Nations and Regions:
The Dynamics of Devolution

Quarterly Monitoring Programme

Scotland

Quarterly Report
June 2003

Contents

1. Scottish Executive

Barry Winetrobe

1.1   The Executive and the election

The main story, of course, is the formation of a new devolved government following the May election, but, unfortunately, this is something that is still ongoing at time of writing. Both major opposition parties had proposed to reduce the number of ministers, with the Conservatives pledging to halve the number of Executive ministers, and the SNP leader promising to cut the ministerial ranks by a quarter. One radical restructuring proposal came from the Federat7ion of Small Businesses, which had suggested that there be only 4 'super-ministries', being a Treasury, Office for Business & Work, Office of Opportunities & Families and Office for Communities.[1]

Because of the election, little of note happened within the Executive through the 'purdah' period in April. Even the website all but shut down for the duration, with no press releases or media briefings, contenting itself with a series of travelogues (much like the fillers in cinema programmes of yesteryear), plus some apparently non-political publications.

How the Executive would operate during its first election campaign had been the subject of much guidance and questioning. The main guidance was produced at the end of February, and it immediately caused quite a fuss, when Opposition parties attacked a provision (Guidance Note B) which apparently enabled officials to respond to questions from Ministers for factual information on costing party policies, but such a provision appeared not to be open to former MSPs, as they would not exist as MSPs during April.[2] An Executive media briefing of 25 March set out plans for governmental activities during the Parliament's dissolution:

Asked if there were plans for Cabinet subcommittees to meet during the 'purdah' period, the spokesman replied that such committee would meet as and when necessary. The spokesman said that during this period Ministers would remain Ministers andwould carry out any Ministerial duties as required. that appropriate information regarding contingency planning and security issues would still be provided to the getting passed to appropriate Ministers. Asked if there were plans to continue the official Scottish Executive briefings during the 'purdah' period in order to disseminate information about the war, the Spokesman said that there were no such plans at present. - although this situation may be reviewed.

When asked about ministerial plans for announcements during April, the Finance Minister, Andy Kerr, replied, in a WA of 26 March, that "no ministerial announcements on policy or spending issues are planned for April, but there may be a need for ministers to respond to external events or issues of immediate importance, for example relating to any EU business which might take place during the month. Routine factual news releases, such as statistical

figures published on a monthly or regular basis, will be issued during April, as stated in *The Scottish Parliament Election Guidance 2003*."

1.2 The outgoing Executive's record

Inevitably, a major focus of any election campaign is the record of the incumbent administration, and this is examined elsewhere in this and earlier quarterly reports. For the Executive's own view of its 4 years, see what the First Minister told the first session's final Cabinet meeting on 26 March of the Executive's achievements, according to that day's Executive media briefing:

The 50th Executive Bill had been passed this week. Programme for Government commitments had been delivered. The machinery had coped and we were now moving on to a new phase, devolution having bedded in. The First Minister recognised the achievement of the Executive's staff. He pointed out that there had been a massive increase in the level of scrutiny and correspondence over the four years. He believed that there is a record of delivery and responsiveness to change that the staff of the executive and its Agencies can be proud of. The First Minster finished by telling Cabinet colleagues that, despite predictions to the contrary, the partnership parties had made coalition government work and that was a significant achievement in itself.

1.3 Executive advertising and other information matters

Revelations that the Executive expected to spend £3.6m in 2002-03 on its Media and Communications Group (having already spent £2.9m up to the end of January), compared with £3.1m the previous year, led to Opposition criticisms of public money being used for electioneering. On 7 February, ministers announced limits on its much-criticised advertising budget, to £9.75m for 2003-04, which is the same as 2001-02, but about 25% less than the projected £13m for 2002-03. It was later reported that the current administration plans to conduct a review, lasting 3 years and costing more than £2m, of the Executive's much-criticised advertising policies.[3] The full list of Executive publications in 2002 was published.[4] There was a brief controversy over revelations that sensitive papers about the perpetrator of the 1996 Dunblane tragedy had been sealed for 100 years, amid claims that they detailed links with senior political and establishment figures. This led to a limited release of some of the papers in March.[5]

1.4 Permanent Secretary and the Administration

The publication of the recruitment exercise for Sir Muir Russell's successor as Permanent Secretary in late February led to press reports that the First Minister was prepared to appoint an outsider, such as someone from the business world to the post, and, more generally, that he was keen to have a major shake-up of the senior civil service after the election.[6] Figures released in a WA of 20 February to the Conservative leader, David McLetchie, showed the

significant growth in the size of the Executive since 1999.[7] Other WAs around that time to McLetchie also detailed costs on areas such as media & communications, special advisers and ministerial cars. Norman McFadyen was appointed Crown Agent, the legal head of the Crown Office and Procurator Fiscal Service (COPFS), on 26 March. There was much speculation about the impact of the Budget announcement over 'differential regional' pay policies, on the salaries of Executive civil servant and officials of other devolved and non-devolved public bodies, and pay guidance for public sector workers was published.[8] Plans to disperse hundreds of public sector jobs out of Edinburgh, including almost 300 Scottish Natural Heritage posts to Inverness, have provoked resistance from affected workers, and has provoked further pressure from MSPs immediately after the election. In late February the move of the Scottish Public Pensions Agency from Edinburgh to the Borders was completed. The former Prisons Chief Inspector, Clive Fairweather, is due to have his hearing for unfair dismissal taken at an industrial tribunal in May. In line with recent media fashion, *Scotland on Sunday* recently presented its '100 most powerful Scots' (defined, for these purposes, as excluding parliamentarians, even ministers), which included a number of senior civil servants (with John Elvidge, the current favourite for the Permanent Secretaryship, highest at #7) and some ministerial special advisers.[9]

1.5   Ministerial issues

Collective responsibility again became an issue (see Chap 1.1 of the November report) as MSPs had to declare their hand over the Iraq crisis during the Parliament's 13 March debate. A junior minister, Elaine Murray, offered to resign after abstaining on the Labour amendment to the SNP's motion, and, more seriously, the Health Minister, Malcolm Chisholm, publicly "regretted" his "immoral" vote in support of the Labour amendment.[10] The First Minister did not require either to resign on the grounds that Iraq was a reserved matter for which the Executive had no responsibility, and, presumably, because the motions were in the name of the individual political parties rather than the Executive. The Executive neatly dodged having to list all powers it operates under the royal prerogative by responding to a WPQ on 28 March in the following terms: "The Royal Prerogative is exercised by the Sovereign, not by ministers. However, Scottish ministers advise the Sovereign on the exercise of the Royal Prerogative where it is exercised in relation to devolved matters."[11]

1.6   Quangos and patronage

Public appointments and government by quango remain sources of political controversy, with claims that a senior Labour Party official has been appointed to the new Cairngorms National Park Authority; a Labour candidate at the 1999 election has been made Scottish Traffic Commissioner, and information (in a WA of 4 March) that NDPBs account for 10% of total managed expenditure in Scotland in 2002-03 (from 12% 2 years ago). The Public Appointments and Public Bodies Bill gained royal assent on 11 March.[12]

2. The Scottish Parliament

Mark Shephard

2.1 Iraq masks a busy legislative end to 'Session 1' (1999-2003)

Parliament ended its first four-year session on 31st March 2003. February and March were busy months for the Parliament as a record[13] 14 Bills (10 Executive, two Members, one Committee and one Private) were passed. While all outstanding Executive legislation was passed before the end of the session, four Members' Bills fell: Gaelic Language (Scotland) Bill; Organic Farming Targets (Scotland) Bill; Proportional Representation (Local Government Elections) (Scotland) Bill; and Prostitution Tolerance Zones (Scotland) Bill. See section 2.5 below for further details on these Bills. Unlike Public Bills, Private Bills are eligible to continue across sessions. The two Private Bills that did not pass in Session 1 but which are eligible for continuation in Session 2 are the: Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill; and the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill). A breakdown of the Bills passed by the Parliament in its first session is provided below:

Bills Passed by the Scottish Parliament: Session 1 (1999 – 2003)

Executive Bills (N = 50)

Abolition of Feudal Tenure etc. (Scotland) Bill

Adults with Incapacity (Scotland) Bill

Agricultural Holdings (Scotland) Bill

Bail, Judicial Appointments etc. (Scotland) Bill

Budget (Scotland) Bill

Budget (Scotland) (No. 2) Bill

Budget (Scotland) (No. 3) Bill

Budget (Scotland) (No. 4) Bill

Building (Scotland) Bill

Census (Amendment) (Scotland) Bill

Community Care and Health (Scotland) Bill

Convention Rights (Compliance) (Scotland) Bill

Criminal Justice (Scotland) Bill

Criminal Procedure (Amendment) (Scotland) Bill

Debt Arrangement and Attachment (Scotland) Bill

Education and Training (Scotland) Bill

Education (Disability Strategies and Pupils' Records) Bill

Education (Graduate Endowment and Student Support) (No. 2) (Scotland) Bill

Erskine Bridge Tolls Bill

Ethical Standards in Public Life etc. (Scotland) Bill

Freedom of Information (Scotland) Bill

Fur Farming (Prohibition) (Scotland) Bill

Homelessness etc. (Scotland) Bill

Housing (Scotland) Bill

International Criminal Court (Scotland) Bill

Land Reform (Scotland) Bill

Local Government in Scotland Bill

Marriage (Scotland) Bill

Mental Health (Care and Treatment) (Scotland) Bill

Mental Health (Public Safety and Appeals) (Scotland) Bill

National Parks (Scotland) Bill

Police and Fire Services (Finance) (Scotland) Bill

Protection of Children (Scotland) Bill

Public Appointments and Public Bodies etc. (Scotland) Bill

Public Finance and Accountability (Scotland) Bill

Regulation of Care (Scotland) Bill

Regulation of Investigatory Powers (Scotland) Bill

Salmon and Freshwater Fisheries (Consolidation) (Scotland) Bill

Salmon Conservation (Scotland) Bill

School Education (Amendment) (Scotland) Bill

Scottish Local Authorities (Tendering) Bill

Scottish Local Government (Elections) Bill

Scottish Public Services Ombudsman Bill

Scottish Qualifications Authority Bill

Sexual Offences (Procedures and Evidence) (Scotland) Bill

Standards in Scotland's Schools etc. Bill

Title Conditions (Scotland) Bill

Transport (Scotland) Bill

Water Environment and Water Services (Scotland) Bill

Water Industry (Scotland) Bill

Members Bills (N = 8)

Abolition of Poindings and Warrant Sales Bill

Council of the Law Society of Scotland Bill

Dog Fouling (Scotland) Bill

Leasehold Casualties (Scotland) Bill

Mortgage Rights (Scotland) Bill

Protection of Wild Mammals (Scotland) Bill

Sea Fisheries (Shellfish) Amendment (Scotland) Bill

University of St. Andrews (Postgraduate Medical Degrees) Bill

Committee Bills (N = 3)

Commissioner for Children and Young People (Scotland) Bill

Protection from Abuse (Scotland) Bill

Scottish Parliamentary Standards Commissioner Bill

Private Bills (N = 1)

National Galleries of Scotland Bill

Derived from: 'Bills: Session 1 (1999 – 2003)' *The Scottish Parliament* **http://www.scottish.parliament.uk/S1/parl_bus/legis.html**

The National Galleries of Scotland Bill was passed without dissension on 26th March 2003 and became the first Private Bill to be enacted by the Parliament. Private Bills are different from Public Bills since they are:

'introduced by an individual person, a body corporate or an unincorporated association of persons (referred to as "the promoter") for the purpose of obtaining for the promoter particular powers or benefits in excess of or in conflict with the general law, and includes a Bill relating to the estate, property, status or style, or otherwise relating to the personal affairs, of the promoter. (Rule 9A.1.1 of the *Standing Orders of the Scottish Parliament*)

Private Bills are considered in the Private Bill Committee (in this case comprising 5 MSPs). There are three legislative stages for Private Bills. First, in the Preliminary Stage the Committee considers the general principles of the Bill. Second, in the Consideration Stage the Committee considers objections from objectors and defense from promoters before considering a report to Parliament and subsequent consideration of amendments. Finally, the Bill is debated in Parliament for passing.[14]

The volume of legislation that Parliament had to contend with in the last quarter was largely over-shadowed by the widespread preoccupation with the Iraqi conflict. Despite lying beyond the responsibilities of Parliament, the conflict dominated question times, provoked opposition debates and numerous public gallery protests (culminating in David Steel's requests to BBC Scotland and Scottish Television for a trial ban of the filming of protests in the public gallery).

2.2 Verdict and partial response to the 'Founding Principles'

On 20 March 2003, the Procedures Committee published a report on *The Founding Principles of the Scottish Parliament: the Application of Access and Participation, Equal Opportunities, Accountability and Power Sharing in the Work of the Parliament*. The report lists 135 recommendations ranging from the general to the specific. Beyond introductory and summary recommendations they include: 21 recommendations for improving access and participation; 13 recommendations for improving equal opportunities; 34 recommendations for improving accountability; and 60 recommendations for improving power sharing.[15] Beyond a crude quantitative count, the report also targets the 'power sharing' principle as the focus for future reforms:

Power sharing was designed to be the key to creating a new model of governance in Scotland, synthesising traditional representative democracy with elements of a more participative model, and, while we have made recommendations in relation to all four CSG principles, our conclusions suggest that it is in relation to power sharing that most progress remains to be made. (paragraph 1003, *The Founding Principles of the Scottish Parliament*, Procedures Committee Report, 20/03/03)

In particular, and with reference to the power-sharing principle, the Committee recommended closer Executive-Parliament co-operation in consultation on legislation and more time and resources for all stages of legislation including post-enactment scrutiny. The report warns strongly against the Parliament becoming a 'conveyor belt for passing legislation' (paragraph 1016) at the expense of quality scrutiny and influence.

Although the Committee feared that the late release of the Report precluded time for debate and risked getting lost in the hubbub of the election campaign, a few of the recommendations appear to have made some impact on the Executive. Subsequent to the report, and in the wake of electoral defeats for the Labour Party, Jack McConnell has called for longer parliamentary hours and periods of Executive questioning, and for more non-partisan idea development and engagement of constituency questioning. One of the proposals currently being considered is the extension of First Minister's Questions on Thursdays from 20 minutes to 30 minutes. The aim is to allow more time for backbench questioning and to accommodate additional alternate weekly time slots for questions from the Green and SSP leaders now that their representation in Parliament has grown significantly. However, the Green leader, Robin Harper, is requesting a weekly questioning slot on the basis that the Greens and the SSP are not the same party.[16] So far, McConnell's proposed reforms seem to be more focused on the accountability and access and participation principles. Given the reduced coalition majority in Session 2, it is hardly surprising that the Executive has so far remained quite quiet on measures designed to address this principle. One of the consequences of the reduced majority is that Parliament will have more opportunities to tackle aspects of the power-sharing deficit.

