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**THE INSTITUTIONAL EFFECTS OF  
THE SCOTTISH PARLIAMENT  
UPON ORGANISED INTERESTS**

**HAZEL E C MACIVER**

**PhD**

**2004**

**THE INSTITUTIONAL EFFECTS OF  
THE SCOTTISH PARLIAMENT  
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**HAZEL E C MACIVER**

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requirements of  
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## ABSTRACT

Interest group activity in Scotland has been subject to relatively little academic research. This thesis, begun the same year that the Scottish Parliament opened, looks at the effects of this new political institution (with particular emphasis on the legislature) upon the behaviour and beliefs of six interest groups in Scotland. The effect of the different parliamentary components (the Scottish Parliament as a whole, the Scottish Executive, the committees, the committee clerks and MSPs) on the groups is looked at in detail.

Two of the groups chose not to adopt insider strategies, believing that the parliamentary committees were the best venue for their organisations to target. During the early years of the Scottish Parliament the six groups regarded the legislature (namely the committees) as a target to change policy and not just as a channel to the Scottish Executive.

New institutionalist theory was applicable in explaining the responses of the groups, although one of the three approaches - rational choice, sociological and historical institutionalism – is more applicable than the other two in certain circumstances. Sociological institutionalism is the most applicable new institutionalist approach in explaining behaviour during the bringing about of change; historical institutionalism is most applicable when change is being established as new institutions and rules are set up and rational choice institutionalism is the most applicable approach during times of stability, allowing groups to look to their own self interests. It is possible to predict which approach is most applicable at any one time, depending on the circumstances and whether the group works in isolation or if it interacts with others in the political system.

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*This PhD is dedicated to my grandfather*

**Donald MacIver**

*1909 – 2004*

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*Many are the plans in a man's heart, but it is the LORD's purpose that prevails.*

*Proverbs 19: 21*

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## **CHAPTER ONE INTRODUCTION**

### **1.1 Setting the scene**

On the 12<sup>th</sup> May 1999, Dr Winnie Ewing as the oldest Member of the Scottish Parliament, had the pleasure of opening the first meeting of the Scottish Parliament with the words: ‘...the Scottish Parliament, which adjourned on 25<sup>th</sup> March 1707, is hereby convened’. For nearly three centuries Scotland did not have its own parliament but that changed in 1999 when the Scottish electorate voted for members of the new devolved Scottish Parliament (for more details on the background to devolution see Appendix 1).

### **1.2 Prospect of devolution**

The successful devolution campaign was due in some measure to the contribution of interest groups when a ‘remarkably broad coalition of civic society’ (including the churches, trades unions, local authorities and academics) launched the Scottish Constitutional Convention in January 1989 (Hutchinson; 2001, p.147). The Convention kept the issue of devolution alive and it also set itself the task of making plans for a future Scottish Parliament (this included designing the proportional representation electoral system that was subsequently chosen for the Scottish Parliament). The goal of the Scottish Parliament was finally realised when the Labour Party won the 1997 UK general election after the Conservative Party had been in power for eighteen years. Labour quickly acted on its manifesto promise to hold a referendum in Scotland on the issue of devolution and following the positive referendum result on 11<sup>th</sup> September 1997 (of the 44.9% of the Scottish electorate that voted 74.3% were in favour) the then Secretary of State for Scotland, Donald Dewar, appointed a Consultative Steering Group (CSG) to look at what Scots wanted from their Scottish Parliament. Again, in the manner of the Scottish Constitutional Convention, the CSG was made up of civic society.

The CSG summed up their findings in a report which concluded that the Scottish Parliament should be founded on the four key principles of: power sharing, accountability, accessibility and equal opportunities (Consultative Steering Group, 1998). The vision was for: ‘an open, accessible Parliament; a Parliament where power is shared with the people; where people are encouraged to participate in the policy making process which affects all our lives’ (Consultative Steering Group; 1998, p.v). This is because for some time civic Scotland had been dissatisfied with what they viewed as the increasingly closed system of consultation in Scotland:

‘the character of the relationship between the Scottish Office and Scottish civil society was subjected to unprecedented strain... The allegation that Scottish government paid inadequate attention to civic Scotland was much more cogent when that government was increasingly at odds with the social democratic ethos of civic life’ (Paterson; 1999, p.37).

Interest groups had made a significant contribution into making devolution a reality and they were keen to claim a reward - a Scottish Parliament partly shaped by their expectations. Those expectations included a new kind of politics where power sharing, openness and consensus were to mark the new system of politics in Scotland. McCrone writes that the CSG:

‘reflects the role which ‘civil society’ has played in establishing the Parliament in 1999, its twenty-year history campaigning and agitation, and it helps to convey a sense, most obviously carried by its premier principle, ‘power-sharing’, that Parliament is a creature of society rather than the other way round. It is the autonomous and longstanding history of civil society, beyond the control of the state, which has been the platform on which the new institutions of Parliament and Executive have been built’ (McCrone; 2003, p.45).

The CSG Report invited the Scottish Parliament to endorse the four key principles as a symbol of what the people of Scotland could expect from their MSPs (Members of the Scottish Parliament) and on the 9<sup>th</sup> June 1999, the Parliament debated and agreed that ‘its operations should continue to embody the spirit of the CSG key principles’ (Scottish Parliament (a); 1999, p.13). These principles were designed to achieve ‘an open, accessible and, above all, participative Parliament’ to engage those that were cynical and disillusioned with the democratic process (Consultative Steering Group; 1998, p.3).

With MSPs like George Reid arguing in the parliamentary debate that ‘participation is the star by which to steer this Parliament’ it was no wonder that interest groups were excited and preparing to be part of this new political world (Scottish Parliament (b), col 372). But the CSG principles were centred on the Parliament, not on the Scottish Executive. A lot of the focus at the run up to devolution was on the new parliamentary dimension and not on Ministers and civil servants. This was in part because the power to initiate legislation was conferred not only on the **Scottish Executive** - Ministers and civil servants (chapter 6) but also on the seventeen **parliamentary committees** (chapter 7) and on individual **MSPs** (chapter 8). The legislature was not just going to be relegated to a deliberative function,

instead the whole system was purposely designed to counter executive dominance (Lynch; 2001, p.69). The Parliament (the legislature), particularly its committees, was seen by some enthusiastic supporters as the primary arena in which interest groups could feed into:

‘The parliamentary committees are to be the conduit for inserting civic ideas into the legislative debates... The parliamentarians will rely on advice from civic organisations for the very practical reason that these organisations are well-informed, and provide a counter-weight to the civil service’ (Paterson; 1999, p.38).

### **1.3 The aim: impact of the Parliament**

Despite the contribution of interest groups in bringing about the Scottish Parliament and all the new opportunities that it offered, interest group activity in Scotland has been an area of little study (Lynch; 2001, p.111). It is an aspect of the new political system that remains to be investigated and requiring original research (although Lynch included a chapter on interest groups in his own book). Because of the shortage of material on interest groups in Scotland and because the Scottish Parliament only opened in 1999 when this research began, an ideal opportunity existed to examine the Scottish Parliament’s effect on the activity of six specific interest groups from 1999 to 2001 (see chapter 2 for details about the groups). It has been noted by others how interest groups played a significant role in introducing the Scottish Parliament but there is less material on how the Scottish Parliament subsequently affected Scottish interest groups. Therefore, the overall aim of this research is *to investigate the impact of a new political institution – the Scottish Parliament – upon the way in which outside interests in civil society engage with it*. This aim is relatively unusual in two ways. Firstly, most work on interest groups is concerned with how much influence interest groups have on policy, whereas this research looks at the effects political institution on interest groups. Connected to that, studies on interest group interaction at other levels of governance (such as the UK and European Union) are prolific, but most of the literature focuses on interest group relationships with governments. The relationship between parliaments and interest groups ‘is not one that has been the focus of much literature’ (Norton; 1999, p.2), although the notable exception to this is work done by Norton (1999), Rush (1990) and Judge (1993). Norton concluded that interest groups see parliaments as a channel to government, rather than targets in their own right (1999, p.175) but because the ‘committees of the Scottish Parliament have wider powers than those of any national legislature in Western Europe apart from some Scandinavian democracies’ (George Reid as quoted in Scottish Parliament (c)), this may result in the Scottish legislature becoming a target for interest groups because of its potential to be more powerful in the policy process than parliaments are

generally perceived to be. The Scottish Parliament presents an excellent opportunity to examine whether legislatures can in fact be as attractive to interest groups as governments are if they are given more wide ranging powers.

#### **1.4 Objective one: behaviour and beliefs**

To assess the impact of the Scottish Parliament on interest group activity, a necessary objective was *to analyse in particular, whether the behaviour and/or belief systems of organised interests are affected by a new parliamentary institution*. The major benefit of analysing a new institution is that it allows a ‘before and after’ comparison and an examination of how interest groups responded to the new political system, not just in terms of their behaviour but also in terms of their attitudes. The situation is made even more interesting in Scotland where the new political system was made up of old and new institutions: the Parliament with its committees was brand new but the government, Ministers and the administration, was derived from Westminster structures. Could a new kind of politics be introduced into a system where some of the institutions were rooted in a different culture? Comparison is drawn in the thesis between the reactions of the groups to different components of the legislature: chapter 5 reports on how the Scottish Parliament as a whole affected the groups, chapter 6 looks at the relationship between the interest groups and civil servants and Ministers (the Scottish Executive), chapter 7 analyses their responses to the parliamentary committees and chapter 8 examines the effect of MSPs on the groups. The concluding chapter 9 looks at how successful the Scottish Parliament was in achieving its ambition of introducing a ‘new politics’ based on the CSG principles and whether as a result the Parliament was seen as a target for interest groups, as well as a channel to the Scottish Executive.

#### **1.5 Objective two: new institutionalism**

To explain why the groups responded in the way that they did to the new Scottish Parliament, a theoretical approach was required to explain how political institutions affect the behaviour of individuals. Such a theory already exists – new institutionalism - and it is a well developed body of work. As yet, however, empirical studies building on it are not so common (Powell and DiMaggio; 1991, p.7). New institutionalism is a broad heading that encompasses several approaches. The three most common identified in the literature are rational choice institutionalism, sociological institutionalism and historical institutionalism. All three share the basic premise that institutions affect behaviour but differ in their explanations as to how that occurs. Therefore, the second objective of the thesis is *to examine the extent to which different types of institutionalist accounts established in the*

*literature are applicable in explaining the responses of organised interests.* Chapter 3 outlines the three approaches in detail and in chapters 5 – 8 each of the three approaches is applied to the chapter findings in order to establish if they are capable of explaining why the groups responded in the way that they did to the Scottish Parliament. The three approaches have competed against each other in the established literature or authors have said that there needs to be more give and take between them, but they have generally failed to explain how this would happen. The concluding chapter (chapter 9) will explain how new institutionalism can predict how groups will react in particular circumstances.

To summarise then, this research will provide original work on interest group activity in Scotland, advance new insights into the established works on new institutional theory and will add to the relatively small body of work on the relationship between interest groups and parliaments. However, in order to become familiar with the six groups and to know how the evidence for this research was collected, it is necessary to explain the research methods that were undertaken, which follows in chapter 2.

## CHAPTER TWO RESEARCH METHODS

### 2.1 Case Study

When it came to considering what research methods to use for this thesis, the case study presented itself as being the optimal choice because:

‘In general, case studies are the preferred strategy when “how” or “why” questions are being posed, when the investigator has little control over events, and when the focus is on a contemporary phenomenon within some real-life context. Such “explanatory” case studies also can be complemented by two other types - “exploratory” and “descriptive” case studies’ (Yin; 1994, p.1).

This particular research topic is suited to the case study based on Yin’s recommendations above. The purpose of this PhD is to look at *how* the Scottish Parliament has affected interest groups and *why* this has been the case. Answering the “how” question could just as easily be done by employing a survey technique (and perhaps be more representative) but the “why” part of the equation requires a methodology that can dig deep enough to study motivation. It is highly doubtful that a survey technique would have answered the “why” question satisfactorily, whereas this is one of the strengths of the case study. The case study allows the possibility of looking at motivation, attitudes and how they affect behaviour, while people ‘who routinely work with large datasets and official statistics often make unproven assumptions about behaviour’ (Hakim; 2000, p.36). Secondly, the focus of this research was on a contemporary event (over which the investigator has very little control) - the Scottish Parliament and its effect on interest groups in Scotland since it opened in 1999. Lincoln and Guba (2000; p.31) state that it ‘is difficult to imagine a human activity that is context-free’. For this particular research the Scottish context is highly important which is why case studies were chosen because they ‘stress the holistic examination of a phenomenon, and they seek to avoid the separation of components from the larger context to which these matters may be related’ (Jorgensen; 1989, p.19).

Looking back at Yin’s prescription, the third match is that this research aims to be explanatory by demonstrating how a political institution, the Scottish Parliament, has become the ‘central component of political life’ (Peters; 1999, p.150) in Scotland since 1999 and why it has affected the behaviour of interest groups. The research will also be exploratory for the simple reason that there is a shortage of material on interest groups in Scotland. And because this research involves interest groups, the case study is particularly appropriate according to Hakim, who states that ‘case studies have advantages for research on social groups’,

including ‘larger groups with a shared identity, common activities or interests (such as occupational groups or national pressure groups)’ (2000, p.66).

The case study also allows the opportunity to study normative values which a survey could not reveal because ‘surveys provide only limited information and are often best for telling us what people do rather than why they do it’ (Harrison; 2001, p.78). Knowing “why” is an essential requirement for this research as new institutionalism is the theoretical framework, which as chapter three explains involves looking at how the Scottish Parliament has affected the behaviour and attitudes of interest groups in Scotland. Although Hakim is referring to qualitative research in general, what she says is equally applicable to the case study in that it allows the study of ‘perceptions, attitudes, beliefs, views and feelings, the meanings and interpretations given to events and things, as well as their behaviour’ (Hakim; 2000, p.34). Kane and O’Reilly-de Brun also add that attitudes and behaviours should be looked at in ‘a natural setting’, which is obviously very important in order to get a truer picture (2001, p.215). Again this demonstrates why the case study is the best methodological choice.

### **2.1.1 Theoretical generalisations**

May claims that ‘our findings on the social world are devoid of meaning until situated within a theoretical framework’ (2001; p.33). So armed with the knowledge that ‘the ultimate goal is theoretical insight’ (Gerson and Horowitz; 2002, p.220) it was decided to follow Yin’s recommendation that the case study should use a ‘previously developed theory...as a template with which to compare the empirical results of the case study’ (1994; p.31). This research lends itself to probing the applicability of new institutionalist theory, which (as described in chapter three) dictates that political institutions affect the behaviour of those around it. New institutionalism while well developed, still requires further empirical testing. Eckstein also agrees that the case study is:

‘valuable at all stages of the theory-building process, but most valuable at that stage of theory building where least value is generally attached to them: the stage at which candidate theories are ‘tested’’ (2000; p.119).

However Babbie disagrees with this. He acknowledges that field research may be deductive, but he adds that ‘you seldom if ever merely test a theory and let it go at that. Rather, you develop theories...’ (1995, p.296). But although developing theories is highly important work, it would be worth little until they had been proven to work. Baker states, the ‘aim of science is to establish theories and then to prove (or disprove) them’ and it is the work of science to ‘*test existing theories* with new evidence’ (1994, p.300, original emphasis). Therefore each case will be what Stake terms ‘instrumental case study’, by which he means

‘a particular case is examined to provide insight into an issue or refinement of theory’ (1998, p.88).

A criticism frequently levelled at the case study is that it does not allow for statistical generalisation in a way that surveys do because a case study cannot claim to be representative. However, Yin counteracts this criticism by stating that case studies are ‘generalizable to theoretical propositions’ (1994; p.10). Hammersley and Gomm explain this by saying that where the case study ‘is designed to test or illustrate a theoretical point, then it will deal with the case as an instance of a type, describing it in terms of a particular theoretical framework’ (2000; p.4). The case studies can make generalisations about the theory (rather than about interest groups in Scotland) and if the results of ‘two or more cases are shown to support the same theory, replication can be claimed’ (Yin; 1994, p.31). Baker (1994; p.300) talks about ‘external validity’ which ‘addresses whether the findings of a study can be generalized to another sample’ and she agrees with Yin that this can only be done through replication. The focus therefore is not (as with surveys based on a representative sample) to seek a statistical generalisation. So this research will not be making claims that 75% of interest groups in Scotland say... Instead the focus of this research is to make a generalisation about the theory (if new institutionalism survives the empirical evidence from the case studies), rather than to make claims of representativeness of the interest groups. Yin terms this ‘analytic generalization’ (1994; p.10). Although that is not to dismiss the fact that ‘[c]ertain activities or problems or responses will come up again and again’ amongst the case study interest groups (Stake; 1995, p.7).

### **2.1.2 Selection of cases**

Multiple case studies were deemed necessary to allow for replication. That was an easy decision unlike the process of actually selecting the multiple case studies.

Originally, at the start of the design process a misplaced emphasis was put on the interest groups rather than the Scottish Parliament. (Work was done on studying the different categories that exist for interest groups and time was spent on drawing up definitions for each different type of interest group). The realisation soon dawned that this was an inappropriate way of selecting the cases. New institutionalism focuses on the institution so it became apparent that the cases should be selected from criteria based on the Scottish Parliament.

The selection was still not straightforward at that point either. After looking at options that included choosing the groups based on Bills going through the Parliament, one important

factor soon emerged: the need to include several parliamentary committees because this thesis is looking at the legislature's effect on interest groups and the main way it does this is through its committee system. Chapter 7 describes how the Scottish Parliament has seventeen committees which are a focal point for interest groups endeavouring to have their input into legislation. However, most interest groups do not deal with all seventeen committees as the committees have clearly demarcated subject areas that fall under their competency. So, for example, a group representing the homeless may have very little to do with the Audit Committee but monitor the Social Justice Committee closely. This is important because the committees can have very different cultures depending on the convener, the individual members and the remit of the committee. Therefore in order to establish how the Scottish Parliament has affected interest groups it is necessary to look at more than one group in case that group deals primarily with just one committee. By looking at more than one committee it will be possible to see if the different committee cultures have a bearing on how the interest groups behave or if indeed all the groups are affected in the same way.

It then became obvious that the best way of selecting the interest groups was by parliamentary committee. This firmly put the emphasis back on the Scottish Parliament and it would allow a deliberate consideration of the different committees. The next issue was deciding on the number of case studies. Again Yin offers advice for this dilemma:

‘the selection of the number of replications depends upon the certainty you want to have about your multiple-case results (as with the higher criterion for establishing statistical significance, the greater certainty lies with the larger number of cases)’ (1994; p.50, see also Hakim; 2000, p.62).

The goal is obviously to achieve as much certainty as possible but on the other hand ‘[r]esearch is the art of the feasible’ (Blaxter et al; 1996, p.145). A balance had to be struck, especially as it had been established early on that there was a need to conduct participant observation due to the qualitative material required to satisfy the normative demands of new institutionalism. As participant observation is time consuming small samples were necessary. One idea was to look at all of the committees (there were sixteen committees when the Scottish Parliament first opened, this increased to seventeen in 2001) and the groups that interacted with them but that idea fell into the unfeasible category. It was then thought that this could be whittled down to a group for each committee but given the timescales even that was deemed impractical. So having already established that it is necessary to look at more than one committee, requiring certainty but also undertaking the achievable it was decided that six parliamentary committees would be picked for the

selection process. The case studies would then be made up of six interest groups - one group for one committee as this would allow for a month of participant observation with each group within the timescales given but also cover a wide range of the committees. A criticism of this approach could be that the committees could have a different effect on different groups. This is countered by the fact that although groups tend to focus primarily on the most relevant committee, they all had dealings with at least one other committee.

### **2.1.3 Non-probability sampling**

The next obstacle was how to select a sample of just six parliamentary committees and six interest groups. (A sample is ‘when you study the characteristics of only some of the people, situations, or items within the group’ (Kane and O’Reilly-de Brun; 2001, p.95)). It was decided to opt for non-probability sampling because it is ‘less strict and makes no claim for representativeness’ (Sarantakos; 1993, p.126). Unlike probability sampling there are no rules for selecting a sample size which means the researcher can choose the sample unit based on his or her own judgement. Kane and O’Reilly-de Brun explain that there are no rules because if there are no claims to representativeness then statistical rules applied to probability sampling to calculate sample size are irrelevant (2001; p.102). Non-probability sampling is more appropriate in research looking at cultural patterns or rules:

‘Because some ideas and patterns are culturally shared, you can reach the point of diminishing returns, in terms of information, fairly quickly: 10 people may be able to tell you what 10,000 would’ (Kane and O’Reilly-de Brun; 2001, p.102).

The non-probability sampling method can be narrowed down further to “purposive sampling”. According to Babbie, anyone carrying out field research if they are going to ‘consciously sample at all’ are most likely to use purposive sampling and this research is no different (1995, p.287). Purposive sampling is where:

‘you select a sample of observations you believe will yield the most comprehensive understanding of your subject of study, based on the intuitive feel for the subject that comes from extended observation and reflection’ (Babbie; 1995, p.287).

The committees were chosen on the basis of their convenership. Chapter 7 describes how influential a convener can be in determining how a committee operates because of their personal style and possibly because of their political party. Out of the seventeen parliamentary committees Labour had nine convenerships, the SNP had four and the Liberal Democrats and the Conservatives had two each. The aim was to choose six committees that had a mix of conveners from the different parties. Keeping in mind that there had to be this

balance in selecting the committees, the emphasis then fell on the groups themselves. Because this research was not seeking to make generalisations about interest groups in Scotland as a whole, the selection was not based on the impossible task of choosing six “representative” groups. (‘Case study research is not sampling research’ anyway (Stake; 1995, p.4)). Instead, the selection was based on criteria that would test new institutionalism. Therefore questions were asked such as would the Parliament affect a UK wide group differently from a Scottish based group? Would the Parliament have a different effect on groups that had been established long before 1999, compared to those who were only established as a result of the Parliament’s creation? Would the size and type of group have any bearing? These questions and the committee that the groups primarily dealt with were all taken into consideration and as a result the following six groups were chosen ‘because it is believed that understanding them will lead to better understanding, perhaps better theorizing, about a still larger collection of cases’ (Stake; 1998, p.8).

### **THE FEDERATION OF SMALL BUSINESSES**

**Referred to as:** The FSB

**Primary parliamentary committee:** Enterprise and Lifelong Learning (SNP convener)

**Represents:** small businesses

**Membership:** 13, 500 small businesses in Scotland accounting for 106,000 employees

**Structure:** UK wide with national offices in Blackpool, London (UK Press Office), Glasgow, Cardiff and Belfast (they also have a further eight regional offices).

**Office personnel in Scotland:** 5

**Established in Scotland:** 1974

**About the Federation of Small Businesses:** ‘The Federation of Small Businesses is “a non-party political campaigning pressure group which exists to promote and protect the interests of all who are either self-employed or who run their own business”.

The Federation is now Scotland’s (and the UK’s) largest business organisation. It is run *by* business people *for* business people and funded by member subscriptions.

The Federation in Scotland campaigns to create a political and economic environment that will allow small businesses to prosper and foster the creation of wealth.

The Federation is a member-led organisation with two complementary sides – a strong volunteer base of members, all of who own and run businesses, and Press and Parliamentary officials with supporting staff.

The Federation has a branch, regional and national structure which ensures that the Federation fully consults and represents the views of FSB members.

The Federation Scottish Press and Parliamentary office in Glasgow works closely with members of the FSB Scottish Policy Committee and Regional Organisers, in the promotion of agreed policy.

The Federation is in contact with and provides input to the policy development process of all political parties in Scotland, the Scottish Office, government agencies and a wide range of organisations that impact on the small business sector in Scotland.’

Taken from the FSB’s *Think First Think Business* manifesto, 1999.

## **THE SCOTTISH CHURCHES PARLIAMENTARY OFFICE**

**Referred to as:** The SCPO

**Primary parliamentary committee:** Social Justice Committee (Labour Convener)

**Represents:** churches

**Membership:** twelve denominations

**Structure:** Scottish wide, based in Edinburgh

**Office personnel in Scotland:** 2 full-time and 1 one part-time

**Established in Scotland:** 1999

**About the Scottish Churches Parliamentary Office:** ‘The churches have created the Scottish Churches Parliamentary Office to build a fruitful relationship with the new Parliament. It will enable them to:

- engage effectively in the new political process,
- translate their commitment to the welfare of Scotland into Parliamentary debate, and
- contribute the range and depth of their experience, and their faith reflection on that, to the decision-making process.

Churches are active in every kind of community in Scotland, in ways ranging from personal caring and support, to a wide variety of local and national projects. As churches care and listen, they learn. And they have a strong record of building on that, through tough thinking and faithful reflection. At times, they have a prophetic word of challenge to bring; at times, they have insights to contribute; always, they share concerns for the people of Scotland.

This will be done through briefings to Parliamentarians and to the churches, and by bringing people together for dialogue. Often, this will be happening in partnership with others in Scottish civil society.

Other faith communities and groups may also use the services of the Office.’

Taken from SCPO (a), *What is the SCPO?*

## **MULTIPLE SCLEROSIS SOCIETY SCOTLAND**

**Referred to as:** The MS Society

**Primary parliamentary committee:** Health and Community Care (Liberal Democrat Convener)

**Represents:** people with multiple sclerosis

**Membership:** 44 Scottish branches with over 4,000 members in Scotland

**Structure:** UK wide, with national offices in London, Ingilston, Cardiff and Belfast.

**Office personnel in Scotland:** 12

**Established in Scotland:** 1954

**About the Multiple Sclerosis Society:** ‘Multiple Sclerosis is not a new disease: it was identified about 150 years ago by physicians in Britain and France. The Society’s inaugural meeting was held on 2<sup>nd</sup> December 1953, and the first Scottish branches were formed in 1954. There are now 44 branches in Scotland with over 4,000 members. This strong volunteer-based network provides the vital local support for people with MS, their carers and families.

As a charity, our beneficiaries are people with multiple sclerosis and those affected by it

and by allied conditions, including carers, families and friends.

As multiple sclerosis is a condition without respect for national boundaries, it follows that we work at an international level wherever it is appropriate to achieve our goals.

Our ultimate aim is the eradication of multiple sclerosis.

Our objects and purposes as a charity are:

- To support and relieve people affected by multiple sclerosis
- To encourage people affected by multiple sclerosis to attain their full potential as members of society by improving their conditions of life
- To promote research into multiple sclerosis and allied conditions and to publish the results.

The Council of the MS Society Scotland (which consists of one representative elected by each branch) meets at least annually to exercise its powers, although it may delegate ordinary business to its Executive Committee.’

Taken from MS Society (a), *Our Constitution Scotland*.

## **SCOTTISH PARENT TEACHER COUNCIL**

**Referred to as:** The SPTC

**Primary parliamentary committee:** Education, Sport and Culture (Labour Convener)

**Represents:** parents of school children

**Membership:** around 1,250 member Parent Teacher Associations/Parent Associations

**Structure:** Scottish wide, Edinburgh based

**Office personnel in Scotland:** 3 part-time staff

**Established in Scotland:** 1947

**About the Scottish Parent Teacher Council:** ‘In 1947 a group of parents from Parent Teacher Associations around Scotland came together to share their hopes and ideals for their children’s education. Out of their dreams the Scottish Parent Teacher Council was born. They believed that education was about establishing a working partnership between parents and teachers to improve and to advance the education of children in Scotland.

Our aim is to advance education by encouraging the fullest co-operation between home and school, education authorities, central government and all those concerned with education in Scotland.

SPTC has recognition as a national body for parents. We ask for your views and present them to both regional and national authorities. We are non-party political and non-sectarian. We meet with representatives from all the major political parties in Scotland.

We are consulted by the Scottish Office Education Department, the Convention of Scottish Local Authorities and other national and regional bodies on matters relating to education.

The SPTC has a Board of Directors made up of elected and co-opted members of the Council. Anyone in membership can be elected or co-opted onto the Board of Directors to serve for one to three years. The Council's Board meets once a month to discuss education issues of concern to parents and to determine the Council's response.

Membership is open to Parent, Parent Teacher and other home-school associations, to organisations and associations which are not school based and to individual parents and other persons with an interest in education.'

Taken from the SPTC (a), *What is the Scottish Parent Teacher Council?*

## CONVENTION OF SCOTTISH LOCAL AUTHORITIES

**Referred to as:** CoSLA

**Primary parliamentary committee:** Local Government Committee (Labour Convener)

**Represents:** local authorities in Scotland

**Membership:** 29 local authorities (out of 33)

**Structure:** Scottish wide, Edinburgh based

**Office personnel in Scotland:** 48

**Established in Scotland:** 1975

**About the Convention of Scottish Local Authorities:** 'COSLA the Convention of

Scottish Local Authorities was created during the reorganisation of local government in Scotland in 1975. The argument for establishing a single association to represent all councils was based on the belief that in presenting a united rather than a fragmented front to central government, the bargaining position of local government would be strengthened.

COSLA is the representative voice of Scottish local government and has three key objectives:

- To secure an effective relationship with the Scottish Executive and Scottish Parliament, European institutions and partner organizations, which provides for local government having greater control over its own affairs
- To support local government's role in providing leadership for the communities it represents, strengthening local democracy and public support and understanding of local government
- To support local government's commitment to continuous improvement in the delivery of quality services and value for money.

COSLA also acts as the employers' association on behalf of its member councils, negotiating salaries, wages and conditions of service for local government employees in Scotland with the relevant trade unions.

COSLA also has a responsibility to develop, encourage and promote best practice for local government in partnership with its member councils. Our aim is to enable members of different political groups to have the opportunity to contribute to COSLA's work and to the development of policies that represent – as far as possible – consensus between the political groups.

COSLA is financed by a levy on its member councils calculated on a population basis. The annual budget is around £2 million.

Regular meetings of council leaders agree the overall policy and direction of work. Policy development work takes place through a small number of officers at Rosebery House (48 staff in total) in conjunction with 22 elected spokespersons who are charged with the development of policy matters in an inclusive manner through the involvement of all councils and political groups. Policy documents are agreed by either the

Convention, the meeting of all Councils – where strict party balance is maintained or through one of the regular meetings of all Council leaders.’

Taken from CoSLA (a), [www.CoSLA.gov.uk/](http://www.CoSLA.gov.uk/)

## ROYAL SOCIETY FOR THE PROTECTION OF BIRDS

**Referred to as:** The RSPB

**Primary parliamentary committee:** Rural Development (Conservative Convener) and Transport and the Environment (Labour Convener)

**Represents:** people who support the conservation of wild birds and their habitats

**Membership:** 68,000+ members in Scotland

**Structure:** UK wide with headquarters in Bedfordshire, Edinburgh, and Belfast and offices in Cardiff and Bangor as well as six English regional offices and 3 Scottish regional offices

**Office personnel in Scotland:** Over 130 staff, including those who work in the 50+ Scottish nature reserves

**Established in Scotland:** Before 1914

**About the Royal Society for the Protection of Birds:** ‘Scotland holds two-thirds of the UK’s most important sites for birds. Our seabirds, wading birds, wildfowl and birds of prey are significant not just in a European context, but also on a global scale.

RSPB Scotland is committed to conserving and enhancing Scotland’s unique wildlife heritage. From small beginnings before the first world war, our work today is the responsibility of the Director and over 130 staff forming a network throughout Scotland. This reflects the awareness in Scotland of the special value of our wildlife, which is admired by the rest of the UK and by visitors from across Europe. ... The Director and the staff benefit from the advice of a Scottish Committee drawn from our membership in Scotland.

Birds do not exist in isolation. To conserve them it is necessary to conserve the whole environment, hence the RSPB’s interest in farming, crofting, forestry, fishing and

tourism. Specialist staff help to put forward positive policies based on sound information and a practical understanding of the issues.

The RSPB's broad aim is to promote the conservation of wild birds and their habitats.

The RSPB's objectives include:

- conserving the most endangered bird species and their habitats
- safeguarding Scotland's most important sites for birds through nature reserves and other mechanisms
- providing a range of information and fundraising materials to support this work
- campaigning to inform our members and the public about conservation and the countryside.

RSPB Scotland spends over £4.5 million a year.'

Taken from the RSPB (a), *The RSPB in Scotland*.

The case studies, whilst looking at individual people within each of the six groups are 'not about particular individuals *per se*; reports focus rather on the various patterns, or clusters, of attitudes and related behaviour that emerge' (Hakim; 2000, p.34). That is an important point to remember as particular individuals from each group were interviewed but the focus is on the group they represent rather than the individuals.

Having chosen the case study as the methodology and the groups that were to make up the case studies, the next step was to go and collect the evidence. The beauty of the case study is that they:

'may incorporate the analysis of administrative records and other documents, depth interviews, larger-scale structured surveys (either personal interview or postal surveys), participant and non-participant observation and collecting virtually any type of evidence that is relevant and available' (Hakim; 2000, p.61).

#### **2.1.4 Triangulation**

Using as many sources of evidence as possible is desirable in an effort to achieve triangulation. Sarantakos lists a number of reasons why triangulation is valuable but two of the most important reasons is that it allows for 'a higher degree of validity and reliability' and it uses 'the strength of each method to overcome the deficiencies of the other' (1993; p.155).

It means that a paper submitted to the Scottish Executive and an internal memo can corroborate an interviewee's response. It was therefore expedient to take advantage of the following data collection techniques offered by the case study: participant observation, direct observation, interviews, documents and archival information. Not only will all these techniques add 'rigor, breadth, and depth to any investigation' (Denzin and Lincoln; 1998, p.4) but it will further the aim of understanding the case studies (Stake; 1995, p.9). The advantage of using case studies and participant observation is that they 'have in-built triangulation' according to Kane and O'Reilly-de Brun as 'each involves using a variety of approaches' (2001; p. 215).

## **2.2 Participant observation**

'If we wish to learn anything about political behaviour in a particular context, we must also engage with that context and undertake what is referred to as participant observation' (Harrison; 2001, p.80). Participant observation allows access to the everyday world of the interest groups to see what happens in them from the standpoint of those working within them, how these things happen and most importantly why these things happen (Jorgensen; 1989, p.12). Before a researcher turns up with questions and a tape recorder, people have already applied meaning to their surroundings and the processes that they operate in. It is part of the researcher's job then to interpret what those surroundings and processes are (May; 2001, p.38) and participant observation offers the opportunity to do that. It allows the researcher to see the standpoint of those within the setting, which makes it less likely that the researcher will try to impose her own reality on what it is she is seeking to understand (a potential problem for those using other techniques) (May; 2001, p.149/p.153). As Jorgensen states:

'Accurate (objective and truthful) findings are *more* rather than less likely as the researcher becomes involved directly, personally, and existentially with people in daily life' (1989, p.56).

Participant observation is especially useful because it can pick up on 'nuances of attitude and behavior that might escape researchers using other methods' (Babbie; 1995, p.281). However, there seems to be a consensus in the literature that participant observation 'is more likely to proceed inductively' (Gerson and Horowitz; 2002, p.200). This research is obviously one of those instances that has chosen to go against the grain. By having a theoretical framework beforehand it provided a focus to the observation and the data was not collected to then be forced to fit the theory because the purpose of this research is to find out

to what extent new institutionalism is applicable to the findings of the PhD – either to prove or disprove it. So data that did not support the theory was equally valid and valuable.

### **2.2.1 Participant observation applied to this research**

When the research design was being established, doubt was being cast on whether interviews alone would be sufficient to gain the information necessary to test new institutionalism because two approaches of the theory involved studying the culture, norms and beliefs of the groups. It became apparent that in order to be rigorous, it would be necessary to undertake participant observation. As Babbie states the key strength of participant observation is that it gives ‘comprehensiveness of perspective’ allowing for ‘a deeper and fuller understanding’ of the phenomenon being studied (1995, p.280).

One of the biggest disadvantages about participant observation is that it is incredibly time consuming. This was an important factor as it would have to be applied to six different groups within a limited timescale so after looking at the time available it was decided to undertake a feasible four week period of participant observation with each interest group. The participant observation took the form of working full-time in the office and carrying out any work that the groups assigned the researcher. Four weeks of working full-time would allow sufficient time to get to know colleagues and to observe their behaviour and attitudes.

#### **WORK CARRIED OUT AS A PARTICIPANT-AS-OBSERVER**

**Federation of Small Businesses:** data entry for a survey they had conducted amongst a sample of their members on computer usage; analysis of that data, plus general research work.

**Scottish Churches Parliamentary Office:** summarising Scottish Executive proposal papers/policies, monitoring the parliamentary website for the group’s monthly update.

**Multiple Sclerosis Society:** writing up reports for every health board in Scotland based on the results of a survey of MS Society members; creating a rolling document of all the parliamentary questions that had been asked about MS and related matters.

**Scottish Parent Teacher Council:** administrative work, organising and sifting through documents on the computer.

**Convention of Scottish Local Authorities:** documenting the various bodies and organisations that CoSLA were involved with.

**Royal Society for the Protection of Birds:** going through press cuttings to document how much coverage the RSPB had received in the media and on what topics; monitoring the parliamentary website and daily press for the RSPB's daily internal update.

Harrison states that it is important that researchers 'place' themselves - that is, admit who they are and why the study is being conducted (2001; p.82/83). The researcher for ethical reasons felt this option to be the only viable one and each group was told the purpose of the four week placement in advance. Fortunately, for this research being a "participant-as-observer" (fully participating within the group but with everyone's knowledge that this is for research purposes) was not an obstacle whereas for someone trying to observe other phenomenon this might not have been the case. Another significant advantage of participating in the working life of each group was that they felt obligated to the researcher to a certain extent because she was undertaking unpaid full-time work for a four week period. Before beginning an observation placement it was made clear that rather than remuneration the researcher was seeking information. Therefore, many of the groups went out of their way to provide documents, allowed access to meetings, pointed out information that might be useful and arranged interviews with relevant people.

Those being observed were quite relaxed about the researcher probably due in part because of her age (twenty-three at the time of the first placement through to twenty-five for the last placement), sex (female) and relatively low status (student). Being young (yet old enough to be thought trustworthy and mature), female and still at university made the researcher seem very unthreatening which was an advantage as it made people more open.

Participant observation offered many advantages in not only observing people's behaviour but also in providing access to situations that would not have been possible otherwise. It granted the researcher access to staff meetings where progress was reviewed, strategy gone over and objectives set. Another significant advantage was that access to the shared computer network was granted in each group (this was often necessary to carry out the work the groups wanted done for themselves). The researcher was also invited to accompany a

director to a meeting with an MSP, into a meeting with a civil servant with another group, present when a Minister came to visit a group and also invited to attend one group's annual conference. This was beneficial from the research standpoint because it meant all sorts of documents could be studied relating to the interest groups and the Scottish Parliament - policy papers, notes on meetings, strategies from previous years, memoranda and letters. The tendency for open plan offices proved to be a huge help in the observational process. The researcher (with the exception of CoSLA - the main informants had their own individual offices) was allocated a desk close to the Parliamentary/Policy Officers which made it easier to observe - and also impossible not to overhear phone conversations or comments made to others in the office.

Trust was built up over the course of the observation period and for this reason interviews were generally conducted at the end so that the interviewees would be freer with their answers and give replies that they would not have considered giving to an "outsider". They were also aware that their behaviour and conversations had been witnessed for four weeks so they were less likely to give answers that did not reconcile with their conduct (whereas someone conducting a survey or a "cold" interview has no way of knowing if what the respondents say they are doing actually corresponds to the reality). As Babbie comments '[c]ompared with criticisms that survey and experimental measurements are often superficial and not really valid, field research seems to provide more valid measures' (1995, p.300).

Throughout the research, patterns emerged about how the Scottish Parliament was affecting these groups. Participant observation allowed an understanding as to how and why each group came to a decision on how they interacted with the Parliament and how this compared to how and why another group had come to the same decision but in a different context.

### **2.2.2 Criticisms of participant observation**

Participant observation is often under fire because although it allows the researcher to get to know his/her subject, it can also result in a lack of objectivity. The researcher can find him- or herself "going native" and losing the sense of detachment that they started out with, the effect of this is that the researcher can become selective and produce inaccurate findings so the validity of the research is undermined (Harrison; 2001, p.80). However, Jorgensen gives a counter argument and states that:

'The potential for misunderstanding and inaccurate observation increases when the researcher remains aloof and distanced physically and socially from the subject of study. Participation reduces the possibility of inaccurate observation, because the

researcher gains through subjective involvement direct access to what people think, do, and feel from multiple perspectives' (1989, p.56).

Furthermore, the participant observation undertaken only lasted for four weeks - long enough to get an insight into the groups but too short a period to "go native". The focus of this research is the institutional impact of the Scottish Parliament upon the groups, therefore the researcher was interested in how and why these groups had been affected by the Scottish Parliament rather than in the specific merits of what each group was campaigning for. Case studies also allow the use of other research techniques so documents, interviews (in this case they were all recorded so the answers are verbatim) and evidence given to the Scottish Parliament can all be used to support any observations. The researcher believes that any loss of objectivity was outweighed by the benefits of trying 'to understand how the actors, the people being studied, see things' (Stake; 1995, p.12), what their attitudes were and how they behaved.

Another disadvantage of participant observation is that access is not always granted but this was not really a problem. A request to participate in the very first group approached (the John Muir Trust) was denied because they felt that it would not have been beneficial for the researcher because at that stage (in 1999) it was too early on in the Scottish Parliament's existence. Unison (the trade union) was also approached in 2001 but while they were willing, their circumstances at the time did not allow it as their parliamentary officer had just left and they felt that it would not be constructive unless they had a parliamentary officer in place. Other than that however, it was incredibly easy to get access as most groups were delighted to have a free pair of hands at a time when they were trying to adjust to their increased workload as a result of the Scottish Parliament. (This was reflected in the fact that a lot of the work assigned to the participant were items they had put on the backburner that needed to be done).

Access to politicians and other parliamentary actors is notoriously difficult. This proved to be the case with the parliamentary committee clerks. It was hoped that the researcher would be able to carry out placements with the Scottish Parliament's clerks as they would have offered a real insight into the committees and the Scottish Parliament generally but the Head of the Clerking Services refused this request. In her letter she explained that:

'I am afraid that the terms and conditions under which I and the clerks are employed would prevent us from participating in the research for your PhD. In particular, we cannot participate in any project dealing with attitudes or opinions on political matters or matter of policy.

Accordingly, I am afraid that it is not possible to accommodate your request to shadow committee clerks or provide interviews’.

(Although observation was not granted interviews were later carried out with three of the clerks - interviews set up by other contacts, see section 3.3.5). But getting access is a problem shared with surveys, large numbers of interviews and other methods of data gathering, as someone can refuse to fill in a questionnaire, be interviewed or to release a document as easily as they can refuse to be observed. In fact, if access is granted for participant observation then a whole wealth of information is opened up to you and interviews are much easier to get.

Two of the most damaging criticisms however, is that participant observation has ‘a potential problem with reliability’ and generalisability (Babbie; 1995, p.301, 302: see also Harrison; 2001, p.82). By reliability Babbie means dependability - if ‘you made the same measurement again and again, would you get the same result?’ (1995, p.300). For this reason triangulation is particularly important. The researcher’s observations do not make up the entire body of this research. Emphasis is put on the interviews that were recorded and transcribed verbatim to maximise accuracy. The same is true for the wide range of documents collected (these include policy papers, letters, e-mails, minutes of meetings, plans, newsletters and so on) which were either photocopied or copied by hand, again to ensure accuracy rather than depending on memory or the researcher’s interpretation. A further cornerstone to the reliability of the findings (and one not often available to researchers) is that the Scottish Parliament records its seventeen parliamentary committees’ meetings and all parliamentary debates verbatim on the internet for anyone to access. This is particularly useful for the groups in the case studies that have given oral evidence to various committees and their responses to the MSPs can be compared with the responses that they gave the researcher. By using these different sources of data means that the ‘more information you have about something from multiple standpoints and sources, the less likely you are to misconstrue it’ (Jorgensen; 1989, p.53) and therefore make the research more reliable. In order to provide the reader with the opportunity of weighing up the evidence for him- or herself, the findings outlined in subsequent chapters contain frequent and often lengthy quotes from interviews, the parliamentary committees and excerpts from documents. Babbie did state after all that reliability was only a ‘potential’ problem.

The criticism of generalisability is often a real one for participant research as the researcher has no way of knowing whether what is being observed is “typical” or not. What might be true for one interest group representing parents may not be true for another group representing another set of parents or something else altogether such as animal welfare. ‘The potentials for biased sampling are endless’ (Babbie; 1995, p.302). However, it has already been explained in this chapter (see section 3.1.1) that this research makes no claims to statistical generalisation or the representativeness of the six interest groups chosen. Instead this research is focusing on (what Yin terms) analytic generalisation. The generalisability of this research comes from the theory of new institutionalism – how the Scottish Parliament affects interest groups (if at all).

### **2.3 Interviews**

Having observed the context and the day-to-day world of the groups and individuals within them, interviews then ‘offer a systematic way to uncover people’s experiences over time as well as their perceptions, motives and accounts of these experiences and actions’ (Gerson and Horowitz; 2002, p.221). Interviews are a very important source of information for the case study (Yin; 1994, p.84). They offer the opportunity to understand how people see their world and why they act the way they do according to themselves.

There are various types of interview – structured, semi-structured and unstructured. All of the interviews conducted for this research were semi-structured where ‘[q]uestions are normally specified, but the interviewer is freer to probe beyond the answers’ (May; 2001, p.123). Within the interest groups everyone was asked the same set of questions (if time allowed – one exception was the Acting Chief Executive of CoSLA who kindly agreed to be interviewed but he only had a thirty minute time slot available so a curtailed version of the questions was asked). Asking the same questions allows for greater comparability between the answers given but unlike a structured survey the respondents could answer at length in any way they wanted and elaborate on points that they felt were important to them. For example, the Head of Policy at the RSPB on being told the research was on the Scottish Parliament voluntarily brought up his own experiences, particularly emphasising his interactions with civil servants. The set questions were there to ensure that key points were not missed but there was flexibility within the interviews.

#### **2.3.1 Benefits of participant observation**

Having spent four weeks observing the interviewees, listening to them on the telephone, in meetings, in the coffee area and having built up a degree of trust over the observation period,

it is harder for the interviewees to ‘offer responses that they perceive to be desirable’ (Devine; 1995, p.143). In relation to interviews the other main benefit of participant observation comes at a later stage when those ‘observations facilitate the interpretation of the material’ (Devine; 1995, p.138). Like documents, the interviews are from a specific standpoint in a particular context and they can best be understood if there exists a knowledge of that individual and setting.

### **2.3.2 Tape recorded**

All the case study interviews were recorded with one exception (this was CoSLA’s Press Officer because having just been introduced to him, the researcher judged that he would probably be more forthcoming if he was not recorded so notes were taken instead). Having built up a rapport over the previous four weeks in the interest groups, the rest of the interviewees were quite relaxed about being recorded. If they wished to say something off the record the tape was simply switched off until after they had disclosed that particular piece of sensitive information.

This was also the case for the parliamentary interviews. The three MSPs, three committee clerks and the senior researcher all consented readily to being recorded, although in the case of the clerks they will remain anonymous in order not to compromise the individuals, as a request to the Head of Clerking Services had denied a request for the researcher to interview clerks. Interviews were also carried out with two SNP party researchers and a senior civil servant but these were not recorded. In the case of the party researchers the interviews were by chance. One of the groups had arranged for the researcher to meet these individuals for another purpose (hence the tape recorder was not on hand) but the opportunity arose to actually interview them there and then. The civil servant interview was off the record, and again because of his position as a neutral civil servant he will remain anonymous.

The decision to record the interviews where possible was made for several reasons. Firstly – accuracy. By recording the interviews, the respondents could be quoted exactly, which ensures that the researcher does not substitute the respondent’s words with her own (May; 2001, p.138). Secondly, recording the interview left the researcher free to concentrate on what was being said rather than trying to keep up with the interviewee by scribbling notes down. After having conducted all the interviews the researcher is convinced that a lot of useful information would have been omitted if only notes had been taken. An interviewee may have mentioned something that seemed of little import at the time but as the research and time progressed it took on a greater significance. It also made the interview more

relaxed as the researcher could participate in the interview with eye contact, acknowledging what was being said and being able to tease points out. The literature often points out that tape recorders can be a distraction but modern small dictaphones can be bought which turn the tape over automatically and offer various tape speeds so that a sixty minute tape can last for 120 minutes which nicely covers a two hour interview. (Although it is important to get to know the machine first and ensure the batteries are not running out – during an interview with a committee clerk the batteries petered out. After that for every interview new batteries were inserted!).

However, the major drawback to recording interviews is that you are left with the highly time consuming and tedious task of transcription. A two hour interview can take an interminable day to transcribe. But there is even an advantage in transcribing as it ‘assists the important analytic stage of becoming familiar with the data’ (May; 2001, p.139).

### **2.3.3 Interviews applied to the interest groups**

All the interviews began with the warming up process of neutral, factual questions relating to the profile of the group itself (such as when it was set up, who/what it represented, number of personnel and so on). Following that there came individual sections on the Scottish Parliament as a whole, MSPs, committees, committee clerks, Ministers, civil servants and their interaction with other interest groups. The interviews were designed to discover from the respondents how they thought the Scottish Parliament had affected them and their group in terms of ‘concrete’ examples (such as having to increase personnel or re-prioritising workloads) and also in terms of their attitudes and then to find the reason why these changes had taken place. As Kane and O’Reilly-de Brun point out ‘people’s beliefs and perceptions are as important as what they may actually be doing at the moment’ (2001; p.208). They also make the valuable remark that ‘[b]eliefs are facts just as much as activities are’ (ibid.). So the interviews endeavoured to elicit as much qualitative material as possible which could then be corroborated by documents and/or observation.

The researcher selected who the interviewees were going to be. In some cases the decision was more obvious than in others (for example the SCPO and the SPTC only had three office staff). The researcher selected key informants who were chosen because ‘they are typical, in that they represent a pattern or attitude or have experienced something that you have identified as common’ (Kane and O’Reilly-de Brun; 2001, p.209). Or as Jorgensen simply puts it: they are ‘especially knowledgeable about a matter of interest’ (1989, p.91). For these reasons then the Parliamentary Officers or equivalent from each group were selected and in

the case of the SPTC or CoSLA who did not have such a person, other informants were identified (see below). Any dependence on these key informants was diverted by relying ‘on other sources of evidence to corroborate any insight by such informants’ (Yin; 1994, p.84).

## **PEOPLE INTERVIEWED WITHIN THE INTEREST GROUPS**

### **Federation of Small Businesses**

1. Policy Convener (unpaid, FSB member but in charge of the Scottish FSB)
2. Press and Parliamentary Officer (paid, full-time staff)
3. Deputy Press and Parliamentary Officer (paid, full-time staff)
4. Administrator (paid, full-time staff)

### **Reasons**

The Press and Parliamentary Officers were identified as key informants as their job was to deal with the Scottish Parliament on a daily basis. The Deputy had only been hired as a result of the Parliament opening so she could only provide an ‘after’ picture but the other three people interviewed had been working for the FSB for some time. The Policy Convener is the ‘face’ of the FSB as chairman of the Federation’s Scottish Policy Committee and he was able to provide a different viewpoint from the paid office staff. The Administrator was interviewed to provide background material about the FSB and also to establish how her work had been affected. For a large proportion of the questions she referred the researcher to the Press and Parliamentary Officer. One person who was not interviewed, but would probably have proved to be a key informant was the Policy Development Officer (she had also been appointed as a result of the Parliament opening). However, she worked from home and when she was in the office her time was taken up with meetings so it was not possible to secure an interview with her at that time.

### **Scottish Churches Parliamentary Office**

1. Parliamentary Officer (paid, full-time staff)

### **Reasons**

The SCPO is a very small office and at the time of participant observation, the personnel consisted of the Parliamentary Officer and his secretary although they were just at the end of the process of hiring a part-time research assistant. The Secretary was not interviewed because the office was only created as a result of the Scottish Parliament and all their work relates to it so there would be no before and after picture in reference to her work which was

of an administrative nature. The Parliamentary Officer carried out all parliamentary and media work and represented the SCPO at meetings with other groups/bodies.

### **Multiple Sclerosis Society**

1. Director (paid, full-time staff)
2. Policy Officer (paid, full-time staff)

### **Reasons**

The MS Society had a staff of approximately twelve people. However, a large proportion of that staff worked on fund raising issues. At the time of observation the Director and the Policy Officer were the obvious key informants as they were the two members of staff assigned to parliamentary and press work.

### **Scottish Parent Teacher Council**

1. Development Manager (paid, part-time staff)

### **Reasons**

Out of the SPTC's three part-time members of staff the Development Manager was again the only member of staff designated with parliamentary and media tasks.

### **Convention of Scottish Local Authorities**

1. Acting Chief Executive (paid, full-time staff)
2. Convention Manager (paid, full-time staff)
3. Head of Policy (paid, full-time staff)
4. Press Officer (paid, full-time staff)

### **Reasons**

CoSLA was quite different in that for a large organisation they had no one single person appointed to deal with the Scottish Parliament (although they did have for a short period when the Scottish Parliament first opened). CoSLA had a different approach to the Scottish Parliament, preferring to have everyone incorporate it into their work. Therefore the Acting Chief Executive was selected because of his strategic role, the Convention Manager because she generally has the job of delegating out parliamentary work and the Head of Policy who was the initial point of contact and because of his job of developing policy. His line manager, the Director of Organisational Services, would have been desirable to interview but this was not possible because of his work commitments, indeed he was rarely in the office as

a lot of his work was taken up with meetings (CoSLA staff had a lot of pressure on their time due to staff reductions so getting the three interviews in itself was an achievement). The Press Officer was also interviewed as all the interest groups use the media as part of their strategy to influence the Scottish Parliament and his job had changed considerably since it had opened.

### **Royal Society for the Protection of Birds**

1. Head of Advocacy and Media (paid, full-time staff)
2. Media Officer (paid, full-time staff)
3. Parliamentary Information Officer (paid, full-time staff)
4. Head of Policy Operations (paid, full-time staff)
5. Senior Investigations Officer (paid, full-time staff)

### **Reasons**

The first three interviewees listed were viewed as key informants as they comprise the RSPB's Advocacy and Media Unit whose entire workload was made up of the Scottish Parliament and the media. However, it was also necessary to hear the point of view from someone outwith the unit to see how the Scottish Parliament had affected the rest of the rather large RSPB office and to find out how the RSBP operated before it opened. The other two interviewees were chosen through self-selection after the Parliamentary Information Officer circulated an e-mail round all the staff asking for volunteers to be interviewed. The Head of Policy and the Senior Investigations Officer were two valuable respondents as both had worked for the RSPB for many years and were in charge of two separate departments. They were able to offer informed comment about how the RSPB has affected their units.

#### **2.3.4 Interviews applied to parliamentary respondents**

These interviews were not essential to the success of this research as the focus was on how the interest groups had been affected. However, it was deemed desirable to get an insight from the Scottish Parliament about issues relating to culture and "how things are done". Because these interviews were non-essential they were all relatively short (also this was a practical acknowledgement of the pressure on their time). Therefore the interviews lasted between thirty minutes to an hour.

At the start of the PhD process, the hope was to interview the six relevant committee clerks but after writing to the Head of Clerking Services, this did not appear to be remotely possible. This letter has already been referred to in section 3.2 but to recap she wrote that under the

terms of their employment the clerks could not participate in any project which dealt ‘with attitudes or opinions on political matters or matter of policy’. So accordingly it was ‘not possible to accommodate your request to ... provide interviews’. However, it appears that at least three of the clerks were not so stringent about being interviewed. Rather, they had adopted the Scottish Parliament’s principle of openness, with one of the clerks stating that the researcher could never have interviewed a clerk at Westminster. The interview did not contain any questions on policy matters but it did ask questions about the impact of party politics in committee work, how effective they thought the committees were in relation to the Executive, how the committee chose which groups were going to give evidence and other questions that would come under the banner of ‘political matters’. The three interviews with the clerks came about through other contacts. One key informant at an interest group had a friendly relationship with a committee clerk and suggested that the researcher e-mail the clerk to request an interview, which he readily agreed to. The other two interviews were set up quite by chance. Having arranged an interview with a senior researcher at SPICe (Scottish Parliament Information Centre), the senior researcher suggested that it might be useful if he set up two other interviews with committee clerks, which he accordingly did. The clerks had no problem with being interviewed but asked for anonymity.

The civil servant interview (he was head of a department) came about again by chance through a contact with his wife and he very kindly agreed to be interviewed as long as it was off the record. And (as previously mentioned) the informal interview with two party researchers also came about by accident (one of the groups had arranged for me to meet the researchers for another purpose altogether but the opportunity arose to informally interview them).

Three MSPs were also interviewed – Johann Lamont (Lab), Sandra White (SNP) and Murray Tosh (Con). Other MSPs were contacted for an interview but some refused due to other work commitments while others simply did not respond at all to the request. However, it was possible to get further insights into the MSP point of view through the transcripts of parliamentary committee meetings, articles (in newspapers and books) authored by MSPs and their letters/e-mails to the six interest groups.

## **2.4 Documentation**

Documents are often seen as neutral and independent but ‘a text must be approached in terms of the intentions of its author and the social context in which it was produced’ (May; 2001, p.184). Again, this illustrates the importance of participant observation, which gives the

researcher an understanding of the context and a knowledge of the audience the documents are meant for and what the author is trying to get across. As Jorgensen remarks 'participant observation improves comprehension and analysis of documents' (1989, p.93). One of the main advantages of participant observation however is the access that one has to all manner of documentation and archival records (see section 2.5 for more details on archival records).

#### **2.4.1 Interest group documentation**

The interest groups were very liberal in allowing access to the documents and records that they had. This is because they wanted to be helpful and also a desire to demonstrate that they had nothing to hide. Filing cabinets, folders and computer networks were at the researcher's disposal. An important aspect to flag up is that while documents such as newsletters, briefing papers and reports are readily accessible to almost anyone, other more personal documents such as notes on how a meeting went, internal memos and other papers stored on computer files are not available to the public but only to staff members. In order to remain ethical, permission was asked beforehand to access the computer files and other documents.

To give a flavour of the documents that were used as part of the evidence in this thesis a list is given below:

Annual strategies

Annual objectives and aims

Objectives to achieve from meetings with politicians

Post mortems on meetings/events

Action plans drawn up with public affairs companies

Policy papers

Communications to members

Letters and e-mails to and from politicians/civil servants/clerks

Notes taken from telephone conversations

Reports

Briefing papers

Survey results

Copies of papers presented to political actors at meetings

Written submissions to the Parliament/Executive

Copies of speeches

Pamphlets/leaflets

Newsletters

Notes of advice/opinion to other colleagues

### **2.4.2 Parliamentary documentation**

In relation to the Scottish Parliament the researcher only had access to the same material as the interest groups themselves. This was primarily official documents that could be retrieved from the Scottish Parliament or the Scottish Executive website. These included press releases, policy papers, records of committee meetings, annual reports, the Standing Orders of the Parliament, research papers and so on. Other documents relating to the Scottish Parliament were actually collected from the interest groups and this included letters inviting the groups to submit a response, attend a committee, a group/body set up by the Executive/Parliament and personal letters/e-mails of communication between MSPs/Ministers to the groups. Otherwise newspapers were extensively used to keep abreast of parliamentary activity and behind the scene noises.

### **2.4.3 Newspapers**

Due to the newness of the Scottish Parliament (and thus a lack of written material about the institution) newspapers were used as a source of current information. Whilst acknowledging that newspapers in the UK are generally politically biased, nevertheless they were valuable as an 'effective source for particular details' (Hakim; 2000, p.107). They built up a picture of what was happening in the Scottish Parliament on a daily basis. They were also useful in understanding 'the context of political behaviour' (ibid.), particularly as the politicians themselves read and react to these newspapers.

