

DEVOLUTION MONITORING PROGRAMME 2006-08

Northern Ireland Devolution Monitoring Report
January 2008

Professor Rick Wilford & Robin Wilson
Queen's University Belfast (eds.)



The Devolution Monitoring Programme

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

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

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Acronyms

APNI	Alliance Party of Northern Ireland
BIC	British-Irish Council
BIIPB	British-Irish Inter-Parliamentary Body
CTI	Conflict Transformation Initiative
DARD	Department of Agriculture and Rural Development
DCAL	Department of Culture, Arts and Leisure
DE	Department of Education
DoE	Department of Environment
DEL	Department of Employment and Learning
DETI	Department of Enterprise, Trade and Investment
DFP	Department of Finance and Personnel
DHSSPS	Department of Health, Social Services and Public Safety
DRD	Department for Regional Development
DSD	Department for Social Development
DUP	Democratic Unionist Party
IMC	Independent Monitoring Commission
IS	Investment Strategy
JMC	Joint Ministerial Committee
MLA	Member of the Legislative Assembly
NICVA	Northern Ireland Council for Voluntary Action
NIO	Northern Ireland Office
NSMC	North/South Ministerial Council
OFMDFM	Office of the First Minister and Deputy First Minister
PfG	Programme for Government
PSNI	Police Service of Northern Ireland
PUP	Progressive Unionist Party
RUC	Royal Ulster Constabulary
SDLP	Social Democratic and Labour Party
SF	Sinn Féin
UDA	Ulster Defence Association
UPRG	Ulster Political Research Group
UUP	Ulster Unionist Party
UVF	Ulster Volunteer Force

Executive Summary

The political 'honeymoon period' following the re-establishment of devolution in May 2007 came to an end in the autumn, with the relationship between the two principal partners in the new power-sharing executive, the Democratic Unionist Party and Sinn Féin, looking more like a shotgun marriage.

The first and deputy first ministers, respectively Rev Ian Paisley (DUP) and Martin McGuinness (SF), continued to smile before the cameras and ended the year on a joint trip to the United States, taking in a meeting with the president, George W. Bush, to promote inward investment. Symptomatically, however, they missed two deadlines they had set themselves on the appointment of a champion of the victims of Northern Ireland's 'troubles'. And their parties locked horns on a widening raft of neuralgic issues: Irish-language legislation, the devolution of policing and justice and the future of selection at 11.

With the parties tending to cancel each other out, the draft Programme for Government they published in October was flimsy, with no reference to key direct-rule strategies—particularly those to tackle the sectarianism (*A Shared Future*) and social exclusion (*Lifetime Opportunities*) which, in tandem, have scarred Northern Ireland—and no innovative alternatives. Taken with the draft budget, whose centrepiece was a three-year rates freeze rather than expenditure on public programmes, the private-sector-oriented, economic focus of the PfG gave the administration a distinctly neo-liberal tenor.

This pleased the business community and reflected the dominance in general of the DUP, and in particular of the finance minister, Peter Robinson, in the four-party executive. But voluntary organisations were unhappy and the Ulster Unionist Party and the SDLP were nonplussed—to the extent, indeed, that the two parties supported a critical assembly motion on the PfG from the opposition Alliance Party. Indeed, there were signs of a realignment of the centre ground, with the SDLP social-development minister, Margaret Ritchie, securing a standing ovation at the UUP conference.

The sectarian implications of the DUP's pursuit of political primacy, which hardly chimed with the ethos of power-sharing, became clear when Ms Ritchie stuck to her political guns in insisting she would not fund a 'conflict transformation' project linked

to the Ulster Defence Association when the paramilitary organisation refused to decommission its weapons. Mr Robinson contradicted her announcement in the assembly, and the executive split on the issue, but the minister insisted she would not be 'bullied' by him.

This and other developments left SF politically exposed, with the ideology of its newfound partner so inimical to its core constituency. The DUP was, however, unrepentant in the face of charges of political clientilism, when it emerged that the developer to whom its environment minister, Arlene Foster, was 'minded' to hand a contract for a visitors' centre at the Giant's Causeway—in preference to a public alternative—was a party member.

Chronology of Key Events

18 October 2007	Executive Committee splits over funding for UDA-linked initiative, with UUP and SDLP ministers refusing to agree minutes of previous meeting
20 October 2007	South Armagh man beaten to death, apparently by IRA gang
25 October 2007	Executive publishes draft Programme for Government and budget; UUP and SDLP subsequently support critical Alliance amendment in assembly
Early November 2007	Two Catholic police officers shot by 'dissident' republicans
Early December 2007	First and deputy first ministers, Messrs Paisley and McGuinness, embark on five-day trip to the US, including meeting with president, George W Bush, with a view to promoting investment

1. The 'Peace Process'

Rick Wilford and Robin Wilson

1.1 Introduction

The restoration of devolution in May 2007 led to a 'honeymoon period' within the arranged, loveless political co-habitation that is Northern Ireland's four-party Executive Committee. During the reporting period, however, its implicit stresses began to become more evident, signalled (among other things) by the very public contemplation by the Ulster Unionist Party and the SDLP of the relinquishing of their ministerial seats and the forming, alongside the Alliance Party, of an opposition within the assembly.

The prospect of such a separation, even divorce, so early in the life of the re-devolved Northern Ireland could, to mix metaphors, be regarded as teething trouble. The Jeremiahs would however argue that it is evidence of a more chronic condition, such as a grumbling (political) appendix.

The continuing saga of the Giant's Causeway visitors' centre, which has mired senior Democratic Unionist Party figures in controversy, the running spat between the UUP health minister, Michael McGimpsey, and the chair of the health committee, Iris Robinson (DUP) over whether he had signed off on her partner's draft budget, and the accusation by the finance minister, Peter Robinson, that Margaret Ritchie, the minister for social development, had breached the Ministerial Code and the Pledge of Office, when she announced the ending of funding for the 'Conflict Transformation Initiative', all pointed to the inherently centrifugal forces at work within the executive.

With the draft budget, the executive began to get down to the business of orchestrating its efforts to 'make a difference' to the internal condition of Northern Ireland. In addition, it published a skeletal draft Programme for Government (PfG), a draft Investment Strategy (IS) and its planned legislative programme.¹ But the

¹ This comprised 18 bills, including three already under consideration in the assembly. The 15 new bills were: Disease of Animals, Education Reform, Road Freight Licensing of Operators, Building Regulations Amendment, Budget, Presumption of Death, Budget No 2, Civil Registration, Children (Emergency Protection Orders), Public Health Amendment, Charities, Pensions, Mesothelioma, Child Maintenance and Public Authorities Reform. The three current bills were: Libraries, Taxis and Health (Miscellaneous Provisions). Besides the Budget Bills and the highly complex Charities Bill. The programme was unimaginative and in large measure reflected the 'parity principle', applying legislation derived at Westminster to Northern Ireland.

response to the legislative schedule and the drafts of the PfG and the IS provided further evidence of the executive's immanent difficulties. In the assembly, Alliance tabled two amendments, the first regretting the absence of fresh thinking in the executive's legislative programme and the second expressing concern at the limitations of the PfG and the IS. That Alliance, as the self-appointed 'opposition' (alongside the Green Party's sole MLA, Brian Wilson, and the Independent MLA Kieran Deeny), should table such amendments was no surprise. What was arresting was the fact that both were supported in the division lobbies by UUP and SDLP members, though the two UUP ministers and the sole SDLP minister tactically, and tactfully, left the chamber before each division.

There were also continuing signs of intra-party dissent. The DUP has witnessed some leaching away of support in the wake of its decision to enter a power-sharing administration alongside Sinn Féin. Though more of a trickle than a flood, the loss of a score or so of its councillors and the defection of its MEP, Jim Allister, has been discomfiting for its leadership. This discomfiture was aggravated in early December when Mr Allister announced the formation of a new movement (not yet a political party), 'Traditional Unionist Voice' (TUV). Under the banner 'Nothing that is morally wrong can be politically right', the phalanx of the disgruntled sought to position itself as the organ for disenfranchised unionists who wished to 'build an effective organisation capable of providing democratic opposition to the present DUP/Sinn Féin regime'.² Should TUV decide to contest elections, there is little to suggest that it would fare any better than other anti-agreement unionists—including the UKUP's Robert McCartney, who stood in six constituencies at the March assembly election with a conspicuous lack of success.

Mirroring the DUP's defections, SF has also experienced disgruntlement in its ranks. Though much of its membership fallout was occasioned earlier in the year, after the January *ard fheis* which accepted the legitimacy of the policing and criminal justice systems in the north and south, the decision by one of its MLAs, Gerry McHugh, to resign the party whip came as an aftershock to SF's leadership. Mr McHugh, not quite a commanding figure, cited as his reason for leaving the party fold the fact that SF had become 'overly controlling of its members', claiming he was disillusioned 'with the totally undemocratic nature of the party and the totally top-down dictation

² The pamphlet announcing the creation of 'TUV' was inserted in the *Belfast Telegraph* (7 December 2007).

within it'.³ If nothing else, his remarks suggest that Mr McHugh is not an especially quick learner.

In early December the first and deputy first ministers, Rev Ian Paisley and Martin McGuinness respectively, embarked on a week-long investment mission to the United States, which included a meeting with the president, George W Bush, and another with Democratic presidential candidate Senator Hillary Clinton. The pair had breakfast at the New York Stock Exchange and met the city mayor, Michael Bloomberg, and congressional figures.⁴

Senator Clinton assured Messrs Paisley and McGuinness that, if she was elected, there would be an 'open door' for them at the White House, while Mr Bush, recalling one of the Simpsons' famous neologisms ('embiggens'), remarked that both men had 'dedicated themselves to "embettering" Northern Ireland"—assuming, that is, the president didn't mean 'embittering'! The visit was a prelude to the major investment conference planned for Belfast in late spring 2008 and in that respect seems to have served a useful purpose, although the media impact in the US was underwhelming. Mr Paisley described the trip as a success on their return, anticipating investment outcomes.⁵

1.2 Sectarianism behind the smiles

There was troubling evidence throughout the period that sectarianism, even violence, was not a thing of the past, just because the first and deputy first ministers were so famously smiling together for the cameras. That in itself was beginning to grate: in perhaps the first sign of SF loosening its ties to the executive partnership with the DUP, it emerged that the party had demanded a dramatic reduction of the joint public engagements between Messrs Paisley and McGuinness, as members were unhappy about the latter's subordinate status in the partnership (the former insisting on calling him 'deputy').⁶ It later emerged that SF planned to submit its own response to the draft PfG, as if it were a party of opposition rather than a party of government.

From the other side, the former DUP minister Gregory Campbell gave a combative interview to the unionist-oriented *News Letter*, in which he dismissed these 'puerile

³ BBC News Online, 3 December 2007.

⁴ D. Staunton, 'Paisley and McGuinness begin US visit', *Irish Times* (3 December 2007).

⁵ G. Moriarty, 'Paisley hails US trip as a success', *Irish Times* (11 December 2007).

⁶ S. Lister, 'The last laugh for Ian and Martin as honeymoon ends', *Belfast Telegraph* (1 September 2007).

photographs' of the two principals.⁷ In the same paper, his junior minister colleague in the Office of the First Minister and Deputy First Minister, Ian Paisley Jr, suggested OFMDFM had been 'liberated' from the 'jointery' of the past—the cross-sectarian partnership it embodied, as conceived by the SDLP leader, Mark Durkan—and said the DUP was 'taking charge of the political process'.⁸

A key symbolic battleground here is the Irish Language Act promised in the St Andrews agreement of October 2006. The DUP culture minister, Edwin Poots—within whose brief it now falls—and the SF education minister, Caitriona Ruane, locked horns at the annual, republican-oriented West Belfast Festival in August 2007. Mr Poots resisted such legislation as 'divisive', while Ms Ruane demanded it in recognition of 'rights'; Mr Poots insisted for good measure that Ms Ruane was participating in a 'UK government', which she predictably denied.⁹ In a letter to supporters after 100 days of devolution, the DUP leader, Mr Paisley, affirmed he would block any Irish-language measure.¹⁰

Pressure to accept the devolution of policing and justice powers by May 2008, also in line with St Andrews, was applied by London and Dublin to the DUP—including via the annual private conference on Northern Ireland organised by the British-Irish Association in Cambridge in September.¹¹ But Jeffrey Donaldson indicated on behalf of the party that it could not countenance such devolution until IRA structures were dismantled, while for SF Alex Maskey warned against any 'backsliding'.¹² Rebutting a new year statement by the Northern Ireland secretary, Shaun Woodward, Mr Paisley upheld the 'triple lock' of decisions (by the assembly, executive and Parliament) required for policing and justice to be devolved, describing it as a 'long way' off.¹³

Reflecting these divisive political exchanges on the ground, it emerged that a Protestant Gaelic footballer, Darren Graham (25) of Lisnaskea—whose father and two uncles had been killed by the IRA—had been subjected to repeated sectarian abuse, which led him to announce he was leaving the sport. After the Fermanagh Gaelic Athletic Association board 'unreservedly' condemned the behaviour, however,

⁷ S. Dempster, 'Honeymoon's over—let's get down to work', *News Letter* (10 September 2007).

⁸ S. Dempster, '"My party's not under the thumb" insists Paisley Jnr', *News Letter* (10 September 2007).

⁹ *Good Morning Ulster*, BBC Radio Ulster, 9 August 2007.

¹⁰ 'DUP vows to block added rights for Irish speakers', *Belfast Telegraph* (16 August 2007).

¹¹ G. Moriarty, 'DUP pressed on devolution of policing powers', *Irish Times* (8 September 2007).

¹² G. Moriarty, 'SF warns on devolution of policing', *Irish Times* (12 December 2007).

¹³ D. Keenan, 'Paisley rejects May date to devolve powers', *Irish Times* (2 January 2008).

he rescinded his decision.¹⁴ Around the same time, in August, a teenager from the predominantly Protestant Shankill Road area of Belfast fell victim to an early-morning hit-and-run accident. He was then beaten up by men who had come to his aid, when they discovered he did not know the words of the Orange song *The Sash*—mistaking him for a Catholic.¹⁵ Later that month, the Garvaghy Road Residents' Coalition, representing Catholics opposed to the passage through their neighbourhood of the Orange Order Somme-commemoration parade in Portadown, Co Armagh, in July, quashed hopes of a renewed dialogue with the order over the parade, saying any talks had to cover a range of issues.¹⁶

In September, there were sectarian clashes in Portadown and in Magherafelt, Co Derry.¹⁷ A shooting targeting a 28-year-old man in the mainly-Catholic Ligoniel area of north Belfast was deemed possibly sectarian.¹⁸ There was a spate of attacks on Orange halls, with the order claiming more than 30 had been attacked by the end of 2007.¹⁹ And at the turn of the year, it was revealed that the Protestant population on the west bank in Derry had fallen from 18,000 in 1969—when the unionist political minority ruled the divided city by gerrymandering of ward boundaries—to fewer than 500 today.²⁰

There were signs as the period ended that at Westminster the persistence of sectarianism in Northern Ireland, and official connivance with it, was becoming less acceptable. The Northern Ireland Affairs Committee challenged the hugely expensive segregation of paramilitary prisoners at Maghaberry jail along sectarian lines.²¹ And an early day motion called for a review after one year of the latest north Belfast 'peace wall'—constructed, as the last monitoring report indicated, on land used as the playground of Hazelwood integrated primary school, thereby enclosing the school in a 'loyalist' area against its express wishes. The sponsor of the motion, David Anderson (Labour), said the £1/4m, 25-foot-high fence was 'a sad symbol of the wider costs of sectarianism' (see finance section).²²

¹⁴ G. Moriarty, 'Protestant player to return to club after GAA apology', *Irish Times* (10 August 2007).

¹⁵ G. Moriarty, 'Shankill hit-and-run victim assaulted by passersby', *Irish Times* (10 August 2007).

¹⁶ 'Residents pour cold water on Drumcree hopes', *Belfast Telegraph* (30 August 2007).

¹⁷ C. Young, 'Plea for calm after sectarian clashes', *Belfast Telegraph* (8 October 2007).

¹⁸ L-A Henry, 'North Belfast shooting victim stable', *Belfast Telegraph* (10 December 2007).

¹⁹ 'Petrol bomb attack on Orange hall', BBC News Online (17 December 2007).

²⁰ 'Derry's Protestant exodus shock', *Belfast Telegraph* (1 January 2008).

²¹ 'Loyalist and republican prisoners "should be housed together"', *Belfast Telegraph* (12 December 2007).

²² S. Lister, 'New peaceline "must not be permanent"', *Belfast Telegraph* (14 December 2007).

1.3 Simmering paramilitarism

Most disturbing was the recrudescence, however modest by historical standards, of organised paramilitary attacks. Two Catholic policemen were wounded in separate attacks by 'dissident' republicans in November, one in Derry and one in Dugannon, Co Tyrone.²³ These were inevitably perceived as an attempt to intimidate Catholics from joining the Police Service of Northern Ireland—of which they now comprised 21 per cent of members and 44 per cent of recruits, according to the chief constable, Sir Hugh Orde.²⁴ It emerged that other officers had been warned to move²⁵ and, perhaps most dispiritingly, that police were having to don flak jackets again in Belfast owing to this renewed threat.²⁶ The revelation that the PSNI had, at 16 per cent, the lowest clear-up rate in the UK was not suggestive of an organisation with high morale.²⁷ It also emerged, meanwhile, that four north Belfast SF councillors and one from Glengormley in Co Antrim had been threatened by 'dissidents'.²⁸

What was, even by the benchmark of Northern Ireland's 'troubled' past, a particularly brutal murder took place when a gang of around 20 men beat to a pulp Paul Quinn (21) in Cullyhanna, south Armagh, following altercations with local republicans. The Quinn family blamed the IRA for the killing,²⁹ though this was inevitably denied by the SF MLA for the area, and regional development minister, Conor Murphy.³⁰ After John Gieve of the Independent Monitoring Commission claimed that members or former members of the IRA had indeed been involved, Mr Donaldson of the DUP warned of 'implications for the political process' and indicated that his party had already been in touch with the prime minister, Gordon Brown, over the affair.³¹ A reliable investigative reporter firmed up the IRA connection, saying the beating had been ordered by the local 'officer commanding' and endorsed by a member of the ruling seven-member army council.³²

²³ D. Henderson, 'DNA hunt after gun ambush of policeman', *Belfast Telegraph* (10 November 2007); D. Keenan, 'Crackdown demanded after another PSNI officer is shot', *Irish Times* (13 November 2007).