2.3 Session 2: 'Madness and Craziness…Diversity and Attitude'?

The first meeting of Session 2 took place on Wednesday 7th May 2003. Once elected as a Glasgow list MSP, Rosie Kane of the Scottish Socialists Party (SSP) promised 'madness and craziness' and 'all sorts of diversity and attitude'[17] for the second session. So far the extent of 'madness and craziness' and 'diversity and attitude' has included attendance in jeans and a novel palm-written objection to the oath of allegiance to the Queen at the swearing-in ceremony on the first day of the new session. Kane and other SSP MSPs were not alone in their objections as others such as Robin Harper and John Swinney took the oath given their commitments to the principle of the sovereignty of the people. Following the swearing-in ceremony, George Reid (SNP) was elected (113 for, seven against, and nine abstentions) unopposed as Presiding Officer (David Steel having retired from Parliament). Also elected were two Deputy Presiding Officers: Trish Godman (Labour) and Murray Tosh (Conservative).

Despite Reid's immediate plea for constructive and courteous behaviour in the Parliament, Kane's comments are likely to prove more prophetic. In particular, 'diversity and attitude' are likely to prove features of the second session as the ruling coalition's potential majority has been reduced from fifteen to five. Given the voting behaviour of several Liberal Democrats on key votes in Session 1, Liberal Democrats and possibly the Greens in particular are likely to be more important for the Labour Party in realising legislative objectives. The increased potential for parliamentary leverage vis-à-vis the Executive should make for more interesting executive/legislative dynamics in Session 2. Given a similar turn

of events in Wales, Westminster must be holding its breath over the greater potential for policy divergence.

2.4 Committee Reports and Inquiries (01 February 2003 – 31 March 2003)[18]

Report on Cross-Cutting Expenditure Review of Regeneration as Delivered Through the Voluntary Sector, 5 February 2003, Finance Committee

Criminal Justice (Scotland) Bill as amended at Stage 2. Delegated Powers Scrutiny, 7 February 2003, Subordinate Legislation Committee

Building (Scotland) Bill as amended at Stage 2. Delegated Powers Scrutiny, 7 February 2003, Subordinate Legislation Committee

Stage 1 Report on the Prostitution Tolerance Zones (Scotland) Bill, 13 February 2003, Local Government Committee

Title Conditions (Scotland) Bill as amended at Stage 2. Delegated Powers Scrutiny, 18 February 2003, Subordinate Legislation Committee

Dog Fouling (Scotland) Bill as amended at Stage 2. Delegated Powers Scrutiny, 18 February 2003, Subordinate Legislation Committee

Social Justice Committee Legacy Paper, 19 February 2003, Social Justice Committee

Report on Inquiry into the Role of Educational and Cultural Policy in Supporting and Developing Gaelic, Scots and Minority Languages in Scotland, 20 February 2003, Education, Culture and Sport Committee

Report on the Licensing of Houses in Multiple Occupation, 26 February 2003, Social Justice Committee

Financial Scrutiny Review, 27 February 2003, Finance Committee

Report on the Gaelic Language (Scotland) Bill, 28 February 2003, Education, Culture and Sport Committee

Elections to the Scottish Parliamentary Corporate Body, 28 February 2003, Procedures Committee

Changes to Standing Orders Concerning Legislative Matters, Motions and Lodging Questions, 28 February 2003, Procedures Committee

Report on Inquiry into Current Issues Facing the Scottish Fishing Industry, 28 February 2003, Rural Development Committee

Homelessness etc. (Scotland) Bill as amended at Stage 2. Delegated Powers Scrutiny, 3 March 2003, Subordinate Legislation Committee

Mainstreaming Equality in the Committees of the Scottish Parliament. Research Report by the Centre for Regional and Economic and Social Research at Sheffield Hallam University, 6 March 2003, Equal Opportunities Committee

Equal Opportunities Committee Legacy Paper, 7 March 2003, Equal Opportunities Committee

Budget Setting and Financial Scrutiny: Experiences in Devolved/Regional Governments, 10 March 2003, Finance Committee

Mainstreaming Equality in the Work of Committees of the Scottish Parliament, 12 March 2003, Equal Opportunities Committee

Report into the Purposes of Scottish Education, 13 March 2003, Education, Culture and Sport Committee

Report on Petition PE 377 by Michael Kayes on Polluting Activities in Built-Up Areas, 13 March 2003, Transport and the Environment Committee

Replacing the Members' Interests Order; Draft Committee Bill, 14 March 2003, Standards Committee

Report on Mental Health (Care and Treatment) (Scotland) Bill as amended at Stage 2. Delegated Powers Scrutiny, 19 March 2003, Subordinate Legislation Committee

Sewel Motion on Sexual Offences Bill, 20 March 2003, Justice 1 Committee

The Founding Principles of the Scottish Parliament: the Application of Access and Participation, Equal Opportunities, Accountability and Power Sharing in the Work of the Parliament, 20 March 2003, Procedures Committee

Inquiry into Alternatives to Custody, 21 March 2003, Justice 1 Committee

Local Government Committee – Legacy Paper, 25 March 2003, Local Government Committee

Report on Salmon and Freshwater Fisheries (Consolidation) (Scotland) Bill as amended at Stage 2. Delegated Powers Scrutiny, 25 March 2003, Subordinate Legislation Committee

Dealing with Offending by Young People, 26 March 2003, Audit Committee

Annual Report of the Audit Committee for the Parliamentary Year 12 May 2002 to 26 March 2003, 26 March 2003, Audit Committee

Annual Report of the Education, Culture and Sport Committee for the Parliamentary Year 12 May 2002 to 26 March 2003, 26 March 2003, Education, Culture and Sport Committee

Annual Report of the Enterprise and Lifelong Learning Committee for the Parliamentary Year 12 May 2002 to 26 March 2003, 26 March 2003, Enterprise and Lifelong Learning Committee

Annual Report of the Equal Opportunities Committee for the Parliamentary Year 12 May 2002 to 26 March 2003, 26 March 2003, Equal Opportunities Committee

Annual Report of the European and External Relations Committee for the Parliamentary Year 12 May 2002 to 26 March 2003, 26 March 2003, European and External Relations Committee

Annual Report of the Finance Committee for the Parliamentary Year 12 May 2002 to 26 March 2003, 26 March 2003, Finance Committee

Annual Report of the Health and Community Care Committee for the Parliamentary Year 12 May 2002 to 26 March 2003, 26 March 2003, Health and Community Care Committee

Annual Report of the Justice 1 Committee for the Parliamentary Year 12 May 2002 to 26 March 2003, 26 March 2003, Justice 1 Committee

Annual Report of the Justice 2 Committee for the Parliamentary Year 12 May 2002 to 26 March 2003, 26 March 2003, Justice 2 Committee

Annual Report of the Local Government Committee for the Parliamentary Year 12 May 2002 to 26 March 2003, 26 March 2003, Local Government Committee

Report on Annual Report of the Procedures Committee for the Parliamentary Year 12 May 2002 to 26 March 2003, 26 March 2003, Procedures Committee

Annual Report of the Public Petitions Committee for the Parliamentary Year 12 May 2002 to 26 March 2003, 26 March 2003, Public Petitions Committee

Annual Report of the Rural Development Committee for the Parliamentary Year 12 May 2002 to 26 March 2003, 26 March 2003, Rural Development Committee

Annual Report of the Social Justice Committee for the Parliamentary Year 12 May 2002 to 26 March 2003, 26 March 2003, Social Justice Committee

Annual Report of the Standards Committee for the Parliamentary Year 12 May 2002 to 26 March 2003, 26 March 2003, Standards Committee

Annual Report of the Subordinate Legislation Committee for the Parliamentary Year 12 May 2002 to 26 March 2003, 26 March 2003, Subordinate Legislation Committee

Annual Report of the Transport and the Environment Committee for the Parliamentary Year 12 May 2002 to 26 March 2003, 26 March 2003, Transport and the Environment Committee

Report on Europe's Employment Strategy and Corporate Social Responsibility: An Inquiry into the Scottish Model, 28 March 2003, European and External Relations Committee

Food Supplements and Traditional Herbal Medicine (A Report into Petition 584 by Mr. Douglas Robison), 28 March 2003, European and External Relations Committee

Report on the Health Issues Raised in Petition PE327 by the Blairingone and Saline Action Group on Sewage Sludge Spreading, 31 March 2003, Public Petitions Committee

2.5 Parliamentary Bills (01 February 2003 – 01 May 2003)[19]

Executive Bills Passed:

Local Government in Scotland Bill: Passed on 8 January 2003, Royal Assent on 11 February 2003

Land Reform (Scotland) Bill: Passed on 23 January 2003, Royal Assent on 25 February 2003

Water Environment and Water Services (Scotland) Bill: Passed on 29 January 2003, Royal Assent on 5 March 2003

Public Appointments and Public Bodies etc. (Scotland) Bill: Passed on 5 February 2003, Royal Assent on 11 March 2003

Budget (Scotland) (No. 4) Bill: passed on 13 February 2003, Royal Assent on 20 March 2003

Protection of Children (Scotland) Bill: Passed on 12 February 2003, Royal Assent on 20 March 2003

Building (Scotland) Bill: Passed on 20 February 2003, Royal Assent on 26 March 2003

Criminal Justice (Scotland) Bill: Passed on 20 February 2003, Royal Assent on 26 March 2003

Title Conditions (Scotland) Bill: Passed on 26 February 2003, Royal Assent on 3 April 2003

Homelessness etc. (Scotland) Bill: Passed on 5 March 2003, Royal Assent on 26 March 2003

Agricultural Holdings (Scotland) Bill: Passed on 12 March 2003, Royal Assent on 22 April 2003

Mental Health (Scotland) Bill: Passed on 20 March 2003, Royal Assent on 25 April 2003

Salmon and Freshwater Fisheries (Consolidation) (Scotland) Bill: Passed on 26 March 2003, Royal Assent on 1 May 2003

Members' Bills Passed:

Dog Fouling (Scotland) Bill: Passed on 13 March 2003, Royal Assent on 22 April 2003

Council of the Law Society of Scotland Bill: Passed on 26 March 2003, Royal Assent on 1 May 2003

Committee Bills Passed:

Commissioner for Children and Young People (Scotland) Bill: Passed on 26 March 2003, Royal Assent on 1 May 2003

Private Bills Passed:

National Galleries of Scotland Bill: Passed on 26 March 2003, Royal Assent on 1 May 2003

Fallen Members' Bills:

Gaelic Language (Scotland) Bill (Fell due to lack of time, but is the first Members' Bill to be proposed in Session 2)

Organic Farming Targets (Scotland) Bill (Rejected on 6 February 2003 at Stage 1: 61 votes against, 39 for, and 18 abstentions)

Proportional Representation (Local Government Elections) (Scotland) (Rejected on 6 February 2003 at Stage 1: 65 votes against, 53 for, and 3 abstentions)

Prostitution Tolerance Zones (Scotland) Bill (Rejected on 27 February 2003 at Stage 1: 86 votes against; 11 for, and 0 abstentions)

Private Bills Eligible for Further Progress in Session 2:

Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill

Stirling-Alloa-Kincardine Railway and Linked Improvements Bill

2.6 Cross-Party Groups

The final number of Cross-Party Groups that had been approved by the Standards Committee in Session 1 (1999-2003) was 49.

3. The Media

Philip Schlesinger

3.1 *The Herald* is sold

The new buyer of the *Herald*, *Sunday Herald* and *Evening Times* is Gannett UK Ltd, a wholly-owned subsidiary of the US company, Gannett Co., Inc., a major media corporation. The papers are of importance for west of Scotland readerships and the outcome of the sale has been of some concern to both the political and blethering classes. As we noted in our last report, the Competition Commission was looking into the disposal by SMG of its newspaper assets. Under Section 57(3) of the Fair Trading Act, the Secretary of State for Trade and Industry is obliged to initiate such a procedure where an existing proprietor by acquisition of a new asset will control a daily circulation in excess of 500,000 copies.[20] The Commission reported by the due date of 10 March and found in favour of the purchase. The recommendation was accepted by the Secretary of State. Gannett is now the UK's third-largest publisher of regional and local newspapers. The Competition Commission judged that as Gannett did not currently operate in Scotland, the transfer would not alter the structure of the Scottish market. Nor did it think there would be any other adverse impact on competition in Scotland. The Commission was further satisfied that Gannett would maintain the existing editorial freedom enjoyed under SMG. It also noted that the company intended to manage the papers in Scotland under a separate regional division and the editorial stance was not expected to change for reasons of competition and the company's interest in its reputation[21]

3.2 Ofcom peers through the mist

The regulatory revolution that faces broadcasting, telecommunications and telephony still awaits its final shape as the Communications Bill continues to be debated at Westminster. Meanwhile, the shadow body that will replace the existing five regulators once the Act is passed, Ofcom (the Office of Communications), is still in the process of formation. Ofcom has been appointing its Content Board, which will take over many of the functions of the ITC. One member will represent Scotland, in much the same way as the Scottish national governor of the BBC, or the present national member on the ITC. But there is a key difference. The Content Board is a second tier body, responsible to Ofcom's main board, which has oversight of the whole range of the new regulator's functions. Scotland's effective representation (like that of the other devolved nations) has been downgraded. Some Scottish interests are pressing strongly for further consultative arrangements to be embodied in the law, fearing a loss of 'Scottish voice'. We shall have to wait and see whether relevant amendments will be made to the Communications Bill.

On 24 April, Richard Hooper, chairman of the Content Board, visited Glasgow to speak to some 30 media decision-makers, policy wonks and academic specialists under the auspices of the Royal Television Society. He noted the appointment of Matthew MacIver as Scotland's man on Ofcom's Content Board. MacIver was chairman of the Gaelic Television Committee and is a prominent educationist, but he is not noted for his contribution to recent debates about broadcasting. Without being more specific, Hooper, who appears to have sniffed the prevailing wind, intimated that some sort of Scottish consultative body might be set up. He also underlined the importance of what he called 'regional' production for the new regulator's remit. In Scotland, broadcasters think of Scotland as 'national', within what is now the accepted umbrella term of 'nations and regions'. This formula has been used for the past few years to describe production outwith London and the M25 belt. So talk of 'the regions' in Glasgow does not strike the right note. While trying to reassure his audience that diversity would be protected, Hooper also noted the importance of competitive forces. He recognises that Ofcom will be in the eye of the storm as public interest and market-driven approaches battle it out in the future. Hooper's talk left some unsure of whether or not he believed in the viability of 'clusters' of production activity outside London.[22] This is now the obligatory way of thinking about the cultural industries. To raise questions about whether Scotland's capacity is sustainable could hardly be a touchier subject for the producers' lobby, or the broadcasters.