For the purpose of this research two newspapers in particular were extensively monitored – *The Scotsman* and *The Herald*. These two newspapers were picked for several reasons. Firstly these papers are the two main Scottish daily broadsheets and this is important because their main political focus is Holyrood not Westminster so they carry much more extensive coverage of Scottish political life. As a result of this MSPs have a much bigger input into these papers than in London based papers via their comments, letters, articles, interviews and so on. Scottish interest groups themselves are more likely to find themselves in *The Herald* and *The Scotsman*. While the groups may want to get into the tabloid newspapers (they reach a bigger audience), it is much more difficult for the groups to get featured as the tabloids tend not to allocate too many column inches to the more serious and weighty messages of some interest groups. Culture was also an important consideration, as the Scottish Parliament and the six groups are all operating within Scottish politics and Scottish society, it was therefore imperative to monitor the newspapers that reflect this. Obviously, in England the SNP is of very little import but in Scotland they have a much greater prominence and are the second

biggest political party and with the advent of the new Scottish Parliament came a new electoral system different from the rest of the UK so it was important to use newspapers that reflect the Scottish scene. Another factor is that a lot of MSPs and all six of the interest groups read those two newspapers. In a survey of MSPs conducted by the RSPB, the results revealed that MSPs spent more time studying the Scottish media than the UK media.

The newspaper articles were collected in two ways. The first method was the old fashioned way of simply buying the newspapers and cutting out any relevant articles before filing them under various headings. The second method was more technologically advanced using the archives on the papers' websites and printing out pertinent articles after putting keywords into their search engines.

All these various forms of documents provide a deeper understanding of how the groups have been affected by the Parliament. As Yin comments, for 'case studies, the most important use of documents is to corroborate and augment evidence from other sources' (1994, p.81). The research is not based on these documents alone. In conclusion, documents 'will, therefore, alongside other methods, yield ever more valuable insights into societies at the dynamics of social life' (May; 2001, p.198).

## **2.5 Archival records**

Yin classifies archival records (as opposed to documentation) as service records, organisational records, maps and charts, lists, survey data and personal records (1994, p.83). For the interest groups, personal records such as diaries were very useful. The FSB, for instance, had a simple diary for the whole office making it easy to establish how many meetings they had with the various political actors.

Survey data was also very illuminating. The RSPB had commissioned MORI to conduct a survey of MSPs on what TV and radio programmes they listened to as well as questions relating to environmental interest groups. This was valuable information which the researcher could not have had access to otherwise.

## **2.6 Non-participant observation**

In non-participant observation the observer studies the subject 'from outside the group without being involved in the life of the observed' (Sarantakos; 1993, p.222). This was the case for studying the Scottish Parliament and its committees. Only MSPs and parliamentary clerks can participate in the committees (others do give evidence or advice but they are there

as temporary guests, they are not actually part of the committees). So not being either an MSP or a clerk the obvious option was non-participant observation as it is possible for members of the public to sit and watch the Scottish Parliament in plenary and the committees in session. There were many opportunities to do this during visits to Edinburgh. This was helpful as it backed up information gleaned from the interest groups, from clerks, from MSPs and from reading the verbatim reports of debates and committee meetings on the internet. Yin states that non-participant observation 'is often useful in providing additional information about the topic being studied' (1994; p.87). This proved to be the case because even though the Scottish Parliament provides verbatim committee reports, these reports do not indicate what happens during committee breaks for instance. By observing a committee meeting this point was brought home. Interest groups sometimes send someone just to observe the proceedings as a way to be seen by the MSPs and also to take full advantage of the opportunities that a fifteen minute committee break can provide. Attending an Education, Culture and Sport Committee meeting with the Development Manager of the SPTC, the researcher was able to see how at the break time some MSPs left the room to smoke, other MSPs (of several parties) chatted together while others went and talked to people that they recognised in the public seats. On this particular occasion one MSP came over on recognising the Development Manager and spent the rest of the break talking to her about various items. Just before and after a committee meeting also provide contact opportunities for the groups. This information only became apparent through the direct observation of the committee.

Non-participant observation was also carried out in the parliamentary chamber during question time or at particular debates. Again only MSPs can participate in these activities but they could be observed from the public gallery. This was a useful activity as many people claim when in the full chamber the MSPs stick to party lines whereas in committee they are less partisan. By observing the committees and then the full chamber the researcher could make her own comparisons. Direct observation of the chamber also highlighted how frequently MSPs are moved from one committee to another. For one particular debate, which was based on a committee report, the current committee members had to enlist former committee members to explain and answer questions on the report as they had more involvement with it. So while non-participant observation can be a burden on time, it nevertheless was worthwhile in providing further insights into the Scottish Parliament.

## **2.7 Analysis**

After collecting the information, it is necessary to break the data down into manageable sections in order to make sense of it, a process known as coding (Schwandt; 1997, p.16/17). Before conducting the research, certain categories were already in place for the information to be processed into. These categories existed in advance because to fulfil the requirements of the research it was necessary to examine the different components of the Scottish Parliament and those components became the category headings (and eventually the chapter titles): the entire Scottish Parliament, the committees, the clerks, MSPs, Ministers and civil servants. Once the research was under way, those categories were refined into specific sub-divisions in response to the data that had been collected. Those sub-divisions are now the section headings in each chapter of the PhD. After the field work was completed, it was then a case of going through all the interviews, observations, documents and records and assigning any significant information to a relevant category. (This was done group by group in order to get an overall response for each of the groups, so the responses of the interviewees, the written material and observations made were compared and if they supported each other, they were then put into a composite group response).

Having coded the data, it then had to be made sense of. This was done by comparing the information under each category and coming to conclusions about how the Scottish Parliament had affected the six groups. Those conclusions were then interpreted through the three new institutionalist approaches (rational choice, sociological and historical institutionalism – see chapter 3 for discussion on new institutionalism).

## **2.8 Conclusion**

To conclude then, six interest groups have been selected as the case studies on which this research is based. Participant observation, interviews, documentation and archival records were the methods used to collect the data from the case studies. In order to get an insight into the Scottish Parliament the methods employed were documentation, interviews and non-participant observation. All the data is being used to probe the extent of how applicable new institutionalism is in explaining the response of the groups to the legislature and in the following chapter, the theory of new institutionalism and three of its approaches will be explained.

It is the researcher's belief that these qualitative methods were the most appropriate as they 'capture meaning, process and context' (Devine; 1995, p.138). Not only that but 'qualitative

research, even when theoretically informed, is the most open-ended and hence least biased type of study' (Hakim; 2000, p.6).

## CHAPTER 3 DISCUSSION OF NEW INSTITUTIONALISM

### 3.1 Introduction

*'But since contemporary social science is thought to demand more than accurate descriptions, plausible narratives, and perceptive interpretations, most authors of case studies feel the urge to use their findings as a basis for either formulating or testing theoretical propositions of supposedly universal application. As a consequence, most of these studies begin with a discussion of competing general "approaches" (current favorites are the three institutionalisms, rational choice, historical and sociological) ... (Scharpf; p.8).*

And in the spirit of predictability this study will indeed begin with a discussion of the three favourites that Scharpf listed - rational choice institutionalism, sociological institutionalism and historical institutionalism before applying them in chapters 5-8 which discuss how the Scottish Parliament has affected the six interest groups.

### 3.2 Background

Institutional theories have been around for a while, although the "old" institutional theories focused on the formal powers of institutions, to the neglect of what was actually happening inside them (Blondel; 1995, p.10). This resulted in a "behavioural" response in the 1960s and 1970s, which concentrated on the actors within the institutions and on the more behavioural and social aspects of the political system, focusing on such things as public opinion, interest groups, legislatures, executives, party politics and constitutions (Almond and Verba; 1980, p.106; Parsons; 1995, p.223). However, the behaviouralists (as the institutionalists had done) went too far in the one direction and failed to appreciate that 'politics and policy-making take place in the context of institutions' (Parsons; 1995, p.223) and that institutions are also capable of shaping outcomes (Rosamond; 2000, p.114). From this background "new institutionalism" emerged as a theory that aimed to redress the balance between its institutionalist predecessors and the behaviouralists and so it 'takes into account both the importance of institutions and the way in which these institutions are shaped by the behaviour of actors' (Blondel; 1995, p.10).

New institutionalism is actually an umbrella term that houses several approaches, but all the approaches have one common theme - that institutions are the 'central component of political life' (Peters; 1999, p.150) and that they affect the behaviour of individuals (Lane and Ersson; 2000, p.1; Hall and Taylor; 1996, p.939; Rhodes; 1995, p.46). Although the various approaches of new institutionalism adhere to those two basic principles, they are not a

'unified body of thought' (Hall and Taylor; 1996, p.936). New institutionalism has its roots in politics, economics, sociology and organisation theory so 'approaches to institutions rooted in such different soils cannot be expected to converge' (Powell and DiMaggio; 1991, p.3). Although this statement is true of rational choice institutionalism in comparison with either sociological or historical institutionalism, this is not the case with sociological and historical institutionalism which do converge quite substantially. In fact, not everyone makes a distinction between these two approaches because of their similarity. However, despite their common ground, they do merit separate distinctions because of the differences they have in emphasis. Sociological institutionalism 'concerns itself with culturally framed actions, ideas and identities that follow from culturally-specific rules and norms' whereas historical institutionalism concentrates on 'the origins and development of the institutions' and how past decisions affect current ones (Schmidt, (a), p.1).

### **3.3 Rational choice institutionalism**

It is very easy to distinguish rational choice institutionalism from its two main institutional rivals for reasons that will soon become apparent. At the heart of this approach is the belief that individuals are motivated by self-interest - 'the pursuit of one's own good to the exclusion of any non instrumental consideration for others' (Grafstein; 1992, p.259) - and that the pursuit of their preferences is the rational thing to do. A key point of rational choice institutionalism is that the actors' preferences have already been determined exogenously to the institution so the institution plays no part in forming individual preferences, instead they are assumed as a given (this is a major difference between rational choice and the other two approaches). Armed with their own particular preferences, actors then act in an entirely rational fashion by calculatingly setting out 'to maximize the achievement of their goals' (Tsebelis, p.5). This makes the actor a more autonomous individual (Hay and Wincott; 1998, p.952). Rational choice institutionalism is a very individualistic approach but, because it is also an institutional one, it acknowledges that political life operates within institutions and that both individual and institutional roles have to be reconciled in order to have a true explanation of politics (Peters; 1999, p.43).

To understand just how institutions affect behaviour from the rational choice perspective it is crucial to know that it interprets institutions as formal rules (in the Scottish Parliament that would include its Standing Orders, Code of Conduct and other formal regulations) that will be upheld by sanctions and incentives (Lane and Ersson; 2000, p.7, 26, 36). For the rational choice institutionalist then, institutions are synonymous with formal rules. The benefit of having these formal rules is that they are 'constraints within which actors may maximize their

self-interests' and they are also 'transaction-cost saving devices regulating the interaction between men/women' (Lane and Ersson; 2000, p.35). Quite simply, the rules help to minimise costs and constrain the behaviour of maximising actors. The reduction of transaction costs (it is no surprise from the terminology that rational choice institutionalism is rooted in economics) is one of the main reasons why states create institutions because otherwise the costs of everyone seeking to maximise their own preferences without constraints is likely to be too high (Rosamond; 2000, p.116). As part of the minimising costs process, options open to actors within the institutions will be limited, for instance the information supplied to the actors, the choice of action available to them, the items put on their agenda. This is because limited options ensure that political decisions can be made (Hall and Taylor; 1996, p.951; Immergut; 1996, p.6). Institutions are there in order to maintain stability so that they can perform their functions (Brennan; 1997, p.105).

Rules and their enforceability allow a certain amount of predictability because all actors are subject to the same set of rules which forces them to behave in corresponding ways. And because actors can factor into their calculations how someone else is likely to act (because of the institution's rules and penalties), uncertainty is reduced, which allows an individual to strategically choose a better course of action within the confines of the institution (Hall and Taylor; 1996, p.945; Gorges; 2001, p.139). Tsebelis (p.5) explains that because all individuals are maximising, 'the outcome is the best that each one of them can do, given the choice of the others' and so equilibrium can be found amongst the competing interests. So rational choice institutionalism is useful because of its predictive qualities of estimating the likely behaviour of individuals due to their self-interested motivation and the constraints that the institution then imposes, leaving the individual to 'choose the action with the best outcome' (Coleman and Feraro; 1992, p.xi). This is why rational choice institutionalism 'emphasizes the negotiation of coalitions and 'voluntary' exchanges', a feature that allows for cross-party decisions to be made between opposition groups (March and Olsen; 1997, p.140). This means that when a parliament, committee or cabinet come to a decision, it is derived from the aggregation of the individual preferences of the actors who have come to a group decision in accordance with the rules (Lane and Ersson; 2000, p.8). Individuals co-operate with one another because they expect to gain from the co-operation in some way (Brennan; 1997, p.96). So although the institution does not determine an actor's preferences, it can affect the choices an actor makes on an individual basis and on a collective level (Immergut; 1996, p.6).

Rational choice institutionalism states that an institution will continue to exist as long as it continues to be beneficial for the actors involved because they are better off with that particular institution than they would be with any other. Change occurs when the actors consciously decide to try and change the institution 'based on their expectations about how change will help them maximise utility' (Gorges; 2001, p.140). Change is a planned activity, not an organic process.

The central point to remember about rational choice institutionalism is that institutions are 'systems of rules and inducements to behavior in which individuals attempt to maximize their own utilities' (Peters; 1999, p.19).

### **3.4 Criticisms of rational choice institutionalism**

The key criticism of rational choice institutionalism is that it has too simplistic a view of human behaviour (Hall and Taylor; 1996, p.950). It reduces individuals to 'calculating automatons' who are only motivated by their own self-interest (Hay and Wincott; 1998, p.952). Gerry Stoker points out that '[s]cope for non-egoistic and moral motivations should be given' (1995, p.9). And even if an individual never behaved out of altruistic motives, critics state that individuals are not always capable of acting in a rational and detached manner, able to weigh up their best options (Ward; 1995, p.79). Furthermore, individuals do not always have all the information that they need to make the best decisions so choices are made in uncertain conditions (Stoker; 1995, p.9; Ward; 1995, p.79, p.81, p.89). Ward believes that rational choice institutionalism needs to introduce social factors to be credible because individuals are actually affected by external variables (such as their social class or religion), which do factor into their decision-making. If any anomalies occur that cannot be explained by self-interested behaviour, then, as Schmidt points out, rational choice institutionalism for the most part cannot explain them ((a), p.2).

Hall and Taylor also offer the argument that although rational choice institutionalism can explain why an institution continues to exist, it is on a lot shakier ground when it tries to account for why institutions were created in the first place. If the creation of an institution is attributed to the benefits it will bestow on the actors who are agreeing to its creation, then Hall and Taylor argue that essentially rational choice institutionalists credit the origin of an institution 'largely in terms of the effects that follow from its existence', although unintended consequences mean that it is not reliable to 'deduce origins from consequences' (1996, p.952).

### 3.5 Sociological institutionalism

Sociological institutionalists believe that influence is a two way street between institutions and their surrounding environments, so that on the one hand 'human behaviour is heavily influenced by the social environment in which it takes place' (Lane and Ersson; 2000, p.19) but on the other hand, institutions, particularly political ones, will also shape their surrounding environment to suit their own needs (Peters; 1999, p.108). But sociological institutionalism goes further and states that '[i]nterests as well as the contexts of action are socially constructed' (Rosamond; 2000, p.119). In rational choice institutionalism an actor's interests/preferences were determined outwith the institution but in sociological institutionalism 'actors and their interests are institutionally constructed' (Powell and DiMaggio; 1991, p.28). The 'most basic preferences and very identity' of the actors are formed within the institution (Hall and Taylor; 1996, p.948). It is the institution which allows individuals to find meaning in the world that surrounds them and specifies how they should act in any given situation and even specifies what the individual could imagine themselves doing in any given context (Rosamond; 2000, p.119; Hall and Taylor; 1996, p.948). The individual does this by using the available institutional templates so that they can interpret their own role and then decide how to behave (Bell; 2002, p.486; Hall and Taylor; 1996, p.949).

March and Olsen explain that institutions form the identity, meaning and preferences of individuals through the rules of the institution (1989; p.39, p.40, p.53). By rules March and Olsen do not just mean the formal rules of the institution, such as regulations and other fixed aspects that rational choice theory focuses on, as their definition also takes into account normative aspects such as beliefs, cultures, values and knowledge that exist within any institution (March and Olsen; 1989, p.22). Powell and DiMaggio see rational choice institutionalism's omission of the normative context as a great failing because 'taken-for-granted scripts, rules, and classifications are the stuff of which institutions are made' (1991, p.15). And in a political institution it can be difficult to separate the formal and informal rules because the very machinery of government is steeped in the normative context (Bulmer; 1997, p.5). Because of this definition of rules, sociological institutionalists are, in the words of Hall and Taylor, breaking down the 'conceptual divide between 'institutions' and 'culture'' (1996, p.947). And so according to Gorges we 'can expect institutionalisation of forms and practices that are widely valued within a broader cultural environment' (2001, p.139). These practices may be institutionalised even if they are not rational, so even though they may not be the most efficient way to achieve the institution's end goals, they are adopted because of the enhanced social legitimacy that they give to the institution (Bell; 2002, p.488/9; Hall and

Taylor; 1996, p.949). As both Parsons (1995, p.226) and Hall and Taylor (1996, p.953) point out, in sociological institutionalism institutions are not created in a vacuum, they come into a world which is already full of other institutions. And these institutions structure the vision of those creating the new institution because they borrow 'from the existing world of institutional templates' (Hall and Taylor; 1996, p. 953).

Through its rules (including informal practices) the institution will develop its own culture which will affect the actors within it, so even if the actors brought values with them which had been determined outwith the institution, their involvement with the institution will change those values to be more in line with the institution's (Peters; 1999, p.146, p.147). This happens because 'culture is perceived as a system shared by groups of people, who learn its main elements or configurations through interaction and living in its context' (Sarantakos; 1993, p.264). It is through this discussion and interaction that the actors come to share the same 'cognitive maps' and act appropriately (Hall and Taylor; 1996, p.950). The rules at any given time represent the shared belief of what are the best methods to achieve the common good (March and Olsen; 1989, p.38, p.161, p.168). Every new actor who enters the institution has to learn these rules as it allows them to follow what the sociological institutional literature has coined the 'logic of appropriateness', which means he will behave in a way that the institution deems to be suitable so the actor will follow the same pattern as his colleagues (March and Olsen; 1989, p.38, p.160). If the institution is successful the actor will 'think more about whether an action conforms to the norms of the organization than about what the consequences will be for him- or herself' (Peters; 1999, p.29). The rules allow actors to interpret the behaviour of others and the institution is an organisation where 'the collective behavior, in its entirety is the institution' (Lane and Ersson; 2000, p.7/8). (This differs from rational choice institutionalism which has a more individualistic outlook). As a result, the actors are not just driven by calculated self-interest but by other factors such as their institutional duties (March and Olsen; 1989, p.159).

Institutions respond to the surrounding environment by incorporating societal norms and expectations of behaviour into the institutions own (formal and informal) rules. In turn those rules define the behaviour of the actors within the institutions who then craft the policies and allocate the resources that go on to affect the surrounding society. In this way political institutions are creating as well as responding to their environment (March and Olsen; 1989, p.39, p.40, p.46, p.53). Politicians are able to carry out their work relatively smoothly when they abide by institutional rules that reflect society's expectations (March and Olsen; 1989, p.16: March and Olsen; 1997, p.141). Institutional change will typically occur when there is

an anomaly between the 'values professed by an institution and its actual behavior, and the values held by surrounding society and the behavior of the institution' (Peters; 1999, p.34); the old understandings and rules no longer fit between the institution and its surroundings so change has to happen (Gorges; 2001, p.139: Bell; 2002, p.487). Because an institution's values and understandings have been accumulated over a long period of time any changes or redefinition of those understandings will need to be compatible with what was formerly in place (Peters; 1999, p.104). In sociological institutionalism changes come about much more organically than in rational choice institutionalism where change is planned rationally.

Institutional isomorphism is a feature of sociological institutionalism. Institutional isomorphism is when organisations imitate other organisations in their field because the process of institutionalisation forces those in a particular environment to follow convergent paths (Gorges; 2001, p.139: Bell; 2002, p.487: Parsons; 1995, p.587). Bell found in his work that in 'the last decade, central banks around the world have broadly displayed such isomorphic characteristics' (2002, p.487). Parsons (1995, p.587) explains the three reasons that Powell and DiMaggio give for explaining why institutional isomorphism occurs:

*Coercive* - organisations are pressured into acting a certain way by other organisations that they are dependent on and also by society which has expectations about how an organisation will work.

*Mimetic* - during times of uncertainty, an organisation will use a successful organisation as a model and copy what it does.

*Normative* - those within an organisation may change its working practices because they have decided to adopt what is perceived as the preferred or dominant working practices in their field.

### **3.6 Criticisms of sociological institutionalism**

One of the main criticisms of sociological institutionalism is that it ignores the individual, which becomes submerged in the collective. Hall and Taylor state that an individual's own particular interests are neglected and that any clashes between individuals are also unaccounted for, even though clashes are likely to occur when an institution is being created or at times of change (1996, p.954). Schmidt ((a), p.3) comments that by ignoring the individual, sociological institutionalism cannot properly explain why individual action does not always follow expectations, or if someone carries out 'rule-creating action as opposed to rule-following action'.

Peters also criticises how the approach is concerned more with processes rather than with ends, so while values and cognitive frames are accounted for, sociological institutionalism does not adequately explain how individual and institutional behaviour can be predicted (1999, p.105).

### **3.7 Historical institutionalism**

Historical institutionalism describes institutions as 'the formal or informal procedures, routines, norms and conventions embedded in the organisational structure of the polity' (Hall and Taylor; 1996, p.938). Bulmer describes historical institutionalism as the 'thicker' end of institutional analysis by virtue of including normative and cultural dimensions which go beyond rationalist calculations' (1997, p.6). Steinmo and Thelen, two leading lights of historical institutionalism, find rational choice theory far too confining, although they do agree that institutions determine the strategies of political actors and provide the context in which they pursue their interests. But they also believe that institutions play a greater role in shaping politics and political history than rational choice institutionalism allows and that institutions shape the goals as well as the strategies of the actors so therefore:

'perhaps *the*, core difference between rational choice institutionalism and historical institutionalism lies in the question of preference formation, whether treated as exogenous (rational choice) or endogenous (historical institutionalism)' (1992, p.9).

So far there is nothing to differentiate historical institutionalism from the sociological variant as all the above statements could apply equally to both. Steinmo and Thelen never mention sociological institutionalism (there are only 'two separate institutionalist critiques, one from a historical and another from the more formal "rational choice" perspective' (Steinmo and Thelen; 1992, p.4/5)). Obviously, the historical and sociological approaches share key similarities but what is interesting is that historical institutionalism is more high profile even though it actually draws from sociological sources (Immergut; 1996, p.8). Hall and Taylor argue that historical institutionalism is almost an amalgam of both sociological and rational choice institutionalism (1996, p.940). But regardless of the common features of historical and sociological institutionalism, they do have differences and perhaps the easiest way to remember them is by their titles - sociological institutionalism concentrates on society and culture, whereas historical institutionalism emphasises the importance of history and its consequences.

Historical context is essential to historical institutionalism. For instance, Rosamond explains that the European Union's supranational institutions came about as part of European

integration because of the particular circumstances at that time - Europe was in the process of post-war restructuring with the added prospect of ECSC bipolarity on the horizon (2000, p.117). The decision to create those supranational institutions (such as the European Commission) has had consequences, some unforeseen, on European integration ever since. As Pierson states 'the short-term preoccupations of institutional designers have led them to make decisions that undermined long-term member-state control' (as quoted in Rosamond; 2000, p.118). So 'specific institutional arrangements structure particular kinds of politics' (Steinmo and Thelen; 1992, p.27). With the passing of time a lock-in of these institutional arrangements occurs which then makes it difficult to change those earlier decisions. Historical institutionalism emphasises that the 'policy choices made when an institution is being formed, or when a policy is initiated, will have a continuing and largely determinate influence over the policy far into the future' (Peters; 1999, p.63). In this way norms and patterns of interaction develop that outlast personnel. This also explains how inefficient practices come about because actors are forced to follow a set path that pushes them into making certain choices, even if they are not the most efficient (Hall and Taylor; 1996, p.941/2).

The idea of path dependency also impacts on the creation of a new institution because those doing the creating recognise 'the importance of existing institutional templates' (Hall and Taylor; 1996, p.954). Anyone wishing to explain the origin of an institution can look for evidence in 'why the historical actors behaved as they did' (Hall and Taylor; 1996, p.954).

Institutions tend to be quite stable because they follow a path that has already been determined by past decisions and it is difficult to change course (Gorges; 2001, p.138). However, change does happen at times and historical institutionalists explain this through 'critical junctures' which cause departures from the path that an institution has been following (Steinmo and Thelen; 1992, p.27; Hall and Taylor; 1996, p.942). Many theorists fail to explain how these critical junctures come about interrupting the stability of an institution. Gorges suggests that crises can bring about such departures, causing abrupt change because leaders often respond to the crisis by employing new tactics to deal with it and then these new tactics end up becoming entrenched and so in this way a new path is established (2001, p.138). One of the advantages of historical institutionalism is that it allows slow moving changes to be observed over extended periods of time. This allowed Bell (2002, p.486) to explain how the Australian central banking and monetary policy had altered radically from policy twenty years ago.

Historical institutionalism focuses 'more squarely on the themes of power and interests' (Immergut; 1996, p.8). Political institutions are able to fashion the outcomes of competing interests that exist in political institutions, so are not just regarded as neutral brokers (Hall and Taylor; 1996, p.938). As rival groups compete against each other in order to have a share of the scarce resources that are available, the institution has the power to bestow some groups with privileges while denying access to others (Hall and Taylor; 1996, p.937, p.941: Hall and Taylor; 1998, p.961: Immergut; 1992, p.83: Immergut; 1996, p.11/12). If groups are not recognised then their ideas, opinions and interests will generally make little impact (Parsons; 1995, p.226). So in this way a political institution can channel interest groups into forming a broader alliance with other groups in order to increase their chances of being heard (Weir; 1995, p.194).

Historical institutionalism also gives prominence to the importance of *ideas*, new innovative ideas that may change the current way of thinking within an institution or that may have the potential to become policy. Ideas can become policies if they reach the national agenda and have found enough support along the way from those inside the political institution (Weir; 1995, p.194, p.210: King; 1992, p.242). If an actor within an institution is exposed to new ideas then his preferences have the potential to be changed (Steinmo and Thelen; 1992, p.27: Hall and Taylor; 1998, p.961). An institution can also promote certain ideas as Hall and Taylor point out when they cite Goldstein's work on US trade policy, which was devised by an institutional structure that reinforced particular trade ideas and consequently undermined others (1996, p.942). Hay and Wincott insist that proper attention should be given to the role of ideas in historical institutionalism (1998, p.957), although Weir does point out that all new ideas come up against the obstacle of existing policy and its roots in the past (1995, p.210).

Perhaps Schmidt best sums up historical institutionalism when he states that it:

'concentrates instead on the origins and development of the institutions themselves, seen as institutional structures and processes, which are explained by the (often unintended) outcomes of purposeful choices and historically unique initial conditions' ((a), p.1).

### **3.8 Criticisms of historical institutionalism**

Hall and Taylor were challenged about their assertion that historical institutionalism is almost an amalgam of rational choice and sociological institutionalism and although they stood by their belief, they did add that historical institutionalism is still not a theory that 'represents a fully-realized alternative to either of these approaches' (Hall and Taylor; 1998, p.958). They

thought that while rational choice and sociological institutionalism have developed sophisticated theories of how institutions affect individual behaviour, historical institutionalism had not yet reached that stage although they believed it had the potential to do so. Hay and Wincott agreed that historical institutionalism has that potential but they felt it had to be developed in a different way, as they believed that 'rational choice and sociological institutionalisms are based on mutually incompatible premises', and because of this they credit Hall and Taylor with doing historical theory a disservice (Hay and Wincott; 1998, p.951). Hay and Wincott wanted to 'transcend' the limitations of the other institutional approaches by concentrating on a 'structure and agency' approach (structure being institutions and agency being the individuals and groups in the institutions) as the key is to understand the relationship between the structure and the agents (1998, p.955-6).

Historical institutionalism is actually termed a mid-range theory because it does not claim to be universal. Instead it looks at a restricted number of countries at a given time or at a particular phenomenon that has affected a number of countries at either a specific time or across time (Schmidt; (b), p.3).

### **3.9 Conclusion**

The premise of new institutionalism is that institutions affect behaviour and it is the institution's rules (whether formal and/or informal depending on your approach) that are essential to explaining why behaviour is changed. Therefore the three new institutionalist approaches will be assessed for their applicability in explaining how the Scottish Parliament has affected the behaviour of the six interest groups. As Lane and Ersson (2000, p.3) point out:

'Upon theoretical reasons a number of competing institutional models are conceivable between which only empirical tests can decide when it comes to how well they perform on criteria of truth or evidence'.

### **3.10 Key points of the three approaches**

For easy reference the key points of the three institutionalist approaches are given here:

#### **Main Points of Rational Choice Institutionalism**

- Individuals are motivated by their own self-interest.
- The preferences of individuals are determined outwith the institutions.
- Institutions are synonymous with formal rules that uphold sanctions and incentives.

- Rules help to minimise costs and constrain the behaviour of actors.
- Rules allow for predictability as they force people to choose the best available outcome between their own self-interest and the rules of the institution.
- Institutions are created to reduce costs.
- An institution will continue to exist as long as it is beneficial to the actors involved.
- Change occurs when the actors decide to try and change an institution based on the expectation that change will help them maximise their utility.
- Rational choice emphasises the negotiation of coalitions and voluntary exchanges because of the benefits received from co-operation.

### **Criticisms**

- RCI has too simplistic a view of human behaviour - more scope should be given for non-egoistic and moral motivations.
- Humans are not always rational and capable of weighing up the best option and RCI cannot explain an anomaly if it is not attributable to self-interest.
- How can an institution be created for future expected benefits that the institution may not actually bestow?

### **Main Points of Sociological Institutionalism**

- The surrounding society influences institutions and vice versa.
- The preferences of actors are constructed by the institution.
- Rules include formal regulations and informal practices incorporating culture, beliefs, values etc.
- The rules mean that everyone within the institution will follow the same 'logic of appropriateness' – an actor will think more about conforming to the organisation than about the consequences to himself.
- Institutions are created by people who borrow from existing institutions.
- Institutional change occurs when the behaviour of an institution is out of synch with society's expectations. Change is organic.
- 'Institutional isomorphism' – organisations imitate others in their field because the process of institutionalisation forces those in a particular environment to follow convergent paths.

## **Criticisms**

- The individual is neglected and ends up being submerged in the collective.
- Sociological institutionalism cannot explain properly why an actor does not follow the logic of appropriateness.
- Sociological institutionalism does not adequately explain how individual and institutional behaviour can be predicted.

## **Main Points of Historical Institutionalism**

- Rules include formal regulations and informal practices incorporating culture, beliefs, values etc.
- The preferences of actors are constructed by the institution.
- Historical context is essential in explaining why things are the way they are – past decisions have a huge influence over current and future policy.
- Those creating an institution look at existing institutional templates and the circumstances at the time also play an important part in the decisions.
- Institutions are generally stable following a set path until they are forced to change paths by a ‘critical juncture’.
- Historical institutionalism focuses on how institutions can give privileges to some groups and deny them to others, thus shaping outcomes that are desirable to the institution.
- Ideas are important to historical institutionalism as they can change thinking within an institution and have the potential to become policy. Institutions can promote certain ideas.

## **Criticisms**

- Historical institutionalism is not yet a fully developed alternative to either RCI or sociological institutionalism.

## **CHAPTER 4 NEW POLITICS**

### **4.1 Introduction**

Chapter 3 described how new institutionalism is centred around the belief that institutions are the 'central component of political life' and that they are capable of affecting the behaviour of individuals (Peters; 1999, p.150). To fully understand how the Scottish Parliament has impacted the behaviour of the six interest groups, it is first necessary to establish the situation for the groups before 1999 when the Scottish Office, as the UK government's executive arm in Scotland, was the central component of Scottish political life. The Scottish Office also mediated between Scottish civic society and the UK state (Brown et al; 1998, p.101-102). It was fronted by a Secretary of State for Scotland (a Cabinet position) and a team of about five Ministers that presided over the Scottish Office departments: Agriculture, Environment and Fisheries; Development; Education and Industry; Home Department; Health; and the Secretary of State's Office. The Scottish Office's role in the policy making process ranged from complete autonomy, such as in education policy, to that of 'complete dependence' on the relevant department at the UK level, where the Scottish Office would simply follow the UK policy line (Keating and Midwinter; 1983, p.20). The Houses of Parliament in Westminster was the policy making institution for the entire UK (after devolution the Houses of Parliament continued to remain sovereign and also reserved its powers over social security, employment services, defence and foreign policy on behalf of the entire UK). A 'before and after' devolution picture of the six groups will allow a more informed appreciation of the effect the Scottish Parliament had on the behaviour of the interest groups.

### **4.2 Situation pre-devolution**

In Scotland, before the Scottish Parliament opened, three kinds of interest groups existed according to Keating and Midwinter (1983, p.70):

- 1) UK wide groups with no particular provision for Scotland
- 2) UK groups with a Scottish division that operate with some autonomy
- 3) independent Scottish interest groups.

The need for interest groups to lobby in Scotland prior to devolution was driven either because they had distinctive Scottish demands or needs that called for separate treatment from the rest of the UK (Keating and Midwinter; 1983, p.70). Groups that were part of a UK wide organisation, or were affiliated to one, could try to influence policy at the relevant UK government department via their parent group but this was 'unusual for a purely Scottish group' to do as they tended to try to influence only the Scottish Office, which had a wide range of responsibilities for Scotland (Keating and Midwinter; 1983, p.73). Therefore, major

economic groups operated at both a UK and Scottish level but teachers' organisations and local government restricted themselves primarily to the Scottish Office (Midwinter et al; 1991, p.73). The groups dealing with just the Scottish Office (and not Westminster) were limited to areas where the Scottish Office was able to draft policy or else where they hoped the Scottish Office could influence the drawing up of policy at Westminster.

Kellas described Scotland appearing defective compared to England in terms of the strength of voluntary organisations: 'the Scottish political system is less 'open' than that of England to bodies of this kind. There is less of a tradition of citizen participation, and more 'elite' rule' (1992, p.192/3). Burt and Taylor lay out three reasons why Scotland's voluntary sector was stuck at the fringes of political influence pre-devolution: the voluntary sector was geographically distant from the political power centres in London and Brussels; secondly, they were philosophically distant from the Conservative governments which also contributed to the isolation of the sector and thirdly, the sector lacked the infrastructure necessary to get their diverse and numerous voices heard (2002, p.85).

'Given the absence of ministers and MPs in London for most of the week, interest group contacts, except for the largest and wealthiest groups, tend to be with the Edinburgh civil servants' (Midwinter et al; 1991, p. 77).

Politicians were therefore largely inaccessible to all but the biggest interest groups who could afford to follow Ministers and MPs to London. The politicians might have been out of Scotland but they were not distant from the needs of their constituents as they spent Fridays in their constituencies. But for interest groups working a Monday to Friday week in Scotland, the opportunities of meeting with politicians was limited. The Scottish Office civil servants might have been more geographically accessible throughout the working week but 'civil servants simply did not have to finesse their process skills because government was not interested in the views of many external organisations' (Ford and Casebow; 2002, p. 48). The key word in that sentence is 'many' – obviously some groups had active involvement in the policy making process and worked closely with civil servants but this was confined to certain kinds of groups. Keating and Midwinter talk about the 'major producer groups' as being part of the 'particularly close and informal' insider network that operated in Scotland (1983, p.73). However, for those not privy to the closed policy networks involving senior civil servants and interest group leaders (the Scottish Office's apparent favoured way of working), the concept of a Scottish Parliament was seen as a democratic check to this closed system of governance (Brown et al; 1998, p.63).

However, Jordan and Stevenson (2000, p.182) in discussing the Scottish Office believed that being part of the consultation process pre-1999 was not as difficult as some claimed: 'In fact pre-devolution policies within Britain characteristically arrived at by consultation and negotiations between Whitehall and relevant interests'. They comment that consultation was the departmental routine throughout the 1980s and 1990s and give some examples from various UK government departments – but pointedly not from the Scottish Office. In a counter argument Brown et al write that:

'even though the Scottish Office may consult pressure groups and so on, it is not obliged to pay attention to them. Under the Conservatives, and on issues of deep controversy, the sense grew that the consultation was a charade' (1998, p.109).

From a general UK perspective Richards and Smith state that politics had been an elite activity, with interest group participation occurring through closed policy networks between senior civil servants and the leaders of interest groups, although due to the Thatcher governments' suspicion of interest groups, many of these policy networks were later undermined (2002, p.196). Brown et al describe how the Scottish Office 'had evolved partly as the expression of a complex network of self-governing social institutions', but this changed as time went on when it 'became more obviously the instrument of the Westminster Government', which became a problem under the consecutive Conservative governments, as the majority of the electorate in Scotland had not voted for the Conservatives and so some resented being governed by them (1998, p.44/45).

Having described the general situation for interest groups in Scotland before devolution, the specific situation of the six case study interest groups prior to 1999 will be briefly looked at, bearing in mind that the Scottish headquarters of the FSB, MS Society and the RSPB were much larger UK groups, while the SCPO did not exist before 1999 and both the SPTC and CoSLA were independent Scottish groups that were well established and already politically active long before devolution. Except for the FSB (a business group) and CoSLA (local government), the other four groups fell under the voluntary sector heading.

### **Federation of Small Businesses**

The FSB's Parliamentary Office had already been established for some time in Scotland and before devolution they did have contact with Ministers and civil servants but these were limited relationships in terms of influence. (The FSB had heavyweight competition in the form of the CBI and the STUC). The FSB found it particularly difficult to establish on-going meaningful relationships with Ministers. The Parliamentary Officer explained that it was hard just to meet with politicians because of the physical distance: 'They go down on a

Monday night or Tuesday morning, they're there till Friday, if you're a Scottish organisation where are you going to meet them?' Accessibility to politicians for the Scottish FSB was such that they were 'lucky if we contacted them half a dozen times a year' and that was just with MPs, they had very limited contact with Ministers (Policy Convener). Generally, they found that prior to the Scottish Parliament 'it was extremely difficult to interact with officials at Westminster on specific issues and on bills and consultations' (Procedures Committee (a), Col 1403). To summarise then, the Scottish FSB was involved in the political system prior to devolution but they had only occasional contact with politicians and officials.

### **Scottish Churches Parliamentary Office**

Although the SCPO was only established as a result of devolution, the churches in Scotland (with a combined membership of 1.8 million people) were involved in the political process long before then and were at times influential in their interventions (Maxwell; 1999, p.135). In fact, some people boldly referred to the Church of Scotland's General Assembly as Scotland's Parliament in the absence of an actual one and the Catholic Church was also known to have a lot of influence in the Scottish Labour Party (Maxwell; 1999, p.135). Maxwell describes how the churches generally had 'a strong tradition as independent and forceful contributors to Scottish public debates' (ibid., p.135). However, the SCPO's Parliamentary Officer explained that the churches were limited in their political input because they found the system at Westminster to be very closed and 'like most other civic bodies in Scotland, churches did not see themselves as able to play as on-going a part in the political decision making process'. The churches were always willing to speak up in the political system but they did not operate in a sustained manner within it.

### **Multiple Sclerosis Society**

At the MS Society, policy work 'really hadn't been done at all' by the Scottish MS office before devolution according to their Director and Policy Officer. The Policy Officer explained that:

'Scottish branches of the Society were engaged in fund-raising and they were engaged in welfare activities... But they weren't at all focused on seeking to influence public policy, either through local authorities, through health boards or central government' (personal interview, May 2001).

The Director said that when things were controlled by the Scottish Office and Westminster it was difficult for the Scottish MS Society to influence government and so political activity

was left to their colleagues down in London, who lobbied at Westminster on the principle that whatever was decided there would then be subsequently rolled out to Scotland.

### **Scottish Parent Teacher Council**

Education policy was an area where the Scottish Office had a lot of autonomy. It would therefore be expected that education interest groups, like the SPTC, would have been more politically active pre-devolution. The SPTC had indeed been active and it must also have been in favour with the Scottish Office at some point, as it used to be in receipt of government funding and was one of the groups that fed into 'the networks of power' favoured by the Scottish Office (Brown et al; 1998, p.109). The SPTC was one of those groups that was partly sponsored by the Scottish Office but also partly independent from it (Brown et al; 1998, p.57). Because the SPTC received a government grant they had regular six monthly meetings with civil servants from the Scottish Office, in large part to discuss their funding. The Development Manager said that when it came to lobbying she tended to contact civil servants she had met and had a link with, but the depth of her relationships depended on personal chemistry. There was a time when she got on well with one particular individual, which was useful for the group, but then that link was broken when the civil servant moved on and she did not get on so well personally with his successor.

However, before devolution, the SPTC's political activity 'wasn't focused on politicians'. In fact they rarely met up with politicians and even when they did the Development Manager said that 'meetings with Ministers were trials, didn't mean anything, they just went through the motions' as a formality. The Development Manager explained that the SPTC's 'political activity was more with other partner organisations to try and build coalitions up'. Like most other Scottish groups, their trips to Westminster were very rare, although they still at least endeavoured to have some input there. The SPTC obviously had political influence before devolution, particularly with civil servants in the Scottish Office, although it seems to have been affected by staff turnover.

### **Convention of Scottish Local Authorities**

Because local authorities are made up of elected representatives and have to implement government policy, CoSLA had more liaison than most with the Scottish Office and most policy-makers were known to them personally. George Kerevan writes that the 'big Labour municipalities' particularly used to weigh in 'as key influencers of policy' to the detriment of rural areas and small towns (Kerevan; 2002, p. 41). But although CoSLA had close working relationships with the Scottish Office, it was hindered by its ideological differences with the

government, as local authorities tended to be Labour dominated in Scotland but had to work with a Conservative government. CoSLA's Head of Policy said that they had largely spent their time 'fighting the Conservative administration'. The Convention Manager spoke of how:

'it was a bad time in a lot of ways for local government and some of that was to do with the fact that it wasn't a legislature that was really rooted in things that were happening here, the debate was happening somewhere else and then we were having things really imposed in a lot of ways through the Scottish Office' (personal interview, December 2001).

CoSLA had influence over technical and administrative issues, rather than ideological ones (Keating and Midwinter; 1983, p.106). Kellas describes how the English local authorities had 'entrenched power' compared to Scottish local authorities but he did say that on occasion 'even in Scotland local authorities can show their power', facilitated by the relatively small size of Scotland (1992, p.234).

Before 1997 CoSLA primarily had friendly relationships with the opposition Labour MPs. The Convention Manager spoke of how they would get friendly MPs to ask parliamentary questions at Westminster in order to get information which they felt they were not getting from the Scottish Office, 'but again that was an opposition situation if you like, where I suppose most of the political group represented on CoSLA were challenging an opposition party government'.

The English local authority associations were more effective and thus more powerful than CoSLA pre-devolution, because unlike their English counterparts CoSLA was just 'not well geared up to influencing Parliamentary legislation' (Keating and Midwinter; 1983, p.107). Keating and Midwinter compare how the English Associations drafted detailed amendments to the Local Government Bill and actively lobbied for them in both Houses of Parliament, whereas CoSLA simply wrote a critical brief and sent it to Scottish MPs – the extent of their lobbying on behalf of the Scotland Bill for local government (ibid., p.107). Generally though, local authorities were 'confined in their dealings with central government almost entirely to the Scottish Office' (Keating and Midwinter; 1983, p.73). The opportunity to influence policy at Westminster was limited anyway. The Acting Chief Executive explained that there was very little legislation going through that affected Scotland. He commented that:

'if you look back about how much Scottish business was done in Westminster, it was usually something that was tagged on to a bill for England and something tagged on

for Wales and Scotland. There wasn't any fundamental legislation' (personal interview, December 2001).

Contact with Westminster was confined to:

'a specific Scottish piece of legislation or once a year when they were required to debate and agree the revenue support grant and the housing grant orders support for Scotland, they had to be debated in an affirmative resolution by the House, so an annual soiree was to go down and brief members of Parliament about the bill. And of course for x number of years we were briefing Labour MPs, who were obviously the majority of MPs in Scotland, about Conservative government Secretaries of States revenue support grant' (ibid.).

### **Royal Society for the Protection of Birds**

As part of a wider UK group, the responsibilities for lobbying in the RSPB were largely left to their Westminster parliamentary officers who 'effectively operated as a service department for the Society, so if there was Scottish legislation going through that was of particular relevance to ourselves they would concentrate on it' (Head of Advocacy and Media Unit – a unit created as a result of devolution). The Head of Advocacy and Media pointed out that the Society's Westminster parliamentary officers did not get involved in Scottish politics very often, not because that was RSPB policy but simply because there was very little Scottish environmental legislation that went through Westminster. Although, he did add that it was assumed in their offices in England that any decisions taken at Westminster would be the same for Scotland. For the Scottish RSPB office: 'our influence over those decisions...were considerably more limited and that's partly because of the Westminster system, they were opaque, they were hidden'. The Senior Investigations Officer said that 'most matters to do with legislation... were really done at our headquarter level' in England. Politicians were dealt with 'by our London colleagues because that's where government was' (Head of Policy Operations). Before devolution the Scottish RSPB did not have 'a political hat' and the Head of Policy Operations job was 'in public inquiries and individual casework'.

The Scottish RSPB did have dealings with the Scottish Office but were not part of the 'establishment within the policy community', (the Scottish NFU and the Scottish Landowners Federation were). They rarely had contact with Scottish Ministers because the civil servants 'really ran the country, not least because Ministers would be sent off to London at lunch-time on Monday, do Westminster business and then come back at lunch-time on Friday'. The Head of Policy Operations said that when they had dealings with the Scottish Office they operated as 'technocrats trying to influence other technocrats'. The Senior

Investigations Officer said that their dealings with the Scottish Office were ‘often very unprofessional’ and at times the civil servants would simply say ‘no, I’m not going to talk to you’ because they ‘could get away with it’ due to the lack of scrutiny. He describes situations that were quite petty such as a fight over goose licences in 1980, where they would fall out and ‘you got the impression they were never going to speak to you again’.

#### **4.2.1 Summary of interest group experiences**

To generalise then, the perceived political experiences of the six groups could be summed up by the following statements:

- The system at Westminster was largely inaccessible to smaller groups based in Scotland. The groups also complained that it was difficult to get access to Ministers and MPs because they went down to London on a Monday and did not return until Friday.
- Political involvement was primarily with the civil servants based in the Scottish Office but the civil service had established policy communities and could ignore who they chose to because of lack of scrutiny.
- For the UK wide groups influencing politicians was largely the work of their UK headquarters (it was widely regarded that decisions made at Westminster would be rolled out to Scotland anyway).
- There was very little primary legislation that was specifically Scottish going through the Houses of Parliament, so occasions for Scottish groups to play a bigger lobbying role there were limited anyway.
- Geographic and ideological distances were the biggest obstacles to interest group involvement.

#### **4.3 Insider/outsider groups**

Four of the six interest groups could not have claimed to be what is known as an ‘insider’ group, as they did not have any meaningful access to government. The SPTC was at some point part of a policy community network, a sign that they had a close relationship with the civil service. CoSLA by virtue of representing local government was an insider group, although it was not always an easy relationship due to their ideological differences with the Conservative governments.

A brief explanation of what is meant by an insider/outsider group will be given here as it is important to understand these terms in order to monitor if, and how, the relative position of the groups changed as a result of devolution.

The touchstone for insider/outsider distinctions is Wyn Grant's work from 1978 and beyond. Grant states that the distinctions were 'centred on the idea of interest group strategies, that is, how interest groups go about achieving their goals' (Grant; 2000, p.21-22). Insider groups are viewed as being legitimate by government and so are consulted on a regular basis (Coxall; 2001, p.5: Baggott; 1995, p.18). By contrast outsider groups are split into three distinctions: those who are (a) potential insider groups because they have adopted strategies that are more acceptable to government, (b) outsider groups by necessity because they lack the political skills and knowledge to secure recognition and (c) ideological outsider groups who have made the conscious decision not to get involved in a consultative insider relationship with government (Baggott; 1995, p.18: Coxall; 2001, p.5: Grant; 2000, p.19). Because outsider groups do not have access to government they tend to direct their attentions towards the media and the public in order to get issues onto the political agenda (Smith; 1995, p.14). Whereas, '[c]rudely put, the less public an interest makes its affairs the more successful it tends to be, because it is able to get its needs met on the 'inside track' of public policy-making' (Greenwood; 1997, p.16).

Grant may be the touchstone for insider/outsider distinctions but Maloney et al have refined those distinctions even further. They differentiate between access and influence: access only results in consultation but if a group is granted (by policy makers) privileged access, this 'leads to bargaining and negotiation' and thus influence (Maloney et al; 1994, p.25).

Grant comments that in the long run 'most groups tend to veer towards an insider strategy because of the potential gain it offers' (2000, p.20). In Grant's terms, an insider group has access to government and while that may not necessarily mean a group will be more effective, the implication is that insider groups are more likely to be effective because of their legitimate status (Jordan and Richardson; 1987, p.33). The benefits of being a group with insider status according to Smith (1995, p.10-11) and Jones (2001, p.214) are that they are more likely to:

- be consulted directly by policy makers about proposed policy changes at the pre-legislative consultation stage
- be given a seat on advisory committees/committees of inquiry/executive bodies
- secure government funding
- be involved in the daily making of policy (if the groups are privileged insiders).

Most outsider groups can try to influence policy only once it has been written and by then it is difficult to persuade for change because the government has already committed itself. But

in order to be awarded the status of an insider group and to reap the benefits of that position ‘certain constraints and patterns of behaviour’ are imposed on the groups because ‘the state sets the rules of the game for pressure group activity’ (Grant; 2000, p.20). To be an insider group the emphasis is on groups adapting their behaviour to suit *government*, ‘particularly to civil servants’ according to Grant (2000, p.20). Most legislation originates from government and it is the civil servants in particular that craft the details of policy. It is argued by some that the UK is a post-parliamentary democracy, where government uses interest groups to make policy rather than parliament, because the government can for the most part be confident that their policies will be passed by parliament because of strong party discipline (Smith 1995, p.7: Richardson; 1993, p.89). So ‘[i]f a group had to choose only one point of access to the decision-making arena, it would invariably choose the bureaucratic arena’, although, many groups will lobby whatever channels are available to them including the parliament, the public (via the media) as well as Ministers and civil servants, for what is termed a ‘belt and braces’ approach (Richardson; 1993, p.90).

To become an insider group, a government will look for particular qualities that include:

- accurate, well researched and reliable information that tells the whole story
- authority/representativeness, e.g. a group will represent a significant proportion of its potential members
- expertise/specialist information
- membership compliance
- being prepared to compromise and accept incremental change
- accepting the outcomes of the bargaining process
- making moderate, non-radical and feasible demands that are compatible with government aims
- talking the same language as civil servants
- being trustworthy with confidential information
- does not embarrass/threaten or strongly criticise the government in the media.

(Compiled from Coxall; 2001, p.5-6, p.66: Grant; 2000, p.20-22: Jones; 2001, p.209-210: Jordan and Halpin; 2003, p.314: Jordan and Richardson; 1987, p.32-41: Smith; 1995, p.4, p.10: Wilson; 1990, p.21-23).

Jordan and Halpin (2003, p.315) also suggest that if a group embarks on an insider strategy and seeks to nurture the qualities government is looking for, they will shift their reliance on group activists to the professionalism and specialisation that comes from paid staff.

#### 4.4 New politics

Henry McLeish, Chairman of the Consultative Steering Group, said that the CSG had been struck after their consultations about the degree of consensus that existed, in particular ‘that the establishment of the Scottish Parliament offers the opportunity to put in place a new sort of democracy in Scotland’ (Consultative Steering Group; 1998, p. v). This new democracy was to be based on the four key principles of the CSG Report: power sharing, accountability, accessibility and equal opportunities. The vision was for a Scottish Parliament that would encourage people to participate in policy making. The PR electoral system (designed by the Scottish Constitutional Convention in 1995) was also intended to ‘encourage a new consensual type of politics with an element of power sharing’ (Burrows; 2000, p.34). The ambition was for the Scottish Parliament to usher in an era of “new politics” based on a consensual style of working, the sharing of power, accessibility and operating in family friendly hours that work around the Scottish school holidays. It was to be a contrast to Westminster (hence the “new” politics).

As well as the various parliamentary actors (Ministers, civil servants, committees and MSPs) other access points were set up in the Scottish Parliament. A specific Public Petitions Committee was established in order to give individuals, groups and organisations a direct channel into the Scottish Parliament. The Public Petitions Committee had taken its model from the European Parliament where public petitions have the potential to become policy (Cavanagh et al; 2000, p.72), it was to be the antithesis to the petitions system at Westminster where public petitions were largely ignored. In the Scottish version the Public Petitions Committee has to discuss every petition that is lodged with it (Lynch; 2001, p.83/84). Some petitions are judged to require further consideration and are passed on to other relevant parliamentary committee(s), for instance, in response to a petition on genetically modified organisms (GMOs) from Friends of the Earth, the Public Petitions Committee passed it on to the Transport and Environment Committee who then instigated a report into GMOs. This report was debated by the Parliament in May 2001 – ‘an example of the parliament engaging with civic Scotland as devolution campaigners envisaged’ (*The Scotsman* (a); 2001, p.9). The Public Petitions Committee has been viewed as a tool to close the ‘democratic deficit’ and as ‘an extension of the boundaries of democratic participation in Scotland’ (Cavanagh et al; 2000, p.79).

Another example of the Scottish Parliament’s attempt to be open and accessible is its use of information technology. The Scottish Parliament developed a website that has become an

important source of information for interest groups, containing verbatim reports of committee meetings, parliamentary debates, research briefings and other parliamentary documents. Contact details of all the MSPs and committee clerks are also available on the website. (Of course this is only available to those who have the internet but to overcome this, the Scottish Parliament set up a network of Partner Libraries throughout Scotland). As Joyce McMillan put it: ‘if ever a parliament was set up with an overt mission to encourage a new culture of citizenship and participation, the Scottish Parliament of 1999 was that body’ (2001, p.38).

Interest groups in Scotland certainly appeared to buy into the idea of this new politics, as they had ‘access to politicians in a way that is unprecedented’ (Brown; 2000, p.54). The SPTC’s Development Manager summed it up succinctly for the other groups when she stated that the Scottish Parliament ‘certainly is open and accessible and anyone who says it isn’t, just hasn’t availed themselves of it.’ The FSB’s Press and Parliamentary Officer in his oral evidence on the CSG principles to the Procedures Committee stated that the FSB believed that ‘the Parliament has delivered responsible, open and participative government’ with MSPs, committees and Ministers all embracing those principles (Procedures Committee (a), Col 1400). He also added that access was extremely good at all levels ‘which was not so apparent in the days of the Scottish Office’ (ibid.). As one of the FSB’s internal reviews summarised ‘since the start of the Scottish Parliament, FSB has had more consultation with officials and parliamentarians than ever before’. They found the Parliament to be open, not just in terms of the accessibility of the actors, but also because it ‘widely disseminates information on its current and future work, contact is easy and the whole process is very open’ (as quoted in the Standards Committee report on lobbying – Scottish Parliament (d), 2002, p.5). A result of this, the FSB felt that they had a greater chance of achieving something (FSB’s Deputy Press and Parliamentary Officer).

The SCPO in its written submission to the parliamentary Standards Committee commented that ‘we have generally found Parliament as a whole to be fairly open and transparent, and MSPs to be readily accessible’. And in their written submission to the Procedures Committee (on the CSG principles), they wrote that ‘churches recognise and welcome the undeniably greater opportunities for “civic society” in Scotland to contribute to the Parliamentary decision-making process’.

The MS Society, CoSLA and the RSPB had the same story to tell. The MS Society in Scotland found that the Scottish Parliament was much easier to lobby than it ever would have been ‘when things were controlled by the Scottish Office and Westminster politicians’

(Director). At CoSLA both the Acting Chief Executive and the Convention Manager acknowledged that CoSLA had greater opportunities in the Scottish Parliament than they ever had at Westminster, not because ‘we’ve got a special position but because I think probably everybody does’ (Convention Manager). The RSPB’s Senior Investigations Officer pointed out that he had been in his job for sixteen years and in all that time he had never been in the Houses of Parliament at Westminster, yet in the three years the Scottish Parliament had been in existence he had given evidence several times and provided answers to parliamentary questions. Perhaps the RSPB’s Head of Advocacy and Media spoke for all six groups when he observed ‘I think people in the NGOs feel that they’ve genuinely played a much more important part in Scottish democracy than they ever have in the past’. Voluntary sector groups and NGOs were able to be part of the public forum that debated social policy, thanks to the Scottish Parliament ‘working through the principles of the Consultative Steering Group’ (Paterson; 2002, p.59). Whether the groups’ enthusiasm for the devolution process had influenced their judgement or not, there is no doubt that they sincerely felt that the system had opened up to them.

## **Section 4.5 Theoretical perspectives**

Having briefly established the background to how things were before 1999 and the principles the Scottish Parliament had committed itself to, it would be appropriate to offer some theoretical perspectives from each of the institutionalist approaches on how the six groups were likely to respond to the Scottish Parliament. These three different perspectives will be used as a benchmark in the chapters to come as to how the different components of the Scottish Parliament (the Scottish Executive, committees and MSPs) have affected the groups.

### **4.5.1 Rational choice institutionalism**

The creation of the Scottish Parliament was a goal that the FSB, the churches (SCPO) and CoSLA had worked towards. On that basis rational choice institutionalism would say that they would continue to calculatingly ‘maximise the achievement of their goals’ (Tsebelis, p.5). The self-interested motivation for having devolution would be to 1) get policies appropriate to the needs of Scotland and their members’ interests and 2) provide them with an accessible parliament affording them greater opportunities to influence legislation. But the risk for rational actors is that the institution may not bring the benefits that they hope for. People will change an institution if the benefits that they hope for from its existence cease (or fail) to materialise. As long as the Scottish Parliament continues to be beneficial for the groups, they will support its continuation.

Rational choice institutionalism dictates that all the groups will be motivated by their own self-interest and the pursuit of their own good (Grafstein; 1992, p.259). Therefore, it could be assumed that it would be in their interests to take advantage of all the new opportunities afforded to them by the Scottish Parliament if it meant they could maximise their goals. The problem at the start of devolution was that no-one was quite sure how powerful the Parliament (committees and MSPs) was going to be, although it was heralded as being powerful enough to challenge the dominance of the Scottish Executive, unlike the norm at Westminster. Based on those promises it could be expected that the groups would invest resources into lobbying committees and MSPs, as well as the Scottish Executive, in order to take advantage of all new possible routes of influence. However, this is not particularly rational as the groups would be investing resources into an unknown quantity (the committees). If the committees were merely talking shops then the groups would end up pulling back their resources and transferring them to the Scottish Executive if they believed that would help them to achieve their goals more effectively (this is unlike historical institutionalism where a group would be more likely to stick with their original lobbying strategy).

It could also be expected that the groups would either work independently (so as not to compromise their demands) or else only join up with other groups when it would be most beneficial to do so (where they would get more out of the alliance than they put in).

To summarise then, based on rational choice, it could be predicted that the groups:

- would adopt a strategy that would allow them to become insider groups (because generally it would be in their self-interest to do so)
- would lobby only the access points that would allow them to achieve their goals most effectively
- would primarily work independently, except where it was expedient to join an alliance/network for the expected benefits that could not be gained working alone
- would only support the Scottish Parliament as long as it proved beneficial to them
- would remain fundamentally unchanged, as their preferences were formed outwith the Scottish Parliament.

#### **4.5.2 Sociological institutionalism**

Sociological institutionalism would attribute the establishment of the Scottish Parliament to Scottish culture and a joining together of civic Scotland united in their view that the government at Westminster was out of synchronisation with what Scots wanted. The desire

of the Scots to govern themselves was born out of cultural and historical reasons and not simply rational self-interest. The support for a Scottish Parliament extended throughout the country, it was not simply the Scottish elite and interest groups that voted the Scottish Parliament in, although they played a significant role in making it a reality. As a product of Scottish society the Scottish Parliament would be expected to reflect the culture surrounding it.

In turn the Scottish Parliament, once it was operational, would also expect to influence those involved with it, to the extent that the preferences of the groups would be constructed by the new political institution. It would be expected that the values of the groups would come into line with the Scottish Parliament's as a result of their interaction with it. Furthermore, the groups, by following the formal and informal rules of the Scottish Parliament, would end up complying with its norms and operate in a way that the Scottish Parliament approved of. By doing so they would essentially be adopting insider strategies as they would be conforming to how the Scottish Parliament expected them to behave. In addition to working in a way viewed as desirable by the Scottish Parliament, the groups would imitate each other's working practices as a result of institutional isomorphism. Therefore the groups, under sociological institutionalism, would be expected to have vastly similar working practices when interacting with politicians and civil servants.

