

# Nations and regions: The dynamics of devolution

## Monitoring programme: third draft quarterly report

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## **SUMMARY**

The Scottish Parliament passed the anniversary of its election, and approaches the anniversary of assuming its powers, in the absence of its First Minister. Donald Dewar had heart surgery on 8 May and is not expected to return to post until the end of the summer. In his absence an initial unseemly rush to take over the reins amongst his would-be successors has now died down but only because it has gone underground. The surprise loss of the leader has also caused tension in the coalition Executive, leaving the leader of the Scottish Liberal Democrats in nominal control of the government. This has caused some unease in both Labour and Lib Dem ranks.

Sober assessments of the new institutions' performance one year on suggest a mixed scorecard. A number of items of legislation which have been sitting on the Scottish Law Commission's shelves for some years are now statute. The media witch-hunt has died down, and now focuses more on the press itself. The Parliament is now part of the landscape, left to get on with things rather than constantly under the spotlight. Yet there is still a sense of frustration amongst the parliamentarians themselves that they seem to be working so hard to so little effect. And Scottish politics continues to baffle the rational outsider – dominated as it has been for much of the year by the proposal to repeal section 28, and now by the Mike Tyson row (which the SNP chose to bring to the Parliament on a day they had previously scheduled to debate local government reform).

### **1. THE DEVOLVED GOVERNMENTS**

- organisation and operation of the core executive
- Policy Units
- **Organisation and operation of the core executive**

Donald Dewar, the First Minister for Scotland, was diagnosed with a leaking aortic heart valve on 25 April, and he subsequently underwent surgery on 8 May. He spent a period in hospital, and is expected to take between six to eight weeks to recuperate.

Officially Lib Dem Jim Wallace, the Deputy First Minister, has been taking Donald Dewar's place chairing cabinet meetings and answering First Minister's questions in the Parliament, but the reality is somewhat different. The Chancellor, Gordon Brown, will be keeping a close eye on Scottish affairs in the next few months, and others in the Scottish Executive, such as Henry McLeish, the Enterprise and Lifelong Learning Minister, Finance Minister, Jack McConnell, and Health Minister Susan Deacon, will also be careful to ensure that firm control remains on the Labour side of the coalition. For more detail see section 10 on politics.

- **Policy Unit**

Brian Fitzpatrick, the head of the Scottish Executive's policy unit, was ill for a period in April/May. He was suffering from jaundice and glandular fever, and has now returned to work. During his absence there were rumours that he was considering a return to legal practice, but these were apparently unfounded. Brian Fitzpatrick is now embarking on a

quite substantial review of the unit's political organisation and policy advice role. This is likely to be implemented over the summer. Quite significant changes are likely.

## **2. THE ASSEMBLIES**

- committee structure and operating procedures
  - the legislative process, including secondary legislation
  - partnerships with external bodies
  - democratic engagement/public involvement (e.g. civic forums)
- **Committee structure & operating procedures**

There has been growing concern at the number of committees operating in the Scottish Parliament, because of a lack of staff and a cash shortage. The Scottish Parliament's cross-party business bureau has been discussing the possibility of merging the Procedures Committee and the Standards Committee, but there has been strong opposition to the suggestion that the Public Petitions Committee should be merged with the committee which is made up of the conveners of all the other committees.

The Justice and Home Affairs Committee is overloaded with work having had the heaviest burden of legislation to consider, and Minister for Parliament Tom McCabe has prepared a paper which proposed merging the Equal Opportunities Committee with a second Justice Committee. Such proposals have, however, been met with some resistance from several MSPs including the two Conveners of the Petitions and Equal Opportunities Committees, John McAllion and Kate MacLean.

## **3. THE MEDIA**

- media reporting of the new institutions
- government/parliament media strategy and implementation

As the new Scottish polity completes its first year, important changes are taking place in the media landscape. How the media line up at this point is of more than passing importance. The Scottish Parliament and Executive have been through their baptism of fire. While all is certainly not rosy now, there is a widespread sense of an imminent step change in Scottish politics, with a move into more heavyweight legislation and policy-making and slowly growing confidence in the political class. Donald Dewar's current illness may not prevent his return to political life at the helm but his hospitalisation has once again unleashed talk of an eventual successor.

In a country the size of Scotland, the media are a particularly important echo-chamber for political life, not least because there has always been an intimate relationship between the media and party politics in Scotland and also as Scots are avid consumers of their home-grown newspapers. In the broadsheet market, the Scotsman is now fighting for its life. Under the editorial direction of Andrew Neil, the paper's sales have fallen to 75,000. It is outsold by its west coast rival, The Herald, which sells 100,000 copies. If that were not enough, it is also handsomely outsold by the other 'city state' broadsheets, the Courier in Dundee and the Press and Journal in Aberdeen. The Scotsman's vainglorious claim to be a British national paper produced in Edinburgh is more than somewhat exposed by these figures.

There has been a rapid succession of editors at the Scotsman while Neil has been in charge, with the latest appointee suffering from a debilitating collapse. Neil has appointed a temporary successor and is now said to be looking for someone else. This uncertainty at the top has been accompanied by a large-scale desertion of journalistic talent in recent months. On 8 May, in an attempt to recover ground, the Scotsman had a relaunch, coming up with new typography and a tabloid supplement in the Guardian's style, part of its search for a younger readership. The paper's central problem is that it has lost credibility with the heartland Edinburgh readership. Since Neil took over, with his mission to challenge the prevailing consensus in Scotland, the Scotsman has been at best a grudging supporter of devolution and has taken every opportunity to criticise the shortcomings of the Executive and Parliament. There can be little doubt that this has had an alienating effect, with some of the heartland readership defecting to the Scottish editions of English broadsheets.

Those who recall the demise of the European - of which Neil was also editor-in-chief - will note the repetition of a pattern: editorial sackings, relaunches, declining circulation, hostility to the core audience, closure. While the last is almost certainly out of the question, what has now been a long-standing credibility-gap in the east coast establishment paper has opened new opportunities for others. The Glasgow-based Herald, whose editor has announced his retirement later this year, also had an 8 May rejuvenating make-over. The paper has been a steadfast supporter of devolution, critical of government policy when called for, though certainly somewhat dull compared to the Scotsman's excesses. By holding the responsible political ground, there is little doubt that the Herald (and its year-old Sunday stable-mate) have gained journalistic credibility with the 'blethering classes'. But there are certainly no signs of the Herald breaking out of its west coast fastness.

Into Scotland's extraordinarily competitive newspaper market later this year will come another new launch. John Penman, late of the Scotsman and of the dominant tabloid, the Daily Record, has been charged by the Swedish multi-media group, Bonnier, with setting up a new quality daily. This will be aimed at the political and economic elite of Scotland and aim to displace the Scotsman. The journalists are already calling it the Scotsman-in-exile. Bonnier are known to have deep pockets and this is an exceedingly interesting foreign investment in the Scottish market-place, perhaps a toehold to enable other developments in the UK. What is the logic of this new development?

First, it is now clear that Scotland is a polity on the move, with most Scots wanting more devolution rather than less, despite the chequered history of the new institutions' first year. The country does have its elites whose only national agenda setting medium at the moment is BBC Radio Scotland. On the whole, television journalism does not command serious attention, nor will it until it raises its game in the case of the Scottish Media Group companies or until BBC Scotland is allowed more leash by London. With its strongly regionalised quality press, perhaps there is a genuine place in the market for Scottish Business (if that is indeed to be the title). There simply is not a Scottish national quality paper at present. Perhaps the new political context now makes this feasible. Second, Bonnier's investment also has its broader ramifications. In Scandinavian policy-circles, people are increasingly talking about the 'near-Nordic nations', and Scotland - in some respects at least - certainly fits the bill. The Swedes may well have recognised something about the media market north of the Border that they feel is familiar territory,

and certainly they are acknowledging that with devolution something quite decisive has changed.

#### 4. PUBLIC ATTITUDES AND IDENTITY

- public attitudes towards the performance of the new institutions
- reports of any occasional polls (e.g. Herald/System 3, HTV/NOP, Beaufort Research etc)
- attitudes to devolution, expectations, demands for further reform (*Project 2*)
- interim outputs from Project 1: national and regional identity

- **Public attitudes towards the performance of the new institutions**

The passing of the first anniversary since the Scottish Parliament elections has spawned a plethora of reviews of Parliament performance amongst the media.

The most recent Scotsman/ICM poll showed that 68% of Scots want more constitutional change, and do not believe that devolution is the "settled will of the Scottish people" (22/2/00).

- **CBI Scotland Members Survey**

The Confederation of Business and Industry Scotland published a survey of its members' views in mid May entitled *Competitive Scotland*. Cautiously praising the Parliament for making a "good start" it gives credit to Ministers and MSPs for making efforts to involve business and for avoiding "over-hasty" action.