3.3 Viable clusters?

But it is not just those most directly interested in making and selling programmes that will be watching how Ofcom discharges its duties. Hooper's unanswered question will also be on the agenda of the national moving image agency, Scottish Screen (of which the present writer is a board member). The agency is awaiting an audit of the screen industries from the media consultants, David Graham & Associates. The report has been commissioned by a bevy of agencies with their fingers in the cultural pie: the Scottish Executive (Scotland's government), PACT Scotland (the independent producers' body), Scottish Enterprise (the industry and business agency, which has been pursuing a clusters development strategy), Highlands and Islands Enterprise (SE's counterpart), and Scottish Screen. The audit is to be published in June and will give an account of the volume of activity across the audio-visual industries in Scotland. These include television, film, animation, radio, screen-related new media, video production, and ads. As the Scottish Executive once again starts to think about a national cultural strategy, it will be timely to address the constraints and the opportunities that face Scottish producers in the context of the wider UK and global media industries. Some new data should help public debate and the policy process. The audit, and any ensuing debate, will be covered in our next report.

4. Public Attitudes and identity

John Curtice

4.1 Attitudes towards devolution

Long-Term Trends – Evaluations of the Parliament

Perceived Impact on Education	1997 Referendum	1999	2000	2001	2002
	%	%	%	%	%
Increase standard	71	56	43	27	25
No Difference	19	36	49	59	58
Reduce standards	3	3	3	5	6
Sample Size	*676*	*1482*	*1663*	*1605*	*1665*

Note: The wording of the introduction to the question in each year was as follows: -

1997: Would a Scottish Parliament increase the standard of education…

1999: Will a Scottish Parliament increase

2000: Is having a Scottish Parliament going to increase

2001, 2002: Do you think having a Scottish parliament is increasing

Perceived Impact on Scotland's voice in the UK	1997 Referendum	1999	2000	2001	2002
	%	%	%	%	%
Stronger	70	70	52	52	39
No Difference	17	20	40	40	52

Weaker	9	7	6	6	7
Sample Size	*676*	*1482*	*1663*	*1605*	*1665*

See note above for wording

Perceived Impact on giving ordinary people a say in how Scotland is governed	1997 Referendum	1999	2000	2001	2002
	%	%	%	%	%
More	79	64	44	38	31
No Difference	17	32	51	56	62
Less	2	2	3	4	4
Sample Size	*676*	*1482*	*1663*	*1605*	*1665*

See note above for wording

Long-Term Trends – Constitutional Preference

	1997 General Election	1997 Refer- endum	1999	2000	2001	2002
	%	%	%	%	%	%
Independence either in or outside the EU	26	37	38	30	37	30
Stay in UK, with parliament with taxation powers	42	32	50	47	54	44
Stay in UK, with parliament with no taxation powers	9	9	9	8	6	8

Stay in UK, with no parliament	17	17	10	12	9	12
Sample Size	841	676	1482	1663	1605	1665

First results from the 2002 Scottish Social Attitudes survey on attitudes towards the parliament and devolution were released during the course of the election campaign in April (for further details of the Scottish Social Attitudes survey see Bromley et al, 2003). These suggest that evaluations of the performance of the Scottish Parliament continued to decline as the parliament's first session drew to a close, despite the fact that many of those evaluations had already fallen heavily as compared with the expectations that people had when the parliament was first created. Just 39% now believe that having a Scottish Parliament is giving Scotland a stronger voice in the UK, down from the 52% who still took that view just twelve months earlier. The proportion believing that the Scottish Parliament is giving ordinary people more say in how they are governed, one of the key aspirations for devolution, has also fallen further to 31%. Even the proportion believing that having the parliament is increasing the standard of education has failed to recover from the apparent damage that was done to the parliament's reputation in this area by the exams crisis of summer 2000.

Not that there is much evidence that people believe that having a Scottish Parliament is making things worse. Rather in each case the majority view is that the parliament is not making any difference. The danger facing the parliament appears to be that not that it is becoming the object of hostility but rather of indifference. So while still only one in eight wish to get rid of the parliament, this does not mean that the new body has as yet won a place in the hearts and minds of the Scottish public. Certainly the results provide one clue as to why less than half of Scots felt it worthwhile turning out to vote on 1 May.

Reference

Bromley, C., Curtice, J., Hinds, K. and Park, A. (eds.), *Devolution – Scottish Answers to Scottish Questions?* (Edinburgh: Edinburgh University Press, 2003).

Polling Data published during the election campaign

How much has Scotland benefited from devolution?

A lot   9

A fair amount 25

Not much   38

Not at all   21

Do you approve or disapprove of the Scottish Executive's record to date?

Approve   30

Disapprove   51

Don't Know   19

Do you approve or disapprove of the record to date of the Scottish Parliament as a whole?

Approve   37

Disapprove   49

DK   14

As you know the Scottish people had a chance in 1997 to vote on whether or not they wanted to establish a Scottish parliament. If another referendum were to be held on the same issue, how would you vote now?

In favour of establishing a Scottish Parliament   62

Against   27

Would not vote   4

DK   7

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

In favour of retaining the present Scottish Parliament   55

In favour of a completely separate state outside the UK   29

Would not vote   7

DK   10

How would you rate the performance of the present Scottish Executive in connection with…

Building new premises for the Parliament at Holyrood

Excellent   2

Good   8

Poor   14

Very Poor   71

DK   5

Taking everything into account, how well do you think having a coalition Executive, involving people from Labour and the Liberal Democrat parties, has worked?

Very well   6

Fairly well   43

Not very well   29

Not at all well   13

Source: YouGov/Daily Telegraph 23-25.4.03

If Scotland were to leave the United Kingdom and become an independent country do you think this would mean

People in Scotland would be better off financially

People in Scotland would be worse off financially

Or do you think it would not make much difference one way or the other?

	Now	ICM Jan 00*
Better off	13	18
No difference	37	36
Worse off	38	33

* This question referred to 'economically' rather than 'financially'

Source: System Three/Sunday Herald 11-15/4/03

Overall are you satisfied or dissatisfied with what the Scottish Parliament has done for Scotland since it was established in 1999?

Satisfied   30

Dissatisfied   38

Neither   26

Do you think there should or should not be a referendum held to measure the level of public support for full Scottish independence from the United Kingdom

Yes   71

No   21

If there were a referendum, would you vote for a devolved parliament within the United Kingdom, as at present, or for a fully independent Scotland?

Devolved Scotland   49

Fully independent Scotland   38

DK	4
Would not vote	9

Source: MORI/Daily Mail 25-27.4.03

A plethora of data on attitudes towards devolution and the devolved institutions was collected by commercial opinion polls during the election campaign in April. Much of this confirmed the picture of mild disappointment painted by the Scottish Social Attitudes survey. According to YouGov as many as 57% said that Scotland had benefited 'not much' or 'not at all' from devolution. The same poll found that nearly half – but equally no more than half – disapproved of the parliament's record to date. Meanwhile, MORI found that rather more people were dissatisfied than satisfied with what the Scottish Parliament has done for Scotland since 1999. At the same time, however, those actually willing to say they are dissatisfied amounted to no more than a third, while no less than a quarter said they were neither satisfied nor dissatisfied.

But on one subject there is near universal agreement. The completion delays and the rising costs of the parliament's new building opposite Holyrood House have proven to be an iconic public relations disaster. This was in fact the first time that public opinion on the subject was measured in published survey research, but the pattern of responses was well in line with expectations. No less than 71% told YouGov in a survey for the Daily Telegraph that they thought the performance of the Scottish Executive in connection with the new building was 'very poor' (though of course the building is not a responsibility of the Executive at all), while in a second YouGov survey for the Mail on Sunday, 70% said that the building was 'very bad' value for money, and another 18% 'fairly bad', with just 11% saying it was 'fairly or very good'. Interestingly this same survey also suggested that 70% believed that the reputation of the Scottish Parliament had also suffered from the 'Officegate' scandal that resulted in the downfall of Henry McLeish (cross-reference to earlier report?), and only 22% not, despite the fact that the irregularities in question were in respect of Mr McLeish's role as a MP at Westminster rather than his duties as First Minister.

Again, however, despite the disappointment uncovered by these polls, there is equally little evidence of any significant wish to be rid of the parliament. YouGov found that as many as 62% would still vote in favour of establishing a Scottish Parliament while just 27% would vote against, a ratio that is only somewhat less favourable than the three to one vote in favour recorded in the 19997 referendum.

There is certainly little evidence that disappointment with devolution has proven to be a wellspring for support for independence. True, according to MORI no less than 71% said that thought there should be a referendum in independence, suggesting widespread support for the SNP's campaign pledge to hold such a referendum. However, opinion polls always find support for the idea of a referendum, as few appear inclined to say that the public should be denied their say on a subject. And in any event many of those who expressed support for the

SNP's idea of holding a referendum then went on to indicate that they would vote against independence in that referendum. YouGov found just 29% saying that they would vote in favour of a 'completely separate state outside the United Kingdom', while even a MORI found only 38% support for a more sympathetically worded option, 'a fully independent Scotland.

One of the key reasons as to why there is no evidence of any secular increase in support for independence during the first session of the Scottish Parliament was uncovered in a poll undertaken by System Three for The Sunday Herald. The SNP has spent considerable effort over the last four years in trying to make the economic case for independence, not least in the boardrooms of Scottish companies. The System Three poll revealed that this effort had failed to move public opinion. As many as 38% of Scots believed that people would be worse off financially if Scotland were to become independent while only 13% thought they would be better off. This was actually a somewhat less favourable view of independence obtained by an ICM poll three years earlier when it asked almost exactly the same question.

Meanwhile one feature of the new institutions does not appear to have done much harm to the arguments of constitutional reformers. Nearly a half of Scots told YouGov thatb they thought the idea of having a coalition Executive had worked 'very' or 'fairly' well, rather more than the 42% who thought it had worked 'not very' or 'not at all' well. It appears that Britain's most extensive experience of coalition government since the Second World War has not proven to be as unpopular as proponents of single party governments might have hoped or expected.

Identity

Surprisingly, no new data on national identity was published this quarter. A relevant chapter based on extensive analysis of the 2001 Scottish Social Attitudes survey did however appear in Bromley et al, 2003 which was published in April.

Reference

Bromley, C., Curtice, J., Hinds, K. and Park, A. (eds.), *Devolution – Scottish Answers to Scottish Questions?* (Edinburgh: Edinburgh University Press, 2003).

4.2   Attitudes towards other issues

The Iraqi War

	Early Feb %	Early March %

Britain should take part in military action regardless of UN resolution	13	15
Britain should only take part in military action with second UN resolution	57	56
Britain should not take part in military action	27	26
Don't Know/None of these	3	3

Source: System 3/Herald 30/1-6/2/03 and 27/2-5/3/03

48% support Britain taking military action in Iraq; 42% against

Much of this quarter, including the first two weeks of the formal election campaign, in April was dominated by the lead up to and then outbreak of hostilities with Iraq. Opinion in Scotland reacted in a somewhat similar fashion to that in the rest of the UK. Before the war started, a majority said that Britain should only go to war if a second UN resolution authorising the use of military force against Iraq was obtained. Once hostilities bad broken out, however, a majority backed the war. According to a System Three poll for the Herald conducted between 27 March and 2 April, 48% backed Britain taking military action against Iraq while 42% were opposed. This is however a rather lower level of support than the 60% or so support being recorded by YouGov across Britain as a whole during the war, and may suggest the war was somewhat less popular than south of the border.

4.3   Elections and Attitudes towards Parties

Party Fortunes

Voting Intention Polls

System Three

F'work	Lab	SNP	LD	Con	SSP	Green
27.2-5..3	34/27	32/27	14/15	10/10	6/10	2/6
27.3-2.4	31/26	31/29	16/18	11/9	6/8	3/7
11-15.4	39/30	26/27	12/14	13/11	4/6	3/7
23-27.4	38/28	28/28	14./13	10/9	6/10	2/7

Scottish Opinion

	Lab	SNP	LD	Con	SSP	Others
Pub. 2/3	37/29	25/25	16/18	13/12	5/11	3/3

19.3-25.3	39/29	31/36	12/13	13/15	2/4	3/3
28.3-2.4	40/33	31/33	12/14	11/10	3/5	2/4
3-5.4 (362)	37/26	27/33	15/23	13/6	5/4	2/7
9-15.4	40/26	31/27	12/22	12/13	3/7	2/5
16-22.4 (?)	42/34	29/31	12/13	12/9	4/8	1/5
23-29.4(?)	40/26	27/25	14/19	11/9	5/9	3/12

Populus

	Lab	SNP	LD	Con	SSP	Others
10-12.4 (500)	41/34	29/31	11/10	13/12	5/7	4/6

YouGov

	Lab	SNP	LD	Con	SSP	Others
16-17.4	35/28	26/24	16/14	17/17	4/8	2/9
23-25. 4	36/26	24/23	19/14	16/16	5/10	1/11

MORI

	Lab	SNP	LD	Con	SSP	Green
25-27.4	43/35	26/26	9/11	12/10	6/9	1/6

	Lab	SNP	LD	Con	SSP	Grn
Result	35/29	24/21	15/12	17/16	6/7	0/7

The first entry for each party is the estimated first vote, the second entry the estimated second vote.

Westminster Vote Intentions					
	Con	Lab	Lib Dem	SNP	Others
	%	%	%	%	%
27/2-5/3/03	12	42	15	25	6
27/3-2/4/03	13	38	17	25	8
30/1-6/2/03	13	45	13	22	7

The principal Other votes are for the SSP who scored 4% every month

Source: System Three/The Herald

Westminster Vote Intentions					
	Con	Lab	Lib Dem	SNP	Others
	%	%	%	%	%
10-12/4/03	13	47	8	24	5

Source: Populus/The Times (N=500)

Westminster Vote Intentions					
	Con	Lab	Lib Dem	SNP	Others
	%	%	%	%	%
16-17/4/03	17	38	16	23	6
23-25/4/03	17	40	18	19	5

Source: YouGov/Various

This for the most part was not a good election for the opinion polls. There was a common tendency to overestimate the SNP's strength, a near universal underestimate of the Conservatives' position, while Labour's strength was more often overestimated than not. As a result the election was made to appear a rather closer race than in rerality it was.

