

**DEVOLUTION
MONITORING
PROGRAMME
2006-08**

Scotland Devolution Monitoring Report

January 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 and Akash Paun at the Constitution Unit, UCL and the team leaders are as follows:

- Scotland: **Charlie Jeffery**
Institute of Governance, University of Edinburgh
- Wales: **Dr Richard Wyn Jones & Dr Roger Scully**
Institute of Welsh Politics, University of Wales, Aberystwyth
- Northern Ireland: **Professor Rick Wilford & Robin Wilson**
Queen's University, Belfast
- English Regions: **Martin Burch, Alan Harding & James Rees**
IPEG, University of Manchester
- The Centre: **Akash Paun**, The Constitution Unit, UCL

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Chronology of Key Events: September – December 2007

- 5 September SNP Government announces legislative programme.
- 2 October Joint Ministerial Committee on Europe meets, at which Scottish representation in the Council of Ministers in relation to EU Fisheries negotiations is discussed.
- 26 October Release of £100m for capital investment in universities and colleges in 2007-08 announced.
- 9 November Glasgow wins Commonwealth Games for 2014.
- 13 November Alex Salmond announces that he anticipates independence for Scotland by 2017.
- 13 November SNP Government publishes economic strategy.
- 14 November Finance Secretary John Swinney presents first SNP budget.
- 16 November Concordat between Scottish Government and local authorities announced.
- 18 November Scottish Politician of the Year Awards held in Edinburgh. The abusive behaviour of Scottish Labour Press Secretary Matthew Marr (directed at Alex Salmond) leads to his resignation.
- 21 November Debate held in Westminster about 'unfair' Barnett formula.
- 30 November St Andrew's Day. Scottish Labour leader Wendy Alexander announces plans for a Scottish Constitutional Commission.
- 5 December New Scottish Labour leader Wendy Alexander pledges to clear her name over the 'dodgy donations' controversy.

- 6 December Wendy Alexander's proposal for a constitutional commission is approved by the Scottish Parliament.
- 7 December Private Meeting between First Ministers of Scotland and Wales.
- 10 December UK Conservative leader David Cameron makes speech on the Union outside Scottish Parliament.
- 13 December Stage 1 Report on the Graduate Endowment Abolition (Scotland) Bill, published by Education, Lifelong Learning and Culture committee.
- 13 December Lib Dem leader Nicol Stephen accuses Salmond of 'sleaze' over Donald Trump's proposed £1bn Golf Course.
- 13 December Announcement of Local Government Finance Settlement including council tax freeze.
- 17 December Former Solidarity MSP Tommy Sheridan arrested and charged with perjury.
- 20 December Parliament agrees to the general principles of the Graduate Endowment Abolition (Scotland) Bill, despite earlier rejection of the bill in committee.
- 20 December First Sewel motion of the SNP era passed, giving the Scottish Parliament's consent for Westminster to pass the Climate Change Bill.

Introduction

This is the first Scotland Devolution Monitoring Report coordinated by the Institute of Governance at the University of Edinburgh. It covers the period September-December 2007. That period was notable for a number of reasons.

First was the continued popularity of the SNP minority government led by First Minister Alex Salmond. The honeymoon continues, with the Scottish Government playing its cards well in ad hoc deals with other parties in the Scottish Parliament and a robust approach to relationships with the UK Government appearing to go down well with voters. Some clouds, however, have begun to appear: in the need for compromise on the Scottish budget within a tight UK settlement; and a more vigorous approach to opposition on alleged 'broken promises' and Donald Trump's planning application.

Second was the continuing weakness of Labour, with Gordon Brown's U-turn on holding an election undermining Labour's credibility in Scotland and threatening its lead in Westminster voting intentions. Wendy Alexander was also slow to set her agenda as Labour leader – even before the controversy over Paul Brown's illegal £950 donation forced the Scottish party into a period of damage limitation.

Third was the constitutional debate. While the Scottish Government's National Conversation ticked over more or less invisibly, Alexander announced a unionist agenda on the constitution, pledging more devolution and a strengthened union in a joint enterprise of Labour with the Liberal Democrats and the Conservatives, extending also to their Westminster-level parties. The product of that agenda – a Scottish Constitutional Commission, announced in December – is set to emerge in early 2008, though amid signals from UK Labour that are at best lukewarm about further devolution.

Should the Commission get launched, and should the National Conversation move into a promised new – and more visible – phase, 2008 may be a defining year for Scotland's constitutional future.

Charlie Jeffery, January 2008

1. The Scottish Executive

Paul Cairney

1.1 The Politicisation of Senior Civil Servants

The previous monitoring report discussed Scottish Executive Permanent Secretary John Elvidge's suggestion that informal contacts between civil servants in Scotland and England have already diminished, with a more formal relationship now more likely given the unwillingness of separate governments to reveal sensitive aspects of policy development. There was now, in Elvidge's words, 'quite a slender thread' connecting the UK Government and Scottish Government civil services.¹ This thread came under further pressure from two main sources. The first relates to the UK Government's response to the foot-and-mouth outbreaks in the UK. In October, Alex Salmond reported that he had seen a draft speech to be delivered by Hilary Benn (UK Environment Secretary) announcing £8.1m of compensation for Scottish farmers. However, this section was removed from the next draft of the speech (with Salmond implying a link between the pledge and the likelihood of a general election).² The UK Government's response was to make sure that Labour ministers and political advisers could (in theory) vet all Whitehall documents to be shared with the Scottish Government.³ The second follows the use of Elvidge himself as a pawn in party-political intergovernmental relations. In the wake of the Comprehensive Spending Review, Elvidge sent a circular email to civil service staff outlining its likely effect. This email contained a link to Treasury rather than Scottish Government figures (for the significance see section 11.3) which, according to Scottish Secretary Des Browne, suggested Elvidge was, 'effectively distancing himself from the line of the First Minister and Finance Secretary ... look at the Treasury figures and ignore the spin of Salmond and Swinney'.⁴ This prompted Elvidge to take the unusual step of issuing a statement supporting the Scottish Government line. While this may look

¹ P. McMahon, 'A very civil separation', *The Scotsman*, 19 July 2007, <http://news.scotsman.com/index.cfm?id=1124542007>

² BBC News, 'Clash over foot-and-mouth "cash"' <http://news.bbc.co.uk/1/hi/scotland/7037943.stm>, 10 October 2007; H. MacDonell, 'Co-operation forged over eight years is brought crashing down', *The Scotsman* <http://news.scotsman.com/ViewArticle.aspx?articleid=3469963>, 12 October 2007.

³ J. Kirkup et al, 'Whitehall papers to be vetted before being seen by Scottish civil servants as row over payments escalates' *The Scotsman*, 12 October 2007, <http://news.scotsman.com/latestnews/Whitehall-papers-to-be-vetted.3469108.jp>; H. MacDonell, 'Co-operation forged over eight years is brought crashing down' *The Scotsman*, 12 October 2007 <http://news.scotsman.com/latestnews/Cooperation-forged-over-eight-years.3469963.jp>

⁴ A. Macleod, 'Top Civil servant at centre of budget row', *The Times* (Scotland), 11 October 2007, p.1.

like Elvidge is adding to the tension between a 'practical loyalty' towards ministers and an 'ultimate loyalty' to the Crown and Whitehall, it is more likely that he is offended at being used by UK politicians rather than pinning his colours to a Scottish mast.

1.2 Yes Minister?

Academics of a certain age should all remember the influence of public choice theory on the study of the civil service. This shifted attention from the 'Westminster model' focus on impartial civil servants serving ministers, to self-interested bureaucrats pursuing the construction of large departmental fiefdoms, as a reflection of their personal status (an image which was fostered by *Yes Minister*).⁵ Although this picture came under pressure from later developments in UK politics (such as various reforms of the civil service, including the Next Steps review) and refinements to the public choice model,⁶ it is clearly still embedded in the psyche of former (Labour) finance minister Tom McCabe. In an interview billed as an 'astonishing insight into the workings of the civil service', McCabe suggests that many senior civil servants 'see defending the budgets that are within their remit almost as a virility symbol ... or as a symbol of their own importance'. For most of the devolution years, this expansion in department budgets was fostered by significant rises in public expenditure. However, the advent of less significant increases has not been met by a willingness in government departments to reduce demands. Further, the lack of a Scottish equivalent to the UK's Treasury and its agenda on public service targets (combined with the lack of involvement of the UK Treasury in Scottish spending decisions) has undermined the ability of the 'centre' to challenge these fiefdoms. These concerns have added to the debate on whether Scotland needs 'a new Scottish Treasury' with the clout to get tough on spending departments that continue to squander cash without proper scrutiny'.⁷

1.3 Quangos and the 'Crowded Landscape'

These comments were made in the wake of the publication of the Howat report on the effectiveness of budget allocation (commissioned by Tom McCabe when finance minister in 2005). While the report suggested that, as a whole, the Scottish Executive

⁵ W.A. Niskanen, (1971) *Bureaucracy and Representative Government* (Aldine, Atherton); J. Lynn and A. Jay (1984) *The Complete Yes Minister: The Diaries of a Cabinet Minister* (BBC Publications)

⁶ See P. Dunleavy, (1991) *Bureaucracy, Democracy and Public Choice* (Hemel Hempstead: Harvester Wheatsheaf)

⁷ E. Barnes, 'Cost-cutting 'blocked by civil servants as a show of their virility'' *Scotland on Sunday*, 27 October 2007, <http://news.scotsman.com/scottishexecutive/Costcutting-blocked-by-civil-servants.3474819.jp>

was well run, the spending process was undermined by a focus on spending the existing budget (rather than identifying what the budget should be, according to identified priorities) and by a 'crowded landscape' of public bodies involved in service delivery:

This 'crowded landscape' should be reviewed as soon as possible to determine whether fewer organisational entities could be more effective at delivering outcomes and could do so at a reduced cost.⁸

Perhaps the most 'astonishing' aspect of this agenda (given the frequency of the calls for a bonfire of the quangos) is that it rarely leads to change. Most post-devolution reforms to public bodies in Scotland (and Wales) have been driven by the desire to increase policy capacity at the centre, and quangos generally add to that capacity.⁹ Yet, the SNP made the significant reduction of quangos a pre-election promise and this has brought them into the numbers game, with a greater focus (at least of certain newspapers) on how many quangos there are, rather than, say, how efficient they are, whether they deliver value for money, and how their abolition/replacement would improve the delivery of public policy. This led to the embarrassing admission (regardless of how sensible the measures were) that the number of quangos has risen since May 2007.¹⁰

1.4 Quangos and Relocation

In the case of SportScotland, abolition would have represented an innovative solution to a separate problem. SportScotland had previously been earmarked for relocation (130 staff from Edinburgh to Glasgow) and the fulfilment of the SNP's manifesto commitment to abolish it would have killed two birds with one stone (since it would also reduce the significance of its inherited relocation commitments). However, its abolition was opposed in the Scottish Parliament, in part because of the timing of the decision in the wake of Glasgow's successful Commonwealth Games 2014 bid. Communities Minister Stewart Maxwell subsequently announced that the body (but not its chair) had been reprieved (or

⁸ Budget Review Group (2006) *Choices For A Purpose: Review Of Scottish Executive Budgets* (The Howat Report) www.scotland.gov.uk/Resource/Doc/178289/0050741.pdf

⁹ N. McGarvey and P. Cairney, (2008) *Scottish Politics* (London: Palgrave)

¹⁰ I. Swanson, 'Businesses applaud Salmond for quangos vow' *Evening News*, 29 October 2007 <http://news.scotsman.com/ViewArticle.aspx?articleid=3475178>; *Evening News*, 'SNP creates 24 new quangos despite pledge', 20 October 2007, <http://edinburghnews.scotsman.com/scottishnationalparty/SNP-creates-24-new-quangos.3539315.jp>; M. Gardham, 'You've Been Quangoed!' *The Daily Record*, 21 November 2007, www.dailyrecord.co.uk/news/newsfeed/2007/11/21/you-ve-been-quangoed-86908-20138340/; R. Bath, 'Don't get your fingers burned in bonfire of the quangos' *Scotland on Sunday*, 18 November 2007 <http://news.scotsman.com/comment/Dont-get-your-fingers-burned.3538586.jp>

at least merged with the Institute of Sport).¹¹ It may be that the most significant relocations of government activity in Scotland will follow UK decisions on UK bodies.¹²

1.5 The Crowded Landscape of Regulation

Although Scotland may have a reputation for hands-off government (at least when compared to the target-based, top-down regime caricature in England), this does not extend to the scrutiny of public bodies. In this regard, Scotland is up there with the best, with a myriad of inspections agencies effectively competing to hold public bodies to account (indeed, the regime is often referred to as an 'industry'). For example, while a local education authority before devolution may only have been examined routinely by HM Inspectorate of Education, it may now have to produce reports for the Care Commission, Integrated Child Services Inspectorate, Quality Management in Education process, Child Protection Inspection, Auditor General and Social Work Inspection Agency. Further, the necessary reports may ask the same questions but in different ways, requiring separate processes to be carried out each time. This is particularly burdensome for small voluntary agencies providing public services, since the unintended consequence of heavy inspection regimes is to force such agencies to devote more time to 'backroom' rather than 'frontline' services. The problem prompted the (then) Scottish Executive to commission the Crerar review.¹³ Its main (long-term) aim was to replace the existing arrangements with a single, national scrutiny body. In the short term, it suggests that, 'Cost/benefit analysis should become a routine element of any decisions about the use of external scrutiny'. The Government's response is sympathetic.¹⁴ The single national body idea is also being followed within the Children's Hearing system.¹⁵

¹¹ Scottish Parliament Official Report, 13 December 2007 col. 4526, www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1213-02.htm#Col4365; K. Schofield, 'Minister apologises over sports revelation', *The Herald*, 11 January 2008, www.theherald.co.uk/politics/news/display.var.1958006.0.minister_apologises_over_sports_revelation.php; Scottish Government News Release, 15 January 2008, 'Sports chiefs stand down', www.scotland.gov.uk/News/Releases/2008/01/15155628; Scottish Government News Release, 9 January 2008, 'New Dawn for Scottish Sport', www.scotland.gov.uk/News/Releases/2008/01/09132725

¹² Office of Government Commerce (2007) 'Relocation Programme Progress' www.ogc.gov.uk/government_relocation_asset_management_programmes/gram_relocation_programme_progress.asp

¹³ Scottish Government (2007) *The Report of the Independent Review of Regulation, Audit, Inspection and Complaints Handling of Public Services in Scotland* (Chair: Professor Lorne Crerar) www.scotland.gov.uk/Resource/Doc/82980/0053065.pdf; Scottish Government News Release 25.9.07 'Scrutiny of public services' www.scotland.gov.uk/News/Releases/2007/09/25100927

¹⁴ Scottish Government News Release, 17 January 2008, 'Moves to improve public service scrutiny', www.scotland.gov.uk/News/Releases/2008/01/17111601

¹⁵ Scottish Government News Release, 18 January 2008, 'Improving services for vulnerable children' www.scotland.gov.uk/News/Releases/2008/01/18110346

1.6 Cash for Access?

After the stories focussing on ‘Two Cheque Eck’¹⁶ and the Donald Trump affair (see section 2.1), the latest ‘scandal’ to affect the SNP is the prospect of paying the party for access to its ministers. On closer inspection, the row centres on the party’s now greater ability to charge companies to sponsor its events, in exchange for the ability to hear ministerial speeches and then be in the same room as them when they walk past.¹⁷ Although such donations (entertained by most parties) may be subject to a Westminster select committee inquiry, it does not seem likely that the SNP Government will be caught up in the agenda on sleaze (see section 10.2 on Labour’s difficulties on party funding); moreover, the call for Parliament to monitor the Scottish Ministerial Code does not have a head of steam.¹⁸

1.7 The Law Officers

The previous report highlighted the separation of the Lord Advocate’s political and prosecution roles following the election of a new SNP Government (and reflecting the problems raised during the McKie case). However, two current examples demonstrate the inextricable link between politics and the law (both criminal and civil). The first is the unsuccessful prosecution of Angus Sinclair in the World’s End case (which relates to the 1977 murders of Christine Eadie and Helen Scott after they had visited the World’s End pub in Edinburgh). Following the ruling by Lord Clarke that Sinclair had ‘no case to answer’ (and the ensuing outcry in the media), Lord Advocate Elish Angiolini took the unusual step of explaining the Crown Office’s position in a verbal statement to the Scottish Parliament. This raised the potential for conflict between political necessity (explaining the actions of high profile prosecutors often appointed by ministers) and legal convention (restricting criticism of the decisions of Scottish judges).¹⁹ The second relates

¹⁶ See previous monitor and K. Schofield, 7 January 2008, ‘Tories demand Salmond quit as MP’ *The Herald*, www.theherald.co.uk/politics/news/display.var.1941885.0.Tories_demand_Salmond_quit_as_MP.php

¹⁷ M. McLeod, 2 September 2007, ‘Want to lobby the First Minister? Send a £10,000 cheque to the SNP’ *Scotland on Sunday* <http://news.scotsman.com/scottishexecutive/Want-to-lobby-the-First.3323312.jp>

¹⁸ See previous monitoring reports – November 2001 www.ucl.ac.uk/constitution-unit/monrep/scotland/scotnov01.pdf and November 1999 www.ucl.ac.uk/constitution-unit/monrep/scotland/scotnov99.pdf. On Trump, see E. Barnes and J. Watson, 23 April 2006, ‘McConnell ‘broke rules’ on £300m Trump golf deal’ *Scotland on Sunday*, <http://scotlandonsunday.scotsman.com/ViewArticle.aspx?articleid=2769589> ; On the ministerial code debate, see Scottish Parliament Official Report, 13 December 2007 Cols. 4439, www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1213-02.htm#Col4439

¹⁹ M. Howie, 28 September 2007, ‘Lord Advocate is accused of ‘undermining the judiciary’ *The Scotsman* <http://news.scotsman.com/latestnews/Lord-Advocate-is-accused-of.3331211.jp> ; J. Robertson and M. Howie, ‘So who is to blame for World’s End trial fiasco...?’ *The Scotsman*, 13 September 2007.

to a court ruling on free personal care for older people. Lord McPhail ruled that people who had made their own care arrangements (instead of waiting in queues maintained by local authorities) could not then claim the costs of care against local authorities. McPhail then issued a 'sharp rebuke to Scottish Government ministers' when they did not appear in court to represent their position.²⁰ The ruling leaves the SNP Government with a pressing political dilemma – the choice between passing legislation to shore up a policy that was introduced by the previous government (but is increasingly associated with the new government), and leaving the implementation to the discretion of local authorities, in line with its stated aim of abolishing 'top-down diktats' (see section 11.2).

1.8 Freedom of Information

Research commissioned by the Scottish Information Commissioner suggests that 73 per cent of respondents feel they received all the information they requested from public bodies. Further, approximately two-thirds of respondents feel that Scottish public authorities are more open and accountable than their counterparts in the past and their equivalents in the rest of the UK. However, more than half feel that public bodies can avoid giving out such information, while awareness of freedom of information is still relatively low among the young, old and disabled.²¹ These findings are mirrored broadly in a survey of public authorities. While 89 per cent of bodies report that they are now more open with information, there is still, 'evidence of authorities developing practices to 'manage' the release of sensitive information'.²² In October, Kevin Dunion expressed concern about the effects of privatisation on access to information. This followed his ruling that NHS Lothian had to reveal the full details of its PFI contract.²³ Of course, the biggest story in this period – the loss of data by the HM Revenue and Customs at UK level – involved *too much* information reaching the public domain!²⁴

<http://news.scotsman.com/latestnews/So-who-is-to-blame.3326511.jp> ; Scottish Government News Release 'World's End case' www.scotland.gov.uk/News/Releases/2007/09/13162438

²⁰ H. MacDonell and J. Robertson, 18 October 2007, '9,000 elderly fear axe for free care after ruling', *The Scotsman*, <http://news.scotsman.com/latestnews/9000-elderly-fear-axe-for.3471672.jp>

²¹ Scottish Information Commissioner (2007) 'Public awareness of freedom of information is high - but some groups may be lagging behind, warns Commissioner', www.itspublicknowledge.info/home/News/20071119.asp

²² Scottish Information Commissioner (2007) 'Scotland rises to the challenge of freedom of information...but more can be done', www.itspublicknowledge.info/home/News/20070928.asp

²³ Scottish Information Commissioner (2007), 'Commissioner calls for public's right to information to be protected when public services are privatised' www.itspublicknowledge.info/home/News/20071025.asp ; 'Scottish Information Commissioner orders release of NHS Lothian PFI contract', www.itspublicknowledge.info/home/News/20071024.asp

²⁴ Scottish Government News Release, 23 November 2007, 'Data handling in the Scottish Government' www.scotland.gov.uk/News/Releases/2007/11/23164351

2. The Scottish Parliament

Paul Cairney

2.1 Donald Trump

Although inquiries by the Scottish Parliament committees may never scale the publicity heights of the US hearings on Watergate or the Iran-Contra affair, the constant whispers about wrongdoing by the Scottish Government heightened expectations surrounding the Local Government and Communities' inquiry into planning application processes.²⁵ The background is an attempt by Donald Trump (backed publicly by both Jack McConnell and Alex Salmond) to build a huge golf course, hotel and housing complex in Aberdeenshire (with most controversy linked to the fate of a nature reserve nearby). When the planning application failed to progress through the necessary Aberdeenshire Council committees, the application was 'called in' by the Scottish Government to consider the issues and give a final decision (see further in section 7.3). This was unusual for two main reasons. First, the Government took the unprecedented step of calling in the application rather than waiting for an appeal to Scottish ministers. Second, certain ministers were considered by some to be too close to the decision.²⁶ The latter issue was then exploited in the Scottish Parliament, most notably by Liberal Democrat Leader Nicol Stephen, whose soundbite 'smell of sleaze' did not go down too well with Salmond.²⁷ Indeed, the angry exchanges between Salmond and Stephen have

²⁵ www.scottish.parliament.uk/s3/committees/lgc/index.htm; H. MacDonell, 19 December 2007, 'Labour backs Tory move to call Salmond before MSPs over Trump' *The Scotsman*, <http://news.scotsman.com/scotland/Labour-backs-Tory-move-to.3602493.jp>; H. MacDonell, 17 January 2008, 'Salmond hits back at fresh attack over Trump role' *The Scotsman*, <http://news.scotsman.com/politics/Salmond-hits-back-at-fresh.3681455.jp>; 17 January 2008, 'I'm vindicated over Trump says First Minister' www.holyrood.com/content/view/1959/10051

²⁶ BBC News, 20 December 2007, 'Swinney responds to Trump attacks', <http://news.bbc.co.uk/1/hi/scotland/7153802.stm>; M. Wade, 16 December 2008, 'The odd couple: Trump's controversial golf resort drives Salmond into the bunker' *The Independent* <http://news.independent.co.uk/uk/politics/article3255607.ece>; C. Mason, 15 January 2008, 'Three questions for parliament's Trump inquiry' *The Herald*

www.theherald.co.uk/features/letters/display.var.1965196.0.Three_questions_for_parliaments_Trump_inquiry.php; P. Harvie, 13 December 2007, 'Trump's Hospitality - Greens Press Swinney To Answer' www.patrickharviemsp.com/?m=200712; Scottish Government News Release, 20 December 2007, 'Proposed golf resort in Aberdeenshire' www.scotland.gov.uk/News/Releases/2007/12/20091903

²⁷ Scottish Parliament Official Report, 13 December 2007, Cols. 4433-6 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1213-02.htm#Col4439; A. McSmith, 15 December 2007, 'SNP 'smells of sleaze' for backing Trump's golf course development' *The Independent*, <http://news.independent.co.uk/uk/politics/article3253086.ece>

contributed to the suggestion that the Presiding Officer's powers of censure and debate control are weak.²⁸

2.2 The New Politics of Finance?

Things were much simpler during the Labour/Liberal Democrat coalition from 1999-2007. Virtually all parliamentary motions were won, Sewel motions were passed, most legislation came from the Scottish Executive and civil servants (as the authors of the legislation) were relatively free from parliamentary scrutiny. In other words, the prospect for consensus and bargaining between the Scottish Parliament and Scottish Executive was undermined as soon as Labour and the Liberal Democrats formed a governing coalition.²⁹ Therefore, it is perhaps ironic to witness complaints from these parties when the shoe is on the other foot. Much of this dissatisfaction stems from the idea that 'new politics' would be revived under a minority government. For example, the requirement of parliamentary support would allow opposition parties a greater ability to develop relationships with civil servants responsible for drafting legislation and wishing to ensure parliamentary cooperation at the earliest opportunity. Yet, the early experience of the new Scottish Parliament demonstrates that this is more an issue of resources than inclination. That is to say, MSPs and parliamentary committees have always had the opportunity to develop relationships with civil servants. What they lacked was the capacity (MSPs and staff) and the stability (undermined by turnover) necessary to scrutinise the details of policy in the long term. The upshot is that although committees were often assertive, they had to choose their battles. In many cases, committees focussed on their (in)ability to receive adequate information from the government.

The best example is the finance committee, which has enjoyed a tense relationship with the finance department since (at least) 2005. This came to a head in May 2005 when the committee was publicly critical of a lack of detail in the (then) Scottish Executive's figures

²⁸ Even when it comes to stopping MSPs calling each other 'you'. A. Cochrane, 21 December 2007, 'First Minister's Questions getting out of hand' *The Telegraph* www.telegraph.co.uk/opinion/main.jhtml?xml=/opinion/2007/12/21/do2107.xml ; I. Bell, 11 January 2008, 'Stupid boys and girls turn out in force as accidental MSP gives a lecture', *The Herald* www.theherald.co.uk/politics/news/display.var.1957980.0.stupid_boys_and_girls_turn_out_in_force_as_accidental_msp_gives_a_lecture.php .

²⁹ D. Arter, (2004) 'The Scottish committees and the goal of a 'New Politics': a verdict on the first four years of the devolved Scottish parliament', *Journal of Contemporary European Studies*, 12(1): 71-91; N. McGarvey and P. Cairney, (2008) *Scottish Politics* (London: Palgrave).

used to calculate its efficiency savings.³⁰ Although the review of the 2006 budget was less fraught, the theme of inadequate information with which to monitor government was still strong. The latest plenary debates therefore represent a continuation of a pre-SNP tradition (particularly since the former finance committee adviser Professor Arthur Midwinter now advises Labour in opposition).³¹ This includes the debate following Wendy Alexander's parliamentary motion 'Holding the SNP Government to Account'.³² However, the most forthright call for more information came from Labour's finance spokesperson Iain Gray. This follows SNP plans to replace many ring-fenced budgets for local authorities with outcome agreements. Without providing a detailed link to outcomes, Gray argued, the Scottish Government is asking for a 'blank cheque'.³³ This point – that further devolution of implementation makes it harder for the Parliament to scrutinise policy – is made in less strong terms by the finance committee's convener Andrew Welsh (SNP) when announcing its report on the budget:

Concerns have been raised about the information available to committees and about the consequences of the Concordat with local authorities. The Committee recognises these concerns and also recognises that any new system needs time to bed down and so we intend to work with the Scottish Government to make improvements to the information. We also recognise that there are concerns about the reduction in ring-fencing and we believe that the nature and operation of Single Outcome Agreements between central and local government are crucial. So we have made a number of recommendations to ensure the proper tracking and monitoring of spending in this new landscape.³⁴

Of course, there are two main differences since May 2007 arising from the government's minority status. The first is that the complaints from Parliament may actually lead to some concessions from the Government to ensure that its budget receives enough

³⁰ Scottish Devolution Monitoring Report January 2006 www.ucl.ac.uk/constitution-unit/research/devolution/Monitoring%20Reports/Jan06/Scotland%20Jan06.pdf p.23

³¹ K. Schofield, 6 August 2007, 'Finance expert questions SNP's right to set Holyrood's budget' *The Herald* www.theherald.co.uk/politics/news/display.var.1597008.0.0.php; L. Gray, 9 April 2007, 'Labour "must shape up on economy"', *The Scotsman* <http://news.scotsman.com/ViewArticle.aspx?articleid=3274890>. Note that the election also precluded stage 1 (committee) scrutiny of the budget. This usually takes place in a Comprehensive Spending Review year – see N. McGarvey and P. Cairney, (2008) *Scottish Politics* (London: Palgrave).

³² Scottish Parliament Official Report, 8 November 2007, from col.3151 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1108-02.htm#Col3151

³³ *The Herald*, 10 January 2008, 'Labour claims Scottish Budget is "£19bn blank cheque"' www.theherald.co.uk/news/news/display.var.1957030.0.Labour_claims_Scottish_Budget_is_19bn_blank_cheque.php

³⁴ Scottish Parliament, 16 January 2008, 'Finance Committee Publishes Budget Report' www.scottish.parliament.uk/nmCentre/news/news-comm-08/cfin08-s3-001.htm

votes. This is certainly the belief of the Greens, who are looking for some movement in government plans to extend the M74, and the Conservatives, who are seeking more funding for the police and small businesses.³⁵ However, although the aims of the latter may be more realistic (the Conservatives having negotiated these concessions in advance, in exchange for support of the budget), perhaps the most notable aspect of this round was that so few concessions were required to pass the budget.³⁶ The second difference is that the SNP Government may not bring its preferred policies to Parliament if it knows they will be voted down. For example, it is having enough trouble passing its graduate endowment abolition bill without sticking to its original plan of backdating the bill to students who have already paid (section 2.5).

2.3 The New Politics of Voting?

Another rather ritualistic process prior to May 2007 was the parliamentary vote, with only a handful of debate motions and a tiny minority of legislative amendment votes going against the Labour-LibDem Executive in its eight years of existence. Now, things are more interesting and the carrying of debate motions (and amendments) depends on the issue at hand and the ability of the Scottish Government to form temporary alliances with other parties. However, as the debate on the Edinburgh Airport Rail Link (EARL) demonstrates (see previous report), there is some doubt about the ability of a parliamentary motion to tie the hands of government. Much depends on the type of motion passed, which we can place along a spectrum:³⁷

1. Motions put forward by the Scottish Government. Examples include an SNP amendment to a motion welcoming the reduction of ring-fenced budgets (which passed by 4 votes), a motion to negotiate a fair deal in the EU's annual sea fishing

³⁵ K. Schofield, 14 January 2008, 'Budget blow for SNP as Greens threaten to withhold support' *The Herald* www.theherald.co.uk/politics/news/display.var.1962362.0.Budget_blow_for_SNP_as_Greens_threaten_to_withhold_support.php ; P. McMahon, 16 January 2008, 'Tories force the SNP into policing U-turn', *The Scotsman* <http://news.scotsman.com/politics/Tories-force-the--SNP.3675888.jp>

³⁶ P. McMahon, 16 January 2008, 'Tories force the SNP into policing U-turn' *The Scotsman* <http://news.scotsman.com/politics/Tories-force-the--SNP.3675888.jp> ; E. Barnes, 25 November 2007, 'Labour frozen out as SNP buries hatchet with Conservatives to end 20-year taboo' *Scotland on Sunday* <http://news.scotsman.com/scottishconservativeparty/Labour-frozen-out-as-SNP.3544296.jp> ; P. McMahon 17 January 2008, 'Labour hits out at 'right wing' alliance after losing budget battle' *The Scotsman* <http://news.scotsman.com/politics/Labour-hits-out-at-39right.3681459.jp>

³⁷ For a full list of motions, see BBC News, 10 January 2008, 'How MSPs voted in the parliament' <http://news.bbc.co.uk/1/hi/scotland/6723791.stm>

talks³⁸ (unanimous support) and a motion to express support for the Crerar review (see section 1.5). Parliament also approved a draft order to raise the age limit to buy tobacco from 16 to 18.

2. Motions with Scottish Government support. These include the fairly specific (such as a Labour amendment calling for the Scottish Parliament to administer its own elections and a Conservative motion to decouple Scottish and local elections) and the fairly broad (e.g. a Labour motion to ensure that the Proceeds of Crime Act 2002 is suitably resourced; and a Liberal Democrat amendment to a motion calling for a statutory duty on ministers to provide student support). It also includes a Conservative amendment (to a Scottish Government motion on economic strategy) calling for the acceleration of a reduction in small business rates.
3. Broad motions without Scottish Government support. These motions are embarrassing for the SNP (indeed, this may be the main aim) because they often begin as government motions, but are then opposed by the SNP because they have been so heavily amended. However, they struggle to tie the hands of government because they either do not provide a yardstick with which to gauge government action or they argue for a policy measure which is subject to discretion. For example, Labour and Conservative amendments to an SNP motion on the OECD's report *Reviews of Policies for National Education: Quality and Equity of Schooling in Scotland*³⁹ call for the government to improve vocational education and devolve more power to head teachers. The amended motion also refers to the SNP failing to deliver on key pledges made in its manifesto.⁴⁰ Similarly, what began as an SNP motion on the proceeds of crime agenda became a Liberal Democrat amended motion which 'regrets the Scottish Government's continued failure to implement the SNP's election promise of 1,000 extra police officers'.⁴¹
4. Detailed motions without Scottish Government support. These are the motions likely to gain the most headlines, since a refusal to follow a detailed direction from Parliament would raise wider attention to the mandate that a minority administration

³⁸ Scottish Government News Release, 28 November 2007, 'Fisheries: cod quotas' www.scotland.gov.uk/News/Releases/2007/11/12164948; 'Fisheries: days at sea' www.scotland.gov.uk/News/Releases/2007/11/29092606

³⁹ Scottish Government News Release, 11 December 2007, 'International experts examine Scottish education' www.scotland.gov.uk/News/Releases/2007/12/11132104

⁴⁰ Scottish Parliament Official Report, 16 January 2008, Col. 5112

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0116-02.htm#Col5054

⁴¹ Scottish Parliament Official Report, 9 January 2008, cols. 4845-50

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0109-02.htm#Col4845. This follows a Conservative motion to the same effect on 25 October 2007.

enjoys. In practical terms, this means that the SNP also has to choose its battles. Therefore, when Parliament passed a motion expressing unanimous cross-party opposition to the abolition of SportScotland, it had the desired effect (particularly since abolishing SportScotland was becoming embarrassing for a government in charge of the Commonwealth Games preparations).⁴² One significant Labour motion called for full costings related to the reductions in class sizes to be included in the Strategic Spending Review. This duly appeared in its discussion of £14m in new money (over three years) to train more teachers (see also section 11.2).⁴³

5. Motions which effectively preclude Scottish Government action. For example, a Liberal Democrat Motion (supported by Labour and the Conservatives) rejecting a legally binding guarantee of waiting times in the NHS (based on concerns over the rise in litigation and administration) conflicts with sections of the Patients Rights Bill.⁴⁴ The issue of the Glasgow Housing Association debate is a different matter. Although the SNP motion – recommending that the GHA take forward recommendations by Communities Scotland fell – (following the Presiding Officer's casting vote), there is still cross-party support for the principle of secondary transfer from the GHA to smaller housing associations (and the debate focussed on how best to achieve this).⁴⁵
6. Motions which do not require Scottish Government support. In some cases, the Parliament can vote to devote its own resources to policy. The most notable example followed the Labour motion to establish and fund an 'independently chaired commission to review devolution in Scotland'. This received the support of the Liberal Democrats and the Conservatives. Not surprisingly, an SNP amendment suggesting that independence was the best option was defeated.⁴⁶

Of course, long-winded motions may be included in more than one category (for example the motion precluding new waiting list rules also criticised the Scottish

⁴² Scottish Parliament Official Report, 13 December 2007.

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1213-02.htm

⁴³ Scottish Parliament Official Report, 31 October 2007, from col.2850

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1031-02.htm#Col2850;

Scottish Government (2007) Scottish Budget Spending Review 2007 p.110

www.scotland.gov.uk/Publications/2007/11/13092240/36

⁴⁴ Scottish Parliament Official Report, 27 September 2007 from col.2159

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0927-02.htm#Col2159

⁴⁵ Scottish Parliament Official Report, 26 September 2007, cols. 2087-2120

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0926-01.htm

⁴⁶ Scottish Parliament Official Report, 6 December 2007.

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1206-02.htm#Col4265

Government's rejection of the private sector in the NHS). The apparent effect of a motion may also change over time. Indeed, the effect of the EARL project motion was to prompt the SNP to find an alternative plan (rather than an outright rejection) with enough parliamentary support effectively to supersede a previous motion. This duly came with the announcement (supported by the Conservatives and Greens) of different (and presumably less expensive) rail links to the airport.⁴⁷

Perhaps two better indicators of 'new politics' are: (a) votes which display strong cross-party agreement (perhaps with over 100 MSPs favouring one position); and (b) legislative amendment processes which receive a very few number of votes in the first place (i.e. most are approved 'on the nod'). Of course, the former may be misleading since consensus does not necessarily mean that all parties agree on policy. However, the voting patterns at least give an indication of the controversial rating of each bill. For example, the Abolition of Bridge Tolls (Scotland) Bill passed convincingly (122 for, 3 against, 1 abstention), while the Graduate Endowment Abolition (Scotland) Bill passed stage 1 (which establishes assent to the bill's principles) by 65 to 60, with Liberal Democrat support but Labour and Conservative opposition (see section 2.5).

The evidence on the latter indicator suggests that a new politics of sorts existed during the coalition years, since very few amendments were voted on.⁴⁸ However, many may have passed unopposed because strong whipping meant that opposition MSPs knew no votes would go their way.⁴⁹ Since this no longer applies, it is reasonable to expect a much higher proportion of amendments being put to the vote without this implying that consensual decision-making is in decline.

2.4 Scottish Parliament Committees

After a small change to the committee structure (Procedures and Standards have combined to form a new committee – Standards, Procedures and Public Appointments), the new arrangements have bedded down. With 16 nationalists ruled out of committee service by their positions in government, Labour now has five conveners to the SNP's

⁴⁷ Scottish Parliament Official Report, 27 September 2007, cols. 2252-93

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0927-01.htm

⁴⁸ P. Cairney, (2006) 'The Analysis of Scottish Parliament Committees: Beyond Capacity and Structure in Comparing West European Legislatures', *European Journal of Political Research*, 45.2, 181-208

⁴⁹ N. McGarvey, and P. Cairney, (2008) *Scottish Politics* (London: Palgrave)

four, as well as 41 places on committees compared to the SNP's 40. The Conservatives and Liberal Democrats each have two convenerships and 14 places in total.

2.5 Committee Reports and Inquiries (September – December 2007)⁵⁰

The most high profile report of the period was the Stage 1 Report on the Graduate Endowment Abolition (Scotland) Bill, published on 13 December. The Education, Lifelong Learning and Culture committee, chaired by Labour MSP Karen Whitefield recommended that the 'general principles [of the bill] be not approved', on the grounds that there was no evidence to suggest that the bill would achieve its stated aims of widening higher education participation. The committee also concluded that a more comprehensive bill was more appropriate, though this conclusion was opposed by the three SNP MSPs and one LibDem on the committee. This was the first of what may become a frequent occurrence. The committee arithmetic is such that support from the SNP's three members and either the Conservatives or Liberal Democrats is generally insufficient to approve a bill. Therefore, if a vote on a committee is split 4/4, a bill can be 'not approved' if the convener's casting vote is used in line with established convention (i.e. in favour of the status quo, which in such cases would mean no new legislation).⁵¹ Yet, when the bill goes back to plenary, it may pass – as in this case on 20 December – even if the parties divide in the same way as on the committee.

Other reports published in this period:

Procedures:

14 September [Merging the Procedures Committee and the Standards and Public Appointments Committee](#)

Subordinate Legislation:

21 December [Report on Glasgow Commonwealth Games Bill at Stage 1](#)

19 December [Report on Public Health etc. \(Scotland\) Bill at Stage 1](#)

⁵⁰ 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.

⁵¹ K. Schofield, 18 January 2008, 'Holyrood backs bill to abolish charge on graduates' *The Herald* www.theherald.co.uk/politics/news/display.var.1920647.0.Holyrood_backs_bill_to_abolish_charge_on_graduates.php

5 December [Legislative Consent Memorandum on the Dormant Bank and Building Society Accounts Bill](#)

28 November [Legislative Consent Memorandum on the Climate Change Bill](#)

19 September [Report on the Abolition of Bridge Tolls \(Scotland\) Bill at Stage 1](#)

Economy, Energy and Tourism:

21 December [Report on the legislative consent memorandum on the Dormant Bank and Building Society Accounts Bill \(UK Parliament legislation\)](#)

Education, Lifelong Learning and Culture:

13 December [Stage 1 Report on the Graduate Endowment Abolition \(Scotland\) Bill](#)

Health and Sport:

14 December [Report on the legislative consent memorandum on the Health and Social Care Bill \(UK Parliament legislation\)](#)

Rural Affairs and Environment:

26 September [Voluntary Modulation Rates \(SSI 2007/414\)](#)

18 September [The Cattle Identification \(Scotland\) Amendment Regulations 2007](#)

Transport, Infrastructure and Climate Change:

12 December [Report on the Legislative Consent Memorandum on the Climate Change Bill - LCM \(S3\) 4.1](#)

13 November [Scottish Government response to the Stage 1 Report on the Abolition of Bridge Tolls \(Scotland\) Bill](#)

7 November [Stage 1 Report on the Abolition of Bridge Tolls \(Scotland\) Bill](#)

2.6 Parliamentary Bills

The number of bills introduced since the election is lower than in previous sessions, though as the previous monitoring report discusses, this is no bad thing.

Scottish Government Bills in Progress (latest stage reached by end-December 2007):⁵²

⁵² For a description of the bills' main features, see *Scottish Devolution Monitoring Report: September 2007*, section 10.3, at: www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Scotland_Sept07.pdf

- Abolition of Bridge Tolls (Scotland) Bill (Awaiting Royal Assent)
- Glasgow Commonwealth Games Bill (Stage 1)
- Graduate Endowment Abolition (Scotland) Bill (Stage 2)
- Public Health etc. (Scotland) Bill (Stage 1)

Proposals for Members' Bills (in order of date lodged – i.e. most recent first):⁵³

- Proposed Control of Dogs (Scotland) Bill (Alex Neil, SNP)
- Proposed Tobacco Sales Licensing (Scotland) Bill (Christine Grahame, SNP)
- Proposed Scottish Register of Tartans Bill (Jamie McGrigor, Conservative)
- Proposed Property Factors (Scotland) Bill (Patricia Ferguson, Labour)
- Proposed Sentencing of Offences Aggravated by Prejudice (Scotland) Bill (Patrick Harvie, Green)
- 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) – this has had its thunder stolen by the Scottish Government's bill.
- Proposed Sunbed Licensing (Scotland) Bill (Kenneth Macintosh, Labour) – the proposal has gathered sufficient support for a Bill to be introduced
- Proposed Disabled Persons Parking Bays (Scotland) Bill (Jackie Baillie, Labour) – the proposal has gathered sufficient support for a Bill to be introduced

2.7 Sewel (Legislative Consent) Motion passed⁵⁴

The first Sewel motion in the SNP era was passed on 20 December 2007, giving the Scottish Parliament's consent to the passage at Westminster of the Climate Change Bill. While there was no formal opposition, a number of opposition MSPs could not help themselves when pointing out the irony of the SNP using a procedure it had so often opposed in principle when in opposition.⁵⁵ The bill contains statutory emissions reduction targets and establishes a UK-wide framework for meeting these (which includes a joint committee on climate change).

⁵³ See www.scottish.parliament.uk/s3/bills/MembersBills/index.htm

⁵⁴ A full list of motions and links to SPOR discussions is provided by the Scottish Government: www.scotland.gov.uk/Topics/Government/Sewel.

⁵⁵ Scottish Parliament Official Report, 20 December 2007, Cols.4759-69
www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1220-02.htm#Col4759

3. The Media

Eberhard Bort

While concerns over Scottish broadcasting bubbled on in the background, the biggest media stories of the past three months were, consecutively, the ‘crowning’ of Wendy Alexander as the new Scottish Labour leader at Holyrood, the UK election that never was, the first SNP budget and the discourse on ‘broken promises’, the miring of Labour south and north of the border in ‘dodgy donations’, the opposition parties’ agreement on a Scottish Constitutional Commission and, finally, the First Minister’s tribulations over the Trump planning application in Aberdeenshire.

3.1 Broadcasting Concerns

Ever since the summer, concerns about Scottish broadcasting have been voiced (see the last monitoring report). These did not abate, despite the BBC Director General’s announcement at the opening of Pacific Quay (the new BBC headquarters) in Glasgow where he pledged an extra £50m to boost programming north of the Border.⁵⁶

The BBC’s review of its Scottish (and UK) news coverage came under fire.⁵⁷ The BBC countered with a £10m a year programme for journalism training which aims at bringing ‘the rest of the UK up to speed with Scottish affairs.’ Despite this, critics like independent nationalist MSP Margo MacDonald (who worked as a presenter and reporter for the BBC fifteen years ago) maintain that ‘there was a metropolitan bias then and not much has changed.’ In its coverage, after reciting a litany of BBC misdemeanors, the *Mail on Sunday* also reminded its readers that ‘there also have been claims licence-fee payers north of the Border are being short-changed with BBC Scotland receiving just 3 per cent of the corporate budget, despite having 8.4 per cent of the UK population.’⁵⁸

Alex Salmond also referred to this fact, which had been one of the reasons for him to set

⁵⁶ Fergus Sheppard, ‘BBC signals more Scottish shows’, *The Scotsman*, 21 September 2007.

⁵⁷ *BBC News Online*, ‘BBC Trust commissions news review’, 18 November 2007, <http://news.bbc.co.uk/2/hi/entertainment/7100698.stm>.

⁵⁸ Michael Tait, ‘Why BBC is putting question time before reporting Scotland’, *The Mail on Sunday*, 9 December 2007; See also Marc Horne and Murdo MacLeod, ‘BBC orders rethink over Scottish news’, *Scotland on Sunday*, 18 November 2007; Sherna Noah, ‘The BBC is London-centred, its stars are overpaid and it has to change to survive. Who thinks so? The chairman’, *The Scotsman*, 2 November 2007.

up his Broadcasting Commission,⁵⁹ when he announced an additional £500,000 towards support for Gaelic broadcasting during his Sabhal Mor Ostaig lecture in Edinburgh.⁶⁰ But the prospect of a dedicated Gaelic television channel was dealt a blow by a BBC report which questioned its value to the public.⁶¹

The Scotsman criticised the BBC's priorities, as it shed '370 journalists and news staff; 550 people in regional programming, including 210 in Scotland; and 660 in the documentary unit ... [whilst] only getting rid of 25 staff in marketing and finance.' The paper went on to demand that 'the BBC should be told the licence-fee subsidy will end with the present charter in 2016 and the corporation become self-funding.'⁶² Iain Macwhirter did not go quite that far:

The BBC does need to be brought down to Earth, but not in the centralist manner envisaged by the bean-counters. BBC Scotland, already on its uppers, will be crushed flat by the latest cuts. [...] This is wrong. Better to promote diversity by creating semi-autonomous regional broadcasting organisations able to mobilise neglected talent and escape the suffocating metropolitan mindset that dominates. There is a real battle to be had over the future of broadcasting, and it should start in Holyrood.⁶³

Joyce McMillan thought along similar lines, quoting (as behoves Scotland's finest theatre critic) the Quebecois playwright Michel Tremblay: 'The more one is local, the more one is universal.'⁶⁴

Speaking of the local, fears over the future of ITV news coverage in the South of Scotland were taken to the Scottish Parliament at the end of 2007. John Lamont, Tory MSP for Berwickshire, said that hundreds of news stories from the south of Scotland would go unreported if the area were to be covered from Newcastle or Glasgow rather than, as at present, from Carlisle, following the merger of Borders TV with STV and proposed newsroom cuts. He was backed by Dumfries Labour MSP Elaine Murray who said there was 'a very strong feeling about this in my constituency.' But the SNP's

⁵⁹ See Anna Burnside, 'A cry for action at BBC Scotland', *The Sunday Times*, 11 November 2007.

⁶⁰ 'Salmond to pledge £7.5m for the future of Gaelic', *The Herald*, 17 December 2007.

⁶¹ Phil Miller, 'Blow to dedicated Gaelic TV channel plan amid doubts over "public value"', *The Herald*, 13 November 2007.

⁶² *The Scotsman* (editorial), 'BBC: It's time to think the unthinkable', 19 October 2007: see also Martyn McLaughlin, 'BBC cutbacks: One in 10 job losses will fall in Scotland', *The Scotsman*, 19 October 2007; Nicholas Hellen, 'Battle for the soul of the BBC', *The Sunday Times*, 14 October 2007.

⁶³ Iain Macwhirter, 'BBC: too big for its own good', *Sunday Herald*, 21 October 2007.

⁶⁴ Joyce McMillan, 'Faltering BBC should tune in to its local roots', *The Scotsman*, 22 September 2007

Borders MSP Christine Graham said: 'I don't know if I wholly agree that the merger of Border TV news with STV news is a wholly bad thing.' The status quo, she contended, 'is probably not an option and hasn't actually been an option for a period of time.' She echoed ITV's statement that 'the current set-up is not sustainable and the changes would deliver improved programming.' ITV plans to reduce the number of its regional newsrooms from seventeen to nine.⁶⁵

3.2 A New Labour Leader

Wendy Alexander's elevation to the leadership of Labour in the Scottish Parliament prompted divergent assessments. Tom Gordon argued that Alexander was 'a liability to her party' and that her succession to Jack McConnell would give Alex Salmond 'the most pleasure.'⁶⁶ Eddie Barnes similarly noted apparent SNP glee about Alexander becoming Labour leader, but warned that being a woman, being intelligent, and an accomplished strategist, she might yet give Salmond and the SNP headaches.⁶⁷ George Kerevan agreed: 'Don't assume that because Wendy is an intellectual she lacks backbone. She was the only Labour minister to stand up to her civil servants.'⁶⁸

However, Alexander's start was not promising. Her performance at First Minister's Question Time was generally found wanting.⁶⁹ Iain Macwhirter noted her 'appalling press' over her first weekend as leader, all about 'resignation, internecine warfare, cronyism and incompetence.' But he also conceded that 'the problems in the Labour party are systemic and can't be put down to one individual, no matter how headstrong.' He concluded: 'Like most in the Scottish media, I have been willing to give the new Labour leader a fair wind, if only to allow some balance into coverage of Scottish politics.' But she would have 'to do more than be female. She has to change the party, too, and lead it imaginatively.'⁷⁰

⁶⁵ BBC News Online, 'Holyrood hears TV news concerns', 20 December 2007
http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/scotland/south_of_scotland/7153408.stm.

⁶⁶ Tom Gordon, 'White Hot Alex', *The Sunday Times*, 19 August 2007.

