



The **Constitution** Unit



UNIVERSITY OF
STIRLING



Nations and Regions: The Dynamics of Devolution

Quarterly Monitoring Programme

Scotland

Quarterly Report
November 2003



The Leverhulme Trust

The monitoring programme is jointly funded by the ESRC and the Leverhulme Trust

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Introduction

James Mitchell

The policy agenda for the last quarter in Scotland was distinct from that south of the border while there was some overlap. Matters such as identity cards and foundation hospitals are figuring prominently north of the border though long-running issues concerned with health and law and order were important. In health, differences exist at policy level but also in terms of rhetoric - with the Health Minister refusing to refer to patients as 'customers'. This suggests divergence without major disputes in devolutionary politics. An issue which has caused problems across Britain and was of significance this quarter was the provision of accommodation for asylum seekers as well as the education of the children of asylum seekers. Though asylum is a retained matter, the issue has devolutionary dimension as education is a devolved matter.

The other significant event was the challenge to John Swinney's leadership of the Scottish National Party. A relatively unknown party activist challenged Swinney resulting in a drawn-out campaign over the Summer which culminated in a massive victory for Swinney at the SNP's annual conference. In the event, the effort to undermine Swinney which might have led to a more serious challenge him next year proved to strengthen Swinney's leadership. However, the SNP leader's position may again be questioned depending on how well his party performs at next year's Euro-elections.

Chapter 1 Scottish Executive

Barry Winetrobe

1.1 Reorganising the centre

The core administration is being revised under the new Permanent Secretary, John Elvidge, including an Office of the Permanent Secretary, with the following teams and heads:¹

- Analytical Services Group (Andrew Goudie, Chief Economic Adviser): includes Office of the Chief Researcher and the Central Statistics Unit;
- Ministerial Support Group (Liz Lewis): Cabinet Secretariat; Strategy and Delivery Units; External Support Team;
- Changing to Deliver (Alastair Merrill);
- Office of the First Minister (Derek Feeley);
- Performance and Innovation Unit (vacant).

Elvidge seemed to mystify the media when giving his first briefing to them on 8 October. He discussed some restructuring, including the creation of a performance and innovation unit, to be headed by someone from the private sector who will be chosen by Christmas. In an interview in *Holyrood* on 22 September, he also mused on the need for a better, less adversarial relationship between Executive officials and MSPs.² In passing, it is interesting to note how rarely the First Minister, Jack McConnell, uses the word ‘Executive’, preferring to describe his administration as a ‘Government’. Unlike the huge fuss this created in Westminster and Whitehall when Henry McLeish tried to implement this terminological reform, at least informally, McConnell’s usage has created hardly a ripple.

1.2 Revised Executive guidance

New editions of the Executive’s core guidance, the *Scottish Ministerial Code* and the *Guide to Collective Decision Making*, were published in August to take account of the creation of the new coalition Executive.³

1.3 A Scottish Civil Service?

The idea of a separate Scottish Civil Service re-emerged with a survey of some MSPs showing support for the notion, though it has been reported that civil service unions in Scotland would not be in favour. Under the Scotland Act, the Executive’s officials are members of the Home Civil Service, and the Civil Service is a reserved matter (section 51 and Schedule 5, para 8 respectively). Some, including the Parliament’s Procedures Committee, in its major report last March on the CSG Principles, have highlighted how this arrangement could restrict the development of novel arrangements between the Parliament and officials beyond traditional notions of parliamentary accountability and ministerial responsibility (see

para 1.1 above), as well as limiting the extent to which the development of novel public service reform could diverge from general UK changes.⁴

1.4 Dispersal

The last Report noted the controversy over the proposed dispersal of Scottish Natural Heritage from Edinburgh to Inverness (para 1.5). In early September, ministers in effect ordered SNH to proceed with planning the dispersal by issuing a Direction under section 11 of the National Heritage (Scotland) Act 1991.⁵ However, in a concession to continuing disquiet, it was announced in October that up to 25 posts would be retained in Edinburgh.⁶ Whether this will defuse the crisis remains to be seen, amid continuing press reports that the cost of the dispersal may be double its official estimate of £20m, and that the relevant civil service unions are going ahead with legal action and may take industrial action, including refusing to work on proposed legislation such as the Nature Conservation (Scotland) Bill. The Parliament remains active in holding the Executive to account for its relocation policy, in relation to SNH and generally, including scrutiny by the Finance and Public Petitions Committees, and through PQs. See, for example, the breakdown of civil service and associated jobs by local authority area in a WA of 2 October.⁷

1.5 Administration issues

The administrative costs of the Executive were under scrutiny at the end of August, as it was revealed that the cost of the FM's Private Office rose by £100,000 over the last 2 years. The Executive itself preferred to concentrate on the increasing workload under devolution which it claims gives rise to these additional costs.⁸ Conscious of the frequent criticism, it plans to cut its advertising budget for 2003-04 by a quarter, to £9.75m.⁹ Opposition and media outrage also resulted from the latest Executive pay settlement which, though averaging 3.25% and 4% in the next 2 years, contained a provisions for rises of up to 16.5% on minimum salaries of certain entry level grades, and from reports that Executive research spending had totaled £500m since 1999.¹⁰

1.6 FoI

The Executive has rejected requests for it to reconsider its announced date of 1 January 2005 for full implementation of its FoI legislation. The junior public services minister, Tavish Scott, said in a WA of 13 August:¹¹

The announcement of 1 January 2005 as the date on which the Freedom of Information (Scotland) Act 2002 will be fully implemented has assisted Scottish public authorities in their preparations for the act by removing any uncertainties about when the new rights will come into force. The timetable is challenging yet deliverable. We do not intend to reconsider the date.

It also published a consultation on a draft code of practice under s60 of the FoI Act on how public authorities will carry out their statutory FoI functions.¹²

1.7 First Minister's on-the-record media briefing

McConnell gave an on-camera media briefing on 4 September to mark the end of the summer recess period. At the regular media briefing the previous day, the First Minister's Official Spokesperson set out some of the parameters of such events:

The FMOS advised journalists that the First Minister would be holding an on camera, on the record media briefing tomorrow in Bute House. He would be setting out the Executive's priorities for the forthcoming Parliamentary session and would answer questions. Asked if the briefing would involve only the First Minister, the FMOS said, on this occasion, yes. There have been media briefings in the past involving different Ministers. There would be further joint First Minister and Deputy First Minister media briefings in the future.

Questioned on how often the First Minister would hold media briefings in the future, the FMOS said she anticipated he would try to undertake them as regularly as he can. He won't schedule dates, but there is a clear commitment from the First Minister and Deputy First Minister to hold more media briefings and to be more accountable. Asked if this was linked to the Hutton Inquiry and changes to the Downing Street Press Office, the FMOS said no. The First Minister and Deputy First Minister, and other Ministers, have undertaken on the record briefings previously and there is a commitment to hold them more regularly. Put to her that previous media briefings had marked some sort of event, but this one did not appear to do so, the FMOS said she would disagree. The First Minister would be setting out the Executive's priorities for the forthcoming Parliamentary session.

Questioned further on the potential knock-on effects of the appointment of David Hill by the Prime Minister and the interim conclusions of the Phillis Review into government communications, the FMOS said that the Scottish Executive had contributed to the Phillis Review. We are part of a UK Civil Service and the report is to the responsible UK Ministers, who would respond. The Executive would have to look at the report in more depth before commenting, but journalists would know that the media briefing system was already different in Scotland.

1.8 Special advisers

As a postscript to the note in the last Report on the reorganisation of the Executive special adviser system (see para 1.6), it was announced on 4 August that Derek Munn, formerly a team leader in Labour's Resource Centre in the Parliament, had been appointed to the team, specialising in Gaelic and environmental issues.¹³

2. The Scottish Parliament

Mark Shephard

2.1 Members' Bills

Opposition MSPs are responsible for 16 of the 24 Members' Bills that have been proposed since the beginning of Session 2 (SNP: 9; SSP: 3; Green 3; and Ind.: 1). The Opposition (with the exception of the Conservatives) are, therefore, making disproportionate usage of this procedure. Given that very few Members' Bills are actually considered, let alone passed by the Parliament (8 passed out of 45 proposed in Session 1). There are two possible reasons for this

First, some Members' Bills are successful and the SNP and SSP have both benefited from pursuing this avenue in the past, for example, SSP MSP Tommy Sheridan's Abolition of Poindings and Warrant Sales Bill, and SNP MSP Adam Ingram's Leasehold Casualties Bill. Since the SSP and the SNP have been successful using this route in the past it makes sense that they persist in using it as a means to introduce legislation.

Second, it is increasingly evident that the Member's Bill offers a unique opportunity for opposition parties to secure media coverage and exposure in an otherwise Executive led market. Opportunities for party publicity will be an important criterion. The SSP is launching its proposed policy of the abolition of the council tax through this route, just as the SNP is proposing legislation to hold a referendum on the EU constitution prior to its ratification by the UK Government (see 2.5 below).

Compare these proposals with the two Labour proposals on the licensing of sunbeds and tanning salons and the empowerment of local authorities to deal with high hedge complaints (see 2.5 below), and the agenda setting and electioneering perspective on why this procedure is disproportionately used by many in the opposition looks even more convincing.

2.2 Parliamentary Pressures on the Executive to change its Procedures

The Executive has come under renewed pressure from the Parliament this quarter to change several of its working practices. In October, the Health Committee expressed 'major concerns' that it was expected to scrutinise the Executive's Primary Medical Services (Scotland) Bill before regulation negotiations between the UK and Scottish governments had been completed. As Christine Grahame (SNP MSP), Convener of the Health Committee, argued:

Our Committee considers the lack of regulations most unsatisfactory and a cause of great concern. It is the role of the Scottish Parliament Committees to scrutinise legislation and its probable impact. Without sight of the regulations, this Committee's role has been severely compromised.

We have not seen any of the draft regulations which will implement the Bill and if we allow this Bill to significantly progress without sight of them, we consider that our vital scrutiny function has been severely impaired. As a result, we have major concerns regarding the implementation of this legislation.¹⁴

Although the Committee ultimately decided that the Parliament should go ahead and approve the general principles of the Bill, it is now insisting that timetabling of bills permits the scrutiny of draft regulations prior to the commencement of Stage 2. The Committee's warning to the Executive follows on the heels of a raft of recommendations on timetabling issued by the Procedures Committee in March 2003 in its report on *The Founding Principles of the Scottish Parliament* (see May 2003 quarterly report).

The Executive has also come under pressure from the Parliament as a consequence of the different party dynamics now in place for Session 2. In particular, the increased representation of the Greens and SSP has had a knock on effect from membership of the Parliamentary Bureau and committees (see August 2003 quarterly report) to the length and timing of First Minister's Question Time (FMQT).

On 29 August 2003, the Procedures Committee published its report on First Minister's Question Time (see 2.4 below). The Committee recommended a trial that the maximum period for FMQT be increased from 20 to 30 minutes per week and that FMQT be scheduled at 12 noon on Thursdays thereby detaching it from Question Time itself. The recommendations came on the back of predominantly favourable feedback from MSPs and others such as journalists.¹⁵

For most of Session 1, Question Time used to commence at 2:30pm and end with FMQT from 3:10 to 3:30pm. During Session 1, the two main opposition party leaders (SNP and Con) were normally granted a question each and a number of follow up supplementary questions to the FM. The two opposition leaders typically took half the available time, with the remaining time usually divided between party leaders, backbench MSPs, and topical questions. The Committee also found that only one in five FMQTs resulted in all six listed questions being reached.¹⁶

Although the Presiding Officer tried to reflect this increased representation through more time for Green and SSP questions, the 20 minute time slot proved too brief. In turn, the operation of FMQT attracted multiple points of order this session and consequently it was hardly surprising that the Procedures Committee recommended its extension and separation from Question Time.

