

**SCOTLAND'S ROLE IN THE
EUROPEAN UNION:**

**EXPECTATIONS OF MULTI-LEVEL GOVERNANCE
AMONG POLITICAL ELITES -
AN ACTOR-CENTRED APPROACH**

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I declare that this thesis is the result of
research and composition undertaken solely by myself.

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The thesis seeks to document and analyse the expectations of Scottish political elites about Scotland's role in a changing European Union during the crucial months preceding the first elections to the new Scottish Parliament. Through interviews with members of Scottish civil society, officials, and politicians, it considers two key questions. First, how do elites expect the Scottish Executive to influence European policy-making? Second, how do elites understand the operation of governance under new constitutional arrangements? The thesis draws from the conceptual frameworks of Multi-Level Governance, which focuses attention on the roles of sub- and supra-national levels of government, and of New Institutionalism, which explains how actors' behaviour can be influenced by institutional norms. It uses an actor-centred approach to obtain a more nuanced understanding of elites' expectations, arguing that an actor's proximity to the devolution process and personal experiences also affect perceptions.

The thesis begins by outlining the 'established wisdom' about these questions, assessing academic literature, governments documents, party manifestos, and civic publications. This background provides a comparative reference for the consideration of elites' expectations. The thesis examines the extent to which observers believe the UK government incorporated Scottish interests in European negotiations. It suggests that a lack of transparency and varying involvement in the political arena cause different actors to present divergent assessments. However, most elites do not expect the Scottish Executive to exert greater influence on the UK's position. Although some policy-making procedures will change, there will be continuity as existing civil service channels will be used to conduct negotiations between the governments.

The thesis suggests that Scotland's European priorities differ from England's in emphasis rather than substance due to distinct civic institutions, history, and geography. Devolution will better enable a nuanced approach to European policy-making as the Executive can publicise Scotland's views, enabling observers at home and in Brussels to judge whether the UK government has considered them, and implement directives in a suitable manner. The thesis also concludes that the Executive is unlikely to sway European negotiations, although most elites expect it to create a higher profile for Scotland, speak with democratic authority, highlight distinct views, and liaise with other regions and interests.

Thus, the thesis argues that elites believe the greatest significance of devolution is the opportunity to create new mechanisms for domestic legislating. It details the 'Scottish' conception of governance that is based on a holistic approach to policy-making. Governance also involves the participation of civic organisations in the legislative process, benefits from co-operation among tiers of officials and politicians, and requires partnership with various interests and citizens. The thesis concludes that this approach could also guide Scotland's relationship with Europe in the future, including partnership with the UK government, co-operation with other European actors, and participation by civic interests in implementation.

CHAPTER ONE: INTRODUCTION

THESIS OVERVIEW

On 6 May 1999, people living in Scotland elected members of the first Scottish Parliament in nearly 300 years. Many cast their ballots with high expectations, hoping this long-desired institution would improve the governance of Scotland. The 129-member legislature has authority over most domestic policies. Although European relations are a reserved power, the Scottish Executive is responsible for the implementation of European directives in devolved areas. Indeed, over half of its workload will originate in the European Community (EC).¹ This places certain constraints on the Executive's ability to act autonomously, as some of its legislative agenda will be shaped by London and decided in Brussels. The effect of these other levels of government should be taken into account when evaluating the achievements and failures of this new institution.

This thesis is a study of Scotland's role in Europe. Such a study is not only timely given the recent establishment of the Scottish Parliament, but is also necessary due to limited academic consideration of this subject. The bulk of the literature measured the effect of economic integration on the Scottish economy and business, with a particular focus on the implementation of regional policy.² When the prospect of a Scottish Parliament appeared more viable, commentators began to propose how a devolved Scotland could participate in EC policy-making. But because of the fluid and dynamic nature of constitutional change, there is little substantive analysis of Scotland's post-devolution role in Europe.³ This thesis aims to begin filling that gap in the academic literature.

While there will be many analyses of the parliament's development, the thesis takes an approach that highlights features that other observers have not fully developed. It argues that when evaluating a new institution, it is important to record initial aspirations about its likely operation. The thesis assesses the expectations and perceptions of political elites who will be working with the new legislature, covering the crucial months preceding its establishment. This unique historical timeframe

encompasses the period between the passage of legislation establishing the parliament in November 1998 and its first elections in May 1999. The choice has the advantage of ensuring that opinions are based on legal and civic documents detailing the parliament's structure and are not biased by its partisan composition. Because of the time period selected for study, the thesis will not address the activities of elites in the policy-making process; instead, it focuses on their predictions about and preparations for the parliament's operation. The evidence cited will provide a valuable foundation on which future assessments can be made as the life of the parliament unfolds.

To understand the factors shaping elite expectations, the thesis utilises an actor-centred approach. It also draws from the conceptual frameworks of Multi-Level Governance, which highlights the roles of sub- and supra-national levels of government in policy-making, and New Institutionalism, which suggests that actors' behaviour is influenced by institutional norms. The thesis makes an original contribution by arguing that perceptions are also shaped by personal experiences, particularly proximity to the devolution process. It tests this hypothesis by studying three key groups of actors who are involved in the legislative process, namely, members of Scottish civil society, officials, and politicians. These groups include individuals with varying degrees of involvement in the parliament's establishment, thereby enabling a comparison of the factors shaping their opinions.

In particular, the thesis analyses elites' expectations of two key issues. First, while Scotland was included in EC discussions as part of the UK as a whole, the thesis examines the extent to which observers believed a) its politicians and officials participated in the creation of the UK negotiating line and b) its interests were represented in Brussels by the UK government. It then considers whether devolution will make an identifiable difference in these areas, focusing on perceptions of the Executive's ability to influence policy-making in London and Brussels.

Influence is a contested word in political science. It will be particularly difficult to measure in relations between the Scottish and UK governments, as Westminster retains its sovereignty, the civil service remains unified, and discussions often occur behind closed doors. It is possible that Scotland's policy-making *process* may

change in accordance with new forms of governance while its legislative *outcomes* remain the same. Also, Scottish politicians and officials may participate in UK policy discussions but remain unable to affect the results. On the other hand, efforts to make the Scottish system more transparent and inclusive could enable public pressure to swing the UK debate in Scotland's favour. Thus, the thesis is not interested in establishing influence; rather, it aims to understand elites' perceptions of Scotland's influence by assessing their expectations of the Executive's ability to affect policy outcomes through domestic and European channels.

Second, the thesis evaluates how elites understand the operation of governance under new constitutional arrangements. Governance focuses on the changing role of the state, which is shifting away from being the main provider of policy and is instead facilitating interaction among various interests (Caporaso 1996, Hix 1998, Tömmel 1998). During the years preceding the parliament's establishment, a perceived consensus about this new style of politics developed among elites in Scotland. Many members of civil society hoped the new parliament would rectify the archaic and secretive practices of Westminster, proposing a more holistic approach to policy-making that includes civic interests in the process. The thesis examines the extent to which this interpretation is shared by other civic actors, officials, and politicians. It suggests that many support its overarching aims, but questions how they envision its practical operation.

The remainder of this chapter expands upon these themes. It begins by evaluating how historical relations between Scotland, the UK, and the European Union are likely to affect the involvement of the Scottish Executive in EC policy-making. Next, it introduces the key civic organisations to be discussed in the thesis. It also highlights their role in designing the parliament and articulating aspirations for new forms of governance. Third, the chapter justifies the selection of three categories of elites and explains further the conceptual framework within which their expectations will be considered. Finally, it describes the methodology used to ascertain elites' views and outlines how these key research questions will be analysed throughout the thesis.

SCOTLAND AND EUROPE

The Scottish Parliament was not created within a political vacuum. Rather, it was established at the end of a century of great change in Europe and within the ad hoc constitutional tradition of the United Kingdom. Its relationships with UK and European governments are shaped by this wider context, particularly as many commentators identify a link between devolution and integration. This section will provide a brief overview of recent political history, highlighting the role Europe played in domestic debates about constitutional change.

After the devastation of two world wars, six states created the European Coal and Steel Community (ECSC) in 1951 to make another war 'materially impossible'. Nearly fifty years later, the Community has become a Union, expanded to fifteen members (with enlargement imminent), agreed four major treaties (with the Treaty of Nice signed by political leaders in December 2000), and reformed its institutions (with further changes under discussion). It has also evolved from its initial economic goal of a common market to the creation of a single currency, while political integration is slowly progressing toward the establishment of common foreign and justice policies.⁴

Successive UK governments opted out of early membership in the Community, preferring intergovernmental decision-making and a free trade area that would preserve economic ties to the Commonwealth. Applications in the 1960s were vetoed by French President Charles deGaulle, who questioned the UK's commitment to European ideals and attachment to the United States; after his resignation, the path was cleared for entry in 1973. George (1994) has characterised the UK as an "awkward partner" in Europe, while others agreed that this often difficult relationship partially stems from the UK's struggle to adjust to declining prominence in the post-war world and lingering loyalties to the United States and the Commonwealth. The eventual decision to join was motivated partly by the perceived benefits of free trade and a fear of exclusion (Lord 1992, Mitchell 1996).

When the UK began to suffer from political and economic decline in the post-war period, former arguments for partnership with England - such as access to economic markets (Nairn 1977), support for the welfare state (Brown et al 1998),

cultural development, an alternative identity (Paterson 1994, Brown et al 1998), and foreign security - were directed towards Europe. These factors were enhanced by the perception that Scottish people have long held a more favourable view of the continent and the European project than their English neighbours,⁵ while the UK's participation in the EC "increased, rather than weakened, a pre-existing Scottish sense of distinctiveness within the United Kingdom" (W. Paterson 1994, 10).⁶

Members of civil society recognised the importance of Europe to a devolved Scotland. The Campaign for a Scottish Assembly (CSA) - a civic and non-partisan organisation that promoted constitutional change in the late 1980s - stressed that a parliament "is not a desirable extra, it is absolutely essential if Scotland is to thrive in Europe" (1996). The Scottish Constitutional Convention, which was established by the CSA to devise structures for a new parliament and lobby for their adoption, argued that the Parliament "will look not only to Westminster, but also to Brussels and Strasbourg. An effective Scottish voice in the EEC is a pressing priority" (1990, 8).

The four main political parties also envisioned a role for Scotland in Europe, although with differing rationales. The Liberal Democrats, who have long supported European Union, explained that

Britain's membership of the European Communities has radically altered the nature of the debate about Scottish government. As European government expands at the expense of UK government, the focus of Scottish attention is gradually moving from Westminster to Brussels (1992, 4).

The Labour party made a similar endorsement, suggesting that the Parliament

will provide distinct Scottish representation in the institutions of power in Brussels and allow Scotland to take advantage of the new evolving power structures in the European Union. . . . With the European Union increasingly decentralising to the nations and regions of Europe. . . . Labour's plans will ensure a voice and influence at every level - Edinburgh, London, Strasbourg and Brussels (1995, 2; also see 1997ab, 1999)

However, the other two parties held divergent views. The SNP opposed UK membership in the 1970s due to concerns in its fishing constituencies and aversion to exchanging one union for another. In 1988, they responded to public anxiety about the perceived isolation of an independent Scotland in the world community by launching their 'Independence in Europe' strategy. The SNP argued that Scotland would be situated within the larger European framework, thus maintaining external security and trade options (MacCartney 1990; Marr 1992a; SNP 1992, 1997). While accepting the devolution settlement for the present, the party argued for a strengthening of the parliament's role:

The European dimension is incontrovertibly of great and growing importance to Scottish political, social, economic and cultural life. It is vital that the Scottish Parliament seize the opportunity to enhance and strengthen Scotland's role within Europe, irrespective of the limitations placed upon it. Scotland needs to maximise its impact in Brussels if we are to protect Scottish interests (1998b, 24).

In contrast, the Conservatives originally foresaw a role for Scotland when the UK negotiated terms of entry. Their support was outlined in *Scotland and Europe: Seven Viewpoints* (1971) on grounds of industrial development, agricultural benefits, legal aspects, social policy, and trade unions. Despite recognising the economic benefits of a common market, the party has since maintained a hesitant approach and opposed the creation of a federal 'superstate'.⁷ Their stance, as party leader William Hague told Scottish activists in September 1998, is a desire "to be in Europe, but not run by Europe." This 'Euro-scepticism' means recent party documents say little about the Parliament's European role.

The hesitance of UK governments about ceding power to the European Union mirrors their traditional opposition to a domestic devolution of power, as they have been partially impaired by England's⁸ constitutional tradition of absolute parliamentary sovereignty (Lord 1992, Mitchell 1992, Ascherson 1994, W. Paterson 1994, A. Scott et al 1994, MacCormick 1995, Brown et al 1998, Leicester 1998). This has led to speculation about the effect of EU membership on the UK's relationship with its 'regions' (Kolinsky 1978, P. John 1997, Mawson 1998, Rifkind

1998). Some Irish observers described the reluctance of UK governments to shift power to different levels of government as a “double constitutional problem,” the key to which “lies in the debate about Britain, rather than the debate about Europe. The solution to the first is the precondition for the solution to the second” (Gillespie 1996, 8). Indeed, this solution was exemplified by Labour’s support in its 1997 UK Manifesto for subsidiarity - the principle by which decisions are taken at the most appropriate level - in both European and domestic policy-making. This theme was also emphasised by Prime Minister Blair at his party’s 1998 conference, as he said “It is no coincidence that debates on devolution and Europe are happening together.” Similarly, European Minister Joyce Quin told the Northern Ireland Assembly in February 1998 that “The goals of ‘subsidiarity’ and ‘devolution’ are the same.”

The creation of an autonomous parliament in Scotland fits the wider trend of regionalisation, as other European states have also devolved power to their sub-national levels⁹ (Sharpe 1993, Jones and Keating 1995, M. Rhodes 1995a, Jeffery 1997d, LeGalès and Lequesne 1998). As Neal Ascherson postulated in a 1994 lecture: “We can formulate a law of politics here. When European Union advances, so does regional autonomy. Conversely, when the project of union falters, Europe of the Regions also begins to slow down.” While many European states developed procedures for managing relationships between national and autonomous sub-national governments before (or during) the addition of a European dimension, the UK remained a centralised state for twenty-five years after it became a member.¹⁰ Because the UK government’s European negotiating line was formulated in Whitehall (Giddings and Drewry 1996, Bulmer and Burch 1998ab) with input from ‘territorial departments’ like the Scottish Office, the establishment of the Scottish Parliament required central government to amend its procedures for formulating its stance on European policies (Bates 1997).

The Scottish Executive clearly has a vested interest in contributing to the UK’s opinions on EC matters, as a significant percentage of its legislative agenda will involve the implementation of European directives in devolved areas such as agriculture, fisheries, and transport.¹¹ In his testimony to the House of Commons’ Scottish Affairs Committee, then-Devolution Minister Henry McLeish identified the

key aim and likely difficulty of this settlement in relation to Europe: “We foresee that the role of the new Scottish Parliament Executive will actually enhance the involvement of Scotland in European affairs without diluting, in any way, that single central [UK] voice” (1998, Vol. 2, 105). Because issues of representation can quickly become politicised, this thesis is not seeking to enter the partisan debate about whether Scotland would be better represented in Europe as an independent country rather than as a ‘region’ within the UK. Instead, it focuses on the current devolution settlement by analysing how elites expect the Scottish Executive to develop an autonomous voice in European policy-making that promotes distinctive Scottish policy needs, while simultaneously contributing to the creation of a unified UK negotiating line.

CIVIC EXPECTATIONS OF GOVERNANCE

In addition to analysing Scotland’s role in EC policy-making, this thesis evaluates support for new forms of governance as advocated by a significant portion of Scottish civil society. This section will introduce the civic organisations that played an important role in the nation’s history and will feature throughout the thesis. Many supported the campaign for devolution, and some of their members helped design the parliament’s procedures. This section will also present examples of the desired forms of governance, while subsequent chapters will examine whether these are supported by other elites.

Civil Society When Scotland joined crowns with England in 1603, each retained its own civic institutions. The 1707 Treaty of Union, which dissolved the Scottish and English Parliaments and created a new Parliament, allowed for the continuation of Scotland’s ‘Holy Trinity’, which includes the church, education, and legal system. Scotland was guaranteed free trade with England, and maintained control of its local government. The retention of these institutions provides the basis of Lindsay Paterson’s (1991, 1994, 1997) argument that Scotland was never fully incorporated into the UK, but operated through a process of ‘negotiated compromise’ and institutional autonomy. As long as the political agreement of 1707 was not challenged, the Union enabled Scottish civil society to flourish through the limited

autonomy retained by elite groups and institutions. Throughout the eighteenth and nineteenth centuries, Scottish elites enjoyed a high degree of autonomy in the management of local affairs while benefiting from the Union advantages of trade and empire.¹² During the early twentieth century, Paterson explained, this autonomy was linked to the welfare state and aided by technocracy while Scottish distinctiveness occurred in implementation. These civic institutions also played a significant role in political life, as some articulated the demands of Scottish people in the absence of a legislature and later lobbied for one's creation.

There are complex academic debates about the meaning of civil society, including the development and influence of Scottish civic organisations throughout the nation's history. While detailed analysis of these issues is beyond the remit of this thesis, consideration is given to the involvement of these organisations in the devolution process and to differing expectations among civic actors. This thesis relies on Paterson's definition of "those institutions that lie between the citizen and the state" (1994, 12). Although a broad and basic interpretation, it enables the study to include business, trade unions, and local government in the same category. Following is a brief introduction to Scotland's major civic institutions, highlighting the contribution of many to the campaign for constitutional change.

- The Church of Scotland, unlike the Church of England, is self-governing and free from formal political influence and appointments (Kellas 1989).¹³ The Church's prominence led some to believe that its elected General Assembly "is the nearest thing at present to a Scottish Parliament" (Shanks 1996, 26). Its Church and Nation Committee repeatedly called for the establishment of a Scottish Parliament, while some members participated in the Constitutional Convention.¹⁴
- Scotland's independent legal system is based on the continental tradition of Roman law and differs from the English emphasis on precedent. Some suggested legal independence helped preserve Scottish identity within the UK (Kellas 1989, Marr 1992a, Paterson 1994, Brown et al 1998), enhancing perceptions of difference (Thomson 1995). The retention of Scottish law affected UK policy-making, as Westminster devised separate legislation for implementation north of the border (Kellas 1989).

- The Union preserved Scotland's education system, which contributed to a separate identity (Kellas 1989, Paterson 1994) and helped to mould social consciousness (Smout 1986).¹⁵
- Trade unions, in particular the Scottish Trade Unions Congress (STUC), have been another vocal proponent of devolution. Although all trade unions affiliated with the STUC are also associated with the Trades Union Congress in England, the STUC is "a national trade union" that claims to have a "more internationalist perspective" and "openness to the European Union" (Graham and MacGrath, 1991). Like the Church, some believed the STUC assumed a representative role in the absence of a parliament (Kellas 1989, Graham and MacGrath 1991, Paterson 1991, Brown et al 1998).¹⁶
- Scotland's local authorities are based on a different system from England. They were the source of the nation's autonomy (Paterson 1994), remaining "the only Scottish democratic institutions which directly reflect the political aspirations of the people of Scotland" (Alexander 1992, 55). This was particularly evident when mainly Labour-led councils provided a buttress against Westminster during the Conservative government of the 1980s and 1990s. The Tories re-organised Scottish local government in 1995, changing the two-tier system of nine regional and 53 district councils to a single tier of 32 authorities.¹⁷ Over the past decade, analysts, local government officials, and members have called for reform (Alexander 1992; Fairley 1995, 1997).¹⁸
- Established in 1975, the Convention of Scottish Local Authorities (COSLA) is an umbrella organisation that represents all local councils. It provides leadership for them by representing collective interests on policy and finance, negotiating wages and conditions of services, and promoting best practice. It also shapes policy development through dialogue with Scottish officials, and services Scottish members of COR (Goldsmith and Sperling 1997, COSLA 1999). COSLA supported devolution, providing the secretariat for the Constitutional Convention.

- Many ‘English’ institutions have independent Scottish equivalents, including the National Farmers Union - Scotland (NFUS) and the Confederation of Business and Industry - Scotland (CBI). Similarly, the Scottish Council of Voluntary Organisations (SCVO) represents a large sector of civil society as the umbrella body for many voluntary associations.¹⁹ Major Scottish industries are overseen by establishments such as the Scotch Whisky Association²⁰ and the Scottish Fishermen’s Federation.²¹
- Scotland also has its own Bank of Scotland, Royal Bank of Scotland, and Clydesdale Bank, with each issuing separate Scottish notes that do not feature the British monarch. In addition to receiving UK-wide newspapers and television, Scotland produces its own print (e.g., *Scotsman*, *Herald*, *Press and Journal*, *Daily Record*) and broadcast (e.g., BBC Scotland, Gaelic programmes) media.

Paterson (1991) indicated that the negotiated arrangement between Scottish civil society and the UK began to break-down during the post-war period, as some people in Scotland perceived a democratic deficit in their own institutions and felt an increasing indifference to UK institutions. Such beliefs contributed to the mobilisation of some civic actors into the Scottish Constitutional Convention. This group, whose work will be discussed in Chapter Three, included politicians from the Scottish Labour and Liberal Democrat parties and members of most civic organisations cited above. The Convention called for democratic reform, explaining that Scotland

has a distinguished and distinctive structural heritage [which are] the very fabric of Scottish society, yet Scotland has come to lack democratic control over them. . . . This is a democratic deficit which runs contrary to Scotland’s distinct political identity and system (1995, 6).

Despite living in one of the world’s oldest democracies, the Convention argued that “The first and greatest reason for creating a Scottish parliament is that the people of Scotland want and deserve democracy.”

A key feature of Scottish civil society, which partly results from a population of only five million, is the number of ‘hats’ worn by actors. Numerous individuals

belong to several organisations or have worked in multiple sectors; for example, some former civil servants presently work in business. The combination of a small civil society and frequent interaction between actors helped to shape the political debate and build a sense of shared purpose. It also created a common dialogue and reinforced a central aim, which was not only to establish a parliament but also to forge a new style of politics:

the constitutional debate has provided one clear focus of the increasing signs within Scotland today of a new 'civil society' being born, operating through the formation of networks and alliances, organisations and groups coming together from different contexts and perspectives, recognising common ground in discontent with the way things are and a shared aim in the pursuit of the common good, seeking a new way of doing things that is more open, flexible and consensual than the flawed, tired Westminster system (Shanks 1996, 34).

In short, civic Scotland desired real government and better governance.

Governance The thesis builds upon academic definitions of governance, particularly one that describes it as "a process of co-ordination of public and private actors, social groups and institutions in order to attain clear aims, which are debated and defined collectively, in uncertain and fragmented environments" (LeGàles 1998, 243). It also draws from the conceptual framework of *multi-level* governance (MLG), which considers the involvement of sub-national authorities in EC policy-making by suggesting that legislative competences are shared among several tiers of government rather than monopolised by the central state (Hooghe 1995, Marks et al 1996).

The thesis then assesses how 'governance' is understood in Scotland, especially among elites who hoped to forge a new style of politics. One explanation comes from the report of the Consultative Steering Group (CSG), a civic and cross-party committee convened by the Labour Government in January 1998 to propose standing orders for the new parliament. It recommended that the Parliament a) share power; b) be accountable; c) be accessible, open, responsive, and participative; and d) recognise equal opportunities. Others, including analysts at the Scottish Council Foundation, promoted the idea of 'holistic government':

Government by policy goals is less about changing this departmental machinery than changing the way in which it is used. First the goals set, the objectives, should be those defined by citizens themselves. Holistic government is judged by the results it achieves and what it looks like to those on the receiving end (Leicester and Mackay 1998, 22).

Also known as 'joined-up government', this approach was used to design the parliament's cross-cutting committees. One example is the broad remit covered by the Social Inclusion, Housing and Voluntary Sector Committee.

Another report, *Democratic Participation and the Scottish Parliament*, warned that a new style of politics cannot be achieved through institutional change alone:

The key lesson to be drawn for Scotland is, therefore, that in the creation of new institutional and political structures it is also vital to consider new methods of political participation and that both these approaches can be mutually reinforcing in terms of enhancing democracy (Unit for the Study of Government in Scotland 1997, 58).

One possible mechanism is the Scottish Civic Forum, a large gathering of civic organisations that discusses legislative concerns, conducts consultations, and seeks to establish a consensus. It evolved from the Scottish Civic Assembly, which campaigned for devolution and debated various policies. The Forum is directed by SCVO proposals, which cited "a widely held view that in order to enjoy the confidence of the Scottish people the Scottish Parliament will need to develop mature and consensual forms of governance. The interface with civic society is critical to that aspiration" (CSG 1998a).²² However, the challenge for Scotland's civic members, officials, and new politicians remains agreeing upon and then establishing their desired style of governing. This thesis is not prescriptive, but aims to provide a benchmark that future researchers can use to determine whether the parliament fulfilled civic aims.

ACTOR-CENTRED APPROACH

Because political elites have varying expectations, it is necessary to consider the factors that shape their disparate views. The thesis uses an actor-centred approach that studies the “political activities of individuals and groups of individuals as the causal link between macro processes. . . and the rules that structure political regimes” (Marks 1997, 23). It draws from Multi-Level Governance, which examines the sub- and supra-national levels of government and predicts that actors’ expectations will be affected by the political level at which they work. For example, under this assumption the views of a European Parliament member (MEP) should differ from those of a Scottish Parliament member (MSP). It also relies upon New Institutionalism, which suggests that actors’ behaviour is shaped by institutional norms (Peterson 1995, Armstrong and Bulmer 1998). Consequently, an MSP and trade union official are likely to have different opinions based on their institutional affiliations.

The thesis makes an original contribution to an actor-centred approach by arguing that an additional factor must be taken into account, namely, proximity to the devolution process. It argues that the extent of an actor’s engagement with the parliament’s development may override the strength of political level, institutional norms, and partisan affiliation in shaping expectations about its operation. This conceptual approach is useful when studying the creation of a new institution, as it can highlight divergent views among actors with varying degrees of involvement. Because the small size of Scotland causes actors to assume many diverse roles, it is particularly important to consider how personal experiences affect perceptions.

Typologies The construction of the new Scottish Parliament building illustrates the problems that arise when individuals share the same goal but disagree about the details, as its construction has been dominated by conflicting demands among those involved. Many campaigners wanted the parliament to be housed in Calton Hill’s Royal High School (Scottish Constitutional Convention 1995), including architects who presented designs at a December 1997 Buildings Public Forum in Edinburgh. The site was refurbished in anticipation of a positive outcome in the 1979 devolution referendum; although that attempt was ultimately unsuccessful, many viewed Calton

Hill as the parliament's natural home when it was established two decades later. Civic members also had ideas about the building, calling for a horseshoe-shaped debating chamber, the use of IT as a tool for enhancing democratic practice (John Wheatley Centre 1997), and physical accessibility (SCVO 1998e). A Catalan architect won a government contract to build the structure, and presented a design including upturned boats to symbolise his vision of Scottish identity (Miralles 1998). The project has been delayed and costs have increased as MSPs amend the plans to incorporate their ideas as future tenants, including a more rounded debating chamber and larger offices.

The parliament as an institution is likely to face similar problems caused by differing hopes among those involved with its conception, birth, and early years. The remainder of this section, which is developed further in Chapter Two, will introduce a typology of actors to help categorise and explain the sources of these divergent views. Using the building analogy, the thesis will distinguish between the parliament's architects, builders, and tenants. The typology is based on three 'institutional' categories of actors - members of civil society, officials, and politicians. This classification enables an analysis of the effect of institutional norms on elite opinions. Each category includes elites working at different political tiers, allowing a study of the extent to which actors' views are shaped by their level of employment. Most importantly, the categories contain elites with varying degrees of involvement in the parliament's establishment; thus, the thesis can analyse how proximity to the devolution process affects the expectations of actors within and between categories. While it is impossible for a researcher to know precisely what has motivated actors' views, the researcher can obtain a more accurate and balanced explanation by considering them within a personal context.

First, the parliament's *architects* are members of Scottish civil society. Many members of civic organisations, as this chapter has suggested, campaigned for devolution and envisioned its ideal operation. Their collaborative efforts in the Constitutional Convention and the CSG provided terms of reference for discussions about the parliament, and many of their proposals were incorporated into its final design. While agreements forged during these years of planning created a perceived

civic consensus, the thesis will argue that cracks appear when one takes a closer look at individual expectations. The views of these active campaigners will be contrasted with those of civic members who were less involved in the parliament's establishment but are affected by its operation. This comparison will further clarify the extent to which commentators can speak of a 'civic' conception of devolution.

Next, the *builders* represent officials in the Scottish Office and some Whitehall departments. They were instrumental in devising the parliament's internal legislative procedures, and will be heavily involved in the policy-making process. Their role as political 'insiders' gives them more knowledge than other groups about the intricacies of devolution, while their neutrality as civil servants enables them to assess the operation of pre-devolution procedures and make predictions about the anticipated strengths and weaknesses of the new settlement. This category also includes officials in EC institutions who articulate views about Europe's newest parliament; although they are removed from the process of its establishment, they may work with its officials and can provide a 'European' perspective. A study of officials working at all three tiers of government enables a thorough comparison of the effect of institutional norms and political level on expectations of Scotland's European role.

Finally, the *tenants* symbolise the politicians who occupy the new parliament; while responsible for its upkeep, they also bring their own design ideas. This category, like other typologies, contains sub-sets of actors to allow a thorough assessment of factors shaping expectations. Among political candidates for the Scottish Parliament, some interviewees (Labour and Liberal Democrats) were involved in the Constitutional Convention while others (SNP, Conservatives) entered discussions about the parliament's design after the Labour government introduced legislation for its creation. The thesis will examine the correlation between variable participation in the parliament's development and candidates' views of its operation. Political hopefuls for the European Parliament and Labour members of Westminster also fall within this category, as their respective levels of government will interact with the Scottish Parliament. Their inclusion allows consideration of whether

politicians in Scotland have different aspirations for the parliament than their counterparts in Strasbourg and London.

RESEARCH DESIGN

The thesis utilises a qualitative research design to assess elites' expectations and perceptions of Scotland's role in Europe. Because the dynamic nature of devolution means information is limited and continually evolving, a quantitative study alone would not capture as well the transition in thinking or the emergence of more detailed information about the parliament's operation. Many existing secondary surveys (e.g., Scottish Parliament Election Study, Eurobarometer) focus primarily on the perceptions of the wider electorate, while primary surveys would not have enabled the researcher to probe the intricacies of elite expectations (as well as the previously neglected factors that shape them) in sufficient depth. Academic literature confirms that qualitative methods are often used in "research that is exploratory or descriptive and that stresses the importance of context, setting, and subjects' frame of reference" (Marshall and Rossman 1989, 46).

The major trade-off of a qualitative approach, however, is complexity versus generalisability. By aiming to avoid overly broad conclusions, it "draws particular attention to contextual issues, placing an interviewee's attitudes and behaviour in the context of his/her individual biography and wider social setting. Qualitative methods therefore capture meaning, process and context" (Devine 1995, 138). Consequently, the challenge of analysing elites' expectations about the Scottish Parliament requires a balance between finding clear themes and remaining true to individuals' views. Because the thesis takes into account the complexities of the devolution debates, it is less able to generalise about politics outside this context. Instead, it aims to capture a historical moment and to provide "the basis upon which subsequent research is conducted from which generalisations can be made" (145).

Another potential weakness of qualitative methods is the effect of the researcher on data collection and the analysis of findings. Given the development of rapport with interviewees and emotional involvement with the process of devolution, the researcher recognised her participation in the conversation and made a concerted

attempt not to ask leading questions or correct inaccurate statements. However, the researcher may have inadvertently affected it in the wake of interviews as numerous interviewees reported that she forced them to think about the implications of devolution when asked questions they had not yet considered. Although such personal involvement may produce ‘softer’ data than questionnaires, it hopefully also provides a more nuanced perspective about politics in Scotland (Bulmer 1984b, 209-211).

In an attempt to counteract researcher bias, interviews comprise only one strand of data. The thesis uses a triangulation of methods, which is “the attempt to strengthen the validity of empirical evidence in social science by reliance on more than one approach” (Bulmer 1984a, 32). It begins with an analysis of primary and secondary documents, which provides a contextual framework for the qualitative research that involves participant observation and elite interviews.

Primary and Secondary Documents The thesis is grounded in secondary literature detailing the political histories of Scotland, the UK, and the European Union. This background gives general knowledge about the political entities being studied, and enables key questions about Scotland’s relationship with the UK and Europe to be re-examined in light of constitutional change. Primary documents cited in Chapter Three comprise the ‘legal’ and ‘factual’ framework of the thesis (i.e., EU treaties, Scotland Act, Consultative Steering Group Report). Earlier publications, such as Constitutional Convention reports and draft standing orders, help catalogue the flow of ideas and the evolution of the debate. These documents give an ‘objective’ framework against which the more ‘subjective’ ideas of interviewees can be compared: “Historical analysis is particularly useful in qualitative studies for establishing a baseline or background prior to participant observation or interviewing” (Marshall and Rossman 1989, 95).

Chapter Four analyses papers produced by civic organisations, including STUC AGMs and Church of Scotland reports; Chapter Six evaluates the manifestos of political parties. These primary sources enable content analysis, which “may be seen more as an analysis strategy than as a data collection strategy. . . . It is a technique for making inferences by objectively and systematically identifying specified

characteristics of messages” (Marshall and Rossman 1989, 98). In particular, the thesis examines these documents to determine support for new forms of governance, to understand the varying ways in which the term is defined, and to assess expectations about Scotland’s role in Europe. This allows interview data to be compared with the institutional perspective detailed in documents, thereby reducing researcher bias in their interpretation. It also increases the validity of interview responses by highlighting the similarities and differences of oral and written opinions.

Participant Observation To obtain an informed understanding of the creation of a new institution, research includes participant observation of the Scottish political community where constitutional change is occurring. This qualitative method “involves the researcher immersing her/himself in the social setting in which s/he is interested, observing people in their usual milieu [sic] and participating in their activities” (Devine 1995, 137). As the Appendix details, the researcher has attended events ranging from party conferences to the parliament’s state opening. It is at such gatherings that Scotland’s political elites come together, plan the parliament’s structure and operation according to new forms of governance, and develop a ‘common language’ that is articulated by many interviewees. The role of these events in shaping elites’ opinions is exemplified by the references of some interviewees to public statements made by Labour MEP David Martin, an active and vocal participant in most debates about Scotland’s role in Europe.

Although the thesis contains little detailed information about these events, the researcher has derived numerous benefits from attending them. First, they place devolution within a wider context of study for an outsider to Scottish politics. Because documents provide limited insights into the intricacies of the debate, it is necessary for this American researcher to immerse herself in the process of change to identify gaps in the public discourse, to ensure interview questions are phrased appropriately, and to portray credibly the individuals and events under consideration. Second, it quickly becomes obvious who the key actors are, what different groups expect from the parliament, and how civil society networks. This enables the researcher to identify some interviewees from among the regular attendees of

academic and policy conferences. Third, becoming acquainted with these individuals at events builds trust and rapport. Because the researcher appears well informed about the process of constitutional change and consequently seems less 'foreign', interviews are more relaxed and open. Indeed, the researcher may benefit from being an outsider as interviewees do not perceive a biased approach or an ulterior motive to the study. Finally, listening to debates at conferences enables the researcher to cross-check elites' private opinions with their public statements.

Elite Interviews Grounded in documents and observations, the primary source of data comes from interviews with over 60 'political elites'.²³ Elites in this context are understood as influential, prominent, and well-informed "people in important or exposed positions" (Dexter 1970, 5). Although uncomfortable with the implied superiority of the term, Dexter cites the lack of a better word to describe those who require special interviewing treatment whereby "the investigator is willing, and often eager, to let the interviewee teach him what the problem, the question, the situation, is." While some elites were willing to be quoted directly, many agreed to interviews with the understanding that their comments would not be attributable; for the sake of consistency, no interviewee is identified by name in the thesis.

Interviews were conducted with the following groups of actors:

1. Officials In the Scottish Office, interviewees included the head of the European Affairs Division and the clerk of the European Committee. Representatives of the Commission and the European Parliament in Scotland were also interviewed. In London, interviews were conducted with two English officials in the Foreign Office - one in the European Union Department (EUDI) and one in the Devolved Administrations Department (DAD). Another interview featured a Scottish Office official who was seconded to the Cabinet Office to help draft the concordats. In Brussels, interviews were conducted with Scottish Office officials establishing the Scottish Executive's European Office and (Scottish) officials in the Commission and Council of Ministers.
2. Politicians Interviews were conducted with senior members of the four main Scottish political parties (Conservative, Labour, Liberal Democrat, Scottish Nationalists). Individuals included Scottish Labour MPs²⁴ (including a member

of the Committee of the Regions, members of the Scottish Affairs Committee, and a Scottish Office minister), MSP candidates, and Scottish candidates topping their party lists for the European Parliament.

3. Civil Society This category comprised the bulk of interviews and included individuals across civil society: (1) Members of the civic organisations detailed in the third section of this chapter, including participants in the Constitutional Convention; (2) Political commentators (journalists and academics); (3) Scotland Europa officials, including former directors; (4) Local government officials (COSLA's European and International Affairs team and another senior official);²⁵ (5) Business, including umbrella organisations and major Scottish interests.
4. Regional Representations Interviews were also conducted in Brussels with representatives of regional offices from Bavaria, Catalonia, Storstrum (Denmark), East Finland, and Mid-Sweden. Additional meetings were held with an official of the Irish Permanent Representation and the Flanders Government. The researcher determined that the experiences of other European regions are not identical, but can provide a context for understanding the Scottish case.

The sample of interviewees was chosen systematically to incorporate all levels and aspects of government and society (Devine 1995, 142). This selection, as explained in the discussion about an actor-centred approach, enabled a comparison of diverse expectations within and between three groups of elites. There was a high response rate among those approached for an interview, as only three refusals came from senior politicians who cited reasons of time rather than lack of interest. The researcher deliberately chose UK officials at all three levels who were working on issues related to Scotland's role in European policy-making, and sought to interview the most senior - and available - politicians who were standing for the Scottish and European Parliaments. The majority of civic interviewees were selected through participant observation as the researcher identified regular attendees at conferences and key actors in political debates, while she also attempted to meet representatives of Scotland's major civic and business institutions. She further generated a sample through 'snowballing' as interviewees nominated other elites.

Because these techniques can focus on one network of people, a danger enhanced by the small size of Scotland's political community, the researcher tried to extend the interview sample beyond the 'usual suspects' by questioning representatives of Scottish industries and multiple individuals in a given organisation. However, the focus of this thesis on civic institutions and the existing devolution settlement means that many interviewees were sympathetic to Labour and Liberal Democrat views. Because elites were selected on the basis of their job title rather than their political ideology, the researcher did not overtly seek counter-views.

The interviews were semi-structured, following a pre-planned set of open questions that allowed the interviewee to discuss issues as s/he sees relevant. The questions, which are listed in the Appendix, focused on expectations of the parliament's domestic and European roles. These questions were memorised, which made the interview more conversational as the interviewee felt less under scrutiny. Informal probes were used to follow up areas of interest or to encourage an interviewee to expand upon issues. The wider focus of the interview was based on the subject's area of expertise (i.e., role of local government, views of fishing industry); this meant all interviewees were not asked every question, which resulted in some gaps during the analysis of results. Interviewees were allowed to guide some of the interview in an attempt "to understand people's motives and interpretations. . . . Consequently, the emphasis is not on making predictions about behaviour but rather seeking to capture the uniqueness of human experiences" (Devine 1995, 140-141).

With the exception of several interviews in November and December 1998 that tested the clarity and effectiveness of questions, the majority of interviews in the UK were conducted between January and the end of April 1999. While conducting interviews over an extended period of time can cause problems of dependability due to the effect of external events on individuals' responses, the researcher attempted to keep external variables to a minimum. This period of study followed the publication of the Scotland Act and the Consultative Steering Group Report, ensuring equal availability of information about the parliament's structure and procedures. It also occurred before the 6 May 1999 elections, which prevented respondents from basing

their opinions on knowledge about the parliament's partisan composition. Time constraints meant that interviews in Brussels were conducted three weeks after the election.

CHAPTER OVERVIEW

The remainder of the thesis will develop further the themes introduced here. Chapter Two discusses the theoretical framework that outlines academic definitions of governance and assessments of interaction among political levels. It also expands upon the actor-centred approach to be used in the thesis, arguing for a more subtle study of policy-making that considers the correlation between an actors' proximity to the devolution process - in addition to the level and institution of employment - and his/her expectations and perceptions. Chapter Three begins by describing the process of establishing the Scottish Parliament, focusing on the active involvement of civil society. It then examines how Scotland was represented in UK policy-making pre-devolution. The bulk of the chapter outlines the formal rules governing the Scottish Executive's role in EC policy-making, highlighting the ambiguity of these guidelines and providing a factual framework against which interviewees' expectations can be compared.

Chapters Four, Five, and Six build upon the 'accepted wisdom' of these academic predictions and legal guidelines by analysing the expectations of Scotland's political elites. Using documents and interviews with civic members, officials, and politicians, these chapters consider actors' understanding and acceptance of preferred governance mechanisms and expectations about the Executive's ability to sway EC policy-making through domestic and European channels. The actor-centred approach used in the thesis highlights divergent opinions within these groups by assessing elite responses according to the effect of institution, level, and personal experiences. Chapter Seven brings these chapters together by analysing and contrasting the expectations of the three actor typologies about governance and Scotland's European role. Chapter Eight concludes the thesis by summarising the lessons of an actor-centred approach, comparing elites'

assumptions with academic findings, and raising questions for future consideration.

¹ Numerous treaty reforms have confusingly altered the name. This thesis will refer to the European Union (EU) when discussing the union - and all three pillars - as a whole. It will refer to the European Community (EC) when discussing its policy-making competences under pillar one only.

² For a discussion of Europe's influence on the Scottish economy, see A. Scott (1989, 1991), Smith (1991), J. Scott (1992), G. McCrone (1993, 1996), and Moore (1995). For an analysis of regional policy, see Bateman (1994), Bache et al (1996), and Bache (1999).

³ Documents produced by Crick and Millar (1995) and the Constitution Unit (1996), which made numerous suggestions for the parliament's operation, will be discussed in Chapter Three. Other early publications about the relationship between the Scottish Parliament and the European Union were written by Bates (1997) and Boyle (1998). More recent studies have been undertaken by Burrows (1999), Mitchell and Leicester (1999), and Bulmer et al (2000).

⁴ For information about the development and operation of the EU, this thesis relied on Nicoll and Salmon (1990), W. Wallace (1990, 1994, with H. Wallace 1996), Sbragia (1992), Lewis (1993), Church and Pinnemore (1994), Dinan (1994), Duff, Pinder and Pryce (1994), George (1994), Martin (1994), Nugent (1995), Pinder (1995), Swann (1995), Barbour (1996), and Cram (1997).

⁵ Scotland's political parties capitalised on this perceived 'internationalism'. For example, Winnie Ewing, a Member of the European Parliament (MEP) for the Scottish National Party (SNP), explained that "We are an internationalist people, who look outwards to the rest of the world - in contrast to the insular, little Englander mentality at Westminster" (SNP 1997, 3; also see 1999c, 18). The Liberal Democrats said "Scotland has a strong tradition of internationalism, and a proud history of diplomatic and trading links around the world" (1999, 32). The Scottish Conservatives (1998) also adopted the rhetoric: "Scotland, over the years of the present Union, has maintained and developed an impressive international identity."

⁶ For example, Malcolm Bruce MP cited "a striking divergence" in views at the Maastricht summit: "In England the key issue was what was to become of the sovereignty of the Westminster Parliament whereas many Scots found themselves drawn to a different question. *If Europe was to be a true federation, should the primary federal union for Scotland be Europe itself rather than the United Kingdom*" (Scottish Liberal Democrat Party 1992, 1; emphasis original)?

⁷ Some Conservative members, such as MPs Ken Clark and Michael Heseltine, support European involvement; others have left the party to form the United Kingdom Independence Party (UKIP) and advocate complete withdrawal from the EU.

⁸ The concept of parliamentary sovereignty is part of England's constitutional tradition. Scottish political thought has always maintained that sovereignty originates with the people, who may transfer some authority to their political representatives.

⁹ This thesis will use the term 'sub-national' to refer to the level between the central state and local government. It will seek to avoid the term 'region', which is particularly contentious as almost everyone in Scotland considers Scotland to be a nation.

¹⁰ Some devolved authorities have even called for greater involvement in the formation of EC policy, including the German Länder (Benz 1998; Jeffery 1996, 1997b) and Spain's autonomous communities (Heywood 1995).

¹¹ In July 1988 Jacques Delors, then-President of the European Commission, predicted: "Ten years hence, 80% of our economic legislation, and perhaps even our fiscal and social legislation as well, will be of Community origin" (cited in Constitution Unit 1996, 88). In numerous speeches throughout the late 1990s, Scottish MEP David Martin placed this figure closer to 50%. The White Paper also recognised that "EU policies and legislation will have a considerable effect on many of the matters for which the Scottish Parliament will be responsible" (Scottish Office 1997a, 16; see also Scottish Executive 1999, 15).

¹² Scotland's high level of autonomy is often contrasted with Ireland's fewer liberties (Kellas 1989, Campbell 1994, Morill 1994, Paterson 1994, Brown et al 1998).

¹³ The Protestant religion affected Scottish life through its promotion of 'secular Presbyterianism' (Kellas 1989, McCrone 1992, Bell and Dow 1995, Walker 1996).

¹⁴ The Church has been involved in debates about Scottish home rule since the mid-1940s. It supported the Kilbrandon Commission in 1974, reported on the 1976 White Paper, and opposed the 40% rule in the 1979 referendum. According to a 1997 Church and Nation report, the General Assembly repeatedly called for greater devolution (1946, 1947, 1948, 1949, 1955, 1987, 1967), home rule (1952), and self-government (1961, 1968, 1969, 1974, 1975, 1976, 1977, 1979, 1980, 1982). In addition, the Church and Nation Committee examined the role of Scotland in the European Community ten times between 1967 and 1978. It also responded to the CSG consultation (1998).

¹⁵ Scotland's education system and the views of leading figures in educational organisations are not considered in this thesis. Although education is clearly an important element of Scottish civil society, this policy area remains virtually untouched by the European Community. Consequently, the researcher has decided not to examine education - or, for the same reason, Scots law - in greater depth.

¹⁶ STUC documents (i.e., conference programmes and General Council Reports) throughout the 1990s emphasised the need for a parliament to fulfill Scotland's left-of-centre policy preferences and correct the electoral imbalance. Its members were involved in the Constitutional Convention, while it published an agenda for the parliament (1991) and responded to the CSG's consultation (1998).

¹⁷ Although the elimination of a layer of government eased the introduction of the Parliament, many at the time questioned the Conservative's motivation in decreasing the role of local government and centralising more power in the Scottish Office (Alexander 1992, Fairley 1995, Sinclair 1997).

¹⁸ Many focused on the relationship between councils and the parliament, as some feared a loss of local authority (McKenna 1996, Alexander 1997, Sinclair 1997). A study of this relationship culminated in the McIntosh Report (*Commission on Local Government and the Scottish Parliament* 1999), which called for a 'covenant' between the parliament and councils, formal working agreements with Scottish ministers, an inquiry into local government finance, and a review of the electoral system. Some academics considered the experience of local councils in Europe (Goldsmith and Sperling 1997), while others issued proposals for reform (Midwinter 1997, Adonis 1998, and Stewart 1998).

¹⁹ SCVO cited 25, 985 'recognised charities' in Scotland, which are identified by Inland Revenue as charitable for tax purposes and not necessarily part of the voluntary sector. 70% of these - excluding schools, universities, and churches - are 'general charities' (1998a, 3-4).

²⁰ Whisky is Scotland's leading import. The industry employs 12,500 people directly (distilling, bottling, transferring). Because inputs are obtained locally, the industry has one of the highest multipliers - bringing total employment to 60,000 (Interview, 15 January 1999, Edinburgh).

²¹ The Scottish Fishermen's Federation (undated) states that 70% of the fish landed in the UK are caught by the Scottish fishing fleet and are valued at £300 million. This fleet employs 6700 fishermen in 2800 vessels, and is estimated to employ four times that throughout the support and supply chain.

²² The CSG's discussion of a Civic Forum was partially premised on a paper drafted by SCVO's director, Martin Sime (1998). It referenced similar plans in Wales, London, and Northern Ireland. The CSG also considered wider issues of participation (1998i).

²³ This thesis also relies upon several informants, who help "to acquire a better picture of the norms, attitudes, expectations, and evaluations of a particular group than [the researcher] could obtain *solely* from less intensive observations or through conducting a greater number of less intensive interviews, by themselves" (Dexter 1970, 8; emphasis original). While their comments are not included in the final text, they provided inside commentary, identified useful interviewees, and acted as a sounding board for ideas.

²⁴ To be methodologically accurate, this study should have included MPs from all four main political parties. However, there are currently no Conservative MPs in Scotland. All SNP MPs are standing for the Scottish Parliament, so their views are covered in that context. Although some Liberal Democrat MPs are standing for the Scottish Parliament, the author concedes that the views of members remaining at Westminster could have been included.

²⁵ While this thesis could have included local government in its study of interaction between political tiers, its main focus was the relationship between the Scottish Parliament and the European Union. As a result, the researcher chose not to interview local government politicians - although they have clearly played an important role in creating links between Scottish civil society and EC institutions - or local officials. Instead, the researcher obtained information about the experience of local government in Europe from its umbrella organisation, COSLA.

CHAPTER TWO: CONCEPTUAL FRAMEWORK

This thesis examines expectations about the role of a devolved Scotland in a changing Europe among three distinct groups of actors, namely, members of civil society, officials, and politicians. To obtain a more nuanced understanding of their views, this thesis will develop an actor-centred approach that seeks to understand the factors shaping their opinions. It draws from the conceptual framework of Multi-Level Governance (MLG), which suggests that actors' expectations are affected by the political *level* of employment. It also relies upon the insights of New Institutionalism, which emphasises the effect of *institutional norms* on actors' behaviour. However, this thesis will add to these theoretical discussions by arguing that *proximity* to the devolution process and personal experiences also influence perceptions. This chapter will introduce these concepts, first describing how academic approaches to European integration shifted away from grand theories and toward frameworks that accounted for the roles of individual actors and sub-national authorities. It will then develop the idea of multi-level governance by considering academic definitions of governance and assessments of interaction between political levels. It will conclude by introducing an actor-centred approach, arguing for a more subtle study of policy-making that recognises the numerous factors shaping elites' beliefs.

EVOLUTION OF INTEGRATION THEORY

The establishment of the Scottish Parliament occurred within the context of wider European integration, which analysts have explained through the competing schools of international relations and comparative politics (Caporaso and Keeler 1995, Cram 1996). Since the creation of the EC, academic research has focused on the nature and direction of integration as early theorists (Spinelli 1966; also Pinder 1996) and the Community's founding fathers (Monnet 1962) envisioned federalism as a peaceful solution to European inter-state conflict.

The main debate has been between variants of neo-functionalism and intergovernmentalism. The first approach considered how politics drives integration; it predicted that sovereign states will, if it suits their economic interests, transfer some policy-making abilities to a supranational institution that will facilitate decision-making between states (Haas 1958, 1964; Lindberg 1963, 1970).¹ 'Spillover' occurs when integration in one sector requires further integration in another to complete the initially agreed goal. Although the resurgence of national interests in the Empty Chair Crisis² of 1965 raised questions about the inevitability of spillover, the adoption of the Single European Act twenty years later renewed academic interest in the theory (Sandholtz and Zysman 1989, Schmitter and Streek 1991, Tranholm-Mikkelsen 1991).

The second approach, based on a realist view of international politics (Carr 1939; Hoffman 1966, 1987; Morgenthau 1967), argued that the dominant actors are rational unitary states, which are motivated by power and will use any action necessary to protect their interests. Because states dominate decision-making and determine the speed of integration, the process does not threaten their sovereignty. EC decision-making is a lowest common denominator bargain among state executives, as EC institutions assist the states who set the overall direction (Moravcsik 1991).³

These theories over-emphasised the roles of supra-national institutions and central state governments, respectively. They also viewed institutions as unitary actors and failed to account for non-governmental participants. In reaction, theory in the 1970s began to consider the involvement of other actors. Interdependence and regime theorists (Keohane and Nye 1977) examined the importance of transnational actors and international co-operation. Some considered the impact of law and rulings by the European Court of Justice (Stein 1981, Weiler 1982), while others studied the link between politics and economics (El-Agraa 1994, Swann 1995, Tsoulakis 1997, Armstrong and Bulmer 1998). Finally, scholars of domestic politics stressed the continuing importance of national governments (Puchala 1975, H. Wallace 1983, W. Wallace 1983), and emphasised how domestic factors affected policy-making at the European level (Bulmer 1983).

Valid aspects of these approaches, coupled with the unresolved debate about the nature of integration, led some academics to advocate a move away from grand theories and toward a 'portfolio' of theories that described events at various levels (Peterson 1995, Bache 1998). Thus, the need to a) take account of both neofunctional and intergovernmental aspects of European integration, b) provide a meso-level theory, and c) incorporate the role of institutions and other actors led to a shift away from a state-centric analysis and toward a focus on multi-level governance.

MULTI-LEVEL GOVERNANCE

Multi-Level Governance (MLG) developed as a conceptual framework partly to rectify the failure of previous theories to recognise the roles played by various actors on the European stage. Its proponents argued that both supranational and national approaches to institution building missed "a crucial element in the whole picture, namely, the increasing importance of subnational levels of decision-making and their myriad connections with other levels" (Marks 1993, 392). MLG incorporated elements of both theories by accepting supranationalist claims that European integration transformed the state and created a European polity in which supranational institutions have independent influence, and by acknowledging intergovernmentalists' arguments that state executives are unlikely to be supplanted by these other bodies (Hooghe 1995, 176).

