

DEVOLUTION MONITORING PROGRAMME 2006-08

Scotland Devolution Monitoring Report

January 2008

Charlie Jeffery (ed.)

Institute of Governance, University of Edinburgh

www.institute-of-governance.org



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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Chronology of Key Events: September – December 2007

5 September	SNP Government announces legislative programme.
2 October	Joint Ministerial Committee on Europe meets, at which Scottish representation in the Council of Ministers in relation to EU Fisheries negotiations is discussed.
26 October	Release of £100m for capital investment in universities and colleges in 2007-08 announced.
9 November	Glasgow wins Commonwealth Games for 2014.
13 November	Alex Salmond announces that he anticipates independence for Scotland by 2017.
13 November	SNP Government publishes economic strategy.
14 November	Finance Secretary John Swinney presents first SNP budget.
16 November	Concordat between Scottish Government and local authorities announced.
18 November	Scottish Politician of the Year Awards held in Edinburgh. The abusive behaviour of Scottish Labour Press Secretary Matthew Marr (directed at Alex Salmond) leads to his resignation.
21 November	Debate held in Westminster about 'unfair' Barnett formula.
30 November	St Andrew's Day. Scottish Labour leader Wendy Alexander announces plans for a Scottish Constitutional Commission.
5 December	New Scottish Labour leader Wendy Alexander pledges to clear her name over the 'dodgy donations' controversy.

6 December	Wendy Alexander's proposal for a constitutional commission is approved by the Scottish Parliament.
7 December	Private Meeting between First Ministers of Scotland and Wales.
10 December	UK Conservative leader David Cameron makes speech on the Union outside Scottish Parliament.
13 December	Stage 1 Report on the Graduate Endowment Abolition (Scotland) Bill, published by Education, Lifelong Learning and Culture committee.
13 December	Lib Dem leader Nicol Stephen accuses Salmond of 'sleaze' over Donald Trump's proposed £1bn Golf Course.
13 December	Announcement of Local Government Finance Settlement including council tax freeze.
17 December	Former Solidarity MSP Tommy Sheridan arrested and charged with perjury.
20 December	Parliament agrees to the general principles of the Graduate Endowment Abolition (Scotland) Bill, despite earlier rejection of the bill in committee.
20 December	First Sewel motion of the SNP era passed, giving the Scottish Parliament's consent for Westminster to pass the Climate Change Bill.

Introduction

This is the first Scotland Devolution Monitoring Report coordinated by the Institute of Governance at the University of Edinburgh. It covers the period September-December 2007. That period was notable for a number of reasons.

First was the continued popularity of the SNP minority government led by First Minister Alex Salmond. The honeymoon continues, with the Scottish Government playing its cards well in ad hoc deals with other parties in the Scottish Parliament and a robust approach to relationships with the UK Government appearing to go down well with voters. Some clouds, however, have begun to appear: in the need for compromise on the Scottish budget within a tight UK settlement; and a more vigorous approach to opposition on alleged 'broken promises' and Donald Trump's planning application.

Second was the continuing weakness of Labour, with Gordon Brown's U-turn on holding an election undermining Labour's credibility in Scotland and threatening its lead in Westminster voting intentions. Wendy Alexander was also slow to set her agenda as Labour leader – even before the controversy over Paul Brown's illegal £950 donation forced the Scottish party into a period of damage limitation.

Third was the constitutional debate. While the Scottish Government's National Conversation ticked over more or less invisibly, Alexander announced a unionist agenda on the constitution, pledging more devolution and a strengthened union in a joint enterprise of Labour with the Liberal Democrats and the Conservatives, extending also to their Westminster-level parties. The product of that agenda – a Scottish Constitutional Commission, announced in December – is set to emerge in early 2008, though amid signals from UK Labour that are at best lukewarm about further devolution.

Should the Commission get launched, and should the National Conversation move into a promised new – and more visible – phase, 2008 may be a defining year for Scotland's constitutional future.

Charlie Jeffery, January 2008

1. The Scottish Executive

Paul Cairney

1.1 The Politicisation of Senior Civil Servants

The previous monitoring report discussed Scottish Executive Permanent Secretary John Elvidge's suggestion that informal contacts between civil servants in Scotland and England have already diminished, with a more formal relationship now more likely given the unwillingness of separate governments to reveal sensitive aspects of policy development. There was now, in Elvidge's words, 'quite a slender thread' connecting the UK Government and Scottish Government civil services.¹ This thread came under further pressure from two main sources. The first relates to the UK Government's response to the foot-and-mouth outbreaks in the UK. In October, Alex Salmond reported that he had seen a draft speech to be delivered by Hilary Benn (UK Environment Secretary) announcing £8.1m of compensation for Scottish farmers. However, this section was removed from the next draft of the speech (with Salmond implying a link between the pledge and the likelihood of a general election).² The UK Government's response was to make sure that Labour ministers and political advisers could (in theory) vet all Whitehall documents to be shared with the Scottish Government.³ The second follows the use of Elvidge himself as a pawn in party-political intergovernmental relations. In the wake of the Comprehensive Spending Review, Elvidge sent a circular email to civil service staff outlining its likely effect. This email contained a link to Treasury rather than Scottish Government figures (for the significance see section 11.3) which, according to Scottish Secretary Des Browne, suggested Elvidge was, 'effectively distancing himself from the line of the First Minister and Finance Secretary ... look at the Treasury figures and ignore the spin of Salmond and Swinney'.⁴ This prompted Elvidge to take the unusual step of issuing a statement supporting the Scottish Government line. While this may look

¹ P. McMahon, 'A very civil separation', *The Scotsman*, 19 July 2007, <http://news.scotsman.com/index.cfm?id=1124542007>

² BBC News, 'Clash over foot-and-mouth "cash"' <http://news.bbc.co.uk/1/hi/scotland/7037943.stm>, 10 October 2007; H. MacDonell, 'Co-operation forged over eight years is brought crashing down', *The Scotsman* <http://news.scotsman.com/ViewArticle.aspx?articleid=3469963>, 12 October 2007.

³ J. Kirkup et al, 'Whitehall papers to be vetted before being seen by Scottish civil servants as row over payments escalates' *The Scotsman*, 12 October 2007, <http://news.scotsman.com/latestnews/Whitehall-papers-to-be-vetted.3469108.jp>; H. MacDonell, 'Co-operation forged over eight years is brought crashing down' *The Scotsman*, 12 October 2007 <http://news.scotsman.com/latestnews/Cooperation-forged-over-eight-years.3469963.jp>

⁴ A. Macleod, 'Top Civil servant at centre of budget row', *The Times* (Scotland), 11 October 2007, p.1.

like Elvidge is adding to the tension between a 'practical loyalty' towards ministers and an 'ultimate loyalty' to the Crown and Whitehall, it is more likely that he is offended at being used by UK politicians rather than pinning his colours to a Scottish mast.

1.2 Yes Minister?

Academics of a certain age should all remember the influence of public choice theory on the study of the civil service. This shifted attention from the 'Westminster model' focus on impartial civil servants serving ministers, to self-interested bureaucrats pursuing the construction of large departmental fiefdoms, as a reflection of their personal status (an image which was fostered by *Yes Minister*).⁵ Although this picture came under pressure from later developments in UK politics (such as various reforms of the civil service, including the Next Steps review) and refinements to the public choice model,⁶ it is clearly still embedded in the psyche of former (Labour) finance minister Tom McCabe. In an interview billed as an 'astonishing insight into the workings of the civil service', McCabe suggests that many senior civil servants 'see defending the budgets that are within their remit almost as a virility symbol ... or as a symbol of their own importance'. For most of the devolution years, this expansion in department budgets was fostered by significant rises in public expenditure. However, the advent of less significant increases has not been met by a willingness in government departments to reduce demands. Further, the lack of a Scottish equivalent to the UK's Treasury and its agenda on public service targets (combined with the lack of involvement of the UK Treasury in Scottish spending decisions) has undermined the ability of the 'centre' to challenge these fiefdoms. These concerns have added to the debate on whether Scotland needs 'a new Scottish Treasury' with the clout to get tough on spending departments that continue to squander cash without proper scrutiny'.⁷

1.3 Quangos and the 'Crowded Landscape'

These comments were made in the wake of the publication of the Howat report on the effectiveness of budget allocation (commissioned by Tom McCabe when finance minister in 2005). While the report suggested that, as a whole, the Scottish Executive

⁵ W.A. Niskanen, (1971) *Bureaucracy and Representative Government* (Aldine, Atherton); J. Lynn and A. Jay (1984) *The Complete Yes Minister: The Diaries of a Cabinet Minister* (BBC Publications)

⁶ See P. Dunleavy, (1991) *Bureaucracy, Democracy and Public Choice* (Hemel Hempstead: Harvester Wheatsheaf)

⁷ E. Barnes, 'Cost-cutting 'blocked by civil servants as a show of their virility'' *Scotland on Sunday*, 27 October 2007, <http://news.scotsman.com/scottishexecutive/Costcutting-blocked-by-civil-servants.3474819.jp>

was well run, the spending process was undermined by a focus on spending the existing budget (rather than identifying what the budget should be, according to identified priorities) and by a 'crowded landscape' of public bodies involved in service delivery:

This 'crowded landscape' should be reviewed as soon as possible to determine whether fewer organisational entities could be more effective at delivering outcomes and could do so at a reduced cost.⁸

Perhaps the most 'astonishing' aspect of this agenda (given the frequency of the calls for a bonfire of the quangos) is that it rarely leads to change. Most post-devolution reforms to public bodies in Scotland (and Wales) have been driven by the desire to increase policy capacity at the centre, and quangos generally add to that capacity.⁹ Yet, the SNP made the significant reduction of quangos a pre-election promise and this has brought them into the numbers game, with a greater focus (at least of certain newspapers) on how many quangos there are, rather than, say, how efficient they are, whether they deliver value for money, and how their abolition/replacement would improve the delivery of public policy. This led to the embarrassing admission (regardless of how sensible the measures were) that the number of quangos has risen since May 2007.¹⁰

1.4 Quangos and Relocation

In the case of SportScotland, abolition would have represented an innovative solution to a separate problem. SportScotland had previously been earmarked for relocation (130 staff from Edinburgh to Glasgow) and the fulfilment of the SNP's manifesto commitment to abolish it would have killed two birds with one stone (since it would also reduce the significance of its inherited relocation commitments). However, its abolition was opposed in the Scottish Parliament, in part because of the timing of the decision in the wake of Glasgow's successful Commonwealth Games 2014 bid. Communities Minister Stewart Maxwell subsequently announced that the body (but not its chair) had been reprieved (or

⁸ Budget Review Group (2006) *Choices For A Purpose: Review Of Scottish Executive Budgets* (The Howat Report) www.scotland.gov.uk/Resource/Doc/178289/0050741.pdf

⁹ N. McGarvey and P. Cairney, (2008) *Scottish Politics* (London: Palgrave)

¹⁰ I. Swanson, 'Businesses applaud Salmond for quangos vow' *Evening News*, 29 October 2007 <http://news.scotsman.com/ViewArticle.aspx?articleid=3475178>; *Evening News*, 'SNP creates 24 new quangos despite pledge', 20 October 2007, <http://edinburghnews.scotsman.com/scottishnationalparty/SNP-creates-24-new-quangos.3539315.jp>; M. Gardham, 'You've Been Quangoed!' *The Daily Record*, 21 November 2007, www.dailyrecord.co.uk/news/newsfeed/2007/11/21/you-ve-been-quangoed-86908-20138340/; R. Bath, 'Don't get your fingers burned in bonfire of the quangos' *Scotland on Sunday*, 18 November 2007 <http://news.scotsman.com/comment/Dont-get-your-fingers-burned.3538586.jp>

at least merged with the Institute of Sport).¹¹ It may be that the most significant relocations of government activity in Scotland will follow UK decisions on UK bodies.¹²

1.5 The Crowded Landscape of Regulation

Although Scotland may have a reputation for hands-off government (at least when compared to the target-based, top-down regime caricature in England), this does not extend to the scrutiny of public bodies. In this regard, Scotland is up there with the best, with a myriad of inspections agencies effectively competing to hold public bodies to account (indeed, the regime is often referred to as an 'industry'). For example, while a local education authority before devolution may only have been examined routinely by HM Inspectorate of Education, it may now have to produce reports for the Care Commission, Integrated Child Services Inspectorate, Quality Management in Education process, Child Protection Inspection, Auditor General and Social Work Inspection Agency. Further, the necessary reports may ask the same questions but in different ways, requiring separate processes to be carried out each time. This is particularly burdensome for small voluntary agencies providing public services, since the unintended consequence of heavy inspection regimes is to force such agencies to devote more time to 'backroom' rather than 'frontline' services. The problem prompted the (then) Scottish Executive to commission the Crerar review.¹³ Its main (long-term) aim was to replace the existing arrangements with a single, national scrutiny body. In the short term, it suggests that, 'Cost/benefit analysis should become a routine element of any decisions about the use of external scrutiny'. The Government's response is sympathetic.¹⁴ The single national body idea is also being followed within the Children's Hearing system.¹⁵

¹¹ Scottish Parliament Official Report, 13 December 2007 col. 4526, www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1213-02.htm#Col4365 ; K. Schofield, 'Minister apologises over sports revelation', *The Herald*, 11 January 2008, www.theherald.co.uk/politics/news/display.var.1958006.0.minister_apologises_over_sports_revelation.php ; Scottish Government News Release, 15 January 2008, 'Sports chiefs stand down', www.scotland.gov.uk/News/Releases/2008/01/15155628 ; Scottish Government News Release, 9 January 2008, 'New Dawn for Scottish Sport', www.scotland.gov.uk/News/Releases/2008/01/09132725

¹² Office of Government Commerce (2007) 'Relocation Programme Progress' www.ogc.gov.uk/government_relocation_asset_management_programmes/gram_relocation_programme_progress.asp

¹³ Scottish Government (2007) *The Report of the Independent Review of Regulation, Audit, Inspection and Complaints Handling of Public Services in Scotland* (Chair: Professor Lorne Crerar) www.scotland.gov.uk/Resource/Doc/82980/0053065.pdf ; Scottish Government News Release 25.9.07 'Scrutiny of public services' www.scotland.gov.uk/News/Releases/2007/09/25100927

¹⁴ Scottish Government News Release, 17 January 2008, 'Moves to improve public service scrutiny', www.scotland.gov.uk/News/Releases/2008/01/17111601

¹⁵ Scottish Government News Release, 18 January 2008, 'Improving services for vulnerable children' www.scotland.gov.uk/News/Releases/2008/01/18110346

1.6 Cash for Access?

After the stories focussing on 'Two Cheque Eck'¹⁶ and the Donald Trump affair (see section 2.1), the latest 'scandal' to affect the SNP is the prospect of paying the party for access to its ministers. On closer inspection, the row centres on the party's now greater ability to charge companies to sponsor its events, in exchange for the ability to hear ministerial speeches and then be in the same room as them when they walk past.¹⁷ Although such donations (entertained by most parties) may be subject to a Westminster select committee inquiry, it does not seem likely that the SNP Government will be caught up in the agenda on sleaze (see section 10.2 on Labour's difficulties on party funding); moreover, the call for Parliament to monitor the Scottish Ministerial Code does not have a head of steam.¹⁸

1.7 The Law Officers

The previous report highlighted the separation of the Lord Advocate's political and prosecution roles following the election of a new SNP Government (and reflecting the problems raised during the McKie case). However, two current examples demonstrate the inextricable link between politics and the law (both criminal and civil). The first is the unsuccessful prosecution of Angus Sinclair in the World's End case (which relates to the 1977 murders of Christine Eadie and Helen Scott after they had visited the World's End pub in Edinburgh). Following the ruling by Lord Clarke that Sinclair had 'no case to answer' (and the ensuing outcry in the media), Lord Advocate Elish Angiolini took the unusual step of explaining the Crown Office's position in a verbal statement to the Scottish Parliament. This raised the potential for conflict between political necessity (explaining the actions of high profile prosecutors often appointed by ministers) and legal convention (restricting criticism of the decisions of Scottish judges).¹⁹ The second relates

¹⁶ See previous monitor and K. Schofield, 7 January 2008, 'Tories demand Salmond quit as MP' *The Herald*, www.theherald.co.uk/politics/news/display.var.1941885.0.Tories_demand_Salmond_quit_as_MP.php

¹⁷ M. McLeod, 2 September 2007, 'Want to lobby the First Minister? Send a £10,000 cheque to the SNP' *Scotland on Sunday* <http://news.scotsman.com/scottishexecutive/Want-to-lobby-the-First.3323312.jp>

¹⁸ See previous monitoring reports – November 2001 www.ucl.ac.uk/constitution-unit/monrep/scotland/scotnov01.pdf and November 1999 www.ucl.ac.uk/constitution-unit/monrep/scotland/scotnov99.pdf. On Trump, see E. Barnes and J. Watson, 23 April 2006, 'McConnell 'broke rules' on £300m Trump golf deal' *Scotland on Sunday*, <http://scotlandonsunday.scotsman.com/ViewArticle.aspx?articleid=2769589>; On the ministerial code debate, see Scottish Parliament Official Report, 13 December 2007 Cols. 4439, www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1213-02.htm#Col4439

¹⁹ M. Howie, 28 September 2007, 'Lord Advocate is accused of 'undermining the judiciary'' *The Scotsman* <http://news.scotsman.com/latestnews/Lord-Advocate-is-accused-of.3331211.jp>; J. Robertson and M. Howie, 'So who is to blame for World's End trial fiasco...?' *The Scotsman*, 13 September 2007.

to a court ruling on free personal care for older people. Lord McPhail ruled that people who had made their own care arrangements (instead of waiting in queues maintained by local authorities) could not then claim the costs of care against local authorities. McPhail then issued a 'sharp rebuke to Scottish Government ministers' when they did not appear in court to represent their position.²⁰ The ruling leaves the SNP Government with a pressing political dilemma – the choice between passing legislation to shore up a policy that was introduced by the previous government (but is increasingly associated with the new government), and leaving the implementation to the discretion of local authorities, in line with its stated aim of abolishing 'top-down diktats' (see section 11.2).

1.8 Freedom of Information

Research commissioned by the Scottish Information Commissioner suggests that 73 per cent of respondents feel they received all the information they requested from public bodies. Further, approximately two-thirds of respondents feel that Scottish public authorities are more open and accountable than their counterparts in the past and their equivalents in the rest of the UK. However, more than half feel that public bodies can avoid giving out such information, while awareness of freedom of information is still relatively low among the young, old and disabled.²¹ These findings are mirrored broadly in a survey of public authorities. While 89 per cent of bodies report that they are now more open with information, there is still, 'evidence of authorities developing practices to 'manage' the release of sensitive information'.²² In October, Kevin Dunion expressed concern about the effects of privatisation on access to information. This followed his ruling that NHS Lothian had to reveal the full details of its PFI contract.²³ Of course, the biggest story in this period – the loss of data by the HM Revenue and Customs at UK level – involved *too much* information reaching the public domain!²⁴

<http://news.scotsman.com/latestnews/So-who-is-to-blame.3326511.jp> ; Scottish Government News Release 'World's End case' www.scotland.gov.uk/News/Releases/2007/09/13162438

²⁰ H. MacDonell and J. Robertson, 18 October 2007, '9,000 elderly fear axe for free care after ruling', *The Scotsman*, <http://news.scotsman.com/latestnews/9000-elderly-fear-axe-for.3471672.jp>

²¹ Scottish Information Commissioner (2007) 'Public awareness of freedom of information is high - but some groups may be lagging behind, warns Commissioner', www.itspublicknowledge.info/home/News/20071119.asp

²² Scottish Information Commissioner (2007) 'Scotland rises to the challenge of freedom of information...but more can be done', www.itspublicknowledge.info/home/News/20070928.asp

²³ Scottish Information Commissioner (2007), 'Commissioner calls for public's right to information to be protected when public services are privatised' www.itspublicknowledge.info/home/News/20071025.asp ; 'Scottish Information Commissioner orders release of NHS Lothian PFI contract', www.itspublicknowledge.info/home/News/20071024.asp

²⁴ Scottish Government News Release, 23 November 2007, 'Data handling in the Scottish Government' www.scotland.gov.uk/News/Releases/2007/11/23164351

2. The Scottish Parliament

Paul Cairney

2.1 Donald Trump

Although inquiries by the Scottish Parliament committees may never scale the publicity heights of the US hearings on Watergate or the Iran-Contra affair, the constant whispers about wrongdoing by the Scottish Government heightened expectations surrounding the Local Government and Communities' inquiry into planning application processes.²⁵ The background is an attempt by Donald Trump (backed publicly by both Jack McConnell and Alex Salmond) to build a huge golf course, hotel and housing complex in Aberdeenshire (with most controversy linked to the fate of a nature reserve nearby). When the planning application failed to progress through the necessary Aberdeenshire Council committees, the application was 'called in' by the Scottish Government to consider the issues and give a final decision (see further in section 7.3). This was unusual for two main reasons. First, the Government took the unprecedented step of calling in the application rather than waiting for an appeal to Scottish ministers. Second, certain ministers were considered by some to be too close to the decision.²⁶ The latter issue was then exploited in the Scottish Parliament, most notably by Liberal Democrat Leader Nicol Stephen, whose soundbite 'smell of sleaze' did not go down too well with Salmond.²⁷ Indeed, the angry exchanges between Salmond and Stephen have

²⁵ www.scottish.parliament.uk/s3/committees/lgc/index.htm ; H. MacDonell, 19 December 2007, 'Labour backs Tory move to call Salmond before MSPs over Trump' *The Scotsman*, <http://news.scotsman.com/scotland/Labour-backs-Tory-move-to.3602493.jp>; H. MacDonell, 17 January 2008, 'Salmond hits back at fresh attack over Trump role' *The Scotsman*, <http://news.scotsman.com/politics/Salmond-hits-back-at-fresh.3681455.jp> ; 17 January 2008, 'I'm vindicated over Trump says First Minister' www.holyrood.com/content/view/1959/10051

²⁶ BBC News, 20 December 2007, 'Swinney responds to Trump attacks', <http://news.bbc.co.uk/1/hi/scotland/7153802.stm>; M. Wade, 16 December 2008, 'The odd couple: Trump's controversial golf resort drives Salmond into the bunker' *The Independent* <http://news.independent.co.uk/uk/politics/article3255607.ece>; C. Mason, 15 January 2008, 'Three questions for parliament's Trump inquiry' *The Herald* www.theherald.co.uk/features/letters/display.var.1965196.0.Three_questions_for_parliaments_Trump_inquiry.php; P. Harvie, 13 December 2007, 'Trump's Hospitality - Greens Press Swinney To Answer' www.patrickharviemsp.com/?m=200712; Scottish Government News Release, 20 December 2007, 'Proposed golf resort in Aberdeenshire' www.scotland.gov.uk/News/Releases/2007/12/20091903

²⁷ Scottish Parliament Official Report, 13 December 2007, Cols. 4433-6 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1213-02.htm#Col4439; A. McSmith, 15 December 2007, 'SNP 'smells of sleaze' for backing Trump's golf course development' *The Independent*, <http://news.independent.co.uk/uk/politics/article3253086.ece>

contributed to the suggestion that the Presiding Officer's powers of censure and debate control are weak.²⁸

2.2 The New Politics of Finance?

Things were much simpler during the Labour/Liberal Democrat coalition from 1999-2007. Virtually all parliamentary motions were won, Sewel motions were passed, most legislation came from the Scottish Executive and civil servants (as the authors of the legislation) were relatively free from parliamentary scrutiny. In other words, the prospect for consensus and bargaining between the Scottish Parliament and Scottish Executive was undermined as soon as Labour and the Liberal Democrats formed a governing coalition.²⁹ Therefore, it is perhaps ironic to witness complaints from these parties when the shoe is on the other foot. Much of this dissatisfaction stems from the idea that 'new politics' would be revived under a minority government. For example, the requirement of parliamentary support would allow opposition parties a greater ability to develop relationships with civil servants responsible for drafting legislation and wishing to ensure parliamentary cooperation at the earliest opportunity. Yet, the early experience of the new Scottish Parliament demonstrates that this is more an issue of resources than inclination. That is to say, MSPs and parliamentary committees have always had the opportunity to develop relationships with civil servants. What they lacked was the capacity (MSPs and staff) and the stability (undermined by turnover) necessary to scrutinise the details of policy in the long term. The upshot is that although committees were often assertive, they had to choose their battles. In many cases, committees focussed on their (in)ability to receive adequate information from the government.

The best example is the finance committee, which has enjoyed a tense relationship with the finance department since (at least) 2005. This came to a head in May 2005 when the committee was publicly critical of a lack of detail in the (then) Scottish Executive's figures

²⁸ Even when it comes to stopping MSPs calling each other 'you'. A. Cochrane, 21 December 2007, 'First Minister's Questions getting out of hand' *The Telegraph* www.telegraph.co.uk/opinion/main.jhtml?xml=/opinion/2007/12/21/do2107.xml ; I. Bell, 11 January 2008, 'Stupid boys and girls turn out in force as accidental MSP gives a lecture', *The Herald* www.theherald.co.uk/politics/news/display.var.1957980.0.stupid_boys_and_girls_turn_out_in_force_as_accidental_msp_gives_a_lecture.php.

²⁹ D. Arter, (2004) 'The Scottish committees and the goal of a 'New Politics': a verdict on the first four years of the devolved Scottish parliament', *Journal of Contemporary European Studies*, 12(1): 71-91; N. McGarvey and P. Cairney, (2008) *Scottish Politics* (London: Palgrave).

used to calculate its efficiency savings.³⁰ Although the review of the 2006 budget was less fraught, the theme of inadequate information with which to monitor government was still strong. The latest plenary debates therefore represent a continuation of a pre-SNP tradition (particularly since the former finance committee adviser Professor Arthur Midwinter now advises Labour in opposition).³¹ This includes the debate following Wendy Alexander's parliamentary motion 'Holding the SNP Government to Account'.³² However, the most forthright call for more information came from Labour's finance spokesperson Iain Gray. This follows SNP plans to replace many ring-fenced budgets for local authorities with outcome agreements. Without providing a detailed link to outcomes, Gray argued, the Scottish Government is asking for a 'blank cheque'.³³ This point – that further devolution of implementation makes it harder for the Parliament to scrutinise policy – is made in less strong terms by the finance committee's convener Andrew Welsh (SNP) when announcing its report on the budget:

Concerns have been raised about the information available to committees and about the consequences of the Concordat with local authorities. The Committee recognises these concerns and also recognises that any new system needs time to bed down and so we intend to work with the Scottish Government to make improvements to the information. We also recognise that there are concerns about the reduction in ring-fencing and we believe that the nature and operation of Single Outcome Agreements between central and local government are crucial. So we have made a number of recommendations to ensure the proper tracking and monitoring of spending in this new landscape.³⁴

Of course, there are two main differences since May 2007 arising from the government's minority status. The first is that the complaints from Parliament may actually lead to some concessions from the Government to ensure that its budget receives enough

³⁰ Scottish Devolution Monitoring Report January 2006 www.ucl.ac.uk/constitution-unit/research/devolution/Monitoring%20Reports/Jan06/Scotland%20Jan06.pdf p.23

³¹ K. Schofield, 6 August 2007, 'Finance expert questions SNP's right to set Holyrood's budget' *The Herald* www.theherald.co.uk/politics/news/display.var.1597008.0.0.php; L. Gray, 9 April 2007, 'Labour "must shape up on economy"', *The Scotsman* <http://news.scotsman.com/ViewArticle.aspx?articleid=3274890>. Note that the election also precluded stage 1 (committee) scrutiny of the budget. This usually takes place in a Comprehensive Spending Review year – see N. McGarvey and P. Cairney, (2008) *Scottish Politics* (London: Palgrave).

