

## ON THE THRESHOLD OF INDEPENDENCE? SCOTLAND ONE YEAR AFTER THE SNP ELECTION VICTORY

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**Abstract:** *In 2007, marking both the tercentenary of the Anglo-Scottish Union and the tenth anniversary of the successful Devolution Referendum, the May elections caused a political earthquake, breaking the nearly five decades of hegemony of Scottish Labour at the national and, even more emphatically, at the local government level and ushering in an SNP (Scottish National Party) minority government at Holyrood. Was this the proof that devolution did not, as George Robertson had claimed, “kill Nationalism stone dead”, proof that it was, rather, a stepping stone, or a “staging post”? If the latter, where to? Just underlining that devolution, pace Ron Davies, was a process rather than an event,<sup>1</sup> part of what Henry McLeish calls the “evolution of devolution”? Towards greater autonomy or towards regaining Scottish independence as a sovereign nation-state?*

**Key words:** *Scotland, devolution, Scottish National Party*

### I. Introduction

Since the elections on 3 May 2007 we have seen “a tale of two parties”<sup>2</sup> unfold at Holyrood, the seat of the Scottish Parliament: the Scottish National Party on a roll, flying high in the polls, Labour, the main opposition party, in disarray. A few weeks

after the SNP minority government under First Minister Alex Salmond could celebrate its first anniversary in office, a dramatic parliamentary year ended with a double whammy when, on 28 June 2008, the Labour leader at Holyrood, Wendy Alexander, resigned, followed four days later by the Lib Dem leader Nicol Stephen.

These latest developments come on top of a decade of fundamental change in the United Kingdom. Anyone who would have predicted in 1997 that, ten years on, the Labour Party would be in its third term at Westminster, that Devolution had led to a Labour-Plaid Cymru coalition in Wales, a Nationalist minority government in Scotland and a power-sharing government in Northern Ireland, led by the Democratic Unionists and Sinn Féin, would surely have been called an illusionist, a dreamer or worse.

Was the SNP victory in May 2007 a victory for independence, or rather the ‘coming of

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<sup>1</sup> Ron Davies, *Devolution: A Process Not an Event*, Cardiff: Institute of Welsh Affairs, 1999.

<sup>2</sup> The phrase comes from Henry McLeish, former Labour First Minister, on *Politics Now*, STV, 26 June 2008.

age' of devolution?<sup>3</sup> Have the "devolution dullards ... had their day",<sup>4</sup> or have the voters cast Alex Salmond and the SNP as the better devolutionists? How did Labour, with their new leader Wendy Alexander, react to the defeat? What effect does the new Scottish dispensation have on internal UK relations, between the devolved territories and between the Scottish and the UK governments? Is the notorious 'West Lothian Question' provoking an English 'Nationalist' reaction, at a time when the Scots provide not only the UK Prime Minister, but also a number of important ministers in Brown's cabinet? And what are the implications of these developments in the broader European context?

After 300 years, the Union between Scotland and England seems to have "moved from a constitutional fixture to a constitutional option,"<sup>5</sup> but has it reached its sell-by date, as Tom Nairn, Chris Harvie et al. have been arguing, or can it be renewed, as Gordon Brown, Wendy Alexander, Henry McLeish and David Steel would maintain?<sup>6</sup> Eight years into

Devolution, there is still not clear whether the present constitutional arrangement is the 'settled will of the Scottish people' or an unsustainable and therefore transitory 'half-way house'. With not one, but two rival constitutional discourses on the go (the 'National Conversation' of the SNP government, and the 'Constitutional Commission' of the Scottish Parliament under Lord Calman), the status quo (Devolution '99) seems unsustainable. But whether 'Devolution plus' (aka 'Devolution Max' or 'Devolution Mark II) or Independence will be the outcome of the process is still an open question, and is most likely to be settled, sooner rather than later, in a Scottish referendum.

## II. After the Earthquake

Following the election results (see Table), a coalition between the SNP and the Liberal Democrats was widely expected. But as the Lib Dems set as a precondition that the Nationalists drop their plan for an independence referendum, which Alex Salmond refused, coalition talks never even started. The SNP had ruled out working with the Tories (and the Tories had ruled themselves out for any coalition), while the Lib Dems had no intention of continuing with Labour, and power-sharing between Labour and the SNP was a non-starter (even if Ian Paisley can tango with Martin McGuinness, and Rhodri Morgan with Ieuan Wyn Jones, it is difficult to imagine such a cohabitation in Scotland between Labour and the SNP). Thus, there remained only the prospect of a minority government.

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Tom Brown and Henry McLeish, *Scotland: The Road Divides*, Edinburgh: Luath, 2007; Sir David Steel, *The Steel Commission: Moving to Federalism – A New Settlement for Scotland*, Edinburgh: Scottish Liberal Democrats, 2006.

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<sup>3</sup> Eberhard Bort, 'Election 2007: Devolution Come of Age?', in Gilles Leydier (ed.), *La dévolution des pouvoirs à l'Écosse et au pays de Galles, 1966-1999*, Paris: Éditions Ellipses, 2007 (also: [www.institute-of-governance.org/onlinepub/election2007\\_devolutionofage.html](http://www.institute-of-governance.org/onlinepub/election2007_devolutionofage.html)).

<sup>4</sup> Rob Brown, 'Introduction', in R Brown (ed.), *Nation in a State: Independent Perspectives on Scottish Independence*, Dunfermline: Ten Book Press, 2007, p.24.

<sup>5</sup> Allan I Macinnes, *Union and Empire: The Making of the United Kingdom in 1707*, Cambridge: Cambridge University Press, 2007, p.326.