²⁴ D. Keenan, 'Catholic interest in PSNI positions increases', *Irish Times* (5 October 2007).

²⁵ H. McDonald, 'Republicans blamed for attempt to kill second policeman', *Guardian* (13 November 2007).

²⁶ H. McDonald, 'Belfast police forced to wear flak jackets again', *Guardian* (13 December 2007).

²⁷ C. Thornton, 'PSNI solves less crime than other UK forces', *Belfast Telegraph* (7 September 2007).

²⁸ 'Threat to Sinn Féin councillors', *Belfast Telegraph* (22 October 2007).

²⁹ D. Keenan, 'Family blames "Provisional movement" for son's murder', *Irish Times* (22 October 2007).

³⁰ D. Keenan, '"Utter revulsion" felt over killing', *Irish Times* (22 October 2007);

³¹ D. Keenan, F. Millar and C. Casey, 'DUP seeks Orde meeting over murder', *Irish Times* (13 November 2007).

³² S. Breen, 'Fatal attack "ordered by Provisional IRA"', *Sunday Tribune* (28 October 2007).

So far, so predictable. But what was unprecedented, and revealing of a remarkable assertiveness in the IRA's heartland—as well, perhaps, as disillusionment with the now apparently rudderless SF political 'project' among some core supporters—was that hundreds of residents were prepared to attend public meetings of a family support group. The group, chaired by a former SF councillor, called for the 'Provo murder machine in south Armagh' to 'be forever dismantled'. The victim's father, Stephen, attacked the SF president, Gerry Adams—Mr Adams had loftily suggested the murder was an affair among 'criminals'—and dismissed the denials of republican involvement.³³ 'I never thought I would live to see the day,' remarked a Dáil member who attended one of the meetings. It was notable, however, that London and Dublin were happy to echo SF's 'criminal' account of the episode³⁴—until the taoiseach, Mr Ahern, was forced into a denial by the family.

There was good news that the past was being left behind. South Armagh used to be bedecked with surveillance towers, symbolising what to most residents was an oppressive and alien military presence. But the IMC, in its last report on security 'normalisation', said government had made 'amazing progress' in dismantling the military structure, while reaffirming that the IRA had 'abandoned terrorism'. In that context, it urged that legislation allowing the continuation of non-jury courts be 'fully reviewed'.³⁵

But the sense in Northern Ireland that the past isn't really over persisted. While the first and deputy first ministers continued to fail to agree on the appointment of a victims' commissioner (see devolved government section), the consultative group on dealing with the past, whose establishment was described in the previous report, issued a call for submissions. The group's leaders, Robin Eames and Denis Bradley, met the former Metropolitan Police commissioner Lord Stevens over four days in London—suggesting there was much still to emerge into the public domain from his earlier inquiries into collusion between the 'security forces' and loyalist paramilitaries in Northern Ireland.³⁶

³³ C. Casey, 'Murder victim's father accuses Adams', *Irish Times* (14 November 2007).

³⁴ L. MacKean, 'Murder behind a wall of silence', *Newsnight*, BBC2 (28 November 2007).

³⁵ Independent Monitoring Commission, *Sixteenth Report of the Independent Monitoring Commission* (London: Stationery Office, 2007, at: www.independentmonitoringcommission.org/documents/uploads/IMC_Sixteenth.pdf).

³⁶ G. Moriarty, 'Eames and Bradley delve into NI "dirty war"', *Irish Times* (23 August 2007).

The most recent IMC report, the 17th, confirmed the political commitment of the republican movement, but was not so positive about loyalists.³⁷ Under direct rule the Northern Ireland Office had agreed to fund to the tune of £1.2m a 'conflict transformation' project linked to the largest paramilitary group, the Ulster Defence Association. Upon devolution, this fell into the political lap of the SDLP social development minister, Margaret Ritchie, who insisted she would only hand over the money if the UDA decommissioned its arsenal in 60 days.

Days before the October deadline, the Northern Ireland secretary, Mr Woodward, appeared to undermine Ms Ritchie, welcoming the UDA's 'meaningful engagement' with the Independent International Commission on Decommissioning.³⁸ Frankie Gallagher of the Ulster Political Research Group, also linked to the UDA, warned that if this 'derails the peace process' Northern Ireland would arrive at 'a disastrous place'.³⁹ Ms Ritchie chose to ignore this hardly subtle threat, only to find herself embroiled in a row with executive colleagues (see assembly and political parties sections).

Another paramilitary-linked politician, Billy Hutchinson, leader of the Progressive Unionist Party—political wing of the Ulster Volunteer Force—was questioned by police for two days in August, amid PUP protest, about the sectarian slaying of Thomas Devlin (15) in north Belfast two years earlier. Prime suspects are UVF members in the Mount Vernon area.⁴⁰

Meantime, the PSNI claimed that the 'historic enquiries team' reviewing cold cases from the 'troubles', at a cost of £4m a year, was not being funded by the NIO as promised.⁴¹ For the DUP, Mr Donaldson contrasted this with the spiralling cost of the Bloody Sunday inquiry and claimed there was a 'hierarchy of victims'⁴²—a phrase, of course, mirrored by republicans who claim victims of collusion come at the bottom.

The period ended in a disastrous way for one group of victims, the bereaved of the 29 who died in the Real IRA Omagh bomb of 1998. In the only case arising from the

³⁷ Independent Monitoring Commission, *Seventeenth Report of the Independent Monitoring Commission* (London: Stationery Office, 2007), at: www.independentmonitoringcommission.org/documents/uploads/17th_IMC.pdf.

³⁸ D. Keenan, 'Ritchie says funding rests on UDA arms progress', *Irish Times* (8 October 2007);

³⁹ 'Loyalist warning on UDA arms move', BBC News Online (8 October 2007).

⁴⁰ Hutchinson freed by police investigating school murder', *Irish Times* (22 October 2007).

⁴¹ 'London accused of failing to meet pledge on victims', *Irish Times* (28 August 2007).

⁴² D. Keenan, 'Donaldson criticises "hierarchy of victims"', *Irish Times* (29 August 2007).

event nine years on, Sean Hoey was acquitted of all charges in connection with the bomb. The judge, Reg Weir, who was a robust figure as a barrister, lambasted the inquiry by the old Royal Ulster Constabulary and the testimony of two still-serving officers.⁴³ The two were not however suspended and the PSNI badly mishandled a post-trial impromptu news conference, damaging Catholic confidence in the new dispensation.⁴⁴

⁴³ E. Addley, 'Omagh trial farce prompts inquiry calls', *Guardian* (21 December 2007).

⁴⁴ F. O Connor, 'Inept PSNI tarnished by Omagh', *Irish Times* (28 December 2007).

2. Devolved Government

Robin Wilson

2.1 Giant trouble

Northern Ireland's premier tourist attraction, the Giant's Causeway, is an ideal spot for tranquil contemplation amid the hexagonal columns of the crystallised rock formation, stubbornly absorbing wave and offshore wind. And the DUP environment minister, Arlene Foster, hardly appreciated the tide of trouble that would wash over her party when she indicated she was 'of a mind' to award the contract for the construction of a visitors' centre there—the prior centre having been destroyed by fire some years earlier—to a bid led by a private developer, Seymour Sweeney.

Apart from the merits, or otherwise, of engaging the private sector with this jewel of the region's public realm—and Moyle District Council voted that the site be retained wholly in public hands—it quickly emerged that Mr Sweeney was a multi-millionaire DUP member, whom BBC Northern Ireland showed photographed with the two Ian Paisleys (father and son), and who had sold a property to Mr Paisley Jnr.⁴⁵ Daithi MacKay of SF and Declan O'Loan of the SDLP, representing the North Antrim constituency, accused the DUP of a conflict of interest,⁴⁶ though Ms Foster threatened legal action over any claims of bias in her decision-making.⁴⁷

In one of a series of *Belfast Telegraph* investigations, which clearly irked the Paisley family, it emerged that Mr Sweeney had put Mr Paisley Sr's name, as a potential 'trustee', on an application for Heritage Lottery Fund support for his project, and that the Environmental Heritage Service of Ms Foster's department had rejected it, fearing 'major adverse impact' on the site.⁴⁸ It further emerged that Mr Paisley Sr had written an angry letter to the fund in 2003 after the latter had turned down Mr Sweeney's application.⁴⁹ Moreover, the letter, apparently signed by Mr Paisley Jr on his father's behalf, had claimed approval from UNESCO for Mr Sweeney's proposal, which UNESCO emphatically denied.⁵⁰

⁴⁵ BBC News Online (11 September 2007).

⁴⁶ *Irish Times* (12 September 2007).

⁴⁷ *Irish News* (11 September 2007).

⁴⁸ D. Gordon, 'Twist in Causeway plan row', *Belfast Telegraph* (25 September 2007).

⁴⁹ D. Gordon, 'Paisley embroiled in cronyism furore', *Belfast Telegraph* (4 October 2007).

⁵⁰ D. Gordon, 'MLAs demand answers over Paisley's lobbying for Causeway centre project', *Belfast Telegraph* (5 October 2007).

It also appeared that Mr Paisley Jr had made representations to David Cairns, the former direct-rule environment minister, in support of Mr Sweeney's planning application and the issue may have been raised around the St Andrews talks on the restoration of devolution.⁵¹ The DUP issued a guarded denial that the matter had been included on the party 'shopping list' for the UK government, though the statement allowed that it could have been raised 'on the margins' and 'in an individual capacity'.⁵²

The assembly's Environment Committee demanded to see the report given to the minister by the Planning Service on the centre, before she had indicated she was 'minded' to back the Sweeney proposal, but Ms Foster refused.⁵³ Mr Sweeney meanwhile admitted to having been a party member for 'three or four years'.⁵⁴

In a further revelation, material extracted under Freedom of Information legislation by the *Belfast Telegraph* showed Mr Paisley Jr had lobbied government 13 times in support of Mr Sweeney's company in the five years to 2006, in connection with the causeway site.⁵⁵ It also emerged that Mr Paisley Jr had lobbied in support of constituents, including Mr Sweeney, interested in buying land which had been compulsorily acquired—a price of £50m had been finalised—and that the lobbying had continued after he had become a minister.⁵⁶

In November, Moyle Council and the National Trust agreed on a new public proposal for a visitors' centre, which the minister said she welcomed.⁵⁷ Finally, at the end of the reporting period, it was revealed that Ms Foster had met the culture secretary, Margaret Hodge, in mid-December, following pressure from the National Trust in Britain on the Department of Culture, Media and Sport—which liaises with UNESCO on the UK's behalf—to intervene in the causeway centre affair.⁵⁸

Set against the modern bar of the Nolan principles on the conduct of public life—notably openness and accountability—this was an extraordinary sequence of events. The episode highlighted how the renewal of devolution in a form congenial to the

⁵¹ D. Gordon, 'Paisley jnr lobbied direct rule ministers', *Belfast Telegraph* (12 October 2007).

⁵² D. Gordon, 'DUP keeps distance from issue', *Belfast Telegraph* (17 October 2007).

⁵³ D. Gordon, 'Causeway: MLAs demand report', *Belfast Telegraph* (19 October 2007).

⁵⁴ G. Moriarty, 'Giant's Causeway builder denies close ties to Paisleys', *Irish Times* (24 October 2007).

⁵⁵ D. Gordon, 'Paisley's big push', *Belfast Telegraph* (1 November 2007).

⁵⁶ M. Purdy, 'Paisley Jr "lobbied for land bid"', BBC News Online (6 December 2007).

⁵⁷ D. Gordon, 'Giant step for new causeway centre', *Belfast Telegraph* (28 November 2007).

⁵⁸ D. Gordon, Foster meets No 10 minister over Causeway controversy', *Belfast Telegraph* (2 January 2008).

most 'traditional' of unionist parties risked giving rein to an old, clientelist politics—what the first Northern Ireland unionist prime minister, Sir James Craig, called 'distributing bones'.

2.2 Struggling with the past

The difficulties the first and deputy first ministers found in appointing a victims' commissioner might have been avoided if they had taken as their compass the Nolan principle of objectivity—including that all public appointments should be made on merit. The former Northern Ireland secretary, Peter Hain, had found himself in hot water when he appointed as an 'interim' commissioner a DUP nominee, Bertha McDougall, in late 2005. A judicial review, sought by the widow of a Catholic killed by a police plastic bullet, led to a stern judgment mandating an inquiry by the attorney general. As indicated in the last monitoring report, this cleared the officials involved.

A shortlist of potential appointees for the permanent position was sent to Messrs Paisley and McGuinness shortly after the transfer of power in May 2007 and they promised a decision would be made before 10 July when the assembly rose.⁵⁹ July, however, came and went.

In October, a tortuous statement by the two principals said the post would be readvertised, even though the shortlisted candidates had (as one would expect) been deemed appointable. Mr Paisley said this was because there was 'a new political dispensation' and he elaborated: 'To put it bluntly, we believe that some potential applicants may have been deterred from putting themselves forward for the post during direct rule because they could not be confident of securing the broad political support of the local parties that they would need to become a true champion for victims and survivors in Northern Ireland.'⁶⁰

This apparent suggestion that political acceptability to one or more parties should be a platform for an appointment to an impartial public office—indeed one in which impartiality is absolutely critical, given the sensitivities involved—was compounded by the proposition that those shortlisted this time around would have to make a presentation to the first and deputy first ministers. This in itself could have represented an obvious 'chill factor' for any potential applicants who had themselves been victimised during the 'troubles', given the roles as protagonists the two had

⁵⁹ C. Thornton, 'Victims' chief still not agreed', *Belfast Telegraph* (17 August 2007).

⁶⁰ OFMDFM news release, 8 October 2007.

played. And, since it was highly implausible that any candidate would be readily endorsed by both the DUP and SF, it was unsurprising that the next deadline the duo set themselves—the end of the year—also passed without an appointment.⁶¹ Indeed, one concern was that they might end up endorsing two candidates—one for Protestant victims and one for Catholics.

As with the visitors' centre, nor did the ministers put a premium on transparency. It emerged in December that the *Belfast Telegraph* had been fobbed off since September by OFMDFM over answers sought under Fol legislation to eight questions submitted in September on the delayed appointment.⁶² Eventually OFMDFM replied, indicating that six of the original 13 candidates had been deemed possible to appoint. But it declined to say how often the first and deputy first minister had discussed the appointment and refused to indicate the religion and gender of the applicants, as the former direct-rule minister David Hanson had done.⁶³

Whatever private exchanges the first and deputy first minister may have had about the victims' commissioner, the split in the Executive Committee on funding of the UDA-linked 'conflict transformation' project was open and bitter (see 'peace process' and assembly sections). In advance of the executive meeting at which it was discussed, the SDLP social-development minister, Ms Ritchie, fired a shot across the bows of the DUP finance minister: 'I will not be bullied by Peter Robinson.'⁶⁴

The argument at the executive turned into a battle over the relevant minutes of the previous meeting, with the SDLP and UUP rejecting and the DUP and SF supporting them. Ms Ritchie accepted in an interview that evening that she was accusing others of 'fabricating minutes'.⁶⁵ After five hours, a statement was issued saying the majority had agreed the minutes but there had been no vote on the substantive issue. The DUP minister for enterprise, trade and investment, Nigel Dodds, emerged from the meeting to condemn the 'scurrilous' attack by Ms Ritchie.⁶⁶

⁶¹ C. Thornton, 'McGuinness and Paisley miss another deadline', *Belfast Telegraph* (3 January 2008).

⁶² C. Thornton, 'Victims' post: so why are we still waiting?', *Belfast Telegraph* (10 December 2007).

⁶³ C. Thornton, 'First ministers stay silent on victims post candidates', *Belfast Telegraph* (28 December 2007).

⁶⁴ D. Keenan, 'DUP may censure Ritchie's decision', *Irish Times* (18 October 2007).

⁶⁵ *Hearts and Minds*, BBC2 Northern Ireland (18 October 2007).

⁶⁶ D. Keenan, 'Splits deepen within North's Executive', *Irish Times* (19 October 2007).

2.3 Programme for Government

Ironically, the media furore over the funding row at the executive missed the story that the parties had failed then to agree a draft Programme for Government. They did so a week later, on 25 October, but the draft received what can at best be called a lukewarm reception—except from the business community, which was enthusiastic. For the draft affirmed: ‘Our primary focus over the lifetime of this Programme for Government will be on growing the economy.’

The problem was that the document amounted to just 17 pages of text (double-spaced!).⁶⁷ By contrast, the first programme of the previous devolved government, agreed in 2000, amounted to nearly 70 pages.⁶⁸ And while there were many aspirational targets, and some proposed actions, no new policies were advanced to realise the goals and provide the assembly with a legislative agenda.

The executive creaked as the UUP and the SDLP support a (defeated) Alliance amendment in the debate on the draft PfG and associated draft budget in the assembly, attacking the ‘limited vision’ of the programme.⁶⁹ In a new year statement the Alliance leader, David Ford, said: ‘The Executive took power eight months ago, on a promise of governing Northern Ireland better than direct-rule ministers had done. So far, ministers have not lived up to that promise.’⁷⁰

NGO reaction was also negative. The Northern Ireland Council for Voluntary Action criticised the programme for its failure to prioritise social, intercultural and environmental concerns, highlighting the absence of reference to the direct-rule anti-poverty strategy, *Lifetime Opportunities*, the abandon of the strategy on ‘community relations, *A Shared Future*, and the lack of commitments on the Climate Change Bill or to an independent environmental protection agency.⁷¹ This reflected wider voluntary-sector scepticism: NICVA runs a regular opinion trawl of its affiliates and over three quarters (76.4 per cent) of respondents expressed the view in a survey published in October that it would be difficult for Northern Ireland politicians to move

⁶⁷ Northern Ireland Executive, *Building a Better Future: Draft Programme for Government 2008-11* (Belfast: OFMDFM, 2007, at: www.pfgbudgetni.gov.uk/pfg241007new.pdf).

