&rightId=1000184B6-10771676&hybrid=false&storycode=1000184B6-15552276

⁸⁶ Scottish Executive Press release, 'Five year plan to overhaul social services,' 28 June 2006, <http://www.scotland.gov.uk/News/Releases/2006/06/28140651>

7.8. Council Tax Collection

An Executive report published in July presented the results of a 2005 study on improving council tax collection.⁸⁷ Ministerial concern that not enough money is being collected was revealed in separate releases. A statistical publication showed that in 2005-06 the total amount of council tax billed in Scotland (excluding council tax benefit) was £1.780 billion. By 31 March 2006, £1,661 billion was collected, but £119 million remained unpaid.⁸⁸ In a separate Executive release, provisional figures revealed that Scottish councils collected an estimated 93.3 per cent of their 2005-06 council tax, an increase of 0.6 per cent on the previous years. The figures also showed that 29 out of the 32 councils had improved their in-year council tax collection rates in 2005-06. Mr McCabe said the figures were a step in the right direction but there was still room for improvement.⁸⁹ The Executive study on improvements pointed out that the council tax recovery mechanisms and sanctions available to Scottish local authorities were different from, and generally weaker than, those available in England. Key problems and limitations related to water and sewerage (billed separately in England and Wales, but included in Scottish council tax bills); timing of the collection process; power to seize goods or property and committal powers (people who refuse to pay council tax can be jailed south of the Border but not in Scotland).

The study found that most of the variation in collection rates between local authorities and smaller areas could be explained statistically by objective demographical and socio-economic factors. The stronger drivers of variation were measures of poverty and deprivation, with unemployment and transitory benefit status being particularly associated with problems. The report also referred to a large systematic difference in collection – in England and Wales council tax collection rates are 4-5 percentage points higher than in Scotland. Some evidence from the study suggested that inappropriate arrangements for collecting previous year's arrears were getting in the way of effective in-year collection and the report suggested that greater discretion might be allowed to write off arrears once in-year collection rates showed particular levels of improvement.

⁸⁷ 'Improving council tax collection rates in Scotland,' 20 July 2006, <http://www.scotland.gov.uk/Publications/2006/07/18161737/0>

⁸⁸ Scottish Executive Press release, 'Council tax collection statistics,' 10 July, 2006, <http://www.scotland.gov.uk/News/Releases/2006/07/10094014>

⁸⁹ Scottish Executive Press release, 'Figures show increase in collection of council tax,' 10 July, 2006, <http://www.scotland.gov.uk/News/Releases/2006/07/10094910>

8. Finance

8.1 Summary

As usual, the summer has been quiet, with only two official items to note: the bi-annual Scottish Economic Report and an announcement by the Finance Minister on end-year flexibility. The statement was expected, but cynics were not surprised at its timing the day before Parliament entered its summer recess. The remaining items are the continuing saga of financial management at Scottish Enterprise and the delayed publication of the outcomes of the Budget Review Group's report.

8.2 Scottish Economic Report

The Scottish Economic Report⁹⁰ compares Scotland's continued relative economic prosperity with Wales, Northern Ireland and the English regions. In the recent past, Scotland has consistently lagged behind the annual Gross Value Added (GVA) growth rate of the United Kingdom. In 2005 this changed. Both the UK and Scotland grew at 1.8%. The last time there were identical growth rates was in 2001. Then, as in 2005, the UK's growth rate fell more sharply than Scotland's. It was not a case of Scotland growing more quickly, it merely didn't slow down as quickly. Even with a consistently below-UK growth rate Scotland ranks fourth in the UK regional GVA table after London, South East and East of England, with GVA per head £2,700 ahead of Northern Ireland (10th) and £2,900 ahead of Wales (12th and last).

However, Scotland performs more poorly than Wales and Northern Ireland in terms of unemployment, but has higher levels of economic activity. The picture is a mixed one, but adds weight to the accusation that Scotland receives more identifiable spending per head than it should do given its economic circumstances, not only when compared with Wales and Northern Ireland, but also with the regions of England. The latest figures available from the Treasury⁹¹ show Scotland has higher identifiable expenditure per head than any English region while Wales is below only London and the North East. Northern Ireland's position remains obscured by the security requirements required there.

⁹⁰ Available from <http://www.scotland.gov.uk/Publications/2006/06/27171110/0>

⁹¹ Available from http://www.hm-treasury.gov.uk/media/172/83/pesa2005_chapter8.pdf

8.3 End-Year Flexibility

A key change in public sector budgeting introduced in the late 1990s was the formal concept of end-year flexibility. This was designed to prevent a spending spree in the last months of each financial year as departments sought to prove they needed their existing budget plus more for the next year. Departments, and the Executive counts as a department in Treasury budgeting, are permitted to retain surpluses generated over the course of the year and draw them down in future years.

This year the finance minister has chosen to draw down £355m in 2006-07 and £455m in 2007-08.⁹² The figure drawn down in 2005-06 was £170m. Cynics suggested that this was as close to a pre-election economic boost as the powers devolved to the Scottish Parliament allow. However it does come close on the heels of an announcement outlined in the previous Report that the Treasury was demanding that funds held in the Treasury for Scotland could only be drawn down where it could be shown that the proposed spending activities demonstrated value for money. The argument over the relationship between the Executive and the Treasury appears to have blown over, largely because the Treasury was always bound to win, and Mr McCabe was keen to stress that the money was being accessed “following discussion and agreement with the Chief Secretary to the Treasury”. It has not yet been made clear where the drawn down funds will be allocated.

8.4 Budget Review Group

In October 2005 a group was established to review how well the Executive’s priorities were being met across all departments. The eight members of the group were drawn mostly from local government and were tasked to ensure that the priorities set out in the Partnership Agreement, the document setting out the Labour-Liberal Democrat coalition deal, were being delivered. In announcing the Review the finance minister said that, “I am confident they will be in a position to provide a progress report by the end of January 2006, and the final report by the end of February 2006.”

⁹² A full copy of the Minister’s statement can be accessed at <http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-06/sor0628-02.htm#Col26933>

The minister subsequently stated, in evidence to the Parliament's finance committee that "I intend to publish a report in spring next year, although that timescale is not set in stone. I have asked for an early report because I want as much time as possible, along with my ministerial colleagues, to consider the report."⁹³ All of these dates have been and gone, much to the dismay of the SNP.

The finance committee's deputy convenor and former SNP leader, John Swinney, was reported in *The Herald* as believing publication had been delayed because the report offered a "damning indictment of their mismanagement of Scotland's finances."⁹⁴ This seems unlikely. Swinney may also be unwise to make the accusation, since it damns his own committee. They are responsible for examining the Executive's budget proposals and it says little for their role if an ad hoc committee can reach such a conclusion in a matter of months when the finance committee has been scrutinising the same documents since 2003. It's more likely that electioneering has started early, although the Review Group may have uncovered some uncomfortable information that the Executive would rather keep to itself for now.