⁶⁷ Eddie Barnes, 'Wendy's house may be not so easy for the SNP to blow down', *Scotland on Sunday*, 29 July 2007.

⁶⁸ George Kerevan, 'The big tasks facing next Scottish Labour leader', *The Scotsman*, 9 August 2007.

⁶⁹ Ian Bell, 'Wendy attacks with a damp squib', *The Herald*, 21 September 2007.

⁷⁰ Ian Macwhirter, 'Team Wendy squanders hopes of a fresh start', *The Herald*, 24 September 2007.

The Labour leader came under further attack when she demanded more public funding for the office of opposition leader – a demand Labour had denied the SNP when in government.⁷¹

3.3 The Election That Never Was

In September and early October media speculation about an imminent UK election reached fever pitch, before Cameron's speech at the Tory conference and the Tories' inheritance tax proposals persuaded the Prime Minister to call off the election before it was ever officially on. Professor John Curtice called this 'the moment Gordon Brown lost authority',⁷² while according to James Cusick: 'The election that never was paralysed the government.'⁷³ Scottish concerns – principally whether the SNP would take seats from Labour – seemed also to have played a role in Brown's decision.

3.4 The First SNP Budget

Since summer 2007, journalists had begun to speculate about when the 'prolonged honeymoon'⁷⁴ of Alex Salmond's minority government would end, or whether it had already done so.⁷⁵ A discourse on the SNP's 'broken election promises' had evolved over the summer.⁷⁶ When John Swinney presented the first SNP budget on 14 November, following the tightest financial settlement from London since devolution, these attacks intensified,⁷⁷ with critics highlighting backtracking on the pledge for a thousand additional police officers,⁷⁸ the dumping of student debt,⁷⁹ and the planned £2,000 grants for first-time house buyers. Where were the commitments to match the school-building programme of the previous administration 'brick by brick'? Increase free nursery places?⁸⁰ Remedy the funding problems of Scotland's universities?⁸¹ Employ enough new teachers to allow primary school classes one, two and three to have no

⁷¹ Peter MacMahon, 'Alexander accused of hypocrisy over call for rise in public cash for office', *The Scotsman*, 4 October 2007.

⁷² BBC Newsnight 21 December 2007.

⁷³ James Cusick, 'The Brown Drift', *Sunday Herald*, 18 November 2007.

⁷⁴ Paul Hutcheon, 'Salmond: rivals spread alcohol rumours because the gambling lies didn't work', *Sunday Herald*, 9 December 2007.

⁷⁵ *The Herald* (editorial), 'Honeymoon is over', 27 October 2007.

⁷⁶ *Scotland on Sunday* (editorial), 'Promises to keep', 4 November 2007.

⁷⁷ Douglas Fraser, 'Sharp jolt of reality leads to broken promises', *The Herald*, 15 November 2007.

⁷⁸ Lucy Adams, 'U-turn claims on pledge of extra police', *The Herald*, 13 November 2007; Hamish Macdonell and Louise Gray, 'The SNP and the mystery of the vanishing bobbies', *The Scotsman*, 14 November 2007.

⁷⁹ Andrew Denholm, 'SNP fails to deliver on student debt', 15 November 2007.

⁸⁰ Severin Carrell, 'SNP council tax freeze 'at cost of poll pledges'', *The Guardian*, 12 November 2007.

⁸¹ Fiona MacLeod and Hamish Macdonell, 'Crisis for Scottish universities after SNP blow', *The Scotsman*, 16 November 2007.

more than 18 pupils?⁸² Immediately (rather than by 2011) abolish prescription charges for those with chronic conditions (as unequivocally promised in the party manifesto).⁸³ *Scotland on Sunday* used the resignation of the Head of the Scottish Crime and Drug Enforcement Agency to fire a broadside on the SNP's broken manifesto pledges.⁸⁴

Swinney's coup, though, was the agreement reached with the local councils to freeze council tax.⁸⁵ Only a fortnight later, however, the Finance Committee's adviser, Professor David Bell, criticised this measure for disproportionately benefitting the well-off and therefore directly contradicting the SNP's 'cherished aim of reducing inequality.'⁸⁶ But by that time Labour's 'dodgy donations' scandals south and north of the Border ruled the headlines, and the SNP government could bury the bad news. At a time when the SNP budget was supposed to come under scrutiny and draw flak, it was the Labour party's finances which hugged the spotlight.

3.5 Dodgy Donations

While it was Douglas Alexander whose resignation was called for in October (again), following the Gould Report into the ballot fiasco of the Scottish elections,⁸⁷ a month later his sister Wendy saw herself faced with the same demands over the acceptance of a £950 cheque for her (ultimately uncontested) leadership campaign from a Glasgow businessman resident in the Channel Islands.

At the end of November and beginning of December this theme dominated the Scottish media. Paul Green's illegal donation was first revealed on the front page of the *Herald*.⁸⁸ And on the same day *The Scotsman* raised the question of whether Wendy Alexander had broken the law.⁸⁹ On Friday, the *Herald* contended that 'Labour's nightmare' had

⁸² Simon Johnson, 'SNP accused of U-turn in battle over class sizes', *Daily Mail*, 10 November 2007; Scott MacNab, 'Nats' rap for 'broken' vow on schools: Go to the bottom of class', *The Sun*, 10 November 2007; Kevin Schofield, 'Hyslop accused of class size hypocrisy', *The Herald*, 10 November 2007.

⁸³ Lyndsay Moss, 'SNP accused of broken promises as free prescriptions plan is unveiled', *The Scotsman*, 6 December 2007; see also *The Scotsman* (editorial), 'SNP must go further to end 'tax on ill-health'', 6 December 2007.

⁸⁴ *Scotland on Sunday* (editorial), 'Drugs policy in chaos', 11 November 2007.

⁸⁵ Robbie Dinwoodie, 'Political coup for Swinney as councils all sign up to agreement for a tax freeze', *The Herald*, 17 November 2007; Douglas Fraser, 'And with one leap, the SNP minister was free', *The Herald*, 20 November 2007.

⁸⁶ See Peter MacMahon, 'SNP in no position to claim moral high ground', *The Scotsman*, 4 December 2007.

⁸⁷ Hamish Macdonell, 'Poll fiasco: Alexander 'must resign'', *The Scotsman*, 24 October 2007.

⁸⁸ Kevin Schofield, 'Revealed: secret donor who backed Alexander', *The Herald*, 29 November 2007.

⁸⁹ Hamish Macdonell, 'Did she break the ruler?', *The Scotsman*, 29 November 2007.

crossed the border ‘to haunt Alexander’.⁹⁰ By Saturday the £950 cheque had developed into a ‘bombshell for Labour’, with five pages of coverage in *The Scotsman*.⁹¹ Worse was to come the next day, with the *Sunday Herald* insinuating on the front page that the Labour leader had lied,⁹² devoting a full nine pages inside to the issue, and crowning its coverage with a comment by Iain Macwhirter signalling ‘the end of the road for Wendy Alexander’s leadership.’⁹³ On the BBC’s *Politics Show*, both Macwhirter and the BBC’s own Brian Taylor were left in no doubt that Wendy Alexander had broken the law and would have to resign.⁹⁴ Macwhirter followed it up on Monday, as if Alexander had already resigned: ‘Mad party disease has struck again. Labour seems determined to hand the keys of Scotland to Alex Salmond.’⁹⁵

All this was premature, as Wendy Alexander decided – probably prompted by Gordon Brown who feared a domino effect if she went – to ‘tough it out in bid to buy time’,⁹⁶ by handing her fate to the Electoral Commission which, she hoped, would exonerate her.⁹⁷ By 5 December, Alexander seemed to have regained some confidence, as she faced the press and pledged to ‘fully clear’ her name.⁹⁸ ‘In its present mess,’ ‘old Labour’ commentator Tom Brown commented, ‘it would take a remarkable leader to rebuild Scottish Labour; but if Alexander survives this firestorm, she will certainly be that.’⁹⁹

3.6 The Constitutional Debate

Constitutional issues were never far from the centre of political discourse before, during and, indeed, after the election. *The Scotsman* ran a series of articles on the West Lothian Question, or the ‘English Question.’¹⁰⁰ A debate ensued about Alex Salmond’s

⁹⁰ Douglas Fraser and Kevin Schofield, ‘Labour’s nightmare crosses the border to haunt Alexander’, *The Herald*, 20 November 2007.

⁹¹ Hamish Macdonell, ‘Bombshell for Labour on illegal donations’, *The Scotsman*, 1 December 2007.

⁹² Paul Hutcheon, ‘Wendy: Did she lie?’, *Sunday Herald*, 2 December 2007.

⁹³ Iain Macwhirter, ‘Why Wendy has no choice but to go’, *Sunday Herald*, 2 December 2007.

⁹⁴ See *BBC News Online*, ‘Alexander faces renewed pressure’, 2 December 2007, http://news.bbc.co.uk/2/hi/uk_news/scotland/7123534.stm.

⁹⁵ Iain Macwhirter, ‘Mad party disease claims another Labour leader’, *The Herald*, 3 December 2007.

⁹⁶ Douglas Fraser, ‘What now for Wendy Alexander?’, *The Herald*, 3 December 2007.

⁹⁷ Douglas Fraser, ‘Defiant Alexander vows to stay and fight on’, *The Herald*, 3 December 2007; Hamish Macdonell, ‘Defiant Alexander says: I did nothing wrong’, *The Scotsman*, 3 December 2007; see also *BBC News Online*, ‘MSPs are fully behind Alexander’, 4 December 2007.

http://news.bbc.co.uk/2/hi/uk_news/scotland/7126883.stm.

⁹⁸ Kevin Schofield, ‘Alexander: I am not dishonest’, *The Herald*, 5 December 2007.

⁹⁹ Tom Brown, ‘Wendy needs tricks and mortar to put her house in order’, *Scotland on Sunday*, 9 December 2007.

¹⁰⁰ Peter MacMahon, ‘West Lothian Question: the pressure grows’, *The Scotsman*, 30 October 2007; Hamish Macdonell and Gerri Peev, ‘The West Lothian Question: Labour MPs want answers’, *The Scotsman*, 19 November 2007; Hamish Macdonell, ‘One West Lothian Question, but four answers no-one agrees to’,

strategy of conflict with Westminster, even hinting at a 'cold war between London and Edinburgh'¹⁰¹ The *Sunday Herald* carried a four-page 'Special' examining 'the (English) resentment posing the latest threat to the 300-year-old Union';¹⁰² the *Herald* made a major effort to 'scotch the myths' of the 'London media and Conservative commentators' about the Scottish share of public funds,¹⁰³ a reaction to the debate fuelled by the former *Sun* editor's outburst about the Scots 'living off the clever English' on BBC's *Question Time*.¹⁰⁴

There was periodic coverage of policy divergence between south and north of the Border.¹⁰⁵ For Douglas Fraser, the SNP delights in 'turning up the heat' on Gordon Brown by diverging public policy from south of the Border: 'Another day, and at least three more ways in which Scotland is diverging from England,' he wrote:

Scottish teachers' pay breaks through the barrier Gordon Brown wanted to impose on the public sector, while a Scottish loyalty test is being put to applicants for NHS doctors' posts north of the border. Meantime, a rift opens up over policing methods, with Holyrood's Justice Secretary highlighting the sharply different approach to anti-terrorism taken by the one London-based force operating in Scotland. This expands the picture emerging since the SNP took power. Expensive medicines approved for NHS use in Scotland but not England. Free prescription charges following on free personal care for the elderly. A freeze on council tax for the next three years. The ending of student fees while English universities strain to break the annual fee barrier of £3000.¹⁰⁶

He added that, 'if you were Gordon Brown, you would hardly want to pick a fight with Holyrood when your own Kirkcaldy constituents are among those benefiting from SNP

The Scotsman, 20 November 2007; Peter MacMahon, 'Where in the world is there an answer? Well, nowhere', *The Scotsman*, 22 November 2007.

¹⁰¹ Hamish MacDonell, 'Holyrood v Westminster: Why this battle must end for the sake of Scotland', *The Scotsman*, 12 October 2007.

¹⁰² 'Disunited we stand', *Sunday Herald*, 4 November 2007.

¹⁰³ David Leask and Douglas Fraser, 'Scotching the myth', *The Herald*, 2 November 2007.

¹⁰⁴ Melanie Reid, 'Kelvin Mackenzie infuriates Scots with accusation of 'living off the clever English'', *The Times*, 13 October 2007; Arifa Akbar, 'Former 'Sun' editor MacKenzie outrages Scots', *The Independent*, 13 October 2007; Hamish Macdonell, 'Strange case of editor with Scots blood who just can't resist attacking Scotland', *The Scotsman*, 13 October 2007. See also Allan Brown, 'Stick it, you Jocks', *The Sunday Times*, 21 October 2007.

¹⁰⁵ Jonathan Brown, 'Scottish Nationalists proclaim the benefits of devolution', *The Independent*, 27 October 2007.

¹⁰⁶ Douglas Fraser, 'Another day, another dilemma for Brown as SNP turns up political heat', *The Herald*, 15 December 2007.

largesse.’ Iain Macwhirter went even further: He described the SNP’s ‘tartan revolution’ as ‘progressive nationalism’, ‘delivering social democracy lacking in Brown’s England’.¹⁰⁷

The Guardian devoted a G2 section to the question ‘What will the UK be like without Scotland?’¹⁰⁸ Only two days earlier, Alex Salmond had made clear that he anticipated full independence by 2017.¹⁰⁹ The BBC followed it up with an investigation into how a ‘divorce’ might work.¹¹⁰ Its ‘Beginner’s Guide to Separation’ was broadcast on Radio 4 on 6 and 9 December.

David Cameron came to Scotland in December and declared his preference for ‘an imperfect Union’ rather than ‘some perfect constitutional construct that would threaten the Union.’¹¹¹ While, back in October, he had endorsed Malcolm Rifkind’s plans for ‘English votes for English laws’ and the ‘elegant’ solution of an English Grand Committee,¹¹² he now emphasised that a Conservative government would ‘work tirelessly for consent and consensus so we strengthen the Union and stop separatism.’ He said ‘the future of our Union is looking more fragile, more threatened, than at any time in recent history.’¹¹³ Yet, Ian Swanson commented: ‘...it is Mr Cameron’s Tory colleagues, if not the leader himself, who have fuelled an upsurge in English nationalism with their talk of ‘English votes for English laws’ and reforming the Barnett formula.’¹¹⁴

It was widely seen as a result of the SNP government’s White Paper *Choosing Scotland’s Future* that the three main opposition parties in the Scottish Parliament came together on an agreement to consider reform of the devolution settlement.¹¹⁵ Commenting on the ‘remarkable turnaround’ of Labour, the *Sunday Herald* marvelled:

It is another sign of how Salmond, as was always his intention, is changing Scottish politics out of all recognition: all mainstream parties

¹⁰⁷ Iain Macwhirter, ‘The tartan revolution’, *The Guardian*, 27 October 2007.

¹⁰⁸ *The Guardian*, 15 November 2007.

¹⁰⁹ Peter MacMahon, ‘Salmond: independent in 10 years’, *The Scotsman*, 14 November 2007.

¹¹⁰ Chris Bowlby, ‘A Scottish divorce... who gets the kids?’, *BBC News Online*, 6 December 2007, http://news.bbc.co.uk/2/hi/uk_news/magazine/7129382.stm.

¹¹¹ Ian Swanson, ‘Cameron says ‘Union comes first’ at party rally in Capital’, *Edinburgh Evening News*, 10 December 2007.

¹¹² James Hamilton, ‘Cameron plans to restrict Scots role at Westminster’, *Sunday Herald*, 28 October 2007.

¹¹³ David Cameron, ‘Narrow nationalism must not be used to end our vital Union’, *The Scotsman*, 11 December 2007.

¹¹⁴ Ian Swanson, ‘Change of tune on ties of Union’, *Edinburgh Evening News*, 13 December 2007.

¹¹⁵ Kevin Schofield, ‘Why the unionists finally got together’, *The Herald*, 14 August 2007. See also Eddie Barnes, ‘Unionists team up to steal SNP thunder over Holyrood powers’, *Scotland on Sunday*, 26 August 2007.

now agree on the need for more powers, however much they might differ on the extent of change required. Like him or loathe him, Salmond is a first minister who is leading from the front.¹¹⁶

At perhaps the worst possible moment for her (due to the donations scandal hanging over her), Wendy Alexander delivered a major speech on the constitution at Edinburgh University on St Andrew's Day, in which she set out her plan for an independent Scottish Constitutional Commission.¹¹⁷ It put the seal on this constitutional U-turn for Scottish Labour, revising the position Jack McConnell had adopted before the election. It also seemed to acknowledge that, as *The Scotsman* had argued after the election, 'Labour lost votes in May because – for the first time – it refused even to discuss more powers for Holyrood, thus conceding the constitutional debate to the SNP.'¹¹⁸

Alexander singled out the strengthening of the financial accountability of the Parliament, including a review of the Barnett formula with a view to diminishing the role of the block grant from Westminster through shared and assigned taxes.¹¹⁹ In the subsequent debate in the Parliament in which the 'grand, if informal, Unionist coalition'¹²⁰ voted to establish the Commission on 6 December, Alexander argued: 'There is a desire in Scotland for further change. Devolution is a process not an event.'¹²¹ The Commission specifically excludes the independence option,¹²² but does open up scope for discussion of wider areas of UK constitutional reform, with the aim of strengthening both devolution and the Union.¹²³ The significance of this new development should not be underestimated: 'All the major forces in Scottish politics are now united as never before on the need to give Holyrood more oomph.'¹²⁴

¹¹⁶ *Sunday Herald* (editorial), 'Scotland's changed...so should unionist parties' attitudes', 19 August 2007.

¹¹⁷ Ian Swanson, 'Alexander commits Labour to increasing Holyrood's powers', *Edinburgh Evening News*, 30 November 2007.

¹¹⁸ *The Scotsman* (editorial), 'Labour fails to get the message', 22 June 2007; See also *The Herald* (editorial), 'Radical reform plan', 1 December 2007.

¹¹⁹ Douglas Fraser, 'Alexander calls for tax powers to replace the Barnett formula', *The Herald*, 1 December 2007. See also Severin Carrell, 'Scottish tax move aims to stop demands for independence vote', *The Guardian*, 7 December 2007; Ian Swanson, 'Wendy's playing the power game', *Edinburgh Evening News*, 6 December 2007.

¹²⁰ Ian Bell, 'Can we plot a fourth way for Scotland?', *The Herald*, 8 December 2007.

¹²¹ John Knox, 'Devolution heads for 'Phase Two'', *BBC News Online*, 7 December 2007 http://news.bbc.co.uk/2/hi/uk_news/scotland/7133303.stm.

¹²² Louise Gray, 'Parties join forces to bulldoze SNP', *The Scotsman*, 7 December 2007.

¹²³ See Charlie Jeffery, 'Westminster must play nicely with the rest of the UK', *The Scotsman*, 13 December 2007.

¹²⁴ Iain Macwhirter, 'Finally, we all agree: devolution is a process, not an event', *The Herald*, 9 December 2007.

At the same time the SNP government's 'National Conversation' continues. But are two separate and competing consultation processes really the best way forward?¹²⁵ The dual approach now evolving 'for crude partisan ends' appears divisive and confusing. 'All the parties are agreed that the experience to date with devolution has to be reviewed,' wrote *The Scotsman*:

But instead of finding common ground to conduct such a review in a rational manner, and thus present a united face to Westminster – the only body that can introduce constitutional change – we are left with rival projects.¹²⁶

While calling the Parliament's decision 'a significant milestone': the *Herald* struck the same note:

It was the Constitutional Convention which laid the foundations for devolution by canvassing views and debating opinions. Its power was reduced by the fact that neither the SNP nor the Conservatives took part. This time, the Unionist parties are boycotting the national conversation. A truly independent forum, which goes beyond the political parties in membership but includes them all, just might produce constructive dialogue instead of dissent.¹²⁷

In early November, Eddie Barnes had advised Labour to take devolution seriously. It had not 'simply been a wheeze to appease the eccentric fringes of the Isles. It fundamentally altered the way the entire country, not only Scotland, is run.' He followed *The Economist's* suggestion of letting the Scottish Parliament raise its own taxes. 'If this includes,' he argued, 'putting the question of Scottish independence and more powers for the Parliament to the people in a referendum, then so be it.'¹²⁸ A bit more than a month later, Barnes was not alone in thinking that the 'Unionist pact may not just be seen in later years as a historic moment for devolution,' but also as 'the moment when a referendum on independence became inevitable.'¹²⁹

¹²⁵ See Douglas Fraser, 'Building up steam to derail the independence express', *The Herald*, 6 November 2007.

¹²⁶ *The Scotsman* (editorial), 'Dual approach to devolution debate can't succeed', 7 December 2007.

¹²⁷ *The Herald* (editorial), 'It's all part of the process', 7 December 2007.

¹²⁸ Eddie Barnes, 'It's time Labour took the devolution experiment seriously', *Scotland on Sunday*, 4 November 2004.

¹²⁹ Eddie Barnes, 'Unionist pact to debate devolution may hasten independence vote', *Scotland on Sunday*, 9 December 2007.

In this context, it is perhaps worth pointing out that there have been voices from both the Tories and Labour arguing in favour of a referendum, sooner rather than later, with the intention of having independence resoundingly voted down and thus laid to rest for a generation.¹³⁰ Former Labour minister Allan Wilson's opinion piece in the *Sunday Times* favoured a referendum 'to call Salmond's bluff'.¹³¹ His advice to party leader Wendy Alexander was backed by Andy Kerr, one of the most senior Labour politicians in the Parliament.¹³² No indication, by all means, that an independence referendum is imminent, but interesting none the less.

3.7 Trumped?

The headlines in the last week before the Christmas recess at Holyrood belonged to Alex Salmond. Not that he would have wished it. But the Lib Dem leader Nicol Stephen's attack at First Minister's Question Time on 13 December introduced the buzz word 'sleaze' in the context of Alex Salmond's role in the billionaire Donald Trump's proposed £1bn golf resort investment in Aberdeenshire.¹³³ The First Minister, as a *Scotsman* editorial put it, 'cannot easily avoid the accusation that the ready access which Donald Trump has had to SNP channels hints of special treatment, even if no such favouritism was intended or exhibited.'¹³⁴ Sleaze, as John Knox pointed out, 'is the most difficult allegation for a politician to handle. Like a slippery fish, the smell remains long after the fish has been disposed of.' And 'for the first time, Alex Salmond looked a whiter shade of pale.'¹³⁵

Ian Bell had a few questions of his own:

Why is our very first SNP government in such a mess over a mere American entrepreneur with a fascinating hairstyle? We were promised historic fights over free education, oil revenues and a referendum on the nation we aim to bequeath to our children. Instead, we have a First Minister apparently falling over his feet – in the scuff marks of Jack McConnell before him, never forget – because 'the Donald' fancies a new

¹³⁰ Eddie Barnes, 'Tories back vote on independence', *Scotland on Sunday*, 17 June 2007.

¹³¹ Allan Wilson, 'Time to call Salmond's bluff', *The Sunday Times*, 11 November 2007.

¹³² Hamish Macdonell, 'Kerr backs talks on independence poll', *The Scotsman*, 12 November 2007.

¹³³ Andy McSmith, 'SNP 'smells of sleaze' for backing Trump's golf course development', *The Independent*, 15 December 2007; see also *BBC News Online*, 'SNP Trump move 'smells of sleaze'', 13 December 2007, http://news.bbc.co.uk/2/hi/uk_news/scotland/north_east/7142344.stm

¹³⁴ *The Scotsman* (editorial), 'Trump dealings highlight need for probity', 14 December 2007; see also *Scotland on Sunday* (editorial), 'No Trump card for Salmond', 16 December 2007.

¹³⁵ John Knox, 'Rough times over 'sleaze' jibes', *BBC News Online*, 14 December 2007, http://news.bbc.co.uk/2/hi/uk_news/scotland/7144298.stm.

resort destination. (...) Are we to be a knowledge economy, or a let-me-take-your-bag, sir, economy? Do we need and value our somewhat-impressive coastline, in short, or do we lust for another top-notch cute place at which visitors can wear unsuitable trousers? And isn't this, all of it, the debate itself and the political consequence, a bit tawdry?¹³⁶

A week after Nicol Stephen's attack, the 'bitter political war of words over Donald Trump's £1bn golf resort plan escalated ... as First Minister Alex Salmond branded Liberal Democrat leader Nicol Stephen "unelectable".¹³⁷ The row, which has 'dogged' Salmond's government in the last week before the recess,¹³⁸ is to drag on, as Salmond will become the first First Minister 'to be summoned before a Holyrood committee in the new year to explain his role in the controversy.'¹³⁹

The Sheridan saga, too, will drag on. The ex-SSP leader was charged with perjury, after his house was searched and he was arrested on 16 December.¹⁴⁰

3.8 Review and Outlook

2007 has been 'an extraordinary year of blistering political change,' as Douglas Fraser summed up in December: 'This is an unprecedented era for new momentum, new alliances, new thinking and new possibilities.'¹⁴¹ And Peter MacMahon concurred: 'We are witnessing a fundamental change in the Scottish political paradigm.'¹⁴²

On BBC Newsnight on 21 December, a panel of journalists looked back at 2007, and ahead to 2008. In his introductory report Paul Mason saw Britain turned into a 'country of coalitions, deals and minority government.' For Fraser Nelson, of *The Spectator*, the SNP election victory was a 'huge event', having a nationalist party in charge in Scotland 'bound to break up the United Kingdom', and he predicted Salmond's strategy to hinge on a Tory government in London upon which he would create 'merry mayhem' on the constitution. October, according to him, was 'the month Brown lost', caving in to

¹³⁶ Ian Bell, 'Squabble for Trump's dollars speaks volumes', *The Herald*, 15 November 2007.

¹³⁷ 'Salmond attacks sleaze claim MSP', *The press and Journal*, 21 December 2007.

¹³⁸ Hamish Macdonell, 'Fresh blow for Salmond over Trump affair', *The Scotsman*, 21 December 2007.

¹³⁹ Louise Gray and Frank Urquhart, 'Salmond to be brought before MSPs to explain actions over Trump plan', *The Scotsman*, 21 December 2007.

¹⁴⁰ *BBC News Online*, 'Sheridan fury over perjury charge', 17 December 2007,

http://news.bbc.co.uk/2/hi/uk_news/scotland/7147481.stm.

¹⁴¹ Douglas Fraser, 'An extraordinary year of blistering political change', *The Herald*, 11 December 2007.

¹⁴² Peter MacMahon, 'So far, at least, the SNP is giving opponents a lot to chew over', *The Scotsman*, 13 November 2007.

Cameron's 'fantastic bluffing game'. The Tories had, he said, not been ready for an election, but Brown had 'imploded in a spectacular way' due to his 'indecision and blunders'.

Polly Toynbee (*The Guardian*) begged to differ: The SNP's victory was more about 'the break-up of the one-party state in Scotland,' she said on the same programme: a 'welcome and healthy' development. Salmond had been 'a breath of fresh air', and it had all 'gone very well so far.'

4. Public Attitudes and Elections

John Curtice

4.1 Attitudes towards devolution

4.1.1 Constitutional Preferences

Initial findings from the 2007 Scottish Social Attitudes (SSA) survey about what happened in the Scottish election in May were presented at a conference in Edinburgh on 31 October. These findings were based on 1,299 respondents interviewed up to the end of August. The final version of the survey will consist of some 1,500 interviews conducted through to the end of October.

It appears that the SNP's success in coming first in May was not the product of any increased support for independence. According to SSA just 23 per cent now back independence (either inside or outside the European Union); this is the lowest level of support for independence recorded by SSA since its question on constitutional preferences was first asked ten years ago (Figure 4.1). This decline in support is in tune with the findings of commercial opinion polls undertaken over the course of the election campaign, all of which recorded a fall in support for independence (see also September monitoring report).¹⁴³

However, the survey also casts some light on how the SNP managed to come first in May's election despite the fall in support for independence. The party was far more effective than previously at garnering the support of those in favour of independence. In 2003 only around half of those who favoured independence backed the SNP. In contrast, in 2007 no less than three quarters did so. Meanwhile, Labour lost ground most heavily amongst supporters of independence, while it actually gained ground amongst those who would prefer there not to be any parliament in Edinburgh at all (Figure 4.2).

Labour's attacks on independence during the election campaign may, it seems, have been successful in reducing support for independence. But at the same time they may also have helped to drive those who still favoured independence into the arms of the SNP. At the same time Alex Salmond's personal popularity (see section 4.5) and the

¹⁴³ This is discussed further in J. Curtice, *So where stands the Union now? The lessons of the 2007 Scottish Parliament election*, London: Institute for Public Policy Research, 2008.

SNP's apparent success in conveying the impression that it could govern at least as well as the previous Labour led administration (see section 4.6 below), may also have helped to persuade those inclined towards independence to vote this time for the SNP.

Figure 4.1: Constitutional Preferences (%)

Scotland should ...	May	Sept									
	1997	1997	1999	2000	2001	2002	2003	2004	2005	2006	2007
be independent, separate from UK and EU or separate from UK but part of EU	28	37	28	30	27	30	26	32	35	30	23
remain part of UK with its own elected Parliament which has some taxation powers	44	32	50	47	54	44	48	40	38	47	55
remain part of the UK with its own elected Parliament which has no taxation powers	10	9	8	8	6	8	7	5	6	7	8
remain part of the UK without an elected parliament	18	17	10	12	9	12	13	17	14	9	10

The two independence options, one where Scotland remains within the European Union (EU), and one that it does not, were offered to respondents separately. The first row of the table shows the combined total choosing either option.

Source: Scottish Election Study 1997; Scottish Referendum Study 1997; Scottish Social Attitudes Survey 1999-2007; Data for 2007 are provisional.

Figure 4.2: 2007 List Vote (and change since 2003) by Constitutional Preference (%)

List Vote	Constitutional Preference		
	Independence	Devolution	No Parliament
Con	3 (-1)	13 (-3)	40 (-11)
Lab	11 (-10)	41 (+6)	32 (+12)
Lib Dem	4 (-3)	17 (+1)	14 (+2)
SNP	76 (+25)	23 (+8)	4 (-5)
Other	6 (-11)	7 (-11)	10 (+2)

Source: Scottish Social Attitudes 2003 and 2007; Data for 2007 are provisional.

Nevertheless, there is a further paradox here. Although SNP support increased most amongst the supporters of independence, the party remains heavily dependent for its electoral success on those who do not want Scotland to become independent. Just under half (48 per cent) of those who voted for the SNP on the list vote in 2007 support independence, somewhat lower than the equivalent figure of 56 per cent in both 2003 and 1999. This fall has occurred because although SNP support only increased by eight points amongst supporters of devolution, such supporters are both more numerous than supporters of independence and have become yet more so since 2003. Evidently one of the potential pitfalls that faces the SNP minority government is that the more it pushes its case for independence, the more it may undermine its ability to maintain the coalition that helped bring it to power in 2007.

However, the one attempt that has been made during this period to chart the possible outcome of a referendum on independence suggests that the SNP may have had some success in recapturing some of the support for independence that was lost earlier in the year (Figure 4.3). In response to a question that mimics the wording of the referendum question proposed by the SNP, 40 per cent now say they would back independence. This is up five points on the position in August when the SNP government launched its 'national conversation', and only four points below the proportion saying they would vote against. Readers of previous reports in this series will be well aware that survey questions that simply pose a dichotomous choice for or against independence regularly register higher levels of support for independence than do those that give respondents a range of options between which to choose – and especially so if the meaning of 'independence' is not made clear. Nevertheless, the apparent rise in support for independence in recent months will keep alive the SNP's hopes that a successful spell of nationalist government might help persuade Scots to back independence.

Figure 4.3. 'The SNP have recently outlined their plans for a possible referendum on Scottish independence in future. If such a referendum were to be held tomorrow, how would you vote?' (%)

	<i>August 2007</i>	<i>Nov/Dec 2007</i>
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
I do not agree that the Scottish Government should negotiate a settlement with the government of the United Kingdom so that Scotland becomes an independent state.	50	44

Source: TNS System Three/Sunday Herald; 22/11-2/12/07

Indeed there continues to be plenty of evidence that even if they might wish to remain in the Union, many Scots would like to have a more powerful parliament than they feel they have at present. Around two thirds continue to support the broad proposition that the Scottish Parliament should have more powers – albeit with twice as many simply saying they agree with this proposition than saying they ‘strongly agree’. Moreover, in tune with many an opinion poll conducted during the election campaign, the internet based Scottish Election Study found that the most popular option (albeit backed by somewhat less than half) for Scotland’s constitutional future is to increase the powers of the Scottish Parliament while remaining within the Union (Figure 4.4). Just how radical those powers might be is revealed by figures from the Scottish Social Attitudes survey (Figures 4.5-4.7), which found that around two-thirds believe that responsibility for welfare benefits should be devolved, while well over half agree with the proposition that services provided in Scotland should be paid for out of taxes raised in Scotland, a proposition that often forms part of various proposals for ‘fiscal autonomy’ or ‘fiscal responsibility’. Only when it comes to defence and foreign affairs do a clear majority still want the UK government to be in charge. Scots may not want their country to be a formally independent state, but they evidently do feel it should have a very high degree of autonomy within the UK.

Figure 4.4: 'If there were a referendum and there was an additional option of greater powers for the Scottish Parliament, how would you vote?' (%)

Keep the Scottish Parliament with its existing powers	32
Keep the Scottish Parliament but give it greater powers	45
Make Scotland an independent state	24

Source: YouGov/Scottish Election Study (post-election wave). Those who said they would not vote excluded.

Figure 4.5: 'The Scottish Parliament should be given more powers.' (%)

	1999	2000	2001	2003	2005	2007
Agree strongly	14	23	20	13	17	22
Agree	42	43	48	46	47	44
Neither agree nor disagree	20	15	14	18	17	16
Disagree	18	12	13	17	13	14
Disagree strongly	4	5	4	6	5	3

Source; Scottish Social Attitudes 1999-2007. Data for 2007 are provisional.

Figure 4.6: 'Now that Scotland has its own parliament, it should pay for its services out of taxes collected in Scotland' (%)

	2001	2003	2007
Strongly agree	7	5	7
Agree	45	46	50
Neither agree nor disagree	18	16	15
Disagree	25	25	21
Strongly Disagree	3	4	3

Source; Scottish Social Attitudes 199-2007. Data for 2007 are provisional.

Figure 4.7: Who should make most of the important decisions for Scotland? (%)

<i>about...</i>	Scottish Parliament	UK Government
NHS	63	26
Schools	62	14
Welfare Benefits	64	18
Defence and Foreign Affairs	33	59

Source: Scottish Social Attitudes 2007. Data are provisional.

It would appear that, should it lead to significant proposals for 'increasing' the powers of the parliament, the decision by the three opposition parties jointly to establish a commission to review the powers of the Scottish Parliament (see section 10.5) could well strike a popular chord and represent a significant challenge to the SNP's hopes of

stimulating support for independence. It of course remains to be seen whether the opposition parties will commit themselves to holding a referendum on any new proposals produced by the commission – and whether in so doing they allow independence to be included as an option. This would in effect mean holding the multi-option referendum proposed by the SNP in the white paper that launched the ‘national conversation’.¹⁴⁴

Meanwhile, in tandem with the decline in support for independence registered by the survey, there are signs in the most recent Scottish Social Attitudes survey that people in Scotland have now become somewhat less likely to feel that their country is disadvantaged within the UK. For the first time since the advent of devolution people are just as likely to believe that Scotland’s economy benefits more from the Union as they are to say that England does (Figure 4.8).

Figure 4.8: Whose Economy Benefits Most from the Union? (%)

	2000	2001	2003	2005	2007
England	43	38	30	36	26
Equal	36	39	40	34	39
Scotland	16	18	24	21	27

Source: Scottish Social Attitudes 2000-7. Data for 2007 are provisional.

And although around a third still feel that Scotland gets less than its fair share of government spending, twice as many as believe the opposite, this is well down on around the half or so that had previously felt that way (Figure 4.9). (These interviews were of course obtained before the row about the public spending settlement in October, on which see section 8). Perhaps the continuing debate about the ‘Barnett formula’ has begun to impress upon Scots the apparent financial advantage they derive from the Union. Or perhaps the advent of a more robust government in Edinburgh that is willing to air its differences with London has helped to persuade people that Scotland’s interests can be defended within the Union after all. Either way, if sustained, this apparent change of attitude towards the Union would seem likely to make it more difficult for the SNP to promote public support for independence.

¹⁴⁴ *Choosing Scotland’s Future: A National Conversation: Independence and Responsibility in the Modern World*, Edinburgh: Scottish Government, 2007.

Figure 4.9: 'Compared with other parts of the UK, Scotland's share of government spending is...' (%)

	2000	2001	2003	2007
Much more than fair	2	2	3	3
Little more than fair	8	8	8	14
Pretty much fair	27	36	35	39
Little less than fair	35	32	35	25
Much less than fair	23	15	13	10

Source: Scottish Social Attitudes 2000-07. Data for 2007 are provisional.

4.1.2 Scottish Social Attitudes Core Module Reports

The apparent failure of the current devolution settlement to produce a parliament as powerful as many people in Scotland would like it to be was confirmed once more in the publication in November of data from the 2006 Scottish Social Attitudes survey that were funded by the Scottish Government.¹⁴⁵ Around two thirds say that the devolved institutions *ought to* have most influence over what happens in Scotland, but only around a quarter feels that it does so. However, that latter figure continues to grow, albeit slowly, suggesting that the devolved institutions are gradually making more impression upon the Scottish public (Figures 4.10-4.11).

Figure 4.10: Who ought to have most influence over the way Scotland is run? (%)

	2000	2001	2003	2004	2005	2006
Scottish Parliament/ Executive	72	74	66	67	67	64
UK government	13	14	20	12	13	11
Local councils	10	8	9	17	15	19
European Union	1	1	1	1	1	1

From 1999 to 2003: Answer codes referred to the 'Scottish Parliament'
From 2004 onwards answer referred to the 'Scottish Executive'

Source: Scottish Social Attitudes 2000-6.

¹⁴⁵ R. Ormston and C. Sharp, *Scottish Social Attitudes Survey 2006: Core Module: Report 1- Attitudes towards Public Services in Scotland*, Edinburgh: Scottish Government Social Research, 2007; R. Ormston R and C. Sharp, *Scottish Social Attitudes Survey 2006: Core Module: Report 2- Perceptions of Government in Scotland*, Edinburgh: Scottish Government Social Research, 2007. Both available at www.scotland.gov.uk.

Figure 4.11: Who has most influence over the way Scotland is run? (%)

	2000	2001	2003	2004	2005	2006
Scottish Parliament/ Executive	13	15	17	19	23	24
UK government	66	66	64	48	47	38
Local councils	10	9	7	19	15	18
European Union	4	7	5	6	8	11

2000 to 2003: Which of the following do you think *has* most influence over the way Scotland is run. Answer codes refer to 'Scottish Parliament'.

'2004: Which of the following do you think *has* most influence over the way Scotland is run. In one half of the sample answer codes referred to the 'Scottish Parliament', in the other half to the Scottish Executive. No difference was found between the two sets of results.

2005 to 2006: Which of the following do you think *has* most influence over the way Scotland is run. Answer codes refer to 'Scottish Executive'.

Source: Scottish Social Attitudes 2000-6.

There has also been a further consistent increase in the proportion who feel that the Scottish Executive rather than the UK Government have been responsible for recent trends in specific policy areas such as health and education.¹⁴⁶ Meanwhile, although they may not be regarded as being as powerful as they might be, the devolved institutions continually to be given relatively high marks for enhancing Scotland's voice within the UK (Figure 4.12). Just over two in five (43 per cent) feel that having the parliament has had this effect – whereas, for example, 26 per cent feel that it has increased the standard of the health service in Scotland and only 28 per cent that it has increased the standard of education.

Figure 4.12: Perceived Impact of Scottish Parliament on Scotland's Voice in the Union (%)

	2000	2001	2002	2003	2004	2005	2006
Made Voice Stronger	52	52	39	49	35	41	43
No difference	40	40	52	41	55	50	49
Made Voice Weaker	6	6	7	7	7	6	6

Source: Scottish Social Attitudes 1999-2006

One criterion on which the devolved institutions have long outscored the UK is the degree to which people trust them to work in 'Scotland' best interests'. As can be seen in Figures 4.13-4.14, this continues to be the case.

¹⁴⁶ Ormston and Sharp, *Core Report 2*, Table 7.

Figure 4.13: How much do you trust the UK government to work in Scotland's best long-term interest? (%)

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

Source: Scottish Social Attitudes

Figure 4.14: How much do you trust the Scottish Executive/Parliament* to work in Scotland's best interests? (%)

	1999	2000	2001	2002
Just about always	26	9	13	9
Most of the time	55	45	52	43
Only some of the time	14	34	29	34
Almost never	2	9	5	11
(Don't know)	-	-	-	-
(Not answered)	-	-	-	-
<i>Sample size</i>	<i>1482</i>	<i>1663</i>	<i>1605</i>	<i>1665</i>
	2003	2004	2005	2006
Just about always	10	9	10	8
Most of the time	52	43	46	43
Only some of the time	31	37	33	37
Almost never	4	10	7	8
(Don't know)	-	2	3	3
(Not answered)	-	*	*	-
<i>Sample size</i>	<i>1508</i>	<i>1637</i>	<i>1549</i>	<i>1594</i>

*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 to the responses given therefore the combined results are shown here.

Source: Scottish Social Attitudes

However, it is perhaps unsurprising that institutions whose responsibilities are confined to Scotland should be thought more likely to advance that country's interests than institutions which govern the UK as a whole. The figures certainly could not necessarily be regarded as evidence of a greater willingness to trust the devolved institutions in general. A question asked for the first time in 2006 (Figure 4.15) underlines that caution. While rather more people (32 per cent) are willing to trust the Scottish Executive 'a great deal' or 'quite a lot' 'to make fair decisions' than are willing to trust the UK Government

(23 per cent), at nine points the gap is much smaller than the equivalent gap (30 points) in respect of looking after Scotland's interests. Evidently the devolved institutions are not immune from the mood of scepticism towards politics and political institutions that has been widely detected in previous research.¹⁴⁷

Figure 4.15: Trust in UK and Scottish Government to 'Make Fair Decisions' (%)

How much do you trust the UK government to make fair decisions? By fair decisions I mean decisions that are fair to different groups of people in the UK.

How much do you trust the Scottish Executive to make fair decisions? (By fair decisions I mean decisions that are fair to different groups of people in Scotland)

	UK Government	Scottish Executive
A great deal	2	3
Quite a lot	21	29
Some	46	46
Not very much	23	15
Not at all	6	5

Source: Scottish Social Attitudes

4.2 National Identity

The 2007 Scottish Social Attitudes survey not only indicates that the SNP's success in May 2007 was not accompanied by any increased support for independence, but also suggests that it was not associated with any increased sense of feeling Scottish rather than British. Indeed, when forced to choose a single identity the proportion saying they are 'Scottish' rather than 'British' was lower in the 2007 survey than it has been in recent years (Figure 4.16). The same is true of the proportion saying they are 'Scottish, not British' in response to the Moreno national identity question (Figure 4.17). People in Scotland already clearly felt a stronger sense of attachment to their Scottishness than to their Britishness before the devolved institutions were established. The advent of devolution has simply left that picture unchanged.

¹⁴⁷ See, for example, C. Bromley, J. Curtice and B. Seyd, *Is Britain Facing a Crisis of Democracy?*, London: Constitution Unit, 2005.

Figure 4.16: Forced Choice National Identity (%)

	1974	1979	1992	1997	1999	2000	2001	2002	2003	2004	2005	2006	2007
Scottish	65	56	72	72	77	80	77	75	72	75	77	78	71
British	31	38	25	20	17	13	16	18	20	19	14	14	20

Sources: Scottish Election Studies 1974-1997; Scottish Social Attitudes Survey 1999-2007; Data for 2007 are provisional.

Figure 4.17: Moreno National Identity (%)

	1992	1997	1999	2000	2001	2003	2005	2006	2007
Scottish not British	19	23	32	37	36	31	32	33	26
More Scottish than British	40	38	35	31	30	34	32	32	30
Equally Scottish and British	33	27	22	21	24	22	22	21	28
More British than Scottish	3	4	3	3	3	4	4	4	5
British not Scottish	3	4	4	4	3	4	5	5	6

Sources: Scottish Election Studies 1992-7; Scottish Social Attitudes survey 1999-2007. Data for 2007 are provisional.

4.3 Other Issues

The 2007 Scottish Social Attitudes survey measured attitudes to a wide range of issues that were prominent during the election campaign (Figure 4.18). In many cases the controversy surrounding these issues reflected a near even division of opinion amongst the public. As a result a number of the distinctive policy stances taken by the SNP government are not necessarily overwhelmingly popular. For example only slightly more people (46 per cent) support the abolition of prescription charges than oppose it (41 per cent). Only just over half oppose the building of any new nuclear power stations. And those who oppose the renewal of Trident (41 per cent) are not far from being matched by the 34 per cent who support it.

Figure 4.18: Attitudes on Issues Prominent in the 2007 Scottish Election (%)

Please say how much you agree or disagree with the following statements.

- Britain was wrong to go to war with Iraq.
- Taxes on businesses should be cut to strengthen Scotland's economy.
- Under no circumstances should any new nuclear power stations be built in Scotland.
- All people aged over 65 should get a reduction in their council tax.
- Young people who cause trouble should be banned by law from going out at night.
- Nobody should have to pay prescription charges for medicine they need, even if they can afford to do so.

The UK government has decided to renew Trident, Britain's nuclear weapon system, when it comes to the end of its current life. Please say how much you agree or disagree with this decision.

	Agree strongly	Agree	Neither	Disagree	Disagree strongly
<i>Devolved issues</i>					
Cut business tax	11	45	23	13	1
No new nuclear power stations	21	30	17	24	6
Reduce Council Tax for 65+	42	45	4	8	*
Ban young people who cause trouble from going out	21	38	15	22	2
No prescription charges	11	35	13	38	3
<i>Reserved issues</i>					
Wrong to go to war	36	29	15	15	4
Renew trident?	5	29	19	25	16

Source: Scottish Social Attitudes 2007. Data are provisional.

However, although two-thirds favour reducing the council tax for those aged 65 and over (the policy stance taken by the Conservatives and, indirectly, by Labour), when asked whether local taxation should be based on income or property values, no less than 82 per cent said income – and thus by implication favour the introduction of a local income tax as proposed by the SNP together with the Liberal Democrats. This was one issue on which, in the public's view at least, Labour was clearly on the wrong side of the argument during the election campaign. Indeed, a YouGov poll conducted for the SNP at the end of November found that the interim local taxation measure implemented by the SNP government – a freeze on the council tax – was widely popular, being supported by 77 per cent of respondents. So also, according to this poll, is the decision (eventually) to

scrap prescription charges, which also attracted 77 per cent support.¹⁴⁸ Nobody of course likes paying taxes or charges, and few can be expected to indicate opposition to these measures in response to survey questions that do not (unlike the SSA question on prescription charges) mention any other considerations.

A major study of attitudes towards discrimination in Scotland, undertaken as part of the 2006 Scottish Social Attitudes survey, was published in December.¹⁴⁹ A follow up to a similar study conducted four years earlier,¹⁵⁰ it examined the incidence of discriminatory attitudes towards each of the six areas where anti-discrimination law now applies, viz., age, disability, gender, race, religion/belief, and sexual orientation, and analysed some of the reasons why people hold such attitudes.

In most cases, only a minority expressed a discriminatory point of view, as evidenced by the fact that less than three in ten believe that 'sometimes there is good reason to be prejudiced' (Figure 4.19). However, in the case of gypsies/travellers and transsexual people discriminatory attitudes were quite common; they were also often in evidence in respect of gay men and lesbians – although in this case (Figure 4.20)) such attitudes have become less common in recent years, aided perhaps by the legislation on civil partnerships. Meanwhile, although in general discriminatory attitudes towards religious groups are not frequently expressed, this is least true of Muslims, against whom discriminatory attitudes have become more common in the wake of the association of that religion with recent 'terrorist' incidents. Equally, although discriminatory attitudes were also less frequently expressed towards members of racial groups, rather greater hostility – including to those from Eastern Europe - was uncovered by questions that referred to a racial group as a whole rather than to individual members. In all these cases, the most important reason for expressing a discriminatory attitude seems to be concern about the 'cultural threat' thought to be posed by these groups.

¹⁴⁸ YouGov/SNP 28-30/11/07

¹⁴⁹ C. Bromley, J. Curtice and L. Given, *Attitudes to Discrimination in Scotland: 2006*, Edinburgh: Scottish Government Social Research, 2007.

¹⁵⁰ C. Bromley and J. Curtice, *Attitudes to Discrimination in Scotland*, Edinburgh: Scottish Executive Social Research, 2003.

Figure 4.19: Which of these statements comes closest to your view? (%)

	2002	2006
<i>Scotland should do everything it can to get rid of all kinds of prejudice</i>	68	65
<i>Sometimes there is good reason for people to be prejudiced against certain groups</i>	26	29

Source: Scottish Social Attitudes 2002, 2006

Figure 4.20: Attitudes on minorities (%)

	2002/2003	2006
<i>unhappy if close relative formed long-term relationship with a Muslim *</i>	20	24
<i>agree Scotland would lose its identity if more Muslims came to Scotland *</i>	38	50
<i>agree people from ethnic minorities take jobs away from other people in Scotland †</i>	20	27
<i>Sex between two men is 'always' or 'mostly' wrong †</i>	41	30
<i>Sex between two women is 'always' or 'mostly' wrong †</i>	40	29
<i>say a gay man or lesbian unsuitable as primary school teacher †</i>	27	21

* 2003 data. † 2002 data.

Source: Scottish Social Attitudes 2002, 2003 and 2006

A further report, also based on the 2006 SSA, examined attitudes towards homelessness.¹⁵¹ Distinctive legislation passed by the Scottish Parliament in 2001 and 2003 provides that relatively liberal provision should be made for homeless people, including not just those without a roof over their head, but also those living in unsuitable or insecure accommodation. Inter alia, this legislation envisages that by 2012 local authorities will no longer be able to concentrate their provision on those in 'priority need', while the distinction between those who 'intentionally' make themselves homeless and those who become homeless 'unintentionally' is less sharply drawn.