Taking the sociological approach, it could be expected that:

- groups would be more likely to be insider or potential insider groups because they will be acting in ways that have been deemed appropriate by the Scottish Parliament (the "logic of appropriateness")
- the groups will be fundamentally changed as the Parliament will determine their identity and preferences
- groups will be keen to join alliances and networks to support each other and the Parliament
- the groups will carry out activity at all the access points in the Parliament as it would be in keeping with their belief that the Parliament should be strong and not just subject to Scottish Executive dominance
- the groups will adopt the same patterns of behaviour because of institutional isomorphism.

### 4.5.3 Historical institutionalism

Historical institutionalism would expect the groups to be affected by the Scottish Parliament in similar ways to sociological institutionalism, particularly that it would form the preferences of the groups. However, historical institutionalism is not as fluid as the sociological approach, as the decisions that the groups make at the start of their lobbying strategy will influence all subsequent choices. Due to institutional “lock-in”, the groups would continue to carry out the strategy/methods that they adopted when they first decided to get involved with the Scottish Parliament, even if after time another strategy would be more effective. Change only occurs at times of ‘critical junctures’.

Historical institutionalism would predict that the groups:

- would be fundamentally changed as the Scottish Parliament will have determined their identity and preferences so that their goals, as well as their strategies, are changed
- are more likely to take on what is seen as an insider strategy (because the Scottish Parliament will have determined their strategies and goals), although how successful they would be in achieving insider status would be dependent on their lobbying focus when the Scottish Parliament was new and how much resources they had allocated to political work
- will seek to form alliances (if they are outsider groups) in order to have some influence until such time that the Scottish Parliament would grant them insider privileges
- the groups would continue to influence the points that they identified at the start as being useful to them
- will share similar views on the political system and what they can do within that, although that does not necessarily mean they will act in the same ways as other groups.

The main difference between the approaches is whether the Scottish Parliament will have been able to fundamentally change the groups, i.e. will it be able to determine the preferences of the groups to the extent that not only their strategies will be changed but also their *goals*. If the goals of the groups remain unchanged then rational choice institutionalism will be the more applicable approach. If the goals of the groups have been changed and the Scottish Parliament is able to supersede policy and strategy decisions that the groups made in the past, so that their behaviour will always reflect current expectations and behavioural norms, then sociological institutionalism will be the most applicable. Thirdly, if the groups reflect the preferences and goals of the Scottish Parliament but remain stable in their ways of working and behaving (because they continue to stick to the course of action they originally settled on) then historical institutionalism is best placed to explain why that is the case.

#### **4.6 The “old order”**

The relationship between the Scottish Executive and the groups will be discussed in chapter six and again in the concluding chapter in order to provide context to the main focus of this thesis – the Parliament (committees and MSPs). The Parliament is given prominence because the CSG report was confined to how the Parliament would operate, its remit did not extend to the Scottish Executive. In fact, Mitchell criticises the advocates of new politics for their focus on the Parliament and for failing to recognise that it would be the Scottish Executive which would dominate policy making (2000, p.610-614). He also points out that devolution:

‘involved the establishment of a democratic component to an existing distinctive structure of government in Scotland. Groups and individuals would have to alter their behaviour accordingly rather than assume that they had to start completely afresh’ (Mitchell; 2000, p.615).

But for the groups, the Parliament was brand new and for many, there was the hope that it would operate differently from Westminster and the Scottish Office. So if the groups did not start ‘completely afresh’ with the new institution, how could they expect to have a Scottish Parliament that worked in a completely fresh way?

Many of the groups began to prepare for the Scottish Parliament before it was operational, so decisions that they made at the start will have had subsequent effects on their behaviour and therefore it is necessary to look at how they responded generally to the Scottish Parliament in chapter five, as this will provide background. Chapter 6 will focus on the Scottish Executive – civil servants and Ministers – as it is derived from Westminster structures and if it has not adapted to the new politics of the CSG report then it will have a significant impact on the ability of the Parliament to sustain a new way of working. It is interesting that many aspects of the Scottish Parliament were designed so that they were the opposite to Westminster practices, yet the civil service was deliberately kept as part of the Home Civil Service after devolution because it provided continuity with relations in Whitehall and ‘with established British civil service practices’ (Kirkpatrick and Pyper; 2001, p.72). After chapter 6 on the Scottish Executive, the different components of the Parliament will be examined (the committees and clerks in chapter 7, MSPs in chapter 8) as the Parliament was to be the standard bearer for the new politics. Chapter 9, the concluding chapter, will return to the consideration of whether new politics made an impact on the six groups.

In order to come to those conclusions it is first necessary to know how the groups first approached the arrival of the Scottish Parliament and the intended introduction of ‘new politics’.

## CHAPTER 5 THE SCOTTISH PARLIAMENT

### 5.1 Introduction

It is necessary to look briefly at what expectations - no matter how unrealistic they later turned out to be - the groups had for the new Scottish Parliament, as those expectations shaped the mechanisms that they put in place to interact with the new institution. Any decisions that the groups made at the start, such as whether to create a parliamentary officer post within their organisation, or to actually create an entire new organisation, will have an important bearing on their subsequent relationship with the Scottish Parliament. With the exception of the MS Society, the rest of the groups made decisions about how they envisaged working with the Scottish Parliament before it had even been elected and so they set up practices that were designed to interact with the Scottish Parliament generally, rather than any specific components at that stage.

### 5.2 Expectations

Arter wrote that the Scottish Parliament in its first four years perhaps ‘suffered from the tyranny of expectations. Too much was expected of it’ (Arter; 2003, 19). This was because:

‘many Scots tended to believe that the political structures we would create would somehow be different from those in existence elsewhere – hence much of the Utopian daydreaming about the brave new politics of post-devolution Scotland’ (Craig; 2005, p.49).

The interest groups were no exception; they too held idealistic hopes for devolution.

After being heavily involved in the Constitutional Convention and having been committed to the devolution campaign it was understandable that groups such as the FSB, the churches and CoSLA were expecting a lot from the new Scottish Parliament that they had helped bring about. The parliamentary officers of the MS Society and the RSPB had also personally been dedicated to the devolution cause for years. The Head of Advocacy and Media at the RSPB explained that ‘I’ve campaigned for it my entire political life and I think it’s living up to expectations. It probably colours a lot of what I’ve been saying to you’. The Policy Officer of the MS Society had a similar story to tell:

‘I campaigned in the 1979 referendum and I worked right through the Thatcher years to keep the issue on the Scottish political agenda, as part of the Scottish TUC, I was secretary to the sub-committees of the Constitutional Convention which looked at the economic powers of the Scottish Parliament which is a big issue and I had a very modest input into how it’s all turned out’ (personal interview, May 2001).

They felt that they had campaigned for a *Scottish* Parliament, a Parliament that could address the particular needs of Scotland in a way that Westminster never could hundreds of miles away in London. In their view devolution was supposed:

‘to mitigate the sclerotic effects of overcentralisation; to bring government closer to those who are affected by its activities, as the principle of subsidiarity mandates; to enhance accountability; to strengthen a sense of national identity’ (Convery; 2000, p.344).

Devolution was to provide ‘a Scottish solution in a Scottish context’ (CoSLA; 12 January 2001).

The Head of Policy at CoSLA explained that he was in favour of the Parliament ‘because I think Scotland has a distinct culture that embraces our systems and structures and that needs a distinct system of governance’. This was a sentiment echoed by the other groups: ‘it has brought policy back home’ (SPTC Development Manager); ‘they focus on Scotland so hopefully we should get better policy’ (FSB Press and Parliamentary Officer); ‘it’s not just about geography but obviously a new way of working and the fact of having a parliament in Scotland’ (SCPO Parliamentary Officer). It was no longer a case of the Secretary of State for Scotland being ‘invariably somebody who implemented the UK policy in Scotland which some would argue in some periods of history was incompatible with what the Scots voted for’ (RSPB Head of Policy Operations). The Convention Manager of CoSLA agreed that after experiencing ‘things that were very much imposed on Scotland, I think that probably brought a very keen awareness of what it is like to have a legislature that is not really rooted in your own culture’ and the experience of having ‘policy being decided five hundred miles away and then being sent up on the train’.

These were perhaps obvious reactions to the ‘practice of inserting clauses relating to Scotland into what are essentially English Bills, instead of producing separate Scottish bills’ (Kellas, 1992, p.94). Westminster had only so much time at its disposal and therefore had very little of it to devote to purely Scottish issues, hence just the handful of Scottish bills that were passed each year. As a result of this the Labour MSP, John McAllion, wrote that in the first year of devolution the Scottish Parliament committees found ‘themselves under siege from grass roots groups across Scotland urging investigations into areas of concern so long neglected under the Westminster system’ (*The Herald* (a); 1999, p.6). The Scottish Parliament also allowed Scottish Ministers to develop a distinctive Scottish line on certain

issues, such as free personal care for the elderly and university tuition fees (Massie; 2002, p.44).

Such idealised enthusiastic support of the Parliament was not just peculiar to the six groups in this study. Throughout the parliamentary Procedures Committee inquiry into how effectively the Parliament has implemented the principles of the Constitutional Steering Group, it came through again and again how favourable interest groups' attitudes were towards the Scottish Parliament. Indeed, the Director of the Scottish Council Foundation in his report card of the Scottish Parliament's first year observed that the 'biggest supporters of the parliament are those who seek to influence it' (*The Scotsman* (b), p.8). Back in 1999 the:

'vision for the Scottish Parliament, including its emphasis on participatory democracy, was undoubtedly a powerful and effective mechanism for mobilisation of popular and elite action to bring about major change in the political process in Scotland' (Bonney; 2003, p.466).

The groups welcomed devolution as a way of getting Scottish legislation specific to the needs of Scotland and they believed that because they had played a role in bringing about devolution, they would be rewarded. They felt that this came in the promise of the CSG report:

'Power sharing is not only about the balance of power between the Scottish Executive and the Scottish Parliament, but also about the empowerment of external groups and individuals in all sectors of Scottish society' (Consultative Steering Group; 1998, p.6).

In 1999 it appears that the groups hoped that power would be shared out, that new politics would be possible with the new Scottish Parliament. The groups made the decision to participate in the new political system and to do that they had to make choices about staffing, offices, organisational priorities and workload priorities to ensure that they could play a meaningful part in the new political era.

### **5.3 Personnel and premises**

This section details how the Scottish Parliament affected the number of personnel in the groups, as well as how it factored in to their choice of office premises. Although these may be somewhat uninspiring details in and of themselves, they nonetheless indicate the commitment the groups were prepared to make to engage with the Scottish Parliament and the extent it affected the working direction of the groups.

## **Federation of Small Businesses**

### **Staff**

Before the Scottish Parliament, the FSB had a full-time Press and Parliamentary Officer and an Office Administrator based in their Glasgow office and they were assisted by various FSB members who fulfilled honorary roles, in particular their Policy Convener who was in charge of the Scottish FSB. As a direct result of the creation of Scottish Parliament the FSB hired a Deputy Press and Parliamentary Officer and a Policy Development Officer. An office assistant was also employed in order to cope with the extra secretarial work created by the new staff. Having more than doubled the number of paid full-time staff, the FSB further supplemented their personnel by taking on secondees from British Telecom and from the Royal Bank of Scotland. At the time of participant observation (August/September 2000) the FSB was hoping to gain a secondee from the Scottish Executive.

### **Premises**

Although the FSB had a press and parliamentary office for years in Glasgow they still spent a year preparing and re-organising themselves for the Scottish Parliament. This involved moving to bigger premises because they knew that they were going to take on more staff and so they required more space than they had in their rented one-room office. In October 1998, the FSB bought a three storey building to accommodate a larger workforce, as well as providing them with conference rooms in anticipation of the Scottish Parliament.

The FSB decided to remain in Glasgow rather than moving to Edinburgh because Edinburgh property prices were too high. In response to whether they felt disadvantaged by their location, the unanimous answer from the staff was no because they felt that Edinburgh was only a short train ride away and distance was no real obstacle in the age of e-mails and faxes.

## **Scottish Churches Parliamentary Office**

### **Staff**

The SCPO owed its entire existence to the Scottish Parliament as it was set up because 'the churches were very much part of the civic society movement that brought the Parliament into being'. Once the Scottish Parliament was a reality, the churches wanted to engage with it to make the most of the new opportunities it was going to create, therefore the SCPO office personnel owed their jobs to the creation of the Scottish Parliament. Initially, a Parliamentary Officer was appointed to carry out the functions of the office in September 1998 and the appointment of an Office Administrator followed. By January 2001 (at the time of participant observation) the SCPO had also found it expedient to hire a permanent part-

time research assistant. Eight short-term volunteers had also supplemented the SCPO personnel by January 2001.

### **Premises**

To house their staff the SCPO rented an office less than five minutes walk away from the Parliament's temporary premises on the Mound in Edinburgh. This was a deliberate choice as the Parliamentary Officer explained that the office:

‘had to be not only in Edinburgh but very close to the Parliament so that I wasn't spending a lot of time getting to and from the Parliament but also so that it was easy to get parliamentarians and others to come to meetings that we might organise here’ (personal interview, February 2001).

Being in close proximity to the Scottish Parliament was such a high priority for the SCPO, that when the Scottish Parliament was expected to move to its permanent Holyrood site in December 2001 the SCPO had also arranged alternative office accommodation further down the Royal Mile to coincide with the relocation. But as the Holyrood building timetable faltered and the Scottish Parliament stayed put, so did the SCPO.

### **Multiple Sclerosis Society**

#### **Staff**

The MS Society appointed a Policy Officer for the first time in March 2000 as a direct consequence of the Scottish Parliament. Policy work was an area that the Scottish HQ had never been involved with before therefore a whole new budget area had to be established. The policy work had a knock-on effect on the Director's role as he had to encompass this new area of activity into his existing workload; he reckoned parliamentary work was taking up as much as a third of his time.

#### **Location**

The Scottish Parliament may have affected the MS Society's personnel but it had no impact on its location. The Policy Officer felt it was more important that they were accessible to their members and the Director added that Edinburgh city centre properties were too expensive and that the traffic in the city centre was also an obstacle. Their offices therefore at the time of participant observation were on the western outskirts of Edinburgh.

## **Scottish Parent Teacher Council**

### **Staff**

The SPTC staff numbers were completely unaffected by the Scottish Parliament which stayed constant at the three part-time paid office staff they had before devolution. The SPTC's Development Manager's remit already encompassed political and media issues so when the Scottish Parliament opened she just transferred the focus of her work from the Scottish Office to the Scottish Parliament.

### **Location**

However, the Scottish Parliament over time had managed to impinge itself on the location of the SPTC office. For reasons unconnected to the Scottish Parliament, the SPTC office had moved in to the city centre of Edinburgh but once they experienced being within walking distance of it, the Development Officer thought that such a location was 'advantageous'. This was echoed by the SPTC's convener in their 1998-1999 Annual Report who wrote that they 'were fortunate to be based in Edinburgh, making it possible to attend education committee meetings and parliamentary sessions' (SPTC (b), p.1). The Development Manager stated that the Scottish Parliament would certainly be a factor in future changes of location insofar as they would not move out of Edinburgh.

## **Convention of Scottish Local Authorities**

### **Staff**

Due to financial difficulties CoSLA actually had to reduce their staff numbers but they did initially appoint a Parliamentary Liaison Officer whose job it was to liaise with the new Scottish Parliament. However, that post was subsequently scrapped as it had proved unsuccessful and a decision was made that everyone would incorporate a parliamentary dimension into their work rather than appointing one individual to carry out a specific parliamentary role. The Convention Manager explained that this made sense as 'really everything that the Parliament was generating cut right into the work' of most CoSLA employees. The Head of Policy said that while he believed that everyone should take ownership of the parliamentary dimension of their work, he also felt that having a specific Parliamentary Liaison Officer could be a very useful role if the right person was in it, but he added that such a post would be difficult to justify given CoSLA's resource difficulties at that time.

## **Location**

The Convention Manager and the Head of Policy both felt that the Scottish Parliament (in particular the Scottish Executive) did have a bearing on CoSLA's location because of the large volume of business that they carried out with it, making it impractical for CoSLA to be far away from the Scottish Parliament. When CoSLA carried out a review in 2001, it was decided that their premises at Edinburgh Haymarket was an ideal location (right beside the train station and close to the Scottish Parliament and the civil service) even if it was an expensive site (see CoSLA (b)).

## **Royal Society for the Protection of Birds**

### **Staff**

The RSPB actually created an entire department in response to the establishment of the Scottish Parliament. They decided at the time of the 1997 referendum (see Appendix 1 for more information about the referendum) to appoint a parliamentary officer. In addition to the parliamentary officer – whose title became Head of the Advocacy and Media Unit – the RSPB later established a Parliamentary Information Officer and a Media Officer and the three new posts combined to make up the Advocacy and Media Unit to carry out lobbying, media work and public relations duties. The posts of parliamentary officer and parliamentary information officer were directly created as a result of the Scottish Parliament and while the Head of the Advocacy and Media Unit explained that it was possible that a media officer would have been appointed at some point anyway, devolution accelerated the timescale of one being put in place.

### **Premises**

The RSPB's HQ was already based in Edinburgh prior to the Scottish Parliament so they found no need to change. But the Head of Advocacy and Media said that while most RSPB staff did work outwith Edinburgh, he saw a need for his department to remain close to the political centre so that he could carry out his work effectively.

### **Summary**

All six of the groups made the decision to engage with the Scottish Parliament and as a result the dynamics of their organisations changed considerably - with the exception of the SPTC. Once the groups made the decision to interact with the Scottish Parliament they made sure their structures conformed to what was expected of them.

The FSB invested heavily into what it believed the Scottish Parliament would deliver before the elections had even taken place. They had participated in the Scottish Constitutional Convention which campaigned and made plans for a Scottish Parliament. They doubled their staff and bought a substantial new office building (they had previously rented). The SCPO only existed as a result of the creation of the Scottish Parliament. The churches, like the FSB, were part of the Scottish Constitutional Convention and also dedicated to devolution and so they appointed a Parliamentary Officer before the Scotland Act had even become law and then opened the SCPO office on the Mound in close proximity to the Scottish Parliament. The MS Society in Scotland had very little to do with political work prior to the Scottish Parliament but since then, the Society changed its dynamics to not only provide services to its membership but to also try and influence legislation. This then became an integral part of the Society's work, reflected not just in the appointment of a Policy Officer but by the fact that parliamentary work was taking up a third of the Director's time. The Scottish Parliament also changed the make-up of CoSLA, which was also a participant in the Scottish Constitutional Convention. A Parliamentary Liaison Officer failed to carry out all the necessary parliamentary work so as a result most of CoSLA's office staff had to incorporate it into their daily working lives. The Scottish Parliament had the effect of politicising the RSPB in Scotland and thus changed the dynamics of its office. They created an entire department to engage with the Scottish Parliament and added parliamentary work to the duties of many RSPB HQ staff.

The SPTC was the only group out of the six whose work remit had not been changed significantly. If the Scottish Parliament were to close tomorrow, the SPTC would probably be the least affected as it would not have to change its personnel or its priorities. The main difference was that while the SPTC had accommodated the Scottish Parliament to suit the structure and the priorities the SPTC already had in place, the other five groups changed their work around the Scottish Parliament.

### **Rational choice institutionalism**

How then can new institutionalism explain the responses of the groups? The FSB, CoSLA and the churches campaigned for a Scottish Parliament and so rational choice would say that they wanted a Scottish Parliament in order to reduce their transaction costs. Westminster was so far away and due to the use of policy networks it was difficult to always know who had influence in the policy process at the Scottish Office, which meant groups could try to maximise their own preferences there without any real constraints making it hard to predict the behaviour of others, thus raising the transaction costs.

The MS Society and the RSPB were not particularly politically active in Scotland prior to 1999 so they did not see devolution as being in their self-interest as policy work was not a priority for them (at their Scottish headquarters). But when it became evident that there was to be a Scottish Parliament and that others were going to benefit from it, they decided that they wanted to be a part of the process in order to achieve their own interests.

The SPTC did not campaign for or alter their staff and structures for the Scottish Parliament but once it opened and education became a devolved power then it was obvious that to pursue their own preferences the SPTC would have to do so through the Scottish Parliament. But the SPTC, unlike the other groups did not allocate extra resources for lobbying because it had no way of knowing for sure what the benefits would be of having the Scottish Parliament, so the SPTC with its smaller resources did not change its priorities on the basis that they might turn out to be misplaced. The SPTC was also rational in that it remained focused on existing arrangements on quangos and steering groups as well as looking to exploit new opportunities.

Rational choice institutionalism would explain the behaviour of the other five groups by saying that they adapted their structures because of their expectation that they would maximise their utility by doing so. The Scottish Parliament was expected to provide new opportunities to influence legislation so therefore it was in their own interests to hire parliamentary staff (and indeed actually create an office in the SCPO's case) in order to take advantage of those opportunities. The groups which already had parliamentary staff wanted to increase their numbers because of the anticipation that the Scottish Parliament would require more work and lobbying than they had previously been used to.

The choice of premises could also be claimed to be made on self-interested grounds. The FSB and the MS Society did not move into Edinburgh because they did not think that it would benefit them more by doing so. The SCPO was brand new and its sole function was centred around the Scottish Parliament so it made sense for it to be where the Scottish Parliament was. The other three groups were already in Edinburgh before 1999. Although since then, the four groups based in the city centre of Edinburgh believed that if they did move away, it would actually diminish their utility maximisation because of the benefits they felt they enjoyed by being so close to it.

### **Sociological institutionalism**

Sociological institutionalism would state that it was the social environment surrounding the groups that motivated their behaviour to campaign and to change their behaviour for the Scottish Parliament. The Scottish Parliament was the result of popular will – the wish of the nation to govern itself (albeit within a UK structure). This desire for self-government was the reason the Scottish Parliament was created and the groups participated in the new system because their membership expected them to. Members are part of wider society so it was no surprise that they agreed to the allocation of resources within their groups to participate in the new political system, even if it was a new direction for some of the groups.

The groups decided on similar courses of action such as the hiring of designated parliamentary staff because of mimetic and normative isomorphism: they were copying a successful model as no-one was sure how the Scottish Parliament would work in practice and secondly, having a parliamentary officer appeared to be the normal practice when dealing in politics. The SCPO was brand new but as with all new institutions it borrowed from existing templates and established a parliamentary office with a parliamentary officer. In CoSLA's case, once the system was up and running for a while they found that having a Parliamentary Liaison Officer was not actually an example of best practice and in fact due to the largely political nature of CoSLA's work many people were required to take on a parliamentary role, not just one appointed person.

Sociological institutionalism would argue that the SPTC participated in the new political system because it was expected of them by their membership but also because they were coerced into doing so by institutional isomorphism – in order to try and influence education policies they had to change their focus to the Scottish Parliament.

The FSB was the only group to actually change premises as a result of the Scottish Parliament but it did not move to Edinburgh, perhaps because the office had always been based in Glasgow and the permanent paid office staff all came from and lived there so they were tied to those particular surroundings. The SCPO based the office in Edinburgh because it was 'a creature of the Parliament' in the sense that the office's entire workload was connected to the Scottish Parliament so it was sensible for them to be as close to it as possible. The other four groups had no need to move as they had space for their staff in their existing offices and the Scottish Parliament had not had sufficient time to influence them at that point.

As time went on though, the four groups based within walking distance of the Scottish Parliament declared that they would not move out of Edinburgh, because having experienced being so close to the political centre they wanted to continue to operate in it. They had become part of the ‘political village’.

### **Historical institutionalism**

The six interest groups had to make a decision about how they would respond to the new political environment that they found themselves in. With the arrival of the new Scottish Parliament it was hoped that interest groups would have the opportunity to influence legislation and accordingly the groups (except for the SPTC) allocated extra resources to carry out this work. Given this context, the six groups decided to either begin or to boost their parliamentary activities and change the previous work balance that had existed within their offices. For the groups that had little lobbying experience, they copied existing templates that other groups were using and once they decided to appoint certain staff members and so on, these positions would become entrenched (in historical institutionalism decisions made at the start continue until a ‘critical juncture’ occurs, even if that decision proves to be inefficient at a later date). The exception was CoSLA which decided not to re-appoint a Parliamentary Liaison Officer on the grounds that they no longer had the money for such a post – a critical financial juncture.

The SPTC did not change its staffing as a result of the Scottish Parliament because its creation did not represent a critical juncture for it as it had not been involved in the devolution campaign and it was not embarking on a new area of work or intending to increase its political work by any significant measure. For the SPTC it was business as usual as it recognised that much of the work that it had previously done would continue e.g. seats on advisory groups set up by the civil service.

Again, the decision to move or not to move premises would be down to the context at the time the groups decided to engage with the Scottish Parliament and the groups obviously decided that location was not an important factor at that time, except for the SCPO, as the others had ties to their existing locations. The churches decided that they were going to set up an office to interact with the Scottish Parliament that they had campaigned for and as the office was a new creation it made sense to locate it to where the Scottish Parliament was. As time passed the four groups based in Edinburgh came to the realisation that they benefited enormously from being there and so location would be a factor in any future moves. The

FSB and the MS Society had never experienced being within walking distance of the Scottish Parliament and so did not think there was any advantage to being in Edinburgh city centre.

#### **5.4 Political activity**

A major change in behaviour for three of the groups (SCPO, MS Society and the RSPB) was actually engaging in organised political activity for the first time and establishing a new culture within their organisations of influencing legislation. For the other three groups (the FSB, SPTC and CoSLA), they had to adapt to dealing with a Scottish Parliament on their doorstep five days a week, making politicians geographically more accessible as well as presenting them with greater opportunities for influencing legislation.

#### **Federation of Small Businesses**

The FSB had been politically active for years but when the Scottish Parliament opened, the FSB changed the focus of its political work from Westminster to Holyrood. In fact, the Scottish Parliament in its first year of operation managed to elbow Westminster almost entirely out of the FSB's activities. When asked if the Scottish Parliament made up 100% of their focus, the Press and Parliamentary Officer replied that this was 'probably' the case because most of the issues important to them had been devolved to the Scottish Parliament (although Westminster still had reserved powers over taxation). By the end of the period of participant observation the FSB were beginning to consider casting an eye back to Westminster and its reserved powers. The FSB was intending to make more of an effort to keep up contacts with it as there was 'Westminster decisions that we've got to be involved in and we need to keep that door open' (Policy Convener). Contact, either written or oral, between the FSB and MPs had been virtually non-existent in the first eighteen months of the Scottish Parliament. The exception to this general neglect was the Chancellor, Gordon Brown, who gave them an audience in September 2000. Otherwise though, Holyrood had been the entire focus of their activities and this was reflected in the press releases issued by the FSB office. Fifteen out of the nineteen press releases that were issued from May 1999 until the end of August 2000 were concerned with the Scottish Parliament and out of the remaining four, the budget was the subject of two and general business matters made up the other two. The emphasis was clearly on the Scottish Parliament. At the time of the period of participant observation, the FSB had also decided that it would 'like to get more involved in the European side of things' (Deputy Press and Parliamentary Officer) and were trying to determine whether they could get involved with EU issues via the Scottish Parliament's European Committee or if it should try an alternative route.

### **Scottish Churches Parliamentary Office**

The SCPO 'is in a sense a creature of the Parliament' (Parliamentary Officer) and thus its remit was to interact with and monitor the Scottish Parliament, this made up the office's workload.

### **Multiple Sclerosis Society**

The Director and the Policy Officer at the MS Society explained that prior to the Scottish Parliament the Society in Scotland was a charity delivering services, carrying out fund-raising and welfare activities. Since the Scottish Parliament opened it continued to do those things but it also added a policy dimension to its work by seeking to influence government and statutory provision. Influencing public policy was a whole new direction for the Society and it was prompted to do so by the Scottish Parliament. The Society decided that it ought to work with it as it offered opportunities to participate and its devolved powers included most of the major policy issues the Society was concerned about – housing, social work and the Scottish health service (the exception was welfare benefits which remained a reserved power). Previously, its political work was limited to offering comments to their London colleagues on any legislation from Westminster that may have affected people with MS in Scotland. Its new political work was reflected in the appointment of a Policy Officer, the expansion of the Director's role and in their newsletter which 'has changed because it has got quite a lot of policy coverage in there which didn't used to be there at all' (Director).

### **Scottish Parent Teacher Council**

The SPTC had always been politically active but the Development Manager commented that this activity had taken a different direction since 1999. She explained that before the Scottish Parliament she worked with civil servants and other partner organisations to build coalitions up. Trips to Westminster did occur but were very unusual. The SPTC's work since devolution had focused more on politicians rather than civil servants because politicians had become more accessible and the SPTC found it no longer necessary to work as part of a coalition as the Scottish Parliament enabled the SPTC to act directly and independently. Because of this 'the Scottish Parliament has had a big impact on the SPTC and allowed us to be far more involved in the policy making process' according to their 1999-2000 Annual Report (SPTC (c), p.1).

### **Convention of Scottish Local Authorities**

CoSLA, because it represented Scottish local authorities, had always been a politically active organisation. And since 1999 the vast majority of CoSLA's political activity focused on the

Scottish Parliament, although it also employed one person in Brussels to keep abreast of EU developments. At the time of participation observation Westminster was CoSLA's gap area (according to the Acting Chief Executive, the Convention Manager and the Head of Policy). The Acting Chief Executive explained that prior to the Scottish Parliament they had only focused on Westminster for specific periods anyway as not much legislation went through that affected Scotland, so they just went down to Westminster once a year when the revenue support grant and the housing grant orders for Scotland were being debated. Westminster had not been completely ignored by CoSLA but the focus there 'has been virtually reduced to minimal level' (Acting Chief Executive) and it mostly centred round housing and social security issues. The Convention Manager recalled an incident when a civil servant had said to her that it was a mistake for CoSLA not to have more to do with Westminster. But she thought that he was wrong as most issues that were relevant to Scottish local authorities were now devolved to the Scottish Parliament. The Head of Policy also agreed that it was sensible for CoSLA to be focused on Holyrood, although he added that on occasion he had felt that it was a drawback not to have more Westminster involvement. For instance, when CoSLA was fighting against sections of a transport bill going through Holyrood, a transport bill was also going through Westminster which covered measures on railways and non-devolved modes of transport which affected Scotland. However, CoSLA had to rely on the English Local Government Association to represent local government interests on that issue at Westminster even if it was not specifically representing Scottish interests; it was either that or nothing.

### **Royal Society for the Protection of Birds**

Long before the RSPB set up its Advocacy and Media Unit, its colleagues in the RSPB's UK national headquarters at Sandyford already had a small army of parliamentary staff dealing with Westminster and Europe. So when there was legislation going through that was of particular relevance to Scotland ('most of the time there wasn't') it tended to be that most matters to do with legislation 'were really done at our headquarters level' (Senior Investigations Officer). The Scottish RSPB did try and influence policy but it dealt with civil servants at the Scottish Office and inevitably most of the political work was carried out by their national headquarter colleagues, because not only did it have the staff but as the Head of Policy Operations explained: 'the logical policy analysis of the old UK was that if you got change in Whitehall it eventually flowed out in Scotland, Wales and Northern Ireland'. When devolution occurred the RSPB decided on a policy of "countrification" – giving its Scottish, Welsh and Northern Irish offices the resources to interact with the new devolved institutions. So as a result of the Scottish Parliament, the RSPB in Scotland got its first press and parliamentary team - known as the Advocacy and Media Unit - whose job was to focus

on the Scottish Parliament and the Scottish media, although the Unit had also incorporated a European aspect by extending its contacts to include Scottish MEPs. The Head of the Advocacy and Media Unit described the effect of the Scottish Parliament on the RSPB's political activity as 'a powerful galvanising influence'.

### **Summary**

The Scottish Parliament caused a substantial change in the behaviour of the six groups. The groups split into two camps - those who only became politically active as a result of the Scottish Parliament (the SCPO – although the churches had been active for hundreds of years and the Scottish headquarters of the MS Society and the RSPB) and those who formerly lobbied the Scottish Office and Westminster but switched their energies and resources to the Scottish Parliament (the FSB, SPTC and CoSLA). The groups were keen to participate in a system that they were promised would be open, accessible and powerful. Carrying out sustained political activity was a major difference in the actions (not to mention the impact on their resources) of the SCPO, MS Society and the RSPB. For the FSB and CoSLA their political activity increased because of the proximity and accessibility of the Scottish Parliament and they made the conscious decision to focus primarily on the Scottish Parliament and to devote a lot of their resources into doing that. The SPTC's political activity did not actually change much in volume (reflected in their unchanged staff numbers) but they did transfer their time and focus from the Scottish Office to the Scottish Parliament. The groups saw the Scottish Parliament as being the most important political institution to them, followed by the EU and finally by Westminster.

### **Rational choice institutionalism**

Change occurred for all six of the groups in terms of their political activity to some degree (even the SPTC changed the focus of its lobbying as education became the responsibility of the Scottish Parliament). Rational choice institutionalism explains the actions of the groups by stating that the groups consciously made the decision to either begin or increase political activity (thus changing the previous balance of work within their offices) because they expected that such changes would help to maximise their utility and therefore be in their self-interests.

### **Sociological institutionalism**

Sociological institutionalism would explain that change occurred in the first place because Westminster and the Scottish Office were out of synchronisation with what Scottish society wanted. The creation of the Scottish Parliament and its emphasis on participation mobilised

Scottish interest groups to carry out parliamentary work. This was because society had formed the Scottish Parliament and it was seen as a remedy for some of Scotland's legislative needs, so there was pressure on groups to conform to the expectations of the surrounding society to be involved with the new institution.

### **Historical institutionalism**

The third institutionalist explanation would state that the opening of the Scottish Parliament caused a critical juncture for the groups. For years there had been a movement for a parliament. Devolution occurred in the end when Labour (a devolution friendly party) won convincingly in the 1997 British general election. Things moved rapidly after that resulting in the Scottish Parliament holding its first election in May 1999. The creation of the Scottish Parliament created a new path for the groups to follow, which involved new tactics, hence the impact on their political activity.

### **5.5 Professionalism**

This section discusses the effect the Scottish Parliament had on the professionalism of the six groups. This is not to say that the groups were in any way unprofessional prior to devolution but it describes how the groups adjusted to interact with the new institution and its working practices.

#### **Federation of Small Businesses**

The FSB's Deputy Press and Parliamentary Officer stated that the Scottish Parliament had 'forced the FSB to become more professional'. She explained that anecdotes had now been replaced with figures and the Policy Convener added that the FSB needed to have provable facts because if they 'don't have evidence then we can't do anything' with the Scottish Parliament. These provable facts came from surveys of its members that the FSB conducted after the Scottish Parliament opened (they had never previously done so). The findings from the surveys proved invaluable when giving evidence to the parliamentary committees because 'you've got to know what you are saying' otherwise 'they'll tear you apart' according to the Policy Convener.

This increased professionalism was also apparent in the output of the FSB. The first time that the FSB published a report (their manifesto for the Scottish Parliament) was in March 1999. It produced a further eleven reports after that with another two in the pipeline at the time of participant observation in September 2000. Some of the reports were responses to consultation papers while others were to raise awareness of issues that were of importance to

small businesses. The Press and Parliamentary Officer conceded that the strength and quality of these reports was due to the fact that they were written with the Scottish Parliament in mind.

The FSB knew that it was unlikely that politicians would find time to read much more than the executive summary of their reports, so with this in mind the FSB made a point of keeping their consultation responses short and concise. The Policy Convener felt that they had to limit their responses to two sides of A4 while the Press and Parliamentary Officer put the limit at four sides of A4, but both were agreed that if the submissions were lengthy then they would not be read. The Press and Parliamentary Officer said that such constraints had the effect of making the FSB quicker at developing and refining policies.

The FSB also had to re-organise their internal decision making processes. Since the opening of the Scottish Parliament the FSB found that it had to respond to more and more consultations and inquiries and it became obvious that their decision making procedures had to change so they could operate more effectively. Formerly, the FSB had a Scottish Policy Committee which consisted of eighteen FSB members that met together as the Scottish FSB's decision making body. However, this body was made obsolete as it proved to be too slow and unwieldy a mechanism in the devolved political system and so it was decided that decisions would be made by only six members – the Policy Convener, the Vice-Convener and four regional chairmen. They were collectively called the Scottish Policy Unit and made decisions on behalf of the wider Scottish FSB membership to pass on to the office staff.

To aid them in their work with the Scottish Parliament the FSB also hired the services of two public affairs companies to provide them with up to date information on the Scottish Parliament.

The FSB at the time of participant observation was also signalling its intent to become more professional. The Policy Convener spoke of buying in experts to carry out specific projects. It had already paid the International Labour Market Unit at The Robert Gordon University to carry out research on the educational and training courses available to small businesses in Scotland. The Deputy Press and Parliamentary Officer also felt that the office would probably have to take on more research staff. This was in addition to the expertise that their two secondees from British Telecom (BT) and from the Royal Bank of Scotland had brought in.

### **Scottish Churches Parliamentary Office**

As the SCPO was formed in response to the Scottish Parliament there is no “before and after” picture. However, the SCPO did not seem to have been disadvantaged by the fact that it only opened to coincide with the arrival of the Scottish Parliament. All the groups had to adapt to working with the Scottish Parliament and its new political processes and in some ways it may have been simpler for the SCPO because it started with a clean slate and could tailor its working practices to suit the Scottish Parliament.

The Parliamentary Officer did comment though that individual churches had to adjust to the Scottish Parliament. He gave the example of the Clause 28 furore (which was to do with guidance on the teaching of homosexual issues in schools) in 2000 when the Church of Scotland realised that it had to think about how it was going to come to an agreement on issues that were cropping up in the Scottish Parliament. The Church of Scotland operates on a committee basis and once a year at its General Assembly it determines its stance on issues that have been brought to its attention. However, in politics a year is a long time and it is not always feasible to wait for the General Assembly, as Clause 28 demonstrated when the two relevant Church of Scotland committees put forward two radically different viewpoints. So some individual churches had to think about how they could respond more effectively to the Scottish Parliament.

### **Multiple Sclerosis Society**

Both the Director and the Policy Officer felt that there was no doubt that the MS Society had become more professional since the creation of the Scottish Parliament. The Policy Officer remarked that it ‘gave us the impetus to do things in Scotland’ and the Director felt it had also ‘helped to make us more modern’. As an internal paper stated the Society ‘had to be professionally equipped to make representations to Government’. It only began to carry out lobbying work after the Scottish Parliament opened and since then the Society worked hard at building up its political expertise. It also hired the services of a public affairs company in February 2000 for some expert assistance and to provide a parliamentary monitoring service. The Director and the Policy Officer also undertook media training as part of their public policy efforts.

### **Scottish Parent Teacher Council**

The SPTC again proved the exception to the six groups as there was very little discernable difference in the way it operated as a result of the Scottish Parliament. The SPTC had surveyed its members for years as a way of gathering up to date information. It also had a

record of building up relationships with those in power and had always responded to relevant consultations. It would seem that the Scottish Parliament had little effect on the SPTC's working practices, as the systems that it had in place were readily adaptable to the Scottish Parliament (e.g. writing of submissions, meeting with decision makers). Perhaps the only exception to this was the new experience of giving oral evidence to the parliamentary committees. The Development Manager did her homework on how best to give oral evidence and studied other people giving evidence to the Education, Culture and Sport Committee so she could learn what techniques were effective and which were not.

### **Convention of Scottish Local Authorities**

CoSLA has a long history of dealing with governments and obviously politicians. However, it had to gear up to become more responsive to the Scottish Parliament. Representing Scottish local authorities meant CoSLA covered not only a wide political spectrum but also a wide geographical area, which had the effect of making decisions a slow and unwieldy process. To combat this, CoSLA developed a system of twelve spokespersons (drawn from the local authorities) for twelve specific areas. This meant that if the Scottish Executive or the Parliament wanted advice on a particular subject, or the media needed a quote CoSLA could respond much quicker as it had one designated point of contact. During the period of participant observation CoSLA was also in the process of developing a more efficient system of recording what requests for evidence (written and oral) it was responding to. It had just begun to implement a tracking system to ensure that these requests were being answered by the appropriate person and that all potentially interested people within CoSLA were able to have an input into the submission.

### **Royal Society for the Protection of Birds**

The most obvious way in which the RSPB had become more professional was the formation of the Advocacy and Media Unit which incorporated lobbying, public affairs and media skills. Before the Scottish Parliament, public affairs and media work were part of one employee's duties. But the Scottish Parliament was 'priority enough that they put jobs to it and they gave us time and resources which they never did before' according to the Parliamentary Information Officer.

The rest of the office also became more professional in terms of parliamentary work. The Advocacy and Media Unit provided the lobbying and media skills but they did not have the subject knowledge of their colleagues who were experts in fields such as agriculture, fisheries and forestry. Therefore, Lead Policy Officers were appointed for each policy area and they

were expected to lead on their subject on behalf of the Society, attend parliamentary debates, write briefing papers, draft parliamentary questions and carry out other political work with assistance from the Advocacy and Media Unit. This was all new for the policy staff so they had to sign up for media and advocacy training courses that their national UK headquarters ran (the Advocacy and Media Unit in their quarterly meeting in December 2001 had identified a need for the staff to undergo such training). The Head of Policy Operations explained that before the Scottish Parliament the policy department ‘tended to operate as technocrats trying to influence other technocrats’ and were thus ‘more technical and bureaucratic’. But since 1999 they had to deal with politicians so they had to change styles and now they ‘need to be more succinct, snappy briefings, documents and more smooching, ducking and diving in the bars round Holyrood’. According to the Senior Investigations Officer it was not just the policy team that had to change to accommodate the Parliament but the entire office had to increase the quality of their information in order to have the best arguments possible, as the RSPB ‘can’t afford in that arena to be any less professional than some of the people we are up against’.

### **Summary**

The groups adjusted their working practices to fit in with the Scottish Parliament. Again this was because they wanted to optimise their chances of influencing legislation and to do that the groups institutionalised their working practices so that they could provide the Scottish Parliament with the information it wanted, including things like accurate survey figures, short written evidence contributions, cultivating politicians, providing useful oral evidence, making quick decisions and so on. The effect of the Scottish Parliament was least pronounced on the SPTC which continued to use the same working practices that it used with the Scottish Office (although giving oral evidence to the parliamentary committees was new), although those practices were similar to those used by the other groups. The other groups became more modern and equipped themselves with the tools to operate in the new political system.

### **Rational choice institutionalism**

For rational choice institutionalism rules provide the ‘constraints within which actors may maximise their self-interests’ and because everyone is subject to the same rules, all actors behave in the same way (Lane and Ersson; 2000, p.35). This could explain how the Scottish Parliament has affected the interest groups, even though some of the rules that motivated the increased professionalism of the groups were not of a formal nature. The groups calculated what they had to do in order to achieve their goals and knowing that they would be penalised if

they did not provide the quality of work expected by the Scottish Parliament, the groups decided it was in their best interests to become more professional.

### **Sociological institutionalism**

The Scottish Parliament had not made it a regulation that groups should write reports on various issues, adopt quicker decision making mechanisms, or even that the groups should monitor parliamentary activity regularly, although there was no doubt that the Scottish Parliament preferred contributions that were informed, accurate and brief. But those were informal rules; the unwritten yet taken for granted requirements that the groups knew would better their chances of promoting their cause. Sociological institutionalism states that 'we can expect institutionalisation of forms and practices that are widely valued' (Gorges; 2001, p.139) and this accounted for the increased professionalism of the groups. The groups could also have been following the logic of appropriateness, simply behaving in the way that the Scottish Parliament had decided was appropriate for them. In this way the groups all followed the same pattern, even if it required more effort on their behalf in order to conform to the rules. Institutional isomorphism could also account for their behaviour: the groups might have felt pressured into those changes by the Scottish Parliament (coercive), as it was brand new and there was uncertainty about how things would work so the groups simply copied others who seemed successful (mimetic) and thirdly, the groups might have felt that their practices were not adequate so adopted working practices that seemed to be preferred (normative). In this way the Scottish Parliament shaped the working practices of the groups to suit its own needs. The SPTC had no need to change as its practices were already suitable.

### **Historical institutionalism**

Historical institutionalism also uses the informal rules of the Scottish Parliament as an explanation behind the increased professionalism of the groups – the groups were complying with practices that were widely regarded (see start of sociological institutionalism paragraph above). Historical institutionalism would also reason that the Scottish Parliament had the power to bestow some groups with privileges but not others, so the groups had to compete against each other to get a share of the resources. Therefore it made sense for the groups to be as professional as they could be in order to increase their chances of success.

## **5.6 Workload**

The previous sections described how the groups had prepared and reacted to the existence of the new Scottish Parliament whereas this section will consider how it has affected the daily working behaviour of the groups.

## **Federation of Small Businesses**

When asked what had been the biggest impact of the Scottish Parliament, the unanimous FSB answer was the increase in their workload. The FSB found that they had to write reports, carry out research, submit responses and evidence, attend meetings, organise seminars, write more correspondence, monitor parliamentary activities, read through political documents and survey members on a level they had never experienced before.

The FSB found themselves struggling to cope with all the extra work created by the Scottish Parliament so they hired an outside public affairs company to carry out the task of monitoring the Parliament. The FSB also paid another public affairs company to send them regular updates on the Scottish Parliament as well. The staff felt it was worth the additional expenditure as it freed them to work on other activities, such as writing consultation responses.

A lot of office time was spent dealing with or responding to documents from the Scottish Parliament. The Policy Convener said that ‘there is not a document that comes out, you must read through it as there might be something in it concerning you’ which was a time consuming task and if any of the documents were relevant then responses had to be written. By the end of the participant observation period (September 2000) the FSB had submitted over fifty consultation or inquiry responses since the Scottish Parliament began working in July 1999 and it was these consultation papers that the Deputy Press and Parliamentary Officer felt was taking up so much of their time.

Meetings were also a huge drain on office time. The Policy Convener stated that he worked five, even seven days a week for the FSB compared to the couple of days a week he did before the Scottish Parliament opened.

In fact, the FSB found themselves in a position where all they were doing was reacting to the output from the Scottish Parliament, ‘running in every direction’ and ‘trying to run to catch up’ according to the Policy Convener. The Press and Parliamentary Officer explained that because they had to constantly react to the work generated by the Scottish Parliament it was taking them away from ‘developing your policy, doing your publicity, day to day activities’. The FSB was hoping that it would be able to sit down in November 2000 and get the chance to re-prioritise and work towards becoming more proactive. But the Press and Parliamentary Officer was not sure how possible it would be to set their own agenda because even if they

had those objectives, ‘the day to day reality is you can try to become more proactive but you become very reactive to the Executive and the Parliament. Very, very much so’.

### **Scottish Churches Parliamentary Office**

The SCPO’s workload was heavy enough that the Parliamentary Officer estimated that he worked somewhere between fifty to sixty hours in an average week. A large proportion of the SCPO’s time was taken up with monitoring the work of the Scottish Parliament as it sent out a detailed parliamentary update every month to the churches on its mailing list. It also notified the churches of any consultations or developments that they should be aware of. In order to do this, the SCPO trawled through all the parliamentary questions and answers, Scottish Executive and Parliament press releases, parliamentary motions, debates, committee meetings, consultation papers and the monitoring of newspapers – all very time consuming. As the Parliamentary Officer commented ‘the heavy emphasis has become, I think more than we expected, on monitoring the volume of output and trying to be selective about that’. The monthly updates on the Scottish Parliament contained information on nineteen topics that the SCPO had identified as being of interest to the churches, such as asylum seekers, debt, drugs, health, rural affairs and voluntary issues. The updates also included the business of the Scottish Parliament, such as debates, ministerial statements, the stages of any Bills, Time for Reflection and current consultations that were of interest to the churches. In the SCPO’s Annual Report for 2000, the Parliamentary Officer noted that the churches in common with other organisations were struggling at times to keep pace with the consultation papers from the Scottish Parliament.

The SCPO also sent out briefing papers (normally 4 – 5 sides of A4) to churches on relevant topics that were being raised in the Scottish Parliament. By February 2001 (the end of the period of participant observation) twenty briefing papers had been written, on subjects like the Scottish Executive’s victim support strategy and the Care Commission. Writing the briefing papers involved reading all the official documents relating to the topic (policy papers, evidence given to the parliamentary committees, the minutes of parliamentary debates and where applicable the Bill), which then had to be condensed into an easy to understand yet comprehensive briefing paper.

If there was a united stance on any one issue from all the churches, the Parliamentary Officer could submit responses to consultation papers on behalf of the churches (which he had done for the siting of telecommunication masts and education issues) and also give evidence to the parliamentary committees if invited to do so. He also spent a lot of time in meetings – with

politicians, with other interest groups and with church groups. He spent a significant amount of time outwith the office talking to church groups about the SCPO's work, as an informal way of relaying the work of the office back to the churches. He also provided parliamentary advice to those within the churches and set up meetings with politicians on their behalf.

Like most of the other groups the Parliamentary Officer stated that 'realistically the majority of what we do is reactive'. He would have liked the office to be more proactive but due to the pressure of the work being generated by the Scottish Parliament there was little time to be proactive, as he said the most surprising dimension of working with the Scottish Parliament was 'just the sheer volume of stuff'.

### **Multiple Sclerosis Society**

At the MS Society the Scottish Parliament made up 100% of the Policy Officer's workload and his job was 'almost solely directed towards influencing public policy', although he added that 'quite a lot of the overall output of the office has been directed in that direction as well'. This was mirrored in the Director's workload as he estimated that parliamentary work probably took up as much as a third of his time. The Policy Officer and the Director spent a lot of their time briefing politicians, meeting up with an individual MSP once a month, drafting and monitoring parliamentary questions, submitting responses to consultation papers and writing articles and letters on parliamentary work, developing a select dinner club involving MSPs, building up relationships with all the MSPs on the Health and Community Care Committee, as well as all the party health spokespersons. They also organised a major lobby of the Scottish Parliament by MS Society members who came from all over Scotland to tell MSPs about their needs. The lobby (which required a lot of organising as it had to include facilities for people in wheelchairs and appropriate transport) coincided with a parliamentary debate on multiple sclerosis. The Society had arranged for it to be held on the same day and this meant that as well as briefing their members about the lobby, the Director and the Policy Officer had to spend time briefing MSPs who were going to speak in the debate.

### **Scottish Parent Teacher Council**

The Scottish Parliament was also a permanent dimension of the SPTC's workload. However, unlike the other groups it was not continually snowed under with parliamentary work and it found that its parliamentary workload was erratic; sometimes it could be incredibly busy and then there would be quiet periods when the staff were thinking about what they could do next according to the Development Manager. For instance, during the time of the SQA (Scottish

Qualifications Association) crisis the Development Manager was extremely busy and attended every parliamentary committee and every hearing of the Bill that dealt with SQA. She had to raise those issues with politicians, civil servants, the media, parents and other interested parties. But the amount of work that the Scottish Parliament generated for the SPTC was issue dependent - it was not a constant source of work. The Development Manager felt that her role had not changed as a result of the Scottish Parliament because 'it was always a matter of writing responses and networking and keeping abreast of current affairs', it was just that those tasks had switched to the Scottish Parliament.

### **Convention of Scottish Local Authorities**

CoSLA's 2001 Review stated that:

'COSLA's workload has increased considerably since 1999 and all organisations have a finite capacity. This means that choices have to be made about workload priorities and ways of working' (CoSLA (b), p.30).

The Scottish Parliament was a heavy presence on CoSLA's list of priorities and accounted for a massive volume of their work as they strived to represent and promote the interests of local government. This meant that in order to cope with the workload CoSLA had to become more focused. The Acting Chief Executive explained that 'in the past we've been a bit like a sponge, if somebody asks us to do something we try and absorb it'. That was no longer the case at the time of participant observation (November/December 2001). CoSLA's 2001 Review identified over 240 groups that it was involved with and so it then embarked on a rationalisation process - sorting out the groups which it should continue to be involved with if there was 'a clear political case for doing so' (Head of Policy) and freeing up some of its resources by resigning from the others. The Head of Policy commented that more work should have been done to prepare CoSLA for its engagement with the Scottish Parliament by dropping things that were less of a priority before it actually opened.

CoSLA's Management Team told the 2001 Review that there was:

'no doubt that the workload of the organisation has increased with the establishment of a Scottish Parliament and Executive and we believe that this level of activity will increase further in the future' (CoSLA (b), p.51).

The extent to which the Scottish Parliament had affected the workload of CoSLA was demonstrated by the answers of the Head of Policy and the Convention Manager, who independently of one another, stated that work to do specifically with the Scottish Parliament (particularly the Scottish Executive) made up 90% of their individual workloads. Their time was spent responding to consultations, developing policy and attending meetings to discuss

policy with politicians and civil servants. The Public Affairs Officer also found that the Scottish Parliament had had a ‘fairly dramatic effect’ on his workload because of the increase in media inquiries, the need for more press releases and the servicing of CoSLA’s twelve spokespersons amongst other things. When interviewed he stated that he received over a hundred inquiries a month and he reckoned that there was a 50-50 split in the inquiries to do with the Scottish Executive and the Parliament. The Head of Policy called the effect of the Scottish Parliament on the organisation’s workload as ‘shattering’. Like many other groups he felt compelled to say that CoSLA were ‘just fire-fighting most of the time’.

### **Royal Society for the Protection of Birds**

Not only was the RSPB’s Advocacy and Media Unit’s time occupied with the Scottish Parliament but as the Head of the Unit explained most of the policy staff also ‘had to drop a lot of stuff to take on the workload of Parliament’. The Head of Policy Operations agreed that his policy staff had indeed seen their workload increase and diversify as they had to take on the writing of briefing papers, meet with politicians, give evidence to parliamentary committees and carry out media activity on top of their usual work. The Senior Investigations Officer also found that he had to don a ‘political hat’ by working on wildlife legislation and promoting it by attending meetings, writing papers and putting forward arguments. But in order to do all that he was being pulled out of his job of investigating wildlife crimes. He commented that it had been ‘very stressful the amount of stuff we have to do now’, although he felt it was worth it if it meant things got changed for the better.

The Advocacy and Media Unit monitored newspapers and the Parliament and Scottish Executive websites to produce a daily report every morning to notify RSPB staff of events from the day before and to alert them to events occurring that day. They would also write a summary report on the main relevant political events of the week. The Unit also provided advice and information to its colleagues, built up relationships with MSPs and their researchers by organising meetings, events and attending party conferences.

### **Summary**

The political activity of the groups was reflected in their daily workload and attitudes. Workloads had to be re-prioritised to fit in the work generated by the Scottish Parliament, so for example the RSPB's Senior Investigations Officer attended meetings on proposed wildlife legislation instead of investigating crimes because of the RSPB's new political activity. The workload of the groups (although this effect was not so pronounced on the SPTC, whose

political workload was erratic) had dramatically increased because of the Scottish Parliament and they were struggling to keep pace.

All six of the groups, including those who had not been politically active before, had almost identical workloads in terms of the political activities that they carried out. They were cultivating relationships with politicians, writing detailed reports, producing briefing papers, monitoring the Scottish Parliament etc. The remarkable likeness in their workload again demonstrated that the groups were carrying out rule following behaviour.

### **Rational choice institutionalism**

It was in the interests of the groups to re-prioritise their workloads. By changing legislation they would be working towards making life better for those they represented, allowing them to achieve the goals of their organisation. The SPTC was also acting out of self-interest even though its workload was more erratic. As the smallest group it was limited in its staff, budget and time so it had to decide if it was worth allocating more of its resources to political work or if the costs incurred from doing so would outweigh any gains.

It also made sense for the groups to comply with the rules that the Scottish Parliament had set down because it reduced their costs because although rules limit options, they also result in a stable environment.

### **Sociological institutionalism**

The reactions of the groups could be attributed to the fact that it was the Scottish Parliament that specified how the individuals within the groups would act – the Scottish Parliament provided the institutional template for the groups to interpret their role and how they should act based on that template. Not only that but as the Scottish Parliament constructed the preferences of the groups, it was unsurprising that the groups made parliamentary work a priority. The culture of the Scottish Parliament affected the individuals that interacted with it as their values begin to conform to those of the institution. This also explains why political work was given a high value within the groups (e.g. the MS Society Director spending a third of his time on parliamentary work) and getting involved in networks was seen as a valuable activity.

### **Historical institutionalism**

Historical institutionalism can also account for the way in which the groups increased and added parliamentary work to their workloads. With the arrival of the Scottish Parliament, all

six groups made the decision that they were going to participate in the new political system. That decision caused them to go down a particular path (of parliamentary activity) that influenced the work that they were doing. The groups did not know at the start exactly how far reaching those consequences would be but were learning as time passed. For example, CoSLA decided that one or two people could not carry out parliamentary work but that all policy people had to incorporate it into their daily jobs. Once the groups had committed themselves to working with the Scottish Parliament, they then had to respond to all the work that it was generating for them. The SPTC also committed themselves to a particular, albeit focused, path, where it would follow particular issues – only dealing with school/educational matters and targeting MSPs on just one parliamentary committee.

### **5.7 Devolution within the three UK groups**

This section looks at how devolution has affected the attitudes and the behaviour of the three UK groups in this study – the FSB, the MS Society and the RSPB.

#### **Federation of Small Businesses**

During the month of participant observation it was apparent that the Scottish FSB operated fairly autonomously. The Deputy Press and Parliamentary Officer remarked that the Scottish Parliament had not affected their UK national office at all ‘as they don’t deal with it’. The Policy Convener commented: ‘Up here we just get on with it, get the job done’.

#### **Multiple Sclerosis Society**

The Director and the Policy Officer of the MS Society both agreed that the Scottish headquarters of the MS Society had increased in importance as a result of the Scottish Parliament. The Director explained that the Scottish Parliament had made it more important for the UK national office to understand what was going on in Scotland because of the separate set of policies involved, resulting in ‘a slightly increased understanding that Scotland is a different country from England’. He added that some parts of the UK office were paying more attention to the Scottish scene because they could look at Scottish policies and use them to pressure the government at Westminster.

#### **Royal Society for the Protection of Birds**

During the period of participant observation it soon became apparent that there was a little friction in the Advocacy and Media Unit towards their counterparts in the UK national office (although they had no difficulty in co-operating with them). When devolution was becoming a reality the RSPB decided to give more prominence to the Scottish, Welsh and Northern

Irish RSPB offices by giving them more resources, specifically in relation to parliamentary and media work. However, the Head of the Advocacy and Media Unit explained that ‘the degree of imbalance historically, you know Westminster was perceived by the Society to be the be all and end all’ and this appeared to be a concept that perhaps the UK national office had found difficult to relinquish as it was still ‘built up as a big UK central function’. He also spoke of what he referred to as “cognitive dissonance”, whereby in England they believed Westminster to be much stronger than it probably was and the devolved assemblies to be much weaker than they actually were and that the opposite case was true for those in Scotland, Wales and Northern Ireland. He said that the RSPB (as well as other organisations he had worked for such as the Liberal Democrat Party and the NHS) were ‘finding this same cognitive dissonance causes problems inside its operation’. The Head of the Advocacy and Media Unit observed that:

‘for UK organisations, to a very large extent the UK end of things still thinks it is totally in control and the Scottish end of things tend to just get on with it within the parameters of Scottish decision making and politics’ (personal interview, December 2001).

He did add that he thought perceptions were beginning to change because as the Scottish Parliament passed legislation it was becoming more apparent that decisions were being taken separately for Scotland, whereas beforehand the ‘assumption was that the decisions were being taken and they would always decide to do the same thing as Westminster, even when it didn’t happen’.

### **Summary**

As a result of the Scottish Parliament, the Scottish based offices of the UK organisations had expanded with more resources being allocated to their political work. To a large extent the three offices in Scotland just got on with their own way of doing things and it appeared that their UK headquarters had very little input into their Scottish political activity. If the Scottish based offices continued to work autonomously it could have the potential impact of fragmenting the policy line and lobbying tactics within the UK groups.

### **Rational choice institutionalism**

The three UK groups saw an ideal opportunity to promote their causes when the Scottish Parliament opened. They already had existing Scottish based offices that were well placed to interact with the new institution to influence Scottish legislation. It also left the UK headquarters free to concentrate on the work they had always done at Westminster and so there was no rational reason for them to put a lot of input into Scottish politics when it was

being covered by their Scottish based colleagues. It would only be in the interests of the groups to know about differences in policy if it could be used as leverage to change policy elsewhere.