8.5 Scottish Enterprise

In late 2005 Scottish Enterprise informed the Scottish Executive that it was likely to overspend its projected budget. There was nothing particularly unusual in this, as the Enterprise network was undergoing reorganisation. Small over- or underspends are a hazard of budget forecasting, and with both cash and non-cash budgets, an overspend in one is often met by an underspend in another. However, the deficit at Scottish Enterprise was not small. Initially Scottish Enterprise's budget was forecast to be overspent by £100m, around a fifth of its annual budget. This was subsequently reduced to £33m. In May 2006 Scottish Enterprise were given an additional £45m, but not before external auditors had been appointed to investigate.

The events at Scottish Enterprise were the subject of an enterprise and culture committee report in June 2006.⁹⁵ The committee was critical both of the Executive's

⁹³ Available from <http://www.scottish.parliament.uk/business/committees/finance/or-05/fi05-2402.htm#Col3013>

⁹⁴ "Spending figures to stay secret for year" *The Herald*, 18th August 2006.

⁹⁵ Available from <http://www.scottish.parliament.uk/business/committees/enterprise/reports-06/ecr06-11.htm>

handling of the overspend and of the reorganisation undertaken by Scottish Enterprise that in part created it. Scottish Enterprise is often the target of attacks for Scotland's relatively low growth rate, with a recent suggestion from the SNP that local enterprise companies be removed from its control and passed to local authorities. This is unlikely, at least in the short-term, but Scottish Enterprise will have looked on the re-absorption of the Welsh Development Agency into the Welsh Assembly Government as a possible template for its own future, which these events have made uncertain.

8.6 Conclusion

With the budget for the period up to the next Scottish Parliament elections already agreed it is unlikely that any major announcements will be made by the Executive before May 2007. However, electioneering will pick up pace and the next few months may well see both partners within the coalition attempt to distance themselves from certain government spending priorities to mark out their differences.

9. Disputes and litigation

There have been no devolution disputes considered by the Joint Ministerial Committee during the period covered by this report. The Judicial Committee of the Privy Council has not given judgment in any cases concerning devolution issues, nor have questions relating to devolution been at issue in the Scottish courts.

The number of devolution issues notified to the Advocate-General for Scotland appears to be:

28 March - 9 May 2006	102 ⁹⁶
9 May – 2 June	37 ⁹⁷
3 June – 7 July	<u>60⁹⁸</u>
Total	199

⁹⁶ HC Deb, 9 May 2006, col. 153 (69 of which were in civil proceedings and 33 in criminal ones).

⁹⁷ HC Deb, 5 June 2006, col. 142W (20 civil, 17 criminal).

⁹⁸ HC Deb, 3 July 2006, col. 938W (42 civil, 28 criminal).

10. Political Parties

10.1 The Scottish Socialist Party on Trial

It would take a book to do full justice to the legal and political travails that hit the Scottish Socialist Party over the summer of 2006. Some episodes, during and after a sensational legal action against the *News of the World* by SSP MSP Tommy Sheridan, were reminiscent of Monty Python's 'Life of Brian'. The SSP's account of the background provides a useful timeline of the key events.⁹⁹

The story began in 2004. Tommy Sheridan decided to stand down as SSP convenor, ostensibly to spend more time with his family (his wife was expecting their first child). This decision was made at an SSP Executive meeting on 9 November 2004.¹⁰⁰ However, very quickly (and forever after), the exact details of what transpired at that meeting, particularly the reason for Sheridan's resignation, were disputed. He stated that it was about family, though subsequently he blamed a political conspiracy by opponents in the party. Others within the SSP – including most leading elected members – stated (under oath in court) that Sheridan resigned because he had admitted that he was the unnamed MSP whose private life had been the subject of allegations in the *News of the World* and, more importantly, that he had admitted these allegations. The issue might have died away had Sheridan not been determined to take the *News of the World* to court over further allegations, this time naming him, it published about his private life on 30 October and 14 November 2005. These included visits to Cupid's sex club in Manchester and taking part in swingers' parties in a Glasgow hotel. The political and financial consequences of this action were not lost on Sheridan's SSP colleagues, who feared disaster for the party – a prophetic view as it turned out.

Before the defamation trial, there was intense conflict within the SSP over evidence for the trial. As is standard practice, the party had taken private minutes of the crucial November meeting. However, *News of the World* lawyers sought the minutes as defence material. Apart from being evidence in itself, it contained details of those attending the meeting, who could be called as witnesses at the trial. The SSP refused to hand over the minutes, even after being served with a court order to do so. Its premises were raided by Sheriff's officers and an Executive member, Alan McCombes, was jailed for contempt of

⁹⁹ <http://www.scottishsocialistparty.org/pages/centrepages.htm>

¹⁰⁰ Minutes of the disputed meeting are available at <http://www.scottishsocialistparty.org>

court. As the legal costs of resistance mounted – not least for McCombes – the SSP relented and voted to produce the minutes, which they did on 29 May.¹⁰¹ In a separate but related development, the police investigated a series of emails from Tommy Sheridan's Scottish Parliament email account to party members in support of a local branch's motion to destroy the minutes of November meeting.¹⁰² Around the same time, Sheridan circulated a letter to party members and the media accusing party colleagues of undermining him by spreading lies about his private life and accusing him of drug dealing and people trafficking.

The defamation case began on 4 July 2006. It featured evidence from key figures within the SSP, as well as individuals cited as witnesses to the sex acts involving Sheridan. The daily newspaper headlines were lurid in the extreme. Both BBC and STV covered the trial in depth, with BBC journalists struggling at times to cover the rather graphic evidence. Witnesses included Sheridan family members, the party's MSPs and leading officials, with four MSPs testifying against Sheridan, and one (Rosemary Byrne) for him. To much surprise, as Sheridan dismissed his lawyers midway through the case and thereafter conducted it himself, the jury found in favour of him and awarded the £200,000 damages he sought against the *News of the World*. It is appealing the verdict.

The aftermath was just as sensational. First, arising from the judge's comments that one side or the other must have not told the truth, the police began to investigate some of the evidence from the trial, though no perjury cases have so far emerged. SSP members who gave evidence at the trial – especially MSPs – have stuck to their guns and insisted that they told the truth during the trial. Second, some of the post-trial rhetoric, specifically remarks about his former colleagues by Sheridan including the words 'liars' and 'scabs' in the *Daily Record* newspaper, brought threats of legal action from some of the party's MSPs. Third, Sheridan's victory brought the potential of a leadership challenge to SSP leader Colin Fox. Sheridan was nominated to contest the leadership at the party's conference in October 2006. In response, the SSP published a dossier about the party's position on the Sheridan trial (reminiscent in places of Khrushchev's secret speech denouncing Stalin's personality cult at the 1956 Soviet Communist party congress).¹⁰³

¹⁰¹ The costs were estimated to be around £30,000, *The Herald*, 10 June 2006.

