

The **Constitution** Unit

**DEVOLUTION
MONITORING
PROGRAMME
2006-08**

Scotland Devolution Monitoring Report

January 2009

**Paul Cairney (ed.)
University of Aberdeen**



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: **Dr Paul Cairney**
University of Aberdeen
- 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

The Constitution Unit and the rest of the research network is grateful to all the funders of the devolution monitoring programme.



WALES OFFICE



All devolution monitoring reports are published at: <http://www.ucl.ac.uk/constitution-unit/research/devolution/devo-monitoring-programme.html>

Scotland Devolution Monitoring Report

January 2009

Paul Cairney (ed.)

Introduction	6
1. The Scottish Constitutional Debate	8
1.1 Scotland's Rival Constitutional Forums.....	8
1.2 Differences in Style.....	9
1.3 The First Report of the Calman Commission.....	11
1.4 The UK's Constitutional Debates.....	15
2. Public Attitudes and Elections	17
2.1 Attitudes towards devolution.....	17
2.2 Other Issues.....	20
2.3 Party Fortunes.....	21
2.4 Attitudes towards Leaders.....	27
3. The Scottish Parliament and Parties	30
3.1 Who Decides If Ministers are Telling the Truth?.....	30
3.2 Political Parties.....	31
3.3 The Annual Budget.....	33
3.4 The New Politics of Voting.....	35
3.5 Scottish Parliament Committees.....	37
3.6 Committee Reports and Inquiries.....	39
3.7 Parliamentary Bills.....	41
3.8 Sewel (Legislative Consent) Motions.....	42
4. Scottish Government and Public Policy	44
4.1 The Economy: Money and Power.....	44
4.2 Health, Mental Health and Public Health.....	47
4.3 Justice.....	51
4.4 Education.....	53
4.5 Transport, Energy and Environment.....	56
4.6 Agriculture, Fish, Food and Water.....	57
4.7 Housing, Planning, Poverty and Homelessness.....	58
4.8 Culture and Media	58
4.9 Freedom of Information.....	59
5. Government Beyond the Centre	61
5.1 Scottish Futures Trust.....	61
5.2 Local Income Tax.....	62
5.3 Local Government Finance Settlement.....	64
5.4 Health Boards.....	65
5.5 Quangos.....	67
6. Intergovernmental Relations	69
6.1 Introduction and background.....	69
6.2 Appointment of new Secretary of State for Scotland, and Parliamentary Under-secretary.....	70
6.3 Formal meetings: the Joint Ministerial Committee and the British Irish Council.....	71
6.4 Litigation and the courts.....	72

6.5	Revisions of the devolution settlement.....	72
6.6	UK Government's Legislative Programme and further proposals.....	72
6.7	Financial issues: the UK Government's Pre Budget Report.....	73
6.8	European Union matters.....	74

Introduction

Paul Cairney

The tone of Scottish politics changed briefly following the global and domestic economic crises towards the end of 2008. However, after a period of consensus, the Glenrothes bye-election (in which Labour retained its seat and perhaps marked the end of the SNP's remarkable honeymoon period) highlighted traditional differences. This was accelerated by personalisation and the use of bye-elections as a gauge of Gordon Brown's government, which worked in Labour's favour this time. Brown became a 'safe pair of hands' and took centre stage in world politics by promoting a financial rescue plan that many countries welcomed. This allowed Labour to build on the message that small countries are vulnerable during global crises, that only the UK government could have bailed out the big banks and therefore that the Union was crucial to Scotland's economic stability. Similarly, the new Scottish Secretary Jim Murphy moved quickly from a promise to work closely with the First Minister to a position of party politics, particularly when replacing 'arc of prosperity' (Salmond's description of a range of nations, most notably Iceland) with the phrase 'arc of insolvency'.

The new image of Brown extended to a comparison with Alex Salmond. While Brown seemed able to lead the global agenda and intervene domestically, Salmond's role was often restricted to negotiations with banks over which he had no power. While this had the *potential* to support the SNP case for independence (on the basis that Scotland needs its own fiscal measures to deal with its own problems), it also did much to damage a carefully cultivated image of Salmond as a statesman on the world stage rather than a parochial figure unable to command powerful policy levers in Scotland. The SNP's national conversation also took a back seat to the Calman Commission's first report (discussed in a new section on constitutional reform issues). Yet, we know from history that these shifts of popularity and dominance are fleeting. Only time will tell if the independence agenda and public attitudes will come together at the same time.

The economic context served to downgrade a raft of issues which may otherwise have gained more attention. This includes: the decision to delay Jack McConnell's departure from the Scottish Parliament (in part to avoid another potentially damaging bye-election); the prospect of an end to the detention of children of asylum seekers at Dungavel,

reports of a rise in the number of people employed by Scottish quangos, the approval of (but continued uncertainty over) Donald Trump's golf course in Aberdeenshire (and the continued fallout over key members of Aberdeenshire council), the likelihood of a public inquiry into the deaths related to C. difficile at the Vale of Leven Hospital, David Cameron's non-Thatcherite attitude to Scottish independence and the decision not to transfer responsibility for Scottish Parliament elections to the Scottish Parliament.

1. The Scottish Constitutional Debate

Charlie Jeffery

1.1 Scotland's Rival Constitutional Forums

Scotland remains in the curious position of having two forums for debate about the constitution: the National Conversation of the SNP government; and the Commission on Scottish Devolution, widely known as the Calman Commission after its Chair Sir Kenneth Calman.¹ The National Conversation was up and running first, following its announcement in the SNP government's August 2007 White Paper on *Choosing Scotland's Future*.² The Calman Commission was first flagged in a speech made by the then Labour leader in Scotland, Wendy Alexander, at the University of Edinburgh on 30 November 2007, following which the Scottish Parliament (or at least its unionist majority) resolved on 6 December 2007 to establish 'an independently chaired commission to review devolution in Scotland'.³ The UK government signalled its support for the Commission in January 2008 (as did the Westminster leaderships of the Conservatives and the Liberal Democrats), and the Commission began its work on 28 April 2008.

The two forums are very different, not least in remit. The National Conversation is oriented around three options:

- Continuing with the current constitutional settlement with no or minimal change
- Extending devolved power in Scotland in areas identified during the National Conversation
- Taking the steps to allow Scotland to become a fully independent country.

The Calman Commission has a more constrained remit focused on:

- Enabling the Scottish Parliament to serve the people of Scotland better
- Improving the financial accountability of the Scottish Parliament
- Continuing to secure the position of Scotland within the United Kingdom.

¹ <http://www.commissiononscottishdevolution.org.uk/about/index.php>.

² Scottish Government (2008) *Choosing Scotland's Future: A National Conversation* <http://www.scotland.gov.uk/Resource/Doc/194791/0052321.pdf>.

³ Scottish Parliament Official Report 6.12.07 cols. 4133-85 <http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor1206-02.htm#Col4133>.

The latter point explicitly excludes independence as an option, reflecting the Calman Commission's genesis in discussions among the unionist parties in late 2007. Equally the National Conversation, reflecting the SNP's ambition of an independent Scotland, has no remit to 'secure the position of Scotland within the UK'. These partisan remits have led to official policies of distance between the two forums. The unionist parties have declined invitations to contribute to the National Conversation, and the SNP government has instructed its officials to provide assistance to the Calman Commission 'on factual matters'⁴ only. Whether Scotland's best interests are served in this way is a moot point discussed in earlier editions of this Monitor.⁵

1.2 Differences in Style

The two forums are also extremely different in style. The Calman Commission bears all the hallmarks of a UK independent commission: it is chaired by a senior figure in public life,⁶ its members have been picked to provide party-political balance, but also a range of expertise within and beyond formal politics;⁷ and it is serviced by the civil service.⁸ The Commission has worked so far through formal meetings, in part split into 'task-groups' with specific remits, and in part taking oral evidence from politicians, academics and other experts. An Independent Expert Group on Finance, chaired by the Heriot-Watt Vice-Chancellor Anton Muscatelli, was set up to advise the Commission on 'on how the financial accountability of the Scottish Parliament might be

⁴ <http://www.commissiononscottishdevolution.org.uk/uploads/2008-08-19-response-from-first-minister-to-chair.pdf>.

⁵ Scotland Devolution Monitoring Report January 2008, pp. 34-5 http://ucl.ac.uk/constitution-unit/files/research/devolution/dmr/Scotland_Jan08.pdf

⁶ Sir Kenneth Calman is Chancellor of the University of Glasgow, and was previously Vice-Chancellor of the University of Durham. He was Chief Medical Officer at the Department of Health from 1991-98, and before that Chief Medical Officer for Scotland at the Scottish Office from 1989-91. He was knighted in 1996, and is a Fellow of the Royal College of Physicians, the Royal College of Surgeons and the Royal Society of Edinburgh.

⁷ The full membership list is: Colin Boyd, Former Lord Advocate, member of the House of Lords (Labour); Rani Dhir MBE, Executive Director, Drumchapel Housing Co-operative; Professor Sir David Edward, Retired Judge of the European Court; Murray Elder, Member of the House of Lords (Labour); Audrey Findlay, Former Leader of Aberdeenshire Council, Convener of the Scottish Liberal Democrat Party; Jamie Lindsay, Former Scottish Office Minister, member of the House of Lords (Conservative), Chairman of the Scottish Agricultural College; John Loughton, Youth activist and former Chairman of the Scottish Youth Parliament; Murdoch MacLennan, Chief Executive, Telegraph Media Group; Shonaig Macpherson, Chair of the National Trust for Scotland and of the Scottish Council for Development and Industry; Iain McMillan; Director, CBI Scotland, James Selkirk, Former Scottish Office Minister, member of the House of Lords (Conservative); Mona Siddiqui, Professor of Islamic Studies, University of Glasgow; Matt Smith, Scottish Secretary, UNISON; Jim Wallace, Former Deputy First Minister, member of the House of Lords (Liberal Democrat).

⁸ Its secretary is Jim Gallagher, Director General, Devolution, Ministry of Justice; the administration is serviced by the UK's Scotland Office, part of the Home Office.

improved'.⁹ The Independent Expert Group comprises UK and international academics and other experts on territorial finance.¹⁰

The first phase of the Commission's work was based around the themes in consultation papers published in May and June 2008. The Commission invited evidence through written submissions on these consultations, and also held a number of local engagement events between September and November 2008. Evidence has been submitted by a wide range of institutions and individuals.¹¹ Perhaps the most remarkable was that by the UK Government, which produced a 126-page document in November 2008, with a chapter for each Whitehall department from which further powers might conceivably be devolved; none of those departments saw any compelling rationale for any further devolution.¹² In its interim report (see below) the Commission does not appear to have given this ultra-minimalist view of the constitutional situation any credence. On the basis of its deliberations, and informed by evidence presented to it, including a first report of the Expert Group on Finance,¹³ the Commission published an interim report in December 2008.¹⁴ This in turn spawned a consultation paper,¹⁵ around whose themes the second and final phase of the Commission's work will revolve. The Commission expects to issue a final report by mid-2009.

The very traditional approach of the Commission (tempered only by the concession of a Facebook page, which does not seem to be avidly used) contrasts starkly with the style of the National Conversation. The National Conversation has two main *modi operandi*. The first is a website¹⁶ with broad details about the SNP Government's constitutional policy, and a number of interactive platforms. These include a series of (currently twelve) 'Minister's Blogs', each prompting online debate on particular themes, another series of blogs prompted by themes in *Choosing Scotland's Future*, and a front page containing a number of 'conversation points' (mainly speeches and videos by SNP leaders, but also some by non-SNP figures or organisations) and a

⁹ http://www.commissiononscottishdevolution.org.uk/uploads/2008-12-15-hwu-first_evidence_report-web.pdf, p. i.

¹⁰ <http://www.commissiononscottishdevolution.org.uk/about/index.php>.

¹¹ <http://www.commissiononscottishdevolution.org.uk/engage/submissions-received.php>.

¹² <http://www.commissiononscottishdevolution.org.uk/uploads/2008-11-10-hmg.pdf>.

¹³ http://www.commissiononscottishdevolution.org.uk/uploads/2008-12-15-hwu-first_evidence_report-web.pdf

¹⁴ <http://www.scotland.gov.uk/Topics/a-national-conversation>.

¹⁵ <http://www.commissiononscottishdevolution.org.uk/uploads/2008-12-19-csd-a5-consult-bm.pdf>.

¹⁶ <http://www.scotland.gov.uk/Topics/a-national-conversation>.

further blog. The second has been a series of events, in part with civic organisations, in part attached to Cabinet 'roadshow' meetings in towns across Scotland, each with an introduction by the First Minister Alex Salmond and a debate with a local audience chaired by another Cabinet Secretary. Records of these events are also lodged on the website.

Though individuals are invited to contribute via the website or by more traditional means as they see fit, it is not clear what beyond the various blog entries has been submitted. As a result it is very difficult to see what themes are emerging from the public and civic contributions. No summary of contributions has so far been produced; nor (at least according to one senior voice) do there appear to be plans to provide any summary until the run-up to a referendum (should the Government find support in the Scottish Parliament to hold a referendum). It is therefore difficult to give any kind of informed evaluation of the National Conversation so far – except, as the blogs show, that it has enthusiastic support among those with pro-independence preferences.

In this reporting period there were no major new initiatives or publications under the aegis of the National Conversation beyond further meetings with civic organisations and local meetings held alongside a peripatetic Cabinet, a Minister's Blog on the Homecoming Scotland 2009 (a series of events led by the Scottish Government to engage the Scottish diaspora more fully with Scotland) and a meeting of young people to discuss the results of an on-line questionnaire fielded at 5,000 young people. The analysis of the questionnaire findings is not yet published.

1.3 The First Report of the Calman Commission

By contrast the unionist version of the constitutional debate entered a new phase with the publication of the first, interim report of the Calman Commission.

1.3.1. The First Report of the Independent Expert Group on Finance

This was prefigured by the first report of the Independent Expert Group on Finance on 17 November 2008. The Expert Group had met on a number of occasions over the late summer and early autumn 2008, drawing also on other international experts. Their report was substantial, though for some commentators disappointing¹⁷ as it did not

¹⁷ David Maddox 17.11.08 'Hopes of move on financial powers set to be dashed', *The Scotsman* <http://news.scotsman.com/thescottishparliament/Hopes--of-move-on.4699452.jp>.

make specific recommendations. Rather, it set out a number of issues in economic theory surrounding choices for different types of territorial financial arrangements, placed current UK arrangements against that background, and set out some of the alternative forms of financial arrangements used in other states to finance devolved government.

Two particular themes were prominent in the report:

1. That there is a trade-off between territorial financial arrangements focused on inter-regional equity (signalled in the widespread use in some parts of the UK of the terminology of compensating for different territorial 'needs' through UK-wide territorial financial adjustments), and arrangements focused on fiscal autonomy (which signalled a concern to adjust incentives, accountability and power relationships in the devolved setting).
2. That choices of particular systems of territorial finance, with differing balances of equity, autonomy or other variables, was rarely if ever a technical question guided by economic theory or driven by the properties of particular fiscal instruments. Rather such choices were *political*; they reflected and followed more fundamental decisions about the type of state a particular society wanted to have.

Two other contributions on territorial finance appeared at roughly the same time. The first was a David Hume Institute paper co-authored by Andrew Hughes-Hallett, Jeremy Peat (both also members of the Expert Group), Andrew Scott, Lesley Sutton and Fabian Zuleeg, published on 12 November 2008.¹⁸ The chapter by Hughes Hallett and Scott covered much of the same ground as the Expert Group report, with an evaluation of different approaches and instruments of territorial finance. It also took up at greater length two issues raised the expert group report:

- The need for devolved governments to have borrowing powers if there was a move away from a system of central government grant (as the UK currently has);
- The option of full fiscal autonomy, with full Scottish Parliament responsibility for raising tax revenues in Scotland (implying payments by the Scottish Parliament

¹⁸ <http://www.davidhumeinstitute.com/DHI%20Website/publications/hop/HOP%2080.pdf>.

to the UK Treasury for any UK services delivered in Scotland, and the absence of any grant or equalisation payments to Scotland from the rest of the UK). While Hughes Hallett and Scott envisaged full fiscal autonomy as possible within the UK (and discussed it also in the scenario of Scottish independence both within and outside the EU), the Expert group concluded that it 'is difficult to visualise how full fiscal autonomy for the Scottish Parliament might be consistent with the maintenance of the union'.¹⁹ This difference in perspective was significant given that the Commission had ruled out independence as an option for consideration.

The second prominent contribution on territorial finance came from a new Scottish think tank, Reform Scotland, in its paper *Fiscal Powers*, published on 20 November 2008.²⁰ This advocated a particular system of territorial finance much more strongly, arguing that the Scottish Parliament should be directly responsible for raising all of the money it spends. This would establish the Parliament as much more directly accountable to taxpayers in Scotland. This accountability would be achieved by a mixture of tax assignment (reserving set proportions of tax receipts from specified UK taxes to the Scottish Parliament) and tax autonomy (with the Scottish Parliament deciding tax rates for all other taxes).

1.3.2. *The First Report of the Calman Commission*

The First Report of the Calman Commission was published on 2 December.²¹ It was styled as an interim report. It set out the issues which it presumed would feature strongly in the second phase of its deliberations and in its final report. It did so at length, and with a companion volume of evidence²² (in addition to the Expert group's substantial report on finance). The sheer weight of the two volumes was perhaps intended as a deliberate contrast to the elusiveness of the findings so far from the National Conversation. The report begins with a discussion of the pre-history and content of the current devolution arrangements and a detailed exposition of its

¹⁹ http://www.commissiononscottishdevolution.org.uk/uploads/2008-12-15-hwu-first_evidence_report-web.pdf, p. 16.