The Herald's System Three opinion poll, published on 8<sup>th</sup> May, keeps Labour and the SNP neck and neck in voting intentions for the Scottish Parliament although there has been a minor improvement in Labour's fortunes since last month. The Conservatives, however, have maintained their small but steady recovery in fortunes, particularly in voting intentions for Westminster. There does not appear to have been a major upswing from their electoral success in Ayr but as the electoral focus starts to swing towards Westminster, we are likely to see more attention being paid to the party in Scotland.

The Liberal Democrats continue to struggle to stay in double figures – it will be interesting to see if there is any impact on the party's fortunes from the recent performance of Scottish Leader, Jim Wallace, deputising for Donald Dewar whilst the First Minister recuperates.

	<i>Labour</i>	<i>SNP</i>	<i>Lib Dem</i>	<i>Conservative</i>	<i>Others</i>
<i>Scottish Parliament – First Vote</i>	<b>34%</b>	<b>35%</b>	<b>10%</b>	<b>14%</b>	<b>8%</b>
<i>Second Vote</i>	<b>30%</b>	<b>31%</b>	<b>14%</b>	<b>13%</b>	<b>13%</b>
<i>Westminster</i>	<b>44%</b>	<b>26%</b>	<b>9%</b>	<b>17%</b>	<b>3%</b>

*Attitudes towards devolution*

ICM/Scotsman - Feb. 00

	Feb.00	Jan. 00	Feb. 99	Jan. 99	May 98	Feb. 98	Sep. 97
Independence	27	23	24	26	33	28	28
Devolution	46	54	54	53	48	48	38
No parliament	22	19	18	18	17	21	30

	England %	Scotland %	Wales %
Scots Parliament achieved			
A lot	9	5	
A little	45	64	
Nothing	20	27	
DK	26	4	

Welsh Assembly achieved			
A lot	5		4
A little	30		40
Nothing	35		48
DK	30		8

Devolved Institutions (in principle)			
Good for Sc/Wa	50*	48	41
Bad for Sc/Wa	8	13	17
No difference	26	35	37
DK	12	4	5

\* 3 Good for Sc only/ 1 for Wa only

Devolved Institutions - in practice			
Good for Sc/Wa	40*	37	36
Bad for Sc/Wa	8	16	19
No difference	30	41	37
DK	18	6	7

\* 3 good for Sc only/1 for Wa only

Is devolution settled will of Scottish people		
Settled will	25	19
Further change needed	47	68
DK	28	13

Is devolution settled will of Welsh people			
Settled will	23		20
Further change needed	49		62
DK	28		18

Devolution success/failure			
Failed in Sc/Wa	23*		42
Succeeded in Sc/Wa	35		25
DK	35		33

\*6 failed in Wa only/1 in Sc only

UK needs codified constitution			
Agree	60	63	51
Disagree	22	20	27

Satisfaction with job as First Minister/Secretary - Dewar/Michael			
Very		4	1
Quite		43	23
Not very		28	28
Not at all		16	28

Actual Referendum Vote			
For		54	39
Against		17	25
Did Not Vote		23	33

Would Now Referendum			
For		57	44
Against		25	35
Did Not Vote		6	13

Average percentage who have heard of 5 best known ministers			
	92	63	39

#### System 3 - Feb. 00 - Performance Ratings

	Dewar	Salmond	Wallace	McLetchie
Very Good	8	9	4	2
Quite Good	36	41	32	18
Neutral	17	19	25	26
Quite Poor	14	12	10	10
Very Poor	15	8	6	11
DK	10	11	23	33

System 3/BBC - Apr. 00

#### Performance of Scottish Parliament

Quite/very good	27
Neither good nor poor	34
Quite/very poor	31

#### Preference for Scottish Parliament

More powers	62
No change	22
Fewer powers	8

Three polls have in various ways measured how devolution in principle and/or the new institutions in practice are regarded by the Scottish public now that devolution is more than six months old. In particular The Scotsman newspaper conducted a major exercise in February in which it interviewed 500 people in each of England, Scotland and Wales to examine how the public is reacting to devolution in each of the component parts of the UK. Results for all three parts of the UK are provided in the tables above for information, but the commentary here will be confined to the implications for Scotland.

While the Scottish media has been consumed by the alleged failings of the new institutions, the public it appears has been underwhelmed by the impact of devolution. Only 5% of Scots believe that the new parliament has achieved a lot, although around two-thirds are prepared to acknowledge that it has done a little. No less than 41% think that in practice having the new institution has made no difference to Scotland, rather more than the 35% who think that it has not made any difference in principle.

The Scotsman poll in particular revealed the degree to which Scottish executive ministers have a lower profile than their UK counterparts. Even if we just take the five Scottish ministers with the highest levels of public recognition, on average only around two-thirds of Scots have heard of them. In contrast well over nine in ten people in England say they have heard of the five UK cabinet ministers with the the highest levels of recognition. Amongst Scottish ministers those who had previously been at Westminster (and had been Scottish Office ministers) all had higher recognition factors than any of the new ministers. It may be that longevity in office will help raise the profile of Scottish ministers, but it may well be that the more limited media opportunities available to Scottish ministers than their UK counterparts may well mean that the biggest challenge facing the new institutions is to impinge themselves on the public consciousness at all.

Still in so far as devolution has registered with the public it is apparent that the media criticism of its performance is beginning to be reflected in public opinion. While 48% say they think the idea of devolution has been good for Scotland in principle, only 35% take the same view of the practice. Then in April slightly more people said that the



new parliament had done a poor job so far as said that it had done a good job, although even more simply thought it had done neither.

Meanwhile, according to ICM almost as many people are now dissatisfied with Donald Dewar's performance as First Minister as are satisfied. True, System Three's readings were somewhat better, but The Herald newspaper pointed out that Mr Dewar's ratings were now less good than Mr Salmond's.

Moreover some of the evidence suggests that the perceived performance of the new institutions has helped to undermine support for devolution. Support for devolution rather than independence or no parliament fell from 54% the previous month to 46% in February. Perhaps more strikingly, there is a small swing (even after allowing for don't knows) in the proportion who say they would vote in favour of devolution now than said they did so in 1997.

But if Scots are beginning to wonder about the effectiveness of the devolution settlement - and no less than two-thirds think that further change will be required to the devolution settlement - it appears that the reaction is more likely to be to want to make the body more effective rather than let it wither away. No less than 62% told System Three in April that they want the parliament to have more powers. Indeed support for independence also recovered somewhat in ICM's poll. While in the event it may remain the case that most Scots do not want to leave the UK, it appears that they may well demand the parliament is made more powerful if it is not seen to be meeting their needs - and that the degree to which this happens may be the real focus of the constitutional debate in Scotland in future years. In any event, whatever are now seen to be the limitations of devolution in practice, it is apparent from all the measures which were asked by ICM in Scotland and Wales that the devolution project is still far more highly regarded in the former than it is in the latter.

#### *Attitudes towards other issues*

There were no polls on issues of major significance in Scottish politics in this quarter.

#### **5. RELATIONS WITH WESTMINSTER AND WHITEHALL: UK INTERGOVERNMENTAL RELATIONS [TO FOLLOW]**

- role/interventions by the Secretary of State. Concordats. Bilateral/multilateral machinery
- links between the devolved governments *inter se*

#### **6. RELATIONS WITH EU [TO FOLLOW]**

- direct links with the EU
- European issues on which devolved govts/assemblies made representations

#### **7. RELATIONS WITH LOCAL GOVERNMENT [TO FOLLOW]**

- formal and informal machinery for liaising with local govt
- main issues and areas of tension

The second quarterly report highlighted the establishment of a Task Group to prepare a draft Covenant on relations between the Parliament and local government for discussion with the Scottish Parliament. The Covenant was also to incorporate the arrangements for a Standing Joint Conference as recommended by the McIntosh Commission. The Task Group produced a draft Covenant on the basis of which consultation was undertaken with the 32 councils and evidence given to the Local Government Committee of the Scottish Parliament. The revised draft Covenant is now to be approved in principle at a meeting of the leaders of all councils on 26 May. It will then be submitted to the Parliament for discussion and a joint working group will be established with representatives of the Local Government Committee to consider it. It is anticipated that the final draft will be put formally to the Parliament following the recess.

The Task Group has also prepared a revised Partnership agreement with the Scottish Executive and consultation has been undertaken with the 32 councils and the Executive. Comments have now been received and a redrafted agreement will be issued for further consultation in June and considered at the Leaders meeting at the end of that month.