The tone was set by a System Three poll published at the beginning of the campaign which put Labour and the SNP even stevens on the first vote and three points on the second. This was the first time that System Three, who have polled regularly in Scotland since 1974, had put the SNP ahead of Labour during the course of an election campaign, and encouraged speculation that the Iraqi war was costing Labour dear. No other poll quite replicated what appears in retrospect to have been a 'rogue' result. But Scottish Opinion in polls conducted for the Daily Record and the Sunday Mail persistently exaggerated the difference between Labour's first vote support an d its second vote strength, and as a result also persistently suggested that the SNP was running Labour close on the second vote (albeit this was not a feature of the results that was highlighted in the reporting of the poll by the Labour supporting Record). It appeared as though the poll had some difficulty in acquiring voters' intended second vote rather than their second preference. Meanwhile all the polls – with the singular exception of the new internet polling company, YouGov - suggested that the Conservatives might lose up to a third of their vote. In short there was little in this record to suggest that the bulk of the polling industry has overcome the problem of anti-Conservative bias revealed by the 1992 British general election.

Election results themselves are of course measured against expectations. As a result of the pollsters' errors, the Conservatives were able to turn retaining the modest share of the vote they won in 1999 into a triumph even though it compared unfavourably with the party's performance in Wales and in the local elections held in England on the same day. At the same time the SNP's disappointment was compounded. On the other hand, there was perhaps rather more surprise at the ability of the SSP and the Greens to secure significant representation than there should have been. Most polls if anything pointed to an even greater success for Tommy Sheridan's Scottish Socialist Party than it eventually achieved, while those polls that provided an independent estimate of Green support (which in retrospect clearly all should have done) suggested that by the end of the campaign at least they too had passed the 6% threshold needed to secure significant representation.

Whatever their errors, however, the polls did provide invaluable guidance in ascertaining the degree to which voters were voting differently in this election from the way that they would have voted in a UK general election. All six polls that asked people how they would have voted if a UK general election had been held on 1 May found that more people said they would vote nationalist and fewer Labour than would in a UK general election, in line with the results of all previous polling (Curtice 2003; Hough and Jeffrey, 2003). On average, Labour's share of the first vote was estimated to be six points lower than it would have been in a UK general election while the nationalists' vote was put at five points higher. Thus it should not be assumed that the poor SNP performance signals an end to the phenomenon of devolved elections being a more favourable environment for the nationalists.

At the same time comparison between Westminster and Scottish parliament vote intentions also suggests that more people voted for parties other than the big four in the Scottish election than would have done in a Westminster election (especially on the second vote). Quite why this should be the case will be an important part of the research agenda on Scottish voting behaviour in future months. One possibility of course is that it reflects the greater incentive to smaller parties offered by the Additional Member System used in elections to the Scotttish Parliament. Another is that it reflects a greater willingness to vote for smaller parties because the outcome of the election is not thought to matter as much as it does in a Westminster election.

Election Result 1 May 2003

Votes Cast

		%	Change in % vote since 1999		%	Change in % vote since 1999

Labour	663,585	34.6	-4.2	561,375	29.3	-4.3
Scottish National Party	455,742	23.8	-4.9	399,659	20.9	-6.4
Conservatives	318,279	16.6	+1.0	296,929	15.5	+0.1
Liberal Democrats	294,347	15.4	+1.2	225,774	11.8	-0.6
Greens	-	-	-	132,138	6.9	+3.3
Scottish Socialist Party	118,764	6.2	+5.0	128,026	6.7	+4.7
Others	65,877	3.4	+1.7	171.950	9.0	+3.3
Turnout	1,916,594	49.4	-8.7	1,915,851	49.4	-8.7

Seats Won

	Constituency Seats	List Seats	Total Seats
Labour	46 (-7)	4 (+1)	50 (-6)
Scottish National Party	9 (+2)	18 (-10)	27 (-8)
Conservatives	3 (+3)	15 (-3)	18 (+0)
Liberal Democrats	13 (+1)	4 (-1)	17 (+0)
Greens	0 (+0)	7 (+6)	7 (+6)
Scottish Socialist Party	0 (+0)	6 (+5)	6 (+5)
Independents	2 (+1)	1 (+1)	3 (+2)
Scottish Senior Citizens Unity Party	0 (+0)	1 (+1)	1 (+1)

Figures in brackets show change in seats won compared with 1999.

Source: Author's calculations for Electoral Commission

The result of the second Scottish Parliament election on 1 May was notable for four characteristics. The first was the (narrow) failure of turnout to reach as much as 50%, the benchmark that many including the First Minister, Jack McConnell, himself had suggested needed to be reached if the parliament was to demonstrate its relevance in the minds of the Scottish electorate. The achievement of that benchmark had however long been in doubt

given the adverse trends in perceptions of the parliament recorded by the Scottish Social Attitudes survey, including those reported elsewhere in this report (Curtice, 2001; Curtice, 2003). The failure to do is symbolic of the apparent failure of the parliament to help connect voters with their political system as some of the advocates of devolution suggested it would. Still it should be remembered that the turnout was eleven points higher than that recorded in Wales as well as being far higher than the 30% or so recorded in recent English local elections. The parliament may have less importance in the eyes of the Scottish electorate than the UK House of Commons, but it evidently has secured a higher standing than any other sub-UK political institution in Great Britain.

The second notable characteristic of the election result was the re-election of the Labour-Liberal Democrat coalition albeit with a much reduced majority thanks to Labour's loss of six seats and the failure of the Liberal Democrats to make the compensating advance for which they had hoped. In so doing the result revealed the limitations to the proportionality of the additional member system used in elections to the Scottish Parliament. As was the case in 1999, the system provided Labour with a far higher share of the seats (39%) than its share of the second vote (29%), despite the fact that the system is meant to ensure that overall seas won are roughly proportional to second votes won. This disproportionality, generated by Labour's ability in some regions to win more than its proportionate share of seats in constituency contests alone, proved on this occasion to be decisive in securing the coalition a majority.[1] Overall, the two coalition parties won an overall majority on just 41% of the party list vote, a significant departure from the claim that a proportional representation system ensures that majority governments are backed by a majority of the vote. The failure of the Liberal Democrats once again to secure a higher share of the second vote than the first vote raises significant doubts about whether that party's difficulties in winning votes under the first past the post electoral system can be accounted for the perception that a vote for them would be a wasted vote.

The third feature of the election result was undoubtedly the decline of the SNP. The loss of no less than eight seats(including those of two senior front benchers, Mike Russell and Andrew Wilson) raised questions both about the party's strategy and the ability of the party's leader, John Swinney, to communicate whatever strategy the party pursued (see section on the leaders in this report). The result seems likely to instigate a further debate in the party about whether on the one hand it should pursue a yet more 'gradualist' strategy similar to that of the Catalan nationalists, under which the party would be arguing for as strong a Scottish Parliament as possible without leaving the United Kingdom, or whether on the other it should strike a yet more 'fundamentalist' tone than that adopted in 2003, arguing straightforwardly for independence rather than a referendum on independence. But

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[1] This happened in Central, Glasgow, Lothians and West. The Liberal Democrats also secured overrepresentation in the Highlands & Islands.

whatever the question marks over the SNP's wider strategy it made some progress at this election in overcoming one of its crucial psephological weaknesses, which was to come second everywhere and first almost nowhere in constituency contests on account of its geographically evenly distributed vote. Despite suffering a slightly bigger decline in its share of the vote than Labour across the country as whole, the party managed to gain three constituency seats to Labour (Aberdeen North, Dundee East and Ochil) with the assistance of above average performances, gains that were counterbalanced by only one loss to the Conservatives (Galloway). If the SNP can repeat this feat at the next UK general election then it may be able to strengthen its representation at Westminster even if the party remains in the electoral doldrums across Scotland as a whole.

Finally, the feature of the election result that stole the headlines was the significant increase in representation secured by parties outside the big four, thereby encouraging some commentators to dub the new membership a 'rainbow parliament'. No less than 23% of the party list vote was secured by lists other than the big four. Both the Greens and the SSP managed, albeit narrowly, to pass the de facto threshold of around 6% of the vote that would ensure that they would begin to secure significant representation across Scotland as a whole. As might be expected, the Greens' success was concentrated in areas with a highly educated middle class population, typified by its 12% of the list vote in the Lothians, while the SSSP did best in areas with high levels of social deprivation, symbolised by its 16% in Glasgow). The latter appear to have become an alternative home to the SNP for disenchanted Labour supporters. Certainly the SNP's share of the vote fell most heavily where the SSP's vote rose the most.

At the same time not only did Dennis Canavan secure his re-election as Independent MP for Falkirk West, but SNP rebel, Margo MacDonald won a party list seat standing as an Independent in the Lothians after having been placed too far down the SNP's list to secure re-election, Dr Jean Turner won the Strathkelvin & Bearsden constituency on an anti-local hospital closure platform, while John Swinburne won a list seat in Central Scotland as leader of the newly formed Scottish Senior Citizens' Unity party. The last ol these had demonstrated an understanding of the role that popular personalities can play in a closed party list system by including on the list two well know former Old Firm football players. It remains to be seen whether Scotland's larger parties learn the lesson. Labour have almost undoubtedly certainly already learnt that the additional member electoral system imposes a relatively low threshold before a party can secure representation and that in insisting on the use of this system in its talks with the Liberal Democrats in the Scottish Constitutional Convention the party helped widen the spectrum of Scottish representation in a manner it probably never intended..

References

Curtice, J. (2001), 'Sunday Essay' *Scotland on Sunday*, 24 June 2001

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4.4   The Parties

Election Issues

	Very Important	Should never be done	Mean Score
Put more police on the streets	45	1	8.5
Pay nurses a lot more than they get now	35	2	8.0
Provide more money to support Scotland's Farming and fishing communities	27	3	7.5
Ensure that all state schools and hospitals Are run by public bodies rather than Private companies	30	3	7.5
Allow some 14 year olds to stop studying Academic subjects and study a trade in School instead	24	7	7.2
Take tougher action against neighbours Who make too much noise and cause Trouble	26	3	7.1
Cut class sizes in primary and secondary Schools	19	3	7.0
Phase out nuclear power stations and Replace with wind and wave power	21	4	6.8
Change the way Scotland's councils are Elected so that the number of seats each Party wins better reflects the number of Votes they get	13	4	6.5
Give private companies more money To start businesses in Scotland	13	6	6.3

Give free school meals to all school Children	22	9	6.1
Reduce taxes on business	12	5	6.0
Cut the number of MSPs in the Scottish Parliament	18	11	5.9
Spend more money on promoting good Health rather than on hospital treatment For the sick	12	9	5.8
Hold a referendum on whether Scotland Should become an independent country	22	20	5.6
Spend more money helping heroin Addicts get off drugs	10	17	5.1
Encourage more people to come and live In Scotland in order to stop Scotland's Population falling	7	14	4.9
Phase out public funding of Catholic Schools	13	21	4.8
Charge car drivers for bringing their Cars into city centres	5	34	3.8
Substantially increase spending on the Arts in Scotland	2	20	3.8
Allow Scotland's universities to charge Their students higher fees	2	46	2.8

Source: System Three/BBC Scotland 26/2-5/3/03

The beginning of the election campaign was marked by the publication of a poll conducted on behalf of BBC Scotland that rather unusually for a media commissioned poll attempted to ascertain voters' policy preferences rather than their perceptions of the parties or the leaders. Respondents were asked to give each of 21 statements a score from 1 to 10, where 10 meant that it was very important it should be done, while 1 indicated that it should never be done. The survey helps explain why all of the main political parties focused on how they would expand public services, including the police. Putting more police on the streets and paying nurses more proved to he the two most popular policies. Also notable is the public's

antipathy to two policies being pursued by the UK Labour government but not the Scottish Executive, that is the increased involvement of the private sector in the delivery of public sector jobs and the introduction of top-up fees for university students. Meanwhile the most divisive issues proved to be holding a referendum on independence and the phasing out of public support for Catholic schools, the latter of which no major political party has thought it politic to propose.

Most Important Issue in deciding how to vote

Health	25
Education	11
War on Iraq	10
Trust and honesty of politicians	10
Crime	8
Economy	7
Unemployment	6
Independence	5
Other issues	6
Unsure/None/Will not vote	12

Source: Scottish Opinion/Sun Herald 28/3-2/4/03

Have your views about the war in Iraq altered the way you intend to vote on 1 May?

Yes	14
No	*82*

Vote Intentions of those saying 'Yes'

Con	8	
Lab	26	
Pro-War		34
Lib Dem	11	
SNP	27	
SSP	8	
Green	2	
Anti-War		48
Other/Uncommitted	18	

Source: System Three/Sunday Herald 11-15.4.03

Only 2% said Iraq the most important issue in Holyrood campaign. Enployment, economy, health, crime, education (YouGov/Mail on Sunday)

Perhaps the biggest uncertainty for Scotland's politicians at the beginning of the campaign was the possible impact that the Iraqi war might have on the outcome of the election on 1st May. Some were concerned that the war would so overshadow the election that people would not vote at all. Others worried (or hoped) that their party's stance on the war might lose (or gain) them votes. After all, as may as one in ten told Scottish Opinion at the beginning of the campaign (and thus in the middle of the war) that the war was the most important issue in determining how they would vote.

However an issue can only make a difference to the outcome of an election if the balance of opinion whose vote is swayed by that issue is predominantly in favour of one position rather than another. One attempt at examining whether the war would have an impact on the overall result rather than individual voters was made by System Three for The Sunday Herald which asked people whether their views on the war would change the way that they voted. For every voter that said they were voting SNP because of the war there was another that said they were voting Labour. S o it appears on this evidence at least that war had no net impact on the relative strength of the two main protagonists. However, the total number of people saying they were voting for one of the anti-war parties because of the war did somewhat outnumber the total saying they were voting for pro-vote parties, though the net advantage to pro-war parties still only constitutes just 2% of the total sample. Most likely the party for whom anti-war votes constituted the largest proportion of its support was the SSP, but even so can only count for a relatively small proportion of its advance.

In fact towards the end of the campaign, by which time the war had been concluded, YouGov for the Mail on Sunday found only 2% saying that Iraq was the most important issue in the campaign. Rather, much as the Scottish Opinion found at the beginning of the campaign, voters top concerns were health, education, law and order and the economy, all of which are issues on which the Scottish Parliament does at least some powers that it can deploy.

What mainly taking into account in deciding which party to vote for

| | | Holyrood 1st vote | | | |
	All	Con	Lab	LibDem	SNP
Leaders and policies in Scotland	24	8	15	22	40
Leaders and policies in Britain as a whole	15	32	21	21	5
Both about equally	55	56	64	58	51

Source: Populus/The Times, 10-12/4/03 (N=500)

Not that this was simply an election about issues confronting the Scottish Parliament. True, more people told Populus in the middle of the campaign that they were voting on the leaders and policies in Scotland than said they were doing so on the basis of the leaders and policies in Britain as a whole (as the Scottish Social Attitudes survey suggests was also the case in 1999), but over half said they were equally influenced by both. As one might anticipate it was SNP voters who were most likely to say that it was the leaders and policies in Scotland that mattered most.