MLG proponents challenged the view held by state-centric theorists (Mann 1990; Milward 1992, 1994; Moravcsik 1991, 1993; Taylor 1996) that national governments are the central players in European policy-making. Although acknowledging the state's continuing role, Marks (1993) suggested its sovereignty was diluted by collective decision-making and supranational institutions, making it less able to manage domestic involvement in international relations. Domestic patterns of EC policy-making were also affected by the challenges of market competition (e.g., regions vie for jobs and investment) and political representation (e.g., regional development policies are increasingly formulated at European level), which required central government to adjust its practices and allow regional

participation (Benz and Eberlein 1999, 330-1). MLG, concluded Hooghe, “is the only model where regions would be a governmental level of importance next to national, European and local arenas. This Europe cannot be one of the national states, nor of regions, but only a *Europe with the Regions*” (1995, 178; emphasis original).

Treaty revisions in the 1980s and 1990s helped sub-national authorities to access the policy-making process by including provisions that weakened the authority of central states and facilitated greater ‘regional’ participation:

- The Single European Act (1987) (re-)established qualified majority voting, reducing the control of individual governments by enabling them to be out-voted. It also established a timetable for the completion of the single market and introduced structural funding to limit subsequent regional disparity; this new policy necessitated participation by sub-national authorities, who would help manage its implementation.
- The Maastricht Treaty (1992) established the Committee of the Regions, which facilitated institutional discussions among local and sub-national authorities. The addition of Article 146 allowed ministers of sub-national governments to participate in Council meetings if they had authority to bind the member state. It formally endorsed the principle of subsidiarity, which called for decisions to be taken at the most appropriate level. The treaty also introduced co-decision, a legislative procedure that further weakened central control in the Council of Ministers by enabling the European Parliament to veto policies in certain areas.
- The Amsterdam Treaty (1997) extended to two-thirds the areas covered by co-decision, giving the Parliament a greater say in most policy areas devolved to sub-national governments. It furthered the principle of subsidiarity by inserting a protocol⁴ that extended its application to relations between national and sub-national governments. It also introduced a six week period between the publication of legislative proposals and their agreement in the Council of Ministers, allowing more time for domestic deliberation.

Therefore, MLG can be understood as negotiation among supranational, national, and sub-national governments “as the result of a broad process of institutional

creation and decisional reallocation that has pulled some previously centralized functions of the state up to the supranational level and some down to the local/regional level” (Marks 1993, 392). A review of MLG literature (Marks et al 1996, 346)⁵ found general agreement - issues flagged as contentious will be discussed in a later section - among its proponents about the following premises:

- *First, “decision-making competencies are shared by actors at different levels rather than monopolized by state executives.”* Advocates of MLG rejected the state-centric separation between domestic and international politics, believing instead that European policy-making authority is shared. Most recognised the increasing number of participants involved in decision-making and implementation, ranging from governments to non-state actors. However, contested issues include which actors are involved, how power is shared (including policy networks⁶), and what motivates involvement by non-central government actors (i.e., regional assertiveness, central acquiescence, or Commission encouragement).
- *Second, “collective decision-making among states involves a significant loss of control for individual state executives.”* As other actors became involved in the policy-making process, MLG advocates explained that central governments lost some of their former legislative monopoly to both sub- and supra-national institutions. However, the degree to which actors can operate outside central government constraints and shape legislative agendas is contested.
- *Third, “political arenas are interconnected rather than nested.”*⁷ While the theory of federalism suggested that smaller units are situated within larger units where constitutional responsibilities are delineated, most supporters of MLG accepted that actors are not nested within states but seek autonomous involvement at multiple levels. Thus, MLG is better represented by Elazar’s model of a ‘marble cake’ in which actors interpenetrate than as a neat federal ‘layer cake’ (Caporaso 1996, 47). This interconnection is evidenced by the formation of numerous transnational associations, and explains why MLG is often combined with policy networks to explain the decision-making process.

However, there is debate about actors' ability to sway policy decisions and the policy-makers targeted.

Definition of Governance

To gain a more precise understanding of multi-level governance, the term must be divided into its constituent parts. The use of the word *governance* - as distinct from *government* - is crucial, as they are not synonyms. "Rather governance," explained R.A.W. Rhodes, "signifies a change in the meaning of government, referring to a new process of governing; or a changed condition of ordered rule; or the new method by which society is governed" (1996, 652-3). It is quickly becoming a buzzword, even meriting a Commission on Global Governance (1995). Rhodes identified at least six uses of governance, including the minimal state, corporate governance, new public management, good governance, a socio-cybernetic system, and (his preferred) self-organising networks.⁸

The emergence of governance at the regional level was identified by Tömmel (1998), who explained that regional and local authorities are undertaking less executive tasks and are co-ordinating policy processes instead. Powers between government levels are no longer clearly distributed, as co-operation between them replaces former hierarchical relationships. Governance also implies a different role for the central state, explained Caporaso (1996, 32), as the term increasingly "refers to collective problem-solving in the public realm" rather than the relevant agents of the political associations involved. "Government, by contrast, refers us to the institutions and to the agents (personnel) who occupy key institutional roles and positions." Similarly, Leicester and Mackay (1998) argued that government should focus on process and information, rather than on structure and power. In a system of 'negotiated governance', central government tasks include policy entrepreneurship, high quality evaluation, facilitation of deliberation, and support for interest group and alliance formations.

This thesis is evaluating the 'Scottish' understanding of governance, whose principles are illustrated by COSLA's submission to the CSG. The local government organisation expressed a hope that the Scottish Parliament would

create a capacity to develop a distinctively Scottish approach to public policy by engaging in the policy process a wide range of stakeholders who are directly involved in the implementation of policy; and [sic] those directly affected by policies established by the Parliament. . . . [These principles would lead to] a more flexible partnership based on ‘negotiated governance’. This method of operation accepts that there are many complex policy problems needing the intervention of different levels of government because the problems cut across traditional boundaries. This approach would lead to the development of ‘holistic government’ in the new methods of decision making involving groups outside the Scottish Parliament and government by broad policy goals (1998b, 1; also see 1998a, 1998c).

The concept of governance is also useful for explaining the European Union, as academics have struggled to define its unique structure (Rhodes and Mazey 1995b, Winn 1998).⁹ This approach places less emphasis on a definable state-like system, and instead seeks to understand interaction between various actors. Hix’s (1998, 39) description of ‘new governance’ viewed the EU as more than an international organisation but as less than a state. This resulted in a system where the state does not dominate the policy-making process but increasingly involves multiple actors; actors’ relationships are ‘non-hierarchical’ and ‘mutually dependent’; the primary governance function is regulation; and decisions are made by ‘problem-solving’ rather than bargaining. Similarly, Helen Wallace wrote that “modern governance, at least in western Europe, involves efforts to construct policy responses at a multiplicity of levels, from the global to the local” (1996, 11-12). Choices between national and transnational policy-making, which are affected by political and policy competition, are “played out as a function of the interplay of *ideas*, *interests* and *institutions* and focused on the choices made by a variety of actors about how to respond to an issue” (12; emphasis original).

In sum, governance means that the state plays a greater role in co-ordinating interaction among numerous actors and networks. This necessitates a shift in the style of policy-making from *representation* to *participation*, as policy users seek to influence the drafting, implementation, and outcome of legislation. Many Scottish political elites clearly desired such a change, calling for a more participative role in

policy-making. Indeed, the CSG designed the parliament to facilitate such an approach: committees are expected to examine cross-cutting issues (as distinct from the traditional mirroring of executive departments), European Committee members are drawn from other subject-based committees, and new methods of civic consultation are being considered.

But, as Rhodes cautioned,

Focusing on governance can blur, even dissolve, the distinction between state and civil society. The state becomes a collection of interorganizational networks made up of governmental and societal actors with no sovereign actor able to steer or regulate. . . . A key challenge for government is to enable these networks and to seek out new forms of co-operation (1996, 666).

Consequently, the first MSPs will be confronted by the expectations of the diverse actors involved in the parliament's genesis and early operation. They will face the challenge of allowing civic participation while retaining their roles as democratically elected legislators. Because many Scottish elites have participated in the parliament's development, they have acquired certain ideas about how policy should be made. But, as this thesis will demonstrate, conflict is likely as expectations vary among actors.

Multiple Levels

Multi-Level Governance focuses primarily on the interaction between three levels of government: sub-national (which can include local authorities), national, and supranational. As Marks explained, "Instead of the unambiguous allocation of decisionmaking responsibility between national and supranational government, we see the institutionalization of *contested spheres* of influence across *several tiers* of government" (1993, 401-2; emphasis original). However, the previous discussion highlighted contentious issues within these levels (see Hooghe 1995, Peterson 1995). First, although most MLG proponents agreed that a sub-national authority should first seek a role in EC policy-making by lobbying the national government, its ability to shape the resulting negotiating stance remains unclear. Second, academics

debated the extent to which national government retains control and restricts sub-national access to the European arena. Third, many questioned the effectiveness of various European channels utilised by sub-national authorities. These include the Commission's role in encouraging sub-national participation, the authority of the Committee of the Regions, and the importance of regional networks.¹⁰ An overview of these *academic* debates will provide a context for the remainder of the thesis: Chapter Three will describe how *government documents* reflect expectations about the Scottish Executive's ability to affect EC policy-making outcomes, and subsequent chapters will discover whether *elites* agree with either of these assessments.

Domestic Lobbying Because states traditionally viewed all European matters as foreign policy (which remains a competence of the central state), they transferred administrative and legislative authority from both national and sub-national governments to Europe. This move meant sub-national authorities struggled to find a voice in European policy-making (Jeffery 1997a).¹¹ The questionable autonomy of sub-national authorities is, therefore, partly informed by one's impression of the central state. Intergovernmentalists (Moravcsik 1991, Pollack 1996) viewed member states as the key players, controlling EC institutions and the pace of integration. In contrast, MLG supporters conceptualised national government as only one player among several: "While state executives continue to control the broad outline of institutionalism in the EU, they are no longer the final arenas for policy determination" (Marks and McAdam 1996, 274).

This thesis is sympathetic to the arguments of Bache, who observed that although "national governments are crucial actors in the EU policy process," an inter-governmental interpretation is not "necessarily accurate on all issues, at all stages of policy-making, or over time" (1998, 156). Based on a study of regional policy, Bache concluded that sub-national involvement in EC policy-making is limited because the national government acts as a flexible 'gatekeeper' at various stages of the policy process. This results in a political arena typified not by multi-level governance, but by "*multi-level participation*: actors from sub-national and supranational levels participate, but do not significantly influence decision-making

outcomes” (1998, 155; emphasis original).¹² For example, the concentration of power in national governments through the Council of Ministers - as even applications for regional aid must be made by the central state - means regional interests “lobby the EC indirectly via national politico-administrative elites who constitute crucial intermediaries in the decision-making process” (Mazey 1995, 88).

Similarly, Mitchell and Leicester’s study of Scotland’s relationship with the UK and Europe advocated ‘para-diplomacy’, which refers to “activities parallel to, often co-ordinated with, complementary to, and sometimes in conflict with centre-to-centre macro-diplomacy [Duchacek 1990, 32]” (1999, 6). This is in contrast to proto-diplomacy, which involves the promotion of separatist messages abroad by non-central governments. A weakness of this argument, however, is its failure to account for the crucial role played by the political composition of the sub-national government: while ‘para-diplomacy’ may be an appropriate strategy for national and sub-national governments that are comprised of unionist parties, a nationalist sub-national administration may be more likely to utilise the latter approach.

There is also increasing acceptance that “many areas of domestic public policy have become Europeanized” (Mazey and Richardson 1995, 337). Even the centralised UK in its pre-devolution days showed signs of ‘Europeanisation’: Bulmer and Burch (1998ab) observed changes in Whitehall, while John noted that “the territorial allocation of European responsibilities and resources” to local government has partially changed “power relations within the UK nation-state and within the EU” (1997, 132). The Scottish Parliament is also trying to integrate - or ‘mainstream’ - Europe into the work of all committees, enabling the European Committee to pass legislation involving specific policy issues to relevant subject committees. Accordingly, Jeffery advocated wider reference to the German Länder model of European Domestic Policy, which “focuses on the *domesticization* of European politics, and the consequences this has for SNAs [sub-national authorities], and thus reverses the existing emphasis on some form of *internationalization* of sub-national government” (1997a, 218; emphasis original).¹³ He later argued that the central state cannot be viewed as a gatekeeper, as sub-national authorities have managed to “breach the monopoly of the central state” to obtain “intra-state channels

of access to European decision-making” (2000, 6). This thesis will examine whether political elites agree with academics about the potential restrictiveness of Whitehall and the variable scope for autonomous Scottish participation in EC policy-making.

European Lobbying In addition to lobbying national government, many sub-national authorities seek to establish a presence in Brussels to “prevent their domestic political position being outflanked by national executives operating beyond their reach in Europe” (Marks and McAdam 1996, 265) and to “improve their relations *vis-à-vis* other tiers of government” (Benz and Eberlein 1999, 331). Some sub-national authorities who lobby in Brussels find that “there is no replication of national governmental structures nor one centre of political authority;” instead, there are a variety of institutions that provide multiple points of contact (McAteer and Mitchell 1996, 1). These include ‘institutionalised’ and ‘non-institutionalised’ channels, as well as the development of “vertical (sub-national-EU) and horizontal (inter-regional) linkages.”

Of the European institutions, the Commission is cited most frequently in discussions about sub-national involvement in EC policy-making. It has been described as the ‘central actor’ due to its ‘agenda-setting ability’ (Marks 1993), enabling sub-national governments to develop vertical links that may bypass the state’s intermediary role.¹⁴ Although these authorities become involved in European policy-making through their own initiative, many academics suggested they are also responding to active encouragement from the Commission. Benz and Eberlein said pressure for regionalisation is two-fold: “a) from below, i.e. from the regional level seeking more autonomy and participation in European policy games; and b) from above, i.e., from the European Commission looking for more partners and support for territorial and other policies” (1999, 331). Others argued that the Commission championed the regional cause (McCarthy 1997, 443), played a role in policy formation through open agenda setting (Peterson 1995, 85), and provided “impulses and incentives to alter regional behaviour and performance” (Tömmel 1998, 72). Marks and McAdam boldly stated that the Commission

has *consistently* encouraged the activities of regional governments at the EU level. The mobilisation of regional governments serves as a *counterweight* to the entrenched power of state executives, and the Commission is *eager* for political allies to moderate state executive domination in the EU (1996, 267; emphasis added).

However, these claims were disputed by a fellow MLG adherent, who explained that the Commission faces a dilemma in regional mobilisation:

While a greater role for subnational authorities would in theory undermine state-centric tendencies, an independent political *presence* for subnational authorities would become another form of political *control* on the Commission, weakening the main supranational actor in the arena and ultimately strengthening state-centrism (Hooghe 1995, 193-4; emphasis original).

Thus, it can slow sub-national mobilisation, surrender its potential allies against the states, and risk being controlled by either intermediary. Or it can shift the burden to sub-national governments, which can act independently and weaken the Commission or turn their attention to national channels and have a limited functional relationship with the Commission. Inter-governmentalists also disputed the Commission's regional evangelism. Moravcsik argued that the Commission's agenda-setting role is limited "by the Council's previous delegations and ultimate decision" (1993, 513). Pollack asserted that member states "establish the institutional context within which both the Commission and regional governments act" (1995, 362). Although later acknowledging that both are independent actors, he concluded that "their ability to influence policy outcomes has been circumscribed by the institutional structures established" (385).

The most accessible 'institutionalised' channel for sub-national authorities is the Committee of the Regions (COR). Established by the Maastricht Treaty (1992), this 222 member body advises the Council and Commission about issues of 'regional' importance such as education, training, public health, and structural funds.¹⁵ But despite its accessibility, academics gave it mixed reviews and questioned its capacity to affect EC decisions.¹⁶ Some studies suggested that it is bland, gives too many opinions, suffers from internal wrangling, and has questionable legitimacy

(McCarthy 1997). It was also found to suffer from a membership appointed by national government, internal divisions between regions and localities, and uneasy relations with other institutions (Bomberg and Peterson 1998). On a more positive note, studies found that COR represents those - such as local government - who cannot afford an office in Brussels (Loughlin 1997), involves sub-national governments in the process (McCarthy 1997), provides a forum for coalition building, enables joint action, and disseminates information (Bomberg and Peterson 1998).

The main 'non-institutionalised' channel used by sub-national authorities is a regional information office.¹⁷ These Brussels-based offices monitor EC policy developments, act as an early-warning system for their domestic colleagues, access officials and politicians, provide information to the Commission, and lobby for funding. However, the effectiveness of these offices is difficult to measure due to uncertainty about the extent to which their contributions changed an EC policy outcome or their governments utilised their information (Jeffery 1997c, 197). The relationships between regional information offices and central government's Permanent Representations, which were originally the only intermediaries between states and EC institutions, can help measure the emergence of MLG. Jeffery (1997c) compared the relationships between the PermReps and regional information offices of Germany and the UK pre-devolution. He found more tension between the German institutions due to Länder pressure on central government for greater involvement; in contrast, the UK offices had less ambitious goals and created less friction. This was confirmed by McAteer and Mitchell, who suggested that

greater independent action at the EU level by the Scottish regions would have been won at a heavy price: that is, their involvement in a series of domestic territorial networks would have been undermined by anti-central government action at the EU level (1996, 24).

This section has demonstrated that academic assessment of the nature and extent of sub-national participation in EC policy-making is mixed. Some suggested that sub-national authorities are becoming more involved in the whole process (Woods

1995, Mawson 1998). This increased involvement “enhances the legitimacy of the European polity as an arena for authoritative decision-making” (Marks and McAdam 1996, 274), and “has given rise to new patterns of intergovernmental relations within the Union and new tensions between national and regional authorities” (Mazey 1995, 80). Many also concluded that the process of regionalisation varies widely between states and policy arenas (Hooghe 1995, Mazey 1995, Jeffery 1997c). They cited a clear distinction between regions with access and those without, which results in a hierarchy of mobilisation: regions operating within a federal system, such as Germany and Belgium, have greater domestic and European involvement than regions within a centralised state like the UK and France.¹⁸

However, others acknowledged the increased activity of sub-national authorities but disputed the development of a regional tier of government (Keating 1998a)¹⁹. Tömmel cited diverse internal arrangements within states, suggesting that “the newly emerging patterns of decision-making and consensus-building evolve independently of or even against formal distribution of powers between government levels” (1998, 73). LeGalès observed that “European regions become rather weakly organised passageways for all kinds of networks and they constitute one of the political forums of governance and one of the many possible areas for mobilisation” (1998, 264). But despite efforts to co-ordinate multiple actors, he said “they do not often succeed” and their participation is weak (267).

This thesis will contribute to these academic debates - which present rather ambiguous conclusions - by examining political elites’ expectations about the role of a devolved Scotland in the European Union. Chapters Four, Five, and Six will assess the expectations of civic members, officials, and politicians about the Scottish Executive’s ability to participate in EC policy-making and utilise new forms of governance. These chapters will enter the discussion outlined above by considering elites’ views about the anticipated influence of the Scottish Executive on legislative outcomes, the potential dominance of the UK Executive, and the likely openness of EC institutions.

MLG Weaknesses

In addition to these debates about the operation of policy-making in a multi-tiered system, critics of MLG have highlighted other flaws in its approach. One of the main strengths of MLG is its emphasis on the role of sub-national authorities in European policy-making and the interaction of multiple tiers of government. However, this also creates one of the approach's main weaknesses: its tendency to accentuate some levels of government while downplaying the significance of others. Proponents of MLG have been forced through debates with intergovernmentalists to place an inordinate emphasis on the increasing importance of supra- and sub-national actors in EU policy-making (Ansell et al 1997), which has tended to exclude national government:

The problem for intergovernmentalists was in accounting for the role played by other actors in the process, notably the Commission, without undermining their key proposition that national governments dominate the process. The problems for multi-level governance theorists was in justifying the importance of 'other actors', particularly subnational governments, while acknowledging that national governments remain the main players in the process (Bache 1998, 148).

MLG has also failed to examine the role of civil society, a dominant feature of Scottish politics. Its importance to the achievement of sub-national success in EC policy-making was raised by Jeffery, who referenced Keating's interpretation of Putnam's (contentious) theses about 'social capital':

the question is one of the extent to which the territorial space which [sub-national authorities] formally represent also constitutes a civil society: 'There is some evidence. . . that regional [or other sub-national] government operates best where there is a well-developed civil society, a sense of identity, civic traditions, an associative life, and relationships of confidence and exchange within the territory' (2000, 17).

While one would expect the Scottish Parliament to operate well given the strength of its civic community, this thesis will expose friction between the competing expectations of civil society, officials, and politicians. Jeffery's observations further

highlight the need for an actor-centred approach: "The personal authority, interests and commitment invested by those responsible for leading EU policy in SNAs is also an important differentiating variable" (15). He cites the influence of French notables, a high profile European Minister, and Scotland's own Charles Gray of the former Strathclyde Regional Council.

Second, MLG tends to conflate influence with participation. This chapter already highlighted Bache's (1998) criticism of the approach's over-emphasis on the ability of sub-national authorities to exert significant influence independent from national governments. Jeffery also stressed the continued importance of domestic negotiations and the need for sub-national authorities to mobilise through - rather than beyond - the state,²⁰ although he cautioned that "mobilization and influence are not synonymous" (2000, 3). This thesis will further these arguments by suggesting that although the Scottish Executive will have the democratic authority to participate in policy discussions, it appears unlikely to determine their conclusions.

A third criticism of MLG is its predominant usage in European policies whose subject matter necessitates sub-national involvement, such as structural policy (Marks 1993, Marks 1996, Hooghe 1996a) and regional policy (Ansell et al 1997, Benz and Eberlein 1999). Less research has been done on the applicability of MLG within the European context to policy areas where sub-national authorities may not be directly involved, such as agriculture, environment, and education. Although this criticism is valid and highlights a flaw in the conceptual approach, this study does not aim to rectify it. Because the thesis examined the time period before the parliament began to legislate, any assessment of the actual operation of multi-level policy-making is impossible. Instead, it analyses the expectations of political elites about the nature and extent of Scottish participation in the European legislative process.

Finally, MLG has been faulted for being more descriptive than prescriptive. Although its claim that central governments lose power to sub- and supra-national institutions creates the expectation of greater interaction between actors at these levels, Marks et al admitted that "the details remain murky, and, apart from a generalized presumption of increasing mobilization across levels, they [MLG

proponents] provide no systemic set of expectations about which actors should mobilize and why” (1996, 42). Similarly, while MLG points to the existence of multi-level policy networks, “it does not tell us how these networks come into existence or explain the connection between their existence and the alleged decreasing central government control over policy” (Adshead 1998, 2). While accepting these criticisms, this thesis - as stated above - uses MLG to envision the anticipated involvement of the Scottish Parliament and Executive in a system of multiple political authorities. It does not seek to analyse their roles in influencing the development of policy, as it will take time before this can be assessed with any accuracy.

ACTOR-CENTRED APPROACH

This chapter demonstrated the contested and variable nature of attempts to conceptualise EC policy-making, as theories differed according to the ideology employed, individuals and institutions researched, policies examined, and time period studied. Following the recent shift away from macro theories, “Most scholars agree that the EU is best described as a loosely integrated multi-level system of governance characterized by fragmentation and complexity” (Benz and Eberlein 1999, 331). However, proponents of theories that acknowledge a multi-level system of European governance are split between those who focus on the norms of institutions (New Institutionalism) and those who focus on the political level (Multi-Level Governance). While this thesis accepts arguments of both approaches, it will also advocate the need to incorporate individual perceptions to acquire a more nuanced understanding of elite expectations.

Institutional Approach to MLG

Although MLG focused attention on the roles of sub- and supra-national governments in European policy-making, much of the analysis concentrated on these levels as institutions (e.g., the Commission, central government). In particular, the conceptual approach of New Institutionalism moved away from the post-war emphasis on ‘behaviouralism’ (Blyth and Varghese 1999), focused primarily on the

role of institutions (Hall and Taylor 1996, Kato 1996, Lowndes 1996), and attempted to revive the state as a political actor (Peterson 1995). Institutions, according to Goodin (1996), are stable, valued, and recurring patterns of behaviour that arise and change through accidents, evolution, or intentional intervention.²¹ While there is no single institutional arrangement, he said one that is well-designed will be internally consistent, externally in harmony with the rest of the social order, revisable, and robust. Once created they assume a 'life of their own', as Scharpf's (1988) 'joint-decision trap' indicated that an established institution is difficult to change even if the policy environment alters. The main virtue of the theory is that it

accepts the fundamental intergovernmentalist insight about the initial primacy and continuing centrality of member governments in the creation and amendment of EC institutions, and then works directly from this assumption to determine how, and under what conditions, EC institutions, once created, serve to structure the individual and collective choices faced by member governments, and thereby influence policy choices in ways that cannot be predicted from the preferences and relative power of the member states alone (Pollack 1996, 430).

This approach is less interested in descriptions of legal-constitutional structures than in an assessment of the knowledge and practices within an institution (Bulmer 1994, Lowndes 1996, Armstrong and Bulmer 1998).

New Institutionalism provides helpful insights into the operation of existing institutions. Its arguments may be validated by the Scottish Parliament, which was designed to operate in a more open and consensual manner than Westminster. For example, a horseshoe-shaped debating chamber and strong committees that meet around the country may indeed encourage politicians to operate differently; on the other hand, the behaviour of Scotland's new politicians - some of whom are steeped in institutional traditions of Westminster and local government - may remain guided by old norms. New Institutionalism also highlights how institutional rules can shape actors' views and behaviour. In the case of elite expectations about the parliament and executive's operation, subsequent chapters will demonstrate that some views appear to be influenced by the institution within which an actor is working.

However, the main criticism of this approach is its over-emphasis on formal institutions to the exclusion of informal institutions and other actors (Pollack 1996, Selznick 1996, Blom-Hansen 1997). New Institutionalism also fails to consider the extent to which actors' views are affected by experiences outwith the institution. Indeed, this thesis will argue that proximity to the process - particularly of establishing a new institution - is a greater determinant of expectations than institutional norms.

Actor-Centred Approach to MLG

Other MLG theorists drew from rational choice, using 'soft' actor-centred approaches that "focus on the interests and strategies of actors in the EU policy process" and viewing "individuals as utility-maximizing and independent from social and political forces" (Hix 1998, 48). Marks initiated an actor-centred approach to MLG by "posing actors as agents of decision making in both international and domestic contexts" to explain why national government leaders cede power to sub- and supra-national levels (1997, 34). In contrast to state-centric approaches, he distinguished between institutional rules and political actors by defining institutions as "sets of commonly accepted formal and informal norms that constrain political actors (individuals and groups of individuals) who are the only agents capable of goal-oriented action" (22). Although accepting a key precept of New Institutionalism that these rules limit and shape some ideas of political actors, Marks argued that actors may also change political rules to devise more suitable ones. Thus, national government leaders may be motivated to transfer authority by personal factors (e.g., desire to relinquish responsibility) that over-ride institutional norms (e.g., retention of state sovereignty). Marks concluded that this approach "has the virtue of directing us away from a priori notions concerning what motivates states or government leaders, emphasizing instead empirical analysis of the goals of key decision makers and the constraints under which they pursue these goals" (24).

Other academics reached similar conclusions about the importance of individuals. Hooghe's (1999) interviews with Commission officials led her to question the standard view of the Commission as a unitary actor with a pro-

integration agenda. Similarly, Mazey and Richardson concluded that policy actors commonly err by forming a general view of the Commission after interaction with only one Directorate General. While analysts of 'high politics' consider senior political actors, their account of 'low politics' - including journalists and interest groups - incorporated those who

help to construct the wider political and normative context in which national governments (and Commission officials) operate. Even in cases of high politics or heroic decisionmaking, the preferences of national and EU actors are not givens. Thus, if we are to understand the dynamics of the EU policy process, we need also to take account of the role played by so-called 'advocacy coalitions,' comprising individuals from various organizations who share similar beliefs and values and who are influential in setting the parameters for debate on EU policies (1995, 354-5).

Their study explored how these actors adapted to the EU policy-making environment and sought to 'regularise' the consultation process. It also questioned whether there is a clear 'European policy style', identifying a type of European governance that is

centred upon a small, central bureaucracy (the Commission) developing ever closer relationships with a complex *mélange* of policy actors. Policy agendas will be defined and issues processed within these (at best) translucent worlds of experts and interests who coalesce around particular policy problems. Thus, the emerging 'European policy style' is likely to emphasize bargaining, complex coalition building, and consensus building in policymaking arenas somewhat distant from traditional, domestic, institutional settings (338).

Accordingly, this thesis will argue for a more subtle approach to the study of multi-level governance by considering the correlation between individual experiences - in addition to level and institutional norms - and expectations. In particular, this thesis will focus on actors' proximity to the devolution process. Although it is difficult to state with certainty what factors have influenced elites' opinions, it is important to consider their comments within a relevant context. This approach is useful for the study of a new institution that is seeking to develop a new style of governance, and is particularly important in Scotland as the views of

political actors are shaped by the wearing of many hats. As Richardson - paraphrasing Tsebelis (1990) - wrote: "we can make progress if we focus on policy actor behaviour - as well as on institutions and institutional relationships - in order to begin our search for a better understanding of the EU as a policy system or series of policy sub-systems" (1996, 20).

Typology of Actors

This thesis builds a typology of actors, which is summarised in Table 2.1, to help explain elite expectations about Scotland's role in Europe. While other academic studies of the Scottish Parliament have used the analogies of architects and builders (Brown 2000, Brown and Meyer 2000), this thesis adds the category of tenant. These three actor types represent 'institutional' perspectives, enabling consideration of how institutional norms shape actors' views. Within each typology, opinions are assessed according to the political level of actors' employment. The typologies also include elites with varying degrees of involvement in the parliament's establishment, illustrating the impact of proximity to the devolution process on the expectations of actors within and between categories.

The first actor type is the parliament's *architects*, who are members of Scottish civil society. Their task was two-fold: a) campaign for devolution and b) provide the blueprint for its operation, which is detailed in the permanent records of Convention documents and the CSG report. While arguments for establishing the parliament varied, as discussed in the previous chapter, one of the main reasons given by civic members was their desire for increased participation in the policy-making process. Although the architects' campaign for a parliament has ended, they can comment from the sidelines and engage the parliament like other interests. But this group may have the hardest time post-devolution if builders and tenants tamper with their design; for example, they may be upset when obstructive walls are inserted and skylights of transparency are shrouded. While many civic organisations claimed to speak for Scotland in the political vacuum created by the absence of a Parliament, the emergence of a legislature changes the architects' role from 'spokespersons of' to 'contributors toward'. Proposals for a Civic Forum, a new 'building' designed and

run by the architects, suggest they may not fully trust the Parliament to take over their representative role. As Brown et al ask,

who will be the creature of whom? Will the political institution assume primacy in speaking for Scotland? Or will Scottish civil society, which has played a prominent role in creating and shaping that Parliament, assume that it and 'the people' are paramount (1998, 22)?

The Parliament's *builders* are civil servants in the Scottish Office and some Whitehall departments (this thesis examines the Cabinet and Foreign Offices only). The thesis also considers the views of EC officials, who will work with the new legislature although they were not involved in its establishment. The builders' task was to combine the architects' plans (CSG report) with government legislation (Scotland Act), devising a devolution settlement that was an operational success and preserved the unity of the United Kingdom. They focused primarily on the promotion of the government line and the creation of a workable method of policy-making. The main record of the builders' work is the publication of concordats, working agreements between officials north and south of the border that provide guidelines on good practice. Builders are in a unique position regarding their engagement with devolution: their political positions made them outsiders in the early campaign, yet they have the most detailed knowledge of the construction process due to their work as government insiders. The majority of those who helped design the new structures are now involved in the parliament's early operation, which provides continuity in the early days. Officials based in Scotland remain UK civil servants, while the current task of all officials is the execution of government policy (Parry 2000). Their relations with London-based colleagues remain particularly important, as successful operation seems dependent upon the retention of goodwill among officials.

The parliament's *tenants* are the first group of politicians to inhabit the building crafted by members of civil society and constructed by officials. The tenants bring their own expectations about their new home, particularly as some were architects involved with the Convention while others inhabited houses of a different

construction in Westminster or local government. These traits are likely to have substantial bearing on their attitudes toward and operation in the parliament, which will be documented in legislation, speeches, and media reports. Their main tasks include representing their constituents and making policy for Scotland. While they may be motivated by commitment to the ideals of a new style of governance, they are certainly driven by the need for re-election. This first group will determine the development of working practices in the parliament, which may lead to some solidifying of institutional norms.

Table 2.1 Actor Typologies

	ARCHITECTS	BUILDERS	TENANTS
Members	Civil society	Officials	Politicians
Task	Devolution Procedures	Operational success	Policy-making Representation
Record	Convention CSG	Scotland Act Concordats	Legislation Speeches
Current Role	Monitor Lobby	Policy Execution	Policy-Making Representation
Future	Lose rep. role ? evaluation	Changeable	Changeable

Table 2.1 presents a synthesis of these actor typologies. Because many political elites in Scotland wear multiple hats, it is difficult to place them within a single category. For example, several Labour and Liberal Democrat politicians were members of the Constitutional Convention; thus, some architects became tenants while others now lack direct involvement. Relationships also developed between individuals in various categories before the establishment of the parliament, and are likely to evolve during the political process. These blurred boundaries are represented in the table by an absence of vertical lines separating the categories. In addition to the confusion caused by overlap *between* categories, Chapters Four,

Five, and Six will highlight the differences *within* categories. The lack of a neat or orderly system of categorisation demonstrates the importance of an actor-centred approach that considers the numerous factors shaping elites' expectations.

SUMMARY

This chapter explained the shift in conceptions of European integration from grand theories toward more subtle considerations of the actors involved in the policy-making process. It then introduced academic opinions about governance and interaction between government tiers, which will be assessed throughout the remainder of the thesis from the perspectives of Scotland's civic members, officials, and politicians. In addition to assessing *what* these elites believe, the thesis will use an actor-centred approach to help understand *why* they articulate certain opinions. Multi-Level Governance provides helpful insights into the significance of political level in shaping views, while New Institutionalism highlights the effect of institutional norms. The original contribution of this thesis is the added emphasis on an actor's experiences, particularly proximity to the devolution process.

¹ Haas' conception of neo-functionalism was not concerned with earning the loyalty of 'the people'; instead, it assumed interests would be captured by government elites as their loyalties were transferred through an interaction of belief systems. Indeed, the EU has been built upon elite expectations (Mazey and Richardson 1995, Wallace and Smith 1995, Taylor 1996, Chryssochoou 1997).

² The Empty Chair Crisis arose in 1965 when the French President, Charles DeGaulle, objected to the supranational implications of Commission proposals and removed his representatives from Community institutions. The crisis ended with the Luxembourg Compromise of 1966, which enabled states to veto proposals that adversely affected their national interests.

³ 'Liberal intergovernmentalism' (Moravcsik 1993) explained how states are constrained by both domestic and international actors and play one against the other. This argument was aided by Putnam's (1988) two-level game theory and Scharpf's (1988) joint-decision trap. The latter was contested by Blom-Hansen's (1999) study of Scandinavia.

⁴ Paragraph 5, which was added to Maastricht article 3b, stated that "both aspects of the subsidiarity principle shall be met: the objectives of the proposed action cannot be sufficiently achieved by Member States' actions in the framework of their *national constitutional system* and can therefore be better achieved by action on the part of the Community" (emphasis added). The Commission must also draft an annual report on the application of 3b, and submit it to the Committee of Regions.

⁵ Similar overviews are provided by, among others, Hix (1998) and Tömmel (1998).

⁶ Policy networks are "an arena for the mediation of the interests of government and interest groups," which are created when specific policies can only be achieved if certain actors exchange resources (Peterson 1995, 76). They are "particularly rife in EU governance because the EU lacks formal

institutions which can facilitate bargaining between interested actors” (86). By providing a meso-theory that bridged the divide between intergovernmentalism and neofunctionalism (Rhodes et al 1996, Blom-Hansen 1997), the approach stressed “the vertical administrative networks that develop between the Commission and regions, between national and local governments, or both” (Ansell et al 1997, 358).

⁷ Marks (1993) originally argued that subnational actors are ‘nested’ within governments, but clearly changed his view by the publication of this article (et al 1996).

⁸ Rhodes’ theory was applied to a study of Merseyside, England. The author concluded that the applicability of ‘European style’ policy approaches to UK regional policy is limited by the structure of local policy networks (Adshead 1998).

⁹ Some theorists (Hix 1994, Caporaso 1996) suggested the EU exhibits state-like characteristics, while others viewed it as a union of states (Brewin 1987) or a new polity (Wessels 1996). A few used regime theory (Breckinridge 1997). Others described the EU as a federation (Pinder 1996), confederation (W. Wallace 1982), consociation (Taylor 1990), and confederal consociation (Chrysochoou 1997). For an overview of diverse attempts to define the EU, see Murray Forsyth (1999).

¹⁰ The operation of governance often includes non-institutionalised regional networks: “Actors are linked through networks, which span several levels and in which each actor brings in valuable resources” (Hooghe 1995 178). While the newness of the Scottish Parliament makes it difficult to speculate about the operation of its networks, the Scottish Council Foundation has begun preliminary work on establishing such policy links. See, for example, *Children, Families and Learning* (1999).

¹¹ The German Länder argued with central government during debates on the Maastricht Treaty that European policy should be domesticised, and won constitutional protection for regional involvement. They then campaigned for the establishment of a Third Level throughout Europe to gain allies (Jeffery 1996), but the heterogeneous nature of member states soon frustrated their ambitions (Jeffery 1997b).

¹² Hooghe disagreed: “The politics of multi-level governance is pluralist but with an elitist bias. There are no gatekeepers to close off the European arena, and resources for effective policy-making need to be collected from multiple arenas and actors. It also has an elitist edge, to the extent that only actors with valuable resources are likely to extract participation” (1995, 179).

¹³ Jeffery advocated European Domestic Policy as an alternative approach to MLG. It shows how sub-national authorities (SNAs) have made an impact by ‘breaching central state monopoly control over EU policy’ and have sought EU access from the bottom-up. It also addresses variations in the sectors where SNAs are likely to gain access, and explains differing scope between member states (1997a, 218; emphasis original). Marks acknowledged “the mobilization and empowerment of subnational governments” (1993, 407), later suggesting it “challenges the capacity of states to aggregate and represent domestic interests” (and McAdam 1996, 264).

¹⁴ A frequently cited example is RECHAR, in which the (UK) Commissioner of Regional Policy withheld money from the UK government because it refused to provide ‘additional’ funding to the EC money designated to help the Scottish mining community. Although analysts agreed that the Commission and Scottish local authorities worked together against the UK government, the implications of this event are debated (Marks 1993, Pollack 1995, Bache 1998).

¹⁵ The Amsterdam Treaty (1997) increased the powers of COR by enlarging the areas of obligatory consultation by the Commission and Council (including employment, social policy, environment and transport), and by enabling it to be consulted by the European Parliament. It no longer shares common services with the Economic and Social Committee, and can establish its own Rules of Procedure.

¹⁶ McCarthy (1997) found that academics were more negative about COR than practitioners, which exemplifies the need for an actor-centred approach to prevent analysis from being based solely on one group of respondents.

¹⁷ By the end of 1989, 22 offices represented 32 regional authorities. By 1992 there were 50 (Mazey 1995, 92). There are now 153 (Scottish Office European Affairs Division 1998a, 15).

¹⁸ Bomberg and Peterson (1998) argued that differing domestic positions are less important than expected. Skillful bargaining and access to (often informal) policy networks are also crucial, as they are not necessarily monopolised by regions with formalised positions.

¹⁹ Discussions about the relationship between regions, the central state and EC institutions have been provided by, among others, Armstrong (1995), Chesire (1995), Jones and Keating (1995), M. Rhodes (1995a), Münch (1996), Jeffery (1997d), Cooke, Christiansen, and Schienstock (1997), and LeGalés and Lequesne (1998).

²⁰ Jeffery (2000) cited three factors beyond 'simple constitutional position' that affect the level of influence exerted by sub-national authorities: the quality of intergovernmental relations between SNAs and the central state, the level of entrepreneurship applied in sub-national mobilisation, and the 'legitimacy' of an SNA's European policy institutions.

²¹ Historical Institutionalism focused on the 'critical moments' when an opportunity for change arises and the 'critical juncture' when there is a departure from the previous pattern. The approach is interested in "how and why institutions emerge and change; and with the consequences of change for the pattern of policy outcomes" (Bulmer and Burch 1998b, 605).

CHAPTER THREE:
HISTORY and INSTITUTIONS of SCOTLAND

Before evaluating the expectations of political elites about Scotland's role in Europe, it is necessary to establish a factual framework against which their views can be compared. This chapter opens with a short summary of events that led to the establishment of the Scottish Parliament, beginning with the unsuccessful attempt at devolution in 1979 and ending with the State Opening of the Parliament in July 1999. It briefly examines the pressures for constitutional change, focusing on the key role played by Scottish civil society in campaigning for and designing the new parliament. Understanding the perceived consensus that developed among these 'architects' throughout the 1990s is important, as the remainder of the thesis will highlight rifts in this civic alliance and assess divergent expectations among 'builders' and 'tenants'.

The next section examines Scotland's involvement in UK policy-making pre-devolution, providing a comparative framework for discussions about the anticipated difference of the parliament. The final half of the chapter outlines the formal rules, as detailed in legislation and concordats, that will guide the executive's role in EC policy-making. Many of these structures contain ambiguities, which may enable individual interpretations to limit - or increase - Scotland's participation in the legislative process. The discussion will also demonstrate the extent to which civic proposals shaped these rules by considering suggestions made by the Constitutional Convention, Consultative Steering Group, and academics. The next three chapters will then compare elites' expectations with this 'accepted wisdom'.

CONTEMPORARY POLITICAL HISTORY

Calls for Constitutional Change

Discussions about constitutional change in Scotland have occurred in various forms throughout the past century, motivated to some extent by perceptions of national identity¹ and the growth of the European Union (as discussed in Chapter One). Calls for devolution became increasingly significant in the political agenda of

the past twenty years, heightened by the UK's declining political and economic strength and by the frustration of many Scottish voters with eighteen years of Conservative government. While this thesis is not seeking to contribute to these debates, a consideration of varying perceptions about the origin² and nature³ of Scotland's relationship with England helps explain why members of civil society mobilised, campaigned for a parliament, and proposed a new style of policy-making.

The United Kingdom was a world leader and colonial power throughout the nineteenth century, but began to decline in influence after World War II (George 1994). While Scotland participated in the empire and shared its economic and political benefits, the weakening of the UK in the twentieth century led some people living in Scotland to question the union with England (Nairn 1977, Moreno 1988). As suggested in Chapter One, others began to critique the Westminster Parliament for being archaic, remote, and secretive. Its chamber, arranged two-swords lengths apart, enabled confrontational debates, while late-night sittings made it difficult for some women and those with young families to hold office (Garrett 1993, Dunleavey 1995). Charter 88 - a civic group campaigning for constitutional and electoral reform - produced draft *Scottish Standing Orders*, suggesting the new legislature must differ from Westminster not only because of "Scotland's democratic traditions but in the plain fact that Westminster just isn't working" (M. Mitchell 1998, 6). Foreshadowing the CSG report, the pamphlet called for accountability, openness and accessibility, checks and balances through strong committees, diverse representatives, increased participation, and consensus and co-operation. Similarly, Crick and Millar's draft standing orders said the parliament

will only work as its supporters want it to work, for and with the Scottish people, if from the word go it is bold enough to break from the Westminster mould and to invent and adapt procedures and working practices better suited to and arising from Scotland's more democratic traditions (1995, 3).

Because Scotland's patterns of growth and decline are linked to the larger British economy, it was affected by the UK's mid-twentieth century economic difficulties (Smout 1986, McCrone 1992, Paterson 1994). This caused some frustration with the

union (Moreno 1988), exemplified by a former Scottish Office official who questioned the benefit of being “a peripheral part of a relatively declining country” (Ross 1992, 44). Post-war economic problems contributed to decisions by UK governments - particularly the Labour administration of 1945-51 - to create the welfare state, nationalise industries, and centralise many functions (Moreno 1988, Paterson 1994). McCrone (1992) argued that Scotland began moving away from market liberalism, instead developing a distinct economy that increasingly supported trade unions and the Labour party, allowed for a ‘negotiated order’ of decision-making, and valued the welfare state. The belief in this strategy partially explains the hostility in Scotland to the free market reforms introduced by the Conservative government in the 1980s.⁴

Existing frustration in Scotland about the UK’s political and economic decline was exacerbated by the neo-liberal approach of Prime Minister Margaret Thatcher, particularly the privatisation of numerous industries.⁵ This conflicted with the Left-Right political consensus in Scotland that was supportive of the welfare state, which had provided economic regeneration during mid-century industrial decline (McCrone 1989). In short, an ‘English Tory’ Prime Minister was perceived to be threatening the very institutions that to many represented Scottish distinctiveness.⁶ Resentment was heightened by the perception that this London-based government focused on business in the south-east at the expense of the industrial north (Scottish Constitutional Steering Group 1988). Some commentators (Marr 1992a, Scottish Constitutional Steering Group 1988) cited the poll tax as a further example of how the Thatcher administration ignored the will of the Scottish people by introducing unpopular legislation and by implementing it in Scotland a year before England.

The poll tax also heightened dislike of an electoral system that repeatedly returned a Conservative government without Scottish endorsement.⁷ There began to be a marked shift in Scottish voting patterns away from the Conservatives, whose Scottish support peaked in 1955, and toward parties that favoured some form of constitutional change (Paterson 1994, Brown et al 1998). The Scottish Constitutional Convention suggested that Scotland’s institutions

are the very fabric of Scottish society, yet Scotland has come to lack democratic control over them. Their conduct is determined by a *government for which few Scots have voted*, operated through a dense tangle of unelected quangos (1995, 6; emphasis added).

Many campaigners for constitutional change were further angered by the Conservative government's opposition to any form of home-rule. Thatcher's successor, John Major, promised to 'take stock' of the situation and spoke more favourably about reforming central government to accommodate Scotland better; however, little changed.

Campaign for Constitutional Change

Having examined some pressures that motivated the desire for constitutional change, this section will describe the process by which devolution was finally achieved. It will highlight the persistent role of Scottish civil society, even in the face of government opposition. It will also demonstrate how civic members prioritised the representation of diverse interests in their own deliberations, and repeatedly called for government itself to become more consensual, open, and democratic.

A Scottish Parliament was almost established in the late 1970s. The question of devolving power to the constituent parts of the UK was considered by the Royal Commission on the Constitution, which reported in 1973 in the Kilbrandon Report. In 1975 the incoming Labour government announced its intention to establish elected assemblies and introduced bills to Parliament. While a guillotine motion on the Scotland and Wales Bill was defeated in February 1977, the Scotland Bill was reintroduced in November 1977. Before its final reading it became subject to an amendment that, before the Act could be put into effect by a parliamentary order, a referendum of the Scottish electorate should be held. George Cunningham, a Labour MP who was sceptical about constitutional change, proposed the controversial 'forty percent rule' that required a percentage of the total Scottish electorate to vote in favour of the Act before an assembly could be established. Although the Bill received Royal Assent, the referendum on 1 March 1979 failed to get the required

support and the Act was repealed less than four months later.⁸ These events contributed to the defeat of the Labour government in 1979.

The election of a Conservative government in 1979 and in the following elections of 1983, 1987, and 1992 had a considerable impact on demands for constitutional change in Scotland. After the 'doomsday scenario'⁹ of the re-election of Margaret Thatcher in 1987, members of Scottish civil society formed the Campaign for a Scottish Assembly (later changed to the Campaign for a Scottish Parliament). The group - which defined itself as "an all-party, non-party organisation, independent of all political parties and other organisations, and as representative as possible of the many facets of Scottish life" - began promoting cross-party action for constitutional change (1996). In 1988 the civic group published *A Claim of Right for Scotland*, which asserted the right of the Scottish people to govern themselves: "Scotland has the right to insist on articulating its own demands and grievances, rather than have them articulated for it by a Government utterly unrepresentative of Scots" (Scottish Constitutional Steering Group 1988, 0).

The *Claim* proposed the establishment of a Scottish Constitutional Convention to take forward the idea of Scottish self-government. Its remit was to devise a scheme for an assembly, mobilise Scottish opinion behind the proposals, and deal with the Government in obtaining approval of the plans (Macwhirter 1990). When it began cross-party talks in early 1989, it adopted the *Claim's* emphasis on involving "at every level and in every part of Scotland all organisations with any interest in public affairs" (19). Despite disputes about how citizens should be represented at the convention (by election or by appointment of delegates), the interests of civic Scotland were conveyed by the STUC and other trade unions, churches, local government, business organisations, Women's Forum Scotland, and ethnic minority groups. Labour and the Liberal Democrats were the only major political parties involved, although members of the Communist, Green, and Social Democratic parties also participated. The Conservatives declined involvement from the beginning due to their desire to maintain the status quo. The SNP was also sceptical and forced Labour into concessions, including 'progress by consensus', a commitment to the sovereignty of the Scottish people, and a referendum on the

outcome. Despite obtaining these compromises, the SNP decided the convention was overly controlled by Labour, feared a repeat of the failed 1979 attempt, and boycotted future meetings.

The Convention tried to resolve issues that lingered from the Royal Commission, including the method of election, the structure of a referendum, the parliament's powers (including the West Lothian Question¹⁰), funding, relations with Europe, the role of women, and the position of the islands (which had voted against devolution in 1979) (Macwhirter 1990).¹¹ Another problem was Mrs. Thatcher's opposition to the Convention scheme, which created the obstacle of actually implementing the parliament.¹²

Although the Convention work and its publication of *Towards Scotland's Parliament* in 1990 placed the Labour party in the political epicenter of the debate, the Conservatives were re-elected in 1992 and continued to oppose Scottish home-rule. Ian Lang, then-Secretary of State, outlined the government's 'taking stock' exercise at the 1994 party conference. He introduced limited parliamentary reforms to allow for the scrutiny of more Scottish issues, emphasised an approach based on common sense rather than ideology, and confirmed Scotland's status as a nation. During a speech delivered as Secretary of State for Scotland, Michael Forsyth described the call for the establishment of a parliament as hype "orchestrated through the Constitutional Convention by self-interested politicians for party advantage" (1995, 245). He cited the Convention's failure to solve the West Lothian Question, predicted the parliament would diminish the role of the Secretary of State, and described the proposed tax-varying power as a 'tartan tax'. His one concession was the introduction of more Grand Committee sittings in Scotland and the involvement of UK ministers in its meetings.

The Convention struggled after Labour's defeat, which ended the immediate prospect of reform and raised questions about the group's future role; it rarely met between 1992-93. During this time organisations such as Charter 88 attempted to rally grassroots support for constitutional change (Lynch 1996). Civic Scotland even appealed to its European neighbours for assistance, demonstrating at the European Summit held in Edinburgh in December 1992. Protesters presented the *Democracy*

Declaration of Scotland (written by Common Cause), which was accepted by over 25,000 Scottish citizens and endorsed by civic organisations, the Labour party, the Liberal Democrats, and the SNP. The declaration cited the Summit's own consideration of subsidiarity, explaining that it was "being denied to the people of Scotland by the British state." It then called on government leaders "to recognise Scotland's right to national self-determination."

In 1993 the Convention formed the Scottish Constitutional Commission to resolve the continually perplexing problems of an electoral system, gender and ethnic minority representation, and the parliament's relationship with Westminster. The Commission presented *Further Steps: Towards a Scheme for Scotland's Parliament* in 1994. This report expanded upon the Convention's suggestions for proportional representation through the additional member system (AMS); supported a 'women-friendly' atmosphere in terms of working hours and childcare provisions, but did not resolve the issue of positive discrimination; and backed Scottish involvement in the European Union coupled with continued local government autonomy. On St. Andrews Day 1995, the Convention presented *Scotland's Parliament, Scotland's Right*, a draft constitution that explained the key powers and responsibilities for a future parliament. The report, which promoted devolution instead of independence, stressed the desire for more localised and democratic management. The proposed competences of the Scottish Parliament, most of which were included in the eventual Bill, included the power to raise and lower income tax, and the right to regulate the economy. It suggested Scottish control over the environment, education, health and social welfare, transportation, law, recreation, and local government. It also proposed the structure for a unicameral parliament of 129 representatives, who should be elected by AMS in accordance with gender balance.

Achievement of Constitutional Change

Such was the opposition of the Conservative government to devolution that the achievement of a parliament seemed reliant upon its defeat. However, political events throughout the UK began pointing to a mood for change (Lynch 1996).

While the stage was set for the general election on 1 May 1997, no one expected the sheer scale of the Tory downfall: all Conservative MPs in Scotland and Wales lost their seats. Labour won 56 of 72 Scottish seats, while the Liberal Democrats won ten and the SNP six. Newly elected Prime Minister Tony Blair kept his campaign promise to introduce legislation on the establishment of a Parliament, thus achieving the 'settled will of the Scottish people' and completing the 'unfinished business' begun by the party's late former leader John Smith. Blair introduced the Referendum Bill on May 15, a controversial decision as many Labour supporters believed an election victory demonstrated sufficient support for devolution (Jones 1997b).¹³ The White Paper followed two months later.¹⁴

A cross-party referendum campaign for a 'Yes-Yes' vote operated under the umbrella of Scotland Forward. Labour and the Liberal Democrats were supportive members, although the latter opposed the very holding of a referendum. The SNP also joined the campaign, and - with the exception of some fundamentalists - viewed the parliament as the first step toward independence. The 'Think Twice' campaign, organised by the Conservative party, failed to present strong opposition. On 11 September 1997, the Scottish electorate voted on two questions: whether a parliament should be established and whether it should be able to vary income tax plus or minus 3p/pound. With a 60.4% turn-out, over 74% supported the first question and 63% the second.¹⁵ Donald Dewar, Secretary of State for Scotland, presented the Scotland Bill on 18 December and it entered the House of Commons a month later.