³² Scottish Parliament Official Report, 8 November 2007, from col.3151 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1108-02.htm#Col3151

³³ *The Herald*, 10 January 2008, 'Labour claims Scottish Budget is "£19bn blank cheque"' www.theherald.co.uk/news/news/display.var.1957030.0.Labour_claims_Scottish_Budget_is_19bn_blank_cheque.php

³⁴ Scottish Parliament, 16 January 2008, 'Finance Committee Publishes Budget Report' www.scottish.parliament.uk/nmCentre/news/news-comm-08/cfin08-s3-001.htm

votes. This is certainly the belief of the Greens, who are looking for some movement in government plans to extend the M74, and the Conservatives, who are seeking more funding for the police and small businesses.³⁵ However, although the aims of the latter may be more realistic (the Conservatives having negotiated these concessions in advance, in exchange for support of the budget), perhaps the most notable aspect of this round was that so few concessions were required to pass the budget.³⁶ The second difference is that the SNP Government may not bring its preferred policies to Parliament if it knows they will be voted down. For example, it is having enough trouble passing its graduate endowment abolition bill without sticking to its original plan of backdating the bill to students who have already paid (section 2.5).

2.3 The New Politics of Voting?

Another rather ritualistic process prior to May 2007 was the parliamentary vote, with only a handful of debate motions and a tiny minority of legislative amendment votes going against the Labour-LibDem Executive in its eight years of existence. Now, things are more interesting and the carrying of debate motions (and amendments) depends on the issue at hand and the ability of the Scottish Government to form temporary alliances with other parties. However, as the debate on the Edinburgh Airport Rail Link (EARL) demonstrates (see previous report), there is some doubt about the ability of a parliamentary motion to tie the hands of government. Much depends on the type of motion passed, which we can place along a spectrum:³⁷

1. Motions put forward by the Scottish Government. Examples include an SNP amendment to a motion welcoming the reduction of ring-fenced budgets (which passed by 4 votes), a motion to negotiate a fair deal in the EU's annual sea fishing

³⁵ K. Schofield, 14 January 2008, 'Budget blow for SNP as Greens threaten to withhold support' *The Herald* www.theherald.co.uk/politics/news/display.var.1962362.0.Budget_blow_for_SNP_as_Greens_threaten_to_withhold_support.php; P. McMahon, 16 January 2008, 'Tories force the SNP into policing U-turn', *The Scotsman* <http://news.scotsman.com/politics/Tories-force-the--SNP.3675888.jp>

³⁶ P. McMahon, 16 January 2008, 'Tories force the SNP into policing U-turn' *The Scotsman* <http://news.scotsman.com/politics/Tories-force-the--SNP.3675888.jp>; E. Barnes, 25 November 2007, 'Labour frozen out as SNP buries hatchet with Conservatives to end 20-year taboo' *Scotland on Sunday* <http://news.scotsman.com/scottishconservativeparty/Labour-frozen-out-as-SNP.3544296.jp>; P. McMahon 17 January 2008, 'Labour hits out at 'right wing' alliance after losing budget battle' *The Scotsman* <http://news.scotsman.com/politics/Labour-hits-out-at-39right.3681459.jp>

³⁷ For a full list of motions, see BBC News, 10 January 2008, 'How MSPs voted in the parliament' <http://news.bbc.co.uk/1/hi/scotland/6723791.stm>

talks³⁸ (unanimous support) and a motion to express support for the Crerar review (see section 1.5). Parliament also approved a draft order to raise the age limit to buy tobacco from 16 to 18.

2. Motions with Scottish Government support. These include the fairly specific (such as a Labour amendment calling for the Scottish Parliament to administer its own elections and a Conservative motion to decouple Scottish and local elections) and the fairly broad (e.g. a Labour motion to ensure that the Proceeds of Crime Act 2002 is suitably resourced; and a Liberal Democrat amendment to a motion calling for a statutory duty on ministers to provide student support). It also includes a Conservative amendment (to a Scottish Government motion on economic strategy) calling for the acceleration of a reduction in small business rates.
3. Broad motions without Scottish Government support. These motions are embarrassing for the SNP (indeed, this may be the main aim) because they often begin as government motions, but are then opposed by the SNP because they have been so heavily amended. However, they struggle to tie the hands of government because they either do not provide a yardstick with which to gauge government action or they argue for a policy measure which is subject to discretion. For example, Labour and Conservative amendments to an SNP motion on the OECD's report *Reviews of Policies for National Education: Quality and Equity of Schooling in Scotland*³⁹ call for the government to improve vocational education and devolve more power to head teachers. The amended motion also refers to the SNP failing to deliver on key pledges made in its manifesto.⁴⁰ Similarly, what began as an SNP motion on the proceeds of crime agenda became a Liberal Democrat amended motion which 'regrets the Scottish Government's continued failure to implement the SNP's election promise of 1,000 extra police officers'.⁴¹
4. Detailed motions without Scottish Government support. These are the motions likely to gain the most headlines, since a refusal to follow a detailed direction from Parliament would raise wider attention to the mandate that a minority administration

³⁸ Scottish Government News Release, 28 November 2007, 'Fisheries: cod quotas' www.scotland.gov.uk/News/Releases/2007/11/12164948; 'Fisheries: days at sea' www.scotland.gov.uk/News/Releases/2007/11/29092606

³⁹ Scottish Government News Release, 11 December 2007, 'International experts examine Scottish education' www.scotland.gov.uk/News/Releases/2007/12/11132104

⁴⁰ Scottish Parliament Official Report, 16 January 2008, Col. 5112 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0116-02.htm#Col5054

⁴¹ Scottish Parliament Official Report, 9 January 2008, cols. 4845-50 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0109-02.htm#Col4845. This follows a Conservative motion to the same effect on 25 October 2007.

enjoys. In practical terms, this means that the SNP also has to choose its battles. Therefore, when Parliament passed a motion expressing unanimous cross-party opposition to the abolition of SportScotland, it had the desired effect (particularly since abolishing SportScotland was becoming embarrassing for a government in charge of the Commonwealth Games preparations).⁴² One significant Labour motion called for full costings related to the reductions in class sizes to be included in the Strategic Spending Review. This duly appeared in its discussion of £14m in new money (over three years) to train more teachers (see also section 11.2).⁴³

5. Motions which effectively preclude Scottish Government action. For example, a Liberal Democrat Motion (supported by Labour and the Conservatives) rejecting a legally binding guarantee of waiting times in the NHS (based on concerns over the rise in litigation and administration) conflicts with sections of the Patients Rights Bill.⁴⁴ The issue of the Glasgow Housing Association debate is a different matter. Although the SNP motion – recommending that the GHA take forward recommendations by Communities Scotland fell – (following the Presiding Officer's casting vote), there is still cross-party support for the principle of secondary transfer from the GHA to smaller housing associations (and the debate focussed on how best to achieve this).⁴⁵
6. Motions which do not require Scottish Government support. In some cases, the Parliament can vote to devote its own resources to policy. The most notable example followed the Labour motion to establish and fund an 'independently chaired commission to review devolution in Scotland'. This received the support of the Liberal Democrats and the Conservatives. Not surprisingly, an SNP amendment suggesting that independence was the best option was defeated.⁴⁶

Of course, long-winded motions may be included in more than one category (for example the motion precluding new waiting list rules also criticised the Scottish

⁴² Scottish Parliament Official Report, 13 December 2007.

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1213-02.htm

⁴³ Scottish Parliament Official Report, 31 October 2007, from col.2850

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1031-02.htm#Col2850;

Scottish Government (2007) Scottish Budget Spending Review 2007 p.110

www.scotland.gov.uk/Publications/2007/11/13092240/36

⁴⁴ Scottish Parliament Official Report, 27 September 2007 from col.2159

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0927-02.htm#Col2159

⁴⁵ Scottish Parliament Official Report, 26 September 2007, cols. 2087-2120

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0926-01.htm

⁴⁶ Scottish Parliament Official Report, 6 December 2007.

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1206-02.htm#Col4265

Government's rejection of the private sector in the NHS). The apparent effect of a motion may also change over time. Indeed, the effect of the EARL project motion was to prompt the SNP to find an alternative plan (rather than an outright rejection) with enough parliamentary support effectively to supersede a previous motion. This duly came with the announcement (supported by the Conservatives and Greens) of different (and presumably less expensive) rail links to the airport.⁴⁷

Perhaps two better indicator of 'new politics' are: (a) votes which display strong cross-party agreement (perhaps with over 100 MSPs favouring one position); and (b) legislative amendment processes which receive a very few number of votes in the first place (i.e. most are approved 'on the nod'). Of course, the former may be misleading since consensus does not necessarily mean that all parties agree on policy. However, the voting patterns at least give an indication of the controversial rating of each bill. For example, the Abolition of Bridge Tolls (Scotland) Bill passed convincingly (122 for, 3 against, 1 abstention), while the Graduate Endowment Abolition (Scotland) Bill passed stage 1 (which establishes assent to the bill's principles) by 65 to 60, with Liberal Democrat support but Labour and Conservative opposition (see section 2.5).

The evidence on the latter indicator suggests that a new politics of sorts existed during the coalition years, since very few amendments were voted on.⁴⁸ However, many may have passed unopposed because strong whipping meant that opposition MSPs knew no votes would go their way.⁴⁹ Since this no longer applies, it is reasonable to expect a much higher proportion of amendments being put to the vote without this implying that consensual decision-making is in decline.

2.4 Scottish Parliament Committees

After a small change to the committee structure (Procedures and Standards have combined to form a new committee – Standards, Procedures and Public Appointments), the new arrangements have bedded down. With 16 nationalists ruled out of committee service by their positions in government, Labour now has five conveners to the SNP's

⁴⁷ Scottish Parliament Official Report, 27 September 2007, cols. 2252-93

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0927-01.htm

⁴⁸ P. Cairney, (2006) 'The Analysis of Scottish Parliament Committees: Beyond Capacity and Structure in Comparing West European Legislatures', *European Journal of Political Research*, 45.2, 181-208

⁴⁹ N. McGarvey, and P. Cairney, (2008) *Scottish Politics* (London: Palgrave)

four, as well as 41 places on committees compared to the SNP's 40. The Conservatives and Liberal Democrats each have two convenerships and 14 places in total.

2.5 Committee Reports and Inquiries (September – December 2007)⁵⁰

The most high profile report of the period was the Stage 1 Report on the Graduate Endowment Abolition (Scotland) Bill, published on 13 December. The Education, Lifelong Learning and Culture committee, chaired by Labour MSP Karen Whitefield recommended that the 'general principles [of the bill] be not approved', on the grounds that there was no evidence to suggest that the bill would achieve its stated aims of widening higher education participation. The committee also concluded that a more comprehensive bill was more appropriate, though this conclusion was opposed by the three SNP MSPs and one LibDem on the committee. This was the first of what may become a frequent occurrence. The committee arithmetic is such that support from the SNP's three members and either the Conservatives or Liberal Democrats is generally insufficient to approve a bill. Therefore, if a vote on a committee is split 4/4, a bill can be 'not approved' if the convener's casting vote is used in line with established convention (i.e. in favour of the status quo, which in such cases would mean no new legislation).⁵¹ Yet, when the bill goes back to plenary, it may pass – as in this case on 20 December – even if the parties divide in the same way as on the committee.

Other reports published in this period:

Procedures:

14 September [Merging the Procedures Committee and the Standards and Public Appointments Committee](#)

Subordinate Legislation:

21 December [Report on Glasgow Commonwealth Games Bill at Stage 1](#)

19 December [Report on Public Health etc. \(Scotland\) Bill at Stage 1](#)

⁵⁰ Excluding most annual reports, routine subordinate legislation reports, financial memoranda, budget reports (which are brought together by the Finance Committee's stage 2 report) and reports on subordinate legislation.

⁵¹ K. Schofield, 18 January 2008, 'Holyrood backs bill to abolish charge on graduates' *The Herald* www.theherald.co.uk/politics/news/display.var.1920647.0.Holyrood_backs_bill_to_abolish_charge_on_graduates.php

5 December [Legislative Consent Memorandum on the Dormant Bank and Building Society Accounts Bill](#)

28 November [Legislative Consent Memorandum on the Climate Change Bill](#)

19 September [Report on the Abolition of Bridge Tolls \(Scotland\) Bill at Stage 1](#)

Economy, Energy and Tourism:

21 December [Report on the legislative consent memorandum on the Dormant Bank and Building Society Accounts Bill \(UK Parliament legislation\)](#)

Education, Lifelong Learning and Culture:

13 December [Stage 1 Report on the Graduate Endowment Abolition \(Scotland\) Bill](#)

Health and Sport:

14 December [Report on the legislative consent memorandum on the Health and Social Care Bill \(UK Parliament legislation\)](#)

Rural Affairs and Environment:

26 September [Voluntary Modulation Rates \(SSI 2007/414\)](#)

18 September [The Cattle Identification \(Scotland\) Amendment Regulations 2007](#)

Transport, Infrastructure and Climate Change:

12 December [Report on the Legislative Consent Memorandum on the Climate Change Bill - LCM \(S3\) 4.1](#)

13 November [Scottish Government response to the Stage 1 Report on the Abolition of Bridge Tolls \(Scotland\) Bill](#)

7 November [Stage 1 Report on the Abolition of Bridge Tolls \(Scotland\) Bill](#)

2.6 Parliamentary Bills

The number of bills introduced since the election is lower than in previous sessions, though as the previous monitoring report discusses, this is no bad thing.

Scottish Government Bills in Progress (latest stage reached by end-December 2007):⁵²

⁵² For a description of the bills' main features, see *Scottish Devolution Monitoring Report: September 2007*, section 10.3, at: www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Scotland_Sept07.pdf

- Abolition of Bridge Tolls (Scotland) Bill (Awaiting Royal Assent)
- Glasgow Commonwealth Games Bill (Stage 1)
- Graduate Endowment Abolition (Scotland) Bill (Stage 2)
- Public Health etc. (Scotland) Bill (Stage 1)

Proposals for Members' Bills (in order of date lodged – i.e. most recent first):⁵³

- Proposed Control of Dogs (Scotland) Bill (Alex Neil, SNP)
- Proposed Tobacco Sales Licensing (Scotland) Bill (Christine Grahame, SNP)
- Proposed Scottish Register of Tartans Bill (Jamie McGrigor, Conservative)
- Proposed Property Factors (Scotland) Bill (Patricia Ferguson, Labour)
- Proposed Sentencing of Offences Aggravated by Prejudice (Scotland) Bill (Patrick Harvie, Green)
- Proposed Energy Efficiency and Micro-generation (Scotland) Bill (Sarah Boyack, Labour) – the proposal has gathered sufficient support for a Bill to be introduced.
- Proposed Abolition of Forth and Tay Bridge Tolls Bill (Helen Eadie, Labour) – this has had its thunder stolen by the Scottish Government's bill.
- Proposed Sunbed Licensing (Scotland) Bill (Kenneth Macintosh, Labour) – the proposal has gathered sufficient support for a Bill to be introduced
- Proposed Disabled Persons Parking Bays (Scotland) Bill (Jackie Baillie, Labour) – the proposal has gathered sufficient support for a Bill to be introduced

2.7 Sewel (Legislative Consent) Motion passed⁵⁴

The first Sewel motion in the SNP era was passed on 20 December 2007, giving the Scottish Parliament's consent to the passage at Westminster of the Climate Change Bill. While there was no formal opposition, a number of opposition MSPs could not help themselves when pointing out the irony of the SNP using a procedure it had so often opposed in principle when in opposition.⁵⁵ The bill contains statutory emissions reduction targets and establishes a UK-wide framework for meeting these (which includes a joint committee on climate change).

⁵³ See www.scottish.parliament.uk/s3/bills/MembersBills/index.htm

⁵⁴ A full list of motions and links to SPOR discussions is provided by the Scottish Government: www.scotland.gov.uk/Topics/Government/Sewel.

⁵⁵ Scottish Parliament Official Report, 20 December 2007, Cols.4759-69
www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1220-02.htm#Col4759

3. The Media

Eberhard Bort

While concerns over Scottish broadcasting bubbled on in the background, the biggest media stories of the past three months were, consecutively, the ‘crowning’ of Wendy Alexander as the new Scottish Labour leader at Holyrood, the UK election that never was, the first SNP budget and the discourse on ‘broken promises’, the miring of Labour south and north of the border in ‘dodgy donations’, the opposition parties’ agreement on a Scottish Constitutional Commission and, finally, the First Minister’s tribulations over the Trump planning application in Aberdeenshire.

3.1 Broadcasting Concerns

Ever since the summer, concerns about Scottish broadcasting have been voiced (see the last monitoring report). These did not abate, despite the BBC Director General’s announcement at the opening of Pacific Quay (the new BBC headquarters) in Glasgow where he pledged an extra £50m to boost programming north of the Border.⁵⁶

The BBC’s review of its Scottish (and UK) news coverage came under fire.⁵⁷ The BBC countered with a £10m a year programme for journalism training which aims at bringing ‘the rest of the UK up to speed with Scottish affairs.’ Despite this, critics like independent nationalist MSP Margo MacDonald (who worked as a presenter and reporter for the BBC fifteen years ago) maintain that ‘there was a metropolitan bias then and not much has changed.’ In its coverage, after reciting a litany of BBC misdemeanors, the *Mail on Sunday* also reminded its readers that ‘there also have been claims licence-fee payers north of the Border are being short-changed with BBC Scotland receiving just 3 per cent of the corporate budget, despite having 8.4 per cent of the UK population.’⁵⁸

Alex Salmond also referred to this fact, which had been one of the reasons for him to set

⁵⁶ Fergus Sheppard, ‘BBC signals more Scottish shows’, *The Scotsman*, 21 September 2007.

⁵⁷ *BBC News Online*, ‘BBC Trust commissions news review’, 18 November 2007, <http://news.bbc.co.uk/2/hi/entertainment/7100698.stm>.

⁵⁸ Michael Tait, ‘Why BBC is putting question time before reporting Scotland’, *The Mail on Sunday*, 9 December 2007; See also Marc Horne and Murdo MacLeod, ‘BBC orders rethink over Scottish news’, *Scotland on Sunday*, 18 November 2007; Sherna Noah, ‘The BBC is London-centred, its stars are overpaid and it has to change to survive. Who thinks so? The chairman’, *The Scotsman*, 2 November 2007.

up his Broadcasting Commission,⁵⁹ when he announced an additional £500,000 towards support for Gaelic broadcasting during his Sabhal Mor Ostaig lecture in Edinburgh.⁶⁰ But the prospect of a dedicated Gaelic television channel was dealt a blow by a BBC report which questioned its value to the public.⁶¹

The Scotsman criticised the BBC's priorities, as it shed '370 journalists and news staff; 550 people in regional programming, including 210 in Scotland; and 660 in the documentary unit ... [whilst] only getting rid of 25 staff in marketing and finance.' The paper went on to demand that 'the BBC should be told the licence-fee subsidy will end with the present charter in 2016 and the corporation become self-funding.'⁶² Iain Macwhirter did not go quite that far:

The BBC does need to be brought down to Earth, but not in the centralist manner envisaged by the bean-counters. BBC Scotland, already on its uppers, will be crushed flat by the latest cuts. [...] This is wrong. Better to promote diversity by creating semi-autonomous regional broadcasting organisations able to mobilise neglected talent and escape the suffocating metropolitan mindset that dominates. There is a real battle to be had over the future of broadcasting, and it should start in Holyrood.⁶³

Joyce McMillan thought along similar lines, quoting (as behoves Scotland's finest theatre critic) the Quebecois playwright Michel Tremblay: 'The more one is local, the more one is universal.'⁶⁴

Speaking of the local, fears over the future of ITV news coverage in the South of Scotland were taken to the Scottish Parliament at the end of 2007. John Lamont, Tory MSP for Berwickshire, said that hundreds of news stories from the south of Scotland would go unreported if the area were to be covered from Newcastle or Glasgow rather than, as at present, from Carlisle, following the merger of Borders TV with STV and proposed newsroom cuts. He was backed by Dumfries Labour MSP Elaine Murray who said there was 'a very strong feeling about this in my constituency.' But the SNP's

⁵⁹ See Anna Burnside, 'A cry for action at BBC Scotland', *The Sunday Times*, 11 November 2007.

⁶⁰ 'Salmond to pledge £7.5m for the future of Gaelic', *The Herald*, 17 December 2007.

⁶¹ Phil Miller, 'Blow to dedicated Gaelic TV channel plan amid doubts over "public value"', *The Herald*, 13 November 2007.

⁶² *The Scotsman* (editorial), 'BBC: It's time to think the unthinkable', 19 October 2007: see also Martyn McLaughlin, 'BBC cutbacks: One in 10 job losses will fall in Scotland', *The Scotsman*, 19 October 2007; Nicholas Hellen, 'Battle for the soul of the BBC', *The Sunday Times*, 14 October 2007.

⁶³ Iain Macwhirter, 'BBC: too big for its own good', *Sunday Herald*, 21 October 2007.

⁶⁴ Joyce McMillan, 'Faltering BBC should tune in to its local roots', *The Scotsman*, 22 September 2007

Borders MSP Christine Graham said: 'I don't know if I wholly agree that the merger of Border TV news with STV news is a wholly bad thing.' The status quo, she contended, 'is probably not an option and hasn't actually been an option for a period of time.' She echoed ITV's statement that 'the current set-up is not sustainable and the changes would deliver improved programming.' ITV plans to reduce the number of its regional newsrooms from seventeen to nine.⁶⁵

3.2 A New Labour Leader

Wendy Alexander's elevation to the leadership of Labour in the Scottish Parliament prompted divergent assessments. Tom Gordon argued that Alexander was 'a liability to her party' and that her succession to Jack McConnell would give Alex Salmond 'the most pleasure.'⁶⁶ Eddie Barnes similarly noted apparent SNP glee about Alexander becoming Labour leader, but warned that being a woman, being intelligent, and an accomplished strategist, she might yet give Salmond and the SNP headaches.⁶⁷ George Kerevan agreed: 'Don't assume that because Wendy is an intellectual she lacks backbone. She was the only Labour minister to stand up to her civil servants.'⁶⁸

However, Alexander's start was not promising. Her performance at First Minister's Question Time was generally found wanting.⁶⁹ Iain Macwhirter noted her 'appalling press' over her first weekend as leader, all about 'resignation, internecine warfare, cronyism and incompetence.' But he also conceded that 'the problems in the Labour party are systemic and can't be put down to one individual, no matter how headstrong.' He concluded: 'Like most in the Scottish media, I have been willing to give the new Labour leader a fair wind, if only to allow some balance into coverage of Scottish politics.' But she would have 'to do more than be female. She has to change the party, too, and lead it imaginatively.'⁷⁰

⁶⁵ BBC News Online, 'Holyrood hears TV news concerns', 20 December 2007 http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/scotland/south_of_scotland/7153408.stm.

⁶⁶ Tom Gordon, 'White Hot Alex', *The Sunday Times*, 19 August 2007.

⁶⁷ Eddie Barnes, 'Wendy's house may be not so easy for the SNP to blow down', *Scotland on Sunday*, 29 July 2007.

⁶⁸ George Kerevan, 'The big tasks facing next Scottish Labour leader', *The Scotsman*, 9 August 2007.

⁶⁹ Ian Bell, 'Wendy attacks with a damp squib', *The Herald*, 21 September 2007.

⁷⁰ Ian Macwhirter, 'Team Wendy squanders hopes of a fresh start', *The Herald*, 24 September 2007.

The Labour leader came under further attack when she demanded more public funding for the office of opposition leader – a demand Labour had denied the SNP when in government.⁷¹

3.3 The Election That Never Was

In September and early October media speculation about an imminent UK election reached fever pitch, before Cameron's speech at the Tory conference and the Tories' inheritance tax proposals persuaded the Prime Minister to call off the election before it was ever officially on. Professor John Curtice called this 'the moment Gordon Brown lost authority',⁷² while according to James Cusick: 'The election that never was paralysed the government.'⁷³ Scottish concerns – principally whether the SNP would take seats from Labour – seemed also to have played a role in Brown's decision.

3.4 The First SNP Budget

Since summer 2007, journalists had begun to speculate about when the 'prolonged honeymoon'⁷⁴ of Alex Salmond's minority government would end, or whether it had already done so.⁷⁵ A discourse on the SNP's 'broken election promises' had evolved over the summer.⁷⁶ When John Swinney presented the first SNP budget on 14 November, following the tightest financial settlement from London since devolution, these attacks intensified,⁷⁷ with critics highlighting backtracking on the pledge for a thousand additional police officers,⁷⁸ the dumping of student debt,⁷⁹ and the planned £2,000 grants for first-time house buyers. Where were the commitments to match the school-building programme of the previous administration 'brick by brick'? Increase free nursery places?⁸⁰ Remedy the funding problems of Scotland's universities?⁸¹ Employ enough new teachers to allow primary school classes one, two and three to have no

⁷¹ Peter MacMahon, 'Alexander accused of hypocrisy over call for rise in public cash for office', *The Scotsman*, 4 October 2007.

⁷² BBC Newsnight 21 December 2007.

⁷³ James Cusick, 'The Brown Drift', *Sunday Herald*, 18 November 2007.

⁷⁴ Paul Hutcheon, 'Salmond: rivals spread alcohol rumours because the gambling lies didn't work', *Sunday Herald*, 9 December 2007.

⁷⁵ *The Herald* (editorial), *Honeymoon is over*, 27 October 2007.

⁷⁶ *Scotland on Sunday* (editorial), 'Promises to keep', 4 November 2007.

⁷⁷ Douglas Fraser, 'Sharp jolt of reality leads to broken promises', *The Herald*, 15 November 2007.

⁷⁸ Lucy Adams, 'U-turn claims on pledge of extra police', *The Herald*, 13 November 2007; Hamish Macdonell and Louise Gray, 'The SNP and the mystery of the vanishing bobbies', *The Scotsman*, 14 November 2007.

⁷⁹ Andrew Denholm, 'SNP fails to deliver on student debt', 15 November 2007.

⁸⁰ Severin Carrell, 'SNP council tax freeze 'at cost of poll pledges'', *The Guardian*, 12 November 2007.

⁸¹ Fiona MacLeod and Hamish Macdonell, 'Crisis for Scottish universities after SNP blow', *The Scotsman*, 16 November 2007.

more than 18 pupils?⁸² Immediately (rather than by 2011) abolish prescription charges for those with chronic conditions (as unequivocally promised in the party manifesto).⁸³ *Scotland on Sunday* used the resignation of the Head of the Scottish Crime and Drug Enforcement Agency to fire a broadside on the SNP's broken manifesto pledges.⁸⁴

Swinney's coup, though, was the agreement reached with the local councils to freeze council tax.⁸⁵ Only a fortnight later, however, the Finance Committee's adviser, Professor David Bell, criticised this measure for disproportionately benefitting the well-off and therefore directly contradicting the SNP's 'cherished aim of reducing inequality.'⁸⁶ But by that time Labour's 'dodgy donations' scandals south and north of the Border ruled the headlines, and the SNP government could bury the bad news. At a time when the SNP budget was supposed to come under scrutiny and draw flak, it was the Labour party's finances which hugged the spotlight.

