

**DEVOLUTION
MONITORING
PROGRAMME
2006-08**

Scotland Devolution Monitoring Report

September 2008

Charlie Jeffery (ed.)

Institute of Governance, University of Edinburgh

www.institute-of-governance.org



The Devolution Monitoring Programme

From 1999 to 2005 the Constitution Unit at University College London managed a major research project monitoring devolution across the UK through a network of research teams. 103 reports were produced during this project, which was funded by the Economic and Social Research Council (grant number L 219 252 016) and the Leverhulme Nations and Regions Programme. Now, with further funding from the Economic and social research council and support from several government departments, the monitoring programme is continuing for a further three years from 2006 until the end of 2008.

Three times per year, the research network produces detailed reports covering developments in devolution in five areas: Scotland, Wales, Northern Ireland, the English Regions, and Devolution and the Centre. The overall monitoring project is managed by Professor Robert Hazell at The Constitution Unit, UCL and the team leaders are as follows:

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Introduction

Charlie Jeffery

Scotland's relationship with the rest of the UK took on a new tone over the summer months. The constitutional debate in Scotland was suddenly overshadowed by Westminster politics. The catalyst was David Marshall's resignation as Labour MP for Glasgow East on 28 June. Though Glasgow East was one of its 'heartland' seats, Labour was edged out by the SNP in the by-election that followed on 25 July. The SNP's candidate, John Mason, a local councillor, boosted the SNP vote by over 26 per cent to win by 365 votes over Margaret Curran on 25 July.

The SNP victory confirmed that the SNP's highly professional electoral machine, allied with good local organisation, could challenge Labour for its core vote. Labour's electoral machine performed lamentably, with even the most basic canvassing records absent. This appeared to reveal an ingrained complacency in the Labour Party about the loyalty of its supposedly 'heartland' voters and raised questions about its ability to hold off the SNP challenge at the next Westminster election. This was all the more significant, given the mythology that Gordon Brown had the Scottish Labour Party in a vice-like grip.

The SNP tried, with some success, to set up Glasgow East as a referendum on the performances of Holyrood and Westminster. Holyrood, and the SNP, won on Brown's own turf, revealing the organisational inadequacies of Labour in the process. The result was to personalise Labour's defeat as Brown's defeat. That had two further consequences. First it sharpened doubts about Brown's ability as Labour leader and Prime Minister, and opened up the prospect for a UK-level leadership challenge. Second, it prompted fuller debate in the Scottish Labour Party about its relationship to the UK party, with all the candidates to succeed Wendy Alexander as leader championing a more robust and a more Scottish approach to relations with the UK party.

All these issues were brought back into focus by the death of the Labour MP for Glenrothes in Fife, John MacDougall, on 12 August. MacDougall's seat is next door to Brown's. Its counterpart Scottish parliament seat was won at the 2007 Scottish Parliament elections by the SNP, building again on an impressive local SNP party organisation. Should the SNP win the bye-election, not only in Brown's fiefdom, but on

his doorstep, then all the questions about his leadership at the UK level, and about Scottish Labour's relations with UK Labour, will return with all the more force. And should the SNP win again, then it will have a real prospect of ramping up its Westminster representation in Scotland come the next UK election, opening up scope for UK-level power-broking in support of its aim of moving towards Scottish independence.

1. The Scottish Government

Paul Cairney

1.1 The New Scottish Ministerial Code

In the light of controversial ministerial involvement in commercial planning applications (see May 2008 Devolution Monitoring Report), the new ministerial code is timely (although it seems unlikely to stop opposition party plans to legislate on the matter).¹ While it closely resembles the previous code (stressing the need for ministers to regulate their own behaviour and for cabinet decision-making to be secret and binding on ministers), it also updates it and provides new guidance. The most significant change is the revised discussion of the conduct of ministers during the planning process. It identifies the need for the 'Planning Minister' (the minister likely to be responsible for making the decision referred to the Scottish Government) or any other minister involved in the decision, not to take action likely to be, or seen to be, prejudicial. Instead, the minister would remove him or herself from a decision related to his/her constituency; not meet the developer or objectors to the project and not comment further (than the official decision letter) on the reasons for a decision (8.2). While this guidance was largely present in the old code, there is also a new section on the First Minister (8.8):

The guidance set out at paragraphs 8.5 to 8.7 applies to the First Minister in the same way as it applies to all Ministers. The First Minister may act as a constituency MSP on any matter, in the same way as any other Minister. However, the First Minister must take especially rigorous care to be seen to separate his or her role as constituency MSP and their potential role in a planning decision. The First Minister must be seen to do nothing that could be perceived as prejudicial to the planning process, by making sure that other Ministers have a clear understanding that when he

¹ Scottish Government (2008) Scottish Ministerial Code: A code of conduct and guidance on procedures for Members of the Scottish Government and Junior Scottish Ministers <http://www.scotland.gov.uk/Publications/2008/06/18120242/16>. For the previous code, see <http://www.scotland.gov.uk/Publications/2003/08/17996/25267>. For the Scottish Parliament debate, see Scottish Parliament Official Report 18.6.08 cols. 9826-41 <http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0618-02.htm#Col9826> ; D. Maddox 19.6.08 'Salmond defied over ministers' watchdog' The Scotsman <http://news.scotsman.com/scotland/Salmond-defied-over-ministers39-watchdog.4200197.jp>

or she is acting or expressing a view as a constituency MSP those actions or views are not misinterpreted as being directive. The First Minister should avoid making any public statement about the merits of a planning application (even as a constituency MSP) that might be seen to put the Planning Minister under pressure when making a decision about a planning matter. Where the First Minister judges that the circumstances in which he or she is acting as constituency MSP are particularly sensitive, he or she has the option of consulting the Permanent Secretary.

Other significant changes include:

- A stronger discussion of the role of the First Minister in determining, and commenting on, the appropriateness of ministerial conduct. This includes a new reference to taking (and publishing) independent advice on potential major breaches (1.4). In the first instance, this advice will be given by the former Presiding Officers (Lord Steel of Aikwood and George Reid).²
- A stronger statement of collective responsibility. While ministers may object in private to policies affecting their constituency *before* a decision has been made, they must defend the decision *after* it has been made (2.5). If unable to do so, the implication is that the minister should resign or expect to be removed (2.8). In Cabinet they should act in their ministerial, not constituency, capacity (2.9).
- A change in the use of the Law Officers (the Lord Advocate and the Solicitor General for Scotland) when making decisions. In the previous code (2.22), the Law Officers would be consulted routinely. Now this role is performed by officials in the Scottish Government Legal Directorate, with reference to the Law Officers' advice 'if advice is expressly sought' (2.27). This is to make a clearer distinction between formal-legal and ministerial-legal advice (2.30).
- Replacing 'Ministerial Parliamentary Aides' with 'Parliamentary Liaison Officers' (4.6). It also trims the section on the rules for PLOs, including the stipulation that

² Scottish Government News Release 18.6.08 'Revised Ministerial Code' <http://www.scotland.gov.uk/News/Releases/2008/06/18152725> ; R. Dinwoodie 19.6.08 'Former presiding officers to advise on ministers' conduct' The Herald http://www.theherald.co.uk/politics/news/display.var.2350858.0.Former_presiding_officers_to_advise_on_ministers_conduct.php ; A. Black 18.6.08 "A 'ticklish' situation resolved?" BBC News <http://news.bbc.co.uk/1/hi/scotland/7461596.stm>

they may not sit on a committee related to the minister's portfolio (perhaps this reflects the more limited pool of recruitment for these posts).

- A more extensive discussion of special advisers (4.12-4), including reference to an annual statement of their numbers, names and pay bands to Parliament.
- A requirement that the nature of formal meetings with interest groups should be recorded (4.18) and that overseas ministerial travel details be published (9.10).
- More on what a quango or non-departmental public body (NDPB) is and does (5.1), followed by (more importantly) the discussion of legal rulings (on positive discrimination by gender, race, disability, sexual orientation) which prohibit appointments based on anything but merit (5.3, 5.10). Merit is now determined according to a 'Board Skills Matrix setting out the balance of skills and knowledge required' (5.5), with the Ministerial decision based on a summary of the strengths and weaknesses of candidates on that basis (5.9).
- The discouragement of ministerial support for particular lottery bids (7.6).
- The omission of the need to consult UK departments before agreeing to media interviews (8.11 in previous code).
- The omission of much of the detail related to the financial interests of ministers and how they should be managed (section 9 in previous code).
- A wider reference to ministerial conduct as MSPs subject to the Interests of Members of the Scottish Parliament Act 2006 (1.3).

The new code also:

- Omits section 6.13 of the old code which encourages ministers to pay particular attention to conflicts of interest in their use of government resources to benefit their constituencies. Instead, it relates this specifically to giving references to constituents (7.7).
- Suggests that every Bill should be accompanied by a statement that it is within the legislative competence of the Scottish Parliament (note that this role is traditionally performed by the Presiding Officer).
- Makes reference to the Freedom of Information (Scotland) Act 2002 rather than the previous code of practice, to determine ministerial openness (1.1d) and collective ministerial conduct in Cabinet (2.3).

- Sets out an explicit limit of £140 in gifts and hospitality to be registered on a list published quarterly (1.1g, 11.18). Gifts valued at over one per cent of an MSP's salary must also be registered with the Scottish Parliament (see 9.26).
- Encourages Cabinet Secretaries to check the accuracy of cabinet minutes and then adhere to the decisions recorded (2.12).
- Reflects the lack of a coalition executive. With the role of Deputy First Minister (previously held by a Liberal Democrat), no longer associated with the resolution of Cabinet Sub-Committee discussions (2.17), consulted on ministerial, aide or quango appointments (4.1, 4.2, 4.7, 5), able to appoint special advisors (4.12) or routinely copied into the procedures on parliamentary business.
- Makes reference to the 'check on delivery' (i.e. subject to change by ministers) status of ministerial statements to Parliament (3.5i).
- Makes reference to the new Office of Commissioner for Public Appointments in Scotland (5.2).
- Discourages the promotion of individual companies. This relates more to regulating the procurement of public services, rather than 'preventing Ministers from fulfilling their proper function of encouraging investment in economic activity to the benefit and prosperity of the people of Scotland' (9.29).
- Makes reference to the Scottish Government, not Scottish Executive, throughout.
- Omits section 7.30 on the acceptance of decorations from foreign countries.

1.2 Quangos, Relocation and Regulation

Although the SNP Government has rid itself of the policy of relocation, it is not so easy to avoid the bad publicity — largely from Edinburgh based newspapers — over costs associated with reforming and relocating quangos. For example, the *Evening News* reported that sportscotland will pay £250,000 to lease temporary offices in Glasgow and can no longer rely on the proceeds of the sale of its Edinburgh HQ.³ The *Scotsman* also baulks at the cost of sick days for staff at Scottish Enterprise.⁴ On the brighter side

³ I. Swanson 21.7.08 'Sports agency runs up £250k bill renting temporary office' *Evening News* <http://news.scotsman.com/politics/Sports-agency-runs-up-250k.4307670.jp> ; *Evening News* 21.7.08 "Sportscotland: 'More public money poured down the drain'" <http://news.scotsman.com/politics/Sportscotland-39More-public-money-poured.4307145.jp>

⁴ R. Lydall 29.8.08 'Business quango staff take 17,000 sick days in a year' *The Scotsman* <http://news.scotsman.com/politics/Business-quango-staff-take-.4439213.jp>

(economically), reduced operating costs have ensured that Scottish water costs are unlikely to rise as much as in England and Wales, while (politically) the SNP has found a way to maintain the charge of Labour cronyism more than a year after the party left office!⁵ This type of story may distract people from the fiasco surrounding the Creative Scotland Bill (see 2.2) and the uncertain costs involved when merging the Scottish Arts Council and Scottish Screen⁶ (although most of this may be recouped by the Scottish Government's bulk-order of electricity).⁷ It may also draw attention away from potentially embarrassing debates between the Scottish Government and its Council of Economic Advisers (an advisory body in the quango mould).⁸ The new Public Services Reform (Scotland) Bill will try again to introduce the new body (Creative Scotland), support a reduction in quango numbers, and (perhaps most significantly) 'reform the scrutiny landscape' in line with the Crerar Report's call for fewer regulators (see 11.1 of this report and 1.5 of the January 2008 report). This attempt to reduce the regulatory burden also extends to businesses.⁹

1.3 The Lord Advocate

Despite the reform of the Lord Advocate's formal political role, the ability of Elish Angiolini to set (or at least contribute to) the agenda remains undiminished. The two most high profile issues were the Scottish position on the need for a 42-day detention for terrorist suspects and the low rate of conviction for rape cases.¹⁰

⁵ 12.8.08 'Commission says Scottish water charges will rise below inflation'

<http://www.holyrood.com/content/view/2818/10051> ; R. Dinwoodie 12.8.08 'Watchdog urged to examine post for ex-minister' The Herald
http://www.theherald.co.uk/politics/news/display.var.2422996.0.Watchdog_urged_to_examine_post_for_exminister.php

⁶ P. MacLean 15.8.08 "Arts merger plan 'will go ahead'" BBC News

<http://news.bbc.co.uk/1/hi/scotland/7562200.stm> ; Scottish Government News Release 3.9.08 'Set up of Creative Scotland' <http://www.scotland.gov.uk/News/Releases/2008/09/03115220>

⁷ M. Settle 18.8.08 'Salmond aims to save with single public sector power contract' The Herald
http://www.theherald.co.uk/politics/news/display.var.2427403.0.Salmond_aims_to_save_with_single_public_sector_power_contract.php

⁸ D. Fraser 28.8.08 "SNP's 'no' to nuclear power challenged by key advisers" The Herald
http://www.theherald.co.uk/politics/news/display.var.2435704.0.SNPs_no_to_nuclear_power_challenged_by_key_advisers.php

⁹ Scottish Government News Release 4.8.08 'Report sets path for better regulation'
<http://www.scotland.gov.uk/News/Releases/2008/08/04104116>

¹⁰ M. Settle 10.6.08 'Angiolini opposes Brown on terror arrests' The Herald
http://www.theherald.co.uk/politics/news/display.var.2329769.0.Angiolini_opposes_Brown_on_terror_arrests.php; K. Bussey 14.6.08 'Angiolini says that conviction rate for rape remains too low' The Herald

1.4 C. Difficile

In June, Health Secretary Nicola Sturgeon announced an independent review (led by Professor Cairns Smith, professor of public health at the University of Aberdeen) into the causes, and control of the spread, of Clostridium Difficile at the Vale of Leven hospital. The issue was made more politically significant by opposition MSP claims that the Scottish Government knew about, but did not act quickly enough to combat, the spread of the bacteria.¹¹

1.5 Civil service: terms, conditions and roles

In the past we may have expected the 'Scottish Policy Style' (or greater consultation and negotiation between the Scottish Government and interest groups) to produce better relations with public sector professionals.¹² There were also (albeit unclear) signs, during previous negotiations with nurses, that this extended to pay negotiations (although the more cynical will tie the more generous Scottish Executive line to the 2007 Scottish Parliament elections). Yet, a spate of strikes over pay in the civil service (and local government) suggest that substance is more important than style. While two unions – the First Division Association and Prospect (representing senior and professional civil servants) – accepted the pay deal, the Public and Commercial Services union did not.¹³

http://www.theherald.co.uk/politics/news/display.var.2341627.0.Angiolini_says_that_conviction_rate_for_rape_remains_too_low.php

¹¹ Scottish Government News Release 18.6.08 'Clostridium Difficile'

<http://www.scotland.gov.uk/News/Releases/2008/06/18164207>; Scottish Parliament Official Report 18.6.08 cols. 9890-9900

<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0618-02.htm#Col9890>; BBC News 18.6.08 'Sturgeon 'knew of C.diff deaths''

http://news.bbc.co.uk/1/hi/scotland/glasgow_and_west/7460267.stm; A. MacDermid 16.6.08 'Sturgeon agrees case for C Diff independent probe compelling' The Herald

http://www.theherald.co.uk/politics/news/display.var.2342962.0.Sturgeon_agrees_case_for_C_Diff_independent_probe_compelling.php; Scottish Government News Release 7.8.08 'Action to tackle C.diff' <http://www.scotland.gov.uk/News/Releases/2008/08/07113700>

¹² P. Cairney (2008) "Has Devolution Changed the 'British Policy Style'," *British Politics*, 3, 3, 350-72 <http://www.palgrave-journals.com/bp/journal/v3/n3/pdf/bp200815a.pdf>

¹³ The Scotsman 30.7.08 'Scottish Government staff set for pay strike'

<http://news.scotsman.com/politics/Scottish-Government-staff-set-4342202.jp>; BBC News 31.7.08 'Government 'open' despite strike' <http://news.bbc.co.uk/1/hi/scotland/7533058.stm>; D. Maddox 1.8.08 'Holyrood faces its own winter of discontent as 150,000 vote to strike'

<http://news.scotsman.com/politics/Holyrood-faces-its-own-4348004.jp>; BBC News 21.7.08 'Civil servants back strike action' <http://news.bbc.co.uk/1/hi/scotland/7517345.stm>; D. Maddox 2.8.08 'Scots council staff to strike this month' The Scotsman <http://news.scotsman.com/politics/Scots->

In this light, perhaps Finance Secretary John Swinney's plans to reform how civil servants work will seem less controversial. 'Scotland Performs' represents the Scottish Government's response to the Howat Report on Scottish public administration. It identifies 45 key indicators of public policy success and encourages civil servants to focus on achieving them rather than (according to the caricature of officials) pursuing their own indicators of prestige by trying to maximise the budgets of their departments.¹⁴

1.6 Freedom of Information and Fiscal Fines

'Fiscal fines' are a series of penalties introduced by the Procurator Fiscal to minimise the number of minor criminal cases (including, for example, cannabis possession) going to court. In the light of some concerns by defence lawyers that too many serious crimes are being administered in this way and in an unclear fashion (using the rule that a serious assault requires more than three stitches), there were calls for supposed 'secret guidelines' to be published. Justice Minister Kenny MacAskill has refused to direct the Crown Office and information commissioner Kevin Dunion does not have the power.¹⁵ The applicability of Freedom of Information to private companies and housing associations delivering public services is also still high on the agenda, while the Scottish Government plans to pilot moves towards greater freedom of information.¹⁶ A more pressing issue – in the light of a Lords decision on childhood leukaemia rates in

[council-staff-to-4351262.jp](http://www.theherald.co.uk/news/news/display.var.1917622.0.Scotlands_prosecutors_suspend_threat_of_strike_action.php); see also W. Tinning 20.12.07 'Scotland's prosecutors suspend threat of strike action' The Herald http://www.theherald.co.uk/news/news/display.var.1917622.0.Scotlands_prosecutors_suspend_threat_of_strike_action.php

¹⁴ See <http://www.scotland.gov.uk/About/scotPerforms>; E. Barnes 1.6.08 'Swinney cracks the whip on civil service' Scotland On Sunday <http://news.scotsman.com/scotland/Swinney-cracks-the-whip-on-4139847.jp>. See also 1.2 January report and Scottish Government News Release 29.5.08 'Monitoring of public procurement'

<http://www.scotland.gov.uk/News/Releases/2008/05/29125323>

¹⁵ BBC News 18.8.08 "Minister defends 'secret fines'" <http://news.bbc.co.uk/1/hi/scotland/7566875.stm>; The Herald 18.8.08 'MacAskill defends secrecy of fine guidelines'

http://www.theherald.co.uk/politics/news/display.var.2428209.0.MacAskill_defends_secret_of_fine_guidelines.php; Newsnight Scotland 18.8.06 'Justice Reforms'

<http://news.bbc.co.uk/1/hi/scotland/7569966.stm>; Scottish Government News Release 19.5.08 'Fiscal fines' <http://www.scotland.gov.uk/News/Releases/2008/05/20083642>

¹⁶ Scottish Government News Release 30.6.08 'Freedom of Information'

<http://www.scotland.gov.uk/News/Releases/2008/06/30080541>; Scottish Information

Commissioner (30.6.08) 'Commissioner welcomes Minister's announcement'

<http://www.itspublicknowledge.info/home/News/20080630.asp>; BBC News 29.6.08 'Information act could be widened'

<http://news.bbc.co.uk/1/hi/scotland/7478269.stm>; Scottish Government

News Release 14.5.08 'Access to information'

<http://www.scotland.gov.uk/News/Releases/2008/05/14150751>

Dumfries and Galloway – is *how* to release information without breaching patient confidentiality.¹⁷

1.7 Peripatetic Cabinet

The Scottish Government has begun to hold cabinet meetings across the country (some combined with meetings associated with its national conversation), with the UK Government likely to follow its lead.¹⁸

¹⁷ Scottish Information Commissioner (9.7.08) 'Commissioner welcomes House of Lords opinion' <http://www.itspublicknowledge.info/home/News/20080709.asp> ; BBC News 9.7.08 'Lords deliver leukaemia judgement' http://news.bbc.co.uk/1/hi/scotland/south_of_scotland/7497410.stm . For the background, see Scottish Executive 1.6 January 2007.

¹⁸ BBC News 27.7.08 'Cabinet sets out on summer tour' http://news.bbc.co.uk/1/hi/scotland/south_of_scotland/7525605.stm; Scottish Government News Release 1.9.08 'Summer Cabinets here to stay' <http://www.scotland.gov.uk/News/Releases/2008/09/01113849>; K. Bussey 1.9.08 'Salmond announces cabinet roadshow to be repeated' The Herald http://www.theherald.co.uk/politics/news/display.var.2438290.0.Salmond_announces_cabinet_roadshow_to_be_repeated.php; R. Lydall 5.8.08 'Brown to take Cabinet out of Westminster but 'SNP had the idea first'' The Scotsman <http://news.scotsman.com/politics/Brown-to-take-Cabinet-out.4356423.jp>; H. MacDonell 6.8.08 'More answers than questions as Scottish Cabinet drops in on Inverness' The Scotsman <http://news.scotsman.com/politics/More-answers-than-questions-as.4360308.jp>

2. The Scottish Parliament

Paul Cairney

2.1 Wendy Alexander's Standards

The resignation of Wendy Alexander on 28 June turned the parliamentary story of the summer into a damp squib. Resignation became unavoidable when the Standards, Procedures and Public Appointments Committee signalled its intent to vote to suspend Alexander for one business day for breaching rules on personal donations.¹⁹ Yet, since this sanction was not confirmed or rejected in plenary before the summer recess, the long period before the next available time to vote on the issue – in September – would have represented not only her very own ‘Sword of Damocles’²⁰ but also further immunity for the SNP from any form of critical scrutiny of its governing conduct (particularly since it was also riding high on Labour’s continued run of by-election defeats). In the end the committee motion was defeated 49-70-2 when the plenary voted in September.²¹

Without the backdrop of Labour Party and leadership crises, the donation would have been more a technical issue related to the rules of admission regarding personal and party donations (which the Presiding Officer has promised to review).²² On the plus side

¹⁹ For a full account of the process, see: Standards, Procedures and Public Appointments Committee (10.7.08) ‘Complaint against Wendy Alexander MSP’ http://www.scottish.parliament.uk/s3/committees/stanproc/reports-08/stpr08-06.htm#_ftnref21 . Scottish Parliamentary Standards Commissioner (2008) ‘Report on Complaint Against Wendy Alexander’ (para 91) is in Annex A.

²⁰ D. Maddox 5.9.08 ‘Alexander’s great escape as MSPs vote against suspension’ *The Scotsman* <http://news.scotsman.com/politics/Alexander39s-great-escape-as-MSPs.4461901.jp> ; E. Barnes 29.6.08 ‘Analysis - Black arts and bitterness’ *Scotland on Sunday* <http://scotlandonsunday.scotsman.com/scottishlabourparty/Analysis--Black-arts-and.4233928.jp> ; R. Dinwoodie 5.9.08 ‘Alexander hits out after her Holyrood ban is overturned’ *The Herald* http://www.theherald.co.uk/politics/news/display.var.2441280.0.Alexander_hits_out_after_her_Holyrood_ban_is_overturned.php

²¹ Scottish Parliament Official Report 4.9.08 col. 10577 <http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0904-02.htm#Col10577>

²² H. MacDonell 11.7.08 ‘Alexander could have avoided sanctions’ *The Scotsman* <http://news.scotsman.com/politics/Alexander-could-have-avoided-sanctions.4278655.jp>; BBC News 25.6.08 ‘Alexander ‘broke Holyrood rules’ <http://news.bbc.co.uk/1/hi/scotland/7473320.stm> ; BBC News 10.7.08 ‘Report re-ignites donations row’ <http://news.bbc.co.uk/1/hi/scotland/7499621.stm>. Most of the coverage focused on partisan issues - 10.7.08 ‘Labour condemn report on Alexander donations as ‘flawed and partisan’ <http://www.holyrood.com/content/view/2718/10051/>; H. MacDonell 16.6.08 ‘SNP accused of Alexander smear campaign after leak’ <http://news.scotsman.com/politics/SNP-accused-of->

for Alexander: previous investigations on the legality of the donations, by the police and the Electoral Commission, produced no sanctions²³; Alexander appeared to be following an informal precedent set by MSPs seeking funding to pursue party leadership; and, when Alexander sought advice from clerks to the Standards Committee, regarding the need to register the donations as gifts in the Register of Members' Interests, they did not give unequivocal advice to do so. On the minus side: Alexander had sought this advice *after* the 30-day deadline for registration; and, the Standards Commissioner Jim Dyer took a stronger view. Dyer ruled (on the basis of separate legal advice) that the failure to register eight donations breached (regardless of intent and her knowledge of the details of donations) the *Interests of Members of the Scottish Parliament Act 2006*, because: 'a fair minded and impartial observer would consider that the interests could influence a person acting as an MSP or give the appearance of prejudicing that person's ability to act impartially'.¹⁹

While much was made of the fact that this is the first time a Standards Committee recommendation has been overturned in plenary,²⁴ this reflects the new parliamentary arithmetic more than the merits of the case. In a session in which committee reports divided along party lines, these outcomes in committee and reversals in plenary are inevitable. They are also remarkably unpredictable and dependent on the party which holds the committee convenership.

2.2 Creative Scotland Bill

In another episode that did not drape the Scottish Parliament in glory, the Creative Scotland Bill was rejected at stage 1 in plenary following a farcical process in which MSPs appeared not to know the effects of their actions. The scrutiny process began well

[Alexander-smear.4187434.jp](http://news.bbc.co.uk/1/hi/scotland/7479765.stm); BBC News 29.6.08 'SNP denies Alexander bias claims' <http://news.bbc.co.uk/1/hi/scotland/7479765.stm>; The Scotsman 30.8.08 'MSPs in quit threat over Wendy vote' <http://news.scotsman.com/politics/MSPs-in-quit-threat-over.4443431.jp> - or the final straw: D. Fraser 30.6.08 'The last straw for Wendy Alexander' The Herald http://www.theherald.co.uk/politics/news/display.var.2369901.0.The_last_straw_for_Wendy_Alexander.php; H. MacDonell 27.6.08 'How much longer can Wendy Alexander hold on?' The Scotsman <http://news.scotsman.com/latestnews/-How-much-longer-can.4229208.jp>.