<sup>6</sup> See Tom Nairn, *After Britain: New Labour and the Return of Scotland*, London: Granta, 2000, updated in Nairn, *Gordon Brown: The Bard of Britishness*, Cardiff: Institute of Welsh Affairs, 2006, and 'Beyond Redemption: Why Britain cannot be saved', in Rob Brown (ed.), *Nation in a State*, pp.25-43; Christopher Harvie, 'Drop the dead shark!' [http://commentisfree.guardian.co.uk/christopher\\_harvie/2007/08/drop\\_the\\_dead\\_shark.html](http://commentisfree.guardian.co.uk/christopher_harvie/2007/08/drop_the_dead_shark.html);

Table 1 Election Results (Percentage/Seats)

Party	Constituency MSPs	Regional MSPs	Total Seats
SNP	32.9 / 21	31.0 / 26	47
Labour	32.1 / 37	29.2 / 9	46
Conservatives	16.6 / 4	13.9 / 13	17
Lib Dems	16.2 / 11	11.3 / 5	16
Greens	0.1 / 0	4.0 / 2	2
Independent	2.1 / 0	10.6 / 1	1
Total	100 / 73	100 / 56	129

Consultation and consent were the only way for a minority government of 47 out of 129 seats to achieve anything. Alex Salmond made that clear in his first few days as First Minister. A government far short of a majority needs to “assemble a broader base of support for its measures,” as Michael Keating put it: “A new phase of devolution is beginning.”<sup>7</sup> With the ever-present possibility of a no-confidence vote, the Parliament’s role in finding consensual decisions is being enhanced. Transcending the Labour-designed and Labour-led blueprint granted devolution, in Peter MacMahon’s words, a “new lease of life”.<sup>8</sup>

The first measures of the SNP government were populist and consensual, at least among a majority in the Parliament – steps to prevent ship-to-ship oil transfers in the Firth of Forth, the abolition of the graduate endowment tax, the scrapping of the Forth and Tay bridge tolls. Media commentators heaped praise on the new administration, and especially on Alex Salmond. Joyce McMillan

talked about “a smile on the face of the nation, and a spring in its step”:

...people seem energised, hopeful, even excited, as if some dead hand of cramped thinking and low expectation had been lifted at last, and it’s a mood that has spread across the whole field of Scottish public life, from politics and business to public service and the media.<sup>9</sup>

Iain Macwhirter commented just before the summer recess: “The SNP hasn’t so much hit the ground running as lapped the political field on an almost daily basis. Opposition MSPs have been blown away at what has been happening.”<sup>10</sup> He compared Salmond’s start with that of Blair in 1997: the same flurry of dramatic statements of intent changing the climate of public affairs. But, he reminds us, Blair did it with a huge majority, Salmond with a party that has never before been in government and holds only a minority of seats. “Where the SNP has been unexpectedly lucky is in being a minority government. It has allowed ministers to act

<sup>7</sup> Michael Keating, ‘Policy Convergence and Divergence in Scotland under Devolution’, in Gilles Leydier, *La dévolution des pouvoirs à l’Écosse et au pays de Galles, 1966-1999*, Paris: ellipses, 2007, p.157.

<sup>8</sup> Peter MacMahon, ‘The “blueprint” for devolution suddenly has new lease of life’, *The Scotsman*, 11 May 2007.

<sup>9</sup> Joyce McMillan, ‘SNP’s ascension has given us renewed hope’, *The Scotsman*, 1 September 2007.

<sup>10</sup> Iain Macwhirter, ‘The SNP didn’t just hit the ground running, they lapped the political field’, *Sunday Herald*, 24 June 2007.

swiftly,” according to George Kerevan (himself an aspiring SNP candidate for Westminster), “with discipline and with a proactive media strategy.”<sup>11</sup> Crises like the outbreak of Foot & Mouth disease and the terrorist attacks in London and Glasgow saw the Scottish government acting promptly, responsibly and in full accord with the UK government.

The phasing out of prescription charges over three years was announced. A Broadcasting Commission was installed, to look at the funding, the output of Scottish broadcasting (including the ‘Scottish Six’<sup>12</sup>) and the responsibility for media policy. The abolition of the unpopular council tax took its first hurdle, as the Lib Dems shared the SNP’s general intent.<sup>13</sup> Moreover, in a concordat with Scotland’s local councils the government achieved agreement on a three-year freeze of the council tax.

But there is a limit to what can be done consensually, and the vote on the Edinburgh transport schemes (introduction of a tram system and a railway link to the airport) was an early crunch point. On 27 June 2007, Cabinet Secretary John Swinney accepted the first resounding defeat for the government – the SNP had wanted to scrap the schemes;

Labour, the Lib Dems and the Tories were in favour of keeping the Edinburgh tram project on track and reviewing the airport rail link until the autumn. In the end, the government decided to accept defeat and respect the will of Parliament and act accordingly, thus avoiding the threat of a no-confidence vote.<sup>14</sup>

Relations with London came under strain. Salmond was called Gordon Brown’s “worst nightmare”<sup>15</sup> But it was not just a clash between Brown’s ostentatious ‘Britishness’ and Salmond’s ‘Scottishness’. There was the old Scottish claim to £23 mill which London saved when the Scottish Parliament introduced free personal care for the elderly. The Barnett formula for the distribution of revenues across the UK came under pressure, both from politicians in England who think that Scotland gets more than a fair share, and from the SNP who accuses London of short-changing Scotland. Salmond wrote to London demanding a share of the windfall of rising oil prices to establish his oil fund in and for Scotland – an initial £500 mill would do.<sup>16</sup> A conflict was brewing about the closure of post offices. And there are ongoing tensions concerning the representation of Scotland at the European level.

Brown and Blair’s childish delay in even acknowledging Salmond’s election to the post of First Minister played into the hands of the SNP-leader. As did the ‘stushie’ about Blair’s memorandum of understanding with Colonel Gaddafi on the extradition of prisoners, without having bothered to consult the Scottish Government beforehand (the most prominent Libyan prisoner in the UK sits in a

<sup>11</sup> George Kerevan, ‘The London media (and Brown) just don’t get it’, *The Scotsman*, 21 June 2007.