The Consultative Steering Group (CSG), a cross-party committee chaired by Scottish Office Minister Henry McLeish, was convened in January 1998. Its remit was to collect views and make suggestions about the parliament's operating methods and standing orders for submission to the Secretary of State. The CSG (1998m) established four guiding principles, suggesting that the Scottish Parliament should a) share power between the people of Scotland, the legislators, and the Executive; b) be accountable to these groups; c) be accessible, open, responsive, and participative; and d) promote equal opportunities. The thirteen members of the CSG - many of whom had served on the Constitutional Convention - included representatives of the

four main political parties,¹⁶ local government, trade unions, journalism, churches, and academia. This group furthered a sense of popular ownership of the parliament and continued to take decisions by consensus. After extensive consultation, the CSG submitted its report, *Shaping Scotland's Parliament*, in December 1998.

'New Politics' was a frequently heard mantra throughout the election campaign, while policies on health, education and jobs differed little between parties.¹⁷ Elections were held on 6 May 1999.¹⁸ The turn-out was 58.8%, lower than in the 1997 general election and 1997 referendum (Denver and MacAllister 1999, 27). The outcome was 56 Labour, 35 SNP, 18 Conservatives and 17 Liberal Democrats. The final three seats were carried by Robin Harper of the Scottish Green Party, Tommy Sheridan of the Scottish Socialist Party, and Dennis Canavan as an independent.¹⁹ Labour won most of their seats through constituency contests, while the SNP and Conservatives picked up list seats; ironically, the Conservatives were elected to a parliament they did not want by virtue of a proportional system they opposed. 48 women were elected, comprising 37% of the Parliament's total; Labour was the only party to achieve exact gender balance, although the SNP was close with 43% female members.²⁰ No ethnic minorities won seats.

Because no party held an absolute majority of seats as anticipated, Labour considered its options of either serving as a minority government or entering a coalition with the Liberal Democrats. After several days of difficult negotiations, threatened by the controversial issue of tuition fees, a coalition government was formed.²¹ On 12 May, Donald Dewar was elected First Minister and MSPs were sworn in. The Scottish Parliament was opened by the Queen on 1 July, met briefly on 2 July for administrative business, and then began its summer recess.

SCOTLAND'S PRE-DEVOLUTION REPRESENTATION

Before considering the structures of the new parliament, this section will examine Scotland's pre-devolution participation in UK and EC policy-making by assessing the roles of politicians, the Secretary of State, and officials. This comparative reference will highlight weaknesses in the old system, and will also

question the potentially limited effect of devolution on Scotland's ability to sway legislative outcomes.

Scotland's role in the policy-making process is most evident through the activities of its 72 Westminster MPs. In terms of shaping European policy, some sit on Commons' committees and highlight issues of concern to Scotland; one notable example is Jimmy Hood MP, who chairs the European Scrutiny Committee. While the UK legislative agenda leaves little time for in-depth consideration of distinctly Scottish issues, MPs meet in the Scottish Grand Committee, two Scottish Standing committees, and the Select Committee on Scottish Affairs. However, different party composition affects the ability of these committees to represent Scottish views as a majority in the UK does not always coincide with the preferred choice in Scotland.

The Conservative Government argued that a parliament was unnecessary as the Grand Committee meets regularly throughout Scotland, has increased powers over Scottish legislation, and can question any government minister; the only difference is its inability to raise tax and question the Prime Minister or Chancellor (Scottish Conservative Party 1997). However, *A Claim of Right* contested the effectiveness of these committees. It said the Grand Committee rarely votes, its debates have effect only if the Government chooses to acknowledge them, and its agenda can be manipulated by the Government. The Scottish Standing Committees, which are used only when the Government chooses to manage Scottish legislation separately, can often include English legislation and involve English MPs. The Select Committee requires a government majority, even if the party forms a minority in Scotland (Scottish Constitutional Steering Group 1988, 3).²²

Pre-devolution Scotland was represented institutionally by the Scottish Office and had a seat in the UK Cabinet through the Secretary of State, both of which have evolved over the past three centuries. The Treaty of Union established a Secretary of State for Scotland, but it was soon eliminated as the Lord Advocate and local councils administered most of Scotland's affairs throughout the eighteenth and nineteenth centuries (Gibson 1985). When the demand for more localised authority accelerated during the end of the 1800s, Westminster responded with acts of 'administrative devolution'²³ by establishing the Scottish Office in 1885 and the

Secretary in 1892. These institutions eventually gained more authority and political recognition with the acquisition of an Edinburgh office in 1939 and increased control of Scottish boards throughout the twentieth century.²⁴

Although the Scottish Office was responsible for many of the functions that Whitehall performs for England, it “float[ed] in a constitutional limbo, clearly the central institution of Scottish government but with an uneasy basis in the democratic theory of the British state” (Parry 1993, 42). Some questioned its autonomy, and *Claim of Right* argued that it “can be distinguished from a Whitehall Department only in the sense that it is not physically located in Whitehall” (Scottish Constitutional Steering Group 1988, 2). As a territorial department, Parry said it lacked direct legitimacy, had difficulty running government in a small country at arm’s length, operated within a uniform civil service, and experienced tension resulting from the Barnett formula for expenditure (1993, 44-45). Its unusual position within the UK also created high expectations, particularly as blocked attempts at home rule required it to defend Scottish interests within the Union (46). The Scottish Office, according to Paterson, “articulated a concept of the Scottish national interest that was not in conflict with the Union, but which insisted that the Union was legitimate only because it served Scottish ends” (1994, 130).

The Scottish Office was led by the Secretary of State for Scotland, a UK government minister assisted by four or five junior ministers and civil servants. In terms of European policy-making, the Secretary participated in Cabinet policy discussions and had direct input into the Cabinet committee dealing with European affairs - OPD(E). Scottish Office ministers attended Council meetings (primarily related to fisheries or agriculture), provided the lead role on forestries, and occasionally split the agenda with the UK Minister.²⁵ A House of Commons research paper (1997) cited few, if any, occasions when a Scottish Minister cast the UK vote, adding that Council votes are rare.

Despite this involvement, some doubted whether the Secretary truly represented Scottish interests and asked if he is ‘Scotland’s man in the Cabinet or the Cabinet’s man in Scotland’? The answer is complicated, as the Secretary “is not the chosen leader of the majority party in Scotland, but the spokesman of the majority party in

Westminster” (Kellas 1989, 28); this was a particular problem during the later years of the recent Conservative government. Collective cabinet responsibility also made it impossible to know whether the Secretary was lobbying on Scotland’s behalf to his ministerial colleagues, whose policies he returned to defend.

In addition to the visible role of politicians in UK policy-making, the Scottish electorate has also been represented behind the scenes by Scottish Office officials. As later chapters will demonstrate, a lack of transparency gave many the impression that Scottish involvement in EC matters is limited; in reality, many observers suggested officials have been active and persuasive at high levels (Kellas 1989). In terms of European policy-making, research documents produced by the House of Commons (1997) and the Scottish Office’s Development Department (1998) confirmed that most pre-devolution negotiations occurred at official level. Scottish Office officials contributed a Scottish perspective on policies to their counterparts in Whitehall departments, who had lead responsibility, and participate in Cabinet Office committees. Officials joined UK colleagues in Commission working parties and Council working groups, while at least one official was usually seconded to UKRep. They also maintained contacts with Commission officials to explain Scottish points within the UK context, facilitated the management of EC-funded projects, and discussed the enforcement of EC legislation.

If Scotland has been represented primarily by officials in UK deliberations, and if these links remain the same post-devolution (particularly under Labour administrations in London and Edinburgh), then the likely effect of the new parliament on the policy-making process is questionable. Indeed, a recent academic analysis (Parry 2000) of the transition from the Scottish Office to the Scottish Executive found that the working practices of the civil service are not changing as quickly or as radically as many had hoped. This thesis will suggest that the Scottish Parliament can be seen in some ways as a ‘democratised Scottish Office.’ The Parliament and Executive were constructed from its administration, including the transfer of most officials who remain part of the unified UK civil service. This intention was expressed soon after the 1997 referendum by Secretary of State Dewar:

The administrative apparatus [for the Parliament] is already in place, in the shape of the Scottish Office. We are not creating extra layers of bureaucracy, but redressing the 'democratic deficit' by which executive power exercised in Scotland could not be held to account there (*Economist*, 4-10-97, 44).

This sentiment is also repeated by officials cited in Chapter Five, who explain that much of the policy-making process will remain the same post-devolution. Even an academic assessment of the parliament suggests that, in terms of influencing the UK formation of EC policy,

The aim should be to try to preserve as much as is politically realistic of this existing level of influence after devolution. That means in effect converting the existing machinery from an internal arrangement within Government into an external one between Governments within the same state (Constitution Unit 1996, 94).

DEVOLUTION ARRANGEMENTS

The remainder of this chapter will detail the devolution arrangements governing the role of the Scottish Parliament and Executive in European policy-making. It draws from the White Paper on Scotland's Parliament (Scottish Office 1997a), the Scotland Bill (Scottish Office 1997b), the Scotland Act (Scottish Office 1998), the Consultative Steering Group report (CSG 1998m), the concordats (Scottish Executive 1999), briefing papers prepared for the CSG by the Scottish Office's European Affairs Division²⁶ (1998kl), and documents produced by the Parliament's European Committee (1999abcd). This section also examines how these structures were informed by civic blueprints, including Constitutional Convention publications and academic assessments by Crick and Millar (1995) and the Constitution Unit (1996). These documents illustrate the close involvement of Scottish civil society in the parliament's establishment and the extent to which their suggestions were incorporated into its design.

The following discussion will highlight the lack of formal institutional guidelines; the provisions in the Act are limited and basic, while the bulk of specifications come from non-legally binding working agreements. Even the CSG

concluded that some issues depended upon the partisan composition of the parliament and were too political for it to decide, while much of the operational procedures are fleshed out in official briefing papers. Although such blurring is in keeping with the UK's ad-hoc constitutional tradition, it is in striking contrast to the thorough documentation of Article 23 in the German Basic Law (Jeffery 1997b). These ambiguities create scope for individual interpretation, enabling politicians and officials to develop informal methods of operating. While this could enable the UK Government to curtail Scotland's participation in the policy-making process, it could also allow the Scottish Executive to assume a more active role in EC matters. Indeed, subsequent chapters will highlight the varying understanding of and expectations about these structures among Scotland's political elites.

Source of Guidelines

Legislation The White Paper on Scotland's Parliament described in some detail how the UK Government foresaw the Scottish Executive contributing to the formation of European policy-making through both the UK and autonomous action in Brussels. When the Scotland Bill was published, this detail had been stripped away with only minimal stipulations remaining. But ministers said the guidelines were intentionally vague, adding that their inclusion in the legislation was not appropriate as they dealt with non-statutory involvement. As then-Devolution Minister Henry McLeish explained to the Scottish Affairs Committee, the Government had chosen to legislate only on matters that required commitment in law, leaving informal practices that may have slowed the bill's passage through the Commons to appear later in non-legally binding concordats (1998, Vol. 2, 97).²⁷ This pledge appears to have been kept, as it is striking how closely the concordats mirror the White Paper with many phrases repeated verbatim.

The Scotland Act - the Bill underwent minimal revisions in its European dimension - provided rudimentary guidance, with the bulk of Scotland's authority in European matters described in Schedule Five:

(1) International relations, including relations with territories outside the United Kingdom, the European Communities (and their institutions) and other international organisations. . . are reserved matters. (2) Sub-paragraph (1) does not reserve - (a) observing and implementing international obligations, obligations under the Human Rights Convention and obligations under Community law, and (b) assisting Ministers of the Crown in relation to any matter to which that sub-paragraph applies.²⁸

The Act classified Europe under foreign affairs, stressing that relations with the EU are reserved to the UK. It allowed the Scottish Executive to play a role alongside the UK, as well as to observe and implement EC obligations in devolved areas. However, the Act also preserved the UK Government's right to legislate in the event of Scotland's failure to do so, and prohibited the Executive from legislating in reserved areas or in violation of EC law.

Concordats The Act's limited discussion of Scottish involvement in European affairs means most interaction between the Scottish and UK Executives will be governed by concordats. These documents are non-legally binding agreements between the governments - rather than the parliaments - that direct working relations primarily between their officials. An over-arching Memorandum of Understanding - a 'statement of intent' that binds the four administrations²⁹ to good communication, co-operation and open information exchange - is supplemented by agreements covering the establishment of the Joint Ministerial Committee, financial assistance to industry, international relations, statistics, and the co-ordination of EU policy. The specifications of this final agreement will be detailed throughout the rest of the chapter.

Despite public frustration³⁰ about the UK Government's failure to consult or release information about the 'secret' concordats, their contents were clearly foreshadowed in public by government ministers who emphasised their informal nature and the need for co-operation. During Scottish Question Time on 27 February 1998, Donald Dewar was asked about them by Scottish MP Rosemary McKenna. He accurately summarised issues to be covered, explaining that "Their aim will be to ensure that the business of government in Scotland and at the UK level is conducted smoothly, by setting the ground rules for administrative co-operation and the

exchange of information” (Scottish Office Press Release, 27-2-98). The contents of the concordats were also detailed by Joyce Quin, then-UK Minister for Europe, in a February 1998 speech to the Northern Ireland Assembly on the expected relationship between the Foreign Office and the devolved administrations. She emphasised co-operation, mutual respect, and the importance of ‘no surprises’. The anticipated date of their publication remained unclear, although Dewar said they “cannot be agreed until the Scottish Executive is established” and Quin said they could not be finalised until the elections occurred. When the government finally presented them five months after the election on 1 October, it caused more controversy by unveiling them in a press conference rather than to the plenary.

Various academic reports, many of whose suggestions are reflected in the concordat on European affairs, recognised the dangers inherent in lax agreements and called for more specific guidelines and greater guarantees of Scottish participation (Constitution Unit 1996). A report by the John Wheatley Centre on Scotland and Europe stressed the need for “unequivocal guarantees” between the Executives, suggesting their absence could cause “serious problems in the future” (undated, 2). It noted the tendency of EU membership to centralise power at the expense of the regional tier, and warned that “in a state with two polities (Scotland and the UK) it is more easy to envisage opposition between governments unmodified by a culture of sophisticated compromise or coalitional politics than in one of the older multi-governmental federations” (4).

Scottish Parliament’s European Structures

There is little statutory guidance on the handling of European legislation. While the CSG recommended the establishment of a European Committee and made some structural suggestions, the committee’s clerks were left to develop the bulk of its working practices. The CSG described the committee’s role as sifting documents, initiating policy proposals, and debating issues which either involve several or no specific committees (1998m, 61-2).³¹ A European Committee briefing paper identified thirteen tasks, which incorporated CSG suggestions and added the consideration of policy, administration and financial proposals of the Executive in

European areas; EU proposals before the UK and submitted by the UK; and legislation referred by the Petitions Committee, Parliamentary Bureau, or lead subject committee (1999a, 1).

Recognising that European legislation would pervade most policy areas, the CSG sought to mainstream its consideration into the parliament's other committees. One of the CSG's Expert Panels proposed that "cross-cutting committees might be formed as required to take a holistic approach to problems" (1998f). Thus, the CSG suggested the committee include between five and fifteen MSPs drawn from other subject committees (1998m, 29).³² The CSG's Expert Panel also considered the inclusion of non-MSPs on committees, citing strong arguments made by the Constitutional Convention and other civic groups. However, it decided the practice

conflicts fundamentally with the democratic principle of having decisions made by elected members, who are able to take a wider view, weighing up all the evidence and all the interests, not only those interests which might be seen as most closely affected (1998f).

The Panel noted additional problems of selecting members, such as confidentiality and privilege, but supported the inclusion of non-politicians as specialist advisors or in workshops.

Scrutiny One of the key functions of the European Committee is scrutinising EC proposals. However, written guidelines differ in the anticipated outcome of this scrutiny: the CSG suggested it would ensure Scotland's interests are "properly taken into account in the development of the UK line" (1998m, 60), while the White Paper (1997, 17) and concordat (1999, 20) both presented a more vague guarantee about interests being "properly reflected." The European concordat included stronger claims about the UK Government's responsibility to the devolved administration in the provision of information, pledging to give "full and comprehensive information, as early as possible, on all business within the framework of the European Union which appears *likely to be of interest* to the devolved administrations, including notifications of relevant meetings within the EU" (1999, 15; emphasis added). The concordat (1999, 20) and committee briefing paper (1999b, 4) further explained that

the Cabinet Office will send European documents and the Government's Explanatory Memorandum,³³ which is prepared by the lead Whitehall Department, to the European Committee at the same time as Westminster.

Given the quantity of legislation originating in Brussels, the committee will need to be selective about what it examines. It could draw on models from Westminster, whereby the House of Commons seeks to examine everything and the Lords more closely scrutinises a smaller number of issues (Baines 1996, Giddings and Drewry 1996).³⁴ While the White Paper and concordat allowed the committee to devise its own mechanisms, the CSG advised the committee to consider the issue's importance to Scotland, the importance of Scottish activity relative to either the UK or EU, the time available for debate before the UK view is decided and the Council of Ministers meeting is scheduled, and the political sensitivity of the subject (1998m, 61).

The committee's clerks have developed a 'twin-track' approach to scrutiny. They and the convener will perform an initial sift of documents, categorising them as 'priority' (high importance to Scotland and short timetable), 'regular' (important, but longer timetable), or 'no further action' (little relevance) (1999c, 3-5). The outcome of this sift will be presented to the committee, which will be asked to agree formally to its recommendations. The committee will then examine issues itself, pass them to subject committees, or establish joint committees.³⁵ To aid its deliberations the committee may call for evidence from a variety of sources (CSG 1998m), including the appointment of experts or advisory panels on a retainer basis (European Committee 1999b). The final committee report will be forwarded to the Scottish Executive and Westminster.

Links To aid the policy-making process, the CSG recommended that the committee establish links with other UK and European legislatures. It also suggested the committee could meet in a wider 'European Forum' to liaise with Scottish members of the European policy community, such as MEPs (1998m, 62).³⁶ While committee clerks supported the idea, they warned about the need to be selective. A briefing paper cited benefits from joining with other 'premier league' regions in order to exchange best practice and establish joint positions. It also said the committee may wish to establish wider forums on two possible levels: the first

could involve Scottish members of European institutions (MEPs, COR, EcoSoc), while the second could also include representative groups (European Committee 1999b, 7). These ideas were not developed further, but were left to committee members to elaborate upon if desired.

Implementation After legislation has been agreed in Brussels, the Scottish Executive is required by Schedule Five of the Scotland Act to implement European policies in devolved areas. They will appear in one of two main forms: regulations take 'direct effect' in states and require no further legislative action, while directives require implementation by member states and thus allow scope for tailoring legislation to state and regional needs. Scotland is likely to benefit most from the second, as it can implement legislation in devolved areas differently from the rest of the UK. Special consideration must also be given to the effect of directives on Scots - rather than English - law (European Committee 1999b, 6).

While the Scotland Act allowed the Executive to choose its own implementation methods, it was left to the concordat (1999, 18-19) - which reflected the White Paper (1997a, 17) - to define the procedure. It explained that the lead Whitehall department will formally notify officials of the Scottish Executive about EC obligations in devolved areas and will liaise about implementation in non-devolved areas. The Scottish Executive should consider, in bilateral consultation with the lead Whitehall and other departments, how to implement the directive and whether to follow UK legislation. If the Scottish Executive decides to implement separately, it must consult the lead Whitehall department to ensure consistent timing and effect.

If the Scottish Executive fails to implement EC policies, the documentation (including the White Paper, Scotland Act and concordat) is unambiguous in its assertion that the UK is sovereign and can legislate on its behalf. The White Paper and concordat further explained that if Scotland chooses to implement differently, the legislation must be compatible with EC requirements. If the Commission initiates legal proceedings for breach of EC law, the Cabinet Office will co-ordinate the UK response. If the violation is due to failure to implement in Scotland, the devolved administration will help prepare the case and meet any financial penalties or costs incurred.

Accountability Despite the Scottish Executive's ability to discuss and implement EC legislation in devolved areas, the UK Government ultimately casts the vote in Brussels. Observers realised it would be difficult for Scotland to hold the UK accountable for its actions,³⁷ as others focused on the need for the Scottish Parliament to hold its Executive to account - particularly in terms of EC policy-making (Constitution Unit 1996, 97). While subject committees are likely to assess the success of implementation, the CSG said the European Committee may "wish to retain a broad overview of how successfully the Executive was implementing EU requirements" (1998m, 62). Consequently, committee officials cited the House of Common's recent practice of calling Ministers before and after Council meetings; they suggested the committee may wish to adopt a similar practice, particularly if a Scottish Minister is involved (European Committee 1999b, 8).

Scottish and UK Governments

Because the UK retains a reserve over European affairs, is the member-state signatory to EU treaties, and holds a seat at the Council of Ministers' table, the Scottish Executive is expected to work with the governments of Westminster and other devolved administrations to formulate a single UK negotiating line. The White Paper (1997a, 16) - whose guarantees were repeated in the concordat (1999, 15) - pledged that Scottish Executive Ministers and officials "should be fully involved in discussions within the UK government about the formulation of the UK's policy position on all issues which touch on devolved matters." But it cautioned that such involvement requires "mutual respect for the confidentiality of those discussions and adherence to the resultant UK line, without which it would be impossible to maintain such close working relationships." The ambiguous phrasing hints that in the event of disagreement the 'resultant UK line' will be determined by the UK government, neglecting to provide any guarantees about Scottish rights in devolved areas. Problems also seem likely when Scottish and UK administrations are led by different parties. This section will review the loose guidelines established to enable the Scottish Executive and Parliament to feed into the UK formation of its EC negotiating position.

Officials Pre-devolution Scottish Office officials contributed a Scottish perspective on European policies to their counterparts in Whitehall departments, as discussed previously. Despite the advent of the Scottish Parliament, the UK civil service remains unified. Most negotiations between Scotland and Whitehall about EC matters, according to the concordat, will continue through officials:

Many issues will be capable of being dealt with bilaterally between the lead Whitehall Department and the devolved administrations. . . . informal communications and meetings at official level will continue to make a major contribution to the resolution of EU issues (1999, 16-17).

The main procedural difference is that officials will take their instructions from the Scottish Executive rather than from the Secretary of State and his Ministers. There are few statutory guidelines regulating negotiations between the Executives, creating some ambiguity about the delineation of power between these government levels.

While the retention of existing practices calls into question the structural difference that an autonomous parliament will make, the continuation of pre-devolution procedures under Labour administrations in London and Edinburgh is a political choice. The true test of the devolution settlement - particularly the political autonomy of the Scottish Parliament and the UK government's willingness to include Scotland in its decision-making process - will occur when different parties hold office north and south of the border. For example, a unionist UK government seems unlikely to co-operate fully with a separatist administration in Scotland; furthermore, an SNP government would certainly seek additional powers for the devolved legislature.

Relations with Westminster Aside from informal communication between committee clerks, Scotland's European Committee does not have any formal links with Westminster's European Scrutiny Committees (European Committee 1999a, 2).³⁸ The Scottish clerk announced at an early committee meeting that officials had reached a 'working agreement' with those servicing the Westminster committee: if the Scottish committee informs the UK committee it has concerns about issues deemed a priority in Scotland, the UK committee will wait to make a decision until

the Scots present their views.³⁹ This arrangement, although advantageous for Scotland, is entirely informal, unwritten, and based on goodwill between officials; it may also rely on governments of the same political composition in the UK and Scotland. The clerk added that the committee should give its opinions to the UK committee and the Scottish Executive, who will pass them to the UK Executive, and could also refer them to the Secretary of State (European Committee Official Report, 18 August 1999, Col. 31). While the White Paper (1997a, 17) and concordat (1999, 21) agreed that the UK Executive - and possibly the Parliament - will consider Scottish views when formulating their negotiating position, both stressed the reality of an often limited timeframe.

As a brief aside it should be noted that the House of Commons agreed new mechanisms of scrutinising European business in November 1998, as the existing system had been in operation since the UK first joined the EC.⁴⁰ These changes were not intended to facilitate interaction with the devolved administrations, and the parliamentary debate did not elaborate upon the role of Scotland in the Common's policy-making process.⁴¹ The Commons now has a European Scrutiny (select) Committee, which reports on a document's legal and political importance and makes recommendations about whether it should be further considered in one of three subject-based standing committees, debated on the floor of the House, or tagged (not worth debate itself but may be relevant to another debate).

One of the key principles remains the scrutiny reserve, which does not allow the government to agree upon legislation in the Council of Ministers until the parliament has completed its deliberations; it originally covered EC business, was expanded after Maastricht to allow some consideration of Pillars Two and Three, and now covers all three pillars.⁴² The Government also began work with the Council Secretariat to establish a system of electronically transmitting documents to both the Cabinet Office and UKRep, hoping to include Commission publications soon; documents produced by Scotland's European Committee officials suggested this system will also send documents directly to the Scottish Executive.

Joint Ministerial Committee In addition to the informal procedures discussed above, the UK Government has established two formal mechanisms to manage

potential complications arising from devolution. The first is the Joint Ministerial Committee (JMC), which will be convened to discuss UK positions on European matters and to resolve disputes between administrations over devolved issues. Announced by Baroness Ramsay - Government's Spokesperson on Europe - in the House of Lords in July 1998⁴³ and detailed in a concordat, the JMC will be composed of senior officials or ministers from the relevant ministry of devolved administrations and Whitehall departments while its Secretariat will be provided by the Cabinet Office.⁴⁴ The concordat explained that the short timetable of European decision-making and the desire of the UK Government to include devolved administrations means that most European business is expected to be handled by correspondence between officials, as detailed above. But if necessary, the Foreign Secretary will chair a meeting of the JMC "which enables the lead UK Minister where necessary to consult other UK Government Ministers and their counterparts in the devolved administrations simultaneously" (Scottish Executive 1999, 8). It remains unclear how effective this structure will be when different parties hold office in London and Edinburgh.

The JMC closely reflects academic proposals. The Constitution Unit suggested a Joint Council of the two governments, supported by a small secretariat, to resolve disputes. This forum, which would meet at official and ministerial level, could discuss the operation of devolution and exchange information about forthcoming legislation that could affect the other body (1996, 117).⁴⁵ Similarly, Crick and Millar (1995) proposed a Joint Ministerial Committee that would meet at the request of either government and have its composition decided by each. They said the Parliament should have a permanent Constitution Committee to monitor legal relations with the UK and the EU, and also recommended a Conciliation Committee to enable parliamentarians to resolve differences arising from a conflict of powers.

Devolved Assemblies Department The second formal mechanism is the Foreign and Commonwealth Office's (FCO) Devolved Administrations Department. The unit, whose acronym DAD may unwittingly fuel fears about London control, will coordinate policy among devolved administrations. The retention of European affairs in the Foreign Office raises cause for concern. Crick and Millar said the handling of

European affairs should be based on provisions in the 1986 Single European Act that made EC policies part of domestic policy, arguing that “large areas of EC policy should no longer be handled as if they were ‘foreign affairs’ by the Foreign and Commonwealth Office, but treated as domestic policy matters” (1995, 48).⁴⁶

The nature of this little-publicised body remains unclear, as does public understanding of its function. DAD’s establishment was announced in a press release issued by Joyce Quin on 13 January 1999. It stated that the FCO is “establishing a new unit to develop the new working arrangements between the devolved administrations and our missions abroad.” It stressed that the FCO’s job has been - and will continue to be - representation of the whole UK. The statement concluded that this unit “is part of a government-wide strategy to make devolution work in the interests of all our citizens.” *The Daily Telegraph* reported Quin’s announcement the following day, while *The Herald* inexplicably portrayed it as a recent development nearly three months later on April 24. An FCO official quoted in *The Herald* article explained that this “new unit will work largely through the concordat that is being drawn up between ourselves and the new administrations on such things as international relations and the EU.” However, there is no mention of DAD in the concordats and it remains unclear how this Foreign Office unit will relate to the Cabinet Office’s management of the JMC.

UK Government and European Union

After the domestic agreement of a negotiating line, the UK’s key player in Brussels is its representative in the Council of Ministers and the Council’s working groups. Scottish ministers and officials participated in these institutions before devolution, and the concordat specified their continued involvement. However, it again used vague language that calls into question the extent of Scottish participation - especially when led by a government from a different party than in London.

UKRep The UK government is officially represented in Brussels by its permanent representation (UKRep), which negotiates on its behalf in the Committee of Permanent Representatives (COREPER).⁴⁷ The concordat (1999, 20) - reflecting pledges in the White Paper (1997a, 18) - explained that post-devolution UKRep’s

“status and functions. . . will continue unchanged”, as will its practice of seconding ‘Scottish Office’ officials. Scottish Executive officials will participate in working groups, as the concordat stated that “devolved administrations will be able to take part in the less formal discussions with the institutions of the EU and interests within other Member States” (Scottish Executive 1999, 20). While Scottish involvement in COREPER meetings has been less visible to the public, it is important as the majority of negotiating positions are shaped and often agreed there. But despite the informal guarantee of participation, documents failed to give any specifics (i.e., number of seconded officials, subjects of meetings requiring Scottish representation).

Council of Ministers When COREPER is unable to reach agreement on politically sensitive issues, the relevant ministers of member states meet as the Council of Ministers. Documents provided some guidance on this aspect of Scotland’s European role, as Schedule Five of the Scotland Act stated that Scottish Ministers can “assist” UK Ministers on devolved issues. Although the White Paper and almost verbatim statements in the concordat clarified this provision slightly, they did so in ambiguous language. The White Paper said that ministers and officials “*should have a role* to play in relevant Council meetings and other negotiations with our EU partners.” Because negotiations are not static, their role will be “to support and advance the single UK negotiating line which they *have played a part* in developing.” It emphasised the “UK team”, which is managed by the UK lead Minister who will decide how other team members can help achieve the agreed policy position. The White Paper added that “*in appropriate cases*, Scottish Executive Ministers could speak for the UK in Councils. They would do so with the full weight of the UK’s status as a large member state behind them, because the policy positions advanced will have been agreed among the UK interests” (1997a, 17; emphasis added; see also Scottish Executive 1999, 17). While these statements clearly suggest that the Scottish Executive should be involved, it is unclear how, when, and to what extent ministers will play a role. It also remains uncertain how these procedures will operate in the likely event of different parties leading UK and Scottish administrations, particularly the willingness of a unionist UK government to allow significant participation by an SNP executive.

Although the Scottish Office provided the lead for forestries, it seems unlikely that the Scottish Executive - which is no longer a UK department - will have the same privilege. According to European law (Maastricht article 146), this practice is allowed as long as the speaker can bind the member state government. While the documents referenced above do not directly state that Scottish ministers cannot lead, they imply that negotiations will always be headed by a UK Minister. In his testimony to the Scottish Affairs Committee, then-Devolution Minister Henry McLeish stated that a Scottish Minister alone could not represent the UK in Europe (1998, Vol. 2, 104). While the Scottish Executive will be unable to hold the lead UK minister to account, the CSG recommended that Scottish ministers provide feedback to the Parliament. The Business and European Committees should decide “whether a debate prior to a Council was necessary or relevant. We believe that some form of post-Council feedback, to the Plenary or relevant Committee, should be the norm” (1998m, 62).⁴⁸

Perceptions about the importance of Scottish involvement in Council meetings were divided between the Constitutional Convention and academic reports. The Convention was unambiguous in its expectation that Scottish participation in UK negotiations should continue, if not be expanded. The first report called for Scottish “representation” on UK delegations (Scottish Constitutional Convention 1990, 8), which a later document described as a “statutory entitlement” (Scottish Constitutional Commission 1994, 23). The final report asserted that “Scotland’s Parliament *will be represented* in UK Ministerial delegations to the Council of Ministers where appropriate, and Scottish Ministers *will lead* these UK delegations when the areas under discussion are of specific relevance to Scotland” (Scottish Constitutional Convention 1995, 16; emphasis added).

However, others questioned the Council’s overall significance to Scotland: the Commission drafts and initiates legislation, the European Parliament has gained more legislative powers through the extension of co-decision, and the Council has lost power due to the increase in policy areas covered by QMV. Others added that the Council does not care about a delegation’s composition, which must be resolved domestically (Crick and Millar 1995, 51). Because negotiating positions are

established within states and then debated in COREPER, “it is less important that there should be a Scot presenting the line in the Council than that the policy should be one which is in Scotland’s interests” (Constitution Unit 1996, 93). Therefore, it is “crucial that regional governments are able to make their contribution to the formulation of that policy, both in Cabinet committees and working groups in Whitehall, and in Council committees and working groups in Brussels” (House of Commons 1997, 13).

Scottish Executive and European Union

While previous sections outlined the formal European mechanisms that will enable the Scottish Executive to participate in EC policy-making, this final section will examine the informal channels available in Brussels. As the White Paper aptly summarised:

Influence within the EU begins well before the process of formal negotiations between member states; and operates through many more channels than the formal Community and inter-governmental processes. Scotland will be able to play its part in less formal discussions with the institutions of the EU and interests within other member states (1997a, 17-18).

With the exception of the Executive’s office in Brussels, there are few guidelines regulating Scotland’s relationships with other European actors.

Scotland House Scotland is officially represented in Brussels by Scotland House, the co-location of Scotland Europa and the new Executive Office. It is expected, according to a European Committee brief (1999d), to “create a focal point and a one-stop shop for Scottish interests in Europe.” Scotland Europa has been waving the Scottish flag in Brussels since May 1992 by providing a presence in the absence of a parliamentary representative (Mitchell 1995). A subsidiary of Scottish Enterprise, the membership organisation includes industry, public bodies, educational institutions, local authorities, trade unions, and the voluntary sector; several outside organisations are resident at its headquarters, including other European regional offices. Scotland Europa’s functions involve promoting Scottish

interests, providing intelligence to its members about European legislative activities and funding opportunities, advocating policy initiatives to the Commission through its Occasional Papers, and assisting Scottish visitors to Brussels.

The decision to establish an Executive office in Brussels was not automatic, although the White Paper observed that it is the “norm” for regional governments to have offices (1997a, 18). The decision was made on the basis of a Scottish Office review of other regional representations and discussions with EU officials.⁴⁹ While the opening of Scotland House was announced by Dewar in February 1999 (*Scotsman*, 10-2-99), the CSG discussed the idea at their 12 October 1999 meeting. They concluded that the Scottish Parliament would not establish an office in Brussels initially or be represented by Scotland Europa, but agreed that the Executive would have an office and the Parliament may choose to establish a presence.⁵⁰ While the Scotland Act was silent on the issue of representation in Brussels, the concordat stipulated modes of behaviour. Expecting the office to forge relationships with other regional governments and EU institutions, the concordat stressed that it

will work closely with, and in a manner complementary to, UKRep which remains responsible for representing the view of the United Kingdom to the European Institutions, and will respect the responsibility of the UK Government for non-devolved areas, including overall responsibility for relations with the EU (1999, 20).

Although the relationship between UK and Scottish representatives in Brussels was not discussed further, questions remain about potential tension and constraints on Scottish autonomy - particularly when different parties hold office.

The Scottish Executive’s European Office opened on 1 July 1999, the official opening of the Parliament in Edinburgh. A European Committee briefing paper (1999d, 2) explained that it is staffed by a Director, three desk officers who have divided European policy into portfolios, and two local administrators who will manage the office and handle publicity. The office will primarily service the Scottish Executive and support Scottish-based experts, but will also assist the European Committee and other MSPs. Its functions include: gathering intelligence on EU issues; promoting increased interaction with EU institutions and raising

awareness among European officials about Scottish issues; supporting visits by officials and ministers; building links with other regions; and working with Scotland Europa, MEPs and other representatives.

The Constitutional Convention was clear about the need for the *parliament* to establish an office in Brussels, failing to mention an executive presence. While its initial demands lessened as the years passed, the Convention never explained how the office would achieve influence or argue an agreed line. Its first report stated:

There has been much talk about a Scottish voice in Brussels. The Convention is not satisfied with good intentions. The Scottish Parliament would, as an immediate priority, establish a representative office in Brussels to put clearly and directly Scottish interests (Scottish Constitutional Convention 1990, 8).

The next document suggested that the Parliament “should establish a representative office to facilitate relations between itself and European Community institutions” (Scottish Constitutional Commission 1994, 23). The final report further identified the need for co-operation:

It is essential that the Parliament establish a representative office in Brussels to ensure that Scottish interests in Europe are clearly and vigorously promoted. The Convention expects, however, that the Parliament will undertake this through consultation and co-operation with other Scottish and UK organisations which operate European offices so as to maximise impact and provide co-ordination among agencies (Scottish Constitutional Convention 1995, 16).

Although formal *representation* of Scotland in Brussels is important, the office’s success may depend on the extent to which it can achieve meaningful *participation* in European policy-making. Thus, an Executive office that is speaking with the weight of government behind it - as opposed to a parliament office that may represent diverse views - may achieve greater involvement.

Academic reports also highlighted the need for the Parliament to establish a representative office. Crick and Millar said the office

will be the Parliament's door to the EC and will be of paramount importance in providing a focus for Scottish interests, gathering information on the activities of the EC institutions and transmitting it to Scotland and seeking collaboration with other sub-nations, states and provinces in Europe (1995, 52).

The Constitution Unit agreed with the importance of Scottish representation in Brussels, particularly for gathering information and promoting Scotland, as it can no longer rely solely on UKRep for the provision of information. After identifying various options for the Parliament and Executive, the Unit concluded that given hopes of a more consensual style of politics in Edinburgh "it is probably better that Parliament and Executive should be housed under the same roof - as landlords to the present clients of Scotland Europa" (1996, 92).

Commission One institutional target for Scottish policy-makers is the Commission, which is responsible for initiating and drafting EC legislation. It received little attention from academic studies of Scotland and Europe, aside from suggestions that the UK Government should allow the Scottish Executive to seek influence on the Commission's pre-legislative agenda (Crick and Millar 1995, 51; Constitution Unit 1996, 93). Government documents are also silent on this matter, presumably because the UK cannot prevent Scottish officials and politicians from communicating with Commission officials.⁵¹

European Parliament Scotland has a direct voice in two EC institutions. First, Scots elect 8 (of the UK's 87) members of the European Parliament (MEP) Because of the changed electoral system from first-past-the-post to closed list, the four main parties have representatives in Strasbourg as well as Edinburgh.⁵² Although the European Parliament does not have formal relations with sub-national parliaments, it has common interests due to the overlap of policy areas within its competence and those frequently devolved (e.g., training policy, transport, environment, public health, and regional policy). The Parliament is also moving toward co-legislator status with the Council of Ministers: the Amsterdam Treaty (1999) more than doubled the areas covered by the co-decision procedure, enabling the Parliament to veto proposals approved by the Council on two-thirds of all legislation. These

provisions could make it, on some occasions, an ally of sub-national authorities against the national state.

There are no statutory guidelines regulating the relationship between Scotland's politicians. As discussed earlier, the CSG recommended that the European Committee establish links with the European policy community - including MEPs and other sub-national parliaments and actors - to exchange information about EU policies affecting Scotland (1998m, 62). Both Crick and Millar (1995, 52) and the Constitution Unit (1996, 91) cited the House of Commons' failure to involve MEPs and the Lords' partial acceptance of euro-politicians, stressing that the Scottish Parliament must be more welcoming. The Constitution Unit added that the Parliament could adopt the Westminster practice of allowing MEPs access to its facilities, and may also wish to co-opt several MEPs to its European Committee to facilitate information exchange and legislative scrutiny.

Committee of the Regions In addition to MEPs, Scotland also has four (of the UK's twenty-four) representatives in the Committee of the Regions (COR).⁵³ Scotland's members, who were formerly appointed by the Secretary of State, are currently local councillors selected by COSLA. The concordat (1999, 20) enabled the Scottish Parliament to nominate members for COR (as well as the Economic and Social Committee), which will then be forwarded to the Foreign Office to make a final decision with the Prime Minister. It is expected that these seats will be divided equitably with MSPs, which was strongly recommended by the Constitution Unit (1996, 90).

SUMMARY

This chapter has provided historical and structural contexts for the remainder of the thesis, discussing the process of establishing the Scottish Parliament and assessing the structures enabling its Executive to participate in EC policy-making. In particular, it highlighted two themes. First, the chapter demonstrated that the statutory provisions on the relationship between the Scottish and UK governments in European affairs are limited. The Scotland Act gave little guidance, while the concordats were written in ambiguous language that requires officials and politicians

to interpret its meaning. Such flexibility may be beneficial in the parliament's early days, but it may also leave Scottish participation vulnerable to arbitrary limits and unclear rights. The parliament has limited time to deliberate and feed into UK negotiations, while the extent to which the UK Executive considers its views is uncertain as "a guarantee of consultation does not guarantee influence" (Constitution Unit 1996, 96). If there is disagreement between the Scottish and UK Executives, "it will be the views of the UK as a whole which will prevail" (Scottish Affairs Committee 1998, Vol. 1, xvi).

In the European arena Scotland remains a small player, as the CSG recognised that "in practice the scrutiny process gives limited influence in a process which also involves Council of Ministers meetings, officials' working groups and the European Parliament" (1998m, 61). However, the politics of devolution may require the Labour party to demonstrate Scottish influence in the parliament's early days - even though the reality may be different - to head off the SNP's argument for 'Independence in Europe'. If the SNP wins control of the Scottish Executive, pre-devolution practices will be unlikely to continue as expected under administrations led by the same party.

The second theme of this chapter has been the dominant roles of the architects and builders in the parliament's development. Members of civil society articulated ideas about its structure, many of which were adopted by officials who also focused on procedural issues. Such active involvement gave both groups a sense of ownership over the new legislature, which could conflict with the desire of the tenants to make necessary adjustments. Subsequent chapters will examine in greater depth the views of these three actor types about the problems and possibilities of these established mechanisms. They will highlight areas of agreement and likely conflict, assessing how individual expectations compare to the documented 'facts' presented here.

¹ There is academic debate about the effect of nationalism (Cobban 1945, Mayall 1990, Anderson 1991, Hutchison 1994) and Scottish identity (Harvie 1992, 1994; Marr 1992a; McCrone 1992, 1995;

Smout 1994; Craig 1996; Brown et al 1998) on calls for devolution. Some dispute how Scotland should be defined. McCrone (1992) described Scotland as a 'stateless nation', while Nairn said it "was too much of a nation, had too different a civil society, to become a mere province of the United Kingdom; yet it could not develop its own nation-state on this basis either, via nationalism" (1977, 146). Others said it was shaped by British and, to a lesser extent, European identities (Massie 1994, Morrill 1994).

² There is debate about why Scotland acceded to the 1707 union with England (Campbell 1994), with many suggesting that Scots did not freely agree (Scottish Constitutional Steering Group 1988, P. Scott 1992, Whatley 1995).

³ While Hechter (1975), Wallerstein (1979, 1980) and Dickson (1980) presented a colonial interpretation of English dominance and Scottish economic dependence, the post-union continuation of Scotland's political and civil institutions led Nairn (1977) and Smout (1980) to assert that Scotland instead acted as a 'junior partner' in the UK's imperial and industrial history.

⁴ The discovery in the 1970s of oil in the North Sea boosted the Scottish economy and shifted the political attention of the UK Government (Kellas 1989). It had a positive psychological impact, as the potential viability of Scotland to sustain herself economically led to a resurgence of nationalism (Mitchell 1996). However, the economic benefits have been questioned as Scotland receives oil revenues only to the extent that the UK government returns funds (Kellas 1989, Brown et al 1998).

⁵ This approach became known colloquially as 'Thatcherism', which McCrone defined as "the social movement which mobilised opposition in the late 1970s to Labour rule" and the period between 1979 and the Falklands War in 1982 during which there was a struggle in the Cabinet and Party to consolidate the Thatcher forces. There has been 'consolidated Thatcherism' since 1982 when the government restructured the UK economy, society, and culture (1989, 205).

⁶ Suggestions that the Scottish reaction to Thatcherism proves Scotland is more egalitarian or left-wing than England, wrote McCrone (1992), is not factually based; it represents a set of social values about what it means to be Scottish. But the perception lingers, exemplified by a trade union manifesto: "More than the UK as a whole, the Scottish people have embraced the ideals of public service. . . . [The Parliament] was created because the Scottish people made protection of their public services a priority, defending them throughout the eighties. They recognised that the attacks being made on them would never have come from a Scottish Parliament" (UNISON 1998; 6, 14).

⁷ The claim that the election of UK governments is dominated by English voters is disputed by Punnett (1985), who said each 'region' has some success in determining the national winner.

⁸ Although the Scottish electorate voted 51.6% to 48.4% in support of devolution, only 32.9% of the entire population actually voted in favour (Mitchell 1996, 164). The lack of support in the referendum has led to much academic speculation. For example, several commentators suggested the act was imposed on an unsuspecting Scottish citizenry by a government opposed to the idea (Kerr 1978, Kellas 1989, Marr 1992a, Mitchell 1996). For analysis of the bill's passage through Westminster and the referendum, see Kerr (1978), Naughtie (1978), and Perman (1980).

⁹ The 'Doomsday Scenario' was a label given by political commentators in 1987 to the fear that Scotland would again be governed by a Conservative government it had voted against (Kellas 1989).

¹⁰ A difficult issue that remains unresolved is the role of Scottish MPs at Westminster in deciding 'English' legislation. This has become known as the 'West Lothian Question' because it was asked repeatedly by Tam Dayell, the Labour MP for that constituency.

¹¹ Analysis of the Convention can be found in Conroy (1992), Kellas (1992), and Lynch (1996).

¹² One populist suggestion was provided by Canon Kenyon Wright, co-chair of the Convention: "But what of implementation? What if that other single voice we all know so well responds by saying 'We say no and we are the State'. Well, we say yes and we are the people." For an inside view of the Convention, see his autobiography (1997).

¹³ Unlike 1979, the proposed referendum was pre-legislative, based on a white paper, and subject to a simple majority rather than 40% approval. It also controversially included two questions. For an overview of the referendum campaign, see Jones (1997ab).

¹⁴ The White Paper became a best-seller of over 25,000 copies.

¹⁵ For an analysis of voting behaviour in the referendum, see Pattie et al (1998) and Brown et al (1999).

¹⁶ The Conservatives became involved in discussions about the parliament's design rather late in the process. In a June 1998 lecture, Malcolm Rifkind - former Secretary of State for Scotland - called for the parliament's first meeting to take place in Old Parliament House; suggested the government drop "the ridiculous proposal to describe the head of the Scottish Executive as 'First Minister'" because it is "a silly attempt to minimise the constitutional significance of the changes being introduced"; and wanted the Secretary of State for Scotland to be retained as it allows a senior Scottish politician in the Cabinet.

¹⁷ See Jones (1999) for an analysis of the election campaign.

¹⁸ The Scottish electorate selected one of 73 constituency MSPs whose seats were based on current Westminster boundaries; the one exception was Orkney and Shetland, which was split into separate seats. It also voted for regional top-up lists, which were based on eight former euro-constituencies and added a proportional element.

¹⁹ Canavan is a Labour MP. Because he did not pass the party's vetting process, he stood as an independent and won a landslide victory over the official Labour candidate.

²⁰ For an analysis of candidates and elected members, see Henderson and Sloat (1999ab). Additional commentary on the election results is provided by Denver and MacAllister (1999) and Jones (1999). A discussion about women in the parliament can be found in Brown (1999).

²¹ "The Negotiation Diaries" of Ross Finnie MSP and Henry McLeish MSP MP (1999) detailed the inside story of the partnership discussions.

²² McConnell and Piper examined the 1992 revival of the Scottish Affairs Select Committee after its 'hiatus' in the 1987-92 Parliament (1994), and then reviewed emerging themes after three full parliamentary sessions (1996). Although it produced some useful reports, it contains a high number of Parliamentary Private Secretaries and members face other time-consuming pressures. They said it failed to investigate some politically sensitive issues, and is in danger of being undermined.

²³ 'Administrative devolution' occurs when "the central government, without creating assemblies or executive governments in different regions or parts, arranges for aspects of its work to be conducted by a department which is defined territorially rather than functionally" (Munro 1994, 101).

²⁴ Commentators have emphasised varying reasons for the power transfers to these institutions: some described it as a "sop to Scottish discontent," (Scottish Constitutional Steering Group 1988, 3), while others suggested it was motivated by nationalism (Kellas 1989, Paterson 1994) and justified in terms of efficient management of the welfare state (Paterson 1994).

²⁵ According to a House of Commons report, "From 1988 (the first year for which this information is available) until 1996, Scottish Office Ministers attended 59 Council meetings out of a total of 790. There were 88 Council meetings in 1996, of which Scottish Office ministers attended 15. Thirteen of these related to agriculture and fisheries" (1997, 8).

²⁶ In preparation for devolution, the Scottish Office established a new European Affairs Division. It is responsible for "the Scottish Executive's representation in Europe; systems for handling EU business after devolution; co-ordination with Whitehall, Belfast and Cardiff on EU matters; links with other European regions; and general EU affairs" (Consultative Steering Group 1998, 27).

²⁷ This sentiment was repeated when then-Secretary of State Donald Dewar introduced the Bill's Second Reading in the House of Commons: "Relations between Edinburgh and London will be based on consultation, consent and co-operation at official and Ministerial level buttressed where necessary by non-statutory agreements between Departments. No provision is required or made in the Scotland Bill because relations will evolve and build on the present good working relationship between Whitehall and the Scottish Office" (Scottish Office Press Release, 12-1-98).

²⁸ The Act includes the following provisions: (1) 2.35: The UK can intervene to secure compliance with international treaty obligations. (2) 2.53: Scottish ministers can, instead of UK ministers, observe and implement EU legislation in devolved areas. (3) 2.57: UK Ministers retain the right to legislate in those areas referenced in 53, which also prohibits the Scottish Executive from creating subordinate legislation that conflicts with EC obligations. (4) 2.58: The Secretary of State can prevent the enactment of private law relating to reserved matters, or incidental or consequential matters that change the terms of a reserved enactment.

²⁹ The concordats covers relations between the UK Executive, the Scottish Executive, and the Ministers of Wales. They will also include the Northern Ireland Assembly, when appropriate.

³⁰ This frustration was recorded in numerous newspaper articles: “Dewar Pressured to Release Secret Devolution Pact” (Scotsman, 22-2-99), “Dewar Accused of Parliamentary Cover-Up” (Sunday Herald, 30-5-99), “Reid Rewrites Dewar Rules to Protect Union” (Scotland on Sunday, 11-7-99). Also see Barnett (1999).

³¹ The CSG adopted many of the permanent committees suggested by Crick and Millar (1995), including their proposed “Committee on the European Community.”

³² The committee’s twelve members represent a wide range of constituencies, are drawn from various subject committees, and bring practical experience from areas affected by European policies such as business and farming. However, because a large amount of European legislation involves areas like agriculture and fishing, it is surprising that the committee does not have a member of the Rural Affairs Committee, but instead has three Health members and two each from Transport and Environment and from Enterprise. The committee is convened by Labour’s Hugh Henry, a former COSLA spokesman on European Affairs and member of the Committee of the Regions. Others with European experience include former MEP Winnie Ewing and COR member Irene Oldfather.

³³ The Explanatory Memorandum must be issued within ten working days after a document is deposited. Signed by a minister, it is a public document that constitutes evidence to parliament. It includes a description of the subject matter, any scrutiny history, a note of ministerial responsibility, the legal basis, legislative and voting procedures, its impact on UK law, whether it meets the requirement of subsidiarity, the government’s view, compliance cost assessment, and a likely timetable (CSG 1998k, 13).

³⁴ The UK Government receives around 8000 documents a year, and takes no action on 60% of them. It refers 1300 to the Commons, which reports on 450, debates 60 and refers 12 to plenary. The Lords quickly examines 400 items, refers many to five sub-committees, and debates and reports in-depth on 20 (Scottish Parliament European Committee 1999a, 3-4). A CSG paper suggested the European Committee may wish to consider 200 documents per year: submitting 5-10 to plenary, giving 20-30 to subject committees, and retaining 5-10 for its own discussion (1998k, 14).

³⁵ For ‘priority’ matters, a Scottish Explanatory Memorandum will be requested immediately from the Executive. The committee will discuss such issues, while most ‘regular’ documents will be passed to subject committees (Scottish Parliament European Committee 1999c). The Committee will refer issues if the subject is relevant to Scotland, the subject committee has sufficient expertise and time for scrutiny, and specific Scottish legislation is required to implement the directive. The European Committee would normally set a deadline, enabling the views to be fed back into Westminster (Scottish Parliament European Committee 1999b).

³⁶ At their meeting on 12 October 1999, the CSG agreed that the Parliament should forge regional links, as it cannot rely solely on the Executive. A wider forum for consultation would also be useful; the CSG preferred a fixed core membership to ensure continuing expertise on complex issues, although ad-hoc members with particular knowledge could be included as required.

³⁷ The Scottish Constitutional Convention called for “entrenchment” of the parliament’s powers (1990, 14), which its Commission amended to “moral and political entrenchment” (1994, 29).

³⁸ Baines (1996) explains the evolution of the Commons’ scrutiny committees. See Bergman (1997) for a comparative discussion of fifteen national parliaments, their European Affairs committees, and Council decision-making.

³⁹ This possibility was foreshadowed in a European Committee briefing paper (1999c, 4).

⁴⁰ In June 1998, the Select Committee of Modernisation of the House of Commons issued a report on “The Scrutiny of European Business.” Many of its proposals were endorsed by the Executive, and approved by the House on 17 November 1998.

⁴¹ During the debate about the ‘Scrutiny of European Business’, little additional information was provided about the operation of structures post-devolution. Peter Kilfoyle, Parliamentary Secretary in the Cabinet Office, stated: “We shall ensure that proper arrangements are put in place for the devolved bodies to scrutinise European Union business, and for their views to be taken into account by the Government. The precise arrangements are still being considered, but the devolved bodies themselves will examine how best to carry out their scrutiny functions and how their views can be fed into the wider scrutiny process” (Hansard, Vol. 319, No. 239, 17 November 1998, 802).

⁴² The Select Committee also suggested that the Commons encourage links with the European Parliament and endorse the principle of a National Parliament Office in Brussels, neither of which appear to have been accepted by the Government (1998, 6).

⁴³ House of Commons Debate, 28 July 1998, c 1488.

⁴⁴ The JMC will also 1) meet in 'functional formats' to discuss departmental subjects, 2) resolve disputes between one administration and the UK government in areas that do not affect other administrations, and 3) take stock of relations generally through annual plenary meetings involving the Prime Minister (as chair), First Minister (or its equivalent) of the devolved administrations, and the Secretaries of State.