Despite calls for amendments to the Procedures Committee report, the Parliament voted in favour of the Committee's recommendations to change the standing orders as set out in Annex A of the report, *First Minister's Question Time and Minor Standing Order Changes* (SP Paper 9). The changes came into force on 4 September 2003. Consequently, FMQT now occurs on Thursdays at 12 noon for 30 minutes. Question Time remains in the 2:30pm slot.

2.3 The Cost of the Scottish Parliament and Other Issues

The one issue that has dominated press coverage and public discussions this quarter has been the rising cost of the Scottish Parliament. In September it was revealed that the cost of the Scottish Parliament would rise beyond the £400 million mark with still no completion date. The inquiry into why the building is over budget and behind schedule began on 28th October 2003. Headed by Lord Fraser of Carmyllie, former Lord Advocate, junior Scottish Office Minister and leader of anti-devolution 'Think Twice' campaign group, the inquiry aims to discern what went wrong in the management of the project and what lessons can be learned.¹⁷ The furore over the spiralling costs of the Parliament may have implications in the future for the way parliamentary business is run. At the moment, the Parliament often holds committee meetings outside Edinburgh as part of its efforts to address founding principles such as accessibility, openness and power sharing. Once the Parliament building is complete, parliamentarians are going to be under pressure to stay put and make use of the building and this may have implications for the application of the founding principles.

Among other issues that arose this quarter, backbench Labour dissent surfaced over the treatment of asylum seekers at Dungavel and Green MSP Patrick Harvie's proposal for civil partnership legislation. These issues were defused by the Executive letting Westminster decide. Finally, Tricia Marwick (SNP MSP) resigned as convener of the Standards Committee over the political fallout that followed investigations into her conduct over the withholding of documents from a former SNP MSP. Although the Standards Committee and the Standards Commissioner (see 2.4 below) rebuffed the complaint against Marwick (and SNP MSP Kenny MacAskill) Marwick feared that the matter would not be laid to rest and so resigned.

2.4 Committee Reports and Inquiries (01 August 2003 – 31 October 2003)¹⁸

First Minister's Question Time and Minor Standing Order Changes, 29 August 2003, Procedures Committee

Executive's Response to 2nd Report on Cross-Cutting Expenditure in Relation to Children in Poverty, 8 September 2003, Finance Committee

Report on the Financial Memorandum of the Primary Medical Services (Scotland) Bill, 8 September 2003, Finance Committee

Local Government and Transport Committee - Work Plan, 18 September 2003, Local Government and Transport Committee

Report on the Financial Memorandum of the Vulnerable Witnesses (Scotland) Bill, 24 September 2003, Finance Committee

Response to Scottish Executive Consultation on Debt Arrangement Scheme Draft Regulations, 3 October 2003, Communities Committee

Inquiry into Scottish Solutions: Scottish Solutions Inquiry, 3 October 2003, Enterprise and Culture Committee

Report on Stage 1 of Primary Medical Services (Scotland) Bill, 6 October 2003, Health Committee

Report on Complaint Against Kenny MacAskill MSP and Tricia Marwick MSP, 7 October 2003, Standards Committee

2.5 Parliamentary Bills (01 August 2003 – 31 October 2003)¹⁹

Executive Bills in Progress (latest stage reached):

- Antisocial Behaviour etc. (Scotland) Bill (Introduced 29 October 2003)
- Criminal Procedure (Amendment) (Scotland) Bill (Stage 1)
- Education (Additional Support for Learning) (Scotland) Bill (Introduced 28 October 2003)
- National Health Service Reform (Scotland) Bill (Stage 1)
- Nature Conservation (Scotland) Bill (Stage 1)
- Primary Medical Services (Scotland) Bill (Stage 1)
- Vulnerable Witnesses (Scotland) Bill (Stage 1)

Members' Bills in Progress (latest stage reached)

- Prostitution Tolerance Zones (Scotland) Bill (Stage 1)

Private Bills in Progress:

- Waverley Railway (Scotland) Bill (Introduced 11 September 2003)
- Stirling-Alloa-Kincardine Railway and Linked Improvements Bill (Preliminary Stage)

Private Bills Passed:

- Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill: Passed on 26 June 2003, Royal Assent on 1 August 2003

Proposals for Members' Bills (01 August 2003 – 31 October 2003)

In addition to the record number of proposals for Members' Bills (N = 17) last quarter, a further seven have been proposed this quarter (all of which have already gained enough support from other MSPs to merit being considered by the Parliament). So far, legislative time has only been found to consider Margo MacDonald's proposed bill on Prostitution Tolerance Zones. This Bill started Stage 1 consideration in the Local Government and Transport Committee on 28 October 2003. Listed below are the seven proposed Members' Bills and their proposers in order of date lodged:

- Sunbeds Licensing (Scotland) Bill (Kenneth MacIntosh, Lab)
- High Hedges (Scotland) Bill (Scott Barrie, Lab)
- Civil Appeals (Scotland) Bill (Adam Ingram, SNP)
- Fire Sprinklers in Residential Premises (Scotland) Bill (Michael Matheson, SNP)
- Abolition of Council Tax (Scotland) Bill (Tommy Sheridan, SSP)
- Environmental Levy Bill (Mike Pringle, Lib Dem)
- Proposed EU Constitution Referendum Bill (Nicola Sturgeon, SNP)

2.6 Cross-Party Groups - Reaching the Ceiling?

The number of cross-party groups has actually declined this quarter (from 49 to 42) as some of the existing groups have either decided not to reconvene or have agreed to rationalise their operations through mergers. The eight groups that have not reconvened in Session 2 are:

- Agriculture and Horticulture
- Carers
- Consumer Issues
- Cuba
- Disability

- Information, Knowledge and Enlightenment
- Shipbuilding
- Tourism

Meanwhile, Standards Committee approval of a cross-party group on the Scottish Economy has prompted the deregistering of two existing groups (Citizenship, Income, Economy and Society group and the International Trade and Development group) on the basis that Scottish Economy will now cover their briefs and interests. Explaining this move, Alex Neil (SNP MSP) noted:

A number of us got together and suggested that it was a bit daft having all those separate cross-party groups duplicating one another's work and effort, and that it would be better just to have a cross-party group on the Scottish economy...²⁰

While members of the Standards Committee broadly welcomed the creation of the Scottish Economy group (effectively a 'super-group'), Donald Gorrie (Lib Dem MSP) did express concern that the Parliament gets the balance right between the specific and the general lest groups become so diffuse that they replicate the Parliament itself:

Looking down the list of groups, I think that some could be criticised as being too specific, and possibly Alex Neil's group could be criticised as being too diffuse. A balance has to be struck - one cannot be all things to all men - but reducing the number of groups is desirable. From what Alex has said, this application may achieve that in the economic world. The group should be supported, but it will have to focus efficiently, or it will just replicate the Scottish Parliament.²¹

Despite mergers and decisions not to reconvene, a further group on Construction has also been approved this quarter and two further groups have been proposed (Sexual Health, and Wastes Management) and are awaiting approval.

3. The Media

Philip Schlesinger

3.1 Kent faces and making programmes

In the creative industries, perhaps even more than in other walks of life, cultivating interpersonal relations is of high importance. Building ‘creative clusters’ has become the new holy grail. Link this concept to the idea of cultural cities and regions and you have the fashionable mantra shared by the think-tankerati in the media consultancies and the policy wonks working inside government and the cultural agencies. Get the right people together, they maintain, and the cultural economy will thrive as they strike creative sparks off each other.

Whether this is really so is less important than the fact that many believe it to be true. But even if it’s true, structurally speaking, there is no equal distribution of advantage throughout the UK. Britain has one super-advantaged region, London, inside the M25 belt. Given that London takes the lion’s share of television production, how can other regions compete for the rest of the business? For devolved nations that are *also* cultural regions – such as Scotland – the issue is complicated precisely because it has a ‘national’ colouring. The complication lies in the fact that *nations* are cultural regions with a special political charge.

So far as television is concerned, Scotland has to compete for business in the television economy with powerful production centres such as Manchester, Leeds and Bristol. Trying to build virtuous circles of media production has become increasingly important for the Scottish economy. But how Scotland performs – and for television, that largely means how Glasgow functions as a media centre – depends increasingly on winning commissions in London in competition with other UK regions.

If who you know is important for winning business, how regional producers (and that includes Scots) manage their relationships with those who commission programmes in London for the BBC, ITV, Channel 4 and Channel 5 becomes crucial. For the first time, some new research tells us about the way commissioners think about these questions.

Inside the Commissioners: The culture and practice of commissioning at UK broadcasters was published by The Research Centre for Television and Interactivity in Glasgow on 21 October.²² The study details the thinking of TV commissioning editors about their

relationships with independent production companies. Based on 70 interviews with key players, it covers the context and culture of commissioning; the connections between commissioners and ‘indies’; and how commissioners make decisions.

The report found that commissioners had a great deal of individual autonomy and that ‘indies’ working outwith London really needed to understand much better how they managed their own networking. Indies in the nations and regions have benefited from fiscal incentives and output quotas. Moreover, Scotland’s development agencies – Scottish Enterprise, the Scottish Arts Council and Scottish Screen – have tried to create sustainable industries through a variety of schemes.

For those working in the nations and regions, the summary report recommended that they establish a ‘regular presence in London to enable informal discussions with commissioners to take place’.²³ However, away from the headline recommendations the full report shows that in fact such arrangements are not easy to make or sustain. Producers therefore need to calculate how to manage such connections very carefully. There is no doubt that the nations and regions suffer from structural disadvantages: commissioners do tend to find it harder to network with those outside London and are concerned that they can’t keep as tight a grip on post-production fine-tuning once a programme has been commissioned.²⁴

3.2 Climbing the audiovisual mountainside?

The grandly titled ‘Screen Industries Summit for Scotland’ was held in Glasgow on 3 November.²⁵ Attended by over 150 people, this was the largest meeting to discuss the future of the audiovisual industries in Scotland for well over a decade. It seems that the Scottish Executive is finally beginning to take a serious interest in the sector, after a dizzying succession of ministers of culture and an utter lack of consistent policy thinking. The meeting was organised by the Executive, together with PACT in Scotland (the film and TV producers’ organisation), Scottish Enterprise, Highland and Island Enterprise and Scottish Screen. These bodies had together commissioned David Graham Associates to produce the *Audit of the Screen Industries* that was showcased at the conference.²⁶ Running to some 246 pages, this report offers the most comprehensive snapshot currently on offer of the current trading position of a range of media sectors: television, film, animation, radio, screen-related new media, video production and commercial production. Of the UK’s total £4.8bn audiovisual content production in 2001, Scotland accounted for £240m, or 5 per cent.

In a letter addressed to the Summit's participants, Frank McAveety MSP, Minister for Tourism, Culture and Sport, said, 'I am firmly committed to the development of a thriving Scottish screen industry'.²⁷ McAveety did not attend the start of the meeting as he was returning from Hollywood, where he'd been flying the film industry flag. The official kick-off came from Lewis Macdonald, MSP, Deputy Minister for Enterprise and Lifelong Learning, who emphasised the Scottish Executive's commitment to Scotland's development as a production centre. Growth, company development, skills development – these were all signalled as priorities.

When McAveety finally arrived to conclude the conference, he noted that on 29 October the Scottish cabinet had for the first time ever had a discussion of its cultural strategy and that moving forward on this had the full backing of the First Minister, Jack McConnell. However, he was light on detail, inviting delegates to try and shape the development of policy.