The second monitoring report also suggested that the Local Government Committee would undertake a review of local government finance. That has now been agreed in principle although formal proposals for carrying out the review have yet to be considered by the Committee. Mention was also made of the agreement with the Scottish Executive to establish a joint officer working group to address a number of issues relating to local government finance. Since then, the Minister for Finance addressed the COSLA conference on 24 March and issued “a challenge” for consideration to be given to modernising local government and, in particular the finance system. The Strategic Issues Working Group’s remit is

“At the Ministerial meeting on 31 January, Ministers and COSLA office bearers agreed to establish a joint working group, at officer level, to consider ways of forging an efficient working partnership between central and local government, with a view to addressing joint arrangements for policy development and prioritisation, reconsidering the current level of targeting and ring-fencing of resources for specific services. The Group’s remit is:

- To discuss how joint priorities between the Executive and local government can be identified, agreed and delivered to reflect both the priorities in “Programme for Government” as well as local priorities; and
- To examine ways of securing outcomes in terms of service delivery from budgets, with less emphasis on targeting and ring-fencing resources at specific services.”

The working group has now met twice and has reported progress to a Ministerial meeting on 10 May. This report focussed on identifying joint priorities, delivering 3 year grant allocations and simplifying the grant distribution systems. A further report with recommendations will be made to the Ministerial meeting in September.

Finally, we are still awaiting decisions by the Executive following its consultation exercise on the recommendations of the McIntosh Commission. In part this delay has been because the report of the Renewing Local Democracy Working Party (on eg proportional representation, terms and conditions of service etc) will now be published in June. It is expected that the Executive’s full response and legislative proposals will be made in the autumn although some decisions are expected soon.

## **8. FINANCE<sup>1</sup>**

- allocation of finance from central government (Project 10)
- distribution of finance between devolved policy areas
- changes in funding priorities
- revenue from sources other than central government

### **The UK Budget**

The March budget proposed increased spending of £1bn on health and £2bn on education this financial year. These increases will be allocated through the Barnett formula, with Scotland, Wales and Northern Ireland receiving respectively 10.39 per cent, 5.94 per cent and 3.40 per cent of the increase allocated to England. Because the budget increases have been skewed towards categories of spending that are covered by Barnett, this year's block grants to Scotland, Wales and Northern Ireland will show significant increases.

Promises of increased spending on health and education in the UK budget create expectations among the electorates in Scotland and Wales. However, such promises actually apply only to England (and to Northern Ireland until the devolved assembly is reinstated). Neither the Welsh Assembly, nor the Scottish Parliament is bound by promises made during the UK budget that relate to non-reserved powers. Thus, the Scottish parliament could choose to spend its extra cash on improved coastal defences if it deemed that to be a higher priority than health and education. This bizarre example illustrates a serious problem for the devolved authorities. If they slavishly follow the priorities set for the equivalent English spending departments at the time of the budget, then they run the risk of being perceived as following Westminster's lead. On the other hand, if they deviate from what are genuinely popular Westminster policies, such as increased NHS spending, they may be perceived as lacking initiative in the formation of policy.

### **Budget Consultation Process in Scotland**

The Scottish Executive has put in place a seemingly open consultation process on its budget plans. In April, the Scottish Executive published its annual report "Investing in You", which explained how resources have been allocated in past years. It also includes plans for future spending. However, this report is intended to be consultative. In Donald Dewar's introduction, he describes it by saying "It aims to give people from across the whole spectrum of Scottish society a say in how the resources at the Executive's disposal should be spent."

The second stage of the budget process is to prepare a draft budget for 2001-02 which will be presented to Parliament in the autumn for further consultation. The final stage of the process is the preparation, consideration and enactment of a Budget Bill around January or February of 2001.

This is an apparently open process. However, there is some scepticism as to how far it will result in deviations from the Executive's published spending plans. This is

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<sup>1</sup> Web-based documents relating to this section can be found at <http://www.stir.ac.uk/Departments/Management/Economics/staff/dnfb1/scotland/leverhulme.htm>

particularly true when, as mentioned previously, expectations have been raised by Westminster politicians about how additional resources will be distributed.

The block grant from Westminster to the Executive is fixed and there is very limited scope for borrowing. Inevitably most submissions will be suggestions for increased spending. With a fixed spending limit, increases cannot be made under one heading unless there is a corresponding reduction elsewhere. These will be particularly difficult if they involve reallocations between departments and Ministers are intent on protecting their original allocations.

One example of this problem is the way in which the Executive dealt with the report of the Cubie Committee. The change to the student finance system recommended by the Executive implied additional costs of £33m. This money has been found from within the budget of the Department of Enterprise and Lifelong Learning, thus ensuring that no other Departments were disadvantaged by this outcome. If a carefully considered and costed report with substantial popular support, such as that produced by the Cubie Committee, did not result in reallocation between Department heads, it is difficult to imagine that less thoroughly researched proposals from the public and special interest groups could have a more substantial effect.

Thus, the Executive has begun with very modest changes to the ways that it allocates resources within Scotland. More radical change may come as the Parliament grows in confidence, but the forces likely to resist change should not be underestimated. First there is the argument, particularly strong if the Westminster government is popular, that Scottish spending priorities should not substantially deviate from those in the rest of the UK. Second, there will be understandable resistance from those that are adversely affected by change.

### **Finance Committee**

The Finance Committee of the Parliament is trying to establish its role. Its remit is to consider and report on:

- (a) any report or other document laid before the Parliament by members of the Scottish Executive containing proposals for, or budgets of, public expenditure or proposals for the making of a tax-varying resolution, taking into account any report or recommendations concerning such documents made to them by any other committee with power to consider such documents or any part of them;
- (b) any report made by a committee setting out proposals concerning public expenditure; and
- (c) Budget Bills.

This overarching role of the finance committee makes it potentially the most powerful of the Parliament's committees. However, it has yet to find a way of making that influence felt. Clearly it has to determine how far it can interfere with the activities and priorities of the other committees. It also has to be careful not to overlap with the role of the audit committee, which will be considering the accounts produced by various public bodies and taking a view as to how cost effectively services have been delivered.

Thus far, the committee has taken a low-key approach. Most of the bills coming before it have had relatively small financial implications and these have been simply accepted by the Committee. However, it has now embarked on an investigation into European structural funds and how these interact with Westminster funding. In Wales, this issue

caused the resignation of the first minister, Alun Michael. In Scotland, the issues are likely to be less contentious, though it will be interesting how the report is presented, given the political composition of the committee. The "Financing Devolution" component of the Leverhulme funded Nations and Regions programme submitted a paper to this investigation and the committee took verbal evidence from Professor David Bell on Monday 23<sup>rd</sup> May.

## **9. DEVOLUTION DISPUTES AND LITIGATION**

- dispute resolution: role of political channels, and of political parties
- nature and incidence of litigation

- **Nature and incidence of litigation**

There have been no significant devolution disputes or litigation in this quarter, apart from an issue about the Strategic Rail Authority.

Lib Dem MP for Tweeddale, Ettrick and Lauderdale, Michael Moore - who is also the convenor of the Scottish Liberal Democrat MPs - has written to Westminster Transport Minister, Lord Macdonald, demanding a re-think in the Transport Bill which has now reached the House of Lords.

In his letter, Moore states that he believes that the new Strategic Rail Authority will be able to ignore Scottish Executive Ministers if it disagrees with their guidance or instructions on rail issues in Scotland.

The Liberal Democrats have tabled amendments to the Bill in the House of Commons regarding the possibility of disputes which would be referred to the Secretary of State who is directly accountable to the House of Commons.

In his letter, Moore states: "There is a real point of principle on devolution here which must be clarified: nobody in Scotland will understand if a London quango is allowed powers to veto Scottish ministers without any recourse to the House of Commons. I urge you to re-think these plans urgently."

## **10. POLITICAL PARTIES AND ELECTIONS**

- changes in strategy and organisation of political parties    Autonomy of local parties
- by-election and local election results
- polling data on support for different parties
- Leadership and the Scottish parties

*Party Fortunes*

System 3/Herald poll

Holyrood Vote Intentions

Vote	Con		Lab		LD		SNP		Others	
	1	2	1	2	1	2	1	2	1	2
February	12	11	37	32	9	13	36	33	6	11
March	14	11	33	29	11	15	37	34	6	11
April	14	13	34	30	10	14	35	31	8	13

Poll taken towards the end of each month

SSP running at around 5% of 2<sup>nd</sup> vote

Westminster Vote Intentions

	Con	Lab	LD	SNP	Others
February	15	45	11	27	3
March	16	40	11	29	3
April	17	44	9	26	3

Scottish Parliament by-election. Ayr. 16/3/00

		Votes	%	Ch since 1999	Ch since 1997
Scott	Con	12,580	39.4	+1.4	+5.6
Mather	SNP	9,236	28.9	+9.4	+16.4
Miller	Lab	7,054	22.1	-16.0	-26.3
Stewart	SSP	1,345	4.2		
Ritchie	LDem	800	2.5	-1.9	-2.2
Corbett	Green	460	1.4		
Botcherby	Ind. Vet	186	0.6		
McConnachie	UKIP	113	0.3		
Graham	Pro-Life	111	0.3		
Dillon	Anti-Clone	15	0.0		
Turnout			56.6	-9.9	-23.6

## Local Government By-Elections

Change in % vote since May 1999

	Con	Lab	LD	SNP
Tayport/Fife	+6.3	-10.3	+15.7	W
Manor Park/W Isles	*	W	*	*
Highland/Stirling	+20.9	-6.9	I	-5.7
Woodhead/S Lanarks	-0.8	-18.5	I	-1.6
Firrhill/Edinburgh	+4.1	-15.3	+1.8	-2.4
Delph/Clackmannan	-2.6	-11.3	I	+11.5

The Scottish Socialist Party won 19.6% in Woodhead and 11.8% in Firrhill.