⁶⁸ Northern Ireland Executive, *Programme for Government: Making a Difference, 2001-2004* (Belfast: OFMDFM, 2000).

⁶⁹ G. Moriarty, ‘McGuinness tags SDLP, UUP as problem parties’, *Irish Times* (28 November 2007).

⁷⁰ D. McGinn, ‘Ford: honeymoon over for Assembly ministers’, *Belfast Telegraph* (1 January 2008).

⁷¹ Available at www.communityni.org/uploads/docs/Cons-849%20PFG%20Budget%2008-11%20final.doc.

beyond green and orange concerns to dealing with 'real issues' that affected society as a whole.⁷²

The environmental concerns about the draft PfG were shared by Friends of the Earth. In advance of a cross-party meeting at Stormont, the chair of the review of environmental governance, Tom Burke, complained that campaigners were frustrated by the lack of executive response to its report, which as the previous monitoring report indicated, had backed an independent EPA.⁷³ FoE said it would take the minister to the European Court of Justice, accusing Ms Foster of 'dragging her feet'.⁷⁴

2.4 DUP agenda

While the executive comprises four parties, there is no doubt which party has been dominant—the DUP, exploiting to the full the vetoes it secured from a prime minister desperate for his Irish swansong, Tony Blair, at St Andrews in 2006. And, within the DUP, it is clear that the finance minister, Mr Robinson, has been the powerhouse. It is thus of considerable interest that he should have set out a very clear agenda for further constitutional reform during the reporting period.

In a dinner address to former colleagues on Castlereagh Council, the predominantly-Protestant borough which he led for many years, Mr Robinson called for dramatic changes in the political architecture.⁷⁵ He said:

While I understand that it may be necessary to build confidence in the process before more radical changes can be delivered I hope that change will not be too long delayed. A four party mandatory coalition with no effective opposition is not in the best interests of decision making in Northern Ireland. Eleven government departments to administer the province is about twice as many as we need and the community designation system is no basis for tackling community division in the longer term.

This was a sweeping agenda—and so all the more remarkable that it attracted little attention or debate. While it echoed many liberal and technocratic concerns about the institutionalisation of sectarianism in the Belfast agreements and, particularly, its St Andrews qualifier, it held out to the Catholic community no alternative minority

⁷² Viewfinder 7, available at:

www.communityni.org/index.cfm/section/article/page/commni_viewfinder_0906.

⁷³ 'Anger over green agency delay', *Belfast Telegraph* (14 November 2007).

⁷⁴ L. McKee, 'Environment fight goes to Europe', *Belfast Telegraph* (1 November 2007).

⁷⁵ D. Gordon, 'Robinson seeks radical shake-up of Stormont', *Belfast Telegraph* (15 October 2007).

safeguards, such as would be offered by an effective bill of rights. Indeed, during the period, the DUP secured (with wider unionist support) the passage of an assembly motion claiming that the forum on a bill of rights, established after St Andrews, was unfair to unionists. The proposer, Michelle McIlveen (DUP, Strangford), said it included 'communists, Marxists and socialists'.⁷⁶

⁷⁶ D. Keenan, 'Bill of rights forum being hijacked, say unionists', *Irish Times* (16 October 2007).

3. The Assembly

Rick Wilford

3.1 Plenaries

During the reporting period, there were 20 plenary sessions of the assembly, the majority in the first half of that period preoccupied with private members' business rather than an agenda supplied by the Executive Committee.⁷⁷ The delay in 'agreeing' a draft Programme for Government in part accounted for the relative dearth of business from the executive, as did the delay in publishing its legislative programme.

The chair of the Committee for the OFMDFM, Danny Kennedy (UUP), spoke of 'early paralysis' in the executive: 'The Assembly remains at the level of a school debating society, dealing with private members motions rather than real business. I think the difficulty is that the Executive is now at the point where real choices and decisions are having to be made and, frankly, it's not working.' He added: 'My committee keeps on writing to ask what is happening, but there are few answers.'⁷⁸

During the hiatus, assembly members (MLAs) debated a variety of matters—ranging from the parochial (the future of Donaghadee High School, 9 October 2007), to the regional (Northern Ireland's sports strategy, 13 November 2007), to the international (the crisis in Burma, 8 October 2007) to the truly global (sustainable development and climate change, 2 October 2007).

Financial matters bulked large on the assembly's agenda and not just in relation to the draft budget proposals, which were debated on 25 October in the wake of the joint unveiling by the first and deputy first minister of the draft Programme for Government and the draft Investment Strategy. Earlier in the period, the assembly debated fiscal reform on a motion tabled by Alliance's former leader, Sean Neeson. This referred in large measure to the all-party support for a reduction in corporation tax in Northern Ireland to the level (12.5 per cent) prevailing in the republic—an issue delegated by the prime minister, Gordon Brown, to the Varney review (see intergovernmental relations and finance sections).

⁷⁷ N. McAdam, 'Table for two as old foes join business committee', *Belfast Telegraph* (5 November 2007).

⁷⁸ N. McAdam, 'Executive in "paralysis" warning', *Belfast Telegraph* (12 September 2007).

Elsewhere, the assembly debated abortion (22 October 2007), yet again: it had done so first during the shadow period before the transfer of devolved powers, at the end of November 1999, and in July 2000. The recent debate was prompted by the issue of proposed guidelines by the Department of Health, Social Services and Public Safety following a direction by the Court of Appeal to the department to clarify the law on abortion in Northern Ireland—this has been a longstanding uncertainty—and to provide guidance on good clinical practice. This occasioned a clamour by spokespersons for each of the parties to restate their opposition to any proposal (though there is none) to extend the 1967 Abortion Act (as amended) to Northern Ireland.

As a reserved matter, it is not for the assembly to determine the writ of the law but, nevertheless, MLAs were at pains to express their opposition to and abhorrence of the 1967 act. Moreover, they voted to oppose the proposed guidelines on the termination of pregnancy and called on the minister, Mr McGimpsey (UUP), ‘to abandon any attempt to make abortion more widely available in Northern Ireland’.⁷⁹ Women seeking a termination on the grounds of the 1967 act will have to continue to travel to the mainland, as at least 1,300⁸⁰ did in 2006, at considerable emotional as well as financial cost.

3.2 Tempers flare

The abortion debate was on a motion tabled by Iris Robinson, the DUP chair of the health committee, who later was at the centre of an assembly row. During questions to the minister, Michael McGimpsey (UUP), Ms Robinson asserted that he had ‘signed off’ on the draft budget and was misleading the assembly in saying he had not done so.⁸¹ The ensuing verbal fireworks between the two were appropriate—it was Guy Fawkes’ Day—but Ms Robinson’s accusation was subsequently deemed unparliamentary by the Speaker. Having refused to withdraw, she was suspended from the assembly and its precincts for the rest of the day.⁸²

A rather more serious row, this time involving the social development minister, Ms Ritchie (SDLP) and the finance minister, Mr Robinson (DUP), occurred following Ms

⁷⁹ *Official Report*, 22 October 2007.

⁸⁰ This is an officially recorded figure quoted by Mr McGimpsey during the debate and, therefore, likely to be an underestimate: women from Northern Ireland seeking terminations in Britain may give their temporary address.

⁸¹ *Official Report*, 5 November 2007.

⁸² *Official Report*, 19 November 2007.

Ritchie's announcement of her decision to halt funding for the controversial Conflict Transformation Initiative.

During a ministerial statement, she announced: 'I do not believe that the CTI project can be justified any longer and I propose to end it immediately'.⁸³ Though few beyond the loyalist *laager* demurred from the substance of Ms Ritchie's decision, Mr Robinson raised a point of order at the conclusion of the statement which contained some very serious allegations against his executive colleague.

According to the finance minister, the statement was made in contravention of decision-making processes within the executive, was inconsistent with advice by the Departmental Solicitor's Office and senior Crown counsel and, in his view, breached the Ministerial Code and the Pledge of Office. So serious were these issues that the Speaker suspended the session while he took legal advice. After a long delay, the Speaker reported that, having spoken to the head of the Northern Ireland Civil Service, Nigel Hamilton, and a number of ministers—each of whom expressed serious concerns about the statement and, in the former's case, about its legality—he ruled that the statement had not breached the assembly's Standing Orders and, as such, allowed proceedings to continue.

Subsequent exchanges between the minister and MLAs led Ms Ritchie to set out the process through which she had arrived at her decision, including the circulation of papers to her executive colleagues—noting that none had advised her against her proposed action. An acerbic exchange with Mr Robinson demonstrated the brittleness of that particular relationship. As Ms Ritchie put it—in a phrase which would have resonated deeply within the Catholic community because of its historic evocations of unionist domination—the finance minister liked 'to think that he controls the Executive'.⁸⁴

This was, or seemed, like a decisive moment: politicians and commentators waited with bated breath to see whether the DUP might seek a judicial review of the process by which Ms Ritchie had arrived at her decision; it didn't. In part, its inaction was a recognition that the social development minister's decision had broad public endorsement and that Mr Robinson's objection, rather lawyerly as it seemed, carried little popular support—other, that is, than in some loyalist quarters. Indeed, at a

⁸³ *Official Report*, 16 October 2007.

⁸⁴ *Ibid.*

Remembrance Day service on the predominantly-Protestant Sandy Row, the UDA's south Belfast 'brigadier', Jackie McDonald, defiantly insisted that '90 per cent of people in the loyalist community don't want decommissioning', adding with a flourish of doubtful provenance: 'They're not the UDA's guns. They're the people's guns.'⁸⁵

Above and beyond the episode itself stood the status of ministerial relationships and executive stability. It was evident that the stresses and strains of the coalition were beginning to show. While the chuckling duo of Messrs Paisley and McGuinness gave the appearance of harmony at the top, some of the stays in the consociational political corset were undoubtedly beginning to loosen.

3.3 Capability review

Away from the dramas of the chamber, the publication of the Capability Review into the operation of the assembly's Secretariat also raised eyebrows.⁸⁶ The review, chaired by the former Speaker of the Scottish Parliament George Reid and directed by John Hunter, former permanent secretary at the Department of Finance and Personnel, was highly critical of the leadership of the Secretariat. The assembly's clerk departed in advance of publication and, pending a permanent replacement, an interim clerk was brought in from the Scottish Parliament.

The key conclusion of the review was that there had been 'an absence of dynamic corporate leadership and strong strategic management' within the Secretariat and that an 'absolute premium' on 'excellence and exceptional leadership' was required. Alongside the core Secretariat activities in support of MLAs and parliamentary processes, it called for enhanced emphasis on engagement with and outreach to the wider society: 'We have concluded that participation and engagement are essential in 21st century politics to provide proper democratic accountability.'⁸⁷

No punches were pulled. The report criticised senior management for a lack of common purpose and a failure to provide effective strategic direction, and found leadership and delivery at senior levels 'particularly weak'. Based on a series of interviews with MLAs and officials, the diagnosis was damning: senior management

⁸⁵ *BBC News Online*, 11 November 2007.

⁸⁶ The review, published in October 2007, can be found on the Assembly Commission's page, at: www.niassembly.gov.uk.

⁸⁷ Review, p. 8.

had 'signally failed to provide the dynamic corporate leadership that will be required to ... address the [assembly] Commission's strategic priorities'.⁸⁸

Addressing the corporate governance of the assembly, the review recommended a de-layered organisational structure, with a new management board comprising four reshaped directorates—clerking, resources, properties and engagement—together with the appointment of a non-executive director. It also recommended a new corporate plan, strengthened business planning, creation by 2010 of an independent Parliamentary Service, and new fora to engage staff at all levels, to provide a sense of ownership over the process of change and its outcomes. It recalled John Reid's description of the Home Office: the Secretariat was adjudged not fit for purpose.

3.4 Committee reform/reports

Change was also in the air in relation to the assembly's committees. One observation made consistently in these reports since the first devolved mandate is that the committees, especially the statutory committees, have been a measured success, notwithstanding their recurrent problem of overload—a view shared by the Secretariat's (unpublished) review of their effectiveness. If there are nests of consensus within the assembly they are to be found largely in the committee rooms. To enhance their performance, alongside inquiries into the adoption of electronic voting and the management of private legislation, the Procedure Committee initiated an investigation of the committee system and structures—prompted in large measure by the recognition that MLAs were overstretched by the widespread incidence of multiple committee memberships.

The committee could recommend some, if not all, of the following: a reduction in the size of statutory committees (each 11-strong); routine use of sub-committees; adoption of a substitute system; rotation of committee memberships; adoption of committee *rapporteurs*; and, to promote assembly outreach (consistent with a key recommendation of the Capability Review), a more peripatetic style. The committee's report was expected early in 2008 and was likely to lead to a major revamp of committees' modes of operation, structure and membership.

None of the statutory committees produced a report in the survey period, save for two on the committee stage of two bills: the Taxis Bill (Environment Committee) and

⁸⁸ *Ibid.*, p. 52.

the Health (Miscellaneous Provisions) Bill (Health, Social Services and Public Safety Committee). Each of the statutory committees does have a full programme of work, though, not least arising from their scrutiny of the draft PfG and draft budget, as well as legislative scrutiny and the pursuit of their own freely chosen inquiries.

The standing Public Accounts Committee has thus far produced four very critical reports: on the transfer of surplus land on the Education Pathfinder projects under the Private Finance Initiative, Northern Ireland's road safety strategy, the aborted Springvale Educational Village project for west Belfast, and missed outpatient appointments and cancelled clinics. The Standards and Privileges Committee published its report into a complaint lodged against Ian Paisley Jr, by a member of the public, to the effect that he had expressed homophobic views that constituted a breach of the Members' Code of Conduct.

Mr Paisley, who as a minister in OFMDFM has a responsibility for equality, had nevertheless thought it proper in an interview to aver that he found homosexuality 'repulsive'. The committee took into account the earlier report of the interim commissioner for standards, Tom Frawley, who had concluded that, 'within the context of the whole interview', Mr Paisley's comments did not constitute a breach. The committee, however, could not reach an agreed position and divided 6:4 in adopting the commissioner's conclusion.⁸⁹

Two *ad hoc* committees were established during the period, each dealing with a reserved matter referred to the assembly by the secretary of state: the Draft Criminal Justice Order 2007 and the Sex Offences (Northern Ireland) Order 2007.

⁸⁹ The committee's report and that of the interim commissioner can be found on the committee's page of the assembly website, at: www.niassembly.gov.uk.

4. The Media

Robin Wilson

4.1 'Honeymoon' ends

In this reporting period the political 'honeymoon' identified by the media in the months following the renewal of devolution in May—without conscious reference to the notoriously short-lived 'honeymoon' of 1969, when British soldiers initially met tea and biscuits from grateful Catholics on the streets of Belfast—was as quickly deemed to be at an end, after the summer holiday.

The September issue of the regional current-affairs magazine *Fortnight* was notably downbeat in tone. It included a warning from Seán Farren of the SDLP, who was minister for employment and learning and finance minister in the previous period of devolution but did not stand in the March 2007 assembly election and so could speak freely. Mr Farren said that 'while there has been a smiling, happy start to the new devolved administration's term of office, the urgent need now is for substance to match those smiles'—notably in moving beyond peace to reconciliation.⁹⁰

The *Irish Times* reported testy exchanges during the first first minister's questions when the assembly reconvened in September, under the headline 'Heckles drown out chuckles as honeymoon comes to an end'.⁹¹ The following month, BBC Northern Ireland's flagship *Newsline 6.30* evening programme led with a similar claim that the 'smiles' had gone, with three stories of division between unionists and nationalists: over funding of the UDA-linked 'Conflict Transformation Initiative', support for the Irish language and the future of the old Crumlin Road prison site (located in north Belfast with its sectarian pockmarks and high Catholic housing demand). An accompanying graphic presented a picture of an executive meeting torn down the middle.⁹²

BBC Northern Ireland also runs a weekly, half-hour current-affairs programme, *Hearts and Minds*, on Thursdays, the day the Executive Committee meets when in session. Flagging up his programme on the day (18 October 2007) of the critical

⁹⁰ S. Farren, 'What future for a shared future?', *Fortnight* 454, 2-3.

⁹¹ D. Keenan, 'Heckles drown out chuckles as honeymoon comes to an end', *Irish Times* (11 September 2007)

⁹² BBC News Online (16 October 2007).

discussion of the funding of the CTI, the presenter, Noel Thompson, talked of how 'the assembly's façade of togetherness has well and truly cracked this week'.

On the day after the fraught meeting, the northern news editor of the *Irish Times*, Dan Keenan, reflected on the significance of the episode. In sharp contrast to previous media incuriousness about the nuts and bolts of the constitutional arrangements, he argued that it betrayed structural faults in the devolved architecture.⁹³

Indeed there was a collective sigh of relief when Sinn Féin and the DUP agreed to share power, with many observers (especially those resident outside Northern Ireland) choosing to believe that the Northern problem was now effectively resolved. What has become clear, as this week's events show, is that hitherto implacable enemies agreeing to share office does not guarantee stable government. Perhaps Alliance leader David Ford is right when he alleges that the current executive arrangement is not about powersharing (working together) at all, but rather power-splitting (a carve-up).

The Assembly does not have a formal role for an opposition. Therefore what opposition there is to any given measure has to come from within. In normal parliamentary set-ups this is called a split and it appears there is no push to patch up this damaging split around the Stormont executive table at this point.

On the same op ed page, the column by the longstanding Belfast political observer Fionnuala O Connor, 'When the smiling stopped', highlighted how it looked to Catholics to see a DUP minister trying to dominate an SDLP minister—not to mention what the episode said about the male domination of Northern Ireland politics.⁹⁴

In November, *Hearts and Minds* ran an unprecedented examination of the power-sharing model of consociationalism which has been applied to Northern Ireland, with a comparative look at the governmental crisis in Belgium in the wake of the 2007 election.⁹⁵ That month, amid continuing low-level sectarianism on the ground, the prominent *Belfast Telegraph* columnist Lindy McDowell argued: 'Up at the big house [of Stormont] they're apparently too busy chuckling to notice that out here in the real world, a vicious, low level virus of hate still infects this place. What, if anything, are

⁹³ D. Keenan, 'UDA stand-off tests the power-sharers', *Irish Times* (19 October 2007).