The Summit participants were mainly broadcasters, independent production companies and Scottish development agencies. The gabfest was chaired by the noted journalist, Sheena McDonald, and addressed by leading figures from UK and Scottish broadcasting, independent production, media finance, and various screen agencies. Most of the presentations were rather set piece in nature. The real significance of the meeting was that it had taken place at all. The Summit reflected the growing sense of urgency in Scotland about its competitive position in the UK audiovisual sector. Can Glasgow compete with Manchester? The conference's steering committee has been mandated to follow up the findings with some policy lines. If the usual media community fractiousness can be set aside, the meeting could offer a starting point for some coherent lobbying both in London and Edinburgh.

3.3 Sixing it up, again?

In Scotland's media merry-go-round, some stories keep returning like the undead. The saga of the 'Scottish Six', diligently recorded in our past reports, was recounted once more when the *Sunday Herald* reported that BBC Scotland had been producing pilot programmes for the BBC1 6-7pm news and current affairs slot.²⁸ The pilots were recorded in September, as part of BBC Scotland's review of its journalism output. However, they were described as 'demonstration' tapes, in a vain attempt to stop nervous stirrings in the political dovecote. 'These are to assist focus groups with the concept', a senior BBC source was quoted as saying. 'We are not calling them pilots as that would imply the real thing would follow, and we have an open mind about that.'

For some Labour MPs the heat has not gone out of the issue. The very fact that the BBC was even entertaining the idea of revisiting the Scottish Six brought strident condemnations from Brian Wilson MP, former Scotland Office and UK energy minister. George Foulkes MP, also once of the Scotland Office, warned the BBC not to be parochial. Some predictable good cheer, however, was felt in SNP quarters. Roseanna Cunningham, the party's broadcasting spokeswoman, called for more resources to be put into the project. As usual, the BBC is left between a rock and a hard place on this question.

3.4 Tunes 'n blether fae auldies

In the dying days of the Radio Authority – before the new super-regulator, Ofcom, takes over – the radio franchise for Scotland's newest FM channel has been awarded to Saga Radio. The station has won the right to broadcast to about 1.6 million people in and around Glasgow. The new station, targeted at the over-50s, will enter a toughly competitive commercial market in Scotland. Its key selling point will be the broadcasting of melodic music together with more in-depth news attuned to its target listenership. Media analysts think that Saga Radio is onto an important market opportunity. With over-50s now making up nearly 40% of the population, and a fair chunk of disposable income among the more affluent sectors, Saga may have made a shrewd investment.²⁹

3.5 Will the new ITV be Scottish?

The boardroom dramas that have been enacted in the Granada and Carlton TV companies as they head towards a merger may have transfixed media watchers south of the border. Here, in the northern outposts of ITV, some quite specific considerations have arisen. The consolidation of Channel 3 in England and Wales means that the new company will control 92% of the ITV network. SMG's future independence as the operator of Scottish TV and Grampian TV is now increasingly in doubt. SMG has tried a counter-strike at the emerging centrifugal forces and has asked for Granada and Carlton to divest themselves of their stakes in the morning programme GMTV, so that the Scottish company can build up its own portfolio and try to neutralise its critics in the City. Financial experts regard SMG as over-extended in its radio holdings (it owns 30% of SRH, the main Scottish radio group, as well as the poorly performing Virgin Radio). Earlier this year, SMG had to sell its newspaper holdings in the Herald group to reduce its debt.

The market talk is now of the break up of SMG's radio and TV assets and of likely take-over bid for different chunks of the company. Certainly, senior insiders have said to this writer that they wonder how long SMG will last in its present form.

The story has taken another twist with SMG contesting Carlton and Grampian's proposed annexation of the ITV name for their merged business. SMG failed in a High Court action in London in its attempt to prevent the new company from using the name ITV plc next February. The judge, though, ruled that SMG would warrant compensation for loss of the brand. The matter has yet to be resolved.³⁰

3.6 Dead men's tales and Lord Fraser

It was surely fitting that Scotland's grandly billed version of the Hutton Inquiry would begin with a stushie. Lord Fraser of Carmyllie is the Scottish Tory grandee charged with inquiring into how the Holyrood Parliament project was conducted, and in particular, how its costs escalated so massively. They now stand at some £400m, ten times the estimate first made by the late Donald Dewar, Scotland's first First Minister.

The weekend before the Holyrood inquiry opened on 28 October, it was reported that the BBC had refused to yield copies of videotapes to Lord Fraser's team. Some informed commentators believe that the inquiry team was engaging in some smart PR to get the story onto the news agenda. The offending recordings were interviews with Dewar and the late Enric Miralles, the Catalan architect who had been chosen to design the new Parliament building. What sharpened the media interest was that the recordings had been made by the Glasgow-based Wark Clements independent TV production company, which had been commissioned to make a programme on Scotland's premier building project. Called *The Gathering Place*, this is being made for BBC Scotland. Along with the Parliament building, its costs have reportedly increased from over £300,000 to over £800,000 as time has elapsed. Kirsty Wark, well known for fronting BBC2's *Newsnight*, is not only a founder of the company but was also a member of the selection panel that chose Miralles as the official architect, and known to be a friend of Donald Dewar. It is widely held in Scottish media circles – and also among those journalists south of the border that have taken an interest in the story – that this was a conflict of interests on Wark's part. There is a certain *Schadenfreude* amongst the hacks at her present difficulties. She is to give evidence to the inquiry on her role in Miralles' selection

What occasioned the bigger storm, however, was the outright refusal by John McCormick, Controller of BBC Scotland, to countenance the release of the tapes on the grounds of confidentiality. He maintained that the corporation was bound only to use the material in the final broadcasts. He also said that BBC policy was in policy and principle not to release recordings to third parties prior to transmission. McCormick was firmly backed by Greg Dyke, the BBC's Director-General, and also reportedly leaned on to be accommodating by the First Minister, Jack McConnell, though this was denied in public.

As the row developed, it became clear that not all interviewees had asked for confidentiality. Miralles widow also intervened, saying she had no objections to his interview being made public. There were reports on 31 October that Lord Fraser would be offered a private screening. But this was denied by the BBC. At this time of writing, the inquiry has not resolved its problem with BBC Scotland. After a request by the SNP's leader, John Swinney MSP, the corporation's Board of Governors is to address the issue and until it does so, things remain deadlocked. Meanwhile, Independent MSP, Margo MacDonald, has tabled a motion in the Scottish Parliament inviting Members to hold a debate on the inquiry. MacDonald maintains that Parliament has the power under Section 23 of the Scotland Act (1998) to force the BBC to hand over the material, unlike Lord Fraser, whose inquiry does not possess such means of legal coercion.³¹

4. Public Attitudes

John Curtice

4.1 Attitudes towards issues

What would be the effect on the level of alcohol abuse if it were available round the clock?

	%
More of a problem	49
Make no difference	36
Less of a problem	12

Source: System Three/The Herald 27/8-2/9/03

The Scottish Executive is putting particular emphasis on young people in its moves to tackle anti-social behaviour in Scotland. Do you support or oppose the Scottish Executive in focussing on young people and their behaviour in this way?

	%
Support	90
Oppose	3
Neither	4

Source: System Three/The Herald 25/9-2/10/03

The monthly System Three poll addressed two subjects that are currently the subject of policy making by the Executive. One was the Executive's attempts to tackle anti-social behaviour following the emphasis placed on that issue by the Labour party in its election campaign earlier this year. Unsurprisingly, perhaps, the poll found that nine in ten people believe that this policy should focus on the behaviour of young people in particular. Meanwhile, System Three uncovered some unease about the consequences of liberalising the country's licensing laws as has been recommended to the Executive in a report it commissioned from sheriff principal Gordon Nicholson. Nearly half felt that

alcohol abuse would become more of a problem if it were possible to buy alcohol at any time of the day or night, contrary to the view adopted in the report.

Attitudes towards Discrimination

Perceived levels of prejudice

	% say great deal/quite a lot of prejudice
Black and Asian people	56
Gay men and lesbians	49
Disabled people	31
Women	20

Which comes closest to your own view?

	All	18-24	65+	Degree	No quals
	%	%	%	%	%
Scotland should do everything it can to get rid of all kinds of prejudice	68	68	59	75	62
Sometimes there is good reason to be prejudiced against certain kinds of groups	26	28	35	18	31

Preferred kind of MSP

	%		%
--	---	--	---

Male	4	Black or Asian	1
Female	3	White	11
Not mind either way	94	Not mind either way	89

	%		%
Openly gay or lesbian	2	Disabled	1
Not openly gay or lesbian	18	Not disabled	4
Not mind either way	79	Not mind either way	95

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

	All	18-24	65+	Degree	No Quals
	%	%	%	%	%
Agree	41	65	17	52	32
Neither	24	17	22	22	20
Disagree	30	16	49	22	38

The results of a survey of attitudes towards discrimination that formed part of the 2002 Scottish Social Attitudes survey undertaken by the National Centre for Social Research Scotland was published by the Scottish Executive at the end of September.³² The report addresses three topics: -

- 1) What do Scots themselves believe is the extent of discriminatory attitudes in Scotland?
- 2) What is the extent and character of discriminatory attitudes in Scotland?
- 3) Why do people hold discriminatory attitudes?

As the first table above illustrates, there is a widespread recognition that at least a measure of prejudice exists in Scotland. Three quarters say that at least one of the four groups included in the

table is subject to ‘a great deal’ or ‘quite a lot’ of prejudice, with prejudice against gay men and lesbians and black and Asian people thought to be particularly common.

For the most part, however, only a minority of people express a discriminatory viewpoint. Thus, for example, only just over a quarter say that there is sometimes good reason to be prejudiced. However discriminatory attitudes were more likely to be held in respect of gay men and lesbians and black and Asian people than they are of women or disabled people. For example, 18% say they would prefer someone who was not openly gay or lesbian as their local MSP while 11% say they would prefer a white person. In contrast only 4% would prefer a male MSP or someone who was not disabled.

Despite the higher levels of prejudice against gay men and lesbians more people support the right of gay men and lesbians to get married than oppose it. The Scottish Executive announced in the autumn that it supported giving legal recognition to same sex partnerships but that it proposed to do so by using a Sewell motion to implement legislation that is expected to pass through the UK parliament in the forthcoming parliamentary session rather than introduce separate legislation north of the border. If that decision was guided by concern about a possible public backlash against such a change, similar to the furore that surrounded the repeal of Section 28/Clause 2A in 2000, that concern may have been exaggerated.

As the tables illustrate, discriminatory attitudes were generally more common amongst older people and those without any educational qualifications than they were amongst younger people and those with a university degree. These findings suggest that discriminatory attitudes may become even less common in future as educational standards rise and older generations are replaced by younger ones. However, the report argues that the most immediate explanation for the incidence of discriminatory attitudes is a sense of psychological discomfort about living with people that are thought to be different from oneself.

4.2 Party Fortunes

Opinion Polls

Holyrood Vote Intentions										
	Con		Lab		Lib Dem		SNP		Others	
Vote	1	2	1	2	1	2	1	2	1	2
	%	%	%	%	%	%	%	%	%	%

27/8-2/9/03	10	9	33	26	16	15	31	28	9	22
25/9-2/10/03	12	8	32	25	15	20	31	25	9	22
23-30/10/03	11	11	35	25	17	16	29	30	8	18

The Other votes are divided as follows: -

Vote	SSP		Green	
	1	2	1	2
	%	%	%	%
27/8-2/9/03	4	7	3	9
25/9-2/10/03	5	10	3	8
23-30/10/03	5	6	1	8

Westminster Vote Intentions					
	Con	Lab	Lib Dem	SNP	Others
	%	%	%	%	%
27/8-2/9/03	13	41	14	24	8
25/9-2/10/03	13	39	18	24	6
23-20/10/03	13	43	18	22	5

The principal Other votes are for the SSP who scored 4% in Sept. and October, and 3% in November.