If a party proposed to use the Scottish Parliament's tax-raising power and to put up income tax in Scotland to fund extra investment in public services, would you support such a tax increase or oppose it?

| | | Holyrood 1st vote | | |
	All	Con	Lab	LibDem	SNP
Support	46	48	51	56	35
Oppose	47	48	35	31	62

Source: Populus/The Times 10-12/4/03 (N=500)

At this election, and in contrast to 1999, none of the main political parties proposed that the tax varying power of the Scottish Parliament should be used. After all, all were able to offer increases in services without higher taxation because an increase in public spending in Scotland has already been budgeted for by the Chancellor of the Exchequer. In fact Populus' evidence suggests that there was still a considerable appetite for using that power to raise taxes and spending, even though an increase in National Insurance rates had only just been implemented, with almost as many saying they would be in favour as said they would be opposed.

Retrospective Evaluations

Some people say that they may not actually vote at all in the elections to the Scottish Parliament because they feel disenchanted with the party they generally vote for. Howe true is this of you?

| | | Holyrood 1st vote | | |
	All	Con	Lab	LibDem	SNP
Very true	56	53	54	45	65
Somewhat true	24	24	23	15	25
Somewhat untrue	20	24	23	20	18
Very untrue	16	15	17	29	7

Source: Populus/The Times, 10-12/4/03 (N=500)

How would you rate the performance of the Scottish Executive in connection with each of the following

	Excellent	Good	Poor	Very Poor
NHS in Scotland	1	33	48	13
University tuition fees	10	39	26	14
Relations with England	6	50	26	6
Public transport	1	24	50	19
Agriculture	1	25	35	18
Care for the elderly	10	46	25	9
Law and Order	2	37	41	14
Drugs problem in Scotland	0	16	41	32
Primary and secondary Education	3	43	32	11
Culture and the arts in Scotland	4	43	24	8
Tourism in Scotland	4	39	33	14

Source: YouGov/Daily Telegraph 23-25/4/03

It is widely argued that the two most distinctive policies to be introduced north of the border in the wake of devolution are, first, the abolition of up front university tuition fees and, second, the introduction of so-called free personal care for the elderly. Certainly the public seems to have taken some notice of these developments. On no other subject did as many as one in ten rate the Scottish Executive's record as 'Excellent'. At the other end of the spectrum few gave the Executive many marks for its record on the drugs problem. The poll also underlined (as did the BBC poll referred to earlier) the public's sympathy for the position of agriculture in Scotland, while evaluations of the Executive's record on transport have the same negative tone as those enjoyed in recent years by the UK government.

The Leaders

Leader	Mean Rating/10	% don't recognise/don't know
Jack McConnell	5.15	15
John Swinney	4.80	32
David McLetchie	4.54	43

Jim Wallace	5.16	26
Tommy Sheridan	4.74	19

Most Trustworthy Party Leader

	All	Own Supporters
Jack McConnell	19	38
Jim Wallace	13	36
Tommy Sheridan	12	
John Swinney	9	25
David McLetchie	8	35
Robin Harper	2	
None/Don't Know	38	

The Two Most Likely

	Most Trustworthy	Most Likely Stand Up For Scotland
Jack McConnell	35	35
John Swinney	24	30
Both/Neither/DK	41	35

How much trust Tony Blair as Prime Minister of the UK

Trust a lot	26
Trust a little	42
Don't trust at all	29

Trust Tony Blair More/Less following Britain's Involvement in the war against Iraq

	Westminster Vote Preference				
	Con	Lab	LD	SNP	None
More	11	18	17	5	7	4
Just the same	54	54	61	47	52	55
Less	33	27	20	47	40	35

Trust in political party leaders in Scotland

	McConnell	Swinney	McLetchie	Wallace	Sheridan
Trust	38	25	22	36	30
Don't Trust	35	35	27	27	50
Never heard of	15	25	40	24	9
Don't Know	13	15	11	14	11

Source: YouGov/Mail on Sunday 16-17/4/03

Leaving aside your own party preferences, which party leader impresses you most?

	MoS	Tele
Tommy Sheridan	23	26
David McLetchie	12	13
Jack McConnell	11	13
Jim Wallace	11	13
John Swinney	8	8
None of them	30	23
Don't Know	5	6

Source: YouGov/Mail on Sunday 16-17/4/03 and Telegraph 23-25/4/03

Are you satisfied or dissatisfied with Jack McConnell as Scotland's First Minister?

Satisfied`	29
Dissastisfied	54
Don't Know	17

Who would make the best First Minister?

Jack McConnell	23
Jim Wallace	17
David McLetchie	16
John Swinney	13
Don't Know	32

Source YouGov/Daily Telegraph 23-25/4/03

Regardless of which party you tend to support, which of the following party leaders, if any, has most impressed you during the current election campaign?

Jack McConnell	22
Tommy Sheridan	18
John Swinney	11
David McLetchie	9
Jim Wallace	9
Other	2
None'Don't Know	30

Source: MORI/Daily Mail 25-27/4/03

31% said McConnell had performed badly as First Minister, 19% well, 43% neither

Between them the campaign opinion polls collected a large amount of data on voters' evaluations of the party leaders. Yet although they did so in a variety of different ways and using a variety off different formats, they all acquired much the same message. Tommy Sheridan has impressed his personality on the Scots electorate in a manner that no other party leader has been able to match. He at least matched Jack McConnell so far as the proportion having any view about him at ball was concerned. Meanwhile, according to YouGov he even topped the poll as the most impressive party leader. Not that Mr Sheridan's high level of recognition is always a bonus for YouGov also found he was the least trusted of Scotland's politicians. It appears that Mr Sheridan is regarded as colourful if also controversial character.

At the other end of the spectrum John Swinney struggles to register his personality with the public. He regularly came at least fourth in the polls' league tables of leader ratings. He scored less highly with this own party's supporters than did any other leader. And he was even unable to outpoll Jack McConnell as the person most likely to stand up for Scotland, a dimension on which Alex Salmond was able to outperform Donald Dewar four years ago. After three years as party leaders, such poor ratings inevitably raise doubts about whether Mr Swinney's leadership can ever become an asset for the nationalist cause.

But in truth, nearly all of Scotland's leaders struggled to make an impression on the electorate. Many voters have no clear view about any of Scotland's main party leaders. Consistently around one in three were unable to say which of the leaders was best on any particular criterion. This level of apparent indifference to the public faces of devolution can have done little to help boost the turnout in the election.

Mr McConnell of course was seeking his first personal electoral mandate as First Minister, having come to office during the middle of the previous session. It is, however, far from clear, that voters were overimpressed with his performance to date. According to YouGov nearly twice as many were dissatisfied with him as First Minister as said they were satisfied. Equally the same company found in a separate poll for the Mail on Sunday that 31% believed

he had performed badly as First Minister while only 19% reckoned he had done well. As many as 43% said neither of these descriptions applied. Mr Mconnell was it seems widely regarded as little more than the best of an undistinguished bunch.

5. Scotland/UK Relations

Alex Wright

5.1 Manifestos and Constitutional Matters

Labour's manifesto did not touch on constitutional matters save to re-affirm that 'devolution has given Scotland the opportunity to play an active part not only in the UK but in Europe and the World'.[23] For its part, the SNP, retained its ideal of an independent Scotland, albeit with the qualification that this was not inevitable should it win the election. If it did become the governing party, secession from the rest of the UK would rest with the Scottish people who would have the opportunity to decide on this in a referendum during the SNP's four year term of government. The manifesto also affirmed that it would work 'constructively within the British-Irish Council, and recognise the opportunity it offers to build a new post-independence Council of the Isles partnership based on common interests and shared values'.[24] This is by no means a new proposal but a re-iteration of previous policy, namely that when Scotland secedes from the rest of the UK it would be desirable to construct some form of inter-governmental body akin to the Nordic Council, thereby maintaining cultural and other connections between the various segments of the British Isles, as well as with Ireland, if it so wished.

The Liberal Democrats manifesto called for a new Constitutional Convention. The manifesto stated:

Follow the success of the first Constitutional Convention by beginning preparation for a second Convention in 2009, seeking like the first to involve wider society. After ten years of experience we will be in a good position to see how the Scottish Parliament has worked to improve the quality of life and governance in Scotland. The Convention will be able to identify any helpful improvements to the Parliament's powers and methods of working.[25]

Although this did not attract much if any attention in the media, its significance is worth noting. The original Constitutional Convention which convened in March 1989 helped lay the foundations for the Scottish parliament in as much as it acted as a forum for political actors (e.g Scottish local authorities and where they so chose, the political parties – Labour and the Lib-Dems) and leading figures in 'civil society' to consider what form a Scottish parliament should take both in terms of its powers and also its procedures. More particularly, the Convention to some extent acted a driver for constitutional reform by ensuring that the issue remained a topic of debate and by presenting the outcome of that debate as a Claim of Right – that there should be a Scottish parliament. Thus, were there to be a convention in 2009, this body could become the vehicle for further reforms including fiscal autonomy, better representation in the EU, and the capacity of the parliament to amend some of its practices and offices without seeking an amendment of the Scotland Act

(for example whether the nomenclature Presiding Officer is appropriate and how many Deputy Presiding Officers there should be). It should be said however, that substantive reforms of this kind may not be uppermost in the minds of the Liberal Democrats.

The Liberal Democrat manifesto also called for the replacement of the Barnett formula:

Maintain the Barnett formula in the early years of the Parliament to provide financial stability. As regional government develops in England, move to a needs-based formula which reflects the needs of the devolved institutions including consideration of the geographical nature of the areas for which they are responsible.

Whilst affirming the need for it to be revisited, the Scottish Liberal Democrats have also flagged up 'consideration of the geographical nature of the areas'. Presumably, this is because the relative size of the populations across the constituent territories of the UK are not the only factor, so too is the amount of terrain which falls within their borders. Scotland consists of approximately one third of the UK's geographical area, its population hovers somewhere around the 5 million mark. Much of this is concentrated in the Central Belt running between Glasgow and Edinburgh. But elsewhere the population can be much more scattered with low levels of population density. But these communities, especially in rural areas such as the Highlands and Islands (where the Liberal Democrats in Scotland have support), still require adequate public services and a properly maintained infrastructure.

The Scottish Conservative and Unionist Party's manifesto contained few constitutional surprises. It emphasised the need for 'better relationships' between the Scottish and Westminster Parliaments, 'particularly when different parties are involved'. It re-iterated its call for a more prominent role for the Secretary of State, especially in relation to the EU's Council of Ministers. Transcending this though was the need for there to be a comprehensive review 'to ensure that they are operating in Scotland's best interests'. Consequently, they called for the setting up of a 'UK-wide Royal Commission to examine these issues and determine the best way forward'. They also called for the Concordats and the Joint Ministerial Committee to be 'put on a proper statutory basis', as recommended by the House of Lords Select Committee on the Constitution (see previous monitor report), as well as the abolition of the 'specific JMC's' (an example would be the JMC on Europe).[26]

5.2 Sir David Steel

Sir David Steel stood down as the Parliament's Presiding Office in the aftermath of the May 2003 election. In one of his final interviews with the media, he returned to the need for further reforms, not least the electoral system. He explained:

Clearly, if 73 constituencies become 56 then the present system cannot be sustained and I certainly take the view a fundamental review of the system would be welcome. I would certainly argue that we should contemplate a change from the constituency-plus-list system to a system of multi-member seats such as they have in Ireland. That, I admit, is a change of

opinion on my part. I was a supporter of AMS [Additional Member System] and it has not worked as well as we theoreticians thought it would. I think there are greater advantages in the multi-member systems because then all members would be returned on an equal basis. I also think the selection process would be wider than with the closed list system.[27]

These remarks touch on a number of issues. First, that it is not yet certain that the number of MSPs will be cut following the boundary review of the seats at Westminster. Second, there is the acknowledgement that having two classes of parliamentarian in the same institution – one from the regional lists and the other from constituencies (based on former Westminster constituencies) – has not been without its problems. Sir David also made reference to the need to re-visit the Scotland Act. He observed, "I think the Scotland Act will have to be reviewed in 2007 or 2008, not in the lifetime of the next Scottish Parliament or the lifetime of the next Westminster parliament."[28] This pre-dates by a year or so, the Liberal Democrats call for a Scottish Constitutional Convention.

5.3 The Secretary of State

Under the headline 'Bad Day: Helen Liddell, the Scotsman claimed:

The Scottish Secretary intervened unintentionally, in the election campaign when reports surfaced that she was frustrated with her job and wanted a different one. Although Labour denied the reports, it was not the sort of story the party wanted with three days to go until polling day.[29]

Although, it is unclear as to why the Secretary of State might be disillusioned with her post, a possible explanation is that there may be too little for her to do.

5.4 Sewel Convention

The Scottish Executive and the Scotland Office submitted written replies to the Parliament's Procedure's Committee regarding its investigation into the procedural and practical issues relating to the operation of the Sewel convention. In a letter to the committee, Patricia Ferguson, the Minister for Parliamentary Business, made the following point:

I should however emphasise that although the Parliament has so far approved 38 Sewel motion, most of them relate only to a small number of specific provisions in Westminster Bills – not large chunks of legislation. If for whatever reason the Scottish Parliament does not want Westminster to legislate for Scotland on a particular issue, then it can simply withhold its consent. And the fact that a Sewel motion has been passed does not prevent the Scottish Parliament from returning to the same issue in future – Sewel motions have no bearing on the boundaries between reserved and devolved matters.[30]

The Scotland Office submitted a memorandum to the committee which included the following points;

The Government and the Scottish Executive work closely together to establish which provisions in a Bill are subject to the Sewel Convention. But in the end, the terms on which the Scottish Parliament's consent is sought are a matter for the Scottish Executive:

The use of the Sewel Convention involves no loss of legislative competence by the Scottish Parliament (this includes those circumstances where the Scottish Executive approaches the Government to include provisions relating to a devolved matter in a Westminster Bill). Approval of legislation under the Sewel Convention does not preclude the Scottish Parliament from legislating again on the same matter; and

The UK Minister taking through a Bill with devolved provisions will be answerable to the UK Parliament for the passage of the legislation, but will not be generally accountable for the relevant devolved matter. The responsibility for the devolved provision generally passes to the Scottish Ministers on Royal Assent, and it is usually appropriate for the Scottish Ministers to exercise any powers to commence the legislation as far as it applies to devolved matters in Scotland.[31]

The use of the Sewel convention remains a source of potential concern. On the one hand it is a valuable device which avoids duplication of work undertaken by legislatures and bureaucracies at the centre and devolved tiers of government. On the other, if used too often it could call into question the worth of legislative devolution. If used improperly, it could diminish parliamentary oversight.