²⁰ Ben Thomson, Geoff Madsley, Graeme Blackett and James Aitken, *Fiscal Powers*, Edinburgh: Reform Scotland, 2008, at http://www.reformscotland.com/include/publications/fiscal_powers.pdf.

²¹ http://www.commissiononscottishdevolution.org.uk/uploads/2008-12-15-hwu-first_evidence_report-web.pdf.

²² <http://www.commissiononscottishdevolution.org.uk/uploads/2008-12-01-volume-2-final.pdf>.

evidence-gathering for what it terms an approach 'rigorously based on evidence'.²³ The substantive part of the report has chapters on:

- The 'principles' of union
- The powers and functions of the Parliament
- Financial accountability
- Relationships with UK-level institutions.

The report avoids specific recommendations, apart from periodic reaffirmations that independence is not part of its remit, and excepting a number of points where the Commission is 'minded' to take some course of action. The report was not greeted with great enthusiasm in the Scottish media, which evidently wanted more red meat to chew on: 'Yesterday's report was frustrating as it was simply interim'²⁴; Sir Kenneth needs to be less intellectual and offer something that makes a difference'.²⁵ Yet the report has both substance and – potentially – significance.

While ruling out independence, it does set out perhaps unexpectedly wide parameters for the debate about further devolution: extending from a modest adjustment to the current powers of the Parliament, exercised within a more rigorously institutionalised UK union, to a form of 'devolution-max' which would establish a distinctive welfare state in Scotland funded by resources raised in Scotland. The devolution-max option would not look out of place in the discussion of further devolution within the union as set out in the SNP Government's White Paper on constitutional options.

Perhaps, by setting out wide parameters, the Commission is predisposing its final report to land somewhere in the middle, but nonetheless it has opened up a wide scope for debate and for evidence-taking in its second phase. The report sets out twelve areas where further debate on powers and functions should take place. These include the constitution (and elections administration in particular), energy (including

²³ http://www.commissiononscottishdevolution.org.uk/uploads/2008-12-15-hwu-first_evidence_report-web.pdf, p. 20.

²⁴ Michael Settle, 'Calman rules out fiscal autonomy for Scotland', *The Herald*, 3 December 2008, at http://www.theherald.co.uk/search/display.var.2472469.0.calman_rules_out_fiscal_autonomy_for_scotland.php.

²⁵ 'Sir Kenneth needs to find some bold solutions', *Scotsman*, 3 December 2008 <http://thescotsman.scotsman.com/opinion/Sir-Kenneth-needs-to-find.4754243.jp>.

the planning roles in areas of policy, such as nuclear energy, reserved to the UK government), broadcasting, immigration and social security which are politically highly sensitive. With the exception of the planning issue, most of the questions raised about these issues point to discussion about further devolution of powers.

On finance, the Commission accepts the Expert group's conclusion that 'the balance between conflicting principles [of territorial financial arrangements] should be determined not by technical considerations, but by the constitutional objectives that the funding is designed to support'.²⁶ In other words, establishing the 'principles of union' is prior to the definition of funding arrangements. The Commission called for further evidence on additional fiscal powers, including borrowing, which would be consistent with a more 'devolution-max' outcome, as well as discussion of grant-based arrangements that would serve the purposes of a more fully integrated union.

The final major section of the report was about institutional relationships between Scotland's devolved institutions and Westminster and Whitehall. The general thrust was that whichever principles of union might be adopted, more systematic institutional relationships for dispute resolution and for defining common interests across jurisdictions should be adopted or activated. The various calls for more evidence set out in the report – some 46 in total – formed the basis of the consultation paper *The Future of Scotland within the Union* which was published on 19 December 2008.²⁷ The consultation is open until 27 February 2009.

1.4 The UK's Constitutional Debates

Finally it is notable that constitutional debate is not simply fragmented between National Conversation and Calman Commission in Scotland. In the last reporting period the All-Wales Convention²⁸ and the Independent Commission on Funding and Finance²⁹ also began their work on, respectively, Welsh options for devolution (the status quo vs. full legislative powers), and possible alternative territorial financial arrangements for Wales. There appear to be no links between the Scottish and Welsh variants of constitutional debate, nor between these and the various Governance of

²⁶ http://www.commissiononscottishdevolution.org.uk/uploads/2008-12-15-hwu-first_evidence_report-web.pdf, p.64.

²⁷ <http://www.commissiononscottishdevolution.org.uk/uploads/2008-12-19-csd-a5-consult-bm.pdf>.

²⁸ <http://wales.gov.uk/awcsub/awchome/?lang=en>.

²⁹ <http://wales.gov.uk/icffw/home/?lang=en>.

Britain initiatives led by the UK Justice Ministry (which, oddly, are more or less silent on devolution).³⁰ Nor, in UK opposition, has the Conservative Party's Democracy Taskforce, done any thinking that explores and links issues across jurisdictions beyond its paper on the West Lothian Question.³¹ It appears doubtful that this kind of piecemeal approach to constitution-making, though characteristic of the UK, will establish lasting stability.

³⁰ <http://governance.justice.gov.uk/>.

³¹ <http://www.conservatives.com/~media/Files/Downloadable%20Files/Answering%20the%20West%20Lothian%20Question.ashx?dl=true> .

2. Public Attitudes and Elections

John Curtice

2.1 Attitudes towards devolution

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	Oct. 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	35
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	41	43

Source: TNS System Three/Sunday Herald; 22-29.10.08

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?

	July 08	Sept. 08	Oct. 08
	%	%	%
I would vote YES (i.e. for Scottish independence)	36	34	31
I would vote NO (i.e. against Scottish independence)	48	50	53

Don't Know/Would not vote	16	15	16
---------------------------	----	----	----

Source: YouGov/Sunday Times, 3-5.9.08 and 22-24.10.08

The UK Government has recently invested £37bn in Scottish banks to help them deal with the current economic crisis. Has this made you more or less likely to back Scottish independence?

	All	Yes	No
	%	%	%
Much/slightly more likely	16	46	1
Much/slightly less likely	28	10	39
No difference	55	44	60

Source: YouGov/Sunday Times 22-24.10.08

Does the current financial crisis make you more or less likely to support independence for Scotland?

	%
More likely	24
Less likely	42
Unsure	34

Source: Progressive Scottish Opinion/BBC News 11-19.11.08

Much of the debate about Scotland's constitutional future during this period was focused on what were thought to be the lessons of the banking crisis. Labour argued that the recapitalisation of the two Scottish banks demonstrated the value of the country's membership of the Union, as on its own Scotland would have lacked the resources to undertake such a rescue. In particular they contrasted this apparently successful rescue and the contemporaneous collapse of the Icelandic banking system, reminding us that Mr Salmond had once referred to Iceland as members, along with Ireland (whose banks

were also under severe pressure) and Norway, of an 'arc of prosperity' that an independent Scotland could hope to emulate.³²

This line of attack by Labour seems to have had some success. Two polls that had tapped attitudes towards independence not long before the financial crisis erupted did so again not long after the banking bail-out. They found that support for independence had fallen somewhat. TNS System Three observed a four point drop between the beginning of July and the end of October, while YouGov registered a three point drop. YouGov also found more people saying that the financial crisis had made them less likely to vote for independence than saying it had made them more likely to do so, as did a subsequent poll by Progressive Scottish Opinion for the BBC. However, we should bear in mind the possibility that many of those who said they were now less likely to vote for independence were not inclined to support it in the first place.

Nevertheless, while it may have had some impact, Labour's attack does not appear to have changed the contours of public opinion fundamentally. According to TNS System Three the proportion backing independence is still no lower now than it was in August 2007, while the level of opposition is still lower than it was then. Still, there is little evidence so far that the SNP's hope that by providing a spell of effective government the party will be able to persuade people to support independence in a referendum in November 2010 is being realised. Although the TNS System Three and YouGov polls differ in their estimate of the balance of opinion, taken together they suggest that plurality support for independence is still lacking.

It is often suggested that one reason why the SNP wish to defer any referendum until the second half of 2010 is that a UK general election has to be held by then. That contest might well result in the Conservative party winning power while securing little if any representation in Scotland (see section 2.4.2), a scenario that might persuade some people in Scotland to sue for divorce. In its October poll YouGov found that no less than 40% said that they would be more likely to back independence if the UK Conservative leader, David Cameron, were to win the next UK election, while only 10% said they would be less likely to do so. However, most of those who said they would be more likely to back independence indicated that they would already vote in favour in a referendum. Amongst those who said they were currently opposed to independence, just 24% said

³² See <http://www.snp.org/node/10359>

they would be more likely to do so. Equally, only 5% of those who said they would vote for independence indicated they would be less likely to vote in favour. If we recalculate the poll result on the assumption that these last two groups would in fact act on their reported likelihood, we still find that only 38% would be in favour of independence while 46% would be opposed.³³ The election of a Conservative government might make Mr Salmond's task of winning a referendum easier, but seems unlikely to guarantee him success. Much in any case is likely to depend on what attitude any new Conservative administration adopts towards its relations with Scotland.

2.2 Other Issues

Alex Salmond has announced that he wishes to replace Council Tax with an increase of 3p in the pound Income Tax, so that the standard rate would rise from 20p to 23p in the pound. Do you support or oppose this measure?

		List Vote			
		Con	Lab	LD	SNP
Support	46	29	27	38	73
Oppose	31	47	49	37	11
Don't Know	23	24	24	25	16

Source: YouGov/Sunday Times 3-5.9.08

In November the Scottish Government released details of the responses it received following the publication in March of a consultation on its plans to replace the current form of local government taxation, the so-called 'council tax' (in effect a property tax that also operates in England and Wales) with a local income tax. Those plans were also the subject of a parliamentary debate in October. One of the most controversial of the government's legislative proposals, it is far from clear that there is sufficient parliamentary support to secure the passage of any legislation. Labour and the Conservatives are vehemently opposed, the Greens want a different reform (site value taxation) while the Liberal Democrats want the rate of the local income tax to be set

³³ We assume that all those who said they would be much more (8% of those currently opposed) or much less likely (1% of those presently in favour) would act upon their current preference as also would half of those who said they would be slightly more (16% of those opposed) or slightly less likely (4% of those in favour). Those unable to say how they would vote in an independence referendum at present are excluded from our calculation. Note that YouGov's previous poll in September found only 18% of those currently opposed to independence would be more likely to vote in favour should Mr Cameron win the next election.

locally rather than, as proposed by the SNP, nationally. In the light of this continuing debate, YouGov tapped attitudes towards the proposed change, using a wording that seemed designed to minimise the level of expressed support for the proposal. Nonetheless, the poll still found more in favour than opposed, a result that underlines the evidence of previous surveys that the switch is relatively popular (see Sept-Dec. 2007 report) – primarily because SNP supporters are far more united in support of the idea than Labour and Conservative supporters are agreed on their opposition.

2.3 Party Fortunes

2.3.1 Holyrood Voting Intentions

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Solidarity	Others
	%	%	%	%	%	%	%	%
3-5.9.08	14/13	26/25	15/14	42/35	-/6	-/4	-/1	4/2
22-24.10.08	14/16	31/29	12/11	39/32	-/6	-/4	-/1	3/2

Note: Separate figures for Greens etc. only available for regional vote. Constituency vote for Others includes these parties; regional figure excludes them

Source: YouGov//Sunday Times

Two polls by YouGov that measured Holyrood vote intentions suggest that the SNP continue to enjoy a larger lead over Labour than the party secured in the ballot box in May 2007. However, in line with the party's recovery in British polls from late September onwards, the second poll, conducted in late October, found Labour support to be higher than at any time since April. The two polls are, however, also notable for suggesting that the Greens are now more popular than they were at the time of the last Scottish election (when the party secured just 4%), and at 6% of the list vote are at a level where they would expect to win representation in most of the eight Scottish Parliament regions. As a result, the SNP could not be confident of emerging in any immediate Scottish election with more seats than they secured in 2007.

2.3.2 Westminster Vote Intentions

Fieldwork	Con	Lab	Lib Dem	SNP	Others
	%	%	%	%	%
3-5.9.08	17	32	13	34	4
22-24.10.08	20	38	11	29	2

Source: YouGov/Sunday Times

YouGov's poll conducted in early September repeated the finding of two polls conducted in July and August that showed the SNP ahead of Labour in voting intentions for Westminster for the first time since the 1970s. By the end of October, however, the recovery in Labour's UK-wide poll position was reflected north of the border - the party emerged once again as most popular for Westminster. The result was a clear warning to the SNP that much of its electoral progress in previous months had been founded on dissatisfaction with Labour. Once that dissatisfaction began to disappear, the SNP soon suffered.

But if UK-wide trends have been evident north of the border, the distinctive character of electoral preferences in Scotland is also still apparent. Once again the two polls published during this period failed to register any significant advance by the Conservative party north of the border, in striking contrast to the position elsewhere in the UK. At the beginning of September, when YouGov's poll registered just a one point increase on the 16% the party secured in 2005, the party's British poll rating was averaging 46%, an increase of 13 points. And although by late October, at 43% the average Conservative support in British polls was only up ten points on 2005, this was still well above the four point increase registered by the second of YouGov's Scottish polls. It remains the case that any Conservative government elected in the immediate future would be likely to enjoy little representation in Scotland.³⁴

2.3.3 Westminster by-election

Glenrothes:	Votes	%	Change in % vote since 2005
6/11/08			
Labour	19,946	55.1	+3,2

³⁴ This was confirmed by an extensive survey conducted in late July and early August by YouGov for the PoliticsHome web site of voters in marginal seats throughout Great Britain. See *PoliticsHome Electoral Index* available at www.politicshome.com (news for 21 Sept. 2008).

SNP	13,209	36.5	+13.1
Conservative	1,381	3.8	-3.3
Liberal Democrat	947	2.6	-10.1
SSCUP	296	0.8	I
SSP	212	0.6	-1.3
UKIP	117	0.3	-0.9
Solidarity	87	0.2	I
Scottish Pensioners	-	-	W
Turnout		52.1	-4.0

Source: news.bbc.co.uk.

I Party did not contest seat in 2005; W Party contested seat in 2005 but did not contest by-election

A Westminster by-election became necessary in Glenrothes following the death in August of the incumbent Labour MP, John MacDougall. After Labour's unexpected drubbing at the hands of the SNP in Glasgow East in July, the party's ability to defend the seat looked to be in severe doubt given that the swing required for a SNP victory, just over 14%, was far less than the 22.5% swing the SNP secured to take Glasgow East narrowly. Moreover, the SNP had successfully captured the nearest equivalent Scottish Parliament constituency, Central Fife, from Labour in the 2007 Scottish Parliament election, while analysis of the polling station level data for that election³⁵ revealed that the SNP had also been marginally ahead across the whole of the Glenrothes Westminster seat.

In sharp contrast to its tactics in Glasgow East, Labour waited a couple of months before moving the writ for the Glenrothes by-election, such that it only took place after all three UK party conferences and the SNP's annual conference had taken place. The delay provided propitious as Labour's electoral popularity improved significantly in the wake of its UK party conference, at which the Prime Minister's actions in the financial crisis to date were effectively marketed. At the same time the party was able to argue that the crisis demonstrated the financial risks that would face an independent Scotland (see section 2.1.1.). The party, however, also found a rich seam to mine locally. The SNP

³⁵ Unusually for an election in the UK, polling station level results for the whole of Scotland have been made available by the Scotland Office. See www.scotlandoffice.gov.uk (publications for April 2007).

candidate, Peter Grant, was leader of Fife council. Since taking over the running of the council from Labour in May 2007 the SNP-led administration had introduced charges for the provision of certain homecare and emergency alarm services. Though such charges were already common elsewhere in Scotland, including under Labour councils, Labour were able to portray the local council as hard hearted and intent on cutting local services. Moreover they were able to link this criticism with the SNP Scottish government's policy of freezing the council tax, a policy that Labour claimed was resulting in cuts to services.

Labour not only defended the seat successfully, but actually managed to increase its share of the vote by three percentage points - a rare feat for any incumbent UK government party in any by-election let alone one that had once appeared likely to lose. While the SNP vote still went up by far more (thirteen points) than did Labour's, the result was a severe disappointment for the nationalists and indeed it instigated a further revival in Labour's electoral fortunes across Britain as whole. While the result undoubtedly exaggerated the scale of Labour's electoral revival during the course of the autumn (see also section 2.4.4) its successful exploitation of the homecare charges issue indicated that it had found an effective line of attack on the SNP Scottish Government for the first time since it lost office in May 2007.

2.3.4 Local Government By-Elections

18/9/08 Glasgow, Baillieston	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	5.0	-1.5
Labour	41.7	-4.3
Liberal Democrat	3.1	-0.7
SNP	44.6	+11.4
Solidarity	1.4	-3.1
BNP	1.4	I
SSP	1.1	-1.1
Green	0.9	-0.8
Scottish Unionist	0.8	-1.3

Turnout 22.7 (-23.2)

6/11/08 Glasgow, Baillieston	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	4.7	-1.8
Labour	46.8	+0.8
Liberal Democrat	2.9	-0.9
SNP	42.1	+8.9
SSP	1.8	-0.4
BNP	1.0	I
Green	0.7	-1.0
Solidarity	-	W
Scottish Unionist	-	W

Turnout 20.7 (-25.2)

6/11/08 Edinburgh, Forth	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	17.3	-2.9
Labour	29.5	+0.5
Liberal Democrat	14.4	-3.5
SNP	27.0	+4.3
Green	5.0	-0.7
Independent	4.4	+3.0
Independent	0.4	
Solidarity	1.2	-0.6
SSP	0.8	+0.0

Turnout 31.6 (-21.8)

11/12/08 East Ayrshire, Ballochmyle	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	8.2	-1.0
Labour	47.9	-3.7
Liberal Democrat	2.8	I

SNP	33.8	+4.6
Solidarity	7.3	I
Independent	-	W
Green	-	W

Turnout 29.2 (-24.2)

11/12/08	% 1 st preference vote	Change in % 1 st preference vote since 2007
North Ayrshire, Kilbirnie & Beith		
Conservative	11.6	+1.7
Labour	33.7	-4.4
Liberal Democrat	3.4	+0.1
SNP	48.9	+25.5
Socialist Labour	2.4	I
Independent (4 candidates)	-	W

Turnout 24.8 (-27.7). I Party did not contest ward in 2007; W Party contested ward in 2007 but did not contest by-election. Sources: www.alba.org.uk; <http://www.gwydir.demon.co.uk/byelections>; relevant local authority web sites.