²³ BBC News 7.2.08 'Alexander in clear over donation'

<http://news.bbc.co.uk/1/hi/scotland/7232516.stm>. Note that donations (and the names of donors) need only be registered with the Electoral Commission when they exceed £1000. For the Register of Members' Interests it is £520 (or 1% of an MSP's salary).

²⁴ D. Maddox 5.9.08 'Alexander's great escape as MSPs vote against suspension' The Scotsman <http://news.scotsman.com/politics/Alexander39s-great-escape-as-MSPs.4461901.jp>

enough (at least in the current partisan climate), with a report agreed by all members following some haggling about its tone.²⁵ The report broadly welcomes the consultation process and the main policy (replacing the Scottish Arts Council and Scottish Screen with the new strategic cultural development agency Creative Scotland) while expressing concern about the bill's lack of ambition (or the need for a bill just to amalgamate two bodies) and a need for clarity on the new body's remit, operation and funding.²⁶ This concern over the clarity of funding arrangements was taken on by opposition parties during plenary, and seemed to be exacerbated by Linda Fabiani's (Minister for Europe, External Affairs and Culture) statements. The upshot is that, while the Parliament voted in favour of the principles of the bill, the bill fell because the opposition voted against its financial memorandum.²⁷ Judging by the lengthy exchanges and points of order raised before the vote, it seems that few MSPs knew this would happen (or at least how to stop it).²⁸ The next step is to set up the new body as part of the forthcoming Public Services Reform Bill (see also 1.2).²⁹

2.3 Members' Expenses

The status of regional versus constituency MSPs arose during a debate on expenses. There is long standing concern that those elected indirectly from regional lists (to compensate for the imbalances caused by first-past-the-post elections) will be treated as 'second class citizens', in part because they are expected to be 'more oriented towards their parties than towards constituents' and "better able to 'shirk' constituency

²⁵ See the 'Record of divisions in private' (14th meeting) in Education, Lifelong Learning and Culture Committee (2008) *Stage 1 Report on the Creative Scotland Bill* (SP paper 105)

<http://www.scottish.parliament.uk/s3/committees/ellc/reports-08/edr08-03-02.htm#car>

²⁶ For a more hyped up account, see The Herald 2.7.08 'Creative Scotland attacked in new report by MSPs'

http://www.theherald.co.uk/politics/news/display.var.2312264.0.Creative_Scotland_attacked_in_new_report_by_MSPs.php

²⁷ R. Dinwoodie 19.6.08 'Minister under fire as finance for Culture Bill is voted down' The Herald http://www.theherald.co.uk/politics/news/display.var.2350889.0.Minister_under_fire_as_finance_for_Culture_Bill_is_voted_down.php

²⁸ Scottish Parliament Official Report 18.6.08 col. 9909

<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0618-02.htm#Col9909>; D. Maddox 23.6.08 'Inside Holyrood - Presiding Officer losing his grip' The Scotsman <http://news.scotsman.com/politics/Inside-Holyrood--Presiding-Officer.4211193.jp>

²⁹ P. Miller 27.6.08 'Creative Scotland Bill back to Holyrood in Autumn' The Herald

http://www.theherald.co.uk/politics/news/display.var.2367077.0.Creative_Scotland_Bill_back_to_Holyrood_in_Autumn.php

demands”³⁰ (this is exacerbated in Scotland by the strong party dimension, with the Labour-Liberal Democrat coalition holding 65 of 73 constituency seats in 1999). These concerns were revived following the decision by the Scottish Parliament Corporate Body to commission a review into parliamentary allowances.³¹ The report (chaired by Sir Alan Langlands) recommended granting different levels of expenses for staff costs to constituency (£62,000) and regional (£45,000) members to take into account the busier workloads of the former.³² This produced much debate between and within parties³³ and was eventually rejected in favour of a Tricia Marwick (SNP) amendment establishing the principle of equality (‘All members have equal formal and legal status’) and parity in staff expenses (£54,620 for all).³⁴ The report also called for the abolition of the highly controversial use by MSPs of expenses towards mortgage payments for Edinburgh properties, with review member Tom McCabe implying that this was necessary to assuage public concern even if it cost more money to administer.³⁵ The Parliament is also likely to accept the terms of a bill to reform MSP and ministerial pensions.

2.4 Scottish Parliament Committees

The parliamentary arithmetic from May 2007 has brought a new trade-off. From 1999-2007 we had the Scottish Executive dominance of Parliament, but relatively stable committees and the ability and willingness of committees to commit to long term inquiries (a key part of the agenda-setting abilities of Parliament). Since 2007 this

³⁰ T. Lundberg (2006) ‘Second-Class Representatives? Mixed-Member Proportional Representation in Britain’, *Parliamentary Affairs*, 59, 1, 60-77
<http://pa.oxfordjournals.org/cgi/reprint/59/1/60>, pp60-1.

³¹ <http://allowancesreview.scottish.parliament.uk/>

³² Scottish Parliament (2008) Independent Review of Parliamentary Allowances (the Langlands Review) http://allowancesreview.scottish.parliament.uk/report/AllowancesReviewReport_final.pdf, pp7-8. It also proposed the support of £15000 per annum for an MSP’s constituency office, but the same amount for an MSP’s regional office only if there was no other office for the same party in that region (or if the SPCB granted permission for a second office).

³³ D. Maddox 11.6.08 ‘MSPs divided over allowance shake-up’ *The Scotsman* <http://news.scotsman.com/politics/MSPs-divided-over-allowance-shakeup.4171640.jp>; BBC News 12.6.08 ‘“Offensive” allowance plan falls’ <http://news.bbc.co.uk/1/hi/scotland/7450089.stm>; D. Maddox 13.6.08 ‘MSPs award themselves £1.4m rise in allowances for staff and office costs’ *The Scotsman* <http://news.scotsman.com/politics/MSPs-award-themselves-14m-rise.4182516.jp>; D. Maddox 4.6.08 ‘MSPs divided over allowances’ *The Scotsman* <http://news.scotsman.com/politics/MSPs-divided-over-allowances.4147897.jp>.

³⁴ Scottish Parliament Official Report 12.6.08 col.9687

³⁷ <http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0612-02.htm#Col9666>

³⁵ Scottish Parliament Official Report 12.6.08 col.9666

dominance of proceedings has vanished, but the resultant level of competition, instability and partisanship has undermined anything but very short and sharp inquiries (such as the investigation into ministerial conduct regarding Donald Trump). There does not seem to be any (effective) institutional memory-building on the legacy reports produced by previous committees bemoaning the lack of time for serious inquiries.

In this light, and as discussed in the May 2008 Scotland Devolution Monitoring Report, the saving grace may be for parties to agree to steer inquiries towards cross-party issues. There are two good examples in this period. The first is the decision by the Public Petitions Committee to review the procedures for petitions to the Parliament.³⁶ The second is the decision to reform MSP pensions following a report produced by the (ad hoc) Scottish Parliamentary Pension Scheme committee. The report recommends reforming the rules for First Ministers in which they are entitled to a pension equalling six months' salary, as soon as they step down and regardless of term in office (a rule criticised following Henry McLeish's brief term as FM). Instead, they will receive a one-off payment of 6 months' salary plus their entitlement to an MSP pension. The MSP pension may itself be more generous for some (if MSPs vote to increase their contributions), with the lump-sum arrangements related to age for those who lose their seats (which falls foul of age discrimination legislation) replaced by a system based on length of service.³⁷

³⁶ <http://www.scottish.parliament.uk/s3/committees/petitions/inquiries/petitionsProcess/Inquiryintothepublicpetitionsprocess.htm> ; R. Dinwoodie 24.6.08 'Petitions Committee plans to modernise the system' The Herald http://www.theherald.co.uk/politics/news/display.var.2359513.0.Petitions_Committee_plans_to_modernise_the_system.php

³⁷ Scottish Parliamentary Pension Scheme Committee (2008) *Scottish Parliamentary Pension Scheme* http://www.scottish.parliament.uk/s3/committees/spps/reports-08/sppr08-01_vol01.htm#1 ; BBC News 29.5.08 'Holyrood pension changes proposed' <http://news.bbc.co.uk/1/hi/scotland/7425592.stm> ; D. Fraser 30.5.08 'End of line for First Ministers' half-salary pension' The Herald http://www.theherald.co.uk/politics/news/display.var.2306919.0.End_of_line_for_First_Ministers_halfsalary_pension.php; H. MacDonell 30.5.08 'Pension shake-up after McLeish deal storm' The Scotsman <http://news.scotsman.com/politics/Pension-shakeup-after-McLeish-deal.4135498.jp> ; SPOR 26.6.08 col. 10181 <http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0626-02.htm#Col10182>

2.5 Committee Reports and Inquiries (7 May – 5 September 2008)³⁸

Equalities Committee:

17 June 2nd Report 2008: Removing Barriers and Creating Opportunities: Review of Progress

<http://www.scottish.parliament.uk/s3/committees/equal/reports-08/eor08-02.htm>

European and External Relations:

20 June 3rd Report 2008: Inquiry into International Development

<http://www.scottish.parliament.uk/s3/committees/europe/reports-08/eur08-03.htm>

9 May Report on Europe Day Conference 2008

<http://www.scottish.parliament.uk/s3/committees/europe/inquiries/InternationalDevelopmentInquiry/documents/europeDayConference2008.pdf>

Finance:

6 May Report on the Financial Memorandum of the Creative Scotland Bill

<http://www.scottish.parliament.uk/s3/committees/finance/reports-08/fir08-creative-scot-bill-fm.htm>

Public Petitions:

18 June 3rd Report 2008: Availability on the NHS of cancer treatment drugs

<http://www.scottish.parliament.uk/s3/committees/petitions/reports-08/pur08-03.htm>

9 June 2nd Report 2008: Equalities Report for the period 3 April 2007 – 8 May 2008

<http://www.scottish.parliament.uk/s3/committees/petitions/reports-08/pur08-02.htm>

9 June 1st Report 2008: Annual Report 2007-08

<http://www.scottish.parliament.uk/s3/committees/petitions/reports-08/pur08-01.htm>

Standards, Procedures and Public Appointments:

10 July 6th Report 2008: Complaint against Wendy Alexander MSP

<http://www.scottish.parliament.uk/s3/committees/stanproc/reports-08/stpr08-06.htm>

6 June 4th Report 2008: Complaint against Andy Kerr MSP

³⁸ Excluding most annual reports, routine subordinate legislation reports, financial memoranda, budget reports (which are brought together by the Finance Committee's stage 2 report) and reports on subordinate legislation.

<http://www.scottish.parliament.uk/s3/committees/stanproc/reports-08/stpr08-04.htm>

16 May 3rd Report 2008: Complaint against Campbell Martin, former MSP

<http://www.scottish.parliament.uk/s3/committees/stanproc/reports-08/stpr08-03.htm>

Subordinate Legislation:

19 June Report on the Offences (Aggravation by Prejudice) (Scotland) Bill at Stage 1

<http://www.scottish.parliament.uk/s3/committees/subleg/reports-08/sur08-AggravatedOffences.htm>

9 June 26th Report 2008: Public Health etc. (Scotland) Bill as amended at Stage 2

<http://www.scottish.parliament.uk/s3/committees/subleg/reports-08/sur08-26.htm>

Economy, Energy and Tourism

10 July 6th Report 2008: Growing Pains - can we achieve a 50% growth in tourist revenue by 2015?

<http://www.scottish.parliament.uk/s3/committees/eet/reports-08/eer08-06-00.htm>

01 July 5th Report: Report on the Energy Technologies Institute

<http://www.scottish.parliament.uk/s3/committees/eet/reports-08/eer08-05.htm>

9 June 3rd Report 2008: Report on the Legislative consent memorandum on the Energy Bill (UK Parliament legislation)

<http://www.scottish.parliament.uk/s3/committees/eet/reports-08/eer08-03.htm>

6 June 2nd Report 2008: Stage 1 Report on the Scottish Register of Tartans Bill

<http://www.scottish.parliament.uk/s3/committees/eet/reports-08/eer08-02.htm>

Education, Lifelong Learning and Culture:

2 June 3rd Report 2008: Stage 1 Report on the Creative Scotland Bill

<http://www.scottish.parliament.uk/s3/committees/ellc/reports-08/edr08-03-01.htm>

Local Government and Communities:

10 June 8th Report 2008: Elections 2007

<http://www.scottish.parliament.uk/s3/committees/lgc/reports-08/lqr08-08.htm>

Rural Affairs and Environment:

16 May 2nd Report 2008: Flooding and Flood Management

<http://www.scottish.parliament.uk/s3/committees/rae/reports-08/rur08-02-01.htm>

Transport, Infrastructure and Climate Change:

27 June 4th Report 2008: Ferry Services in Scotland

<http://www.scottish.parliament.uk/s3/committees/ticc/reports-08/trr08-04.htm>

Scottish Parliamentary Pension Scheme:

29 May 1st Report, 2008: Scottish Parliamentary Pension Scheme

http://www.scottish.parliament.uk/s3/committees/spps/reports-08/sppr08-01_vol01.htm

2.6 Parliamentary Bills (7 May 2008 – 5 September 2008)³⁹

Scottish Government Bills Passed:

- Glasgow Commonwealth Games Act 2008. Measures to support the games include compulsory land purchase, transport plans, moves to regulate street trading, advertising and bans on ticket touting. The scrutiny process was uneventful (bar the issue of sportscotland's reform) and the bill passed unopposed.
- Public Health etc. (Scotland) Act 2008. To update old legislation on quarantine and infectious disease control. The Act also regulates the sale or hire of sun beds and prohibits their hire to under-18s. This represents a success for Labour's Ken Macintosh (and the cross-party group on cancer), who pursued the issue in a proposed member's bill.⁴⁰ It does not include raising the age of cigarette sales to 18 as this was done previously using regulations.⁴¹ The bill passed unopposed and almost unnoticed (falling on the same day as the debate on MSP expenses).

³⁹ Note: The Creative Scotland Bill fell at stage 1.

⁴⁰ Scottish Parliament Official Report 12.6.08 col. 9744

<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0612-02.htm#Col9744>

⁴¹ Scottish Government News Release 1.10.07 'Cigarette sales age check'

<http://www.scotland.gov.uk/News/Releases/2007/09/28154549>

Scottish Government Bills in Progress (latest stage reached)⁴²:

- Damages (Asbestos-related Conditions) (Scotland) Bill (Stage 1)
- Health Boards (Membership and Elections) (Scotland) Bill (Stage 1)
- Judiciary and Courts (Scotland) Bill (Stage 3)
- Sexual Offences (Scotland) Bill (Stage 1)

Members' Bills in Progress

- Disabled Persons' Parking Places (Scotland) Bill (Jackie Baillie, Labour) (Stage 1)
- Offences (Aggravation By Prejudice) (Scotland) Bill (Patrick Harvie, Green) (Stage 1)
- Scottish Register of Tartans Bill (Jamie McGrigor, Conservative) (Stage 2)

Proposals for Members' Bills (most recent first):⁴³

- Proposed Criminal Sentencing (Equity Fines) (Scotland) Bill (Bill Wilson, SNP)
- Proposed Apprenticeship Rights (Scotland) Bill (John Park, Labour)
- Proposed Environmental Levy on Plastic Bags (Scotland) Bill (Mike Pringle, Liberal Democrat) – The proposal fell because Pringle did not lodge a consultation
- Proposed Rural Schools (Scotland) Bill (Murdo Fraser, Conservative)
- Proposed Control of Dogs (Scotland) Bill (Alex Neil, SNP) - the proposal has gathered sufficient support for a Bill to be introduced.
- Proposed Tobacco Sales Licensing (Scotland) Bill (Christine Grahame, SNP) (this will be addressed by the Scottish Government's Health Bill)
- Proposed Property Factors (Scotland) Bill (Patricia Ferguson, Labour)
- Proposed Energy Efficiency and Micro-generation (Scotland) Bill (Sarah Boyack, Labour) - the proposal has gathered sufficient support for a Bill to be introduced.
- Proposed Abolition of Forth and Tay Bridge Tolls Bill (Helen Eadie, Labour) – superseded by the Scottish Government's bill.

⁴² See D. Maddox 16.6.08 'Inside Holyrood: Shocker at Holyrood – politicians agree' The Scotsman <http://news.scotsman.com/politics/Inside-Holyrood-Shocker-at-Holyrood.4187438.jp>

⁴³ See <http://www.scottish.parliament.uk/s3/bills/MembersBills/index.htm>

- Proposed Sunbed Licensing (Scotland) Bill (Kenneth Macintosh, Labour) – see Public Health Act 2008

2.7 Sewel (Legislative Consent) Motions passed (7 May 2008 – 5 September 2008)⁴⁴

87. Statute Law (Repeals) Bill (25.3.08). Possibly the most innocuous and least discussed motion since devolution, the Bill follows the Statute Law Repeals Report by the Law Commission and the Scottish Law Commission and represents a ‘tidying up’ exercise with ‘no policy implications’.⁴⁵

88. Energy Bill (18.6.08). The bill extends executive devolution (‘reverse-Sewel’) to regulate technologies related to renewable energy and provides a common legislative framework for offshore carbon dioxide storage. There was no debate or formal opposition.

⁴⁴ A full list of motions and links to SPOR discussions is provided by the Scottish Government: <http://www.scotland.gov.uk/Topics/Government/Sewel>. The numbers differ because the monitor lists motions chronologically by date passed in the Parliament (and does not number the motions considered but not passed).

⁴⁵ See <http://www.scottish.parliament.uk/s3/committees/justice/papers-08/jup08-09.pdf>

3. The Media

Eberhard Bort

The resignation of Wendy Alexander on 28 June, followed on 2 July by that of Nicol Stephen, triggered leadership contests in the Labour and Lib Dem parties which, together with the Glasgow East by-election and the looming by-election in Glenrothes (due to the death of sitting Labour MP John McDougall), kept Scottish politics in the headlines over the summer.

3.1 Resignation of Wendy Alexander

The Parliament's term ended with a cliff-hanger. The Standards Committee decided after months of investigations, first by the Electoral Commission, then by the Parliament's standards guru Jim Dyer, and finally by the Committee, to recommend a day's suspension from Parliament for the beleaguered Scottish Labour leader Wendy Alexander. The Parliament would have to vote on that recommendation – but since the Chamber had packed up for the summer it would have to wait till after the summer recess...

Alexander was still reeling from the “humiliating U-turn over her call for an early independence referendum”

However she tries to fudge the issue now, it's clear that her misguided attempt to challenge the Nats over independence has damaged her credibility even further. It may have been a tactic to embarrass the SNP government but it ended up just embarrassing the Labour Party and the Prime Minister in particular.⁴⁶

As Douglas Fraser commented, her resignation had deeper reasons than just the Parliament's Standards Commission decision:

Although her resignation was in response to the committee vote, it set out her case for why it had been wrong, partisan and against natural justice.

⁴⁶ *The Daily Record* (Editorial), 'It's an own goal', 12 May 2008.

So why resign at all? Because the standards ruling was the final straw.

Ms Alexander's leadership negatives heavily outweighed her positives⁴⁷

"Her nine months in charge of the party were blighted almost from the start by the donations row, poor performances against Alex Salmond and then the referendum controversy."⁴⁸ That was the gist of the media response to Alexander's resignation. "Alexander's record as leader failed to live up to the expectations," wrote James Mitchell in the *Observer*:

Her performances at First Minister's questions were poor. ... When she stunned the country – and her colleagues in London – with support for a referendum on independence, she had once again failed to prepare the ground, having not thought through the implications of her U-turn.⁴⁹

All commentators stressed the impact on Gordon Brown. "Just when it seemed things could hardly get worse for Gordon Brown, Wendy Alexander resigns in a sleaze row over donations to her leadership campaign,"⁵⁰ but not all reactions were outright and relentlessly negative. *Scotland on Sunday* conceded:

This is not to say that Alexander did not have a vision for her party and Scotland. She was quietly modernising the former while trying to outline the latter. Most notably, this included the brave decision to take on her colleagues at Westminster in an attempt to effectively federalise the party and get it to look seriously at devolving further powers to Holyrood. This newspaper backed that approach, which took form in the cross-party Calman Commission ... Last week's standards committee suspension was politically motivated and she has paid a price way out of proportion with her "offence," of not registering donations to her leadership campaign.⁵¹

"Wendy Alexander may have lacked many of the skills necessary for political leadership," so the verdict of Iain Macwhirter in the *Herald*:

⁴⁷ Douglas Fraser, 'The final straw for Wendy Alexander', *The Herald*, 30 June 2008.

⁴⁸ Ian Swanson, 'Labour's red rose is wilting in the heat', *Edinburgh Evening News*, 1 July 2008.

⁴⁹ James Mitchell, 'Great expectations came to nothing', *The Observer*, 29 June 2008.

⁵⁰ *Scottish Daily Mail* (Editorial), 'Now Wendy adds to Gordon's many woes', 30 June 2008.

⁵¹ *Scotland on Sunday* (Editorial), 'Labour's lost love', 29 June 2008.

but her analysis of the political situation in Scotland was sound. To meet the Nationalist challenge, Labour has to detach itself from Westminster and become more of a Scottish party. It can only do this by adopting an explicit federal agenda, calling for an autonomous Scottish parliament, with economic powers.⁵²

Macwhirter probably wrote the *Herald's* editorial on Wendy Alexander's demise:

Ms Alexander may have been among the strongest intellectually of her party north of the border, but she failed on the key public front of at least breaking even in the weekly cut-and-thrust of First Minister's questions. There were ample openings for point-scoring, for example, on the SNP's proposals for local income tax. But when she lost her voice in the final week of her tenure as party leader, it was only the physical manifestation of what had been happening anyway when it came to unequal sparring in the debating chamber. More tellingly, her bungled attempt to unsettle the SNP by insisting on an immediate referendum against the wishes of 10 Downing Street showed all the hallmarks of an ambitious politician seeking to throw off the image of being a mere Brownite "puppet". It backfired badly, and the absence of more than tepid backing by the Prime Minister left her weaker to resist the forces, including some in her own party, actively plotting her downfall.⁵³

The most scathing farewell came from the *Sunday Times*: "... there will be many in the SNP sorry to see her go, for she has been a singularly ineffective leader of the opposition."⁵⁴

3.2 Nicol Stephen's Resignation

Compared to Wendy Alexander's resignation, the surprise resignation of Nicol Stephen – 'Mr predictable surprises everyone'⁵⁵ – played second fiddle. Given his "low profile" leadership and his "recognition problem" Campbell Gunn summed it up perfectly:

⁵² Iain Macwhirter, 'Not great leader but she had the right idea about Scottish Labour', *Sunday Herald*, 29 June 2008.

⁵³ *The Herald* (Editorial), 'What now for Labour?', 30 June 2008.

⁵⁴ *The Sunday Times* (Editorial), 'Let the party begin', 29 June 2008.

It's said that political journalists should never be cynical but always be sceptical. So when a politician resigns, often citing a desire "to spend more time with my family," there's usually a flurry of speculation as to the real reason behind the departure. In the case of Nicol Stephen, who gave exactly that reason for standing down, it appears, disappointingly for the conspiracy theorists, to be true.⁵⁶

Stephen, despite his "lack of charisma",⁵⁷ was credited to have been "surprisingly nimble against Alex Salmond," landing "more blows on the nationalist's thick hide than anyone else on opposition benches".⁵⁸ Both Jenny Hjul and Murray Ritchie encouraged the Lib Dems and their new leader to be "decisive" and "radical". If they or, more likely, the SNP win Jack McConnell's seat when he steps down as an MSP to take up his role as High commissioner for Malawi, the arithmetic at Holyrood would change and the relative importance of the Lib Dems would increase. Hjul discovered the Lib Dems' federalism as a "firm proposal to maintain the United Kingdom based on a more federal state" which she called "better than outright separatism and better than doing nothing about the shifting political landscape". Murray Ritchie perhaps over-egged the pudding by claiming:

I suspect most Scottish Liberals would opt for a confederal UK containing an independent Scotland. I don't know any who would prefer reheated devolution.⁵⁹

"The SNP have had a charmed first year in power," Campbell Gunn commented, "and the task of challenging Alex Salmond seems to have been beyond two of the three opposition leaders, resulting in both of them throwing in the towel".⁶⁰ That dramatic beginning of the recess set the tone for the summer, with two leadership contests. "Alex Salmond must be wondering what he has done to scatter his enemies so successfully," mused the *Edinburgh Evening News*: "It's just a week since MSPs broke up for the

⁵⁵ Douglas Fraser, 'Stephen faced ultimatum: choose family or leadership of the party', *The Herald*, 3 July 2008.

⁵⁶ Campbell Gunn, 'So, nothing much happens in recess!', *The Sunday Post*, 6 July 2008.

⁵⁷ Martin Williams, "'Safe' option who achieved credibility', *The Herald*, 3 July 2008.

⁵⁸ Jenny Hjul, 'Their role could be decisive, but are the Lib Dems up to it?', *The Sunday Times*, 10 August 2008.

⁵⁹ Murray Ritchie, 'It's time for the Lib Dems to get radical', *Scotland on Sunday*, 31 August 2008.

⁶⁰ Campbell Gunn, 'It's back to bread and butter politics', *The Sunday Post*, 31 August 2008.

summer recess, and suddenly both the Labour Party and the Liberal Democrats in the Scottish Parliament find themselves leaderless”.⁶¹

The reason why the Labour leadership woes commanded more headlines and columns was not just the relative strength in mandates at Holyrood, it was also due to the imminent Glasgow East by-election for Westminster, and its implications for the beleaguered Labour leader Gordon Brown.

3.3 Glasgow East By-Election

Alex Salmond predicted a “political earthquake” for Glasgow East.⁶² From the start, the outcome of this by-election was linked to the fate of Gordon Brown:

To lose such a seat for the first time since 1922 would not just be a spectacular Labour disaster but also an unmissable sign of wider Labour disintegration in Scotland.⁶³

“The Glasgow East by-election is crucial for Labour,” wrote the Labour-leaning *Daily Record*: “If Gordon Brown cannot hold on to the party's third safest seat in Scotland he will struggle to hold on as Prime Minister”.⁶⁴ The predictions were for a close contest, despite the massive lead Labour had achieved in the 2005 general election. Some predicted defeat:

A defeat in the party's third safest constituency is simply unthinkable and would be the clearest indication yet that Labour faces years in the doldrums. With Gordon Brown a political liability, no leader at Holyrood, expenses rows that will not go away, and a dogged unwillingness to do anything to ease the credit crunch, there is no likelihood of Labour winning a raffle, never mind an election anywhere in the UK until at least 2015.⁶⁵

⁶¹ *Edinburgh Evening News* (Editorial), “People deserve good opposition party leaders,” 4 July 2008.

⁶² Chris Watt, ‘Salmond predicts voting “earthquake,”’ *The Herald*, 8 July 2008; see also: Ross Lydall, ‘High risk for Salmond as he fronts bid to trigger “earthquake”’, *The Scotsman*, 23 July 2008.

⁶³ Martin Kettle, ‘This byelection could be the most important ever’, *The Guardian*, 4 July 2008.

⁶⁴ *The Daily Record* (Editorial), ‘Right Choice’, 7 July 2008.