<sup>12</sup> Paul Hutcheon, ‘Salmond to demand a “Scottish Six” and call for broadcasting to be devolved’, *Sunday Herald*, 5 August 2007. A Scottish Six would be, as the BBC’s Brian Taylor explained in his blog, “a TV news programme, made in Scotland, which covered global, UK and Scottish news. Contrary to some comments, it would not focus exclusively on Scottish news.” (Brian Taylor, ‘Broadcasting Scotland’, *BBC Blog*, 8 August 2007, [www.bbc.co.uk/blogs/reporters/briantaylor/2007/08/08/index.html](http://www.bbc.co.uk/blogs/reporters/briantaylor/2007/08/08/index.html)).

<sup>13</sup> But, as their model of a local income tax is substantially different from the SNP’s, and the Green’s, it is difficult to see a replacement gaining a majority in the Chamber.

<sup>14</sup> Douglas Fraser, ‘Tram scheme goes ahead after SNP defeat’, *The Herald*, 28 June 2007.

<sup>15</sup> Nicholas Leonard, ‘Independent Scotland is Gordon Brown’s worst nightmare’, *Irish Independent*, 15 January 2007.

<sup>16</sup> ‘Salmond reiterates oil fund call’, *BBC News online*, 5 June 2008.

Scottish prison – the convicted Lockerbie bomber Abdelbaset al-Megrahi).<sup>17</sup>

Salmond pledged to revive the institution of joint ministerial committees which had last met in October 2002, in order to better coordinate policies between the UK and Scotland. These could either become battlegrounds – or a stabilising factor, if Richard Lochhead’s dictum of “partnership and co-operation” should prevail.<sup>18</sup> The first meeting took place in June 2008.

The first ‘foreign’ visit of Alex Salmond saw him in Belfast, on the sofa with Ian Paisley and Martin McGuinness. The Celts ganging up against London?<sup>19</sup> Could there be a concerted demand for a lower corporate tax for the ‘Celtic’ regions and nations, perhaps joined by Rhodri Morgan on behalf of Wales (particularly with Plaid Cymru as part of his government)? An enhanced role for the British-Irish Council, as Tom Nairn had announced a tad prematurely at the turn of the century?<sup>20</sup> Did the visit indicate, as an Irish newspaper implied, “loosening ties in the centralised UK state, and the possibility of new relationships developing between the constituent parts (and indeed across national boundaries) as the regions, with new-found confidence, begin to flex their muscles.”<sup>21</sup>

For Labour, the defeat (locally even more decisively than nationally<sup>22</sup>) was a bitter pill.

“The party has been shocked rigid by the loss of power,” Ian Bell observed, “and its response has been a mixture of defiance, denial and incoherence.”<sup>23</sup> Jack McConnell announced his resignation as Labour leader in August. Wendy Alexander was the only candidate for the post and became leader in mid-September. She had a wobbly start as opposition leader, and by the end of November became engulfed in a scandal about illegal donations to her leadership campaign<sup>24</sup> which led to massive pressure on her to resign.<sup>25</sup> On the last day of the parliamentary term, the Parliament’s Standards Committee controversially recommended a one-day ban from Parliament for her over the non-declaration of campaign donations as ‘gifts’ in the MSPs’ register. Although the Parliament was to vote on that recommendation at the start of the new term in September, Wendy Alexander resigned on 28 June 2008, which plunged Scottish Labour into renewed turmoil – and a leadership contest over the summer.

### III. A Never-ending SNP Honeymoon?

With the main opposition party stumbling ever deeper into crisis, the Tories veering between co-operating with Salmond’s government and opposing it, and the Lib Dems in their self-imposed wilderness,

councillors; the SNP gained 182. For the first time, the SNP has more councillors (363) than Labour (348). See H M Bochel and D T Denver, *Scottish Council Elections 2007: Results and Statistics*, Lincoln: Policy Studies Research Centre (University of Lincoln), 2007.

<sup>23</sup> Ian Bell, ‘Can we plot a fourth way for Scotland?’, *The Guardian*, 8 December 2007.

<sup>24</sup> The culpable donation of £950 came from Jersey-based property developer Paul Green. It was illegal as only people registered to vote in the UK are entitled to donate money to political parties. Jersey is a crown dependency but not part of the UK.

<sup>25</sup> Douglas Fraser, ‘What now for Wendy Alexander?’, *The Herald*, 3 December 2007.

<sup>17</sup> Hélène Mulholland, ‘Scottish ministers attack No 10 over Lockerbie bomber’, *The Guardian*, 8 June 2007.

<sup>18</sup> See Tim Reid, ‘Westminster v Holyrood, round one’, *BBC News Online*, 8 June 2007.

<sup>19</sup> Douglas Fraser, ‘A new union ... without London?’, *The Herald*, 19 June 2007.

<sup>20</sup> See Tom Nairn, *After Britain: New Labour and the Return of Scotland*, London: Granta, 2000, pp.278, 305. Nairn revisited the idea in his *Gordon Brown: The Bard of Britishness*, Cardiff: Institute of Welsh Affairs, 2006, pp.27-29.

<sup>21</sup> ‘Scottish neighbour Salmond may well be a friend in disguise’, *Irish Independent*, 27 June 2007.

<sup>22</sup> The number of councils in which Labour holds a ruling majority dropped from 13 to 2. Labour lost 160

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accentuated by the surprise resignation of Nicol Stephen at the beginning of July, the SNP minority government's honeymoon has shown no signs of ending yet. Despite some criticisms, the general verdict after one year of SNP government in May 2008 was overwhelmingly positive. "The honeymoon will end," stated Brian Taylor in his BBC blog: "Right now, though, the first minister is able to mark the anniversary of his election victory with signs of continuing popular support."<sup>26</sup>

*Scotland on Sunday* summed up "a good year for Scotland", asserting that

the record of the SNP's first year in power is impressive. Policies such as freezing Council Tax, cutting prescription charges, scrapping bridge tolls, scrapping the graduate endowment and saving some local hospital units from downgrading have struck a chord with wide sections of the Scottish electorate. These were solid, tangible policies with a material effect on people's lives, and they left much of the electorate feeling that this was a Government that could get things done.

It disagreed with some key policies of the SNP:

Its plans to scrap Council Tax and replace it with a Local Income Tax represent an unwelcome new burden on the Scottish middle classes. And we disagree with the SNP's aim of complete independence from the rest of the United Kingdom; a far more sensible – and popular – course of action would be to negotiate more powers for the Holyrood Parliament, especially the financial levers necessary to inject some dynamism into the Scottish economy.