⁹⁴ F. O Connor, 'When the smiling stopped', *Irish Times* (19 October 2007).

⁹⁵ BBC2 Northern Ireland (15 and 22 November 2007). The editors of this report were interviewees on the programmes.

our leaders proposing to do about confronting and tackling this ongoing sectarianism and the crime it creates?’⁹⁶

4.2 Too much freedom?

The absence of any formal opposition at Stormont, outside that supplied by Alliance and individual MLA allies, has created something of a vacuum which has been filled, unexpectedly, by the *Belfast Telegraph*, discovering a critical, fourth-estate role. In the vanguard has been the paper’s diligent investigative reporter, David Gordon, who has wormed away at the issue of the Causeway centre (see executive section).

The paper provoked the ire of the first minister, Mr Paisley, when it secured under Fol legislation the letter sent over his name in support of the Sweeney proposal. The first minister threatened ‘reform’ of the legislation, following an attack in the assembly on ‘lazy journalists’. This led to a warning from the director of the Campaign for Freedom of Information, Maurice Frankel, that this would be ‘the last thing Northern Ireland needs’.⁹⁷

The attack was followed up by Mr Paisley’s ministerial and party colleague Edwin Poots, who claimed what was ostensibly ‘investigative journalism’ was in pursuit of a ‘vendetta’.⁹⁸ Séamus Dooley, the Irish secretary of the National Union of Journalists (an all-islands union), described the first minister’s comments as ‘disturbing’.⁹⁹ At the end of the year, however, the first and deputy first ministers, Messrs Paisley and McGuinness, denied they planned to roll back Freedom of Information.¹⁰⁰

⁹⁶ L. McDowell, ‘Chuckle all you like, we still hate each other’, *Belfast Telegraph* (21 November 2007).

⁹⁷ D. Gordon, ‘Is something troubling you, First Minister?’, *Belfast Telegraph* (10 October 2007).

⁹⁸ D. Gordon, ‘Foster: I didn’t know about Sweeney’, *Belfast Telegraph* (17 October 2007).

⁹⁹ D. Gordon, ‘NUJ blasts Paisley over “disturbing” Fol remarks’, *Belfast Telegraph* (19 October 2007).

¹⁰⁰ D. Gordon, ‘Threat to freedom of information is receding’, *Belfast Telegraph* (27 December 2007).

5. Public Attitudes and Identity

Lizanne Dowds and Robin Wilson

5.1 Young Catholic opinion shift

There were few opinion polls taken among the population of Northern Ireland in 2007 and there are no up-to-date readings on the state of public opinion with regard to devolution. The results of the 2007 Northern Ireland Life and Times Survey will be available for the May 2008 report, but some additional findings from the 2006 survey reading, taken almost exactly a year ago, might still be worth noting in advance of the data collected since the 2007 election.

As the May 2006 and April 2007 reports indicated, public opinion surrounding basic constitutional preferences was remarkably stable between the years 2001 and 2005. But the results from the 2006 survey revealed some interesting changes. Possibly after the St Andrews agreement the public perceived some ‘tweaking’ of political arrangements in favour of the Protestant community ‘over’ the Catholic community. Certainly Catholic support for unification with the republic rose noticeably in 2006, alongside a waning in support for devolution. Among the Protestant community, support for devolution strengthened further, to a massive 81 per cent, following the new agreement.

There are some interesting findings though, as to which sections of each community are driving these changes. Among Protestants the increase in support for devolution is marked across all age groups. Among Catholics, however, the waning in support for devolution is driven largely by the younger cohorts.

Only the results of the 2007 survey will indicate whether these changes are merely temporary, but it is quite marked that only 14 per cent of Catholics aged 18 to 24 felt able to support devolution in 2006. In contrast, for 62 per cent of them unification was the preferred way forward. Levels of support for unification within this context have not been as high as this among any other group in recent years and, while this youthful element is only a relatively small section of the Catholic community, it is worth noting the strength of feeling. In comparison, support for devolution among 18-24 year-old Protestants rose 20 percentage points over the same period, to reach a high of 71 per cent in 2006.

Figure 1: Percentage of Protestants of different age-groups who support some form of devolution (Northern Ireland Life and Times Survey, 2006)

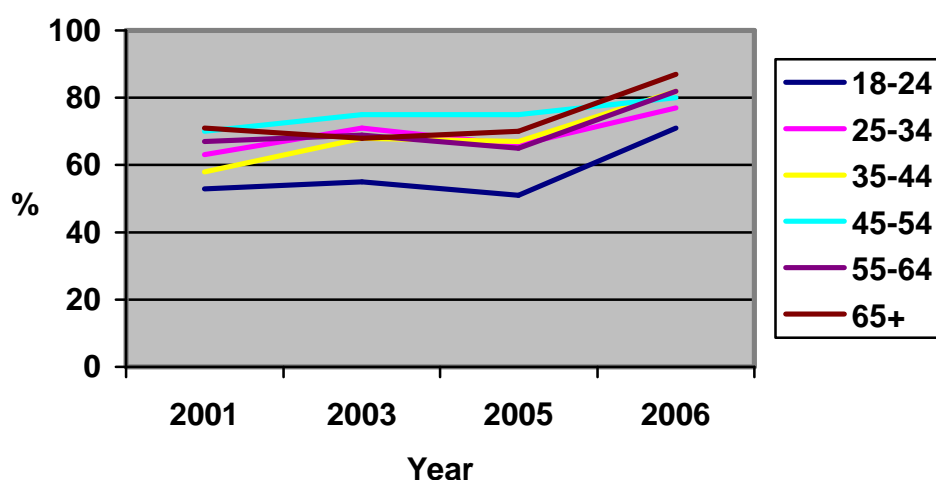
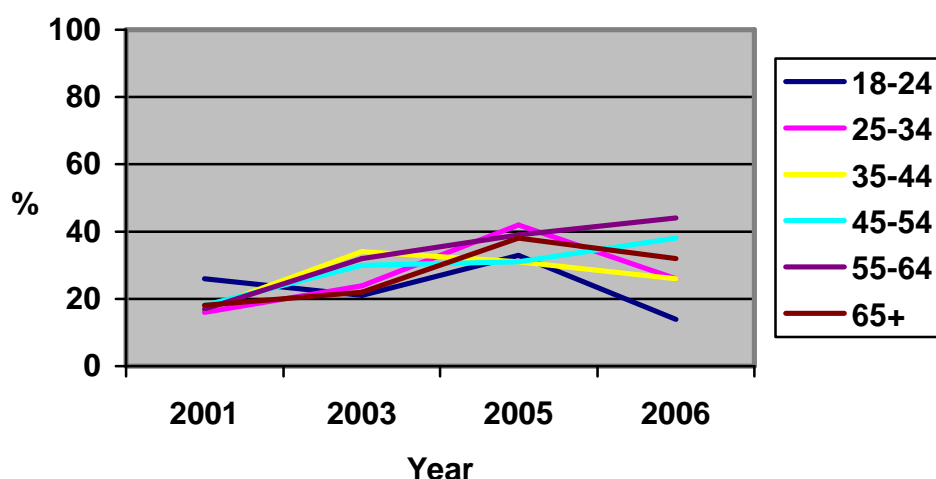


Figure 2: Percentage of Catholics of different age-groups who support some form of devolution (Northern Ireland Life and Times Survey, 2006)



5.2 *Belfast Telegraph* poll

The devolved executive did, however, enjoy its 'honeymoon' (see media section), as reflected in a poll in the *Belfast Telegraph* 100 days on from the transfer of power in May 2007. The poll showed a surge in optimism about the leadership capacity of the first and deputy first ministers, with 67 per cent of respondents saying they had worked well together, whereas only 24 per cent thought they would in an analogous

poll in December 2006.¹⁰¹ The DUP's decision to enter government with SF was backed by 58 per cent of its supporters.¹⁰²

The poll also found that 79 per cent of the sample identified health/hospitals as the priority for the assembly, followed by 57 per cent saying affordable housing and 46 per cent raising water charges.¹⁰³ Health had also been identified in the Northern Ireland Life and Times Survey as the priority for devolution in the aftermath of the Belfast agreement, though at the time employment came close in the public mind.¹⁰⁴

¹⁰¹ 'Viewpoint: 100 days ... and didn't they do well?', *Belfast Telegraph* (9 August 2007).

¹⁰² N. McAdam, '58% of DUP voters back power-sharing', *Belfast Telegraph* (9 August 2007).

¹⁰³ N. McAdam, 'Health, housing and water: what we care about', *Belfast Telegraph* (10 August 2007).

¹⁰⁴ See 1998 data at [www.ark.ac.uk/nilt/1998/Political Attitudes/ASSEMBL1.html](http://www.ark.ac.uk/nilt/1998/Political_Attitudes/ASSEMBL1.html).

6. Intergovernmental Relations

Elizabeth Meehan and Robin Wilson

6.1 'East-west'

A territorial dispute other than that over Northern Ireland reared its head during this reporting period. Talks, which had been continuing for five years, involving the Republic of Ireland, the UK, Iceland and the Faeroe Islands took place in September in Iceland. They were held under the auspices of a United Nations treaty which, subject to certain conditions, enables states to claim ownership of exploration rights on waters up to 500 kilometres from their shores.¹⁰⁵ The four countries failed to reach agreement, however, on how to divide up the rights to 422,000 square kilometres of waters around the island of Rockall. Seemingly, France, the republic, the UK and Spain had relatively easily reached agreement over a smaller area of 50,000 sq km of waters in the Celtic Sea and Bay of Biscay.

Closer to home, the British-Irish Inter-Parliamentary Body met on 26-27 November in Oxford but, at the time of writing, the record of its deliberations was not available.¹⁰⁶ The British-Irish Council met, and was reported upon, during the last period but it was in this one that the assembly had the opportunity to hear about it from the executive. Alongside the European Union, the BIC featured in the section on 'Linkages' in the draft PfG. During the period, there were debates in the assembly about two policies that have been of significant concern to both institutions—Sellafield and the British-Irish common travel area¹⁰⁷—as well as a debate about tax-varying powers.¹⁰⁸ All three fall into the 'reserved' or 'excepted', rather than devolved, categories of power. This makes it ironic, perhaps, that another debate was held calling for a Royal Commission—also a reserved issue—on how to maintain the unity of the UK.

¹⁰⁵ *Irish Times* (28 September 2007).

¹⁰⁶ Previously, it was reported that, at the historic meeting in April 2006 when the DUP attended the BIIPB, the party had said its boycott of the body would end when the latter was 'a bird' sitting on the 'right twig'. It seems that this situation has not yet arrived. In a debate in the assembly on the possibility of a Royal Commission on the UK, the SF MLA for West Tyrone, Barry McElduff, referred to his attendance at the November meeting and noted that none of the representatives on the BIIPB of the other legislative bodies could understand why the DUP (and UUP) still refused to take up their membership. In response, Lord Morrow, DUP MLA for Fermanagh and South Tyrone, repeated the objection that the BIIPB was a product of the Anglo-Irish Agreement—*Official Report*, 4 December 2007.

¹⁰⁷ There was also a reference on the republic's state broadcaster, RTE, on 2 October 2007 to an agreement between London and Dublin on people trafficking, but the author has been unable to track down further information.

¹⁰⁸ This took place before Sir David Varney reported to the Treasury, recommending no significant difference in corporation tax in Northern Ireland, Because of an EU dimension to this issue, these reports have previously discussed the topic in the EU section; it is more appropriate in this period to discuss it as an 'east-west' matter.

The assembly Committee for the OFMDFM addressed how it might scrutinise the BIC more closely.¹⁰⁹ The assembly as a whole expressed some disquiet that the ministerial statement on the BIC meeting during the previous period did not take place until 18 September 2007 but members were assured, seemingly, that this was because of the time needed to ensure executive-wide agreement on the text. This presaged the more serious inability to agree minutes of an executive meeting itself, as became evident in October (see executive section).

In the text,¹¹⁰ the first minister, Mr Paisley, said BIC members had agreed to review the council's direction, including its work programmes, working methods and the possibility (adumbrated in the St Andrews agreement) of a standing secretariat. The existing secretariat was expected to begin the review within the next few days. The SDLP leader, and chair of the Committee for Enterprise, Trade and Investment, Mark Durkan, reminded the first minister that proposals for a standing secretariat had been made first in 2001 and 2002. He urged that the secretariat not only serve all eight BIC-member administrations collectively but also encourage and monitor bi- and multi-lateral interactions, a way of working permitted by the Belfast agreement.

The question of interaction between assembly committees and the BIC took a substantive, rather than procedural, form during the debate on the statement when the UUP chair of the Committee for the OFMDFM, Mr Kennedy, pointed out that his committee was about to consider the terms and conditions of an inquiry into child poverty—a topic also being examined by the BIC. Supported by the Alliance MLA Naomi Long, he asked the first minister to share the findings of the BIC on a more regular basis. The debate further touched upon transport, driving offences, drugs misuse, languages, energy and the environment, as well as the future of Sellafield.

Sellafield was given space on the assembly agenda on 25 October 2007.¹¹¹ A motion from Daithi McKay, SF MLA for North Antrim, expressed concern about the findings of a report on the 1957 accident at Windscale (as the Cumbrian facility was then known) and the widespread and long-term health implications of the accident. The motion also called upon the UK government to discontinue all operations at

¹⁰⁹ *Official Report*, Minutes of Proceedings of the Committee for the OFMDFM, 12 September 2007 and 26 September 2007.

¹¹⁰ *Official Report*, 18 September 2007.

¹¹¹ *Official Report*, 25 October 2007.

Sellafield. The proposer referred to continuing accidents, including the 2005 radioactive leak at the more recently constructed THORP nuclear-reprocessing plant, which had led politicians in the republic, Austria, Iceland and Norway¹¹² to oppose the government decision to allow the resumption of waste reprocessing.

Two amendments were tabled. On behalf of the DUP, Simon Hamilton, MLA for Strangford, proposed that, instead of calling for operations to be discontinued, improving safety standards should be noted and a diverse energy supply should be supported, subject to the highest possible safety standards. A second amendment was put by Carmel Hanna, MLA for South Belfast, on behalf of the SDLP. This added to the motion demands that the Department of Health, Social Services and Public Safety make public any data on the consequences of the accident and that the UK government provide a timetable for discontinuation at Sellafield, acceptable to Dublin and the assembly.

Evasions and deceptions associated with the accidents, together with the (at times disputed) health implications and reference to the now more pro-nuclear stances of some previous anti-nuclear energy campaigners, ensured that the debate was passionate.¹¹³ The DUP amendment was defeated, the SDLP one accepted and the amended motion agreed.

A front-page headline in the *Irish Times* of 24 October 2007 announced: 'Electronic border control spells end of Common Travel Area'. This had been foreseen by the British-Irish Inter-Parliamentary Body, in connection with the demand of the cheap-flight airlines for passports and the possibility of identity cards in the UK.¹¹⁴ It is not quite clear yet if electronic control does spell the end of the common travel area in entirety but it may have significant implications for the north-south border and for travellers to and from Northern Ireland on both the north-south and 'east-west' axes.

The first stage in the threat to the common travel area came in mid-2006 when the British government began to look into the possibilities of how to check the movement

¹¹² The Nordic Council had called upon London to permit a full, independent and international investigation into the safety culture at THORP; this the Green MLA for North Down, Brian Wilson, asked the assembly to support—*Official Report*, 25 October 2007.

¹¹³ One member, George Robinson (DUP MLA for East Londonderry), thought the debate a waste of time as it was on a reserved matter, claiming the assembly should spend its time on issues where it had jurisdiction—*Official Report*, 25 October 2007.

¹¹⁴ See also the letter to the *Irish Times* of 25 October 2007 from the Conservative MP Robert Walter, about the practice that had grown up over the last ten years of passports being asked for at Irish airports; previous monitoring reports indicated this was not government, but airline, policy.

of illegal immigrants, terrorist suspects and criminals. In July 2007, the UK prime minister asked the cabinet secretary to report by October on how an 'e-border' system could be implemented 'soon'. London told Dublin that it intended to put in place by 2009 an electronic data-collection system on all sea and air travel to and from the UK. This would raise an 'alert' if the person travelling were on a 'watch-list'.

A similar instruction by the republic's government to senior officials followed. According to the taoiseach, reporting to the Dáil, the cabinet was told in October that plans were well advanced for a comparable system—the Irish Border Information System—and that there would be a detailed memorandum on the subject in the near future.¹¹⁵

In the sense that the common travel area is a common immigration policy, whereby neither state allows a person to land who would not be allowed to land in the other and they both share information about passengers, the new arrangement is no more than an electronic version of what already exists—effectively 'sealing off the two islands'.¹¹⁶ As Mr Ahern, supported by his minister for justice, put it, 'All the British authorities were examining is *increased* [emphasis added] cooperation in cross-Border operations with a focus on targeting illegal immigration across the Border.'¹¹⁷ Notably, both states think Northern Ireland is a conduit for a significant volume of illegal immigrants.¹¹⁸

Since the electronic information requires access to the machine-readable zone of passports, however, 'increased cooperation' does mean that it will become government, as opposed to airline, policy that travellers carry passports¹¹⁹ (in the absence of identity cards)—which would be a breach of current arrangements. Putting three things together—the 'sealing off of the two islands', the need for passports for 'east-west' travel and the reported UK position that it does 'intend to apply the e-border to the land border between the Republic and the North'¹²⁰—immediately raises the question of the travel rights of UK citizens of Northern Ireland within their own state. The Independent Unionist MEP, Jim Allister, wrote straight

¹¹⁵ *Irish Times* (25 October 2007).

¹¹⁶ *Irish Times* (24 October 2007).

¹¹⁷ *Irish Times* (25 October 2007).