Some five by-elections held during this period provided unusually important and valuable pointers to the standing of the parties. The first was held in Glasgow Baillieston in mid-September and was occasioned by the resignation of John Mason following his election as MP in the Glasgow East UK parliamentary by-election in July. Labour had been the strongest party in the ward in 2007 and thus might have been expected to capture from the SNP the seat at stake in the by-election. Yet in a result that arguably was as remarkable as the SNP's victory in Glasgow East two months earlier, the nationalists narrowly retained the seat on just under an eight point swing from its (relatively strong) performance in May 2007.

In the meantime, however, a second by-election became necessary in the Baillieston ward following the death of one of the ward's two Labour councillors. Polling day was set for the same day as the Glenrothes by-election as was a further contest in the Forth ward in Edinburgh. Given the outcome in Baillieston in September the SNP now had hopes of capturing this seat. Meanwhile, as the nationalists only needed just over a 3%

swing to overtake Labour in Edinburgh Forth the party seemed to have a realistic chance of capturing the Labour seat that was at stake there too. But in a continuation of the disappointment of Glenrothes neither seat was captured by the SNP. However, the two results suggested that the setback to the nationalists' electoral prospects was less than that implied by the contrast between the 22.5% swing to the SNP in Glasgow East and the 5% swing in Glenrothes. SNP support was up on 2007 in both wards while Labour's share of the vote was little changed. Meanwhile, in Glasgow Baillieston the result represented a modest 3.8% swing from the SNP to Labour compared with September – but no more.

Two further by-elections held in Ayrshire in December confirmed that the nationalists are still riding relatively high. In the Ballochmyle ward in East Ayrshire there was just over a 4% swing from Labour to the SNP compared with the first preference vote in May 2007, while in the Kilbirnie & Beith ward in North Ayrshire a dramatic 25 point increase in SNP support (albeit in the wake of the absence of any independent candidates who between them won a quarter of the vote in 2007) enabled the party to defend successfully a seat in a ward in which it had trailed Labour by nearly 15 points on the first preference vote in 2007.

2.4 Attitudes towards Leaders

Which of the following do you think would make the best Scottish First Minister?

	Apr. 08	Sept. 08	Oct. 08
	%	%	%
Alex Salmond	43	41	38
Iain Gray	11*	3	13
Cathy Jamieson	-	7	-
Andy Kerr	-	5	-
Annabel Goldie	9	8	10
Tavish Scott	5**	5	6
None/Don't Know	31	31	33

Note: Respondents were advised of the party of each leader.

* Figure for Wendy Alexander; ** Figure for Nicol Stephen

Source: YouGov/Sunday Times 3-5.9.08 and 22-24.10.08

The YouGov poll conducted in late October was the first to be conducted since the election of Iain Gray as Labour's Scottish leader the previous month. It confirmed that the new Labour leader faces a considerable task in making himself popular amongst the Scottish public. Just 13% said he would make the best First Minister, little more than a third of the proportion who nominated the SNP leader, Alex Salmond. Although Mr Salmond's support was three points lower than in September, it was not apparent from this poll that the fallout from the financial crisis (section 2.1.1) had particularly harmed his personal reputation.

Given the current credit crunch and the problems of rising food and energy prices, who would you trust more to make the right decision to help Scottish people in their everyday lives, Alex Salmond or Gordon Brown?

	%
Alex Salmond	36
Gordon Brown	26
Neither	27
Don't Know	11

Source: YouGov/Sunday Times 3-5.9.08

Who would you trust most to steer Scotland through the current financial crisis?

Gordon Brown	42
Alex Salmond	23
David Cameron	8
Neither	17
Don't Know	10

YouGov/Sunday Times 22-24.10.08

However, there does seem to have been a change in the public's relative evaluations of Alex Salmond and the Prime Minister, Gordon Brown. In early September, before the financial crisis broke, it seemed that people in Scotland would far prefer to put their future in Mr Salmond's hands during a crisis than in those of the Prime Minister. But by

late October, albeit in response to a differently worded question, the position had sharply reversed. This change is consistent with British poll findings that show a sharp increase in the Gordon Brown's satisfaction ratings in the wake of the financial crisis.

3. The Scottish Parliament and Parties

Paul Cairney

3.1 Who Decides If Ministers are Telling the Truth?

The golden rule for UK Ministers is that they should not lie to Parliament. The strength of the convention is such that ministers will often resign if seen to *mislead*.³⁶ To a great extent this convention has been inherited by the Scottish Parliament, which explains why ministers, so used to presenting one-sided views of events in public, may put themselves at risk if they do not change tack in the chamber. This is the one aspect that has dominated the media reporting of Presiding Officer Alex Fergusson's decision to refer the 'veracity' of statements made in plenary to the Standards Committee:

I have said on numerous occasions that the Presiding Officer never has been, is not and cannot be responsible for the veracity of what is said in the chamber. That said, I note that such points of order are on the increase, which indicates to me a growing sense of frustration among members. I strongly believe that Parliament is, ultimately, ill served by that type of exchange. I also believe that all members must play their part in ensuring that we have the highest standards of probity, scrutiny and accountability. I have, therefore, today written to the Standards, Procedures and Public Appointments Committee asking it to launch an inquiry into the wider issue of the veracity of members' responses and how that is best policed.³⁷

Much has been made by Labour and the Liberal Democrats of Alex Salmond's statements on the numbers of nursery teachers in Scotland and the funding of the Scottish Inter Faith Council, while Scottish Labour has produced a file of 'misleading' statements by SNP ministers and more than 40 opposition MSPs have signed a parliamentary motion urging Salmond to apologise (the Conservatives have otherwise distanced themselves from such exchanges).³⁸ Yet, any inquiry would refer to the

³⁶ D. Judge (1993) *The Parliamentary State* (London: Sage).

³⁷ Scottish Parliament Official Report 15.1.09 cols. 14068-9

<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-09/sor0115-02.htm#Col14070>

³⁸ R. Dinwoodie 17.11.09 'MSP says Salmond 'misled' on nursery teacher numbers' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2468500.0.MSP_says_Salmond_misled_on_nursery_teacher_numbers.php; 16.1.09 "Unprecedented" inquiry into ministerial statements

broader subject of MSP behaviour in the wake of minority government and the role-reversal of the main political parties. Indeed, a competing reason for the referral is that some opposition parties or MSPs may be exploiting the sensitivity of parliamentary convention and misusing parliamentary procedures for party political gain (note that the Standards committee is already investigating the misuse of points of order).³⁹ In this light, Salmond's decision to effectively refer his own behaviour (regarding the Inter Faith Council) to the two former Presiding Officers (following procedures under the new ministerial code⁴⁰) does not represent a duplication of effort.⁴¹

3.2 Political Parties

If most party conferences have shifted from decision-making to publicity-making events, then the SNP's was understandably the most successful and triumphalist, while Labour's was used to lick wounds and reflect on mistakes.⁴² Iain Gray won the Scottish Labour leadership contest in September, while Johann Lamont was elected as deputy leader.⁴³ Gray promptly included both of his leadership rivals in his shadow team, with Andy Kerr occupying finance and Cathy Jamieson taking on health. The most notable inclusion

welcomed" <http://www.holyrood.com/content/view/3450/10051/>; S. Johnson 16.1.09 'Alex Salmond's SNP administration accused of "downright disregard for the truth"' *The Telegraph* <http://www.telegraph.co.uk/news/newstopics/politics/scotland/4272584/Alex-Salmonds-SNP-administration-accused-of-downright-disregard-for-the-truth.html>; BBC News 15.1.09 'Probe into Holyrood comments row' <http://news.bbc.co.uk/1/hi/scotland/7830814.stm>

³⁹ *The Herald* 27.1.09 "Mischief-making' over claims Salmond misled parliament" http://www.theherald.co.uk/politics/news/display.var.2484794.0.Mischiefmaking_over_claims_Salmond_misled_parliament.php; 23.1.09 'Frustrations over parliamentary answers a result of minority government' <http://www.holyrood.com/content/view/3477/10051/>; S. Johnson 16.1.09 "Holyrood's 'Speaker' orders probe following claims Alex Salmond misled MSPs" *The Telegraph* <http://www.telegraph.co.uk/news/newstopics/politics/scotland/4248814/Holyroods-Speaker-orders-probe-following-claims-Alex-Salmond-misled-MSPs.html>

⁴⁰ See Scottish Devolution Monitoring Report September 2008, p6. http://www.ucl.ac.uk/constitution-unit/files/research/devolution/dmr/Scotland_Sept08.pdf

⁴¹ L. McIntosh 15.1.09 'Alex Salmond raises stakes in row over truthfulness at Holyrood' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5527494.ece>; see also Scottish Government News Release 3.11.08 'Trump golf resort gets go ahead' <http://www.scotland.gov.uk/News/Releases/2008/11/03123709>

⁴² H. MacDonell 15.10.08 'Two years ago no-one wanted to know...now SNP conference is the biggest show in town' *The Scotsman* <http://news.scotsman.com/politics/Two-years-ago--noone.4591665.jp>; D. Summers 22.9.08 'Scottish Labour leader tells conference about pain of losing power' *The Guardian* <http://www.guardian.co.uk/politics/2008/sep/22/labourconference.labour3>

⁴³ Although note that Gray becomes the leader of the Labour MSPs rather than the overall leader of the Labour Party in Scotland (see Scottish Devolution Monitoring Report September 2008, p86); 13.9.08 'Speech by Iain Gray on being elected as Labour's leader in the Scottish Parliament' <http://www.scottishlabour.org.uk/bd047975-e746-2d94-51ef-7f93b75eed95>; BBC News 13.9.08 'Gray becomes Scots Labour leader' <http://news.bbc.co.uk/1/hi/scotland/7614081.stm>; BBC News 28.7.08 'Q&A: Labour leadership election' <http://news.bbc.co.uk/1/hi/scotland/7481274.stm>

was Richard Baker's promotion to Justice.⁴⁴ The brief history since Gray's ascension has had its high and low points, with both regarding Westminster events largely out of his control. The high follows Labour's win in the Glenrothes by-election (see section 2.3.3). The low refers to the internal politics of MP selection in Gray's home patch of East Lothian. In November, Labour's National Executive Committee suspended its constituency business following a row over the selection of incumbent MP Anne Moffat. Moffat's position was largely ensured through the trade union vote, but undermined in the wake of an inquiry into her MP expenses. Four of six local branches did not support her continued selection and three pursued a no-confidence motion and the opening of a selection process to introduce a competing candidate. In the end, the NEC dropped any threat of disciplinary action on local activists, who in turn dropped their threat to field an independent candidate in the next general election.⁴⁵ The affair is perhaps only bettered as a 'village life' story by the continued row surrounding SNP Councillor Hanif⁴⁶, while the Conservative 'ban' on MSPs making statements to the Calman Commission (for fear of exposing splits, embarrassing David Cameron and tying his hands when in office) reminds us that Labour is not the only party with often-problematic organisational devolution.⁴⁷ On the Holyrood front, Gray perhaps stands out in two main ways – as a former minister willing to discuss in detail the mistakes made by Labour when in office,

⁴⁴ For a full list of positions see Scottish Labour (2009) 'The Scottish Shadow Cabinet' http://www.scottishlabour.org.uk/shadow_cabinet

⁴⁵ D. Maddox 20.11.08 'Labour NEC to run Gray's bickering local party' *The Scotsman* <http://news.scotsman.com/politics/Labour-NEC-to-run-Gray39s.4712512.jp>; R. Dinwoodie 20.11.08 'Labour suspends its party in East Lothian' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2469373.0.Labour_suspends_its_party_in_East_Lothian.php; A. Macleod 19.11.08 'Labour suspends East Lothian party over MP selection' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5192820.ece>; T. Crichton 24.11.08 "Embattled MP Moffat brands her Labour critics 'bullies'" *The Herald* http://www.theherald.co.uk/politics/news/display.var.2470169.0.Embattled_MP_Moffat_brands_her_Labour_critics_bullies.php; G. Peev 22.12.08 'Labour in bid to resolve feud in local party branch' *The Scotsman* <http://news.scotsman.com/politics/Labour-in-bid-to-resolve.4812844.jp>; H. Macdonnell 24.11.08 'Sexist Labour Party members don't like strong women – MP' *The Scotsman* <http://news.scotsman.com/politics/Sexist-Labour-Party--members.4722976.jp>; T. Crichton 24.11.08 'Embattled MP Moffat brands her Labour critics 'bullies'" *The Herald* http://www.theherald.co.uk/politics/news/display.var.2470169.0.Embattled_MP_Moffat_brands_her_Labour_critics_bullies.php; T. Crichton 22.12.08 'Bid to end East Lothian party row as ban on constituency is lifted' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2477014.0.Bid_to_end_East_Lothian_party_row_as_ban_on_constituency_is_lifted.php;

⁴⁶ 12.9.08 'Labour activist threatened with legal action over Hanif letter' <http://www.holyrood.com/content/view/2946/10051/>

⁴⁷ I. Harrison and J. Allardyce 23.11.08 'Tory MSPs silenced on Holyrood tax' *Sunday Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5213506.ece> ; A. Cochrane 19.12.08 'Scottish Conservative Party is no longer nasty, but is 'stupid' any better?' *The Telegraph* <http://www.telegraph.co.uk/comment/columnists/alancochrane/3563732/Scottish-Conservative-Party-is-no-longer-nasty-but-is-stupid-any-better.html>

and as the first leader of a former-Scottish-Executive-coalition-party to deal well with Alex Salmond in First Minister's questions.⁴⁸ Tavish Scott, new leader of the Scottish Liberal Democrats⁴⁹, also gave portfolios to his leadership contenders, with Ross Finnie tasked with health and Mike Rumbles parliamentary business.⁵⁰ Robin Harper MSP and Alison Johnstone stood down as Green co-convenors in September 2008, paving the way for Patrick Harvie MSP and former MSP Eleanor Scott to replace them.⁵¹ No change in the Margo MacDonald party. The issue of elected representatives employing family members arose in November, but not to the heights we have seen in Westminster.⁵²

3.3 The Annual Budget

This year's budget round is ringing familiar bells. Last year, although the SNP courted support from the Greens and Conservatives, the concessions it made were complementary (the Greens perhaps act as the SNP's environmental conscience) and small compared to the overall budget.⁵³ The process was also marked by uncertainty about the position that Labour and the Liberal Democrats would take (in the end, Labour abstained on the final vote, prompting much hilarity on the SNP benches) and the threat by Alex Salmond to quit if the budget bill was voted down. This year, Finance Secretary John Swinney promised to join Salmond (although there is a general sense that the more serious economic context gives them more leverage). Most commentators assumed that Labour and the Liberal Democrats would vote against the bill at stage 3, particularly since the SNP rebuffed the latter's request for a 2p income tax cut. In this situation, the process gave disproportionate influence not only to the Conservatives (looking for assurances on fairly uncontroversial policies to regenerate towns, tackle

⁴⁸ 19.9.08 'Gray believes Labour had lost its way' <http://www.holyrood.com/content/view/2975/10051/>; M. Linklater 13.11.08 'Day the Brahan Seer of Buchan failed to see it coming' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article5151458.ece>

⁴⁹ Note that this leadership extends to the party as a whole in Scotland, as part of a federal UK arrangement. See Liberal Democrats (2008) 'The Constitution of the Liberal Democrats'

<http://www.libdems.org.uk/assets/0000/7925/Constitution.pdf>

⁵⁰ For a full list, see BBC News 16.9.08 'Scottish Lib Dem front bench'

<http://news.bbc.co.uk/1/hi/scotland/7619138.stm>

⁵¹ Scottish Green Party (2008) 'Green Co-convenors'

<http://www.scottishgreens.org.uk/site/6148/GreenCoConvenors.html>

⁵² D. Maddox 28.11.08 'Keeping it in the family: Fifth of MSPs have relative on their staff' *The Scotsman* <http://news.scotsman.com/politics/Keeping-it-in-the-family.4741516.jp>; R. Dinwoodie

28.11.08 'Matter of trust when MSPs give jobs to their relatives' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2471306.0.Matter_of_trust_when_MSPs_give_jobs_to_their_relatives.php

⁵³ *Scottish Devolution Monitoring Report*, January 2008, section 2.2, pp.18-19.

http://www.ucl.ac.uk/constitution-unit/files/research/devolution/dmr/Scotland_Jan08.pdf

hospital acquired infections and provide outdoor adventure training courses for school pupils) but also the Greens who sought major funding (£100m per year for 10 years) for the subsidised insulation of homes (although, if the Greens do not compromise, it may be cheaper to strike a deal on Labour's call for more modern apprenticeships).⁵⁴

