



The Constitution Unit



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# Nations and Regions: The Dynamics of Devolution

Quarterly Monitoring Programme

Scotland

Quarterly Report  
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## **Introduction**

### **James Mitchell**

The fire strike claimed a Ministerial scalp during the last quarter and much anguish within the Scottish Executive especially creating tensions between Edinburgh and London. Richard Simpson, junior Justice Minister, was forced to stand down after he described the strikers as ‘fascist bastards’ in a private comment reported in the press. In a bizarre twist, Simpson acknowledged that he was the Minister accused of having made the comment but insisted that he had made no such comment. First Minister Jack McConnell Minister made it clear that the Minister had to resign. He was replaced by junior Social Justice Minister Hugh Henry who, in turn, was replaced by Des McNulty, Finance Committee convener.

This event was only one manifestation of difficulties created by the dispute. Education Minister Cathy Jamieson was criticised for not being ‘on message’ but the relations between London and Edinburgh on the fire dispute and the crisis in the Scottish fishing industry proved a running sore during the quarter. Calls were made for the Scottish Executive to negotiate a separate pay agreement with the Fire Brigades Union. An attempt by the Executive to quietly pass an amendment to 1947 legislation which would have empowered it to close fire stations was defeated when Cathy Craigie, a Labour whip abstained ‘by mistake’. John Prescott’s statement at Westminster that London might impose a settlement provoked criticisms of the Executive for failing to differ with this policy and raised questions about the degree to which London had consulted Edinburgh prior to Prescott’s announcement. The UK negotiating position on European fisheries policy and the Scottish Executive’s input came under scrutiny. Temperatures were raised given that the Scottish fishing industry faces collapse as a consequence of decisions made in Brussels. The Scottish Executive’s involvement in this had been marginal.

Both the fire dispute and fishing highlight tensions in London-Edinburgh relations which are particularly sensitive in the months leading up to elections in May. The added prospect of war with Iraq only highlights the inability to isolate devolved and retained matters especially in the context of an election campaign.

## **Chapter 1 Scottish Executive**

### **Barry Winetrobe**

#### **1.1 First Minister's and the Executive's style**

Jack McConnell's first anniversary in office in November (he looks on track to become Scotland's longest serving First Minister!) led to many retrospectives, with the general media consensus being that the year had been a relatively dull, unambitious and unexciting one, something which his supporters claimed was intentional and necessary after the traumas of the first 2½ years. This seemed to be McConnell's own message, as he signalled that the 'do less, better' phase of his administration was over, to be replaced by a more 'exciting' period.<sup>1</sup> The First Minister explained, in a WA of 10 December, the range of matters for which he is solely responsible:<sup>2</sup>

The general principle, reflected in section 52 (1) of the Scotland Act, is that statutory functions are normally conferred on the Scottish ministers collectively and are then exercisable by any member of the Executive. This reflects the principle of collective responsibility under which the Scottish Executive operates. However, certain statutory functions are conferred upon the First Minister alone, and these are as follows:

Keeper of the Scottish Seal; appointment and removal of Scottish ministers and junior Scottish ministers; functions relating to the appointment and removal of judges and the Scottish Law Officers; functions under the Interception of Communications Act 1985 and the Intelligence Services Act 1994; functions relating to the Universities of Scotland, and civil service management functions in relation to the staff of the Scottish Administration.

#### **1.2 Ministerial resignations and performance**

The fire strike led to the resignation of the junior Justice Minister (who is responsible for the fire service), Dr Richard Simpson, when it was reported that he had described the strikers as 'fascist bastards'. He was replaced by the junior Social Justice Minister, Hugh Henry, who was himself replaced by Des McNulty, the Finance Committee convener.<sup>3</sup> The aftermath of the resignation of the junior Minister, Richard Simpson, included the usual political denunciation of the ministerial 'severance payment', with the SNP pledging to remove such arrangements when it comes to power,<sup>4</sup> and making a cut in the number of ministers a centrepiece of its 'pre-manifesto'.<sup>5</sup>

The Education Minister, Cathy Jamieson, has come under scrutiny for apparently not being fully 'on message' over the Executive's public stance on the fire dispute, having already been constantly criticised for her ministerial performance generally.<sup>6</sup> Election speculation is also beginning to cover the alleged fate of existing ministers, such as Ross Finnie.<sup>7</sup> A parliamentary motion from Mike Russell (SNP) commended to the Executive Estelle Morris' reasons for resigning from the UK Government.<sup>8</sup>

\*S1M-3496 Michael Russell: Effective Performance in Ministerial Office—That the Parliament notes, with admiration, Estelle Morris's view that ministers should constantly assess their performance in office and should resign if they believe that they are no longer doing an effective job and commends this approach to the current ministerial team in the Scottish Executive

#### **1.3 Executive performance**

What was derided by many as a self-assessed report card was published by the Executive in December, purporting to give itself a 92% score for policy delivery.<sup>9</sup> The First Minister explained, in a planted WA on 16 December:<sup>10</sup>

The Scottish Executive will today publish *Recording our Achievements*. This will provide a detailed account of the Executive's performance against the commitments set out in *Making it work together - A programme for government* and *Working together for Scotland*. Copies of that report have been placed in the Parliament's Reference Centre (Bib. number 25620) and will be distributed widely. *Recording our Achievements* shows that 92% of the commitments made in the programme for government documents have been achieved or are on track. However, 3% of commitments may not be achieved. That is obviously disappointing. However, in many cases we have refined our approach and have not met our commitment because we are taking alternative action to tackle the underlying issues. Delivering real, measurable improvements for Scotland will remain our priority.

However, McConnell has dropped the plans announced last summer for the creation of a Performance and Innovation Unit (see November 2002 Report, para 1.5).<sup>11</sup> This was explained in the Executive media briefing on 15 December:<sup>12</sup>

... The First Minister met the Permanent Secretary, and it quickly became clear that building a large standing structure as first mooted, would not be the best way forward. The initiative has been developed by bringing in external experts to work on particular areas of work. This project-based approach has been established in a number of Executive departments and will be extended further. External experts are currently, for example, involved in projects relating to PPP, children's services and healthy living. Audit Scotland has also been working with a civil service group on departmental improvement plans. In parallel to the project teams we are developing a supervisory role to ensure there are experts working at the centre to supervise the work that is being done, ensure consistency of quality and make sure this work is properly geared towards the improvements that the First Minister wants to see.

FMOS said there are currently two non Executive directors on the management group of the Scottish Executive ... They also fill the supervisory role, and it is anticipated that more experts will be brought in to supplement them. ...

FMOS said that the First Minister had approached a senior private sector person, in September about playing a major role in this work. This person advised, however, that they would not be available until spring. The First Minister has decided not to appoint anyone at this level so close to an election. However FMOS said the initiative of using external expertise was embedded in the Executive. Experts are in place working principally on project based tasks - meaning they come in, work on a specific project, and then go back to the private sector.

Asked why it was decided that a large standing structure was not the best way, FMOS said it was felt that it would be far more effective to have people at the sharp end working with civil servants on particular projects rather than being remote at the centre. The work that is being done at the centre is supervisory.

Asked about the rationale behind this development, FMOS said that the thinking behind the process is about how you raise performance, how you generate improvements and how you can generate innovation. The First Minister's initial

thoughts were that the best way to do this would be through a separate unit, but through discussions it became clear that a better way of doing it was on the basis of teams working on specific projects backed up by supervision from the centre.

#### **1.4 Devolved civil service**

A very short piece by the ex-minister, Susan Deacon, as part of a feature on 'reforming the Executive' in *Holyrood*, was picked up by the media and by the SNP as calling, not only for radical reform of the civil service in Scotland, but for the devolution of the service itself. What she wrote on the latter point was: "I wonder also if the time is right to look at cutting the umbilical cord with Whitehall. The current relationship looks increasingly anomalous as devolution beds in."<sup>13</sup>

How Executive officials interact with the Parliament has come under scrutiny in the Procedures Committee's CSG inquiry, and it seems that the Committee's report may recommend a shift from the standard Whitehall practices and towards a closer and more cooperative relationship between civil servants and MSPs and committees.<sup>14</sup>

As has become common, written answers have provided revealing insights into aspects of civil service policy and administration within the Executive. These included the SCS pay package;<sup>15</sup> the costs of inward secondments;<sup>16</sup> the revelation that no Executive officials had made any appeals to the Civil Service Commissioners since May 1999,<sup>17</sup> and an announcement that the Executive has no plans to create an offence of 'abuse of public office'.<sup>18</sup> Delegation within the Executive was explained in a WA of 22 January:<sup>19</sup>

The delegation to the First Minister of powers in relation to certain personnel issues was made on behalf of the Minister for the Civil Service on 1 July 1999. The delegation is subject to the condition that the First Minister complies with the provisions of the Civil Service Management Code (CSMC). In order to preserve the political impartiality of the civil service and in accordance with established practice, these powers are exercised by civil servants on behalf of the First Minister. Ministers are consulted about the appointment of civil servants in accordance with the requirements of the *Civil Service Commissioners' Recruitment Code*. In addition, ministers are consulted about some internal deployment such as the appointment of staff to a minister's private office.

Ministers continue to be quizzed on aspects of their information policies and practices. For example, a WA of 10 December explained how it provides information to the press under embargo before release to the Parliament.<sup>20</sup>

Under the terms of paragraph 8.5 of the *Scottish Ministerial Code* there is no regular procedure whereby final proof versions of policy documents can be made available under embargo to the media before publication. Such use of embargoes is normally limited to the publication of complex statistical and research reports. Any such decision to issue statistical reports under embargo is taken on a case-by-case basis in line with the *National Statistics Protocol on Release Practices* and it is expected that the vast majority of statistical releases from the Executive will not be subject to embargo.

#### **1.5 Legislative programmes: present and future**

There has been much speculation that the Executive will find it difficult to get all of its legislative programme enacted before the Parliament's dissolution at the end of March, though ministers and officials vehemently deny this.<sup>21</sup> The Presiding Officer was quoted in

late December as saying that “there is going to be a most almighty rush at the end. It would be better, possibly, to carry some bills to the next parliament.”<sup>22</sup>

The Executive was greatly embarrassed in early December by the leak of what appeared to be a draft post-election legislative programme, a revised version of which was discussed by the Cabinet on 4 December, leading to opposition and media accusations of Executive arrogance.<sup>23</sup> Ministers, of course, defended it as “sensible, prudent work which any Government and civil service would do to manage policy work”, emphasising that “decisions on legislation after the election are a matter for the incoming administration and would clearly need to take account of manifesto commitments .. the people who decide the legislative programme for the next Parliament will be the voters in May next year.” According to this rationale, the paper was “work done by civil servants to look at policy work going through the Executive just now and the legislative implications which may flow from it ... [and] about civil servants looking across the Executive at what possible legislative pressures may come in the future and preparing advice for Ministers.”

The Liberal Democrat leadership will not have been happy at the implication that a renewed coalition is a fait accompli, especially with some of its backbenchers and activists rather sceptical, to say the least, about a coalition. The leaked programme, according to the media, was:

***Programme for 2003-4:***

- Local government reform
- Health, unspecified
- New framework for water and sewerage
- New protection for vulnerable witnesses
- Revamp of high court procedure
- New GP contracts, matching England and Wales
- Regulations to promote sustainable development
- New children’s commissioner
- Update of police complaints system
- Bringing law on animal health in line with England
- Modernising charities law
- Reform of crofting law
- Protection of animals

***Programme for 2004-5:***

- Bringing children’s panels into line with Europe
- Reform of personal bankruptcy laws
- Reform of divorce law
- Review of planning law
- Possible extension of road-user charging
- Reform of tenement property law

***Programme for 2005-6:***

- Reform of adoption law
- Education, unspecified
- Review licensing laws

***Programme for 2006-7:***

Consolidation of European hygiene regulations  
Update of arbitration law  
Update sea fisheries law  
Changes to compulsory purchase rules

## **1.6 Quangos and public appointments**

The Public Appointments and Public Bodies Bill completed its parliamentary passage on 5 February. Information on the Executive's 'bonfire of the quangos' was given in a Written Answer by the Finance Minister on 3 January: "A total of 49 public bodies have been abolished or de-classified since 1999. Fourteen new public bodies have been created." He also stated that "the creation of any new public body will be announced to the relevant committee of the Parliament."<sup>24</sup>

## **2. The Scottish Parliament**

**Mark Shephard**

### **2.1 Parliament Flexes its Muscle**

Parliament continued to pressure the Executive this quarter, scoring its first defeat of the Executive on a Stage 3 amendment. The defeat occurred on 8 January 2003 during Stage 3 of the Local Government in Scotland Bill. The Executive amendment would have provided local councils and local fire boards (instead of Ministers) with extensive powers (for example, closure) over fire stations. The amendment received 56 votes in favour, 56 votes against, and two abstentions. Eight of the votes cast against the Executive amendment were from the Executive side (four Labour and four Liberal Democrat). Both abstentions were by Labour MSPs. One of the MSPs who voted against the amendment was Cathy Craigie, a Labour Party Whip, who subsequently resigned as Whip. The tie meant that the Deputy Presiding Officer, George Reid (SNP MSP), had to provide the casting vote. Reid cast his vote against the Executive amendment stating that:

Like Presiding Officers around the world, I am obliged to cast my vote for the status quo. The bill as published was the status quo and amendment 59 would change it. I therefore vote against amendment 59.<sup>25</sup>

One of the most notable attacks on the Executive came from Donald Gorrie (LD MSP). Although broadly sympathetic with the content of the amendment, Gorrie voted against because he was annoyed that the Executive had adopted ‘dodgy’ and ‘counter-democratic’ tactics in the late movement (48 hours prior) of such an important amendment:

“...the way in which the measure has been introduced is absolutely unacceptable... There is no excuse for lodging such an amendment now, other than to parrot what is being done at Westminster. The Procedures Committee will have to consider carefully this business of parachuting in absolutely new measures at stage 3. It is totally unacceptable and subjects the Parliament to ridicule... the lodging of amendment 59 is the worst example of abuse of Executive power in the duration of this Parliament”<sup>26</sup>

It will be interesting to see what action, if any, the Procedures Committee takes in relation to this. Nonetheless, the defeat was important for the Parliament as it has showed the Executive that they risk defeat if they do not use regular channels of consultation.

That said, up to July 2002 (the first three years), there were 2034 Executive amendments and only 119 of these proceeded to a vote. Moreover, the Executive was only defeated on 1 of these votes (a detailed amendment during Stage 2 of the Housing Bill) and this defeat was then overturned at Stage 3 because the Executive took out a parliamentary amendment that was supposed to replace theirs. The only other time that the Executive was defeated was on an Executive amendment to a Conservative motion calling for more aid to the fishing industry over a tie-up scheme in March 2001 (see May 2001 Scottish Report).

Other Parliament/Executive tensions this quarter included disgruntled acceptance of Executive plans for new boundaries for the proposed Cairngorms National Park. Although the Rural Development Committee approved the Order creating the Park (on the basis that rejection would postpone the plans beyond the forthcoming elections), it approved an SNP amendment expressing regret at the exclusion of areas of Highland Perthshire and

Drumochter that might jeopardise the attainment of World Heritage Status. The Committee also voted six to five to suspend standing orders to allow a full debate in the Parliament on the designation order – the hope being that the Parliament would have more opportunities for a say in the matter before the plans were finally approved.<sup>27</sup>

## 2.2 Rushing legislation through to beat the dissolution?

**Table 2.1: Number of Bills Passed per Monitoring Quarter**

<b>Quarterly Period</b>	<b>Number of Bills Receiving Royal Assent</b>
01/08/99 - 31/10/99	1
01/11/99 – 31/01/00	1
01/02/00 – 30/04/00	2
01/05/00 – 31/07/00	4
01/08/00 – 31/10/00	4
01/11/00 – 31/01/01	3
01/02/01 – 30/04/01	3
01/05/01 – 31/07/01	6
01/08/01 – 31/10/01	2
01/11/01 – 31/01/02	4
01/02/02 – 30/04/02	10
01/05/02 – 31/07/02	4
01/08/02 – 31/10/02	0
01/11/02 – 31/01/03	1*

\*Excludes three bills that were passed by the Parliament, but had yet to receive Royal Assent

Approving the Cairngorms National Park before the dissolution of the Parliament at the end of March is symptomatic of the pressure that the Executive (see Executive section above) and the Parliament are now under. One way of detecting whether there has been a late rush in the number of bills that are being processed is to measure the number of bills per quarter that have been passed since the Parliament was established. Table 2.1 (see above) reports the volume of legislation passed by the Parliament over time (by quarterly monitoring report). It shows that the volume of legislation passed by the Parliament peaked in Spring 2002 and has since declined. Of course, what Table 2.1 does not show is that as of 31<sup>st</sup> January 2003 there were 23 bills in progress: 13 Executive Bills (of which three were awaiting Royal Assent); seven Members' Bills; two Private Bills; and one Committee Bill. What is clear from this is that the Parliament is under considerable pressure to make progress on outstanding legislation. As with the Cairngorms National Park, there are bound to be some reluctant approvals of amendments that proceed in the run up to the dissolution. However, as the Local Government amendment defeat illustrates (see above), the Executive is going to have to watch how it plays the Parliament or else it risks further embarrassing defeats.

