

The **Constitution** Unit

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MONITORING
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Scotland Devolution Monitoring Report

January 2007

Peter Jones (ed.)

Honorary Senior Research Fellow

The Constitution Unit

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The Devolution Monitoring Programme

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

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

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

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Scotland Devolution Monitoring Report

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Executive Summary

Peter Jones

- Aided by opinion polls suggesting a Labour decline and a Scottish National Party advance, plus some SNP donations by prominent businessmen, electioneering got into gear early. There has been bravura SNP talk of winning power in May, though Nicol Stephen, Scottish LibDem leader, has made it clear that if the SNP come to talk, he will have no truck with holding a referendum on independence.
- Labour returned to the negative campaigning of the 'divorce is an expensive business' 1999 election theme, and also tried to raise the positive aspects of the Union amidst the somewhat muted commemorations of the 300th anniversary of the Union between Scotland and England. Jack McConnell, Labour first minister, has also raised the prospect of running a minority government, seeking support for a legislative programme on an issue-by-issue basis, a prospect which Annabel Goldie, the Scottish Tory leader has said she might support.
- Opinion polls have given the impression that 50+ per cent of Scots support independence. Deeper analysis suggests actual support is in the 30-35 per cent range, correlating more closely with support for the SNP which is up a little when compared to 1999. Labour support over the same period has slumped badly.
- The executive suffered two cabinet ministerial resignations, both Labour. Peter Peacock quit as education minister because of ill-health and Malcolm Chisholm resigned after voting with the SNP over Trident nuclear missiles. They were replaced, respectively, by Hugh Henry and Rhona Brankin, both deputy ministers. Colin Boyd, Lord Advocate (head of prosecution service and the cabinet's chief legal advisor) also resigned and was replaced by Scotland's first female holder of the post Elish Angiolini, solicitor-general.
- Changes in Executive civil service management followed an external review praising some aspects of civil service work but suggested room for improvement at the strategic level and that there were too many overlaps. This was interpreted by the press as a damning report. The Management Group was split into a smaller Strategic Group, setting overall objectives, and a Heads of Department Group, meeting weekly to implement the objectives and trouble-shoot.

- The Audit Committee and Audit Scotland examined pay awards for teachers and hospital consultants. The teachers' pay deal was criticised as getting a poor return for a considerable investment in teachers and the consultants' contracts as having been negotiated at a UK level with little regard for Scottish circumstances.
- Newspapers and TV marked the Act of Union anniversary with supplements and programmes, with added piquancy: speculation of an end to the Union; and sales decline of Scottish newspapers versus increased sales for London-based titles.
- The media is relishing the forthcoming election campaign, branding it the most open and exciting for years. Newspapers are also particularly interested in more powers for Holyrood, which was ruled out by Jack McConnell in a lecture.
- Executive statisticians endured the annual ritual of seeing estimates of public spending and revenues in Scotland being chewed up by the political mincing machine and spat out as either showing that Scotland has a massive 'black hole' deficit of £11.2bn (unionists) or that it is political chicanery (nationalists). Economic statistics suggest that the Scottish economy has been closing the gap with the UK average. The Executive's Total Managed Expenditure is scheduled to be £31.3bn in 2007-08, up 5.2 per cent on the figure the year previously.
- Local authorities got an extra funding boost of £201m, granted with the hope of modest pre-election council tax rises. An Executive-commissioned independent review of local government finance ruled out local income tax and recommended a market-value based property tax. This was promptly ruled out by Jack McConnell, first minister, for fear of alienating voters in high-value areas.
- Development links with Malawi have been strengthened with groups being set up to improve Malawi's health care and business development. A Scottish-Irish agreement on boosting science education and other mutual interests was signed by Jack McConnell and Bertie Ahern, the Taoiseach.
- Progress in mental health and welfare policy demonstrates four of the positive reasons given for having devolution: development of different administrative styles; faster legislative up-dating; difference in policy-making which has highlighted greater stakeholder ownership of the resulting policy in Scotland; and learning by different jurisdictions of the lessons and results of these differences.
- Some of the latest figures on meeting targets for treatment times and reducing death rates from some diseases contrasted with the financial crisis in parts of NHS England suggest that the portrayal of health care in the 2007 election campaign may be a

mirror image of the 2005 general election in Scotland when the theme was of an NHS performing badly in comparison to England.

Chronology (September to December 2006)

- 1 Sept. Commission for Racial Equality say that complaints about anti-English racism rose to 13 during the World Cup in June.
- 4 Sept. Survey by Law Society of Scotland shows that 36 per cent of lawyers think Scottish ministers have no respect for independence of the Scottish legal system.
- 5 Sept. Scottish Executive statistics show overall 6 per cent drop in recorded crime, but rise in rape and drugs crimes. Registrar-General says Scots are living longer but gap in life expectancy between rich and poor areas has grown over last decade. Tom McCabe, finance minister claims to have made £440m efficiency savings this year. Holyrood debating chamber re-opens after loose beam caused closure in March.
- 6 Sept. CBI Scotland releases report claiming poor education quality is forcing employers to spend millions on improving school-leavers' literacy and numeracy; Jack McConnell promises Scotland should have best education system in world by 2020. Senior legal figures attack reform of procedures for dealing with complaints against lawyers as a threat to legal independence and an attack on democracy.
- 8 Sept. Executive study says Holocaust education improves tolerance of minorities among schoolchildren, but also reveals 'worrying hostility towards English people'. Ministers admit failing to reach a third of targets set nearly four years ago.
- 11 Sept. Jack McConnell announces St Andrew's Day 2007 will be a national holiday, in exchange for loss of a holiday elsewhere in the calendar.
- 12 Sept. Report by Prof. Arthur Midwinter, adviser to Scottish Parliament's finance committee says Executive spending has not helped grow the economy despite that being Executive's top priority.
- 13 Sept. McConnell's office briefs that First Minister wants Blair to step down early so Labour leadership election does not interfere with Holyrood election.
- 15 Sept. Scottish Water worst-performing water company in UK, says Water Industry Commission for Scotland, but Scottish Environmental Protection Agency says Scottish beaches cleanest since testing began 20 years ago. David Cameron, Conservative leader, visits Scotland and apologises for introducing the poll tax in 189 and testing it in Scotland. 'Clumsy and unjust,' he says.

- 17 Sept. Nicol Stephen, Scottish LibDem leader, says he opposes an independence referendum, casting doubt on possible coalition with SNP.
- 18 Sept. Nicol Stephen pledges to meet all Scotland's electricity needs from renewable sources by 2050.
- 20 Sept. Mike Pringle, LibDem MSP, barred from parliament and committees for a week by Standards Committee for leaking confidential committee papers on McKie affair to press.
- 21 Sept. McConnell says Scotland needs no new nuclear power stations. Parliament approves £650m plan for underground Edinburgh Airport rail link.
- 26 Sept. Tom McCabe, finance minister, criticised by opposition parties for refusing to publish an Executive-commissioned outside review of Executive spending.
- 27 Sept. Audit Scotland says Scottish Executive unlikely to succeed in stabilising motor traffic by 2021 and roads need £1.8bn spent on them. Jack McConnell, addressing GlobalScot conference of business executives, says he is determined to eliminate the Scottish cringe. Press outrage that Parliament is spending £250 per pigeon chick to transport nesting birds from Holyrood building to Ayrshire.
- 28 Sept. MSPs approve plans to make St Andrew's Day a national holiday.
- 4 Oct. Lord Colin Boyd resigns as Lord Advocate, head of prosecution service and Executive's chief legal advisor, saying he wishes to be active in House of Lords.
- 5 Oct. Elish Angiolini, Solicitor General, appointed as Scotland's first woman Lord Advocate. Press reports disclose that Scottish Information Commissioner, citing big increase in freedom of information requests, and Scottish Public Services Ombudsman, citing increased complaints about public bodies, have asked for 29 and 28 per cent increases in budgets for 2007-08. Press reports suggest Conservatives are considering devolution of control of excise, stamp and fuel duties to Holyrood and debating use of income tax cutting power.
- 8 Oct. Sir Tom Farmer, millionaire former owner of Kwik-Fit, donates £100,000 to the SNP, saying he wants a level debating field at the elections.
- 9 Oct. *The Scotsman* reports that Tory activists including MSPs are unhappy with Annabel Goldie, claiming she shows lack of enthusiasm for leadership role.
- 9 Oct. Ministers announce plans to force supermarkets to sell alcohol separately from other goods.

- 12 Oct. EU Commission says rules were broken in tendering procedure for Scottish Parliament building but no action will be taken. Alex Salmond says if elected first minister, he will start moves for Scotland to have its own team at 2012 Olympics.
- 14 Oct. *The Scotsman* polls 100 leading Scots and finds 16 for independence and 53 backing the Union. The Royal Museum of Scotland and adjacent Museum of Scotland become the National Museum of Scotland, the word 'Royal' disappearing.
- 15 Oct. ICM poll for More4 TV show finds 59 per cent of English voters say they would be influenced by the Scottishness of a Labour leader at the next general election; of these, 93 per cent would be negatively influenced and 7 per cent positively influenced. Cardinal Keith O'Brien, leader of Scottish Catholics, says he is happy, if it is the popular wish, that Scotland becomes independent. Jack McConnell joins Scottish celebrities at Scottish show at Los Angeles Fashion Week.
- 16 Oct. British Energy says one of two reactors at Hunterston B nuclear power station to be shut down for months for repairs, raising doubts about life extension beyond 2011 and whether Scotland can switch to renewable energy without building major new power station.
- 17 Oct. Tony Blair, at a Downing Street press conference, says Cardinal O'Brien's remarks on independence should carry no weight with his flock and independence would take Scotland backwards.
- 20 Oct. Scottish Conservative advisory group recommends Scottish Parliament should control taxes north of the border. Labour says setting up science academies for gifted children will be an election pledge.
- 24 Oct. Jack McConnell says in a lecture that Scottish Parliament does not need more powers and says independence will lead to inter-ethnic conflict. Canon Kenyon Wright, convener of the former Scottish Constitutional Convention, tells meeting in House of Lords that England should have its own parliament to reflect a growing sense of identity.
- 25 Oct. Tourist Boards (Scotland) Act 2006 passed.
- 26 Oct. Alex Salmond says an independent Scotland will cooperate with England and Ireland in a new partnership of the isles.
- 31 Oct. Enterprise and culture committee decides to seek support for the golden eagle to be declared Scotland's national bird. Church of Scotland appoints its first female minister as Moderator of the General Assembly, the kirk's top leadership post.

- 1 Nov. ICM poll for *The Scotsman* says SNP ahead of Labour on first constituency vote (32/30 per cent) and tied with Labour on second vote (28/28). In a referendum, 51 per cent would vote for independence and 39 per cent against.
- 2 Nov. Scottish Commission for Human Rights Act 2006 passed. Andy Kerr, health minister, says he supports increased taxes on alcohol to curb alcohol abuse problems.
- 3 Nov. Executive announces 252 dental students have accepted £4,000 a year bursaries which require them to work for NHS after graduation, hopes this means shortage of NHS dentists will eventually disappear.
- 5 Nov. Greens decide at conference that no more nuclear power stations is non-negotiable part of any post-election coalition negotiations.
- 6 Nov. Harry Burns, chief medical officer, says lung cancer could be eradicated from Scotland in 20 years time. SNP say, if elected, they would bid to host 2016 European football championships.
- 7 Nov. George Reid, presiding officer, says his officials will review allowances given to further-flung MSPs to pay mortgage costs of second Edinburgh home. Rising property values have led to accusations of MSPs profiting at taxpayers' expense.
- 8 Nov. Polish president Lech Kaczynski, after meeting Jack McConnell, appeals for Polish emigrants to Scotland to return home to help Polish economy.
- 9 Nov. Executive-commissioned review of local government finance chaired by Sir Peter Burt dismisses local income tax and recommends replacing council tax with charge based on market value of property. Executive welcomes report but McConnell has already rejected idea, fearing it is vote loser. Seven universities announce scheme to improve teacher training in Malawi.
- 13 Nov. McConnell, in Dublin, signs agreement with Bertie Ahern, the Taoiseach, to work together in science teaching, culture, health issues and drug smuggling. Sunday Telegraph ICM poll says 52 per cent of Scots and 59 per cent of English want Scottish independence.
- 14 Nov. Peter Peacock, education minister, stands down because of illness, replaced by Hugh Henry, deputy justice minister. Karen Carlton, Scotland's public appointments commissioner, criticises fact that only 17 of 99 public bodies are chaired by women, and of 650 public board members, only 250 are women. Mohamed al-Fayed, owner of Harrods and a Scottish estate, offers to become SNP donor, but the party declines.

- 15 Nov. Petitions committee writes to Executive and Westminster government to seek views on Sunday working at request of Free Presbyterian church who want Sunday to be day of rest.
- 16 Nov. Planning etc. (Scotland) Act, intended to modernise planning system, passed. Jack McConnell says at FM Questions that if Northern Ireland wins campaign for a lower corporation tax, he'll fight for the same in Scotland, prompting criticism by London labour sources. SNP plan cash incentives to induce more graduates to stay in Scotland.
- 19 Nov. Jack McConnell hints in TV interview that he may not serve a full term if re-elected First Minister.
- 20 Nov. *The Scotsman* launches campaign for new Forth road crossing liable to cost more than £600m. McConnell in magazine interview calls for more 'setting' in schools where pupils are grouped by ability in different subjects.
- 21 Nov. Crime statistics show murder rate at lowest for 15 years. Edwin Morgan, Scotland's poet laureate, visits Holyrood for first time and declares the building 'magnificent'.
- 22 Nov. Tony Blair, in *Scotsman* article, says SNP have 'flimsiest of economic cases' for independence. Executive decides that legal age for buying cigarettes should be raised to 18.
- 24 Nov. Blair, at Scottish Labour conference in Oban, says he detests SNP 'politics of fear and grievance' and that nationalism was 'an outdated reactionary view of the nation state.'
- 28 Nov. Andy Kerr, health minister, says he is extremely disappointed that target of 95 per cent of cancer patients being treated within two months has not been met. ScottishPower, Scotland's fourth largest company, accepts takeover bid by Iberdrola, Spanish electricity company. SNP highly critical.
- 29 Nov. St Andrews Bank Holiday (Scotland) Act, promoted by Denis Canavan, Independent MSP, approved by parliament. Glasgow Airport Rail Link Act 2007 passed.
- 30 Nov. Bankruptcy and Diligence etc (Scotland) Act 2007 passed. Alyn Smith, SNP MEP, asks European Commission to investigate whether Spanish tax breaks make Iberdrola bid for ScottishPower illegal.
- 4 Dec. Reece Walters, who resigned from criminologist post at Stirling University, says civil services removed critical elements from his Executive-commissioned report

- on youth justice. Patricia Ferguson, tourism minister, says the golden eagle as Scotland's national bird would be misleading because few visitors see it.
- 5 Dec. Jack McConnell, Nicola Sturgeon, SNP deputy leader, and others have separate meetings with Ignacio Galan, president of Iberdrola, but receive few assurances about jobs. Enterprise and culture committee reject idea of golden eagle as national bird. Hugo Chavez, Venezuela president, threatens 15 per cent luxury goods tax on whisky.
- 7 Dec. Adoption and Children (Scotland) Act 2007 passed by parliament amidst protests from churchmen and 11 MSPs against provision allowing gay couples to adopt.
- 8 Dec. European Ombudsman instructs European Commission to reopen inquiry into whether contracts for building the Parliament were improperly handled.
- 11 Dec. Executive publishes Government Expenditure and Revenues in Scotland report which shows excess of spending over revenues of £11.2bn or, if all oil revenues are included, £6bn, for 2004-05. SNP claim Scotland has a budget surplus of £2.8bn in 2006-07.
- 13 Dec. Alex Salmond pledges no income tax rises in an independent Scotland.
- 14 Dec. John Leighton, director of National Gallery of Scotland, warns of political interference in the arts under proposed culture bill. Legal Profession and Legal Aid (Scotland) Act 2007 passed.
- 17 Dec. Labour unveil poster campaign which asserts that taxes would be higher in an independent Scotland. *The Scotsman* reports that lawyers are forming a national union amid claims of a crisis in the profession.
- 18 Dec. Robert Black, Auditor General, clears Ross Finnie, environment minister, of any wrongdoing in tendering process for £10m ship which went to Scottish yard run by a friend.
- 19 Dec. Auditor General tells parliament's audit committee that he doubts the accuracy of Executive claims to have made £400m efficiency savings.
- 21 Dec. Malcolm Chisholm, Communities Minister, resigns after voting with SNP against the replacement of Trident nuclear missiles. Three other Labour MSPs rebel. Fishermen accuse UK fisheries minister of betrayal after EU Common Fisheries Policy deal which raises catch quotas but cuts days allowed at sea.
- 22 Dec. Malcolm Chisholm claims view that Tony Blair is wrong about Trident is widely held in Labour party. SNP praise his 'principled stand'. Figures obtained by Liberal Democrats show that 22 staff of Scotland Office in Whitehall send one

letter per working day, receive seven letters per day, produce one press release per week, raising calls for the office to be scrapped.

24 Dec. Sam Galbraith, former Labour education minister, says in interview that state-funded Catholic schools fuel sectarianism. Catholic church says Galbraith of fanning the flames of bigotry.

26 Dec. *The Scotsman* reports that race hate crime is increasing despite Executive campaigns against racism.

27 Dec. Labour says it will pledge to allow police to keep DNA of all crime suspects, even if not convicted of a crime, bringing Scotland into line with England.

1. The Scottish Executive

Paul Cairney

1.1 Scottish Ministers and the Lord Advocate

The most high profile ministerial shift was caused by Malcolm Chisholm's decision to resign as Communities Minister in December. Chisholm's fate was sealed after he voted with the SNP in opposition to the UK Government's White Paper on Trident.¹ Previous accounts have suggested that First Ministers have been reluctant to enforce collective cabinet responsibility in the strictest sense – if, for example, a minister speaks against, but does not vote against, Scottish Executive policy.² In this case it appears that if Chisholm had merely spoken against a UK government policy (as he did with dawn raids on asylum-seekers) he might have kept his job. However, the line was crossed when he voted for the SNP motion – even though the motion had no formal weight and there was no formal need for a Scottish Executive position on the issue. The cabinet had already lost its Education Minister Peter Peacock, who resigned for health reasons in November. Peacock was regarded by the education profession as an effective minister with a good grasp of his brief because of his long term in office. While Peacock's replacement by Hugh Henry was straightforward, Chisholm's replacement by Rhona Brankin caused a stir within Scottish Labour, with many senior figures apparently keen to criticise Jack McConnell's judgement.³ Brankin was replaced as Deputy Minister for Environment & Rural Development by Sarah Boyack. Henry was replaced as deputy justice minister by Johann Lamont, while Des McNulty succeeded Lamont as deputy communities minister.

Also high profile was the replacement (in October) of Colin Boyd as Lord Advocate by Elish Angiolini, previously Solicitor General. Concern focussed on the fact that Angiolini had not been called to the bar with the status of advocate, seen traditionally (by advocates at least) as a symbol of independence from government.⁴ The appointment had significance as an issue from Boyd's handling of the McKie case was the possibility

¹ See SPOR 21 Dec 2006 Col 30683 onwards
www.scottish-parliament.uk/business/officialReports/meetingsParliament/or-06/sor1221-02.htm; H. MacDonell 22 Dec 2006 'Chisholm quits the Executive after voting against Labour on Trident', *The Scotsman* <http://news.scotsman.com/topics.cfm?tid=867&id=1900072006>

² Winetrobe, B. (2003) 'Collective Responsibility in devolved Scotland', *Public Law* (Spring); Mitchell, James (2003) 'Third Year, Third First Minister' in (ed.) R. Hazell *The State of the Nations 2003* (London: Imprint)

³ T. Gordon 10 Jan 2007 'Labour MSPs up in arms over Brankin appointment' *The Herald*
www.theherald.co.uk/politics/78448.html

⁴ M. Howie 6 Oct 2006 'Brand new job, 6 hours in ... and knives are out for Elish', *The Scotsman*
<http://thescoatsman.scotsman.com/index.cfm?id=1477512006>

of conflict between his role as Lord Advocate (chief legal adviser and member of the Scottish Cabinet) and Scotland's chief prosecutor (with the Solicitor General acting as his deputy in this regard). While most MSPs involved in the debate on Boyd's successor heaped praise on Boyd and Angiolini, both Annabel Goldie (Scottish Conservatives leader) and Nicola Sturgeon (SNP deputy leader) raised the issue of a separation of powers (with the latter promising to separate the roles if in government).⁵ Yet, little evidence has been presented that, for example, the separation of powers in England presents fewer problems of political influence. Further, as Jim Wallace pointed out in the debate: 'it is important to place on record the robustness with which Colin Boyd, like his predecessors, jealously safeguarded the Lord Advocate's independent prosecutorial role'. Jack McConnell said that while similar concerns were expressed about his previous appointment of Angiolini to the post of Solicitor General, it proved to be 'one of the best decisions that I have made as First Minister of Scotland'. Angiolini was in turn replaced as Solicitor General by John Beckett. Some concern was expressed by Goldie (but no other MSP in the debate) that Beckett was a member of the Labour Party. Beckett was replaced as Principal Advocate Depute by Brian McConnachie QC.

1.2 The Management Group and *Taking Stock*

One consequence of devolution is the higher visibility of senior civil servants in Scotland compared to their Scottish Office predecessors. In December this even extended to the irony of the air travel commute of Richard Wakeford, the Head of Environment and Rural Affairs Department.⁶ The potential for a prickly relationship between the Scottish Executive and the press was also highlighted by coverage of the *Taking Stock* report and the abolition of the Senior Management Group. The *Taking Stock* report was a Scottish Executive-commissioned external review focussing on:

its aspiration to be a fully integrated government; the effectiveness of the corporate centre; and the leadership capability of the Heads of Departments and Group Heads (referred to as the 'senior leadership team' throughout this report). It does not examine in detail the capability of individual Departments or the contribution made to capability by Scottish Ministers.⁷

⁵ SPOR 5 Oct 2006 Col. 28322-35

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-06/sor1005-02.htm#Col28322

⁶ E. Barnes 24 Dec 2006 'Red face for green tsar who jets to work' *Scotland on Sunday*

<http://news.scotsman.com/topics.cfm?tid=867&id=1909072006>

⁷ Scottish Executive (2006) 'Taking Stock Review: Fit For the Future' www.scotland.gov.uk/Resource/Doc/160346/0043633.pdf, p5.

The report highlighted a number of successes, including: a good relationship with stakeholders when developing policy, a dedicated staff committed to policy work, a commitment to evidence-based policy, the *Futures* work in developing long-term strategies, and the effective delivery of a wide range of policies. It then suggested room for improvement in setting overall strategic objectives, addressing the overlap of responsibilities (particularly among quangos but also in the duplication caused by different reporting mechanisms across departments), and clarifying the corporate role of senior management. Therefore, it is no surprise to see the *Herald* highlighting the report's finding that 'leadership was poor across the entire senior management team and department heads were found not to work well together' in contrast with the Scottish Executive's suggestion that 'The report carried out by the external team clearly recognises we have delivered significant achievements across a whole range of areas'.⁸ More surprising is that Wakeford felt compelled to reply publicly to *The Scotsman*. The Scottish Executive's 'action plan' based on *Taking Stock* and employee and stakeholder surveys sets out a change to the Management Group, from all heads of department to 'a smaller Strategic Board consisting of the Permanent Secretary + 4 others + 3 Non Executive Directors'.⁹ This board will now set corporate objectives which will be used in job appraisals for heads of department. *The Scotsman* said that *Taking Stock* was a 'damning report' and several senior civil servants were no longer sitting at the 'top table' after the abolition of the Management Group. Wakeford replied:

Don't believe all you read in the press. I haven't been axed, and neither has Philip. Management Group meetings have been replaced by a new weekly meeting of Heads of Department. Under the new arrangements we can be more effective as a team, with the new strategic board ensuring that change is well designed and implemented.¹⁰

⁸ The Herald 14 Dec 2006 'Civil service chief launches shake-up; Departments face radical reforms after damning report'; Scottish Executive News Release 14 Dec 2006 'Taking Stock review results'

www.scotland.gov.uk/News/Releases/2006/12/13123928

⁹ Scottish Executive (2006) 'High Level Action Plan for the Scottish Executive's future change programme' www.scotland.gov.uk/Publications/2006/12/12110142/0

¹⁰ P. McMahon 14 Dec 2006 'Six axed in revamp of 'board' to run civil service' *The Scotsman* <http://news.scotsman.com/topics.cfm?tid=867&id=1853642006>. Wakeford's comment is no.9. This is reported in P. McMahon 18 Dec 2006 'Civil servant in public denial of being moved sideways in revamp' *The Scotsman* <http://news.scotsman.com/topics.cfm?tid=867&id=1875442006>

1.3 Quangos, Regulation and the Legislative Programme – too much government?

The last monitoring report suggested that 2006 was a bad year for the image of the quango.¹¹ Further, since the Scottish Executive did not follow the Welsh Assembly Government's 'Bonfire of the Quangos', it is also likely to be an easy target in an election year. The *Herald* commented (in the context of Scottish Executive concerns over directly elected health boards) that Scottish Labour 'promised to consign quangos to a bonfire when in opposition but, since it gained experience of government, it found them both useful for delivering its objectives and hard to cut back when it tried'.¹² The Conservatives criticised the numbers of Labour 'cronies' appointed.¹³ Tommy Sheridan (Solidarity) also demonstrated that 'quango' may be a term of abuse when describing the Glasgow Housing Association's eviction rate ('an undemocratic quango run by overpaid managers').¹⁴ The Scottish Agricultural Wages Board is an anachronism according to the National Farmers' Union Scotland, while workforce training is ineffective and run by an 'alphabet soup' of quangos according to the CBI.¹⁵ The SNP tack highlights an interesting trend in its opposition politics. While it made earlier commitments to reduce the quango state (a policy that most parties can use), it reinforced this message in December's statistics on those employed in the public sector. The key emphasis – which sets it apart from Labour and takes traditional Conservative ground – is on the inappropriate rise of the public sector to the detriment of business (suggesting a different tack to Wales in which quangos were brought into government to increase its capacity). The party also promised to strip down the functions of Scottish Enterprise.¹⁶

The loose use of the term 'quango' is problematic (with Executive Agencies and non-departmental public bodies often lumped in together in debates), but there are areas in which bodies funded by government have to be as 'arm's-length' as possible. This is the

¹¹ P. Cairney, 'The Scottish Executive', in P. Jones (ed), *Scotland Devolution Monitoring Report: September 2006*, at: www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Scotland_Sept06.pdf, p.15.

¹² D. Fraser 14 Nov 2006 'Labour deal on health boards', *The Herald*, p6.

¹³ 14 Nov 2006 'Tories slam Labour's 'quangocrat cronies'', *The Scotsman* <http://news.scotsman.com/topics.cfm?tid=367&id=1682092006>

¹⁴ R. Dinwoodie 4 Dec 2006 'Housing evictions anger Sheridan' *The Herald*, p6.

¹⁵ D. Buglass 22 Nov 2006 'Union seeks solution to age-old problem of wages board', *The Herald*, p25; S.

Bain 20 Nov 2006 'Skills system failing to provide value for money, claims CBI' *The Herald*, p32.

¹⁶ P. McMahon 22 May 2005 'SNP will pledge to cull quangos and slash bureaucracy in next manifesto' *The Scotsman* <http://news.scotsman.com/topics.cfm?tid=367&id=756712006> ; SNP 13 Dec 2006 'It's Time to Halt Spiralling Growth of Quango State', www.snp.org/press-releases/2006/it-s-time-to-halt-spiralling-growth-of-quango-state/ ; 13 Oct 2006 'SNP targets Scottish Enterprise for cuts; Nationalists set out proposals to reduce body to core staff', *The Herald*, p8.

case if the assertion of independence is necessary for the publicly-funded body to have credibility within its policy sphere. A good recent example is the education inspectorate HMIE which severed traditional Scottish Office ties after the Higher Still affair in which it was perceived to be too close to Scottish Ministers and effectively making, running, and inspecting policy. Then there is Audit Scotland – not a non-departmental body under the Scottish Executive but rather a Scottish Parliament funded body set up to report to the Auditor General and the Accounts Commission (see also section 2.1) – whose credibility as an auditor hinges on its ability to function independently of ministerial influence. Its most recent publication extends its image as less confrontational (with the bodies it monitors) than its England counterpart but still willing to criticise claims made by the Scottish Executive on efficiency savings (which may in part be welcomed by an Executive keen to further this agenda). The report questions the basis for highlighted savings and recommends more work on measures of increased efficiency (rather than reduced costs) to ensure that money saved does not reduce the quality of public services.¹⁷ Other reports discuss financial pressures on the NHS, a positive review of the SQA's progress since Higher Still, and question marks over the value for money of relocation (below).¹⁸

Less well recognised (but not set for the SNP chop) is the Mental Welfare Commission which is officially an NHS body sponsored by the Health Department but has to be seen as virtually independent of government to fulfil its 'statutory duty to protect people who may, by reason of mental disorder, be incapable of protecting themselves or their interests adequately'.¹⁹ Perhaps a sign of this independence comes from the apparent inability of the Scottish Executive (without great difficulty) to oblige the MWC to move offices as part of its relocation policy.²⁰ In part this particularly long arm is required because the people most relevant to the MWC will be detained on the instigation of psychiatrists (and social work mental health officers) within the same NHS. The MWC was created under section 2 of the Mental Health (Scotland) Act 1960 and then its role was refined by the Adults With Incapacity Act 2000 and it now has a pivotal role in monitoring the implementation of one of Scotland's biggest 'wins' since devolution – the

¹⁷ Audit Scotland (2006) 'The Efficient Government Initiative: a progress report' www.audit-scotland.gov.uk/publications/pdf/2006/06pf11ag.pdf

¹⁸ For a list of publications see www.audit-scotland.gov.uk/publications/pubs2006.htm

¹⁹ www.scotland.gov.uk/Topics/Government/public-bodies/directory/Q/BodyId/72

²⁰ BBC News 8 June 2005 'Mental health body move dropped' <http://news.bbc.co.uk/1/hi/scotland/4071324.stm>

Mental Health (Care and Treatment) (Scotland) Act 2003 (see section 11.2). As its latest annual report describes, this involves visiting every person on a compulsory treatment orders within the first year of that order.²¹

More familiar Conservative territory can be found in an assessment of the amount of legislation since devolution (over 100 Acts of the Scottish Parliament, over 70 Sewel Motions and over 3000 statutory instruments), with deputy leader Murdo Fraser keen to point out the more-than-expected costs of regulation.²² The Conservatives also used an FOI request to ensure a very questionable ministerial admission that the Executive had 'legislationitis'.²³ However, the biggest bugbear for organisations delivering public services has to be regulation, with a number of inspectorates or external auditors overseeing the same bodies but with different reporting mechanisms. This problem is being addressed by a review (as part of Tom McCabe's Public Service Reform agenda) by Professor Lorne Crerar – former Convener to the Standards Commission of Scotland – which is due to report in July 2007.²⁴

1.5 Relocation

According to Audit Scotland, the Scottish Executive policy of relocation when a public body or Executive agency's lease is up for renewal (or the assumption against locating new public bodies in Edinburgh) has resulted in 1653 posts transferred outside Edinburgh and 1164 outside the city centre (933 of those have moved to Glasgow), with 20 more reviews likely in the next 5 years. Perhaps in its equivalent of a 'cold reading' it recommends that the Scottish Executive expends more effort in the evaluation of policy success given that, 'Our estimates show significant variation in individual relocations, ranging from a saving of £33,000 per job to a cost of £45,000 per job'.²⁵ It suggests that few of the decisions to relocate were based on efficiency savings identified by the organisations themselves. This (and the membership of Edinburgh MSPs Susan Deacon (Labour) and Margaret Smith (LibDem)) prompted the Scottish Parliament's Audit

²¹ Mental Welfare Commission (2006) Annual Report 2005-6

www.mwscot.org.uk/web/site/GoodPractice/Publications/Annual_Reports.asp

²² L. Gray 29 Dec 2006 'Busybody' Executive's legislation dismissed as costly interfering', *The Scotsman* <http://news.scotsman.com/topics.cfm?tid=867&id=1924862006>

²³ T. Gordon 6 Dec 2006 'Too many laws being passed, says minister', *The Herald* www.theherald.co.uk/politics/76081.html

²⁴ See www.scotland.gov.uk/Topics/Government/PublicServiceReform/IndependentReviewofReg

²⁵ Audit Scotland (2006) 'Relocation of Scottish Executive departments, agencies and NDPBs', www.audit-scotland.gov.uk/publications/pdf/2006/06pf05ags.pdf (pt 18, p4).

Committee to conduct an inquiry.²⁶ Despite Glasgow's 'gain', there is little to choose from in the equally critical *Herald* / *Scotsman* (or *Evening News*) coverage.²⁷

1.6 Freedom of Information

The Information Commissioner Kevin Dunion continues to deem the Freedom of Information legislation and its implementation a success.²⁸ He applied successfully in December to the Court of Session to oblige the Common Services Agency to release information of leukaemia cases in Dumfries and Galloway. The request was pursued by the Green Party to examine the effect of the Sellafield Nuclear plant in Cumbria.²⁹ Dunion is now pursuing the issue of a 'closed shop' in the provision of legal representation in Scottish Courts. This follows a request by Bill Alexander to release ministerial correspondence which may explain why provisions in a 1990 Law Reform Act to introduce competition were never enacted.³⁰ Dunion ordered the release of some communications between the Executive and the Home Office on the detention of children at Dungavel (a detention centre for asylum seekers).³¹ Firms reported to the Trading Standards authority can now be 'named and shamed' after the Commissioner ruled that local authorities were obliged to release the information on request.³² Changes, including factoring in the costs of ministerial and civil service time, which will restrict the number of FOI requests are reasonably high on the Scottish agenda in Scotland following proposals by the UK's Lord Chancellor. This is likely to tip most high profile requests over the £600 limit which can automatically be used to refuse FOI

²⁶ I. Swanson 27 Sept 2006 'Top civil servants face grilling as Holyrood probes jobs move' *Evening News* <http://news.scotsman.com/topics.cfm?tid=867&id=1430972006>

²⁷ I. Swanson 27 Nov 2006 'Top civil servants face grilling as Holyrood probes jobs move' *Evening News* <http://news.scotsman.com/topics.cfm?tid=867&id=1430972006>; T. Gordon 21 Sept 2006 'Relocation policy 'costly and unfocused'; Transfer of public sector staff criticised by watchdogs', *The Herald*, p2.

²⁸ 20 Sept 2006 'The Act is working - but has the culture changed?', www.itspublicknowledge.info/resources/media/pressreleases/pressreleases.htm

²⁹ Scottish Information Commissioner 1 Dec 2006 'Court of Session decision upholds Commissioner's decision in first Freedom of Information case', www.itspublicknowledge.info/resources/media/pressreleases/pressrelease23.htm; 2 Dec 2006 'Information victory over cancer cases', *The Scotsman* <http://news.scotsman.com/topics.cfm?tid=1255&id=1787092006>

³⁰ P. Rogerson 18 Dec 2006 'Freedom of information, the law and the public purse', *The Herald* www.theherald.co.uk/business/76926.html

³¹ Scottish Information Commissioner 25 Sept 2006 'Commissioner requires disclosure of information on the detention of children at Dungavel', www.itspublicknowledge.info/resources/media/pressreleases/pressrelease20.htm

³² 23 Nov 2006 'Stores facing public release of complaints', *Evening News* <http://news.scotsman.com/topics.cfm?tid=1255&id=1736482006> *The Herald*

requests.³³ *The Herald* suggests that MSPs have reduced their expenses following FOI requests.³⁴

1.7 Academic Freedom

The issue of academic freedom when commissioned by government to do research was highlighted by Reece Walters of Stirling University in December. Walters and Stirling University were given £330,000 to evaluate the effectiveness of pilot youth courts in Hamilton and Airdrie. Walters claims that he was denied access to the architects of policy and was asked to rewrite parts of the study critical of policy. The Scottish Executive denied any attempt to manipulate research findings.³⁵

³³ F. Nicolson 13 Nov 2006 'Reform might see a flat fee charged for FOI requests', www.theherald.co.uk/business/74262.html

³⁴ T. Gordon 6 Oct 2006 'MSPs' expenses fall by 87.5%' *The Herald* www.theherald.co.uk/politics/71536.html

³⁵ M. Howie 5 Dec 2006 'Executive 'airbrushed' criticisms from report on youth crime courts' *The Scotsman* <http://news.scotsman.com/topics.cfm?tid=867&id=1801522006>

2. The Scottish Parliament

Paul Cairney

2.1 Petitions

The ESRC funded Dr. Christopher Carman of Glasgow University to review the petitions process from 1999-2006.³⁶ His report confirms earlier studies (see previous monitoring report³⁷) – that most petitions are submitted by individuals (positive: it is not dominated by business/pressure groups; negative: the median number of signatures is two with a disproportionate number from middle-class white men) and that the committee has shifted its role from postmaster in session 1 to gatekeeper in session 2. Petitioners are reasonably satisfied with the process, but many are concerned about the influence of clerks as gatekeepers and the lack of ability to follow up on actions taken in Parliament. The examples of ‘successful’ petitions confirm the committee’s view that the influence of the system should not be exaggerated.³⁸ At best the process is one of agenda setting – raising issues and hoping that they receive attention from decision-makers.

2.2 The Finance Committee – Governance and the Budget Review

Since MSPs frequently refer to the number and cost of Executive agencies and quangos (see section 1.3), the Scottish Parliament ought to have its own house in order. This is the focus of the Finance Committee’s *Inquiry into Accountability and Governance* (see section 2.3) which examines the cost and effectiveness of parliamentary commissioners and ombudsmen established as independent of the Executive and directly accountable to Parliament.³⁹ It highlights a cost in 2006 of almost £6m, with the SPSO taking the lion’s share (£2.8m) and then highlights the main dilemma: of ensuring the financial accountability of these bodies while also allowing them the independence to fulfil their duties (see also the interesting disagreement between the Finance and Procedures Committees on where to draw the line, paras 43-4). This is particularly the case with a Parliament-funded body scrutinising MSP behaviour. The committee points out that legislation establishing these bodies does not give the Parliament’s Corporate Body the

³⁶ See www.scottish.parliament.uk/business/committees/petitions/reports-06/pur06-PPS-assessment-01.htm
³⁷ P. Cairney, ‘The Scottish Parliament’, in *Scotland Devolution Monitoring Report: September 2006*, op cit, at p.19.

³⁸ Procedures Committee 3rd Report 2003 The Founding Principles Of The Scottish Parliament: www.scottish.parliament.uk/business/committees/historic/procedures/reports-03/prr03-03-vol01-04.htm

³⁹ These are Scotland’s Commissioner for Children and Young People (SCCYP), the Scottish Information Commissioner (SIC), the Commissioner for Public Appointments in Scotland (CPAS), the Scottish Parliamentary Standards Commissioner (SPSC) and the Scottish Public Services Ombudsman (SPSO).

power to direct or veto the budgets of these bodies. It recommends that future bills should have this requirement and that current legislation should be amended to this end. It also recommends that existing bodies should share services (the Executive agrees), no new bodies should be established unless they show that the functions could not be fulfilled by existing bodies (agrees), any decisions should await the Crerar review of public bodies (disagrees), and that the Human Rights Commissioner could be subsumed within the SPSO (disagrees).

The more regular but big review by the Finance Committee is of the annual budget. This involves an incredible amount of evidence-taking and reporting by eight parliamentary committees before it is tied up into a neat bundle by Finance. As agreed with the Executive, the committees now go straight to stage 2 considerations on non-Spending Review years in which there is more limited budget change. While it broadly welcomes the Executive's bill, the committee recommends greater clarity of figures and aims/objectives (particularly regarding cross-cutting themes and the link between health service funding and economic growth), and providing gender-based breakdowns of public investment and increasing funding to local government, which it argues tends to lose out compared to health.⁴⁰

The process also allows for innovation in scrutiny. A good example is the Health Committee's decision to focus on mental health spend (which is timely – see section 11.2). It suggests that while mental health money should not be ring-fenced, the Executive should monitor more closely each health board's allocation to mental health. This would present a useful compromise and build on the 'success of initiatives such as Choose Life that have involved more directed use of funds'.⁴¹ It also recommends more effective monitoring of spending and the resource allocation effects of the new Mental Health Act.

2.3 Devolution Hopes and the Scottish Parliament Committee Findings⁴²

⁴⁰ Although Tom McCabe then announced a larger local government settlement on 13 Dec 2006 SPOR col30273 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-06/sor1213-02.htm#Col30273

⁴¹ Annex H para 17 www.scottish.parliament.uk/business/committees/finance/reports-06/fir06-09-04.htm#AnnexeH

⁴² This is a discussion of the reports listed in 2.3.

The review of pay deals is a key feature in this period, with the Audit Committee looking at the teacher and consultant contracts. It accepts that the Executive had good reason to seek a quick agreement with teachers given the history of industrial unrest. But then Audit Scotland concluded that the Executive should have prepared more concrete measures of the success of the teachers' pay deal in terms of its value-for-money (see section 11.1). Less sympathy is evident in its longer-term evaluation of the implementation of the health sector consultant contract. In this case there were fewer pressing Scottish circumstances requiring a big pay rise for a shorter working week. Rather, the pressures were coming from England where the prospect of defection to private practice was significant (in Scotland, defection to England was more likely). The committee suggests that since the contract was largely negotiated at UK level with insufficient Executive knowledge of consultant activity, not enough attention was given to local circumstances:

... such as higher staffing levels; greater remoteness and a smaller independent health care sector ... The Committee's concern that negotiations did not adequately address differing needs in Scotland is starkly illustrated by the disproportionate financial impact of the contract in Scotland's island health boards, where the pay bill has risen by as much as 90 per cent following introduction of the contract. The Committee has seen no evidence that this impact was planned for or expected. (paras 20-1).

One of the founding ideas of executive-parliament relations was that committees would monitor the quality of Scottish Executive consultation with affected interests:

Standing Orders should require Executive Bills to complete a consultative process before being presented to Parliament. The role of the Committee would essentially be a monitoring/enforcing role to ensure the requirement is met. The Committee would always remain able to take evidence relating to the legislative proposals if it felt that the Executive's consultation process had been insufficient.⁴³

In practice this may not often arise given the Executive's good record (see section 1.2), but the Education Committee has used this role to good effect when examining the *Protection of Vulnerable Groups (Scotland) Bill*. The bill is in response to the legislation which followed the Bichard Inquiry into the Ian Huntley case. While Bichard made recommendations for England and Wales, the Scottish Executive took the opportunity to 'learn lessons', close possible UK loopholes and reform the existing (and often criticised)

⁴³ Scottish Office (1998) 'Report of the Consultative Steering Group on the Scottish Parliament' www.scotland.gov.uk/library/documents-w5/rcsg-10.htm para 5.

Scottish system.⁴⁴ Perhaps unusually the Sewel route was not used to close loopholes, in part because of existing differences of arrangements (for example, in England and Wales the onus for checks is on individuals; in Scotland it is on the employer). The committee highlights a lack of sufficient consultation around part 3 of the bill (on disclosure and sharing information) and criticises the fact that too much is left to regulations rather than primary legislation. While it agrees with the principle of the bill and expects an improved disclosure system, it follows the argument expressed by many in the voluntary sector (particularly the SCVO and Scottish Parent Teachers Council) that the costs and extent of vetting may be disproportionate to the level of risk.

The combination of standing and select committees (as well as input from other interested committees from stage 1) was designed to allow more effective scrutiny of legislation by committees with a long-term expertise in the subject. This is evident with the Health Committee's relatively assertive stage 1 report on *The Adult Support and Protection (Scotland) Bill*. The bill intends to 'fill gaps' left by current legislation on incapacity and mental disorder in which state intervention only takes place when individuals lack the mental capacity to make their own decisions. With the new bill, such intervention would occur if the individual had capacity but was deemed to be in an excessively vulnerable position – based, say, on being dependent on a partner or relative – and subject to serious neglect or abuse. Then either the vulnerable person or the abuser could be removed from the home. This bill has proved controversial amongst stakeholders. It was promoted most by Age Concern, keen to follow previous bills which used principles to 'send a message' on abuse. It is also welcomed by most authorities (health, social work, police) involved in enforcement who discuss a handful of cases in which existing law does not help (leading to the odd comment by some that it is using a hammer to crack a nut). However:

Uniquely in the Committee's experience, a number of the main bodies representing those whom the Bill is intended to protect are firmly against key provisions of it. ...Whilst those representing the elderly are firmly in favour of the Bill, those representing people with disabilities have the most concerns over it (paras 71-2).

One body, Enable, argues that the Act may undermine its 50-year campaign to see people with disabilities have equal civil rights. As a result, the committee supports the

⁴⁴ Scottish Executive (2006) 'Consultation On Protecting Vulnerable Groups: Scottish Vetting And Barring Scheme' www.scotland.gov.uk/Resource/Doc/92657/0022210.pdf

general principles but recommends that the Act is used only as a last resort (and that the bill should be redrafted to make this clear). It also suggests (following the Subordinate Legislation Committee) redrafting the definition of 'adults at risk' since this is key to the bill and should not be left to subordinate legislation. But perhaps the recommendation which shows institutional memory and a maturity in committee thinking is the discussion (following advice by the Finance Committee) of the resources available to relocate the vulnerable adult. It recommends the assumption of reciprocity reminiscent of the previous mental health act – that a person should only be removed if the state can demonstrate adequate alternative accommodation is available.

Another great hope for committees was that their relatively small size and stability would foster businesslike scrutiny of the Executive. While criminal justice and public safety are likely to be key electoral ground in 2007, the Justice 2 Committee stage 1 report on the *Custodial Sentences and Weapons (Scotland) Bill* demonstrates focussed attention on the details and 'workability' of the bill. It combines practical recommendations – assess the effect of the bill by gender, explain the unintended consequence of sentencing in which 14 days would be served entirely in jail compared to 15 days in which half could be served in the community, explain the rationale and costs of sentences which are more than half served in custody – with a general point (based on its own research) that in the light of more explicit ratios of custodial/community in sentences, the public needs much more convincing of the merits of non-custodial sentences. A sub-committee of the Justice 2 committee was also formed (after discussion of a petition) to examine Executive arrangements on the monitoring of sex offenders.

Yet another great hope for committees was that they would spend more time on inquiries and setting the agenda. In November, the Equal Opportunities Committee published its inquiry on disability. The inquiry spanned over two years, with the dual role of providing a model of consultation for disability and to make a total of 156 sweeping recommendations across a range of policy areas. These included employment support, flexible recruitment methods, careers guidance, transport, the need for disabled people involvement in the development of equality training and a high profile Executive campaign to tackle public perceptions of disability (perhaps supplementing the SeeMe

mental health campaign). In a great demonstration of synchronicity, the Scottish Executive also published its working group's recommendations on disability.⁴⁵

Hopes were also high that the Executive and Parliament would work well together. The Local Government and Transport Committee's stage 1 report on the *Transport and Works Bill* demonstrates a high degree of synchronicity between Parliament and the Executive. It welcomes a bill to replace the Private Bills process with parliamentary approved ministerial orders for major transport developments. The experience of tram and rail bills led to the Procedures Committee recommendation to abolish the private bill process because it was too complex and time-consuming for the MSPs involved.⁴⁶

Finally, there were hopes that if the Parliament expressed enough concern about parts of legislation, the Executive would actually do something about it. This seems to be the case with the crofting bill, contentious sections of which were withdrawn and sent to a review group (see section 1.2 of previous monitoring report).⁴⁷ The Education Committee considered and largely supported the Gaelic Language Board's draft national plan. The Environment and Rural Development Committee stage 1 report on the aquaculture bill generally supports its content and the consultation process. It also supports a petition by an organisation called 'COAST' proposing that Lamlash Bay should be a marine protected area. Most of the Procedures Committee reports – by its convenor's admission – do not set the heather on fire.⁴⁸ The most substantial piece of work largely recommends the maintenance of parliamentary time allocations.

2.4 Committee Reports and Inquiries (11 September 2006 – 31 December 2006)⁴⁹

List of reports and inquiries (arranged by committee, with weblinks):

⁴⁵ Scottish Executive News Release 23 Nov 2006 'New advice to help disabled'

www.scotland.gov.uk/News/Releases/2006/11/23105108

⁴⁶ See SPOR 11 May 2005 Col 16695-715

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-05/sor0511-02.htm#Col16695

⁴⁷ H. MacDonell 23 Sept 2006 'Crofting climb-down by Executive'

<http://news.scotsman.com/topics.cfm?tid=867&id=1405772006>

⁴⁸ See SPOR 21 Dec 2006 Cols 30782-93

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-06/sor1221-02.htm

⁴⁹ Excluding most annual reports, budget reports (brought together by the Finance Committee's stage 2 report) and reports on subordinate legislation. Reports with UK legislation in the title discuss Sewel motions.

Audit:

1 December [7th Report, 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](#)

16 November [6th Report, 2006: Implementing the NHS Consultant Contract in Scotland](#)

Education:

21 December [12th Report 2006: Stage 1 Report on Protection of Vulnerable Groups \(Scotland\) Bill](#)

2 November 11th Report 2006: [Draft National Plan for Gaelic](#)

Environment and Rural Development:

5 December 2006 [14th Report 2006: Stage 1 Report on the Aquaculture and Fisheries \(Scotland\) Bill](#)

14 December 2006 – [Scottish Executive's response to the Committee's Stage 1 Report on the Aquaculture and Fisheries \(Scotland\) Bill](#)

29 September 2006: Petition PE799 regarding Lamlash Bay, Isle of Arran – [Letter from the Committee to the Minister for Environment and Rural Development.](#)

27 September 2006 12th Report, 2006: Supplementary Stage 1 Report on the Environmental Levy on Plastic Bags (Scotland) Bill [Volume 1: Report Volume 2: Additional Written Evidence](#)

Equal Opportunities:

28 November [2nd Report 2006: Removing Barriers and Creating Opportunities; BSL information; Easy Read summary](#)

European and External Relations:

28 Sept [5th Report 2006: Report on the Legislative Consent Memorandum on the Legislative and Regulatory Reform Bill](#)

27 Sept [Committee's response to the European Commission's Green Paper on a Sustainable, Competitive and Secure Energy Policy](#)

Finance:

12 December [9th Report 2006: Stage 2 of the 2007-08 Budget Process](#)

6 October [Commissioned Research on the 'Economic Impact of the Scottish Budget'](#)

15 Sept [7th Report, 2006: Inquiry into Accountability and Governance](#)

- [Scottish Executive response to the 7th report 2006, Inquiry into Accountability and Governance](#)

- [Scottish Parliamentary Corporate Body response to the 7th report 2006, Inquiry into Accountability and Governance](#)

Health:

10 November [16th Report 2006: The Adult Support and Protection \(Scotland\) Bill](#)

Justice 1 and Justice 2:

22 December [16th Report 2006: Stage 1 Report on the Custodial Sentences and Weapons \(Scotland\) Bill](#)

15 December [Justice System \(Child-Sex Offenders\)](#)

14 November [14th Report 2006: Stage 1 Report on the Christmas Day and New Year's Day Trading \(Scotland\) Bill](#)

Local Government and Transport:

14 November [15th Report 2006: Stage 1 Report on the Transport and Works \(Scotland\) Bill](#)

Procedures:

18 December [11th Report 2006: Review of Parliamentary Time](#)

14 December [10th Report 2006: Scottish Commission for Public Audit](#)

30 November [9th Report 2006: Report on Rule 10.3.2 \(the '20-day rule'\)](#)

20 November [8th Report 2006: Consolidation Bill Procedure](#)

2 November [7th Report 2006: Members' Interests \(Parliamentary Determinations and Resolutions\)](#)

9 October [6th Report 2006: Public Bills and Substitution](#)

19 Sept [5th Report 2006: Consultation Report on Parliamentary Time](#)

Public Petitions:

30 October [Assessment of the Scottish Parliament's Public Petitions System 1999 – 2006](#)

Standards and Public Appointments:

22 December [8th Report 2006: Determinations required under the Interests of Members of the Scottish Parliament Act 2006 – Determination required under the schedule, paragraph 8](#)

22 December [7th Report 2006: Determinations required under the Interests of Members of the Scottish Parliament Act 2006 – Determination required under Section 13](#)

22 December [6th Report 2006: Determinations required under the Interests of Members of the Scottish Parliament Act 2006 – Determination required under Section 11](#)

22 December [5th Report 2006: Determinations required under the Interests of Members of the Scottish Parliament Act 2006 – Determination required under Section 4](#)

1 December [4th Report 2006: Complaint against Alasdair Morrison MSP](#)

24 November [3rd Report 2006: Consultation on Determinations required under the Interests of Members of the Scottish Parliament Act 2006](#)

22 September [2nd Report 2006: Complaint against Mike Pringle MSP](#)

Subordinate Legislation:

13 December [47th Report 2006: Legal Profession and Legal Aid \(Scotland\) Bill as amended at Stage 2](#)

7 December [46th Report 2005: Adoption and Children \(Scotland\) Bill as amended at Stage 2](#)

30 November [44th Report 2006: Bankruptcy and Diligence \(Scotland\) Bill as amended at Stage 2](#)

15 November [41st Report 2006: Planning \(Scotland\) Bill as amended at Stage 2](#)

Ad hoc committees:

Airdrie-Bathgate Railway and Linked Improvements Bill Committee:

14 November [1st Report, 2006: Preliminary Stage Report on the Airdrie-Bathgate Railway and Linked Improvements Bill](#)

Edinburgh Airport Rail Link Bill Committee:

15 September [1st Report, 2006: Preliminary Stage Report on the Edinburgh Airport Rail Link Bill](#)

Glasgow Airport Rail Link Bill Committee:

30 October [2nd Report, 2006: Consideration Stage Report on the Glasgow Airport Rail Link Bill](#)

2.5 Parliamentary Bills (11 September 2006 – 31 December 2006)

Executive Bills in Progress (latest stage reached):

- [Adoption and Children \(Scotland\) Bill](#) (Stage 3)
- [Adult Support and Protection \(Scotland\) Bill](#) (Stage 2)
- [Aquaculture and Fisheries \(Scotland\) Bill](#) (Stage 1)
- [Bankruptcy and Diligence etc. \(Scotland\) Bill](#) (Stage 3)
- [Criminal Proceedings etc \(Reform\) \(Scotland\) Bill](#) (Stage 2)
- [Crofting Reform etc Bill](#) (Stage 2)
- [Legal Profession and Legal Aid \(Scotland\) Bill](#) (Stage 3)
- [Planning etc. \(Scotland\) Bill](#) (Stage 3)
- [Prostitution \(Public Places\) \(Scotland\) Bill](#) (Stage 1)
- [Protection of Vulnerable Groups \(Scotland\) Bill](#) (Stage 1)
- [Rights of Relatives to Damages \(Mesothelioma\) \(Stage 1\)](#)
- [Schools \(Health Promotion and Nutrition\) \(Scotland\) Bill](#) (Stage 1)
- [Scottish Commissioner for Human Rights Bill](#) (Stage 3)
- [Tourist Boards \(Scotland\) Bill](#) (Stage 2)
- [Transport and Works \(Scotland\) Bill](#) (Stage 2)

2.6 Non-Executive Bills

Members' Bills in Progress (introduced by)

- [Cairngorms National Park Boundary Bill](#) (John Swinney, SNP)
- [Christmas Day and New Year's Day Trading \(Scotland\) Bill](#) (Stage 1) (Karen Whitefield, Labour)
- [Civil Appeals \(Scotland\) Bill](#) (Adam Ingram, SNP)
- [Commissioner for Older People \(Scotland\) Bill](#) (Alex Neil, SNP)
- [Education \(School Meals etc.\) \(Scotland\) Bill](#) (Frances Curran, SSP)
- [Health Board Elections \(Scotland\) Bill \(Stage 1\)](#) (Bill Butler, Labour)
- [Home Energy Efficiency Targets \(Scotland\) Bill](#) (Shiona Baird, Green)
- [Scottish Register of Tartans Bill](#) (Jamie McGrigor, Conservative)
- [St Andrew's Day Bank Holiday \(Scotland\) Bill](#) (Stage 1) (Dennis Canavan, Ind)

- [Treatment of Drug Users \(Scotland\) Bill](#) (Rosemary Byrne, Solidarity)

The [Environmental Levy on Plastic Bags \(Scotland\) Bill](#) was withdrawn on 25.10.06. The Treatment of Drug Users (Scotland) Bill fell on 29.9.06.

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 (in order of date lodged):

- Proposed Liability for Release of Genetically Modified Organisms (Scotland) Bill (Mark Ruskell, Green) – The proposal has gathered sufficient support for a bill to be introduced
- Proposed Road Traffic Reduction Targets (Scotland) Bill (Chris Balance, Green)
- Proposed Third party Planning Rights of Appeal Bill (Sandra White, SNP) – The proposal has gathered sufficient support for a bill to be introduced
- 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) – The proposal has gathered sufficient support for a bill to be introduced
- Proposed Micropower (Scotland) Bill (Shiona Baird, Green) – The proposal has gathered sufficient support for a bill to be introduced
- Proposed Energy Efficiency And Micro-generation (Scotland) Bill (Sarah Boyack, Labour) – The proposal has gathered sufficient support for a bill to be introduced
- Proposed Setting and Retention of Non-domestic Rates Bill (Tommy Sheridan, Solidarity)
- Proposed Sunbed Licensing (Scotland) Bill (Kenneth Macintosh, Labour)
- Proposed Abolition of the Tay Bridge and Forth Road Bridge Tolls Bill (Bruce Crawford, SNP)

- Proposed Provision of Rail Passenger Services (Scotland) Bill (Tommy Sheridan, Solidarity) – The proposal has gathered sufficient support for a bill to be introduced
- Proposed Local Government Elections (Scotland) Bill (David Davidson, Conservative) – The proposal has gathered sufficient support for a bill to be introduced
- Proposed Legal Rights on Succession (Scotland) Bill (Rob Gibson, SNP)
- Proposed Abolition of Tay and Forth Road Bridge Tolls (Scotland) Bill (Helen Eadie, Labour)
- Proposed High Hedges (Scotland) Bill (Scott Barrie, Labour)
- Proposed Disabled Persons Parking Bays (Scotland) Bill (Jackie Baillie, Labour)
- Proposed Restriction on Air Guns (Scotland) Bill (Tommy Sheridan, Solidarity)

The proposed Asbestos (Improved Compensation) Bill (Des McNulty, Labour) was withdrawn 25 June 2006 and the proposed Culpable Homicide (Scotland) Bill (Karen Gillon, Labour) was withdrawn 29 Sept 2006.

2.7 Sewel (Legislative Consent) Motions passed⁵⁰

There were none!

⁵⁰ A full list of motions and links to SPOR discussions is provided by the Scottish Executive:
www.scotland.gov.uk/Topics/Government/Sewel/SessionTwo

3. The Media

Eberhard Bort

3.1 Media Crisis

'Scottish papers, produced by Scots for Scotland, have seldom, if ever, had it so bad. And Scottish journalists would add that Scottish commercial TV, beset by crisis, is in a similarly parlous position.'⁵¹ The facts behind Peter Preston's verdict? Decline in sales for *The Scotsman* (September sale down 10.34 per cent on the year to 54,875 full-price copies) and the *Herald* (-7 per cent; 71,508), while the cut-price *Sun* succeeded in outselling the *Record* (September: 414,655 vs 390,000). Preston finds those trends hard to reconcile with resurgent 'nationalism' in Scotland, noting that the same process is visible in independent Ireland: 'London's press may don a green dress (or a kilt), but it's coming to get you out there on the Celtic fringe, coming to bury the very sense of nationhood that, otherwise, seems on an upswing.'

Part of the explanation, Iain Macwhirter concurs with Preston, is that *The Scotsman* under its new owners (Johnston Press) and new editor (Mike Gilson, formerly *Portsmouth News*) has increasingly been 'turned into another local paper, rather than a forum for a national conversation.'⁵² While advertising revenue was continuing to decline,⁵³ the next threat is looming as News International prepares to launch a fully kilted version of the *Times*, perhaps as early as April of his year, and with former *Scotsman* editor Magnus Linklater in a leading role.⁵⁴ 'For Scotland's indigenous newspapers,' Andrew Neil contends, 'things are about to get even worse.'⁵⁵ Regionalisation plans of both BBC and STV⁵⁶ – although dealt a blow by the below-inflation rise of the BBC licence fee⁵⁷ – could also challenge regional newspapers.

⁵¹ Peter Preston, 'Scottish papers fall off the rails', *The Observer*, 22 October 2006.

⁵² Iain Macwhirter, 'Scots on the rocks', *The Guardian*, 25 September 2006.

⁵³ Simon Bain, 'Johnston Press sees no recovery in ad revenue', *The Herald*, 13 December 2006.

⁵⁴ Steven Vass, 'News International considers full Scottish edition of Times', *Sunday Herald*, 22 October 2006; Stephen Brook, 'Times prepares for Scottish push', *The Guardian*, 4 January 2007.

⁵⁵ Andrew Neil, 'Things are going to get worse', *The Guardian*, 18 December 2006.

⁵⁶ Steven Vass, 'Mixed response as BBC boss Thompson launches charm offensive on regionals', *Sunday Herald*, 12 November 2006; Fergus Sheppard, 'Will local headlines win ratings for STV news?', *The Scotsman*, 16 November 2006.

⁵⁷ Fergus Sheppard, 'BBC Scotland's local news plans may fall victim to licence fee shortfall', *The Scotsman*, 19 January 2007.

The Saltire Society attacked BBC Scotland, accusing it of ‘dumbing down’, subjecting Scottish viewers and listeners ‘to a poor diet of football, phone-ins, inadequate presentation.’⁵⁸ Focusing their criticism primarily on *Reporting Scotland* (TV) and *Good Morning Scotland* (radio), they argue that ‘a new public service broadcaster for Scotland would serve the nation’s cultural needs better than the BBC.’⁵⁹ Behind the criticism simmers the frustration about the failure of gaining a Scottish Six.⁶⁰ ‘We need a programme,’ in the words of the Saltire Society vice-chairman Paul H Scott, ‘that allows Scots to see the world through Scottish eyes.’⁶¹ SNP candidate Mike Russell gives the essence of the attack: ‘The lack of a single substantive extended television news bulletin from Scotland which is focused on where we are but which also reflects the world remains an outrage. After eight years of devolution BBC Scotland’s bosses are still failing their country and their audience.’⁶²

3.2 Agendas and Campaigns

In an interview with the *Guardian*, the new editor of the *Scotsman*, Mike Gilson, laid out his stall, insisting he had ‘a clear vision of where he will take the paper... Gilson believes *The Scotsman*’s strongest asset is its national identity. He intends to drape the paper in tartan come the new year.’ As part of that strategy *The Scotsman* has started to send reporters out around the country, as part of the great ‘nationhood debate’, ‘to conduct a vast ‘vox pop’, to ‘ask people what it means to be Scottish’.⁶³

An example of *The Scotsman*’s new ‘Scottishness’ was the campaign for a new Forth crossing which the paper started on 20 November, eventually hailing an Executive ‘U-turn’ by 16 December. Another, the series by Paul Riddell, minutely mirroring, ‘step by step, and article by article’,⁶⁴ the negotiations on the Act of Union in Edinburgh between October 1706 and January 1707, a poll of ‘100 voices on Independence’ (14 October 2006), and a five-day double-page feature in December on ‘Independence: The Issues’

⁵⁸ Shan Ross, ‘BBC Scotland accused of dumbing down news programmes’, *The Scotsman*, 11 December 2006.