Source: System Three/The Herald

The rise in Liberal Democrat support that was recorded across Britain as a whole in the wake of its by-election success in Brent East in September also registered in a muted fashion at least north of the border. The party enjoyed a four point increase in its level of Westminster support at the end of September, together with a five point increase in its share of the second vote for Holyrood. Equally the decline in Labour's British poll ratings during the course of this year is also apparent in Scotland.

The party's average Westminster poll rating of 41% this quarter is five points down on the position in this quarter a year ago, while the party's Holyrood ratings on both votes are also five points down on a year ago. As a result Labour and the SNP currently appear to be neck and neck in their Holyrood ratings, though this will doubtless be cold comfort to the SNP after its disappointing result in May. Nevertheless, these poll results suggest that if the tectonic plates of British electoral politics have finally begun to shift after ten years of one party dominance, the shape of the electoral contest north of the border can be expected to change too.

Local Government by-elections

4/9/03 Glasgow, Drumry	% vote	Change in % vote since 2003
Conservative	2.9	+0.4
Labour	62.6	+7.6
Liberal Democrat	1.4	-1.4
SNP	13.4	-1.6
SSP	17.9	+2.0
Green	1.1	I
Socialist Labour	0.7	I

Turnout 22.7 (-5.7)

9/10/03 Edinburgh, North Mor'side	% vote	Change in % vote since 2003
Conservative	36.4	+17.1
Labour	6.9	+0.0
Liberal Democrat	43.1	-15.5
SNP	4.6	-2.0
SSP	-	W
Green	9.0	I

Turnout 36.9 (-21.3)

I Fought by-election, did not fight May 2003 election. W Fought May 2003 election, did not fight by-election

Source: <http://www.gwydir.demon.co.uk/byelections/>

Two local by-elections held this quarter have suggested that there has at least been no further erosion of Labour support as compared with the modest performance it recorded in May, when it won 32.9% of the local election votes cast in Scotland, down 3.7 points on its 1999 performance. The by-election in North Morningside was occasioned by the resignation of Mike Pringle following his success in winning the Edinburgh South constituency seat in the Scottish Parliament election, and the loss of his personal vote in the ward doubtless helps account for the sharp decline registered in Liberal Democrat support.

4.3 Future Elections

The consultation period for the Executive's draft bill that, inter alia, would introduce the Single Transferable Vote into Scottish local elections was concluded in September and the bill is expected to be introduced into the Scottish Parliament before the end of the year. In line with the partnership agreement between Labour and the Liberal Democrats, the draft bill³³ proposes that STV be used in a mixture of three and four member wards. The relevant sections of the draft bill largely cover the details of how the count should be conducted and in so doing for the most part follows the legislative provisions already in force for STV elections in Northern Ireland. However some provisions that will be required such as the definition of an invalid vote and the procedure for conducting a recount are absent from the bill and these will presumably be covered by secondary legislation.

The bill makes provision for new wards to be created by the Local Government Boundary Commission for Scotland. Surprisingly, however, the bill gives no guidance as to how the re-warding is to be conducted, including the criteria that will determine where three member wards are created and where four member. While the draft bill provides that the rules that currently guide the work of the Local Government Boundary Commission should be repealed, nothing is put in their place. Evidently, despite the fact that these rules are amongst the most politically sensitive feature of the electoral system the Executive intends that they should be implemented through secondary legislation.

Meanwhile the Electoral Commission has published a consultation document on the use of all postal ballots in the European Elections in 2004.³⁴ The UK government has indicated that it wants such ballots to be used in three of the eleven regions into which Great Britain is divided for European Elections, and the purpose of the Commission's consultation document is to seek advice on which those regions should be. As Scotland is the only part of Great Britain where no local elections will be held at the same time as the European Elections, it would be relatively straightforward to switch to an all postal ballot and thus is a hot favourite to be one of three selected regions. If it is, then on the basis of past experience in local elections, this should help increase the turnout in next year's contest.

5. Scotland/UK Relations

Alex Wright

5.1 The Secretary of State for Scotland

In an interview with *The Herald*, Alistair Darling explained that ‘the headcount at the Scotland Office is diminishing as bits are spun off and slimmed down – the current staff level being below 100’. This follows the recent departmental reorganisation which resulted in it being subsumed within the Department for Constitutional Affairs (see previous Monitor Report).

As regards past ‘turf wars’ between the Scotland Office and the Scottish Executive, Darling was up-beat. He observed:

We were getting into a situation where the Secretary of State, with a full time post was doing things they didn’t need to do. There was a lot of what you might characterise as hand holding. If a Scottish Executive minister wanted to get in touch with the Department of Trade and Industry they’d go with the Scotland Office and often the meeting would be attended by a Scotland Office minister. Now, that’s daft. They don’t need us to hand hold.

He added that as far as further changes to the Scotland Act were concerned, only the proposed legislation on the number of Scottish MSPs was imminent. With regard to more substantive amendments such as changing the voting system he said that ‘if there were a consensus, then the government would have to look at it. This is not something one political party can decide on.’³⁵

5.2 University Finance

On July 2003, the Enterprise Committee launched its inquiry into the impact of England’s University Fees on Scottish Higher Education (see also 11.7). The inquiry entitled ‘Scottish solutions’ is a result of the proposal from the UK Government that English universities could if they so wished charge an annual fee of up to £3,000. In Scotland, there has been a consensus amongst the political parties that students at Scottish universities should not pay up-front fees during their studies, instead contributing to a graduate endowment fund when

their earnings reach £10,000. The proposals for England have led to a number of concerns in Scotland, some of which focus on the financial sustainability of the Higher Education sector. If English universities can charge an up-front fee, it has been argued that they could be better resourced than their counterparts in England.

The committee's closing date for the submission of written evidence has now passed and it is currently taking oral testimony. This is set to continue through November and into early December, after which the committee is expected to agree a draft report prior to Christmas. Once the final version is published early in the New Year, the Scottish Executive has two months to respond. It is expected that Jim Wallace who holds the portfolio for Higher Education will respond to the report by early March. The Enterprise Committee will then decide how it will react to Mr Wallace's views on the matter, if necessary calling him to appear before MSP's or seeking a plenary debate in the Scottish Parliament.³⁶

Speaking at a Department of Politics seminar at the University of Dundee on Friday October 17th, John Swinney MSP, leader of the Scottish National Party, announced that the party's MPs at Westminster would be directly involved in any future vote on tuition fees. Although this would once more highlight the salience of the West Lothian Question, concerning the right of Scottish MPs at Westminster to vote on English matters, Mr Swinney maintained that the SNP was entitled to vote because of the implications for Scotland.

5.3 Civil Partnership Registration

The Scottish Executive has launched a consultation exercise on 'civil partnership registration: a legal status for committed same-sex couples in Scotland'. That prompted the Scottish Parliament's equal opportunities committee to set up its own consultation exercise on Civil Partnership Registration.

The Executive's position is as follows:

It is proposed that same sex couples be able to register their partnership in Scotland in order to access a comprehensive package of rights and responsibilities in both reserved and devolved areas. To ensure this package of rights and responsibilities takes account of the reserved and devolved elements of this new status, we believe

that the Scottish Parliament should be invited to agree that Scottish provisions are included in any future UK Civil Partnership Registration Bill.³⁷

In effect it would appear that any proposed legislation would be subsumed under a Sewel Motion. In its call for evidence, however, the Equal Opportunities Committee has asked for the views of interested parties on ‘the Executive’s proposals for the Scottish Parliament to agree to a Sewel Motion, so that Scottish provisions can be included on any Westminster Bill’.³⁸

From a functional perspective, the Parliament’s views will feed into the Executive’s position on whether a Sewel Motion will be used. Politically it may be expedient to resort to a Sewel Motion, because in so doing, it avoids the Scottish Parliament becoming embroiled in a potentially controversial piece of legislation at a time when Holyrood’s image remains in the doldrums.

5.4 Independence and Scotland’s National Anthem

Alex Neil, an SNP MSP who is an ardent supporter of the proposed independence convention has raised the issue of whether the Scottish Parliament has the right to introduce a Bill on Independence. This was prompted by John Swinney’s promise that should the SNP become the governing party, it would hold a referendum on independence within three years. George Reid the Presiding Officer replied that ‘under the Scotland Act there was no mechanism for making “speculative rulings”’. He also explained that, ‘if a bill was submitted for introduction I would, as you know, offer a view on legislative competence as required under the Scotland Act.’³⁹

6. Scotland/International Relations

Alex Wright

6.1 Ministerial Responsibilities for the EU and External Affairs

Appearing before the European and External Affairs Committee, Andy Kerr, the minister for Finance and Public Services, gave MSP's a brief *resume* of which ministers were responsible for European and External Affairs. Both Mr Kerr and Tavish Scott will be responsible for the 'specific portfolio responsibilities' but he also stated that both 'the First Minister and Deputy First Minister retain a high-level strategic interest and play their own roles within the external relations work'. Patricia Ferguson is responsible for ensuring that the Executive met its responsibilities with regard to the transposition of EU legislation.⁴⁰ According to the Executive's web-site Mr Kerr's responsibilities include 'external relations issues', whilst Mr McConnell's remit covers 'the strategic relationship with the UK Government, the European Union and other external relations'.⁴¹

Mr Kerr also informed MSP's that an *ad hoc* ministerial group had been set up. He explained:

Recently, we also set up an ad hoc ministerial group on European strategy to consider the co-ordination of policy, how we can influence the UK Government's position on EU issues that affect us and how we will deal with forthcoming European legislation. The group also considers the wider reform agenda within Europe and our working relationships with other parts of the EU. We want to ensure that, as a Cabinet and Executive, our focus is correct and that we are working on the key issues and intervening at the appropriate time to ensure that our interests are best represented.⁴²

The ad hoc committee, is therefore a new development, which is designed to co-ordinate the Executive's position on external affairs.

In sum, the allocation of ministerial responsibilities in the aftermath of the May 2003 Scottish election reflects just how much foreign affairs impacts on matters devolved to the Executive. During Donald Dewar's period as first minister, it was initially unclear whether one minister, held specific responsibility for what was then merely the portfolio for European affairs. In practice, Jack McConnell, whose portfolio included the structural Funds took a close interest in EU matters, whilst Mr Dewar and his deputy, Jim Wallace were both involved in representing Scotland. Mr Dewar undertook a high-profile visit to Dublin and immediately after Dewar's death Mr Wallace represented Scotland at a conference under the aegis of Congress of Local and Regional Authorities of Europe (see previous Monitor Report). When Henry McLeish became First Minister, both he and Mr Wallace, assumed overall charge of European affairs but Mr McConnell was also assigned the European portfolio with Nicol Stephen, as his deputy. When Mr McConnell became First Minister, the following year, both he and Jim Wallace were responsible for European affairs, but this was extended subsequently to include external affairs. However, no other ministers were formally assigned the European and external affairs portfolio. Aside from the impact of foreign affairs on

devolved matters, a further explanation as to why two other ministers now share this responsibility with McConnell and Wallace, is that it ensures the latter do not have to make regular appearances before the European and External Affairs Committee. Throughout the Parliament's first four-year term, individual ministers have dealt with European affairs, when this impinged on their responsibilities (e.g. Ross Finnie and the Common Fisheries Policy) and the same holds true today.

With the EU set to change substantially in the near future as a result of the new constitution and enlargement, there needed to be some mechanism (i.e. the ad hoc committee) which enabled ministers to respond collectively to developments during the coming months and so ensure that Scottish interests are transmitted upwards to the UK Government.