⁶⁵ *Scottish Sunday Express* (Editorial), ‘Labour meltdown will start decades in the wilderness’, 20 July 2008.

Some thought Labour would hold on to the seat, "... polls and pundits predicting Labour is likely to hold on to the seat, albeit by a wafer-thin majority."⁶⁶ But, bordering on farce, the Labour campaign got off to a "nightmare start," as "their favoured candidate pulled out at the last minute, then others could not be persuaded to stand."⁶⁷ Thus, the party missed out on the first weekend of the short campaign.

Observing Scottish Labour over the past few months has been like watching a re-run of the Seventies slapstick comedy *Some Mothers Do 'Ave 'Em*, with pratfall followed by a slip on a banana skin, then stepping on a garden rake. You half expect the party to crash en masse through a shop window on a pair of roller skates.⁶⁸

The "selection debacle",⁶⁹ satirised by Eddie Barnes as "the strange tale of Labour and the missing candidate",⁷⁰ made defeat a real possibility.⁷¹ In the end the SNP won by 365 votes. The predicted earthquake had happened, the SNP "narrowly snatched a sensational victory ... over Labour's Margaret Curran after recording a 22% swing." The *Scottish Sun* (25 July) headlined "Scotcha!" – stating that "Gordon Brown was hit by a shock defeat in the 'must-win' Glasgow East by-election." In the *Daily Record's* book, it was "Brown gets boot in ballots."⁷² For the *Herald*, it was a "stunning victory" for the SNP to join the likes of Govan and Hamilton in reshaping modern Scottish history.⁷³ The *Daily Telegraph* called the defeat a "potentially fatal blow" and a "humiliation" for Gordon Brown.⁷⁴

They call it a Glasgow kiss – a short, sharp headbutt designed to leave its victim dazed and bleeding in the gutter. Gordon Brown, who hails from Kirkcaldy, Fife, may not have experienced this 'welcome' before last

⁶⁶ Ian Swanson, 'Win or lose, this vote will deliver verdict on Salmond', *Edinburgh Evening News*, 24 July 2008.

⁶⁷ *The Daily Record* (editorial), 'Right Choice', 7 July 2008.

⁶⁸ *Scotland on Sunday* (Editorial), 'Slapstick Politics', 6 July 2008.

⁶⁹ Hamish Macdonell, 'Selction debacle has piled on the woes for party', *The Scotsman*, 7 July 2008.

⁷⁰ Eddie Barnes, 'The strange tale of Labour and the missing candidate', *Scotland on Sunday*, 6 July 2008.

⁷¹ Ned Tweedie, 'Labour risks a Glasgow kiss', *The Daily Telegraph*, 19 July 2008.

⁷² Magnus Gradham, 'Brown gets boot in ballots', *The Daily record*, 25 July 2008.

⁷³ Robbie Dinwoodie, Torcuil Crichton and Chris Watt, 'SNP win Glasgow East: Salmond warns no Labour seat safe', *The Herald*, 25 July 2008.

⁷⁴ Simon Johnson, 'Glasgow East by-election: Humiliation for Gordon Brown as Labour loses to SNP', 25 July 2008.

week but waking up on Friday morning after the voters of Glasgow East delivered one of Labour's safest seats to the SNP, he discovered how uniquely painful it can be.⁷⁵

"History suggests that the SNP soon loses seats won from Labour in by-elections," the *Herald* observed, "but in the current climate all bets are off".⁷⁶ Kenny Farquharson offered this analysis of Salmond's triumph:

The explanation for Salmond's abiding appeal, culminating in last week's triumph, is now clear: for the first time in British politics, someone can be in government and opposition at the same time. In one breath Salmond can be playing the statesman as First Minister of Scotland, and in the next he can be a niggling thorn in the side of Prime Minister Gordon Brown. Salmond can be both underdog and top dog, David as well as Goliath. He has rewritten the rule book.⁷⁷

With Glasgow East, the SNP and in particular Alex Salmond rounded off an amazing year:

"Alex Salmond remains in clover, his honeymoon with the voters continuing. He has in the last 12 months established an unrivalled position of authority in Scottish politics; indeed, it's hard to think of anyone who has exercised such supremacy. Is there anyone who can dent it?"

Moreover, Glasgow East symbolized a deeper, perhaps seismic, shift in the political landscape of Scotland. Salmond's party "is no longer a small, crabbit party of protest," John MacLeod wrote in the *Scottish Mail on Sunday*:

This SNP is today the most formidable political force in Scotland, fighting Glasgow East quite deliberately not as the principal opposition, but as a

⁷⁵ Jason Groves, 'Can Brown stay after Glasgow's kiss-off?', *Scottish Daily Express*, 27 July 2008.

⁷⁶ *The Herald* (Editorial), 'The SNP triumph', 26 July 2008.

⁷⁷ Kenny Farquharson, 'Salmond rewrites the rulebook', *Scotland on Sunday*, 27 July 2008.

party of government – of a country, the Nationalists assert, increasingly fed up with being run by another country.⁷⁸

Glasgow East was a “resounding and historic defeat” for Labour and Gordon Brown – the “final nail in a coffin that was almost complete before the by-election...”.⁷⁹ But the campaign did also produce a lot of lurid reporting from poverty-stricken, deprived and desolate Glasgow East, which caused a good deal of resentment in the constituency:

Like war correspondents who report conflicts many miles away from the action, it pleased smug southern commentators to fly north at the behest of their editors, book in to posh hotels, pick the brains of local journalists, and then tell their readers what a perfectly ghastly place Shettleston – and by implication, Glasgow – is. It is dreadful conceit to accentuate the negative and ignore the positive, even though those of us who live and work here know perfectly well that pockets of Glasgow East are less than perfect. In Billy Connolly’s words, it’s “a desert wi’ windaes,” but then he knew what he was talking about. He comes from such a background himself which gives him a licence to take a swipe at the dear green place. But journalists from down south should know better. And the words of these hit-and-run scribes are now out on their websites, in blogs, in newspaper cuttings. This means that when any lazy journalist wants a quick snapshot of Shettleston years from now, it will be in this ill-informed bile that they reprint.⁸⁰

On a wider scale, the *Independent* tried to assess the significance of the Glasgow East result:

Ten years after the establishment of the Scottish parliament and the Welsh Assembly, it is not at all clear where devolution will lead; forecasts – wishful or otherwise – that it will spell the end of the Union may well be premature. The significance of Glasgow East is not that it brings closer the break-up of the United Kingdom, but it could presage the end of

⁷⁸ John MacLeod, ‘Once again, Alex Salmond has rolled the dice and won – as a devastated Scottish Labour continues its remorseless decline’, *The Mail on Sunday*, 27 July 2008.

⁷⁹ *Sunday Herald* (Editorial), ‘Brown should go ... and we need a general election’, 27 July 2008.

⁸⁰ Brian Swanson, ‘With the circus gone, the SNP have hard job ahead’, *Sunday Express*, 27 July 2008.

Labour as a party of British government. If it does, then the blame, for constitutional, as for electoral failure, will rest with the hapless Gordon Brown.⁸¹

3.4 Labour Leadership Contest

Glasgow East “was the asteroid that threatens to wipe out the Labour dinosaur and the time has come for the great beast to evolve or risk political extinction”.⁸² It raised the stakes for the Scottish leadership campaign of the party. According to the *Scotsman*, “Labour needs a bold new direction and confidence if it is to take on Alex Salmond. On the current showing, its leadership contenders will have to work harder to convince us they have a roadmap”.⁸³ One of the problems is that “in the Labour Party rule book, the leader of the Scottish Labour Party remains Gordon Brown, or whoever happens to run the party at a UK level. The advent of devolution did nothing to change this”.⁸⁴ As Iain Macwhirter has tirelessly argued, “some way has to be found to make the Scottish leader a real leader, otherwise Scottish Labour could end up going into the same political oblivion that obliterated the Scottish Tories”.⁸⁵

After Glasgow East, Macwhirter published a more extended analysis of the decline of Labour in Scotland:

The strange death of Labour Scotland has been taking place for well over a year. In that time Labour have lost the Scottish government, two Scottish leaders and now the third safest Westminster seat in Scotland. If the Glasgow East result were to be reflected across Scotland at the next general election, Labour would be left with only one seat north of the border ... The SNP fought a classic Labour campaign in Glasgow East, as the people’s party against the establishment ... Labour’s abandonment of social democracy in England makes it a loser in Scotland ... Instead of allowing the SNP to take over their territory,

⁸¹ *The Independent* (Editorial), ‘Labour’s Glasgow East defeat is a portent of worse to come’, 26 July 2008.

⁸² *Edinburgh Evening News* (Editorial), “Labour must evolve now or face extinction,” 5 August 2008.

⁸³ *The Scotsman* (Editorial), No positives coming out of Labour’, 11 August 2008.

⁸⁴ Eddie Barnes, ‘Up to the job?’, *Scotland on Sunday*, 3 August 2008.

⁸⁵ Iain Macwhirter, ‘Time for Scottish Labour to find its own voice’, *The Herald*, 1 September 2008.

Scotland's Labour MPs should be moving to merge with the Labour MSPs to form a new Scottish political organisation. The election of a replacement for Alexander should be turned into the election of a fully-fledged Scottish leadership with functional autonomy from Westminster ... None of the candidates to replace Wendy Alexander seems interested, but it is the only sure way of persuading Scottish voters that the party they have supported for the last half century deserves to win their votes again. It is the only way Labour can emerge from the grave they have dug. There is life after Glasgow East, but not as Labour currently knows it.⁸⁶

From a different angle, Kenny Farquharson arrived at the following conclusion:

If Scottish Labour wants a future, it must accept a truth which might at first seem like an oxymoron – that you can be a nationalist and a unionist at the same time. You can believe in the United Kingdom and still put Scotland first. You can owe your allegiance to a Scottish leader first, and a UK leader second. Not for any wild woad-wearing reason. But simply because Scotland is where you live, and where you bring up your family. I'm not holding my breath. I suspect that Labour will squander this opportunity to renew itself, mainly because it has arrived too soon after the party's defeat in last year's Holyrood elections. Labour is still hurting. But the hurt it feels is the hurt of rejection, not the ache of wanting to regain power. The party is not yet hungry enough to make the radical changes required for a comeback.⁸⁷

Arguably, the most important intervention during the leadership campaign came from Tom McCabe MSP, a former Holyrood minister.⁸⁸

McCabe's advice to whoever succeeds Alexander is ... sage. The leader must speak for the Scottish party as a whole, not just the group in Edinburgh. He or she must get on to the front foot of the constitutional

⁸⁶ Iain Macwhirter, 'The Death of New Labour in Scotland', *Sunday Herald*, 27 July 2008.

⁸⁷ Kenny Farquharson, 'Labour doesn't look hungry for power', *The Sunday Times*, 10 August 2008.

⁸⁸ Tom McCabe, 'What do we in Scottish Labour need in our nation's new political landscape? A leader with the guts to stand up to Westminster', *Sunday Herald*, 3 August 2008.

debate by supporting extra financial powers for the parliament. The new leader should also challenge the UK government, of whatever hue, when the need arises ... Given Tom McCabe's article, it is a pity that four candidates are not going for the top job.⁸⁹

When the three candidates were grilled on *Newsnight Scotland* (4 September 2008), Joan McAlpine found that debate "a bit like attending a blind tasting for different brands of cold porridge ... equally bland and unpalatable". She questioned Iain Gray's role as favourite since he was "publicly filleted by Gordon Brewer, who challenged him to produce an original policy."⁹⁰ Iain Macwhirter contended that "of the three leading candidates, the only one the SNP worries about is Cathy Jamieson, who is much brighter than she is given credit for, and performed very ably at First Minister's Question time as a stand-in for Wendy Alexander".⁹¹ While Paul Hutcheon piled scorn on the complex electoral college the Scottish Labour Party uses to select its leader: "the three-way battle between Iain Gray, Cathy Jamieson and Andy Kerr is perhaps the most anti-democratic farce you will witness in the UK this year."⁹²

Anyway, as Campbell Gunn summed up the summer, offering a little ray of hope for embattled Labour:

Whoever takes over as Labour leader ... will have his or her work cut out. Labour has campaigned hard over the summer, tackling the SNP Government on issues like school numbers and hospital cleanliness. But without strong leadership, these attacks have failed to hit home. All that could change...⁹³

⁸⁹ *Sunday Herald* (Editorial) 'A ray of light for Labour, but is it too late?', 3 August 2008.

⁹⁰ Joan McAlpine, 'Pretenders to Labour throne lack vision', *The Sunday Times*, 7 September 2008.

⁹¹ Iain Macwhirter, 'Labour in Scotland is a body without a head', *The Herald*, 28 July 2008.

⁹² Paul Hutcheon, 'Labour's electoral charade', *Sunday Herald*, 24 August 2008. For a more measured, but no less incisive view, see Brian Taylor's 'Blether with Brian' blog 'Not technical, but fundamental', 28 July 2008,

http://www.bbc.co.uk/blogs/thereporters/briantaylor/2008/07/not_technical_but_fundamental.html

⁹³ Campbell Gunn, 'Labour set for a new start', *The Sunday Post*, 7 September 2008.

3.5 SNP Flagship Policies Under Fire

“The new Lib Dem leader in Scotland must save us from LIT, be it the SNP’s or something cobbled together in an SNP-Lib Dem committee”.⁹⁴ Replacing the unpopular council tax with its Local Income Tax is one of the flagship policies of the SNP. While popular in the polls, it “may still be a high-risk strategy politically”.⁹⁵ Business leaders voiced their opposition, “In business and economic terms, the case against local income tax remains overwhelming,” wrote Peter Jones.⁹⁶

A local income tax sounds attractive, and certainly would be to pensioners and other non-workers. But how fair is it on two-earner families killing themselves to keep food on the table and clothes on the backs of their growing families? Their bills, from food to fuel, have already rocketed. They need a local income tax to take a bigger chunk out of their salary like they need a hole in the head.⁹⁷

Liz Cameron, the Chief Executive of the Scottish Chamber of Commerce, made this intervention:

The Scottish Government may well have a case that council tax requires serious reform, but, as with any tax reform, it is important to stick with the right principles. Call it what you want, ministers, but make sure your new local tax is locally set, relates to what it pays for, and does not hit something as mobile as skilled labour.⁹⁸

Labour paints LIT as the SNP’s poll tax. And Tom Gordon and Jason Allardyce seem to hint at similar historical parallels:

As Margaret Thatcher found to her cost, the introduction of a new tax can bring a swift end to even the most feted political career. Her replacement of rates with the community charge, or poll tax, in the late 1980s led to rioting in the streets and to a cabinet revolt. Salmond knows all this, but

⁹⁴ *The Scotsman* (Editorial), ‘Who’ll save us from LIT?’, 8 August 2008.

⁹⁵ Campbell Gunn, ‘Local tax is a high-risk strategy by SNP’, *The Sunday Post*, 7 September 2008.

⁹⁶ Peter Jones, ‘The business case against local income tax stands’, *The Scotsman*, 15 August 2008.

⁹⁷ Teresa Hunter, ‘SNP’s tax would increase burden on struggling families’, *Scotland on Sunday*, 7 September 2008.

⁹⁸ Liz Cameron, ‘Taxing times are justified for LIT’, *Edinburgh Evening News*, 9 September 2009.

so far hasn't blinked, dismissing his growing ranks of critics as out-of-touch with the political mood of the country.⁹⁹

Having variously declared it "dead in the water,"¹⁰⁰ "a disgrace"¹⁰¹ and "ill-considered",¹⁰² suggestions of a "backroom deal over local income tax" between the SNP, the Liberal Democrats and the Greens "send shivers down the spine of middle Scotland and the business community".¹⁰³

With the Glenrothes by-election in view, the *Edinburgh Evening News* spotted a potential trap for Labour:

The principle of a tax levied on the ability to pay is almost impossible to counter, and in opposing it Labour will be going into its industrial heartland arguing against a tax which even its critics accept will see the least well-off paying less. At this time that seems suicidal.¹⁰⁴

Another plank of the SNP policy platform, the Scottish Futures Trust, also came under fire. It was called a "shambles" and a "broken election promise".¹⁰⁵ It was roundly rejected by the *Daily Record*:

The SNP came to power promising a radical new way of financing major public buildings such as schools and hospitals. They promised to create the Scottish Futures Trust. Under the scheme, the government would raise money by issuing bonds that would give investors a guaranteed return. It was to end the much-maligned system of public-private partnerships, in which private-sector developers built schools or hospitals and leased them back over 25 or 30 years, making a tidy profit in the process. Yesterday, Finance Minister John Swinney finally unveiled the Scottish Futures Trust. But his scheme is completely unrecognisable from what the Nats originally promised. The first problem came when it

⁹⁹ Tom Gordon and Jason Allardyce, 'Spitting tax', *The Sunday Times*, 7 September 2008.

¹⁰⁰ *The Daily Record* (Editorial), 'Tax plan dead in the water', 19 June 2008.

¹⁰¹ *The Daily Record* (Editorial), 'Tax plans are a disgrace', 4 September 2008

¹⁰² *The Daily Record* (Editorial), 'Just Nat Fair', 2 June 2008.

¹⁰³ Michael Tait, 'LibDems and SNP to strike backroom deal over local income tax', *The Mail on Sunday*, 7 September 2008.

¹⁰⁴ *Edinburgh Evening News* (Editorial), 9 September 2008.

¹⁰⁵ David Maddox, 'Big projects must wait as SNP funding plan remains in doubt', *The Scotsman*, 21 May 2008.

emerged the Scottish government had no powers to issue bonds. And when ministers suggested that local councils could, it turned out that town halls simply didn't want to. So the Scottish Futures Trust we've ended up with is nothing more than a £17million quango, headed by a merchant banker, overseeing another version of public-private partnerships. As critics said yesterday, it is a rebranding – and an expensive one at that. It is a face-saving exercise designed to conceal the fact the Nats have again failed to deliver.¹⁰⁶

The unions branded the Scottish Futures Trust a “costly and unnecessary new quango”,¹⁰⁷ although the appointment of Sir Angus Grossart was seen as “a major coup for the Scottish Government” which “provides the one ray of hope that the Scottish Futures Trust may work”.¹⁰⁸

Other points of criticism were the continuing litany of “broken promises”¹⁰⁹ and inactivity and industrial and public service unrest:

Days after the euphoria of the SNP's victory in Glasgow East, First Minister Alex Salmond finds himself confronted by a serious and far-reaching industrial relations crisis. There are currently fourteen industrial disputes raging across Scotland, involving some key public services workers including firemen, coastguards, passport office staff and driving examiners. Beyond that, 50,000 civil servants will stage a one-day strike on Thursday, 160,000 council workers are threatening further action after rejecting a 2.5 per cent pay offer and teachers will decide whether to strike in October. ... What's Alex Salmond's response? 'The majority of these issues relate to the Westminster Government's remit and responsibilities,' claims his spokesperson. Not good enough, Mr Salmond. In fact, potentially fatal for the SNP. Since taking office, this administration has constantly beaten the drum for an increase in powers to Holyrood, insisting it should be running things reserved to London. At

¹⁰⁶ *The Daily Record* (Editorial), “Nats need to get a grip”, 11 September 2008.

¹⁰⁷ Cameron Brooks, ‘Union delivers scathing verdict on new public financing scheme’, *Aberdeen Press and Journal*, 9 September 2008.

¹⁰⁸ *The Scotsman* (Editorial), ‘Grossart appointment offers hope’, 11 September 2008.

¹⁰⁹ Mark Howarth, ‘SNP breaks promise on more police’, *Scotland on Sunday*, 24 August 2008.

the first sign of problems, however, the SNP's instinct is to pass the buck.¹¹⁰

Water off a duck's back. Despite this barrage of criticism, "Mr Salmond is not only continuing to set the pace on legislative reform, he is also showing an impressive ability to force his opponents to play to his tune. ... the Salmond ascendancy continues as Labour slumps".¹¹¹ An indication of this was Gordon Brown's concession that Holyrood should have a greater say in setting taxes:

The seemingly unstoppable march towards an independent Scotland took a massive step forward on Thursday night with Prime Minister Gordon Brown's hint that he was prepared to devolve tax-raising powers to the Scottish Parliament ... Mr Brown is right to say that the economy is everything, so handing economic power to the Scottish Parliament means it is only a very short hop to full separation.¹¹²

3.6 Glenrothes By-Election

"If Gordon Brown needed the Glasgow East by-election like a hole in the head, he needs the forthcoming poll brought about by the untimely death of Glenrothes Labour MP John MacDougall like a full decapitation".¹¹³ Glenrothes, now expected to be held in November, "may turn out to be do-or-die time for the Prime Minister. For Labour, in its present baleful state, either would be better than what they have at present".¹¹⁴

Despite a majority of over 10,000 in 2005, Labour are perceived as outsiders in the race. "No. It isn't looking good for Labour," according to Iain Macwhirter: "The SNP will have to mount a dreadful campaign to lose in Glenrothes. I'm afraid this could be Gordon's big

¹¹⁰ *The Scottish Mail on Sunday* (Editorial), 'A tough test ahead', 27 July 2008.

¹¹¹ *The Scotsman* (Editorial), 'Salmond makes another giant leap', 8 September 2008.

¹¹² *Edinburgh Evening News* (Editorial), "It's only a very short hop to full separation," 6 September 2008.

¹¹³ *Edinburgh Evening News* (Editorial), "The longer-term prospects look grim for Labour," 14 August 2008.

¹¹⁴ Eddie Barnes, 'Brown gives it one last shot', *Scotland on Sunday*, 7 September 2008.

red one".¹¹⁵ Again, the focus is firmly on Gordon Brown's political fate. Iain Macwhirter, once more:

Brown is heading for an epic defeat in the Glenrothes by-election – the third crushing reverse in a row. Even he must realise that it's all over – but in his present debilitated state is [sic] too much to expect him to go quietly. Labour have a choice to make in the next fortnight as they prepare for their conference: do they take responsibility for the future and change, or do they stick to the bitter end with a lost leader. Their decision could decide the course of British politics for a generation.¹¹⁶

For a moment, it looked as if Labour could launch a surprise in the person of former First Minister Henry McLeish:

Labour's selection of Henry McLeish as candidate in Glenrothes would be a fascinating choice, working on so many political levels that it sounds like a match made in heaven for Gordon Brown's spin doctors.¹¹⁷

But then McLeish made clear that he would not be available. And the consensus seems to be that "everything ... points to an SNP triumph in the nextdoor seat to Brown's own".¹¹⁸ Indeed, according a *Guardian* editorial, "the surprise today would be a Labour win, not a loss".¹¹⁹

3.7 BBC, Gaelic Channel, Scottish Digital Channel

The Scottish Broadcasting Commission, set up by the Scottish Government, published its Report on 8 September. It contains the proposal for a not-for-profit digital Scottish national channel for up to £75m, which would fill a "missing piece of the public service jigsaw".¹²⁰ The channel, the commission said, would also provide crucial competition for

¹¹⁵ Iain Macwhirter, 'If Brown loses on home turf, he risks losing everything', *Sunday Herald*, 17 August 2008.

¹¹⁶ Iain Macwhirter, 'If Brown won't call it a day, Labour must do it for him', *Sunday Herald*, 7 September 2008.

¹¹⁷ Robbie Dinwoodie, 'Why McLeish could be the ideal candidate', *The Herald*, 15 August 2008.

¹¹⁸ Martin Kettle, 'Go early and take the hit – or go late and risk a knockout?', *The Guardian*, 15 August 2008.

¹¹⁹ *The Guardian* (Editorial), 'Brown's backyard blues', 14 August 2008.

¹²⁰ BBC News online, 'Scotland "needs national channel"', 8 September 2008.

<http://news.bbc.co.uk/1/hi/scotland/7603396.stm>

the BBC, which suffered from a "perceived lack of ambition" in Scottish productions, according to evidence collected by the Commission. The BBC Trust should also ensure better news coverage of the devolved nations, and the commission also called for a review of BBC Radio Scotland - currently the only Scotland-wide broadcasting service – amid criticism that it lacked ambition and space for new ideas.

The Commission, chaired by former BBC News boss Blair Jenkins, also called on the BBC to review its commissioning policy for Scottish programmes. Further, it recommended that some broadcasting powers should be devolved to Scotland, including the suggestion that broadcasters should report to the Scottish Parliament. But the report also stated, counter to the wishes of the Scottish Government, that legislative powers for broadcasting should remain with the UK Government.¹²¹

The suggested new channel was widely welcomed by First Minister Alex Salmond, the BBC's Scotland controller Ken McQuarrie, and the political parties. Scotland Office Minister David Cairns backed the report's "underlying principle" that Scottish broadcasting should remain an integral part of UK broadcasting. The Liberal Democrats warned that any new channel would have to be properly resourced, while the Tories said it should be paid for partly out of private funding.

In June, a review for the BBC Trust (which represents viewers) had found that the BBC needed to improve its coverage of the UK's nations and regions in its main news bulletins and factual programmes. Research found that 37 per cent of people believed that BBC news reports were often not relevant to where they live.¹²² The study included an analysis of UK-wide BBC coverage, including the main 6pm and 10pm bulletins, by media expert Professor Anthony King of the University of Essex. His research showed that during a month-long period last year all 136 items about health and education on the main BBC news related to England only, as separate policies applied in Scotland, Wales and Northern Ireland. Analysis of the BBC's coverage found one in five stories involving devolution were "vague and confusing" or factually inaccurate.¹²³

¹²¹ http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/08_09_08_broacasting.pdf

¹²² BBC News online, 'BBC told to improve UK coverage', 11 June 2008.

<http://news.bbc.co.uk/1/hi/entertainment/7447985.stm>

¹²³ *The Daily Record*, 'BBC told to improve national coverage of Scottish news', 12 June 2008.

Giving evidence to a Welsh Assembly inquiry into broadcasting, the BBC's director general Mark Thompson said, in response to the Trust's report, there needed to be "significant improvement" in the BBC's network coverage of the UK's nations.¹²⁴

In September, the new BBC Gaelic digital channel – BBC Alba – is being launched. Besides enthusiastic welcomes there has been criticism at the cost of the new service.¹²⁵ As the *Stornoway Gazette* reported, the local MSP Rob Gibson (SNP) made an appeal to the BBC and the UK government that the new channel ought to be "available to terrestrial viewers via Freeview as soon as possible". The paper quotes the MSP: "Given the public money being spent on the channel and the fact that it is under the banner of [the] BBC, it strikes me as ridiculous that it will only be available to those that have private satellite rental. The fact that the appearance on Freeview is subject to a review by the BBC Trust is a worry. If they do not give the go ahead then it could really stymie the development and impact that the channel could have".¹²⁶

¹²⁴ BBC News online, 'More devolved issues for BBC news', 16 June 2008.

http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/wales/7457200.stm

¹²⁵ Liz Thomas, 'BBC launches controversial £21m Gaelic channel - costing £365 per native speaker', *Scottish Daily Mail*, 14 August 2008.

¹²⁶ Donnie Macinnes, 'Plea for more viewers to see Gaelic channel', *Stornoway Gazette*, 10 September 2008.