⁵⁹ Gerry Braden, ‘Saltire Society wants a purely Scots public service broadcaster’, *The Herald*, 11 December 2006.

⁶⁰ The concept is of an hour-long news programme, entirely edited and presented from Scotland, incorporating international, British and Scottish news.

⁶¹ Arthur MacMillan, ‘Bland, Boring, Crass’, *Scotland on Sunday*, 10 December 2006.

⁶² Mike Russell, ‘A cacophony of chatter’, *Scotland on Sunday*, 10 December 2006.

⁶³ Severin Carrell, ‘An unlikely act of union’, *The Guardian*, 11 December 2006.

⁶⁴ Paul Riddell, ‘After months of heated debate, time to tie up the loose ends’, *The Scotsman*, 11 January 2007.

– yet hastening to assure its readers in a Leader: ‘In running a series on independence, *The Scotsman* is not advocating that Scotland should withdraw from the Union after 300 years.’⁶⁵

3.3 The Union

The anniversary of the Scottish signing of the Act of Union on 16 January was marked by acres of column space, supplements and pull-outs in the Scottish media – in the English papers it received hardly a mention.⁶⁶ But the BBC dedicated a full, nationwide *Newsnight* (18 January) to the theme – pairing Jeremy Paxman and Kirsty Wark with a select audience in the Great Hall of Edinburgh Castle, which brought Douglas Alexander, the Scottish Secretary, and Alex Salmond, the SNP leader, head to head.

The media is greatly interested in the idea of additional powers for Holyrood. ‘What is clear is that the devolution deal delivered in 1999 is far from the settled will of the Scottish people, but neither has it been proved to be the start of the inexorable slide towards independence. There is plenty of room for change, and giving Holyrood proper responsibility for raising the money it spends or answering the West Lothian question should not be regarded as the next stop to divorce.’⁶⁷ After all, as Ruth Wishart commented, ‘the devolution settlement, like all politics, is a work in progress that must be adapted...’⁶⁸

Wishart’s comment was provoked by Jack McConnell’s ‘no more powers’ John P Mackintosh lecture in Haddington in October.⁶⁹ The *Edinburgh Evening News* also challenged the ‘superficial logic’ of McConnell’s stance that the powers of the Scottish Parliament were sufficient. Tax powers, control of the electoral system, transport, medical contracts, energy policy, broadcasting, civil service responsibility – the *Evening News* saw ‘no reason why responsibility for some of these other areas should not gradually be handed from London to Edinburgh if it becomes clear in time such a move

⁶⁵ Leader Comment, ‘Independent thinking needed’, *The Scotsman*, 11 December 2006.

⁶⁶ Hamish Macdonell, ‘300 years on, and where is the big party to celebrate the Union?’, *The Scotsman*, 17 January 2007; James Cusick and Torcuil Crichton, ‘Brown defends UK but Act of Union ignored’, *Sunday Herald*, 14 January 2007.

⁶⁷ Leader Comment, “We need to give devolution time to be a success”, *Edinburgh Evening News*, 16 January 2007.

⁶⁸ Ruth Wishart, ‘Oddly, Jack’s going to tell why he’s a Union man’, *The Herald*, 24 October 2006.

⁶⁹ Douglas Fraser, ‘McConnell: we don’t need more powers for Holyrood’, *The Herald*, 25 October 2006.

makes sense.⁷⁰

However *Scotland on Sunday* repeatedly urged caution: ‘There *may* be a case for greater powers for Holyrood, but it is yet to be made. Our parliament is barely eight years old,⁷¹ and: ‘Voters, as well as politicians, carry a heavy responsibility... the first resort should be to mend devolution, not break the Union’.⁷² Henry McLeish, former First Minister, added his voice criticising the defensive stance Jack McConnell has taken since his October lecture: ‘The first minister must do more to convince the electorate that Labour has the ability and the courage to provide a real alternative to the struggle that exists between the status quo and separatism and that means defying Westminster and demanding more powers for Holyrood.’⁷³ A *Scotsman* leader warned McConnell: ‘defending the status quo may not be an option.’⁷⁴ And Peter Jones also commented that it could be ‘a big mistake’ for Labour to take ‘no more constitutional change as a manifesto mantra.’⁷⁵

3.4 Elections

‘Who would have thought that the SNP would stage the most successful party conference of the season? Labour were at war with themselves, the Liberal Democrats shell-shocked, and the Tories accident-prone. The nationalists, by contrast, seemed united, confident, businesslike, purposeful.’⁷⁶ ‘The SNP emerge from their annual conference in Perth in fine fettle,⁷⁷ is generally the media verdict on the autumn conference season.

Whether a new party – not even named yet, but allegedly either to be called Scottish Democrats or Scottish Voice⁷⁸ – will have an impact on the May elections is more than doubtful. Anyone remember the founding of the Scottish Christian People’s Alliance last October?⁷⁹ Although ‘rather too late to have much chance of gaining brand recognition

⁷⁰ Leader Comment, ‘There is a case for giving Holyrood further tax powers’. *Edinburgh Evening News*, 30 October 2006.

⁷¹ Leader Comment, ‘Give devolution time to deliver’, *Scotland on Sunday*, 15 October 2006.

⁷² Leader Comment, ‘Voters must look before the leap’, *Scotland on Sunday*, 14 January 2007.

⁷³ Henry McLeish, ‘The debate we should have’, *The Sunday Times*, 5 November 2006.

⁷⁴ Leader Comment, ‘McConnell’s election problem’, *The Scotsman*, 25 October 2006.

⁷⁵ Peter Jones, ‘McConnell’s ‘no more power’ is a big gamble’, *The Scotsman*, 24 October 2006.

⁷⁶ Iain Macwhirter, ‘The SNP seem to be on their way at last’, *Sunday Herald*, 15 October 2006.

⁷⁷ Leader Comment, ‘Victory for SNP must not lead to retreat’, *The Observer*, 15 October 2006.

⁷⁸ Hamish Macdonell, ‘Millionaire maverick plans the ‘What About Us?’ Party’, *The Scotsman*, 5 January 2007.

⁷⁹ Liam McDougall, ‘Radical Scottish Christian party launched’, *Sunday Herald*, 22 October 2006.

with the voters,' *The Scotsman* welcomed the new arrival: 'The advent of a new party adds to the range of political choice in Scotland, and that can't be a bad thing. At the very least, it might wake the Scottish Tories out of their sleep.'⁸⁰ Something that the shadow cabinet's visit to Scotland seems to have failed to achieve.⁸¹

East-West differences in media perception were evident in the reporting of McConnell's replacement of Malcolm Chisholm (who had to resign as a Minister before Christmas after voting with the SNP on Trident replacement⁸²). The (Glasgow) *Herald* saw a Labour backbench rebellion against the appointment of Rhona Brankin (Midlothian), and Sarah Boyack (Edinburgh),⁸³ while the *Edinburgh Evening News* 'welcomed' the appointments which made 'sure there will continue to be at least one voice from the east among the ministers who gather around the table at Bute House every Wednesday.'⁸⁴

Beyond those regional loyalties, deeper differences in interpreting the political landscape of Scotland showed. When, in January, the Scottish Social Attitudes Survey 2005 was published, the *Herald's* headline ran: 'Scots in two minds about Holyrood', with the opening paragraph reading: 'Devolved institutions are trusted to act in Scotland's interest far more than those at a UK level and public understanding of devolution is growing.'⁸⁵ For *The Scotsman*, there was no ambiguity – its headline read 'Cynicism and apathy dominate as voters are quizzed about Holyrood', with an opening paragraph stating: 'The great hope that devolution would engender lasting trust in politicians, deliver noticeably better services to the public and reconnect voters to their elected representatives has been comprehensively dashed.'⁸⁶

In the remaining less than a hundred days to the election, the campaign will produce many a blossom in this hothouse climate, like the one splashed across the front page of the *Sunday Herald* about a Labour MP 'in secret talks with the SNP' about 'defecting to

⁸⁰ Leader Comment, 'Can new party make impact?', *The Scotsman*, 5 January 2007.

⁸¹ Douglas Fraser, 'Cameron's team in push for Scotland', *The Herald*, 19 January 2007; Hamish Macdonell, 'Cameron's mission: He came, he saw, he faltered', *The Scotsman*, 19 January 2007.

⁸² Robbie Dinwoodie, 'Support for SNP a vote too far for Chisholm', *The Herald*, 22 December 2007.

⁸³ Tom Gordon, 'Labour MSPs up in arms over Brankin appointment', *The Herald*, 10 January 2007.

⁸⁴ Leader Comment, "'It would have been easy to pick someone else'", *Edinburgh Evening News*, 11 January 2007.

⁸⁵ Tom Gordon, 'Scots in two minds about Holyrood', *The Herald*, 4 January 2007.

⁸⁶ Peter MacMahon, 'Cynicism and apathy dominate as voters are quizzed about Holyrood', *The Scotsman*, 4 January 2007.

the Nationalists',⁸⁷ based on unspecified sources and rumours, and branded 'fundamentally untrue' by Labour the next day in *The Scotsman*.⁸⁸ More important was the story about Scotland being 'frozen out of Brussels',⁸⁹ as it gave the SNP plenty of ammunition against the Executive's argument of Scotland enjoying the best of both worlds, home rule and the clout of the UK in Europe, and the drip-drip-drip of the 'cash-for-honours' inquiry, with Jack McConnell helping the London police with their inquiries, and John McTernan, a No 10 aide spending much time in Scotland planning Labour's election campaign, questioned under caution.⁹⁰

Speculation about possible coalition deals, and the likelihood of an independence referendum will reach fever point between now and May.⁹¹ With all the razzmatazz about economic statistics, tax plans, etc, ongoing, and various notable figures coming out in favour of independence, the SNP seems 'to dominate the media agenda,' as Lorraine Davidson remarked on *Newsnight Scotland* (23 January 2007) while Labour seems to 'snooze'. It certainly has not managed to make its themes, in particular education,⁹² the focus of the campaign.

The Scotsman leader's claim of last November that 'the Holyrood elections are now wide open, and that 'this is good for democracy and for voter interest'⁹³ has since become widely accepted currency. Its New Year leader reminded its readers that 'the May elections are primarily about the devolved Scottish Parliament,' and that it would be 'a complete diversion if the debate ignores the competing programmes of the parties for the next four years at Holyrood.'⁹⁴ With the possibility of Labour going it alone in a minority government after the election,⁹⁵ and the 'dramatic rise of the SNP in opinion polls', *Scotland on Sunday* expects the May 3 elections to become 'the most exciting

⁸⁷ Paul Hutcheon, 'Labour MP poised for defection to SNP', *Sunday Herald*, 7 January 2007.

⁸⁸ Hamish Macdonell, 'Claims Labour MP planning SNP defection 'fundamentally untrue'', *The Scotsman*, 8 January 2007.

⁸⁹ Douglas Fraser, 'Scotland 'frozen out of Brussels'', *The Herald*, 22 January 2007; Tom Gordon, 'EU row: McConnell urged to speak out', *The Herald*, 23 January 2007.

⁹⁰ Louise Gray and Gerri Peev, 'McConnell blasts cash-for-honours quiz as a distraction', *The Scotsman*, 24 January 2007.

⁹¹ Douglas Fraser, 'Salmond leaves room for compromise', *The Herald*, 15 January 2007.

⁹² Robbie Dinwoodie, 'Labour makes education key in vote race', *The Herald*, 6 January 2007.

⁹³ Leader Comment, 'Holyrood elections wide open', *The Scotsman*, 1 November 2006

⁹⁴ Leader Comment, 'A year to test your resolve', *The Scotsman*, 1 January 2007.

⁹⁵ Eddie Barnes and Murdo MacLeod, 'McConnell: we'll dump Lib Dems', *Scotland on Sunday*, 10 December 2006.

contest we have seen since devolution.⁹⁶

George Kerevan clearly relishes the prospect of a colourful election campaign: 'It is only 11 days into 2007,' he wrote in his *Scotsman* column, 'and already we have seen a new Scottish political party, an opinion poll suggesting that the SNP will win 44 seats to Labour's 39, and an old-fashioned rumpus about Jack McConnell's latest Cabinet appointment. Who says that Holyrood elections aren't fun?'⁹⁷ For the *Sunday Herald*, come the election, 'staying at home is not an option. Scots must play their part in what is a crossroads in the country's history.'⁹⁸

4. Public Attitudes and Elections

The section examining public attitudes and elections in Scotland will return in the April 2007 Scotland Devolution Monitoring Report.

⁹⁶ Leader Comment, 'Will Jack go for independence?', *Scotland on Sunday*, 10 December 2006.

⁹⁷ George Kerevan, 'Suddenly, it's all happening in Scottish politics'. *The Scotsman*, 11 January 2007.

⁹⁸ Leader Comment, 'An exciting year ahead', *Sunday Herald*, 7 January 2007.

5. Intergovernmental relations

Alan Trench

5.1. General

On the formal level, intergovernmental relations remain as low-key as ever. There have been no meetings of the plenary Joint Ministerial Committee, nor any publicised meetings of functional formats of the JMC. Some information has crept out, through answers to questions in the Scottish Parliament. In response to a question from Euan Robson MSP about 'joint parliamentary committees', Jack McConnell said:

Although, in the early days of devolution, such joint committees operated with some success in a number of policy areas, they were felt to be inappropriate for the Parliament's second term. However, given the commitment of the Parliament and this devolved Government to reduce poverty in Scotland, to further economic development and to address some major environmental challenges, which affect the responsibilities of the Governments at Westminster and in Scotland, it might be worth looking at resurrecting some of those joint committees or, indeed, other kinds of committee that are more appropriate for today. I am certainly happy to do so. The question whether a formal joint committee is required is another matter.⁹⁹

The impression this gives – that the initiative not to use the Joint Ministerial Committee framework came from Scotland, not London (or Cardiff) – is somewhat at odds with that given by the UK Government.¹⁰⁰

A written answer in the Commons said that the JMC (Europe) has met 5 times in 2006, 9 times in 2005 and 11 times in 2004.¹⁰¹ This falling-off is partly due to reduced core EU business, following the demise of the EU's Constitutional Treaty.

⁹⁹ Scottish Parliament *Official Record*, 16 November 2006, col 29399. I am grateful to Barry Winetrobe for drawing my attention to this exchange. McConnell has, of course, treated Robson's question about Parliamentary committees as if it were about Joint Ministerial Committees. While there are at present no committees of Parliamentarians from Holyrood and Westminster, or arrangements for joint meetings etc (as there are between Westminster and the National Assembly for Wales), the idea was raised by the Commons Scottish Affairs Committee in its report on the Sewel Convention – see discussion below.

¹⁰⁰ See House of Lords Select Committee on the Constitution Session 2003-04 16th Report *Meeting with the Lord Chancellor* HL Paper 193 (London: The Stationery Office Limited, 2004), QQ. 91-3.

¹⁰¹ The question was put by Stewart Hosie MP to Geoff Hoon, the Europe Minister. See HC Deb, 6 Dec 2006, Column 482W.

5.2 British-Irish Council

Two sectoral meetings of the British-Irish Council have taken place:

- On Indigenous, Minority and Lesser-Used Languages, held in Galway on 27 October 2006 and chaired by Alun Pugh AM (Minister for Culture, Welsh Language and Sport in the Welsh Assembly Government). The Scottish Executive was represented by the Minister for Education, Young People and Gaelic, Peter Peacock MSP.
- On the Misuse of Drugs, held in Belfast on 7 December 2006 and chaired by Noel Ahern TD (Irish Minister of State with responsibility for the National Drugs Strategy).¹⁰² The Scottish Executive was represented by Ms Patricia Scotland, Head of the Safer Communities Division. (Although Scotland was only represented by an official, not a minister, the Welsh Assembly Government was not represented at this meeting at all.)

5.3 Adjusting the devolution settlement

Five orders adjusting the scope of devolved powers in Scotland have been made in the period covered by this report. They are:

- The Scotland Act 1998 (River Tweed) Order 2006, SI 2006 No. 2913, which creates a new framework for regulating fishing (of both salmon and freshwater fish) on both banks of the river Tweed, and creates a River Tweed Commission with powers both in Scotland and in England. It replaces a large number of previous enactments controlling fishing along the Tweed.
- The Scotland Act 1998 (Agency Arrangements) (Specification) (No. 2) Order 2006, SI 2006 No. 3248, relates to technical aspects of the powers of the Scottish Executive in matters already transferred to them, regarding the 'Healthy Start' scheme and welfare foods more generally, partly to reflect restructuring of the NHS in Scotland.
- The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 3) Order 2006, SI 2006 No. 3258, confers powers relating to the Healthy Start scheme and welfare foods more generally, consolidates some powers relating to electricity from renewable sources, and devolves certain functions under the (UK) Climate Change and Sustainable Energy Act 2006.

¹⁰² Communiqués for each of these meetings are available at www1.british-irishcouncil.org/documents/communiqués.asp

- The Scotland Act 1998 (Agency Arrangements) (Specification) (No. 3) Order 2006, SI 2006 No. 3338, enables Scottish Ministers to recover charges for NHS treatment or ambulance services from those responsible for causing the services to be required.
- The Animal Health and Welfare (Scotland) Act 2006 (Consequential Provisions) (England and Wales) Order 2006, SI 2006 No. 3407, makes consequential provisions following the (devolved) Animal Health and Welfare (Scotland) Act 2006, relating to the (UK) Animal Health Act 1981 and other UK legislation relating to animals.

5.4 The Sewel Convention – UK Government response to Committee Report

The Commons Scottish Affairs Committee published the UK Government's response to its report on the Sewel Convention on 17 October 2006.¹⁰³ The Government has largely accepted the (modest) practical recommendations made by the Committee, to clarify in explanatory notes on bills whether a bill will require the consent of the Scottish Parliament and what provisions cause that, and to provide clearer summaries of bills which affect devolved matters in Scotland (to be published following each Queen's Speech). It also appears to support other recommendations, such as the 'tagging' on the order paper of bills needing legislative consent at Holyrood and improved communications between the two parliaments.

The Government is dismissive of the idea of a 'super-Grand Committee' of Scottish MPs and MEPs and MSPs being given any legislative role, and dubious about the accountability implications of other activities of such a committee. Regarding the most eye-catching part of the Committee's report, on the West Lothian Question (on which, of course, the Committee had taken no evidence), the Government says:

The Government's position on the West Lothian Question is a matter of public record and the subject has been comprehensively debated inside and outside of Parliament for well over a hundred years. The Government remains as committed now to devolution as it was in 1997, just as it remains committed to a single class of member in the UK Parliament. (para 14).

¹⁰³ House of Commons Scottish Affairs Committee *The Sewel Convention: the Westminster perspective: Government Response to the Committee's Fourth Report of Session 2005–06* Second Special Report of Session 2005–06 HC 1634 (London: The Stationery Office Limited, 2006), available at [www.publications.parliament.uk/pa/cm200506/cm��otaf/1634/1634.pdf](http://www.publications.parliament.uk/pa/cm200506/cmselect/cm��otaf/1634/1634.pdf)

6. Scotland, Europe, and International Relations

Peter Lynch

6.1 The USA Strategy

The Scottish Executive published its USA strategy in October 2006, during the First Minister's visit to the USA.¹⁰⁴ It follows on from strategies for Europe, international relations, international development and China. The strategy aimed to grow the Scottish economy through seven objectives:

- raise the profile and understanding of Scotland in the USA
- expand connections between businesses in Scotland and the USA
- increase students flows between Scotland and the USA
- strengthen bilateral science links
- attract increased US tourism to Scotland
- attract US Fresh Talent to experience living and working in Scotland
- strengthen exchanges of best practice with US counterparts

The Executive chose to prioritise its activities for the next five years in seven US states. Selection of these is based on existing bilateral initiatives, business links, a sizeable Scottish diaspora, direct flights to Scotland, location of British consulate and/or Scottish Development International office. The chosen states are: California, Georgia, Illinois, Massachusetts, New York, North Carolina and Texas, as well as a focus on Washington DC, where the Scottish office in the British Embassy is located. Some of the contents of the Executive plan have been policy since devolution, but the geographical focus pulls these threads together more coherently.

Following evaluation of Tartan Week in 2006, the Executive proposes to revamp its approach to the week in 2007. It commissioned a report which criticised the lack of American news coverage, low attendance at some events, and uncertainties of funding.¹⁰⁵

¹⁰⁴ Scottish Executive (2006), *Scotland's Strategy for stronger engagement with the USA*.

¹⁰⁵ *The Herald*, 19th December 2006.

6.2 The Fresh Talent Initiative

The Executive reported that 12,000 people used the government's Relocation Advisory Service from around 140 countries in its first year of operation. The service's website had received 445,000 hits, the Polish version of the website had received 50,000 visitors, and there had been 10,000 requests for copies of the Executive's Polish language guide to working in Scotland.¹⁰⁶ However, making any assessment of the success of the Fresh Talent initiative remains difficult. As discussed in the previous monitoring report, the 2004 European Union enlargement brought a large number of migrants to Scotland regardless of Fresh Talent. Many of these were employed in hospitality, catering, and agriculture, rather than more strategic sectors of the economy. However, the Executive did not set out any specific employment targets similar to the policy of 'managed' migration that is emerging from the UK government.

Independent analysis of Fresh Talent – a commissioned report from academics at the University of Strathclyde – was published by the Executive.¹⁰⁷ The report examined different aspects of Fresh Talent in relation to policy design and implementation. For example, whilst Fresh Talent was ostensibly aimed at five different target groups, it had, in effect, been directed at postgraduate students in higher education. Despite this, there was no information on the employment activities of those students given visa extensions under Fresh Talent. There were also few links between Fresh Talent and the business community, little attempt to use Fresh Talent to encourage Scots to return, and no specific skills focus for any of the target groups.¹⁰⁸ Evidence from careers officers submitted to the report stated that 'Fresh Talent has been indiscriminate in its recruitment of overseas students and has not targeted markets that are capable of yielding skills appropriate to the genuine bottlenecks in the labour market'.¹⁰⁹ The report also pointed out that Fresh Talent should include a retention strategy, in order to retain migrants who had been attracted to Scotland, in addition to addressing the flight of talent from Scotland especially amongst the 16-34 age groups.¹¹⁰

¹⁰⁶. *The Herald*, 31st October 2006.

¹⁰⁷. Robert Rogerson Mark Boyle and Colin Mason (2006), *Progress Report on the Fresh Talent Initiative*, Edinburgh: Scottish Executive Social Research.

¹⁰⁸. *Ibid.*, p.9

¹⁰⁹. *Ibid.*, p.89.

¹¹⁰. *Ibid.*, p.37.

6.3 Malawi

The first anniversary of the Scotland-Malawi co-operation agreement on 3 November 2006 was marked by a visit of a delegation from Malawi to Scotland, and a meeting of the Scotland-Malawi Joint Commission. The Malawian delegation was headed by Hon Joyce Banda, Malawi's Minister of Foreign Affairs & International Co-operation, and the Education & Vocational Training Minister the Hon Anna Kachikho. On the eve of the visit, the First Minister claimed the two countries' links were stronger than ever.¹¹¹ The Scottish Executive announced that it was to spend £9m on international development from 2007-09, a continuation of the initial funding package for this area announced in 2005.¹¹² So far, the Executive has helped to fund 58 individual projects, of which 35 were in Malawi. Details of the projects and the grants made available for them are available from the website of the Scotland Malawi Partnership.¹¹³ Many of the projects involve health and education initiatives, as well as business development. A couple of examples give some idea of the types of projects supported and the funding levels involved. In relation to business, the Equal Exchange Fairtrade organisation received £218,020 to develop a Macadamia Market Access scheme to help farmers in Malawi to profit from selling their crop directly to countries like Scotland. Also, the Christian Blind Mission was given £70,000 to develop a Saving Sight programme in Malawi to establish and facilitate twinning between leading Scottish and Malawi hospital Eye Departments. This is aimed at improving the quality of training in specialist eye care. Multi-disciplinary team members from Scottish hospitals will undertake training of Malawian counterparts.

Government and business leaders in Scotland and Malawi helped to establish the Scotland Malawi Business Group in November 2006. The group is intended to facilitate business formation and development in Malawi as well as co-operation between businesses in Scotland and Malawi. Some prominent Scottish business leaders had visited Malawi in 2006 (Tom Hunter and Tom Farmer) and Scottish organisations were involved in examining micro-finance banking arrangements in the southern part of the country.¹¹⁴

¹¹¹ See www.scotland.gov.uk/News/Releases/2006/11/03140014

¹¹² *BBC News*, 28th September 2006.

¹¹³ www.scotland-malawipartnership.org/news.html?newsid=11

¹¹⁴ *The Herald*, 6th November 2006.

6.4 Scotland and Ireland

The Scottish Executive has also sought to develop links with the Republic of Ireland, and with Northern Ireland. This has mainly had an eye to securing EU funds for cross-border projects, and a programme to this effect was announced by the First Minister and the Irish Taoiseach (Bertie Ahern) at a meeting on 13 November 2006 in Dublin. The EU Territorial Cross-Border programme starts on 1 January 2007, and is worth €200m. Priority areas of activity are science education, developing co-operation on drug misuse and demographic change, and historical and cultural links. The programme builds on work already underway through the British-Irish Council.¹¹⁵

6.5 China

On 30 August 2006, Tom McCabe, Minister for Finance and Public Service Reform signed a co-operation agreement between the Scottish Executive and the Province of Shandong, in the western part of the People's Republic of China.¹¹⁶ Shandong has a population of 92m people, 85 universities and a gross domestic product of \$188bn in 2004. Two days earlier, the Executive announced *Scotland's Strategy for Stronger Engagement with China* (Shandong being one of five 'priority regions' set out in the Strategy).¹¹⁷ The strategy emphasises increasing various bilateral links, including improving trade and increasing business links, attracting Chinese tourists, students and skilled workers to Scotland, increasing the awarding of Scottish qualifications in China, and improving cultural awareness.

6.6 Fair Trade

The Scottish Executive published criteria for it to become a 'Fair Trade nation', as announced in March 2005, on 3 July 2006.¹¹⁸

¹¹⁵ See www.scotland.gov.uk/News/Releases/2006/11/13165243

¹¹⁶ The text of the agreement is available at www.scotland.gov.uk/News/News-Extras/shandongprovince

¹¹⁷ www.scotland.gov.uk/Publications/2006/08/23080408/0

¹¹⁸ www.scotland.gov.uk/News/Releases/2006/07/03112221

7. Relations with Local Government

David Scott

7.1 Finance Settlement

The local government finance settlement, announced in December¹¹⁹, marked the start of a new, more positive relationship between councils and the Scottish Executive. In a parliamentary statement, Tom McCabe, Minister for Finance and Public Service Reform, gave details of an expenditure package that will provide total revenue funding of £8.7bn – an increase of £393m, or 4.7 per cent, over 2006-07. Increases for individual councils range from 3.6 per cent in Eilean Siar (Western Isles Council) to 5.5 per cent in Clackmannanshire Council. McCabe said councils would benefit from funding measures providing more than £250m of additional benefits which are over and above what had been planned. This includes new funding of £201m (£140m for revenue and £61m for capital).

This followed months of negotiation between the Convention of Scottish Local Authorities (COSLA) and McCabe. The minister told the parliament that, in response to local government representations, he had stated repeatedly that he would be prepared to look again at the funding for local government for 2007-08. 'I am delivering on that promise. We have re-opened the funding agreed for the final year of the Spending Review to announce £201m of new money for councils.'

The reaction of councils to the settlement¹²⁰ was in marked contrast to previous years of bitter complaints about inadequate funding settlements and has warned about the consequences for council taxpayers. Councillor Pat Watters, COSLA President, described the 2007-08 settlement as a 'major win' for local government and said it was the result of a new, mature relationship between local and central government.

¹¹⁹ Scottish Executive Press release, 13 December 2006

www.scotland.gov.uk/News/Releases/2006/12/13133331

Scottish Parliament statement, 13 December 2006

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-06/sor1213-01.htm

P. MacMahon, 'Extra £200 million to help cut council tax bills' *The Scotsman*, 14 December 2006

<http://thescoatsman.scotsman.com/politics.cfm?id=1854332006>

¹²⁰ COSLA Press release, 'COSLA wins through after two hard years,' 13 December 2006

www.cosla.gov.uk/newsHome.asp?leftId=10001E2DE-10766761&rightId=10001E2DE-10766715&hybrid=false

McCabe said that local government had responded positively to his suggestion that extra funding would be linked to further progress on efficiencies and to other specific outcomes. He said COSLA had also given assurances to take action to increase council tax collection rates; continue to exert downward pressure on council tax levels; ensure effective asset management strategies are in place; increase the target level of their efficiency savings by at least £61m and work with the Executive to complete a study into the costs and identify best practice in delivering free personal care for the elderly. McCabe avoided forecasting how the settlement might impact on council tax increases for 2007-08. However, he indicated in interviews later that councils would be expected to keep the average rise to a figure which is lower than that for 2006-07, which was 3.2 per cent.

There was good news in the settlement for businesses. Mr McCabe announced in his statement that business rates would be brought into line with those in England. The rate on which bills are calculated is currently 44.9p in Scotland and 42.6p in England. From April 2007, the provisional rate in Scotland will be 44.1p – the same as the figure planned for England.

In a report published prior to the finance settlement the finance committee of the Scottish Parliament recommended that the Executive should use any additional resources ‘to rectify the problems of local government funding this year to allow councils to reinvest savings in frontline services and to exert downward pressure on council tax levels in 2007-08.’¹²¹ The committee also suggested that the Executive should draw down some of the £700m of reserves held by the Treasury to address local government funding issues.

7.2 Local Government Finance Review

The independent Local Government Finance Review Committee, set up by the Scottish Executive and chaired by Sir Peter Burt, published its report in November¹²² The main

¹²¹ Scottish Parliament finance committee ‘9th report 2006: Stage 2 of the 2007-08 budget process,’ 12 December 2006

www.scottish.parliament.uk/business/committees/finance/index.htm

¹²² Scottish Executive Press release ‘Proposals for a fairer way of local tax’ 9 November 2006

www.scotland.gov.uk/News/Releases/2006/11/09122711

‘A fairer way; report by the local government finance review committee’, 9 November 2006

www.localgovernmentfinancereview.org/

recommendations included replacing the council tax with a new local property tax (LPT). The new tax would be based on the market value of homes, with households paying around 0.9 per cent of the value of their house per year.

The proposal proved to be intensely controversial. A day before the report was due to be published, details of the tax plan were leaked to a newspaper¹²³ and this was followed by reports¹²⁴ quoting a 'source close to the First Minister' stating that Labour ministers would not support any tax that required people to pay around one per cent of the market value of a property per year and that the plan was 'dead in the water.' However, in a later statement¹²⁵, the Scottish Executive said it would give the report careful consideration. Despite this, Labour had clearly moved swiftly in an attempt to ensure the party does not have to defend a controversial homes tax plan in the run up to the May 2007 parliament and local government elections.

In its report, the committee said: 'We were unable to recommend either continuation or reform of council tax. Having considered all the options put to us, we concluded that a radical alternative is required. We recommend a new progressive local property tax (LPT) be introduced.' According to the report, around two-thirds of households in Scotland would be either better off or no worse off with LPT than under council tax. It said the gainers would primarily include households in lower income bands and in properties currently in council tax bands A to C. A revaluation of domestic property would be a pre-requisite to the introduction of LPT. The committee proposed the introduction of a scheme to help what it called 'asset-rich, income poor' households. The proposed optional deferment scheme, seen as mainly benefiting low-income pensioners,

¹²³ Tom Gordon, The Herald, '1 per cent a year home tax instead of council charge', 8 November 2006 <http://pqasb.pqarchiver.com/smcpubs/1158336951.html?did=1158336951&FMT=ABS&FMTS=FT&date=Nov+8%2C+2006&author=TOM+GORDON+SCOTTISH+POLITICAL+CORRESPONDENT&pub=The+Herald&desc=1per+cent+a+year+home+tax+instead+of+council+charge+Executive+review+calls+for+change>

¹²⁴ Tom Gordon, The Herald, 'McConnell will not give time of day to 1 per cent home tax,' 9 November 2006 <http://pqasb.pqarchiver.com/smcpubs/1159076921.html?did=1159076921&FMT=ABS&FMTS=FT&date=Nov+9%2C+2006&author=TOM+GORDON+SCOTTISH+POLITICAL+CORRESPONDENT&pub=The+Herald&desc=McConnell+will+not+give+%27the+time+of+day+%27+to+1per+cent+home+tax+First+Minister+leads+emphatic+rejection+of+house+levy+plan>

P. MacMahon, *The Scotsman*, 'Council tax alternative is rejected outright,' 9 November 2006. <http://news.scotsman.com/politics.cfm?id=1656942006>

¹²⁵ Scottish Executive Press release, 'Executive response to Burt report', 9 September 2006. www.scotland.gov.uk/News/Releases/2006/11/09085408

would enable those qualifying to defer payment of part or all of the tax by borrowing against the value of their homes.

A number of non-property based taxes like a local income tax, favoured by the SNP and the Liberal Democrats, were rejected. The committee concluded that property taxes are better suited for use as a local tax than a local income tax, which would impose heavy administrative burdens and cause problems for local authority budgets as the yield would be unpredictable. The committee made no recommendations on the 'balance of funding' which currently results in central government being responsible for 80 per cent of local authority expenditure, with the rest coming from council tax and local fees and charges. It concluded that 'the balance of funding between Scottish Executive support and local tax income is itself of little importance.' It also rejected the return of business rates to local authority control.

While initially critical of the idea of a local property tax based on annual capital values, COSLA later pledged to consider the proposals, pointing out that there were 'substantial wins' for local government including support for a tax based on property and the rejection of a local income tax.¹²⁶

7.3 Local Government Elections

The Scottish Executive announced a campaign¹²⁷ to inform people about the parliamentary and local government elections on 3 May 2007. The Electoral Commission and the Executive have developed a VoteScotland campaign to encourage people to register, to explain the new voting system and to motivate them to vote. A new website¹²⁸ is part of the campaign which is targeted at all eligible voters and, in particular, under-registered groups and those less likely to vote, including young people, some ethnic minority communities and people who have moved house. The Executive also announced measures¹²⁹ aimed at encouraging a broader range of people to stand

¹²⁶ COSLA Connections, November-December edition, 2006, P. 1

www.cosla.gov.uk/index.asp?leftId=100019680-11001461&rightId=100019680-11000146

¹²⁷ Scottish Executive Press release, 'Countdown begins to May 2007,' 3 November 2006.

www.scotland.gov.uk/News/Releases/2006/11/03080804

¹²⁸ www.votescotland.com/stv/CCC_FirstPage.jsp

¹²⁹ Scottish Executive Press release, 'Promoting local government awareness', 20 September 2006.

www.scotland.gov.uk/News/Releases/2006/09/20130019

Tom Gordon, 'Executive tries online search for new councillors, The Herald, 21 September 2006.

www.scotland.gov.uk/News/Releases/2006/09/20130019

as councillors. Ministers are keen to promote the important role councillors play in developing their communities. They believe there is a need to persuade traditionally under-represented groups to put themselves forward as potential future councillors. According to the Executive, the average age of councillors at present is 55 and only 22 per cent are female. Forty-three per cent of councillors work in the private sector and only one per cent are from minority communities.

Mr McCabe said: 'We have launched a wide range of initiatives to renew local democracy and underline the important role councillors play, including a salary package and a severance scheme to recognise the contribution of long-standing councillors.' A large number of long-serving councillors are expected to stand down on 3 May. Regulations¹³⁰ to provide a severance package were laid in the Scottish Parliament on 15 September. The deal is available to councillors with at least four years service, the payments ranging from £10,000 to £20,000.

Regulations¹³¹ outlining key processes for the local government elections were laid in the Parliament on 13 December. These include rules for the local government ballot paper, which will list candidates alphabetically by surname; the details of the Single Transferable Vote system and the introduction of changes made in the Local Electoral Administration and Registration Services Act 2006 and the Electoral Administration Act 2006.

7.4 Housing Transfers

Council tenants in three areas – Stirling, Renfrewshire and Highland – rejected plans to transfer their homes to housing association landlords. This was a severe blow to the Executive's flagship community ownership policy, which allows housing debt to be paid off by the Treasury in cases where council tenants vote in favour of transferring to an alternative landlord. In Stirling¹³², 68 per cent of tenants voted 'no' to transfer; in Renfrewshire¹³³, transfer was rejected by just a few votes (50.1 per cent were against)

¹³⁰ Scottish Executive Press release, 'Regulations laid for severance payments,' 15 September 2006

www.scotland.gov.uk/News/Releases/2006/09/15103015

¹³¹ Scottish Executive Press release, 'Key plans for 2007 local government elections,' December 13 2006

www.scotland.gov.uk/News/Releases/2006/12/13164636

¹³² Stirling Council Press release, 'No to housing transfer', 11 October 2006

www.stirling.gov.uk/index/council_homepage/news.htm?id=97487

¹³³ Renfrewshire Council Press release, 'Tenants reject housing transfer,' October 2006

www.renfrewshire.gov.uk/ilwwcm/publishing.nsf/Content/ce-jl-tenants-reject-housing-transfer

while in Highland¹³⁴ 59.7 per cent were against transfer. In the last of a series of ballots, however, the Executive policy received a much needed boost when 71.4 per cent of tenants in Inverclyde¹³⁵ voted in favour of transfer.

In Glasgow, where the council was one of Britain's biggest municipal landlords, houses have already been transferred to the Glasgow Housing Association (GHA) after a 'yes' vote (58 per cent) in a 2002 ballot. However, no progress in moving to a second stage transfer to local community associations has caused controversy. In December, the chief executive of the GHA, Michael Lennon, resigned following what was said to be a long-running feud with ministers over funding.¹³⁶ It has been claimed that ministers had refused GHA requests for up to £500m to achieve the second stage transfer. Among other Scottish councils which decided to transfer their homes, Edinburgh tenants rejected the proposal in 2005 but transfers have gone ahead in Scottish Borders, Argyll & Bute and Western Isles.

A report on the effects of the Executive's right to buy housing policy was published in September.¹³⁷ This showed that nearly half a million sales had taken place in Scotland since the right to buy was introduced in 1980, taking the proportion of home owners to 67 per cent of Scottish households. The requirement for a report assessing the impact of the policy was written into the Housing (Scotland) Act 2001 which made significant changes to right to buy.

7.5 Accounts Commission

The Accounts Commission for Scotland held a hearing into a report by the controller of audit on West Dunbartonshire Council's Best Value audit.¹³⁸ The commission concluded that the council was not currently in a position to deliver Best Value and must accept the

¹³⁴ Highland Council Press release, 'Highland tenants vote no in housing transfer ballot,' 27 November 2006. www.highland.gov.uk/yourcouncil/news/newsreleases/2006/November/2006-11-22-02.htm

¹³⁵ Inverclyde Council Press release, 'Inverclyde votes yes to stock transfer,' 1 December 2006. www.inverclyde.gov.uk/portal/index.php?module=announce&ANN_id=126&ANN_user_op=view

¹³⁶ Tom Gordon, The Herald 'City housing chief quits over feud,' 16 December 2006 http://pqasb.pqarchiver.com/smgpubs/results.html?st=advanced&QryTxt=Michael+Lennon&sortby=REVERSE_CHRON&datetype=6&fromday=15&frommonth=12&fromyear=2006&today=18&tomonth=12&toyear=2006&By=Tom+Gordon&Title=&publications=1&x=39&y=6

¹³⁷ Scottish Executive Press release, 'Report shows effects of right to buy policy,' 28 September 2006 www.scotland.gov.uk/News/Releases/2006/09/28153259

¹³⁸ Douglas Fraser, The Herald, 'MP calls for council hit squad,' 30 November 2006 www.theherald.co.uk/politics/75633.html

Douglas Fraser The Herald, 'Councillors attack leadership,' 1 December 2006 www.theherald.co.uk/politics/75703.html

need for effective leadership and for external assistance.¹³⁹ The findings stated that decision making at the highest level in the council was not as open and transparent as it should be; there were serious problems of staff morale; the council's scrutiny regime was inadequate; there was a lack of effective leadership from senior members and officers and there were poor relationships among members and between members and officers.

Responding to the report, West Dunbartonshire Council said it believed it had made a well-evidenced case to the commission and that it was disappointed the commission had focused on the more negative aspects of the controller of audit's findings. Controversy over the issue resulted in the resignation of the council leader, Andy White.¹⁴⁰

The Accounts Commission also produced a Best Value report on East Ayrshire Council.¹⁴¹ It found the council was committed to Best Value, had effective leadership and performed well in a number of activities. The commission said the council can recognise areas of improvement and address these.

7.6 Pensions and Pay

Regulations were laid in the Scottish Parliament on 26 October¹⁴² to implement transitional protection for existing members of the Local Government Pensions Scheme. Controversy, including strike action, over the future of the scheme began in January 2006 when it was reported 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.' The regulations give full transitional protection to 2020 to existing members who would have reached the age of 60 and satisfied the rule which requires that their combined age and length of service is 85 or more. Equal pay continued to cause problems. It was reported in December¹⁴³ that union leaders were

¹³⁹ Accounts Commission, 'West Dunbartonshire: the audit of Best Value and Community Planning,' 11 October 2006.

www.audit-scotland.gov.uk/publications/pubs2006.htm#westdun

¹⁴⁰ Douglas Fraser, The Herald, 'Farewell blast as council leader quits post,' 13 December 2006

¹⁴¹ Audit Scotland, 'East Ayrshire Council: the Audit of Best Value and Community Planning, 6 September, 2006.

www.audit-scotland.gov.uk/index/06pf06ac.asp

¹⁴² Scottish Executive news release, 'Local government pension scheme' 26 October 2006

www.scotland.gov.uk/News/Releases/2006/10/26151431

¹⁴³ Tanya Thompson, 'Union takes council to court over equal pay,' 7 December, 2006
<http://thescotzman.scotsman.com/indeq.cfm?id=1814652006>

planning to take action against Falkirk Council, a move which could have implications for local government workers across the UK. It has been claimed that a number of councils failed to implement the terms of the Single Status agreement which was signed by local authorities and unions in 1999 and resulted in a reassessment of blue-collar and white-collar workers' jobs.

7.7 Election promise

The Scottish National Party promised to freeze council tax levels if it wins the Scottish Parliament election in May 2007.¹⁴⁴ The party said it would place a ceiling on the level of council tax in every local authority across Scotland during the two years it would take to replace council tax with a local income tax.

¹⁴⁴ SNP Press release, 'It's time to freeze council tax,' 13 December 2006
www.snp.org/news

8. Finance

Alex Christie

8.1 Hot numbers

There's an election coming. There's no need to look at the calendar. The extra determination within every Executive financial statement that only it can manage Scotland's public finances and ensure continued economic growth makes it clear enough. Equally, the venom of opposition ripostes is that bit more bitter. There is also a steady distancing of the coalition partners as both try to set out their stall for May and pin the blame for any awkward moments of the past four years on the other side.

There have been three important publications: the Draft Budget in September; Scottish Economic Statistics in November and Government Expenditure and Revenue in Scotland in December. The latter, as ever, has received all the attention. Unionists say it is proof that Scotland can't afford to go it alone; nationalists allege that the books are cooked. The issue becomes all the more charged in pre-election months. There have been changes to local authority funding and the business rate.

8.2 Budget and Growth

The Draft Budget is the last to be published under the current Spending Review. It is clear that the financial good times are over after a period of substantial growth in government spending with belt-tightening now set to follow. Total Managed Expenditure is scheduled to be £31.3bn in 2007-08, up 5.2 per cent on the figure the year previously and a real terms increase of nearly £7bn since 2002-03. Around 91 per cent of the Executive's income comes from the UK government, 7 per cent from the business rate (on which more later) and 2 per cent from the European Union in Structural Funds or agricultural support payments.

Since 2003 the Executive has focussed on economic growth and moved away from its previous principal target of social justice, perhaps because the former is easier to measure and define than the latter, but also in recognition of Scotland's relatively poor economic performance when compared to other parts of the United Kingdom. As stated in the introduction to the Draft Budget: 'Growing the economy is our top priority. A successful economy is key to future prosperity and a pre-requisite for building first class

public services and social justice.¹⁴⁵ The publication of Scottish Economic Statistics showed some evidence that the policy was succeeding.

Growth in GDP for the year ending in June 2006 was 2.2 per cent, up on the 2000-2005 Scottish average annual growth rate of 1.8 per cent, with the growth rate now above 2 per cent for seven consecutive quarters. In 2006 the service sector was 72 per cent of Scottish GDP. It has experienced consistent growth since 2000. This has counter-balanced steady decline in the production sectors. The Executive take these figures as vindication of its policies, the powers available to the Scottish Parliament and of dealing with economic development at arms length via the enterprise networks. The SNP and the Conservatives, however, have had Scottish Enterprise, Highlands and Islands Enterprise, and the local enterprise companies in their sights for some time, blaming them for Scotland's relatively poor economic performance. The SNP go further, arguing that the supply-side measures available under devolution have limited impact and that without following Ireland's example and cutting corporation tax, Scotland will drift in the economic doldrums. There is little likelihood of any change in the fiscal settlement short of an SNP victory in May, but the role of the Enterprise networks may be open to change whoever wins.

8.3 Scotland's Fiscal Balance

The reasonably good economic news is contrasted with the Government Expenditure and Revenue in Scotland (GERS) document. This annual publication is eagerly snapped up by all in the Scottish polity. This year, as in past years, it has shown Scotland to have a fiscal deficit, i.e. it spends more than it earns. A few words of warning: this is a Scottish Executive, and formerly Scottish Office, publication rather than one compiled by the Office for National Statistics. As such, it has always been accused by nationalists of being written backwards, with the conclusion decided first and the numbers subsequently made to fit. It contains several assumptions, since while the allocation of expenditure to Scotland is reasonably well known, the ability to map taxation to areas is much less precise. That said, it is the only such publication available and while the magnitude may be argued over, there is a general acceptance by most economists that Scotland runs a deficit of some form.

¹⁴⁵ Draft Budget (2006) p10 - www.scotland.gov.uk/Resource/Doc/146893/0038508.pdf

The Scottish deficit for 2004-05 is calculated as £11.2bn if North Sea revenue is excluded and £6bn if it is fully included. This represents a Scottish borrowing requirement of 12 per cent of Scottish GDP in the former case or 4.8 per cent in the latter. The ratio of borrowing to GDP in the UK in 2004-05 was 3.8 per cent. The ink was barely dry before the inevitable arguments over the validity of the figures and the implications for Scotland started. The unionist parties claim, with slightly different twists to each argument, that Scotland benefits hugely from the Union and would face either large tax increases or equally large expenditure cuts to balance the books. The SNP attack GERS on two fronts. First, they argue that the figures are incorrectly stated and that Scotland's revenue is higher than GERS accounts for since almost all North Sea revenues are due to Scotland. In addition they claim that Scotland's expenditure is inflated above that which an independent Scotland would incur, principally because Scotland's share of non-identifiable UK expenditure accounts for a level of defence and overseas expenditure, amongst other items, that an independent Scotland would never incur. Secondly, they note that the exercise is hardly relevant to an independent Scotland since with freedom over fiscal policy Scotland would be able to raise more revenue than can be attributed to it at present. The impact of cutting corporation tax in Ireland leading to an increase in tax revenue by stimulating economic growth is an oft-quoted example.

In pre-election season, this bone is closely gnawed. However, both sides need be slightly wary. Unionists cannot continue to claim that Scotland cannot exist as at present without the crutch of the Union without running the risk that the rest of the UK will question just how big that crutch should be, or perhaps whether it should be there at all. Equally, the Nationalists cannot promise new-found prosperity if only if it were for independence. Should they win at Holyrood in May 2007 it would be some time before the process towards independence would begin. They would have to demonstrate some tangible evidence to the electorate of just how much better they were at achieving economic success than anything that has gone before. Anyway, within the UK there are probably only three surplus generating regions: London, South East and East. Everyone else takes out more than they put in, but only in a simple accounting sense, and the Union is considerably more complicated than that.

8.4 Local authority funding and the Business Rate

The Executive has announced an additional £201m of funding for local authorities, above the settlement already announced for 2007-08. The funding, consisting of £140m for revenue expenditure and £61m for capital expenditures, moves local authority funding for the financial year to £8.7bn. The Executive has learned from the Treasury, or at least from criticism that it ought to act like the Treasury, by attaching conditions to the new funds. It is expected that council tax levels should not rise unduly, that collection rates increase, and that efficiency and management practices improve. In the meantime, the SNP have promised that should they form the Executive after May's election that they would freeze council tax rates for two years pending the introduction of a local income tax, although some have questioned whether such a move would be legal. Only the Conservatives and Labour now formally support keeping the council tax, and changing it for a local income tax of some form may be the cost of coalition with the Liberal Democrats.

The business rate, one of the few items of taxation under its control that the Executive has felt comfortable in changing, has been cut. After a 1.2p cut in 2006-07, business rates are to be cut this year by a further 0.8p. Given the increase scheduled to take place in England in April, this will set rates on both side of the border at 44.1p. It is doubtful how much of an impact this will have on business location decisions, since a vast array of exemptions and discounts apply to many business premises, but it has been seen as a symbolic victory for business and probably one the Executive was willing to concede if it helped it to be seen as business-friendly.

8.5 The Pre-Budget Review

The effect of the Barnett Formula on the spending increases announced in the Chancellor's Pre-Budget Review on 6 December 2006 is that the Executive, according to the 'regional press notice', gets an extra £284m.¹⁴⁶

8.6 Bottom lines

The formal Executive announcements prior to the election have now largely been made. The run-in will be a party political affair and based firmly along the lines of Scotland in the Union or Scotland out of it. There are certainly other debates about local taxation,

¹⁴⁶ Available at www.hm-treasury.gov.uk/media/578/C6/pbrr06_regionalpnsotland.pdf

whether further fiscal powers should be devolved to Holyrood from Westminster, how best to secure economic growth and on how the present Executive has met the challenges of the last four years. However, the shape of the Union dominates all of these issues and will condition how each party shapes its financial promises and pledges from now until May.

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:

4 July – 10 October 2006	161 ¹⁴⁷
10 October – 4 November	62 ¹⁴⁸
4 November – 12 December	82 ¹⁴⁹
12 December 2006 – 24 January 2007	<u>74</u> ¹⁵⁰
Total	379

Of which 264 (or 69.7 per cent) were in civil proceedings, and 115 (or 30.3 per cent) in criminal proceedings.

¹⁴⁷ HC Deb, 10 October 2006, col. 149 (102 of which were in civil proceedings and 59 in criminal ones).

¹⁴⁸ HC Deb, 7 November 2006, col. 1014W (45 civil, 17 criminal).

¹⁴⁹ HC Deb, 12 December 2006, col. 925W (63 civil, 19 criminal).

¹⁵⁰ HC Deb, 24 January 2007, Col 1768W, (54 civil, 20 criminal).

10. Political Parties

Peter Lynch

10.1 A thickening plot

Even a Martian arriving off the inter-planetary express at Edinburgh Waverley station would rapidly pick up the fact that something unusual is afoot in Scottish politics. What should be an impending second-tier election against the more significant background of a looming change of prime minister at first-tier level, has picked up in salience to the point of over-shadowing anything that might be occurring at higher levels. Should the Martian interrogate a passing Scottish Nationalist, he would be liable to find that Nationalist talking with barely suppressed excitement about the prospect, not just of seizing the levers of power from the ruling Labour Party, but of wrenching their country out of a 300-year old political union. If the Martian then encountered Labour supporters, he would find them outwardly confident, but inwardly pessimistic, fearful that the ground is moving under their feet and that not a lot can be done to stabilise it. In contrast, the other ruling half, the Liberal Democrats, would be chirpy, quite confident of consolidating their position and of continuing to rule. Then the Martian might notice a shabbily-attired type, recently made homeless and politely begging for some small change. This, it would appear, is a member of the one-time Conservative elite, now fallen on hard times and struggling to be noticed. In a corner of the station, given a wide berth by passers-by, there is a group fracas. These are the Socialists, having a comradely divorce.

The most obvious sign of this unusual ferment is the nature of the inter-party debate, and its intensity months in advance of an election campaign proper. Most prominent is the blast and counter-blast of volleys concerning the benefits/drawbacks of staying with the Union or leaving it. Only slightly less prominent is discussion of process politics: who will form a coalition with whom, on what terms and how the Nationalists might progress their dream of independence. Coming a poor third in this debate is the usual policy meat of politics: what difference to the lives of the citizens the parties would make. It promises to be a rough and tough campaign.

10.2 Nationalism once more resurgent

Any reading of media coverage between October and December 2006 would recognise a leap in visibility by the SNP, with such coverage matched by strong polling by the party. Moreover, coverage of the SNP was often accompanied by extensive newspaper debate about the pros and cons of independence (both the *Scottish Daily Express* and *Scotsman* ran such features over several days). Such discussions were to lead to broader coverage of the Union of 1707 as it approached its 300th anniversary in 2007. Media focus on the SNP pre-dated the party's October conference, but snowballed around and after the conference as a consequence of continued strong opinion poll ratings. An ICM poll for *The Scotsman* made front page news on 1 November by putting the SNP marginally ahead of Labour on the first vote and equal on the second. It also revealed that 51 per cent would vote yes to independence (with 39 per cent no, and 10 per cent as don't knows).¹⁵¹ A second ICM poll in November put the SNP 5 per cent ahead of Labour on the first and second votes.¹⁵² In addition, ICM polls for the *Sunday Telegraph* found support for Scottish and English independence both North and South of the border.¹⁵³ Several polls have put Labour ahead, then the SNP ahead, so there appears to be some volatility, but the general picture is of an SNP advance.

Several developments helped to give the SNP some political momentum in the latter months of 2006. The party conference at the end of October was not significant in policy terms, but it did generate media headlines and a positive profile. For example, just ahead of the conference, the SNP made fund-raising gains (the party aims to have a fighting fund of £1m). Prominent businessmen Sir Tom Farmer, former owner of the Kwik-Fit car repair firm, donated £100,000.¹⁵⁴ Ian Watson, a businessman with interests in finance, energy and telecoms donated £50,000. A number of other individual donations in the third quarter of 2006 also produced about £50,000 for the party.¹⁵⁵ The money is clearly important for a party that lacks large donors (or loaners), but the positive media coverage generated by the donations is just as significant.

¹⁵¹ *The Scotsman*, 1st November 2006.

¹⁵² *The Scotsman*, 27th November 2006.

¹⁵³ *The Herald*, 27th November 2006.

¹⁵⁴ *Sunday Herald*, 8th October 2006.

¹⁵⁵ See the SNP's third quarter figures on the Electoral Commission registers, at www.electoralcommission.org.uk/regulatory-issues/regdpoliticalparties

Sir Tom initially said that his donation was simply to ensure the SNP could debate its case on level terms with the better-funded Labour Party. But his act was skilfully portrayed by the SNP, aided by some of Sir Tom's later remarks, as showing that this businessman was in the vanguard of more who are attracted by the idea of independence. However, not much adornment was needed with comments made by Cardinal Keith O'Brien, who discussed independence in an interview with the *Catholic Herald*. O'Brien suggested that independence was a possibility and that if Scots wanted it, he would be happy with it. He talked about the benefits of independence amongst small countries he had travelled to as well as the difficulties he would have in arguing that ecclesiastical independence (of the Scottish Catholic Church) was acceptable then arguing that political independence was bad.¹⁵⁶ These issues were given extensive coverage in *Scotland on Sunday*, not least as Labour sought in private discussions with O'Brien and some of the Catholic bishops to try to limit the political damage from the interviews. Working class Catholics are the core Labour electorate in Scotland.¹⁵⁷

The manner in which some political issues have played out have also helped the SNP. Nuclear power has seen the First Minister in difficulties over how to square his reluctance to commit to more nuclear power stations with the UK government's position. This issue became a problem again when it came to considering nuclear waste storage and whether Scotland could store its nuclear waste in England or vice-versa.¹⁵⁸ Second, there is the issue of nuclear weapons and specifically the modernisation of the Trident missile system. This issue has been driven by the UK government, but has ramifications for Scotland as the nuclear submarine base is in the West of Scotland. The government's proposal attracted opposition from the Nationalists, Greens and Scottish Socialists, but also from within Labour itself. The most obvious manifestation of this came with the resignation of the Communities Minister, Malcolm Chisholm, over Trident. Chisholm was a known opponent of nuclear weapons and found himself in difficulties with an SNP-sponsored anti-Trident motion in the Scottish Parliament. Given he was a known opponent, there was little prospect of him compromising fully, especially as he has resigned before on issues of principle. On this occasion, rather than abstain or absent himself, he voted with the SNP.¹⁵⁹ Three other Labour MSPs did the same (Bill

¹⁵⁶ *Scotland on Sunday*, 15th October 2006.

¹⁵⁷ *Scotland in Sunday*, 5th November 2006.

¹⁵⁸ *The Herald*, 26th October 2006, *Sunday Herald*, 29th October 2006.

¹⁵⁹ BBC news, 22nd December 2006.

Butler, Marylyn Glen and Elaine Smith), but none held ministerial posts so they did not breach collective ministerial responsibility. Anger at Chisholm from other Labour ministers who have a long anti-nuclear weapon history, such as Justice Minister Cathy Jamieson, ensured he had to go.

10.3 Labour, Coalition and the Union Dividend

Not surprisingly, the rise of the SNP has brought a reprise of Labour's negative campaigning over independence – a return to the 'divorce is an expensive business' position of 1998-99 – with Blair focusing on the economics of independence¹⁶⁰ and Jack McConnell stating that the SNP would bring 'decades of constitutional upheaval'.¹⁶¹ Furthermore, whilst going negative about independence, McConnell committed himself and Labour to retain the existing devolution settlement and set his face against further constitutional change. In the John P Mackintosh memorial lecture on October 24, McConnell ruled out seeking more powers for the Scottish Parliament in favour of making the fullest use of the existing powers.¹⁶² This particular position was widely trailed in advance in the media and committed Labour to a unique position within Scottish politics as the only party supporting the status quo. All other parties are committed to making some changes to devolution – independence, fiscal autonomy, federalism, etc. – leaving Labour as the party opposing changes to the Scotland Act 1998. This reality will make for interesting coalition negotiations after the 2007 Scottish election.

Labour has also sought to go 'positive' over the Union, rather than simply bashing the SNP and independence. Gordon Brown and McConnell made speeches promoting the 'Union dividend' and stressing the links between Scotland and England – not simply in historical terms but in contemporary human terms. The Scottish Secretary Douglas Alexander also promoted Britishness against Scottish nationalism – a long-time Brownite theme, evident in speeches and publications by the Smith Institute. Being positive about Britain and Britishness and linking it to social justice, liberty, the welfare state, etc., made a comeback in 2006. For example, Brown talked of the million Scots living and working in England, the 2 million Scots who have family in England as well as the number of

¹⁶⁰ Tony Blair contributed to an article in *The Scotsman*, 23rd November 2006.

¹⁶¹ *Scotland on Sunday*, 23rd October 2006.

¹⁶² Jack McConnell, 'In the interest of our nation', annual JP Mackintosh lecture, 24th October 2006, Haddington, East Lothian. Available from www.scotland.gov.uk

English people in Scotland, linking all these to the economy, savings, pensions, etc.¹⁶³ McConnell talked in similar terms about the benefits of the Union and devolution, and that Scotland gains financially from the Union.¹⁶⁴ Finally, Des Browne, the Defence Secretary, sought to play up the security benefits of the UK versus the isolation that would follow from Scottish independence¹⁶⁵, as did John Reid in relation to terrorism and security.¹⁶⁶

Coalition formation was also subject to a range of manoeuvres within Scottish Labour. In October, Jack McConnell dispatched the Minister for Parliament, Margaret Curran, to New Zealand to study the operation of minority government in the New Zealand parliament.¹⁶⁷ Whether this is a serious option is questionable, even though the Scottish Greens opened up the prospect of non-governmental coalition support by proposing a 'confidence and supply' procedure to support a government on votes of confidence and individual issues. Governing without a majority in the Scottish Parliament would be fraught with difficulties – ask former Welsh First Secretary Alun Michael – and raising the issue can be interpreted as a Labour shot across LibDem bows. In December, McConnell briefed the media on the prospects of either leading a minority administration or participating in another two-party coalition. McConnell explained that the first two coalition governments with the Lib Dems were about political stability and then policy delivery, but was reluctant to commit to another coalition with the Lib Dems due to policy differences. McConnell's preferred option for post-2007 involved governing as a minority administration with the support of one opposition party for each parliamentary vote.¹⁶⁸ However, this says a lot about Labour posturing and positioning on the issue compared to a serious means of governing and passing legislation.

McConnell has also sought to focus on policy issues for Labour's 2007 campaign. He has focused on education, especially the establishment of skills academies in Scotland, improvement of science education in schools and aims to produce a national consensus on higher education funding that does not abolish the graduate endowment or increase

¹⁶³ Gordon Brown, 'Stronger together, Weaker Apart', 8th September 2006.

¹⁶⁴ Speech to IIP in London, 10th November 2006, www.scottishlabour.org.uk/ippr06page1

¹⁶⁵ Des Browne, 'Scotland's Future: Security or Isolation?', 17th November 2006, www.scottishlabour.org.uk/brownespeechnov06

¹⁶⁶ Speech to Scottish Labour conference, 26th November 2006, www.scottishlabour.org.uk/reidspeech2006oban/

¹⁶⁷ *The Herald*, 9th October 2006.

¹⁶⁸ Sunday Herald, 11th December 2006.

fees.¹⁶⁹ The Scottish Labour policy forum was also proposing to tackle school indiscipline, extend nursery education, construct a second Forth road bridge, extend the community right to buy land into urban areas, promote healthier lifestyles, extend the greenbelt and consider reforming the size and boundaries of Scotland's eight police forces.