6.2 The First Minister

Jack McConnell's involvement in EU and external affairs has attracted virtually no attention during the previous quarter. However, this is likely to change. He is a member of the CoR's Commission for Constitutional Affairs and European Governance. He will also assume the presidency of the group of regions with legislative power (REGLEG) during November 2003.

6.3 Deputy First Minister

Jim Wallace, the Deputy First Minister and Minister for Enterprise and Lifelong Learning visited Japan and Singapore. The visit was primarily to promote Scotland's commercial interests in the region.

6.4 The Italian Presidency of the EU

Andy Kerr, issued a statement on behalf of the Executive on the Italian Presidency of the EU, in which he highlighted a number of issues which would be 'important' for the Scottish Executive. These included the IGC and Enlargement. As far as the latter was concerned, he observed:

The Executive remains strongly supportive of Enlargement, and it continues to maintain close contact with the UK Government over the implications of Enlargement. We also continue to support the UK in promoting awareness of Enlargement across Scotland. Additionally we are considering how to foster closer links between Scotland and the Enlargement countries.⁴³

The statement also mentioned the Executive's intentions to build on its links with Sub Member State Administrations in Europe, through the formulation of 'Action Plans', with those territories where the Executive has already concluded bilateral agreements (i.e. Catalonia, Tuscony, North Rhine Westphalia and Bavaria). In so doing the minister hoped that this would 'extend the Executive's influence in the EU'.⁴⁴

It would appear that the Italian Presidency has earmarked culture amongst its priorities. That prompted an official statement from Frank McAveety, the Executive's minister for culture, tourism and sport. He explained that the new Presidency coincides with a debate for an intergovernmental instrument on cultural diversity – itself prompted by 'UNESCO adopting the Universal Declaration on Cultural Diversity and an action plan'. Frank McAveety advised

however that the Scottish Executive would not be directly involved in this debate. He explained in his statement:

The work programme in both the cultural and sports fields are of interest to the Executive, but are unlikely to have a significant impact on the Executive's programmes and policies. On issues of EU competence, such as those relating to the international instrument on cultural diversity, this will be a matter for the UK Government in consultation with the Scottish Executive as appropriate.⁴⁵

6.5 The Executive and the IGC on the future of Europe

In his evidence to MSP's on the European and External Affairs Committee on September 9th Andy Kerr stated that as far as the promotion of Scotland's interests in the EU were concerned, the Executive was 'quietly pleased and confident' with regard to the paper submitted earlier in the year by Mr Hain, on behalf of the devolved governments in the UK' (see previous monitor report). Mr Kerr explained that elements of the Hain paper had been incorporated into the Convention's draft constitution. This included a reference to 'regional governments and regional parliaments in insuring subsidiarity, the reforms to make the Committee of the Regions more effective, and flexibility with regard to national and regional Parliaments so that the implementation of European legislation makes sense locally'.⁴⁶ He also informed MSPs that 'some aspects did not quite reach the draft' and that the group of regions with legislative powers – REGLEG – would 'pick up' some of these issues.⁴⁷ When asked to identify which elements of the Hain paper had yet to be realised, Kerr mentioned two examples. Firstly, that the demands relating to the Committee of the Regions had not been 'picked up in the IGC process'. Secondly, with regard to the issue of the pre-legislative process, the Executive wanted to ensure that 'sub-member states and regional Governments were fixed into the system and were involved in consultation on, and the development of, legislation at the pre-legislative stage'.⁴⁸ He warned however, that in 'the rush to broker a deal' between the member states, the Executive's demands could be 'thrown on the cutting room floor' and that the Executive must ensure that there is no 'roll back' of those elements which have already been incorporated in the draft constitution⁴⁹. He added that Scottish officials would attend the IGC but he was uncertain as to whether Scottish ministers would also be present.⁵⁰

6.6 International Trade and External Relations

In response to a question from Keith Raffan MSP concerning the representation of interests on the recent WTO talks, Kerr explained the rationale behind the Executive's direct involvement in inter-governmental conferences. Regarding Scottish participation at the 2002 World Summit on sustainable development (see earlier Monitor Report), Kerr maintained that 'there was a clear justification – a clear reason and need – for us to be represented at the Johannesburg event'. But the Executive's position regarding international trade was somewhat different, in part due to the fact that this related to reserved matters. He commented:

There are two clear, important points about the international trade discussions. First, we need to acknowledge that the matter is for the UK. Secondly, however, our views are represented appropriately in terms of documentation, positions and influence. The answer to the question about how we make that judgement is that it is made on the basis

of which of our policy levers in Scotland comes into play in those discussions. For sustainable development, there are clearly many critical levers within Scotland. However, international trade relations are the responsibility of the DTI. Clearly, the issue affects us so our views are represented to that department, but we do not have the levers. I am not saying that we are not responsible for enterprise – we are – but international trade relations is an aspect for the UK Government, which we seek to influence through our normal channels.⁵¹

Whereas, according to Kerr, the Executive ‘had a clear role in sustainable development’.

The Scottish Executive’s External Relations strategy currently has four main objectives. These are:

- To promote Scottish devolved policy interests in the EU and internationally.
- To build mutually beneficial links with regions and countries of the EU and beyond.
- To promote a positive image of Scotland overseas.
- To maximise the effectiveness of our relations with the UK Government.⁵²

The inclusion of relations with the UK Government, tallies with Mr McConnell’s remit which includes ‘the strategic relationship with the UK’. Quite what this amounts to in practice remains to be seen. Perhaps one day relations with other devolved administrations within the UK might also be incorporated into the Executive’s external relations policy.

6.7 Nordic Links

Tavish Scott, the Deputy Minister for Finance, Public Services and Parliamentary Business signed the Shetland Declaration at the second North Atlantic Conference at Lerwick on October 1st. He told the conference:

These meetings further underline the fact that this devolved government is an outward looking, modern administration which aims to be a key player in all matters involving the North Atlantic, an area which many coastal nations and communities depend on for many aspects of their lives.

He added that the conference gave him ‘an opportunity to look to build on the strong and constructive links the Scottish devolved government has with our Nordic neighbours’. The other participants included ministers and representatives from Shetland, Norway, Iceland, the Faroes, Greenland and the Nordic Council.⁵³

The Executive has been cultivating its links with Nordic countries for some time now the most recent being the Executive’s mission to Sweden (see previous Monitor Report). That prompted some commentators to ask whether the Executive might apply for Scotland to become a member of the Nordic Council.⁵⁴ According to *The Herald*, however, this was not to be. It stated:

Scotland will not be joining the Nordic Council, ministers confirmed yesterday. The grouping consists of Denmark, Finland, Iceland, Norway, Sweden, the Faroes, Greenland and an island province of Finland.⁵⁵

6.8 The European and External Relations Committee of the Scottish Parliament

The Committee is in the process of conducting two substantive inquiries. One is concerned with the application of the EU's structural Funds, following the UK Government's call for regional aid to be repatriated to the member states (and where possible devolved to the sub-state level). The second inquiry will be examining how Scotland is 'promoted world-wide – the external relations policy, strategy and activities of the Scottish Executive'.

The inquiry will be focusing on the following five main themes:

- Definition and implementation of a coherent, co-ordinated and resourced strategy for external relations.
- Success of efforts to develop government-to-government links with the European Union and internationally.

Analysis of the efforts to co-ordinate the Scottish Executive's role in the EU decision-making process (including inter- and intra-UK processes) and in the implementation of obligations.

Success of efforts to promote Scotland abroad, including through tourism, economic development, trade, education links, culture and heritage and the attraction of a new populace to Scotland. This will include an analysis of successes of other nations/regions in these areas.

- Success of Tartan Day and its future development, in particular the plans of the Scottish Executive for future involvement in resource allocation. This will include an analysis of the wider Scottish-North American links.

In a paper on the proposed Subsidiarity early warning system – as outlined by the Convention on the future of Europe, Richard Lohead MSP, the committee's convener complemented the efforts of Peter Hain, the UK Government's representative at the Convention. This related to the Convention's proposal that a new constitutional treaty should include the provision for the Parliaments of the member states to object to proposals emanating from the European Commission on the grounds of subsidiarity and proportionality. Observing that this new power would not be tantamount to a veto as 'the Commission can in the end continue with its proposal un-amended', Mr Lohead, welcomed Mr Hain's statements calling for this power be also 'shared and devolved' to the Scottish Parliament. He added that 'in this respect the committee has agreed to work with our counterparts in the UK Parliament and also liaise with local government in Scotland'.⁵⁶

The origins of the Network of Regional Parliamentary European Committees can be traced to the latter part of 2002 and the network was formally established in 2003 by the European Committees of Catalonia and Scotland (see previous monitor report). It was agreed that the network should include other European Committees from regions with legislative powers akin to Scotland and Catalonia. NORPEC's factsheet indicates that the network 'will start meeting regularly' and that it intends to hold a conference in Edinburgh, to which chairs from the other European committees will be invited – an intention being that they might also join the network. Over time it is hoped that the network can be expanded to include the European

committees from other territories. One its objectives is to shadow the activities of Ministers at REGLEG. More particularly, the network seeks to become an influential player in its own right. The European Committee of the Scottish Parliament sought membership of COSAC, the body which represents the views of 'national' parliaments in the EU but this was apparently rebuffed by the French (see previous Monitor Report). NORPEC is thus to some extent an attempt to circumvent this by firstly establishing a powerful network and then using it as a common platform to influence the EU with regard to the common interests of its constituent members. The factsheet states that future work could include, the 'post-Convention period, enlargement, and giving the Regions a larger collective voice'.⁵⁷

The Scottish Parliament's Convener, Richard Lohead, believed that NORPEC, had a part to play in ensuring that subsidiarity and proportionality is respected (see above). With regard to the draft treaty on an EU constitution he explained:

Although the draft treaty allows for such devolution beyond the member state parliament (s), it is far from clear which of our counterpart sub-state parliaments will enjoy such parallel status and rights. We will be keen to use the nascent Network of Regional Parliamentary European Committees (NORPEC) to share our experiences across the EU and amongst European Affairs' Committees.⁵⁸

It remains to be seen whether NORPEC eventually realises the ambitions of its creators.

7. Relations with Local Government

Neil McGarvey

7.1 Local Democracy Working Groups

The Executive established three local democracy working groups established to examine the practical issues related to the Local Governance (Scotland) Bill.⁵⁹ The groups are:

- i. The Single Transferable Vote Working Group will be chaired by David Green, Chairperson of the Crofters' Commission and former Convener of Highland Council. It will examine the procedures necessary to facilitate council elections being held using the Single Transferable Vote, of how multi-member wards will operate in practice, and will commission research and other information as required.
- ii. The Councillors' Remuneration Progress Group will be chaired by Lord Sewel, Senior Vice-Principal at Aberdeen University. It will consider options for, and the associated costs of, a new system of remuneration for councillors. The Group will also consider the role which councillors fulfil, the part-time commitment required of the majority of councillors, and the salary which this should attract.
- iii. The Widening Access to Council Membership Progress Group will be chaired by Rowena Arshad, Director of the Centre for Education for Racial Equality in Scotland, University of Edinburgh. It will take forward work on making council membership more attractive to a wider cross-section of the community, including the preparation of non-statutory guidance on the definition of politically restricted posts, and make recommendations on the training, development and support given to councillors.