⁴⁵ A similar proposal was made during devolution discussions in the 1970s (Constitution Unit 1996, 117). Then-Lord President Michael Foot announced to the House of Commons in July 1977 that the Government would establish Joint Councils for Scotland and Wales "on which representatives of the Government and the new administrations could consult as necessary on matters of common concern."

⁴⁶ Concern about the failure to domesticise European policy was expressed in Kevin Dunion's 1995 report for Scottish Education and Action for Development, *Living in the Real World: The International Role for Scotland's Parliament*.

⁴⁷ UKRep is headed by the UK's Ambassador to the EU, a Deputy Permanent Representative, and the Head of the Agriculture Team. 45 desk offices represent the UK in working groups. Of the approximately 110 staff members, half are from the Foreign Office and the others are seconded from UK Departments including the Scottish Office (Consultative Steering Group 1998l, 24).

⁴⁸ Scottish Executive ministers have attended Council meetings, beginning with the participation of Deputy Fisheries Minister John Home Robertson in a Fisheries Council on 26 October 1999. He caused controversy by suggesting that the Executive would not make a statement to parliament after every attendance as it may be "trying the patience" of the plenary. This prospect was opposed by the other parties, who advised him to either report to the full parliament or a relevant committee.

⁴⁹ The work was carried out during six months of 1998 by two Scottish Office officials (one of whom remained to work in the Executive Office), and resulted in several confidential reports (1998ab) for the European Affairs Division. Scotland Europa undertook its own internal assessment about the changing nature of its work post-devolution (Scottish Parliament European Committee 1999d, 1).

⁵⁰ Hugh Henry MSP, Convener of the European Committee, floated the idea of establishing a Scottish Parliament office in Brussels or sharing resources with COSLA (*Press and Journal*, 24-11-99).

⁵¹ The Commission raises questions about government appointments. While Scots have served as Commissioners (George Thomson from 1973-1976 and Bruce Millan from 1989-1994), these positions can be attributed to merit rather than 'nationality'. Although reforms may remove large states' second commissioner, Scots may wish to have a say in their appointment (Constitution Unit 1996, 92). The concordats pledge to consult devolved administrations on appointments to EU institutions (Scottish Executive 1999, 20; see also Scottish Office 1997a, 18).

⁵² For analysis of the changed MEP electoral system, see Salmon and Stevenson (1999).

⁵³ A House of Commons Research Paper stated: "Scotland's representation in the UK CoR delegation is larger than was originally intended, and is said to be the result of an alleged 'deal' involving the SNP and the Conservative government over support for the Maastricht Treaty. Reports in the press suggest that the Local Government Association, which represents councils in England, would like to increase their representation on the Committee at the expense of the Scottish (and possibly) Welsh delegations. The White Paper on Scottish devolution refers, however, to Scotland's 'established share of representation', which has been taken by the Convention of Scottish Local Authorities (COSLA) to mean that the existing situation will remain unchanged" (1997, 10).

CHAPTER FOUR: THE ARCHITECTS (CIVIL SOCIETY)

This chapter examines the expectations of the Scottish Parliament's architects, the first of three actor typologies to be studied. The architects represent members of Scottish civil society, defined in this thesis as the level between the citizen and the state (Paterson 1994). While the preceding chapter outlined the blueprint for the parliament's operation, this chapter will analyse the expectations of the individuals involved with and observing the process of its establishment. In particular, it will assess their desire for new forms of governance and evaluate their expectations about the Scottish Executive's ability to influence EC legislative outcomes.

The category of architects includes many diverse actors, who often hold disparate views. Several interviewees campaigned for devolution, participated in the Constitutional Convention, and 'represented' civic Scotland in the absence of a legislature (i.e., Church of Scotland, Scottish Council of Voluntary Organisations). While many of their views helped to shape the ultimate design of the parliament, this chapter will highlight areas of dispute within the assumed civic consensus. It will also demonstrate that some of their ideas are not shared by members of other Scottish organisations, including those who supported constitutional change but were less involved with the devolution process. For example, the chapter explores the views of industries identified by numerous interviewees as important to Scotland, namely, agriculture, fisheries, and whisky. It also considers the expectations of business, focusing primarily on umbrella organisations like CBI and Scottish Financial Enterprise, and the Scottish Trade Union Congress. The chapter evaluates the beliefs of Scotland's representatives in local government (particularly the European team in COSLA) and in Brussels (Scotland Europa). Finally, it examines the expectations of political observers, such as journalists and academics.

Although some Labour and Liberal Democrat politicians could be considered architects due to their participation in the Constitutional Convention, their views will be discussed in Chapter Six for the sake of clarity; however, this overlap highlights the close links in civic Scotland and the blurred nature of the devolution debate. An

additional complication in analysing architects' views stems from the small and interconnected nature of Scottish civil society, as many actors wear multiple hats and make it difficult to determine under which persona they are speaking. For example, of the 23 individuals whose responses are recorded here, at least four were former civil servants, three were members of the Constitutional Convention, and eight had worked in Brussels. These differing backgrounds occasionally result in different responses between individuals working for the same organisation, suggesting that an actor-centred approach is necessary to complement the insights of New Institutionalism.

GOVERNANCE

Previous chapters introduced civic hopes for a new style of policy-making in Scotland. Because they focused on the documented expectations of organisations, this chapter will primarily discuss the views of individuals. This section begins by examining architects' assessment of the difficulties inherent to a system of multi-level governance, whereby certain policies are implemented by the Scottish Executive, reserved to the UK as European affairs, and legislated for by Brussels. It then evaluates their aspirations for the European Committee, a parliamentary structure designed to take a more cross-cutting approach to policy-making. It will conclude by considering architects' perceptions of governance, focusing on their differing hopes for a more participative role in the legislative process.

Policy Overlap

All architects accepted overlapping policy competences as the reality of devolution. Some made pragmatic statements about such conflict "being a fact of life" and "what the whole thing is about," while an academic described it as "the Achilles heel of the devolution scheme."¹ Most presented practical means of handling such complications, although suggestions varied by sector. First, academics and local government officials referenced the delicate balance between reaching a unified negotiating position that incorporates Scottish needs but does not antagonise Westminster.² One official stressed that the UK cannot maintain power,

but must move toward “holistic government and multi-level governance.” Because there are complex political problems where interventions are not appropriate at one level only, the official advocated “cozy partners” who recognise that “spheres of government complement each other.”³ Some businessmen and STUC officials referenced the multi-national character of the UK, suggesting devolution will publicise disputes that currently occur behind closed doors but warning about tension between executives of different partisan complexions.⁴

Second, other businessmen and local government officials cited the Scottish Executive’s ability to implement directives in devolved areas in a manner suitable to Scotland and different from the rest of the UK.⁵ Officials added that the executive must implement even if it disagrees with legislative outcomes, as do other member states who are out-voted in the Council. Third, Scotland Europa officials and members of sectoral industries mentioned the executive’s ability to seek direct contacts in Brussels.⁶ While the first group placed the onus of responsibility on the executive to assert its views domestically and in Europe, the latter highlighted channels of participation that are not dominated by the UK (i.e., European Parliament, Executive’s Brussels office). For example, a businessman stated:

Where there is scope for a distinctive Scottish policy the constraints in the future may be as much Brussels as they are Whitehall. . . . I assume that in devolved matters, it would be for Scotland to negotiate with Brussels. I’m not quite sure where the UK level comes in here.⁷

The domestic and European channels referenced here will be discussed in greater depth in the second and third sections of this chapter.

European Committee

Function The thesis tested support for new forms of governance by considering architects’ acceptance of the European Committee’s holistic structure and function. Knowledge varied within and between sectors, as some referenced CSG proposals while others pleaded ignorance. For example, several businessmen - particularly representatives of sectoral interests⁸ - lacked any awareness: one “didn’t think there

was one,” while another had “no idea” and asked what the CSG report said.⁹ Academics were also unsure how it would operate given its heavy workload, and referenced models in local government, Westminster, and regional networks.¹⁰

Despite this uncertainty, speculation and informed responses produced similar results. Most architects in every category said the committee should scrutinise legislation for its impact on Scotland, expecting transparency and pre-legislative scrutiny to improve upon Westminster’s limited consideration of European legislation. Many also highlighted the committee’s role in implementation, suggesting it will develop views and help transmit directives into Scots law.¹¹ A few members of civic organisations and local government officials recommended the committee build links with other regions and called for partnership with Scottish interests.¹²

Several umbrella organisations responded to government consultation about the European Committee, and stressed the need to devolve power beyond the parliament to include civil society, business, and local government. STUC’s CSG submission (1998) cited a preference for two types of committees, legislative to scrutinise bills and standing to scrutinise the executive. COSLA’s submission to the Scottish Affairs Committee (1998a) suggested that an Executive Committee chaired by the First Minister should be responsible for and oversee a strategic approach to EC policy. SCDI’s response to the CSG (1998) said the ‘European Business Committee’ should have wider scrutiny and investigative roles beyond document sifting, and proposed the creation of external links within Europe through a Forum of European Committees.

The majority of architects supported a ‘holistic’ approach to the handling of EC legislation. For example, COSLA said Europe should not be marginalised but considered in all aspects of the parliament’s work: “holistic government requires a better integration of policy and implementation between the different levels of government as well as within each level of government” (1998b, 3). Architects recommended that the European Committee sift documents, while relevant subject-based committees should undertake detailed scrutiny and consider the implications for Scotland. This approach was supported by an NFUS member, who preferred EC-

originated agriculture issues to be considered by the Rural Affairs Committee: “Otherwise there are too many with outside information. They should be open to a European perspective. One agriculture voice on the European Committee is hard to sell.”¹³ Other architects recognised the need to ‘domesticate’ Europe and develop expertise in all committees, although some added that the European Committee should co-ordinate the process. For example, an STUC official described it as a “gateway.” Another businessman said “The point of holistic committees is to have fewer but larger committees. You’ll have people with a well-rounded view.”¹⁴

The few businessmen who were unaware of devolution arrangements preferred the status quo, wanting the European Committee to retain oversight of European issues.¹⁵ Viewing the situation from the opposite perspective, they expected it to handle most EC policies itself:

there will be so many European issues that emerge from different policy committees that you need people with expertise, so I suspect that having an overarching European Committee that can pick up aspects and give them the informed attention they deserve may well be necessary.¹⁶

European Forum Most architects supported holistic membership of the European Committee. Several local government officials and members of civic organisations cited CSG recommendations that MSPs should be drawn from other subject committees to prevent Europe from being perceived as a separate subject.¹⁷ Some businessmen wanted inter-relation between the committees, but also preferred that the European Committee include several specialised members.¹⁸

The CSG also discussed the establishment of a wider forum to facilitate interaction among Scottish members of the European policy community. This proposal was supported by nearly all architects. Most expected MEPs to provide information about forthcoming debates and the views of other actors, and also to feed Scotland’s ideas into EC debates.¹⁹ However, they disputed the arrangements for such meetings. An academic questioned the necessity of including MEPs on the European committee, a COSLA official said relevant politicians should interact on a daily basis, and a businessman referenced existing fora (i.e., Atlantic Arc).²⁰ Others

expected links to happen naturally, citing relations between politicians with the same party.²¹

In contrast, two businessmen²² and representatives of sectoral interests questioned the European Parliament's effectiveness and interest in a sub-national parliament with different policy competencies. The whisky spokesman described the European Parliament as "the least important institution."²³ An NFUS member admitted to having little contact with it, but recalled that "the UK has seen MEPs as an irrelevance. I can't think of any example where an MEP has done anything of value. The European Parliament is a figurative place - talking not doing."²⁴ Other civic members bemoaned such views and Westminster's tendency to ignore MEPs, but expected relationships to be closer in Scotland.²⁵

Civic Consultation Despite general agreement about the political make-up of the European Committee, architects disputed its inclusion of non-MSPs, which the CSG had considered as a means of enabling civic participation. While most wanted to be consulted about policy issues that concerned their sectors, those who supported the more radical proposal of committee membership tended to argue for the inclusion of their own organisations. For example, representatives of Scottish industries endorsed the involvement of non-politicians. Fisheries and agriculture spokesmen said expertise was "essential" given the complexity of their industries and lack of ministerial understanding.²⁶ The former complained that "ministers and MPs are in the role of puppets because they can't legislate in areas where they are trying to legislate."²⁷ The latter pledged to lobby the agriculture committee - on which NFUS was "assured" a seat - and wanted to "shape legislation early rather than be consulted later." Unconcerned about accusations of inside influence, the farmer said a committee seat "will be making the process more transparent. All committees are lobbied hard now, but the public doesn't see it."²⁸

Similarly, COSLA documents called for local government to have "a right of representation on Parliamentary Committees as non-voting members and non-civil servants should be co-opted as advisors" (1998b, 3).²⁹ However, an actor-centred approach that considers the effect of past experiences on individuals' views highlighted disagreement among interviewees. Two officials who worked in

Brussels argued that COSLA should be included on the European Committee, citing the elected status of councillors, the necessity within a unicameral chamber, and the committee's integrated role.³⁰ In contrast, a solely Edinburgh-based official said a permanent seat was attractive but unlikely and could cause tension; instead, the official called for the right of automatic consultation and involvement as a core - rather than permanent - member.³¹ Another senior local government official was also sceptical, suspecting that legislation would need to be changed to allow non-MSPs on committees.³²

Various civic organisation called for non-politicians to be 'co-opted to committees' (Scottish Civic Assembly 1998, SCVO 1998e), appearing to support such mechanisms on civic grounds rather than perceived benefits to themselves. Members of the Church of Scotland and SCVO believed outside membership would be a "powerful sign that the Scottish Parliament is more open" and could "provide the benefits of an outside perspective."³³ They acknowledged the difficulty of selecting members and agreed that only politicians should vote: "The role of the Scottish Parliament is to make decisions, but the role of everyone is to be involved."³⁴ Similarly, an STUC official who was involved in the Constitutional Convention supported the proposal but questioned whether it would be legally allowed.³⁵

The most negative response came from businessmen who were removed from the devolution process, as they desired consultation but opposed the inclusion of non-politicians.³⁶ Only a member of Scottish Enterprise was supportive, offering the expertise of its members and suggesting it "allows wider involvement in pre-legislative scrutiny."³⁷ The others recommended the committee take evidence from advisors, secondments, or an expert panel of non-voting and changeable members. One cited problems of accountability, while two others said businessmen cannot spend significant time in meetings due to their 'day jobs'.³⁸ In addition, a Scotland Europa official and former government official warned about the "danger of floating bodies getting lost" and described the practice as "corporatism."³⁹ The latter, an English official turned academic, described the desire for a representation of interests as "a particularly Scottish enthusiasm." Citing the emergence of "a much wider

debate about participative versus representative democracy,” the academic said it will be “difficult to marry these two trends in practice” and predicted “disappointed consultees because the politics doesn’t change.”⁴⁰

Although architects clearly desired a more participative style of policy-making, they disagreed about consultation more generally. Businessmen and STUC officials focused on the parliament’s working practices, calling for interactive consultation, quality debate, and a “constructive” and “harmonious” approach.⁴¹ Civic organisations wanted the parliament to respect the wishes of the electorate, hoping for policy that reflects Scottish needs and more communication with the people.⁴² Some critiqued the current consultation process, as officials put together a document, send it to those they know, and then fail to respond to submissions.⁴³ When asked for alternative methods of consultation, they cited those used by their organisations.

Representatives of Scottish industries also diverged on their anticipated lobby techniques, as each emphasised a different level of government. The agriculture sector was most enthused about the creation of a new parliament, as it enables NFUS to participate in the legislative process earlier and to help implement directives.⁴⁴ The whisky sector emphasised the retention of links with the restructured Scottish Office and Whitehall about reserved issues, but also hoped the Scottish Parliament could lobby the UK on its behalf.⁴⁵ A representative of the fishing industry said “80% of our legislation comes from the European dimension and despite the Scottish Parliament will carry on as before.”⁴⁶ Indeed, several businessmen cited the difficulty of monitoring a third administration, which is costly in time, money, and people.⁴⁷

SCOTLAND’S EUROPEAN INFLUENCE: DOMESTIC

The first section of this chapter documented support among architects for new forms of governance. Although many hoped the new parliament would create a more participative and consultative style of legislating, they varied in their preferred mechanisms for its achievement. In particular, discrepancies occurred between civic organisations that campaigned for the parliament on an ideological level, and business/sectoral interests that are affected by the parliament on a practical level.

Keeping these domestic aims and disputes in mind, the chapter will shift from considerations of governance to an examination of multi-level policy-making by assessing architects' expectations about Scotland's ability to influence EC legislative outcomes. This section explores their evaluation of past Scottish involvement in the UK's formation of European negotiating lines, and then analyses the anticipated difference the parliament and executive will make in this process. The rest of the section will focus on architects' predictions about the effectiveness of domestic channels of influence, while the third section of the chapter will evaluate avenues of participation in Brussels.

Difference in Representation?

Pre-Devolution Assessment of the UK's pre-devolution representation of Scotland's European interests varied between sectors. Such divergent responses reinforce the need for an actor-centred approach that considers the factors shaping individuals' perceptions, as members of civic organisations who are least affected by EC issues gave Scottish representation the worst review while those with direct European experience made favourable appraisals. All architects admitted that their perceptions were hindered by a lack of transparency, while many cited the dominance of civil service management and inclusion of Scotland within the UK as a whole.

Members of civic organisations were particularly negative. A leader of the Constitutional Convention said the Conservatives were "abominable," while a SCVO official said the government "does the best that it can."⁴⁸ Several commentators⁴⁹ cited negotiations behind closed doors, suggesting Scottish interests (i.e., fishing, agriculture) may have been sold out in favour of larger UK concerns: "If the UK is horse-trading and there is pressure to concede, there is the temptation to concede something and not go down badly with the bulk of the electorate or mostly influence business."⁵⁰ A Church of Scotland member expected the new devolution settlement to highlight past communication problems, as "It is not that the Scottish Office is failing to represent Scotland but the UK government."⁵¹

In contrast, officials in local government and Scotland Europa believed Scotland was well-represented and praised the work of Scottish Office civil servants.⁵² As one explained: "It's difficult within the UK to say that regional interests are not represented. . . . Because we're dealing with consensual working throughout the UK, Scotland is generally well-represented."⁵³ Officials were unable to recall incidents when the UK 'sold out' Scottish interests, highlighting the recent retention of structural funds for the Highlands and Islands, but said one cannot always win. STUC officials were generally satisfied, but emphasised that Scottish representation occurred within the UK context. A recently retired STUC official commended the "dedicated administrative group" in the Scottish Office, but added that the absence of a parliament meant Scotland lacked "any or sufficient effective political involvement."⁵⁴ A colleague was unsure if devolution would rectify this problem, as "It's hard to separate the powers of the Scottish Parliament from UK structures."⁵⁵

Most businessmen felt representation was acceptable, although it varied by sector. They assumed officials had substantial involvement in 'micro-policy issues', and cited Scottish ministerial attendance at agriculture and fisheries Councils. But they suspected little Scottish involvement in macro-issues that are dominated by Whitehall, which prepares policy for the UK as a single entity with less attention to regional detail.⁵⁶ Members of sectoral interests supported these claims, suggesting that their industries were treated better than some civic and political observers assumed. However, they emphasised the differences between parties and ministers' personalities. An NFUS member said representation improved over the past year because of the personalities involved; although Labour "is urban-based and less sympathetic than the Tories," the Scottish Office has been more receptive and "regularly exerting pressure on the centre."⁵⁷ The fisheries spokesman agreed that representation "depends on the person in power," but said it was better in the past as the advent of the Parliament and the departure of a knowledgeable head civil servant caused uncertainty.⁵⁸

Post-Devolution Most architects, despite disagreement about Scotland's pre-devolution representation, thought the devolution settlement would affect the domestic process of policy-making rather than sway EC legislative outcomes.

Because views were shared by actors in different sectors with no discernible link, they are presented in order of decreasing emphasis without reference to category. The majority of architects expected the parliament to increase the transparency of decision-making and visibility of Scottish opinions.⁵⁹ The parliament will highlight the ‘Scottish view’, especially if it is different from Westminster, and provide the opportunity for a clear debate. As one academic explained, Scotland may want to act but be prohibited: “If it is prohibited now, there is blurring by the UK and not by Brussels. It’s unclear to identify the source of the problem. It may be clearer through the Scottish Parliament if it can’t act.”⁶⁰ Second, most architects focused on democratic accountability.⁶¹ Unlike ‘administrative devolution’, the parliament will hold ‘Scottish’ officials and the executive to account, make statements that may oppose the UK government, and lobby Westminster. The executive will also implement legislation in devolved areas, possibly using different methods from those south of the border.

Third, many⁶² expected the parliament itself to be a target for lobbyists, as it will bring power closer to the people and “give Scotland a national focus it never had.”⁶³ One actor cited “129 people with time and Scottish interests at heart who can be lobbied,” while another anticipated a more activist style of politics, an attempt to produce more legislation, and a temptation to engage in the process.⁶⁴ A few believed devolution would make Scotland more influential, expecting it to give “Scotland more muscle” while maintaining that “UK Ministers can’t ignore the collective will of the Scottish people, while it’s easier to ignore one minister.”⁶⁵ Finally, several hoped the parliament would involve citizens more closely in policy-making.⁶⁶ Some said it could correct Westminster flaws by having debates on Scottish issues and more consensual relationships between backbenchers and ministers. One businessman drew from his experience of two decades in the civil service, calling for an end to the “attempt to crucify officials” and “friendly collaboration between committees and officials.”⁶⁷ A COSLA official insisted that talk of civil inclusion must be put into practice, as “Politicians are seduced by the rhetoric without thinking through what it means.”⁶⁸

In terms of Europe, nearly all architects expected the parliament and executive to raise Scotland's profile by providing a political presence and capitalising on increased attention.⁶⁹ Several architects also hoped greater Scottish involvement in Brussels would give the electorate a better understanding and more favourable perception of Europe. Businessmen - including STUC officials and sectoral interests - believed devolution would provide increased networking opportunities, allowing the executive to network with institutions and regions while enabling industries to promote Scottish products.⁷⁰ An STUC official stressed that if it "isn't heard outside Scotland, its ability to be heard as a lobby is reduced."⁷¹

Despite this general optimism, some architects expressed concern about potentially *decreased* Scottish representation by the UK government post-devolution. A COSLA official reported that "It has been happening" as the UK let Scotland "go its own way" over the past year.⁷² The official cited the danger that Southern England will suggest Scotland is over-represented by MPs and in the Cabinet, while an academic cited the loss of direct links between the Secretary of State and the parliament.⁷³ A Scotland Europa official predicted a loss of information as Scotland has less contact with UK departments and ways of thinking, but a colleague disagreed: "Scottish input into EU policy will be enhanced by a big factor because of the Executive team. . . . The Scottish case will be more clearly presented, making informal networks more important than institutions."⁷⁴ Several architects worried about partisan politics, expecting a Labour administration to continue the same agenda, a coalition government to introduce new priorities, and different parties in power north and south of the border to cause tension.⁷⁵

In particular, businessmen affected by reserved matters were concerned that Scotland may lose influence within the UK. One suggested that "The UK will not be much more sympathetic. . . . I fear that devolution will lead to the temptation for Westminster to write Scotland off as a done deal."⁷⁶ Another feared less informal political persuasiveness, citing "a risk if Scottish departments and the Executive are seen as totally distinct from the UK government and if there is antagonism."⁷⁷ Several professed uncertainty about the future of Scottish politics,⁷⁸ but did not expect policy outcomes to change as "The devolved powers are essentially those that

were devolved anyway, [so the change is] in how things will work informally.”⁷⁹ STUC officials were more optimistic, hoping the parliament would affect Westminster by making better policy, altering perception of politicians as MSPs and MPs work together, and changing the extent to which Scots view the Union and England as the source of problems.⁸⁰

Difference in Policy?

The majority of architects, who believed devolution would increase transparency and civic participation rather than enable greater Scottish involvement in the creation of UK negotiating stances, made similar predictions about policy outcomes. The thesis tested whether architects expected the devolved administration to make a difference in comparison to the old Scottish Office, particularly through its legislative ability to implement directives, by examining Scotland’s European priorities and whether they differ from England’s. Most architects recommended a focus on areas where Scotland has a disproportionate interest, including agriculture,⁸¹ fisheries,⁸² the environment,⁸³ and structural funds.⁸⁴ Some added personal interests, such as transport,⁸⁵ education and training,⁸⁶ employment and social policy,⁸⁷ food,⁸⁸ whisky and energy,⁸⁹ and institutional reform.⁹⁰

To ascertain whether devolution was necessary for Scotland to promote a unique policy agenda, architects were asked whether Scotland’s priorities varied from those of England. Few could name divergent issues, instead citing the need for distinct *approaches* to agriculture,⁹¹ fishing,⁹² and structural funds.⁹³ Other architects named areas of differing *emphasis*: structural variations in the economy,⁹⁴ particular interpretations (i.e., social policy),⁹⁵ gray areas in the Scotland Act (i.e., Food Standards Agency),⁹⁶ and non-devolved EU issues (i.e., equal opportunities, human rights, asylum).⁹⁷ Several architects highlighted the Scottish Executive’s ability to implement directives, as one noted that differences occur between Scottish communities and not simply between Scotland and England.⁹⁸ Another observed that “If [Scottish interests] boil down to getting more money out of the common pot, then that becomes a British interest anyway.”⁹⁹

While most architects did not expect legislative outcomes to differ substantially from those of the Scottish Office, the majority anticipated a shift in the *institutional creation* of policy. They desired greater civic involvement, as organisations can utilise pre-legislative scrutiny to champion policy agendas, feed into a civil service that remains small and reliant upon input, and interact more with politicians.¹⁰⁰ Local government officials, in particular, thought decision-making will be more visible as it physically moves from London to Edinburgh.¹⁰¹ Because Scottish priorities differ from England's in emphasis rather than substance, many architects hoped the executive would implement EC legislation in a more appropriate manner and consult more widely with affected organisations.

Domestic Channels

The architects' belief that devolution was unlikely to change significantly the handling of European affairs was also reflected in discussions about domestic channels enabling Scottish influence on the creation of the UK's EC negotiating line. Once the Scottish Parliament's European Committee and Executive have reached positions on forthcoming EC legislation, they must feed into the UK decision-making process. While some architects expressed uncertainty about the operation of new structures, the majority cited the retention of official links and contact among parliamentarians.

Many architects, particularly officials in local government and Scotland Europa, expected civil servants to continue representing Scotland through dialogue and links with Whitehall and UKRep.¹⁰² A Scotland Europa official estimated that 95-99% of decisions will be taken at official level, leaving ministers present it: "The influence of political leaders is crucial, as the way of promoting the line will win through." For example, the official cited Prime Minister Blair's role in securing structural funds for the Highlands and Islands.¹⁰³ Several businessmen also anticipated continued UK dominance, explaining that the Scottish Parliament and Executive must work together to feed into the UK system.¹⁰⁴

A few architects highlighted the role of parliamentarians, although some expressed concern about their ability to hold Scottish ministers to account.¹⁰⁵

Businessmen and STUC officials suggested MSPs should develop networks with MPs, as they are likely to develop greater interest in reserved areas.¹⁰⁶ Some architects were unsure how the Scottish Parliament will be represented in London, and questioned whether there will be formal links between Scottish and Westminster scrutiny committees. Several officials in local government and Scotland Europa cited EU institutions, which the third section will discuss in greater depth.

UK Restraint

Given the predominant expectation among most architects - including those not involved directly in the parliament's establishment - that existing practices will continue post-devolution, it is necessary to examine the extent to which they believed central government would control the Scottish Executive's legislative activities. One measure of the executive's domestic influence is its ability to sway the UK position on non-devolved areas - which include European affairs. Several architects expected the Scottish Parliament and Executive to take a view on reserved issues and then lobby Westminster for the adoption of their positions. For example, a few businessmen anticipated opinions on macro-economic policies such as the UK's entry into EMU.¹⁰⁷ Similarly, local government officials said the parliament will publicise Scottish views; although the Secretary of State could have presented Scottish opinions in the Cabinet pre-devolution, collective cabinet responsibility prevented such opposition from becoming public knowledge.¹⁰⁸ But despite increased visibility, some architects remained pessimistic about the ability of the parliament or executive to alter the UK's stance: "Scotland will win its way if there is a basic political willingness to support what is coming out of Scotland anyway."¹⁰⁹

Thus, a more accurate test of anticipated UK constraint on Scotland's European activities is architects' assumptions about the concordats. The majority seemed unconcerned about their potential limits, although most had little information about them beyond a vague recognition that they were being drafted and were intended to ensure good working relations between the executives. The one exception was a journalist, who had seen drafts, referenced leaks, and expected them to be published after enough political pressure.¹¹⁰ NFUS was told that its officials "would see them

early, but we haven't seen them. We have received assurances that things will be relatively the same as they are now."¹¹¹ An academic said a draft was ready in September 1998, as the Welsh Office sent the Scots a copy and officials said it would be published in the autumn: "If it is not published, that means there are real problems. If it is attractive, it would have been published."¹¹²

Rather than emphasising their likely restrictiveness, many architects hoped they would codify Scottish participation in EC policy-making. A Church of Scotland member hoped executive disputes would be resolved through official or ministerial discussions, as "the Westminster view shouldn't prevail if it negates Scottish Parliament views."¹¹³ A businessman, who expected concordats to provide some constraints but also resolve complications, emphasised that they "must be effective. The last thing you possibly want is competing efforts on policies within the UK."¹¹⁴ Another thought they would monitor relationships and the time-table of business, but feared they were being drafted by London civil servants who are afraid of losing power to Scots and want to regulate all aspects.¹¹⁵

Academics were more pessimistic about likely London constraint. One said relations depend on the individuals involved and require "a change of consciousness down south."¹¹⁶ Another predicted they "would be strong on the UK line," citing a weakening in Scotland's position from guarantees of involvement in the White Paper to statements about Europe being reserved in the Bill.¹¹⁷ In contrast, a current academic (and former official) believed the concordats will state what is already known. Their utility is the provision of a common understanding at the beginning to clarify political rather than substantive debates: "It is unthinkable that Scotland can be excluded from Whitehall negotiations. . . . The question is what the dynamic is."¹¹⁸

SCOTLAND'S EUROPEAN INFLUENCE: BRUSSELS

Although dubious about the ability of the Scottish Executive to exert more influence than the old Scottish Office on the UK's handling of European legislation, the previous section suggested that nearly all architects emphasised the importance of domestic lobbying. Consequently, they were cautious about using the

'Westminster Bypass' to argue against the UK in Brussels. Architects cited the state-based structure of the European Union, and stressed the need to convince the UK government of Scottish arguments. For example, a Scotland Europa official said the bypass was "unimaginable" in the parliament's first term because its creators are still in power; within four to eight years, MSPs will stop coming to Brussels because EC officials listen to member states over regions.¹¹⁹ Businessmen said differing Scottish views should be handled "amicably," and questioned the risk of "openly" defying a UK minister.¹²⁰ COSLA officials called for the Scottish Executive to forge close links with UK institutions: "Dealing directly with the EU doesn't cut out Westminster. If one believes that, one is not aware of the member-state which has a pivotal role. . . . Sometimes Scotland disagrees with the UK, sometimes the UK is isolated, but usually the UK helps."¹²¹

However, some architects supported the autonomous assertion of Scottish views that do *not* contradict UK positions. Scotland Europa officials, COSLA officials, and academics agreed that the executive can promote a nuanced perspective to EC institutions and engage in political dialogue with other actors. One academic, following unionist arguments, said the executive could promote a separate line based on "politics of difference and impact but not of identity."¹²² This strategy may also be effective where European opinion is more sympathetic to Scotland than the UK (i.e., BSE). Several businessmen and STUC officials said the executive may require direct contact with Brussels if the UK fails to incorporate its needs, while it could also promote a policy that the UK supports but fails to prioritise (i.e., Gaelic).¹²³ STUC officials said the Scottish Office already presents views to the Commission: "DGs know the UK position and the Scottish element within it. . . . The Commission wants to know where the shoe pinches."¹²⁴ Nevertheless, all architects agreed that the decision requires a case-by-case political judgment as "there are no rules, only judgment."¹²⁵ This section will discuss architects' expectations about various European channels enabling such communication, including the Executive's representation office, the Commission, the Council of Ministers, and the Committee of the Region.

Scotland House

The Scottish Executive's primary lobbyist is its Brussels office, which is co-located with Scotland Europa in Scotland House. This section briefly describes Scotland Europa's development, drawing on observations from its past and current staff. It then considers how architects rate its effectiveness and expect it to change after devolution. Finally, it examines their expectations about the role of the new Scottish Executive European Office.

Scotland Europa Those involved with the creation and operation of Scotland Europa said the perceived lack of Scottish representation in Brussels led to discussions about its establishment.¹²⁶ It was originally intended to be a representative body owned by partners, including local government. But the Conservative government became uneasy when plans were leaked to the media, causing the Scottish Office to back off and Scottish Enterprise - an economic development agency publicly funded by the Scottish Office - to take responsibility.¹²⁷ It became a 'membership organisation', while also leasing space to other organisations and regional offices.¹²⁸ Initially, Scotland Europa acted like a consultant and lobbyist by producing monthly reports, taking visitors to the institutions, and lobbying for Scottish interests. It undertook "nice useful stuff, but with very little official status and specifically no input except informally into policy decisions."¹²⁹ In the mid 1990s, it began to publish Scotland Europa Occasional Papers and responded to Commission inquiries. In 1998, its role expanded as the new Labour government wanted to establish the parliament, raise Scotland's profile, and improve relations between the UK and EU. Scotland Europa currently has a broad remit, particularly as it has "tried to steer clear of being [in Brussels] just for money" by focusing on a range of policy areas, seeking partners in other regions, and affecting business agendas.¹³⁰

Several past and present officials described Scotland Europa as a 'behind-the-scenes' operation that was awaiting the creation of a Scottish Parliament. Because the Conservative government (1979-97) "didn't have much enthusiasm for a regional office," officials were "coy about why we were here" and allowed other actors to assume it was the same as other regional governments.¹³¹ Thus, they are pleased

with the new arrangements as Scotland gains democratic legitimacy in Brussels. The Executive Office will represent Scottish government in Brussels, have political standing, and be able to access policy-makers; if someone needed to access politicians pre-devolution, officials said it was easier to use local authorities who could act through COR. The office “will add a presence as we have been in a vacuum for policy development,” and its role will be based upon policy development and politics.¹³² Scotland Europa will continue to deal with its members and non-governmental organisations, but will lose the ceremonial role it performed in the parliament’s absence. It will also become more formalised, create a broader image, liaise more in Scotland, monitor the domestic policy agenda, and focus on economic development.

Assessment of Scotland Europa was positive from subscribers and civic observers in all sectors.¹³³ Although many of the businesses and civic organisations studied are not members, their spokespersons agreed that it provided a profile for Scotland, established goodwill, and built networks. COSLA officials expected the office to be reconstituted as some of its members pursue business or sectoral interests, although they will retain their office given COSLA’s unique democratic role and desire for political independence.¹³⁴

Scottish Executive Office Architects also supported the creation of a Scottish Executive Office in Brussels. The majority expected its officials to represent Scotland’s interests, relay information back to the executive, provide a political presence, and assist visitors. They expected it to give Scotland a presence like other European regions,¹³⁵ as an SCVO member said it would channel information in a more targeted manner and provide a base for lobbying.¹³⁶ Some architects said officials could feed into deliberations, while all believed they would liaise with interest groups, other regional representatives, and EC institutions. However, no architect suggested the Scottish Executive would exert greater *influence* than Scotland Europa or sway EC legislative outcomes. In particular, Scotland Europa and COSLA officials warned about unrealistic expectations as the executive will seek influence where it can but still operates within a UK context. One Scotland

Europa official was unclear where individual MSPs reported if they come, while another emphasised the importance of having contacts in this “people business.”¹³⁷

Despite this accurate overview of the Executive office, there was some confusion - particularly within the business community - about its status. Several businessmen mistook it as a base for the parliament rather than the executive. For example, one incorrectly expected both a Scottish civil service office (the ‘Scottish Office Office’) and a Scottish Parliament office.¹³⁸ STUC officials described the office as the parliament’s “eyes, ears and voice” in Brussels.¹³⁹ This reflected their CSG submission, which wanted the parliament to have “a permanent, well resourced presence in Brussels” and a “Department of Scottish Government with responsibility for liaising with European institutions” (1998, 7).

Several architects described the office as an ‘embassy’. Although they were probably speaking metaphorically, it seems a curious choice of terminology given the SNP’s aim of establishing an independent Scotland. Three businessmen called it an ‘embassy’,¹⁴⁰ and a STUC official explained that “Like an embassy it has no power other than visa and work permit, but staff are responsible for trade and labour views. It is not its primary responsibility to analyse legislation, which is done here.”¹⁴¹ The term was also used by political commentators: an academic and a journalist described the office as an ‘embassy’, while the latter expected it to be “an amalgamation between the Scottish Parliament and Scottish Executive.”¹⁴²

UKRep

Scotland Europa, according to all architects questioned, had a constructive relationship with UKRep. According to a former director, “The conflict was mostly when they felt they couldn’t help us. . . . UKRep wouldn’t let Scotland Europa overstep or deviate into anything political which particularly affected or seemed to dispute a UK policy. We would have been closed down.”¹⁴³ It was helped in its early days by John Kerr, the (Scottish) UK ambassador to the EU. Thus, architects expected harmonious relations to continue between UKRep and the Scottish Executive Office. Some acknowledged that the executive’s activities are limited, adding that the offices need to maintain a close relationship. Scotland Europa staff

said ‘Scottish’ civil servants will want access to UKRep’s information, while others will continue to be seconded there. Disagreements are likely to occur domestically, possibly due to personality conflicts.¹⁴⁴ Similarly, most businessmen expected tension would only be part of a larger domestic dispute or driven by partisan differences.¹⁴⁵

Local government officials called for wider co-operation, as one explained that in systems of multi-level governance the Scottish Executive, COSLA, and European Committee need to agree a joint strategy.¹⁴⁶ However, an actor-centred approach that considers possible correlations between past experiences and current opinions highlighted differing views among COSLA officials about their organisation’s relationship with UKRep and the Scottish Executive. Two officials who worked in Brussels expected pre-devolution relations to continue, including information exchange secondments. They called for “a close working relationship” and wanted to “work in partnership.”¹⁴⁷ However, a solely Edinburgh-based official said “COSLA wants independence from UKRep. . . . You can’t have a representative office that represents other areas.”¹⁴⁸

Council of Ministers

Architects had mixed opinions about the ability of Scottish Ministers to participate in Council meetings, with no clear reason for this discrepancy. First, they disagreed about the likelihood of Scottish ministers attending Council meetings. Civic observers, STUC officials, and Scotland Europa officials expected them to attend and to speak in meetings about policies of devolved interest. They predicted that pre-devolution procedures would continue, highlighting the added weight of the parliament.¹⁴⁹ Other architects were more pessimistic. COSLA officials reported good Scottish attendance at Council meetings under the current Labour government, but were unsure about participation post-devolution given the parameters of the concordat and necessity of working with UKRep.¹⁵⁰ Businessmen presented various reasons for anticipated UK control, referencing provisions in the White Paper, citing the UK as the ‘official representative’, doubting whether Scottish ministers will have

rights in debates of principle, and suggesting Scots can only attend when UK ministers invite them.¹⁵¹

Although many architects asserted that Scottish ministers should participate in agriculture and fisheries Councils, members of these industries remained pragmatic. An NFUS member said the UK Minister obtains a ‘Scottish’ perspective from the Scottish Office minister, whose attendance depends on the variable enthusiasm of the UK Minister to attend meetings.¹⁵² A fisheries representative said Scottish fishermen “feel bad” about being represented in Brussels by an English minister, but realise that a Scottish lead minister could make Cornwall fishermen “reasonably upset because they can’t hold the Scottish minister to account.” While fishermen “do not care” who speaks if the policy is acceptable, the representative said the fishing minister could be a UK minister in a Scottish constituency or it could be the residual duty of the Secretary of State.¹⁵³ Both spokesmen concluded that Scotland has no formal rights of negotiation or representation, but cited the parliament’s democratic authority to pressure UK ministers who do.

Second, architects disagreed about the ability of Scottish Ministers to lead UK delegations. Several businessmen and STUC officials expected them to lead occasionally on areas like fisheries and forestry,¹⁵⁴ while a Scotland Europa official agreed that Scotland “should lead for publicity and politically” on issues of majority interest.¹⁵⁵ But they highlighted the continued importance of relations between the Scottish and UK governments, adding that the primary consideration is symbolism as those in Brussels are more concerned about majority interests than internal construction. In contrast, a law professor said it was “unlikely” that Scottish ministers would lead because they do not have the power to commit the state. Although they can participate in the formation of the UK negotiating stance, closed Council meetings prevent outside awareness of its presentation.¹⁵⁶

Commission

Of those asked about the effectiveness of communication between the Scottish Executive and the Commission, most architects agreed that the EU institution welcomed sub-national input. Some businessmen, representatives of sectoral

interests, and civic observers said ‘Scottish’ officials could provide information to the Commission about devolved matters; however, a few questioned the extent of their persuasiveness.¹⁵⁷ Those with Brussels experience were the most enthusiastic advocates, as all officials from COSLA and Scotland Europa agreed that the Commission was open to sub-national interests.¹⁵⁸ ‘Scottish’ officials could affect its work by entering the process early, meeting those who are drafting policy, and providing useful solutions.

Personal contacts are also important, as Scottish Office officials networked with other English-speakers, had civil service secondments, and developed links with other Scots in Brussels.¹⁵⁹ One Scotland Europa official recalled that “Mr. Prodi said there will be changes, and [stressed] the importance of personal contacts.”¹⁶⁰ Because the Commission is over-worked and faces time pressures, official indicated that it should be lobbied collectively. Regional networks are important, as an argument presented by a large group is more effective than one from every region. As a COSLA official explained, “There are already 160 regions here, and there is only so much the Commission can do as they prefer a cohesive view. The Commission said Scotland Europa was useful because it was one point of view for input and feedback.”¹⁶¹

Committee of the Regions

Architects held varying opinions about the effectiveness of the Committee of the Regions. Some businessmen and civic observers emphasised the continued authority of the nation-state, suggesting that COR lacks authority and MSPs are more influential through the UK.¹⁶² Those with Brussels experience - including COSLA officials, Scotland Europa officials, and a journalist - cited several flaws in the institution. First, COR’s structure was misconceived as member states had different domestic conceptions of a ‘region’ and aims for the structure of Europe.¹⁶³ While some (i.e., Germany) envisioned it as a second chamber that would rival the European Parliament, others (i.e., UK) opposed this.¹⁶⁴ The Parliament, which controls COR’s budget, resented increases in COR’s authority and was unwilling to share its recently acquired powers.¹⁶⁵ Second, these architects said COR has too

many aims, as it speaks on all issues rather than when asked, and can be ignored as an advisory body. Finally, it suffers from a mixed membership, as there are not the same number from each state; there are further conflicts of interest between urban and rural, north and south, executive and non-executive.¹⁶⁶ However, these architects also acknowledged strengths: COR brings a regional and local dimension to the EU, presents subjects in clear language, helps regions understand complicated issues, and brings people together.¹⁶⁷

In addition, this discussion illustrated the merits of an actor-centred approach. The most positive and thorough assessment of COR came from COSLA officials who provide the secretariat to Scotland's members.¹⁶⁸ They said it is a new institution that needs time to establish its working practices and looks particularly weak when compared to mature institutions;¹⁶⁹ others said it is too early to measure its effectiveness in most areas, although it should acquire more powers through the Amsterdam Treaty.¹⁷⁰ In addition, STUC officials evaluated COR according to their direct knowledge of the institution. One official - who is a member of the Economic and Social Committee - said COR is young and faces organisational difficulties, but ensures that legislation is well understood, has a legitimate role in representing the sub-national voice, and enables discussions.¹⁷¹ In contrast, a colleague had "no clue what it has done. My instinct is that if I don't know it's not effective."¹⁷²

SUMMARY

Scotland's European Role This chapter analysed architects' perceptions about the ability of the devolution settlement to create new forms of governance and enable Scotland to influence EC policy-making. These two topics are closely linked in the minds of many architects, as assumptions about the Scottish Executive's likely effect on European affairs focused on domestic activities rather than political sway in London or Brussels. Architects understood governance as a holistic process, illustrated by support for the European Committee's cross-cutting function and membership. In particular, many desired a more *participative* role in policy-making and emphasised the need for civic input. Despite disagreement about the

mechanisms, all architects clearly wanted to be consulted and involved in the legislative process.

In addition to relations between civic interests and policy-makers, architects recognised the importance of collaboration among officials and politicians. Those with European experience cited the need for networks in Brussels, links with officials, and contact with other sub-national authorities. Architects also emphasised connections with other levels of government, particularly Whitehall and local councils. They expected positive relations between the Scottish and UK governments, citing the Scottish Executive's ability to devise appropriate legislation, consider reserved matters, and manage domestic affairs. This optimism is not groundless, but comes from a pragmatic awareness of the UK's retained authority as the member-state. Indeed, some even expressed concerns about decreased links with Whitehall and the UK Cabinet. Architects also recognised potential problems if different parties held office north and south of the border, with tension particularly likely if a nationalist administration governed Scotland.

Expectations of the Scottish Executive's legislative effect were based on this conception of governance. Few architects predicted that it would produce different policy outcomes or modify the UK's stance on reserved issues. Instead, the majority emphasised a new style of policy-making that was more transparent, democratically accountable, and involved citizens and organisations. When applied to the European dimension, architects did not expect the executive to exert significant political sway through European channels but instead stressed the primary importance of shaping the UK position. They also presented divergent assessments of Scotland's relationship with EC institutions, although those with work experience in Brussels were most optimistic about their utility. Instead, architects believed the transparency of the legislative process would highlight distinct Scottish needs and reveal the extent to which Whitehall takes them into account. The Scottish Executive's democratic authority will enable Scottish officials in Brussels to make other governments and institutions aware of these needs. It may make the most noticeable difference in EC affairs by implementing directives in devolved areas, incorporating

Scotland's structural requirements, and involving civic organisations more closely in the process.

Actor-Centred Approach The typology of architects incorporated a broad range of actors, including the Church, business, and local government. An actor-centred approach to understanding civic Scotland's expectations of the new parliament uncovered divergent opinions. This highlighted the problem of establishing a civic consensus: many architects shared the goal of a parliament and held similar views about its likely effect on policy-making, but they disagreed about its operation.

First, some civic proposals were apparently based on *assumptions* about the needs of Scottish industries. For example, many architects said agriculture and fisheries were not well-represented by the UK government. Their spokesmen voiced frustration, but also acknowledged civil service attention and adequate representation. Another example is the CSG's proposed inclusion of non-politicians on committees; civic organisations genuinely wanted greater participation, sectoral industries and COSLA wanted seats for their organisations, and businessmen were too busy for full-time membership. Such discrepancies between the perceptions of civic actors exemplify the danger of assuming that Convention and CSG proposals speak for all of Scotland. Despite the efforts of these groups to collate the wishes of many individuals and organisations, expectations about the parliament still vary between architects. Consequently, its success cannot be judged according to one set of criteria alone.

Second, there was a correlation between architects' knowledge of established structures and their attitudes toward devolution. Many businessmen who lacked awareness of CSG proposals preferred the status quo (i.e., European Committee structure); in contrast, academics drew on detailed knowledge to make more educated appraisals. Similarly, proximity to the European policy-making process seems likely to have affected the expectations of some architects about Scotland's future relationship with EC institutions. For example, COSLA officials who serviced Scottish members of the Committee of the Regions were more positive about the fledging institution than distant observers.

Third, expectations were partly shaped by the political level of actors' employment. Some architects presented 'Scotland-centric' views, illustrated by their optimism about Scottish potential, lack of concern about UK restrictiveness, and uncertainty about EU structures. Fourth, certain perceptions may be explained by actors' previous job experiences. Businessmen who formerly worked in the Scottish Office were more informed about civil service procedures and had a better perception of Scotland's representation by the UK than their non-official colleagues. Also, an STUC official who was a member of EcoSoc held more favourable views of COR than a fellow official. Finally, it is possible that personality affected opinions. Spokesmen for Scottish industries recalled variable representation according to the personalities of government ministers, while Scotland Europa officials occasionally gave different answers based on personal perceptions.

¹ Interview, 12 April 1999a, Glasgow; Interview, 31 May 1999b, Brussels; Interview, 12 April 1999c, Glasgow.

² Interview, 12 April 1999c, Glasgow; Interview, 22 February 1999b, Glasgow; Interview, 19 January 1999, Edinburgh; Interview, 28 April 1999, Edinburgh.

³ Interview, 19 January 1999, Edinburgh.

⁴ Interview, 25 January 1999, Edinburgh; Interview, 20 January 1999, Edinburgh; Interview, 15 January 1999, Edinburgh; Interview, 14 April 1999, Edinburgh; Interview, 26 March 1999, Edinburgh; Interview, 18 March 1999, Edinburgh.

⁵ Interview, 12 April 1999a, Glasgow; Interview, 12 April 1999b, Glasgow; Interview, 15 January 1999, Edinburgh; Interview, 19 January 1999, Edinburgh; Interview, 1 June 1999c, Brussels; Interview, 28 April 1999, Edinburgh.

⁶ Interview, 31 May 1999a, Brussels; Interview, 31 May 1999b, Brussels; Interview, 15 January 1999, Edinburgh; Interview, 14 April 1999, Edinburgh.

⁷ Interview, 20 January 1999, Edinburgh.

⁸ Interview, 14 April 1999, Edinburgh; Interview, 15 January 1999, Edinburgh; Interview, 8 March 1999, Telephone.

⁹ Interview, 26 January 1999, Edinburgh; Interview, 20 January 1999, Edinburgh.

¹⁰ Interview, 12 April 1999c, Glasgow; Interview, 25 November 1998, Edinburgh; Interview, 22 February 1999b, Glasgow.

¹¹ Interview, 19 January 1999, Edinburgh; Interview, 18 March 1999, Edinburgh; Interview, 26 March 1999, Edinburgh; Interview, 25 January 1999, Edinburgh; Interview, 12 April 1999a, Glasgow; Interview, 12 April 1999b, Glasgow.

¹² Interview, 11 January 1999, Edinburgh; Interview, 22 February 1999a, Glasgow; Interview, 12 April 1999b, Glasgow; Interview, 7 December 1998, Edinburgh; Interview, 19 January 1999, Edinburgh.

¹³ Interview, 14 April 1999, Edinburgh.

¹⁴ Interview, 26 March 1999, Edinburgh; Interview, 25 January 1999, Edinburgh.

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- ¹⁵ Interview, 20 January 1999, Edinburgh; Interview, 26 January 1999, Edinburgh; Interview, 18 March 1999, Edinburgh.
- ¹⁶ Interview, 20 January 1999, Edinburgh.
- ¹⁷ Interview, 7 December 1998, Edinburgh; Interview, 19 January 1999, Edinburgh; Interview, 22 March 1999, Edinburgh.
- ¹⁸ Interview, 20 January 1999, Edinburgh; Interview, 25 January 1999, Edinburgh.
- ¹⁹ Support among local government for links between the Scottish Parliament, local government, MEPs, members of COR and EcoSoc and other advisory bodies was detailed in CSG submissions from COSLA (1998b) and the East of Scotland European Consortium (ESEC) (1998b).
- ²⁰ Interview, 25 November 1998, Edinburgh; Interview, 7 December 1998, Edinburgh; Interview, 26 January 1999, Edinburgh.
- ²¹ Interview, 22 February 1999a, Glasgow; Interview, 18 March 1999, Edinburgh.
- ²² Interview, 12 April 1999a, Glasgow; Interview, 12 April 1999b, Glasgow.
- ²³ Interview, 15 January 1999, Edinburgh.
- ²⁴ Interview, 14 April 1999, Edinburgh.
- ²⁵ Interview, 3 December 1998, Edinburgh; Interview, 25 November 1998, Edinburgh.
- ²⁶ While the CSG considered whether parliamentary committees or departments should be based outwith Edinburgh, the spokesmen for the fishing and agriculture sectors did not support the proposal. Although they hoped that committees would travel, exposing members to debates and allowing the parliament to sell its message, they acknowledged cost and logistics. They stressed that Scotland is a small country, their industries are not located in one location, and Edinburgh tends to be the most convenient for their own meetings (Interview, 8 March 1999, Telephone; Interview, 14 April 1999, Edinburgh).
- ²⁷ Interview, 8 March 1999, Telephone.
- ²⁸ Interview, 14 April 1999, Edinburgh.
- ²⁹ Similar calls for consultation were made in ESEC's response to the CSG consultation (1998b). The document argued that "Restricting membership of the Committee to MSPs is at odds with the established and respected Scottish partnership approach to European business. It would also be at odds with the inclusive approach to government expected of the Scottish Parliament." Local government could be "delegated the responsibility for scrutinising documents which the Parliament is unable to manage within its resources." Since one parliamentary committee cannot represent all interests, ESEC suggested a forum where the Parliament could report scrutiny of EC legislation; it could be related to the European Committee, include self-selecting organisations like local government and funding bodies, and provide a reference point.
- ³⁰ Interview, 19 January 1999, Edinburgh; Interview, 1 June 1999c, Brussels.
- ³¹ Interview, 7 December 1998, Edinburgh.
- ³² Interview, 28 April 1999, Edinburgh.
- ³³ Interview, 11 January 1999, Edinburgh; Interview, 3 December 1998, Edinburgh.
- ³⁴ Interview, 11 January 1999, Edinburgh.
- ³⁵ Interview, 26 March 1999, Edinburgh.
- ³⁶ Interview, 25 January 1999, Edinburgh; Interview, 26 January 1999, Edinburgh; Interview, 12 April 1999a, Glasgow; Interview, 20 January 1999, Edinburgh.
- ³⁷ Interview, 12 April 1999b, Glasgow.
- ³⁸ Interview, 25 January 1999, Edinburgh; Interview, 20 January 1999, Edinburgh; Interview, 12 April 1999a, Glasgow.
- ³⁹ Interview, 31 May 1999a, Brussels; Interview, 25 November 1998, Edinburgh.
- ⁴⁰ Interview, 25 November 1998, Edinburgh.
- ⁴¹ Interview, 20 January 1999, Edinburgh; Interview, 12 April 1999a, Glasgow; Interview, 25 January 1999, Edinburgh; Interview, 26 March 1999, Edinburgh.
- ⁴² Interview, 3 December 1998, Edinburgh; Interview, 11 January 1999, Edinburgh; Interview, 22 February 1999a, Glasgow.
- ⁴³ Interview, 3 December 1998, Edinburgh; Interview, 25 January 1999, Edinburgh.
- ⁴⁴ Interview, 14 April 1999, Edinburgh.
- ⁴⁵ Interview, 15 January 1999, Edinburgh.