I Party fought by-election but did not fight seat in May 1999

W Part fought seat in May 1999 but did not fight by-election

\* Party did not fight seat in May 1999 or the by-election

This has been an uncomfortable quarter for the Labour party. Against a backdrop of the continuing row about Section 28, the party lost a seat in the first ever Scottish parliament by-election, lost control of Clackmannan council following a by-election loss, saw its vote fall consistently in other local by-elections, and found itself behind the SNP in Holyrood opinion poll ratings. Signs of the disappointment that Labour was to suffer in the English local elections and the London Mayoral elections at the beginning of May were already apparent north of the border beforehand.

The Ayr by-election was a disaster for Labour. It fell from first to third place. Its 26 point loss of support compared with the 1997 general election was on a par with the heavy drops that had hitherto been confined to safe Labour seats (such as Hamilton South) in this Westminster parliament. This was a rebellion in marginal Britain rather than in heartland territory. Meanwhile it was the SNP who were the principal gainers, again suggesting that if and when the current executive becomes unpopular, the nationalists look to be the party set to benefit. However it was the Conservatives who won the seat, giving them their first constituency MP or MSP since 1997. The point increase in their vote was modest, but it should be recognised that Phil Gallie, former Tory MP for the seat, had pulled off an unusually good performance as the party's standard bearer in 1999, increasing his share of the vote against the national tide. Still, the 5 point rise in support since 1997 is still no more than a modest success rather than clear signs of a revival.

There was of course significant speculation about the reasons for Labour's defeat. Westminster Labour MPs were inclined to blame the performance of the Scottish executive, voicing concern that their own electoral chances in the next Westminster election might be adversely affected by a adverse judgements of the Scottish executive (an interesting reversal of the theory of first and second order elections!). Particular attention was focused on the executive's proposal to abolish Section 28, which was the subject of a substantial hostile poster campaign in the constituency financed by Stagecoach chairman, Brian Souter. However polling evidence in the constituency collected by ICM for The Scotsman suggested that those who voted Labour in 1997 and

supported the abolition of Section 28 were just as likely to be defecting from Labour than those who were opposed. Meanwhile, the feedback from the campaign itself was that it was the Chancellor's decision only to increase pensions by 75p that was a particular source of disquiet in a constituency with a substantial elderly population (indeed this campaign was when Labour began to realise its difficulties on this issue) together with the UK government's proposal to privatise air traffic control (the Prestwick air centre is nearby). So the voters may indeed have also used the by-election to send a message to Westminster,

Even so, the Scotsman poll in the constituency suggested that the party's share of the vote would have been 11 points higher in a general election. At the same time the regular monthly System 3 poll has continued to find that Labour's Holyrood support is lower than its Westminster support. Labour continues to be less popular as a Scottish party than a Westminster one. But its rating has fallen on both counts in this quarter. Whereas in the last quarter its share of the vote for Westminster/Holyrood was consistently above its 1997/1999 performance, this quarter it has been consistently below. So, whatever the cause of the party's slide in popularity it has evidently affected both its Westminster and its Holyrood standing.

Labour has indeed been behind the SNP on five of the six Holyrood measures collected this quarter, although there are signs that the Conservatives have made some progress too. But it is Labour's fortune and the SNP's misfortune that the next major election in Scotland will be for Westminster rather than Holyrood. Here the SNP remains a long way behind, faces the difficulties of converting its evenly spread vote into seats under the FPTP electoral system, and the fact that all of its current MPs will be standing down in constituencies where the Conservatives not Labour are the main opposition. As a result the party is likely to be on the back foot in the next 12 months trying to retain what little it has at Westminster rather than making significant gains. Its hope has to be emerge from the general election still in sufficiently good shape to remain unchallenged as the main opposition party in Scotland.

Labour has not just the SNP to worry about but also the Scottish Socialist Party which put in a credible performance in Ayr (hardly natural territory for the party) together with two local by-elections. It is running consistently at about 5% on the second vote in the System Three poll. The party potentially provides a home for disaffected traditional Labour supporters. It may not win many votes at a Westminster election but they could be vital ones in marginal seats like Ayr.

### *Leadership and the Scottish parties*

The issue of political leadership has become topical in recent months. With the exception of the Conservative Party, there has been discussion of the qualities of and possible replacements for the leaders of the main parties in Scotland.

The announcement that Donald Dewar was about to go into hospital fuelled speculation about his successor. Ever since Mr Dewar became First Minister at the age of 61 there has been intermittent media speculation as to his likely successor. From the start of the Parliament it was widely assumed, though never confirmed and occasionally robustly denied, that Mr Dewar would serve only one term and make way for a new, younger leader of the Labour Party in Scotland. In remarks which did not endear him to his



colleagues some time ago, Mr Dewar stated that he did not think that any of his colleagues were yet ready to step into his shoes. Mr Dewar's recent heart operation has, however, revived speculation and jostling for the succession which seems likely to continue until he stands down whenever that happens.

The leadership of the SNP has also been a matter of speculation. Media speculation that Alex Salmond might be replaced and criticisms of his style have led to suggestions that it might be time for a new SNP leader. The leadership of Jim Wallace of the Liberal Democrats has been a focus of attention largely because he has had to stand in for Donald Dewar during the latter's absence from politics. The dire electoral performance of the Liberal Democrats raises questions about the strategy of the party under Mr Wallace's leadership. Only David McLetchie, leader of the Scottish Tories, seems to have been immune from speculation about his leadership.

### *Labour Leadership*

The Scottish Labour Party avoided the trouble which the Welsh Labour Party found itself in largely because the London leadership of the party and Scottish party membership agreed that Donald Dewar should lead the Scottish party. There was no power struggle of the sort which scarred the Welsh Labour Party and damaged its electoral fortunes in the elections to the Welsh Assembly. However, tensions have emerged between Donald Dewar and John Reid, Dewar's successor as Secretary of State for Scotland, over who is the key figure in Labour politics in Scotland. Reports of fairly angry exchanges between Reid and Dewar alongside a series of problems and criticisms of Dewar have fed speculation that Scotland will have a new First Minister after the next Scottish elections, if not before.

The prospect of a leadership contest encouraged supporters of potential successors to begin manoeuvring with all the attendant 'spinning' involved in such exercises. Four names have emerged: Jack McConnell; Susan Deacon; Wendy Alexander; and Henry McLeish. This 50-50 male/female split reflects the composition of the group of Scottish Labour MSPs though it is always possible that some outsider might emerge at a later date. It is even possible that if Robin Cook were removed from his post as Foreign Secretary after the next general election, he might decide to try and find a new career in the Scottish Parliament. Timing would be crucial for a Cook candidacy.

Media speculation has focused on recent successes and failures of the four main contenders though these events may be long over and forgotten by the time of a leadership contest. Nonetheless, this speculation tells us something about the work of the respective spin doctors for each of the contenders. Jack McConnell's position as Finance Minister and a past general secretary of the Scottish Labour Party gives him a number of advantages. He holds a senior position in the Scottish Executive which touches on the work of all other departments. As such, he can claim a breadth of knowledge of the workings of the system that some of his colleagues cannot. His years as general secretary of the party (1992-98) give him a knowledge of the party which few others have. The contacts he has made over the years will stand him in good stead in any contest for the leadership which requires the support of ordinary Labour Party members. In addition, his years as a councillor and two year stint as leader of Stirling District give him important experience. On the other hand, the 'lobbygate affair' did not help him in this era in which politicians can be damaged by the faintest association with whatever the media

decides is 'sleaze'. It is also likely that he made more enemies than friends during his period as general secretary of the party. This was the period during which Labour underwent radical change. As a key figure in the 'modernisation' of the party, McConnell is closely associated with changes which many traditionalists resent. Perceived as close to the Blairite wing of the party he might also be damaged by this association. Nonetheless, Jack McConnell is one of Scotland's shrewdest politicians and capable of recognising and taking action to compensate for any perceived weaknesses.