In many respects public opinion appears to be at odds with this policy stance. A majority of the public still think of homelessness as 'sleeping rough' - no less than 61 per cent take that view – although only around one in five believe most people become homeless

¹⁵¹ N. Cleghorn, L. Given and R. Ormston, *Scottish Social Attitudes Survey 2006: Public Attitudes to Homelessness*, Edinburgh: Scottish Government Social Research, 2007.

because of drink or drugs. While homeless people may be regarded with sympathy they can also be the object of criticism. So while 48 per cent feel that most homeless people have been unlucky in their lives, 45 per cent agree that 'most homeless people could find somewhere to live if they really tried'. Meanwhile six in ten believe that some homeless people, such as those with children or victims of domestic abuse, are more deserving of support than others, including those with drug or alcohol problems and those recently released from prison. However, there is majority support for providing help to certain kinds of people who would currently be regarded as 'intentionally' homeless, such as someone who has separated from their spouse/partner.

4.4 Party Fortunes

4.4.1 Holyrood Voting Intentions

Just one poll giving details of vote intentions for a Scottish Parliament election was published in this period (Figure 4.21). Commissioned by the SNP, it suggested that the party's spell in office is continuing to be popular. The 40 per cent share recorded for the party on the constituency vote was the highest ever recorded by YouGov, one point above the best figure recorded during the election campaign. However, the 34 per cent figure recorded for the party on the list vote is similar to the 33 per cent and 35 per cent recorded in two polls conducted by YouGov during the summer. It may thus be inadvisable to presume that the SNP has become yet more popular as opposed to simply maintaining its victory afterglow.

Labour's support is, however, clearly below the levels recorded in the summer – and indeed in the election in May. The poll was conducted just as allegations about the financing of Wendy Alexander's leadership campaign emerged, and while Labour across the UK as a whole was reeling from personal data loss and party funding revelations. It is thus difficult to tell how far the party's loss of support in this poll reflects reactions to events north of the border as opposed to developments across the UK as a whole.

Figure 4.21: Holyrood Voting Intentions (%) (constituency/list)

Fieldwork	Con	Lab	LibDem	SNP	Green	Others
28-30/11/07	12/13	29/26	13/13	40/34	-/9	6/6

Source: YouGov/SNP. Fieldwork conducted 28/30 November 2007.

4.4.2 Westminster Voting Intentions

What, however, is clear is that Labour's popularity in Scotland for a Westminster election has fallen precipitously during the course of the autumn – in line with the trend across Britain as a whole since the Prime Minister decided in October not to hold an early election. Two polls were conducted in Scotland in early October in anticipation of the possibility of an early general election (Figure 4.22). Although one of these put Labour support at an improbable 51 per cent, the other by YouGov, still suggested that the party could make some advance on the 39.5 per cent it secured in the last election in 2005. However by the end of November, support for the party was as much as ten points down on early October, much as it was by that stage in British polls.

The principal beneficiaries of Labour's misfortune appear to be the SNP who, apparently, would keenly contest first place in Scotland in a Westminster election in Scotland in any early poll. Evidently the contrast of a popular SNP government in Edinburgh and a faltering Labour one at Westminster constitutes a propitious set of circumstances for the nationalists. The Conservatives in contrast are still failing to emulate the progress made by the party south of the border. By the end of November the party was standing as high as 40 per cent in British polls, seven points up on its 2005 tally. In Scotland, in contrast, its support was still only 19 per cent, up just three points on 2005.

Figure 4.22: Westminster Voting Intentions (%)

Fieldwork	Con	Lab	Lib Dem	SNP	Others
27/9-2/10/07	11	51	10	22	6
1-4/10/07	18	42	11	27	3
28-30/11/07	19	32	12	32	4

Sources: Progressive/Daily Mail (first row), YouGov/SNP (second and third rows)

4.4.3 Local Government By-Elections

Two local by-elections were held during this period. Following the introduction of the single transferable vote for local elections in May, casual vacancies are now filled using the alternative vote. However, as it happened, in both cases the candidate with most first preferences was elected. Although in Helensburgh the Liberal Democrat candidate had

only a small first preference lead, he secured more transfers from the SNP and Independent candidates than did the Conservative, thereby enabling him to capture a seat that had previously been held by an Independent (Figure 4.23). As a result the Liberal Democrats now have two of the three seats in a ward where they win no more than a third of the vote. Meanwhile in Dundee the SNP retained a seat it already held.

Both by-elections were notable for the lack of significant change in the distribution of the first preference vote as compared with May. They thus confirm the impression from the polls that the SNP have maintained the popularity they enjoyed in May, while Labour have not made any recovery.

Figure 4.23: Local Government By-Election Results (%)

4/10/07 Argyll & Bute/Helensburgh & Lomond South	1 st preference vote	Change in 1 st preference vote since 2007
Conservative	29.6	+2.9
Labour	-	-
Liberal Democrat	30.3	-1.9
SNP	16.8	-1.5
Independent	23.3	+1.5

Turnout 37.4 (-19.1)

4/10/07 Dundee/Lochee	1 st preference vote	Change in 1 st preference vote since 2007
Conservative	3.8	-1.4
Labour	34.0	-2.8
Liberal Democrat	10.6	+3.9
SNP	48.9	+1.8
Solidarity	1.4	-1.7
SSP	1.3	+0.2

Turnout 29.2 (-23.2)

Sources: www.gwydir.demon.co.uk/byelections; www.alba.org.uk (Details of the full count are available at the latter site.)

4.5 Attitudes towards Parties and Leaders

4.5.1 Parties

One of the reasons why the SNP is to be more popular in Scottish Parliament elections than in Westminster ones is that the party is regarded as more likely to look after the interests of people in Scotland, and in a Scottish election such considerations have greater sway than they do in a Westminster election.¹⁵² The SNP maintained this advantage in 2007 (Figure 4.24). Indeed the proportion who felt that Labour looks ‘very closely’ after the interests of people in Scotland was even lower than it was in 2003. At the same time, just as SNP support rose most amongst those who back independence, so also it rose most heavily (from 30 per cent to 57 per cent on the list vote) amongst those who think the party looks after Scotland’s interests ‘very closely’. Once again, it seems as though the SNP’s success in May was achieved by mobilising more successfully the support of those who were already relatively well disposed towards the SNP and its views.

Figure 4.24: Attitudes Towards Political Parties (%)

Some people say that all political parties look after certain groups and are not so concerned about others.

Firstly, how closely do you think each of these parties look after the interests of Scottish people in general...

		Very closely	Fairly closely	Not very closely	Not at all closely	Don't know/ not answered
Labour party in Scotland	2003	13	55	22	4	5
	2007	7	57	26	5	4
SNP	2003	22	45	20	6	8
	2007	24	48	18	4	6
Conservative party in Scotland	2003	4	34	40	14	8
	2007	3	31	42	18	6
Liberal Democrats in Scotland	2003	8	48	29	7	8
	2007	4	51	31	8	6

Source: Scottish Social Attitudes 2003, 2007; Data for 2007 are provisional.

4.5.2 Leaders

¹⁵² See J. Curtice, ‘Is devolution succouring nationalism?’ *Contemporary Wales*, 14 (2001): 80-103; J. Curtice, ‘What makes Scotland want something different?’ in J. Ermisch and R. Wright (eds) *Changing Scotland: Evidence from the British Household Panel Study*, Bristol: Policy Press, 2005.

In tune with most polls taken during the election campaign the 2007 Scottish Social Attitudes survey confirms that the SNP leader, Alex Salmond, was much more highly regarded than the Labour incumbent as First Minister, Jack McConnell. However, the survey also confirms the impression provide by YouGov's polls (see previous monitor) that Jack McConnell was no less popular in 2007 than he had been in 2003 (Figure 4.25). The crucial difference in 2007 was that in Alex Salmond he was facing a far more formidable opponent than John Swinney had proved to be as SNP leader in 2003.

Figure 4.25: Attitudes Towards Political Leaders (%)

I am going to read you the names of some political leaders. Please rate each one on this scale where 0 means very bad and 10 means very good. If I come to a leader you haven't heard of or don't feel you know enough about, just say so.

*First, how good or bad a job do you think **Tony Blair** (has done/did) as Prime Minister. Again on this scale from 0 to 10, how good or bad a job do you think **Jack McConnell** did as First Minister?*

*And how good or bad a job do you think **Alex Salmond** will do as First Minister?*

*And how good or bad a job do you think **Nicol Stephen/Annabel Goldie** would do if he/she became First Minister?*

		2003	2007
Tony Blair	Poor (0-3)	18	24
	Middle(4-6)	39	36
	Good (7-10)	41	40
	Don't know	2	1
Jack McConnell	Poor	18	23
	Middle	48	44
	Good	20	23
	Don't know	14	10
Alex Salmond (2007)/ John Swinney (2003)	Poor	28	13
	Middle	31	35
	Good	7	39
	Don't know	33	12
Annabel Goldie (2007)/ David McLetchie (2003)	Poor	20	16
	Middle	30	33
	Good	8	16
	Don't know	42	35
Nicol Stephen (2007)/ Jim Wallace (2003)	Poor	17	10
	Middle	36	27
	Good	15	8
	Don't know	32	55

Source: Scottish Social Attitudes 2003; 2007. Data for 2007 are provisional.

Mr Salmond seems to have maintained his personal popularity since the election. YouGov's two private polls for the SNP both found that Alex Salmond had impressed the Scottish public in recent months to a far greater degree than any other party leader (Figure 4.26). Indeed, following Gordon Brown's political difficulties he even seems to impress the Scottish public to a greater degree than the Prime Minister. Asked in the November poll who was doing the better job, 50 per cent said Mr Salmond and just 22 per cent Mr Brown. In contrast when YouGov asked a similarly worded question in August, 40 per cent nominated Mr Brown and just 26 per cent Mr Salmond.

Figure 4.26: Attitudes Towards Current Party Leaders in Scotland (%)

(1) *On the basis of what you have heard since the Scottish election campaign which of these party leaders has impressed you most?*
 (2) *Thinking about the performances of the party leaders since the Scottish election in May who has impressed you the most?*

	(1)	(2)
Alex Salmond (SNP)	39	46
Wendy Alexander (Lab)	9	10
Annabel Goldie (Con)	9	9
Nicol Stephen	3	4
None/Don't Know	39	31

Source: YouGov/SNP; (1) 1-4/10/07; (2) 28-30/11/07

4.6 Retrospective Evaluations

The YouGov/Scottish Election Study survey contains what may well be a vital clue in explaining why the SNP were better able to win the votes of those who were already favourably disposed towards the party and towards independence (see sections 4.1.1 and 4.5.1). Although in many respects the record of the previous Labour led Executive was not regarded particularly unfavourably – only in the case of transport and law and order did those who felt it had performed badly clearly outnumber those who thought it had done well – it appears that in a number of areas the public thought that an SNP-led coalition would be capable of doing a better job (Figure 4.27). Not only was this true of transport and law and order, but also of the economy and the environment, while the SNP were also regarded as just as capable as Labour of running health and education. Voting for the SNP was apparently not just seen as a means of expressing support for independence or for upholding Scotland's interests – but also of securing effective government.

Figure 4.27: Retrospective Evaluations 2003-07 (%)

How well or badly would you say that the Scottish executive has handled [issue] over the last four years?

How well or badly do you think an SNP-led coalition WOULD have handled [issue]?

	Well	Neither	Badly
<i>Health</i>			
Executive	33	27	39
SNP coalition	36	32	32
<i>Education</i>			
Executive	36	32	32
SNP coalition	36	33	31
<i>Law and Order</i>			
Executive	24	36	40
SNP coalition	35	33	32
<i>Economy</i>			
Executive	32	40	29
SNP coalition	37	22	41
<i>Transport</i>			
Executive	26	35	39
SNP coalition	37	31	33
<i>Environment</i>			
Executive	31	41	29
SNP coalition	37	34	28

Source: YouGov/Scottish Election Study (pre-election wave).

Meanwhile, it seems to date that the public feel that so far that their hopes that the SNP would provide effective government have been fulfilled. In both the YouGov polls conducted for the party over the autumn (Figure 4.28), around three in five indicated that they thought the SNP government was performing well – albeit for most only ‘fairly well’ rather than ‘very well’. Even many of those saying they would vote for one of the opposition parties appear to have been reasonably impressed, although despite the tax cutting measures in the SNP’s budget and the expectation that the Conservatives would enable the administration to secure its passage in the New Year, Conservative supporters are the least impressed. Meanwhile the budget itself seems to have met with some approval, even though the total size of the financial settlement provided by the UK Government was heavily criticised by the devolved SNP government.

Figure 4.28: Evaluations since May 2007 (%)

Do you think the SNP Scottish Government/Executive is doing a good job or a bad job?

	All	Westminster Vote			
		Con	Lab	LD	SNP
Very good	11	3	3	5	36
Fairly good	49	43	46	57	59
Fairly bad	19	31	25	19	4
Very bad	8	13	10	5	0

Source: YouGov/SNP 1-4/10/07

The SNP has been in government in Scotland for just over 6 months. How do you think the SNP Government has fared so far?

	All	Holyrood Constituency Vote			
		Con	Lab	LD	SNP
Very well	14	2	1	8	36
Fairly well	49	39	45	52	59
Fairly badly	20	32	35	20	4
Very badly	6	14	9	10	0

Source: YouGov/SNP 28-30/11/07

At the beginning of November the Scottish Government laid out spending plans for the next three years. From what you know to what extent do you think the Scottish Government's spending plans will be good or bad for Scotland?

Good:	45
Bad:	17
They will not make much difference:	14
Don't know:	26

Source: YouGov/SNP 28-30/11/07

5. Intergovernmental relations

Alan Trench

5.1 General

Since September 2007, intergovernmental relations have continued in much the same way as they had since May. There has been no resurrection of the machinery for formal relations (the Joint Ministerial Committee in its various formats); while the 'Europe' meetings continue, and have reportedly become somewhat more charged and tense with the arrival of the SNP, no other formats have met and there has been no plenary meeting. This is despite clear attempts by the Scottish Government to have such meetings; the call for plenary JMC meetings, first made in May, has been repeated by the First Minister on several occasions, by a letter in August (apparently still not answered or even acknowledged by 10 Downing Street) and in November when the part-time position of the Secretary of State for Defence (also of course Scottish Secretary) came under fire from the Opposition at Westminster.¹⁵³ There have also been no British-Irish Council meetings since June. Even informal bilateral relations appear to have ground to a halt, with suggestions in the press just before Christmas that the First Minister and Prime Minister have not spoken since July, and the Scottish Government suggesting that Gordon Brown is 'stuck in a bunker'.¹⁵⁴ (Similar comments no doubt could have been made about communication between Jack McConnell and Tony Blair, as the Secretary of State for Scotland rather than the Prime Minister was the key point of contact in the UK Government. This episode may therefore indicate as much about Alex Salmond's desire to deal with the UK Prime Minister rather than a Scottish Secretary – and also the general uncommunicativeness of Gordon Brown as Prime Minister.)

There have been repeated instances of the Scottish Government taking actions that have caused a degree of annoyance or embarrassment in London. A notable example is question of police pay, with Scotland paying the 2.5 per cent increase in full from the September award date, but the UK Government only paying it from December for officers in England and Wales. The amounts of money involved were small, but

¹⁵³ R Dinwoodie 'Brown and Salmond "have not talked in months"' *The Herald*, 24 December 2007; 'Scrap Scotland Office, SNP urging', BBC News, 25 November 2007, available at <http://news.bbc.co.uk/1/hi/scotland/7111200.stm>

¹⁵⁴ Dinwoodie 'Brown and Salmond "have not talked in months"' op cit. see also 'PM Brown accused of snubbing Salmond' *The Herald*, 23 December 2007, available at www.theherald.co.uk/misc/print.php?artid=1924223

important for the UK Government to claim to be meeting its inflation targets.¹⁵⁵ The Scottish approach clearly embarrassed the UK Government, already under fire from the Opposition and the Police Federation. There have been other cases of similar low-level spats: over airguns, and whether powers to regulate them would be devolved, for example, or over the memorandum of understanding with Libya and the question of returning Abdelbaset al-Megrahi to Libya. There have also been evident difficulties over EU matters, such as renegotiation of the fishing quotas for 2008 at the December 2007 EU Fisheries council, although the Scottish Government (and Scottish fishing interests) appear to have been reasonably satisfied by the outcome.¹⁵⁶

Indications are that officials are finding it increasingly difficult to smooth the way when such issues arise, given the lack of political consensus from politicians in the two governments and a continued disjointed approach from Whitehall, at least at operational level. There have been some changes following the appointment of a Director-General, Devolution in the Ministry of Justice and Cabinet Office (reported in the July 2007 Scotland Devolution Monitoring Report). A Cabinet committee on the Constitution (CN), chaired by Jack Straw was established over the summer, and appears to meet fairly regularly (unlike many such committees), and is largely concerned with devolution matters although its formal remit is 'To consider constitutional affairs and citizenship.' In addition, another senior official has been appointed at Director level in the Cabinet Office to service that committee and deal with practical co-ordination of devolution issues across Whitehall. There are now about half a dozen staff in the Ministry of Justice and Cabinet Office working on the co-ordination of devolution, compared with about one and a half a year ago (and in addition to staff in the Wales and Scotland Offices).

A strategic concern to think through the present-day purpose of the Union – a matter reputedly of great interest to Gordon Brown – appears to have become important for a number UK ministers and officials over the last few months. However, to judge by the UK Prime Minister's performance before the Commons Liaison Committee on 13 December, this has paid little dividend. In his evidence, Brown continued simply to take a hard line, insisting on the value of a Union founded on economic interest and personal

¹⁵⁵ A neat discussion was that of Brian Taylor in his blog: see www.bbc.co.uk/blogs/thereporters/briantaylor/2007/12/a_fair_cop.html

¹⁵⁶ "'Fair" deal at fisheries summit', BBC News, 19 December 2007, available at http://news.bbc.co.uk/1/hi/uk_politics/7151243.stm; 'FISH: Scottish trawlermen welcome new Brussels deal' *The Herald*, 19 December 2007.

ties, emphasising the limited support for independence shown in opinion polls, and distinguishing devolution from federalism (without explaining how or why). Beyond this, however, he offered no rationale for the United Kingdom as it is presently constituted. Most telling was what he said regarding a possible 'British bill of rights', discussed in the *Governance of Britain* green paper published in August. Brown rejected any role for the devolved institutions in formulating such a bill, even though it would (presumably) be binding upon them, on the ground that the constitution is a reserved matter:

Where the powers have not been devolved to the Scottish Parliament or to the Welsh Assembly or indeed to the Northern Ireland Assembly, these are powers that Westminster continues to hold and acts in a way that is consistent with that. So the future of the issues that I am dealing with - there may be some but most of them are entirely within the province of the UK Parliament and have not been devolved.¹⁵⁷

5.2 The 'National Conversation' and the Parliament's 'convention'

The Scottish Government's 'national conversation' has continued since the publication of the white paper on independence in August, but in a low-key way. Some speeches by ministers have been linked to the National Conversation, but there have been no dedicated events connected to it and its main presence has been on the internet, where a sequence of ministerial statements on the Conversation's webpage has been the subject of comment by members of the public.¹⁵⁸ Part of the reason for such a low-key approach has undoubtedly been financial; the minority government has had to fund the Conversation so far through existing departmental budget allocations, and as budgets were mostly set some time ago it is simply difficult in practice to find money to support the Conversation. Another problem may, however, be a lack of clarity beforehand about what the National Conversation would involve, so that the announcement in August was in hope of subsequent developments rather than with them planned. Scottish Government officials say that 'phase 2' of the Conversation is due to be announced during the winter (probably in February), and may involve more significant activity, despite the financial constraint that still applies.

¹⁵⁷ House of Commons, *Minutes of Evidence taken before Liaison Committee: The Prime Minister Thursday 13 December 2007*, Uncorrected Transcript to be published as HC 192-I, Q. 45. Available at www.publications.parliament.uk/pa/cm200708/cmselect/cmliaisn/uc192-i/uc19202.htm For a discussion of the hazards of this approach, see A. Trench 'Brown's brave quest to define Britishness could backfire' *The Herald*, 13 July 2007.

¹⁵⁸ The website is at www.scotland.gov.uk/Topics/a-national-conversation

Meanwhile, the National Conversation now has to contend with a rival constitutional debate, organised under the aegis of the Scottish Parliament. On 6 December the Parliament approved a motion proposed by Wendy Alexander, setting up a 'constitutional commission' to prepare the way for a second constitutional convention to take place during 2008. This motion was supported by all three Unionist parties at Holyrood (Labour, Liberal Democrats and Conservatives), but deliberately excluded the SNP and was described by Annabel Goldie as the most important debate ever staged at the Scottish Parliament.¹⁵⁹ There has been considerable debate about whether this approach amounts to a mortgaging of Labour's platform to the Conservatives (because of the need for Tory support), or of the Tories indicating their lack of original thinking by signing up to a Labour initiative.

The Parliament's vote was presaged by a speech Ms Alexander gave at Edinburgh University on St Andrew's Day.¹⁶⁰ In this, she emphasised the value of the Union to Scotland and public support for it, while suggesting that the original proposals of the Scottish Constitutional Convention in the 1990s had been framed in the expectation that they would be subject to negotiation with the UK Government before being enacted, but were flawed because in 1997 they were simply adopted by the incoming Labour government as the basis for its white paper and later the Scotland Act 1998. She also hinted that existing powers could be 'undeveloped' from Holyrood as well as new ones transferred to it, in the interests of the whole United Kingdom (without acknowledging the mechanisms that already exist for this in the Scotland Act 1998). She also stressed that the commission should 'have a strong UK dimension', including parties and parliamentarians from Westminster, and 'be open, consensual and thorough' (despite the exclusion of the SNP from it), drawing on expertise from business people, the voluntary sector and academia as well from the public at large through citizens' juries and listening events. A particular focus of the speech was finance, with emphasis on 'the three Rs' of resource, revenue and risk sharing, and the suggestion that a devolved Scotland should consider other financing arrangements, including assigned and wholly devolved taxes as well as a block grant, to improve financial accountability and create incentives to 'take the right decisions'. This should be considered by a specialist panel on Finance and Economics within the Convention. A further strand of Alexander's

¹⁵⁹ See Douglas Fraser, 'Tories & LibDems back Labour over constitutional commission' *The Herald*, 7 December 2007.

¹⁶⁰ Available at www.scottishlabour.org.uk/a_new_agenda_for_scotland

thinking, overlooked in much of the immediate discussion of her proposals, is the need to consider UK-wide dimensions of social citizenship, including such common services and benefits as 'access to the main elements of the welfare state – social security and pensions, access to healthcare free at the point of need and free schooling'.

The speech ends up being a curious mixture of high-minded policy thinking and brutal party politics. In important respects it departs from the Labour's party's established positions, notably on changing the Barnett formula and changing the powers of the Scottish Parliament. The speech had apparently been discussed at very high levels of the Labour leadership in London, so should not be treated as the views of Ms Alexander alone but of the Labour party as a whole. The discussions of financial matters and social citizenship suggest that aspects of ongoing academic debates have found their way into Alexander's thinking. However, the idea of a convention excluding the largest single party in Scotland, and the building of direct links between the Scottish and UK Parliaments (and implicitly the UK Government, but bypassing the Scottish Government) to discuss such matters is an attempt to locate constitutional debate in those arenas where Labour dominates and away from those it does not. Whatever its immediate political advantages, this approach is unlikely to improve the tone or substance of constitutional debate.

Alexander's has not been the only important speech on the future of the Union made in the last few weeks. First in the list was Alistair Darling, whose Andrew Williams Memorial Lecture at Stirling University was a hardline repudiation not of just of calls for Scottish independence (particularly but not only on financial grounds), but even for a debate about it.¹⁶¹ Others include ones by David Cameron in Edinburgh on 9 December, repudiating English nationalism and 'the ugly stain of separatism' and emphasising the importance of the Union – 'better an imperfect Union than a broken one'; and by Rhodri Morgan, First Minister of the Welsh Assembly Government, at Edinburgh University following his visit to meet Alex Salmond on 7 December.¹⁶² Morgan emphasised the distinctive character of devolution in Wales, the asymmetric character of the UK as a

¹⁶¹ See C MacLeod 'Darling warns against conflict on constitution' *The Herald* 9 November 2007, available at www.theherald.co.uk/search/display.var.1820366.0.darling_warns_against_conflict_on_constitution.php

¹⁶² Cameron's speech is available at www.conservatives.com/tile.do?def=news.story.page&obj_id=141137&speeches=1 ; a report of Morgan's at <http://icwales.icnetwork.co.uk/news/politics-news/2007/12/08/textbook-style-devolution-not-the-welsh-way-says-morgan-91466-20222298/>

result, and the role of the constitutional commission being set up under the chairmanship of Sir Emyr Jones Parry in determining how far Welsh public opinion wished to pursue something that was not secession and was not federalism. Finally, on 12 December, the First Minister gave the Playfair Lecture to mark the fortieth anniversary of Edinburgh University's Europa Institute, a speech used to advance the National Conversation by emphasising the advantages to Scotland (in tangible as well as constitutional terms) from the stronger voice that independence would bring.¹⁶³

5.3 Relations with other devolved administrations

On 7 December, there was a private meeting between the First Ministers of Scotland and Wales. The invitation from Alex Salmond to Rhodri Morgan had been made some time ago, but the meeting had been delayed because of the political (mainly party-political) sensitivities involved. There were clearly a number of difficult points in the meeting, and Morgan was keen to balance it with speaking engagements and also a meeting with his party colleague Wendy Alexander at Holyrood.¹⁶⁴ He also sought in comments afterwards to suggest common ground between the constitutional review processes underway in Wales (a 'constitutional commission' to prepare the way for a constitutional convention and subsequent referendum on primary legislative powers for the National Assembly, and a separate commission to consider the Barnett formula and financial matters), and the Parliament's proposed constitutional commission – a pooling of academic expertise and the like. (This may underestimate the problems some academics may experience in seeking to act impartially in an increasingly polarised situation.)

There have been few public developments in bilateral relations between Scotland and Northern Ireland since the First Minister's visit to Belfast in June. In particular, there has been no progress on the idea mooted there of treating students from Northern Ireland studying at Scottish universities in the same way as students from Scotland as regards tuition fees.

¹⁶³ The speech is available at www.scotland.gov.uk/News/This-Week/Speeches/First-Minister/Visionscoteu

¹⁶⁴ See <http://news.bbc.co.uk/1/hi/scotland/7132605.stm>

5.4 Comprehensive Spending Review

One of the major events of the last few months has been the completion of the UK Government's Comprehensive Spending Review, announced with its Pre-Budget Report on 9 October. This is discussed further in section 8.

5.5 Adjusting the devolution settlement

Two Orders adjusting the devolution settlement have been made since August. The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2007, SI 2007 No. 2915, transfers to the Scottish Ministers powers under the Regulation of Investigatory Powers Act 2000 to issue warrants for the interception of communications relating to serious criminal investigations (which is a devolved matter). The Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (Powers of District and JP Courts) Order 2007, 2007 No. 3480, confers on district and JPs' courts in Scotland powers to impose driving disqualifications and licence endorsements, following reform of the lower level of courts by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007. Powers relating to driving licences etc. are reserved matters otherwise.

6. European and International Affairs

Peter Lynch

6.1 Commonwealth Games

The major development in European and international affairs in this reporting period was the granting of the Commonwealth Games to Glasgow for 2014. Glasgow was in direct competition with Abuja in Nigeria, as Halifax, Nova Scotia had pulled out of the race much earlier due to cost considerations. Attracting the Commonwealth games – as well as other international events – had been a major goal of the previous Scottish Executive, under both Henry McLeish and Jack McConnell. Glasgow's bid was successful, winning 47 votes to 24 at the selection meeting in Sri Lanka on 9 November. The success was quite popular in Scotland, amongst both the sporting community and the public, with an estimated cost of £288m, with some of the costs limited through use of existing facilities such as Glasgow's football stadia. On 12 November, the Scottish government published a draft bill for the Commonwealth games. The bill sought to give powers to the Commonwealth organising committee to deal with advertising, logos, ticketing, traffic measures, land purchase and financial support from the government to the games itself.¹⁶⁵

6.2 Europe

In September 2007, the Minister for Europe and External Affairs Linda Fabiani set out the government's priorities for policy towards the European Union. Fabiani identified 5 priorities, linked to the government's own strategic goals: a wealthier and fairer Scotland, a greener Scotland, a safer and stronger Scotland, a healthier Scotland and a smarter Scotland. Fabiani identified six main European priorities – fisheries and aquaculture; EU treaty reform; the EU budget review; justice and home affairs; EU energy policy; and agriculture; with the promise of a government strategy document on Europe at the start of 2008.¹⁶⁶ The government's objectives in this area were promoted at the Joint Ministerial Committee on Europe on 2 October 2007 as well as to the European Commission on 1 October. The main proposal – and a fairly obvious one from an SNP government – is for Scottish representation in the Council of Ministers in relation to EU

165. Scottish Parliament (2007), Glasgow Commonwealth Games bill (SP4), at: www.scottish.parliament.uk/s3/bills/04-GlasgowCommGames/index.htm

166. Scottish Government News Release, 18 September 2007.

Fisheries negotiations, with a demand for exclusive Scottish competence over marine biological resources in relation to EU treaty reform.¹⁶⁷ Whilst such proposals are entirely expected of the SNP, the government sought to take a more pro-active approach to the fisheries issue through proposing to establish an expert committee to examine fish conservation management in addition to committing the government to oppose the EU reform treaty as well as the Common Fisheries Policy.¹⁶⁸

6.3 Scotland and the USA

The First Minister visited the USA in October 2007, primarily as a business trip to seek to improve economic links between the two countries, visiting the NYSE and major companies that invest in Scotland. The FM also sought to use the occasion to promote Scotland through a number of media interviews and a speech to the Council of Foreign Relations in New York.¹⁶⁹ Later in October, the Scottish government appointed a new representative in Washington DC. The First Secretary was now styled as the Scottish Government Counsellor in North America, with the task of managing diplomatic relations, coordinating the work of Scottish Development International and VisitScotland. The new counsellor is Robin Naysmith, who was previously Principal Private Secretary to the First Minister from 2005 onwards, after a career in the civil service in Whitehall and Scotland.¹⁷⁰

6.4 European and External Relations Committee

The new European and External Relations Committee set out its work programme on 4 September 2007.¹⁷¹ The committee suggested a quite general work programme, examining the EU priorities of the Scottish government and its review of existing international strategies and partnership agreements (these have been covered extensively in previous monitoring reports). The committee sought to examine two specific activities. First, it appointed a team of reporters (Irene Oldfather, Alex Neil and Iain Smith) to advance the previous committee's recommendations from its report into the scrutiny of European legislation. Second, it proposed to take evidence in relation to the government's National Conversation on Scotland's constitutional future.

167. Scottish Government News Release, 2 October 2007.

168. *The Herald*, 13 December 2007.

169. Scottish Government News Release, 11 October 2007.

170. Scottish Government News Release, 30 October 2007.

171. Scottish Parliament European and External Relations Committee (2007), *Work programme*.

7. Relations with Local Government

David Scott

7.1 Concordat

A historic change in the relationship between local and central government was achieved when the Cabinet Secretary for Finance, John Swinney¹⁷² announced the first budget of the minority SNP government. He unveiled details of a concordat¹⁷³ struck between the Scottish Government and the Convention of Scottish Local Authorities (COSLA). The document, produced after several weeks of negotiation between Mr Swinney and the COSLA leadership, set out the terms of a new relationship between the Scottish Government and COSLA ‘based on mutual respect and partnership.’ It pointed out that the new relationship was represented by a package of measures that had been agreed ‘within a tight financial context.’

Included in the package was a commitment that the Scottish Government would not undertake a structural reform of local government during the term of the current Parliament. There would be a move towards a single outcome agreement for every council and an undertaking that there would be less control over local government from the centre including a reduction in the level of regulation and a reduction in ring fenced specific grants.

The document identified a specific set of commitments. The most controversial of these was the requirement for local government to freeze council tax rates in each council at 2007-08 levels. A council tax freeze was one of the key policies of the SNP manifesto for the May 2007 elections. It was promised as a first step towards a ‘fairer’ form of local taxation – the introduction of a local income tax. Ministers maintained that the council tax freeze should be possible because of the levels of funding they are providing for local government. As stated in the concordat, the Scottish budget will provide a total of £34.7bn for local government over the period 2008-09 to 2010-11. Within the total, there is significant growth in capital resources, rising by 13 per cent in 2008-09 and by a similar amount up to 2010-11. A total of £2.9bn is being provided over the period to

¹⁷² Scottish Government Press release with link to minister’s speech, 14 November 2007
www.scotland.gov.uk/News/Releases/2007/11/14081839

¹⁷³ Concordat between Scottish Government and local government, 14 November 2007
www.scotland.gov.uk/Publications/2007/11/13092240/concordat

secure investment in local government infrastructure such as schools, flood prevention measures, roads, waste management and police and fire services. There will be additional funding for a new tram system in Edinburgh.

In his budget statement, Mr Swinney said a key part of the budget was the development of a new and constructive relationship with local government in Scotland. It represented a 'historic opportunity for national and local government to develop a cohesive agenda – an agenda of common purpose – that will improve the lives of the people of Scotland.' The minister announced that as part of the historic agreement, he was putting in place the resources 'to deliver a freeze in the council tax, just as we promised we would do.'

In a response to the statement, Councillor Pat Watters, President of COSLA,¹⁷⁴ said the budget statement 'signalled the start of 'a new relationship between the two spheres of government in Scotland' COSLA's job was to get the best possible deal for its member councils. 'That has been our key objective throughout the negotiations and this is something I feel we have achieved', Cllr Watters said.

The agreement and, in particular, the commitment to a council tax freeze, does not have unanimous backing in COSLA. As a Labour councillor, Cllr Watters faces a difficult task in trying to secure a united front within his organisation. Following the May elections, there are now more SNP councillors than Labour members though this is not reflected in the Convention, the ruling body for policy and direction. The political make-up of the Convention is: 45 Labour; 39 SNP; 19 Scottish Liberal Democrat; 16 Independent and 9 Conservative.

There was some confusion over the outcome of a meeting of council leaders when they debated the spending review at a private session of their meeting on 16 November. *The Herald* reported that council chiefs from all 32 councils in Scotland endorsed the concordat.¹⁷⁵ BBC Scotland reported that a deal to freeze council tax for a year had been agreed unanimously by Scotland's local authority leaders. However, *The Scotsman* stated that council leaders had refused to endorse the deal negotiated with ministers by

¹⁷⁴ COSLA news release, 14 November 2007

www.cosla.gov.uk/news_story.asp?leftId=10001E4DF-10766761&rightId=10001E4DF-10771446&hybrid=false&storycode=10001DD1F-16026715

¹⁷⁵ Robbie Dinwoodie 'Political coup for Swinney as councils all signs up to agreement for a tax freeze', *The Herald*, 16 November 2007.

their own leadership to freeze council tax.¹⁷⁶ In a later article the newspaper questioned whether a deal had been reached, saying there seemed to be contradictory messages over the SNP's plans.¹⁷⁷ One of the issues causing concern is the Scottish Government's provision of £70m in its local government funding settlement for the benefit of those councils agreeing to a council tax freeze. Councils which increase the tax will not qualify for a share of the £70m allocation. Councils are due to make final decisions on their budgets and council tax figures in February 2008.

7.1.1 Local government finance settlement

The local government finance settlement, detailing the spending allocations for each individual council, was announced on 13 December.¹⁷⁸ The settlement details the amounts each councils will receive over the three year period from 2008-09 to 2010-11. Announcing the settlement in the Scottish Parliament,¹⁷⁹ Mr Swinney said an additional £37m in 2008-09; £34m in 2009-10 and £34m in 2010-11 had been added to the sums he had already announced. This related mainly to additional specific grant funding, police loan charge support and funding from the Department of Work and Pensions for 'Supported Employment'.

Taking into account the changes, the overall local government settlement provided for £11.2bn for 2008-09, £11.6bn in 2009-10 and £12bn in 2010-11. Mr Swinney said: 'Those sums represent very considerable increases in local government funding. It means that by 2010-11 funding will have increased by £1.4bn or 12.9 per cent from the equivalent amount in 2007-08. That uplift has been achieved despite our receiving from the UK Treasury the tightest settlement since devolution.'

There would be further additional funding for local government, to be confirmed in due course, including for the Edinburgh tram project and transfers from the enterprise budget in respect of Business Gateway.

¹⁷⁶ P. MacMahon 'COSLA refuses to endorse deal', *The Scotsman*, 17 November 2007
<http://thescotsman.scotsman.com/politics/COSLA-refuses-to-endorse-deal.3538202.jp>

¹⁷⁷ P. MacMahon 'Deal or no deal on council tax?', *The Scotsman*, 22 November 2007
<http://thescotsman.scotsman.com/politics/Deal-or-no-deal-on.3539777.jp>

¹⁷⁸ Scottish Government, 'Local government finance settlement 2008-11, Scottish Parliament, 13 December 2007.

¹⁷⁹ John Swinney, statement to Scottish parliament, 13 December 2007,
www.scotland.gov.uk/News/This-Week/Speeches/Weather-and-Fairer/la-finance

The minister said revenue funding, which made up the majority of the local government settlement, would amount to £10.2bn in 2008-09 – a 4.2 per cent increase on the equivalent 2007-08 figure. In 2009-10, it would increase by a further 4.3 per cent to £10.6bn; and in 2010-11 by a further 3.7 percent to just over a £11bn. Overall, revenue funding input was being increased by 12.7 per cent across the period. A detailed breakdown of the settlement showing the government funding levels for all 32 councils is given in Scottish government circulars.¹⁸⁰

7.2 Crerar Report

An independent report into the number of regulatory bodies scrutinising local government and other public services was published by the Scottish government.¹⁸¹ The review committee, chaired by Professor Lorne Crerar, proposed a radical reduction in the number of audit, inspection and regulatory bodies and suggested that, ultimately, there might be a case for a single scrutiny body for Scotland.

As the report pointed out, there are currently 43 regulatory bodies involved in the inspection and scrutiny of public bodies. Eleven new regulatory bodies and commissioners, or ‘tsars’, responsible for areas like parliamentary standards, information, children and young people and public appointments, have been created since devolution in 1999.

The Crerar report put forward 41 recommendations to improve the role of scrutiny within the public sector. The proposals included a request that ministers should carry out an assessment aimed at reducing scrutiny activity and, in the longer term, creating a single scrutiny organisation. Meantime, it was suggested that scrutiny bodies should collaborate to eliminate duplication and co-ordinate activity. The report also proposed that the voice of service users should be strengthened to develop ‘more outcome focused public services’ and that the Scottish Public Services Ombudsman should oversee all public service complaints handling systems.

¹⁸⁰ Scottish Government, local government finance settlements 2008-11, 13 December 2007, www.scotland.gov.uk/News/Releases/2007/12/13144512

¹⁸¹ The Crerar Review: the report of the independent review of regulation, audit, inspection and complaints handling of public services in Scotland, 25 September 2007, www.scotland.gov.uk/Publications/2007/09/25120506/0

Commenting on the proposals,¹⁸² Prof Crerar said all the public bodies he spoke to agreed that scrutiny was important. He stated that those responsible for providing services, however, were critical of the current burden they perceived to exist, with many suggesting that the costs outweighed the benefits. Having undertaken a wide-ranging review, he was in no doubt that a more efficient, consistent and transparent assessment of public services was needed.

The plans were widely welcomed. The President of COSLA, Cllr Pat Watters, was reported¹⁸³ as saying that many of Crerar's recommendations reflected the views of COSLA and local authority chief executives. 'We are particularly pleased with the recommendation about the need to reduce the burden of external scrutiny whilst at the same time making the scrutiny process more relevant to service users.'

During a debate in the Scottish Parliament, the proposals were also welcomed by MSPs.¹⁸⁴ They approved a motion by Mr Swinney welcoming the Crerar review work commissioned by the previous administration, and noting the 'broad principles of a simplified scrutiny landscape with a proportionate, co-ordinated and risk-based approach as set out in the review.' The motion called on the Scottish government to carefully consider the review before returning to the Parliament with further proposals to take forward its conclusions.

Some doubts later emerged about whether there will be government backing for the eventual creation of a single scrutiny body. One report suggested that ministers were opposed to the idea of merging the existing 43 regulatory bodies into a single organisation.¹⁸⁵

7.3 Planning application

One of the most controversial planning applications to be considered in Scotland in recent years has been Donald Trump's golf resort application (see section 2.1). After

¹⁸² Scottish Government Press release 'Scrutiny of public services' 25 September 2007, www.scotland.gov.uk/News/Releases/2007/09/25100927

¹⁸³ P. MacMahon 'Support grows for Crerar proposals on public sector scrutiny', *The Scotsman*, 28 September 2007, <http://thescotsmen.scotsman.com/politics/Support-grows-for-Crerar-proposals.3331130.jp>

¹⁸⁴ Scottish Parliament, Official Report, 3 October 2007.

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1003-02.htm#Col2330

¹⁸⁵ P. MacMahon 'Swinney is expected to reject super-inspectorate plan suggested by recent Crerar report', *The Scotsman*, 5 October 2007

<http://thescotsmen.scotsman.com/politics/Swinney-is-expected-to-reject.3466017.jp>

Aberdeenshire Council's infrastructure services committee rejected the application, on the casting vote of its chairman, Martin Ford,¹⁸⁶ the application was 'called in' by the Scottish Government.¹⁸⁷

It was claimed that major investment into Scotland would be badly hit if the application was turned down. Cllr Ford, a committed environmentalist, argued that the tactics employed by the Trump organisation were in danger of undermining the planning system in Scotland.¹⁸⁸ The council leader, Cllr Anne Robertson,¹⁸⁹ welcomed the call-in decision, saying the Scottish government quite rightly felt the application raised issues of such importance that they required scrutiny at national level.

At a special meeting of the full Aberdeenshire Council held to examine the procedures for dealing with planning applications,¹⁹⁰ Cllr Ford was dismissed from his post as chairman of the infrastructure services committee. The councillor argued that he had acted in accordance with normal constitutional practice. At the same meeting,¹⁹¹ the council expressed its full support for the application, even though it no longer had responsibility for making a final decision. Councillors agreed to begin the process of amending the council's scheme of delegation so that future applications of regional and national importance could be decided by all members of Aberdeenshire Council. Business leaders in Scotland called for a 'culture of change in the planning system.'¹⁹²

As the controversy raged on, the First Minister, Alex Salmond, came under attack over his own role in the affair. Mr Salmond made it clear at the outset that in view of his interest in the issue as the MSP for the area (Gordon constituency) he would play no role in the decision to be taken following the calling in of the application. The decision

¹⁸⁶ Aberdeenshire Council Press release 'Councillor refuse planning permission for Trump development', 29 November 2007, www.aberdeenshire.gov.uk/news/release.asp?newsID=593

¹⁸⁷ Louise Gray '£1 billion golfing resort is still alive after ministers call in Trump plan' *The Scotsman*, 5 December 2007, <http://thescoatsman.scotsman.com/scotland/Salmond-is-urged-to-come.3588836.jp>

¹⁸⁸ Frank Urquhart 'Rejecting Trump's golf resort would deter global investment in Scotland', *The Scotsman*, 6 December 2007.

¹⁸⁹ Aberdeenshire Council Press release 'Trump application called in by Ministers', 4 December 2007, www.aberdeenshire.gov.uk/news/release.asp?newsID=601

¹⁹⁰ Graeme Smith, 'Councillor who cast deciding vote on Trump's golf resort is sacked', *The Herald*, 13 December 2007,

¹⁹¹ Aberdeenshire Council Press release 'Council shows support for Trump application' 12 December 2007. www.aberdeenshire.gov.uk/news/release.asp?newsID=601

¹⁹² Simon Bain 'Business leaders call for a culture change in the planning system' *The Herald*, 31 December 2007.

would be taken by John Swinney, the Cabinet Minister for Finance and Sustainable Growth.¹⁹³

The SNP, however, was accused of hypocrisy and asked to explain a meeting Mr Salmond had held with Mr Trump ahead of the application being called in.¹⁹⁴ On 20 December, Mr Swinney issued a statement along with answers to parliamentary questions, concerning the decision to call in the application.¹⁹⁵ It was announced in the same statement that the Permanent Secretary, Sir John Elvidge, had written a letter to Mr Swinney stating that he was satisfied there was no impropriety by any civil servants involved in the case.

7.4 Elections

The Gould Report, into the spoilt ballots problems that afflicted the May 2007 parliamentary and local government elections recommended that, in future, the two elections should be 'decoupled' and held on separate dates.¹⁹⁶ Other recommendations included the appointment of a Chief Returning Officer for Scotland (CRO); the use of separate ballot papers instead of combining the Scottish parliamentary ballot papers on one sheet, the ending of overnight counts, the proper integration of electronic counting into the electoral process and a requirement that the names of political parties, rather than descriptions, should appear first on all regional ballot papers for Holyrood.

As the report pointed out, one of the more controversial issues in the period prior to the elections on 3 May was whether the parliamentary and local government elections should have been combined on the same day. The report acknowledged that combining the elections is not without benefits. Such an approach was regarded as being less costly in terms of financial and human resources. There is also strong evidence that a

¹⁹³ Martin McLaughlin '£1 billion golfing resort is still alive after ministers call in Trump plan', *The Scotsman*, 5 December 2007, <http://thescotsmen.scotsman.com/aberdeen/1bn-golfing-resort-is-still.3587282.jp>

¹⁹⁴ John Ross 'SNP accused of hypocrisy as Salmond is urged to explain Trump meeting', 12 December 2007, <http://thescotsmen.scotsman.com/scotland/SNP-accused-of-hypocrisy-as.3589519.jp>

¹⁹⁵ Scottish Government Press release 'Proposed golf resort in Aberdeenshire', www.scotland.gov.uk/News/Releases/2007/12/20091903

¹⁹⁶ Electoral Commission 'Independent review of the Scottish Parliamentary and local government elections, 3 May 2007', www.electoralcommission.org.uk/elections/scotelectionsreview.cfm

See also: Hamish Macdonell 'Poll fiasco: Alexander must resign', *The Scotsman*, 24 October 2007, <http://thescotsmen.scotsman.com/politics/Poll-fiasco-Alexander-must-resign.3473414.jp>; Douglas Fraser 'Why the voters were treated as an afterthought in election fiasco', *The Herald*, 24 October 2007.

higher turnout can be achieved when local government elections are held at the same time as those for the Scottish Parliament.

The report concluded, however, that combined elections are not only a disservice to local councils and candidates but also to the electorate as well. It pointed out that local government elections are not simply about ensuring a reasonable number of voters show up at the polls on polling day. It was more important that voters engage with the campaign in a meaningful manner and make a knowledgeable decision on the ballot paper. The report recommended separating the two elections, preferably by a period of about two years.

The report was welcomed by local authorities. Cllr Pat Watters, of COSLA,¹⁹⁷ said its long standing position was that the two elections should be separated. COSLA believed this would increase the proportion of valid votes cast, particularly because of the complexities of the new PR voting system. It would also serve democracy and citizens better by removing the 'shadow' that parliament cast over local campaigning.

The Minister for Finance, John Swinney,¹⁹⁸ was reported as saying he would take forward early discussions with COSLA to examine the practical issues involved in decoupling the elections before going back to parliament and parliamentary committees for further consideration.

7.5 Housing

The Scottish Government published a discussion document¹⁹⁹ aimed at giving first time buyers and tenants a better deal. Proposals included challenging local authorities, developers and builders to increase the rate of new housing supply in Scotland to at least 35,000 a year by the middle of the next decade; using financial incentives to increase the role of councils as landlords; ending the Right to Buy on new social housing built by councils and housing associations; and establishing a Scottish Sustainable Communities initiative.

¹⁹⁷ COSLA Press release, 'COSLA President welcomes Gould review', 23 October 2007, www.cosla.gov.uk/news_story.asp?leftId=100019391-10766761&rightId=100019391-10766715&hybrid=false&storycode=100019391-16011326

¹⁹⁸ COSLA Connections 'Positive response to decoupling elections, October 2007, www.cosla.gov.uk/attachments/connections/connections37.pdf

¹⁹⁹ Scottish Government: 'Discussion paper on the future direction of housing policy in Scotland', 31 October 2007, www.scotland.gov.uk/Publications/2007/10/30153156/0

The publication of the consultation document was announced by the Health and Wellbeing Secretary, Nicola Sturgeon.²⁰⁰ The minister was due to make her statement on housing to the Scottish Parliament but was prevented from doing so after the President Officer, Alex Fergusson, ruled that the information had been put into the public domain before it was announced in Parliament. The parliament, however, debated the consultation paper. In a press statement,²⁰¹ Ms Sturgeon confirmed that the government would proceed with the introduction of a new single survey scheme for house sales from late 2008. In addition, the minister confirmed the government's intention to abolish the housing and regeneration agency, Communities Scotland. She said its main non-regulatory functions would be brought within the core of the Scottish government and that its regulatory functions would be reformed to operate outside the government and independently of ministers.

In its response to the announcement, COSLA's community well-being spokesman, Councillor Harry McGuigan²⁰² focused on this latter decision. He said it was 'absolutely right' that, in a democratic Scotland, all policy and funding decisions over housing and regeneration should clearly and directly lie with local and national government and not with an unelected intermediary.

²⁰⁰ Scottish Parliament Official Report 31 October 2007, www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1031-02.htm#Col2827

²⁰¹ Scottish Government Press release 'Future for housing in Scotland', 31 October 2007, www.scotland.gov.uk/News/Releases/2007/10/31142057

²⁰² COSLA Press release, 'COSLA welcomes dismantling of Communities Scotland' 31 October 2007, www.cosla.gov.uk/archiveResults.asp?leftId=10001A3AD-10766761&rightId=10001A3AD-10771676&hybrid=false

8. Finance

Alan Trench

8.1 The UK Comprehensive Spending Review

The UK Government's Comprehensive Spending Review (CSR) was published, along with the Pre-Budget report, on 9 October 2007.²⁰³ The review had been originally due in 2006, but was first postponed to June 2007 and extended in scope, and then further postponed to the autumn. The review is a thorough consideration of all government spending (though not a 'zero-base' review) for the next three financial years (2008-09, 2009-10, 2010-11). The CSR report's table relating to DEL²⁰⁴ spending in Scotland is reproduced below:

Figure 8.1: Scottish Executive baseline and additions (£m)

	<i>Baseline</i> 2007-08	2008-09	<i>Additions</i> 2009-10	2010-11
Resource DEL	23,443	1,012	1,971	3,058
of which near-cash	22,530	999	1,902	2,922
Capital DEL	2,974	174	368	667
Total DEL ¹	26,059	1,185	2,340	3,725

¹ Full resource budgeting basis, net of depreciation.

Source: table D27, in Annex D18 headed 'Devolved Administrations and Northern Ireland', Comprehensive Spending Review 2007.