¹⁰² *Sunday Herald*, 11 June 2006.

¹⁰³ <http://www.scottishsocialistparty.org/pdfs/Bulletinsummer06pdf.pdf>

10.2. Platforms and revolutionary socialism

A full analysis of the role of politics in the break-up of the SSP would need many months of struggle with such searing questions as 'Was Trotsky a liquidationist?'¹⁰⁴ A skim through the evidence suggests the following, albeit possibly imperfect, scenario.

The origin of the SSP lay in the expulsion from the Labour Party of the entryist Trotskyite Militant Tendency in the late 1980s. Scottish Militants formed Scottish Militant Labour (SML) in which Tommy Sheridan and Alan McCombes were prominent activists and strategists. Sheridan's campaigns against the poll tax, which included brief periods in jail, earned him much publicity, a seat on Glasgow Council from 1992, and a big following. In 1996, SML formed a loose alliance with two small and highly unsuccessful parties - the Scottish Republican Socialist Party and the Communist Party of Scotland. Under the label Scottish Socialist Alliance, they contested 16 seats. Sheridan was the most successful candidate, winning 11.1 per cent of the vote in Glasgow Pollok and third place, beating the Conservatives and Liberal Democrats.¹⁰⁵ These results and the imminence of Scottish parliament elections being fought on a proportional basis, persuaded the comrades in 1998 that it was worth tightening the alliance into a party - the Scottish Socialist Party. The key to retaining the different left factions with their different ideologies under the one umbrella was to allow the groupings to retain their identity as 'platforms' within the SSP. Thus the SSP was a collection of parties within a party, plus a large number of people who were not affiliated to any platform but had been attracted by SSP campaigns. One such was Rosie Kane, who joined the ecological protest against the building of the M77 motorway in Glasgow in the late 1990s and became an SSP MSP in 2003.¹⁰⁶

The SSP's success in the 1999 elections in getting Sheridan elected to the Scottish parliament, and his use of that position to pilot a bill through the parliament abolishing a rather medieval debt collection procedure which had been used to collect unpaid poll tax bills, lured in more left parties. These included, in 2001, the significant addition of the Socialist Workers Party (SWP) and the Committee for a Workers International (CWI).

¹⁰⁴ For a discussion, but not necessarily enlightenment, see 'The Scottish Debate' at www.marxist.net/scotland/aug2000/ISM/2.htm

¹⁰⁵ Curran, Frances, and Smith Murray. "The Scottish Socialist Party: A New Socialist Party" *Socialist Outlook*. June 2000. Edited version available at www.redflag.org.uk/ism/ssparticle And Denver, David. "The 1997 General Election in Scotland: An Analysis of the Results" *Scottish Affairs* Vol 20 pp 17-33 Summer 1997

¹⁰⁶ Curran, Frances, and Smith, Murray. *ibid*

These factions maintained platforms within the SSP. The other principal platforms were the International Socialist Movement (ISM), which comprised Sheridan and most of the former SML members, the Revolutionary Communist Network (RCN) and the Scottish Republican Socialist Party (SRSP).¹⁰⁷

After the success of the SSP in the 2003 elections, winning six seats, the internal alphabet soup started to boil. Tensions arose over the party's policy of supporting Scottish independence (opposed by the SWP and RCN as contrary to international class struggle objectives); the role of gender/feminist politics (seen by some as a distraction from class politics); whether reformist agendas such as campaigns for free school meals should be pursued (some argue they corrupt the basic revolutionary aim); and whether the cult of personality/leader (ie Sheridan) has any role in a movement devoted to collective action.¹⁰⁸ The stories in the *News of the World* and Sheridan's response to them were the catalyst for these tensions to break into ideological warfare, overlain with an acrimonious row about what was the truth of Sheridan's life and what 'truth' (compatible with revolutionary socialist struggle) should be told to the court. Prior to the case, the tensions caused the ISM platform to dissolve in March 2006, leaving Sheridan without a platform to stand on.

On 25 August, the latent split within the SSP became a reality. Sheridan announced: 'A split in the SSP parliamentary group will now have to happen and I will be seeking as amicable a divorce as is possible.'¹⁰⁹ He was supported by the SWP and the CWI platforms, who perceived Sheridan's legal victory as a defeat for an attempt by "the Murdoch empire, which set out to smash the trade unions in the 1980s" to "destroy the most charismatic socialist politician in Scotland".¹¹⁰ A new party was informally launched at a meeting of seventy supporters in Glasgow on 27 August, to be led by Rosemary Byrne, MSP for South of Scotland. The party was announced as Solidarity – Scotland's Socialist Movement on BBC *Newsnight Scotland* on 29 August, with a formal launch meeting planned for the following weekend. The party had not been registered with the

¹⁰⁷ Wikipedia. "Scottish Socialist Party" Found at www.answers.com/topic/scottish-socialist-party and related links under that entry.

¹⁰⁸ See Workers' Liberty "SSP: personality cult or class-struggle party?" at www.workersliberty.org/node/6569/print Marxist.net "The Scottish Debate: Revolutionary Party" at www.marxist.net/scotland/aug2000/ISM/2 "Socialism, Feminism and the Future of the SSP" in Frontline Vol 2, Issue 1. Available at www.redflag.org.uk/frontline/vol21/1editorial

¹⁰⁹ BBC News, 25 August 2006.

¹¹⁰ Socialist Worker Platform "Statement on Tommy Sheridan's libel victory." 4 July, 2006. Available at www.socialistworker.co.uk/print_article.php?article_id=9414

Electoral Commission at that stage, though it was to begin negotiating with the SSP over a division of funding and assets. As a considerable amount of the SSP's funding came from MSP's donations, it stood to lose the income from two MSPs (as well as status as a group within the Scottish Parliament), to the new Solidarity party. The SSP and its four MSPs meantime continues under the amended, but untrue, title of SSP United Left.¹¹¹

10.3. Political and constitutional implications of SSP break-up.

What are the prospects for the SSP and Solidarity at the 2007 Scottish election? Regardless of the legal action, 2007 was going to be difficult for the SSP. The party only narrowly won list seats in 2003, scraping across the threshold of representation by fractions of the vote. The only MSP elected with any degree of security was Tommy Sheridan – who had been elected as the party's sole MSP on the Glasgow regional list in 1999. Any small downturn in the SSP vote in 2007 could deliver something akin to the 1999 result. That election is worth recalling for the effect of competition for the far left vote. In 1999, the SSP was relatively new and faced competition from Arthur Scargill's Socialist Labour Party across Scotland. Indeed, the Socialist Labour Party polled better than the SSP in 6 of the 8 regional list votes – gaining twice as many votes in some regions. Only in Glasgow, through Sheridan's profile and popularity, did the SSP perform well. Similar competition between socialist parties in 2007 – especially given the infighting since 2004 – might produce a not dissimilar result.