Susan Deacon's emergence as a possible successor to Donald Dewar, though still an outsider, reflects the talents of someone who has shown a capacity to succeed against the odds. It would be ironic if she became Scottish Labour leader given that she was initially rejected as a potential Labour candidate and was the only member to appeal successfully. As Minister for Health and Community Care, Deacon has been willing to raise difficult issues and provide leadership. On issues such as abortion and breast feeding, she has a flair for publicity which have been absent in some of her colleagues who have been active full-time politicians for much longer. Her opponents have been quick to suggest that she blundered into controversies, has a limited range, has some Old Labour tendencies and has limited experience – some of these criticisms are essentially a different spin on the argument that she has shown leadership. Ultimately, she probably does not have the base of support to enable her to mount a successful campaign for the party's Scottish leadership.

Wendy Alexander's period as Minister for Communities has been marked by dynamism and controversy. Her announcement that Clause 28 would be abolished has provoked one of the most unusual political battles Scotland has seen in recent years. Championing gay rights against Cardinal Tom Winning of the Catholic Church, the multi-millionaire Brian Souter, the Daily Record and a substantial section of Labour supporters, including some of her colleagues in the Scottish Parliament and Executive, Alexander has found herself at the centre of controversy. Reports that she went against the 'advice' of Prime Minister Blair and the fact that the Executive has been forced into some embarrassing climb-downs will have damaged her but the determination she has shown will have endeared her to many party members who might otherwise have been suspicious of someone closely associated with modernisation. Indeed, reports that she ignored Blair may well help her. Potentially far more significant over the long haul are the proposals for radical changes in housing and urban policy. These proposals reflect the thinking of someone willing to think long-term even at potentially seriously damaging short term electoral costs. To her supporters, Alexander's leadership, as illustrated in the cases of Clause 28 and urban policy, demonstrate the kind of courageous radicalism that many party members believe ought to be what Labour is all about. To her opponents these are seen at best as unnecessary electoral gambles which might result in Labour losing power to the nationalists. She has not been a successful Parliamentary performer.

Henry McLeish's main card is that he served as a Scottish Office Minister before becoming Minister for Enterprise and Lifelong Learning. With some justice he can claim to have experience and be a 'safe pair of hands'. Trusted by the leadership in London, McLeish would be seen as a natural successor to Dewar if the party decided to go for 'more of the same'. He has also built a reputation for embracing the 'new politics' of consensus and cross-party working, notably in his relationship with his SNP opposite number John Swinney. However, lacking charisma and less televisual than some of the others, McLeish might be passed over in a search for someone able to confront the SNP.

### *The SNP leadership*

The leadership of the SNP will feature heavily in any Scottish Labour leadership contest. One criterion for many Labour members will be how candidates are deemed likely to respond to Alex Salmond or his successor. Without doubt, Alex Salmond is the most feared figure that any Scottish Labour leader is likely to have to confront in the coming years. That should be sufficient to strengthen Salmond's hand within his party but he remains vulnerable to a challenge for two main reasons. First, the party's constitution makes a challenge remarkably easy. It would not be difficult for a stalking horse to emerge at almost any stage and in any party there are always likely to be a few malcontents willing to have a moment of fame challenging the party leader. Second, Salmond is emphatically on the pragmatic wing of his party and though the advances his party has made under his leadership have strengthened his leadership, any setback would be pounced upon by a group of SNP members only too eager to find fault with his leadership.

However, this is no new situation for the most able leader in the SNP's history. Within hours of being elected leader of the SNP in 1990, a few party members were predicting that he would not last a year. In 1990 Salmond won handsomely despite a fierce campaign against him led by Jim Sillars on behalf of Margaret Ewing. That victory was based on the respect SNP members had for Salmond's abilities. Since then, the relationship between Alex Salmond and the SNP members has changed considerably. Though occasionally critical and questioning, his support within the party has become deeper as well as wider. His position may not be unassailable but it is probably stronger than most outsiders and many internal critics appreciate.

Nonetheless, Salmond has had a bruising time as SNP leader and few politicians have to face the invective which he had to during the Scottish elections. He also finds himself in quite a different managerial context now, with a significant group of MSPs to lead in the Parliament rather than the handful he leads at Westminster. It would be understandable should he decide that after providing the SNP with leadership for over a decade it was time to move on. In such (quite unlikely) circumstances the chances are that he would be replaced by John Swinney. At 36, Swinney is older now than Salmond was when the latter became leader of the party. Swinney's popularity across the party is considerable and there are few other obvious alternatives.

Occasional suggestions in the press of a challenge to the SNP leader rarely have much credibility, not least because the names which emerge are often the same which were mentioned immediately after Salmond became leader in 1990. One problem for Kenny MacAskill and Alex Neil, for example, is the association they have with Margo MacDonald and Jim Sillars who are perceived as rather embittered and marginal figures in SNP politics. However, while Salmond looks secure there is still always the possibility that he might face a challenge from someone intent on damaging him, even at a not inconsiderable cost to the party. The only credible alternative is Salmond loyalist John Swinney. The main issue for the SNP may well prove to be whether the SNP decides to modernise its constitution, tightening up procedures which would make it necessary for any challenger to demonstrate that she or he has a reasonable body of support before forcing a leadership contest.

## *The Liberal Democrats and Conservatives*

Given the appalling showing of the Liberal Democrats in by-elections, coming behind the Scottish Socialist Party in Hamilton and Ayr, it would seem likely that there would be calls for a change of direction and a new leader. The reason this has not happened is largely because it is expected that though the party may have performed embarrassingly badly in by-elections it should maintain much if not all of its support in areas which it holds. The main problem which Jim Wallace has had to confront is how to maintain a distinct identity for his party while being part of a coalition government. This problem is exacerbated by Labour's determination that it should take credit for all that is achieved while the Liberal Democrats are pushed to the fore when things go wrong.

Jim Wallace came under the spotlight when Donald Dewar went into hospital. As Deputy First Minister, Wallace assumed Dewar's formal role, chairing Cabinet, answering First Minister's Questions and the like. Yet, as his embarrassment over the decision by the Labour group to withdraw its opposition to Tommy Sheridan's bill abolishing warrant sales showed, Wallace faces the problem of being head of a government in which he has little or no control over the main party to the coalition. The probability is that Wallace will remain at the top though in the event of a Conservative recovery at the expense of the Liberal Democrats his leadership may be called into question.

Despite continued internal problems, David McLetchie looks more secure as Scottish Tory leader now than when he was first elected. His performance at the Scottish elections and in the Parliament suggest that he is not only enjoying being leader of the party but that he is providing effective leadership. Victory in Ayr helped cement his position as leader and the announcement that Malcolm Rifkind will lead the Tory campaign in Scotland at the general election will help McLetchie. Any seats won in the Commons by the Tories are likely to be credited to McLetchie, while failure to advance may well be blamed on Rifkind and Hague. It is still difficult to judge what would constitute 'failure' for a party with no Westminster seats, one constituency seat in the Scottish Parliament, and still evidently on the back foot.

## *Conclusion*

One aspect of devolution that has emerged within each of the parties has been the impact it has had on leadership. The SNP leader is now the leader of the opposition in every sense. Salmond has clearly had to widen the leadership and alter the image of the party as a 'one man band' but in so doing questions have been raised about Salmond's profile. Though this has raised difficulties for Alex Salmond, this reflects his long term strategy to position his party as an alternative government. In so doing, however, he must push individuals including John Swinney, his most likely successor, more to the fore and create a platform for a potential challenger. For Labour, the Conservatives and the Liberal Democrats, a crucial issue for the Scottish leader is to be seen to be sufficiently in tune with London while being sufficiently independent of it. Donald Dewar's leadership of Scottish Labour may not be over for a long time but it seems certain that the leadership contest has now begun. The nature of the Scottish-London relationship will be played out as much in this potentially long-running contest as in any other aspects of Scottish politics.

- **By-elections update**

The last quarter has seen the first by-election to the Scottish Parliament, where the Conservatives comfortably gained Ayr from Labour, and an interesting cross-section of local authority by-elections.

The Ayr by-election was caused by the sudden resignation of Labour MSP Ian Welsh in December, and was reported in more detail in the last report. The campaign was vigorous and at times rather bad-tempered. Labour fought a very defensive campaign with a local but low-key candidate, Rita Miller, who never seriously looked like she would hold the seat.

The real campaign was between the Tories, who had held the seat at Westminster until 1997, and the SNP, who were a credible third in 1999 and needed a swing of less than half what they received in the Hamilton South by-election to take the seat. The SNP had a strong candidate in Jim Mather and poured considerable resource into a seat where they have traditionally never done well. The Tories sensed victory from the outset, even after former MP Phil Gallie ruled himself out as a candidate, and fielded local farmer John Scott.

The poll took place on March 16 and John Scott polled 12,580 votes, winning with a majority of 3,344. The Scottish National Party came second with 9,236, beating Labour into third place on 7,054 votes. The Scottish Socialist Party, which has one MSP, secured fourth place on 1,345 votes. The Liberal Democrats were squeezed into fourth place with 800. Other candidates polled 885 votes. The turnout was 57%, compared with 66% in May 1999.