4. Public Attitudes

John Curtice

4.1 Attitudes towards devolution

4.1.1 Constitutional Preferences

During this period two polls that aimed to uncover how people might vote in a referendum were published. The first, by TNS System Three, asked a question that had been asked by a number of that company's previous polls. It uncovered much the same result as it had done on two previous occasions, with those saying they would vote for independence and those saying they would vote against bring more or less evenly balanced.

In contrast, A YouGov poll for the *Daily Telegraph* asked a newly worded question. It suggested that those opposed to independence clearly outnumbered those in favour, although to a lesser degree than had been suggested by responses to the previous question YouGov had administered on polls for the *Telegraph* (see May 2008 *Scotland Devolution Monitoring Report*).

Figure 4.1: TNS System Three poll on Constitutional Preferences

The SNP have recently announced their plans for a possible referendum on Scottish independence in future. If such a referendum were to be held tomorrow, how would you vote?

	Aug. 07 %	Nov/ Dec. 07 %	Mar/ Apr. 08 %	June/ July. 08 %
I agree that the Scottish Government should negotiate a settlement with the government of the United Kingdom so that Scotland becomes an independent state.	35	40	41	39
I do not agree that the Scottish Government should negotiate a settlement with the government of the	50	44	40	41

United Kingdom so that Scotland becomes an independent state.				
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Source: TNS System Three/Sunday Herald; 25/6-1/7/08

Figure 4.2: YouGov – Constitutional Preferences

The SNP wishes to hold a referendum on Scottish independence in due course. Voters would be asked whether they agree or disagree ‘that the Scottish government should negotiate a settlement with the Government of the United Kingdom so that Scotland becomes an independent state’. How would you vote if such a referendum were held tomorrow?

	%
I would vote YES (i.e. for Scottish independence)	36
I would vote NO (i.e. against Scottish independence)	48
Don't know/would not vote	16

Source: YouGov/Telegraph 08-10/07/08

Once again it seems that the wording of questions about independence is crucial. One key difference between the new YouGov question and the one asked on that company's previous surveys for the *Daily Telegraph* is that it refers to ‘independence’ rather than Scotland becoming by a ‘separate state’. Questions that refer to ‘separation’ commonly generate lower levels of support for independence. Meanwhile, we might note that YouGov presents the options in the referendum as being explicitly for or against independence, whereas System Three adhere strictly to the wording that the Scottish Government has proposed,¹²⁷ a wording that is less explicit. The difference between their findings may well confirm the Labour Party in its view that the Scottish Government's proposed wording is unsatisfactory.

The YouGov poll also included some rather oddly worded questions about various aspects of ‘Scotland's future relationship with the rest of the United Kingdom’ ‘regardless of whether or not you think Scotland should become formally independent’. They uncovered considerable support for retaining the Queen as Head of State (55%), for

¹²⁷ For details see Scottish Executive (2007), *Choosing Scotland's Future: A National Conversation*, Edinburgh: Scottish Executive.

retaining the pound (73%) rather than adopting the euro (21%), and for Scotland continuing to contribute troops to Britain's armed services (66%). On the other hand the poll found almost as many people saying they favoured 'Scotland having control over all its taxes including all tax revenues from North Sea oil, but receiving no payments from Westminster' (41%) as supporting 'Scotland continuing to share its revenues including from North Sea oil, with the rest of the UK, and continuing to receive payments from Westminster' (43%). It would seem that while a majority of people in Scotland retain an affinity with many of the key symbols and institutions of the British state, there is still considerable support for greater fiscal autonomy.

In similar vein a separate sequence of questions found that most people believe that Scotland should continue to be represented abroad by UK embassies (60%), continue to be represented in NATO by the UK (57%), and continue to be represented at the UN by the UK (55%). However, as many people felt that Scotland should be a separate member of the European Union (40%) as felt that Scotland should continue to be represented by the UK (40%). Here perhaps is an indication that the SNP argument that Scotland should have a place at the 'top table' in European negotiations has some attraction, even when in other respects a majority of people in Scotland seem to reject the accoutrements of independent statehood.¹²⁸

4.1.2 Scottish Social Attitudes Core Report

In May further findings from the 2007 Scottish Social Attitudes survey on attitudes towards the operation of the devolution settlement were published.¹²⁹ Most of the questions whose latest results were released at this time had been asked on a regular basis since the advent of devolution in 1999. A number of the findings confirmed the impression suggested by previously released results from the survey (see August-December 2007 *Scotland Devolution Monitoring Report*) that people have become somewhat more satisfied with the operation of the devolution settlement – perhaps

¹²⁸ It is even the case that more people (51%) believe that Scottish athletes should continue to be part of the British Olympics team rather than be part of a separate Scottish team (40%). At the time of the Beijing Olympics in August the First Minister, Alex Salmond, indicated his wish that Scotland should field a separate team at the next Olympics due to be held in London in 2012.

¹²⁹ See R. Ormston, *Scottish Social Attitudes Survey 2007 Core Module: Report 1: Attitudes to Government in Scotland*, Edinburgh: Scottish Government. Available at <http://openscotland.gov.uk/Publications/2008/05/16095134/0>.

because of the willingness of the SNP government (in contrast to the previous administration) to air its disagreements with the UK government in public.

Most notably as many as 61% now feel that devolution is strengthening Scotland's voice within the United Kingdom, the highest figure yet. Equally nearly half now feel that devolution has given ordinary people more say in how Scotland is governed, again a record high. In addition the proportion who think that the Scottish Government has most influence over what happens in Scotland continues to grow, albeit gradually and not sufficiently to meet people's aspirations. Meanwhile there has also been a marked increase in both the proportion that trust the Scottish Government to look after Scotland's long-term interests and in the proportion that trust the UK government to do so. If the new Scottish Government is thought to be advocating Scotland's interests more effectively, it seems that people are also inclined to feel that the UK Government has been persuaded to be more sensitive to Scotland's needs too.

Figure 4.3: Scottish Social Attitudes

How much do you trust the UK government to work in Scotland's best long-term interest?

[H]ow much do you trust the Scottish Executive/Parliament to work in*

	1999	2000	2001	2002	2003	2004	2005	2006	2007
	%	%	%	%	%	%	%	%	%
Just about always	3	1	2	2	2	2	2	2	3
Most of the time	29	16	20	17	19	20	21	19	32
Only some of the time	52	54	55	51	58	50	53	52	44
Almost never	14	26	22	26	20	26	21	24	18

Scotland's best interests?

	1999	2000	2001	2002	2003	2004	2005	2006	2007
	%	%	%	%	%	%	%	%	%
Just about always	26	9	13	9	10	9	10	8	14
Most of the time	55	45	52	43	52	43	46	43	57
Only some of the time	14	34	29	34	31	37	33	37	22
Almost never	2	9	5	11	4	10	7	8	4

*Prior to 2004, the question asked about the Parliament. In 2004 an experiment was run whereby half the sample was asked about the Scottish Parliament and half was asked about the Scottish Executive. The change of wording made negligible difference.

From what you have seen and heard so far...

Do you think that having a Scottish parliament is giving ordinary people...	2000	2001	2002	2003	2004	2005	2006	2007
	%	%	%	%	%	%	%	%
...more say in how Scotland is governed	44	38	31	39	31	37	37	47
...less say	3	4	4	4	6	5	5	3
...or, is it making no difference	51	56	62	54	60	55	55	45

Note: The question wording in each year was:

2000 "Do you think that having a Scottish parliament is going to..."

2001-2007 "Do you think that having a Scottish Parliament is giving..."

From what you have seen and heard so far...

Do you think that having a Scottish parliament is giving Scotland...	2000	2001	2002	2003	2004	2005	2006	2007
	%	%	%	%	%	%	%	%
...a stronger voice in the United Kingdom	52	52	39	49	35	41	43	61
...a weaker voice in the United Kingdom	6	6	7	7	7	6	6	4
...or, is it making no difference?	40	40	52	41	55	50	49	32

Note: The question wording in each year was:

2000 "Do you think that having a Scottish parliament is going to..."

2001-2007 "Do you think that having a Scottish Parliament is giving..."

Which of the following do you think has most influence over the way Scotland is run?

Which of these has most influence over the way Scotland is run:	2000	2001	2003	2004	2005	2006	2007
	%	%	%	%	%	%	%
The Scottish Parliament**	13	15	17	19	23	24	28
The UK government at Westminster	66	66	64	48	47	38	47
Local councils in Scotland	10	9	7	20	15	18	8
The European Union	4	7	5	6	8	11	9

Note: **In 2004 an experiment was run whereby half the sample was asked about the Scottish Parliament and half was asked about the Scottish Executive. The change of wording made negligible difference.

And which do you think ought to have most influence over the way Scotland is run?

Which of these should have most influence over the way Scotland is run:	1999	2000	2001	2003	2004	2005	2006	2007
	%	%	%	%	%	%	%	%
The Scottish Parliament*	74	72	74	66	67	67	64	71

The UK government at Westminster	13	13	14	20	12	13	11	14
Local councils in Scotland	8	10	8	9	17	15	19	9
The European Union	1	1	1	1	1	1	1	*

*In 2004 an experiment was run whereby half the sample was asked about the Scottish Parliament and half was asked about the Scottish Executive. The change of wording made negligible difference.

Source: Scottish Social Attitudes 2007

4.2 National Identity

Nothing new to report.

4.3 Other Issues

4.3.1 Broadcasting

Two major pieces of research on public attitudes towards broadcasting in Scotland were published during this period. The first was undertaken by BMRB in connection with a report commissioned by the BBC Trust from Prof. Anthony King of Essex University on how well the BBC's network news coverage reflects the diversity of public policy across the UK in the wake of devolution. This research was undertaken between 12 February and 2 March 2008 and interviewed (a rather small sample of) 500 people in each of the four territories of the UK.¹³⁰

The second piece of research was conducted by TNS System Three on behalf of the Scottish Broadcasting Commission, a body established by the Scottish Government and charged with the tasks of both examining the state of broadcasting in Scotland and making recommendations for its future. It was conducted at almost exactly the same time as the BBC research, interviewing just over a thousand people between 27 February and 5 March 2008.¹³¹ Meanwhile, as part of the poll it conducted for the *Daily*

¹³⁰ For full details see 'Appendix B: BMRB Research' in *The BBC Trust Impartiality Report: BBC Network News and Current Affairs Coverage of the Four UK Nations*, London: BBC Trust, 2008.

¹³¹ TNS System Three, *Public Attitudes to Broadcasting in Scotland*, Edinburgh: Scottish Government Social Research, 2008. Available at <http://openscotland.gov.uk/Publications/2008/05/08112958/0>.

Telegraph in July, YouGov included a question on what has been one of the most contentious issues in Scottish broadcasting in recent years, that is whether in Scotland the BBC evening news should be broadcast from Glasgow rather than London.

The principal issue addressed by the BBC Trust report was whether the BBC network news and current affairs was sufficiently fastidious in making it clear when the content of a news story only referred to England, or to England and Wales, as opposed to the United Kingdom as a whole, and whether the network provided adequate coverage of what may be distinctive policies being pursued outside of England. If inadequacies in this respect generated particular unhappiness amongst the public in Scotland we might have anticipated that the survey research would have uncovered more critical attitudes in Scotland than in England.

For the most part the evidence that this was the case is limited. People in Scotland were just as likely as their counterparts in England to feel that the BBC 'accurately and fairly' represents the various nations of the UK to the rest of the country; indeed in both countries at least seven in ten agreed with the proposition. Those living in Scotland were only a little more likely than those in England to feel that network news reports were not really relevant to their part of the UK, while the BBC's critics in this respect were counterbalanced by an equal number who took a more positive view.

Equally, people in Scotland were only a little more likely to feel that the BBC's coverage often fails to relate to the 'real world' but only to 'posh people' in London, but even north of the border this was decidedly a minority point of view. They were also somewhat less willing to feel that the BBC's news coverage was always 'clear and accurate', though given the wording of the question it cannot be presumed, as Prof. King's report appeared to do, that any perceived failings in this respect were occasioned by failure accurately to reflect differences of policy between Scotland and England. In making a number of recommendations designed to ensure that BBC network news more accurately reflects such differences across the UK, it was perhaps not surprising that Prof. King admitted that his conclusions were not primarily based on the results of the survey research, but

rather on separate content analysis of the BBC's output that was also conducted as part of his review.¹³²

Figure 4.4: Impact of the BBC in Scotland

When you watch or listen to the BBC news or current affairs programmes we mentioned a moment ago, such as the 'Today' programme or the '10 o'clock News' how often do you feel that particular reports are not really relevant to the region or nation where you live?

	Scotland %	England %
Very often	10	5
Fairly often	35	31
Not very often	34	41
Never/almost never	14	16

And to what extent do you agree or disagree that the BBC does accurately and fairly represent the various nations to the rest of the UK?

	Scotland %	England %
Completely/strongly agree	34	36
Slightly agree	36	33
Neither agree nor disagree	14	20
Slightly disagree	8	5
Completely/strongly disagree	8	6

Some people say that when they watch or listen to BBC news and current affairs programmes, some of the coverage doesn't really relate to the real world, that it's of interest almost exclusively to posh people who live in London. How often do you feel that way?

	Scotland %	England %
Very/fairly often	26	18
Not very often	45	41

¹³² A. King, 'BBC Network News and Current-Affairs Coverage of the Four UK Nations: An independent assessment for the BBC Trust', in *The BBC Trust Impartiality Report: BBC Network News and Current Affairs Coverage of the Four UK Nations*, London: BBC Trust, 2008, p. 35.

Never/almost never	26	37
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From your own experience, when you watch or listen to BBC news programmes, do you think they are almost always clear and accurate in this regard, usually clear and accurate, usually unclear and inaccurate, or almost always unclear and inaccurate?

	Scotland %	England %
Almost always clear and accurate	17	27
Usually clear and accurate	70	64
Usually unclear and inaccurate	6	4
Almost always unclear and inaccurate	2	0

Source: BMRB/BBC Trust (N=500)

The research conducted on behalf of the Scottish Broadcasting Commission was concerned with a rather different agenda – how well people in Scotland believe broadcasting in Scotland reflects what is happening within Scotland. It should be borne in mind too that in this research respondents were usually invited to consider the totality of broadcasting output in Scotland, not just that provided by UK-wide network programmes. Nevertheless, it is striking how similar the picture painted by this research is to that provided by BMRB for the BBC. Typically, more people are satisfied than dissatisfied with the coverage of news programmes in Scotland, while only a minority feel that it is rarely clear whether a news item refers to Scotland or not. If there is public dissatisfaction with broadcasting output in Scotland it lies not in the area of news programmes that so preoccupies politicians but rather in the degree to which Scotland's past and present are reflected in history and documentary programmes, together with the representation of its cultural life in everything from sitcoms to arts programmes.

The commission's research not only covered public perceptions of the current state of broadcasting in Scotland but also attitudes towards possible structural changes in future. It found considerable interest in watching a new Scottish television channel – though it is perhaps difficult to believe that many people would say anything different in response to a cost-free survey question. How far such reported interest would be reflected in behaviour is uncertain. The survey also addressed the thorny issue of whether people preferred to have all their evening news in a single bulletin edited in Scotland. It found just over half in favour, a finding, however, that was reversed by the YouGov poll for the

Daily Telegraph. It might be thought that the wording of the latter, which referred to having a UK and international news programme from London followed by a separate Scottish bulletin as the 'present arrangement', made it more likely that respondents favoured that option. Still, the contrast between the two findings suggests that the views of many people in Scotland on the subject are not as firm as many protagonists in the debate presume. Interestingly the System Three research also attempted to uncover public interest in watching a Scottish news programme on a channel different from the one on which they watch the news at present, presumably in anticipation of the likelihood that any new Scottish channel would have to provide a combined programme of international and UK news as well as Scottish news that would then be in competition with the existing provision on BBC and ITV.

Figure 4.5: Impact of the media in Scotland

Do you feel that there is too much, to little, or about the right amount of Scottish coverage, i.e. Scottish issues, characters, presenters, settings etc. in each of the following types of programme

	Too much %	About right %	Too little %
History/heritage	4	34	58
Factual/documentary	3	40	51
Comedy/sitcoms	6	42	45
Music, books, art	4	39	44
Drama, incl. soaps	17	42	31
Sports	28	36	26
News	8	65	25

Overall, how satisfied are you with the way Scotland is reported in UK news programmes, that is news programmes shown throughout the UK?

	%
Very/fairly satisfied	49
Neither	14
Very/fairly dissatisfied	36

And how satisfied are you with the way Scottish stories are reported in different aspects of UK news programmes. Aspect such as...

	Very/fairly satisfied %	Neither %	Very/fairly dissatisfied %
Weather news	53	18	24
Crime	47	23	26
Social issues	46	20	31
Political news	42	26	23
Sports news	41	24	25
Entertainment, arts, music	40	25	29

When watching reports on the UK news programmes, how often do you find it clear whether or not they relate to Scotland?

	%
Always/usually	42
Sometimes	36
Rarely/never	18

How interested would you be in watching a new Scottish news programme if it was available on a channel other than the usual channel on which you watch the news?

	%
Very interested	34
Fairly interested	40
Neither interested or uninterested	12
Fairly uninterested	7
Very uninterested	5

Note: figures exclude those who do not watch the news (6%).

Here are two options for the main early evening news programmes in Scotland. Which would you prefer?

	%
A. One programme running from 6-7pm that is produced and presented from Scotland as well as the main UK and international news edited to reflect a Scottish perspective.	53%
B. Two programmes between 6 and 7pm, where one ½ hour programme is produced and presented for the whole of the UK (from London) and the other ½ hour programme is produced and presented in Scotland for Scotland.	36%

If there was a new channel broadcast on television made for people living in Scotland how interested would you be in watching it?

	%
Very interested	42
Fairly interested	40
Neither	9
Fairly uninterested	5
Very uninterested	3

Source: TNS System Three/Scottish Broadcasting Commission

Currently BBC1 in Scotland shows the UK-wide Six O'clock News at 6pm on Mondays-Fridays followed by Scottish news at 6.30pm. Which of these options would you prefer?

	%
Keep the present arrangement	60
Replace the two programmes with a single bulletin of Scottish, British and international news from a Scottish perspective	37

Source: YouGov/Telegraph 8-10/7/08

4.3.2 Happiness

A second report based on the 2007 Scottish Social Attitudes (SSA) survey was published during this period.¹³³ This examined the level of happiness and well-being

¹³³ L. Given and C. Webster, *Scottish Social Attitudes Survey 2007 Core Module: Report 2: Subjective Perceptions of Well-Being in Scotland*, Edinburgh: Scottish Government Social Research, 2008. Available at <http://www.scotland.gov.uk/Publications/2008/08/12162152/0>.

reported by people in Scotland and compared the findings with those for a wide range of European countries for whom equivalent data were available from the European Social Survey (ESS). The results cast doubt on Bell and Blanchflower's claim, based on Eurobarometer data, that people in Scotland are 'less happy and satisfied with life' than those in the rest of the UK.¹³⁴ Asked to indicate how happy they were on a scale from 0 to 10, respondents on average gave themselves a score of eight. According to the ESS only those living in Switzerland and Denmark are happier, while those living in the UK outside of Scotland on average give themselves a score of 7.5. Asked to follow the same procedure to indicate how satisfied they were with their life, SSA respondents on average scored eight out of ten. This also meant that Scotland was second only to Switzerland and Denmark and compared with an average score of 7.2 for the rest of the UK. Only when it comes to their jobs are people in Scotland rather less inclined to express satisfaction, but even here their average score of 7.0 is still no lower than that in the rest of the UK (6.9).

4.4 Party Fortunes

4.4.1 Holyrood Voting Intentions

Just one poll, conducted by YouGov for the SNP, ascertained Scottish Parliament voting intentions during this period, and then only in respect of constituency vote. It gave Labour its lowest share in any poll conducted since May last year, and one of the highest vote shares ever for the SNP since it secured office. The marked unpopularity of the UK Labour government during the summer and/or the fallout from the resignation of Wendy Alexander as Labour leader has apparently had an adverse impact on the party's Holyrood popularity, while the SNP government still appears to be regarded favourably by large sections of the Scottish public.

Figure 4.6: Scottish Parliament Voting Intentions

Fieldwork	Con %	Lab %	Lib Dem %	SNP %	Green %	SSP %	Solidarity %	Other s %
6-8/8/08	13/-	25/-	14/-	44/-	-/-	-/-	-/-	4/-

¹³⁴ D. Bell and D. Blanchflower, 'The Scots may be brave but they are neither healthy nor happy', *Scottish Journal of Political Economy*, 54 (2007), 166-94.

Note: Only constituency vote intention obtained. Separate figures for Greens etc. not available.

Source: YouGov/SNP

4.4.2 Westminster Vote Intentions

It has long been commonplace for polls to put the SNP ahead of Labour in voting intentions for the Scottish Parliament. But with the SNP a distinctly less popular choice for Westminster contests than Holyrood ones, it is unusual indeed for polls to put the party ahead of Labour in Westminster voting intentions. Indeed it has not happened since the 1970s. But this is precisely what was reported by two YouGov polls during the summer.

The sharp decline in Labour's fortunes north of the border mirrors the slump in the party's standing in the British polls, which fell to as low as 26 per cent during this period. But whereas in England and Wales the principal beneficiaries of Labour's unpopularity have been the Conservatives, in Scotland it has been the SNP. The two Conservative poll ratings of 18 per cent and 20 per cent represent increases on the party's 2005 performance of just two and four points respectively, at a time when the party's British poll ratings were as much as a dozen points above its 2005 performance. On these figures Labour runs the risk of losing a significant number of Westminster seats to the SNP while the Conservatives could win a UK general election while winning very few seats in Scotland. Such an outcome could well pose a challenge to the ability of an incoming Conservative government to retain public support for the Union.

Figure 4.7: Westminster Voting Intentions

Fieldwork	Con %	Lab %	Lib Dem %	SNP %	Others %
8-10/7/08	20	29	14	33	5
6-8/8/08	18	29	13	36	5

Source: YouGov/Telegraph; YouGov/SNP

4.4.3 Westminster By-Election

On 28 June not only did Wendy Alexander announce her decision to stand down as leader of the Scottish Labour group at Holyrood, but it became known that the Labour MP, David Marshall, proposed to stand down as MP for Glasgow East on health grounds, with imminent effect. Despite being in a dire position in the opinion polls Labour opted to call the resulting by-election straight away, a decision that meant that the contest was held during Glasgow 'Fair Fortnight', the height of the holiday season in the city. Indeed never before in the post-war period had a by-election been held in Scotland in July. It seemed that the party was more concerned to minimise the amount of time available to the SNP to mount a strong local campaign than it was to ensure that as many people as possible could vote in an area where low turnouts are already commonplace.

In any event, the ploy backfired almost immediately. The favourite to win the Labour nomination for the seat withdrew on the day of the selection meeting and Margaret Curran, MSP for the Glasgow Ballieston Holyrood seat, which forms part of Glasgow East, had to be drafted in as the party's candidate, even though she had been tipped as a possible candidate for the party's now vacant Holyrood leadership. Curran fought a feisty campaign that focused on her record as a campaigner for the socially deprived east end of Glasgow. However, her SNP opponent, John Mason, also had good local credentials as a (rare) long standing SNP councillor for part of the area. Meanwhile, despite the shortage of time the SNP mounted a very intense local campaign and seem to have out-organised the Labour Party in an area that hitherto Labour had been able to regard as 'safe'. One key SNP pitch was to claim the by-election was a referendum on the respective records of the UK and Scottish Governments.

The SNP's tactics proved successful. The party won, albeit narrowly, the third safest Labour seat in Scotland (in 2005) and the 26th safest Labour seat anywhere in Great Britain. At 22.5 per cent the swing from Labour to SNP since the last general election was second only to the SNP's two famous victories in Glasgow Govan in 1973 and 1988, and its narrow defeat in Hamilton South in 1999. The result will undoubtedly be added to the list of famous by-election victories in the annals of SNP history.

The immediate political consequence was to initiate a further bout of speculation about a possible attempt to unseat Gordon Brown as Prime Minister. In the event, despite an

apparent attempt by the Foreign Secretary, David Miliband, to indicate his ambition for the top job, the fact that the by-election took place just as Westminster rose for the summer recess and MPs were going on holiday helped ensure that no immediate move was made against the Prime Minister's position. However, the death in August of John MacDougall, MP for Glenrothes, meant that Mr Brown would face yet another difficult Scottish by-election in the autumn.

Perhaps the longer-term political significance of the result was that it confirmed the message of the Westminster opinion polls above that the SNP, not the Conservatives, are currently the principal beneficiaries in Scotland of the unpopularity of the UK Labour government. The Conservative vote actually fell back a little, in sharp contrast to its successful capture of Crewe and Nantwich in May and its successful defence of Henley in June. If the Conservatives do win the next UK election they are likely to have to form a government that has very little representation in Scotland.

Figure 4.8: Glasgow East By-Election Results

Glasgow East: 24/7/08	Votes	%	Change in % vote since 2005
SNP	11,277	43.1	+26.1
Labour	10,912	41.7	-19.0
Conservative	1,639	6.3	-0.6
Liberal Democrat	915	3.5	-8.3
SSP	555	2.1	-1.4
Solidarity	512	2.0	
Green	232	0.9	
Independent	67	0.3	
Freedom -4-Choice	65	0.2	

Turnout: 42.3% (-5.9%)

Source: news.bbc.co.uk

4.4.3 Local Government By-Elections

Just two local government by-elections have been held since the beginning of May, both on 1 May.

Figure 4.9: Aberdeenshire, Troup By-Election Results

1/5/08 Aberdeenshire, Troup	% 1st preference vote	Change in % 1st preference vote since 2007
Conservative	18.8	-5.5
Labour	-	-
Liberal Democrat	18.4	+10.8
SNP	62.8	+15.1
Independent	-	-

Turnout: 36.3 (-14.2%)

Figure 4.10: Dumfries and Galloway, Abbey By-Election Results

1/5/08 Dumfries & Galloway, Abbey	% 1st preference vote	Change in % 1st preference vote since 2007
Conservative	40.8	+7.0
Labour	33.2	+5.1
Liberal Democrat	3.9	-1.0
SNP	18.0	+0.2
Independent	4.1	-11.3
SSP	1.6	-1.4

Turnout: 45.0% (-14.7%)

4.5 Attitudes towards Parties and Leaders

4.5.1 Parties

Nothing to report.

4.5.2 Leaders

The YouGov poll undertaken by the SNP in early August, just as the Scottish Labour leadership campaign got under way, demonstrated the relatively low public profile of the leadership contenders. Only the current deputy leader, Cathy Jamieson, seems to be at all well known, while Iain Gray in particular seems to be an unknown entity for most voters. A key task facing whoever is elected will be to impress their personality on the Scottish public.

Meanwhile, the poll underlined the popularity of the First Minister, Alex Salmond, and the unpopularity of the Prime Minister, Gordon Brown. When respondents were asked to compare the performance of the two, Alex Salmond outscored Gordon Brown by more than three to one. Two patterns are particularly telling. Whereas 89 per cent of SNP supporters (it is not clear whether this means those who would support the party in a Westminster election or a Holyrood one) say that Mr Salmond is doing the better job, only 48 per cent of Labour voters nominate Mr Brown. Meanwhile Salmond is the more popular leader not only amongst Liberal Democrats (by 42 per cent to 13 per cent) but also amongst Conservative voters (59 per cent to 3 per cent).