At the time of writing, all but the Liberal Democrats approved the principles of the bill at stage 1 plenary, it was approved without amendment by the Finance committee at stage 2 (note that, unlike other bills, only Scottish Government ministers can propose amendments) but then rejected at stage 3. With Labour (46) and the Liberal Democrats (16) voting against, Conservative (16 without Alex Fergusson) and Margo MacDonald support provided only 64 votes. When the Greens voted against, this produced a 64-64 tie, with Fergusson following convention and voting for the status quo (effectively rejecting the bill). This should prove to be a temporary blip, since the Greens and SNP have agreed to a compromise of £33m per year and the latter now has to demonstrate merely that the money is 'new' and won't be lost to local authority discretion.⁵⁵ The Liberal Democrats have also agreed to drop their opposition in exchange for an SNP

⁵⁴ 8.1.09 'Greens in £1bn Scots home insulation deal' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5478188.ece>; A. Macleod 7.1.09 'Salmond to repeat budget threat to Opposition' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5469940.ece>; D. Maddox 8.1.09 'Labour tells Salmond: Go ahead and quit' *The Scotsman* <http://news.scotsman.com/politics/Labour---tells-Salmond.4854142.jp>; 7.1.08 'Lib Dems' disappointment over tax cut rejection' *The Scotsman* <http://news.scotsman.com/politics/Lib-Dems39-disappointment-over-tax.4853497.jp>; S. Carrell 8.1.09 'Scottish ministers close to crucial budget deal with Greens' *The Guardian* <http://www.guardian.co.uk/politics/2009/jan/08/scotland-budget-greens>; R. Dinwoodie 9.1.09 'Budget row signals start of political horse-trading' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2480257.0.Budget_row_signals_start_of_political_horsetrading.php; H. MacDonell 9.1.09 'SNP and Tories close to deal on budget' *The Herald* <http://news.scotsman.com/politics/SNP-and-Tories-close-.4859224.jp>; H. Macdonell 27.1.09 'Swinney in last-minute talks to win enough backing for budget' *The Scotsman* <http://news.scotsman.com/politics/Swinney-in-lastminute-talks-to.4914998.jp>. For a list of party demands see D. Maddox 28.1.09 'SNP's budget hangs in the balance as opponents refuse to strike deal' *The Scotsman* <http://news.scotsman.com/politics/SNP39s-budget-hangs-in-the.4919239.jp>

⁵⁵ R. Dinwoodie 15.1.09 'Victory for SNP as 'lifeline' Budget clears first hurdle' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2481808.0.Victory_for_SNP_as_lifeline_Budget_clears_first_hurdle.php; Finance Committee Official Report 20.1.09 cols.921-4 <http://www.scottish.parliament.uk/s3/committees/finance/or-09/fi09-0201.htm>; R. Dinwoodie 29.1.09 'Why Patrick Harvie felt he could not back the bill' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2485364.0.Why_Patrick_Harvie_felt_he_could_not_back_the_bill.php; H. Macdonell 29.1.09 'Budget analysis: From hero to zero in high-risk strategy' *The Scotsman* <http://news.scotsman.com/politics/Budget-analysis-From-hero-to.4924452.jp>; 28.1.09 'Scottish Government loses budget vote' *The Scotsman* <http://news.scotsman.com/politics/Scottish-Government-loses-budget-vote.4923945.jp>; BBC News 28.1.09 'Q&A: Scottish budget rejection' <http://news.bbc.co.uk/1/hi/scotland/7857087.stm>; M. Linklater 28.1.09 'All a big Budget misunderstanding for Scottish leadership' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5608304.ece>

assurance that it will engage with the Calman Commission on the issue of Holyrood borrowing powers and agree to a cross-party review of Scottish Government spending (while Labour could support the bill if assured on the funding for modern apprenticeships). We can therefore expect a bizarre turnaround in the fortunes of consensus politics, with the reasonable prospect of all-party support for a bill which will change only at the margins. The Scottish Parliament has until mid-February to vote again in time for the bill to come into operation by the start of the financial year.⁵⁶

3.4 The New Politics of Voting

As previous monitors have noted⁵⁷, although the number of votes going against the Scottish Government in plenary has increased significantly, turning the process from a ritualistic affair into key party political battleground, the substantive effect is unclear. Perhaps more importantly, there are signs of growing political maturity among the parties, with widespread support for Scottish Government or opposition motions reflecting a willingness to negotiate the wording and tone beforehand. This attitude informed debates on the economy, agriculture, bridge tolls, health boards, Homecoming, organ donation, forced marriages, child protection services and aquaculture. MSPs also agreed to the Scottish Parliamentary Pensions Bill and the general principles of the Flood Risk (Management) Scotland Bill and the Health Boards (Membership and Elections) (Scotland) Bill. This left a relatively small number of instances in which the parties disagreed – the Scottish Government's plans for offender management, the 'causes of crime', the leadership by the education secretary Fiona Hyslop and clarity of the new Curriculum for Excellence, how the Scottish Parliament should respond to the UK policy on drink driving and the adequacy of spending on health (plus an otherwise unanimous vote against UK ID cards that isolated Scottish Labour). In only one instance did the Scottish Government suffer a defeat which may come back to haunt it: a Conservative motion to keep the reform of the council tax as a realistic alternative to the

⁵⁶ D. Maddox 3.2.09 'All-party budget support now looks likely after meeting between SNP and Liberal Democrats' *The Scotsman* <http://news.scotsman.com/politics/Allparty-budget-support-now-looks.4938934.jp>; A. Macleod 3.2.09 'Salmond to drop hostility on Calman' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5645257.ece>; H. MacDonell 3.2.09 'End justifies the means in securing a universal Budget' *The Scotsman* <http://news.scotsman.com/politics/Hamish-Macdonell-End-justifies-the.4938944.jp>; R. Dinwoodie 3.2.09 'Fresh hope over deal to pass the Budget Bill after 'positive' talks' *The Herald* http://www.theherald.co.uk/news/news/display.var.2486508.0.Fresh_hope_over_deal_to_pass_the_Budget_Bill_after_positive_talks.php; P. Cairney 30.1.09 *Press and Journal*, p.9.; BBC News 3.2.09 'Scottish budget deal 'imminent'' <http://news.bbc.co.uk/1/hi/scotland/7866805.stm>

⁵⁷ See in particular *Scottish Devolution Monitoring Report*, January 2008, section 2.3, p19. http://www.ucl.ac.uk/constitution-unit/files/research/devolution/dmr/Scotland_Jan08.pdf

new local income tax.⁵⁸ Since the Finance committee is convened by the SNP's Andrew Welsh, there may also be opposition calls for the Local Government and Communities committee (convened by Labour's Duncan McNeil) to take the lead on any forthcoming bill.⁵⁹

In some cases the eventual outcome masks the level of debate (see also section 4.2 on the alcohol for under-21s motion). For example, although the parties (bar the Greens) eventually agreed on a form of wording welcoming the lack of road tolls on the new Forth road bridge, there was much debate on the way in which it will be financed. The main drawback is that the SNP's preferred alternative to PFI - the Scottish Futures Trust, designed to address the problem of 'excessive' profits to the private sector when building public projects – is not well-equipped to manage huge capital projects such as the new crossing. The Scottish Government has therefore announced a reduction in the scale and cost of the crossing (from over £3bn to £2bn) and has been looking for new ways to fund the project, including (as section 6.7 of this report discusses) asking the UK Government to finance it by effectively allowing the Scottish Government to 'borrow' against predicted future revenues. This has opened up the floodgates for criticism, led by Labour, about the lack of an SNP alternative to PFI, causing great economic uncertainty, difficult choices on public sector capital projects, and compromises in provision.⁶⁰ Interestingly, the Conservative offer to negotiate the details, based on the

⁵⁸ For a full list of motions and votes, see BBC News 25.1.09 'How MSPs voted in the parliament' <http://news.bbc.co.uk/1/hi/scotland/7616706.stm>

⁵⁹ D. Maddox 27.10.08 'Scramble in the corridors of power for control of LIT bill' *The Scotsman* <http://news.scotsman.com/politics/Scramble-in-the-corridors-of-4631016.jp>

⁶⁰ Scottish Parliament Official Report 15.1.09 cols. 14087-14135 <http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-09/sor0115-02.htm#Col14087>; S. Paterson 7.1.09 'Nationalists accused over lack of funding plan for bridge' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2479689.0.Nationalists_accused_over_lack_of_funding_plan_for_bridge.php; 6.1.09 'Swinney must answer over Forth 'mess', states Labour' <http://www.holyrood.com/content/view/3405/10051/>; R. Dinwoodie 15.12.08 'Labour accused of scaremongering over £2bn Forth crossing threat to hospital' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2475247.0.Labour_accused_of_scaremongering_over_2bn_Forth_crossing_threat_to_hospital.php; R. Dinwoodie 11.12.08 '£25bn plans to transport Scotland into future' *The Herald* http://www.theherald.co.uk/news/news/display.var.2474332.0.25bn_plans_to_transport_Scotland_into_future.php; S. Carrell 10.12.08 'SNP halves budget for new Forth bridge project' *The Guardian* <http://www.guardian.co.uk/politics/2008/dec/10/scotland-forth-bridge>; A. Macleod 10.12.08 'SNP asks London for £2bn to build new Forth bridge' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5321522.ece>; A. Philip 16.1.09 'Fears new bridge 'not up to the job'' *The Scotsman* <http://news.scotsman.com/latestnews/Fears-new-bridge-39not-up-4883416.jp>

assumption it will win the 2010 general election, was rejected by the SNP⁶¹ in part because anti-Conservative sentiments will be key to the independence referendum in 2010. The parties also clashed on the issue of home repossessions. While the UK Government plans to protect homeowners further against repossession, the Scottish Government position is (or was) that homeowners are already protected under existing legislation. This prompted heated debate and opposition demands for a 'three point plan' of action.⁶² Similarly, the statutory instrument required to introduce free school meals did not go through a smooth ride.⁶³

3.5 Scottish Parliament Committees

The previous monitor suggested that, given the effect of partisanship on committees, the saving grace may be for parties to agree to steer their efforts towards cross-party issues. This was achieved by the Justice committee which set out a 'vision' for community policing (which includes extra resources). It also agreed with the general principles of the Sexual Offences bill (albeit calling for more work on issues of sex between older children and the creation of a new statutory offence of rape with an object) and supported the continued provision for asbestos-related damages (but noting that the costs to the Scottish Government may be higher than its financial memorandum suggests). The Equal Opportunities committee also found this opportunity when considering Patrick Harvie MSP's bill addressing hate crimes based on sexual orientation, transgender identity or disability (note that Justice is the lead committee). In particular, it recommended to the Justice committee to find the best way to extend these

⁶¹ D. Maddox 7.1.09 'SNP rejects Tory offer of talks on Forth bridge cash' *The Scotsman* <http://news.scotsman.com/politics/SNP-rejects-Tory-offer-of.4849367.jp>

⁶² 23.10.08 'Sturgeon: New protection for Scots homeowners not needed' *The Herald* <http://news.scotsman.com/politics/Sturgeon-New-protection-for-Scots.4622024.jp>; D. Maddox 12.11.08 'MSPs put pressure on SNP to safeguard homes' *The Scotsman* <http://news.scotsman.com/politics/MSPs-put-pressure-on-SNP.4683970.jp>; R. Dinwoodie 12.11.08 'Holyrood opposition unites on repossessions' *The Herald* http://www.theherald.co.uk/news/news/display.var.2467445.0.Holyrood_opposition_unites_on_repossession.php; J. Horton, M. Settle and G. Smith 'Salmond pledges to shore up mortgage protection' *The Herald* http://www.theherald.co.uk/news/news/display.var.2462854.0.Salmond_pledges_to_shore_up_mortgage_protection.php

⁶³ Scottish Parliament Official Report 27.11.08 cols. 12926-35 <http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor1127-02.htm#Col12926>; A. Macleod 27.11.08 'Youngest Scots pupils can expect free lunch' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5248356.ece>; D. Maddox 20.11.08 'Salmond's free school meals plan scrapes through' *The Scotsman* <http://news.scotsman.com/latestnews/Salmond39s-free-school-meals-plan.4712379.jp>; Scottish Government News Release 2.10.08 'Free school meals' <http://www.scotland.gov.uk/News/Releases/2008/10/02082551>

provisions to the issue of violence against women and the effects of pornography. The health committee produced a fairly united view on the prospect of elections to health boards, arguing that the scheme should be piloted before any decision is taken (and noting the evidence for underwhelming support – see section 5.4).⁶⁴

However, no such luck for the Finance Committee considering the funding of capital investment projects. The (inevitably split) committee sought to ensure that the costs of all potential methods of finance were assessed fairly and systematically (presumably to stop the SNP making unfavourable comparisons between PPP and not-for-profit models) and criticised delays in the approval of projects necessary to keep the construction industry stable. Members divided (with the 3 SNP members losing out to the remaining 5 members) on the recommendation that ‘all methods of finance should be considered equally on their merits’, but Conservative MSP Derek Brownlee helped the SNP defeat the insertion of a paragraph arguing that the Scottish Futures Trust was unnecessary because it would not secure better value for money than existing methods of PPP and prudential borrowing.⁶⁵ There were similar divisions during the production of the committee’s stage 1 budget report. Members could not agree on statements: criticising the vague benefit of capital expenditure to the construction industry and wider economy; criticising the lack of a Scottish Government budget response to the recession (although it did agree to laud the general commitment to accelerate capital projects) and the lack of clarity of single outcome agreements with local authorities; and stating that decisions on cutbacks should be left to individual local authorities. Yet, presumably as part of Conservative support for the budget (and the nature and salience of the issue), members agreed to promote a new scheme to monitor hospital acquired infections.

⁶⁴ For a less sympathetic report see: 15.12.08 ‘Directly elected health boards to be piloted despite concerns’ *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2475410.0.Directly_elected_health_boards_to_be_piloted_despite_concerns.php; S. Paterson 20.11.08 ‘Elections would not improve health boards, committee told’ *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2469378.0.Elections_would_not_improve_health_boards_committee_told.php

⁶⁵ See also S. Johnson 17.12.08 ‘No evidence that Scottish Futures Trust is any better, finds Holyrood inquiry’ *The Telegraph*

<http://www.telegraph.co.uk/news/newsttopics/politics/scotland/3795973/No-evidence-that-Scottish-Futures-Trust-is-any-better-finds-Holyrood-inquiry.html> ; R. Dinwoodie and S. Paterson 17.12.08 ‘Ministers urged to allocate new capital projects’ *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2475875.0.Ministers_urged_to_allocate_new_capital_projects.php

The Public Audit committee (its title was changed from Audit following a Standards committee recommendation) sought to keep free personal care on the agenda by calling for better monitoring of its costs (in the light of reports by the Auditor General and Lord Sutherland), to ensure better planning and address the variations in charges by local authorities. It then made similar calls for palliative care services (again reflecting a report by the Auditor General). The standards committee has been busy in this period, considering the operation of cross-party groups, the use and misuse of points of order (see also 3.1), recommending the removal of standing orders favouring constituency MSPs as a point of contact (and obliging cooperation between MSPs in constituency cases), and ruling that Wendy Alexander did not breach the Members' code of conduct when publicising that she was being investigated by the Standards Commissioner. A new committee has been established to review the Scottish Parliament funded bodies (Scottish Public Services Ombudsman; Scottish Information Commissioner; Commissioner for Children and Young People in Scotland; Commissioner for Public Appointments in Scotland; Scottish Commission for Human Rights; and the Scottish Parliamentary Standards Commissioner).

3.6 Committee Reports and Inquiries (6 September 2008 – 25 January 2009)⁶⁶

Equal Opportunities Committee:

18 December [3rd Report 2008: the Offences \(Aggravation by Prejudice\) \(Scotland\) Bill](#)

Finance:

16 December [8th Report 2008: Inquiry into methods of funding capital investment projects](#)

10 December [7th Report 2008: Report on the Scottish Government's Draft Budget 2009-10 \(Response from the Scottish Government\)](#)

Public Audit:

14 January 2009 [1st Report 2009: Review of palliative care services in Scotland](#)

18 December 2008 [4th Report 2008: Free personal and nursing care](#)

Standards, Procedures and Public Appointments:

⁶⁶Excluding 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.