The result has given a needed boost to Tory morale in Scotland, although John Scott himself has yet to make much of an impact in the Parliament.

### **Local government by-elections**

A total of six local government by-elections have taken place this year, all since the last quarterly report, and in a sufficiently diverse range of seats to allow some indication of the voters' mood across Scotland. Half the seats have changed hands and the general trend shows a significant slip in Labour support, reflecting the tailing of support in recent opinion polls. The six results were:

23 March - Tayport and Motray (Fife Council) - the Scottish Liberal Democrats comfortably held this ward and increased their majority in the parliamentary seat of North East Fife. The previous councillor had only been elected in May last year and had resigned due to a relocation of her employment.

13 April - Manor Park (Western Isles) - an Independent candidate gained the seat from Labour in the smallest ward of one of Scotland's smallest local authorities. Local politics in the Western Isles remains largely non party-political and Labour had only contested the ward for the first time last May. They did not field a candidate this time so a loss was inevitable.

13 April - Highland (Stirling Council) - the Conservatives comfortably gained this vast ward from the SNP, and their success is significant as the seat lies within the parliamentary constituency of Stirling which former Scottish Secretary Michael Forsyth lost in 1997. The previous SNP councillor has been disqualified for failing to attend meetings so a gain was always on the cards. Labour had no aspirations to challenge in this seat.

13 April - Woodhead/Meikle Earnock (South Lanarkshire) - Labour hold but with a much reduced majority in the face of a strong SNP challenge. A Scottish Socialist candidate picked up nearly 20% of the vote.

27 April - Firrhill (Edinburgh) - Labour held this previously safe ward with a reduced majority. The SNP challenge was visible but not strong, although a Scottish Socialist candidate tried hard and polled more votes than the Liberal Democrat. The seat lies within the marginal Edinburgh Pentlands constituency (Rifkind's old seat) which the Tories hope to regain at the next election.

27 April - Delph and Cambus (Clackmannanshire) - Arguably the most significant council by-election of the year as the SNP took the seat from Labour. This gave the SNP overall control of the council, which they had been running as a minority administration since last May.

Four more by-elections are currently pending, all held by different parties. They are:

8 June - Crown (Highland Council) - where the Liberal Democrats are defending; 22 June - Polmont (Falkirk) where the Tories will try to retain one of their few wards in the Falkirk area; Musselburgh East (East Lothian), Labour held; and Kilmarnock East Central (East Ayrshire) where the SNP is defending. Polling dates for the latter two have yet to be set.

## **11. PUBLIC POLICIES**

- new policy priorities. Education; health; economic devpt; environment?
- legislative programme
- impact of new policies
- influence of groups outside govt, their views on priorities and impact of new policies
- innovations in major policies and service delivery
  
- **Legislative Programme**

### ***Legislation passed this quarter:***

#### **The Abolition of Feudal Tenure etc (Scotland) Bill**

Scotland's ancient feudal land tenure system had been earmarked for complete abolition rather than reform, since at least the 1970s<sup>i</sup>. Feudal tenure is a system of landownership which has existed in Scotland for many hundreds of years. It is generally regarded as outmoded, archaic and unfair. While legislation had been introduced in the 1970s to remove some of its worst effects, the feudal system itself has remained. The Scottish Law Commission published a discussion paper in 1991 inviting comments on its proposals for abolition<sup>ii</sup>, followed by a Report in February 1999, which attached a draft

Bill<sup>iii</sup>. It is a classic case of a Scots law reform measure which had never made it to the top of the list of priorities for parliamentary time at Westminster.

The legislation to abolish the feudal system was finally approved by the Scottish Parliament on 3 May 2000. On a date still to be determined (but it is likely to be approximately two years after the legislation receives Royal Assent), the feudal system will be abolished, and will be replaced by a system of outright landownership with suitable protections to ensure that it will continue to be possible to maintain common facilities, such as shared gardens, and to protect the amenity of property. A system of compensation is provided for the owners of superiority rights to obtain compensation for the loss of such rights.

This is a highly technical piece of legislation which is more likely, in its detailed aspects, to be of interest to conveyancing solicitors than to members of the general public. However, it did become a focus for a considerable amount of attention because of the activities of those interested in the wider implications of land reform in Scotland. The Scottish Land Reform Convention, and others, have for many years been raising awareness of the importance of ownership of land from the point of view of ecological stewardship. The question of whether or not the Crown, as “guardian of the public interest”, should be allowed to retain paramount superiority, in order to act on behalf of the people of Scotland to ensure that private landowners acted responsibly in their ownership, dominated much of the debate in committee and in the chamber debates. These arguments were resisted, ultimately successfully, by the Scottish Executive, who considered the legislation to be simply a technical measure to tidy up Scottish conveyancing law.

### **The Adults with Incapacity (Scotland) Act, 2000**

Another piece of legislation long anticipated by those involved in the particular field was the Adults with Incapacity (Scotland) Bill. The new law will reform the law regulating how the financial and other affairs of people suffering from mental incapacity are dealt with. It had been recognised by the Scottish Law Commission in their 1995 Report and draft Bill on Incapable Adults that the present law was failing to meet the welfare and financial needs of adults with incapacity.

It is estimated that around 100,000 Scots lack capacity for whatever reason in some or all areas of their lives. Adults with incapacity can be people with a mental incapacity, including those suffering from dementia or a severe learning disability, or they may have had a stroke or head injury, and cannot make or communicate their own decisions.

The measures being introduced by the legislation include:

- the appointment of attorneys and guardians to look after financial and welfare matters;
- legally authorising banks, building societies and others to release funds from the account of an adult who loses the capacity to operate it, so that the money can be used to meet the adult's daily living expenses.
- Changing the law to solve the problems that arise when many banks freeze the funds in a joint account if one of the holders loses capacity;

- giving those responsible for medical treatment a general authority to treat adult patients who are unable to give their consent. Relatives will have to be consulted and certain treatments will not be covered by this general authority;
- Sheriff Courts will be able to make one-off orders to deal with specific decisions faced by adults with incapacity such as selling a house or signing an important document;
- creating a new office with the court system called the Public Guardian whose functions will include keeping public registers of attorneys, intervention orders and guardians and supervising those with financial powers.

During the parliamentary stages of the Bill, a considerable amount of attention was paid to Part 5, which concerned consents for medical treatment, and in particular that some of its provisions would permit euthanasia “by the back door”. In the course of the debates on the Bill, assurances were given by the Scottish Executive, that the legislation would not permit euthanasia and that a balance had been struck between the opinions of the proxy (the person who looks after the adult with incapacity) and the doctor who treats the adult with incapacity. This piece of legislation received Royal Assent on 9 May, 2000.

#### **Census Amendment (Scotland) Act, 2000**

This legislation allows the Scottish Executive to insert a question about religious affiliation into the 2001 Scottish Census. It was passed by the Scottish Parliament on 15 March and received Royal Assent on 10 April 2000.

#### **Budget (Scotland) Act, 2000**

This legislation was passed on 10 February and received Royal Assent on 20 March. It is the legislation which permits the making of payments, for financial year 2000/01, out of the Scottish Consolidated Fund and the application of sums otherwise payable into the Fund.

#### ***Currently in Progress:***

##### **Education And Training (Scotland) Bill**

Stage 1 (debate, meeting of the Parliament) 25 May

##### **Ethical Standards In Public Life Etc. (Scotland) Bill**

Stage 2 (Day 2, Local Government Committee) 23 May

##### **National Parks (Scotland) Bill**

Stage 1 (Rural Affairs Committee) 22 May

##### **Standards In Scotland’s Schools Etc. Bill**

Stage 2 completed 15 May

- **Private Members Bills**

The last report noted that MSPs still appeared to be quite reluctant to lodge private members bills, despite their having the right to lodge two during the life of the Parliament. Only two had been lodged at the time of writing in February. As evidence of



how much the picture has changed in the last quarter, the following bills have now been proposed as private members' bills:

### **Debtors (Amendment) Bill**

Proposed by Tommy Sheridan (SSP, Glasgow) To amend the Debtors (Scotland) Act 1987 to remove the rights of a creditor (or an officer of court on his behalf) to apply for, and of a sheriff to grant, authority for poindings or warrant sales. Received 26 supporters, but has not been lodged.

### **Protection Of Wild Mammals**

Proposed by Mike Watson (Labour, Glasgow Cathcart) To make it an offence to hunt a wild mammal with a dog or to facilitate hunting in certain ways. The Bill would provide exceptions for certain activities directed at pest control and conservation of species, and would allow the Executive to license such activities. It would also provide exceptions, in certain cases, for the retrieval or rescue of animals. It would enable courts of summary jurisdiction to disqualify, by order, persons convicted of an offence from keeping a dog, and make breach of such an order an offence. This Bill received 35 supporters within the first month, and finally commenced its Stage 1 consideration in the Rural Affairs Committee on 4 April.