6. Scotland/International Relations

Alex Wright

6.1 Scottish Executive: the Future of Europe

On January 30th Jim Wallace, the Deputy First Minister and minister responsible for Europe, responded to some of the points raised in the European Committee's report. To-date Jim Wallace has been able to accommodate almost all of the Committee's demands (e.g. pre and post-Council of Ministers' meetings where this is of relevance to the work of the Executive and to the Committee, as well as JMC Europe). One of the committee's suggestions included a Regional Affairs Council, whereby ministers from territorial governments or more specifically those territories with legislative powers, would have the authority to vote on matters which fell within their legislative competences at the domestic level. The Executive response was as follows:

The Executive fully agrees with the Committee (paragraph 89 of its Report) that the Council should meet in public when legislating. However, while the Executive welcomes all proposals for increasing the level of 'regional' representation in the EU's institutional architecture, it is not fully convinced of the merits of establishing a new Council formation composed of Ministers from Regions with legislative powers. The functions of such a body, which by its nature would have consultative responsibilities only, might overlap significantly with those of the Committee of the Regions. In addition, it is unlikely that those Member States which have not chosen to decentralise domestic legislative responsibility would support the creation of a Council formation on which it would not be possible for them to be represented.

Hence, the Executive is unwilling to support the call for a Regional Affairs Council partially on the grounds that such a proposal would not secure much support amongst the other member states. In addition, because territorial governments differ across the EU it might be impractical. More particularly, such a body would lack decision-making power and risk cutting across the work of the Committee of the Regions (CoR) – a body in which the First Minister was the rapporteur on constitutional matters (See earlier reports).

The response then clarified its position on 'Access to the European Court of Justice':

As the Committee notes at paragraph 94 of its Report, the proposal for granting regions with legislative power the right of recourse to the European Court of Justice has emerged as an issue of particular importance for some 'regions' over the life of the Future of Europe debate. The Executive continues to believe, however, that breaches of the principle of subsidiarity are a political rather than a judicial matter, which can be most effectively dealt with at an early (ex-ante) stage in the legislative process although it sees some value in granting ECJ access to the Committee of the Regions as a long term measure. Although a signatory of the

Declaration signed by the Minister-Presidents of the Regions with Legislative Power in Florence on 14 November 2002, the Executive made clear when signing that it did not fully endorse the calls for the right of access to the ECJ, but was willing to support the Declaration as a whole on the grounds that it contained a majority of proposals, including that of ex-ante scrutiny of legislation, which it could support.

This represents the end of a saga which has been running for the last couple of years (See previous reports). When Mr McLeish was First Minister he caused something of a furore by signing up to the Declaration of Minister Presidents of Regions with Legislative Power but both Mr McConnell and Mr Hain subsequently clarified the Scottish position – namely that such issues should be dealt with not by a court but by politicians. The reference to the CoR is unsurprising. That body represents the regions collectively. Thus if it one day secured the entitlement to bring an issue relating to subsidiarity to the European Court of Justice, there would need to be a consensus in favour of this amongst its constituent members. Moreover, such a course of action would, presumably, side-step the possibility of a single territory brining a case before the court with possible implications for sub-state/state competences.

6.2 Europe and the Regions

In a paper submitted by Peter Hain to the European Convention on behalf of the UK Government and the devolved administrations in Scotland and Wales, one aspect is worth highlighting here (the issue of subsidiarity being covered in previous monitor reports). The paper stated:

Before making a proposal for a regulation, directive or decision, the Commission shall, in accordance with the principles of good governance, consult with Member States. Such consultation shall include consultation with regional and local authorities. [32]

The paper criticised the Commission for not going far enough vis-à-vis its consultation procedures. 'At a minimum this should include regions with devolved legislative powers to transpose EU measures into law' and it should provide explanatory memoranda showing which bodies had been consulted at the pre-legislative stage 'as well as those which had responded'. [33]

This issue has for some while been a source of vexation for the Scottish Executive because of the potential disproportionality of legislative proposals emanating from the European Commission. They can be irrelevant to Scotland or they could be prohibitively expensive to implement. By consulting devolved administrations at the pre-legislative stage the latter can forewarn the commission about the potential deficiencies that could arise in certain instances. By including a memorandum of who has been consulted it reduces the risk of duplication (i.e. both a department in London and the Executive providing a comprehensive response, when on occasion that is not needed from the both of them). If this proposal is accepted then it would be one more example the EU's regionalisation.

6.3 The Scottish Parliament

The European Committee of the Scottish Parliament has now been re-named as the European and External Affairs Committee. In part this is a reflection of the fact that some of the Executive's overseas work extends beyond the EU (see earlier report relating to Earth Summit in South Africa). Is it also the result of a growing number of delegations and statesmen who undertake visits to the parliament. Standing orders (6.8.1) have been revised accordingly so that the committee's remit includes, 'The development and implementation of the Scottish Administration's links with countries and territories outside Scotland, the European Communities (and their institutions) and other organisations. Co-ordination of the international activities of the Scottish Administration.'[34]

7. Relations with Local Government

Neil McGarvey

This quarter's report is dominated by the local council election campaign and the results of the second set of local elections to be held concurrently with the Scottish Parliamentary elections. Once again these were largely the 'forgotten elections' in terms of media coverage – the combination of the Iraqi 'war' and the Scottish Parliamentary elections meant the national media coverage given to the local council elections was negligible.

7.1 The 2003 local elections

As reported previously one of the biggest myths about Scottish local government is that it is dominated by the Labour Party. Going in to the local elections Labour had overall control of only 9 out of the 32 councils. It does dominate councils such as Glasgow, North and South Lanarkshire, and Midlothian. However, these are the exceptions and their dominance of these council chambers is achieved with less than 50% of the overall vote – the combination of the first past the post electoral system and divided opposition ensuring this is translated into almost 100% of seats.

After the 1999 elections Labour had outright control of 15 of 32 councils. Most of the rest were hung (11) and independents 'controlled' 5 island and rural councils outright and shared power in two others. In the past four years Labour has lost power in five councils where it once had overall control - Aberdeen, Fife, Inverclyde, Renfrewshire, and West Dunbartonshire. It has also lost minority control over East Dunbartonshire to the LibDems, and Falkirk to the SNP. SNP key targets in the lead up to the election were Dundee, East Ayrshire, and West Lothian, while the Tories had their best chance in South Ayrshire and Stirling. In Edinburgh, Labour faced opposion from the Lib Dems and the Conservatives. The SNP had overall control in just Angus and Clackmannanshire, and shared power in Falkirk, Dumfries and Galloway, and Argyll and Bute going into the election. The predicted key battlegrounds were Aberdeen, Dundee, Edinburgh, East Renfrewshire, Fife and Inverclyde. [35]

Table 1 below gives details of the results of the elections and new make up of each of Scotland's 32 councils. Although not as good as the 1999 election results the outcome was widely reported as positive for the Labour Party. In fact it was a very mixed picture for all the major parties with success in one area accompanied with failure in another. Independents were up 14 reflecting developments in the parliamentary elections.

Labour regained power in four councils including Stirling, Renfrewshire and West Dunbartonshire, losing it in Aberdeen (the first time it has lost power there since 1986). It now controls 13 councils (post 1999 it controlled 15). There is no overall control in 10, 6 are under independents, and the SNP and the Lib Dems control one each. Across Scotland,

Labour had a net loss of 18 seats. The SNP lost 24 councillors, losing control of Moray to independents and Clackmannanshire to Labour. Six councillors were defeated in East Ayrshire and another four in Aberdeenshire. The party did gain a handful of seats elsewhere, including three in the City of Aberdeen and in Dundee were it now has 11, although there is a possibility that Labour and the Liberal Democrats may form a coalition. It retained control of Angus with 17 seats in a 29 seat council.

The Liberal Democrats were up 17. They won Inverclyde which was previously under no overall control. The party increased its representation in Aberdeen City Council from 14 to 20 (mirroring Labour's fall from 20 to 14). However, gains overall were modest reflecting the nature of the electoral system. The party's activists will continue to press the leadership to make PR in local elections a condition of a coalition partnership with Labour. The Tories were up 10 gaining 7 seats in the Borders and some seats across the country but the party does not have outright power in any local council.

Table 1: Council Elections 2003 Results (Overall Control)[36]

Aberdeenshire (LibDem)

Con	Green	Lab	LibD	SNP	SSP	Other
11	0	0	28	19	0	10

Angus (SNP)

Con	Green	Lab	LibD	SNP	SSP	Other
2	0	1	3	17	0	6

Argyll and Bute (Other)

Con	Green	Lab	LibD	SNP	SSP	Other
3	0	0	8	3	0	22

City of Aberdeen (LibDem)

Con	Green	Lab	LibD	SNP	SSP	Other
3	0	14	20	6	0	0

City of Dundee (SNP)

Con	Green	Lab	LibD	SNP	SSP	Other
5	0	10	2	11	0	1

City of Edinburgh (Lab)

Con	Green	Lab	LibD	SNP	SSP	Other
13	0	30	15	0	0	0

City of Glasgow (Lab)

Con	Green	Lab	LibD	SNP	SSP	Other
1	0	71	3	3	1	0

Clackmannanshire (Lab)

Con	Green	Lab	LibD	SNP	SSP	Other
1	0	10	0	6	0	1

Dumfries and Galloway (Lab)

Con	Green	Lab	LibD	SNP	SSP	Other
11	0	14	5	5	0	12

East Ayrshire (Lab)

Con	Green	Lab	LibD	SNP	SSP	Other
1	0	23	0	8	0	0

East Dunbartonshire (LibDem)

Con	Green	Lab	LibD	SNP	SSP	Other
3	0	9	12	0	0	0

East Lothian (Lab)

Con	Green	Lab	LibD	SNP	SSP	Other
4	0	16	1	2	0	0

East Renfrewshire (Lab)

Con	Green	Lab	LibD	SNP	SSP	Other
7	0	8	3	0	0	2

Falkirk (Lab)

Con	Green	Lab	LibD	SNP	SSP	Other
2	0	14	0	9	0	7

Fife (Lab)

Con	Green	Lab	LibD	SNP	SSP	Other
2	0	36	23	11	0	6

Highland (Other)

Con	Green	Lab	LibD	SNP	SSP	Other
0	0	8	9	6	0	57

Inverclyde (LibDem)

Con	Green	Lab	LibD	SNP	SSP	Other
0	0	6	13	0	0	1

Midlothian (Lab)

Con	Green	Lab	LibD	SNP	SSP	Other
0	0	15	2	0	0	1

Moray (Other)

Con	Green	Lab	LibD	SNP	SSP	Other
1	0	5	1	3	0	16

North Ayrshire

Con	Green	Lab	LibD	SNP	SSP	Other	(Lab)
4	0	21	0	3	0	2	

North Lanarkshire (Lab)

Con	Green	Lab	LibD	SNP	SSP	Other
0	0	54	0	13	0	3

Orkney (Other)

Con	Green	Lab	LibD	SNP	SSP	Other
0	0	0	0	0	0	21

Perthshire and Kinross (SNP)

Con	Green	Lab	LibD	SNP	SSP	Other
10	0	5	9	15	0	2

Renfrewshire (Lab)

Con	Green	Lab	LibD	SNP	SSP	Other
1	0	21	3	15	0	0

Scottish Borders (Other)

Con	Green	Lab	LibD	SNP	SSP	Other
10	0	0	9	1	0	14

Shetland (Other)

Con	Green	Lab	LibD	SNP	SSP	Other
0	0	0	5	0	0	17

South Ayrshire (NOC)

Con	Green	Lab	LibD	SNP	SSP	Other
15	0	15	0	0	0	0

South Lanarkshire (Lab)

Con	Green	Lab	LibD	SNP	SSP	Other
3	0	52	2	7	0	3

Stirling (Lab)

Con	Green	Lab	LibD	SNP	SSP	Other
10	0	12	0	0	0	0

West Dunbartonshire (Lab)

Con	Green	Lab	LibD	SNP	SSP	Other
0	0	17	0	3	1	1

West Lothian (Lab)

Con	Green	Lab	LibD	SNP	SSP	Other
1	0	17	0	12	0	2

Western Isles (Other)

Con	Green	Lab	LibD	SNP	SSP	Other
0	0	4	0	3	0	24

7.2 Cosla and the local election campaign

During the local election campaign the Convention of Scottish Local Authorities (COSLA) launched its own manifesto which included demands for "constitutional protection" from executive diktats, more financial freedom, new laws to protect council boundaries and services from the whim of ministers, and a power of general competence. Cosla's manifesto also called for the next executive to "recognise the real costs of core services" - in other words give councils more money and cut the ring-fencing of grants. Last year, Cosla estimated the executive's spending review had fallen £440m short of meeting the cost of front-line services. Cosla's aim is to draw back the three councils that have already quit - Glasgow, Falkirk, and Clackmannanshire. There was speculation during the campaign that Cosla could fall apart if Labour loses control for the first time in the organisations 28-year history.[37] However, this is very unlikely. In the past two years COSLA has consolidated its position after a review – it further expanded the services it offers to member councils this quarter by adding the resources of the Scottish Local Government Information Unit.[38]

7.3 Other developments

The transfer of Glasgow City Council's 81,000 local authority homes to the Glasgow Housing Association went ahead in March ending months of delays and fears about its financial viability. The large scale voluntary transfer scheme will receive £2bn of public subsidy, £930m of which will be used by the Treasury to clear Glasgow City Council's historic housing debts. Last April, tenants voted 58% in favour of the handover to the new not-for-profit landlord.[39]

The private company Amey a key partner in many local council Public Private Partnership contracts, including Glasgow's 29 privately built or refurbished secondary schools has been taken over by a Spanish company Ferrovial Servicios.[40]

A surprise announcement during the election campaign was Scottish Water's decision to announce 900 redundancies as part of a cost-cutting drive to save £100 million. The public company has its roots in the old water and sewerage departments of Scotland's pre-1996 reorganisation regional councils. Union leaders and opposition parties raised concerns that this could be a pre-cursor to privatisation. These redundancies and the merger of Scotland's three water companies last year are best interpreted as a desire to exploit economies of scale and improve its comparative financial performance relative to the privatised English matr companies.[41]

8. Finance

David Bell

9: Legal Disputes

Barry Winetrobe

9.1 Anti-Hunting Act

Previous reports have reported on the latest attempt to challenge the validity of the Protection of Wild Mammals (Scotland) Act 2002, the next round of which is the hearing of the appeal in early June. A further opportunity for judicial examination of the controversial legislation, this time in the criminal courts, may well arise following revelations at the end of April that two leading hunting enthusiasts are to be charged with offences under the 2002 Act.[42]

9.2 Scotland Act and Henry VIII clauses

The Scotland Act 1998 contains a number of Henry VIII clauses – provisions of statutes which enable other statutory provisions to be amended or repealed without the need for further primary legislation – which were designed mainly to enable changes to be made to the Act and other legislation to make them fit in with the overall and developing devolution scheme. However, the primary legislative power of the Scottish Parliament is, amongst other things, a Henry VIII clause in terms of enabling the Parliament to amend or repeal UK legislation within its devolved competence. This is discussed in an interesting article in the Spring issue of *Public Law*.[43]

9.3 Holyrood Building Project

The hugely controversial and costly project to construct the new campus for the Scottish parliament has been dogged by potential legal action, primarily by the SPCB itself in relation to a particular contract awarded to a company which later collapsed. The *Sunday Mail* claimed an exclusive in early May that the Parliament was seeking further legal advice with a view to the feasibility of a civil claim against the main contractors for recovery of these losses. Any such action, if it took place, could be a platform for judicial consideration of the legal rights and duties of the Parliament itself, through the SPCB as its corporate legal entity. There has even been press speculation that an investigation to be undertaken by the Auditor General for Scotland into the tendering processes for Project contracts, could propel the UK Government into the affair, if matters get as far as the European Court of Justice.