### **Sociological institutionalism**

Sociological institutionalism would argue that the Scottish FSB, MS Society and RSPB had to react to what their Scottish membership wanted. For example, the MS Society only created the post of a Policy Officer and sanctioned lobbying activity as a valuable use of the Society's resources once it was agreed by the Society's Scottish Council (made up of Society members who were responsible for securing the best use of the Society's resources).

### **Historical institutionalism**

Historical institutionalism would also add that the beefing up of the Scottish headquarters began as a new and good idea as a result of the Scottish Parliament opening and it then gained enough support to become policy. The reason why the UK headquarters failed to accord the Scottish political system its due was because they were still rooted in past policy where decisions in Scotland were all made at Westminster or by the Scottish Office which is part of the Westminster system.

## **5.8 Alliances and networks**

The Scottish Parliament has affected interest groups in various ways and one impact was the proliferation of alliances and networks of interest groups that sprung up. Prior to the Scottish Parliament there were a lot less parliamentary officers and researchers around to form any networks. However, as Lynch pointed out:

‘devolution is likely to push the activities of a large number of pressure groups into the public sphere, particularly given the openness of the legislative process of the Scottish Parliament and the intention to facilitate pressure group involvement in policymaking’ (2001, p.111).

This section looks at if and why the groups spent time interacting with other groups.

### **Federation of Small Businesses**

Henry McLeish, then Enterprise and Lifelong Learning Minister, told the FSB's Policy Convener that it was not possible for him to speak to all business groups and that he had to draw a line somewhere. So the FSB brought together a small number of specialist groups such as the Bakers Federation for ad hoc meetings. He said that the groups were wary at first fearing that the FSB was trying to poach their membership, when in fact the FSB was

actually after their specialist knowledge and expert advice. The extra knowledge would allow the FSB to make more informed arguments when it lobbied the Scottish Parliament. In return, because the Enterprise and Lifelong Learning Minister was not able to consult everybody, the FSB ‘could put their viewpoint across at the meetings we’re having with him so they’re not out of the equation’ (Policy Convener). In this way, there were mutual benefits for everyone concerned.

However, the FSB had steered away from joining any umbrella business organisations because:

‘we worry about producing feedback that comes down to the lowest common denominator - a position that pleases everyone but does not reflect directly the views of the organisations’ (Press and Parliamentary Officer; Procedures Committee (a), Col 1399).

### **Scottish Churches Parliamentary Office**

The SCPO’s Parliamentary Officer reckoned he spent between a quarter and a third of his time interacting with a whole range of other groups because of the Scottish Parliament. The SCPO initiated a group called the Churches Social Inclusion Network as a way for the churches and church agencies to carry out a conversation with the Scottish Executive and the Parliament about social inclusion, social justice and poverty. Another specific church group was the Church of Scotland’s User Group which involved the SCPO’s Parliamentary Officer meeting those involved with political issues within the church on a monthly basis to find out what people wanted to do in terms of the Scottish Parliament. For the Joint Faiths Advisory Board on Criminal Justice he acted in an advisory capacity and although it was not ‘directly related to the Parliament, but again I suspect it might not have happened but for the Parliament’.

The Parliamentary Officer also regularly attended the Third Sector Policy Officer’s Network (made up of parliamentary officers or equivalent in the voluntary sector) because it was something that he personally got a great deal out of, not only in terms of ‘peer support but also of sharing of information and experiences’ which he found ‘very useful’. He was also actively involved in the parliamentary Cross-Party Group on Refugees and Asylum Seekers and the Cross-Party Group on Debt.

The Parliamentary Officer was also heavily involved with Debt On Our Doorstep, a UK wide campaign that the Scottish churches had given their backing to. The Parliamentary Officer

explained that it would have happened as a UK campaign regardless but it ‘needed to have a Scottish end because of the Parliament’.

The various networks and alliances that the Parliamentary Officer was involved with were all in response to the Scottish Parliament. But he did not think that being part of them would make the SCPO’s voice more likely to be heard because he did not believe that the Scottish Parliament had a system ‘of weighing up interests so that if you can say you represent x thousand or x million people or so many different groups you’re stronger’. He said that ‘in fact five different contributions all saying the same thing in different ways are usually going to have more effect than one with five signatures on it’. He felt that the benefit of being part of an alliance was the scope for specialisation it offered. He gave the example of the Housing Bill where the churches, although they had opinions about housing stock transfers and the right to buy, were primarily interested in homelessness and improving the rights and situations of homeless people:

‘So you can be in alliance with other groups that you agree with on other parts of the issue and they might be in alliance with us on homelessness but there’s an element of specialisation’ (personal interview, February 2001).

### **Multiple Sclerosis Society**

The Director of the MS Society was involved with the Voluntary Health Scotland Network ‘basically because the Executive finds it difficult to interact with lots of different voluntary health organisations and so they will tend to go there if they want to consult on something’. They were also part of Disability Scotland for the same reason – they felt the Scottish Executive preferred to approach umbrella organisations rather than lots of small groups. Keeping in mind the umbrella organisation approach but wanting to have a group that was more relevant to MS issues, the Society was trying to initiate an umbrella body to specifically cover neurology issues, ‘a sort of Scottish Neurology Network’. The Director pointed out though that the purpose was ‘again for interaction with the Executive, not so much with the whole Parliament’. The Society was advised to join umbrella organisations by Susan Deacon (the Health Minister at the time). The Policy Officer’s notes from a meeting with Deacon in May 2001 testified that the Minister:

‘thinks MS should be seen in the context of the wider issues for all patients with enduring chronic illness; and this group of conditions needs to get appropriate priority. The Minister wants things taken forward in this context. *(This suggests we should be in dialogue with our fellow organisations for these conditions).*’

Susan Deacon commented in February 2002 that at least if the Scottish Executive 'goes to the umbrella organisation, it knows that it will not cause a diplomatic incident by dint of going to one member organisation and not to another' (Procedures Committee (a), Col 1382).

However, the Policy Officer felt that the Society represented a constituency of people which had unique issues and that the problem of being a part of an umbrella organisation was that any submission to the Scottish Executive or to a parliamentary committee had to be fairly general in order to take account of everyone's interests. But, the Director felt that it was important that they had a presence on those networks because 'we probably wouldn't be consulted anyway' and if there was 'something we are very interested in it doesn't preclude us from submitting individually anyway'.

Meeting up with other groups had also been beneficial in other ways. For instance, at the start of his appointment the Policy Officer tapped in to the expertise of other groups such as the EIS, the National Union of Students and the National Farmer's Union to find out 'how they had gone about things and how they had sought to influence individuals and how they had sought to influence the Parliament'. He also attended the Third Sector Policy Officer's Network because he found it 'useful and beneficial'. If it had not been for that particular network he would not have been alerted to the existence of a working group which was looking at disability access to the new Holyrood building. As the Director said, the advantages of being part of these wider groups was the 'sharing of information and it's meeting people as well, just find out what's going on'.

### **Scottish Parent Teacher Council**

The SPTC did not regularly participate in any alliance or network. It had representatives on various bodies, particularly quangos such as the SQA. But unlike the MS Society the Development Manager did not feel that the SPTC was disadvantaged by not being part of a broader umbrella group. She said that 'it's actually quite the reverse'. There were very few parent interest groups in Scotland and by going it alone she felt that the SPTC got 'quite a good crack at the whip' when they gave evidence to the parliamentary committees. She compared the SPTC's experience with that of the unions such as the Scottish Trades Union Congress, which represented lots of unions and thus varied perspectives but because they came under the one STUC heading at parliamentary committee meetings, they got allocated a relatively short slot. So she thought that 'in that respect we have more clout in being able to speak directly than if we actually had to speak through another organisation'.

The other main parent interest group in Scotland was the Scottish School Board Association (SSBA) but the two groups were antagonistic towards each other and the likelihood of them forming an alliance was slim. *The Herald* newspaper actually carried an article on this rivalry stating that the SPTC was embarking on a campaign ‘to recruit disaffected members’ of the SSBA (*The Herald* (b), 2001, p.16). ‘The move marks an increase in rivalry between the two organisations and may make it more unlikely that a national parents’ representative body can be formed’ (ibid.).

The Development Manager said that during the furore over Clause 28 the SSBA made themselves ‘particularly unpopular’ with the Scottish Executive because of their vocal stance against the Scottish Executive’s position. The outcome of this was that after ‘a long arid spell where we lost out and the Scottish School Board Association had people on everything’, the SPTC found themselves being welcomed onto Scottish Executive bodies because the SSBA ‘blew it with Clause 28’. But as time passed she sensed that the ‘SSBA’s popularity is being restored’.

### **Convention of Scottish Local Authorities**

During the period of participant observation CoSLA was actually in the process of scaling back its participation in other groups and committees. Their 2001 Review identified over 240 groups which CoSLA was involved with and it was decided that it should carry out a rationalisation strategy and be more discriminating in how it used its resources. Therefore the Head of Policy had been drafting letters to various bodies informing them that CoSLA was ‘having to review our core business in the light of our available resources and the work generated by Scottish Ministers and the Scottish Parliament’ (taken from copies of letters written in March 2001). The result of this was that:

‘we are therefore likely to limit our nomination of representatives now to a smaller number of bodies and groups which deal with matters of strategic importance to local government’ (taken from a copy of a letter written in March 2001).

Due to the increased volume of work that CoSLA had to cope with as a result of the Scottish Parliament it stopped appointing people to any group or body that asked for a CoSLA representative. Instead, people were only going to be put forward if there was a clear political case for doing so.

### **Royal Society for the Protection of Birds**

The RSPB’s Head of Advocacy and Media thought that the Scottish Parliament ‘has meant an opening up of institutional life in Scotland’, resulting in ‘a stirring in the undergrowth of

Scottish civic life and there are new relationships being forged'. He suggested that the benefit of those new relationships was the 'exchange of ideas and information' and 'by talking to colleagues from a whole range of sectors I steal their ideas and they steal mine'. The Parliamentary Information Officer and the Media Officer gave a similar reply, citing the swapping of ideas and experiences.

The other main advantage of involvement with other groups according to the RSPB was the opportunity to present a united lobbying front. The Parliamentary Information Officer said that with the umbrella environmental group Link, 'we'll lobby together on an issue so we'll all do petitions and we'll all write to MSPs and we do training days'. The Head of Policy Operations added that the RSPB tended to use Link where it wanted to 'put in a small amount of effort and get something that is greater than the sum of its parts'. Link also co-ordinated the groups on broad environmental issues so the Head of Advocacy and Media thought it was a good idea for the RSPB to be a part of Link because 'the voice of the people who care about the environment is going to be heard more if many voices are making it. It's quite as simple as that'. Another important reason was that the Scottish Executive preferred to consult umbrella groups on environmental issues, rather than approaching smaller individual groups. This was also true of the parliamentary committees as both the Heads of Policy Operations and of Advocacy and Media observed that when it came to environmental issues 'the clerks and the committee chairs tend to go for umbrella groups'.

### **Summary**

The Scottish Parliament had the effect of what the RSPB's Head of Advocacy and Media called the 'opening up of institutional life in Scotland'. Groups who never carried out political activity before were doing so because of devolution. They were also linking up with others, either because they would only be consulted by the politicians if they were part of a larger alliance and/or because of the benefits of sharing experiences amongst each other. This had the effect of bringing the interest groups closer together, allowing the sharing of information and the fostering of a culture to form a close knit civic community where everyone knows everyone (especially in a small country like Scotland).

The SPTC once again proved the exception to the rule. In fact the SPTC actually decided to work independently as a result of the Scottish Parliament because of the increased opportunities to participate in the legislative system. CoSLA was also trying to reduce the scale of its involvement with other groups but this was precipitated by financial and resource reasons.

### **Rational choice institutionalism**

The groups participated in negotiations and voluntary exchanges because of the benefits that they received from them. The SPTC did not participate in such networks because it was unlikely to get much benefit from them, as there were few other groups that dealt with parent/school issues. CoSLA on the other hand was involved in so many groups that they were at the point of diminishing returns, they could be involved in far fewer groups yet still receive the same amount of benefits.

### **Sociological institutionalism**

The groups coalesced together because they were part of the same culture and got support from meeting others involved in the same kind of work as them. Political institutions can shape the surrounding environment to suit their own needs so in this way the Scottish Parliament pressured the MS Society and the RSPB to become part of wider umbrella organisations. CoSLA was part of too many networks and had decided to only participate in networks where there was a clear political case for doing so, therefore CoSLA was actually going to become even more immersed in the Scottish Parliament.

Sociological institutionalism has difficulty in explaining why the SPTC decided not to become involved in networks. It was perhaps a chicken and egg situation: because they decided at the start not to participate in networks, they never became more fully integrated into the culture that the other groups were participating in and perpetuating, and if the SPTC was not surrounded by that culture then they would not be motivated to join up with other groups.

### **Historical institutionalism**

The MS Society and the RSPB were compelled to participate in umbrella organisations because the Scottish Parliament was able to channel the groups into joining broader alliances because the Scottish Parliament had the power to deny access to some groups but give it to others. Therefore, because the Health Minister and the Minister responsible for the environment at the time preferred to consult umbrella groups, the MS Society and the RSPB felt their best option was to join the main umbrella groups. This also explains why the other groups became part of networks and alliances – as well as having the opportunity to make individual representations to the Scottish Parliament they could also have their input into a larger body, potentially doubling their opportunity to be heard. The SPTC was only really

competing with one other school group so they already had a substantial chance of being awarded privileges so there was little need for them to become part of an alliance.

## **5.9 Conclusion**

*Objective 1 – whether the behaviour and/or belief systems of the six groups were affected by the Scottish Parliament.*

There is little doubt that the six groups were mobilised into action by the arrival of the Scottish Parliament, even groups that already had a well established parliamentary office like the FSB. The expected benefits of the Scottish Parliament prompted the groups to invest a lot of resources into gearing up for the Scottish Parliament, including the hiring of new staff. The groups also reorganised their organisations (with the exception of the SPTC), although despite their restructuring they found it difficult to keep up with the output of the Scottish Parliament, particularly the Scottish Executive. By mid May 2000, the Scottish Executive had issued a consultation paper at a rate of more than one per day (*The Scotsman* (b), p.8). The groups felt that they were simply fire-fighting and ironically were suffering from “consultation fatigue”. On the one hand the groups were glad of the new opportunities to be involved in legislation but on the other were finding it a struggle to keep up with all the chances to participate. However, what it did indicate was that the groups now had the opportunity to play a much bigger role because of the increased primary legislation for Scotland (62 Acts of Parliament in its first session). Faced with the bombardment of consultations, meetings and information that flowed as a result from the Scottish Parliament and being unused to such a high level of political activity it is no surprise that the groups focused their resources on just Scottish politics, they had very little time to lobby other political arenas. The numerous opportunities to be involved in the political system had the effect of the groups believing that the Scottish Parliament was open and encouraged participation.

The groups appeared to take on the posture of potential insider groups, as they conformed to the rules of the game that the Scottish Parliament had set for interest group activity (Grant; 2000, p.20). They took on extra staff and/or diverted existing staff time to ensure they had access to expertise in parliamentary matters. With appropriate staff in place the groups could then work at providing accurate information representing the views of their membership and then produce well researched briefings. They also complied with how the Scottish Parliament expected information to be presented – short, robust and easy to understand. In general the groups made efforts to establish themselves as credible and reliable authorities in their chosen areas.

The SPTC's strategy remained largely unaffected by the arrival of the Scottish Parliament, as they already had a workable strategy in place that they had developed during their years of activity with the Scottish Office. The only discernible impact of devolution on its strategy was that it took pains to identify the best way of giving evidence to the parliamentary committees and it was encouraged to work more independently, because interest groups in Scotland had more opportunity to have direct access to the policy makers. It will not be possible to say definitively though, whether the groups were aiming to be insider groups until their strategy towards the Scottish Executive has been established (see chapter 6).

It is not evident from this chapter whether the goals of the groups were changed. The MS Society and the RSPB certainly gave significance to the new political work they were carrying out. In fact, policy work was an entire new dimension to the MS Society. All the groups (again with the possible exception of the SPTC) intensified their political activity and gave it a higher priority than they had before devolution. But this was because the Scottish Parliament presented them with new ways of achieving their goals. As part of their mission to eradicate multiple sclerosis the MS Society decided that it would be valuable to influence Scottish health policy and in the process lobby to get better care for people with MS – their goals remained the same but the Scottish Parliament provided a new route to achieve those goals.

The SCPO was a special case. It was established specifically because of the arrival of the Scottish Parliament and the churches set it up to build productive relationships with the Scottish Parliament as a way to 'translate their commitment to the welfare of Scotland into Parliamentary debate' (Parliamentary Officer in interview, February 2001). The Parliamentary Officer explained that the SCPO was set up with the intention of complementing the CSG principles:

'The creation of the Parliament was to do with certain values that came through the Consultative Steering Group report about openness and accountability and so on, and a kind of vision if you like, about civic Scotland not being displaced by, but contributing to it. A sense of what we should do was something that would fit quite obviously with that ethos' (personal interview, February 2001).

The SCPO's goal was to facilitate how the churches could feed in to the political debate. So while individual denominations had their own goals, the SCPO's goals were knitted to the expectations that the churches held for devolution.

At the beginning it was much as Mcmillan stated: ‘if ever a parliament was set up with an overt mission to encourage a new culture of citizenship and participation, the Scottish Parliament of 1999 was that body’ (2001, p.38). The groups responded to this and organised themselves to fit in with this new political body with new staff, new skills and so on. Jordan and Stevenson, however, argue that expectations about the levels of participation in the Parliament were raised to unrealistic levels and that it was never going to be possible or even desirable for small minority groups to have their views included. Instead the purpose of the Parliament was to put an end to the democratic deficit in Scotland by providing a parliament that reflected Scottish political views (Jordan and Stevenson; 2000, p.184). However, some groups believed that they were integral to the new system and that:

‘the movement for the parliament has given special privileges to some institutions which believe themselves to be, and are regarded by some other participants as, key parts of the new order’ (Bonney; 2003, p.466).

*Objective 2 - the extent to which the different types of institutionalist accounts are applicable in explaining the responses of the groups.*

The six groups responded to the opportunities offered by the Scottish Parliament. But the reaction of the SPTC was different from that of the other four groups, as it underwent the least change as a result of devolution. The other five groups employed extra staff to deal specifically with the Scottish Parliament (although CoSLA ultimately scrapped the post of Parliamentary Liaison Officer) and adapted to become more professional so they could demonstrate that they had what the Scottish Executive and the committees looked for.

The SPTC was an unusual case as it did not alter its existing strategy for the Scottish Parliament (they simply absorbed the committees into its strategy) other than to strike a resolutely independent path, ignoring other networks and organisations. The other groups underwent more upheaval as a result of the Scottish Parliament but the SPTC already had working practices in place similar to the ones that the other groups adopted, so it felt that it already had appropriate working practices in place that would allow it to best achieve its goals given its resource constraints. The SPTC showed no indication that its goals and strategy had been significantly affected by the Scottish Parliament. It was being very rational in its behaviour towards the Scottish Parliament, as it did not rush to put extra resources into its political work. Instead, it waited until it was in a position to know how it could best maximise its goals. The SPTC was one of the more politically mature groups having carried out lobbying work years before devolution (and having at one point obviously been favoured enough by the Scottish Office to receive government funding) and it felt less need to change,

as it was satisfied with its existing status and the number of seats it had on education quangos and advisory groups. It appears to have differed from the other groups in that it paid attention to the institutions that went before and still existed after devolution.

CoSLA's response is interesting, as it has always been an important player in Scottish politics, out of the six groups in this research it was the most influential. It may have been ideologically opposed to the Conservative governments but as the body that represented Scotland's local authorities CoSLA could not afford to be ignored. Therefore, it might have been expected that CoSLA, which already had in place long-standing relationships with the civil service, might have followed the example of the SPTC and held back until it established where it could most profitably serve its interests through the devolved institutions. It could afford to wait as it already had access to the civil service. However, CoSLA was an enthusiastic supporter of devolution and perhaps (like the churches), it was one of the 'home rulers' that Mitchell argues 'exaggerated the novelty of the Scottish Parliament' (Mitchell; 2000, p.615). Local government was a key player in the movement for home rule and CoSLA's staff in section 5.2 said that they supported the Scottish Parliament because they wanted a distinct system of governance for Scotland that was rooted in Scotland's culture and attuned to its needs. This accords with the explanation that sociological institutionalism gives for why change happens: when there is an anomaly between an institution's behaviour and the values held by its surrounding society, the old understandings and rules no longer fit and so change has to happen (see section 3.5).

The SCPO's response to the Scottish Parliament was similar to that of CoSLA, which would follow given that CoSLA and the churches were active campaigners for devolution. The churches, particularly the Church of Scotland, had campaigned for a Scottish Parliament because they believed that government could only be legitimate if it rested on popular sovereignty. Culture and history were important factors in the decision to open the SCPO. Rational choice cannot explain why the 'bonds of nationhood' would motivate people even if it goes against their apparent self-interest (Heywood; 2003, p.163). The SCPO's Parliamentary Officer stated that the churches could have opened an office in London for Westminster years ago but they chose not to and waited for the Scottish Parliament to be opened instead. As Heywood writes '[n]ationalism legitimizes the authority of government' (2003, p.166). A clear sign that rational choice is not applicable to the SCPO is that the purpose of the SCPO was not to lobby on behalf of the churches, which would be the strategy of someone looking to maximise their interests. Instead the SCPO's function was to facilitate a fruitful relationship between the Scottish Parliament and the churches and what's more they

wanted to create an office that ‘would fit quite obviously’ in with the CSG principles of the Scottish Parliament and so the preferences of the SCPO were determined to a large extent by the Scottish Parliament. The SCPO adopted similar working practices to the rest of the groups but this could be seen as the ‘logic of appropriateness’ – working in a way that the Scottish Parliament approved of. Both sociological and historical institutionalism could apply equally to the behaviour of the SCPO.

The FSB was also a group with a history of political activity in Scotland, although it did not have insider status. It was part of a UK wide organisation and its UK headquarters had primary responsibility for lobbying Westminster and was the primary point of contact for politicians and civil servants. The Scottish headquarters of the FSB concentrated on the Scottish political scene, but it had limited success (as they describe in section 4.2). The FSB also campaigned for the Scottish Parliament but perhaps it falls into the category of home rulers that advocated new politics because they were 'outsider groups seeking insider status' (Mitchell; 2000, p.615). It could be argued that the FSB used the new Scottish Parliament as a springboard to maximise the achievement of its goals. But as Hall and Taylor have argued, it is not a rational decision for a group to employ extra staff and develop working practices that it thinks would influence an institution (in this case the Scottish Parliament) before it knew it would pay off for them. It would be spending its resources on the expectation that it would benefit from something that had not yet existed (1996, p.952). And it would be foolish to ignore the effects on the FSB of being part of the devolution campaign, as it shared ideas and arguments with other bodies.

Neither the MS Society or the RSPB had an official stance on devolution. But their behaviour could be explained by sociological institutionalism. The RSPB started to make changes to their Scottish headquarters once it knew the Scottish Parliament was going to be a reality (after the referendum result). The MS Society did not appoint a Policy Officer until March 2000 but both were responding to the effect of institutional isomorphism, whereby organisations will imitate other organisations in their field because the process of institutionalisation forces those in a particular environment to follow convergent paths. As other UK wide groups began to further develop distinct Scottish offices (Jordan and Stevenson; 2000, p.172), others followed suit driven either by the expectations of their members or because they were unsure what was the best course of action to take and decided that they should follow what other organisations were doing. Because the MS Society was that little bit later, it may have changed its working practices for normative reasons – to adopt the preferred or dominant working practices in their field.

Although sociological institutionalism was the most applicable approach for explaining the initial response of the FSB, MS Society and the RSPB, it is likely that as the uncertainty factor evaporated they would begin to become more discerning instead of carrying out saturated lobbying of the Scottish Parliament. As the MS Society and the RSPB did not campaign for the Scottish Parliament but were simply following what others were doing by expanding their Scottish political work, it could be assumed that they had less of an attachment to support 'new politics' and therefore felt no obligation to it and thus free to chase their own self-interests. The SPTC was already pursuing its own interests.

Sociological institutionalism would predict that SCPO, CoSLA and even the FSB because of their commitment to the devolution cause would place a greater value in the Parliament (committees and MSPs), as they would want to add authority and legitimacy to the democratic component that they had campaigned for. However, their response to the Scottish Executive is likely to differ, as CoSLA already had a strong and involved relationship with the civil service and would be likely to continue it, whereas the churches had shown no particular consideration for the Scottish Executive and the FSB was trying to become an insider group.

The behaviour of the groups will be easier to explain once their reaction to the Scottish Executive has been examined because then it will be possible to identify whether they were adopting insider or outsider strategies, which is why the effect of Scottish Executive on the groups will be looked at next.

## **CHAPTER 6 THE SCOTTISH EXECUTIVE**

### **6.1 Introduction**

Officially the Scottish Executive is made up of the First Minister, ten other Ministers that the First Minister appointed and two law officers – the Lord Advocate and the Solicitor General. Some would argue that the civil service employed by the Scottish Executive is just the Scottish Office with a different name (Nelson; 2004, p.42: Parry and Jones, 2000, p.64). This is because the Scottish Parliament did not get its own separate bureaucracy, as it was thought best to retain the civil service as part of the Home Civil Service in order to provide continuity (Kirkpatrick and Pyper; 2001, p.72). The Scottish Administration is the collective term applied to the Scottish Executive, the deputy Ministers and the supporting administrative staff (Burrows; 2000, p.95). However, in common usage the Scottish Executive has become the term that is understood to mean the government in Scotland – incorporating Ministers, their deputies and the civil service, therefore the term Scottish Executive shall be used to reflect the common understanding to mean government. The term Executive will be used when talking solely about Ministers and their deputies but not the civil service.

Of course even with devolution, Westminster has reserved powers over such areas as social security, employment services, defence and foreign policy and it continues to legislate and act on behalf of the entire UK on these matters. The Scottish Office also continued to exist after devolution but in 2003 Tony Blair decided to abolish it, although he then watered his decision down so that it survived but it is now to be found under the new Department for Constitutional Affairs (Nelson; 2004, p.42). The post of Secretary of State for Scotland also continued to exist but it too was downgraded in 2003 when Alastair Darling combined the Scotland brief with his position as UK Secretary of State for Transport. Because the Scotland Office and the Secretary of State had so little to do in the four years immediately after devolution, Nelson referred to it as the "undead department" (2004, p.36) because its powers had been transferred to the Scottish Parliament (it used to have six departments: Agriculture, Environment and Fisheries; Development; Education and Industry; Home Department; Health; and Secretary of State's Office).

### **6.2 Open and accessible government**

As discussed earlier the remit of the CSG report was only extended to the Parliament and not to the Scottish Executive. The report stated that it believed ‘that it is essential that the culture of openness and accessibility is reflected in the working of the Scottish Executive’ because ‘it is clear when we consider the responsibilities which lie with Scottish Executive, that the way

it operates will have considerable influence on the way the Scottish Parliament is perceived' (1998, p.8). Therefore, before going on to look at how the Parliament affected the six interest groups it is important to put in context the impact that the Scottish Executive had on them. The Scottish Executive might be part of the "old order" but it is important to look at how it fitted in to the new politics that the Scottish Parliament was supposed to establish.

As chapter four indicated the groups had varying degrees of access and influence to Ministers and civil servants in the Scottish Office. With devolution Donald Dewar, the first ever First Minister, pledged that his government would operate in the spirit of the four CSG principles and he spoke of the Scottish Executive's 'commitment to open, stable, responsive government which is fully accountable to a modern, representative Parliament' (Scottish Executive; 1999, p.1). In addition to this, the Scottish Executive committed itself to a UK government initiated programme entitled "Modernising Government", which was intended to reform the entire civil service. From this, it issued an action plan for its 21<sup>st</sup> century government with four key objectives. It would:

- work in partnership
- be open and accountable
- be inclusive
- deliver on its commitments.

Jack McConnell, then Minister for Finance and responsible for modernising government, gave a speech where he stated that '21<sup>st</sup> century government will be about inclusion – we want to ensure people are not just interested spectators but are directly involved through consultation and civic participation' (SPICe; 2000, p.5).

Those objectives were backed by targets that included the opening up of government and the need to consult on public policy as it was being developed (Scottish Executive, 2000). Therefore, in theory Scotland's main decision and policy making body was dedicated to being open, inclusive and consultative. In practical terms, interest groups saw the policy process open up with the use of pre-legislative consultation and the stipulation that Bills must be accompanied by full explanatory memoranda. The memoranda explain in plain English the main aims and objectives of a Bill and the impact it is likely to have on policy. This was useful to interest groups as it meant that in addition to the technically and legally worded Bill, they had a straightforward explanatory document (Lynch; 2001, p.91). Pre-legislative scrutiny allowed groups to have their say at the draft stage of legislation thus increasing their opportunities to influence it, as well as enabling questions or queries to be raised about the policy that the Scottish Executive had not been exposed to. This process:

‘guarantees access and involvement to pressure groups. They cannot be excluded from the process in its early stages and the Scottish Executive cannot be selective in allowing access to the policy process for certain groups’ (Lynch; 2001, p.90).

Any group, regardless of size, power or attachment to a network could in theory have access to the policy process at an early stage.

Given the above information it would seem that the Scottish Executive, despite being derived from Westminster structures, was also going to participate in the culture of ‘new politics’, with a commitment to being open, accessible and with a willingness to share power. It might be anticipated though that the civil service, as the most established part of the new political system and having undergone the least structural change, might not have adapted as easily as Ministers to the new politics culture. It is therefore useful to look at the response of the groups to the civil service separately from Ministers.

### **6.3 Civil servants**

The civil servant that was interviewed for this research (head of a division) described the culture of the civil service as ‘varied and changing’. He said that the culture had been changing for the last ten years in response to the demand of Ministers for a faster, crosscutting, more open, accessible and accountable civil service but that the Scottish Parliament had accelerated that change. The government had promised a civil service fit for the 21<sup>st</sup> century in its Modernising Government Programme, which described the civil service as a ‘diverse and professional service, open not defensive, strategic not reactive, reflecting all of Scotland not just its traditional roots’ (Scottish Parliament (e), p.5). A former Scottish Office civil servant commented that ‘there is no doubt that key staff are willing to contemplate change’ (Mackay; 1999, p.267/8).

However, outside the civil service doubt was being expressed about its ability to change. *The Scotsman* in November 1999 stated that the ‘question is whether the former Scottish Office staff can satisfy the appetite for change and policy innovation evident in Scottish society’ ((c), p.6). It soon became apparent throughout the period of participant observation that the answer to that question was no for five of the groups (CoSLA was the exception) but this was unsurprising given that the groups saw civil servants as resistant to alternative policy advice before devolution. Of course, from the civil service perspective it is their job to mediate between all the different interests and government and they have to ensure that government is not held captive by the vested interests of different organisations (Richards and Smith; 2002, p.171).

### **Federation of Small Businesses**

The FSB's Press and Parliamentary Officer wanted to see 'a reduction of the number of civil servants' in order to 'make the whole access there much simpler and easier'. He also said that 'they don't consult as well as they should'. He believed that civil servants worked under the ethos that they should not give out any information unless they absolutely had to. To illustrate his point he recounted an experience the FSB had with civil servants over the issue of local government finance:

'we asked for information on the new evaluation. Now there was a bit of arm twisting over the summer and we've now got the information we want, but it's on the basis of well, we'll give you this once, if you need this stuff again you'll need to ask about it' (personal interview, October 2000).

Obviously, the Press and Parliamentary Officer was not happy with that situation but he was optimistic that the civil service culture would change because parliamentarians would force it to change. He thought that it would have to 'become more open and inclusive' and that the parliamentarians were 'not going to let them get away with the bland answers a lot of them have been trying to give us this year' because they were going to 'have to learn there is a different culture now in place'. He did acknowledge that accessibility to the civil service had increased since the Scottish Parliament opened. During a Procedures Committee meeting he said that prior to devolution 'it was extremely difficult to interact with officials at Westminster on specific issues and on bills and consultations' ((a), Col 1403). Whereas, at the Scottish Parliament when the local government bill was proposed, civil servants came and discussed it with them.

He did believe it was expedient for the FSB to try to build up good relationships with civil servants because of the advantages it would afford the group: 'you can gain access to information, they tell you things before they happen, you can talk to them and you get papers that are seen before their time'. But he felt that the FSB had not done as much as they could have in that area and that they really should have been working on building up better relationships because he was dissatisfied overall with the position the FSB had vis-à-vis civil servants.

### **Scottish Churches Parliamentary Office**

The SCPO Parliamentary Officer knew that 'at the stage before a consultation document goes on paper there will be informal soundings being taken of people likely to be heavily concerned' and it would be important 'to get churches involved at that kind of level' but he

had found 'it hardest to develop good working contacts' with the civil service compared to the other political actors in the policy process. But with the Scottish Parliament now on their doorstep, the Parliamentary Officer felt that the civil service had become more accountable and thus more open to the outside world than they were formerly:

'I think a lot of those who are career civil servants, who worked in the Scottish Office before, have had a huge culture shock in terms of the level of public and parliamentary scrutiny of what they do, which realistically was not that great before the Parliament' (personal interview, February 2001).

He hoped that the shift towards being more open would continue as his 'experience at the moment is slightly patchy, that there is a reluctance to engage in terms of some civil servants still'. But like the FSB's Press and Parliamentary Officer he was optimistic about the culture of the civil service as he thought it was 'probably sorting itself out'. And as a result of the Scottish Parliament he felt that 'there is now built into their job an openness to appearing in public'. A demonstration of this was during a consultation amongst churches on a family law proposal when a 'civil servant came along and not only explained the Bill to us but responded to questions and took back concerns'. He found that remarkable because 'I think that probably five years ago in the Scottish Office that would not have been considered appropriate for a civil servant to do'.

### **Multiple Sclerosis Society**

The Director of the MS Society was frustrated by the lack of guidelines, informal or otherwise, about how interest groups should interface with the civil service. The Policy Officer said that 'up until now they haven't been particularly open with us at all' and he said that the Society had been 'this little annoying fly that's landed on their arm and been brushed off'. The lack of progress in dealing with the civil service prompted the Director to ask the Health Minister who they should deal with and she gave them a contact name and assured them that contact would be made. The Policy Officer was delighted that civil servants could no longer 'just turn around and snub you' because the groups could now go above their heads to Ministers who would hold the civil servants to account.

The MS Society had not spent a great deal of time with civil servants at the time of participant observation but were trying hard to change that situation. Like the other groups, the Society lamented how closed the civil service was to the outside world and that this was a residual effect from the previous Scottish Office days. The Policy Officer said that in his experience prior to devolution it was the civil service that ran Scotland and that there:

‘are still plenty of places where civil servants hold a great deal of power not withstanding the new culture of the Scottish Executive, whereby it’s the politicians that run it rather than the civil service’ (personal interview, May 2001).

He explained that because the civil servants had come from a culture of telling Ministers what to do, rather than the other way about, they were now having problems ‘adapting to a culture that isn’t quite what they would like it to be’. The Policy Officer believed that the civil service had no desire to relinquish their position of running Scotland and although the Scottish Parliament had dented their authority, he thought in time they would build up their status again. The Director felt that ‘the civil service needs to open up’. He said that there had been a lot of ‘rhetoric about them being more open but I think they’re not used to that at all’.

The Society felt that the lack of openness in the civil service was also manifested by the bland answers that the civil servants drafted in response to parliamentary questions. The Director explained that when the Society contacted the civil service for anything or asked a friendly MSP to place a question for them, they had to be very precise in what they wrote otherwise ‘it makes it too easy for them to give you a bland answer’.

One of the Society’s aims for 2001 was to build up relationships with civil servants because of the expected advantages from this (sources of information, influence with Ministers, oversight of the implementation of policy) and also to ensure that civil servants were ‘fully informed when they are filling in the detail of proposals’ (Director).

### **Scottish Parent Teacher Council**

The SPTC actually used to meet up with civil servants a lot more before the Scottish Parliament opened. The group used to be in receipt of a government grant so they had regular six monthly meetings with civil servants where they discussed their funding, before moving on to other issues. The Development Manager stated that for the SPTC ‘parliamentary committees have taken over. I don’t know, it’s an interesting thought but we certainly aren’t working through civil servants in the same way’. The Development Manager said there was a twofold reason for this: civil servants were a lot busier than they used to be and secondly, the parliamentary committees had become the main focus of the SPTC.

She thought that civil servants were a good source of information and that if you had good contacts, then civil servants were more likely to support SPTC candidates for a seat on advisory boards or committees (although she felt that those committees were ‘mechanisms

for inaction rather than mechanisms for action'). Another advantage was that they could indirectly increase their chances of influencing the Minister because it would be strange for a Minister to contradict the recommendation of a civil servant.

Notwithstanding this, the Development Manager's view of civil servants was largely negative, as she felt that given the choice of change or the status quo, civil servants would always opt for the status quo. She described the SPTC's experience when they wanted to contribute to the Education Bill:

'We had this argument which we took to Sam Galbraith and Peter Peacock when they were Ministers and they were delighted and convinced and said yes, yes, yes, it's really good stuff, put in a paper for consideration with the Bill. So we did and it went nowhere and the reason it went nowhere was because the civil servants buried it' (personal interview, November 2001).

Subsequently, the SPTC re-wrote the paper and presented it to the next Education Minister, Jack McConnell, who told the SPTC that it was the best paper on parental involvement he had ever read, so again the SPTC submitted it formally. However, on phoning up a civil servant to check on its progress she again discovered that it was going nowhere. The Development Manager attributed this situation to the civil servants because the 'status quo is always very appealing, inertia is always the easiest course of action so it's not going anywhere'. She felt that the reluctance of the civil service to change had caused problems, the prime example being the Scottish Qualifications Authority fiasco where the civil servants tried to make the system work. She stated that:

'in February before anybody sat the final exams it was obvious that the internal assessments weren't working but there was no mechanism for actually saying it's not working, we've made a mistake and we need to introduce change' (personal interview, November 2001).

### **Convention of Scottish Local Authorities**

Both the Convention Manager and the Head of Policy explained that in order for CoSLA to be in at the start of legislation, CoSLA officials had to be in daily contact with civil servants (which they were: 'easily several times a day probably') to find out what was happening, ask each other questions, continue discussions and arrange meetings. CoSLA at the time of participant observation in November 2001 was in constant dialogue with the civil service because of the need to ensure that policies would be deliverable. Unsurprisingly, as a result of this close contact CoSLA had a much more positive view of civil servants than the other five case study groups. The Acting Chief Executive ranked civil servants as being the most

important actors in the policy process because ‘we can’t do our job properly unless we understand what’s going on’. He said there was ‘no point in having somebody in here who is dealing with social work and they’ve not made an appropriate contact with the Scottish Executive officials’ otherwise it ‘does leave us out on a limb’. The Head of Policy also offered the observation noted by the other groups that ‘Ministers take their briefings from civil servants’ so if CoSLA could persuade a civil servant of the merits of its case, then the more chance it had of getting Ministerial support.

The Head of Policy and the Convention Manager both felt that there was no clear culture in the civil service and that their experiences had been highly varied. There were some helpful, open individuals, teams and divisions but some unequally unhelpful individuals, teams and even divisions.

Generally, CoSLA were much happier with the civil service than the other groups. The key difference obviously being that CoSLA had a central role in the formulation of policy. Although that did not mean that the people they represented had such a positive view of civil servants. A Joseph Rowntree Foundation report found that there was “‘mutual suspicion and distrust” between councils and civil servants, with the latter seen as being “‘dismissive of local government”” (*The Scotsman*; (d), p.10).

### **Royal Society for the Protection of Birds**

The Senior Investigations Officer, like his colleagues, believed that the civil service was doing its best to limit RSPB access to Ministers. He commented that ‘everybody tells us it’s an open door but there are a lot of bureaucrats stuck in behind it, shoving the other way I think’. The Head of Advocacy and Media stated that the ‘civil servants in the Environment and Rural Affairs Division keep NGOs as far away from Ministers as they possibly can’. A view echoed by his colleagues:

‘I think the civil service is still controlling the formal access to Ministers. I mean we are regularly, both as RSPB and as LINK [environmental umbrella body], told that it wouldn’t be appropriate to meet the Minister at the moment’ (Head of Policy); ‘civil servants block our access to them, sometimes don’t let our letters go through’ (Parliamentary Information Officer); ‘I think a lot of obstacles are put in the way of direct contact between ourselves and Ministers’ (Media Officer).

They apportioned blame to the civil servants because the Ministers claimed to have no knowledge of the RSPB’s invitations, letters or briefings. The Head of Advocacy and Media

knew that other interest groups in other sectors had a much easier time in getting access to Ministers, although he still felt that generally civil servants did try 'to keep alternative sources of policy advice away from Ministers' and that 'they've been peculiarly successful in that in environment and rural affairs'.

The Head of Policy added that he thought the civil service was adapting to the Scottish Parliament 'in order to retain their position in terms of their centrality in being influential'. But things were beginning to look more hopeful according to an RSPB internal document written after the Scottish Parliament's second year, when the RSPB noted that there:

'have been definite signs of some easing of the problems in our relationship with the Executive. Arranging meetings with Ministers has continued to prove problematic - but the number of substantive contacts has significantly increased. It remains apparent that the civil service is uncertain of its position within the new settlement and has a tendency to attempt to exclude or control alternative sources of policy advice. The openness and accessibility of government remains considerably less satisfactory than that reported by colleagues in Whitehall, Cardiff and Belfast, but there are signs of movement towards a more inclusive approach.'

The Policy Department had contact with civil servants on a daily basis, 'most frequently at the middle ranking policy development person' because 'they are the people who do the drafting of Bills and the answering of PQs and so forth, so you try to influence them'. They have to be in contact according to the Head of Advocacy and Media because civil servants:

'are still a hugely important force in the decision-making process and they still make the wheels of government go round and round. And if I want to protect birds and if my colleagues want to protect birds, we've got to work with the civil servants' (personal interview, December 2001).

### **6.3.1 Unreconstructed civil service?**

Before the Scottish Parliament, for 'Scottish Office civil servants, the demands of parliamentary accountability were, arguably less onerous than those faced by officials in other departments of state' (Kirkpatrick and Pyper; 2001, p.74). The lack of scrutiny led some to distrust 'its complexity and secrecy, and would prefer a more open form of Scottish government' (Kellas; 1992, p.50). Hence the desire for 'new politics' from groups that had previously been excluded from the policy making process. The perception that many of the groups had about the civil service was that it resented alternative policy advice and it did

what it could do to protect its own power base. An editorial from *The Herald* sums up the perception that the groups had after the Scottish Parliament opened:

‘The greatest worry rests in the only part of the old Scottish administration which has not been reconstructed significantly. That is the Civil Service. It is obvious that a strong and effective Civil Service is essential for the working of Parliament, but while Holyrood sings a new song the civil servants are simply out of tune. They have been allowed to proceed in the old, secretive, exclusive, and manipulative way by the Scottish Executive, probably because it suits Ministers’ ((c), p.18).

Or to put it simply what ‘has emerged is, in many respects, the Scottish Office with the name changed’ (Parry and Jones, 2000, p.64). A view that Kirkpatrick and Pyper also supported, stating that the early indications from the organisational changes to the civil service as a result of devolution were ‘marginal and incremental’ (2001, p.70).

It was no real surprise that the FSB, SCPO, MS Society and the RSPB viewed the civil service with antipathy, as they did not appear to have had a particularly close relationship with the civil service prior to devolution. Even the SPTC, which had obviously enjoyed a fairly close relationship with Scottish Office in the past, was quite negative in its comments about civil servants, accusing them of inertia. (Although CoSLA, which did have an ongoing relationship with the civil service, had positive things to say about it). There was a desire from the interest groups for the civil service to be more open in the devolved system, although it has been accused of struggling ‘to adjust to the shift in culture’ (*The Scotsman* (b), p.8). The groups believed, however, that things were beginning to change slowly, which is interesting as other commentators have observed that the transition process to devolution has ‘confirmed the dominant and protected position’ of the civil servants in Scotland (Parry and Jones; 2000, p.64). The groups felt that the civil service would become more open in time as it had to get used to a higher level of accountability from the increased numbers of Ministers and from having to appear before the parliamentary committees (Kirkpatrick and Pyper; 2001, p.75). The civil service Code of Practice also had stricter rules on being more open once the Scottish Parliament opened.

While there are many that will testify to how closed the civil service and the entire policy making process was before devolution, there are a few that maintain that it was ‘not as difficult as critics claimed’ and that a lot of consultation already took place between government departments and relevant interests (Jordan and Stevenson; 2000, p.181). Brown et al wrote of how the Scottish Office used to construct a definition of the Scottish interest and would then pressure London to give favourable outcomes to Scotland and point to how

successful the Scottish Office was in this over Ravenscraig, juvenile justice and the Scottish share of expenditure (1998, p.118/9). Brown et al state that long before devolution, the Scottish elite running the country might have been partial, but they were still 'closer to Scottish popular feeling than the central UK state tends to be, simply because many of them are in touch with Scottish professional organisations' (Brown et al; 1998, p.118). However, eighteen years of Conservative Party rule had the effect of making left of centre and pro-devolution teachers, doctors, church ministers and social workers more in tune with the popular mood than the civil service. Richards and Smith describe how Whitehall civil servants used to consult with interest groups as a central part of the policy process but when the Thatcher government came to power, it was suspicious of interest groups and consequently the Conservative governments from 1979 – 1997 attempted 'to reduce the role of groups and undermine existing policy networks' (2002, p.179).

When Labour came to power there was an initial increase in outside consultation resulting in an apparent change in the role of the civil service. 'The widely held assumption was that the Civil Service is good at policy advice' but this was challenged in the face of crises like the foot and mouth outbreak (Smith; 2003, p.70). Smith describes how Ministers at a UK level were taking a much more pro-active role towards policy and were relying less on civil servants than they used to. In fact, he describes how in the Treasury, all advice from civil servants had to go through Gordon Brown's special advisers – the special advisers were acting as gatekeepers between the Minister and the civil servants (Smith; 2003, p.73). He argues that the role of civil servants is increasingly 'to organize the multiple sources of advice available to ministers' (Smith; 2003, p.75). Richards and Smith attribute the Labour government's commitment to consulting interest groups in its first term as a reward to NGOs for when they serviced the Party when it was in opposition (2002, p.182). They add however that the government quickly became immune to the influence of these groups, as it established other avenues of advice from task forces and special advisers (ibid.).

It was not just the interest groups though that had objections about the civil service in Scotland. MSPs also complained about it, suggesting that there was a clash between the old and new institutions. The views of the MSPs help to put into context what the groups saw as being wrong about the old system and why they saw politicians as being allies in the fight to get things changed. Sandra White (SNP MSP) in October 2001 said that a lot of MSPs entered the Parliament thinking 'we would come in here and change the world and we've discovered that you've got to change the civil servants first'. She was worried that the civil servants would remain 'in the mould of the old Scottish Office'. She also echoed the opinion

of many interest groups when she remarked that she was sure ‘they take training on how to avoid answering questions’. Another SNP MSP (who shall remain anonymous because the comments were made informally to one of the groups) observed that there:

‘was a general problem in getting meaningful answers to parliamentary questions from members of the Executive which I thought may have had its origin in the culture of ex-Scottish Office civil servants, who had been used to a life sheltered from public gaze. I thought the culture would change, but slowly. ...there was a breed of Executive civil servant which made an art form of not answering questions’ (taken from an internal minute of a meeting).

Gil Paterson, also SNP, was stunned when it came to parliamentary questions as some ‘of the quality of answers we get back beggars belief’ (*The Scotsman* (e), p.9). However, although civil servants research and then draft answers to the parliamentary questions, those answers have to be approved by the relevant Minister. Guidance on parliamentary questions, as Kirkpatrick and Pyper highlight, emphasises the ‘primary accountability of ministers’ as outlined in the Executive’s guidelines: ‘It is a civil servant’s responsibility to help Ministers to fulfil their obligations but ultimately it is the Minister’s right and responsibility to decide how to do so’ (taken from Kirkpatrick and Pyper; 2001, p.74).

Alex Neil, an SNP MSP, also ‘claimed that the political and bureaucratic establishments were rallying against him, with civil servants combining with the Labour leadership to try to kill off his bill’ (*The Herald* (d), p.6).

It was not just SNP MSPs that complained about the civil service. The Liberal Democrats released a series of e-mails in July 2002 ‘showing how supposedly neutral officials plotted to keep information from opposition MSPs’ (*The Scotsman* (f), p.9). The e-mails ‘sought to avoid giving answers to awkward questions’ tabled by two Liberal Democrat MSPs (who incidentally as part of the Executive parties were not opposition MSPs as the article stated). One e-mail authored by a civil servant read: ‘I have gone for a narrow and pedantic interpretation of Taylor’s question which makes the answer pretty short and easy’ (ibid.). Proof of what some of the groups have long suspected about the civil service mentality towards parliamentary questions. Although the civil servants could argue that due to the sheer number of parliamentary questions that they received it was no wonder that they looked for the easy option. Between the opening of the Scottish Parliament and May 2001 it was revealed that 14,250 questions had been asked, costing the taxpayer £1.2 million (*The Scotsman* (g), p.9). To put it in perspective, Donald Dewar, the late First Minister, stated that

in the first four months of the Scottish Parliament (a period that included the summer recess) more parliamentary questions had been placed than in an entire year at Westminster (Leicester; 2002, p.39).

A Liberal Democrat MSP (Donald Gorrie) said that ‘committees have had some success in changing bills, but if the civil servants - it is usually they - and ministers stand firm, the convention is that they have to get the bill through’ (Procedures Committee (a), col 1384). He also commented in May 2000 on ‘the stranglehold which the Civil Service has over the Executive’s policy development’ and that civil servants must be persuaded ‘to change many years of secretive knowledge is power mentality – that everyone outside the laager of weapons is an enemy to be kept in the dark’ (*The Herald* (e), p.10). Civil servants were quite as prepared to fend off MSPs as well as interest groups.

### **Summary**

The attitudes of the groups towards the civil service demonstrated their desire to assert their right to have a share in the policy making process. They felt that if the civil service was able to exclude them before devolution, it should not be able to now, as the groups believed they had every right to share power in the new political system that they had helped bring about. The groups were also aware that if the civil service refused to co-operate, they had recourse to Ministers and to MSPs (before devolution Ministers and MPs spent most of the working week in Westminster). The groups were asserting that devolution was to be about a new way of doing politics that included civic society in the policy making process and was not just about conferring ‘democratic legitimacy on the apparatus of government in Scotland, so that it can govern largely as before’ (Brown et al; 2002, p.1). Traditionally, the civil service is a prime lobbying target for interest groups who want to become insider groups but because some groups had hoped that the Scottish Parliament with its new culture would rely less on civil servants in the policy process and that interest groups would move in to provide advice. However, four of the groups (FSB, MS Society, CoSLA and the RSPB) had indicated that they were going to put a future emphasis on developing good relationships with civil servants because of the obvious importance that they continued to have in the policy process.

The SCPO and SPTC were equally clear, however, that they were not going to invest further resources into working with civil servants, as both groups viewed the Parliament as the arena that they wanted to work in, although they were aware of how influential civil servants were.

### **Rational choice institutionalism**

Rationally, it would have been expedient for the groups to focus a lot of their resources on the civil service because of the powerful position they believed civil servants to have in the policy process. However, only CoSLA appeared to have adopted this strategy from the start of devolution (a continuation from their established relationships with civil servants from the Scottish Office). In order to become insider groups, it is necessary that groups adapt their behaviour to suit, in particular, civil servants but because of the clash between the pre- and post-devolution culture of how power would be shared in Scotland, tension between the groups and the civil service dominated the start of the new political system. But as the groups began to realise that the civil servants would continue to be important the FSB, MS Society and the RSPB were evidently going to follow suit and were at different stages of building up relationships with civil servants.

Rationally it is more difficult to explain the choice of the SCPO and the SPTC, particularly as the SPTC had a history of interacting with civil servants. Perhaps, the two smallest groups perhaps they decided that it would be a more cost-effective use of their resources to target the parliamentary committees, as they might have run into resource difficulties trying to sustain on-going relationships with the civil service.

### **Sociological institutionalism**

Sociological institutionalism would argue that the negative attitude of the groups towards the civil service was because the civil service culture jarred with the expectations of civic society, although it was beginning to show signs of moving towards a more open culture. The groups cared more about supporting and being involved with the politicians because they believed there was going to be a new partnership between government and civic society as outlined in the CSG power sharing principle. The groups only began to consider investing more resources into influencing the civil service as time went on when it became evident that the civil service was just as influential as before. (CoSLA already had a well established relationship with the civil service and had built up a successful working culture so their attitudes and experience of civil servants differed).

### **Historical institutionalism**

Because of the prevailing shared hopes and expectations of what the Scottish Parliament would be like, historical institutionalism would argue that the groups believed that the civil service would decrease in influence as interest groups would simultaneously increase in influence in the policy making processes. Therefore it could be argued that the SCPO and

the SPTC got so entrenched on this particular path of primarily interacting with the Parliament that their strategy got locked-in to the exclusion of civil servants.

For the other four groups, once they were involved in the new political system they decided to become insider groups as the Scottish Parliament began to shape their strategies and goals. CoSLA was more successful in its relationships with the civil service because it had a history of interaction with civil servants. The FSB, MS Society, CoSLA and the RSPB were having differing levels of success with the civil service because of the differing levels of resources they had invested into lobbying the civil service at the start of devolution.

#### **6.4 Ministers**

Lynch writes that the transfer from the Scottish Office to the Scottish Executive was pretty straightforward, with Ministers 'inheriting a government bureaucracy, quangos and a range of interactions with pressure groups' (2001, p. 29). Because Ministers inherited a lot of Scottish Office structures it might have been expected that the groups would see Ministers as being part of the old order, along with the civil service. But overwhelmingly the new Scottish Ministers were seen as part of the new system. This impression was aided by the change in governing party. There was also a lot more Ministers than before, it was a coalition government which was a novelty, all based full-time in Edinburgh and most of them brand new to office when they were elected in 1999, with the result that the Executive did seem to be new and different and open to the new culture offered by devolution. In fact, Parry and Jones state that an initial weakness of civil servants was that they expected the new Scottish Ministers 'would learn 'our ways' and be socialised into the behavioural patterns associated with Whitehall ministers', when instead, the new young Labour and Liberal Democrat Ministers came with different ideas and expectations about how things would be run (2000, p.60). However, Parry and Jones argue that the civil service proved resilient and Ministers became 'trapped in behavioural expectations that did not always fit comfortably with hopes for a novel approach to government business' (2000, p.63).

The Executive committed itself to the CSG principles and the Modernising Government plan, making it clear that there was to be a shift towards openness and accessibility. In the excitement of 1999, many groups believed that they would be able to meet and influence Ministers in a way that they could never have hoped to experience before devolution.

### **Federation of Small Businesses**

The FSB quickly took advantage of the new system and put Ministers at the top of their political priority list. They devoted a lot of time and effort to cultivating relationships with Ministers and they targeted them more than any other political actor (Press and Parliamentary Officer). They found Ministers to be very accessible, with the Policy Convener remarking that 'I don't have a problem meeting with Ministers'. During the period of participant observation the FSB enjoyed a particularly good relationship with Henry McLeish, the Minister for Enterprise and Lifelong Learning. The Policy Convener said that he would find himself meeting with civil servants who told him that the Minister had instructed them to contact the FSB for their views. The Policy Convener, during the fuel crisis of September 2000, had Henry McLeish 'chasing me all over the country to try and find out what my members think about it'. When it was just the Scottish Office the FSB did not enjoy such Ministerial exposure but after 1999 they were taking advantage of all their links with the Scottish Labour party and making the most of having an Executive based full-time in Scotland.

### **Scottish Churches Parliamentary Office**

The SCPO's Parliamentary Officer did believe that Ministers made 'most of the really important decisions' and that in order to achieve anything groups would have to get them on-side. But the SCPO tended to deal more with the Parliament, because the Parliamentary Officer believed that it was the most appropriate arena for the churches to work in. He had 'direct contact relatively rarely' with Ministers, although he did speak to their offices more frequently. The reason for this was that Ministers were under more time pressure but that they were 'certainly far more accessible than Westminster is'. He did point out though that this was going to be inevitable as Scotland is 'a wee country and I mean there's people that I knew twenty years ago when I was a student that I met then, that I've met again that are now Ministers and MSPs'. He would like to see them being more open however, and to have a 'greater willingness to engage with Parliament rather than with the media as their priority' – a desire for a strong legislature and for power to be shared.

### **Multiple Sclerosis Society**

The Health Minister was a priority target for the MS Society as Ministers 'wield the power... They can make things happen in a way that civil servants can't', according to the Director. The Society had put considerable effort into trying to build up a good relationship with the Health Minister at the time of the participant observation period. The problem for the staff was that they felt the Minister had pretty definite ideas of her own. They had a particularly

demoralising experience when they first met up with the Minister and since that the Society had strived to make her listen to them but had not found this very easy. Instead, the Society managed to advance their interests through raising awareness with MSPs, parliamentary committees and the media and as a result the Policy Officer said they had ‘got the makings of a better relationship with her now’. He also felt that they were in a position where the Minister was taking them more seriously as a group ‘not because we’ve convinced her I don’t think. It’s because she has been getting too much heat, both in the Parliament and from the media’.

The Director said that the Society had ‘generally taken the view that we want to, at least in public, we want to be in a position that we are being friendly and that we are being positive and we’re being supportive’. The Director and the Policy Officer had a number of discussions on whether they would take the tack of being supportive in public or not, but in the end they decided that it was not in the Society’s interest to make an enemy out of the Minister. The Policy Officer said that once they had got her respect they would be ‘perfectly prepared privately to give her a kicking’ but they could not start off from that position and they knew ‘when you could afford to say things like that’.

### **Scottish Parent Teacher Council**

Occasionally the SPTC met with a Minister but those meetings ‘didn’t mean anything’, instead ‘we only really started to have connections I think with the Scottish Parliament’. But even then the SPTC was not on an insider track as meetings with Ministers were still only occasional, formal and ‘have turned out to be damp squibs’. She thinks that the SPTC will not meet up with the Education Minister any more than they did when the Scottish Office controlled Scotland’s education. She suspected that Ministers had a list of interest groups which they worked their way through, meeting up with each in rotation. But since the Scottish Parliament opened she did feel that meetings with Ministers had a greater significance. The SPTC commented that pre-devolution ‘meetings with Ministers were trials, didn’t mean anything, they just went through the motions’, whereas ‘when you have a meeting with a Minister now it’s actually more meaningful than it used to be’.

The Development Manager said that Ministers were the most important actors in the policy process and that if ‘you are trying to get something on the agenda then Ministers are very important’. She did not, however, classify the SPTC as having a good relationship with any of the Education Ministers as she defined a good relationship as being able to go for a drink with the Minister in question and ‘if you never make it to that, you’re just an also ran’. For

the groups that did have good relationships with Ministers, she said the advantage would be ‘that your agenda is always considered, even if it’s not granted it is always given serious consideration’.

### **Convention of Scottish Local Authorities**

CoSLA’s Convention Manager and Head of Policy regarded Ministers as the most important actors in the policy process. The Head of Policy justified this by saying that Ministers set the agenda, which the Parliament then reacts to. He said that because Ministers have the power to control the agenda, it was ‘important to get Ministers on-side, CoSLA work hard at that’. The Convention Manager felt that Ministers were at the top of the hierarchy, so if civil servants were responding in a way that CoSLA felt was unsatisfactory then they had recourse to Ministers if the issue was ‘significantly important to us for a politician to get involved’. She viewed Ministers as ‘the next level’.

Both the Convention Manager and the Head of Policy felt that Ministers were fairly accessible given the constraints of their time (although the Head of Policy commented that some Ministers were more accessible than others). The Head of Policy thought that Ministers were open and accessible to CoSLA because ‘generally the culture in Scotland is more consensual in terms of having local government on board’. He contrasted that with the Home Office at Westminster where:

‘civil servants just swan into the room and say “Blunkett demands” and that’s the basis of the meeting. It’s how soon will everyone deliver Blunkett’s demands because it’s got to be done by the 15<sup>th</sup> December or whatever. Now this no longer applies as far as Scotland is concerned. There is a basic difference in the culture and of course a lot of the Edinburgh Ministers came through local government, they were all on the same side, fighting the Conservative administration’ (personal interview, December 2001).