Figure 4.11: Party Leader Popularity Poll

Here are a number of prominent Scottish politicians. In each case, how much would you say you know about them?

	A lot	Something	Little	Not heard of
	%	%	%	%
Alex Salmond	48	41	8	2
Nicola Sturgeon	28	44	16	10
Annabel Goldie	19	42	21	15
Cathy Jamieson	17	41	22	16
Andy Kerr	8	26	31	31
Iain Gray	4	15	31	45

Thinking about the performances of Gordon Brown as Prime Minister and Alex Salmond as First Minister of Scotland, which one do you think is doing a better job?

	%
Alex Salmond	52
Gordon Brown	16
Neither	26

Source: YouGov/SNP 6-8/8/08

4.6 Retrospective Evaluations

The relative popularity of the SNP government as compared with that of the UK Labour government is also confirmed by a question on the SNP's YouGov survey that asked its respondents which government's performance in office had most convinced them that it looked after their interests. The results were almost identical to those of the question above that asked about the relative performance of the two leaders. Even Labour supporters only narrowly preferred their own UK government (45 per cent) to the SNP Scottish Government (33 per cent). The result is perhaps a testament to the success of the SNP's slogan, 'on your side'.

Figure 4.12: Government responsiveness to family needs

Thinking about the performances of the UK Labour government and the Scottish SNP government over the past year, which do you think cares most about the needs and interests of you and your family?

	%
Scottish Government	52
UK Government	16
Neither	24

Source: YouGov/SNP 6-8/8/08

5. Intergovernmental Relations

Alan Trench

5.1 General

The period from May to September involved one headline intergovernmental event (a meeting of the Joint Ministerial Committee), a number of bilateral issues, but not much other action. The UK constitutional debate continued, but in a quiet way, with the Calman Commission taking evidence mostly in private. It launched what it called its 'summer of listening' on 1 July.¹³⁵ The National Conversation had a somewhat higher profile, with the Scottish Government using the summer to hold cabinet meetings outside Edinburgh and tying its visits to Dumfries, Pitlochry, Inverness and Skye to public events about constitutional matters.

The UK Government's political difficulties have led to speculation about a Cabinet reshuffle in the autumn, and with it the creation of a combined ministry bringing together responsibilities for Scotland, Wales and Northern Ireland with English regional issues.¹³⁶

5.2 Meeting of the Joint Ministerial Committee

The most important headline event was the first meeting of the Joint Ministerial Committee since October 2002. This was held in London on 25 June 2008. The meeting was chaired by the Lord Chancellor and UK Secretary of State for Justice, Jack Straw, although it was described as a 'plenary' meeting (Straw was 'representing' the Prime Minister). The Scottish Government was represented by the First Minister and Deputy First Minister, Alex Salmond and Nicola Sturgeon (Northern Ireland and Wales were also represented by their First and Deputy First Ministers, respectively Peter Robinson and Martin McGuinness, and Rhodri Morgan and Ieuan Wyn Jones. The UK Secretaries of State for Scotland, Wales and Northern Ireland were also in attendance). According to the 'joint press statement', the meeting generally reviewed the role of the JMC and

¹³⁵ Minutes of meetings of the commission and its various 'task groups' are at www.commissiononscottishdevolution.org.uk/papers.php

¹³⁶ See 'Wales Office is facing the axe', *Wales on Sunday* 27 July 2008.

relations between administrations.¹³⁷ It agreed on the holding of a further meeting probably of a 'JMC Domestic' under the chairmanship of Paul Murphy in the autumn, and on the review of the Memorandum of Understanding. It also discussed a number of substantive issues including financial matters, the (Westminster) Marine Bill, and renewable energy.

The meeting appears to have been relatively low-key (there had been concern among Whitehall officials that it might degenerate into argument, and there had been concerns on the Scottish side about some aspects of the protocol, including the chairing by the Justice Secretary not the Prime Minister). The fact that a meeting happened at all can be regarded as a form of progress; the fact that it went smoothly and did what it was supposed to do – discuss substantive issues where there are differences between governments – as further progress still.

5.3 British-Irish Council sectoral meeting

A sectoral meeting of the British-Irish Council on social inclusion took place in Cardiff on 20 May 2008, chaired by Dr Brian Gibbons, Minister for Social Justice and Local Government in the Welsh Assembly Government.¹³⁸ Dr Gibbons also presented a paper on the Assembly Government's work on child poverty. Stephen Timms MP, Minister of State for Employment and Welfare Reform, represented the UK Government.

5.4 Bilateral issues

Many of the areas of bilateral disagreement that have developed since May have related to finance, and are discussed in section 8. Other issues have arisen in relation to the Justice portfolio, including police pensions (also discussed in section 8), and firearms.¹³⁹ A further issue has been that of control of Holyrood elections, in the wake of the counting

¹³⁷ The statement is available at www.scotlandoffice.gov.uk/our-communications/release.php?id=3676

¹³⁸ The communiqué is available at <http://www3.british-irishcouncil.org/documents/socinc3.asp>. See also Scottish Government news release 'British Irish Council', 20 May 2008, available at <http://www.scotland.gov.uk/News/Releases/2008/05/20115318>

¹³⁹ See Scottish Government news release 'Call for firearms law review', 9 June 2008, available at www.scotland.gov.uk/News/Releases/2008/06/09082808

fiasco in May 2007 and the Gould report on them. The UK Government has declined to devolve control of these elections, much to the Scottish Government's chagrin.¹⁴⁰

5.5 Adjusting the devolution settlement

Three orders have been made adjusting the scope of the devolution settlement since May. These are:

- The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2008, SI 2008 no. 1776. This provides that certain powers relating to the promotion of energy efficiency and reserved to UK Ministers when exercised in Scotland are to be exercisable concurrently by UK and Scottish Ministers.
- The Scotland Act 1998 (Agency Arrangements) (Specification) (No. 2) Order 2008, SI 2008 no. 1788. This enables Scottish Ministers to act as agents of UK ones in relation to the remote monitoring of compliance with curfew conditions for certain prisoners transferred from England and Wales to Scotland and released on licence.
- The Housing (Scotland) Act 2006 (Consequential Provisions) Order 2008, SI 2009 no. 1889. This provides that the provider of a defective survey report on a house (i.e. a report not complying with the requirements of the Housing (Scotland) Act 2006) can be sued wherever they are in the UK, not just in Scotland.

5.6 UK Government's 'Draft Legislative Programme'

The UK Government's practice of announcing its legislative programme in advance of the November Queen's speech has become more established. The draft legislative programme was published for consultation on 14 May, and consultation closed on 18 August.¹⁴¹ The document notes that:

¹⁴⁰ See Scotland Office news release 'Overnight counts to stay in Scottish Parliament elections', 24 June 2008, available at www.scotlandoffice.gov.uk/our-communications/release.php?id=3673; Scottish Government news release 'Report on Scottish Parliamentary elections', 24 June 2008, available at www.scotland.gov.uk/News/Releases/2008/06/24120852

¹⁴¹ Office of the Leader of the House of Commons *Preparing Britain for the future: the Government's draft legislative programme 2008-09* Cm 7372 (London: The Stationery Office, 2008), available at www.official-documents.gov.uk/document/cm73/7372/7372.pdf

In many cases, a bill may also apply in part to a devolved matter in Scotland, Wales and Northern Ireland. In other cases, the exact extent may not yet be known and discussions with the devolved administrations may still be continuing. The Government remains committed to respecting the devolution settlements. (p.10)

In relation to many bills affecting devolved matters, it also notes that, 'The Government will work closely with the devolved administrations in relation to their responsibilities in this area'. It also states the need for consultation with the devolved administrations about the bills proposed – although it appears that little or no consultation had taken place by the time of publication about many of the bills noted in the draft programme. One notable provision is the proposed 'NHS constitution', set out in the NHS Reform bill. This will, apparently, apply only to England.¹⁴² Another is the 'bill of rights and responsibilities' (no longer a '*British* bill of rights', it should be noted); as discussed in previous reports, this is to apply across the UK but the UK Government has rejected the idea of directly consulting the devolved administrations or legislatures about this.¹⁴³ This view has now also been criticised by the Joint Committee on Human Rights at Westminster.¹⁴⁴

¹⁴² Ibid, p. 62.

¹⁴³ Ibid, p. 65. See *Wales Devolution Monitoring Report* May 2008, para. 4.5 and *Wales Devolution Monitoring Report* January 2008, para 4.6 for previous discussion of this issue.

¹⁴⁴ See House of Lords and House of Commons Joint Committee on Human Rights *A Bill of Rights for the UK?* Twenty-ninth Report of Session 2007–08 HL Paper 165-I, HC 150-I (London: The Stationery Office, 2007), particularly chapter 3.

6. European and External Relations

Peter Lynch

6.1 The Scottish Government's International Strategy

The Scottish Executive 1999-2007 was fond of producing international strategies and agreements with a variety of regions and countries – Germany, China, USA, Bavaria, Victoria, etc. – that were dealt with in previous editions of these reports. After a year of relative quiet in this area, the Scottish Government published international and European strategies in quick succession in April 2008.

The Scottish Government released – rather than launched – its international strategy on 22 April. The strategy had three overall goals, in line with the strategic goals of the Scottish Government:

- Creating the conditions for talented people to live, learn, visit, work and remain in Scotland – so that Scottish population growth matches the EU average;
- Bringing a sharp economic growth focus to the promotion of Scotland abroad – so that the Scottish GDP growth rate matches the UK's by 2011; and
- Managing Scotland's reputation as a distinctive global identity, an independent minded and responsible nation at home and abroad and confident of its place in the world.¹⁴⁵

International engagement was to focus on education and science, business, tourism and major events – relatively similar to the types of goals contained within the strategies and agreements of the previous Executives. The strategy announced that the government would produce a new European strategy (see below) and also an amended China strategy. The geographical dimension to international policy would be widened to include the Scandinavian countries – Salmond's Arc of Prosperity – to the Commonwealth (including India and also Pakistan) plus the Celtic nations (meaning more cooperation with Northern Ireland, Ireland and Wales). A new international development strategy was also proposed.

¹⁴⁵. Scottish Government (2008), *Scottish Government International Framework*, p.1

6.2 The Scottish Government's European Strategy

If the International Strategy was a brief document that said very little, the European Strategy was quite different. The Action Plan for European Engagement was published as a draft consultation document, but was much more substantial and obviously political. It followed the same three overarching goals as the International Strategy mentioned above, but was much more focused on independence, with several references to Scotland's inferior constitutional status as a region within the UK and EU, and a number of mentions of the National Conversation. The strategy identified five policy priorities for Scotland in the EU: fisheries and aquaculture, the EU budget review, agriculture, Justice and home affairs, and EU energy policy.¹⁴⁶ However, it was not the policy priorities that made the action plan interesting, but its presentation of an agenda of issues for Scotland in its relations with the UK and EU.

First, the plan was critical of current arrangements for intergovernmental relations. The Scottish Government is seeking to bring the JMC framework back to life and to function as dispute resolution bodies – with Scottish, Welsh and Northern Irish Ministers meeting more regularly and acting in tandem (to undermine UK bilateral working).¹⁴⁷ In addition, the government wants a review of the Memorandum of Understanding and the concordat on dealing with EU issues and seeks to reform the position of the UK government in EU issues – where it wears 'two hats' as a representative of the UK and English interests on issues.¹⁴⁸ The government also committed itself to working more with the Northern Irish and Welsh governments on EU issues as well as on reform of the devolution settlement. The document committed the government to respond directly to all consultations by the European Commission and to seek to attend Council of Ministers meetings and 'develop working arrangements where Scottish Ministers may take the lead in representing the UK delegation during Council negotiations.'¹⁴⁹

¹⁴⁶. Scottish Government (2008), *Action Plan on European Engagement*, pp.6-8.

¹⁴⁷. See Alan Trench (2007), 'Washing dirty linen in private: the processes of intergovernmental relations and the resolution of disputes', in Trench (ed), *Devolution and Power in the United Kingdom*, Manchester: Manchester University Press.

¹⁴⁸. Scottish Government (2008), *Action Plan on European Engagement*, pp.11-12.

¹⁴⁹. Scottish Government (2008), *Action Plan on European Engagement*, p.14.

6.3 International Development

The Scottish Government discussed its international development policy in a session of the European and External Relations Committee on 27 May, with a revised international development policy to come in future. The relevant Minister Linda Fabiani also announced new core funding of £147,000 for the Network of International Development Organisations in Scotland over the next three years and £158,000 for the Scotland-Malawi Partnership, along with a ring-fenced fund of £3 million per annum for Malawi.¹⁵⁰

6.4 The European and External Relations Committee of the Scottish Parliament

The committee published its report into the Transposition of European Directives,¹⁵¹ on 2 May 2008. Whilst the title of this report may sound unpromising as it deals with the details of the legislative process for passing EU laws into Scottish law, it actually touches directly upon the autonomy of the devolved government in Scotland (as well as the legal system). The committee reiterated some of the findings of previous reports in this area,¹⁵² through reaffirming the importance of early engagement for the government, parliament and pressure groups in seeking to influence directives. The committee sought more clarity on the transposition process, early pressure group involvement, more Scottish Government secondments to the EU, a single point of contact on transposition within the government, the creation of an overarching body for pressure groups and a government plan for transposition, consultation and engagement on the issue.

The European and External Relations Committee published its report into International Development,¹⁵³ on 20 June 2008. The report featured a large number of submissions and evidence from development organisations in Scotland (many organised into the Network of International Development Organizations in Scotland). Given there is broad support for the Scottish Government conducting an international development policy, the report focused on the operation of the policy and its application to Malawi in particular.

¹⁵⁰. Scottish Government news release, 27th May 2008.

¹⁵¹. Scottish Parliament Committee on European and External Relations (2008), *1st Report, 2008 (Session 3), Report on an inquiry into the transposition of EU directives*.

¹⁵². Scottish Parliament Committee on European and External Relations (2007), *2nd Report, 2007 (Session 2), Report on an inquiry into the scrutiny of European legislation*.

¹⁵³. Scottish Parliament Committee on European and External Relations (2008), *3rd Report, 2008 (Session 3) Inquiry into International Development*.

The committee recommended that the Scottish Government undertake a number of changes to its policy and procedures – to conduct impact assessments on its programmes, seek to mainstream international development issues across Scottish Government departments and policy areas, seek to address government procurement and trade issues in line with moving Scotland towards achieving status as a fair trade nation, government budgetary support for overall development rather than individual projects, an extension of development education in Scotland and more focus on supporting long-term volunteering in Malawi. There were also some questions about the government's decision to include the Indian subcontinent in its list of areas for development support, but a committee consensus behind appointing a Scottish Government representative to Malawi to coordinate activities.

To signal Europe day on 9 May, the Scottish Parliament held an event in the parliament building. The day featured members of the European Committee plus a variety of development organisations and school pupils to discuss Scotland and Europe's role in international development activities.¹⁵⁴

6.5 Homecoming 2009

The Scottish Government is helping to fund the Year of Homecoming, a series of cultural events to attract tourists and Scots who live abroad. The year is organised around Robert Burns, whisky, golf, Great Scottish minds and innovations and culture and heritage.¹⁵⁵ However, the focus of the programme on the Scottish diaspora in Australia, Canada, New Zealand and the USA was criticised by former First Minister Jack McConnell in an exchange of letters with Alex Salmond. He stated that 'Our international strategy for Scotland needs to be wider than North America, Australia and New Zealand and it needs to look at the modern world in its entirety – making Scotland a location of choice for tourists from Asia, who are going to be the biggest tourist market in the world 20 years from now, but also those with diaspora connections in other parts of the world. I'm extremely disappointed the First Minister has such a limited vision of this, but I hope that, on reflection, he will be willing to think again'.¹⁵⁶

¹⁵⁴. Scottish Parliament Committee on European and External Relations (2008), *European Day Conference 2008, 9th May 2008*.

¹⁵⁵. <http://www.homecomingscotland2009.com>

¹⁵⁶. *The Herald*, 22nd August 2008.

7. Relations with Local Government

David Scott

7.1 Local Income Tax

The Scottish Government's plans for a local income tax (LIT) continued to dominate the local government agenda and attract considerable media controversy as various bodies responded to the consultation document, *A Fairer Local Tax for Scotland*.¹⁵⁷ The consultation period closed on 18 July and ministers are currently considering the submissions made.

According to an opinion poll conducted by TNS System Three,¹⁵⁸ almost half of Scots were in favour of LIT but more than 30 per cent had not made up their minds. Much of the press coverage has been critical. One newspaper reported that Scotland's biggest council, Glasgow City, was among a growing number of organisations and experts to come out against the LIT proposals.¹⁵⁹ The council claimed that it would be faced with a funding gap of between £60 million and £155 million if the plans for a 3p in the pound rate of tax go ahead.

The potential funding gap is the issue that has been highlighted by a number of professional and finance and local government organisations. The Chartered Institute of Public Finance and Accountancy (CIPFA) in Scotland, in a joint submission made with the Society of Local Authorities Chief Executive and Senior Managers (SOLACE),¹⁶⁰ warned of a funding gap of £742m – the difference between the present income from council tax and that estimated from LIT plus the potential loss of funding currently paid to Scotland in council tax benefit. A similar argument was put forward by the Institute of

¹⁵⁷ 'A Fairer Local Tax for Scotland' (11 March 2008) Scottish Government consultation document www.scotland.gov.uk/Publications/2008/03/11131725/0

¹⁵⁸ Robbie Dinwoodie '46 per cent of Scots support SNP local income tax says poll' (27 August 2008) *The Herald* (Glasgow) www.theherald.co.uk/news/news/display.var.2248241.0.46_of_Scots_support_SNP_local_income_tax_says_poll.php

¹⁵⁹ David Maddox 'Bad for families, students, top companies, pensions and now Scotland's biggest council – latest blow to SNP's income tax' (20 June 2008) *The Scotsman* <http://thescotsmen.scotsmen.com/politics/Bad-for-families-students-top.4205767.jp>

¹⁶⁰ Chartered Institute of Public Finance and Accountancy 'CIPFA responds to Local Income Tax proposal' (29 July 2008) www.cipfa.org.uk/scotland/news_details.cfm?news_id=58653

Revenues Rating and Valuation (IRRV).¹⁶¹ Both organisations argued in favour of a reformed property tax. The Confederation of British Industry in Scotland warned that LIT would lead to higher pay claims from employees and add to the administrative burden faced by companies.¹⁶²

However, in a surprise decision the Convention of Scottish Local Authorities (COSLA) supported the principle of a local income tax.¹⁶³ This was a change to COSLA's previous policy which opposed LIT and instead favoured a reformed council tax. The policy change was mainly seen as a reflection of the new political make-up of COSLA which now has a higher proportion of SNP members following the 2007 local government elections in which, for the first time, members were elected using a system of proportional representation.

The scale of opposition to LIT led to suggestions that the SNP administration might abandon the policy.¹⁶⁴ However, this was vigorously denied by the Scottish Government.¹⁶⁵ The Secretary for Finance and Sustainable Growth, John Swinney, was quoted as saying that he would table a bill next year and he hoped a centrally-set LIT of 3p in the pound would be in place by 2011.

7.2 Cabinet Talks

Leaders of the Convention of Scottish Local Authorities and the Scottish Cabinet met in June to discuss progress in implementing the Concordat¹⁶⁶ that was signed by both

¹⁶¹ Institute of Revenues Rating and Valuation (14 July 2008) 'Scottish local income tax will leave local authorities "facing a gaping funding hole"'

www.irrv.net/newsitem.asp?ID=1005&Search=Local%20income%20tax&SearchPage=Y

¹⁶² David Maddox 'CBI savages plan for Scottish local income tax (29 June 2008) *The Scotsman* thescotsmen.scotsman.com/business/CBI-savages-plan-for-Scottish.4201301.jp

¹⁶³ David Maddox 'SNP 's new tax lives to fight another day' (28 June 2008) *The Scotsman* <http://thescotsmen.scotsman.com/latestnews/SNP39s-new-tax-lives-to.4232651.jp>; Robbie Dinwoodie 'Shift in political landscape as COSLA backs SNP local income tax' (28 June 2008) *The Herald* (Glasgow) www.theherald.co.uk/politics/news/display.var.2368960.0

¹⁶⁴ Nicholas Christian 'Question mark over SNP's pledge to ditch council tax' (27 July 2008) *Scotland on Sunday* <http://scotlandonsunday.scotsman.com/latestnews/Question-mark-over-SNP39s-pledge.4329068.jp>

¹⁶⁵ 'SNP emphatic local income tax plan will not be scrapped' *The Scotsman*, July 28 2008 <http://thescotsmen.scotsman.com/politics/SNP-emphatic-local-income-tax.4329367.jp>

¹⁶⁶ 'Concordat between Scottish Government and local government' (14 November 2008) www.scotland.gov.uk/Publications/2007/11/13092240/concordat

sides following the May 2007 elections. This aimed to build a new relationship between local and central government 'based on mutual respect'. While it gave the Scottish Government the right to set overall policy direction, it also gave a commitment that ministers would avoid micromanaging, as well as reducing regulation and controls such as ring-fencing. A joint statement issued by the First Minister, Alex Salmond, and the President of COSLA, Councillor Pat Watters¹⁶⁷ said local government now had the freedom and flexibility to respond effectively to local priorities but it also had more responsibility.

The preparation of Single Outcome Agreements (SOAs) by all of Scotland's 32 local authorities was one of the major features of the Concordat. The SOAs set out the outcomes each council is seeking to achieve when planning spending priorities with its community planning partners. In a statement on SOAs¹⁶⁸ the Scottish Government said these had been finalised by all councils. Mr Swinney said that, as a result of alignment with the National Performance Framework set out in the Scottish Budget, the 32 SOAs meant that national and local government were working 'as never before to deliver the more successful country we all wish to see'.

7.3 Scottish Futures Trust

Detailed plans for the implementation of the Scottish Futures Trust (SFT) which will have major implications for local government, were published by the Scottish Government.¹⁶⁹ Ministers published a strategic business case for the Trust initiative which is intended to replace the current system of PFI for the building of schools, hospitals, transport schemes and other public sector projects. According to the Scottish Government, the business case provides for the provision of a new company, established in the public sector, which will have responsibility for releasing funds for increased investment in infrastructure and bringing together the expertise for the provision of a Scotland-wide municipal bond to fund future public sector projects. Under the proposals, local authorities will collectively be expected to create a joint fund raising vehicle to raise

¹⁶⁷ 'Joint statement with local authorities' (11 June 2008) Scottish Government www.scotland.gov.uk/News/Releases/2008/06/11155550

¹⁶⁸ 'Single Outcome Agreement'(30 June 2008) Scottish Government statement www.scotland.gov.uk/News/Releases/2008/06/30092907

¹⁶⁹ 'Taking forward the Scottish Futures Trust (20 May 2008) Scottish Government publication www.scotland.gov.uk/Publications/Recent ;

bonds on the open market. The plans will involve the use of non-profit distributing principles (NDP). This is seen as a fairer and more efficient public funding method to the PFI and private-public partnership system which has been in use in recent years.

However, the proposals have been the subject of intense controversy. Critics claimed¹⁷⁰ that the latest proposals amounted to a U-turn since the SNP had originally pledged to abolish PFI. It was also argued that uncertainty over the SFT could lead to major projects being delayed. Mr Swinney¹⁷¹ said the creation of a new company would provide the schools, hospitals and transport infrastructure Scotland needed in a far more cost effective way. He said that by putting non-profit distributing principles at the core of the partnership delivery and funding, the Scottish Government had already removed the element of PFI that delivered the 'most extreme' profits. A Scotland-wide municipal bond, he said, opened up the prospect of further benefits.

7.4 Council Housing

Local authority housing capital expenditure is projected to total £505.7 million in 2008-09, an increase of £51.9 million (11.4 per cent) over a four year period according to statistics on council housing income and expenditure published by the Scottish Government's chief statistician.¹⁷² This reflects an increasing emphasis placed by ministers on the provision of social housing at a time when there is a significant downturn in the private housing market. The figures show that there was a particularly large increase in the capital expenditure of one council, Midlothian, over the past few years – from £8.7 million in 2005-06 to a planned £44.5 million in 2008-09. This is mainly a reflection of the council's new house building programme. After many years of inactivity in council house building, there are now signs of councils taking on an increased role in the provision of affordable housing. The City of Edinburgh Council, for

¹⁷⁰ Robbie Dinwoodie, 'SNP Trust for Public Projects launched into storm,' The Herald, (Glasgow) 21 May 2008

www.theherald.co.uk/news/news/display.var.2285281.0.SNP_trust_for_public_projects_launched_into_storm.php David Maddox 'Big projects must wait as SNP funding plan remains in doubt,'

The Scotsman, 21 May 2008

<http://thescotzman.scotzman.com/latestnews/-Big-projects-must-wait.4103126.jp>

¹⁷¹ 'Government establish Scottish Futures Trust to boost infrastructure investment in Scotland' (20 May 2008) Scottish Government news release

www.scotland.gov.uk/News/Releases/2008/05/20101113

¹⁷² 28 07 08 Planning for housing

<http://www.scotland.gov.uk/News/Releases/2008/07/28113826>

example, announced¹⁷³ that it planned to build about 1100 new homes – the first council houses to be built in the capital for nearly 20 years. The building programme will include houses for sale as well as for rent.

The policy is in line with a pledge¹⁷⁴ given by Nicola Sturgeon, the Secretary for Health and Wellbeing (whose responsibilities include housing). She said the Scottish Government would ‘kick-start a new generation of council house building’. Ms Sturgeon emphasised that she wanted councils to start building again after years when few homes were built by local authorities. The Scottish Government announced¹⁷⁵ that planned investment of £1.5 billion was expected to create at least 21,500 new approved affordable homes by 2011. It also published a revised planning policy¹⁷⁶ aimed at ensuring land for housing is brought forward more effectively. The guidelines are intended to make it easier for local authorities to make sure they always have a five-year supply of effective land for housing and enable them to bring forward more land for housing if it is required.

In July, Alex Salmond, the First Minister,¹⁷⁷ said he would speed up the Scottish Government’s social housing programme, bringing forward £60 million of work earmarked for 2010 and starting it as soon as possible.