## 2.3 Improving Accountability and Maintenance of the Status Quo

On 21 November 2002, the Standards Committee reported on the operation of the Scottish Parliament and the Business Exchange Scheme. The Report<sup>28</sup> highlighted three main areas of concern (accountability, confidentiality agreements and support to Members, and lobbying). The 'key concern' was the accountability of the Exchange given its 'hybrid' status as part 'limited company' and part 'parliamentary body'. While the Exchange is accountable to the Scottish Parliament Corporate Body for any resources it received from them, the Exchange was thought to lack wider accountability to the Parliament itself. The Standards Committee recommended a review of the structure of the Exchange with emphasis on its reconstitution as part of the Parliament with 'direct and robust lines of accountability to the Parliament'. Moreover it recommended that:

Following the review, which should be carried out within three months, any new structure and constitution for the Exchange or new system of arranging exchanges with business and other sectors should be subject to the approval of the Parliament so that the Parliament can be satisfied that it complies with Standing Orders, the Code of Conduct and the principles which underpin the Parliament. (Recommendations of the Standards Committee, *SP Paper 694*, 21/11/02)

Other news this quarter included confirmation in December by Scottish Secretary Helen Liddell that the number of MSPs would remain at 129, whilst Scottish MPs at Westminster will be cut from 72 to 59.<sup>29</sup> The decision means that the Scotland Act will have to be amended as the Act as it currently stands contains proposals to reduce the number of MSPs in proportion to the reduction in the number of MPs.

## **2.4 Parliamentary Bills (01 November 2002 – 31 January 2003)<sup>30</sup>**

### **Executive Bills in Progress (latest stage reached):**

- Agricultural Holdings (Scotland) Bill (Stage 2)
- Budget (Scotland) (No. 4) Bill (Stage 2)
- Building (Scotland) Bill (Stage 2)
- Criminal Justice (Scotland) Bill (Stage 2)
- Homelessness etc. (Scotland) Bill (Stage 2)
- Land Reform (Scotland) Bill: Passed on 23 January 2003 (awaiting Royal Assent)
- Local Government in Scotland Bill: Passed on 8 January 2003 (awaiting Royal Assent)
- Mental Health (Scotland) Bill (Stage 2)
- Protection of Children (Scotland) Bill (Stage 2)
- Public Appointments and Public Bodies etc. (Scotland) Bill (Stage 2)
- Salmon and Freshwater Fisheries (Consolidation) (Scotland) Bill (Stage 1)
- Title Conditions (Scotland) Bill (Stage 2)
- Water Environment and Water Services (Scotland) Bill: Passed on 29 January 2003 (awaiting Royal Assent)

### Members' Bills in Progress:

- Council of the Law Society of Scotland Bill (Stage 1)
- Dog Fouling (Scotland) Bill (Stage 2)
- Gaelic Language (Scotland) Bill (Stage 1)
- Organic Farming Targets (Scotland) Bill (Stage 1)
- Proportional Representation (Local Government Elections) (Scotland) (Stage 1)
- Prostitution Tolerance Zones (Scotland) Bill (Stage 1)
- Tobacco Advertising and Promotion (Scotland) Bill (Withdrawn)

### Committee Bills in Progress:

- Commissioner for Children and Young People (Scotland) Bill (Stage 2)

### Private Bills in Progress:

- National Galleries of Scotland Bill (Preliminary Stage)
- Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill (Preliminary Stage)

### Executive Bills Passed:

- Debt Arrangement and Attachment (Scotland) Bill: Passed on 13 November 2002, Royal Assent on 17 December 2002

In the last quarter there were two proposed Members' Bills. On 7<sup>th</sup> November 2002, Sandra White (SNP) proposed a Bill to provide third parties with a right of appeal against decisions made in planning applications under the Town and Country Planning (Scotland) Act 1997. On 19<sup>th</sup> December 2002, Bill Butler (Lab) proposed a Bill to require direct elections for the public to the majority of places on National Health Service Boards in Scotland. Both proposals acquired their 11<sup>th</sup> supporter on the same as they were lodged and both are now eligible for introduction.<sup>31</sup>

In terms of the progress of existing 'successful' proposed Members' Bills, one proposal was introduced in this quarter. Michael Russell's proposed Bill to require certain public bodies to treat the Gaelic and English languages on a basis of equality was introduced on 13 November 2002 and is now at Stage 1.

In the last quarter there was one proposal for a Committee Bill. On behalf of the Education, Culture and Sport Committee, Karen Gillon introduced the Commissioner for Children and Young People (Scotland) Bill which aims to provide for the establishment and functions of a Commissioner for Children and Young People in Scotland.

## **2.5 Cross-Party Groups**

The number of Cross-Party Groups that have been approved by the Standards Committee grew by one in the last quarter to 49. The new Group is the Cross-Party Group on Textiles, Clothing and Footwear which aims to 'raise awareness amongst MSPs of the importance of the textiles, clothing and footwear sectors in Scotland'.<sup>32</sup> There were no proposals for additional Groups this quarter.

One of the roles of the Standards Committee is to monitor the Cross-Party Groups. In this quarter, the Standards Committee agreed to commission external research to evaluate the cross-party group system. Commenting on the draft proposal for the research agenda, Michael Russell (SNP MSP) expressed concern at the burdens that the increasing number of Cross Party Groups have created for Member workloads:

"I am worried that the automatic reaction from any sectoral interests once they get involved in the Parliament is to set up a cross-party group...Cross-party groups create a burden and put an expectation on members that cannot be fulfilled. My view is that they create enormous difficulties for members and also for the groups themselves."<sup>33</sup>

While the demand for Groups has slowed over the last 2 years (14 new Groups approved by the Standards Committee 02/01 to 02/03 compared with 35 up to 02/01), this continued increase will undoubtedly create additional burdens on MSPs. As the number of MSPs is constant, either more time will have to be found to devote to the increased number of Cross-Party Groups, or the existing Cross-Party Groups will have to demand less of their MSPs. Interestingly, if we compare the web list of advertised meetings per Group from May 2001 with the web list of advertised meetings per Group from February 2003<sup>34</sup>, we find that whereas every one of the then 39 Groups advertised a recent or forthcoming meeting in 2001, 28 out of the 49 Groups in 2003 did not advertise any recent or forthcoming meetings. While care should be taken when interpreting this finding (it does not account for individual variation by Group or MSP for example), it would appear that the burdens that Michael

Russell mentions are being realised in terms of the average attention given to attending existing Groups.

### **3. The Media**

#### **Philip Schlesinger**

#### **3.1 The sale of the Herald newspapers – a done deal?**

The debate has continued around the sale of *The Herald*, *Sunday Herald* and *Evening Times*. SMG is divesting itself of these titles in order to deal with its pressing debts, amounting to over £400 m. The company has now opted to sell to Newsquest, the British arm of the US media giant, Gannett, for some £216 m.<sup>35</sup> The sale is presently being investigated by the Competition Commission, which has visited the Glasgow-based papers and has also held hearings in Glasgow on 31 January 2003. The Commission is investigating public interest aspects of the sale. It appears to be sensitive to the fact that devolution has special implications for the Scottish media market.

In the run-up to referral of the sale to the Commission, the number of bidders was steadily whittled down. The Barclay Brothers, owners of Scotsman Publications, were in the bidding until the final round. The political concern noted in our last report about a Scotsman Publications take-over of the Herald group continued. Robin Cook, leader of the House of Commons, stated his preference for the groups to remain separate.<sup>36</sup> The Scottish Secretary, Helen Liddell, incurred the wrath of Andrew Neil, the Scotsman's publisher, for her expressions of concern about the sale.<sup>37</sup> *The Scotsman's* publishers fought their corner, trying to persuade the public that they would be good owners, but the SMG board's judgement eventually went in favour of Gannett.<sup>38</sup> It is widely supposed that although commercial considerations were dominant, the SMG board was also sensitive to the political atmosphere.<sup>39</sup>

It now remains to be seen what the Competition Commission will decide. Its remit derives from the Fair Trading Act 1973 and a report is expected in March.<sup>40</sup> The Secretary of State for Trade and Industry will have to give her consent to the merger. Will SMG now be out of the financial woods? Another of the group's prize assets, Virgin AM, is thought by city analysts to be seriously overvalued.<sup>41</sup>

#### **3.2 BAM fizzles out**

As the *Heralds* change hands, the Scottish newspaper market also saw a closure on 19 December 2002. *Business a.m.* was launched with some fan-fair in July 2000. It was financed by the Swedish media group, Bonnier, and intended to be the post-devolution business and politics paper for Scotland. Bonnier, we were told, would be in the game for a good five years, while the title achieved viability. But the Swedish company looked at the bottom line and decided to pull out. Bonnier put £30m into the paper, which employed 125 staff. BAM failed to secure the desired up-market readership and advertising base it sought, although its editor claimed that it reached 68,000 readers. It was largely based on the Scandinavian subscription model, which did not translate well to Scotland. A bid to turn the title into a weekly by Angus MacDonald, of the *Financial News* fell through in late December 2002.<sup>42</sup>

#### **3.3 Changing the Record?**

It takes something to unite Scotland's Old Firm fans. But this is the noteworthy achievement of the *Daily Record's* editor, Peter Cox. Celtic and Rangers clubs and supporters are angry

the paper over its reporting of Old Firm fans as sectarian bigots, not to speak of other stories. Selling over 525,000, the paper is Scotland's biggest seller, and Glasgow is its heartland. The *Scottish Sun* is beginning to close the gap with its main rival, edging up to 400,000 copies. It is also coming under pressure from the *Scottish Mirror*, owned by the same group as the *Record* itself, Trinity Mirror. Executives at Trinity Mirror deny that they are concerned about Cox's editorship. The sale of the Herald group, however, has opened the bidding season in the Scottish market. Disappointed bidders, including Tony O'Reilly's Independent group and the Barclay brothers are said to be interested in the *Record*, should it come up for sale.<sup>43</sup> If there was political concern about the SMG sale, a disposal by Trinity Mirror will certainly have pulses racing.

### **3.4 Radio waves**

The main commercial player north of the border, Scottish Radio Holdings, posted a pre-tax loss of £13.5m for the twelve months to the end of September 2002. While other media sectors languish, this is regarded as relative commercial health. SRH, which owns newspapers as well as most of Scotland's local radio stations, claims that its revenues are rising. The Communications Bill is likely to encourage further concentration in the radio sector and SRH say that they are intending to expand. SMG, however, which has a 29.5% stake in SRH, are known to still be considering whether or not to make a bid for the company. Much depends on SMG's own future as a reshaped radio, TV and advertising group, as the drive towards a single ITV continues to gather pace.<sup>44</sup> Speculation remains that a merger by Carlton and Granada will result in an acquisition of t SMG's stations.

The new force on the Scottish radio scene is Real Radio, owned by Guardian Media Group. GMG acquired Scot FM in 2001 and relaunched it as Real Radio in January 2002, broadcasting to the central belt. The group has doubled the audience and listening hours and rapidly achieved profitability. BBC Radio Scotland and Radio 2 are regarded as the competition to beat. Like SMG and SRH, GMG is looking to market consolidation and will be waiting for the enactment of the Communications Bill expected to take place later this year.<sup>45</sup>

## 4. Public Attitudes and identity

John Curtice

### 4.1 Attitudes towards devolution

	%
The Scottish parliament has made a real positive difference to life in Scotland and has been a success so far	24
The Scottish Parliament has made little positive difference to life in Scotland, and has been a disappointment so far	48
The Scottish Parliament has made no positive difference to life in Scotland and has been a failure so far	12
The Scottish Parliament has had a negative impact on life in Scotland and should be scrapped	13

Source: Populus/The Times 7-9/2/03 (N=500)

Evidence from the 2001 Scottish Social Attitudes survey was quoted extensively in a much publicised report on turnout in Scottish Parliament elections that was commissioned by the Electoral Commission and published shortly before Christmas.<sup>46</sup> (Electoral Commission, 2002). However, key figures from this survey have already been reported in the February and May 2002 monitoring reports. Results from the same survey were also quoted, along with comparable figures for Wales and Northern Ireland, in an analysis of attitudes towards devolution that constitutes an appendix to a report of the House of Lords Select Committee on the Constitution on Inter-institutional Relations in the United Kingdom that appeared just after Christmas.<sup>47</sup> Meanwhile, more extensive analysis of the results of the survey are to be found in the latest State of the Nations report published in January and in a forthcoming volume based on the 2001 survey.<sup>48</sup>

One of the key findings to emerge from these analyses is that while on the one hand Scots feel that devolution has so far not produced the positive outcomes they were expecting, on the other hand, support for the principle of a Scottish Parliament remains strong. This was confirmed by the results of a new polling exercise undertaken by Populus for The Times. Nearly a half of Scots say that the parliament has made little positive differences and has been a disappointment. But only one in eight believe it has had a negative impact and should be scrapped. There was also this quarter one non-independent measure of public attitudes towards Scotland's constitutional status that was published by the SNP. The party commissioned System Three at the beginning of January to ask, '*Is a referendum on Scottish Independence were held, how would you vote – yes, for Scotland to become an independent country in Europe, or no, against Scotland becoming an independent country in Europe?*'. As many as 44% said that they would in favour of independence while 44% said that they would vote against. The party claimed the poll demonstrated, 'Support for Independence is the big idea in Scottish politics and is rapidly gaining massive support.'<sup>49</sup> The truth is a little more prosaic. The wording of the question is similar to that of a question that was asked regularly by ICM for *The Scotsman* during the 1999 election campaign. This ran, '*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*  
and was designed to mimic the question about devolution that appeared on the ballot paper in September 1997. This ICM question regularly obtained a higher level of recorded support for independence than that obtained when voters were asked whether they preferred

independence, devolution or no parliament at all (for the most recent reading of which see the May 2002 monitoring report). This ICM question was last asked in January 2000 (see February 2000 monitoring report) when 47% said that they would vote in favour of independence and 43% against. The SNP poll thus suggests, as does most other survey evidence, that in fact little has happened to the level of support for independence during the course of the Scottish Parliament's first term.

#### 4.2 Attitudes towards other issues

*Some people have argued that separate Catholic schools in Scotland contribute to sectarian bigotry and should be abolished, where as others believe they should be retained to give parents a choice of education. Do you personally think separate Catholic schools should be abolished or retained in Scotland?*

	All	Gender		Religion		Scottish Parliament 1 <sup>st</sup> Vote			
		Male	Female	Catholic	Non Catholic	Con	Lab	Lib Dem	SNP
	%	%	%	%	%	%	%	%	%
Abolished	48	55	42	29	53	45	47	53	51
Retained	42	37	48	67	37	39	47	41	39
Don't Know	9	9	10	4	11	16	6	10	10

Source: System 3/Herald 3-9/1/03

The merits or otherwise of separate Catholic schools, and indeed whether or not there is public backing for such schools, has been the subject of continuing debate over the last twelve months. Last spring results from the the Scottish Social Attitudes survey suggested that support for such schools was declining and that there was now overwhelming support (amounting to no less than 81% of Scots) for phasing them out (see May 2002 monitoring report). The debate has been further fuelled by the First Minister's expressed concern last autumn about the incidence of sectarianism in Scotland, while more recently he appeared to support the more widespread use of joint campuses for Catholic and non-Catholic schools. Meanwhile, the Catholic church has mounted a vigorous defence of separate Catholic schools, commissioning its own opinion research and arguing that such schools are not in themselves a cause of sectarianism. A new independent attempt to measure public opinion was made by System Three in January. The wording of the question was very different from that in the Scottish Social Attitudes survey, which simply asked whether the system of separate Catholic schools should be retained or phased out. It is thus perhaps not surprising that the distribution of opinion proved to be very different. Even so, the poll found a small majority in favour of abolition, suggesting that the Catholic Church was wise to announce in February the creation of a full time post with responsibility for advocating the interests of Catholic schools. Meanwhile the potential divisiveness of this issue is indicated by the even division of opinion inside the party traditionally associated with Catholicism, the Scottish Labour party.

	%
Britain should take part in military action regardless of UN resolution	13
Britain should only take part in military action with second UN resolution	57
Britain should not take part in military action	27
Don't Know/None of these	3

Source: System 3/Herald 30/1-6/2/03

	%
Britain should join America in military action against Iraq if, and only if, there is a new United Nations resolution authorising it	64
Britain should join America in military action against Iraq regardless of whether there is a new United Nations resolution authorising it	14
Britain should not join America in military action against Iraq even if there is a new United Nations resolution authorising it	20

Source: Populus/The Times 7-9/2/03 (N=500)

A System Three poll taken at the beginning of February during the week that the US Secretary of State, Colin Powell, attempted in a major speech to persuade the UN Security Council that Iraq was in breach of UN Resolution 1441, found that the likely reaction in Scotland to military intervention was likely to depend on whether or not it was endorsed by the UN. In this, public opinion in Scotland is similar to that in the rest of the United Kingdom.