<sup>26</sup> Brian Taylor, 'Making New Friends' (Blether with Brian), BBC News online, 2 May 2008. [http://www.bbc.co.uk/blogs/reporters/briantaylor/2008/05/making\\_new\\_friends.html](http://www.bbc.co.uk/blogs/reporters/briantaylor/2008/05/making_new_friends.html)

But it hailed the effect Alex Salmond and his government has had on the "general mood of the Scottish people";

Today, Scotland feels more comfortable with itself than it was a year ago. There is a welcome air of confidence and ambition in the country that must, in some part, be the result of a new spirit in Scottish public life. For that reason alone, this has been a good year for the Scottish Government, and a good year for Scotland.<sup>27</sup>

Any opposition and media criticism seemed to pale in the face of success – none more impressive than getting the budget through Parliament,<sup>28</sup> which was seen as John Swinney and Alex Salmond triumphantly outmanoeuvring and humiliating the opposition.<sup>29</sup> Under Salmond, the party presented an absolutely coherent image – no sign of internal cracks or feuds which used to characterize the SNP in the past.

Then came Wendy Alexander's astonishing "shock U-turn"<sup>30</sup> on the independence referendum. When Wendy Alexander gave Scottish politics that "surreal turn",<sup>31</sup> announcing her conversion to an independence referendum live on the BBC's 'Politics Show' on 4 May, one of the strangest weeks in Scottish politics ensued, "with the situation becoming more bizarre by the minute."<sup>32</sup>

<sup>27</sup> Leader Comment, 'A good year for Scotland', *Scotland on Sunday*, 12 April 2008, <http://news.scotsman.com/scotland/A-good-year-for-Scotland.3976753.jp>

<sup>28</sup> Hamish Macdonell, 'A total triumph and an utter defeat', *The Scotsman*, 7 February 2008.

<sup>29</sup> Leader Comment, 'Salmond's triumph', *The Herald*, 7 February 2008; Magns Gardham, 'Victory for Alex Salmond as budget is passed', *Daily Record*, 7 February 2008.

<sup>30</sup> Douglas Fraser, 'Alexander backs independence referendum in shock U-turn', *The Herald*, 5 May 2008.

<sup>31</sup> Gordon Brewer on BBC Newsnight Scotland, 6 May 2008.

<sup>32</sup> David Perry, 'Wendy defiant in referendum row', *The Press and Journal*, 8 May 2008.

Brian Taylor saw Labour's "new-found support for a referendum" driven by "calculation and fear."<sup>33</sup> Fear of electoral defeat, calculation that being blamed for not letting the Scottish people have a say could rebound on the party in the 2011 election and that, at least for the time being, the Scots would reject the independence option in a referendum. "Wendy Alexander's backing of an early referendum on independence is hugely significant," editorialised the *Scottish Daily Mail*:

It signals the Labour Party's first signs of life in a year. And it presents Alex Salmond with a dilemma. How does he oppose a referendum without damaging the validity of his party's claims that increasing numbers of Scots favour wrecking the Union?<sup>34</sup>

The *Daily Telegraph*, too, was prepared to give Miss (sic) Alexander "some credit" for her "tacit acknowledgement that Labour has been wrong-footed," but called her move "bluffing for base political advantage" and "dangerous tinkering with the constitutional settlement."<sup>35</sup>

Wendy's new departure had, quite obviously, created a "major headache for Brown."<sup>36</sup> Coming in the immediate wake of the local electoral disaster for Labour in England and Wales, it looked as if Brown had "lost patience with Ms Alexander," as he refused to give her demand for a referendum his backing at Prime Minister's Question Time: "Far from endorsing her standpoint, he went

out of his way to dilute it."<sup>37</sup> That Alexander insisted on her demand when appearing at First Minister's Question Time at Holyrood the following day, led the *Scotsman* to ask whether Brown was "losing his grip on Scotland".<sup>38</sup>

The *Scottish Sun* found Wendy Alexander, not for the first time, "woefully underprepared".<sup>39</sup> and commented: The *Press and Journal* saw her coming "within an inch of landing a blow, of sorts, on Salmond," only to be "pulled out of the ring by Gordon Brown."<sup>40</sup> The paper conceded, "it might have been the master stroke," but now "it looks like Mr Salmond will come out of the fight better off, again, and continue with his policy of a referendum in 2010." Brian Taylor added, "The manner of executing this plan, if such a description can be used, has been utterly abominable."<sup>41</sup>

Her leadership, long overshadowed by the illegal donations row,<sup>42</sup> only temporarily relieved by the Electoral Commission's clearance of her (branded a "whitewash" by SNP MSP Alex Neil),<sup>43</sup> had come under attack

<sup>33</sup> Brian Taylor, 'Calculation and fear' (Blether with Brian), BBC News online, 5 May 2008 [http://www.bbc.co.uk/blogs/thereporters/briantaylor/2008/05/calculation\\_and\\_fear.html](http://www.bbc.co.uk/blogs/thereporters/briantaylor/2008/05/calculation_and_fear.html)

<sup>34</sup> Leader Comment, 'Labour is alive again. But it may be too late', *Scottish Daily Mail*, 7 May 2008.

<sup>35</sup> Leader Comment, 'Union put in peril by Labour's welectoral games', *The Daily Telegraph*, 7 May 2008.

<sup>36</sup> Bill Jamieson, 'Wendy's cry brings on major headache for Brown', *The Scotsman*, 9 May 2008.

<sup>37</sup> Brian Taylor, 'Where's your referendum now?' (Blether with Brian), BBC News online, 7 May 2008.

[http://www.bbc.co.uk/blogs/thereporters/briantaylor/2008/05/wheres\\_your\\_referendum\\_now.html](http://www.bbc.co.uk/blogs/thereporters/briantaylor/2008/05/wheres_your_referendum_now.html)

<sup>38</sup> David Maddox, 'Losing his grip on Scotland', *The Scotsman*, 9 May 2008.