The Convention Manager felt that good relationships with Ministers meant that ‘it can cut through some of the bureaucracy of dealing with the civil service’. Normally the accepted process was that CoSLA would brief civil servants who would then brief the Minister. She stated that there have ‘been occasions where we have just cut past the civil service and just gone to the Minister and said look, these are the issues, this is what’s happening and brief them directly’.

CoSLA's relationship was strong enough that they 'never have any qualms about criticising' the Scottish Executive but that 'doesn't mean we go looking for opportunities to do it because we don't' (Head of Policy).

### **Royal Society for the Protection of Birds**

The RSPB was having difficulty in establishing relationships with Ministers. At an informal level they believed Ministers were more accessible than they used to be and found them to be open and helpful when they did meet with them. The Parliamentary Information Officer and the Head of Policy Operations did say though that the accessibility and openness of a Minister depended to a certain extent on the personality of the individual. For instance, the RSPB enjoyed a good relationship with Rhona Brankin whom they felt was very enthusiastic about her portfolio. But they found it very difficult to arrange meetings with Ross Finnie, the Minister in charge of the environment at the time of participant observation. Gaining access to Ministers generally at a more formal level had proved to be problematic and the RSPB blamed the civil servants for denying them access to Ministers.

The RSPB decided to circumvent this problem by reaching Ministers more informally. The Head of Policy Operations gave the example of when he talked with Wendy Alexander (who was the Minister for Enterprise and Lifelong Learning at the time) at the RSPB's Lochwinnoch Reserve, which she attended in her capacity as a constituency MSP. He was pleased that groups had the opportunity to meet Ministers in a more informal way, even if it annoyed civil servants. Prior to the Scottish Parliament the civil servants found it 'a damn sight easier if these Ministers are packed off to London and just enjoy the Carlton Club in the evening, instead of going home and meeting all these lobbyists'. Now journalists can get their quotes from "sources close to the Minister" as they sit in the pub next to the Minister.

The Head of Advocacy and Media and the Media Officer both said that if a group was able to build up good relationships with Ministers, then 'they listen to you' and 'you actually manage to get your ideas and your thinking and your initiatives into the policy agenda'. The Head of Policy Operations felt 'because politicians stand for election on the basis that they want to bring about change' it is easier for groups to get change despite civil servant reluctance.

#### **6.4.1 Ministers – old or new politics?**

Mitchell has remarked that the type of interest group that has access to the Scottish Executive, owes its position as much to the fact that the Executive is made up of the Labour

and Liberal Democrat parties, as to the actual creation of the Scottish Parliament (2003, p.174). This might apply to the FSB (who had cultivated relationships with the Labour Party when they were in opposition at Westminster) and to CoSLA, which was certainly more in favour of a Labour government, but since devolution the other four groups did not have ready access to Ministers. (In fact the MS Society and the RSPB were experiencing real difficulties in building up relationships with them). Nonetheless, the six groups had largely favourable attitudes towards Ministers and the view was that Ministers were more accessible than they had ever been before.

However Parry, despite the early perception of the groups, had a different interpretation of the Executive, stating that it:

‘essentially retains the mystique of the UK Cabinet system... Students of post-devolution Scottish government have enjoyed reasonable access to officials, rather less good access to ministers, whose diaries are guarded and weighed down. Self-consciously imitative of what officials regard as the best traditions of Cabinet government, the Scottish devolved system shows a lack of transparency in its processes’ (Parry; 2003, p.450).

He comments that this was because in big policy areas such as education, health and housing, the main policy trends had already been set in motion within the 1997-99 Scottish Office. Burt and Taylor (2002, p.88) offer an equally pessimistic view that was at odds with the groups’ first impressions of Ministers, as they comment that while in theory all interest groups could have direct access to the Executive, the reality was different, as those with direct access tended ‘to be the small elite of relatively ‘large nationals’ with incomes in excess of £1 million per annum’, as they were the only groups who could afford to sustain relationships with the Executive.

### **Summary**

Despite some experience to the contrary the groups did feel that Ministers were part of the new politics and that they were trying to involve interest groups in the policy making process (with the exception of the MS Society who put their unfavourable experience down to the personality of the individual Minister). This suggests that the groups really did hope that a new power sharing politics was possible.

### **Rational choice institutionalism**

The groups were being perfectly rational in their strategy to build up relationships with Ministers, as they saw Ministers as being able to change policy in a way that civil servants

and the Parliament could not. So what better way to achieve their goals than to have direct access to the relevant Minister? Rational choice would argue that the SCPO and the SPTC did not have the resources to build up influential relationships with Ministers, so therefore they would be better off maximising their goals where they could be most effective. For the other four groups however, rational choice institutionalism would state that it would be beneficial to them in the long run if they could strengthen ministerial relationships and to do what they could to attain an insider position as the rewards would be greater.

### **Sociological institutionalism**

Sociological institutionalism would argue that the groups were so enthusiastic about devolution and the idea of new politics that they expected to be involved significantly in the policy process. Their approval of the system extended to all the politicians, even when there were indications that Ministers were not going to be as accessible as some had hoped. (Although both the SPTC and RSPB blamed the influence of the civil service and its old practices for thwarting access to Ministers).

Sociological institutionalism would argue that even the smaller groups, like the SCPO and the SPTC could also influence Ministers despite their lack of resources because of the inclusiveness of the new system and because they could still use the Parliament as a channel to Ministers.

### **Historical institutionalism**

Historical institutionalism would argue from the same starting point as sociological institutionalism – that the groups were expecting Ministers to adhere to the CSG principles as a way of working because that was the expectation for the new Scottish Parliament and the groups wanted to take advantage of those opportunities. In that historical context, it made sense for the groups to make the decision to foster good relations with Ministers and to continue with that strategy at whatever level they could achieve.

## **6.5 Conclusion**

*Objective 1 – whether the behaviour and/or belief systems of the six groups were affected by the Scottish Parliament.*

Although the civil service and Ministers might be referred to collectively as the Scottish Executive, the groups saw it made up of two distinct and separate strands. There was an element of friction between five of the groups and the civil service, mainly because the groups felt that the civil service was doggedly trying to retain the authority it had over policy

before devolution. Ministers on the other hand were seen as being an integral dimension of the new politics rather than a continuation of the Scottish Office. The groups were willing to support Ministers but were grudging in attitude towards civil servants. These attitudes were evident in their behaviour, as the groups acknowledged that they had not given the civil service the attention they knew they should have. CoSLA was the exception to this but this is unsurprising given that the civil servant interviewed spoke of how the groups most important to the civil service were those that had a role in implementing policy and local authorities would certainly fall into that category. Therefore, the civil service would have actively sought out CoSLA. Even before devolution CoSLA had a good relationship with the civil service, most of CoSLA's frustrations was with a government that it was not in ideological agreement with.

In the early stages of devolution the groups placed a lot of value on the elected components of the Scottish Parliament and neglected the civil service. However, it was evident that the groups were realising that new politics did not quite equate to a Parliament powerful enough to challenge the Scottish Executive's dominance and so the currency of lobbying the Parliament was going down as the stock of the Scottish Executive (and thus the civil service) was going up, therefore making it sensible for the groups to adopt insider group strategies if they wanted to achieve their goals.

*Objective 2 – the extent to which the different types of institutionalist accounts are applicable in explaining the responses of the groups.*

The intentions of the FSB, MS Society, CoSLA and the RSPB were clear in their responses to the Scottish Executive – they were manoeuvring themselves to a situation where they could work on achieving privileged access with the main policy makers. Even those groups that had originally by-passed the civil service, knew that they would have to change that and actually begin to build up good relationships with the civil service. The groups experiencing obstacles to becoming insider groups were prepared to tolerate them for the sake of their longer term goals and to use other access points in the political system to boost their position meantime. Obviously, for these four groups rational choice institutionalism is the most applicable approach. Their goals have remained unchanged and they are operating in a way that would maximise their own interests.

However, rational choice institutionalism runs into difficulties in explaining the behaviour of the SCPO and SPTC. Yes, they were the smallest two groups and thus lacked the resources of the others but on the other hand the SPTC was an active political operator before

devolution. It had regular meetings with civil servants and was part of the Scottish Office's policy networks. Why if you have limited resources, decide to invest them in parliamentary committees when you could have used them to boost existing, albeit declining, relationships with the civil service? Although the SPTC still made sure that it protected the seats it had previously attained on advisory groups. The SPTC had been neither for or against devolution. It would seem that historical institutionalism would be the most applicable approach in explaining the SPTC's behaviour because it made a choice at the time of devolution that it would put an emphasis on the new Parliament.

Sociological institutionalism on the other hand appears to be the appropriate theoretical approach to explain the behaviour of the SCPO as its reaction to the Scottish Executive would indicate that it was not motivated entirely out of self-interest. The churches had long campaigned for a Scottish Parliament and in 1989 the Church of Scotland wanted to see 'the democratic control of Scottish affairs through a Scottish Assembly established with the support of the Scottish people' (Church of Scotland; 1989, p.151). Having played a substantial role in creating the Scottish Parliament, the SCPO was set up primarily by the Church of Scotland 'to build a fruitful relationship with the new Parliament'. The SCPO had always been bound to the Scottish Parliament, not least because the office was solely established because of devolution, so it was not surprising that it focused on the new elements of the Scottish political system, particularly the committees and MSPs.

Mitchell argues that with all the talk of new politics people concentrated on the Parliament, rather than the Scottish Executive despite the fact '[p]ower lies in attenuated form in the Scottish Parliament' (2000, p.614). He says that acknowledging the fact that the Scottish Executive is more powerful is not suggesting that the Parliament is powerless but that 'it does raise questions about the nature of meaningful participation' (ibid.). This was something that had dawned on the groups and for four of them at least, they were putting their money where they believed the power was – the Scottish Executive. But this is not to say that the Parliament (especially the committees) was still important to the groups as we shall see in the next chapter.

## CHAPTER 7 COMMITTEES

### 7.1 Introduction

The parliamentary committees were the key to the entire ‘new politics’ that devolution was intended to establish, particularly in achieving an accessible Scottish Parliament (CSG; 1998, p.10). The committees were to be a hinge between society and the Scottish Executive, to be ‘key conduits for inserting civic ideas into legislative debates’ – all part of the ‘democratising process’ that devolution was to trigger (Arter et al, (a)). In order to effectively bridge the gap between society and the Scottish Executive, the committees were designed to be open, accessible and relatively powerful. Standing Orders were drawn up stating that: they should always meet in public unless there was good reasons not to; they should reach out to all sections of society; they had the power to initiate their own inquiries and to introduce Bills. The devolution campaign had wanted the committees to play a significant part in the power sharing process and so they were given more powers than the committees at Westminster and as a result the Scottish Parliament committees became ‘the smallest, but most powerful in Western Europe’ (Arter et al, (a)). Henry McLeish (in the parliamentary debate on the CSG principles) reassured any doubters that ‘no one need complain that an Executive is simply taking decisions on behalf of Scotland; each of the 129 MSPs will have a significant role in the committee structure’ (Scottish Parliament (b), col 371).

The CSG authors encouraged the committees to adopt innovative mechanisms ‘appropriate to the issue under consideration’ that would enable people to participate and to get involved in consultations (1998, p.11). In this way the committees ‘have learnt to be very accommodating for those who find the traditional committee system intimidating, such as young people’ (ESRC; 2004, p.4). The CSG believed that better legislation would be the outcome of a more participative system (1998, p.3).

One of the most obvious differences between the Scottish Parliament and Westminster is that the Scottish Parliament is unicameral. This is the legacy of the Scottish Constitutional Convention which stated that ‘Scotland’s Parliament will be a single-chamber legislature. There will be no role in its legislative process for the House of Lords’ (1995, p.24). The Scottish committee system would therefore necessarily have to be stronger to ‘provide for rigorous scrutiny of proposed legislation’ (ibid.). The Labour government in 1997 (in the White Paper “Scotland’s Parliament”) had expressed the intention of having a strong committee system in the Scottish Parliament, envisaging that the committees would have the power to initiate legislation which Westminster committees could not do. The CSG built on

the foundation that the White Paper had laid and agreed that the Scottish Parliament ‘should have all-purpose Committees, combining the Westminster select and Standing Committee role’ (Consultative Steering Group; 1998, p.5). This meant that the Scottish Parliament committees had the power to undertake inquiries, consider legislation and scrutinise the Scottish Executive (ibid., p.175).

Scrutinising the Scottish Executive had ‘opened up the strategic direction and funding plans of all the Executive’s departments to an unprecedented level of scrutiny’ (Scottish Parliament (f)). The committees also have the power to scrutinise quangos and government agencies, which prior to the Parliament had very little in the way of outside accountability. In the Scottish Parliament’s Annual Report 2001, George Reid MSP, Convener of the Conveners’ Liaison Group (the Convener’s Group was made up of the seventeen committee conveners who met to discuss any matters that arose in the committees and George Reid as a Deputy Presiding Officer chaired it), states that in line with the CSG’s recommendations ‘the committees of the Scottish Parliament have wider powers than those of any national legislature in Western Europe apart from some of the Scandinavian democracies’ (Scottish Parliament (c)). Because of the legislative role that the committees have it is no surprise that the six groups all had an interest in them.

## **7.2 Background**

There was a total of seventeen parliamentary committees at January 2003 (although the number of committees can change). Eight of those were ‘mandatory’ committees because ‘there are certain Committees whose functions are so fundamental to the running of the Parliament that these should be required to be established’ (Consultative Steering Group; 1998, p.26). The mandatory committees were as follows: Audit, Equal Opportunities, European, Finance, Procedures, Public Petitions, Standards and Subordinate Legislation. The CSG also suggested a further eight ‘subject’ committees be established once the Scottish Parliament was up and running. The subject committees (which are of a more political nature) were decided after inter-party talks and their remit closely corresponds to ‘the structure of the Scottish Executive which would facilitate close scrutiny of Executive actions’ (Consultative Steering Group; 1998, p.6). Eight subject committees were originally set up but by January 2001 an extra committee was established when the Justice and Home Affairs Committee was split into two committees – the Justice 1 Committee and Justice 2 Committee. Unsurprisingly, it is the subject committees that have received the most lobbying from the groups.

The six groups found the committees to be very accessible and found themselves far more involved in the policy-making process than they had ever been. The accessibility of the committees was important as it encouraged the groups to participate in the system, and it also resulted in the groups spending more time and resources on the committees than might otherwise have been the case.

### **7.3 Committee membership**

Each committee is made up of a number of MSPs from across the political parties and are serviced by a clerking team (see section 7.10 for more detail on the clerks) and by the Scottish Parliament's Information Centre (known as SPICe which assigns researchers to each committee). Prior to January 2001 a significant number of MSPs were sitting on two or three committees each, 'but as they have become increasingly disillusioned by the grind of committee work, the Parliament has been forced to review arrangements' (Leicester; 2002, p.39). The solution was to reduce the committee sizes so that most MSPs would not have to serve on more than one committee.

The political balance of each committee was carefully worked out through a formula (the d'Hondt formula), which was designed to approximately reflect the make-up of the political parties in the Scottish Parliament. The membership was weighted so that Labour did not have a majority on any of the seventeen committees but it had a functioning majority through its alliance with its coalition partners, the Liberal Democrats (Lynch; 2001, p.72). To illustrate, in January 2003 the two biggest committees with eleven members each were the Enterprise and Lifelong Learning Committee and the Rural Development Committee; on the Enterprise and Lifelong Learning Committee there were 5 Labour MSPs, 3 SNP, 2 Conservative and 1 Liberal Democrat and on the Rural Development Committee there were 4 Labour MSPs, 3 SNP, 2 Conservative and 2 Liberal Democrats. Although the committees claim that they strive for consensus, from an interest group perspective it is in their interest to cultivate the Labour and Liberal Democrat MSPs, because when it comes to a vote they will carry the day if they vote along party lines (although unlike Westminster Standing Committees party whips are not automatically members of every committee).

### **7.4 Committee conveners**

Each committee is chaired by a convener and in his or her absence by a deputy convener. The distribution of the convenerships was different from the Westminster process where the party in power automatically held the committee convenership, although the allocation of convenerships is still weighted in favour of the biggest party in the Scottish Parliament (Lord

Semphill; 2000, p.19). At the start of the parliamentary session all the committees elected their convener and deputy from within their own membership. However, this choice is limited to a particular party which is determined by a prior inter-party agreement about which party the conveners of each committee would be drawn from. Thus in 1999, the parties had bargained beforehand that Labour would convene 8 of the original sixteen committees, the SNP 4, the Conservatives 2 and the Liberal Democrats 2 (and each party would also have the same number of deputy convenerships). However, when the Justice and Home Affairs Committee split into two a row broke out between Labour and the SNP about who would convene the newly formed seventeenth committee. In the end Labour won the vote with the support of its coalition partners, the Lib Dems, and also of the Conservatives who had been promised the deputy convenership by Labour (BBC News, 20.01.01). (The deputy conveners are not necessarily from the same party as the convener, so for instance, the Social Justice Committee had a Labour convener and an SNP deputy convener).

The Scottish Parliament's guide on "The Role of Committee Convener" acknowledges that being 'chosen by a committee as its convener immediately gives the individual holding that post a degree of influence and prominence' (Scottish Parliament (g), p.1). The convener is responsible for setting the committee's agenda, allocating time for proceedings, the length of time a member can speak for, deciding when to take a decision and so on. Lynch believed that 'the partisan affiliation of conveners is unimportant' because the conveners are constrained by the rest of the committee. However, Sandra White (SNP MSP) gave an example of why she thought conveners had a key role. She compared her experiences of being on the Social Inclusion, Housing and Voluntary Sector Committee with the Local Government Committee, both of which had Labour conveners. In the former committee she felt an inordinate amount of items were taken in private at the behest of the convener. She described how she would attend the committee and 'told basically what will be taken in private before it was even taken to a vote, so right away there was a confrontational attitude and that comes from the convener'. This is in comparison to the Local Government Committee where items were only taken in private if there was an 'exceptional' reason and 'the convener will ask if anyone has any objections, she'll explain why she wants it taken in private'. This example suggests that the convener can dictate the style and culture of a committee to a large degree but as one of the clerks in interview said: 'the party of the convener probably is less important than the convener itself as a person'.

As well as formally having the power to control the committee agenda and what does or does not go on it (although for the most part a convener will accept any items the other members

request, as the convener needs to have the support of his or her committee in order to fulfil their role), the convener also has to take the lead. One clerk said that:

‘the programme of work that we decide to draw up for an inquiry, effectively that will be the convener and I trying to think what makes sense. The paper that goes to the committee will be from him and it will be what he thinks is right. Okay, members may disagree with things and will change things as well but that’s the starting point. You know, that arrangement applies on lots and lots of things’ (personal interview, August 2001).

Murray Tosh, the convener of the Procedures Committee, said that conveners also have to read all the papers before the committee, have a sense of where the work is going, reach decisions and negotiate solutions.

Another important power given to the convener is that of having the casting vote, so in the event of a committee vote being equally split, the convener’s vote is given more weight than the other members.

## **7.5 Lobbying targets**

The conveners do have an important strategic role on the committees and thus should be prime targets for interest groups - and to a large extent this is true. It is interesting to know whom the groups view as the key person(s) on the committees as this will have a bearing on their strategy and where they concentrate their lobbying resources.

### **Federation of Small Businesses**

The FSB had made a point of arranging a one to one meeting with the convener and the clerk of the Enterprise and Lifelong Learning Committee early on in the life of the Scottish Parliament. This would suggest that they did regard the convener and clerk as having a particular significance on the committee. However, the FSB valued all the MSPs on the committee and so cultivated a relationship with every member, which they felt was worthwhile because at the end of the day the entire committee is involved in the decision-making process. The FSB sent their briefing papers to everyone on the committee and they ‘try not to politicise the matter’ (Press and Parliamentary Officer; Procedures Committee (a), col 1405). They were more interested in MSPs sympathetic to the needs of small businesses. During the period of participant observation they were beginning to establish who was sympathetic towards businesses on the European Committee by studying what people said in the committee and by chatting to them informally.

### **Scottish Churches Parliamentary Office**

The key member on a committee for the SCPO ‘would normally be the convener’ but if the SCPO was wishing to promote an amendment, the Parliamentary Officer would look to who he believed would be the best placed person(s) to do that. He considered ‘who might instinctively be on your side? Who might be likely to carry the whole committee? And that might not be the same person’. On a specific issue to do with land reform he:

‘consciously targeted a Labour backbench member of the committee as maybe being more likely to carry the committee than somebody who might have been instinctively more strongly on our side from another party’ (personal interview, February 2001).

### **Multiple Sclerosis Society**

The Director and the Policy Officer at the MS Society had slightly different answers when it came to key people on a committee. The Director replied that ‘it’s the sort of leading lights from each party and I suppose if we’re honest the governing party is always going to be a bit more important than isolated minorities’. The Policy Director had more emphasis on the cross-party aspect of the committees and he specifically mentioned the group of MSPs that the Society had taken pains to cultivate through regular informal meetings. He also felt that depending on the convener’s style of chairing they could also be important. The Society had given the convener of the Health and Community Care Committee ‘some special attention’ by asking her for a one to one meeting and arranging for her to shadow an MS nurse.

### **Scottish Parent Teacher Council**

The SPTC’s Development Manager was unique amongst the groups in that she felt the Opposition members were the key people on a committee in relation to the SPTC. She explained that it was ‘interestingly not the chair and never has been the chair. The SNP people have actually always been quite useful; they are more open about taking on issues’. She believed that this was unlike Executive party members who saw their role as protecting the Executive on the committees.

‘So therefore if you want to say something different then your routes are often through the Opposition members. I mean on SQA we’d spoken quite a lot with Ian Jenkins because he used to be a teacher and therefore he actually had a practical understanding of the issues and the SNP people and on some issues with Brian Montieth of the Tories’ (personal interview, November 2001).

However, she did not dismiss the convener out of hand because of the convener’s power to prevent issues being raised. She found that when the convener was from one of the

Executive parties ‘then they can defend the Executive’s position quite powerfully by moving certain things out of order’.

### **Convention of Scottish Local Authorities**

Both the Convention Manager and the Head of Policy at CoSLA were agreed that the convener was the key person on a committee. The Head of Policy also felt that it was good to brief MSPs that were friendly to the local government standpoint and perhaps ‘prime them with questions to ask’. But that strategy varied because sometimes they did ‘a blanket briefing to all MSPs who are on the relevant committee and pick it up, sometimes we go with the Executive members of that committee’. Although, the Convention Manager actually felt that it would have been beneficial to engage with all MSPs on the committee, as all MSPs were involved in the decision-making process.

### **Royal Society for the Protection of Birds**

The RSPB’s Head of Advocacy and Media and the Parliamentary Information Officer had the same response: they believed that the convener and the clerk, followed by the MSPs who were friendly with the RSPB, were the key actors on a committee. The Parliamentary Information Officer said that the convener and the clerk were important because they ‘sit down and work out what they are going to take and what the committee is going to do’. The Head of Advocacy and Media explained his answer by saying:

‘Because the clerk advises not just the convener but all the other MSPs on the committee and we are never privileged to hear their advice, but if their advice is that the RSPB are a heap of crap then we are less likely to get called to give evidence for example, so they are important. The convener obviously is taking decisions and directing committees, and chairing a meeting is a very powerful position. But then after that, what I would call in inverted commas, friends of all the parties ... and we will concentrate effort on them on a committee because they are most likely to ask questions for us. They are most likely to appreciate the points that we are making and most likely to take up the arguments and argue them powerfully’ (personal interview, December 2001).

The Media Officer also felt that the convener was the most important person on the committee but the Head of Policy had a different perspective. He believed that the key people were the ‘Executive members because at the end of the day when push comes to shove, the whip gets put on all members and if it goes to vote the Executive ones are the key ones’. He acknowledged that the conveners were important to a certain extent but at voting

time they were like any other committee member using their vote to back their party line. Therefore:

‘at the end of the day if there is a really contentious thing the most important members are the Executive members and I suppose the Executive members who are willing to defy the whip and vote against the Executive are the most important that there are, but there aren’t any of them’ (personal interview, January 2002).

### **Summary**

Although the convener had more powers than other MSPs on a committee, it appeared that generally, that did not affect the behaviour of the groups per se, instead the groups targeted the committees as a whole, although on occasion they did make distinctions between committee members, particularly Labour and Liberal Democrat MSPs. The committees made themselves accessible to interest groups so it was easy enough for groups to lobby everyone on the committee. The advantage of lobbying all committee members was that if they came to an agreement on the issue at hand then they produce a unanimous report which carries more weight. Another benefit is that it encouraged individual MSPs to go back and push for particular issues inside their own parties, all the time applying more pressure on the Executive. The groups believed to varying extents that the committees had the power to change things, even if it was agreeing to amendments, so the groups tended to invest resources into lobbying all the committee members rather than singling out individual MSPs.

### **Rational choice institutionalism**

It was perfectly rational for the groups to target an entire committee as every member on it has a say in the decision making process, so to only lobby a few members on the committee could be a risky strategy, as the more people that support the group’s position the better. It also makes sense for the groups to target particular committee members if they are pivotal and if it will increase their chance of success.

### **Sociological/historical institutionalism**

The parliamentary committees were a completely new and unknown area for all six of the groups. Some of the groups had experience of the Westminster committees but the Scottish Parliament committees were a new breed. The groups saw the committees as a collective package and did not see a group of individual MSPs from different parties which was in keeping with the ethos that the committees were to work by “consensus”. Consensual politics was the buzz phrase back in 1999 and it was envisioned that MSPs would lay aside party differences when they were in committee and focus on the merits of the issue under

examination rather than party allegiances. The groups therefore were responding to the expectation that to influence the committees they would have to get the backing of all committee members. However, as time passed it soon became apparent to the groups that the committees were not going to operate primarily by consensus when it came to voting time, as MSPs generally voted along party lines. But by then it had become the norm to lobby all committee members even if it appeared to be more beneficial to concentrate resources on the Labour and Liberal Democrat MSPs as they had the majority vote on all the committees (although some Lib Dems tend to be more unpredictable in their voting patterns than their Labour colleagues), as well as the convener who has a much bigger say in the operation of the committees than any single individual member.

### **Section 7.6 Legislative functions**

As the committees had the power to initiate their own legislation, it was felt at the beginning that this would be a real attraction to interest groups. But by January 2003 there had only been two committee bills: the Justice 1's Protection from Abuse (Scotland) Bill which became an Act in November 2001 and the Standards Committee's Scottish Parliamentary Standards Commissioner Bill which became an Act in 2002. According to one clerk a committee bill could tie the committee up for a year so they needed to ensure that the Scottish Executive was not going to introduce a raft of legislation that would fall under their remit. In the main though committee work was split, usually unevenly, between the scrutinising of Bills and the instigation of reports/inquiries on topics of their own choosing. Some of the committees actually found that they had been so busy with Scottish Executive legislation (which they are obliged to scrutinise), that they were struggling to find time to fulfil some of their other functions. Legislation took priority over inquiries and the committees have to adhere to a strict timetable which governs legislation (agreed between the Parliament and the Scottish Executive), so the committees can only flex their own agenda muscles if they have time spare after they fulfil their scrutiny role. For instance, the Justice and Home Affairs Committee was so swamped by Scottish Executive legislation in its first year, it did not have the opportunity to do anything else (which is why another justice committee was established to help spread the workload).

It was generally at Stage 1 of an Executive Bill (Executive Bills make up most of the legislation that goes through the Scottish Parliament) that the committees were of particular significance to the interest groups. Before legislation arrives at a committee, the Scottish Executive would have presented the Bill to Parliament accompanied with memoranda that outline the objectives of the policy, the potential financial implications of it and a list of

everyone it has consulted. The draft legislation is then assigned to a lead committee and perhaps to other interested committees, although two committees looking at the one piece of legislation can often lead to an overlap in the work, for instance, both the Health and Community Care Committee and the Local Government Committee were looking at the Regulation of Care Bill which led to a repetition of witnesses who covered the same ground. Once the draft legislation has been designated to the lead committee it is at this point (Stage 1) that groups actively target the committees, although the groups would have hoped to have been involved in the proposed legislation at the drafting stage with the Scottish Executive (McFadden and Lazarowicz; 1999, p.44). At Stage 1 the groups have the opportunity to submit written evidence and hopefully an invite to give oral evidence to the committees.

The committee(s) and the clerks go through the written submissions and select some groups and individuals to present oral evidence to them. The groups have to persuade the committee of their case; that the proposed legislation will particularly affect the people they represent or else submit a very useful submission that grabs attention. The committee then meet to take oral evidence from those they have selected. (Those meetings and what is said in them go on public record in the Scottish Parliament's *Official Report*). After the committee takes all the evidence it wants or has time for, it then writes a report stating its recommendations on the Bill's general principles and the report then goes on to inform debate on the proposed legislation when the Scottish Parliament meets in plenary session. The MSPs then vote on whether they agree with the proposed legislation's general principles. If the Parliament approves it in principle it then goes back to the lead committee for Stage 2, which is when the committees examine the draft legislation in greater detail, adding amendments and writing their final report. In theory, interest groups have the opportunity to have further input at Stage 2 of the legislative process but the committees rarely ever take further oral evidence at this stage although groups might still be able to submit written evidence to them. Persuading MSPs to table amendments is a key goal at this stage.

### **7.6.1 Written evidence**

The parliamentary committees send out a lot of consultation documents and interest groups will take the time to read these before deciding whether or not to respond, although if the issue under consideration is at all relevant they will put a submission in. Murray Tosh in his role as convener of the Procedures Committee stated in a letter to the SCPO the emphasis the committees put on written evidence:

'I would like to stress however how enormously important the written material received by a committee is to every inquiry. In complex matters in particular, it can

often be a more satisfactory means of obtaining a systematically rigorous view than what is often a rather time-constrained witness session' (extract from a letter to the SCPO dated 4 November 2002).

The committees welcome submissions from interest groups because of their expertise and their ability to highlight any 'potential problems in the drafting, purpose and implementation of a Bill' (Burns; 1999, p.53). The committees usually have a list of 'usual suspects' who they almost certainly want to get written evidence from on almost anything that the committee does. An obvious example of this would be the Local Government Committee and CoSLA. The CSG believed that better legislation would be the outcome of a more participative system (Consultative Steering Group; 1998, p.3). The principle is the same with committee inquiries where interest groups are actively welcomed to participate because of the expertise that they have to offer (and because the committees help the Scottish Parliament to fulfil its principles of openness and accessibility).

Submitting written evidence to the parliamentary committees is a skill in itself that all the groups had to develop. Brevity is the key. The committees have to trawl through a large amount of submissions and they do not have the time to read a thirty page report on the topic no matter how worthy the material. The groups need to put across their main points as succinctly as they can, the shorter the better but certainly no more than four A4 pages long. There is a place for lengthier material however, such as relevant survey results that interest groups produce. One clerk stated that current, reliable survey work that reflected what the world was like at that particular moment was 'really quite important' and could informally influence the committee's work.

As well as brevity, the clerks and Murray Tosh stated that the committees also looked for positive recommendations from written evidence. Groups who submitted what was largely a critique of what was wrong were less likely to be invited to give oral evidence than the groups who not only raised concerns but also offered constructive solutions. They did stress that critiques were useful but they did appreciate alternative suggestions. Mr Tosh said that 'simply registering discontent, which a lot of it is, is not the same as coming forward with an agenda'. Johann Lamont (Convener of the Social Justice Committee) said that as well as representative and authoritative witnesses, they were looking for information, 'worked out ideas' and 'policy'. She also said that they were looking for authenticity from those who were giving the evidence rather than just a clever lobbying technique. One clerk also pointed out the need to make evidence accessible to the MSPs. Interest groups often forget that

MSPs are not usually experts in the field of their committee remit (although the Justice Committees do have a high proportion of lawyers on them).

Perhaps the Education, Culture and Sports Committee instructions on written evidence sums up best what the groups have to do:

‘Written evidence should be as concise as possible (3-4 sides) and where appropriate, explain the interest or expertise of the person/organisation making the submission. The committee welcomes both factual information and recommendations for action which it can consider’ (25.02.00, p.1).

### **7.6.2 Oral evidence**

The groups made the effort to submit written evidence in response to a committee report or inquiry that was relevant to them. Anyone can submit written evidence but only the groups/people selected by the committee are called to give oral evidence (and then have that evidence published on the Scottish Parliament website). The written evidence is the trigger for being selected to give oral evidence.

The selection of witnesses lies in the hands of the committees although the committee clerks and SPICe also have a hand in the process. SPICe give suggestions for potential witnesses and are particularly helpful in choosing academic input, as they knew who is active in a particular field and who can write a good report. The clerks with SPICe draw up an indicative list of potential witnesses which they try to make as balanced as possible. One clerk noted that on a witness list for a particularly high profile policy, the clerks and SPICe had included witnesses from the private sector to keep things balanced but the committee chose to drop those names from the list - ultimately it is the committee members who have the final decision on who is picked.

The Senior SPICe Researcher explained that when SPICe draw up their indicative list of potential witnesses they first of all look to see who are the most likely people to be involved in the policy development. Within that group SPICe had a hierarchy of those who they think would be accomplished at giving evidence ‘rather than the ones who might be quite knowledgeable but might not give you very good evidence’. They look to groups or individuals who have a command of their subject and who have produced some robust work. (SPICe will accept information from anybody although they do not guarantee that they use it, ‘but the more we know about what is out there, the more we are able to make better informed judgments about who should go and speak to the committee’). They then put forward their

list of suggestions to the committee. But like the clerks, the SPICe researcher made a point of saying that it is the MSPs who make the final decision and that MSPs often add or subtract names. He said that some MSPs had their own particular agenda, for example one might have an interest ‘to do with employees and peddles that in every possible way, oh we’d better get Unison in or better get this person in, even if they might not be relevant to what you are looking at’.

Murray Tosh described the selection process on how witnesses were chosen within the Procedures Committee:

‘Ultimately it would be the committee but you would expect usually that the clerk and the convener will have some ideas and maybe whittle it down and present some options to the committee to discuss who they want to meet up with. On this particular one [inquiry into CSG principles], the committee clerk and I are doing most of the selection but the committee members are aware of who has responded and who has asked to come. They have all been asked if there is anybody here who you would like us to interview or would like us not to interview. ... So the committee members are as involved in that as much as they want to be, which is I think by and large - they are happy me doing it’ (personal interview, October 2001).

The committees invite groups to give oral evidence if, as already mentioned above, they have offered positive recommendations as to what can be done, rather than just a document outlining their criticisms. The committees also endeavour to choose representative groups – ‘basically you look to see if they have got a wide membership and if they are actually representing the groups that they say they are’ (Sandra White SNP MSP). One clerk also said that they tended to look for umbrella groups because they ‘might be slightly more representative, they can see a broader spectrum of what is required’ whereas smaller groups may have a narrower perspective which ‘may be to the detriment of somebody else’. They want to choose people who have authority and substance on the subject. Murray Tosh said that the Procedures Committee, like the other committees tended to go for the known organisations because:

‘it is often difficult to get beyond the usual suspects because the usual suspects are in touch and are resourced to handle proceedings. And I’ve been on a committee where I’ve seen people come from much further away from the system and they have much less to say. They don’t really have the research, the breadth in their approach’ (personal interview, October 2001).

Two clerks noted that their particular committees also really liked to hear anecdotal evidence from people who had gone through a particular experience and it was this evidence that they tended to remember later on. Although academics are often selected as well because they are seen as being dispassionate about issues and more likely to give analysis than make a case.

Natural justice is also part of the selection process - if there was an investigation into water charges, then the water boards would have to be invited to give their side or if there was an inquiry into university funding then the Scottish Higher Educational Funding Council would be called to give oral evidence.

All six of the groups sought selection to give oral evidence as it was seen as a good opportunity to persuade the committee(s) of their case and there also seemed to be an element of prestige in being called to give oral evidence. In fact one Labour MSP, Kenneth Macintosh felt compelled to comment that:

‘Organisations place great stock on giving oral evidence. I am not sure what your experience of giving evidence is, but if written evidence is read and taken in, it can be more productive than oral evidence sessions’ (Procedures Committee (a), Col 1417).

Apparently, because of the time constraints that the committees faced, the practice of drawing up lists inviting witnesses for oral evidence was sometimes done before the committees had even received any written submissions. The SCPO’s Parliamentary Officer wrote a letter expressing his concern about this practice to Murray Tosh as convener of the Procedures Committee. Mr Tosh wrote back and said that:

‘It does seem preferable for committees to determine the final list of oral witnesses in the light of the interest revealed via the general call for evidence, but timetabling considerations on legislative work may mean that this is not always possible’ (letter to SCPO).

He also added that:

‘it is the case that, as committees become more experienced, their ability to anticipate their witness lists accordingly are bound to improve. I do not suggest that this ever will, or should, determine the final arrangements, or that committees should not give serious consideration to everyone who expresses a desire to speak, only that it is likely to be the outcome of committees’ growing expertise in their fields and maturity’ (letter to SCPO).

## **7.7 Impact on workload**

This section will look at how the committees specifically impacted on the workload of the six groups. Not that things are as clear-cut as dividing the impact of the workload between the committees, MSPs and the Scottish Executive. For instance, the majority of Bills in the Parliament are initiated by the Scottish Executive but are then passed to the parliamentary committees for further examination and evidence gathering. So although it is the committee asking groups to submit evidence, the source of the legislation is usually from the Scottish Executive. But as all legislation is required to go through the committees it is relevant to look at how this stage of the legislative process affected the groups at the time of participant observation.

### **Federation of Small Businesses**

The FSB dealt primarily with the Enterprise and Lifelong Learning Committee and during the Scottish Parliament's first year it was the only committee that the FSB had regular sustained contact with. The FSB had devoted a lot of time into cultivating relationships with the committee and they had established good contacts with everyone on it by attending committee meetings as observers, setting up meetings with members, sending out briefings and providing information to the MSPs.

Contact with other committees such as the Local Government Committee and the Transport and the Environment Committee was on an ad hoc basis. In this way they got in touch 'as necessary, when there is a Bill coming up, we will look at the Bill and if it is interesting to small businesses then we will get in contact with them' (Policy Convener). This meant that they had to monitor the activity of all the committees in case anything relevant to them came up, which they either did themselves via the parliamentary website or via the public affairs companies they hired. The FSB decided early on that they were not going to be able to manage the time consuming task of monitoring all the committees on top of their other work, and this was one of the reasons why they hired the services of a public affairs company.

In the future the FSB were looking to 'be more involved' with the European Committee (Deputy Press and Parliamentary Officer). In order to do this they had asked the committee clerk to pass on to them any details of the committee's agendas, inquiries and so on. They were also going to monitor the committee's activity and were in the process of identifying MSPs on its membership that were sympathetic to small businesses.

Written submissions involved a lot of work because of the reading of all necessary documents, the collation of members' opinions and the actual drafting of a response. Responses to legislation or committee inquiries also became the catalyst behind the writing of some of the FSB's bigger reports.

The FSB also responded to the more imaginative ways that the Enterprise and Lifelong Learning Committee tried to reach out to civic society by attending events like Business in the Chamber, where the committee invited lots of businesses to a day event in order to get feedback on an interim report the committee had compiled on economic development.

### **Oral evidence**

The FSB submitted written evidence regularly but they particularly valued giving oral evidence. The FSB's Policy Convener stated that he highly rated oral evidence because of the benefits of being there in person to present the facts. But he did caution that it was not necessarily an easy task and 'you've got to know your homework. You've got to know because they'll tear you apart if they think you are trying to bluff it'.

From the table below it can be seen that the FSB had been successful in being invited to give oral evidence, gaining a total of fourteen appearances over the course of the first three years of the Parliament. Unsurprisingly, it was to the Enterprise and Lifelong Learning Committee that the FSB had given most of their evidence to, followed by the Local Government Committee (local councils collect the rates for business premises and so on).

FSB oral evidence from July 1999 until week ending 8<sup>th</sup> November 2002.

<b>COMMITTEES</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>TOTAL</b>
Enterprise & Lifelong Learning	1	2	0	2	<b>5</b>
Finance	0	0	1	0	<b>1</b>
Local Government	1	1	1	1	<b>4</b>
Procedures	0	0	0	1	<b>1</b>
Rural Development	0	0	0	1	<b>1</b>
Transport & the Environment	0	1	1	0	<b>2</b>
<b>TOTAL</b>	<b>2</b>	<b>4</b>	<b>3</b>	<b>5</b>	<b>14</b>

## **Scottish Churches Parliamentary Office**

The SCPO was primarily interested in the work of the Social Justice (formerly Social Inclusion, Housing and Voluntary Sector) Committee. Almost everything that the committee studied was of relevance to the SCPO. The Justice and Home Affairs Committee (now split into Justice 1 and 2) came a close second. Like the other groups, the SCPO kept an eye on the work of all the committees just in case a topic of importance cropped up in one that the SCPO did not usually interact with. This meant that the Parliamentary Officer spent a lot of time monitoring committee activity. This allowed him to keep abreast of what was happening and he could also pass on important information to relevant people within the churches, as well as advertising it generally in the SCPO's monthly updates on the Scottish Parliament. The updates covered nineteen topics that the churches were particularly interested in such as debt, housing, education, drugs and nursing homes. Monitoring the committees also meant that the SCPO could flag the churches' interest in a piece of legislation with a committee at the earliest possible stage. When the Social Inclusion, Housing and Voluntary Sector Committee had homelessness on its agenda, the SCPO's Parliamentary Officer (through the auspices of the churches Social Inclusion Network) raised their interest to the committee at the very start and so they were amongst the first round of witnesses who were invited to give oral evidence.

Another time-consuming task that the committees created for the SCPO was the summarising of committee discussions. If a Bill or an inquiry was of interest to the churches the SCPO had to keep them fully up-to-date on progress. The Regulation of Care (Scotland) Bill was hugely important to the churches that ran homes for the elderly, therefore the SCPO had to study every stage of the Bill. This involved looking at all the relevant sessions of the Health and Community Care Committee (the lead committee) and the Local Government Committee, which was also scrutinising the Bill. The SCPO trawled through all the information and then produced a short summary of the main issues, what witnesses said, the leanings of committee members and so on. This information with details of the proposed Bill was then sent out as a briefing paper to those within the churches.

The SCPO distributed a comprehensive report on all the committees at the end of the parliamentary year, detailing every meeting taken in private, every issue that was discussed, who gave evidence, what inquiries were carried out that year and other pertinent points relating to the work of the committees. This involved taking detailed notes every week of the seventeen committees.

As the SCPO primarily carried out a facilitating role for the churches, part of the Parliamentary Officer's job was to build up relationships between a committee and the corresponding people in the churches. For instance, he tried to ensure that the MSPs on the Education, Culture and Sports Committee were acquainted with the key church people dealing with education issues. This also involved advising church people on how to approach the committees and set up meetings.

The SCPO also spent a reasonable amount of time responding to committee consultations and submitting written evidence. This obviously involved reading the relevant parliamentary documents, co-ordinating a response that all the churches could agree to, or else on issues on which the churches were divided, the Parliamentary Officer had to submit several responses and assist churches with their own individual responses. In the SCPO's 2000 Annual Report the Parliamentary Officer wrote that:

‘In common with many bodies, churches are at times struggling to keep pace with the opportunities to respond to consultation papers from the Scottish Executive and Parliament’ (SCPO (c), p.1).

The SCPO also participated in events organised by committees. For instance, the Social Inclusion, Housing and Voluntary Sector Committee wrote to the Parliamentary Officer inviting him to attend an Open Day where various interested groups were going to discuss what they would like to see on the committee's agenda in the future. So these less frequent means of consultation also added to the SCPO's workload.

### **Oral evidence**

The Parliamentary Officer felt that the committees wanted to hear from groups who were experienced, had a specialisation and had evidence to support their claims. So for example, the churches could tell a committee what was happening in hostels for the homeless, what asylum seekers were saying to the church agency working with them and so on.

When it came to evidence the SCPO did not wait for the committees to ask, instead the Parliamentary Officer put a request in to them. When the Scottish Parliament had just begun and the committees were still settling in to a way of working the procedure was that groups had to get in as quickly as possible if they wanted to give evidence, as at the start it was often a case of first come, first served according to the Parliamentary Officer.

For the SCPO, oral evidence provided more work as the Parliamentary Officer had to instruct individuals who were representing individual churches or church organisations on how best to put their case to the committees and to prepare them for what they could expect from the committee.

The SCPO's Parliamentary Officer felt that the biggest benefit of giving oral evidence was that 'anybody is more persuaded by direct communication than by something on paper. You can give detail on paper but to persuade, I think face to face is more likely'. But like the FSB's Policy Convener he too warned that you could not just go in to the committee meeting unprepared and that 'you need to make sure you get the right people giving evidence. People need to be very well briefed because you can undermine your case by looking stupid'. Sometimes the experience of giving oral evidence could be a somewhat unpleasant experience. The SCPO's written submission to the Procedures Committee inquiry into the CSG principles stated that:

'While those who have given evidence on behalf of churches have generally felt the experience positive in terms of the Clerks' briefing in advance and the Committees' questioning and listening, there have been concerns about the treatment of "witnesses", who have occasionally felt under a level of cross-examination that goes beyond robust questioning about material presented towards a courtroom model of establishing a case' (taken from a personal copy of the SCPO's submission).

The SCPO officially had only given oral evidence on one occasion to the Procedures Committee for the CSG inquiry. However, this is slightly misleading in that the Parliamentary Officer had given oral evidence at least twice more but under the auspices of the Scottish Land Reform Convention (to the Justice and Home Affairs Committee in November 1999) and as part of the Third Sector Policy Officers Network (to the Standards Committee in February 2001). It was only very rarely that all the denominations that the office represented had a common stance and so the opportunities for the Parliamentary Officer to give oral evidence on their behalf was limited.

SCPO oral evidence from July 1999 until week ending 8<sup>th</sup> November 2002.

<b>COMMITTEES</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>TOTAL</b>
Procedures	0	0	0	1	<b>1</b>

### **Multiple Sclerosis Society**

The MS Society almost exclusively focused on the Health and Community Care Committee and at the time of participant observation did not foresee this changing, as it was the committee that was most likely to cover issues that were relevant to people with multiple sclerosis. In their July 2000 newsletter they informed their members that the Director and Policy Officer had ‘attended their first meeting of the vital Health and Community Care Committee, to get a feel for how it operates’ (MS Society (b), p.3). Before attending it, they also read up on the minutes of the previous committee meetings as another way of getting a feel for the committee. The Policy Officer’s objectives for 2001 listed the Health and Community Care Committee as one of his main parliamentary targets (along with health spokespersons from the parties and particular MSPs). Although, at the time of participant observation (May 2001) the committee had discussed very little that was of relevance to the MS Society, so as a result the Society had not submitted many written contributions to it.

Other committees had occasionally been of relevance to the Society such as the Social Inclusion Committee and the Transport and the Environment Committee. The Transport Committee may be an odd committee for a health group to look at but the Transport Bill was of interest because it dealt with disabled parking. The Director in April 2001 had also submitted a seven page contribution to the Health and Community Care Committee’s Inquiry for the Scottish Budget 2002 – 2003 in a bid to get more funding for MS services and he commented that he had spent a significant amount of time and effort on that. Overall though, the Director stated that the Society had only submitted written evidence to the committees a total of four times (at the time of participant observation).

### **Oral evidence**

At the time of participant observation the MS Society had not been asked to give oral evidence but were hoping that they would soon have the opportunity to do so. Both the Director and the Policy Officer felt that oral evidence would have more of an impact on the committee than written evidence and thus one of their aims for that year was to be called to give oral evidence to the Health and Community Care Committee. Up until the week ending 8<sup>th</sup> November 2002 this aim had not been achieved but on the 18<sup>th</sup> December 2001 they had the opportunity to make a presentation to the Public Petitions Committee to support the submission of their petition on the availability of a drug called beta interferon for people with MS.

MS Society oral evidence from July 1999 until week ending 8<sup>th</sup> November 2002.

<b>COMMITTEES</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>TOTAL</b>
Public Petitions*	0	0	1	0	<b>1</b>

\*It was a presentation rather than formal oral evidence

### **Scottish Parent Teacher Council**

The SPTC primarily focused on the Education, Culture and Sport Committee. Although ‘periodically and occasionally’ the Development Manager had attended the Enterprise and Lifelong Learning Committee, and had submitted written evidence on post-16 education to it, for the most part, however, the Education, Culture and Sports Committee was its main target as it dealt with school education. The committee had dealt with several major education issues, including the repeal of Section 28, the SQA crisis and the Education Bill. The SPTC had submitted contributions on those issues and kept progress of committee meetings through the website (‘you actually do have to keep an eye on the website’) and also made the most of the office’s proximity to the Scottish Parliament by attending many committee meetings as an observer. If a ‘relevant and mainstream’ issue came up then the Development Manager tended ‘to go along and often have informal chats with people’.

Another task prompted by the committees was the dissemination of information to the SPTC membership. For instance, one of the clerks to the Education Committee wrote to the Development Manager in March 2000 stating that the committee would:

‘welcome written evidence from individuals or organisations on any aspect of the remit. I would be most grateful if you could publicise this to PTAs, any of whom are welcome to contribute to the inquiry’ (taken from a letter to the SPTC).

As well as alerting particular individuals who she thought would wish to contribute, the other way of publicising committee activities was through the SPTC newsletter *Backchat*. This involved writing up articles and explaining the issues that the committees were discussing.

### **Oral evidence**

The Development Manager of the SPTC was in no doubt that ‘oral evidence is very important’ because the ‘whole point about giving oral evidence is that they then read your written evidence’. She believed that due to the various time pressures on committee members, they actually paid very little attention to the written evidence and only took it seriously once they had to prepare their questions for an oral evidence taking session. This came home to her during the Clause 28 furore when the SPTC had sent out information to

MSPs but it was not until she was selected to give oral evidence that the MSPs actually read it.

Normally the Development Manager or the SPTC convener (or both together) represented the SPTC in parliamentary committees, but if an issue came up where a member would be better placed to give evidence then she would put them forward. The Development Manager did her homework on how best to give oral evidence. Before her first experience of giving evidence (on the Education Bill) she ‘went to all the previous hearings of people giving evidence and I noticed how some people blew it’. So having studied others and taken notes of best practice as well as becoming acquainted with all the arguments she went in fully prepared and better able to give an effective case as she felt that ‘a lot would ride on that initial evidence that we gave’. She also added that if the SPTC was asked to give oral evidence they always agreed to go, ‘even if you’ve got nothing to say, you never say no’.

She thought the difficulty of getting selected to give oral evidence was that ‘inevitably they go to the main interest groups which are the key players’. Considering that the SPTC office was run by three part-time members of staff they still managed to get selected for oral evidence six times by 8<sup>th</sup> November 2002. Asked about the likelihood of being selected to give oral evidence the Development Manager replied that the committees tended to go for key people ‘so if you have what you think is a very important issue or contribution to make but are not one of those obvious key people then you tend not to be heard’.

SPTC oral evidence from July 1999 until week ending 8<sup>th</sup> November 2002.

<b>COMMITTEES</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>TOTAL</b>
Education, Culture & Sport	0	3	0	2	<b>5</b>
Justice 2	0	0	0	1	<b>1</b>
<b>TOTAL</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>3</b>	<b>6</b>

### **Convention of Scottish Local Authorities**

CoSLA, because it represented local government was obviously most interested in the Local Government Committee, although it did also have dealings with most of the 17 committees, as many other topics affect local government such as education, social work, transport and so on. A covenant (similar to the one that already existed between CoSLA and the Scottish Executive) was being drawn up to formalise the relationship between CoSLA and the Scottish Parliament. The **draft** covenant (so wording may change or be omitted altogether in the final version) recognised that a lot of the legislation from the Scottish Parliament would

have an impact on local government. Therefore it stated that it was primarily through the committees that ‘there will be active involvement of local government on both the principle and practice of any proposals which impact upon local government’ (CoSLA (c), p.3). Compared to the other five groups in this research CoSLA certainly had frequent active involvement in the committees as demonstrated in the table below detailing CoSLA’s oral evidence.

As the work of so many committees was relevant to CoSLA it spent an enormous amount of its time organising submissions to the committees. At the time of participant observation (November/December 2001) CoSLA had not kept track of the number of times it had given evidence due to its heavy workload and internal re-structuring. But it was currently in the process of organising a system which would allow it to do so in the future, but it was in no doubt that the committees had added to its workload (which is supported by the amount of times they have given oral evidence). The submission of the CoSLA Management Team to the organisation’s 2001 Annual Review stated that the:

‘Parliamentary committees are very active and this has meant a great deal of activity in terms of presenting both written and oral evidence with the consequent time investment in preparing papers and briefing notes’ (CoSLA (b), Appendix 2).

CoSLA was so busy responding to consultations that the Convention Manager said they were largely reactive to the Scottish Parliament and while she would like that to change, she did not know if that would be possible. The level of committee work was such that CoSLA were often forced to submit bland responses as they did not have (or had not been given) enough time to do real justice to the issues under scrutiny. In common with other groups submitting written evidence it was not always as simple as one person within the office writing the contribution, as CoSLA had to consult with all interested parties within the organisation and it took time ‘persuading and cajoling local authorities to respond to national proposals and initiatives’ (CoSLA (b), p.30). The Convention Manager said that she found herself actioning either written or oral evidence at least once a week. CoSLA did not spend much time monitoring the committees mainly because they had neither the time or staff to do so but also because they felt there was no need, as the committees always got in touch with them anyway.

CoSLA compiled a massive report of 250+ pages (“Putting the local into local government finance”) for the Local Government Committee’s inquiry into local government finance. At the end of a news release at the “Notes to editors” section it stated that:

‘CoSLA has campaigned for a long time for a review of local government finance and welcomes the Local Government Committee’s decision to undertake an inquiry – something the Executive refused to do’ (CoSLA (d), p.2).

So while in one sense the 250 page report was the result of a committee inquiry, CoSLA was using the inquiry as an opportunity to get their message across to the Executive hence the detailed document and all the manpower that involved. The Acting Chief Executive explained that because of the significance of the inquiry, CoSLA ‘set up a variety of working groups bringing in contributions from every Council and spanning all of the political parties within the Convention, officers and advisers’ to produce what he called ‘a telephone book of evidence’. CoSLA then gave oral evidence on the inquiry and followed that up by getting MSPs to ask a series of parliamentary questions on the issue. So the committee inquiry provided a channel for CoSLA to put pressure on Ministers.

### **Oral evidence**

CoSLA was perhaps in the enviable position that it ‘tends to get invited automatically’ (Head of Policy) by the Local Government Committee to give oral evidence. Therefore, CoSLA was giving evidence fairly constantly and there were no signs of that letting up according to the Convention Manager. She believed that oral evidence was a good thing because it gave MSPs an opportunity to ask local councils how a policy would operate in practice, how it would affect a particular area and what the practical consequences of such a policy would be. If the matter under discussion in the committees was of a politically divisive nature, such as free personal care for the elderly or proportional representation for local elections, then CoSLA would put forward councillors as witnesses because of their positions as elected members of local government.

Since the parliamentary committee meetings started meeting from July 1999 until the week ending 8<sup>th</sup> November 2002 CoSLA had given evidence a whopping 72 times to parliamentary committees. In terms of workload the committees were a heavy burden because behind every oral evidence session, a written submission with the necessary preparation had gone before it. The table below shows that the Local Government Committee commanded the largest number of appearances, with CoSLA appearing before it a total of twenty-three times since the committee first met. The Education, Culture and Sport Committee come second but it was a long way behind with a total of nine CoSLA appearances. There were only two out of the seventeen committees that CoSLA had not given evidence to - the Audit and Public Petitions Committees.

CoSLA oral evidence from July 1999 until week ending 8<sup>th</sup> November 2002.

<b>COMMITTEE</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>TOTAL</b>
Audit					0
Education, Culture and Sport	1	3	1	4	9
Enterprise & Lifelong Learning	1		1	1	3
Equal Opportunities			1	1	2
European	1	2	1	2	6
Finance				2	2
Health & Community Care		1	2		3
Justice 1			1	1	2
Justice 2				1	1
Local Government	1	7	9	6	23
Procedures				1	1
Public Petitions					0
Rural Affairs (until Dec 2000)/ Rural Development (from Jan 2001)		2		1	3
Social Inclusion, Housing & Voluntary Sector (until Dec 2000)/ Social Justice (from Jan 2001)	1	2	2	3	8
Standards		1	1		2
Subordinate Legislation					0
Transport and the Environment	3	2		2	7
<b>TOTAL</b>	<b>8</b>	<b>20</b>	<b>19</b>	<b>25</b>	<b>72</b>

### **Royal Society for the Protection of Birds**

The RSPB's main targets were the Transport and the Environment Committee and the Rural Development Committee, as they covered most of the policy areas that the RSPB dealt with, such as wildlife, fisheries, farming and the environment. The European Committee came third in terms of relevance to the RSPB. For those three committees any time they 'have got anything in relation to what the RSPB is doing, we get in touch so they know what we are saying' (Parliamentary Information Officer). But because relevant issues did arise in other committees, the RSPB did monitor all seventeen of the committees. For instance, the RSPB was interested in the Local Government Bill because it had a section containing a biodiversity action plan which the RSPB was interested in so it spent time following the work of the Local Government Committee, which it did not normally do.

When the Scottish Parliament opened the RSPB decided to appoint Lead Policy Officers (LPOs) to act as spokespersons on each particular area that the RSPB worked in. Amongst other things the LPOs had to become adept at presenting evidence to the parliamentary committees both in written and oral form, a job that was added to their normal workload. The Head of the Advocacy and Media Unit commented that they had submitted evidence and briefings on every Bill that had been of interest to them which ‘must run to at least a third of the Bills, I’d say more, probably nearer half of the Bills’.

The LPOs also drafted briefing papers but were assisted in these activities by the Advocacy and Media Unit which checked the briefing papers to ensure they were worded properly and directed to the right audience. The Unit frequently discussed with the LPOs what was going on in the Scottish Parliament and what needed to be done so that everyone was up to speed on current issues. An internal review of the RSPB’s work over the course of the Scottish Parliament’s second year stated that: ‘Our work with the Committees of Parliament has, similarly become more intense and more detailed. Parliamentary briefings have developed in number and quality’. The RSPB frequently briefed the Rural Development Committee and the Transport and the Environment Committee, as well as investing time in talking to the conveners of the committees and maintaining good relationships with the committee members. The Head of Advocacy and Media had tried to ensure that RSPB briefings were accessible to the politicians and that above all else they were brief. ‘Never more than two sides of A4 for the politicians. They don’t have time. They get vast, vast amounts of stuff.’ So he hoped that the MSPs’ researchers would read them and then pass them on to the MSPs (as it is generally the researchers that sift through MSPs’ mail).

As well as contributing submissions, the RSPB monitored the committees on a daily basis. The Advocacy and Media Unit’s first task each morning was to compile a parliamentary and press update which featured the work of the committees. The Parliamentary Information Officer would advertise upcoming committee meetings that were of interest to the RSPB and then the next day the update described what actually took place at the meeting. The daily updates were then compressed into a weekly report for the RSPB employees to digest to keep them up to date of current policy developments.

The RSPB also used the Public Petitions Committee to further their case for a new wildlife law. This involved getting petition signatures (the RSPB collected 8,000) and gathering them

together before they presented the petition to the Public Petitions Committee on 21 June 2001 (RSPB (b), p.1).

Any important and/or interesting parliamentary committee activity had to be reported back to RSPB members and this was mainly done through the Society's newsletter and via the media.

### **Oral evidence**

The RSPB was in the opposite situation to CoSLA as it was struggling to get selected to give evidence, unless it was under the auspices of LINK (an umbrella organisation for environmental groups). The RSPB felt that there had been times when it should have been called to give oral evidence but was not because some committees preferred to consult umbrella groups on environmental issues. To try and promote the RSPB, the Head of Advocacy and Media would flag up the RSPB for selection for oral evidence to the committee convener or clerk (or in the case of the Rural Development Committee the sub-group of three who decided who would be invited to give oral evidence).

Like the SPTC, the Head of Advocacy and Media asked the question 'how much written evidence is actually read?' He hoped that all material sent to the committees was being read by the MSPs 'but if I confidently said those hopes were fulfilled I would be lying because I know how busy politicians are'. So oral evidence meant you got heard. Not only that but:

'if you've got a real good performer in front of a committee, talking to people and they are on the ball and they don't get distracted, that's probably the most effective political communication' (personal interview, December 2001).