Perhaps the first thing to note about the CSR was what it did not do; it did not review, or seek to change, the basic structure of devolution finance. The block and formula system, and the Barnett formula, remained intact, and as part of the review a new edition of the 'Statement of Funding Policy' (the Treasury's document that sets out how the formula

²⁰³ HM Treasury, *Meeting the aspirations of the British people: 2007 Pre-Budget Report and Comprehensive Spending Review*, Cm 7227 (London: The Stationery Office, 2007), at www.hm-treasury.gov.uk/pbr_csr/report/pbr_csr07_repindex.cfm

²⁰⁴ Public spending in the UK takes two forms: that forming part of a Departmental Expenditure Limit (DEL), and Annually Managed Expenditure (AME). DEL spending is allocated through the spending review process every two or three years. AME spending is, as the name indicates, managed annually by the Treasury. While AME accounts for a very large part of public spending overall (notably the defence and social security budgets), it makes up only a small part of the funding of the Scottish Government – even the area of agriculture, which formerly constituted AME, has been reclassified since 2006-07 as DEL spending.

works) was issued.²⁰⁵ This is noteworthy as there had been some earlier speculation that such a review might be announced, but in the event the Barnett formula was applied to the outcome of the review and re-issued (see section 8.4).

Inevitably, attention focussed on what effect the CSR has on the Scottish Government's budget. There was an expectation that the settlement would be 'tight', because of the slowing rate of growth in public spending generally, and to an extent because of the arithmetical effect of the Barnett squeeze. Whitehall took an upbeat approach; in the 'regional press notice' for Scotland (sic) issued after it, the Treasury claims that the CSR:

will provide for spending by the Scottish Executive to grow by an average annual rate of 1.8 per cent in real terms over the next three years. Spending will be higher than in 2007-08 by £1.2 billion in 2008-09, £2.3 billion in 2009-10 and £3.7 billion in 2010-2011, a total increase of £7.2 billion.²⁰⁶

Des Browne, Secretary of State for Scotland, was quoted as saying 'This is a very good PBR/CSR for Scotland.'

Unsurprisingly, this view was not shared by the Scottish Government. In its press statement, the First Minister described the real rate of increase as 1.4 per cent not 1.8 per cent, and expressed his concern at the 'profile' of the increases – in effect, that so much of the promised increase would only occur later in the period. He claimed that the first year increase would be 0.5 per cent in real terms, followed by 1.6 and 2.3 per cent in the two subsequent years, creating problems in year one, and said:

This creates an extremely serious position in terms of Scotland's finances. It means that Scotland is effectively being both squeezed and short-changed by the Treasury. ... The profile and the detail of these figures represents the lowest public expenditure in the UK or Scotland since the early 1980s, in terms of public spending profile.

In truth, the calculation of devolved administration shares of spending under the CSR is not as automatic as Treasury descriptions of the process might suggest. A good deal of inter-governmental discussion and bargaining takes place around the review. The

²⁰⁵ HM Treasury, *Funding the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly: Statement of Funding Policy*, Fifth edition (London: The Stationery Office, 2007), at www.hm-treasury.gov.uk/media/2/2/pbr_csr07_funding591.pdf

²⁰⁶ HM Treasury, *2007 Pre-Budget Report and Comprehensive Spending Review Regional Press Notice in Scotland* 9 October 2007. At www.hm-treasury.gov.uk/media/0/2/pbr_csr07_regionalpnsotland.pdf

discussion is usually not about the main issue of what the rules are (the Barnett formula's role has been taken as given), but about what are, in essence, second-order issues. These are nonetheless highly significant, as the amounts at stake are sometimes considerable and they represent the best, if not only, way in which the devolved administrations can increase the resources available to them. In 2007, these concerned the following matters:

- The *base-line for spending*, which was reduced retrospectively because of a reduction in deemed spending in England in 2006-07. In other words, less was spent on health in England than had been planned, and the allocation to Scotland (and the other devolved administrations) was made on the basis of the planned allocation not the actual one. The Scottish base-line (the amount of the Scottish block, which is then increased by amounts calculated using the Barnett formula) was reduced for the purposes of the CSR as a result. In partial compensation, the Treasury offered 'smoothing' to cushion the impact of this. The Scottish Government considered that the amount offered by way of smoothing was insufficient.
- The question of *end-year flexibility*, as underspending in previous years by the Scottish Executive has led to the accumulation of a substantial reserve of money at the Treasury (reported as having been almost £900m by Des Browne). The Treasury had sought to retain this money, however the new Scottish Government sought to gain access to it to support its spending plans.
- An attempt by the Treasury to control the balance between *capital and current spending* by the Scottish Government. The general assumption has been that the block grant is precisely a block which the Scottish Executive/Government is free to spend entirely as it wishes, subject only to political and practical constraints. However, the level of capital spending in Scotland (and the other devolved administrations) has been a source of concern to the Treasury for some time. An unsuccessful attempt to require the devolved administrations to spend a proportion of their block grants on capital spending was made in the 2004 Spending Review (as it was for all Whitehall departments), but broke down in the face of broad opposition from spending departments. In the 2007 round, the Treasury had more success, or took a firmer line. Although the levels for capital and current spending set out in the CSR document appear to be similar in nature to those in previous years, the Treasury will expect these to be adhered to by the

Scottish Government. However, the practical impact of complying with this has been mitigated by the end-year flexibility issue; the Treasury agreed to release the accumulated EYF balances, but on condition that these were used for capital spending. Although that aspect of the agreement has not been put in the public domain, a number of public statements reflect it – for example, the release of £100m for capital investment in universities and colleges in the current year (2007-08) announced on 26 October was explicitly tied to the release of EYF funds.²⁰⁷

- A further area of concern to all devolved administrations, but not raised directly by Scottish Ministers, concerns *public spending in London*. While spending on most aspects of regeneration or public transport around London (including spending related to the Channel Tunnel Rail Link and Crossrail) is treated as ‘English’ spending, and attracts consequential payments under the Barnett formula, that is not the case for spending on the London 2012 Olympics. Such spending is treated as benefiting the UK as a whole, even though it is physically in London or south-east England, and much is for regeneration purposes that, if pursued on their own, would attract a Barnett consequential. In addition, spending on the Olympics is having a distorting effect on allocations by the distribution funds for the National Lottery, as so much Lottery money is going to support the Olympics, and allocations to lottery distributors for Scotland and Wales have been reduced substantially. Yet despite such concerns being raised vociferously in the negotiations around the CSR, the Treasury has done nothing to address them.

One thing has become clear to all the UK’s devolved governments, if it was not clear before: the way the Barnett formula works ties the devolved administrations very closely into the financial structure of UK Government. While its working has allowed them very considerable autonomy (in policy and spending more broadly) in the first years of devolution, the limits of that autonomy are becoming very clear and in some respects (notably over capital spending) it is being narrowed.

²⁰⁷ See Scottish Government News Release, 26 October 2007, *Universities and Colleges*, at www.scotland.gov.uk/News/Releases/2007/10/26092446

8.2 The Scottish Government's Comprehensive Spending Review and budget

In parallel with the CSR process in London, the Scottish Executive/Government has had its own Comprehensive Spending Review underway. This process was a somewhat odd one, given that the overall amount available for the Scottish Government to spend would not be known until the UK CSR was completed. The Scottish Government published its budget spending review on 14 November 2007.²⁰⁸ The Budget is an avowedly political document, not only setting out spending plans for the next three financial years (to 2010-11), but using as the priorities for allocating spending headings that closely resemble those used in the SNP's election manifesto in May: 'Wealthier & Fairer; Smarter; Healthier; Safer & Stronger; Greener'.²⁰⁹

Under the various priority headings, the Government emphasised the following plans:

- Wealthier & Fairer Scotland – reducing or removing business rates for small business, freezing council tax, and increased investment or support in strategic transport networks and renewable energy and energy efficiency;
- Smarter Scotland – improving school fabric, reducing class sizes for younger children, extending entitlements to free school meals, investing in further and higher education and improving skills and vocational education;
- Healthier Scotland – reducing the harm done by alcohol misuse, reducing waiting lists to a maximum of 18 weeks from referral to first consultation, improving screening for MRSA, making access to primary care more flexible, and improving access to NHS dental services;
- Safer & Stronger Scotland – increasing the supply of new housing, community regeneration, and appointing 1000 additional police officers;
- Greener Scotland – higher standards of environmental performance, increasing spending on renewable energy, reducing pollution and investing in public transport.

Space does not permit a detailed description of the content of the budget, let alone analysis of it. But the following table highlights the main budgetary allocations to the main portfolio areas of the Scottish Government as now constituted (restructured to

²⁰⁸ The Scottish Government *Scottish Budget Spending Review 2007* (Edinburgh: The Scottish Government, 2007), at www.scotland.gov.uk/Publications/2007/11/13092240/0

²⁰⁹ SNP *It's Time: Manifesto 2007* (Edinburgh: SNP, 2007), available from www.snp.org/policies. The headings used in the manifesto were Healthier; Wealthier; Safer; Fairer; Easier; Greener; Smarter.

indicate areas of spending under the previous Executive, when of course portfolios were differently arranged).

Figure 8.2 Scottish Executive/Government spending by portfolio, 2002-03 to 2010-11

(£m)

	2002-3 (Out-turn)	2007-8 (budget)	2010-11 (plans)
First Minister	153.7	266.3	305.2
Finance and Sustainable Growth	2,177.2	5,831.0	6,330.8
Health and Wellbeing	7,325.3	10,776.9	12,201.8
Education and Lifelong Learning	1,748.6	2,518.7	2,699.0
Justice	716.6	979.1	1,110.3
Rural Affairs and Environment	875.1	529.6	650.5
Administration	206.0	241.4	255.8
Crown Office and Procurator Fiscal service	81.3	100.9	120.5
Total local government	7,687.1	10,651.1	11,992.6
Total Scottish Government budget	20,970.9	31,894.9	35,666.5

Source: Abstracted from *The Scottish Government Scottish Budget Spending Review 2007*, Annex B: comparison 2002-3 to 2010-11.

In a press release, the Centre for Public Policy in the Regions at Glasgow and Strathclyde Universities identified the budget as providing a real-terms increase in DEL spending of 1.5 per cent per annum between 2007-08 and 2010-11, but (unsurprisingly) found this varied across portfolios.²¹⁰ Key winners were the newly reconfigured Local Government portfolio, benefiting from an above average increase of 1.6 per cent per annum. While other recipients would benefit from real-terms spending increases, those would be below the Scottish Government's average rise; the health portfolio would receive a 1.4 per cent yearly increase but, within this, allocations to health boards rise by only 0.5 per cent per annum (meaning spending would be directed away from primary medical care). While transport spending overall would rise by 0.5 per cent per year, rail services would face a real terms cut of 1.2 per cent per year. As well as rail services, the other big losers CPPR identified are general medical services and general dental

²¹⁰ Centre for Public Policy in the Regions Press Briefing No. 2 *The Scottish Government's Budget 2007: the winners and losers*, 16 November 2007, available at www.cpvr.ac.uk/media/media_54044_en.pdf

services (each down by 2.6 per cent per annum), major public transport projects (down by 7.8 per cent per annum), legal aid (down by 1.8 per cent per annum) and rural development (down by 2.2 per cent per annum). Given the nature of the deal reached between the Treasury and the Scottish Government, it is not surprising that CPPR identified the big winners as being spending on capital investment – in the Health and Wellbeing portfolio (by 2.1 per cent per year), motorways and trunk roads (by 9.2 per cent per year), the centrally funded police budget (by 5.9 per cent per year), and ‘access support’ for the NHS (previously known as the waiting times co-ordination unit) – by 31 per cent per annum. However, with the shift in portfolio responsibilities, and in how services provided by local authorities were accounted for, CPPR identified the difficulties in coming to clear conclusions about the precise spending changes made in the budget.

In many respects, the SNP Government’s budget is a highly ambitious one, seeking to achieve a great deal with relatively limited resources. Unsurprisingly, even before the Parliament started to consider the budget in detail, it attracted a good deal of criticism.²¹¹ As noted in section 3.4, this largely focussed on SNP manifesto pledges not delivered by the budget – notably over promises to ‘abolish’ graduate debt, to reduce class sizes, and to provide extra police officers. As the Government tried to get the budget through a Parliament in which it does not have a majority, both inflated rhetoric and canny deals were to be expected.

8.3 Local government: the concordat

Given how large a proportion of overall public spending in Scotland goes through local authorities, what they do with their funding is of considerable importance more broadly. In this respect, the key development has been the ‘concordat’ between the Scottish Government and COSLA, endorsed by all 32 Scottish councils, and concluded on 16 November (see section 7.1).²¹² The Concordat provides for the freeze in council tax sought by the Government in its budget, partly on the basis of the enhanced levels of funding provided by the budget, and partly by reducing the scope of ‘ring fencing’ local authority budgets, transferring funding from specific grants to the local government block grant, giving councils greater freedom to allocate their funding as they see fit. At present

²¹¹ See R. Dinwoodie, ‘Swinney feels the heat from opposition’ *The Herald*, 15 November 2007; K. Schofield ‘Alexander puts troubles aside to attack SNP budget’, *The Herald*, 11 December 2007.

²¹² The concordat is available at www.scotland.gov.uk/Resource/Doc/923/0054147.pdf. See also R. Dinwoodie ‘Political coup for Swinney as councils sign up for tax freeze’ *The Herald*, 17 November 2007.

specific grants account for £2.7bn of local government spending (about a quarter of total local government spending); the concordat provides for them to be reduced to around £0.5bn in 2008-09 and to £0.3bn by 2010-11.

Other important aspects of the concordat are:

- A commitment that the Scottish Government will not undertake structural reform of local government during the term of this Parliament.
- a move to a 'Single Outcome Agreement' for every council, based on the agreed set of national outcomes (underpinned by agreed national indicators). This will lead to a new performance reporting system to replace the myriad of existing systems, with a single yearly report from each council based on outcome measures but no other monitoring of plans by the Government.
- a substantial reduction in the number of separate funding streams to local government.
- allowing local authorities to retain all of their efficiency savings to devote to public services.

The flexibility that comes with the reduction in ring-fencing appears to have been key to securing local authority agreement to the proposals, and if it does enable council tax bills to remain at the same levels without affecting services will be seen as a coup by the Government.

8.4. The Scottish Futures Trust, and replacement Forth Road Crossing

On 20 December, John Swinney issued a consultation document regarding another SNP manifesto commitment, the Scottish Futures Trust.²¹³ This would be a vehicle to boost capital investment in infrastructure by the public sector by providing an alternative to Private Finance Initiative schemes. It would avoid the high levels of profit paid to the private sector for such schemes by operating on a non-profit distributing model, meaning schemes would be financed wholly through debt and not through issuing equity (shares). It would be an independent body, which would obtain capital from commercial banks, private investors and other commercial parties, and lend it to provide serviced assets or private finance to the public sector, as well as developing and supplying broader

²¹³ *Scottish Futures Trust: Consultation Paper*, at www.scotland.gov.uk/Resource/Doc/207695/0055103.pdf. See also Scottish Government News Release, 20 December 2007, *Scottish Futures Trust*, at www.scotland.gov.uk/News/Releases/2007/12/20100936

commercial expertise to the public sector. It would provide such finance more cheaply than the private sector, mainly by aggregation.

Whether such a scheme is workable has to be in some doubt, given the legal restriction on the Parliament or Government borrowing money, on one hand, and the commercial pressures on such a scheme on the other (especially given the credit crunch – will lenders be sufficiently satisfied that funds lent to the Trust will be repaid to be willing to lend at advantageous rates of interest?). Perhaps consultation responses will make that clearer. The consultation period ends on 14 March 2008.

A likely early candidate to make use of the Futures Trust, if it is established, will be the replacement Forth Road Crossing. On 19 December the Finance Secretary announced the location of the new crossing, a bridge upstream of the existing one.²¹⁴ The cost is estimated to be between £3.25bn and £4.22bn. The next day, the Abolition of Bridge Tolls (Scotland) Bill passed stage 3 at Holyrood (having received royal assent, it is now the Abolition of Bridge Tolls (Scotland) Act 2008). By abolishing tolls on the Forth and Tay crossings, it cuts off one potential source of funds for a replacement crossing, and ensures that more general funds will have to bear the cost.

8.5 Reviewing the Barnett formula

Clearly moves are underway that will result in a review of the Barnett formula. Within Scotland, this process was kicked off by the Scottish Executive's white paper *Choosing Scotland's Future* published in August 2007, which contemplates the possibility of 'fiscal autonomy' as part of a revision of the devolution arrangements for Scotland (short of the SNP's goal of independence). The white paper suggests that such fiscal autonomy could be absolute, or in varying degrees (and with a reduction in the block grant from London as a result).²¹⁵ To a considerable degree, this was echoed by Wendy Alexander, leader of the Labour Party at Holyrood, in her St Andrew's Day speech at Edinburgh University 'A new agenda for Scotland'.²¹⁶ In her speech Ms Alexander suggested strengthening the Scottish Parliament's financial accountability through greater autonomy, based on 'the 3 Rs – of resource, revenue and risk sharing' and involving a combination of

²¹⁴ Scottish Government News Release, 19 December 2007, *Forth Replacement Crossing*. See also Forth: 'Iconic' new bridge to be built', *The Herald*, 20 December 2007.

²¹⁵ *Choosing Scotland's Future: A National Conversation. Independence and responsibility in the modern world* (Edinburgh: Scottish Executive, 2007), at www.scotland.gov.uk/Publications/2007/08/13103747/0

²¹⁶ Speech available at www.scottishlabour.org.uk/a_new_agenda_for_scotland

reserved, assigned and devolved taxes, with a grant to provide for equalisation across the UK. She proposed the establishment of 'an expert led, independent Scottish Constitutional Commission to review devolution in Scotland ten years on, developing a more balanced Home Rule package', which would include a contributory panel on Finance and Economics. The suggestion that a different approach to financing devolution was necessary was endorsed a few days later by Rhodri Morgan, First Minister of the Welsh Assembly Government, in his speech at Edinburgh University.²¹⁷

The Welsh Assembly Government announced in June 2007 the formation of a commission to review Assembly finances, including the Barnett formula, borrowing and tax-raising powers – although by the end of the year no chair for that commission had been named, nor had any other steps been taken to establish it.

Earlier, on 21 November, there was a Westminster Hall debate in the House of Commons at Westminster about the 'unfair' distribution of public spending across the UK, thanks to the Barnett formula.²¹⁸ The debate was initiated by Graham Stringer, MP for Manchester Blackley and formerly leader of Manchester City Council. Perhaps as interesting as contributions to the debate was the allegation made by Mr Stringer that

Having tabled early-day motion 402, I found out that an official from No. 10 Downing Street was going round to signatories and, without telling me, was asking them to withdraw their names from the motion because of the sensitivity of the issue. That was a profoundly wrong way for No. 10 officials to behave; such issues are better aired in public debate.

Such concerns at No 10 are an important part of the backdrop to discussion of reviews of the Barnett formula.

The Treasury's reluctance to contemplate the extension of financial devolution was further suggested by the publication on 17 December of a review by Sir David Varney of tax policy in Northern Ireland.²¹⁹ The report's main focus was on the rate of corporation tax, and whether there was an economic argument for allowing Northern Ireland to set a lower rate than applies in the rest of the UK. Rebutting previous work by the Economic

²¹⁷ See Douglas Fraser 'Funding 'will be next step in UK devolution' *The Herald*, 8 December 2007.

²¹⁸ See HC Deb, 21 November 2007, col. 145WH.

²¹⁹ Sir David Varney *Review of Tax Policy in Northern Ireland* (London: The Stationery Office, 2007), at www.hm-treasury.gov.uk/media/1/3/varney171207.pdf

Research Institute of Northern Ireland, Varney rejected the case for devolving the tax, suggesting that neither econometric modelling nor broader economic arguments supported the proposal, and identifying other demand-side measures (strengthening the skills base, improving efficiencies in the public sector, improving innovation through collaboration between university and business, and improving trade and investment promotion) to improve the environment for business there. (Following that review, Sir David is to carry out a further review considering how to improve the business environment in Northern Ireland, to report by May.)

9. Disputes and litigation

Alan Trench

There are two cases of interest to note in this report. First, in *Somerville v Scottish Ministers*, the House of Lords has addressed the relationship between the Scotland Act 1998 and the Human Rights Act 1998.²²⁰ This case concerned different limitation periods for bringing claims based on breaches of the European Convention on Human Rights (ECHR), in this instance relating to arguments by prisoners alleging breaches of their Convention rights in gaol. There is no time limit for claims brought under the Scotland Act but there is a limit of one year in the case of the Human Rights Act. By a majority of three to two, their Lordships decided that the Human Rights Act time limit did not also apply to claims brought under the Scotland Act, so claims will be permitted without limitation if framed under the Scotland Act – and pursuers (claimants) will be free to choose which Act to use.

This is not the first time that discrepancies between the two Acts have led to litigation before the UK's highest courts, and the courts have been asked to find ways of assimilating different requirements under each Act for the convenience of litigants or government. In 2002 somewhat similar questions concerning the position and powers of the Advocate General for Scotland to intervene in court proceedings under the two Acts were raised in argument in *Mills*, but carefully avoided by the Judicial Committee in its judgment.²²¹

Second is a decision of the Judicial Committee of the Privy Council in the case of *Spiers v. Ruddy*.²²² This concerned what in form is a 'devolution issue' but in substance raises questions of compliance with the rights to a fair trial under Article 6 of the ECHR, and whether delay prejudices those rights (It concluded it did not, drawing on later authorities of the European Court of Human Rights to do so). However, the case also raises a secondary issue which, from a devolution point of view, is even more important, as

²²⁰ [2007] UKHL 44, issued on 24 October 2007, at

www.publications.parliament.uk/pa/ld200607/ldjudgmt/jd071024/somerv.pdf

²²¹ *Mills v. Lord Advocate and Advocate-General for Scotland* [2002] UKPC D2, at www.privycouncil.org.uk/output/Page51.asp

²²² [2007] UKPC D2, issued on 12 December 2007, at www.privycouncil.org.uk/output/Page535.asp

separate approaches to dealing with delay had been endorsed by the UK's highest courts, with a different approach applied by the Judicial Committee in a Scottish case and the House of Lords in one concerning England and Wales.

While the court found a satisfactory practical solution to this issue, it was left to grapple with the practical consequence of this possibility of legal divergence, and had no clear solution to offer to that problem. This problem of the 'dual apex' of the UK's legal system, and the concomitant danger of different approaches being taken by each court, has been the subject of discussion for some time.²²³ Perhaps thankfully, this is one of relatively few cases where the hazard has materialised. In due course, with the establishment of the UK Supreme Court, the issue will cease to exist, but for the time being the problem remains and is as insoluble as ever.

²²³ See e.g. A Le Sueur and R Cornes *The Future of the United Kingdom's Highest Courts* (London: The Constitution Unit, 2001)

10. Political Parties

Peter Lynch

10.1 The SNP in Government

This monitoring period saw three main initiatives from the SNP government – the announcement of its legislative programme, the publication of its budget and its plans for economic growth in Scotland (strongly linked to independence). The legislative programme was announced on 5 September. The programme contained eleven bills with the government indicating its support for two MSPs' bills. The main highlights of the government programme are bills to deal with public health, the abolition of the graduate endowment, abolition of bridge tolls, local healthcare, arts and culture and flooding.²²⁴ Given the minority status of the government, the limited nature of the legislative programme is not a surprise, as it involves legislative proposals achieved through consensus and negotiation with the other parties. However, in many senses, this government has not appeared like a minority and has not staked that much on legislation as opposed to actually governing.

The second main initiative involved the publication of the first SNP budget. The background to the budget involved some prolonged wrangling with the UK government over the budgetary settlement for Scotland, as discussed in section 8.2. The SNP's reaction to the settlement – and the huge row that resulted – helped to create some important mood music for the more limited budget it was able to produce. Aside from the council tax freeze, the budget involved gradual measures to reduce class sizes for primaries 1-3, increase police numbers, reduce prescription charges on medicines, reduce and remove business rates for small businesses and introduce measures for climate change.

The issue of police numbers – and delivering 500 instead of 1000 as promised in its manifesto – was a problem for the SNP from the minute it entered government. In the weeks before the budget announcement, there was a good deal of media speculation over whether the SNP could fulfil its manifesto commitment in full. The failure to do so gave the SNP's opponents something concrete to focus on in their attempts to cast the

²²⁴ Scottish Government News Release, 5 September 2007.

government as breaking its promises. Where there was success for the SNP government was with the conclusion of the concordat with COSLA over instituting a freeze in the council tax. Finance Secretary John Swinney was able to negotiate a deal to provide £70m more to local authorities to hold the council tax at 2006-07 levels. The councils would be asked to target money on reducing class sizes, increasing pre-school provision and deploying more police in the community (three SNP government policy priorities), but in other areas would gain spending autonomy via a relaxation of ring-fencing rules.²²⁵ Of course, all that has happened here is the publication of the SNP budget. It awaits detailed scrutiny in early 2008.

Third, the SNP government published its economic strategy on 13 November. The strategy was coupled to the budget and intended to target five strategic priorities for the administration in terms of generating sustainable economic growth – learning, skills and well-being, a supportive Business Environment, Infrastructure Development and Place, an Effective Government, and Equity.²²⁶ There are two linked ways of understanding the economic strategy. First, it is a guide to SNP aims within government to make itself credible and effective, and gives some indication of what it hopes to achieve over its four year term to facilitate re-election in 2011. Second, it is directly linked to creating the economic conditions for Scottish independence – the SNP's *raison d'être* in politics. Finance Secretary John Swinney declared that the government's economic strategy sought to make Scots families £10,000 wealthier come 2017, whilst Alex Salmond chose 2017 as his target date for independence, linked to the economic strategy.²²⁷ a date that is close enough for gradualist nationalists but distant enough for the public.

Besides the day to day activities of the government, the SNP as a party also made one significant strategic change – in relation to co-operation with the Conservatives. Whilst there has been clear policy co-operation with the Conservatives in the Scottish Parliament, the SNP has been politically restricted by its policy from the 1980s of not having alliances with the Conservatives. This policy went back to the Thatcher period in which the SNP was determined to project itself as a left-of-centre party at a time of ideological polarisation in Scottish and British politics (and throw off any accusations of

²²⁵ BBC News, 17 November 2007. Concordat available at

www.scotland.gov.uk/Publications/2007/11/13092240/concordat

²²⁶ The Government Economic Strategy, at www.scotland.gov.uk/Publications/2007/11/12115041/0

²²⁷ *The Scotsman*, 14 November 2007.

being tartan Tories). However, this position has been of little use in post-devolution Scotland for some time and, most importantly, in the period since the local elections in May 2007. Then, the use of the single transferable vote opened the door to more complex coalition arrangements in Scottish councils than existed before – and ideological convergence between the parties made the early 1980s seem like another planet let alone another century. The SNP considered the issue at its National Council meeting on 2 December and, agreed to drop the bar on coalitions with the Tories at local government level. The ban on coalition at Holyrood remained in force, however,²²⁸ despite the level of policy support given to the SNP by the Conservatives in the parliament, giving UK Tory leader David Cameron something to reflect on. His recent speech criticising the SNP and the ‘stain of separatism’²²⁹ seems rather incongruous given the fact that his own party has played a key role in sustaining the SNP in office.

Even amid its continuing honeymoon, a number of problems emerged for the SNP – partly as a result of the party’s unexpected electoral success in May. First, several MSPs were elected who were also local authority councillors and these now faced choices of whether they would seek to be hold dual mandates – with some interesting headlines in relation to salary and expenses in the press at the time. Stefan Tymkewycz resigned as a list MSP for Lothians to be replaced by Shirley-Anne Somerville. Meanwhile, North East list MSP, Nigel Don, resigned as a Dundee City Councillor, with the SNP retaining the seat at the subsequent by-election in the city (see Figure 4.23). In addition, several new SNP Ministers – Stewart Stevenson and Jim Mather – had to deal with negative publicity over their financial interests, though nothing that was in breach of the Ministerial code. The biggest controversy involved Alex Salmond and the controversy over Donald Trump’s proposal to build a golf course in Salmond’s constituency of Gordon, with opposition leaders criticising the First Minister for meeting with representatives of the Trump organisation (see further in sections 2.1. and 7.3). How this story will turn out is difficult to tell, but is an indication of the opposition’s efforts to take on Salmond personally. The Liberal Democrats proposed a special short-life parliamentary commission to examine the government’s conduct over the issue, so the issue might have more mileage given the government’s minority status.

²²⁸ *The Herald*, 3 December 2007.

²²⁹ David Cameron, ‘Stronger Together’, speech delivered on 10 December 2007, at Our Dynamic Earth in Edinburgh. www.conservatives.com/tile.do?def=news.story.page&obj_id=141137&speeches=1

10.2 Labour in Meltdown?

Despite a fairly orderly leadership transition (see previous monitor), Scottish Labour has not had the best of times since the general election.²³⁰ The new leader, Wendy Alexander, distinguished herself at the British Labour conference by giving a speech apologising for losing the election in Scotland during a week in which Labour was riding high in the polls and contemplating a snap general election (that week was a very long time ago in politics). The weeks that followed saw the collapse of the Brown honeymoon as Labour moved sharply back from calling a snap election, before the government became engulfed in various difficulties such as the budget statement, inheritance tax U-turn, the Northern Rock banking crisis and general credit crunch, the loss of millions of child tax benefit details in the mail and of course, Labour's third party donor scandal – which fed into the donations scandal involving Wendy Alexander discussed below. Therefore, whilst Scottish Labour has struggled to adapt to its post-government circumstances and the prolonged Salmond honeymoon, it has seen its new Prime Minister (and Scottish MP), stumble badly as the government has lost momentum at the UK level quite spectacularly after its early successes in the summer of 2007.

Scottish Labour has had to address a number of internal party problems. For example, staffing problems have been a persistent problem for Scottish Labour in the period since the Scottish election (and when in government). First Labour appointed former journalist Brian Lironi as its press spokesperson at Holyrood. However he departed in September after Wendy Alexander was confirmed as Scottish leader – after only weeks in the job. Lironi's replacement, Matthew Marr, was then forced to resign after being abusive towards First Minister, Alex Salmond, at the Scottish Politician of the Year awards ceremony at Prestonfield House Hotel in Edinburgh on Thursday 18 November.²³¹ Third, Marr's replacement, Gavin Yates, was found to have made a series of critical comments about senior Labour figures in his blog (GY Media) hosted by G-WordPress. The blog referred critically to Andy Kerr, Jack McConnell, Gordon Brown, Labour in the West of Scotland and was complementary towards Alex Salmond. Not surprisingly, the blog content was 'disappeared' after the newspapers got hold of the story.²³²

²³⁰ The *Sunday Herald* announced Wendy Alexander's donor scandal with a frontpage and a strap line stating 'Labour in Meltdown – pages 2,3,4,5,6,7,8,9,10' – which encapsulates the extent of the crisis pretty well.

²³¹ BBC News, 18 November 2007.

²³² *Sunday Herald*, 24 November 2007.

However, the issue of staffing is a fairly minor one compared to the third-party donations scandal that erupted in November in the *Sunday Herald*.²³³ The story involved Scottish Labour leader, Wendy Alexander, and the use of donations to her campaign for the Labour leadership in the summer of 2007. And, importantly, this story was nested within the larger issue of British Labour's third-party donor scandal involving David Abrahams – which raised the whole donations issue up the media agenda. The tale of Wendy Alexander and donations is a relatively simple one – her leadership campaign received £950 from a resident of Jersey (Paul Green). The amount was below the £1000 legally required to be released to the public – though still had to be declared to the Electoral Commission – and from an illegal source. However, how Scottish Labour handled this issue is where the real problem lies. Rather than simply admit to the matter, there was a week of spinning and denials about the issue – despite admitting it was not a legal donation – whilst the media indulged in a feeding frenzy. And significantly, as the media investigated the issue, more information about the donor and the funding of the leadership campaign emerged – with a letter from Ms Alexander thanking Paul Green for his donation (sent to a Jersey address), a list of donors and funds that showed how donations were to be hidden (meaning through third party donations) that appeared to come from the computer of Ms Alexander's husband Brian Ashcroft,²³⁴ a BBC interview with Paul Green in Jersey in which he stated that the campaign team knew he was making a personal donation, not a donation through a UK company.

Alexander was in resignation territory here, but decided to tough it out with bullish statements claiming she would be cleared of any wrongdoing. The only casualty so far came with the resignation of Charlie Gordon (MSP for Cathcart) as Labour's frontbench transport spokesman in the Scottish parliament - with Gordon admitting he was the person who solicited and accepted the donation. However, not only have Alexander and Scottish Labour been tarnished over the issue but Alexander is now subject to up to three separate inquiries which are likely to breathe new life into the donations row in 2008. First, there is the Electoral Commission investigation into the funding of Alexander's leadership election campaign. Second, there is an investigation by the Scottish Parliament's Standards Commissioner to come, following a complaint that Ms

²³³ *The Sunday Herald*, 25 November 2007.

²³⁴ *The Sunday Herald*, 10 December 2007.

Alexander had not included the donations on her MSP's register of interests,²³⁵ whilst there is also the prospect of a police investigation to come as the law has been broken: all for £950.

10.3 Liberal Democrats

One clear casualty of the cancelled UK general election was Menzies Campbell. Campbell had to endure media criticism of his age and political performance as Lib Dem leader at Westminster – to the extent that he had become the story, thus undermining his leadership. However, neither Campbell's resignation nor the subsequent Lib Dem leadership contest between Chris Huhne and Nick Clegg seems to have had much resonance North of the Border. The party in Scotland has continued to operate as a mixed force within the parliament – opposing and supporting SNP government proposals at different times – and whilst the party seems becalmed at present in the polls (despite occasional aggressive oppositional stances at Holyrood), it is well-placed to take advantage of the Unionist coalition on constitutional reform and the proposal to establish a Scottish Constitutional Commission (see below).

10.4 Conservatives – A Strange Brew

The Conservatives are in the strange position in Scotland of seeing their electoral unpopularity continue (compared to the post-October Tory poll advance in England) at a time in which they have become an important force in Scottish politics. The Conservatives are faced with a dilemma at present in Scotland. On the one hand the party has been active in parliamentary co-operation with the SNP minority government over the issues of taxation, law and order and smaller government. Such support was influential in relation to the SNP legislative programme as well as the budget. However, it has occurred in a period in which the party at the UK level has been considering changes to the Barnett formula and measures to address the West Lothian question. Such issues make the Conservatives appear anti-Scottish – especially because of the support they receive from the more nationalistic sections of the English press. Cameron's attitude towards the SNP and separatism, noted above, are part of the picture here, as was his consideration of Malcolm Rifkind's proposal for a special English grand committee to create English votes for English laws made at the Tory conference in October.

²³⁵ These details remain absent from her entry on the register see www.scottish.parliament.uk/msp/membersPages/wendy_alexander/roi.htm

10.5 Unionist Party Co-operation over Devolution – Back to the Future With A Constitutional Convention

The leaders of Labour, Liberal Democrats and the Conservatives in the Scottish parliament had held a number of meetings to discuss co-operation on reforming the devolution settlement in the autumn of 2007. These brief meetings heralded no proposals or announcements so that it was difficult to gauge whether any form of co-operation was likely. However, following meetings with their UK counterparts – a deliberate attempt to involve the UK level in the devolution debate – Wendy Alexander announced the cross-party Scottish Constitutional Commission, to run at the same time as the SNP government's National Conversation.

Ironically, Wendy Alexander's announcement came in a lecture at Edinburgh University (on 30 November – St Andrews day) when she was being pursued by the media over the illegal donation to her leadership campaign (see below). The speech was almost completely overshadowed by the media feeding frenzy, but did pick up some positive coverage over the weekend that followed.

In discussing the issue of tax powers for the Scottish parliament, Alexander was not just addressing a Scottish concern but one for English voters too. This point was made in advance of the Edinburgh speech, with Alexander's appearance on BBC's Question Time programme on 22 November (before the donations row broke out).²³⁶ The key point about the devolution initiative is its attempt to address the UK dimension to some extent – therefore looking at Barnett and financial issues as well as aspects of the West Lothian question.

Besides the St Andrew's day speech, a parliamentary debate was held on the issue. The parliamentary motion, in Wendy Alexander's name, proposed:

That the Parliament, recognising mainstream public opinion in Scotland, supports the establishment of an independently chaired commission to review devolution in Scotland; encourages UK Parliamentarians and parties to support this commission also and proposes that the remit of this commission should be:

“To review the provisions of the Scotland Act 1998 in the light of

²³⁶ *The Herald*, 23 November 2007, pp.1-2.

experience and to recommend any changes to the present constitutional arrangements that would enable the Scottish Parliament to better serve the people of Scotland, that would improve the financial accountability of the Scottish Parliament and that would continue to secure the position of Scotland within the United Kingdom”,

and further instructs the Scottish Parliamentary Corporate Body to allocate appropriate resources and funding for this review.²³⁷

The debate itself was a strange one and demonstrated the rather fluid positions of some of the political parties towards constitutional change. Labour, for example, opposed any further devolution at the 2007 Scottish election, yet here it was opening the door to more powers, without any of their MSPs actually stating a preference for a single actual power to be transferred. Unlike in her speech at Edinburgh University, Wendy Alexander talked about the need for a type of convention here, but gave no specifics in what Labour would propose to the Scottish Constitutional Commission in the way of extended powers. Moreover, one of the party's MSPs, George Foulkes, even raised the prospect of Westminster taking back powers from the Scottish parliament.²³⁸ For the Conservatives, Annabel Goldie expressed support for the devolution mark two process – distancing the Tories from their previous position – but said little of substance about the party's attitudes towards devolution apart from ruling out another referendum.²³⁹ In contrast, her predecessor, David McLetchie, outlined some specific taxation powers that should be transferred to Edinburgh (stamp duty and excise duties on whisky and petrol), whilst also pointing out that the constitutional commission should be established by the UK government not the Scottish parliament – in direct contradiction of the motion he was supporting.²⁴⁰

Of course, Labour and the Conservatives are in the interesting position of not having a policy on devolution at all – apart from being in favour of it that is. The SNP and Greens favour independence – a clear constitutional position though one without majority support – whilst the Liberal Democrats' position for an extension of tax and policy

²³⁷ Lodged on 4 December 2007; taken in the Chamber on 6 December 2007.

²³⁸ Scottish Parliament Official Report, 6 December 2007, col. 4158.

²³⁹ Scottish Parliament Official Report, 6 December 2007, col. 4142.

²⁴⁰ Scottish Parliament Official Report, 6 December 2007, col. 4162.

powers was laid out in the Steel Commission report in 2006.²⁴¹ This latter level of detail allowed the Liberal Democrats to make the most positive contributions during the debate – as they could talk about matters of substance in some detail.

How should the proposal for a Scottish Constitutional Commission be assessed? Well, in a number of different ways. The SNP government will be quite happy with the initiative, as it has now seen the opposition parties enter the constitutional debate to discuss more powers for the parliament. If these parties come up with a consensus for more powers, then the SNP will seek to claim some of the credit. If the opposition parties fail to agree a consensus or come up with proposal that lack public support, then the SNP will offer independence as the clearer constitutional option. In either case, it is worth remembering that the SNP's white paper on constitutional change – the National Conversation – deliberately opened the door to more devolution rather than simply promoting independence. For the other parties, the situation is more mixed. The Liberal Democrats are in the strongest position thanks to their pre-existing policy positions and their calls for a second constitutional convention way before the 2007 Scottish election. Their policy on increased devolution is also not so set in stone that the party will be major compromisers in any pan-unionist devolution agreement that follows. For the other two parties, things are rather different. For Labour, there is a real (though risky) opportunity to recover ground here from the SNP and to seek to address some of the concerns about devolution finance and voting arrangements at Westminster – not that you can expect they will be addressed in a fundamental way. How Alexander squares any increase in powers with Gordon Brown and with the Treasury (if it involves taxation powers) will be a challenge.

In any case, none of the things that Labour is likely to suggest here require a constitutional commission at all – just the passage of orders in Council at Westminster or Treasury reforms of the Barnett formula. For the Conservatives, there is the opportunity to bury some of the party's image as the anti-devolution party in Scotland, though this might be undone by the party's campaigning south of the border on English votes for English laws.

²⁴¹ The Steel Commission, *Moving to Federalism – A New Settlement for Scotland* (March 2006), at: www.scotlibdems.org.uk/files/steelcommission.pdf

In addition, there are a whole range of as yet unanswered questions about the constitutional commission – who will be on it, when will it be established, how much will it cost, what is its timescale, how will it operate, what legitimacy will it have, how will it go about its work, what research facilities will it have and how will its findings be implemented? Will it be subject to a referendum, like the devolution proposals in Wales? Will it just involve changes to existing Westminster legislation or will it involve new legislation and, when will that happen? And, how will the public react if the commission proposes very few policy or financial powers for Scotland? There are issues here about managing expectations that were problems for Donald Dewar way back in the days of the constitutional convention in 1988. Scottish devolution-watchers have seen this all before.

10.6 Parties and Election Spending

Dodgy donations were not the only thing to come to light in this monitoring period. The Electoral Commission released the details of party spending at the 2007 Scottish election. The figures revealed that the SNP were the biggest spenders at the election, to the tune of £1,383,279 – an increase of £473,107 compared to 2003. This level of campaign spending was the consequence of major donations from the business community – such as Stagecoach owner Brian Souter's £625,000 and former Kwikfit owner Tom Farmer's £100,000. There were also a large number of small donations and bequests in the pre-election period (for example, the SNP raked in a total of £1,894,435.31 in the first quarter of 2007). The SNP spent £90,726 on party political broadcasts, £494,642 on advertising (a series of full page ads in the Scottish newspapers during the election campaign), £323,580 on mailshots and £178,705 on market research and canvassing (mostly the national call centre).

Labour spent £376,164 more in 2007 than in 2003 – meaning a total of £1,102,866. This included £337,609 on advertising, £270,020 on mailshots and £107,477 on market research and canvassing. By contrast, the Conservatives spent £601,983 (almost double the 2003 expenditure), whilst the Lib Dems spent £303,740 (almost two-thirds more than in 2003). Solidarity spent £47,630, the SSP £19,996 and the Greens £108,162.²⁴²

²⁴² All figures available from 'Comparisons between party expenditure at the 2003 and 2007 Scottish Parliamentary elections', available at www.electoralcommission.org.uk.

10.7 Tommy Sheridan – An Inspector Calls

Earlier monitors dealt with the Tommy Sheridan defamation trial against the *News of the World* as well as the aftermath of the trial and the ongoing police enquiry into perjury by witnesses at the trial. Some of the police enquiries have now come to an end of sorts, as Tommy Sheridan was arrested and charged with perjury on Sunday 17 December. Sheridan was arrested in Edinburgh at the conclusion of his weekly radio chatshow for Talk 107 and taken to Gayfield police station where he was held for almost 8 hours and charged with perjury. Meanwhile, 9 police officers searched his home in Glasgow and gathered evidence. After his release from custody, Sheridan issued a statement which said 'I am the victim of a political witch hunt. I believe this whole farcical inquiry has usurped an incredible amount of public resources. It has been orchestrated and influenced by the powerful reach of the Murdoch empire and I believe I am the victim of a witch hunt from the Murdoch empire. I will prove my innocence in the fullness of time.'²⁴³ In addition, given the number of witnesses called at the trial, we can expect more former SSP colleagues to be charged with perjury, which could lead to the removal of key figures in the post-SSP Solidarity party established by Sheridan and his supporters.

²⁴³ *The Herald*, 17 December 2007, p.1

11 Public Policies

Paul Cairney

11.1 Has the SNP Delivered?

Until the Trump golf course furore, the political agenda was dominated by one question: did the SNP deliver on its pre-election promises? This question has been debated heavily, with most disagreement surrounding the nature of public policy, the adequacy of Scotland's financial settlement and the ability of a minority administration to deliver on policies which depend on cooperation with other parties.

11.2 What is Public Policy?

'Public policy' is a vague and slippery concept. It may refer to what governments do, what they say they will do, and even how they do it. It may refer to policy formulation and/or implementation, as well as different categories, such as inputs (for example, the amount of money spent), outputs (the amount of teachers this buys) and outcomes (changes in educational attainment).²⁴⁴ This scope for interpretation suggests that the same evidence not only allows opposition parties to criticise perceived failings of government policy, but also allows the government to report that its manifesto commitments have already been fulfilled. A classic example is the ongoing saga of class sizes in schools. As discussed previously, the reduction of class sizes was a key plank of the Labour/ Liberal Democrat coalition. However, the less certain aspect of policy was how they would go about ensuring a politically defensible reduction in certain classes given the likely cost, the Scottish Executive's previous 'policy style', and its reliance on local authorities to implement. In other words, in the past the Scottish Executive had been just as committed to a way of processing policy as to policy itself. In education, this involved developing close relationships with the teaching profession and local authorities and avoiding the imposition of policy against their wishes (at least compared to the style of government in England). Therefore, even when ministers appeared to make rigid 'pronouncements' on targets referring to teacher recruitment and maximum class sizes, there was greater scope for negotiation and discretion than this suggests. For example, in some cases, an initial policy of absolute class size limits soon became average class sizes, effectively allowing schools to (say) maintain classes of 40 and 10 to fulfil a 25

²⁴⁴ See N. McGarvey and P. Cairney (2008) *Scottish Politics* (London: Palgrave)

limit. This arguably reflected a balance between the popularity of the policy at a national electoral level (and the need to be seen to be delivering it) and the ambivalence felt within teaching management about rigid limits in certain classes.

The early signs suggest that the SNP government has furthered this distinction between pledges made at the national level and the discretion given to local authorities to implement policy. Although there is a certain degree of hyperbole (given what we know about the previous central-local relationship), Alex Salmond sets out the new direction of travel very clearly:

There is a culture change in the relationship between central and local government in Scotland. The days of top-down diktats are over. Instead, we have a new relationship that is based on a shared understanding of the priorities of the people of Scotland.²⁴⁵

In education, this suggests that, while a further reduction in class sizes (to 18 or less in primaries 1-3 by 2011) was a key plank of the SNP's manifesto, it would not seek to impose the implementation on local authorities. Rather, its policy is to train more teachers and provide the money (£40m) to make the necessary improvements in school buildings to allow the policy to come to fruition (falling school rolls should also help).²⁴⁶ Further, if local authorities feel they have more pressing concerns, the money can be used elsewhere. A sympathetic assessment of this policy may point out that the Scottish Government's trust in local authorities and 'bottom-up' implementation is laudable and/or that it merely accelerates a new Scottish political tradition by further reducing 'ring-fenced' budgets (the plan is to remove ring-fencing from 43 funds totalling £2bn (12 per cent of local authority funding), which reduces overall ring-fencing from 22 per cent to 10 per cent).²⁴⁷ However, it has also opened the floodgates for opposition criticism, which focuses on the lack of progression towards the 2011 target class size and the lack of funding to achieve it.²⁴⁸ A more formal role of the Scottish Government in education can

²⁴⁵ Scottish Parliament Official Report, 29 November 2007, Col 3939

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1129-02.htm

²⁴⁶ Scottish Government News Release, 20 November 2008, 'Measures to support lower school class sizes' www.scotland.gov.uk/News/Releases/2007/11/20123238

²⁴⁷ See John Swinney Scottish Parliament Official Report, 14 November 2007, col.3327 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1114-02.htm#Col3324; Finance Committee (2008) *Stage 2 of the 2008-09 Budget Process* (Volume 1: Finance Committee Report And Evidence) www.scottish.parliament.uk/s3/committees/finance/reports-08/fir08-01-vol1-01.htm#start, pt. 108.

²⁴⁸ K. Schofield, 6 November 2007, 'Councils free to divert class-size cash', *The Herald* www.theherald.co.uk/misc/print.php?artid=1810864; K. Schofield, 7 November 2007, 'Pledge to slash class

be found in tripartite (government, local government, professions) pay negotiations, although the latest announcement of a three-year deal with teachers was fairly uneventful compared to the McCrone-led deal which preceded it.²⁴⁹

11.3 Finance, Agenda Setting and Higher Education

Many of the difficulties in fulfilling election pledges arguably arose from recent spending announcements. However, we can no more readily answer the question, 'was the latest financial settlement adequate?' than we can the question, 'what is policy?'. Indeed, following heated debates between the SNP Government in Scotland and the Labour Government in the UK in October 2007, casual observers of Scottish politics may be forgiven for a certain level of confusion over recent spending announcements. Treasury figures (see Figure 8.1) had Scotland's Departmental Expenditure Limit rising from £26bn in 2007-08 to £33bn in 2009-10, representing an average real annual rise of 1.8 per cent. On this basis, the UK Government argued that a prudent Scottish Government should be able to fulfil all of its commitments, noting that the Scottish Parliament's budget has doubled in cash terms since devolution. The SNP countered this claim by pointing to a shift in the 'baseline' to calculate the figures. The 2007-08 baseline figure for Scotland's DEL was reduced by £340m to take into account lower levels of actual spending in England by the Department of Health in previous years. Therefore, the actual annual real rise is 1.4 per cent. Further, the SNP Government pointed out that since the baseline was reduced, the increase in 2008-09 is actually £845m. In cash terms this represents a rise in 3.2 per cent, but in real terms this comes to 0.5 per cent. The SNP argued that this was the lowest real annual rise since devolution.²⁵⁰ Although this competition to set the agenda may appear to be no more than politicking, it is part of a 'two-level game'²⁵¹ that has consequences for subsequent debates over the financing of domestic politics. For example, the SNP Government may feel obliged to engage in

sizes will cost £275m, claims study', *The Herald*,

www.theherald.co.uk/politics/news/display.var.1813932.0.0.php

²⁴⁹ Scottish Government News Release, 14 December 2007, 'Pay deal for teachers'

www.scotland.gov.uk/News/Releases/2007/12/14131511

²⁵⁰ HM Treasury (2007), '2007 Pre-Budget Report and Comprehensive Spending Review', Regional Press Notice: In Scotland www.hm-treasury.gov.uk/media/0/2/pbr_csr07_regionalpnsotland.pdf; Scottish Government News Release, 9 October 2007, 'FM Comments on UK Spending Review', www.scotland.gov.uk/News/Releases/2007/10/10084746; Douglas Fraser, 8 October 2007, 'Budget row as SNP brands three-year deal 'lousy'' *The Herald*,

www.theherald.co.uk/politics/news/display.var.1742026.0.0.php; BBC News, 9 October 2007, 'Row over spending review figures' <http://news.bbc.co.uk/1/hi/scotland/7034855.stm>

²⁵¹ R. Putnam (1988) 'Diplomacy and Domestic Politics: The Logic of Two-Level Games', *International Organization*, Vol. 42, No. 3. (Summer), pp. 427-460.

heated debates with the UK Government to satisfy its domestic nationalist audience. Or, in more practical day-to-day politics, it needs to place the blame for reduced Scottish spending programmes at someone else's door, to avoid damaging criticism from opposition parties about unfulfilled promises.²⁵²

The best example so far is higher education, which highlights similar competition to set the agenda and control the public's interpretation of levels of spending. This began with a strong campaign by Universities Scotland (which represents University Principals) to ensure that Scottish Universities did not fall behind their English counterparts (due to receive extra funding from top-up fees). This was backed by Liberal Democrat leader Nicol Stephen who argued that the latest HE settlement represented a fall in real terms.²⁵³ This was countered by Education Secretary Fiona Hyslop who argued that Universities now receive a greater proportion of Scotland's public purse (suggesting that the SNP Government is putting more into universities than the previous executive). The argument was then rehashed in a heated exchange during First Minister's Questions, with Stephen's suggestion that the SNP Government was less than forthcoming on its funding commitments rebuffed by Salmond, who restated the argument that spending on higher education would rise from 3.13 per cent to 3.14 per cent of the Scottish Government's Total Managed Expenditure.²⁵⁴ Greater clarity surrounds the new policy on student debt servicing. The SNP's original aim was not only to abolish the graduate endowment that students pay when they leave university (approximately £2,000, which replaced the student fees of £3,300), but also to 'service the debt' for students who had already taken out loans to pay the endowment. However, John Swinney announced in November's Strategic Spending Review that the latter aim would not be fulfilled within this budgetary period.²⁵⁵ There is perhaps less clarity on the cause of this policy change. Not surprisingly, few opposition MSPs agreed with John Swinney's argument that the move reflected a smaller financial settlement combined with an inability to command

²⁵² In a sense, given the low settlement, the SNP's job is more difficult but the politics are easier – it is a straightforward task of linking the budget to UK problems. With Labour the politics were more constraining since they couldn't criticise UK Labour's settlement, but they had less reason to complain.