*Which do you think is best for Scotland? To have a King or Queen who inherits the position for life, or a President who is elected every five years or so?*

	Age			
	May 02	Dec. 02	18-44	45+
	%	%	%	%
King/Queen	52	30	26	35
President	34	37	43	31
Unsure	14	33	31	34

*After the events of 2002, including the Paul Burrell trial collapse, which of these statements do you agree most strongly with?*

	All
	%
The monarchy should be abolished	19

The Royal Family must be radically modernised	43
The Royal Family needs to make only minor adaptations to modern life	17
The Royal Family should remain as it is	18
Unsure	3

Source: Scottish Opinion/Scotland on Sunday 16-21/12/02

Immediately prior to the Christmas break, Scotland on Sunday commissioned a poll on attitudes towards the Royal Family in the wake of the collapse of the trial of Paul Burrell, former butler to Diana, Princess of Wales, on charges of theft. The collapse occurred after the Queen indicated that Mr Burrell had told her that he was keeping some of the belongings of the late Princess's belongings that were at the centre of the charges, thereby raising questions about whether the Royal Family should have disclosed this information earlier.

The poll suggested that the unfavourable publicity that surrounded the trial did do damage to the reputation of the Royal Family in Scotland. Asked whether Scotland should have a monarch or a president, slightly more favoured the latter option. In contrast when the same question had been asked at the end of May at the height of the Queen's Golden Jubilee celebrations, there was a clear majority in favour of retaining the monarchy. However a second question asked in the same poll suggested that Scots might be content with a radical transformation of the monarchy rather than abolition. Still, the poll indicated the potentially fragile nature of support in Scotland for what has hitherto been an important symbol of the Union.

#### 4.3 Party Fortunes

##### System 3/Herald poll

<b>Holyrood Vote Intentions</b>										
Vote	Con		Lab		Lib Dem		SNP		Others	
	1	2	1	2	1	2	1	2	1	2
	%	%	%	%	%	%	%	%	%	%
20-24/11/02	11	10	35	30	16	18	32	28	7	14
3-9/1/03	10	10	40	29	13	15	30	31	7	15
30/1-6/2/03	11	10	32	28	16	17	31	28	10	17

The principal Other votes are as follows:-

Vote	SSP		Green	
	1	2	1	2
	%	%	%	%
20-24/11/02	4	6	2	5
3-9/1/03	4	7	2	5
24/10-3/11/02	5	7	3	6

<b>Westminster Vote Intentions</b>										
	<b>Con</b>		<b>Lab</b>		<b>Lib Dem</b>		<b>SNP</b>		<b>Others</b>	
	<b>%</b>		<b>%</b>		<b>%</b>		<b>%</b>		<b>%</b>	
20-24/11/02	12		43		15		25		5	
3-9/1/03	12		45		14		24		6	
30/1-6/2/03	14		42		15		25		3	

The principal Other votes are for the SSP who scored 4% in November, 3% in January and 1% in February

*Scottish Opinion/Scotland on Sunday*

<b>Holyrood Vote Intentions</b>										
	<b>Con</b>		<b>Lab</b>		<b>Lib Dem</b>		<b>SNP</b>		<b>Others</b>	
<b>Vote</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>2</b>
	<b>%</b>		<b>%</b>		<b>%</b>		<b>%</b>		<b>%</b>	
16-21/12/02	13	9	42	27	13	21	30	36	2	6

The Scottish Socialist Party was accorded 2% of first vote and 3% of the second vote. While no support was registered for the Greens on the first vote, they were given 2% on the second vote.

In the November 2002 monitor it was suggested that contrary to many a commentator's expectation, the 2003 Scottish election held considerable interest for three reasons. First a weaker level of Labour support than four years ago means that even though there is no sign of a nationalist revival, a real battle for first place in vote is taking place, especially on the second vote. Second, the Liberal Democrats appear to be prospering and may well be able to increase their relative strength in any new coalition. And third, there could be a greater fragmentation of Scottish politics thanks to a rise in support for the SSP and the Greens. The polling evidence for this quarter, has underlined all of those comments.

This quarter's polls has confirmed the easing in Labour's popularity that was evident last quarter. This decline is in line with an easing in Labour's UK wide popularity that has been apparent in UK opinion polls in recent months, a decline that means that Labour's UK wide popularity is rather lower than it was at this stage four years ago.<sup>50</sup> Thus within Scotland Labour's average Westminster poll rating on System Three's polls this quarter is, at 43%, four points down on its rating in the same quarter a year ago.

Meanwhile, the gap between Labour's Westminster popularity and its level of Holyrood support remains at least as large as ever, as does the gap between its level of support on the first Holyrood vote and that on the second. Together with the easing in Labour's Westminster popularity this means that Labour's Holyrood support is significantly weaker now than it was at this stage prior to the 1999 Holyrood election. Labour's average first vote score of 36% this quarter is three points down on the equivalent System Three polls four years ago while its second vote score of 29% is no less than eight points lower. At no stage prior to the 1999 elections did Labour's first vote support fall as low as the 32% recorded in the most recent poll conducted in early February.

Labour thus faces the danger of a double whammy. First it may lose out because some Scottish voters will use the election to express their dissatisfaction with the UK government. Second, it may lose support because it is seen as a less credible candidate for government in Holyrood, a perception that research on the 1999 election suggested was the product of it not being thought willing to stand up for the interests of Scotland.<sup>51</sup> In any event at present the party is apparently caught in a real race for first place in votes, albeit a race that even if it is won by the SNP will not necessarily put the nationalists in first place in seats.<sup>52</sup> But of course we should remember that Labour was caught in a similar race in 1999 yet in the event won easily, while the possible political impact of any war in Iraq present a large cloud of uncertainty about the possible electoral mood by 1 May.

Meanwhile, Labour's coalition partners, the Liberal Democrats, continue to prosper. Their average Holyrood poll ratings this quarter of 15% (first vote) and 17% (second vote) are no less than four points higher than they were at this stage prior to the 1999 election. Thus even though the Tories' own ratings are currently little different from the 11% they were recording in 1999 and may, as in 1999, represent an understatement of Tory strength, there remains a significant chance that the Liberal Democrats will repeat their 2001 UK general election achievement of overtaking the Conservatives north of the border.

Equally, the possibility that there will be a fragmentation of representation in the second Scottish parliament remains real. Although many of the headlines in recent weeks have been captured by the decision of Margo Macdonald to stand as an independent, the advent of a number of anti-local hospital closure candidates and the creation of fishermen's and pensioner's parties (see section 10), the quarter has been most notable in the polls for being the best yet for the Greens who now appear to have a Scotland wide second vote that matches the threshold of 5-6% required to secure representation on the party list vote in a region. Meanwhile, the SSP continue to poll at a level that suggests it will increase its representation on 1 May.

One further poll was also conducted this quarter, by Scottish Opinion Ltd. This broadly confirmed the picture provided by System Three, including the possibility of a close contest for first place on the second vote. However, the unusually large gap between first and second vote recorded by this poll suggests that some respondents thought they were being asked their second preference rather than how they would vote on the party list vote, an impression that the wording of the vote intention question used by the poll did nothing to dispel.

This poll did however provide some new evidence on the possible level of turnout on 1 May, which it has been suggested could fall to below 50%. At first glance the poll appeared to dispel any such possibility. No less than 78% of respondents said they were 'very' or 'quite' likely to vote in the Holyrood election. However, opinion polls tend to be more successful at contacting the politically interested segment of the population who are more likely to vote. And the 78% figure compares somewhat unfavourably with the figure of 84% who said that they were 'certain' or 'likely' to vote in a ICM poll conducted in early January 1999. So while the poll suggests that turnout is not clearly destined to fall below 50%, some drop on the 59% figure recorded in 1999 still appears quite likely.

***Local Government by-elections***

	<b>Change in % vote since May 1999</b>
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	<b>Con</b>	<b>Lab</b>	<b>Lib Dem</b>	<b>SNP</b>
5/12/02				
Aberdeen/Langstane	-5.3	-11.9	+22.7	-0.2
12/12/02				
Aberdeenshire/Lonmay & St Fergus	I	-	W	+2.8
Fife/Brucefield & Netherton	I	-10.4	+2.5	-3.0

Source: [www.gwydir.demon.co.uk/byelections](http://www.gwydir.demon.co.uk/byelections)

The three final local government by-elections to be held before all Scotland's local councillors face re-election on 1 May again confirmed the continuing slide in Labour's popularity and the lack of evidence of any SNP breakthrough. A gain for the Liberal Democrats from Labour in Aberdeen gave the party further cause for encouragement for its prospects in May.

#### **4.4 The Parties**

There continues to be dearth of polling about the public's attitudes towards the parties or their leader in Scotland. Most notably, no measure has been taken of the public's satisfaction with the performance of Jack McConnell since he came to office in the autumn of 2001.

## 5. Scotland/UK Relations

Alex Wright

### 5.1 House of Lords Constitution Committee Report

The House of Lords Select Committee on the Constitution has published its report on inter-institutional relations in the United Kingdom. This could not have come at a more relevant time, given that the Scottish Parliament is drawing to the end of its first term. As a consequence there will be a brief summary of those elements of the report which apply most to Scotland, after which they will be referred to in more depth elsewhere in this and the next section. One of the aspects that the report focused on was the informality, which governed inter-institutional relations. By way of example it referred to evidence submitted by the Scottish Secretary of State on her relationship with Scotland's First Minister.

..There is little doubt that the easy informal relationship, which exists between myself and the present First Minister, and existed with the previous First Minister, *because we are all members of the same party* does help.. the very fact that we can each lift the phone to one another and discuss matters knowing we are among friends and with a similar long-standing desire to see not just a successful Scottish Parliament but also a stronger United Kingdom helps. [*italics in report*]<sup>53</sup>

The current situation whereby Labour is in a dominant position in London and Edinburgh (and Cardiff) may not last forever. Consequently, 'more formal working practices' may need to be established in readiness for a more potentially conflictual relationship when governments of differing political hues hold office at the Centre and the devolved territories.

The committee also found that:

A large amount of contact takes place between the four administrations, frequently and at variety of levels. Many devolved administration Ministers have a high level of contact with their counterparts at Whitehall. Officials, whether senior or junior, also have a high level of contact with their counterparts. These contacts are highly informal. They often take place by telephone or e-mail. Many of the meetings in person are quick words when people meet socially or for other purposes. Consequently it is impossible to keep records of them. Formal, minuted meetings – especially of representatives of all four governments – are a rarity. The justification for this informality is the fundamental goodwill of each administration toward the others. The bulk of the informal contacts tend to be bilateral, between the UK Government and one devolved administration. This appears to be where the bulk of working level matters are dealt with – they are not referred to the JMC or discussed in other settings with the other devolved administrations.<sup>54</sup>

The committee then made the following observations:

We have noted the heavy reliance on goodwill in intergovernmental relations. Many of our witnesses emphasised the need for goodwill to make relations work, and attributed their smoothness to date to the existence of such goodwill. The view that came across was that such goodwill permitted the high level of informality that presently exists, and meant that the need to have more formal procedures, or use those that already exist, was reduced.<sup>55</sup>

And

We would certainly not seek to recommend the absence of goodwill as an element of intergovernmental relations.... We are also concerned that goodwill appears to have been elevated into a principle of intergovernmental relations: it is used to explain the avoidance of disputes and to justify maintaining the present informality of the system. Some also argue that it works against the pluralist concept of devolution in that informality helps perpetuate previous practices.<sup>56</sup>

It therefore recommended ‘the use of formal mechanisms’,

We recommend that further use should be made of the formal mechanisms for intergovernmental relations, even if they seem to many of those presently involved to be excessive. Formal mechanisms, such as the Joint Ministerial Committee (JMC), are not intended to serve as a substitute for good relations in other respects, or for good and frequent informal contacts, but rather to serve as a framework for such relations and to act as a fall-back in case informal personal relations cease to be sufficient. Such mechanisms are likely to become increasingly important when governments of different political persuasions have to deal with each other.<sup>57</sup>

The report also called for the abolition of the Secretary of State for Scotland.<sup>58</sup> This has for some time been the subject of speculation, with some Labour MPs especially in the north of England in favour (see previous Monitor Reports). The report’s authors, took the same line as earlier ‘amalgamationalists’ – namely that as the Scottish and Welsh Secretary of States now have less responsibility, they might be replaced by a single Secretary of State who would also represent the interests of the English regions. The report also highlighted that the Secretaries of State were not accountable to Parliament at Westminster for the devolved administrations or for how the latter spend their money.<sup>59</sup>

However, in response to the report, a spokesman for the Prime Minister’s office issued a swift rebuttal.<sup>60</sup> Thus for the moment at least the job of Scottish Secretary of State looks set to remain.

## 5.2 The Scotland Office

As was suggested in previous monitor reports, the Secretary of State decided that the number of MSPs at Holyrood should not be reduced. In the aftermath of legislative devolution this appeared inevitable because the constituency MSPs share the same boundaries as their colleagues at Westminster (the Northern Isles excepted). When the number of Scottish MPs was cut from 72 to 59 it was assumed that as a consequence the number of MSPs would be cut from 129 to 106. This became something of a *cause celebre* for Mr McConnell - which indicates that there have been times when he is prepared to draw a line in the sand on constitutional matters (in this instance if he had not done so then his position as leader of the Labour group in the parliament would have been tenuous). This, it could be said exemplifies the informality which exists between First Minister and Secretary of State, as Helen Liddell responded favourably to McConnell’s overtures. In so doing, she raised the Hackles of Scottish Labour MPs, some of whom threatened to go over her head and appeal directly to the Prime Minister.<sup>61</sup>

In part their grievance was no more than a reiteration of the functional argument, that the boundaries of Westminster and Holyrood constituencies would no longer be contiguous. That was the position of George Foulkes, a former minister at the Scotland Office, who previously had been a supporter of the status quo at Holyrood.<sup>62</sup> Whilst the electorate may be confused by the absence of 'contiguity' the furore over the issue is indicative of the tensions which persist in the aftermath of the Scotland Act (1998) – tensions that have come to rebound on the Secretary of State, as custodian of the current constitutional arrangement.

In late December *The Sunday Times* reported that Ms Liddell was facing growing sniping from her own backbenchers. Some off-the record comments were vitriolic:

The Scottish secretary's post is a total non-job. The Prime Minister should bite the bullet and appoint a secretary of state for all three devolved areas - that person would be responsible for all the activities that remain within the Scottish secretary's brief. Helen has no responsibilities at all in a direct sense. She may have some responsibilities by virtue of being in the cabinet and being on cabinet committees but her only direct role is over Scottish constituency boundary redrawals, which she is currently messing up.

And,

The real question after devolution is whether it is time to look at a secretary of state for 'non-England' - Scotland, Wales and Northern Ireland. It would be interesting to speculate what Tony Blair is planning once the Northern Ireland assembly is back up and running. Paul Murphy (the Northern Ireland) secretary is an obvious candidate for that job.

Michael Connarty, Labour MP for Falkirk East warned:

There are serious questions to be discussed with the leader before we undo all with work that was confirmed by the Scottish people in a referendum. Donald Dewar described the Scotland Act as the settled will of the Scottish people. These proposals will make it the unsettled will of Mrs Liddell. The Tories if they get power again, will now think it legitimate to open any part of the act and maybe even abolish it.<sup>63</sup>

### **5.3 Policy Co-ordination**

During the last few month it appears that the Scottish Executive was wrong-footed by a series of UK Government policy initiatives. First, there was the announcement that extra funding would be available for Higher Education in England and that universities situated there may be permitted to charge students up to £3,000 in tuition fees. This raised a number of issues north of the Border. Would Scottish universities receive commensurate increases in funding? Should they too charge fees (the parliament having previously rejected this)?

Another issue that temporarily came to prominence, was John Prescott's threat to impose a pay settlement on firefighters who have been engaged in a series of short strikes over pay during the winter. The issue of firefighters pay and conditions falls within the devolved powers. But that did not deter Mr Prescott from implying that any legislation on this would be pan-UK. There is nothing to prevent the Westminster Parliament from legislating on areas devolved to Holyrood; this was no more than a reflection of the latter's legal status. Even so, Mr Prescott's threat raised a number of concerns in Holyrood. Foremost amongst these was that some form of Westminster enactment would be imposed on Scotland, whilst the Scottish parliament was in recess in readiness for the forthcoming Scottish election. Secondly, as with

Higher Education, there were changes that UK ministers did not adequately consult Scottish Ministers. *The Herald* reported that;

It became clear the word ‘consultation’ had been over-stretched in describing what took place between Scottish and Westminster ministers before Mr Prescott's announcement. Bounced was the word used.<sup>64</sup>

*The Times* also revealed that there was ‘considerable anger’:

There is considerable anger among Scottish ministers that they were not consulted by Mr Prescott on the decision. The first they appear to have known about it was when Mr Wallace received a telephone call from Nick Raynsford, the Fire Service minister on Monday night. Although Mr Prescott subsequently said to Mr McConnell that the Executive would be included in consultations, that has done little to reduce the First Minister's irritation.

#### **5.4 Holyrood's Procedures Committee**

*The Herald* reported that the parliament's procedures committee was considering whether Holyrood should be entitled to ‘reform itself’. This relates primarily to titles of office holders and of the institutions of government as well as the regulations concerning the presiding officers (it was not possible to establish a deputy presiding officer temporarily when Sir David Steel was ill last year).<sup>65</sup> Calls for such reforms are by no means new (See earlier Monitor Reports), but it is indicative that pressures to amend the Scotland Act are not just restricted to the boundaries of MSP's.