3.5 Dodgy Donations

While it was Douglas Alexander whose resignation was called for in October (again), following the Gould Report into the ballot fiasco of the Scottish elections,⁸⁷ a month later his sister Wendy saw herself faced with the same demands over the acceptance of a £950 cheque for her (ultimately uncontested) leadership campaign from a Glasgow businessman resident in the Channel Islands.

At the end of November and beginning of December this theme dominated the Scottish media. Paul Green's illegal donation was first revealed on the front page of the *Herald*.⁸⁸ And on the same day *The Scotsman* raised the question of whether Wendy Alexander had broken the law.⁸⁹ On Friday, the *Herald* contended that 'Labour's nightmare' had

⁸² Simon Johnson, 'SNP accused of U-turn in battle over class sizes', *Daily Mail*, 10 November 2007; Scott MacNab, 'Nats' rap for 'broken' vow on schools: Go to the bottom of class', *The Sun*, 10 November 2007; Kevin Schofield, 'Hyslop accused of class size hypocrisy', *The Herald*, 10 November 2007.

⁸³ Lyndsay Moss, 'SNP accused of broken promises as free prescriptions plan is unveiled', *The Scotsman*, 6 December 2007; see also *The Scotsman* (editorial), 'SNP must go further to end 'tax on ill-health'', 6 December 2007.

⁸⁴ *Scotland on Sunday* (editorial), 'Drugs policy in chaos', 11 November 2007.

⁸⁵ Robbie Dinwoodie, 'Political coup for Swinney as councils all sign up to agreement for a tax freeze', *The Herald*, 17 November 2007; Douglas Fraser, 'And with one leap, the SNP minister was free', *The Herald*, 20 November 2007.

⁸⁶ See Peter MacMahon, 'SNP in no position to claim moral high ground', *The Scotsman*, 4 December 2007.

⁸⁷ Hamish Macdonell, 'Poll fiasco: Alexander 'must resign'', *The Scotsman*, 24 October 2007.

⁸⁸ Kevin Schofield, 'Revealed: secret donor who backed Alexander', *The Herald*, 29 November 2007.

⁸⁹ Hamish Macdonell, 'Did she break the ruler?', *The Scotsman*, 29 November 2007.

crossed the border ‘to haunt Alexander’.⁹⁰ By Saturday the £950 cheque had developed into a ‘bombshell for Labour’, with five pages of coverage in *The Scotsman*.⁹¹ Worse was to come the next day, with the *Sunday Herald* insinuating on the front page that the Labour leader had lied,⁹² devoting a full nine pages inside to the issue, and crowning its coverage with a comment by Iain Macwhirter signalling ‘the end of the road for Wendy Alexander’s leadership’.⁹³ On the BBC’s *Politics Show*, both Macwhirter and the BBC’s own Brian Taylor were left in no doubt that Wendy Alexander had broken the law and would have to resign.⁹⁴ Macwhirter followed it up on Monday, as if Alexander had already resigned: ‘Mad party disease has struck again. Labour seems determined to hand the keys of Scotland to Alex Salmond’.⁹⁵

All this was premature, as Wendy Alexander decided – probably prompted by Gordon Brown who feared a domino effect if she went – to ‘tough it out in bid to buy time’,⁹⁶ by handing her fate to the Electoral Commission which, she hoped, would exonerate her.⁹⁷ By 5 December, Alexander seemed to have regained some confidence, as she faced the press and pledged to ‘fully clear’ her name.⁹⁸ ‘In its present mess,’ ‘old Labour’ commentator Tom Brown commented, ‘it would take a remarkable leader to rebuild Scottish Labour; but if Alexander survives this firestorm, she will certainly be that’.⁹⁹

3.6 The Constitutional Debate

Constitutional issues were never far from the centre of political discourse before, during and, indeed, after the election. *The Scotsman* ran a series of articles on the West Lothian Question, or the ‘English Question’.¹⁰⁰ A debate ensued about Alex Salmond’s

⁹⁰ Douglas Fraser and Kevin Schofield, ‘Labour’s nightmare crosses the border to haunt Alexander’, *The Herald*, 20 November 2007.

⁹¹ Hamish Macdonell, ‘Bombshell for Labour on illegal donations’, *The Scotsman*, 1 December 2007.

⁹² Paul Hutcheon, ‘Wendy: Did she lie?’, *Sunday Herald*, 2 December 2007.

⁹³ Iain Macwhirter, ‘Why Wendy has no choice but to go’, *Sunday Herald*, 2 December 2007.

⁹⁴ See *BBC News Online*, ‘Alexander faces renewed pressure’, 2 December 2007,

http://news.bbc.co.uk/2/hi/uk_news/scotland/7123534.stm.

⁹⁵ Iain Macwhirter, ‘Mad party disease claims another Labour leader’, *The Herald*, 3 December 2007.

⁹⁶ Douglas Fraser, ‘What now for Wendy Alexander?’, *The Herald*, 3 December 2007.

⁹⁷ Douglas Fraser, ‘Defiant Alexander vows to stay and fight on’, *The Herald*, 3 December 2007; Hamish Macdonell, ‘Defiant Alexander says: I did nothing wrong’, *The Scotsman*, 3 December 2007; see also *BBC News Online*, ‘MSPs are fully behind Alexander’, 4 December 2007.

http://news.bbc.co.uk/2/hi/uk_news/scotland/7126883.stm.

⁹⁸ Kevin Schofield, ‘Alexander: I am not dishonest’, *The Herald*, 5 December 2007.

⁹⁹ Tom Brown, ‘Wendy needs tricks and mortar to put her house in order’, *Scotland on Sunday*, 9 December 2007.

¹⁰⁰ Peter MacMahon, ‘West Lothian Question: the pressure grows’, *The Scotsman*, 30 October 2007; Hamish Macdonell and Gerri Peev, ‘The West Lothian Question: Labour MPs want answers’, *The Scotsman*, 19 November 2007; Hamish Macdonell, ‘One West Lothian Question, but four answers no-one agrees to’,

strategy of conflict with Westminster, even hinting at a 'cold war between London and Edinburgh'¹⁰¹ The *Sunday Herald* carried a four-page 'Special' examining 'the (English) resentment posing the latest threat to the 300-year-old Union';¹⁰² the *Herald* made a major effort to 'scotch the myths' of the 'London media and Conservative commentators' about the Scottish share of public funds,¹⁰³ a reaction to the debate fuelled by the former *Sun* editor's outburst about the Scots 'living off the clever English' on BBC's *Question Time*.¹⁰⁴

There was periodic coverage of policy divergence between south and north of the Border.¹⁰⁵ For Douglas Fraser, the SNP delights in 'turning up the heat' on Gordon Brown by diverging public policy from south of the Border: 'Another day, and at least three more ways in which Scotland is diverging from England,' he wrote:

Scottish teachers' pay breaks through the barrier Gordon Brown wanted to impose on the public sector, while a Scottish loyalty test is being put to applicants for NHS doctors' posts north of the border. Meantime, a rift opens up over policing methods, with Holyrood's Justice Secretary highlighting the sharply different approach to anti-terrorism taken by the one London-based force operating in Scotland. This expands the picture emerging since the SNP took power. Expensive medicines approved for NHS use in Scotland but not England. Free prescription charges following on free personal care for the elderly. A freeze on council tax for the next three years. The ending of student fees while English universities strain to break the annual fee barrier of £3000.¹⁰⁶

He added that, 'if you were Gordon Brown, you would hardly want to pick a fight with Holyrood when your own Kirkcaldy constituents are among those benefiting from SNP

The Scotsman, 20 November 2007; Peter MacMahon, 'Where in the world is there an answer? Well, nowhere', *The Scotsman*, 22 November 2007.

¹⁰¹ Hamish MacDonell, 'Holyrood v Westminster: Why this battle must end for the sake of Scotland', *The Scotsman*, 12 October 2007.

¹⁰² 'Disunited we stand', *Sunday Herald*, 4 November 2007.

¹⁰³ David Leask and Douglas Fraser, 'Scotching the myth', *The Herald*, 2 November 2007.

¹⁰⁴ Melanie Reid, 'Kelvin Mackenzie infuriates Scots with accusation of 'living off the clever English'', *The Times*, 13 October 2007; Arifa Akbar, 'Former 'Sun' editor MacKenzie outrages Scots', *The Independent*, 13 October 2007; Hamish Macdonell, 'Strange case of editor with Scots blood who just can't resist attacking Scotland', *The Scotsman*, 13 October 2007. See also Allan Brown, 'Stick it, you Jocks', *The Sunday Times*, 21 October 2007.

¹⁰⁵ Jonathan Brown, 'Scottish Nationalists proclaim the benefits of devolution', *The Independent*, 27 October 2007.

¹⁰⁶ Douglas Fraser, 'Another day, another dilemma for Brown as SNP turns up political heat', *The Herald*, 15 December 2007.

largesse.’ Iain Macwhirter went even further: He described the SNP’s ‘tartan revolution’ as ‘progressive nationalism’, ‘delivering social democracy lacking in Brown’s England’.¹⁰⁷

The Guardian devoted a G2 section to the question ‘What will the UK be like without Scotland?’¹⁰⁸ Only two days earlier, Alex Salmond had made clear that he anticipated full independence by 2017.¹⁰⁹ The BBC followed it up with an investigation into how a ‘divorce’ might work.¹¹⁰ Its ‘Beginner’s Guide to Separation’ was broadcast on Radio 4 on 6 and 9 December.

David Cameron came to Scotland in December and declared his preference for ‘an imperfect Union’ rather than ‘some perfect constitutional construct that would threaten the Union.’¹¹¹ While, back in October, he had endorsed Malcolm Rifkind’s plans for ‘English votes for English laws’ and the ‘elegant’ solution of an English Grand Committee,¹¹² he now emphasised that a Conservative government would ‘work tirelessly for consent and consensus so we strengthen the Union and stop separatism.’ He said ‘the future of our Union is looking more fragile, more threatened, than at any time in recent history.’¹¹³ Yet, Ian Swanson commented: ‘...it is Mr Cameron’s Tory colleagues, if not the leader himself, who have fuelled an upsurge in English nationalism with their talk of ‘English votes for English laws’ and reforming the Barnett formula.’¹¹⁴

It was widely seen as a result of the SNP government’s White Paper *Choosing Scotland’s Future* that the three main opposition parties in the Scottish Parliament came together on an agreement to consider reform of the devolution settlement.¹¹⁵ Commenting on the ‘remarkable turnaround’ of Labour, the *Sunday Herald* marvelled:

It is another sign of how Salmond, as was always his intention, is changing Scottish politics out of all recognition: all mainstream parties

¹⁰⁷ Iain Macwhirter, ‘The tartan revolution’, *The Guardian*, 27 October 2007.

¹⁰⁸ *The Guardian*, 15 November 2007.

¹⁰⁹ Peter MacMahon, ‘Salmond: independent in 10 years’, *The Scotsman*, 14 November 2007.

¹¹⁰ Chris Bowlby, ‘A Scottish divorce... who gets the kids?’, *BBC News Online*, 6 December 2007, http://news.bbc.co.uk/2/hi/uk_news/magazine/7129382.stm.

¹¹¹ Ian Swanson, ‘Cameron says ‘Union comes first’ at party rally in Capital’, *Edinburgh Evening News*, 10 December 2007.

¹¹² James Hamilton, ‘Cameron plans to restrict Scots role at Westminster’, *Sunday Herald*, 28 October 2007.

¹¹³ David Cameron, ‘Narrow nationalism must not be used to end our vital Union’, *The Scotsman*, 11 December 2007.

¹¹⁴ Ian Swanson, ‘Change of tune on ties of Union’, *Edinburgh Evening News*, 13 December 2007.

¹¹⁵ Kevin Schofield, ‘Why the unionists finally got together’, *The Herald*, 14 August 2007. See also Eddie Barnes, ‘Unionists team up to steal SNP thunder over Holyrood powers’, *Scotland on Sunday*, 26 August 2007.

now agree on the need for more powers, however much they might differ on the extent of change required. Like him or loathe him, Salmond is a first minister who is leading from the front.¹¹⁶

At perhaps the worst possible moment for her (due to the donations scandal hanging over her), Wendy Alexander delivered a major speech on the constitution at Edinburgh University on St Andrew's Day, in which she set out her plan for an independent Scottish Constitutional Commission.¹¹⁷ It put the seal on this constitutional U-turn for Scottish Labour, revising the position Jack McConnell had adopted before the election. It also seemed to acknowledge that, as *The Scotsman* had argued after the election, 'Labour lost votes in May because – for the first time – it refused even to discuss more powers for Holyrood, thus conceding the constitutional debate to the SNP.'¹¹⁸

Alexander singled out the strengthening of the financial accountability of the Parliament, including a review of the Barnett formula with a view to diminishing the role of the block grant from Westminster through shared and assigned taxes.¹¹⁹ In the subsequent debate in the Parliament in which the 'grand, if informal, Unionist coalition'¹²⁰ voted to establish the Commission on 6 December, Alexander argued: 'There is a desire in Scotland for further change. Devolution is a process not an event.'¹²¹ The Commission specifically excludes the independence option,¹²² but does open up scope for discussion of wider areas of UK constitutional reform, with the aim of strengthening both devolution and the Union.¹²³ The significance of this new development should not be underestimated: 'All the major forces in Scottish politics are now united as never before on the need to give Holyrood more oomph.'¹²⁴

¹¹⁶ *Sunday Herald* (editorial), 'Scotland's changed...so should unionist parties' attitudes', 19 August 2007.

¹¹⁷ Ian Swanson, 'Alexander commits Labour to increasing Holyrood's powers', *Edinburgh Evening News*, 30 November 2007.

¹¹⁸ *The Scotsman* (editorial), 'Labour fails to get the message', 22 June 2007; See also *The Herald* (editorial), 'Radical reform plan', 1 December 2007.

¹¹⁹ Douglas Fraser, 'Alexander calls for tax powers to replace the Barnett formula', *The Herald*, 1 December 2007. See also Severin Carrell, 'Scottish tax move aims to stop demands for independence vote', *The Guardian*, 7 December 2007; 'Ian Swanson, Wendy's playing the power game', *Edinburgh Evening News*, 6 December 2007.

¹²⁰ Ian Bell, 'Can we plot a fourth way for Scotland?', *The Herald*, 8 December 2007.

¹²¹ John Knox, 'Devolution heads for 'Phase Two'', *BBC News Online*, 7 December 2007 http://news.bbc.co.uk/2/hi/uk_news/scotland/7133303.stm.

¹²² Louise Gray, 'Parties join forces to bulldoze SNP', *The Scotsman*, 7 December 2007.

¹²³ See Charlie Jeffery, 'Westminster must play nicely with the rest of the UK', *The Scotsman*, 13 December 2007.

¹²⁴ Iain Macwhirter, 'Finally, we all agree: devolution is a process, not an event', *The Herald*, 9 December 2007.

At the same time the SNP government's 'National Conversation' continues. But are two separate and competing consultation processes really the best way forward?¹²⁵ The dual approach now evolving 'for crude partisan ends' appears divisive and confusing. 'All the parties are agreed that the experience to date with devolution has to be reviewed,' wrote *The Scotsman*:

But instead of finding common ground to conduct such a review in a rational manner, and thus present a united face to Westminster – the only body that can introduce constitutional change – we are left with rival projects.¹²⁶

While calling the Parliament's decision 'a significant milestone': the *Herald* struck the same note:

It was the Constitutional Convention which laid the foundations for devolution by canvassing views and debating opinions. Its power was reduced by the fact that neither the SNP nor the Conservatives took part. This time, the Unionist parties are boycotting the national conversation. A truly independent forum, which goes beyond the political parties in membership but includes them all, just might produce constructive dialogue instead of dissent.¹²⁷

In early November, Eddie Barnes had advised Labour to take devolution seriously. It had not 'simply been a wheeze to appease the eccentric fringes of the Isles. It fundamentally altered the way the entire country, not only Scotland, is run.' He followed *The Economist's* suggestion of letting the Scottish Parliament raise its own taxes. 'If this includes,' he argued, 'putting the question of Scottish independence and more powers for the Parliament to the people in a referendum, then so be it.'¹²⁸ A bit more than a month later, Barnes was not alone in thinking that the 'Unionist pact may not just be seen in later years as a historic moment for devolution,' but also as 'the moment when a referendum on independence became inevitable.'¹²⁹

¹²⁵ See Douglas Fraser, 'Building up steam to derail the independence express', *The Herald*, 6 November 2007.

¹²⁶ *The Scotsman* (editorial), 'Dual approach to devolution debate can't succeed', 7 December 2007.

¹²⁷ *The Herald* (editorial), 'It's all part of the process', 7 December 2007.

¹²⁸ Eddie Barnes, 'It's time Labour took the devolution experiment seriously', *Scotland on Sunday*, 4 November 2004.

¹²⁹ Eddie Barnes, 'Unionist pact to debate devolution may hasten independence vote', *Scotland on Sunday*, 9 December 2007.

In this context, it is perhaps worth pointing out that there have been voices from both the Tories and Labour arguing in favour of a referendum, sooner rather than later, with the intention of having independence resoundingly voted down and thus laid to rest for a generation.¹³⁰ Former Labour minister Allan Wilson's opinion piece in the *Sunday Times* favoured a referendum 'to call Salmond's bluff'.¹³¹ His advice to party leader Wendy Alexander was backed by Andy Kerr, one of the most senior Labour politicians in the Parliament.¹³² No indication, by all means, that an independence referendum is imminent, but interesting none the less.

3.7 Trumped?

The headlines in the last week before the Christmas recess at Holyrood belonged to Alex Salmond. Not that he would have wished it. But the Lib Dem leader Nicol Stephen's attack at First Minister's Question Time on 13 December introduced the buzz word 'sleaze' in the context of Alex Salmond's role in the billionaire Donald Trump's proposed £1bn golf resort investment in Aberdeenshire.¹³³ The First Minister, as a *Scotsman* editorial put it, 'cannot easily avoid the accusation that the ready access which Donald Trump has had to SNP channels hints of special treatment, even if no such favouritism was intended or exhibited'.¹³⁴ Sleaze, as John Knox pointed out, 'is the most difficult allegation for a politician to handle. Like a slippery fish, the smell remains long after the fish has been disposed of.' And 'for the first time, Alex Salmond looked a whiter shade of pale'.¹³⁵

Ian Bell had a few questions of his own:

Why is our very first SNP government in such a mess over a mere American entrepreneur with a fascinating hairstyle? We were promised historic fights over free education, oil revenues and a referendum on the nation we aim to bequeath to our children. Instead, we have a First Minister apparently falling over his feet – in the scuff marks of Jack McConnell before him, never forget – because 'the Donald' fancies a new

¹³⁰ Eddie Barnes, 'Tories back vote on independence', *Scotland on Sunday*, 17 June 2007.

¹³¹ Allan Wilson, 'Time to call Salmond's bluff', *The Sunday Times*, 11 November 2007.

¹³² Hamish Macdonell, 'Kerr backs talks on independence poll', *The Scotsman*, 12 November 2007.

¹³³ Andy McSmith, 'SNP 'smells of sleaze' for backing Trump's golf course development', *The Independent*, 15 December 2007; see also *BBC News Online*, 'SNP Trump move 'smells of sleaze'', 13 December 2007, http://news.bbc.co.uk/2/hi/uk_news/scotland/north_east/7142344.stm

¹³⁴ *The Scotsman* (editorial), 'Trump dealings highlight need for probity', 14 December 2007; see also *Scotland on Sunday* (editorial), 'No Trump card for Salmond', 16 December 2007.

¹³⁵ John Knox, 'Rough times over 'sleaze' jibes', *BBC News Online*, 14 December 2007, http://news.bbc.co.uk/2/hi/uk_news/scotland/7144298.stm.

resort destination. (...) Are we to be a knowledge economy, or a let-me-take-your-bag, sir, economy? Do we need and value our somewhat-impressive coastline, in short, or do we lust for another top-notch cute place at which visitors can wear unsuitable trousers? And isn't this, all of it, the debate itself and the political consequence, a bit tawdry?¹³⁶

A week after Nicol Stephen's attack, the 'bitter political war of words over Donald Trump's £1bn golf resort plan escalated ... as First Minister Alex Salmond branded Liberal Democrat leader Nicol Stephen "unelectable".¹³⁷ The row, which has 'dogged' Salmond's government in the last week before the recess,¹³⁸ is to drag on, as Salmond will become the first First Minister 'to be summoned before a Holyrood committee in the new year to explain his role in the controversy.'¹³⁹

The Sheridan saga, too, will drag on. The ex-SSP leader was charged with perjury, after his house was searched and he was arrested on 16 December.¹⁴⁰

3.8 Review and Outlook

2007 has been 'an extraordinary year of blistering political change,' as Douglas Fraser summed up in December: 'This is an unprecedented era for new momentum, new alliances, new thinking and new possibilities.'¹⁴¹ And Peter MacMahon concurred: 'We are witnessing a fundamental change in the Scottish political paradigm.'¹⁴²

On BBC Newsnight on 21 December, a panel of journalists looked back at 2007, and ahead to 2008. In his introductory report Paul Mason saw Britain turned into a 'country of coalitions, deals and minority government.' For Fraser Nelson, of *The Spectator*, the SNP election victory was a 'huge event', having a nationalist party in charge in Scotland 'bound to break up the United Kingdom', and he predicted Salmond's strategy to hinge on a Tory government in London upon which he would create 'merry mayhem' on the constitution. October, according to him, was 'the month Brown lost', caving in to

¹³⁶ Ian Bell, 'Squabble for Trump's dollars speaks volumes', *The Herald*, 15 November 2007.

¹³⁷ 'Salmond attacks sleaze claim MSP', *The press and Journal*, 21 December 2007.

¹³⁸ Hamish Macdonell, 'Fresh blow for Salmond over Trump affair', *The Scotsman*, 21 December 2007.

¹³⁹ Louise Gray and Frank Urquhart, 'Salmond to be brought before MSPs to explain actions over Trump plan', *The Scotsman*, 21 December 2007.

¹⁴⁰ *BBC News Online*, 'Sheridan fury over perjury charge', 17 December 2007,

http://news.bbc.co.uk/2/hi/uk_news/scotland/7147481.stm.

¹⁴¹ Douglas Fraser, 'An extraordinary year of blistering political change', *The Herald*, 11 December 2007.

¹⁴² Peter MacMahon, 'So far, at least, the SNP is giving opponents a lot to chew over', *The Scotsman*, 13 November 2007.

Cameron's 'fantastic bluffing game'. The Tories had, he said, not been ready for an election, but Brown had 'imploded in a spectacular way' due to his 'indecision and blunders'.

Polly Toynbee (*The Guardian*) begged to differ: The SNP's victory was more about 'the break-up of the one-party state in Scotland,' she said on the same programme: a 'welcome and healthy' development. Salmond had been 'a breath of fresh air', and it had all 'gone very well so far.'

4. Public Attitudes and Elections

John Curtice

4.1 Attitudes towards devolution

4.1.1 Constitutional Preferences

Initial findings from the 2007 Scottish Social Attitudes (SSA) survey about what happened in the Scottish election in May were presented at a conference in Edinburgh on 31 October. These findings were based on 1,299 respondents interviewed up to the end of August. The final version of the survey will consist of some 1,500 interviews conducted through to the end of October.

It appears that the SNP's success in coming first in May was not the product of any increased support for independence. According to SSA just 23 per cent now back independence (either inside or outside the European Union); this is the lowest level of support for independence recorded by SSA since its question on constitutional preferences was first asked ten years ago (Figure 4.1). This decline in support is in tune with the findings of commercial opinion polls undertaken over the course of the election campaign, all of which recorded a fall in support for independence (see also September monitoring report).¹⁴³

However, the survey also casts some light on how the SNP managed to come first in May's election despite the fall in support for independence. The party was far more effective than previously at garnering the support of those in favour of independence. In 2003 only around half of those who favoured independence backed the SNP. In contrast, in 2007 no less than three quarters did so. Meanwhile, Labour lost ground most heavily amongst supporters of independence, while it actually gained ground amongst those who would prefer there not to be any parliament in Edinburgh at all (Figure 4.2).

Labour's attacks on independence during the election campaign may, it seems, have been successful in reducing support for independence. But at the same time they may also have helped to drive those who still favoured independence into the arms of the SNP. At the same time Alex Salmond's personal popularity (see section 4.5) and the

¹⁴³ This is discussed further in J. Curtice, *So where stands the Union now? The lessons of the 2007 Scottish Parliament election*, London: Institute for Public Policy Research, 2008.

SNP's apparent success in conveying the impression that it could govern at least as well as the previous Labour led administration (see section 4.6 below), may also have helped to persuade those inclined towards independence to vote this time for the SNP.

Figure 4.1: Constitutional Preferences (%)

<i>Scotland should ...</i>	<i>May 1997</i>	<i>Sept 1997</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>
be independent, separate from UK and EU or separate from UK but part of EU	28	37	28	30	27	30	26	32	35	30	23
remain part of UK with its own elected Parliament which has some taxation powers	44	32	50	47	54	44	48	40	38	47	55
remain part of the UK with its own elected Parliament which has no taxation powers	10	9	8	8	6	8	7	5	6	7	8
remain part of the UK without an elected parliament	18	17	10	12	9	12	13	17	14	9	10

The two independence options, one where Scotland remains within the European Union (EU), and one that it does not, were offered to respondents separately. The first row of the table shows the combined total choosing either option.

Source: Scottish Election Study 1997; Scottish Referendum Study 1997; Scottish Social Attitudes Survey 1999-2007; Data for 2007 are provisional.

Figure 4.2: 2007 List Vote (and change since 2003) by Constitutional Preference (%)

<u>List Vote</u>	<u>Constitutional Preference</u>		
	<i>Independence</i>	<i>Devolution</i>	<i>No Parliament</i>
Con	3 (-1)	13 (-3)	40 (-11)
Lab	11 (-10)	41 (+6)	32 (+12)
Lib Dem	4 (-3)	17 (+1)	14 (+2)
SNP	76 (+25)	23 (+8)	4 (-5)
Other	6 (-11)	7 (-11)	10 (+2)

Source: Scottish Social Attitudes 2003 and 2007; Data for 2007 are provisional.

Nevertheless, there is a further paradox here. Although SNP support increased most amongst the supporters of independence, the party remains heavily dependent for its electoral success on those who do not want Scotland to become independent. Just under half (48 per cent) of those who voted for the SNP on the list vote in 2007 support independence, somewhat lower than the equivalent figure of 56 per cent in both 2003 and 1999. This fall has occurred because although SNP support only increased by eight points amongst supporters of devolution, such supporters are both more numerous than supporters of independence and have become yet more so since 2003. Evidently one of the potential pitfalls that faces the SNP minority government is that the more it pushes its case for independence, the more it may undermine its ability to maintain the coalition that helped bring it to power in 2007.