²⁵³ Newsnight Scotland, 19 November 2007.

²⁵⁴ Scottish Parliament Official Report, 29 November 2007, cols. 3941-44
www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1129-02.htm#Col3937 ; see also Scottish Government News Release, 26 October 2007, 'Universities and colleges' www.scotland.gov.uk/News/Releases/2007/10/26092446

²⁵⁵ Scottish Parliament Official Report, 14 November 2007, col. 3325,
www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1114-02.htm#Col3324

parliamentary support for debt servicing (see also sections 2.2 and 2.5).²⁵⁶ Although higher education grabbed the headlines, similar battles have been fought in other sectors, such as mental health.²⁵⁷

11.4 The Healthy Constraints of Minority Government

The next issue of policy delivery for a minority government is whether or not the other parties will *let it* fulfil its promises. For example, although the Scottish Government has signalled progress in its attempts to reduce NHS waiting lists and 'hidden' waiting lists,²⁵⁸ there is potential for an impasse based on the respective abilities of the Government and Parliament to block the other's favoured option. For example, the SNP's preferred policy – giving patients a statutory right to a waiting time guarantee – has effectively been vetoed in Parliament, while the preference of Labour and the Liberal Democrats – to use spare capacity in the private sector – has been largely rejected by the SNP (see section 2.3).²⁵⁹ The role of the Parliament should not be a problem for the Government's plans to introduce elections to health boards,²⁶⁰ since the plan was previously introduced by a Labour MSP and there is demonstrable support.²⁶¹ Its chances of abolishing prescription charges are similar, for similar reasons.²⁶² The Government can also act fairly autonomously to direct health boards. Its pledge to block the closure of A&E hospitals in Monklands and Ayr was bolstered by a report chaired by Dr Andrew Walker.²⁶³ It should have even fewer worries about setting maximum charges for parking at hospitals, tackling sexual health, tackling health inequalities, introducing tougher hand hygiene

²⁵⁶ The move also (not surprisingly) came under attack from a range of student associations. See The Herald, 19 November 2007 'Student Debt: Student leaders attack SNP "U-turn"', www.theherald.co.uk/news/news/display.var.1844174.0.0.php ; K. Schofield, 20 November 2007, 'Students round on ministers over loans and university funding' *The Herald* www.theherald.co.uk/politics/news/display.var.1844618.0.0.php

²⁵⁷ L. Moss, 22 November 2007, 'Cash for mental health treatment 'cut by 8%', *The Scotsman*, <http://news.scotsman.com/ViewArticle.aspx?articleid=3539764> ; Scottish Government News Release, 10 December 2007, 'Mental health is top priority' www.scotland.gov.uk/News/Releases/2007/12/10112554 ; 9 October 2007, 'Overhaul of mental health services' www.scotland.gov.uk/News/Releases/2007/10/09141654

²⁵⁸ L. Moss, 28 September 2007, 'Ending 'hidden' hospital waiting lists will be tough task, admits Sturgeon' *The Scotsman*, <http://news.scotsman.com/ViewArticle.aspx?articleid=3544958> ; Scottish Government News Release, 24 October 2007, 'Boards on target to abolish hidden waiting lists', www.scotland.gov.uk/News/Releases/2007/10/24154540

²⁵⁹ Scottish Parliament Official Report, 27 September 2007, from col. 2159, www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0927-02.htm#Col2159

²⁶⁰ Scottish Government (2008) *Consultation Document: Local healthcare Bill* www.scotland.gov.uk/Resource/Doc/208149/0055207.pdf

²⁶¹ Scottish Parliament Official Report, 31 January 2007, cols. 31575-624 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0131-01.htm

²⁶² Scottish Government News Release, 5 December 2007, 'Abolition of prescription charges' www.scotland.gov.uk/News/Releases/2007/12/05141211

²⁶³ F. MacLeod 14 January 2007, 'Closure of A&E units 'would not benefit patients'', *The Scotsman*, <http://news.scotsman.com/healthofthenhs/Closure-of-AE-units-39would.3667972.jp>

targets, encouraging healthy eating, rolling out free school meals or enhancing the protection of NHS workers.²⁶⁴ A bill to compensate people exposed to asbestos should also command all-party support.²⁶⁵

11.5 Policy in Reserved Areas

If 'policy' is about the saying as much as the doing, then the SNP Government made notable strides in its policy of opposition to the renewal of the Trident weapons system in this period. It held a summit in Glasgow in October to gauge and then highlight the level of 'civil society' interest in opposing any UK Government plans (following Salmond's decision to make written invitations for international support). This included discussions exploring the use of devolved powers to block Trident in Scotland.²⁶⁶ A similar tone can be found in discussions of the future of nuclear energy in Scotland. In response to the publication of the UK Energy Bill, John Swinney re-affirmed the Scottish Government's opposition to nuclear (the effect of which is clear – no new stations have been announced for Scotland). This was followed by a debate on how crucial it was to Scotland's energy requirements (it accounts for 40 per cent of the amount *generated* in Scotland but, since Scotland exports excess electrical capacity, no nuclear would mean a 7.5 per cent shortfall in terms of the amount *consumed* in Scotland).²⁶⁷ Although some aspects of fuel poverty are devolved (e.g. energy efficiency in homes and funding for

²⁶⁴ Scottish Government News Release, 18 January 2008, 'Hospital Car Parking Charges' www.scotland.gov.uk/News/Releases/2008/01/18104302 ; 16 January 2008, 'Tackling sexual health' www.scotland.gov.uk/News/Releases/2008/01/16100756 ; 15 January 2008, 'Enhanced protection for NHS workers' www.scotland.gov.uk/News/Releases/2008/01/15130013 ; 15 January 2008, 'National food discussion begins' www.scotland.gov.uk/News/Releases/2008/01/14151919 ; Scottish Government News Release, 27 December 2007, 'Tougher hand hygiene targets' www.scotland.gov.uk/News/Releases/2007/12/27110505 ; 3 October 2007, 'Free meals on schools menu' www.scotland.gov.uk/News/Releases/2007/10/03172628 ; 3 October 2007, 'Health Inequalities Task Force' www.scotland.gov.uk/News/Releases/2007/10/03134803

²⁶⁵ Scottish Government News Release, 29 November 2007, 'Asbestos claims bill planned' www.scotland.gov.uk/News/Releases/2007/11/29102156

²⁶⁶ SNP (2007) 'Trident Summit Held in Glasgow' www.snp.org/press-releases/2007/trident-summit-held-in-glasgow/ ; BBC News, 22 October 2007, 'Salmond wants nuclear treaty role', http://news.bbc.co.uk/1/hi/scotland/glasgow_and_west/7054543.stm ; Scottish Government News Release, 22 October 2007, 'Trident in Scotland' www.scotland.gov.uk/News/Releases/2007/10/22111017

²⁶⁷ M. Settle, 11 January 2008, 'Swinney claims nuclear victory', *The Herald*, www.theherald.co.uk/news/news/display.var.1958033.0.0.php?act=complaint&cid=973512 ; *Press and Journal*, 11 January 2008, 'Storm over the lights going out in Scotland', www.thisisnorthscotland.co.uk/displayNode.jsp?nodeId=149212&command=displayContent&sourceNode=149212&contentPK=19519557 ; Scottish Government News Release, 10 January 2008, 'Scotland responds to energy bill' www.scotland.gov.uk/News/Releases/2008/01/10115824 ; Scottish Government News Release, 27 November 2007, 'Renewable energy potential' www.scotland.gov.uk/News/Releases/2007/11/27095600 ; 9 October 2007, 'Ministers say no to new nuclear power', www.scotland.gov.uk/News/Releases/2007/10/09140338

older people²⁶⁸), the price of (and tax on fuel) is key. Therefore, the SNP reserved a less independent tone for its strategy to influence energy companies (as a part of a UK-wide lobby).²⁶⁹ A greater spirit of cooperation is also apparent with policy related to the detention of children at Dungavel.²⁷⁰ Some UK acquiescence may be required for the ban on cheap alcohol promotions.²⁷¹ Even more is required for a consolidated Firearms Act for Scotland.²⁷² By contrast, Scotland's 'international role' is now fairly established.²⁷³

11.6 Policy Divergence Through No Fault of Your Own

There is some debate about the effect devolution would have on policy divergence between Scotland and England. If part of the devolution project was aimed at producing 'Scottish solutions to Scottish problems', then we would look for policy innovations in Scotland. However, if devolution was more about protecting Scotland from the 'worst excesses of Thatcherism', then we may be more likely to find divergence when policy innovation in England is no longer followed in Scotland.²⁷⁴ In most cases, it is difficult to gauge the full significance of public policy developments in Scotland without reference to the rest of the UK (provided we can move on from rather broad generalisations about the direction of travel in each). The highest profile example in this period is healthcare, with the 60th anniversary of the NHS giving many the opportunity to assess developments since devolution. For Gill Morgan of the NHS Confederation there are, 'four different systems, albeit with the same set of values'²⁷⁵ (note that this organisation closed its Scottish Office when the level of divergence undermined the value of coordination). While few would argue with this, there is more debate about who is 'doing best'. To a great extent, this takes us back to the significance of agenda setting. For example, the focus on extra entitlement in Scotland (personal care, prescriptions) leads Michael Summers, vice-chairman of the Patients Association to argue that England is the 'poor

²⁶⁸ Scottish Government News Release, 21 November 2007, 'Extra measures for central heating programme', www.scotland.gov.uk/News/Releases/2007/11/21091114

²⁶⁹ Scottish Government News Release, 11 December 2007, 'Rise in fuel poverty 'unacceptable'' www.scotland.gov.uk/News/Releases/2007/12/11100803

²⁷⁰ R. Dinwoodie, 12 October 2007, 'Fresh ideas to keep children out of Dungavel', *The Herald*, www.theherald.co.uk/politics/news/display.var.1754797.0.0.php

²⁷¹ K. Schofield, 15 December 2007, 'Retailers told not to fight cheap drink ban', *The Herald*, www.theherald.co.uk/politics/news/display.var.1759211.0.0.php

²⁷² Scottish Government News Release, 23 October 2007, 'Minister comments on firearms statistics' www.scotland.gov.uk/News/Releases/2007/10/23110913

²⁷³ Scottish Government News Release, 6 October 2007, 'Scotland wants 'active' international role' www.scotland.gov.uk/News/Releases/2007/10/05161426

²⁷⁴ N. McGarvey and P. Cairney, (2008) *Scottish Politics* (London: Palgrave)

²⁷⁵ M. Settle, 3 January 2007, 'England 'has become poor relation' in health care', *The Herald*, www.theherald.co.uk/politics/news/display.var.1938751.0.England_has_become_poor_relation_in_health_care.php

relation'. In contrast, a focus on the English agenda on waiting times suggests that, 'waiting times fell steadily and as planned in England, with both average and longest waits falling. In Scotland, neither happened. The results show 'that targets and terror work' at ... and they appear to have done so without damaging patient care'.²⁷⁶

In most cases, however, the more subtle differences of policy direction (including the implementation) may be 'under the radar'. Two examples demonstrate this point. First, the trend towards secondary teachers in England teaching on subjects they have no degree in²⁷⁷ could not happen in Scotland because the regulations overseen by the General Teaching Council of Scotland prohibit such developments. Second, a sole focus on Scotland and the Scottish Government's problems implementing free personal care (see section 1.7) may ignore bigger problems in England with spiralling costs for basic support services and relatively strict tests of eligibility.²⁷⁸

11.7 SNP, Judge Thyself

A final aspect of public policy is evaluation. Unsurprisingly, in the SNP Government's own terms, as stated in a press release, there has been much policy success:

- We created a smaller ministerial team
- We have introduced legislation to reintroduce free education in Scotland by abolishing fees and we are about to do the same with prescription charges
- We created a Council of Economic Advisers
- We struck the historic agreement with local government through Cosla
- We moved to save the accident and emergency units at Monklands and Ayr
- We passed legislation to remove the unfair tolls from the Forth and Tay bridges
- Just this week we announced a new Forth bridge will be built, guaranteeing a crucial economic link for the country.
- And we have started a national conversation about the future of Scotland²⁷⁹

²⁷⁶ N. Timmins, 3 January 2008, 'Research says NHS waiting time targets work', *Financial Times*, www.ft.com/cms/s/0/6c7d0a48-b986-11dc-bb66-0000779fd2ac.html?nclick_check=1. The article refers to work conducted by Windmeijer and Propper as part of the ESRC Public Services Programme - www.publicservices.ac.uk

²⁷⁷ *The Guardian*, 9 July 2007, 'Many teachers 'not up to the job'' www.guardian.co.uk/uklatest/story/0,-6766458,00.html

²⁷⁸ J. Revill, 1 July 2007, 'Elderly hit by soaring cost of home help' *The Observer* http://observer.guardian.co.uk/uk_news/story/0,,2115750,00.html

²⁷⁹ Scottish Government News Release, 24 December 2007, 'Christmas Message', www.scotland.gov.uk/News/Releases/2007/12/20100651; Note that the decision for a bridge rather than a tunnel (see: www.scotland.gov.uk/News/Releases/2007/12/19143707) couldn't have been announced at a worse time, since the bridge was closed due to high winds soon after!

**DEVOLUTION
MONITORING
PROGRAMME
2006-08**

Scotland Devolution Monitoring Report

May 2008

Dr Nicola McEwen (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.

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Institute of Governance, University of Edinburgh
- Wales: **Prof Richard Wyn Jones & Prof Roger Scully**
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- Northern Ireland: **Professor Rick Wilford & Robin Wilson**
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The Constitution Unit and the rest of the research network is grateful to all the funders of the devolution monitoring programme.



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Scotland Devolution Monitoring Report

May 2008

Dr Nicola McEwen (ed.)

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Introduction

It has been commonplace in academic and media analyses of the 2007 Scottish Parliamentary election to note that the SNP's victory had little to do with a nationalist resurgence and that support for independence seemed at its lowest level since the Parliament's establishment. It is perhaps ironic, then, that the constitutional debate has been such a dominant feature of the SNP's first year in office.

In February, the SNP launched the second stage of its National Conversation at an event at the University of Edinburgh, in an attempt to engage more directly with civil society organisations. It also took the debate to Brussels. Meanwhile, the promised Scottish Constitutional Commission, conceived by the three main opposition parties and (belatedly) supported by the UK Government, was finally appointed, under the chairmanship of Sir Kenneth Calman, with the promise of an interim report before the end of the year. We have extended slightly the usual period of the monitoring report to cover the extraordinary events of early May, when Labour's leader in the Scottish Parliament, Wendy Alexander, used a television interview to announce her support for an early independence referendum, having hitherto vehemently opposed the idea. The position was somewhat diluted within a week – captured in Eberhard Bort's media analysis – after it became clear that she did not have the support of the Prime Minister or other UK Cabinet Ministers, nor the capacity to force the issue in the Scottish Parliament, provoking humiliation and further questions over her leadership. It has also had the consequence of making it difficult for the Labour Party in the Scottish Parliament to oppose a referendum bill when one is tabled by the SNP, or to refuse to hold a referendum on the conclusions of the Calman Commission, assuming it recommends a significant revision of the Scotland Act. We may yet see the multi-option constitutional referendum proposed by the First Minister in February, despite the initial hostility of the opposition parties.

This review period also saw the SNP government reach the milestone of its first year in office, while apparently still enjoying a prolonged honeymoon. The continued weakness of the opposition has certainly aided the SNP, but its ministers have also proved adept at negotiating delicate ad hoc alliances to secure parliamentary support, most notably in securing the Parliament's consent for its budget. There are challenges to come, however, both within the Parliament and in intergovernmental relations, particularly over its intention to replace the council tax with a local income tax, and in the development of the Scottish Futures Trust as a replacement for the

private finance initiative. These policy challenges and other policy developments are detailed throughout this report.

Dr Nicola McEwen
University of Edinburgh
May 2008

Chronology of Key Events: January – May 2008

- 15 January Leading Labour, Conservative and Liberal Democrat figures from Westminster and Holyrood meet to discuss the establishment of a constitutional commission to re-examine the devolution settlement.
- 17 January The Scottish Government responds to the recommendations of the Crerar reports into the rationalisation of regulatory bodies scrutinising local government.
- 6 February The Scottish Parliament passes the Budget proposed by the SNP minority administration after concessions are made to opposition parties.
- 7 February Police inquiry into alleged illegal donation to Wendy Alexander's Labour leadership campaign ends, with no charges brought.
- 12 February Scotland Minister David Cairns dismisses discussion of the devolution of fiscal powers to Holyrood as of interest only to the 'McChattering classes'.
- 14 February Summit meeting of the British-Irish Council
- 17 February Gordon Brown gives his backing to the proposed Scottish constitutional commission.
- 10 March It emerges that the 'Trump affair' – in which the Scottish Government has come under fire for its handling of Donald Trump's proposed £1bn golf development – will go to a public inquiry, to begin in June.
- 11 March Scottish Government publishes a consultation document on the SNP proposal to replace council tax with a local income tax.
- 16 April Secretary of State for Wales Paul Murphy meets with First Minister Alex Salmond to discuss a revival of plenary Joint Ministerial Committees (JMCs).

- 25 March Sir Kenneth Calman is appointed chair of the cross-party constitutional commission.
- 26 March Official launch of the second phase of the SNP's National Conversation.
- 20 April First Minister Alex Salmond announces his ambition for the SNP to capture 20 Westminster seats at the next general election at his party's Spring Conference.
- 28 April The full membership of the Calman commission is announced and the first meeting is held at the Scottish Parliament.
- 4 May Scottish Labour leader Wendy Alexander announces her support for an early referendum on independence.

1. The Scottish Executive

Paul Cairney

1.1 The Scottish Ministerial Code

The code of conduct for ministers suggests that: 'It is for individual Ministers to judge how best to act in order to uphold the highest standards. They are responsible for justifying their conduct to the Parliament'.¹ However, as the Local Government and Communities Committee and others have shown, you do not have to be responsible for enforcing the ministerial code of conduct to have an opinion on it (see section 2.3). Not surprisingly, the issues raised during the Trump affair (which will now go to a public inquiry)² have been linked to any planning story with a sniff of ministerial involvement. This includes Deputy First Minister Nicola Sturgeon's opposition (and hence 'failure to remain neutral') to the building of a 'woodland adventure course' in her constituency and alleged ministerial pressure on SEPA to withdraw their objections to a planned hotel resort in Aviemore. The links are perhaps not surprising given the explicit reference in the code to planning decisions:

6.11 One of the basic tenets of the planning system is that, in the interests of natural justice, decisions are based on an open and fair consideration of all relevant planning matters with the same information being available to all interested parties. Accordingly, Ministers, and in particular the Planning Minister, must do nothing which might be seen as prejudicial to that process, particularly in advance of the decision being taken. Action that might be viewed as being prejudicial includes (i) taking a decision, or being part of the decision-making process, in respect of an application which falls within the Minister's constituency; (ii) expressing an opinion publicly on a particular case which is, or may subsequently come, before the Minister for decision; (iii) meeting the developer or objectors to discuss the proposal, but not meeting all parties with an interest in the decision; or (iv) commenting on decisions once they have been issued, other than in terms of what has appeared in the decision letter or, in the case of structure plan approvals, any accompanying explanatory annexes.¹

¹ Scottish Executive August 2003 *A Code of Conduct and Guidance on Procedures for Members of the Scottish Executive and Junior Scottish Ministers*

www.scotland.gov.uk/Publications/2003/08/17996/25274#4

² 'Inquiry date set for Trump plans' (26 March 2008), *BBC News*

http://news.bbc.co.uk/1/hi/scotland/north_east/7314409.stm ; 08 '£1bn Trump resort to go to full public inquiry' (February 28 2008) *The Herald*

www.theherald.co.uk/news/news/display.var.2081601.0.1bn_Trump_resort_to_go_to_full_public_inquiry.php ; F. Urquhart, 'Public inquiry into Trump's £1bn golf resort set to start in 10 weeks' (11 March 2008), *The Scotsman* <http://news.scotsman.com/politics/Public-inquiry-into-Trump39s-1bn.3862884.jp>

Such criticism extended to ministerial involvement in a contract to tender hovercraft services to Stagecoach (owned by SNP donor Brian Souter).³ Alex Salmond and the Finance Secretary John Swinney are also not the only ministers to have their car journeys scrutinised.⁴ In what must now be considered a tradition in government, the transport minister Stewart Stevenson has been accused of making excessive car trips after committing himself to using other forms of transport.⁵

1.2 Quangos

The quango numbers-game continued with the Scottish Government's publication of its plans to rationalise public bodies (following the agenda set by the Howat report).⁶ These include a reduction of 'national public organisations' from 199 to 121 by 2011 (with 35 already announced, 17 announced in January, and the prospect of more reductions when the 32 Justice of the Peace Advisory Committees (JPACs) are replaced by 6 larger JPACs⁷) as well as a broader commitment to streamline the public sector and make governing arrangements more transparent. There is an implicit suggestion that the Scottish way of reform, including the promise to 'honour our crucial commitment to no compulsory redundancies', is superior to that of the UK Government.⁸ Yet, there are still no clear measures discussed on how efficient public bodies are (and how this should be measured⁹), whether they deliver value for money, and how their abolition/replacement will improve the delivery of public

³ J. Morgan, 'Sturgeon attacked over opposition to Go Ape assault course' (29 January 2008) *The Herald* www.theherald.co.uk/politics/news/display.var.2000640.0.Sturgeon_attacked_over_opposition_to_Go_Ape_assault_course.php; H. MacDonell 'Minister says 'judge for yourselves' in row over £80m hotel revamp', 6 February, *The Herald* <http://news.scotsman.com/politics/Minister-says-39judge-for-yourselfes39.3746825.jp;H.MacDonell>; 'SNP dismisses "absurd" Labour claims over donor', 28 January 2008, *The Scotsman* <http://news.scotsman.com/politics/SNP-dismisses-39absurd39-Labour-claims.3715850.jp>; I. Swanson, 'SNP faces hovercraft dust-up', 29 January 2008, *Evening News* <http://news.scotsman.com/politics/SNP-faces-hovercraft-dustup.3719954.jp>;

⁴ See the 'Sequence of Events' section in the Local Government and Communities committee report into the Menie estate (2.3) - www.scottish.parliament.uk/s3/committees/lgc/reports-08/lgr08-05.htm

⁵ H. MacDonell, 'A car trip a day for MSP who vowed to walk' (18 February 2008), *The Scotsman* <http://news.scotsman.com/politics/A--car-trip-a.3786703.jp>

⁶ 'Simplifying Public Services', (30 January 2008), Scottish Government News Release www.scotland.gov.uk/News/Releases/2008/01/30142848; H. MacDonell, "Bonfire of the quangos" described as a "damp squib" (31 January 2008), *The Scotsman* <http://news.scotsman.com/scottishexecutive/39Bonfire-of-the-quangos39-described.3728818.jp> '31.1.08 'Simpler, More Effective Government' www.holyrood.com/content/view/2029/10051/

⁷ These were originally flagged up for abolition in 2001 – see Scottish Executive (2001) Public Bodies: Proposals for Change www.scotland.gov.uk/Resource/Doc/158633/0043032.pdf

⁸ This is certainly SNP MSP Michael Matheson's take on the process – see Scottish Parliament Official Report (8 May 2008), c.8467

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0508-02.htm#Col8425

⁹ Measures based on the social representativeness of quango members have also been mooted in the UK – J. Carvell, 'North left in the cold as Londoners pack quangos', (14 February 2008), *The Guardian* www.guardian.co.uk/society/2008/feb/14/publicsectorcareers.localgovernment

policy.¹⁰ Indeed, there is no clear agreement on what public bodies are. This allows the intractable debates to continue within Parliament, with the Minister for Parliamentary Business, Bruce Crawford, arguing that:

We have been open about the task forces and other short-term groups that have been established to tackle specific issues. I am disappointed that some members have intentionally sought to confuse short-term groups – set up to involve and engage with stakeholders on specific issues – with appointed public boards and established public organisations that employ staff and deliver public services. ... Andy Kerr was one of the worst culprits¹¹

The reply from Labour's Andy Kerr perhaps demonstrates an insider's knowledge of the sleight-of-hand required by government ministers when describing cuts:

The pledge is to cut quangos by 40 per cent, but 39 new quangos are being created – the minister calls them short-term groups. They are costing £800,000 of taxpayers' money – the Scottish Broadcasting Commission alone is costing £500,000. The Government should acknowledge that it is creating more non-parliamentary bodies. It might label them differently, but a quango is a quango, and the money is still being spent on behalf of the taxpayer to deliver them – for example, £30,000 is being spent on the Council of Economic Advisers.¹¹

1.3 Scottish Water, Enterprise and Police Services

The Scottish Government has begun to consult on the future of Scottish Water. This is unlikely to lead to 'mutualisation' (which in this case suggests a form of public ownership combined with some private sector involvement in investment and/or competition in the delivery of services).¹² However, the review was preceded by a change to the non-domestic market for water which allows businesses to choose their supplier.¹³ Less extensive changes – such as a rebate scheme for poor service

¹⁰ Some may be harder to justify publicly than others – see L. Adams, 'Under threat: the £1.5m quango that monitors just five criminals', 20 February 2008, *The Herald* www.theherald.co.uk/news/news/display.var.2057507.0.Under_threat_the_1_5m_quango_that_monitor_s_just_five_criminals.php

¹¹ Scottish Parliament Official Report (8 May), c.8456-61

¹² For opposing views on the benefits and prospects of mutualisation, see Derek Brownlee MSP (Conservative) Scottish Parliament Official Report (2 January) c.6153 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0221-02.htm#Col6153; Unison Scotland, 'It's Scotland's Water - what does 'Mutualisation' mean?' www.unison-scotland.org.uk/water/mutualisation.html; D. Fraser, 'Ministers set for U-turn over mutual status for Scottish Water' (21 February 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2060843.0.Ministers_set_for_Uturn_over_mutual_status_for_Scottish_Water.php

¹³ 'Future of water industry' (3 March 2008), Scottish Government News Release www.scotland.gov.uk/News/Releases/2008/03/03105829; M. McLaughlin, 'Pulling plug on water monopoly' (4 March 2008), *The Scotsman* <http://news.scotsman.com/politics/Pulling-plug-on-water-monopoly.3838368.jp>

– seem more likely in the domestic sector.¹⁴ According to chief executive Jack Perry, the changes to the structure of Scottish Enterprise are now being implemented enthusiastically.¹⁵ However, the introduction of a new Scottish Police Services Authority to address problems with police fingerprint services (in the wake of the Shirley McKie case) has been received less well.¹⁶

1.4 Relocation

The Scottish Government announced a ‘new approach to relocation policy’ in January (much to the chagrin of Labour and the Liberal Democrats).¹⁷ Although the overall policy of relocating (on a case-by-case basis) when it provides ‘wider benefits for the taxpayer’ is very similar to the original approach taken by the Scottish Executive in 2000 (pursing relocation only when ‘the interests of Scotland as a whole, the efficiency of government, and the delivery of high quality services to the public’ can be assured¹⁸), there are three key differences in the implementation. First, there is a more explicit rejection of compulsory redundancies (the previous policy promised consultation with staff and trade unions). Second, the Scottish Government has effectively rejected the Scottish Executive’s presumption against Edinburgh when considering new bodies and the fate of existing bodies whose lease is up for renewal (although sportscotland will still move to Glasgow). Third, the new policy is based on the argument that relocation has not worked:

Relocation policy to date has not achieved the benefits intended – wide job dispersal or assisting the areas most in economic need. A great deal of money, time and effort has been spent on moving organisations, incurring significant cost to business continuity and to staff.¹⁹

1.5 Civil service strikes

The strike by 10,000 civil servants from the Department of Work and Pensions in Scotland in March reminds us that most civil servants working in Scotland do so for

¹⁴ ‘Water industry could offer customer rebates’ (3 March 2008)

www.holyrood.com/content/view/2166/10051/

¹⁵ ‘Scottish Enterprise focus now clear, says Perry’ (11 February 2008)

www.holyrood.com/content/view/2071/10051/

¹⁶ E. Barnes, ‘New fingerprint agency “shambolic”’ (9 February 2008), *Scotland on Sunday*

<http://news.scotsman.com/politics/New-fingerprint-agency--39shambolic39.3762538.jp>

¹⁷ K. Schofield, ‘Government scraps old policy on job dispersal’ (29 January 2008), *The Herald*

www.theherald.co.uk/politics/news/display.var.2000653.0.Government_scraps_old_policy_on_job_dispersal.php ; H. MacDonell, ‘Swinney calls halt to policy of relocation, relocation, relocation’ (29 January

2008), <http://news.scotsman.com/politics/Swinney-calls-halt-to.3719207.jp>

¹⁸ ‘Executive outlines process for relocation of public service jobs’ (6 July 2007), Scottish Executive

News Release www.scotland.gov.uk/News/Releases/2000/07/e60ec015-4e4b-44de-b52f-9bcafdde72ca

¹⁹ ‘New approach to relocation policy’, 28 January 2008, Scottish Government News Release

www.scotland.gov.uk/News/Releases/2008/01/28103558

the UK government (74 per cent) rather than for the Scottish government (26 per cent).²⁰

1.6 Freedom of Information

Freedom of information remains a 'success story', with public awareness of the Freedom of Information Act rising to 74 per cent (from 47 per cent in 2005), while 64 per cent of the public (and 89 per cent of authorities) think that public authorities are 'more open and accountable'. However, the Information Commissioner, Kevin Dunion, has expressed dissatisfaction with levels of engagement among ethnic minorities, the young and the old, and surprise about the low number of requests related to health and education.²¹ There is also continued uncertainty about how to bring private companies and housing associations delivering public services under the remit of the Act.²²

²⁰ A. MacDermid, '10,000 join first day of strikes by civil service', 18 March 2008, *The Herald* www.theherald.co.uk/politics/news/display.var.2126928.0.10_000_join_first_day_of_strikes_by_civil_service.php; McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), p. 124.

²¹ 'Commissioner urges people from all backgrounds to be aware of their rights to information' (11 March 2008), Scottish Information Commissioner. www.itspublicknowledge.info/home/News/20080311C.asp; 'Commissioner wants older people to be more aware of their rights to information' www.itspublicknowledge.info/home/News/20080311B.asp; 'Commissioner wants young people to be more aware of their rights to access information'; www.itspublicknowledge.info/home/News/20080311A.asp; 'Info requests centre on politics' (10 March 2008), *BBC News* <http://news.bbc.co.uk/1/hi/scotland/7286030.stm>

²² H. MacDonell, 'Public denied information by gaps in law, says Dunion', (10 March 2008), *The Scotsman* <http://news.scotsman.com/politics/Public-denied-information-by-gaps.3859384.jp>

2. The Scottish Parliament

Paul Cairney

2.1 The Budget

The SNP Government's biggest hurdle during the budget process proved to be during the Stage 1 consideration of its principles. After considerably more substantial plenary debate than the Parliament is used to, the government won the vote by 64 to 62. It relied for this victory on support from the Conservatives and the independent MSP Margo MacDonald, as well as the abstention of the two Greens. However, as the previous report suggests, it did not have to make the major concessions that might be expected for such a tight vote. There was a commitment to fund 1000 new police officers and consider reducing business rates (for the Conservatives), a capital city supplement (for MacDonald), and a commitment to undergo a carbon assessment of future spending plans (for the Greens).²³ While perhaps significant for each party, these measures did not amount to a significant rethinking of the budget. Of course, they were necessary to jump the first hurdle, with each party negotiating further policy concessions in the lead up to the Stage 3 vote. These included a new drugs strategy and an accelerated cut in business rates (key planks of the Conservative manifesto) and more investment for public transport.²⁴ Further, these parties fared better than the Liberal Democrats, who abstained on the stage 3 votes, and Labour, who curiously supported an SNP amendment to the budget (on modern apprenticeships and standards of service for vulnerable groups) but then abstained on the amended motion.²⁵

²³ Scottish Parliament Official Report (23 January 2008) www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0123-02.htm#Col5287; P. McMahon, 'Unlikely Holyrood alliance helps SNP squeeze home in budget vote' (24 January 2008), *The Scotsman* <http://news.scotsman.com/politics/Unlikely-Holyrood-alliance-helps-SNP.3705302.jp>

²⁴ Scottish Parliament Official Report (6 February 2008) www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0206-01.htm ; 'Budget approved after deal' (6 February 2008), *BBC Scotland*, http://news.bbc.co.uk/player/nol/newsid_7230000/newsid_7232200/7232261.stm?bw=bb&mp=wm&news=1&bbcws=1 ; 'The Scottish Budget: Key policy plans laid out' , (7 May 2008), *The Scotsman* <http://news.scotsman.com/politics/The-Scottish-Budget-Key-policy.3752415.jp>; H. MacDonell, 'Swinney's last-minute deals over business rates and transport win vital support', (7 February 2008), *The Scotsman* <http://news.scotsman.com/politics/Swinney39s-lastminute-deals-over-.3752341.jp>; H. MacDonell, 'Conservatives claim victory as Goldie plays her hand just right', (7 February 2008), *The Scotsman* <http://news.scotsman.com/politics/Conservatives--claim-victory-as.3752348.jp>; BBC News 'Salmond makes resignation threat' (5 February 2008), *BBC News* <http://news.bbc.co.uk/1/hi/scotland/7229224.stm> ; D. Fraser, 'Concessions won by Tories become new campaign', (9 February 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2032103.0.Concessions_won_by_Tories_become_new_campaign.php

²⁵ Iain MacWhirter links this to a fear that Labour opposition might have produced an SNP defeat and early election. I. MacWhirter, '1 year of the SNP government' (27 April 2008), *Sunday Herald*

2.2 The Graduate Endowment

In second place is the Stage 3 passage of the Graduate Endowment Abolition (Scotland) Bill, which passed by 67 to 61 (in other words, as with finance, all MSPs voted). In this case, the parliamentary arithmetic changed, with the SNP bolstered by support from the Liberal Democrats, the Greens and MacDonald.²⁶ This experience of cooperation between the SNP and Liberal Democrats (coupled with developments in the SNP's plans for a local income tax²⁷) in the face of (often very personal) acrimony between MSPs demonstrates the type of 'new politics' in which, increasingly, all parties are likely to engage. Although many had hoped for the development of the type of consensus politics associated with the Nordic countries, we have so far witnessed something perhaps closer to the 'pork barrel' politics associated with the US, in which alliances shift by issue and deals are made on a one-off basis.

2.3 Scottish Parliament Committees

From 1999-2007 the main obstacles to committee autonomy were the coalition majority in each committee (combined with a strong party whip) and the sheer volume of government legislation, which restricted the amount of time available for conducting inquiries.²⁸ Since 2007, these constraints have been removed, but the value of committees may now be undermined by a different set of problems. The first of these is 'competitive partisanship', with the committee arithmetic producing greater scope not only for divided reports passed on the casting vote of the convener, but also (in the absence of rules or conventions about the use of casting votes) variations in outcomes according to the party of the convener. Notably, as the SNP gave one convenership (transport) to the Greens as part of a move to seek the support of its two members, the SNP controls only 4 committees (including finance) to Labour's 5.

www.sundayherald.com/news/heraldnews/display.var.2228412.0.1_year_of_the_snp_government.php ;

M. Settle, 'On borrowed time, say Scots MPs' (8 February 2008), *The Herald*

www.theherald.co.uk/politics/news/display.var.2028970.0.On_borrowed_time_say_Scots_MPs.php ;

Scottish budget showdown', *BBC News Q&A* <http://news.bbc.co.uk/1/hi/scotland/7230214.stm>

²⁶ Scottish Parliament Official Report, 28 February,

www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0228-02.htm#Col6487

²⁷ R. Dinwoodie, 'SNP and LibDems set to join forces over plans to replace council tax' (3 March 2008), *The Herald*

www.theherald.co.uk/politics/news/display.var.2087197.0.SNP_and_LibDems_set_to_join_forces_over_plans_to_replace_council_tax.php ; see also the Scottish Government plans to promote the Liberal

Democrat policy on two hours PE in Schools, Scottish Government News Release 'PE in schools' (11

May 2008) www.scotland.gov.uk/News/Releases/2008/05/09135831

²⁸ McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), pp. 99-102.

The problem of committee size is strongly linked to the practical problems faced by a minority government trying to fill committee seats. The lack of SNP numbers undermined any hope for large committees (e.g. of 13 members) that would give the SNP an extra member (5 compared to Labour's 4), since this would produce the need for at least 70 posts (on at least 14 committees) to be filled using a pool of approximately 30 eligible MSPs (many of whom have little parliamentary experience). The alternative was to give the SNP an extra member on committees of 9. Since this garnered no support from the other parties, the compromise was for the two largest parties to be equally represented on committees of 8 (with even-numbered committees more likely to produce the need for casting votes).

The second post-2007 problem is the effect of committee partisanship on plenary proceedings, with divided reports reducing the ability of committee conclusions to command respect, particularly when: (a) the SNP Government can achieve the numbers in plenary that it cannot in certain committees (as with the graduate endowment bill); and/or (b) when partisanship undermines the ability of ministers (or senior civil servants) to maintain relationships with key members of committees (in the past there was greater scope for cooperation between the Scottish Executive and the coalition majority in each committee).

Yet, a focus on the theatre of politics is not complete without a look behind the scenes. This is because much of the business of the governing party is to find common ground (based, for example, on the precise wording of motions) before votes take place in committees and plenary. In this sense, much of the time spent by party business managers is to 'arrange the dance at 5pm'²⁹. In the context of committees, the saving grace may be for parties to agree to steer inquiries towards cross-party issues³⁰ – such as the need for 'early engagement' when trying to influence European issues (European and External Relations Committee), the need for realistic targets in the Public Appointments Equalities Strategy (Standards, Procedures and Public Appointments Committee), and the need to reform procedures to deal with subordinate legislation – or to hope for relatively uncontroversial bills (such as the Public Health Bill). If the pursuit of consensual and business-like practices within committees is the main aim (rather than, say, holding

²⁹ Interview with a party whip, 2008

³⁰ Although perhaps not the issue of greater resources for constituency MSPs – see R. Dinwoodie 'MSPs split over 'flawed' extra staff plan' (17 March 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2123886.0.MSPs_split_over_flawed_extra_staff_plan.php; I. Swanson, 'Two-tier allowance system for MSPs clears first hurdle' (12 May 2008) <http://news.scotsman.com/politics/Two-tier-allowance-system-for-MSPs.4070866.jp>

ministers to account in public), then the inquiry into the planning process surrounding the Menie Estate (the Donald Trump affair) does not seem like a good candidate. The report followed high-profile exchanges between opposition committee members and Alex Salmond, culminating in a report highly critical of the conduct of Finance Secretary John Swinney and the First Minister.³¹ It is also notable for the unprecedented level of dissent from the three SNP members. In committees in the past, such dissent would normally be minimised by a change of wording.

In contrast, despite the tumultuous progress of the Budget Bill, now the Budget (Scotland) Act 2008, the Finance Committee's report on the Budget process stuck largely to less controversial subjects such as: the need to weight government priorities in the National Performance Framework; the merits of hard targets versus 'direction of travel' targets; ring-fencing; efficiency savings; the time available for scrutiny; and the availability of information provided by government. The report even seemed to play down party disagreements on the adequacy of Scotland's settlement from the Treasury (with no dissent apparent in the report).³²

2.4 Committee Reports and Inquiries (January – May 2008)³³

Audit:

- 6 May – 2nd Report 2008: Report on the 2006/07 Audit of the Western Isles Health Board

European and External Relations

- 2 May – 1st Report 2008: Report on an inquiry into the transposition of EU directives

Finance:

- 6 May: Report on the financial memorandum of the Creative Scotland Bill
- 16 January – 1st Report 2008: Stage 2 of the 2008-09 Budget process, Scottish Government response
- 16 January: Report on the financial memorandum of the Glasgow Commonwealth Games Bill

³¹ H. MacDonell, 'Cavalier, poor judgment, no awareness – Salmond is slated over Trump resort' (14 March 2008), *The Scotsman* <http://news.scotsman.com/politics/Cavalier-poor-judgment--no.3878332.jp>

³² McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), p192.

³³ 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.

Standards, Procedures and Public Appointments:

- 29 February – 2nd Report 2008: Draft public appointments equalities strategy – diversity delivers
- 18 January 2008 1st Report 2008: Elections to the Scottish Parliamentary corporate body

Subordinate Legislation:

- 2 May: Report on the delegated powers in the Creative Scotland Bill at stage 1
- 25 April – 17th Report 2008: Glasgow Commonwealth Games Bill
- 20 March: Report on Judiciary and Courts (Scotland) Bill – Stage 1
- 18 March – 12th Report 2008: Inquiry into the regulatory framework in Scotland
- 21 February – 8th Report 2008: Legislative consent memorandum on the Pensions Bill

Education, Lifelong Learning and Culture:

- 25 January – 1st Report 2008: Report on the Legislative Consent Memorandum on the Education and Skills Bill – LCM (S3) 6.1

Health and Sport:

- 18 March – 2nd Report 2008: Stage 1 Report on the Public Health etc. (Scotland) Bill

Justice:

- 2 May – 11th Report 2008: Stage 1 Report on the Judiciary and Courts (Scotland) Bill
- 26 March – 10th Report 2008: Legislative consent memorandum on the Statute Law Repeals Bill – LCM (S3) 11.1
- 5 March – 6th Report 2008: Legislative consent memorandum on the Pensions Bill – LCM (S3) 8.1
- 24 January – 4th Report 2008: Report on inquiry into the effective use of police resources
- 16 January – 2nd Report 2008: Legislative consent memorandum on the Criminal Justice and Immigration Bill – LCM (S3) 7.1

Local Government and Communities:

- 14 March – 6th Report 2008: Legislative Consent Memorandum on the Housing and Regeneration Bill LCM (S3) 10.1
- 14 March – 5th Report 2008 (Volumes 1 and 2): Planning Application Processes (Menie Estate)
- 15 February – 2nd Report 2008: Stage 1 Report on the Glasgow Commonwealth Games Bill

2.5 Parliamentary Bills (January – May 2008)*Scottish Government Bills Passed:*

- Abolition of Bridge Tolls (Scotland) Bill -removes the toll payable of the Forth and Tay road bridges.
- Budget (Scotland) Bill
- Graduate Endowment Abolition (Scotland) Bill – removes the £2000 fee payable by certain students when graduating from a Scottish university or college.

Scottish Government Bills in Progress (latest stage reached):³⁴

- Creative Scotland Bill (Stage 1)
- Glasgow Commonwealth Games Bill (Awaiting Royal Assent)
- Judiciary and Courts (Scotland) Bill (Stage 1)
- Public Health etc. (Scotland) Bill (Stage 2)

Members' Bills in Progress

- Scottish Register of Tartans Bill (Jamie McGrigor, Conservative) (Stage 1)

Proposals for Members' Bills (most recent first):³⁵

- Proposed Apprenticeship Rights (Scotland) Bill (John Park, Labour)
- Proposed Environmental Levy on Plastic Bags (Scotland) Bill (Mike Pringle, Liberal Democrat)
- Proposed Rural Schools (Scotland) Bill (Murdo Fraser, Conservative)
- Proposed Control of Dogs (Scotland) Bill (Alex Neil, SNP)

³⁴ For a description of the bills' main features, see A. Paun (eds.), 10.3 *Scotland Devolution Monitoring Report: September 2007* (section 10.3) www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Scotland_Sept07.pdf

³⁵ See www.scottish.parliament.uk/s3/bills/MembersBills/index.htm

- Proposed Tobacco Sales Licensing (Scotland) Bill (Christine Grahame, SNP)
- Proposed Property Factors (Scotland) Bill (Patricia Ferguson, Labour)
- Proposed Sentencing of Offences Aggravated by Prejudice (Scotland) Bill (Patrick Harvie, Green) – the proposal has gathered sufficient support for a Bill to be introduced.
- 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) – this was superseded by the Scottish Government’s bill.
- Proposed Sunbed Licensing (Scotland) Bill (Kenneth Macintosh, Labour) – the proposal has gathered sufficient support for a Bill to be introduced
- Proposed Disabled Persons Parking Bays (Scotland) Bill (Jackie Baillie, Labour) – the proposal has gathered sufficient support for a Bill to be introduced

2.6 Sewel (Legislative Consent) Motions passed (January – May 2008)³⁶

Sewel motions (formally known as legislative consent motions) permit the Westminster Parliament to legislate on a devolved matter with the explicit consent of the Scottish Parliament. The first year of SNP Government saw a total of 7 Sewel motions passed by the Scottish Parliament, compared with 9 in the first year of the 1999 session and 13 in 2003. It is too early to determine whether this marks the start of a downward trend, but what is notable is the pragmatic way in which the SNP has adapted to government in its continued use of this legislative mechanism. George Foulkes (Labour) could not resist highlighting the SNP’s use of Sewel motions: ‘It is an interesting paradox that there have been more bills at Westminster affecting Scotland in the current session than there are bills here’.³⁷ Meanwhile, Johann Lamont (Labour) was keen to remind Parliament about the SNP’s opposition to the use of Sewel motions when in opposition: ‘On numerous occasions in the past, SNP members voted against entirely rational and logical LCMs on the basis that it was a point of principle for them to do so’.³⁸ The same debate saw a significant reversal of roles, with Conservative MSP David McLetchie suggesting that ‘SNP members will vote this evening to permit our mother Parliament in Westminster to end a statutory power that is presently exercisable by Scottish ministers’. This prompted a response

³⁶ A full list of motions and links to SPOR discussions is provided by the Scottish Government: www.scotland.gov.uk/Topics/Government/Sewel. The numbers differ because the monitor lists motions chronologically by date passed in the Parliament

³⁷ Scottish Parliament Official Report, 20 February, c6129

³⁸ Ibid 19 March, c.7140

from Stewart Maxwell (Minister for Communities and Sport) which could have been said by any Labour/Liberal Democrat minister from 1999-2007:

It is suggested that the LCM impacts on the Scottish Parliament's legislative competence or is tantamount to our handing back powers to Westminster. Let me be clear: only through changes to the reservations in the Scotland Act 1998 can powers be handed back to Westminster or the legislative competence of our Parliament altered. Individual motions, such as the one that we are discussing, represent no more than a one-off agreement by the Scottish Parliament for Westminster to legislate on our behalf on a specific aspect of a devolved matter.³⁹

Legislative Consent Motions:

81. Health and Social Care Bill (9 January). The UK bill includes provisions on the regulation of healthcare professions (some are reserved, some devolved; some operate in reserved and devolved areas) in response to the fifth report on the Shipman inquiry. There was no plenary debate or formal opposition.

82. Dormant Bank and Building Society Accounts Bill (24 January). The bill transfers money from dormant bank accounts to the UK government, to be distributed by the Big Lottery Fund (BLF). The motion gives powers to Scottish ministers to direct the BLF on Scotland's share (£40m, allocated via the Barnett formula). There was no formal opposition, but the motion was amended (Jackie Baillie, Labour) to ensure that ministers engaged in public consultation and reported to parliament before using its powers.

83. Criminal Justice and Immigration Bill (30 January). The bill gives the Serious Fraud Office access to information held in Scotland when investigating cases in England and Wales, makes the breach of a violent offender order instigated in England and Wales an offence in Scotland, extends transfer of sentenced prisoners provisions (according to Council of Europe convention) to Scotland, and subjects detained immigrants in Scotland to control by the new commissioner for offender management. There was minimal plenary debate (prompting Scottish Government assurance that it would legislate on pornography separately) and no formal opposition.

³⁹ Ibid 19 March, c.7106-7

84. Education and Skills Bill (20 February). The bill allows for information sharing between the Scottish and UK Governments on the earnings and employment of higher education graduates. There was no formal opposition and limited plenary debate.

85. Pensions Bill (13 March). The bill extends provisions on pension compensation to Scottish courts. There was no plenary debate or formal opposition.

86. Housing and Regeneration Bill (19 March). The bill removes the power (never used) of Scottish ministers to sign agreements to provide services in connection with the regulation of social housing. The motion prompted much debate on the use of LCMs (particularly since it was used merely for expediency), but no formal opposition.

3. The Media

Eberhard Bort

3.1 A good year for Scotland

Writing on 28 December 2007, at the end of an amazing 12 months in Scottish politics, BBC Scotland journalist John Knox summed up the year gone by: 'Alex Salmond has leapt upstream and spawned a new Scotland. We are not the same country we were just 12 months ago.' Since his election success, 'Alex Salmond has succeeded in walking on water, according to one German newspaper, and again surprising everyone, even Labour, by governing with a sure hand and performing well in the opinion polls.'⁴⁰

That set the tone for the subsequent assessments, as the first anniversary of the SNP minority government approached: 'By any yardstick, Alex Salmond has had a good year', even if 'the success has been built more on style than substance.'⁴¹

'A good year for Scotland,' ran a leader comment in *Scotland on Sunday*, which nonetheless made some critical remarks:

Having taken the decision to go it alone, Salmond has failed to fulfil the manifesto commitments his party made on cancelling student debt and giving grants to first-time homebuyers. The SNP had to be bullied by the Tories into standing by its own pledge on increasing police numbers. And a promise to cut class sizes in primary schools has been shown to be impractical.