## **6. Scotland/International Relations**

**Alex Wright**

### **6.1 Scotland and the Nordic Council**

Following the visit to Sweden by members of the Executive towards the end of last year, links with Scandinavia were strengthened still further when representatives of the Nordic Council assembled at the Scottish Parliament to celebrate the organisation's birthday. It also led to calls from the SNP for Scotland to apply to join. According to *The Herald* a spokesman for the First Minister was somewhat dismissive about such a prospect. He is reported to have said: "No invitation to join the Nordic Council has been received. If such an approach was made, it would be carefully considered. Constitutional implications would have to be considered."<sup>66</sup>

With Scotland now a regular participant in international fora – e.g. the Council of Europe, the group of regions with legislative powers, the Earth Summit in South Africa last year not to mention bilateral links with Catalonia and Tuscany (see below), it might be advantageous for it to have a more formal relationship with Scandinavia. The Nordic Council is concerned primarily with cultural matters and arguably membership would not conflict with foreign relations being reserved to Westminster. On the other hand the members of the Nordic Council may not wish to risk offending the UK government by issuing an invitation to Scotland to join. Equally they may not wish to set a precedent whereby sub-state bodies are full members in their own right.

### **6.2 Scotland and the Convention on the future of Europe**

The Convention on the future of Europe which is nearing the end of its deliberations recently issued another draft constitution. As before the regions and stateless nations are for the most part spectators when the EU stands on the cusp of momentous change. That has not deterred the Scottish Executive and Parliament from joining Catalonia and Flanders in making a last ditch bid to make their presence felt. According to *The Sunday Herald* Mr McConnell is making one last 'round of diplomacy' before the Convention reports next month – the result of which will be a joint declaration by the participants<sup>67</sup>

### **6.3 Common Fisheries Policy**

After months of lobbying, the Scottish fishing sector was confronted with the Council of Ministers' decision that there should be a substantive cut back in fishing effort. This was little more than an acknowledgement that the quota system, which had originally been agreed in 1983, had failed to conserve fish and protect jobs in the fishing sector. In the context of this report the underlying question is whether legislative devolution as it currently stands has made much difference in terms of Scottish influence over the Common Fisheries Policy (CFP). As mentioned in the previous Monitor Report, Ross Finnie, the Scottish fisheries minister attended meetings of the Council Ministers but the Executive has little option but to oversee the implementation of what has been agreed in Brussels. The net effect is that those Scottish vessels which are still permitted to catch fish under the CFP, can only be at sea for 9 days though the Commission has the authority to extend this to 15 days if there is a 20% reduction in the size of the fleet.<sup>68</sup> Consequently attention in Scotland has turned to the decommissioning of fishing vessels and the value of compensation payments.

The issue of decommissioning has for some years been a source of grievance for Scottish fishermen. For a few years after 1989 the UK government withdrew aid for decommissioning but it relented eventually because of the growing crisis over collapsing fish stocks. Even so, the original scheme, worth only £25m for the whole of the UK, was regarded as insufficient. Even though the government caved in and provided another £28m it was difficult to dispel the suspicion amongst Scottish fishermen that this was designed to win over fishermen in South West England. More recently over-fishing remained a cause for concern and further decommissioning was necessary. Consequently the Executive offered the Scottish industry a £25m decommissioning scheme in December 2001, the underlying intention being to reduce the size of the fleet by 20%. Now a further cut of 20% is required – something that has left the industry reeling – so too communities in peripheral parts of Scotland where there is little in the way of alternative employment.

When Finnie announced the latest reductions in catches at the turn of the year, he agreed to investigate whether the EU would provide financial compensation. But the UK government was likely to veto this on the grounds that it would affect the size of the annual rebate (on the UK's contributions to the EU). As *The Herald* reported:

Despite denials that the rebate had anything to do with the decision to fund compensation from national parliament budgets, confirmation of the Foreign Office move was provided in an email dated December 6 from a senior government official. The diplomat sent it to four Scottish MEPs with fisheries responsibilities, admitting that finding money from the EU was unlikely "because of the effect on the abatement". The email also made clear national financing was the Foreign Office preferred route.<sup>69</sup>

The House of Lords select committee on the constitution had raised a number of relevant concerns about the lack of transparency and accountability:

We have discussed above the means by which the devolved administrations have an input into EU policy. There are behind-the-scenes consultations about what the United Kingdom line should be. The content of those negotiations, and the success (or otherwise) of the devolved administrations in having their views incorporated in that line, remain confidential. Like the conduct of many other aspects of intergovernmental relations, they rest on a high level of goodwill at political level. In some cases – as with agriculture – this is done through formal meetings at Ministerial level. In many other cases, it is done through less formal meetings or contact by telephone, letter or e-mail. The process is not an open one, for the devolved administrations let alone the general public, and it is one in which the UK Government retains a high level of control.<sup>70</sup>

And,

So far as the process itself is concerned, we find it hard to see how matters could be otherwise. The true test of whether the process is the right one will ultimately be in its outcomes. But there is a problem, as the obligations of confidentiality imposed on the devolved administrations mean they cannot tell anyone, including their own assemblies or legislatures, when the outcome of the process has been unsatisfactory.<sup>71</sup>

Nor for that matter is information available about JMC Europe or 'Minecor Europe'; officials at the Cabinet Office have declined even to reveal when they meet, their structures or agendas.<sup>72</sup> This too was touched upon by Peers on the select committee on the Constitution. They suggested:

We recommend the following steps to ensure greater openness:

- (a) the UK Government should issue a substantive press statement as a matter of course after every meeting of the Joint Ministerial Committee, Wherever possible, that statement should be agreed by the parties, and should contain as much information as possible. At the very least, it should record the fact that the meeting took place, where it took place and who attended it; and
- (b) the UK Prime Minister should make a statement to the House of Commons after each plenary meeting of the JMC regarding both that meeting and the conduct of intergovernmental relations within the United Kingdom generally over the previous 12 months. [para 3 summary of recommendations]

## 6.4 The First Minister

*The Times* reported that ‘first it was Lanarkshire, then it was Holyrood now McConnell is set to become ‘a big noise in Europe’. This was because he would soon be the convener of the 40 strong group of regions with legislative powers (members of which were responsible for the Flanders Declaration and the Liege Resolution. It was also reported that he hoped that they would also meet in Scotland during his one-year term in office, thereby harking back to the EU summit in 1992 when the EU’s heads of state and of government met in Edinburgh.<sup>73</sup> As with his ‘diplomatic mission’ concerning last ditch attempts to influence the Convention on the future of Europe (see 6.2 above), it would help raise Scotland’s international profile. It also implies that he is confident not just of electoral victory in May 2003 but also of being re-selected by MSPs as First Minister.

Mr McConnell attended a conference of the group of regions with constitutional powers in Florence during which time he signed a formal agreement with Tuscany on behalf of the Executive. The benefits, which it would bring in relation to economic and cultural matters, were indicative of the worth of devolution. This meeting did not attract as much attention amongst sections of the media as its forebears, perhaps because such fora are now old hat as far as Scotland is concerned. But even so, the link with Tuscany, the origins of which go back to last year (see earlier Monitor Report) is but one more bilateral link in what is becoming something of a lattice work of inter-connections between Scotland and other territories in the EU. All of this has to be serviced to a greater or lesser degree by officials at the Scottish Executive at a moment in time when the its handling of domestic issues is under scrutiny prior to the May election.

In recent months the difficulties besetting the Scottish fishing sector has rarely been out of the media for long (see 6.3 above). Ross Finnie, the fisheries minister has faced a barrage of criticism over the Executive’s handling of the recent cut-backs in fishing effort. As EU negotiations drew to a climax before Christmas he was joined by both the Prime Minister and the Secretary of State. The Herald reported that 79% of Scots surveyed believed that ‘the PM should personally lobby his counterpart’. Whilst the Secretary of State was reported to have lobbied Mr Morely the UK fisheries minister on behalf of the Scottish fishing industry.<sup>74</sup> Ms Liddell also lobbied fisheries officials when on a visit to Brussels.<sup>75</sup> But so far as the public arena was concerned the First Minister’s profile on the fishing issue was minimal at best, which rather contrasts with his activities in Florence, his convenership of the constitutional commission of the Committee of the Regions (See earlier Monitor Reports) not to mention his sojourn in South Africa last year. In some respects the involvement of the Secretary of State in fisheries is a continuum of what used to occur prior to legislative devolution in 1999 and Mr Finnie’s situation is little different to that of former Conservative Ministers who returned from Brussels ringing their hands. Now Scotland has its own First Minister –but it

still remains to be seen how far the incumbent can influence international affairs when Scottish interests are at stake – as is the case with the CFP.

## 6.5 Scotland and Iraq

When the Parliament held a debate on the possibility of war with Iraq on January 16<sup>th</sup> the Scottish Executive avoided an involvement on the grounds that it could not ‘adopt a position’ on this matter, as it was ‘reserved’ to Westminster. Technically that may be so, but politically it is not so clear-cut. As mentioned in Section 5 (i.e. Scotland and UK relations), the Peer’s committee on the constitution highlighted the extent to which inter-governmental relations are under-pinned by ‘goodwill’. But on an issue of national importance such as this, that both the Executive and First Minister were mute, exemplifies how far it can be constrained from speaking out on foreign matters, despite widespread concern in Scotland. That might have been different if Labour had not been the dominating party of government both in London and Edinburgh.<sup>76</sup>

This was debated in the parliament on January 16<sup>th</sup> 2003, after John Swinney, leader of the SNP moved the following motion (SIM 3760):

That the Parliament endorses United Nations Security Council Resolution 1441 on the basis that it provides a mandate for weapons inspection in Iraq; welcomes the legal opinion of Matrix Chambers on behalf of CND which concluded that Resolution 1441 does not provide an authorisation for military action in Iraq and that any such use of force would breach international law; believes that UN weapons inspectors must be afforded total freedom of access in Iraq and to all evidence in the possession of other states, together with sufficient time in order to produce a comprehensive report for the consideration of the Security Council on the state of Iraqi compliance with the resolution; believes that no commitment of UK forces should be made without a specific mandate for military action in Iraq in the form of a further Security Council resolution based on clear, published and compelling evidence provided by the UN inspectorate of a material breach of Resolution 1441 and expresses its deep and serious concern that her Majesty’s Government is currently pursuing an inevitable path to war.

Tavish Scott, a former Liberal Democrat minister in the Executive then proposed the following amendment (Sim 3760.2 to motion SIM 3760), which members of the SNP subsequently supported:

Recognises the reserved nature of issues relating to the current international situation and the public concerns that exist and therefore agrees to support UN Resolution 1441 as unanimously adopted by the UN security council; agrees that the Government of Iraq must fully comply with all the provisions of the resolution: agrees that, if it fails to do so, the UN Security Council should meet in order to consider the situation and the need for full compliance; believes that any decision that Iraq is in ‘material breach’ of Resolution 1441 is for the UN Security Council as a whole to determine and no military action to enforce Resolution 1441 should be taken against Iraq without a mandate from the UN Security Council, and further believes that no British forces should be committed to any military action against Iraq without a debate in the House of Commons and a substantive motion in favour.

Scott moved a further amendment (3760.3.3) which again called for a debate in the commons and a substantive motion in favour, before the commitment of British forces. The voting was

51 for – the SNP supporting this with the Liberal Democrats. 66 voted against – the Conservatives voting with Labour and there were 3 abstentions. In the event, Labour’s amendment 3760.3 to the original SNP motion was finally agreed. It basically supported the position of Mr Blair’s government: 51 MSPs were against, 67 for and again there were 3 abstentions.<sup>77</sup> During the ensuing debate Tom McCabe (who led the debate and who is a former minister) made a number of comments which confirmed that the parliament was entitled to ‘discuss’ such issues (although he also complained that the SNP was using the debate as an opportunity to further its own agenda). He said:

When people’s minds are focused on the international situation, it is right and proper that these matters should be discussed and that any potential courses of action should be justified. It is right and proper that Her Majesty’s Government, led by our Prime Minister, Tony Blair, should pursue a path of securing international consensus if are to deal with threats to peace, safety and security in an increasingly complex world. It is right that we should examine the role of the Prime Minister in securing that international consensus, for we should not doubt his role is a positive one.

But he also conceded that Scottish influence was minimal:

Local authorities are free to debate the issues, as we are free to debate them, but we should never mislead the people of Scotland about our power to influence. The issue is reserved to the Westminster parliament.<sup>78</sup>

Despite the fact that war with Iraq relates to reserved matters, there is nothing to prevent the parliament holding a debate on any issue it chooses and agreeing a resolution accordingly. If such a resolution was contradictory to the position of the UK government, then it could call into question the legitimacy of the latter to claim that it was representing or acting on behalf of the UK in its entirety in relation to that particular issue. So, potentially the debate on Iraq was significant not just because of the fact that it occurred but also because of the potential ramifications. Although the First Minister chose not to participate on this occasion it will not be the last time that such a debate on matters of national security will be held in the parliament and perhaps then the incumbent will decide to play a more prominent role.

## 7.Relations with Local Government

### Neil McGarvey

This quarter's report as well as reflecting on events in local government this quarter looks ahead to the forthcoming local elections in May. These elections are of course likely to be overshadowed by the 'main event' – the second term elections to the Scottish Parliament. This quarter has seen the long-awaited publication of the Scottish Executive's Cities Review, the Executive announcement of the next three-year's grant settlements.

#### 7.1 The 2003 local elections

The third term elections for Scotland's unitary local authorities are taking place on the same day as the elections for the Parliament's second term. This is likely to boost turnout (as it did in 1999), and it would appear the concurrence of the electoral cycles for local and national elections is likely to be an ongoing feature of Scottish politics for the foreseeable future. Whether, this is beneficial in terms of local democracy is debatable – as Bill Miller argues "Local government will be virtually forgotten during the election campaign."<sup>79</sup> As at the 1999 Election the campaign is likely to be dominated by national issues.

These local elections may well be the last to be held under the 'first-past-the-post' electoral system. Although this system undoubtedly benefits the Scottish Labour Party (its prime defenders), the party is by no means dominant across Scotland's 32 local councils. In terms of local government representation the Scottish Labour Party has in fact been in decline in recent years. In 1995 it achieved a 44% of the vote in local elections and achieved control of 19 of the 32 councils. In 1999 its share dropped to 37% of the vote and controlled 15 of the 32 councils. As the table below highlights Labour were the only party to lose seats in the 1999 local elections.

**Table: Councillors elected in 1999 Scottish Local Elections**

	Nos. of cllrs.	Net Gain/Loss	Local Council Control*
Labour	549	-51	15
SNP	206	+16	1
Liberal Democrat	156	+24	
Conservatives	107	+22	
Others	201	-35	5

\*11 councils had no overall control

In the run up to the forthcoming May elections the party is in control of just over a quarter of Scotland's local councils (9 out of 32). Through a series of by-elections defeats and defections the party has lost overall control of six local councils since the 1999 election (the latest being Renfrewshire Council this quarter). The Scottish Labour Party is not as dominant in Scottish local government as is often perceived.

## **7.2 The Scottish Executive Cities Review**

The Scottish Executive's long awaited Cities Review (titled *Building Better Cities*) was published this quarter. Established in August 2001 it was originally due to report in early 2002. The review establishes a £90m "growth fund" to be shared between Aberdeen, Edinburgh, Dundee, Inverness, Glasgow, and Stirling over three years. There is also a £20m package to reclaim derelict land in Dundee, Glasgow, and North Lanarkshire, available from 2004 to 2006. The Executive has also given each city until May to consult with neighbouring councils and local agencies to produce a 10-year "city vision" setting out spending priorities. It also suggested that it would recognise cities as the 'building blocks' of Scotland's future prosperity. However, the review did reject any changes to the current business rates system which sees councils such as Edinburgh and Glasgow contributing £83 million and £95 million respectively to the national rates pool. It is possibly for this reason that Charles Gordon, leader of Glasgow City Council, chose to give the review 'two-and-a-half cheers'. He was possibly heartened by the Executive's suggestion that reform of business rates, although ruled out in the short term, is a medium to longer-term possibility.