¹¹⁸ Dublin claims that 90 per cent enter the republic from the north (*Irish Times*, 25 October 2007) and London thinks Northern Ireland is a 'loophole' allowing illegal immigration into Great Britain, according to the parliamentary under-secretary of state at the Home Office, Lord West of Spithead—HL Deb, 21 November 2007, cols. 832-4.

¹¹⁹ For other travellers, it would entail biometric visas—*Irish Times* (24 October 2007).

¹²⁰ *Ibid.* If it were to be so applied, that would make any all-Ireland activities very difficult.

away to the home secretary.¹²¹ In November, the former UUP first minister, Lord Trimble, asked what consultation the government had held with the Northern Ireland Executive Committee on the matter. He was told simply by the parliamentary under-secretary for the Home Office, Lord West of Spithead,¹²² that ‘we continue to work closely with both the Northern Ireland Executive and the Government of Ireland on operational and policy issues, including the implementation of the e-borders programme’.

In line with Mr Allister’s fears, Lord Glentoran had in mind that, if the north-south border in Ireland were to be left open while the ‘east-west’ border required passports, UK citizens in Northern Ireland might have to carry passports to travel to Great Britain. He suggested that the UK government was ‘expelling the people of Northern Ireland ... by putting an electronic boundary around England, Scotland and Wales, excluding Northern Ireland and packaging it with the Republic of Ireland’. The situation was compounded by Lord West’s reply, in which he repeated a phrase about people moving into Northern Ireland from the south and then ‘travelling across to the UK’ [emphasis added]. When Lord Trimble suggested the phrase demonstrated a lack of understanding of the very concept of the UK (Northern Ireland being *in* the UK), Lord West said it had been a ‘slip’ comparable to that which people make ‘when they forget that the UK is in Europe’.¹²³

In previous monitoring reports, the question of tax-varying powers has been addressed in connection with the EU, as the primary focus had been on whether EU rules would permit a lower rate of corporation tax in Northern Ireland to facilitate a more level playing-field for the attraction of foreign direct investment north and south in Ireland. The EU question remains unanswered—it has been raised in Scotland too, looking to the republic as a growth exemplar, where the answer also remains opaque.¹²⁴ But, even were there to have been a permissive answer from that quarter,

¹²¹ *Irish Times* (25 October 2007).

¹²² As a former army officer who had ‘patrolled and walked’ the border with the republic, Lord West said he knew how ‘permeable’ it was—HL Deb, 21 November 2007, cols. 832-4.

¹²³ The author is sympathetic to this response but thinks it more than a ‘slip’. Several complaints to the British Airports Authority about this ‘slip’ in airport announcements about security and an email to the prime minister’s website have had no results!

¹²⁴ Wendy Alexander, leader of the Labour Party in the Scottish Parliament, argued in a speech at Edinburgh University on 30 November 2007 (at: www.wendy.intraspin.com/2007/11/30/a-new-agenda-for-scotland/?cat=20) that EU rules precluded different rates of corporation tax and VAT within a single state. In contrast, Alyn Smith, SNP MSP, claimed that the European Court of Justice had set out criteria in which the varying of corporation tax was possible. He explained that ‘the entity seeking to implement a different level of taxation should have full control of revenue and expenditure’, which Scotland does not have at present but could if the necessary constitutional reforms were implemented—*Scotsman* (5 December 2007).

the other question remained as to whether the UK government would give its consent.¹²⁵

As indicated in the last monitoring report, Sir David Varney was commissioned by the Treasury to examine the matter. But the finance minister, Mr Robinson, warned the assembly in September ‘not to underestimate how jealously HM Treasury guards its ownership of fiscal policy’.¹²⁶ Sir David’s report, presented on 17 December 2007, rejected a significantly different rate of corporation tax for Northern Ireland.¹²⁷

The report was greeted with dismay. Sir George Quigley, who had led the business constituency pressing for change, described Sir David as ‘closely associated with the Treasury’ and his team as ‘stuffed with Treasury officials’. He also claimed that the review had ‘largely ignored the evidence produced by significant business figures all over the place, not least in the Republic [where] they are quite clear that corporation tax ha[d] been critical’¹²⁸ (though see finance section).

During this period, but before the publication of Varney, the debate about taxation was widened to include other instruments of fiscal autonomy. On 10 September 2007 an assembly motion from an SF MLA for Belfast West, Jennifer McCann, called for ‘the transfer of tax varying powers to the Executive, along with the establishment of an Executive borrowing facility’.¹²⁹ She was supported by Alliance and—cautiously—by the SDLP. Also, according to Mitchel McLaughlin, SF chair of the Committee for Finance and Personnel, all parties taking part in debates in the committees on the Preparation for Government and Programme for Government set up in the ‘Hain assembly’ had consistently supported tax-varying powers.

At times, the proposer and supporters of the motion were accused of having hidden agendas: tax increases to fund more social intervention and/or an all-island tax regime. Conversely, Adrian McQuillan (DUP, East Londonderry) stressed that Northern Ireland was an integral part of the UK and that ‘fundamental issues ... such as taxation and economic policy’ should remain as decisions taken at Westminster.

¹²⁵ In its submission in July 2007 to the Varney review, the assembly Committee for Finance and Personnel questioned whether there was the political will in the UK government to acknowledge that ‘one size fits all’ was inappropriate to the Northern Ireland economy—Committee for Finance and Personnel news release, 4 July 2007.

¹²⁶ *Official Report*, 10 September 2007.

¹²⁷ D. Varney, *Review of Tax Policy in Northern Ireland* (London: HM Treasury, 2007), at: www.hm-treasury.gov.uk/media/1/3/varney171207.pdf.

¹²⁸ *Irish Times* (18 December 2007).

¹²⁹ *Official Report*, 10 September 2007.

David Burnside, UUP MLA for South Antrim, also argued against the motion, partly on the ground that tax-varying powers would purportedly weaken the UK. Several contributors suggested that the fact that the Scottish Parliament had not used its tax-varying powers demonstrated that they were neither useful nor necessary.

Addressing 'misperceptions and misunderstandings', the finance minister, Mr Robinson, explained how revenue was raised and the discretion available to the executive. He reminded the assembly of the borrowing facility provided by the 2002 Reinvestment and Reform Initiative and of the rates review he had initiated, then out to consultation; one strand included the feasibility of tax-varying powers. Until that was complete, the debate was premature, he claimed.

Despite the competing nationalisms revealed in some of the debate, Mr McLaughlin wound up by noting that its tone showed a commitment on the part of some 'to put the old politics behind them'—by 'old politics' he meant that 'whichever party sponsored a proposal was of greater priority than the issue itself'. So, he concluded, some in the assembly were emerging 'from the travails of a deep-seated conflict and developing a more mature and pragmatic approach'. He said the points made by the minister deserved response, and though SF supported the motion he would not push the house to a division. The question was put and negated without a vote. This more pragmatic approach was however less evident in the last of the issues to be covered in this section.

In Scotland, the Scottish National Party first minister, Alex Salmond, has initiated a 'national conversation', with a view to putting the option of independence on the political table, while the 'unionist' parties have moved in response to establish a 'constitutional commission', which could advocate greater revenue-raising and spending powers for Holyrood.¹³⁰ By contrast, the comparable debate was initiated in Northern Ireland by someone who wanted to keep devolution limited—George Savage, UUP MLA for Upper Bann. His motion, put to the assembly on 4 December 2007, called for a 'review of the steps that need to be taken to maintain the unity of England, Scotland, Wales and Northern Ireland within the United Kingdom'.¹³¹

¹³⁰ S. Carrell, 'Scottish tax move aims to stop demands for independence vote', *Guardian* (7 December 2007).

¹³¹ *Official Report*, 4 December 2007.

The motion was motivated by the purportedly ‘deeply concerning’ fact that the other devolved administrations were headed by ‘nationalists of some type’ and by the disquiet—reported (together with Frank Millar’s counter-argument) in the last monitoring report—about co-operation between the (DUP) Northern Ireland first minister and his (SNP) Scottish counterpart. Equally at the back of the debate was rivalry between the UUP and DUP about which was the stronger defender of the union and Northern Ireland’s place in it. Lord Morrow, a DUP MLA for Fermanagh and South Tyrone, described Mr Salmond as a ‘dangerous, Machiavellian man’. He expressed concern about some of the comments by his party leader, Mr Paisley, on the Scottish first minister’s policies—not to mention the ‘ludicrous ideas’ of the prime minister, Mr Brown, ‘about putting a dragon on the Union flag’.

Mr Savage meanwhile labelled Mr Salmond ‘the greatest threat to the maintenance of the United Kingdom’, as evidenced by the opening quote in his white paper.¹³² This cited the famous lines by Charles Stuart Parnell, emblazoned on his statue at the top of O’Connell Street in Dublin, on ‘No man’ having the ‘right to fix the boundary of the march of a nation’ or the right ‘to say to his country, Thus far shall thou go and no further’. Mr Savage contrasted this with the restatement in Mr Brown’s *Governance of Britain* green paper¹³³ of the supremacy and sovereignty of parliament, but argued that the latter failed to address adequately the relationship between Westminster and the devolved administrations.

Simon Hamilton (DUP, Strangford) sought to strengthen the motion by including references to ‘fortifying’ the east-west dimension and not just promoting, but ‘promoting further’, the unity of the UK. He suggested the motion implied there had been a threat to the union and, if there had, it had been because of the UUP’s predominance in the unionist bloc between 1998 and 2003. Others noted that, if there had been a threat from the south, the comment by the minister for foreign affairs, Dermot Ahern, that ‘the constitutional position had been parked’ meant that it was not there now.

An SDLP amendment, proposed by Alex Attwood (Belfast West), referred to the deepening of relationships between the people and administrations of ‘these islands’.

¹³² Scottish Government, *Choosing Scotland’s Future: A National Conversation* (Edinburgh: Scottish Government Publications, 2007, at: www.scotland.gov.uk/Publications/2007/08/13103747/0).

¹³³ Ministry of Justice, *The Governance of Britain* (London: Ministry of Justice, 2007, at: www.justice.gov.uk/publications/governanceofbritain.htm).

He argued that there could not be debates about the future of the union or the unity of Ireland; both had to be part of the same debate—given that politics in the north was now about three sets of relationships: north and south, Britain and Ireland, and between the communities in the north. As he pointed out, only the previous day the (DUP) finance minister had told the house about the INTERREG programme linking Ireland, north and south, and western Scotland¹³⁴ (see EU section). The EU context was mentioned by Declan O’Loan, SDLP MLA for North Antrim, as a factor reducing the ‘tensions and ancient hostilities between Ireland and Britain’.

Though the UUP, in the person of David Burnside (South Antrim), said it would accept the DUP amendment, it was put to a vote but not carried. Neither was that of the SDLP and nor was the unamended original motion. Mr O’Loan said that the latter represented ‘the politics of old’.

6.2 North-south

The major north-south issue of the period was a surprising one. In a move away from Shannon airport, the former national carrier, Aer Lingus, announced it was establishing Belfast as a UK hub.¹³⁵ It emerged that the move, which engendered strong opposition in the west of Ireland—in some contradiction to the idea that Belfast should be seen as part of the nation—envisaged recruiting pilots at wages and conditions below those in the collective agreement with the Irish Airline Pilots’ Association.¹³⁶ Amid growing political pressure, including in the dominant party, Fianna Fáil, for Aer Lingus to reverse the decision, unionists warned that north-south co-operation would be jeopardised if the commercial decision was subjected to a political override.¹³⁷

Inevitably, it wasn’t. Aer Lingus was privatised under the last FF-dominated government.

A more rational concurrence of the economic and the political was evident in the call by Alan Gillespie, former chair of the north’s Industrial Development Board, now Invest NI, and current chair of the all-Ireland Ulster Bank, for Invest NI and the republic’s Industrial Development Authority to be merged. The aim would be to

¹³⁴ There was also a cultural and religious festival in Dublin during the period that marked connections between Ireland and Scotland, dating from the 6th century—*Scotsman* (25 September 2007).

¹³⁵ G. Moriarty, ‘Airline chief to announce Belfast base’, *Irish Times* (7 August 2007).

¹³⁶ M. Wall, ‘Aer Lingus pilots to strike over staff terms in Belfast’, *Irish Times* (14 August 2007).

¹³⁷ G. Moriarty, ‘Aer Lingus urged to press ahead in Belfast’, *Irish Times* (17 August 2007).

promote foreign direct investment into the island as a whole. Dr Gillespie also complained of the fragmentation of the economic functions of the Northern Ireland executive across so many departments.¹³⁸

Responses fell out along predictable political lines, with nationalists welcoming and unionists opposing. The northern enterprise minister, Mr Dodds (DUP), said the suggestion was ‘deeply unhelpful’¹³⁹—even though it would be the north, rather than the republic, which would be by some distance the principal beneficiary of such a move, resisted by the IDA at the time of the deliberations on the Belfast agreement. Following a speaking engagement at the Irish Taxation Institute, Mr Dodds’ colleague at finance, Mr Robinson, claimed the idea was ‘very much a united Ireland agenda’.¹⁴⁰

Meanwhile, a survey commissioned by InterTradeIreland and BT Ireland found less than half of firms in the two jurisdictions had even informal links with partners on the other side.¹⁴¹ A better train service between Belfast and Dublin would certainly help, and the joint council of the two main business organisations north and south, the CBI and IBEC respectively, called for a radical improvement, saying the reliability of the service was a ‘serious concern’ for business travellers.¹⁴²

A session of the North/South Ministerial Council, in ‘institutional’ format, in October launched a cross-border mobility web site. The meeting, attended by the first and deputy first ministers, Messrs Paisley and McGuinness, and the republic’s minister for foreign affairs, Dermot Ahern, took place in the latter’s Louth constituency. The initiative stemmed from an earlier study on obstacles to labour mobility.¹⁴³

Other practical instances of political co-operation on socio-economic issues during the period included the launch by the northern health minister, Mr McGimpsey, in Belfast and by his southern counterpart, Jimmy Devins, in Dublin of a mental health promotion campaign. This was part of an all-Ireland action plan arising from the

¹³⁸ A. Gillespie, ‘All-Ireland economic marketing agency is way ahead’, *Irish Times* (3 October 2007).

¹³⁹ G. Moriarty, ‘Dodds alters stance over IDA/NI body merger’, *Irish Times* (4 October 2007).

¹⁴⁰ S. Carswell, ‘DUP Minister rejects call to merge IDA with NI counterpart’, *Irish Times* (5 October 2007).

¹⁴¹ G. Moriarty, ‘Business backs all-island economy: study’, *Irish Times* (10 October 2007).

¹⁴² R. Morton, ‘Belfast/Dublin rail link “needs a radical upgrade”’, *Belfast Telegraph* (29 November 2007).

¹⁴³ NSMC communiqué, 30 October 2007, at:

www.northernministerialcouncil.org/index/publications/joint-communications/institutional-jc/institutional-jc-30-october-2007.htm.

suicide-prevention strategies in the two jurisdictions.¹⁴⁴ Similarly, the northern education minister, Ms Ruane and the republic's minister for integration, Conor Lenihan, launched a joint booklet on diversity aimed at primary schoolchildren.¹⁴⁵ And the enterprise minister, Mr Dodds, the republic's minister of communications, energy and natural resources, Eamon Ryan, and the European commissioner for energy, Andris Piebalgs, officially launched the single energy market on the island—albeit with Mr Dodds stressing its EU provenance and extension to Britain.¹⁴⁶

On a more ideological plane, it emerged in October that the republic's government was to seek to establish a committee on the implementation of Belfast agreement, among four new Oireachtas committees. This was seen as meeting to some degree SF's demand for speaking rights for northern political representatives.¹⁴⁷ When the new Joint Committee on Implementation of the Good Friday Agreement was formally announced later that month, it was indicated that Northern Ireland MPs—SF's MPs of course do not take part in proceedings at Westminster—would indeed be eligible to attend.¹⁴⁸

¹⁴⁴ Department of Health, Social Services and Public Safety news release, 9 October 2007.

¹⁴⁵ Department of Education news release, 10 December 2007.

¹⁴⁶ Department of Enterprise, Trade and Investment news release, 12 November 2007.

¹⁴⁷ J. Downes, 'Plans for four new Oireachtas committees', *Irish Times* (5 October 2007).

¹⁴⁸ RTE News Online (23 October 2007).

7. Relations with the EU

Elizabeth Meehan

7.1 Introduction

The general eventfulness of the period covered by this report had an effect on the place of the EU on the political agenda. It witnessed the usual kinds of activity: continued visits between Belfast and Brussels in connection with the representation of Northern Ireland's EU interests, promotion of Northern Ireland as a contributor to (as well as beneficiary) of the EU and pursuit of normal policy interests. The EU also featured in major domestic macro-level policy initiatives: the draft Programme for Government, the draft budget and the related Investment Strategy.

A new feature of institutional politics emerged during the period, arising from the response in the St Andrews agreement to the DUP criticism that north-south implementation bodies flowing from the Belfast agreement were insufficiently accountable. This enables the assembly Committee for Finance and Personnel to scrutinise the work of the Special EU Programmes Body.¹⁴⁹ For the first time in five years, a meeting of the North/South Ministerial Council took place in SEUPB format. Taking things beyond the region, the assembly debated a motion calling on the UK government to hold a referendum on the EU Reform Treaty.

7.2 Representation in the EU¹⁵⁰

In September, the deputy first minister, Mr McGuinness, the finance minister, Mr Robinson, and the junior OFMDFM ministers, Ian Paisley Jr and Gerry Kelly, received members of the European Parliament's Committee on Regional Development. Mr Robinson said Northern Ireland 'was determined to participate fully as an EU region'—though it has yet to join Scotland and Wales in the RegLeg network of EU regions with legislative powers, unionists having shown more interest in the Commonwealth Parliamentary Association. He told committee members that the Taskforce launched by the commission president, José Manuel Barroso, could

¹⁴⁹ See *Official Report*, Minutes of Proceedings of the Committee for the OFMDFM, 12 September 2007.