However, the paper went on to assert that

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

It concluded:

⁴⁰ John Knox, 'A year when Salmond spawned new era', *BBC News*, http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/scotland/7163646.stm

⁴¹ Leader Comment, 'Big tests are yet to come' (2 May 2008) *Daily Record*

As we approach the anniversary of the SNP's victory and head into the administration's second year, this newspaper is still in disagreement with the Scottish Government on some major planks of its programme. Its plans to scrap Council Tax and replace it with a Local Income Tax represent an unwelcome new burden on the Scottish middle classes. And we disagree with the SNP's aim of complete independence from the rest of the United Kingdom; a far more sensible – and popular – course of action would be to negotiate more powers for the Holyrood Parliament, especially the financial levers necessary to inject some dynamism into the Scottish economy.

But there is one matter on which we are able to congratulate Salmond and his ministerial team wholeheartedly, and that is the effect their victory seems to have had on the general mood of the Scottish people. Today, Scotland feels more comfortable with itself than it was a year ago. There is a welcome air of confidence and ambition in the country that must, in some part, be the result of a new spirit in Scottish public life. For that reason alone, this has been a good year for the Scottish Government, and a good year for Scotland.⁴²

This assessment chimed with other verdicts: Kenny Farquharson asserted that Salmond was 'changing the face of a nation'.⁴³

'One year on, there are few who do not believe that victory over Jack McConnell's Labour was a breath of fresh air,' ran the leader in the *Sunday Express*: 'Alex Salmond's stature as First Minister continues to grow by the day, defying those waiting, and perhaps praying, for the honeymoon to end, and he has led a very competent government.'⁴⁴ But it also warned of 'complacency' – 'The hard work is yet to come.' That was also the view of Eddie Barnes in *Scotland on Sunday*.⁴⁵

While conceding that Salmond was 'enjoying an extended political honeymoon,' John Curtice saw parallels with Tony Blair, whose early years as Prime Minister were 'largely marked by timidity.' Salmond's minority government, though, gave him 'little choice but to appear timid'. In Curtice's view, 'he is more a prisoner than a master of his office.'⁴⁶

⁴² Leader Comment, 'A good year for Scotland' (12 April 2008), *Scotland on Sunday*, <http://news.scotsman.com/scotland/A-good-year-for-Scotland.3976753.jp>

⁴³ Kenny Farquharson, 'Changing the face of a nation' (13 April 2008), *The Sunday Times*.

⁴⁴ Leader Comment, 'What a difference a year has made with Alex at the helm' (4 May 2008), *Scottish Sunday Express*

⁴⁵ Eddie Barnes, 'Feelgood factor will only last if Salmond delivers real change' (4 May 2008), *Scotland on Sunday*

⁴⁶ John Curtice, 'More prisoner than master of office' (3 May 2008), *The Times*

The Scotsman saw a First Minister who ‘has been lucky to date,’ as he ‘is marking a successful first year.’ However:

The next 12 months will demand he delivers more in concrete terms. The SNP’s plan for a local income tax will hurt double-income families and harm incentives. The First Minister should ponder what the 10p tax reform did to Labour and think again about how to reform the council tax.⁴⁷

‘It has been an extraordinary year in Scotland,’ was Tom Gordon’s verdict. Twelve months on from the election, Alex Salmond is ‘still riding the crest of an unprecedented wave of popular support’, despite potential set-backs like the Trump affair and ‘academic rumblings about the shoddy, ill-prepared state of the government’s plans for a local income tax (LIT) and a Scottish Futures Trust’:

For this Salmond owes much to a team of fiercely loyal lieutenants. Kevin Pringle, the spin doctor who has effortlessly greased relations with the media while Alexander has burned her way through press officers like nitric acid.... Likewise Bruce Crawford, the party’s business manager, who has pulled off seemingly impossible feats for a minority government.⁴⁸

The Trump affair,⁴⁹ the accusation of running a ‘special access’ administration,⁵⁰ criticism that his Government was breaking promises⁵¹ and missing growth targets,⁵² concerns about the Government’s concordat with local councils resulting in service cuts affecting the most vulnerable in society,⁵³ and problems with the Scottish Futures Trust (intended to replace PFI),⁵⁴ the STUC’s slamming of SNP tax policy,⁵⁵ the controversies around the Local Income Tax⁵⁶ – none of these could dent the

⁴⁷ Leader Comment, ‘All parties have much to ponder after election’ (3 May 2008), *The Scotsman*

⁴⁸ Tom Gordon, ‘Will Alex get his perfect storm?’ (4 May 2008), *The Sunday Times*

⁴⁹ Robbie Dinwoodie, ‘“Cavalier” Salmond rapped over Trump row’ (14 March 2008), *The Herald*; Hamish Macdonell, ‘Cavalier, poor judgment, no awareness – Salmond is slated over Trump resort’ (14 March 2008), *The Scotsman*

⁵⁰ Tom Gordon, ‘Salmond is accused of cronyism’ (2 March 2008), *The Sunday Times*; Hamish Macdonell, ‘Alexander delivers stinging attack on SNP’s “favoured friends” policy’ (23 April 2008), *The Scotsman*

⁵¹ Mark Howarth, ‘So how many new officers has the SNP placed on the beat? Just the one’ (24 February 2008), *The Mail on Sunday*; Douglas Fraser and Robbie Dinwoodie, ‘Alexander accuses SNP of being “one big let-down”’ (17 April 2008), *The Herald*

⁵² Angus Macleod, ‘SNP Budget won’t boost growth, says top adviser’ (19 January 2008), *The Times*; Alf Young, ‘Comforting words aside, SNP government is missing growth targets’, *The Herald*, 24 April 2008.

⁵³ Julia Horton, ‘Opening a concordat of worms?’ (3 April 2008), *The Herald*.

⁵⁴ Hamish Macdonell, ‘Halfway plans for alternative to PFI satisfy no-one’ (22 April 2008), *The Scotsman*

⁵⁵ Colin Donald, ‘STUC leader throws down gauntlet on SNP’s “right-wing” tax policy’, (20 April 2008), *Sunday Herald*,

⁵⁶ Eddie Barnes, ‘Salmond tax plan in tatters’ (2 March 2008), *Scotland on Sunday*; Iain Macwhirter, ‘Solution that may make a taxing problem worse’ (10 March 2008), *The Herald*; Angus Macleod, ‘Local

'buoyant mood'⁵⁷ and 'relentless cheerfulness'⁵⁸ at the SNP's Spring party conference in Aviemore. Even the strike at Grangemouth did not harm Salmond's popularity.

Salmond's conference call to win 20 seats at the next Westminster election in order to make Westminster 'dance to a Scottish jig', was judged an 'ambitious target', but was widely taken seriously.⁵⁹ But Kenneth Roy, in his new online *Scottish Review*, took issue with the tone and imagery used by Salmond:

There is something unpleasantly shrill and combative, as well as implicitly anti-English, about this imagery, particularly from a political leader who aspires to play an enlightened role in world affairs. I once called, perhaps misguidedly, for a gentle and civilised nationalism in Scotland. Some leaders of the SNP were sufficiently moved by the words 'gentle' and 'civilised' to write to me in agreement. Fuelled by the uncritical adoration of the Scottish media, Mr Salmond's populist leadership moves us further and further from concepts of gentle and civilised.⁶⁰

Yet, everything seems to pale in the face of the SNP's successes: getting the budget through Parliament,⁶¹ which was seen as John Swinney and Alex Salmond triumphantly outmanoeuvring and humiliating the opposition;⁶² feel good stories like the good burghers of Berwick wanting to rejoin an SNP-led Scotland;⁶³ and their commanding lead in the polls (although seemingly not replicated in the cause of independence).⁶⁴ Douglas Fraser put it in a nutshell: 'The honeymoon seems far from over' (*The Herald*, 1 May 2008).

income tax plan "fatally flawed" (11 March), *The Times*; John Robertson, 'Salmond tax plan left in tatters' (12 March 2008) *Scottish Daily Mail*; John Robertson, 'Families will be punished by SNP's tax plan' (14 April 2008), *Scottish Daily Mail*, See also Leader Comment, 'Still time for SNP to announce U-turn on LIT' (14 April 2008), *The Scotsman*

⁵⁷ Douglas Fraser, 'One year on: the SNP takes stock' (18 April 2008), *The Herald*

⁵⁸ Brian Taylor, , SNP Conference Special (20 April 2008), *BBC Two*

⁵⁹ Hamish Macdonell, 'Salmond wants Westminster to "dance to a Scottish jig" as he targets 20 seats' (21 April 2008), *The Scotsman*

⁶⁰ Kenneth Roy, 'Kenneth Roy's Week', *The Scottish Review* (online), (25 April 2008), www.scottishreview.net/KRView011.html

⁶¹ Hamish Macdonell, 'A total triumph and an utter defeat' (7 February 2008), *The Scotsman*

⁶² Leader Comment, 'Salmond's triumph' (7 February 2008), *The Herald*; Magnus Gardham, 'Victory for Alex Salmond as budget is passed' (7 February 2008), *Daily Record*

⁶³ Paul Vallely, 'The English town that wants to be Scottish' (13 February 2008), *The Independent*; 'TV poll backs Berwick border move' (17 February 2008), *BBC News* http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/england/tyne/7248529.stm

⁶⁴ Kenny Farquharson and Murdo MacLeod, 'Scots give Salmond the thumbs-up' (27 April 2008), *Scotland on Sunday*; David Maddox, 'Salmond's seduction wins over business' (2 May 2008), *The Scotsman*; Robbie Dinwoodie, 'Highest ratings for SNP after year in power' (3 May 2008), *The Herald*; Ian Swanson, 'Poll says support for Scots independence at all-time low' (30 April 2008), *Edinburgh Evening News*. See also Brian Taylor, 'Is Scottish opinion polls apart?' (2 May 2008), *BBC News* http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/scotland/7374072.stm

3.2 Wendy Alexander's Referendum U-turn

And all that, of course, before the astonishing 'shock U-turn'⁶⁵ of Wendy Alexander brought the independence referendum to the fore and Labour into renewed disarray, following on from the illegal donations row⁶⁶ which had already overshadowed Alexander's leadership. The usually Labour-supporting *Daily Record* commented: 'There is no doubt Salmond has been helped by the weakness of his opponents'.⁶⁷ A widely noticed leader by the same newspaper was scathing about Alexander's leadership of Scottish Labour.

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

And they have only themselves to blame. They have made too many mistakes. Alexander has attacked local government reforms supported by Labour councillors. She has backed greater powers for Holyrood, though many Labour MPs at Westminster fear she is playing into Salmond's hands. All the while, Salmond's popularity soars. He has broken election promises, become embroiled in a planning row and, as leader of a minority government, has one arm tied behind his back. But he's still making it look easy.⁶⁸

'Wendy is ready to make changes,' declared Campbell Gunn on the eve of Labour's spring conference at Aviemore.⁶⁹ After a 'low-key' conference, the comments were cautiously positive. Hamish MacDonell wrote in *The Scotsman*: 'The Scottish Labour Party landed itself in a pretty big hole last May. It's not out of it yet, but at least it has stopped digging.'⁷⁰ Wendy Alexander, Eddie Barnes commented, 'appears to have found a clearer message to sell to the party', and 'she has bought herself some time.'⁷¹

⁶⁵ Douglas Fraser, 'Alexander backs independence referendum in shock U-turn' (5 May 2008), *The Herald*

⁶⁶ Campbell Gunn, 'Wendy's woes are not going away' (13 January 2008), *The Sunday Post*; Leader Comment, 'Wendy's refusal to go has left Scottish politics in cold storage' (3 February 2008), *Sunday Herald*. Wendy Alexander was cleared of any intentional wrong-doing by the Electoral Commission's investigation into the illegal donations issue.

⁶⁷ Leader Comment, 'Big tests are yet to come' (2 May 2008), *Daily Record*

⁶⁸ Leader Comment, 'Alexander yet to score point' (28 January 2008), *Daily Record*

⁶⁹ Campbell Gunn, 'Wendy is ready to make changes' (23 March 2008), *The Sunday Post*

⁷⁰ Hamish Macdonell, 'Still in a hole, but they might have found a way out' (1 April 2008), *The Scotsman*

⁷¹ Eddie Barnes, 'It may sound cuckoo, but Labour thinks spring has sprung' (30 March 2008), *Scotland on Sunday*

The Calman Commission was, albeit with some caveats,⁷² widely welcomed as 'timely',⁷³ and Brown's support for the 'review' was noted,⁷⁴ particularly after Scotland Office minister David Cairns' dismissal of more tax powers for Holyrood as an issue that only interests the 'McChattering classes'.⁷⁵

'The honeymoon will end,' stated Brian Taylor in his BBC blog: 'Right now, though, the First Minister is able to mark the anniversary of his election victory with signs of continuing popular support.'⁷⁶

That was two days before Scottish politics took a 'surreal turn'⁷⁷ when Wendy Alexander went on the BBC's *Politics Show* to be interviewed by Glenn Campbell on Sunday, 4 May, apparently to not make an announcement about a policy change on the referendum question, then a minute later just doing that. According to John Knox, this was a 'Damascus road experience for Wendy Alexander' which may have happened 'during the programme itself.'⁷⁸ A week followed 'with the situation becoming more bizarre by the minute.'⁷⁹

Initially, *The Scotsman* – arguing that 'there has always been a good case for having a multi-option referendum, allowing the Scottish electorate to choose between independence, increased devolution or the status quo'⁸⁰ – treated the policy shift as Wendy Alexander seeking 'to gain the political initiative and steal the SNP's thunder, ... a bold and courageous move on her part.' That it had not gone down too well with Labour south of the Border 'may...be to her advantage.'⁸¹

Brian Taylor saw Labour's 'new-found support for a referendum' driven by 'calculation and fear': fear of electoral defeat, and calculation that being blamed for not letting the Scottish people have a say could become a burden in 2011 and that,

⁷² Hamish Macdonell, 'They want to save the Union but have they set a course for independence?' (26 March 2008), *The Scotsman*

⁷³ Leader Comment, 'Devolution revisited' (26 March 2008), *The Herald*

⁷⁴ Douglas Fraser, 'Brown promises extensive review of devolution' (25 March 2008), *The Herald*; Simon Johnson, 'Brown backs review on Scots taxation' (26 March 2008), *The Daily Telegraph*; Bill Mackintosh, 'Brown opens door to Holyrood tax powers' (17 February 2008), *Sunday Herald*

⁷⁵ Michael Settle, 'Minister dismisses more tax power for Holyrood' (12 February 2008), *The Herald*

⁷⁶ Brian Taylor, 'Making New Friends (Blether With Brian) (2 May 2008), *BBC News*

www.bbc.co.uk/blogs/thereporters/briantaylor/2008/05/making_new_friends.html

⁷⁷ Gordon Brewer, 6 May 2008, *BBC Newsnight Scotland*

⁷⁸ John Knox, 'Wendy brings it on and it kicks off' (9 May 2008), *BBC News*

http://news.bbc.co.uk/2/hi/uk_news/scotland/7391475.stm

⁷⁹ David Perry, 'Wendy defiant in referendum row' (8 May 2008), *The Press and Journal*

⁸⁰ Leader Comment, 'Alexander is right about a referendum' (5 May 2008), *The Scotsman*

⁸¹ Leader Comment, 'Alexander seeking the initiative' (6 May 2008), *The Scotsman*

at least for the time being, the Scots would reject the independence option in a referendum.⁸²

The *Scottish Daily Mail* commented that:

Wendy Alexander's backing of an early referendum on independence is hugely significant. It signals the Labour Party's first signs of life in a year. And it presents Alex Salmond with a dilemma. How does he oppose a referendum without damaging the validity of his party's claims that increasing numbers of Scots favour wrecking the Union?⁸³

While the *Daily Mail* reminded its readers that it had been, since last May, an advocate of 'nail[ing] the separatist genie by calling for an early referendum,' it also questioned the sincerity of Alexander's move: 'Many will see Miss [sic] Alexander's apparent change of heart as an opportunist U-turn.' The *Daily Telegraph*, too, was prepared to give 'Miss [sic] Alexander' 'some credit' for her 'tacit acknowledgement that Labour has been wrong-footed,' but called her move 'bluffing for base political advantage' and 'dangerous tinkering with the constitutional settlement.'⁸⁴

'On the face of it,' Ian Bell commented, Wendy Alexander's call was 'reasonable'. Maybe, he contended in his 'Holyrood Sketch', Scottish Labour, 'the mangy old mystical beast, could yet be roused by the Eck's triumphalism.'⁸⁵ Labour's apparent change of heart on the referendum, Bell claimed, shifted the debate to the question: 'what does independence actually mean?' – and he saw 'the beginning of a beautiful constitutional argument'.

Wendy's new departure had, quite obviously, created a 'major headache for Brown'.⁸⁶ Coming in the immediate wake of the electoral disaster in England and Wales it looked as if Brown had 'apparently lost patience with Ms Alexander,' as he refused to give her call for a referendum his backing at Prime Minister's Question Time: 'Far from endorsing her standpoint, he went out of his way to dilute it.'⁸⁷ That Alexander stuck to her guns when appearing at First Minister's Question Time at Holyrood the following day, led *The Scotsman* to ask whether

⁸² Brian Taylor, 'Calculation and fear (Blether with Brian)' (5 May 2008) *BBC News*, www.bbc.co.uk/blogs/thereporters/briantaylor/2008/05/calculation_and_fear.html

⁸³ Leader Comment, 'Labour is alive again. But it may be too late' (7 May 2008), *Scottish Daily Mail*

⁸⁴ Leader Comment, 'Union put in peril by Labour's electoral games' (7 May 2008), *The Daily Telegraph*

⁸⁵ Ian Bell, 'Probably not the start of a beautiful friendship' (Holyrood Sketch) (9 May 2008), *The Herald*

⁸⁶ Bill Jamieson, 'Wendy's cry brings on major headache for Brown' (9 May 2008), *The Scotsman*

⁸⁷ Brian Taylor, 'Where's your referendum now? (Blether with Brian)' (7 May 2008), *BBC News* www.bbc.co.uk/blogs/thereporters/briantaylor/2008/05/wheres_your_referendum_now.html

Brown was 'losing his grip on Scotland'.⁸⁸

The *Scottish Daily Mail*, under the headline 'No way back for Wendy', saw 'Wendy and Labour on the brink of ruin'.⁸⁹ The *Scottish Sun*, for its part, found Wendy Alexander, not for the first time, 'woefully underprepared' and commented: 'A total mess'.⁹⁰ The *Press and Journal* saw her coming 'within an inch of landing a blow, of sorts, on Salmond,' only to be 'pulled out of the ring by Gordon Brown'.⁹¹ The paper conceded, 'it might have been the master stroke,' but now 'it looks like Mr Salmond will come out of the fight better off, again, and continue with his policy of a referendum in 2010.'

Douglas Fraser had expected Alexander to 'explain her haphazard shift to gamble on the independence vote' in her press conference on 6 May, but after it found that 'we were not much the wiser. We asked questions. She didn't answer them'.⁹² For Alan Cochrane, Wendy's U-turn proved that Scottish Labour had 'as much faith in Gordon Brown defeating David Cameron as they have in pigs flying.' That, he argued, was the reason for the call for an early referendum. What most astonished him was 'the bare-faced way she decided to take this route without telling Mr Brown.' But he was not so sure whether this 'UDI' by Scottish Labour was a 'Unilateral Declaration of independence' – or rather a 'Unilateral Declaration of Ineptitude'.⁹³

Brian Taylor added: 'The manner of executing this plan, if such a description can be used, has been utterly abominable'.⁹⁴ For Ewan Crawford, Scottish Labour's call for a vote on independence was 'the biggest miscalculation in recent British politics'.⁹⁵

'Labour implodes over independence vote,' ran the front-page headline of the *Scotsman* (8 May 2008), while STV's Bernard Ponsonby questioned whether either Labour leader, north or south of the border, had the 'political nous' to recover from this calamitous week.⁹⁶ The *Scottish Daily Express* saw Labour in 'meltdown'⁹⁷ and

⁸⁸ David Maddox, 'Losing his grip on Scotland' (9 May 2008), *The Scotsman*

⁸⁹ Leader Comment (9 May 2008), *Scottish Daily Mail*

⁹⁰ Leader Comment (9 May 2008), *Scottish Sun*

⁹¹ Leader Comment, 'Referendum announcements' (8 May 2008), *The Press and Journal*.

⁹² Douglas Fraser, 'Wendy's high-wire act without a safety net is greeted with amazement' (Sketch) (7 May 2008), *The Herald*

⁹³ Alan Cochrane, 'UDI? Would that be Unilateral Declaration of Ineptitude?' (7 May 2008), *The Daily Telegraph*

⁹⁴ Brian Taylor, 'Not jut any referendum' (Blether with Brian), (8 May 2008) *BBC News*

www.bbc.co.uk/blogs/thereporters/briantaylor/2008/05/not_just_any_referendum.html

⁹⁵ Ewan Crawford, 'Bluff or Blunder' (7 May 2008), *The Guardian*

⁹⁶ Bernard Ponsonby on STV's 'Scotland Today' (9 May 2008)

contended: 'Mr Brown and Ms Alexander have lost so much confidence within their own party that they surely can have no future as leaders of their party.'⁹⁸

As Wendy Alexander's brother Douglas 'made clear he supported Gordon Brown and the UK Government's line on an early independence referendum,' the first calls by Labour MPs for Wendy Alexander to step down were reported...⁹⁹

Whoever thought that 2007 was an extraordinary year, and that Scottish politics would steer into calmer waters and settle down in 2008, has so far been proven spectacularly wrong. What next?

3.3 'Jockvision'

The BBC coverage of Scotland came under renewed attack. In January, it was accused of 'perpetrating a sham over the number of Scottish programmes it produces', with productions labelled Scottish in spite of 'tenuous' connections.¹⁰⁰

The second interim report of the Scottish Broadcasting Commission 'lambasted' Scotland's major TV channels for a 'dereliction of duty'. The report, based on evidence from more than a thousand people, accused the channels of 'ignoring Scottish culture and history.'¹⁰¹ In an opinion piece, the BBC's Mark Thompson defended the corporation, conceding that 'fair questions' were being asked, but also highlighted the BBC's investment in Scotland and reiterated his promise that the BBC would be 'commissioning at least 17 per cent of its TV network production' from Scotland, Wales and Northern Ireland, and that Scotland was 'to deliver a proportion at least as large as its proportion of the UK population.'¹⁰²

A report on the BBC by Professor Anthony King, University of Sussex, 'prompted renewed calls for a Scottish produced 6pm and 10pm news service'.¹⁰³ The study

⁹⁷ Kerry Gill and Paul Gilbride, 'Humiliation as Wendy is "hung out to dry" by PM' (8 May 2008), *Scottish Daily Express*

⁹⁸ Leader Comment, 'Dithering duo's days at the top are numbered' (8 May 2008) *Scottish Daily Express*

⁹⁹ Michael Settle and Robbie Dinwoodie, "'She has to go": Labour MPs call on Alexander to resign' (10 May 2008), *The Herald*,

¹⁰⁰ Martyn McLaughlin, 'Myth of BBC's "Made in Scotland"' (29 January 2008), *The Scotsman*

¹⁰¹ Mike Wade, 'Scottish broadcasters "failing the nation"' (27 March 2008), *The Times*; Phil Miller, 'Commission attacks Scots broadcasting' (27 March 2008), *The Herald*,

¹⁰² Mark Thompson, 'BBC needs regional creativity to survive as a public broadcaster' (7 March 2008), *The Scotsman*

¹⁰³ Gerry Braiden, 'Viewers get "second-class service" from network BBC news, study finds' (5 May 2008), *The Herald*

showed that the 'BBC network leaves audiences outside England poorly informed.'¹⁰⁴ Iain Macwhirter, a former presenter on BBC Scotland, put it more bluntly in an opinion piece for the *Sunday Herald*: 'BBC's second-rate Jockvision is not worth licence fee' (4 May 2008).

¹⁰⁴ Peter John Meildem, 'Study reignites debate over Scottish Six' (4 May 2008), *Sunday Herald*

4. Public Attitudes and Elections

John Curtice

4.1 Constitutional Preferences

Figure 4.1 Scottish constitutional preference data, 1997-2007

Scotland should ...	May	Sept									
	1997	1997	1999	2000	2001	2002	2003	2004	2005	2006	2007
	%	%	%	%	%	%	%	%	%	%	%
be independent, separate from UK and EU or separate from UK but part of EU	28	37	28	30	27	30	26	32	35	30	24
remain part of UK with its own elected Parliament which has some taxation powers	44	32	50	47	54	44	48	40	38	47	54
remain part of the UK with its own elected Parliament which has no taxation powers	10	9	8	8	6	8	7	5	6	7	8
remain part of the UK without an elected parliament	18	17	10	12	9	12	13	17	14	9	9

The two independence options, one where Scotland remains within the European Union (EU), and one that it does not, were offered to respondents separately. The first row of the table shows the combined total choosing either option.

Sources: Scottish Election Study 1997; Scottish Referendum Study 1997; Scottish Social Attitudes Survey 1999-2007.

Figure 4.2: YouGov poll on support for independence, Jan 2007 and April 2008

Q: Do you support or oppose Scotland becoming a country independent from the rest of the United Kingdom?

	Jan-07	Apr-08
	%	%
Support Scottish Independence	40	34
Oppose Scottish Independence	44	50

Source: YouGov poll, 2-4 April 2008

Figure 4.3: ICM/Progressive Scottish Opinion polls on support for independence, 2006-2008

Q: Would you approve or disapprove of Scotland becoming an independent country?

	ICM		Scottish Opinion	
	Nov-06	Jan-07	Aug-07	Apr-08
	%	%	%	%
Approve	52	51	31	41
Disapprove	35	36	49	43

Source: Progressive Scottish Opinion/Mail: 2-8 April 2008

Figure 4.4: TNS System Three poll on support for independence, 2007-2008

Q: *The SNP have recently outlined 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
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
I do not agree that the Scottish Government should negotiate a settlement with the government of the United Kingdom so that Scotland becomes an independent state	50	44	40

Source: TNS System Three/Sunday Herald; 26/3-4/4/08

Figure 4.5: MRUK Cello poll on Scottish constitutional preferences, Feb-March 2008

Q: *Which option do you most support?*

	%
Scotland should become independent	23
More powers for Holyrood, short of independence	45
Keep things as they are	22
Scottish Parliament should have fewer powers	3
Abolish the Scottish Parliament	6

Source: MRUK Cello/Sunday Times: 29/2-9/3/08

Figure 4.6: YouGov poll on Scottish constitutional preferences, 2003-2008

Q: *If there were a referendum on whether to retain the Scottish Parliament and Executive in more or less their current form, or to establish Scotland as a completely separate state outside the United Kingdom but inside the European Union, how would you vote?*

	Apr-03 %	Apr-05 %	Nov-06 %	Mar-07 %	Apr-07 %	Jan-08 %	Apr-08 %
In favour of retaining present Scottish Parliament	55	46	50	51	53	57	59
In favour of a completely separate state outside the UK	29	35	31	28	25	27	25

Source: YouGov/Express: 3-8/1/08; YouGov/Daily Telegraph: 24-28/4/08

Figure 4.7: YouGov poll on Scottish constitutional preferences, April 2008

Q: If there were a referendum and the following were the options, how would you vote?

	Apr-07 %	Apr-08 %
In favour of retaining the Scottish Parliament but giving it greater powers	38	38
In favour of retaining the Scottish Parliament with its existing powers	25	34
In favour of a completely separate state outside the UK	23	19

Source: YouGov/Daily Telegraph 24-28/4/08

The quarter has seen considerable polling on attitudes towards independence, and especially so towards the end of the quarter as the first anniversary of the SNP's election success last year came around. Interest centred on whether the SNP were proving to be successful in their aim of persuading people to back independence by providing a period of competent SNP-led government.

As previously reported¹⁰⁵, one of the ironies of the 2007 election campaign is that although the SNP came first in the election, support for independence fell away during the campaign. This was underlined by the results from the post-election Scottish Social Attitudes survey, provisional figures from which were reported last quarter and for which the final, little changed, figures are provided above (Figure 4.1). This meant that it was quite likely that some increase in support would occur during the SNP's first year, but that any such increase might represent no more than a return to the *status quo ante*. Certainly this was what happened after the 1999 election campaign, during which support for independence fell in much the same way that it did in 2007.

This point has not always been appreciated in newspaper reports of the most recent poll data. Two polls in particular, one by Scottish Opinion for the *Daily Mail* (Figure 4.3) and one by System Three for the *Sunday Herald* (Figure 4.4), were reported as evidence of a significant increase in support for independence. The latter, after all, even found a small majority in favour of independence. However, the report this result largely ignored the fact that the figures were little different from those reported by the same poll last autumn, and only represented a significant change from its findings the previous August, not long after the 2007 election. This hardly constituted clear evidence of a positive response to the experience of nationalist government.

¹⁰⁵ J. Curtice, *Where stands the Union now? Lessons from the 2007 Scottish Parliament Election*, London: Institute for Public Policy Research, 2008. Available at www.ippr.org.uk.

The *Daily Mail* poll was also compared with the findings of a similar exercise the previous August, and equally identified a pro-independence trend since that date. The paper failed, however, to point out that support for independence was still well below that obtained by an ICM poll conducted for the *Mail* itself in January 2007 (a result that itself replicated the findings of a poll by ICM for the *Sunday Telegraph* in November 2006). Indeed those two earlier polls are a reminder that it has been commonplace since the advent of devolution for polls that simply ask respondents whether they support or oppose independence to find a majority in favour. Further examples of such results can be found in previous Scotland Devolution Monitoring Reports in this series, including those for January and April 2007.

Moreover, further evidence that support for independence still seems to be below the level it was prior to the 2007 election is provided by a YouGov poll for *The Sun* (Figure 4.2), and also reported in *The Times*, that found support for independence to be six points lower than it was when the same company asked the same question in January 2007. Meanwhile, two further YouGov polls (Figures 4.6 and 4.7), both of which invited respondents to choose between a variety of options, failed to detect any recovery at all in support for independence since last spring. Indeed the latter of these found only around one in five backing independence when the options offered to respondents included a more powerful Scottish Parliament within the Union, a result largely echoed by a MRUK-Cello poll for *The Sunday Times* (Figure 4.5). Both polls suggested that the most popular option at present is to increase the powers of Holyrood while remaining within the Union.

Figure 4.8: YouGov poll on the effect of SNP government on support for independence, April 2008

Q: *The SNP have been in government in Scotland for just over 11 months. Do their achievements in Scotland to date make you more likely or less likely to vote for independence?*

	All %
Much more likely to vote for Scottish independence	17
A little more likely	15
No difference either way	35
A little less likely	8
A lot less likely to vote for Scottish independence	19
Don't Know	7

Source: YouGov/Sun: 2-4/4/08

Figure 4.9: YouGov poll on the effect of SNP government on support for independence, April 2008

Q: Which of these two views about the experience of the SNP Executive in Scotland so far comes closer to your own view?

	%
The experience so far suggests that Scotland's Executive has been able to operate effectively with the powers it has: it can have the best of both worlds by remaining part of the UK	58
The experience so far suggests Scotland is perfectly capable of governing itself and no longer needs to remain part of the UK: it ought in due course to become formally independent	29
Not sure	14

Source: YouGov/Telegraph: 24-28/4/08

The link between the perceived performance of the SNP government and people's willingness to support independence was assessed more directly by YouGov in two of its polls (Figures 4.8-4.9). In the first case, it seemed that for every respondent who stated that the performance of the government to date had made them more inclined to back independence, there was more or less another who stated that that performance had made them less likely to favour independence. In the second poll, it appears that people were twice as likely to draw the conclusion from the experience of having the SNP in power that Scotland could have the best of both worlds while remaining within the Union than they were to feel that that experience demonstrated that Scotland ought to become independent. In practice the answers to this question are strongly related to people's political preferences. Three-quarters or so of Conservative, Labour and Liberal Democrat supporters draw the former conclusion, three-quarters of SNP supporters the latter. It will not help the SNP achieve its objective of garnering support for independence if all that the experience of the party in power does is to reinforce people's existing views.

MRUK Cello also attempted to establish what might persuade opponents of independence to change their mind. Around three in ten (29 per cent) said that they might do so if Alex Salmond really impressed them as First Minister. But it seems what happens in London might be more important than what occurs at Holyrood. As many as 29 per cent also said they might change their mind if the UK government cuts Scotland's share of public expenditure. Equally, 24 per cent said the election of a Conservative government might make a difference. Note, though, that 20 per cent said the same about the election of another Labour government, suggesting that a Conservative victory at the next election may not colour how people vote in an independence referendum to the degree sometimes supposed.

Meanwhile, the YouGov/Telegraph poll suggested that so far the Scottish public has not reached any clear judgement about who is to blame for the periodic disagreements that have broken out between London and Edinburgh over the last twelve months. While 35 per cent support the SNP's claim that Gordon Brown has attempted to 'bully' the government in Edinburgh, 38 per cent disagree. Equally, while 35 per cent blame the government in London for the disagreements that have occurred, 38 per cent believe they have arisen because Alex Salmond has been looking for trouble. Evidently, so far at least, London is not widely judged to have dealt with the SNP government in Edinburgh in a manner that might increase antipathy towards 'London rule'.

Figure 4.10: YouGov poll on support for fiscal autonomy for the Scottish Parliament

Q: At the moment the Scottish Parliament depends for almost all of its income on an annual grant from the UK Government. Do you think the present arrangement is broadly satisfactory or do you think the Scottish Parliament should be required to levy taxes on the Scottish people in order to raise most of its own income?

	Westminster Vote				
	All %	Con %	Lab %	LD %	SNP %
Present arrangement satisfactory	54	71	68	58	36
Scottish Parliament levy taxes	20	14	14	19	36
Not sure	26	16	18	25	28

Source: YouGov/Telegraph: 24-28/4/08

One of the reforms of the current devolution settlement that has been widely proposed is to give the Scottish Parliament greater taxation powers and responsibilities. Indeed this forms one of the key items on the agenda of the Calman Commission. However, findings from previous Scottish Social Attitudes surveys that suggest there is popular support for giving the parliament greater taxation powers are contradicted by the results of the YouGov/Telegraph poll (Figure 4.10), which, when it asked people to choose between the current funding arrangement and asking the parliament to levy taxes, found only one in five in favour of the latter. It is possible that people interpreted this second option in the YouGov question as meaning that people in Scotland would have to pay extra taxes. If so, then given that the same poll also found 61 per cent opposed to any use of the existing tax-varying powers, this might have helped to depress support for giving the Scottish Parliament taxation powers. It might also be noted that one in four said they were unsure; the financing of devolution is a subject that can easily become too abstruse for many members of the general public.

Figure 4.11: YouGov poll on an independent Scotland, January 2008

Q: If Scotland does become independent which of the following options do you prefer?

	Age				Holyrood List Vote			
	All %	18-34 %	35-54 %	55+ %	Con %	Lab %	LD %	SNP %
Scotland should become a republic	45	55	47	36	14	47	44	59
Scotland should be a monarchy with Queen Elizabeth II as head of state	39	26	36	51	73	46	37	34
Don't Know	16	20	17	12	13	16	11	8

Q: If Scotland does become independent which of the following options do you prefer?

	Holyrood List Vote				
	All %	Con %	Lab %	LD %	SNP %
Scotland should continue to use the pound sterling as its currency	52	76	57	56	42
Scotland should adopt the Euro as its currency	32	16	33	33	40
Scotland should have its own Scottish Currency	8	3	4	8	16
Don't Know	7	5	6	3	3

Q: If Scotland does become independent which of the following options do you prefer?

	Holyrood List Vote				
	All %	Con %	Lab %	LD %	SNP %
Scotland should be a member of the European Union	69	52	74	83	70
Scotland should be a country outside the European Union	19	37	13	11	23
Don't Know	12	11	13	6	7

Q: If Scotland does become independent which of the following options do you prefer?

	Holyrood List Vote				
	All %	Con %	Lab %	LD %	SNP %
Scotland should have its own armed forces separate from Britain's	34	20	26	24	55
Scottish troops should continue to belong to Britain's armed forces	54	75	64	66	38
Don't Know	13	5	10	11	8

Q: If Scotland does become independent which of the following options do you prefer?

	Holyrood List Vote				
	All %	Con %	Lab %	LD %	SNP %
Scotland should continue to pay for, and receive, BBC radio and television programmes	55	70	60	70	41
Scotland should have its own public broadcasting service and no longer receive BBC radio and television programmes	18	10	15	8	30
Scotland should pay extra and both continue to receive BBC programmes and have a Scottish broadcasting service	12	9	12	12	15
Don't Know	15	11	14	7	14

Q: If Scotland does become independent which of the following options do you prefer?

	Holyrood List Vote				
	All %	Con %	Lab %	LD %	SNP %
Scotland should generate electricity from a wide mixture of sources, including wind, coal, gas – and nuclear power	70	87	76	67	65
Scotland should ban the production of nuclear power in Scotland	21	7	15	29	30
Don't Know	9	7	9	5	6

Source: YouGov/Express: 3-8/1/08

The YouGov poll for the Express (Figure 4.11) included an extensive range of questions about what should happen if Scotland were to become independent. They provide an intriguing insight into attitudes in Scotland towards some of the existing institutions of the Union. It seems, for example, that there would be widespread reluctance to see the termination of BBC programming in Scotland. Even amongst SNP supporters only one in three would want to end Scotland's relationship with the BBC entirely, despite the criticism levelled at the BBC by Alex Salmond because of the low proportion of its content that is generated in Scotland. Meanwhile, over half would still like to see Scottish troops being part of Britain's armed forces, though here over half of SNP supporters (though not much more) would like Scotland to have its own troops. In contrast, more people would like an independent Scotland to become a republic than would prefer to retain the Queen. In wishing to remain a monarchy, while being critical of the BBC and preferring Scotland to have its own armed forces, the SNP seems to have misread the relative popularity of the existing institutions of the Union.

As is evident from other polling data – and in line with SNP policy – a clear majority of people in Scotland would wish an independent Scotland to be part of the European Union. While there is evidently some opposition to that view amongst the ranks of SNP supporters, it is not as marked as it is amongst Conservative supporters. Yet only one in three wish to adopt the Euro, while just over half would like to retain sterling. Both options, however, are far more popular than establishing a separate Scottish currency, including amongst SNP supporters. It seems that the SNP has been astute in stating that an independent Scotland should initially retain sterling before perhaps eventually switching to the Euro.

Although framed as a question about what should happen in the event of independence, it is doubtful whether this consideration had much impact on the pattern of responses to the final question on nuclear power. In any event, it suggests little support for stopping nuclear power generation north of the border entirely, contrary to the stated position of the current SNP government (see also previous monitoring report).

Figure 4.12: YouGov poll on the timing of an independence referendum, April 2008

Q: Scotland's richest man, Sir Tom Hunter, believes there should be a national referendum on Scottish independence as soon as possible. Which one of the following statements about a national referendum comes closest to how you feel?

	%
There should be an immediate referendum	11
There should be a referendum within the next year	28
There should be a referendum in 2010	26
There should not be a referendum	21
None of these	4
Don't Know	11

Source: YouGov/Sun: 2-4/4/08

Polls typically find that the idea of holding a referendum is popular, and the SNP government frequently cites in support of its policy position polling evidence that most people in Scotland want to have a vote on independence. The YouGov/Sun poll (Figure 4.12) found that the idea of holding a referendum remains popular, though it also found more people in support of holding a referendum within the next year or so than wanted to wait until 2010 as the SNP proposes.

Figure 4.13: YouGov poll on Scottish governmental nomenclature

Q: Since devolution was introduced after the 1997 general election Scotland has had a Parliament, an Executive and a First Minister. Do you think the Executive should continue to keep its name or be called a 'Government'?

	%
Government	43
Executive	39
Not sure	18

Q: Should Alex Salmond be called...

	%
Scotland's First Minister	61
Scotland's Prime Minister	28
Not sure	11

Source: YouGov/Express: 3-8/1/08

Last autumn the SNP changed the working name of the executive in Edinburgh from the Scottish Executive (which remains its legal title) to the Scottish Government, a title that was thought more fitting for the government of what the SNP believes should be a sovereign nation. The change only just has a plurality of popular support (Figures 4.13). Meanwhile, there appears to be little interest in aping another Westminster practice by calling the head of the Scottish Government the Prime Minister rather than First Minister.

4.2 National Identity

Figures 4.14 and 4.15 update the figures on national identity from the 2007 Scottish Social Attitudes Survey for which provisional figures were supplied in the January 2008 Scotland Devolution Monitoring Report. See that report for commentary.

Figure 4.14: Forced Choice National Identity preferences, 1974-2007

	1974	1979	1992	1997	1999	2000	2001	2002	2003	2004	2005	2006	2007
	%	%	%	%	%	%	%	%	%	%	%	%	%
Scottish	65	56	72	72	77	80	77	75	72	75	77	78	72
British	31	38	25	20	17	13	16	18	20	19	14	14	19

Sources: Scottish Election Studies 1974-1997; Scottish Social Attitudes Survey 1999-2007.

Figure 4.15: Moreno National Identity preferences, 1992-2007

	1992	1997	1999	2000	2001	2003	2005	2006	2007
	%	%	%	%	%	%	%	%	%
Scottish not British	19	23	32	37	36	31	32	33	27
More Scottish than British	40	38	35	31	30	34	32	32	30
Equally Scottish and British	33	27	22	21	24	22	22	21	28
More British than Scottish	3	4	3	3	3	4	4	4	5
British not Scottish	3	4	4	4	3	4	5	5	6

Sources: Scottish Election Studies 1992-7; Scottish Social Attitudes survey 1999-2007.

4.3 Other Issues

Figure 4.16: YouGov poll on free school meal provision, January 2008

Q: Do you agree or disagree with the following statement? Scotland's taxpayers should pay for all Scotland's children to have free school meals irrespective of income.

	%
Agree	35
Disagree	57
Don't Know	8

Source: YouGov/Express: 3-8/1/08

The provision of free school meals for all children in the first three years of primary school is currently being piloted in five parts of Scotland, following calls in the last parliament from the Scottish Socialist Party in particular for universal free school meals. The results of a question included in the YouGov/Express poll (Figure 4.16), however, suggest that such universal provision is not necessarily widely popular. A not dissimilar result was obtained by the 2003 Scottish Social Attitudes survey.¹⁰⁶

¹⁰⁶ J. Curtice, 'Is Holyrood Accountable and Representative?', in C. Bromley, J. Curtice, D. McCrone and A. Park (ed.), *Has Devolution Delivered?* (Edinburgh: Edinburgh University Press, 2006), p. 103.

Figure 4.17: TNS System Three poll on local taxation, April 2008

Q: *Would you support or oppose the introduction of a local income tax to replace the Council Tax in Scotland?*

	Holyrood Const Vote				
	All %	Con %	Lab %	LD %	SNP %
Support	46	42	40	51	58
Oppose	22	29	27	20	19
Don't Know	32	29	33	29	23

Source: TNS System Three/Herald: 23-29/4/08

The replacement of the council tax by a local income tax, a move supported by both the SNP and the Liberal Democrats, was one of the issues that aroused the greatest controversy in the 2007 election campaign. It has subsequently continued to be the focus of sharp debate as the SNP has attempted to pursue its policy. A System Three poll for *The Herald* (Figure 4.17) suggests that the policy is more popular than its critics appear to recognise, including not least amongst Conservative and Labour supporters (see also January's monitoring report).

Figure 4.18: YouGov poll on nuclear weapons, January 2008

Q: *Thinking about nuclear weapons, do you agree or disagree with the following statements? Britain should continue to have nuclear weapons:*

	Holyrood List Vote				
	All %	Con %	Lab %	LD %	SNP %
Agree	55	82	68	56	44
Disagree	31	10	24	30	47
Don't Know	15	8	9	15	9

Britain's Trident nuclear weapons submarines should continue to be based at Faslane in Scotland :

	Holyrood List Vote				
	All %	Con %	Lab %	LD %	SNP %
Agree	38	63	49	38	24
Disagree	41	19	32	41	59
Don't Know	22	18	19	22	17

Source: YouGov/Express: 3-8/1/08

It appears from the YouGov/Express poll (Figure 4.18) that a majority of people in Scotland support Britain's continued use of nuclear weapons, though they are less keen on them being based in Scotland. The former finding represents a higher level of support for nuclear weapons than that obtained by the 2007 Scottish Social Attitudes Survey when it asked about the renewal of Trident. It may well be the case that some people are prepared to accept retaining the current generation of nuclear

weapons, but are reluctant for Britain to arm itself with a successor. In any event, it seems that SNP supporters are not necessarily committed opponents of nuclear weapons, contrary to the stated position of their party. Rather, like a number of other Scots they simply dislike the fact that it is Scotland that provides their base

4.4 Party Fortunes

4.4.1 Holyrood Voting Intentions

Figure 4.19: YouGov poll on Holyrood voting intentions, Jan-April 2008

Fieldwork	Con %	Lab %	Lib Dem %	SNP %	Green %	SSP %	Solidarity %	Others %
3-8/1/08	14/13	29/27	14/12	38/30	-/-	-/-	-/-	6/18
2-4/4/08	12/13	32/30	13/12	40/33	-/6	-/3	-/1	4/2
24-28/4/08	13/13	31/28	15/13	36/37	-/-	-/-	-/-	4/9

Left and right-hand figures represent voting intention in constituencies and regional lists respectively, here and below.

Separate vote figures for Green, SSP or Solidarity not obtained, except for list vote in second poll.

Source: YouGov/Express; YouGov/Sun; YouGov/Telegraph

Figure 4.20: MRUK Cello poll on Holyrood voting intentions, Feb-March 2008

Fieldwork	Con %	Lab %	Lib Dem %	SNP %	Green %	SSP %	Solidarity %	Others %
29/2-9/3/08	15/13	31/30	12/11	39/40	-/-	-/-	-/-	3/5

Separate vote figures for Green, SSP or Solidarity not published.

Source: MRUK Cello/Sunday Times

Figure 4.21: TNS System Three poll on Holyrood voting intentions, April 2008

Fieldwork	Con %	Lab %	Lib Dem %	SNP %	Green %	SSP %	Solidarity %	Others %
23-29/4/08	12/12	31/29	11/12	45/41	-/4	-/1	-/*	2/1

Separate constituency vote figures for Green, SSP or Solidarity were not obtained.

Source: TNS System Three/Herald

Figure 4.22: Progressive Scottish Opinion poll on Holyrood voting intentions, Jan-April 2008

Fieldwork	Con %	Lab %	Lib Dem %	SNP %	Green %	SSP %	Solidarity %	Others %
3-8/1/08	13/14	37/38	12/11	36/34	-/2	-/-	-/-	2/2
15-22/4/08	13	33	10	40	3	1	-	2

No separate figure for SSP or Solidarity, or for Greens on constituency vote.

Second poll only asked constituency vote. No separate figure for Solidarity.

Source: Progressive Scottish Opinion/STV; Progressive Scottish Opinion/Daily Mail

With the exception of one apparently rogue poll by Scottish Opinion (Figure 4.22), the not inconsiderable number of polls conducted in this monitoring period have all put the SNP ahead of Labour (Figures 4.19-4.22) – and usually by considerably more than the one to two points by which the party actually led in 2007. A year in office has evidently done nothing to dent the popularity of the SNP – rather, the opposite seems to be true. This must be regarded as a significant achievement and suggests that so far the SNP is providing Scotland with what is perceived as a successful government, even if the data in section 4.1 cast doubt on how far this achievement is helping to increase support for independence. Meanwhile, not only have Labour been in the doldrums but so too have the Conservatives and the Liberal Democrats. The former usually polled less than the 17/14 per cent they secured in 2007, while the Liberal Democrats typically secured less than the 16 per cent they won on the constituency vote in 2007 and little more than the disappointing 11 per cent they won on the list vote that year.

4.4.2 Westminster Voting Intentions

Figure 4.23: YouGov poll on Westminster voting intentions, Jan-April 2008

Fieldwork	Con %	Lab %	Lib Dem %	SNP %	Others %
3-8/1/08	18	36	12	30	5
2-4/4/08	17	35	12	31	4
24-28/4/08	17	34	14	30	6

Source: YouGov/Express; YouGov/Sun; YouGov/Telegraph

Figure 4.24: MRUK Cello poll on Westminster voting intentions, Feb-March 2008

Fieldwork	Con %	Lab %	Lib Dem %	SNP %	Others %
29/2-9/3/08	18	34	9	34	4

Source: MRUK Cello/Herald

Figure 4.25: TNS System Three poll on Westminster voting intentions, April 2008

Fieldwork	Con %	Lab %	Lib Dem %	SNP %	Others %
23-29/4/08	17	39	10	31	2

Source: TNS System Three/Herald

Apart from the polls conducted by Scottish Opinion, all of the polls that ascertained voting intentions for Holyrood also asked respondents how they would behave in a Westminster election (Figures 4.23-4.25). In line with the evidence of all previous polling, voters revealed themselves somewhat less willing to vote for the SNP in a UK general election than in a Scottish Parliament election. As a result, four of the five polls put Labour ahead of the SNP, with the fifth putting the two parties neck and

neck. Nevertheless, the immediate prospects for the SNP at the next UK election, which must be held by the middle of 2010, are much brighter than they were in 2005 when the party polled only 18 per cent of the vote and came third. On the other hand, the party will still have to fight the next Westminster election under the single member plurality system, under which it suffers a severe disadvantage. It will start the next election less than 20 points behind Labour (or indeed any party) in just three constituencies. Even at the SNP's current level of popularity, Alex Salmond set his party an ambitious target when in his party conference speech in March he said he wanted to win 20 seats at the next Westminster election.

Labour's support in British polls was typically some four points or so down on its 2005 performance for much of the period – and by rather more towards the end. That decline has largely been reflected in the Scottish polls, in which the party has typically been some four to six points down on the 40 per cent it won in 2005.¹⁰⁷ The only exception was the poll by System Three. In contrast, however, there has been little sign of the Conservatives north of the border profiting from their increased popularity in the British polls. Those polls have typically put the party some seven points above their 2005 tally; all of the Scottish polls in this quarter put the increase in Conservative support at no more than one or two per cent. At present there is a serious prospect that if the Conservatives do manage to form the next UK government, they will do so on the back of minimal representation in Scotland, a scenario that could well increase the pressure on the devolution settlement.