¹⁷³ ‘Council to build 1000 new homes in Edinburgh to tackle housing crisis (31 July 2008) City of Edinburgh Council news release
http://www.edinburgh.gov.uk/CEC/Corporate_Services/Corporate_Communications/Press_Releases/NewsRelease.jsp?ID=3962

¹⁷⁴ Douglas Fraser ‘Sturgeon: we will build more council houses (19 April 2008) *The Herald* (Glasgow)
<http://pqasb.pqarchiver.com/smgpubs/access/1466060231.html?dids=1466060231:1466060231&FMT=ABS&FMTS=ABS:FT&date=Apr+19%2C+2008&author=DOUGLAS+FRASER+SCOTTISH+POLITICAL+EDITOR&pub=The+Herald&edition=&startpage=1&desc=Sturgeon%3A+we+will+build+more+council+housing+Pledge+comes+as+survey+shows+Scots+homes+market+faltering>

¹⁷⁵ ‘Investment in housing (30 May 2008) Scottish Government news release
www.scotland.gov.uk/News/Releases/2008/05/30104227

¹⁷⁶ ‘Planning for Housing’ (28 July 2008) Scottish Government news release
www.scotland.gov.uk/News/Releases/2008/07/28113826

¹⁷⁷ Hamish Macdonell ‘Housing sector set for £100m boost to bolster the economy’ (20 August 2008) *The Scotsman* <http://thescotsman.scotsman.com/scotland/Housing-sector-set-for-100m.4406628.jp>

7.5 Scrutiny Bodies

The number of bodies which scrutinise local government and other public bodies is to be reduced by a quarter, Mr Swinney announced.¹⁷⁸ He told MSPs that the action was being taken as part of the Scottish Government's plans to simplify and streamline the scrutiny of public services. The decision to cut the 29 existing scrutiny bodies by a quarter 'over time' follows the independent review of regulation, audit, inspection and complaints handling carried out by Professor Lorne Crerar¹⁷⁹. Prof Crerar, in his report, voiced concern about the increasing number of scrutiny organisations in Scotland and put forward proposals for significant reductions in bodies which made up what he described as an 'overcrowded landscape.' The existing scrutiny bodies range from organisations like Audit Scotland to various inspectorates and commissioners responsible for areas such as standards and children. There is also an ombudsman for public services.

In his statement, Mr Swinney gave an update on action taken to simplify and streamline the scrutiny of public services following the Crerar Review. Progress included asking the Accounts Commission to put in place arrangements to implement a single framework to assess the performance of local government as a body. In addition, scrutiny bodies were working together to better plan inspection and reduce the burden on councils; HM Inspectorate of Education had reduced the inspection times and pre-inspection work for every council and school and the Scottish Housing Regulator had stopped cyclical inspections for housing associations and would no longer inspect councils once the initial round of inspections had been completed.

Mr Swinney said the Scottish Government aimed for a reduction of the 29 scrutiny bodies by 25 per cent 'exceeding our broader commitment to reduce the number of public bodies'. He said a further announcement on structural change would be made in the autumn.

¹⁷⁸ 'Reduction in Scrutiny Bodies (23 June 2008) Scottish Government news release www.scotland.gov.uk/News/Releases/2008/06/23153230

¹⁷⁹ 'The Crerar Review: the report of the independent review of the audit, inspection and complaints handling of public services in Scotland' (25 September 2007) Scottish Government. <http://www.scotland.gov.uk/Topics/Government/PublicServiceReform/IndependentReviewofReg/atest-news/TheCrerarReview>

7.6 Aberdeen City Council

The Accounts Commission issued a Best Value report on the City of Aberdeen Council.¹⁸⁰ This followed a public hearing into the findings of the controller of audit. The commission voiced concern at the council's 'precarious' financial position saying that over the past three years expenditure had been significantly in excess of budget. It was concerned at the council's organisational structure and lack of effective leadership and direction. It also found significant shortcomings in the council's procedures for property transactions. The commission said the council was facing 'extremely serious challenges' and needed support to help make the changes needed. According to the commission, the council currently did not have the capacity to carry forward the changes that were needed and said immediate action should be taken to recruit a new chief executive. The council also required 'appropriate external assistance' to help implement recommendations made by the commission and take forward the findings of the Best Value audit.

Mr Swinney, the finance secretary, in a statement¹⁸¹ voiced his concerns. He requested that the council accept the commission's findings and put in place an improvement plan 'as a matter of urgency'. The minister also arranged a meeting with senior council representatives and called for regular reports from the council on its progress. In August, the council appointed an interim chief executive and financial expert¹⁸² before announcing the appointment of a permanent chief executive.¹⁸³

¹⁸⁰ 'The Audit of Best Value and Community Planning: Aberdeen City Council (May 2008) Accounts Commission

http://www.audit-scotland.gov.uk/docs/local/2008/bv_080529_aberdeen_city.pdf

¹⁸¹ Accounts Commission and Aberdeen City Council (29 May 2008) Scottish Government Press release www.scotland.gov.uk/News/Releases/2008/05/29154655

¹⁸² 'Cash-hit council drafts in financial expert. (7 August 2008) *The Scotsman*

<http://thescotzman.scotsman.com/aberdeen?articleid=4367999>; 'Struggling Aberdeen City Council appoints a financial expert' (7 August 2008) *The Herald* (Glasgow)

www.theherald.co.uk/news/news/display.var.2419952.0.Struggling_Aberdeen_City_Council_appoints_financial_expert.php; 'Cash strapped council drafts in financial expert' (28 August 2008) *The Scotsman*

<http://thescotzman.scotsman.com/aberdeen?articleid=4367999>

¹⁸³ 'Aberdeen City ~Council appoints permanent chief executive' (26 August 2008) Aberdeen City Council Press release

www.aberdeencity.gov.uk/acci/web/site/CouncilNews/pr/pr_suebruce_260808.asp

7.7 Council dispute

Talks between COSLA and the trade unions were continuing at the end of August in an attempt to resolve a local authority pay dispute. The dispute resulted in a major one-day strike on 19 August when it was reported¹⁸⁴ that schools, nurseries, libraries and leisure facilities were closed and a number of services, including refuse collections, were not available. Members of Unison, Unite and the GMB, representing around 150,000 of Scotland's 250,000 council employees are involved in the dispute which is over the rejection of a 2.5 per cent pay offer for each of the next three years.¹⁸⁵

COSLA¹⁸⁶ stated that it had made an offer in good faith which was in line with inflation when it was made and was at the 'top' of what councils could afford. After COSLA offered further talks the initiative was welcomed by Unison¹⁸⁷ though it stated that further industrial action would be taken if required. After talks took place on 1 September, COSLA¹⁸⁸ issued a statement by a spokesperson, Councillor Michael Cook, saying that in view of the impact increasing the pay offer would have on services and jobs the offer had to remain at 2.5 per cent. He said COSLA was willing to discuss, jointly with the unions 'all strands of our thinking' with the Scottish Government so that it was fully aware of the issues'. The local government union, Unite, warned that the COSLA decision would lead to the escalation of strike action.¹⁸⁹

¹⁸⁴ Emily Pykett 'Public services grind to a halt across Scotland as 200,000 strike over pay' (20 August 2008) <http://thescotsman.scotsman.com/scotland/Public-services-grind-to-a.4406669.jp>

¹⁸⁵ David Maddox 'Scots council staff to strike this month' (2 August 2008) *The Scotsman* <http://thescotsman.scotsman.com/scotland/Scots-council-staff-to-.4351262.jp>

¹⁸⁶ 'Pay talks any time' (19 August) COSLA news release. http://www.cosla.gov.uk/news_story.asp?leftId=10001FA8F-10766761&rightId=10001FA8F-10766715&hybrid=false&storycode=10001FA8F-16132656

¹⁸⁷ 'Successful strike brings reopening of talks' (22 August) Unison news release <http://www.unison-scotland.org.uk/news/2008/julyaug/2208.htm>

¹⁸⁸ Issued to media but not available on internet

¹⁸⁹ 'Further council strikes planned' (1 September 2008) BBC News http://news.bbc.co.uk/1/hi/scotland/scotland_politics/7592205.stm

8. Finance

Alan Trench

8.1 General

There have been a number of disagreements between the Scottish and UK Governments about financial matters since May 2008. These have revolved around Scottish Government claims that the UK Government has failed to provide funds to which it is entitled under the Barnett formula. Following the row about funds to cover the costs of dealing with slopping-out and overcrowding (reported in the May 2008 *Monitoring Report*, section 8.1), this has included a row about police pensions arising from a change in entitlements, allowing retiring officers to take larger lump sums.¹⁹⁰ The Scottish Government has also asked the UK Government to transfer oil and gas revenues 'to move towards greater financial independence', a request to which unsurprisingly the UK Government has failed to respond.¹⁹¹

The Finance Secretary, John Swinney, has boasted of reducing the level of underspend in the devolved Scottish budget, to only £42 million in a budget of £27.5 billion.¹⁹² He has also started signing 'single outcome agreements' with individual local authorities, part of the process of delivering on the 'concordat' with COSLA agreed as part of the 2007 Budget process.¹⁹³ However, the Government's largesse does not extend to providing extra financial help to the financially troubled Aberdeen City Council (see section 7.6).¹⁹⁴

A meeting of the First Minister's Council of Economic Advisers took place in Glasgow on 13 June 2008.¹⁹⁵ As well as receiving an update on the Scottish economy from Dr Andrew Goudie (Chief Economic Adviser to the Scottish Government), the meeting discussed ways of developing Scotland's comparative advantage (with an emphasis on education issues and the funding of higher education), economic growth in the short term (to 2011), nuclear power and carbon emissions targets. In a number of areas, the

¹⁹⁰ See 'SNP in row with Westminster over police pensions', *The Herald*, 18 August 2008.

¹⁹¹ See 'Swinney calls for oil revenue talks', *The Herald* 19 May 2008.

¹⁹² See 'Swinney boasts of managing books well' *The Herald*, 20 June 2008.

¹⁹³ See 'Swinney hails new deal with Scottish councils', *The Herald* 30 June 2008.

¹⁹⁴ See 'No bail-out money for desperate council says Swinney', *The Scotsman* 18 July 2008.

¹⁹⁵ See Scottish Government news release, 'Council of Economic Advisers', 13 June 2008.

Available at www.scotland.gov.uk/News/Releases/2008/06/16080203

Council expressed reservations about the policies already being pursued by the Scottish Government.¹⁹⁶

Finance is emerging as an important element of the constitutional debates. In particular, an 'independent expert panel' chaired by Professor Anton Muscatelli (Principal and Vice-Chancellor of Heriot-Watt University) has been set up to 'provide impartial advice and evidence' to support the work of the Calman Commission 'on how the financial accountability of the Scottish Parliament might be improved'.¹⁹⁷ As well as a number of academics, its membership includes a former principal finance officer of the Scottish Executive, and one member (Prof. Andrew Hughes-Hallett) is also a member of the First Minister's Council of Economic Advisers.

8.2 Publication of Government Expenditure and Revenue in Scotland

Government Expenditure and Revenue Scotland 2006-2007 (GERS 2006-07) was published on 20 June.¹⁹⁸ This latest edition has taken some considerable time to produce (the last edition, for 2004-05, appeared in December 2006), largely because of the development of more sophisticated methodology. The report, which meets the standards of being National Statistics (which require, inter alia, that Ministers have no role in its preparation, and only very limited advance notice of its contents before publication) suggest that Scotland's 'fiscal deficit' is much smaller than previous editions had indicated, and (depending on whether and how North Sea oil revenues are taken into account) may be non-existent. To be precise, *GERS* suggests that the deficit is £10.2 billion (9.7 per cent of GDP) when excluding North Sea revenue, £9.4 billion (8.8 per cent of GDP) when including a per capita share of North Sea revenue or a deficit of £2.7 billion (2.1 per cent of GDP) when an estimated geographical share of North Sea revenue is included. Much political capital was, unsurprisingly, made of this, particularly about its implications for an independent Scotland.

¹⁹⁶ The minutes of the meeting are available at www.scotland.gov.uk/Topics/Economy/Council-Economic-Advisers/Meetings/2008-meeting2/ceo-min-jun08. See also 'SNP's "no" to nuclear power challenged by key advisers', *The Herald* 28 August 2008.

¹⁹⁷ Commission on Scottish Devolution news release, 'Principal and Vice-Chancellor of Heriot-Watt University to chair international expert group', 11 June 2008, available at www.commissiononscottishdevolution.org.uk/news/articles/38.php

¹⁹⁸ Scottish Government, *Government Expenditure & Revenue Scotland 2006-2007*, June 2008 (Edinburgh: The Scottish Government, 2008), available from www.scotland.gov.uk/Publications/2008/06/18170334/0

While further work on methodology for the revenue figures may be desirable (the figures remain estimates, even where accurate data might in principle be available), the expenditure data is regarded as being as good as is likely to be practicable.

8.3 Scottish Futures Trust

Following the consultation on the proposed Scottish Futures Trust (which produced a large number of adverse views, as well as doubts about the legality of any scheme which might be local-government based; see the May 2008 *Monitoring Report*, section 8.4), the Scottish Government set out its plans in May. It proposes to go ahead with the scheme, partly by using it as a focus for expertise and co-ordination in contracting arrangements between public and private sectors as well to attract and manage private capital for public-sector schemes.¹⁹⁹

Meanwhile, the Finance Committee at Holyrood is carrying out an inquiry into 'the funding of capital investment projects', including the proposals for the Futures Trust as well as PFI.²⁰⁰

8.4 The proposed local income tax

The local income tax continues to face difficulties. The UK Government has refused to move regarding the issue of council tax benefit, and opposition from other parties at Holyrood (including the Greens) suggest it will be hard to find Parliamentary support despite inclusion of plans to legislate on the LIT in the coming year. The UK Government has also raised objections about its impact on those serving in the UK armed forces.²⁰¹ A further set of objections come from legal quarters, in particular whether the extent of control of local authority finances implied by a single national rate of tax is compatible

¹⁹⁹ See Scottish Government news release, 'Scottish Futures Trust' 20 May 2008. Available at The Government's detailed proposals are set out in Scottish Government *Taking Forward the Scottish Futures Trust*, available at www.scotland.gov.uk/Publications/2008/05/19155435/0

²⁰⁰ Details are at

www.scottish.parliament.uk/s3/committees/finance/inquiries/capitalinvestment.htm

²⁰¹ See 'Fear over impact on troops of local income tax', *The Herald* 21 July 2008

with the requirements for local government autonomy set out in the Council of Europe's 'European Charter of Local Self-Government'.²⁰²

²⁰² This has been raised by Prof. C. Himsworth of Edinburgh University. See Scottish Parliament Local Government and Communities Committee Official Report, 16th Meeting, 2008 (Session 3), 28 May 2008, col, 884 ff, available at www.scottish.parliament.uk/s3/committees/lgc/or-08/lg08-1602.htm#Col884

9. Disputes and Litigation

Alan Trench

There have been no decisions of the Judicial Committee of the Privy Council in devolution issue cases since 1 May 2008, nor do there appear to be any devolution issues in the pipeline. Likewise there have been no decisions on the division of powers in the Scotland Act 1998 by the Appellate Committee of the House of Lords, or of the Scottish courts.

10. Political Parties

Peter Lynch

10.1 Wendy Alexander's Resignation

The prospect of a quiet political summer in Scotland was very short-lived indeed – with two leadership resignations sparking leadership contests for Labour and the Liberal Democrats. The Glasgow East by-election and then the forthcoming Glenrothes contest – both Westminster constituencies – certainly enlivened politics way before the normal party conference season. By-elections aside, much of what was going on did not directly involve the SNP as the party's opponents struggled to adjust to the post-2007 environment in which the Nationalists were in government and the former Scottish Executive governing parties were in opposition.

Wendy Alexander resigned as Scottish Labour leader on 28 June following the decision of Holyrood's Standards Committee that she should serve a one-day ban from parliament for breaching its rules on declaring donations (see section 2). Alexander returned to the quiet life of the back benches, but how should her brief tenure as leader be regarded? Internally within Scottish Labour, it was not deemed a success. Policy development in opposition was during its early stages and little had been done to reform the party on the ground, despite Alexander's stated desire to reform and renew it. Her performances at First Minister's question time were generally seen to be poor and Labour seemed to struggle as an opposition throughout this period. Spending most of the time mired in accusations and enquiries about donations was part of the reason for this. More positively, Alexander took two steps to improve the party's autonomy within Labour, one highly controversial. First, she was one of the motivating forces behind the establishment of the Calman Commission on devolution, which is slowly and quietly examining reforms of the powers of the devolved parliament in co-operation with the Conservatives and Liberal Democrats at the Scottish and UK levels. Second, Alexander sought to signal a more autonomous Scottish Labour by adopting her controversial position on an independence referendum. Taking such a distinctive position on one of the most important issues for Labour was difficult and certainly did not win Alexander any friends within her own party at Westminster – quite the reverse. However, it was an

interesting illustration of an attempt to give Scottish Labour some autonomy over the constitutional issue.

10.2 The Scottish Labour Leadership Contest

The Labour leadership contest began immediately with Wendy Alexander's resignation. Into the frame came Cathy Jamieson (former Justice Minister), Iain Gray (former Enterprise Minister), Andy Kerr (former Health Minister) as well as two relative outsiders – Charlie Gordon and Ken Mackintosh. Nomination required the support of 5 other MSPs and with the close of nominations on 1 August, only Jamieson, Kerr and Gray remained in the race.²⁰³ Margaret Curran, who had been tipped to stand before the Glasgow East by-election, did not contest the leadership or deputy leadership. As Cathy Jamieson resigned as deputy leader to contest the leadership, the former post became vacant and was contested by Johann Lamont and Bill Butler, both Glasgow MSPs. After a summer of 8 hustings meetings across Scotland, the result of the leader and deputy leader contests were to be announced on 13 September.

Whilst the nomination and election process coincided in part with the Glasgow East by-election, campaigning for the leadership really began once the by-election was over. The three candidates were active within the Labour, trade unions and the Co-operative Party, as well as getting their message across to the party membership and public through the media. As this process unfolded, three things became clear. First, none of the candidates was all that clear about where Labour stood on an independence referendum. Second, there was a new consensus amongst the candidates that the council tax in its current form had to go – though little real thought about what should replace it. Third, none of the candidates looked to be a match for Alex Salmond at First Minister's questions.

Each of the three candidates campaigned on different issues – in terms of devolved policy and taking on the SNP. Andy Kerr for example, had an open mind on holding a referendum on independence. Very early in the campaign, he stated that 'I am absolutely clear in my mind that firstly, we do not stand in the way of Scots having their

²⁰³ . A list of candidates and their nominees is available at <http://www.scottishlabour.org.uk/candidates>

choice. I do believe they will continue to choose to be part of the United Kingdom. But secondly, there is no blank cheque for Mr Salmond for my support in relation to what his proposals are until I see the details of what he is saying.' Kerr campaigned on a range of issues during the summer – greater control of the Scottish Labour Party for the new leader, affordable housing, scrapping the council tax and replacing it with a new property tax,²⁰⁴ an increased minimum wage for employees who stayed in a job for more than a year, more finance for care of the elderly, and more bursaries for further education students taking HNC and HND courses.²⁰⁵

Cathy Jamieson, the most left-wing of the three, campaigned on a policy change to give shop staff the same legal protection from abuse and attack as emergency workers, a GB football team at the 2012 Olympics, bus and rail transport, fair pay for local government workers and the creation of a fuel hardship fund in Scotland to help pensioners.²⁰⁶ She also announced she would campaign to get UK government to give £400 million council tax benefit to Scottish government:²⁰⁷ a position that the SNP had sought to institute as part of their proposals for the introduction of a local income tax – an interesting departure in approach.

Iain Gray – the least well-known of the candidates and seen to be London's candidate, having been special adviser to Alistair Darling at the Scotland Office – campaigned on creating literacy specialists in schools, a crackdown on alcohol abuse through use of alcohol treatment and testing orders, improved bus services, boosting the number of apprenticeships, increased funding for the poorest students and an unspecified proposal to reform the council tax.²⁰⁸ Interestingly, Iain Gray's website contained a page on donations to his campaign and the rules about what constitutes a permissible donation – so someone had learned something from Wendy Alexander. Gray's website had even been purchased for him before Alexander's resignation.

The mere fact of the leadership contest seems to have brought Labour to adopt a more focused approach to attacking the SNP – a process facilitated by the leadership contest

²⁰⁴. The suggestion was that Kerr would revisit the proposals made by the Burt report into local government finance in 2006, such as levying a 1% tax on all properties.

²⁰⁵. <http://www.kerrforscotland.co.uk/index.html>

²⁰⁶. <http://www.cathy4labour.co.uk/index.html>

²⁰⁷. *The Herald*, 20th August 2008.

²⁰⁸. <http://www.iaingrayforscotland.net/home>

and by the forthcoming Glenrothes by-election contest. Three senior Labour figures contesting the leadership has meant that three people have been campaigning on a range of positive issues for Scottish Labour and on negative issues for the SNP – with a fair bit of media coverage of these pronouncements. In addition, unlike Glasgow East, Labour has time to prepare for the Glenrothes by-election and sharpen its attacks on its main opponent in the seat. Of course, because of the Calman Commission, one area of debate was closed off to the leadership contenders – namely the prospect of more powers for the devolved parliament.

Two things are worth adding to the discussion about the Labour leadership contest – the constitutional role of the Scottish leader and the potential difficulties with the Electoral College. First, the current leadership election is solely to choose the leader of the MSPs at Holyrood rather than the leader of Scottish Labour: a post that does not exist. The reality of that position was made clear in a newspaper article in the Sunday Herald by former Minister, Tom McCabe, who argued for the MSPs' leader to be the leader of the whole party in Scotland – MPs, MEPs, members and CLPs, etc. McCabe argued that this was necessary to address the reality of Scottish politics post-devolution and address the implications of the 2007 election result in a more coordinated way. McCabe was particularly concerned about the ease by which the SNP could address the council tax issue whilst Scottish Labour was fettered by the Westminster government and the party's interests across Britain, leading to 'a pointless fudge that is presented as a radical change'.²⁰⁹ The party's MPs were not too enamoured of this proposal,²¹⁰ but the issues raised featured in the campaign for the leadership.

Secondly, there is the issue of the electoral college to elect Scottish Labour's new leader. The last time this mechanism was used in Scotland was to elect Donald Dewar, though he was the sole candidate. Therefore this is the first time the procedure has been used at a multi-candidate contest, with the prospect of the successful candidate being elected by some parts of the college and not others – say by union block votes rather than by individual party members. The examples of both Rhodri Morgan and Ken

²⁰⁹ . Tom McCabe, Sunday Herald, 4th August 2008.

http://www.sundayherald.com/news/heraldnews/display.var.2416225.0.part_4_what_do_we_in_s_cottish_labour_need_in_our_nations_new_political_landscape_a_leader_with_guts_to_stand_up_to_westminster.php

²¹⁰ . *The Herald*, 8th August 2008.

Livingstone spring to mind from the early period of devolution as examples of the problems with the electoral college system.

10.3 The Glasgow East By-Election

The Glasgow East by-election was held on 24 July. The by-election was caused by the resignation of sitting MP David Marshall on health grounds on 28 June. Despite Labour's efforts at persuasion, Marshall resigned immediately and the by-election was moved as quickly as possible. It came at the end of a bad week for Labour – coming fifth at the Henley by-election to elect Boris Johnson's successor at Westminster and at the same time as Wendy Alexander resigned as Scottish Labour leader. Moreover the party struggled to find a candidate and had to delay its selection – meaning that no candidate was actually in place when the campaign began.

The expected candidate, local councillor George Ryan, did not even turn up at the hustings meeting on 4 July and withdrew from the race. The other two potential candidates at the selection were left in the lurch, the leader of Glasgow City Council, Stephen Purcell declined an invitation to stand for the seat and, over the weekend, were supplanted by one of the local MSPs, Margaret Curran, as the candidate. Curran was selected on Monday 7 July as the fifth choice candidate and stated that she would remain as the MSP for Baillieston (the largest part of Glasgow East) whilst serving as the MP. The dual mandate was a problem in itself as Labour had slated Alex Salmond for retaining his Westminster seat whilst becoming MSP for Gordon at the Scottish election – cue Scottish Labour deleting all its attacks on this issue on its website. Standing for Westminster also meant Curran was no longer in the running for standing as Scottish Labour leader, despite having been a prominent Minister in the Scottish Executive. Curran was a capable candidate for Labour in this seat, trying to appeal to traditional Labour voters and running a semi-oppositional campaign against the UK government and promising to be a rebel on some issues at Westminster – a strange role for the former Chief Whip in the Scottish government.

However, whilst picking a local and high profile candidate was not a success for Labour, it was for the Nationalists. The SNP picked local councillor John Mason, who was well-known locally, with something of a personal vote (a four times SNP councillor in

Baillieston). Mason did not have charisma or the public profile of Curran, but he did have years of local campaigning experience. For a time Alex Salmond was almost permanently camped in the constituency and seemed to have gambled that his high profile involvement would help rather than overshadow the candidate. The SNP campaigned positively in relation to what they had done in the Scottish government and what they intended to do, and the constituency was effectively flooded with activists on various occasions. The fact that the Glasgow East seat contained a lot of Baillieston Scottish parliament constituency (58 per cent - more evenly SNP-Labour and a higher turnout of voters) and less of Shettleston (42 per cent - Labour dominated and low turnout) also helped the SNP. However, it was still a spectacular victory, not least because of the number of switchers to the Nationalists from Labour and the squeeze on the Lib Dems.

Figure 10.1: Glasgow East 2008 By-Election Results

Political Party	Votes	% Share of votes cast
SNP	11,277	43
Labour	10,912	41.7
Conservative	1,639	6.3
Lib Dem	915	3.5
SSP	555	2.12
Solidarity	512	1.95
Greens	232	0.88
Independent	67	0.26
Freedom-4-Choice	65	0.24

Turnout: 41.2%

Majority: 365

The SNP was clearly on a high after the by-election and keen for more contests to pitch itself against Labour. The current popularity of the SNP versus its main competitor was there for all to see in a YouGov poll commissioned by the Nationalists in August. The poll put the SNP at 36 per cent in voting at Westminster elections compared to Labour's 29 per cent. At Scottish elections the gap was even higher – with the SNP claiming 44

per cent of the constituency vote compared to 25 per cent for Labour: a staggering 19 per cent lead.²¹¹

10.4 Glenrothes By-Election

Labour MP John McDougall died from a form of cancer on 12 August. Labour had held this seat with a majority of 10,664 at the 2005 general election with the SNP in second place. The seat is built around the new town of Glenrothes and the former constituency of Fife Central held previously by Henry McLeish, the former Labour First Minister. Significantly, quite unlike Glasgow East above, the SNP has considerable electoral strength in this area, with the party winning the Scottish Parliament constituency of Fife Central in May 2007, with Tricia Marwick taking the seat from Labour with a 1,166 majority and 44 per cent of the vote. The party also has the biggest contingent of councillors in Glenrothes itself (six to Labour's five) as well as joint control of Fife council with the Liberal Democrats. The SNP selected Fife Council leader, Peter Grant, as its candidate on 22 August. Labour proposed to select its candidate on 5 September. One person who will not be standing is former First Minister, Henry McLeish. There was considerable speculation about McLeish becoming Labour's candidate as Glenrothes was largely based around the central Fife constituency he had represented at Westminster 1987-2001 and in the Scottish Parliament 1999-2007. However, McLeish declined and Labour was set to formally select a candidate on 1 September. In the meantime the Liberal Democrats picked businessman Harry Wills as their candidate for the by-election.