7.2 Local Government Statistics

Scottish Local Government Financial Statistics for 2001-2002 were published this quarter. They showed that councils Gross Revenue Expenditure in 2001-02 was £13.9 billion, representing an increase of 9.1per cent on 2000-2001. Education accounted for the largest share of local authority revenue expenditure (£3 billion – 21per cent). Housing was the second largest item with £2.4 billion (17per cent).⁶⁰

The latest local authority staffing figures published this quarter show a year on year increase of 4,614 full-time equivalent staff working in Scottish local authorities, a 1.9 per cent increase between June 2001 and June 2002. It shows a total of 242,192 full-time equivalent staff in Scottish local government. This change includes an increase of 1,992 in the category of non-teaching education staff, which includes school, pre-school and early school classroom assistants. The new Joint Staffing Watch survey for Scottish local government began in 1996, and results can be viewed at www.scotland.gov.uk/jointstaffingwatch.

Councils in Scotland are collecting a higher proportion of council tax in year than in any previous year according to figures released this quarter. Tavish Scott, Deputy Minister for Finance and Public Services, said there have been significant increases in collection rates over the past five years and the collection rate is now over 91 per cent. Recommendations from the joint CoSLA and Scottish Executive report "It Pays to Pay" have been introduced in recent years. Last year, £5 million was given to councils across Scotland to improve local tax collection.⁶²

7.3 New Housing Development Funding Role for Glasgow

After the large scale voluntary transfer of its housing stock (see previous quarterly reports) Glasgow City Council has now taken over responsibility for £82 million of housing development funding in its area. This is the Executive programme for building new and improved homes currently operated by CommunitiesScotland. It is the first Scottish council to take on this new strategic regulatory role and reflects the changing role of local authorities. Glasgow has now switched from being a direct provider of social housing provision to a regulator of registered social landlords (RSLs) in its area. Twenty-four CommunitiesScotland staff were seconded to Glasgow City Council for up to two years to ensure it has the required expertise. The transfer of development funding is in line with the Housing (Scotland) Act 2001 which states that where a local authority transfers its housing into community ownership then it should take on responsibility for development funding.⁶³

7.4 A new centralism?

A series of events this quarter have led to suggestions that the Scottish Executive is showing signs of pursuing a new centralising agenda. A threat to intervene in failing council education and social work departments, the creation of a new national transport agency and a new National Correctional Agency for the criminal justice system are seen as indicators of this.

The Herald reported that ‘Some in local government and not just the habitual conspiracy theorists are becoming deeply concerned by the cumulative weight of the changes. They perceive a centralising agenda at work, with power being siphoned away from councils to Holyrood, never to return’. There does appear to have been a hardening of attitude in the Executive with the consultancy ‘partnership’ approach being replaced by a more hard-nosed attitude towards perceived failing councils.

However to suggest that we are witnessing the beginning of the end of Scottish local government is hard to take seriously.⁶⁴ The figures cited in section 7.2 above shows that in terms of finance and staffing local councils in Scotland are still important. Although this role may be changing in some policy areas (e.g. housing) they are still, and are likely to remain, very important institutions to anyone seeking to understand the dynamics of government, politics and public policymaking in Scotland.⁶⁵

The new national transport agency will be designed to help local authorities deliver major road and rail schemes planned for the next decade. Expected to come into effect in April

2005, it will take responsibility for delivering improvements in road, rail, air, and ferry services. The exact powers, format and role of the agency will be decided following a three-month consultation period that ends in November. COSLA expressed disappointment at the plans, as these plans would be likely to lead to the abolition or downgrading of the Strathclyde Passenger Transport Executive (SPTE). The SPTE is made up of the 12 councils in west central Scotland. It sets fares and timetables for ScotRail trains in the region and is in charge of the Glasgow Underground. The Executive has suggested that there are problems with the effectiveness of the SPTE model, having had to intervene financially due to a deficit in its funding last year (its funding comes from member councils, rail and subway fares, and Scottish Executive grants).⁶⁶

In October the head of social work in Edinburgh resigned after the publication of the report into the death of a child in the care of his social work department was published. It concluded the death was avoidable and blamed a catalogue of failures in social work, health authorities and the police. Following the report's publication Jack McConnell threatened that the Scottish Executive would step in to any failing social work department or health board. Many social work authorities are blaming gaps in service on staff recruitment and retention problems with children on the 'at risk' protection register left unsupervised. The Scottish Executive plans to address statutory breaches under the anti-social behaviour bill, updating the Children (Scotland) Act 1995 with reporters given powers to apply to sheriffs for orders requiring councils to comply with supervision requirements.⁶⁷

Other notable developments this quarter:

- The nursery nurses' dispute referred to in previous quarterly reports is still ongoing – reports suggested the latest COSLA pay offer had been rejected by Unison.⁶⁸ Unison suggested that councils were reluctant to accept a national nursery nurse pay scale because they wanted to set pay rates themselves depending on market forces.
- The head of Glasgow Alliance - the publicly-funded company charged with leading Glasgow's regeneration – quit his £83,000-a-year post. Set up in 1998, the Alliance distributes £25m of public money each year, most via 10 social inclusion partnerships (SIPs). The alliance's board members (including Glasgow City Council, Scottish Enterprise Glasgow, Strathclyde Police, Glasgow Chamber of Commerce and the local health board) recently decided to reform it, after an independent consultant's report criticised the "widespread uncertainty" about its basic purpose.⁶⁹

8. Finance

David Bell

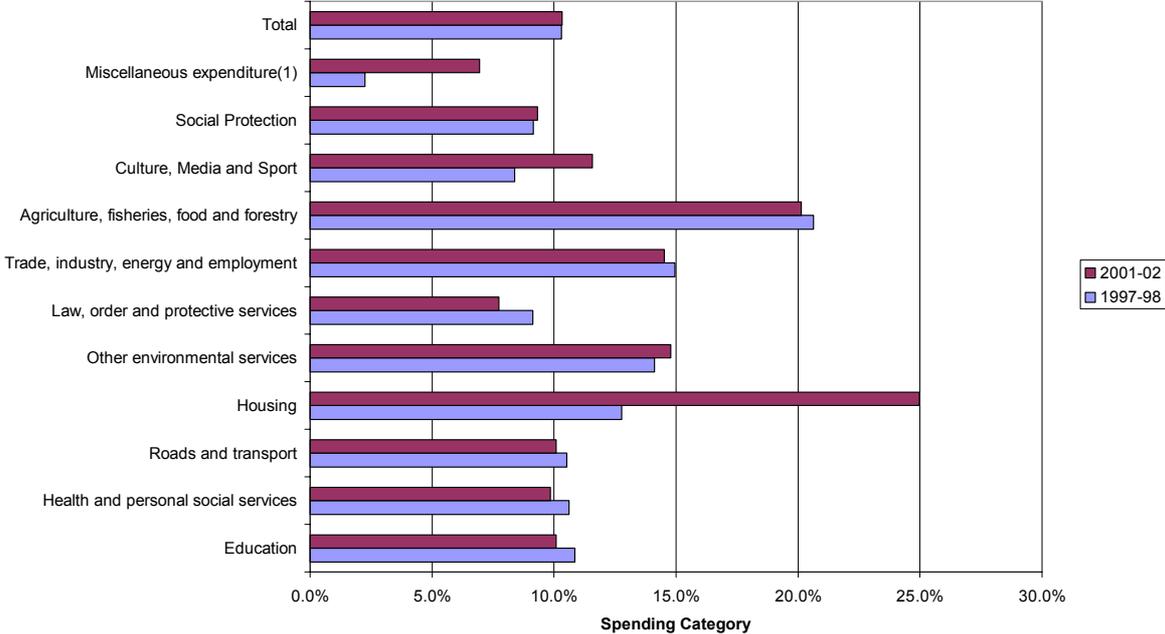
8.1 Statistical releases

Recent statistical releases start to put some perspective on how the resources available to Scotland from Westminster have changed since devolution. The 2003 Public Expenditure Statistical Analysis shows that Scotland received a broadly constant share of identifiable UK public expenditure between 1997/98 and 2001/02. Devolution has not been associated with any dramatic change in the aggregate resources available from the public sector. Throughout the period, while Scotland's population share drifted down from 8.74 per cent to 8.61 per cent of the UK total, its share of identifiable public expenditure remained almost constant at 10.3 per cent of the UK total.

The implication of a relatively constant share of aggregate identifiable public expenditure and a continuing decline in Scotland's relative population is that spending per head in Scotland rose relative to other parts of the UK between 1997/98 and 2001/02. Indeed the data suggest a rise from 17 per cent above the UK average to 20 per cent over this period.

The Barnett formula works by allocating to the Scottish Executive Scotland's population share of increases agreed with Whitehall departments on comparable programmes (such as health and education). A logical consequence of the formula is that Scotland's share of aggregate public expenditure should decrease – the so-called “Barnett Squeeze”. Therefore, taken at face value, these data suggest that the Barnett squeeze has not occurred or has somehow been offset. For example, the Barnett Formula applies to only a proportion of total identifiable expenditure and hence a potential explanation is that other spending programmes have risen to compensate for the Barnett Squeeze. Figure 1 shows changes in the Scottish share of UK spending across a range of public spending programmes between 1997/98 and 2001/02.

Figure 1: Scottish Share of UK Identifiable Public Expenditure 1997/98 and 2001/02



The social security programme is by far the largest component of public spending in Scotland that is not covered by the Barnett Formula. Over the period, expenditure per head on social security in Scotland rose from 4.8 per cent above the UK average to 8.4 per cent. This is consistent with the relative worsening of Scotland’s economic performance at least as measured by growth in GDP since devolution. Thus part of the explanation of the paradox of increased per capita spending in Scotland since devolution is due to the automatic stabiliser effects of social security. Many commentators outside Scotland argue that the outcome of the Barnett Formula is too generous a provision to Scotland: but when Scotland’s relative prosperity is declining, it is the social security system, rather than the Barnett Formula which provides an automatic response.

Agricultural spending is also largely outside the Barnett Formula. Scotland has a high share of UK agricultural spending but given that such spending is more closely related to land area than to population, this is not surprising. The remaining categories of spending are largely within the ambit of Barnett. Among these, the category that has grown massively in recent years has been the amount allocated to housing. This is almost certainly the result of the

£1.4bn housing stock transfer in Glasgow which was financed from the Treasury rather than through the Barnett mechanism.

One can reconstruct the Scottish spending accounts leaving out those factors which are largely outside Barnett or which have been subject to exceptional circumstances. One way to do this is to assume that identifiable expenditure in Scotland on housing, agriculture and social security grew at the same rate as the rest of the UK between 1997/98 and 2001/02. Under this assumption, a quite different picture emerges. As a share of the UK total, identifiable public expenditure in Scotland falls from 10.3 per cent to 10.1 per cent and there is little discernible change in per capita spending in Scotland relative to the UK. This suggests that, leaving aside special factors and spending outside the Barnett Formula, even though the Barnett squeeze has hardly been very tight, at least it has not changed direction.

And the key components of the Scottish budget – the large spending programmes under the control of the Scottish Parliament – have behaved very much as one would expect had a Barnett squeeze been in place. Thus, for example, health, education and transport spending in Scotland have all fallen as a share of equivalent spending in the UK as a whole between 1997/98 and 2001/02. Health spending has fallen from being 21.3 per cent per capita above the UK average to only being 14.5 per cent; for education the equivalent figures are 21.2 per cent and 17.2 per cent, while for roads and transport they are 20.4 per cent and 17.4 per cent. Further, spending per head on law and order has also fallen from 4 per cent above the UK average to 10 per cent below. But on some much smaller programmes such as Culture, Media and Sport, spending in Scotland has grown faster than in the UK as a whole.

Nevertheless, the latest Public Expenditure Statistical Analysis suggests that on key spending programmes, expenditure per head in Scotland has been growing slower than that in the UK as a whole since devolution.. The extent to which this reflects the policy choices of the Executive rather than the constraints imposed by the funding mechanism awaits further detailed analysis.