The Liberal Democrats performed particularly well in Scotland in 2005, coming second with 23 per cent of the vote. That support appears to have fallen away badly, and to a far greater degree than the five point or so drop being suffered by the party during this period in the British polls. It is the party's good fortune that few of the seats that they hold are marginal and that most of those that are have Labour or the Conservatives rather than the SNP in second place.

¹⁰⁷ In calculating this figure the vote for the Speaker in 2005 has been included in Labour's tally.

4.4.3 Local government by-elections

Figure 4.26: Local government by-election results, Jan-Feb 2008

31/1/08 North Lanarks/Kilsyth	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	1.7	-3.2
Labour	63.4	-0.9
Liberal Democrat	0.6	
SNP	30.4	+2.6
Green	2.3	
SSP	1.6	-1.4

Turnout 32.1 (-26.6)

14/2/08 Moray/Elgin City South	% 1st preference vote	Change in % 1st preference vote since 2007
Conservative	9.9	-5.2
Labour	17.2	-11.6
Liberal Democrat	2.3	
SNP	32.1	-0.9
Independent	24.6	+1.6
Independent	10.7	
SSCUP	1.5	
UKIP	1.0	
Independent	0.8	
Independent	0.0	

Turnout 26.8 (-24.1)

21/2/08 Perth & Kinross/Highland	% 1st preference vote	Change in % 1st preference vote since 2007
Conservative	29.8	+4.2
Labour	3.0	
Liberal Democrat	7.3	-6.2
SNP	59.9	+1.2
Independent	-	W

Turnout 43.6(-19.5)

28/2/08 Shetland/Lerwick South	% 1st preference vote	Change in % 1st preference vote since 2007
Conservative	12.8	+4.2
Labour	-	-
Liberal Democrat	-	-
SNP	-	-
Independents – 7 candd	87.2	+ 3.9 (7 candd)
SSP	-	W

Turnout 39.2 (-16.2)

6/3/08 South Lanarks./Cambuslang East	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	3.1	-5.8
Labour	27.9	-22.5
Liberal Democrat	22.4	+8.1
SNP	23.5	+0.9
Independent	19.6	
Scottish Unionist Party	1.5	
SSP	1.2	-1.7
Green	0.8	

Turnout 24.9(-22.0)

1/5/08 Aberdeenshire/Troup	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	18.8	-5.5
Labour	-	-
Liberal Democrat	18.4	+11.2
SNP	62.8	+15.1
Independent	-	W

Turnout 36.3(-16.3)

1/5/08 Dumfries & Galloway/Abbey	% 1 st preference vote	Change in % 1 st 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 (4 cand)

Turnout 45.0(-14.7)

Sources: www.alba.org.uk; www.gwydir.demon.co.uk/byelections

Local by-elections (Figure 4.26) are often an occasion for voters to cast a protest vote against the government. Labour often lost ground in local by-elections when in power at Holyrood. However, the SNP have consistently managed to maintain (at least) their share of the vote in some half dozen local by-elections held during this monitoring period. This suggests the continued popularity of the SNP as registered by the opinion polls is no artefact.

4.5 Attitudes towards Parties and Leaders

4.5.1 Parties

Nothing to report.

4.5.2 Leaders

Figure 4.27: MRUK Cello poll on the performance of Alex Salmond and Wendy Alexander, Feb-March 2008

Q: How is Alex Salmond doing as leader of the Scottish Government?

Q: How is Wendy Alexander doing as leader of the Scottish Labour Party?

	Salmond %	Alexander %
Very well	14	3
Fairly well	56	27
Fairly badly	12	32
Very badly	5	20
Don't Know	13	18

Source: MRUK Cello/Sunday Times: 29/2-9/3/08

Figure 4.28: YouGov poll on attitudes to party leaders, April 2008

Q: Which of the following do you think will make the best First Minister.

	Westminster Vote				
	All %	Con %	Lab %	LD %	SNP %
Alex Salmond	43	30	29	31	89
Wendy Alexander	11	4	30	8	1
Annabel Goldie	9	37	5	13	1
Nicol Stephen	5	4	3	21	1
Don't Know	31	25	34	28	8

Q: Are you satisfied or dissatisfied with Alex Salmond as First Minister?

	Westminster Vote				
	All %	Con %	Lab %	LD %	SNP %
Satisfied	53	45	38	43	93
Dissatisfied	33	44	47	39	2
Don't Know	14	11	16	17	5

Source: YouGov/Telegraph: 24-28/4/08

Q: Do you think Wendy Alexander is or is not proving a good leader of the Scottish Labour Party?

Q: Do you think Nicol Stephen is or is not proving a good leader of the Scottish Liberal Democrats?

Q: Do you think Annabel Goldie Stephen is or is not proving a good leader of the Scottish Conservatives?

	Alexander %	Stephen %	Goldie %
Yes, s/he is	21	27	41
No, s/he isn't	60	28	20
Don't Know	20	45	39

Source: YouGov/Telegraph: 24-28/4/08

In tandem with the popularity of the SNP in Scottish Parliament voting intentions, Alex Salmond's personality continues to dominate the Scottish political scene. The majority of people in Scotland think he is doing a good job and are satisfied with his performance as First Minister (Figures 4.27 and 4.28). The contrast between Mr Salmond's standing and that of Gordon Brown, who became UK Prime Minister just weeks after Mr Salmond became Scotland's First Minister, is truly remarkable. According to the YouGov/Telegraph poll at the end of April, just 26 per cent of people in Scotland are satisfied with Mr Brown's performance as Prime Minister, while 63 per cent are dissatisfied. Among Labour supporters, only 62 per cent declared themselves to be satisfied with the Prime Minister's performance. Meanwhile, no other Scottish party leader remotely comes close to Mr Salmond when asked who would make the best First Minister (Figure 4.28). Indeed, Labour leader Wendy Alexander's ratings in particular have been little short of disastrous (Figures 4.27 and 4.28). The row about her illegal leadership campaign donation and widespread criticism of her performance in the Holyrood chamber have evidently done nothing to endear her to the Scottish public.

It seems, however, that Mr Salmond is not the only SNP minister to have made a favourable impression on the public. The YouGov/Telegraph poll found that 34 per cent were satisfied with Mr Swinney's performance as Finance Secretary, while only 22 per cent were dissatisfied. While many have been unmoved by Mr Swinney either way – 44 per cent say they do not know how well he has performed – these figures represent something of a turnaround for a man who found it difficult to make any kind of favourable impression at all on the public when he was SNP leader between 2000 and 2004.

A more detailed picture of how Mr Salmond is regarded by the public was provided by a Scottish Opinion poll for *Scotland on Sunday* (Figure 4.29). His strongest attribute is evidently his willingness to stand up for his country, followed closely by his intelligence. On the other hand, the smugness of which he is sometimes accused is evidently also apparent to many Scots. But perhaps the most striking feature of this poll, taken after a year in office, is that the First Minister is not only still liked by many people in Scotland but is even widely regarded as honest.

Figure 4.29: Progressive Scottish Opinion poll on perceptions of Alex Salmond's character, April 2008

Statements associated with Alex Salmond...

	Yes %	No %	Unsure %
Stands up for Scotland	69	15	16
Intelligent	68	11	22
Likeable	53	26	21
Honest	43	28	29
Best ideas for improving people's lives	31	34	35
Trust him to look after my wallet	30	49	20
Conceited	49	24	27
Arrogant	44	32	23
Patronising	42	24	34
Out of touch with people's concerns	27	45	29
Weak	12	64	25
Sexist	7	63	30

Source: Progressive Scottish Opinion/Scotland on Sunday: 21-25/4/08 (N=757)

4.6 Retrospective Evaluations

Further confirmation of the widespread approval of the performance of the SNP government to date is provided by the YouGov/Telegraph poll (Figure 4.30). Over half say they approve of its record to date. In contrast, when an almost identically worded question was asked by YouGov on four occasions between 2003 and 2007, the level of approval for the Executive's record ranged between just 30 per cent and 35 per cent. Evidently, so far at least, the current Scottish government is much more popular than its predecessor.

Figure 4.30: YouGov poll on satisfaction with the record of the Scottish Executive

Q: Since roughly this time last year, the Scottish Executive has been a Scottish National (SNP) Executive, but one without an overall majority in the Scottish Parliament. Taking everything into account do you approve or disapprove of the Scottish Executive's record to date?

	All %
Approve	52
Disapprove	27
Don't Know	21

Source: YouGov/Telegraph: 24-28/4/08

5. Intergovernmental relations

Alan Trench

5.1. General

Many of the most interesting intergovernmental issues since January 2008 have concerned financial issues: in particular the Scottish Government's plans for a local income tax, and whether Scotland in fact receives its full share of payments from the block grant-and-formula system. Both these are discussed further in section 8 below. From a general point of view, both illustrate characteristics of the present devolution arrangements: entanglement of Scotland's and the UK's financial systems, leading to multiple potential sources of friction and dispute especially when the settlement is tight, an increasingly activist approach by the UK Government, driven largely by partisan considerations, and carried through in a relatively unsystematic and unstructured way. Another major issue over the last few months has been the emergent constitutional debate (discussed elsewhere in this report). This debate similarly reflects those characteristics.

Beyond this, there has been the stand-off over the UK Government's plans for expansion and renewal of nuclear power plants to support the nuclear generation of electricity. The Scottish Government's opposition to this was clear, and raised difficult issues because, while energy policy in general is reserved to the UK level, it interacts with devolved policy areas, notably planning. The Scottish Government made clear it would resist the development of nuclear power stations in Scotland on planning grounds. When the UK Government's white paper was published, on 19 January, it underlined that the need for such devolved approval for any new nuclear stations meant that the policy it espoused could only apply in England, Wales and Northern Ireland.¹⁰⁸ Nonetheless, it added, 'If there is a change in policy towards new nuclear power stations in Scotland we would seek to extend the provisions in the Energy Bill to Scotland at the earliest available opportunity'.¹⁰⁹ This acceptance of the Scottish Government's veto did not stop the UK Business, Enterprise and Regulatory Reform Secretary, John Hutton, describing its policy as 'a disaster'.¹¹⁰ This illustrates an ongoing, and important, aspect of the constitution of the devolved UK – the extent to

¹⁰⁸ Department for Business, Enterprise & Regulatory Reform *Meeting the Energy Challenge: A White Paper on Nuclear Power* Cm 7296 (London: The Stationery Office, 2008).

¹⁰⁹ *Ibid*, para. 3.54

¹¹⁰ 'Nationalist nuclear policy "a disaster"' (30 March 2008) *Scotland on Sunday*; John Hutton 'What effects will the SNP government's opposition to new nuclear plants have in Scotland?' (30 March 2008), *Scotland on Sunday*

which devolved and non-devolved functions intersect with each other. Governments need to cooperate with one another to exercise those functions, otherwise they can veto each other. The UK Government could perhaps, in theory, have sought to impose nuclear power on the Scottish Government – but that would have raised grave practical issues, as few private-sector operators of nuclear power stations would wish to invest the required large amounts of capital in such a hostile environment. From its perspective, the ability of the Scottish Government to stop this policy at the border has to be regarded as a significant success.

In other areas, there are signs of smaller problems and low-level tensions. One of the most interesting relates to a failure by the Home Office to consult the Scottish Government over the European Union anti-terror treaty, which led to delays in Parliamentary approval of that treaty and a general admonishment of Whitehall departments for their failures in this regard.¹¹¹ In addition, Whitehall has refused to allow the Scottish Parliament to conduct Scottish Parliamentary elections in future (despite support from a majority of MSPs, but not the Labour Party);¹¹² or to transfer responsibility for firearms.¹¹³ Other issues put on the table by the Scottish government, to which the UK government has yet to respond, are: an extension of the limits of Scottish territorial waters from 12 to 200 miles,¹¹⁴ opposition to the introduction of identity cards, which it views as ‘compulsory by stealth’,¹¹⁵ and a disagreement about the payment of policing costs to the Ministry of Defence Police for the 2005 G8 Gleneagles summit and 2006 British-Irish St Andrews meeting.¹¹⁶ Despite this, in a newspaper article early in the New Year, David Cairns (Minister of State in the Scotland Office in Whitehall) claimed that relations generally worked well, that ‘the devolution settlements are robust’ and that ‘The truth is that the business of government is built on daily, weekly, monthly co-operation, consultation and joint working’.¹¹⁷

¹¹¹ See ‘Europe’s anti-terror laws blocked “because Holyrood not consulted”’ (10 January 2008) *The Scotsman*; ‘Westminster defies warning to consult Holyrood on European laws’ (22 January 2008)

¹¹² ‘MSPs demand to run Holyrood elections: Transfer of power from Westminster would prevent repeat of 2007 chaos, claims Salmond’ (6 January 2008) *Scotland on Sunday*; Browne will veto Holyrood call to run its own elections’ (25 January 2008), *The Scotsman*.

¹¹³ ‘Salmond thwarted on guns and tax’ (3 March 2008), *The Scotsman*

¹¹⁴ ‘Scots ministers call to rule waves with 200-mile territorial claim’ (21 March 2008) *The Scotsman*

¹¹⁵ ‘Salmond moves to block new ID cards in Scotland’ (7 March 2008), *The Herald* (Glasgow)

¹¹⁶ ‘Scots police “should not pick up summits bill”’ (24 March 2008), *The Herald* (Glasgow)

¹¹⁷ D. Cairns ‘How Holyrood and Westminster make devolution work’ (11 January 2008) *The Herald* (Glasgow)

On an informal level, there have been reported meetings of Scottish, Welsh and Northern Ireland health ministers.¹¹⁸ The Northern Ireland First Minister and Deputy First Minister (Rev Ian Paisley and Martin McGuinness) visited Alex Salmond in the run-up to Mr Paisley's retirement.¹¹⁹

5.2. Formal meetings and revival of the Joint Ministerial Committee

A summit meeting of the British Irish Council took place in Dublin on 14 February 2008.¹²⁰ The Scottish Government was represented by the First Minister and Fergus Ewing MSP, Minister for Community Safety. Paul Murphy, the new Secretary of State for Wales, represented the UK Government. The meeting reviewed progress of its work to date and developed plans for further future work, including a summit to be held in Scotland in September.

There have been no meetings of the plenary Joint Ministerial Committee in this monitoring period, nor any publicised meetings of its functional committees.

However, this is likely to change shortly. The UK Government has decided to revive the JMC framework, and Paul Murphy (appointed as Secretary of State for Wales following the resignation of Peter Hain) has been tasked with setting up the revived committee.¹²¹ This is being approached in a slow, painstaking way, with Murphy undertaking a round of meetings with the devolved administrations about how the new framework would work, including a meeting with Alex Salmond on 16 April.¹²² However, UK sources have been keen to indicate that the role of the revived JMC would be limited to 'narrow technical issues' which were multilateral rather than bilateral in scope (i.e. they should affect Scotland, Wales and Northern Ireland, not just one devolved administration).¹²³ The suggestion made privately is that there will be two sets of meetings: the plenary JMC, and a functional version (dubbed 'JMC Domestic' by some) to deal with practical policy matters. At that point, a 'first' meeting was expected in the spring, and a plenary one by the autumn. As of the end of April no meetings had taken place, though one is now expected in the summer. Whether

¹¹⁸ 'Ministers meet with Sturgeon' (3 April 2008), *Edinburgh Evening News*

¹¹⁹ 'Stormont joint leaders hold Holyrood talks' (20 February 2008), *Edinburgh Evening News*

¹²⁰ The meeting's communiqué is available at www3.british-irishcouncil.org/documents/dublin_summit2.asp

¹²¹ See 'Salmond welcomes return of devolution roundtable' (5 March 2008), *The Herald* (Glasgow); 'Devolution forum revived as rows grow' *Western Mail* 6 March 2008; 'Salmond in talks on new political arena' (16 April 2008), *The Scotsman*

¹²² See Scottish Government News Release 16 April 2008, 'Inter-Governmental Committee'. Available at www.scotland.gov.uk/News/Releases/2008/04/17090411

¹²³ See e.g. J Hjul 'Devolution czar offers little to Salmond: Paul Murphy, head of the joint ministerial committee on devolution, is no fan of the SNP leader's ambitions' (20 April 2008), *Sunday Times*; See also 'Forum not for complaints, Alex Salmond told' (18 April 2008), *Daily Telegraph*

Gordon Brown would chair plenary meetings is unclear – the implication of press coverage is that this would fall to Jack Straw instead. If not chaired by the UK Prime Minister, a JMC Plenary stands to lose much of its symbolic value as a manifestation of ‘Britishness’, even if the risks of political embarrassment would also be reduced. The ‘domestic’ format was suggested by the Scottish Government back in the early autumn, and might itself take various forms (or have changing ministerial attendance) depending on the substantive issues under consideration.

5.3. The ‘National Conversation’ and the Scottish Constitutional Commission

The broader constitutional debate is discussed in several other sections of this report, and this section will limit itself to its intergovernmental dimensions – which in practice mean the Scottish Constitutional Commission. As far as the National Conversation is concerned, the UK Government and unionist parties continue to refuse to engage with it. At the launch of its second stage on 26 March, Alex Salmond sought to overcome this difficulty by engaging instead with representatives of Scottish civil society, suggesting that a referendum on independence could embrace other options such as strengthened forms of devolution.¹²⁴ Beyond rather ritualised denunciations of independence and its anticipated consequences from various parts of the Labour Party and the UK Government, there has been no direct response from London.

However, the Scottish Constitutional Commission can be seen as an indirect response. After its proposal by Wendy Alexander on 30 November 2007 and subsequent endorsement by Holyrood, much went quiet (although party leaders from Holyrood and Westminster met in London on 15 January). It appeared that there were considerable disagreements within London about whether to go down the path proposed by Alexander or not, with David Cairns denouncing the issue as one for ‘the McChattering classes’¹²⁵, and suggestions that it would be downgraded to some sort of ‘review’ conducted purely by London.¹²⁶ Eventually, in an interview with Brian Taylor for BBC TV Scotland’s ‘The Politics Show’ on 17 February, Gordon Brown announced his endorsement of the proposed review, and suggested it would address financial issues as well as the powers of the Scottish Parliament.¹²⁷ He also echoed

¹²⁴ See A. Salmond ‘National Conversation with Scotland’s institutions’, speech in Edinburgh, 26 March 2008. Available at www.scotland.gov.uk/News/This-Week/Speeches/First-Minister/nationalconversation

¹²⁵ ‘Minister says Holyrood powers are “McChattering classes issue”’ (12 February 2008) *The Scotsman*.

¹²⁶ See ‘Brown lays down the law to Wendy: ‘I’m in control of debate on Scotland’s future’. Exclusive: leak reveals split on Constitutional Commission’ (10 February 2008), *Sunday Herald*

¹²⁷ Reported at http://news.bbc.co.uk/1/hi/programmes/politics_show/7242422.stm. See also ‘Brown in U-turn on new tax power for Holyrood’ (17 February 2008), *Scotland on Sunday*,

Alexander's suggestion that it might involve 'un-devolving' powers as well as adding to the competence of the Scottish Parliament.

This appears to have provoked a range of views among the other parties, both Conservatives and Liberal Democrats being reluctant to take part in a Labour-controlled initiative. They secured adequate guarantees of the independence of both the Commission and its chair, and the appointment of Sir Kenneth Calman (Chancellor of Glasgow University, formerly vice-chancellor of Durham University and chief medical officer in both the (English) Department of Health and the Scottish Office) was announced on 25 March. Its full membership was announced and first meeting held on 28 April.¹²⁸

It remains unclear, however, who is actually running the Commission. Its secretariat and support appear to be officials in the Ministry of Justice. Moreover, the awkward conjunction of a commission set up by a legislature and a government in different orders of government remains un-addressed. This arises largely for practical reasons, but it suggests a profound failure to think through the fundamental differences between two branches of government.

5.4 Adjusting the devolution settlement

Only one order adjusting the devolution settlement has been made since January 2008. It is the Scotland Act 1998 (Agency Arrangements) (Specification) Order 2008, SI 2008 No. 1035, which appoints the Scottish Ministers on an agency basis to undertake ministerial functions in relation to a wide range of legislation relating to animals, their health and their movements.

In addition, however, the Secretary of State has made the Scottish Parliament (Elections etc.) (Amendment) Order 2008, SI 2008 No. 307 (S. 3) under powers set out in the Scotland Act 1998 (but relating to the reserved matter of Scottish Parliament elections). This order is concerned with changing the rules governing the identification of postal and proxy voters in Scottish Parliamentary elections.

¹²⁸ www.commissiononscottishdevolution.org.uk. See section 10.5 of this report for a list of its membership.

6. Europe and International Affairs

Peter Lynch

6.1 Scotland Week (Tartan Day/Tartan Week)

The biggest international event for the Scottish Government in this reporting period was the annual (and renamed) Scotland Week celebrations in the USA. The First Minister was involved in several engagements in the USA, including; the official opening of the new Scottish Development International Office and Business Reception in Boston; a speech at Harvard University, a meeting with a Scottish Development International-sponsored mission from Scottish higher education institutions; a speech on renewable energy to the National Geographic Society in Washington DC; the Tartan Day Congressional Dinner at the Library of Congress; and attending the Tartan Day Parade.¹²⁹ Salmond used a visit to Thomas Jefferson's home at Monticello to promote sovereignty and a referendum on Scottish independence,¹³⁰ and gave a presentation to the organisers of the US Professional Golf Association in order to promote golf tourism in Scotland – somewhat ironic following the Donald Trump furore.¹³¹

6.2 First Minister's Visits

Besides involvement in Scotland Week, the First Minister was involved in two overseas visits. In March, he visited the Irish Republic, giving a speech at Trinity College on economic development and social partnership.¹³² On 23 April, he was in Brussels as part of the second stage of the National Conversation on Scotland's constitutional future,¹³³ holding discussions at Scotland House with business organisations, pressure groups and think tanks.

6.3 Cooperation with Northern Ireland

The Scottish Government held a bilateral meeting with the Northern Ireland Executive on 29 February. The meeting discussed transport and energy policy, and resulted in commitments to examine the reinstatement the Campbeltown-Ballycastle ferry service and to explore the creation of an EU INTERREG programme for energy links between Scotland and Northern Ireland. The meeting was attended by First Ministers Salmond and Paisley, as well as Deputy FM McGuinness, and followed up

¹²⁹ Scottish Government news release, 30 March 2008.

¹³⁰ www.scotland.gov.uk/News/This-Week/Speeches/First-Minister/Virginia

¹³¹ Scottish Government new release, 3 April 2008.

¹³² www.scotland.gov.uk/News/This-Week/Speeches/First-Minister/dublin

¹³³ Scottish Government news release, 23 April 2008.

on work undertaken by ministers and officials in the period since the meetings in Belfast on 18-19 June 2007 as well as at the British-Irish Council on 16 July 2007.¹³⁴ Watching such relationships develop in the context of UK intergovernmental relations and the conduct of JMCs will be interesting.

6.4 China

Education Secretary Fiona Hyslop visited China from 6-12 April to sign a Memorandum of Understanding with the Chinese Education Ministry. The memorandum sought to promote Chinese language and culture in Scottish schools, with language immersion courses for Scottish teachers, the development of undergraduate summer schools, the provision of PhD scholarships and research cooperation in the areas of life sciences and clean energy.¹³⁵

6.5 Malawi

In February, the Scottish Government announced allocations of £677,775 for projects in Malawi. These included: support for nursing programmes; clinical health training in mental health, pathology and anaesthesia; HIV-AIDS care; schools improvement; vocational skills for former street children; microfinance; and aquatic resources. The announcement was accompanied by a visit by Linda Fabiani, Minister for Europe, External Affairs and Culture.¹³⁶

6.6 European and External Relations Committee

There were no committee reports in this reporting period. However, the committee was active in conducting two separate inquiries: an inquiry into the Scottish Government's International Development policy¹³⁷, and an inquiry into the transposition of EU directives into Scots law.¹³⁸ In addition, the committee has been gathering evidence from a range of interested parties as part of its review of the government's international and European strategies, the European Union's budget review process and the implications of the Lisbon Treaty.

¹³⁴ Scottish Government news release, 20 February 2008.

¹³⁵ Scottish Government news release, 7 April 2008.

¹³⁶ Scottish Government news release, 7 February 2008.

¹³⁷

www.scottish.parliament.uk/s3/committees/europe/inquiries/InternationalDevelopmentInquiry/InquiryIntoIntDevHomePage.htm

¹³⁸ www.scottish.parliament.uk/s3/committees/europe/inquiries/euDirectives/eu-call-evidence.htm

7. Relations with Local Government

David Scott

7.1 Local Income Tax

In March, the Scottish Government published its consultation paper setting out proposals for a Local Income Tax (LIT).¹³⁹ The paper proposed a nationally-set 3 per cent rate of tax applied to income that is already subject to basic and higher rates of UK income tax; a tax-free personal allowance that matches the UK personal allowance levels; exemptions for savings and investment income and a tax for second homes, subject to local requirement and with flexibility for councils to determine the rate of tax.

According to a Scottish Government Press release quoting John Swinney, the Cabinet Secretary for Finance,¹⁴⁰ more than four out of five households would be better or no worse off as a result of the proposed tax. Those on lower and middle incomes would be better off by gaining an average of £350 to £535 a year.

The Convention of Scottish Local Authorities (COSLA), whose member authorities would be responsible for implementing the new tax, declined to make any immediate comment on the proposals, arguing that it would study the proposals and form a position in due course.¹⁴¹ Official responses to the paper are due to be submitted by 18 July but the immediate response has been largely critical, with the Conservatives claiming that the proposed LIT would penalise up to 200,000 students¹⁴² and Labour claiming a 3p rate would not be sufficient to raise the same amount as council tax and that the rate would need to be 5p.¹⁴³ The Liberal Democrats appeared prepared to enter into talks with the SNP about its alternative plan for a LIT set by each of the 32 councils rather than by the Scottish Parliament for the country as a whole.¹⁴⁴

¹³⁹ 'Consultation on abolishing the council tax and replacing it with a local income tax,' 11 March 2008 www.scotland.gov.uk/Publications/2008/03/11131725/0

¹⁴⁰ Scottish Government Press release, 11 March 2008.

www.scotland.gov.uk/News/Releases/2008/03/11141717

¹⁴¹ COSLA Connections, March-April 2008

www.cosla.gov.uk/attachments/connections/connections40.pdf

¹⁴² Angus Macleod, Lorraine Davidson, 'SNP's local income tax would penalise up to 200,000 students' (18 April 2008), *The Times* m (Scotland), p.2

¹⁴³ Labour Party Press release, 'The Local Income Tax – the Truth of a 5p rate'

www.scottishlabour.org.uk/the_local_income_tax_the_truth_of_a_5p_rate

¹⁴⁴ 'Swinney hints at SNP compromise on local income tax,' (10 March 2008) *The Scotsman*, p.2 www.scotsman.com

However, the main controversy has centred on the cooperation of the UK government. The financing of the LIT proposals depend on persuading the UK government to allow the Scottish Government to retain in its budget £400m currently paid in council tax benefit. It was claimed that this money is part of a 'black hole' amounting to more than £700m.¹⁴⁵

In addition, a dispute arose over whether the Scottish Government has the legal powers to implement a nationally-set tax for local government. Treasury sources claimed in media reports¹⁴⁶ that the proposal in the consultation paper for a 3p tax, set centrally and administered and collected nationally by Revenue & Customs, was not a devolved matter in terms of the Scotland Act. Scottish Ministers rejected the claim, describing the Treasury's intervention as 'arrant nonsense, constitutionally confused and politically inept'.¹⁴⁷ These intergovernmental disputes are discussed further in section 8.3 below.

7.2 Concordat

7.2.1 Council tax freeze

One of the key elements of the Concordat¹⁴⁸ signed by the Convention of Scottish Local Authorities (COSLA) and Scottish Government ministers was an agreement by local government to freeze council tax bills. When individual councils considered their budgets in February 2008,¹⁴⁹ 31 of the 32 councils held their council tax at the same figures that applied in the previous year (2007-08). One council (Stirling) reduced its council tax. The decision of councils to agree not to increase their taxes was hailed as a success for the Scottish Government.¹⁵⁰

John Swinney, Cabinet Secretary for Finance, described the tax freeze as being 'welcome news for taxpayers across Scotland who have borne unacceptable and punishing rises in council tax over recent years'.¹⁵¹ However, there was controversy

¹⁴⁵ Hamish Macdonell, 'Swinney tax plan's missing £700 million' (12 March 2008), *The Scotsman*.

¹⁴⁶ David Scott, 'Doubts cast over Scots' power to levy LIT', *Public Finance*, 4-10 April 2008.

www.PublicFinance.co.uk; Hamish Macdonell, 'Treasury minister attacks SNP plans' (9 April 2008), *The Scotsman* <http://thescotsmen.scotsman.com/latestnews/Treasury-blow-to-Salmond39s-tax.3960703.jp>

¹⁴⁷ Robbie Dinwoodie, 'Angry Sturgeon dismisses Treasury opinion that local tax is illegal', *The Herald*, 10 April 2008.

¹⁴⁸ 'Concordat between Scottish Government and local government', 14 November, 2008.

www.scotland.gov.uk/Publications/2007/11/13092240/concordat

¹⁴⁹ Angus Howarth, 'Council tax freeze solid across the whole of Scotland', *The Scotsman*, 6 March 2008. www.scotsman.com

¹⁵⁰ Lindsay McIntosh 'Council tax freeze across Scotland counts as success for government,' *The Scotsman*, 15 February 2008 www.scotsman.com

¹⁵¹ Scottish Government Press release: Council tax freeze, 14 February 2008 www.scotland.gov.uk/News/Releases/2008/02/15082932

over budget cuts in a number of areas, including Aberdeen, Edinburgh and Glasgow.¹⁵² In Aberdeen, plans to reduce expenditure by £27m – cuts which affect charity organisations and school and leisure facilities – resulted in strong public protests.

The tax freeze was mainly made possible as a result of an extra £70m being allocated in the local government finance settlement.¹⁵³ The freeze was pledged by the SNP as a first step towards its plan to replace the council tax with a LIT.

7.2.2 Single Outcome Agreements

Single Outcome Agreements (SOAs) are another important feature of the Concordat. They will set out the outcomes which each local authority is seeking to achieve when planning spending priorities with its community planning partners. As COSLA pointed out in its guidance,¹⁵⁴ the SOAs are intended to reflect local needs, circumstances and priorities but should be related to the relevant national outcomes agreed in the Concordat. The Scottish Government developed a set of 45 'national indicators' to track progress towards outcomes, which include explicit targets.

The Scottish Government received draft SOAs from all 32 local authorities by the deadline of 31 March and the final agreements were due to be in place by the end of June. Local authorities have generally welcomed the SOAs since these have resulted in the ending of ring-fenced grants which councils regarded as bureaucratic and as a restriction of their freedom.

The President of COSLA, Councillor Pat Watters, said councils were willing to work with the Scottish Government to ensure that the correct outcomes are delivered.¹⁵⁵ However, some councillors have misgivings about the new system and are concerned that the arrangement might erode the freedom of councils. During a debate on SOAs at the annual COSLA conference at St Andrews on 5-7 March,¹⁵⁶ the leader of North Lanarkshire Council, Jim McCabe, said he was concerned that civil

¹⁵² Gerry Braiden, 'Council to slash 424 jobs as tax freeze bites,' (13 February) *The Herald*; Kevin Schofield, Gerry Braiden and Stewart Paterson, 'Axe falls on jobs as council bring in the tax freeze' (15 February 2008), *The Herald*; Julia Horton and Stewart Paterson, 'Jobs cuts fears as four more councils opt for tax freeze,' (22 February 2008), *The Herald*

¹⁵³ Scottish Government: 'Local government finance settlement 2008-11', Scottish Parliament, 13 December 2007.

¹⁵⁴ Improvement Service: Single Outcome Agreements guidance, format and indicators package issues www.improvementservice.org.uk/news/news-across-scotland/single-outcome-agreement---guidance-format-and-indicators-package-issued.html

¹⁵⁵ David Scott, 'History in the making', *Holyrood* magazine special report, February 2008

¹⁵⁶ 'Taking the Concordat forward', COSLA Connections, April 2008
www.cosla.gov.uk/index.asp?leftId=100019680-11001461&rightId=100019680-11000146

servants saw the Concordat as a contract rather than an agreement. Speaking at the annual conference of the Chartered Institute of Public Finance and Accountancy (CIPFA) at Aviemore on 13-14 March, Professor Arthur Midwinter, a leading commentator on public finance, said he believed SOAs were 'not outcome agreements at all: as there were major gaps in the framework.'¹⁵⁷

During the debate on SOAs at the COSLA conference, Rory Mair, chief executive of COSLA stressed that the whole process of the Concordat and Outcome Agreements was based on a new relationship that was about trust and understanding, which meant accepting joint responsibility and joint accountability.

7.3 Crerar Report

In January, the Scottish Government responded to the recommendations of a report by Professor Lorne Crerar which investigated the number of regulatory bodies scrutinising local government and other public services.¹⁵⁸ The report pointed out that there are currently 43 regulatory bodies involved in the inspection and scrutiny of public bodies. Eleven new regulatory bodies and commissioners responsible for functions like parliamentary standards, information, children and young people and public appointments, had been created since devolution in 1999.¹⁵⁹

In its response, the Scottish Government agreed that the scrutiny landscape in Scotland should be simplified and that complaints handling should be organised under a more consistent and understandable structure. This was consistent, the response stated, with the Government's broader approach towards achieving smaller and simplified government. The response noted that the Government, working in partnership with the Parliament, would set out clearly what it expected of scrutiny as part of a reform of public services. It also agreed to support 'robust self-assessment' within delivery organisations using an outcome-based approach.

Ministers accepted the majority of the Crerar recommendations but said some needed further work. This includes the Crerar recommendation that his report should

¹⁵⁷ 'Concordat worst settlement for ten years, says Midwinter', *Public Finance*, March 21-27.

www.cosla.gov.uk/index.asp?leftId=100019680-11001461&rightId=100019680-11000146

¹⁵⁸ Scottish Government: Independent Review of Regulation, Audit, Inspection and complaints handling of public services: Government response, 17 January 2008.

www.scotland.gov.uk/Topics/Government/PublicServiceReform/IndependentReviewofReg/latest-news/Response-to-Crerar

¹⁵⁹ The Crerar Review: the report of the independent review of regulation, audit, inspection and complaints handling of public services in Scotland, 25 September 2007,

www.scotland.gov.uk/Publications/2007/09/25120506/0

lead to the creation of a single national scrutiny body in the longer term. While stating that the Government supported a simplification of the scrutiny system, it stressed the importance of developing a proportionate approach to complement any simplified framework, where functions and activities were grouped together, based on identifiable relationships between them.

The Government agreed with the Crerar proposal that the Accounts Commission should work with other scrutiny organisations to develop a corporate performance audit which absorbed other corporate level inspections to reduce the burden on local government. It also agreed to invite the Commission to coordinate local government scrutiny functions immediately until the longer-term changes were implemented fully.

In its response, the Government also stated that action groups would be appointed to cover five broad themes: policy and approach to scrutiny; accountability and governance of scrutiny bodies; complaints handling; user focus; and reducing the burdens of scrutiny. The action groups will be coordinated by Government, working alongside COSLA, Audit Scotland and the Scottish Parliament.

The Cabinet Secretary for Finance, John Swinney, said he wanted to see a slimmer and simplified system, radically refocusing the public sector to serve Scotland's people better.¹⁶⁰

7.4 Local government pension scheme

Local government workers accepted a new pension scheme agreed between the Scottish Government, local authorities and the trade unions.¹⁶¹ Members of Unison, which represents 150,000 council employees, voted in favour of the Local Government Pension Scheme (LGPS), which retains the normal retirement age of 65 and includes a final salary element.

The scheme was developed by the former Labour-Liberal Democrat Scottish Executive following a dispute over the abolition of what was known as the rule of 85. This allowed members over the age of 60, whose age and service added up to 85, to retire early with full pension rights.

¹⁶⁰ Scottish Government Press release: Moves to improve public service scrutiny, 17 January 2008 www.scotland.gov.uk/News/Release/2008/k01/17111601

¹⁶¹ Scottish Government Press release: 'Local government pension scheme,' 14 February 2008. www.scotland.gov.uk/News/Releases/2008/02/14104930

The rule was removed to comply with an EC directive on equality in the workplace. In Scotland, a deal was negotiated that produced a commitment to reinvest the savings from the removal of rule 85 into the new scheme. The turnout for the Unison ballot was just 25 per cent but members voted by over 20 to 1 to accept the new arrangements, which will come into force in April 2009. There were 25,008 members in favour of acceptance, with 1,121 against.

Apart from retaining the normal retirement age of 65, the LGPS, which will cover more than 220,000 staff across the public sector, gives employees over 65 the flexibility to work fewer hours while taking part pension. Employee contributions are increased to an average of 6.3 per cent in a tiered scheme that will allow low-paid staff to pay less.

The scheme will mirror other schemes in providing 1/60th of final salary for each year in service. There is a modernised arrangement for partners' pensions, with lump sum death in service grants increased from two to three times final pay. Cohabiting partners will now be able to receive benefits.

Announcing the ballot result, Unison's Scottish convener, Mike Kirby, said it was clear from the improvements achieved that it had been 'possible to maintain and improve a decent final salary scheme which was fair to both employers and employees, provided a decent level of pension and was sustainable in overall cost.'¹⁶²

7.5 Free personal care

The independent review group on free personal and nursing care in Scotland, chaired by Lord Sutherland of Houndwood, published its findings in April.¹⁶³ Lord Sutherland was appointed by the Scottish Government to investigate the operation of free personal care, which had been the subject of controversy over funding levels and the existence of waiting lists in some local authority areas.

The report set out its recommendations in a 12-point plan. These included the need to address a funding shortfall of £40m and the need to address an 'imbalance in funding streams'. The review group said the UK government should not have

¹⁶² Unison Press release: 'Unison members vote 25 to 1 for new pension scheme, 5 April 2008 www.unison-scotland.org.uk/news/2008/marapr/0504.htm

¹⁶³ Independent Review of free personal and nursing care in Scotland, 28 April 2008; www.scotland.gov.uk/Publications/2008/04/25105036/0

withdrawn Attendance Allowance funding in respect of self-funding clients in care homes, currently amounting to £30m a year.

It suggested that the funding should be reinstated in the short-term while longer-term work to reassess funding streams took place. Other recommendations included: the up-rating of fixed rate allowance; the standardisation of assessment and delivery; the establishment of clear national priorities and outcomes for older people; improved accountability; and the need to address cross-boundary issues. The group also called for a review in the next few years of all the sources of public funding for the long-term care of older people.

Media coverage focused on the funding shortfall of £40m and the recommendation that the Attendance Allowance funding should be reinstated.¹⁶⁴ The review group's estimate that the cost of the flagship policy was likely to increase more than threefold to £813m a year (or even higher) by 2031 was also highlighted.¹⁶⁵

Welcoming the outcome of the review, the Cabinet Secretary for Health and Wellbeing, Nicola Sturgeon, noted the review group's statement that the policy of free personal and nursing care both had widespread support and was delivering real benefits to tens of thousands of older people.¹⁶⁶

COSLA also welcomed the report.¹⁶⁷ Its health and well-being spokesperson, Councillor Ronnie McColl, said local government in Scotland was fully committed to the policy and would work in partnership with the Scottish Government to address some of the challenges facing the policy, including the long-term impact of demographic change.

¹⁶⁴ Angus Macleod, Melanie Reid 'Holyrood must find £40 m' for the elderly (29 April 2008), *The Times* (Scotland); Robbie Dinwoodie 'Call to restore £30m cut from elderly' (29 April 2008), *The Herald*

¹⁶⁵ Michael Howie 'Bill for free health care set to soar', 29 April 2008) *The Scotsman*; Severin Carrell, 'Free Scottish elderly care could cost £1bn' (29 April 2008), *Society Guardian*
www.guardian.co.uk/society/2008/apr/29/longtermcare.socialcare

¹⁶⁶ Scottish Government Press release: Review of free personal and nursing care, 28 April 2008.
www.scotland.gov.uk/News/Releases/2008/04/28120547

¹⁶⁷ COSLA Press release: 'COSLA welcomes publication of Sutherland report,' 28 April 2008.
www.cosla.gov.uk/news_story.asp?leftId=10001E4DF-10766761&rightId=10001E4DF-10771446&hybrid=false&storycode=10001AA34-16077436

8. Finance

Alan Trench

8.1 UK issues: the Westminster Budget and related matters

Chancellor of the Exchequer Alistair Darling delivered the UK Government's Budget for 2008-09 on 12 March. In its 'regional [sic] press notice' for Scotland, the Treasury noted that the Budget would produce an increase of £26m in spending for Scotland, as a consequential payment following increases in spending on comparable functions in England.¹⁶⁸ Budget proposals included higher duty on alcohol (a reported 59p a bottle on Scotch whisky), attempts to minimise tax avoidance (which might affect some North Sea oil companies), and an increase in spending to tackle child poverty. John Swinney, Cabinet Secretary for Finance and Sustainable Growth in the Scottish Government, attacked the UK Budget for its failure to deal adequately with Scottish concerns and its adverse impact on the Scottish economy, notably over oil and the taxation of Scotch whisky.¹⁶⁹

A further issue has been calls for Scotland to receive consequential payments under the Barnett formula, notably for a payment of £1.2bn from the UK Reserve to the Ministry of Justice to support investment in prisons in England and Wales, following a review by Lord Carter.¹⁷⁰ The normal consequential from this payment would be a little over £12m for Scotland. However, as it was a payment from the UK Reserve rather than mainstream spending, the matter was at the discretion of the Treasury, and the Treasury took the view that the problem in England and Wales was a crisis which Scotland did not face, so it would not pay a consequential (despite the fact that overcrowding is also an issue in Scottish prisons and led to a substantial increase in prison spending in the 2008-09 budget; the fact that extra spending had been allocated in the Scottish budget was considered by the Treasury to show that Scotland had no need of extra funding for this.) John Swinney sought a meeting with Yvette Cooper, Chief Secretary to the Treasury, to discuss this among other matters, but without changing the Treasury's mind – leaving him with a determination to take

¹⁶⁸ HM Treasury *Regional Press Notice: Budget 2008 in Scotland*. Available at www.hm-treasury.gov.uk/media/2/3/budget2008_pn_scotland.pdf

¹⁶⁹ See 'Darling's hangover cure angers whisky industry' *The Herald* (Glasgow) 13 March 2008.

¹⁷⁰ See Lord Carter's Review of Prisons *Securing the Future: Proposals for the efficient and sustainable use of custody in England and Wales December 2007* (London: Ministry of Justice). Available at www.justice.gov.uk/docs/securing-the-future.pdf

the matter to the Joint Ministerial Committee when it is revived.¹⁷¹ Regarding financial matters generally, it appears that the UK Government has taken the view that it will not be generous or helpful to the Scottish Government, whether for reasons of party politics or because of a private view that Scotland is already generously funded under the Barnett arrangements. Its strategy therefore appears to be to take a hard line.¹⁷²

8.2 The Scottish Government's budget

The early part of the New Year saw interesting problems for the Scottish Government in getting its budget through the Parliament, given its lack of a majority, as discussed in section 2.1 above. Unsurprisingly, compromises were made to secure support. In the case of the Greens, an extra £4m in grants for supporting bus travel at the last minute, as well as £4.3m for the climate change fund, were insufficient to persuade them to support it, although the SNP had been seeking such support for some time. Margo MacDonald secured extra money for Edinburgh, to compensate it for the 'extra costs' of being the capital, and a commitment to look at the extra health costs incurred by Edinburgh.¹⁷³ For the Conservatives, the compromises were greater. Funding was provided for an extra 500 police officers over 3 years, thus enabling the SNP to deliver on its manifesto commitment of 1000 extra officers. (The SNP scaled back its manifesto commitment during the summer of 2007.) This was reported to cost £10m in the first year, £13m in the second year and £17m in the third.¹⁷⁴ The scheme to relieve non-domestic rates on small businesses is to be accelerated, at a reported cost of £12m per year in 2008-09 and 2009-10. This was substantial, but more so was the new policy for treating drug addicts (funded from existing resources). This involves a re-orientation of policy away from methadone treatment and support, toward abstinence and rehabilitation. Whatever the merits of the two approaches (which are the subject of considerable controversy, politically and among experts), the shift in policy both constitutes a significant victory for the Conservatives and indicates the flexibility of the SNP. It also suggests that the Tories have understood what is possible when the government has a minority, in a way that has

¹⁷¹ See Swinney prepares for Whitehall battle after attack on local tax' *The Herald*, 1 April 2008;

'Swinney's bid for more cash is fanciful, insists Brown' *The Herald*, 2 April 2008.

¹⁷² For an anti-SNP discussion, see A Cochrane 'How SNP stopped running rings around Labour' *Daily Telegraph*, 2 April 2008.

¹⁷³ 'MacDonald wants more for Budget vote' (2 February 2008), *The Herald*

¹⁷⁴ See 'SNP pledges 1000 extra police after £10m Budget revamp' (1 February 2008), *The Herald*

cluded the other opposition parties.¹⁷⁵ The budget as passed, according to the main portfolio heads, is shown below:

Figure 8.1: Scottish Budget 2008-09 as passed

Portfolio	Budget as per budget bill (£m)	Amendment (£m)	Revised Budget (£m)
First Minister	255.4	0.0	255.4
Finance and Sustainable Growth	3,476.3	-7.3	3,469.0
Health and Wellbeing	9,843.2	-5.0	9,838.2
Education and Lifelong Learning	2,550.6	0.0	2,550.6
Justice	1,707.3	8.0	1,715.3
Rural Affairs and the Environment	516.5	4.3	520.8
Administration	245.7	0.0	245.7
Crown Office and Procurator Fiscal	110.2	0.0	110.2
Local Government	9,728.8	0.0	9,728.8
General Register Office for Scotland	11.6	0.0	11.6
National Archives of Scotland	10.3	0.0	10.3
Forestry Commission	90.3	0.0	90.3
Food Standards Agency	10.6	0.0	10.6
Teachers' and NHS Pensions	2,647.9	0.0	2,647.9
Office of the Scottish Charity Regulator	3.6	0.0	3.6
The Scottish Government	31,208.3	0.0	31,208.3
Scottish Parliament and Audit Scotland	108.3	0.0	108.3
Total Managed Expenditure	31,316.6	0.0	31,316.6

Source: Scottish Government, *Scotland's Budget Documents 2008-09: Budget (Scotland) Bill Supporting Document for the year ending 31 March 2009: Amendments to Supporting Documents for the year ending 31 March 2009*. Available at www.scotland.gov.uk/Publications/2008/02/21153821/20

Part of the key to funding the budget package was securing considerable savings from existing programmes, including an overall 2 per cent efficiency saving. The cuts include the redirection of staff in various agencies including the Police to more front-line duties, and a reduction in housing subsidies.¹⁷⁶

8.3 The local income tax and intergovernmental finance

One area of much activity has been the Government's attempts to make progress in introducing its proposed local income tax (LIT). The principle of an LIT appears to command broad public support; according to a recent TNS System 3 opinion poll, it is supported by 46 per cent of the population, opposed by only 22 per cent, with 32 per cent undecided.¹⁷⁷ What the SNP have proposed is only local in the object it funds; it would be set (at a rate of 3 per cent) and collected centrally, and then distributed by

¹⁷⁵ On the politics, see D Fraser 'Analysis: Expect Swinney to do what it takes to win Budget poker game' (1 February 2008), *The Herald*; 'Analysis: How Swinney passed the Budget test' (7 February 2008) *The Herald*; Leader column 'Salmond's triumph' (7 February 2008), *The Herald*; and 'Concessions won by Tories become new campaign' (9 February 2008) *The Herald*

¹⁷⁶ See 'Cuts to create Swinney's £1.6bn savings' (16 April 2008), *The Herald*

¹⁷⁷ See e.g. '46% of Scots support SNP local income tax, says poll' (6 May 2008), *The Herald*

the Scottish Government to local authorities. This proposal has failed to attract adequate support from other parties, with both Conservatives and Labour opposed and only equivocal support from the Liberal Democrats, whose preference is for a local income tax with a locally-set rate. While the proposal survived an attempt to block it in an opposition (Labour-called) debate on 17 April,¹⁷⁸ and remains formally alive, it faces serious difficulties in securing sufficient support at Holyrood.

As noted in section 7.1 above, it also faces serious challenge from the UK Government. This started with the issue of council tax benefit (CTB), which is funded by a Treasury grant to the Scottish Government and worth £400m in 2007-08. The Treasury has taken the view that this money does not form part of the Scottish block grant, as it is Annually Managed Expenditure (AME) (as other social security benefits are), and not part of the Government's Departmental Expenditure Limit (DEL) grant. (AME elements of the grant are set directly by the Treasury, DEL ones are calculated using the Barnett formula in relation to increases in spending on comparable functions in England.) Only administrative costs relating to CTB are included in the DEL. The UK Government's position is that abolition of council tax would imply abolition of the need for, and entitlement to, the benefit for claimants in Scotland – so payments would cease. The current edition of the Statement of Funding Policy nonetheless makes it clear that the costs of CTB are part of the overall Scottish block, although also provides for 'balancing adjustments' to be made if, as a result of decisions made by the Scottish Executive, the costs of CTB were to change at a 'disproportionate rate'¹⁷⁹ (as with all such matters, the Statement of Funding Policy makes the Treasury the sole arbiter of whether a change is disproportionate and how much such a balancing adjustment might be). To this was added broader criticism of the Scottish Government's plan by the UK Chief Secretary to the Treasury, Yvette Cooper. She suggested that the proposed LIT would raise £750m a year less than the council tax does, and expressed her concern about the impact of such a loss on public services.¹⁸⁰

Then serious doubts started to be aired about the lawfulness of the principle of an LIT within the Scotland Act, and whether this trespassed on a matter (taxation)

¹⁷⁸ See 'Opposition fails to scupper Swinney's plan for local taxation' (18 April 2008), *The Herald*

¹⁷⁹ See HM Treasury *Funding the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly: A statement of funding policy* 5th edition October 2007 (London; HM Treasury), Annex A: A statement of principles, especially para. 7, and also para. 6.3.

¹⁸⁰ See 'Treasury minister Yvette Cooper attacks SNP tax plans' (31 March 2008), *The Scotsman*

reserved to Westminster.¹⁸¹ This was spurred by the desire of the Scottish Government to use HM Revenue & Customs to collect the tax (rather than any other agency), as well as by the fact that the plan is for a single rate of tax set and collected centrally – the latter led the Treasury to take the view that it is not, in fact, a local tax (which would be devolved). Unsurprisingly, this prompted a hostile response from SNP Ministers, including Nicola Sturgeon and Kenny MacAskill, as well as John Swinney.¹⁸² Beyond that, however, this debate has yet to reach any sort of conclusion.