<sup>39</sup> Leader Comment) 'A total mess', *The Scottish Sun* 9 May 2008.

<sup>40</sup> Leader Comment, 'Referendum announcements', *The Press and Journal*, 8 May 2008.

<sup>41</sup> Brian Taylor, 'Not jut any referendum' (Blether with Brian), BBC News online, 8 May 2008 [http://www.bbc.co.uk/blogs/thereporters/briantaylor/2008/05/not\\_just\\_any\\_referendum.html](http://www.bbc.co.uk/blogs/thereporters/briantaylor/2008/05/not_just_any_referendum.html)

<sup>42</sup> Campbell Gunn, 'Wendy's woes are not going away', *The Sunday Post*, 13 January 2008; Leader Comment, 'Wendy's refusal to go has left Scottish politics in cold storage', *Sunday Herald*, 3 February 2008.

<sup>43</sup> Ian Swanson, "MSP says ruling on Wendy donation is "a whitewash", *Edinburgh Evening News*, 8 February 2008; Joyce McMillan, 'With Wendy's house in order, now it's time to act', *The Scotsman*, 9 February 2008; Iain Macwhirter, 'Wendy's in the clear, but the real winners are the SNP', *Sunday Herald*, 10 February 2008.

long before that shambolic manoeuvre. In a widely noticed leader back in January, the (usually) Labour-supporting *Daily Record* had been scathing about the leadership of the Scottish Labour leader.

These are very difficult times for Scots Labour leader Wendy Alexander. (...) During her reign, she has so far failed to land a blow on First Minister Alex Salmond. (...) Labour's first year in opposition was always going to be tough. But no one could have predicted how far their fortunes would slump in just nine months.<sup>44</sup>

Wendy Alexander seemed to have made some progress by the time of the Labour conference in March. Eddie Barnes commented that she "appears to have found a clearer message to sell to the party", and "she has bought herself some time."<sup>45</sup> Hamish Macdonell's verdict was: "The Scottish Labour Party landed itself in a pretty big hole last May. It 's not out of it yet, but at least it has stopped digging."<sup>46</sup>

The Calman Commission was, albeit with some caveats,<sup>47</sup> widely welcomed as "timely",<sup>48</sup> and Brown's support for the "review" was noted,<sup>49</sup> particularly after Scotland Office

minister David Cairns's dismissal of more tax powers for Holyrood being only of interest to the "McChattering classes".<sup>50</sup> But the Calman Commission seemed to be totally sidelined by Labour's referendum U-turn. For Ewan Crawford, thus, Scottish Labour's call for a vote on independence was "the biggest miscalculation in recent British politics."<sup>51</sup> The *Scottish Daily Express* saw Labour in "meltdown"<sup>52</sup> and contended: "Mr Brown and Ms Alexander have lost so much confidence within their own party that they surely can have no future as leaders of their party."<sup>53</sup> Well, Wendy Alexander bowed out on 28 June... And Gordon Brown's next nightmare could be the Westminster by-election in Glasgow' East on 24 July. This would be deemed, at any other time a safe Labour bastion, but not with a Labour government plummeting to a new all-time low in public opinion.<sup>54</sup>

#### IV. The Referendum Question

A referendum seems now a question of when and how, rather than if. With the demise of Wendy Alexander as Labour leader, it is unclear what the Labour position will be. Just before her resignation she had repeated her demand to 'Bring it on!', but the party had qualified it: no blank cheque, support depended on the type of referendum (yes/no rather than multi-option) and the wording of the question. The SNP remained adamant that it would stick to its timetable of holding

<sup>44</sup> Leader Comment, 'Alexander yet to score point', *Daily Record*, 28 January 2008.

<sup>45</sup> Eddie Barnes, 'It may sound cuckoo, but Labour thinks spring has sprung', *Scotland on Sunday*, 30 March 2008.

<sup>46</sup> Hamish Macdonell, 'Still in a hole, but they might have found a way out', *The Scotsman*, 1 April 2008.

<sup>47</sup> Hamish Macdonell, 'They want to save the Union but have they set a course for independence?', *The Scotsman*, 26 March 2008.

<sup>48</sup> Leader Comment, 'Devolution revisited', *The Herald*, 26 March 2008.

<sup>49</sup> Douglas Fraser, 'Brown promises extensive review of devolution', *The Herald*, 25 March 2008; Simon Johnson, 'Brown backs review on Scots taxation', *The Daily Telegraph*, 26 March 2008; Bill Mackintosh, 'Brown opens door to Holyrood tax powers', *Sunday Herald*, 17 February 2008.

<sup>50</sup> Michael Settle, 'Minister dismisses more tax power for Holyrood', *The Herald*, 12 February 2008.

<sup>51</sup> Ewan Crawford, 'Bluff or Blunder', *The Guardian*, 7 May 2008.

<sup>52</sup> Kerry Gill and Paul Gilbride, 'Humiliation as Wendy is "hung out to dry" by PM', *Scottish Daily Express*, 8 May 2008.

<sup>53</sup> Leader Comment, 'Dithering duo's days at the top are numbered', *Scottish Daily Express*, 8 May 2008.

<sup>54</sup> Andrew Grice, 'Poll: This is the least popular Labour government ever', *The Independent*, 3 July 2008.



the referendum in 2010, one year before the next scheduled Scottish Parliament elections.

How would the Scots vote in a referendum? The general gist of opinion polls over the past year is that the current popularity of the SNP is not matched by a surge for the independence option. Devolution plus continues to be the most popular option (see Table 2).