The Review would appear to be a classic example of incremental, rather than 'root and branch' policy reform. It attracted little media interest when it was announced and could easily be viewed as something of a damp squib. There is little beyond the targeting of some new monies to the cities. The Tory MSP Bill Aitken, described it as "seeking to treat a severed artery with sticking plaster."<sup>80</sup>

## **7.3 The 2003/4 –2005/6 Local Government Grant Settlement**

The next three year's grant settlement for local government were announced in December by the Finance and Public Services Minister, Andy Kerr. The settlement increases Scottish Executive funding in 2003/4 to £7.4 billion. The figures represent increases of 8.5%, 4.8% and 3.9% for the next three financial years. Cosla described the settlement as 'tight', while Kerr described it as "challenging, but fair". Cosla also commented on the lack of flexibility in new funding suggesting there is still too much central direction.<sup>81</sup>

## **7.4 Audit Scotland Council Tax and Tent Collection Reports**

Audit Scotland published two reports on local councils this quarter. The first focused on council tax and the second, rent collection. The overall council tax collection rate has improved to 90.6% - its highest since 1996. All councils, apart from Aberdeen and Dundee, showed year-on-year improvement. However, the aggregate figures masked some ongoing poor performance. Glasgow City Council was the worst with a collection rate of 81.5%, Orkney the best with a 97.3% collection rate.<sup>82</sup>

The report on rent collection reported a 92.7% collection rate. The Audit Commission report was largely critical noting that only six councils had met the collection targets the Commission had set the previous year.<sup>83</sup>

## 7.4 Ongoing Developments

- The Audit Committee published its *Renewing Local Democracy* report suggesting a series of recommendations designed to improve democratic processes in local government. One of the more radical suggestions was the lowering of the voting age to 16 for local elections. The report will not be considered until the next session of the Scottish Parliament.
- The Scottish Local Government Bill was passed in January. The Act introduces a new statutory duty of Best Value, community planning and new power of community well-being.<sup>84</sup> An eleventh hour Executive amendment to this Bill designed to facilitate fire service reform was defeated.<sup>85</sup>
- In response to the new EU fishing quotas Highland Council is reported to be investigating the potential of introducing a policy of buying fish quotas. The council purchase scheme is designed to protect quotas and lease them to fishermen struggling to raise the funds to buy them on the open market.<sup>86</sup>
- Edinburgh Council announced it was following Glasgow, and going down the Public Private Partnership route for capital investment in its secondary schools.
- On the same day that the Scottish Executive announced the findings of its Cities Review the Parliament's Rural Committee Report was launched. Amongst other things it suggested a more integrated approach among different rural development agencies, a single marketing and labelling scheme for Scottish produce and the consideration of a rates relief scheme to help rural businesses.<sup>87</sup>
- In response to ongoing problems local government recruitment problems, the Scottish Executive announced a scheme to pay off the student loans of newly recruited social workers
- COSLA has called on the Scottish Executive to give councils the power to charge full council tax on second homes instead of the 50% currently offered.<sup>88</sup>
- Tricia Marwick, the SNP MSPs Bill to introduce proportional representation based on STV in local elections failed to gain local government committee recommendation.<sup>89</sup>

## **8. Finance**

### **David Bell**

#### **8.1 Public Private Partnerships**

On January 28<sup>th</sup>, Christine Graham (SNP) tabled a motion in Parliament that the Executive should abandon Public private Partnerships (PPPs). This issue has been a running sore for the Executive. Forced by the Treasury to adopt PPPs as a means of funding capital projects, the Executive has been open to attack on a number of fronts.

John Swinney has recently argued that additional interest charges on PPPs are costing Scottish taxpayers £53 million and £80 million every year in higher interest charges<sup>90</sup>. And there has been concern that PPPs lead to adverse impacts on employees transferred from the private to the public sector. Wages, pension rights and conditions of service are threatened by this funding mechanism according to public sector unions. Some parts of the Labour Party are sympathetic to this argument and therefore must have been relieved when Jack McConnell agreed a protocol with the STUC<sup>91</sup> last November. Among its provision is included a clause “to safeguard the employment terms and conditions of individual public sector employees who transfer to private sector ‘service providers’ as a consequence of PPP’s”. And the Executive is clearly attempting to downplay the role of PPPs in the statement that “PPP is one of several procurement options available to PSOs: it is not the only, or preferred, option. It constitutes a relatively small proportion of public investment in Scotland.”

The TUC have not been nearly so effective at undermining PPPs. At last year’s congress, unions called on the General Council to “oppose PFI and privatisation of public services and insist that the Government impose a moratorium on further PFI/PPP projects whilst a detailed independent inquiry takes place.<sup>92</sup>” But the TUC has not managed to elicit a comparable agreement at Westminster to that between the Executive and the STUC.

Meanwhile, a substantial number of local councils in Scotland have started the process of constructing public private partnerships for building schools – Aberdeenshire, Argyll and Bute, Dundee, East Ayrshire, East Renfrewshire, Inverclyde, North Lanarkshire, South Ayrshire, South Lanarkshire and West Lothian. Following the Audit Commission report these will inevitable generate acrimonious debate. And given that the total value of PPP schemes undertaken or in process of submission in Scotland now amounts to £3.8bn, the revenue costs of servicing the existing projects is likely to form a future focus for dissent.

Meanwhile some of the companies heavily involved in PPP initiatives are not faring too well. Amey is a major player in the Scottish PPP market and has contracts with:

- Glasgow City Council to rebuild, refurbish and maintain 29 secondary schools
- The Scottish Executive highways contract to maintain eight motorways and 16 trunk roads from Bridge of Allan to the Borders
- North Lanarkshire Council to maintain all roads in the region

- Edinburgh City Council to build 10 primary, two special and two high schools together with a secure unit and a community centre, whilst refurbishing three further high schools and one special school.

But as a result of problems associated with a London underground project, Amey's share price fell by 94 per cent in the year to November 2002. Further, according to Liam Halligan<sup>93</sup> of the Daily Telegraph "Five years in the making, this PPP has spawned contracts comprising 2m words and 3,000 mathematical formulae. The legal, accounting and consulting fees now exceed £400m - enough to buy and maintain 100 new trains for 20 years." He argues that little risk has actually been transferred to the private sector in this deal because the participating companies' liabilities have been capped and the government appears to be willing to underwrite their bank loans.

These problems may have reverberations in Scotland should any of these major players in the PPP market fail. The issue for the Executive would be how to pick up the pieces without having to raid its own budget too deeply while still holding the Treasury line on PPP.

## **8.2 Outcome Budgeting**

An important change is taking place in the way that the public sector accounts for its activities. Traditionally, public sector bodies' budgets were determined by the costs of whatever resources they used to provide public services – health, education etc. The UK government has started to move away from this concept and towards a budgetary system that is based on outcomes rather than the costs of inputs. The argument is that if budgets are dependent on outcomes, the focus of these organisations will change to the provision of service outcomes. The intention is that target outcomes should be constructed in a transparent and democratic manner.

For the UK as a whole, there are annual Public Service Agreements (PSAs) through which each department is committed to deliver outcome-focused targets. In addition there are Service Delivery Agreements where departments set out how they will deliver their PSAs. Altogether there are 160 outcome-based targets for UK government.

The Finance Committee reported<sup>94</sup> on outcome budgeting in 2002 and recommended that it be introduced in the 2003-04 budget round. And in the November spending proposals<sup>95</sup>, there are a myriad of targets for each of the spending departments. For example, the Enterprise and Lifelong Learning Department has as two of its targets:

1. Close the gap in unemployment rates between the worst 10% of areas and the Scottish average by 2006.
2. Increase graduates as a proportion of the workforce.

The way in which these targets are to be measured and assessed is very closely defined. However, there are two issues that may come to haunt the Executive. First, for the majority of these targets, the "transmission mechanism" from public intervention to measurable outcome is very poorly understood and may change from time to time. For example, the proportion of graduates in the Scottish workforce may be very susceptible to the demand for graduates in the South-East. Second, there will always be pressure to add to the existing set of targets. For example, issues of gender equality in the budget are not comprehensively addressed at present and it is quite likely that there will be pressure to extend in this direction

in the future. As the number of targets expands, the likelihood of them being mutually consistent diminishes. Eventual failure and consequent political fallout may well lead to serious questioning of the real value of this approach to the policy process. Already the abandonment of a number of targets at Westminster is opening new opportunities for opposition politicians.

## **9. Legal Disputes**

**Barry Winetrobe**

### **9.1 House of Lords Constitution Committee Devolution Report**

In its recent, comprehensive report on devolution in practice, the House of Lords Constitution Committee noted that one of the main devices designed to avoid devolution disputes is “the courts, and, ultimately, the Judicial Committee of the Privy Council, for legal disputes involving ‘devolution issues’ – principally, challenges to the action of a devolved institution for being beyond that body’s legal competence.”<sup>96</sup> It commented that,

The consensual nature of intergovernmental relations to date means that these mechanisms have not yet been seriously tested. We are therefore unable to comment on whether they would be appropriate or effective in the event of a real dispute. Much would depend on the circumstances of a particular dispute – the general political situation, which parties were in office in London and the devolved capitals, how important the issues were to the parties involved, and what support the parties were able to recruit. We have an unresolved concern that these mechanisms may not prove adequate to the challenges arising from a highly-charged political dispute, especially if the parties are accustomed to informal rather than formal dealings with each other.<sup>97</sup>

In relation to legal disputes, in particular, it noted that “the Judicial Committee of the Privy Council has to date given judgement in ten cases involving devolution issues, though none has affected significantly the issues addressed in this report.”<sup>98</sup>

A feature of devolution in practice has been the virtual absence of legal disputes in the courts on the basis of the Scottish and Welsh devolution schemes themselves, as set up in the 1999 legislation. Contrary to what some had expected, most disagreements and disputes of the sort which the elaborate ‘devolution issues’ mechanisms had been designed to deal with have not (except in the human rights field, relating mainly to criminal law and procedure) resulted in appearances before the courts. The Scotland Act’s challenge mechanisms to Scottish Parliament Bills by the Law Officers and the Secretary of State have not been used yet, and thus far, as these quarterly reports have noted, third-party challenges to the validity of Scottish Parliament Acts have been unsuccessful. Whether this is because the devolution legislation and/or the IGR arrangements have been so well-designed, and the Parliament’s legislation so well drafted,<sup>99</sup> or whether disputes of the sort just have not yet arisen remains to be seen.

### **9.2 Hunting Act challenge**

According to press reports, the appeals on the legal challenge to the Parliament’s anti-hunting legislation (noted in chapter 9 of the previous Reports) will be heard by the Court of Session in early June.

### **9.3 Hepatitis C referral to the JCPC**

It has been reported in late January that differences in legal advice to the UK Government and the Scottish Executive over the latter’s proposal to make ex gratia payments to Hepatitis C sufferers, whose condition was caused by contaminated blood, may have to be resolved ultimately by the Judicial Committee of the Privy Council. Two difficulties appear to be relevant, one of which (similar to earlier arguments over free personal care) involves possible clawback through the (reserved) social security system of some of the payments made by the Executive.

The other relates to the more general question of whether the Executive actually has the power to make such payments. This appears to be a reference to Head F (social security) of the list of reserved matters in schedule 5 of the Scotland Act, which, in its interpretation provisions, may exclude such payments from the Executive's devolved competence or the Parliament's legislative competence.<sup>100</sup>

#### **9.4 Stair Encyclopaedia**

In December, the reissue of the 'constitutional law' volume of the *Stair Encyclopaedia of the Laws of Scotland* was published. As well as covering other aspects of Scottish devolution, it contains a substantial chapter on the judicial review of devolution issues, which will be an essential source should devolution legal disputes become more common.<sup>101</sup>

## 10 Political Parties

### James Mitchell

#### 10.1 New parties and old faces

With elections looming, the prospect of the electoral system offering opportunities for new parties has attracted a range of small and new parties emerging. The success of Tommy Sheridan picking up a seat for the Scottish Socialist Party (SSP), Robin Harper for the Greens and Denis Canavan as an independent in 1999 has given hope to a range of hopefuls, many of whom appear to have been unaware of the failures in 1999. Amongst the unsuccessful bids for membership of the Scottish Parliament four years ago were ProLife candidates standing in five of the eight regions but only one gaining more than one per cent of the vote (1.04% in West of Scotland); the Highlands and Islands Alliance winning 1.29%, and the SSP winning only 2.0% across Scotland and the Greens 3.6%. Independents standing on the List, Canavan apart, were humiliated. Kenyon Wright, Constitution Convention chair, failed to come close to being elected and subsequently joined the Liberal Democrats in an effort to secure a seat. Sir Iain Noble, merchant banker and Skye landowner, won 1.29% in the Highlands and Islands amongst numerous others.

Martin Bell's victory in Tatton in 1997 and the Wyre Forest victory of an independent candidate in 2001 focused on campaigning against a hospital closure has contributed to a sense that there is a role for 'others' in politics. Criticism of 'control freakery' amongst the party hierarchies mixed with general disillusionment with devolution has encouraged a few commentators to argue for more independents and mavericks, especially those who had hoped for the emergence of some ill-defined 'new politics'.<sup>102</sup> An editorial in the *Scotsman* noted the disappointment that some campaigners for devolution had at the lack of independents and saw these developments as 'healthy', describing the three 'others' in the current Parliament as 'useful grit in an otherwise flabby oyster'.<sup>103</sup> Such praise for three MSPs whose support for independence, a radical left agenda, and are unambiguously against war with Iraq seems unusual given the paper's right-wing politics but may simply be a reflection of the paper's own disillusionment with the Scottish Tories.

This provided the backdrop against which news of a repeat of multi-party elections began to emerge over the last quarter. The most significant 'other' was Margo MacDonald. MacDonald had been pushed from first to fifth place on the SNP's list in Lothians thus ensuring that she would not be returned. There had been a bruising internal contest with Kenny MacAskill, a key figure along with MacDonald in the left republican '79 Group of the early 1980s, played the lead role in blocking MacDonald's bid to top the SNP list. MacDonald's reaction had been to step down as SNP candidate in the Edinburgh South constituency (see August 2002 report) and encouraged speculation that she would quit the party and stand as an independent. Her announcement that she would stand as an independent in late January was no surprise though her prospects of victory are uncertain. MacDonald has actively campaigned on a number of local Edinburgh, particularly Edinburgh South matters, as well as gaining a high media profile for her criticism of the escalating costs of the Scottish parliament (this issue which has provided her with a useful platform had been given to her by Alex Salmond after the 1999 elections) as well as prostitution. Her column in Edinburgh's *Evening News* and the prospect that she will be given support by the paper give her some hope of victory. However, against this she faces the difficulty of picking up support outside Edinburgh, where the SNP traditionally does better, and doubts about whether her campaigning on prostitution will be a vote winner. In addition, the field of

'others' is already crowded and she may simply take votes from the Greens and thus deprive Robin Harper of his seat. The SSP's hopes of winning a seat in Lothians – with one of the party's most impressive figures heading its list – have been undermined.

MacDonald's decision to stand as an independent automatically resulted in her having the SNP whip withdrawn. It opened up the prospect of a new political grouping with five members (Tommy Sheridan, Robin Harper, Dorothy Grace Elder formerly of the SNP, Denis Canavan and MacDonald) with rights on the Parliament's Business Bureau setting the Parliament's agenda. Media speculation was encouraged by MacDonald that a new Anti-War Alliance would emerge<sup>104</sup> but failed to take account of both SSP and Green anger at MacDonald's decision to stand as an independent thus making these parties' task of winning a seat more difficult. Privately, some members of the Greens and SSP expect that MacDonald's intervention is most likely to benefit the SNP – the party she most wants to harm – as it may split the vote and lead to none of the 'others' winning thus giving the SNP an additional seat.

The launch of a 'New Party', which has attracted attention in the London media because of claims that it has the support of disenchanted Conservatives, a very wealthy backer and intends to be a British-wide party, has been much anticipated but never quite launched. Backed by Robert Durward, a millionaire quarry owner from Lanarkshire, has employed media advisers and consultants<sup>105</sup> and been trailed in the Scottish press as an anti-devolution party.<sup>106</sup> In fact, press reports suggest that this is a kind of poujadiste, anti-party. Its advisors have evidently not included those with the historical knowledge to have warned against adopting the name used by Oswald Mosley for his fascist party, something which mainstream parties have been quick to point out. The British National Party has also entered the crowded field and announced that it intends to contest the Glasgow regional list standing on an anti-immigration platform focusing on asylum seekers.

As well as these parties and failed candidate for an established party, a number of single issue parties have emerged recently. The Pro-Life Alliance intends to contest elections again despite its poor performance in 1999. Dr Jean Turner, a retired general practitioner, hopes to emulate Dr Richard Taylor in Wyre Forest in 2001, in contesting Strathkelvin and Bearsden. This pits her against Brian Fitzpatrick, one of Labour's most belligerent MSPs. Turner intends to make the reorganisation of hospital services the central issue. In 2001 she won 15.5 per cent of the vote and came second in the by-election caused by Sam Galbraith's resignation.. Others campaigning on the same issue are possible in Dunfermline East and West and seats in Glasgow's south side. The issue of hospital closures and reorganisation has proved contentious during this Parliament.

February saw the launch of two parties claiming to represent the interests of Scotland's old age pensioners. The Scottish Senior Citizens' Unity Party (SSCUP) was launched in Motherwell just after the Pensioners' Party, based in the east of Scotland. They agreed to split the eight regional seats between them. The Pensioners' Party said it would fight to reinstate the link between pensions and average earnings and the SSCUP wants pensions to be set by the Scottish parliament and will campaign for a flat rate pension of £150 a week for all senior citizens.<sup>107</sup> SSCUP also intend to contest First Minister Jack McConnell's Motherwell and Wishaw seat. As the elections come closer, at least the field of candidates looks set to challenge notions that apathy rules.

## **11.Public Policies**

### **Barry Wintrobe**

#### **11.1 The public services**

Ministers announced plans to end the so-called ‘two-tier workforce’ that can arise from PPP and similar arrangements for private sector delivery of public services,<sup>108</sup> and have maintained their focus on the need for partnership in public service delivery,<sup>109</sup> amid continuing criticism that the Executive is failing to embrace the more radical, ‘modernising’ agenda apparently being pursued down south.<sup>110</sup> The Executive responded to the Finance Committee’s report on PPP/PFI, which was debated in plenary on 4 December.<sup>111</sup>

The First Minister made a major speech on 14 January on public services reform,<sup>112</sup> emphasising the need for quality control as well as funding, especially five key principles:

- A clear focus on the needs of those who use and those who need, the service
- Equality of access across urban and rural Scotland
- Devolution of decision making to those best placed to make the decisions - the headteacher, divisional commander, senior clinician
- National standards on which local excellence can be built, backed by inspection and accountability to make quality provision the norm across Scotland
- Sharing of best practice and action to tackle poor performance

The prioritisation of national standards and inspection in his speech received most comment from the media and opposition parties.