17 Dec 2008 [11th Report 2008: Review of Section 6 of the Code of Conduct \(Cross-Party Groups\)](#)

02 Dec 2008 [10th Report 2008: Points of Order](#)

27 Nov 2008 [9th Report 2008: Review of Section 8 of the Code of Conduct](#)

29 Sept 2008 [8th Report 2008: Audit Committee - Title and Remit](#)

26 Sept 2008 [7th Report 2008: Complaint against Wendy Alexander MSP](#)

Subordinate Legislation:

15 December [Report on Flood Risk Management \(Scotland\) Bill at Stage 1](#)

24 November [Report on Health Boards \(Membership and Elections\) \(Scotland\) Bill at Stage 1](#)

21 November [Report on Sexual Offences \(Scotland\) Bill](#)

10 November [Report on Scottish Parliamentary Pensions Bill at Stage 1](#)

5 November [Report on Education \(Additional Support for Learning\) \(Scotland\) Bill at Stage 1](#)

5 November [39th Report 2008: Supplementary Legislative Consent Memorandum on the Energy Bill](#)

12 Sept [Report on Disabled Persons' Parking Places \(Scotland\) Bill](#)

12 Sept [31st Report 2008: Judiciary and Courts \(Scotland\) Bill as amended at Stage 2](#)

08 Sept [Report on the Damages \(Asbestos-related Conditions\) \(Scotland\) Bill at Stage 1](#)

Economy, Energy and Tourism

6 November 2008 [7th Report 2008: Report on the legislative consent memorandum on the Energy Bill \(UK Parliament Legislation\)](#)

Health and Sport

15 December [7th Report 2008: Stage 1 Report on the Health Boards \(Membership and Elections\) \(Scotland\) Bill, Volume 1](#) [7th Report 2008: Stage 1 Report on the Health Boards \(Membership and Elections\) \(Scotland\) Bill, Volume 2: Evidence](#)

Justice

16 January [1st Report 2009: Stage 1 Report on the Sexual Offences \(Scotland\) Bill](#)

13 October [19th Report 2008: Stage 1 Report on the Damages \(Asbestos-related Conditions\) \(Scotland\) Bill](#)

3 October 2008 [18th Report 2008: Report on Inquiry into Community Policing](#)

Local Government and Communities:

13 November 2008 [11th Report 2008: Stage 1 Report on the Disabled Persons' Parking Places \(Scotland\) Bill](#)

Rural Affairs and Environment:

15 January 2009 [1st Report 2009: Stage 1 Report on the Flood Risk Management \(Scotland\) Bill](#)

3.7 Parliamentary Bills (6 September 2008 – 25 January 2009)

Noticeably absent from this list is the legislative vehicle for the new body Creative Scotland, which has been delayed until May.⁶⁷ The number of Scottish Government bills passed by the Scottish Parliament continues to be fairly small, with public policy often pursued using a combination of public expenditure decisions (in part following negotiations over the annual budget bill) and the existing statute book (using regulations or secondary legislation). As a result, the (primary) legislative process often seems to be more of an agenda-setting process, with some notable Members' bills – such as Margo MacDonald's proposal on assisted suicide – more likely to receive attention than MSP support and others – such as Paul Martin's proposal for free NHS parking (after the Scottish Government made an exception for PFI hospitals, based on the cost of buying out the contracts⁶⁸) and Murdo Fraser's on a presumption against the closure of rural schools (already a Scottish Government policy) – representing an attempt to keep the (non) delivery of Scottish Government commitments at the top of the agenda.

Scottish Government Bills Passed:

- [Judiciary and Courts \(Scotland\) Bill](#) – aims to improve the court system by strengthening the role of its judiciary. It restates the independence of the judiciary and the inappropriateness of Scottish ministerial attempts to influence judicial decisions, and establishes the Lord President as head of the judiciary with the power to direct sheriffs principal (in administrative matters rather than judicial decisions).

⁶⁷ P. Miller 22.1.09 'Jobs fears as arts body delayed by four months' *The Herald*
http://www.theherald.co.uk/news/news/display.var.2483518.0.Jobs_fears_as_arts_body_delayed_by_four_months.php

⁶⁸ D. Maddox 13.1.09 'Labour proposes to end all hospital parking charges' *The Scotsman*
<http://news.scotsman.com/politics/Labour-proposes-to-end-all.4868125.jp>

Scottish Government Bills in Progress:

- [Budget \(Scotland\) \(No.2\) Bill](#) t
- [Climate Change \(Scotland\) Bill](#)
- [Damages \(Asbestos-related Conditions\) \(Scotland\) Bill](#)
- [Education \(Additional Support for Learning\) Bill](#)
- [Flood Risk Management \(Scotland\) Bill](#)
- [Health Boards \(Membership and Elections\) \(Scotland\) Bill](#)
- [Sexual Offences \(Scotland\) Bill](#)

Committee Bill in Progress:

- [Scottish Parliamentary Pensions Bill](#)

Members' Bill Passed:

- [Scottish Register of Tartan⁶⁹s Bill](#) (Jamie McGrigor, Conservative) – establishes a statutory definition of tartan ('a design which is capable of being woven consisting of two or more alternating coloured stripes which combine vertically and horizontally to form a repeated chequered pattern') to facilitate a publicly held and funded system to register tartans.

Members' Bills in Progress⁷⁰

- [Disabled Persons' Parking Places \(Scotland\) Bill](#) (Jackie Baillie, Labour) (Stage 1)
- [Offences \(Aggravation By Prejudice\) \(Scotland\) Bill](#) (Patrick Harvie, Green) (Stage 1)

3.8 Sewel (Legislative Consent) Motions passed (6 September 2008 – 25 January 2009)⁷¹

89. Energy Bill (2) (13.11.08). A further motion was required to deal with late changes by the UK government to address concerns expressed in the House of Lords. The bill

⁶⁹ See also Scottish Government News Release 9.10.08 'Scottish Register of Tartans clears final hurdle' <http://www.scotland.gov.uk/News/Releases/2008/10/09171509>

⁷⁰ For a list of Members' Bill Proposals see <http://www.scottish.parliament.uk/business/bills/membersBills.htm>

⁷¹ A full list of motions and links to SPOR discussions is provided by the Scottish Government: <http://www.scotland.gov.uk/About/Sewel>.

still extends executive devolution ('reverse-Sewel') to regulate technologies related to renewable energy. It also provides a common legislative framework for renewable heat incentives. There was no debate or formal opposition in plenary.

4. Scottish Government and Public Policy

Paul Cairney

4.1 The Economy: Money and Power

As the previous monitor discusses, the SNP Government's legislative programme was sold in Alex Salmond's speech as part of a 'single overarching purpose - to increase sustainable growth'. Given the onset of economic crisis in the UK, the purpose may have shifted towards reducing the effects of recession. The main plank of this policy is likely to be non-legislative since the funding of major capital investment projects is one of the Scottish Government's most important economic levers.⁷² In this regard it is in the unenviable position of being attacked from all sides regarding delays to major decisions. While members of the Finance committee are urging it to invest more quickly by dropping its objection to PFI (section 3.5) and the UK government has so-far rejected calls to finance the new Forth crossing by allowing the Scottish Government to 'borrow' against predicted future revenues (6.7), a member of the Council for Economic Advisers described SNP policy as PFI 'with window dressing'.⁷³ Perceived delays in building hospitals and schools have also given new Labour leader Iain Gray much-needed ammunition during parliamentary debates (and Margo MacDonald is critical of the lack of

⁷² J. Swinney 21.11.08 'We're investing in the best so Scotland is ready for recovery' *The Scotsman* <http://news.scotsman.com/comment/We39re-investing-in-the-best.4717445.jp>; Scottish Government News Release 26.11.08 'Pre Budget Report' <http://www.scotland.gov.uk/News/Releases/2008/11/26155845>; R. Dinwoodie 4.12.08 'Swinney vows to support jobs with spending programme' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2472812.0.Swinney_vows_to_support_jobs_with_spending_programme.php

⁷³ 7.12.08 'Adviser knocks SNP's not-for-profit plans' *The Scotsman* <http://news.scotsman.com/politics/Adviser-knocks-SNP39s-notforprofit-plans.4769761.jp>

investment in Edinburgh's trams).⁷⁴ Problems of persuasion are also manifest in the interest group response to a local income tax (see also sections 2.2 and 5.2).⁷⁵

While the SNP could have been less ambitious in the short term (while calling for fiscal autonomy as part of a wider agenda for constitutional change), it has chosen to demonstrate its governing competence by making the most of its existing powers and building the Scottish Futures Trust on the back of local authority borrowing (based on the argument 'if we can succeed now, think how better we'd do with more power'). Yet, as the SNP well know, the potential drawback is that any problems with such innovations may expose a damaging image of Scottish ministerial powerlessness rather than the need for constitutional change to solve the problem. Indeed, much of the SNP's strategy to date has been to perform this balancing act between: (a) trying to do well to demonstrate competence; (b) exposing the limits of devolution; but (c) only in a way that keeps the constitutional question on the agenda without damaging the image of Scottish ministers (by making them seem parochial rather than the only people to defend Scotland's interests). This may be hard (or at least regular) work given the range of ways in which Scottish ministers can, at best, partly intervene: the UK government's efficiency savings agenda may determine changes to the Scottish Government's budget; Scottish ministers do not control the process of encouraging those on benefits into further education or the levers on fuel poverty; and negotiations with major employers such as banks (and the supermarkets on alcohol restrictions) depend more on persuasion than coercion.⁷⁶ Therefore, one of its main strategies is to deal (albeit on a

⁷⁴ R. Dinwoodie 19.12.08 'Gray: Plans for schools and hospitals 'dead in the water'' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2476465.0.Gray_Plans_for_schools_and_hospitals_dead_in_the_water.php; D. Maddox 18.12.08 'A bold financial vision crumbles – along with the nation's schools' *The Scotsman* <http://news.scotsman.com/politics/A-bold-financial-vision-crumbs.4803540.jp>; I. Swanson 14.1.09 'Extra trams cash 'can help city ride the credit crunch'' *Evening News* <http://news.scotsman.com/politics/Extra-trams-cash-39can-help.4873403.jp>; Scottish Government News Release 11.9.08 'Modern schools' <http://www.scotland.gov.uk/News/Releases/2008/09/11110406>; 24.10.08 'Cash for school building programme' <http://www.scotland.gov.uk/News/Releases/2008/10/24134129>; 9.11.08 'Pupils moving into new classrooms' <http://www.scotland.gov.uk/News/Releases/2008/11/09114503>; 30.12.08 'School building improvements' <http://www.scotland.gov.uk/News/Releases/2008/12/23115206>

⁷⁵ D. Maddox 28.11.08 'Rebellion over SNP finance package grows in public and private sectors' *The Scotsman* <http://news.scotsman.com/politics/Rebellion-over-SNP-finance-package.4741539.jp>; H. Macdonell 25.11.08 'From MoD to Help the Aged, critics lay into Salmond's income tax plan' *The Scotsman* <http://news.scotsman.com/politics/From-MoD-to-Help-the.4726613.jp>; compare with Scottish Government News Release 24.11.08 'Local Income Tax' <http://www.scotland.gov.uk/News/Releases/2008/11/24095808>

⁷⁶ H. MacDonell 25.11.08 'Scotland could lose £500m as 'efficiency savings' take effect' *The Scotsman* <http://news.scotsman.com/politics/Scotland-could-lose-500m-as.4726590.jp>; 1.12.08

relatively small scale) with the effects of other policies, by: administering EU structural funds and distributing regional assistance grants; helping to identify the Scottish recipients of benefits; and support bodies such as the Partnership Action for Continuing Employment (PACE), Debt Forum and credit unions (in the opposite direction, new legislation to make the bankruptcy process smoother has exacerbated the image of economic instability⁷⁷).⁷⁸ One quick win has been to transform a UK Government mistake into a positive Scottish policy initiative, by promising to maintain pension overpayments for former workers in the Scottish public sector.⁷⁹ There is also much

'Lack of cohesion on welfare and training since devolution'

<http://www.holyrood.com/content/view/3299/10051/>; 20.11.08 'New fuel poverty package for Scotland announced' <http://www.holyrood.com/content/view/3261/10051/>; 21.11.08 'Call for sharp rise in government spending to beat fuel poverty' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2459612.0.Call_for_sharp_rise_in_government_spending_to_beat_fuel_poverty.php; D. Maddox and A. Dalton 7.10.08 'Salmond in summit amid fears BA will quit Scotland' *The Scotsman* <http://news.scotsman.com/politics/Salmond-in-summit-amid-fears.4563972.jp>; T. Crichton 29.10.08 'Salmond left without pledge on HBOS jobs at Lloyds meeting' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2463984.0.Salmond_left_without_pledge_on_HBOS_jobs_at_Lloyds_meeting.php; 5.12.08 'Salmond urges Herald & Times to reconsider restructuring plan' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2473061.0.Salmond_urges_Herald_Times_to_reconsider_restructuring_plan.php; 4.12.08 'MSPs voice concerns over BBC Scotland job cuts' *The Scotsman* <http://news.scotsman.com/politics/MSPs-voice-concerns-over-BBC.4761323.jp>; S. Paterson 10.11.08 'Supermarkets reveal opposition to government alcohol plans' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2466817.0.Supermarkets_reveal_opposition_to_government_alcohol_plans.php

⁷⁷ H. Duncanson 17.10.08 'More Scots are going bankrupt after rules ease path' *The Scotsman* <http://news.scotsman.com/politics/More-Scots-are-going-bankrupt.4602341.jp>

⁷⁸ 5.1.09 'EU funds delivered early 'to boost economy'' <http://www.holyrood.com/content/view/3401/10051/>; 20.1.09 'Latest RSA grants 'shot in the arm' for Scottish economy' <http://www.holyrood.com/content/view/3461/10051/>; 9.12.08 'Benefit check boosting pensioners' income, says Maxwell' <http://www.holyrood.com/content/view/3340/10051/>; 31.12.08 'Benefit checks reap rewards for pensioners'

<http://www.scotland.gov.uk/News/Releases/2008/12/24114436>; 13.1.09 'Debt Action Forum set up to advise Government' <http://www.holyrood.com/content/view/3439/10051/>; 12.1.09 'Credit union support grants unveiled' <http://www.holyrood.com/content/view/3434/10051/>; 12.1.09

'Redundancy support to be reviewed by Scottish Government' <http://www.holyrood.com/content/view/3433/10051/>; Scottish Government News Release

24.11.08 'Combating poverty and income equality'

<http://www.scotland.gov.uk/News/Releases/2008/11/24100942>

⁷⁹ Scottish Government News Release 16.12.08 'Public pension overpayments'

<http://www.scotland.gov.uk/News/Releases/2008/12/16105251>; S. Johnson 17.12.08 'Fury over SNP decision to continue overpaying Scottish public sector pensions' *The Telegraph*

<http://www.telegraph.co.uk/news/newstopics/politics/scotland/3795987/Fury-over-SNP-decision-to-continue-overpaying-Scottish-public-sector-pensions.html>; H. Macdonnell 17.12.08 'SNP refuses to cut overpaid pensions in public sector' *The Scotsman*

<http://news.scotsman.com/politics/SNP-refuses-to-cut-overpaid.4799099.jp>; L. Davidson 16.12.08 'SNP under attack over pensions move'

<http://www.timesonline.co.uk/tol/news/uk/scotland/article5355727.ece>

hope for the galvanising effect of the Homecoming celebrations.⁸⁰ The SNP may also benefit again from a UK focus when the latter's stock is low. The fear of a need to nationalise the iconic Royal Bank of Scotland and stem the flow of housing repossessions, combined with the fall in the value of sterling (Salmond favours the Euro), all contribute to the SNP's (but not John Kay's) arguments that a Scottish Government would have been less 'reckless' (assuming that Salmond's reputation as an economic expert stays solid⁸¹). Finally, the Scottish economy may look relatively good during the economic crisis because Scottish growth and recession tends to be smaller than the UK average.⁸²

4.2 Health, Mental Health and Public Health

For a party so keen on public inquiries when in opposition, it is perhaps surprising that the decision to hold one on the deaths related to C. difficile at the Vale of Leven is taking so long. The alternative explanation is that opposition parties are always more in favour of inquiries than parties in government, in part because the latter are more subject to pressure from their own agencies to protect them, while the former are less tolerant of the need for 'due process'. In this case, the Scottish Government awaits a decision from

⁸⁰ S. Paterson 15.1.09 'Homecoming year 'will help Scotland through recession'' *The Herald* http://www.theherald.co.uk/news/news/display.var.2481752.0.Homecoming_year_will_help_Scotland_and_through_recession.php; 14.1.09 'Salmond calls on Scots to unite as recession takes hold' *The Scotsman* <http://news.scotsman.com/politics/Salmond-calls-on-Scots-to.4876838.jp>;

⁸¹ A. Macleod 22.9.08 'Salmond's 'unpardonable folly' revives Darien spirit' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article4806243.ece>;

⁸² H. MacDonell 20.10.08 'Swinney defends economic case after unionist attacks' *The Scotsman* <http://news.scotsman.com/politics/Swinney-defends-economic-case-after.4607585.jp>; R. Dinwoodie 20.10.08 'Gloves come off in response to Labour attack on independence' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2461675.0.Gloves_come_off_in_response_to_Labour_attack_on_independence.php; A. Salmond 20.10.08 'Stand-alone Scotland could look after itself' *The Times*

http://www.timesonline.co.uk/tol/comment/columnists/guest_contributors/article4974312.ece; I. MacWhirter 20.10.08 'Like it or not, we're in this mess together' *The Herald* http://www.theherald.co.uk/features/featuresopinion/display.var.2461630.0.like_it_or_not_were_in_this_mess_together.php; T. Peterkin 19.10.08 'Salmond's adviser warns on going solo' *The Scotsman* <http://news.scotsman.com/politics/Salmond39s-adviser-warns-on-going.4606850.jp>; M. Flanagan and H. Rutherford 20.1.09 'RBS: How the mighty have fallen' *The Scotsman* <http://news.scotsman.com/latestnews/-RBS-How-the-mighty.4891968.jp>; 21.1.09 'Unemployment in Scotland 'below UK average'' <http://www.holyrood.com/content/view/3463/10051/>; A. MacLeod 24.9.08 'Scots economy 'in crisis' as the credit crunch bites' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article4821632.ece>; Scottish Government News Release 22.10.08 'Economy continues to grow during global downturn' <http://www.scotland.gov.uk/News/Releases/2008/10/22100828>

the procurator fiscal (which is liaising with the Health and Safety Executive) about the likelihood of criminal proceedings (its report is due in March).⁸³

Health Secretary Nicola Sturgeon's 'battle of ideas' between public and private NHS provision continued with moves to bar commercial firms from bidding to provide GP services, but was complicated in December by her decision to remove the ban on patients, in exceptional cases, 'topping up' their medical provision.⁸⁴ While there was already pressure to make this change – focusing, in part, on the petition (on cancer drug access) to the Scottish Parliament in October⁸⁵ - it grew significantly when similar moves were announced by the UK Government in November.⁸⁶ The appearance of private treatment may be accentuated if top-up patients are treated in different wards.⁸⁷ Gordon