10. Political Parties

James Mitchell

The election dominated this past quarter. As the election loomed, the parties drew up manifestos which were launched in the early part of the election campaign. In this quarter attention is paid to the manifestos with particular reference to differences between the parties. This section of the report relies heavily on the manifestos and attendance at party manifesto launches.

10.1 Labour manifesto: On your side

There may have been no Big Idea in Labour's manifesto but there were plenty of small ones. At the press conference launching it, Jack McConnell claimed it was 'brimming with new ideas'. 'On your side' set out a raft of policies over a range of devolved functions. But while the First Minister insisted that the document was about 'investment and reform' the emphasis was on the former. Despite chapter one focusing on the economy and stating that there is 'nothing more important' than 'long-term growth rate', this is the manifesto of a party which puts public welfare provision first. This partly reflects the nature of devolution. The economic powers of the Scottish Parliament are limited compared with the potential to reform and invest in welfare but it also says much about Scottish Labour.

The manifesto brought McConnell's speech to the Institute of Directors last September to mind. In previous speeches he had emphasized the key public services – health, education, crime, and transport – but speaking to the IoD he admitted that somewhere along the way his fifth priority – jobs – had been downgraded. This attempt to appease business was not entirely successful focusing as it did on jobs rather than directly on economic growth. The manifesto attempts to make amends by placing the economy at the front, emphasizing economic growth.

But when challenged on the relative vagueness of this section of the manifesto at its launch, the First Minister was less concrete than in any other public policy area. The rhetoric sounded good but a 'more ambitious, aspirational, entrepreneurial Scotland' could be supported by almost any party contesting these elections.

After 'doing less, better', Labour was offering to do more of the same. It is always a challenge for a governing party to come up with new policies and changing direction would be tantamount to admitting to having made a mistake. In electoral terms it makes sense. Labour's greatest fear is that it might lose its core vote. Concentrating on law and order and public services was aimed at shoring it up. The election slogan - 'more teachers, more nurses, more police' – was thought more appealing to these voters than 'more economic growth'.

There were commitments to set up new public bodies, conduct enquiries and reviews: an annual Business Forum; a White paper on reform of strategic transport delivery; a review of

Skye Bridge tolls; a second strategic roads review; abolition of NHS Trusts; establishment of Community Health Partnerships; a directly elected element to all NHS Boards; a Children's Charter; a Children's Commissioner before the end of the year; a Sentencing Commission; a new single agency Correctional Service for Scotland; a Scottish Cooperative Development Agency; a single cultural agency for Scotland; an Independent Remuneration Committee to advise on councillors' remuneration. This will have sounded like 'more government' to many business people.

In terms of the coalition, the manifesto pointed to difficulties ahead: 'Labour strongly supports the direct link between Councillors and those who live in the wards they represent and believes the current electoral system best delivers that accountability.' Any reform in the electoral system for local government looks set to be a cobbled together compromise. Allied with distinctly illiberal policies on law and order, a less harmonious relationship with the Liberal Democrats seemed likely. But there was much that Liberal Democrats will be able to find common cause with in this manifesto especially in welfare provision. And there was no alternative.

10.2 SNP manifesto: ***

If chunks of the SNP and Labour manifestos were swapped, most readers would be hard pressed to notice. The SNP produced what would be the third social democratic manifesto of the campaign. Take the constitution and structures of government out of the debate and there is little substantive difference between the SNP, Labour and the Liberal Democrats. But in elections, differences are magnified and become more important than similarities.

Leaving aside presentation, there are three distinguishing features in the Nationalists' manifesto. First, as Jack McConnell noted in presenting his party's manifesto, the SNP is making much more of independence than they did four years ago. Second, there is an emphasis running throughout on the economy which was absent from the other manifestos. Third, the SNP proposes changes in the system of government.

The SNP differs not just in supporting independence but in having offered voters the opportunity to vote in an independence referendum. John Swinney, SNP leader, may have been perplexed that the Liberal Democrats will not countenance a referendum but if the SNP had become the largest party, he would have had no choice but to govern as head of a minority administration. The prospect of a coalition, or even a workable relationship, of some combination of SNP, SSP, and Greens was a scenario that existed for a few insignificant figures on the fringes of Scottish politics.

Swinney did not have the impact on the electorate of his predecessor but he has had a considerable impact on his party. He justifiably claimed at the launch that he had re-defined the independence debate. Alex Salmond's emphasis on whether Scotland contributed more or less than it received in public finances has given way to a debate on the economic consequences of independence. Voters do not accept that any potential independence will

release will be largely positive but there is no doubt that this is more interesting than obsessing about public finances. And the Nationalists' sounded 'on message' with elite if not public opinion on economic growth.

Proposals to cut the number of Scottish Executive Ministers by a quarter were only a small part of the proposed changes to the system of government. Reforms of local finance and the system of voting place the SNP closer to the Liberal Democrats but the Liberal Democrats were not about to be wooed. But there was also a wider issue of tackling what Swinney described as 'unnecessary tiers of unelected, unaccountable public bodies'. This sounded at first sight like the usual oppositional call for a quango-cull. But there may have been a deeper, more political aim. Labour's hegemony across Scotland, and its ability to be mischievous if an SNP Executive is ever formed, rests in large measure on its control of many public appointments. The SNP knows that this will have to be dealt with delicately and its manifesto attempted to address this. By no means all of these appointments are in the hands of Labour stooges as many in the SNP imagine. But proposals to return power to reformed local government set out in the manifesto have a ring of truth because the SNP has a particular reason for supporting this.

10.3 Conservative manifesto: ****

The Tories produced a classic oppositional manifesto. The Tories, from an analysis of their manifesto, did not appear to be willing to contemplate having a small share in power. This has to be the only interpretation of a manifesto which proposed to halve the number of Executive Ministers, considerably reduce the size of the Scottish parliament, and cut back the costs of Government to 1997 levels.

If Wendy Alexander thought she had it hard with the portfolio of responsibilities handed to her by Jack McConnell, Ministers in a Tory Administration would most likely find it very difficult to operate or would end up allowing the civil service to run Scotland.

In essence, the manifesto suggested that the Scottish Conservative Party had yet to come to terms with devolution. It is significant that the opening line of chapter one of the manifesto claimed that they are 'totally committed to making the Scottish Parliament work for Scotland within the United Kingdom.' No-one doubts the latter part but many readers of this document will have doubts about the first part.

That is not to say that individual policies failed to resonate with the Scottish public. Anti-politics rhetoric can always win applause, especially when combined with a tough message on law and order and much else in the document. Many of the policies placed high in the BBC's survey asking voters to list their policy priorities are found within the Tory manifesto. There was even some support for reducing the number of MSPs amongst the public. If support for policies translated directly into votes, the Tories would have done much better than they did in the election.

This apparent paradox – relatively popular policies combined with an unpopular party - is easily explained. The translation of party support for popular policies does not automatically lead to support for the party pursuing these policies. The image and perceptions of parties account for a great deal. Ironically, Tory support for certain policies that are in themselves likely to be popular undermines the party in Scotland. In other circumstances, support for fewer politicians might prove popular but in this context it is interpreted as being against something more than just politicians. The central theme of the manifesto was its anti-politics message. Coming from the party that was historically hostile to devolution, with a leader who admitted he would once more vote against it, this was perceived as being against the Scottish Parliament. It is this that the Conservatives failed to take into account in the manifesto. Opponents inevitably responded that this is just a predictable anti-devolution diatribe from the Tories.

Had this manifesto stuck to Tory policy hardy annuals, omitting much contained in chapter one, then it would have stood a chance of tapping into an ever present anti-politics mood. Instead, placing emphasis on 'better government for Scotland' prevented the party overcoming its image as an anti-devolution party. Combined with the necessity to allow for engagement with others in the multi-party politics of Scotland, of which there is little evidence, leaves the Tories where they were in 1999. Another opportunity was lost for the Tories to re-enter the serious business of Scottish politics.

10.4 Liberal Democrats' manifesto: ****

The Liberal Democrats produced a social democratic manifesto with liberal trimmings. In broad terms, there were remarkable similarities with Labour's manifesto. The sticky issues in coalition talks were heralded in the manifesto: law and order and electoral reform for local government. There are detailed differences with Labour over health, education and the economy but there is enough common ground for a common programme of government. Equally, what the Liberal Democrats offer could just as easily, perhaps more easily, have found common cause with the SNP.

Law and order will present challenges. The party will have its job cut out injecting a liberal element to Jack McConnell's populist agenda. The two manifestos suggested that Labour proposes to be tough on crime and the Liberal Democrats will be tough on its causes. Jim Wallace could not be described as a populist and the personal chemistry between him and Jack McConnell will add to greater unease in the coalition on this issue.

Local government reform will be the tuition fees of the new Parliament. In 1999, differences between the parties on tuition fees was resolved by resort to an enquiry headed by Andrew Cubie. Some method will have o be found to resolve very real party political differences. On contentious issues, more attention to the views of the party leaders was more fruitful than analysing the contents of manifestos. Jim Wallace's reading of Labour's manifesto was that

proportional representation had not been ruled out though that was not how it is interpreted inside the Labour Party.

Coalitions are about compromise. What we had in the Labour and Liberal Democrat manifestos were starting points for negotiation. Reform of the electoral system in some shape was more than likely given what was stated in Labour and Liberal Democrats' manifestos. Labour surprised us in the past, not least in accepting the element of proportional representation in elections to the Scottish Parliament.

Much was made in the press, predictably, of the Liberal Democrats' position on tax varying powers. But the attention this power attracts is disproportionate to its limited nature. The Liberal Democrats might have been naïve in mentioning that they would support use of the power if conditions necessitated. What they are merely signalling is that they would put up taxes in preference to cutting services. The Scottish Executive was fortunate that the foot and mouth crisis was deemed a UK problem and funding to deal with it came from London. No-one can be sure that will always happen. In answering the 'What if a crisis occurred?' question, the Liberal Democrats have ignored Harold Wilson's dictum not to answer hypothetical questions. It may have been naïve but it was honest.

10.5 Green manifesto: Reach for the future

The prospect of the Greens forming a government was non-existent. Whatever else 'reach for the future' offered, it was emphatically not a programme for government. It is a blend of policies, aims and a general statement of direction. A full costing of its manifesto would be alarming but meaningless. The party admitted at its launch that it did not possess the resources to fully cost its policies.

On the evolutionary scale of politics, the Scottish Greens have moved beyond being a pressure group. But they are far from being an alternative party of government. This is not to denigrate pressure groups, not least because many groups are more influential than most political parties. But the conscious decision to contest elections at the very least implies an ambition to govern. Moreover, the distinction between pressure groups and political parties gets blurred in large as well as small parties. In opposition, all any party can hope to do is act as an effective pressure group. Size does not always come into it in a system of multi-party politics.

Notably, the underlying philosophy in the Green manifesto goes well beyond environmental concerns suggesting that the Greens are well on their way to be being a fully fledged party. The underlying Utopianism informing this manifesto is informed by a belief in small is beautiful, participatory democracy, liberalism and a radical redistribution of wealth and power.

While other more conventional manifestos will say much about law and order, tapping into popular concerns, the Greens have a different approach. Dealing with drug abuse appeared

under the health section of the manifesto, not least because there was no 'law and order' section. The nearest the manifesto comes to being tough on crime is the promise to increase penalties for those found guilty of criminal offences against animals. This were no populist prescriptions here.

The manifesto rides roughshod over the distinction between devolved and retained powers. Unlike the SSP, the Greens' six priorities include matters that are unambiguously retained by London. The first priority listed by the party was to campaign for the scrapping of weapons of mass destruction starting with getting rid of Trident. The second was to phase out nuclear energy. Responding to questions at its launch, Green members give little indication of what they would demand from larger parties seeking their support in any possible coalition.

There are policies in the manifesto which both Labour and the SNP could support happily at least in modified form. The manifesto is closer to what we are likely to get from the SNP but only in the same way that Glasgow is nearer to New York than is Edinburgh. But the Greens stated intention, as with SSP, had been not to enter any formal coalition, thus leaving a possibility that a minority administration might have to operate at the whim of the minors including the Greens.

The electoral system offers new parties opportunities to win representation in the Scottish Parliament. At some point in their evolution, the Greens may have to confront power, even if only a modest share. But this manifesto did not suggest that the Greens themselves really expected to do this in 2003.

10.6 Scottish Socialist Party manifesto: Another Scotland is possible

The Scottish Socialist Party launched two manifestos within one document. The first was aspirational, with 200 policies setting out to show that 'another Scotland is possible'. This is the radical, socialist party intent on major redistribution of power and wealth which fought the 1999 election. If it compares with any established party's manifesto, then it is Labour's in 1983.

According to polls, the SSP was set to make gains and even possibly be in a balance of power position. The party essentially set out what would be its negotiating terms with the SNP, the party with which it is most likely to cooperate, though this was not made explicit. This constituted its second manifesto. None of these were new policies.

One pledge was to campaign against war in Iraq and the SSP promised it would do this regardless of the outcome of the election. This pledge had an add-on feel to it. The party felt obliged to respond to the international situation. The other five commitments had been prepared over time. It is more than likely that two of the policies might have found some support beyond the SSP. A local income tax to fund local government is proposed, though the party prefers to call it a Scottish Service Tax. In broad principle, this has significant antecedents having been around in debates on local government finance from before the

Layfield Commission which reported in favour of such a tax to supplement the old rates in 1976. The second policy with widespread appeal is free school meals. The SSP has researched this issue thoroughly and had already forced Labour and the SNP onto the defensive.