#### **11.2 Fishing**

The fishing crisis (noted in para 11.3 of the previous Report) dominated rural and environment affairs over the past quarter, with the threatened total EU ban on North Sea white fish catches being somewhat diluted at EU negotiations in December. Huge political and media support for the fishing industry has put pressure on the Scottish and UK administrations to resist such drastic cuts.<sup>113</sup> The Executive didn’t pretend that the deal was anything other than the best of a bad job, and Ross Finnie himself described its provisions as “inequitable, unfair and even crude”, when defending it in the Parliament.<sup>114</sup> It remains to be seen whether the promised £50m financial compensation package (largely targeted at decommissioning rather than direct industry support) will defuse the crisis,<sup>115</sup> or whether the fishing communities will carry out their threat of fielding candidates at the elections. The SNP, which had unsuccessfully called for a recall during the Christmas recess,<sup>116</sup> has been pressing for the Parliament’s committees to call the relevant UK ministers and EU officials as witnesses.

Aside from the obvious economic consequences, the crisis highlights the European policy tensions inherent in devolution, where the UK, as member state, has the lead role, even in areas where Scotland may have a proportionately greater stake in the matter. The SNP, in Edinburgh, London and even (during the negotiations) Brussels, made much of the Executive minister at the Brussels negotiations being little more than the UK fisheries minister’s ‘bag-carrier’, easily rolled over by the EU and UK.<sup>117</sup>

### 11.3 Land reform

The other main rural development was the final passage of the Land Reform Bill, after a marathon Stage 3 session over two days in late January. The arguments over the legislation had – whether it was a necessary, much-belated modernisation of feudal land laws or a licensed Mugabe-style land-grab – had rumbled on for many months, involving a wide cast of characters, including Mohammed Al Fayed. Doubtless they will continue, and legal challenges may well result.<sup>118</sup> As with the earlier fox-hunting legislation, critics argue that the Parliament is dominated by urban interests; knows or cares little for rural concerns, and has not been willing or able to scrutinise such legislation effectively.<sup>119</sup>

### 11.4 Economy

Statistics continue to show a mixed, generally gloomy picture of Scotland's economy, though it appears to have pulled out of the 'technical recession' it experienced in mid-year. Despite some notionally better jobless figures, there is little sign of a genuine or sustained recovery, especially in manufacturing (including dissension within the recently reconstituted Manufacturing Steering Group), with further contraction in the electronics sector.<sup>120</sup> Ministers continue to make speeches on (and go around the world supporting<sup>121</sup>) the need for a modern and successful economy,<sup>122</sup> and the Scottish Secretary gave a bullish summary of the Scottish economy in a WA on 26 November.<sup>123</sup>

Despite uncertainty in the global economy the fundamentals of the Scottish economy are sound. The economy grew in the year to June 2002 in the face of an international downturn. Our labour market is healthy, while inflation and interest rates are low. Scotland shares the benefits of macroeconomic stability delivered by the Government while the Scottish Executive is able to exercise its devolved responsibilities to respond to local priorities and economic development opportunities.

The state of the economy could test the devolution scheme itself, in terms of the range of financial and economic powers available to the devolved government at a time of international uncertainties. Inevitably there is a great focus on Scotland's apparently poor economic performance, relative to the rest of the UK, which further highlights the impact, if any, of devolution. The SNP appear keen to make the economy a key election battleground.<sup>124</sup>

### 11.5 Education

Education is a key priority area where policy delivery seems to be a long time coming, especially in areas such as truancy, league tables and class sizes, and the Education Minister, Cathy Jamieson, remains the focus of the criticism (perhaps as a surrogate for her predecessor, the current First Minister).<sup>125</sup> The Executive's latest education policy statement, following the National Education Debate, was not well received.<sup>126</sup> Despite fears that the costs of the McCrone Settlement on teacher's pay and conditions are getting out-of-hand, the Parliament's Education Committee decided, on 14 January, "due to insufficient time to conduct a detailed inquiry, to recommend that this might be considered by a future Committee."<sup>127</sup>

Of more direct concern to devolution is the future of university finance, where the decisions in London on top-up fees and student support threaten to disrupt the distinctive approach to student finance of the past few years in Scotland. There is a fear that the UK Government's policy will produce both an increase in students from England and a relative decline in resources leading to loss of staff to English universities. Ministers, while ruling out top-up

fees, are urgently reviewing their own policies. It may be a particular problem for the Liberal Democrats who claim much of the credit for the Scottish policy.<sup>128</sup>

## 11.6 Health

Another core public service where continuous injections of money and policy initiatives appear to be slow to produce positive results is health. Waiting lists and times do not seem to be responding in the way ministers hoped.<sup>129</sup> Even the flagship policy of free personal care seems to be causing problems in its implementation, with allegations of local councils imposing waiting lists or other restrictions on provision because of monetary restraints.<sup>130</sup> The Glasgow hospitals review, which caused the Executive much grief over apparent ministerial dissent, was debated again on 28 November.<sup>131</sup> Negotiations with consultants over a new contract proceeded, amid signs of staff shortages.<sup>132</sup>

## 11.7 Transport

Transport is a difficult policy for the Executive to demonstrate real ‘delivery’, partly because of the lead-times involved in major schemes, and because of the partly-reserved nature of much of the subject. The future of air transport is a case in point, where, as noted in the last Report (para 11.5) there has been criticism of the extent of Scottish input,<sup>133</sup> and there has been much loose speculation about airport development, even the suggestion by some of a new Central Scotland airport to serve both the Glasgow and Edinburgh conurbations. Rail was debated in the Parliament on 15 January, based on the Transport Committee’s recent report, just at a time when the Executive announced further investment in road and rail schemes.<sup>134</sup> The ScotRail franchise is becoming a test of the Executive’s resolve on public transport, and it announced that it would last for 7 years, much less than originally expected, amid press speculation that it may be awarded to German interests.<sup>135</sup> The Conservatives are convinced that opposition to road tolls and congestion charges will be a vote-winner.<sup>136</sup>

## 11.8 Fire dispute

The fire dispute, though relating to a devolved service, is mainly being dealt with at UK level, though the Executive is still coming under scrutiny for its contingency planning arrangements during strike days. Calls for the Executive to negotiate its own pay agreement with the FBU have been dismissed by ministers, thereby highlighting a relatively ignored aspect of the boundary between devolved and non-devolved governance, where a devolved service is subject to UK-wide service regulation, including pay and conditions agreements.<sup>137</sup> The Executive’s efforts to stay in line with UK Government policy<sup>138</sup> led to an embarrassing defeat (on a DPO’s casting vote, and the apparently mistaken abstaining vote by a Labour Whip, Cathy Craigie, who subsequently resigned) on 8 January over attempts to slip a last-minute amendment into the Local Government Bill to repeal s19 of the Fire Services Act 1947.<sup>139</sup>

This may well be dwarfed by the impact of the Deputy Prime Minister’s statement, at the end of January, that he is prepared to take legislative power to impose a nationwide settlement. It would appear that this development came virtually as a complete surprise to the Executive, with the minimum of inter-governmental consultation. The Justice Minister made an emergency statement in the chamber on 29 January, in which it was apparent that the Executive had not yet got its act together, though it had no plans to introduce similar legislation. Their problem is compounded by the imminent dissolution of the Parliament, not only making it difficult for any legislation to get through in time, but also raising the spectre that Westminster could legislate for Scotland during the dissolution without any Sewel

motion consent from the Parliament.<sup>140</sup> In the absence of any imminent settlement of the fire dispute, this matter has the potential to become a real factor in the run-up to the election in May.

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<sup>1</sup> "Jack fades to grey", *Scotland on Sunday*, 17.11.02: <http://www.scotlandonsunday.com/comment.cfm?id=1279062002>; "Jack's first year - so what has he actually done?", *Scotsman*, 21.11.02: <http://www.thescotsman.co.uk/comment.cfm?id=1296592002>

<sup>2</sup> [http://www.scottish.parliament.uk/official\\_report/wa-02/wa1210.htm](http://www.scottish.parliament.uk/official_report/wa-02/wa1210.htm). This was expanded upon in WAs of 10.1.03: [http://www.scottish.parliament.uk/official\\_report/wa-03/wa0110.htm](http://www.scottish.parliament.uk/official_report/wa-03/wa0110.htm) and 29.1.03: [http://www.scottish.parliament.uk/official\\_report/wa-03/wa0129.htm](http://www.scottish.parliament.uk/official_report/wa-03/wa0129.htm)

<sup>3</sup> For the short debate on 28 November on the new ministerial appointment, see [http://www.scottish.parliament.uk/official\\_report/session-02/sor1128-02.htm#Col15869](http://www.scottish.parliament.uk/official_report/session-02/sor1128-02.htm#Col15869). It is noteworthy that the Parliament has maintained the practice that, though Simpson replaced McNulty on the Finance Committee, he, as the new ex-minister, did not take over the convenership. However the new convener is a former Cabinet minister, Tom McCabe.

<sup>4</sup> The basis of the payment was explained by the Presiding Officer in a WA of 13 December: [http://www.scottish.parliament.uk/official\\_report/wa-02/wa1213.htm](http://www.scottish.parliament.uk/official_report/wa-02/wa1213.htm)

<sup>5</sup> "Nationalists pledge to cut ministers", *BBC Online*, 13.1.03: <http://news.bbc.co.uk/1/hi/scotland/2653501.stm>

<sup>6</sup> "Jamieson battles to save Cabinet role", *Scotsman*, 2.11.02: <http://www.thescotsman.co.uk/politics.cfm?id=1218822002>; "The true nature of Jack's cabinet finally exposed", *Scotsman*, 28.11.02: <http://www.thescotsman.co.uk/comment.cfm?id=1324492002>

<sup>7</sup> "Finnie pays price for series of gaffes", *Sunday Times*, 19.1.03: <http://www.timesonline.co.uk/article/0,,2090-548128,00.html>.

<sup>8</sup> [http://www.scottish.parliament.uk/agenda\\_and\\_decisions/bb-02/bb-10-25f.htm](http://www.scottish.parliament.uk/agenda_and_decisions/bb-02/bb-10-25f.htm)

<sup>9</sup> *Recording Our Achievements*: <http://www.scotland.gov.uk/library5/government/roam-00.asp>; Summary: <http://www.scotland.gov.uk/library5/government/roas-00.asp>; "Executive reports on achievements", Executive PN, 16.12.02: [http://www.scotland.gov.uk/pages/news/2002/12/p\\_SEfd178.aspx](http://www.scotland.gov.uk/pages/news/2002/12/p_SEfd178.aspx); "Ministers mark own 'report card'", *BBC Online*, 16.12.02: <http://news.bbc.co.uk/1/hi/scotland/2578815.stm>

<sup>10</sup> [http://www.scottish.parliament.uk/official\\_report/wa-02/wa1216.htm](http://www.scottish.parliament.uk/official_report/wa-02/wa1216.htm)

<sup>11</sup> "McConnell attacked over services", *BBC Online*, 16.1.03: <http://news.bbc.co.uk/1/hi/scotland/2666613.stm>; FMQs on 16.1.03: [http://www.scottish.parliament.uk/official\\_report/session-03/sor0116-02.htm#Col17106](http://www.scottish.parliament.uk/official_report/session-03/sor0116-02.htm#Col17106).

<sup>12</sup> <http://www.scotland.gov.uk/pages/news/weekly/000305.aspx>

<sup>13</sup> "Reform agenda", *Holyrood*, 21.10.02, p15. See "SNP Welcome Deacon's Call for Devolved Civil Service", *SNP press release*, 24.10.02: <http://www.snp.org/html/news/printerfriendly.php?newsID=587>; "Scots civil service 'is failing'", *Scotsman*, 24.10.02: <http://www.thescotsman.co.uk/politics.cfm?id=1176142002>; "It's a mistake to cut through the red tape", *Sunday Times*, 27.10.02: <http://www.timesonline.co.uk/article/0,,2090-460100,00.html>. The main articles in this feature were, P MacMahon, "Civil society" and W Dinan, "Open Scotland's executive".

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- <sup>14</sup> See, for example, “MSPs demand overhaul of civil service”, *Scotsman*, 18.1.03: <http://www.thescotsman.co.uk/scotland.cfm?id=64572003>;
- <sup>15</sup> WAs of 6.12.02: [http://www.scottish.parliament.uk/official\\_report/wa-02/wa1206.htm](http://www.scottish.parliament.uk/official_report/wa-02/wa1206.htm); 9.12.02: [http://www.scottish.parliament.uk/official\\_report/wa-02/wa1209.htm](http://www.scottish.parliament.uk/official_report/wa-02/wa1209.htm); 16.1.03: [http://www.scottish.parliament.uk/official\\_report/wa-03/wa0116.htm](http://www.scottish.parliament.uk/official_report/wa-03/wa0116.htm)
- <sup>16</sup> WA of 19.12.02: [http://www.scottish.parliament.uk/official\\_report/wa-02/wa1219.htm](http://www.scottish.parliament.uk/official_report/wa-02/wa1219.htm)
- <sup>17</sup> [http://www.scottish.parliament.uk/official\\_report/wa-02/wa1127.htm](http://www.scottish.parliament.uk/official_report/wa-02/wa1127.htm). See also the series of WAs to Linda Fabiani (SNP) on 15 October: [http://www.scottish.parliament.uk/official\\_report/wa-02/wa1015.htm](http://www.scottish.parliament.uk/official_report/wa-02/wa1015.htm)
- <sup>18</sup> [http://www.scottish.parliament.uk/official\\_report/wa-02/wa1126.htm](http://www.scottish.parliament.uk/official_report/wa-02/wa1126.htm)
- <sup>19</sup> [http://www.scottish.parliament.uk/official\\_report/wa-03/wa0122.htm](http://www.scottish.parliament.uk/official_report/wa-03/wa0122.htm)
- <sup>20</sup> [http://www.scottish.parliament.uk/official\\_report/wa-02/wa1210.htm](http://www.scottish.parliament.uk/official_report/wa-02/wa1210.htm)
- <sup>21</sup> “Executive's flagship bills in jeopardy”, *Scotsman*, 16.12.02: <http://www.thescotsman.co.uk/politics.cfm?id=1394272002>, and Executive media briefing that day: <http://www.scotland.gov.uk/pages/news/weekly/000288.aspx>.
- <sup>22</sup> “Sir David calls for second chamber”, *Scotsman*, 26.12.02: <http://www.thescotsman.co.uk/politics.cfm?id=1431932002>
- <sup>23</sup> “Executive's 'most significant' leak” *BBC Online*, 2.12.02: <http://news.bbc.co.uk/1/hi/scotland/2534177.stm>; Executive media briefing, 2.12.02: <http://www.scotland.gov.uk/pages/news/weekly/000274.aspx>; “Leaked Executive plans stir up row”, *Scotsman*, 3.12.02: <http://www.thescotsman.co.uk/politics.cfm?id=1344592002>; “Unease at post-election plans”, *BBC Online*, 3.12.02: <http://news.bbc.co.uk/1/hi/scotland/2537085.stm>; Executive media briefing, 4.12.02: <http://www.scotland.gov.uk/pages/news/weekly/000276.aspx>
- <sup>24</sup> [http://www.scottish.parliament.uk/official\\_report/wa-03/wa0103.htm](http://www.scottish.parliament.uk/official_report/wa-03/wa0103.htm). Further detail was provided in a follow-up WA on 17.1.03: [http://www.scottish.parliament.uk/official\\_report/wa-03/wa0117.htm](http://www.scottish.parliament.uk/official_report/wa-03/wa0117.htm)
- <sup>25</sup> George Reid, Local Government in Scotland Bill (Stage 3), *Official Report*, 8 January 2003, col. 16759, [http://www.scottish.parliament.uk/official\\_report/session-03/sor0108-02.htm#Col16711](http://www.scottish.parliament.uk/official_report/session-03/sor0108-02.htm#Col16711)
- <sup>26</sup> Donald Gorrie, Local Government in Scotland Bill (Stage 3), *Official Report*, 8 January 2003, col. 16752, [http://www.scottish.parliament.uk/official\\_report/session-03/sor0108-02.htm#Col16711](http://www.scottish.parliament.uk/official_report/session-03/sor0108-02.htm#Col16711)
- <sup>27</sup> Scottish Parliament Rural Development Committee, *Official Report*, 10 December 2002, cols. 3899-3986, [http://www.scottish.parliament.uk/official\\_report/cttee/rural-02/ra02-3302.htm#Col3928](http://www.scottish.parliament.uk/official_report/cttee/rural-02/ra02-3302.htm#Col3928)
- <sup>28</sup> Standards Committee, *Report on the Scottish Parliament and Business Exchange*, 21 November 2002, SP Paper 694.
- <sup>29</sup> ‘MSP Numbers Remain Unchanged’, *BBC News Online*, 18 December 2002, <http://news.bbc.co.uk/1/hi/scotland/2588101.stm>
- <sup>30</sup> Latest parliamentary stage recorded.
- <sup>31</sup> Proposals for Members’ Bills, *The Scottish Parliament*, [http://www.scottish.parliament.uk/parl\\_bus/membill.htm](http://www.scottish.parliament.uk/parl_bus/membill.htm)
- <sup>32</sup> *Cross-Party Group on Kidney Disease*, *The Scottish Parliament* <http://www.scottish.parliament.uk/msps/cpg/cpg-kidney.html>
- <sup>33</sup> Michael Russell, Cross-party Groups Review, *Scottish Parliament Standards Committee Official Report*, Meeting No. 18, 18/12/2002, Col. 1200.