However, the one attempt that has been made during this period to chart the possible outcome of a referendum on independence suggests that the SNP may have had some success in recapturing some of the support for independence that was lost earlier in the year (Figure 4.3). In response to a question that mimics the wording of the referendum question proposed by the SNP, 40 per cent now say they would back independence. This is up five points on the position in August when the SNP government launched its 'national conversation', and only four points below the proportion saying they would vote against. Readers of previous reports in this series will be well aware that survey questions that simply pose a dichotomous choice for or against independence regularly register higher levels of support for independence than do those that give respondents a range of options between which to choose – and especially so if the meaning of 'independence' is not made clear. Nevertheless, the apparent rise in support for independence in recent months will keep alive the SNP's hopes that a successful spell of nationalist government might help persuade Scots to back independence.

Figure 4.3. 'The SNP have recently outlined their plans for a possible referendum on Scottish independence in future. If such a referendum were to be held tomorrow, how would you vote?' (%)

	<i>August 2007</i>	<i>Nov/Dec 2007</i>
I agree that the Scottish Government should negotiate a settlement with the government of the United Kingdom so that Scotland becomes an independent state.	35	40
I do not agree that the Scottish Government should negotiate a settlement with the government of the United Kingdom so that Scotland becomes an independent state.	50	44

Source: TNS System Three/Sunday Herald; 22/11-2/12/07

Indeed there continues to be plenty of evidence that even if they might wish to remain in the Union, many Scots would like to have a more powerful parliament than they feel they have at present. Around two thirds continue to support the broad proposition that the Scottish Parliament should have more powers – albeit with twice as many simply saying they agree with this proposition than saying they ‘strongly agree’. Moreover, in tune with many an opinion poll conducted during the election campaign, the internet based Scottish Election Study found that the most popular option (albeit backed by somewhat less than half) for Scotland’s constitutional future is to increase the powers of the Scottish Parliament while remaining within the Union (Figure 4.4). Just how radical those powers might be is revealed by figures from the Scottish Social Attitudes survey (Figures 4.5-4.7), which found that around two-thirds believe that responsibility for welfare benefits should be devolved, while well over half agree with the proposition that services provided in Scotland should be paid for out of taxes raised in Scotland, a proposition that often forms part of various proposals for ‘fiscal autonomy’ or ‘fiscal responsibility’. Only when it comes to defence and foreign affairs do a clear majority still want the UK government to be in charge. Scots may not want their country to be a formally independent state, but they evidently do feel it should have a very high degree of autonomy within the UK.

Figure 4.4: 'If there were a referendum and there was an additional option of greater powers for the Scottish Parliament, how would you vote?' (%)

Keep the Scottish Parliament with its existing powers	32
Keep the Scottish Parliament but give it greater powers	45
Make Scotland an independent state	24

Source: YouGov/Scottish Election Study (post-election wave). Those who said they would not vote excluded.

Figure 4.5: 'The Scottish Parliament should be given more powers.' (%)

	1999	2000	2001	2003	2005	2007
Agree strongly	14	23	20	13	17	22
Agree	42	43	48	46	47	44
Neither agree nor disagree	20	15	14	18	17	16
Disagree	18	12	13	17	13	14
Disagree strongly	4	5	4	6	5	3

Source; Scottish Social Attitudes 1999-2007. Data for 2007 are provisional.

Figure 4.6: 'Now that Scotland has its own parliament, it should pay for its services out of taxes collected in Scotland' (%)

	2001	2003	2007
Strongly agree	7	5	7
Agree	45	46	50
Neither agree nor disagree	18	16	15
Disagree	25	25	21
Strongly Disagree	3	4	3

Source; Scottish Social Attitudes 199-2007. Data for 2007 are provisional.

Figure 4.7: Who should make most of the important decisions for Scotland? (%)

<i>about...</i>	Scottish Parliament	UK Government
NHS	63	26
Schools	62	14
Welfare Benefits	64	18
Defence and Foreign Affairs	33	59

Source: Scottish Social Attitudes 20007. Data are provisional.

It would appear that, should it lead to significant proposals for 'increasing' the powers of the parliament, the decision by the three opposition parties jointly to establish a commission to review the powers of the Scottish Parliament (see section 10.5) could well strike a popular chord and represent a significant challenge to the SNP's hopes of

stimulating support for independence. It of course remains to be seen whether the opposition parties will commit themselves to holding a referendum on any new proposals produced by the commission – and whether in so doing they allow independence to be included as an option. This would in effect mean holding the multi-option referendum proposed by the SNP in the white paper that launched the ‘national conversation’.¹⁴⁴

Meanwhile, in tandem with the decline in support for independence registered by the survey, there are signs in the most recent Scottish Social Attitudes survey that people in Scotland have now become somewhat less likely to feel that their country is disadvantaged within the UK. For the first time since the advent of devolution people are just as likely to believe that Scotland’s economy benefits more from the Union as they are to say that England does (Figure 4.8).

Figure 4.8: Whose Economy Benefits Most from the Union? (%)

	2000	2001	2003	2005	2007
England	43	38	30	36	26
Equal	36	39	40	34	39
Scotland	16	18	24	21	27

Source: Scottish Social Attitudes 2000-7. Data for 2007 are provisional.

And although around a third still feel that Scotland gets less than its fair share of government spending, twice as many as believe the opposite, this is well down on around the half or so that had previously felt that way (Figure 4.9). (These interviews were of course obtained before the row about the public spending settlement in October, on which see section 8). Perhaps the continuing debate about the ‘Barnett formula’ has begun to impress upon Scots the apparent financial advantage they derive from the Union. Or perhaps the advent of a more robust government in Edinburgh that is willing to air its differences with London has helped to persuade people that Scotland’s interests can be defended within the Union after all. Either way, if sustained, this apparent change of attitude towards the Union would seem likely to make it more difficult for the SNP to promote public support for independence.

¹⁴⁴ *Choosing Scotland’s Future: A National Conversation: Independence and Responsibility in the Modern World*, Edinburgh: Scottish Government, 2007.

Figure 4.9: 'Compared with other parts of the UK, Scotland's share of government spending is...' (%)

	2000	2001	2003	2007
Much more than fair	2	2	3	3
Little more than fair	8	8	8	14
Pretty much fair	27	36	35	39
Little less than fair	35	32	35	25
Much less than fair	23	15	13	10

Source: Scottish Social Attitudes 2000-07. Data for 2007 are provisional.

4.1.2 Scottish Social Attitudes Core Module Reports

The apparent failure of the current devolution settlement to produce a parliament as powerful as many people in Scotland would like it to be was confirmed once more in the publication in November of data from the 2006 Scottish Social Attitudes survey that were funded by the Scottish Government.¹⁴⁵ Around two thirds say that the devolved institutions *ought to* have most influence over what happens in Scotland, but only around a quarter feels that it does so. However, that latter figure continues to grow, albeit slowly, suggesting that the devolved institutions are gradually making more impression upon the Scottish public (Figures 4.10-4.11).

Figure 4.10: Who ought to have most influence over the way Scotland is run? (%)

	2000	2001	2003	2004	2005	2006
Scottish Parliament/ Executive	72	74	66	67	67	64
UK government	13	14	20	12	13	11
Local councils	10	8	9	17	15	19
European Union	1	1	1	1	1	1

From 1999 to 2003: Answer codes referred to the 'Scottish Parliament'

From 2004 onwards answer referred to the 'Scottish Executive'

Source: Scottish Social Attitudes 2000-6.

¹⁴⁵ R. Ormston and C. Sharp, *Scottish Social Attitudes Survey 2006: Core Module: Report 1- Attitudes towards Public Services in Scotland*, Edinburgh: Scottish Government Social Research, 2007; R. Ormston and C. Sharp, *Scottish Social Attitudes Survey 2006: Core Module: Report 2- Perceptions of Government in Scotland*, Edinburgh: Scottish Government Social Research, 2007. Both available at www.scotland.gov.uk.

Figure 4.11: Who has most influence over the way Scotland is run? (%)

	2000	2001	2003	2004	2005	2006
Scottish Parliament/ Executive	13	15	17	19	23	24
UK government	66	66	64	48	47	38
Local councils	10	9	7	19	15	18
European Union	4	7	5	6	8	11

2000 to 2003: Which of the following do you think *has* most influence over the way Scotland is run. Answer codes refer to 'Scottish Parliament'.

'2004: Which of the following do you think *has* most influence over the way Scotland is run. In one half of the sample answer codes referred to the 'Scottish Parliament', in the other half to the Scottish Executive. No difference was found between the two sets of results.

2005 to 2006: Which of the following do you think *has* most influence over the way Scotland is run. Answer codes refer to 'Scottish Executive'.

Source: Scottish Social Attitudes 2000-6.

There has also been a further consistent increase in the proportion who feel that the Scottish Executive rather than the UK Government have been responsible for recent trends in specific policy areas such as health and education.¹⁴⁶ Meanwhile, although they may not be regarded as being as powerful as they might be, the devolved institutions continually to be given relatively high marks for enhancing Scotland's voice within the UK (Figure 4.12). Just over two in five (43 per cent) feel that having the parliament has had this effect – whereas, for example, 26 per cent feel that it has increased the standard of the health service in Scotland and only 28 per cent that it has increased the standard of education.

Figure 4.12: Perceived Impact of Scottish Parliament on Scotland's Voice in the Union (%)

	2000	2001	2002	2003	2004	2005	2006
Made Voice Stronger	52	52	39	49	35	41	43
No difference	40	40	52	41	55	50	49
Made Voice Weaker	6	6	7	7	7	6	6

Source: Scottish Social Attitudes 1999-2006

One criterion on which the devolved institutions have long outscored the UK is the degree to which people trust them to work in 'Scotland's best interests'. As can be seen in Figures 4.13-4.14, this continues to be the case.

¹⁴⁶ Ormston and Sharp, *Core Report 2*, Table 7.

Figure 4.13: How much do you trust the UK government to work in Scotland's best long-term interest? (%)

	1999	2000	2001	2002	2003	2004	2005	2006
Just about always	3	1	2	2	2	2	2	2
Most of the time	29	16	20	17	19	20	21	19
Only some of the time	52	54	55	51	58	50	53	52
Almost never	14	26	22	26	20	26	21	24

Source: Scottish Social Attitudes

Figure 4.14: How much do you trust the Scottish Executive/Parliament* to work in Scotland's best interests? (%)

	1999	2000	2001	2002
Just about always	26	9	13	9
Most of the time	55	45	52	43
Only some of the time	14	34	29	34
Almost never	2	9	5	11
(Don't know)	-	-	-	-
(Not answered)	-	-	-	-
Sample size	1482	1663	1605	1665
	2003	2004	2005	2006
Just about always	10	9	10	8
Most of the time	52	43	46	43
Only some of the time	31	37	33	37
Almost never	4	10	7	8
(Don't know)	-	2	3	3
(Not answered)	-	*	*	-
Sample size	1508	1637	1549	1594

*Prior to 2004, the question asked about the Parliament. In 2004 an experiment was run whereby half the sample was asked about the Scottish Parliament and half was asked about the Scottish Executive. The change of wording made negligible difference to the responses given therefore the combined results are shown here.

Source: Scottish Social Attitudes

However, it is perhaps unsurprising that institutions whose responsibilities are confined to Scotland should be thought more likely to advance that country's interests than institutions which govern the UK as a whole. The figures certainly could not necessarily be regarded as evidence of a greater willingness to trust the devolved institutions in general. A question asked for the first time in 2006 (Figure 4.15) underlines that caution. While rather more people (32 per cent) are willing to trust the Scottish Executive 'a great deal' or 'quite a lot' 'to make fair decisions' than are willing to trust the UK Government

(23 per cent), at nine points the gap is much smaller than the equivalent gap (30 points) in respect of looking after Scotland's interests. Evidently the devolved institutions are not immune from the mood of scepticism towards politics and political institutions that has been widely detected in previous research.¹⁴⁷

Figure 4.15: Trust in UK and Scottish Government to 'Make Fair Decisions' (%)

How much do you trust the UK government to make fair decisions? By fair decisions I mean decisions that are fair to different groups of people in the UK.

How much do you trust the Scottish Executive to make fair decisions? (By fair decisions I mean decisions that are fair to different groups of people in Scotland)

	UK Government	Scottish Executive
A great deal	2	3
Quite a lot	21	29
Some	46	46
Not very much	23	15
Not at all	6	5

Source: Scottish Social Attitudes

4.2 National Identity

The 2007 Scottish Social Attitudes survey not only indicates that the SNP's success in May 2007 was not accompanied by any increased support for independence, but also suggests that it was not associated with any increased sense of feeling Scottish rather than British. Indeed, when forced to choose a single identity the proportion saying they are 'Scottish' rather than 'British' was lower in the 2007 survey than it has been in recent years (Figure 4.16). The same is true of the proportion saying they are 'Scottish, not British' in response to the Moreno national identity question (Figure 4.17). People in Scotland already clearly felt a stronger sense of attachment to their Scottishness than to their Britishness before the devolved institutions were established. The advent of devolution has simply left that picture unchanged.

¹⁴⁷ See, for example, C. Bromley, J. Curtice and B. Seyd, *Is Britain Facing a Crisis of Democracy?*, London: Constitution Unit, 2005.

Figure 4.16: Forced Choice National Identity (%)

	1974	1979	1992	1997	1999	2000	2001	2002	2003	2004	2005	2006	2007
Scottish	65	56	72	72	77	80	77	75	72	75	77	78	71
British	31	38	25	20	17	13	16	18	20	19	14	14	20

Sources: Scottish Election Studies 1974-1997; Scottish Social Attitudes Survey 1999-2007; Data for 2007 are provisional.

Figure 4.17: Moreno National Identity (%)

	1992	1997	1999	2000	2001	2003	2005	2006	2007
Scottish not British	19	23	32	37	36	31	32	33	26
More Scottish than British	40	38	35	31	30	34	32	32	30
Equally Scottish and British	33	27	22	21	24	22	22	21	28
More British than Scottish	3	4	3	3	3	4	4	4	5
British not Scottish	3	4	4	4	3	4	5	5	6

Sources: Scottish Election Studies 1992-7; Scottish Social Attitudes survey 1999-2007. Data for 2007 are provisional.

4.3 Other Issues

The 2007 Scottish Social Attitudes survey measured attitudes to a wide range of issues that were prominent during the election campaign (Figure 4.18). In many cases the controversy surrounding these issues reflected a near even division of opinion amongst the public. As a result a number of the distinctive policy stances taken by the SNP government are not necessarily overwhelmingly popular. For example only slightly more people (46 per cent) support the abolition of prescription charges than oppose it (41 per cent). Only just over half oppose the building of any new nuclear power stations. And those who oppose the renewal of Trident (41 per cent) are not far from being matched by the 34 per cent who support it.

Figure 4.18: Attitudes on Issues Prominent in the 2007 Scottish Election (%)

Please say how much you agree or disagree with the following statements.

- Britain was wrong to go to war with Iraq.
- Taxes on businesses should be cut to strengthen Scotland's economy.
- Under no circumstances should any new nuclear power stations be built in Scotland.
- All people aged over 65 should get a reduction in their council tax.
- Young people who cause trouble should be banned by law from going out at night.
- Nobody should have to pay prescription charges for medicine they need, even if they can afford to do so.

The UK government has decided to renew Trident, Britain's nuclear weapon system, when it comes to the end of its current life. Please say how much you agree or disagree with this decision.

	Agree strongly	Agree	Neither	Disagree	Disagree strongly
<i>Devolved issues</i>					
Cut business tax	11	45	23	13	1
No new nuclear power stations	21	30	17	24	6
Reduce Council Tax for 65+	42	45	4	8	*
Ban young people who cause trouble from going out	21	38	15	22	2
No prescription charges	11	35	13	38	3
<i>Reserved issues</i>					
Wrong to go to war	36	29	15	15	4
Renew trident?	5	29	19	25	16

Source: Scottish Social Attitudes 2007. Data are provisional.

However, although two-thirds favour reducing the council tax for those aged 65 and over (the policy stance taken by the Conservatives and, indirectly, by Labour), when asked whether local taxation should be based on income or property values, no less than 82 per cent said income – and thus by implication favour the introduction of a local income tax as proposed by the SNP together with the Liberal Democrats. This was one issue on which, in the public's view at least, Labour was clearly on the wrong side of the argument during the election campaign. Indeed, a YouGov poll conducted for the SNP at the end of November found that the interim local taxation measure implemented by the SNP government – a freeze on the council tax – was widely popular, being supported by 77 per cent of respondents. So also, according to this poll, is the decision (eventually) to

scrap prescription charges, which also attracted 77 per cent support.¹⁴⁸ Nobody of course likes paying taxes or charges, and few can be expected to indicate opposition to these measures in response to survey questions that do not (unlike the SSA question on prescription charges) mention any other considerations.

A major study of attitudes towards discrimination in Scotland, undertaken as part of the 2006 Scottish Social Attitudes survey, was published in December.¹⁴⁹ A follow up to a similar study conducted four years earlier,¹⁵⁰ it examined the incidence of discriminatory attitudes towards each of the six areas where anti-discrimination law now applies, viz., age, disability, gender, race, religion/belief, and sexual orientation, and analysed some of the reasons why people hold such attitudes.

In most cases, only a minority expressed a discriminatory point of view, as evidenced by the fact that less than three in ten believe that 'sometimes there is good reason to be prejudiced' (Figure 4.19). However, in the case of gypsies/travellers and transsexual people discriminatory attitudes were quite common; they were also often in evidence in respect of gay men and lesbians – although in this case (Figure 4.20)) such attitudes have become less common in recent years, aided perhaps by the legislation on civil partnerships. Meanwhile, although in general discriminatory attitudes towards religious groups are not frequently expressed, this is least true of Muslims, against whom discriminatory attitudes have become more common in the wake of the association of that religion with recent 'terrorist' incidents. Equally, although discriminatory attitudes were also less frequently expressed towards members of racial groups, rather greater hostility – including to those from Eastern Europe - was uncovered by questions that referred to a racial group as a whole rather than to individual members. In all these cases, the most important reason for expressing a discriminatory attitude seems to be concern about the 'cultural threat' thought to be posed by these groups.

¹⁴⁸ YouGov/SNP 28-30/11/07

¹⁴⁹ C. Bromley, J. Curtice and L. Given, *Attitudes to Discrimination in Scotland: 2006*, Edinburgh: Scottish Government Social Research, 2007.

¹⁵⁰ C. Bromley and J. Curtice, *Attitudes to Discrimination in Scotland*, Edinburgh: Scottish Executive Social Research, 2003.

Figure 4.19: Which of these statements comes closest to your view? (%)

	2002	2006
<i>Scotland should do everything it can to get rid of all kinds of prejudice</i>	68	65
<i>Sometimes there is good reason for people to be prejudiced against certain groups</i>	26	29

Source: Scottish Social Attitudes 2002, 2006

Figure 4.20: Attitudes on minorities (%)

	2002/2003	2006
<i>unhappy if close relative formed long-term relationship with a Muslim *</i>	20	24
<i>agree Scotland would lose its identity if more Muslims came to Scotland *</i>	38	50
<i>agree people from ethnic minorities take jobs away from other people in Scotland †</i>	20	27
<i>Sex between two men is 'always' or 'mostly' wrong †</i>	41	30
<i>Sex between two women is 'always' or 'mostly' wrong †</i>	40	29
<i>say a gay man or lesbian unsuitable as primary school teacher †</i>	27	21

* 2003 data. † 2002 data.

Source: Scottish Social Attitudes 2002, 2003 and 2006

A further report, also based on the 2006 SSA, examined attitudes towards homelessness.¹⁵¹ Distinctive legislation passed by the Scottish Parliament in 2001 and 2003 provides that relatively liberal provision should be made for homeless people, including not just those without a roof over their head, but also those living in unsuitable or insecure accommodation. Inter alia, this legislation envisages that by 2012 local authorities will no longer be able to concentrate their provision on those in 'priority need', while the distinction between those who 'intentionally' make themselves homeless and those who become homeless 'unintentionally' is less sharply drawn.

In many respects public opinion appears to be at odds with this policy stance. A majority of the public still think of homelessness as 'sleeping rough' - no less than 61 per cent take that view – although only around one in five believe most people become homeless

¹⁵¹ N. Cleghorn, L. Given and R. Ormston, *Scottish Social Attitudes Survey 2006: Public Attitudes to Homelessness*, Edinburgh: Scottish Government Social Research, 2007.

because of drink or drugs. While homeless people may be regarded with sympathy they can also be the object of criticism. So while 48 per cent feel that most homeless people have been unlucky in their lives, 45 per cent agree that 'most homeless people could find somewhere to live if they really tried'. Meanwhile six in ten believe that some homeless people, such as those with children or victims of domestic abuse, are more deserving of support than others, including those with drug or alcohol problems and those recently released from prison. However, there is majority support for providing help to certain kinds of people who would currently be regarded as 'intentionally' homeless, such as someone who has separated from their spouse/partner.

4.4 Party Fortunes

4.4.1 Holyrood Voting Intentions

Just one poll giving details of vote intentions for a Scottish Parliament election was published in this period (Figure 4.21). Commissioned by the SNP, it suggested that the party's spell in office is continuing to be popular. The 40 per cent share recorded for the party on the constituency vote was the highest ever recorded by YouGov, one point above the best figure recorded during the election campaign. However, the 34 per cent figure recorded for the party on the list vote is similar to the 33 per cent and 35 per cent recorded in two polls conducted by YouGov during the summer. It may thus be inadvisable to presume that the SNP has become yet more popular as opposed to simply maintaining its victory afterglow.

Labour's support is, however, clearly below the levels recorded in the summer – and indeed in the election in May. The poll was conducted just as allegations about the financing of Wendy Alexander's leadership campaign emerged, and while Labour across the UK as a whole was reeling from personal data loss and party funding revelations. It is thus difficult to tell how far the party's loss of support in this poll reflects reactions to events north of the border as opposed to developments across the UK as a whole.

Figure 4.21: Holyrood Voting Intentions (%) (constituency/list)

Fieldwork	Con	Lab	LibDem	SNP	Green	Others
28-30/11/07	12/13	29/26	13/13	40/34	-/9	6/6

Source: YouGov/SNP. Fieldwork conducted 28/30 November 2007.

4.4.2 Westminster Voting Intentions

What, however, is clear is that Labour's popularity in Scotland for a Westminster election has fallen precipitously during the course of the autumn – in line with the trend across Britain as a whole since the Prime Minister decided in October not to hold an early election. Two polls were conducted in Scotland in early October in anticipation of the possibility of an early general election (Figure 4.22). Although one of these put Labour support at an improbable 51 per cent, the other by YouGov, still suggested that the party could make some advance on the 39.5 per cent it secured in the last election in 2005. However by the end of November, support for the party was as much as ten points down on early October, much as it was by that stage in British polls.

The principal beneficiaries of Labour's misfortune appear to be the SNP who, apparently, would keenly contest first place in Scotland in a Westminster election in Scotland in any early poll. Evidently the contrast of a popular SNP government in Edinburgh and a faltering Labour one at Westminster constitutes a propitious set of circumstances for the nationalists. The Conservatives in contrast are still failing to emulate the progress made by the party south of the border. By the end of November the party was standing as high as 40 per cent in British polls, seven points up on its 2005 tally. In Scotland, in contrast, its support was still only 19 per cent, up just three points on 2005.

Figure 4.22: Westminster Voting Intentions (%)

Fieldwork	Con	Lab	Lib Dem	SNP	Others
27/9-2/10/07	11	51	10	22	6
1-4/10/07	18	42	11	27	3
28-30/11/07	19	32	12	32	4

Sources: Progressive/Daily Mail (first row), YouGov/SNP (second and third rows)

4.4.3 Local Government By-Elections

Two local by-elections were held during this period. Following the introduction of the single transferable vote for local elections in May, casual vacancies are now filled using the alternative vote. However, as it happened, in both cases the candidate with most first preferences was elected. Although in Helensburgh the Liberal Democrat candidate had

only a small first preference lead, he secured more transfers from the SNP and Independent candidates than did the Conservative, thereby enabling him to capture a seat that had previously been held by an Independent (Figure 4.23). As a result the Liberal Democrats now have two of the three seats in a ward where they win no more than a third of the vote. Meanwhile in Dundee the SNP retained a seat it already held.

Both by-elections were notable for the lack of significant change in the distribution of the first preference vote as compared with May. They thus confirm the impression from the polls that the SNP have maintained the popularity they enjoyed in May, while Labour have not made any recovery.

Figure 4.23: Local Government By-Election Results (%)

4/10/07 Argyll & Bute/Helensburgh & Lomond South	1 st preference vote	Change in 1 st preference vote since 2007
Conservative	29.6	+2.9
Labour	-	-
Liberal Democrat	30.3	-1.9
SNP	16.8	-1.5
Independent	23.3	+1.5

Turnout 37.4 (-19.1)

4/10/07 Dundee/Lochee	1 st preference vote	Change in 1 st preference vote since 2007
Conservative	3.8	-1.4
Labour	34.0	-2.8
Liberal Democrat	10.6	+3.9
SNP	48.9	+1.8
Solidarity	1.4	-1.7
SSP	1.3	+0.2

Turnout 29.2 (-23.2)

Sources: www.gwydir.demon.co.uk/byelections; www.alba.org.uk (Details of the full count are available at the latter site.)

4.5 Attitudes towards Parties and Leaders

4.5.1 Parties

One of the reasons why the SNP is to be more popular in Scottish Parliament elections than in Westminster ones is that the party is regarded as more likely to look after the interests of people in Scotland, and in a Scottish election such considerations have greater sway than they do in a Westminster election.¹⁵² The SNP maintained this advantage in 2007 (Figure 4.24). Indeed the proportion who felt that Labour looks ‘very closely’ after the interests of people in Scotland was even lower than it was in 2003. At the same time, just as SNP support rose most amongst those who back independence, so also it rose most heavily (from 30 per cent to 57 per cent on the list vote) amongst those who think the party looks after Scotland’s interests ‘very closely’. Once again, it seems as though the SNP’s success in May was achieved by mobilising more successfully the support of those who were already relatively well disposed towards the SNP and its views.

Figure 4.24: Attitudes Towards Political Parties (%)

Some people say that all political parties look after certain groups and are not so concerned about others.

Firstly, how closely do you think each of these parties look after the interests of Scottish people in general...

		Very closely	Fairly closely	Not very closely	Not at all closely	Don't know/ not answered
Labour party in Scotland	2003	13	55	22	4	5
	2007	7	57	26	5	4
SNP	2003	22	45	20	6	8
	2007	24	48	18	4	6
Conservative party in Scotland	2003	4	34	40	14	8
	2007	3	31	42	18	6
Liberal Democrats in Scotland	2003	8	48	29	7	8
	2007	4	51	31	8	6

Source: Scottish Social Attitudes 2003, 2007; Data for 2007 are provisional.

4.5.2 Leaders

¹⁵² See J. Curtice, ‘Is devolution succouring nationalism?’ *Contemporary Wales*, 14 (2001): 80-103; J. Curtice, ‘What makes Scotland want something different?’ in J. Ermisch and R. Wright (eds) *Changing Scotland: Evidence from the British Household Panel Study*, Bristol: Policy Press, 2005.

In tune with most polls taken during the election campaign the 2007 Scottish Social Attitudes survey confirms that the SNP leader, Alex Salmond, was much more highly regarded than the Labour incumbent as First Minister, Jack McConnell. However, the survey also confirms the impression provide by YouGov's polls (see previous monitor) that Jack McConnell was no less popular in 2007 than he had been in 2003 (Figure 4.25). The crucial difference in 2007 was that in Alex Salmond he was facing a far more formidable opponent than John Swinney had proved to be as SNP leader in 2003.