### **Leasehold Casualties**

Proposed by Adam Ingram (SNP, South of Scotland) To provide for the extinction of leasehold casualties, to provide compensation in certain cases, and to make void 'irritancy provisions' in certain leases of land. This Bill received 15 supporting signatures, was introduced on 10 May, and the Scottish Executive has indicated its support for the Bill.

### **Public Appointments (Confirmation)**

Proposed by Alex Neil (SNP, Central Scotland). To require or enable, as the case may be, Scottish Ministers to submit nominations for specified public appointments to the Scottish Parliament for confirmation. Received 23 supporting signatures, but has not been introduced.

### **Abolition Of Poindings And Warrant Sales**

Proposed by Tommy Sheridan (SSP, Glasgow) To abolish poindings and warrant sales both in common law and under the Debtors (Scotland) Act 1987. This Bill has received its Stage 1 consideration: its principles were debated on 27 April 2000. After opposing the Bill up to Stage 1, the Scottish Executive had to accept defeat in the face of a report from three Scottish Parliament Committees which recommended that the Bill be approved in principle and a rebellion amongst its own backbenchers.

The Scottish Executive's opposition had been based on a concern that there would need to be an alternative method of diligence available to ensure the continued enforceability of debts. The Bill's implementation will be delayed to allow the Scottish Executive to come up with such an alternative.

The latest news about this Bill is that it has been sent to the Justice and Home Affairs Committee for its detailed, line-by-line Stage 2 consideration. The Justice Committee has a considerable amount of work lined up, and it is now estimated that the detailed consideration of this Bill will not take place until September.

### **Family Homes And Homelessness**

Proposed by Robert Brown (Lib Dem, Glasgow). To amend the law, including the Conveyancing And Feudal Reform (Scotland) Act 1970 and the Housing (Scotland) Acts 1987 and 1988, to help prevent avoidable homelessness by (a) enabling courts to consider personal and financial circumstances and the need to prevent homelessness before granting mortgage and tenancy repossession orders; (b) imposing a requirement on housing authorities to provide permanent and suitable, rather than temporary, accommodation to homeless persons in priority need, and providing a right of appeal to the sheriff from homelessness decisions; and (c) imposing a duty on all registered social landlords to co-operate with local authorities in preventing homelessness. This bill was introduced on 4 April. It has not yet been allocated to a committee.

### **Mortgage Rights**

Proposed by Cathie Craigie (Labour, Cumbernauld and Kilsyth). To enable a court to suspend certain rights of a mortgage lender in relation to the property of the borrower where the borrower is in default if such suspension would be reasonable in the circumstances of the case; to make provision about the rights of a tenant of such a borrower; and to enable the courts to adjourn proceedings to enforce those rights. This Bill has not yet been introduced.

### **Sea Fisheries (Shellfish) (Amendment)**

Proposed by Tavish Scott (Lib Dem, Shetland). To amend section 7(4) of the Sea Fisheries (Shellfish) Act 1967 to permit Scottish Ministers to authorise the use by fishermen of non-damaging types of fishing gear such as creels in areas covered by Several Fisheries Orders. This Bill's principles are being debated on 18 May.

### **Tuition Fees**

Proposed by Brian Monteith (Conservative, Mid Scotland and Fife). To ensure that students at higher education institutions in Scotland normally resident elsewhere in the UK are not required to pay tuition fees for a fourth year of study; and that any student normally resident in Scotland who qualifies or is accepted for any UK higher education course is granted a scholarship equal in value to the tuition fee for that course, payable for at least four years. Bill has not been introduced.

### **Meat Labelling**

Proposed by Alex Johnstone (Conservative, North East Scotland). To require all meat sold in Scotland to carry a label stating the country or countries in which the animal from which it is derived was reared, and to require all meat products sold in Scotland to carry label stating, in addition, the country or countries in which they were processed. This Bill has not been introduced.

## **Organic Food and Farming Targets**

Proposed by Robin Harper (Green Party, Lothian) To require the Scottish Executive (a) to establish targets for the proportion of land that is certified organic, and for the proportion of food produced and marketed that is similarly certified, by a specified date; and (b) to take steps to ensure those targets are met. This Bill has not been introduced.

## **Alzheimer's and Dementia Care Bill**

Proposed by Christine Grahame (SNP, South of Scotland). Christine Grahame is the Scottish National Party's spokesperson for older people. The Bill has not yet been introduced.

## **Civil Marriages**

Proposed by Euan Robson (Lib Dem, Roxburgh and Berwickshire). To permit civil marriages to be solemnised at locations other than registration offices; and to authorise local authorities to license locations for that purpose and to charge fees to meet related costs and for connected purposes. This Bill has not yet been introduced.

## **Bank Arrestment**

Proposed by Alex Neil (SNP, Central Scotland). To provide safeguards for debtors with bank accounts by restricting the extent to which an arrestment attaches to monies in bank accounts; and by providing a new sheriff court procedure, to be known as an arrestment restriction order, whereby a debtor may apply to the sheriff for an order releasing monies from arrestment. This Bill was proposed on 26 April, and has attracted a number of supporters.

## **• NEW POLICY PRIORITIES**

### **Transport**

After the burst of interest in transport policy earlier in the year with the publication of the Integrated Transport Bill in Parliament, specific initiatives or other transport focus has been less forthcoming.

The Bill itself has spent some time in committee with Transport Minister, Sarah Boyack, giving evidence on aspects of it on several occasions.

Transport issues have been raised on the back of other activity. For example, the publication of Railtrack's Network Management Statement *Developing Scotland's Railway*, has generated considerable parliamentary activity.

The Parliament's temporary move to Glasgow also raised specific issues. The new venue started with an all day debate on the regeneration of Scotland's largest city. Many aspects of life in Glasgow were discussed and transport became one of the more controversial themes. In particular, the M74 northern extension was raised by many

MSPs in the chamber and the issue linked to economic development, employment and social inclusion.

- **Cross Party Groups**

The interest in transport issues amongst MSPs is obviously high as is continually demonstrated from the number of questions and motions lodged on various aspects of the subject. However, this has taken a step further in that there is now a Cross Party Group on the Borders Rail Link and two further “proposed” groups – one on east coast line electrification and another on rail services across Scotland. Neither of the latter is yet fully formulated but all should provide a forum for keeping rail issues in particular up on the political agenda.

- **Consultation Paper Launched On Lifeline Ferry Services**

One of the most controversial measures in the transport arena has been the future of Caledonian MacBrayne Ferries and lifeline services to the islands. On Thursday 27<sup>th</sup> April, Transport and Environment Minister, Sarah Boyack, launched a consultation paper in Parliament entitled “Delivering Lifeline Ferry Services – Meeting European Union Requirements”. The current Executive maintenance of the shipping services on the west coast of Scotland and the Clyde has had to be re-examined after the introduction of European guidelines on State Aids to maritime transport.

Whilst committing the Executive to protecting fares and levels of services, Boyack said “This is a huge challenge and I seek the co-operation and assistance of the local communities, Caledonian MacBrayne and its workforce, local authorities, unions and others, to work with the Executive to deliver a framework of tendering which fosters the economic and social wellbeing of Highlands and Islands communities and builds on the success of Caledonian MacBrayne’s present services.”

Included within the consultation are questions relating to the tendering process, routes, separating the company and also the role that a future Highlands and Islands Transport Authority might play in the matter.

The SNP Transport and Environment Spokesperson Kenny MacAskill, however, claimed in the parliament chamber that the Executive were merely trying to divert the blame for the potential breaking-up of CalMac onto Europe instead of taking the blame themselves.

This is certainly a difficult subject for Ministers who have had their hand forced and it has already generated considerable parliamentary activity.

- **Bus and Coach Statistics**

The Statistical Bulletin “Bus and Coach Statistics 1998-99” was published in early May and pointed to a further decline in passenger numbers. In the ten years to 1998-99 the total distance travelled by local bus services increased by some 10 % although passenger numbers have fallen by over a third. As a response to the figures, Transport Minister, Sarah Boyack outlined her vision for improved bus services as part of an integrated transport policy saying she wanted to see bus travel as “an attractive transport choice, not a last resort.” Bus travel plays an important part in the Integrated Transport Bill.

Putting forward a five-point action plan for improving services, she said “Good quality travel information and user-friendly ticketing arrangements are essential if we are to increase bus usage.”

The five points are:

- legislate to give authorities powers to require the setting up of joint ticketing schemes
- hold a Through-Ticketing Summit later this year to enable discussion among all those concerned to allow us to move forward strategically
- establish a Through-Ticketing Expert Group to monitor progress to ensure an integrated approach throughout Scotland
- commission a programme of research to establish what more needs to be done and how we can make full use of e-commerce
- ensure that developments on through ticketing are compatible with the development of the National Public Transport Timetable.