The episode also seems to have put paid, at least for the time being, to any thoughts that a coalition of independence-supporting MSPs from different parties could act to progress an independence agenda. Before July 2006, 40 MSPs supported independence (25 SNP, 7 Green, 6 SSP, and 2 Independents). Another 25 MSPs gained across these parties would have produced a one-vote majority for independence, and certainly a majority for greater parliamentary powers. But the fracturing of the SSP and its likely eclipse in 2007 makes that prospect much less likely.

10.4. The Moray By-election: The Cost of Failure

The Moray by-election on 27 April 2006 saw a comfortable victory for the SNP with the Conservative challenge a long way behind. The seriousness with which the parties took the contest is revealed by the spending figures released by Moray Council on 21 June. The SNP spent £33,547.44, the Liberal Democrats £43,233.80 and Labour £10,025.30.

¹¹¹ SSP United Left "Statement" 11 July 2006. Available at www.ssp-ul.org/statement

However, the biggest spenders were the Conservatives, who spent £91,132.09 to gain 6268 votes. The party spent over twice as much as the Lib Dems and yet gained only half the vote of the SNP. The Conservative spend worked out at £14.54 per vote and it spent more than the other parties combined (including NHSFirst which spent £1238.61).¹¹² Apart from demonstrating that money does not necessarily buy by-elections, this shows the tough task the Tories face in Scotland. Although the party's campaign suffered mishaps, this was a seat where it has a respectable history, holding it at Westminster 1979-87. There is a strong armed forces vote (through RAF bases at Kinloss and Lossiemouth), a large small business vote and a strong farming vote, all traditional areas of Tory strength. The spending and the result indicate that an investment in the Tories at the 2007 election will yield meagre returns.

10.5. Candidate Selections for the 2007 Scottish Election

Labour candidate selections have been ongoing in 2006. Constituency selections have thrown up some surprises, notably with the decision of Susan Deacon to stand down as MSP for Edinburgh East and Musselburgh. Deacon was Health Minister from 1999-2001 and tipped as future leadership material. She announced she was standing down in 2007 to seek fresh challenges in her career. In terms of selections for regional lists, Labour announced its list candidates on 11 July. There were few surprise on the list, with sitting MSPs in the North East (Richard Baker and Marlyn Glen) and Highlands and Islands (Peter Peacock and Rhoda Grant) regions retaining their places at the top of the list. Former Inverness MP, David Stewart, came in at number 3 on the Highlands list, with a prospect of election, replacing Maureen Macmillan (a list MSP since 1999) who has decided to retire. Other prominent new names on the lists included former MP and Labour government minister George Foulkes, who leads the Lothians list and Mohammad Sarwar's son - Anas Sarwar - who leads the list in Glasgow. Hitherto, given that Labour has gained most seats from constituencies, plum list places have been relatively unimportant outside of Highlands and the North East. They still may be so, unless Labour loses significant numbers of FPTP seats in 2007. But the real significance of these selections is that it is a tactic by Labour to try to staunch the haemorrhage of its vote between the constituency and list votes. For example, in the Lothians in 2003, Labour gained 35.4 per cent of the constituency vote, but only 24.5 per cent of the regional list vote. There was a similar slippage in 1999. Foulkes has a high profile in the

¹¹² *The Herald*, 22 June 2006.

Edinburgh area thanks to his having been until recently chairman of Heart of Midlothian football club during a tumultuous period in the club's history. That may not, however, endear him to supporters of Hibernian, the rival Edinburgh premier league team.

The SNP's list candidates were announced in June 2006, following OMOV ballots of party members. Most regional lists were similar to those of 2003, though there were some changes. In South of Scotland, former MSP Mike Russell (a party leadership contender in 2005) gained second place on the list – with the likelihood of re-election – whilst current list MSP Alasdair Morgan slumped to fourth place. In Glasgow, party deputy leader Nicola Sturgeon took first place, whilst Bashir Ahmed came second, raising the prospect of becoming the first Asian MSP, let alone the first SNP Asian MSP. In West of Scotland, former Glasgow list MSP, Kenny Gibson, came in third on the list with some prospect of re-election. Party leader Alex Salmond is certain to return to the parliament he left in 2003 to concentrate on Westminster. He topped the North East regional list, a handy insurance policy if he fails to win Gordon from the Lib Dems.

10.6. A Resurgent Scottish National Party?

Following the publication of its mini-manifesto in April,¹¹³ the SNP has made some significant policy announcements to key groups of voters. These announcements are not new in terms of content – we're not talking about a change of direction here - but an indication that the party is attempting to present itself as an alternative government and generate some media coverage for itself. They also tell you that the election campaign has started. The party announced a student financial support package in July,¹¹⁴ followed by details in relation to the introduction of a local income tax, by announcing that 500,000 pensioners would be exempt from the tax under its proposals.¹¹⁵ These are key groups of target voters for the SNP and also for the Liberal Democrats, so this area is likely to be highly competitive. In addition to these policy announcements, the SNP has also been discussing the prospect of using the tax powers of the Scottish Parliament to reduce income tax to boost growth. Existing SNP policy involves cutting corporation tax to boost economic growth, however the parliament does not control corporation tax. It does have power to vary the level of basic income tax by +/-3p, though this would boost consumption rather than business-led growth. Surprisingly, the proposal was

¹¹³ <http://www.snp.org/policies/consultations/premanifesto>

¹¹⁴ SNP press release 27th July 2006.

¹¹⁵ SNP press release, 16th August 2006.

trailed initially by MSP Alex Neil, who sits on the left of the party.¹¹⁶ The tax-cutting proposal has also been subject to discussion within the Liberal Democrats in recent months.

Not surprisingly, Labour has been concerned about the recovery in support for the SNP, not least because UK opinion polls show the party behind the Conservatives and substantial levels of dissatisfaction with Tony Blair as party leader and Prime Minister. Jack McConnell held talks with Tony Blair in June in Downing Street, with a further meeting in Glasgow with the Scottish Secretary, Douglas Alexander and party chair Hazel Blears. The first of these meetings was predictably described as ‘crisis talks’ in the media,¹¹⁷ though it would be a surprise if key figures within the party leadership didn’t meet occasionally to discuss electoral strategy – especially given that devolved elections were upcoming on the electoral cycle.