10.4 The Lib Dems' pick and choose

Any detached reading of opinion polls leads to the conclusion that the Scottish Lib Dems are in the happy position of being liable to gain seats and being king-makers post-election. Since the polls suggest both Labour and the SNP may have a seat tally in the low 40s, the Lib Dems are likely to have the luxury of being able to negotiate with both parties and deciding which gets to govern. This is not, however, how Nicol Stephen, the Scottish LibDem leader portrays it. He announced at the party's federal conference that he intends to change the Scottish party's constitution by abolishing the rule which says it should talk to the largest party after an election. This, he said, is because he expects the Scottish LibDems to be the largest party.¹⁷⁰ A significant obstacle to dealing with the SNP however is the Nationalists' pledge to hold a referendum on independence. Stephen has made it plain he is opposed to independence and, unless there is a clear sign of the majority of the electorate wanting it, he would be opposed to an independence referendum too.¹⁷¹ The tactical reasons for saying this are obvious. The LibDems and the SNP will be head-to-head in a number of constituencies, not least LibDem-held Gordon, where Alex Salmond is the SNP candidate. Any admission by the LibDems that they would tolerate an independence referendum would be seized upon by the SNP as further proof of the growing popularity, indeed inevitability, of independence and therefore as an invitation to vote for Salmond and his party.

Whether Stephen's apparently iron-clad opposition to a referendum survives post-election is another matter. In the meantime, he has sought a distinctive position for the LibDems as the party of 'devolution not revolution', wanting more powers, particularly to raise taxes, for the Scottish Parliament.¹⁷² Otherwise, the LibDems and the SNP seem to have a lot of policies in common, such as a local income tax replacement for the council

¹⁶⁹ *The Herald*, 24th November 2006.

¹⁷⁰ <http://news.bbc.co.uk/1/hi/scotland/5359200.stm>

¹⁷¹ <http://news.bbc.co.uk/1/hi/scotland/6292981.stm>

¹⁷² www.scotlibdems.org.uk/news/2007/01/devolution-not-revolution-stephen

tax, opposition to more nuclear power, and reducing business rates. It is also noticeable that although the LibDems regularly attack the SNP, Nationalist counter-attacks are rare.

The party was affected by the political fall-out from the Michael Brown affair. Brown had donated £2.4m to the Lib Dems to help finance their 2005 election campaign. This became an issue as Brown was jailed for perjury and the Lib Dems came under pressure to return the money. The cash was an issue in Scotland as it had helped bankroll the party's general election campaign in Scotland to the tune of £375,000 (the total of invoices sent to the London party from Scottish party HQ in Clifton Terrace).¹⁷³ This has put the party under pressure, notably through blunting its efforts to criticise Labour and the Conservatives of 'loans' and peerages.

10.5 The Conservatives in the doldrums

These should be good times for the Conservatives. The party has a new and dynamic leader at Westminster facing a Labour government which has become unpopular. In Scotland, political debate has shifted to the right with the Lib Dems and the SNP competing to be the most business-friendly party by adopting business tax cutting policies. And yet the polls say that the Scottish Tories are strangely becalmed, unlikely to make any progress in May 2007. Perhaps this shift by other parties into what was the Tories' natural territory is the reason – they are being outflanked on the right. They are also still ostracised, with no other party talking about the Tories as potential coalition mates. This may be why Scottish leader Annabel Goldie has denounced coalitions as 'unprincipled' and said, rather oddly, that she might consider supporting a minority Labour administration on an issue-by-issue basis.¹⁷⁴ It was hard to know who was more appalled by this idea – old guard Tory supporters or the Labour Party.

Still, it is a sign that Goldie is interested in breaking new ground. In May 2006 she set up a Scottish Conservative Policy Advisory Group chaired by Douglas Osler, a former senior chief inspector of education, with the brief to indulge in blue sky thinking in all areas. On 20 October, its report was published with the disclaimer that none of its contents was yet party policy.¹⁷⁵ Among the most eye-catching of its proposals was the view that Scotland should collect and retain all taxes with a view to cutting them,

¹⁷³ *The Sunday Herald*, 17th December 2006.

¹⁷⁴ <http://news.bbc.co.uk/1/hi/scotland/6053154.stm>

¹⁷⁵ www.scpag.info/index.asp?page=19#menu

especially business taxes, and thereby liberating Scotland from what it considered to be a too-heavy public sector. Press reports suggested Goldie was unlikely to take this up, though she was considering the devolution of fuel, excise, and stamp duties.¹⁷⁶ The myriad of other ideas ranged from the wishful: high-speed rail links between Edinburgh-Glasgow, Edinburgh/Glasgow – London and Dundee-Perth-Edinburgh; to the somewhat bizarre: that teachers should become self-employed. With raw material like this, the Tories should have no trouble constructing an excitingly radical manifesto.

This evidence of new thinking, however, does not appear to be enough for some members and even some MSPs. Goldie is the victim of sporadic sniping from within her own ranks, the complaint being that she appears to lack enthusiasm and energy. This unhappiness does not speak of an imminent Tory revival north of the border.

10.6 After the SSP

As the Tommy Sheridan defamation trial had divided the SSP from top to bottom, it was no surprise that the party actually split. Sheridan and Rosemary Byrne MSP formed the new party Solidarity on September 2. This left the SSP with four MSPs – meaning it no longer existed as a party group within the Scottish Parliament and lost its membership of the Parliamentary Bureau. This split was inevitable, given the animosity generated by the trial and the fact that many senior SSP figures had taken sides during the trial. It also exacerbated financial problems to the extent that it opened up questions about its capacity to contest the 2007 Scottish elections and local elections. First, two MSPs and a number of party activists left the party, meaning the loss of income and donations, especially the MSPs' salaries and research allowances. Each MSP donated money to the party's head office every quarter – between £2,900-3,900 each (to a total of £21,800 in the fourth quarter of 2004 for example). In addition, the party received £12,640 in Short money from the Scottish Parliament in this period.¹⁷⁷ Second, the party was no longer able to keep its Stanley Street headquarters in Glasgow. This building was an asset, but also an income stream as two MSPs (including Sheridan at £650 a month) rented constituency office space in the building – thus providing funds for the party. Without the rental income, the mortgage payments were problematic, especially given the SSP's continuing financial crisis (meaning long-term debts estimated at £130,000

¹⁷⁶ Louise Gray 'Tory activists believe Scotland should have power to set taxes.' *The Scotsman*. Oct 21, 2006. P 10.

¹⁷⁷ www.electoralcommission.org.uk/regulatory-issues/regdpoliticalparties

along with unpaid bills of £29,000).¹⁷⁸ Worse, the Stanley Street building was originally purchased with the help of a £38,000 loan from Sheridan. He was still legally obliged to pay the mortgage in spite of leaving the party. This issue was subject to legal action after the split. Finally, several research and constituency officers were co-financed to the six MSPs. The departure of two MSPs led to employment grievance procedures before it was resolved.

The trial's aftermath generated more questions. First, the *News of the World* decided it would appeal the outcome of the case, though this appeal will not be heard until late summer 2007. Second, the police and Procurator Fiscal's office began to examine perjury during the trial. The MSPs and leading party figures presented contradictory evidence as witnesses, so someone may have lied. Third, and most sensationally, a video was released by the *News of the World* in which Tommy Sheridan is alleged to be admitting to visiting swinger's clubs.¹⁷⁹ The video was recorded on a computer by a former close confidante, George McNeilage, the best man at Sheridan's wedding. Meantime the SSP and Solidarity have sought to establish some political credibility.

10.7 Scottish Greens and Coalition

The Scottish Green Party conference discussed the party's procedures for participating in or supporting a coalition administration at the party conference in November 2006. The conference agreed to support a 'confidence and supply' strategy – meaning that it would support the government in issues of the budget and votes of confidence, but would also negotiate its support for individual issues and pieces of legislation with other parties (meaning they could seek to pass legislation with the opposition parties against a minority government). Such support would involve the MSPs discussing specific issues with a party referencing group of members to maintain internal party support on sustaining a government. In addition, the party was to examine specific issues in advance of the 2007 election with the aim of greenlining and redlining policies – at this stage the known redline issue was the proposal to build new nuclear power stations.¹⁸⁰

¹⁷⁸ *The Sunday Herald*, 19th December 2006.

¹⁷⁹ BBC News, 1st October 2006.

¹⁸⁰ *The Herald*, 6th November 2006.

11. Public Policies

Paul Cairney

11.1 Implementing Public Policies: do Scots love their fudge?

Taking a top-down view of implementation success – i.e. in terms of central government objectives – what do governments feel is their role in the process? Following the caricature of English government, the centre gauges policy success in terms of uniform achievements measured against public service agreements. Or, if services need to be changed then legislation can force uniformity – as, for example, with the reform of adult and child services in the aftermath of the Victoria Climbié case. In such cases the apparent eradication of ‘postcode’ policy outcomes are traded off against the unintended consequences of strict targets which skew resource allocations and impose rigidity¹⁸¹ (and the broader issue of local democracy).

This may contrast with the so-called ‘Scottish love of fudge’ in which organisations such as local authorities demand the freedom to conform – the classic example is the 5-14 curriculum in compulsory education. There is perhaps a broader trend developing in public services reform, with the Executive willing to accept favourable outcome measurements (e.g. a better quality of life in certain populations) while leaving details of delivery or inputs to local authorities. Or, the Executive may be less obsessed with organisational changes as a ‘quick fix’ to policy problems (again in contrast to the English caricature). In education, this further drive to flexible implementation occurs with the developing 3-18 curriculum and the devolution of the McCrone agreement details (such as teachers’ promotion structure) to local negotiating committees. In health and social care the participants in community health partnership arrangements (which ensure some level of coordination between health and local authorities) are confident of structural stability. With child services there is a significant variation by local authority.

Of course there comes a point when too much variation or not-enough centralisation is deemed inappropriate. This arises in the Audit Committee’s (December) evaluation of the McCrone Agreement (see also section 2.2).¹⁸² The committee’s impression is that

¹⁸¹ See K. Schmuecker and J. Adams (2005) ‘Divergence in priorities, perceived policy failure and pressure for convergence’ in (eds) Adams and Schmuecker *Devolution in Practice 2006* (Newcastle: IPPR North)

¹⁸² Audit Committee Report (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’,

the agreement was made in principle quickly with the details to be ironed out over time. As a result, not enough attention was given to measures of value-for-money despite the huge investment. There is also suggestion that there is not enough monitoring of the local arrangements in place – local authorities vary in promoting chartered teacher status and the new promotion structures for teachers (Hugh Henry announced a review of the chartered teacher scheme in December).¹⁸³ The report expresses concerns about unintended consequences for head teachers, with primary heads most likely to cover the effects of a shorter teaching week and the rise in vacancies for headships given the lack of financial incentive to seek promotion (in England head teachers are paid more but there are similar recruitment problems because of the stresses of the job). In January the HMIE published its interim evaluation, which describes the Teachers' Agreement as a 'real achievement' and 'improvement on the situation which existed before'. It identified achievements – such as the operations of most Local Negotiating Committee for Teachers and the development of CPD using IT – and then comments on areas needing improvement, such as the insufficient numbers of chartered teachers and the spread of teacher support staff. In parallel to the discussion of section 1.2, the media and Executive spin on the report was very different. Much of this centred on the HMIE suggestion that the agreement was a work-in-progress and the 'beneficial impact on young people and their learning ... is very limited'.¹⁸⁴ This led to David Eaglesham of the Scottish Secondary Teachers' Association receiving a hard time on *Newsnight Scotland* for having the gall to be part of a successful negotiation, while *The Scotsman* reports that the 'pay rise has failed to deliver significant improvements in the education of Scotland's children'.¹⁸⁵ Again, this comes down to how we measure success. While many opposition MSPs now describe the pay agreement as a public investment which has not delivered, teacher's unions are more likely to argue that the deal addresses successfully the fact that they were previously underpaid. The Executive take is that the

www.scottish.parliament.uk/business/committees/audit/reports-06/aur06-07.htm#_ftnref3. The report gives a useful background to the original process.

¹⁸³ Scottish Executive News Release 1 Dec 2006 'Review of Chartered Teachers'

www.scotland.gov.uk/News/Releases/2006/12/30121530

¹⁸⁴ HMIE (2007) 'Teaching Scotland's Children - a report on progress in implementing 'A teaching profession for the 21st century'' www.hmie.gov.uk/documents/publication/hmietsc.pdf

¹⁸⁵ P. McMahon 9 Jan 2007 'Education watchdog hits out over failures of £2bn deal' *The Scotsman* <http://news.scotsman.com/education.cfm?id=41842007>

agreement provided 'unprecedented stability' in the classroom and solved a crisis of morale and recruitment within the profession.¹⁸⁶

As section 2.2 suggests, the experience of the NHS consultant contract is that Scotland suffered from *too much* centralisation, with unintended consequences of following a South-East England agenda on providing pay and conditions to compete with the private sector. Yet the Audit Committee's report also highlights a more general rule of implementation – that the further away from it you are, the harder it is to enforce.¹⁸⁷ So, despite the contract stipulating a maximum 48-hour week (or the signing of a waiver) as a result of the EU Working Time Directive, the committee reports that few health boards know how long their consultants work (see paras 70-6).

The progress of housing stock transfer also displays a high degree of variation, although this is much less the Executive's fault since it relies on the approval of existing tenants. In October, Renfrewshire became the third local authority area (after Edinburgh and Stirling) to reject transfer, opening up the prospect over time of either policy learning or adverse comparisons between housing association and local authority-led stocks (Inverclyde voted 'for' in November).¹⁸⁸ The Executive's policy on right-to-buy is also subject to variation depending on the numbers of applications for suspensions based on the amount of social housing in particular areas. Fife Council had a second application for a suspension granted in January.¹⁸⁹ A report on the effects of right-to-buy suggests that while people are positive about their purchasing experience, the effect is mixed: 'in some, concentrations of deprivation have increased. In others, increased levels of owner-occupation have been beneficial in creating stability'.¹⁹⁰ Even more sympathy can be given to the Executive on its fuel poverty targets (defined as spending more than 10% of total income to satisfactorily heat one's home) given that only two of the significant factors – insulation and central heating, but not benefits, taxation or fuel prices – are

¹⁸⁶ Scottish Executive News Release 9 Jan 2007 'Teachers' deal creates ' industrial stability'

www.scotland.gov.uk/News/Releases/2007/01/08123126

¹⁸⁷ 16 Nov 2006 'Implementing the NHS Consultant Contract in Scotland'

www.scottish.parliament.uk/business/committees/audit/reports-06/aur06-06-01.htm

¹⁸⁸ H. MacDonell 19 Oct 2006 'Setback for Executive as tenants vote 'no' to plan for housing' *The Scotsman* <http://news.scotsman.com/topics.cfm?tid=867&id=1546682006>. See the comments below for likely popular comparisons; Scottish Executive News Release 1 Dec 2006 'Inverclyde tenants vote for stock transfer'

www.scotland.gov.uk/News/Releases/2006/12/01162635

¹⁸⁹ Scottish Executive News Release 15 Jan 2007 'Fife housing'

www.scotland.gov.uk/News/Releases/2007/01/15094752

¹⁹⁰ Executive (2006) 'The Right To Buy In Scotland - Pulling Together The Evidence'

www.scotland.gov.uk/Publications/2006/09/26114727/0

within its control.¹⁹¹ The latest report shows a rise in fuel poverty (from 13 to 14.5 per cent) associated with fuel price rises.¹⁹² However, the Executive reaffirmed its commitment to eradicate fuel poverty by 2015.¹⁹³

11.2 Policy Styles, Policy Learning and Delivering Mental Health Policy

The irony of mental health policy in Scotland is that whilst it arguably represents the Executive's biggest 'win' since devolution, it may only receive attention in the run up to the 2007 election if it is negative – for example if there is a break out from a secure psychiatric hospital during debates on crime and public safety. Yet, mental health demonstrates at least four of the reasons given for devolution. First, administrative devolution (accompanied by minimal public or political awareness) allowed policy to develop differently in Scotland, with slower hospital closure rates, different attitudes to the treatment of personality disorder in hospitals (following a high profile breakout from Carstairs in the 1970s), a different inquiry process for reporting homicides by patients receiving psychiatric care, and no Scottish equivalent to the Home Office's role with offenders in secure psychiatric units (four factors which proved crucial to the development of separate legislation). Second, the Scottish Parliament provided the legislative time for bills which had spent years in development waiting for Westminster space. So, the Adults With Incapacity Act 2000, a bill in the making for almost a decade before devolution, became the Scottish Parliament's first piece of social legislation soon after, while Westminster took another five years to produce a similar act. Perhaps more impressive is the progress of the Scottish Parliament's Mental Health Act. While the UK government commissioned and received its (Richardson) report into compulsory treatment by 1999, it is still trying to legislate.¹⁹⁴ In contrast, the Millan Report in Scotland was commissioned in 1999 and completed in 2001, with legislation passed by 2003. Third, the process surrounding the mental health acts in Scotland and England provides the best example of differences in policy styles since devolution. While there are policy differences in the two bills – including the UK government's insistence on broadening the definition of personality disorder and increasing the likelihood of more preventative detention – both bills also address the controversial area of compulsory treatment in the

¹⁹¹ See P. Cairney (2006) 'Venue Shift Following Devolution: When Reserved Meets Devolved in Scotland' *Regional and Federal Studies*, 16, 4, 429-45

¹⁹² Executive (2006) 'Scottish House Condition Survey: Fuel Poverty Report - 2003/04' www.scotland.gov.uk/Publications/2006/11/23092121/0

¹⁹³ Executive (2006) 'Progress Report on the Scottish Fuel Poverty Statement 2002' www.scotland.gov.uk/Publications/2006/11/fuel-poverty-progress

¹⁹⁴ BBC News 15 Nov 2006 'Mental health row set to reopen' <http://news.bbc.co.uk/1/hi/health/6147880.stm>

community. As a result, pressure from participant concern has been apparent in both processes.¹⁹⁵ However, the key difference has been handling this concern. In England, the key driver for change was a concern for public safety. A perception among stakeholders of the unwillingness of ministers to negotiate on this point led to years of entrenched positions with no legislative resolution to date. In Scotland, ministers gave freer rein to Bruce Millan (former Secretary of State for Scotland), whose two-year report was based on widespread consultation and achieved huge 'ownership' among stakeholders. Indeed, this support was used during the legislative stage to persuade health committee members on a series of points (in contrast to the UK where Westminster and Lords involvement is likely to be less conciliatory).

However, a key feature of devolution in both Scotland and Wales is that although participants are much happier with the consultation process, they are also much more likely to point to a *lack of* delivery or implementation success.¹⁹⁶ This has two current elements. First, the debates both in England and Scotland show that it is difficult to disentangle legislative and service delivery issues with mental health. For example in England, homicide inquiries tend to focus on a breakdown of communication between psychiatric and other services. Relations between the government and stakeholders deteriorated to the extent that the latter suspected the former influenced the suppression of the Michael Stone inquiry because it highlighted service problems and did not recommend the law change the government expected (interviews, 2006). In Scotland, the Mental Welfare Commission conducts these inquiries and its latest report outlines the case of Mr L and Mr M. The conclusion is that Mr L had an inadequate care plan, which undermined a smooth transition between his regular psychiatrists and a locum, and made it difficult for his community psychiatric nurse (and the Executive) to know the full extent of, or respond adequately to, his changing situation.¹⁹⁷ The caricature of Scotland and England suggests that while the latter responds to these reports by pushing the legislative agenda on public safety, the Executive is open to the consistent message by the MWC that these issues are about good quality mental health care rather than curbing the conditional discharges of people on restriction orders. Yet, this

¹⁹⁵ See for example BBC News 12 July 2002 '<http://news.bbc.co.uk/1/hi/scotland/2123776.stm>', <http://news.bbc.co.uk/1/hi/scotland/2123776.stm>

¹⁹⁶ P. Cairney (2006) 'Devolution and Public Service Delivery: Do Policy Styles Matter?' PAC Conference, Durham, September

¹⁹⁷ Mental Welfare Commission (2006) Annual Report 2005-6
www.mwscot.org.uk/web/site/GoodPractice/Publications/Annual_Reports.asp

difference should not be exaggerated, particularly in the run up to an election with public safety on the agenda. At the very least, Scottish ministers are taking a particular interest in the discharge process in the run up to the election.¹⁹⁸

A second element is the implementation of the Scottish legislation. While the MWC report criticises the (inadequate) development of age-specific services, it is largely positive about the early implementation of the Act. This relates to measurable results such as the reduction of emergency detentions, but also a sense within the MWC that mental health practitioners do perform their duties with regard to the Act's principles.¹⁹⁹ This is significant as concern was expressed by Millan that mental health services may not be adequate to deal with the new legislation.²⁰⁰ Similar concerns were expressed by a review chaired by Sandra Grant – such as the need for cultural change in the service and, more immediately, the lack of psychiatric staff since the new tribunal process and stronger safeguards would redirect some resources from direct care. The review also suggested that while mental health is one of three priority areas for NHS Scotland, the financial information is not there to show that its funding is keeping up with the other two areas (see section 2.2 – also note, however, that Scotland does not face England's problem of NHS deficits leading to severe cutbacks in mental health services).²⁰¹ A difficulty is that mental health outcomes are often more difficult to measure and governments have been unwilling to introduce many meaningful targets (which tend to ensure that health authorities spend money trying to meet them). It is in this light that December 2006's *Delivering For Mental Health* (the Executive's sequel to *Delivering For Health* which followed the Kerr report – see January 2006 report 11.4) can be viewed. It sets targets for mental health as a whole.²⁰² These include commitments on training, social inclusion and age-specific services and targets on suicide and readmissions to acute care. However, two aspects stand out as interesting examples of implementing

¹⁹⁸ Author's interviews.

¹⁹⁹ Ibid.

²⁰⁰ Executive (2001) 'New Directions: Report on the Review of the Mental Health (Scotland) Act 1984' (The Millan Report) www.scotland.gov.uk/health/mentalhealthlaw/millan/Report/rnhs-05.asp paras 15-19

²⁰¹ Executive (2004) 'National Mental Health Services Assessment final report'

www.scotland.gov.uk/Publications/2004/03/19084/34416. See also

www.sehd.scot.nhs.uk/publications/DC20040422NatMent.pdf and BBC News 5 Feb 2003 'Mental health

services reviewed' <http://news.bbc.co.uk/1/hi/scotland/2728411.stm>. For England see BBC News 28 April

2006 'NHS deficits 'hit mental health' <http://news.bbc.co.uk/1/hi/health/4956158.stm> ; BBC News 19 July

2006 'Cash diverted from mental health' <http://news.bbc.co.uk/1/hi/health/5194772.stm> ; House of Commons

Health Committee (2006) 'NHS Deficits'

www.publications.parliament.uk/pa/cm200607/cmselect/cmhealth/73/73i.pdf

²⁰² Executive (2006) '*Delivering For Mental Health*' www.scotland.gov.uk/Publications/2006/11/30164829/0

public policy – a target to cut the annual rate of increase of antidepressant prescribing to zero by 2010 plus a commitment to increase the availability of psychological therapies. This highlights the contestability of policy evidence and hence the success or failure of implementation. In this case, *The Scotsman* interpretation is that since 40 per cent more (per capita) is spent on antidepressants per year in Scotland than England, this suggests a failure to roll-out psychological therapies as an alternative.²⁰³ Yet, psychiatrists have complained for years about GPs not diagnosing enough depression and not prescribing antidepressants – so the difference could represent a Scottish success!

A fourth hope for devolution (and perhaps multi-level governance in general²⁰⁴) was for policy innovation and policy learning based on best practice. There is some evidence of this. For example, there were close links between Scotland's Office of the Public Guardian and the Department for Constitutional Affairs when the latter was drafting its bill on incapacity; the health departments have maintained close contact while the UK is still progressing its mental health act; and there has been a great deal of English interest in Scottish pilots on psychological therapies (interviews, 2006).²⁰⁵

11.3 Physical Health (and visible citizenship)

If mental health reinforces the caricature of differing policy styles in Scotland and England, then the approval process (on the basis of cost-effectiveness) for new medications does the same for healthcare policy. Greer contrasts the substantive medical presence in Scotland based on a traditional power base of Royal Colleges and the Executive focus on management by consensus, with the English focus on a managed market approach with a pool of experienced and ambitious NHS managers tied to centrally monitored performance targets.²⁰⁶ The Scottish Medicines Consortium (SMC) is a microcosm of the Scottish version. The SMC was set up by the Area Drug and Therapeutics committees of Scottish health boards as a Scotland-wide advisory body (via [NHS Quality Improvement Scotland](#)). Its members (doctors in the field) cover all new drugs in a short time (around 18 weeks) but it has no legal status and its findings have no statutory weight. NICE was set up by the Department of Health and is directly

²⁰³ L. Moss 6 Dec 2006 'Ministers act to wean Scotland off £55m-a-year antidepressant habit' *The Scotsman* <http://thescotzman.scotsman.com/index.cfm?id=1808152006>

²⁰⁴ See L. Hooghe and G. Marks (2003) 'Unravelling the Central State, but How? Types of Multi-level Governance', *American Political Science Review*, Vol. 97, No. 2, pp.233-43.

²⁰⁵ Executive (2006) 'National Evaluation Of The 'Doing Well By People With Depression' Programme' www.scotland.gov.uk/Publications/2006/07/12090019/0

²⁰⁶ Greer, S. (2004) *Territorial Politics and Health Policy* (Manchester University Press)

accountable to the Secretary of State for Health. Its remit (until recently when it introduced a single-technology assessment akin to the Scottish system) is to commission longer-term analyses of a range of technologies/ treatments; there is much more input from (for example) health economists and NICE conducts a consultation exercise to inform the process. Since the process is more extensive and can take over 18 months, it does not cover all medicines. Rather, it selects its research based on which medicines are most significant/controversial or in areas where there is most variation and guidance required. However, as with most policy areas since devolution, there can be a tendency to exaggerate the differences. For example, while it may look like NICE is a tool to ensure compliance and reduce post-code prescribing, this is a role that it did not pursue for 5 years until it established a reputation for guidance.²⁰⁷ In Scotland, while the SMC's findings are advisory, we are back to the love of fudge. There is a strong assumption that the SMC's findings will be followed by all health boards – to the extent that the Health Minister would want to know why a health board decided against it.²⁰⁸ There is also a high degree of cooperation between both bodies, with PCTs in England (and many health authorities in other countries) keen to use SMC advice until NICE reports. Similarly, since the NICE process is more extensive, its results tend to be endorsed by NHS QIS as one of NICE's partners (although see below). The only real problem comes when NICE and the SMC come to different conclusions – as in the case of George King who is apparently moving from England to Scotland to receive treatment for multiple myeloma (a malignant disease of the bone marrow) using Bortezomib (Velcade). This is a drug rejected at present by NICE but conditionally endorsed as a last resort by the SMC.²⁰⁹

Wrapped up in the coverage of this example is the idea that while there may be a general acceptance of devolution in the UK, this does not extend to a widespread acceptance of policy variation on benefits or basic public service provision. As Jeffery suggests, the notion of 'territorial justice' is gaining currency within the policy elite, while the phrase 'postcode lottery' is perhaps still number one in the charts in media and

²⁰⁷ Author's interview, NICE, 2006

²⁰⁸ Author's interview, SNC, 2006

²⁰⁹ A. Dalton 15 Jan 2007 'A move to Scotland will let me live longer' *The Scotsman* <http://news.scotsman.com/scotland.cfm?id=72022007> ; SMC Press Statement www.scottishmedicines.org.uk/press/detail.asp?id=498

public discussions.²¹⁰ Yet, for the general public this often becomes akin to the tree falling in the forest with nobody there to hear it. For example, how many people know or care how the treatment of personality disorder differs in the UK? Or, since court decisions entail judicial discretion, would the systematic UK differences in sentences for similar crimes ever reach the top of the agenda? In contrast, with medicines, infrequent differences make for good but exaggerated headlines. Virtually all decisions made by SMC and NICE are the same²¹¹ – either because (in most cases) they reach the same conclusions or the longer-term assessment by NICE gives Scottish decision-makers a reason to amend their conclusions. Yet, even in the small number of cases where they differ, the difference only remains if Scotland says ‘yes’ and then NICE says ‘no’ (i.e. if this was reversed, Scotland would shift from ‘no’ to ‘yes’).²¹²

Perhaps unusually in comparisons with the English NHS, this example makes Scotland look good. It also adds to happier news on the NHS delivery front, with figures suggesting the Executive’s targets have been met early on patients receiving hospital treatment within 18 weeks of GP referral.²¹³ This comes at a time of financial crisis in the English NHS and reports that waiting times data is being manipulated to hide target failures.²¹⁴ The interesting prospect for the Scottish election in 2007 is that the apparent reversal of fortunes of the respective NHSs could produce a mirror image of the 2005 Westminster elections in which Scotland was said to be lagging behind²¹⁵ (particularly since assessments are based on a general image rather than a cold hard look at comparable data). More importantly, the latest figures show a drop in deaths caused by strokes and heart disease (which were outweighed in publicity by the case of Lisa Norris who received excessive radiotherapy).²¹⁶ Not surprisingly, the latest research also shows

²¹⁰ Jeffery, C. (2006) ‘Devolution and divergence: public attitudes and institutional logics’, in (eds) K. Schmuecker and J. Adams *Devolution in Practice 2006* (Newcastle: IPPR North)

²¹¹ See SPICE Briefing 06/51 14 June 2006 ‘The Licensing Of Medicines In The UK And Their Use In The NHS’ www.scottish.parliament.uk/business/research/briefings-06/SB06-51.pdf

²¹² Ibid.

²¹³ H. McDonell 11 Jan 2007 ‘Inpatient waiting time targets met a year early’ *The Scotsman* <http://news.scotsman.com/scotland.cfm?id=52632007> See also 11.2 of May 2006’s Scotland monitor.

²¹⁴ BBC News 17 Jan 2007 ‘A&E success ‘not sustainable’” <http://news.bbc.co.uk/1/hi/health/6267897.stm>

²¹⁵ K. Schmuecker and J. Adams (2005) ‘Divergence in priorities, perceived policy failure and pressure for convergence’ in (eds) Adams and Schmuecker *Devolution in Practice 2006* (Newcastle: IPPR North), p47

²¹⁶ Scottish Executive News Release 31 Oct 2006 ‘Heart disease and stroke mortality continues to fall’ www.scotland.gov.uk/News/Releases/2006/10/31093744 ; 27 Oct 2006 ‘Response to report on Beatson incident’ www.scotland.gov.uk/News/Releases/2006/10/27111559; A. MacDermid 28 Oct 2006 ‘Cancer centre inspections to follow blunder at Beatson’ *The Herald*, p2.

that doctors are happier than they were five years ago.²¹⁷ The Executive is also pressing on with its Delivering for Health agenda (including a smaller more specialist acute sector complemented by less specialist services offered closer to the community) by publishing a strategy for health boards to follow when preparing local health plans.²¹⁸ In December it published some common standards for dental care and its workforce plan for the NHS. This includes an expansion of salaried dentists in areas with poor access to dentistry.²¹⁹ In November it signalled some success in access to dentists in the Highlands.²²⁰

11.4 Public Health

There were some notable public health-oriented policy announcements. The Executive signalled stiffer penalties for vendors caught selling cigarettes to under-16s (or under-18 if the consultation response is positive).²²¹ This reflects enforcement problems and the almost negligible disincentive to dodgy vendors. It also announced plans for an annual review of Scotland's health to aid future planning.²²² There are also two notable drug-related policies. The first is a plan to address relatively high Scottish rates of Hepatitis C infection (a blood-borne virus often passed through shared needles).²²³ The second is £1.7m towards abstinence or 'cold turkey' approaches to drug treatment. Billed as giving choice to drug users who reject maintenance/harm reduction programmes (and apparently supported by the medical profession), this could mark a significant shift in Executive policy. While there was significant political pressure to review maintenance projects after the death of a two-year-old who drank his parents' methadone, the latest projects also follow a general tendency (as with the pilots on depression) of the health department to pilot a range of projects and take mature long-term decisions.²²⁴

²¹⁷ Scottish Executive News Release 11 Dec 2006 'Job satisfaction up among doctors'

www.scotland.gov.uk/News/Releases/2006/12/11102850

²¹⁸ Scottish Executive News Release 20 Dec 2006 'Blueprint for community hospitals'

www.scotland.gov.uk/News/Releases/2006/12/20105914

²¹⁹ Scottish Executive News Release 18 Dec 2006 'National Standards for Dental Services'

www.scotland.gov.uk/News/Releases/2006/12/18093506 ; Scottish Executive News Release 18 Dec 2006

'Workforce planning in the NHS' www.scotland.gov.uk/News/Releases/2006/12/18133942 ; 28 Sept 2006

'Salaried dentists making a difference' www.scotland.gov.uk/News/Releases/2006/09/28104448

²²⁰ Scottish Executive News Release 27 Nov 2006 'New dental centres for Highlands'

www.scotland.gov.uk/News/Releases/2006/11/27104038

²²¹ Scottish Executive News Release 7 Dec 2006 'New licensing scheme for cigarette sales'

www.scotland.gov.uk/News/Releases/2006/12/07092129

²²² Scottish Executive News Release 4 Dec 2006 'Scotland to get annual check up'

www.scotland.gov.uk/News/Releases/2006/12/04083522

²²³ Scottish Executive News Release 26 Sept 2006 '£4 million to tackle Hepatitis C'

www.scotland.gov.uk/News/Releases/2006/09/26095319

²²⁴ Scottish Executive News Release 19 Oct 2006 'Funding for drugs projects'

www.scotland.gov.uk/News/Releases/2006/10/18152439 ; *The Herald* 19.10.06 'GBP1.7m funding for anti-

11.5 Education and Children

Despite evidence to suggest that the Executive is flirting with alternative forms of finance – such as the Prudential Code used by Glasgow City Council to fund new primary schools (following a huge PPP and the write-off of its housing stock debt)²²⁵ – Jack McConnell reaffirmed its marriage to PPP when opening the latest school built with this method of finance.²²⁶ This followed Hugh Henry's welcome for a £50m scheme in Orkney.²²⁷ The Executive also announced an extra £60m for school equipment and building improvement.²²⁸ However, the picture of Scotland's spending on areas like education when compared with English spending is always blurred by inconsistencies in the ways that spending is reported. A good example is *The Scotsman's* declaration that next year's increase in schools spending will be outstripped not only by England (in the context of Brown's agenda to match private school spend) but also inflation.²²⁹ Whether or not this takes into account Scotland's historically higher spending level and the inability to match English increases proportionately because of the rate of Barnett consequential is anyone's guess. Similar problems with counting have dogged the ability to paint a clear picture of indiscipline in schools. This has been addressed by the Discipline Stakeholder Group which produced an action plan in October.²³⁰ Jack McConnell appeared to get the election ball rolling when proposing skills academies.²³¹ As part of a developing agenda on inequalities faced by looked-after-children, the Executive announced £6m to improve the fabric of carer and foster homes.²³²

drug projects' p6; L. Moss 19 Oct 2006 'Pilot project to help addicts go 'cold turkey' as alternative to methadone' *The Scotsman* <http://news.scotsman.com/health.cfm?id=1546342006>

²²⁵ www.glasgow.gov.uk/NR/rdonlyres/D4EED00E-78DF-4F16-B78F-994DB790D343/0/BudgetProposals20062007.pdf p88

²²⁶ Scottish Executive News Release 11 Dec 2006 'Praise for PPP projects' www.scotland.gov.uk/News/Releases/2006/12/11101057

²²⁷ Scottish Executive News Release 28 Jan 2006 'Funding boost for Orkney education' www.scotland.gov.uk/News/Releases/2006/11/28103206

²²⁸ Scottish Executive News Release 27 Nov 2006 'Schools to share extra £60 million' www.scotland.gov.uk/News/Releases/2006/11/27095547

²²⁹ K. Schofield 15 Jan 2007 'Funding for schools falls behind English levels and is outstripped by inflation' *The Scotsman* <http://news.scotsman.com/education.cfm?id=72742007>

²³⁰ Scottish Executive News Release 2 Oct 2006 'Improving school discipline' www.scotland.gov.uk/News/Releases/2006/10/02094831

²³¹ H. MacDonell 25 Sept 2006 'McConnell defies teachers with trades schools plan' *The Scotsman* <http://news.scotsman.com/scotland.cfm?id=1413772006>

²³² Scottish Executive News Release 13 Nov 2006 'Improving homes for vulnerable children' www.scotland.gov.uk/News/Releases/2007/01/11130354

11.6 Education and Lifelong Learning

'We are doing very well even though we say so ourselves' is the message from the Executive's update on its ELL strategy. This suggests that Scotland has a well-qualified working-age population compared to the rest of the UK, employers are reasonably happy with the skills produced by the Scottish system, school attainment is high, entry into higher education is consistently high, and the modern apprenticeship system is doing very well thank you.²³³ To see who else agrees, it launched a consultation on its strategy in November.²³⁴ More modest success is highlighted by interim evaluations of the Fresh Talent initiative. There has also been a rise in Scottish University graduates gaining employment in Scotland, while a pound spent in Scottish colleges apparently reaps £3.20 in benefits.²³⁵

11.7 Environment, Fishing and Rural Affairs

Scotland continues to show England how it is done with Single Farm Payments. In November the Executive announced the likelihood of paying 70 per cent of eligible claims by Christmas.²³⁶ It also announced £1m supporting projects for certain rural areas with little access to public transport.²³⁷ Less cod and more prawns is the message to Scotland from the annual EU Fisheries Council.²³⁸ Assistance of £3.7m to improve ports, processing and catch handling has been announced.²³⁹ New rules on transporting live animals (based on an EU directive) come into force in January, with signs that the Executive/UK Government has taken on board many concerns about costs to the industry.²⁴⁰ In November, Ross Finnie announced targets for public bodies – for the paper it uses to have 50 per cent recycled content and for construction projects over

²³³ Executive (2006) 'Life Through Learning: Strategy Update 2006'

www.scotland.gov.uk/Publications/2006/11/29103414/1

²³⁴ Executive (2006) 'Lifelong Learning - Building on Success: A Discussion of Specific Issues Related to Lifelong Learning in Scotland' www.scotland.gov.uk/Publications/2006/11/06141044/0

²³⁵ Scottish Executive News Release 30 Oct 2006 'Fresh Talent research reports'

www.scotland.gov.uk/News/Releases/2006/10/30114303 ; 4 Oct 2006 'More graduates choose to stay in Scotland' www.scotland.gov.uk/News/Releases/2006/10/04130136 ; 3 Oct 2006 'Colleges vital to growing the economy' www.scotland.gov.uk/News/Releases/2006/10/03115205

²³⁶ Scottish Executive News Release 24 Nov 2006 'Pledge on single farm payments'

www.scotland.gov.uk/News/Releases/2006/11/21151649

²³⁷ Scottish Executive News Release 28 Dec 2006 'Funding for transport in remote communities'

www.scotland.gov.uk/News/Releases/2006/12/28102537

²³⁸ Scottish Executive News Release 21 Dec 2006 'EU Fisheries Council agree deal'

www.scotland.gov.uk/News/Releases/2006/12/21082104

²³⁹ Scottish Executive News Release 28 Sept 2006 'Funding supports new fisheries jobs'

www.scotland.gov.uk/News/Releases/2006/09/28134712

²⁴⁰ Scottish Executive News Release 18 Dec 2006 'Transportation of animals'

www.scotland.gov.uk/News/Releases/2006/12/18142820 ; F. Maxwell 22 Nov 2006 'NFUS calls for transport relief' *The Scotsman* <http://news.scotsman.com/topics.cfm?tid=465&id=1727612006>

£1m to have at least 10 per cent recycled or re-used material.²⁴¹ SNH's new environmentally-friendly HQ almost grabbed the limelight from the agenda on public body relocation.²⁴²

11.8 Energy

Nuclear power kept stimulating political reactions after the Executive accepted the Committee on Radioactive Waste Management's recommendation to use interim storage and then geological disposal as the long-term policy solution. Virtually all parties have tried to stake a distinct position: Labour suggests that independence would mean all nuclear waste dumped within Scotland; the SNP and Greens suggest storage as close to production as possible and the Greens insisting that no new nuclear power stations are a 'red-line issue' in any coalition talks.²⁴³ Nicol Stephen launched the Renewable Hydrogen and Fuel Cell Support Scheme and Marine Energy scheme as part of a £20m fund for renewable energy.²⁴⁴

11.9 Crime and Punishment

It is not every day that a government highlights policy failure in its own news releases. The Executive's reason is that a rise in reconviction rates within 2 years (to 45 per cent) shows it is right to reform the system.²⁴⁵ The use of ASBOs raises another element of implementation success: is the rise in orders granted a sign of success or failure? The Executive appears to suggest the former when reporting the doubling of orders in two years. It also seems to equate the issue of orders with necessarily good policy outcomes.²⁴⁶ Yet, the increasingly negative reports of their effectiveness in England may suggest that the Executive is sporting last year's fashion.²⁴⁷ Their use varies, with

²⁴¹ Scottish Executive News Release 24 Nov 2006 'Sustainability targets for public bodies'

www.scotland.gov.uk/News/Releases/2006/11/24113635

²⁴² D. Ross 4 Oct 2006 'GBP15m base for SNH is now open ... and green' *The Herald*, p8.

²⁴³ Scottish Executive News Release 25 Oct 2006 'Radioactive Waste Disposal Plan'

www.scotland.gov.uk/News/Releases/2006/10/25143454; H. MacDonell 6 Nov 2006 'Greens see red over nuclear power which may leave Labour in the cold' *The Scotsman* <http://news.scotsman.com/topics.cfm?tid=1343&id=1640402006>; R. Dinwoodie 26 Oct 2006 'Political deep hole opens in nuclear waste row' *The Herald*, p7.

²⁴⁴ Scottish Executive News Release 7 Dec 2006 'New fund for green technology'

www.scotland.gov.uk/News/Releases/2006/12/07163102; 24 Oct 2006 'Marine energy scheme open for applications' www.scotland.gov.uk/News/Releases/2006/10/24125132

²⁴⁵ Scottish Executive News Release 31 Oct 2006 'Management of re-offenders'

www.scotland.gov.uk/News/Releases/2006/10/31095232

²⁴⁶ Scottish Executive News Release 30 Nov 2006 'ASBO use doubles in two years'

www.scotland.gov.uk/News/Releases/2006/11/30104705; 28 Oct 2006 'Tackling antisocial behaviour' www.scotland.gov.uk/News/Releases/2006/10/27145744

²⁴⁷ A. Travis 2 Nov 2006 'Teenagers see Asbos as badge of honour' *The Guardian*

www.guardian.co.uk/crime/article/0,,1937030,00.html; This year's in-thing is the super-Asbo: *The Guardian*

Glasgow one of the least likely to use them.²⁴⁸ The Executive approved a new 700-cell prison at Low Moss. In a fit of crystal-ball gazing, *The Scotsman* suggested that if it is privately-run, Scotland will hold the record for the 'highest proportion of prisoners in private jails anywhere in the world'.²⁴⁹ New police powers to retain the DNA of those accused of sexual or violent offences even if they are not convicted began on 1 January 2007 following the implementation of the Police, Public Order and Criminal Justice (Scotland) Act 2006.²⁵⁰ This may be followed (after pilot schemes) by police powers to oblige drug testing for anyone arrested.²⁵¹ The Executive also announced (after extensive piloting) that people who default on fines under £500 will receive community orders rather than short-term prison sentences.²⁵² Similar pilots of youth courts were deemed successful (although see section 1.7) and are to be expanded.²⁵³ The Executive has accepted the recommendations of the Youth Justice Improvement Group report.²⁵⁴

11.10 Transport

Transport Minister Tavish Scott launched the Executive's 20-year transport strategy in December. It discusses improving journey times and connections by working with the UK government on a high-speed rail link between London and Edinburgh and road pricing schemes, continuing with current commitments on capital road investment, and spending £10m to discourage 'school run' drivers²⁵⁵; reducing emissions by supporting the UK government work on biofuels, discouraging driving to work and exploring the emission reductions associated with sticking to speed limits; and improving the quality, accessibility and affordability of transport by introducing a concessionary scheme, funding rural ferry services and promoting bus plans within regional transport

17 Jan 2007 'Home Office reveals details of 'super Asbos'

<http://politics.guardian.co.uk/homeaffairs/story/0,,1992411,00.html>

²⁴⁸ M. Howie 1 Dec 2006 'Question mark over role of ASBOs' *The Scotsman*

<http://news.scotsman.com/topics.cfm?tid=1388&id=1781192006>

²⁴⁹ H. MacDonell 4 Jan 2007 'Executive gives green light for new £100m jail' *The Scotsman*

<http://news.scotsman.com/topics.cfm?tid=307&id=15902007>

²⁵⁰ Scottish Executive News Release 1 Jan 2007 'DNA retention powers extended'

www.scotland.gov.uk/News/Releases/2007/01/29133555

²⁵¹ Scottish Executive News Release 12 Oct 2006 'Mandatory drug testing for anyone arrested'

www.scotland.gov.uk/News/Releases/2006/10/12103849; C. Churchill 13 Oct 2006 'People arrested for shoplifting may face mandatory drug tests' *The Herald* p6.

²⁵² Scottish Executive News Release 20 Dec 2006 'New approach to handling fine defaulters'

www.scotland.gov.uk/News/Releases/2006/12/20103616

²⁵³ Scottish Executive News Release 24 Nov 2006 'Expansion of youth courts'

www.scotland.gov.uk/News/Releases/2006/11/24101019

²⁵⁴ Scottish Executive News Release 9 Oct 2006 'Blueprint for youth justice'

www.scotland.gov.uk/News/Releases/2006/10/09151212

²⁵⁵ This aspect is discussed in Scottish Executive News Release 29 Nov 2006 'Encouraging alternatives to 'school run'' www.scotland.gov.uk/News/Releases/2006/11/29124403

partnerships.²⁵⁶ Scott also announced £20m for train refurbishments, £2.2m to transport more coal by rail rather than lorry, and £7.5m to develop bus transport.²⁵⁷

11.11 Public Campaigns, Pilots and Publicity

In his New Year podcast, the First Minister set out Executive policies from now until the election.²⁵⁸ The Executive also released figures suggesting that the coalition had already fulfilled most of its 2003 commitments.²⁵⁹ It is extending its rather neat policy which uses the proceeds from drug dealers' assets to fund campaigns encouraging people to report drug dealers to Crimestoppers.²⁶⁰ In January it launched a new campaign against domestic abuse, focussing on the long-term effect of verbal intimidation.²⁶¹ In December it introduced 13 pilot projects designed to explore ways of 'delivering cultural services to local people'.²⁶² Perhaps as a testament to the value of multi-level governance (in this case engaging with private actors to achieve governmental outcomes), it promoted the Scottish Grocers' Federation Healthy Living Programme, promoted a voluntary code as an alternative to Mike Pringle's plastic bag bill, and held talks with Spanish company Iberdrola on the takeover of Scottish Power.²⁶³ Following the disproportionate amount of media and political attention devoted to the collapse of Fairpak, the Executive promised to underwrite the loans from credit unions for those worst affected.²⁶⁴

²⁵⁶ Executive (2006) 'Scotland's National Transport Strategy'

www.scotland.gov.uk/Publications/2006/12/04104414/0

²⁵⁷ Scottish Executive News Release 19 Dec 2006 'Investment in Scotland's railways'

www.scotland.gov.uk/News/Releases/2006/12/19111559 ; 28 Nov 2006 'Funding helps take freight off Scotland's roads' www.scotland.gov.uk/News/Releases/2006/11/28141156 ; 26 Oct 2006 'Improvements to bus services' www.scotland.gov.uk/News/Releases/2006/10/26114120

²⁵⁸ Scottish Executive News Release 30 Dec 2006 'New Year Message'

www.scotland.gov.uk/News/Releases/2006/12/27114443

²⁵⁹ Executive (2006) 'A Partnership for a Better Scotland - Delivering Our Commitments'

www.scotland.gov.uk/Publications/2006/12/28151815/0

²⁶⁰ Scottish Executive News Release 9 Jan 2007 'Campaign against drug dealers expanded'

www.scotland.gov.uk/News/Releases/2007/01/09094134

²⁶¹ Scottish Executive News Release 8 Jan 2007 'Poster campaign against domestic abuse'

www.scotland.gov.uk/News/Releases/2007/01/08093920

²⁶² Scottish Executive News Release 19 Dec 2006 'Bringing culture to communities'

www.scotland.gov.uk/News/Releases/2006/12/18141900

²⁶³ Scottish Executive News Release 18 Dec 2006 'Stores urged to sign up to healthy food scheme'

www.scotland.gov.uk/News/Releases/2006/12/18101541 ; 25 Oct 2006 'Further action needed on plastic bags – Minister' www.scotland.gov.uk/News/Releases/2006/10/24164107 ; 5 Dec 2006 'Executive meets with Iberdrola' www.scotland.gov.uk/News/Releases/2006/12/05125052

²⁶⁴ Scottish Executive News Release 14 Dec 2006 'Loans for Farepak customers'

www.scotland.gov.uk/News/Releases/2006/12/14133159

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The Devolution Monitoring Programme

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

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

- Scotland: **Charlie Jeffery** (for January 2008 report onwards)
Institute of Governance, University of Edinburgh
- Wales: **Dr Richard Wyn Jones & Dr Roger Scully**
Institute of Welsh Politics, University of Wales, Aberystwyth
- Northern Ireland: **Professor Rick Wilford & Robin Wilson**
Queen's University, Belfast
- English Regions: **Martin Burch, Alan Harding & James Rees**
IPEG, University of Manchester
- The Centre: **Professor Robert Hazell**, The Constitution Unit, UCL
Akash Paun, The Constitution Unit, UCL

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

Scotland Devolution Monitoring Report

April 2007

Akash Paun (ed.)

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Abbreviations and Acronyms

COSLA	Convention of Scottish Local Authorities
CSR	Comprehensive Spending Review
ECHR	European Convention on Human Rights
JMC	Joint Ministerial Committee
LCM	Legislative Consent Motion
MSP	Minister of Scottish Parliament
MTAS	Medical Training Application Service
NDPB	Non Departmental Public Body
SEPA	Scottish Environmental Protection Agency
SME	Small and Medium Enterprise
SNP	Scottish National Party
SPICE	Scottish Parliamentary Information Centre
SPOR	Scottish Parliament Official Report
STUC	Scottish Trades Union Council
STV	Single Transferable Vote
STV	Scottish Television
SSP	Scottish Socialist Party

Chronology of Key Events: January 2007-April 2007

- 16 January 300th Anniversary of ratification of the Treaty of Union between England and Scotland by the Parliament of Scotland.
- 22 January Confidential report by senior official in Brussels alleges that the Scottish Executive is routinely ignored by Whitehall in EU affairs.
- February Conveners' Group publishes Legacy Report outlining committees' frustrations with the excessive burden of scrutinising Executive legislation.
- 8 March Publication of Information Commissioner's Annual Report on FOI.
- 14 March Jack McConnell and Premier of Australian state of Victoria issue joint 'progress statement' on their co-operation agreement.
- 15 March Release of Executive report on FOI.
- 20 March Jack McConnell meets Vice-President of European Commission to discuss improving Scotland's level of influence within Europe
- 21 March Gordon Brown announces UK budget
- 28 March Publication of Executive report Scotland's strategy for stronger engagement with Germany.
- 29 March Formal pre-election period begins.
- 2 April Scottish Conservative manifesto launched, with leader Annabel Goldie declaring that the party would enter 'no pacts and no coalitions'.
- 4 April Publication of Scottish Social Attitudes survey.
- 10 April Publication of Scottish Labour manifesto. Education is emphasised as the party's key priority.
- 11 April Publication of Scottish Liberal Democrats manifesto
- 12 April Publication of Scottish National Party manifesto. Pledges include the abolition of the 'graduate endowment fee' and council tax, as well as an independence referendum
- 1 May 300th Anniversary of creation of Union of England and Scotland
- 3 May Scottish Parliament and Scottish local council elections held.

Executive Summary

- Although the campaign did not start officially until the beginning of April, the entire period covered by this report (January to April 2007) was dominated by the looming Scottish Parliament election (held on 3 May).
- Labour and the SNP were virtually level in the polls throughout the lead-up to the election (see section 4.4), keeping interest levels high.
- The constitutional question was prominent as the Labour and the SNP set out their competing visions for the future of Scotland. This issue was given extra topicality by the 300th anniversaries of Scotland's ratification of the Treaty of Union (in January), and of the coming-into-effect of the Union (on 1 May).
- Unfortunately for Scottish Labour and the First Minister Jack McConnell – who sought to emphasise 'domestic' policy issues such as education – the campaign was dogged by reserved policy matters associated with outgoing Prime Minister Tony Blair – in particular Iraq, the 'cash for honours' investigation and the replacement of Trident nuclear submarines (see *inter alia* sections 3.1 and 9.2).
- The SNP was given a further boost by the leak of a report by the Executive's senior official in Brussels that argued that Whitehall frequently failed to consult with or ignored the Executive in formulating the UK line in EU negotiations (see sections 1.2 and 5.5).
- For the first time, editorials in the *Scotsman*, *Scotland on Sunday* and *Sunday Herald* advocated a 'vote for change' although the papers did not fully endorse the SNP. The tabloids remained hostile to the nationalists (section 3.2).
- In the final weeks before the dissolution of the Scottish Parliament, the outgoing Executive rushed to complete its legislative programme (see section 2.6), with a total of 11 bills being passed between January and March 2006 including reforms to legal aid, justice procedures, prostitution law, and school meals provision. A further six Sewel motions were also passed (see section 2.7).
- Meanwhile the First Minister was also active in international affairs, meeting with the Premier of the Australian State of Victoria, agreeing to continue support for international development in Malawi, and producing a co-operation agreement with Germany (section 6).
- The second session drew to a close on 29 March 2007. An assessment of the performance of the Parliament thus far found signs of Executive dominance, with the number (and significance) of non-Executive bills passed dropping off in the second session compared to the first (see section 2.1). There was also evidence

of committees being overburdened with legislative scrutiny work to the detriment of executive scrutiny and policy initiation work (section 2.2).

- More positively, Information Commissioner Kevin Dunion praised, in his review of the implementation of freedom of information published on 8 March 2007, what was seen as Scotland's 'progressive and effective FOI regime' (see section 1.4).
- Public opinion data published at the end of the session revealed ambivalence about whether devolution had delivered concrete benefits, but strong support for retaining (and indeed strengthening) the Parliament rather than independence (section 4.1). Scottish Social Attitudes data also found no evidence of a surge in Scottish national identity (section 4.2).

1. The Scottish Executive

Paul Cairney

1.1 A New Scottish Executive?

Much pre-election talk was pre-occupied with the likelihood of a coalition between the SNP and Liberal Democrats, should the former become the largest party in the Scottish Parliament. While the Conservatives presented a consistent stance on 'no coalitions', the Liberal Democrats have form in this area, even when (as in 1999) initially appearing reticent on the prospect of a deal following the election (on the basis that it would become the largest party itself). This process in the past led to the seemingly never-ending article examining the SNP's attempts to woo the Liberal Democrats if a deal could be struck on an independence referendum.¹ At the civil service end of the Executive, the only significant potential change is associated with the SNP's talk of slim government, although this is likely to refer to efficiency savings rather than a reduction in civil service numbers. As such, we may need a fine-tooth comb to explore the differences between SNP and Labour rhetoric on this issue.

1.2 The Scottish Executive and Europe

Scotland's influence within Europe became big news in January when a report by the Head of the Executive's European office (Michael Aron) was leaked. The report perhaps says nothing that academics did not know already,² but its findings are still significant since they are based on widespread interviews within the Executive. The report also seems all the more significant when perceived limitations are exposed to the media and opposition parties (indeed, the report was placed on the SNP's website).³ The main findings are:

- The best way for the Scottish Executive to influence Europe is through Whitehall.
- Scottish Executive relationships with Whitehall departments vary, with talks most constructive when EU influence is low (for example when it makes recommendations rather than introduces directives), when Executive policy is

¹ E.g. see H. MacDonnell, 'Why SNP and Lib Dems may yet come to a coalition deal at Holyrood', *The Scotsman*, 13 March 2007, <http://news.scotsman.com/topics.cfm?tid=867&id=393072007>

² E.g. see Bulmer, S. et al (2007) 'UK Devolution and the European Union: A Tale of Cooperative Asymmetry?', *Publius: The Journal of Federalism*, 36, 1, 75–93.

³ D. Fraser, 'Scotland 'finding itself frozen out of Brussels'', *The Herald*, 21 March 2007; SNP, 'It's Time for Scotland's Voice to be Heard in Europe', 20 March 2007, www.snp.org/press-releases/2006/it-s-time-for-scotland-s-voice-to-be-heard-in-europe

more developed, or when the Scottish department makes a particular effort to keep up regular contact (e.g. in the tourism sector).

- However, this involves a disproportionate amount of work by Scottish officials, since Whitehall departments often ignore or forget to consult their Scottish counterparts.
- In some cases, Whitehall departments have deliberately excluded their Scottish counterparts from the process, while in most cases the problem is that the Executive is not consulted at a stage early enough to influence the direction of policy.
- Direct Scottish Executive contact with EU institutions (the Commission, Parliament and Council of Ministers) is limited and often discouraged by Whitehall departments.
- Ministerial links also vary according to the personalities of ministers, but also the time ministers can take out from domestic commitments. There is also a feeling that, since devolution, ministers have lost some of their clout and there is now no equivalent to the single Scottish Secretary being the figurehead for Scotland and banging the drum in Cabinet. Yet links are often good in areas where constant contact is required (e.g. agriculture and fisheries).
- The concluding recommendation is a call for greater coordination across Scottish departments, to promote a Scottish-wide show of support for policy when in contact with Whitehall (which remains the best chance of influence within Europe).

Similar issues were discussed in the European and External Relations Committee Report on implementing EU directives in Scotland, although its focus was perhaps more on how to directly affect EU institutions.⁴ The report had 5 main themes:

1. Early engagement – influence in Europe is most likely in the ‘upstream’ phase of policy development (i.e. the Policy development and Formal legislative process in Brussels) rather than ‘downstream’ (Transposition, Implementation and Enforcement in Scotland).
2. Scottish Executive engagement with stakeholders – some groups (such as the National Farmers Union Scotland and the Scottish Trades Union Council) suggested that the Executive rarely engaged with them on the formulation of EU policy, while SEPA expressed a more positive view of the process and some

⁴ European and External Relations Committee, *Report on an inquiry into the scrutiny of European legislation* (2007), www.scottish.parliament.uk/business/committees/europe/reports-07/eur07-02.htm

MSPs suggested many groups were knowledgeable of the scope for direct contact.

3. Scottish Executive and Whitehall contact – while the Executive expressed satisfaction with Scottish/UK ministerial contact, other groups are more supportive of the Aron report highlighting variability and the dependence on Whitehall for influence.
4. The transposition and enforcement process – there is disagreement between business groups and the STUC about the extent to which the Executive ‘gold plates’ EU directives according to the letter rather than spirit of the law. The feeling among the business community about being overburdened by regulations is often based on anecdotal evidence. There is also disagreement about the extent to which the Executive is willing (and able) to implement policy differently in Scotland.