¹⁵⁰ In addition to what follows, the chair of the assembly Committee for the OFMDFM, Danny Kennedy, opened a Mock EU Council in Stormont on 17 October 2007 and had lunch with Reijo Kemppinen, head of the European Commission Representation in the UK. Though he reported that their conversation had been 'useful and interesting', there is nothing in the official record to indicate its substance—*Official Report*, Minutes of Proceedings of the Committee for the OFMDFM, 10 and 17 October 2007.

help bring about a successful economy to which all could contribute and from which all would benefit.¹⁵¹

In October, the social development minister, Ms Ritchie, met the EU commissioner Danuta Hubner in Brussels,¹⁵² in the context of an EU event aimed at raising the profile of regional governments. Ms Ritchie claimed that regions emerging from conflict and economic depression in other EU countries could learn from Northern Ireland, noting the 'increased social and economic confidence' arising from an 'unsurpassed' programme of urban renewal.¹⁵³

Ms Hubner leads the Taskforce, announced in the previous reporting period, set up by Mr Barroso to study the challenges facing the Northern Ireland economy. In November 2007, Messrs Paisley Jr and Kelly visited Brussels for meetings on the strategic context of its work and the structure and direction of its report, which was due in January 2008.¹⁵⁴ In December 2007, the Taskforce arrived in Belfast for follow-up discussions and fact-finding, through meetings with various departments and stakeholders.¹⁵⁵ It was noted during a discussion in the assembly of another matter that the SEUPB might have a role in the follow-up.¹⁵⁶

7.3 Policy interests

The main policy arenas on the agenda during the period were agriculture and Fisheries, and social inclusion and equality. As to the first, the SF agriculture minister, Michelle Gildernew, secured EU recognition in August that Northern Ireland would be excluded from the ban on exports of British beef following the outbreak in Surrey of foot-and-mouth disease.¹⁵⁷ With her DUP colleague holding the environment brief, Arlene Foster, she co-operated to secure the agreement of the EU Nitrates Committee to a derogation for Northern Ireland under the Nitrates Directive. This permits Northern Ireland farmers to apply cattle manure up to a maximum of

¹⁵¹ OFMDFM news release, 10 September 2007.

¹⁵² Department of Social Development news release, 9 October 2007.

¹⁵³ Cases of missed 'lesson learning' north and south in Ireland were however highlighted elsewhere, through comparison of the haphazard provision of cross-border health services with the rational planning and funding characteristic of a number of other European border regions—P. Clarke, 'A cross-border kerfuffle in the north west', *A Note from the Next Door Neighbours* (13) (Armagh: Centre for Cross Border Studies, September 2007, at: www.crossborder.ie/home/ndn/ndn0709.html).

¹⁵⁴ OFMDFM news release, 22 November 2007.

¹⁵⁵ OFMDFM news release, 11 December 2007.

¹⁵⁶ Debate on a Ministerial Statement on the eighth meeting of the NSMC/SEUPB, *Official Report*, 3 December 2007.

¹⁵⁷ Department of Agriculture and Rural Development news release, 6 August 2007.

250kg nitrogen per hectare per year, instead of 170kg, but in such a way that water quality is still protected.¹⁵⁸

Increased support was announced for the Northern Ireland fishing industry from the European Fisheries Fund. This will begin in late 2008 and last for seven years.¹⁵⁹ The new support was highlighted by the agriculture minister during a visit to Northern Ireland's fishing ports before the meeting of the Council of Ministers on 17-20 December 2007. She drew attention to the toughness of the negotiations ahead, significant cuts across a range of catches having been proposed by the European Commission.¹⁶⁰ The minister also prepared for the council through detailed discussions with her counterparts in the republic (Mary Coughlan) and Scotland (Richard Lochhead), as well as the UK minister, Jonathan Shaw, and taking in a meeting with the commissioner, Joe Borg, in Brussels.¹⁶¹

In October, the latest round of European Social Fund support of £45.5m¹⁶² came on stream, aimed at helping individuals into sustainable employment. The ESF also funds the EQUAL programme, part of an EU-wide strategy to improve the availability of better-quality jobs and ensure equal access to them. In the framework of this programme, representatives of 24 member states attended a policy forum in Belfast in November, on 'Diversifying the Workplace: Strategies for Empowerment and Inclusion'.¹⁶³

Throughout the period, the EU Gender Directive on Goods and Services was under consideration. It was on the agenda of three meetings of the assembly Committee for the OFMDFM, which drafted a response to the outcome of the latter's consultation on

¹⁵⁸ This is allowed when a compliant action programme has been introduced—DARD news release, 15 October 2007. Also during this period Ms Gildernew welcomed the EU's decision to have a zero set-aside rate in 2008 which, she said, was an appropriate response to the market and would bring some simplification to the Single Farm Payment scheme—DARD news release, 27 September 2007. And a consultation was launched on the Council of Ministers' decision of 12 June 2007 to integrate horticultural production into the Common Agricultural Policy—DARD news release, 18 October 2007.

¹⁵⁹ DARD news release, 27 November 2007. The UK's share of the EFF is £97m, of which £38.83m is allocated to Scotland, £33.72m to England, £12.76m to Northern Ireland and £11.75m to Wales.

¹⁶⁰ DARD news release, 5 December 2007.

¹⁶¹ DARD news release, 10 December 2007. Ms Gildernew would have had a ready ally in the Scottish minister. Fisheries policy is a core interest to the Scottish Government and one that is subordinated to, even suborned by, the UK's wider EU interests—lecture by Alex Salmond on Scotland and the EU at Edinburgh University, 12 December 2007.

¹⁶² This represents the 65 per cent of funding available from the programme; the remaining 35 per cent has to be independently secured by successful applicants—Department for Employment and Learning news release, 9 October 2007.

¹⁶³ DEL news release, 30 November 2007.

the directive.¹⁶⁴ In the middle meeting, the committee noted comments by the Northern Ireland Women's European Platform on the government's overall priorities for addressing gender inequalities. It also welcomed a letter from the clerk of the Scottish Parliament's Equal Opportunities Committee, about building links and working together with the equivalent committees in Northern Ireland and Wales.

The draft Programme for Government, 2008-11, the associated draft budget and the longer-term Investment Strategy¹⁶⁵ were presented by the executive in the context of their mutual dependence. In the Investment Strategy, the EU featured most strongly in the references to the environment (water and waste management), the roads and rail infrastructures, funding and in connection with the migration to Northern Ireland of other EU citizens (and others) 'who are helping to grow our economy and enrich our cultural diversity'. In the draft budget, the EU was referred to explicitly in connection with the work of seven departments, in connection with policy content or funding, or both. These were: Agriculture and Rural Development, Employment and Learning, Environment, Finance and Personnel, Regional Development, Social Development and the OFMDFM. Naturally, the EU had a similar place in the programme to that in the draft budget. But the PfG has additional references: first, to the goodwill and support received from the EU and, secondly, in a special section on 'Linkages', where hopes in the Barroso Taskforce were reiterated.

7.4 The SEUPB

Though, as noted, the meeting on 26 September of the assembly Committee for Finance and Personnel with the chief executive and staff of the SEUPB was an innovation, there was, at time of writing, little information about its substance. The SEUPB was asked to make written responses to follow-up questions and it was agreed the record of the evidence session with SEUPB officials would be published on the assembly website.¹⁶⁶

Before the meeting in SEUPB sectoral format, the NSMC also met in institutional format, at which it agreed to consider the EU dimension of its work at the next

¹⁶⁴ *Official Report*, Minutes of Proceedings of the Committee for the OFMDFM, 10 October 2007, 17 October and 7 November 2007.

¹⁶⁵ All three can be found at www.pfgbudgetni.gov.uk.

¹⁶⁶ *Official Report*, Minutes of Proceedings of the Committee for Finance and Personnel, 26 September 2007; Committee for Finance and Personnel news release, 26 September 2007; comment by committee chair, Mitchel McLaughlin, to minister of finance and personnel following his statement on the eighth meeting of the NSMC/SEUPB, *Official Report*, 3 December 2007.

plenary.¹⁶⁷ Five years after the seventh meeting in SEUPB format, on 9 October 2002—just before the assembly collapsed over revelations of an IRA spy-ring at Stormont—the eighth took place in Dublin on 7 November 2007. The assembly was informed about it by the finance minister, Mr Robinson, on 3 December.¹⁶⁸ The southern delegation was led by Mr Robinson's counterpart, Brian Cowen; he was accompanied by the minister for social development, Ms Ritchie.

The meeting discussed a substantial report by the chief executive of the SEUPB, Pat Colgan, on developments in the intervening five years. He also reported on progress on the renewal of the PEACE programme (PEACE III¹⁶⁹) and the opening of INTERREG IVa.¹⁷⁰ Plans for both had been approved by the European Commission the previous day, on 6 November, and were about to be opened for funding applications.

In the ministerial statement on the meeting and during questions, the greater emphasis on victims and survivors in this third manifestation of the programme was welcomed. The ministers had also referred at the NSMC/SEUPB meeting to the 'observation' that the Protestant community had not benefited fully from the previous PEACE programmes and this, too, was taken up in questions to Mr Robinson. He noted that there had been some increase in the share of funding that went to the Protestant community, from 44 per cent in Peace I to 47 per cent in Peace II, because of the greater emphasis in the latter phase on capacity-building. In the context that the foregoing percentages were not the same as the relative sizes of the communities, there was some discussion as to whether a 'perception' of unfairness was the same as actual unfairness. Mr Robinson exhorted his colleagues to encourage Protestant groups to overcome any remaining cultural reticence and to make applications to Peace III, so as to maintain the statistical trend.¹⁷¹

This latest version of INTERREG is innovative in that it involves the border areas of the republic, Northern Ireland and western Scotland. This was made possible by the redefinition of borders, making Scotland an eligible partner of the republic across a

¹⁶⁷ Ministerial Statement, *Official Report*, 13 November 2007.

¹⁶⁸ Ministerial Statement, *Official Report*, 3 December 2007.

¹⁶⁹ This will total €333m, with €225m provided from the EU budget and the remainder as matched funding from the two jurisdictions in Ireland.

¹⁷⁰ €256m—about 40 per cent more than its predecessor, INTERREG IIIa.

¹⁷¹ It is of course worth noting that the whole point of the PEACE programme is to sponsor reconciliation across the sectarian divide in Northern Ireland and the border counties, not to ensure a balance of distribution between 'communities' defined in just such sectarian terms, as unionists have insisted.

maritime border (though not of Northern Ireland alone as there are, of course, no borders within states). This, together with Northern Ireland's land border with the republic enables all three to 'develop the traditional, cultural, economic and social links between Ireland/Scotland/Northern Ireland and build upon the experiences, knowledge and competencies of the three areas'.¹⁷²

7.5 Reform Treaty

The assembly, in plenary session and in the Committee for the OFMDFM, paid attention to the Reform Treaty. The committee was briefed by officials on the implications for devolved administrations and its views were made known to the executive.¹⁷³ In November 2007, it also noted the calls for evidence from the Lords EU select committees, to which it responded by forwarding the record of an assembly debate.¹⁷⁴

That debate had been held on 8 October in response to a private member's motion from Alex Easton (DUP, North Down).¹⁷⁵ The motion called on the UK government 'to hold a referendum on the new European Treaty'. The occasion revealed an almost universal consensus among MLAs on the correct course of action, though stemming from different motivations.

The proposer did not want an 'international system of rolling devolution', which would (counter-intuitively) remove power still further from Northern Ireland; the disadvantage of not having 'power in our own hands' had been learned through the experience of direct rule, he claimed. This was supported by fellow DUP MLAs Sammy Wilson and Jim Shannon.

SF shared Mr Easton's concern about the issue of 'democratic deficit' but, in Mitchel McLaughlin's view, this was because all the people on the island of Ireland should be able to have a debate about the treaty. The terms in which he couched his argument led others, even those in favour of the motion, to accuse him of right-wing 'euro-scepticism'. Mr McLaughlin's all-Ireland position was taken up by his colleague Pat

¹⁷² EU Programme for Cross-Border Territorial Co-operation, *Northern Ireland, the Border Region of Ireland and Western Scotland 2007-2013*, INTERREG IV Operational Programme (SEUPB, Belfast, 2007, at:

[www.seupb.org/consultation/documents/InterregIV/INTERREG%20OP%2030%20May%20\(clean%20version\).pdf](http://www.seupb.org/consultation/documents/InterregIV/INTERREG%20OP%2030%20May%20(clean%20version).pdf)), p. 4. For more on the constitutional matter of borders and the rationale for the programme, see also pp. 8, 15, 38-40, 41, 45 and Annex A.

¹⁷³ *Official Report*, Minutes of Proceedings of the Committee for the OFMDFM, 19 September 2007.

¹⁷⁴ *Official Report*, Minutes of Proceedings of the Committee for the OFMDFM, 28 November 2007.

¹⁷⁵ *Official Report*, 8 October 2007.

Doherty, MLA for West Tyrone, who—despite being from a party ostensibly with leftist aspirations—additionally objected to the treaty's provision for a legally binding Charter of Fundamental Rights.

Many MLAs accepted the position spelled out by Danny Kennedy, UUP MLA and chair of the assembly Committee for the OFMDFM—that, while it was not constitutionally necessary for there to be a referendum in the UK,¹⁷⁶ it would be desirable, particularly since the prime minister, Mr Brown, had begun his term of office by indicating that he wanted to be more transparent than his predecessor. The knocks that his 'moral authority' had subsequently taken would be reinforced if he continued to deny a referendum.

The only people who spoke against the motion were Alban Maginness and, more equivocally, Carmel Hanna—both members of the strongly pro-EU SDLP. Mr Maginness defended the content of the treaty and, while not against referenda in principle, felt one was unnecessary where institutional, rather than constitutional, changes were in the frame. Their position was somewhat undermined by the DUP junior minister, Mr Paisley Jr. He told the assembly that the executive had considered a paper on the treaty on 27 September and unanimously decided—including its SDLP minister—that there should be a referendum.¹⁷⁷ This view had been put forward by him with all the robustness he could muster at a meeting of the Joint Ministerial Committee on 2 October.¹⁷⁸ David Ford, leader of the pro-EU Alliance Party, while agreeing with Mr Maginness' defence of the treaty's content, nevertheless said he would vote for the motion—by and large for the reasons set out by Mr Kennedy.

Notwithstanding Mr McLaughlin's criticisms of the treaty, the debate brought into the open the disjuncture noted in previous monitoring reports between SF's opposition to the EU in the south—highlighted by Ms Hanna—and the more pragmatic attitude it has had to show hitherto in the north. Its all-Ireland motivation for wanting a UK referendum had a kind of parallel on the unionist side. The UUP MLA David Burnside

¹⁷⁶ The republic, by contrast, is the only member state where a referendum was constitutionally mandated.

¹⁷⁷ This did not mean the executive took a joint view on the principles contained in the treaty. Indeed, such a position had been expressly rejected; the unanimity was solely in respect of the need for a referendum.

¹⁷⁸ This was chaired, as Mr Paisley Jr told the assembly, by the foreign secretary, David Miliband, and attended by the attorney general, Baroness Scotland, and Scotland's minister for Europe and external affairs, Linda Fabiani. Alex Salmond could also see merit in a referendum, given that this had been promised on the constitutional treaty—lecture at Edinburgh University, 12 December 2007.

suggested that, in the absence of a UK-wide referendum, one should be organised in Northern Ireland.

This was soundly rejected by Mr Paisley Jr, initially on legal grounds: under the Northern Ireland Act 1998 and the Political Parties, Elections and Referendums Act 2000, both holding referendums and the Reform Treaty were excepted matters. But he went on to say that Mr Burnside's 'new "ourselves alone" position ... would fundamentally weaken our position for holding a UK-wide referendum'. An exclusively Northern Ireland referendum 'would be the biggest con job of all, because we know the sort of political capital that many would make out of it'. The question was put and agreed without a vote.

8. Relations with Local Government

Rick Wilford and Robin Wilson

The long-running saga of the reform of public administration and more particularly, of local government, looked set in this reporting period to run for some time yet. In July 2007, the DUP environment minister, Ms Foster, initiated a review on the future shape of local government—effectively a review of the Review of Public Administration launched under devolution in 2002 and in response to which the direct-rule administration had announced proposals in November 2005.¹⁷⁹

The direct-rule plan, supported only by SF among the region's parties, had endorsed the recommendation of the RPA team for a reduction from 26 to seven councils, with the prospect that three in the south and west would be 'green', three in the north and east 'orange', and Belfast on an ethnic political see-saw. In September, the DUP MLA Peter Weir said devolution, by allowing for a review of the RPA outcomes, had prevented unionists in the west of Northern Ireland being placed under 'unfettered' republican control.¹⁸⁰

Responding in October to a question from Mr Weir, Ms Foster said that, due to the 'volume of work', there wouldn't be an announcement on the RPA till January.¹⁸¹ A few days later, however, she published her 'Emerging Findings' on local government. Hearts no doubt sank in district councils, when she remarked in releasing the findings that 'the proposals contained in the paper ... provide for the beginning of a considered, balanced and meaningful reform of the system of local government'.¹⁸² The document was poorly received by the Northern Ireland Local Government Association, which argued her proposals would devolve fewer responsibilities to councils than the NIO had proposed.

The unease felt in many quarters was expressed during a take-note debate on 13 November 2007, moved by Ms Foster, in which she outlined the initial findings of the ministerial sub-committee she had chaired, in relation to: the number of district

¹⁷⁹ R. Wilford and R. Wilson (eds), *Northern Ireland Devolution Monitoring Report: January 2006*, at: <http://www.ucl.ac.uk/constitution-unit/research/devolution/Monitoring%20Reports/Jan06/NI%20Jan06.pdf>, pp. 45-9.

¹⁸⁰ N. McAdam, 'Super councils plan would have been a repartition of Northern Ireland: DUP', *Belfast Telegraph* (3 September 2007).

¹⁸¹ N. McAdam, 'Decision on council cuts further delayed', *Belfast Telegraph* (16 October 2007).

¹⁸² DoE news release, 19 October 2007.

councils, the range of functions to be transferred to the councils and the development of a shared vision for local government. This provoked the ire of many members—more than half of whom are of course also councillors, so there were many declarations of interest during the debate. The minister planned to return to the assembly early in the new year with firm proposals, which doubtless would stimulate division in the chamber.