¹¹⁶ Alex Neil, ‘Let’s take some of Scotland’s money back’, *Sunday Herald*, 23 July 2006.

¹¹⁷ *Sunday Herald*, 11 June 2006, front page story.

11. Public Policies

11.1 Implementing Policies

This period has seen much attention paid to the success of Scottish policies since devolution. The evidence suggests that the Scottish Executive has had mixed results implementing its most high profile policies. The most prominent policy is the smoking ban – often hailed by Jack McConnell as his greatest achievement to date and described by Margaret Curran (minister for parliamentary business) as ‘the most significant public health measure in a generation’.¹¹⁸ Notably, it seems assured of a relatively smooth implementation.¹¹⁹ This was a key McConnell concern, but Irish experience showed the Executive that compliance was high if the onus was placed on the premises as well as offenders. To date, few fines have been imposed (2 in Edinburgh; 4 in Glasgow).¹²⁰ Perhaps the policy's high profile, and the priority placed on it by environmental health officers, has ensured that compliance is high and that ‘last resort’ enforcement is not necessary (99%).¹²¹ While we have to wait to see the long-term public health effects (with other measures such as the raised legal age for smoking from 16 to 18), the short-term aim has been achieved (albeit with complaints from pubs and bingo halls on the loss of business¹²²). Perhaps the only worry is the availability of environmental health officers and the effect of this new work on other areas such as E Coli outbreaks.¹²³

The success of ‘free personal care’ for older people is less clear. The Health committee points to reduced bed-blocking and more people cared for at home. The policy also had an excellent ‘reception’ and the abolition of the old means test has benefited many individuals. However, it also points to uncertainty over funding and arrangements with

¹¹⁸ Statement to Parliament by Margaret Curran, Minister for Parliamentary Business 22 June 2006 <http://www.scotland.gov.uk/News/News-Extras/legprogupdate>

¹¹⁹ P. Cairney (forthcoming, 2007) ‘Using Devolution to Set the Agenda? Venue shift and the smoking ban in Scotland’, *British Journal of Politics and International Relations*

¹²⁰ J. Vallely 30 August 2006 ‘£50 smoking fines doled out to cabbie and office worker’ *Evening News* <http://news.scotsman.com/topics.cfm?tid=663&id=1280652006>

¹²¹ H. MacDonnell 26 June 2006 ‘Ban on smoking ‘has been 99% successful’ *The Scotsman* <http://news.scotsman.com/scotland.cfm?id=931302006> ; Scottish Executive News Release 26 June 2006 ‘Smoking ban gets seal of public approval’

<http://www.scotland.gov.uk/News/Releases/2006/06/26080617>
¹²² M. Flanagan 2 Sept 2006 ‘Bingo and pub firms hit by Scots ban on smoking’ *The Scotsman* <http://news.scotsman.com/topics.cfm?tid=663&id=1296602006>

¹²³ A. Sabadus 18 Aug 2006 ‘Fears over shortage of health inspectors’ *The Scotsman* <http://news.scotsman.com/topics.cfm?tid=678&id=1208422006>

local authorities (see 1.2).¹²⁴ The Executive set a tariff for 'free' care - £145 per person per week for personal care and an additional £65 per person per week for nursing care (not index linked). The Executive money reimburses local authorities for the level of care given. The money is not 'ring-fenced' and service provision becomes tied up in negotiations on the overall local government budget.¹²⁵ Thus there is incomplete implementation in four main areas. First, many councils have introduced waiting lists (following delayed assessments) for people who qualify for care.¹²⁶ Second, local authorities have not implemented the provisions for deferring fees until the resident dies, since the regulations suggest that local authorities *may* rather than *must* implement this part of policy (explaining John Swinburne's proposed bill – see 1.2). Third, the funding shortfall leads to disputes over the coverage of the payments (for example, whether or not it pays for meal preparation).¹²⁷ Fourth, local authorities pass on insufficient funds to private providers. The unintended consequence is that private care homes make up the shortfall by overcharging on hotel costs for those who self-fund. The policy's main success has been to reduce 'hidden need' and the Scottish Executive points to a rise in numbers in care at home from 23287 in July 2002 to 40900 in June 2005 (see Health Committee report). However, pre-devolution practice was that many local authorities under-charged for home care, with many levying a sum roughly equal to the Attendance Allowance. Therefore, for a large but indeterminate part of the Scottish population, the new policy replicates arrangements already in place.

The debate between the Executive and councils on funding has also affected social work implementation. For example, in high-risk cases, 'Place of Safety' warrants are issued by Children's Panels to ensure that councils remove children from their homes for up to 21 days. However, a lack of foster homes and other suitable alternatives means that many children are going straight back home instead. While the Executive puts this down

¹²⁴ <http://www.scottish.parliament.uk/business/committees/health/reports-06/her06-10-vol01-01.htm#Successes1>

¹²⁵ Scottish Executive News Release 18 Aug 2006 'Free Personal Care'
<http://www.scotland.gov.uk/News/Releases/2006/08/28111953>

¹²⁶ BBC News 'Figures for care waiting revealed' 13 June 2006
<http://news.bbc.co.uk/1/hi/scotland/5073964.stm>

¹²⁷ Scottish Executive News Release 26 May 2006 'Free personal care'
<http://www.scotland.gov.uk/News/Releases/2006/06/30110738>

to an inefficient use of existing funds, local authorities point to a lack of central funding.¹²⁸

Higher education student financing encountered an implementation problem at the formulation stage. The Executive proposed to allow students to defer a £2000 payment until they had reached a certain income level post-graduation. A key recommendation of the Cubie Report was a repayment of 2% of income above earnings of £25000, but this was constrained by existing Inland Revenue arrangements for collecting fees and student loan payments. However the Executive could not opt out of the reserved arrangements for student loan payments, which at the time began with a 9 per cent levy on income over £10000 per year. It decided the costs outweighed the benefits and accepted the lower threshold (until this was raised to £15000 in the UK by the *Higher Education Act 2004*).¹²⁹ The SNP argues that this fudge explains the high level of Scottish student bankruptcies since 1998 and the falling numbers of school leavers entering higher education. It pledges to replace the system with grants.¹³⁰ A looming problem is the ability of the Executive to maintain its current policy in the face of top-up fees in England. The first step into these muddy waters was taken when the Parliament (or at least its coalition MSPs) voted in June to raise fees for students from the rest of the UK from £1200 to £1700, with medical students to pay £2700 per year.¹³¹

In compulsory education the most high profile policy was based on the McCrone agreement in 2001 (when Jack McConnell was education minister) between the teaching profession, local authorities and government. It sets out a simplified career structure, new conditions of service, working hours (a 35-hour week with 22.5 in the classroom and a 195-day working year), plus a minimum of 35 hours per year in continuous professional development, a 'chartered teacher' scheme and a 23% pay rise over 3