Chapter 9: Legal Disputes

Barry Winetrobe

9.1 Fraser Inquiry on the Holyrood Project

The inquiry established by the First Minister, with the Presiding Officer, and chaired by Lord Fraser of Carmyllie, is already showing signs of being a fertile source of potential legal disputes. Because it is a non-statutory inquiry, it has no formal powers to call for witnesses or documents, and is relying on cooperation from all concerned. The devolved institutions have no power to establish a Tribunal of Inquiry under the Tribunals of Inquiry (Evidence) Act 1921, and there are currently calls for the Parliament to use its statutory powers under the Scotland Act to force recalcitrant bodies such as BBC Scotland to provide information. Whether such a route is competent depends on whether the targeted body is one which falls under devolved ministerial responsibility, which, in the case of BBC Scotland, may be hard to establish clearly. A further legal complication may be the willingness of potential witnesses to ‘incriminate’ themselves in terms of any future legal action, such as disciplinary action against officials or pecuniary damages by or against commercial contractors. In more ‘devolution’ terms, there may even be questions as to the legal and practical competence of the Inquiry itself when it, a body set up by the devolved institutions, ventures into matters which took place before the establishment of devolution in 1999 (and questions those who were involved in the Holyrood Project both before and after 1999, perhaps even in different capacities), or seeks to call present or previous UK ministers or officials. While it is certain that most of those actually or potentially involved with the Project and the Inquiry will strain to avoid any potential difficulties that could put the devolution legislation and relationships at risk, the possibility of legal disputes, perhaps even some landing in the courts, cannot be wholly discounted.

9.2 Dispute resolution

In a written answer on 16 September, the junior Scotland Office minister, Anne McGuire, explained the potential impact of the recent constitutional changes on devolution dispute resolution procedures:

There are no plans to amend the powers of the Secretary of State under section 35 of the Scotland Act. This gives the Secretary of State the power to make an order prohibiting the Presiding Officer of the Scottish Parliament from submitting a bill for Royal Assent in certain circumstances. In terms of section 33 of the Scotland Act the Advocate General, the Lord Advocate or the Attorney General may refer the question of whether a Bill or any provision of a Bill would be within the legislative competence of the Parliament to the Judicial Committee of the Privy Council for adjudication. The Government published a consultation paper in July, *Constitutional Reform: A*

Supreme Court for the United Kingdom, which seeks views on the proposition that the new Supreme Court should have jurisdiction over devolution cases presently heard by the Judicial Committee of the Privy Council.⁷⁰

10. Political Parties: James Mitchell

10.1 Swinney's re-election

The SNP's poor performance in the elections in May provoked a challenge to John Swinney's leadership from Bill Wilson, a relatively unknown activist. Wilson's message was rather incoherent and confused but as no-one, including Wilson, expected he would win, the contest was seen as a vote of confidence in John Swinney's leadership. Two features of the election are likely to influence internal SNP politics into the future. First, Swinney's massive victory, winning 84 per cent of delegates – 577 votes to 111 - at the party's 69th annual conference in Inverness between 24 and 27 September, should ensure that if Wilson was a stalking horse then, all things being equal, a more serious challenger is unlikely to appear next year. Second, it highlighted the ease with which a fringe figure within the SNP could mount a challenge with very little support. Swinney's victory was in part down to the organisational skills of Bruce Crawford, MSP for Mid-Scotland and Fife.

Media speculation prior to the conference had suggested that Wilson was a serious challenger, though with little hope of victory and the contest inevitably provoked many articles speculating on Swinney's and the SNP's future. One columnist suggested that the SNP should abandon independence.⁷¹ Others wished for a return of Alex Salmond.⁷² Showing no understanding of recent Scottish political history, the *Scotsman's* political editor suggested that the contest showed up a 'split' which would undermine the SNP's future, ignoring far more serious tensions over the previous twenty years.⁷³ Overall, Wilson's level of support was exaggerated in the press.⁷⁴ Media speculation sat uneasily with the message at the conference where it was soon evident that Wilson was marginal figure and that Swinney continued to dominate his party, as even his predecessor Alex Salmond never had.

The open hustings on 26 September, the evening before the vote, saw Swinney announcing his support for a central membership list. This was one of the reforms which Wilson had maintained was resulting in the SNP mimicking New Labour. Swinney then went on to move the resolution in its favour at an internal session which, according to delegates present, saw him once more dominate the scene. Most commentators were privately expecting the defeat of this measure – though by this stage most journalists were disinclined to say so in public. Swinney's endorsement ensured victory. The irony of this is that the challenge, intended to undermine Swinney and what his critics have called 'modernisation' appears to have

galvanised the SNP leader. A bundle of reforms are promised which might not have been pressed ahead with had Swinney not been challenged.

Wilson was less a casualty in the contest than a fall-guy. Two significant casualties were Alex Neil and Mike Russell. Neil had contested the leadership against Swinney three years before and it was suggested in some quarters, and strenuously denied by Neil, that he was behind Wilson's candidacy. This had been suggested in an article by Andrew Wilson, former SNP MSP.⁷⁵ However, despite Neil's insistence that he had no part in the challenge, his failure to give unequivocal support to Swinney cast doubts on his loyalty. The other casualty was Mike Russell, who had been defeated as an MSP in May and was searching for a new role. Russell had given equivocal support to Swinney, apparently assuming that Swinney would not come out of the contest with the margin of victory that occurred. Russell's 'conditional support' for Swinney as outlined in an article in the Herald is unlikely to lead to Russell being given much assistance from the leadership in his bid to return to Holyrood.⁷⁶ Having misread the mood of the SNP, Russell appeared marginal, a former politician still in search of a role.

However, internal party matters have a limited impact on the electorate. While Swinney commands overwhelming support inside his party, he has no such position in Scottish politics. Internal reforms may indeed offer Swinney a way of asserting himself internally which might be noticed beyond as has happened in other parties. Successive Labour leaders succeeded in using internal battles as a means of projecting themselves as strong leaders and becoming noticed by the wider public. Neil Kinnock's assault on Militant, John Smith's calls for one-member-one-vote and Tony Blair's clause four victory all contributed to projecting images that helped the party leader as well as making a significant symbolical statement about the Labour Party. Ironically, for John Swinney to do this, he requires to defeat real opposition from within his party. His massive victory in Inverness may make this less likely. Internal changes are likely to come about which will help the party become a serious alternative party of government but may not offer the electoral boost Swinney's needs.

10.2 SNP announces Euro-candidates

The SNP conference also chose its list of candidates for the European elections next year. Currently, the SNP has two out of eight MEPs though one, Neil MacCormick is standing down next year. In addition, the Electoral Commission has recently proposed that Scotland should have only seven Euro-constituencies. Ian Hudghton, the other sitting MEP, came top

of the list followed by Alyn Smith, Kenny Gibson and Douglas Henderson. Hudghton had been MEP for North-East Scotland before the last elections, when Scotland became a multi-member single constituency. This base probably proved important in topping the poll as he was nominated by all nine constituencies in the North-East where the SNP has a substantial number of members and therefore a considerable voting block of delegates at party conference. Alyn Smith's credentials include working with Richard Lochhead, MSP and SNP Fisheries spokesman, working in the Scotland Europa information office in Brussels, and graduating in European Studies from the College of Europe. Gibson lost his seat as a Glasgow List MSP in May. Henderson was SNP MP for East Aberdeenshire (formerly Banff and Buchan), 1974-79 and briefly deputy leader of the party. The likely outcome will be that Hudghton will be returned but that Smith's return will depend on whether Scotland has seven or eight MEPs though even with eight his election may be prevented should the Greens manage to build on their performance in the Scottish Parliamentary elections.

10.3 On the SNP fringe: Independence Convention and Bill Speirs addresses conference

A fringe meeting at the SNP conference brought together various bodies and individuals who support independence to propose an Independence Convention. Loosely modelled on the Constitution Convention that had met prior to devolution, the Convention idea has its roots inside the SNP's North Berwick branch. Councillor David Berry, who sits on East Lothian Council, has been a key figure behind the idea. Alex Neil, former leadership contender, has come on board and also addressed the meeting along with former party leader Billy Wolfe. The main draw, however, was Tommy Sheridan. Sheridan dominated the proceedings. Messages of support were read out from John McAllion, defeated Labour MSP for Dundee East.

The annual Convenor's lecture at the SNP conference was this year delivered by Bill Speirs, general secretary of the Scottish Trade Unions Congress (STUC). Speirs is a former chair of the Labour Party in Scotland. Increasingly out of step with Labour and finding common ground with the SNP, Speirs concentrated in his lecture on such matters which the STUC has campaigned on recently as rights for asylum seekers. Speirs' presence may not appear significant in an age when a Labour leader addresses the CBI and Institute of Directors though, as with Tony Blair's appearance at meetings of business leaders, Speirs lecture at the SNP would have been inconceivable fifteen years ago and is a statement of evolutionary change in politics.

10.4 Jack McConnell at Bournemouth

Jack McConnell spoke at Labour's Bournemouth conference on 28 September. McConnell gave an overview of the achievements of Labour in Scotland and the May elections. He pointed out that 'Tackling anti-social behaviour and fighting crime was, without doubt, the number one issue in the Scottish elections in May.'⁷⁷ This contradicted Labour's statements at the outset of the election campaign when the economy was claimed to be Labour's number one issue. However, it is a statement on how the public perceives devolution and may give rise to a change of emphasis in future campaigning.

10.5 David McLetchie warns against devolution

At the Tories Blackpool conference in Blackpool, David McLetchie warned his English colleagues against devolution to the English regions.⁷⁸ At one level, this was no surprise. The Tories were never likely to be keen on regional devolution and having the Scottish leader who has experienced devolution express this view made sense in England. However, McLetchie had once more made a statement which suggested that he and his party had still to come to terms with devolution. Making devolution work had been a theme of the Tories election campaign in May and while this was also a theme of his conference speech, it sat uneasily with his warnings against devolution.

10.6 Trade union leader hints at support for SSP

Bob Crow, leader of the Rail, Maritime and Transport (RMT) union, while in Glasgow to attend the union's annual conference, indicated support for the Scottish Socialist Party. Crow told an interviewer for BBC Scotland that he was 'fed up' with New Labour. He said that the SSP supported rail nationalisation and that his Scottish members increasingly viewed the SSP as a better alternative to Labour.⁷⁹

10.7 Electoral Commission – quarterly returns covering election period

The Electoral Commission issued the campaign expenditure for each of the parties at the May Scottish Parliament elections. Labour out-spent all other parties and spent more than the SNP and Conservatives together.