However, he too was of the opinion that oral evidence had its pitfalls as it was subject to derailment by MSPs who might drag a witness from the path that they were hoping to take. The Parliamentary Information Officer also pointed out that an advantage of oral evidence was that it got published on the web giving others the chance to read what the Society's stance was on various issues.

Under its own auspices the RSPB had only given oral evidence four times which was surprisingly low considering the size of the organisation in terms of its membership and staff numbers. The Head of Policy Operations commented that there were 'some individual members of some committees who are antagonistic to environmental arguments or to the RSPB'.

RSPB oral evidence from July 1999 until week ending 8<sup>th</sup> November 2002.

<b>COMMITTEES</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>TOTAL</b>
Public Petitions*	0	0	1	0	<b>1</b>
Rural Development	0	0	1	1	<b>2</b>
Transport & the Environment	0	1	0	0	<b>1</b>
<b>TOTAL</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>4</b>

\*It was a presentation rather than giving evidence

### **Summary**

There was no doubt that the committees had affected the workload of the groups and furthermore that the work had become a priority for the groups. The impact was remarkably similar on the six groups, as they tended to pay special attention to one or two committees whilst keeping an eye on the activity of most of the committees. The groups went out of their way to submit written evidence, they highly valued oral evidence and strived to get selected for it and they wrote and sent briefing papers to all the committee members. The differences in workload related to the breadth of legislation and issues the committees were considering. CoSLA's workload in relation to the committees was dramatic because local government has a big interest in many areas. For some of the groups the scale of committee work resulted in a complete overhaul of their workload in order to make way for this new area of work.

### **Rational choice institutionalism**

Once the working practices of the Scottish Parliament and the committees had become settled and known, the groups were able to calculate the strategy that would suit them best and they decided that it would be in their best interests to lobby as many channels as possible to influence policy. It was easier for the groups to have an input into the work of the committees than with the Scottish Executive and the committees had the capability to amend legislation.

The groups were all subjected to the same formal committee rules (such as submission deadlines) and so they behaved in similar, predictable ways but this was beneficial to them as it reduced their costs as they knew how other groups would act.

### **Sociological institutionalism**

At the start of the Scottish Parliament, some of the groups felt that if they did not respond to one consultation, they would not be asked to respond to the next one and this initially prompted them to write submissions that were not the best use of their time. Because it was a

brand new political institution there was a lot of uncertainty about how things worked, for the politicians within it as well as the interest groups outside it. In such conditions, sociological institutionalism puts the reaction of the groups down to institutional isomorphism for coercive reasons - they felt pressured to act in a certain way by the committees. However, as time passed and the rules became apparent the groups stopped responding to everything and became more focused but they still imitated each other in how they interacted with the committees. Again, this was because of institutional isomorphism but this time for normative reasons, as the groups decided to adopt what was perceived as the best working practice. Monitoring all seventeen committees was seen as good practice and all six groups shared the belief that oral evidence was highly desirable and that committee work in general was important.

### **Historical institutionalism**

Like sociological institutionalism the historical approach also concentrates on conventions and norms that are part of the fabric of an institution and so the committees had a similar effect on all the groups because they had to learn the “institutional script”. This prompted them to respond in particular ways, even if it was not entirely rational, such as the dash to get written submissions in on time at the expense of other work and the submission of bland or sub-standard responses, all in an attempt to meet tight deadlines. The committees managed to not only shape the strategies of the groups but also their goals, for instance the desire to get selected for oral evidence. The groups wanted to be favoured by the committees.

### **7.8 Criticisms**

Three main criticisms of the Scottish Parliament’s committee system became apparent over the course of participant observation - the increasing tendency of committees to meet in private and therefore denying groups access to what was being said, the tight deadlines committees gave for written submissions and the frequency with which MSPs were taken off one committee and put on another. The CSG had envisaged MSPs serving on one committee for an entire parliamentary term (i.e. four years) in order to give them enough time to build up expertise in the areas that their committees covered and thus more effective in their scrutiny role. The reality proved to be very different with committee membership resembling a game of musical chairs as party managers shunted their MSPs around. For the groups, the result of this high committee turnover was that they spent valuable time building up relationships with MSPs and then had to start all over again when a new MSP joined the committee. Indeed, by early February 2001 when Johann Lamont was interviewed she had already been on four committees – Equal Opportunities, Local Government, Education,

Culture and Sport and finally the Social Justice Committee. Although to be fair, those changes were exaggerated by unforeseen circumstances. In three years there were as many First Ministers with the consequent reshuffles, there was also a change in the SNP leadership and then the size of the committees were reduced. All those changes resulted in the Enterprise and Lifelong Learning Committee having an almost complete turnover of its membership with only three of the original eleven members left on the committee by the end of 2001.

The decision of some parties early on in the Parliament to appoint their party spokesperson to the relevant committee also meant that membership would change whenever a portfolio exchanged hands. For instance, the SNP's Finance Spokesperson Andrew Wilson was serving on the Finance Committee but when he took on a different role he not only passed on the finance portfolio to his successor Alasdair Morgan but also his place on the committee.

Another reason (although smaller in scale) why committee membership changes is that on occasion party managers see fit to remove those they see as awkward individuals. Murray Tosh said the famous example (although he was not sure if it was true or not) was the Labour MSP John McAllion being taken off the Social Inclusion, Housing and Voluntary Sector Committee because of his opposition to his party's policy on stock transfer. In this way parties can use committee membership as a way of reinforcing discipline. Or as the Senior SPICe researcher put it: 'some committees will be seen as a punishment, you've gone there because you've been bad'. In 2001 *The Scotsman* reported that John Farquhar Munro (Lib Dem MSP):

'will face disciplinary action when the Lib Dems allocate committee places. He is currently a member of the transport and environment committee, but is likely to lose that place during a mini Lib Dem "reshuffle"' (*The Scotsman* (h), p.10).

A criticism that some of the groups had about the committees was the short timescales given to respond to proposed legislation, which resulted in the groups dropping other pieces of work and rushing to get their submission in on time. George Reid (SNP) in his role as convener of the Conveners' Liaison Group explained in response to a letter from the SCPO's Parliamentary Officer in November 2002 that the time available for written submissions depended on the timetable that had been set for the overall passage of a Bill through its three stages and:

'As a result, the amount of time that can be allowed for the submission of written evidence at Stage 1 is often less than the time which a committee would afford for

submission of evidence in connection with a committee inquiry' (extract from Mr Reid's letter to the SCPO).

Mr Reid argued however, that normally a Bill would have been included in the Executive's legislative programme so any interested parties should have anticipated its passage and prepared submissions in advance and would also have had the opportunity to comment on the Bill during the pre-legislative process. He added in the letter that the Conveners' Liaison Group had already considered the question of introducing standard consultation periods for the committees but had decided 'that such standardization would not be appropriate. The committees require flexibility in order to meet the overall timetables within which they work'.

The committee meetings were supposed to be held in public as much as possible but a rising concern amongst many of the interest groups was that the committees seemed to have settled into a pattern of increasingly working behind closed doors.

### **Federation of Small Businesses**

The Deputy Press and Parliamentary Officer said in September 2000 that her only complaint about the committees was the very short timescales that they set for written evidence to be submitted. She said that the effect of this was an inferior quality of written submissions due to the rushed nature of them. She explained that:

'What can happen to us is that they'll come in and say can we have a response in two weeks time and now we'll have to consult, we're representative of our members, we're supposed to consult with the members. How can we do that in two weeks?' (personal interview, September 2001).

By February 2002 the FSB still had the same complaint as the Press and Parliamentary Officer told the Procedures Committee that:

'a particular bone of contention is the length of consultation periods. We acknowledge the practical constraints on the Executive and the Parliament, but tight timescales for consultation make it difficult for organisations or individuals to submit detailed and evidence-based responses' (Procedures Committee (a), Col 1399).

### **Scottish Churches Parliamentary Office**

In a briefing paper, the SCPO expressed concern at the:

'massive movement of MSPs around committees, largely at the direction of the parties. Not only has this emphasised the role of the parties as against independently-

mindful MSPs, but it has undermined the building up of committee identities and expertise' (SCPO (d)).

During the time of participant observation the Parliamentary Officer commented that what worried him most about the committee changes was 'the extent to which they reflect the power of the parties to shunt people around'. He also brought this point up in his evidence on the CSG principles to the Procedures Committee in January 2002.

In February 2001 the Parliamentary Officer of the SCPO was already dismayed at the amount of committee business done in private. He had raised the issue in the SCPO's briefing papers and in a report on the parliamentary committees. Furthermore he directly approached the convener and the clerk of the Social Justice Committee to ask for an explanation as to why the committee had considered in private oral evidence on asylum seekers that he had given (along with two other groups) in public evidence sessions. The Convener replied that there were occasions stated in the Scottish Parliament's Standing Orders where committees were expected to retire to private session and it was normal practice to discuss a draft report in private because there:

'is a danger otherwise that points/arguments made in Committee at the discussion stage of a report may be misinterpreted by press or public as the Committee's final position on an issue' (letter dated 7<sup>th</sup> February 2001).

But the Parliamentary Officer was not satisfied that the discussion of his evidence, which he gave in public, merited being held in private according to the guidance given in the Standing Orders.

He highlighted the issue of committees meeting in private in the SCPO's written response to the Standards Committee inquiry into lobbying and at the Procedures Committee inquiry into the CSG principles. He told the Procedures Committee that during 'the past year, four of the parliament's committees had substantial items in private at more than 50 per cent of their meetings' (Procedures Committee (b), Col 1218). He also expressed the hope that the report on the CSG principles would help to reverse the trend of committees meeting in private in the future (SCPO (d)).

### **Scottish Parent Teacher Council**

When asked what she would like to change about the committee system, the SPTC's Development Manager said she would like to see committee membership remaining static and she said that there was no obvious reason why this could not be the case. She felt that the personnel should not change for the course of a parliamentary term 'unless for some

reason somebody has to retire from the Parliament'. She 'idealistically thought that when they were setting up the committees then the membership would be constant but it's changed so often, it's terrible'. She felt that MSPs had failed to build up expertise as a result, which is why she thought permanent advisers should be appointed to the committees. It also meant that she found herself:

'listening to a debate on higher education for example, the other day, it was quite clear that the personnel who had undertaken the inquiry were not the current committee and you think to yourself, why?' (personal interview, September 2001).

### **Convention of Scottish Local Authorities**

The changing membership of the committees was not an issue for CoSLA as they did not have time to build up personal relationships with individual MSPs, therefore they dealt with committees as collective units. They engaged 'with whoever is there' (Convention Manager) and 'just look at the group' (Head of Policy). The Head of Policy commented that a change of personnel:

'would be disruptive if it happened half way through the stages of a bill for example, but it doesn't bother me at all that there may be a change of half the membership between dealing with issue A and coming back five months later to talk about issue B' (personal interview, November 2001).

CoSLA had no problems with committee changes but it did have real concerns about the timescales that they were presented with by the committees for both written and oral evidence and they were not particularly enamoured with the way in which they were asked to give evidence. The Acting Chief Executive explained that 'one of the things that we're concerned about is, it's not just an invitation to attend, it's more of a demand to turn up and appear within a very short period of time'. This complaint was echoed by the Convention Manager who said that short timescales resulted in CoSLA submitting fairly bland responses along the lines of 'CoSLA broadly welcome the principles but they cannot give any further detail as they have not had the time to expand further'.

### **Royal Society for the Protection of Birds**

All three members of the RSPB's Advocacy and Media Unit said that if there was something that they could change about the committee system, it would be 'a bit more consistency on people that sit on the committees'. The Head of Advocacy and Media simply said 'I wish people would stop changing committees, they are changing the committees around too much'. It made it difficult for the Society because it meant they had to keep building up new relationships and educating the newcomers. He also felt (in common with the SPTC) that the

radical changes of membership prevented the committees from building up any kind of expertise and therefore limited the effectiveness of the committees.

The RSPB's Parliamentary Information Officer also suggested that she would like to see the committees meeting less behind closed doors because 'they do so much in private that it's very hard for us to know what's happening sometimes'.

### **Summary**

(The MS Society due to its lack of knowledge and inexperience of the committees did not offer much comment on the workings of the committees). The criticisms of the committees related more to the attitudes of the groups rather than their behaviour, although obviously the committees' 'flaws' had implications for the actions of the groups – such as having to develop new relationships with committee members more frequently than they had anticipated, or having to drop whatever they were doing in order to get a written submission in on time. The significance of the criticisms is that they highlight how the groups bought into the 'new politics' of the Scottish Parliament and then became disappointed when the working reality failed to meet their expectations. The Scottish Parliament promoted the belief that it was an open and accessible institution and the groups believed in that. They certainly believed that the committees were accessible but as time passed the groups began to find fault with some of the practices that the committees appeared to be developing, which contravened the culture the groups had come to expect. Secrecy and meeting in private was not something that the groups had associated with the Scottish Parliament, instead they believed that it would abide by its four CSG principles: the sharing of power, accountability, accessibility and equal opportunities. The criticisms that the groups made of the committees highlight the fact that the Scottish Parliament created certain expectations about the way politics in Scotland would work which the groups entered into and as a result were left feeling disappointed when they felt that the committees had failed to live up to the standard.

### **Rational choice institutionalism**

Obviously, it was not in the interest of the groups if their costs were increased by the shuffling of MSPs round committees, denying the groups access to committee discussions or allowing them insufficient time to write meaningful responses. The Scottish Parliament, and thus the committees, agreed that it would abide by the CSG principles and this knowledge underpinned the actions of the groups. By not abiding by this "contract", the groups could not predict the behaviour of the committees proficiently and this made things more costly and difficult for them.

### **Sociological/ historical institutionalism**

In interview, MSPs, clerks, the SPICe researcher and the party researchers, all talked enthusiastically about how open and accessible the committees were. There was a definite shared belief amongst not only the parliamentary actors but also those who interacted with it, that the system was open and accessible. This was not just due to formal rules but also to normative expectations and a shared culture (this was why the clerks gave interviews even though formally they were not supposed to). Therefore, when the committees appeared to be developing practices that went against the norm the groups were upset.

### **7.9 Effectiveness**

The groups all spent a lot of time and effort on the committees, but did they actually think the committees were effective? The Scottish Parliament committee system was purposely designed to be a deliberate reversal of the Westminster system, 'where the committee system was seen to be weak and contributed to executive dominance and a lack of effective legislative scrutiny' (Lynch, 2001, p.69). Therefore the Scottish parliamentary committees combined both legislative and scrutiny functions in order to counter executive dominance. Because the Scottish parliamentary committees could initiate legislation and were not confined solely to 'the deliberative stage of the policy cycle' but were able to 'exercise some independent capacity to generate and substitute policy' of their own, theoretically they should have been more attractive to the interest groups, making them more of a target in their own right than a channel to government (Norton, 1999, p.167). The six groups agreed that the committee system was stronger than the one at Westminster, but they were also agreed that the Westminster norm of executive dominance had not been reversed. As a result, the groups felt that when it came to policy-making, the Scottish Executive was more powerful than the Parliament. One example of the Scottish Executive apparently ignoring the committees was when the Health and Community Care Committee produced a report on Arbuthnott (which was about NHS resource allocation), a policy that the Scottish Executive was keen to press ahead with and *The Herald* newspaper reported that the committee's report apparently 'had been rubbished in advance by Executive sources' and that the Scottish Executive was going to carry on implementing Arbuthnott regardless of what the committee report had to say (*The Herald* (f), p.6). It was a predictable outcome that the majority felt that the executive was much more important to them in the policy process than the legislature, even though the legislature in the Scottish Parliament has more powers than most. But while it was true that the majority regarded the Scottish Executive as being more powerful, the evidence suggested

that the groups regarded the targeting of the committees as being an essential part of their work.

### **Federation of Small Businesses**

The Press and Parliamentary Officer of the FSB thought the committees were effective at initiating inquiries and scrutinising bills but that they were not so effective in challenging the Scottish Executive. He bemoaned the way the Scottish Executive could choose whether or not to take on board any recommendations from committee reports, such as the time when the Transport and Environment Committee produced a critical report of an Executive initiative and ‘it doesn’t seem to me that the Executive has actually taken cognisance of the Committee’s report. Now if that continues to happen then what’s the point of the Parliament?’ He personally felt that Ministers would just do what they wanted to do and therefore it was more valuable for the FSB to invest resources into Ministers and civil servants. But despite that, the FSB also thought it was important to respond to the committees because as the Deputy Press and Parliamentary Officer explained, the committees were a ‘reinforcement’ of their message to the Scottish Executive. And when the FSB disagreed with the actions of the Scottish Executive it turned to the committees because:

‘the committees scrutinise the work of the Executive so if you can convince them that some action of the Scottish Executive is wrong or some legislation being pushed is wrong, then it’s a good way of getting to the Scottish Executive’ (Deputy Press and Parliamentary Officer; personal interview, September 2000).

### **Scottish Churches Parliamentary Office**

Despite his criticisms the Parliamentary Officer considered the committees ‘to be the quiet success story of the Parliament’ (Procedures Committee (b), Col 1218). According to the Parliamentary Officer the best things that happened in the Scottish Parliament were done in the parliamentary committees: ‘serious work, sensible discussions, scrutiny of the Executive’ (personal copy of the text of the Parliamentary Officer’s *Sunday Herald* article published on 13 May 2002). In an SCPO briefing paper he gave the example of how oral evidence for the Poidings and Warrant Sales Bill ‘persuaded the committees to support the Bill, and this cross-party consensus forced the Executive to back down from its intention to halt the Bill’s progress’ (SCPO (d), p.1).

The SCPO, in conjunction with two other groups, had submitted a petition which was first considered by the Public Petitions Committee in July 2000. His thoughts on how effective a petition to the committee was that:

‘our experience suggests that a petition may be an effective way of getting something on to the parliamentary agenda, perhaps by provoking a committee inquiry...but I don’t think that petitions on issues which are already being hotly debated have had much impact on discussion’ (personal interview, February 2001).

This was because he believed that the committees were just not as powerful in the policy process as Ministers. Acting in the capacity of parliamentary adviser to a newly formed justice group, he advised them that it was ‘the Executive who make most of the important decisions’. When interviewed he added that the benefit of having good relationships with Ministers was that it gave more chance of success because ‘if you’re going to achieve anything then some of it’s got to be done through them’. He believed that Ministers even in the face of committee opposition ‘won’t turn round their policy, or they’ll only very rarely turn round their policy completely’. But while he thought that the committees could not do much in shaping the ‘overall, overarching policy’, he did believe that the committees had a role ‘in shaping the particular details of legislation’ which made them an important target. He explained that it was worthwhile for the SCPO to devote a lot of its resources to the committees because even though it could not do much more than nudge the Scottish Executive, ‘I suspect that we can’t do much more than nudge either’ and that the committees were ‘one of the key ways for us to try and influence policy slightly one way or the other’. He added that he thought the executive was not as dominant in the Scottish Parliament as at Westminster. He attributed that difference to the coalition government because ‘they have to keep people on board’ otherwise ‘as we saw over warrant sales the Parliament can assert itself’.

### **Multiple Sclerosis Society**

The MS Society was reserving judgement on the effectiveness of the committees until more time had passed. The Policy Officer had found that his:

‘experience has been that the committees have not yet established themselves as powerful enough bodies to be creating agendas to a significant extent ... but I think it’s really a matter of committees growing up and maturing and finding their own feet and finding their own role and where they can change things and where they can’t and we’ll just grow along with them as part of that process’ (personal interview, May 2001).

At the time of participant observation they were waiting to see if a paper on the budget they had submitted to the Health and Community Care Committee would come to fruition. The Director had spent a lot of time writing the budget paper which friendly MSPs had advised him to submit, so for the Director that paper was a test to see ‘whether they [the committees]

can actually effect any concrete difference on the budget for next year'. If the committee failed to change the budget then the Director acknowledged that it might be for two reasons: either 'the committee as an institution is never going to have any power' or that 'it could be that the personalities and the timing and the proposal was not right'.

Although the Society did believe that 'obviously the power to do things is concentrated in the hands of Ministers', and the Policy Officer's 'experience has been that the committees have not yet established themselves as powerful enough bodies to be creating agendas'. Because of their experience with the Health Minister, he added that for the Scottish Parliament he would like:

'to see a government which operated in a way which everything didn't hang or fall by whether an individual Minister was competent and favourable to the outcome that you wanted but the Parliament as a whole was responsive to democratic pressure' (personal interview, May 2001).

The Director had a similar outlook, stating that 'the Executive is more important because they have the power and the Parliament doesn't really'. He saw the committees as only being 'maybe a little bit influential' and a way of reinforcing the Society's message to the Scottish Executive. Nonetheless the Society, like all the other groups, spent a disproportionate amount of its time on parliamentary committees and MSPs. But as the Director pointed out MSPs 'are easier to spend time with. Access to the Executive is a bit restricted'. And he believed that it was necessary to lobby both the Scottish Executive and the Parliament because:

'if you just did some of these groups in isolation none of them would be terribly important so you probably have to do all of it. Advance on all fronts because we're not sure which is most important, I think that's the truth really' (personal interview, May 2001).

### **Scottish Parent Teacher Council**

The Development Manager at the SPTC also found it 'very hard to say' how effective the committees were. She felt that there were times when Ministers ignored the reports of the Education, Culture and Sport Committee but on the other hand the Committee had scored some successes. In the SPTC's written submission to the Procedures Committee CSG inquiry, the Development Manager wrote:

'It is quite clear that the Education Committee has responded to views it has heard. It has not pursued its own line regardless of the evidence presented to it. It has

challenged the Executive, which in turn has responded to that challenge and made changes to its proposal' (copied from an internal SPTC copy).

But she believed that the Parliament would never challenge the Executive because of the coalition government that PR produced and felt that it was nothing but a 'lock-in mechanism which gives the Executive a very comfortable ride'. Although she did acknowledge that there had been cases where MSPs had asserted themselves, such as the Poindings and Warrant Sales Bill but she felt the problem with MSPs was that on the whole they had not been particularly interested in asserting themselves because of their party allegiances. For most of the MSPs 'it's their government and therefore what the Executive says is what they will support and that's their role.' At the end of the day she regarded the Scottish Executive as being more powerful than the Parliament. The key factor was 'how you get to Ministers' and that civil servants were crucial 'because they make recommendations to Ministers and I think it is strange for a Minister who contradicted the recommendation that the civil servant had made'.

As for the effectiveness of the committees she felt there was evidence for both sides of the case and therefore thought that (in line with the MS Society) it was still too early judge. However, she believed that the most important thing that the committees did was bring things out into the open and 'it's very, very hard to evaluate the impact of that' but 'there is no doubt that having those hearings in public had a big effect on what the government said'. She also believed that the committees were never going to reach their full potential unless their membership was allowed to remain stable. The result of the high turnover was that 'if they don't know what they are talking about, ...they don't make good decisions and therefore you need hard expertise for the committee to be effective'.

The bottom line for the SPTC was that they 'can only ever chip away at the edges' which she also thought was all the committees could do but 'if they're chipping and we're chipping then it's a double chip'.

### **Convention of Scottish Local Authorities**

CoSLA's Head of Policy commented that 'Ministers tend to set the agendas, Parliament by and large reacts'. Notwithstanding that, CoSLA was very positive in its outlook of the committees. The Acting Chief Executive and the Convention Manager at CoSLA agreed with the SPTC that what the committees did best was to make things public. Committees 'are effective because they do allow issues to be debated in the open' and they are a 'forum

for debate and openness'. However, the Acting Chief Executive did add that the committees were limiting their ability to be effective by being over-ambitious in the amount of work they undertook at any one time.

He also believed that the committees were effective in their scrutiny role 'because they can take the Executive's policy documents and try and tease them out'. The Head of Policy supported the idea that the committees 'can sink their teeth into something'. Not only that but if the committees came to the conclusion that the proposed policy line was wrong, then they 'really carry on and on at the Minister and quite often the Minister will change the policy line. So they can be effective. ...certainly by comparison to Westminster'.

The Convention Manager felt that all of the political actors had particular influences in the policy process and therefore the key was about 'using the different routes to get to the same end result'. But CoSLA also saw the committees as a channel to the Scottish Executive. The Acting Chief Executive said that:

'I certainly see the opportunity of the committees is to reinforce the message that we are giving to the Executive and on occasions to try and embarrass them if there is a reason for embarrassing them, if they are not actually acknowledging some of the key issues we think are important' (personal interview, December 2001).

For that reason CoSLA supported the Local Government Committee when it commissioned an independent inquiry into local government finance after Ministers had previously refused to do so. The McIntosh Commission Report on local government had come up with thirty recommendations and while 'twenty-nine were accepted by the Executive, the one that wasn't accepted was an independent review of local government finance' (Acting Chief Executive). However, CoSLA was able to get its message across through the Local Government Committee which decided to pick up the issue.

CoSLA did not consider the committees to be the most important component in the policy process but nonetheless it did see them as being significant in the lobbying process.

### **Royal Society for the Protection of Birds**

At the RSPB they were agreed that the committees in the Scottish Parliament were more effective than the ones at Westminster and the Parliamentary Information Officer stated that this 'is something that Westminster really envies when you talk to them about what we are doing'.

But other than the Media Officer who felt that the committees were effective and powerful, the rest of his colleagues were not persuaded about the effectiveness of the committees. The Senior Investigations Officer said that when it came to the committees he was ‘still to be convinced completely’ but that he was ‘quite heartened not just by the fact that we get our point over at these committees but they seem to have taken it seriously and it’s been followed up’. The Head of Policy Operations judged that they were ‘not as powerful as the political rhetoric about how powerful they were going to be’. The reason for this was because of the ‘Executive whip, if they hadn’t created a majority on every committee, they could be immensely powerful’. The Head of Media and Advocacy also thought that the committees ‘have a long way to go’ and like his colleague believed that the committees would only come into their own if they decided to assert themselves against the Executive. He gave the example of a fishing issue where ‘party whipping got in the way and the Executive parties both went into line’ in the committees. The Parliamentary Information Officer also said that ‘your average top civil servant probably can do what he likes or she likes still anyway regardless of the committee structure’. The Head of Advocacy and Media also thought the frequency with which the membership changed on the committees was another reason why they were not as effective as they could be. But he was optimistic that in time the committees would assert themselves and he took encouragement from instances such as the way the Transport and the Environment Committee handled the Executive over the question of mobile phone masts.

The committees were primarily a channel for the RSPB to the Scottish Executive. Although, the Parliamentary Information Officer felt that if they wanted to achieve anything then it was necessary for them to lobby everyone in the policy process. The Media Officer also agreed that this was the case; that the Society had to ‘communicate with the Executive but work with the committees to develop legislation’.

Generally the RSPB felt that the committee structure had failed to live up to expectations. The Head of Advocacy and Media commented that ‘I think that the Parliament could have exerted itself over the Executive much more than it has done.’ A feeling shared by the Head of Policy Operations who suggested that as soon as the coalition was formed:

‘it created an overall majority for the Executive that immediately took power away from the Parliament... When it comes to the crunch, the party whips will get an Executive motion through and therefore if a Minister is convinced by a civil servant that line x has to be followed, the whip will ensure that line x is followed irrespective of what their backbenchers think’ (personal interview, January 2002).

## **Summary**

The committees had changed the behaviour of the groups despite the fact that there was a lot of uncertainty about just how effective the committees were. All the groups had built up relationships with MSPs on the committee(s) that they were most interested in, they monitored committee activity and submitted evidence to them. The groups diverted resources into this work (which was new for all of them) because although they believed the Scottish Executive to be more powerful than the committees, they thought that the committees could make a difference and it also reinforced their message to the Scottish Executive.

## **Rational choice institutionalism**

It was impossible for the groups to assess the benefits or otherwise of lobbying the committees. The groups knew that the committees could put pressure on the Executive and sometimes that pressure made a difference. From a rationalist stance, the groups did a lot of committee work because they expected to maximise their utility even though they could not quantify the benefits of that work. They wanted change but knew change could be difficult to engineer on their own and that their endeavours would be helped if they had the support of the committees who could apply a lot of pressure and also give an issue publicity.

## **Sociological institutionalism**

The committees could manipulate the groups to suit their own needs; they required evidence from the groups and so encouraged them to participate in the committee process by being accessible (much more so than the Scottish Executive) and making the system fairly simple. So although the groups were not entirely convinced about the effectiveness of the committees, the practice of giving evidence and maintaining contact with committee members became institutionalised within the groups. This might not be entirely rational but the groups enjoyed an enhanced social legitimacy by doing so from their members and other interest groups. And many have hoped that the committees were going to be powerful as a result of the hype about the powers they were to have, which was part of the general over-emphasis that some groups placed on the Parliament rather than the Scottish Executive.

## **Historical institutionalism**

The groups were led to believe at the start that the Scottish parliamentary committee system would be powerful and so they decided on a policy that would incorporate a lot of committee work, especially as the committees were more accessible than the Scottish Executive. The

groups soon realised that executive dominance would be the norm in Scotland as well as at Westminster, but having decided on a particular course of action the groups continued to carry on down that path even though it may not have been the most efficient use of their resources in terms of what they were getting for their investment.

### **7.10 Committee clerks**

A team of clerks service the parliamentary committees, ensuring that they run smoothly: 'As well as meeting the day-to-day needs of the Parliament and its MSPs and its committees, the clerks advise and support MSPs and committees' (Scottish Parliament (h), 2000). The clerks, like the committees, were a new innovation that came with devolution.

It is important to look at the strategic role that the clerks play in the committees, as they have a lot of input into the running of the committees (in conjunction with the committee conveners), as well as being the first point of contact for outside bodies. Therefore, if the committees are to live up to the CSG principles, they require a clerking service that sees the CSG principles as part of its standard operating practices. A deliberate effort was made by the committee clerks to get in place a culture based on the CSG report before MSPs were in place in 1999 (personal interview with clerk, August 2001). The clerk commented that they began to develop procedures and rules 'that preferred openness'. Because the committee clerk positions were brand new and the clerks themselves came from a variety of backgrounds, it was easier to foster a 'new politics' culture, because unlike the civil service, a long-standing and established culture had not already been in place.

The clerks pointed out that they are considerably more accessible than their Westminster counterparts: 'if this was Westminster you would never get to interview a clerk for an hour'. A senior SPICe researcher assigned to one of the committees remarked that 'there is a genuine commitment amongst all our working practices to make the committees accessible' and that while the committees may not always live up to the ideals of the CSG principles, the principles do 'affect what everybody does'. One clerk added that the clerking staff share the aspirations of the CSG report 'and try and do things in a very open and flexible way and try to build the bridges with the outside and be accessible. I think that exists as a culture'.

### **7.11 Background**

The clerks played an important role liaising between the committees and the Scottish Executive, particularly with civil servants. They keep the Scottish Executive 'informed as to what is happening on the street'. But despite this regular interaction between clerks and civil

servants, the clerks were very keen to point out that they were part of the Parliament and not the Scottish Executive. They explained that a creative tension exists between them and the civil servants because: ‘it’s our job to support MSPs in challenging the government whereas it’s the civil servants’ job to defend the government’.

The clerks also played an important role in linking the committees to outside bodies and they try to come up with new ideas about how to involve society in the work of the committees and they kept a database of who they want to respond to consultations. They are also the first point of contact for anyone who wants information about the work of the committees (see section 7.12).

The clerks work behind-the-scenes, facilitating the work of the committees and because of their background role there is some confusion about who they are (some MSPs actually thought that they were part of the civil service). It is true that a small number of the clerks were civil servants before moving on but the clerks came from all sorts of backgrounds such as the health service, the private sector, local government and so on. Sandra White as an Opposition MSP spoke of her impression of the clerks at the beginning and explained ‘at first I think most folk were hostile to them a wee bit because they think they work for the Executive or the convener’. Each committee has a clerk and assistant clerks but they are there to serve the whole committee not just the conveners, although they do ‘tend to work basically with the conveners’. But Sandra White said that when she went to ask for assistance from the clerks to write amendments for a particular Bill they were more than willing to help her and her colleagues. And the Parliament’s guide states that is generally accepted that the committee clerk will ‘provide impartial procedural advice to, and administrative support for, the committees that they service’ (Scottish Parliament (i)).

The clerks are apolitical as demonstrated by the Head of the Clerking Services letter (see Section 2.2.2) where she stated that: ‘In particular, we cannot participate in any project dealing with attitudes or opinions on political matters or matter of policy’. This is why the clerks interviewed for this research have remained anonymous.

There was a definite split amongst the groups on how much influence they thought the clerks had in the committees. Some of the groups solely saw the clerks as administrators, while others believed that the clerks played a pivotal role in deciding things like who gives oral evidence.

### **7.12 Administrators**

The clerks are the committees' administrators. They are the people that provide the MSPs with the background information on whatever topic the committees are looking into, they also arrange the rooms where the committees are going to meet, distribute agendas and papers, ensure witnesses know when and where to turn up, organise events and so on. The clerks are the first point of contact for people seeking information about the committees and it is the clerks who send out letters to the groups on their databases notifying them about any inquiries or reports the committees are carrying out. One clerk said that he spent quite a lot of his time in meetings with organisations where 'I'm really briefing people and telling them what the committee is doing and all the rest of it'.

### **7.13 Procedural police(wo)men**

Another role that the clerks have is ensuring that the committees stick to the rules of the Scottish Parliament and to tell Members when they are straying beyond their devolved powers. The clerks are the experts on procedure and are able to provide guidance on what routes are open to the committees.

### **7.14 Gatekeepers**

The word gatekeeper often crops up in relation to the clerks and this is where the clerks become of more value to the interest groups. In one sense they have to be gatekeepers because they have to ensure the committees are focused on the work that they have to do. But one clerk explained that interest groups 'see you as a gatekeeper, someone to convince that they have a good case for giving oral evidence to'.

Section 7.6.2 has already described how the clerks and SPICe draw up a list of potential witnesses for each inquiry/report, which they then pass on to the MSPs. Those lists are only suggestions as MSPs have the final say but it should be remembered that MSPs have a lot of different duties as well as their committee work, whereas the committees are the sole focus of the clerks. It is more likely that the clerks have a much better idea of the evidence that has been sent to the committees, as they will have sifted through all the written submissions. This inevitably means that for a lot of committee business MSPs will rely on the clerks. The Senior SPICe Researcher commented that 'if clerks are thinking about who to invite to give evidence, the members are very dependent on clerks and SPICe to produce that'. For an inquiry that the Procedures Committee was carrying out Murray Tosh said that 'the committee clerk and I are doing most of the selection'. While clerks do not make the final decision on who is selected, busy MSPs might not have the time to give the reams of written

evidence they receive proper attention and therefore the recommendations of the clerks are bound to have some weight.

The Senior SPICE Researcher also said that it is ‘probably a mistake’ for interest groups not to talk to the clerks. Although he did stress (as the clerks themselves did) that they are resolutely impartial and cannot be lobbied. But as one clerk said ‘people do try to build relationships with us, try and speak to us and give us information and always ask that we keep them in mind if things happen’. The clerks have to be aware that some interest groups may try to influence them and so they do try to be ‘even-handed’.

### **7.15 Strategic role**

One clerk commented that the interest groups had caught on quickly to the fact that clerks had a strategic role in the committees. As well as being able to suggest which groups should give oral evidence, the clerks help to draw up committee agendas (which are decided by the ‘convener in discussion with the clerk’), the drafting of committee reports and the drafting of questions for evidence sessions. When asked about the extent of their role one clerk revealed that because they mostly work primarily with the convener and ‘given the fact that they are busy, we have quite a powerful role in deciding or recommending what we do and generally they will accept our recommendations’.

When it comes to the drafting of reports: ‘In practice, the clerk will, of course, work with the convener to produce a draft report for the convener’s approval’ (Scottish Parliament (i)). The clerks stressed their impartiality and said that they write the reports based on what the committees have discussed and agreed on. Although, off the record it was revealed that on at least one occasion a clerk has drafted a report (on a highly political issue) before the committee had even heard from any witnesses but presumably these views were later taken into account and at the end of the day all the reports are subject to committee approval. The clerks also have to be ‘an honest broker’ if the committee is having difficulty in trying to agree on a report and when there is a bit of a difference of opinion, ‘you do have a role of trying to suggest a middle way, or language that everyone will be comfortable with’.

As well as procedural knowledge the clerks also have to possess policy knowledge ‘because you draft questions for them when they are interviewing witnesses’. The questions that are asked in the committee meetings are important because the groups want to get their best case across but they have to rely on what they are asked in order to do this. It is perhaps not so

widely known that a clerk is sometimes given the responsibility of drafting some of the questions.

### **7.16 Response of the interest groups**

The groups for the most part were quite clued up on the roles that the committee clerks had, although they varied in the significance that they attached to the clerks.

#### **Federation of Small Businesses**

The FSB was divided in its opinion of the clerks. The Deputy Press and Parliamentary Officer felt that the clerks were not gatekeepers in any way but were actually just ‘another source of information’. She explained that good contact with the clerks meant ‘you get advance notice of events, you can start predicting a bit better if you know what’s going to come up on their agenda, you can see if your agenda is going to match their agenda’.

The Press and Parliamentary Officer also thought that the clerks were important in getting ‘more information up front’ but he understood that the clerks played a significant role in getting access to the committees, especially in terms of being invited to give oral evidence. He said that because the clerk and the convener work together, the convener is going to listen to the clerk’s advice in the same way that a Minister will to his/her civil servants. So he reckoned that the conveners ‘don’t have to take it, but in general they take it so we have to have a good relationship with them’.

Although the Press and Parliamentary Officer attached importance to the clerks he said that the FSB had not really tried to cultivate any relationships with them. He explained that this was because of a lack of time and resources but that he was hoping to work on this in the future as they had not done ‘as much as they should have’ with the clerks. At the time of participant observation (September 2000) the FSB diary had only recorded one face-to-face meeting with a clerk. Like most groups, correspondence between the FSB and the clerks had primarily been the exchanging of information such as dates and times of committee meetings, press releases and the sending and receiving of reports. When the FSB wanted to send information to a committee as a whole they did so via the clerk who would distribute a copy to all the committee members. The FSB made a point of ensuring that the information they passed on to a clerk was of a high standard because of the influence they felt the clerks had in recommending people for oral evidence.

## **Scottish Churches Parliamentary Office**

The Parliamentary Officer at the SCPO also believed that it was important for him to have a good relationship with the committee clerks. He remarked that although clerks:

‘are not people who should have an important role in the political decision-making process in terms of deciding whether an amendment should or shouldn’t be passed at that kind of level, but they do have an influence in terms of the way that committees go about their business and who they will hear and that kind of thing so that’s quite important’ (personal interview, February 2001).

Like the FSB he thought the clerks had a pivotal role because of the ‘advice that the clerks give on issues like who gives evidence’, and what subjects the committee will or will not cover. The Parliamentary Officer said that their importance depended on the working relationship between each particular clerk and convener, as his ‘impression is that some conveners lean more heavily on clerks than others’.

He also saw the clerks as being a useful source of information. He said that the clerks can:

‘give me a feel for where the committee is and where they might be going and if they are aware of the kind of issues that we might be concerned about, then they can suggest to the committee, that we might be interested in an issue’ (personal interview, February 2001).

When the Parliamentary Officer contacted a committee he normally did so in the first instance through the clerk. Even if he wanted to set up a meeting with MSPs on a committee he would still either contact the clerk or the convener or both of them first. Generally though he would sound out the clerk first and then he would take the clerk’s advice on how best to proceed, unless he knew the convener very well and better than he knew the clerk. So when he was setting up a meeting between the Moderator of the Church of Scotland and the Education, Culture and Sport Committee to discuss the arts he first of all e-mailed the clerk who then passed the e-mail on to the rest of the committee.

The Parliamentary Officer made a point of consciously building up relationships with the clerks. If he was submitting evidence to a committee that had a clerk that he did not already know he made the most of the office’s proximity to the Scottish Parliament and personally handed the evidence to the clerk and introduced himself. This was helped by the fact that he was frequently in touch with them: ‘I would be surprised if a week had passed in the last six months in which I hadn’t at least had a telephone conversation with a clerk’.

### **Multiple Sclerosis Society**

The MS Society was still finding its way around the Parliament at the time of participant observation (May 2001). It did not feel that the clerks were a high priority and it had no immediate intention of building up a relationship with any, although the Director remarked that he 'would like to be in contact with the Health Committee clerk. I suppose the clerk of any relevant committee where there is anything of interest'. But he felt that on the whole they did not know much about the true role of the clerks and before they put resources into building up a relationship with one he would want to 'find out more about them really'. The Policy Officer explained that 'it's just for our purposes we haven't really got to that point yet, seeking to influence the inner workings of committees'. But he was not ruling out the possibility of seeking out clerks in the future:

'We haven't got there yet but we will get there, it's part of the process of growth and maturation politically and when we do get to that point, then yes relationships with individual clerks will become much more important' (personal interview, May 2001).

The Director thought that if they did have good contact with a clerk it would probably enable them 'to understand a bit more about the actual workings of the committee and find out what they have been talking about'. The Policy Officer did comment though that:

'they obviously have a role in determining the agenda of committees and how big their role is, I suppose will depend on the personality and style of the chair of the committee to a large extent' (personal interview, May 2001).

At that stage the MS Society had only really been in touch with clerks 'two or three times in the course of the last year' and that was for the purpose of finding out deadlines for written submissions.

### **Scottish Parent Teacher Council**

There was little danger of clerks being lobbied by the SPTC as the Development Manager saw clerks as 'just kind of admin people for the committees, to keep them straight on procedure'. The SPTC had 'never had any reason to approach a clerk except to send them information'. Therefore, interaction between the SPTC and the clerks had been for purely administrative matters concerning committee work.

### **Convention of Scottish Local Authorities**

At CoSLA, the Convention Manager felt that she had 'more of a relationship with the civil service' than with clerks but she did feel that 'there is potential there for an important

relationship' as it might allow her to have advance warning of what was going to come up in the committees. But she had not had the opportunity to exploit that potential at the time of participant observation (November/December 2001) and her experience of the clerks was primarily in relation to responding to their requests for evidence to the committees.

Her colleague, the Head of Policy, had a different approach to the clerks in that he had built up a relationship with some of them. He explained the reason for this by stating that the clerks:

'are very constrained by how they must behave and treat people and they always do that well. They don't leak things, they don't have favourites, they don't favour one sector against another because they are in a sense neutral. They are not people we need to try and win around. However, by nature of humans and government, it is always helpful to have good personal relationships with some key committee clerks and I would imagine that all my colleagues do as I do and that you've got a level of banter with them' (personal interview, December 2001).

He said that the advantage of this was that when he chatted to the clerks they sometimes told him things that he would have had to wait a week or two to get in writing. He got in touch with clerks in 'flurries' depending on what was happening in the committees but overall he said that 'any form of contact with a clerk would be once every week or two'.

### **Royal Society for the Protection of Birds**

At the RSPB the views of the importance of the clerks differed a little but the staff agreed that the clerks were very professional and careful to maintain their neutrality.

The Head of Policy Operations believed that as servants of the committees they were important to know 'in terms of administration and practicalities'. He thought that the Society should inform the clerks of their arguments because it was the clerks who 'do the donkey work of drafting reports' but really 'the most important reason for knowing them is practical, in terms of knowing deadlines for evidence to committees, arrangements for meeting committees and all that sort of stuff'.

The Head of Advocacy and Media felt that in order to put pressure on committees 'you've got to know the clerks, because they don't control access to the committee but are quite important'. In fact he rated the clerk along with the convener as the most important people on committees. He felt clerks were important because they advised the whole committee and 'we are never privileged to hear their advice but if their advice is that the RSPB are a heap of

crap then you are less likely to get called to give evidence’. The Parliamentary Information Officer agreed with this and added ‘if you can get to your clerk you can get in easier [to a committee] than by your MSP’. She said that the clerks were absolutely unbiased but by having a good relationship with them she could tell them what the Society had to offer in terms of evidence and then the clerks ‘will actually suggest to the committee, I find, what they see as being good so they can be really powerful people’. She felt that the advantage of having good contact with the clerks was that ‘hopefully they will choose us as the special people who give evidence’. The Media Officer had the same point to make and after the committees he actually felt the clerks were the next most important actors in the policy process because:

‘they are filtering the information that the committees get and if you can develop a good relationship with the clerk of the committee you are trying to engage with, you have a much better chance, I think, of your information being passed to the committee and your voice being heard’ (personal interview, January 2002).

The Parliamentary Information Officer explained that ‘I have invited them out but they won’t come and see us because they can’t, I didn’t realise they weren’t allowed to see NGOs’. Instead the RSPB were in touch via phone and e-mail (‘probably once a week during parliamentary sitting’) and whenever an RSPB person gave evidence to a committee they further consolidated those contacts.

### **Summary**

The effect of the clerks on the groups was somewhat ambivalent. Five of the groups (the SPTC being the exception) believed that the clerks could influence committee decisions, particularly in regard to the selection of witnesses for oral evidence. But even although the groups placed a lot of importance on carrying out work in relation to the parliamentary committees and in the giving of oral evidence, only the SCPO, the RSPB and to a certain extent CoSLA’s Head of Policy incorporated the clerks into their parliamentary strategies.

### **Rational choice institutionalism**

The SCPO, the RSPB and CoSLA’s Head of Policy were acting rationally – they believed that the clerks could make a difference to their goals and so they acted accordingly. The SPTC was also acting rationally in the sense that it believed that the clerks only carried out administrative duties, so therefore it was not in the SPTC’s interest to devote resources into targeting clerks. In terms of self-interest it is more difficult to explain the actions of the FSB, the MS Society and the rest of CoSLA. The groups had to make priorities in terms of their

resources so they could have decided that it was more profitable to concentrate on other parliamentary actors first and then perhaps the groups could look in the future at developing their relationships with the clerks.

### **Sociological/historical institutionalism**

The culture surrounding the clerks can best explain the reactions from some of the groups: the official committee clerk stance was to promote the image that they were impartial, professional servants of the committees and this was supported by a formal regulation that forbade the lobbying of clerks. Combined, this all had the effect of successfully deflecting interest group attention onto targets which were more accessible and who ostensibly were more powerful. Clerks and civil servants, because they are not elected should not be lobbied but that has not prevented groups from giving civil servants special attention and making a point of providing them with information and forming good working relationships with them. Some of the groups through their interaction with the committees realised not only the extent of a clerk's duties but also that the clerks had actually adopted the principle of accessibility and were open to forming working relationships with groups, as long as the groups understood that the clerks would remain impartial and could not be lobbied.

### **7.17 Conclusion**

*Objective 1 – whether the behaviour and/or belief systems of the six groups were affected by the Scottish Parliament.*

The general view of the groups towards the committees was that they were accessible and open (notwithstanding the criticisms of meeting in private to discuss draft reports) and that they were effective in holding the Scottish Executive to account. However, if the Scottish Parliament's model of governance was to be one of power sharing (as the Procedures Committee's report on the CSG principles suggests; 2003, para 63), then in the eyes of the groups the committees both succeeded and failed. They succeeded in making the groups feel that they were able to contribute in the work of the committees. But although the groups were able to contribute to the work of the committees, the FSB, SCPO and MS Society felt that the committees lacked the power to stand up sufficiently to the Scottish Executive. The SPTC and RSPB put this down to party politics, especially on big issues, where MSPs voted along party lines but as the Procedures Committee were told, this is how it should be, as 'the Executive's first and foremost duty is to deliver the programme on which it was elected' (2003; para 52).

There was a feeling in the groups (with the exception of CoSLA) that because the Scottish Executive was not obliged to act on a committee's recommendations then the committees were always going to be at a disadvantage. The perceived weakness of the committees in getting the Scottish Executive to change policy meant that for some of the groups the committees had a very unequal partnership in the power sharing process, because generally they could only achieve small incremental amendments. But for the smaller groups (SCPO and SPTC) which felt that they could not do much individually to influence the Scottish Executive, the committees provided them with a venue that they found valuable.

All six of the groups spent a lot of their resources on parliamentary committee work (even if it was disproportionate to their beliefs in the actual effectiveness of the committees). Although the groups believed that the committees could not achieve major policy changes, they still thought that they could shape the final version of the legislation through amendments. The groups were also frank in their admission that one reason why they spent a significant amount of time on committee work was for the simple reason that the committees were accessible.

The perception that the committees were not as strong as it was first hoped they were going to be would suggest that groups, such as the FSB, that wanted to become insider groups, would stick to the traditional route of trying to influence government, rather than the legislature. The committees were seen as a valuable pressure point in the political process, useful particularly on the occasions when the groups disagreed with the Scottish Executive. The SCPO and SPTC felt best equipped (at the time of participant observation) to focus their activities at the committee level but they were well aware that the influence of the committees over policy was secondary to the power that the Scottish Executive had. Jordan and Stevenson argued that as soon as Labour decided to form a coalition with the Liberal Democrats rather than go it alone as a minority government, 'then the likelihood of much significant negotiation within the Parliament, and between forces in Parliament and the wider society, was curtailed' (2000, p.179). As a result of the coalition, for MSPs voting on legislation it became a case of either being for or against the Scottish Executive, with the consequence that Ministers and civil servants became the most important lobbying targets.

The criticisms that the groups had about the committees revealed that they strongly believed that the committees should adhere to the CSG principles and if they were seen to breach them, the groups soon voiced their dissatisfaction. Of course, by doing so, they were guarding the ready access that they had to the committees.

*Objective 2 – the extent to which the different types of institutionalist accounts are applicable in explaining the responses of the groups.*

March and Olsen argue that the organisation of political life makes a difference (Marsh and Stoker; 2002, p.94). And so the committees were intentionally designed to facilitate the ‘new politics’ (e.g. the allocation of the committee convenerships amongst the parties, the encouragement to set aside party differences, the power to initiate inquiries and legislation, guidelines to hold meetings in public wherever possible etc). The working practices of the committees achieved an overall satisfactory response from the six groups, although it was felt that the committees had not tried to increase their influence in the policy process (although it could be argued that the Executive has a democratic mandate to fulfil its promises to the electorate and that the Parliament is therefore not entitled to the same share of power). The groups may have held somewhat unrealistic expectations about how influential the committees were going to be thus leading to their subsequent disappointment.

When the Scottish Parliament opened there was a lot of uncertainty about how the committees would work, as they were a new dimension in Scottish politics but it was also hoped that they would be powerful, participative and would be a check on executive dominance. From a historical institutionalist viewpoint, the groups would have decided at the beginning of their involvement with the Scottish Parliament that the committees would be a high priority for them, a decision that would reverberate on their future resource decisions. Sociological institutionalism would explain the response of the groups by saying that they were simply behaving in the way expected of them by the Scottish Parliament: that their interaction was to be primarily through the committees, as the committees were supposed to be the link between society and the Scottish Executive. In addition, the groups were carrying out appropriate behaviour in how they participated and responded to committee activities. A major advantage of sociological institutionalism is that it factors uncertainty into the way that institutions can affect the behaviour of groups (e.g. institutional isomorphism), which is important because when the committees were first set up they were an unknown quantity. Rational choice institutionalism makes no provision for decisions that are not made in a rational and detached manner despite the fact that not all circumstances allow for such certainty.

However, it could be argued that the groups were convinced that the committees would play a central role in the policy making process so it was a rational decision for them to cover all bases. When practices and procedures were established, it would become in the best interests

of the groups to comply with what the committees were looking for in terms of submissions and evidence sessions, in order to further their interests.

Once time had passed and the groups had a more realistic idea of how the committees fitted into the policy making process, the groups would be more likely to look to their own self interests and the best ways of realising them. There was an indication from the FSB that it was increasingly frustrated at the inability of the committees to mount a challenge to the Scottish Executive, so it would have to decide whether the committees were a good use of their resources or what could they do to improve the situation. However, at that stage the FSB was not quite an insider group and it would be rational for groups like the FSB, MS Society and the RSPB, that were experiencing some difficulties in getting access to the Scottish Executive, to use whatever points of access were available to them. Once they were granted insider status, then they could use up less resources on other access points that were not so advantageous to them. But, until such time that the FSB, MS Society and the RSPB could achieve insider status and establish closer working relationships with the Scottish Executive, it would remain in their interests to also pursue their goals through the committees. The committees will always be useful if a group has a point to make that has not been included in the legislation or if it wants to go against Executive policy, because issues can be raised and amendments lodged in the committees. Therefore, even groups that adopt a rational choice approach will still find it in their interests to adopt a strategy that encompasses the committees.

The SCPO's Parliamentary Officer explained that his strategy was to primarily target the committees (despite the fact that he believed that the Scottish Executive made all the important decisions) because he thought that it was the venue where churches should be most involved. He was supportive of the committees, believing that a lot of serious work was done in them. He felt that if the SCPO had a committee on-side, then the pressure on the Scottish Executive would be much greater than if the SCPO was pushing for change alone. This relates to the origins of the Scottish Parliament and the emphasis that bodies like the churches put on the new structures, particularly the legislature, that were put in place with devolution.

The SPTC's Development Manager said that it was at the committee level that the SPTC could make their biggest impact. The Education, Culture and Sport Committee provided it with a contained and accessible lobbying target. Given that the SPTC was a small office (in terms of resources it was the smallest of the six interest groups) with only three part-time members of staff, it had still amassed a total of six invites to give oral evidence to the

committees – a total that only CoSLA and the FSB had managed to surpass. The SPTC was obviously effective at a committee level and if that paid off in terms of achieving their goals it would behoove them to maintain that level of input into the committees and it would also boost their profile with the Scottish Executive.

CoSLA did not spend time and resources monitoring the committees because it knew that the committees would come to them for the local government viewpoint but it still invested a lot of time and energy into submitting written responses and sending representatives to give oral evidence. This was very much in their self-interest. Local government has a big stake in implementing policy and it was important for them to ensure that policy would be passed in a way that would be workable for them to implement and be as advantageous to them as possible. Again, CoSLA saw the committees as a channel to exert influence on the Scottish Executive, especially on occasions when it disagreed with the Executive's policy.

At the time of participant observation, most of the groups (the SCPO was the exception) were largely behaving in a manner that can probably be best explained by rational choice institutionalism. This is despite the fact that the committees represented 'new politics' more than any other component of the Scottish Parliament. What counts for the groups at the end of the day is how they can best achieve their goals rather than boost a particular model of governance. However, at the beginning of devolution the groups responded to the participative system of the committees to the extent that they responded to all consultations, even those not directly relevant to them. The accessibility of the committees encouraged the groups to spend more time and resources on committee work than they might otherwise have done if they were being strictly rational about it. But it is likely that as time goes on the groups will become more targeted in their activities with the committees, looking to what will benefit their organisations the most.

For those groups that were having difficulty in getting access to the Scottish Executive (SCPO, MS Society, SPTC and RSPB) it might be reasonable to expect that they will spend more time on *parliamentary* access points, than those groups that professed they were having some success in influencing the Scottish Executive. For this reason it would be reasonable to assume that those four groups will put a higher value on their work with MSPs, which we come to in chapter 8.

## CHAPTER 8 MSPs

### 8.1 Introduction

MSPs, Members of the Scottish Parliament, are the fundamental building blocks to the whole Scottish Parliament and are central to the whole concept of 'new politics', as it is through local MSPs that members of the public will have the most contact with the Scottish Parliament. Local issues are often the main political focus for the general public and as a result contact with MSPs is the most effective way for people to participate in the new political system. The CSG Report said that MSPs 'have a duty to be accessible to their constituents' (1998, p.23) and as part of this aim the telephone numbers for their constituency and parliamentary offices, e-mail address and postal addresses were all made readily available to make it as easy as possible for the public to communicate with them.

MSPs are also what could be termed very 'local' politicians because most of them live throughout the week in their constituencies and simply commute to Edinburgh when they have to and because of this MSPs are seen at their local supermarket, running for the train and are generally visible in their constituencies. This was recognised in the Procedures Committee report on the CSG principles, which saw MSPs as being a highly important element in deepening the terms of engagement between the Scottish Parliament and those who were not engaging with it, aided by the fact that 'MSPs are closer to home than MPs, and they have more time available to them as a result to spend in their constituencies' (Procedures Committee; 2003, para 134).

MSPs were also given a number of prerogatives to facilitate their role in making the CSG principles a success. They have the power to bring forward Member's Bills, two each parliamentary term, which means that there is another alternative to introducing legislation (which generally, but not always, requires the support of the Executive to be successful – see section 9.3.2 for more details). The CSG Report also said that MSPs would have an important role in holding the Scottish Executive to account through their ability to ask written and oral parliamentary questions (1998, p.58). Interest groups can use this prerogative to their advantage by asking a sympathetic MSP to lodge questions (see section 8.3.4). The ability of MSPs to ask parliamentary questions (PQs) of the Scottish Executive is not only an accountability mechanism but also one that allows outside bodies access to information that they might otherwise have difficulty getting. MSPs also have a slot for debate just after decision time (held at approx 5:10pm) on Wednesdays and Thursdays to raise non-controversial constituency issues. Votes are not taken after a Member's Debate but the

relevant Minister will respond at the end. When registering their votes in debates or when participating in parliamentary committee meetings, the CSG Report encouraged MSPs to be as open as possible about all the decisions that they take and to only withhold information when the wider public interest takes precedence (1998, p.23).

The CSG group was very aware that the success of ‘new politics’ depended on the extent to which MSPs would embrace the new culture (CSG; 1998, p.7). To this end it wrote of how the Scottish Office was setting up an induction training programme for MSPs and added that:

‘we believe that it is important that it is important that this should include helping MSPs to make the Parliament a success in terms of openness, accessibility and participation and accountability of Members to their constituents’ (1998, p.7).

Many of the MSPs came from a background in adversarial Scottish local politics and a minority had previously been elected to Westminster but the role of MSP itself was brand new and the newly elected politicians knew that the success of the Scottish Parliament rested on them, and so the CSG was confident that if MSPs were properly inducted then there would be no reason for ‘new politics’ not to work.

## **8.2 List MSPs**

There are two kinds of MSP – fifty-six list MSPs and seventy-three constituency MSPs (see appendix two for more details). When a voter is faced with their ballot paper they have two votes, one for their constituency MSP where all the candidates are named and the second vote is for a party, not for individuals. Therefore, list MSPs owe their position to their party. The Additional Member System (AMS) is more proportional than first-past-the-post but it puts a lot of power into the hands of the central party leadership or the local political parties (depending on the political party) as they choose which candidates go on their regional list and what ranking they will be given. A candidate who is first or second on the regional list will obviously have a much higher likelihood of getting elected than someone who is in fifth position. This means that in the first instance every regional MSP owes their seat to their party and that in order to get re-elected they have to ensure that they are well placed on the party lists, so their parliamentary behaviour is bound to be influenced by this. According to Massie after the first Scottish Parliament election ‘there was scarcely one who wasn’t a good reliable party man or woman’ and all ‘the List MSPs were there because they had as individuals found favour with their party chiefs rather than with the public’ (Massie; 2002, p.41). Margo Macdonald, the high profile SNP MSP, found herself at odds with the party too often. In 1999 she was first on the Lothians regional list for the SNP. However, in January 2003 her local party had demoted her to fifth place for the 2003 election, which effectively

meant that she would not get re-elected so she decided to resign from the SNP having lost her party's confidence and instead she successfully stood as an Independent. She was not the only MSP to find herself in that position. Lyndsay MacIntosh of the Conservatives also found that she had slipped down the Central Scotland list because other candidates had found more favour with the party. Duncan Hamilton (SNP) decided long before the 2003 elections to stand down as a list MSP and called for the AMS system to be abolished. He said that the impact of the system had been 'destructive' as it 'builds in a perverse incentive for MSPs to play to an internal audience' rather than the voters (*The Scotsman* (i)). Party allegiance diminished the power of the MSPs according to the groups as well, who were of the opinion that MSPs were too inhibited by it. Every group expressed real disappointment at the lack of independent spirits within Holyrood. (Indeed, even the MSPs interviewed voiced the same sentiment).

### **8.3 What MSPs have to offer**

A lot has been said about the high number of female MSPs in the Scottish Parliament (48 out of the 129 after the 1999 election, equalling 37% of the total putting it almost on a par with Norway and Sweden which had the highest level of female MSPs in the world). However, gender balance and other interesting facts such as the average age of MSPs or their previous political experience apparently had very little bearing on the interest groups so they shall not be described here (although for more information see Lynch; 2001, p.50-53 and Pilkington; 2002, p.105). Other background details were of much more significance to at least three of the groups, including the former occupations or personal circumstances of the MSPs. For instance, the MS Society targeted David Davidson (Con) because he used to be a pharmacist and they also approached Jamie Stone (Liberal Democrat) because his wife used a wheelchair.