⁸³ H. Puttick 28.11.08 'Sturgeon reveals Vale of Leven C Diff inquiries' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2471339.0.sturgeon_reveals_vale_of_leven_c_diff_inquiries.php; D. Maddox 21.11.08 'Sturgeon accused of being sole obstacle to public inquiry into C difficile outbreak' *The Scotsman* <http://news.scotsman.com/politics/Sturgeon-accused-of-being-sole.4717595.jp>; A. Macleod 20.11.08 'Nicola Sturgeon rejects calls for superbug inquiry' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5202103.ece>; A. Cochrane 20.11.08 'Nicola Sturgeon would have screamed for review into Vale of Leven a year ago' *The Telegraph* <http://www.telegraph.co.uk/news/newstopics/politics/scotland/3490819/Nicola-Sturgeon-would-have-screamed-for-review-into-Vale-of-Leven-a-year-ago.html>; 23.11.08 'Minister close to U-turn over C.diff inquiry' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5219431.ece>; see also Scottish Government News Release 12.1.09 'Hepatitis C Inquiry' <http://www.scotland.gov.uk/News/Releases/2009/01/12150514>

⁸⁴ Scottish Government News Release 22.10.08 'Preventing commercialisation of GP practices' <http://www.scotland.gov.uk/News/Releases/2008/10/22092745>; 23.10.08 'Private firms face bar on GP services' *The Scotsman* <http://news.scotsman.com/politics/Private-firms-face-bar.4620845.jp>; BBC News 12.12.08 'NHS top-up care ban to be lifted' <http://news.bbc.co.uk/1/hi/scotland/7778947.stm>; BBC News 4.11.08 'Q&A: NHS top-ups' <http://news.bbc.co.uk/1/hi/health/7458908.stm>; Scottish Government News Release 1.10.08 'Review of co-payment guidance' <http://www.scotland.gov.uk/News/Releases/2008/10/30163542>; 12.12.08 'Health payment guidance' <http://www.scotland.gov.uk/News/Releases/2008/12/12101107>

⁸⁵ Scottish Parliament Official Report 1.10.08 cols. 11326-63 <http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor1001-01.htm>; 1.10.08 'Sturgeon pledges to review co-payment guidance' <http://www.holyrood.com/content/view/3027/10051/>; K. Foster 5.10.08 'Buying time - Should NHS patients be allowed to pay for life-prolonging 'wonderdrugs'?' *Scotland on Sunday* <http://scotlandonsunday.scotsman.com/opinion/Buying-time--Should-NHS.4559800.jp>

⁸⁶ S. Bosely 5.11.08 'Private treatment will no longer bar patients from NHS care' *The Guardian* <http://www.guardian.co.uk/politics/2008/nov/05/alan-johnson-nhs-nice-reforms>; G. Braiden 4.11.08 'Top-up cancer drugs 'to be considered' for Scotland' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2465623.0.Topup_cancer_drugs_to_be_considered_for_Scotland.php; L. Moss 5.11.08 'Scotland urged to act faster as England agrees NHS 'top-ups'' *The Scotsman* <http://news.scotsman.com/politics/Scotland-urged-to-act-faster.4660796.jp>

⁸⁷ K. Devlin 4.11.08 'Top ups: How they will work' *The Telegraph* <http://www.telegraph.co.uk/health/3380702/Top-ups-How-they-will-work.html>

Brown also signalled growing convergence with Scotland (and Wales) when exempting cancer sufferers from prescription charges.⁸⁸ We therefore have the interesting prospect of policy divergence in NHS structures but convergence in how they treat specific conditions. This extends to a Scottish Government focus on cancer waiting time targets (note that the previous Scottish Executive also made an exception for private healthcare provision when addressing cancer waiting times).⁸⁹ Health inequalities policies (however branded) also tend to display similarities as strong public health networks address 'wicked' problems with no easy solution.⁹⁰

The numbers game continues in health policy, with Sturgeon predicting that the NHS will meet the Scottish Government's 15 week waiting time targets, Labour attempting to turn the tables by accusing it of maintaining 'hidden' waiting lists, a mixed response to the publication of statistics on surgical performance (following a ruling in 2005 by the Scottish Information Commissioner), the announcement that the Scottish NHS has its largest staffing levels ever (to be followed by an increase in ambulance staff to end single-crewing), new targets on organ donors, a high take-up of the MMR vaccine, a greater-than-half take-up of GP extended opening hours, a new high in people registered with dentists and a debate on the adequacy of NHS funding which spilled over into England NHS comparisons during the Glenrothes bye-election campaign.⁹¹

⁸⁸ 24.9.08 'Gordon Brown's speech in full' <http://news.scotsman.com/politics/Gordon-Brown39s-speech-in-full.4520451.jp>; Scottish Government News Release 28.1.09 'Prescription charges' <http://www.scotland.gov.uk/News/Releases/2009/01/28095040>

⁸⁹ A. Campsie 28.10.08 'Cancer patients 'will get treatment within 31 days'' *The Herald* http://www.theherald.co.uk/news/news/display.var.2463728.0.Cancer_patients_will_get_treatment_within_31_days.php; 18.11.08 'Progress by NHS boards on cancer waiting times welcomed' <http://www.holyrood.com/content/view/3252/10051/>; Scottish Government News Release 27.10.08 'Action to support cancer patients'

<http://www.scotland.gov.uk/News/Releases/2008/10/27101052>; 18.11.08 'Continued effort needed on cancer waiting times' <http://www.scotland.gov.uk/News/Releases/2008/11/18100635>

⁹⁰ L. Moss 16.12.08 'Practical steps to close health divide and keep Scotland well' *The Scotsman* <http://news.scotsman.com/scotland/Practical-steps-to-close-.4795456.jp>; 21.10.08 "Radical rethink' of public services to tackle health inequalities' <http://www.holyrood.com/content/view/3122/10051/>; 30.9.08 "Clear measures' announced to monitor health inequalities' <http://www.holyrood.com/content/view/3022/10051/>; Scottish Government News Release 30.9.08 'Tackling health inequalities' <http://www.scotland.gov.uk/News/Releases/2008/09/30122246>

⁹¹ Scottish Government News Release 6.11.08 'Reducing NHS waiting times' <http://www.scotland.gov.uk/News/Releases/2008/11/06110425>; 25.11.08 'NHS successfully cutting waiting times, says Sturgeon' <http://www.holyrood.com/content/view/3277/10051/>; L. Mackinnon 26.11.08 'Exclusive: NHS 'con' row over claim 100K patients removed from hospital waiting lists' *Daily Record* <http://www.dailyrecord.co.uk/news/scottish-news/2008/11/26/exclusive-nhs-con-row-over-claim-100k-patients-removed-from-hospital-waiting-lists-86908-20925284/>; A. Morris 8.10.08 'Surgeons' deaths list 'a danger' to patients' *The Scotsman* <http://news.scotsman.com/scotland/Surgeons39-deaths-list--39a.4569096.jp>; 16.12.08 'NHS

While Scotland may need a little push to create an 'unstoppable momentum for public health improvement',⁹² this will not come easily with alcohol control. The plans to stop under-21s buying alcohol has met with incredible resistance from parties and students and may now rely more on SNP tenacity than its ability to build a consensus. On the other hand, there is something perversely Scottish about the level of domestic opposition to the SNP's wider package of measures (including plans for minimum pricing, a dedicated alcohol aisle, a reduction in the drink-drive limit and the discouragement of alcohol promotions and organised pub crawls) and the increasing positive interest from public officials elsewhere. In particular, interest from the UK government (combined with moves merely to lobby the UK to reduce the drink-drive limit rather than pursue Scottish legislation) may turn concerns about the legality of SNP policies into a red herring.⁹³

Scotland staffing levels 'better than ever" <http://www.holyrood.com/content/view/3373/10051/>;
 Scottish Government News Release 16.12.08 'Health staff numbers reach new high'
<http://www.scotland.gov.uk/News/Releases/2008/12/16095908>; 17.9.08 'Single-crew ambulances to end'
<http://www.scotland.gov.uk/News/Releases/2008/09/17150958> 6.11.08 'Funding invested in reducing NHS waiting times'
<http://www.holyrood.com/content/view/3198/10051/>; 17.11.08 'New organ donor target set by Scottish Government'
<http://www.holyrood.com/content/view/3247/10051/>; L. Davidson 21.11.08 'Johnson accuses SNP of stealing Labour's clothes' *The Times*
<http://www.timesonline.co.uk/tol/news/uk/scotland/article4981901.ece> ; 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> ; 28.10.08 'Record numbers registered with NHS dentists'
<http://www.scotland.gov.uk/News/Releases/2008/10/28103224>;
 16.12.08 'MMR uptake breakthrough'
<http://www.scotland.gov.uk/News/Releases/2008/12/16104103>; 27.1.08 'NHS treatment targets'
<http://www.scotland.gov.uk/News/Releases/2009/01/27094922>
⁹² K. Mackintosh 15.12.08 'Scotland at "tipping point" for health, says CMO'
<http://www.holyrood.com/content/view/3367/10051/>
⁹³ Scottish Government News Release 8.9.08 'Over 21 alcohol pilot'
<http://www.scotland.gov.uk/News/Releases/2008/09/08094812>; H. MacDonnell 6.10.08 'New legal threat to SNP's alcohol crackdown' *The Scotsman* <http://news.scotsman.com/politics/New-legal-threat-to-SNP39s.4560404.jp>; H. MacDonnell 8.10.08 'Police criticise under-21 drink ban' *The Scotsman* <http://news.scotsman.com/politics/Police-criticise-under21-drink-ban.4567975.jp>;
 R. Cahill 3.10.08 'Parliament signals disapproval for alcohol age rise'
<http://www.holyrood.com/content/view/3038/10051/>; H. MacDonnell 3.10.08 'SNP defiant after alcohol bill setback'
<http://news.scotsman.com/politics/SNP-defiant-after-alcohol-bill.4555260.jp>;
 A. Macleod 2.10.08 'Plan to ban under-21 drink sales goes on despite defeat' *The Times*
<http://www.timesonline.co.uk/tol/news/uk/scotland/article4870990.ece>; G. Braiden 23.10.08 'MPs look north to tackle binge-drinking' *The Herald*
http://www.theherald.co.uk/politics/news/display.var.2462593.0.MPs_look_north_to_tackle_binge_drinking.php; L. Moss 14.11.08 'SNP boost as study claims higher taxes mean fewer drink deaths' *The Scotsman* <http://news.scotsman.com/politics/SNP-boost-as-study-claims.4694150.jp>;
 8.10.08 'Alcohol strategy consultation shows mixed responses'
<http://www.holyrood.com/content/view/3068/10051/>; J. Allardyce 3.10.08 'Councils to set alcohol age limit' *The Sunday Times*
<http://www.timesonline.co.uk/tol/news/uk/scotland/article4882456.ece>; H. MacDonnell 7.10.08 'Salmond – and Scotland – at a turning point' *The Scotsman*
<http://news.scotsman.com/politics/Salmond--and-Scotland-.4563858.jp> ; S. Johnson 18.12.08

There is also no easy solution to drug addiction and misuse, regardless of the calls for the Scottish Government to accelerate a reduction in methadone funding in the pursuit of 'recovery', address methadone use in prisons and cooperate with the UK Government to withdraw benefits for drug misusers.⁹⁴ More evidence of 'tipping' can perhaps be found in tobacco control, with public health officials able to pursue restrictions that they wouldn't have dreamt possible 10 years ago.⁹⁵ Parts of England have also emulated Scotland's healthy eating campaign.⁹⁶ The picture appears to be less rosy in mental health. Although devolution in Scotland allowed advances in mental health legislation, the service still struggles to cope with the provision of dedicated child services (now to be addressed with HEAT targets) and the treatment of mental illness in prisons.⁹⁷

4.3 Justice

As if to prove that the agenda-setting process is unpredictable, one of the biggest stories this period regarded Justice Secretary Kenny MacAskill's decision to be in Canada promoting Homecoming rather than in the Scottish Parliament debating knife crime.⁹⁸ The emphasis on moves to criminalise types of pornography also shifted unexpectedly,

'MSPs call on Government to almost halve the drink-drive limit' *The Telegraph* <http://www.telegraph.co.uk/motoring/3834353/MSPs-call-on-Government-to-almost-halve-the-drink-drive-limit.html> ; 'Use the existing laws to curb alcohol abuse, LibDem urges' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2472226.0.Use_the_existing_laws_to_curb_alcohol_abuse_LibDem_urges.php

⁹⁴ A. Philip 17.11.08 'Tories call for action as bill for methadone hits £25.7m' *The Scotsman* <http://news.scotsman.com/politics/Tories-call-for-action-as.4699440.jp>; 15.10.08 'Minister kicks off drug strategy visits' <http://www.holyrood.com/content/view/3093/10051/>; 7.10.08 'Prison chief rejects methadone claims' <http://www.holyrood.com/content/view/3065/10051/>; 27.1.09 'Q&A: Professor Neil McKeganey' *The Scotsman* <http://news.scotsman.com/politics/QA-Professor--Neil-McKeganey.4914948.jp> ; 21.1.09 'Q&A: David Liddell' *The Scotsman* <http://news.scotsman.com/health/QA-David-Liddell.4895810.jp>; 20.1.09 'Drug treatment funding boosted by Scottish Government' <http://www.holyrood.com/content/view/3460/10051/> ; M. Howie 20.1.09 'Cut methadone use or you won't turn tide of drug addiction, ministers are warned' *The Scotsman* <http://news.scotsman.com/latestnews/Cut-methadone-use-or-you.4892018.jp>

⁹⁵ 12.11.08 'Council bans smokers from fostering' *The Scotsman*

<http://news.scotsman.com/scotland/Council-bans-smokers-from-fostering.4684007.jp>

⁹⁶ Scottish Government News Release 13.11.08 'Scotland 'leading the way' on healthy eating' <http://www.scotland.gov.uk/News/Releases/2008/11/13112829>

⁹⁷ L. Adams 8.10.08 'Children placed in adult psychiatric wards with no specialist services' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2458443.0.Children_placed_in_adult_psychiatric_wards_with_no_specialist_services.php; Scottish Government News Release 14.11.08 'New targets for healthcare' <http://www.scotland.gov.uk/News/Releases/2008/11/14104125>; M. Howie 4.12.08 'Poor jail care for mentally ill boosts crime' *The Scotsman*

<http://news.scotsman.com/latestnews/Poor-jail-care-for-mentally.4759611.jp>

⁹⁸ S. Johnson 22.1.09 'Kenny MacAskill told to consider resigning for snubbing knife summit' *The Telegraph* <http://www.telegraph.co.uk/news/newstopics/politics/scotland/4317536/Kenny-MacAskill-told-to-consider-resigning-for-snubbing-knife-summit.html>

from a Scottish Government focus on gender (with links to policies on domestic violence and rape) to the effect of the move on the arts (perhaps as a result of a more active arts community during the Creative Scotland debacle).⁹⁹ The numbers game, although less popular than in health, is often played by the parties when discussing justice issues. In this regard the most popular political football is the (now rising) number of police officers in Scotland, while the biggest issue is the problematic growth in prison numbers at a time when crime appears to be dropping.¹⁰⁰ For the SNP Government, one solution is to replace jail sentences below six months with 'tough' community sentences (while investigating why its new drug treatment orders have not been used as much as expected) – a policy criticised by Labour as likely to free the majority of knife-crime offenders.¹⁰¹ For the Chief Inspector of Prisons, a higher priority is to stop children being detained in adult prisons.¹⁰² At the other extreme, the Lord Advocate has signalled the

⁹⁹ S. Johnson 19.1.09 'Scots possessing 'extreme' pornography to face jail' *The Telegraph* <http://www.telegraph.co.uk/news/newstopics/politics/scotland/4291494/Scots-possessing-extreme-pornography-to-face-jail.html>; M. Howie 19.1.09 'Jail for downloading 'extreme' sex images' *The Scotsman* <http://news.scotsman.com/latestnews/Jail-for-downloading-39extreme39-sex.4888459.jp>; R. McQuillan 20.1.09 'Do extreme images put women's safety at risk?' *The Herald* http://www.theherald.co.uk/features/featuresopinon/display.var.2482934.0.do_extreme_images_p_ut_womens_safety_at_risk.php; Scottish Government News Release 22.12.08 'Tackling domestic abuse' <http://www.scotland.gov.uk/News/Releases/2008/12/19162806>; L. Adams 19.11.09 '46,000 to go on domestic abuse risk list' *The Herald* http://www.theherald.co.uk/news/news/display.var.2469084.0.46_000_to_go_on_domestic_abuse_risk_list.php; 18.11.08 'Benchmark' for rape investigations created' <http://www.holyrood.com/content/view/3250/10051/>; D. Maddox 20.1.09 'Art will suffer under porn ban, warns MSP' *The Scotsman* <http://news.scotsman.com/politics/Art-will-suffer-under-.4892027.jp>