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- ⁴⁶ Interview, 8 March 1999, Telephone. Some fishermen would prefer a different system outside the EU. *The Fishermen's Charter* (undated), produced by the Scottish Fishermen's Association, wants national fishing organisations to establish a management plan for European fishing zones.
- ⁴⁷ Interview, 8 March 1999, Telephone; Interview, 18 March 1999, Edinburgh.
- ⁴⁸ Interview, 22 March 1999, Edinburgh; Interview, 3 December 1998, Edinburgh.
- ⁴⁹ Interview, 22 February 1999a, Glasgow; Interview, 12 April 1999c, Glasgow. Murray Ritchie, a Scottish journalist formerly based in Brussels, published a diary of his experiences: "Brussels did nothing to persuade me that Scotland. . . was as effectively represented as it might have been in the European Union. . . . Scotland's voice was muffled by the need to speak with a British accent. What was good for Scotland was good only if it suited the United Kingdom as a whole" (2000, 14).
- ⁵⁰ Interview, 22 February 1999b, Glasgow.
- ⁵¹ Interview, 11 January 1999, Edinburgh.
- ⁵² Interview, 7 December 1998, Edinburgh; Interview, 19 January 1999, Edinburgh; Interview, 28 April 1999, Edinburgh; Interview, 31 May 1999a, Brussels; Interview, 18 March 1999, Edinburgh; Interview, 26 March 1999, Edinburgh.
- ⁵³ Interview, 19 January 1999, Edinburgh.
- ⁵⁴ Interview, 26 March 1999, Edinburgh.
- ⁵⁵ Interview, 18 March 1999, Edinburgh.
- ⁵⁶ Interview, 20 January 1999, Edinburgh; Interview, 25 January 1999, Edinburgh; Interview, 26 January 1999, Edinburgh; Interview, 12 April 1999a, Glasgow.
- ⁵⁷ Interview, 14 April 1999, Edinburgh.
- ⁵⁸ Interview, 8 March 1999, Telephone.
- ⁵⁹ Interview, 25 January 1999, Edinburgh; Interview, 11 January 1999, Edinburgh; Interview, 3 December 1998, Edinburgh; Interview, 12 April 1999c, Glasgow; Interview, 12 April 1999b, Glasgow; Interview, 7 December 1998, Edinburgh; Interview, 18 March 1999, Edinburgh; Interview, 26 March 1999, Edinburgh; Interview, 22 February 1999b, Glasgow.
- ⁶⁰ Interview, 22 February 1999b, Glasgow.
- ⁶¹ Interview, 22 February 1999a, Glasgow; Interview, 12 April 1999b, Glasgow; Interview, 15 January 1999, Edinburgh; Interview, 19 January 1999, Edinburgh; Interview, 7 December 1998, Edinburgh; Interview, 25 November 1998, Edinburgh; Interview, 26 January 1999, Edinburgh; Interview, 11 January 1999, Edinburgh.
- ⁶² Interview, 28 April 1999, Edinburgh; Interview, 12 April 1999c, Glasgow; Interview, 7 December 1998, Edinburgh; Interview, 25 January 1999, Edinburgh; Interview, 14 April 1999, Edinburgh; Interview, 3 December 1998, Edinburgh; Interview, 25 November 1998, Edinburgh.
- ⁶³ Interview, 14 April 1999, Edinburgh.
- ⁶⁴ Interview, 25 January 1999, Edinburgh; Interview, 7 December 1998, Edinburgh.
- ⁶⁵ Interview, 28 April 1999, Edinburgh; Interview, 14 April 1999, Edinburgh.
- ⁶⁶ Interview, 11 January 1999, Edinburgh; Interview, 28 April 1999, Edinburgh; Interview, 26 March 1999, Edinburgh; Interview, 15 January 1999, Edinburgh; Interview, 26 January 1999, Edinburgh; Interview, 7 December 1998, Edinburgh.
- ⁶⁷ Interview, 15 January 1999, Edinburgh.
- ⁶⁸ Interview, 7 December 1998, Edinburgh.
- ⁶⁹ Interview, 7 December 1998, Edinburgh; Interview, 28 April 1999, Edinburgh; Interview, 1 June 1999c, Brussels; Interview, 31 May 1999a, Brussels.
- ⁷⁰ Interview, 18 March 1999, Edinburgh; Interview, 26 March 1999, Edinburgh; Interview, 14 April 1999, Edinburgh; Interview, 20 January 1999, Edinburgh; Interview, 25 January 1999, Edinburgh; Interview, 12 April 1999b, Glasgow.
- ⁷¹ Interview, 18 March 1999, Edinburgh. In STUC's 1995 Conference Programme, James Mitchell wrote: "The European Union has added another dimension to our politics. We now live in an age of multi-level government and politics. . . . If Scotland's interests are sufficiently different to require a Parliament then a direct Scottish input into European politics is also necessary" (10).
- ⁷² Interview, 19 January 1999, Edinburgh.
- ⁷³ Interview, 12 April 1999c, Glasgow.
- ⁷⁴ Interview, 31 May 1999a, Brussels; Interview, 31 May 1999b, Brussels.

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- ⁷⁵ Interview, 12 April 1999a, Glasgow; Interview, 18 March 1999, Edinburgh; Interview, 12 April 1999c, Glasgow.
- ⁷⁶ Interview, 26 January 1999, Edinburgh.
- ⁷⁷ Interview, 20 January 1999, Edinburgh.
- ⁷⁸ Interview, 25 January 1999, Edinburgh; Interview, 20 January 1999, Edinburgh; Interview, 12 April 1999a, Glasgow. An actor-centred approach should be used to examine studies by organisations, as they can be affected by the agenda of the financier. For example, a businessman (Interview, 25 January 1999, Edinburgh) revealed that Industry Scotland Forum is Labour-led and predicts that independence is bad for Scotland, while Business Scotland is SNP-managed and argues the opposite.
- ⁷⁹ Interview, 20 January 1999, Edinburgh.
- ⁸⁰ Interview, 18 March 1999, Edinburgh; Interview, 26 March 1999, Edinburgh.
- ⁸¹ Interview, 7 December 1998, Edinburgh; Interview, 25 January 1999, Edinburgh; Interview, 26 January 1999, Edinburgh; Interview, 22 March 1999, Edinburgh; Interview, 12 April 1999c, Glasgow; Interview, 28 April 1999, Edinburgh.
- ⁸² Interview, 7 December 1998, Edinburgh; Interview, 25 January 1999, Edinburgh; Interview, 26 January 1999, Edinburgh; Interview, 22 March 1999, Edinburgh; Interview, 12 April 1999c, Glasgow; Interview, 28 April 1999, Edinburgh; Interview, 31 May 1999b, Brussels.
- ⁸³ Interview, 7 December 1998, Edinburgh; Interview, 15 January 1999, Edinburgh; Interview, 12 April 1999a, Glasgow; Interview, 12 April 1999b, Glasgow; Interview, 28 April 1999, Edinburgh; Interview, 31 May 1999b, Brussels.
- ⁸⁴ Interview, 7 December 1998, Edinburgh; Interview, 25 January 1999, Edinburgh; Interview, 18 March 1999, Edinburgh; Interview, 26 March 1999, Edinburgh; Interview, 28 April 1999, Edinburgh.
- ⁸⁵ Interview, 12 April 1999a, Glasgow.
- ⁸⁶ Interview, 12 April 1999a, Glasgow; Interview, 12 April 1999b, Glasgow; Interview, 31 May 1999b, Brussels.
- ⁸⁷ Interview, 28 April 1999, Edinburgh.
- ⁸⁸ Interview, 12 April 1999a, Glasgow; Interview, 12 April 1999c, Glasgow.
- ⁸⁹ Interview, 26 January 1999, Edinburgh.
- ⁹⁰ Interview, 22 March 1999, Edinburgh.
- ⁹¹ Interview, 25 November 1998, Edinburgh; Interview, 25 January 1999, Edinburgh; Interview, 22 February 1999a, Glasgow; Interview, 26 March 1999, Edinburgh; Interview, 12 April 1999c, Glasgow; Interview, 14 April 1999, Edinburgh.
- ⁹² Interview, 11 January 1999, Edinburgh; Interview, 22 February 1999a, Glasgow; Interview, 26 March 1999, Edinburgh; Interview, 12 April 1999c, Glasgow.
- ⁹³ Interview, 25 November 1998, Edinburgh; Interview, 26 March 1999, Edinburgh.
- ⁹⁴ Interview, 25 November 1998, Edinburgh.
- ⁹⁵ Interview, 22 February 1999a, Glasgow; Interview, 28 April 1999, Edinburgh.
- ⁹⁶ Interview, 12 April 1999a, Glasgow.
- ⁹⁷ Interview, 11 January 1999, Edinburgh; Interview, 12 April 1999c, Glasgow.
- ⁹⁸ Interview, 25 January 1999, Edinburgh.
- ⁹⁹ Interview, 25 November 1998, Edinburgh.
- ¹⁰⁰ Interview, 25 November 1998, Edinburgh; Interview, 3 December 1998, Edinburgh; Interview, 11 January 1999, Edinburgh; Interview, 15 January 1999, Edinburgh; Interview, 25 January 1999, Edinburgh; Interview, 22 February 1999a, Glasgow; Interview, 22 March 1999, Edinburgh; Interview, 12 April 1999b, Glasgow; Interview, 12 April 1999c, Glasgow; Interview, 14 April 1999, Edinburgh.
- ¹⁰¹ Interview, 7 December 1998, Edinburgh; Interview, 19 January 1999, Edinburgh; Interview, 28 April 1999, Edinburgh; Interview, 1 June 1999c, Brussels.
- ¹⁰² Interview, 19 January 1999, Edinburgh; Interview, 7 December 1998, Edinburgh; Interview, 28 April 1999, Edinburgh; Interview, 31 May 1999a, Brussels; Interview, 31 May 1999b, Brussels.
- ¹⁰³ Interview, 31 May 1999b, Brussels.
- ¹⁰⁴ Interview, 12 April 1999a, Glasgow; Interview, 12 April 1999b, Glasgow; Interview, 25 January 1999, Edinburgh; Interview, 26 March 1999, Edinburgh.

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- ¹⁰⁵ Interview, 14 April 1999, Edinburgh; Interview, 25 November 1998, Edinburgh; Interview, 26 March 1999, Edinburgh.
- ¹⁰⁶ Interview, 18 March 1999, Edinburgh; Interview, 26 March 1999, Edinburgh; Interview, 12 April 1999a, Glasgow; Interview, 12 April 1999b, Glasgow. STUC's submission to the CSG was less concerned about direct links between the Executives. However, it called for the establishment of a "Standing Liaison Committee between the UK Government and the Scottish Cabinet/Executive, chaired by the Secretary of State for Scotland. This Committee would have responsibility for relationships between the two bodies, including the negotiation of the block grant to the Scottish Parliament" (1998b, 7).
- ¹⁰⁷ Interview, 20 January 1999, Edinburgh; Interview, 18 March 1999, Edinburgh.
- ¹⁰⁸ Interview, 7 December 1998, Edinburgh; Interview, 19 January 1999, Edinburgh; Interview, 28 April 1999, Edinburgh.
- ¹⁰⁹ Interview, 25 November 1998, Edinburgh.
- ¹¹⁰ Interview, 22 February 1999a, Glasgow.
- ¹¹¹ Interview, 14 April 1999, Edinburgh.
- ¹¹² Interview, 22 February 1999b, Glasgow.
- ¹¹³ Interview, 11 January 1999, Edinburgh.
- ¹¹⁴ Interview, 20 January 1999, Edinburgh.
- ¹¹⁵ Interview, 25 January 1999, Edinburgh.
- ¹¹⁶ Interview, 12 April 1999c, Glasgow.
- ¹¹⁷ Interview, 22 February 1999b, Glasgow.
- ¹¹⁸ Interview, 25 November 1998, Edinburgh.
- ¹¹⁹ Interview, 31 May 1999a, Brussels.
- ¹²⁰ Interview, 26 January 1999, Edinburgh; Interview, 12 April 1999b, Glasgow; Interview, 18 March 1999, Edinburgh; Interview, 26 March 1999, Edinburgh.
- ¹²¹ Interview, 19 January 1999, Edinburgh.
- ¹²² Interview, 12 April 1999c, Glasgow.
- ¹²³ Interview, 20 January 1999, Edinburgh; Interview, 12 April 1999a, Glasgow; Interview, 18 March 1999, Edinburgh; Interview, 26 March 1999, Edinburgh.
- ¹²⁴ Interview, 26 March 1999, Edinburgh.
- ¹²⁵ Interview, 18 March 1999, Edinburgh.
- ¹²⁶ Interview, 26 January 1999, Edinburgh; Interview, 12 April 1999b, Glasgow; Interview, 31 May 1999a, Brussels; Interview, 31 May 1999b, Brussels.
- ¹²⁷ Although COSLA was hesitant about joining Scotland Europa after it discarded initial plans of member ownership, significant councils wanted to join: Strathclyde Regional Council had an office in Brussels, while many had a link through ESEC, Highlands and Islands, or Northeast and Southeast Scotland representatives. When Maastricht introduced COR - which COSLA serviced - it became a resident member with teams in Brussels and Edinburgh developing and promoting policies (Interview, 19 January 1999, Edinburgh).
- ¹²⁸ According to a Scotland Europa official (Interview, 31 May 1999b, Brussels), its membership includes: 36% industry, 31% education, 12% local authorities, 11% public bodies, 2% trade unions and 2% voluntary sector. The number of subscribers increased steadily over the decade, from around 20 in 1992 to over 60 in 1998.
- ¹²⁹ Interview, 26 January 1999, Edinburgh.
- ¹³⁰ Interview, 31 May 1999a, Brussels.
- ¹³¹ Interview, 31 May 1999a, Brussels.
- ¹³² Interview, 31 May 1999b, Brussels.
- ¹³³ Interview, 12 April 1999a, Glasgow; Interview, 18 March 1999, Edinburgh; Interview, 25 January 1999, Edinburgh; Interview, 15 January 1999, Edinburgh; Interview, 22 February 1999a, Glasgow; Interview, 3 December 1998, Edinburgh.
- ¹³⁴ COSLA's submission to the Scottish Affairs Committee supported co-location, as the Executive can build on Scotland Europa's high profile with European actors. It said Scotland Europa served its members "extremely well" and should receive continued support (1998a, 9). An ESEC paper (1998a) erroneously suggested the Parliament "will inherit Scotland Europa," which is "unlikely" to be

“transformed into ScotRep” or “remain ‘owned’ by Scottish Enterprise.” It also questioned the future role of COSLA, questioning whether the Parliament may see it as “unrepresentative” and feel it has enough MSPs to deal directly with local authorities. ESEC, stating that it is not a “vested interest” or necessarily “a representative body,” viewed itself as a potential “mechanism which could facilitate a practical and direct relationship between local authorities, the Scottish Parliament and the EU.”

¹³⁵ A Scotland Europa official counted 154 regional offices in Brussels. The most centralised states have the most offices, as the UK has 29 and France has 23. Other regionalised states also have representations, including 18 German, 17 Spanish, and 14 Italian (Interview, 31 May 1999b, Brussels).

¹³⁶ Interview, 3 December 1998, Edinburgh.

¹³⁷ Interview, 31 May 1999a, Brussels; Interview, 31 May 1999b, Brussels.

¹³⁸ Interview, 25 January 1999, Edinburgh.

¹³⁹ Interview, 18 March 1999, Edinburgh; Interview, 26 March 1999, Edinburgh. An STUC working group reported at the 1991 Annual Conference that Scotland should have an “office” or “consulate” in Brussels and other key cities. The group also advocated the retention of the Secretary of State, accepted federalism but not independence, wanted Scottish Ministers involved in “all UK Government dealings with the EEC,” and said local government should continue its successful lobbying (167).

¹⁴⁰ Interview, 8 March 1999, Telephone; Interview, 18 March 1999, Edinburgh; Interview, 14 April 1999, Edinburgh.

¹⁴¹ Interview, 18 March 1999, Edinburgh.

¹⁴² Interview, 25 November 1998, Edinburgh; Interview, 22 February 1999a, Glasgow. In his diary of the Parliament’s establishment, Ritchie recalls a conversation with an Irish press officer. They discussed the nicknames of UKRep and Ireland’s MICKRep, which led to suggestions about the Scottish Representation as JOCKRep. But he said “New Labour has since taken fright at the language. Scottish Permanent Representation is evidently seen as too suggestive of Scottish independence in Europe and so we shall have a prosaically named Scotland House in Brussels” (2000, 181).

¹⁴³ Interview, 26 January 1999, Edinburgh.

¹⁴⁴ Interview, 31 May 1999a, Brussels; Interview, 31 May 1999b, Brussels. Chapter Five will footnote a debate between a Council official and civil servants in the Scottish Executive’s Brussels office about the locus of the UK’s political power in Europe, particularly whether the Executive should lobby Whitehall or UKRep. A Brussels-based COSLA official (Interview, 1 June 1999c, Brussels) and a Scotland Europa official (Interview, 31 May 1999a, Brussels) agreed that Whitehall is most effective, as UKRep does not influence policy but feeds back information and services ministers. However, another Scotland Europa official (Interview, 31 May 1999b, Brussels) stressed the importance of UKRep because it argues the UK line in Council and success depends on the effectiveness of its negotiations. He concluded: “Assuming they covered the London base, the Scottish Executive should influence UKRep instead of government departments.”

¹⁴⁵ Interview, 12 April 1999a, Glasgow; Interview, 12 April 1999b, Glasgow; Interview, 26 January 1999, Edinburgh; Interview, 25 January 1999, Edinburgh.

¹⁴⁶ Interview, 19 January 1999, Edinburgh. COSLA’s submission to the Scottish Affairs Committee distinguished between the work of the Scottish Executive within a UK delegation to the Council and the role of the Executive Office in Brussels “which will gather information, promote the Scottish viewpoint and develop inter-regional links” (1998a, 8). It suggested that one of two officers in UKRep could be a local government secondee to the Scottish Office.

¹⁴⁷ Interview, 19 January 1999, Edinburgh; Interview, 1 June 1999c, Brussels.

¹⁴⁸ Interview, 7 December 1998, Edinburgh.

¹⁴⁹ Interview, 22 February 1999a, Glasgow; Interview, 22 March 1999, Edinburgh; Interview, 18 March 1999, Edinburgh; Interview, 26 March 1999, Edinburgh; Interview, 31 May 1999a, Brussels; Interview, 31 May 1999b, Brussels.

¹⁵⁰ Interview, 19 January 1999, Edinburgh; Interview, 1 June 1999c, Brussels. These views were confirmed in COSLA’s submissions to the Scottish Affairs Committee (1998a, 8) and CSG (1998b),

which said the Scottish Office set “an excellent precedence” for Council attendance. It added that “Close liaison with the United Kingdom Government will be essential to ensure that the Scottish point of view is put forward in the Council of Ministers,” particularly because state positions often change during negotiations.

¹⁵¹ Interview, 15 January, Edinburgh; Interview, 26 January 1999, Edinburgh; Interview, 20 January 1999, Edinburgh; Interview, 12 April 1999a, Glasgow.

¹⁵² Interview, 14 April 1999, Edinburgh.

¹⁵³ Interview, 8 March 1999, Telephone.

¹⁵⁴ Interview, 25 January 1999, Edinburgh; Interview, 12 April 1999b, Glasgow; Interview, 18 March 1999, Edinburgh; Interview, 26 March 1999, Edinburgh.

¹⁵⁵ Interview, 31 May 1999a, Brussels.

¹⁵⁶ Interview, 12 April 1999c, Glasgow. The Law Society of Scotland raised concerns about the accountability of Scottish Ministers who speak in the Council, as they would not be responsible to the UK Parliament. It also stressed that the Scottish Parliament needs mechanisms to hold its Ministers to account for presenting views in Brussels and in the UK (House of Commons 1997, 12).

¹⁵⁷ Interview, 20 January 1999, Edinburgh; Interview, 15 January 1999, Edinburgh; Interview, 26 January 1999, Edinburgh; Interview, 14 April 1999, Edinburgh; Interview, 22 February 1999a, Glasgow; Interview, 25 November 1998, Edinburgh.

¹⁵⁸ Interview, 7 December 1998, Edinburgh; Interview, 19 January 1999, Edinburgh; Interview, 1 June 1999c, Brussels; Interview, 31 May 1999a, Brussels; Interview, 31 May 1999b, Brussels.

¹⁵⁹ For example, all Scots working in Brussels have their contact details listed in a directory - *Jock Tamson's Bairns* - compiled by Scotland Europa.

¹⁶⁰ Interview, 31 May 1999a, Brussels.

¹⁶¹ Interview, 1 June 1999c, Brussels.

¹⁶² Interview, 22 March 1999, Edinburgh; Interview, 25 November 1998, Edinburgh; Interview, 12 April 1999a, Glasgow.

¹⁶³ Interview, 1 June 1999c, Brussels; Interview, 31 May 1999a, Brussels; Interview, 22 February 1999a, Glasgow; Interview, 12 April 1999c, Glasgow.

¹⁶⁴ COSLA's submission to the Scottish Affairs Committee pointed to other European states where devolution and regionalism have been centralised. It cited tensions between the German Länder and local government, suggesting many politicians were disappointed in COR “because it has not protected Länder competences from joint responsibility with the EU” while other national delegates saw it as successful “because it has led to dialogue between the European institutions and local and regional government over shared competencies” (1998a, 4).

¹⁶⁵ Interview, 12 April 1999b, Glasgow; Interview, 26 January 1999, Edinburgh; Interview, 31 May 1999a, Brussels.

¹⁶⁶ Interview, 31 May 1999a, Brussels; Interview, 12 April 1999b, Glasgow; Interview, 12 April 1999c, Glasgow; Interview, 7 December 1998, Edinburgh; Interview, 1 June 1999c, Brussels.

¹⁶⁷ Interview, 22 February 1999a, Glasgow; Interview, 25 January 1999, Edinburgh; Interview, 22 March 1999, Edinburgh; Interview, 12 April 1999b, Glasgow; Interview, 12 April 1999c, Glasgow.

¹⁶⁸ All COSLA officials explained that COR members were formerly nominated by the Secretary of State, while the current group was elected by COSLA to reflect a geographical, age, and gender balance. They expected MSPs to divide seats with current local government members to reflect the UK's new regional agenda. As the current representatives have a mandate until 2002, officials did not expect MSPs to be included before then. Three members - Hugh Henry, Irene Oldfather, and Peter Peacock - were elected to the Parliament. Officials also expected a joint secretariat to be established, with COSLA servicing local government members and the Executive assisting its members (Interview, 7 December 1998, Edinburgh; Interview, 19 January 1999, Edinburgh; Interview, 1 June 1999c, Brussels). These plans were confirmed in numerous COSLA documents, including its submissions to the CSG (1998b) and Scottish Affairs Committee (1998a).

¹⁶⁹ Interview, 19 January 1999, Edinburgh.

¹⁷⁰ Interview, 7 December 1998, Edinburgh; Interview, 1 June 1999c, Brussels.

¹⁷¹ Interview, 26 March 1999, Edinburgh.

¹⁷² Interview, 18 March 1999, Edinburgh.

CHAPTER FIVE: THE BUILDERS (OFFICIALS)

This chapter assesses the expectations of the builders who helped turn many of the architects' aspirations into workable institutional structures. It analyses their expectations about the types of governance developed in Scotland and about the executive's ability to influence EC policy outcomes through domestic and European channels. In particular, it considers the views of Scottish Office officials who worked with the CSG in its establishment of European structures and prepared the parliament's European Committee; were seconded to the Cabinet Office in London to help draft concordats; and were based in Brussels to establish the Executive's European office. It also discusses the opinions of two English officials based in the Foreign Office, who were responsible for the handling of devolution and European affairs. Many of these officials helped draft the statutes and concordats, established legislative and communicative structures, and will handle negotiations between the executives. Finally, this chapter outlines the views of 'Scottish' officials working in European institutions. These include officials in the Commission and Council, a retired Parliament official, and representatives of the Commission and Parliament in Scotland.

Chapter Three outlined the information provided by government documents about the Scottish Executive's anticipated links with the UK government and the European Union, providing a comparative reference for the subsequent interview-based chapters. The bulk of this information was obtained from the Scotland Act and the concordats, the drafting of which involved officials. Thus, this chapter contains few documents produced by officials and does not repeat their provisions (although it seeks to shed some light on the creation of the EU concordat). It focuses instead on the perceptions of individual builders at different levels of government. Because officials are required to be politically neutral, many were unwilling to speculate about the likely success of structures and tended to provide factual information instead.

GOVERNANCE

Builders were less effusive about new forms of governance than architects and tenants, with few - if any - documents or interviewees using phrases such as 'partnership', 'holistic', or 'joined-up'. The first section of the chapter will discuss their pragmatic reactions to the potential complications of overlapping policy competences. It will also evaluate their support for a cross-cutting approach to policy-making, assessing their expectations of the European Committee's structure and operation. It will conclude by examining their emphasis on the need for co-operation between three tiers of political and official representatives.

Policy Overlap

Although all builders recognised the difficulties inherent to a system of multi-level governance, assessments of consequent policy overlaps appeared to have been affected by the level at which they operated. Edinburgh-based officials held pragmatic views, acknowledging potential difficulties and the supremacy of the UK line.¹ Foreign Office officials took the most UK-centric stance, citing their desire to involve the devolved legislatures but needing to maintain a single UK line. One left no ambiguity about the locus of ultimate authority: "Within devolution, EU affairs are explicitly retained at the centre."² Most UK and some European officials also acknowledged likely difficulties when the executives are led by different parties. A Foreign Office official cited political, policy, and procedural causes of conflict, predicting tensions in "a mix of political and procedure. I don't see policy as a problem. The system works well now and we're just extending the structures."³ EU officials were the least sympathetic to Scotland's plight, as other national and sub-national authorities face the same problem, and stressed the need for a domestic resolution of policy disputes.⁴ On a larger scale, a Council official pointed out that states are outvoted through QMV but still required to implement legislation; thus, it is important to seek influence during the negotiation stage, as the debate can be shifted in a more favourable direction even if the final vote is lost.⁵

European Committee

To test support for new modes of governance, the thesis evaluated expectations about the function and membership of the Scottish Parliament's European Committee. While the time period of this research meant most actors lacked detailed information about the committee, officials in the Scottish Office European Affairs Division worked with the CSG to develop it; thus, this section draws on their experiences to provide a brief discussion about the committee's structure and function. In addition to the opinions of relevant civil servants, it references two Scottish Office documents. In July 1998 officials drafted "Scrutiny of European Legislation by the Scottish Parliament" (CSG 1998k) for consideration by the CSG. Following consultation, they issued "Scotland's Parliament: Handling of European Business" (CSG 1998l); its nine recommendations were endorsed at the CSG meeting on 12 October 1998.

Function After deciding to establish a European Committee, the CSG's first task was determining its primary function. The first Scottish Office document (1998k), which questioned whether the committee should focus on priorities or cover all EC proposals, stated that sifting would allow the committee to a) concentrate on areas of "Scottish importance and topicality where it can best apply its influence and scrutiny", b) focus on pre-legislative papers and proposals of importance to Scotland, and c) differentiate between debates of principle versus modes of implementation. A Scottish Office official, who reiterated the importance of sifting, reported that the CSG considered Westminster committees as a comparative model. The Scottish committee must "bring together the two horses that are ridden by the Commons and Lords" by monitoring policies emerging from Brussels to ensure it is focusing on key issues.⁶ The final Scottish Office paper (1998m) concluded that the committee should have two main roles: sifting EU documents and debating issues which are cross-cutting or do not fall to a subject committee. Officials confirmed that the clerk and convener will conduct the first sift, eliminating documents that are irrelevant or have no interest to Scotland, while the committee will take final decisions about legislation.

The CSG also considered whether the European Committee should handle EC legislation itself or filter it to a subject committee, with the pros and cons outlined in the first document (1998k).⁷ Scottish Office officials recommended that the European Committee act as a clearing house by passing some issues to subject committees and handling cross-cutting issues itself.⁸ Other officials, including those in the Foreign Office and Edinburgh-based EU officials, supported these proposals.⁹ They agreed that the European Committee will have a scrutiny role, should prioritise issues directly affecting Scotland, and needs sufficient time to participate in the debate. For example, a Foreign Office official expected it to “hold meetings and debates on Europe, consider the Council’s agenda, bid for Ministers to represent, forge relations with other regional parliaments, build relations with the European Parliament, and look at a range of EU issues.”¹⁰ A former European Parliament official was less optimistic; citing one UK representative in the Council and Scotland’s limited influence, the official said “There is not much that it can do.”¹¹

Operation Although Chapters Four and Six contained little information about the committee’s structural operation due to interviewees’ lack of knowledge, the process is briefly discussed here to document the initial expectations of UK officials. This discussion demonstrates the importance of domestic links, the necessity of co-operation between the executives, and the ambiguous guidelines governing the handling of European policy. The Scottish Executive, according to a Scottish Office official, will receive EC documents via an electronic transfer system from Brussels to Edinburgh; it will also receive Whitehall’s Explanatory Memorandum, and can access Westminster’s databases for European Scrutiny (Polis).¹² A Foreign Office official cited the concordat’s provision for information exchange, explaining that UK departments will “copy the majority of our business” to devolved administrations although “[i]t will be very difficult to do quality control and value judgments about what level of interest there will be or what will touch on or impact on areas!”¹³ If the Executive’s Brussels office is based in UKRep, the official added, officials will have already seen the information.

The Scotland Act enables the Scottish Executive to implement directives in devolved areas differently from the rest of the UK, which officials expect to occur

more frequently than it did under the Scottish Office. A Foreign Office official emphasised the need for the Executive to “negotiate with Whitehall departments about how best to implement the measure,” as the UK remains legally responsible for ensuring that obligations are met.¹⁴ If Scotland fails to comply with EC law, officials in Edinburgh and London agreed that Whitehall can override Scottish legislation and implement.¹⁵ The ramifications depend on what has given rise to the breach, the likelihood of EC action, fines being applied, and how politically embarrassing it is for UK government; the Scottish Executive will be responsible for any financial penalties if the UK is taken to the European Court of Justice for Scotland’s failure to implement. Officials expected interference to be rare, as a Scottish official explained:

There will be no thought police wandering about. . . . [Interference] would cause such a political storm in Scotland. It would show ministers here were incompetent in their conclusions and their advice. Or else if [Scottish proposals] would have been broadly acceptable, it would show Westminster asserting its sovereignty after establishing this great new Scottish Parliament.¹⁶

European Forum The European Committee, in addition to taking a cross-cutting approach to its consideration of EC documents, may wish to involve various political and civic interests in its deliberations. The final Scottish Office document (19981) proposed that its members include politicians drawn from subject committees, while others MSPs can attend and speak at meetings but not vote. Scottish officials supported this arrangement, expecting it to “improve flows of communication so each committee is aware of the others’ agenda” and enable the creation of reporters who will focus on specific issues.¹⁷ The document said the committee could also meet as a wider forum to take evidence from ministers and interest groups, and may also wish to develop links with its UK counterparts and Scotland’s MEPs.

A Scottish Office official said the CSG discussed how the European Committee should consult the wider community.¹⁸ Ad hoc meetings could involve the committee a) presenting a Commission document and asking for ideas, b) establishing initial thoughts and consulting on them, or c) holding individual

evidence sessions with a general idea of its desired direction and then asking focused questions. Although the CSG could agree upon a common core with four or five permanent members with clear over-arching interests, the official questioned where to draw the line beyond ad-hoc attendees with a particular interest. The official was certain that only MSPs would vote, citing “problems both in constitutional democratic theory and problems in practice if unelected people took decisions within a supposedly democratic legislature.” This official was clearly suspicious of these proposals, explaining that everyone “thinks they have a view on Europe that is vitally important to the final conclusions” and warning against the creation of “a massive new bureaucracy of various interests.” The official concluded that “This is another difficult area to try to be inclusive and more cuddly and transparent - and all these wonderful thoughts to be a democracy as pure as the ancient Athenian model - but actually to achieve some results at the end of the day.” Other Edinburgh-based EU officials were also dubious, voicing concerns about democratic accountability.¹⁹ One warned that the inclusion of outside interests could lead to cronyism, as the usual established suspects would prevent smaller bodies from being heard while diluting and blurring opinions.²⁰

Officials based in Brussels and representing EU institutions in Scotland stressed the importance of frequent interaction between MSPs and MEPs.²¹ Although the European Parliament works primarily with national parliaments, officials agreed that it needs Scottish contacts and recalled the president’s publicly stated desire to create closer links with sub-national parliaments. MEPs can provide an early warning and information about forthcoming EC proposals, which is particularly important given the short legislative timetable and need for early input. MEPs are also an alternative source of influence, as they can highlight in Brussels the variations between Scottish and UK views. Several Edinburgh-based officials hoped MEPs will have less conflictual relations with MSPs than they do with their Westminster colleagues. They called for increased interaction, which may occur more easily in Scotland than England due to scale, increased interest, and reduced hierarchical perceptions.²²

SCOTLAND'S EUROPEAN INFLUENCE: DOMESTIC

While officials supported the creation of cross-cutting structures to integrate European matters more fully into the work of the parliament, they were suspicious of civic plans to include non-politicians more directly in policy-making. Having explored builders' mixed assessments of governance, the chapter turns to their expectations about Scotland's role in and potential influence on European policy-making. Given complaints by other actors about Whitehall's lack of transparency, this section begins with first-hand accounts of the policy-making process from some of the officials involved. The remainder of the section discusses officials' expectations about Scotland's ability to exert political sway domestically, focusing on links between the European Committee, Westminster scrutiny committees, and the Scottish Executive. It also examines new mechanisms that were devised to manage the potential complications of devolution, and considers whether legislative authority is likely to be retained at the centre. The final section of this chapter will assess channels enabling political participation in Brussels.

Difference in Representation?

Pre-devolution Perceptions of Scotland's representation in the UK's creation of an EC negotiating line differed between UK and European officials, seemingly based upon direct experience of internal negotiations. The former reported that Scottish involvement was high in areas of disproportionate interest, including agriculture and fisheries. Their assessment is based on civil service contacts that are not visible to the public, which highlights the lack of formal channels and heightens perceptions of Scottish exclusion from the process. The latter used the same policy areas to suggest representation was poor. There was also a discrepancy in opinions of Scottish *involvement* in UK discussions versus ability to *influence* the eventual policy stance.

A Scottish Office official explained that links are usually between administrations, while the clerk of the House of Commons' European committee is often a first point of contact.²³ Whitehall departments always provided the policy lead, with the exception of Scottish Office management of forestries. In areas where

Scotland had particular interests or ‘administrative devolution’, the Scottish Office gave evidence to Whitehall. UK government departments looked after English interests, gathered the views of ‘territorial departments’, and devised the final UK policy. In such areas, the official said there was “a pretty decent chance” that implementation or its legal base would be structured differently; however, if there was no dispute about implementation between civil servants or ministers, then it made more sense to legislate together.

From the Foreign Office perspective, an official explained that the Foreign Secretary sent EU texts to the Commons’ and Lords’ scrutiny committees with the government’s view outlined in an Explanatory Memorandum.²⁴ The Commons considered these weekly, either clearing them for a government vote, requesting more information from the government, or tagging it to debates. The committee chair sifted documents and passed them to sub-committees, which launched inquiries or called ministers for evidence. Committees also conducted pre- and post-Council scrutiny, including a report from the minister who attended the meeting. The official explained that high-level decisions are taken by ministers, while day-to-day operations are handled by civil servants through departmental liaison and an official version of the cabinet committee. Although the Secretary of State for Scotland sits in the Cabinet and its committees dealing with EU business, the official admitted that there are no formal mechanisms for feeding in Scottish interests; the Commons committee does not focus on Scottish aspects unless they are overt and the Scottish Grand Committee does not examine EU issues.

Scottish officials in Edinburgh and seconded to Whitehall indicated that Scottish representation varied by subject. An official in the Cabinet Office said representation is strong in some areas - citing a “very high level of Scottish Office involvement” in fisheries, structural funds, regional policy, and agriculture - but “tends to be weak by choice” in others. The Scottish Office “identifies areas where it needs to be a major player,” leaving Whitehall to handle issues with a less identifiably ‘Scottish’ interest.²⁵ A Scottish Office official agreed that on subjects without a disproportionate Scottish interest (i.e., administration, cultural background, share of subject), “in effect our influence is 10% or something. . . . But certainly if

anyone says that blanket Scotland has no influence that's wrong."²⁶ The official then gave four policy areas where Scotland exerts political sway:

- Scotland has two-thirds of the UK's fish catchers: "I'm not stating by any means that the Scottish Office is able to dictate fisheries policy, but [it]. . . has significant policy influence."
- On issues that impact legal systems, there are generally good contacts between the Lord Advocate's and Lord Chancellor's department, which occur as a meeting of equals despite the differing population sizes.
- Because Scotland's educational system is different from England's, "It is more difficult for Whitehall to forget us, well, in not forgetting about us there is something more tangible we can get to grips with about why they should listen to the Scots."
- Certain aspects of agriculture do not exist in parts of England and Wales.

Some EU officials presented contradictory views, arguing that Scottish interests were not well represented. An Edinburgh-based Commission official, admitting "There is no proof that Scotland is ignored," suggested political pressure favours the largest part of the UK. Although the Scottish Office does "extremely well," it is disadvantaged because the fisheries and agriculture departments are smaller than the English ministries. The official claimed to "hear from Scottish Office civil servants, who aren't paranoid or trying to take offense, that policies - such as education, which is a different system in Scotland - are devised without reference to Scotland."²⁷ A Brussels-based Commission official also cited examples when the UK government 'sold out' Scottish interests in negotiations: 1) on structural funds the UK has not pushed as hard for Scotland to have assisted areas; 2) on fisheries there may be conflict, although Scotland participates in the Council; 3) and on agriculture there have been problems with specificities, exemplified by the failure to handle the BSE crisis as an English - rather than a UK - problem.²⁸ A Council official was less certain about representation, but acknowledged that the Council "hears the UK government" and emphasised the importance of "internal arbitration."²⁹

Post-Devolution Given Scottish involvement in areas of interest during pre-devolution negotiations, UK officials did not expect the devolution settlement to

increase significantly Scotland's level of representation or input into Whitehall deliberations. But in structural terms, a Scottish Office official said the parliament may provide "better contacts between legislatures as well as between administrations," a Foreign Office official expected the process "will be more formalised than it is now," and a Cabinet Office official reported that additional structures outside the normal Cabinet committee were being "grafted on to existing machinery."³⁰

In general, most builders believed that the establishment of a devolved parliament would increase the visibility of Scottish views. While none suggested the parliament or executive would have greater influence determining the UK position, Scottish officials based in Edinburgh and seconded to London predicted greater transparency in this process - particularly if there are disputes between the governments.³¹ While Scotland may have disagreed with the UK position in the past, collective cabinet responsibility prevented the dispute from becoming public. As one official explained,

While the machinery may be very similar to the machinery operating at the present time, the presence of the parliament may act as more of a driver for the way in which the Scottish administration operates. . . . Scottish influence depends on the operation of the body as a source of political influence.³²

European officials also anticipated that Scottish views would be better publicised. According to an Edinburgh-based Commission official:

If the Scottish voice is different from England currently, it can be buried by British state bureaucracy. At the moment no one in the Commission would ever know if there was a difference in opinion between the Scots and the English.³³

A European Parliament official described the parliament as a "bigger drum" for Scotland, while another Commission official said it will give a focus to debates that have been diluted in county councils or Westminster.³⁴

UK officials at all levels also expected the parliament to present a more comprehensive approach to EC policy-making in Brussels. Because institutions are open and reliant upon information and lobbying, a London-based official said Scottish politicians will have scope to make their interests known.³⁵ Another suggested the parliament may make Scots more aware of EU business, while an Edinburgh-based official said the executive may enable Scotland to “punch above its weight” and implement EC legislation in a manner “better tuned to the Scottish context”.³⁶ Scottish officials in Brussels, however, feared politicians may hold meetings before acquiring an awareness of the lobby process; regional relationships should be created mainly at ministerial level, as individual MSPs are “small fry” on the European stage.³⁷

Despite general optimism, many London-based and EU officials raised concerns about decreased representation. One Whitehall official cited mechanistic problems: “The downside is that Scottish influence on UK policy will be reduced by the exclusion of the Scottish administration from UK policy-making. The upside is that a different configuration enables influence in different ways.”³⁸ Others warned about difficulties stemming from Scotland’s approach. A former European Parliament official predicted problems if the parliament assumes an attitude (“Listen to us and hell to Westminster”), while a fellow official cited high expectations given Scotland’s size relative to the UK: “The first risk is that Scots will be disappointed if things don’t change as they hoped, while others will be irritated because of Scotland’s disproportional voice.”³⁹

Difference in Policy?

One way of testing whether the Scottish Executive’s ability to affect legislative outcomes matters is by examining Scotland’s European priorities and then comparing these with England’s. The previous discussion considered the extent to which Scotland was involved in areas of disproportionate interest, many of which featured in a document produced by the Scottish Office’s Development Department and European Affairs Division (1998, 25-26). It cited “a number of European Union policy areas where distinctive Scottish interests are apparent,” including fisheries,

agriculture, environment, structural funds, education, and interior/justice issues. Although Scottish Office officials referenced several of these policies in response to the question of representation, they refused to identify policy priorities because the CSG concluded that the answer was political.⁴⁰ Officials outwith Scotland were more willing to mention policies, as all London-based and EU officials pointed to agriculture.⁴¹ Most also cited fisheries,⁴² forestries,⁴³ the environment,⁴⁴ and structural funds.⁴⁵ Officials at all levels also agreed that priority issues should be within the parliament's competence or of distinct interest; a Scottish Office official said the test should be "where Scottish practice is recognisably different, or we have a disproportionate share of the key activities, or cultural or emotional reasons."⁴⁶

While the aforementioned policies were identified as being of greater interest to Scotland than England, there was not a clear consensus about whether priorities differed. Most UK officials refused to speculate, suggesting instead that any disputes would become more publicised. For example, a Scottish Office official based in Brussels predicted "a fight about fish."⁴⁷ Referencing a closed door fight between MAFF and the Scottish Office, the official expected public differences to be more marked than Commons' debates when Scottish Ministers fight on Scotland's behalf. A Foreign Office official also acknowledged "tensions between ministers in the past, [which] will be greater under devolution because they will be less polite without collective cabinet responsibility."⁴⁸

Although builders did not expect the parliament or executive to increase Scotland's influence on the *formal* creation of the UK line, partly due to the retention of satisfactory pre-devolution official channels, they did suggest three *informal* ways in which it may highlight Scotland's distinct needs in European affairs. First, policy disputes between Scotland and the UK will be publicised by parliamentary debates and Scottish ministers. Media coverage and public pressure could sway the final UK outcome, or at least enable people to judge more accurately whether the UK government has accounted for Scottish interests. Second, the Scottish Executive is responsible for implementing EC legislation in devolved areas. The increasing use of framework directives will enable Scotland to satisfy its particular needs. Third, politicians can present Scottish interests - and disagreements with the UK - to

institutions and other actors in Brussels, which may affect legislative outcomes. These possibilities will be discussed in greater depth throughout the remainder of the chapter.

Domestic Channels

To obtain satisfactory EC legislative outcomes, builders concluded that the Scottish Executive should first seek to influence the domestic creation of the UK's negotiating line through formal and informal channels of communication. EU officials in Brussels highlighted the European Union's state-based structure, while their Edinburgh-based colleagues agreed that domestic lobbying is of primary importance.⁴⁹ Scottish officials at all levels expected pre-devolution procedures to continue, indicating that most decisions will be taken after discussions between officials in the two administrations.⁵⁰ One explained that ministers are involved only "to get a political view, rubber stamp, or where there is a dispute. We'd never get through the day if everything that ended up on our desks had to go to theirs. If it can be agreed between officials, then neither minister is likely ever to see it."⁵¹

Committee Links While the Scottish Executive will have its own opinions on EC matters, the European Committee will also seek an outlet for its decisions. The Scottish Office's CSG paper (1998k) considered whether the committee should pass its views to the Scottish Executive only or also feed them into the Westminster scrutiny system. If the UK and Scottish committees reach the same conclusions, the combined view may place greater pressure on the UK government; however, the document warned that such input requires the Scottish committee to work to an external timetable and may restrain its deliberations. Although Scottish officials confirmed that the committee would utilise both channels, the precise operation and effect of these mechanisms remain unclear.

Scottish Office officials explained that the European Committee will give its opinions to the Scottish Executive, which will pass its view - and that of the parliament if they differ - to the UK government. However, officials were ambiguous about how, when, and to what end this input would occur. One said the

parliaments do not have “a huge link,” while another explained that the Scottish Parliament will create

horizontal links into the executive . . . [and] vertical links down to Westminster. If you look at thing as a rectangle with Holyrood and the Executive at the top and Whitehall and Westminster at the bottom, what you wouldn't see there is diagonal lines but you would see both the horizontal and vertical. . . . So Holyrood can be both affecting the quality of the Executive's responses to Whitehall and the quality of Westminster's input into Whitehall.⁵²

Builders were even more uncertain about the effect of the European Committee passing its conclusions to Westminster's scrutiny committees, citing several complications. First, it is unclear whether these views will be conveyed through committee chairs or officials servicing them. Second, one official said the UK committees are not obliged to do anything with Scottish information as “the constitutional relationship is going to exist between Holyrood and the Executive.”⁵³ Third, Scottish Office officials acknowledged that time is the biggest constraint, as the committee may need to work four to five months ahead of its nominal decision to influence the process while only flagging ten to twelve issues. Although Westminster has a scrutiny reserve, it works rapidly as there are often only three weeks between a document's arrival at the Cabinet Office and a decision; this pressure should be eased slightly by the Amsterdam Treaty's (1997) requirement of six weeks between a Commission proposal and Council decision. A Foreign Office official said

the UK will not want to hold up excessively agreement in the Council on the basis of a Scottish scrutiny reserve, particularly if the matter is not necessarily relevant to Scotland. Again, if there is a different political administration, they could use that as a political lever to get something.⁵⁴

Despite their emphasis on official-dominated negotiations, several builders stressed the importance of politicians over institutional structures in swaying debates and relating to their Westminster counterparts. Indeed, most UK officials highlighted the importance of interaction between politicians.⁵⁵ The European

Committees can develop informal links, benefiting in particular from the Scottish chair of the Common's European Scrutiny Committee. As Scottish MPs focus on reserved matters, they can exert pressure on the UK government's position by lobbying and asking parliamentary questions. Some added that Scotland's Secretary of State can help arrangements bed in, act as a conduit, represent Scottish interests at the UK level, and aid disputes between the executives.⁵⁶

Formal Mechanisms If agreement cannot be reached through these existing channels, several formal mechanisms have been designed to manage European affairs post-devolution, namely, the Joint Ministerial Committee and the Devolved Administrations Department. Although these structures were introduced in Chapter Three, Chapters Four and Six do not discuss them due to interviewees' lack of knowledge. However, they are included here to record builders' description of their creation and anticipated functions.

UK officials at all levels presented unanimous interpretations of dispute resolution, while Edinburgh-based European officials were uncertain about its handling.⁵⁷ UK officials expected most disagreements to be resolved at official level either bilaterally or through individual administrations, with ministers involved as a second step. If the dispute remains, it will be handled by the Joint Ministerial Committee (JMC), which will bring together officials or ministers from Whitehall and devolved legislatures on a subject-by-subject agenda. A Scottish Office official explained that membership would "choose itself" as meetings will include those "functionally involved."⁵⁸ The Chair must be neutral - possibly the Foreign Secretary - as the UK government must send "somebody who wasn't personally attached to the subject." Officials also indicated that the JMC will sit in a European format to agree principles of EC legislation, with either the Foreign Secretary or Cabinet Office chairing discussions. Officials expected few disputes to reach this point, as the very possibility of a meeting may be enough to terminate them.⁵⁹ As one explained, "It's a political process to resolve [policy disputes], which may become partisan. We are setting up the bureaucratic machinery, but I question if it will be used."⁶⁰

Because the Foreign Office anticipated that devolution would “give rise to more activity here and a higher profile,” it created the Devolved Administrations Department (DAD). Unknown to most civic actors and politicians, an official responsible for its development explained its function:

In the first year, it will be a co-ordinating body in FCO to manage devolution: concordats, representation overseas, inward investment. We are setting up a new structure. Then once it’s running, it will be a point of contact with devolved administrations on anything overseas: lobbying, information, arranging visits.⁶¹

Scottish officials in Brussels cited their link into the Foreign Office, which runs the General Affairs Council, has the lead on all issues, and retains competence for everything. They expressed concern about the UK’s continued tendency to view European policy as foreign affairs, as information moves from Brussels to departments through the Cabinet Office. By contrast, Germany views EC issues as domestic policy devolved to the Länder; the only non-domestic issues, the officials argued, are the euro and the Common Foreign and Security Policy.⁶² However, a Scottish official in Edinburgh denied the Foreign Office was being paternalistic, suggesting it has an interest in knowing about serious political conflict while DAD normalises relations with Ireland: “It has the healthiest attitude to devolution. They are diplomats, and it’s not a turf war.”⁶³

UK Restraint

Builders’ emphasis on domestic negotiations and the creation of Whitehall structures to manage devolution raises questions about London dominance and limited Scottish autonomy. While the UK government clearly retains authority over reserved matters, UK officials accepted the Scottish Parliament’s right to discuss them.⁶⁴ They explained that Whitehall cannot prevent deliberations, while the parliament cannot look at issues in isolation and may need to consider overlapping factors. A few officials warned that MSPs should connect the reserved issue to distinct Scottish concerns, as one suggested “The Scottish Parliament should exercise a great deal of restraint in hopping on a passing bus because it fancies a free

ride. It has to want to go somewhere.”⁶⁵ However, the outcome of these debates remains unclear. While the parliament and executive can present Scotland’s views to the public and Westminster, there is no guarantee the UK will accept them. The repeated rejection of Scottish views may fuel support for greater autonomy and the SNP’s desire for independence.

A more accurate test of potential UK control is the extent to which builders expect the concordats to constrain the Scottish Executive’s role in EC policy-making. While the authors of these documents were less concerned than civic and political observers about their limits, there was a noticeable difference of opinion between officials north and south of the border. Because public apprehension was partly due to limited knowledge about the concordats’ contents, it is necessary to provide some behind-the-scenes information before considering builders’ expectations about their operation.

During an interview in November 1998, a Scottish Office official said the concordats would include a Memorandum of Understanding between the UK and Scottish governments. This overarching statement will cover exchange of papers, attendance at meetings, and advance notice of policy pronouncements. There will also be individual agreements between Whitehall departments or sections within departments and their Edinburgh counterparts. During interviews in January 1999, two Foreign Office officials described the Memorandum as the broad framework that will set out the general working practices between devolved administrations and the UK government. They also cited a separate concordat on European affairs, as this ‘free-standing’ area involves numerous departments. One explained that it would cover scrutiny, formation of the UK stance on EU policy, attendance at Council meetings, representation in Brussels, implementation, and dispute resolution; the description of these areas, which are detailed in relevant sections of this chapter, accurately reflected the final version.⁶⁶

While the writing process varied per document, the first draft of the European concordat was written by the Scottish Office and amended during meetings with the Foreign Office. Although officials anticipated that the concordats would appear before the election, preventing them from becoming political issues and harming

their content, their anticipated dates of publication varied. In January 1999, a Foreign Office official expected them to be published “after another couple of months” and “probably in March,” as they needed to be produced either before April 1 or after the election. In February (on the day the Secretary of State was questioned about them in the Commons), a Scottish Office official referenced the intention to publish them the previous autumn or winter. However, officials were not currently in a position to produce them because they required ministerial approval; final drafts were not expected until mid-May. In late May, Scottish officials in Brussels repeated that concordats would not be published until they were agreed by ministers, which they expected to occur after the Executive took power on 1 July. The concordats finally appeared publicly on 1 October.

All UK officials stressed that the concordats were not legally binding, describing them as working agreements (or ‘gentleman’s agreements’) between officials to provide guidelines and help organise their daily business. Nevertheless, views about their likely success varied between London and Edinburgh. A Scottish Office official cited “fear in Whitehall, as they haven’t grasped what it’s about. There is a centralist nature, and they are used to keeping policy in Whitehall. Regions implement, but they haven’t had a policy-making arm so Whitehall has set relations.”⁶⁷ Indeed, a Foreign Office official repeatedly emphasised the need for a unified UK line: “The Foreign Office is responsible for the EU, and will retain overall responsibility. Scottish Office officials must work within the process, as the structure will remain the same.”⁶⁸

However, London-based officials were also quick to emphasise that concordats were not being imposed by the UK government. A Foreign Office official admitted they may limit activities, but maintained that they are working arrangements with the force of a ‘political agreement’ that will make it easier for the Foreign Office. Concordats “will make both parties feel more comfortable and as various issues arise officials can go back to the concordats and see if they properly applied the principles.”⁶⁹ Another explained that they “regulate the machinery,” are the “glue to bind the process,” and focus on process rather than substance.⁷⁰ These officials also stressed their reciprocal nature as bilateral agreements that must be approved by both

parliaments, suggesting that they could be brought before the Judicial Committee of the Privy Council or that “the Scottish Parliament can throw out the concordats if it feels deprived.”⁷¹

On a final note, some politicians and civic commentators accused the government of backing away from proposals in the White Paper, as the Bill contained less specific provisions for Scotland’s involvement in Europe. A Scottish Office official defended the government and reflected ministerial explanations:

I’m not aware of the Executive stepping back. In the earlier stages, it was unclear between what the Scottish Parliament and Executive could do. . . . Things are possible without saying them in the Bill, and you can do them without legislation. The concern is where the White Paper said something and the Act was silent, but there legislation was not required.⁷²

The official said the government may have avoided including too many detailed provisions in the Bill, which could have delayed its passage through the Commons. Because there is nothing about concordats in the Scotland Act, separate legislation would be required anyway. The official expressed frustration at dealing with almost unknowable issues: “we needed legislation that was sensible and met the needs but that didn’t wrap people up so much in legislation that they ended up meeting the needs of the legislation rather than the needs of the job.”