MSPs have a number of roles available to them within the Scottish Parliament that are of particular importance to interest groups – membership on the parliamentary committees, Member's Bills, tabling motions and amendments, contributing to debates, asking parliamentary questions (PQs) and voting on legislation. These different roles shall now be described in a little more detail.

#### **8.3.1 Committee membership**

Chapter 7 goes into a lot more depth about the role of the parliamentary committees but to recap, the seventeen parliamentary committees scrutinised legislation, initiated their own inquiries and could introduce Committee Bills. Backbench MSPs serve on the committees,

with committee places allocated through the d'Hondt system, which determined how many committee places each party was given. It then tended to be the party leadership that decided who sat on the different committees. It was committee membership that determined just how valuable an MSP was to an interest group because even the groups which did not feel that MSPs were very effective felt it worth their while to build up relationships with the MSPs on the committee(s) that they primarily dealt with. This was testament to the importance that the groups attached to the committees in terms of policy making. The committee system provided the groups 'with a clear target audience' allowing them the opportunity to concentrate their resources rather than 'sending material to a wide range of members in an attempt to find those who might have an interest in their cause' (Norton; 1993, p.169).

### **8.3.2 Member's Bills**

Every backbench MSP could introduce two Member's Bills during a parliamentary term. At Westminster, Member's Bills are chosen by a ballot system but at Holyrood where the number of Members is much smaller, a Bill was assured of being introduced to the Scottish Parliament as long as it had the support of 10% of the MSPs (so at least another eleven MSPs had to register their support) within a month of it being published. Two Member's Bills really stood out from the Parliament's first term – the Poindings and Warrant Sales Bill and the Protection of Wild Mammals (Scotland) Bill. The Poindings and Warrant Sales Bill was brought forward by Tommy Sheridan (SSP) and his two co-sponsors John McAllion (Lab) and Alex Neil (SNP). It was particularly remarkable because it did not have the support of the Executive but it did have the backing of the parliamentary committees that had scrutinised the Bill. Normally the Executive's opposition would signal the death knell of a Member's Bill but the strength of backbench support was such that the Executive backed down and withdrew a wrecking amendment at the Bill's first reading and decided that while they would not vote in favour of the Bill neither would they vote against it. This allowed it to be approved by 79 votes to 15 (the Conservatives voted against) with 30 abstentions (the Ministers and their deputies along with a large proportion of Liberal Democrat MSPs). *The Herald* newspaper stated that the Poinding and Warrant Sales Bill 'provoked the Scottish Parliament's first successful backbench rebellion' (*The Herald* (g), p.7). The Protection of Wild Mammals (Scotland) Bill was sponsored by Mike Watson (Lab) and was memorable for the strength of feeling it provoked. The Bill sought to ban hunting and the issue prompted people to march in the streets to demonstrate their feelings and it also filled many newspaper column inches. The Rural Development Committee (the lead committee) was divided over the proposed legislation and ended up spending months considering the Bill. In the end the Committee recommended that it should be rejected as they felt it was flawed and

unworkable. However, the Scottish Executive supported it and the Scottish Parliament decided to go against the Committee's recommendations and at the Stage 1 vote, it was approved with a comfortable majority of fifty.

### **8.3.3 Debates**

MSPs can table motions for debate (so can the committees, the Executive and the political parties). Interest groups find parliamentary debates useful because they raise awareness about a particular subject or issue. A Member's Debate is usually the last item of business that the Scottish Parliament deals with at the end of a Wednesday and a Thursday for approximately forty minutes. Normally, only a few MSPs remain for a Member's Debate because they often focus on issues or projects that are of a local nature and a vote is not taken on these debates as they do not determine plans for action, instead they simply draw attention to an issue. If MSPs found that their mailbag had a lot of letters about a particular topic, this is a forum where they can raise those issues whether they are of a local, Scottish, British, European or indeed international nature. The relevant Minister (normally a Deputy) usually gives the Executive's stance on the topic as the last contribution to the debate. For all debates, not just Member's Debates, interest groups brief MSPs so that the MSPs will hopefully include the information from the briefings during their contributions.

### **8.3.4 Parliamentary questions**

MSPs can ask oral and written questions of the Scottish Executive, which was useful for groups wanting to find out information and it was also another way of putting pressure on the Scottish Executive. Interest groups often suggest the wording of parliamentary questions (PQs) to MSPs. Once a written PQ is tabled, it is then up to the relevant civil servants to find the information and draft an answer to it before the Minister checks it for his or her approval. There are no limits to the number of written questions that an MSP could ask, although they were asked to be responsible about the numbers of questions, as some MSPs were asking vast numbers which was costing a lot of time and money. The Scottish Parliament has a detailed guide on how PQs should be written. Once a written PQ has been submitted correctly, an MSP could expect to have a reply (which was also published on the Scottish Parliament's website for the public to see) within fourteen days, unless they were designated as a 'holding answer', which just meant that the answer was being looked into and as soon as the information was compiled, the MSP would receive an answer.

Question Time was held on Thursday afternoons. An MSP could only lodge one oral question per week but they could ask related supplementary questions. A total of thirty oral

questions were selected each week for Ministers to answer and six oral questions were chosen for the First Minister. (The Ministers usually did not have enough time to answer thirty oral questions at Question Time so whichever ones were not reached were then treated automatically as written questions). The First Minister and the Ministers know these questions in advance to Question Time so they came prepared with their civil servant briefings and tended to give answers that did not give away very much. But the opportunity to ask supplementary questions meant that Ministers had to think on their feet and this could sometimes be more productive in getting information. Questions were often planted or 'inspired' by Labour and Liberal Democrat MSPs who asked PQs that coincidentally tied in with the Executive announcing funding for a project or a new strategy or some other good news.

It was quite easy for interest groups to get an MSP to table PQs for them. This is by no means a new or rare practice as a 1986 survey of Westminster revealed that 80% of the organisations interviewed had asked MPs to table parliamentary questions (Norton; 1999, p.25).

### **8.3.5 Cross Party Groups**

Many interest groups contact MSPs through Cross Party Groups (CPGs). Large numbers of CPGs sprung up at the beginning of the Scottish Parliament and some MSPs spread themselves too thin, so MSP attendance at them could be poor. The CPGs had no formal powers but interest groups found them useful because it gave them an opportunity to lobby MSPs, circumvent party politics, share information and pressurise the Scottish Executive because CPGs are also open to outside members so they are particularly attractive to interest groups.

The CPGs were regulated by the Parliament's Standards Committee and they had to abide by certain rules, e.g. they had to have at least five MSPs on them (and there had to be one from each of the main parties). A CPG could only be convened if there were at least two MSPs who were members of the group present, which perhaps accounts for the fact that some groups met formally very erratically. CPGs only run for a parliamentary session and there is a stipulation that they have to re-register after each Scottish Parliament election.

### **8.3.6 Voting and amendments**

Obviously the fact that MSPs vote on legislation makes them attractive to interest groups. The first stage of legislation is when a Bill has been introduced to the Scottish Parliament and

assigned to a lead parliamentary committee (and perhaps to other committees) which considers it and then reports back to the Scottish Parliament about the Bill's general principles and then the full plenary session vote on the Bill's general principles. If the majority agree to the principles, the Bill then progresses to Stage 2 where the Bill returns to the committee(s), which then considers the details of the legislation. Amendments can be proposed at this stage to both the committees and to the plenary session where MSPs will vote on the Bill again. Lodging amendments is another capacity that makes MSPs attractive to interest groups, as amendments can significantly change the details of a Bill. If the Bill is approved it then moves on to Stage 3 for its final refinement and amendments in committee and then back to plenary session when MSPs vote for the last time on it, either to pass the Bill or to reject it.

Generally, amendments in plenary session have fallen along party lines. At any stage of the legislative process various amendments were put forward for debate and it was normal practice that an Executive amendment or one tabled by a Labour MSP was approved, whereas an amendment tabled by an SNP, Conservative or a minority party MSP tended to fall. Opposition policies rarely got far unless they had the Executive's support because without the Executive's support Labour and Liberal Democrat MSPs were unlikely to vote in favour of it. Michael Russell (SNP) brought forward his Member's Bill (Gaelic Language (Scotland) Bill) in March 2003 and surprisingly the general principles of it were approved at Stage 1, but this is because the Executive decided to back it. Previously, however, the Executive had said that there were better ways to preserve Gaelic but on the strength of the Education, Culture and Sport Committee's report on Mr Russell's Bill, the Executive decided to vote in favour of the Bill's principles.

#### **8.4 The response of the groups**

The majority of the six interest groups believed that MSPs were not very effectual in the policy process, yet many of them spent a remarkable amount of time and energy on lobbying MSPs although this was generally because of their committee membership. All the groups declared themselves as being non-political so they did not align themselves with any particular political parties, preferring to keep their options open. All the groups were agreed that MSPs were incredibly accessible. Therefore the selection of MSPs that they targeted was not limited by questions of access.

## **Federation of Small Businesses**

When asked if the FSB targeted particular MSPs, the Policy Convener replied that ‘we target different committees’ and he went so far as to say that ‘there’s no use going to other MSPs if they are not involved in them because you are wasting your time’. If an MSP was not on the three committees that the FSB dealt with (Enterprise and Lifelong Learning, Transport and the Environment, and European) then the Policy Convener said all they were doing was providing them with ‘outside information’ which was ‘not constructive as far as I’m concerned’.

However, the FSB while not particularly committed to investing a lot of their time into MSPs on non-relevant committees were still happy enough to supply information to any MSPs who requested it. That was relatively frequently - some weeks every day and then on others not at all, but they did ‘make an attempt to approach’ the FSB (Press and Parliamentary Officer).

Occasionally the FSB lobbied all the MSPs in the Parliament and organised events for them (such as holding a dinner for each of the political parties); an acknowledgment that MSPs did have some uses outside of their committee roles. They also carried out blanket mailings of all MSPs on particular issues such as the Working Families Tax Credit and sub post offices. The FSB was particularly keen on giving opposition MSPs information about issues which it thought the Scottish Executive had got wrong, so the MSPs could raise the issues the group was concerned about. Kenny MacAskill, the SNP’s transport spokesperson at the time, had arranged a meeting with the FSB so that he could get an idea of what questions he should be putting to Ministers. The FSB had a particularly good relationship with the Enterprise and Lifelong Learning Minister (Henry McLeish at that time) so they did not want to spoil that relationship but it was sometimes useful for them to lobby opposition MSPs. For example, the FSB had a proposal which they felt was the ‘only game in town’ but the Scottish Executive were not keen on it and while the FSB was not going to hand over ‘ammunition to the Executive’s political opponents’ in order to penalise the Executive, the FSB turn to opposition MSPs if it felt it was getting nowhere on an issue (Press and Parliamentary Officer).

The FSB said it did not utilise the mechanism of PQs as much as it could have. The FSB found opposition MSPs particularly useful for this task as they were more willing to ask questions that might show the Executive up. The Deputy Press and Parliamentary Officer remarked that PQs could provide them with useful information and that this was a beneficial capability that MSPs possessed.

The FSB regarded the full chamber as a bit of a ‘talking shop’ and the Deputy Press and Parliamentary Officer remarked that the debates were ‘not a very good quality you could expect from parliamentarians’.

It would seem that the effect of MSPs on the FSB was limited, although the staff had made a point of building up relationships with MSPs on the Enterprise and Lifelong Learning Committee. According to the office diary at the time of participant observation (August 2000), the FSB had only arranged five formal face to face meetings with MSPs (compared to the nine occasions they met up with Ministers). The MSPs could take heart though because they were not as far down the FSB’s list of priorities as their Westminster colleagues who were left out of the picture altogether when the Scottish Parliament opened.

### **Scottish Churches Parliamentary Office**

Like the other groups the SCPO’s Parliamentary Officer was happy at how accessible MSPs were. In his written submission to the Standards Committee inquiry into lobbying, the Parliamentary Officer wrote that the SCPO had found ‘MSPs to be readily accessible’ and ‘consistently willing to meet with representatives of the churches’ (taken from a personal copy of the written submission). He felt that MSPs did not have the gentleman’s club atmosphere that existed at Westminster and that MSPs ‘are more firmly rooted in their own communities than Westminster MPs are’. This was helped by the fact that a large proportion of MSPs commuted to work on the days the Scottish Parliament was in session. The Parliamentary Officer was able to take advantage of his own train journeys into work and joked that he did ‘a lot of my best work on the train’. He also found it easier to keep up relationships with MSPs due to the fact that the SCPO premises were on the Mound. This meant that on Tuesdays, Wednesdays and Thursdays when MSPs were in Edinburgh it was more than likely that the Parliamentary Officer ‘will have one or two conversations with MSPs’ informally as he bumped into them on the street.

SCPO contact with MSPs was primarily informal. The relatively few formal meetings held with MSPs in 1999 and 2000 (estimated by the Parliamentary Officer at ‘only a dozen or so’) were not a true indication of MSP contact. During the period of participant observation it became very clear that he was on speaking terms to many MSPs of all parties. And as one of the SCPO’s ten lobbying commandments state: ‘good relationships bear fruit’ (SCPO (e), p.4).

The SCPO like all the other groups was non-party political and so did not specialise in contacts with any one party. When it came to lobbying MSPs the SCPO's practice was to 'approach particular people on particular issues'. The Parliamentary Officer targeted the MSPs on the parliamentary committees that were of interest to SCPO, or MSPs who were sympathetic to the views of the church, or on relevant cross-party groups or by their constituency/region area. However, it was through the committees that MSPs were most able to shape legislation according to the Parliamentary Officer so 'we tend to target the MSPs who are on a particular committee. Not exclusively, but mainly'. And when he said that MSPs could shape legislation in the committees, he meant they did not determine overarching policy but that they could shape the details of a Bill. MSPs can do this by putting forward amendments and so the Parliamentary Officer accordingly advised one of the networks that he was involved with during the period of participant observation, that it would be useful to ask MSPs to submit amendments to the Housing Bill which they were then interested in at the time.

The SCPO advised that when lobbying an MSP: 'Briefing papers which offer sound evidence for your case – experience and research (including some statistics and vivid examples) - will be useful tools for MSPs' (SCPO (e), p.1/2). The Parliamentary Officer also suggested that in order to better their chances of getting the briefing paper read, face to face contact with MSPs should be made and he helped this process by facilitating meetings with MSPs and church people. MSPs were seen as a good way for people in the churches to lobby the Scottish Parliament.

The Parliamentary Officer believed that MSPs had more opportunity to be effective in the Scottish Parliament than their Westminster counterparts, for example, the Scottish Parliament structure encouraged Member's Bills more. Any MSP could table a Member's Bill at Holyrood (MSPs could introduce two Member's Bills in a parliamentary term) compared to Westminster where MPs had to win a lottery. By February 2001 the Parliamentary Officer felt that backbench MSPs had produced a couple of significant Bills, particularly Tommy Sheridan's Poinding and Warrant Sales Bill, where the support of the parliamentary committees scrutinising the Bill fostered a cross-party consensus which 'forced the Executive to back down from its intention to halt the Bill's progress' (SCPO (d), p.1).

The SCPO rarely wanted to table a parliamentary question although the Parliamentary Officer did point out to the churches that 'MSPs do take account of constituents' views and

can get answers for you from Ministers or may even ask parliamentary questions on issues you raise' (SCPO (e), p.2).

More negatively he found with MSPs that 'ambition and the desire to get re-elected might get in the way of independence of spirit. And they succumb to the yah boo temptation'. He also criticised the lack of independence amongst MSPs in his written submission to the Standards Committee where he stated 'the way in which party discipline and decision-making tend to dominate; these processes are not open or transparent' (taken from a personal copy). He also repeated those criticisms in a written submission to the Procedures Committee.

The SCPO spent a lot of its time in making contacts with MSPs but the Parliamentary Officer believed that the 'committees are the area in which bodies like the churches should be having their key influence' and when asked how MSPs would feature in the future plans of the SCPO, he answered that they would 'continue working with them in committees'.

### **Multiple Sclerosis Society**

The MS Society invested a lot of time and resources into MSPs. The Director actually thought that Ministers, civil servants and the committees were more important than individual MSPs in the making of policy but 'we spend more time with them because they are easier to spend time with. Access to the Executive is a bit restricted'. His Policy Officer on the other hand, listed MSPs as being the most important actors in the policy process to the MS Society because:

'I think it's fair to say that MSPs have continued to be our main focus because they've provided us with the guidance and advice that's allowed us to get to the committees, Ministers, civil servants and the clerks' (personal interview, May 2001).

The MS Society devoted a lot of their time to building up relationships with MSPs. When asked about the MSPs they targeted, the Director responded 'committee members and health spokespeople and people who have shown an interest already'. The Policy Officer also added to the list MSPs 'who had a health background, or maybe a scientific background, or a background with a disability issue'. For instance, they targeted Richard Simpson (Lab) because he was the only GP in the Parliament at the time 'and the word has it that the Health Minister pays particular attention to what he says' (Policy Officer). So while membership of the Health Committee did immediately make an MSP of interest to the Society, it certainly did not preclude other MSPs from receiving attention from them.

One of the first things that the Society did on the Policy Officer's appointment was to ask their public affairs company to trawl through all the PQs that had been asked about multiple sclerosis (MS) or issues of concern to people with MS and to list the MSPs that had asked them. By May 2001 twenty-three MSPs had asked over sixty questions between them on MS and MS related issues. This suggested that they had received pressure from their constituents on these matters which prompted them to ask the PQs or that they had a particular interest in it for other reasons. Either way, it allowed the Society to pinpoint those MSPs for further lobbying and they began to arrange meetings with them to determine just how sympathetic the MSPs were to the MS Society and who they could develop good working relationships with.

The Society was advised by one MSP that PQs would be a useful way for it to get information and to get the official Ministerial position on the record. The Society have since been very keen to get PQs asked and at the time of participant observation were contemplating drawing up a list of questions they would like to have tabled.

One of the Policy Officer's aims was to educate all 129 MSPs about MS. In one newsletter the Society informed their members that it was preparing briefing papers for MSPs because it wanted 'every MSP to know exactly what needs to be done' in relation to people who have MS (MS Society (b), p.3). The Society embarked on an on-going series of written briefings to MSPs. It also organised a briefing session at the Scottish Parliament and invited every MSP. Fifteen MSPs attended and several others sent their apologies and requested more information. All those MSPs were noted as having shown interest in MS and any new names that were not there before went on to the Society's target list of MSPs. The Society kept a look out for any potentially sympathetic MSPs, so when the Policy Officer heard Rhona Brankin (Lab) talking about transport access for people with impaired mobility, he immediately sent her a letter to inform her about the Society (as transport access is a relevant issue for people with MS). The Society worked away at getting their message across and their intention was to have a drip effect. The Policy Officer remarked 'I bet half of the Health Committee and certainly well over half of the Parliament didn't know what the letters MS stood for and they know now'. On the advice of their public affairs consultants the Society had a strategy where they tried to arrange a meeting with an MSP every month. The Director admitted that the benefits of those meetings were for the most part 'quite marginal'. But the Society continued with them because they helped to raise the profile of MS and at the end of the day he felt that 'it's time well spent even if they are not individually influential immediately. They are all potential decision-makers'.

The Society managed to get Tricia Marwick (SNP) to sponsor a member's debate which required close liaison with Ms Marwick (and originally with Alex Neil who first suggested to the Society that he could table a debate for them, but the Society switched sponsors when he entered the SNP Scottish Group leadership campaign after Alex Salmond stepped down). The Society selected Tricia Marwick to sponsor their debate because it saw her as a 'fixer' - someone who could get cross-party support. There was also the added bonus that she served on the Parliamentary Bureau (which decides the business timetable for the Scottish Parliament). The Director was keen for the debate to be held because debates 'are good for publicity and awareness raising'. The Society also made the case to the Parliamentary Bureau that they should fix the date for the debate well in advance (which was unusual for the Scottish Parliament to do) because many of the Society's members need to use wheelchairs so a lot of practical considerations had to be taken into account, which necessitated a fixed day for the debate. The Society then arranged a lobby of the Parliament on the same day as the debate, so their members could come to Edinburgh to speak to MSPs and then listen to the debate later on. Over 150 of the Society's members attended the Scottish Parliament that day and had the opportunity of lobbying fifty-three MSPs who came along to hear what they had to say. The lobby helped to raise the profile of people with multiple sclerosis but it also meant a lot of work for the Policy Officer and the Director as they had to make all the arrangements for their members, advertise the event to their branches and to MSPs alike.

The Society found that one of the advantages of having good relationships with MSPs was the useful and candid advice that it received from them. MSPs helped with strategy and advised the Policy Officer and the Director on the best way to go about things. Their advice prompted the Director to say that MSPs are 'better than your public affairs consultants about giving that sort of advice and it's free!' One example of such advice that the Society acted upon was the formation of an informal "dining club" composed of MSPs and MS experts which operated under Chatham House rules in order to encourage those present to be open and frank. The dining club allowed the politicians to learn more about MS and the Society and it was also an opportunity for the Society to get MSPs to become what the Policy Officer termed 'parliamentary terriers' to champion the MS Society cause. Another piece of advice that they received was that they should submit a paper to the Health and Community Care Committee which was considering the health budget, so that the Society could ask for money to be apportioned to MS nurses and other MS services. Submitting a paper to the parliamentary budget process was not something that had occurred to the Society or indeed to

their public affairs consultants. They were also advised by an MSP not to set up a cross party group on MS, which the staff had been considering, because they were told it would be a waste of the Society's time. This was because cross party groups were cumbersome, there were too many of them and MSPs were finding it difficult to attend the meetings so as a result of this advice the Society has 'sought to do things purely informally'.

The Society's considerable activity with MSPs allowed them to develop a core group of eight to ten MSPs whom they were actively and regularly in contact with. The Society's ultimate aim was to get their branch members to develop relationships with their own constituency and regional MSPs which would allow the Society to be 'in a much stronger position than we are just now' (Policy Officer).

While the Society had enjoyed largely positive experiences with MSPs, they too voiced the familiar complaint of MSP lack of independence. The Policy Officer found this to be particularly the case amongst the Executive parties, some of whom 'have been incredibly defensive'. But generally though the Society was keen to maintain the relationships it had with MSPs because MSPs can:

'do the questions, sponsor meetings with health boards, take up issues for constituents for sort of the general run of the mill and then it's the specific ones who are more influential because they are on the committees or know so and so or are prepared to have a word with the Minister' (Director; personal interview, May 2001).

### **Scottish Parent Teacher Council**

In contrast the SPTC invested nowhere nearly as much effort into MSPs as the MS Society did. The Development Manager said that MSPs were important to the SPTC 'only in terms of being part of committees. We haven't even contacted MSPs much outside the Education Committee'.

The Development Manager had made an effort to get to know the MSPs on the Education, Culture and Sport Committee. She raised her profile by attending committee meetings simply as an observer because MSPs notice people who turn up again and again. The Development Manager went along and often had informal chats with committee members. During the Scottish Qualifications Association (SQA) crisis she had a lot of contact with Ian Jenkins (Lib Dem) as he used to be a teacher and 'therefore he actually had a practical understanding of the issues'. She also spent time informing Brian Monteith (Con) and all the SNP members of the Committee about SQA. More sustained contact with non-Labour MSPs

was par for the course for the SPTC but this was not a deliberate strategy of theirs. They wrote to all the MSPs on the Committee when there was a particular issue they wanted to raise and then they would 'take it up with whoever got back to us' which tended not to be the Labour MSPs. But Ian Jenkins, Brian Monteith and the SNP MSPs were very good at acknowledging any material sent to them from the SPTC. Nicola Sturgeon (SNP) was quite keen to use the SPTC's expertise when she was the Education Spokesperson for her party. When she changed portfolio she wrote to them to thank them for all their input into the consultation period of the Standards in Scotland's Schools Bill because with the information the SPTC supplied, she was able to lodge amendments to the Bill. The SPTC then developed a relationship with Michael Russell who took over Nicola Sturgeon's position as education spokesperson and her seat on the Education Committee.

When it came to the plenary sessions, the Development Manager said that many of the MSPs had not got a clue what they were talking about in debates and 'it's been quite frightening to listen to them in the Chamber'. She did add:

'I have to say after being rude about them occasionally you get debates which are valid and worthwhile. But I think it really depends on the issue and there have only been a few issues where they have been really engaged and I think a lot of them don't use the chamber as much as it could be used to be honest' (personal interview, November 2001).

When asked about how effective she thought MSPs were at introducing, shaping or changing legislation she was hard pressed to think of any examples other than the Poindings and Warrant Sales Bill sponsored by Tommy Sheridan (SSP), John McAllion (Lab) and Alex Neil (SNP). The only other example she could think of was free personal care 'insofar as a sort of rather uncertain Executive was made more certain by all the responses from the Chamber'.

The reason why she thought MSPs failed to assert themselves was again party discipline. 'I think the thing that pre-empts it from happening is the political selection process, which has meant that in general and for all parties, it is party loyalists who end up being appointed rather than mavericks'. She felt that there were occasions where MSPs could have asserted themselves but for the most part they were not interested in doing so because for the majority of them it meant going against their own Ministers. Like many within the interest groups she was impressed by Tommy Sheridan and added that:

'I think in fact Parliament would benefit from more independent voices. The way he's used the Parliament as a kind of platform has been very effective. He has

actually managed to get the Poining thing through even though the Executive have now sat on it and he hasn't got any master who can silence him' (personal interview, November 2001).

### **Convention of Scottish Local Authorities**

CoSLA had a close working relationship with the Scottish Executive, which took up a large proportion of its time so backbench MSPs by default got less attention. This was made obvious by the shortage of references to MSPs in CoSLA's written material and in the interviews. However, MSPs featured in CoSLA's vision and strategic plan which stated that they would brief MSPs as a means of initiating policy and influencing the parliamentary agenda. And they did send briefings to MSPs 'both on request and at our own behest' but again, like the other groups it tended to be just to the MSPs on the relevant committees that CoSLA targeted and sometimes they might only 'go with the Executive members of that committee' (Head of Policy). When asked about personal contact with MSPs, both the Head of Policy and the Convention Manager said that it was generally in the context of the committees. The only other time MSPs come to the foreground of their daily work was if an MSP was bringing forward a Member's Bill which had issues that impinged on local government and this perhaps explained why they both spoke about Tommy Sheridan and talked of him as an effective MSP. The Head of Policy commented that Mr Sheridan 'usually has a disproportionate influence' in the Scottish Parliament which he attributed to the fact that Mr Sheridan was 'not constrained by wider party politics, the others are one way or another'. The Convention Manager also brought up the Socialist MSP in her interview and agreed with her colleague that 'you can see somebody like Tommy Sheridan able to get an initiative progressed even without the whole machinery behind him of a coalition'.

Both the Head of Policy and the Convention Manager complained that in the Chamber 'the quality of debate can be embarrassing'. They did not even see the need to ask an MSP to place a parliamentary question, because where they saw a need at Westminster to 'flush out information', at the Scottish Parliament they felt they 'are on information overload'.

Perhaps the Convention Manager summed it up best for CoSLA when she said that when it came to 'the whole gaggle of backbenchers...I don't really know if I have a strong view on them as just a group of MSPs but that's probably because that's not how we really relate to them'. The Head of Policy explained that he did not have time to build up relationships with MSPs but he did not feel that it had been a barrier in any way and that such relationships 'would be helpful rather than necessary anyway'. At the time of participant observation,

however, the Acting Chief Executive was actually looking into how best to target MSPs and was planning to draw up a list of relevant committees and party spokespersons. His intention was that CoSLA would have on-going communication with sympathetic MSPs and that it:

‘should be looking at targeting our information to specific MSPs, not just when they are having an inquiry into anything or looking at particular pieces of legislation or bills, but we should be sending them anything we’ll say on a subject matter they say they have got an interest in and that way I think they get a better understanding as to what is going on and what we’re saying’ (personal interview, December 2001).

### **Royal Society for the Protection of Birds**

Because the RSPB was having difficulty in getting access to the Scottish Executive, the Advocacy and Media Unit spent a lot of time developing good working relationships with MSPs. In common with the other groups they found that MSPs were ‘much more effective when they form into committees’ (Head of Advocacy and Media). MSPs on the Transport and the Environment Committee and the Rural Development Committee were the MSPs that they ‘are going to cultivate most. And we’ve got to be targeted, you can’t do everyone, even with one hundred and twenty-nine you can’t do everybody’ (Head of Advocacy and Media). But the RSPB did include other MSPs in their lobbying strategy by casting their net to include environmentally friendly MSPs. Or as the Head of Advocacy and Media put it:

‘There are far too few people who are semi-decent environmentalists inside Scottish politics, so if I come across one, I don’t care if they are on the Outer Mongolian sub-legislation committee, I’m going to cultivate them’ (personal interview, December 2001).

His colleagues made the same observations, with the Media Officer saying that the RSPB had to focus their attention and efforts on the committees that related the most to the environment.

Out of the one hundred and twenty-nine, the RSPB had approximately thirty-five MSPs which they had reasonably good working relationships with. The RSPB worked hard to make those connections. For instance, one of its internal reports revealed that the RSPB had met up with MSPs a total of 47 times in 2000 and had a further 47 meetings with MSPs by August 2001. On top of this the Parliamentary Information Officer also reckoned that the RSPB probably spoke to MSPs three or four times a week. Further contact was made when the RSPB arranged days where MSPs and their researchers visited RSPB nature reserves, or attended an RSPB event or sailed on a seabird cruise. In the 2000 summer recess the RSPB reported that twenty-four MSPs, two MEPs and twenty-four researchers had taken them up

on invites to such events – the RSPB hoped that this imaginative approach would stick in the minds of the MSPs.

An internal review of the RSPB's work in the second year of the Parliament also saw the RSPB reporting that:

‘considerable effort has been made to cement good working relationships with the environmental and rural affairs researchers of all the political parties in Parliament and the Scottish Parliament Information Centre’ (personal copy of internal review document, 2000).

The Advocacy and Media Unit had invested a lot of time into developing those relationships with MSPs' researchers and the people from SPICe because they saw them as being important. In fact the Parliamentary Information Officer said that she thought they ‘are more powerful than MSPs sometimes’. She understood that it was the researchers who effectively decided what was going to be said in debates as they were the ones that read what SPICe produced on a particular topic, read the input from interest groups and applied the party policy to the issue before putting it all in a briefing for their MSP to use. ‘So if you get it right with them then it can definitely feed through to MSPs’. Another benefit of cultivating researchers was the placing of parliamentary questions as the researchers helped with the final wording of questions and also got an MSP to ask the PQs. In addition they found that ‘parties are now beginning to invite RSPB participation in policy consultation and the process of manifesto writing’ (taken from an internal document).

The RSPB also sent out briefings to MSPs. They preferred to send them via e-mail and only to a closed group of MSPs, usually those on the Transport and the Environment Committee, the Rural Development Committee and the European Committee and any green MSPs that they had identified. They saw no point in sending out briefings to MSPs that were going to have no interest in it whatsoever. The Parliamentary and Information Officer said that the advantage of having green MSPs who were not on those three Committees was that there were more MSPs to put across the environmental viewpoint in debates.

Informal lobbying had also been used to good effect by the RSPB. On one occasion two of the staff had to travel to Inverness to give evidence (on behalf of LINK, an environmental umbrella body) to the Justice 2 Committee, which was convening in the Highland capital on that particular day. The train that the RSPB representatives were catching was also the same one as the Committee members, which gave them the opportunity to talk to the MSPs for the whole journey. The Parliamentary Information Officer commented that some of the best

lobbying happened when MSPs were waiting for committee meetings to start or during the breaks of the meetings.

The RSPB commissioned MORI to conduct a survey of MSPs attitudes (in particular what they thought of the RSPB in comparison to other environmental groups) in 1999 and repeated the exercise again two years later in August 2001. The information they collected would obviously help them to hone their lobbying strategies (for example, to build on the RSPB's perceived strengths, perhaps adopt different tactics for rural and urban MSPs, with Executive and non-Executive MSPs and so on). The information was augmented by the findings in the same MORI survey of the radio and television programmes that the MSPs listened to for political information and what MSPs felt interest groups should do if they wanted to develop and maintain good relationships with them.

The RSPB's overall view of MSPs was that they were not as important in the legislative process as Ministers and civil servants but until the RSPB got a breakthrough in getting access to the Scottish Executive, it was investing its resources into MSPs who could aid them in their campaign meantime.

### **Summary**

An off the record interview with a Head of Division within the civil service revealed that he did not rate the importance of individual MSPs in the policy process very highly. He put individual MSPs in last place after Ministers, civil servants, committees and interest groups. The groups also rated MSPs as being very low down the ladder of influence. And yet they spent a lot of resources on lobbying and cultivating relationships with MSPs, adopting the 'belts and braces' approach to do what they could to influence policy. MSPs were also very accessible which helped to make them attractive to groups, particularly those having difficulty in gaining access to the Scottish Executive.

The groups wanted to see more independent minded MSPs and they were impressed with Tommy Sheridan because they saw him as being effective, someone who would not conform to executive dominance (the Scottish Parliament was supposed to create a strong legislature). But the majority of the MSPs failed to impress the groups, yet the FSB, SCPO, MS Society and the RSPB still went to considerable lengths (briefing papers, meetings, invites to events etc) for what they saw as the marginal benefits of tabling PQs and raising points in debate, although they valued their committee roles.

### **Rational choice institutionalism**

The groups all prized the role of the committees in the legislative process and as a consequence they had to invest resources in the MSPs on those committees – that was entirely rational self-interested behaviour. But only the SPTC and CoSLA confined themselves to lobbying MSPs on relevant committees. The MS Society spent time with MSPs to get useful strategy advice in order to further its goals was also rational; the Society was new to the political process and benefited from the insider suggestions. The FSB, SCPO and the RSPB also spent time developing relationships with MSPs but it is harder to make a rational argument for their behaviour. They were getting some return on their investment, e.g. the airing of issues, the tabling of PQs, getting the parties to adopt an issue and so on, which all went towards pressurising the Scottish Executive but whether it was worth the resources they put in to courting MSPs is questionable.

### **Sociological institutionalism**

Where rational choice had a problem explaining the behaviour of some of the groups, sociological institutionalism is hard pressed to explain why the SPTC and CoSLA did not follow the pattern of the other groups in lobbying MSPs outwith relevant committees. It seems that they did not see such activity as an efficient use of their time and money, which is a rationalist explanation.

This leaves sociological institutionalism to explain the behaviour of the other four groups, which it would put down to the groups following the logic of appropriateness, that they shared the same cognitive maps as a result of their interaction with the Scottish Parliament and each other. Having adopted the same cognitive maps they then proceeded to follow the same pattern of behaviour that conformed to the expectations of the Scottish Parliament. The SCPO, MS Society and the RSPB were active participants in the Third Sector Policy Officer's Network which met up regularly and discussed parliamentary issues. Out of the six groups those three placed a higher emphasis on MSPs than the others. The FSB because of its regular interaction with the Scottish Parliament and its original support of devolution could have found itself influenced by its culture, bringing the FSB's values more in line with the Parliament's and so they too followed a set pattern of behaviour of lobbying MSPs. This would explain that even though the FSB was doubtful about the benefits to be had from lobbying MSPs on non-relevant committees, they still did so – a hangover from their part in the Scottish Constitutional Convention, where there was a desire for a strong legislature.

## **Historical institutionalism**

Historical institutionalism would go back to the point when the groups decided on their lobbying strategy with the different devolved institutions. MSPs were very accessible and so it was easier for groups to carry out political work with them and the groups were keen to make an impact. They had to demonstrate to their members that they were being effective at a parliamentary level. As a result of the groups having committed themselves to investing manpower into engaging with the Scottish Parliament, they were forced to continue that practice and would continue to go down that path until a critical juncture occurred that would give them the opportunity to leave less efficient practices behind..

## **8.5 Conclusion**

*Objective 1 – whether the behaviour and/or belief systems of the six groups were affected by the Scottish Parliament.*

The Procedures Committee in its report on how the Scottish Parliament had lived up to the CSG principles found that 'MSPs are an obviously significant resource in the task of connecting the other partners in governance, the public and civil society, with the Parliament in a meaningful way' (2003, para 58). The report acknowledged that there was no doubt that the local work carried out by MSPs, such as showing school children round the Scottish Parliament, taking on cases on behalf of individuals and so on, meant that MSPs have increased public participation and provided a needed link to the person on the street (Procedures Committee; 2003, para 137). And it does seem that in terms of new politics it is with the general public that MSPs have the biggest role to play. The interest groups found that MSPs were living up to the CSG principles and they all agreed that they were highly accessible but they found MSPs to be of limited influence in policy making, unless they sat on a committee relevant to the interests of the group. It is membership of parliamentary committees that most defines the value of an MSP for interest groups. Notwithstanding this, the accessibility of MSPs did actually affect the behaviour of those groups that were struggling to make an impact on other organs of the Scottish Parliament.

The SPTC was an effective committee operator and it also had seats on relevant Scottish Executive steering groups, quangos etc and CoSLA had continuous interaction with both the Scottish Executive and the committees, which might explain why they had very defined work with MSPs. It is also perhaps an indication that they were more aware than others that not all the institutions in the devolved political system were new and that they had a lot to gain from maintaining the contacts that they already had. The other four groups for various reasons (still new to political activity, not satisfied with their level of influence, having difficulties

accessing the Scottish Executive and/or committees) invested time and resources into relationships with individual MSPs because they felt there was some benefit to gain from doing so, even outwith their committee role. Groups that feel that they are being excluded from other more powerful access points will look to where they are able to make an input and because the MSPs were so open, they made an obvious starting point for the groups furthest away from power. It could be predicted however that as a group gains influence its interest in MSPs will drop off as it transfers its energies elsewhere (the FSB appeared to be at this transitional stage, although it was still influenced by its earlier attachment to the Scottish Parliament).

The evidence given to the Procedures Committee led it to conclude that MSPs had a key part to play in community leadership roles and that MSPs were the most effective way for constituents to participate in the governance of their community and of the nation. As for the interest groups, with the exception of the MS Society (new to political activity), the interest groups did not see MSPs as being their key link to participating in the political process, although the FSB and the SCPO (both to a limited extent) and the RSPB spent substantial time on individual MSPs. The SPTC and CoSLA only gave MSPs attention insofar as they were the members of committees that they were interested in; it was the committees rather than the individual MSPs per se that were of significance.

*Objective 2 – the extent to which the different types of institutionalist accounts are applicable in explaining the responses of the groups.*

Rational choice institutionalism appears to be the most applicable approach in explaining the reaction of the groups towards MSPs. The SPTC and CoSLA had decided that given their success at other levels they would benefit very little from developing links with individual MSPs. The MS Society at the time of participant observation, was relatively new to political activity (at a Scottish level) and it was utilising the easiest point of access in order to learn the skills it would need to make an impact at the committees and the Scottish Executive. The RSPB was struggling to a large extent to get access to the Scottish Executive and to the committees, therefore it made sense for it to work at the level where it could make the biggest impact in order to raise its profile and to help it overcome the obstacles in its way to more powerful policy makers.

The FSB and the SCPO both questioned the utility of targeting MSPs outwith their committees but felt it preferable to err on the side of caution. This would suggest an element of uncertainty – they knew that the benefit to their groups of targeting MSPs was limited but

did so anyway. This could suggest that their response to MSPs is not solely based on a rational decision but could be because they had placed a higher value on the legislature when they first began dealing with it, so it may just be a hangover from their original involvement in the campaign for a Scottish Parliament (sociological institutionalism), which caused them to adopt at the beginning a strategy that put emphasis on MSPs that has since become locked in (historical institutionalism).

The pattern seems to be that once interest groups reach a certain stage in their involvement with the Scottish Parliament the more rational their strategy becomes, although they are still influenced by previous approaches. Such patterns will be looked at in the following chapter which will draw together the response of the groups not just to MSPs but to the Scottish Parliament as a whole.

## CHAPTER 9 CONCLUSION

### 9.1 Introduction

The impact of the Scottish Parliament and its different components on the six interest groups has now been looked at in detail. Therefore, it is now time to return to the questions that were asked in the introductory chapter: do the six groups believe that the Scottish Parliament had created a 'new politics'? How did the institutional structures of the Scottish Parliament affect the behaviour and attitudes of the groups (the first objective of this research)? Can new institutionalism explain why the groups responded in the way that they did to the Scottish Parliament (the second objective)? The answers to these questions help assess the central aim of this research as to how the new institution of the Scottish Parliament impacted upon the way organised interests engaged with it.

### 9.2 Objective 1: new politics?

The first objective of this research was *to analyse in particular, whether the behaviour and/or belief systems of organised interests are affected by a new parliamentary institution*. There is evidence from the previous chapters is that the six groups were certainly mobilised by the arrival of the Scottish Parliament. Paterson made the following observation about interest groups interested in the work of the Consultative Steering Group:

'As it worked on its 1999 report, the civic organisations of which the Group was the vanguard were staffing themselves up to the new opportunities that the CSG principles would bring, employing in abundance the research officers, the parliamentary liaison people and the lobbyists that would allow them to move more swiftly into the spaces which these principles created' (2002, p.57).

Different organisations had worked hard to introduce devolution and their involvement gave them the opportunity to lobby for the new institution to be based on the principles of power sharing, accountability, accessibility and equal opportunities. These principles outlined in the CSG report signalled to interest groups that their support of devolution had been rewarded with a Scottish Parliament designed (in theory at least) to be participative; giving groups the opportunity to be influential in the new policy making process. Despite Westminster continuing to remain sovereign, as well as reserving its powers over major areas such as the economy and social security, the six groups focussed their attention on Holyrood and actually spent very little time on Westminster activities. There are several reasons why groups chose to concentrate on Holyrood rather than Westminster: the Scottish Parliament was geographically accessible; for some of the groups the Scottish Parliament was a cherished goal realised; and there was also an expectation that interest groups would have more input

into the policy making process than was possible under the pre-devolution system. Even for those groups that were not 'swiftly moving into the spaces' back in 1998/1999, such as the MS Society, soon came to realise that others were benefiting from political involvement and that they too could gain from becoming politically active.

Having equipped themselves with the resources that they needed and re-prioritised their workload to accommodate the Scottish Parliament, did the groups believe that it had delivered a 'new politics'? This is not entirely clear-cut, as the Scottish Parliament was not an entirely brand new institution. The Procedures Committee pointed out that new politics was an experiment 'taking place within institutions which are derived from the traditional UK legislative and administrative framework', resulting in tensions between the desire for a new participative politics to engage people and 'the conservative working practices inherited from the pre-devolution era' (Procedures Committee; 2003, para 70).

The devolution process involved both change and continuity but, perhaps inevitably, people tended to focus on the change, with prominence given to the Parliament in particular (Lynch; 2001, p.3). In debates leading up to the Scottish Parliament, those in favour of home rule argued that the parliamentary committees should be given greater policy-making powers than the committees at Westminster. Mitchell remarks that in drawing up the methods of operation for the Scottish Parliament, the 'working assumption' of the Consultative Steering Group 'appears to have been that the Parliament would be important in policy-making' (2000, p.610). There was a determination amongst those involved in setting up the Scottish Parliament that the parliamentary committees would be given enough power to provide a balance to the Executive. A plausible interpretation is that a significant contributory factor in this was a fear 'of an underlying trend towards what Lord Hailsham in 1978 described as 'elective dictatorship' in the British state, as the executive dominated the parliamentary process to the detriment of the power of the legislature, something that Judge believed stretched into the Thatcher governments (Judge, 1993, p.197). Devolution offered the prospect of a departure from such centralism.

This was further evidenced by the introduction of a PR electoral system for the Scottish Parliament, which was meant to ensure that it would be very unlikely for a single party to dominate. Coalition governments were seen as being more accountable and responsive to the electorate (Judge; 1993, p.201). While not all the aspirations for the committees came to pass, they were nonetheless granted a combination of Westminster's Standing and Select Committees, as well as the power to initiate legislation. These factors added up gave rise to

the perception that the committees had the potential to be very powerful and as a result interest groups have shown a sustained interest in them. In fact, both the SCPO and SPTC declared their intention to concentrate their resources on the committees, rather than with Ministers or civil servants. But the committees were a priority for all six groups, even to CoSLA, the insider group. Judge comments that 'parliament has become of increased value in retrieving details lost at the formulation stage of legislation' (1993, p.130).

The original expectations for the committees and the parliament may have been difficult to fulfil, although they do show a real desire for parliament to play a stronger role in our so-called post-parliamentary world (where public policy is the product of negotiations between government and interest groups, with parliament largely bypassed in that process because governments are generally so strong that they can get their legislation through parliament with little difficulty (Richardson; 1993, p.90)). But despite the desire for a strong Parliament in Scotland, the Scottish Executive was always going to be the key policy making actor, which is right as government is given a mandate to govern and to drive forward legislation that will fulfil its manifesto promises. Interest groups might complain at the inability of the committees to routinely overturn Executive policy but the committees do not have the same mandate to govern. Mitchell argues that the advocates of new politics made too much about the powers of the Parliament, failing to recognise that the Scottish Executive, as government, was always going to be the most powerful devolved institution. He questions the emphasis that was put on participation in the Parliament, given that parliaments only hold power in attenuated form: '[p]articipation through its organs would go some way to providing it with greater authority but is not necessarily a route to changing public policy' (Mitchell; 2000, p.614). Mitchell points out that if interest groups simply acknowledged that the Scottish Executive is the most important devolved institution in the policy process - which would not be tantamount to declaring that the Parliament is toothless - they could then ask rational questions about where they could best use their resources when trying to influence policy (2000, p.614).

Power sharing was a key aspect of the CSG principles but did the Parliament simply end up being what Norton calls a channel to the Scottish Executive, rather than a target in its own right (Norton; 1999, p.173)? Often the groups did see their parliamentary work as reinforcing their message to the Scottish Executive, particularly their work with MSPs but also their lobbying of the committees. For instance, the Director of the MS Society said that one of the advantages of having good contact with the parliamentary committees was that 'even if the committee itself was powerless', it would still give them 'a little extra credibility

and presumably a bit of increased access to the Minister'. The committees were capable of making small scale policy changes or as Norton put it: 'Parliament is utilized primarily but not exclusively as a vehicle through which proposed change can be amended, restricted, or even abandoned' (1990, p.180). CoSLA's Head of Policy also explained that the committees are:

'a way of getting a message through to the wider membership of the Parliament. Because ultimately a Bill is voted on by the full chamber. And if the committee is known to have taken a particular line on part of a Bill and the chamber knows that the committee has talked about this in-depth and said this is what should happen despite what the Executive says, then you have a chance that the chamber will vote your way so it's not so much a message to the Executive, although it can be used for that purpose, the message is to the wider Parliament and sometimes it's a place in its own right' (personal interview, December 2001).

Parliament is often attributed as being insignificant because of its marginal role in law making because it can only occasionally make substantial changes to legislation (Norton; 1993, p.205). But as in Italy, the Scottish Parliament committees 'have emerged as important gatekeepers of legislation' (Della Sala; 1999, p.75). The fact that the committees do on occasion vote against the Scottish Executive and exercise their independence is one factor that makes them attractive to interest groups (Norton; 1990, p.179). The committees can conduct their own inquiries into issues or policies and their conclusions from their inquiry or scrutiny can put pressure on the Scottish Executive to effect change. This makes committees a target in their own right and it also means that the Scottish Executive has to take into account the likely reaction of the committees when forming policy. This is in keeping with Norton's conclusion that parliaments that have powers to affect outcomes beyond the deliberative stage will be regarded as more than channels (Norton; 1999, p.173).

The Procedures Committee, in their report on the CSG principles, accepted that the Parliament could do more to improve access and participation, but the committee also found over the course of its evidence that the Parliament's approach and 'its actions to fulfil the CSG principles, appear to have been effective, and to have been welcomed by our witnesses' ((c), para 127). Further, Bonney writes that insofar as the Scottish Parliament has made progress towards a participative democracy, it 'is the participatory democracy of organised interests' (2003, p.467). In fact, Bonney suggests that the Scottish Parliament's procedures might actually have had the effect of letting well-organised interest groups into the policy making process to the extent that the groups may themselves prevent change, as they try to

protect their own vested interests (2003, p.467). Susan Deacon MSP, a former Health Minister, provides tacit support for this interpretation with a different outcome in mind, as she believed that the committees ended up spending too much time considering the views of the differing vested interests (2005, p.165).

Despite the changes to the Scottish political system brought about by devolution, there is still significant continuity in how Scotland is governed, which one would imagine would have an impact on the implementation of a new kind of politics. Lynch highlights the continuity when he writes that the Scottish Executive is 'essentially the Scottish Office, staffed by the same civil servants' (although Ministers come from a coalition government); that Scotland continues to have a Secretary of State (although that post has been downgraded); the House of Commons still has Scottish Question Time, a Scottish Grand Committee and a Scottish Affairs Select Committee; Westminster politicians such as Gordon Brown 'remain major players within Scottish politics' and finally Westminster continues to be sovereign and is responsible for large areas of government in Scotland including the economy, social security, foreign affairs and employment law (2001, p.3). Could a new politics grow in a system that continued to be rooted in the Westminster system of governance? Brown et al believed in the run up to devolution that no matter how radical the Scottish Parliament was going to be, it was not going to be capable of starting a revolution because of the policy making styles it was inheriting (1998, p.98).

The interest groups did believe at the time of participant observation in the early days of the Scottish Parliament that a new politics did exist, as they found MSPs, committees and Ministers to be generally open and accessible, although they felt that the same culture had not fully spread to the civil service. With the exception of CoSLA, the other groups perceived the civil service to be largely closed off to them and determined to protect their policy making influence by blocking access to Ministers (as claimed by the RSPB) or through an unwillingness to give out information that some groups felt that they were entitled to (see the FSB's comments in section 6.3). The six interest groups in this research acknowledged the power of the civil servants in the policy process and knew that they would have to work with them, but with the arrival of the Scottish Parliament they were thankful that they had recourse to politicians in a way that they had not experienced before. The groups believed that the civil service was under greater scrutiny after devolution, '[c]ompared to the situation before devolution, when Westminster scrutinised only a small part of the Scottish Office's work' (Bonney; 2003, p.460). The RSPB's Head of Operations explained that the Scottish Parliament meant that the civil servants no longer operated in a 'democratic vacuum',

whereas they ‘could get away’ with ignoring interest groups before unless the groups created ‘a pretty big stink to get Ministers to question’ what the civil service were doing. Those comments illustrate that the RSPB (the Scottish RSPB at least) was an outsider group because ‘most departments have particularly close ties with certain pressure groups whose work is closely interrelated with the concerns of the department’ (James; 1997, p.37/38). Departments will consult with affected groups because policies are improved as a result of interest group advice (Jordan and Richardson; 1987, p.24) and because civil servants want to avoid conflict and problems at the implementation stage of a policy (Smith; 1995, p.16). Certain interest groups obviously did have an input into policy before 1999 (the SPTC had previously been part of a Scottish Office policy network) but the difference post-devolution was that the connections between interest groups and civil servants became more open and the circle of those consulted widened so that the civil service could be seen to be even handed and thorough in their consultation procedures. With the exception of CoSLA the other groups had not made much of an effort in building up good relationships with the civil service because of the negative perception they had of the administration and because of the importance they attached to the newly elected elements when the Scottish Parliament first opened. Forging strong links with the civil service was something that the groups knew they *ought* to do but in the immediate years after devolution they had spent more of their resources on the committees and Ministers.

The groups thought that the civil service had emerged relatively unscathed from the devolution process, but as time progressed the Scottish Parliament’s culture of openness was beginning to make an impact on the administration, as there were indications from the civil service that it was beginning to be more accessible and willing to speak to interest groups. The suggestion from the groups was that as more time passed the civil service would gradually be more in alignment with the open and participative culture of the Scottish Parliament.

What frustrated some of the interest groups, like the SPTC, is that they believe that the civil service will always want to keep the status quo. James (1997, p.90) explains that this is because civil servants are cautious by experience because they want to establish if a policy will actually work in practice, as civil servants have to ensure that it is implemented and that it will achieve the desired results. Civil servants cannot let every interest group have unfettered access to Ministers or to the policy process but they do have a duty to present the various viewpoints. When civil servants advise Ministers they will of course highlight what they perceive to be the preferred course of action (usually because they believe it to be the

most workable), but the Minister should still be presented with the alternatives so that the Minister can make his or her own decision based on the options, data and advice before him or her (James; 1997, p.90: Dowding; 1995, p.110). There may even be a 'departmental view', where a civil service department has a particular outlook on certain policy issues but it is still Ministers that make the final decision. While most UK Ministers appear to have been happy with their civil servants, Tony Benn (former Industry Secretary and then Energy Secretary in the 1974-9 Labour governments) was not and complained publicly that they blocked his initiatives through the deployment of various techniques, such as the selective presentation of information and the mobilisation of internal Whitehall forces against his particular policy (quoted in James; 1997, p.91-97). There is no doubt that civil servants can be very powerful but ultimately it is the Minister's choice whether to follow the advice of his or her civil servants.

What is interesting is that the groups blamed the civil service for its lack of change; they did not hold Ministers or the Parliament responsible for failing to make the civil service more accessible. The perception that politicians also had to tolerate the civil service was supported by the fact that MSPs were just as prepared as interest groups to criticise it (see section 6.3.1). Susan Deacon wrote that 'the roots of much of the inertia and caution, not to mention failures of policy implementation, ... are to be found in a Civil Service not yet fit for purpose' (2005, p.171). The groups even commended the Parliament and Ministers for managing to introduce the changes that the groups felt were becoming more evident in civil service procedures (such as an increasing willingness to attend meetings to explain new Bills).

Mitchell's astonishment at the attitudes of civic Scotland towards the Scottish Parliament have already been noted, where he found it extraordinary that interest groups lost sight of the fact that it was not a completely new institution, as devolution had simply 'involved the establishment of a democratic component to an existing distinctive structure of government in Scotland' (Mitchell; 2000, p.615). As a result of the continuities in institutions pre and post devolution Mitchell argued that there was no need for interest groups to re-invent the lobbying wheel. But perhaps that misses the point: the majority of the groups in this research expressed dissatisfaction and alienation from the political process before devolution, so why would they want to perpetuate a system that they believed largely excluded them? They campaigned for years for a Scottish Parliament which they felt would be more relevant to Scotland and its needs (see section 5.2).

It is interesting that the groups not only believed that the Parliament was living up to the CSG principles but that Ministers were also abiding by the principles (despite the fact that the MS Society and the RSPB had experienced real difficulties in getting access to Ministers). It was the democratically elected components of the Scottish Parliament that were seen as being successful in achieving a new politics. The relationship between the parliament and the groups - a relationship that is generally 'under-explored' (Norton; 1999, p.167) – reveals that a parliament can through its design be a central locus of power, even to groups that have privileged access to the Scottish Executive.

### **9.3 Objective 2: changing applicability of the approaches**

The second objective of this research was to find *the extent to which the different types of institutionalist accounts are applicable in explaining the responses of the groups*. Hall and Taylor stated that ‘the time has come for a more open and extensive interchange’ among the three new institutionalist approaches (1996, p.957). The evidence from this research would support such an interchange as the findings in the previous chapters would support the argument that in most instances all three approaches are applicable in explaining the response of the interest groups. However, it is also apparent that one institutionalist approach is more relevant at any given time.

This research suggests that the pattern begins with sociological institutionalism which is the most applicable approach during movements for change and periods of discontent. For instance, the Home Rule movement occurred over many decades and the churches, CoSLA and the FSB were a part of that campaign. The devolution movement garnered substantial support amongst the Scottish electorate and those interests that were involved in the Scottish Constitutional Convention saw their ideological goal realised. Sociological institutionalism was more applicable at that time in explaining the behaviour of the groups involved as they tried to influence the design of the devolved institutions based on societal expectations at that time. Once the decision to grant devolution was made and the Scottish Parliament was established, this shift in circumstances meant that historical institutionalism became the most applicable approach in explaining the behaviour of the groups as this time was a period of rule making and institution building. Devolution happened for a number of reasons that came together at a particular time which dictated the particular set of rules, procedures and culture that the Scottish Parliament was built on. An institution and its rules has to be understood in the context of when they were created, hence the importance of historical institutionalism (for example the Scottish Parliament's methods of operation were consciously designed to be anti-Westminster and pro civic society participation because of

the experience of many under the consecutive Conservative governments immediately prior to devolution). During these periods rational choice institutionalism remains in the background because bigger collective forces are at work. But it comes into the ascendancy once institutions and/or rules became regulated and well established. Having accomplished the collective goal of a Scottish Parliament, it then became appropriate for groups to seek their own good and to determine how the Scottish Parliament could best serve their interests, so for this longer period of time rational choice institutionalism will be more applicable. Rational choice institutionalism will remain dominant until such time when a significant proportion of people again press for change due to their discontent with the institutions and system in place and at such a time sociological institutionalism will again become the main approach. In order to outline this premise each approach will be looked at in terms of the Scottish Parliament's development, before looking specifically at the relevance of the institutionalist approaches to the behaviour of the six groups.

### **9.3.1 Sociological institutionalism: movement for change**

One of the main criticisms about sociological institutionalism in section 3.6 was that it ignores the individual, which becomes submerged in the collective. However, that is a necessity when a bigger ideological goal is at stake for the perceived good of the majority, the idea that sometimes individual sacrifices have to be made in order to achieve the greater good. Change in a democratic society requires a majority collective desire if it is to be successful. Therefore, the importance attached to the collective in sociological institutionalism is not actually a flaw when regarded in its proper context.

The devolution experience demonstrated that for those groups involved in trying to bring about change, sociological institutionalism was the most applicable approach in explaining their behaviour. Society is influenced by institutions, but on the other hand society also influences institutions in turn, so an institution has to be in synchronisation with the expectations of its surrounding society (an integral premise to sociological institutionalism). In the 1979 referendum for a Scottish Parliament, the electorate felt that the Labour Party had adopted a pro-devolution stance for self-serving purposes and not because they truly believed in it. A correct assumption if one believes the late Lord Crowther-Hunt (Harold Wilson's Constitutional Adviser in 1974): 'most civil servants were fundamentally opposed to devolution, and so, for that matter, were most ministers'; the 1979 referendum appears to have been an instance where outside interests played a major role during the reign of a minority government (as quoted in Dowding; 1995, p.123). Support for devolution within the Labour Party leadership increased as time went on however, and the policy had the

heavyweight support of luminaries such as John Smith, Donald Dewar and Gordon Brown. It was also boosted by the Labour Party's fear of the SNP gaining support in Scotland. For the 1997 referendum though, Labour, the SNP and Liberal Democrats laid aside their political differences and agreed to focus together on the goal they all wanted - getting a positive result in the referendum. The Scottish Parliament was then set up, although it was embedded in the UK governance structure (Lynch; 2001, p.3).

The most fundamental point about sociological institutionalism is that it 'concerns itself with culturally framed actions, ideas and identities that follow from culturally-specific rules and norms' (Schmidt, (a), p.1). Midwinter et al explain that '[s]ince the Second World War, despite trends to assimilation in the economy and tendencies to centralisation in government, Scottish identity has in critical respects been strengthened' (1991, p.20). They write that this strengthening of identity was putting an 'increasing strain on the unitary state' (ibid.). Harvie also talks about how there was 'an acute awareness' of how distinct Scotland was from its neighbours (1998, p.252) and how the SNP was the only party in a position to exploit these inadequacies (1998, p.177). Pilkington (2002, p.60) explains that in the late 1960s the SNP attracted support because the Labour Party was being blamed for not doing more to stop the decline of mining, steelworks and shipbuilding – the traditional industries – causing Scotland to suffer a slowdown in the standard of living that seemed disproportionate to that of England. The SNP were seen as 'the party likely to do the most for Scotland' (ibid.). After the failed 1979 devolution referendum the Conservative Party and Mrs Thatcher gained power in Westminster. During her period of office, the issue of being ruled from London by a party that did not have the support of the majority of the Scottish electorate inevitably came to the fore. For Vernon Bogdanor, '[t]he fiasco of the poll tax seemed to prove to the Scots and Welsh that, in rejecting devolution, they have surrendered themselves to a government which cared little for their interests' (Bogdanor as quoted in Pilkington; 2002, p.65).