8.4. The Scottish Futures Trust

The Scottish Futures Trust is the Scottish Government's means of securing extra funding for public services from the private sector, in the light of its own opposition to using Private Finance Initiative schemes or Public Private Partnerships, and its lack of proper borrowing powers under the Scotland Act 1998. Consultation, responding to the consultation document issued in December 2007, has closed and the responses have now been published.¹⁸³ The overall tenor of responses is critical, with criticism focused on the sketchy nature of the plans and doubts about their financial practicality more than their constitutionality or legality (though that is also an issue).¹⁸⁴ At time of writing, the Government had yet to outline its proposed action following the consultation.

8.5 Replacing the Barnett formula

On one level, the debates about replacing the Barnett formula and the related issue of fiscal autonomy are on hold. This is clearly going to be an area of interest for the Calman Commission, and HM Treasury is at work on a 'factual paper' on the formula for publication this summer. The Treasury has used this to justify not discussing issues relating to a replacement, pending the outcome of those processes.

However, there continues to be considerable political debate about these issues in other quarters. In evidence to the Commons Justice Committee (which is carrying out an inquiry into 'Devolution: A Decade On'), Lord Barnett repeated his long-standing criticisms of the formula that bears his name.¹⁸⁵ In an interview with the *Western Mail*,

¹⁸¹ See 'Treasury blow to Salmond's tax plan' (9 April 2008), *The Scotsman*. The reservation relates to 'Fiscal, economic and monetary policy'; Scotland Act 1998, Schedule 5, Head A1.

¹⁸² See 'SNP rejects Whitehall claims on local income tax' (9 April 2008), *The Herald*; 'Angry Sturgeon dismisses Treasury opinion that local tax is illegal' *The Herald*, 10 April 2008.

¹⁸³ The responses are published at www.scotland.gov.uk/Publications/2008/04/18161301/0

¹⁸⁴ See 'Experts say scheme to replace PPP badly thought out' *The Herald*, 19 April 2008

¹⁸⁵ House of Commons Minutes of Evidence taken before Justice Committee, 1 April 2008. Lord Barnett. To be published as HC 75 – vi.

George Osborne (Shadow Chancellor of the Exchequer) suggested that, while he was 'open-minded' about retaining the Barnett formula, he was concerned to establish true levels of need as part of deciding whether and how to change it. He said:

If we're going to have a debate about Barnett, let's start with the facts. Nobody has done a needs-based assessment of how much each part of the UK would get if there were changes. I don't think we can have a debate about Barnett without that.¹⁸⁶

What the position of the Conservative Party at UK level will be about these matters remains to be seen.

¹⁸⁶ 'Tories keep "open mind" on future of the Barnett formula' (28 April 2008), *Western Mail*

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 January 2008, nor do there appear to be any substantial devolution issues in the pipeline.

The case of *Spiers v. Ruddy* was discussed in the last monitoring report.¹⁸⁷ Further discussion of this case and the 'dual apex' issue it presented can be found in *Scots Law News*, no. 789.¹⁸⁸

¹⁸⁷ [2007] UKPC D2. Available from www.privycouncil.org.uk/output/Page535.asp

¹⁸⁸ See www.law.ed.ac.uk/sln/index.aspx?page=791

10. Political Parties

Peter Lynch

10.1 The Scottish National Party

The SNP minority government passed one of its major tests of survival in early February this year with the successful passage of its first budget. Details of the budget and the parliamentary process surrounding it have been discussed elsewhere in this report. Clearly, key to the deal were discussions with the Conservatives in the Parliament's Finance Committee which helped the budget bill to pass. Ahead of the chamber vote, Salmond had ramped up the pressure on the other parties by stating that he would resign if the budget was rejected¹⁸⁹ – which would have caused problems for the other parties as the SNP has been on the up and could see an election as a mechanism to improve the party's electoral position considerably. However, when it came to voting in the chamber, the budget sailed through as Labour and the Lib Dems abstained, with Labour not even supporting its own amendments to the bill.

The SNP's National Conversation on Scotland's constitutional future entered a second phase in 2008, with the government taking the consultation phase out to pressure groups and civic Scotland. In addition, Alex Salmond used the coincidence with the establishment of the Scottish Constitutional Commission to contrast the mechanisms to be used to measure public support for the two sets of proposals – one for independence and one for more devolution. Salmond's suggestion – derided by some opposition parties – was to hold a multi-option referendum on constitutional change, using STV, so that voters could rank their constitutional preferences and a consensual majority position could emerge. Opponents such as the Conservatives picked up on the fact that the initial second choice option might well triumph, with Annabel Goldie criticising the proposal by stating that 'you do not decide the destiny of a country on the basis of the second-best or least-worst option'.¹⁹⁰ Salmond's position is an interesting one. Although his party's stated preference is for a simple yes/no referendum question, Salmond has at various times since 1990 also promoted a multi-option referendum as a mechanism to test opinion on the main constitutional options including independence. Moreover, inviting the parties involved in the Scottish Constitutional Commission to present their preferred constitutional

¹⁸⁹ *BBC News* (5 February 2008)

¹⁹⁰ *The Scotsman* (27 March 2008)

solution alongside independence in a multi-option poll puts them in a difficult position – how will they otherwise test public opinion on their proposals? Will they hold separate referendum? And this is not an isolated question given the precedence of referendums on constitutional issues, as well as the ongoing constitutional debate in Wales.

Finally, there was considerable discussion of the SNP's progress at any forthcoming Westminster election and how this would affect post-election politics in the Commons. Salmond – again – charged his party with the task of picking up 20 seats at the next Westminster election. In the event of a hung parliament, the SNP would be in a position to influence government formation in exchange for policy concessions. Whilst this eventuality is some way off, one can envisage a confidence and supply deal between the SNP and either the Conservatives or Labour – to sustain them in office in exchange for fiscal powers or other issues/powers associated with a devo-max position.¹⁹¹

10.2 Scottish Labour Party

Wendy Alexander's short term as Scottish Labour leader has not been without incident. Many of her trials and tribulations revolved around the issue of illegal donations to her leadership election fund the previous year. As discussed in the last monitoring report, this issue was subject to separate inquiries by the Electoral Commission, Standards Commissioner and the police. However, all came to nought. The Electoral Commission announced it was not going to charge Wendy Alexander with intentionally breaking the law over the acceptance of a £950 donation from a businessman from Jersey (i.e. not a registered UK voter). As the Commission made no report to the Crown Office, no charges were made and the police inquiry ended.¹⁹² Shortly afterwards, the Standards Commissioner in Edinburgh announced that Wendy Alexander would not face charges over failing to register donations to her leadership campaign on the register of member's interests at Holyrood.¹⁹³ However, whilst prosecutions were not forthcoming – which meant a huge sigh of relief for Labour in Scotland and at Westminster – the issue of illegal donations had dominated Alexander's leadership for five months, damaging both her and the party considerably.

¹⁹¹ *The Herald* (21 April 2008)

¹⁹² *BBC News 7* (February 2008)

¹⁹³ *BBC News*, (March 2008)

In advance of Scottish Labour's conference in March, Wendy Alexander published a pamphlet on Labour's future in Scotland, which focused on the constitutional debate in particular. Entitled '*Change is what we do*',¹⁹⁴ it sought to present Labour as the progressive party in Scotland since its formation, focusing on what Labour had done to change Scotland. However, besides this packaging/repackaging, the pamphlet was notable for putting flesh on the bones of Labour's constitutional position. Scottish Labour had fought the 2007 Scottish election as the party of 'no change' to the Parliament's powers. The resulting narrow SNP victory focused Labour minds on the issue to some extent, with the establishment of a Scottish Constitutional Commission with the cooperation of the Conservatives and Liberal Democrats in Scotland and at the UK-level.

However, what Scottish Labour actually thought about more powers for the Scottish Parliament was vague and complicated by Prime Minister Brown's references to the Commission as a 'review', which seemed to downgrade its importance, as well as the Scotland Office Minister David Cairns denigrating the debate – especially that over fiscal powers – as one for the 'McChattering classes'¹⁹⁵ rather than of genuine interest to Scottish voters. Mention of the possibility of the review process leading to powers being returned to Westminster also came as something of a shock to the other parties involved as well as observers. The Alexander pamphlet was clear in proposing some issues that the Constitutional Commission should look at. It stated that:

There are areas from welfare-to-work to road transport where there is merit in considering greater powers for the Scottish Parliament. Likewise the Commission could consider the operation of the Parliament itself, public holidays, marine issues, animal health and so on. By implication the Commission should also consider any reasoned arguments for the boundary moving in the opposite direction, for example in national security related matters such as counter terrorism and contingency planning.¹⁹⁶

Furthermore, the pamphlet discussed the prospect of fiscal powers for the Parliament, as well as some need to tackle the Barnett problem at Westminster:

The financing of the Parliament almost wholly through grant funding does not provide the proper incentives to make the right decisions. Hence strengthening the financial accountability of the Scottish

¹⁹⁴ Wendy Alexander (2008), *Change is what we do*, Scottish Labour, viewable at www.scottishlabour.org.uk/images/uploads/200052/c438ff36-8adf-97e4-c517-ef4490b56df7.pdf

¹⁹⁵ *The Herald* (12 February 2008)

¹⁹⁶ Wendy Alexander (2008), *Change is what we do*, Scottish Labour, p.18

Parliament by moving to a mixture of assigned and devolved taxes and grant is something the Commission must consider. Variation within a state also raises issues of compliance with EU rules as well as problems of economic distortion through transfer pricing. But even with these kinds of constraints there is still plenty of valuable work to be done.

A beneficial by-product of strengthening the accountability of the Parliament through greater autonomy would be to address some of the concerns elsewhere in the UK around relative spending levels. Inevitably a larger assigned or devolved element means the grant element would be smaller and so potentially less contentious.¹⁹⁷

However, before seeing this as an open door to more fiscal powers, the Alexander pamphlet was also quite clear about the constraints on transferring fiscal powers, suggesting what a difficult issue it could prove for Labour in both practical and political terms:

I believe it is for the Commission to consider the proper balance of devolved, reserved, and assigned taxes if the accountability of the Parliament is to be strengthened and relative need still respected. We should approach this with an open mind, but there are some constraints here. Some suggest VAT might be devolved, but EU rules appear to preclude VAT variation within a state. So it could not be a candidate for devolution, although it could be considered for partial assignation. Likewise, the issue of Corporation Tax variation within a state also raises issues of compliance with EU rules as well as problems of economic distortion through transfer pricing. But even with these kinds of constraints there is still plenty of valuable work to be done.¹⁹⁸

Devolution wasn't the only issue put on the agenda at the Scottish Labour conference. Surprisingly, in an appeal to Labour's political base, Alexander introduced an unusual topic into her party conference speech: socialism. And, as pointed out in *The Herald*, an appeal to Labour traditionalists on issues such as housing, fairness, and the NHS was an odd approach for a well-known New Labour moderniser, especially given the types of things the SNP had been doing since taking office in 2007.¹⁹⁹

¹⁹⁷ *Ibid.*

¹⁹⁸ *Ibid.*

¹⁹⁹ *The Herald* (25 March 2008)

Whilst Wendy Alexander has not been setting the heather alight with her performances at First Minister's Questions and has turned in some poor performances against Salmond, her strategy at this event seemed to be issue-based as opposed to looking for big hits. Alexander has criticised SNP policy delivery and budget issues, care for the disabled, local council cutbacks and a host of other bread and butter issues. The intention is to give Labour – and Alexander – credibility as an issue-focused opposition, seeking to take on the SNP government on day-to-day issues. Moreover, Alexander was involved in something of a re-launch of her leadership, and of Scottish Labour, with the intention to focus more on children's and family issues,²⁰⁰ promoting skills training, with the introduction of a Skills bill in the Scottish Parliament.

10.3 Scottish Conservatives

There were two notable events in this reporting period involving the Conservatives. First, the party was instrumental in passing the SNP budget. In exchange for policy concessions over policing and drugs policy,²⁰¹ the party agreed to support the SNP budget in committee and in the chamber. As three other parties abstained at the final budget vote, the Conservative guarantee of parliamentary support was not essential. That, however, is being wise after the event.

Second, in an evidence session on devolution to the House of Commons Justice Committee, Kenneth Clarke, the chair of the party's taskforce on the constitution, made short work of Malcolm Rifkind's proposal for an English Grand Committee to resolve the West Lothian question.²⁰² Clarke pointed to the difficulties of designating any legislation as English-only at Westminster, with the problems of making an English Grand Committee watertight as an institution. How this feeds in to the wider devolution debate and to the Scottish Constitutional Commission remains to be seen. It might make the Conservative's UK contribution to the process more realistic.

10.4 Scottish Liberal Democrats

The Liberal Democrats have been in a more assertive mood since the turn of the year, evident in party attitudes towards the SNP as well as towards Labour in relation to the Scottish Constitutional Commission. The party has been active in attacking the SNP administration on issues such as transport, education and health, while appearing willing to seek cooperation with the SNP over issues such the replacement

²⁰⁰ 'A Positive Start for Every Child' (3 March 2008), *The Herald*

²⁰¹ *BBC News* (5 February 2008)

²⁰² Clarke rejects 'East Lothian Answer' (20 February 2008), *The Herald*

of the council tax with a local income tax.²⁰³ However, party leader Nicol Stephen was also active in challenging Labour over its devolution policy and attitudes to the Scottish Constitutional Commission. Stephen attacked Prime Minister Gordon Brown over his suggestion that the Commission was merely a review as well as over the notion that the process might lead to a return of devolved powers to Westminster, stating that the party would oppose any such move.²⁰⁴ Moreover, at the party's Spring conference in March, Stephen pledged to reconvene the Steel Commission on devolution (which reported in 2006) to produce the party's submission to the Scottish Constitutional Commission making the case for more powers for the parliament, including fiscal powers.²⁰⁵

10.5 The Scottish Constitutional Commission

Following November's announcement of the creation of the Constitutional Commission, there was a range of meetings to determine its composition and work programme. Its Chair, Sir Kenneth Calman, was announced on 25 March. Calman was formerly Chief Medical Officer of both Scotland and England and is currently Chancellor of Glasgow University. The remaining members of the Commission were announced on 28 April, following newspaper coverage of its composition the day before. It was suggested that the appointment of former SNP MSP and Presiding Officer of the Scottish Parliament, George Reid, had been vetoed by Downing Street, even though Wendy Alexander had been supportive.²⁰⁶ There was concern that Reid was 'too nationalist', though his nomination would have caused some difficulty for the SNP and its parallel National Conversation. The Commission membership is as follows:

Rani Dhir, director of Drumchapel Housing Co-operative.

Lord James Douglas Hamilton (Conservative), former Scottish Office Minister, MP, MSP and a Conservative peer.

Professor Sir David Edward, retired Judge of the European Court.

Lord Murray Elder (Labour), former Scottish Labour General Secretary and Chief of Staff for John Smith, peer.

Audrey Findlay (Liberal Democrat), former Leader of Aberdeenshire Council, now convener of the Scottish Liberal Democrats.

Lord Jamie Lindsay (Conservative), former Scottish Office Minister,

²⁰³ *Sunday Herald* (3 March 2008)

²⁰⁴ *BBC News* (29 February 2008)

²⁰⁵ www.scotlibdems.org.uk/news/2008/03/nicol-stephen-msp-spring-conference

²⁰⁶ *Sunday Herald* (27 April 2008)

chairman of Scottish Agricultural College and Conservative peer.

John Loughton, President of the Scottish Youth Parliament (serving in a personal capacity).

Murdoch MacLennan, Chief Executive, Telegraph Media Group.

Shonaig Macpherson, Chairwoman of the National Trust for Scotland and Scottish Council Development and Industry.

Iain McMillan, Director, CBI Scotland.

Mona Siddiqui, Professor of Islamic Studies, Glasgow University.

Matt Smith, Scottish Secretary, Unison.

Lord Jim Wallace (Liberal Democrats), former Deputy First Minister, MP and MSP and former leader of the Scottish Liberal Democrats, now a peer.²⁰⁷

The Commission intends to produce an interim report on extending the powers of the Scottish Parliament within six months, with a full report at a later date. Notwithstanding a sprinkling of both politicians and representatives of civic Scotland, the commission's membership is notable for its lack of finance and taxation expertise. This in spite of the likelihood that some form of fiscal autonomy will be a central focus of its deliberations.

10.6 Another Sheridan Charged With Perjury

Former SSP MSP Tommy Sheridan was charged with perjury on 17 December 2007, in connection with his libel trial against the *News of the World*.²⁰⁸ On 15 February, three of Sheridan's colleagues from the SSP and then Solidarity – former MSP Rosemary Byrne, Jock Penman and Graham McIver – were also arrested and charged with perjury.²⁰⁹ Later, on 19 February, Gail Sheridan and her father, Angus Healy, were similarly charged.²¹⁰ In addition, Gail Sheridan was suspended from her job with British Airways following an investigation of theft of alcohol miniatures on 23 February, though this issue was subsequently dropped as a criminal investigation by Lothian and Borders police.²¹¹

²⁰⁷ *The Herald* (29 April 2008)

²⁰⁸ See: Jeffery, C (ed), Scotland Devolution Monitoring Report: January 2008, at: www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Scotland_Jan08.pdf

²⁰⁹ *The Herald* (16 February 2008), p.1

²¹⁰ *BBC News* (19 February 2008)

²¹¹ *BBC News* (23 February 2008)

11. Public Policies

Paul Cairney

11.1 Governing Competence or Innocence by Association?

Few marriages can boast a honeymoon that lasts beyond the first anniversary. Yet, the SNP government and its leader still seem to be enjoying a prolonged period of popularity (or at least a distinct lack of the type of media criticism that we would normally expect). Indeed, the term 'honeymoon' has been used so much that it has become a cliché worthy of a column in *Private Eye*.²¹² Some of this can be explained by the 'second order' nature of Scottish Politics and the SNP's ability to exploit public and media attention to the crises faced by the UK government (such as the collapse of Northern Rock and the fallout from the 10p income tax issue) as well as the crisis within the Labour Party itself (from the issue of party donations to the more recent U-turns by Wendy Alexander on an independence referendum).²¹³ Further, a range of crises within Scotland – such as the terrorist attempt on Glasgow Airport, the outbreak of foot-and-mouth disease, and the strike at the Grangemouth oil refinery – have not only deflected attention from the SNP's manifesto commitments, but have also helped the SNP's aim of demonstrating a high degree of governing competence before holding a referendum on independence.²¹⁴ This is topped off by an unusual ability (for a Scottish government) to lay blame on the UK Government or opposition parties for the lack of development in areas such as the local income tax (reserved constraints combined with Treasury inflexibility, as discussed above), and student debt (a tighter than anticipated financial settlement), while being forced to accept policies (during the negotiations with other parties on the budget) largely consistent with SNP policy aims (see section 2.1).²¹⁵ In this light, the frozen council tax, abolition

²¹² T. Gordon 'Will Alex Salmond get his perfect storm?' (4 May 2008) *Sunday Times* www.timesonline.co.uk/tol/news/uk/scotland/article3868138.ece; D. Fraser 'The honeymoon is far from over as Salmond's stock keeps rising' (13 March 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2123885.0.0.php?act=complaint&cid=1280648; A. Black 'Is the SNP honeymoon at an end?' (18 March), *BBC News* <http://news.bbc.co.uk/1/hi/scotland/7343235.stm>; J. Hjul 'Alex Salmond's dream of independence may be his downfall' (4 May 2008), *Sunday Times* www.timesonline.co.uk/tol/comment/article3868136.ece

²¹³ SNP (2008) 'Chancellor Must Come Clean on Northern Rock Costs' www.snp.org/node/7271; SNP (2008) 'Wendy challenged over tax-grab on poor' www.snp.org/node/13649; SNP (2008) "'Alexander's Position Increasingly Untenable'" www.snp.org/node/7381; SNP (2008) 'PM fails to back Alexander's referendum u-turn' www.snp.org/node/13784

²¹⁴ D. Lister 'Grangemouth: Ministers fear panic at pumps as oil workers strike' (25 April 2008), *The Times* www.timesonline.co.uk/tol/news/uk/scotland/article3812010.ece; D. Fraser 'SNP plays long game on independence' (13 August 2007), *The Herald* www.theherald.co.uk/politics/news/display.var.1612731.0.0.php

²¹⁵ McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), p.192; E. Barnes 'Browne savages 'shoddy' SNP for hoodwinking Scots' (6 April 2008), *Scotland on Sunday* <http://scotlandonsunday.scotsman.com/latestnews/Browne-savages-39shoddy39-SNP-for.3952534.jp>

of student fees, abolition of road tolls, reduced prescription charges, and reduced business rates seem like good work for a year in office.²¹⁶ The bulk of these issues were negotiated and progressed by Finance Secretary John Swinney (and, to a lesser extent, Health Secretary Nicola Sturgeon), reinforcing the idea that Salmond exercises a 'light touch over departments'.²¹⁷

11.2 Health

As with the focus on quangos (see section 1.2), health policy remains a peculiar numbers game in which parties compete to say how much they would increase spending (rather than, say, efficiency). Since the election of the SNP, this process has a new angle, with Labour and the Liberal Democrats comparing their average annual increases (from 6 per cent to 8.7 per cent) to the SNP's announcement of an increase of 3.3 per cent despite knowing that NHS Scotland's budget of £10.65bn is higher than it has ever been.²¹⁸ Much of the debate therefore rests on the 'real' rise in funding – when we take into account the level of inflation *within* the NHS²¹⁹ – that no party seems able to engage with. In lieu of discussions of efficiency, the debate focuses on waiting lists and waiting times (suggesting that the Scottish administration is still following an English agenda).²²⁰ The new development (in Scotland) is to set an 18-week maximum waiting target (by 2011) from the day that a GP refers a patient to hospital (previously, the target was more closely related to the first hospital appointment). This raises the stakes yet further (since it may effectively cut maximum waiting times by half), and subjects the Scottish NHS to the same challenges faced in England – of redirecting resources from other services with a lower political priority but not necessarily a lower clinically defined need (although there is no evidence in Scotland of a punitive regime for authorities that miss the targets).²²¹ It also raises further the prospect of health authority 'gaming', or manipulating waiting lists to meet targets. One such example centred on a consultant in Dundee informing a patient

²¹⁶ I. MacWhirter '1 year of the SNP government' (27 April 2008), *Sunday Herald* www.sundayherald.com/news/heraldnews/display.var.2228412.0.1_year_of_the_snp_government.php ; see also R. Dinwoodie 'Councils may get power on rates for business' (18 February 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2051246.0.Councils_may_get_power_on_rates_for_business.php

²¹⁷ McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), p.118.

²¹⁸ R. Dinwoodie 'Sturgeon unveils £10bn health spending' (9 February 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2032100.0.Sturgeon_unveils_10bn_health_spending.php

²¹⁹ McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), p.189.

²²⁰ 'Waiting times at all-time low says Government' (26 February 2008)

www.holyrood.com/content/view/2146/10552/

²²¹ H. Puttick 'Sturgeon makes £270m pledge to cut NHS waiting times by 50%' (6 February 2008) *The Herald* www.theherald.co.uk/politics/news/display.var.2021474.0.Sturgeon_makes_270m_pledge_to_cut_NHS_waiting_times_by_50.php ; L. Moss 'Sturgeon vows to halve NHS waiting times' (7 February 2008), *The Scotsman* <http://news.scotsman.com/politics/Sturgeon-vows-to-halve-NHS.3752316.jp> ; 'New "whole journey" waiting time target set' (6 February 2008), www.holyrood.com/content/view/2051/10051/

that she had been removed from his waiting list in order to meet a target (despite Nicola Sturgeon's plea to abolish 'hidden' waiting lists). Yet, following the consultant's public apology, the extent to which this decision was related to government rules became very unclear.²²²

This theme of (following or reacting to) UK-led policy agendas continues with most health policy developments. For example, while the devolved territories are cooperating together to establish core NHS values,²²³ Scotland is quietly following the UK line on GP contracts. The GP contract seems at odds with the 'Scottish Policy Style' discussed in past Devolution Monitoring Reports.²²⁴ The background to the contract amendment is the widespread criticism of the UK Government's handling of the previous process, with GPs offered a very generous deal in relation to evening and weekend work (which allowed them to forego this work in exchange for a very small pay cut).²²⁵ The outcry surrounding soaring GP wages in England put pressure on the government to react, and it subsequently took a relatively hard line on out-of-hours care, with the BMA complaining that it was offered a Hobson's choice.²²⁶ In this light, it is difficult to see why the *Scottish* Government would feel the need to take a similarly tough line and risk alienating the profession, when close consultation arrangements have been the mainstay of Scottish policy making.²²⁷

As part of a move to abolish prescription charges by 2011, the cost of a prescription was cut (25 per cent) from £6.85 to £5 in April (the charge in England is rising to £7.10). Most of the Scottish Government's justification for the move focused on the fact that '63 per cent of all paid-for prescriptions are for cancer and long-term

²²² H. MacDonell 'Patients taken off waiting lists' (1 February 2008), *The Scotsman* www.scotsman.com/video-archive/Patients-taken-off-waiting-lists.3734479.jp ; 'Patient 'removed' over target' (1 February 2008), *BBC News* http://news.bbc.co.uk/player/nol/newsid_7200000/newsid_7208600/7208684.stm?bw=bb&mp=wm&news=1&bbcws=1 ; R. Dinwoodie 'Surgeon 'sorry' for claiming waiting list cut to meet targets' (1 February 2008), *The Herald* www.theherald.co.uk/search/display.var.2010859.0.surgeon_sorry_for_claiming_waiting_list_cut_to_meet_targets.php

²²³ 'Health ministers sign historic agreement' (3 April 2008) www.holyrood.com/content/view/2307/10051/ ; Scottish Government News Release, 3 April 2008 'Joint statement on NHS values' www.scotland.gov.uk/News/Releases/2008/04/03120546

²²⁴ See also McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), p129

²²⁵ 'BMA team 'stunned by GP contract'' (31 January 2008), *BBC News* <http://news.bbc.co.uk/1/hi/health/6314301.stm> ; 'GP contract 'a bad deal for NHS'' (28 February 2008), *BBC News* <http://news.bbc.co.uk/1/hi/health/7266691.stm>

²²⁶ C. Brown, 'GPs agree to longer hours after government 'threats'' (7 March 2008), *The Independent* www.independent.co.uk/news/uk/politics/gps-agree-to-longer-hours-after-government-threats-792755.html

²²⁷ H. Puttick, '£19,000 each for surgeries if GPs back longer hours' (20 May 2008), *The Herald*, www.theherald.co.uk/news/news/display.var.2057471.0.19_000_each_for_surgeries_if_GPs_back_longer_hours.php ; 'GPs accept out-of-hours proposal' (6 March 2008), *BBC News* <http://news.bbc.co.uk/1/hi/scotland/7280427.stm>

conditions'.²²⁸ The Government has also waived the fees for entrants to the new Aberdeen Dental School.²²⁹

11.3 Public Health

One of the bones thrown to the Conservatives in the run up to the SNP's first budget (see section 2.1) was the promise to review Scotland's policy on the treatment of drug users. However, despite the tone of some newspapers, this does not signal the end of 'harm reduction' and a new era of abstinence.²³⁰ The philosophy of harm reduction is controversial, in part because of the order of priorities: first, keep the patient alive; second, treat the underlying psychological problems related to addiction; and, third, encourage a long term transition from substitute prescribing (methadone) to abstinence (if appropriate). Yet there is no evidence from ministerial statements that the Scottish Government is likely to depart radically from this (largely medical) model (although 'recovery', a buzzword in mental health, is gaining more currency).²³¹ Rather, the review may simply provide the opportunity to assess previous Scottish Executive measures to pilot abstinence-based approaches, billed as giving choice to the drug users who reject maintenance/harm reduction programmes.²³²

A much stronger public health message (again based on harm reduction rather than abstinence) can be found in the Scottish Government's attitude to Scotland's 'bevvie culture', with various plans mooted – including taxing supermarkets, pubs and off-licenses to pay for alcohol treatment – to keep the health message high on the agenda and put pressure on alcohol vendors to act more responsibly.²³³

²²⁸ Scottish Government News Release, 1 April 2008, 'Prescription charges cut to £5' www.scotland.gov.uk/News/Releases/2008/04/01120447

²²⁹ 'Dental school fees waived' (19 February), *The Scotsman* <http://news.scotsman.com/scotland/Dental-school-fees-waived.3794168.jp>

²³⁰ E. Barnes 'Cold turkey to replace methadone for addicts' (10 February 2008), *Scotland on Sunday* <http://news.scotsman.com/politics/Cold-turkey-to-replace-methadone.3762513.jp>; 'Methadone: 'Too many use it as part of their drugs routine'' (13 March 2008), *Evening News* <http://news.scotsman.com/politics/Methadone-39Too-many-use-it.3884277.jp>; K. Schofield 'Watchdog to look into effect of drugs policies' (11 February), *The Herald* www.theherald.co.uk/politics/news/display.var.2033552.0.Watchdog_to_look_into_effect_of_drugs_policies.php; 'MSPs agree on drugs policy revamp' (5 February 2008), *BBC News* <http://news.bbc.co.uk/1/hi/scotland/7229164.stm>

²³¹ Scottish Government News Release, 26 March 2008, 'Recovery will be key in new drugs strategy' www.scotland.gov.uk/News/Releases/2008/03/26101431

²³² Scottish Executive News Release, 19 October 2008, 'Funding for drugs projects' www.scotland.gov.uk/News/Releases/2006/10/18152439; 'GBP1.7m funding for anti-drug projects' (19 October 2008), *The Herald*, p6; L. Moss 'Pilot project to help addicts go 'cold turkey' as alternative to methadone' (19 October 2008), *The Scotsman* <http://news.scotsman.com/health.cfm?id=1546342006>

²³³ K. Schofield 'MacAskill: pub owners should pay towards help for alcoholics' (12 February 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2036353.0.MacAskill_pub_owners_should_pay_towards_help_for_alcoholics.php; M. Howie and A. Jamieson, 'SNP threatens to tax supermarkets in war on

In February, Lord Mackay of Drumadoon reversed a decision (taken in 2006) not to hold a fatal accident inquiry into the deaths of two people infected with hepatitis C through infected NHS blood products. While this has furthered the case for a public inquiry (pledged in the SNP manifesto), this will struggle to stay within devolved boundaries (since the issue of NHS compensation is a reserved power guarded by the UK government).²³⁴ The Scottish Government's plan to strengthen legislation on asbestosis should be less fraught (even though it effectively overturns a House of Lords ruling on the ability of people with pleural plaques, asymptomatic asbestosis or pleural thickening to claim compensation) because the measures have strong cross-party support.²³⁵ Even less controversial is the promise of £64m to immunise teenage girls from cervical cancer.²³⁶

11.4 Mental Health

Although there may not be much to choose from between the Scottish and UK Government policies on depression – the same basic problem (a shortage of counsellors) exists, and there is a high level of policy learning between the two (interview, Scottish Executive mental health division, 2006) – their attitudes to implementation (or at least the publicity of policy) appear to be significantly different. While the UK government has announced grand plans to treat 900,000 patients (and cure half of them) with psychological therapies, the Scottish Government continues a long-term and relatively low key approach, funding a range of pilots and allowing health boards the discretion to act on the evidence.²³⁷ More significant differences can be found in their respective attitudes to the reform of mental health legislation, and it is only now that the UK government is trying to correct the stigmatising effect of

booze culture' (12 February 2008), *The Scotsman* <http://news.scotsman.com/politics/SNP-threatens-to-tax-supermarkets.3766548.jp>; Scottish Government News Release 6.5.08 "'Sobering' costs of alcohol" www.scotland.gov.uk/News/Releases/2008/05/06104213

²³⁴ 'Hep C patients' rights 'breached' (5 February 2008) *BBC News* <http://news.bbc.co.uk/1/hi/scotland/7228235.stm>; Scottish Government News Release 23 April 2008 'Hepatitis C and HIV inquiry' www.scotland.gov.uk/News/Releases/2008/04/23125938; P. Cairney (2006) "'Venue Shift Following Devolution: When Reserved Meets Devolved in Scotland', *Regional and Federal Studies*, 16(4): 429–45.

²³⁵ D. Henderson 'Asbestos ruling will pave way for claims by victims' (6 February 2008), *The Herald* www.theherald.co.uk/politics/news/display_var.2021471.0.Asbestos_ruling_will_pave_way_for_claims_by_victims.php; 'Pleural plaques action being taken' (6 February 2008) www.holyrood.com/content/view/2048/10552/; Scottish Government News Release, 6 February 2008, 'Steps to strengthen asbestos claims bill' www.scotland.gov.uk/News/Releases/2008/02/06095939; D. McNulty SPOR, 1 May 2008, c.8273 www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0501-02.htm

²³⁶ 'Cervical cancer immunisation programme launched' (8 April 2008) www.holyrood.com/content/view/2325/10552/

²³⁷ S. Bosely 'Army of therapists to push aside pills for depression' (27 February 2008) *The Guardian* www.guardian.co.uk/society/2008/feb/27/mentalhealth.health; Scottish Government News release 21 April 2008, 'Support for dementia sufferers' www.scotland.gov.uk/News/Releases/2008/04/21132915 (final three paragraphs)

its approach.²³⁸ The Scottish Government is facing different problems associated with the more sincere aim (enshrined in the 2003 Act) of matching the level of security to the risk of the patient. In practical terms, this means that the Government is now more vulnerable to legal redress if it cannot find sufficient levels of medium secure beds for patients currently housed in the Carstairs state hospital. While media coverage of this process has been minimal, the tone hints at how easy it could be in Scotland to set the agenda and define a policy image in terms of public safety rather than health or civil liberties (particularly in the wake of fears about cuts in mental health services).²³⁹

11.5 Free Personal Care

Free personal care demonstrates well the 'implementation gap', or the gap between expectations and perceived policy results.²⁴⁰ Most of the problems can be explained by a lack of awareness about the likely cost of the policy (linked to 'hidden need' and demographic change) when it was introduced.²⁴¹ This issue of funding is in a sense toxic, with most participants keen not to be blamed for the lack of services in particular areas (for example, care homes may blame the local authority settlement, local authorities may point to an inadequate funding block, the Scottish Government may blame the UK Government for withholding the Attendance Allowance previously enjoyed by older people in Scotland). Without a further injection of funds, the likely outcome is the continuance of a range of practices criticised by the new Sutherland report: restrictions in the coverage of the policy by eligibility and/or the services covered by the term 'free'; waiting lists; a fall in real terms of care payments; and capital allowances.²⁴² While the obvious headline from this report related to its criticism of the UK Government for withdrawing Attendance Allowance,²⁴³ perhaps

²³⁸ McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), pp206-7; D. Batty "Law 'reinforced mental health stereotypes'" (18 February 2008), *The Guardian*

www.guardian.co.uk/society/2008/feb/18/mentalhealth

²³⁹ 'State hospital places to be cut' (6 March 2008), *BBC News*

http://news.bbc.co.uk/1/hi/scotland/glasgow_and_west/7281026.stm; 'Carstairs patients transfer move' (21 February 2008), *BBC News* <http://news.bbc.co.uk/1/hi/scotland/7256369.stm>; see also Scottish Government News release 7 April 2008, 'Opening of new mental health hospital'

www.scotland.gov.uk/News/Releases/2008/04/07145812

²⁴⁰ McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave), pp214-5.

²⁴¹ Audit Scotland (2008) A Review of Free Personal and Nursing Care www.audit-scotland.gov.uk/docs/health/2007/nr_080201_free_personal_care.pdf; 1.2.08 'Watchdog warns of funding shortfall for FPC' www.holyrood.com/content/view/2033/10051/

²⁴² Scottish Government (2008) *Independent Review of Free Personal and Nursing Care in Scotland* www.scotland.gov.uk/Publications/2008/04/25105036/16; E. Barnes 2.3.08 'Free care for elderly on brink of collapse' Scotland on Sunday <http://news.scotsman.com/politics/Free-care-for-elderly-on-3834286.jp>

²⁴³ Scottish Government News Release 7 May 2008, 'Funding for care'

www.scotland.gov.uk/News/Releases/2008/05/07143856; R. Dinwoodie 'Alexander's dilemma after report on personal care for elderly' (13 May 2008), *The Herald*

the trickier point is how to persuade local authorities as a whole to accept a standardised assessment and funding system so soon after the moves towards outcome agreements.

11.6 Justice

The most high-profile policy development followed a budget deal with the Conservatives to fund an extra 500 police officers (see section 2.1).²⁴⁴ Justice Secretary Kenny MacAskill was more concerned with a crisis in prison numbers, signalling an intention to extend measures introduced by the previous Scottish Executive on home detention (this policy was undermined in Parliament) and suggesting that the new prison commission would attach greater priority to community sentencing (while the private financing of prisons or custody services is still off limits).²⁴⁵ This is supplemented by moves to assess the risk of re-offending, extend pilots on deferred sentencing, collect fines more efficiently (resulting in fewer being jailed for non-payment) and, perhaps, the decision to focus police resources on cannabis dealers rather than consumers (despite its likely reclassification).²⁴⁶ MacAskill also announced a 'hard hitting' campaign to influence public attitudes to rape, the reform of legal aid payments, the reform of evidence disclosure and the repeal of a law exempting spouses/civil partners from giving evidence against their partners, while Public Health Minister Shona Robison announced £22m for services related to violence against women.²⁴⁷ The Scottish Government plans to 'go it alone'

www.theherald.co.uk/politics/news/display.var.2265893.0.Alexanders_dilemma_after_report_on_person_al_care_for_elderly.php

²⁴⁴ H. MacDonell '500 more police for front line' (1 February 2008), *The Scotsman* <http://news.scotsman.com/politics/500-more-police-for-front.3734465.jp> ; M. Howie 'Fresh doubt over '1,000 more police' pledge by SNP' (25 January 2008), *The Scotsman* <http://news.scotsman.com/politics/Fresh-doubt-over-391000-3710614.jp>

²⁴⁵ Scottish Government News Release 8 May 2008, 'Government responds to prisons report' www.scotland.gov.uk/News/Releases/2008/05/07113713 ; M. Howie 'Overcrowded prisons at breaking point, says justice secretary' (12 February 2008), *The Scotsman* <http://news.scotsman.com/scotland/Overcrowded-prisons-at-breaking-point.3766565.jp> ; 'Home detention extension planned' (3 March 2008) www.holyrood.com/content/view/2169/10051/ ; Scottish Government News Release 9 March 2008, 'Easing pressure on prisons' www.scotland.gov.uk/News/Releases/2008/03/07120805 ; 'Government defeated on Home Detention Curfew extension' (4 March 2008) www.holyrood.com/content/view/2175/10051/ ; 'Police custody will not go private' (8 April 2008) www.holyrood.com/content/view/2327/10552/

²⁴⁶ 'Risk management tool gets approval', 14 February 2008, www.holyrood.com/content/view/2092/10051/ ; Scottish Government News Release 15 April 2008, 'Deferred sentence scheme extended' www.scotland.gov.uk/News/Releases/2008/04/15102026 ; B. Donnelly 'New team to make more fine dodgers pay up' (8 March 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2103693.0.New_team_to_make_more_fine_dodgers_pay_up.php ; 'Cannabis re-classification won't change Scottish police attitudes', 5 May 2008, www.holyrood.com/content/view/2441/10051/

²⁴⁷ 'Hard-hitting anti-rape campaign launched', 4 March 2008 www.stv.tv/news/Hardhitting_antirape_campaign_launched_20080304 ; Scottish Government News Release, 4 March 2008, 'Challenging attitudes to rape' www.scotland.gov.uk/News/Releases/2008/03/04084500 ; 'Revised legal aid reforms published', 8 April 2008, www.holyrood.com/content/view/2331/10552/ ; Scottish Government News Release 5 May 2008, 'Law 'loophole' to be changed' www.scotland.gov.uk/News/Releases/2008/05/02150833 ; 'Disclosure of

by protecting the pension rights of fire-fighters injured in the line of duty, but places current responsibility to reduce the drink-driving limit at the UK Government's door.²⁴⁸

11.7 Education

Although the details of the Scottish Government's new model of finance are still unclear, it is sticking to its pledge to match the previous Scottish Executive's school building programme 'brick for brick'.²⁴⁹ The biggest numbers game in education relates to class sizes. In February, Schools minister Maureen Watt announced a fall in the average class size (which in part relates to falling school rolls as well as the number of teachers) and signalled moves to further reduce class sizes in primaries 1-3.²⁵⁰ Developments in England and Scotland perhaps signal fewer divergences than many perceive – highlighted by the (albeit minimal) movement away from the testing regime in England, and the restrictions on entry to a school in East Renfrewshire, which call into question the myths of equal access and equality of school provision in Scotland.²⁵¹

In a bid to regain the initiative on higher education funding and address Scottish University concerns about the effects of top-up fee income in England, Education Secretary Fiona Hyslop announced extra funding of £10m in January and £20m in March (plus £1.5m for lifelong learning). Hyslop also signalled the prospect (consistent with the new approach to local authorities) of greater University 'freedom'.²⁵²

evidence' 29 April 2008, www.scotland.gov.uk/News/Releases/2008/04/29140738 ; 'Tackling violence against women' 15 April 2008, www.scotland.gov.uk/News/Releases/2008/04/15140544

²⁴⁸ K. Schofield 'Holyrood moves to protect pensions of injured firefighters' (11 February 2008), *The Herald*

www.theherald.co.uk/politics/news/display.var.2033525.0.Holyrood_moves_to_protect_pensions_of_injured_firefighters.php ; Scottish Government News Release 12 March 2008, 'Calls to reduce drink driving limit' www.scotland.gov.uk/News/Releases/2008/03/12101510

²⁴⁹ D. Fraser 'Leaders clash over plan for new schools' (8 February 2008), *The Herald*

www.theherald.co.uk/politics/news/display.var.2028911.0.Leaders_clash_over_plan_for_new_schools.php

²⁵⁰ Scottish Government News Release 26 February 2008, 'Smaller class sizes for early years' www.scotland.gov.uk/News/Releases/2008/02/26104110 ; 'Classes sizes fall', 26 February 2008, www.holyrood.com/content/view/2147/10552 ; Scottish Government News Release 20 November 2007, 'Measures to support lower school class sizes' www.scotland.gov.uk/News/Releases/2007/11/20123238

²⁵¹ J. Russell 'The folly of our test fixation is plain to all. Except ministers' (7 February 2008), *The Guardian Online* www.guardian.co.uk/commentisfree/story/0,,2253718.00.html ;

²⁵² A. Denholm 'Increase in freedom will be more welcome than short-term cash' (28 January 2008), *The Herald*

www.theherald.co.uk/politics/news/display.var.1997845.0.Increase_in_freedom_will_be_more_welcome_than_shortterm_cash.php ; F. MacLeod 'Education secretary who is willing to learn' (8 February 2008), *The Scotsman* <http://news.scotsman.com/politics/Education-secretary-who-is-willing.3757957.jp> ;

'Universities and colleges to share an extra £20m' (9 March 2008), *The Scotsman* <http://news.scotsman.com/scotland/Universities-and-colleges-to-share.3859365.jp> ; S. Carrell 'Scots reply to England's university challenge' (16 November 2008), *The Guardian*

www.guardian.co.uk/uk/2007/nov/16/universityfunding.scotland ; Scottish Government News Release 4 May 2008, 'Support for lifelong learning' www.scotland.gov.uk/News/Releases/2008/05/06081626

11.8 Transport and Environment

The Scottish Government has chosen the company Interlink (the only bidder) to build the M74 extension at a cost of £445m.²⁵³ Although the extension has raised significant environmental opposition, the SNP does not need to negotiate with the Greens, since this is a policy inherited from the Scottish Executive and supported by the major parties.²⁵⁴ The cost of the M74 gives us one measure of the relative significance of financial support for other forms of transport, such as the £250,000 to take freight off the roads between Irvine and Rannoch.²⁵⁵

Cabinet Secretary for Rural Affairs and the Environment, Richard Lochhead, has outlined plans to support more waste incineration plants (but not 'large, inefficient, "white elephant" incinerators') as part of a target to reduce the proportion of household waste to landfill to 5 per cent by 2025. The issue of incineration has always been controversial, with the Scottish Government's predecessors facing significant opposition for more modest plans (however, again, this suggests that party opposition will not be a big factor). This perhaps explains the different emphasis in the Scottish Government and press descriptions of policy.²⁵⁶ Lochhead has also: claimed victory in the issue of ship-to-ship oil transfers (following the decision of Forth Ports not to proceed with an application and the UK Government to revisit the regulations); called for more devolved marine powers; signalled a potential change to the common fisheries policy; begun to develop a 'national food policy' following consultation with Scottish businesses and the major supermarkets; set up a task force to 'alleviate the plight of Scotland's pig meat sector'; and re-launched the Whole Farm Review Scheme.²⁵⁷ The Gordonbush wind farm in Sutherland was approved by ministers in April.²⁵⁸

²⁵³ Scottish Government News Release 14 February 2008, 'Green light for M74 completion project' www.scotland.gov.uk/News/Releases/2008/02/14094902; 'Review of controversial M74 extension ordered' (7 February 2008), *The Scotsman* <http://news.scotsman.com/politics/Review-of-controversial-M74-extension.3757976.jp>

²⁵⁴ P. Harvie 'M74 Court Case' (28 June 2006) www.patrickharviemsp.com/?p=58; 'Sustainable Transport Initiative – Ministers apparently oblivious to irony' (17 March 2008) www.patrickharviemsp.com/?p=290

²⁵⁵ 'Government grant to take freight off roads', 30 April 2008, www.holyrood.com/content/view/2424/10051/

²⁵⁶ Scottish Government News Release 24 January 2008, 'New vision for waste' www.scotland.gov.uk/News/Releases/2008/01/24145725; 'Funding for zero waste technology' (15 April 2008) www.scotland.gov.uk/News/Releases/2008/04/15102743; I. Johnston 'Controversial incinerators plan to help Scotland hit green targets' (25 January 2008), *The Scotsman* <http://news.scotsman.com/scotland/Controversial-incinerators-plan--to.3710634.jp>; L. Gray 'Anger at scheme to incinerate more of Scotland's rubbish' (15 March 2008), *The Scotsman* <http://news.scotsman.com/latestnews/Anger-at-scheme-to-incinerate.3354620.jp>; F. Urquhart 'Health concerns hit incinerator plans' (12 February 2008), *The Scotsman* <http://news.scotsman.com/latestnews/Health-concerns-hit-incinerator-plans.2502904.jp>

²⁵⁷ 'Ship-to-ship plans stymied by Forth Ports' (1 February 2008) www.holyrood.com/content/view/2031/10552/; Scottish Government News Release 1 February 2008,

11.9 Housing

Given the Thatcherite legacy in Scotland, few public policies could match the symbolism of a return to council house building. In April, Nicola Sturgeon announced £7.5m of funding to enable West Lothian council to build 240 houses for rent (accompanied by a promise to block right-to-buy for new builds) and arguably signals a further shift from subsidising housing association projects.²⁵⁹ It has also rejected UK Government plans to link social housing contracts to job seeking.²⁶⁰ In February, the Scottish Government promised £7m to cut the waiting list associated with free central heating for older people.²⁶¹ However, it had grander plans for wider fuel poverty issues, arguing that it can only make a real difference following constitutional change.²⁶²

'Ship to ship oil transfer' www.scotland.gov.uk/News/Releases/2008/02/01095507 ; Scottish Government News Release 3 April 2008 'More marine powers required' www.scotland.gov.uk/News/Releases/2008/04/02162546 ; The Scotsman 'Scotland 'shaking itself free' of EU fishing quota policy' (3 March 2008), *The Scotsman* <http://news.scotsman.com/politics/Scotland--39shaking-itself-.3838332.jp> 'National food policy meeting', 8 April 2008, www.holyrood.com/content/view/2332/10552/ ; Scottish Government (2008) *National Discussion on Food* www.scotland.gov.uk/Topics/Business-Industry/Food-Industry/Discussion ; B. Ferguson "£60m 'world's finest' drive for Scots food" (18 March 2008), *The Scotsman* <http://news.scotsman.com/politics/60m-39world39s-finest39-drive-for.3887092.jp> ; Scottish Government News Release 16 April 2008 'Action to support the pig sector' www.scotland.gov.uk/News/Releases/2008/04/16152003 ; Scottish Government News Release 7 May 2008, 'Scheme to improve business' www.scotland.gov.uk/News/Releases/2008/05/07115228

²⁵⁸ Scottish Government News Release 9 April 2008, 'Approval granted for wind farm' www.scotland.gov.uk/News/Releases/2008/04/09143312

²⁵⁹ B. Donnelly 'New era of the council house is launched by Sturgeon' (26 April 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2227553.0.New_era_of_the_council_house_is_launched_by_Sturgeon.php

²⁶⁰ R. Dinwoodie 'Maxwell rejects 'get a job' threat' (6 February 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2021422.0.Maxwell_rejects_get_a_job_threat.php ; see also UK plans for subsidised housing – R. Jones 'Key worker home scheme gets revamped' (27 February 2008), *The Guardian* www.guardian.co.uk/business/2008/feb/27/housingmarket.houseprices

²⁶¹ G. Braiden 'Councils help battle backlog of free central heating project' (5 February 2008), *The Herald* www.theherald.co.uk/politics/news/display.var.2018102.0.Councils_help_battle_backlog_of_free_central_heating_project.php ; Scottish Government News Release 21 April 2008, 'Central Heating Programme' www.scotland.gov.uk/News/Releases/2008/04/21104014

²⁶² Scottish Government News Release 23 April 2008, 'Tackling fuel poverty' www.scotland.gov.uk/News/Releases/2008/04/23095001

**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:

- Scotland: **Prof Charlie Jeffery & Dr Nicola McEwen**
Institute of Governance, University of Edinburgh
- Wales: **Prof Richard Wyn Jones & Prof Roger Scully**
Institute of Welsh Politics, Aberystwyth University
- Northern Ireland: **Professor Rick Wilford & Robin Wilson**
Queen's University, Belfast
- English Regions: **Prof Martin Burch, Prof Alan Harding & Dr James Rees**
IPEG, University of Manchester
- The Centre: **Prof Robert Hazell**, The Constitution Unit, UCL

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Scotland Devolution Monitoring Report

September 2008

Charlie Jeffery (ed.)

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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-AggragvatedOffences.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, Ettrick 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>;