Table 2 Constitutional Preferences

	Independence	Devolution Plus	Status Quo
Scottish Social Attitudes Survey 2007	24	54	8
MRUK Cello/ Sunday Times March 2008	23	45	22
You Gov / Daily Telegraph April 2008	19	38	34

Source: John Curtice, 'Public Attitudes and Elections', *Devolution Monitoring Report, Scotland May 2008*, The Constitution Unit, University College London. [www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Scotland\\_May08.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Scotland_May08.pdf)

How would the SNP deal with a defeat in a referendum? Would it accept to become a devolutionist party? Alex Salmond has indicated that a No-vote in a referendum would settle the question for a generation.<sup>55</sup> With or without a referendum, how would some 'fundamentalist' SNP-MSPs act if they sensed that devolved government was

gradually changing their party, turn it perhaps into a Catalan-style nationalist party, content to govern a devolved Scotland, albeit with substantially increased parliamentary powers? Or can Salmond steer a course which both embraces pragmatic devolution and keeps the flame of independence alive?

That seems to be part of the strategy behind the 'National Conversation' which Salmond started with the presentation of a White Paper and the launch of a dedicated website in August 2007.<sup>56</sup> Although it was not just a proposal for independence, but a review of all constitutional options, outlining the three main options – small extension of devolved powers; radical redesign of devolution and greatly enhanced powers; independence – its publication drew a good deal of criticism in the media, seeing that there was, then, no chance of a parliamentary majority for the referendum envisaged in it.

Reflecting on the conundrum that the SNP was riding high in the opinion polls, but that this was not matched by the independence option (with 23 per cent in last year's Scottish Social Attitudes Survey at its lowest point since 1997), Iain Macwhirter pointed out what, in his view, could be Labour's "most effective challenge to the Nationalists":

Why...does Scotland need independence when it has political autonomy under devolution? In a sense, the SNP's effective performance in government rather undermines the Nationalists' own case. The inventory of the first 100 days is pretty impressive – bridge tolls, hospitals, prescription charges, tuition fees, even doubling the subsidy to the Edinburgh

<sup>55</sup> BBC Newsnight, 25 April 2007.; See Kevin Schofield, 'Independence referendum is now "once in a generation"', *The Herald*, 26 April 2007.

<sup>56</sup> Scottish Executive, *Choosing Scotland's Future: A National Conversation*, Edinburgh, 2007. [www.anationalconversation.com](http://www.anationalconversation.com) By December 2007, the website had counted more than 40,000 hits, over 7000 downloads of the White Paper, and thousands of comments.

## ON THE THRESHOLD OF INDEPENDENCE? SCOTLAND ONE YEAR AFTER THE SNP ELECTION VICTORY

Festival. If Salmond can do so much with the powers of the Parliament, what's the point of independence?<sup>57</sup>

The SNP's Peter Wishart MP warned that in the 'national conversation' "independence has become just an option when it should, of course, be *the* option." He warned his party to be "careful that this key choice does not become obscured in a plethora of other options."<sup>58</sup>

A first result of the SNP government's White Paper was the coming together of the three main opposition parties in an agreement to develop devolution within the UK.<sup>59</sup> Wendy Alexander's plan to develop devolution through an independent Scottish Constitutional Commission, endorsed by the Scottish Parliament,<sup>60</sup> marked an important constitutional U-turn for Scottish Labour, revising the position Jack McConnell had adopted before the elections. 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."<sup>61</sup>

Alexander singled out the strengthening of the financial accountability of the Parliament, including a review of the Barnett formula with

a view to diminish the role of the block grant from Westminster through shared and assigned taxes, thus increasing the fiscal responsibility of the Scottish Parliament. But the Commission, endorsed by a parliamentary majority (the "grand, if informal, Unionist coalition"<sup>62</sup>) on 6 December 2007, specifically excludes the independence option.<sup>63</sup> On the other hand, it allows for discussion of wider areas of UK constitutional reform, with the aim of strengthening both Devolution and the Union. The SNP sticks by the government's 'National Conversation, which is limited to Scotland. But are two separate and competing public consultations really the best way forward?

While the SNP's abstention from the original Constitutional Convention aided the consensual process in the late 1980s and early 1990s, the dual approach now evolving "for crude partisan ends" is 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.<sup>64</sup>

For the SNP the 'Constitutional Commission' heads in the right direction – more powers for the Parliament. Eddie Barnes is not alone in thinking that the "Unionist pact may not just be seen in later years as a

<sup>57</sup> Iain Macwhirter, "Why we haven't the constitution to go it alone", *The Herald*, 6 August 2007.

<sup>58</sup> Peter Wishart, 'Independence or nothing', *The Sunday Times*, 16 September 2007.

<sup>59</sup> 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.

<sup>60</sup> Douglas Fraser, 'Alexander calls for tax powers to replace the Barnett formula', *The Herald*, 1 December 2007.

<sup>61</sup> Leader Comment, 'Labour fails to get the message', *The Scotsman* 22 June 2007.

<sup>62</sup> Ian Bell, 'Can we plot a fourth way for Scotland?', *The Herald*, 8 December 2007.

<sup>63</sup> Louise Gray, 'Parties join forces to bulldoze SNP', *The Scotsman*, 7 December 2007.

<sup>64</sup> Leader Comment, 'Dual approach to devolution debate can't succeed', *The Scotsman*, 7 December 2007.

historic moment for devolution,” but also as “the moment when a referendum on independence became inevitable.”<sup>65</sup> It could well be a three-way referendum, the options being the status quo, greater autonomy (‘Devolution Max’) and independence.

### V. Towards Independence?

We have seen the end of a beginning. Whether we have also witnessed the beginning of the end of the Union is less clear. 2007 brought the electoral break-through for the SNP. And perhaps they have found it difficult to believe how long their honeymoon period has lasted. Indeed, if Labour remains “mired in sleaze and incompetence”, it could leave the SNP “as the dominant force in Scottish politics for the foreseeable future.”<sup>66</sup> But would that lead to independence? “Mr Salmond and his colleagues have got off to a good start in convincing the public the SNP can provide good government,” John Curtice commented:

But, contrary to the SNP’s hopes, demonstrating that the party can govern is evidently doing nothing to persuade Scots of the case for independence. Rather, it may be persuading Scots that devolution can, in fact, be made to work effectively in Scotland’s interests after all.<sup>67</sup>

The SNP’s notion that increased devolution brings Scotland automatically closer to independence may have seductive

charms, but it is empirically unproven. At the moment it looks as if the Scottish voters, in their wisdom, relish having the SNP in the driving seat, not of an independent, but a devolved Scotland. But that could change, depending on political decisions at the Holyrood, Westminster and European levels.