Paterson connects the distinct Scottish culture with the value that Scots placed on the concept of community and its 'ethic of social responsibility' (2002, p.117). These values were reflected in how the majority of Scots voted for parties that held the principles of fairness and equality at the centre of their policies (Paterson; 2002, p.117-118). Paterson goes on to claim that:

'The same kinds of communitarian principles were generalised in the debates on the constitutional question from 1988 onwards. One of the striking features of these discussions, compared to the 1970s, was the interest in sovereignty and the emerging

conclusion that Scottish ideas about legitimate government rested on the principle of popular sovereignty' (2002, p.118).

In this interpretation, a significant factor for constituent citizens was their Scottish identity and they wanted that reflected in how they were governed after a significant period when such an option was not available. And although home rule came behind voter priorities like unemployment, health, education and taxes, it 'sustained itself as a primary demand, not least because it could be mixed with other policies' (Harvie; 1998, p.237). It was also sustained by bodies like the Scottish Constitutional Convention, where a broad coalition of civic groups kept the issue of devolution at the forefront and also planned ahead for a future Scottish Parliament. As section 1.2 outlined, these civic groups (politicians, churches, local government, trades unions and so on) believed that Scotland was being governed in a way which was at odds 'with the social democratic ethos of civic life' (Paterson; 1999, p.37). This is why the Scottish Constitutional Convention campaigned for a Scottish Parliament and advocated a new kind of politics. Paterson writes of how the parliamentary committees were to 'rely on advice from civic organisations' in order to 'provide a counter-weight to the civil service' (1999, p.38). Many of the bodies that constituted the Scottish Constitutional Convention later sat on the Consultative Steering Group and fed in their expectations into the CSG's Report which was to form the blueprint for the Scottish Parliament. Having spent two decades arguing that legitimate government rested on popular sovereignty, the movement for devolution was determined that its part in establishing a Scottish Parliament would not go unrewarded, hence the four key principles of openness, accessibility, equal opportunities and power sharing. This ties in with sociological institutionalism which breaks down the divides between culture and institutions (Hall and Taylor; 1996, p.947) and expects 'forms and practices that are widely valued within a broader cultural environment' to become institutionalised (Gorges; 2001, p.139).

Civic Scotland wanted change: change from the system of governance that they alleged was at odds with Scottish culture and identity and one that they felt largely excluded from. This dissatisfaction prompted the different civic bodies to coalesce to form the Scottish Constitutional Convention knowing that as a united group they would be a potent force. They had learned the lesson from the 1979 referendum (see Appendix 1) and knew that if the devolution campaign was going to be successful in implementing change then there had to be a broad base of support for it. This meant that they had to set aside what differences they might have had in order to fight for the one cause that they all believed in.

### **9.3.2 Historical institutionalism: establishing change**

Sociological institutionalism might be the more applicable approach in explaining behaviour during times of change, but once change has been agreed to and decisions are made about how to institutionalise change, historical institutionalism becomes the most relevant approach. The strength of historical institutionalism is that it can explain why particular operational arrangements and rules are chosen at times of institutional creation.

The Scottish Parliament was not very old before people began to complain that the list system of selecting candidate MSPs was flawed but given the context at the time it is easy to trace why campaigners pursued a PR electoral system for the Scottish Parliament and why the Labour Party agreed to its introduction (fear of the SNP becoming the governing party, see Appendix 2 for further details). It is also not hard to fathom why there was such an emphasis on having an accessible and participative Scottish Parliament. Kellas describes how the Scottish political system was based on elite rule and not on civic participation – the elite were ‘insulated from democratic politics because of the absence of a Scottish legislature’ (Kellas; 1992, p.193). The CSG principles reflect the influence of those bodies that had campaigned for the Scottish Parliament and their influence will continue to have a long-term impact on the Scottish Parliament’s methods of operation. As historical institutionalism explains, those procedures become locked in as time passes, making it hard to reverse earlier decisions (for instance, the electoral system). Although civic society helped to develop the template the Scottish Parliament’s methods of working, once the institution is up and running it can then structure the framework in which civic society operates. This is acceptable as the Scottish Parliament will constrain the behaviour of groups that start to fight for their own interests once the new institution is operational.

### **9.3.3 Rational choice institutionalism: maintaining the status quo**

During times of uncertainty an institution like the Scottish Parliament can determine the preferences and strategies of interest groups. However, once a period of stability begins and groups are sure of how a new system will operate, the groups can begin to determine their own preferences (although any new preferences will have to fit in with the strategy that they have already adopted by this point). This is where rational choice becomes the most applicable new institutionalist approach in explaining behaviour. It is inevitable that once a political institution has become established, groups will look to maximise their own individual goals. Therefore, those interest groups that had coalesced to successfully fight for devolution no longer had that common goal once the Scottish Parliament was set up, but re-channelled energies in their own individual interests. This period where rational choice

institutionalism is the most applicable approach in explaining behaviour will normally be a lengthy one until such time that change is once again desired.

Sociological institutionalism is the most applicable new institutionalist approach in explaining behaviour during the bringing about of change, historical institutionalism is the most applicable when change is established as the new status quo and rational choice institutionalism is the most applicable approach during times of stability.

#### **9.3.4 Ideological/inexperienced/immune**

Having looked at how the three institutionalist approaches change in relevance according to three different sets of circumstances, it is time to apply this argument specifically to the six interest groups in this research. This will involve outlining the relationship between the groups and the movement for a Scottish Parliament in order to explain in section 9.3.5 to explain why the groups were not all affected in the same way.

The six groups can be split into three categories based on their original relationships with the Scottish Parliament:

The Ideological – FSB, churches (SCPO) and CoSLA

The Inexperienced - MS Society and the RSPB

The Immune – The SPTC.

#### **The Ideological**

The FSB, the churches (who went on to set up the SCPO) and CoSLA were all devolution campaigners and participants in the Scottish Constitutional Convention. These three groups were committed to the ideological cause of devolution which would give Scotland a measure of self-rule; although Westminster would remain sovereign. Self-interest and historical context (years of Conservative rule) would have been factors in that commitment, but notwithstanding the presence of both rational choice and historical institutionalism, sociological institutionalism best explains their behaviour because they were part of a wider movement which wanted a system of governance that reflected the society they were working in. This emotional attachment to the Scottish Parliament's creation will have spilled over into the subsequent actions of these three groups.

After the successful referendum, the three groups knew that the Scottish Parliament was going to be introduced and so they began to prepare for it, deciding on personnel, strategies and priorities and at this point of decision-making (after a change has been agreed to),

historical institutionalism becomes the most applicable approach in explaining their actions. Once the three groups learn the rules and procedures of the new institution (removing uncertainty), they can then concentrate on their own interests where rational choice institutionalism comes into its own. However, during the first few years of the Scottish Parliament the approaches would be in a state of flux. At the time of participant observation there were still some areas that the groups were unsure about, such as the effectiveness of the committees and MSPs and so whenever uncertainty crept in, the groups would look to the Scottish Parliament or other groups to determine their actions, rather than simply their own interests.

### **The Inexperienced**

Out of the six groups, only the MS Society and the RSPB were politically inactive before devolution (although both the UK national offices of those two charities were lobbying at Westminster). Very occasionally the Scottish HQ of the MS Society would give their colleagues in London a Scottish view on specific pieces of legislation. The RSPB in Scotland did work with civil servants but at a technocratic level, as the RSPB office was not a politically active one – they had a parliamentary team at their UK national headquarters that took care of lobbying activity. As neither of the groups had any real history of working with politicians, it is no surprise that they did not have a stance on devolution, as it was outside their remit. However, both groups at a Scottish level became politically involved as a result of the Scottish Parliament. The RSPB enlarged its Scottish set up as soon as the referendum results were known, while the MS Society waited until the Scottish Parliament was up and running before they catapulted themselves into the world of political lobbying.

The membership of the two groups had a large role to play in the decision to begin lobbying. The MS Society's decision making body in Scotland, the Council, on which 44 representatives sat, decided that the Society should carry out parliamentary work. Again, this is an example of the applicability of sociological institutionalism as the Council members were part of wider Scottish society, of which the majority of the electorate were in favour of the Scottish Parliament.

At the RSPB, the Head of Advocacy and Media explained that the RSPB 'had become more Scottish over the years'. It was an organic experience because as Scotland developed as a political entity so did the RSPB. They had 'already been moving to a process of accommodating devolution' – the RSPB were simply responding to the societal pressures

around them and had slowly been working their way towards devolution at the behest of their membership.

The uncertainty of this new area of work that they were going to operate in also played a significant role in determining their behaviour. Sociological institutionalism was applicable to many UK wide groups that began to develop more autonomous Scottish offices as they responded to the effects of institutional isomorphism. As other UK wide groups began to develop distinct Scottish offices (Jordan and Stevenson; 2000, p.172) others followed suit, driven either by the expectations of their members or because they were unsure if the best course of action to take and so decided to follow what other successful organisations were doing.

### **The Immune**

The SPTC has had a consistent strategy throughout the upheaval of the Scottish political scene: the pursuit of issues rather than specific political actors (see section 5.8). Although the SPTC did gear itself up to deal with the new political institution, it did not change significantly in any way as a result of the Scottish Parliament.

The behaviour of the SPTC indicates that it markedly pursued its own interests and out of the six groups was the least affected by other influences. The SPTC did not waste resources lobbying MSPs outwith the Education, Culture and Sport Committee. If there was no evidence of actual benefits then the SPTC refrained from investing resources, preferring to stick to what it got returns on. It did not act on the mere *expectation* of benefits, something that the other five groups did. Therefore, there was no indication from the evidence that sociological or historical institutionalism was ever the most relevant approach in explaining the behaviour of the SPTC as the pursuit of its own goals remained its primary motivation.

### **9.3.5 Isolationist or interactive**

Is it possible to say which approach is most applicable at any one time in explaining the behaviour of a group? The circumstances when historical institutionalism will be the most relevant are perhaps the easiest to identify, as it will be at times when a period of change has occurred and the process of creating rules, procedures and strategies and so on is in motion. Those occasions are determined by the context at that time. Why then was the SPTC the only group not to be strongly affected by devolution?

One possible explanation is that the SPTC was not so involved in the Scottish Parliament and was therefore affected less by it. Out of the six groups the SPTC was the one with the most detached policy despite the fact it had been operating politically for years. Precisely because of their history of political activity, the SPTC's membership knew that such activity would automatically continue in the new political set up so there was no need for them to push for further involvement in the Scottish Parliament. The SPTC did not generally work in co-operation with other interest groups, preferring to take an independent approach. It was also not as concerned as the other groups about building up sustained relationships with Ministers, civil servants or clerks. Even with MSPs, it limited itself to those on one committee, whereas four of the other groups (CoSLA being the other exception) cast a wider net seeking out MSPs who may not have been on a relevant committee but still had a real interest in their cause. This was the same pattern of behaviour that the SPTC had prior to the Scottish Parliament – it did not have a sustained strategy for building up relationships with those in power, instead it focused on particular issues rather than targeting specific individuals, parties or groups. For sociological institutionalism to become the most applicable approach in explaining its behaviour, the SPTC would have had to become sufficiently involved in and influenced by surrounding society. But because it limited its level of interaction with other interest groups and decision-makers, the SPTC did not become sufficiently persuaded that change would benefit its organisation. And for a group to be persuaded that change would be the best course of action, it would have to be convinced by the arguments of others (and without proof, which was the case prior to the Scottish Parliament). For these reasons the SPTC simply concentrated on its own goals and so rational choice institutionalism best explains its behaviour before, during and after the devolution process.

Once the other five groups had made the decision to get involved with the Scottish Parliament, they were keen to have a much higher level of interaction with decision makers and/or other interest groups. The SCPO, MS Society and the RSPB met up regularly with other voluntary sector groups to share information and ideas. The Policy Officer at the MS Society sounded out various other interest groups for ideas on how the MS Society should go about lobbying. Ideas and methods were passed along networks of interest groups with the result that groups structured the vision of other groups as they borrowed 'from the existing world of institutional templates' (Hall and Taylor; 1996, p.953). The FSB and CoSLA were politically active prior to the Scottish Parliament and they interacted frequently with those in the political world including councillors, MPs and party activists. All five of those groups through their relationships with various actors in the Scottish political world, shared in the same culture and 'cognitive maps' and so adopted similar patterns of behaviour.

A group will be motivated primarily by its own interests until times of change, but the movement for change has to directly affect the group, or the group has to be persuaded about the need for change. During periods of stability or as long as a group is unaffected by change, rational choice institutionalism will be the most applicable approach in explaining the behaviour of a group which will tend to look to its own needs and goals. If an institution becomes out of synchronisation with what surrounding society expects from it then a movement for change will spring up and at these times sociological institutionalism is best placed to explain the behaviour of those involved. Once change has been achieved, then for a short while historical institutionalism will be the most relevant approach (although historical institutionalism may not be the most applicable factor for long, its consequences will be felt for years). And so the cycle will continue.

#### **9.4 The aim: impact of the Parliament**

The overall aim of this research was to *investigate the impact of a new political institution - the Scottish Parliament - upon the way in which outside interests in civil society engage with it*. This involves analysing whether the groups changed from being outsider groups to insider groups and studying their relationships with the Scottish Executive and/or the Parliament as '[o]utsider groups, by definition do not have access to government or the civil service' (Smith; 1995, p.14). Parliaments generally have less influence over policy making so the perception is that interest groups get bigger rewards from targeting their resources at government, which formulate policy, although for many groups, particularly small ones, amending legislation is often the most important stage of the legislative process so parliaments are of significance to them.

How then has this new political system, as perceived by the groups, impacted on their status? In section 4.2 four of the organisations were definite outsider groups. The SPTC had at some point enjoyed insider status (allowing them access to policy networks and government funding) but its relationship with the civil service had cooled. CoSLA continued to be an insider group, despite its ideological differences with the Conservative governments at Westminster and its inability to influence high profile issues in the 1980s and early 1990s. Given that most interest groups tend to eventually veer towards an insider strategy, how has the Scottish Parliament impacted on the strategy of the six groups?

#### **Federation of Small Businesses**

Jordan and Halpin have previously written about the UK FSB office where they found that in many ways the FSB at a UK level had ‘undergone what is a reasonably orthodox transformation into an insider group’ with the exception that there was ‘a hostility to too much officer power’ and ‘that policy development is an activity for activists’ (2003, p.316). A similar situation was mirrored in the Scottish FSB where it clearly shifted its tactics to comply with the requirements of an insider strategy. This was evident in several ways. As already mentioned in Sections 4.2 and 4.4 the Scottish FSB took on extra paid staff and brought in secondees to increase its expertise. The Policy Convener also envisaged ‘buying in more professionalism’ by hiring experts to carry out specific short-term projects. But the FSB did not just take on more staff, it began to rely a lot more on its paid personnel. In response to a question on how it selected someone to give evidence to the parliamentary committees and whether they chose members because of their expertise, the Press and Parliamentary Officer replied that it ‘depends’. Most of the time a paid member of staff would go on their own (either the Press and Parliamentary Officer, his deputy or the Policy Development Officer), or else they would accompany members. Members on the other hand did not go alone because:

‘the problem is the members have got their own areas of expertise but then in the committee they start asking “what would you think of this?” a lot of it hypothetical... but you’ve got to know how to answer a question, then work it out, you have to give a political answer’ (personal interview, October 2000).

The Policy Convener (the member in charge of the running of the Scottish FSB) stated that in the Press and Parliamentary Office ‘there was a lot more decisions made in here that shouldn’t have been made in here’ because a decision had to be made quickly. The Policy Convener and the Press and Parliamentary Officer respond but sometimes ‘we get it wrong and some of the membership complain’. As with the UK national office, policy development in the Scottish FSB is still largely developed by the members (although paid staff were also included in the process according to the Deputy Press and Parliamentary Officer), although the number of members on the Scottish FSB’s decision making body was cut from eighteen to seven.

The Policy Convener commented that people knew that the FSB was ‘very strong on lobbying’ but when asked if this was what attracted new members he replied ‘to be honest the membership, they join for the benefits’. The Policy Convener stated that the Press and Parliamentary Office was not ‘a members’ problems office but it’s very hard to get that message across to some of the members’. Jordan and Halpin’s research found that members

joined the FSB for the material benefits at the UK national office too but that this was a deliberate strategy of the office because it left the staff free to pursue their own lobbying tactics, whereas members who joined in order to be political activists would not be so happy to give the ‘leadership autonomy to pursue an insider strategy’ (2003, p.320).

There was some evidence to suggest that the Scottish FSB relied more on its paid staff than was the case in the UK national office where there was only a ‘sporadic use of paid staff’ (Jordan and Halpin; 2003, p.323). Despite the fact that the Policy Convener stated that the FSB was ‘still a member led organisation, never will be anything else’, the Scottish FSB had a routine policy where the paid office staff would bargain with civil servants and Ministers and appear before parliamentary committees either on their own or in conjunction with members. For lobbying and political work the paid staff had a predominant role.

The FSB began to produce evidence based, accurate and well researched information with the introduction of the Scottish Parliament (see section 4.4). In fact, the Scottish FSB produced a policy manifesto (for the 1999 Scottish Parliament elections) based on the results of a survey of its members – something that had not been done by the FSB before. This was so successful that the UK national office subsequently copied the idea for the UK 2001 elections. The FSB was becoming more professional because ‘we have to be because if we look at all these documents and questions that come from the Parliament we have to know...’; the need for factual evidence became necessary with the arrival of the Scottish Parliament. As a result of this move towards professionalism the FSB found that it had more influence according to the Deputy Press and Parliamentary Officer, as the Scottish Parliament was responsive to organisations that proved themselves with reliable information.

The adoption of an insider strategy was also evident in the FSB’s willingness to compromise and to water down its demands. The Press and Parliamentary Officer had brought forward a proposal on business rates but after the Local Government Committee criticised some aspects of it, the FSB went away and changed the proposal into ‘something that will manage to get through the system’ (Press and Parliamentary Officer). The Press and Parliamentary Officer was also aware that when it came to the Scottish Executive they had ‘to compromise in terms of what they [the Scottish Executive] can afford’. He added that the FSB was aiming to get the overall culture for small businesses in Scotland changed for the better, so while it would be great to get specific measures through the Scottish Parliament, it was realistic in its aims. The Policy Convener agreed, stating that they could not go into meetings looking to win the

war but looking to win some battles and in doing so ‘some of the points that we give might not suit all of the membership but we’ve got to look at the majority’.

Further evidence of a shift in strategy was evident in its desire to be seen as trustworthy. The Policy Convener stated that the FSB and their previous Press and Parliamentary Officer had ‘a bad name because nobody trusted us’. He gave an example of when they showed up at a meeting with Michael Forsyth (then the Secretary of State for Scotland) and ‘there was a television crew outside photographing us going in and waiting for us coming out, waiting for what the result was’ as a result of the (then) Press and Parliamentary Officer alerting the media. The situation was so bad that ‘even the other associations wouldn’t have anything to do with us because if they spoke to us it was in the paper the next day’. The FSB ditched that strategy and began to work on building up a new reputation (which has taken them some years to do), sticking to ‘Chatham House rules so if you have a discussion at dinner then that doesn’t go to the Press or anything like that’.

The FSB at the time of participant observation was careful in its use of the media, although it did at times use it in the beginning in order to get a reaction from the Scottish Executive. In 1999 it felt ignored by the Scottish Executive, that it ‘didn’t want to know us, we weren’t on any boards or anything’. Therefore the FSB felt that it had no other alternative but to go to the papers with a story that it knew would get some column inches - a call for Scottish Enterprise to be scrapped. The coverage had the desired effect of getting them noticed and so ‘[n]ow we’ve been appointed to their boards to make sure that we are involved in what happens’. But since making some progress in their position vis-à-vis policy makers the FSB adopted a more cautious media approach and was only using it as a last resort, preferring to keep the decision makers on-side if possible. For instance, the Press and Parliamentary Officer explained how the FSB was opposed to increased taxation and although they could have done a report on how ‘since Labour came to power there is more direct taxation, more indirect taxation and this is the effect on business...’, they chose not to because what would happen ‘is the Tories, SNP, Lib Dems will attack the Executive, so we’ll have the Executive going thanks very much!’ So instead of criticising Labour policies outright, the FSB decided to raise the issue in a more general debate on the effect of taxes on small businesses and leave it to the politicians to argue about who and what could best help small businesses. On occasion though, the FSB have gone public with issues against Executive policy but it is not unusual for insider groups to occasionally use campaigning politics, as Jordan and Richardson point out, the key is ‘*credibility* and, carefully done, credibility can be maintained without total docility’ (1987, p.37).

The FSB had worked at building up relationships with Ministers and civil servants. Prior to the Scottish Parliament it had already established good relationships with the Labour Party, demonstrated by the fact that its UK national colleagues would sometimes call on the Policy Convener to help them set up meetings with Labour MPs at Westminster. At the time of participant observation the FSB had better relationships with Ministers than with civil servants, although it was beginning to work towards improving relations with civil servants, including the setting up of meetings with them before asking for a meeting with the appropriate Minister. The FSB was careful in its dealings with civil servants not to offend them.

The FSB in the first two years of the Scottish Parliament had worked hard to become an insider group and was well on the way to achieving that status, although it had not quite reached there. It ticked the boxes of most insider qualities – it provided accurate and up-to-date information, expertise, reliance on paid staff, a willingness to compromise, trustworthiness and was generally publicly supportive of the Scottish Executive. It had won over the politicians but knew it had some work to do with civil servants in order to become a legitimate insider group.

### **Scottish Churches Parliamentary Office**

As the SCPO only came into existence as a result of the Scottish Parliament, the group's entire *modus operandi* was a reaction to it. The churches, according to the Parliamentary Officer, did not see themselves as being able to play an on-going part in the political decision making process at Westminster but that they could at Holyrood, particularly as the churches had campaigned for the Scottish Parliament. The Parliamentary Officer commented that 'until Parliament established its own ways of working it was difficult to know what our ways of working would be with it'. The churches, having participated in the Scottish Constitutional Convention and the Consultative Steering Group, promoted the idea that the Scottish Parliament should be open, accountable and inclusive of civic Scotland and so 'what led to the creation of this office was a sense of what we should do, which was something that would fit quite obviously with that ethos'.

The SCPO adopted a strategy of being as professional as possible, which included setting up mechanisms that could enhance its response to policy proposals. It set up working groups on issues such as family law and the Housing Bill, because smaller groups would have the ability to respond quickly and it could make decisions on behalf of the churches.

Professionalism was also displayed by putting forward ‘the right people’ as witnesses for oral evidence to ensure that the churches’ case was not undermined by less robust witnesses (see section 5.6).

The SCPO used the media a lot less than the other five groups but again this was due to the fact that it had a facilitating rather than a lobbying role. Although the SCPO did not deal with the media on a daily basis, the Parliamentary Officer still on occasion used the media to criticise, which he did on the issue of parliamentary committees meeting in private. This had been a source of real irritation to the SCPO and prompted by a committee clerk’s advice that the only way to get something changed was to complain, the Parliamentary Officer raised the issue whenever an appropriate opportunity arose. Knowing the value of applying pressure on politicians via the press he also wrote an article that was highly critical of the private committee meetings (published on the 13<sup>th</sup> May 2002 in the Seven Days section of *The Sunday Herald*). In the article he attributed the tendency of committees to meet in private to the fact that ‘our politicians are afraid of what the media might make of them’ (taken from a personal copy of the text).

Although the SCPO was a trustworthy, professional organisation with well researched information, at the time of participant observation the SCPO was an outsider group. The office made the choice not to pursue an insider strategy because although it was not ideologically opposed to becoming an insider group, and the Parliamentary Officer did believe that the Scottish Executive should listen to what churches had to say and in an interview for this PhD he said that he felt that the way the political process was supposed to work meant that ‘the parliamentary committees are the area in which bodies like the churches should be having their key influence’.

The SCPO was set up as a result of the Scottish Parliament, as a demonstration of the commitment the churches had to devolution and their enthusiasm for it, particularly in the context of the Parliament (rather than the Scottish Executive). Perhaps the churches focused on the new elements brought in by devolution at the expense of overlooking the importance of the existing governance structures that continued post-devolution, particularly the civil service. However, the SCPO was a small office and it may be that the costs involved in trying to become an insider group may have been considered too great, so the SPTC may have been convinced that it could be more effective at the parliamentary committee level.

## **Multiple Sclerosis Society**

Before the Scottish Parliament the MS Society carried out a negligible amount of policy work in Scotland, but as a result of their decision to participate in the new political system, its priorities changed. In order to carry out this fresh area of activity the Director's role was re-prioritised and the post of a Policy Officer was created, both of which were supplemented by the services of a public affairs company which offered them advice and expertise on political matters (see Section 4.2 and 4.4). Although the Society's decision making Council was in favour of carrying out policy work, there was still some uncertainty about the importance of it amongst some of the Society's grassroots members according to the Policy Officer, but:

'it will have an effect on the development of the branches in the Society, they will become more interested in public affairs, they'll start to debate issues at a local level or to a much greater extent than they have up until now. That'll find its way onto the agenda of our Annual General Meeting and our Council meetings and so the Society will become from top to bottom more quote "politicised" unquote' (personal interview, May 2001).

The Director was also aware that in order for the Society to maximise its chances of success they had to conform to the requirements of the Scottish Parliament because 'they are not going to work round us'. The Policy Officer commented that 'there's a code of honour and you just adhere to it and the day you don't adhere to it, nobody trusts you anymore'. He also took pains to ensure that the information the Society gave out was accurate and could be substantiated and was 'absolutely straight' in order to establish a reputation where people trusted what they said.

The Director thought that the media was 'absolutely vital' in their campaign to promote MS at Holyrood and they tried to use it as often as they could (a sign of the Society's outsider status). The Policy Officer gave a specific example of an occasion where the media reaped them results where other efforts had failed. In 2001, there was a designated Multiple Sclerosis Week and in the months prior to it, the Society had written several times to Susan Deacon, the Health Minister, requesting that she meet up with them during MS Week but they had no success. However, when JK Rowling, author of the Harry Potter books and patron of the MS Society Scotland, wrote an article in *Scotland on Sunday* at the start of MS Week, the Minister's office phoned up the next day to arrange a meeting for that week. The Society's Policy Officer believed that if the article had not appeared the Minister would not have found space that week so 'obviously she is influenced by what happens in the media'. The Director was convinced that criticising the Scottish Executive in the media did move things along. Nonetheless, he stressed that the Society did not go out of its way to be critical

and only did so because the Scottish Executive's 'record of inaction is so lamentable' and he would much rather be in the position of issuing positive press releases. In the meantime, however, the Society was going to continue to try to use the media to achieve its ends.

The Director said that he felt that the Society was on its way to becoming an insider group and that was the goal they were working towards, although he was also aware of what they still had to do to become an insider group. The Society had already covered a lot of ground to reach the position that they were in after one year, considering that it had never been politically active before.

### **Scottish Parent Teacher Council**

The SPTC was unusual in its choice of political strategies in that it did not want to be an insider group but it did want to keep its seats on relevant advisory committees and steering groups, which it was successfully appointed onto prior to devolution. In order to keep those seats the SPTC exercised insider group qualities because they knew that civil servants:

‘are more likely to support us when we want to put somebody forward to something like the Learning and Teaching advisory board so the pay-offs may be that we appear reasonable, we appear that we argue sensibly, we look like we’re okay, we pass their tests, therefore if there is a vacancy on a committee...’ (personal interview, November 2001).

The SPTC continued to seek appointments on advisory committees after the Scottish Parliament opened, but it could not be said to have adopted an insider group strategy. At least not in the traditional sense of targeting government as the Development Manager said that ‘we will probably continue to deal more with committees than Ministers hopefully’.

The SPTC strategy appears to have been to pursue issues, rather than to have a sustained lobbying strategy. She explained that:

‘...when the agenda moves we will go to where the agenda is and who is the most important focus. So when the committee was discussing the Bill, yes we go and lobby the committee but when it’s “Higher Still” which is being decided in a steering group or task group, then our focus goes to the steering group or task group..., we have a view of following issues which we have a concern in and then following those to the most appropriate location’ (personal interview, November 2001).

The Development Manager described the SPTC as a peripheral player, which could not expect to be a big player on the education stage, so instead it decided that it could make a

bigger impact by picking up certain issues and pursuing them as best it could. It was not looking to restore its insider group status but at the same time it wanted to safeguard the privileges that it had gained such as seats on steering groups. As a result it maintained its political profile and levels of professionalism, continuing its longstanding practice of surveying its members and producing research. For appointments to task groups and appearances before parliamentary committees, the SPTC made 'sure that the strong ones get put forward without offending the others'. The Development Manager had always held a strict confidentiality code, before and after the Scottish Parliament. She said that although others on a task group might leak information to the press if things were not going their way, she had 'never leaked anything that was confidential, never, but once it's out, somebody else has leaked it, then I don't feel any obligation not to comment'.

The SPTC also used the media to achieve its goals as 'publicity is definitely a weapon to get what you want'. The Development Manager stated that:

'if you can't win your argument by your committee then you go public in some way, shape or form and you also sometimes have to go public simply to establish there is an alternative view in there somewhere which people have to take account of' (personal interview, November 2001).

But she makes the point, again in line with the other groups, that you pursue the political channels before turning to the media:

'I never go to the papers first. I mean, going to the papers is always a sign that somebody either has no direct contact or influence or has lost an argument somewhere, or thinks they've lost an argument. Either that or else it's because you are fighting some other interest' (personal interview, November 2001).

The SPTC did not change its strategy as a result of the Scottish Parliament; instead it simply applied the tactics that it had already honed prior to devolution. The SPTC had accepted that it would remain a peripheral player and chose therefore to pursue issues where it felt it could have a measure of success, as well as lobbying for seats on advisory groups and the parliamentary Education Committee. Given that the SPTC did not classify itself as an insider, it is interesting that it was still given positions on various Scottish Executive bodies – perhaps a legacy of its former privileged status and of civil service institutional inertia.

### **Convention of Scottish Local Authorities**

Until Labour came to power in 1997 CoSLA's clear objective 'was to oppose central government in every significant way. At that time, lacking influence on government, the

organisational strategy was, largely speaking, one of opposition and resistance' (Bennett et al; 2002, p.25). This all changed when Labour won the 1997 UK general election and the subsequent initiation of devolution. Bennett, Fairley and McAteer's research found that CoSLA's leadership 'perceived the Scottish Executive as an ally and wanted to grasp the opportunities for influence and partnership offered by devolution', in contrast to its grassroots membership which 'perceived the Executive as threatening the traditional role of local government' (2002, p.25). However, CoSLA's Acting Chief Executive outlined some of the opportunities that were available to it as a result of devolution and explained that part of CoSLA's core activity had been:

'to try and get an input almost at the policy development stage before anybody has written regulations or developed a white paper or whatever else, so our intention is to make sure that we are in at the ground floor or even in the basement when the thinking is going on about what's going to happen' (personal interview, December 2001).

If new legislation was about to be introduced to Parliament, CoSLA's first move was to create a team for a pre-discussion period. Although there were occasions when CoSLA and the Scottish Executive disagreed to the extent that they could not settle on a solution, for the most part CoSLA would attempt to find a compromise. The Convention Manager explained that they hoped their relationships were strong enough to accommodate differences of opinion. She gave the example of an instance when they had 'robust discussions' with Malcolm Chisholm, then the Minister for Health, but she hoped that at the end of the day everyone would be able to walk away and come back with the relationship still intact. The Head of Policy also said that there had been times when they had strongly criticised the Minister for Transport over the issue of trunk roads, where they questioned the advice the Minister had been given but:

'Even then at the height of that, we were able to distinguish that aspect of local government's interest in transport from other areas where we were working quite constructively with the Executive and therefore with the Minister' (personal interview, December 2001).

The Public Affairs Officer remarked that CoSLA used the media as a weapon against the Scottish Executive but it did not need to use it against the Parliament. Like the other groups, CoSLA tried to ride on the back of the Parliament in order to increase their impact on the Scottish Executive. On one occasion the Scottish Executive refused to commission an independent inquiry into local government finance, but the parliamentary Finance Committee

decided to carry out an inquiry into the matter and as a result CoSLA issued a press release supporting the actions of the Finance Committee in order to pressurise the Scottish Executive further. In another instance, due to their concern over the Scottish Executive's proposal for trunk road contracts, CoSLA turned to the Parliament as the date for the award of the contracts approached, by 'stirring up MSPs, we stirred up the Transport and Environment Committee, there was a debate on the floor of the house'. The Public Affairs Officer described an incident where CoSLA had forwarded an advance copy of a highly critical press release on a central heating scheme to the *Sunday Post*, which it was going to send to all the newspapers in time for their Monday editions. Within an hour of the *Post* receiving the press release the Scottish Executive had phoned up CoSLA asking that the press release be pulled and in return discussion channels would be opened up.

CoSLA, by virtue of representing local government will always have privileged status, but it had also changed its tactics with CoSLA's leadership 'consciously trading their public campaigning edge to seek greater influence' (Bennett et al; 2002, p.25). This change might owe as much to Labour being in government as to devolution but the result had been that CoSLA had increased its influence, as it measures up to Maloney et al's distinction of insider status where a group is able to sit down and bargain with those in power (Maloney et al; 1994, p.25).

### **Royal Society for the Protection of Birds**

The Head of the RSPB's Advocacy and Media Unit explained that 'the scope of our operations has changed because of the Scottish Parliament'. The RSPB had become a lot more political and media savvy with staff learning how to communicate with political actors and how to work the media angle of their individual workloads.

The Head of the Advocacy and Media Unit explained that they had also tried to establish an 'RSPB brand' which would command respect from politicians. His mantra was that the RSPB should always be CRAP: calm, rational, authoritative and positive in providing evidence and information. The Head of Policy Operations also agreed that the RSPB tried to be as constructive as possible (offering practical solutions to a piece of legislation it was unhappy with rather than simply criticising it) in order to increase their chances of getting something done about it. He added that a lot depended on the issue that they were 'trying to sell'. If it was an issue that went against party policy, he knew they would not get the Minister to change it until they had 'resolved the issue with the party as a whole' (Head of Policy Operations).

The Head of Policy Operations said that his team of technical policy people worked in close contact with the Advocacy and Media Unit to learn how to operate politically, such as:

‘trying to influence the higher profile decision-makers like Ministers and MSPs rather than the technocrats, so we needed to be more succinct, snappy briefings, documents and more smooching, ducking and diving in the bars round Holyrood or the Lawnmarket where it is at the moment, party conferences and the like’ (personal interview, January 2002).

He added that his team had also begun to make their own personal contacts with various parliamentary actors and were no longer just relying on the Advocacy and Media Unit to set up meetings.

Another tactic of the RSPB was to gain areas of consensus with groups that were often perceived as its opponents. The Head of Policy Operations explained that they had discussions with landowners, shooters and farmers to establish areas that they agreed on so that they could then make a joint presentation to civil servants who hated such an approach (of opposing interests joining together), because it meant the status quo was in danger. He said that this was in direct contrast to the parliamentary committees which were particularly interested when ‘opposing’ groups came to a consensus viewpoint.

Once the Scottish Parliament opened, the RSPB decided that it could not afford to be any less professional than those it was up against so the RSPB’s quality of information improved all round according to the Senior Investigations Officer. The Parliamentary Information Officer agreed adding that it was necessary ‘to have quality information, they don’t want you to be their friend because they like you, they want to get something out of you and it’s to get information’. She also stated that the ‘whole culture’ of the RSPB had changed as a result of their new political activity.

The RSPB had two targets for its media strategy - the public and the decision-makers (taken from an internal Scottish Advocacy and Media Strategy, 13<sup>th</sup> April 2000). The Head of the Unit described the Society’s advocacy and media efforts as ‘the same side of the coin’. He explained during an interview for the PhD that:

‘It’s highly unusual for a press release not to have some element of a message that is advocacy. Equally, advocacy work is rarely done without reference to something hand in hand you’ve been trying to place in the media so if it’s the decision-makers you are talking to, either in the civil service or the Scottish Parliament, if they haven’t

seen something in the media then your case is weakened. But if you are going to talk on an issue and you have had that story running in the media then your hand is strengthened' (personal interview, December 2001).

The Senior Investigations Officer called the media the RSPB's 'best ally' and recalled occasions when Ministers quoted to him pieces from articles they had read in the press.

The Society had endeavoured to get the Scottish Executive to discuss the issue of licensing (for the killing of wild birds) but had failed to do so. The Society, after discovering that the robin was one of the birds classified as a pest, decided that in the face of the Scottish Executive's refusal they would go to the media. "Scottish Executive issue licence to kill robins" was a very media friendly story that even made it into the tabloids, 'which is very difficult for policy in environment to get a good tabloid story' (Head of Policy Operations). The result of all the media coverage was that the Scottish Executive found itself more disposed to discuss the issue. Again however, the Society only took the story to the media after it had tried alternative channels to get the Scottish Executive to open the issue up.

The RSPB was an outsider group prior to the Scottish Parliament (as it carried out very little political activity in Scotland before devolution) and at the time of participant observation that was still the case, although it was working towards changing its status to that of an insider. The RSPB could thus be categorised as a potential insider, although obviously it still had its work cut out, as it was struggling to get access to Ministers and to civil servants. The Parliamentary Information Officer explained that the RSPB's membership preferred the organisation to carry out what is essentially an insider group strategy because they did not want confrontation: '...our members didn't join us because we're Greenpeace, they joined us because we are rational, sensible and all these things'. So in the words of the Parliamentary Information Officer the RSPB was working on the premise that it was better to appear in a newspaper on page five saying something agreeable, rather than making headline news.

#### **9.4.1 Summary**

The six groups having made the decision to become involved in the work of the Scottish Parliament then had to weigh up the costs and benefits of trying to gain influence within each of the devolved institutions that make up the Scottish Parliament. Traditionally, the most desirable institutions are the civil service and Ministers, as they formulate policy and the FSB, the MS Society, CoSLA and the RSPB all followed this path by targeting the Scottish Executive. CoSLA was already an insider group, while the other three groups had engineered themselves to positions of potential insiders and were working on a strategy that

they hoped would eventually grant them acceptance by the civil service and Ministers. Although their primary focus was the Scottish Executive, this does not detract from their activity at a parliamentary level. In fact, the concentration of political activity for the MS Society and the RSPB was decidedly in the parliamentary arena, although their longer term goal was to spend more time on government actors. The FSB and CoSLA also spent a considerable amount of time on the parliamentary committees, demonstrating that regardless of insider/outsider status, active interest groups will maintain links with Parliament – an acknowledgement that decision making takes place throughout the parliamentary process and that the Parliament has an ability to amend legislation (as well as initiating it in the case of the parliamentary committees and Member's Bills). CoSLA and the FSB were particularly effective in receiving invites from parliamentary committees to give oral evidence (see section 7.7). The RSPB and MS Society had made some headway in building up relationships with individual MSPs and the RSPB were also making some progress with committees, although they still found that they were struggling to be selected to give oral evidence.

The SCPO and the SPTC differed from the other four groups in that they had decided not to aspire to insider group status, instead choosing to focus primarily on the Parliament, particularly the parliamentary committees. This was an unusual decision as neither group were ideologically opposed to becoming insider groups and previous research at a UK level has found that 'no type of organization placed Parliament above or even proportionately close to either ministers or civil servants' (Rush; 1990, p.273). While a commentator like Mitchell might argue that the churches failed to recognise in their enthusiasm for a Scottish Parliament that Ministers and civil servants and not the Parliament would continue to be the main source of policy initiation and making, it is difficult to level the same accusation at the SPTC as it had previous experience of being an insider group and could not have been described as being swept away by its enthusiasm for the Scottish Parliament. However, the SPTC appeared to have been quite pragmatic about what influence it could realistically achieve and had decided that in terms of costs and rewards it would gain most from specifically targeting the Education, Culture and Sport Committee. The SPTC's strategy appears to have been quite effective. Despite the SPTC's small pool of resources it had already been chosen to give oral evidence five times to the Education, Culture and Sport Committee (and once to the Justice 2 Committee) by November 2002. The SCPO did not have the same parliamentary exposure at that stage but the SCPO was a very new group and it provided more of a facilitating service rather than a lobbying service. By virtue of being a facilitating office, it is highly improbable that the SCPO would ever become an insider group

anyway because more often than not it cannot speak on behalf of the churches but can pass people on to the appropriate people within each of the denominations it represents. Rush observed that: 'For some Parliament looms large, for others it is of little importance, but for most it is one of a number of points of access to the political system, not usually the most important' (1990, p.276). The decision of the SCPO and SPTC to make the Parliament their principal targets rather than the Scottish Executive may be atypical but it adds weight and authority to the Parliament that many, including the churches, hoped it would have.

## **9.5 Conclusion**

Wilson points out that '[o]ne of the unique characteristics of the state is that it is both a battleground for contending interests and the structure which shapes those interests' (1990, p.32). After the Scottish Parliament opened interest groups set about trying to influence the very institution they had helped to design and which was in its turn now influencing how they behaved.

There are a number of key points that can be made about how the Scottish Parliament affected the six interest groups:

### **Mobilisation of interest groups**

Groups that had never carried out political work before, like the MS Society, made the decision to carry out policy work as a result of devolution; the churches, particularly the Church of Scotland decided to institutionalise their political activities by setting up a parliamentary office; while groups, like the FSB, which already had parliamentary offices, expanded their activities.

The Scottish Parliament had this effect for a number of reasons:

- for some of the groups, devolution was a cause they had campaigned for and they therefore had a commitment to the Scottish Parliament
- geographical accessibility
- accessibility of the politicians
- the openness of procedures
- increased primary legislation (there were 62 Acts of the Scottish Parliament in its first session and at the halfway stage of the second session there were 19 Acts, 18 bills in progress and 2 bills awaiting Royal Assent)
- 'special status' awarded to the voluntary sector (Bonney; 2003, p.462)

### **Conformity of behaviour**

Regardless of the length of time that the groups had been politically active, they all adopted the qualities that the Scottish Parliament expected of them in relation to consultation submissions, oral evidence sessions, reliable information, distinct points of contact, joining of networks. The rules of the Scottish Parliament, both formal and informal, meant that the behaviour of the groups followed a standardised pattern.

### **Success of ‘new politics’**

The six groups believed that the Scottish Parliament had lived up to its goals of openness, accessibility and participation. As all six were actively involved in the Scottish Parliament it is no surprise that they were all very supportive of it, believing that it was better serving the needs of Scotland. This was reflected in the comment of CoSLA’s Public Affairs Officer who said that it never needed to use the media against the Parliament, it only used it as a tactic against the Scottish Executive.

### **Friction with civil service**

One element that was proving difficult for all of the groups, except for CoSLA, was the need to build up relationships with civil servants. They knew that if they were to become insider groups, they would have to build up good relationships with the civil service but there was an initial reluctance to do so. In the immediate aftermath of devolution, the newly elected institutions of the Scottish Parliament took up the focus of many of the groups. As things settled down, it became apparent to all that the civil service would still have a key policy role to play. No matter how participative the Parliament was going to be or how accessible Ministers were, interest groups were not going to be the only major sources of policy advice. There was a sense however that the balance of power between civil servants and Ministers had tipped in favour of Ministers after devolution, as Ministers were “on site” five days a week instead of the previous situation where the Scottish Office civil servants stayed in Scotland and Ministers went down to Westminster for most of the working week.

The civil service was the one devolved institution of the Scottish Parliament which the interest groups felt had not lived up to the CSG principles and that it had simply carried over its Whitehall culture. Although the groups did concede that the civil service was showing signs of change and was beginning to be more open and accessible.

### **Significance of the committees**

All six groups put a lot of stock in the committees and on being selected to give oral evidence. They felt that the committees were indeed a conduit for civic society into the policy process and that they encouraged participation. However, the committees were perceived to be weak in relation to the Scottish Executive, as there was a false expectation at the start that the committees would be capable of overturning proposed policy. Notwithstanding those frustrations, the groups valued the changes that the committees had the capability to make.

### **MSPs – the bottom rung**

The six groups considered the committees to be the most important part of the legislature, more valuable to them than the individual MSPs who made up the committees. This differs from the findings of research from the 1980s on the UK Parliament which found that ‘outside organizations regard individual back-bench MPs as far and away the most important form of parliamentary contact’ (Rush; 1990, p.253). This was because MPs acted as intermediaries between interest groups and Ministers, or committees and so on (Jones; 1990, p.129). Because the system is more open in the Scottish Parliament, the reliance on MSPs is not there to the same extent. For the same reason, the Parliament’s Cross Party Groups were not seen as a main route of influence, whereas Jones, writing about the UK equivalent, said that that all-party groups had a lot to commend them to interest groups wanting to influence parliament, not least because it gave them access to MPs (1990, p.125). Interest groups have very little problem in gaining access to MSPs. Out of the six groups only the SCPO was regularly involved in Cross Party Groups (one on asylum and refugees – a reserved area - and one on debt, which straddles policy areas that both Holyrood and Westminster have powers over). Although MSPs were the most accessible component in the Scottish Parliament, the groups also felt they were the least powerful and were only particularly valued in respect to their committee membership or by groups that were just beginning to be politically active.

Henry McLeish in his introduction to the Consultative Steering Group report wrote that ‘the establishment of the Scottish Parliament offers the opportunity to put in place a new sort of democracy in Scotland, closer to the Scottish people and more in tune with Scottish needs’ (1998, p.v). It would be fair to say that if the words ‘the Scottish people’ were replaced with ‘interest groups’, Mr McLeish would be quite accurate in his statement. The CSG report endeavoured to outline a Scottish Parliament that would allow civic society to play a much fuller part in the governance of Scotland and it has succeeded in mobilising many Scottish interest groups to take full advantage of the opportunities offered to them. The first finding

of the Procedures Committee in its inquiry into the founding principles of the Scottish Parliament was that:

‘we found a strong desire to participate in the life and work of the Parliament in the substance and the volume of the evidence given to us. Irrespective of whether the respondents criticised or praised the Parliament, the desire to contribute constructively to its work almost always came through strongly’ (2003, para 23).

## **APPENDIX 1: PATH TO THE SCOTTISH PARLIAMENT**

### **1: 1707 to the 1979 referendum**

In 1707 the Scottish Parliament was dissolved and Scotland was governed by the Houses of Parliament in London. However, although the Scottish Parliament had been amalgamated, little else was, as Scotland retained its own separate legal, education and local government systems and its Presbyterian religion (Paterson; 1999, p.35). A Scotch Education Department was formed in 1872 as Westminster's response to disquiet at legislation affecting Scotland not being given proper consideration, and following that a Secretary for Scotland was appointed and based in Whitehall in London (Taylor; 2002, p.25). By 1926 there was a full Secretary of State and gradually the Scottish Office was developed and based in Edinburgh with the remit to work on policy that directly related to Scotland (Taylor; 2002, p.5; Paterson; 1999, p.36). The Scottish Office then became the focus for civic Scotland but there was unhappiness about how closed the consultation process was and in the 1960s the campaign for devolution became 'inextricably entwined with a campaign to open up' the system of consultation in Scotland (Paterson; 1999, p.37). There was a demand for increased democracy in the Scottish political system and although that did not necessarily mean the creation of a Scottish Parliament it seemed the most obvious option. The argument continued in the 1970s. The Scottish National Party (SNP) performed well in the 1974 election and in order to quell the nationalist voice, Harold Wilson, the Labour Prime Minister at the time, gave Scotland a referendum on devolution in 1979, although without much enthusiasm from many within the ranks of his own party or indeed from the civil service. Lord Crowther-Hunt, Harold Wilson's Constitutional Adviser in 1974, wrote that 'most civil servants were fundamentally opposed to devolution, and so, for that matter, were most ministers' (as quoted in Dowding; 1995, p.123). Furthermore, 'it came at the fag-end of the 1974 parliament, when the government's popularity was very low' (Hutchinson; 2001, p.151). The result of the referendum was 52% voted in favour of devolution but less than 40% of the total electorate turned out to vote and because of this the referendum failed. Disgruntled Labour backbenchers had insisted on a 40% threshold of the electorate voting so although the majority of those who did vote were in favour of devolution, they only made up 33% of the total eligible population (Hutchinson; 2001, p.138).

### **2: The Conservative Party**

From 1979 until 1997 the Conservative Party was in power but support for the Conservatives 'went into free fall' and by '1987, the proportion of Scots voting Tory was one half that in England' and stayed like that in the two elections after that (Hutchinson; 2001, p.139).

Scotland's two national broadsheets *The Herald* and *The Scotsman* ended their sympathies with the Conservative Party after 1979. The churches also continued to lean further towards the left (Hutchinson; 2001, p.143). The Conservatives were perceived as an English party, which was exacerbated by their anti-home rule stance and this proved 'calamitous' at a time when the Scots increasingly identified themselves as Scottish more than British (Taylor; 2002, p.85, 23/4). The support for the Conservatives was in crisis in Scotland and there was the feeling that the Conservatives were governing Scotland without a mandate, but Taylor warns that the reasons for devolution should not 'rest solely or even principally upon any resentment engendered by the years when Scots were governed by a party, the Conservatives, they had palpably refused to support' (2002, p.25-26). However, the continued Conservative rule:

'reinforced the view that any arrangements that entrenched some degree of Scottish autonomy were to be preferred to the possibility of repeating the experience whereby a government with low levels of support in Scotland was able to impose its domestic policies on Scotland from Westminster for such a long period' (Bonney; 2002, p.135).

At the 1997 general election Scotland did not return a single Conservative MP to Westminster.

### **3: The Scottish Constitutional Convention**

Against this background the Scottish Constitutional Convention was launched in January 1989. The Convention was an extremely important milestone in the devolutionary path as it made plans for a future Scottish Parliament and kept the devolution issue at the forefront of Scottish politics. One of the lessons from the failure of the 1979 referendum was that devolution would require a broad base of support so the Convention was made up of Labour and Liberal Democrat politicians, local authorities, trades unions, the churches, academics and various other interest groups. The Conservatives did not participate in the Convention because of their unionist stance. The SNP withdrew their membership early on and Hutchinson comments that the SNP may have miscalculated, because their:

'decision to stay aloof from what was a remarkably broad coalition of civic society seemed a petty partisan stance, allowing the initiative to speak for the vast majority of Scots to pass into the hands of others' (2001, p.147).

The Scottish Parliament owes a lot to the SNP because of the electoral pressure that they put on Labour but credit is also due to 'a much more widespread civic revolt against the ethos and policies of the UK governments of the 1980s' (McMillan; 2001, p.36).

#### **4: The Labour Party**

It became clear that from the time after the 1979 referendum that the Labour Party in Scotland was gradually becoming much more in favour of devolution. This was helped by the fact that devolution had dedicated and heavyweight support from people such as John Smith, Donald Dewar and Gordon Brown who were replacing the older Labour politicians who had been lukewarm about the issue (Hutchinson; 2001, p.149). Another important factor in Labour's position on devolution was the fear of losing out to the SNP who had increased their support in the 1992 election, as Labour lost some of theirs in Scotland. This had the effect of focusing Labour's attention on devolution (ibid.). As Taylor puts it: 'Fearful that their Scottish support might ultimately slip to the SNP, they believed they needed to promise devolution to shore up their Scottish vote' (2002, p.56).

Because the party had been fully involved in the Scottish Constitutional Convention and broadly accepted the Convention's framework for devolution, Labour:

'was not now seen, as had been the case in the 1970s, to be endorsing Home Rule merely as a response - made under pressure and with marked reluctance - to political exigencies' (Hutchinson; 2001, p.151).

As a result of popular opinion and party support for it, the Labour Party included devolution in its manifesto for the 1997 general election.

In the end Labour swept into power with a landslide victory over the Conservatives in the 1997 general election. The new Labour government acted quickly on its devolution promise and held a referendum in Scotland on 11th September 1997 when their support was still high. 44.9% of the Scottish electorate turned out to vote in the referendum (although there was no turnout threshold this time) and out of those, 74.3% agreed that there should be a Scottish Parliament and 63.5% also agreed to the second question that the Scottish Parliament should have tax raising powers (Scottish Parliament (j), p.5). The results were emphatically in favour of devolution and this time around all the Scottish regions supported it (in 1979 outlying areas such as the Highlands and Islands, the north-east and south-west were hostile to the proposal of a Scottish Parliament because of a fear of Central Belt domination) (Hutchinson, 2001, p.152; Taylor; 2002, p.55/56). Paterson argued that the referendum was won as a result by civic Scotland's desire for a responsive government (1999, p.38).

#### **5: The Consultative Steering Group**

Following the positive referendum result, the Secretary of State for Scotland, Donald Dewar (who went on to become the Scottish Parliament's first First Minister) appointed a

Consultative Steering Group (the CSG) in November 1997 which was chaired by the Minister for Devolution, Henry McLeish (who was later to become Scotland's second First Minister). The CSG, in the manner of the Scottish Constitutional Convention, was composed of civic groups and interests as well as including representatives from all the major political parties in Scotland. The CSG undertook a public consultation exercise seeking the views of the Scottish people on what they expected from a Scottish Parliament. The culmination of this exercise was its report which recommended that the Scottish Parliament be founded on the four key principles of power sharing, accountability, accessibility and equal opportunities (see Consultative Steering Group, 1998). The report also provided the blueprint for the Scottish Parliament's rules of procedures and its initial set of Standing Orders.

## **6: The Scottish Parliament**

While the CSG was going about its job the Scotland Bill was introduced in the UK Parliament in January 1998 and had a smooth passage due to the conclusive referendum results, before becoming law as the Scotland Act in November of that year. The Scottish Parliament elections were then subsequently held in May 1999 with the Labour Party gaining the most seats (56 in total), although due to the PR system Labour did not have an overall majority so decided to form a coalition with the Liberal Democrats who had gained 17 seats. With the election the UK Parliament transferred some of its powers to the newly created Scottish Parliament (although Westminster still remains sovereign). Westminster reserved powers in defence, foreign affairs, trade, employment and social security but otherwise the Scottish Parliament took over the governing of nearly everything else including education, health, the environment, economic development and so on. The Scottish Parliament:

'operates as a self-contained and fully functioning parliament in its own right. Legislation can be passed by the Scottish Parliament without going through the Westminster Parliament' (Scottish Parliament (k), p.5).

## **APPENDIX 2: THE ELECTORAL SYSTEM**

In 1995 the Scottish Constitutional Convention published its design for a proportional representation electoral system for a future Scottish Parliament. The Labour Party (which had been part of the Scottish Constitutional Convention) adopted the electoral system in its entirety for the actual Scottish Parliament. The PR system was the price Labour paid to keep the Liberal Democrats on board in the Convention. Labour stood to lose the most from a PR system in Scotland but agreed to it because the Liberal Democrats who had long been in favour of PR (they tended to rack up good second places in UK general elections but under first-past-the-post, only first place gets a parliamentary seat), said that if there was no PR, then there was no deal (Taylor; 2002, p.54). The Labour Party was mindful of the 1979 referendum debacle and its subsequent consequences so in the end it agreed to the Lib Dems PR demands because of the need to have a broad base of support for devolution. It was also felt that PR might diminish the worries of rural Scotland about the Central Belt dominating in the new political system (Taylor; 2002, p.54-56: Hutchinson; 2001, p.150). Another reason for Labour to agree to PR, although this was kept quiet, was that it would help to prevent the SNP from governing with a minority vote at a future date and leading Scotland to independence which was something Labour did not want to happen (Taylor; 2002, p.56-57: Hutchinson; 2001, p.150).

In designing the Scottish Parliament's electoral system, other systems were studied so that it was possible to take advantage of the best practice in other parliaments. In particular, small countries with parliaments were looked at, as well as devolved parliaments (e.g. Catalonia) and also federal governments such as those in Germany (Scottish Parliament (j), p.1). The electoral system used for the Scottish Parliament is a variant of the Additional Member System (AMS) used in Germany and in New Zealand. It is a mixture of first-past-the-post and a regional list system. The Convention proposed that there should be 129 Members of the Scottish Parliament (it was a compromise number to satisfy the Labour and Lib Dem parties) made up of 73 of constituency members and the remaining 56 coming from party lists.

At a Scottish Parliament general election a voter has two votes. One vote is for their constituency MSP (Member of the Scottish Parliament) and the other vote is for a particular party or individual from a list as their regional MSP. The constituency seats were identical to those used for the 72 Westminster seats (before the number of Westminster seats was reduced to 59 for the 2005 UK general election) with the exception of Orkney and Shetland which

was split into two constituencies for the Scottish Parliament giving the total of 73 MSPs. These MSPs are elected under first-past-the-post, which means that the candidate who has the most votes wins. Candidates stand under their own name and usually represent a particular political party. The other 56 MSPs come from the proportional part of the AMS system. When the Convention was drawing up the electoral system, Scotland was divided up into eight regions for the European Parliament elections (Highlands and Islands, North East Scotland, Mid-Scotland and Fife, West Scotland, Glasgow, Central Scotland, Lothians, South Scotland). The Convention decided to use the convenience of these boundaries for the list MSPs and decided that each region would have seven list MSPs in addition to their constituency MSP. For each of the eight regions political parties could submit a list from between one and twelve candidates for the election (individuals can also stand as regional MSPs) but for the list MSPs the political party candidates do not stand as individuals, instead the voter is voting for a particular party (unless he is voting for an individual standing as an Independent). This means that the ranking on the regional lists is crucial, as the higher up the party list they are, the more chance candidates have of getting elected. For regional seats the voter cannot signal his preference of candidate, he can only vote for the party, so even if it is the sixth candidate on the party list that he is really supporting his vote will simply be registered as a vote for the party. Somebody placed sixth on the list will have little chance of being elected. AMS may be more proportional than first-past-the-post but it puts a lot of power into the hands of the local political parties who choose which candidates go on their regional list and what ranking on the list they will be given. This means that every regional MSP owes their seat to the local party activists in the first instance and to keep their seats they need to remain in favour with the local party and their parliamentary behaviour will probably reflect this.

The allocation of seats is then worked out. This involves first of all establishing which 73 candidates won the constituency seats, then calculating how many votes were cast for each party from the lists in the eight regional seats. The number of regional MSPs to be assigned to each party is then figured out by dividing their list votes by the number of constituency MSPs that they secured in each region then adding one and so whichever party (or individual) has the highest number gets the first Additional Member and this process is continued until all seven regional MSPs have been declared. The end result is that the overall number of seats won by a party correlates approximately to the number of votes that the party has received in each region. Although as Pilkington (2002, p.102) points out, the Scottish version of AMS was not fully proportional as the ratio of constituency to list MSPs is 57:43, unlike Germany which had a perfect ratio of 50:50. Some commentators have expressed the

view that this electoral system risked creating a two tier status for MSPs, with the list MSPs the poor relative because they did not win their seat on their own merits but because of their party allegiance (Pilkington; 2002, p.103). Labour fuelled this argument by arguing that list MSPs should be paid less than constituency MSPs because they would have less work to do as they did not have constituents to deal with. It was no coincidence that Labour argued this point because they only had three list MSPs after the 1999 election so they would benefit the most from that pay arrangement.

The main result of the Scottish Parliament electoral system is that a majority government (the norm at Westminster) will be improbable, with minority or coalition governments the most likely result. This was intended, as it was meant 'to encourage a new consensual type of politics with an element of power sharing' (Burrows; 2000, p.34). However, as Dyer points out many see PR as being a fairer system but fairness 'should not be confused with a proportionate distribution of power' (2003, p.150). A larger party may need to take on a coalition partner to govern and in this way smaller parties can get into government. As expected no party gained an overall majority after the first election in 1999. The Labour Party gained the most seats, taking a total of 56 compared to its nearest rival the SNP which gained 35 seats but it still left Labour nine seats short of the 65 that they needed for an absolute majority. The Labour Party decided not to go ahead as a minority government but instead opted to take on board a coalition partner - the Liberal Democrat Party - so the Scottish Parliament had a coalition executive, which in British politics is a very 'rare creature' (Pyper; 2000, p.78).

The 1999 election results are listed in the table below. Although after a by-election in Ayr in March 2000, the Conservatives gained their first constituency seat at Labour's expense. The SNP also lost two MSPs but this was due to internal strife and two of their MSPs resigned from the party and continued as Independents.

## 1999 Scottish Parliament election results

<b>Political party</b>	<b>1999</b>		
	<b>Constituency</b>	<b>List</b>	<b>Total</b>
Labour	53	3	56
Scottish National Party	7	28	35
Conservatives	0	18	18
Liberal Democrats	12	5	17
Green	0	1	1
Scottish Socialist	0	1	1
Dennis Canavan	1	0	1
<b>Total</b>	<b>73</b>	<b>56</b>	<b>129</b>

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