10.5 The Scottish Liberal Democrat Leadership Contest

Labour were not the only party to experience a leadership contest over the summer though the Liberal Democrats did so in entirely different circumstances. Nicol Stephen resigned as leader on 2 July in order to spend more time with his family.²¹² Clichéd and unconvincing as that sounds that was pretty much the issue at hand. Stephen's family of four children (all between 4 and 12 years old) had lived in Aberdeen, then moved to Edinburgh, then moved back to Aberdeen. When Stephen had been a Minister in the

²¹¹. Poll published on 12th august 2008 available at

http://www.yougov.com/extranets/ygarchives/content/pdf/SNP_website.pdf

²¹². <http://www.scotlibdems.org.uk/news/2008/07/a-personal-statement-from-nicol-stephen-msp>

previous Scottish Executive he had the benefit of a variety of support mechanisms from the civil service in terms of office staff, researchers, speech writers and also use of a government car – none of these were available as the out of government leader of the Scottish Lib Dems in May 2007. For example, Stephen had been a Minister in the Scottish Executive for 8 years – he was Deputy Minister for Enterprise and Lifelong Learning from 1999-2000, for Education, Europe and External Affairs from 2000-2001, then for Education and Young People from 2001-2003. Then he became Minister for Transport from 2003-2005 and Minister for Enterprise and Lifelong Learning from June 2005-May 2007 (as well as Deputy First Minister). These latter positions overlapped with his role as Lib Dem leader until May 2007, leaving him one year as leader without civil service support. Going from permanent government into opposition was not easy for him or his party.

Nominations for Stephen's replacement closed on 24 July with three candidates for the post – each requiring to be nominated by another MSP. The three candidates were the favourite Tavish Scott (MSP for Shetland), former Rural Affairs Minister Ross Finnie (West of Scotland list MSP) and Mike Rumbles (MSP for Aberdeenshire West), who had stood previously in 2005 against Nicol Stephen. Though touted to stand, Jeremy Purvis, MSP for Tweeddale, Etrick and Lauderdale, did not stand. Whilst Scott was the clear favourite in the race, the lack of polling or measures of popularity in an OMOV ballot of party members made predictions difficult. Just because Scott was favourite and had considerable support amongst the party's MSPs, MPs and elder statesmen, like Ming Campbell, did not mean success was guaranteed – especially if there was no clear winner from the first round ballot and the contest went to second preference transfers.²¹³

The contest over the summer involved hustings of party members in Aberdeen, Edinburgh, Glasgow and Inverness, with a range of features and debates in the media over the different candidates. There were no great clashes between the candidates, though there were some differences of emphasis. Rumbles was more flexible on the issue of an independence referendum, seeking to have a debate within the party on the question as opposed to simply dismissing it and being positive about more powers for the Scottish parliament (something shared by all of the candidates). Tavish Scott was

²¹³. See leadership contest statement on 7th July at http://www.tavishscott.com/pages/press_releases.htm

more focused on policy choices involving the party at Holyrood and the general state of the economy. Ross Finnie offered one of the clearer diagnoses of the party's problems, related to the coalition period as well as the difficulties of competing in a four party system that had become dominated by the SNP and Labour. He stated that 'The biggest job for the new leader is to use the personality of the leader and also the persuasion of the leader to tell the people of Scotland that Liberal Democrat policies and Liberal Democrat values are relevant to them. I think we need right across the whole policy field a much clearer, crisper, Liberal Democrat infusion into that message'.²¹⁴ He also argued that 'our message has become blurred and lacking a distinctive Liberal Democrat edge. We lack a political narrative that brings clarity and cohesion. As a consequence, we find it difficult to set the terms of debate and all too often find ourselves responding to a debate, the terms of which have been set by another party.'²¹⁵

Finnie put his finger on a number of the difficulties the Lib Dems faced in the changed political environment of 2008 – which was a far cry from the UK election success in 2005 and the Dunfermline by-election victory in 2006. In some senses, the party had faced a loss of identity over its time in coalition with Labour which was compounded by other factors. Not only were the Lib Dems squeezed by a Labour-SNP contest in Scotland and by Tory recovery in England, but the movement of most parties to the middle ground of politics meant there was less of a cutting edge on policy for the Lib Dems. Also, whilst its participation in the Calman Commission will likely play longer term dividends through a strong stance in favour of devo-max, such debate was developing in private at present and left the party little opportunity to campaign as the most pro-devolution party to challenge the SNP.

The result of the leadership contest was announced on 26 August, with Tavish Scott²¹⁶ winning clearly in the first ballot with a 61 per cent turnout of party members.

²¹⁴. BBC News, 12th August 2008 - statement made on candidate discussion on BBC Good Morning Scotland.

²¹⁵. BBC News, 25th July 2008.

²¹⁶. For more information on the new leader go to <http://www.tavishscott.com/>

Figure 10.2: Scottish Liberal Democrats 2008 Leadership Contest Results

Candidate	Votes	% Share of votes cast
Tavish Scott	1,450	59
Ross Finnie	568	21.3
Mike Rumbles	439	17.9

The question though, is how he will restore the party's fortunes – which slipped to fourth place last year and out of government despite the wooing of the SNP. A sharper focus on policy as Finnie suggested is one option, though this will be muddled by co-operating with the SNP minority government on some areas of policy such as abolishing the council tax. Scott himself talked about concentrating on a wider range of economic issues related to the credit crunch, fuel price rises, etc., as well as committing himself and the party to spend more time out in the country rather than at Holyrood.²¹⁷ The BBC's Brian Taylor pointed to the dilemma facing the new party leader – 'What, precisely, will be the role of the Liberal Democrats? All-out, gutsy opposition? Cross-party co-operation? Bit of both?'²¹⁸ – if it is the latter option, then expect the blurring of the party's identity to continue. In relation to Calman, more devolution and an independence referendum, Scott stated in a radio interview on BBC's Good Morning Scotland that:

I want a stronger Scotland, a stronger Scottish Parliament within the UK ... When Calman produces its report, when our own internal work is concluded on a blueprint for a stronger Scotland and a stronger Scottish Parliament within the United Kingdom, then we will look at all these options – but not until then ... Quite how that will then be judged will be up to the people of Scotland – but I do think it's important to concentrate on issues that are important to them, and not to politicians who love guffing on about the constitution.²¹⁹

When asked about whether the Calman proposals would be tested against independence in a multi-option referendum, he stated that:

²¹⁷ *The Herald*, 27th August 2008.

²¹⁸ Brian Taylor, Bletcher with Brian, BBC Scotland blog, 'Tavish Scott takes to the leadership stage', 26th August 2008. <http://www.bbc.co.uk/blogs/thereporters/briantaylor>.

²¹⁹ BBC Scotland, *Good Morning Scotland*, 27th August 2008. See <http://news.bbc.co.uk/1/hi/scotland/7584125.stm>

I'm not sure how you could have a multi-option referendum in that sense. I think there's a real danger of independence getting in through the back door in that kind of construction of a referendum. And I will not do anything that allows that to happen. I think we need to not get obsessed by this - I think politicians and the media are too obsessed by endless talk about referendums and the constitution.²²⁰

Scott will regret that particular remark when his party makes its submission to the Calman commission and when Calman publishes its report – because then he will be the one guffing on about the constitution.

²²⁰ . Ibid.

11. Public Policies

Paul Cairney

11.1 The Legislative Programme

Most discussions make the point that public policy does not just refer to legislation; it can also refer, for example, to statements of intent not (yet) backed by a concrete decision or outcome.²²¹ In Scotland's case these may effectively be the same thing. Five bills have been passed by the Scottish Parliament since May 2007 (plus four still being scrutinised) compared to 13 at the same stage in the first Parliament. Further, while Alex Salmond outlined proposals for 15 new bills, the usual disclaimer applies:

As before, it is the programme of a minority government. We remain, as always, dependent on the support of other parties across this Chamber to secure progress.²²²

As a result, there is still a clear emphasis on avoiding the problems of minority government by making policy without legislating. The *headline* legislative proposal in this period is likely to be the abolition of council tax in favour of a local income tax. The election of Tavish Scott as leader of the Liberal Democrats has opened doors for negotiation, with a compromise likely on the big sticking point: who sets local tax rates?²²³ This just leaves the thorny issues of how to deal with the council tax benefits lost to the UK Treasury²²⁴ and how to overcome various doubts expressed about the

²²¹ McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), pp.107; 201-2.

²²² Scottish Government News Release 3.9.08 'Moving Scotland Forward: Programme for Scotland' (Alex Salmond's Legislative Statement to Parliament)
<http://www.scotland.gov.uk/News/This-Week/Speeches/First-Minister/moving-scotland-forward>;
see also McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), pp.107; 201-2. See also 24.6.08 'Labour launches plans for private members bills'
<http://www.holyrood.com/content/view/2648/10051/>

²²³ D. Maddox 8.9.08 'Salmond wins vital support in tax battle' *The Scotsman*
<http://news.scotsman.com/politics/Salmond-wins-vital-support-in.4467179.jp> ; H. MacDonell 5.9.08 'Clegg clears way for Liberal Democrats to do deal with SNP on local income tax' *The Scotsman* <http://news.scotsman.com/politics/Clegg-clears-way-for-Liberal.4461954.jp>; see also D. Maddox 5.8.08 "'Council tax could go' says Labour leadership candidate" *The Scotsman*
<http://news.scotsman.com/politics/39Council-tax-could-go39-says.4356441.jp>

²²⁴ McGarvey, N. and Cairney, P. (2008) *Scottish Politics*, p.163. Also note Salmond's comment during his legislative statement that 'we have secured consensus with Labour's leadership candidate, Cathy Jamieson, that the £400 million of Council Tax benefit is Scotland's money'.

new scheme.²²⁵ However, the *most important* bill is likely to be the budget bill in January 2009 which (using this year as a guide) is likely to repeat the need for lengthy debates and compromises witnessed rarely in the UK (although Salmond's emphasis on the Small Business Bonus Scheme, transport and higher council spending is unlikely to offend the Conservatives). The full list of bills is:²²⁶

- Additional Support for Learning (Amendment) Bill – to strengthen existing legislation on educational additional support needs by permitting 'out of area' requests and introducing tribunals to deal with difficult placement requests.
- Arbitration Bill – to update the law on arbitration as an alternative to court, reflecting its increased international use (particularly in business).
- Budget Bill
- Children's Hearings Bill – to simplify the process by bringing together various bodies under one agency, the Children's Hearings Agency.
- Scottish Climate Change Bill – to introduce a statutory framework (including 'scrutiny mechanisms') as part of a target to reduce emissions by 80 per cent by 2050 (which is compared readily to the UK's 60 per cent).
- Council Tax Abolition Bill
- Criminal Justice and Licensing Bill – to reform community penalties, court procedures, assistance to victims and witnesses and licensing law (as part of a wider agenda on alcohol misuse).
- Flood Risk Management (Scotland) Bill – to coordinate the response between flood prevention organisations, implement the European Commission's Floods Directive and introduce a single authority to regulate reservoirs.
- Health Bill – to further restrict the sale of tobacco (by requiring a licence and regulating advertising at point of sale) and prevent commercial companies from providing GP services.
- Legislative Reform Bill – to reform the scrutiny of subordinate legislation (based on recommendations by the Subordinate Legislation committee), interpretation of

²²⁵ H. MacDonell 14.7.08 , Financial experts tell SNP: Local income tax won't work' The Scotsman <http://news.scotsman.com/politics/Financial-experts-tell-SNP-Local.4283949.jp>; R. Dinwoodie 29.5.08 "SNP plans for local income tax 'will inevitably end up in court'" The Herald http://www.theherald.co.uk/politics/news/display.var.2303833.0.SNP_plans_for_local_income_tax_will_inevitably_end_up_in_court.php

²²⁶ Scottish Government (2008) 'Programme for Government - 2008-09 - Bills Briefing' <http://www.scotland.gov.uk/Topics/Government/programme-for-government/2008-09/bills-briefing>

Scottish Parliamentary legislation and use of special parliamentary procedures by replacing the transitional orders in the Scotland Act 1998.

- Legal Profession (Services) Bill – to introduce ‘alternative business structures’ for legal practices (as in England and Wales).
- Marine Bill – to streamline existing legislation, introduce a new overarching body Marine Scotland, and further protect the marine environment.
- Public Services Reform Bill – to introduce the new body Creative Scotland (see 2.2), support a reduction in quango numbers and reduce the costs of regulation and inspection (including those on regulated bodies in the public and voluntary sectors).
- Rural Schools Bill – to further the presumption against rural school closure by requiring local authorities to produce an ‘educational benefit statement’ and publish a local consultation paper.
- Scottish Parliament and Local Government Elections Bill – to separate Scottish Parliament and local elections by delaying the latter by one year.

11.2 The Economy, Private Finance Initiatives and Non-Governmental Delivery

The legislative programme was sold in Salmond’s speech as part of a ‘single overarching purpose – to increase sustainable growth’. This agenda was helped by good news on unemployment and announcements on (fairly small) regional selective assistance grants for business, but not by graduate employment and uncertainty over the Fresh Talent initiative.²²⁷ There is also much more debate to be had on the financing of major capital projects. While Scotland has the image of a country with more commitment to a larger public sector and more traditional forms of public service delivery, it is difficult to say how much of this is a myth and what indicators to use. There is no easy way to distinguish it from the bigger UK picture which suggests that one-third of public services are now classed as ‘public services industry’ (PSI): ‘All private and third sector enterprises that provide services to the public on behalf of government or to

²²⁷ Scottish Government News Release 16.7.08 ‘Rise in employment in Scotland’ <http://www.scotland.gov.uk/News/Releases/2008/07/16162331>; R. Lydall 12.6.08 ‘Scots unemployment falls to buck UK trend’ The Scotsman <http://news.scotsman.com/politics/Scots-unemployment-falls-to-buck.4177000.jp>; 6.8.08 ‘Regional Selective Assistance grants awarded’ <http://www.holyrood.com/content/view/2797/10051/>; 8.6.08 ‘Above average unemployment among Scottish graduates’ <http://www.holyrood.com/content/view/2805/10051/>; D. Fraser 29.5.08 ‘Fresh Talent urged to improve links with employers’ http://www.theherald.co.uk/politics/news/display.var.2303834.0.Fresh_Talent_urged_to_improve_links_with_employers.php

the government itself'. While the Julius report (p71) suggests that the Scottish Executive oversaw the growth of a slightly smaller PSI (just over 30 per cent), this does not take into account UK spending in Scotland. Scotland will also be a big player in the PFI market for decades to come.²²⁸

It is in this context that we should view the SNP Government's attempts to introduce the Scottish Futures Trust, a Non-Profit Distributing model designed to represent an alternative to PFI. The details of this new scheme suggest that while it is clearly part of the public-private partnership 'family' (perhaps Swinney is suggesting that the SFT is Abel to the PFI's Cain) the key political difference is the attempt to remove the appearance of excessive profits to the private sector. The hope is that this can be achieved by drawing on the ability of local authorities (but not the Scottish Government) to borrow money by issuing bonds. The Scottish Government estimates that it may save £150m per year as a result of this (assuming that contractor costs do not rise, to extract profit in another way), in the context of plans to invest approximately £35-40bn in capital infrastructure over 10 years.²²⁹

²²⁸ Department for Business, Enterprise and Regulatory Reform (July 2008) Understanding the Public Services Industry: How big, how good, where next? (the Julius Report) <http://www.berr.gov.uk/files/file46965.pdf>, pp 41, 13, 5; T. Chrichton 11.7.08 "One-third of UK's public services' provided by private firms" The Herald http://www.theherald.co.uk/politics/news/display.var.2390109.0.Onethird_of_UKs_public_services_provided_by_private_firms.php; D. Walker 14.5.08 'DeAnne Julius: Attention to Detail' The Guardian <http://www.guardian.co.uk/society/2008/may/14/interviews.society?gusrc=rss&feed=global>; CBI 10.7.08 'CBI Reaction To Deanne Julius Report' <http://www.cbi.org.uk/ndbs/press.nsf/0363c1f07c6ca12a8025671c00381cc7/75d92b24f8c542da80257481005bc149?OpenDocument>; Unite 10.7.08 'Unite's reaction to the Julius report' <http://www.tgwu.org.uk/Templates/News.asp?NodeID=94413&int1stParentNodeID=42438&int2ndParentNodeID=42438&Action=Display>

²²⁹ Scottish Government News Release 10.9.08 'Scottish Futures Trust' <http://www.scotland.gov.uk/News/Releases/2008/09/10143430>; Scottish Parliament Official Report Finance Committee 27.5.08 col.578 <http://www.scottish.parliament.uk/s3/committees/finance/or-08/fi08-1502.htm#Col559>; Scottish Government (May 2008) *Taking forward the Scottish Futures Trust* <http://www.scotland.gov.uk/Publications/2008/05/19155435/0>; Scottish Government News Release 20.5.08 'Scottish Futures Trust' <http://www.scotland.gov.uk/News/Releases/2008/05/20101113>; S. Rosie 14.7.08 'The value for money in non-profit distributing' http://www.publicservice.co.uk/feature_story.asp?id=10027&topic=PFI%20and%20partnerships; D. Fraser 28.5.08 'Swinney admits SNP funding reform relies on PFI financing' The Herald http://www.theherald.co.uk/politics/news/display.var.2300481.0.Swinney_admits_SNP_funding_reform_relies_on_PFI_financing.php; see also D. Maddox 23.5.08 "SNP funding plans branded 'incompetent and illiterate'" The Scotsman <http://news.scotsman.com/politics/SNP---funding-plans.4113911.jp>; D. Fraser 23.5.08 "Alexander calls SNP funding plan 'financially illiterate'" The

11.3 Health, Mental Health and Long Term Care

A similar statement of intent can be found in the health sector, following the SNP's decision to prevent commercial companies from providing GP services (using the Health Bill). This is part of what Health Secretary Nicola Sturgeon calls a "battle of ideas" between an ethos of public service and mutuality and one driven by the private market". The latter still seems popular with the medical profession in England.²³⁰ However, again, this battle takes place within a Scottish Government with a sizeable inheritance from the Scottish Executive and tied to decisions made by the UK Government. This includes the GP contract introduced in 2004.²³¹

It is also too easy to tie this 'battle' to the numbers game in which different parties, groups and government draw attention to different things to represent the health of their policies. For example, prominent indicators are showing signs of marked improvement in Scotland – on waiting times in A&E departments, for cancer treatments and the removal of 'hidden' waiting lists – at a time when (GP) services in England and NICE are under fire.²³² On the other hand, drug-related deaths have risen to a record high, the

Herald

http://www.theherald.co.uk/politics/news/display.var.2291707.0.Alexander_calls_SNP_funding_plan_financially_illiterate.php; Scottish Government News Release 24.6.08 'Review of capital projects' <http://www.scotland.gov.uk/News/Releases/2008/06/23154728> ; Scottish Government News Release 20.5.08 'Scottish Futures Trust' <http://www.scotland.gov.uk/News/Releases/2008/05/20101113>

²³⁰ Scottish Government News Release 8.7.08 'Future of the NHS in Scotland' <http://www.scotland.gov.uk/News/Releases/2008/07/08141818>; 9.7.08 'Sturgeon says NHS must stay true to founding principles' <http://www.holyrood.com/content/view/2713/10051>; N. Triggle 8.7.08 'Is the Scottish NHS really the best?' BBC News <http://news.bbc.co.uk/1/hi/health/7493061.stm>. See also 30.6.08 'Call for league tables to measure health service performance' <http://www.holyrood.com/content/view/2672/10051/> ; Scottish Government News Release 2.9.08 'Hospital parking charges' <http://www.scotland.gov.uk/News/Releases/2008/09/02091611>

²³¹ Audit Scotland 3.7.08 'The new GP contract has cost more than expected although there are early signs of benefits for some patients' <http://www.audit-scotland.gov.uk/media/article.php?id=85>; 3.7.08 'Audit Scotland criticises planning of new GP contracts' <http://www.holyrood.com/content/view/2693/10051/> ; BBC News 3.7.08 'GP contracts in £160m overspend' <http://news.bbc.co.uk/1/hi/scotland/7486128.stm>; Scottish Government News Release 9.9.08 'Rapid take-up of GP extended hours scheme' <http://www.scotland.gov.uk/News/Releases/2008/09/09133207>

²³² Scottish Government News Release 27.5.08 'Hospital waiting times' <http://www.scotland.gov.uk/News/Releases/2008/05/27101505>; Scottish Government News Release 26.8.08 'A&E waiting times at an all time low' <http://www.scotland.gov.uk/News/Releases/2008/08/26094817>; The Herald 26.8.08 'Hospital

ambulance service is under pressure and the limitations of NHS24 (and emergency cover for mental illness) were exposed when a manically depressed and suicidal man was apparently advised to 'drink a glass of warm milk'.²³³ The latter perhaps makes it more difficult to tell if it is England's or Britain's mental health services under fire from the Royal College of Psychiatrists.²³⁴

The debate over health funding also continues, with Labour MSPs suggesting that a cash rise for the NHS may represent a real decrease, but the SNP approving and publicising a raft of initiatives – to fund improvements in dental care and solve a dispute between the Scottish Executive and dentists, cancer treatment in rural areas and cognitive behavioural therapy - to dispel the idea that money is tight.²³⁵ It is also pressing on with plans to elect health board members.²³⁶ The debate rages on about who is to blame for failings on free personal care for older people, while new (but less ambitious)

treatment waiting times in Scotland at record low'

http://www.theherald.co.uk/politics/news/display.var.2433288.0.Hospital_treatment_waiting_times_in_Scotland_at_record_low.php; 19.8.08 'Cancer waiting time statistics published'

<http://www.holyrood.com/content/view/2838/10051/>; BBC News 27.5.08 "Hidden waiting lists 'abolished'" <http://news.bbc.co.uk/1/hi/scotland/7421205.stm>

J. Carvel 31.7.08 'Promise of prompt access to family doctors not met' The Guardian

<http://www.guardian.co.uk/society/2008/jul/31/nhs.health> ; G. Hinsliff 29.6.08 'Health chief vows to end drugs lottery' The Observer <http://www.guardian.co.uk/society/2008/jun/29/health.nhs> ; D.

Rose 30.6.08 'The dream is the best medicine for all – but who pays?' The Times

http://www.timesonline.co.uk/tol/life_and_style/health/article4238074.ece

²³³ BBC News 7.8.08 <http://news.bbc.co.uk/1/hi/scotland/7546833.stm> ; R. Dinwoodie 5.6.08

'Sturgeon takes tough stance over ambulance crewing' The Herald

http://www.theherald.co.uk/politics/news/display.var.2320134.0.Sturgeon_takes_tough_stance_over_ambulance_crewing.php; BBC News 31.7.08 "Ill man told to 'drink milk'"

<http://news.bbc.co.uk/1/hi/scotland/7534403.stm>

²³⁴ Although there is a good chance the focus is on London. See: A. Hill 29.6.08 "Psychiatric patients 'feel lost and unsafe'" The Observer

<http://www.guardian.co.uk/society/2008/jun/29/mentalhealth.health3>; A. Hill 29.6.08 'The mental health units that shame the NHS' The Observer

<http://www.guardian.co.uk/society/2008/jun/29/mentalhealth.health>

²³⁵ D. Fraser 25.8.08 'Labour and SNP clash over health spending and energy' The Herald

http://www.theherald.co.uk/politics/news/display.var.2432477.0.Labour_and_SNP_clash_over_health_spending_and_energy.php ; BBC News 23.8.08 'Row over health budget cut claim'

<http://news.bbc.co.uk/1/hi/scotland/7578827.stm>; 5.8.08 '£75m funding to improve dental and medical services' <http://www.holyrood.com/content/view/2795/10051/> ; Scottish Government

News Release 30.5.08 'Dentists' pay agreement'

<http://www.scotland.gov.uk/News/Releases/2008/05/30113053> BBC News 5.8.08 'Funding to improve nation's teeth' http://news.bbc.co.uk/1/hi/scotland/edinburgh_and_east/7542996.stm;

6.8.08 'First Minister launches new cancer programme'

<http://www.holyrood.com/content/view/2799/10051/> ; 26.8.08 'NHS 24 launches CBT pilot'

<http://www.holyrood.com/content/view/2863/10051/>

²³⁶ Scottish Government News Release 26.6.08 'Scotland's health boards'

<http://www.scotland.gov.uk/News/Releases/2008/06/26101216>

measures to support independent living for disabled people appear to be less controversial.²³⁷

11.4 Public Health

Alcohol control policy took an interesting turn following the Scottish Government's pressure on the UK to support its agenda by, for example, reforming (or devolving) the drink drive limit²³⁸ and maintaining high taxes (and therefore prices) on most drinks. While this looked set to be the next 'confrontation', the UK government appears to be running with the baton and relatively open to more alcohol control, particularly since the voluntary approach is not working. There is also some suggestion from the Scottish Government that they may have the powers to influence drink driving and the price of alcohol in other ways (and can certainly raise or enforce existing rules on age and licensing more strongly).²³⁹ Like tobacco, this pan-UK issue will be helped by similarities in attitudes within key health (and justice) professions.²⁴⁰ Alcohol also shares with tobacco control the need to win 'hearts and minds' by drawing attention to some issues rather than others. This is demonstrated well by the exchange between Justice Secretary Kenny MacAskill and Newsnight Scotland's Gordon Brewer. While the latter

²³⁷ R. Dinwoodie 19.5.08 'Cosla hits back at Holyrood in row over free care for the elderly' The Herald

http://www.theherald.co.uk/politics/news/display.var.2279614.0.Cosla_hits_back_at_Holyrood_in_row_over_free_care_for_the_elderly.php; 25.6.08 'Government funding to support long term approach on independent living' <http://www.holyrood.com/content/view/2649/10051/>

²³⁸ Scottish Government News Release 14.8.08 'Tougher road death laws' <http://www.scotland.gov.uk/News/Releases/2008/08/14140016>; 15.8.08 'Tougher road death laws for careless drivers' <http://www.holyrood.com/content/view/2829/10051/>

²³⁹ BBC News 17.6.08 'Alcohol clampdown plans unveiled' <http://news.bbc.co.uk/1/hi/scotland/7458102.stm>; 23.7.08 'Robison praises grassroots alcohol initiative' <http://www.holyrood.com/content/view/2753/10051/>; Scottish Government News Release 8.9.08 'Over 21 alcohol pilot' <http://www.scotland.gov.uk/News/Releases/2008/09/08094812>; D. Fraser 17.6.08 'Warning of legal action over bid to set price of alcohol' The Herald http://www.theherald.co.uk/politics/news/display.var.2345555.0.Warning_of_legal_action_over_bid_to_set_price_of_alcohol.php; M. Sweney 17.6.08 'Scottish government seeks TV booze ad clampdown' The Guardian <http://www.guardian.co.uk/media/2008/jun/17/advertising.health1>; H. Macdonell 19.6.08 'Drinks trade warns crackdown will cost all consumers and cut choice' The Scotsman <http://news.scotsman.com/politics/Drinks-trade--warns-.4200211.jp>; Scottish Government News Release 3.9.08 'Police to comment on alcohol licence applications' <http://www.scotland.gov.uk/News/Releases/2008/09/03102212>