SCOTLAND’S EUROPEAN INFLUENCE: BRUSSELS

All builders, according to the previous section, agreed that the Scottish Executive should try to influence the UK’s negotiating position first as the central state remains the key player in European policy-making. They also admitted that concordats could limit the Executive’s activities, as Scottish officials expressed particular concern about Whitehall restrictiveness. When builders were subsequently asked whether the Scottish Executive could - and should - utilise the ‘Westminster Bypass’ by pleading its case directly in Brussels, officials north and south of the border again presented different assessments of Scotland’s role in Europe.

Foreign Office officials - not surprisingly - voiced the strongest opposition to the prospect of autonomous Scottish action within the EC. One official described the

Bypass as “not sensible” and warned it “wouldn’t do them any good.” Assuming a unionist political majority in Scotland, the official added that “If a separate Scottish Office in Brussels were to disagree with the UK and go to other states to try and get them on their side, that causes a huge problem for the UK. There is a UK problem if Scotland is seen as a separate entity.” However, the official conceded that the UK government has some responsibility, as the concordat’s emphasis on a free flow of information requires co-operation from both sides.⁷³ A Scottish Office official also indicated that the UK government could either take an extreme line that Europe is reserved or allow the Scots to do their own thing, adding that the present government is in between.⁷⁴

Scottish officials shared this more pragmatic view, acknowledging the executive’s ability to pursue an autonomous approach but warning about the domestic repercussions. For example, a London-based official cited “a danger, if the UK disagrees, of burning bridges. It’s a trade-off. . . . You’re either a team player or you’re not. If not, then you don’t get the benefits.”⁷⁵ An Edinburgh official differentiated between uses of the bypass. On issues that are not controversial at UK level but low priority, “people usually don’t have a problem with you finding alternative methods of achieving the same end.” But if the UK opposes the Scottish view because it “fragments the overall UK position,” the official said the strategy is “much more risky” and has not been utilised by current ministers who prefer to have the member state behind them.⁷⁶ It should be noted that these comments were made within the context of Labour administrations in London and Edinburgh.

Others drew on personal experience, reporting that other governments and organisations have successfully bypassed the member state by arguing their cases to EC institutions. An Edinburgh-based official cited the ‘policy’ of a former employer - Scottish local government - to bypass the central state, which it sees as driven by party policy and wider politics.⁷⁷ Brussels-based officials also observed organisations and regional blocs (e.g., Assembly of European Regions) approach the Commission directly. A Council official, acknowledging that the strategy is “formally difficult because the UK representative sits in Council,” agreed that alliances can be formed to help swing the direction of debate.⁷⁸

The remainder of this section will analyse which European institutions builders believe sub-national authorities should target. Because interviewees were not asked about the effectiveness of Scotland Europa, the discussion will begin by considering the Executive's Brussels office and anticipated tension with UKRep. It will then assess perceptions of the Council of Ministers, the Commission, and the Committee of the Regions. It will also highlight their unique emphasis on the necessity of forging strong links with other regions and organisations.

Scottish Executive's European Office

Although civic and political documents anticipated the establishment of a parliament office in Brussels, the Secretary of State chose to open an executive office and allow the parliament to make its own decision later. According to Brussels-based Scottish officials who helped establish the office, the Secretary's decision was aided by an investigation of 22 regional offices undertaken by two Scottish Office officials (Scottish Office European Affairs Division 1998ab). They began a feasibility study in April 1998, and recommended at the end of November that the Secretary establish an office. The Scottish Office decided to co-locate with Scotland Europa, enabling them to work together, and across the street from UKRep. Despite internal references to 'ScotRep', officials did not expect this to become the official title; it later became known as the Scottish Executive European Office.⁷⁹

The decision to situate the Scottish Executive office outwith UKRep caused some consternation in the Foreign Office, as one official cited hopes in January 1999 that the offices would be co-located:

The work of UKRep is to advance the UK line to EU institutions, so it could be a problem to have the Scottish Office located outside UKRep and putting across Scottish views which might not be the same as UK views. So I think that FCO would prefer to see devolved bodies located within UKRep, so the work that they're doing doesn't cut across UKRep but should be complementary to it. They will want to have their own discussions with institutions, but for people outside to see there is a single UK line we need to ensure that we are working together for the same objective.⁸⁰

The official wondered how a separate office would work with UKRep, questioning whether officials would report to the UK ambassador or to Edinburgh only.

In terms of the office's function, Brussels-based Scottish officials said it would be led by a senior Scottish Office official. Two local staff will manage the office and public relations, while three desk officers will divide EC policy into portfolios and provide specialist intelligence to the Executive and European Committee. Officials hoped the office would raise Scotland's profile, develop contacts with the EU and other regional offices, and stimulate debate. They planned to work with UKRep, serve in working groups, and liaise with MEPs and various networks.⁸¹ In contrast, a Foreign Office official downplayed the role of the office by describing it as a "classic lobbyist" that reports back about agendas and waves the flag for Scotland. While Scottish officials could attend working groups, the official added that it will not be a core part of their job and they cannot negotiate directly with them or the Commission.⁸²

UKRep

While the Foreign Office is clearly concerned about the actions of an autonomous Scottish Executive office, Scottish officials in Edinburgh and Brussels expressed a desire for harmonious relations with the UK's Permanent Representation. Brussels-based officials praised UKRep's support and willingness to provide temporary office accommodation, citing the retention of a 'hot desk' facility there. They called for "a two way flow of information," wanting UKRep to share intelligence while hoping to add value to its work through separate relations with working groups, parliamentary committees, Commission colleagues, and regional networks. They also offered their assistance if UKRep lacks personnel.⁸³

These officials plan to examine Scottish - but not necessarily UK - priorities, while retaining links with UKRep: "We will be close to the UK government, but not part of it. We want to keep our links in place, for information and influence. But we want to promote a separate Scottish identity and make Scotland a regional player." However, they acknowledged possible tensions if Scottish ministers are expected to accept a form of collective cabinet responsibility, preferring to explain their separate

position. Despite stressing that “There won’t be rivalry as we have two distinct roles,” they admitted that “If relationships between Edinburgh and London are hard, the person in the working group is in a hard place.”

Also, UK officials agreed that the practice of seconding Scottish officials to UKRep will continue post-devolution. A Foreign Office official said they will not reserve ‘regular’ slots, but will encourage the practice.⁸⁴ A Scottish Office official said such officials will work for UKRep rather than seek to exert Scottish influence internally. Scottish officials bring knowledge of Scotland to their work and return with experience about Brussels generally, “[b]ut while they are out there they are working for UKRep, so they don’t get a side telegram telling them to bugger what they are pursuing - here is your real agenda.”⁸⁵

Council of Ministers

UK officials at all levels expected Scottish ministers to attend Council meetings and occasionally speak on behalf of the UK. In particular, ministers are likely to continue the existing practice of attending fisheries and agriculture meetings where Scotland has a distinct interest. However, officials agreed that the nature and extent of participation will be controlled by the UK government as invitations to attend meetings may depend on political factors. Foreign Office officials emphasised the need to protect the interests of a unified UK, acknowledging the difficulty of different political administrations in Edinburgh and London. One official explained: “I know the SNP have taken a very forward approach to Europe, and they may want to capitalise on the opportunity to speak. If you have the same political administration, information sharing is much easier.”⁸⁶ Another official took a similar unionist stance, citing “aspirations in devolved territories.” Although the White Paper is committed to Scottish involvement, the official warned that the “UK has authority and must take tough decisions.”⁸⁷ Scottish officials in Brussels also cited the importance of personal relationships with the lead minister.⁸⁸

Builders stressed that ministers must speak to the previously agreed UK line, emphasising the importance of Scottish participation in its formation. A split domestic opinion can weaken the UK’s negotiating stance, as several officials

admitted other delegations may capitalise upon internal divisions and seek concessions.⁸⁹ Some European officials cited the domestic symbolism - if not practical necessity - of Scottish involvement in Council meetings:

It makes no difference whose voice is coming from behind the nameplate, as it can't be two different lines. There needs to be a process of arbitration in UK that takes on board Scotland. . . . The political significance is back home for domestic consumption.⁹⁰

Few builders expected Scottish ministers to lead UK delegations. Although Brussels-based Scottish officials said they will lead where there is "exclusive competence," it is unclear whether any issues fit this category.⁹¹ London-based officials were adamant that a Scottish minister cannot carry collective policy-making authority for the UK government, as UK ministers have lead policy responsibility and co-ordinate the agreed position.⁹² However, they acknowledged possible confusion in the handling of forestries, as the Scottish Office provided the policy lead pre-devolution. One official described it as "an awkward example" because it will be London-based after devolution: "It may work the same in practice, but the theoretical underpinning will be different."⁹³

Commission

Most builders agreed that the perceived openness of the Commission causes many organisations and sub-national governments to use it as the first point of contact in Europe. Scottish officials in Brussels described it as "the protector and ally of small states versus large" and "where everyone is equal."⁹⁴ A Commission official confirmed that "The administration listens as far as possible to all opinions, which Britain does not necessarily do."⁹⁵ The official highlighted ways of achieving satisfactory outcomes. First, sub-national authorities should voice their concerns early in the process, as the Commission particularly welcomes input during the initial consultation and drafting of legislation. Second, if sub-national authorities lose the larger argument, they can still obtain derogations and implement directives differently from the rest of the state. Third, domestic negotiations remain important

as the Commission cannot service all national and sub-national parliaments. These suggestions were reiterated in CSG submissions from the heads of the European Commission Representations in the UK and Scotland, as both expected the Commission to welcome the parliament's views.⁹⁶ The UK representative said its opinions will be of greater weight if it can "develop the role of garnering views from different sections of Scottish opinion," and forge a common view through strategic links with other countries or regions.

Indeed, nearly all builders raised - without interviewer prompts - the importance of establishing networks in Brussels.⁹⁷ They explained that a bloc of regions or interests are more successful than approaches from individual organisations, while the presentation of specific problems and solutions is more effective than general complaints. A Scottish Office official explained that "When you come across someone, you keep in contact with them. It is much more a contact-based environment than government in this country."⁹⁸ Reflecting a document produced for the CSG (1998), the official cited existing links with Commission officials (i.e., the Scottish head of the Environment DG), Nordic countries, and other devolved legislatures (i.e., Bavaria, Catalonia, Flanders).⁹⁹

Committee of the Regions

The final channel available for sub-national participation in EC policy-making is the Committee of Regions. Most officials questioned its influence, as Edinburgh-based EU officials and Brussels-based Scottish officials faulted its mixed membership.¹⁰⁰ Recalling initial hopes of a second chamber with representatives from strong regions, they said some countries (e.g., UK, France) were too centralised, there was never a clear definition of what constituted a region, and the European Parliament guarded its authority. However, several UK officials were optimistic about its future prospects: although it is a new institution with limited powers, it encourages subsidiarity, engages citizens, helps local authorities network, and assists some pre-legislative consultation.¹⁰¹

SUMMARY

Scotland's European Role This chapter analysed builders' expectations about the creation of new forms of governance and the Scottish Executive's ability to influence EC policy outcomes. Builders presented mixed reactions to civic proposals for a new style of policy-making. Most supported a holistic approach to the legislative process, particularly given the multiple subject areas affected by EC directives and the large workload emanating from Brussels. The majority of builders also encouraged *co-operation* with certain actors, namely tenants and other builders. In particular, they emphasised links between Scotland's politicians, citing the ability of MEPs and MPs to provide information and lobby in their respective policy-making arenas. They also highlighted the importance of close working relationships with similar interests and regional governments in Brussels. However, builders were hesitant about proposed mechanisms for increasing civic participation in policy-making. Several said consultation can be complicated by the inclusion of numerous actors with different opinions, while others opposed the inclusion of architects on committees and sounded sceptical about attempts to increase democracy. In short, they placed greater emphasis on the utility of other actors in *promoting* rather than *shaping* Scottish legislation.

In terms of the Scottish Executive's role in EC policy-making, builders did not expect devolution to increase participation or affect legislative outcomes. UK officials maintained that Scotland's European priorities, which include areas of disproportionate interest, were well-represented pre-devolution by Scottish civil servants in UK negotiations. They did not expect existing procedures to change significantly. Nevertheless, given the nature and structure of the European Union, builders stressed that the Scottish Executive must first lobby domestically. They believed that the biggest benefit of devolution will be the visibility of Scottish opinions. While disputes between Scotland and the UK were previously cloaked by government secrecy, the public will now be aware of different policy approaches and can judge more accurately whether the UK government adequately considers Scottish views. In addition, the Scottish Executive can implement directives in a manner appropriate for Scotland's distinct needs; however, some pointed out that the

Scottish Office implemented differently before devolution and the Foreign Office will monitor such activity closely.

Builders made a similar assessment of the Scottish Executive's involvement in Brussels, expecting a higher profile but not greater persuasiveness. National governments retains control of the Council, and Foreign Office officials dissuaded the Executive from presenting separate views. While Scottish builders were more relaxed about their ability to promote their interests in Brussels, they acknowledged that formal channels of influence are limited. But they added that the establishment of a parliament enables Scotland to speak with democratic authority, highlight particular opinions, and forge relations with other sub-national governments; its officials can also participate in working groups and present specific needs to the Commission. However, the existence of these channels pre-devolution raises doubts about the additional sway the Scottish Executive can provide.

Actor-Centred Approach The category of builders exemplified the need for a nuanced understanding of actors' expectations, as their responses reflected various ideas of institutional, multi-level governance, and actor-centred approaches. New Institutionalism was most accurate when applied to civil servants, especially those based in Whitehall. Although all UK officials emphasised co-operation and goodwill, Foreign Office officials were more UK-centric than their Scottish colleagues. This was particularly evident during discussions about the concordats, the formation of the UK negotiating line, the role of the Executive's Brussels office, and the limited participation of Scottish ministers in the Council. They emphasised continued UK sovereignty, stressed the limited authority of 'territorial departments', and were more guarded during interviews than other officials.

These findings also relate to the assumptions of multi-level governance. While many Scottish interviewees emanated confidence about the opportunities presented by devolution, there was no doubt in Whitehall about the locus of authority. Scottish Office officials were certain about their ability to pursue autonomous action in Brussels, their right to participate in discussions, and the likelihood of good working relations with UKRep. Foreign Office officials acknowledged the desire of the devolved legislatures to be 'involved' in the EC legislative process, but presented the

UK government as a 'gatekeeper' controlling access to the European arena. EU officials also articulated institutional and 'European' perspectives. For example, a Commission official highlighted the importance of early input among competing interests, while a Council official emphasised the need to settle disagreements domestically as other member states care only about the bottom line.

Proximity to the devolution process also seems likely to have affected builders' expectations. Although the opinions of UK officials diverged according to institution and level when they discussed the scope of Scottish action, they agreed upon general structures (i.e., Joint Ministerial Committee) as many had worked together to create them. EU officials in Edinburgh and Brussels knew less about the parliament's operation than their UK colleagues, which may stem from their lack of involvement with its establishment, as exemplified by their contradiction of UK officials that Scotland was not well-represented in EC matters pre-devolution. But EU officials did express sympathy as Scots to the parliament's needs. As one Commission official explained, "My perspective will be different from a DG of another nationality or English because I am conscious of the changes and open to dealing with them."¹⁰²

Finally, there appears to be a correlation between actors' perceptions and their past and present employment. For example, a Scottish official believed the 'Westminster Bypass' could be successful for the executive because of previous experiences in local government. Scottish officials also presented similar opinions: those based in the Scottish Office, sent to establish the Executive office in Brussels, and temporarily seconded to the Cabinet Office appeared to speak as 'Scots' first and officials at a particular level second. Thus, the temporary transition to a different level of government did not seem to change officials' expectations significantly.

¹ Interview, 2 March 1999a, Edinburgh; Interview, 2 March 1999b, Edinburgh.

² Interview, 28 January 1999b, London.

³ Interview, 29 January 1999, London.

⁴ A Commission official (Interview, 1 June 1999b, Brussels) said it is easier to negotiate in Germany because there are many Länder who compete against each other. In the UK, the absence of an English assembly causes a direct conflict between Scotland as a region and the central state. For

example, Scotland has its own environmental department, while DETR covers both England and the federal level: "If there is a clash, there is no higher authority to arbitrate."

⁵ Interview, 1 June 1999a, Brussels.

⁶ Interview, 23 November 1998, Edinburgh. Similar observations were made by David Millar, a former European Parliament official and the co-author of the draft Standing Orders detailed in Chapter Three (Interview, 18 January 1999, Edinburgh). They also featured in the CSG submission of Geoffrey Martin, Head of the European Commission Representation in the UK.

⁷ A subject-based system would enable MSPs to apply specialist knowledge to EU proposals and provide more efficient scrutiny, but it would be less effective for over-arching issues and cause heavy workloads for some committees. A European Committee would enable discussion of cross-cutting issues, provide a sifting mechanism to identify important documents, give MSPs expertise in EU affairs, and allow an overview of links between proposals; disadvantages include the lack of subject-based knowledge and the creation of a two-tier system that may slow the scrutiny process (CSG 1998k).

⁸ Interview, 23 November 1998, Edinburgh; Interview, 2 March 1999b, Edinburgh.

⁹ Interview, 29 January 1999, London; Interview, 26 November 1998, Edinburgh; Interview, 2 March 1999a, Edinburgh; Interview, 18 January 1999, Edinburgh.

¹⁰ Interview, 29 January 1999, London.

¹¹ Interview, 18 January 1999, Edinburgh.

¹² Interview, 2 March 1999b, Edinburgh.

¹³ Interview, 29 January 1999, London.

¹⁴ Interview, 29 January 1999, London.

¹⁵ Interview, 23 November 1998, Edinburgh; Interview, 2 March 1999b, Edinburgh; Interview, 29 January 1999, London.

¹⁶ Interview, 23 November 1998, Edinburgh.

¹⁷ Interview, 23 November 1998, Edinburgh; Interview, 2 March 1999b, Edinburgh. Millar recommended some full-time members of the European Committee, citing the difficulties of persuading others to take on European inquiries (Interview, 18 January 1999, Edinburgh).

¹⁸ Interview, 23 November 1998, Edinburgh.

¹⁹ In his submission to the CSG, Ken Munro (then-Head of the European Commission Representation in Scotland) supported a wider European Forum. He said the Parliament's most valuable contribution would be the inclusion of experience throughout Scotland to help "ensure that the diversity and quality of Scottish life are protected and enhanced, and homogenisation and standardisation are kept at bay."

²⁰ Interview, 18 January 1999, Edinburgh.

²¹ Interview, 18 January 1999, Edinburgh; Interview, 2 March 1999a, Edinburgh; Interview, 1 June 1999b, Brussels; Interview, 2 June 1999, Brussels.

²² Interview, 18 January 1999, Edinburgh; Interview, 2 March 1999a, Edinburgh; Interview, 2 March 1999b, Edinburgh.

²³ Interview, 23 November 1998, Edinburgh.

²⁴ Interview, 29 January 1999, London.

²⁵ Interview, 28 January 1999a, London.

²⁶ Interview, 23 November 1998, Edinburgh.

²⁷ Interview, 26 November 1998, Edinburgh.

²⁸ Interview, 1 June 1999b, Brussels.

²⁹ Interview, 1 June 1999a, Brussels.

³⁰ Interview, 23 November 1998, Edinburgh; Interview, 29 January 1999, London; Interview, 28 January 1999a, London.

³¹ Interview, 23 November 1998, Edinburgh; Interview, 2 March 1999b, Edinburgh; Interview, 28 January 1999a, London.

³² Interview, 28 January 1999a, London.

³³ Interview, 26 November 1998, Edinburgh.

³⁴ Interview, 2 March 1999a, Edinburgh; Interview, 1 June 1999b, Brussels.

³⁵ Interview, 28 January 1999a, London.

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- ³⁶ Interview, 29 January 1999, London; Interview, 2 March 1999b, Edinburgh.
- ³⁷ Interview, 2 June 1999, Brussels.
- ³⁸ Interview, 28 January 1999a, London.
- ³⁹ Interview, 18 January 1999, Edinburgh; Interview, 2 March 1999a, Edinburgh.
- ⁴⁰ Interview, 23 November 1998, Edinburgh; Interview, 2 March 1999b, Edinburgh.
- ⁴¹ Interview, 26 November 1998, Edinburgh; Interview, 29 January 1999, London; Interview, 2 March 1999a, Edinburgh; Interview, 1 June 1999b, Brussels; Interview, 2 June 1999, Brussels.
- ⁴² Interview, 29 January 1999, London; Interview, 2 March 1999a, Edinburgh; Interview, 2 June 1999, Brussels.
- ⁴³ Interview, 29 January 1999, London.
- ⁴⁴ Interview, 2 June 1999, Brussels.
- ⁴⁵ Interview, 26 November 1998, Edinburgh; Interview, 2 March 1999a, Edinburgh.
- ⁴⁶ Interview, 23 November 1998, Edinburgh.
- ⁴⁷ Interview, 2 June 1999, Brussels.
- ⁴⁸ Interview, 28 January 1999b, London.
- ⁴⁹ Interview, 1 June 1999a, Brussels; Interview, 1 June 1999b, Brussels; Interview, 18 January 1999, Edinburgh; Interview, 2 March 1999a, Edinburgh. While some officials said regions attain authority through their states, there was a recognition that sub-national authorities may be gaining autonomous influence. For example, several officials said increasing regionalisation within states may be illustrative of future changes; in particular, Commission and Council officials observed regions forcing change at the European level when their interests were not incorporated into EU policy. Scottish officials in Brussels predicted a hollowing of the state as the EU acquires framework powers and national governments devolve implementation to the regional level (Interview, 2 June 1999, Brussels).
- ⁵⁰ Interview, 23 November 1998, Edinburgh; Interview, 2 March 1999b, Edinburgh; Interview, 28 January 1998a, London; Interview, 2 June 1999, Brussels.
- ⁵¹ Interview, 23 November 1998, Edinburgh.
- ⁵² Interview, 2 March 1999b, Edinburgh; Interview, 23 November 1998, Edinburgh.
- ⁵³ Interview, 23 November 1998, Edinburgh.
- ⁵⁴ Interview, 29 January 1999, London.
- ⁵⁵ Interview, 23 November 1998, Edinburgh; Interview, 2 March 1999b, Edinburgh; Interview, 28 January 1999a, London; Interview, 29 January 1999, London.
- ⁵⁶ Interview, 18 January 1999, Edinburgh; Interview, 28 January 1999a, London; Interview, 2 March 1999b, Edinburgh.
- ⁵⁷ Interview, 23 November 1998, Edinburgh; Interview, 28 January 1999a, London; Interview, 28 January 1999b, London; Interview, 29 January 1999, London; Interview, 2 June 1999, Brussels; Interview, 18 January 1999, Edinburgh; Interview, 2 March 1999a, Edinburgh.
- ⁵⁸ Interview, 23 November 1998, Edinburgh.
- ⁵⁹ Interview, 23 November 1998, Edinburgh; Interview, 28 January 1999b, London; Interview, 2 June 1999, Brussels.
- ⁶⁰ Interview, 28 January 1999a, London.
- ⁶¹ Interview, 28 January 1999b, London.
- ⁶² Interview, 2 June 1999, Brussels.
- ⁶³ Interview, 23 February 1999, Edinburgh.
- ⁶⁴ Interview, 23 November 1998, Edinburgh; Interview, 2 March 1999b, Edinburgh; Interview, 29 January 1999, London.
- ⁶⁵ Interview, 26 November 1998, Edinburgh.
- ⁶⁶ Interview, 29 January 1999, London.
- ⁶⁷ Interview, 23 February 1999, Edinburgh.
- ⁶⁸ Interview, 29 January 1999, London.
- ⁶⁹ Interview, 28 January 1999b, London.
- ⁷⁰ Interview, 28 January 1999a, London.
- ⁷¹ Interview, 28 January 1999a, London. Despite this insistence on the Parliament's ability to 'throw out' the concordats, the debate on 7 October 1999 was limited and MSPs were unable to amend them.

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- ⁷² Interview, 23 February 1999, Edinburgh.
- ⁷³ Interview, 29 January 1999, London.
- ⁷⁴ Interview, 2 March 1999b, Edinburgh.
- ⁷⁵ Interview, 28 January 1999a, London.
- ⁷⁶ Interview, 23 November 1998, Edinburgh.
- ⁷⁷ Interview, 2 March 1999b, Edinburgh.
- ⁷⁸ Interview, 1 June 1999a, Brussels.
- ⁷⁹ Interview, 2 June 1999, Brussels.
- ⁸⁰ Interview, 29 January 1999, London.
- ⁸¹ Interview, 2 June 1999, Brussels.
- ⁸² Interview, 28 January 1999b, London.
- ⁸³ Interview, 2 June 1999, Brussels. Some Brussels-based officials disagreed about the relationship between UKRep and Scottish officials. A Council official (Interview, 1 June 1999a, Brussels) said Scots should lobby UKRep, which helps forge opinions and attends weekly Cabinet Office meetings. The UK cannot run everything from the capital (i.e., Agenda 2000 was managed in Brussels), negotiations move quickly, and negotiators need to know what other states are saying. Scottish officials (Interview, 2 June 1999, Brussels) refuted this argument: "UKRep is too busy as negotiators in working groups to form policy. It advises UK about whether its policy will be accepted or changed. But it doesn't have time to rationalise instructions. Scots can't butt in at the last minute."
- ⁸⁴ Interview, 28 January 1999b, London.
- ⁸⁵ Interview, 23 November 1998, Edinburgh.
- ⁸⁶ Interview, 29 January 1999, London.
- ⁸⁷ Interview, 28 January 1999b, London.
- ⁸⁸ Interview, 2 June 1999, Brussels.
- ⁸⁹ Interview, 23 November 1998, Edinburgh; Interview, 1 June 1999a, Brussels; Interview, 2 June 1999, Brussels.
- ⁹⁰ Interview, 1 June 1999a, Brussels.
- ⁹¹ Interview, 2 June 1999, Brussels.
- ⁹² Interview, 28 January 1999a, London; Interview, 28 January 1999b, London.
- ⁹³ Interview, 28 January 1999b, London.
- ⁹⁴ Interview, 2 June 1999, Brussels.
- ⁹⁵ Interview, 1 June 1999b, Brussels.
- ⁹⁶ The role of the European Commission Representation in Scotland is to "represent the EC and explain its policies; communicate information about the EU to the general public as well as to specialised interest groups; relay information back to Brussels on political, economic and social developments in Scotland and report on the views of the people of Scotland on relevant matters" (Boyle 1998, 7.3). The office plans to "begin contact building or re-establishing with MSPs and key civil servants; start a series of briefings for MSPs and key civil servants on important EU issues and on the role of the Representation; provide an information service on progress of current EU legislation; help provide a forum for EU interests in Scotland either as part of a formal Assemblée Paritaire or as a broader grouping of representative Scottish interests; increase reporting to London and Brussels on political developments; encourage and take part in work on 'citizenship' which incorporates a European dimension" (7.6).
- ⁹⁷ Interview, 23 February 1999, Edinburgh; Interview, 2 March 1999b, Edinburgh; Interview, 26 November 1998, Edinburgh; Interview, 19 January 1999, Edinburgh; Interview, 2 March 1999a, Edinburgh; Interview, 1 June 1999a, Brussels; Interview, 1 June 1999b, Brussels; Interview, 2 June 1999, Brussels. Although numerous interviews were conducted with representatives of regional offices in Brussels, space constraints excluded them from the final text. However, all stressed the importance of networking, building contacts with similar regions, and seeking allies with whom to approach the Commission.
- ⁹⁸ Interview, 23 November 1998, Edinburgh.
- ⁹⁹ The Scottish Office's CSG paper (1998) proposed criteria for establishing links, which could be formal or informal, single visits or co-operative programmes. It included "shared economic, social or environmental interests," "good potential to bring benefits to Scotland without prejudice to UK

interests," and "resource commitment commensurate with the benefits obtained." The paper also listed numerous European regional networks.

¹⁰⁰ Interview, 26 November 1998, Edinburgh; Interview, 2 March 1999a, Edinburgh; Interview, 2 June 1999, Brussels.

¹⁰¹ Interview, 29 January 1999, London; Interview, 2 March 1999b, Edinburgh.

¹⁰² Interview, 1 June 1999b, Brussels.

CHAPTER SIX: THE TENANTS (POLITICIANS)

The Scottish Parliament's tenants comprise the final actor typology to be examined. This chapter evaluates the expectations of Scotland's politicians from the four main parties at three tiers of government, namely, candidates for the Scottish Parliament, several Labour MPs, and candidates for the European Parliament. Although the first group alone will inhabit the new parliament, the other two tiers are its new neighbours and will affect its development - particularly in terms of liaison and information provision. The tenants' voices have seemed relatively quiet thus far in the thesis, as previous chapters were dominated by the demands of the architects and the clamour of the builders. Yet their expectations and working practices will acquire the greatest importance, as they must determine whether the structure is inhabitable and likely to appreciate in value.

The input of some tenants is greater than may be initially apparent, as the parties have been involved to varying degrees in the civic process of designing the parliament's blueprints. Labour and Liberal Democrats provided the partisan core of the Constitutional Convention, while all four parties worked with civic representatives in the Consultative Steering Group. Thus, the vision and values that formed during these meetings transcend party bias and mirror many of the aims articulated by civil society. However, others were less engaged with the parliament's establishment, including Westminster MPs, Conservatives, and some euro-candidates. This chapter will compare and contrast tenants' expectations about the operation of new forms of governance, as well as the Scottish Executive's ability to influence EC policy outcomes through domestic and European channels.

GOVERNANCE

Political Rhetoric

Chapters One and Four outlined the hope of many architects that constitutional change in Scotland would herald a new style of governance, replete with democratic renewal and greater participation. Chapters Three and Five highlighted the work of

the builders, who assisted CSG deliberations and helped devise structures for the parliament and executive. Because preceding chapters did not include the views of tenants, this section (which does not feature in Chapters Four or Five) will assess how party documents define governance.

Election manifestos published by the four main political parties repeated the goals articulated by many members of civil society with varying degrees of emphasis, focusing in particular on the need to correct Westminster flaws. For example, the Liberal Democrats said the parliament “can help to create the checks and balances that are woefully absent from the UK’s shabby and primitive constitutions” (1992, 1). In their 1999 manifesto, party leader Jim Wallace explained:

A Parliament elected by fair votes ought also to be a very different kind of Parliament from Westminster: Scotland can be liberated from the intensely confrontational style of politics that shames the House of Commons - a style which has turned away so many people from the political process (3).

The SNP frequently cited “Scotland’s historic principle that sovereignty rests with the people” (1998b, 20), arguing that Scotland is “living in the shadow our neighbour [sic], who speaks for us but not of us. And Scotland has the skills and resources to be free, but is denied its democratic right to self government” (1997, 3; emphasis original). The Labour party utilised the rhetoric of democracy most frequently, exemplified by George Robertson’s (then-shadow Secretary of State for Scotland) call in the 1997 UK manifesto for “more than just a change of government. We need to change the way we are governed as well” (1997b, 5). Even the Conservatives, whose government from 1979-97 was the implicit target of some of these references, acknowledged Scottish frustration with Westminster-style politics: “We believe the new Parliament offers a unique opportunity to forge a new style of politics which is constructive, forward-looking and which puts the interests of ordinary Scots before those of old-style politicians” (1998).

In addition to responding to civic frustrations about Westminster, Scottish politicians recognised the desire for a new style of policy-making. The House of

Commons' Scottish Affairs Committee, which conducted a wide-ranging study about the implications of devolution, observed:

The Scottish model offers an exciting opportunity to experiment with new methods of government and new and more equal relationships between government and the governed. Phrases that we frequently heard or read were 'holistic' and 'joined-up'; Scotland has a major advantage in achieving this in that it is a relatively small country where the rest of the major players tend to know each other already so that the contacts have already been made (1998, Vol. 1, ix).

The second half of this quote illustrates growing awareness among tenants about the importance of interpersonal links to the successful operation of governance. In particular, party documents emphasised 'partnership', which they claimed to desire with Westminster, local government, civil society, and the Scottish people.

The Conservatives placed strong emphasis on partnership - not just between political actors in the provision of local services, but also between sectors of the UK:

Since 1707 the United Kingdom has been a successful union under a single Parliament. There has been a *partnership* of all the people of Britain and their identity as English, Scots or Welsh has been a cultural rather than a political consideration. That *partnership* of the people continues but the creation of parliaments in Scotland, Wales and Northern Ireland requires a new language of Unionism to reflect both what is changing and what remains constant. We believe that the new United Kingdom should not just be a *partnership* of the peoples of the islands but a *partnership* of equals (1998, emphasis added).

These sentiments (repeated almost verbatim in the 1999 Manifesto) not only reflect the values of Scottish civil society, but also fit the Unionist aim of locking Scotland into the UK's institutional structures.

Labour's primary understanding of governance is inclusion of 'the people':

Scottish New Labour is about a new politics and a new democracy. If the Scottish Parliament is simply another layer of bureaucracy and bear pit politics, devolution will fail. We want a new relationship between politicians and people; a relationship in which we have the responsibility to

listen to and engage with the people. Devolution is a symbol of our commitment to Scottish democracy (1998).

Their 1999 Manifesto repeated that the parliament “is just a part of a huge programme of reform bringing power back to the people.” For example, it emphasised partnership in education and jobs (i.e., co-operation between business and trade unions, enterprise and lifelong learning agendas) to improve the economy on multiple levels. The manifesto concluded that “A Scottish Parliament working with the Scottish people will deliver their priorities. Local and national governments, working together, will deliver a new Scotland.” Like the Conservatives, Labour also emphasised the need for “continuing partnership with Westminster” in areas “which overlap all our lives.”

The SNP (1998b, 0) and Liberal Democrats (1999, 3) used similar language, with the former pledging to “build a true partnership with the people” and the latter to “work in partnership with the UK government.” Unlike the others, these ‘opposition parties’ put words into practice by actively seeking the involvement of the electorate: the SNP held People’s Assemblies (1998a) throughout the campaign to ascertain public policy priorities, while the Liberal Democrat’s submission to the CSG (1998) recommended the establishment of Advisory and Consultative Councils to work with the parliament.

Both parties also issued proposals about the design and operation of the parliament. The SNP claimed to “believe in good governance. Stable, secure government which shows the benefits of principled decision-making for all” (1998, 18). The party’s *Framework for Government* included “a ‘holistic’ structure for governance. Such a structure arises out of the identification of ‘core issues’ that the government must address, and to which government resources must be targeted” (20). Recognising that “the difficult issues for an administration often transcend several departments,” the SNP pledged to “make individual members of the Executive responsible for the implementation of these objectives.” The party also recommended the establishment of policy networks to tackle cross-cutting issues, such as drugs.

Similarly, the Liberal Democrats (1998) called for a holistic approach because “Peoples [sic] lives do not fall into neat departmental boxes the way that government has done.” Recognising the logistical problems of an almost limitless number of holistic committees, they proposed a basic departmental structure “which will effectively generate some of the benefit of the holistic approach.” Their 1999 manifesto policy proposals re-inforced this approach: “Scotland needs joined-up government - government departments, local councils, statutory and voluntary agencies, as well as health service bodies, must co-ordinate efforts and work together” (11). They also called for links between tourist boards, local councils and enterprise agencies, while encouraging business to co-ordinate “its efforts effectively with Westminster, local councils and the EU” (15).

Candidates also expressed support for a new style of politics. In particular, Labour and Liberal Democrat MSP candidates emphasised the need for accountable leadership that is receptive to constituents’ demands in an open, accessible, and inclusive parliament. A Liberal Democrat who participated in the Constitutional Convention said:

If the politicians go pompous and erect barriers between itself and the public, it won’t fail but will be a battleground. There are a lot of people in Scottish politics like me who will say ‘I didn’t fight years for a parliament with 129 stuffed shirts’. There are quiet expectations.¹

Although the political rhetoric of all parties reflected the civic aspiration for more consultative and responsive policy-making, there was varying enthusiasm for its operation in practice as parties without government experience (SNP, Liberal Democrats) seemed more supportive of new structures. The remainder of this section will examine the extent to which tenants agreed upon the detailed operation of governance by assessing tenants’ expectations about multi-level policy-making and the Parliament’s European Committee.

Policy Overlap

The need for the Scottish Parliament to co-operate with several tiers of government was recognised by the Scottish Affairs Committee, whose report about devolution defined multi-layer democracy as “a system of government and democratic representation in which there is a layer between the central government (that is the state recognised at, for instance, European Union level) and the purely local government level” (1998, Vol. 1, v). Scotland must work within a policy environment that is characterised by overlapping competences, although potential problems and opportunities depend on one’s perspective. A Conservative, noting that the National Farmers Union manifesto focused on UK and EU policies rather than the Scottish Parliament, concluded that it is misleading to see agriculture and fishing as devolved because the actual legislative and executive competences are limited.² In contrast, a Labour MEP said policies like environment and public health are within Scottish competence, enabling the executive to initiate its own legislation and implement directives in a suitable manner.³

While party documents cited the need for co-operation among government tiers, tenants were less optimistic about its success in practice. In particular, the SNP questioned the effectiveness of established structures to manage disputes between UK and Scottish governments of different partisan complexions. The party claimed that “All New Labour’s thinking is predicated on the fact that administrations in Scotland and London will be of the same political hue and that conflicts can be resolved within the party and at civil service level” (1999b, 4). Party leader Alex Salmond stressed that the institutions “must allow the voice of the Parliament and the Administration to be heard not just when it agrees with the government of the UK, but also when it does not agree” (Speech, 16 February 1999).

Although Labour politicians at all levels recognised that an SNP government could use policy differences to accentuate differences between Scotland and the UK, they were less concerned about the effect of a partisan divide. This is not entirely surprising, as the Labour party was responsible for designing official channels of communication between the executives. Two members, recalling their local government experiences, explained how Labour local councils worked with a

Conservative UK government by arguing domestically but acting together in Brussels.⁴ An MEP highlighted pre-devolution negotiations in which Scottish Office officials identified and convinced Whitehall colleagues to correct problems with the UK brief, such as the allocation of structural funds; this politician expected continued co-operation between officials, while ministerial clout could enhance the process and identify problematic issues earlier.⁵

All tenants realised that these conflicts could have larger ramifications for the future of the UK constitution. Labour members expressed doubt about the prospects of Scottish independence, as a Westminster MP warned against escalating disagreements: “We can’t have a blame culture in Scotland. It has to be a grown-up parliament that doesn’t blame Westminster.”⁶ The SNP argued the opposite, as an MEP candidate cited the dominance of identity politics: “All Scottish administrations will play the nationalist card: give us better or we’ll leave.”⁷ The Liberal Democrats took the middle road by acknowledging the chance of a constitutional crisis, citing moves toward greater devolution throughout the UK and increasing centralisation in the EU, but remaining uncertain about the final outcome.⁸

European Committee

One example of a holistic approach to policy-making is the Scottish Parliament’s European Committee, which was designed by the CSG to be cross-cutting in function and membership. This section will suggest that tenants’ beliefs match their wider rhetoric in terms of the committee’s operation, although some are less enthusiastic about extensive civic involvement.

Documents Party documents illustrated cross-party support for the establishment of a European Committee and a European Minister, with the exception of the Conservatives whose long opposition to the parliament meant they made few structural proposals. Labour argued that the parliament “must not repeat Westminster’s mistakes. There must be an adequate system for scrutinising European directives in close cooperation with colleagues in the European Parliament” (1995, 3; see also 1997a). Similarly, the SNP envisioned that the committee would provide the “initial scrutiny of, and response to, all EU proposals -

filtering these to other Committees of the Parliament for further comment, as required” (1998b, 25).⁹

These three parties also supported a European Minister (Liberal Democrats 1992, 11; SNP 1998b, 25). Labour pledged to create the position, which “would signal to the various European institutions and to our partners the high priority we attach to our relations with the European Union” (1995, 3; see also 1997a). David Martin, a Labour MEP, called repeatedly at conferences for the creation of the post, despite observing in one speech that it was not included in the White Paper (Speech, 1 May 1998). Labour interviewees also wanted a European minister, describing the role as an “identifiable face” and “focal point” for the co-ordination of European affairs within the parliament.¹⁰ But despite this wide support, the Scottish Labour-Liberal government inexplicably decided against establishing the position; the Finance Minister became the *de facto* European liaison due to his involvement in structural funds.

Function When asked about the function of the European Committee, most tenants identified the tasks recommended by the CSG. Some (particularly MPs) had little knowledge of the debate and repeated CSG proposals, while others demonstrated broader based knowledge that is most likely due to active engagement as members of the Constitutional Convention or CSG. Labour members of Westminster and the European Parliament hedged their answers and drew from their own parliamentary experience. MPs, in particular, were uncertain about the structures being devised, recommending the Commons’ committees as models. One said Westminster could review documents and pass them to the Scottish Parliament for review, but was unsure if time constraints would enable the parliament to conduct its own scrutiny.¹¹ By contrast, an MEP called for a more active scrutiny committee than the Commons, advising the new committee to co-ordinate the handling of EC legislation, take a long-term strategic view, and feed ideas into Brussels.¹²

The majority of tenants expected the European Committee to scrutinise EC legislation by monitoring directives, ensuring Scottish law complies with them, and developing Scottish policies.¹³ While a Conservative MSP candidate suggested that implementation would be the committee’s “primary function”,¹⁴ others said this job

should be left to subject-based committees (as discussed next). If the European Committee transfers policy responsibilities to subject committees, several politicians expected it to focus attention on broad oversight of the European process in general (i.e., accession states, Agenda 2000, IGCs).¹⁵ All four MEPs interviewed for this study stressed the importance of the committee as a liaison between different governmental levels, calling for links with Scotland House and themselves.¹⁶ Others emphasised co-operation with Westminster: a Labour MP called for interaction with the Commons European committees, while a Liberal Democrat MSP candidate said the Scottish position must be given to the UK delegation and permanent representation.¹⁷ Despite cross-party support for civic inclusion, only the Liberal Democrat MEP candidate cited the need for a pro-active and consultative relationship with voluntary organisations.¹⁸

To test further political acceptance of a holistic approach to policy-making, tenants were asked whether the European or other subject committees should handle legislation that is European in origin but relates to a specific policy area. Of the eight asked, all supported an interface between the European Committee and the subject committees.¹⁹ For example, a Labour MP called for “joined-up government” and hoped the committee would “operate on issues and not subjects.”²⁰ Most predicted that the European Committee would lack detailed policy expertise; rather than seeking to become an expert on all issues, it should pass legislation to subject committees that can develop a European dimension. The committee should also filter EC legislation, monitor its progression in subject committees, and take final decisions if necessary.

Committee Members Tenants were then asked whether the composition of the European Committee should be: a) holistic by drawing MSPs from subject committees, or b) focused solely on Europe by including MSPs who belong only to this committee. While two MSP candidates made the pragmatic observation that the small number of MSPs requires members to double up on committees anyway,²¹ most agreed that the inclusion of members from other subject committees would enable a European perspective to pervade all committees. Only a Labour MSP

candidate expressed concern at inter-departmental fights, suggesting that the chair and vice-chair could be members of the European Committee alone to ensure focus.²²

Because co-operation between multiple levels of government requires communication between politicians, there have been proposals for regular meetings between MSPs, MEPs, Scottish members of EU institutions, and possibly MPs. These gathering could take the form of a wider European Committee meeting or a Joint European Assembly, as proposed to the CSG by the late SNP MEP Allan Macartney.²³ Such gatherings received cross-party support. All four MEP candidates interviewed agreed that meetings should involve a two-way exchange of information, as MEPs can bring back insight from Europe while MSPs can keep them informed about Scottish thinking. There was some disagreement about the frequency of such meetings, ranging from once a month by a current MEP to once a year or via the internet by prospective MEPs who anticipated a busy schedule.²⁴

Most tenants also expressed a desire for contact between MEPs and MSPs to improve upon historically poor relations with Westminster, while calling more generally for harmonious interaction among all levels. For example, a Labour MP and a SNP MEP candidate issued similar warnings about tensions between representatives.²⁵ The MP was defensive about contacts with MEPs, citing acceptable levels of communication: "It is true that MEPs aren't invited to Westminster committees, but MPs also aren't often welcomed in Brussels." Both cited the danger of creating a 'pecking order' of politicians: the MP said Westminster politicians cannot consider themselves to be more important as MSPs will make decisions that also affect MPs' constituencies; the MEP warned that MSPs may initially see themselves as "centre of the Scottish universe" and fail to seek information from other tiers.

While the tenants agreed with the architects about the importance of holistic structures, expectations diverged most strikingly on the involvement of non-MSPs in parliamentary committees. Tenants were dubious about the practice, although they expressed interest in consulting widely, appointing advisors, and holding regular meetings with other politicians and civic organisations. Conservative and Labour politicians were particularly hesitant, questioning the selection and role of

members.²⁶ They also stressed that elected politicians are responsible for making decisions, as a Labour MP said the parliament should “remain at arms length.”²⁷ Members of ‘opposition parties’ were more open to new structures and the inclusion of civil society. An SNP candidate suggested every committee can decide for itself as the need for specialised members varies.²⁸ This SNP member and a Liberal Democrat MEP candidate²⁹ said the key is liaison between the convener and civic Scotland.

The virtue of an actor-centred approach, which examines how individual perceptions differ from institutional norms, is exemplified by the personal support of both Liberal Democrat candidates despite the opposition of their party for the proposed inclusion of non-politicians on committees. As a Liberal Democrat and long-time campaigner for the parliament explained:

I want to see a break from the idea that an MP is sacred by virtue of his election, and that there is something profane about not being elected. I see the Scottish Parliament as taking its position as one of the pinnacles of civic life, but very much hope that its not going to be divorced from civic life and try to create Westminster-type barriers. Let’s get away from ludicrous concepts, like sovereignty as a magical substance that lives in a box under the speaker’s chair.³⁰

SCOTLAND’S EUROPEAN INFLUENCE: DOMESTIC

Having explored tenants’ views about governance, this chapter will now turn to the multi-level aspect of policy-making by considering expectations about Scotland’s role in Europe. This section begins by discussing how Scotland has been - and is expected to be - represented in the UK formation of a European negotiating line. The remainder of the section will assess expectations about Scotland’s ability to wield domestic influence, while the final section will consider channels enabling direct involvement in Brussels.

Difference in Representation?

Pre-Devolution Judgments about the effect of constitutional change on Scotland’s role in and influence on the European legislative process first require an

appraisal of pre-devolution practices. Although recent Labour party documents contained few critiques of the UK government's handling of Scottish interests in Europe, the other three parties said representation was poor. The Conservative's 1999 Scottish manifesto criticised the current Labour government's management of issues deemed important to Scotland: "Labour is responsible for a crisis in Scottish agriculture and has totally failed to defend the interests of Scottish fishermen in Europe, preferring to avoid offending its friends in other left wing EU Governments" (25). It also faulted SNP proposals:

The Nationalists have nothing to offer Scotland's fishermen, other than decline, misery and hardship. Their headlong rush to be ruled from Brussels will result in more foreign boats plundering our waters. . . . As an independent country within the EU, we would have minimal influence.

However, the Conservative's own record is attacked by other parties. The SNP denounced their handling of various policies. For example, the party's 1997 UK manifesto said an independent Scottish government could better represent Scottish farmers, who "are presently of minor concern to any UK government, as the BSE crisis has shown. The SNP promoted a Scottish solution to the EU ban from day one, but the British government has refused to countenance such relief" (20-21). In terms of the Common Fisheries Policy, the party said "the UK has been happy, more often than not, to trade off fishing interests for other goals in European policy. Scottish fishermen have paid the price for that UK hypocrisy" (22). As Allan Macartney MEP explained, "Scotland needs a direct voice in the European Union, so that we can protect and promote our national interests at the top table - where the real decisions are taken - instead of being left on the sideline" (27; also see 1999c). The Liberal Democrats, citing the lack of Scottish ministerial and official attendance in Council meetings, also criticised the Conservatives:

There is plenty of evidence that the UK government is neither able nor willing to ensure that Scotland's interests are properly represented in Brussels. It has therefore become essential to our future in Europe not only that Scotland should have its own Parliament, but also that it should have a direct say in European affairs (1992, 4).

While these documents highlighted frustration about the handling of European issues with special importance to Scotland, the results shifted when tenants were questioned about Scottish representation in the formation of the UK negotiating line. There was a distinction between the *structures* enabling policy discussions and their *outcomes*, with criticism directed toward the latter. Although tenants from all parties blamed the lack of transparency in the Scottish Office and Whitehall for creating uncertainty about Scottish engagement, there was a correlation between perceptions and government experience: parties with first-hand knowledge (Labour and the Conservatives) were more favourable about Scottish involvement than opposition parties (SNP and the Liberal Democrats) who lacked direct awareness - and may also be sceptical - of existing mechanisms.

Although Labour campaign documents were silent about the past, party members expressed satisfaction with representation through existing political structures. There was, nevertheless, some discrepancy between those at various levels: an MP said Scotland is better represented than English regions, an MSP candidate questioned the extent of involvement behind the scenes, and an MEP cited the awareness within the civil service about the need for Scottish input.³¹ Most did not describe Scottish involvement in terms of shaping the UK negotiating position, but instead referenced influential individuals, networks that have increased recognition of Scotland's identity, and the existence of representative structures. For example, several mentioned well-placed MPs in Westminster (i.e., Cabinet members, Chair of Westminster's Europe Committee). Two politicians with local government experience cited the work of Strathclyde Regional Council, which established the first European link, brought in millions of pounds, and promoted Scotland.³² Others credited Scotland Europa with giving Scotland a profile, providing contacts inside the Commission, and establishing networks for interests.

Conservative politicians also spoke favourably of Scottish representation. Interviewees stressed the role of Scottish Office ministers in the UK delegation to the Council, particularly in agriculture and fisheries; although conceding that Scottish ministers rarely vote and must articulate the agreed UK line, they felt their presence

made a valuable contribution.³³ An MEP candidate explained that because the process is not transparent and the Scottish Office tends to be closed and bureaucratic, the public sees poor accountability and often fails to realise that representation occurs. Unlike optimistic Labour candidates, the candidate did not expect devolution to make improvements: “The public thinks that the Scottish Parliament will open the floodgates by providing better liaison and communications, but sadly they will be disappointed.”³⁴

Liberal Democrat and SNP interviewees, who also emphasised the lack of transparency, concluded that UK governments failed to include Scotland sufficiently in EC policy-making. One Liberal Democrat said it “isn’t that representation is not consistent, but that there is no guarantee of representation.”³⁵ The other challenged Conservative claims about Scottish attendance at Council meetings, arguing that ministers attended less than half the meetings under the Tory administration because they did not believe they were making a difference as the negotiating line was set by the UK in England’s - rather than Scotland’s - interest.³⁶ Both candidates reserved judgment on the early years of the current Labour administration.

A negative perception of Scottish representation is not surprising from the SNP, as the party partially premises its independence argument on the assumption that an independent Scotland could better represent itself in Brussels. Both interviewees questioned the level of Scottish representation, but admitted to being uncertain due to the lack of transparency. They were also doubtful about improvements under the parliament, indicating that devolution arrangements are premised on the same party heading both governments. They concluded that Scottish involvement depends upon good relations between ministers and civil servants in London and Edinburgh, and suspected that the UK will act as a gatekeeper.³⁷

Post-Devolution Tenants, many of whom pleaded ignorance due to the lack of transparency, were unable to cite mechanisms by which pre-devolution Scotland could sway the formation of the UK’s negotiating stance. At best, Labour and Conservative politicians said representation was enhanced by individuals who highlighted Scottish identity. Few expected devolution to increase substantially Scottish involvement in or influence on the actual process of formulating the UK

view. Instead, the predominant belief among tenants of all parties and at all levels was that devolution will enable more transparent and accountable policy-making. The Scottish Executive and Parliament can publicise views that may conflict with those of the UK government, unlike 'administrative devolution' whereby the Scottish Office may have opposed Whitehall policies but only expressed discontent internally. For example, a Liberal Democrat said the electorate

will know what is being said on behalf of Scotland, how loud it's being said, and will be able to gauge what effect its having. And if it isn't having that much effect, we will be able to do something about it because we will have an autonomous political entity to actually do it.³⁸

Most tenants also expected Scotland to become more visible in Europe, as the third section will discuss in greater detail. While Scotland has been represented by Scotland Europa, the parliament will provide a political voice, direct representation, and a higher profile. A Labour MEP explained that

We're talking all the time of changing perceptions at the margins, but Scotland's visibility will be higher as a result of the political clout that the parliament brings. Scotland's ability in terms of European policies should be enhanced. And I hope therefore - as a consequence of the first two - that European policies and the flow of European money in Scotland will have greater benefit to Scottish people than at the present time. And fourthly, I hope that will also help the attitude of Scots toward Europe and will make us more comfortable with our membership in the European Union.³⁹

However, greater transparency does not necessarily increase Scottish influence on the UK stance. In fact, some tenants expressed concern about decreased representation in EC policy-making. Conservative and SNP politicians were especially dubious about the ability of existing structures to ensure Scottish participation.⁴⁰ In addition to the loss of a direct seat in the UK Cabinet, they envisioned less intimate interaction between Scottish and Whitehall departments. Scottish ministers may become marginalised as decisions are increasingly taken in London, and Scottish interests that were previously managed by the Scottish Office will become the responsibility of a UK minister. The Conservative manifesto

warned that “Care will be needed to ensure that there is no dilution of Scottish influence at the United Kingdom level” (1998), while a MEP candidate said the parliament will create a Scottish identity disconnected from the UK, make Westminster irrelevant, and lead “to the perception that Scotland is *de jure* independent, if not *de facto*.”⁴¹

Difference in Policy?