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- <sup>34</sup> Cross-Party Groups, *The Scottish Parliament*, <http://www.scottish.parliament.uk/msps/cpg/cpg-bull.html#app> 16/02/03; and Cross-Party Group Bulletin, *The Scottish Parliament*, <http://www.scottish.parliament.uk/msps/cpg-bull.html> 04/05/01.
- <sup>35</sup> Frank Kane, 'Herald of change in Scots press', *The Observer in Scotland*, Business, 29 December 2002, p.22.
- <sup>36</sup> Deborah Summers, 'Robin Cook intervenes over move to buy The Herald', *The Herald*, 22 November 2002, p.12.
- <sup>37</sup> Jackie Ashley, 'Interview: Haggis and press sneers fail to stop tough Scot', *The Guardian*, 27 January 2003, p.10.
- <sup>38</sup> 'Barclays' £30m investment in Scotsman publications', *The Scotsman*, 16 November 2002; 'Barclays stress commitment to Scotland', *Scotland on Sunday*, 17 November 2002.
- <sup>39</sup> Christopher Hope, 'Politicians welcome Gannett purchase of The Herald', *The Herald*, 24 December 2002, pp.1,2.
- <sup>40</sup> [www.competition-commission.org.uk/inquiries/smg.htm](http://www.competition-commission.org.uk/inquiries/smg.htm).
- <sup>41</sup> John Cassy, 'Will Virgin ever recover from the loss of this man?', *The Guardian*, Media, 3 February 2003, p.3
- <sup>42</sup> Lynda Haughney, 'Business am rolls of presses for last time after deal fails', *The Herald*, 20 December 2002, p.10. Darran Gardner and Ian Fraser, 'childish farewell for Business a.m.amid last-minute wrangles', *Sunday Herald*, 22 December 2002, p.8
- <sup>43</sup> Stephen Khan and Conal Walsh, 'Glasgow United (but only in anger)', *The Observer in Scotland*, News, 2 February 2003, p.14; Frank Kane, 'Enter Sly with axe sheathed – for now', *The Observer in Scotland*, Business, 2 February 2003, p.6.
- <sup>44</sup> Kristy Dorsey, 'Scottish Radio is playing sweeter music', *The Herald*, 22 November 2002, p.27.
- <sup>45</sup> Darran Gardner, 'Poptastic heavyweights ready to battle for central Scotland', *Sunday Herald*, Business, 5 January 2003, p.6.
- <sup>46</sup> Electoral Commission (2002), *Scotland Votes? Public Attitudes towards Scottish Parliament elections*, London: Electoral Commission.
- <sup>47</sup> House of Lords (2002), *Devolution: Inter-institutional Relations in the United Kingdom*, Second Report of the Select Committee on the Constitution Session 2002-3, HL 28, London: Stationery Office.
- <sup>48</sup> Bromley, C., Curtice, J., Hinds, K. and Park, A. (forthcoming), eds., *Devolution – Scottish Answers to Scottish Questions?* Edinburgh: Edinburgh University Press; Hazell, R. (2003), ed., *The State of the Nations 2003*, Thorverton: Imprint Academic.
- <sup>49</sup> ([www.snp.org.uk/html/news/newsdetail.php?newsID=876](http://www.snp.org.uk/html/news/newsdetail.php?newsID=876)).
- <sup>50</sup> see, for example, [www.icmresearch.co.uk](http://www.icmresearch.co.uk)
- <sup>51</sup> Paterson, L., Curtice, J. Hinds, K., McCrone, D., Park, A., Sproston, K., and SurrIDGE, P., (2001), *New Scotland, New Politics?* Edinburgh: Polygon.
- <sup>52</sup> Curtice, J. (2003), 'Devolution Meets the Voters: The Prospects for 2003', in Hazell, R. ed., *The State of the Nations 2003*, Thorverton: Imprint Academic.
- <sup>53</sup> House of Lords, 2003, HL Paper 28, Select Committee on the Constitution, *Devolution: inter-institutional relations in the United Kingdom*, Para 24, page 15.
- <sup>54</sup> House of Lords, 2003, HL Paper 28, Select Committee on the Constitution, *Devolution: inter-institutional relations in the United Kingdom*, Para 23 page 13.
- <sup>55</sup> House of Lords, 2003, HL Paper 28, Select Committee on the Constitution, *Devolution: inter-institutional relations in the United Kingdom*, Para 24 page 15.
- <sup>56</sup> House of Lords, 2003, HL Paper 28, Select Committee on the Constitution, *Devolution: inter-institutional relations in the United Kingdom*, Para 25 page 15.

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<sup>57</sup> House of Lords, 2003, HL Paper 28, Select Committee on the Constitution, Devolution: inter-institutional relations in the United Kingdom, para 1 page 5.

<sup>58</sup> “The Secretaries of State for the devolved areas and their Offices  
We recommend that the Government should consider:

- (a) merging the existing Devolution and English Regions team (presently in the Office of the Deputy Prime Minister) and those parts of the Scotland and Wales Offices dealing with intergovernmental relations, to create a single group of officials to deal with the full range of intergovernmental issues;
- (b) whether such an intergovernmental group would require leadership and support from three Cabinet Ministers. For Scotland and Wales, adequate Ministerial involvement might be secured by one Cabinet Minister with responsibility for intergovernmental relations overall, with the possibility of appointing Ministers of State to deal with particular policy issues or devolved areas (For the foreseeable future, however, we envisage that there will continue to be a need for a Secretary of State for Northern Ireland, supported by appropriate staff); and
- (c) providing civil service support for this function in the light of arrangements for dealing with intergovernmental relations at Ministerial level.”

(House of Lords, 2003, HL Paper 28, Select Committee on the Constitution, Devolution: inter-institutional relations in the United Kingdom, para 6 Page 6)

<sup>59</sup> “Beyond this we are sceptical about the value of the political role of the Secretaries of State for Scotland and Wales. The Secretary of State is not accountable to Parliament for what the devolved administration does. He or she has no financial responsibility for how the devolved administration spends its funds. While the role may have been valuable for a transitional period while the devolved institutions were established and immediately afterwards, we have to question what its value is once devolution has become a settled part of the constitution.”

(House of Lords, 2003, HL Paper 28, Select Committee on the Constitution, Devolution: inter-institutional relations in the United Kingdom, page 21 para 57)

<sup>60</sup> “Downing street last night dismissed a call from an all-party committee of peers that the cabinet posts of Scottish and Welsh Secretaries should be merged along with ministerial responsibility for regional devolution in England. The House of Lords committee on the UK constitution expressed deep scepticism about the long-term political value following devolution of keeping the posts of Scottish Secretary and Welsh Secretary. The committee also found that neither Secretary of State was accountable to the Westminster Parliament for the devolved administrations in Edinburgh and Cardiff and had no financial responsibility for how they spent their funds... A Downing Street spokesman said later that the Government had no plans to merge the Scottish and Welsh cabinet posts.”

(The Times, 16/01/03, Angus Macleod p.9, No 10 says Scottish Secretary post to stay)

<sup>61</sup> “Tony Blair is facing a rebellion over plans to reduce the number of Scottish MPs from 72 to 59 by the next general election. The threat by Scottish Labour MPs comes days before Helen Liddell, Secretary of State for Scotland, is due to announce that the number of MSPs at the Scottish Parliament in Edinburgh is to remain at 129. This has angered the MPs who have told Mr Blair that they have enough support across the Labour Party to derail the plan. The rebellion is being led by the former government minister George Foulkes, who was until earlier this year deputy to Mrs Liddell at the Scotland Office”

(The Times, 16/12/02, News in Brief, p.4, Scots MPs to rebel over loss of seats)

<sup>62</sup> “George Foulkes broke ranks last night with Helen Liddell, his former boss, over whether or not to keep 129 members of the Scottish Parliament. He told the Herald the Scottish secretary's expected plan would be ‘recipe for chaos and confusion’ for voters who would be faced with local Westminster and Holyrood parliamentarians representing differently drawn constituencies. ‘It is very important we keep contiguity so we don't get total confusion,’ the MP for Garrick, Cumnock and Doon valley said. Mr Foulkes who in May returned to the back benches after serving as Mrs Liddell's deputy at the Scotland Office, pointed out that he had once been dubbed a ‘serial loyalist’ and indeed had initially agreed with keeping 129 MSPs. However, he stressed that he had come to the opposite view, and on the particular issue of whether or not to cut the complement of MSP's said: ‘Even I'm going to disagree.’ The MSP numbers controversy is expected to come to a head next week when Mrs Liddell announces the results of her consultation exercise and more significantly, her plans. In march the Herald revealed she was minded to keep the 129 figure for Edinburgh. The Scotland Act, which

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created devolution, has caused a dilemma for her as it controversially states that a cut in MP numbers should be matched by a similar one in MSP numbers. While it has been agreed to cut MPs from 72 to 59, the quandary has been what to do with MSPs at Holyrood. A similar cut would lead to a reduction in MSPs from 129 to 106.”

(The Herald, 12/12/02, Michael Settle, p 6, Foulkes: we needed to cut MSP numbers)

<sup>63</sup> The Sunday Times, Robert Tait, 29/12/02, p 3, Liddell defies calls to leave her 'non-job'.

<sup>64</sup> The Herald 30/01/03, Murray Ritchie, Robbie Dinwoodie, Keith Sinclair p.13 Holyrood. takes constitutional view of strikes and hepatitis.

<sup>65</sup> *“The Scottish Parliament should demand a change in the law at Westminster to give Holyrood the ability to reform itself, according to a report before tomorrow's procedures committee. The draft report points to issues such as clarification of titles - executive versus government - or the recent crisis during the illness of Sir David Steel, the presiding officer, when it was discovered that the parliament was forbidden by statute from appointing even on a temporary basis another deputy presiding officer to cover the workload. Piecemeal requests to Westminster for changes are not ‘an efficient way to proceed’ says the draft, adding: ‘We believe that the time is ripe for parliament to take full control of its own proceedings, and we recommend that the Scottish Executive should invite the UK government to promote amendments to the Scotland Act 1998 to ensure that objective.’ On the question of names and terminology, the report says this should not prevent the parliament itself from taking a view and it recommends that research should begin on whether or how it renames itself to clarify the differences with Westminster or the differences between the parliament, the executive and the UK government. [...] The other main issue raised as a result of the inquiry into the Constitutional Steering Group, is the role of the civil service, which is seen as too much a creature of the executive rather than the parliament as a whole.”*

(The Herald, 20/01/03, Robbie Dinwoodie p.4, Change in law urged to reform Holyrood)

<sup>66</sup> The Herald, 20/11/02, Murray Ritchie, p.6 Scotland urged to join Nordics.

<sup>67</sup> Sunday Herald, 12/01/03, Alan Crawford p 2. Scots shout for more say.

<sup>68</sup> “.... In order to secure UK government approval, Franz Fischler, the Fisheries Commissioner offered last minute concessions which could stretch the time at sea to 15 days. [...] However a Commission official later insisted: ‘Fifteen days at sea does not mean 15 days fishing.’ The figure includes the time taken to sail from ports to fishing grounds. The UK must decommission 20 per cent of its fleet this year and next, and the Commission has the final say on whether the extra days are allocated. The new restrictions will be accompanied by a huge cut in this years cod catches of 49,000 tonnes to 27,000 tonnes for the whole of the North Sea during 2003, with reductions of 50 per cent for haddock and whiting quotas.”

The Times, 21/12/01, Rory Watson, p1, Trawler fleet has had its fish and chips.

<sup>69</sup> The Herald, 23/01/02, Murray Ritchie, p 1, Foreign Office blocked EU aid for Scots fishing fleet.

<sup>70</sup> House of Lords, 2003, HL Paper 28, Select Committee on the Constitution, Devolution: inter-institutional relations in the United Kingdom, para 185, page 49.

<sup>71</sup> House of Lords, 2003, HL Paper 28, Select Committee on the Constitution, Devolution: inter-institutional relations in the United Kingdom, para 186 page 49.

<sup>72</sup> The author phoned the Cabinet Office on several occasions, having been referred to it by the Foreign and Commonwealth Office, only to be told that no information would be forthcoming.

<sup>73</sup> The Times, 16/11/02, Angus McLeod, p. 11, McConnell lands place in Europe.

<sup>74</sup> The Herald, 05/12/02, Michael Settle, p7, SNP calls on Blair to save Scottish fishing.

<sup>75</sup> “Ms Lidell told MPs the government had ‘some strength’ on its side in ‘taking on the position of the fisheries commissioner Franz Fischler, who seems to think that closing down the fishing industry

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would be a price worth paying. It is not a price worth paying for this government' said the Scottish Secretary. Ms Liddell who was in Brussels last night to talk with officials from the UK's negotiating team said: 'It is our intention to arrive at a situation where we have a common fisheries policy, that delivers value for money, protects fish stocks and secures a future for the industry but also takes into account issues concerning the environment. This is a time for cool heads and indeed it is a time for all of us to be working together to secure the livelihoods of those fishermen and their families in Scotland and across the United Kingdom'

The Herald, 27/11/02, Michael Settle, p. 10, Liddell stands firm against Brussels move for fishing closure.

<sup>76</sup> "[...] Mr McConnell attended the debate only briefly during Labour's opening speech by Tom McCabe and did not speak. This was heavily criticised by Mr Swinney during first minister's questions, who said the public would find it difficult to understand why Mr McConnell could remain silent on such a vital issue. The first minister replied that, on a matter reserved to Westminster, it was right and proper that the executive did not take a view."

The Herald, 17/01/03, Robbie Dinwoodie and Frances Horsburgh, p. 9, Executive gives sigh of relief over Iraq.

<sup>77</sup> Minutes of proceedings, Meeting of the Parliament Vol 4. No 43, Thursday 16 January 2003 .

<sup>78</sup> Official Report, The Scottish Parliament, Thursday 16 January 2003, cols 17022-3.

<sup>79</sup> Bill Miller on Scottish Television *Platform* programme 23.1.03

<sup>80</sup> For further details see T.Gordon 'Blueprint for Towns and Cities' *Herald* 10.1.03,

<sup>81</sup> 'Scots councils to share £1.4 billion budget' *Municipal Journal* 12.12.03, 'Scotland's councils will work with a 'tight' settlement' *Public Finance* 6.12.02

<sup>82</sup> T.Gordon 'Councils lose out on £133 million in tax' *Herald* 15.1.03

<sup>83</sup> T.Gordon 'Local authorities lose £57.7 million rent' *Herald* 29.1.03

<sup>84</sup> 'Bill hailed as key to modernisation' *Municipal Journal* 23.1.03

<sup>85</sup> R.Dinwoodie 'Democracy and Mischief win the day' *Herald* 9.1.03

<sup>86</sup> V.Collins 'Council aims to buy fish quotas for future' *Herald* 31.1.03

<sup>87</sup> F.Horsburgh 'MSPs propose radical steps to improve rural life' *Herald* 10.1.03

<sup>88</sup> 'Cosla urges tax on second homes' *Municipal Journal* 5.12.03

<sup>89</sup> "Flawed' Bill reduces prospects for PR' *Municipal Journal* 9.1.03

<sup>90</sup> Swinney, J. "The Funding of Public Services" ,  
[http://www.snp.org.uk/index\\_hires.php?pageName=home\\_content.php](http://www.snp.org.uk/index_hires.php?pageName=home_content.php)

<sup>91</sup> See for example: <http://www.unison-scotland.org.uk/briefings/pppprotocol.html>

<sup>92</sup> TUC: <http://www.tuc.org.uk/congress/tuc-5620-f1.cfm#tuc-5620-1>

<sup>93</sup> Halligan, L. Daily Telegraph, 11/3/2002  
<http://www.telegraph.co.uk/money/main.jhtml?xml=/money/2002/11/03/ccliam03.xml>

<sup>94</sup> Finance Committee, Moving to Outcome Budgeting, May 2002  
[http://www.scottish.parliament.uk/official\\_report/cttee/finance-02/fir02-mob-01.htm](http://www.scottish.parliament.uk/official_report/cttee/finance-02/fir02-mob-01.htm)

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<sup>95</sup> <http://www.scotland.gov.uk/library5/finance/technotes2.pdf>

<sup>96</sup> *Devolution – inter-institutional relations in the United Kingdom*, 2<sup>nd</sup> report of 2002-03, HL Paper 28, January 2003, para 46(b).

<sup>97</sup> para 47

<sup>98</sup> fn 38

<sup>99</sup> Or, as was pointedly noted in the Lords report, because much legislation in Scottish devolved areas have been enacted at Westminster under the Sewel Convention, and so avoids the risk of a vires challenge under the Scotland Act: HL Paper 28, para 127 and fn 112.