²⁴⁰ S. Bowers and H. Pidd 28.7.08 'Police demand action after pubs ditch drinking code' The Guardian <http://www.guardian.co.uk/society/2008/jul/28/drugsandalcohol.police>; S. Bosely 15.7.08 'Road safety: Impose total alcohol ban for teenage drivers, says chief medical officer' The Guardian <http://www.guardian.co.uk/uk/2008/jul/15/transport.transport>;

complained about civil liberties (who are you to say how we can drink in our homes?) and students being unable to get a bottle of wine for party, MacKaskill stuck to the point that overall savings to the NHS and police would benefit everyone, while young people would be happy because they are the most vulnerable to crime.²⁴¹ Winning hearts and minds may also help when 'tilting against vested interests, the power of which you would not believe' (a comment by Alex Salmond almost hidden in a story on his views of Margaret Thatcher).²⁴²

The lead taken by the Scottish Government (and the Scottish Executive before it) on tobacco control is still attracting interest in England. Its moves to restrict further the display of tobacco at point of sale, introduce licences to sell tobacco (linked to stronger and more enforced sanctions) and consider a ban on the sale of packs of 10 cigarettes are also being considered by UK Health Secretary Alan Johnson.²⁴³ The smoking ban issue also demonstrates the link between policy evaluation and agenda setting – in this case when we consider the indicators used to determine success. For example, while one study highlights a reduction in heart attacks in the first year of the ban, another points to the unintended consequences (more smoking in homes with children) of the blanket ban.²⁴⁴ The Scottish Government has also kept up the agenda on public health, furthering a raft of measures – on public health services, obesity, the 'morning after pill' and hospital food – and funding a new body, the Scottish Collaboration for Public Health

²⁴¹ See also: Scottish Government News Release 21.7.08 'Tackling alcohol misuse' <http://www.scotland.gov.uk/News/Releases/2008/07/21135717>; H. Macdonell 17.6.08 'Zero tolerance of under-18 drink sales must be worth a try' The Scotsman <http://news.scotsman.com/politics/Zero-tolerance-of-under18-drink.4190518.jp>; T. Little 22.6.08 'A saviour of Scottish souls – or Minister MacAskilljoy?' Scotland on Sunday <http://scotlandonsunday.scotsman.com/opinion/A-saviour-of-Scottish-souls.4210634.jp>;

²⁴² G. Peev 21.8.08 'Alex Salmond: Scotland 'didn't mind' Thatcher economics' The Scotsman <http://news.scotsman.com/politics/Alex-Salmond-Scotland-39didn39t-mind39.4411586.jp>. See also D. Fraser 26.6.08 'Parties unite to attack planned raising of off-sales age limit' The Herald http://www.theherald.co.uk/politics/news/display.var.2364516.0.Parties_unite_to_attack_planned_raising_of_offsales_age_limit.php

²⁴³ Scottish Government News Release 21.5.08 'Action to stub out smoking' <http://www.scotland.gov.uk/News/Releases/2008/05/21134808>; 22.5.08 'Smoking action plan published' <http://www.holyrood.com/content/view/2512/10051/>; BBC News 25.5.08 'Cigarette ban proposals welcomed' <http://news.bbc.co.uk/1/hi/scotland/7419206.stm>; M. Settle 26.5.08 'Westminster takes cue from Scotland in creation of anti-smoking policies' The Herald http://www.theherald.co.uk/politics/news/display.var.2296387.0.Westminster_takes_cue_from_Scotland_in_creation_of_antismoking_policies.php

²⁴⁴ The Herald 1.8.08 'Scots smoking study backs worldwide ban' http://www.theherald.co.uk/politics/news/display.var.2414907.0.Scots_smoking_study_backs_worldwide_ban.php; J. Adda and F. Cornaglia (July 2008) 'The Effect of Taxes and Bans on Passive Smoking', British Academy Review, 11, 7-9 <http://www.britac.ac.uk/pubs/review/11/index.cfm>

Research and Policy.²⁴⁵ The future of drugs policy is less certain, and subject to another battle of ideas. The Scottish Government looks set to extend the Conservatives' favoured option of more abstinence and recovery-based programmes (following the lead set by the Scottish Executive coalition shortly before its election defeat).²⁴⁶ This agenda will compete with a high profile report by the Scotland's Futures Forum (a think-tank sponsored by the Scottish Parliament) which recommends initiatives – including safe and effectively legalised drug consumption rooms – very much in the harm reduction mould.²⁴⁷

11.5 Justice

The issue of police recruitment remains high on the agenda, with the suggestion from Labour (in May) that recruitment is stalling being countered by the SNP and ACPOS (in August). The SNP may blame any delays on the UK Government's inflexibility over the funding of police pensions (and VAT) or even costs related to prisoners.²⁴⁸ However, its

²⁴⁵ 25.6.08 'Funding announced for extended surgery hours to include nursing' <http://www.holyrood.com/content/view/2651/10051/>; L. Moss 26.6.08 'Chemists across Scotland to provide morning-after pill' The Herald <http://news.scotsman.com/scotland/Chemists-across-Scotland-to-provide.4223839.jp> ; K. Bussey 14.6.08 'Minister in move to scrap junk food in hospitals' The Herald http://www.theherald.co.uk/politics/news/display.var.2341619.0.Minister_in_move_to_scrap_junk_food_in_hospitals.php; Scottish Government News Release 13.6.08 'Healthy hospitals' <http://www.scotland.gov.uk/News/Releases/2008/06/13112007>; BBC News 8.8.06 'Health experts target young Scots' http://news.bbc.co.uk/1/hi/scotland/edinburgh_and_east/7549221.stm; 8.8.08 'New public health body established' <http://www.holyrood.com/content/view/2807/10051/> ; 23.6.08 'Obesity action plan launched' <http://www.holyrood.com/content/view/2639/10051/> ; Scottish Government News Release 4.9.08 'Health Board funding' <http://www.scotland.gov.uk/News/Releases/2008/09/04081949>

²⁴⁶ Scottish Government News Release 29.5.08 'New approach to tackling drugs' <http://www.scotland.gov.uk/News/Releases/2008/05/29103236>; BBC News 29.5.08 'Government unveils drug strategy' <http://news.bbc.co.uk/1/hi/scotland/7424244.stm> ; H. Macdonell 30.5.08 'New policy to cure, not contain drug scourge' The Scotsman <http://news.scotsman.com/politics/New-policy-to-cure-not.4135541.jp>

²⁴⁷ Scotland's Futures Forum (2008) *Approaches to Alcohol and Drugs in Scotland: A Question of Architecture* <http://www.scotlandfutureforum.org/assets/files/report.pdf>; BBC News 9.6.08 'Forum sets out radical drugs plan' <http://news.bbc.co.uk/1/hi/scotland/7442773.stm>; D. King 10.6.08 'Scotland not ready for think-tank's radical solution to nation's drug problem', Daily Record <http://www.dailyrecord.co.uk/news/editors-choice/2008/06/10/scotland-not-ready-for-think-tank-s-radical-solution-to-nation-s-drug-problem-86908-20601971/>

²⁴⁸ Scottish Government News Release 29.8.08 'Record numbers of police' <http://www.scotland.gov.uk/News/Releases/2008/08/29095625>; Scottish Government News Release 27.6.08 'New police recruits' <http://www.scotland.gov.uk/News/Releases/2008/06/26090703>; R. Dinwoodie 30.8.08 'MacAskill hails record recruitment for police' The Herald http://www.theherald.co.uk/politics/news/display.var.2436553.0.MacAskill_hails_record_recruitme

solution for reserved gun control is more pragmatic – offering to pilot UK policy on fire-arm licensing.²⁴⁹ Concern with growing prison numbers (and the use of legalised police cells) will strengthen the SNP's resolve – using the Criminal Justice and Licensing Bill – to increase the role for 'tough' community sentencing. Opposition to this route from the Conservatives (plus its 'old Labour' emphasis on traditional public service delivery) may help the SNP avoid the ever-lurking but diminishing potential to be seen as a right-wing party (particularly in the light of Salmond's amusingly misinterpreted comments on Margaret Thatcher).²⁵⁰ Community sentences are unlikely to be linked to anti-social behaviour orders. While the UK and Scottish executives both legislated to introduce ASBOs, they were never used as much in Scotland.²⁵¹ While both may now doubt their effectiveness on the 'war on neds' (and regret their cost), the Scottish Government looks

[nt_for_police.php](#); 26.8.08 'Police numbers pledge will be met say senior officers' <http://www.holyrood.com/content/view/2867/10051/>; R. Dinwoodie 21.5.08 'Labour attacks SNP failure to boost police numbers' The Herald http://www.theherald.co.uk/politics/news/display.var.2285286.0.Labour_attacks_SNP_failure_to_boost_police_numbers.php; M. Howie 15.8.08 'Row over £3m tax bill from transfer of police IT services' The Scotsman <http://news.scotsman.com/politics/Row-over--3m-tax.4394232.jp>; D. Fraser 27.8.08 'Police boards urge government to take responsibility for pensions' The Herald http://www.theherald.co.uk/politics/news/display.var.2433664.0.Police_boards_urge_government_to_take_responsibility_for_pensions.php; M. Howie 12.8.08 'Cash crisis threat to police recruits' The Scotsman <http://news.scotsman.com/politics/Cash-crisis-threat-to-police.4378280.jp>; Scottish Government News Release 9.9.08 'Police and fire pensions' <http://www.scotland.gov.uk/News/Releases/2008/09/09093710> ; Scottish Government News Release 25.6.08 'Human rights loophole' <http://www.scotland.gov.uk/News/Releases/2008/06/25110407>

²⁴⁹ Scottish Government News Release 9.6.08 'Call for firearms law review' <http://www.scotland.gov.uk/News/Releases/2008/06/09082808>

²⁵⁰ 29.8.08 'Prison numbers confirm overcrowding' <http://www.holyrood.com/content/view/2882/10051/> ; Scottish Government News Release 3.7.08 'Report on legalised police cells' <http://www.scotland.gov.uk/News/Releases/2008/07/02133325>; 3.7.08 'Report raises concerns over legalised police cells' <http://www.holyrood.com/content/view/2695/10051/>; Scottish Government News Release 1.7.08 'Government responds to prisons report' <http://www.scotland.gov.uk/News/Releases/2008/07/01115658>; Scottish Government News Release 1.7.08 'Scottish Prisons Commission' <http://www.scotland.gov.uk/News/Releases/2008/07/01100726>; I. Swanson 24.6.08 'Community sentences will be toughened up, vows MacAskill' Evening News <http://news.scotsman.com/politics/Community-sentences-will-be-toughened.4215113.jp>; D. Fraser 30.8.08 'Half of all tagged 'low risk' prisoners back in jail' The Herald http://www.theherald.co.uk/politics/news/display.var.2436563.0.Half_of_all_tagged_low_risk_prisoners_back_in_jail.php; Scottish Government News Release 24.6.08 'Tackling the cycle of reoffending' <http://www.scotland.gov.uk/News/Releases/2008/06/24101103>; McGarvey, N. and Cairney, P. (2008) *Scottish Politics*, p49; BBC News 22.8.08 'Salmond defends Thatcher comments' <http://news.bbc.co.uk/1/hi/scotland/7576801.stm>

²⁵¹ McGarvey, N. and Cairney, P. (2008) *Scottish Politics*, pp. 100; 213.

set to be the first to abandon the policy in favour of its new youth justice framework.²⁵² It also unveiled in June a new plan to address domestic abuse.²⁵³

11.6 Education

Without commenting on its value, the previous Scottish Executive policy on compulsory education was at least clear and consistent. To improve outcomes and/ or keep the teaching profession and local authorities happy, it would: (a) become more involved in issues related to pay and conditions (through tripartite relationships associated with the McCrone deal, replacing longstanding bilateral disputes between teaching unions and local authorities), (b) further encourage teacher recruitment by funding more training places and guaranteeing at least one year of work, (c) devolve the details of curriculum development to schools and teachers, (d) fund reductions in class sizes (for teachers) while giving schools considerable discretion in the implementation (for local authorities), and (e) provide a fund to encourage local authorities to engage in major capital investment in schools via the PFI. In this light, it would be reasonable to expect some unintended consequences if the SNP government sought to support some of these aims and reject others. For example, while the education numbers game continues with debates on the cost of class sizes, this has taken an unexpected twist. Although we could predict disagreement on the current costs of class size reduction (relating in the most part to the cost for teachers), the debate has also moved on to an issue less in Scottish Government control: the capital costs relating to the need for more, smaller classes. While Labour would have presented PFI as the solution, the current uncertainty about the SNP's alternative may undermine the appearance of progress on teaching.²⁵⁴ This comes on top of a shift towards outcome agreements with local authorities, in which

²⁵² M. Howie 29.7.08 'Junior Asbos set to be axed after costing £500,000 each' The Scotsman <http://news.scotsman.com/politics/Junior-Asbos-set-to-be.4332719.jp>; D. Leask 4.6.08 'One in 10 men aged 18 found guilty in court every year' The Herald http://www.theherald.co.uk/politics/news/display.var.2316796.0.One_in_10_men_aged_18_found_guilty_in_court_every_year.php ; 19.6.08 'Youth Justice Framework published' <http://www.holyrood.com/content/view/2629/10051/> . See also Scottish Government News Release 31.7.08 'Children's hearings system' <http://www.scotland.gov.uk/News/Releases/2008/07/31104352>

²⁵³ Scottish Government News Release 27.8.08 'Tackling domestic abuse' 18.6.08 'Domestic abuse plan released' <http://www.holyrood.com/content/view/2627/10552/>

²⁵⁴ Although see Scottish Government News Release 11.9..08 'Modern schools' <http://www.scotland.gov.uk/News/Releases/2008/09/11110406>

the Government provides the money but does not interfere with individual decisions.²⁵⁵ Therefore, we may expect more authorities to go their own way on class sizes (often to the annoyance of the profession, but presumably pleasing authorities).²⁵⁶ Local discretion also has a more general knock-on effect on the Executive's previous attempts to foster tri-partite decisions. Now the impression is that the Scottish Government merely provides the money, says it is adequate, and leaves local authorities and the teaching unions to fight it out (but not on wider issues such as qualifications and food).²⁵⁷ There is also debate about how many teachers secure jobs after their probation year.²⁵⁸

These issues are perhaps all the more important because longer term education outcomes appear to be good (and the previous government would no doubt take the credit for this). Scotland is attracting the attention of other countries looking to learn from its success as 'one of the best performing amongst OECD nations'.²⁵⁹ Exam results are also good.²⁶⁰ Further, the administrative fiasco on testing in England may provide a

²⁵⁵ Scottish Government News Release 30.6.08 'Single Outcome Agreements'
<http://www.scotland.gov.uk/News/Releases/2008/06/30092907>

²⁵⁶ S. Paterson 27.6.08 'SNP council forced to seek class-size cash' The Herald
http://www.theherald.co.uk/politics/news/display.var.2367079.0.SNP_council_forced_to_seek_classsize_cash.php; BBC News 27.5.08 'Massive bill for smaller classes'
<http://news.bbc.co.uk/1/hi/scotland/7422480.stm>; D. Maddox 25.6.08 'SNP's class-size limit of 18 may be illegal' The Scotsman
<http://news.scotsman.com/politics/SNP39s-classsize-limit-.4218414.jp>; 28.5.08 'Costs of smaller class sizes cause concern'
<http://www.holyrood.com/content/view/2532/10051/>; The Herald 28.5.08 "Cutting class sizes in Scotland 'will cost £360m'"
http://www.theherald.co.uk/politics/news/display.var.2302437.0.Cutting_class_sizes_in_Scotland_will_cost_360m.php; see also the link between PFI and school inspections of PE facilities – BBC News 31.8.08 'Plea over poor school gym halls'
<http://news.bbc.co.uk/1/hi/scotland/7590728.stm>

²⁵⁷ BBC News 3.6.08 'EIS chiefs in strike action call'
<http://news.bbc.co.uk/1/hi/scotland/7432927.stm>; 6.6.08 'EIS votes for strike ballot'
<http://www.holyrood.com/content/view/2572/10051/>; Scottish Government News Release 5.6.08 'New Baccalaureates for Scotland'
<http://www.scotland.gov.uk/News/Releases/2008/06/05095816>; Scottish Government News Release 26.6.08 'New look school meals for next term'
<http://www.scotland.gov.uk/News/Releases/2008/06/26083058>

²⁵⁸ The Herald 30.8.08 'Labour hits out at lack of teaching jobs'
http://www.theherald.co.uk/politics/news/display.var.2437270.0.Labour_hits_out_at_lack_of_teaching_jobs.php; BBC News 30.8.08 "People 'scared off' from teaching"
<http://news.bbc.co.uk/1/hi/scotland/7589927.stm>; The Scotsman 17.6.08 'New teachers 'still quitting' over jobs shortage'
<http://news.scotsman.com/scotland/New-teachers-39still-quitting39-over.4194739.jp>; Scottish Government News Release 4.6.08 'Teacher employment increases'
<http://www.scotland.gov.uk/News/Releases/2008/06/04142620>

²⁵⁹ Scottish Government News Release 28.8.08 'Education factfinders focus on 'impressive' Scots system'
<http://www.scotland.gov.uk/News/Releases/2008/08/28094446> 28.8.08 'Australian and Danish MPs visit Scotland on education fact-finding mission'
<http://www.holyrood.com/content/view/2877/10051/>

²⁶⁰ 5.8.06 'Exam results reach record high'
<http://www.holyrood.com/content/view/2793/10051/>

window of opportunity for the UK government to take the Scottish route of reduced routine testing in favour of a professionally driven approach.²⁶¹ On the minus side, Labour has felt the need to launch a commission to address poor literacy levels in Scotland, while (despite new efforts) levels of student debt may yet come back to haunt the SNP (or satisfy the Council of Economic Advisers' call for students to feel a sense of sacrifice when studying).²⁶²

11.7 Transport, Energy and Environment

The SNP approach to energy is clear: down with nuclear and up with renewables. While the broader anti-nuclear stance (towards weapons) has been branded a 'flop', developments in France may support its nuclear fuel concerns.²⁶³ Developments in renewables – including Salmond's announcement of expansion plans in wind and biomass against the backdrop of company closure – also has mixed fortunes.²⁶⁴

²⁶¹ See P. Curtis 5.8.08 'Sats exams misleading, say majority of schools' The Guardian <http://www.guardian.co.uk/education/2008/aug/05/sats.secondaryschools>; Education Secretary statement to the House, Hansard 22.7.08 c.680 <http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080722/debtext/80722-0007.htm#08072274000011>;

<http://www.teachernet.gov.uk/teachingandlearning/schoolstandards/mgppilot/>

²⁶² 24.6.08 'Labour launches Literacy Commission'

<http://www.holyrood.com/content/view/2646/10051/>; F. MacLeod 13.6.08 'Student debt in Scotland rises to a massive £2bn' The Scotsman <http://news.scotsman.com/scotland/Student-debt-in-Scotland-rises.4182520.jp>; Scottish Government News Release 1.7.08 'Funding for part-time students' <http://www.scotland.gov.uk/News/Releases/2008/07/01102528>; 9.6.08 'Students allowed to defer graduate endowment payment'

<http://www.holyrood.com/content/view/2580/10051/>; D. Fraser 24.6.08 'Students need a sense of sacrifice, says adviser' The Herald

http://www.theherald.co.uk/politics/news/display.var.2359509.0.Students_need_a_sense_of_sacrifice_says_adviser.php; see also Scottish Government News Release 24.6.08 'Future for Scotland's universities' <http://www.scotland.gov.uk/News/Releases/2008/06/24101746>

²⁶³ D. Maddox 5.8.08 "First Minister branded an 'international flop' over nuclear arms" The Scotsman <http://news.scotsman.com/politics/First-Minister-branded-an-.4356425.jp>; A. Chrisafis 26.7.08 "It feels like a sci-fi film' - accidents tarnish nuclear dream" The Guardian

<http://www.guardian.co.uk/environment/2008/jul/25/nuclear.industry.france>

²⁶⁴ Scottish Government News Release 21.7.08 'Green light for Europe's biggest windfarm' <http://www.scotland.gov.uk/News/Releases/2008/07/21110710>; Scottish Government News Release 29.7.08 'East Lothian wind farm to be extended'

<http://www.scotland.gov.uk/News/Releases/2008/07/29143656>; R. Dinwoodie 30.7.08 'Salmond enters lion's den to announce expansion of windfarm programme' The Herald

http://www.theherald.co.uk/politics/news/display.var.2412503.0.Salmond_enters_lions_den_to_announce_expansion_of_windfarm_programme.php; BBC News 21.7.08 'Green light for massive wind farm' http://news.bbc.co.uk/1/hi/scotland/glasgow_and_west/7517176.stm; J. Haworth

16.8.08 'Turbine plant closure hits Salmond's green dreams' The Scotsman <http://news.scotsman.com/politics/Turbine-plant-closure-hits-Salmond39s.4397508.jp>; 18.7.08 'New biomass plant for Scotland' <http://www.holyrood.com/content/view/2740/10552/>

Following the decision to fund the M74 project (see May 2008 *Monitoring Report*), various transport initiatives – green travel towns, plus extensions of rail and tram links – may bring welcome relief for environmentalists.²⁶⁵ So too may its consultation on ‘zero waste’.²⁶⁶

11.8 Agriculture, Fish and Food

The Scottish Government received praise for its handling of the foot-and-mouth crisis in 2007.²⁶⁷ The national food policy includes a focus on Scottish-made produce (no surprises there), while the Scottish Government also hopes to help local fishing and salmon industries.²⁶⁸ A UK healthy eating initiative will follow Scotland’s lead.²⁶⁹ The Scottish Government’s presumption against the closure of rural schools will be supplemented by a new fund encouraging innovation in rural business.²⁷⁰

²⁶⁵ F. Winter 7.8.08 ‘Tram plans on track for more routes following SNP U-turn’ *The Scotsman* <http://news.scotsman.com/politics/Tram-plans-on-track-for.4366894.jp>; 13.8.08 ‘Government announces green travel towns’ <http://www.holyrood.com/content/view/2824/10051/>; 5.8.08 ‘Faster rail journeys to Inverness “will attract visitors and businesses”’ <http://www.holyrood.com/content/view/2796/10051/>

²⁶⁶ 28.7.08 ‘Scottish Government launches zero waste consultation’ <http://www.holyrood.com/content/view/2768/10051/>

²⁶⁷ 26.6.08 ‘Foot and Mouth review published’ <http://www.holyrood.com/content/view/2657/10051/>

²⁶⁸ Scottish Government News Release 4.9.08 ‘Promoting healthy Scottish produce’ <http://www.scotland.gov.uk/News/Releases/2008/09/04102157>; 19.6.08 ‘Lochhead outlines next steps towards National Food policy’ <http://www.holyrood.com/content/view/2631/10051/>; G. Smith 8.8.08 ‘Salmond announces cash to help fishing industry project’ *The Herald* http://www.theherald.co.uk/politics/news/display.var.2420723.0.Salmond_announces_cash_to_help_fishing_industry_project.php; BBC News 8.8.08 ‘Fishing funding package announced’ http://news.bbc.co.uk/1/hi/scotland/north_east/7547714.stm; G. Smith 9.8.08 ‘£29m bid to help flagging fishing industry’ *The Herald* http://www.theherald.co.uk/politics/news/display.var.2421643.0.29m_bid_to_help_flagging_fishing_industry.php; Scottish Government News Release 8.8.08 ‘Fishing Fuel Plan’ <http://www.scotland.gov.uk/News/Releases/2008/08/08132505>; Scottish Government News Release 4.7.08 ‘Fuel help for fishing’ <http://www.scotland.gov.uk/News/Releases/2008/07/04100815>; see also Scottish Government News Release 9.9.08 ‘Conserving Scotland’s fish stocks’ <http://www.scotland.gov.uk/News/Releases/2008/09/09144851>;

²⁶⁹ C. Churchill 14.8.08 ‘UK healthy eating campaign to follow Scottish example’ *The Herald* http://www.theherald.co.uk/politics/news/display.var.2424736.0.UK_healthy_eating_campaign_to_follow_Scottish_example.php

²⁷⁰ Scottish Government News Release 11.9.08 ‘Green light for Rural Priorities projects’ <http://www.scotland.gov.uk/News/Releases/2008/09/11101406>; see also Scottish Government News Release 5.8.08 ‘Improving cancer care in rural areas’ <http://www.scotland.gov.uk/News/Releases/2008/08/05161604>; Scottish Government News Release 9.6.08 ‘Help for rural communities’ <http://www.scotland.gov.uk/News/Releases/2008/06/09103439>

11.9 Housing, Planning, Poverty and Homelessness

The anti-Thatcherite policy of council house building (combined with a suspension of right-to-buy) continues with Alex Salmond's plan to accelerate capital spending plans as a response to a downturn in the housing industry²⁷¹ (meanwhile, the UK government may approve a scheme in which councils and housing associations give money to first-time buyers in exchange for part-ownership of their house²⁷²). The Scottish Government also hopes its revised planning policy will accelerate private house building, and that the single survey scheme will save buying costs.²⁷³ Yet, homelessness may rise without a strong government lead,²⁷⁴ while the Scottish Government line is still that it cannot combat fuel poverty without additional devolved powers.²⁷⁵

²⁷¹ H. MacDonell 20.8.08 'Housing sector set for £100m boost to bolster the economy' The Scotsman <http://news.scotsman.com/politics/Housing-sector-set-for-100m.4406628.jp>; R. Dinwoodie 20.8.08 'Boost for housing is given a warm welcome' http://www.theherald.co.uk/politics/news/display.var.2429020.0.Boost_for_housing_is_given_a_warm_welcome.php; Scottish Government News Release 30.5.08 'Investment in housing' <http://www.scotland.gov.uk/News/Releases/2008/05/30104227>; BBC News 31.7.08 'Council plans hundreds of homes' http://news.bbc.co.uk/1/hi/scotland/edinburgh_and_east/7536100.stm. See also J. Horton and D. Ross 11.7.08 "'The way forward is low-cost housing... but why here?'" The Herald http://www.theherald.co.uk/news/news/display.var.2392274.0.The_way_forward_is_lowcost_housing_but_why_here.php; Scottish Government News Release 25.6.08 'Government action on housing' <http://www.scotland.gov.uk/News/Releases/2008/06/25142815>

²⁷² F. Elliott, S. Kennedy and J. Sherman 29.8.08 'Property crash opens door to the new council house' The Times http://www.timesonline.co.uk/tol/money/property_and_mortgages/article4629981.ece

²⁷³ Scottish Government News Release 28.7.08 'Planning for housing' <http://www.scotland.gov.uk/News/Releases/2008/07/28113826>; 28.7.08 'Revised planning policy published' <http://www.holyrood.com/content/view/2769/10051/>; The Herald 1.8.08 "Single survey plans 'still on the agenda'" http://www.theherald.co.uk/politics/news/display.var.2414905.0.Single_survey_plans_still_on_the_agenda.php

²⁷⁴ Scottish Government News Release 27.8.08 'Tackling homelessness' <http://www.scotland.gov.uk/News/Releases/2008/08/27093151>; E. Pykett 27.6.08 'Fears over funding as homeless total rises' <http://news.scotsman.com/scotland/Fears-over-funding-as-homeless.4229325.jp>

²⁷⁵ BBC News 31.7.08 "Fuel poverty 'will rise further'" <http://news.bbc.co.uk/1/hi/scotland/7534806.stm>;