Figure 4.25: Attitudes Towards Political Leaders (%)

I am going to read you the names of some political leaders. Please rate each one on this scale where 0 means very bad and 10 means very good. If I come to a leader you haven't heard of or don't feel you know enough about, just say so.

*First, how good or bad a job do you think **Tony Blair** (has done/did) as Prime Minister. Again on this scale from 0 to 10, how good or bad a job do you think **Jack McConnell** did as First Minister?*

*And how good or bad a job do you think **Alex Salmond** will do as First Minister?*

*And how good or bad a job do you think **Nicol Stephen/Annabel Goldie** would do if he/she became First Minister?*

		2003	2007
Tony Blair	Poor (0-3)	18	24
	Middle(4-6)	39	36
	Good (7-10)	41	40
	Don't know	2	1
Jack McConnell	Poor	18	23
	Middle	48	44
	Good	20	23
	Don't know	14	10
Alex Salmond (2007)/ John Swinney (2003)	Poor	28	13
	Middle	31	35
	Good	7	39
	Don't know	33	12
Annabel Goldie (2007)/ David McLetchie (2003)	Poor	20	16
	Middle	30	33
	Good	8	16
	Don't know	42	35
Nicol Stephen (2007)/ Jim Wallace (2003)	Poor	17	10
	Middle	36	27
	Good	15	8
	Don't know	32	55

Source: Scottish Social Attitudes 2003; 2007. Data for 2007 are provisional.

Mr Salmond seems to have maintained his personal popularity since the election. YouGov's two private polls for the SNP both found that Alex Salmond had impressed the Scottish public in recent months to a far greater degree than any other party leader (Figure 4.26). Indeed, following Gordon Brown's political difficulties he even seems to impress the Scottish public to a greater degree than the Prime Minister. Asked in the November poll who was doing the better job, 50 per cent said Mr Salmond and just 22 per cent Mr Brown. In contrast when YouGov asked a similarly worded question in August, 40 per cent nominated Mr Brown and just 26 per cent Mr Salmond.

Figure 4.26: Attitudes Towards Current Party Leaders in Scotland (%)

(1) On the basis of what you have heard since the Scottish election campaign which of these party leaders has impressed you most?

(2) Thinking about the performances of the party leaders since the Scottish election in May who has impressed you the most?

	(1)	(2)
Alex Salmond (SNP)	39	46
Wendy Alexander (Lab)	9	10
Annabel Goldie (Con)	9	9
Nicol Stephen	3	4
None/Don't Know	39	31

Source: YouGov/SNP; (1) 1-4/10/07; (2) 28-30/11/07

4.6 Retrospective Evaluations

The YouGov/Scottish Election Study survey contains what may well be a vital clue in explaining why the SNP were better able to win the votes of those who were already favourably disposed towards the party and towards independence (see sections 4.1.1 and 4.5.1). Although in many respects the record of the previous Labour led Executive was not regarded particularly unfavourably – only in the case of transport and law and order did those who felt it had performed badly clearly outnumber those who thought it had done well – it appears that in a number of areas the public thought that an SNP-led coalition would be capable of doing a better job (Figure 4.27). Not only was this true of transport and law and order, but also of the economy and the environment, while the SNP were also regarded as just as capable as Labour of running health and education. Voting for the SNP was apparently not just seen as a means of expressing support for independence or for upholding Scotland's interests – but also of securing effective government.

Figure 4.27: Retrospective Evaluations 2003-07 (%)

How well or badly would you say that the Scottish executive has handled [issue] over the last four years?

How well or badly do you think an SNP-led coalition WOULD have handled [issue]?

	Well	Neither	Badly
<i>Health</i>			
Executive	33	27	39
SNP coalition	36	32	32
<i>Education</i>			
Executive	36	32	32
SNP coalition	36	33	31
<i>Law and Order</i>			
Executive	24	36	40
SNP coalition	35	33	32
<i>Economy</i>			
Executive	32	40	29
SNP coalition	37	22	41
<i>Transport</i>			
Executive	26	35	39
SNP coalition	37	31	33
<i>Environment</i>			
Executive	31	41	29
SNP coalition	37	34	28

Source: YouGov/Scottish Election Study (pre-election wave).

Meanwhile, it seems to date that the public feel that so far that their hopes that the SNP would provide effective government have been fulfilled. In both the YouGov polls conducted for the party over the autumn (Figure 4.28), around three in five indicated that they thought the SNP government was performing well – albeit for most only ‘fairly well’ rather than ‘very well’. Even many of those saying they would vote for one of the opposition parties appear to have been reasonably impressed, although despite the tax cutting measures in the SNP’s budget and the expectation that the Conservatives would enable the administration to secure its passage in the New Year, Conservative supporters are the least impressed. Meanwhile the budget itself seems to have met with some approval, even though the total size of the financial settlement provided by the UK Government was heavily criticised by the devolved SNP government.

Figure 4.28: Evaluations since May 2007 (%)*Do you think the SNP Scottish Government/Executive is doing a good job or a bad job?*

	<u>Westminster Vote</u>				
	All	Con	Lab	LD	SNP
Very good	11	3	3	5	36
Fairly good	49	43	46	57	59
Fairly bad	19	31	25	19	4
Very bad	8	13	10	5	0

Source: YouGov/SNP 1-4/10/07

The SNP has been in government in Scotland for just over 6 month. How do you think the SNP Government has fared so far?

	<u>Holyrood Constituency Vote</u>				
	All	Con	Lab	LD	SNP
Very well	14	2	1	8	36
Fairly well	49	39	45	52	59
Fairly badly	20	32	35	20	4
Very badly	6	14	9	10	0

Source: YouGov/SNP 28-30/11/07

At the beginning of November the Scottish Government laid out spending plans for the next three years. From what you know to what extent do you think the Scottish Government's spending plans will be good or bad for Scotland?

Good:	45
Bad:	17
They will not make much difference:	14
Don't know:	26

Source: YouGov/SNP 28-30/11/07

5. Intergovernmental relations

Alan Trench

5.1 General

Since September 2007, intergovernmental relations have continued in much the same way as they had since May. There has been no resurrection of the machinery for formal relations (the Joint Ministerial Committee in its various formats); while the 'Europe' meetings continue, and have reportedly become somewhat more charged and tense with the arrival of the SNP, no other formats have met and there has been no plenary meeting. This is despite clear attempts by the Scottish Government to have such meetings; the call for plenary JMC meetings, first made in May, has been repeated by the First Minister on several occasions, by a letter in August (apparently still not answered or even acknowledged by 10 Downing Street) and in November when the part-time position of the Secretary of State for Defence (also of course Scottish Secretary) came under fire from the Opposition at Westminster.¹⁵³ There have also been no British-Irish Council meetings since June. Even informal bilateral relations appear to have ground to a halt, with suggestions in the press just before Christmas that the First Minister and Prime Minister have not spoken since July, and the Scottish Government suggesting that Gordon Brown is 'stuck in a bunker'.¹⁵⁴ (Similar comments no doubt could have been made about communication between Jack McConnell and Tony Blair, as the Secretary of State for Scotland rather than the Prime Minister was the key point of contact in the UK Government. This episode may therefore indicate as much about Alex Salmond's desire to deal with the UK Prime Minister rather than a Scottish Secretary – and also the general uncommunicativeness of Gordon Brown as Prime Minister.)

There have been repeated instances of the Scottish Government taking actions that have caused a degree of annoyance or embarrassment in London. A notable example is question of police pay, with Scotland paying the 2.5 per cent increase in full from the September award date, but the UK Government only paying it from December for officers in England and Wales. The amounts of money involved were small, but

¹⁵³ R Dinwoodie 'Brown and Salmond "have not talked in months"' *The Herald*, 24 December 2007; 'Scrap Scotland Office, SNP urging', BBC News, 25 November 2007, available at <http://news.bbc.co.uk/1/hi/scotland/7111200.stm>

¹⁵⁴ Dinwoodie 'Brown and Salmond "have not talked in months"' op cit. see also 'PM Brown accused of snubbing Salmond' *The Herald*, 23 December 2007, available at www.theherald.co.uk/misc/print.php?artid=1924223

important for the UK Government to claim to be meeting its inflation targets.¹⁵⁵ The Scottish approach clearly embarrassed the UK Government, already under fire from the Opposition and the Police Federation. There have been other cases of similar low-level spats: over airguns, and whether powers to regulate them would be devolved, for example, or over the memorandum of understanding with Libya and the question of returning Abdelbaset al-Megrahi to Libya. There have also been evident difficulties over EU matters, such as renegotiation of the fishing quotas for 2008 at the December 2007 EU Fisheries council, although the Scottish Government (and Scottish fishing interests) appear to have been reasonably satisfied by the outcome.¹⁵⁶

Indications are that officials are finding it increasingly difficult to smooth the way when such issues arise, given the lack of political consensus from politicians in the two governments and a continued disjointed approach from Whitehall, at least at operational level. There have been some changes following the appointment of a Director-General, Devolution in the Ministry of Justice and Cabinet Office (reported in the July 2007 Scotland Devolution Monitoring Report). A Cabinet committee on the Constitution (CN), chaired by Jack Straw was established over the summer, and appears to meet fairly regularly (unlike many such committees), and is largely concerned with devolution matters although its formal remit is 'To consider constitutional affairs and citizenship.' In addition, another senior official has been appointed at Director level in the Cabinet Office to service that committee and deal with practical co-ordination of devolution issues across Whitehall. There are now about half a dozen staff in the Ministry of Justice and Cabinet Office working on the co-ordination of devolution, compared with about one and a half a year ago (and in addition to staff in the Wales and Scotland Offices).

A strategic concern to think through the present-day purpose of the Union – a matter reputedly of great interest to Gordon Brown – appears to have become important for a number UK ministers and officials over the last few months. However, to judge by the UK Prime Minister's performance before the Commons Liaison Committee on 13 December, this has paid little dividend. In his evidence, Brown continued simply to take a hard line, insisting on the value of a Union founded on economic interest and personal

¹⁵⁵ A neat discussion was that of Brian Taylor in his blog: see www.bbc.co.uk/blogs/thereporters/briantaylor/2007/12/a_fair_cop.html

¹⁵⁶ "'Fair" deal at fisheries summit', BBC News, 19 December 2007, available at http://news.bbc.co.uk/1/hi/uk_politics/7151243.stm; 'FISH: Scottish trawlermen welcome new Brussels deal' *The Herald*, 19 December 2007.

ties, emphasising the limited support for independence shown in opinion polls, and distinguishing devolution from federalism (without explaining how or why). Beyond this, however, he offered no rationale for the United Kingdom as it is presently constituted. Most telling was what he said regarding a possible 'British bill of rights', discussed in the *Governance of Britain* green paper published in August. Brown rejected any role for the devolved institutions in formulating such a bill, even though it would (presumably) be binding upon them, on the ground that the constitution is a reserved matter:

Where the powers have not been devolved to the Scottish Parliament or to the Welsh Assembly or indeed to the Northern Ireland Assembly, these are powers that Westminster continues to hold and acts in a way that is consistent with that. So the future of the issues that I am dealing with - there may be some but most of them are entirely within the province of the UK Parliament and have not been devolved.¹⁵⁷

5.2 The 'National Conversation' and the Parliament's 'convention'

The Scottish Government's 'national conversation' has continued since the publication of the white paper on independence in August, but in a low-key way. Some speeches by ministers have been linked to the National Conversation, but there have been no dedicated events connected to it and its main presence has been on the internet, where a sequence of ministerial statements on the Conversation's webpage has been the subject of comment by members of the public.¹⁵⁸ Part of the reason for such a low-key approach has undoubtedly been financial; the minority government has had to fund the Conversation so far through existing departmental budget allocations, and as budgets were mostly set some time ago it is simply difficult in practice to find money to support the Conversation. Another problem may, however, be a lack of clarity beforehand about what the National Conversation would involve, so that the announcement in August was in hope of subsequent developments rather than with them planned. Scottish Government officials say that 'phase 2' of the Conversation is due to be announced during the winter (probably in February), and may involve more significant activity, despite the financial constraint that still applies.

¹⁵⁷ House of Commons, *Minutes of Evidence taken before Liaison Committee: The Prime Minister Thursday 13 December 2007*, Uncorrected Transcript to be published as HC 192-I, Q. 45. Available at www.publications.parliament.uk/pa/cm200708/cmselect/cmliaisn/uc192-i/uc19202.htm For a discussion of the hazards of this approach, see A. Trench 'Brown's brave quest to define Britishness could backfire' *The Herald*, 13 July 2007.

¹⁵⁸ The website is at www.scotland.gov.uk/Topics/a-national-conversation

Meanwhile, the National Conversation now has to contend with a rival constitutional debate, organised under the aegis of the Scottish Parliament. On 6 December the Parliament approved a motion proposed by Wendy Alexander, setting up a 'constitutional commission' to prepare the way for a second constitutional convention to take place during 2008. This motion was supported by all three Unionist parties at Holyrood (Labour, Liberal Democrats and Conservatives), but deliberately excluded the SNP and was described by Annabel Goldie as the most important debate ever staged at the Scottish Parliament.¹⁵⁹ There has been considerable debate about whether this approach amounts to a mortgaging of Labour's platform to the Conservatives (because of the need for Tory support), or of the Tories indicating their lack of original thinking by signing up to a Labour initiative.

The Parliament's vote was presaged by a speech Ms Alexander gave at Edinburgh University on St Andrew's Day.¹⁶⁰ In this, she emphasised the value of the Union to Scotland and public support for it, while suggesting that the original proposals of the Scottish Constitutional Convention in the 1990s had been framed in the expectation that they would be subject to negotiation with the UK Government before being enacted, but were flawed because in 1997 they were simply adopted by the incoming Labour government as the basis for its white paper and later the Scotland Act 1998. She also hinted that existing powers could be 'undevolved' from Holyrood as well as new ones transferred to it, in the interests of the whole United Kingdom (without acknowledging the mechanisms that already exist for this in the Scotland Act 1998). She also stressed that the commission should 'have a strong UK dimension', including parties and parliamentarians from Westminster, and 'be open, consensual and thorough' (despite the exclusion of the SNP from it), drawing on expertise from business people, the voluntary sector and academia as well from the public at large through citizens' juries and listening events. A particular focus of the speech was finance, with emphasis on 'the three Rs' of resource, revenue and risk sharing, and the suggestion that a devolved Scotland should consider other financing arrangements, including assigned and wholly devolved taxes as well as a block grant, to improve financial accountability and create incentives to 'take the right decisions'. This should be considered by a specialist panel on Finance and Economics within the Convention. A further strand of Alexander's

¹⁵⁹ See Douglas Fraser, 'Tories & LibDems back Labour over constitutional commission' *The Herald*, 7 December 2007.

¹⁶⁰ Available at www.scottishlabour.org.uk/a_new_agenda_for_scotland

thinking, overlooked in much of the immediate discussion of her proposals, is the need to consider UK-wide dimensions of social citizenship, including such common services and benefits as 'access to the main elements of the welfare state – social security and pensions, access to healthcare free at the point of need and free schooling'.

The speech ends up being a curious mixture of high-minded policy thinking and brutal party politics. In important respects it departs from the Labour's party's established positions, notably on changing the Barnett formula and changing the powers of the Scottish Parliament. The speech had apparently been discussed at very high levels of the Labour leadership in London, so should not be treated as the views of Ms Alexander alone but of the Labour party as a whole. The discussions of financial matters and social citizenship suggest that aspects of ongoing academic debates have found their way into Alexander's thinking. However, the idea of a convention excluding the largest single party in Scotland, and the building of direct links between the Scottish and UK Parliaments (and implicitly the UK Government, but bypassing the Scottish Government) to discuss such matters is an attempt to locate constitutional debate in those arenas where Labour dominates and away from those it does not. Whatever its immediate political advantages, this approach is unlikely to improve the tone or substance of constitutional debate.

Alexander's has not been the only important speech on the future of the Union made in the last few weeks. First in the list was Alistair Darling, whose Andrew Williams Memorial Lecture at Stirling University was a hardline repudiation not of just of calls for Scottish independence (particularly but not only on financial grounds), but even for a debate about it.¹⁶¹ Others include ones by David Cameron in Edinburgh on 9 December, repudiating English nationalism and 'the ugly stain of separatism' and emphasising the importance of the Union – 'better an imperfect Union than a broken one'; and by Rhodri Morgan, First Minister of the Welsh Assembly Government, at Edinburgh University following his visit to meet Alex Salmond on 7 December.¹⁶² Morgan emphasised the distinctive character of devolution in Wales, the asymmetric character of the UK as a

¹⁶¹ See C MacLeod 'Darling warns against conflict on constitution' *The Herald* 9 November 2007, available at www.theherald.co.uk/search/display.var.1820366.0.darling_warns_against_conflict_on_constitution.php

¹⁶² Cameron's speech is available at www.conservatives.com/tile.do?def=news.story.page&obj_id=141137&speeches=1 ; a report of Morgan's at <http://icwales.icnetwork.co.uk/news/politics-news/2007/12/08/textbook-style-devolution-not-the-welsh-way-says-morgan-91466-20222298/>

result, and the role of the constitutional commission being set up under the chairmanship of Sir Emyr Jones Parry in determining how far Welsh public opinion wished to pursue something that was not secession and was not federalism. Finally, on 12 December, the First Minister gave the Playfair Lecture to mark the fortieth anniversary of Edinburgh University's Europa Institute, a speech used to advance the National Conversation by emphasising the advantages to Scotland (in tangible as well as constitutional terms) from the stronger voice that independence would bring.¹⁶³

5.3 Relations with other devolved administrations

On 7 December, there was a private meeting between the First Ministers of Scotland and Wales. The invitation from Alex Salmond to Rhodri Morgan had been made some time ago, but the meeting had been delayed because of the political (mainly party-political) sensitivities involved. There were clearly a number of difficult points in the meeting, and Morgan was keen to balance it with speaking engagements and also a meeting with his party colleague Wendy Alexander at Holyrood.¹⁶⁴ He also sought in comments afterwards to suggest common ground between the constitutional review processes underway in Wales (a 'constitutional commission' to prepare the way for a constitutional convention and subsequent referendum on primary legislative powers for the National Assembly, and a separate commission to consider the Barnett formula and financial matters), and the Parliament's proposed constitutional commission – a pooling of academic expertise and the like. (This may underestimate the problems some academics may experience in seeking to act impartially in an increasingly polarised situation.)

There have been few public developments in bilateral relations between Scotland and Northern Ireland since the First Minister's visit to Belfast in June. In particular, there has been no progress on the idea mooted there of treating students from Northern Ireland studying at Scottish universities in the same way as students from Scotland as regards tuition fees.

¹⁶³ The speech is available at www.scotland.gov.uk/News/This-Week/Speeches/First-Minister/visionscoteu

¹⁶⁴ See <http://news.bbc.co.uk/1/hi/scotland/7132605.stm>

5.4 Comprehensive Spending Review

One of the major events of the last few months has been the completion of the UK Government's Comprehensive Spending Review, announced with its Pre-Budget Report on 9 October. This is discussed further in section 8.

5.5 Adjusting the devolution settlement

Two Orders adjusting the devolution settlement have been made since August. The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2007, SI 2007 No. 2915, transfers to the Scottish Ministers powers under the Regulation of Investigatory Powers Act 2000 to issue warrants for the interception of communications relating to serious criminal investigations (which is a devolved matter). The Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (Powers of District and JP Courts) Order 2007, 2007 No. 3480, confers on district and JPs' courts in Scotland powers to impose driving disqualifications and licence endorsements, following reform of the lower level of courts by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007. Powers relating to driving licences etc. are reserved matters otherwise.

6. European and International Affairs

Peter Lynch

6.1 Commonwealth Games

The major development in European and international affairs in this reporting period was the granting of the Commonwealth Games to Glasgow for 2014. Glasgow was in direct competition with Abuja in Nigeria, as Halifax, Nova Scotia had pulled out of the race much earlier due to cost considerations. Attracting the Commonwealth games – as well as other international events – had been a major goal of the previous Scottish Executive, under both Henry McLeish and Jack McConnell. Glasgow's bid was successful, winning 47 votes to 24 at the selection meeting in Sri Lanka on 9 November. The success was quite popular in Scotland, amongst both the sporting community and the public, with an estimated cost of £288m, with some of the costs limited through use of existing facilities such as Glasgow's football stadia. On 12 November, the Scottish government published a draft bill for the Commonwealth games. The bill sought to give powers to the Commonwealth organising committee to deal with advertising, logos, ticketing, traffic measures, land purchase and financial support from the government to the games itself.¹⁶⁵

6.2 Europe

In September 2007, the Minister for Europe and External Affairs Linda Fabiani set out the government's priorities for policy towards the European Union. Fabiani identified 5 priorities, linked to the government's own strategic goals: a wealthier and fairer Scotland, a greener Scotland, a safer and stronger Scotland, a healthier Scotland and a smarter Scotland. Fabiani identified six main European priorities – fisheries and aquaculture; EU treaty reform; the EU budget review; justice and home affairs; EU energy policy; and agriculture; with the promise of a government strategy document on Europe at the start of 2008.¹⁶⁶ The government's objectives in this area were promoted at the Joint Ministerial Committee on Europe on 2 October 2007 as well as to the European Commission on 1 October. The main proposal – and a fairly obvious one from an SNP government – is for Scottish representation in the Council of Ministers in relation to EU

165. Scottish Parliament (2007), Glasgow Commonwealth Games bill (SP4), at: www.scottish.parliament.uk/s3/bills/04-GlasgowCommGames/index.htm

166. Scottish Government News Release, 18 September 2007.

Fisheries negotiations, with a demand for exclusive Scottish competence over marine biological resources in relation to EU treaty reform.¹⁶⁷ Whilst such proposals are entirely expected of the SNP, the government sought to take a more pro-active approach to the fisheries issue through proposing to establish an expert committee to examine fish conservation management in addition to committing the government to oppose the EU reform treaty as well as the Common Fisheries Policy.¹⁶⁸

6.3 Scotland and the USA

The First Minister visited the USA in October 2007, primarily as a business trip to seek to improve economic links between the two countries, visiting the NYSE and major companies that invest in Scotland. The FM also sought to use the occasion to promote Scotland through a number of media interviews and a speech to the Council of Foreign Relations in New York.¹⁶⁹ Later in October, the Scottish government appointed a new representative in Washington DC. The First Secretary was now styled as the Scottish Government Counsellor in North America, with the task of managing diplomatic relations, coordinating the work of Scottish Development International and VisitScotland. The new counsellor is Robin Naysmith, who was previously Principal Private Secretary to the First Minister from 2005 onwards, after a career in the civil service in Whitehall and Scotland.¹⁷⁰

6.4 European and External Relations Committee

The new European and External Relations Committee set out its work programme on 4 September 2007.¹⁷¹ The committee suggested a quite general work programme, examining the EU priorities of the Scottish government and its review of existing international strategies and partnership agreements (these have been covered extensively in previous monitoring reports). The committee sought to examine two specific activities. First, it appointed a team of reporters (Irene Oldfather, Alex Neil and Iain Smith) to advance the previous committee's recommendations from its report into the scrutiny of European legislation. Second, it proposed to take evidence in relation to the government's National Conversation on Scotland's constitutional future.

167. Scottish Government News Release, 2 October 2007.

168. *The Herald*, 13 December 2007.

169. Scottish Government News Release, 11 October 2007.

170. Scottish Government News Release, 30 October 2007.

171. Scottish Parliament European and External Relations Committee (2007), *Work programme*.

7. Relations with Local Government

David Scott

7.1 Concordat

A historic change in the relationship between local and central government was achieved when the Cabinet Secretary for Finance, John Swinney¹⁷² announced the first budget of the minority SNP government. He unveiled details of a concordat¹⁷³ struck between the Scottish Government and the Convention of Scottish Local Authorities (COSLA). The document, produced after several weeks of negotiation between Mr Swinney and the COSLA leadership, set out the terms of a new relationship between the Scottish Government and COSLA ‘based on mutual respect and partnership.’ It pointed out that the new relationship was represented by a package of measures that had been agreed ‘within a tight financial context.’

Included in the package was a commitment that the Scottish Government would not undertake a structural reform of local government during the term of the current Parliament. There would be a move towards a single outcome agreement for every council and an undertaking that there would be less control over local government from the centre including a reduction in the level of regulation and a reduction in ring fenced specific grants.

The document identified a specific set of commitments. The most controversial of these was the requirement for local government to freeze council tax rates in each council at 2007-08 levels. A council tax freeze was one of the key policies of the SNP manifesto for the May 2007 elections. It was promised as a first step towards a ‘fairer’ form of local taxation – the introduction of a local income tax. Ministers maintained that the council tax freeze should be possible because of the levels of funding they are providing for local government. As stated in the concordat, the Scottish budget will provide a total of £34.7bn for local government over the period 2008-09 to 2010-11. Within the total, there is significant growth in capital resources, rising by 13 per cent in 2008-09 and by a similar amount up to 2010-11. A total of £2.9bn is being provided over the period to

¹⁷² Scottish Government Press release with link to minister’s speech, 14 November 2007
www.scotland.gov.uk/News/Releases/2007/11/14081839

¹⁷³ Concordat between Scottish Government and local government, 14 November 2007
www.scotland.gov.uk/Publications/2007/11/13092240/concordat

secure investment in local government infrastructure such as schools, flood prevention measures, roads, waste management and police and fire services. There will be additional funding for a new tram system in Edinburgh.

In his budget statement, Mr Swinney said a key part of the budget was the development of a new and constructive relationship with local government in Scotland. It represented a 'historic opportunity for national and local government to develop a cohesive agenda – an agenda of common purpose – that will improve the lives of the people of Scotland.' The minister announced that as part of the historic agreement, he was putting in place the resources 'to deliver a freeze in the council tax, just as we promised we would do.'

In a response to the statement, Councillor Pat Watters, President of COSLA,¹⁷⁴ said the budget statement 'signalled the start of 'a new relationship between the two spheres of government in Scotland' COSLA's job was to get the best possible deal for its member councils. 'That has been our key objective throughout the negotiations and this is something I feel we have achieved', Cllr Watters said.

The agreement and, in particular, the commitment to a council tax freeze, does not have unanimous backing in COSLA. As a Labour councillor, Cllr Watters faces a difficult task in trying to secure a united front within his organisation. Following the May elections, there are now more SNP councillors than Labour members though this is not reflected in the Convention, the ruling body for policy and direction. The political make-up of the Convention is: 45 Labour; 39 SNP; 19 Scottish Liberal Democrat; 16 Independent and 9 Conservative.

There was some confusion over the outcome of a meeting of council leaders when they debated the spending review at a private session of their meeting on 16 November. *The Herald* reported that council chiefs from all 32 councils in Scotland endorsed the concordat.¹⁷⁵ BBC Scotland reported that a deal to freeze council tax for a year had been agreed unanimously by Scotland's local authority leaders. However, *The Scotsman* stated that council leaders had refused to endorse the deal negotiated with ministers by

¹⁷⁴ COSLA news release, 14 November 2007

www.cosla.gov.uk/news_story.asp?leftId=10001E4DF-10766761&rightId=10001E4DF-10771446&hybrid=false&storycode=10001DD1F-16026715

¹⁷⁵ Robbie Dinwoodie 'Political coup for Swinney as councils all signs up to agreement for a tax freeze', *The Herald*, 16 November 2007.

their own leadership to freeze council tax.¹⁷⁶ In a later article the newspaper questioned whether a deal had been reached, saying there seemed to be contradictory messages over the SNP's plans.¹⁷⁷ One of the issues causing concern is the Scottish Government's provision of £70m in its local government funding settlement for the benefit of those councils agreeing to a council tax freeze. Councils which increase the tax will not qualify for a share of the £70m allocation. Councils are due to make final decisions on their budgets and council tax figures in February 2008.