Because most tenants were unconvinced that devolution would increase Scottish representation in UK deliberations, it is necessary to consider whether they believed it would affect policy outcomes. Several tenants expected the parliament to increase the time devoted to scrutinising Scottish issues; this applies primarily to the creation of domestic policy, although the executive is also responsible for implementing EC directives in devolved areas. While Chapter Three cited the support of Conservative politicians in the 1980s for the Scottish Grand Committee, current candidates acknowledged its limited opportunity to scrutinise ministers and legislation. Both hoped the parliament would have more time to consider proposals, suggesting Scotland can gain from having a greater say in running its affairs.⁴² Labour politicians emphasised the parliament’s ability to produce ‘home-grown’ policies, as a chamber devoted solely to Scottish legislation should rectify the frustration expressed by MPs at Westminster’s failure to spend substantial time on Scottish issues.⁴³

However, other tenants did not expect the devolved administration to make a substantial difference in terms of policy outcomes. A Labour MP questioned whether the ordinary person would notice a difference as Scotland always had separate policies and institutions.⁴⁴ An SNP MEP candidate agreed that Scottish issues will be argued more thoroughly, but disputed whether laws would be different:

It’s not what it can do, but the manner of the debate and how it’s done. The sense of identity will change because the parliament will be the focus of Scotland as a civic political identity. . . . The most immediate difference will be as a symbol rather than the practical legislation carried.⁴⁵

One way of testing if devolution is likely to make a legislative difference, particularly through the Executive's distinct implementation of EC directives, is to examine Scotland's European priorities and assess whether they differ from England's. Tenants presented nearly unanimous responses when asked which European issues the parliament and executive should prioritise. Cutting across party lines and political levels, they named agriculture and fishing as areas of disproportionate interest to Scotland.⁴⁶ There was also cross-party support for environmental policy,⁴⁷ Scotland's rural economy, and continued structural funding for peripheral and rural regions.⁴⁸ Tenants also cited personal interests, which included employment and housing,⁴⁹ education,⁵⁰ transport,⁵¹ forestry,⁵² health,⁵³ whiskey, banking and finance.⁵⁴ These policies also featured in party manifestos, which emphasised agriculture and fisheries (Conservatives 1998, 1999; Labour 1999; Liberal Democrats 1999; SNP 1998b, 1999c).

When asked if Scottish priorities differed from issues of interest to England, tenants named some areas that are not affected substantially by EC legislation. For example, Conservative documents (1998) cited health, housing, and education. A Tory candidate named tax and planning legislation, as well as implications of the European Charter of Human Rights for Scots law.⁵⁵ A Liberal Democrat candidate, referencing a legal background, cited Scotland's different tax and family laws, education system, and environment.⁵⁶ A Labour politician maintained that Scottish principles are not different from England: while there is "woolly talk" about Scottish society being more collective, it is not more Labour.⁵⁷ The SNP frequently predicted differences in opinion north and south of the border about the UK's membership of EMU (Alex Salmond, 16 February 1999; Gordon Wilson, 26 September 1988), suggesting Scots are more in favour of early membership.

However, tenants concluded that most policy differences stem from Scotland's distinct civic institutions, history, and geography. This suggests that the benefit of a Scottish legislature may not be to promote radically different policies (although it could do so on various domestic matters), but to provide a nuanced appraisal of Scotland's approach to European policy-making. Frustration with the UK

government's handling of EC legislation, especially agriculture and fisheries, may result from its perceived failure to recognise sufficiently Scotland's specific needs. Thus, the Scottish Executive may provide a more visible stance domestically and approach the EC directly. The increasing use of framework directives also enables flexible implementation, leading one Liberal Democrat to conclude that "Scots can achieve their ends by different means - not different goals, but through policy."⁵⁸

Domestic Channels

While the preceding discussion highlighted support for Scottish participation in UK debates about European affairs, tenants placed different emphasis on various domestic channels for conveying Scottish views. There was cross-party agreement about the importance of good communication between the Scottish and UK governments, as politicians called for bilateral discussions between ministers.⁵⁹ Tenants recognised, however, that relations may be strained if different parties hold office in London and Edinburgh. Second, officials were seen as an important source of information and experience given the retention of a unified UK civil service.⁶⁰ Third, a Liberal Democrat named local government as an important partner in the implementation of EC policies.⁶¹ Fourth, there was some debate among Labour members about relations between the parliaments: MPs were keen on interaction, calling for an exchange of views and information; an aspirant MSP referenced plans for a joint liaison committee (which was not established); but an MEP questioned the importance of such interaction, suggesting Westminster is unlikely to be involved in Scotland's handling of devolved European matters.⁶² Finally, tenants emphasised the importance of direct Scottish involvement in Brussels (discussed in the final section).

UK Restraint

While tenants agreed that the Scottish Parliament and Executive should help determine the UK position domestically, they also recognised the UK's ability to restrain autonomous Scottish activity. Although a potential source of friction between the governments is Scotland's consideration of reserved matters, none of the six tenants questioned expected the UK government to prevent discussion of such

policies.⁶³ Most accepted that consideration of reserved issues was inevitable, and some said the parliament should scrutinise everything that affects Scotland. Those who hesitated about the practice simply cited the amount of domestic material to be considered first. Despite this freedom to discuss reserved matters, none suggested that Scottish conclusions would necessarily sway the UK's opinion.

The most likely source of constraint on Scotland's actions is the concordats.⁶⁴ None of the five tenants questioned had seen them or knew how they would operate, and assessments varied by party. Liberal Democrat and Labour MSP candidates suggested they were official-driven, designed to make life easy for civil servants rather than help democracy. The former questioned their purpose, expecting clashes with a "London-centric administration" to be political and not administrative.⁶⁵ The latter expected them to re-emphasise the authority of Westminster and Whitehall over Scotland, preferring they involved politicians⁶⁶ and proposing a joint committee to prevent ministers from making a "cozy agreement behind the scene."⁶⁷ These comments partly reflect tensions between the Labour Executive and MSP candidates, who were excluded from the process of designing the concordats.

In contrast, a Liberal Democrat MEP candidate was more optimistic and hoped the concordats would guarantee Scottish involvement in European areas of interest.⁶⁸ The other two parties made opposite assessments. The Conservatives supported the agreements, as an MSP candidate said mechanisms were necessary to resolve disputes between the governments and prevent the Nationalists from exploiting differences.⁶⁹ The SNP, on the other hand, expected them to be overly restrictive: "Whitehall will operate as an information blackout and it won't be a dialogue of equals."⁷⁰

Most tenants assumed that the content of the concordats would cover Scotland's implementation of EC directives. Yet prospective MEPs disagreed about the UK's ability to interfere. Liberal Democrat and Labour candidates said the UK should legislate if Scotland fails to comply with EC law, citing Canada's problems with its division of powers and the Belgian government's conviction by the ECJ after a regional parliament - over which it has no authority - failed to implement.⁷¹ An SNP

member, however, questioned what powers Whitehall could invoke to deter the executive from implementing differently if it met European requirements.⁷²

In general, the three 'unionist' parties acknowledged the need for guidelines to ensure co-ordination between the governments. The SNP, in contrast, believed the UK government would be excessively restrictive. A policy document (whose academic language suggests it was written by Neil MacCormick, a SNP MEP candidate and law professor) aptly summarises the party's concerns:

To date, New Labour has taken an almost exclusively top-down approach to policy making in the EU. Naturally, this preserves Westminster's gatekeeping role. It concentrates on a purely reactive response by the Scottish Parliament, on an extremely tight timescale, to proposals emanating from the Commission or Council. The New Labour approach ignores the agenda setting, negotiating and consultative roles of both the Scottish Executive and the Parliament. It ignores the multiple access points for governments seeking to discuss the policy with the Commission, and the opportunities for Holyrood to insert itself into the process at an early stage of policymaking. Holyrood is the institution responsible for implementing EU legislation in Scotland in most areas. It is not simply another subordinate institution that requires cosmetic consultation with the Commission. If there is no detailed consultation, then EU policy in Scotland may not be implemented properly nor monitored correctly (1999b, 5-6).

SCOTLAND'S EUROPEAN INFLUENCE: BRUSSELS

The previous section illustrated cross-party agreement that the Scottish Executive should first seek domestic input into UK negotiations, although the SNP is clearly more sceptical about its success. As a Liberal Democrat explained, "it is a process of developing policy that's appropriate for Scotland. Once it is developed, who pushes it doesn't make any difference. If you can get UK delegations to do it - which should be the first port of call - so much the better."⁷³ However, tenants also recognised that there will be times when the UK Government either disagrees with the Scottish view or fails to prioritise it. The Scottish Executive must then decide whether to utilise the 'Westminster Bypass' to circumvent the UK and present policies directly in Brussels.

The Conservatives warned that such actions would lead to independence,⁷⁴ while members of other parties remained open to the strategy. A Labour MEP admitted that if Scotland and the UK disagree on a black and white issues, the UK position would prevail; “Then our strategy would be not the road to confrontation with the British government, but to try and persuade Commission officials and other governments through lobbying that a different line would be the right line.”⁷⁵ However, other Labour members cautioned that confrontation harms both the Scottish and UK position by damaging public confidence and weakening the overall negotiating position.⁷⁶ An SNP member said direct approaches could be employed “policy by policy,” suggesting, for example, that “peripherality doesn’t grab Whitehall.” Scotland is more corporatist than England, according to this candidate, and has constructed networks (i.e., Nordic countries, voluntary sector) that are the key to Brussels policy-making.⁷⁷

The remainder of the chapter will evaluate which institutions the tenants expect the Scottish Executive to target and whether such approaches are likely to be effective. It begins by considering the Executive’s Brussels office, and then examines the emphasis placed on the Council of Ministers instead of the Commission or Committee of the Regions. It will conclude that in European - as well as domestic - terms, tenants expect devolution to make a difference symbolically although the Scottish Executive will exert little influence on the policy-making process itself.

Scotland House

Scotland was primarily represented in Brussels pre-devolution by Scotland Europa. Of the six tenants questioned (no Liberal Democrats), most had a positive impression of its work.⁷⁸ Despite some frustration about its origins as Scottish Office-led rather than a private initiative,⁷⁹ tenants praised the higher profile it has given Scotland; this has increased networks for Scottish produce, attracted inward investment, and aided Scottish businesses. Opinions may have been partly shaped by personal experiences in Brussels: a former member of COR described it as “an

established centre of excellence,” while a fellow Labour party member said it had “not been an outstanding success” but was unsure why.⁸⁰

Notwithstanding general support for Scotland Europa, no tenant suggested that it had influenced the outcome of legislation. Party documents expected a Scottish representation office⁸¹ to exert more authority by participating in policy discussions. As Scotland’s “official point of contact,” Labour documents recommended

a major government office staffed by civil servants accountable to the Scottish Parliament, and capable of making direct representation on its behalf to EU institutions. As such it will be much more than a lobbying organisation although lobbying would be an important part of its work (1995, 3; see also 1997a, 5).

In 1992, the Liberal Democrats asked the Scottish Office to establish a European Office “to act as a focal point for Scottish interests; and to insist on being represented in all UK delegations to meetings at which matters affecting Scotland are to be discussed” (1992, 4). Their 1999 manifesto wanted “the Scottish Parliament European Bureau in Brussels to match the representation of other European regions. The Bureau must have full access to the UK Representative Office and in particular UKRep’s information network” (33). The SNP also pledged to establish an External Affairs Office that would work closely with the parliament, which may choose to open its own facility. This office would provide an early warning (1999b, 6) and “look after Scottish interests in the EU” (1998b, 25).

Of the eight tenants questioned, all supported formal political representation for Scotland in Brussels. But in contrast to the optimistically definitive language of party documents, tenants described its role much like that of Scotland Europa: raising awareness of Scottish issues and providing a focus for Scottish interests. They concentrated more on the symbolic presence of an office than on its ability to participate in the policy-making process.⁸² The major difference of the Executive office is the democratic authority behind it. As a Labour MEP explained, Scotland Europa “has not been able to say ‘this is what the Parliament wants’ or claim to speak for the Scottish people. [Post-devolution, the Executive office] will lobby - rather than simply facilitate lobbying - for Scottish interests.”⁸³

Some tenants also emphasised the importance of networking. A Conservative candidate indicated that the office will liaise with the Commission on its policies and programmes, while an SNP member referenced former work experience and described Brussels as a “large village” within which the office can build alliances and provide multiple points of entry.⁸⁴ In particular, MEP candidates hoped the office would develop relations with and co-ordinate activity among members of Scotland’s wider political community. They viewed it as a point of reference for their work, a European liaison with the parliament, and a resource for Scottish officials in UKRep and the Council.⁸⁵ A Conservative candidate described it as “the core of activity as a one-stop shop. It will provide the top of the tree, promoting a new relationship between Europe Committee, civil servants, Scottish Executive, MEPs, and Whitehall.”⁸⁶

UKRep

Another channel of influence for the Scottish Executive is UKRep. Of the seven tenants questioned (no Liberal Democrats), most prevented favourable assessments of UKRep. One exception was an aspirant Conservative MEP, who described it as “a waste of space and a mysterious body [managed by] career civil servants. . . . It doesn’t seem to be more than the eyes and ears of the Council of Ministers, and needs to be more accountable and absorbed into the new Executive office.”⁸⁷ Labour and SNP politicians acknowledged the involvement of Scottish officials in UKRep working groups, particularly in those related to agriculture and fisheries.⁸⁸ They also highlighted the changing nature of relationships among officials: although the UK civil service remains unified, the Scottish ‘administration’ is no longer a UK department and part of Whitehall. This shift has implications for the role of Scottish officials, who cannot use UKRep in the same way but need to develop their own information-gathering and negotiation structures in Brussels. Consequently, they feared that devolution could decrease Scotland’s representation and access to information.⁸⁹

Tenants presented mixed views about the likelihood of conflict between the two Brussels offices. Labour MPs appeared unconcerned, and a Conservative MSP

candidate expected simply “a difference of emphasis in areas, which is part of the lobby process.”⁹⁰ In contrast, SNP politicians questioned the Executive office’s prospects for success. They predicted that UKRep will be desperate to know what Scotland House is doing, as one recalled a leaked Scottish Office memo that suggested the Scottish Executive Office should be based in UKRep as London would remain the gatekeeper. They also wondered whether the first Executive would be pro-active or re-active, and to whom it would report.⁹¹

Council of Ministers

Of the European institutions, the Council of Ministers received the most citations in party documents. All four parties called for Scottish involvement in the Council, particularly in devolved areas of interest like agriculture and fisheries (Conservatives 1998; Labour 1997a; Liberal Democrats 1992, 1999; SNP 1999b). The Liberal Democrats and Conservatives further called for statutory involvement in these areas. During the Commons debate on the Scotland Bill, the Liberal Democrats introduced an amendment giving Scottish ministers the ability to lead UK negotiations in fisheries Councils with the consent of UK ministers; it was defeated by the government (Boyle 1998, 5.2). The Conservatives also called for “representation by right” on agricultural issues, fearing that “Representation by invitation only may lead to the exclusion of Scottish views and dissatisfaction or worse within the devolved Parliament” (1998). Meanwhile, Labour and the SNP feuded over Scotland’s position in comparison with other European regions. While Labour cited the “observer status” enjoyed by the German Länder and promised to seek “similar status” (1995, 3; 1997a, 5), the SNP (1999b) argued that proposed structures make Scotland disadvantaged in comparison with the German Länder, Flanders, and other devolved legislatures whose ministers can speak, vote, and lead in the Council.

While the Council is clearly the institution that symbolises legislative authority, these documents said little about the nature of desired participation and politicians questioned the extent of Scottish ministerial involvement. While most tenants expected Scots to speak, they were less optimistic about ministers leading or making a substantial difference. Of the seven politicians questioned, all agreed that Scots

could attend and speak in Council meetings. However, they acknowledged that the frequency was likely to depend on relationships between the governments - including provisions in concordats, partisan squabbles, and adherence to the UK line.⁹² Several non-Labour politicians argued - like their party documents - that if Scots control areas of domestic policy, then they should be entitled to a voice.⁹³ The non-SNP members were further aware that the political effect of exclusion may be an increased drive for independence.

Most tenants were less hopeful about Scottish ministers leading a UK delegation to the Council. Both SNP interviewees acknowledged that Scots could lead, but questioned the extent of its occurrence and emphasised the need to maintain the agreed UK line.⁹⁴ The Conservatives referenced the domestic and European repercussions of Scottish ministers leading a delegation, explaining that the rest of the UK would object and other European regions would desire similar rights. They also questioned the symbolism, as the MSP candidate stressed that “What is important is not what they say, but how it’s formulated in advance” and the MEP candidate described the structures as “cosmetic.”⁹⁵

Commission

Despite academic research suggesting that the Commission encourages sub-national participation, tenants under-rated its importance. Few interviewees mentioned the Commission, while the two questioned directly were doubtful about the ability of the Scottish Executive to influence its work. A Labour MEP said the Commission’s Edinburgh office and Scotland Europa could make introductions to officials, but doubted the effect of one sub-national parliament among many.⁹⁶ A Liberal Democrat MSP candidate said it “depends on what games you want to play and how rough you want to play it.”⁹⁷ Party documents also included few references: the Liberal Democrat manifesto called for formal liaison with the Commission (1999, 33), while the SNP said their External Affairs Ministry “will manage relations with the European Commission” (1999c, 30).⁹⁸

Committee of the Regions

Although the Committee of the Regions is the only European institution in which Scottish politicians play a direct role in policy-making, party documents contained few references. The Liberal Democrats called for MSPs to “play a full part in the European Committee of the Regions” (1999, 33). Labour described its establishment as “a welcome first step towards recognising where power and influence in the Community will increasingly lie,” and said the parliament “will be ideally placed to take advantage of, and shape these evolving structures” (1997a).

Despite this limited optimism, tenants presented negative assessments of COR. SNP and Labour politicians described it as “not a great success yet,” “not effective,” and “toothless.”⁹⁹ A Conservative said it was “hopeless” and should be abolished as it has “given a false facade to regional representation.”¹⁰⁰ Most tenants faulted its mixed membership and consultative role. Labour and SNP euro-candidates cited the weak position of Scottish local authorities *vis-à-vis* other sub-national ministers, questioning whether the inclusion of MSPs will enhance Scottish representation.¹⁰¹ Another SNP candidate said it could be more effective if it only included devolved parliaments, adding that there are too many committees with little influence.¹⁰² However, both Liberal Democrat candidates were more favourable and believed COR could become influential if it obtained more power.¹⁰³

Discussions about COR illustrated the utility of an actor-centred approach. First, the most enthusiastic endorsement came from a former member, who described it as a “new organisation that is still bedding down.” This Labour MP said COR can be influential in the future as it responds to laws, scrutinises the success of programmes, and makes recommendations.¹⁰⁴ The MP suspected others are sceptical about its influence because they do not know about it (which some admitted), the media fails to cover stories, and it is not a decision-making body. Second, the effect of public speeches on shaping opinions was exemplified by the high-profile of David Martin MEP. A Labour member referenced Martin’s hope that the European Parliament will acquire powers and a second chamber of regional members, while an SNP member said Martin was “keen on COR as a third chamber to give regional Europe its place.”¹⁰⁵ For the record, Martin himself admits that COR is “not very effective

so far, but it can develop. So far it hasn't made a significant difference in the institutional structure of the European Union."¹⁰⁶

SUMMARY

Scotland's European Role This chapter analysed tenants' expectations about the creation of a new style of governance in Scotland and the Executive's ability to influence EC policy-making. The latter appears to be a more difficult task, as tenants expect Scotland's profile - but not necessarily its political weight - to increase. First, tenants distinguished between presentation and participation: most criticised the UK government's (mainly the Conservative administrations of 1979-97) handling of European issues of importance to Scotland before devolution. Those belonging to parties with government experience conceded that Scottish officials and politicians were involved in the formulation of these policies. It is, however, unclear whether this discrepancy results from an actual lack of Scottish participation, a failure or refusal by the UK government to support Scottish interests, electioneering by opposition parties, or ideological differences. Second, few tenants expected the executive to increase participation in or influence on the formation of the UK line as existing civil service channels will remain in place. Some even expressed concerns about decreased representation, citing the loss of pre-devolution links into Whitehall and the UK Cabinet. Instead, tenants said devolution should increase domestic visibility for Scottish ideas and transparency in Scottish policy-making.

Third, tenants admitted that Scotland's European priorities do not differ substantially from those of England, although several cited domestic areas where Scotland could pursue novel policies. Instead, they explained that Scotland's history, geography, and civic institutions require a different emphasis to be placed on certain issues. The executive can account for these variations by implementing EC directives in an appropriate manner. Fourth, in terms of European involvement, the executive may create a higher profile (particularly for policies of special concern), speak with democratic authority, and liaise with other interests. But politicians did not foresee the Executive Office in Brussels exerting greater sway than Scotland Europa, Scottish Ministers leading a UK delegation to the Council of Ministers, the

Commission being affected by one of many sub-national authorities, or the Committee of the Regions providing a forum of great persuasion.

While tenants concluded that devolution is unlikely to enhance significantly Scottish representation in EC policy-making, they thought it would improve domestic policy-making by focusing greater attention on Scottish issues, consulting civil society, and implementing legislation in a manner appropriate to Scotland's specific needs. They appeared to have heard and adopted the civic rhetoric about the need for a new style of governance in Scotland, as party documents were filled with words like 'holistic' and 'joined-up'. But despite their general acceptance of many CSG recommendations about the parliament's structural operation, some tenants seemed hesitant about directly involving the architects in policy-making. Their understanding of governance focused most explicitly on working in *partnership* with the electorate and service-delivery organisations.

Actor-Centred Approach Tenants' responses highlighted the utility of an actor-centred approach, as their expectations were shaped by a combination of factors. While party members often held similar views, those at different political levels had varying knowledge of the parliament. There appeared to be a correlation, therefore, between a tenant's proximity to the devolution process and his/her knowledge of and support for the new institution. MSP candidates were most informed about the anticipated structural operation of the parliament, as they drew on their experiences in the Constitutional Convention, CSG, and election campaign. Labour MPs were the least aware, referencing Westminster for examples and stressing UK sovereignty. MEPs placed more emphasis on European structures, particularly when speaking about their anticipated relationship with the parliament.

There was a surprising amount of cross-party agreement, which can be partially attributed to co-operation between Labour and the Liberal Democrats in the Convention and between all parties in the CSG. This was particularly evident in shared expectations about the structure and function of the European Committee. While there were ideological cleavages between parties (e.g., Scotland's constitutional future), politicians generally fell within one of two coalitions of opinion. First, Labour and Liberal Democrat candidates presented similar centrist

answers, while SNP and Conservative members held views on opposite extremes. This was illustrated by differing opinions about the potential restrictiveness of concordats. Second, there were disparities between parties with and without government experience. For example, SNP and Liberal Democrat candidates were more sceptical about Scotland's pre-devolution involvement in the formation of the UK negotiating line than were Labour and Conservative interviewees with inside experience.

Finally, this chapter obtained partisan views from party documents and interviews with politicians. In several cases there were discrepancies between these sources, which highlights the importance of a multi-faceted approach that cross-references several types of information. For example, Liberal Democrats were particularly willing to express personal views that conflicted with the party platform. Some campaign documents tended to over-state problems (e.g., Conservative handling of Scottish interests in Europe) and possible solutions (e.g., demands for Scottish ministerial involvement in the Council), while politicians presented more honest and balanced assessments of both.

¹ Interview, 14 January 1999, Edinburgh.

² Interview, 19 February 1999b, Edinburgh. The Conservative's 1999 manifesto demonstrated the clearest awareness of overlapping competences, highlighting the "interesting conundrum" of energy policy. It also recognised the parliament's "limited jurisdiction over fishing matters since most fishing policy will be decided at EU level," despite its responsibility to implement.

³ Interview, 27 November 1998, Edinburgh.

⁴ Interview, 25 February 1999a, Edinburgh; Interview 28 January 1999c, London.

⁵ Interview, 27 November 1998, Edinburgh.

⁶ Interview, 28 January 1999c, London.

⁷ Interview, 22 April 1999, Edinburgh.

⁸ Interview, 14 January 1999, Edinburgh; Interview, 6 February 1999, Aberdeen.

⁹ The SNP called for the establishment of an External Relations Department. The party used 'External Affairs' to describe "areas of policy furth of Scotland in the devolved Parliament and 'Foreign Affairs' in an independent Scotland." This department would liaise with the UK government on constitutional issues; represent the Scottish Executive in the EU; co-ordinate relations and liaise with other UK devolved administrations; EU legislatures and the Council of the Isles; provide early warning on EU legislation; and build alliances and networks to promote Scotland's interests abroad (1999b; 2, 4).

¹⁰ Interview, 27 November 1998, Edinburgh; Interview, 25 February 1999a, Edinburgh.

¹¹ Interview, 28 January 1999c, London.

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- ¹² Interview, 27 November 1998, Edinburgh.
- ¹³ Interview, 27 November 1998, Edinburgh; Interview, 14 January 1999, Edinburgh; Interview, 28 January 1999c, London; Interview, 6 February 1999, Aberdeen; Interview, 19 February 1999a, Edinburgh; Interview, 25 February 1999a, Edinburgh; Interview, 16 March 1999, Edinburgh; Interview, 22 April 1999, Edinburgh.
- ¹⁴ Interview, 19 February 1999b, Edinburgh. SNP leader Alex Salmond was particularly averse to the Parliament just implementing secondary legislation, which is as “an ex post facto role.” He said it must “also be present at the start of the process, not just at its end point” (Speech, 16 February 1999).
- ¹⁵ Interview, 27 November 1998, Edinburgh; Interview, 14 January 1999, Edinburgh; Interview, 19 February 1999a, Edinburgh.
- ¹⁶ Interview, 27 November 1998, Edinburgh; Interview, 6 February 1999, Aberdeen; Interview, 16 March 1999, Edinburgh; Interview, 22 April 1999, Edinburgh.
- ¹⁷ Interview, 28 January 1999c, London; Interview, 14 January 1999, Edinburgh.
- ¹⁸ Interview, 6 February 1999, Aberdeen.
- ¹⁹ Interview, 27 November 1998, Edinburgh; Interview, 14 January 1999, Edinburgh; Interview, 28 January 1999c, London; Interview, 6 February 1999, Aberdeen; Interview, 19 February 1999a, Edinburgh; Interview, 19 February 1999b, Edinburgh; Interview, 25 February 1999a, Edinburgh; Interview, 22 April 1999, Edinburgh.
- ²⁰ Interview, 28 January 1999c, London.
- ²¹ Interview, 14 January 1999, Edinburgh; Interview, 19 February 1999a, Edinburgh.
- ²² Interview, 25 February 1999a, Edinburgh.
- ²³ Macartney’s CSG proposal (1998) aimed to institutionalise links and provide a liaison between the Parliament and Europe. He preferred an equal numbers of MSPs and euro-representatives (40-44 total), including MEPs and members of COR, EcoSoc and the Council of Europe. There should be two statutory meetings per year, one in Edinburgh and one in Brussels, with possible working meetings. Numerous SNP documents supported his proposal (1998b, 25; 1999b, 6; 1999c, 30).
- ²⁴ Interview, 27 November 1998, Edinburgh; Interview, 22 April 1999, Edinburgh; Interview, 6 February 1999, Aberdeen.
- ²⁵ Interview, 28 January 1999c, London; Interview, 22 April 1999, Edinburgh.
- ²⁶ Interview, 19 February 1999b, Edinburgh; Interview, 25 February 1999a, Edinburgh.
- ²⁷ Interview, 28 January 1999c, London.
- ²⁸ Interview, 19 February 1999a, Edinburgh.
- ²⁹ Interview, 6 February 1999, Aberdeen.
- ³⁰ Interview, 14 January 1999, Edinburgh.
- ³¹ Interview, 28 January 1999c, London; Interview, 25 February 1999a, Edinburgh; Interview, 27 November 1998, Edinburgh.
- ³² Interview, 25 February 1999a, Edinburgh; Interview 28 January 1999c, London.
- ³³ Interview, 19 February 1999b, Edinburgh; Interview, 16 March 1999, Edinburgh.
- ³⁴ Interview, 16 March 1999, Edinburgh.
- ³⁵ Interview, 6 February 1999, Aberdeen.
- ³⁶ Interview, 14 January 1999, Edinburgh.
- ³⁷ Interview, 19 February 1999a, Edinburgh; Interview, 22 April 1999, Edinburgh. In a 1995 speech, Winnie Ewing MEP argued that the UK sold out the steel industry and fishing to Spain, was the only state to turn down euro funds because the government would not match them, failed to ask for funds for post chunnel poverty programmes, and did little for hill farmers and the whisky industry. She concluded that “These rotten negotiations are made inside the room where the Council of Ministers meet. Scotland is not inside the room but outside.”
- ³⁸ Interview, 14 January 1999, Edinburgh.
- ³⁹ Interview, 27 November 1998, Edinburgh.
- ⁴⁰ Interview, 19 February 1999b, Edinburgh; Interview, 16 March 1999, Edinburgh; Interview, 22 April 1999, Edinburgh. While some officials and many civic members stressed the instability of established structures, the Scottish Affairs Committee was the only place that politicians raised this concern. Their report on devolution repeatedly emphasised its unstable nature, concluding that “No-

where is the reliance of the whole devolution settlement package on compromise, goodwill and reasonableness so apparent as in respect of relations with the European Union" (1998, Vol. 1, xv).

⁴¹ Interview, 16 March 1999, Edinburgh.

⁴² Interview, 19 February 1999b, Edinburgh; Interview, 16 March 1999, Edinburgh.

⁴³ Interview, 28 January 1999c, London; Interview, 6 March 1999, Glasgow.

⁴⁴ Interview, 6 March 1999, Glasgow.

⁴⁵ Interview, 22 April 1999, Edinburgh.

⁴⁶ Interview, 27 November 1998, Edinburgh; Interview, 14 January 1999, Edinburgh; Interview, 6 February 1999, Aberdeen; Interview, 19 February 1999a, Edinburgh; Interview, 19 February 1999b, Edinburgh; Interview, 25 February 1999a, Edinburgh; Interview, 16 March 1999, Edinburgh; Interview, 22 April 1999, Edinburgh.

⁴⁷ Interview, 28 January 1999c, London; Interview, 6 February 1999, Aberdeen; Interview, 19 February 1999a, Edinburgh; Interview, 25 February 1999a, Edinburgh; Interview, 22 April 1999, Edinburgh.

⁴⁸ Interview, 27 November 1998, Edinburgh; Interview, 28 January 1999c, London; Interview, 6 February 1999, Aberdeen; Interview, 19 February 1999a, Edinburgh; Interview, 19 February 1999b, Edinburgh.

⁴⁹ Interview, 6 February 1999, Aberdeen.

⁵⁰ Interview, 6 February 1999, Aberdeen; Interview, 19 February 1999a, Edinburgh.

⁵¹ Interview, 14 January 1999, Edinburgh; Interview, 25 February 1999a, Edinburgh.

⁵² Interview, 14 January 1999, Edinburgh.

⁵³ Interview, 27 November 1998, Edinburgh.

⁵⁴ Interview, 22 April 1999, Edinburgh.

⁵⁵ Interview, 16 March 1999, Edinburgh.

⁵⁶ Interview, 6 February 1999, Aberdeen.

⁵⁷ Interview, 25 February 1999a, Edinburgh.

⁵⁸ Interview, 6 February 1999, Aberdeen.

⁵⁹ Interview, 27 November 1998, Edinburgh; Interview, 14 January 1999, Edinburgh; Interview, 19 February 1999b, Edinburgh; Interview, 16 March 1999, Edinburgh; Interview, 22 April 1999, Edinburgh.

⁶⁰ Interview, 27 November 1998, Edinburgh; Interview, 28 January 1999c, London; Interview, 19 February 1999b, Edinburgh; Interview, 25 February 1999a, Edinburgh; Interview, 16 March 1999, Edinburgh.

⁶¹ Interview, 14 January 1999, Edinburgh.

⁶² Interview, 6 March 1999, Glasgow; Interview, 28 January 1999c, London; Interview, 25 February 1999a, Edinburgh; Interview, 27 November 1998, Edinburgh.

⁶³ Interview, 27 November 1998, Edinburgh; Interview, 6 February 1999, Aberdeen; Interview, 19 February 1999a, Edinburgh; Interview, 19 February 1999b, Edinburgh; Interview, 16 March 1999, Edinburgh.

⁶⁴ Concordats raise larger questions about power divisions between Westminster and Holyrood. The Liberal Democrats long called for the Scottish Parliament's powers to be entrenched, including guaranteed consultation and representation on issues of importance to Scotland. They also wanted a constitutional separation of powers between Brussels and Edinburgh: "there is no point in giving powers to Edinburgh in respect of Scottish domestic and economic affairs if they are all gradually to be lost to Brussels" (1992, 4). A document discovered at the Scottish Labour Party Headquarters showed the party had considered concurrent powers between Edinburgh and London, and had begun thinking about concordats. This undated paper, titled "Devolution Seminar: Defining the Powers," appears to have been developed during the mid 1990s.

⁶⁵ Interview, 14 January 1999, Edinburgh.

⁶⁶ The Scottish Affairs Committee observed that "there is no provision for an open forum at parliamentary level for the public discussion of matters of common concern" (1998, Vol. 1, xvi).

⁶⁷ Interview, 25 February 1999a, Edinburgh.

⁶⁸ Interview, 6 February 1999, Aberdeen.

⁶⁹ Interview, 19 February 1999, Edinburgh.

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- ⁷⁰ Interview, 22 April 1999, Edinburgh.
- ⁷¹ Interview, 6 February 1999, Aberdeen; Interview, 27 November 1998, Edinburgh.
- ⁷² Interview, 22 April 1999, Edinburgh.
- ⁷³ Interview, 14 January 1999, Edinburgh.
- ⁷⁴ Interview, 19 February 1999b, Edinburgh.
- ⁷⁵ Interview, 27 November 1998, Edinburgh.
- ⁷⁶ Interview, 27 November 1998, Edinburgh; Interview, 25 February 1999a, Edinburgh; Interview, 25 February 1999b, Edinburgh.
- ⁷⁷ Interview, 1 March 1999a, Bridge of Allan.
- ⁷⁸ Interview, 19 February 1999b, Edinburgh; Interview, 28 January 1999c, London; Interview, 16 March 1999, Edinburgh.
- ⁷⁹ Interview, 28 January 1999c, London; Interview, 25 February 1999a, Edinburgh; Interview, 16 March 1999, Edinburgh.
- ⁸⁰ Interview, 28 January 1999c, London; Interview, 25 February 1999a, Edinburgh.
- ⁸¹ This office has been the source of confusion, as some civic and political documents expected an office for the parliament rather than the executive. Even after plans for its establishment were announced, the Scottish Affairs Committee mistakenly believed that the *parliament* was opening a Brussels office (1998, Vol. 1, xvi).
- ⁸² Interview, 28 January 1999c, London; Interview, 6 February 1999, Aberdeen; Interview, 19 February 1999b, Edinburgh; Interview, 25 February 1999a, Edinburgh; Interview, 25 February 1999b, Edinburgh; Interview, 1 March 1999a, Bridge of Allan; Interview, 16 March 1999, Edinburgh; Interview, 22 April 1999, Edinburgh.
- ⁸³ Interview, 27 November 1998, Edinburgh.
- ⁸⁴ Interview, 19 February 1999b, Edinburgh; Interview, 19 February 1999a, Edinburgh.
- ⁸⁵ Interview, 6 February 1999, Aberdeen; Interview, 16 March 1999, Edinburgh; Interview, 22 April 1999, Edinburgh. Similar aims were cited by Baroness Ramsay - Government's Spokesperson on Europe in the Lords - during a speech in Edinburgh on Europe Day 1998. She said the office would promote Scotland's contacts, provide facilities for visiting ministers, assist the Executive in European representation, provide information to facilitate scrutiny, raise awareness in Brussels of Scottish issues, feed in the Scottish dimension early, and build Scottish links with other regions and states.
- ⁸⁶ Interview, 16 March 1999, Edinburgh.
- ⁸⁷ Interview, 16 March 1999, Edinburgh.
- ⁸⁸ Interview, 25 February 1999b, Edinburgh; Interview, 1 March 1999a, Bridge of Allan.
- ⁸⁹ Interview, 27 November 1998, Edinburgh; Interview, 28 January 1999c, London; Interview, 25 February 1999b, Edinburgh; Interview, 1 March 1999a, Bridge of Allan.
- ⁹⁰ Interview, 28 January 1999c, London; Interview, 25 February 1999b, Edinburgh; Interview, 19 February 1999b, Edinburgh.
- ⁹¹ Interview, 19 February 1999a, Edinburgh; Interview, 22 April 1999, Edinburgh.
- ⁹² Interview, 14 January 1999, Edinburgh; Interview, 6 February 1999, Aberdeen; Interview, 19 February 1999b, Edinburgh; Interview, 25 February 1999a, Edinburgh; Interview, 1 March 1999a, Bridge of Allan; Interview, 16 March 1999, Edinburgh; Interview, 22 April 1999, Edinburgh.
- ⁹³ Interview, 22 April 1999, Edinburgh; Interview, 14 January 1999, Edinburgh; Interview, 19 February 1999b, Edinburgh.
- ⁹⁴ Interview, 1 March 1999a, Bridge of Allan; Interview, 22 April 1999, Edinburgh. The SNP accused Labour of retreating on their promises of Scottish involvement in the Council. Alex Salmond pointed to Robin Cook's statement to the Scottish Grand Committee in January 1997 that the Parliament would have the "same observer status as the German Länder", giving the legal right to participate. But the White Paper "introduced 'shoulds' and 'mays' into the equation and emphasised the lead role of the UK Minister" (Speech, 16 February 1999). Gordon Wilson said the Convention scheme and White Paper, which ensured the Scottish Parliament could have a direct link to Europe, had been watered down: "The potential for a Scottish representative to take issue with, and dissent from, decisions has been virtually legislated out of existence" (Speech, 26 September 1998).
- ⁹⁵ Interview, 19 February 1999b, Edinburgh; Interview, 16 March 1999, Edinburgh.
- ⁹⁶ Interview, 27 November 1998, Edinburgh.

⁹⁷ Interview, 14 January 1999, Edinburgh.

⁹⁸ Of greater concern to the SNP (1997) was Scottish involvement in selecting the UK's second Commissioner, particularly as in independent Scotland would have its own Commissioners. In a speech to his party's annual conference, SNP MEP candidate Gordon Wilson (26 September 1998) called for "the national right of Scotland to be allocated one of the UK Commissioners and to have a representative of the Scottish legal system as a judge in the European Court must be clarified and won." He later wrote to Prime Minister Blair, asking him to re-affirm the convention of appointing one non-English Commissioner. *The Herald* (26-6-99) reported that Blair will "consider all the options" and "sees no reason to deviate from normal practice."

⁹⁹ Interview, 22 April 1999, Edinburgh; Interview, 1 March 1999a, Bridge of Allan; Interview, 25 February 1999a, Edinburgh.

¹⁰⁰ Interview, 16 March 1999, Edinburgh.

¹⁰¹ Interview, 27 November 1998, Edinburgh; Interview, 22 April 1999, Edinburgh.

¹⁰² Interview, 1 March 1999a, Bridge of Allan.

¹⁰³ Interview, 6 February 1999, Aberdeen; Interview, 14 January 1999, Edinburgh.

¹⁰⁴ Interview, 28 January 1999c, London.

¹⁰⁵ Interview, 25 February 1999a, Edinburgh; Interview, 22 April 1999, Edinburgh.

¹⁰⁶ Interview, 27 November 1998, Edinburgh.

CHAPTER SEVEN:
A COMPARATIVE ANALYSIS of ELITE EXPECTATIONS

The preceding three chapters evaluated the perceptions and expectations of the Scottish Parliament's architects, builders, and tenants about the role of a devolved Scotland in a changing Europe. Within each category, analysis focused on the extent to which political level and proximity to the devolution process affected elites' views. This chapter brings these actor typologies together, enabling a comparative analysis of the three 'institutional' perspectives. It highlights the numerous areas of agreement between them, focusing on the recurrent theme of continuity and change. It suggests that some differences between categories stem from varying attitudes toward governance and constitutional change, and also assesses how proximity to the devolution process creates shared expectations among some actors in all three categories. Finally, it draws conclusions about elites' aspirations for new forms of governance in Scotland and the successful operation of multi-level policy-making.

GOVERNANCE

Chapter One introduced a working definition of governance that focused on the changing role of the state, which acts as a co-ordinator among the diverse interests seeking a role in the policy-making process. Through frequent interaction over the past decade, political elites in Scotland have developed their own understanding of this term with some shared elements. The thesis identified this definition by asking elites about their preferred methods of policy-making, attending conferences where elites discussed their vision of post-devolution Scotland, and analysing civic and political documents that made suggestions about ideal legislative procedures. Based on this triangulated approach, the thesis found that the 'Scottish' conception of governance is based on the ideals of transparency and democratic accountability.

The thesis discovered that while many elites supported the objectives of governance, they disagreed about its operation. Although they may think they share a similar vision of policy-making, their divergent views are reflected in the different words they use to describe its practical details. This discrepancy could cause

problems in the future, particularly as some elites desired a more radical construction than others. By analysing the vocabulary used by elites in interviews, public statements, and documents, Table 7.1 synthesises the disparate understanding of governance between the three typologies. It illustrates how these actors emphasised different key principles, stressed the importance of relations with various actors, and desired contrary methods of interaction in the legislative process. Like its counterpart in Chapter Two, the table recognises the blurred boundaries between categories. For example, some tenants who belonged to the Constitutional Convention shared the architects' wish for greater civic involvement in the political process, and various members of each category endorsed all of the key principles. Consequently, the table omits vertical lines between the categories to illustrate overlapping membership and the fluid nature of the debate.

Table 7.1 Understanding of Governance

	ARCHITECTS	BUILDERS	TENANTS
Defining Principle	Participation	Co-Operation	Partnership
Defining Relation	Civic-Politician	Official-Official, Politician-Politician	Politician-Civic
Defining Process	Involvement	Liaison	Consultation

Similarities and differences between the actor types are illustrated by elite perceptions of the Scottish Parliament's European Committee. The thesis began by assessing support for its CSG-proposed holistic structure, a potential tool for fostering new forms of governance. There was nearly unanimous support among actors in all categories for the mainstreaming of European affairs into the parliament's work. Most agreed that the European Committee should include MSPs from other subject committees, and that it should pass single issue legislation, such as agriculture, to those committees. They were pragmatic about the pervasive effect

of European issues on the domestic agenda, and agreed that a cross-cutting approach was the most efficient way of managing directives.

In terms of function, nearly all respondents believed the committee would scrutinise and filter EC legislation. However, Table 7.1 shows how the differing needs of actors' institutions affected their emphasis on the committee's additional tasks. For example, only architects expected the committee to play a significant role in implementation. As a result, they wanted to be involved in discussions about the most appropriate methods. Builders stressed the logistical process of handling legislation, citing the need to filter documents and liaise with officials and politicians at other government levels. Many tenants anticipated that the European Committee would pass topical issues to other committees, which could consult civic interests as required. The committee could then focus its attention on macro issues, which are arguably more interesting and politically salient.

There were similar divisions of opinion when elites were asked about the inclusion of non-MSPs on the European Committee. Despite some disagreement within categories, it is here that the varying expectations of the actor typologies about the operation of governance are most striking and exemplify the defining themes presented in Table 7.1. The parliament's architects, some of whom participated in the Constitutional Convention and worked for organisations that 'spoke' for Scotland in the absence of a legislature, understood governance as civic *participation* in policy-making. Based on this guiding principle, all civic interviewees desired involvement with politicians in the legislative process. However, there were conflicting demands among architects as perceptions of this defining process ranged from giving evidence (consultation) to joining parliamentary committees (direct involvement). These preferences related to the nature of an elite's institution: members of civic organisations saw participation as symbolic and desirable in itself; those affected by legislation, such as COSLA and NFUS, desired an inside voice in policy-making; and businessmen, whose industries were more affected by reserved areas, wished to be consulted but placed less emphasis on extensive interaction with politicians.

The other two categories articulated slightly different conceptions of governance. The parliament's builders were more concerned about Scotland's task of producing quality legislation within the UK structure than with incorporating civil society more closely into that process. Although officials supported a holistic approach to policy-making, many were sceptical about the civic desire for a more participative democracy and questioned proposed consultation mechanisms. Their definition of governance focused on *co-operation*, especially among Scotland's politicians and officials working at three tiers of government. They made few references to a legislative role for civil society, preferring that civic organisations promote rather than shape policies. Builders emphasised liaison as the defining process of interaction: they expected guidance from the concordats, cited goodwill between civil servants, and stressed the importance of information exchange among politicians.

Finally, the parliament's tenants employed the rhetoric of governance most frequently. Focusing less on structures and links with other politicians, they articulated the civic desire for 'joined-up' government and collaboration with policy users. They defined governance as *partnership*, an understanding that was particularly evident in the manifestos of all four parties, and emphasised defining relations with 'the people' and civic organisations. Although tenants shared the architects' hope for greater interaction, it remains unclear what their support means in practice. Many tenants described the defining process of governance as 'consultation', rather than the more extensive 'involvement' desired by some members of civil society. In particular, there was debate between parties with varying degrees of government experience: 'opposition' parties (SNP, Liberal Democrats) held people's assemblies to ascertain the public view and their members expressed tentative approval of the inclusion of non-MSPs on committees, while candidates from parties with recent government experience (Labour, Conservatives) were more reluctant about radical mechanisms and cited their role as elected representatives.

The most contentious issue in discussions about new forms of governance is the nature and extent of civic involvement. Expectations were the closest between

architects and tenants, which can be partially explained by co-operation in the Constitutional Convention and CSG, some overlapping membership between categories, and a similar understanding of the electorate's needs. Builders' scepticism may present the most serious obstacle to reform, particularly as most elites expected officials to retain their dominance of the internal policy-making process (at least under unionist administrations). However, the difficulty of reaching an acceptable compromise could be compounded by tension within - as well as between - actor categories. Indeed, the preceding discussion illustrated how architects and tenants disagreed amongst themselves about the desired role for civil society.

Another aspect of the 'Scottish' conception of governance is the prevalence of informal contacts within a small elite. This phenomena was referenced by some interviewees, and was evident through attendance at Scottish political events: certain individuals attended or spoke at nearly every meeting, and references were made to past events and comments by other active elites. These actors clearly knew each other well, often having attended university together, worked together, or at least served on a committee together. Such close contact enabled the development of a common language, shared goals, and civic trust. It also accounted for the high degree of consensus among actors about the parliament's anticipated operation and effect on policy-making, as evidenced by interviewees' tendency to reference CSG proposals.

These relationships may be beneficial to the creation of new forms of governance, as actors are comfortable working together and have broadly similar aims. Indeed, those with work experience in Brussels emphasised the importance of links in a contact-based policy-making environment. However, the dominance of key individuals also raises concerns about the potential exclusivity of Scotland's political elite. 'Outsiders' may struggle to find a niche, and there is a danger of (perhaps unintentional) clientilism as people utilise connections to obtain a political voice. The challenge in Scotland, therefore, is devising a system that retains the benefits of close interpersonal contacts while remaining open to interested participants - including those who were not previously involved.

There is also growing awareness among elites about the importance of governance within the UK, particularly in terms of relations between and among builders and tenants. Most elites in all categories supported interaction between Scottish politicians at three tiers of government, particularly to exchange information and exert influence on multiple levels. There was widespread recognition that such co-operation has been lacking in the past, as many called for more cordial relations between MEPs and MSPs than has been experienced previously with MPs. As Table 7.1 showed, Scottish builders placed the strongest emphasis on the need for liaison; in particular, they highlighted links between committee conveners, the ability of MPs to participate in debates and ask questions, and the role of the Secretary of State. Also, the majority of elites in all categories acknowledged the dominant role of officials in pre-devolution negotiations between Scotland and the UK. Expecting this practice to continue under Labour administrations in Edinburgh and London, they called for the preservation of good working relationships north and south of the border.

At present, the 'Scottish' view of governance remains a predominantly domestic concept that has yet to incorporate fully the European dimension. Although interview questions concentrated on Scotland's role in Europe, many respondents emphasised domestic structures and outcomes. When issues of governance were viewed on a European level, they evoked a pragmatic recognition from nearly all actors that overlapping policy competences must be shared by multiple levels of government. But some seemed uncertain how to co-ordinate activities on three tiers, instead highlighting their primary tasks: those in Brussels said all sub-national authorities face this overlap; Whitehall officials stressed the need to maintain a unified UK line; and Scottish-based respondents highlighted the executive's ability to implement legislation. Many also cited potential domestic problems, fearing conflict (both partisan and ideological) between Scottish and UK governments of differing political complexions could hinder participation and representation. However, there is growing awareness that the Scottish Executive can utilise the principles of domestic governance to participate more successfully in EC policy-

making. As later sections will explain, the aims of co-operation, participation, and partnership should be as effective in Brussels as they are in Edinburgh.

SCOTLAND'S EUROPEAN INFLUENCE: DOMESTIC

After assessing elites' perceptions of governance, the thesis turned to their expectations of multi-level policy-making by considering the Scottish Executive's ability to sway the creation of EC legislation. The thesis discovered a link between these topics, as most elites in all categories believed Scotland's European involvement would have predominantly domestic effects. Elites did not expect the parliament or executive to exert significant influence on UK or EC policy *outcomes*, as some even questioned whether domestic legislation would differ from that produced by the old Scottish Office. Instead, most focused on the potential for a more participative and transparent policy-making *process*.

Despite this general consensus, varying attitudes toward constitutional change between actor categories caused some divergent opinions of Scotland's European role. Further differences between the views of individual elites may have resulted from their proximity to the devolution process, creating contrary opinions within categories and shared aspirations across them. This section will synthesise and compare elites' views on domestic channels of influence, while the following section will assess their expectations about European channels.

Difference in Representation The thesis began its study of multi-level policy-making by considering whether Scotland was adequately involved pre-devolution in the UK's formation of EC negotiating lines. Most elites in all categories said Scotland was represented as part of the UK as a whole, although they disagreed strongly about the government's handling of distinct Scottish interests such as agriculture and fisheries. It remains unclear whether this dispute stemmed from frustration with the policy stances of the Conservative government (1979-97) or a flaw in the mechanisms used to create the UK position; the former seems more likely given the satisfaction expressed by some actors (particularly non-politicians).

Many elites, when asked to evaluate Scotland's domestic involvement in EC policy-making, cited the dominant role of the civil service but added that the lack of

transparency hindered accurate assessment. There appeared to be a correlation, however, between elites' proximity to the legislative process and their identification of Scottish participation. Most architects, some European builders, and tenants from 'opposition' parties - all of whom had little first-hand information about government procedures - concluded that Scotland was badly represented. In contrast, architects with European experience (representatives of Scottish industries, COSLA, Scotland Europa), UK builders, and tenants whose parties had recently served in government reported adequate Scottish involvement.

When questioned about the likely difference that devolution would make to Scottish involvement in UK decision-making about EC policy, most elites across the actor typologies emphasised the Scottish Executive's handling of domestic affairs and ability to implement EC directives in devolved areas. Although the Scottish Office occasionally implemented differently from England in the past, UK builders thought this would increase post-devolution as the existence of a domestic legislature enables more time for thorough consideration. Architects expected the parliament to become a focus for interests, involving civic actors in pre-legislative scrutiny and consultation.

Despite hopes for a new style of policy-making, the majority of elites in all categories expected the internal machinery to remain the same as most negotiations between Scottish and UK governments will continue through existing civil service channels (at least while Labour controls both administrations). On one hand, devolution may *change* the legislative process in Scotland by making it more transparent and accountable; this reflects Donald Dewar's aspiration that the parliament will 'democratise the Scottish Office'. On the other hand, elites anticipated *continuity* through the work of a unified civil service; this raises questions about the effectiveness of the parliament's new operating practices and may lead to calls for civil service reform.

Most elites in all categories expected devolution to make Scotland's views known more widely at home and abroad. In the UK, the parliament provides another tool for Scotland to lobby Westminster; in Europe, it confers democratic authority on the assertion of Scottish interests. Such visibility introduces greater accountability

into the policy-making system, enabling the Scottish electorate and other European states to judge whether the UK government has incorporated Scottish views. It also gives Scotland a higher profile and - as one interviewee described it - 'a bigger drum'.

However, it is questionable whether Scotland will actually win more battles as transparency does not necessarily equal increased political persuasiveness. Indeed, concern about *decreased* representation was expressed by some elites who remain sceptical about the devolution settlement. Both Conservative and SNP tenants predicted less interaction between Scottish and Whitehall departments, suggesting Scotland will lose Cabinet links and have a weaker (or eventually no) Secretary of State. SNP candidates were particularly concerned that the devolution settlement is premised upon Labour administrations in London and Edinburgh, expecting differences to be 'cobbled together' by the civil service while the London position will prevail. They questioned the ability of an SNP administration to participate actively in the European legislative process, predicted that the UK could refuse Scottish participation in areas deemed 'reserved' (including Europe), and suggested that the UK government will serve as a 'gatekeeper' by controlling the extent to which Scotland is involved. Such perceptions fuel the party's calls for 'Independence in Europe', as they argue that Scotland needs a direct voice in EC policy-making.

In addition, several architects predicted a decline in the level of Scottish representation in UK legislative activities. Some suggested that officials could lose information through civil service channels, ministers may be marginalised as decisions are taken in London, tensions between the executives could hamper Scottish involvement, and formerly Scottish-run issues such as forestry will be handled by UK ministers. Businessmen who are affected primarily by reserved areas were particularly concerned about Westminster disregarding Scottish input, while several Edinburgh-based 'Englishmen' said Scotland may be seen by those south of the border as over-represented in the House of Commons and the Cabinet. There were also conflicting concerns that Scotland may become too insular in an attempt to solve all problems itself or too independent by repeatedly bypassing Westminster.