¹²⁸ J. Cumming 21 Aug 2006 'At-risk children sent back to danger' The Scotsman <http://news.scotsman.com/scotland.cfm?id=1224992006>

¹²⁹ P. Cairney (forthcoming, 2006) 'Venue Shift Following Devolution: When Reserved Meets Devolved in Scotland', *Regional and Federal Studies*

¹³⁰ K. Scofield 29 Aug 2006 'Nearly 3,000 students driven to bankruptcy in just seven years' The Scotsman <http://news.scotsman.com/education.cfm?id=1272212006> ; 13 July 2006 'Fears for economy as the number of young Scots going for degrees falls' *The Scotsman* <http://news.scotsman.com/scotland.cfm?id=1018942006>

¹³¹ BBC News 15 June 2005 'MSPs vote for university fee rise' <http://news.bbc.co.uk/1/hi/scotland/5081668.stm>

years.¹³² According to Mooney and Poole, the agreement, 'effectively trades increased pay for changed conditions'.¹³³ Yet an Audit Committee report questions the effect of this trade in terms of better outcomes:

*The Agreement, or subsequent guidance from the Scottish Executive and other parties to the Agreement, should have included specific outcome measures related to its expected benefits in areas such as: impact on educational attainment; improvements in classroom practice; the quality of educational leadership; workload and skill-mix; workforce morale; and recruitment and retention within the profession.*¹³⁴

The report commended evidence of good practice, the slightly lower than expected spending of £2.15 billion and success in reaching the agreement's milestones. This includes significant reductions in teaching vacancies.¹³⁵ McConnell's main argument is that the agreement has produced excellent industrial relations, in contrast to the Conservative years of office in the UK before devolution: 'It did not take a genius to work out that the industrial relations improvements in the classroom and in schools would result in improvements in Scottish education'.¹³⁶ The improvement in relations is perhaps borne out by the EIS annual conference which appeared to discuss few controversial issues (bar the size of classes and the prospect of pension reform).¹³⁷

11.2 The Public Sector

A report by accountancy firm Ernst & Young suggested Scotland will suffer badly from a UK public spending 'squeeze' in 2008, with growth below the UK average. The report mostly blamed Scotland's relatively large public sector and over-reliance on public

¹³² Scottish Executive (2001) *Teaching Profession for the 21st Century: Agreement reached following recommendations made in the McCrone Report*

<http://www.scotland.gov.uk/library3/education/tp21a-00.asp>

¹³³ G. Mooney and L. Poole (2004) 'A land of milk and honey'? Social policy in Scotland after Devolution', *Critical Social Policy*, 24, 4, 458-83

¹³⁴ Audit Scotland (May 2006) *A mid-term report. A first stage review of the cost and implementation of the teachers' agreement A Teaching Profession for the 21st Century*

<http://www.audit-scotland.gov.uk/publications/pdf/2006/06pf01ags.pdf>

¹³⁵ Scottish Executive News Release 27 June 2006 'More teachers in the classroom'

<http://www.scotland.gov.uk/News/Releases/2006/06/27110011>

¹³⁶ SPOR 11 May 2006 Col 25546

<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-06/sor0511-02.htm#Col25545> ; Scottish Executive News Release 11 May 2006 'Teachers deal creates

'industrial harmony' <http://www.scotland.gov.uk/News/Releases/2006/05/10092903>

spending to boost or maintain the economy. The Executive has two responses. First, it claims it will improve public sector efficiency (although its agenda is less forthright than the Treasury's).¹³⁸ This is a factor in the agenda for local authorities sharing 'backroom' services rather than being re-organised (see previous reports). The strategy met some opposition in Stirling and Clackmannanshire when unions claimed to have been excluded from negotiations on the plans.¹³⁹ Second, the Executive reverses the spin and points to service improvements following record investment in front-line staff.¹⁴⁰ Its consultation on *Transforming Public Services* was launched in June.¹⁴¹

11.3 Health and Social Care

Even in the 'most devolved' policy areas, the spectre of multi-level governance always looms. What appears to be a local decision can be based on decisions further up the chain. For example, previous health policy reports have linked changes in consultant contracts to the EU's Working Time Directive. In this period there has been a dispute about closing one of three Accident and Emergency (A&E) units in Lanarkshire. This was based partly on the directive's effect on junior doctor hours and therefore the perceived need to centralise many hospital services. The drive for senior specialists to treat more patients to maintain their skills (an agenda which is largely reserved) has the same effect. The use of PFI funding for hospital building in this area is a possible third factor.¹⁴² The Lanarkshire health board voted to dispense with Monklands (in Home Secretary John Reid's constituency) and maintain A&E services at Hairmyres (in health minister Andy Kerr's) and Wishaw (in first minister Jack McConnell's). The matter was approved by Lewis MacDonald, deputy health minister (because of Kerr's conflict of interest). An SNP motion to condemn this decision was effectively defeated in the

¹³⁷ K. Schofield 7 June 2006 'McCrone pay deal lessens militancy at EIS conference' *The Scotsman* <http://thescotsman.scotsman.com/index.cfm?id=837042006>

¹³⁸ J. Kirkup 26 June 2006 'Scots' standard of living under threat, say experts' *The Scotsman* <http://news.scotsman.com/scotland.cfm?id=930002006> ; Scottish Executive News Release 17 May 2006 'Efficient Government target' <http://www.scotland.gov.uk/News/Releases/2006/05/17115336>

¹³⁹ Unison Scotland Press Release 18 Aug 2006 'Councils' efficiency measures will stall unless workforce involved' <http://www.unison-scotland.org.uk/news/2006/julyaug/1808.htm>

¹⁴⁰ Scottish Executive News Release 13 Sept 2006 'Scotland's 'world class' public services' <http://www.scotland.gov.uk/News/Releases/2006/09/13104259>

¹⁴¹ Scottish Executive News Release 15 June 2006 'The future of public services' <http://www.scotland.gov.uk/News/Releases/2006/06/15153531>

¹⁴² H. Puttick and R. Dunwoodie 28 June 2006 'Outrage as axe falls on accident and emergency unit' *The Herald* <http://www.theherald.co.uk/news/64917.shtml>

Scottish Parliament on the 14th September, although 3 Labour MSPs with constituency interests abstained (Cathy Craigie, Elaine Smith, Karen Whitefield).¹⁴³