7.1.1 Local government finance settlement

The local government finance settlement, detailing the spending allocations for each individual council, was announced on 13 December.¹⁷⁸ The settlement details the amounts each councils will receive over the three year period from 2008-09 to 2010-11. Announcing the settlement in the Scottish Parliament,¹⁷⁹ Mr Swinney said an additional £37m in 2008-09; £34m in 2009-10 and £34m in 2010-11 had been added to the sums he had already announced. This related mainly to additional specific grant funding, police loan charge support and funding from the Department of Work and Pensions for 'Supported Employment'.

Taking into account the changes, the overall local government settlement provided for £11.2bn for 2008-09, £11.6bn in 2009-10 and £12bn in 2010-11. Mr Swinney said: 'Those sums represent very considerable increases in local government funding. It means that by 2010-11 funding will have increased by £1.4bn or 12.9 per cent from the equivalent amount in 2007-08. That uplift has been achieved despite our receiving from the UK Treasury the tightest settlement since devolution.'

There would be further additional funding for local government, to be confirmed in due course, including for the Edinburgh tram project and transfers from the enterprise budget in respect of Business Gateway.

¹⁷⁶ P. MacMahon 'COSLA refuses to endorse deal', *The Scotsman*, 17 November 2007
<http://thescotzman.scotsman.com/politics/COSLA-refuses-to-endorse-deal.3538202.jp>

¹⁷⁷ P. MacMahon 'Deal or no deal on council tax?', *The Scotsman*, 22 November 2007
<http://thescotzman.scotsman.com/politics/Deal-or-no-deal-on.3539777.jp>

¹⁷⁸ Scottish Government, 'Local government finance settlement 2008-11, Scottish Parliament, 13 December 2007.

¹⁷⁹ John Swinney, statement to Scottish parliament, 13 December 2007,
www.scotland.gov.uk/News/This-Week/Speeches/Weather-and-Fairer/la-finance

The minister said revenue funding, which made up the majority of the local government settlement, would amount to £10.2bn in 2008-09 – a 4.2 per cent increase on the equivalent 2007-08 figure. In 2009-10, it would increase by a further 4.3 per cent to £10.6bn; and in 2010-11 by a further 3.7 percent to just over a £11bn. Overall, revenue funding input was being increased by 12.7 per cent across the period. A detailed breakdown of the settlement showing the government funding levels for all 32 councils is given in Scottish government circulars.¹⁸⁰

7.2 Crerar Report

An independent report into the number of regulatory bodies scrutinising local government and other public services was published by the Scottish government.¹⁸¹ The review committee, chaired by Professor Lorne Crerar, proposed a radical reduction in the number of audit, inspection and regulatory bodies and suggested that, ultimately, there might be a case for a single scrutiny body for Scotland.

As the report pointed out, there are currently 43 regulatory bodies involved in the inspection and scrutiny of public bodies. Eleven new regulatory bodies and commissioners, or 'tsars', responsible for areas like parliamentary standards, information, children and young people and public appointments, have been created since devolution in 1999.

The Crerar report put forward 41 recommendations to improve the role of scrutiny within the public sector. The proposals included a request that ministers should carry out an assessment aimed at reducing scrutiny activity and, in the longer term, creating a single scrutiny organisation. Meantime, it was suggested that scrutiny bodies should collaborate to eliminate duplication and co-ordinate activity. The report also proposed that the voice of service users should be strengthened to develop 'more outcome focused public services' and that the Scottish Public Services Ombudsman should oversee all public service complaints handling systems.

¹⁸⁰ Scottish Government, local government finance settlements 2008-11, 13 December 2007, www.scotland.gov.uk/News/Releases/2007/12/13144512

¹⁸¹ The Crerar Review: the report of the independent review of regulation, audit, inspection and complaints handling of public services in Scotland, 25 September 2007, www.scotland.gov.uk/Publications/2007/09/25120506/0

Commenting on the proposals,¹⁸² Prof Crerar said all the public bodies he spoke to agreed that scrutiny was important. He stated that those responsible for providing services, however, were critical of the current burden they perceived to exist, with many suggesting that the costs outweighed the benefits. Having undertaken a wide-ranging review, he was in no doubt that a more efficient, consistent and transparent assessment of public services was needed.

The plans were widely welcomed. The President of COSLA, Cllr Pat Watters, was reported¹⁸³ as saying that many of Crerar's recommendations reflected the views of COSLA and local authority chief executives. 'We are particularly pleased with the recommendation about the need to reduce the burden of external scrutiny whilst at the same time making the scrutiny process more relevant to service users.'

During a debate in the Scottish Parliament, the proposals were also welcomed by MSPs.¹⁸⁴ They approved a motion by Mr Swinney welcoming the Crerar review work commissioned by the previous administration, and noting the 'broad principles of a simplified scrutiny landscape with a proportionate, co-ordinated and risk-based approach as set out in the review.' The motion called on the Scottish government to carefully consider the review before returning to the Parliament with further proposals to take forward its conclusions.

Some doubts later emerged about whether there will be government backing for the eventual creation of a single scrutiny body. One report suggested that ministers were opposed to the idea of merging the existing 43 regulatory bodies into a single organisation.¹⁸⁵

7.3 Planning application

One of the most controversial planning applications to be considered in Scotland in recent years has been Donald Trump's golf resort application (see section 2.1). After

¹⁸² Scottish Government Press release 'Scrutiny of public services' 25 September 2007, www.scotland.gov.uk/News/Releases/2007/09/25100927

¹⁸³ P. MacMahon 'Support grows for Crerar proposals on public sector scrutiny', *The Scotsman*, 28 September 2007, <http://thescotsman.scotsman.com/politics/Support-grows-for-Crerar-proposals.3331130.jp>

¹⁸⁴ Scottish Parliament, Official Report, 3 October 2007.

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1003-02.htm#Col2330

¹⁸⁵ P. MacMahon 'Swinney is expected to reject super-inspectorate plan suggested by recent Crerar report', *The Scotsman*, 5 October 2007

<http://thescotsman.scotsman.com/politics/Swinney-is-expected-to-reject.3466017.jp>

Aberdeenshire Council's infrastructure services committee rejected the application, on the casting vote of its chairman, Martin Ford,¹⁸⁶ the application was 'called in' by the Scottish Government.¹⁸⁷

It was claimed that major investment into Scotland would be badly hit if the application was turned down. Cllr Ford, a committed environmentalist, argued that the tactics employed by the Trump organisation were in danger of undermining the planning system in Scotland.¹⁸⁸ The council leader, Cllr Anne Robertson,¹⁸⁹ welcomed the call-in decision, saying the Scottish government quite rightly felt the application raised issues of such importance that they required scrutiny at national level.

At a special meeting of the full Aberdeenshire Council held to examine the procedures for dealing with planning applications,¹⁹⁰ Cllr Ford was dismissed from his post as chairman of the infrastructure services committee. The councillor argued that he had acted in accordance with normal constitutional practice. At the same meeting,¹⁹¹ the council expressed its full support for the application, even though it no longer had responsibility for making a final decision. Councillors agreed to begin the process of amending the council's scheme of delegation so that future applications of regional and national importance could be decided by all members of Aberdeenshire Council. Business leaders in Scotland called for a 'culture of change in the planning system.'¹⁹²

As the controversy raged on, the First Minister, Alex Salmond, came under attack over his own role in the affair. Mr Salmond made it clear at the outset that in view of his interest in the issue as the MSP for the area (Gordon constituency) he would play no role in the decision to be taken following the calling in of the application. The decision

¹⁸⁶ Aberdeenshire Council Press release 'Councillor refuse planning permission for Trump development', 29 November 2007, www.aberdeenshire.gov.uk/news/release.asp?newsID=593

¹⁸⁷ Louise Gray '£1 billion golfing resort is still alive after ministers call in Trump plan' *The Scotsman*, 5 December 2007, <http://thescotzman.scotzman.com/scotland/Salmond-is-urged-to-come.3588836.jp>

¹⁸⁸ Frank Urquhart 'Rejecting Trump's golf resort would deter global investment in Scotland', *The Scotsman*, 6 December 2007.

¹⁸⁹ Aberdeenshire Council Press release 'Trump application called in by Ministers', 4 December 2007, www.aberdeenshire.gov.uk/news/release.asp?newsID=601

¹⁹⁰ Graeme Smith, 'Councillor who cast deciding vote on Trump's golf resort is sacked', *The Herald*, 13 December 2007,

¹⁹¹ Aberdeenshire Council Press release 'Council shows support for Trump application' 12 December 2007. www.aberdeenshire.gov.uk/news/release.asp?newsID=601

¹⁹² Simon Bain 'Business leaders call for a culture change in the planning system' *The Herald*, 31 December 2007.

would be taken by John Swinney, the Cabinet Minister for Finance and Sustainable Growth.¹⁹³

The SNP, however, was accused of hypocrisy and asked to explain a meeting Mr Salmond had held with Mr Trump ahead of the application being called in.¹⁹⁴ On 20 December, Mr Swinney issued a statement along with answers to parliamentary questions, concerning the decision to call in the application.¹⁹⁵ It was announced in the same statement that the Permanent Secretary, Sir John Elvidge, had written a letter to Mr Swinney stating that he was satisfied there was no impropriety by any civil servants involved in the case.

7.4 Elections

The Gould Report, into the spoilt ballots problems that afflicted the May 2007 parliamentary and local government elections recommended that, in future, the two elections should be 'decoupled' and held on separate dates.¹⁹⁶ Other recommendations included the appointment of a Chief Returning Officer for Scotland (CRO); the use of separate ballot papers instead of combining the Scottish parliamentary ballot papers on one sheet, the ending of overnight counts, the proper integration of electronic counting into the electoral process and a requirement that the names of political parties, rather than descriptions, should appear first on all regional ballot papers for Holyrood.

As the report pointed out, one of the more controversial issues in the period prior to the elections on 3 May was whether the parliamentary and local government elections should have been combined on the same day. The report acknowledged that combining the elections is not without benefits. Such an approach was regarded as being less costly in terms of financial and human resources. There is also strong evidence that a

¹⁹³ Martin McLaughlin '£1 billion golfing resort is still alive after ministers call in Trump plan', *The Scotsman*, 5 December 2007, <http://thescotisman.scotsman.com/aberdeen/1bn-golfing-resort-is-still.3587282.jp>

¹⁹⁴ John Ross 'SNP accused of hypocrisy as Salmond is urged to explain Trump meeting', 12 December 2007, <http://thescotisman.scotsman.com/scotland/SNP-accused-of-hypocrisy-as.3589519.jp>

¹⁹⁵ Scottish Government Press release 'Proposed golf resort in Aberdeenshire', www.scotland.gov.uk/News/Releases/2007/12/20091903

¹⁹⁶ Electoral Commission 'Independent review of the Scottish Parliamentary and local government elections, 3 May 2007', www.electoralcommission.org.uk/elections/scotelectionsreview.cfm

See also: Hamish Macdonell 'Poll fiasco: Alexander must resign', *The Scotsman*, 24 October 2007, <http://thescotisman.scotsman.com/politics/Poll-fiasco-Alexander-must-resign.3473414.jp>; Douglas Fraser 'Why the voters were treated as an afterthought in election fiasco', *The Herald*, 24 October 2007.

higher turnout can be achieved when local government elections are held at the same time as those for the Scottish Parliament.

The report concluded, however, that combined elections are not only a disservice to local councils and candidates but also to the electorate as well. It pointed out that local government elections are not simply about ensuring a reasonable number of voters show up at the polls on polling day. It was more important that voters engage with the campaign in a meaningful manner and make a knowledgeable decision on the ballot paper. The report recommended separating the two elections, preferably by a period of about two years.

The report was welcomed by local authorities. Cllr Pat Watters, of COSLA,¹⁹⁷ said its long standing position was that the two elections should be separated. COSLA believed this would increase the proportion of valid votes cast, particularly because of the complexities of the new PR voting system. It would also serve democracy and citizens better by removing the 'shadow' that parliament cast over local campaigning.

The Minister for Finance, John Swinney,¹⁹⁸ was reported as saying he would take forward early discussions with COSLA to examine the practical issues involved in decoupling the elections before going back to parliament and parliamentary committees for further consideration.

7.5 Housing

The Scottish Government published a discussion document¹⁹⁹ aimed at giving first time buyers and tenants a better deal. Proposals included challenging local authorities, developers and builders to increase the rate of new housing supply in Scotland to at least 35,000 a year by the middle of the next decade; using financial incentives to increase the role of councils as landlords; ending the Right to Buy on new social housing built by councils and housing associations; and establishing a Scottish Sustainable Communities initiative.

¹⁹⁷ COSLA Press release, 'COSLA President welcomes Gould review', 23 October 2007, www.cosla.gov.uk/news_story.asp?leftId=100019391-10766761&rightId=100019391-10766715&hybrid=false&storycode=100019391-16011326

¹⁹⁸ COSLA Connections 'Positive response to decoupling elections, October 2007, www.cosla.gov.uk/attachments/connections/connections37.pdf

¹⁹⁹ Scottish Government: 'Discussion paper on the future direction of housing policy in Scotland', 31 October 2007, www.scotland.gov.uk/Publications/2007/10/30153156/0

The publication of the consultation document was announced by the Health and Wellbeing Secretary, Nicola Sturgeon.²⁰⁰ The minister was due to make her statement on housing to the Scottish Parliament but was prevented from doing so after the President Officer, Alex Fergusson, ruled that the information had been put into the public domain before it was announced in Parliament. The parliament, however, debated the consultation paper. In a press statement,²⁰¹ Ms Sturgeon confirmed that the government would proceed with the introduction of a new single survey scheme for house sales from late 2008. In addition, the minister confirmed the government's intention to abolish the housing and regeneration agency, Communities Scotland. She said its main non-regulatory functions would be brought within the core of the Scottish government and that its regulatory functions would be reformed to operate outside the government and independently of ministers.

In its response to the announcement, COSLA's community well-being spokesman, Councillor Harry McGuigan²⁰² focused on this latter decision. He said it was 'absolutely right' that, in a democratic Scotland, all policy and funding decisions over housing and regeneration should clearly and directly lie with local and national government and not with an unelected intermediary.

²⁰⁰ Scottish Parliament Official Report 31 October 2007, www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1031-02.htm#Col2827

²⁰¹ Scottish Government Press release 'Future for housing in Scotland', 31 October 2007, www.scotland.gov.uk/News/Releases/2007/10/31142057

²⁰² COSLA Press release, 'COSLA welcomes dismantling of Communities Scotland' 31 October 2007, www.cosla.gov.uk/archiveResults.asp?leftId=10001A3AD-10766761&rightId=10001A3AD-10771676&hybrid=false

8. Finance

Alan Trench

8.1 The UK Comprehensive Spending Review

The UK Government's Comprehensive Spending Review (CSR) was published, along with the Pre-Budget report, on 9 October 2007.²⁰³ The review had been originally due in 2006, but was first postponed to June 2007 and extended in scope, and then further postponed to the autumn. The review is a thorough consideration of all government spending (though not a 'zero-base' review) for the next three financial years (2008-09, 2009-10, 2010-11). The CSR report's table relating to DEL²⁰⁴ spending in Scotland is reproduced below:

Figure 8.1: Scottish Executive baseline and additions (£m)

	<i>Baseline</i> <i>2007-08</i>	<i>2008-09</i>	<i>Additions</i> <i>2009-10</i>	<i>2010-11</i>
Resource DEL	23,443	1,012	1,971	3,058
of which near-cash	22,530	999	1,902	2,922
Capital DEL	2,974	174	368	667
Total DEL ¹	26,059	1,185	2,340	3,725

¹ Full resource budgeting basis, net of depreciation.

Source: table D27, in Annex D18 headed 'Devolved Administrations and Northern Ireland', Comprehensive Spending Review 2007.

Perhaps the first thing to note about the CSR was what it did not do; it did not review, or seek to change, the basic structure of devolution finance. The block and formula system, and the Barnett formula, remained intact, and as part of the review a new edition of the 'Statement of Funding Policy' (the Treasury's document that sets out how the formula

²⁰³ HM Treasury, *Meeting the aspirations of the British people: 2007 Pre-Budget Report and Comprehensive Spending Review*, Cm 7227 (London: The Stationery Office, 2007), at www.hm-treasury.gov.uk/pbr_csr/report/pbr_csr07_repindex.cfm

²⁰⁴ Public spending in the UK takes two forms: that forming part of a Departmental Expenditure Limit (DEL), and Annually Managed Expenditure (AME). DEL spending is allocated through the spending review process every two or three years. AME spending is, as the name indicates, managed annually by the Treasury. While AME accounts for a very large part of public spending overall (notably the defence and social security budgets), it makes up only a small part of the funding of the Scottish Government – even the area of agriculture, which formerly constituted AME, has been reclassified since 2006-07 as DEL spending.

works) was issued.²⁰⁵ This is noteworthy as there had been some earlier speculation that such a review might be announced, but in the event the Barnett formula was applied to the outcome of the review and re-issued (see section 8.4).

Inevitably, attention focussed on what effect the CSR has on the Scottish Government's budget. There was an expectation that the settlement would be 'tight', because of the slowing rate of growth in public spending generally, and to an extent because of the arithmetical effect of the Barnett squeeze. Whitehall took an upbeat approach; in the 'regional press notice' for Scotland (sic) issued after it, the Treasury claims that the CSR:

will provide for spending by the Scottish Executive to grow by an average annual rate of 1.8 per cent in real terms over the next three years. Spending will be higher than in 2007-08 by £1.2 billion in 2008-09, £2.3 billion in 2009-10 and £3.7 billion in 2010-2011, a total increase of £7.2 billion.²⁰⁶

Des Browne, Secretary of State for Scotland, was quoted as saying 'This is a very good PBR/CSR for Scotland.'

Unsurprisingly, this view was not shared by the Scottish Government. In its press statement, the First Minister described the real rate of increase as 1.4 per cent not 1.8 per cent, and expressed his concern at the 'profile' of the increases – in effect, that so much of the promised increase would only occur later in the period. He claimed that the first year increase would be 0.5 per cent in real terms, followed by 1.6 and 2.3 per cent in the two subsequent years, creating problems in year one, and said:

This creates an extremely serious position in terms of Scotland's finances. It means that Scotland is effectively being both squeezed and short-changed by the Treasury. ... The profile and the detail of these figures represents the lowest public expenditure in the UK or Scotland since the early 1980s, in terms of public spending profile.

In truth, the calculation of devolved administration shares of spending under the CSR is not as automatic as Treasury descriptions of the process might suggest. A good deal of inter-governmental discussion and bargaining takes place around the review. The

²⁰⁵ HM Treasury, *Funding the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly: Statement of Funding Policy*, Fifth edition (London: The Stationery Office, 2007), at www.hm-treasury.gov.uk/media/2/2/pbr_csr07_funding591.pdf

²⁰⁶ HM Treasury, *2007 Pre-Budget Report and Comprehensive Spending Review Regional Press Notice in Scotland* 9 October 2007. At www.hm-treasury.gov.uk/media/0/2/pbr_csr07_regionalpnsotland.pdf

discussion is usually not about the main issue of what the rules are (the Barnett formula's role has been taken as given), but about what are, in essence, second-order issues. These are nonetheless highly significant, as the amounts at stake are sometimes considerable and they represent the best, if not only, way in which the devolved administrations can increase the resources available to them. In 2007, these concerned the following matters:

- The *base-line for spending*, which was reduced retrospectively because of a reduction in deemed spending in England in 2006-07. In other words, less was spent on health in England than had been planned, and the allocation to Scotland (and the other devolved administrations) was made on the basis of the planned allocation not the actual one. The Scottish base-line (the amount of the Scottish block, which is then increased by amounts calculated using the Barnett formula) was reduced for the purposes of the CSR as a result. In partial compensation, the Treasury offered 'smoothing' to cushion the impact of this. The Scottish Government considered that the amount offered by way of smoothing was insufficient.
- The question of *end-year flexibility*, as underspending in previous years by the Scottish Executive has led to the accumulation of a substantial reserve of money at the Treasury (reported as having been almost £900m by Des Browne). The Treasury had sought to retain this money, however the new Scottish Government sought to gain access to it to support its spending plans.
- An attempt by the Treasury to control the balance between *capital and current spending* by the Scottish Government. The general assumption has been that the block grant is precisely a block which the Scottish Executive/Government is free to spend entirely as it wishes, subject only to political and practical constraints. However, the level of capital spending in Scotland (and the other devolved administrations) has been a source of concern to the Treasury for some time. An unsuccessful attempt to require the devolved administrations to spend a proportion of their block grants on capital spending was made in the 2004 Spending Review (as it was for all Whitehall departments), but broke down in the face of broad opposition from spending departments. In the 2007 round, the Treasury had more success, or took a firmer line. Although the levels for capital and current spending set out in the CSR document appear to be similar in nature to those in previous years, the Treasury will expect these to be adhered to by the

Scottish Government. However, the practical impact of complying with this has been mitigated by the end-year flexibility issue; the Treasury agreed to release the accumulated EYF balances, but on condition that these were used for capital spending. Although that aspect of the agreement has not been put in the public domain, a number of public statements reflect it – for example, the release of £100m for capital investment in universities and colleges in the current year (2007-08) announced on 26 October was explicitly tied to the release of EYF funds.²⁰⁷

- A further area of concern to all devolved administrations, but not raised directly by Scottish Ministers, concerns *public spending in London*. While spending on most aspects of regeneration or public transport around London (including spending related to the Channel Tunnel Rail Link and Crossrail) is treated as ‘English’ spending, and attracts consequential payments under the Barnett formula, that is not the case for spending on the London 2012 Olympics. Such spending is treated as benefiting the UK as a whole, even though it is physically in London or south-east England, and much is for regeneration purposes that, if pursued on their own, would attract a Barnett consequential. In addition, spending on the Olympics is having a distorting effect on allocations by the distribution funds for the National Lottery, as so much Lottery money is going to support the Olympics, and allocations to lottery distributors for Scotland and Wales have been reduced substantially. Yet despite such concerns being raised vociferously in the negotiations around the CSR, the Treasury has done nothing to address them.

One thing has become clear to all the UK’s devolved governments, if it was not clear before: the way the Barnett formula works ties the devolved administrations very closely into the financial structure of UK Government. While its working has allowed them very considerable autonomy (in policy and spending more broadly) in the first years of devolution, the limits of that autonomy are becoming very clear and in some respects (notably over capital spending) it is being narrowed.

²⁰⁷ See Scottish Government News Release, 26 October 2007, *Universities and Colleges*, at www.scotland.gov.uk/News/Releases/2007/10/26092446

8.2 The Scottish Government's Comprehensive Spending Review and budget

In parallel with the CSR process in London, the Scottish Executive/Government has had its own Comprehensive Spending Review underway. This process was a somewhat odd one, given that the overall amount available for the Scottish Government to spend would not be known until the UK CSR was completed. The Scottish Government published its budget spending review on 14 November 2007.²⁰⁸ The Budget is an avowedly political document, not only setting out spending plans for the next three financial years (to 2010-11), but using as the priorities for allocating spending headings that closely resemble those used in the SNP's election manifesto in May: 'Wealthier & Fairer; Smarter; Healthier; Safer & Stronger; Greener'.²⁰⁹

Under the various priority headings, the Government emphasised the following plans:

- Wealthier & Fairer Scotland – reducing or removing business rates for small business, freezing council tax, and increased investment or support in strategic transport networks and renewable energy and energy efficiency;
- Smarter Scotland – improving school fabric, reducing class sizes for younger children, extending entitlements to free school meals, investing in further and higher education and improving skills and vocational education;
- Healthier Scotland – reducing the harm done by alcohol misuse, reducing waiting lists to a maximum of 18 weeks from referral to first consultation, improving screening for MRSA, making access to primary care more flexible, and improving access to NHS dental services;
- Safer & Stronger Scotland – increasing the supply of new housing, community regeneration, and appointing 1000 additional police officers;
- Greener Scotland – higher standards of environmental performance, increasing spending on renewable energy, reducing pollution and investing in public transport.

Space does not permit a detailed description of the content of the budget, let alone analysis of it. But the following table highlights the main budgetary allocations to the main portfolio areas of the Scottish Government as now constituted (restructured to

²⁰⁸ The Scottish Government *Scottish Budget Spending Review 2007* (Edinburgh: The Scottish Government, 2007), at www.scotland.gov.uk/Publications/2007/11/13092240/0

²⁰⁹ SNP *It's Time: Manifesto 2007* (Edinburgh: SNP, 2007), available from www.snp.org/policies. The headings used in the manifesto were Healthier; Wealthier; Safer; Fairer; Easier; Greener; Smarter.

indicate areas of spending under the previous Executive, when of course portfolios were differently arranged).

Figure 8.2 Scottish Executive/Government spending by portfolio, 2002-03 to 2010-11

(£m)

	2002-3 (Out-turn)	2007-8 (budget)	2010-11 (plans)
First Minister	153.7	266.3	305.2
Finance and Sustainable Growth	2,177.2	5,831.0	6,330.8
Health and Wellbeing	7,325.3	10,776.9	12,201.8
Education and Lifelong Learning	1,748.6	2,518.7	2,699.0
Justice	716.6	979.1	1,110.3
Rural Affairs and Environment	875.1	529.6	650.5
Administration	206.0	241.4	255.8
Crown Office and Procurator Fiscal service	81.3	100.9	120.5
Total local government	7,687.1	10,651.1	11,992.6
Total Scottish Government budget	20,970.9	31,894.9	35,666.5

Source: Abstracted from *The Scottish Government Scottish Budget Spending Review 2007*, Annex B: comparison 2002-3 to 2010-11.

In a press release, the Centre for Public Policy in the Regions at Glasgow and Strathclyde Universities identified the budget as providing a real-terms increase in DEL spending of 1.5 per cent per annum between 2007-08 and 2010-11, but (unsurprisingly) found this varied across portfolios.²¹⁰ Key winners were the newly reconfigured Local Government portfolio, benefiting from an above average increase of 1.6 per cent per annum. While other recipients would benefit from real-terms spending increases, those would be below the Scottish Government's average rise; the health portfolio would receive a 1.4 per cent yearly increase but, within this, allocations to health boards rise by only 0.5 per cent per annum (meaning spending would be directed away from primary medical care). While transport spending overall would rise by 0.5 per cent per year, rail services would face a real terms cut of 1.2 per cent per year. As well as rail services, the other big losers CPPR identified are general medical services and general dental

²¹⁰ Centre for Public Policy in the Regions Press Briefing No. 2 *The Scottish Government's Budget 2007: the winners and losers*, 16 November 2007, available at www.cpvr.ac.uk/media/media_54044_en.pdf

services (each down by 2.6 per cent per annum), major public transport projects (down by 7.8 per cent per annum), legal aid (down by 1.8 per cent per annum) and rural development (down by 2.2 per cent per annum). Given the nature of the deal reached between the Treasury and the Scottish Government, it is not surprising that CPPR identified the big winners as being spending on capital investment – in the Health and Wellbeing portfolio (by 2.1 per cent per year), motorways and trunk roads (by 9.2 per cent per year), the centrally funded police budget (by 5.9 per cent per year), and ‘access support’ for the NHS (previously known as the waiting times co-ordination unit) – by 31 per cent per annum. However, with the shift in portfolio responsibilities, and in how services provided by local authorities were accounted for, CPPR identified the difficulties in coming to clear conclusions about the precise spending changes made in the budget.