¹⁰⁰ 2.12.08 'Scottish police numbers reach all-time high' <http://www.holyrood.com/content/view/3314/10051/>; 10.12.08 'Community safety funding boost for festive period' <http://www.holyrood.com/content/view/3345/10051/>; BBC News 30.9.08 'Scottish crime 'lowest since 80s'' <http://news.bbc.co.uk/1/hi/scotland/7643870.stm>; Scottish Government News Release 30.9.08 'Crime figures on downward trend' <http://www.scotland.gov.uk/News/Releases/2008/09/30100641>; C. Baillie 29.9.08 'Prisons chief issues warning over safety' *The Scotsman* <http://news.scotsman.com/politics/Prisons-chief-issues-warning-over.4536320.jp>; D. Henderson 29.9.08 'Prison service struggling to maintain order in jails, says chief' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2453975.0.Prison_service_struggling_to_maintain_order_in_jails_says_chief.php; 29.9.08 'Prisons struggle as overcrowding hits record high' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article4842943.ece>

¹⁰¹ 9.12.08 'MacAskill backs "swift, tough and visible community sentences"' <http://www.holyrood.com/content/view/3341/10051/>; H. MacDonell 23.1.08 'Knife thugs 'will roam free under jail plans'' *The Scotsman* <http://news.scotsman.com/latestnews/Knife-thugs-39will-roam-free.4906316.jp>; 'Scottish Government urged to drop six month prison plans' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2480089.0.Scottish_Government_urged_to_drop_six_month_prison_plans.php; 9.1.09 'Government launches inquiry into DTTO drop' <http://www.holyrood.com/content/view/3418/10051>

¹⁰² M. Wade 4.11.08 'Jail system 'scarred by iniquity of locking up children'' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5084600.ece>; S. Ross 5.11.08 "Under-

need for longer sentences for murder (at the risk of appearing 'political' and to interfere in the independence of judges).¹⁰³

4.4 Education

As the previous monitor discusses (section 11.6), it is easy to form the impression that the Scottish Government has disengaged from compulsory education by merely providing the money, saying it is adequate, and leaving local authorities and the teaching unions to negotiate the details. Yet, this is not straightforward in high profile areas such as free school meals, class sizes, nursery education and teacher numbers. Each issue demonstrates the point that policy formulation is inadequate without effective implementation. All that remains is to decide what 'effective implementation' means. While for the UK government it may relate to meeting top-down objectives, the Scottish Executives and now Scottish Government have entertained an equally defensible bottom-up approach which accentuates local discretion.¹⁰⁴ This is the context in which to view the relatively top-down-focussed media coverage which suggests that the lack of progress on free school meals, reductions in class sizes and access to nursery teachers are threatening the Concordat and that the new school curriculum lacks direction (see also section 5.3, but note that this may not be the view of the profession). These issues, combined with difficulties in phasing-in new teachers as older teachers retire, are helping opposition parties put pressure on Education Secretary Fiona Hyslop to resign.¹⁰⁵

16s should not be sent to prison" *The Scotsman* <http://news.scotsman.com/politics/39Under16s-should-not-be-sent.4660809.jp>

¹⁰³ J. Robertson 18.12.08 'Lord Advocate: 'Life should mean life" *The Scotsman* <http://news.scotsman.com/latestnews/Lord-Advocate-39Life-should-mean.4803558.jp>; L. Adams 18.12.08 'Jail killers for longer, Angiolini tells judges' *The Herald* http://www.theherald.co.uk/news/news/display.var.2476167.0.Jail_killers_for_longer_Angiolini_tell_s_judges.php

¹⁰⁴ P. Cairney (forthcoming, 2009) 'Implementation and the Governance Problem: A Pressure Participant Perspective', *Public Policy and Administration*

¹⁰⁵ 2.11.08 'Labour hits out at 50% leap in teachers on the dole' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2465043.0.Labour_hits_out_at_50_leap_in_teachers_on_the_dole.php; K. Bussey 5.10.08 'Councils demand to know where funds for free school meals will come from' *The Scotsman* <http://news.scotsman.com/politics/Councils-demand-to-know-where.4559771.jp>; D. Maddox 9.10.08 'Get on with free school meals, councils told' *The Scotsman* <http://news.scotsman.com/politics/Get-on-with-free-school.4573517.jp>; F. Macleod 22.12.08 'Scottish teacher numbers falling – despite promise by SNP' *The Scotsman* <http://news.scotsman.com/latestnews/Scottish-teacher-numbers--falling.4812829.jp>; A. Denholm 11.12.08 'One in five newly qualified teachers now unemployed' *The Herald* http://www.theherald.co.uk/news/news/display.var.2474333.0.One_in_five_newly_qualified_teachers_now_unemployed.php; A. Denholm 17.10.08 'Pledge on class sizes hit by fall in teacher numbers' *The Herald* http://www.theherald.co.uk/news/news/display.var.2461115.0.Pledge_on_class_sizes_hit_by_fall_in_teacher_numbers.php; D. Maddox 16.10.08 'Is SNP's 'historic' concordat with councils in danger of falling apart?' *The Scotsman* <http://news.scotsman.com/comment/Is-SNP39s-->

The previous monitor linked these issues to very promising longer term education outcomes, with Scotland attracting the attention of other countries looking to learn from its success as 'one of the best performing amongst OECD nations'.¹⁰⁶ It is therefore odd that Scotland now appears to be falling behind according to a report by the HMIE and international 'benchmarking' exercises.¹⁰⁷ This may fuel the agenda towards testing primary and secondary school pupils for basic numeracy and literacy skills.¹⁰⁸ It will be

[39historic39-concordat.4596445.jp](http://www.theherald.co.uk/politics/news/display.var.2459290.0.SNP_claims_victory_on_free_school_meals.php); R. Dinwoodie 10.10.08 'SNP claims victory on free school meals' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2459290.0.SNP_claims_victory_on_free_school_meals.php; S. Johnson 9.10.08 'Scottish councils to call for scrapping of Alex Salmond's 'historic' concordat' *The Telegraph* <http://www.telegraph.co.uk/news/newstopics/politics/scotland/3167056/Scottish-councils-to-call-for-scrapping-of-Alex-Salmonds-historic-concordat.html>; A. Denholm 27.10.08 'Warning over teaching of history as schools drop subject' *The Herald* http://www.theherald.co.uk/news/news/display.var.2463453.0.Warning_over_teaching_of_history_as_schools_drop_subject.php; F. Macleod 27.10.08 'The new curriculum for excellence: No physics, chemistry or biology lessons – but pupils will study 'air'' *The Scotsman* <http://news.scotsman.com/latestnews/The-new-curriculum-for-excellence.4631001.jp>; H. MacDonell 18.12.08 'Parents 'will be furious at scheme for super-sized school classes'' *The Scotsman* <http://news.scotsman.com/politics/Parents-39will-be-furious-at.4803623.jp>; F. Macleod 29.9.08 'SNP accused of deceiving parents over key pledge on nurseries' *The Scotsman* <http://news.scotsman.com/politics/SNP-accused-of-deceiving-parents.4536325.jp>; 29.9.08 'Councils replacing teachers with nurses to cut school costs' *The Scotsman* <http://news.scotsman.com/politics/Councils-replacing-teachers-with-nurses.4536301.jp>; 10.12.08 'New Early Years Framework launched' <http://www.holyrood.com/content/view/3342/10051/>; Scottish Government News Release 31.10.08 'Timetable for new school exams' <http://www.scotland.gov.uk/News/Releases/2008/10/31143329>; 30.10.08 'Teacher workforce planning' <http://www.scotland.gov.uk/News/Releases/2008/10/30155147>

¹⁰⁶ 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

¹⁰⁷ F. Macleod 16.1.09 'Pupils aged nine to 14 falling into 'black hole' of failure' *The Scotsman* <http://news.scotsman.com/latestnews/Pupils-aged---.4883420.jp>; A. Denholm 16.1.09 'Generation of pupils 'being let down by schools'' *The Herald* http://www.theherald.co.uk/news/news/display.var.2482120.0.Generation_of_pupils_being_let_down_by_schools.php; L. McIntosh 16.1.09 'Education watchdog pushes for action as pupils struggle in class' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5527495.ece>; R. Edward 10.12.08 'Minister orders crisis summit after Scots pupils fall behind in maths and science' *The Scotsman* <http://news.scotsman.com/latestnews/Minister-orders-crisis-summit-after.4777152.jp>; A. Denholm 10.12.08 'Call for action as Scots pupils fall behind in maths and science' *The Herald* http://www.theherald.co.uk/news/news/display.var.2474158.0.Call_for_action_as_Scots_pupils_fall_behind_in_maths_and_science.php; G. Paton 9.12.08 'Pupils soar in international league, but Far East leads the way' *The Telegraph* <http://www.telegraph.co.uk/education/3691561/Pupils-soar-in-international-league-but-Far-East-leads-the-way.html>

¹⁰⁸ 8.1.09 'Scottish primary pupils could be tested for literacy' *The Scotsman* <http://news.scotsman.com/latestnews/Scottish-primary-pupils-could-be.4854192.jp>; L. McIntosh 7.1.09 'Test pupils at 10 or younger' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5469929.ece>; F. Macleod 3.12.08 'Hyslop rethinks 'leaving certificate' tests; *The Scotsman* <http://news.scotsman.com/politics/Hyslop-rethinks-39leaving-certificate39-tests.4754353.jp>; B. Donnelly 3.12.08 'Education changes take shape' *The Herald*

interesting to see how this is managed, given that the Scottish style tends towards testing children when they are ready, rather than en-mass on the same day. The latter approach is increasingly under pressure in England, with the abolition of testing 14 year olds marking significant convergence with Scotland and Wales.¹⁰⁹ This may also be fostered by the common adoption of the baccalaureate-style qualification, the common 'crackdown' on independent schools with charitable status and the (potential) use by Scottish local authorities of independent schools to deliver some Advanced Higher courses.¹¹⁰

Hyslop is also the focal point for frustrations over higher education policy. While the Scottish Government's highest profile piece of legislation effectively abolished tuition fees, it is still under fire over a lack of progress on more ambitious plans to abolish student debt and reintroduce the kinds of grants that only senior academic staff remember.¹¹¹ Its response has been two-fold: to reiterate that its manifesto plans were based on a majority in the Scottish Parliament and an adequate funding settlement from the Treasury; and to point out that things are worse for students in England.¹¹² The problem with this argument is that, unless public funding increases dramatically, a better deal for students also means less money for Scottish Universities, contributing to the

http://www.theherald.co.uk/politics/news/display.var.2472473.0.Education_changes_take_shape.php

¹⁰⁹ 15.10.08 'Leading article: A test that deserved to fail' *The Independent*

<http://www.independent.co.uk/opinion/leading-articles/leading-article-a-test-that-deserved-to-fail-961305.html>

¹¹⁰ F. Macleod 13.1.09 'State pupils could go private as councils axe advanced courses' *The Scotsman* <http://news.scotsman.com/latestnews/State-pupils---could.4868126.jp>; T. Thompson 28.10.08 'Four private schools 'to lose charity status'' *The Scotsman*

<http://news.scotsman.com/latestnews/-Four-private-schools-39to.4634343.jp>; A. Denholm

27.11.08 'Baccalaureate scheme to expand' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2471061.0.Baccalaureate_scheme_to_expand.php; F. Macleod 27.11.08 'New baccalaureate exam unveiled to boost language and science studies' *The Scotsman* <http://news.scotsman.com/latestnews/New-baccalaureate-exam-unveiled-to.4735986.jp>

¹¹¹ Scottish Government News Release 15.12.08 'Proposals for better student support'

<http://www.scotland.gov.uk/News/Releases/2008/12/15104356>; A. Denholm 16.12.08 'SNP under attack for cutting student cash plans' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2475501.0.SNP_under_attack_for_cutting_student_cash_plans.php; A. Denholm 16.12.08 'Students throw the book at SNP over election pledges on debt' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2475524.0.Students_throw_the_book_at_SNP_over_election_pledges_on_debt.php;

¹¹² 30.10.08 'SNP criticises student grant cuts south of the border'

<http://www.holyrood.com/content/view/3163/10051/>

perception that they are increasingly falling behind their English competitors.¹¹³ Such funding may in future be tied closer to Scottish Government economic priorities.¹¹⁴

4.5 Transport, Energy and Environment

The SNP Government's approach to energy is still clear: down with nuclear and up with renewables. The former suffered a blow after its Council of Economic Advisers recommended a rethink of nuclear as a way to safeguard electricity and reduce carbon emissions. An SCDI report argues that nuclear may have to be retained even if windfarms increase five-fold. Salmond has accepted the calls for an independent study, arguing that it will vindicate his position. Salmond also faced the tricky position of having to seek assurances on Scottish employment in existing but newly French-owned nuclear plants (Torness and Hunterston).¹¹⁵ On safer ground, the Scottish Government announced its intention to exceed EU targets on renewable energy (although Scottish Labour argues it is still not doing enough) and to plough on with plans for an underwater energy grid connecting allowing Scotland to export green electricity to Europe.¹¹⁶ The

¹¹³ A. Campsie 5.12.08 'Gap in funding means Scottish universities 'lag behind'' *The Herald* http://www.theherald.co.uk/news/news/display.var.2473045.0.Gap_in_funding_means_Scottish_universities_lag_behind.php

¹¹⁴ Scottish Government News Release 17.11.08 "New Horizons' for universities' <http://www.scotland.gov.uk/News/Releases/2008/11/17114051>; A. Denholm 13.1.09 'Universities furious at bid to tell them what to teach' *The Herald* http://www.theherald.co.uk/news/news/display.var.2481271.0.Universities_furious_at_bid_to_tell_them_what_to_teach.php

¹¹⁵ D. Maddox 25.9.08 'Fresh blow to 'Scotland plc' after French buy nuclear energy giant' *The Scotsman* <http://news.scotsman.com/politics/Fresh-blow-to-39Scotland-plc39.4525780.jp>; P. Jones 14.12.08 'Salmond 'must consider' nuclear option' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5342388.ece>; D. Maddox 16.1.08 'Independent study on nuclear power needs' *The Scotsman* <http://news.scotsman.com/politics/Independent-study-on-nuclear-power.4883378.jp>; P. Jones 8.12.08 'Five-fold increase in wind farms is urged' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5309799.ece>; R. Dinwoodie 9.12.08 'Increase in windfarms needed to reach 2020 target' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2473917.0.Increase_in_windfarms_needed_to_reach_2020_target.php; J. Haworth 9.12.08 'Scotland 'will have to treble number of wind turbines'' *The Scotsman* <http://news.scotsman.com/latestnews/-Scotland-39will-have-to.4773213.jp>; see also Scottish Government News Release 5.12.08 'Council of Economic Advisers' <http://www.scotland.gov.uk/News/Releases/2008/12/05120050>; 15.1.09 'Response to economic advisers report' <http://www.scotland.gov.uk/News/Releases/2009/01/15135203>

¹¹⁶ S. Paterson 7.10.08 'Salmond reveals renewables plan' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2457951.0.Salmond_reveals_renewables_plan.php; see also 22.1.09 "World-leading' wave station approved for Western Isles' <http://www.holyrood.com/content/view/3468/10051>; 19.12.08 'Business renewable heating grants unveiled by Government' <http://www.holyrood.com/content/view/3390/10051/>; 'Salmond urged to do more on energy front' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2472223.0.Salmond_urged_to_do_more_on_energy_front.php; Scottish Government News Release 12.11.08 'First Minister calls for North Sea 'supergrid' partnership' <http://www.scotland.gov.uk/News/Releases/2008/11/12170248>; D.