Difference in Policy The thesis then considered whether distinct Scottish representation in UK and European negotiations is necessary, seeking to determine if Scotland's policy objectives differ substantially from England's. There was unanimous agreement among all actors about Scotland's European priorities, as they emphasised policies that are devolved or where Scotland has a statistically disproportionate interest or approach to the sector. In particular, they cited agriculture, fishing, and structural funds. Elites conceded that these areas do not differ from English priorities in *substance*; rather, Scottish preferences vary in *emphasis* due to distinct history, geography, and institutions. While elites did not expect the Scottish Executive to promote a radically different stance on EC policies from England, they said it could accommodate more subtle needs by implementing directives, lobbying Whitehall, and promoting views to the Commission and other sub-national authorities.

Domestic Channels Despite a mixed appraisal of the UK's past representation of Scottish interests in Europe, nearly all elites in every category stressed the continued importance of domestic negotiations after the parliament's establishment. They cited officials as the most effective pre- and post-devolution channel for relaying Scottish views to Whitehall, as the UK civil service remains unified and ministers are mainly involved only when problems arise. UK builders, who have the greatest knowledge of past and present procedures, did not expect devolution to affect Scotland's level of representation or input into UK deliberations. They explained that Scottish officials already participate in areas of interest and this process will simply be formalised (at least under Labour-led administrations). However, elites coupled their recognition of continuity with an emphasis on likely change. Unlike the internal handling of disputes during 'administrative devolution', many elites expected the parliament to publicise the existence of different opinions from England. While time will demonstrate the effect of this added publicity, *therealpolitik* of media and political pressure may force the UK government to acknowledge Scottish views.

Elites, drawing from their conception of governance, also stressed the importance of co-operation between politicians on different political tiers. Although uncertain about relations between the parliaments and their committees, elites highlighted

partisan links and personal connections (e.g., Scottish chair of the Commons' European Committee). UK builders, as Table 7.1 suggested, were the most effusive about such connections. Some architects and tenants (particularly MEP hopefuls) envisioned a greater role for MEPs, who can provide an early warning about forthcoming legislation, information about other states' position, and a Scottish voice in the European Parliament. These actors also said MPs can focus on reserved matters, pressure the government, and ask parliamentary questions.

UK Constraint Although elites emphasised domestic co-operation, the thesis questioned whether they expected the UK government to restrain Scotland's autonomy. This was tested by evaluating their views on the ability of the parliament and executive to take positions on reserved issues (including Europe), the likely limits of the concordats, and the effectiveness of the 'Westminster Bypass'. Most elites in all categories agreed that Scotland could pursue its own agenda with relatively little interference; however, actors within and between categories presented nuanced views on the effectiveness of these mechanisms.

When asked about the likelihood of parliamentary debates on reserved policies, the majority of elites said the new legislature would want to consider all relevant issues but warned about the need to prioritise devolved areas. UK builders at all levels were not opposed to such debates, agreeing that reserved issues may affect devolved ones and that the UK cannot prevent discussions. Tenants' views seemed to be premised on their opinion of the devolution settlement: Conservatives were the most hesitant and feared that autonomous action could damage the union, while the SNP supported such debates and hoped the parliament would acquire more powers. Similarly, architects with vested policy interests expected the parliament and executive to take a view and lobby Westminster. However, this is an inadequate measure of their autonomy as it remains unclear what effect - if any - Scotland's stance will have on the UK position.

A more effective test is elite predictions about the potential restrictiveness of the concordats. The regulation of several channels of participation by these agreements confirmed the belief of some architects and tenants that builders would exercise significant control over the internal policy-making process. Consequently, attitudes

about their effectiveness differed by category. Some architects held the optimistic view that guidelines would guarantee increased Scottish participation. In contrast, most tenants - with the exception of the Conservatives - suspected they would restrict Scottish involvement. UK builders, who spoke with inside knowledge, agreed that the concordats were not legally binding and could be amended. However, their responses varied according to their views on devolution: Whitehall officials repeated the need for a unified UK line, while Scottish Office officials expected their southern colleagues to have difficulty relinquishing their legislative dominance.

When the concordats were published, they confirmed builders' predictions that existing procedures would become more formalised. However, they were ambiguous about the extent of Scottish participation - particularly in the event of an SNP administration. It seems unlikely that the policy-making process will change significantly in the short-term, as many officials who drafted the concordats will continue working together after devolution and as Labour forms the government in both administrations. But it is too early to judge whether the concordats will restrict Scottish activity, allow innovative procedures, or survive partisan differences when different parties hold office in London and Edinburgh.

Finally, the thesis considered whether the Scottish Executive could 'bypass' Westminster to promote its views directly in Brussels. Most elites in all categories, with the exception of SNP supporters, agreed that Scotland could pursue autonomous action but would be more effective with the UK government on its side. They recognised the domestic repercussions of opposing the UK, which may not support Scotland on future issues. Most concluded that co-operation is more effective than opposition: although the Executive *could* approach the EC autonomously, elites questioned whether and when it *should*.

Within this general consensus, several actors in each category presented divergent views that seem linked to their attitude about the devolution settlement. For example, some builders (Whitehall officials) and tenants (Conservative politicians) were fearful about the implications of autonomous Scottish action for the preservation of the United Kingdom. In contrast, other elites - particularly those

with government experience - admitted that the 'Westminster Bypass' occurs already. Several tenants (SNP candidates, Labour MEP) said the strategy should be used if the UK government fails to incorporate Scottish views on important policies. Other architects (COSLA officials) and builders (Scottish Office officials) said Scotland could highlight distinct needs or promote issues that are supported but not prioritised by the UK. However, all proponents called for a cautious usage of the strategy on a case-by-case basis. The next section will recall elite expectations about European institutions that are likely to be sympathetic to such approaches.

SCOTLAND'S EUROPEAN INFLUENCE: BRUSSELS

Thus far, the chapter has assessed elites' support for governance and linked it to their expectations about the predominantly domestic effect of Scottish involvement in the European legislative process. This section provides a comparative analysis of research findings about Scotland's anticipated role in EC institutions. In particular, the thesis considered elite views about the function of the Executive's European office, the likelihood of Scottish participation in the Council of Ministers, the importance of links with the Commission, and the effectiveness of the Committee of the Regions. It found expectations of continuity and change. Few elites believed these channels would enable the Scottish Executive to exert more *influence* on EC legislative outcomes than did the old Scottish Office, although those with Brussels experience were more optimistic about their utility as outlets for Scottish opinions. Instead, most elites expected devolution to alter the nature of Scottish *participation*: the parliament will create a higher profile for Scotland, while the executive can speak with democratic authority in the EC policy arena and liaise with sub-national authorities of similar political status.

Scottish Executive's European Office The main 'non-institutionalised' channel used by sub-national authorities to promote views in Brussels is a regional information office. Before devolution Scotland was represented by Scotland Europa, which most elites praised for creating a profile, building networks, and providing a platform for lobbyists. Elites in all categories supported the creation of the Scottish Executive's European Office, which they believed would monitor EC policy

developments and provide Scottish information to the Commission. They did not expect the office to exert greater influence than Scotland Europa, but thought it would raise Scotland's profile, co-ordinate activity among political actors, and participate in networks.

Within this general consensus, there was a correlation between actors' proximity to the devolution process and their enthusiasm about the office's operation. Some architects who were outside observers (businessmen) described the office as an 'embassy', which contrasted with the more measured expectations of those involved in its establishment (officials in COSLA and Scotland Europa). Most tenants identified the office's limits, as distinct from the optimism of their party manifestos; those campaigning for the Scottish and European Parliaments placed particular emphasis on the symbolism of an office and the importance of networking. Builders in the Foreign Office were more suspicious about the office's location and role than were their Scottish colleagues in Edinburgh and Brussels, as the following discussion shows.

The thesis measured the potential autonomy of the Executive office by considering the prospect of conflict with UKRep, and uncovered divergent opinions between and within actor categories. The majority of architects and tenants expected the offices to co-operate and have few problems. Those with proximity to the EC policy-making process (COSLA and Scotland Europa officials) were even more hopeful; they recalled healthy relations between UKRep and Scotland Europa, and predicted that strain would only be part of a larger domestic dispute or driven by partisan differences. However, the divergent views of Scottish and English builders appeared to reflect distinct institutional norms. Scottish Office officials in Edinburgh predicted little conflict, citing the need for co-operation and expecting most disputes to be handled domestically. Their Brussels-based counterparts were even more assertive, expressing a willingness to fight for Scottish interests while acknowledging the possibility of subsequent tension and domestic repercussions. In contrast, Foreign Office officials warned against independent action and voiced concern about the location of the Executive's office outwith UKRep.

Council of Ministers The main mechanism with which national governments can constrain sub-national authorities is the Council of Ministers, whose construction makes it dominated by member states. Constitutional Convention documents and party manifestos emphasised the importance of Scottish participation in Council meetings. However, most architects and tenants admitted this would be limited and dependent upon good relations between the governments. An additional factor will be the political composition of the governments, as unionist UK administrations may be reluctant to include nationalist ministers. Elites hoped Scottish ministers would continue pre-devolution practices of attending Council meetings in areas of disproportionate interest. They also expected them to speak occasionally, although only on behalf of the UK as a whole and according to a pre-arranged stance.

There was disagreement among and between elite categories about the ability of Scottish ministers to lead a UK delegation. Divergent opinions may stem from elites' variable knowledge of the devolution settlement, as well as their differing attitudes toward constitutional change. London-based builders were adamant that UK ministers alone will lead and decide whether to include their Scottish counterparts. Their Scottish colleagues admitted that Scottish ministers were unlikely to lead, but conceded that they may head a delegation in areas of exclusive competence. A few architects with little government knowledge, generally businessmen, expected Scottish ministers to lead in areas of distinct interest; in contrast, academics said this was legally impossible. Tenants also held opposing views: SNP politicians said Scots could lead but questioned its occurrence, while Conservative politicians emphasised the domestic and European repercussions of such action.

The significance of sitting at the big table must be kept in perspective. In particular, European builders questioned the importance of Scottish ministers appearing at Council meetings. They said the practice is more symbolic domestically, and explained that many decisions are taken elsewhere (e.g., domestic negotiations, EC working groups). Despite the growing role of sub-national authorities, therefore, the majority of elites in all categories recognised that the EC operates according to a state-based structure and is unlikely to institutionalise sub-

national participation in the near future. Consequently, most elites in all categories (with the exception of SNP supporters) stressed the importance of domestic negotiations and the increased clout of having the UK - a large and powerful member state - on Scotland's side.

Commission Given the attention attracted by the Council, Scotland's elites - as well as their civic, political, and government documents - were relatively quiet about the role of the Commission in the EC legislative process. However, there was a correlation between actors' personal experiences of the institution and their recognition of its utility to Scottish policy-makers. Many architects and tenants failed to recognise its potential: some businessmen and members of Scottish industries questioned whether the Commission would respond to one of many sub-national governments, while several politicians emphasised Scottish participation in the more visible but less easily influenced Council. In contrast, those architects (Scotland Europa, COSLA) and builders (EC officials) with Brussels experience cited its accessibility to sub-national authorities with special concerns. Highlighting the importance of governance, they stressed the need for Scotland to replicate its strong domestic links in the European policy arena and develop a partnership approach across all levels of government.

Committee of the Regions The most accessible 'institutionalised' channel for sub-national authorities is the Committee of the Regions, as politicians can participate directly in the policy-making process. Like assessments of the Commission, there appeared to be a link between elites' personal experiences of COR and their support for the young institution. For some actors, a lack of knowledge seemed to lead to assumptions of ineffectiveness. The majority of elites were doubtful of COR's ability to enable Scottish politicians to sway policy discussions and criticised its limited authority. They also faulted its diverse membership and tendency to express opinions on numerous subjects. In contrast, some architects (COSLA officials) and tenants (a former Labour member) with direct knowledge of the institution presented more favourable assessments and praised its representation of sub-national interests.

SUMMARY

This chapter has compared and contrasted the expectations of three 'institutional' types of actors, namely, members of civil society, officials, and politicians. The chapter found that most elites in all categories expected substantial *continuity* in Scottish policy-making: the majority of pre-devolution civil service procedures stay in place (at least under Labour governments in Edinburgh and London), while many policy *outcomes* are likely to remain the same. Elites instead focused on a *change* in the legislative *process* according to new forms of governance. In particular, they anticipated more transparent and accountable policy-making, the visibility of distinct Scottish views that may contradict those of Westminster, and the creation of a democratic profile at home and abroad. They also placed varying emphasis on the principles of participation, co-operation, and partnership.

In terms of Scotland's role in Europe, the majority of elites did not expect Scotland to exert greater *influence* on legislative outcomes. Rather, they highlighted the opportunity for more democratically legitimate and discernible *participation*. They expected the parliament to provide a focus for Scottish interests, while the executive can implement EC legislation in a suitable manner, lobby Westminster, and speak in Brussels with greater authority. Elites are beginning to apply implicitly the domestic principles of governance to Scotland's activities in Europe. This was exemplified by their emphasis on the primary importance of working *in partnership* with - rather than in opposition to - the UK government. Some elites (particularly those with work experience in Brussels) added that Scottish success requires *co-operation* with other actors, including MEPs, Commission officials, UKRep, and members of regional networks. While the need for a collective approach limits the ability of individual Scottish organisations and politicians to participate directly at European level, they retain key roles in shaping the implementation of directives.

Although elites held many similar opinions about Scotland's European role, disagreement between categories appeared to result from divergent attitudes toward governance and devolution generally. *Architects* were the most enthused about 'new politics', but remained pragmatic about the opportunities for and limits of their new legislature. They focused on the parliament's ability to foster new working practices

rather than its ability to sway decisions in London or Brussels. In particular, they stressed the potential involvement of civic organisations in creating and implementing legislation. *Builders* did not expect devolution to increase Scotland's participation in EC policy-making or affect legislative outcomes, as many referenced their first-hand knowledge of satisfactory pre-devolution arrangements and expectation that these would continue. Instead, they focused on the co-operation required to maintain efficient policy-making. They also highlighted the novel visibility of Scottish views within a unified UK system. Finally, *tenants'* expectations fell between those of the other actor typologies. Some were involved with the Constitutional Convention, and sympathised with the civic desire for greater involvement. Others clung more tightly to their status as elected representatives and the need to preserve the union. In general, tenants emphasised the parliament's ability to focus greater attention on Scottish issues than did Westminster; this may include consulting civil society and implementing legislation in an appropriate manner.

There was a correlation between elites' proximity to the devolution process and their expectations about the parliament's operation, which was partially demonstrated by disagreement between actors in the same category and agreement among actors in different categories. While the concluding chapter of the thesis will analyse the insights gleaned from an actor-centred approach, it should be recalled how expectations cut across actor typologies in this chapter. Analysis of Scotland's European role showed that elites who were involved in the parliament's establishment - either as campaigners (Labour and Liberal Democrat politicians, civic members of the Convention), members of the Consultative Steering Group (some civic members, politicians), prospective MSP candidates, or Scottish officials designing its structures - appeared more knowledgeable about its operation, optimistic about its ability to forge a new style of politics, and aware of the implications of devolution. Their views were in contrast to the more dubious perceptions of actors who were further removed from the process of constitutional change, which included Westminster and European politicians, some English and European officials, and businessmen affected by reserved areas.

In addition to first-hand knowledge about the devolution process, proximity to UK and European policy-making also seemed to make some actors more hopeful about Scotland's ability to achieve satisfactory legislative outcomes. For example, UK builders were the most emphatic about satisfactory involvement by pre-devolution Scotland in the UK's formation of EC negotiating lines. Officials in Scotland Europa, COSLA, and EC institutions were particularly enthused about liaison between Scottish officials, Commission officials, and representatives of other sub-national governments. Others with personal experience in Brussels, including architects and tenants who participated in EC institutions, were equally optimistic about Scotland's ability to make its voice heard. In sum, the thesis identified a link between actors' proximity to the event in question - including the creation of the Scottish Parliament, the operation of the UK government, and the process of EC policy-making - and positive expectations about the operation of the parliament.

CHAPTER EIGHT: CONCLUSION

This thesis, which analysed the months preceding the re-establishment of the Scottish Parliament, has been a study of elite expectations and perceptions at a distinct point in time. It argued that assessment of a new institution should be premised on initial expectations. In particular, the thesis focused on a factor that is likely to have a significant impact on the Scottish Executive's legislative agenda: the European Union. Although the Scottish Parliament is now over a year old, the elite views recorded in this thesis cannot be tested with any accuracy for several years as the institution needs time to establish its place within Scotland while parliamentarians must develop working practices and a legislative record. Even Scotland's place in Europe must be considered within a given timeframe, as the UK debates membership in the single currency over the next few years and enlargement should occur within the next decade. Thus, the thesis aims to provide a historical record that future researchers can use as a comparative framework to determine whether elite expectations are accurate. This concluding chapter will summarise its main themes.

The thesis focused on two key questions, which will be discussed in the first two sections of this chapter. First, how do Scotland's political elites understand the operation of governance under new constitutional arrangements? The thesis evaluated the perceived consensus about new forms of policy-making that developed among elites during the months and years preceding the parliament's first elections in May 1999. It identified a 'Scottish' understanding of governance, and then considered how various elites interpreted this concept and its legislative implications. Second, how do elites expect the Scottish Executive to influence European policy-making? The thesis examined elites' assessment of domestic and European channels of influence, with a particular focus on the likely difference that the parliament will make in comparison to the old Scottish Office. It found that the answers to these questions were linked: most elites did not expect the executive to

sway the EC legislative process, but instead focused on the parliament's ability to create a new style of domestic policy-making.

In addition to analysing what elites expected, the thesis aimed to understand why they held such views. It analysed elites' answers to the key research questions by adopting an actor-centred approach that took into account the factors shaping their perceptions. The thesis developed a typology of actors that included members of civil society (architects), officials (builders), and politicians (tenants). Drawing from the conceptual frameworks of Multi-Level Governance and New Institutionalism, the thesis examined correlations between an actor's views and the apparent influence of political level and institutional norms. It also argued that the greatest determinant of expectations is likely to be an actor's proximity to the devolution process, identifying links between elites' first-hand knowledge of the parliament's anticipated structures and their optimism about its successful operation. The insights obtained from this approach will be evaluated in the third section of this chapter. Finally, the chapter and thesis will conclude by raising questions for consideration by future researchers.

GOVERNANCE

One of the key questions explored in this thesis was elites' understanding of and support for new forms of governance. Chapter Two summarised academic literature on multi-level governance (Marks 1993, Hooghe 1995, Marks et al 1996), which suggested that European policy-making competences are shared among several tiers of government - including, notably, sub-national authorities - rather than monopolised by the central state. The thesis then separated the term into its constituent parts, thereby allowing more thorough consideration of each component, correcting the tendency of MLG proponents to assume the meaning of governance, and enabling a comparison between academic and elite views of sub-national involvement in EC policy-making.

In terms of governance, the thesis built on a working definition that focused on the co-ordination of numerous actors and institutions to debate, define, and achieve policy goals in complex political arenas (LeGàles 1998). By using a triangulation of

research methods, the thesis evaluated an identifiably ‘Scottish’ understanding of governance. It compared the views articulated by interviewees with an assessment of elite discourse at conferences and an analysis of civic, political, and government documents (e.g., Scottish Constitutional Convention 1995, COSLA 1998b, SNP 1998, CSG 1998m). Developed by elites during the years preceding the parliament’s establishment, this civic and predominantly cross-party conception of policy-making prioritised a holistic approach, democratic accountability, and transparency.

Despite general support for these aims, elites disagreed about the nature and extent of civil society’s role in policy-making. In particular, some architects expressed high hopes, most builders sounded sceptical, and many tenants remained ambivalent. The thesis also found that elites placed varying emphasis on the importance of participation, co-operation, and partnership in the legislative process. These divergent views are likely to cause frustration in the parliament’s early years, as Scotland’s political elites struggle to translate aspirations into practice by devising mechanisms that enable the desired civic involvement.

Similarly, the thesis highlighted elites’ expectations of continuity and change. The majority of actors cited the retention of a unified civil service and pre-devolution procedures (at least under Labour administrations in Edinburgh and London), and did not expect the Scottish Executive to produce different legislative outcomes from the old Scottish Office. On the other hand, the emphasis on new forms of governance caused many elites to believe that the policy-making process would become more transparent, democratically accountable, and inclusive of civil society. A recent study echoed this conclusion, stating that “What has changed fundamentally with the establishment of the Scottish Parliament is the political legitimacy of the Scottish level. . . . [It] is in a more powerful position than the Scottish Office ever was” (Scottish Council Foundation 1999, 6).

A further obstacle to the creation of new forms of governance may be the dominance of a small and exclusive political elite. Although close personal links aided the parliament’s establishment by mobilising disparate organisations into a unified campaign for constitutional change, they may hinder the efforts of newcomers and excluded individuals to enter the political dialogue. For example,

participant observation identified the tendency of the same individuals to attend and be invited to speak at conferences. While time constraints and the dynamic nature of devolution prevented an examination of participative mechanisms, future researchers could build on the aspirations recorded here to examine the effectiveness of various modes of civic engagement. They could also consider whether organisations like the Civic Forum successfully encourage the participation of disaffected individuals and whether political parties' efforts to elect more women and candidates from diverse backgrounds challenge the dominance of established elites.

Finally, the thesis found that Scotland's political elites envisioned governance as a primarily domestic concept by emphasising the parliament's ability to create new legislative procedures. Their understanding of this approach to policy-making has yet to incorporate fully the European dimension, particularly as political links between the three government tiers remain relatively weak. However, there is growing awareness that modes of governance could be effective in the EC policy arena as well as in Scotland. The majority of elites across all categories recognised that overlapping policy competences must be co-ordinated among multiple levels of government, and encouraged the executive to utilise various channels of influence (as discussed in the next section). Some elites, particularly those with EC work experience, said elements of this domestic strategy could be transferred to Brussels through links with Commission officials, participation in European networks, and co-operation among politicians in Edinburgh, London, and Brussels.

MULTI-LEVEL POLICY-MAKING

The second key question of the thesis focused on elites' expectations of Scotland's role in the European Union. From a conceptual perspective, the thesis examined the 'multi-level' aspect of multi-level governance by assessing views about the parliament's structures for handling EC legislation, the executive's links with Whitehall, and its ability to pursue autonomous action in Brussels. The preceding chapter summarised elites' overall views, concluding that the majority of actors in all categories did not expect the executive to increase Scottish representation or influence EC policy outcomes. However, elites believed the

process will become more transparent at home and abroad as observers can judge whether the UK government is incorporating Scottish arguments. Scotland will obtain greater democratic authority, which may enable a more forceful assertion of its views in London and Brussels. Elites also emphasised the domestic effects of accountability and civic participation.

Analysis of multi-level policy-making was grounded in academic literature, which was presented in Chapter Two. In particular, the thesis evaluated whether elites agreed with academic assertions on three key points. First, most MLG proponents recommended that a sub-national authority seeking a role in EC policy-making should lobby the national government first (Mazey 1995, Bache 1998, Jeffery 2000). Elites' emphasis on the initial importance of domestic negotiations reflected these findings, as they cited links between politicians, committees, officials, executives, and parliaments. However, these results seem partially premised on UK and Scottish administrations being led by the same party, as the ease of inter-governmental communication would be strained by an SNP executive (or, indeed, a Euro-sceptic Conservative government). The anticipated continuation of negotiations among officials also raised doubts about Scotland's increased ability to influence the UK line. This led many elites - who admitted that Scotland's European priorities differ from England's in emphasis on particular aspects of a policy (e.g., hill farming versus sheep farming) rather than on substantively distinct policy areas - to conclude that the parliament and executive may not sway policy *outcomes*.

Nevertheless, elites believed that devolution will make the *process* more transparent and inclusive while enabling a nuanced approach. Elites suggested that the parliament and executive can highlight Scottish views through wider consultation with affected groups, discussions of the European Committee, and direct contacts in Brussels. They can also lobby Westminster, making the Scottish position more visible and enabling the public to determine whether it has been incorporated by the UK. Finally, the executive can adjust EC legislation to accommodate Scottish needs by implementing directives differently from England.

Second, Chapter Two referenced academic debates about the extent to which a national government acts as a 'gatekeeper' by controlling the policy-making process

and preventing sub-national access to the European arena (Moravcsik 1991, Hooghe 1995, Pollack 1996, Bache 1998, Jeffery 2000). The belief of many elites that the Scottish Executive may approach EC institutions autonomously calls into question a strict intergovernmental approach. On the other hand, their subsequent admission of its limited influence and recognition of domestic repercussions suggests that MLG proponents overstate sub-national strength.

Most elites concluded that the executive can pursue autonomous action in Brussels, but believed (with the exception of SNP supporters) that it will be more effective with the UK on its side. These conclusions, however, assume that governments in London and Edinburgh will have the same partisan composition. Elites did not perceive the UK government as a gatekeeper - aside from Council negotiations where Scottish participation remains more symbolic than substantive - but as an important *partner*. These findings closely reflect Bache's (1998) conception of 'multi-level participation' and Leicester and Mitchell's (1999) emphasis on 'para-diplomacy', and highlight growing awareness among elites about the importance of using domestic modes of governance in the European policy arena.

Third, academics disputed whether various European channels - including regional information offices, the Commission, and the Committee of the Regions - enable sub-national authorities to influence the policy-making process. In general, Scotland's political elites agreed that sub-national authorities should utilise numerous channels to establish a presence in Brussels (Marks and McAdam 1996, McAteer and Mitchell 1996, Benz and Eberlein 1999). But there was disagreement about the effectiveness of different institutions.

Elites' opinions about the function of the Scottish Executive's European office mirrored those of academics (McAteer and Mitchell 1996, Jeffery 1997c). They expected the office to monitor EC activity, provide an early warning about forthcoming legislation, and present Scottish views to Commission officials. But despite its increased democratic authority, the majority of elites did not expect it to exert greater sway on the legislative process than Scotland Europa. Their views diverged, however, on the anticipated relationship between the Executive office and UKRep.

Jeffery (1997c) measured the emergence of multi-level governance by studying similar relationships in other European states, finding that less ambitious sub-national authorities provoked little tension but had a minor impact on the legislative process. This was confirmed by Scotland Europa's early directors, who said disputes with UKRep were not allowed to occur as the office would have been closed. The majority of architects and tenants expected harmonious relations to continue with the Executive office, perhaps confirming Jeffery's theory as they also predicted that the Executive will not exert greater influence than Scotland Europa. In contrast, builders in the Executive office planned to be politically active and possibly ruffle a few UKRep feathers; Foreign Office officials recognised this possibility and warned against it.

The Commission was mentioned frequently by academics as a likely channel of influence, as it enables sub-national authorities to circumvent the national government and communicate directly with EU officials (Marks 1993, McCarthy 1997, Tömmel 1998, Benz and Eberlein 1999). Elites did not appear to share this view, as few mentioned the utility of lobbying the Commission. The exception was actors with work experience in Brussels, including officials in EC institutions, COSLA, and Scotland Europa. They stressed the benefits of communication with its officials, the opportunity to shape the early drafting of legislation, and the ability to seek derogations from problematic aspects of directives.

Finally, the majority of elites confirmed academics' (McCarthy 1997, Bomberg and Peterson 1998) scepticism about the Committee of the Regions. Many gave it mixed reviews and questioned its effect on policy-making. They also faulted its questionable legitimacy, mixed membership, excessive opinions, and limited influence on policy outcomes. In contrast, those with direct experience of COR were more positive, praising its creation of a regional forum, representation of local government, and dissemination of information.

In sum, Scotland's political elites supported many assertions of MLG proponents about the operation of domestic and European channels that enable sub-national authorities to *participate* in EC policy-making. However, they were more pessimistic than some academics about the Scottish Executive's ability to *influence*

legislative outcomes. They highlighted the continuation of civil service domination, the benefits of approaching EC institutions with UK support, and the limited sway of a small sub-national authority on the European stage.

ACTOR-CENTRED APPROACH

The thesis not only sought to evaluate elites' expectations of Scotland's European role, but also aimed to assess the factors that shaped their views. While it is difficult to identify with absolute certainty what motivated elites' expectations, a more subtle understanding of why actors promote particular agendas and fear various outcomes can enable academics to provide a better informed analysis of events and allow policy-makers to guide more constructive discussions of key issues. The thesis used an actor-centred approach that focused on the views and behaviour of individuals rather than on institutions (Richardson 1996, Marks 1997). It also drew from the conceptual frameworks of New Institutionalism and Multi-Level Governance by examining the effect of institutional norms and political level on actors' perceptions. It added to these theoretical discussions by arguing that individual experiences are a greater determinant of expectations; in particular, the thesis demonstrated a correlation between actors' proximity to the devolution process and their evaluation of the parliament's operation.

An actor-centred approach enabled a nuanced consideration of governance, a form of policy-making that involves interaction among numerous diverse actors. It also aided the appraisal of a new institution that lacked established norms, was intended to operate in a certain manner, and was shaped by various players with diverse objectives. To ensure that the assessment of interview results was not biased by researcher involvement, the thesis compared elite views with documents and public remarks. These triangulated methods highlighted similarities and occasional discrepancies between oral and written statements. This section will review the merits of an actor-centred approach by citing examples from the thesis of elite responses that appear to have been influenced by political level, institutional norms, and proximity to the devolution process.

Level

The thesis considered whether employment at various levels of government (sub-national, national, supra-national) affected elites' expectations, which is a core assumption of MLG. It focused primarily on builders and tenants, as all architects - with the exception of Scotland Europa officials - were based in Scotland. Although actors working at different political tiers expressed some divergent views, analysis found that level of employment alone did not appear to be a major determinant of opinion. Rather, level only seemed significant to the extent that it was connected to an actor's proximity to the event in question (e.g., London and Brussels are farther from the locus of devolution) or the norms of a given institution (e.g., Whitehall and the EC work differently from the proposed Scottish Parliament).

For example, the effect of political level on tenants' opinions appeared linked to their understanding of the devolution process. Working at different levels did not prevent members of the same party from answering some questions along 'party lines', but it seemed to alter their awareness of the parliament's structures and procedures. Not surprisingly, MSP candidates were the most engaged with the process, the best informed, and the most optimistic about its prospects for success. The few Scottish Labour MPs who were interviewed had little awareness of structures; they were also Westminster-centric, referenced the House of Commons as a comparative model, and stressed the UK's lead role. MEP candidates also lacked detailed knowledge, answering questions from their perspective as future euro-politicians and focusing on their anticipated relationships with MSPs. Thus, divergent attitudes among politicians at different tiers could be related to their varying degrees of engagement with the process of constitutional change - and not to the inherent nature of the political level itself.

Among builders, the effect of political level was most likely linked to variable institutional norms. This was illustrated in the thesis by considering the views of Scottish Office officials working at three tiers. All interviewees helped design some structures, were aware of anticipated working practices, and presented similar expectations. Their temporary transition to a different level of government - such as being seconded to London or based in Brussels - did not significantly alter their

expectations, as their current work location apparently mattered less than their shared job experiences and Scottish Office backgrounds. Differences between the views of civil servants who usually worked north and south of the border may be explained by distinct institutional norms in the Scottish Office and Whitehall, and are not necessarily a result of employment at different tiers of government. For example, Scottish Office officials were pragmatic about devolution, expecting to be involved in EC policy-making and appearing relaxed about relations with the UK government; in contrast, English officials in the Foreign Office were more guarded and emphasised the need for a unified UK.

Institution

As the preceding discussion suggested, the arguments of New Institutionalism (Bulmer 1994, Hall and Taylor 1996, Lowndes 1996) seemed most accurate when applied to officials working within the long-standing tradition of the UK civil service. Cross-checking officials' interview statements against government documents revealed few differences, as they usually presented institutional - rather than personal - views. In addition, interviews revealed distinct institutional norms north and south of the border. While all UK officials professed a willingness to cooperate and acknowledged the restrictions inherent to the devolution settlement, Scottish officials suspected their Whitehall colleagues may be overly restrictive. Indeed, Foreign Office officials often presented UK-centric approaches by portraying the UK government as a 'gatekeeper' and (unlike their Scottish colleagues) referring to Scotland as a 'territorial department'. Even the tone of interviews differed, as Whitehall officials were particularly restrained and unwilling to divulge information; for example, the only elite who objected to the tape-recording of the interview was in the Foreign Office.

However, institutional theory was less reliable when applied to non-governmental organisations - including those, such as trade unions and political parties, that seem quite rigidly structured. Unlike builders, tenants and architects were more willing to express personal views and dispute documented 'institutional' views. For example, both Liberal Democrat candidates supported the inclusion of

non-MSPs on committees even though this contradicted party policy. Interviews with officials in the same organisation - such as Scotland Europa, COSLA, and STUC - often revealed divergent personal views.

Tenants in different parties found many areas of agreement, exemplified by the tendency of respondents to reference ideas of Labour MEP David Martin. This consensus can be partially attributed to years of discussions at conferences, co-operation between Labour and the Liberal Democrats in the Convention, and the common accord forged in the CSG. While an institutional approach allows for cross-party consensus, an actor-centred approach discovered surprising alliances. Coalitions of opinion formed between parties with (Labour, Conservatives) and without (SNP, Liberal Democrats) government experience. This was demonstrated in discussions of Scotland's pre-devolution involvement in the formation of the UK negotiating line, and also contributed to varying support for the inclusion of non-MSPs on committees. Another coalition occurred between parties with greater involvement in the devolution process (Labour, Liberal Democrats) and between those with less active engagement due to initial ideological objections (SNP, Conservatives). For example, the latter category questioned whether the new structures would ensure Scottish participation in UK debates about European issues.

The category of architects included a broad range of actors, extending from the Church of Scotland to local government, which complicated efforts to analyse it as a 'set of institutions'. Many of these diverse organisations shared the goal of a parliament and voiced similar expectations about its likely effect on policy-making. However, they approached devolution with divergent personal goals and expectations about its operation. Some civic views were based on assumptions about the needs of others (locating the parliament's agriculture department outwith Edinburgh) or institutional requirements (giving organisations a role in implementation). There also appeared to be a correlation between actors' expectations and their involvement in devolution (member of Constitutional Convention) or previous job experience (former civil servant who now works in business). Even business could not be considered as a single sub-category: those primarily affected by reserved areas were less well-informed about the parliament,

while specialised industries had prepared strategies for lobbying MSPs. The thesis argued, therefore, that researchers cannot assume an elite's views necessarily reflect that of the institution within which he/she works; instead, comments should also be analysed within a personal context that considers other factors that may be shaping his/her perceptions.

Proximity to Devolution and Personal Experience

Although the thesis applied the insights of Multi-Level Governance and New Institutionalism to elites' expectations, it concluded that these approaches provide partial explanations: political level seemed to have a limited impact on opinions, while institutional norms appeared to affect predominantly the views of officials. The thesis therefore tried to identify a correlation between elites' awareness of institutions and practices and their subsequent opinions of them. It argued that if elites were involved with or well-informed about an organisation, then they tended to be positive about its operation; if elites were not participants or lacked information (particularly due to a lack of transparency), then they usually assumed the worst. For example, this study found that those with personal experience of the Committee of the Regions - including a former member and COSLA officials who serviced Scottish COR members - gave more positive assessments than those who lacked similar involvement.

Furthermore, the thesis suggested that among actors with certain shared traits - all elite interviewees were either Scottish by nationality, living and working in Scotland, or dealing with issues affecting Scotland - there was an apparent link between their opinions and their proximity to and engagement with the establishment of the parliament. For example, the previous chapter argued that elites with the greatest knowledge of proposed structures and procedures - including MSP candidates, Scottish Office officials, and civic members of the Convention - had considered the impact of constitutional change, provided similar responses, and were optimistic about the potential for a new style of operating. In contrast, elites who were removed from the devolution process - such as businessmen affected by reserved areas, Westminster MPs, and EC officials - tended to expect the status quo

and were more pessimistic about the parliament's likely effect on domestic governance and EC policy-making.

In addition, some elites referenced the lessons of previous jobs when discussing the operation of the new parliament. Those who were previously employed by the government were more knowledgeable about devolution. For example, businessmen who were former Scottish Office officials had better perceptions of Scotland's pre-devolution relationship with the UK government than their 'non-official' colleagues. A Scottish official drew upon experience in local government when answering a question about the 'Westminster Bypass'. Similarly, elites who worked in Brussels presented more positive views of Scotland's European role. For example, COSLA and Scotland Europa officials, EC officials, and some politicians envisioned more significant interaction between the new executive and EC institutions than those with more localised expertise. This probable link between past experiences and current opinions was exemplified by interviews with two STUC officials, one of whom was a member of EcoSoc, the Constitutional Convention, and the CSG. Although they presented some similar 'institutional' views, the official with greater proximity to the devolution process and experience of EC policy-making was more optimistic about the positive effect of devolution on domestic and European affairs.

Finally, an actor's personality is likely to affect his/her expectations. As this section suggested earlier, members of the same organisation occasionally articulated different views that were seemingly based on nothing more than individual perceptions. Other actors strayed from institutional positions, as a Conservative MEP candidate claimed to be a 'maverick' in the party for his long-time support of devolution and Europe. Comparing elites' statements with documents revealed that politicians often presented more tempered opinions than their party manifestos.

Likewise, assumptions about the personalities of others appeared to shape elite perceptions. The influence of personality on policy outcomes was emphasised by architects who represented Scottish industries, as the disposition of a UK minister can affect his/her attitude toward the policy sector and the participation of Scottish ministers in Council meetings. Scotland Europa officials praised the support their office initially received from a 'Scottish' UK ambassador to the EU. Some builders

emphasised potential links between Scotland's European Committee and the 'Scottish' chair of its Commons counterpart. Indeed, numerous references to the importance of 'contacts' and 'networks' in this 'people game' highlighted support for new forms of governance that involve frequent interaction among like-minded actors in a participative policy-making process.

Insights from an Actor-Centred Approach

Although the researcher cannot prove direct causation in some cases between elite opinions and possible motivating factors, the actor-centred approach used in the thesis provided several lessons. It emphasised the correlation between an actor's expectations and his/her proximity to the devolution process and past experiences, and suggested that the institution and political level of an actor's employment appear less likely to influence opinions. Because Scotland's small size requires political actors to wear many hats, it can be difficult to discern what is moulding their views; in reality, it is probably a combination of factors. While it is impossible for researchers to be certain about what has motivated interviewee responses, it is important for them to understand the background of their subjects and contextualise their comments accordingly. Simply stated, assessment of *what* people say requires an understanding of *why* they say it. It is therefore important for researchers to ensure reliable results by comparing interview statements with documented views and public proclamations. It may also be necessary to interview several members of the same organisation to ascertain an institutional perspective that transcends individual bias.

The insights of this approach can also be utilised by policy-makers. The thesis argued that individuals with personal experience of an institution or process seemed more supportive of it than those who lacked first-hand knowledge or whose awareness was obscured by a lack of transparency. Because many current consultation procedures are limited by the number of actors involved and the issues addressed, *representative governments* should seek to develop new mechanisms that enable more *participative governance*. It would seem that actively involving interested actors in the policy-making process should make them more supportive of

the resulting legislation; this, in turn, should make implementation and enforcement easier and more effective. Individuals would feel that their views had been taken into account, and would have a vested interest in ensuring successful outcomes. At the very least, the legislative process should be sufficiently transparent to allow those concerned to observe the creation of new legislation.

While many elites in Scotland are already actively engaged in the political process, one of the challenges facing MSPs is the involvement of the wider public. The political role of the Scottish people is linked to larger issues of citizenship in a political arena that now includes local, regional, central, and European components. While this thesis lacked sufficient space to assess mechanisms enabling individual participation, academics and policy-makers should consider the wider role of civil society in systems of multi-level governance because it

is and must be a challenge to the political authority that delineates the areas in which its associations may be active. . . . [T]he participants in European civil society cannot but continue to challenge the way in which the European public space is being shaped by national and common political authorities (Meehan 1993, 156).

FUTURE RESEARCH

The Scottish Parliament is a very young institution that will be the subject of public and academic scrutiny for years to come. Initial research was conducted through the Economic and Social Research Council's (ESRC) Mini-Initiative on Constitutional Change, which ran from March to December 1999. The programme included an analysis of how the CSG devised the parliament's standing orders (Brown and Myers 2000), the changing role of the civil service (Parry 2000), and the Scottish Executive's relationship with Whitehall and the European Union (Bulmer et al 2000). The ESRC is currently funding a five-year study of the parliament to pursue these and other topics further. However, it may be decades before a thorough assessment can be made about the impact of devolution.

The thesis can be used as a comparative reference by future students of Scottish politics. It captured a distinct period in the parliament's establishment, focusing on the key months when information about its likely structure and procedures was

available but its partisan make-up was not yet decided, and assessed the aspirations of those who helped devise its structures and who were preparing to work with it. To ensure that the parliament is judged fairly, analysts should reflect on what Scotland's political elites initially believed that it could achieve and feared that it would not. The European dimension is crucial to such appraisals, as the EC will determine a significant portion of the Scottish Executive's legislative agenda while relations with the UK government will also remain important.

In addition to recording and evaluating these aspirations, the thesis has flagged several questions for future research. The most obvious issue is whether elite expectations about Scotland's role in Europe are accurate, while a related concern is the extent to which public assessment moves closer to or farther from these views. In particular, do the domestic and European channels discussed here enable the Scottish Executive to sway legislative outcomes? Or should Scottish involvement be understood as multi-level *participation*? And will elites successfully utilise their domestic conception of governance in their approach to EC policy-making?

Another area requiring further assessment is the civil service, including likely calls for its reform. Public discussions have focused on the process of policy-making within the parliament and its committees, while little attention has been paid to the 'internal' drafting and negotiating of legislation. The assertion of many elites that officials dominated the process pre-devolution and expectation that officials will retain this central role after the parliament opens raise concerns about the legislative difference that the parliament can make within the constraints of a unified civil service. It also remains unclear how the civil service fits into the new 'culture of consent' that the parliament aims to create, and how officials - who grew accustomed to working under a handful of ministers usually based in London - will respond to the scrutiny of 129 eager politicians.

Finally, researchers should examine how various consultative and participative mechanisms enable new forms of governance. Although members of civil society have stated their desire to be involved, there has been a lack of public debate about the 'external' process of policy-making. For example, is the Civic Forum the most effective means of communicating public concerns to policy-makers? Should the

have stated their desire to be involved, there has been a lack of public debate about the 'external' process of policy-making. For example, is the Civic Forum the most effective means of communicating public concerns to policy-makers? Should the Executive and committee make greater use of referenda and citizens juries? Are there lessons to be learned from the experiences of other countries? It will be a particular challenge to enable civic organisations and business interests to voice their opinions in the legislative process, while also involving formerly excluded individuals to prevent the dominance of the 'usual suspects'. The changing nature of relationships within civil society raises further questions about the links between actor typologies presented in this thesis, particularly the extent to which divisions remain within and between them. Do the architects seek to retain control? Or do other organisations challenge their dominance?

In conclusion, this thesis argued that analysts should reference initial expectations when judging a new institution to ensure an accurate assessment. They should also use an actor-centred approach to understand the various factors that formed these views. In terms of Scotland's role in Europe, the thesis found that elites stressed participation over influence. They did not expect the Scottish Executive to sway legislative outcomes; rather, they believed it would enable a nuanced approach by publicising Scotland's views, implementing directives in an appropriate manner, lobbying Whitehall, and speaking with greater democratic authority in Brussels. Recognising the likely continuity of existing civil service procedures under Labour administrations and of policy outcomes, elites concluded that the greatest significance of devolution is the opportunity to change the policy-making process in accordance with new forms of governance. The thesis suggested that this domestic conception - which involves the principles of partnership, participation, and co-operation - could also guide Scotland's relationships with Whitehall and the EC. Although the effectiveness of these new structures and procedures will be tested by time, it seems clear that the future of Europe's newest parliament will remain closely linked to activities across the Channel.

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APPENDIX: RESEARCH NOTES

INTERVIEW QUESTIONS

These are the core interview questions that were asked to the political elites who were interviewed for this thesis.

Scotland's Relations with the UK

- How well is Scotland represented by the UK in EC policy-making?
- How are Scotland's views currently fed into the UK formulation of an EC negotiating line? How will this process work post-devolution?
- What difference will the Scottish Parliament make? In Scotland? Europe?

Scottish Parliament

- What will be the effect of overlapping policy competences between Scotland, the UK, and the EC?
- What are Scotland's European priorities?
- Do policy priorities differ between Scotland and England?
- What will the European Committee do?
- Who should be its members?
- Which committee should handle cross-cutting issues, such as the Common Agricultural Policy?
- Should non-MSPs be non-voting committee members?
- How should the parliament and its committees consult civil society?

Scottish and UK Governments

- What is the role of Scotland Europa? Has it been effective? How will its role change post-devolution?

- What will be the function of the Scottish Executive's European Office?
- Will the Scottish Executive Office face conflict with UKRep?
- Should the Scottish Executive utilise the 'Westminster Bypass' and pursue autonomous action in Brussels? Can it promote a different line from the UK government?

Scottish Executive and EC Institutions

- Which EC institutions will be the most sympathetic and open to Scottish input?
- Is the Commission receptive to sub-national views?
- Will Scottish ministers speak in Council? Lead? What is the significance of Scottish involvement?
- What role will MEPs play? How should they work with MSPs?
- Has COR been effective? Will it be an effective channel for MSPs to feed Scottish ideas into the EC policy-making process?

EVENTS ATTENDED

The researcher attended the following events to enable participant observation, become familiar with central debates, and identify interviewees.

Lectures

- *Jeremy Peat*, Royal Bank of Scotland; *Neil Walker*, Constitutional Lawyer (15-1-98) David Hume Institute: "The Scotland Bill Explained." (Edinburgh)
- *Simon Bulmer*, University of Manchester (18-1-98) "Whitehall's Role in the European Union." (Edinburgh University Europa Institute)
- *Etienne Gutt*, Cour d'Arbitrage Brussels; *Luis Moreno*, University of Madrid (22-1-98) David Hume Institute: "Europe in Comparative Perspective." (Edinburgh)
- *Malcolm Rifkind* (11-2-98) 1998 McBatten Lecture: "The Future is Not What it Used to Be." (Edinburgh)

- *Dr. Martin Palous*, Centre for Theoretical Studies at the Charles V University in Prague (9-3-98) “The Expansion of the European Union: the Perspective from Central Europe.” (Edinburgh University)
- *Clare Short MP* (10-3-98) Lothian European Lecture: “New Partnerships for the Developing World: A New Challenge for Europe.” (Edinburgh)
- *David Martin MEP; Doug Henderson MP* (13-3-98) “The European Parliament and the UK Presidency: Working Towards a People’s Parliament.” (Edinburgh)
- *Uwe Leonardy*, Ministerialrat Bonn (11-6-98) Centre for Scottish Public Policy and the David Hume Institute: “The Experience in Europe.” (Edinburgh)
- *Bertie Ahern*, Taoiseach of Ireland (29-10-98) Lothian European Lecture: “The Western Isles of Europe at the Millennium.” (Edinburgh)
- *Alice Brown and David McCrone*, University of Edinburgh (9-11-98) Lothian European Lecture: “A New Parliament and Scotland’s Future.” (Edinburgh)
- *Will Hutton*, Journalist and Author (19-11-98) John McIntosh Lecture: “Pandora’s Tartan Box.” (Edinburgh University)
- *Enric Moralles*, Architect of Scottish Parliament (1-12-98) Lothian European Lecture: “From What Time is that Building?” (Edinburgh)
- *Jose Maria Gil-Robles*, President of the European Parliament (3-12-98) “Amsterdam Treaty: Challenges to European Union and Beyond.” (Edinburgh)
- *Donald Dewar MP* (21-1-99) Lothian European Lecture: “Scotland’s Parliament: Making it Happen.” (Edinburgh)
- *Michael Forsyth*, Former Conservative MP (26-1-99) IEA Occasional Lecture: “The Constitution and Liberty.” (London)
- *Lord Harry Ewing of Kirkford*, Co-Chair of the Constitutional Convention (4-5-99) “The People and the Scottish Parliament: Hopes Fulfilled or Fears Realised?” (Edinburgh)

- *Baroness Meta Ramsay of Cartvale*, Government Spokesperson on Scotland and Foreign Affairs and Europe in the House of Lords (8-5-99) Europe Day Lunch sponsored by the European Movement: “Scotland in Europe.” (Edinburgh)
- *Charles Kennedy MP* (30-6-99) Scottish Council Foundation’s Second Anniversary Lecture: “The New Politics - in Scotland and in the United Kingdom.” (Edinburgh)
- *Michael Stabenow*, EU Affairs Correspondent for the Frankfurter Allegmaine Zeitung (28-1-00) Lothian European Lecture: “Where will Europe takes us Now?” (Edinburgh)
- *Geoffrey Martin*, Head of European Commission Representation in UK (3-2-00) David Hume Institute: “The European Union and the Scottish Parliament.” (Edinburgh)
- *Larry Siedentop*, Oxford University (18-8-00) Edinburgh International Book Festival: “Democracy in Europe.” (Edinburgh)

Conferences

- John Wheatley Centre (17-10-97) “Creating a New Democracy in Scotland.” (Edinburgh)
- Centre for Research into Elections and Social Trends in association with the British Academy (21-11-97) 1997 Conference: “Understanding Constitutional Change.” (Edinburgh)
- Scottish Women’s Co-Ordination Group, Women’s Forum Scotland, Equal Opportunities Commission Scotland, STUC (22-11-97) “Scottish Parliament - What Happens Next? An Open Seminar for Women.” (Glasgow)
- Campaign for a Scottish Parliament and Common Cause (4-12-97) “Scottish Parliament’s Buildings Public Forum.” (Edinburgh)
- Regional Studies Association (27-2-98) “Governing Scotland: Problems and Prospects, the Economic Impact of the Scottish Parliament.” (Edinburgh)

- University of Edinburgh's Centre for Theology and Public Issues (27/28-2-98) "A Turning Point in Ireland and Scotland? The Challenge to Churches and Theology Today." (Edinburgh)
- Nexus Scotland (16-3-98) "What do we Need the Labour Party for?" (Glasgow)
- Centre for Scottish Public Policy (29/31-5-98) "The New Scotland: Politics, Society, Culture and the Future of Scotland." (Glasgow)
- Scottish Office's Women in Scotland Consultative Forum. (24-2-98) (Glasgow)
- Centre for Scottish Public Policy (28-8-98) "A New Vision for Local Government." (Edinburgh)
- Centre for Scottish Public Policy (22-10-98) "The Scottish Parliament and the People." (Perth)
- Nexus Scotland (16-11-98) "Re-Imagining Governance: The Unsettled Will of the Scottish People." (Edinburgh)
- Scottish Council Foundation and Institute for European Affairs. (17-11-98) Roundtable discussion about Scotland-Britain-Ireland-Europe, led by Garret Fitzgerald and Paul Gillespie. (Edinburgh)
- University Association for Contemporary European Studies (7/9-1-99) 29th Annual Conference: "The State of the Union: Europe, the UK and Scotland." (Glasgow)
- Centre for Scottish Public Policy (11-3-99) "The Scottish Parliament and the People." (Edinburgh)
- Centre for Scottish Public Policy (29-3-99) "What Difference will it Make? The Scottish Parliament and Policy." (Glasgow)
- Scottish Fabian Society (26-6-99) "Now's the Hour: The Legislative Agenda for Holyrood's First Term." (Edinburgh)
- Centre for Scottish Public Policy (25-9-99) "Britain's Constitutional Revolution: The Scottish Parliament and Beyond." (Edinburgh)
- Governance of Scotland Forum (5-11-99) "Scottish Public Policy in the Information Age." (Edinburgh)

- Edinburgh University's Europa Institute and ESRC (25-2-00) "Devolution, the UK and European Policy-Making: The Challenge for Scotland." (Edinburgh)

Events

- Institute for Citizenship (12-10-98) "Get the Vote Out! Europe 1999." (Edinburgh)
- Scottish Civic Assembly (28-2-98) "What Role for Civic Society?" (Edinburgh)
- Scottish Council Foundation (15-9-98) "Children, Families and Learning Policy Network." (Edinburgh)
- Scottish European Relay Network (29-10-98) "Europe and the New Scottish Parliament." (Glasgow)
- Scottish Express Forum. (24-11-98) Public debate about the Scottish Parliament. (Edinburgh)
- Scottish Civic Forum (20-3-99) Launch of the Forum (Edinburgh)
- Scottish Grand Committee. (22-3-99) Committee's final meeting (Edinburgh)
- Sunday Times/Channel 4 (10-4-99) "Who Leads Scotland?" A debate among the four party leaders (Edinburgh)
- Scottish Parliamentary Election Count (5-5-99) (Edinburgh)
- European Movement and Edinburgh University European Society (11-5-99) European Question Time with MEP candidates (Edinburgh)
- State Opening of the Scottish Parliament (1-7-99) (Edinburgh)
- Scottish Civic Forum (1-7-00) "Scotland's Parliament: One Year On." (Edinburgh)

Political Party Conferences

- *Scottish New Labour Party Conference.* Perth, 6/8-3-98
- *Scottish Conservative and Unionist Party Conference.* Glasgow, 4/6-6-98
- *Scottish National Party Conference.* Inverness, 24/25-9-98
- *Scottish New Labour Policy Forum.* Edinburgh, 7-11-98

- *Scottish Liberal Democrat Conference*. Aberdeen, 5/7-2-99
- *Scottish New Labour Party Conference*. Glasgow, 5/6-3-99

PUBLICATIONS

Research conducted for this thesis led to the publication of the following:

- “Scotland and Europe: Links Between Edinburgh, London and Brussels” (Spring 2000) *Scottish Affairs*, No. 31
- “New Politics in Scotland? Evidence from Holyrood: Part 2” (Winter 2000) *Talking Politics: A Journal of the Politics Association*, Vol. 12, No. 2, with Ailsa Henderson
- “New Politics in Scotland? A Profile to MSPs: Part 1” (Summer 1999) *Talking Politics: A Journal of the Politics Association*, Vol. 12, No. 1, with Ailsa Henderson
- “A New Europe?” (1999) *Holyrood Magazine*, 16 July
- “Scotland’s Politicians” (1999) *MOST: The Journal of the Modern Studies Association*, with Ailsa Henderson
- “Meet Them on the Mound: A Socio-Political Guide to MSPs” (1999) Internet site: www.scottish-parliament.com, with Ailsa Henderson