In many respects, the SNP Government’s budget is a highly ambitious one, seeking to achieve a great deal with relatively limited resources. Unsurprisingly, even before the Parliament started to consider the budget in detail, it attracted a good deal of criticism.²¹¹ As noted in section 3.4, this largely focussed on SNP manifesto pledges not delivered by the budget – notably over promises to ‘abolish’ graduate debt, to reduce class sizes, and to provide extra police officers. As the Government tried to get the budget through a Parliament in which it does not have a majority, both inflated rhetoric and canny deals were to be expected.

8.3 Local government: the concordat

Given how large a proportion of overall public spending in Scotland goes through local authorities, what they do with their funding is of considerable importance more broadly. In this respect, the key development has been the ‘concordat’ between the Scottish Government and COSLA, endorsed by all 32 Scottish councils, and concluded on 16 November (see section 7.1).²¹² The Concordat provides for the freeze in council tax sought by the Government in its budget, partly on the basis of the enhanced levels of funding provided by the budget, and partly by reducing the scope of ‘ring fencing’ local authority budgets, transferring funding from specific grants to the local government block grant, giving councils greater freedom to allocate their funding as they see fit. At present

²¹¹ See R. Dinwoodie, ‘Swinney feels the heat from opposition’ *The Herald*, 15 November 2007; K. Schofield ‘Alexander puts troubles aside to attack SNP budget’, *The Herald*, 11 December 2007.

²¹² The concordat is available at www.scotland.gov.uk/Resource/Doc/923/0054147.pdf. See also R. Dinwoodie ‘Political coup for Swinney as councils sign up for tax freeze’ *The Herald*, 17 November 2007.

specific grants account for £2.7bn of local government spending (about a quarter of total local government spending); the concordat provides for them to be reduced to around £0.5bn in 2008-09 and to £0.3bn by 2010-11.

Other important aspects of the concordat are:

- A commitment that the Scottish Government will not undertake structural reform of local government during the term of this Parliament.
- a move to a 'Single Outcome Agreement' for every council, based on the agreed set of national outcomes (underpinned by agreed national indicators). This will lead to a new performance reporting system to replace the myriad of existing systems, with a single yearly report from each council based on outcome measures but no other monitoring of plans by the Government.
- a substantial reduction in the number of separate funding streams to local government.
- allowing local authorities to retain all of their efficiency savings to devote to public services.

The flexibility that comes with the reduction in ring-fencing appears to have been key to securing local authority agreement to the proposals, and if it does enable council tax bills to remain at the same levels without affecting services will be seen as a coup by the Government.

8.4. The Scottish Futures Trust, and replacement Forth Road Crossing

On 20 December, John Swinney issued a consultation document regarding another SNP manifesto commitment, the Scottish Futures Trust.²¹³ This would be a vehicle to boost capital investment in infrastructure by the public sector by providing an alternative to Private Finance Initiative schemes. It would avoid the high levels of profit paid to the private sector for such schemes by operating on a non-profit distributing model, meaning schemes would be financed wholly through debt and not through issuing equity (shares). It would be an independent body, which would obtain capital from commercial banks, private investors and other commercial parties, and lend it to provide serviced assets or private finance to the public sector, as well as developing and supplying broader

²¹³ *Scottish Futures Trust: Consultation Paper*, at www.scotland.gov.uk/Resource/Doc/207695/0055103.pdf. See also Scottish Government News Release, 20 December 2007, *Scottish Futures Trust*, at www.scotland.gov.uk/News/Releases/2007/12/20100936

commercial expertise to the public sector. It would provide such finance more cheaply than the private sector, mainly by aggregation.

Whether such a scheme is workable has to be in some doubt, given the legal restriction on the Parliament or Government borrowing money, on one hand, and the commercial pressures on such a scheme on the other (especially given the credit crunch – will lenders be sufficiently satisfied that funds lent to the Trust will be repaid to be willing to lend at advantageous rates of interest?). Perhaps consultation responses will make that clearer. The consultation period ends on 14 March 2008.

A likely early candidate to make use of the Futures Trust, if it is established, will be the replacement Forth Road Crossing. On 19 December the Finance Secretary announced the location of the new crossing, a bridge upstream of the existing one.²¹⁴ The cost is estimated to be between £3.25bn and £4.22bn. The next day, the Abolition of Bridge Tolls (Scotland) Bill passed stage 3 at Holyrood (having received royal assent, it is now the Abolition of Bridge Tolls (Scotland) Act 2008). By abolishing tolls on the Forth and Tay crossings, it cuts off one potential source of funds for a replacement crossing, and ensures that more general funds will have to bear the cost.

8.5 Reviewing the Barnett formula

Clearly moves are underway that will result in a review of the Barnett formula. Within Scotland, this process was kicked off by the Scottish Executive's white paper *Choosing Scotland's Future* published in August 2007, which contemplates the possibility of 'fiscal autonomy' as part of a revision of the devolution arrangements for Scotland (short of the SNP's goal of independence). The white paper suggests that such fiscal autonomy could be absolute, or in varying degrees (and with a reduction in the block grant from London as a result).²¹⁵ To a considerable degree, this was echoed by Wendy Alexander, leader of the Labour Party at Holyrood, in her St Andrew's Day speech at Edinburgh University 'A new agenda for Scotland'.²¹⁶ In her speech Ms Alexander suggested strengthening the Scottish Parliament's financial accountability through greater autonomy, based on 'the 3 Rs – of resource, revenue and risk sharing' and involving a combination of

²¹⁴ Scottish Government News Release, 19 December 2007, *Forth Replacement Crossing*. See also Forth: "Iconic" new bridge to be built', *The Herald*, 20 December 2007.

²¹⁵ *Choosing Scotland's Future: A National Conversation. Independence and responsibility in the modern world* (Edinburgh: Scottish Executive, 2007), at www.scotland.gov.uk/Publications/2007/08/13103747/0

²¹⁶ Speech available at www.scottishlabour.org.uk/a_new_agenda_for_scotland

reserved, assigned and devolved taxes, with a grant to provide for equalisation across the UK. She proposed the establishment of 'an expert led, independent Scottish Constitutional Commission to review devolution in Scotland ten years on, developing a more balanced Home Rule package', which would include a contributory panel on Finance and Economics. The suggestion that a different approach to financing devolution was necessary was endorsed a few days later by Rhodri Morgan, First Minister of the Welsh Assembly Government, in his speech at Edinburgh University.²¹⁷

The Welsh Assembly Government announced in June 2007 the formation of a commission to review Assembly finances, including the Barnett formula, borrowing and tax-raising powers – although by the end of the year no chair for that commission had been named, nor had any other steps been taken to establish it.

Earlier, on 21 November, there was a Westminster Hall debate in the House of Commons at Westminster about the 'unfair' distribution of public spending across the UK, thanks to the Barnett formula.²¹⁸ The debate was initiated by Graham Stringer, MP for Manchester Blackley and formerly leader of Manchester City Council. Perhaps as interesting as contributions to the debate was the allegation made by Mr Stringer that

Having tabled early-day motion 402, I found out that an official from No. 10 Downing Street was going round to signatories and, without telling me, was asking them to withdraw their names from the motion because of the sensitivity of the issue. That was a profoundly wrong way for No. 10 officials to behave; such issues are better aired in public debate.

Such concerns at No 10 are an important part of the backdrop to discussion of reviews of the Barnett formula.

The Treasury's reluctance to contemplate the extension of financial devolution was further suggested by the publication on 17 December of a review by Sir David Varney of tax policy in Northern Ireland.²¹⁹ The report's main focus was on the rate of corporation tax, and whether there was an economic argument for allowing Northern Ireland to set a lower rate than applies in the rest of the UK. Rebutting previous work by the Economic

²¹⁷ See Douglas Fraser 'Funding 'will be next step in UK devolution' *The Herald*, 8 December 2007.

²¹⁸ See HC Deb, 21 November 2007, col. 145WH.

²¹⁹ Sir David Varney *Review of Tax Policy in Northern Ireland* (London: The Stationery Office, 2007), at www.hm-treasury.gov.uk/media/1/3/varney171207.pdf

Research Institute of Northern Ireland, Varney rejected the case for devolving the tax, suggesting that neither econometric modelling nor broader economic arguments supported the proposal, and identifying other demand-side measures (strengthening the skills base, improving efficiencies in the public sector, improving innovation through collaboration between university and business, and improving trade and investment promotion) to improve the environment for business there. (Following that review, Sir David is to carry out a further review considering how to improve the business environment in Northern Ireland, to report by May.)

9. Disputes and litigation

Alan Trench

There are two cases of interest to note in this report. First, in *Somerville v Scottish Ministers*, the House of Lords has addressed the relationship between the Scotland Act 1998 and the Human Rights Act 1998.²²⁰ This case concerned different limitation periods for bringing claims based on breaches of the European Convention on Human Rights (ECHR), in this instance relating to arguments by prisoners alleging breaches of their Convention rights in gaol. There is no time limit for claims brought under the Scotland Act but there is a limit of one year in the case of the Human Rights Act. By a majority of three to two, their Lordships decided that the Human Rights Act time limit did not also apply to claims brought under the Scotland Act, so claims will be permitted without limitation if framed under the Scotland Act – and pursuers (claimants) will be free to choose which Act to use.

This is not the first time that discrepancies between the two Acts have led to litigation before the UK's highest courts, and the courts have been asked to find ways of assimilating different requirements under each Act for the convenience of litigants or government. In 2002 somewhat similar questions concerning the position and powers of the Advocate General for Scotland to intervene in court proceedings under the two Acts were raised in argument in *Mills*, but carefully avoided by the Judicial Committee in its judgment.²²¹

Second is a decision of the Judicial Committee of the Privy Council in the case of *Spiers v. Ruddy*.²²² This concerned what in form is a 'devolution issue' but in substance raises questions of compliance with the rights to a fair trial under Article 6 of the ECHR, and whether delay prejudices those rights (It concluded it did not, drawing on later authorities of the European Court of Human Rights to do so). However, the case also raises a secondary issue which, from a devolution point of view, is even more important, as

²²⁰ [2007] UKHL 44, issued on 24 October 2007, at

www.publications.parliament.uk/pa/ld200607/ldjudgmt/jd071024/somerv.pdf

²²¹ *Mills v. Lord Advocate and Advocate-General for Scotland* [2002] UKPC D2, at www.privy-council.org.uk/output/Page51.asp

²²² [2007] UKPC D2, issued on 12 December 2007, at www.privy-council.org.uk/output/Page535.asp

separate approaches to dealing with delay had been endorsed by the UK's highest courts, with a different approach applied by the Judicial Committee in a Scottish case and the House of Lords in one concerning England and Wales.

While the court found a satisfactory practical solution to this issue, it was left to grapple with the practical consequence of this possibility of legal divergence, and had no clear solution to offer to that problem. This problem of the 'dual apex' of the UK's legal system, and the concomitant danger of different approaches being taken by each court, has been the subject of discussion for some time.²²³ Perhaps thankfully, this is one of relatively few cases where the hazard has materialised. In due course, with the establishment of the UK Supreme Court, the issue will cease to exist, but for the time being the problem remains and is as insoluble as ever.

²²³ See e.g. A Le Sueur and R Cornes *The Future of the United Kingdom's Highest Courts* (London: The Constitution Unit, 2001)

10. Political Parties

Peter Lynch

10.1 The SNP in Government

This monitoring period saw three main initiatives from the SNP government – the announcement of its legislative programme, the publication of its budget and its plans for economic growth in Scotland (strongly linked to independence). The legislative programme was announced on 5 September. The programme contained eleven bills with the government indicating its support for two MSPs' bills. The main highlights of the government programme are bills to deal with public health, the abolition of the graduate endowment, abolition of bridge tolls, local healthcare, arts and culture and flooding.²²⁴ Given the minority status of the government, the limited nature of the legislative programme is not a surprise, as it involves legislative proposals achieved through consensus and negotiation with the other parties. However, in many senses, this government has not appeared like a minority and has not staked that much on legislation as opposed to actually governing.

The second main initiative involved the publication of the first SNP budget. The background to the budget involved some prolonged wrangling with the UK government over the budgetary settlement for Scotland, as discussed in section 8.2. The SNP's reaction to the settlement – and the huge row that resulted – helped to create some important mood music for the more limited budget it was able to produce. Aside from the council tax freeze, the budget involved gradual measures to reduce class sizes for primaries 1-3, increase police numbers, reduce prescription charges on medicines, reduce and remove business rates for small businesses and introduce measures for climate change.

The issue of police numbers – and delivering 500 instead of 1000 as promised in its manifesto – was a problem for the SNP from the minute it entered government. In the weeks before the budget announcement, there was a good deal of media speculation over whether the SNP could fulfil its manifesto commitment in full. The failure to do so gave the SNP's opponents something concrete to focus on in their attempts to cast the

²²⁴ Scottish Government News Release, 5 September 2007.

government as breaking its promises. Where there was success for the SNP government was with the conclusion of the concordat with COSLA over instituting a freeze in the council tax. Finance Secretary John Swinney was able to negotiate a deal to provide £70m more to local authorities to hold the council tax at 2006-07 levels. The councils would be asked to target money on reducing class sizes, increasing pre-school provision and deploying more police in the community (three SNP government policy priorities), but in other areas would gain spending autonomy via a relaxation of ring-fencing rules.²²⁵ Of course, all that has happened here is the publication of the SNP budget. It awaits detailed scrutiny in early 2008.

Third, the SNP government published its economic strategy on 13 November. The strategy was coupled to the budget and intended to target five strategic priorities for the administration in terms of generating sustainable economic growth – learning, skills and well-being, a supportive Business Environment, Infrastructure Development and Place, an Effective Government, and Equity.²²⁶ There are two linked ways of understanding the economic strategy. First, it is a guide to SNP aims within government to make itself credible and effective, and gives some indication of what it hopes to achieve over its four year term to facilitate re-election in 2011. Second, it is directly linked to creating the economic conditions for Scottish independence – the SNP's *raison d'être* in politics. Finance Secretary John Swinney declared that the government's economic strategy sought to make Scots families £10,000 wealthier come 2017, whilst Alex Salmond chose 2017 as his target date for independence, linked to the economic strategy.²²⁷ a date that is close enough for gradualist nationalists but distant enough for the public.

Besides the day to day activities of the government, the SNP as a party also made one significant strategic change – in relation to co-operation with the Conservatives. Whilst there has been clear policy co-operation with the Conservatives in the Scottish Parliament, the SNP has been politically restricted by its policy from the 1980s of not having alliances with the Conservatives. This policy went back to the Thatcher period in which the SNP was determined to project itself as a left-of-centre party at a time of ideological polarisation in Scottish and British politics (and throw off any accusations of

²²⁵ BBC News, 17 November 2007. Concordat available at

www.scotland.gov.uk/Publications/2007/11/13092240/concordat

²²⁶ The Government Economic Strategy, at www.scotland.gov.uk/Publications/2007/11/12115041/0

²²⁷ *The Scotsman*, 14 November 2007.

being tartan Tories). However, this position has been of little use in post-devolution Scotland for some time and, most importantly, in the period since the local elections in May 2007. Then, the use of the single transferable vote opened the door to more complex coalition arrangements in Scottish councils than existed before – and ideological convergence between the parties made the early 1980s seem like another planet let alone another century. The SNP considered the issue at its National Council meeting on 2 December and, agreed to drop the bar on coalitions with the Tories at local government level. The ban on coalition at Holyrood remained in force, however,²²⁸ despite the level of policy support given to the SNP by the Conservatives in the parliament, giving UK Tory leader David Cameron something to reflect on. His recent speech criticising the SNP and the ‘stain of separatism’²²⁹ seems rather incongruous given the fact that his own party has played a key role in sustaining the SNP in office.

Even amid its continuing honeymoon, a number of problems emerged for the SNP – partly as a result of the party’s unexpected electoral success in May. First, several MSPs were elected who were also local authority councillors and these now faced choices of whether they would seek to hold dual mandates – with some interesting headlines in relation to salary and expenses in the press at the time. Stefan Tymkewycz resigned as a list MSP for Lothians to be replaced by Shirley-Anne Somerville. Meanwhile, North East list MSP, Nigel Don, resigned as a Dundee City Councillor, with the SNP retaining the seat at the subsequent by-election in the city (see Figure 4.23). In addition, several new SNP Ministers – Stewart Stevenson and Jim Mather – had to deal with negative publicity over their financial interests, though nothing that was in breach of the Ministerial code. The biggest controversy involved Alex Salmond and the controversy over Donald Trump’s proposal to build a golf course in Salmond’s constituency of Gordon, with opposition leaders criticising the First Minister for meeting with representatives of the Trump organisation (see further in sections 2.1. and 7.3). How this story will turn out is difficult to tell, but is an indication of the opposition’s efforts to take on Salmond personally. The Liberal Democrats proposed a special short-life parliamentary commission to examine the government’s conduct over the issue, so the issue might have more mileage given the government’s minority status.

²²⁸ *The Herald*, 3 December 2007.

²²⁹ David Cameron, ‘Stronger Together’, speech delivered on 10 December 2007, at Our Dynamic Earth in Edinburgh. www.conservatives.com/tile.do?def=news.story.page&obj_id=141137&speeches=1

10.2 Labour in Meltdown?

Despite a fairly orderly leadership transition (see previous monitor), Scottish Labour has not had the best of times since the general election.²³⁰ The new leader, Wendy Alexander, distinguished herself at the British Labour conference by giving a speech apologising for losing the election in Scotland during a week in which Labour was riding high in the polls and contemplating a snap general election (that week was a very long time ago in politics). The weeks that followed saw the collapse of the Brown honeymoon as Labour moved sharply back from calling a snap election, before the government became engulfed in various difficulties such as the budget statement, inheritance tax U-turn, the Northern Rock banking crisis and general credit crunch, the loss of millions of child tax benefit details in the mail and of course, Labour's third party donor scandal – which fed into the donations scandal involving Wendy Alexander discussed below. Therefore, whilst Scottish Labour has struggled to adapt to its post-government circumstances and the prolonged Salmond honeymoon, it has seen its new Prime Minister (and Scottish MP), stumble badly as the government has lost momentum at the UK level quite spectacularly after its early successes in the summer of 2007.

Scottish Labour has had to address a number of internal party problems. For example, staffing problems have been a persistent problem for Scottish Labour in the period since the Scottish election (and when in government). First Labour appointed former journalist Brian Lironi as its press spokesperson at Holyrood. However he departed in September after Wendy Alexander was confirmed as Scottish leader – after only weeks in the job. Lironi's replacement, Matthew Marr, was then forced to resign after being abusive towards First Minister, Alex Salmond, at the Scottish Politician of the Year awards ceremony at Prestonfield House Hotel in Edinburgh on Thursday 18 November.²³¹ Third, Marr's replacement, Gavin Yates, was found to have made a series of critical comments about senior Labour figures in his blog (GY Media) hosted by G-WordPress. The blog referred critically to Andy Kerr, Jack McConnell, Gordon Brown, Labour in the West of Scotland and was complementary towards Alex Salmond. Not surprisingly, the blog content was 'disappeared' after the newspapers got hold of the story.²³²

²³⁰ The *Sunday Herald* announced Wendy Alexander's donor scandal with a frontpage and a strap line stating 'Labour in Meltdown – pages 2,3,4,5,6,7,8,9,10' – which encapsulates the extent of the crisis pretty well.

²³¹ BBC News, 18 November 2007.

²³² *Sunday Herald*, 24 November 2007.

However, the issue of staffing is a fairly minor one compared to the third-party donations scandal that erupted in November in the *Sunday Herald*.²³³ The story involved Scottish Labour leader, Wendy Alexander, and the use of donations to her campaign for the Labour leadership in the summer of 2007. And, importantly, this story was nested within the larger issue of British Labour's third-party donor scandal involving David Abrahams – which raised the whole donations issue up the media agenda. The tale of Wendy Alexander and donations is a relatively simple one – her leadership campaign received £950 from a resident of Jersey (Paul Green). The amount was below the £1000 legally required to be released to the public – though still had to be declared to the Electoral Commission – and from an illegal source. However, how Scottish Labour handled this issue is where the real problem lies. Rather than simply admit to the matter, there was a week of spinning and denials about the issue – despite admitting it was not a legal donation – whilst the media indulged in a feeding frenzy. And significantly, as the media investigated the issue, more information about the donor and the funding of the leadership campaign emerged – with a letter from Ms Alexander thanking Paul Green for his donation (sent to a Jersey address), a list of donors and funds that showed how donations were to be hidden (meaning through third party donations) that appeared to come from the computer of Ms Alexander's husband Brian Ashcroft,²³⁴ a BBC interview with Paul Green in Jersey in which he stated that the campaign team knew he was making a personal donation, not a donation through a UK company.

Alexander was in resignation territory here, but decided to tough it out with bullish statements claiming she would be cleared of any wrongdoing. The only casualty so far came with the resignation of Charlie Gordon (MSP for Cathcart) as Labour's frontbench transport spokesman in the Scottish parliament - with Gordon admitting he was the person who solicited and accepted the donation. However, not only have Alexander and Scottish Labour been tarnished over the issue but Alexander is now subject to up to three separate inquiries which are likely to breathe new life into the donations row in 2008. First, there is the Electoral Commission investigation into the funding of Alexander's leadership election campaign. Second, there is an investigation by the Scottish Parliament's Standards Commissioner to come, following a complaint that Ms

²³³ *The Sunday Herald*, 25 November 2007.

²³⁴ *The Sunday Herald*, 10 December 2007.

Alexander had not included the donations on her MSP's register of interests,²³⁵ whilst there is also the prospect of a police investigation to come as the law has been broken: all for £950.

10.3 Liberal Democrats

One clear casualty of the cancelled UK general election was Menzies Campbell. Campbell had to endure media criticism of his age and political performance as Lib Dem leader at Westminster – to the extent that he had become the story, thus undermining his leadership. However, neither Campbell's resignation nor the subsequent Lib Dem leadership contest between Chris Huhne and Nick Clegg seems to have had much resonance North of the Border. The party in Scotland has continued to operate as a mixed force within the parliament – opposing and supporting SNP government proposals at different times – and whilst the party seems becalmed at present in the polls (despite occasional aggressive oppositional stances at Holyrood), it is well-placed to take advantage of the Unionist coalition on constitutional reform and the proposal to establish a Scottish Constitutional Commission (see below).

10.4 Conservatives – A Strange Brew

The Conservatives are in the strange position in Scotland of seeing their electoral unpopularity continue (compared to the post-October Tory poll advance in England) at a time in which they have become an important force in Scottish politics. The Conservatives are faced with a dilemma at present in Scotland. On the one hand the party has been active in parliamentary co-operation with the SNP minority government over the issues of taxation, law and order and smaller government. Such support was influential in relation to the SNP legislative programme as well as the budget. However, it has occurred in a period in which the party at the UK level has been considering changes to the Barnett formula and measures to address the West Lothian question. Such issues make the Conservatives appear anti-Scottish – especially because of the support they receive from the more nationalistic sections of the English press. Cameron's attitude towards the SNP and separatism, noted above, are part of the picture here, as was his consideration of Malcolm Rifkind's proposal for a special English grand committee to create English votes for English laws made at the Tory conference in October.

²³⁵ These details remain absent from her entry on the register see www.scottish.parliament.uk/msp/membersPages/wendy_alexander/roi.htm

10.5 Unionist Party Co-operation over Devolution – Back to the Future With A Constitutional Convention

The leaders of Labour, Liberal Democrats and the Conservatives in the Scottish parliament had held a number of meetings to discuss co-operation on reforming the devolution settlement in the autumn of 2007. These brief meetings heralded no proposals or announcements so that it was difficult to gauge whether any form of co-operation was likely. However, following meetings with their UK counterparts – a deliberate attempt to involve the UK level in the devolution debate – Wendy Alexander announced the cross-party Scottish Constitutional Commission, to run at the same time as the SNP government's National Conversation.

Ironically, Wendy Alexander's announcement came in a lecture at Edinburgh University (on 30 November – St Andrews day) when she was being pursued by the media over the illegal donation to her leadership campaign (see below). The speech was almost completely overshadowed by the media feeding frenzy, but did pick up some positive coverage over the weekend that followed.

In discussing the issue of tax powers for the Scottish parliament, Alexander was not just addressing a Scottish concern but one for English voters too. This point was made in advance of the Edinburgh speech, with Alexander's appearance on BBC's Question Time programme on 22 November (before the donations row broke out).²³⁶ The key point about the devolution initiative is its attempt to address the UK dimension to some extent – therefore looking at Barnett and financial issues as well as aspects of the West Lothian question.

Besides the St Andrew's day speech, a parliamentary debate was held on the issue. The parliamentary motion, in Wendy Alexander's name, proposed:

That the Parliament, recognising mainstream public opinion in Scotland, supports the establishment of an independently chaired commission to review devolution in Scotland; encourages UK Parliamentarians and parties to support this commission also and proposes that the remit of this commission should be:

“To review the provisions of the Scotland Act 1998 in the light of

²³⁶ *The Herald*, 23 November 2007, pp.1-2.

experience and to recommend any changes to the present constitutional arrangements that would enable the Scottish Parliament to better serve the people of Scotland, that would improve the financial accountability of the Scottish Parliament and that would continue to secure the position of Scotland within the United Kingdom”,

and further instructs the Scottish Parliamentary Corporate Body to allocate appropriate resources and funding for this review.²³⁷

The debate itself was a strange one and demonstrated the rather fluid positions of some of the political parties towards constitutional change. Labour, for example, opposed any further devolution at the 2007 Scottish election, yet here it was opening the door to more powers, without any of their MSPs actually stating a preference for a single actual power to be transferred. Unlike in her speech at Edinburgh University, Wendy Alexander talked about the need for a type of convention here, but gave no specifics in what Labour would propose to the Scottish Constitutional Commission in the way of extended powers. Moreover, one of the party's MSPs, George Foulkes, even raised the prospect of Westminster taking back powers from the Scottish parliament.²³⁸ For the Conservatives, Annabel Goldie expressed support for the devolution mark two process – distancing the Tories from their previous position – but said little of substance about the party's attitudes towards devolution apart from ruling out another referendum.²³⁹ In contrast, her predecessor, David McLetchie, outlined some specific taxation powers that should be transferred to Edinburgh (stamp duty and excise duties on whisky and petrol), whilst also pointing out that the constitutional commission should be established by the UK government not the Scottish parliament – in direct contradiction of the motion he was supporting.²⁴⁰

Of course, Labour and the Conservatives are in the interesting position of not having a policy on devolution at all – apart from being in favour of it that is. The SNP and Greens favour independence – a clear constitutional position though one without majority support – whilst the Liberal Democrats' position for an extension of tax and policy

²³⁷ Lodged on 4 December 2007; taken in the Chamber on 6 December 2007.

²³⁸ Scottish Parliament Official Report, 6 December 2007, col. 4158.