The big lacuna in the whole devolution process has been England. Prime Minister Brown’s announcements of further constitutional reform did not offer a solution for this “constitutional elephant in the room”.<sup>68</sup> Could a functioning Northern Ireland assembly, and an invigorated Scottish Parliament, and the increased powers of the National Assembly for Wales trigger new attempts at rolling out devolution to the English regions?<sup>69</sup> It looks unlikely and, of course, only if those regional assemblies had legislative powers, would they go towards solving the West Lothian Question.<sup>70</sup>

Malcolm Rifkind’s suggestion, apparently also favoured by his leader David Cameron, of an English Grand Committee consisting of all English MPs, proposing English law which would then, by force of convention, be accepted by Westminster, would *de facto* create an English Parliament and a two-tier system of Westminster MPs, as would Kenneth Clarke’s plan of banning Scots MPs from voting on laws that only affect England (which he said would tackle “the last anomaly”

<sup>65</sup> Eddie Barnes, ‘Unionist pact to debate devolution may hasten independence vote’, *Scotland on Sunday*, 9 December 2007.

<sup>66</sup> Iain Macwhirter, ‘Long journey into night’, *The Guardian*, 6 December 2007.

<sup>67</sup> Quoted in Andrew Picken, ‘Support grows for SNP but not for independence’, *Edinburgh Evening News*, 10 August 2007.

<sup>68</sup> George Kerevan, ‘Out with spin – and in with smoke and mirrors’, *The Scotsman*, 5 July 2007.

<sup>69</sup> After the abysmal failure of the referendum in the North-East of England on 4 November 2004 (with only one in five voters in favour of a regional assembly).

<sup>70</sup> The fact that Scottish MPs at Westminster can vote on English laws, while English MPs cannot vote on devolved legislation for Scotland, first raised by Tam Dalyell, then Labour MP for West Lothian, in the run-up to the 1979 referendum.

of devolution).<sup>71</sup> As Arthur Aughey has shown, there is no clamour for such an English Parliament in England (yet). If English regionalism is “the dog that never barked”<sup>72</sup>, English Nationalism is, as Aughey says, still a mood, rather than a movement.<sup>73</sup> But as soon as a Westminster government lacked an English majority and had to rely on Scottish MPs to drive through legislation on English education, health, transport, etc – areas which in Scotland are decided by the Scottish Parliament – the ‘English Question’ could loom a lot larger. English nationalism could pose a bigger threat to the Union than the SNP challenge.

The only clear-cut answer to the ‘English Question’ would be independence for the constituent nations of the UK. Everything else will, of necessity, involve untidy, asymmetrical arrangements. On the other hand, asymmetries are something the UK has lived with for centuries, and something that is not specific to the UK alone.<sup>74</sup> Both the Welsh First Minister Rhodri Morgan, visiting Edinburgh in December 2007, and UK Tory leader David Cameron, also in Edinburgh, a few days later, expressed that asymmetry was not the main issue. For Morgan “the union’s asymmetry and flexibility ... can be a source

of strength;”<sup>75</sup> and Cameron preferred “an imperfect Union” to “some perfect constitutional construct that would threaten the Union.”<sup>76</sup>

For Alex Salmond, the solution to the ‘English Question’ is clear: amicable repeal of the Union:

The 18th-century Union is past its sell-by date. It's gone stale for both our nations. What we both need now are the political and economic powers to make our nations work, to tailor policies to suit our different circumstances, and to speak for ourselves in Europe and the wider world - while acting together where our interests converge.<sup>77</sup>

Murray Pittock has argued that, in Britain, “metropolitan attitudes have barely changed, while Scottish, Welsh and Northern Irish politics and culture have all shifted radically in their different ways.” He concludes:

A loosely federated UK with clearly distinct locales for control of politics, culture and society and their representation through the media could be the most stable solution the Union can now enjoy [...] However, serious doubts must remain that this will be recognized by Westminster in time, or that English politics can change enough to accommodate a multinational polity.<sup>78</sup>

<sup>71</sup> ‘Senior Conservative Kenneth Clarke wants Scots MPs banned from voting on English laws’, *The Daily Record*, 2 July 2008.

<sup>72</sup> Christopher Harvie, ‘English regionalism: the dog that never barked’, in Bernard Crick (ed.), *National Identities: Constitution of the United Kingdom (Political Quarterly Special Issue)*, Oxford: Blackwell, 1991, pp.105-19.

<sup>73</sup> See Arthur Aughey, *The Politics of Englishness*, Manchester: Manchester University Press, 2007. See also Robert Haszall (ed.), *The English Question*, Manchester: Manchester University Press, 2006.

<sup>74</sup> See Archie Brown, ‘Asymmetrical Devolution: The Scottish Case’, *Political Quarterly* 69 (3), 1998, pp.215-23; also: Michael Keating, ‘Asymmetrical Government: Multinational States in an Integrating Europe’, *Publius: The Journal of Federalism*, 29 (Winter 1999), pp.71-110.

<sup>75</sup> Douglas Fraser, ‘Funding “will be next step in UK devolution”’, *The Herald*, 8 December 2007.

<sup>76</sup> Ian Swanson, ‘Cameron says “Union comes first” at party rally in Capital’, *Edinburgh Evening News*, 10 December 2007.

<sup>77</sup> Alex Salmond, “Only Scottish independence can solve the ‘English Question’”, *The Daily Telegraph*, 20 March 2007.

<sup>78</sup> Murray Pittock, *The Road to Independence?*, London: Reaktion, 2008, pp.182-83.