- **Party Personnel Changes**

The Conservative group in the Parliament have done some rearranging of responsibilities. The Transport and Environment Spokesperson, Murray Tosh MSP, will now concentrate almost completely on transport issues. His Deputy, Glasgow MSP John Young, has been replaced with Ayr by-election newcomer John Scott who will concentrate purely on environment matters.

## **Education**

- **Cubie Report**

After a considerable period of quiet on the subject, the Cubie report on tuition fees is likely to rear its head again with the Ministerial response to the report being published on 24<sup>th</sup> May.

- **Standards in Schools Bill**

The Executive’s Standards in Schools Bill is still going through committee and has faced large numbers of amendments and considerable numbers of committee votes.

- **Regulation of Early Education and Childcare: The Way Ahead**

Following on from the consultation papers *Regulation of Early Education and Childcare* and *Aiming for Excellence*, Education Minister Sam Galbraith, published the Executive’s conclusions on the future regulation of childcare and early education on 19<sup>th</sup> May. This covers the way ahead for the Executive on what to regulate, how to regulate and standards levels.

- **Westminster Learning and Skills Bill**

Enterprise Minister Henry McLeish, has formally lodged a motion with the Parliament asking that the regulation-making powers relating to Scotland in respect of learning

accounts in the Westminster Learning and Skills Bill should be devolved to the Scottish Ministers.

## **Health**

### **Food Issues**

Professor Sir John Arbuthnott was appointed to chair the Scottish Food Advisory Committee and the agency appointed its Director, Dr George Paterson, who had been Director General of the Food Directorate, Health Protection Branch of Health Canada. Health Minister Susan Deacon opened the Scottish office in Aberdeen on 3 April.

### ***NHS spending in Scotland***

Health Minister Susan Deacon outlined on 22 March what the Chancellor's Budget announcement the previous day on increased health expenditure would mean for Scotland. Ms Deacon vowed to "wage war on ill health" by ploughing an extra £26 million into public health from the Chancellor's budget announcement of extra tobacco taxes. She said, "an effective health policy is not just one that gets better at treating more sick people in hospital. It is one that gets better at enabling more people to stay well and out of hospital."

The extra funds will allow the Scottish Executive to invest in the "largest programme of health improvement and public health in Scotland's history". This will include:

- The creation of a Health Promotion Fund to meet the health targets;
- Stepping up anti-smoking measures;
- Extending screening into new areas of disease and across wider age groups;
- Stepping up vaccination programmes to protect the vulnerable and prevent the spread of illness;
- A new National Strategy Group to drive forward the Scottish Executive's work on public health;
- A new Public Health Institute to provide a new focus on public health research.

Other spending announcements both preceded this statement and followed on from it, including:

- £1.3 million for a range of services to make the NHS more responsive to patients;
- Progress on hospital building programme;
- £12 million investment in surgeries and health centres;
- More intensive care beds and equipment (£14 million)
- £2 million to improve mental health services

### **Scottish Health Statistics 1999**

These were published on 1 March. The publication presents information on a variety of topics including:

- births, miscarriages, abortions and teenage pregnancies
- children's health
- cancer and heart disease
- smoking, drug and alcohol abuse

- deprivation and health
- health service resources, staffing and patients treated by the NHS in Scotland.

Some key points from the publication are:

- The age at which women have babies continues to rise. The average age of first-time mothers is now 26 and the percentage of births to women aged over 35 has doubled since 1990 from seven per cent to 14 per cent.
- Life expectancy continues to improve in all age groups, but still lags behind England and Wales. In 1998 there were 25,000 more people aged over 75 compared with 10 years earlier.
- Survival after heart attacks continues to improve. In 1996, 83 per cent of admissions to hospitals survived the first 30 days, compared with 75 per cent in 1986. But heart disease remains the most common cause of death in Scotland.
- Lung cancer incidence in men fell by 14 per cent between 1987 and 1996. By contrast, this incidence in women increased by 19 per cent over the same period.
- Children's dental health varies markedly according to where they live. Fewer than one fifth of five year olds living in high deprivation have healthy teeth compared with over half who live in the most affluent areas.
- Primary immunisation uptake rates in Scotland are the highest in the UK.
- The number of notified cases of measles among children in 1998 (645) is the lowest since records began.
- Day cases now account for three in every five of all planned acute surgical and medical admissions.
- Women in the NHS make up four out of five of the workforce.
- The number of NHS consultants has increased by 23 per cent since 1990.

### **Health Demonstration Projects**

Susan Deacon announced which projects had been successful in the bids for the four health demonstration projects. The details are as follows:

*Starting well* – won by Glasgow Healthy City Partnership. It is principally funded by Greater Glasgow Health Board.

*Healthy respect* – Lothian Health.

*Heart of Scotland* – Paisley Local Health Care Co-operative.

*Cancer Challenge* – to introduce colorectal cancer screening. This was announced last year, and is to involve a pilot in Tayside, Grampian and Fife.

The projects will be launched to the public later this spring.

### **Consultation on Private Health Care**

Announced early March.

Proposals in the consultation paper "Regulating Private and Voluntary Healthcare" include:

- new minimum standards of care

- an independent system of regulation
- sanctions for those who fail patients, including immediate closure
- extending regulation to private medical and dental practices

### **Establishment of the Health Technology Board for Scotland**

In early April, the Scottish Executive announced the appointment of Dr Angus Mackay as Chair of the Board, which before its establishment had been known as the Scottish Health Technology Centre (SHTAC). The Board will advise the NHS in Scotland on the clinical and cost-effectiveness of new and existing drugs and treatments. This is effectively the Scottish equivalent of the National Institute for Clinical Excellence (NICE) which serves the NHS in England and Wales. The Scottish Executive is stressing its independence from the government.

Dr Mackay is the Physician Superintendent and Clinical Director at Lomond and Argyll Primary Care NHS Trust, and he chaired the Board's implementation group.

The membership of the Board was announced on 18 May. The new members are:

Mrs Dorothy Anderson (former Director of Pharmacy Practice Division of the Common Services Agency and is currently working closely with the independent consultant appointed by the Chief Executive of the NHSiS to undertake a comprehensive review of the Common Services Agency.)

Professor John Davies (Professor Davies is a Professor of Psychology and Director of the Centre for Applied Social Psychology at Strathclyde University).

Dr Stephen Engleman (freelance health economist)

Mr John Hanlon (self-employed investment consultant. Member of the Scottish Consumer Council).

Professor James Petrie (Professor of Clinical Pharmacology and Head of the Department of Medicine and Therapeutics at the University of Aberdeen).

Professor Elizabeth Russell (Professor of Social Medicine at the University of Aberdeen).

Professor David Wyper (Professor of Clinical Physics at the University of Glasgow).

### ***Boost to Health Board funds to be "performance-related"***

Health Minister Susan Deacon announced that an extra £60 million is to be ploughed into the NHS in Scotland to speed up the delivery of high-quality care and treatment. The money will only be given to Health Boards if they can show how they will use it to improve patient services. The money will come from the increases in health expenditure announced in the Chancellor's Budget.

A new team will be set up to review progress and ensure the extra cash delivers real benefits for patients.

The Scottish Health Minister said, "The extra health resources which resulted from the Chancellor's Budget gives us an unprecedented opportunity to make real and lasting changes for the better. An additional £173 million will be spent on health as a result - on top of the additional £308 million already committed by the Executive this year. I have



already announced £26 million for Scotland's biggest-ever public health drive so we can work towards removing the unwanted tag of the 'sick man of Europe'. I am now putting this new injection of investment directly into the NHS so we can accelerate delivery of our national and local priorities like cancer, heart disease, mental health and children's health.

“This money must be used to improve performance. Patients don't just want to hear about a better NHS - they also want to see it and experience it. Let me make it clear - this hard won cash comes with some strings attached. Health Boards will have to demonstrate how it will be used before they can spend it.”

Target areas are:

- A major drive to reduce the number of delayed discharges from hospitals, leading to so-called 'blocked-beds' in Scotland.
- More effective forward planning to meet peaks in demand from patients, including the traditionally tough winter periods
- A renewed pledge for waiting times for treatment and waiting list targets to be met and maintained consistently and fairly across the country
- And meeting the prudent financial targets set for the NHS without incurring wasteful overspends.

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<sup>i</sup> Land Tenure Reform in Scotland, Government Green Paper, 1972

<sup>ii</sup> Scottish Law Commission, Property Law: Abolition of the Feudal System, July 1991, DP No. 93

<sup>iii</sup> Scottish Law Commission, Report on Abolition of the Feudal System, ScotLawCom 168, February 1999