Conservative Party	£332,404.06
Fishing Party	6,548.41
Labour Party	726,832.00
Liberal Democrats	130,358.00
People’s Alliance	188,889.00
Green Party	65,852.00
Scottish National Party	478,957.00
Scottish Senior Citizens Unity Party	3,558.00
Scottish Socialist Party	74,361.74
Scottish Labour Party	1,791.88
UK Independence Party	48,809.32

Chapter 11: Public Policies

Barry Winetrobe

11.1 Rural and environmental matters

Fishing remains deep in crisis, with fears of a total ban on cod. The European dimension is paramount in this policy area and the Conservatives pledged that they would withdraw from the Common Fisheries Policy, if they cannot negotiate national control over fisheries policy. As the minister, Ross Finnie, said at Question Time on 30 October, “Without any doubt, the December fisheries council this year promises to be another difficult negotiation.”⁸⁰ The results of the GM trials and revelations of ‘unauthorised material’ among the crop in the Scottish trial sites ensured that the debate on GMOs continued apace, with the First Minister playing a straight bat:

On the specific issue of GM crops, we have said consistently that we will take a straightforward, scientific approach. We will analyse the evidence and make announcements about our policy once we have that evidence. We believe that that is the right way in which to handle the matter, and that is what we are going to do.⁸¹

There was much discussion over recent months of the impact and development of the significant reform of land tenure under devolution, and, in particular, the continuation of the concentration of land ownership. While opponents have warned that existing and proposed changes could destabilise the rural economy and environment, supporters of further change make similar warnings if inequitable landownership is not tackled.⁸² New legislative initiatives have included a Nature Conservation (Scotland) Bill and a Draft Water Services Bill.⁸³ The Scottish Greens’ conference in late October provided the opportunity for assessments of the Executive’s green credentials, and Finnie gave details of a Strategic Environmental Assessment Bill.⁸⁴ On 30 October, the Parliament debated the report from the previous session’s Rural Development Committee on integrated rural development.⁸⁵

11.2 Asylum and immigration

Though it is primarily a reserved matter, asylum remains a hot political issue in devolved Scotland, and between it and London, with attention focussing on the treatment of children in the Dungavel removal centre, and the deportation of a detained family.⁸⁶ It is a difficult matter for the two coalition parties in the Executive, especially Labour, which does not wish to rock the boat with its UK partners, but perceptions of a harsh policy acquiesced in by the Executive harms its attempts at developing a socially inclusive Scotland. It was reported that Jim Wallace, the Deputy FM, had made representations to the Home Secretary in a different

refugee case last year, but did so in his capacity as leader of the Scottish Liberal Democrats.⁸⁷ The question of which administration has responsibility for the education of children at Dungavel has exercised parliamentarians at Holyrood and Westminster. Following a petition by the STUC, the Public Petitions Committee is seeking clarification from the Executive and from the Parliament's own lawyers, and the SNP claimed that they had advice from the House of Commons Research Service that this aspect was devolved from Westminster.⁸⁸ MPs, including some Scottish Labour members, have been using various devices, such as EDMs and PQs, to pursue the issue at Westminster, and some Labour MSPs have broken ranks by speaking out against the current Home Office policy.

11.3 Economic policies

As always, there was a steady stream of statistics and forecasts which produced a very mixed picture of the performance of, and prospects for, the Scottish economy. For example, while figures at the end of October revealed a surprise 0.4% rise in Scottish GDP, statistics on R&D spending showed that, though it had risen by over a quarter in Scotland between 2000 and 2001, it was still only 4% of the UK total, and the SNP claimed that official figures showed a growing wealth gap between Scotland and London. The former Enterprise Minister, Wendy Alexander, tried to raise the level of debate by organising a series of seminars with Strathclyde University (where she is a visiting professor) with leading overseas economists. Recently, attention has focussed on the tax burden, especially business rates, with an Executive survey purporting to show that the Scottish burden is no worse than elsewhere in the UK and Europe.⁸⁹

11.4 Health

Controversy over proposals to restructure maternity services in the West of Scotland may have the potential to cause similar political trouble to that which the reorganisation of Glasgow hospitals did in the last couple of years. It is a good example of how sensitive decisions on public service provision may be primarily ones for decentralised public bodies such as health boards rather than Executive ministers themselves.⁹⁰ Consultants in Scotland, like those south of the border, have voted to accept their new contracts, though this may annoy lower-paid workers in the health service.⁹¹ The Parliament's Health Committee criticised the Executive for lack of information about the proposed use of regulation-making powers in the Primary Medical Services (Scotland) Bill.⁹² Differences in health policy between Scotland and England were suggested in claims that the Health Minister, Malcolm Chisholm, is refusing to regard patients as 'consumers'.⁹³ A local dispute over the siting of a medium secure unit for the mentally ill went national following intemperate remarks in the

Parliament by the Senior Citizens Party MSP, John Swinburne, about the alleged risks posed to local people by the unit's residents.⁹⁴

11.5 Law and order

Crime remains a key policy for the coalition, with much ministerial rhetoric about cracking down on anti-social behaviour, and the publication of the Antisocial Behaviour etc (Scotland) Bill on 30 October.⁹⁵ Not everyone is happy with this approach, and there are signs that the Liberal Democrats are unhappy with some of the more draconian aspects, such as the tagging of children.⁹⁶ A senior judge, Lord MacLean, has been appointed to chair the new Sentencing Commission.⁹⁷ The First Minister seems unwilling to follow initiatives south of the border over police treatment of cannabis offences.⁹⁸ The Criminal Procedure (Amendment) (Scotland) Bill, implementing proposed reforms of the High Court, was introduced on 8 October, despite strong criticism from leading lawyers.⁹⁹ The prison population is at record levels, at 6,400 in 2002, 4% up on 2001, and the Chief Inspector of Prisons' annual report was published in October.¹⁰⁰

11.6 Transport

Rail fares will rise in 2004 in line with the rest of the UK, and the Scotrail franchise was extended for up to 6 months to allow time for negotiating the new franchise.¹⁰¹ The proposed new coordinating body, *Transport Scotland*, moved a step nearer.¹⁰² Fears have receded that cuts in rail investment on Scottish rural lines proposed by the Strategic Rail Authority.¹⁰³

11.7 Education

The Enterprise & Lifelong Learning Committee has been taking evidence as part of its inquiry into university finance (see also 5.2). The Enterprise Minister, Jim Wallace, made it clear in a speech on 7 October that the Executive would not introduce top-up fees in Scotland, and the SNP leader, John Swinney, has called for a national coalition on what he termed 'the threat posed by the introduction of top-up fees south of the border.'¹⁰⁴ The annual round of examinations results (which passed off without any apparent crises) triggered the usual comments about school standards.¹⁰⁵ The Additional Support for Learning (Scotland) Bill was published in late October. Ministers got in a bit of a mess over plans to scrap national tests for pupils, and what information will be published on school performance, with suggestions from the new Scottish Information Commissioner that withholding relevant information may breach the forthcoming FoI legislation.¹⁰⁶

11.8 Social and legal issues

The Executive has been proceeding extremely carefully on the highly sensitive issue of civil partnership legislation. It issued a consultation on 30 September, following its controversial decision to use the Sewel Convention to leave the legislation to Westminster, an approach that led to accusations of moral and political cowardice undermining devolution.¹⁰⁷ At FMQs on 25 September, the First Minister explained the Executive's policy on ID cards:

In all our discussions with the UK Government in the past 12 months, both we and they have been absolutely clear about the fact that they will not make proposals or bring in legislation to introduce a compulsory element in relation to those Scottish public services that we are responsible for and that would come under the jurisdiction of an identity card system. Any decision of that sort would be a decision for this Parliament to make. We are clear about that, and the Westminster Government has been clear about that too.

In the meantime, we must make progress on our plans to have a voluntary entitlement card in Scotland. In this information age, it will afford an opportunity for Scots to have better and easier access to public services. In the longer term, if the UK Government does produce plans, the right place to assess their impact on Scotland and their impact on access to public services in Scotland is here. We should have an open and honest debate about that.¹⁰⁸

The Communities Minister, Margaret Curran, made a statement on charity law reform on 24 September, but this relatively technical legal reform has become much more political as some have attempted to use the occasion to remove the charitable status of private schools.¹⁰⁹ A WA of 1 August provides a little guidance on how the First Minister would participate in a Prime Minister's appointment of Scotland's most senior domestic judges:

There is no statutory requirement but it is normal practice for the First Minister to offer the Prime Minister a choice of names to fill vacancies for the office of Lord President and Lord Justice Clerk. When appointments were being considered in 2001 the Prime Minister accepted the First Minister's recommended choice of name for each post.¹¹⁰

On the proposed Human Rights Commission, ministers said, in a WA of 18 August:

Establishment of a Scottish Human Rights Commission remains an Executive priority and as such is reflected in the Partnership Agreement. The Executive has a very full programme of legislation and it has been necessary to prioritise issues to be dealt with in the first year of the session. The second consultation exercise closed on 6 June and we are giving thorough consideration to the views we have received. Once we finalise our proposals we will be able to progress to a draft bill.¹¹¹

¹ Source: SE 'Changing to deliver' wallchart, October 2003

² "Press corps struggles as mandarin speaks in tongues", *Herald*, 9 October: <http://www.theherald.co.uk/politics/2201-print.shtml>; "Permanent revolution", *Holyrood*, 22 September, pp17-18

³ <http://www.scotland.gov.uk/library5/finance/smcc-00.asp> and <http://www.scotland.gov.uk/library5/finance/gcdm-00.asp>; WA by the FM, 15 August: <http://www.scottish.parliament.uk/business/wa-03/wa0815.htm>

⁴ James Scott, "Real devolution" *Holyrood*, 20 October, pp20-21; "Minister calls for Holyrood mandarins to go it alone in breakaway Scottish Civil Service", *Scotland on Sunday*, 19 October: <http://www.scotlandonsunday.com/scotland.cfm?id=1156902003>

⁵ "Scottish Natural Heritage relocation", *SE press release*, 2 September: <http://www.scotland.gov.uk/pages/news/2003/09/SEEN613.aspx>; "Ministers order SNH move", *BBC News*, 2 September: <http://news.bbc.co.uk/1/hi/scotland/3202221.stm>

⁶ "SNH to retain presence in Edinburgh", *SE press release*: <http://www.scotland.gov.uk/pages/news/2003/10/SEEN652.aspx>

⁷ <http://www.scottish.parliament.uk/business/wa-03/wa1008.htm>

⁸ "Rise in public correspondence", *SE press release*, 28 August: <http://www.scotland.gov.uk/pages/news/2003/08/SEfd259.aspx>; "£100,000 more to keep First Minister", *Scotsman*, 1 September: <http://www.thescotsman.co.uk/politics.cfm?id=963182003>. For a report on how civil servant stress is being tackled, see "Stressed out civil servants given reiki and massage ... at taxpayers' expense", *Sunday Herald*, 26 October 2003: <http://www.sundayherald.com/37663>

⁹ WA by Finance Minister, 5 September: <http://www.scottish.parliament.uk/business/wa-03/wa0905.htm>

¹⁰ "Executive defends 16.5% rise for civil servants", *Scotsman*, 18 August: <http://www.thescotsman.co.uk/politics.cfm?id=905602003>; "'Research' costs taxpayers £500m", *Sunday Times*, 7 Sept: <http://www.timesonline.co.uk/article/0,,2090-807518,00.html>

¹¹ <http://www.scottish.parliament.uk/business/wa-03/wa0813.htm>

¹² <http://www.scotland.gov.uk/library5/justice/fia02-00.asp>

¹³ SE media briefing, 4 August: <http://www.scotland.gov.uk/pages/news/weekly/000414.aspx>

¹⁴ 'Health Committee has "Major Concerns" About Primary Medical Services Bill', *Scottish Parliament Committee News Release*, CHEAL 02/2003, 6 October 2003.

¹⁵ See 'First Minister's Question Time and Minor Standing Order Changes', *Scottish Parliament Procedures Committee*, 1st Report 2003, SP Paper 9, 29 August 2003, para. 18.

¹⁶ *Ibid.* para. 20

¹⁷ 'Holyrood Inquiry Under Way', *BBC News Online*, 28 October 2003, <http://news.bbc.co.uk/1/hi/scotland/3219235.stm>

¹⁸ Excludes all reports on subordinate legislation.

¹⁹ Latest parliamentary stage recorded.

²⁰ Alex Neil, Scottish Parliament Standards Committee, *Official Report*, Meeting 6, 23 September 2003, col. 92.

²¹ Donald Gorrie, Scottish Parliament Standards Committee, *Official Report*, Meeting 6, 23 September 2003, cols. 93-94.

²² The report was written by Dr Alison Preston, Visiting Research Fellow at the Stirling Media Research Institute and Research Manager at The Research Centre. The author must declare an interest: he was a member of the project's steering committee.

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