The use of targets in health is also a sign of devolved areas being influenced by English agendas. While Scotland and Wales have tried to focus on wider health determinants, they get sucked into the waiting-time game after inevitable comparisons with the English NHS. Part of this game seems to be the setting of rules to make governments look good (see previous report on the use of a waiting time census). This results in expectations that targets will always be met, either because resources have been diverted from other services or because the figures have been massaged to present results in a certain light.¹⁴⁴ So do results, which suggest that outcomes do not live up to expectations, signal a new-found honesty in recording or occur despite the best efforts of organisations to appear efficient? This dilemma is apparent following reports that the target on cancer patients starting treatment within two months of an urgent referral from their GP is not being met. The figures have been presented to make the Executive look to be on an upward path (with actual rates of cancer also falling).¹⁴⁵ The Executive may be close to an argument with health professionals on the excessive use of targets after a call for their abolition by the chair of the BMA.¹⁴⁶

In contrast, Scotland appears to put a different spin on government interventions. While in England health bosses may be fired and/or named and shamed, the solution to recent difficulties faced by the Western Isles health board represents a 'fresh start'.¹⁴⁷ Nurses who qualified abroad are to be encouraged to come to Scotland to fill certain 'difficult' posts.¹⁴⁸ The Scottish Executive announced improvements in the operation of NHS 24,

¹⁴³ Scottish Parliament OR 14 Sept 2006 Col 27611
<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-06/sor0914-02.htm#Col27475>

¹⁴⁴ Scottish Executive News Release 31 Aug 2006 'Hospital waiting times 'lowest ever'
<http://www.scotland.gov.uk/News/Releases/2006/08/31094308>

¹⁴⁵ L. Moss 18 May 2006 'Executive admits it must do better over delays in cancer care' *The Scotsman* <http://news.scotsman.com/scotland.cfm?id=738002006> ; Scottish Executive News Release 15 Sept 2006 'Cancer on the retreat'
<http://www.scotland.gov.uk/News/Releases/2006/09/15095031>

¹⁴⁶ K. Foster 3 Sept 2006 'Doctors call for waiting targets to be scrapped', *Scotland on Sunday*
<http://news.scotsman.com/scotland.cfm?id=1300712006>

¹⁴⁷ Scottish Executive News Release 1 Aug 2006 'Fresh start for NHS Western Isles'
<http://www.scotland.gov.uk/News/Releases/2006/08/01114522>

¹⁴⁸ Scottish Executive News Release 13 Sept 2006 'Net cast wider to recruit NHS nurses'
<http://www.scotland.gov.uk/News/Releases/2006/09/13105812>

an advertising campaign to encourage responsible drinking, and the second wave of the *Know the Score* campaign which states that smoking heroin is as addictive as injecting.¹⁴⁹ It rejects a call for a public inquiry into infection with Hepatitis C through NHS treatment.¹⁵⁰ The main (100) recommendations to be implemented as part of the *21st Century Review of Social Work* were announced in June.¹⁵¹

11.4 Education

In September the Executive announced an additional £30 million for school buildings (marking a total of £131 million for the schools fund). The money is earmarked for energy efficiency, the renovation of canteens, and the extension of free school meals as part of the healthy eating agenda (see 1.4). The Executive has always made a virtue out of necessity with PPP in education, and this announcement by Education Minister Peter Peacock marked an unusual shift in tone from the Welsh approach towards that of England. He said: 'The new generation of PPP-funded schools are transforming crumbling classrooms into modern 21st century schools and offering some of the most advanced learning environments in the world. This extra money will help upgrade and modernise facilities in our other schools'.¹⁵²

Recent experience in pre-school education suggests that not all of the Scottish Executive's education priorities can be delivered at once. The effect of local authorities trying to reduce class sizes is that fewer qualified teachers are available to nurseries.¹⁵³ However, £2 million was also announced to fund nursery places for 2-year olds in pilot areas.¹⁵⁴ Seven schools have been added to the *Schools of Ambition* programme.¹⁵⁵

¹⁴⁹ Scottish Executive News Release 24 Aug 2006 'NHS 24 annual review' <http://www.scotland.gov.uk/News/Releases/2006/08/25083123>; Scottish Executive News Release 14 Aug 2006 'Campaign to encourage responsible drinking' <http://www.scotland.gov.uk/News/Releases/2006/08/14120436>; Scottish Executive News Release 11 Aug 2006 'Heroin myth goes up in smoke' <http://www.scotland.gov.uk/News/Releases/2006/08/10162158>

¹⁵⁰ Scottish Executive News Release 16 June 2006 'No public inquiry on Hepatitis C' <http://www.scotland.gov.uk/News/Releases/2006/06/16112214>

¹⁵¹ Scottish Executive News Release 28 June 2006 'Five year plan to overhaul social services' <http://www.scotland.gov.uk/News/Releases/2006/06/28140651>

¹⁵² Scottish Executive News Release 8 Sept 2006 'Extra cash for school buildings' <http://www.scotland.gov.uk/News/Releases/2006/09/07125804>

¹⁵³ K. Schofield 15 Sept 2006 'Nurseries lack trained teachers' *The Scotsman* <http://news.scotsman.com/scotland.cfm?id=1361462006>

¹⁵⁴ Scottish Executive News Release 6 July 2006 'Free nursery places for two year olds' <http://www.scotland.gov.uk/News/Releases/2006/07/06095051>

11.5 Crime and Punishment

Crime is likely to feature highly in the next election, with the main parties competing on right-wing populist terrain. This is reflected in the Executive's final legislative programme announcement of this parliamentary session, with measures proposed on prison release, prostitution, knives and hate crime (see 1.4). It also announced a concentrated dose of the *Drug Dealers Don't Care* campaign, 'which last year resulted in the arrest of 428 dealers and the seizure of more than £1.5 million worth of drugs and cash', to local authorities with the highest serious violent crime areas.¹⁵⁶ The roadshow to highlight the powers available to tackle anti-social behaviour 'kicked off' in July.¹⁵⁷ Less welcome attention for the Executive has focussed on 'slopping out' in prisons. The practice was found to breach Article 3 of the European Convention on Human Rights in 2004, but the building work required to comply is still going on. The Scottish Prison Service expects to settle the current cases and fully comply with the ECHR by the end of this year.¹⁵⁸ There is also evidence of policy changes altering conditions in women's prisons. Prisoner numbers have doubled in 10 years and include higher proportions of violent offenders (compared to the old days of imprisonment for not paying TV licenses).¹⁵⁹

11.6 Environment and Agriculture

The Executive continues to be committed to 'environmental policy', but the extent of commitment is often questioned. For example, the Scottish NFU is critical of the low success rates for farmers applying for funds under the Rural Stewardship Scheme and the Organic Aid Scheme. £25 million has been awarded.¹⁶⁰ Green MSPs also question the funding commitment to commercial wave power.¹⁶¹ A more upbeat assessment comes from the renewable energy business sector which predicts it will provide over half