1.3 Relocation and Spending

The Audit Committee delivered its report on relocating public bodies in March.⁵ At the time the policy accounted for 38 bodies and 3855 jobs. It suggests that while the principle of the policy is sound, the implementation is flawed, with ‘a lack of clarity, transparency and consistency from the outset’. The method used to trigger a relocation review (when the body’s lease is due for renewal) may be cost-efficient, but is not conducive to strategic thinking. It recommends that the Scottish Executive provides a more convincing explanation for the relocation of each body and that it evaluates the success of the moves more systematically. It pays particular attention to the move of Scottish Natural Heritage to Inverness which ‘does not provide value for money’. This is made worse by the lack of clarity over the decision to choose Inverness over higher ranked locations. Meanwhile, the issue of travel expenses for relocated staff provided a ‘slam–dunk’ for newspapers looking for a critical story. For example, the Scotsman reports that Transport Scotland and the Scottish Public Pensions Agency are both paying on average £100,000 per year for five years to relocated staff.⁶ This ties in nicely with a report suggesting few civil servants believe their government is spending public money wisely.⁷

1.4 Freedom of Information

⁵ Audit Committee (2007) Relocation of Scottish Executive departments, agencies and NDPBs www.scottish.parliament.uk/business/committees/audit/reports-07/aur07-01-01.htm#report

⁶ L. Grey ‘Civil servants are paid thousands to travel to work after jobs relocation’, *The Scotsman*, 23 January 2007, <http://news.scotsman.com/topics.cfm?tid=867&id=117202007>

⁷ H. MacDonell, ‘Just one in three civil servants trusts government over use of public cash’, *The Scotsman* 22 January 2007 <http://news.scotsman.com/topics.cfm?tid=867&id=109722007>

The outcome of the Executive review of FOI is a degree of satisfaction and the announcement of no plans to change the fee structure.⁸ In his annual report, the Information Commissioner Kevin Dunion also gives an upbeat message on the early implementation of this new policy. While there is still a long way to go:

*Our own freedom of information law is one of the strongest in the world in terms of its provisions, .. most public authorities have risen to the challenges presented to them and .. the public is increasingly confident that their requests will be handled appropriately ... In my view the Scottish provisions strongly conform on key principles [Freedom of Information Principles endorsed by the Special Rapporteur to the United Nations Human Rights Commission] such as maximum disclosure rights; rapid and fair processing of requests; costs should not deter applicants and that there is a right of review, by way of free appeal to me.*⁹

While the number of requests is higher than anticipated during the legislative process (and is significantly higher per capita than England), Dunion suggests that this cannot be explained by either vexatious requests or recalcitrant public authorities. Indeed, if anything the high numbers can be explained by public authority willingness to refer people to the Commissioner if dissatisfied, which contributes to high levels of awareness in the appeals procedure. Dunion's pursuit of the issue of a 'closed shop' in the provision of legal representation in Scottish Courts took a step further when the Court of Session upheld two of his decisions to oblige the release of documents relating to Sections 25 to 29 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990. If implemented (which it never was), it would allow professionals other than advocates and solicitors to conduct litigation on behalf of members of the public.¹⁰

⁸ Scottish Executive News Release, 'FOI "serving Scotland well"', 15 March 2007
www.scotland.gov.uk/News/Releases/2007/03/15145441

⁹ Scottish Information Commissioner (2007) *Freedom of Information Annual Report 2006*
www.itspublicknowledge.info/Documents/AnnualReport2006.pdf

¹⁰ Scottish Information Commissioner, 'Commissioner welcomes Court ruling in landmark freedom of information case', 24 January 2007
www.itspublicknowledge.info/resources/media/pressreleases/pressrelease25.htm

2. The Scottish Parliament

Paul Cairney

2.1 Taking Stock of Scottish Parliamentary Influence

At the end of the second parliamentary session, it is worth considering how we measure Scottish Parliamentary influence and activity. While the previous report discusses its role in petitions, the budget and 'holding the Scottish Executive to account',¹¹ we can also examine the role of non-Executive legislation and inquiries. For example, much was made in the first session of the numbers of non-Executive bills (11 out of 61) and whether the Scottish Parliament could be considered a 'legislating assembly'.¹² However, when we break these down, we see that non-executive bills are more restricted in their scope by the relative inability of MSPs to consult widely with interest groups and rely on a large specialist staff to research and draft the bill. They tend to address relatively limited aspects of public policy (e.g. allowing St Andrews University to provide post-graduate medical education) or take a long time to pass (e.g. when taking two years to ban fox hunting). In this light, the number of bills in the second session seems more limited. Members' bills fell from 8 to 3. Further, while one member passed a bill to outlaw the discouragement of breastfeeding in public places, the other two may have little more than symbolic importance. One introduces a bank holiday to celebrate St Andrew's Day but only following a compromise in which an existing local holiday would be renamed (the original bill with an extra holiday was rejected in 2005). Another obliges large shops to close on Christmas day, which virtually all do anyway. The original intention had been to oblige large shops to remain closed on Christmas and New Year's Day. However, following committee and plenary concern about the uncertain economic impact (perhaps in reflection of the limited resources available to MSPs for research), the bill was amended to apply only to Christmas day (with Ministers able to extend the ban by statutory instrument). Similarly, the second session saw only one committee bill (relating to the conduct of MSPs), in recognition that committees legislate only as a last resort or in areas with cross-party significance. As a result, the legislative capacity of the Scottish Parliament is not significantly higher than

¹¹ P. Cairney, 'The Scottish Parliament', in *Scotland Devolution Monitoring Report: January 2007*

¹² Arter, D. (2004) 'The Scottish committees and the goal of a 'New Politics': a verdict on the first four years of the devolved Scottish parliament', *Journal of Contemporary European Studies*, April 2004, vol. 12, no. 1, pp. 71-91

Westminster, with 15 bills representing 12.7 per cent of all public bills from 1999-2007, compared to 11.1 per cent in Westminster in the same period.¹³

2.2 The Committees' Legacy Reports

Part of the problem in this session has been the time it takes for a members' bill to proceed to stage 1 following new rules in 2004 to introduce a 12-week consultation period and then raise the number of MSP signatures required in support (from 11 to 18, including half of the parties represented in the Bureau) before the bill is sent to stage 1. This further limits the time members have to propose a bill and ensure a realistic chance that it will ensure the necessary scrutiny before the parliamentary session ends. A good example is Rosemary Byrne's bill on the treatment of drug users. The Health Committee only had time to devote one roundtable session to the bill and as a result gave no formal view. The problem is discussed in the convener group's 'legacy' report, which summarises its work over the last four years and suggest future business for subsequent committees.¹⁴ It is interesting to note that its recommendation reinforces the assumption that the Scottish Parliament is not a legislating assembly. Rather than a call for more resources for the members' bill process, it suggests:

- *There should be an earlier cut-off point in the Session for the introduction of Members Bills to ensure that all Bills introduced can receive properly timetabled scrutiny and complete their Parliamentary stages before dissolution*
- *The introduction of Members' Bills should be spread more evenly throughout the Session*

A similar story can be told about the activity surrounding committee inquiries, since the second session saw a change in committee focus towards scrutinising Scottish Executive legislation and Sewel motions. While from 1999-2003 there were 166 inquiries, this fell to 99 in 2003-7 (of which 11 were short or one-day inquiries). Indeed, a common theme throughout individual committee legacy papers is that the scrutiny of Scottish Executive business undermined independent committee investigations. For example, the Communities Committee undertook no inquiries in this period because of:

The lack of available time ... due to the volume of legislation designated to the Committee to consider. The Committee would have preferred greater balance in the Committee's workload so that it could have had the opportunity to initiate its own work, in addition to

¹³ N. McGarvey and P. Cairney (forthcoming) *Scottish Politics* (London: Palgrave)

¹⁴ Conveners', Group, *Legacy Paper – Second Session*, February 2007, at: www.scottish.parliament.uk/s3/committees/CommitteeConvenersGroup/docs/LegacyPaperSession2.pdf

*scrutinising legislation.*¹⁵

A similar concern was expressed by Enterprise and Culture Committee:

*Certain subjects, such as science policy, corporate social responsibility, European structural funding, built heritage and architecture, which all fall within the remit, have barely been addressed, despite their importance. It is the considered opinion of the members of this Committee that such a wide-ranging remit is not always conducive to proper scrutiny of the subject matter and to balancing the legislative workload with own-initiative work such as inquiries.*¹⁶

The conveners' group as a whole reflects a frustration with the trade-off between scrutinising Scottish Executive legislation and its broader aims:

*The Group has serious concerns about the number of Bills introduced and referred to committees in the second Session. The scrutiny of Bills is an important element in committee work programmes. However, the Group is extremely concerned that this aspect of committee work dominates the agenda for a number of committees. This has adversely affected the ability of some committees to undertake other work, particularly the scrutiny of the Executive through inquiries. When combined with the wide remits of a number of committees, the impact has been that large and important areas of Executive policy and administration do not receive the appropriate level of scrutiny by Parliamentary committees. It has also impacted adversely on the ability of the committees to conduct post-legislative scrutiny, which will become an increasingly important element in committee work programmes in the third and subsequent Sessions.*¹⁷

Despite a reasonable assumption that the first parliamentary session would see a rush to policy to clear a backlog of overdue bills not addressed in Westminster, the number of Scottish Executive bills actually rose in the second session from 50 to 53. This, according to the conveners' group report, means that most committees have had to increase their number of meetings, from the original once-per-fortnight to once or twice per week. The knock-on effect is that members are under more pressure and are less well prepared:

This creates the possibility that scrutiny through inquiries will not be as rigorous as it should be. It also gives rise to the possibility that poor

¹⁵ Communities Committee (2007) *Legacy Report*, Scottish Parliament Paper 802

www.scottish.parliament.uk/business/committees/communities/reports-07/cor07-07.htm

¹⁶ Enterprise and Culture Committee (2007) *Legacy Report*, Scottish Parliament Paper 814

www.scottish.parliament.uk/business/committees/enterprise/reports-07/ecr07-06-vol1.htm

¹⁷ Conveners', Group, *Legacy Paper*, op cit, p.1.

*legislation will be enacted without proper detailed scrutiny. The problems have been particularly acute in the final year of the Session both in relation to Executive and Members Bills.*¹⁸

The report suggests that while the Scottish Executive favours referring bills to less busy committees, this undermines the ethos of the system (with committees scrutinising policies in which they have most expertise). Rather, a limit should be placed on the numbers of Scottish Executive bills introduced in the final year of the parliamentary session (there is also a suggestion that too many statutory instruments are introduced late in the session). However, as long as there is a coalition majority in the Scottish Parliament Bureau, this is unlikely to happen.

2.3 The Shirley McKie Inquiry

A number of previous reports highlighted the controversial case of Shirley McKie, a former police officer who was awarded compensation by the Scottish Executive after being falsely accused (and then charged with perjury) of entering the home of a murder victim in 1997. The accusation was on the basis of an alleged thumbprint of McKie being found in the victim's home. Given the widespread criticism of the handling of the case by the Scottish Fingerprint Service, the aim of the inquiry is to re-establish public confidence in the process. Yet, the inquiry also shed light on the limits to Scottish Parliament committee powers since, 'the inquiry also threw up a number of procedural and legal issues which, when taken together, made the inquiry the most complex undertaken by any parliamentary committee in the history of the Parliament'. One notable aspect was the limit to its ability to call witnesses and obtain documents which may relate to future legal proceedings. The tone of the report suggest that many potential problems were overcome by a good-spirited relationship between the committee and the Scottish Executive which allowed fruitful negotiations over document disclosure (although the committee felt it necessary to agree a formal motion calling for the release of two Scottish Executive commissioned expert reports). However, this was not enough to ensure the disclosure of the Mackay report to the Lord Advocate, 'as he considered that reports of police officers to the Procurator Fiscal are protected by common law duties of confidentiality and that to release the report would lead to a process that focussed on the allegations of criminality and the decision to take no proceedings'.

¹⁸ Ibid, p.2.

2.4 Influencing Scottish Executive Legislation

Perhaps more traditional scope for Scottish Parliament influence is in the scrutiny of Scottish Executive legislation. The previous report referred to examples of committee influence in the Protection of Vulnerable Groups (Scotland) Bill and the Adult Support and Protection (Scotland) Bill. These are part of a (small) trend towards significant change. Indeed, in a handful of cases (also including Adoption and Children and Bankruptcy and Diligence bills), SPICE reports have been produced for MSPs to show how the bill has changed from stage 1 to stage 2.

2.5 Committee Reports and Inquiries (1 January 2007 – 2 April 2007)¹⁹

Although there have been fewer inquiries this session, several reports published in 2007 may inform the agenda for the next Scottish Executive. This includes the Audit committee report on relocating public bodies which suggests that the policy is flawed (see 1.3). The Education Committee notes the need for the highly praised teachers' pay and workload agreement to translate into long term education outcomes. The Environment and Rural Development Committee recommends a simplified regulatory structure (under one body) to ensure the health of the marine environment. The European and External Relations Committee recommends much earlier engagement with EC institutions to ensure greater say in the formulation and implementation of European directives (see also 1.1). The Health Committee continues its focus on mental health policy and the ability of the Scottish Executive/ Scottish Parliament to monitor how money is spent and policy is implemented at health board level. The Subordinate Legislation Committee recommends replacing the cumbersome process of subordinate legislation scrutiny.

Audit:

- | | |
|---------|---|
| 2 March | 1st Report 2007: Relocation of Scottish Executive departments, agencies and NDPBs |
| 9 March | 2nd Report 2007: Community Planning: an initial review |

Communities:

- | | |
|------------|---|
| 16 January | 2nd Report 2007: Stage 1 Report on the Schools (Health Promotion and Nutrition) (Scotland) Bill |
|------------|---|

¹⁹ The Scottish Parliament was dissolved for the election in April. Excludes most annual reports, budget reports (brought together by the Finance Committee's stage 2 report) and reports on subordinate legislation. Reports with UK legislation in the title discuss Sewel motions.

Education:

26 March 2nd Report 2007: Report on the implementation of the Teachers' Agreement

Enterprise and Culture:

10 January 1st Report 2007: Report on the legislative consent memorandum on the Consumer, Estate Agents and Redress Bill (UK Parliament legislation)

10 January 2nd Report 2007: Report on the legislative consent memorandum on the Further Education and Training Bill (UK Parliament legislation)

Environment and Rural Development:

6 March 2nd Report 2007: Stage 1 Report on the Cairngorms National Park Boundary Bill

12 March 4th Report 2007: Report on Inquiry into the Marine Environment;

Equal Opportunities:

23 March 3rd Report 2007: Equalities in Scotland: A Review of Progress

European and External Relations:

2 February 1st Report 2007: Report on an inquiry into the European Commission's Strategy for Growth and Jobs

14 March Committee's response to the European Commission's Green Paper on a maritime policy

20 March 2nd Report 2007: Report on an inquiry into the scrutiny of European legislation

Finance:

24 January 1st Report 2007: Report on Legislative Consent Memorandum on the Statistics and Registration Service Bill (UK legislation)

25 January Report on the Financial Memorandum of the Commissioner for Older People (Scotland) Bill

Health:

10 January 1st Report 2007: Stage 1 Health Board Elections (Scotland) Bill

14 February Local Provision of Mental Health Care in Scotland

29 March: 9th Report 2007: The Treatment of Drug Users (Scotland) Bill

Justice 1 and 2:

12 January 1st Report 2007: Stage 1 Report on the Rights of Relatives to Damages (Mesothelioma) (Scotland) Bill;

18 January 1st Report 2007: Legislative Consent Memorandum on the Tribunals, Courts and Enforcement Bill - LCM (S2) 10.1

15 February 3rd Report 2007: Inquiry into the Scottish Criminal Record Office and Scottish Fingerprint Service Volume 1: Report Volume 2: Written Evidence Volume 3: Oral Evidence ;

28 February 3rd Report 2007: Legislative Consent Memorandum on the Serious Crime Bill – LCM (S2) 13.1;

8 March 4th Report 2007: Legislative Consent Memorandum on the UK Borders Bill (LCM(S2) 14.1) ;

Local Government and Transport:

9 January 1st Report 2007: Stage 1 Report on the Prostitution (Public Places) (Scotland) Bill

Public Petitions:

17 January 1st Report 2007: Visit to Berlin (September 2006) English Version

Standards and Public Appointments:

1 March 1st Report 2007: Complaint against Brian Monteith MSP

6 March 2nd Report 2007: Code of Conduct for Members of the Scottish Parliament;

Subordinate Legislation:

17 January 2nd Report 2007: Criminal Proceedings etc (Reform) (Scotland) Bill as amended at Stage 2

22 January 5th Report 2007: Crofting Reform etc. Bill as Amended at Stage 2

8 February 10th Report 2007: Transport and Works (Scotland) Bill as amended at stage 2 ;

8 February 9th Report 2007: Adult Support and Protection (Scotland) Bill as amended at stage 2;

23 February 14th Report 2007: Inquiry into the Regulatory Framework in Scotland

8 March 18th Report 2007: Protection of Vulnerable Groups (Scotland) Bill - as amended at Stage 2

15 March 19th Report 2007: Custodial Sentences and weapons (Scotland) Bill as amended at Stage 2

2.6 Parliamentary Bills (Royal Assent 30 November 2006 – April 2007)

Executive Bills Passed (Royal Assent)

- Adoption and Children (Scotland) Bill (15 January) - to modernise and improve the legal framework for adoption, create long-term stability for children who cannot live with their original families and improve procedures, services and support for adoptive and foster parents and everyone involved in adoption and permanence.
- Adult Support and Protection (Scotland) Bill (21 March) - designed to fill gaps left by legislation on incapacity and mental disorder in which state intervention only takes place when individuals lack the mental capacity to make their own decisions. With the new bill, such intervention would take place if the individual had capacity but was deemed to be in an excessively vulnerable position (for example, an older person dependent on partner or relatives).
- Aquaculture and Fisheries (Scotland) Bill (5 April) – introduces changes to inspect fisheries and ways to counter parasites in salmon.
- Bankruptcy and Diligence etc. (Scotland) Bill (15 January) – addresses personal bankruptcy, including sole traders and partnerships (devolved), rather than corporate solvency (reserved). The main aim is to amend the law to decrease business risk and encourage entrepreneurs.
- Criminal Proceedings etc (Reform) (Scotland) Bill – addresses reforms in summary justice (where a jury is not present) which accounts for 96 per cent of all criminal prosecutions. It makes reforms to bail and remand, seeks to speed up the court process, and gives summary courts greater powers to sentence and a greater range of sentencing options.
- Crofting Reform etc Bill (1 March) – a bill designed to encourage crafting communities by simplifying the administrative arrangements and widening eligibility for applications.
- Legal Profession and Legal Aid (Scotland) Bill (19 January) – reforms the system for handling complaints about lawyers and the way legal aid is provided. It states that most disputes should be handled by the law firm itself. When this is not possible these will be referred to the newly created Scottish Legal Complaints Commission.

- Planning etc. (Scotland) Bill (20 December 2006) – aims to make the planning process quicker for applicants but also more open to community and individual participation. The most controversial decision was to reject the third party right of appeal in favour of increased potential to participate at earlier stages.
- Prostitution Tolerance Zones (Scotland) Bill (5 April) – aims to shift the balance of prosecution from those causing public nuisance by buying rather than selling sex.
- Protection of Vulnerable Groups (Scotland) Bill (18 April) – follows England and Wales legislation in response to the Bichard Inquiry on the Soham Murders. Introduces a new vetting and barring scheme for working with children.
- Rights of Relatives to Damages (Mesothelioma) (Scotland) Bill (26 April) – addresses compensation issue for those suffering cancer caused by exposure to asbestos. Previously, the sufferer had to choose between pursuing a claim or leaving this to relatives after his/ her death. Develops a bill begun by Des McNulty MSP.
- Schools (Health Promotion and Nutrition) (Scotland) Bill (19 April) – places a duty on local authorities to promote healthy eating and encourage the uptake of healthy school meals.
- Scottish Commissioner for Human Rights Bill (8 December 2006) – creates a new body in response to the incorporation of the ECHR into Scottish law. A separate body is justified on the grounds of more stringent requirements for public bodies (and a greater culture of independence in these types of commissioners) in Scotland.
- Tourist Boards (Scotland) Bill (30 November 2006) – makes formal the decision to remove local tourist boards in favour of the national Visit Scotland.
- Transport and Works (Scotland) Bill (14 March) – removes the requirement for large transport development projects to proceed via private bills in the Scottish Parliament. Rather, Scottish Ministers will oversee the technical and complex process, in consultation with affected interests.

Non-Executive Bills Passed:

- Christmas Day and New Year's Day Trading (Scotland) Bill (13 April)
- St Andrew's Day Bank Holiday (Scotland) Bill (15 January)

The remaining Members' Bills and bill proposals (see previous report) fell following the dissolution of the Scottish Parliament in April.

2.7 Sewel (Legislative Consent) Motions passed (up to 2 April 2007)²⁰

74. Legislative and Regulatory Reform Bill

Amends the powers of Scottish Ministers to introduce subordinate legislation to implement EU obligations. Some concern is expressed in the European and External Relations Committee that the wording of the Westminster Bill means that UK ministers may encroach on devolved territory ([SP OR: 14 March 2006 Col 1687-1702](#)). The UK bill was heavily amended before the motion reached plenary ([SP OR 5 October 2006](#)). The motion passed despite SSP objection and Green abstention (102-5-7).

75. Consumers, Estate Agents and Redress Bill

Creates a National Consumer Council with a separate Scottish committee (Scottish Consumer Council) which will operate in (but not regulate) devolved areas such as food safety. Some concern was expressed by Enterprise and Culture Committee that they were asked for consent before the bill was finalised in Westminster ([SP OR: 9 January 2007](#)) but there was no objection in plenary ([SP OR: 17 January 2007 Col 31173-31175](#)).

76. Further Education and Training Bill

Allows Scottish Ministers to use the same software as Learning and Skills Councils (England) to share information on school leavers and training. Amends the career development loans scheme and allows for more businesses to be consulted on the industrial training board levy. SNP objection (on the basis that the SP would be better to introduce primary legislation in this area) is significant in that both committee and plenary motions go to a vote. In the Enterprise and Culture Committee the recommendation is passed (7-2) ([SP OR: 9 January 2007 Col 3550](#)) In plenary the motion was passed despite SNP and SSP objections (88-30-1) ([SP OR: 17 January 2007 Col 31176](#)).

77. Courts, Tribunals and Enforcement Bill:

Legislates to provide a unified tribunals structure (in reserved and devolved areas) and to immunise borrowed works of art from the threat of legal proceedings to reclaim them (extended to the National Museums of Scotland and the National Galleries of Scotland. The motion is considered by the Justice 2 committee ([SP OR: 9 January 2007 Col 3100](#)) and by the Subordinate Legislation Committee ([SP OR: 19](#)

²⁰ A full list of motions and links to Scottish Parliament Official Report discussions is provided by the

[December 2006 Col 2209](#)). In plenary broad concern is expressed about the likelihood of stolen art coming to Scotland on loan, but the motion is passed without vote ([SP OR: 31 January 2007 Col 31625](#)).

78. Statistics and Registration Services Bill:

The bill reforms the collection of statistics in the UK and seeks consistency in the collection and presentation across the UK. It is considered by the Finance Committee ([SP OR: 5 December 2006 Col 4218](#), [SP OR: 12 December 2006 Col 4221](#)) and by the Subordinate Legislation Committee ([SP OR: 9 January 2007 Col 2223](#)). In plenary the motion passed despite SNP, SSP and Green opposition and Conservative abstention (57-36-14) ([SP OR: 1 February 2007 Col 31780](#)).

79. Serious Crime Bill:

The bill makes it an offence in Scotland to breach a serious crime prevention order issued in England, Wales or Northern Ireland. The motion was considered by Justice 1 Committee ([SP OR: 6 February 2007 Col 3144](#) [SP OR: 20 February 2007 Col 3199](#)). In plenary the motion passed despite Green opposition (88-9-2) ([SP OR: 8 March 2007 Col 33008](#)).

3. The Media

Eberhard Bort

3.1 The Campaign

The SNP started the New Year with a message posted on YouTube. Speaking from the Kinnaird Head Lighthouse in Fraserburgh, Alex Salmond said Scotland could increase its prosperity by learning from countries across the water, such as Norway. The SNP, he said, was working for peace because Scotland had been "dragged into enough foolish, costly and illegal wars".²¹

This set the scene in more than one way. The new media, the SNP's 'Activate' programme,²² its launch of *SNP TV*,²³ blogs (like Brian Taylor's on BBC News Online), specifically set-up web sites like *Holyrood 2007* and *youscotland*, plus YouTube, comments posted on newspaper web sites, etc played an increasing role in this campaign. Thematically, the Iraq war (and Trident) would never be too far from the centre of the election campaign. And the SNP seemed to set the agenda. On a BBC *Newsnight Scotland* programme on 4 January, commentators as different as Gerry Hassan and Katie Grant agreed that Labour was "not in a good position" and that people were "bored" or even "fed up" with Labour.

The polls throughout the campaign, with two exceptions, had the SNP in a comfortable, decisive lead and, although Jack McConnell tried hard to make education the central plank of Scottish Labour's election campaign – the SNP seemed "to dominate the media agenda."²⁴ Labour did not manage to make its themes the focus of the campaign. Blair's long good-bye, the ongoing fiasco in Iraq, Trident, cash for honours, nuclear power, pensions, treatment of asylum seekers, etc cast a long shadow over the campaign. Blair and Brown's presence in the campaign highlighted those 'reserved' matters – and reinforced the public perception of negativity about Labour. A Populus poll for the *Times* a fortnight before the election

²¹ BBC News Online, 'Salmond in New Year message first', 31 December 2006, http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/scotland/6219745.stm

²² The SNP used this programme, which was hooked up to a call centre, to make between 25,000 (in the early stages of the campaign) and 125,000 (in the latter stages) personal calls to voters.

²³ BBC News Online, 'SNP efforts to net votes online', 22 April 2007, http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/scotland/6582019.stm

²⁴ Robbie Dinwoodie, 'Labour makes education key in vote race', *The Herald*, 6 January 2007.

put Labour in the UK on 29 per cent, showing support for the party falling to a level last seen when Michael Foot was leader in the 1980s.²⁵

Labour's apocalyptic rhetoric about independence seemed to annoy at least as many voters (and commentators) as they were frightening into voting for the status quo. A Labour campaign manager was quoted as stating: "In this campaign, after 10 years in government, it is fear, not hope, that will win."²⁶ But what worked in 1999 and 2003, now became increasingly counterproductive, and yet Labour kept ploughing on, not realising that the returns were seriously diminishing, while reminding the public constantly of those reserved Westminster political issues that highlighted the impotence of the Scottish Parliament in those reserved matters, where the Scottish Parliament had no responsibilities – which played into the hands of Salmond's line of argument:

We've now had seven years of devolution and I think there's a pretty overwhelming feeling in Scotland that now we've got a parliament, we may as well make it a real parliament with real powers, so it can do real things for Scotland.²⁷

McConnell, in accordance with, if not on order from, London, had fixed Labour's position at the John P Mackintosh Lecture in Haddington last October: no more powers for the Scottish Parliament.²⁸ "Promoting Holyrood's limitations," staunch Unionist Gillian Bowditch commented during the campaign, "seems an odd way of defending the Union." On the campaign trail with Jack McConnell, she found that "Labour's 2007 election campaign is so low-key it is in danger of disappearing off the radar."²⁹

Most of the media would agree in the run-up to the election that, as John Curtice said on *Holyrood Live* on 29 March, "the election is for the SNP to lose and for Labour to win." The *Times* saw a "Labour meltdown" as the SNP could plan for government.³⁰ The *Daily Telegraph* made out internal feuding in the Labour party as the central reason for its impending doom and gloom:

²⁵ The Populus poll was conducted for the *Times* between 13-15 April 2007. See Philip Webster, 'Blair prepares for final test as polls plunge to new low', *The Times*, 17 April 2007.

²⁶ Peter MacMahon, 'Labour big guns banking on £13bn fear factor in election', *The Scotsman*, 4 April 2007.

²⁷ Alex Salmond, BBC Radio, *Good Morning Scotland*, 11 October 2006.

²⁸ BBC News Online, 'McConnell warning on extra powers', 24 October 2006, http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/scotland/6079026.stm

²⁹ Gillian Bowditch, 'McConnell sleepwalks back to civvy street', *Sunday Times*, 22 April 2007.

³⁰ Angus Macleod and Philip Webster, 'Labour faces meltdown as SNP heads for power', *The Times*, 28 March 2007.

Labour was engulfed in bitter internal warfare last night as it headed for electoral disaster in Thursday's elections to the Scottish Parliament. There have been tensions between Scottish Labour and Downing Street from the outset about how the battle should be fought. The First Minister wanted to fight on the record of his devolved Scottish government, while advisers to Blair and Brown believed that his record was not good enough and wanted to concentrate on telling the voters that the SNP's policies would bring economic ruin to Scotland. Internal sniping has continued throughout the four-week campaign and one minister said last night: "There's been Tony's camp, Gordon's camp and Jack's camp. There have even been smaller camps within those camps. It's just not good enough."³¹

And Labour seemed to brace itself for a resounding defeat:

Gordon Brown today concedes that if Labour loses power in the Scottish elections this week it will reflect badly on him. Labour is bracing itself for a drubbing at the ballot boxes on Thursday after a major opinion poll predicted the Scottish National Party would clinch victory in the Holyrood elections. Defeat in Scotland would be a massive blow to the Chancellor, leaving him open to charges that if he cannot win power in his own back yard, he will be unable to win a general election.³²

From the start, the campaign was treated by the media as a two-horse race which made it difficult for the small parties to get their message across. The Lib Dems' campaign stood under an ill star as the media, including the leaders' debates on TV, seemed to solely concentrate on the coalition and referendum questions, ignoring the Lib Dem agenda. The Tories were sabotaged when the *Daily Record* published a leaked memo (written in June 2006) by former MSP/present MP and Shadow Scottish Secretary David Mundell where he criticised the Scottish Tory leader Annabel Goldie for her "lack of activity and strategic thought."³³ The Tories managed to overcome this particular blip, but – as widely commented – there seemed to be no 'Cameron effect' north of the Border. SSP and Solidarity played at political kindergarten whenever they appeared on the same panel on TV; and the Greens were less present than one would have expected.

In contrast to 2003, there was not much talk about 'apathy' this time round. In STV's *Politics Now* (29 March 2007), Lorraine Davidson praised the campaign as "the real

³¹ Alan Cochrane and Auslan Cramb, 'Feuding blamed as Labour heads for defeat', *The Daily Telegraph*, 30 April 2007.

³² Richard Gray, 'Rout will reflect badly on me, Brown admits', *Sunday Telegraph*, 29 April 2007.

thing” and “absolutely fascinating”, even “riveting”. This was also reflected in the huge international media interest in these elections. Many of the world's major newspapers and television channels carried in-depth coverage of the issues facing Scottish voters during the four-week election campaign.³⁴ Publications including the *Chicago Tribune*, France's *Le Monde*, Germany's *Die Welt*, the Berlin *taz*, the *Los Angeles Times*, and the New Zealand *Herald* extensively featured the election, with much of their focus being placed on the constitutional debate. Polish Public Television, Hong Kong Radio, *La Presse* (Montreal), *Le Point* (France), *Folha de S. Paulo* (Brazil), *Weekend Avisen* (Denmark), the *Washington Times*, and *Reforma* (Mexico) dispatched journalist to cover the campaign. On the invitation of the British Council, foreign journalists from countries including Afghanistan, Sudan, Malawi, Nigeria, the Palestinian Territories and Saudi Arabia, spent three days shadowing parliamentary candidates from all the major parties.

For the big finale, a group of over 30 international observers came to Scotland to monitor the new electronic counting systems, which were being used for the first time in a Scottish election.

Despite the high-revolutionary changes expected in the Local Elections under the newly-introduced STV proportional voting system, the local election campaign hardly featured in the media. Which gave rise (again) to voices demanding a separation of the Holyrood and local council elections.

3.2 Endorsements

The SNP managed to upstage Labour at every turn of the campaign. One of the party's biggest media coups was to dominate the headlines with an endorsement by Sir George Mathewson, the successful former chairman of the Royal Bank of Scotland who declared that he could “see no circumstance where independence would be a serious disadvantage”,³⁵ on the very morning when Labour rolled out Tony Blair in Aberdeen and Edinburgh to warn against the dire economic consequences of an SNP victory,

Labour's scaremongering seemed to provoke influential Scottish business leaders to

³³ Magnus Gardham, ‘Scots Tories are clueless’, *The Daily Record*, 8 March 2007.

³⁴ Stuart Nicolson and Dave Romans, ‘Worldwide interest as polls open’, BBC Scotland News Online, 3 May 2007, http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/scotland/6595029.stm

³⁵ Sir George Mathewson, ‘Scotland can stand alone’, (Letter to the Editor), *The Scotsman*, 16 March 2007.

publicly declare their support for the SNP – and to fill the party’s coffers to the brim.³⁶ Among them were the controversial bus-tycoon Brian Souter who donated £500,000, and Tom ‘KwikFit’ Farmer who was good for £100,000. Through the Scottish Independence Convention and non-party campaign group Independence First (combining the pro-independence parties), cult author Irvine Welsh, his fellow-writer Alasdair Gray, and folk singer Dick Gaughan threw their weight behind demands for an independence referendum. Other prominent and media-savvy support came from Archbishop Keith O’Brien and the historian and former Tory candidate Michael Fry.

Where is there one Scottish newspaper furiously demanding a stronger parliament in line with public opinion? Where is there a newspaper that champions independence as favoured, we are told by pollsters, by a majority of Scots? There is none. Never has been. It never ceases to amaze me that not one newspaper in Scotland supports the main opposition party and the policy of independence supported by half of the six parties in Holyrood. That is not only anti-democratic, it is a disgrace to journalism and an affront to free speech.

Thus Murray Ritchie, the former political editor of the *Herald*, last year in the *Scots Independent*. In the 2007 campaign, again, no major Scottish paper (let alone English titles) endorsed the SNP. But, for the first time, a number of editorials recommended a vote for change and the SNP – even if couched in Unionist caveats.

Scotland on Sunday, while having “no intention of becoming a cheerleader for the SNP in government,” stated in its editorial that an SNP-led government “offers the best chance of restoring public confidence in our democracy, and a new sense of possibility in the people of this country” (29 April 2007); *The Scotsman* (2 May 2007), while having “considerable concerns about the SNP,” said that these were “this time not enough to suggest that the voters should deny it a role in the government of our country and a chance to show what it can offer modern Scotland.” The *Sunday Herald* editorialised that “a vote for change is a leap of faith. It’s a leap this newspaper is prepared to make.” It was scathing about the Labour Party: “It is our belief that the Scottish Labour Party has not earned the right to a third term,” calling its election campaign “unremittingly negative” (29 April 2007); and, perhaps most astonishing of all, the *Sunday Times* – in an editorial written by Allan Massie – came out in favour of an SNP vote:

The *Sunday Times* has always been a Unionist paper. It may seem strange therefore that we should now come out for an SNP-led

³⁶ Ian Swanson, ‘Election support is big business’, *Edinburgh Evening News*, 26 April 2007.

coalition. Yet that is our position. The Union is not in immediate danger. Its future will not be determined by this election. The choice now is not between the Union and Independence, but between a Labour party that has run out of ideas and the SNP which promises more vigorous and imaginative government. We need a change of government, and only the SNP can provide this.

It concluded “that an SNP-led coalition is the best option for voters” (29 April 2007).

The Herald sat on the fence. While it declared in favour of increased powers for the Parliament, it did not endorse any specific party: “At present, most Scots do not want the process of evolution to encompass independence. But they do want a parliament with more powers to run Scotland’s affairs. That is the right direction to head in.” It went on: “In keeping with its stance during past elections, *The Herald* will not endorse any party. All we would ask is that, with so much at stake on so many fronts and so many uncertainties to face, every effort is made to vote. Our evolving Scottish polity would be the loser if apathy were the winner.” (3 May 2007)

By contrast, most of the tabloids stuck with the Labour and the status quo. The *Daily Record* used Labour’s rhetoric about the dangers of “sleepwalking into independence” (3 May 2007), arguing that the election was “not about the war in Iraq”, “not about cash for honours”, “not about Tony Blair”, but “about who will run Scotland best. It is about which party can keep our economy growing at record rates. It is about schools, hospitals and law and order. And on these issues, the only sensible vote is for Labour.”

Despite its misgivings about the Labour/Lib Dem coalition, the *Scottish Daily Mail* urged its readers to vote Unionist:

It is undeniable that the past eight years of devolved government under a woeful Lib-Lab coalition has (sic!) sickened people with politics. But such understandable alienation should not persuade any citizen to stand aside and let a vociferous minority determine the future of our country.

Its rallying call was “Vote for the Union today: tomorrow will be too late for regrets.” (3 May 2007)

The *Sunday Mail* (the *Daily Record*’s sister paper) came out in favour of Scottish Labour, with a few swipes at Blair:

If Blair cared about Labour's chances, he would have gone already. His insistence that Scots would be fools to consider independence was only counterproductive. Most of us do not just suspect that Scotland has the talent and initiative to become a successful independent nation. We know it.

Yet, after this pointed rebuff to London Labour rhetoric, it asserted that, "according to polls, most Scots do not believe the real benefits of being equal partners in a United Kingdom should be jeopardised for a gamble on the future." Zooming in on the election it contended:

Jack McConnell has had a good campaign. He shares the patriotism of most Scots and has a passion to build a better future. He deserves the chance to lead another Executive. (29 April 2007)

The *Sun's* glaring front page on election day carried the image of a noose – Alex Salmond as the hangman and "wrecker" of Scotland – and an editorial to the tune of "only Labour can save us from a living nightmare" It did not mince its words: "Scotland is a great country. Don't let the SNP wreck it." (3 May 2007).

3.3 The Outcome

Andrew Black of the BBC summed up the voters' verdict:

The 2007 Scottish Parliament and local government elections have delivered unprecedented change for the nation. The SNP is in power for the first time and PR voting has dramatically altered the face of Scotland's councils.³⁷

Astonishingly, it was not the sensational SNP victory and the end of Labour's 50-year hegemony in Scotland which grabbed the first headlines, but the shambolic count and the, as it turned out, nearly 150,000 rejected ballot papers. Brian Taylor, who had commented throughout election night for the BBC, vented his frustration:

The authorities couldn't get out the postal votes properly, the ballot papers were so complicated that the voters couldn't cope - and when the votes were cast, they couldn't contrive to count the blasted things. Skip the pleading in mitigation. This was utterly, utterly shameful.³⁸

But soon the speculation about what the result meant for Holyrood began to dominate the media interest. Would there be an SNP-led coalition? And when it

³⁷ Andrew Black, 'Political news from Scotland', BBC News Online, 25 May 2007, http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/scotland/6478647.stm

³⁸ Brian Taylor 'No concrete clues to Holyrood's future', BBC News Online, 5 May 2007, http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/scotland/6628537.stm

became clear that Alex Salmond would have to go it alone (with some Green support), the questions of if and how (and how long) a minority government could work, were mulled over.

John Knox, BBC Scotland's political reporter, spoke of a "new model government", writing "a new chapter in Scotland's story". He quoted the new First Minister:

There is a broad consensus on the need for this parliament to assume greater responsibility for the governance of Scotland. There is an understanding that we are engaged in a process of self-government and an awareness of the distance already travelled.³⁹

But Knox contended that the SNP "dream of holding a referendum on independence will have to be ditched." Salmond had "accepted as much when he promised 'an intelligent conversation with parliament, policy by policy'." With all parties being minority parties, "no-one will get their way in this new parliament."

His colleague Andrew Black elaborated further:

Traditionally, new first ministers used their first big Holyrood speeches to announce new legislation. But in those days, with a parliamentary majority, they could easily put their money where their mouth was. Mr Salmond, as the head of Scotland's first minority administration, will have to work to find common causes across the "divided" chamber, as his predecessor Jack McConnell put it. He will need to seek consensus in areas where his political rivals may not necessarily agree and may even have to rely on "rebel" Labour and Liberal Democrat MSPs.⁴⁰

And two days later:

This is a new Scotland, run by a party in minority government where every parliamentary vote is crucial - and where bridging party divides to achieve change will matter like never before.⁴¹

Let us conclude this media monitor on the 2007 election with the perspectives of this 'new Scotland' with a view from across the Big Pond. If we needed assurances that the election did not mean the immediate break-up of Britain, the *Los Angeles Times* obliged us in an Editorial:

³⁹ John Knox, 'Alex and the new model government', BBC News Online, 18 May 2007, http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/scotland/6670215.stm

⁴⁰ Andrew Black, 'Give and take is the new politics', BBC News Online, 23 May 2007, http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/scotland/6683901.stm

The first-place finish of a pro-independence party in elections for the Scottish Parliament doesn't mean that the northernmost nation of the United Kingdom is about to break away, any more than the triumph of French separatists in Quebec's elections 31 years ago led to the crack-up of Canada. In an interdependent age, independence ain't what it used to be.⁴²

3.4 Postscript

With the dissolution of the 2003-2007 Parliament, George Reid, the Presiding Officer took his final bow at Holyrood. Brian Taylor gave him a fine send-off in his blog:

For this observer, George Reid's term of office has been a triumph. He sorted out the building project, he kept Holyrood's face turned upon the world (rather than internalised). More than that, he has been a splendid envoy for Scotland and Scottish politics.⁴³

⁴¹ Andrew Black, 'Political news from Scotland', BBC News Online, 25 May 2007, http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/scotland/6478647.stm

⁴² 'Scottish nationalists aren't all separatists', *Los Angeles Times* (Editorial), 7 May 2007.

⁴³ Brian Taylor BBC Blog, 29 March 2007 www.bbc.co.uk/blogs/election07/scotland

4. Public Attitudes and Elections

John Curtice

4.1 Attitudes towards devolution

4.1.1 Constitutional Preferences

Thinking now about the position of Scotland within the United Kingdom and the role and powers of the Scottish Parliament, which of the following statements comes closest to your view?

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

Source: Populus/Times 21-25 March 2007

If there were a referendum on whether to retain the Scottish Parliament and Executive in more or less their current form, or to establish Scotland as a completely separate state outside the United Kingdom but inside the European Union, how would you vote?

	Apr. 03	Apr. 05	Nov. 06	Mar. 07
	%	%	%	%
In favour or retaining present Scottish Parliament	55	46	50	51
In favour of a completely separate state outside the UK	29	35	31	28

Source: YouGov/Daily Telegraph 23-28 March 2007

64 per cent support holding a referendum on independence – including 52 per cent Con, 53 per cent Lab and 53 per cent LD.

*In a referendum on independence for Scotland, how would you vote?
I agree that Scotland should become an independent country
I do not agree that Scotland should become an independent country*

	1998						1999			
	Jun (1)	Jun (2)	July	Sep (1)	Sep (2)	Nov	Jan	Feb	March	
Agree	52	56	49	51	48	49	49	44	42	
Do not	41	35	44	38	37	3	42	47	47	
	1999			2000		2001	2006	2007	2007	
	Apr (1)*	Apr (2)	Apr (3)	May (1)*	May (2)	Jan *	Feb ^	Oct	Feb	Mar @
Agree	47	41	41	39	38	47	45	51	46	38
Do not	44	48	46	48	50	43	49	39	44	44

Source: ICM/Scotsman 23-26 February 2007; MRUK/Herald 22-27 March 2007

* Scotland on Sunday poll

^ News of the World poll. Preamble was 'If there were to be a referendum...

@ Different polling agency'

Do you approve or disapprove of Scotland becoming an independent country?

	%
Approve	51
Disapprove	36

Source: ICM/Mail 5-9/1/07 (N=545)

Do you support or oppose Scotland becoming a country independent from the rest of the United Kingdom?

	%
Support Scottish independence	40
Oppose Scottish independence	44

Suppose a wider range of options were available. Which of these would you prefer?

	%
Scotland to become a completely separate state outside the UK and the European Union	9
Scotland to become a completely separate state outside the UK but within the European Union	22
Scotland to remain in the UK, but the Scottish Parliament having more powers than it does today	37
Scotland's Parliament should continue to have the same powers that it has today	12
Scotland's Parliament should have fewer powers	2
Scotland's Parliament should be abolished and its powers returned to Westminster	10

Source: YouGov/C4 News 4-8 January 2007

Would you like the Union to continue as it is or would you like to see it come to an end? If it were to end this would mean that Scotland became an independent country.

	%
Prefer Union to continue as it is/has done	56
Prefer Union to end	32

Source: ORB/Newsnight 5-8 January 2007 (N=543)

This year marks the 300th anniversary of the legislation that joined the governments of Scotland and England together to form the United Kingdom. Do you think the Union between Scotland and England is or is not worth maintaining?

	%
The Union is worth maintaining	53
The Union is not worth maintaining	33

Source: YouGov/Sun Times 10-12 January 2007

The 300th anniversary of the signing of the Act of Union on January 16, together with claims made before Christmas that there was both increasing support for independence and that the SNP were ahead in the opinion polls just months before a Scottish Parliament election, resulted in a plethora of media commissioned polls on attitudes towards devolution and independence at the beginning of the year. The findings confirmed how sensitive the pattern of responses is to the question asked. On the one hand polls that simply asked people whether they are for or against independence commonly find around half saying they are in favour. Examples include the ICM/Mail, ICM/Scotsman, and MRUK/Herald polls. The obvious weakness of such questions is that they fail to define what is meant by independence. Certainly, when the concept begins to be defined and (especially) when it is pitted against other choices, support falls away. Thus when YouGov asked people whether they were in favour of Scotland becoming 'independent from the rest of the United Kingdom', only 40 per cent were in favour. And when both Populus and YouGov pitted independence against devolution and the status quo ante – including the possibility of having a Scottish Parliament with more powers while remaining within the Union – only around 30 per cent backed independence. Equally when the issue was turned around by ORB for Newsnight and people were asked whether they wanted to 'end the Union' (with its obvious negative connotations), again only around 30 per cent said they were in favour.

Meanwhile, the debate about Scotland's position within the Union engendered by the 300th anniversary and the pre-election campaign seems if anything to have had an adverse effect on the level of support for independence. In February, support for independence in the long running time series maintained by ICM on how people would vote in a referendum was five points lower in February than it had been in October. It was even lower in March when the same question was asked by MRUK for *The Herald*, though of course we need to be aware of the possibility that some of the difference between this poll and those administered by ICM may be accounted for by differences in the methodology of the two organisations.

Nevertheless, the apparent continued popularity of a more powerful devolved parliament evidence by both Populus and YouGov – including not least amongst SNP supporters – suggests that there is still pressure to revise the current constitutional settlement. It also suggests that a more powerful parliament within the Union might be the most popular option in any future referendum in which it was pitted against independence and the status quo. However, it might be thought that the words used to describe this option on both the YouGov and the Populus poll were more favourable than used to describe the other options, including not least, independence. We cannot rule out the possibility that had, for example, independence been described as Scotland getting 'full powers to run its own affairs' it might then have proved rather more popular.

4.1.2 The Governance of England

There is now a Scottish Parliament and devolved assemblies in Wales and Northern Ireland. Do you think there should or should not be a parliament for England only

	%
Should	58
Should not	30

Source: ICM/Mail 5-9 January 2007 (N=545)

In 1998 the creation of a Scottish Parliament and a Welsh Assembly gave these countries certain powers that were previously held by the UK parliament in Westminster. Do you think that an English Parliament should now be established?

	%
Yes	51
No	35

Source: ORB/BBC 5-8 January 2007 (N=543)

As there is a Scottish First Minister in Scotland, do you think it would be right or wrong for England to have an English First or Prime Minister for itself?

	%
Right	62
Wrong	27

Source: ICM/Mail 5-9 January 2007 (N=545)

Some of the polls commissioned on account of the 300th anniversary did not confine their attention either to Scotland's position within the Union or even to public opinion within Scotland. The *Daily Mail* commissioned a poll that was undertaken in both England and Scotland, while a poll for a special edition of BBC Newsnight examined public opinion in and attitudes towards Wales as well as England. Both polls found that a majority of people in Scotland favoured the creation of an English Parliament (by implication within the Union). Indeed the ICM poll for the *Daily Mail* ascertained a higher level of support for an English Parliament and an English First Minister amongst its respondents in Scotland than it did in England. (51 per cent of people in England backed a parliament, and 54 per cent a First Minister.) In contrast, ORB found the opposite pattern (61 per cent of English respondents were in favour). Unfortunately, however, neither survey included questions about attitudes towards devolution in England that had been asked on previous surveys, and thus were unable to tell us whether support in either England or Scotland for distinctive English political institutions had increased or fallen.

4.1.3 The Economics of Devolution and Independence

And which of these statements comes closer to your view?

	%
At the moment, Scotland's public spending is subsidised by English taxpayers	20
The tax revenues from North Sea Oil belong to Scotland; when these are taken in account Scotland subsidises the rest of the UK	53

Source: YouGov/Daily Telegraph 23-28 March 07

Government spending per head of population is higher in Scotland than it is in England, with English taxes subsidising public spending in Scotland. Do you think this is justified or unjustified?

	%
Justified	44
Unjustified	40

Source: ICM/Mail 5-9 January 2007 (N=545) (England 27%)

Scotland currently receives more than 20% more per head than England in public spending. Do you think this is...

	%
Justified	58
Not justified	19

Source: YouGov/Sun Times 10-12 January 2007

Should the Scottish Parliament have more powers? For instance should the Scottish Parliament be given greater power to raise its own revenues?

		Constituency Vote Intention			
		All	Con	Lab	LD
	%	%	%	%	%
Yes, it should	60	32	60	46	86
No, it shouldn't	24	57	29	35	7

Source: YouGov/Daily Telegraph 23-28 March 2007

As you probably know, the Scottish Parliament already has the power' although it has not used it yet, to raise or lower the basic rate of income tax by 3p. What do you think the Scottish Parliament should do?

	%
Raise the rate by up to 3p and increase spending	10
Lower the rate by up to 3p and reduce spending	20
Leave the rate as it is	55

Source: YouGov/Daily Telegraph 23-28 March 2007

Do you think that, on balance, the Union currently gives Scotland a good deal or a raw deal?

	Scotland	England
	%	%
A good deal	32	70
A raw deal	47	9

Source: YouGov/Sun Times 10-12/1/07

It would appear that the Scottish 'cringe' is still alive and kicking when it comes to perceptions of how far Scotland benefits financially and economically from the Union. People in Scotland – across the political spectrum - are inclined to feel that the higher level of public expenditure per head that Scotland enjoys in comparison with England is justified (whereas according to the ICM/*Mail* survey only just over a quarter of people in England feel the same way). This higher level of expenditure is not necessarily regarded as evidence that Scotland is subsidised by England – over half

accept the argument that the opposite is true when North Sea oil revenues are taken into account. Moreover, nearly half feel that Scotland gets a raw deal out of the Union, while less than one in ten think the same is true of England.

These perceptions may help explain why three in five say the Scottish Parliament should raise its own revenues. Evidently, such a move is not feared on the grounds that it would leave Scotland worse off; only amongst Conservative supporters is a majority opposed. Evidently the argument that such a change would pose a threat to the Union still holds greater sway amongst Conservative supporters than does the argument that it would help make the Scottish Parliament more fiscally responsible.

The Scottish Parliament does of course already have some revenue raising powers in the form of the ability to vary the standard rate of income tax by up to 3p in the pound. It would seem that in so far as there is any demand at all nowadays for this power to be used it is that it should be used to reduce taxation and spending. It would seem that the public are beginning to react to the substantial increase in public expenditure that has occurred on both sides of the border in recent years.

Leaving aside your own view on whether you support or oppose the ambition of independence for Scotland, which of these statements comes closest to your view?

	%
Plenty of countries smaller than Scotland survive perfectly well on their own: Scotland's economy would prosper if the country were independent	43
Scotland's economy is bound up so closely with that of the rest of the United Kingdom that it would face a serious problems if it became independent	44

Source: YouGov/Daily Telegraph 23-28 March 2007

Which of the following do you tend to agree with? {Please tick all that apply}

	%
Scots would be better off economically if Scotland was independent	35
Scots would be worse off economically if it was independent	32
Taxes would rise in Scotland if Scotland became independent	43
Scotland would be more vulnerable to a terrorist attack if it became independent	8
An independent Scotland would erect border posts at the border with England	10

Source: YouGov/Sun Times 10-12 January 2007

Do you think Scotland/England would be better off or worse off without England/Scotland, or would it make no difference one way or the other?

	Scotland w/out England	England w/out Scotland
	%	%
Better off	36	8
No difference	22	42
Worse off	33	40

Source: ICM/Mail 5-9 January 2007 (N=545)

If the Union were to end and the countries became independent, what do you think the financial impact, if any, would be on the following countries?

	England	Scotland	Wales
	%	%	%
Benefit	20	31	14
Make no difference	39	21	32
Lose out	28	37	39

Source: ORB/BBC 5-8 January 2007 (N=543)

A number of polls this quarter tapped attitudes towards the financial consequences of independence. They all showed how evenly balanced public opinion is on the subject. For every person in Scotland who thinks that independence would leave the country worse off, there is another who thinks it would be better off. It would seem that Labour's focus in its election campaigning on what it believes would be the adverse economic consequences of independence is unlikely to bring particularly rich

pickings. At the same time the SNP evidently still have to convince many of their fellow citizens that independence would be economically advantageous. It certainly seems unlikely that the SNP will be able to persuade more people to back independence without generating a more favourable attitude towards its perceived economic consequences. In the ORB/BBC survey, no less than 60 per cent of those who wanted to end the Union felt that Scotland would benefit economically from independence. In contrast, only 19 per cent of those who opposed ending the Union thought that independence would be economically advantageous.

4.1.4 The Impact of Devolution

On balance do you think that because of devolution Scotland is a better place or a worse place in which to live than it would have been if we had not had devolution?

	Nov '06	Mar '07
	%	%
A better place in which to live	41	41
A worse place in which to live	12	10
Devolution has not made much difference either way	38	38

Source: YouGov/Telegraph 23-28 March 2007

Scotland's devolved parliament has been in existence since 1999. Do you think devolution has been a good thing for Scotland, a bad thing, or has it made no difference one way or the other?

	%
Good thing	39
No difference	40
Bad thing	11

Source: ICM/Mail 5-9 January 2007 (N=545)

As has been evidenced by past Scottish Social Attitudes surveys (see also 4.1.7 below) relatively few people – just one in ten as measured by these two surveys - think that devolution has had an adverse impact on the country. On the other hand, those who think that devolution has been good for Scotland are matched by a similar proportion who feel that it has not made any difference. Evidently many Scots still have to be persuaded that devolution has delivered on the promises that were made on its behalf.

4.1.5 The West Lothian Question

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

	Nov '06	Jan '07
	%	%
Should	47	41
Should not	46	47

Source: ICM/Mail 5-9 January 2007 (N=545)

For the same reason, Scottish MPs in the House of Commons are able to hold Ministerial posts which make policy only for England and Wales. Do you think that Ministers representing Scottish seats in the House of Commons should or should not have this right?

	%
Should	45
Should not	43

Source: ICM/Mail 5-9 January 2007 (N=545)

Attitudes to the West Lothian question were tapped once again by one survey during this period. Asking exactly the same question as had a previous survey only the previous November, it unsurprisingly uncovered much the same pattern of response, albeit one that on this occasion uncovered a small majority opposed to Scottish MPs voting on English legislation rather than vice-versa. In this it is in line with much previous survey research on attitudes to the subject in Scotland. Indeed Scots are also divided on whether Scottish MPs should be ministers in 'English' ministries. Any move to reduce the role of Scottish MPs at Westminster would evidently not necessarily be met with significant public opposition north of the border.

4.1.6 Miscellaneous

If the SNP were to lead or form some part of a coalition Executive, what line would you like the SNP to take?

	%
It should continue to co-operate with the Government in London in order to create stability and increase the chances of Scotland obtaining financial and other support from the Westminster Government	24
It should generally co-operate with the Government in London, but not co-operate at all on those policies where Scotland's interests are damaged	43
It should adopt a policy of outright opposition to the Government in London in order to obtain a better deal for Scotland and greater powers for the Scottish Parliament, with a view to separating Scotland from the UK as soon as possible	14

Source: YouGov/Telegraph 23-28 March 2007

One of the key themes of the Labour campaign in advance of the Scottish election has been that a Labour led administration would continue to have a (productive) harmonious relationship with the UK government in London, whereas a SNP administration would engender a (harmful) conflictual relationship. However, Labour may have overestimated the degree to which people in Scotland feel that the Executive should have a harmonious relationship with the UK government. While somewhat more people favour a policy of co-operation rather than outright opposition, the most popular view seems to be that whilst co-operation may be desirable, this should not be pursued where there is a risk that Scotland's interests might be damaged as a result. In particular, we might note that amongst SNP supporters only 4 per cent support a policy of co-operation, whereas 34 per cent back one of outright opposition, and no less than 54 per cent favouring one of conditional co-operation. Current SNP supporters do not thus appear to a group likely to be won over by claims of the merits of partnership with London.

Thinking about the United Kingdom today, how much longer do you think the union of England, Scotland, Wales and Northern Ireland will survive before one country decides it wants to be independent?

	%
No more than five years	28
For 25 years	22
For 50 years	5
For 100 years	4
Indefinitely	26

Source: ICM/Mail 5-9 January 2007 (N=545)

As well as asking people's opinions about the desirability of independence, the poll conducted by ICM for the *Daily Mail* to mark the 300th anniversary of the Union also asked people how long they thought the Union would last. No less than 50 per cent thought that at least one of the constituent parts of the Union would want to leave within 25 years, suggesting a low level of confidence in the durability of the Union. However, the poll conducted by ORB for BBC Newsnight uncovered a rather more optimistic picture for the Union with just 37 per cent saying that they thought the Union would be gone within 50 years. The different answers obtained by the two surveys suggests that, as with constitutional preferences, this is a topic on which the pattern of responses depends heavily on the wording of the question asked.

Scotland, England and Wales have their own cultural identities that reflect unique characteristics, traditions and experiences. At the same time the three countries share many characteristics common to all British people. If the Union were to end what impact if any would it have on each country's culture? Would the culture of the English/Scottish/Welsh people be enhanced, diminished or would it make no difference?

	English	Scottish	Welsh
	%	%	%
Enhanced	13	25	22
Make no difference	71	59	60
Diminished	6	6	6

Source: ORB/BBC (N=543)

It would appear that whatever the perceived economic advantages and disadvantages of independence, the cultural advantages of independence generally hold little sway. True, few think that independence would diminish the culture of the Scottish people, but the predominant response obtained by the ORB/BBC survey was that independence would not make much difference either way. In practice, the impact of independence on Scotland's culture is not a prominent feature of the constitutional debate in Scotland.

4.1.7 Scottish Social Attitudes Survey

Results from a module of questions on attitudes towards devolution and the Scottish Executive that were included on the 2005 Scottish Social Attitudes survey were published at the beginning of the New Year.⁴⁴ Many of these questions have been asked regularly since 1999 and thus provide an invaluable time series on how

⁴⁴ L. Given and R. Ormston, *Scottish Social Attitudes 2005: Scottish Executive Core Module – Report 1: Attitudes towards Public Services in Scotland* (Edinburgh: Scottish Executive); J. Curtice, *Scottish Social Attitudes 2005: Scottish Executive Core Module – Report 2: Trust and Involvement in the Government of Scotland* (Edinburgh: Scottish Executive); L. Given and R. Ormston, *Scottish Social Attitudes 2005: Scottish Executive Core Module – Report 3: Awareness and Perceptions of Government* (Edinburgh: Scottish Executive). All available at www.scotland.gov.uk/Publications/2007/01/Q/Page/3

attitudes towards devolution have evolved during its early years. Some of the key trends are summarised here.

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	2005
	%	%	%	%	%	%	%	%
...a stronger voice in the United Kingdom	70	70	52	52	39	49	35	41
...a weaker voice in the United Kingdom	9	7	6	6	7	7	7	6
...or, is it making no difference ?	17	20	40	40	52	41	55	50

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..."

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	2005
	%	%	%	%	%	%	%	%
... more say in how Scotland is governed	79	64	44	38	31	39	31	37
... less say	2	2	3	4	4	4	6	5
...or, is it making no difference	17	32	51	56	62	54	60	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...'

The decline in people's evaluations of the impact of devolution on the process of government that occurred in the early years of devolution does now seem to have been attenuated. The proportion who think that having the Scottish Parliament is strengthening Scotland's voice within the UK and the proportion who think that it is giving ordinary people more say in how they are governed was somewhat higher in 2005 than in 2004, while in both cases there has not been any consistent trend since 2002. Meanwhile adverse evaluations of the impact of devolution continue to be rare; the predominant reaction remains that devolution has not made any difference.

Has the standard of the NHS increased or fallen in last twelve months?	1999	2001	2003	2004	2005
	%	%	%	%	%
Increased a lot/a little	23	23	20	18	17
Stayed the same	35	29	25	31	38
Fallen a lot/a little	34	41	46	46	36

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"

Has the quality of education increased or fallen in last twelve months	1999	2001	2003	2004	2005
	%	%	%	%	%
Increased a lot/a little	26	27	25	26	25
Stayed the same	32	33	27	37	39
Fallen a lot/a little	24	21	29	22	17

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"

Has the general standard of living increased or fallen in last twelve months ?	1999	2001	2003	2004	2005
	%	%	%	%	%
Increased a lot/a little	29	30	34	31	28
Stayed the same	43	45	36	40	45
Fallen a lot/a little	24	19	24	24	21

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"

Has the standard of public transport increased or fallen in last twelve months ?	2004	2005
	%	%
Increased a lot/a little	25	21
Stayed the same	41	36
Fallen a lot/a little	22	22

Has Scotland's economy got stronger or weaker in last twelve months ?	2004	2005
	%	%
A lot/a little stronger	28	23
Stayed the same	29	34
A lot/a little weaker	27	22

Source: Scottish Social Attitudes

As across the UK in general, perceptions of trends in the health service continue to be relatively adverse. Although there was a ten point decline between 2004 and 2005 in the proportion who thought that standards in the NHS had fallen over the last twelve months – a testament perhaps to the fact that NHS waiting times in Scotland were by then notably falling - that proportion was still twice the proportion who thought that standards had increased. In contrast, in the case of both education and the standard of living the proportion thinking that things were improving continued to outnumber slightly the proportion who thought they were getting worse. Meanwhile in the case of both public transport and the strength of the Scottish economy, the two groups continue to be of roughly the same size.

Perceived responsibility for trends in..	2001	2003	2004	2005
	%	%	%	%
Standard of the health service				
UK government policies	53	38	42	39
Scottish Executive Policies	11	21	20	23
Quality of education				
UK government policies	40	30	29	28
Scottish Executive Policies	19	25	28	30
General standard of living				
UK government policies	53	43	38	42
Scottish Executive Policies	12	18	18	17

Source: Scottish Social Attitudes

Which of these has most influence over the way Scotland is run:	1999*	2000	2001
	%	%	%
The Scottish Parliament**	41	13	15
The UK government at Westminster	39	66	66
Local councils in Scotland	8	10	9
The European Union	5	4	7
	2003	2004	2005
	%	%	%
The Scottish Parliament	17	19	23
The UK government at Westminster	64	48	47
Local councils in Scotland	7	20	15
The European Union	5	6	8

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"

**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.

Which of these <u>should have most influence over the way Scotland is run:</u>	1999	2000	2001
	%	%	%
The Scottish Parliament*	74	72	74
The UK government at Westminster	13	13	14
Local councils in Scotland	8	10	8
The European Union	1	1	1
	2003	2004	2005
	%	%	%
The Scottish Parliament *	66	67	67
The UK government at Westminster	20	12	13
Local councils in Scotland	9	17	15
The European Union	1	1	1

*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.

Source: Scottish Social Attitudes

How much do you trust the UK government to work in Scotland's best long-term interest? Please take your answer from this card.

	1999	2000	2001	2002	2003	2004	2005
	%	%	%	%	%	%	%
Just about always	3	1	2	2	2	2	2
Most of the time	29	16	20	17	19	20	21
Only some of the time	52	54	55	51	58	50	53
Almost never	14	26	22	26	20	26	21

Still using the card, how much do you trust the Scottish Parliament to work in Scotland's best interests?*

	1999	2000	2001	2002
	%	%	%	%
Just about always	26	9	13	9
Most of the time	55	45	52	43
Only some of the time	14	34	29	34
Almost never	2	9	5	11
	2003	2004	2005	
	%	%	%	
Just about always	10	9	10	
Most of the time	52	43	46	
Only some of the time	31	37	33	
Almost never	4	10	7	

*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.

Knowledge Quiz	Definitely / probably true	Definitely / probably <u>not</u> true	Can't choose
The Scottish Executive makes most decisions about how money should be spent on health service in Scotland [T]	49	28	21
The Scottish Executive decides level of unemployment benefit paid to people in Scotland [F]	21	54	22
The Scottish Parliament has around 70 elected members [F]	40	13	43
The Scottish Executive is just another name for the Scottish Parliament [F]	41	32	25

Although the devolved institutions continue to be regarded as playing second fiddle to the UK government in the degree of influence that they wield on what happens in Scotland, it appears that gradually they are growing in perceived importance. The proportion who thought that the Scottish Executive was principally responsible for recent trends in the two key devolved areas of health and education both increased somewhat between 2004 and 2005. Meanwhile, the proportion that thinks the devolved institutions have most influence over the way that Scotland is run increased for the fifth year in a row.⁴⁵ However it remains the case that those who take a positive view of recent trends in health and education are more likely to think that the devolved institutions are responsible for recent trends than are those who take a negative view. There is still a tendency to give Holyrood the credit and Westminster the blame for what happens north of the border. Meanwhile it can also be seen that perceptions of the balance of power between Holyrood and Westminster are still heavily at variance with what people think that it should be; as many as two-thirds continue to think that the devolved institutions should have most influence. It also clearly remains the case that far more people trust the devolved institutions to look after Scotland's interests than do the UK government – even though their knowledge of how those devolved institutions actually work (as opposed to the division of power between Holyrood and Westminster) remains astonishingly low.

⁴⁵ The findings of the 2005 Scottish Social Attitudes survey thus confirm those of the 2005 British Election Study, as reported in the December monitoring report, which found that 22% thought that the Scottish Parliament had most influence, 53% the UK government, 8% local councils, and 1% the European Union.

4.2 National Identity

Which of the following best describes how you feel about your national identity?

	1997	2000	2006	2007
	%	%	%	%
British, not Scottish	8	9	10	10
More British than Scottish	2	3	4	5
Equally British and Scottish	28	27	29	24
More Scottish than British	30	28	29	26
Scottish not British	29	32	26	24

Source: ICM/Mail 5-9 January 2007 (N=545)

Do you consider yourself?

	%
Scottish, not British	32
More Scottish than British	28
Equally Scottish and British	22
More British than Scottish	3
British, not Scottish	10

Source: YouGov/C4 News 4-8 January 2007

Who do you tend to support when England are playing a foreign team, other than Scotland, at sport?