The wider hiatus as to the fate of the Review of Public Administration under renewed devolution led to the resignation of David Sissling, the chief executive designate of the Health and Social Services Authority, which was to be established as part of the abolition of the four health-and-social-services area boards. The health minister, Mr McGimpsey, said in October he did not expect new structures to be in place before April 2009—even though the senior management team of the authority, including Mr Sissling, had been in post since June 2006.¹⁸³

The chair of the British Medical Association in the region, Brian Patterson, said he was ‘exceedingly alarmed’. And he became ‘even more concerned’, following a meeting with the minister, that Northern Ireland would go back to the ‘bad old days’ when it had the longest waiting lists in Europe,¹⁸⁴ as commissioning of services was stalled.¹⁸⁵ When Mr Sissling stepped down, taking up a post in London, Andrew Dougal of the Northern Ireland Chest, Heart and Stroke Association described it as ‘a black day for the future of the health service’.¹⁸⁶

It remained to be seen whether the third part of the review, a unified Education and Skills Authority, would proceed as planned.

¹⁸³ C. Regan, ‘New doubt over single health body’, *Belfast Telegraph* (12 October 2007).

¹⁸⁴ Waiting lists rose inexorably under the last devolved administration—see R. Wilford and R. Wilson, *Devolution and Health: The Northern Ireland Experience* (London: Constitution Unit, at: www.ucl.ac.uk/constitution-unit/files/devolution_and_health/ni_mar_2002.pdf).

¹⁸⁵ C. Regan, ‘BMA’s alarm at minister stalling on health reform’, *Belfast Telegraph* (18 October 2007).

¹⁸⁶ C. Regan, ‘“Black day” as health chief leaves Ulster’, *Belfast Telegraph* (23 November 2007).

9. Finance

Robin Wilson

9.1 Tight fiscal envelope

The previous period of devolution, 1999-2002, was one of considerable public-expenditure largesse. While the rapid growth of spending meant, as a consequence of the Barnett formula, that Northern Ireland converged somewhat towards the UK average *per capita*, the devolved finance ministers of that time, Messrs Durkan and Farren, enjoyed significant margins for discretionary spending. Not so now, with the much tighter Comprehensive Spending Review and the looming prospect of recession.

It was against this backdrop that the results emerged of a study commissioned under direct rule into the costs arising in Northern Ireland from sectarian division. The report, by Deloitte, leaked to the *Independent*, indicated that these costs could add up to as much as £1.5bn per year.¹⁸⁷ Alliance, the only party which had previously shown any interest in the issue, had previously estimated the annual figure at £1bn. While much of this was revenue foregone (such as lost tourism income) rather than wasted expenditure, and only some could be recouped through the integration of segregated public services (as in education, where there are 55,000 empty school places), it was nevertheless a remarkable potential source of savings over time, should the executive have elected to make *A Shared Future* a political priority. Every finance minister knows how critical even marginal savings can be, given so much of the budget is effectively already committed, year on year.

Yet the report was leaked because OFMDFM—which had assumed responsibility under devolution—had no intention of publishing it. Indeed, the office responded to the leak with an e-mail message dissociating itself from the commissioning of the research, as well as Deloitte's interpretation of the data, and saying that the report did not constitute an agreed basis for policy formation.

Ironically, the party which seems to have driven this reaction was precisely the party whose disadvantaged Catholic core supporters stood most to benefit from a redirection of the resources consumed by sectarian division towards social

¹⁸⁷ D. McKittrick, '£1.5bn: annual cost of the enduring sectarianism in Northern Ireland', *Independent* (23 August 2007).

programmes—SF. The party was, however, adamant and has taken a relentlessly ideological line against *A Shared Future*, claiming that its advocates—again, ironically, mostly on the liberal-left of the spectrum—are unconcerned about inequality. The party said the Deloitte report represented ‘a calculated attempt to dilute the equality agenda’.¹⁸⁸ SF members of the Committee for the OFMDFM blocked even a discussion of the report by the assembly committee.

Another way to ease the fiscal constraints on the executive would, of course, have been to seek tax-varying powers as in Scotland. But while on this issue SF was proposing change, unionists, including Mr Robinson, rejected the move in the assembly (see assembly section),¹⁸⁹ despite their contrary position on (the lowering of) corporation tax.

Water charges represented a third vehicle, but all parties had opposed their introduction. The review led by Paddy Hillyard, a Queen’s academic and anti-poverty campaigner, reported during the period, recommending that the charge be added to the rates. This got over the argument against double payment, by making an allowance for that portion of the rates which could already be deemed a contribution, but would as a corollary raise less revenue than envisaged under direct rule.¹⁹⁰ The regional development minister, Mr Murphy, told the assembly the executive had accepted the Hillyard recommendation, with an anticipated £160 per year discount, saying the measure would be phased in from 2009-10 with two-thirds of liability.¹⁹¹

The Comprehensive Spending Review outcome was meanwhile announced, indicating spending in Northern Ireland would rise by £1.2bn in real terms between 2007-08 and 2010-11, or just 1.7 per cent per annum. Mr Robinson warned: ‘This highlights the need for local departments to deliver efficiencies over the period to 2010-11 in order that resources can be released to deliver improvements in priority frontline services.’¹⁹²

There still remained one club in the finance minister’s bag—the rates themselves. But when he unveiled his draft budget it was evident he had persuaded himself, as so many finance ministers before him, that he could find the Holy Grail of weak fiscal

¹⁸⁸ BBC News Online (24 August 2007).

¹⁸⁹ D. Keenan, ‘Unionists oppose tax-setting powers’, *Irish Times* (11 September 2007).

¹⁹⁰ N. McAdam, ‘Executive warned on water charges’, *Belfast Telegraph* (13 October 2007).

¹⁹¹ I. Graham, ‘Water charges are delayed for another year’, *Belfast Telegraph* (22 October 2007).

¹⁹² D. Keenan, ‘Stormont budget to grow by 1.7%’, *Irish Times* (10 October 2007).

effort and strong public programmes by 'efficiencies'. Earlier, he had told a CIPFA conference in Newcastle that a business-led 'all-powerful scrutiny body' could bring savings of £700m by 2011.¹⁹³

Mr Robinson insisted his budget did not reflect 'Labour party priorities' but was 'Made in Northern Ireland'. It did not take much decoding to see in this oddly nationalistic statement, when considered alongside the neo-liberal tenor of the PfG, a dog-whistle signal to the Protestant middle class and a corresponding snub to the Catholic working class. He promised to freeze the rates and cap industrial rates, after adding the discounted water charge, for three years. He played up savings in the public sector—though not from tackling sectarianism—and he said: 'For too long the local private sector has been constrained by the influence of the Northern Ireland public sector.'¹⁹⁴

The mechanism for this he did not evince, but it could only be that the public sector was hoarding capital or labour. Yet in terms of capital, rather than being starved of public subsidy, private enterprise in the region has been addicted to 'grantpreneurialism'. And when it comes to labour, rather than being bidded up by public-sector competition, private-sector wages are some of the lowest in the UK. Indeed, in the coming recession, as in the similar collapse of private demand in the early '90s—when Northern Ireland engaged in modest catch-up with UK per capita gross domestic product—the region will be to some extent insulated as the public sector will act as an automatic stabiliser.

It was, however, just the ideological message business wanted to hear, and the draft budget was welcomed by employers' organisations.¹⁹⁵ Indeed, it was notable that the budget took precedence in media coverage over the draft PfG, which in theory should drive it: on Radio Ulster's review of the papers the next morning, there was no mention of the programme, the focus falling entirely on the budget and Mr Robinson.¹⁹⁶

There was a less positive reaction from the centrist executive parties. The UUP health minister, Mr McGimpsey, warned that the budget would not help reduce

¹⁹³ G. Moriarty, 'Robinson calls for radical audit watchdog for NI', *Irish Times* (28 September 2007).

¹⁹⁴ Department of Finance and Personnel news release, 25 October 2007.

¹⁹⁵ R. Morton, 'Robinson budget leaves business leaders smiling', *Belfast Telegraph* (26 October 2007).

¹⁹⁶ *Good Morning Ulster*, BBC Radio Ulster (26 October 2007).

waiting lists.¹⁹⁷ He went public with a campaign for a higher allocation, organising 'consultation roadshows' to meet health staff.¹⁹⁸ As for the SDLP social development minister, Ms Ritchie, she took the opportunity of a meeting with Yvette Cooper, the housing minister for England, to complain of a 63 per cent shortfall in the capital budget for social housing in Northern Ireland.¹⁹⁹ Their party leaders, Sir Reg Empey and Mark Durkan respectively, staged a joint press conference to protest about the allocations.

Mr Robinson told the Finance and Personnel Committee that the budget had been misrepresented as 'right wing' and he defended the provision for health and social services.²⁰⁰ But his partner, Iris, chair of the health committee, attacked Mr McGimpsey for 'left-leaning tendencies' and insisted on ideological conformism: 'The Minister must disprove that he is ideologically incapable of adapting to the change demanded. Otherwise, the health sector could find itself left behind in the new Northern Ireland. The province cannot afford a health minister constrained by outdated political dogma.'²⁰¹

Whether such parsimoniousness was affordable, however, was the question others were asking. The chief medical officer, Michael McBride, said the health budget would hit disadvantaged communities, warning that it would deprive 45,000 women over 65 from an extension of breast screening.²⁰² National Energy Action Northern Ireland said the Department for Social Development had halved its budget at a time when it estimated there were more than 200,000 households in the region in fuel poverty, with more than 2,000 people dying in winter as a result.²⁰³ And a 'Keep Our Arts Alive' rally at Stormont protested against an allocation far lower on a per capita basis than in Great Britain and the republic. The Arts Council warned of 'devastating consequences'.²⁰⁴

9.2 Varney review

As indicated above (see intergovernmental relations section), the Varney review shocked the Northern Ireland political class—rejecting its demand for corporation tax

¹⁹⁷ C. Casey, 'Health minister criticises budget', *Irish Times* (29 October 2007).

¹⁹⁸ Department of Health, Social Services and Public Safety news release, 29 November 2007; *Good Morning Ulster*, BBC Radio Ulster (30 November 2007).

¹⁹⁹ Department for Social Development news release, 26 November 2007.

²⁰⁰ Department of Finance and Personnel news release, 14 November 2007.

²⁰¹ E. McCann, 'Still standing, but where?', *Belfast Telegraph* (22 November 2007).

²⁰² C. Regan, 'Health chief issues warning over budget', *Belfast Telegraph* (7 December 2007).

²⁰³ D. McAleese, 'Charity sparks fuel poverty fear', *Belfast Telegraph* (26 November 2007).

²⁰⁴ M. McCreary, 'Arts world at Stormont in funds fight', *Belfast Telegraph* (10 December 2007).

cuts, which the review estimated would come at a net cost to the UK exchequer of £2.2bn over a decade. It was always remarkable that unionist politicians should betray so little understanding of the wider UK context not to realise that the Treasury would reject a measure which would have a distorting effect on the wider UK economy: firms could establish offshoots in Belfast and ensure through their accounting arrangements that their profits were concentrated there, as has happened with major US companies in the republic. But the mild reaction of the finance minister, Mr Robinson—who described the outcome as ‘disappointing’—suggested he at least could see the political writing on the wall.²⁰⁵

Interesting, the Economic Development Forum, which brings together the social partners, told the enterprise minister, Mr Dodds, that investment in skills was key to economic regeneration.²⁰⁶ And a Belfast-based consultancy on foreign direct investment said business should not be fixated on corporation tax rates. OCO, which feeds information on foreign investment to the World Bank and United Nations, argued that a region's tax regime was a secondary consideration to skills levels and labour availability in sectors such as life sciences, information and communication technologies, and financial and business services.²⁰⁷

What set this hare running in the first place was a superficial reading of the ‘Celtic Tiger’ phenomenon as a product of low corporation tax, the evidence for which is very weak. First, corporation taxes have *risen* in the republic, from zero in 1958 when foreign direct investment was first invited, to 10 per cent in 1981 to 12.5 per cent in 2003, yet the tiger did not begin to pound until the early-mid 90s. Secondly, while it was US investment in particular that was critical in Ireland, the trend in US manufacturing investment globally has been towards higher-, rather than lower-cost locations, suggesting that factors other than cost have been of growing significance in investment decisions. Thirdly, the industrial development agency Forfás found that 57 per cent of foreign enterprises it surveyed indicated that appropriate skill levels represented the key advantage the republic offered. A better explanation of the Celtic Tiger, including its timing, is that the number of tertiary students increased more than six times in the three decades to 1994 and that, within that, the number of science

²⁰⁵ Department of Finance and Personnel news release, 17 December 2007.

²⁰⁶ Department of Enterprise, Trade and Investment news release, 17 December 2007.

²⁰⁷ R. Morton, ‘Economic body hits back at Varney rap’, *Belfast Telegraph* (20 December 2007).

and engineering graduates in the 20-34 age group is more than double the OECD average—though this is only one of a number of determinants.²⁰⁸

²⁰⁸ N. J. Smith, *Showcasing Globalisation? The Political Economy of the Irish Republic* (Manchester: Manchester University Press, 2005), pp. 74-6.

10. Political Parties and Elections

Duncan Morrow

10.1 Introduction

With the first 'summer of love' behind it, the autumn was expected to be a time for action by Northern Ireland's fledgling administration. Above all, a new Programme for Government could not be delayed. Although the final date for Westminster's three-year Comprehensive Spending Review was ultimately determined by the rather shorter-term electoral considerations of the Labour leader, Mr Brown, in October, it had the practical implication of accelerating proposals for budgets and political priorities for Northern Ireland in the same month.

In retrospect, it was probably inevitable that the requirement to get down to real business would highlight the absence of common vision among the parties in the executive, and indeed of any history of inter-party coalition-building in Northern Ireland. While the first and deputy first ministers, now widely referred to in the media as 'the Chuckle Brothers', made a continued effort to sustain their newly united intent, there was little evidence of progress on policy matters. The bulk of the assembly's time continued to be taken up with declaratory motions, often apparently designed to play to traditional sectarian galleries. The atmosphere by the end of the year was of suppressed unease at the absence of substantive decision-making, with the practical implication that 2008 would be a year of some serious hard bargaining and real choices. The test, less certainly the best, was yet to come.

10.2 Down to brass tacks?

Understandably, the overwhelming imperative of the new Northern Ireland is to establish a radically different political agenda from that which dominated the preceding four decades. The inherent difficulty is that the political agreement which led to the establishment of the new executive did not resolve the underlying dispute around 'sovereignty', and left many of the defining issues—an agreed approach to crime, discrimination and violence in the past, the administration of policing and justice in the future and the promotion of a culture of tolerance in the present—as 'loose ends'.

The paradoxical outcome is that stability is easily equated with *not* tackling the issues which would divide the executive, while facing the real challenges is defined as a terminal threat. In prioritising short-term stability in this way, the executive can count

on support from an exhausted and increasingly uninterested external world, led above all by the UK government. In this analysis, the critical British interest is not to resolve conflict but to avoid any requirement or suggestion that it should ride to the rescue of the executive in this predicament. Within Northern Ireland too, a bored and weary electorate, led by its business elite, is almost tangibly desperate to 'move on', as if by wishing an end to sectarian conflict it could be simply abolished.

The consequence is a mandatory partnership which is profoundly threatened by the very political agenda it is supposed to address. On the one hand, there is a determined attempt to assert the newness of current reality in comparison with the past. This is largely accomplished by a persistent media focus on the united front presented by the first and deputy first ministers, together with an obsessive emphasis on economic prosperity. On the other hand, issues from the past continue to emerge which do not allow of resolution without real compromise and change. In the absence of any strategy or appetite to tackle these profoundly painful underlying questions, we have a complex mixture of public relations, delay and denial.

The draft Programme for Government illustrated the absence of detailed policy agreement between the parties in government: it lacked significant strategic detail in many areas (see executive section). The draft budget, meanwhile, illustrated the dominance of the Department of Finance and Personnel over the process. While the DUP finance minister, Mr Robinson, was widely credited with establishing his personal stamp on the tone of the executive, there was considerable disquiet in other quarters. The SDLP and the UUP made clear they regarded the budget as indeed a draft, requiring significant improvement before it could be adopted in January 2008.

In the absence of collective responsibility, the spectacle of UUP and SDLP ministers voting for an Alliance motion declining to support the draft PfG (see assembly section)²⁰⁹ was merely the most blatant example of a broader trend—where parties lined up in the assembly to support only those aspects of executive policy associated with 'their' ministers, acting as opposition parties where they were in disagreement. The related lack of any mechanism to discipline or fire ministers or parties caught in this position led the deputy first minister, Mr McGuinness, to describe the SDLP and

²⁰⁹ *Irish News* (27 November 2007).

UUP as 'problem parties' within the executive,²¹⁰ while Mr Robinson observed that without backing for the PfG and the budget the power-sharing executive would collapse.²¹¹

While Alliance, the SDLP and UUP led public concerns about these documents, the willingness of SF to sign up to a draft budget which laid such emphasis on private enterprise, rather than public investment, was perhaps even more interesting. The absence of a proactive anti-poverty strategy, the lack of resources to tackle growing social housing need and the potential for serious cuts in healthcare and community development all suggested that the party had suffered an internal executive defeat in the politics of coalition or that a significant shift in SF economic and social thinking had taken place.

At a meeting in December, SF signalled a more pro-business approach to economic policy, apparently driven by electoral considerations south of the border, given the party's poor performance in the 2007 Dáil election.²¹² But the *Irish Times* editorialised: 'It will take more than minor policy adjustments to make Sinn Féin's electoral message acceptable.'²¹³ The longer-term implications of this for the party's strategy in the north will be important over the coming years.

While outlining an approach which depended overwhelmingly on successful inward investment, the executive moved quickly away from two key strategies initiated by the direct-rule administration. The government's policy on promoting inter-community co-operation across all public services, *A Shared Future*, appeared to have been set aside in line with SF objections (see executive and finance sections), while the Review of Public Administration seemed to have come to a shuddering halt (see local government section). Moreover, it appeared that the expected increased co-operation between schools as a result of the Bain report on the rationalisation of the estate²¹⁴ would not be realised, given the apparent hostility of the minister to *A Shared Future* in schooling.