¹⁵⁵ Scottish Executive News Release 28 April 2006 'More Schools of Ambition'
<http://www.scotland.gov.uk/News/Releases/2006/04/28095233>

¹⁵⁶ Scottish Executive News Release 15 Sept 2006 'Getting more drug dealers off the streets'
<http://www.scotland.gov.uk/News/Releases/2006/09/15112209>

¹⁵⁷ Scottish Executive News Release 18 July 2006 'Truck hits the road to help tackle antisocial behaviour'
<http://www.scotland.gov.uk/News/Releases/2006/07/19093307>

¹⁵⁸ 15 Sept 2006 'SPS proposes 'slopping out' settlement'
<http://www.holyrood.com/nav/news/stories/story.asp?story=just186>

¹⁵⁹ 3 Aug 2006 'Female prisoner numbers double in ten years'
<http://www.holyrood.com/nav/news/stories/story.asp?story=just164>

¹⁶⁰ 31 Aug 2006 'Disappointment at rural awards'
<http://www.holyrood.com/nav/news/stories/story.asp?story=env175>

¹⁶¹ 30 Aug 2006 'Stephen's wave power pledge'
<http://www.holyrood.com/nav/news/stories/story.asp?story=env174>

of Scotland's electricity by 2020.¹⁶² Scotland's bathing waters have met EU standards for the first time.¹⁶³ The proposed upgrade to the Beaulay to Denny electricity lines (needed to allow more Highland wind farms) will now be subject to a public inquiry.¹⁶⁴ The Environment and Rural Development committee report encouraging more action on public procurement to protect the rural economy from excessive supermarket power (see 2.5) coincided with an announced inquiry into supermarket competition by the UK's Competition Commission.¹⁶⁵

11.7 Nuclear Energy

In late July, the UK's Committee on Radioactive Waste Management recommended 'geological disposal ... [which] means the burial underground (200 – 1000m) of radioactive waste in a purpose built facility with no intention to retrieve the waste once the facility is closed'.¹⁶⁶ In the shorter term this means 'interim storage' (which addresses issues such as the threat of terrorist attacks) until enough willing communities are identified. The report prompted opposition parties to call for an Executive policy response, which had been promised as soon as the issue of nuclear waste has been 'resolved'. McConnell said the report did not represent the final word on the matter and that 'ministers need to reflect on the report'.¹⁶⁷ This issue will divide the coalition parties in the next election. The Liberal Democrats oppose new power stations regardless of the report's findings, whereas Labour is much more open to the possibility.¹⁶⁸

11.8 Transport

A committee vote obliged the SNP's Bruce Crawford to hold a full consultation on his Proposed Abolition of the Tay Bridge and Forth Road Bridge Tolls Bill (see also 2.5).¹⁶⁹ Crawford argued that transport minister Tavish Scott's decision to carry out a detailed

¹⁶² 13 June 2006 'Renewables could "shatter" Executive energy targets'

<http://www.holyrood.com/nav/news/stories/story.asp?story=env139>

¹⁶³ 15 Sept 2006 'Scotland's bathing waters hit EU targets for first time'

<http://www.holyrood.com/nav/news/stories/story.asp?story=env177>

¹⁶⁴ 31 Aug 2006 'Power line inquiry welcomed'

<http://www.holyrood.com/nav/news/stories/story.asp?story=env176>

¹⁶⁵ 10 April 2006 'Supermarkets inquiry'

<http://www.holyrood.com/nav/news/stories/story.asp?story=env121>

¹⁶⁶ <http://www.corwm.org.uk/pdf/Overview.pdf>

¹⁶⁷ P. McMahon 1 Aug 2006 'First Minister stays silent on new nuclear stations' *The Scotsman*

<http://news.scotsman.com/topics.cfm?tid=1343&id=1113032006>

¹⁶⁸ H. MacDonell 18 May 2006 'Labour opens door for new Scots nuclear plants' *The Scotsman*

<http://news.scotsman.com/scotland.cfm?id=738342006>

study on the tolls is a ruse to defer any decision until after the election.¹⁷⁰ Scott's discussion of a new campaign on drink-driving among young men (also launched in the UK) comes at a time of record lows in road deaths.¹⁷¹ Two controversial motorway projects got the go-ahead: the M74 after a court ruling forced Friends of the Earth to withdraw their opposition, and the M80 after a more favourable local inquiry.¹⁷²

11.9 Housing

The Executive is to legislate to close a loophole for those receiving housing benefits but being charged council tax.¹⁷³ It continues to publicise its often controversial (because of the issue of third party right of appeal) Planning Bill which promises a much more open and consensual process for communities from beginning to end.¹⁷⁴ It has suspended right-to-buy provisions in 69 villages in Dumfries and Galloway and in Fife because of local social housing shortages.¹⁷⁵ It has also met its Partnership Agreement pledge to provide more than 18,000 affordable homes by 2006.¹⁷⁶ Eight new homelessness prevention projects were announced in September.¹⁷⁷

¹⁶⁹ 31 May 2006 'Crawford forced to consult on bridge tolls'

<http://www.holyrood.com/nav/news/stories/story.asp?story=trans57>

¹⁷⁰ 18 May 2006 'Forth and Tay Bridge tolls impact study announced'

<http://www.holyrood.com/nav/news/stories/story.asp?story=trans53>

¹⁷¹ 15 June 2006 'Road toll falls'

<http://www.holyrood.com/nav/news/stories/story.asp?story=trans59>

¹⁷² 29 June 2006 'Friends of the Earth withdraws M74 challenge'

<http://www.holyrood.com/nav/news/stories/story.asp?story=trans60>; 4 July 2006 'Motorway upgrade gets go-ahead' <http://www.holyrood.com/nav/news/stories/story.asp?story=trans63>

¹⁷³ 17 July 2006 'Executive to close council tax loophole'

<http://www.holyrood.com/nav/news/stories/story.asp?story=la51>

¹⁷⁴ 14 July 2006 'Executive launches new planning approach'

<http://www.holyrood.com/nav/news/stories/story.asp?story=plan45>

¹⁷⁵ 5 June 2006 'Dumfries and Galloway suspends right-to-buy'

<http://www.holyrood.com/nav/news/stories/story.asp?story=plan42>; Scottish Executive News Release 8 May 2006 'Fife suspends right to buy'

<http://www.scotland.gov.uk/News/Releases/2006/05/08093314>

¹⁷⁶ 8 May 2006 'Executive meets pledge on affordable homes'

<http://www.holyrood.com/nav/news/stories/story.asp?story=plan38>

¹⁷⁷ Scottish Executive News Release 4 Sept 2006 'Innovation funding to help prevent homelessness' <http://www.scotland.gov.uk/News/Releases/2006/09/04114628>