	%
England	26
England's opponents	35
Not sure/Don't care	39

Source: YouGov/Sun Times 10-12 January 2007

The ICM/*Daily Mail* confirmed the evidence of the poll conducted by the same organisation for the *Sunday Telegraph* in November that there is no evidence of a long-term change since the advent of devolution in the incidence of national identity. True, a YouGov survey conducted for Channel 4 News in January obtained a higher incidence of people saying they are, 'Scottish, not British', but even so its results are not dissimilar to those obtained by previous Scottish Social Attitudes surveys (see May to August monitoring report). However, it should be noted that this YouGov survey, in common with Scottish Social Attitudes, placed 'Scottish, not British' as the first of the options put to respondents rather than, as in the case of the ICM survey,

last. It may well be that the order in which the options to this so-called 'Moreno' question are asked has an impact on the distribution of response.⁴⁶

4.3 Other Issues

Which two or three of the following should be the main priorities of the Scottish Executive and Parliament after May's elections?

	%
Scrapping the early release scheme for prisoners, so that everyone sent to jail serves the full sentence imposed at their trial	47
Refusing to site in Scotland any new nuclear weapons, or any replacement of the Trident nuclear missile system	31
Helping to fight climate change by setting targets for Scotland to reduce its emissions of carbon dioxide, and giving help to families that play their part by recycling, insulating, etc.	30
Making all school meals free to children, and all prescription charges free to NHS patients	30
Keeping down income tax by NOT using the power to raise income tax by up to 3p in the pound	28
Scrapping the scheme giving heroin addicts methadone, and using the money to establish a full-scale rehabilitation programme	28
Insisting on receiving all the income from taxes from North Sea Oil off Scotland's coast	27
Holding a referendum on whether Scotland should become completely independent	23
Giving parents more choice over which school to send their children	8

Source: YouGov/Telegraph 23-28 March 2007

Contrary to what is often the case during election campaigns in Britain, a number of polls in this period have attempted to ascertain public attitudes towards some of the substantive issues in the campaign. One such exercise was conducted by YouGov in its March poll for the *Telegraph*. This asked respondents to say which two or three out of a list of items they thought should be priorities for the next Executive. It thus does not give a full picture of the balance of public opinion for or against each issue, but does give some indication of what policy changes might actually arouse the interest of sections of the electorate. Unsurprisingly perhaps, ensuring that prisoners serve the full term of their sentence was by far the most popular of the options included in the survey. At the same time we can see that opposition to Trident and nuclear power, the introduction of free school meals and prescriptions, and action on climate change can all excite the interest of significant part of the Scottish electorate.

⁴⁶ 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).

In contrast, the Blairite policy of giving parents more choice over which school their children attend (a policy that has been pursued less vigorously in Scotland) attracted virtually no interest at all – while the SNP's flagship of holding a referendum on independence does not appear to be a particularly popular policy either (but see further below).

As one might anticipate, those supporting different parties had different policy priorities. While the abolition of early release for prisoners was popular amongst supporters of all parties (albeit especially so amongst Conservatives), otherwise there were a number of sharp differences. For SNP supporters those items that suggested distancing Scotland from the rest of the UK were most important – that is refusing to site nuclear power stations or a replacement for Trident in Scotland, acquiring control of North Sea oil revenues as well as holding a referendum on independence. Evidently the SNP's stance on these three issues helps the party maintain the enthusiasm of its current supporters, even though they are not necessarily a particularly effective way at reaching out to other voters. Meanwhile, Conservative supporters are particularly keen on keeping down income tax and scrapping the methadone programme, Labour supporters on free school meals/prescriptions (even though neither is party policy) and action on climate change, while climate change and an anti-nuclear stance is also relatively popular amongst Liberal Democrats.

	Agree	Disagree
	%	%
The Council Tax should be scrapped, and replaced by a local income tax (which would be additional to normal income tax)	58	22
Scotland should allow new nuclear stations to be built within the country, in order to help tackle climate change	36	43
Scotland should refuse to allow any successor to the Trident nuclear missile system to be based in Scotland	52	28

Source: YouGov/Telegraph 23-28 March 2007

It looks as though one of the most hotly contested issues in the election campaign will be whether or not to replace the council tax with a local income tax, a policy favoured by both the SNP and the Liberal Democrats. It appears to be a popular position. So also, it seems is the SNP and Greens' opposition (shared in the first case with the Liberal Democrats) to allowing new nuclear power stations to be built and refusing to allow any successor to the Trident nuclear weapon system to be situated in Scotland. It would appear that Labour is not doing anything to enhance its electoral chances by opposing the abolition of the council tax, sitting on the fence on

the issue of new nuclear power stations and proposing that Trident should be replaced.

As you know, there will be an election for the Scottish Parliament on 3 May. I am going to read out a list of things that the new parliament might do. It may not have enough money to do all of them, and certainly not enough to do all of them at once. We would like to know which of them YOU think should be priorities of the new parliament.

As I read out each policy, please give it a score out of 10, where 1 means that you think it should never be done and 10 means that it is very important and it should be done quickly. Please remember that the Parliament cannot do everything at once and your scores should show which are a priority and which are not.

Ensure all state schools and hospitals are built and run by public bodies rather than private companies	8.1 (7.5)	44 (30)
Put more police on the streets	8.1 (8.5)	39 (45)
Reduce the council tax for everyone over 65	8.0	42
Stop closing local hospitals even if they cost more to run	7.9	41
Provide more money to support Scotland's farming and fishing communities	7.2 (7.5)	24 (27)
Ban young people who cause trouble from going out at night	7.2	35
Give free school meals to all school children	7.2 (6.1)	34 (22)
Spend more money on improving Scotland's buses and trains instead of building new roads	6.9	24
Get rid of all tuition fees and charges for university students	6.9	26
Get more minor criminals to do work in the community instead of sending them to prison	6.9	25
Require all young people to stay in school or training until they are 18	6.6	26
Raise the money local councils need through a local income tax rather than the council tax	6.5	19
Phase out nuclear power stations with wind & wave power	6.4 (6.8)	20 (21)
Spend more money on helping people get off drugs	6.4	22
Increase the number of people who go to university	6.3	17
Encourage more people to come to Scotland to stop Scotland's population falling	6.2 (4.9)	17 (7)
Hold a referendum on whether Scotland should become an independent country	6.2 (5.6)	29 (22)
Create secondary schools that specialise in teaching children who are very good at science	6.1	15
Generate more of Scotland's electricity from wind and wave power even if it means electricity bills will go up	6.1	14
Scrap prescription charges for everyone	6.1	25
Ask the UK to transfer responsibility for setting and raising taxes in Scotland to the Scottish Parliament	6.0	17
Reduce taxes on business	5.8 (6.0)	12 (12)
Give more responsibility for policing local communities to local wardens rather than the Police	5.6	12
Charge car drivers for bringing their cars into city centres	4.5 (3.8)	10 (5)

Figures in brackets are equivalent readings in a similar poll conducted in 2003.

Source: ICM/BBC Scotland 29-31 March 2007

The most substantial exercise undertaken in this quarter in trying to measure public attitudes towards various policy issues in the campaign – focusing entirely on

devolved issues that fall within the power and the remit of the Scottish Parliament – was however undertaken by ICM for BBC Scotland. This asked people to give a mark out of ten to indicate how important they thought it was that the next Scottish Parliament should pursue each of 25 possible policies. Some of these policy options had also been asked in a similar exercise for BBC Scotland four years earlier (see May 2003 monitoring report).

Two policies stood out as particularly unpopular – albeit in one case as somewhat less unpopular than it was four years ago. These were charging motorists for using their cars either on motorways or in city centres. While the YouGov poll cited above may have uncovered support for action on climate change, evidently that mood does not extend to having to pay more for the privilege of driving. More surprising perhaps was the finding that opposition to the use of private companies to build and run schools and hospitals (as happens in part at least when such institutions are built using the Private Finance Initiative) had increased to such an extent that it (just) pipped having more police on the streets as the single most popular option. Opposition to the use of the private sector was marked amongst Labour as well as SNP supporters, even though Labour are strong advocates of the use of PFI. For the most, however, attitudes towards the items on the list were not strongly associated with party support. The one clear exception was holding a referendum on independence. On average SNP supporters gave this policy a score of 8.0, whereas Conservatives gave it one of just 4.5, Liberal Democrats 4.9, and Labour 5.6. A not dissimilar pattern can be observed in respect of transferring responsibility for raising taxes in Scotland to the Scottish Parliament. It is this polarised nature of attitudes towards independence that explains why it proves to be such a central issue of debate in Scottish politics, even though it seems not to be a particularly important issue for many voters.

Do you agree or disagree that...

...Britain should withdraw its troops from Iraq straight away

	Constituency Vote Intention				
	All	Con	Lab	LD	SNP
	%	%	%	%	%
Agree	66	64	62	60	73
Disagree	31	34	34	37	26

...Britain should continue to have nuclear weapons

	Constituency Vote Intention				
	All	Con	Lab	LD	SNP
	%	%	%	%	%
Agree	50	68	53	44	51
Disagree	41	32	43	55	47

Source: ICM/BBC Scotland 29-31 March 2007

Do you agree or disagree with the following statement? 'If a majority of Scottish MPs vote in Parliament against the replacement of Britain's Trident nuclear missiles, the replacement nuclear missile system should not be sited in Scotland'

	%
Agree	65
Disagree	23

YouGov/SNP 12-15 March 2007

We have seen earlier that opposition to the continued presence of nuclear missiles on Scottish soil appears to be a relatively popular policy stance. This appeared to be confirmed by the March YouGov poll for the SNP which asked people what should happen if (as proved to be the case in the House of Commons debate in March) a majority of MPs from Scotland voted against the replacement of Trident. However, it appears that more of this opposition comes from a reluctance to see the UK government 'impose' nuclear weapons on Scotland than it does opposition to the principle of Britain having its own nuclear weapons. On this at least the ICM/BBC Scotland poll suggests that opinion in Scotland is divided, with a small majority in favour of Britain's independent deterrent. In contrast there appears to be no such ambiguity in attitudes towards Iraq; two thirds of people in Scotland now feel that British troops should be withdrawn straight away – a position that seems to be almost equally popular amongst the supporters of all parties.

4.4 Party Fortunes

4.4.1 Holyrood Voting Intentions

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Solidarity	Others
	%	%	%	%	%	%	%	%
26-29/1/07	13/14	31/27	17/17	33/33	-/5	3/3	*/-	3/2
23-26/2/07	16/15	29/28	16/17	34/32	-/4	1/2	*/*	3/2
29-31/3/07	13/12	27/27	19/17	32/31	-/5	5/5	-/1	3/3

Respondents who said they would vote for the Greens on the constituency vote were advised that the Greens were not contesting that ballot and invited to pick another party instead.

Figures in each cell are constituency vote/list vote. * = less than 0.5%

Source: ICM/Scotsman

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Solidarity	Others
	%	%	%	%	%	%	%	%
4-8/1/07	14/15	31/28	14/11	33/33	5/7	1/1	1/1	3/3
10-12/1/07	13/14	29/30	18/14	35/32	2/5	1/1	-/1	2/3
23-28/3/07	13/15	29/27	14/12	35/33	-/6	-/2	-/2	9/3
27-30/3/07	13/14	27/26	16/14	36/33	-/7	-/2	-/1	8/3

Figures in each cell are constituency vote/list vote. * = less than 0.5%.

The third and fourth of these polls did not obtain separate constituency vote figures for Green, SSP or Solidarity.

Source: YouGov/C4 News, Sunday Times, Daily Telegraph and SNP

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Others
	%	%	%	%	%	%	%
4-10/1/07	11/13	38/31	14/16	33/30	-/6	-/3	2/3
20-27/3/07	13/11	34/25	11/13	39/36	-/6	-/3	3/7

Respondents who said they would vote for the Greens or the SSP on the constituency vote were advised that the Greens and SP were not contesting that ballot and invited to pick another party instead. Separate figures for Solidarity not available.

Figures in each cell are constituency vote/list vote. * = less than 0.5%.

Source: TNS System Three

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Solidarity	Others
	%	%	%	%	%	%	%	%
19-26/3/06	11/10	28/28	11/11	34/32	10/10	2/3	3/4	2/2

Figures in each cell are constituency vote/list vote. * = less than 0.5%

Source: Progressive/Daily Mail

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Solidarity	Others
	%	%	%	%	%	%	%	%
21-25/3/06	14/14	28/30	15/14	38/35	-/4	-/1	-/*	6/2

Figures in each cell are constituency vote/list vote. * = less than 0.5%

Separate figures for Green, SSP and Solidarity not available for the constituency vote.

Source: Populus/Times

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Solidarity	Others
	%	%	%	%	%	%	%	%
22-27/3/06	10/10	38/37	15/14	34/35	-/3	-/-	-/-	3/1

Figures in each cell are constituency vote/list vote

Separate figures for Greens not given on constituency vote and none for SSP or Solidarity on either vote.

Source: MRUK/Herald

The key question being asked by nearly all politicians and commentators during this period has been whether or not the SNP lead over Labour that emerged in the polls before Christmas would hold during the dark days of winter. After all, when the SNP appeared to be posing a serious challenge to Labour prior to the 1999 Scottish election, it was during this equivalent period that SNP support fell away. However, history does not seem to have repeated itself. No less than a dozen polls were conducted during this period, ten of which put the SNP ahead. Meanwhile, one of the two pollsters that in January at least did not – TNS System Three (which had also produced more favourable readings for Labour in 2006) – put the SNP ahead by March. By then only a poll conducted for *The Herald* by Market Research UK, a company without any serious track record in opinion polling, put Labour ahead.

Even so, most polls suggested that on the vital regional list vote at least the SNP's lead was not so large that it could not be eroded during the course of an election campaign; the median lead on this vote was just five points. While the SNP appeared to be odds-on favourites to win the election, they were far from being certainties.

However, the polls brought little cheer to anyone else. ICM aside, most polls suggested that the Liberal Democrats would do little better than they did in 2003, apart perhaps from making some advance on the 12 per cent of the vote that the party won in 2003. This is a far cry from the 23 per cent of the vote and second place that the party won just two years ago in the 2005 UK general election. Most of the polls put the Conservatives' standing at less than the 17 per cent of the constituency vote and 15 per cent of the regional list vote that the party won in 2003. Equally, most polls put the Greens at below the 5-6 per cent of the vote that they need to achieve to

retain at least the bulk of the seven seats they won in 2003; indeed, if the party wins less than 5 per cent it is likely to lose nearly all of its current seats. Meanwhile there is little evidence that the far left has recovered from the political fallout from the Tommy Sheridan libel trial (see Sept.-Dec. monitoring report). Support for the SSP in most polls was well below the 5-6 per cent the party needs to achieve to retain most of its seats, while support for Mr Sheridan's breakaway Solidarity party appears to be even weaker.

4.4.2 Westminster Vote Intentions

Fieldwork	Con	Lab	Lib Dem	SNP	Others
	%	%	%	%	%
4-8/1/07	19	34	15	27	6
10-12/1/07	16	35	15	28	6

Source: YouGov/C4 News and YouGov/Sunday Times

Although Labour appears to be behind the SNP in voting intentions for the forthcoming Scottish Parliament election, it evidently would not incur the same difficulty coming ahead in Scotland in an immediate UK general election. Two YouGov polls conducted in January that put the SNP ahead in Scottish Parliament vote intentions put Labour ahead in Westminster preferences. This gap between Labour's support in Scottish Parliament elections and that in Westminster elections has been evident in every poll that has asked about both since the first such poll in May 1998. Previous research suggests that it arises because voters place more importance in Scottish Parliament elections on who is most likely to stand up for Scotland's interests – and that the SNP is evaluated more favourably than Labour on this criterion.⁴⁷ Evidently, Labour still has to overcome this perception.

Nevertheless, it should be noted that even Labour's Westminster current poll rating is well down on the just under 40 per cent of the vote that the party actually secured in 2005. The unpopularity of the government at Westminster, clearly evident in British opinion polls since April 2006, has evidently taken its toll north of the border too. It appears to be this unpopularity together with the long standing gap between the party's Westminster and Holyrood support that is undermining the party's prospects in the forthcoming Scottish election. At the same time we should note that the SNP's level of popularity is now also much greater in Westminster than it was at the time of the 2005 UK election, when the party secured just 18 per cent of the vote in Scotland. Evidently the SNP's prospects in May's election have also been enhanced

because the party has wrested back from the Liberal Democrats the mantle of principal alternative to Labour.

4.4.3 Local Election Vote Intentions

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Solidarity	Others
	%	%	%	%	%	%	%	%
4-8/1/07	15	31	15	30	7	1	1	3

Source: YouGov/C4 News

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Solidarity	Others
	%	%	%	%	%	%	%	%
22-27/3/07	10	40	14	34	1	*	*	1

* less than 0.5 per cent

Source: MRUK/Herald 22-27 March 2007

Two of the polls conducted during this period attempted to ascertain to whom people would give their first preference vote in the local elections due to be held on 3 May at the same time as the parliamentary election - but using for the first time the Single Transferable Vote system. Both polls suggested that for the most part the pattern of first preferences will be similar to the distribution of votes in the Scottish Parliament election (rather than voting intentions for the Westminster parliament) - although perhaps Labour will perform a little better in the local government elections and the SNP a little worse. However, both polls clearly underestimate the level of support likely to be secured by Independent candidates who, after all, won as much as 10 per cent of the local government vote in 2003.

4.4.4 Local Government By-Elections

No by-elections were held this quarter because of the imminence of the next regular round of local elections on May 3.

⁴⁷ See for example, L. Paterson, A. Brown, J. Curtice, K. Hinds, D. McCrone, A. Park, K. Sproston and P. SurrIDGE, *New Scotland, New Politics?* (Edinburgh: Polygon, 2001).

4.5 Attitudes towards Parties and Leaders

4.5.1 Parties

The electoral system used to elect Scotland's Parliament means that it is unlikely that any single party can win a majority. If a coalition is formed, which one of these alternatives do you think would be best for Scotland?

	Constituency Vote Intention				
	All	Con	Lab	LD	SNP
	%	%	%	%	%
Lab/Lb Dem	19	1	52	28	1
Lab/LD/Green	10	1	25	17	1
SNP/Lib Dem	17	4	4	19	37
SNP/LD/Green	13	1	0	12	32
Lab/Con	3	12	5	1	0
SNP/Con	9	37	0	1	15
Con/Lab/LD	5	24	0	9	1
Don't Know	23	19	13	15	15

Source: YouGov/Telegraph 23-28 March 2007

The SNP's lead in the polls is also reflected in a finding in the YouGov poll conducted for the *Telegraph* at the end of March that more people would like the SNP to be part of some kind of coalition government than would Labour. Overall, 39 per cent favour some kind of coalition involving the SNP, while only 32 per cent would like one that included Labour amongst its ranks. However, the party that most people would like to see form part of a coalition is the Liberal Democrat party; no less than 61 per cent favour a combination involving them. In contrast just 17 per cent would like the Conservatives to be part of the next government, suggesting that the party is still widely regarded as the 'pariah' party of Scottish politics.

However, although more people would like the SNP to form part of the next Executive than would like Labour to do so, the current coalition of Labour and the Liberal Democrats is still the single most popular combination. This is primarily because Labour voters are less keen than their SNP counterparts on a coalition involving the Greens. At the same time we should note that – surprisingly perhaps – Conservative voters are keener on their party entering a coalition with the SNP than they are on one with Labour, a feeling that to some degree is reciprocated by SNP supporters even though the party has a ban on any formal deals with the Conservatives. It may be that Conservative and SNP supporters have come to appreciate the fact that the SNP's economic policy now advocates low levels of

business taxation as a means of stimulating the Scottish economy, thereby putting the two parties quite close together on that subject.

Perhaps, however, the most important finding of all that emerges from this question is that Liberal Democrat supporters are keener on their party renewing its relationship with Labour than on forging a new one with the SNP. No less than 45 per cent of Liberal Democrat voters favour their party being part of a coalition with Labour, whereas just 31 per cent would like to see a coalition involving the Liberal Democrats and the SNP. Whatever distance may have opened between Labour and the Liberal Democrats over the last eight years, not least on Iraq, evidently the possibility that their party might switch coalition partners is not greeted with widespread enthusiasm by Liberal Democrat supporters.

Still, it appears that a majority of voters accept that the SNP should be given the first chance to form a government if it wins most seats in the election. The same YouGov survey found that 59 per cent supported that view, while just 18 per cent wanted the current Labour/Liberal Democrat coalition to remain in office under those circumstances. Moreover the option of the SNP forming a coalition is clearly more popular than is that of the SNP forming a government on its own; 47 per cent back the former but only 10 per cent the latter. Even a majority of Liberal Democrat supporters (51 per cent) favour the creation of a SNP lead coalition in these circumstances.

4.5.2 Leaders

Are you satisfied or dissatisfied with Jack McConnell as Scotland's First Minister?

	April 2003	Nov. 2006	March 2007
	%	%	%
Satisfied	29	31	30
Dissatisfied	54	48	50
Don't Know	17	21	21

Source: YouGov/Telegraph 23-28 March 2007

Which of the following would make the best First Minister?

	Nov. 2006	March 2007
	%	%
Alex Salmond	31	31
Jack McConnell	16	18
Annabel Goldie	6	7
Tommy Sheridan	5	6
Nicol Stephen	4	3

Source: YouGov/Telegraph 23-28 March 2007

Which of the following do you think would make the best First Minister of Scotland?

	%
Jack McConnell	27
Alex Salmond	27
Annabel Goldie	10
Nicol Stephen	5

Source: Populus/Times 21-25 March 2007

Who do you think would make the best First Minister?

	%
Alex Salmond	24
Jack McConnell	18
Annabel Goldie	5
Nicol Stephen	3

Source: MRUK/Herald 22-27 March 2007

Which one of these party leaders cares most about making Scotland successful?

	%
Alex Salmond	48
Tony Blair	9
Sir Menzies Campbell	8
David Cameron	5

Source: YouGov/SNP 12-15 March 2007

Which one of these Scottish party leaders cares most about making Scotland successful?

	%
Alex Salmond	40
Jack McConnell	16
Annabel Goldie	7
Nicol Stephen	3

Source: YouGov/SNP 12-15 March 2007

Leaving aside your views on who would make the best First Minister, which of these do you regard as generally trustworthy? {Please tick all that apply}
And which do you consider to be generally untrustworthy? {Please tick all that apply}

	Trustworthy	Untrustworthy
	%	%
Alex Salmond	34	26
Annabel Goldie	22	19
Jack McConnell	22	35
Nicol Stephen	17	18
Tommy Sheridan	13	51
Don't Know	18	21
None of the above	21	7

Source: YouGov/Telegraph 23-28 March 2007

One of the persistent findings of the polls in this period – a poll by Populus strangely apart - has been that Alex Salmond is a more popular choice as Scotland's First Minister than the current Labour incumbent, Jack McConnell. This position contrasts with that in 1999 when Alex Salmond trailed the then Labour leader, Donald Dewar, and in 2003 when Jack McConnell was more popular than his SNP counterpart, John Swinney. Thus although it is not clear that the Scottish public is any less satisfied with Mr McConnell now than it was four years ago (see YouGov/*Telegraph* poll), the evident charisma of the opponent he faces this time around is putting Mr McConnell in his shadow. Even if voters do not necessarily decide to vote in May on the basis of who they would like to be First Minister, Mr Salmond's evident popularity can only be an asset in his quest to convince the public of the merits of his party.

Which of the following would make you more likely to vote Labour at the Scottish Parliament elections next May?

	%
If Gordon Brown were Prime Minister by then	15
If Tony Blair were still Prime Minister	6
I will vote Labour in any case	18
I will not vote Labour in any case	49

Source: YouGov/C4 News 4-8 January 2007

If Tony Blair is still Prime Minister at the time of the Scottish election, does that make you more or less likely to vote Labour in that election?

	%
More likely to vote Labour	5
Less likely	21
No difference – I would vote Labour anyway	21
No difference – I would NOT vote Labour anyway	44

Source: YouGov/SNP 12-15 March 2007

Some evidence that the continued presence of Tony Blair in Downing St. may not be aiding the party's cause comes from two polls conducted by YouGov. Both suggest that those who will be less likely to vote Labour should Mr. Blair still be Prime Minister on 3 May outnumber those who are more likely. Meanwhile, we might note too that according to the YouGov poll for the SNP, just 22 per cent think that Mr. Blair has been a good Prime Minister for Scotland.

4.6 Retrospective Evaluations

Do you approve of /the record to date of the Scottish Parliament as a whole?

	Apr. 2003	Nov. 2006	Mar. 2007
	%	%	%
Approve	37	42	39
Disapprove	49	39	39
Don't Know	14	19	23

Source: YouGov/Telegraph 23-28 March 2007

Evidence from a YouGov poll conducted in November that the record of the Scottish Parliament is now greeted with less disapproval than it was four years ago was confirmed again in its March poll for the *Daily Telegraph*. It appears possible that the adverse impact on the parliament's image of the cost of and delays to its new building may now have been put somewhat behind it.

Do you approve of the Scottish Executive's record to date?

	Apr. 2003	Nov. 2006	March 2007
	%	%	%
Approve	30	35	34
Disapprove	51	41	39
Don't Know	19	24	28

Source: YouGov/Telegraph 23-28 March 2007

Taking everything into account, how do you think having a coalition Executive, involving both the Labour Party and the Liberal Democrats, has worked?

	%
Very well	5
Fairly well	47
Not very well	25
Not at all well	9

Source: YouGov/Telegraph 23-28 March 2007

YouGov's poll in March confirms the impression given by its poll in November that it is not evident that the Scottish Executive is any more unpopular now than it was four year ago – and thus that adverse reactions to its record in office do not provide a ready explanation of Labour's electoral difficulties. However, it should be borne in mind that the wording of YouGov's question might encourage respondents to answer in terms of the Executive's performance as a devolved institution rather than of the predominantly Labour ministers within it.

In contrast YouGov's poll for the SNP in March did uncover some evidence of the unpopularity of the UK government at Westminster. As many as 64 per cent said that they were disappointed with its performance while almost the same proportion, 63 per cent, said that they felt 'let down' by it. One obvious source of disquiet is the war in Iraq; in the same poll as many as 73 per cent said that they felt Mr Blair had made a mistake in taking Britain to war in that country (see also section 4.3). However, it is impossible to assess from this evidence how far such feelings are responsible for Labour's current electoral difficulties.

In any event it seems that what has hitherto been the novel experience of having a coalition government over the last eight years has not caused the Scottish public particular disquiet. Over half feel that having a coalition has worked 'very well' or 'fairly well', while only a third think it has 'not worked very well' or 'not at all well'.

5. Intergovernmental relations

Alan Trench

5.1 General

Even by the standards of previous reports, the period between January and May 2007 was remarkably quiet in the area of intergovernmental relations. The looming elections meant that both governments had sought to avoid making any sort of even vaguely controversial statement for some time before the formal pre-election period began on 29 March 2007. There appear to have been no JMC meetings in the period, and certainly no plenary ones. (JMC (Europe) meetings continue to take place, but are not usually publicised).

One matter on which the Scotland Office did take a position was in responding formally to the report of the Arbuthnott Commission on electoral arrangements in Scotland, which it did on 23 January 2007.⁴⁸ Its decisions to allow the Scottish Executive to decide whether Holyrood and local council elections should be held on the same day have subsequently attracted controversy, as has its acceptance of the recommendation to introduce electronic vote counting.

5.2 British-Irish Council

No meetings of the British-Irish Council (whether summit or sectoral) took place in the period covered by this report.

5.3 Adjusting the devolution settlement

Six orders adjusting the devolution settlement have been made since 1 January 2007.⁴⁹ They are:

- SI 2007 No. 286, The Scotland Act 1998 (Agency Arrangements) (Specification) Order 2007
- SI No. 772, The Planning etc. (Scotland) Act 2006 (Business Improvement Districts Levy) Order 2007
- SI 2007 No. 931, The Local Electoral Administration and Registration Services (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007
- SI 2007 No. 937, The Scottish Parliament (Elections etc.) Order 2007

⁴⁸ Available at www.scotlandoffice.gov.uk/our-communications/doc.php?id=79

- SI 2007 No. 1098, The Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007
- SI 2007 No. 1103, The Tourist Boards (Scotland) Act 2006 (Consequential Modifications) Order 2007

5.4 Finance: the UK Budget

An exception to the general rule of avoiding anything controversial in the run-up to the elections was the UK Budget, which the Chancellor of the Exchequer, Gordon Brown, announced on 21 March.

According to the Budget 'Regional Press Notice' for Scotland, the Budget produced an extra £1835m for the Scottish Executive (on top of £284m reported in the December 2006 report, which derived from the Pre-Budget Review), as a result of the working of the Barnett formula.⁵⁰ This largely resulted from the inclusion in the Budget of the Comprehensive Spending Review settlement for education. Other aspects of the CSR remain to be resolved in the autumn, including notably health.

5.5 Scotland's International Relations

In contrast to the general quietness of intergovernmental relations, there was more activity on the international front. On 14 March 2007, the First Minister and the Premier of the Australian State of Victoria issued a joint statement to 'welcome progress' in the year since they signed a co-operation agreement, during the First Minister's visit to Melbourne during the last Commonwealth Games.⁵¹

The following day, the Executive issued a statement regarding its continued support for international development, particularly in Malawi.⁵² Over £260,000 was being spent through voluntary organisations to help development projects in various east and southern African countries.

On 20 March 2007, Jack McConnell met Margot Wallström, Vice President of the European Commission, mainly to eulogise Scotland's experience of public consultations and to note a 'new chapter' in Scotland's relations with the European

⁴⁹ These orders are available at www.opsi.gov.uk/legislation/scotland/s-delegated-legislation-2007.htm

⁵⁰ Available at www.hm-treasury.gov.uk/media/B/E/bud07_regpn_scotland.pdf. The Scotland Office also issued a news release headed 'Securing Scotland's Future for the Long Term', available at www.scotlandoffice.gov.uk/our-communications/release.php?id=3575

⁵¹ www.scotland.gov.uk/News/Releases/2007/03/14110248

⁵² www.scotland.gov.uk/News/Releases/2007/03/14171325

Union.⁵³ This of course follows disclosure of a report to the First Minister by Michael Aron, head of the Executive's office in Brussels, by *The Herald* in January 2007. The leaked report suggested that there were serious problems in liaison with the EU, arising from a failure of the UK Government to take the Scottish Executive's views into account systematically and sometimes at all in formulating the UK 'line' in EU negotiations.⁵⁴ There may be reason to believe that the report (a draft, not finalised when leaked) overstated some problems and underplayed other achievements, due to the relatively junior position of many of those interviewed for it. Nonetheless, the disclosure was certainly embarrassing for the First Minister, and indicated that there are underlying problems with the unstructured approach to intergovernmental relations in the UK more generally.

Finally, on 28 March (the last day before the start of the pre-election period), the Executive issued a statement regarding strengthening its relations with Germany (as a whole, not just Bavaria or other Länder).⁵⁵ This was said to be Scotland's third and final country strategy, to complement agreements already in place with the US and China.

⁵³ The Executive's press release is at www.scotland.gov.uk/News/Releases/2007/03/14110248

⁵⁴ See D Fraser 'Scotland "finding itself frozen out of Brussels"', and 'Analysis: Why Scottish MEPs Are Left "Isolated And Frustrated"', *The Herald*, 22 January 2007.

⁵⁵ www.scotland.gov.uk/News/Releases/2007/03/28151129

6. Scotland, Europe and International Relations

Peter Lynch

6.1 Scotland and Germany

Despite having cooperation agreements with two different German länder (Nord Rhine Westphalia and Bavaria), the Executive produced a strategy for further engagement with Germany. The strategy outlined eight different objectives to be monitored with specific targets between now and 2010.⁵⁶ The eight objectives were:

- Objective 1 - Raise the profile of contemporary Scotland in Germany
- Objective 2 - Improve the understanding and knowledge of German and Germany in Scotland amongst young people (aged 12-30 years)
- Objective 3 - Increase the value of tourism from Germany
- Objective 4 - Expand connections between businesses in Scotland and Germany
- Objective 5 - Increase the awareness, in targeted groups, of opportunities to live and work in Scotland
- Objective 6 - Increase direct transport connections between Scotland and Germany
- Objective 7 - Increase links, collaborations and exchanges of best practice between the Governments of Scotland and Germany
- Objective 8 - Improve co-ordination of Scottish engagement with Germany⁵⁷

This was intended to be the third and final 'country' strategy from the Executive, following on from China and the USA. The rationale for deeper engagement with Germany was that it is Scotland's biggest European trading partner, and a country which with Scotland already enjoyed partnership arrangements as well as transport and economic links.

6.2 Fresh Talent

The Executive announced it was to commit another £390,000 to Fresh Talent in 2007-8, with £300,000 for universities and colleges to support the activities of international students, £50,000 to support a summer competition for international students in computing at Abertay University and £40,000 to support a cultural programme to encourage entrepreneurship amongst students and school pupils (the

⁵⁶ See *Scotland's strategy for stronger engagement with Germany*, at www.scotland.gov.uk/Publications/2007/03/27104103/0

⁵⁷ Scottish Executive news release, 28 March 2007.

Encouraging Global Entrepreneurs Programme).⁵⁸ The Executive's Fresh Talent scheme to attract foreign students to study and work in Scotland was also extended to include students taking postgraduate diplomas and certificates, as opposed to more advanced Masters degrees and PhDs. The Home Office agreed to the changes in the scheme, which will widen the number of qualifications and also students eligible for leave to remain in the UK for 2 years following graduation. However, at the same time, the Home Office announced a new International Graduates Scheme across the UK which gives students leave to remain for a year following graduation.⁵⁹

6.3 Scotland and Victoria

The partnership agreement between Scotland and the State of Victoria was signed in 2006. Since then, the Executive reported on a series of interactions between the two regional governments. There has been cooperation over economic development, the Commonwealth games, tourism strategy, education and training (specifically for NEETs – not in education, employment or training), event management, health care (specifically cancer, stem cells and intellectual property rights), as well as Scottish literature and poetry events at the Melbourne International Arts Festival.⁶⁰

6.4 Malawi and International Development

Glasgow School of Sport at Bellahouston Academy is to provide coaching sessions and athletic equipment for 15 schools around the capital city, Lilongwe. The scheme is to be funded by a grant of £25,000 from the Executive's international development fund.⁶¹ In addition, the Executive announced it was co-financing a range of initiatives in Africa in relation to education, health and economic development. The Executive's input came from the Small Grants Scheme. Some was committed to projects in Malawi with some in other countries in Africa. Examples include Books Abroad-Malawi Reading Matters Programme 2007 (£14,400), St Andrews University's Enhancing Health care capacity in Malawi (£19,666) and University of Edinburgh's Improving the quality of education in rural areas of Uganda (£19,994).⁶²

⁵⁸ Scottish Executive news release, 23 March 2007.

⁵⁹ Scottish Executive news release, 28 March 2007.

⁶⁰ Scottish Executive news release, 14 March 2007.

⁶¹ Scottish Executive news release, 4 January 2007.

⁶² Scottish Executive news release, 15 March 2007.

7. Relations with Local Government

David Scott

7.1 Council Tax

Scotland's local authorities increased the middle-ranging Band D council tax for 2007-08 by an average of 1.8 per cent. The Convention of Scottish Local Authorities (COSLA) claimed this below-inflation figure was the lowest since the tax was introduced in 1993⁶³. The increase resulted in a new Band D tax level of £1,129. The tax for Glasgow City Council, Scotland's biggest local authorities, was frozen for the second year running, at £1,077. Three councils – Dundee, Angus and Midlothian - held their tax figure at the same level as in 2006-07. One council (Inverclyde) decreased the tax by 0.7 per cent (£1,003). The increases across Scotland ranged from 1.5 per cent in Edinburgh to 3.9 per cent in South Ayrshire. The figures show that East Dunbartonshire and East Renfrewshire councils have the highest council tax in Scotland, at £1,338, while the lowest is in the Western Isles (£845).

The below-inflation increases across Scotland followed an intensive campaign by local authorities to persuade the Scottish Executive that funding for councils had to be improved. Councillor John Pentland, COSLA finance spokesperson⁶⁴, said the low tax rises had come about as a direct result of a lobbying campaign undertaken by the Convention to convince the Finance Minister that the finance settlement for local government was not good enough and had to be improved.

The Minister for Finance and Public Service Reform, Tom McCabe⁶⁵, said councils had enjoyed unprecedented rises in funding since devolution as grant to local government had increased by almost 58 per cent since 1999. Local authorities would have well over £17bn to spend on services in 2007-08, he said. "Councils are exercising downward pressure on rises, and I expect that to continue for each of the next four years," Mr McCabe said.

⁶³ 'Lowest ever council tax rises', COSLA Connections, March 2007, www.cosla.gov.uk/attachments/connections/connections33.pdf

⁶⁴ COSLA press release, 8 February 2007. www.cosla.gov.uk/news_story.asp?leftId=10001B644-10766761&rightId=10001B644-10771676&hybrid=false&storycode=10001B644-15671206

Finance settlement

The local government finance settlement for councils in 2007-07 provided councils with a total of more than £8.7bn in core funding.⁶⁶ Announcing the settlement Mr McCabe said this represented an increase of £396m, or 4.8 per cent, compared to 2006-07 and should enable all local authorities to improve the standard of frontline services while keeping council tax increases down.

The settlement provides revenue grant allocations rising by an average of 4.8 per cent. Within that average, increases for individual councils ranged from 3.7 per cent to 5.5 per cent. A total of £8,718bn was made available in revenue support grant for individual for local authorities' core services in 2007-08. This included an additional amount of £140m in revenue support grant announced in December.

Mr McCabe said councils would also directly receive almost £1bn of revenue grants and £0.9bn of support for capital expenditure in addition to the core settlement. This would mean total support from the Executive of £10.6bn.

7.2 Free personal care

The Scottish Executive published an independent evaluation⁶⁷ of free personal care for the elderly, one of the major initiatives of the Labour-Liberal Democrat administration. The evaluation followed problems experienced by councils which led to many people entitled to free personal care being placed on waiting lists. The evaluation report, however, found that the vast majority of recipients received their payments or personal care services without undue delay or complication.

The report confirmed that services were being provided very quickly after assessment in the vast majority of cases. Where there were examples of people waiting for a care package, the research showed that local authorities were either providing interim arrangements or ensuring that care was provided from some other source. Waiting was said to be mainly due to staff vacancies, a shortage of care home places, user choice or issues related to service capacity. Four councils attributed waiting to insufficient funding.

⁶⁵ 'Council tax levels for 2007-08', Scottish Executive Press release, 8 February, 2007.

www.scotland.gov.uk/News/Releases/2007/02/08154456

⁶⁶ 'Local authority funding 2007-08', Scottish Executive Press release, 7 February 2007.

www.scotland.gov.uk/News/Releases/2007/02/07170740

⁶⁷ 'Evaluation of the operation and impact of Free Personal Care', Scottish Executive, 28 February 2007.
www.scotland.gov.uk/Publications/2007/02/27143831/0

Responding to the report⁶⁸, the President of COSLA, Councillor Pat Watters said the policy continued to be a success. He added: 'The report finds that the vast majority of clients received their entitlements under the policy without undue delay or complication. That said, the evaluation is not an absolute clean bill of health in that it flags up some implementation issues. The report will act as a springboard in allowing ourselves and the Executive to address some of the areas where there are difficulties.'

7.3 Accounts Commission

The Accounts Commission published an overview of local authority audits in 2006.⁶⁹ This showed that there had been a number of improvements in the performance of local authorities but that major challenges lay ahead. The commission noted that councils now had policies setting out their position on financial reserves; council tax collection had exceeded 93 per cent for the first time, at 24.7 per cent; waste recycling had almost hit its target of 25 per cent and there was a general picture of improved performance.

However, the report pointed to possible changes following the local government elections in May and risks to the pace of improvement. The report also warned of substantial financial pressures, including the cost of equal pay settlements and implementing the single status agreement. This was reflected in a fall in reserves – the first downward move in recent years.

The commission also published a number of Best Value audit reports for individual councils. It found that Scottish Borders Council⁷⁰ had made substantial progress in recent years but there was a gap between its ambitions and current performance. The City of Edinburgh Council⁷¹ was found to display many of the features of a Best Value council including many examples of good service delivery, though some services such as refuse collection and the processing of planning applications

⁶⁸ 'Free Personal Care continues to be a success', COSLA Press release, 28 February 2007. www.cosla.gov.uk/news_story.asp?leftId=10001C320-10766761&rightId=10001C320-10771676&hybrid=false&storycode=10001C321-15675535

⁶⁹ 'Overview of the 2006 local authority audits', Audit Scotland, 15 February 2007. www.audit-scotland.gov.uk/publications/pdf/2006/06pf09ac.pdf

⁷⁰ 'Scottish Borders Council; The Audit of Best Value and Community Planning', Audit Scotland March 2007. www.audit-scotland.gov.uk/publications/pdf/2006/06pf13ac.pdf

⁷¹ 'The City of Edinburgh Council: the Audit of Best Value and Community Planning', Audit Scotland, February 2007. www.audit-scotland.gov.uk/Publications/2007/01/31113211/027 February 2007. www.audit-scotland.gov.uk/publications/pdf/2006/06pf10ac.pdf

needed to improve. A progress report on Inverclyde Council⁷² found that the council was moving in the right direction following a critical report by the commission in 2005. Shetland Islands Council⁷³ was said to have made a start in addressing the issues raised in the commission's March 2005 findings but the commission remained concerned at the pace and extent of change in delivering improvements.

The commission also published a review of Scottish fire and rescue services⁷⁴. It concluded that the services were giving more emphasis to fire prevention and community safety but it was too early to demonstrate a sustained reduction in risks from fire.

7.4 Statistical Reports

Information on housing income and expenditure⁷⁵ was published in a Scottish Executive statistical bulletin. This found that the number of local authority houses continued to reduce, the drop of 3 per cent between 2005-06 being consistent with previous years. There was a range of £21.12 between the highest and lowest weekly rents. Inverclyde Council was expected to continue to have the highest rents in Scotland (£57.90) and Moray Council the lowest (£36.78).

Housing debt continued to reduce but there was a wide variation across councils in their level of debt. Orkney Islands and East Lothian were both debt free whereas Shetland reported housing debt of £27,248 per unit and the City of Edinburgh, £11,026. Total capital expenditure in 2006-07 was projected to be £493m, an increase of £66m (15 per cent) on 2005-06.

Local government financial statistics⁷⁶ for 2005-06 showed an 8.6 per cent increase in gross revenue expenditure in 2005-06 to £16.8bn; a 9.7 per cent rise in total revenue income to £18.3bn and a 7.7 per cent increase in net revenue expenditure on general fund services in 2005-06 to a total of £10.5bn.

⁷² 'Inverclyde Council: the Audit of Best Value and Community Planning: Progress Report', Audit Scotland, 20 February 2007.

www.audit-scotland.gov.uk/publications/pdf/2006/06pf10ac.pdf

⁷³ 'Shetland Islands Council: the Audit of Best Value and Community Planning', Audit Scotland, 18 January 2007. www.audit-scotland.gov.uk/publications/pdf/2006/06pf08ac.pdf

⁷⁴ 'A review of service reform in Scottish fire and rescue services', Audit Scotland, 1 March 2007. www.audit-scotland.gov.uk/publications/pdf/2006/06pf12ac.pdf

⁷⁵ 'Local Authority Housing Income and Expenditure, 2004-05 to 2006-07', Scottish Executive, 31 January 2007. www.scotland.gov.uk/Publications/2007/01/31113211/0

⁷⁶ 'Local government financial statistics 2005-06', Scottish Executive, 17 February 2007. www.scotland.gov.uk/News/Releases/2007/01/17094956

7.5 Local government elections

The Scottish Local government elections Order 2007 was proposed in parliament by Tom McCabe, the Minister for Local Government and Public Service Reform.⁷⁷ Rules set out in the order dealt with the conduct of election for local authorities including the introduction of procedures to run an election using the single transferable vote (STV) and e-counting; administrative changes to local government elections made by the Local Electoral Administration and Registrations Services (Scotland) Act 2006 and replication of some administrative changes made to parliamentary elections by the Electoral Administration Act 2006.

The Convention of Scottish Local Authorities published an article⁷⁸ explaining the operation of proportional representation, plans for the electronic count and a local public awareness campaign.

⁷⁷Scottish Executive news release 'Local government elections 2007', 25 January 2007.
www.scotland.gov.uk/News/Releases/2007/01/25165548

⁷⁸COSLA Connections 'Preparing for a historic change in voting system', March 2007.
www.cosla.gov.uk/attachments/connections/connections33.pdf

8. Disputes and litigation

Alan Trench

8.1 Judgment in *DS v HM Advocate*

The Judicial Committee of the Privy Council gave judgment in a 'devolution issue' case on 22 May 2007, that of *DS v. Lord Advocate*.⁷⁹ As so often, this concerned the compatibility of Scottish criminal law and procedure with the European Convention on Human Rights (ECHR). What was more unusual about the case is that the legislation involved was passed at Holyrood (rather than pre-devolution Westminster legislation), and it therefore raised the constitutional issue of how judges should approach such questions, given the authority of the Parliament.

The case concerned legislation passed at Holyrood to permit the disclosure of an accused's sexual history in trials for sexual offences, and whether this was compatible with the right to a fair trial protected under Article 6 of the ECHR. If it was not compatible, it would be beyond the legislative competence of the Scottish Parliament and therefore void. The provisions in question are set out in section 10 of the Sexual Offences (Procedure and Evidence) (Scotland) Act 2002, which inserted section 275A into the Criminal Procedure (Scotland) Act 1995. This allows evidence about the accused's character and conduct to be introduced, if the accused seeks to question the complainer about his or her sexual behaviour.

The leading judgments in the case were given by Lord Hope of Craighead and Lord Rodger of Earlsferry. The Committee found unanimously, but after detailed consideration of the language and effect of the provisions and the reasons why they were passed, that the provisions in question were permitted under the ECHR. From a constitutional point of view, particularly worthy of note is the discussion by Lord Hope about the interpretation of Acts of the Scottish Parliament, and the application of section 101 of the Scotland Act 1998 (paras. 19-24 of the judgment). He concludes in para. 24

The obligation to construe a provision in an Act of the Scottish Parliament so far as it is possible to do so in a way that is compatible with the Convention rights is a strong one. The court must prefer compatibility to incompatibility. This enables it to look closely at the legislation to see if it can be explained and operated in a way that is compatible and, if it is not, how it can be construed so as to make it

⁷⁹ Privy Council Appeal No 12 of 2006; available at www.privy-council.org.uk/output/Page535.asp

so.

Lord Hope concluded his judgment by holding that section 275A, as construed and applied in the way he indicated, does not violate the accused's right to a fair trial and therefore that section 10 of the 2002 Act was within the competence of the Scottish Parliament. Lord Rodger delivered a concurring judgment.

Also interesting are the *obiter dicta* remarks by Baroness Hale of Richmond regarding the high threshold to be reached by any attempt to challenge on ECHR grounds legislation which had been passed by an elected legislature such as the Scottish Parliament (paras. 89-92 and 96 of the judgment). She notes in para. 92

... that we can only rely on the Convention rights as interpreted in Strasbourg as a basis for invalidating the act of a democratic legislature, for it is only incompatibility with those rights which gives us a ground for doing so. The legislature can get ahead of Strasbourg if it wishes and so can the courts in developing the common law. But *it is not for us to challenge the legislature unless satisfied that the Convention rights, as internationally agreed and interpreted in Strasbourg, require us to do so.* (emphasis added)

8.2 Devolution issues in litigation

The number of devolution issues notified to the Advocate-General for Scotland appears to be:

Period	Number of issues notified
22 January-23 February 2007	83
24 February-28 March 2007	43
Overall	126*

* Of these, 73 related to civil proceedings and 53 to criminal proceedings.

(Later data about the number of devolution issues raised are not available.)

9. Parties

Peter Lynch

9.1 The Onward March of the SNP Continues

The last few months have been a golden time for the SNP. Indeed, the party has been making political hay quite successfully in the period from its annual conference in October 2006 to its spring conference in March 2007. During this period, almost everything seemed to go right for the SNP, until Gordon Brown's budget tax cuts on 21 March, in which he announced reductions in both income and corporation tax of two per cent to come into effect in April 2008. Even after the budget SNP momentum has continued, with strong opinion poll showings that have put it ahead of Labour on the constituency vote, the regional list vote and on seats overall.

Three factors related to the SNP's success are worth mentioning in some detail – sustained public support and evidence of progress within the business community, a generally positive reception to policy announcements and finally, Labour's difficulties in transmitting a positive election message.

First, there has been evidence of sustained public support for the SNP in opinion polls, placing the party close to Labour across most polls and occasionally ahead of Labour, and putting the SNP marginally ahead in terms of seats (which in itself would be a huge achievement). This situation has continued into the first week of the Scottish election campaign, with the latest opinion poll lead for the Nationalists splashed over front pages on Sunday 1 April – though this was no April Fool's joke, not for Labour at any rate. Furthermore, the party has managed to retain political momentum through policy announcements as well as evidence of growing support from amongst the business community. The SNP had been active in presenting the economic case for independence as well as fiscal powers for the Scottish parliament in 2001-2, with a large number of presentations to business leaders and journalists by Andrew Wilson MSP and Jim Mather. Over the last year, another series of presentations and discussions have taken place involving Alex Salmond and Jim Mather. This has stimulated interest and sympathy amongst some within the business community in terms of the likely outcome of the Scottish election of 2007 –

meaning the SNP's ideas for the Scottish economy post-2007,⁸⁰ not necessarily independence. Gaining a decent hearing from business had been facilitated primarily by the SNP's poll ratings and economic policy on taxation, but also through the fact that Salmond and Mather speak the language of business. Though a social democrat, Salmond is an economist and was the Royal Bank of Scotland's oil economist before becoming an MP in 1987, and Mather was a successful businessman with extensive links in the business community in Scotland.

The SNP's efforts towards the business community have yielded some impressive results in two ways. Firstly, amongst businessmen already sympathetic to the party and to independence whose support was not surprising in rhetorical terms, but who have dug deep financially. Secondly, there is support from people not normally associated with the SNP, who have decided to stick their head above the parapet. Amongst the first group are Harvey Aberdein of legal and property company and Stagecoach's Brian Soutar - with Soutar's £500,000 donation to the SNP in March 2007 its biggest ever single donation.⁸¹ Soutar was annoyed that Labour – mired in the 'cash for peerages' scandal – had accepted a £2m donation from Lahksi Mittal which would be used to fund Labour's Scottish election campaign. Soutar donated the cash to give the SNP and independence a more level playing field at the election. Significantly, this cash would assist the party's campaign once Labour began to pour resources into the campaign proper.

Amongst the second group are Iain Graham of Graham Technology, Tom Farmer (as mentioned in the previous report, who donated £100,000), Bill Samuel of RBS, Ben Thomson of Noble Group investment bankers and former RBS chief executive and chairman, George Mathewson,⁸² whom the Prime Minister criticised for being 'self-indulgent' for supporting the SNP and independence – an unusual charge to make about the former head of one of Scotland's most successful multinational companies. The PM was clearly miffed that the SNP had timed Mathewson's announcement to coincide with his own visit to Scotland to take part in Labour's campaign. Blair's message was that Scotland couldn't afford to become independent, and yet here was a prominent businessman stating that independence would not cause economic

⁸⁰ *Let Scotland Flourish; The Herald*, 24 March 2007, p. 6.

⁸¹ Soutar had fallen out with the SNP over its support for the repeal of section 28 back in 2000. Soutar had helped fund a private referendum opposed to repeal as a result of his religious convictions (the Keep the Clause campaign). Thus, when Soutar returned to the SNP fold, his position on homosexuals was criticised as was the SNP for accepting his money. The SNP balanced Soutar's support from the right and business community with that of CND chair, Bruce Kent, who endorsed the party's position on the replacement of Trident at the SNP conference.

problems. However, the SNP has not had it all its own way in relation to the business community. The party's independence plans had been criticised by the CBI in the latter period of 2006, and the organisation sought to criticise the Nationalists further by leaking the fact that it had produced a set of eleven questions on independence to the SNP leader, which had gone unanswered.⁸³ In addition, Labour sought to present its own list of businessmen opposed to independence – prominent amongst whom was party donor Willie Haughey. However, one businessmen to speak out in favour of the Union was David Murray, chairman of Rangers Football club and a Conservative – not the kind of person Labour would like on its side.⁸⁴

Second, in policy terms, the last six months have seen a range of SNP policy announcements. For example, an SNP administration in Edinburgh would seek to award 20 per cent of procurement contracts to Scottish SMEs, abolish business rates for small companies, provide a first time buyer's grant of £2000 to help first time buyers onto the property ladder, abolish student loans and debts, create smaller and more efficient government by reducing the 9 Scottish Executive departments to 6, in addition to reducing the number of Ministers to 6 senior Ministers and 10 junior Ministers.⁸⁵ The SNP also announced a green energy policy and plans to replace the council tax with a local income tax – a policy the party shares with the Liberal Democrats (meaning a central plank in any potential coalition agreement). Such policies are seen to be beneficial to the SNP because they attract different social groups and constituencies, but also enable the party to compete with as many parties as possible in Scotland's multi-party system. Of course, the local income tax policy is a long-standing one for the SNP. However, this doesn't mean that the party's assumptions about the operation or outcomes of the scheme will come to fruition. The SNP published its proposal for local income tax on 14 March – giving its opponents ample opportunity to question its figures. The party proposes to remove the council tax in two to three years time, when it would be replaced by a 3p income tax charge, plus additional funds from the Executive. The SNP calculated that taxpayers on low and middle incomes would gain from the new local income tax, whilst only the top 10 per cent of earners would lose out.⁸⁶

⁸² *The Scotsman*, 16 March 2007.

⁸³ *The Herald*, 'CBI questions the costs of independence', 20 February 2007, p.1.

⁸⁴ David Murray was interviewed in *The Sunday Times*, 4 March 2007 – Murray sees union as positive, independence leading to higher taxes and need for businesses opposed to independence to be more vocal in their opposition, sees potential rise of anti-Scottish sentiment in city of London post-independence.

⁸⁵ BBC News, 12 March 2007.

Writing in *The Herald*, Alf Young criticised the local income tax proposal from a range of different angles. Could it be local in any sense when the level of tax was centrally-determined by the Executive? What steps would be taken to reverse the advantages to wealthier council areas of using local income tax compared to poorer areas? How would council tax benefit operate under the local income tax, and what would the UK government do, would it allow HM Revenue to collect the money?⁸⁷ Young also raised questions about the likelihood of winners and losers emerging from local income tax - specifically that they would not be the winners and losers the SNP thought. At face value, the party's figures present the local income tax as redistributionist, meaning that low and middle income groups pay less, whilst high income groups pay more. However, this might not be that simple given house price rises, dual-income families, etc., with serious ramifications for the party that seeks to introduce a local income tax. And, of course, the Brown budget of 21 March – with its 2p reduction in income tax from April 2008 and 2p reduction in corporation tax – are a clear challenge to the SNP position. Whilst the Nationalists think that council tax is so unpopular that retaining it is a vote-loser, Brown used the budget tax changes to undermine the SNP position – pay 3p more in income tax with the SNP or 2p less with Labour is the gist of it.⁸⁸ The changes to corporation tax also challenge the SNP and the Conservatives over policy towards business and economic growth.

Thirdly, the budget aside, Labour's response to the SNP has not been particularly constructive or effective, though there is a sense in which Labour had not yet begun to fight until the budget and the launch of the actual campaign (as opposed to the SNP's strong performance in the pre-campaign). What has helped the SNP has been Labour's negativity. This began in November at the Scottish Labour conference and has continued since with a focus on independence, when the issue is not particularly prominent on the political agenda. Labour wants to make independence a key issue in order to damage the SNP and prevent voter defections to the Nationalists, but voters don't seem to think the independence issue is very prominent at all – more of which below.

The SNP's position on an independence referendum has also been of interest in recent months. First, there was the suggestion by recent SNP donor Tom Farmer that the referendum could be postponed. Then there were suggestions from within

⁸⁶ *The Herald*, 15 March 2007.

⁸⁷ Alf Young, 'Is this a package of cuts that's bound to hurt?', *The Herald*, 16 March 2007, p.17.

the SNP to *Scotland on Sunday* newspaper that the referendum would be delayed until a second term of an SNP-led administration at Holyrood.⁸⁹ Such suggestions were interesting given the apparent position of an independence referendum as a coalition-breaker in any post-election talks between the SNP and other parties to run the Scottish Executive. Despite these hints and rumours, the SNP published details of its referendum policy to provide a clear statement of the policy and its costings. The SNP proposed a referendum in 2010 on the following question: 'The Scottish Parliament should negotiate a new settlement with the British government, based on the proposals set out in the white paper, so that Scotland becomes a sovereign and independent state. Do you agree or disagree?' The SNP proposed to set out its case for independence in a white paper to be issued within the first 100 days of an SNP government (meaning extremely quickly). In its pre-election meetings with the Executive civil service, the SNP had discussed the referendum issue and were advised that their initial referendum question was not within the powers of the parliament, so that the question has been altered slightly to ensure it is constitutional.⁹⁰

Whilst this position was presented in an unequivocal manner by party leader Alex Salmond, he did acknowledge that other parties might have something to say about the issue. The *Sunday Herald* reported that a senior Lib Dem had told the paper that they might soften their opposition to an independence referendum if it became a multi-option referendum that included the Lib Dem's option of tax powers from the parliament (that was advanced in the Steel Commission report of 2006). Salmond responded to this by stating that 'they (the Lib Dems) would have to say that to me in appropriate circumstances' – implicitly meaning in the context of post-election negotiations.⁹¹ Interestingly, the MOR was an idea advanced by Salmond back in the early 1990s in order to promote independence alongside devolution. It does have the merit of acting as a coalition compromise as both the Lib Dems and SNP would get their own constitutional preference on the ballot. The Lib Dems also suggested that the issue of further powers for the parliament should be subject to the establishment of a new constitutional convention⁹² – a proposal that also came from the Steel Commission report.

⁸⁸ Scottish Labour news release, 'SNP's first new tax hike – 3p in every pound for hardworking Scots', 23 March 2007.

⁸⁹ *Scotland on Sunday*, 11 March 2007.

⁹⁰ *Sunday Herald*, 25 March 2007, p.1, pp.10-11.

⁹¹ *Ibid*, p.10.

⁹² This position was reiterated by Lib Dem leader Nicol Stephen in the party leader's debate on STV, 1 April 2007.

9.2 Scottish Labour

According to the media and some party insiders, Scottish Labour's pre-campaign for the Scottish election did not go well. However, those with memories of the last two Scottish election campaigns will realise this is situation normal. This particular period is more like 1998-99, when the Labour pre-campaign was seen to be a shambles, before the party focused on attacking the SNP with the slogan 'divorce is an expensive business.' Equally, there seem to be no shortage of party figures keen to brief in secret about the campaign and its shortcomings. It's too early to say whether this campaign is any different – though the polling strength of the SNP suggests it might be. What is also different is the coincidence of negative events for Labour from different sources. For example, Former First Minister, Henry McLeish gave an interview to the *Sunday Herald* about the Labour campaign, which became a frontpage attack on Labour's campaign as negative and driven by London – with very little that current First Minister, Jack McConnell, could do about it.⁹³ It was announced that Jack McConnell had been interviewed by Scotland Yard as part of the 'cash for peerages' investigation,⁹⁴ provoking negative headlines in January, which followed on from criticism within Labour of McConnell's appointment of Rhona Brankin as Communities Minister (as Malcolm Chisholm had resigned over Trident in December 2006).⁹⁵ Further dissatisfaction with the tone of the campaign was found with the resignation of Scottish Labour strategist Steven Lawther in February. Lawther was head of communications within the party. Whilst officially he resigned for 'family reasons', unofficially it was due to persistent disagreements with colleagues about the strategy and presentation of the election campaign.⁹⁶ His replacement was Iain Bundred, who was moved from London to take over on the campaign.

Two other issues were a problem for Scottish Labour in this period. The first of these was the disappearance of the First Minister from the pre-campaign. The BBC's Question Time held a special Scottish programme on 22 February in Glasgow, with the Scottish party leaders represented on the panel – Alex Salmond, Annabel Goldie and Nicol Stephen. However, instead of McConnell, there was former MP George Foulkes, a candidate for Labour on the Lothians list at the Scottish election, but definitely not a party leader and a member of the House of Lords. The Question Time audience as well as the other politicians on the panel focused on McConnell's absence, which became something of a theme for the SNP in the following weeks.

⁹³ *The Sunday Herald*, 28 January 2007, p.1 and 5.

⁹⁴ BBC News, 23 January 2007.

⁹⁵ *The Herald*, 10 January 2007.

Foulkes also hit the headlines after the programme by describing Salmond's view of Gordon Brown as xenophobic, echoing the comments of xenophobia made by Jamie Stone MSP at the Lib Dem conference (see below).

Secondly, the UK government's continued pursuit of a replacement system for the Trident nuclear missile system caused problems for Scottish Labour. In having an early vote on Trident in the House of Commons, Labour created an opportunity for dissent amongst its own MPs. This issue had already caused difficulties for Labour within the Scottish parliament, with the resignation of Communities Minister Malcolm Chisholm from the cabinet (see previous monitor). At Westminster, the Trident issue brought the resignation of two Scottish MPs from government positions – Nigel Griffiths as deputy leader of the House and PPS Jim Devine (who had won the Livingston by-election in 2005). Moreover, a large number of Scottish Labour MPs voted against the early decision on Trident's replacement; out of 95 Labour rebels on Trident – those who voted for an amendment to delay Trident's replacement as it was not yet proven - there were 13 Scottish MPs. When you added these to the other Scottish MPs who voted against Trident, then a majority of Scots MPs opposed the policy, another issue for the SNP to exploit.

There are two particular strands of Labour's campaign worth emphasising. First, there is the attempt to make independence versus the devolved Union a key campaign issue. Labour has been attempting to do this since its party conference in Oban last November, with warnings of the economic, political and security damage that independence would bring. Alongside this have been efforts to be positive about the Union and talk up the 'Union dividend'.⁹⁷ Before heading North to launch a campaign document, Tony Blair produced an article in the Daily Telegraph⁹⁸ that sought to attack independence and support the Union: the choice of the Telegraph was curious as it has a small readership in Scotland, suggesting this was more about UK politics than devolution. Blair came to launch an economic critique of the SNP's independence policy – 'break-up Britain, end up broke' – which focused on the costs of independence as well as SNP policies to be pursued under devolution. The document stated that the costs would be the equivalent of £5242 for every Scottish household, involving SNP spending commitments of £4bn per year plus the £1.5bn

⁹⁶ *Sunday Herald*, 25 February 2007, pp.1-2.