A third policy commands sympathy within sections of the Labour Party and throughout the SNP but not as proposed by the SSP. Ending PFI and 'private profiteering' in the public sector is a direction in which others may be willing to travel but not the destination. The perceived imbalance in the private-public relationship has provoked a backlash against any form of private involvement but the abandonment of private sector in public service delivery is difficult to imagine.

The other two are, however, unlikely to be seen as 'fast track' policies by other than on the fringes of Labour and SNP groups in the Parliament: increasing the minimum wage amongst public sector workers combined with creating 24,000 new jobs to allow for a maximum working week of 35 hours will be seen as aspirational rather than realistic. While debate will rage over whether this can be afforded and even allowing for the SSP's claims that these are affordable at present, the cost of such policies over the long-term would give any Finance Minister sleepless nights worrying about the scope for manoeuvre should the unexpected arise. And in public policy, the unexpected always happens.

The SSP has come a long way since 1999. It would be superficial to suggest that the party is heading rightwards. It remains a radical idealistic party but there is a realism here in setting out its stall in the event that others may come knocking on its door after the election. For the SSP's vision of the future the entire 56 pages of its manifesto should be read, pages 7-14 set out its negotiating position for coalition.

11: Public Policies

Barry Winetrobe

11.1   The election and public policies

Inevitably, virtually all discussion of policy issues during this quarter took place within the context of the May election, and the parties' positions were set out in their election manifestos. Because of the conventional proprieties, the Executive did not take forward policy development during the campaign period itself, as the two coalition parties operated independently, though the immediate pre-campaign period saw a rush of policy announcements. Not all issues which could have been predicted to dominate the campaign actually did so, especially those relating to the core public services of health, education and transport, and the two most distinctive policies in Scottish devolution's first four years – tuition fees and personal care for the elderly – hardly registered. The overshadowing of much of the campaign by the Iraq crisis probably prevented these crucial arguments from developing as much as expected, as may have Labour's general unwillingness to talk in much detail about radical reform, whether in a 'Blairite' or 'Old Labour' direction. Perhaps it is also because the major parties (except, in many cases, the Conservatives) are, in many respects, fairly in tune with each other in much of the essentials of public policy, and the main differences that do exist relate either to matters outwith the control or influence of the devolved institutions, or to the extent of strategic policy diversity between Scotland and the UK/England.

11.2   Public services

Ministers remain keen to demonstrate that they are pressing strongly for value for money and effective delivery through PPPs (despite claims of profiteering by PPP companies) and other mechanisms, as can be seen, for example, from a speech by the Finance Minister to the CoSLA annual conference on 27 March.[44] However, the First Minister appeared to slip up when apparently rubbishing a critical academic report on PFI schemes in the health service during the election campaign,[45] and trade union concerns about what they regard as 'quasi-privatisation' may well have contributed to the electoral successes of the Scottish Socialists.

11.3   Rural and environmental matters

Fishing had been a huge issue in the months before the election, and the SNP had run strongly with it both as an important economic and social topic (especially in its electorally important North East) and as a symbol of Scottish subservience to UK interests in EU matters. The SNP pressed ministers in the Parliament (with ministers being criticised for delaying a plenary debate for a week) and at Westminster, both before and after the election, especially once the latest long-term plans of the European Commission were revealed in

early May.[46] The Executive published a progress report on its rural strategy, and also comprehensively rejected a Health Committee report on GM crop trails, published in January. The Green MSP, Robin Harper's Organic Targets Bill was rejected by the Parliament on 6 February; the Land Reform Bill and the Agricultural Holdings Bill received royal assent, and the Executive published its draft Nature Conservation Bill and its planning white paper on 11 and 28 March respectively.[47]

The electoral impact of rural and environmental issues, however, appears to have been mixed, with no real breakthrough by pro-fishing candidates, but a significant outcome for the Greens. The main parties all tried to display their environmental credentials, though the publication of a Friends of the Earth survey on their policies produced mixed signals.[48] With an appeal due in early June concerning the validity of the anti-hunting legislation, two leading hunting campaigners have been charged with various offences, which could provide another opportunity for legal scrutiny for this controversial statute.

11.4   Fire dispute

The fire dispute remained an awkward issue for the Executive, fanned by the Deputy Prime Minister's announcement of legislation to impose a settlement coming so close to the May elections. He assured MPs that the bill would not cover Scotland. The Executive has said that it did not intend to promote similar legislation, certainly not before the election, and that it had been assured by London that no UK legislation would be imposed on Scotland, especially during dissolution. The SNP argued that this divergence provides an opportunity for Scotland to negotiate a separate deal with its firefighters, and the Tories criticised ministers for not following London's tough line or instructing the Lord Advocate to seek an interdict to stop any further strikes.[49] The start of the bill's progress through Westminster in May renewed speculation that a Labour-dominated Executive might well, whether willingly or otherwise, also seek to impose a deal in Scotland, or use a Sewel motion to allow Westminster to legislate for one.[50]

11.5   Economic policies

The Scottish economy was the subject to full plenary debates on 12 February, and on 26 March just before the Parliament rose for the election, as well as of a major report at the same time. It was also debated in the Scottish Grand Committee on 12 February. There have been reports of growing business disenchantment with Labour, including defections among those who supported the party in 1999, as well as widespread criticism of Scottish Enterprise's performance. The First Minister's suggestions, in a 25 February speech, for encouraging immigration to encourage economic growth was much discussed by the media and the parties. News in early February of the closure of the Boots plant and loss of 1,000 jobs, in the Scottish Secretary's own Airdrie constituency, did not help the Scottish Labour cause. The SNP came up with a novel approach of supporting the essentials of the Executive's 'Smart,

Successful Scotland' economic and enterprise policies, while criticising it for not going far enough.[51] Business sentiment is clearly very fragile, with fears that fundamental, structural problems are being hidden by hints of a weak recovery (not helped by figures released by the Executive shortly after the election showing that 2002 was a year of zero growth for Scotland, compared with 1.3% in the UK as a whole[52]) and distortions caused by the Iraq conflict. The Budget proposals for regeneration and local pay formulae was seen as belated metropolitan recognition of the seriousness of the economic situation in areas like Scotland, though the perceived threat to national pay bargaining has worried the unions.[53] Inevitably, economic arguments are overshadowed by the constitutional questions of fiscal autonomy or independence, though, in the election, the SNP arguments that independence is the only long-term solution does not seems to have resonated with voters, despite the constant stream of media publicity for supporters of fiscal autonomy. Labour's persistent warnings of the negative economic impact of a 'divorce' from the UK economy perhaps also had some effect.

11.6   Education

Ministers and local government agreed an £80m deal over 3 years to fund the McCrone settlement for teachers, and, on 13 March, the Education Committee published a major report on the purposes of education. The two major parties continued to clash over educational standards and class sizes, especially in an SNP-inspired plenary debate on 12 February. The Executive published, on 20 March, the latest phase of its strategy for higher education, and the next will examine the implications of funding changes in English higher education.[54] It also published its lifelong learning strategy on 11 February, a day after its formal response to the Enterprise and Lifelong Learning Committee's report on the subject. The Committee Bill to establish a Commissioner for Children and Young People passed its final parliamentary hurdles on 26 March, and the Education Committee convener spoke about the measure to a Westminster all-party group on 4 March. During the election campaign, education arguments tended to concentrate on PFI funding and on class sizes.[55]

11.7   Transport

Transport policy developments included the short-listing of 4 companies for the ScotRail franchise; decisions on the preferred routes for rail links to Glasgow and Edinburgh Airports; publication of the Executive's '*Building Better Transport*' policy document on 5 March, and of the Parliament's first rail private bill (Stirling-Alloa-Kincardine Railway and Linked Improvements Bill) on 24 March, and an SNP call for re-nationalisation of Scottish railways. Scotland has been watching with interest the apparent early success of the London congestion-charging scheme, but the Conservatives continued to attack the proposed scheme in Edinburgh, with apparent success in David McLetchie's defeat of Transport Minister, Iain Gray in the Pentlands constituency. Transport hardly dominated the election campaign, though there was some media coverage of a critical report on the main parties' policies.[56]

11.8 Health

An £80m deal was finally struck on funding care homes. The controversial Mental Health Bill was passed by the Parliament on 20 March following a two-day Stage 3, with hundreds of amendments, and received royal assent on 25 April. The Executive published its health white paper on 27 February (including the abolition of NHS Trusts), and proposals for patients' rights and responsibilities on 17 March. As well as PFI funding concerns, health featured in the election campaign mainly in terms of the lengths of waiting lists and times.[57] The Commons debate on 7 May on the bill to establish foundation hospitals provoked much debate among commentators and MSPs, and demonstrated the splits especially in Scottish Labour.

11.9 Gaelic

A good example of public policy as a political and electoral football has been the Gaelic language. The promotion of a Member's Bill by Mike Russell (SNP) on Gaelic very late in the Parliament's first session, cleverly embarrassed ministers, as the Parliament overwhelmingly supported the measure, but the Executive-dominated Bureau did not provide sufficient time in the closing weeks for it to be enacted. However Labour responded immediately after the parliamentary session ended when McConnell announced that he would bring in a bill on this very topic in the first year of the new session. This was trumped by the SNP's Alex Neil putting down a proposal for a Member's Bill immediately the Parliament returned.[58]

[1] "FSB calls for a radical shake-up of Scottish Executive", *Scotsman*, 27 March: http://www.thescotsman.co.uk/business.cfm?id=363022003

[2] *Scottish Parliament Election Guidance 2003*: http://www.scotland.gov.uk/library5/government/election2003guidance.pdf

[3] http://www.scotland.gov.uk/pages/news/2003/02/p_SEfd208.aspx; http://www.scottish.parliament.uk/official_report/wa-03/wa0207.htm; "Labour pays £2m for verdict on ads", *Sunday Times*, 20 April:

http://www.timesonline.co.uk/article/0,,2090-652810,00.html

[4] *Scottish Executive Publications List 2002*: http://www.scotland.gov.uk/library5/government/pl02-00.asp

[5] http://www.scottish.parliament.uk/official_report/wa-03/wa0318.htm

[6] http://www.scotland.gov.uk/government/careers/permsec.asp and SE media briefing, 20 February: http://www.scotland.gov.uk/pages/news/weekly/000337.aspx

[7] http://www.scottish.parliament.uk/official_report/wa-03/wa0220.htm

[8] http://www.scotland.gov.uk/library5/government/payguidance2003-4.pdf

[9] 27 April: http://www.scotlandonsunday.com/spectrum.cfm?id=470412003

[10] See also B Winetrobe, "Collective responsibility in devolved Scotland", [2003] *Public Law* 24-31

[11] http://www.scottish.parliament.uk/official_report/wa-03/wa0328.htm

[12] Stage 3 debate, 5 February: http://www.scottish.parliament.uk/official_report/session-03/sor0205-02.htm#Col17766; SE PN: http://www.scotland.gov.uk/pages/news/2003/02/p_SEFD205.aspx

[13] Comparisons possible by referring to the February 2003 report on the Scottish Parliament.

[14] For more information see 'National Galleries of Scotland Bill Reaches its Final Hurdle in Parliament', *The Scottish Parliament Committee News Release NGAL 004/2003*, http://www.scottish.parliament.uk/S1/whats_happening/news-03/ngal03-004.htm

[15] Although as the authors of the Report make clear, many of the CSG principles are difficult to disaggregate as they often deal with inter-connected matters.

[16] 'First Minister Says He Wants to be Questioned for 30 Minutes', Robbie Dinwoodie, *The Herald*, 9 May 2003, http://www.theherald.co.uk/election99/archive/9-5-19103-1-37-18.html

[17] 'Holyrood Set for Craziness', *BBC News Online*, 2 May 2003, http://news.bbc.co.uk/1/hi/scotland/2996771.stm

[18] Excludes all reports on subordinate legislation.

[19] Latest parliamentary stage recorded.

[20] DTI Press Release, 'Newspaper merger Reference to the Competition Commission', 10 December 2002.

[21] 'Gannett UK Limited and SMG plc: A report on the proposed transfers', www.competition-commission.org.uk/reports.

[22] Buy Dixon, "Media watchdog fails to provide a clear picture', www.scotlandonsunday.com/, 27 April 2003.

[23] Scottish Labour's Manifesto. O, 2003, Your Side, p. 43.

[24] The SNP, 2003, Manifesto/03, The Case for a Better Scotland, , 'The Complete Case for a Better Scotland' p. 24.

[25] Scottish Liberal Democrat Manifesto, Scottish Parliament 2003, Make the Difference, p. 5.

[26] Scottish Conservative and Unionist Party Manifesto, 2003, Time to Do Something About It, p. 5.

[27] The Herald, 31/03/03, Thoughts driven by a will of Steel, by Murray Ritchie, p. 13.

[28] The Herald, 31/03/03, Thoughts driven by a will of Steel, by Murray Ritchie, p. 13.

[29] http://news.scotsman.com/archive.cfm?id=482502003

[30] Letter from Patricia Ferguson to Murray Tosh, dated 22 January 2003.

[31] Scotland Office, 2002, Memorandum by the Scotland Office, Scottish Parliament Procedures Committee Inquiry, the Sewel Convention, memorandum dated November 2002.

[32] Europe and the Regions, A paper submitted by Peter Hain to the European Convention on behalf of the UK Government and the devolved administrations in Scotland and Wales, undated but circa January 2003, in readiness for the Convention's plenary debate on the regions on February 7 2003.

[33] Europe and the Regions, A paper submitted by Peter Hain to the European Convention on behalf of the UK Government and the devolved administrations in Scotland and Wales, undated but circa January 2003, in readiness for the Convention's plenary debate on the regions on February 7 2003.

[34] Scottish Parliament, European Committee, Legacy Paper, March 26 2003.

[35] T.Gordon 'It's not all cut and dried for Labour' *Herald* 21.4.03

[36] Adapted from http://www.election.scotsman.com./councils.cfm

[37] T. Gordon 'Bruised Cosla comes out fighting' *Herald* 21.4.03, 'COSLA launches bid for equality' *Municipal Journal* 1.5.03

[38] "SLGIU joins COSLA' Municipal Journal 1.5.03

[39] T. Gordon 'Housing Transfer Goes Ahead' *Herald* 6.3.03

[40] E. Buie. "Spanish takeover of school maintenance' *Herald* 17.4.03

[41] V.Hannah and K.Sinclair 'Scottish Water to axe 900 jobs' *Herald* 17.4.03

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