²¹⁰ *Irish News* (28 November 2007). This was an implicit riposte to the SDLP leader, Mr Durkan, who had complained under direct rule about the disproportionate political attention devoted by London and Dublin to the 'problem parties' as he saw them—SF and the DUP.

²¹¹ *News Letter* (28 November 2007).

²¹² *Irish Times* (10 December 2007).

²¹³ 'The new reality for Sinn Féin', *Irish Times* (11 December 2007).

²¹⁴ R. Wilford and R. Wilson (eds.), *Northern Ireland Devolution Monitoring Report: January 2007*, at: www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/NI_Jan07.pdf, pp. 61-2.

It was clear that education was likely to be one of the first sources of real tension in the executive. In December, the minister, Ms Ruane, answered her critics that no decisions were being taken when she announced definitively that academic selection, used by grammar schools across Northern Ireland to recruit primary pupils, would come to an end (see public policies section).²¹⁵ While the announcement was welcomed by the SDLP and Alliance, both major unionist parties signalled their opposition. It remained a matter of dispute whether the minister had the power to introduce these changes without reference to the executive or the assembly. As the DUP and SF had made this a critical policy issue, however, neither side appeared willing or able to compromise. It was already clear that planning for changes on the scale envisaged by the minister was likely to create real uncertainty for schools and parents from 2009.

10.3 The long shadow of the past

There can be little doubt that the achievement of power-sharing government in Northern Ireland represents a remarkable change in the historic positions of SF and the DUP. Nonetheless, it is a change founded on the weakness of previous strategy, rather than on any profound internal change of heart. In an interview with BBC Northern Ireland in April 2007, the first minister, Mr Paisley, admitted that he had had little choice but to agree terms.²¹⁶ For SF, the election in the republic, just weeks after devolution in May, underlined the painful truth that the modern party is overwhelmingly defined by the very partition it exists to destroy.

The absence of a shared vision may be disturbing but it is unsurprising. That power-sharing across the historic sectarian divide in Northern Ireland is essential is now acknowledged as a practical predicament, but neither of the principal parties can promote it as a desirable end in itself nor as the focus of aspiration. The result is a commitment to partnership alongside an ideological unwillingness or inability to integrate its consequences. Ideologically, both partners are as opposed as ever. In practice, they are locked together in government, to all intents and purposes for ever, or at least until they lose an election.

In the absence of a decision formally to acknowledge the change in aspiration which partnership implies, preventing any contradiction from surfacing becomes the shared interest of both parties. The most likely source of such contradiction comes from

²¹⁵ *Belfast Telegraph* (12 December 2007).

²¹⁶ BBC Online (4 April 2007), at: www.bbc.co.uk/northernireland/nolan/catchuptv/paisley1.shtml.

historic revelations, competition over state resources and continuing sectarian competition on the ground. In reality, neither party has the capacity to prevent these issues emerging, with their capacity to force everyone into a reconsideration of past actions and future priorities.

In this reporting period, Northern Ireland's sectarian subculture continued to invade the public space. Ms Ritchie, SDLP minister for social development, drew the ire not only of the NIO but also the finance minister, Mr Robinson, when she determined to withdraw funding from the Conflict Transformation Initiative in October (see 'peace process' and executive sections).²¹⁷ There was little doubt that Ms Ritchie's decision was a popular one—increasing her public profile and earning her a remarkable standing ovation at the UUP conference, after her rhetorical flourish that there should be 'no surrender' to the DUP-SF executive duopoly.²¹⁸

She told the UUP that the political centre could 'prevail again' in Northern Ireland: 'It is deeply regrettable that those who tried to destroy devolution from within, and those who poisoned the previous devolved administration through their refusal to decommission, now command nine of the 12 seats around the Executive table.'²¹⁹

The devolution of policing and justice may be the greatest political challenge of 2008, with the DUP signalling that the target date of May 2008 was unlikely to be acceptable.²²⁰ The SF president, Mr Adams, in contrast, underlined its central importance for SF in his new year message to supporters.²²¹

Longer-term threats to the stability of government were largely the preserve of smaller working groups. Parading remained the subject of a strategic review under the former Liberal Democrat leader Paddy Ashdown. Perhaps most neuralgic, however, was the work of the consultative group on dealing with the past (see 'peace process' section). While the body made little or no public comment, the co-chair Mr Bradley described its work as a 'huge and complex task'.²²²

²¹⁷ *Irish News* (10 October 2007).

²¹⁸ *News Letter* (29 October 2007).

²¹⁹ *Irish Times* (29 October 2007).

²²⁰ *Irish Times* (29 September 2007).

²²¹ *Irish News* (22 December 2007).

²²² Northern Ireland Office news release, 6 January 2007.

The departure of Nuala O'Loan as policing ombudsman was greeted with undisguised relief by many unionist politicians and the Police Federation, especially following her very public exposure in January 2007 of collusion between the old RUC Special Branch and the paramilitary Ulster Volunteer Force.²²³ Nonetheless, the collapse of the only criminal trial relating to the Omagh bomb in 1998 largely confirmed her earlier castigation of the police investigation and again raised questions about the degree to which intelligence considerations had undermined criminal investigation.²²⁴ Allegations about MI5 involvement with the UDA,²²⁵ alongside claims—made under parliamentary privilege by the DUP MP David Simpson and later denied—about British intelligence and a leading SF figure in east Tyrone²²⁶ combined to give the impression of a very dirty war indeed.

10.4 Jockeying for position

For political parties, the events of spring 2007 continued to determine current political realities. With no elections imminent, the seeds of future debates were being sown, however, with significant changes in the substructure of unionism and nationalism. Potentially the most dramatic initiative was the announcement by Fianna Fáil that it intended to organise in Northern Ireland.²²⁷ Although the UUP leader, Sir Reg Empey, denounced the decision, the implications appeared to be more disturbing for the nationalist parties within the north than for unionism.²²⁸ The plans remained vague on specifics, with no resolution of the question of competing in Westminster elections or the consequences for the republic's Labour Party (which has some members in the north), the SDLP and SF.²²⁹ Nonetheless, the advent of FF in Northern Ireland would be seismic in its effects and unpredictable in its outcome. At its conference, the SDLP responded with a cautious welcome, while acknowledging that the party could be split by such a move.²³⁰

Within unionism, evidence grew of an appetite in the UUP for entering opposition.²³¹ While internal divisions continued, a crisis over the PfG could well precipitate such action in the spring. There was also evidence of a will to explore an alternative coalition with the SDLP, although such ideas had been floated and failed before.

²²³ *Belfast Telegraph* (5 November 2007).

²²⁴ *Irish News* (21 December 2007).

²²⁵ *Sunday World* (30 December 2007).

²²⁶ *Irish Times* (25 November 2007).

²²⁷ *Irish Times* (19 September 2007).

²²⁸ *News Letter* (18 September 2007).

²²⁹ *Irish Times* (8 November 2007).

²³⁰ *Irish News* (5 November 2007).

²³¹ *News Letter* (29 October 2007).

Meanwhile, unionists opposed to power-sharing established a proto-political party, the Traditional Unionist Voice.²³² While the move did not lead to any panic among the DUP, the longer-term implications were again unpredictable.

Alongside the UUP and SDLP, Alliance held its annual conference in November. A monopoly on official opposition within the assembly has given Alliance a profile beyond its size, and the conference was widely reported as optimistic and upbeat.²³³

10.5 A new normality?

The world is no doubt anxious for a successful peace story, although lectures by Northern Ireland politicians to leaders in Iraq seem somewhat premature.²³⁴ There can be no doubt that devolution has been re-established on a more stable footing than before. The public mood music in Northern Ireland continues to be overwhelmingly positive.

Evidence of real change continued, with not only good personal relations between the first and deputy first ministers but also the blossoming of a new relationship between the DUP leader, Mr Paisley, and the republic's political establishment.²³⁵ The Free Presbyterian Church, of which he has been moderator since its foundation, demanded a heavy price from him for agreeing to go into government with SF.²³⁶ But there was evidence of some greater generosity of spirit, in reaction to the elevation of Sean Brady from archbishop to cardinal in the Catholic Church.

The dangers for Northern Ireland lie not so much in a return to the past as in an unproductive stalemate long term. Further change, when it comes, will continue to be driven from outside. FF promises to play an interesting role. Changes in Scotland and in the politics of British Conservatism continue to challenge the union in different ways. After all the excitement of 2007, 2008 may be the year when the real decisions about the future in Northern Ireland are finally confronted. Ultimately, changing the discourse on sectarianism remains the crucial challenge for this executive and its successors.

²³² *Belfast Telegraph* (7 December 2007).

²³³ *Irish Times* (5 November 2007).

²³⁴ *Irish Times* (4 September 2007).

²³⁵ *Irish Times* (11 September 2007).

²³⁶ *Irish News* (8 September 2007).

11. Public Policies

Rick Wilford and Robin Wilson

11.1 The '11+'

Stormontologists will recall that in October 2002 the then education minister, Mr McGuinness, summarily announced the ending of the 'transfer test' in 2004.²³⁷ While that target date was not met, the succeeding direct-rule administration confirmed the decision, albeit putting back the final test to 2008—in large measure because there had been no agreement on what would take its place.

As the clock ticked down during the reporting period, the pressure mounted on Mr McGuinness' devolved successor and SF colleague, Ms Ruane, from the unions and other political parties, for a decision on the '11+'. At the end of the 2006-07 school year, her response was to demur: 'Let's not create an artificial panic.'²³⁸

The Association for Quality Education, a lobby formed to defend selection, said it was planning to hold a meeting with 40 schools interested in introducing their own entry tests.²³⁹ But the National Association of Head Teachers warned that tests introduced by individual schools could be outwith the 1997 Education Order and place schools at risk of legal challenges from disgruntled parents.²⁴⁰

In October 2007, Ms Ruane finally set out her 'vision' for education, in a speech which supported area-based planning, in line with the Bain review of the school estate, and a move from selection at 11 to election of pupil disciplinary choices at 14.²⁴¹ And, facing an assembly question on the 'Dickson plan' in Craigavon, where 14 is the pivotal age, she replied:²⁴²

As I have said, 14 is a more natural age at which to transfer. It is a natural age for young people to make choices and decisions along with their parents and teachers. Our young people know what they want, what they are good at and what they are interested in. It is vital that young people have power and a voice in the process. At the age

²³⁷ R. Wilford and R. Wilson (eds.), *Northern Ireland Devolution Monitoring Report: November 2002*, at: www.ucl.ac.uk/constitution-unit/monrep/ni/ni_november_2002.pdf, pp. 42-3.

²³⁸ 'Ulster's new schools authority won't be meeting its timetable', *Belfast Telegraph* (28 June 2007).

²³⁹ L. Smyth, 'Pressure mounts on Ruane to find 11-plus replacement', *Belfast Telegraph* (5 September 2007).

²⁴⁰ L. Smyth, 'Schools facing legal challenge over proposed entrance exam', *Belfast Telegraph* (6 September 2007).

²⁴¹ Department of Education news release, 12 October 2007.

²⁴² *Official Report*, 15 October 2007.

of 11, they have no power, and adults are making decisions that are not fair to children or in their best interests. It is time that the children's voice were heard.

The teachers' unions (and educationalists) backed the shift of emphasis but the DUP and the grammar lobby were unmoved.²⁴³

These comments presaged an announcement²⁴⁴ in the assembly—made apparently without seeking advice from departmental officials—in which the minister confirmed that 2008-09 would be the last year of the transfer test. Flanked by her party leader, Gerry Adams, on one of his rare appearances in the chamber—indeed Mr Adams has largely disappeared from public view since SF's poor showing in the Dail election of May 2007, in part attributed to his out-of-touch TV performance—Ms Ruane insisted that she was concerned to deliver 'a world class education system reflecting the needs of all our children equally'.

The ministerial statement was entitled 'Outline of a Vision for our Education System' and it remained just that. The 'outdated concept of the two-tier education system' had no place in this vision, she said, proposing 14 years as the point of transition into a more 'flexible and agile' range of schools catering for a range of educational pathways: professional, technical and academic. At the age of 11, at the point of transition to post-primary education, pupils would transfer 'on the basis of preference for certain schools' on the undefined criteria of 'community, geography and family'.

Ms Ruane fired a warning shot at Northern Ireland's grammar schools. Should certain schools devise independent admission tests or standards that lay outside her proposed system of transfer, there would be 'no obligation on the Department to assist with funding'.

Unsurprisingly, the statement proved divisive. Spokespersons for the UUP and DUP fulminated against Ms Ruane's rudimentary affirmation and made clear their commitment to a selection-based system, in the process charging that an area-based approach to schools would result in a postcode lottery—an uncharacteristic unionist adoption of the 'equality agenda'—and hence an increase in house prices in the

²⁴³ L. Smyth, 'Pupils to select a school at age 14', *Belfast Telegraph* (18 October 2007).

²⁴⁴ DE news release, 4 December 2007.

vicinity of popular schools. To this the minister's response was: better a postcode lottery than a 'life lottery'.

It was an ill-tempered debate, and the ire of her opponents grew as she hinted that the reform proposals might come to the assembly in the form of a regulation rather than primary legislation, interpreted by some as an attempt to railroad the changes through the house. At St Andrews, however, in October 2006, new procedures were put in place at both the executive level and within the assembly, to prevent ministers going on solo policy runs; in effect, there are new brakes on the policy and legislative wheels. Ms Ruane's proposals seemed likely to trigger those brakes, suggesting a long and bruising battle ahead which could result in an impasse and even greater confusion in the post-primary sector.²⁴⁵ It subsequently was claimed that 25 grammar schools had signed up to the Association for Quality Education plan for a breakaway selection test.²⁴⁶

The DUP finance minister, Mr Robinson, insisted in an assembly answer to Basil McCrea of the UUP that a decision remained to be made by the executive, in line with the Ministerial Code.²⁴⁷ Meanwhile, in an indication that the DUP was determined to drive Northern Ireland back to the future under devolution, Ms Ruane's department responded to pressure from that party in the assembly by saying schools could explore creationism if they liked.²⁴⁸

11.2 Irish-language legislation

Another divisive item on the executive's agenda was the Irish language, more precisely the means of embedding it in Northern Ireland.²⁴⁹ At St Andrews in October 2006, London and Dublin had endorsed the introduction of an Irish Language Act, a commitment apparently made to the SF delegation at the talks.²⁵⁰ Such legislation became a devolved matter, however, when not one but two consultations were

²⁴⁵ A further sign of the looming battle came in a subsequent debate on the statement. The house supported *nem con* a UUP motion calling on the minister to detail and clarify her proposals and, among other things, to outline how they would 'avoid selection by postcode'—*Official Report*, 11 December 2007.

²⁴⁶ L. Smyth, 'Breakaway schools to use common entry test', *Belfast Telegraph* (13 December 2007).

²⁴⁷ C. Thornton, 'Robinson challenges status of 11-plus plan', *Belfast Telegraph* (31 December 2007).

²⁴⁸ L-A Henry, 'Tussle of Biblical proportions over creationism in Ulster classrooms', *Belfast Telegraph* (26 September 2007).

²⁴⁹ The temper of the debate was soured in advance when David McNarry (UUP) tabled a motion in the assembly which objected to a proposed Irish Language Act and which called on the first and deputy first ministers to request all other ministers to refrain from the use of the language in the chamber and in written communications with MLAs—*Official Report*, 9 October 2006. The debate, which veered from good to ill temper, and which prompted the use of both German and Ullans—the latter employed fleetingly by Gerry Kelly, SF's junior minister—led to the defeat of the motion by 46 votes to 44.

²⁵⁰ There was, however, no reference in the St Andrews Act 2006 to Irish-language legislation.

organised under direct rule and the issue fell conveniently into the in-tray of the new DUP minister for culture, arts and leisure, Edwin Poots, who announced that he was ‘unpersuaded that there is a compelling case for introducing Irish language legislation at this time’.²⁵¹

Mr Poots’ announcement caused outrage among SF and SDLP members and prompted the SF president, Mr Adams, to remark, in a somewhat menacing way, that ‘one way or another there will be an Irish language Act’.²⁵² The minister, however, was unmoved. He argued that on a number of grounds, including cost, the absence of consensus and the alleged potential to undermine community relations—though a magnanimous bill from his quarter might have done something to mend them—he was minded to take a non-legislative route to the protection and development of the language. He said he would work with the committee shadowing his department, chaired by Barry McElduff of SF, and his ministerial colleagues to find an agreed way forward. Rather like the transfer test, this issue had the hallmarks of a political accident in the making.

11.3 Rural planning

The environment minister, Ms Foster, also responsible for the local government review (see local government section) chaired a second executive sub-committee, established to review rural planning—another controversial matter. Her direct-rule predecessor, Shaun Woodward, as the minister with responsibility for regional development, had issued draft planning guidance, known as PPS 14, in March 2006, to address the development pressure on rural areas, including the pepper-pot erection of single dwellings on farm land, which in sum was exerting adverse environmental impact across the region.

A judicial review challenging draft PPS 14 had been lodged, with Justice Gillen concluding that the Department for Regional Development did not have the statutory power to prepare and issue the draft. This prompted Ms Foster to announce that her Department of Environment was now assuming responsibility for draft PPS 14 and its review. In addition, she decided to reissue the policy provisions of the draft, taking comfort from Justice Gillen’s comment that had it been issued by the DoE ‘the contents might well have been unobjectionable’.²⁵³

²⁵¹ *Official Report*, 16 October 2007.

²⁵² *Ibid.*

²⁵³ *Official Report*, 25 October 2007.

The issue was highly contentious, with PPS 14 being opposed, tooth and nail, by (among others) SF. The minister, via the executive sub-committee, was to bring forward the fruits of the review by April 2008 and put out the revised policy for consultation.

An environmentally-conscious MLA in one of the major parties confided his concern that his colleagues did not share his sensitivities. He feared that under devolution they would 'trash' the region.

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