⁹⁷ See Gordon Brown's article in *The Herald*, 'The Future's bright thanks to our historic union', 23 February 2007.

⁹⁸ Tony Blair, 'We'd all be losers if the Union fell', *Daily Telegraph*, 16 March 2007.

set-up costs of independence and the loss of the annual Union dividend of £11.2bn.⁹⁹ Divorce is indeed an expensive business is the message here, a message that was part of Labour's attempt to scare voters away from the SNP (to any other party not just Labour) and to make the Scottish election a referendum on independence.

Labour also sought to turn some of the SNP's intentions on their head. Both Alex Salmond and Nicola Sturgeon had made remarks about co-operating with the Labour government at Westminster and trying to get on with Gordon Brown. At different times, the party leadership talked up issues of conflict with the UK government – issues like Trident and nuclear power – which would be issues of conflict with Westminster and that the SNP would seek confrontations with Brown on some issues. Labour painted this as the SNP's first 100 days of tax and turmoil, as an SNP government sought to pursue issues of conflict with Westminster to increase the case for independence ahead of considerations of whether these policies will benefit Scotland.¹⁰⁰ Labour attempted to turn the partnership between the UK and Scottish governments into a positive, when Blair and McConnell signed a series of partnership pledges in London in advance of the election campaign (in science, skills, renewables, work, crime, etc.). However, the partnership photo-op was spoiled by a supporting interview from health secretary Patricia Hewitt, who twice referred to McConnell as McDonnell in a clip that was widely shown on TV – an intriguing form of partnership.

However, the devolution-independence issue is a difficult one for Labour. Whilst the party has been attempting to be negative about independence and positive about the devolved Union, Gordon Brown and Jack McConnell have ruled out any changes to the devolution settlement – despite the fact that opinion polls indicate that voters want more powers for the parliament and don't want independence. Given that all other parties in the election race support more powers for the parliament, Labour's position is an exposed one which might come to grief during the campaign and/or in the post-election negotiations. Moreover, when heading out onto the campaign trail, the First Minister stated that his party had 'five weeks left to save devolution'¹⁰¹ – a statement reminiscent of John Major in 1992 and 1997 (which worked once at least) and a strange statement from a party that had given Scotland devolution and governed via devolution for eight years. Labour is seeking to make voters realise that

⁹⁹ Scottish Labour, *Break Up Britain, End Up Broke* www.scottishlabour.org.uk

¹⁰⁰ Scottish Labour news release, 'The SNP's first 100 days – it's time to look forward to tax and turmoil', 23 March 2007.

the SNP comes with independence and that voting SNP in May trigger independence with all its costs. However, the SNP has countered this with its referendum strategy, which removes the immediacy of independence from the election.

Second, Labour through Jack McConnell, have been active in presenting a range of policy proposals in advance of the 2007 election. More money for sports across Scotland, a commitment to new skills academies to boost Scottish education in addition to changes in Scottish Executive environment policy, etc. McConnell's difficulty is that whilst he might want to talk about those issues – discussing the Executive's record in crime, schoolbuilding programmes, transport, etc – his record and policy proposals are drowned out by UK Labour policy problems. From this area you could pick cash for peerages, nuclear weapons, Iraq, nuclear power, pensions and the removal of tax relief on share dividends and a whole range of other issues. We shall refer to this as the 'scunner' factor, meaning that after 10 years of Labour government at Westminster and 8 years in Edinburgh, many voters (even Labour supporters) are scunnered with the party. So, not only is McConnell having to deal with negative perceptions of UK government – which aren't his fault – he is having to defend the party's record in government at all levels, without appearing defensive, which is difficult. This, of course, is exactly what the SNP wants – a referendum on Blair and Labour after so many years in power. The SNP's slogan 'It's time' encapsulates this succinctly.

9.3 The Scottish Conservatives

The most striking thing about the current performance of the Scottish Conservatives is the party's continued unpopularity in Scotland – meaning struggling to break through 15 per cent left alone 20 per cent in opinion polls. There seems to be no signs of any revival in the party's fortunes and, instead, the Liberal Democrats and SNP are on the rise. This latter point is likely to prevent any marginal gains in seats that the Tories might make in Scotland through maximising Conservative voter turnout in key seats. For example, Tory prospects in Perth (SNP majority of 727 in 2003) will be hindered by the rise in the SNP vote. The slim Tory majority over the SNP in Galloway and Upper Nithsdale (99 in 2003) might disappear like snow off a dyke, allowing the SNP to retake the seat. A rising SNP and Lib Dem vote takes these parties' seats out of the Conservatives' grasp in 2007, though a falling Labour vote might help. A drop in Labour support will help the Tories to retain Ayr and Edinburgh Pentlands and also to gain Dumfries (a Labour majority of 1096 in 2003),

¹⁰¹ *The Scotsman*, 31 March 2007.

a part of a Westminster seat that the Tories gained at the UK general election (the party's only seat in Scotland). Overall, such developments will have little impact on the party's share of seats – indeed, the compensatory mechanism of the additional member system will likely mean the Tories end up roughly where they were in both 1999 and 2003. However, in terms of seats and votes, they might end up fourth behind the Liberal Democrats, which is an accurate reflection of the party's position in Scotland though, not a comforting one.

And, the state of the party in Scotland becomes curiously and curiously when you consider the party's revival in England. After losing two landslide general elections and then stabilising at a third in 2005, the Conservatives under David Cameron are showing signs of life and of strong opinion poll showings. Take for example, the Yougov poll for the Daily Telegraph on 23 February 2007 that put the Tories on 37 per cent and Labour on 32 per cent. Meanwhile, the YouGov survey, published on 18 March 2007 in the Sunday Times gave the Tories a six-point lead over Labour, 38 per cent to 32 per cent.¹⁰² Cameron has sought to reinvent his party, staking out ground on non-traditional issues such as the environment and signalling more liberal attitudes on family, homosexual couples, global poverty and work-life balance. What has this achieved for the Scottish Conservatives? Nothing. Indeed, it has only made them look bad by contrast. Whilst Cameron reinvents the party at the UK-level, dumping negative issues and trying to give the Tories a new political identity, the Scottish Tories remain exactly as they did pre-Cameron. The reality of this situation was made clear in graphic terms by the leaking of a memo from the Shadow Secretary of State for Scotland – David Mundell MP – to David Cameron. Mundell's memo was written in 2006 as a frank assessment of the party's problems in Scotland and was splashed across the front page of the Labour-supporting Daily Record on 8 March.¹⁰³ The memo pointed out that the group of MSPs at Holyrood contained a 'simple lack of thinkers' and that 'there are more obvious problems than solutions emanating from Scotland from a party point of view.' The memo was critical of the Scottish party leader, Annabelle Goldie, the party chairman, Peter Duncan and the inactivity amongst MSPs. The memo was leaked just in time for the Scottish Conservative conference in Perth on the weekend of 9 and 10 March, which was attended by Cameron, with speeches from Goldie and Mundell. The Tories tried to brush the story off, with Mundell eating some humble pie and Goldie delivering a

¹⁰² *The Sunday Times*, 18 March 2007.

¹⁰³ *Daily Record*, 'Scots Tories are Clueless', 8 March 2007, p.1

competent speech. However, the gap (gulf?) between the party North and South of the border would indicate Mundell's comments have some veracity.

9.4 The Scottish Liberal Democrats

The last few months have been a relatively quiet time for the Lib Dems, not last because the SNP's momentum has put the party into the shade. The Lib Dems were gainers in 2005, but seem to have stalled in opinion polls. Despite this, the party has dealt with its 8 years in government reasonably well – meaning it has escaped most of the negativity of incumbency compared to Labour – and remains central to the coalition process as the most likely partner of either Labour or the SNP after the May election. The party conference in February saw the party leader paint a positive picture of the Lib Dems' achievements in office, as well as their determination to fight as positive campaign focused on issues not personalities at the 2007 election. Unfortunately for Nicol Stephen, this message was lost on one of his own MSPs, as Jamie Stone was quickly at the podium attacking the SNP as xenophobic. A brief row between the parties ran in the media for a few days which eclipsed the Lib Dems message on taxation, local government, business and environment, amongst other issues. At that conference and subsequently, the party's attitudes to coalition were given an airing with prominent party figures or background sources ruling out a coalition with the SNP if it involved an independence referendum, finding ways to accommodate an SNP and Lib Dem position via a multi-option referendum and convening a new constitutional convention to reform the 1998 Scotland Act. The coalition focus is what the media want to hear about and whilst the Lib Dems seem somewhat sidelined by the Labour-SNP duopoly in the election campaign, they know only too well that devolution involves multi-party politics and a complex voting system. Thus, whilst they may appear to be making modest national headway, they will be beavering away in selected target constituencies with their Focus leaflets – not least in Strathkelvin and Bearsden.¹⁰⁴

9.5 Scottish Socialists and Solidarity

Whilst the trial of former SSP MSP, Tommy Sheridan, was one of the most significant political stories of 2006, the issue has continued to generate headlines in 2007. Whilst relations between Sheridan and his former SSP colleagues remain strained, the two sets of actors did manage to reach a financial settlement about the loan for the former SSP office building in Glasgow. The two parties – Solidarity and the SSP

– have got on with the process of selecting candidates and seeking to gain a campaigning profile in advance of the 2007 election. However, issues around the libel trial have not gone away. Police investigations into perjury have been ongoing in the first quarter of 2007, with the police reinterviewing a range of witnesses from the libel trial. It was also announced that the *News of the World* appeal over the Sheridan libel trial is scheduled for December 2007, which takes the appeal well away from the Scottish election. However, whilst the perjury and appeal issues rumbled on, there was a dramatic new development as a suspected bugging device was found in Tommy Sheridan's car and taken away by Lothian and Borders police for examination on 22 March. Not surprisingly, huge publicity was generated by this development. In the days to follow, Sheridan's office and home were swept by a security company for listening devices, but none were discovered.

9.6 What's Going to Happen? Parties and Prospects in 2007

There are many important questions to ask about the performance of the political parties at the 2007 election. The biggest question is how will the SNP perform and will independence follow? The polls continue to show the SNP is the leading party, clearly ahead of Labour. However, in terms of actual seats, this is a difficult situation for the Nationalists. Not only was the SNP far behind last time around, but this means they have a FPTP mountain to climb to take seats from Labour - meaning quite a lot of relatively safe seats here. Given the large number of safe seats in Glasgow and the West of Scotland, it's difficult to see the SNP coming out ahead, though this is exactly what the polls are saying. The election will probably create more marginals, some SNP gains with low majorities as well as some near misses, so it election night promises to be dramatic and involve surprises. Indeed, there is the question of whether Alex Salmond will actually get elected by winning the Gordon constituency from the Lib Dems. For Labour, this is a difficult election given its record in office and the unpopularity of incumbents. But its problems are bigger than that as it faces a leadership transition from Blair to Brown – to a leader from a Scottish seat, facing a resurgent Conservative Party. Holding the line in Scotland is the goal here, in terms of maintaining about 40 seats in the parliament and having some likelihood of a place in government after the election. Less than 40 seats and Labour's heartland is under threat and McConnell is likely to resign, provoking a leadership crisis in the Scottish party. For the other parties, the election is a difficult one, as so much of the pre-

¹⁰⁴ Hospital campaigner, Jean Turner decided to contest Strathkelvin and Bearsden again in 2007 – and it will be interesting to see whether she can hold it against efforts of both Labour and Liberal Democrats (the latter took this seat from Labour at the 2005 UK election).

campaign has been dominated by the SNP's rise and Labour's woes. The polls have reflected this, with the Conservatives and Lib Dems achieving static levels of support, the Greens fluctuating at relatively low levels (but enough to win seats) and the apparent disappearance of the SSP and Solidarity – who were elected on very slim fractions of support in 2003 anyway.

The second big question is what the election means for the constitutional question. Though independence has been widely discussed by the parties and media at this election, there is no evident public mood in favour of independence. Polls show overwhelming support for an independence referendum, but also majority support for devolution. This is not the independence election, even though Labour is attempting to make it so. However, what the polls do indicate consistently is support for more devolution, where so many of the parties have pitched their tent. How that comes about is more problematic, and dependent on coalition formation and party compromises. It provides an opportunity for the SNP to exchange the independence referendum for substantial powers for the parliament in coalition with the Lib Dems and the support of the Greens. For Labour, the situation is more difficult, as it might have to negotiate more powers for the parliament in order to enter coalition, even though it ruled them out in advance. The biggest surprise of all, would be if the SNP got its way and was able to enter a coalition which actually held an independence referendum. This is the most unlikely scenario on its own, but might occur if the issue is combined with another constitutional change on the ballot paper.

10. Public Policies

Paul Cairney

10.1 Public Services Reform and Efficient Government

A key area for further study will be the extent of institutional memory in the Scottish Executive if there is a change of government. The Scottish emphasis on fewer targets and reorganisations, with more micromanagement or consensus is likely to remain regardless of party. However, it will be interesting to trace the trajectory of the public services reform agenda since, while it has become associated highly with Labour, the related idea of efficiency savings is fairly non-partisan and the (albeit broad) policy appears to have a good level of support following a year of 'bottom-up dialogue'. The Scottish Executive announced in March that its target of £1.5bn of efficiency savings (by 2007/8) was on course.¹⁰⁵ This is just as well, since all of the main parties seemed to cost their manifestos on the basis of savings.¹⁰⁶

10.2 Scottish Executive Legislation and its Implementation

In the run up to a general election it has become a tradition to finish off the passage of an unusually high amount of Executive legislation (15 of 53 bills received Royal Assent between November 2006 and March 2007 - see section 2.6). In this case, with a greater prospect of an alternative government from 2007, it will be interesting to see how these Acts fare. One indicator is the low level of objection (in plenary vote) to these bills, with only three of the bills receiving significant levels of dissent from the main parties. Of these, two did not receive enough opposition to suspect the issue will be revisited significantly in Parliament. With planning, objection came in the form of an SNP motion to remove the regulatory burden for small businesses in business improvement districts. With the human rights commissioner, SNP and Conservative opposition was based on the function of the commissioner rather than an objection to human rights as such. With bankruptcy, there is perhaps scope to revisit the issue if there is a new government, but this may also be undermined by different reasons for objection. The SNP objects to tying debt recovery to land, while the Conservatives object largely because reducing bankruptcy periods from three

¹⁰⁵ Scottish Executive News Release, 'Public services reform', 30 March 2007 www.scotland.gov.uk/News/Releases/2007/03/30134441; 'Efficient government targets', 28 March 2007 www.scotland.gov.uk/News/Releases/2007/03/28125942

¹⁰⁶ D. Fraser *The Herald* 'Will efficiency savings be enough to pay for manifesto wish-lists?', 24 April 2007, p.6

years to one (in line with England) seems like an 'easy option'.¹⁰⁷ However, and perhaps more importantly, many (such as crofting reform) require a considerable degree of political weight to ensure they are implemented effectively. Therefore, while the legislative measures on adoption, adult support, aquaculture, criminal proceedings, legal aid, prostitution, protecting vulnerable groups, asbestosis, healthy school meals, tourist boards and transport projects all received tacit support, it remains to be seen how much of a priority each will be in the next parliamentary session. The same goes for free personal care for older people which, while appearing to work well, has the potential to slip from the political agenda.¹⁰⁸ This may be less of a problem under an SNP administration, since it has made a pledge to claim back the attendance allowance lost when free personal care was introduced. In housing, convergence between party views seems more likely following Labour's increasing acceptance of applications to suspend the right-to-buy (as part of the 2001 Housing Act) in areas with pressure on social housing.¹⁰⁹

10.3 Gender Equality

Gender-based representation in the Scottish Parliament was one of devolution's early successes, particularly within the Labour Party's ranks. How long this will take to translate into wider representation in senior decision-making posts in the public and private sectors is anyone's guess. One small step on this road is highlighted by the new measures requiring public bodies to publish a gender equality scheme and an equal pay statement, although how Scotland's measures differ from the UK agenda (this is largely a reserved matter) are not particularly clear.¹¹⁰

10.4 Mental Health Policy

Success in mental health policy is often difficult to define, in part because the indicators themselves may be subject to debate. Therefore, for example, it seems that mental health may still be a 'Cinderella' service within the NHS since funding increases are not keeping up with huge increases for physical health services (although compared to England this may be less of a problem). The report for the Scottish Parliament health committee also seems to suggest (or, to be more precise, the press coverage of the report suggests) that a reduction in available beds for

¹⁰⁷ Scottish Parliament Official Report, Cols 29920-85, 30 November 2006

¹⁰⁸ Scottish Executive News Release, 'Free personal care continuing to deliver', 28 February 2007
www.scotland.gov.uk/News/Releases/2007/02/28154926

¹⁰⁹ Scottish Executive News Release, 'Perth and Kinross housing', 2 February 2007
www.scotland.gov.uk/News/Releases/2007/02/02093833; 'Fife Housing', 15 January 2007
www.scotland.gov.uk/News/Releases/2007/01/15094752

¹¹⁰ Scottish Executive News Release, 'International Women's Day', 8 March 2007
www.scotland.gov.uk/News/Releases/2007/03/08085808

psychiatric care is a sign of failure.¹¹¹ Yet, given the broader agenda in mental health towards treatment in the community (which, given the right conditions, suggests that reduced bed numbers is a sign of success), combined with increased funding towards more positive initiatives outside of the NHS system, this is a difficult one to determine.¹¹²

10.5 Physical Health

The Scottish Executive was associated in February with a possibly ground-breaking shift of policy, from a fixation with waiting times to a focus on preventative medicine. With a reasonable level of satisfaction in the achievement of 18-week targets, the policy mooted through the press was to spend no more money reducing the target times further.¹¹³ It reaffirmed the high priority of cancer care in March.¹¹⁴ The Executive also emerged with a lot of credit following the junior doctor fiasco which dominated the UK headlines. In England, the perceived failure of the new Medical Training Application Service (MTAS) for junior doctors led to a legal challenge by Remedy UK (a small group set up by junior doctors to challenge MTAS) and accelerated the resignation of the BMA's chair when he was not seen to be critical enough of the government's stance.¹¹⁵ Since the problem was one of selecting junior doctors for interview from the new application process, the Executive's solution was to interview all junior doctors for the posts they applied to.¹¹⁶ The only potential problem is the unintended consequence of the fallout from England, with many junior doctors perhaps moving to Scotland temporarily until the mess is sorted out elsewhere. A less fortunate experience resulted from an announcement in March by Health Minister Andy Kerr that he would honour a pay rise for nurses more quickly in Scotland, when in England there was criticism about the time it would take to include the rise in wage payments (this was on the back of above-target recruitment for nurses in the NHS).¹¹⁷ This was pounced upon when it became clear that the money

¹¹¹ *The Scotsman* 'Funding for mental health "lags in NHS"', 15 February 2007

<http://news.scotsman.com/topics.cfm?tid=57&id=244932007>

¹¹² See for example, Health Scotland's discussion of mental health indicators

www.healthscotland.com/understanding/population/mental-health-indicators.aspx

¹¹³ H. MacDonell 'Disease prevention to replace wait times as health service top priority', *The Scotsman*

12 February 2007 <http://news.scotsman.com/topics.cfm?tid=57&id=226012007>

¹¹⁴ Scottish Executive News Release, 'Cancer strategy to be updated', 16 March 2007

www.scotland.gov.uk/News/Releases/2007/03/16094651

¹¹⁵ BBC News 'Junior doctors lose court fight', 23 May 2007

<http://news.bbc.co.uk/1/hi/health/6677985.stm>; K Bussey 'Call for guarantee on doctor training posts',

The Scotsman, 16 April 2007 <http://news.scotsman.com/topics.cfm?tid=57&id=581142007>

¹¹⁶ Scottish Executive News Release, 'Modernising medical careers', 30 March 2007

www.scotland.gov.uk/News/Releases/2007/03/30153301

¹¹⁷ Scottish Executive News Release, 'Nursing target met one year early', 30 January 2007

www.scotland.gov.uk/News/Releases/2007/01/30105136

promised would not be paid in time for the election (but it would be backdated).¹¹⁸ Other issues which had unfortunate timing for Labour in the run up to the election include: a story suggesting that some GP surgeries were refusing new patients (despite the generous new contract), a Scotsman report taking the Executive to task on its waiting list figures, (perhaps) unfavourable coverage about the use of the private sector to deliver healthcare, and further parliamentary criticism over the (weak) link between pay rises for hospital consultants and better patient care.¹¹⁹

10.6 Public Health

The previous monitor outlined Executive policies on cigarettes, drugs and hepatitis C. In January it followed up its public health agenda with a restatement of policy on alcohol – the licensing act on drinks promotions, plans for test-purchasing to tackle under-age sales, a £10m advertising campaign. There were 2353 alcohol-related deaths in 2005.¹²⁰ March marked the first anniversary of the decision to introduce the smoking ban, now labelled by Health Scotland as, ‘one of the most important changes in public health policy for a generation’ but criticised by the licensed trade as bad for business.¹²¹ An unanticipated spin-off is that the European Commission plans to follow the consultation process used by the Executive.¹²² Two Executive ministers (Henry in education and Jamieson in crime) announced a review of drugs education in March.¹²³

10.7 Education and Children

Education was Labour’s big theme during the election, with £1.2bn promised (and diverted from other funds) on top of the existing £6.4bn per year. This coincided with

¹¹⁸ P. McMahon and L. Gray ‘Nurses miss out on early pay rise’, *The Scotsman*, 27 April 2007 <http://news.scotsman.com/topics.cfm?tid=57&id=647662007>; H. MacDonell ‘Electioneering jibe as Kerr stuns nurses with 2.5% rise’, *The Scotsman* 14 March 2007 <http://news.scotsman.com/topics.cfm?tid=57&id=397632007>

¹¹⁹ K. Foster ‘Patients turned away as crisis looms’, *Scotland on Sunday*, 15 April 2007 <http://news.scotsman.com/topics.cfm?tid=57&id=577452007>; L. Moss ‘Hip and knee patients wait longer in face of claims lists at record low’, *The Scotsman*, 20 March 2007 <http://news.scotsman.com/topics.cfm?tid=57&id=429982007>; Scottish Executive News Release, ‘Patient waiting times at all time low’, 27 February 2007, www.scotland.gov.uk/News/Releases/2007/02/27104815; *The Scotsman*, ‘McConnell defends controversial centre’, 26 February 2007; *The Scotsman*, ‘Benefits to patients of £235m NHS consultants’ deal called into doubt’, 24 January 2007, <http://news.scotsman.com/topics.cfm?tid=57&id=121552007>

¹²⁰ Scottish Executive News Release, ‘Alcohol statistics “show scale of challenge”’, 30 January 2007, www.scotland.gov.uk/News/Releases/2007/01/30105356

¹²¹ Scottish Executive News Release, ‘First anniversary of smoking law’, 26 March 2007. www.scotland.gov.uk/News/Releases/2007/03/23130308; R. Robertson, *The Herald*, ‘Pub trade “has gone up in smoke”’, 23 March 2007.

¹²² Scottish Executive News Release, ‘Scotland and Europe’, 20 March 2007 www.scotland.gov.uk/News/Releases/2007/03/20095405

¹²³ Scottish Executive News Release, ‘Drug education to be revamped’, 2 March 2007. www.scotland.gov.uk/News/Releases/2007/03/02095005; ‘Minister outlines refocused drugs strategy’, 2 March 2007 www.scotland.gov.uk/News/Releases/2007/03/02093303

calls from universities for a substantial funding increase to stave off the effects of tuition fees and competition in England, and calls from head teachers association in Scotland to reduce the gap between head teacher pay in Scotland and England.¹²⁴ The rising recruitment of teachers combined with falling school rolls means that the pupil-teacher ratio has fallen from 19: 1 to 16: 1 in primary schools since 1999 (and 13: 1 to 12: 1 in secondary). The Scottish Executive target of 53000 teachers by 2008 has almost been reached.¹²⁵ 23 extra schools qualified for the 'Schools of Ambition' funding of £100,000 for three years.¹²⁶ A UK-wide agenda on the education of looked after children was highlighted in January.¹²⁷

10.8 Education and Lifelong Learning/ Fresh Talent

The threshold for grant support for part-time students was raised from £13,000 to £15,367 in March.¹²⁸ The Home Office extended Scotland's Fresh Talent scheme to those with post-graduate diplomas and certificates. The ability to stay in Scotland for two years after graduation remains (in comparison with one year in England).¹²⁹ Respectme is a service which extends anti-bullying messages from schools to the wider world.¹³⁰

10.9 Environment, Fishing and Rural Affairs

A notable Scottish difference is the decision not to fund incineration as part of a waste reduction strategy. This is still absent in the latest Executive commitment to reduce landfill (at a cost of £48m, perhaps offset by fewer EU fines). Since no party will touch this issue with a barge pole, it may just come down to the unlucky party in office when or if the levels of waste reach crisis proportions.¹³¹ The Executive continues to work with the rest of the UK to secure voluntary agreements on plastic

¹²⁴ S. Carrell, *The Guardian* 'Labour pledges best education system for Scotland: McConnell launches election campaign End to unemployment among other promises', 11 April 2007, p.13; S. Carrell *The Guardian* 'Education: Mixed messages: Scottish universities battle budget shortfalls - while ministers make education an election centrepiece', 13 March 2007; S. English *The Times* 'Scots heads earning less than in England', 28 March 2007, p.33.

¹²⁵ Scottish Executive News Release, 'Teacher numbers rising', 27 March 2007.
www.scotland.gov.uk/News/Releases/2007/03/27101132

¹²⁶ Scottish Executive News Release, 'More Schools of Ambition', 23 February 2007.
www.scotland.gov.uk/News/Releases/2007/02/22163509

¹²⁷ D. Andalo 'Ofsted calls for child services cooperation', *The Guardian*, 10 April 2007, <http://education.guardian.co.uk/ofsted/story/0,,2053871,00.html>; Scottish Executive News Release, 'Education for care children tops agenda', 15 January 2007,
www.scotland.gov.uk/News/Releases/2007/01/15111140

¹²⁸ Scottish Executive News Release, 'Funding for part-time students', 14 March 2007,
www.scotland.gov.uk/News/Releases/2007/03/14103419

¹²⁹ Scottish Executive News Release, 'Fresh Talent extended', 28 March 2007,
www.scotland.gov.uk/News/Releases/2007/03/28120522

¹³⁰ Scottish Executive News Release, 'New service to stamp out bullying', 13 March 2007.
www.scotland.gov.uk/News/Releases/2007/03/13090740

¹³¹ Scottish Executive News Release, 'Way forward for recycling', 14 March 2007
www.scotland.gov.uk/News/Releases/2007/03/14111034

bags (rather than allow Mike Pringle MSP to legislate).¹³² Catering establishments will soon have to tell customers the origin of their beef.¹³³

10.10 Energy

The controversial Beaulieu to Denny line which ensures the flow of electricity from renewable and other sources trundled through its public inquiry in this period. The big sticking point is whether to use huge pylons (the favoured plan of the energy companies) or to bury the cables underground (which includes a stretch through the Cairngorms National Park).¹³⁴ The issue of wind farms also remained high on the agenda.¹³⁵ Jack McConnell described Scotland's climate change programme as, 'being among the biggest and best in the world' when announcing a 15 per cent carbon emissions reduction requirement for new renewable energy projects.¹³⁶

10.11 Crime and Punishment

Crime became key battle ground in the run up to the election, although it is difficult to see how voters could differentiate between the parties.¹³⁷ The Executive continued its push to reform sentencing by passing the Criminal Proceedings etc (Reform) (Scotland) Bill which gives summary courts greater powers to sentence and a greater range of sentencing options. It suggests that recent figures confirm the benefits of community sentencing.¹³⁸ It also continues the agenda on knife and sword crime. A Lord Advocate discussion of knife crime suggests that new powers allow greater sentencing and a bigger deterrent.¹³⁹ New powers to arrest those who exploit marches and parades to intimidate bystanders come into force on April 1 as part of the Police, Public Order and Criminal Justice (Scotland) Act 2006.¹⁴⁰ Reforms to High Court procedures were largely deemed successful by an Aberdeen University report

¹³² Scottish Executive News Release, 'Action on carrier bags', 28 February 2007.

www.scotland.gov.uk/News/Releases/2007/02/27142902

¹³³ Scottish Executive News Release, 'Beef to be labelled with country of origin', 8 February 2007, www.scotland.gov.uk/News/Releases/2007/02/08093117

¹³⁴ See for example I. MacWhirter, 'Pylons a small price if they help save our planet', *The Herald*, 7 February 2007, www.theherald.co.uk/features/features/display.var.1173814.0.0.php

¹³⁵ D. Ross, *The Herald*, 'Power struggle that continues to fuel this stormy debate', 26 April 2007, p.13.

¹³⁶ Scottish Executive News Release, 'Planning guidance for renewable energy', 22 March 2007, www.scotland.gov.uk/News/Releases/2007/03/22095556

¹³⁷ *The Scotsman*, 'Laying down the law and order priorities', 23 April 2007, <http://news.scotsman.com/topics.cfm?tid=307&id=620302007>

¹³⁸ Scottish Executive News Release, 'Confidence in community justice grows', 30 January 2007, www.scotland.gov.uk/News/Releases/2007/01/30111858

¹³⁹ Scottish Executive News Release, 20 March 2007 'Knife crime policy', 20 March 2007, www.scotland.gov.uk/News/Releases/2007/03/20113744; 'MSPs back Bill aimed at improving public safety', 15 March 2007, www.scotland.gov.uk/News/Releases/2007/03/15163052

¹⁴⁰ Scottish Executive News Release, 'Marches and parades', 29 March 2007, www.scotland.gov.uk/News/Releases/2007/03/29100154

commissioned by the Executive.¹⁴¹ Stronger measures to address sex offenders were introduced following parliamentary scrutiny.¹⁴² New laws on 'kerb crawling' were also introduced.¹⁴³ New powers for the police to give fixed penalty notices for antisocial behaviour were introduced from February following a positive review of pilot projects.¹⁴⁴

10.12 Transport

The Cabinet agreed in principle to replace the Forth Road Bridge (at a cost of over £1bn) in February; a new bridge or tunnel will be decided after more exploratory work.¹⁴⁵ Private legislation to approve the Airdrie-Bathgate railway line was passed in March. The budget for the project is £300m.¹⁴⁶ This coincided with work beginning on the Borders rail link.¹⁴⁷ A far bigger budget (£600m) for the Edinburgh tram system became a hot topic in the run up to local and national elections in Edinburgh, with the SNP the most notable among detractors; £60m was released for preparatory work in March.¹⁴⁸ £2.3m was granted to increase sea freight near Inverness, with the potential to save '800,000 lorry miles every year'.¹⁴⁹ Preliminary plans to replace private providers of rail services were mooted in April.¹⁵⁰ Scotland's new roads 'czar' was announced in March.¹⁵¹ The issue of road tolls was still on the Executive's agenda according to transport minister Tavish Scott.¹⁵² The tendering process for CalMac took a turn when it appeared that the Executive had no dispensation from Whitehall to appeal for a special case.¹⁵³

¹⁴¹ Scottish Executive News Release, 'High Court reforms judged a success', 26 February 2007, www.scotland.gov.uk/News/Releases/2007/02/26103321

¹⁴² Scottish Executive News Release, 'Measures to manage sex offenders', 20 February 2007, www.scotland.gov.uk/News/Releases/2007/02/20134803

¹⁴³ Scottish Executive News Release, 'Powers proposed to tackle "kerb crawling"', 17 January 2007, www.scotland.gov.uk/News/Releases/2007/01/17091217

¹⁴⁴ Scottish Executive News Release, 'New police powers to tackle disorder', 13 February 2007, www.scotland.gov.uk/News/Releases/2007/02/13093946

¹⁴⁵ Scottish Executive News Release, 'Ministers back new Forth crossing', 14 February 2007, www.scotland.gov.uk/News/Releases/2007/02/14104506

¹⁴⁶ Scottish Executive News Release, 'Rail link on track for green light', 28 March 2007, www.scotland.gov.uk/News/Releases/2007/03/28161054

¹⁴⁷ Scottish Executive News Release, 'Milestone for Borders rail project', 27 March 2007, www.scotland.gov.uk/News/Releases/2007/03/27130718

¹⁴⁸ B. Ferguson 'City leader under fire over trams', *Evening News*, 18 April 2007; Scottish Executive News Release, 'Edinburgh tram work given go ahead', 16 March 2007, www.scotland.gov.uk/News/Releases/2007/03/16135234

¹⁴⁹ Scottish Executive News Release, 'Funding to take freight off roads', 21 March 2007, www.scotland.gov.uk/News/Releases/2007/03/21105827

¹⁵⁰ S. Paterson, *The Herald*, 'Cautious approval for plan to end rail network private ownership', 13 April 2007, p.9.

¹⁵¹ B. Donnelly, *The Herald*, 'Scotland's newest "czar" takes to the roads', 31 March 2007, p.1.

¹⁵² *The Herald*, 'Road tolls are still on our agenda, says Tavish Scott', 23 February 2007 p.7.

¹⁵³ D. Ross, *The Herald*, 'Executive was sidelined over CalMac ferry tender bids; Whitehall rejected pleas to scrap process', 16 February 2007, p.2.

10.13 Public Campaigns and Consultations

After a brief flirtation with the idea of legislation, the Executive has decided that health and safety legislation is largely a reserved matter. It therefore announced in March a more limited initiative to develop advisory services and promote worker involvement in workplace health and safety procedures.¹⁵⁴ Detailed plans to introduce a single survey for home sales are undergoing consultation, presumably to ward off the bad publicity experienced in England.¹⁵⁵ Perhaps the same goes for the reform to NHS staff and teachers' pensions following last year's outcry about the retirement age.¹⁵⁶

¹⁵⁴ Scottish Executive News Release, 'Health and safety action plan', 28 March 2007, www.scotland.gov.uk/News/Releases/2007/03/28102226

¹⁵⁵ Scottish Executive News Release, 'Consultation on "single survey", plan', 20 February 2007. www.scotland.gov.uk/News/Releases/2007/02/20124401; *The Times*, 'Home sale packs may be doomed after Kelly U-turn', 23 May 2007.

¹⁵⁶ Scottish Executive News Release, 'NHS staff and teachers' pensions', 14 February 2007, www.scotland.gov.uk/News/Releases/2007/02/14114242

The **Constitution** Unit

**DEVOLUTION
MONITORING
PROGRAMME
2006-08**

Scotland Devolution Monitoring Report

September 2007

Akash Paun (ed.)

The Constitution Unit

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The Devolution Monitoring Programme

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

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

- Scotland: **Charlie Jeffery** (for January 2008 report onwards)
Institute of Governance, University of Edinburgh
- Wales: **Dr Richard Wyn Jones & Dr Roger Scully**
Institute of Welsh Politics, University of Wales, Aberystwyth
- Northern Ireland: **Professor Rick Wilford & Robin Wilson**
Queen's University, Belfast
- English Regions: **Martin Burch, Alan Harding & James Rees**
IPEG, University of Manchester
- The Centre: **Professor Robert Hazell**, The Constitution Unit, UCL
Akash Paun, The Constitution Unit, UCL

The Constitution Unit and the rest of the research network is grateful to all the funders of the devolution monitoring programme.



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Scotland Devolution Monitoring Report

September 2007

Akash Paun (ed.)

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Abbreviations and Acronyms

COSLA	Convention of Scottish Local Authorities
EARL	Edinburgh Airport Rail Link
FPTP	First Past the Post
LIT	Local Income Tax

Chronology of Key Events: May – September 2007

- 3 May Elections to Scottish Parliament and all 32 Scottish local councils, the latter using the Single Transferable Vote system for the first time.
- 4 May Problems with electronic counting machines and an unprecedentedly high number of spoilt ballot papers cause delays in the announcement of the election results.
- 4 May The Highlands and Islands is the last region to declare. The final result gives the SNP a one-seat victory in the Scottish Parliament. The new Parliament will consist of 47 SNP members, 46 Labour, 17 Conservatives, 16 Lib Dems, 2 Greens and 1 Independent.
- 4 May The SNP also becomes the largest party in Scottish local councils, with a total of 363 councillors to Labour's 348. As a result of the new proportional system, 'no overall control' councils become the norm, with a single-party majority in only 2 of 32 councils (Labour in both cases).
- 6-7 May Lib Dems publicly rule out forming a coalition with either Labour or SNP. Minority government beckons.
- 9 May Newly elected MSPs sworn in. With no Socialist members returned to Parliament, this ceremony proceeds without any renditions of Robert Burns, unlike in 2003. The Parliament adjourns while negotiations between the parties continue on the shape of the new government, and also on who is to be the new Presiding Officer.
- 11 May SNP and Greens publish cooperation agreement confirming that the two Green MSPs will support Alex Salmond for the post of First Minister.
- 14 May Alex Fergusson (Conservative) elected as Presiding Officer, with Trish Godman (Labour) and Alasdair Morgan (SNP) as deputies.

- 14 May Electoral Commission announces that Canadian electoral expert Ron Gould will head their review of the problems surrounding the 3 May elections.
- 16 May Alex Salmond elected First Minister with the support of the 49 SNP and Green MSPs.
- 17 May The new SNP ministerial team is elected by the Parliament. The size of the Cabinet is reduced to six (including the First Minister), with ten junior ministers.
- 24 May Scottish Parliament Corporate Body elected. In addition to the Presiding Officer, the four major parties take one seat each.
- 13 June Scottish Parliament committees established for 2007-11 Session.
- 18 June Alex Salmond visits Stormont, meeting Northern Ireland First Minister Ian Paisley and Deputy First Minister Martin McGuinness.
- 27 June Scottish Executive suffers first defeat, on its plans to scrap the Edinburgh trams project.
- 28 June Alex Salmond announces creation of a Council of Economic Advisers to improve Scotland's economic performance.
- 28 June Holyrood closes for summer recess.
- 30 June Third session of Scottish Parliament formally opened by the Queen.
- 30 June Terrorist attack on Glasgow Airport.
- 16 July Alex Salmond and External Affairs minister Linda Fabiani attend British-Irish Council meeting in Belfast.

- 13 August The leaders of the three opposition parties publish joint statement condemning the SNP plans to publish a white paper on independence, but pledging to engage in debate on reform of the devolution settlement.
- 14 August SNP issues white paper on independence, *Choosing Scotland's Future: A National Conversation*. The European and External Relations Committee announces it will scrutinise the paper.
- 15 August Former First Minister Jack McConnell resigns as Scottish Labour leader.
- 21 August Wendy Alexander confirmed as Scottish Labour leader, after no challenge was mounted against her for the party leadership.
- 30 August Scottish Executive announces a package of funding for Higher Education institutions to allow them to better support overseas students at university or college in Scotland.
- 3 Sept In a move costing £100,000, the Scottish Executive is renamed the Scottish Government as part of a rebranding exercise. The Scottish Government will continue to be referred to as the Scottish Executive in a legal sense however, as dictated by the Scotland Act 1998.
- 5 Sept Scottish Parliament returns from recess. Alex Salmond announces legislative programme for forthcoming parliamentary year.

Introduction and Summary

The period covered by this monitoring report (May to August 2007) saw a rash of firsts in Scottish politics: an SNP electoral victory, the election of a nationalist First Minister, the establishment of a minority government at Holyrood, and the publication of a white paper on independence. None was entirely unexpected, yet taken together these developments herald the beginning of a new phase in Scottish devolution and indeed in territorial politics across the UK. This report is structured as usual, with separate sections focussing on the Executive, the Parliament, the media, local government, political parties, intergovernmental relations and so on, but to all of these thematic chapters the changed political environment provides a dynamic backdrop.

Thursday 3 May was election day across Scotland, with all 129 seats to the Scottish Parliament and all 32 local councils up for grabs.¹ The Holyrood poll saw the SNP triumph by a whisker, outpolling Labour by 0.7 per cent and 1.9 per cent in the constituency and regional ballots respectively, putting the nationalists one seat ahead of Labour in the new Parliament. Despite pre-election predictions of a Labour meltdown, the SNP's narrow victory came primarily at the expense of the minor parties and independents, with the 'Rainbow Parliament' elected in 2003 replaced by almost complete domination by the four major Scottish parties. The final tally was 47 seats for the SNP (+20), 46 for Labour (-4), 17 for the Conservatives (-1), 16 for the Liberal Democrats (-1), and 3 others (-14). By the time all the ballot papers had been counted (or indeed discounted, as were an unprecedented 142,000), the SNP had also overtaken Labour to become the largest party of local government in Scotland, in the first council elections to be held under the Single Transferable Vote system.

As the dust settled following the chaos surrounding the spoilt ballots and problems with electronic counting machines, it gradually became clear that the one-seat lead claimed by the SNP would give Alex Salmond sufficient momentum to form the new Scottish Executive, which he eventually did with the support of the two Green MSPs. The Liberal Democrats and Conservatives abstained in the final run-off vote between Salmond and

¹ See BBC News, 'Election 2007', at: http://news.bbc.co.uk/1/hi/in_depth/uk_politics/2007/election_2007/default.stm

Jack McConnell for the position of First Minister; McConnell later resigned as Labour leader, to be succeeded by Wendy Alexander.

Having established his slimmed-down executive (later rebranded 'The Scottish Government), Alex Salmond embarked upon a 'first 100 days' of announcements and initiatives that culminated in the publication of *Choosing Scotland's Future: A National Conversation*, the promised white paper on constitutional reform.²

While unequivocally in favour of repeal of the 1707 Anglo-Scottish Union (though not the 1603 Union of the Crowns), much of the paper was devoted to discussing which further powers could be devolved to Edinburgh without necessitating the dissolution of the UK. Not surprisingly, the SNP's white paper took an expansive view, advocating the transfer of powers in areas including economic and fiscal policy, employment and trade union law, social security and pensions, broadcasting, anti-terrorism and firearms law, energy and climate change policy.

Despite the fact that changes to the legislative competence of the Scottish Parliament are a matter for Westminster, and the fact that over 60 per cent of MSPs oppose independence, the SNP's strategy has been a clear success in agenda-setting terms. The white paper incited the three opposition parties to issue a joint statement condemning the nationalist agenda but also pledging 'to enter into debate jointly about the way in which devolution within the UK can best develop'.³

After the earthquake of 3 May and the series of tremors since, the Scottish political landscape has been radically altered over the period covered by this report. Its new contours are explored in detail in the thematic sections that follow.

Akash Paun
The Constitution Unit⁴

² Scottish Executive, *Choosing Scotland's Future: A National Conversation. Independence and Responsibility in the Modern World* (August 2007), at: www.scotland.gov.uk/Publications/2007/08/13103747/0

³ Jack McConnell, Annabel Goldie and Nicol Stephen, 'Statement on Independence' (13 August 2007), at: <http://news.bbc.co.uk/1/hi/scotland/6944185.stm>

⁴ With thanks to Andrew Powell for his assistance.

1. The Scottish Executive

Paul Cairney

1.1 From Coalition Scottish Executive to Minority Scottish Government

Despite the pre-election talk regarding the likely coalition between the SNP and Liberal Democrats, the parties were unable to come to an agreement. Following the Liberal Democrat commitment not to enter into coalition talks with Labour, the path was clear for Alex Salmond's election as First Minister in a minority administration (although more newspaper stories use the term 'minority government') with the support of 47 MSPs (compared to Labour's 46). This was bolstered by the qualified support (on votes of no confidence and the budget) of the 2 Green MSPs in exchange for some assurances on environmental policy (see section 10). From 1 September, the Scottish Executive's name officially changes to Scottish Government. While this was an obvious move for the SNP (and target for opposition parties), it is backed by evidence that the term 'Scottish Executive' has not captured the public imagination:

The decision was taken to adopt the new identity because research showed that the term Scottish Executive was confusing or meaningless to many members of the public ... The change is intended to help the public more clearly understand the role and functions of the devolved Government in Scotland.⁵

1.2 The New Ministerial Team and its Responsibilities

The absence of a coalition has made it easier for the SNP to have a very quick win regarding its manifesto commitments. One of its first announcements was the decision to 'slim down' the Scottish Cabinet to six ministers (or 'Cabinet Secretaries'), and ten deputies (not including the two legal posts of Lord Advocate and Solicitor General):

Office of the First Minister

First Minister – Alex Salmond

Minister for Europe, External Affairs and Culture – Linda Fabiani

Minister for Parliamentary Business – Bruce Crawford

Health and Wellbeing

⁵ Scottish Government News Release 'The Scottish Government: It's Official' 1 September 2007
www.scotland.gov.uk/News/Releases/2007/09/31160110

Deputy First Minister and Cabinet Secretary – Nicola Sturgeon
Minister for Public Health – Shona Robison
Minister for Communities And Sport – Stewart Maxwell

Finance and Sustainable Growth

Cabinet Secretary – John Swinney
Minister for Enterprise, Energy and Tourism – Jim Mather
Minister for Transport, Infrastructure and Climate Change – Stewart Stevenson

Education and Lifelong Learning

Cabinet Secretary – Fiona Hyslop
Minister for Schools and Skills – Maureen Watt
Minister for Children and Early Years – Adam Ingram

Justice

Cabinet Secretary – Kenny Macaskill
Minister for Community Safety – Fergus Ewing

Rural Affairs and the Environment

Cabinet Secretary – Richard Lochhead
Minister for Environment – Michael Russell

This compared to eleven cabinet ministers plus seven deputies before the election, with savings of £500,000 per year suggested by John Swinney MSP (£230,000 in ministerial salaries plus £300,000 in civil service salaries).⁶ The move was highlighted by Alex Salmond as a first blow in his administration's efficient government agenda, while it would also ensure a smaller and more manageable group (particularly compared to the UK Cabinet, which is often described as a forum for broad discussions rather than a decision-making body):

The central point is the fact that, until today, we have had nine Government departments, 27 executive agencies and 152 quangos. My belief is that that was

⁶ *The Scotsman* 'Swinney says SNP cuts have saved over £500,000' 6 June 2007
<http://news.scotsman.com/politics.cfm?id=884522007>

too many Government departments, too many executive agencies and too many quangos for a country of 5 million people.⁷

Of course, there is also a trade-off between the size of the cabinet and the range of responsibilities that each Cabinet Secretary will have, particularly since these often cut across departments. Before devolution, the existence of 'ministers without ministries' could be presented as a way to foster 'joined-up government' since each minister could have a roaming brief across departments as a means to reduce a silo mentality. This picture was first undermined in 2001 when Wendy Alexander appeared to be bribed by Jack McConnell into staying in office with the promise of a huge department. Alexander was subsequently dubbed 'Minister for Everything' and the wide range of responsibilities undermined the idea of cross-departmental control.⁸ The development of a departmental fiefdom in Finance and Sustainable Growth for John 'thirty-eight jobs' Swinney in the name of joined-up government and central coordination has raised similar criticisms.⁹ Although Swinney's department has two deputies, the responsibilities of the Department of Finance and Sustainable Growth are indeed considerable (see below).

Office of the First Minister

In addition to heading the devolved government, the First Minister is responsible for: the development, implementation and presentation of Government policy, constitutional affairs, and promoting and representing Scotland.

Finance and Sustainable Growth

Cabinet Secretary responsibilities include: the economy, the Scottish Budget, public service reform, deregulation, local government, public service delivery, cities and community planning, General Register Office, Registers of Scotland, relocation, e-government, Scottish Public Pensions Agency, procurement, budgetary monitoring, business and industry including Scottish Enterprise, Highlands and Islands Enterprise,

⁷ See Scottish Parliament Official Report 17 May 2007 cc 37-47

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0517-02.htm

⁸ Mitchell, J. (2003) 'Third Year, Third First Minister' in R. Hazell (ed.) *The State of the Nations 2003* (London: Imprint); Parry, R and Jones, A. (2000) 'The transition from the Scottish Office to the Scottish executive' *Public Policy and Administration* 15(2), p.54; Keating, M. (2005) *The Government of Scotland* (Edinburgh University Press), p. 98.

⁹ For Wendy Alexander's reaction see SPOR 24 May 2007 cc. 137-8

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0524-02.htm#Col137. For Jack McConnell quoting Swinney criticising Alexander's portfolio, see SPOR 17 May 2007 col.44 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0517-02.htm#Col37

trade and inward investment, corporate social responsibility, voluntary sector and the social economy, community business and corporate development, European Structural Funds, energy, tourism, land use planning system, climate change, building standards, transport policy and delivery, public transport, road, rail services, air and ferry services, and Scottish Water.

Education and Lifelong Learning

Cabinet Secretary responsibilities include: further and higher education, science and lifelong learning, school education, training and skills, HM Inspectorate of Education and the Scottish Qualifications Authority, nurseries and childcare, children's services, children's hearings, social work and HM Social Work Inspectorate.

Health and Wellbeing

Cabinet Secretary responsibilities include: the NHS, health service reform, allied healthcare services, acute and primary services, performance, quality and improvement framework, health promotion, sport, public health, health improvement, pharmaceutical services, food safety and dentistry, community care, older people, mental health, learning disability, substance misuse, social inclusion, equalities, anti-poverty measures, housing and regeneration.

Justice

Cabinet Secretary responsibilities include: criminal law and procedure, youth justice, criminal justice social work, police, prisons and sentencing policy, legal aid, legal profession, courts and law reform, anti-social behaviour, sectarianism, human rights, fire and rescue services, community safety, civil contingencies, drugs policy and related matters, liquor licensing, vulnerable witnesses, victim support and civil law, charity law, religious and faith organisations.

Rural Affairs and the Environment

Cabinet Secretary responsibilities include: agriculture, fisheries and rural development including aquaculture and forestry, environment and natural heritage, land reform, water quality regulation and sustainable development.¹⁰

¹⁰ For a list of ministers and their responsibilities see www.scotland.gov.uk/About/14944/Scottish-Cabinet

1.3 The Law Officers

Previous monitoring reports discussed the potential for conflict between the Lord Advocate's political and prosecution roles – as chief legal adviser to and member of the Scottish Cabinet on the one hand, and Scotland's chief prosecutor on the other. The two roles are performed by two people in the UK – the Attorney General and the Director of Public Prosecutions – and conflation of the two in Scotland is a matter of particular concern since the status of advocate was seen traditionally as a symbol of independence from government. This was addressed almost immediately when Alex Salmond announced that the government would retain Elish Angiolini (despite her appointment by the previous government) but would remove the automatic inclusion of the Lord Advocate in Cabinet meetings: 'That will emphasise the apolitical and professional role that the Lord Advocate and I have agreed is appropriate in the provision of legal advice to Government'.¹¹ The move received unanimous support in the Scottish Parliament, although Salmond ruffled some Labour feathers when he suggested that the actions of the Attorney General during the war in Iraq demonstrated the problems of law officer independence when in Cabinet. While Jack McConnell (and the other parties) welcomed the appointment of Frank Mulholland QC as the new Solicitor General For Scotland, he suggested that Mulholland's predecessor John Beckett's association with the Labour Party had not affected his independence in office.

1.4 An Independent Civil Service?

Civil service management, recruitment and equal opportunities policy is a reserved matter. This suggests that the civil service in Scotland may have a 'practical loyalty' towards their respective ministers, but an 'ultimate loyalty' to the Crown and Whitehall.¹² Therefore, not surprisingly, the formation of an SNP administration has highlighted the prospect of an independent Scottish civil service which enjoys a formal status within the Union (as is the case for Northern Ireland). Yet this would not necessarily mark a radical break from the past since in practice Scottish ministers have a strong say on senior recruitment; mobility between the services is already low; and Whitehall already forgets to consult with the Scottish Executive (Government) when formulating UK policies.¹³

¹¹ Scottish Parliament Official Report 24 May 2007 Col. 105

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0524-02.htm#Col137

¹² Rhodes, R., Carmichael, P., McMillan, J. and Massey, A. (2003) *Decentralizing the Civil Service* (Open University Press), p.97.

¹³ Parry, R. (2003) 'The Home Civil Service After Devolution', *The Devolution Policy Papers*

www.devolution.ac.uk/policy_paper_parry.htm; Keating, M. (2005) *The Government of Scotland* (Edinburgh

Given that this forgetfulness may turn to wilful neglect under an SNP government, a more formal relationship with systematic procedures to consult may in some cases improve the relationship (this is certainly the belief of Alex Salmond – see section 1.5). The fact that Scottish autonomy is a mixed bag and that independence would only accelerate an existing trend was demonstrated very quickly by the Scottish Executive's Permanent Secretary John Elvidge. Elvidge suggests that the informal contacts between civil servants in Scotland and England have already diminished, with a more formal relationship following the unwillingness of separate governments to reveal sensitive aspects of policy development. Therefore, any further change would be, 'breaking quite a slender thread'.¹⁴

1.5 Alex Salmond for First Minister

Since the SNP's election campaign focussed heavily on its leader (to the extent that 'Alex Salmond For First Minister' appeared on many ballot forms), it is no surprise that much coverage of the SNP government has focussed on him rather than the party. Therefore, although Alex Salmond became the third First Minister (after Donald Dewar and Henry McLeish) to have extensive Westminster experience, he is the first to have his dual mandate questioned so seriously. Labour's criticism during the election campaign focussed on his decision in 2000 to leave the Scottish Parliament to become a full-time MP (Salmond's position was that after resigning as party leader, he should not overshadow John Swinney's leadership). This was followed by a *Daily Record* front page criticising Alex Salmond's double income after his election pledge only to receive one.¹⁵ Although this proved to be a storm in a tea cup, it highlighted the complexities surrounding a seemingly simple decision. The Scotland Act's secondary legislation states that dual mandate MPs are entitled to keep their full £60,000 salary as an MP plus one-third of the £53,000 MSP salary (plus the First Ministerial premium of £77,000). Although Salmond's preferred option may have been to forego his Westminster salary,

University Press), p. 103 and p.125; Keating, M. and Cairney, P. (2006) 'A New Elite? Politicians and Civil Servants in Scotland after Devolution', *Parliamentary Affairs*, 59, 1, p.53. See also the previous Scottish Executive monitor discussion of Scotland in Europe.

¹⁴ P. McMahon 'A very civil separation', *The Scotsman* 19 July 2007

<http://news.scotsman.com/index.cfm?id=1124542007>; P. McMahon 'Salmond backs mandarin in civil service row', *The Scotsman* 20 July 2007 <http://thescoatsman.scotsman.com/scotland.cfm?id=1131522007s>; P. McMahon 'Top mandarin accused of 'fawning' over Salmond and breaking bias rule' *The Scotsman* 21 August 2007 <http://news.scotsman.com/topics.cfm?tid=867&id=1323102007>; B. Brady 'Civil servants fear Scotland will be cut off from rest of the UK' *Scotland on Sunday* 27 May 2007 <http://news.scotsman.com/topics.cfm?tid=867&id=823282007>

this would have required primary or secondary legislation in Westminster via the Scotland Office and/or an unprecedented arrangement with the Westminster authorities to withhold the salary (it would also effectively cost the Scottish Parliament an extra £35,000 per year). The simpler solution was to pay a proportion of his MSP salary to charity.¹⁶

The early signs of the attention given to Salmond suggest that his activities are designed to cultivate his image as a 'statesman', with a focus on:

- His relationship with the UK Government and its Prime Minister. Although the SNP opted for reasoned argument when raising issues such as the civil service or gun laws, Salmond was highly critical of Tony Blair following the lack of UK-Scotland communication over the future of the person convicted of the Lockerbie bombing, and of the UK Government following BP's decision to delay a carbon capture project in Scotland.¹⁷ During this period, Salmond made no secret of his preference for Gordon Brown over Tony Blair as Prime Minister.
- Europe – following Salmond's speech at Scotland House in Brussels suggesting that Scotland 'raises its game' internationally and takes more of a lead in Europe (with fisheries negotiations the obvious first step).¹⁸
- Greater use of the Joint Ministerial Committee, the forum for intergovernmental discussions between UK and devolved administrations which has barely been used since 1999.¹⁹

Further, on the domestic front, Salmond has focussed most effort on the 'national conversation' on independence (see 10.1). This perhaps suggests that Salmond will continue Jack McConnell's light touch control of policy departments, with the delegation

¹⁵ M. Gardham 'Eck's Two Cheques. Salmond Is Paid As MSP And MP Despite Election Pledge', *Daily Record* 5 July 2007, p.1.

¹⁶ M. Gardham 'One Cheque Eck. Salmond Keeps Westminster Pay And Gives Holyrood £17k To Good Causes', *Daily Record* 10 July 2007 p.2.

¹⁷ J. Kirkup 'Blair blames Salmond for row over Gaddafi talks', *The Scotsman* 12 June 2007

<http://thescoatsman.scotsman.com/index.cfm?id=915562007>; J. Kirkup 'BBC says sorry to First Minister for 'rude and dismissive' interview', *The Scotsman* 9 June 2007

<http://thescoatsman.scotsman.com/index.cfm?id=902402007> (This has 942 comments attached); L. Gray 'Salmond wants 'meeting of equals' with PM', *The Scotsman* 16 July 2007

<http://news.scotsman.com/politics.cfm?id=1104632007>

¹⁸ K. Schofield 'Salmond calls for 'era of renewed internationalism', *The Herald*, 12 July 2007 p.6.

of much oversight to the increasingly significant Finance and Sustainable Growth department under John Swinney.

1.6 Relocation

Early reports suggest that while the SNP government may support the principle of relocating civil service jobs from Edinburgh, it is less convinced of the practical benefits. The new Scottish Legal Complaints Commission will be in Edinburgh, while NHS Quality Improvement Scotland will not move to Glasgow.²⁰ However, the decision by the Department of Work and Pensions to relocate 95 staff from Edinburgh to Glasgow reminds us that most civil servants working in Scotland do so for the UK (74 per cent) rather than the Scottish government (26 per cent). This suggests that relocation is still largely a reserved matter.²¹

¹⁹ Scottish Executive Media Briefing 'First Minister in Northern Ireland' 18 June 2007

www.scottishexecutive.gov.uk/News/This-Week/Media-Briefings/070618

²⁰ L. Gray 'Jobs-relocation strategy under Executive review' 28 July 2007 *The Scotsman*

<http://news.scotsman.com/topics.cfm?tid=802&id=1176992007>; L. Gray '£22m plan to move health staff out of capital axed as 'waste of cash'', *The Scotsman* 28 August 2007

<http://news.scotsman.com/topics.cfm?tid=802&id=1363942007>

²¹ Cabinet Office (2005) Civil Service Statistics 2005: Location

www.civilservice.gov.uk/management/statistics/publications/xls/report_2005/table_a.xls; N. McGarvey and P. Cairney (2008) *Scottish Politics* (London: Palgrave)

2. The Scottish Parliament

Paul Cairney

2.1 The Presiding Officer

Most of the roles performed by Presiding Officer are also performed by the Speaker at Westminster. However, the advent of minority government should ensure that the role as chair of the Parliamentary Bureau (also known as the business committee) becomes more significant. From 1999-2007, although the discussions may have been fairly collegiate, the ruling coalition effectively controlled parliamentary business since it could command a majority of the block votes used to set the agenda. Now there is a greater prospect of ongoing negotiations, with the SNP requiring support from at least one of the smaller parties. Electoral circumstances also determine the supply of candidates for the role. In 1999 and 2003 the post was held in high esteem and the elections (through a secret ballot) of Sir David Steel (Liberal Democrat) and George Reid (SNP) were seen to an extent as rewards for previous public service. In 2007 the number of MSPs in each party was so finely balanced²² that the loss of one-vote (to maintain the impartiality of the role) was crucial. The election of a Presiding Officer was delayed until it became clearer which party would form a government. While Margo MacDonald, as the only 'independent', was mooted as a compromise candidate (and received 20 votes), the overwhelming choice (108) was for Conservative MSP Alex Fergusson after he (perhaps in the Westminster tradition) agreed reluctantly to stand. However, perhaps outwith the tradition, Fergusson left the door open to a return to the Conservative backbenches (Steel and Reid retired after one session, and Steel remains a Liberal Democrat peer rather than a non-partisan crossbencher, which also breaches the convention for former House of Commons Speakers).

2.2 New Politics at Last?

In his acceptance speech, Fergusson invited MSPs to 'remember that our electorate, the people of Scotland, want this new politics to work for them and we have a duty to deliver what the electorate expects'.²³ Although there were high hopes for new politics in

²² SNP 47, Labour 46, Conservative 17, Liberal Democrat 16, Green 2, Margo MacDonald 1.

²³ SPOR 14 May 2007 col. 13 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0514-02.htm#Col11. Note that no evidence was provided to suggest that most of the public know what new politics is.

1999, the evidence suggests that the formation of a Labour and Liberal Democrat coalition produced a type of legislative dominance usually found in 'old Westminster'. This extended to committees which, although designed to be the 'motor of the new politics', contained a majority of coalition members.²⁴ This ability to control the scrutiny process affects the Executive's attitude to the policy process outside it. If it can ensure safe passage for its legislation, then it can operate in relative autonomy before presenting plans to Parliament. In this light, the hopes associated with new politics may be better served by a minority government obliged to negotiate with a number of parties to secure a majority vote on each successive issue. In turn, this may suggest that opposition parties are more likely to develop relationships with civil servants responsible for drafting legislation and wishing to ensure parliamentary cooperation at the earliest opportunity. Indeed, in many cases, the Scottish Executive may not present 'draft Acts' to the Scottish Parliament at all if it is not confident about the likely results. This was a feature of the SNP's initial strategy in 2007 which saw a number of 'First 100 days' commitments modified to reflect its minority governing position (see section 10). Yet, we should not get too carried away with these hopes. Since there is a centre-left consensus in Scotland, it is unlikely that the SNP will present too many proposals that are opposed in principle by the other parties. This suggests that the devil is in the detail and that the detail will be worked out primarily by the Scottish Executive. The small size, MSP turnover and legislative loads of committees may still undermine their abilities to scrutinise, amend and initiate legislation. The gulf in resources between Executive and Parliament remains.

2.3 Bowing to the Will of the Scottish Parliament?

The issue of funding the Edinburgh tram lines and the Edinburgh Airport Rail Link provided an early test of the power of the Scottish Parliament to direct its Executive. The SNP's John Swinney introduced the motion:

That the Parliament endorses the Government's transport priorities and notes that the Government party proposed during the election campaign not to proceed with the Edinburgh Trams and current EARL projects, but planned an additional crossing for the River Forth.

This was then amended in the name of Wendy Alexander:

²⁴ Arter, D. (2004) 'The Scottish committees and the goal of a "New Politics": a verdict on the first four years of the devolved Scottish parliament', *Journal of Contemporary European Studies*, April 2004, vol. 12, no. 1,

Leave out from 'endorses' to end and insert:

notes that the Edinburgh Trams project and EARL were approved by the Parliament after detailed scrutiny; further notes the report of the Auditor General for Scotland on these projects and, in light thereof, (a) calls on the Scottish Government to proceed with the Edinburgh Trams project within the budget limit set by the previous administration, noting that it is the responsibility of Transport Initiatives Edinburgh and the City of Edinburgh Council to meet the balance of the funding costs and (b) further calls on the Scottish Government to continue to progress the EARL project by resolving the governance issues identified by the Auditor General before any binding financial commitment is made and to report back to the Parliament in September on the outcome of its discussions with the relevant parties.