<sup>100</sup> Health Minister's appearances before the Health Committee, 11.12.02 and 29.1.03: [http://www.scottish.parliament.uk/official\\_report/cttee/health-02/he02-3302.htm#Col3523](http://www.scottish.parliament.uk/official_report/cttee/health-02/he02-3302.htm#Col3523) and [http://www.scottish.parliament.uk/official\\_report/cttee/health-03/he03-0502.htm#Col3724](http://www.scottish.parliament.uk/official_report/cttee/health-03/he03-0502.htm#Col3724); "Hepatitis row set for Privy Council", *Times*, 30.1.03: <http://www.timesonline.co.uk/newspaper/0,,2724-559813,00.html>

<sup>101</sup> Chapter 9 of the reissue (paras 468-79)

<sup>102</sup> Iain MacWhirter, 'How mavericks like Margo can lend politics relevance', *Herald*, 29 January 2003.

<sup>103</sup> *Scotsman*, 31 January 2003.

<sup>104</sup> *Herald*, 6 February 2003.

<sup>105</sup> WEBSITE FOR NEW PARTY

<sup>106</sup> *Herald*, 5 February 2003.

<sup>107</sup> *Herald*, 7 February 2003.

<sup>108</sup> "End to two-tier workforce for public projects", SE PN, 11.11.02: [http://www.scotland.gov.uk/pages/news/2002/11/p\\_SEFD122.aspx](http://www.scotland.gov.uk/pages/news/2002/11/p_SEFD122.aspx); FMQs on 14 November: [http://www.scottish.parliament.uk/official\\_report/session-02/sor1114-02.htm#Col15423](http://www.scottish.parliament.uk/official_report/session-02/sor1114-02.htm#Col15423); WA to Tommy Sheridan, 28.11.02: [http://www.scottish.parliament.uk/official\\_report/wa-02/wa1127.htm](http://www.scottish.parliament.uk/official_report/wa-02/wa1127.htm).

<sup>109</sup> Speech by the Finance Minister, 6.11.02: <http://www.scotland.gov.uk/pages/news/2002/11/SEfd120.aspx>

<sup>110</sup> "Radical strategic divide across the Border", *Scotsman*, 5.11.02: <http://www.thescotsman.co.uk/leaders.cfm?id=1230352002>; Prime Minister's Press Conference, 4.11.02: <http://www.pm.gov.uk/output/page6475.asp>

<sup>111</sup> Executive PN, 4.12.02: <http://www.scotland.gov.uk/pages/news/2002/12/SEfd134.aspx>; [http://www.scottish.parliament.uk/official\\_report/session-02/sor1204-02.htm#Col15985](http://www.scottish.parliament.uk/official_report/session-02/sor1204-02.htm#Col15985)

<sup>112</sup> "The path to first class public services", *Executive PN*, 14.1.03: [http://www.scotland.gov.uk/pages/news/2003/01/p\\_SEFM095.aspx](http://www.scotland.gov.uk/pages/news/2003/01/p_SEFM095.aspx); speech transcript: [http://www.scotland.gov.uk/pages/news/extras/p\\_00012700.aspx](http://www.scotland.gov.uk/pages/news/extras/p_00012700.aspx); "Tougher inspections for public services", *Scotsman*, 15.1.03: <http://www.thescotsman.co.uk/politics.cfm?id=50922003>

<sup>113</sup> For example, FMQs on 14 November: [http://www.scottish.parliament.uk/official\\_report/session-02/sor1114-02.htm#Col15424](http://www.scottish.parliament.uk/official_report/session-02/sor1114-02.htm#Col15424); Question Time on 21 November: [http://www.scottish.parliament.uk/official\\_report/session-02/sor1121-02.htm#Col15630](http://www.scottish.parliament.uk/official_report/session-02/sor1121-02.htm#Col15630); "SNP unveils fishing blueprint", *BBC News Online*, 25.11.02: <http://news.bbc.co.uk/1/hi/scotland/2233227.stm>

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<sup>114</sup> See Finnie's parliamentary statement on 8 January: [http://www.scottish.parliament.uk/official\\_report/session-03/sor0108-02.htm#Col16671](http://www.scottish.parliament.uk/official_report/session-03/sor0108-02.htm#Col16671) and WA on 15.1.03: [http://www.scottish.parliament.uk/official\\_report/wa-03/wa0115.htm](http://www.scottish.parliament.uk/official_report/wa-03/wa0115.htm); "Minister defends quota deal", *BBC Online*, 8.1.03: <http://news.bbc.co.uk/1/hi/scotland/2637153.stm>

<sup>115</sup> Executive PN, 28.1.03: <http://www.scotland.gov.uk/pages/news/2003/01/SEen304.aspx>

<sup>116</sup> Parliament PN, 23.12.02: [http://www.scottish.parliament.uk/whats\\_happening/news-02/pa02-094.htm](http://www.scottish.parliament.uk/whats_happening/news-02/pa02-094.htm)

<sup>117</sup> Scottish Grand Committee debate on 10.12.02: <http://www.parliament.the-stationery-office.co.uk/pa/cm200203/cmstand/scotg/st021210/21210s01.htm>; Plenary debate on 12.12.03: [http://www.scottish.parliament.uk/official\\_report/session-02/sor1212-02.htm#Col16388](http://www.scottish.parliament.uk/official_report/session-02/sor1212-02.htm#Col16388); FMQs on 5.12.02 and 19.12.02: [http://www.scottish.parliament.uk/official\\_report/session-02/sor1205-02.htm#Col16131](http://www.scottish.parliament.uk/official_report/session-02/sor1205-02.htm#Col16131) and [http://www.scottish.parliament.uk/official\\_report/session-02/sor1219-02.htm#Col16602](http://www.scottish.parliament.uk/official_report/session-02/sor1219-02.htm#Col16602); "Anger over fish quota deal", *BBC Online*, 20.12.02: <http://news.bbc.co.uk/1/hi/scotland/2593535.stm>. See PM's statement on the European Council in Copenhagen, on 16.12.02: [http://www.publications.parliament.uk/pa/cm200203/cmhansrd/cm021216/debtext/21216-06.htm#21216-06\\_spmi0](http://www.publications.parliament.uk/pa/cm200203/cmhansrd/cm021216/debtext/21216-06.htm#21216-06_spmi0), and the Commons fisheries debate on 16.1.03: [http://www.publications.parliament.uk/pa/cm200203/cmhansrd/cm030116/debtext/30116-15.htm#30116-15\\_spnew2](http://www.publications.parliament.uk/pa/cm200203/cmhansrd/cm030116/debtext/30116-15.htm#30116-15_spnew2)

<sup>118</sup> "Land Reform Bill passed by Parliament", Executive PN, 23.1.03: [http://www.scotland.gov.uk/pages/news/2003/01/p\\_SEEN301.aspx](http://www.scotland.gov.uk/pages/news/2003/01/p_SEEN301.aspx); "Q & A: What will land reform mean for Scotland?", *BBC Online*, 23.1.03: <http://news.bbc.co.uk/1/hi/scotland/2687865.stm>; Land law with head in the clouds", *Scotland on Sunday*, 26.1.03: <http://www.scotlandonsunday.com/weekinreview.cfm?id=101552003>. See also the progress on the Agricultural Holdings Bill, approved at Stage 1 on 19.12.02: [http://www.scottish.parliament.uk/official\\_report/session-02/sor1219-02.htm#Col16611](http://www.scottish.parliament.uk/official_report/session-02/sor1219-02.htm#Col16611), following a positive, though not unanimous, Rural Development Committee report on 6.12.02: [http://www.scottish.parliament.uk/whats\\_happening/news-02/crur02-015.html](http://www.scottish.parliament.uk/whats_happening/news-02/crur02-015.html)

<sup>119</sup> See "Land reform falls foul of Scotland's own kangaroo committee", *Scotland on Sunday*, 1.12.02: <http://www.scotlandonsunday.com/comment.cfm?id=1338662002> and the subsequent correspondence on 22.12.02: <http://www.scotlandonsunday.com/letters.cfm?id=1423222002>

<sup>120</sup> See FMQs on 7 November: [http://www.scottish.parliament.uk/official\\_report/session-02/sor1107-02.htm#Col15107](http://www.scottish.parliament.uk/official_report/session-02/sor1107-02.htm#Col15107); "Electronics firm axes 600 Scottish jobs", *Scotsman*, 1.11.02: <http://www.thescotsman.co.uk/scotland.cfm?id=1215152002>.

<sup>121</sup> "Mr Gray goes to Washington", *Sunday Herald*, 24.11.02: <http://www.sundayherald.com/29373>

<sup>122</sup> See, for example, "Strategy "in place" for economic growth", *SE press release*, 25.11.02: [http://www.scotland.gov.uk/pages/news/2002/11/p\\_SEET191.aspx](http://www.scotland.gov.uk/pages/news/2002/11/p_SEET191.aspx), and Question Time on 14 November: [http://www.scottish.parliament.uk/official\\_report/session-02/sor1114-02.htm#Col15413](http://www.scottish.parliament.uk/official_report/session-02/sor1114-02.htm#Col15413)

<sup>123</sup> <http://www.publications.parliament.uk/pa/cm200203/cmhansrd/cm021126/text/21126w06.htm>. See also, for example, her speech on 11 November (<http://www.scottishsecretary.gov.uk/speeches/SPEAKING%20NOTES%20cleared%20version.htm>);

Westminster Hall debate, 10.12.02: [http://www.publications.parliament.uk/pa/cm200203/cmhansrd/cm021210/halltext/21210h04.htm#21210h04\\_head0](http://www.publications.parliament.uk/pa/cm200203/cmhansrd/cm021210/halltext/21210h04.htm#21210h04_head0) and Scotland Office Questions on 7 January: <http://www.publications.parliament.uk/pa/cm200203/cmhansrd/cm030107/debtext/30107-02.htm>

<sup>124</sup> “Growing up and away” (John Swinney), *Scotland on Sunday*, 5.1.03: <http://www.scotlandonsunday.com/comment.cfm?id=13892003>. For the Conservative response, see David McLetchie’s letter on 12 January: <http://www.scotlandonsunday.com/letters.cfm?id=41702003>

<sup>125</sup> Executive debate on 6 November: [http://www.scottish.parliament.uk/official\\_report/session-02/sor1106-02.htm#Col14938](http://www.scottish.parliament.uk/official_report/session-02/sor1106-02.htm#Col14938); “Stop talking, Cathy, and start saving the schools”, *Sunday Herald*, 10.11.02: <http://www.sundayherald.com/29043>; “Russell calls for league tables to be “scrapped””, SNP press release, 26.11.02: <http://www.snp.org/html/news/printerfriendly.php?newsID=709>; Conservative debate on 28 November: [http://www.scottish.parliament.uk/official\\_report/session-02/sor1128-02.htm#Col15899](http://www.scottish.parliament.uk/official_report/session-02/sor1128-02.htm#Col15899)

<sup>126</sup> *Educating for Excellence: Choice and Opportunity*: <http://www.scotland.gov.uk/library5/education/ndser-00.asp>; “National Debate on Education”, *Executive PN*, 29.1.03: <http://www.scotland.gov.uk/pages/news/2003/01/SEED179.aspx>; statement: [http://www.scottish.parliament.uk/official\\_report/session-03/sor0129-02.htm#Col17502](http://www.scottish.parliament.uk/official_report/session-03/sor0129-02.htm#Col17502)

<sup>127</sup> [http://www.scottish.parliament.uk/official\\_report/cttee/educ-03/edmop0114.htm](http://www.scottish.parliament.uk/official_report/cttee/educ-03/edmop0114.htm); “£1bn price of teachers pay deal”, *Scotsman*, 4.1.03: <http://www.thescotsman.co.uk/politics.cfm?id=9252003>

<sup>128</sup> Question Time on 28 November: [http://www.scottish.parliament.uk/official\\_report/session-02/sor1128-02.htm#Col15899](http://www.scottish.parliament.uk/official_report/session-02/sor1128-02.htm#Col15899); “Minister orders review of Scots university funding”, *Scotland on Sunday*, 26.1.03: <http://www.scotlandonsunday.com/politics.cfm?id=102682003>; FMQs on 23.1.03: [http://www.scottish.parliament.uk/official\\_report/session-03/sor0123-02.htm#Col17416](http://www.scottish.parliament.uk/official_report/session-03/sor0123-02.htm#Col17416). See also “Graduate tax a threat to devolution”, *Scotsman*, 11.1.03: <http://www.thescotsman.co.uk/index.cfm?id=35932003>, and the ministerial reply to Baroness Blatch in the Lords on 23.1.03: [http://www.publications.parliament.uk/pa/ld199900/ldhansrd/pdvn/lds03/text/30123-13.htm#30123-13\\_star0](http://www.publications.parliament.uk/pa/ld199900/ldhansrd/pdvn/lds03/text/30123-13.htm#30123-13_star0)

<sup>129</sup> See “Deferred waiting list to be abolished”, *SE press release*, 25.11.02: <http://www.scotland.gov.uk/pages/news/2002/11/SEHD240.aspx>; “NHS urged to focus on longest waiting times”, *SE press release*, 28.11.02: [http://www.scotland.gov.uk/pages/news/2002/11/p\\_SEhd244.aspx](http://www.scotland.gov.uk/pages/news/2002/11/p_SEhd244.aspx)

<sup>130</sup> “Free care funds crisis denied”, *BBC News Online*, 18.11.02: <http://news.bbc.co.uk/1/hi/scotland/2486119.stm>; Question Time on 28 November: [http://www.scottish.parliament.uk/official\\_report/session-02/sor1128-02.htm#Col15891](http://www.scottish.parliament.uk/official_report/session-02/sor1128-02.htm#Col15891). Extracts from a new book claim that the UK Treasury sought to block the Scottish policy, “Revealed: London’s bid to block McLeish elderly care”, *Sunday Herald*, 24.11.02: <http://www.sundayherald.com/29513>. Scotland’s free personal care policy was questioned in the Lords on 10 December: [http://www.publications.parliament.uk/pa/ld199900/ldhansrd/pdvn/lds02/text/21210-01.htm#21210-01\\_star0](http://www.publications.parliament.uk/pa/ld199900/ldhansrd/pdvn/lds02/text/21210-01.htm#21210-01_star0)

<sup>131</sup> [http://www.scottish.parliament.uk/official\\_report/session-02/sor1128-02.htm#Col15950](http://www.scottish.parliament.uk/official_report/session-02/sor1128-02.htm#Col15950)

<sup>132</sup> On which see Question Time on 9 January: [http://www.scottish.parliament.uk/official\\_report/session-03/sor0109-02.htm#Col16859](http://www.scottish.parliament.uk/official_report/session-03/sor0109-02.htm#Col16859)

<sup>133</sup> Transport Secretary’s Commons statement on 28 November: <http://www.publications.parliament.uk/pa/cm200203/cmhansrd/cm021128/debtext/21128-09.htm>

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Question Time on 21 November: [http://www.scottish.parliament.uk/official\\_report/session-02/sor1121-02.htm#Col15641](http://www.scottish.parliament.uk/official_report/session-02/sor1121-02.htm#Col15641)

<sup>134</sup> [http://www.scottish.parliament.uk/official\\_report/session-03/sor0115-02.htm#Col16957](http://www.scottish.parliament.uk/official_report/session-03/sor0115-02.htm#Col16957). For the Executive's response to the Report, see <http://www.scotland.gov.uk/library4/DD/TRAN3/00016153.aspx>, and for an earlier example of public investment, see "New trains, more drivers for rail network", Executive PN, 17.12.03: [http://www.scotland.gov.uk/pages/news/2002/12/p\\_SEET213.aspx](http://www.scotland.gov.uk/pages/news/2002/12/p_SEET213.aspx)

<sup>135</sup> Executive PN, 5.12.02: <http://www.scotland.gov.uk/pages/news/2002/12/SEET202.aspx>

<sup>136</sup> FMQs on 12.12.02: [http://www.scottish.parliament.uk/official\\_report/session-02/sor1212-02.htm#Col16382](http://www.scottish.parliament.uk/official_report/session-02/sor1212-02.htm#Col16382), and "Call for road tolls debate", *BBC Online*, 3.1.03: <http://news.bbc.co.uk/1/hi/scotland/2623485.stm>

<sup>137</sup> This is also currently the case in the NHS, over consultants' contracts.

<sup>138</sup> See, for example, FMQs on 19.12.02: [http://www.scottish.parliament.uk/official\\_report/session-02/sor1219-02.htm#Col16607](http://www.scottish.parliament.uk/official_report/session-02/sor1219-02.htm#Col16607)

<sup>139</sup> [http://www.scottish.parliament.uk/official\\_report/session-03/sor0108-02.htm#Col16701](http://www.scottish.parliament.uk/official_report/session-03/sor0108-02.htm#Col16701); "Bruising defeat for the Executive", *BBC Online*, 8.1.03: <http://news.bbc.co.uk/1/hi/scotland/2640181.stm>

<sup>140</sup> "Disarray over fire takeover move", *BBC Online*, 28.1.03: <http://news.bbc.co.uk/1/hi/scotland/2700335.stm>; Statement, 29.1.03: [http://www.scottish.parliament.uk/official\\_report/session-03/sor0129-02.htm#Col17557](http://www.scottish.parliament.uk/official_report/session-03/sor0129-02.htm#Col17557) (and see the points of order at the end); "Scots 'fire takeover' ruled out", *BBC Online*, 29.1.03: <http://news.bbc.co.uk/1/hi/scotland/2704973.stm>; Question Time on 30.1.03: [http://www.scottish.parliament.uk/official\\_report/session-03/sor0130-02.htm#Col17680](http://www.scottish.parliament.uk/official_report/session-03/sor0130-02.htm#Col17680)