**SNP and the de facto referendum**

**James Mitchell**

**What constitutes a mandate for independence?  Support for the SNP and independence had not come close to making this a practical concern until recently.  It was generally accepted that Scotland had a right to become independent but the mechanism involved was uncertain.**

 The SNP claimed in its 1983 manifesto, for example, that, ‘When the SNP wins a majority of the Scottish seats in the UK Parliament, we will invite the other Scottish MPs to co-operate in negotiating the orderly transfer of power from Westminster to Scotland and the preparation of a Constitution’.

 The SNP view changed after devolution.  After briefly claiming that a majority of SNP Members of the Scottish Parliament constituted a mandate to start negotiations for independence, it argued for an independence referendum.  This was designed to allow voters opposed to or with doubts about independence to vote SNP.  In the first elections to the Scottish Parliament, the SNP placed a referendum fourteenth in its list of fourteen priorities and tenth of ten key pledges.  Over successive elections, the SNP would argue for a referendum but without giving it prominence.  That worked well in 2007 and more so in 2011.  The great irony is that the 2014 independence referendum happened due to an election result at which independence and a referendum were low on the electorate’s and SNP’s list of concerns.

 The SNP’s 2011 overall majority meant a referendum moved swiftly up the agenda.  The SNP wanted three options on the ballot paper but David Cameron wanted a simple binary choice, each motivated by an expectation of a heavy defeat for independence.  But politics is an expectations game and the 45% Yes vote was much higher than initially expected.  The SNP saw an opportunity at the 2015 general election.  With the referendum fresh in voters minds, the SNP only needed to convince Yes voters to support the SNP but knew there was little appetite for a rerun of the referendum.  Its manifesto was clear, ‘The SNP will always support independence - but that is not what this election is about. It is about making Scotland stronger… We believe in independence but that is not what this election is about’.  The SNP achieved its best ever result at the only election it has fought consciously and explicitly rejecting independence as an issue.

 But what next?  In 2016, the SNP commissioned a report under Andrew Wilson, lobbyist and former SNP MSP, which was published belatedly in 2018.  The Institute of Fiscal Studies noted that its proposals implied ‘more austerity’ and that spending on public services and benefits would fall by 4% of GDP over a decade.  The report provoked considerable opposition inside the SNP, especially on currency.  In an effort to allay fears, a separate SNP Commission on Social Justice came up with a wish list.  The two reports were aimed at very different audiences and impossible to reconcile.  The Wilson report had been designed to appeal to business and convey respectability.  The social justice was aimed at the left.  The key lesson for the SNP leadership appeared to be to avoid trying to develop a coherent body of policies.

 The SNP’s 2016 Holyrood manifesto stated, ‘We believe that the Scottish Parliament should have the right to hold another referendum if there is clear and sustained evidence that independence has become the preferred option of a majority of the Scottish people – or if there is a significant and material change in the circumstances that prevailed in 2014, such as Scotland being taken out of the EU against our will’.  The ambiguous language attempted to allow the SNP to demand a referendum if ever and whenever it suited the SNP.

The turning point came with the Brexit referendum.  The SNP played little part in the Brexit campaign, spending more on a by-election in Shetland than it did in the referendum, but its leader grabbed the opportunity when the results were announced.  Citing ‘significant and material change in circumstances’ from the manifesto the previous month, Nicola Sturgeon announced that her government would ‘begin to prepare the legislation that would be required to enable a new independence referendum to take place’ when Westminster started the process of withdrawal from the EU.

 But the anticipated sustained surge in support for independence following the Brexit referendum never materialised.  This presented a major problem for the SNP.  The promised legislation on a referendum in Holyrood could not be postponed indefinitely.  The SNP leadership knew that a referendum required agreement with Westminster but turned that to advantage by accusing London of blocking a referendum.

**Plan A and Plan B**

 This was the background to Nicola Sturgeon’s statement last June setting out her plans that have led to her current problems.  Plan A involved seeking a Supreme Court ruling on holding a referendum.  The SNP leader also outlined Plan B, fully aware that Plan A would be an expensive and predictable dead end.  Plan B was to treat the next UK election as a ‘de facto referendum’.  In an attempt to reframe the issue, Sturgeon insisted that it would no longer be about ‘whether Scotland becomes independent’ but something ‘more fundamental’.  It would be about ‘whether or not we even have the basic democratic right to choose our own future’.  Plan B takes us back to pre-devolution days with one key difference.  The SNP would seek a majority of votes as a mandate rather than a majority of Scottish seats.  It may repeat the old invitation to other Scottish MPs to ‘cooperate in negotiating the orderly transfer of power from Westminster to Scotland and the preparation of a Constitution’ but invitations can, and in this case will, be ignored.  No state or international organisation, other than perhaps rogue states such as Russia, would recognise the election result as a confirmatory referendum.  She concluded claiming she had ‘set out the path’ to delivering a referendum.  But a pronouncement is not a path as she acknowledged three months later when she asked her party to meet to set a ‘clear pathway’.  The bravado behind her June 2022 statement hid a reality that many in the SNP chose to ignore.

 But the June announcement achieved what Sturgeon does best.  It generated considerable media attention and was much like her August 2015 educational attainment gap promise – headline grabbing with little regard to delivery.  Subsequent efforts to suggest that the ‘de facto referendum’ was simply a way of saying that the SNP intends to campaign as a single issue party ignore SNP claims that victory would be followed by negotiations on independence.  It is legitimate to campaign on a single issue in an election.  It is reasonable to argue that a sizeable vote for a single issue party lends credence to its cause.  But that does not make the election a referendum.

**Plan B Confusion**

 In November, without formally acknowledging these problems, Sturgeon asked the SNP national executive to convene a special conference.  The agenda for the conference highlights the confusion in the SNP.  The SNP now indulges in Boris Johnson ‘cakeism’.  As the former Tory leader said in 2016, ‘My policy on cake is pro having it and pro eating it’.  One resolution sticks to the original claim that the next UK election will be a referendum on independence.  It leaves open whether only SNP votes will count towards the mandate or votes of other pro-independence parties will be included, no doubt depending on whether these other votes are deemed necessary but with a preference to only include SNP votes.  In the event of this imprecise definition of success, ‘we will consider that a mandate to enter negotiations with the UK government to secure independence’ still ignoring the problem that it takes at least two to negotiate.

 An alternative motion adds to the confusion.  It proposes that the SNP would contest the election on the ‘issue of securing agreement for a transfer of power to enable the Scottish parliament to legislate for a referendum’.  If the SNP wins a majority of Scottish seats (though not necessarily 50% of the vote) and Westminster refuses to permit a referendum then the SNP will ‘contest the Scottish Parliament election in 2026 as a de facto referendum’.  The resolution is imprecise on what would constitute a mandate, whether 50% of SNP votes, 50% of SNP and any other party’s support, whether either of these would be on constituency, list or both votes.

 Nicola Sturgeon dug a hole for her party back in June and her NEC has kept on digging.  This all evades key questions - currency, fiscal policy and economic models, pensions, relations with rest of UK and Europe.  The SNP has been much more comfortable demanding a referendum on independence than discussing independence itself.  But the focus on a referendum is now causing major problems.  The SNP offers a confused, convoluted message with no certainty of changing much at the next election, regardless of how well the SNP performs.  By contrast, Labour’s message is simple, straightforward and would have immediate effect.  A Labour victory will see the Tories out of power the next day.

 *Professor James Mitchell Politics & International Relations University of Edinburgh*