Both Swinney and Alex Salmond were then accused on bending the will of Parliament, with the former suggesting that the problems of governance were not resolvable (thus signalling the end of EARL) and the latter quoting Donald Dewar to suggest that he was not bound by parliamentary motions.²⁵

2.4 Scottish Parliament Committees

The shift to minority government is perhaps most likely to be felt in the committees since the ruling party has no majority on any. Committee representation is roughly proportional, with the SNP and Conservatives losing out slightly and no place for Margo MacDonald. However, Labour has more MSPs on two important subject committees, suggesting that negotiations are most likely in Education and Transport/Climate Change. Similarly, although the convenerships are shared out roughly proportionately (SNP and Labour get 5, Conservative and Liberal Democrat 2 and Green 1), Labour has 6 deputies compared to the SNP's 4.

71-91

²⁵ Scottish Parliament Official Report 27 June 2007 cc 1137-1178

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0627-01.htm; BBC News 'Climbdown after transport defeat' 27 June 2007

http://news.bbc.co.uk/1/hi/scotland/edinburgh_and_east/6243158.stm; BBC News 'Salmond will vote against trams' 21 June 2007 http://news.bbc.co.uk/1/hi/scotland/edinburgh_and_east/6226324.stm

Figure 1: Scottish Parliament Committees' Remits and Membership

	<i>Committee (Convenor/ Deputy)</i>	<i>SNP</i>	<i>Lab</i>	<i>Con</i>	<i>LD</i>	<i>Green</i>
Mandatory Committees	Audit (Lab/Con)	3	3	1	1	0
	Equal Opportunities (Con/Lab)	3	2	1	1	0
	European and External Relations (Lab/SNP)	3	3	1	1	0
	Finance (SNP/Lab)	3	3	1	1	0
	Procedures (SNP/Lab)	3	2	1	1	0
	Public Petitions (Lab/LD)	3	3	1	1	1
	Standards and Public Appointments (SNP/Lab)	3	2	1	1	0
	Subordinate Legislation (LD/SNP)	2	3	1	1	0
Subject Committees	Economy, Energy and Tourism (LD/SNP)	3	3	1	1	0
	Education, Lifelong Learning and Culture (Lab/SNP)	2	3	1	1	0
	Health and Sport (SNP/LD)	3	3	1	1	0
	Justice (Con/Lab)	3	3	1	1	0
	Local Government and Communities (Lab/SNP)	3	3	1	1	0
	Rural Affairs and Environment (SNP/Con)	3	3	1	1	0
	Transport, Infrastructure and Climate Change (Green/Lab)	2	3	1	1	1
Total		42	42	15	15	2

As the new names of the subject committees suggest, these have been realigned as much as possible to reflect the Scottish Executive's reorganisation with, for example the Transport, Infrastructure and Climate Change monitoring Stewart Stevenson's and Economy, Energy and Tourism monitoring Jim Mather's responsibilities within the Finance And Sustainable Growth department (see section 1.2). There is now only one Justice Committee (two were introduced in 2000 to reflect the high number of justice bills proposed by the Labour/ Liberal Democrat Executive). The Scottish Parliamentary Pension Scheme Committee has also been set up to inform a proposed committee bill on a replacement for the Scottish Parliamentary Pension Scheme rules.

2.5 Committee Reports and Inquiries (May – August 2007)

Excluding a routine report from the Subordinate Legislation Committee, one report was published in this period: a routine discussion of two Sewel motions (see below).

2.6 Parliamentary Bills

A feature of the committee legacy reports discussed in the previous monitor was the complaint that the Scottish Executive passed too much legislation. This undermined the ability of the Scottish Parliament to scrutinise policy and for committees to conduct their own inquiries. In this session there is a broad expectation that there will be fewer bills since there is no coalition majority to ensure their passage and there is growing cross-party support for the idea of slowing down, to reflect and ensure successful implementation. Perhaps the exception is the prospect, signalled in the SNP 2007 manifesto, of an increase (from a very small base) of non-executive legislation supported by the Scottish Executive:

We will publish proposals to bring parliament closer to the people, with greater support for backbench legislative proposals, an opportunity for citizens to propose debates in parliament and a mechanism to allow for the best supported public petition in any year to be brought forward as a detailed legislative proposal.²⁶

There are currently no bills in progress (see section 11.3 on the legislative programme), although several members' bills have been proposed (and a committee bill to reform Parliamentary Pension Scheme rules is in motion). The proposals by Boyack, Macintosh and Baillie are repeats, while Helen Eadie's bill will be superseded by the SNP Government's plans.

- Proposed Energy Efficiency And Micro-generation (Scotland) Bill (Sarah Boyack, Labour) – the proposal has gathered sufficient support for a Bill to be introduced.
- Proposed Abolition of Forth and Tay Bridge Tolls Bill (Helen Eadie, Labour).
- Proposed Sunbed Licensing (Scotland) Bill (Kenneth Macintosh, Labour)
- Proposed Disabled Persons Parking Bays (Scotland) Bill (Jackie Baillie, Labour) – the proposal has gathered sufficient support for a Bill to be introduced.

Karen Gillon (Labour) has also signalled her intention to reintroduce a bill on culpable homicide, following a backlash to the court ruling on ICL Plastics and ICL Tech's fine after the Stockline explosion. This was initially introduced by Gillon in response to the

²⁶ SNP, *Manifesto 2007: It's Time to Move Forward* (May 2007), at: www.snp.org/policies

Scottish Executive's decision to support a less punitive UK-wide bill. At the time Gillon's bill received SNP support.²⁷

2.7 Sewel (Legislative Consent) Motions passed (May – August 2007)²⁸

It should come as no surprise to learn that the SNP has already taken a different approach to the use of Sewel motions, with three memorandums 'under consideration' but no likelihood of a motion being proposed to the Scottish Parliament (unless this comes from Labour). Yet, the substance suggests that no controversial intergovernmental issues have been raised:

- A motion is no longer necessary for the UK Borders Bill since Scottish inclusion in provisions on people trafficking was an error to be rectified by the UK Government.
- The Victims of Overseas Terrorism Bill was a Private Members' Bill opposed by the UK Government.
- The relevant provisions in the Serious Crime Bill (to extend the powers of the police to search for firearms) were added at the Report stage in the House of Lords and were opposed by the UK Government (note that a Sewel motion relating to this bill was passed prior to the May election to allow the extension of serious crime prevention orders to Scotland).

Indeed, Bill Aitken (Conservative), the convener of the Justice Committee, suggests that most motions are innocuous:

For the benefit of new members, I note that such Sewel memoranda are not uncommon in the Parliament; they come before us frequently. The majority of them are not controversial and are agreed on the nod. Margaret Smith will confirm that the more controversial memoranda are usually discussed at the Parliamentary Bureau and are allocated a debate in the chamber.²⁹

²⁷ See previous monitoring reports; Cairney, P. (2006) 'Venue Shift Following Devolution: When Reserved Meets Devolved in Scotland', *Regional and Federal Studies*, 16, 4, 429-45; R. Dinwoodie 'MSP to pursue bill on corporate killing', *The Herald* 30 August 2007

²⁸ A full list of motions and links to SPOR discussions is provided by the Scottish Executive:

www.scotland.gov.uk/Topics/Government/Sewel

²⁹ Justice Committee Official Report 26 June 2007 col. 35

3. The Media

Eberhard Bort

3.1 One hundred days and more – The SNP Honeymoon

This summer saw a remarkable media honeymoon for Alex Salmond and his SNP minority government. ‘The McConnell years seem a distant memory’, the *Evening News* commented, such was the way Alex Salmond ‘eased into his new role...as if he’s been in the job for years’.³⁰ His first hundred days ‘brought both a blast of refreshment and a lot of surprise...through the sense of energy and mission that the SNP has brought to an Executive that had come to look tired, mediocre and bereft of distinctiveness and purpose.’³¹

Scotland on Sunday credited Salmond with a ‘Midas touch’,³² the *Sunday Herald* hailed his ‘deftness of touch’,³³ and ‘even his fiercest critics grudgingly admit the First Minister has been “walking on water” over the last three months.’³⁴ Staying with aquatic references, Douglas Fraser saw ‘things going swimmingly for Salmond.’³⁵ Ian Swanson doffed his hat:

Mr Salmond has enjoyed a remarkable honeymoon in his first 100 days in office. He has even managed to get away with spending £100,000 on a rebranding exercise to turn the Scottish Executive into the Scottish Government.³⁶

Ewan Crawford summed it all up neatly: ‘In his first three months, Scotland’s first minister has promoted consensus, won over the press and left Labour bewildered.’ The Scottish press, he argued, ‘so long antagonistic towards Salmond, has now fallen head over heels in love with the new first minister.’³⁷ For the *Independent*, ‘Alex Salmond’s first 100 days ... have been a revelation,’ he ‘has used his minority government to impressive effect...the canny Mr Salmond is playing his hand perfectly.’³⁸

³⁰ *Edinburgh Evening News* (Editorial), ‘The McConnell years seem a distant memory’, 9 August 2007.

³¹ *The Scotsman* (Editorial), ‘Now for some tough choices’, 24 August 2007.

³² *Scotland on Sunday* (Editorial), ‘Let the debate begin’, 12 August 2007.

³³ *Sunday Herald* (Editorial), ‘Salmond’s deft touch’, 12 August 2007.

³⁴ Vic Rodrick, ‘100 not out and SNP looks more confident every day in power...’, *Sunday Express*, 19 August 2007.

³⁵ Douglas Fraser, ‘Things going swimmingly for Salmond over 100 days’, *The Herald*, 20 August 2007.

³⁶ Ian Swanson, ‘Salmond’s vision fits the Bill so far’, 6 September 2007.

³⁷ Ewan Crawford, ‘Governing well is worth a hundred freedom slogans’, *The Guardian*, 15 August 2007.

³⁸ *The Independent* (Editorial), ‘Mr Salmond and his subtle cause of independence’, 15 August 2007.

Iain Macwhirter, commenting just before the summer recess, said:

The effect of the last six weeks has been devastating. The SNP hasn't so much hit the ground running as lapped the political field on an almost daily basis. Opposition MSPs have been blown away at what has been happening.³⁹

He continued his enthusiastic assessment by asserting that even some opposition MSPs seem to agree the Scottish parliament has moved up a gear since the Nats took over. Debates are worth listening to; MSPs who were languishing in backbench obscurity have started making speeches that are intelligent and relevant. You could say the parliament has suddenly come alive.

He compared Salmond's start with that of Blair in 1997: the same flurry of dramatic statements of intent changing the climate of public affairs. But, he reminds us, Blair did it with a huge majority, Salmond with a party that has never before been in government and holds only a minority of seats.

Fearing he'd sound 'naïve and even sycophantic', Macwhirter sang the praises of both Gordon Brown and Alex Salmond as 'two astute and even visionary politicians at the very top of their game.' And

... we also have the makings of Scotland's first great political leader in 300 years in the shape of Alex Salmond. The First Minister has shown tactical genius and real political courage in the manner in which he has run an effective government in Scotland, with only 46 out of 129 MSPs and no coalition partner.⁴⁰

It gets even more emphatic:

Above all, it is Salmond's sense of destiny that marks him out from other Scottish political figures of the modern age. He is the real deal; the first genuine political leader in Scottish democratic history.

Macwhirter prefaced his piece with a wee caveat that, 'like most political hacks, I tend to be a professional pessimist, if not a borderline depressive,' and that 'the reward for optimism about politicians is generally ridicule.' This might be 'one column I will probably regret writing.' Time will tell...

³⁹ Iain Macwhirter, 'The SNP didn't just hit the ground running, they lapped the political field', *Sunday Herald*, 24 June 2007.

⁴⁰ Iain Macwhirter, 'Salmond and Brown: the right men for these times', *The Herald*, 30 July 2007.

According to George Kerevan (aspiring SNP candidate for Westminster), 'Where the SNP has been unexpectedly lucky is in being a minority government. It has allowed ministers to act swiftly, with discipline and with a proactive media strategy.' He eulogised further:

Here is what the London media and Gordon Brown do not grasp. The lad 'o pairts [Alex Salmond] is not seeking quick popularity before launching a bid for an independence referendum. Rather, he wants to prove to Scotland and Britain that there is a better way to govern, after the long, disappointing Blair years.⁴¹

Somewhat more critical, Alf Young saw a 'media-savvy Alex Salmond, dispensing domestic goodies by the day and tweaking London's tail with consistent good humour in his first few weeks in power....' And the *Evening News* spoke of 'a blizzard of bold policy statements,' but noted that 'they have remained silent on where the money is coming from.'⁴²

While the SNP soared in the media and in opinion polls, questions were raised about the Labour Party. 'Dazed and unwilling to admit its defeat,⁴³ was Labour in denial? 'Battered and bruised in the May elections,' claimed Hamish Macdonell, they had, in the six weeks leading up to the summer recess, 'been bulldozed by Alex Salmond in the chamber.... Some observers have suggested the Labour Party is in denial over its election defeat. It's not: it's in shock.'⁴⁴

The Scotsman was clear: 'Labour lost votes in May because – for the first time – it refused even to discuss more powers for Holyrood, thus conceding the constitutional debate to the SNP.'⁴⁵ And Peter MacMahon diagnosed a 'lost and bewildered' party.⁴⁶

Iain Macwhirter marvelled at Gordon Brown's constitutional review, announced as he took over from Tony Blair:

⁴¹ George Kerevan, 'The London media (and Brown) just don't get it', *The Scotsman*, 21 June 2007.

⁴² *Edinburgh Evening News* (Editorial), 'Labour has stolen march on the coalition', 23 June 2007.

⁴³ *The Scotsman* (Editorial), 'Labour fails to get the message', 22 June 2007.

⁴⁴ Hamish Macdonell, 'Has anyone seen the Labour Party?', *The Scotsman*, 22 June 2007.

⁴⁵ *The Scotsman* (Editorial), 'Labour fails to get the message', 22 June 2007.

⁴⁶ Peter MacMahon, 'Scottish Labour is running out of excuses for political inaction', *The Scotsman*, 3 August 2007.

I can't for the life of me understand why Labour didn't announce this new constitutional settlement before, rather than after, the Scottish elections. It would have shot a number of Nationalist foxes.⁴⁷

But he also doubted, in the same opinion piece, whether a review of devolution would be enough to placate English concerns:

One of the unintended consequences of devolution is that the metropolitan media has largely stopped reporting Scotland – believing, perhaps, that it is already a separate country.

If Labour were to boycott the conversation on Scotland's constitutional future, MacWhirter warned it 'could be about to make a strategic error mirroring the SNP's boycott of the 1988 Constitutional Convention,' which had left the SNP 'in the wilderness for a decade'. MacWhirter concluded: 'If Labour allows the SNP to command the forthcoming debate on the future of Holyrood, it could be out of action for rather longer.'⁴⁸

He also pointed out one of the conundrums of the SNP which, in his view, could be Labour's 'most effective challenge to the nationalists':

Why...does Scotland need independence when it has political autonomy under devolution? In a sense, the SNP's effective performance in government rather undermines the nationalists' own case. The inventory of the first 100 days is pretty impressive – bridge tolls, hospitals, prescription charges, tuition fees, even doubling the subsidy to the Edinburgh Festival. If Salmond can do so much with the powers of the Parliament, what's the point of independence?

Peter Jones looked at it from a different perspective of attack. Referring to the SNP's rejection of the Edinburgh Airport Rail Link (EARL), he asked: could the SNP 'deprive Scotland of the kind of big improvements that are eminently achievable now so that we become convinced that we must have independence in order to get them?'⁴⁹

Looking ahead after the resignation of Jack McConnell, *Scotland on Sunday* saw Wendy Alexander 'best placed ... to persuade Gordon Brown that he should loosen the chain on his Scottish party and allow it to lead, rather than follow, in ... [constitutional]

⁴⁷ Iain MacWhirter, 'Southern discomfort: an increasingly bitter taste', *The Herald*, 25 June 2007.

⁴⁸ Iain MacWhirter, 'Why we haven't the constitution to go it alone', *The Herald*, 6 August 2007.

⁴⁹ Peter Jones, 'The conflict at the heart of SNP's programme', *The Scotsman*, 4 September 2007.

discussions.⁵⁰ While Tom Gordon argued that Wendy Alexander was ‘a liability to her party’ and that her succession to Jack McConnell would give Alex Salmond ‘the most pleasure,’⁵¹ Eddie Barnes commented on the SNP’s apparent glee about Wendy Alexander becoming Labour leader, citing her ‘presentational style’, but warning that her being a woman, being intelligent, and an accomplished strategist might yet give Salmond and the SNP headaches.⁵² George Kerevan, too, warned his friends in the SNP: ‘Don’t assume that because Wendy is an intellectual she lacks backbone. She was the only Labour minister to stand up to her civil servants.’⁵³

It may surprise how little effect any criticism of Salmond’s decision to hang on to his Westminster seat until the next general election has provoked. Ian Bell was one of the few who openly criticised the decision asking:

Isn’t it beneath the dignity of the First Minister of Scotland to waste his time – my time, your time – as a Westminster bit-player? Doesn’t Alex Salmond have a full-time job? I don’t care about the money – can’t afford the joke – but I care about Twa Jobs Eck. MP, MSP and First Minister of an entire nation to boot: it won’t do.⁵⁴

But he also laid his hand on a deeper problem. He sees Salmond becoming too powerful in his own party – ‘Who within his party can now gainsay our Alex?’ – as he ‘has crushed all internal rivalry.’ Has Scottish nationalism actually been reduced to ‘Salmondism’?

Contrarily, Allan Massie even suggests, Salmond should ‘set aside his promise to give up his Commons seat at the next General Election,’ as ‘one of the weaknesses of our political system is the clear division between different levels of government, with this weakness all the more apparent since devolution.’⁵⁵

3.2 White Paper

The publication of the white paper on Scottish independence came in for a good deal of criticism, seeing that there was no chance of a parliamentary majority for the referendum envisaged in it. *Scotland on Sunday* begged to differ. It found ‘hard to understand the

⁵⁰ *Scotland on Sunday* (Editorial), ‘Time to rethink devolution’, 29 July 2007.

⁵¹ Tom Gordon, ‘White Hot Alex’, *The Sunday Times*, 19 August 2007.

⁵² Eddie Barnes, ‘Wendy’s house may be not so easy for the SNP to blow down’, *Scotland on Sunday*, 29 July 2007.

⁵³ George Kerevan, ‘The big tasks facing next Scottish Labour leader’, *The Scotsman*, 9 August 2007.

⁵⁴ Ian Bell, ‘Salmondism: Is it really a substitute for nationalism?’, *The Herald*, 7 July 2007.

vitriol that was poured on Alex Salmond,' after all he was only fulfilling a manifesto pledge. Citing the latest survey figure of 39 per cent support for independence, it contended that 'Salmond himself expects that his White Paper will fall at the first hurdle,' but that he hopes that its failure will 'herald a more complex debate on Scotland's constitutional future.'⁵⁶ This debate, so *Scotland on Sunday* hoped, would result in 'Devolution Max' which would 'include new control over broadcasting, marine law, stamp duty and business taxation.' The paper continued:

There must also be a debate on wider fiscal devolution, and the immediate policy focus must be the economy. Scotland needs specific policies for Scotland's particular economic strengths and weaknesses. There is a compelling argument that without access to all levers of economic power – including tax powers – the Scottish Parliament and the Scottish government will never be fully responsible for the Scottish economy. Instead, we will continue to blame Westminster for our own ills.

Commenting on the opposition parties' rejection of a referendum, *The Scotsman* begged to disagree, arguing for a referendum 'sooner rather than later' – 'Scotland's constitutional future can be determined only by her voters. They should be allowed to do so in the lifetime of this parliament.'⁵⁷ Picking up on Tory voices supporting a referendum now, *The Evening News* had pronounced back in June: 'Scotland needs stability and if that means an independence referendum, then better sooner than later.'⁵⁸

A first result of the white paper was the coming together of the three main opposition parties in an agreement to develop devolution within the UK.⁵⁹ Commenting on the 'remarkable turnaround' of Labour, the *Sunday Herald* marvelled:

It is another sign of how Salmond, as was always his intention, is changing Scottish politics out of all recognition: all mainstream parties now agree on the need for more powers, however much they might differ on the extent of change required. Like him or loathe him, Salmond is a first minister who is leading from the front.⁶⁰

⁵⁵ Allan Massie, 'Politicians have a home in many Houses', *The Scotsman*, 27 July 2007.

⁵⁶ *Scotland on Sunday* (Editorial), 'Time to rethink devolution', 29 July 2007

⁵⁷ *The Scotsman* (Editorial), 'Referendum is the right way', 15 August 2007.

⁵⁸ *Edinburgh Evening News* (Editorial), 'Chance to kick independence out of bounds', 19 June 2007.

⁵⁹ Kevin Schofield, 'Why the unionists finally got together', *The Herald*, 14 August 2007.

⁶⁰ *Sunday Herald* (editorial), 'Scotland's changed...so should unionist parties' attitudes', 19 August 2007.

Riding high in the opinion polls – a *Scottish Daily Mail* poll in August put the SNP at 48 per cent in voting intentions for the Scottish Parliament⁶¹ – but with only 31 per cent in favour of independence (in the same poll), the *Guardian* picked up on the Parnell quote which prefaces the white paper:

The white paper quotes noble words of Charles Stewart Parnell about not setting limits to the march of a nation. But Parnell, as he said in that 1885 speech, always knew that he spoke for his nation. Mr Salmond does not speak for his – yet.⁶²

The *Evening News* questioned the openness of the conversation, if Salmond was the chair: ‘Mr Salmond may be genuine in his desire to have a ‘national conversation’ about Scotland’s future governance, but if he really wants an open debate it is not one he can chair and it must be one he is prepared to lose.’⁶³

Will Hutton, in an intervention in *The Herald*, argued for ‘Devolution-max’, which would ‘in effect create a Scottish state within Britain rather like Alberta or Ontario within Canada.’ He contended that globalisation demanded management by ‘bigger units, not small’. Independence would therefore be ‘a 19th century response to 21st century dilemmas.’⁶⁴

3.3 The ‘Scottish Six’

In an intervention in *The Herald*, the former Head of News and Current Affairs at BBC Scotland, Blair Jenkins (he resigned in July 2006), commented on Ofcom’s annual report for the nations and regions and was scathing in his criticism of the BBC’s policy towards Scotland. He contended that: ‘For a number of reasons, 2007 looks like a good year to have a proper national debate about what Scotland gets from television – and what television gets from Scotland.’⁶⁵ He diagnosed ‘serious structural and behavioural problems in how UK television networks engage with the production community in Scotland.’ The spending on current affairs programmes between 2001 and 2006, taking BBC and STV together, ‘declined by 45%’:

⁶¹ The poll did not distinguish between the constituency and regional list sections of the Scottish Parliament electoral system.

⁶² *The Guardian* (Editorial), ‘Nervous steps of a nation’, 15 August 2007.

⁶³ *Edinburgh Evening News* (Editorial), ‘It’s not an open debate if Alex is the chairman’, 15 August 2007.

⁶⁴ Will Hutton, ‘How Scotland could end up with best of both worlds’, *The Herald*, 15 August 2007.

⁶⁵ Blair Jenkins, ‘A nation deserves better from its broadcasters’, *The Herald*, 18 June 2007.

It seems incredible in the first decade of devolution, when a real and sizeable policy agenda has emerged for investigation and debate, that spending on TV current affairs should virtually be halved and spending on news should be reduced by more than a quarter. Is that really what Scottish viewers would have wished? Is it really what the parliament thinks is appropriate? Is it really public service broadcasting?

He concluded that: 'Perhaps it's time to explore on an all-party basis the issue of whether broadcasting should become a devolved responsibility, to secure greater accountability and transparency from the broadcasters and put some political muscle behind the programme makers?' leading to calls for a Holyrood inquiry into broadcasting.⁶⁶ Shortly thereafter, Alex Salmond asked Jenkins to chair his new commission into broadcasting, which also includes former First Minister Henry McLeish and former Green MSP Mark Ballard.⁶⁷

Conservative MSP Ted Brocklebank, a former TV producer, was outraged at the suggestion that Scotland's broadcasters were not talented enough (as argued by Michael Grade and Mark Thompson, ITV's and BBC's chief executive and director-general, respectively, at an Ofcom conference in Cardiff). He referred to the SNP's manifesto commitment to devolve broadcasting and concluded:

The other parties should be warned. Whether or not they believe broadcasting should continue to be reserved, they cannot be seen to condone a situation where Scottish broadcasters, in-house as well as independents, continue to be discriminated against by those who control national funding.⁶⁸

Iain Macwhirter takes up the baton:

The Scottish political system has to be deployed ... The first step must be the Scottish Parliament taking on responsibility for broadcasting. It makes no sense that this is a reserved power, except in the minds of paranoid Unionists who believe that BBC Scotland is a nationalist plot. ... Then there has to be a regulatory regime established that doesn't have the metrocentric blindness of Ofcom. The Scottish government also needs to lobby the BBC, north and south, to remind it of its charter obligations and its public service remit... The BBC has

⁶⁶ Steven Vass, '£21m commissions crisis at BBC Scotland', *Sunday Herald*, 8 July 2007.

⁶⁷ Robbie Dinwoodie and Phil Miller 'Switching on to the future of Scots TV', *The Herald*, 9 August 2007; Steven Vass, 'Jenkins's commission will examine Scotland's place in the media world', *Sunday Herald*, 12 August 2007.

⁶⁸ Ted Brocklebank, 'Here is the news: Scots viewers deserve better', *The Herald*, 6 July 2007.

just opened one of the most advanced broadcasting facilities in Europe, in Pacific Quay. It would be nice if it found something useful to do in it.⁶⁹

At the end of August, Macwhirter spelt it out in even starker tones: ‘...the media machine is based in London and increasingly regards Scotland as a foreign country, even though the media it produces is broadcast here.’⁷⁰

George Kerevan, citing that in a survey in 2004 by the Scottish Consumer Council nearly 70 per cent of viewers supported a ‘Scottish Six’,⁷¹ added: ‘As long as there is a licence fee, Scotland has a right to a say in how that money is spent. That is why it is still imperative that public service broadcasting is devolved to Holyrood.’⁷²

In August, the SNP government started a major campaign for a ‘Scottish Six’ and for the devolution of control over broadcasting to Holyrood.⁷³ A Scottish Six would be, as the BBC’s Brian Taylor explained in his blog, ‘a TV news programme, made in Scotland, which covered global, UK and Scottish news. Contrary to some comments, it would not focus exclusively on Scottish news.’⁷⁴ But, he asked, has the issue not moved on? Do not more people decide for themselves, online, which news to watch rather than relying ‘upon a running order of events chosen by someone else.’ Was this not, he asked, ‘an analogue debate in a digital age?’

Bill Jamieson advised caution, adding three caveats to the ‘Scottish Six’ proposal:

One is to ensure that any new Scottish Six is not simply a stretching out or extension of the existing news service... Second, the Scottish Six should not cannibalise international news coverage in order to expand coverage of ‘Holyrood’ affairs... And third is the danger of a Scottish Six becoming a dependent bugle for ‘Holyrood’ proclamations and pronouncements. Mr Salmond insists that he has no intention of creating a Scottish Broadcasting Corporation. But that, I fear, is just where his rhetoric logically takes us.⁷⁵

⁶⁹ Iain Macwhirter, ‘Switching off Scotland’s window on the world’, *The Herald*, 23 July 2007.

⁷⁰ Iain Macwhirter, ‘Why do we continue to search for black swans?’, *The Herald*, 27 August 2007.

⁷¹ But a YouGov poll for the *Sunday Times* in August 2007 showed 52 per cent rejecting a ‘Scottish Six’ – *The Sunday Times*, 26 August 2007.

⁷² George Kerevan, ‘Here is the news... a “Scottish Six” is vital’, *The Scotsman*, 6 August 2007.

⁷³ Paul Hutcheon, ‘Salmond to demand a “Scottish Six” and call for broadcasting to be devolved’, *Sunday Herald*, 5 August 2007; Hamish Macdonell, ‘First Minister demands end to remote control of television’, *The Scotsman*, 9 August 2007.

⁷⁴ Brian Taylor, ‘Broadcasting Scotland’, 8 August 2007 <
www.bbc.co.uk/blogs/thereporters/briantaylor/2007/08/08/index.html>

⁷⁵ Bill Jamieson, ‘Cause for caution on devolution of broadcasting’, *The Scotsman*, 10 August 2007.

'The last thing Scottish broadcasting needs,' according to Ted Brocklebank, 'is a blinkered Braveheart overview, or the world seen through tartan-tinted spectacles.'⁷⁶ Iain Macwhirter disagrees that that would be the consequence of a 'Scottish Six'. As someone who saw the pilots the BBC produced in 2004, he states:

The programmes were well-presented and gave excellent UK and foreign coverage while treating devolved matters with the respect and authority they deserved. I can well understand why the BBC didn't show them to the public. As soon as you actually see a Scottish Six, you wonder how we could have tolerated the present arrangement for so long.⁷⁷

Repeated gaffes in the last few months by the BBC have stoked the unease – the abrupt ending of a Kirsty Wark interview with Alex Salmond in June; Jeremy Paxman's assertion that 'not one' of fifty firms north and south of the Border supported independence (in fact only seven had replied to the survey at all), and then the claim that voters in Scotland in the referendum of 1997 had rejected independence, although the question was not even asked.⁷⁸ Having splashed this 'New BBC Blunder' over the entire front page, the *Sunday Herald* tried to put it in perspective:

...it would be a mistake to brand a massive national organisation the size of the BBC as being riddled with problems... The reality is that most of what the BBC does is first rate... So it is important that Thompson gets the message across: the BBC has to have standards or its public service mission is lost.⁷⁹

In September, Michael Grade announced, just in time for STV's 50th birthday, further cuts affecting regional news, with threats to Border Television.⁸⁰ Meanwhile, the print media also experienced some turmoil. In mid-July *The Herald* saw strike action triggered by job cuts;⁸¹ and Johnston Press announced a further decline in advertisement revenue, although at a more moderate rate of a 4.8 per cent fall in operating profits, 6.1 per cent after tax – the rate of decline in UK print-based advertising having declined from

⁷⁶ Ted Brocklebank, 'Our TV talent has been abandoned', *Sunday Express*, 12 August 2007.

⁷⁷ Iain Macwhirter, 'And now for the news...broadcast from Scotland', *Sunday Herald*, 12 August 2007. For an exchange of views on Scottish broadcasting, see 'Broadcasting's devolution debate' in the *Guardian* of 13 August 2007, where the pro-side was taken by Alex Bell of allmediascotland.com, and the contra side by Brian McNair of Strathclyde University.

⁷⁸ John Bynorth, 'BBC apologises in new row over "mistake" in SNP survey', *Sunday Herald*, 22 July 2007; Paul Hutcheon, 'BBC apologises over fresh independence gaffe', *Sunday Herald*, 9 September 2007.

⁷⁹ *Sunday Herald* (Editorial), 'Ratings can never be worth losing the trust of the public', 22 July 2007.

⁸⁰ Michael Settle and Damien Henderson, 'There's a new plan to save ITV...but will it kill Border?', *The Herald*, 13 September 2007; Fergus Shepperd, 'ITV's regional news faces cuts', *The Scotsman*, 13 September 2007.

9.2 per cent to 2.9 per cent. Overall advertising revenue was down 1.5 per cent.⁸²

Tim Luckhurst, the erstwhile editor of *Scotland on Sunday* (albeit for a mere seven days), even diagnosed the demise of Scotland's quality journalism: 'We are seeing the death of serious Scottish newspapers.'⁸³ Although that claim was resoundingly rebuffed by the current *Scotsman* editor Mike Gilson, citing investments into new supplements at his paper and increased sale figures and the growing importance of the web portal for communicating with readers,⁸⁴ the demand for a 'Scottish Six', the criticism of cut-backs in broadcasting and the inquiry of the new Broadcasting Commission all need to be seen in the context of this ongoing crisis in the print media.

3.4 Legislation Lite – The End of the Honeymoon?

In the run-up to the first disclosure of an SNP legislative programme, there were signs of the first cracks being broken into the armour of the seemingly unassailable SNP government, threatening an end to the 'easy ride'. Alex Salmond's offer to grant Northern Irish students free tuition at Scottish universities, while English and Welsh students would still have to pay, led *The Scotsman* to warn the government not to make Scottish universities a 'political football'. The paper argued that 'We are no longer talking about education policy; we are talking about ways to dismember the United Kingdom'.⁸⁵ 'It would be a matter of great regret,' said *The Herald*, 'if the debate about regulating firearms were to be muddied by a constitutional turf war.'⁸⁶ Then the SNP was accused of 'watering down',⁸⁷ 'back tracking' on⁸⁸ or even 'dropping' their promise 'to make [St Andrew's Day] a new bank holiday'.⁸⁹

But it was perhaps Arthur Midwinter's prediction that the SNP was heading for a financial 'black hole' of £2bn which really signalled the beginning of the end for the honeymoon period.⁹⁰ 'We have had four months of Salmond sounding off,' said Jenny Hjul: 'The time

⁸¹ Fergus Sheppard, 'Redundancies trigger Herald strike action', *The Scotsman*, 19 July 2007.

⁸² Martin Flanagan, 'Ad revenue decline slowing says Johnston', *The Scotsman*, 29 August 2007.

⁸³ Tim Luckhurst, 'Read all about it: the end of quality Scottish Papers', *Independent on Sunday*, 22 July 2007.

⁸⁴ Mike Gilson, 'Scottish journalism's demise greatly exaggerated', *The Scotsman*, 26 July 2007.

⁸⁵ *The Scotsman* (Editorial), 'Not the way, Mr Salmond', 20 June 2007.

⁸⁶ *The Herald* (Editorial), 'Disarming debate', 27 August 2007.

⁸⁷ Ian Swanson, 'SNP's St Andrew's holiday promise "watered down"', *Edinburgh Evening News*, 24 August 2007.

⁸⁸ Raymond Hailey, 'Salmond in St Andrew's Day holiday backtrack row', *The Scotsman*, 25 August 2007.

⁸⁹ 'SNP denies dropping plan to make St Andrew's Day a national holiday', *The Herald*, 25 August 2007.

⁹⁰ Peter MacMahon, 'SNP: on brink of a financial "black hole"?', *The Scotsman*, 17 August 2007.

has come to deliver.⁹¹ Tough choices might be the order of the day. 'And it is in making these that real government is proven or broken.'⁹² Or, as the *Evening News* put it: 'New Labour leader Wendy Alexander should be in her element and Mr Salmond's honeymoon cruise will soon be over.'⁹³

Labour and the Lib Dems accused the SNP of not delivering on pre-election pledges.⁹⁴ Severin Carrell listed the 'must do better' items:

Watered-down promise to abolish all student debts; delayed pledge to remove business rates for small firms; held up plans to abolish council tax; failed to support marine national parks; abandoned deal to end automatic early release for prisoners.⁹⁵

The announcement of the eleven bills in the SNP's legislative programme was greeted with comments of 'legislation lite' or 'semi-skimmed'. Arguing that the 'slighter legislative menu than we have been used to in previous years' ... 'comes as no surprise', being 'conditioned by the fact that Alex Salmond cannot command an overall majority in the Scottish Parliament,' *The Scotsman* warned nonetheless: 'This is not a political conjuring trick the First Minister can hope to repeat, without scraping the legislative barrel.'⁹⁶

'Alex Salmond's honeymoon period,' so Severin Carrell, 'ended abruptly' when he faced accusations of 'breaching a series of promises to voters.'⁹⁷ The *Daily Record* peppered its pages with headlines like 'Nats shelve anti-drugs commission' and 'Salmond silent on vows' and added a scathing editorial:

After staying silent on many of his flagship policies the previous day, when he unveiled his programme for government, opposition MSPs scented blood. They went for him. They asked: Will he really deliver £2000 grants for first-time buyers? How will he guarantee a three-year council tax freeze? Is he going to give patients a right to sue hospitals if they are not treated on time? These were vote-winners for Salmond in May. Yet clear commitments were noticeable by their absence yesterday as Salmond dodged the questions.⁹⁸

⁹¹ Jenny Hjul, 'Seeing through Salmond's familiar tricks', *The Sunday Times*, 9 September 2007.

⁹² *The Scotsman* (Editorial), 'Now for some tough choices', 24 August 2007.

⁹³ *Edinburgh Evening News* (Editorial), 'He must show how the goodies will be funded', 24 August 2007.

⁹⁴ Kevin Schofield, 'Labour says SNP has failed to deliver on pre-election promises', *The Herald*, 23 August 2007.

⁹⁵ Severin Carrell, 'Salmond accused of spin as SNP reviews first 100 days in power', *The Guardian*, 24 August 2007.

⁹⁶ *The Scotsman* (Editorial), 'First Minister has to play safe', 6 September 2007.

⁹⁷ S. Carrell, 'Opposition parties mock SNP as Salmond unveils reforms', *The Guardian*, 6 September 2007.

⁹⁸ *Daily Record* (Editorial), 'No excuse for SNP silence', 7 September 2007.

The veteran journalist Tom Brown, self-confessed 'very old Labour', spoke of 'Alex Salmond's sleight-of-hand government' pulling 'storybook-promises and fantasy policies out of the hat' which made Scotland look 'increasingly like make-believe land.' – 'too rough-and-ready to be Brigadoon and not magic enough to be Harry Potter-land.' In fact, he says, it's a version of Ealing Studio's 'Passage to Pimlico'. Salmond 'deserves a Bafta for a spell-binding performance, but reality has to set in some time.'⁹⁹

For the *Evening News*,

The period between the election in May and the summer recess gave the new government an easy platform for populist announcements and allowed the opposition to regroup. But things will start to get more serious when MSPs return from their break next months. The stage is set for the most crucial period in Scottish politics since 1997, not only because of the new personalities in the leading roles, but because the future of the country is at stake as it has never been in living memory.¹⁰⁰

Marking the advent of the tenth anniversary of the devolution referendum, *Scotland on Sunday* opted for a more balanced outlook:

...Holyrood has become a fixture. ... there is a growing confidence about the place, in most quarters: after initial doubts, Labour is increasingly optimistic that Wendy Alexander can find the right structure and tone to prompt the party's recovery from May's humiliating defeat; the Lib Dems finally seem to be settling into opposition, with leader Nicol Stephen last week making a surprisingly aggressive and effective attack on the SNP's legislative programme; and, while the Tories remain bit-players in terms of numbers of MSPs, Annabel Goldie remains the strongest and most sensible advocate of the Union. And then there is the part played by Alex Salmond, whose optimism and sheer class infect everything his newly renamed Government does.¹⁰¹

Expectations from, and interpretations of, the SNP government still differ widely. Douglas Watt is among those who set their hopes in a 'leaner, more dynamic nation', an SNP which 'is committed to remaking itself as a party of more efficient government', a smaller state, 'driven by a revitalised private sector' – but he contends that 'Pressures could easily emerge within the SNP for further state building.' And yet, he is convinced

⁹⁹ Tom Brown, 'Salmond's Passport to Penicuik is an expensive forgery', *Scotland on Sunday*, 7 July 2007.

¹⁰⁰ *Edinburgh Evening News* (editorial), 'Alexander has already scored a few hits', 25 August 2007.

¹⁰¹ *Scotland on Sunday* (editorial), 'Time to look ahead', 9 September 2007.

that a nation which 'rel[ies] less on government spending, is more likely to have the confidence to take the first steps on the road to independence.'¹⁰²

By contrast, Alf Young observed:

The early evidence suggests Alex Salmond's SNP believes in big government. Its early manifesto-pledge redemptions – cancelling bridge tolls, reversing unpopular hospital closures, extending free nursery entitlement, more money for care for the elderly, smaller class sizes – all mean increased public spending commitments.¹⁰³

Even four months after the May election, 'wily Salmond is on a popularity roll'¹⁰⁴ and there is still a palpable sense of change and optimism around. Joyce McMillan went so far as to talk of 'a smile on the face of the nation, and a spring in its step':

...people seem energised, hopeful, even excited, as if some dead hand of cramped thinking and low expectation had been lifted at last, and it's a mood that has spread across the whole field of Scottish public life, from politics and business to public service and the media.¹⁰⁵

'We know that Salmond is full of intelligence and political savvy,' *Scotland on Sunday* editorialised in the week of the tenth referendum anniversary, 'but how far do these qualities spread through his ministerial team – and will they be enough to overcome the difficulties faced in this new parliamentary year?' The paper concluded:

It won't be easy, but we urge the First Minister to be bold. Scotland voted for change and more vision in May and will not accept inaction, however hamstrung the government feels. For its part, the opposition must be helpful where there is scope for consensus, and constructive but combative where there is none. That is how democracy should work and – remarkably – 10 years on, devolution is strong enough to take it.¹⁰⁶

¹⁰² Douglas Watt, 'Trimming the state – the biggest SNP challenge', *The Scotsman*, 22 June 2007.

¹⁰³ Alf Young, 'Whither Scotland in our new post-Blair era?', *The Herald*, 22 June 2007.

¹⁰⁴ Michael White, 'Alexanders, children of the manse and Labour's third dynasty', *The Guardian*, 1 September 2007.

¹⁰⁵ Joyce McMillan, 'SNP's ascension has given us renewed hope', *The Scotsman*, 1 September 2007.

¹⁰⁶ *Scotland on Sunday* (Editorial), 'Time to look forward', 9 September 2007.

4. Public Opinion

Akash Paun¹⁰⁷

4.1 May 2007 Scottish Parliament Election

The major test of public opinion in the period covered by this report (May to August 2007) was the 3 May election to the Scottish Parliament, as well as the same day's local council polls (see section 7.1).

The Holyrood contest was expected to go to the wire, but in the event a mere 0.7 per cent of the vote separated the SNP and Labour in the constituency section, and a slightly more decisive 1.9 per cent on the regional 'top-up' lists. This translated into a single-seat plurality for the SNP in the new Parliament. But while the margin of victory was narrow, in terms of political momentum and psychological impact this was a decisive win for the nationalists. It was, as noted in the introduction to this report, the first Scotland-wide poll in which the SNP attracted the most votes and the first since 1955 (excepting the 1979 European Parliament election¹⁰⁸) in which Labour did not finish first. Further, the SNP advanced across the country, gaining twelve constituencies (including at least one in seven of eight regions), as well as increasing by eight its quota of seats won on the regional lists.

Figure 2: Scottish Parliament Election Results (May 2007)

Party	Constituency vote % won	Constituencies won	Regional vote % won	Regional seats won	Total Seats won
Labour	32.2 (-2.5)	37 (-9)	29.1 (-0.1)	9 (+5)	46 (-4)
SNP	32.9 (+9.1)	31 (+12)	31.0 (+10.2)	26 (+8)	47 (+20)
Lib Dems	16.2 (+0.9)	11 (-2)	11.3 (-0.5)	5 (+1)	16 (-1)
Con	16.6 (-)	4 (+1)	13.9 (-1.6)	13 (-2)	17 (-1)
Others	1.9 (-7.5)	0 (-2)	14.7 (-8.1)	3 (-12)	3 (-14)

(Figures in parentheses refer to change on 2003 results)

¹⁰⁷ This section was compiled with assistance from Orla Berry.

¹⁰⁸ As noted by John Curtice, 'Turnout and electoral behaviour', in Scottish Parliament Information Centre Briefing 07/21, *Election 2007*, p. 41, at: www.scottish.parliament.uk/business/research/briefings-07/SB07-21.pdf

However, as Figure 2 makes clear, while the election was a triumph from the SNP's perspective, this was not matched by an equivalent decline for the other main parties. Particularly in its Central Belt heartland, the Labour vote held up better than expected – falling by only 2.5 per cent in constituencies and not at all on the regional lists – while support for the Lib Dems and Conservatives was also static. The SNP's advance since 2003, in fact, was chiefly the result of the collapse in support for minor parties – notably the socialist groupings and the Greens – and independent candidates.

Figure 3: Vote share on top-up lists by region (May 2007)

	Labour	SNP	<i>Lab to SNP swing</i>	Lib Dem	Con	Other
Central Scotland	39.6 (-0.8)	31.4 (8.8)	9.6	5.2 (-0.7)	8.5 (-0.6)	15.3 (-6.7)
Glasgow	38.2 (0.4)	27.0 (9.9)	9.5	7.2 (-0.1)	6.7 (-0.8)	20.9 (-9.4)
Highlands and Islands	17.7 (-4.6)	34.4 (11.0)	15.6	19.9 (1.1)	12.6 (-3.4)	15.4 (-4.1)
Lothians	26.3 (1.8)	26.5 (10.2)	8.4	12.7 (1.7)	13.1 (-2)	21.4 (-11.7)
Mid Scotland and Fife	26.3 (1.0)	33.0 (10.0)	9.0	13.2 (1.2)	16.2 (-1.3)	11.3 (-10.9)
North East Scotland	20 (-0.1)	40.5 (13.2)	13.3	15.7 (-3.1)	14.5 (-2.9)	9.3 (-7.1)
South of Scotland	28.8 (-1.2)	27.8 (9.4)	10.6	10.1 (-0.1)	22.6 (-1.7)	10.7 (-6.4)
West of Scotland	34.2 (1.6)	28.3 (8.7)	7.1	8.4 (-3.9)	15.2 (-0.5)	13.9 (-5.9)

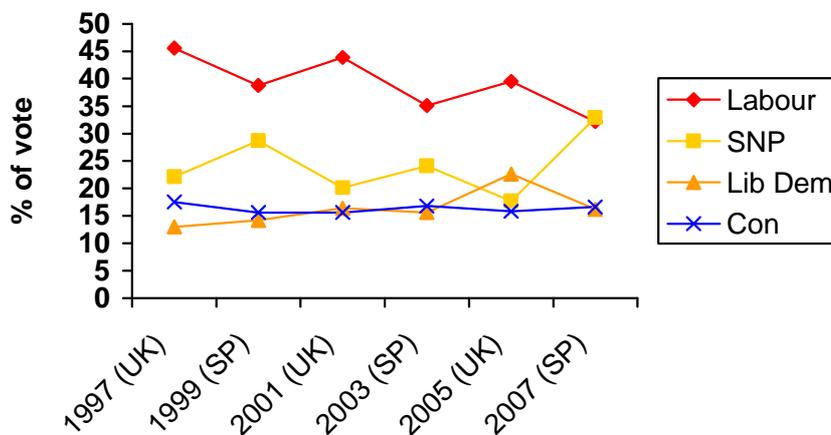
Figures in parentheses indicate change on 2003. Figures in bold indicate largest party in region.

Figure 3 shows the top-up list results in terms of vote share broken down by region. Of the eight electoral regions, Labour and the SNP each topped the poll in four, with Labour well ahead in its traditional strongholds of Glasgow, West and Central Scotland, and the SNP enjoying a clear lead in the North East, the Highlands and Islands and Mid Scotland and Fife. The swing from Labour to SNP in the regional vote averaged 10 per cent, with the highest swings occurring in the two regions where the SNP had outpolled Labour in 2003. Only in the Highland and Islands did another party (the Lib Dems) break

into the top two. The Conservatives did best in the South of Scotland, where three of the party's four constituencies were won.

As revealed in Figure 4, the 2007 election fits into the established pattern of differential voting behaviour for Westminster (UK) and Scottish Parliament (SP) elections, with the nationalists performing better in polls for the latter institution and Labour for the former. Support for the Liberal Democrats and Conservatives has fluctuated less, save for the Lib Dem spike in support in the 2005 UK election. Figure 4 also shows that although the 2007 election was not as bad for Labour as predicted, it appears to fit within a downward trend in the party's support in Scotland since 1997. The figure also provides graphical evidence of the striking nationalist surge of 2007, and of the fact that in terms of vote share, the Conservatives' best performance of the past ten years came, rather surprisingly, in 1997, when the party lost all its seats in Scotland.

Figure 4: Support in elections to Westminster and Holyrood (constituency section only)



4.2 Opinion Polls

The fact that the SNP has thus far performed worse in elections to Westminster than elections to Holyrood need not mean that this is a permanent feature of Scottish political life. However, opinion polling data since May 2007 suggests that this disjuncture continues. For instance, a YouGov poll on Scottish Parliament voting intentions in late June put the SNP ahead by 5 and 7 points in the constituency and regional list ballots

respectively.¹⁰⁹ A month later, polling evidence was released showing that this lead had more than doubled to 16 per cent.¹¹⁰ Meanwhile, a number of UK-wide polls (meaning that the sample size for Scotland was small) indicated a comfortable lead for Labour in voting intentions in a future election to the UK Parliament.¹¹¹

A mid-August YouGov poll provided the most robust recent evidence of voters' differing preferences for the two levels of election.¹¹² It asked over 1,000 Scots how they would vote in a Westminster election 'held tomorrow' and in 'the next' Scottish Parliament election. On the Westminster question, Labour came out 9 per cent ahead, while the Holyrood question revealed a strikingly similar picture to the May results: the SNP and Labour were neck and neck in the constituencies, while the nationalists held a narrow lead on the regional lists.

Figure 5: Voting intentions poll (August 2007)

	Westminster	Holyrood – constituency vote	Holyrood – regional vote
Labour	40%	32%	35%
SNP	31%	32%	32%
Liberal Democrat	11%	12%	12%
Conservative	14%	12%	13%
Other	4%	12%	7%

The same poll confirmed the personal popularity of both Alex Salmond and Gordon Brown, with 65 and 77 per cent respectively giving the two men a positive rating on their performance in office. When asked which of the two leaders was doing a better job, it was Salmond who scored a convincing victory, by 40 points to 26. Worse news for the nationalist leader was that only 23 per cent of those polled supported independence,

¹⁰⁹ Hamish MacDonnell, 'Post-election honeymoon for SNP as poll puts it seven up on Labour', *The Scotsman* (2 July 2007).

¹¹⁰ Douglas Fraser, 'Boost for SNP as approval rises but independence backing stalls', *The Herald* (11 August 2007).

¹¹¹ For instance an Ipsos Mori poll (22 July), put Labour 24 points ahead of the SNP, at: www.ipsos-mori.com/polls/2007/pdf/mpm070717.pdf; a Communicateresearch poll for *The Independent* (29 July) put Labour 15 points ahead, at: www.communicateresearch.com/poll.php?id=110; a Populus poll for *The Times* (29 July), put Labour 6 points ahead, at: www.populuslimited.com/uploads/download_pdf-290707-The-Times-Political-Attitudes.pdf.

¹¹² Source: YouGov / Sunday Times Survey Results, Sample Size: 1118, Fieldwork: 15th - 17th August 2007, at: www.yougov.com/archives/pdf/TOPLINES%20for%20SUNDAY%20TIMES.pdf

although 39 per cent backed a further transfer of powers from Westminster to Edinburgh and nearly three-quarters favoured holding a referendum either on independence alone or with independence as one option among several.

5. Intergovernmental relations

Alan Trench

5.1 General

The election of the new Parliament, and the SNP minority administration that took office in May, has brought a new energy to intergovernmental relations. There has been considerable activity since May, at least at the Scottish end – the UK response has remained relatively low-key. This has been partly the result of the change of Prime Minister in London, of course, and the new Cabinet trying simultaneously to find its feet, signal its differences from its predecessor, and avoid responding too dramatically to the new Scottish government. Relations with London were not helped by the failure (or was it refusal?) of Tony Blair to telephone Alex Salmond to congratulate him on becoming First Minister, although Blair had congratulated both Ian Paisley in Northern Ireland and his party colleague Rhodri Morgan in Wales on their similar appointments. This prompted a witty jibe when raised at First Minister's Question Time ('He never phones, he never writes'), as well as enabling the First Minister to record that he had received congratulations from the Queen, Ian Paisley and David Cameron.¹¹³

Despite this new approach, and calls from the new government for revival of the formal machinery for intergovernmental relations, no meetings of the plenary Joint Ministerial Committee have yet taken place. No announcements of meetings of functional formats have been made in London, although a meeting of the JMC (Europe) took place on 6 June attended by Linda Fabiani, the new Minister for Europe, External Affairs and Culture. A meeting between Richard Lochhead (Cabinet Secretary for Rural Affairs and Environment) and Ben Bradshaw (the UK Parliamentary Secretary for Environment, Food and Rural Affairs) took place on the same day (and was announced by the Scottish Executive). Less formal but extensive contacts have taken place on a number of issues, including terrorism, in the wake of actual or planned attacks on Heathrow and Glasgow airports – attacks which led to strong protestations of their commitment to fight terrorism from Scottish ministers (notably Kenny MacAskill, Cabinet Secretary for Justice, and the First Minister), and the speedy transfer to the custody of the Metropolitan Police of those

¹¹³ SP Official Report, 31 May 2007, col. 315.

arrested in Scotland for the Glasgow Airport attack. Another area of contact has been over the Foot and Mouth Disease outbreaks in Surrey in August and September.

There have been a number of attempts by the new Scottish government to raise areas in which it considers the existing division of powers between UK and devolved institutions to be unsatisfactory. These have included broadcasting (in a speech by the First Minister at the Edinburgh Television Festival), firearms (in the wake of an incident in which a child was shot by an airgun) and oil and gas. In the case of broadcasting, there is to be a commission to investigate Scottish broadcasting, to consider the changing media landscape and 'define a strategic way forward for television production and broadcasting in Scotland'.¹¹⁴ This would appear to be addressed particularly at the BBC's news coverage of Scottish issues, a long-running point of contention. What remains unclear, however, is the extent to which such demands are simply an opportunist response to actions by the UK Government or speaking invitations, and to what extent they form part of a broader, coherent strategy on the Scottish Government's part.

It is worth noting that two developments of the last months – the renaming of the Scottish Executive as 'The Scottish Government', on 3 September, and suggestions of a formal split between the civil service serving the Scottish Government and the rest of the Home Civil Service (canvassed in *The Scotsman* on 19 August), have attracted no formal response from the UK Government. The latter appears to be the cause of little discussion behind the scenes either (although *The Scotsman* reported 'ire and fury' about this, that would appear to be among politicians, not officials).¹¹⁵ While both were once sensitive and difficult issues, times have clearly changed.

Overall, the approach of the new government has surprised many by not being overtly confrontational. Indeed, instructions appear to have been issued to officials in what was still the Scottish Executive to be open, cooperative and helpful to their counterparts in the UK Government, rather than to maximise points of friction. While it is too early to identify a clear style of the new Scottish Government in intergovernmental relations, it would seem to involve a desire to build bilateral links with other devolved

¹¹⁴ Speech by Alex Salmond 'The case for devolution of broadcasting powers', 8 August 2007, available at www.scotland.gov.uk/News/This-Week/Speeches/broadcasting

¹¹⁵ See P MacMahon 'A very civil separation' *The Scotsman* 19 August 2007; 'Time for Sir John's critics to see that this is democracy (devolution-style)', *The Scotsman* 20 August 2007.

administrations, to have something tangible to offer (or tangible agreement to reach) at any meeting, a desire to use multilateral forums for intergovernmental relations, and a wish to increase the effectiveness of existing forums.

5.2 The UK Government's 'memorandum of understanding' with Libya

One of the first moves by the new Scottish government on the intergovernmental relations front was to object vociferously and strenuously about the signing of a memorandum of understanding between Libya and the UK Government about (inter alia) the return of convicted prisoners from Libya to that country to serve their sentences. This was understood in Scotland as referring largely (if not solely) as relating to Abdelbaset Ali Mohmed al Megrahi, convicted of the 1988 Lockerbie bombing.¹¹⁶ There had been no prior consultation between London and Edinburgh about these negotiations or the memorandum of understanding with Libya. This happened even though the overarching *Memorandum of Understanding* for devolution matters, to which both the UK Government and Scottish Executive were signatories, has annexed to it a 'Concordat on International Relations'. The Concordat acknowledges the interest of the devolved administrations in a range of international matters including the conduct of international negotiations, implementation of international obligations and cooperation over legal proceedings when these affect devolved matters.¹¹⁷ The UK Government's failure to consult or involve the Scottish Executive in these negotiations would appear to be a failure to comply with the (non-binding) obligations set out in the *Memorandum of Understanding*.

Perhaps more important than the issue itself, however, is the way it was handled by the Scottish Executive and its timing. The issue was pursued loudly, forcefully and in public; when similar issues have arisen in the past, with Labour or Labour-dominated governments in office at both ends, they have been dealt with quietly and behind the scenes, not in the glare of the media spotlight or on the floor of the Scottish and UK Parliaments. (In his intervention in the debate, Jack McConnell indicated that he had had

¹¹⁶ See e.g. Robbie Dinwoodie 'Salmond squares up to Blair over deal with Libya' and Lucy Adams 'Analysis: How a simple memo turned into a battle with London' *The Herald* (Glasgow) 8 June 2007; Lucy Adams 'Libyans confirm Megrahi part of Blair deal' *The Herald* (Glasgow) 9 June 2007; Catherine MacLeod 'Salmond should have got in touch, says Blair' *The Herald* (Glasgow) 12 June 2007; Robbie Dinwoodie 'Blair must explain Libya deal himself, says Salmond' *The Herald* (Glasgow) 14 June 2007.

¹¹⁷ *Memorandum of Understanding and supplementary agreements between the United Kingdom Government, Scottish Ministers, the Cabinet of the National Assembly for Wales and the Northern Ireland*

similar concerns about UK Government international actions in the past as well – not that this was evident to the public at the time.) The issue arose shortly after the new SNP government took office. It was therefore an effective and timely way for that government to send a signal to the UK Government, particularly the Scotland Office, that relations would work in a different way, and that full and early consultation would be necessary if similarly embarrassing incidents were not to occur in future. As there has been something of a tendency to take Scotland for granted in Whitehall over the last few years, that lesson may need to be absorbed across Whitehall generally – even if there is some annoyance in London at the way the issue was very deliberately raised and kept in the public eye by the Executive.

5.3 The UK Government's green paper on The Governance of Britain

The UK Government's green paper on constitutional matters, *The Governance of Britain*, was published by the Ministry of Justice on 3 July.¹¹⁸ This mainly addresses issues of governance at the UK level (parliamentary reform, executive accountability, the royal prerogative, and the like), on which it seeks to launch a 'national conversation' as part of the journey toward a 'new constitutional settlement'. It makes scant reference to devolution issues, partly perhaps for fear of raising politically-sensitive matters while coalition negotiations in Wales were underway, but perhaps also because of the haste with which it was prepared and the limited involvement of civil servants in its drafting. One devolution-related issue with which it does deal is the idea of a 'British' statement of values, and perhaps a British bill of rights, on which consultation with people across the UK was promised – but not consultation with the devolved governments, although they can be expected to have an interest in this too.¹¹⁹

5.4 The Scottish white paper on independence and the 'National Conversation'

In what may be a dialogue of the deaf, the Scottish Executive has started another 'National Conversation' (this time with capital initials), revolving around the issue of Scotland's powers and possible independence. On 14 August it published its white paper entitled *Choosing Scotland's Future: A National Conversation. Independence and*

Executive Committee, Cm 5240 (London: The Stationery Office, 2001), Section D: Concordat on International Relations.

¹¹⁸ Cm 7170 is available from www.justice.gov.uk/publications/governanceofbritain.htm

¹¹⁹ See A. Trench 'Brown's brave quest to define Britishness could backfire' *The Herald* (Glasgow) 13 July 2007.

*responsibility in the modern world.*¹²⁰ Beyond the issue of independence (which drew much attention, particularly south of the border), it raises a number of intriguing if less dramatic questions. In particular, it opens an intergovernmental agenda of increasing the powers of the Scottish Parliament and Government. This is discussed particularly in chapter 2 of the white paper, which surveys the range of matters reserved to Westminster set out in Schedule 5 of the Scotland Act 1998 and discusses the possibility of devolving each of them (in which context it emphasises the flexible nature of the present devolution arrangements). Chapter 4 addresses intergovernmental institutions, including the Joint Ministerial Committee and the British-Irish Council. In effect, the white paper creates an intergovernmental agenda which can include any particular policy issue that happens to be current; masterly, if not particularly strategic, intergovernmental politics.

The UK Government, through the Scotland Office, issued a press statement rejecting the demands for independence, noting that parties supporting the Union had secured the support of two-thirds of Scottish voters in the May elections.¹²¹ While acknowledging the flexibility of the present devolution settlement, it pointed out that this was two-way and that additional matters could be reserved as well as devolved. (In doing so, it failed to point out that any change to the list of reserved matters requires the consent of both the Scottish and UK Parliaments, however.)

5.5 Relations with other devolved administrations

Relations with Wales have not greatly developed, partly because of the protracted coalition negotiations there following the May elections. However, there has been much action on the development of bilateral relations between Scotland and Northern Ireland. On 18-19 June the First Minister paid a visit to Northern Ireland, during which he had discussions with Northern Ireland's First and Deputy First Ministers, signed a 'partnership agreement' with the Northern Ireland Executive, and gave a speech to the Northern Ireland Assembly.¹²² During his visit the First Minister sought to emphasise common links between Scotland and Ireland, to draw on the advantages of reduced

¹²⁰ Available from www.scotland.gov.uk/Publications/2007/08/13103747/0

¹²¹ Scotland Office Press Release, 14 August 2007 'Government response to the Scottish Executive's publication of an independence White Paper'. Available at www.scotlandoffice.gov.uk/our-communications/release.php?id=3609

rates of corporation tax available in the Republic of Ireland (which the Northern Ireland Executive would like to emulate, and which fits with Scottish calls for 'fiscal autonomy'), and to indicate that university tuition fees for students from Northern Ireland studying at Scottish universities would be remitted in some form (a commitment which may present rather greater financial and legal problems than the First Minister indicated at the time).

5.6 British-Irish Council

A summit meeting of the British-Irish Council took place on 16 July 2007 in Belfast, chaired by the new 'British' (sic) Prime Minister, Gordon Brown, and the Irish Taoiseach, Bertie Ahern. The meeting was more notable in terms of changed personnel than concrete policy developments, with nationalists from all three devolved territories in attendance. Alex Salmond represented Scotland; Ieuan Wyn Jones deputised for Welsh First Minister Rhodri Morgan (having become Deputy First Minister only a few days before, after the protracted negotiation of the Labour-Plaid Cymru coalition), and Sinn Féin's Martin McGuinness (Deputy First Minister of Northern Ireland) attended along with First Minister Ian Paisley.

The communiqué issued after the meeting indicates a wide-ranging discussion of the various sectoral work programmes of the BIC.¹²³ It reviewed sectoral work on demography, to be led by Scotland, which will focus on the issue of migration. A new work area of energy was introduced, on which Scotland will also lead. On transport, the Council 'noted' an agreement between Northern Ireland and Scotland to look at restoring ferry services between Campbeltown and Ballycastle (an agreement reached bilaterally before the meeting, and which apparently took the UK Government by surprise). More broadly, the BIC is to have a strategic review of its direction, to include its work groups, working arrangements and whether it should have a standing secretariat. This was described privately by one official in attendance as signifying that 'now is the time for the BIC to deliver, after all the talking'.