Will Hutton argued for 'Devolution-max', which would "in effect create a Scottish state within Britain rather like Alberta or Ontario within Canada." He contended that globalisation demanded management by "bigger units". Independence would therefore be "a 19th century response to 21st century dilemmas."<sup>79</sup> Also, independence would not end the presence of an economically, politically, culturally and socially powerful neighbour. 'In bed with an elephant' was, after all, coined for independent Canada and its sharing a continent with the United States of America.<sup>80</sup>

The European context is important. Would an independent Scotland automatically be (remain) a member of the EU? The SNP says yes, but constitutional lawyers are not so sure.<sup>81</sup> Other member states with independence movements and parties within their borders – France, Spain, Italy – might not be very sympathetic to smoothen Scotland's path to 'independence in Europe'. But Scotland is also an example how constitutional issues can be discussed and decided in an absolutely non-violent and democratic way.

The EU constitutional process, rocked by the popular votes in France, Holland and, most recently, in its pared-down form of the Lisbon Treaty, in Ireland, has led to a very limited recognition of sub-state governance, which does not help those arguing for a strong

regional tier of governance in Europe. An intergovernmental EU tends to be a strong argument for 'Independence in Europe', particularly if Scotland feels under- or misrepresented by the UK (given the extreme London-centricity of the British polity and the lack of a British constitution); while real participation of sub-state regions and nations in European policy-making could be a powerful argument for the principle of devolution.<sup>82</sup>

In a contribution to the 'national conversation', Labour's Henry McLeish and Tom Brown promoted their idea of a 'New Union', a Union which must adapt to survive.<sup>83</sup> The 'national conversation', they contended, must not be restricted to Scotland and increased powers for Holyrood alone. Interestingly, the SNP's Michael Russell and Dennis McLeod also argued for a 'New Union',<sup>84</sup> where some remaining reserved matters could be shared at a UK level. In 1992, the SNP adopted Jim Sillars' 'Independence in Europe' as its slogan – is it now time for 'Independence in Britain' or, in McLeish's parlance, "small-i-independence"?<sup>85</sup> As David McCrone noted, "we live now in [a] very different kind of world – a world of federations and confederations of autonomous nations within states within the European Union. Self-government is a question of degree, not of kind."<sup>86</sup>

<sup>79</sup> Will Hutton, 'How Scotland could end up with best of both worlds', *The Herald*, 15 August 2007.

<sup>80</sup> Pierre Trudeau coined the phrase in a speech at the Washington Press Club in 1969 when he said, that Canada's relationship with the United States was like that of "a mouse in bed with an elephant...no matter how friendly the beast...one is affected by every twitch and grunt."

<sup>81</sup> See Jo Eric Murkens with Peter Jones and Michael Keating. *Scottish Independence: A Practical Guide*, Edinburgh: Edinburgh University Press, 2002.

<sup>82</sup> See Eberhard Bort, "Scotland and Europe, or: Room at the Top for "Constitutional Regions"", *Romanian Journal of European Affairs*, Vol.4, No.2, 2004, pp.55-64.

<sup>83</sup> Tom Brown and Henry McLeish, *Scotland: The Road Divides*, Edinburgh: Luath Press, 2007.

<sup>84</sup> Michael Russell and Dennis McLeod, *Grasping the Thistle: How Scotland Must React to the Three Key Challenges of the Twenty First Century*, Glendaruel: Argyll Publishing, 2006.

<sup>85</sup> *BBC News at Ten*, 14 September 2007.

<sup>86</sup> David McCrone, 'Semi-detached', *Holyrood*, 162, 15 January 2007, p.45.

## VI. Conclusion

Devolution '99 was clearly not the last word on constitutional change in the UK. It was a staging post. Wales has moved on. Scotland accrued additional powers over the past two sessions of parliament (e.g. over railways). The fiscal powers of the Scottish Parliament have increasingly been perceived as insufficient. There is, as Wendy Alexander said, "unfinished business".<sup>87</sup> And all the parties at Holyrood "are now united as never before on the need to give Holyrood more oomph."<sup>88</sup>

On the 300th anniversary of Westminster's signing of the Act of Union, the *Edinburgh Evening News* had drawn its own conclusions:

What is clear is that the devolution deal delivered in 1999 is far from the settled will of the Scottish people, but neither has it been proved to be the start of the inexorable slide towards independence. There is plenty of room for change, and giving Holyrood proper responsibility for raising the money it spends or answering the West Lothian question should not be regarded as the next stop to divorce.<sup>89</sup>

So, how will things look in ten year's time? Lacking a crystal ball, all we can say is: different. Alex Salmond has promised Scottish independence by then, Gerry Adams has promised a united Ireland by 2016 (to mark, as it were, the centenary of the Dublin Easter

Rising),<sup>90</sup> Wales will have had a referendum on primary legislative powers for its National Assembly, and maybe, just maybe, Scotland will have had a vote on independence. Will the English Question be settled, one way or the other? Will there, perhaps, be a written constitution, eventually – as hinted at by Gordon Brown and expected by Rhodri Morgan? Or will we have witnessed the 'break-up of Britain'?<sup>91</sup> Will the integration process of the European Union find a way out of the Lisbon impasse?

"This is an unprecedented era for new momentum," Douglas Fraser reflected in his backward glance at 2007, "new alliances, new thinking and new possibilities."<sup>92</sup> The Scottish Parliament has become the place where Scotland's future is forged. With or without a referendum, the next few years will be decisive. For the time being, at least, all parties may feel justified in believing that they still have all to play for.

<sup>87</sup> Quoted in Ian Swanson, 'Alexander commits Labour to increasing Holyrood's powers', *Edinburgh Evening News*, 30 November 2007.

<sup>88</sup> Iain Macwhirter, 'Finally, we all agree: devolution is a process, not an event', *Sunday Herald*, 9 December 2007.

<sup>89</sup> *Edinburgh Evening News* (editorial), "We need to give devolution time to be a success", 16 January 2007.

<sup>90</sup> *BBC News Online (Northern Ireland)*, 'Adams predicts united Ireland', 14 January 2000 [http://news.bbc.co.uk/2/hi/uk\\_news/northern\\_ireland/601115.stm](http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/601115.stm).

<sup>91</sup> Tom Nairn, *The Break-up of Britain*, London: New Left Books, 1977.

<sup>92</sup> Douglas Fraser, 'An extraordinary year of blistering political change', *The Herald*, 11 December 2007.

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