²³⁹ Scottish Parliament Official Report, 6 December 2007, col. 4142.

²⁴⁰ Scottish Parliament Official Report, 6 December 2007, col. 4162.

powers was laid out in the Steel Commission report in 2006.²⁴¹ This latter level of detail allowed the Liberal Democrats to make the most positive contributions during the debate – as they could talk about matters of substance in some detail.

How should the proposal for a Scottish Constitutional Commission be assessed? Well, in a number of different ways. The SNP government will be quite happy with the initiative, as it has now seen the opposition parties enter the constitutional debate to discuss more powers for the parliament. If these parties come up with a consensus for more powers, then the SNP will seek to claim some of the credit. If the opposition parties fail to agree a consensus or come up with proposal that lack public support, then the SNP will offer independence as the clearer constitutional option. In either case, it is worth remembering that the SNP's white paper on constitutional change – the National Conversation – deliberately opened the door to more devolution rather than simply promoting independence. For the other parties, the situation is more mixed. The Liberal Democrats are in the strongest position thanks to their pre-existing policy positions and their calls for a second constitutional convention way before the 2007 Scottish election. Their policy on increased devolution is also not so set in stone that the party will be major compromisers in any pan-unionist devolution agreement that follows. For the other two parties, things are rather different. For Labour, there is a real (though risky) opportunity to recover ground here from the SNP and to seek to address some of the concerns about devolution finance and voting arrangements at Westminster – not that you can expect they will be addressed in a fundamental way. How Alexander squares any increase in powers with Gordon Brown and with the Treasury (if it involves taxation powers) will be a challenge.

In any case, none of the things that Labour is likely to suggest here require a constitutional commission at all – just the passage of orders in Council at Westminster or Treasury reforms of the Barnett formula. For the Conservatives, there is the opportunity to bury some of the party's image as the anti-devolution party in Scotland, though this might be undone by the party's campaigning south of the border on English votes for English laws.

²⁴¹ The Steel Commission, *Moving to Federalism – A New Settlement for Scotland* (March 2006), at: www.scotlibdems.org.uk/files/steelcommission.pdf

In addition, there are a whole range of as yet unanswered questions about the constitutional commission – who will be on it, when will it be established, how much will it cost, what is its timescale, how will it operate, what legitimacy will it have, how will it go about its work, what research facilities will it have and how will its findings be implemented? Will it be subject to a referendum, like the devolution proposals in Wales? Will it just involve changes to existing Westminster legislation or will it involve new legislation and, when will that happen? And, how will the public react if the commission proposes very few policy or financial powers for Scotland? There are issues here about managing expectations that were problems for Donald Dewar way back in the days of the constitutional convention in 1988. Scottish devolution-watchers have seen this all before.

10.6 Parties and Election Spending

Dodgy donations were not the only thing to come to light in this monitoring period. The Electoral Commission released the details of party spending at the 2007 Scottish election. The figures revealed that the SNP were the biggest spenders at the election, to the tune of £1,383,279 – an increase of £473,107 compared to 2003. This level of campaign spending was the consequence of major donations from the business community – such as Stagecoach owner Brian Souter's £625,000 and former Kwikfit owner Tom Farmer's £100,000. There were also a large number of small donations and bequests in the pre-election period (for example, the SNP raked in a total of £1,894,435.31 in the first quarter of 2007). The SNP spent £90,726 on party political broadcasts, £494,642 on advertising (a series of full page ads in the Scottish newspapers during the election campaign), £323,580 on mailshots and £178,705 on market research and canvassing (mostly the national call centre).

Labour spent £376,164 more in 2007 than in 2003 – meaning a total of £1,102,866. This included £337,609 on advertising, £270,020 on mailshots and £107,477 on market research and canvassing. By contrast, the Conservatives spent £601,983 (almost double the 2003 expenditure), whilst the Lib Dems spent £303,740 (almost two-thirds more than in 2003). Solidarity spent £47,630, the SSP £19,996 and the Greens £108,162.²⁴²

²⁴² All figures available from 'Comparisons between party expenditure at the 2003 and 2007 Scottish Parliamentary elections', available at www.electoralcommission.org.uk.

10.7 Tommy Sheridan – An Inspector Calls

Earlier monitors dealt with the Tommy Sheridan defamation trial against the *News of the World* as well as the aftermath of the trial and the ongoing police enquiry into perjury by witnesses at the trial. Some of the police enquiries have now come to an end of sorts, as Tommy Sheridan was arrested and charged with perjury on Sunday 17 December. Sheridan was arrested in Edinburgh at the conclusion of his weekly radio chatshow for Talk 107 and taken to Gayfield police station where he was held for almost 8 hours and charged with perjury. Meanwhile, 9 police officers searched his home in Glasgow and gathered evidence. After his release from custody, Sheridan issued a statement which said 'I am the victim of a political witch hunt. I believe this whole farcical inquiry has usurped an incredible amount of public resources. It has been orchestrated and influenced by the powerful reach of the Murdoch empire and I believe I am the victim of a witch hunt from the Murdoch empire. I will prove my innocence in the fullness of time.'²⁴³ In addition, given the number of witnesses called at the trial, we can expect more former SSP colleagues to be charged with perjury, which could lead to the removal of key figures in the post-SSP Solidarity party established by Sheridan and his supporters.

²⁴³ *The Herald*, 17 December 2007, p.1

11 Public Policies

Paul Cairney

11.1 Has the SNP Delivered?

Until the Trump golf course furore, the political agenda was dominated by one question: did the SNP deliver on its pre-election promises? This question has been debated heavily, with most disagreement surrounding the nature of public policy, the adequacy of Scotland's financial settlement and the ability of a minority administration to deliver on policies which depend on cooperation with other parties.

11.2 What is Public Policy?

'Public policy' is a vague and slippery concept. It may refer to what governments do, what they say they will do, and even how they do it. It may refer to policy formulation and/or implementation, as well as different categories, such as inputs (for example, the amount of money spent), outputs (the amount of teachers this buys) and outcomes (changes in educational attainment).²⁴⁴ This scope for interpretation suggests that the same evidence not only allows opposition parties to criticise perceived failings of government policy, but also allows the government to report that its manifesto commitments have already been fulfilled. A classic example is the ongoing saga of class sizes in schools. As discussed previously, the reduction of class sizes was a key plank of the Labour/ Liberal Democrat coalition. However, the less certain aspect of policy was how they would go about ensuring a politically defensible reduction in certain classes given the likely cost, the Scottish Executive's previous 'policy style', and its reliance on local authorities to implement. In other words, in the past the Scottish Executive had been just as committed to a way of processing policy as to policy itself. In education, this involved developing close relationships with the teaching profession and local authorities and avoiding the imposition of policy against their wishes (at least compared to the style of government in England). Therefore, even when ministers appeared to make rigid 'pronouncements' on targets referring to teacher recruitment and maximum class sizes, there was greater scope for negotiation and discretion than this suggests. For example, in some cases, an initial policy of absolute class size limits soon became average class sizes, effectively allowing schools to (say) maintain classes of 40 and 10 to fulfil a 25

²⁴⁴ See N. McGarvey and P. Cairney (2008) *Scottish Politics* (London: Palgrave)

limit. This arguably reflected a balance between the popularity of the policy at a national electoral level (and the need to be seen to be delivering it) and the ambivalence felt within teaching management about rigid limits in certain classes.

The early signs suggest that the SNP government has furthered this distinction between pledges made at the national level and the discretion given to local authorities to implement policy. Although there is a certain degree of hyperbole (given what we know about the previous central-local relationship), Alex Salmond sets out the new direction of travel very clearly:

There is a culture change in the relationship between central and local government in Scotland. The days of top-down diktats are over. Instead, we have a new relationship that is based on a shared understanding of the priorities of the people of Scotland.²⁴⁵

In education, this suggests that, while a further reduction in class sizes (to 18 or less in primaries 1-3 by 2011) was a key plank of the SNP's manifesto, it would not seek to impose the implementation on local authorities. Rather, its policy is to train more teachers and provide the money (£40m) to make the necessary improvements in school buildings to allow the policy to come to fruition (falling school rolls should also help).²⁴⁶ Further, if local authorities feel they have more pressing concerns, the money can be used elsewhere. A sympathetic assessment of this policy may point out that the Scottish Government's trust in local authorities and 'bottom-up' implementation is laudable and/or that it merely accelerates a new Scottish political tradition by further reducing 'ring-fenced' budgets (the plan is to remove ring-fencing from 43 funds totalling £2bn (12 per cent of local authority funding), which reduces overall ring-fencing from 22 per cent to 10 per cent).²⁴⁷ However, it has also opened the floodgates for opposition criticism, which focuses on the lack of progression towards the 2011 target class size and the lack of funding to achieve it.²⁴⁸ A more formal role of the Scottish Government in education can

²⁴⁵ Scottish Parliament Official Report, 29 November 2007, Col 3939

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1129-02.htm

²⁴⁶ Scottish Government News Release, 20 November 2008, 'Measures to support lower school class sizes' www.scotland.gov.uk/News/Releases/2007/11/20123238

²⁴⁷ See John Swinney Scottish Parliament Official Report, 14 November 2007, col.3327 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1114-02.htm#Col3324; Finance Committee (2008) *Stage 2 of the 2008-09 Budget Process* (Volume 1: Finance Committee Report And Evidence) www.scottish.parliament.uk/s3/committees/finance/reports-08/fir08-01-vol1-01.htm#start, pt. 108.

²⁴⁸ K. Schofield, 6 November 2007, 'Councils free to divert class-size cash', *The Herald* www.theherald.co.uk/misc/print.php?artid=1810864; K. Schofield, 7 November 2007, 'Pledge to slash class

be found in tripartite (government, local government, professions) pay negotiations, although the latest announcement of a three-year deal with teachers was fairly uneventful compared to the McCrone-led deal which preceded it.²⁴⁹

11.3 Finance, Agenda Setting and Higher Education

Many of the difficulties in fulfilling election pledges arguably arose from recent spending announcements. However, we can no more readily answer the question, 'was the latest financial settlement adequate?' than we can the question, 'what is policy?'. Indeed, following heated debates between the SNP Government in Scotland and the Labour Government in the UK in October 2007, casual observers of Scottish politics may be forgiven for a certain level of confusion over recent spending announcements. Treasury figures (see Figure 8.1) had Scotland's Departmental Expenditure Limit rising from £26bn in 2007-08 to £33bn in 2009-10, representing an average real annual rise of 1.8 per cent. On this basis, the UK Government argued that a prudent Scottish Government should be able to fulfil all of its commitments, noting that the Scottish Parliament's budget has doubled in cash terms since devolution. The SNP countered this claim by pointing to a shift in the 'baseline' to calculate the figures. The 2007-08 baseline figure for Scotland's DEL was reduced by £340m to take into account lower levels of actual spending in England by the Department of Health in previous years. Therefore, the actual annual real rise is 1.4 per cent. Further, the SNP Government pointed out that since the baseline was reduced, the increase in 2008-09 is actually £845m. In cash terms this represents a rise in 3.2 per cent, but in real terms this comes to 0.5 per cent. The SNP argued that this was the lowest real annual rise since devolution.²⁵⁰ Although this competition to set the agenda may appear to be no more than politicking, it is part of a 'two-level game'²⁵¹ that has consequences for subsequent debates over the financing of domestic politics. For example, the SNP Government may feel obliged to engage in

sizes will cost £275m, claims study', *The Herald*,

www.theherald.co.uk/politics/news/display.var.1813932.0.0.php

²⁴⁹ Scottish Government News Release, 14 December 2007, 'Pay deal for teachers'

www.scotland.gov.uk/News/Releases/2007/12/14131511

²⁵⁰ HM Treasury (2007), '2007 Pre-Budget Report and Comprehensive Spending Review', Regional Press Notice: In Scotland www.hm-treasury.gov.uk/media/0/2/pbr_csr07_regionalpnsotland.pdf; Scottish Government News Release, 9 October 2007, 'FM Comments on UK Spending Review', www.scotland.gov.uk/News/Releases/2007/10/10084746; Douglas Fraser, 8 October 2007, 'Budget row as SNP brands three-year deal 'lousy'' *The Herald*, www.theherald.co.uk/politics/news/display.var.1742026.0.0.php; BBC News, 9 October 2007, 'Row over spending review figures' <http://news.bbc.co.uk/1/hi/scotland/7034855.stm>

²⁵¹ R. Putnam (1988) 'Diplomacy and Domestic Politics: The Logic of Two-Level Games', *International Organization*, Vol. 42, No. 3. (Summer), pp. 427-460.

heated debates with the UK Government to satisfy its domestic nationalist audience. Or, in more practical day-to-day politics, it needs to place the blame for reduced Scottish spending programmes at someone else's door, to avoid damaging criticism from opposition parties about unfulfilled promises.²⁵²

The best example so far is higher education, which highlights similar competition to set the agenda and control the public's interpretation of levels of spending. This began with a strong campaign by Universities Scotland (which represents University Principals) to ensure that Scottish Universities did not fall behind their English counterparts (due to receive extra funding from top-up fees). This was backed by Liberal Democrat leader Nicol Stephen who argued that the latest HE settlement represented a fall in real terms.²⁵³ This was countered by Education Secretary Fiona Hyslop who argued that Universities now receive a greater proportion of Scotland's public purse (suggesting that the SNP Government is putting more into universities than the previous executive). The argument was then rehashed in a heated exchange during First Minister's Questions, with Stephen's suggestion that the SNP Government was less than forthcoming on its funding commitments rebuffed by Salmond, who restated the argument that spending on higher education would rise from 3.13 per cent to 3.14 per cent of the Scottish Government's Total Managed Expenditure.²⁵⁴ Greater clarity surrounds the new policy on student debt servicing. The SNP's original aim was not only to abolish the graduate endowment that students pay when they leave university (approximately £2,000, which replaced the student fees of £3,300), but also to 'service the debt' for students who had already taken out loans to pay the endowment. However, John Swinney announced in November's Strategic Spending Review that the latter aim would not be fulfilled within this budgetary period.²⁵⁵ There is perhaps less clarity on the cause of this policy change. Not surprisingly, few opposition MSPs agreed with John Swinney's argument that the move reflected a smaller financial settlement combined with an inability to command

²⁵² In a sense, given the low settlement, the SNP's job is more difficult but the politics are easier – it is a straightforward task of linking the budget to UK problems. With Labour the politics were more constraining since they couldn't criticise UK Labour's settlement, but they had less reason to complain.

²⁵³ Newsnight Scotland, 19 November 2007.

²⁵⁴ Scottish Parliament Official Report, 29 November 2007, cols. 3941-44
www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1129-02.htm#Col3937 ;
see also Scottish Government News Release, 26 October 2007, 'Universities and colleges'
www.scotland.gov.uk/News/Releases/2007/10/26092446

²⁵⁵ Scottish Parliament Official Report, 14 November 2007, col. 3325,
www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1114-02.htm#Col3324

parliamentary support for debt servicing (see also sections 2.2 and 2.5).²⁵⁶ Although higher education grabbed the headlines, similar battles have been fought in other sectors, such as mental health.²⁵⁷

11.4 The Healthy Constraints of Minority Government

The next issue of policy delivery for a minority government is whether or not the other parties will *let it* fulfil its promises. For example, although the Scottish Government has signalled progress in its attempts to reduce NHS waiting lists and 'hidden' waiting lists,²⁵⁸ there is potential for an impasse based on the respective abilities of the Government and Parliament to block the other's favoured option. For example, the SNP's preferred policy – giving patients a statutory right to a waiting time guarantee – has effectively been vetoed in Parliament, while the preference of Labour and the Liberal Democrats – to use spare capacity in the private sector – has been largely rejected by the SNP (see section 2.3).²⁵⁹ The role of the Parliament should not be a problem for the Government's plans to introduce elections to health boards,²⁶⁰ since the plan was previously introduced by a Labour MSP and there is demonstrable support.²⁶¹ Its chances of abolishing prescription charges are similar, for similar reasons.²⁶² The Government can also act fairly autonomously to direct health boards. Its pledge to block the closure of A&E hospitals in Monklands and Ayr was bolstered by a report chaired by Dr Andrew Walker.²⁶³ It should have even fewer worries about setting maximum charges for parking at hospitals, tackling sexual health, tackling health inequalities, introducing tougher hand hygiene

²⁵⁶ The move also (not surprisingly) came under attack from a range of student associations. See The Herald, 19 November 2007 'Student Debt: Student leaders attack SNP "U-turn"', www.theherald.co.uk/news/news/display.var.1844174.0.0.php; K. Schofield, 20 November 2007, 'Students round on ministers over loans and university funding' *The Herald* www.theherald.co.uk/politics/news/display.var.1844618.0.0.php

²⁵⁷ L. Moss, 22 November 2007, 'Cash for mental health treatment 'cut by 8%', *The Scotsman*, <http://news.scotsman.com/ViewArticle.aspx?articleid=3539764>; Scottish Government News Release, 10 December 2007, 'Mental health is top priority' www.scotland.gov.uk/News/Releases/2007/12/10112554; 9 October 2007, 'Overhaul of mental health services' www.scotland.gov.uk/News/Releases/2007/10/09141654
²⁵⁸ L. Moss, 28 September 2007, 'Ending 'hidden' hospital waiting lists will be tough task, admits Sturgeon' *The Scotsman*, <http://news.scotsman.com/ViewArticle.aspx?articleid=3544958>; Scottish Government News Release, 24 October 2007, 'Boards on target to abolish hidden waiting lists', www.scotland.gov.uk/News/Releases/2007/10/24154540

²⁵⁹ Scottish Parliament Official Report, 27 September 2007, from col. 2159, www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0927-02.htm#Col2159

²⁶⁰ Scottish Government (2008) *Consultation Document: Local healthcare Bill* www.scotland.gov.uk/Resource/Doc/208149/0055207.pdf

²⁶¹ Scottish Parliament Official Report, 31 January 2007, cols. 31575-624 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0131-01.htm

²⁶² Scottish Government News Release, 5 December 2007, 'Abolition of prescription charges' www.scotland.gov.uk/News/Releases/2007/12/05141211

²⁶³ F. MacLeod 14 January 2007, 'Closure of A&E units 'would not benefit patients'', *The Scotsman*, <http://news.scotsman.com/healthofthenhs/Closure-of-AE-units-39would.3667972.jp>

targets, encouraging healthy eating, rolling out free school meals or enhancing the protection of NHS workers.²⁶⁴ A bill to compensate people exposed to asbestos should also command all-party support.²⁶⁵

11.5 Policy in Reserved Areas

If 'policy' is about the saying as much as the doing, then the SNP Government made notable strides in its policy of opposition to the renewal of the Trident weapons system in this period. It held a summit in Glasgow in October to gauge and then highlight the level of 'civil society' interest in opposing any UK Government plans (following Salmond's decision to make written invitations for international support). This included discussions exploring the use of devolved powers to block Trident in Scotland.²⁶⁶ A similar tone can be found in discussions of the future of nuclear energy in Scotland. In response to the publication of the UK Energy Bill, John Swinney re-affirmed the Scottish Government's opposition to nuclear (the effect of which is clear – no new stations have been announced for Scotland). This was followed by a debate on how crucial it was to Scotland's energy requirements (it accounts for 40 per cent of the amount *generated* in Scotland but, since Scotland exports excess electrical capacity, no nuclear would mean a 7.5 per cent shortfall in terms of the amount *consumed* in Scotland).²⁶⁷ Although some aspects of fuel poverty are devolved (e.g. energy efficiency in homes and funding for

²⁶⁴ Scottish Government News Release, 18 January 2008, 'Hospital Car Parking Charges' www.scotland.gov.uk/News/Releases/2008/01/18104302 ; 16 January 2008, 'Tackling sexual health' www.scotland.gov.uk/News/Releases/2008/01/16100756 ; 15 January 2008, 'Enhanced protection for NHS workers' www.scotland.gov.uk/News/Releases/2008/01/15130013 ; 15 January 2008, 'National food discussion begins' www.scotland.gov.uk/News/Releases/2008/01/14151919 ; Scottish Government News Release, 27 December 2007, 'Tougher hand hygiene targets' www.scotland.gov.uk/News/Releases/2007/12/27110505 ; 3 October 2007, 'Free meals on schools menu' www.scotland.gov.uk/News/Releases/2007/10/03172628 ; 3 October 2007, 'Health Inequalities Task Force' www.scotland.gov.uk/News/Releases/2007/10/03134803

²⁶⁵ Scottish Government News Release, 29 November 2007, 'Asbestos claims bill planned' www.scotland.gov.uk/News/Releases/2007/11/29102156

²⁶⁶ SNP (2007) 'Trident Summit Held in Glasgow' www.snp.org/press-releases/2007/trident-summit-held-in-glasgow/ ; BBC News, 22 October 2007, 'Salmond wants nuclear treaty role', http://news.bbc.co.uk/1/hi/scotland/glasgow_and_west/7054543.stm ; Scottish Government News Release, 22 October 2007, 'Trident in Scotland' www.scotland.gov.uk/News/Releases/2007/10/22111017

²⁶⁷ M. Settle, 11 January 2008, 'Swinney claims nuclear victory', *The Herald*, www.theherald.co.uk/news/news/display.var.1958033.0.0.php?act=complaint&cid=973512 ; *Press and Journal*, 11 January 2008, 'Storm over the lights going out in Scotland', www.thisisnorthscotland.co.uk/displayNode.jsp?nodeId=149212&command=displayContent&sourceNode=149212&contentPK=19519557 ; Scottish Government News Release, 10 January 2008, 'Scotland responds to energy bill' www.scotland.gov.uk/News/Releases/2008/01/10115824 ; Scottish Government News Release, 27 November 2007, 'Renewable energy potential' www.scotland.gov.uk/News/Releases/2007/11/27095600 ; 9 October 2007, 'Ministers say no to new nuclear power', www.scotland.gov.uk/News/Releases/2007/10/09140338

older people²⁶⁸), the price of (and tax on fuel) is key. Therefore, the SNP reserved a less independent tone for its strategy to influence energy companies (as a part of a UK-wide lobby).²⁶⁹ A greater spirit of cooperation is also apparent with policy related to the detention of children at Dungavel.²⁷⁰ Some UK acquiescence may be required for the ban on cheap alcohol promotions.²⁷¹ Even more is required for a consolidated Firearms Act for Scotland.²⁷² By contrast, Scotland's 'international role' is now fairly established.²⁷³

11.6 Policy Divergence Through No Fault of Your Own

There is some debate about the effect devolution would have on policy divergence between Scotland and England. If part of the devolution project was aimed at producing 'Scottish solutions to Scottish problems', then we would look for policy innovations in Scotland. However, if devolution was more about protecting Scotland from the 'worst excesses of Thatcherism', then we may be more likely to find divergence when policy innovation in England is no longer followed in Scotland.²⁷⁴ In most cases, it is difficult to gauge the full significance of public policy developments in Scotland without reference to the rest of the UK (provided we can move on from rather broad generalisations about the direction of travel in each). The highest profile example in this period is healthcare, with the 60th anniversary of the NHS giving many the opportunity to assess developments since devolution. For Gill Morgan of the NHS Confederation there are, 'four different systems, albeit with the same set of values'²⁷⁵ (note that this organisation closed its Scottish Office when the level of divergence undermined the value of coordination). While few would argue with this, there is more debate about who is 'doing best'. To a great extent, this takes us back to the significance of agenda setting. For example, the focus on extra entitlement in Scotland (personal care, prescriptions) leads Michael Summers, vice-chairman of the Patients Association to argue that England is the 'poor

²⁶⁸ Scottish Government News Release, 21 November 2007, 'Extra measures for central heating programme', www.scotland.gov.uk/News/Releases/2007/11/21091114

²⁶⁹ Scottish Government News Release, 11 December 2007, 'Rise in fuel poverty 'unacceptable'' www.scotland.gov.uk/News/Releases/2007/12/11100803

²⁷⁰ R. Dinwoodie, 12 October 2007, 'Fresh ideas to keep children out of Dungavel', *The Herald*, www.theherald.co.uk/politics/news/display.var.1754797.0.0.php

²⁷¹ K. Schofield, 15 December 2007, 'Retailers told not to fight cheap drink ban', *The Herald*, www.theherald.co.uk/politics/news/display.var.1759211.0.0.php

²⁷² Scottish Government News Release, 23 October 2007, 'Minister comments on firearms statistics' www.scotland.gov.uk/News/Releases/2007/10/23110913

²⁷³ Scottish Government News Release, 6 October 2007, 'Scotland wants 'active' international role' www.scotland.gov.uk/News/Releases/2007/10/05161426

²⁷⁴ N. McGarvey and P. Cairney, (2008) *Scottish Politics* (London: Palgrave)

²⁷⁵ M. Settle, 3 January 2007, 'England 'has become poor relation' in health care', *The Herald*, www.theherald.co.uk/politics/news/display.var.1938751.0.England_has_become_poor_relation_in_health_care.php

relation'. In contrast, a focus on the English agenda on waiting times suggests that, 'waiting times fell steadily and as planned in England, with both average and longest waits falling. In Scotland, neither happened. The results show 'that targets and terror work' at ... and they appear to have done so without damaging patient care'.²⁷⁶

In most cases, however, the more subtle differences of policy direction (including the implementation) may be 'under the radar'. Two examples demonstrate this point. First, the trend towards secondary teachers in England teaching on subjects they have no degree in²⁷⁷ could not happen in Scotland because the regulations overseen by the General Teaching Council of Scotland prohibit such developments. Second, a sole focus on Scotland and the Scottish Government's problems implementing free personal care (see section 1.7) may ignore bigger problems in England with spiralling costs for basic support services and relatively strict tests of eligibility.²⁷⁸

11.7 SNP, Judge Thyself

A final aspect of public policy is evaluation. Unsurprisingly, in the SNP Government's own terms, as stated in a press release, there has been much policy success:

- We created a smaller ministerial team
- We have introduced legislation to reintroduce free education in Scotland by abolishing fees and we are about to do the same with prescription charges
- We created a Council of Economic Advisers
- We struck the historic agreement with local government through Cosla
- We moved to save the accident and emergency units at Monklands and Ayr
- We passed legislation to remove the unfair tolls from the Forth and Tay bridges
- Just this week we announced a new Forth bridge will be built, guaranteeing a crucial economic link for the country.
- And we have started a national conversation about the future of Scotland²⁷⁹

²⁷⁶ N. Timmins, 3 January 2008, 'Research says NHS waiting time targets work', *Financial Times*, www.ft.com/cms/s/0/6c7d0a48-b986-11dc-bb66-0000779fd2ac.html?nclick_check=1. The article refers to work conducted by Windmeijer and Propper as part of the ESRC Public Services Programme - www.publicservices.ac.uk

²⁷⁷ *The Guardian*, 9 July 2007, 'Many teachers 'not up to the job'' www.guardian.co.uk/uk/latest/story/0,,-6766458,00.html

²⁷⁸ J. Reville, 1 July 2007, 'Elderly hit by soaring cost of home help' *The Observer* http://observer.guardian.co.uk/uk_news/story/0,,-2115750,00.html

²⁷⁹ Scottish Government News Release, 24 December 2007, 'Christmas Message', www.scotland.gov.uk/News/Releases/2007/12/20100651; Note that the decision for a bridge rather than a tunnel (see: www.scotland.gov.uk/News/Releases/2007/12/19143707) couldn't have been announced at a worse time, since the bridge was closed due to high winds soon after!