5.7 Machinery of Government changes in Whitehall

¹²² Scottish Executive News Release 19 June 2007 'Agreement with Northern Ireland', available at www.scotland.gov.uk/News/Releases/2007/06/19113717. For the First Minister's speech at Stormont, see www.scotland.gov.uk/News/This-Week/Speeches/fmstormont

¹²³ The communiqué is available at www.britishirishcouncil.org/documents/belfast_summit.asp

The appointment of Gordon Brown as Prime Minister on 28 June led to the appointment of a new UK Cabinet. Although there was some speculation in the run-up to the reshuffle that a 'department for the nations and regions' might now be created, this did not happen, and indeed the reshuffle was notable principally for its conservatism when it came to devolution matters. Peter Hain remained Secretary of State for Wales, but moved from Northern Ireland to Work and Pensions. Shaun Woodward was promoted from Minister of State at the Northern Ireland Office to become Secretary of State – but that job has become much less demanding with the restoration of devolution. Des Browne became Secretary of State for Scotland as well as remaining Defence Secretary. Browne replaced Douglas Alexander, who became International Development Secretary – though having coordinated Labour's Holyrood election campaign, if he had retained responsibilities for Scotland as well he would have been seen as unacceptably partisan. The only structural change on the ministerial front was the promotion of David Cairns, junior minister at the Scotland Office, from Parliamentary Under-Secretary to Minister of State. It was not clear whether this constituted a response to the greater demands of the job, following the election of the SNP Government, or an acknowledgement of Cairns's personal standing in government.

On the official side, the Scotland and Wales Offices remained distinct entities within what was now the Ministry of Justice (rather than Department for Constitutional Affairs). However, in early September, it emerged that devolution coordination at the centre was to be beefed up, with the appointment of Jim Gallagher as 'Director-General, Devolution' in both the Ministry of Justice and the Cabinet Office. Gallagher is a senior Scottish civil servant, formerly head of the Justice Department in the Scottish Executive, who has latterly been on secondment as a Professor in the School of Law at Glasgow University. This appears to be a response to the independence debate and 'National Conversation' white paper rather than any more structured response, although many have been arguing that such a response is needed for some considerable time.

5.8 Adjusting the devolution settlement

No Orders adjusting the devolution settlement have been made since March 2007.

6. Scotland, Europe and International Relations

Peter Lynch

6.1 Scotland and Europe

Europe has been just one of a number of fronts on which the SNP government has sought to make progress since coming to power in May. In terms of actual policy, institutional capacity and strategy (noting the previous Executive's penchant for publishing external relations strategy documents), not much has changed. However, the SNP government set out its stall in favour of a more active role in European affairs in expressing a desire for establishing a direct link between Scotland and the EU, as opposed to through the UK government. The First Minister made this argument very directly when visiting Brussels on the 90th anniversary of the Battle of Passchendaele, in demanding that Scotland should have the right to lead the UK delegation at the EU Council of Ministers on fisheries, just as Flanders was able to lead the Belgian delegation.¹²⁴ This case had also been made by Cabinet Secretary for Rural Affairs Richard Lochhead in a bilateral meeting with UK Minister of State for Fisheries, Ben Bradshaw on 6 June 2007 to press the Executive's case for Scotland before the EU Fisheries Council meeting (see section 5). In the event, Lochhead attended the Council only as an observer, with the issue of Scottish leadership of the UK delegation to be raised at future Joint Ministerial Committees on Europe.¹²⁵

6.2 First Minister's Visit to Northern Ireland

The first external visit by the new First Minister was to Northern Ireland. This was significant in both personal and political terms. Salmond has been a frequent visitor to Northern Ireland since first being elected as an MP back in 1987, and his experience as an MP has given him links with a number of Northern Ireland politicians, especially those who have served at Westminster. Salmond visited Northern Ireland on 18 June, meeting the new leaders of the Northern Ireland Executive and making a speech to Stormont (as had his predecessor Jack McConnell). The two First Ministers signed a cooperation agreement to examine areas for links in business and education. Specifically, the agreement committed the two governments 'to work together in the following areas:

¹²⁴. Alex Salmond, 'The Scottish Government's relationship with Europe', Scottish Executive News Release, 11 July 2007.

- raising understanding of each other's history and culture
- encouraging education programmes and building on existing links between our Universities and Colleges
- collaborate on tourism issues through the tourism group of the British-Irish Council
- renewable energy and its effect on the environment
- to strengthen cooperation between the devolved administrations'.¹²⁶

Aside from this initiative, Salmond was also involved in discussing extensions of devolved policy powers in relation to business taxation. The Northern Ireland Executive has called for the devolution of corporation tax powers to enable it to compete with the low business taxes of the Irish Republic,¹²⁷ and the SNP would like a similar extension of Holyrood's powers in order to boost business development, economic growth and employment. Links between the various devolved administrations to seek more powers – as opposed to unilateral action – is a common approach in Spain and Germany where there is regional government all round, but has not been a prominent feature of post-devolution intergovernmental relations in the UK. However, the changes of administration in Scotland and in Wales, and the re-establishment of devolution in Northern Ireland, offers opportunities for common working as administrations as well as talks with the UK government through formal institutions. The First Minister also visited the Mayor of London, Ken Livingstone to discuss common issues – and catch up with a former MP with whom Salmond had shared an office at Westminster.

6.3 International Development

The SNP government announced the doubling of the International Development Fund to £9m per annum by the end of the Parliament in 2011, including the previous Executive's £3m commitment to Malawi which was widely identified with former First Minister, Jack McConnell.¹²⁸ McConnell himself was appointed as the future British High Commissioner to Malawi, from 2009 onwards, following his resignation as Labour leader, so his involvement in international development is set to outlive his time in office.

¹²⁵ Scottish Executive (2007), *Reporting on 100 Days: Moving Scotland Forward*, p.4.

¹²⁶ Scottish Executive News Release, 19 June 2007.

¹²⁷ See Wilford, R. and Wilson R., 'Finance', in *Northern Ireland Devolution Monitoring Report: September 2007*, at: www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/NI_Sept07.pdf,

¹²⁸ Scottish Executive News Release, 23 August 2007.

6.4 The Scottish Government

The SNP announced the internal and external rebranding of the Scottish Executive as the Scottish Government from September onwards. The cost was estimated at £100,000, with the immediate changing of signage at Executive buildings and the gradual phasing in of new stationery. The government stated that the change was because 'research showed that the term Scottish Executive was confusing or meaningless to many members of the public. The Scottish Social Attitudes survey and a Citizens' Jury examining Executive communications have both indicated limited understanding of what the Executive does and some confusion with other government bodies, notably the Scottish Parliament but also the UK Government.'¹²⁹ However, though this might be true, there is also a much more political case for the changes. The Scotland Act 1998 designated both a First Minister and a Scottish Executive rather than a Prime Minister and Government, as well as a Presiding Officer rather than a Speaker. The different language smacked of Westminster consigning Scotland's Parliament to an inferior status, with the term 'Executive' being particularly vague. The change from Executive to Government had already come up during Henry McLeish's brief tenure as First Minister in 2001, with McLeish seeking to refer to the Executive as the Scottish Government in order to elevate its status and reduce confusion. McLeish was slapped down by some within the UK government, with one anonymous backbench MP stating that 'they could call it the White Heather Club if they like.'¹³⁰ Of course, for McLeish to have changed the name as a Labour First Minister was one thing, but for the nationalists to do it is another. Though the change has provoked little comment in Scotland it is a significant indicator of the SNP's strategy of using the devolved institutions in nation-building. Specifically, the idea is to move Scotland closer to independence by increasing the powers of the Scottish Parliament and taking on more of the trappings of statehood.¹³¹ According to its 100-day report card, the SNP administration has also been in contact with the Northern Ireland Civil Service about its internal organisation and practices – with a view to the SNP's intention to create a separate Scottish civil service.

¹²⁹ Scottish Government News Release, 3 September 2007.

¹³⁰ Henry McLeish (2004), *Scotland First – Truth and Consequences*, Edinburgh, Mainstream, pp.130-131.

¹³¹ In similar vein, the SNP proposed to discuss future Scottish participation in the Olympics.

7. Relations with Local Government

David Scott

7.1 Council Elections

The Scottish local government elections were held on 3 May 2007, the same day as the elections for the Scottish Parliament (discussed above). For the first time, the local elections were conducted using a system of proportional representation – the Single Transferable Vote (STV) which requires voters to choose candidates in order of preference. The system also introduced multi-member wards, with three or four councillors elected for each ward compared to one in the past.

The introduction of STV, in addition to a general rise in support for the Scottish National Party, resulted in a radical change in Scotland's local government landscape with Labour's traditional grip on local government dramatically reduced. When the unitary authorities were created in 1995, the party won overall control of 20 of the 32 councils, though this had slipped back to 13 of 32 councils by 2003. Following the 2007 results, Labour found itself with outright control of only two councils – Glasgow City and North Lanarkshire.¹³² However, to put this in context, no other mainland council in Scotland remains in the hands of a single party. In the three islands areas of Orkney, Shetland and the Western Isles, independent councillors remain in charge.

The SNP, reflecting its successes in the Scottish Parliament election, has more councillors than Labour for the first time: it has a total of 363 councillors compared with 348 for Labour, 194 for Independents and 'others', 166 for the Liberal Democrats, 143 for the Conservatives, and 8 for the Greens.

Despite its local government successes, the SNP failed to win outright control of any council and, ironically, lost control of one (Angus) which it had held prior to 3 May. However, it has substantially increased its influence, being the largest or joint-largest party in seven councils. It has formed a minority administration in East Ayrshire and shares power with other parties in 11 councils including Edinburgh, Fife and Highland.

The Scottish Liberal Democrats, whose hard bargaining with Labour in 2003 had led to the change in electoral system, suffered some setbacks, including losing control of Inverclyde Council, but it is now the largest party in the capital city of Edinburgh, where it has formed a coalition with the SNP, and shares power in 11 further councils including Dundee, Aberdeen and Fife. The Scottish Conservatives had limited successes, now having minority control in South Ayrshire and sharing power in seven councils including Aberdeenshire, Scottish Borders and Dumfries and Galloway.

Independent councillors have continued to be a significant force in Scottish local government in recent years, despite the dominance of the political parties. They suffered some losses on 3 May, especially in traditional rural areas like the Highlands and have a total of 39 fewer councillors in Scotland than they did previously. However, they made some advances in the central belt and have survived the impact of the STV system better than many had predicted.

Although the results were a major blow to Labour's morale, the party emerged surprisingly well from the round of negotiating on power sharing: Labour councillors are leaders in 12 of the 32 councils. The party also managed to retain the top post in the Convention of Scottish Local Authorities (COSLA), with Pat Watters entering a third term as president. However, his success was more due to his record as a leader who has succeeded in winning some cross-party support because of the emphasis he has put on defending local government. Cllr Waters was opposed by an SNP councillor, Rob Murray of Angus Council, when he was nominated for the post of president at a meeting of COSLA on 29 June. In a secret ballot, Cllr Watters was elected, by 71 votes to 52.

The elections, involving the use of electronic vote counting for the first time, were marred by problems that led to a large number of invalid ballot papers.¹³³ Confusion arose over the use of three different types of ballot paper: the separate constituency and regional

¹³² *The Scotsman* and *The Herald* election supplements, 5 May 2007; *Holyrood magazine*, 9 May 2007; COSLA, *COSLA Connections*, Issue 35 (May 2007) at:

www.cosla.gov.uk/attachments/connections/connections35.pdf

¹³³ Shan Ross, 'Tens of thousands of spoiled ballot papers mar poll,' *The Scotsman*, 4 May 2007; 'Election fiasco was predictable and lessons must be learned for the future,' *The Herald*, 5 May 2007.

list ballots of the Additional Member System (AMS) used in the parliamentary election, and the introduction for the first time of STV for the council vote.

7.2 Relations with the Scottish Executive

Relations between councils and the minority SNP government in Edinburgh have begun in a positive way. With political parties now required to seek consensus due to the power sharing set-up in most authorities, there appears to be a desire on behalf of COSLA to work with the Executive, provided ministers are seen as acting in the best interests of local government. The SNP do not have any plans at present to reduce the number of councils or erode their powers. On the contrary, the party's election manifesto expressed a desire to transfer powers to councils, notably those of Communities Scotland, the housing and regeneration executive agency.¹³⁴

John Swinney, the Secretary for Finance, has voiced his desire to have a positive relationship with local government and embarked on a summer tour of councils. The aim of these visits was to discuss 'the new relationship' between the Scottish government and local authorities.¹³⁵ Central to the talks would be the government's plans to increase the role of local authorities and to freeze the council tax.

The planned freeze on council tax, which would require the co-operation of councils, would fulfil a manifesto commitment not to increase council tax bills while preparations are made for the SNP's ultimate aim of introducing a local income tax (LIT) to replace council tax altogether. This tax would be calculated at 3p in the pound and could not be varied by individual councils. A question mark remains over whether the minority government can push through such a radical change, which is opposed by Labour and the Scottish Conservatives. The Scottish Liberal Democrats back a different type of LIT which would give individual councils the right to set their own tax level, but within a restricted range of 3.5p to 3.7p.

As the SNP is well short of an overall majority in the Scottish Parliament, it would need the support of at least one of the other three major parties for there to be any chance of such controversial legislation being approved. However, the idea is far from being ruled

¹³⁴ SNP election manifesto 2007, see health and well-being section www.snp.org/policies

¹³⁵ Scottish Executive Press release, 'Swinney in talks with Scotland's councils', 18 July 2007.

out, especially since an amended motion stating that a LIT, based on ability to pay, would be a fairer system of local taxation than the 'discredited and unfair' council tax', was approved in the Parliament by a majority of two votes (64 votes to 62, with two abstentions).¹³⁶ The SNP and the Liberal Democrats supported the amended motion while the Conservatives and Labour voted against. The Greens abstained.

An important issue which could test relations between councils and the Scottish government will be the outcome of the Strategic Spending Review which is due to be published in the autumn. In a statement in the Parliament, Mr Swinney said annual increases for this spending review 'will not be of the level to which we have become accustomed but will be significantly lower'.¹³⁷ If councils are to meet the new Executive's wish to freeze council tax, however, they will expect a generous local government finance settlement.

7.3 Housing

The Minister for Communities and Sport, Stewart Maxwell, announced the setting up of a housing supply task force to tackle housing supply problems.¹³⁸ Its role will be to tackle problems like land supply and planning issues which have hampered the delivery of more housing. Membership of the group will be drawn from a wide range of bodies including local authorities, house builders, the housing association movement and other housing interest groups. Mr Maxwell announced that a Scottish Housing Support Fund would be created to provide additional help for people who struggle to afford a first home of their own.

Mr Maxwell stated that there would be no immediate decision on the future of the housing and regeneration agency, Communities Scotland. He said the aim was to consider how the Executive could deliver its housing and regeneration commitments through a 'simpler public sector landscape' that supported local delivery. He said firm conclusions would be reached in the next few months.

www.scotland.gov.uk/News/Releases/2007/07/18100940

¹³⁶ Scottish Parliament debate on council tax, 21 June 2007

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0621-02.htm#Col1085

¹³⁷ www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0628-02.htm#Col1207

¹³⁸ Scottish Executive news release, 'Task force to tackle housing supply problems', 21 June 2007.

www.scotland.gov.uk/News/Releases/2007/06/21155506

This issue is of particular interest to local authorities as the SNP manifesto pledges the transfer of Communities Scotland functions to councils. The president of COSLA, Pat Watters, said there were clearly functions that should be transferred to local government 'for reasons for effectiveness, efficiency and accountability, including, for example, managing investment to deliver local housing strategies and driving regeneration.'¹³⁹

Housing expenditure

An Executive publication, *Local Authority Housing Income and Expenditure 2005-06 to 2007-08*, disclosed that local authority debt on housing has risen to over £2.2bn.¹⁴⁰

Housing debt in Scotland is a historic problem that goes back to the period after the Second World War when councils embarked on large-scale housing programmes. In recent years, the Scottish Executive has encouraged councils to transfer their houses to alternative landlords. In cases where councils decided to transfer their houses and tenants voted in favour, the Treasury has paid off housing debt. But this policy achieved only limited success and, in some councils, including Edinburgh, tenants voted against a transfer proposal. As a result, the policy has had less impact on housing debt than intended. Under the transfer policy, the Treasury has provided £1.3bn for the early redemption of Scottish council housing debt on transfer.¹⁴¹ By way of comparison, latest figures provided by the Department of Communities and Local Government show that the outstanding debt on council housing in England was £13bn in 2005-06.¹⁴²

According to the Scottish Executive publication, total outstanding debt of Scottish councils at April 2006 was £2,008.3m. The estimated debt figure at April 2007 was £2,212.4m, an increase of £204.1m.

¹³⁹ David Scott, 'SNP pauses over putting housing policies in order,' *The Scotsman*, 29 September 2007. <http://news.scotsman.com/politics.cfm?id=1013222007>

¹⁴⁰ Scottish Executive new release 'Local authority housing income and expenditure 2005-06, 2007-08' www.scotland.gov.uk/News/Releases/2007/07/24093847

¹⁴¹ Audit Scotland, 'Council housing transfers', March 2006

http://www.audit-scotland.gov.uk/docs/central/2005/nr_060324_council_housing_transfers.pdf

¹⁴² This suggests that the level of debt is proportionately greater in Scotland, although allowance must be made for differences between the two countries in the number of council houses per capita.

The figures show there was a wide variation across councils in their debt levels; Orkney Council remains debt free, whereas Shetland (£28,121 per unit) and the City of Edinburgh (£12,475 per unit) continue to have the highest outstanding housing debt.

Edinburgh was one of a number of councils whose tenants voted against plans to transfer their houses to alternative landlords, such as housing associations. If tenants agree to transfer their homes, debt is written off by the Treasury.

Total capital expenditure on housing in Scotland in 2006-07 was projected in the report to be £501m, an increase of £39m (8.4 per cent), with Midlothian, Angus and Perth and Kinross having the highest increases.

7.4 Edinburgh trams

The City of Edinburgh Council's plans for a £539m trams project for the city was thrown into doubt because of the SNP's manifesto commitment to scrap the proposals along with an associated plan for a separate rail link to Edinburgh Airport, costing an estimated £550m. However, the trams project is to go ahead following a vote in the Scottish Parliament in June.¹⁴³ Labour, the Liberal Democrats, Conservatives, Greens and Independent MSP Margo MacDonald joined forces to inflict their first defeat on the minority SNP government. The future of the airport rail link (EARL) remains uncertain.

The SNP objected to both schemes, mainly because of the cost. Following the election, the SNP administration commissioned a report on the projects from the Auditor General for Scotland, Robert Black. In his report Mr Black gave the trams project a clean bill of health, saying the plan included a clear governance structure and a procurement strategy aimed at minimising risk and delivering successful project outcomes.¹⁴⁴ However, he voiced doubts about the EARL project, saying there was less certainty about current cost estimates and a lack of agreement over government arrangements and procurement strategy.

¹⁴³ Hamish MacDonnell, 'Trams given green light but it's the end for EARL...', *The Scotsman*, 29 June 2007. <http://news.scotsman.com/politics.cfm?id=1008122007>; Scottish Parliament debate on transport, 29 June 2007, www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0627-02.htm#Col1137

¹⁴⁴ Audit Scotland, 'Edinburgh Transport Projects Review,' 20 June 2007. www.audit-scotland.gov.uk/publications/pdf/2007/nr_070620_edin_transport_project.pdf

7.5 Free Personal Care

The Executive announced an independent review of free personal care for the elderly – one of the flagship policies of the previous Labour-Liberal Democrat coalition administration – to investigate the level and distribution of resources to councils.¹⁴⁵ It is to be chaired by Lord Sutherland, who headed the UK Royal Commission on Long Term Care, whose report led to the original implementation of free personal care in Scotland (though his recommendations were not followed by the UK government for England).¹⁴⁶ Nicola Sturgeon, the Cabinet and Wellbeing Secretary, said local authority input to the review would be important. The review would begin later in the summer, with an interim report due in September and a full report in March 2008.

Local authorities have experienced major problems over the funding of the policy and have been criticised over lengthy waiting lists for free personal care. A report by the health committee of the Scottish Parliament in 2006 called for a thorough review of the operation of the scheme, saying that demand for the service appeared to be outstripping the resources available for many local authorities, while half of the 32 councils had been forced to operate waiting lists.¹⁴⁷ However, the committee also concluded that free personal care, which was introduced in 2003, had been a success and had been widely welcomed.

7.6 Best Value review

The Accounts Commission, the local government watchdog for Scotland, has published the results of an independent review of Best Value,¹⁴⁸ the system that requires councils to make continuous improvement in performance. Following the review, undertaken by a team from Cardiff and Edinburgh Universities, the commission is to draw up an improvement plan which will include making audits more flexible and having a greater focus on the quality of leadership.

¹⁴⁵ Scottish Executive news release, 'Review of free personal care,' 14 June 2007.

www.scotland.gov.uk/News/Releases/2007/06/14152851

¹⁴⁶ Royal Commission on Long Term Care, *With Respect to Old Age: Long Term Care - Rights and Responsibilities*, Cm 4192-I (London: The Stationery Office, 1999).

¹⁴⁷ Scottish Parliament, health committee report on care inquiry.

www.scottish.parliament.uk/business/committees/health/reports-06/her06-10-vol01-00.htm

¹⁴⁸ Accounts Commission report, August 2007, at: www.audit-scotland.gov.uk/accounts/bestvalue.htm

In its report of the review, entitled *Decisive Moment*, the research team concluded that the Best Value audit approach had made progress but there were still 'areas of concern.' These included a lack of clarity about the criteria used by Best Value audit teams to reach their judgements. Some of those interviewed complained about a lack of consistency in the conduct of audits. They also underlined the need to improve the link between various inspectorates.

The commission noted that the focus on the corporate activities of councils was highly valued and that the audits had had a significant impact on local authority corporate performance, on council leaders and in producing action to improve poorly performing councils.

The Best Value system, which replaced the Compulsory Competitive Tendering regime introduced by the former Conservative government at Westminster, will continue to be used as a means of encouraging councils to become more efficient and improve their services. Some changes are likely to be made to the method of conducting Best Value studies as a result of the review. The SNP government, which is committed to improving the efficiency of local government, is expected to continue to encourage Best Value as a means of improving front-services and obtaining better value for the Scottish taxpayer. However, it is a matter for the Accounts Commission, as the independent body responsible for the scrutiny of local government expenditure.

8. Disputes and litigation

Alan Trench

There have been no judgments in devolution issue cases in the Judicial Committee of the Privy Council since that of *DS v. Her Majesty's Advocate* on 22 May 2007 (discussed in the last report).¹⁴⁹ There appear to have been no judgments on devolution issues in the Scottish courts.

The diligent Anne McIntosh MP, who has dug out information about the number of devolution issues raised in litigation through parliamentary questions to the Secretary of State for Scotland at Westminster, appears to have stopped doing so since the May elections.

¹⁴⁹ Trench, A., 'Disputes and litigation', in *Scotland Devolution Monitoring Report: April 2007* (London: The Constitution Unit), at: www.ucl.ac.uk/constitution-unit/research/devolution/devo-monitoring-programme.html. The judgment itself can be seen at: www.privy-council.org.uk/files/other/DS%20v%20HM%20Advocate.final2.rtf

9. Political Parties

Peter Lynch

9.1 The Scottish Election

The Scottish election produced the first real surprise since the onset of devolution in 1999. Though the opinion polls showed the SNP in the lead, the party was so far behind Labour in terms of first-past-the-post (FPTP) seats that it seemed unlikely that it could emerge as the leading party in 2007 because it had such a mountain to climb. Yet, despite the predictions of pundits (*mea culpa*), this is exactly what happened, with the nationalists edging out Labour on the constituency vote, regional list vote and in the number of seats won. It is no exaggeration to refer to this as a historic victory – the first SNP election win ever, Labour's first second place finish since 1959, the first nationalist government (and a minority government to boot, as it turned out).

The result saw some surprising FPTP gains for the nationalists – Cunningham North, Edinburgh East and Musselburgh, Argyll and Bute, Livingston – as well as a near wipe-out of smaller parties on the regional list,¹⁵⁰ down to the strength of the SNP as well as the effects of the electoral system, which granted Labour extra list seats to compensate the party for its FPTP losses.

Apart from the election result, the other big story of the election was the failures in the use of electronic counting, the difficulties in using the new ballot papers and the huge number of rejected ballot papers. The Scottish election involved a single ballot paper for both votes, as opposed to the separate ballot papers of 1999 and 2003. In addition, elections for Scotland's 32 local authorities were held on the same day, using the new Single Transferable Vote mechanism for the first time. As counting began late on 3 May, a series of issues arose related to counting irregularities and rejected votes that has rumbled on ever since. Huge numbers of ballots were rejected per constituency compared to normal (over 140,000), counts were delayed and suspended due to malfunctioning machines and there were disputes about results in a number of counting centres. These problems placed a cloud over the eventual outcome of the election and

¹⁵⁰ The SNP run their regional list campaign as Alex Salmond for First Minister on all ballot papers, as well as before and during the campaign.

delayed the results until around 6pm on Friday 4 May. A series of analyses and inquiries were launched subsequently,¹⁵¹ with an official inquiry by the Electoral Commission to report by the end of the year.

9.2 The SNP Enters Government

The nature in which the SNP entered government is an instructive one. Internal polling plus reports from polling centres indicated that the SNP was doing well on election night, with every prospect of coming out ahead of Labour. However, any final declaration was clouded by confusion over rejected ballots, delayed counts, recounts, etc. Throughout the night and next morning, there was discussion within the SNP of whether to 'call the election' and declare victory – seizing the day as well as the initiative in relation to government formation – rather than waiting until all of the results were declared. Decisiveness was key here – and akin to the Al Gore moment in the SNP's eyes. Given the narrowness of the election outcome, the nationalists wanted the security of knowing they had won on constituency and regional list votes as well as in terms of seats, to provide them with the clear moral authority to begin government formation. Allowing the lack of a clear result to paralyse the party – which seems to have happened to Labour – was not Salmond's instinct. Even before all the results were known – especially the Highlands and Islands regional list result¹⁵² which put the SNP over the top – Salmond had marched out to meet the press at Prestonfield Lodge in Edinburgh on Friday afternoon to declare victory and talk about forming a government, a prime piece of agenda-setting to frame the election as an SNP victory whilst the other parties stood by.

Getting from a one-seat victory over Labour to forming a government was not an easy task. There was no simple two-party coalition possible that would provide a coalition government with a majority. Numerically, there was potential for an SNP-Green-Lib Dem coalition, as well as a Labour-Conservative-Green coalition, in addition to a grand Unionist coalition of Labour, Conservative and Lib Dems. However, politically, some of these options were not feasible in the slightest. The most likely coalition, between the SNP and Lib Dems (63 seats) did not emerge despite informal discussions. The Lib

¹⁵¹ For analysis of the rejected ballots see Carman and Mitchell (2007), *An Examination of Ballot Rejection in the Scottish Parliamentary Election of 2007*, Department of Government, University of Strathclyde, freely available at http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/25_06_07_rejectedballots.pdf

¹⁵² This result was initially miscalculated by the returning officer, giving Labour 4 regional seats and the SNP none: meaning a Labour victory overall in Scotland. However, after the SNP demanded a recount of the list vote, it was found that the SNP had won 2 regional list seats to Labour's 3. BBC News, 5 May 2007.

Dems stayed out of government and used the SNP's proposal of an independence referendum as political cover to head for the backbenches. The Conservatives had ruled out coalition in advance and, somewhat wisely, talked of trying to influence a minority government from the opposition benches. Labour took itself out of the coalition talks by stating that 'given the divided parliament and the uncertainty created, Scottish Labour recognises it would be wrong to make an immediate judgment about our stance on the next steps towards the formation of the next Scottish government.'¹⁵³ This can be viewed as a 'wait and see' position – meaning, see what the SNP does, see if it can form a government and if it does, wait until it collapses. In the short-term, this might appear to have been a mistake, although having lost the election, albeit narrowly, it is doubtful whether Labour could have done otherwise.

When government formation talks did take place, they involved the SNP and the Greens – with the assumption that getting talks under way might tempt the Lib Dems into dialogue. The Greens even sought to engage the Lib Dems in talks separate from the SNP, but to no avail.¹⁵⁴ The SNP and Greens met on Monday 7 May and agreed a cooperation agreement later that week. The significance of the agreement was partly numerical – 2 more MSPs in support of Alex Salmond as First Minister when it came to the election in the Scottish Parliament, so now 49 MSPs to Labour's 46 – and partly symbolic, in that Salmond could claim at least some cross-party backing for his passage to Bute House. In policy terms, the SNP-Green cooperation agreement committed the two parties to work together in specific areas – to oppose the building of new nuclear power stations, produce early legislation to reduce climate-change pollution on an annual basis,¹⁵⁵ and support independence and extended powers for the Scottish parliament. In return for the two Green MSPs' support in the votes for First Minister and Ministerial appointments, the SNP agreed to consult the Greens about the government's annual legislative programme and budget; to nominate the Greens for the convenership

¹⁵³ BBC News, 5 May 2007.

¹⁵⁴ *The Herald*, 9 May 2007.

¹⁵⁵ The Scottish government announced it was to begin consultations on a climate change bill aimed at reducing carbon emissions by 80 per cent by 2050. Scottish Executive news release, 21 June 2007.

of one of the Parliament's subject committees;¹⁵⁶ and to be sympathetic to Green members' bills and parliamentary motions.¹⁵⁷

After Salmond and his ministerial team were elected, the new minority government entered a period of hyperactivity as well as something of a honeymoon period. Informal discussions were held with the Conservatives and Lib Dems about policy cooperation, whilst a series of initiatives and changes were announced. Some of this involved tidying up and tackling issues that had vexed the previous Executive. Thus, the new government reversed some hospital closures, established a review group on implementation of free personal care, reversed the decision to allow a new prison at Bishopbriggs to be run by the private sector, found money for the continuation of university education at Crichton campus in Dumfries, took steps to abolish bridge tolls on the Forth and Tay bridges, announced the abolition of the graduate endowment scheme to reduce student debt, and outlined plans to freeze and then abolish the council tax (see section 10, 'Public Policies'). Many of these measures were popular and even populist, sometimes linked to vocal local campaigns and most were also part of the SNP's manifesto. A legislative programme was to wait until the Parliament reconvened in September whilst major decisions over the Scottish budget were to wait for the outcome of the UK government's comprehensive spending review in October. These issues were all eclipsed by the conflict with the UK government over its memorandum of understanding with Libya over extradition and prisoner transfers (see section 5.2 above). The issue was effectively handled by the SNP government as the first major test of intergovernmental relations between the two sets of governments – and contrary to forecasts, it meant that the first major intergovernmental row was provoked by the UK, inadvertently, rather than by the nationalists.

Where there were problems for the SNP minority government came in relation to two major public transport projects – the Edinburgh airport rail link and the Edinburgh tram system. The government was concerned about the costs of these projects and especially the prospect of cost overruns. As the other major parties in the Parliament supported these initiatives, there was a good deal of dispute over attempts to change the

¹⁵⁶ Patrick Harvie became convener of the new Transport, Infrastructure and Climate Change Committee of the Parliament in May 2007.

¹⁵⁷ Scottish National Party/Scottish Green Party (2007), *Scottish National Party & Scottish Green Party Cooperation Agreement*, Edinburgh.

policy. Both projects were reviewed by the government and Auditor General,¹⁵⁸ with the SNP government defeated in its attempt to cancel the trams project. However, the tram project and its expected cost overruns – were now made the responsibility of Edinburgh City Council rather than the Scottish government. And, notably, this was the minority government's only defeat in the Scottish Parliament in this period (see section 7.4).

In terms of the autonomy issue – the SNP's *raison d'être* – three developments are worth discussion. First, the SNP, as promised, published a white paper and draft bill on independence. However, the white paper was about more than independence. Indeed, it can be seen as a sober document outlining various constitutional options opening the door to debate about more powers for the Parliament generally, rather than specifically independence.¹⁵⁹ Alongside the white paper came a pledge to hold a 'National Conversation' with the parties and people, with a website of material, events around Scotland, etc.¹⁶⁰ The real success of the white paper though, was to get the other parties, particularly Labour, to address the constitutional issue and concede that they would have to consider increasing the powers of the Parliament. Second, the SNP government appointed a Council of Economic Advisors to provide economic advice to the government and business community. Now, on the one hand this can be seen as a technocratic exercise to improve economic advice. But, it is also there to help boost economic growth in preparation for independence. The council is chaired by George Mathewson, formerly of both the Royal Bank of Scotland and Scottish Enterprise, and an SNP supporter. The council can be viewed in tandem with other nation-building initiatives such as the decision to designate the Scottish Executive as the Scottish Government (see section 6.4). Third, the SNP government established the Scottish Broadcasting Commission to investigate the condition of broadcasting in Scotland and the role of the BBC and other media companies. This issue has been prominent for several years, with concerns about the BBC's budget cuts on Scottish production, the need for more Scottish programming, network access, etc. It's not all about the Scottish Six – a BBC programme of international, UK and Scottish news produced in Scotland – but about other issues of relevance to the media community in Scotland. The commission is chaired by Blair Jenkins, former BBC head of news in Scotland (who also

¹⁵⁸ Audit Scotland (2007), *Edinburgh Transport Projects Review*, Edinburgh: Audit Scotland. www.audit-scotland.gov.uk/docs/central/2007/nr_070620_edin_transport_project.pdf

¹⁵⁹ Scottish Executive, *Choosing Scotland's Future – A National Conversation*, op cit.

¹⁶⁰ www.scotland.gov.uk/topics/a-national-conversation.

worked for STV) and included former First Minister Henry McLeish. The commission remit was to undertake:

An independent investigation into the current state of television production and broadcasting in Scotland and define a strategic way forward for the industry. Taking account of the economic, cultural and democratic importance of broadcasting to a modern, outward looking Scotland the Commission will:

1. Make recommendations for Scottish government action in those areas that lie within the scope of the powers currently devolved to the Scottish Parliament
2. Focus attention on issues where other organisations have responsibility and encourage action to address these issues
3. Identify matters for further consideration and debate in the Scottish Parliament¹⁶¹

9.3 Labour – Leadership Change and Refocusing

The Scottish election was a shock for Labour. It had faced disaster according to some opinion polls but experienced contrasting fortunes on election night (and the next day) as it held highly marginal seats such as Cumbernauld and Kilsyth but lost safe seats like Edinburgh East and Musselburgh. At times, it appeared it would hold onto first place as the SNP challenge in FPTP seats faded, only for the nationalists to win unexpected seats and sweep all before them on the regional lists. All of this was hard for Labour to take and some within the party have struggled to come to terms with the result and its consequences. For some this was a temporary phenomenon, but others remain in denial about the result and what it could mean for Labour.

Labour's period of denial about the election result had its roots in several things. First, there is lack of familiarity: Labour is Scotland's governing party and had come first at each election since 1959. And yet, here, for the first time was a defeat to the party they hate with a passion (more even than they hate the Conservatives). Some of the party's MSPs had only ever known life as ministers under devolution or as part of the governing party. Second, the defeat was not as bad as it could have been. Labour held its ground to a certain extent at the election, with both its share of the vote and seats holding up reasonably well. Some within the party had expected much worse, as opinion polls had

indicated in advance of the election. So defeat was mixed with relief and a realisation that Labour had actually done reasonably well in the circumstances. Third, the result itself was extremely close and, albeit mistakenly, there was some belief within Labour that the result might be overturned and that they might actually have won the election. The prospect of a legal challenge to the SNP's narrow victory in Cunningham North (where the SNP won with a majority of 48 amid 1015 rejected ballots) as well as the number of rejected ballots across Scotland allowed Labour some prospect of challenging the result. As it turned out, this was definitely wishful thinking. But, it left Labour trying to challenge the result and delegitimise the SNP's victory.

What to do after the election finally ended was a problem for Labour. The Lib Dems announced they would not support another Lib-Lab coalition, leaving the SNP in pole position to make the running on coalition formation. Thoughts quickly turned to what the former First Minister would do, meaning would Jack McConnell remain as Labour leader, resign or face a challenge. The Labour group of MSPs held a post-election meeting over two days following the election by which time it was clear that a SNP minority government was to be formed. There was media speculation that McConnell was under pressure to depart, but this seems to have come to nothing at that particular meeting, despite reports that some of McConnell's opponents were beginning to prepare for a leadership bid by Wendy Alexander.¹⁶² There was a lot of media speculation about McConnell's prospects, with some briefing against him and stories planted in the press about drugs advice McConnell had written for a student publication whilst on sabbatical at Stirling University in the early 1980s.¹⁶³ McConnell finally stepped down on 14 August, announcing that he would remain an MSP and become High Commissioner to Malawi in 2009.

With McConnell's resignation, there was now scope for an open leadership contest. However, in the event, and just as in the earlier contest for the leadership of the UK Labour Party, none was forthcoming as Alexander was unopposed as leader when nominations closed at noon on Tuesday 21 August.¹⁶⁴ Other potential candidates such as Margaret Curran and Andy Kerr decided against standing and no candidate emerged

¹⁶¹ Scottish Executive News Release, 13 August 2007.

¹⁶² *The Herald*, 14 May 2007.

¹⁶³ *The Sunday Herald*, 29 July 2007, p.1

¹⁶⁴ Alexander's campaign organisers had garnered 41 out of 46 MSPs in support of her leadership.

from the left (amongst Campaign for Socialism MSPs), as they had insufficient nominations for a candidate. This coronation is actually pretty normal for Scottish Labour: Donald Dewar was elected by the electoral college mechanism as the sole candidate, Henry McLeish became First Minister in an election against Jack McConnell that involved only 80 people, whilst McConnell's election as sole candidate in 2001 was ratified by only 85 people (MSPs and members of Labour's Scottish executive committee). Alexander launched her leadership campaign by promising to reconnect with the people and focusing on four main areas: a competitive yet compassionate economy; consumer not producer focused public services; empowering people and communities and not institutions; and developing Scottish solutions for Scottish aspirations.¹⁶⁵ Alexander substituted an election campaign for leader with a 'listening and learning' tour around Scotland to meet party members. These visits involved discussing policy on affordable housing, financial support for carers, support for parents, changes to planning laws, etc.

What the change of leader and the new political environment has brought is a commitment to engaging with the constitutional question – something which Jack McConnell might have liked to have done, but was constrained in doing by the UK government and Labour Party. Under Wendy Alexander, Labour has pledged to discuss the issue of increased powers for the Scottish parliament and enter talks with the other opposition parties over the issue.¹⁶⁶ What exactly this means in concrete terms is difficult to determine. As a backbencher, Alexander was active in organising a series of economic debates and publications about economic growth and fiscal autonomy, but the exact substance of Labour's position is unclear at this stage. Labour met with both the Conservatives and Lib Dems to discuss cooperation over constitutional change in advance of Alexander's election and the interesting thing to watch here involves the development of Labour's position and its interactions with the other parties.

One final thing worth mentioning about the political environment in this period involves the succession of Gordon Brown to the post of UK Prime Minister. Since the election, Labour in Scotland languished, as Salmond and the SNP entered a honeymoon period. Yet, at the same time, Gordon Brown enjoyed a honeymoon period at the UK level as he

¹⁶⁵ *The Herald*, 17 August 2007.

signalled a change of direction for the Labour government and began to set out his agenda. These last few months have really been a tale of two honeymoons, with new leaders in Scotland and the UK, who are really actually competitors (and their parties certainly are!), enjoying positive profiles. So, whilst there has been a lot of negativity for Labour in Scotland since the election, there are also some clear positives at the UK level that feed back into Scottish politics.

9.4 The Liberal Democrats

The Liberal Democrats did not have a good election. A relatively strong outlook in advance of the campaign – driven by coming second at the 2005 UK election and winning the Dunfermline and West Fife by-election – did not translate into an electoral advance. Indeed, though the size of the constituency vote for the Lib Dems increased slightly, the party's high hopes made a static performance seem like a defeat, not least in Gordon, where the party lost quite convincingly to Alex Salmond, as well as Argyll and Bute which saw a similar SNP surge.

The party was somewhat bruised after the election, particularly by the rapid advance of the nationalists, and in these circumstances, coalition was difficult: what after all had been the electoral rewards of 8 years in government? There was no mood within the MSPs' group for coalition with the SNP, and a renewed coalition with Labour had been ruled out after the election result by senior party figure Tavish Scott.¹⁶⁷ There were no coalition negotiations at all between the Lib Dems and the SNP, with the Lib Dems laying down the simple condition that the nationalists would have to drop their proposal for an independence referendum before any coalition talks could occur. The centrality of independence to the SNP's programme meant that this was asking the impossible, so that was that: the Lib Dems removed themselves from government after eight years. Post-election, the party has become a marginal force, for the time being at least, as the SNP minority government has set the agenda. Where the party goes from here in political and electoral terms is questionable.

However, whilst the election was bleak for the Lib Dems, there are some gains to be made in politics and policy through the possibility of policy cooperation with the SNP.

¹⁶⁶ When asked whether Labour would discuss fiscal powers for the Parliament, Alexander stated that it would. *The Herald*, 22 August 2007.

One of the most striking things about the Lib Dems was their policy similarities with the SNP – meaning that there was a viable policy coalition with the nationalists had the Lib Dems so chosen. However, whilst the coalition train has left the station, there is still potential for policy support for the SNP government in important areas – council tax abolition, environmental policy, bridge tolls, etc. The party had discussed the notion of issue by issue support for government legislation in advance of the 2007 election and it appears that this is exactly what is going to happen for the immediate future as the SNP government programme is shaped by overlaps with its opponents.

There is also the prospect of policy cooperation over constitutional issues, a policy area where the Lib Dems are the only party besides the SNP with a clear position. The party's Steel Commission reported in 2006,¹⁶⁸ and outlined the case for a new constitutional convention to discuss the need for more responsibilities for the Parliament in terms of both policy and fiscal powers. The party thus has a clear policy to advance and has been in discussion with both Labour and the Conservatives over their joint opposition to independence, Nicol Stephen stating that:

It really isn't credible for a Parliament simply to receive a cheque for £30 billion and to decide how to spend it and not have any responsibility for how it is raised.....Labour, the Liberal Democrats and the Conservatives have a majority in the Parliament and will take this through the Parliament. This is an initiative which is very different from the SNP white paper on independence because the one objective here is a stronger Parliament, not separation from the rest of the UK. I am keen that it involves the political parties, voters and civic society in the same way as the Constitutional Convention.¹⁶⁹

Of course, in one way, Stephen is correct. This initiative is different from the SNP white paper because it is being proposed by the government with all the support of the government machine and what has been proposed includes independence as well as other constitutional options. What the Lib Dems and the other parties actually propose remains to be seen but it will lack government support and resources. However, it does mean that the political debate now mirrors the Lib Dem agenda of constitutional change – with cross-party dialogue over extending the powers of the Parliament.

¹⁶⁷ The Politics Show, BBC Scotland, 6 May 2007.

¹⁶⁸ The Steel Commission (2006), *Moving to Federalism – A New Settlement for Scotland*, Edinburgh: Scottish Liberal Democrats.

¹⁶⁹ *Scotland on Sunday*, 26 August 2007.

9.5 The Conservatives

Despite the limits of their electoral performance in 2007 – no Cameron bounce to be found here – the Tories were seen to have had a good campaign, which was largely due to the strong performance of their leader, Annabel Goldie. Goldie picked several issues during the campaign – notably improved drug rehabilitation funding – and developed a strong profile. In terms of votes and seats, this meant nothing as the party stood still. However, the post-election mood in the party was generally positive, with no coalition distractions, as the party had ruled out coalition in advance. There was some media debate about whether Annabel Goldie would accept a nomination to become the Parliament's Presiding Officer – therefore becoming an independent, non-political figure – but Goldie sidestepped this suggestion. Instead, her colleague, Alex Fergusson was successfully nominated. Indeed, the Conservatives were quick to take advantage of the post-election environment, with policy cooperation with the SNP in the areas of drugs and changes to the legal system. Whilst reiterating their opposition to independence, the Conservatives have taken part in the discussions about more powers for the Parliament. This development has the potential for the Conservatives to recast themselves as a Scottish party and make themselves more relevant to the party system in Scotland.

9.6 The Greens

The Greens were one of the unexpected losers from the Scottish election, with the party's number of seats cut from 7 to only 2 – more victims of the SNP's success on the regional list vote. The party's two remaining MSPs could notionally have played a role in forming a multi-party coalition, but in the circumstances, no coalition was forthcoming. Instead, the Greens were to enter a cooperation agreement with the SNP as detailed above, with voting support for the SNP's nomination as First Minister as well as its ministerial team, policy support in certain areas including on the constitutional issue of independence and an independence referendum.

9.7 The Demise of the Far Left

Previous monitoring reports have covered the split in the Scottish Socialist Party and the emergence of the Solidarity Party. Neither of these parties performed well at the Scottish elections and both were the victims of their own divisions as well as the rise of the SNP on the regional list. This meant each party dipped beneath the threshold in regions like Glasgow, which had delivered two MSPs in 2003. Notably, Tommy Sheridan was not

elected as a Solidarity MSP. The profile of each party has almost disappeared since the election, though there has been some coverage of the continuing police investigations into perjury during the Sheridan trial in 2006 as well as over alleged attempts to destroy evidence before the trial.¹⁷⁰

¹⁷⁰ *Sunday Herald*, 2 September 2007.

10. Public Policies

Paul Cairney

10.1 Independence

It should come as no surprise that the most prominent policy advanced by the SNP since May has been independence. The more interesting developments relate to the practical measures adopted to make progress towards this goal. In the past, this was a relatively unsophisticated affair with a simple message, but as the world became more complex, so too did the strategy, with independence in Europe becoming the favoured option. Then in the lead up to the 2007 election, Salmond articulated a form of pragmatic independence which included, for example, keeping Sterling but favouring an early transition to the Euro, but also a strategy for the long term, stressing the need to demonstrate SNP competence in government as a stepping stone to constitutional change. The same language was used to signal the practical steps to be taken, with the promise of a white paper within the first 100 days and a bill to follow:

Publication of a White Paper detailing the concept of Scottish independence in the modern world as part of preparations for offering Scots the opportunity to decide on independence in a referendum, with a likely date of 2010.¹⁷¹

The biggest drawback is the lack of a majority in Parliament and the opposition of the other parties not only to independence but also a referendum on it. Therefore, the Scottish Executive's publication *Choosing Scotland's Future: A National Conversation* resembles a hybrid of a green and white paper.¹⁷² In other words, the SNP is clear on its aims, but also open to public debate about how far it can go in the current climate. This includes a middle way between the status quo and independence which may garner the support of other parties. The short term obstacle is not persuading the public to vote for independence in a referendum, but to persuade the public to persuade the other parties to hold one.

10.2 The First 100 Days

During the election campaign, the SNP invoked the phrase 'First 100 days' to suggest that it would reform Scottish government quickly, in a way that could both be measured

¹⁷¹ SNP (2007) Manifesto 2007: It's Time to Move Forward www.snp.org/policies, p7.

by all and signal the trajectory of long-term policy change.¹⁷³ Much has therefore been made of whether or not the SNP achieved its aims. The following list outlines the main promises and the progress that the SNP government states it has made¹⁷⁴:

- Streamlining government by cutting the number of policy departments, ministers and senior civil servants – achieved (see section 1.2)
- Publishing plans to reform public administration – working on it
- Publishing the Howat report on the effectiveness of budget allocation – published 24 May
- Plans to replace public private partnerships with a not-for-profit model of financing new public sector building projects in – work in progress and to be reported to Cabinet in the autumn
- The request of a meeting with the UK government to discuss the return of £40m withheld following the introduction of free personal care, the transfer of firearms law to Scotland, the control of oil and gas revenue and Scotland taking the lead on fisheries negotiations in the EU – seeking meetings; formal request on fisheries lodged
- A budget with more money for nurses, pre-school education and a first homes grant for young people – annual budget bill announced in Parliament
- A local healthcare bill including elections to health boards and reforms to community councils – announced in September
- A bill to abolish prescription charges – considering policy options, with report to Parliament in the autumn
- Consultation on a patients' rights bill – to be taken forward as part of wider plans on waiting times and abolishing 'hidden' waiting lists. The bill will include 'the right to an individual waiting time guarantee'.¹⁷⁵
- An audit to ensure education spending is appropriate and that there will be enough trainee teachers to meet class size reductions – Cabinet Secretary for Education

¹⁷² Scottish Executive, *Choosing Scotland's Future*, op cit.

¹⁷³ The reference is to President Roosevelt's first 100 days in office which laid the foundations of the New Deal.

¹⁷⁴ See SNP (2007) *It's Time To Look Forward: The First 100 Days of an SNP Government* www.snp.org/policies/government-communities; Scottish Executive (2007) *Reporting on 100 Days: Moving Scotland forward* www.scotland.gov.uk/Resource/Doc/196007/0052539.pdf

¹⁷⁵ Alex Salmond, Scottish Parliament Official Report 5 September 2007 Col.1368 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0905-02.htm#Col1362

and Lifelong Learning set to meet with COSLA (although teacher training agencies are already revising their planned intake)

- A bill to abolish tuition fees, draft legislation to replace loans with grants and plans to pay the interest associated with the existing loans of Scottish students – bill to abolish fees announced, with other issues to be discussed in Strategic Spending Review.
- Proposals for a criminal justice bill and a plan to add 1000 community police officers – bill not yet announced but to be introduced ‘if necessary’; working with police forces to increase capacity
- A full public judicial inquiry into the Shirley McKie case – announcement to be made shortly
- Removing funding from the Edinburgh Airport-rail link but fast-tracking funds to improve the Forth rail bridge – EARL project suspended until review reported to Parliament in September; plans underway by Network Rail
- Pushing forward plans to replace the Forth Road bridge (with their preferred tunnel to be ‘tested’) – Transport Scotland rolling out information events over the summer; Scottish Government working on the planning and parliamentary obstacles
- Commissioning a study into Road Equivalent Tariff to set ferry fares – commissioned
- Improving road and rail links to the north of the central belt – Transport Scotland review to report in September
- Opposing new nuclear power stations – they still are
- An expert panel on energy efficiency in homes – established
- Talks on a new grid to export renewable energy to countries like Norway – talks with European Commission have taken place and talks with the Norwegian Government to take place in the Autumn. Civil servants are working on extending the plans to Ireland.
- Funding micro-renewable energy projects and diverting £40 million from the fossil fuel levy – Strategic Spending Review to triple funds; discussing with the Treasury how to divert the levy.
- Freezing council tax until the introduction of a local income tax – intention to freeze 2007-08 tax announced.

- Proposals for a rates bill reduction for small businesses – to be set out in Strategic Spending Review
- Convening a Council of Economic Advisers – remit and membership announced on 28 June
- A white paper on independence – published
- Seeking discussions on an independent civil service (following the Northern Ireland model) – talks have begun with colleagues in the Northern Ireland civil service, trade unions and head of the Home Civil service (see section 1.4). Talks with ministers in Northern Ireland are part of a wider strategy of cooperation and learning.
- A new public holiday marking St Andrew's Day and a winter festival from this day to Burns night – details to follow parliamentary recess
- Talks to develop a Commonwealth Games bid – bill announced
- Talks to secure funding for an EU Renewable and Low Carbon Energy Research Centre in Scotland – First Minister has made the case in writing to the European Commission (but has suggested that the role of the UK is an obstacle)
- Doubling Scotland's International Development budget – to be confirmed in Strategic Spending Review

The progress report by the SNP government is therefore broadly positive, suggesting that this is all the more impressive given its measured response to the Glasgow Airport terrorist attack and the foot and mouth outbreak in England. Indeed, such is the early confidence among the SNP that Holyrood Live viewers watching the debate on the legislative programme were treated to Alex Neil's assertion (in the wake of suggestions by David McLetchie, Andy Kerr and Iain Smith that the honeymoon was over and that no substance was proposed) that the SNP had already achieved more in 112 days than the coalition government in the past eight years.

10.3 The Legislative Programme

The SNP's first legislative programme was announced by Alex Salmond on 5 September, with 11 bills to be considered in the Parliament's first year.¹⁷⁶ These can be broadly arranged into three categories:

¹⁷⁶ Scottish Government News Release 5 September 2007 'Programme for Government' www.scotland.gov.uk/News/Releases/2007/09/05141912; Scottish Parliament Official Report 5 September

Headline bills which would not have been introduced without a change in government (3)

- Graduate Endowment (Abolition) (Scotland) Bill – to abolish the Graduate Endowment fee (£2,289) from 2007 onwards. In effect, this completes the abolition of student fees in Scotland, with the promise of means-tested grants to come following consultation.
- Abolition of Tolloed Bridges (Scotland) Bill – to remove tolls from the Forth and Tay Bridges (the only bridges which still have tolls). Note that this followed member's bill proposals by Labour's Helen Eadie – who gathered 334 responses in her 2006 consultation – and the SNP's Bruce Crawford. The bill is a good example of competition to 'frame' issues, with the SNP justification based on the links between transport and the economy, while the Greens are critical of the proposal on the basis of its effect on climate change.
- Local Healthcare (Scotland) Bill – includes plans to introduce elections in health boards to foster local participation in health policy decisions. Members are currently either from the NHS, local authorities or appointed by ministers. This proposal is along the lines of a Bill Butler (Labour) bill which fell in the last session but received opposition support.

Bills taking forward proposals commissioned or announced by the previous Executive (4)

- Interest on Debt and Damages (Scotland) Bill – 'to develop fair and consistent rules for the application of interest rates to payments of debt and damages in Scotland'.¹⁷⁷ The bill follows the recommendations of a Scottish Law Commission report commissioned by Scottish ministers in 2003.¹⁷⁸ The report recommends: (a) consistently treated debt and damage claims by applying interest to debts when the money was due rather than when the court action took place; (b) replacing the 'punitive' 8 per cent rate with 1.5 per cent over the Bank of England rate.

2007; www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0905-02.htm#Col1362

¹⁷⁷ Scottish Government 5 May 2007 'Principles and Priorities: Programme for Government' www.scotland.gov.uk/News/This-Week/Speeches/principles-priorities/

¹⁷⁸ Scottish Law Commission (2006) 'Interest on Debt and Damages' www.scotlawcom.gov.uk/html/cpinterest.htm

- Judiciary (Scotland) Bill – to ‘modernise’ the judiciary. Plans include: unifying the judiciary under a Lord President, a system for the removal of judges and sheriffs, the maintenance of judicial independence (with the creation of a Judicial Appointments Board) and strengthening judicial authority over the court service. The bill was originally mooted by Labour Justice Minister Cathy Jamieson in 2007 and measures related to the increased powers of the Lord President proved controversial.
- Rape and Sexual Offences (Scotland) Bill – this follows a report by the Scottish Law Commission (commissioned by Scottish Ministers in 2004) and will: widen the definition of ‘rape’ to forced penetration with a penis in the mouth and anus as well as vagina (therefore now applying to men), widen the definition of sexual assault to the insertion of objects in the anus or vagina; provide a list of situations to clarify the issue of consent; and reinforce the strict liability for claims of age-related ‘consensual’ sex when a person is below 12 or 13 years of age.¹⁷⁹ The report was commissioned in part to address Scotland’s relatively low conviction rates for rape offences.
- Creative Scotland Bill – this takes forward a Labour/ LD bill to replace the Scottish Arts Council and Scottish Screen with a new cultural development body Creative Scotland. However, the SNP is likely to take greater cognizance of concern in the ‘arts world’ over the independence of the body from ministerial influence and the bill is of more limited scope than the original draft. It has also set up the Scottish Broadcasting Commission as part of its agenda on the adequacy of, for example, UK-based news programmes to cover Scottish issues.

Bills unlikely to be opposed (3)

- Public Health (Scotland) Bill – to update old legislation on quarantine and infectious disease control. The SNP’s wider policy suggests a focus on health inequalities and identifying risk groups (presumably on the basis of class combined with other factors) but also encouraging personal responsibility for good health. Note that Salmond was always complimentary about the Labour-LibDem Executive’s bill to ban smoking in public places (which started with an SNP member’s bill when the party was in opposition) as part of wider public health

¹⁷⁹ Scottish Law Commission (2006) ‘Discussion Paper On Rape And Other Sexual Offences’
www.scotlawcom.gov.uk/downloads/dp131_rape.pdf

measures and will follow Labour/ LD plan to increase the smoking age from 16 to 18 (with similar moves afoot in the rest of the UK).

- Glasgow 2014 Commonwealth Games Bill – to support the bid and set out a response if the bid is successful. Measures include compulsory land purchase, transport plans and moves to stop ‘rogue traders’.
- Flooding Prevention (Scotland Bill) – to modernise the 1961 legislation on long term flood protection measures. This was no doubt placed on the agenda by the problems experienced this year in England.

Perhaps the only bill which struggles to fit into these categories is the Budget (Scotland) Bill. This is an annual bill which has never received significant opposition in the past. Although there were high hopes for detailed scrutiny at the outset of devolution, in practice there have been few amendments to the budget at the draft stage and the process has never represented a chance for MSPs to present alternative budget choices. Yet, this time there is a greater prospect for debate and negotiation, with the issues of SNP opposition to funding the Edinburgh tram lines and the Edinburgh Airport Rail Link already a subject of fierce opposition (see section 2.3).

The legislative programme was subject to similar debates on substance, with opposition parties dubbing the policies ‘legislation lite’.¹⁸⁰ Yet, there are a number of reasons for this list being ‘lighter’ than previous years:

1. The lack of a majority in Parliament has forced the introduction of bills likely to receive enough opposition support.
2. Many major policy aims – such as talks with the UK and EU, replacing or rejecting PPP projects¹⁸¹, the McKie inquiry, and civil service independence – may not require Scottish legislation. Indeed, the SNP Government’s policy plans suggest that legislation is a small part of a much wider process.¹⁸²

¹⁸⁰ L. Gray ‘SNP unveils grand plan - but critics call it ‘policy lite’’ 6 September 2007 *The Scotsman*

<http://news.scotsman.com/scotland.cfm?id=1420922007>

¹⁸¹ See for example L. Adams ‘SNP shifts £100m prison plan to public sector’ 23 August 2007 *The Herald*

www.theherald.co.uk/news/news/display.var.1637157.0.0.php

¹⁸² Scottish Government (2007) Principles and Priorities: The Government’s Programme for Scotland

www.scotland.gov.uk/Publications/2007/09/05093403/0

3. More significant bills on criminal justice and the introduction of a local income tax may require consultations with groups and other parties (and the Liberal Democrats in particular) before they can be introduced.
4. The reduction in the quantity of proposed legislation may reflect a cross-party feeling that the Scottish Parliament has had too much legislation to deal with in the past. Indeed, given that the previous Scottish Executive's legislative load was 50 bills from 1999-2003 and 53 from 2003-7, 11 bills per year does not seem like a huge reduction (particularly since the Scottish Government also plans to support the Members' Bills proposed by Conservative Jamie McGrigor and Labour Ken McIntosh on creating a register of tartans and restricting sunbed use).

10.4 More Than Promised?

In the review of the first 100 days, the Scottish Government points to other aspects of policy developed since the SNP entered office as a sign of future agendas. This includes: a Strategic Spending review; a review of enterprise networks; plans to accelerate public procurement reform; a review of public recruitment strategies (in the light of Glasgow's terrorist attack); pilots to introduce free school meals; support for carers; greater access to education for the children of asylum seekers; a new approach to the control of sex offenders; reforming legal services; and inland fisheries policy (with a marine bill to follow). However, perhaps the two issues which stick out most are in health and environmental policy.¹⁸³

In health, plans are afoot to consult with GPs on access to primary care services and to introduce the nurses' pay increase before the UK government does so for England (see previous report for discussion of the problems Labour health minister Andy Kerr had with this promise before the election). The future of harm reduction and methadone treatment for injecting drug users is also high on the agenda following the publication of three reports under the broad message by Community Safety Minister Fergus Ewing that policy would not change radically.¹⁸⁴ The public health and alcohol message was also reinforced by the support of Justice Secretary Kenny MacAskill for reforms to the

¹⁸³ Scottish Executive (2007) Reporting on 100 Days: Moving Scotland forward
www.scotland.gov.uk/Resource/Doc/196007/0052539.pdf

licensing law to prevent cut-price drink promotions.¹⁸⁵ However, the main headline grabber was the decision to reverse the planned closures of accident and emergency units in Ayr and Monklands. This had proved to be a huge thorn in the side for Labour before the election, particularly since the Monklands hospital was in Labour UK minister John Reid's and Labour MSP Karen Whitefield's constituency (both joined in the opposition to the plans). The reversal was therefore a 'quick win' for the SNP. All that has remained is debate about whether the decision was populist or consistent with broader policies. The opinion of Professor David Kerr, the consultant commissioned by the previous Executive, was that the decision was 'irrational' and undermined the national plan (signed up to by all major parties) which focussed on centralised specialist services combined with more local hospitals for routine emergencies. The response by Health Secretary Nicola Sturgeon was that the decision was broadly consistent with Kerr's principles.¹⁸⁶ This was followed in September by the issue of patient rights to a waiting time guarantee when requiring an NHS operation. Although the SNP are pursuing statutory rights as part of their criticism of 'hidden waiting lists' (when a rejection of a date issued by the NHS is rejected by the patient they no longer receive a waiting time guarantee), the opposition parties pounced to suggest that this would lead to a 'lawyer at every bedside'.¹⁸⁷

Perhaps a strong focus on environmental policy was inevitable following the loose alliance formed between SNP and Green MSPs (see section 1). This began with moves to prevent ship-to-ship oil transfers in the Firth of Forth, and was followed by plans for a climate change bill, plans to maintain biodiversity, green procurement, and the pursuit of public sector bodies to lead the way in sustainability policies within their own operations.¹⁸⁸

¹⁸⁴ Scottish Government News Release 'Methadone to remain as main drug treatment method' 22 July 2007 www.scotland.gov.uk/News/This-Week/Ministers-In-The-Media/07072200000; 'Methadone reports published' 23 July 2007 www.scotland.gov.uk/News/Releases/2007/07/23102937

¹⁸⁵ BBC News 'Cut-price alcohol deals face ban' 5 September 2007 <http://news.bbc.co.uk/1/hi/scotland/6979503.stm>

¹⁸⁶ BBC News 'NHS blueprint author steps down' 3 June 2007 <http://news.bbc.co.uk/1/hi/scotland/6716907.stm>

¹⁸⁷ L. Gray 'NHS 'facing flood of US-style lawsuits' over wait-time guarantees' 7 September 2007 *The Scotsman* <http://news.scotsman.com/index.cfm?id=1428372007>

¹⁸⁸ H. MacDonnell 16.5.07 'Controversial Forth oil transfers first target of new government' *The Scotsman* <http://news.scotsman.com/scotland.cfm?id=757122007>