UK followed the Scottish lead on pollution by setting a target of reducing carbon emissions by 80% by 2050 (although only the Scottish target includes aviation and shipping emissions).¹¹⁷ However, of course, a target is almost useless unless there is enough progress towards it.¹¹⁸ The UK and Scottish governments also face the unintended consequences of emissions targets, such as the likely increase in fuel poverty when energy prices rise.¹¹⁹ Perhaps less clear is the SNP's attitude to the relationship between transport funding and the environment (although the M74 and Forth crossing decisions give some clue).¹²⁰ The cheaper and lesser-known Forth crossing was opened in November.¹²¹

4.6 Agriculture, Fish, Food and Water

EU discussions have begun on the future of cod, haddock and whiting fishing off Scotland's west coast (see section 6.8). The Cave Review has recommended that England and Wales follow Scotland's lead by introducing competition into water and sewerage supply.¹²² The Crofters' Commission is to be reformed yet again.¹²³ There will be a Scotland wide bluetongue vaccination programme in the wake of concerns over its

Maddox 13.11.08 'Salmond dives in with underwater power link to Europe' *The Scotsman*
<http://news.scotsman.com/politics/Salmond--dives--in.4689054.jp>

¹¹⁷ Scottish Government News Release 18.9.08 'Scotland's emissions challenge'
<http://www.scotland.gov.uk/News/Releases/2008/09/18103455>; 27.10.08 'Tackling climate change'
<http://www.scotland.gov.uk/News/Releases/2008/10/27131648>; B. Russell 17.10.08 'Loophole in minister's new emissions target' *The Independent*
<http://www.independent.co.uk/news/uk/politics/loophole-in-ministers-new-emissions-target-964301.html>

¹¹⁸ R. McQuillan 26.11.08 'Worrying gap' between emissions levels and Scotland's plans for cutting carbon' *The Herald*
http://www.theherald.co.uk/politics/news/display.var.2470738.0.Worrying_gap_between_emissions_levels_and_Scotlands_plans_for_cutting_carbon.php

¹¹⁹ J. Haworth 2.12.08 'Cost of going green – higher energy bills and 1.7m more in fuel poverty' *The Scotsman* <http://news.scotsman.com/politics/Cost-of-going-green-.4750173.jp>; 'Climate committee calls for huge emission cuts by 2020' *The Herald*
http://www.theherald.co.uk/politics/news/display.var.2472222.0.Climate_committee_calls_for_huge_emission_cuts_by_2020.php;

¹²⁰ S. Paterson 2.12.08 'Dilapidated transport system 'is costing Scottish economy billions'' *The Herald*
http://www.theherald.co.uk/politics/news/display.var.2472220.0.Dilapidated_transport_system_is_costing_Scottish_economy_billions.php

¹²¹ Scottish Government News Release 19.11.08 'New bridge over Forth opens'
<http://www.scotland.gov.uk/News/Releases/2008/11/19104310>

¹²² 18.11.08 'Cave Review recommends opening up water industry to competition'
<http://www.holyrood.com/content/view/3249/10051/>

¹²³ J. Ross 2.10.08 'Croft commission is saved from the axe' *The Scotsman*
<http://news.scotsman.com/politics/Croft-commission-is-saved-from.4549439.jp>; Scottish Government News Release 1.10.08 'Crofters take control of their destiny'
<http://www.scotland.gov.uk/News/Releases/2008/10/01145359>

spread in England and the rest of Europe.¹²⁴ The Scottish Government kept up its better-than-the-UK record on single farm payments.¹²⁵

4.7 Housing, Planning, Poverty and Homelessness

Plans to accelerate Scottish Government spending on housing continue, with £17m announced to help housing associations buy unsold private sector houses, on top of a £60m support package for first time buyers and continued plans to fund council houses and remove the right-to-buy.¹²⁶ The Scottish Government is also claiming success on flood insurance, homelessness and the planning system.¹²⁷ However, home reports have arguably added to the costs of selling houses during 'fragile' times, while fuel poverty is on the rise.¹²⁸

4.8 Culture and Media

Severe pressure from the TV digital revolution is cited as the main reason for Ofcom's reform of ITV, which includes a reduction in the need for STV to provide non-news based public sector broadcasting and the go-ahead for Border and Tyne Tees to merge

¹²⁴ Scottish Government News Release 3.11.08 'Preventing the spread of bluetongue' <http://www.scotland.gov.uk/News/Releases/2008/10/31142100>; 26.11.08 'Bluetongue detected in England' <http://www.scotland.gov.uk/News/Releases/2008/11/26114617>; 19.11.08 'Tighter controls to halt bluetongue' <http://www.scotland.gov.uk/News/Releases/2008/11/19134911>

¹²⁵ Scottish Government News Release 28.11.08 'Single farm payments' <http://www.scotland.gov.uk/News/Releases/2008/11/27103644>

¹²⁶ 'Scottish Ministers announce cash for affordable housing' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2484908.0.Scottish_Ministers_announce_cash_for_affordable_housing.php; 27.11.08 'New housing investment released by Scottish Government' <http://www.holyrood.com/content/view/3286/10051/>; G. Braiden 20.10.08 '£60m aid for first time home buyers' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2461673.0.60m_aid_for_first_time_home_buyers.php; Scottish Government News Release 19.10.08 '£60 million to help first time buyers' <http://www.scotland.gov.uk/News/Releases/2008/10/20091337>; 25.11.08 'Cash for councils to build housing' <http://www.scotland.gov.uk/News/Releases/2008/11/25144019>

¹²⁷ Scottish Government News Release 28.10.08 'Planning shake-up' <http://www.scotland.gov.uk/News/Releases/2008/10/28100001>; 29.10.08 'Swinney promises to speed up the planning process' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2463972.0.Swinney_promises_to_speed_up_the_planning_process.php; 29.9.08 'Government claims 'real progress' on homelessness' <http://www.holyrood.com/content/view/3016/10051/>; Scottish Government News Release 29.9.08 'Progress on homelessness' <http://www.scotland.gov.uk/News/Releases/2008/09/29102430>; 23.12.08 'Funding to tackle homelessness' <http://www.scotland.gov.uk/News/Releases/2008/12/23100122>; 18.12.08 'Historic agreement' on flood insurance reached' <http://www.holyrood.com/content/view/3382/10051/>

¹²⁸ H. MacDonell 1.12.08 'Home reports are 'like a new poll tax'' *The Scotsman* <http://news.scotsman.com/latestnews/Home-reports-are-39like-a.4746655.jp>; 27.11.08 'Fuel poverty continues to increase in Scotland' <http://www.holyrood.com/content/view/3285/10051/>; Scottish Government News Release 10.10.08 'Tackling fuel poverty' <http://www.scotland.gov.uk/News/Releases/2008/10/10095711>

their regional news. While Alex Salmond has backed the Scottish Broadcasting Commission's call for the UK Government to fund a new Scottish digital channel, Ofcom has instead suggested that a competitive fund be set up to provide Scottish wide content in a range of media.¹²⁹ The Creative Scotland mess continues, with opposition parties and arts representatives critical of its progress (see section 5.5).¹³⁰ With any luck this will be made up for by the success of the 2009 Homecoming celebrations: a series of events to 'highlight Scotland's great contributions to the world'.¹³¹

4.9 Freedom of Information

According to research conducted by the Scottish Information Commissioner: 'over two thirds of the Scottish population favour extending Scotland's freedom of information (FOI) laws to cover organisations other than public authorities, such as housing associations and privately run prisons'.¹³² The law will certainly extend to ministerial car

¹²⁹ C. Brown 26.9.08 'Green light for STV to slash Scottish programmes' *The Scotsman* <http://news.scotsman.com/latestnews/Green-light-for-STV-to.4531067.jp>; S. Purvis 26.9.08 'Why Border ruling is best option in tough times for television' *The Scotsman* <http://news.scotsman.com/comment/Why-Border-ruling-is-best.4531036.jp>; P. Miller 22.1.09 'Broadcasting chiefs call for fund to back Scots TV' *The Herald* http://www.theherald.co.uk/news/news/display.var.2483527.0.Broadcasting_chiefs_call_for_fund_to_back_Scots_TV.php; M. Reid and D. Sabbagh 21.1.09 'STV to cut local news to four hours a week' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5563475.ece>; S. Johnson 21.1.09 'Scots news coverage to be merged with England's as part of ITV overhaul' *The Telegraph* <http://www.telegraph.co.uk/news/newstopics/politics/scotland/4307999/Scots-news-coverage-to-be-merged-with-Englands-as-part-of-ITV-overhaul.html>; 22.1.09 'Ofcom proposes 'competitive fund' for Scottish broadcasting' <http://www.holyrood.com/content/view/3470/10051/>; 9.10.08 'First Minister backs 'revolution' in Scottish broadcasting' <http://www.holyrood.com/content/view/3073/10051/>; 9.10.08 'Salmond: UK should fund a new Scots digital TV channel' *The Scotsman* <http://news.scotsman.com/politics/Salmond--UK-should-fund.4573459.jp>; Scottish Government News Release 8.10.08 'Blueprint for Scottish broadcasting 'revolution'' <http://www.scotland.gov.uk/News/Releases/2008/10/08153900>

¹³⁰ A. Philip 9.1.09 'SNP under fire over arts merger 'chaos'' *The Scotsman* <http://news.scotsman.com/politics/SNP-under-fire-over-arts.4859201.jp>; P. Miller 6.1.09 '440 artists and writers call on MSPs to kill off Creative Scotland' *The Herald* http://www.theherald.co.uk/news/news/display.var.2479418.0.440_artists_and_writers_call_on_MSPs_to_kill_off_Creative_Scotland.php; 'Arts merger: Scottish Government accused of incompetence' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2480214.0.Arts_merger_Scottish_Government_accused_of_incompetence.php

¹³¹ See <http://www.homecomingscotland2009.com/default.html>

¹³² Scottish Information Commission (10.12.08) 'Public favours extension of freedom of information rights' <http://www.itspublicknowledge.info/home/News/20081012.asp>; S. Paterson 10.12.08 'Call to extend freedom of information laws' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2474144.0.Call_to_extend_freedom_of_information_laws.php

journeys.¹³³ Recent evidence confirms the long term trend that, although awareness of freedom of information is growing, it is low among particular social groups.¹³⁴

¹³³ S. Paterson 18.11.08 'Rule change makes ministers' car trips open to public scrutiny' http://www.theherald.co.uk/politics/news/display.var.2468800.0.Rule_change_makes_ministers_car_trips_open_to_public_scrutiny.php

¹³⁴ Scottish Information Commission (17.12.08) 'Freedom of Information awareness remains lower within key groups' <http://www.itspublicknowledge.info/home/News/20081712B.asp>;
18.12.08 'Awareness of freedom of information continues to grow' <http://www.itspublicknowledge.info/home/News/20081712A.asp>

5. Government Beyond the Centre

David Scott

5.1 Scottish Futures Trust

The Scottish Government's plans to set up the Scottish Futures Trust (SFT) as a replacement for the current system of PFI/PPP has continued to be the subject of political controversy. In September, John Swinney, the Finance Secretary, announced in the Scottish Parliament¹³⁵ that Sir Angus Grossart, a leading merchant banker, had been appointed to head the new body which would have the aim of 'improving the major infrastructure procurement of Scotland.' Mr Swinney said the SFT would aim to release up to £150m each year for increased investment in infrastructure through greater partnership, improved preparation and handling of projects and better value finance including the use of the NPD (non-profit distribution) model of funding. It would also bring together the enterprise to enable a Scotland-wide municipal bond to fund future projects, provide opportunities for more effective investment in Scotland's public services infrastructure and allow lessons to be learned from previous PFI contracts 'to reduce the cost of financing' and deliver more effective investment planning and procurement.

The appointment of Sir Angus was seen by some¹³⁶ as an initiative that would bring credibility to proposals that had attracted widespread criticism. However, the Scottish Government was accused¹³⁷ of 'failing to get its act together' over the funding of major public projects as it had failed to provide a timetable showing when projects would be commissioned by the new body and there were signs that projects were being delayed as a result of uncertainty. It was reported¹³⁸ that the First Minister, Alex Salmond,

¹³⁵ Scottish Parliament Official Report, September 10, 2008

<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0910-01.htm>

¹³⁶ Robbie Dinwoodie, September 12 2008, 'Salmond brings in top financier to run public investment trust' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2444579.0.Salmond_brings_in_top_financier_to_run_public_investment_trust.php; Douglas Fraser, September 12 2008, "Why Grossart's appointment is such a coup", *The Herald*
http://www.theherald.co.uk/politics/news/display.var.2444552.0.Why_Grossarts_appointment_is_such_a_coup.php

¹³⁷ David Maddox, September 12 2008, "Start funding new projects now or jobs and expertise will go" *The Scotsman*

<http://thescoatsman.scotsman.com/politics/-Start-funding-major-4480026.jp>

¹³⁸ Angus MacLeod, September 29 2008, 'Salmond to tap oil-rich Qatar for cash' *The Times* (Scotland)

planned to visit Qatar during 2009 in an effort to attract funding for public sector schemes in Scotland, this being seen as an initiative considered necessary because of increasing doubts about the SFT. In November, Mr Swinney announced¹³⁹ further details of the SFT including a hub initiative in two areas aimed at bringing together local authorities, NHS boards and other community planning partners in a joint programme of infrastructure investment. The announcement was greeted with reports¹⁴⁰ that councils had been unable to commission new schools in the past 19 months due to uncertainty over the SFT.

The SFT was one of the issues examined by the Scottish Parliament's finance committee. In a report¹⁴¹ published following its inquiry, the committee called on the Scottish Government to improve the way it costs and assesses all options for capital investment projects. On the SFT, the committee concluded there was insufficient information to judge whether the new body would be a mechanism for delivering improved value for money. This was reported¹⁴² as being a further blow to the future of the Trust.

5.2 Local Income Tax

A further area of controversy for the Scottish Government is its plan to replace the council tax with a local income Tax (LIT). In its programme for government¹⁴³ the Scottish Government announced the Council Tax Abolition Bill as one of 15 legislative measures to be introduced over the next year. The government has also published its response¹⁴⁴ to a consultation on LIT. In this, it reported that a majority of Scots thought that LIT was the fairest form of taxation. According to the published analysis, 55 per

<http://www.timesonline.co.uk/tol/news/uk/scotland/article4842958.ece>

¹³⁹ Scottish Parliament official report, November 13 2008

<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor1113-02.htm#Col12403>

¹⁴⁰ David Maddox, November 14 2008, "Schools crumble as SNP fails to deliver funding system" *The Scotsman* <http://thescotisman.scotsman.com/scotland/Schools-39crumble-as-SNP-fails.4694117.jp>

¹⁴¹ Scottish Parliament finance committee report: December 16 2008 'Inquiry into methods of funding capital investment projects'

<http://www.scottish.parliament.uk/s3/committees/finance/inquiries/capitalInvestment.htm>

¹⁴² David Maddox, December 16 2008, 'Scottish Futures Trust deal funding blow' *The Scotsman* <http://thescotisman.scotsman.com/scotland/Quangos-now-employing-more-than.4803570.jp>

¹⁴³ Scottish Parliament official report, September 3 2008, 'First Minister's Statement: Scottish Government's Programme'.

<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0903-01.htm>

¹⁴⁴ Scottish Government Press release November 24 2008

<http://www.scotland.gov.uk/News/Releases/2008/11/24095808>

cent of the 430 individuals who responded thought LIT was the fairest form of taxation, with 25 per cent in favour of council tax; 57 per cent of individuals supported a nationally set tax rate (the SNP administration proposes a rate of 3p in the pound); 62 per cent of people felt the tax should be collected at source and 60 per cent of individuals and organisations supported collection of the tax by HM Revenues and Customs. Media reports¹⁴⁵ of the analysis pointed out that while most people backed LIT a number of organisations, like the Confederation of British Industry (CBI), continued to oppose it, arguing that the new tax would place a costly administration burden on firms operating in Scotland.

It was reported¹⁴⁶ that many practical problems remain before the timetable for a bill can become a reality, not least the lack of support among other parties at Holyrood. Labour and the Conservatives firmly oppose LIT while the Lib Dems remain strongly against a nationally-set LIT but would be likely to back a system that allowed the tax rate to be set by each of the 32 local authorities. There were indications¹⁴⁷ that the Scottish Government might be prepared to compromise on the setting of a national rate and agree to councils being able to vary the rate up to a maximum of 3p. Such a move is likely to be welcomed by the Convention of Scottish Local Authorities (COSLA). According to reports¹⁴⁸, however, it has been criticised by businesses leaders and opposition parties who argued that the setting of 32 different tax rates in Scotland would cause administrative chaos.

During a debate on LIT in the Scottish Parliament¹⁴⁹ Mr Swinney said the government was looking into concerns raised by a number of organisations about how the new tax would work. He also stated that the government was 'actively considering' whether to exempt students from the proposed new system.

¹⁴⁵ The Scotsman, November 24 2008, 'Most people back local income tax proposal'

<http://thescotzman.scotsman.com/counciltax/Swinney-Most-people-back-local.4725653.jp>

¹⁴⁶ Angus Macleod, November 25 2008, 'Nationalists defiant over local taxation after study reveals sharp fall in support' *The Times* (Scotland) P 11

¹⁴⁷ David Maddox, October 27 2008, 'SNP signals U-turn on local income tax' *The Scotsman*
<http://thescotzman.scotsman.com/counciltax/SNP-signals-Uturn-on-local.4631027.jp>

¹⁴⁸ Lorraine Davidson October 27 2009 'Anger at Swinney's U-turn over local income tax' *The Times* (Scotland) P 11

¹⁴⁹ Scottish Parliament official report, October 2 2008 'Local Government Finance'
<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor1002-02.htm#Col11381>

5.3 Local Government Finance Settlement

The Scottish Government announced a funding increase of 5.1 per cent for councils in 2009-10. Giving details in the Scottish Parliament,¹⁵⁰ Mr Swinney said the £11.7bn settlement included money to deal with pressures like free personal care and police, fire fighter and teacher pensions. He also announced that 'to help households in a difficult economic climate' the Scottish Government was again making £70m available in 2009-10 to enable councils to freeze council tax. The minister said that in an attempt to help councils with deposits in Icelandic banks, the government would amend accounting rules to ensure no council had to make provision in their 2009-10 budgets for any potential loss. This would give councils time to adjust their financial plans once the position on recovering their money was clearer. Local government spokesmen claimed that, while the funding package might appear generous, the increase would mainly be taken up by the extra funding pressures facing councils because of the recession and other factors. The President of the Convention of Scottish Local Authorities (COSLA), Councillor Pat Watters¹⁵¹, said last year's settlement 'was tight and next year's settlement will be just as tight.'

Concordat

The 'historic' Concordat that was signed by the Scottish Government and COSLA showed signs of unravelling¹⁵² after ministers announced plans for smaller class sizes and free school meals for all pupils in primary 1-3. These flagship policies were included in the Concordat which gave greater freedom to councils in the use of their spending allocations by eliminating most of the ring-fencing measures that earmarked some of the grant for specific policies. In return, councils agreed to co-operate with the Government in implementing its overall policy objectives. However, some councils warned that they might be unable to deliver on policies like free school meals and smaller class sizes

¹⁵⁰ Scottish Government Press release, December 11 2008, 'Record Investment for councils' <http://www.scotland.gov.uk/News/Releases/2008/12/11155905>; Scottish Parliament official report December 11 2008 'Local Government Finance Settlement 2009-10' <http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor1211-01.htm>

¹⁵¹ David Scott, December 16 2008, 'Scottish councils face "tough" choices' *Public Finance* http://www.cipfa.org.uk/publicfinance/search_details.cfm?News_id=59479&keysearch=Scottish%20councils

¹⁵² David Maddox, October 16, 2008, 'Is the SNP's "historic" concordat with councils in danger of falling apart?' *The Scotsman*; <http://thescotzman.scotsman.com/scottishnationalparty/Is-SNP39s-39historic39-concordat.4596445.jp>; Angus Macleod, December 1 2008, 'Political Briefing' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5270596.ece>

because of financial restraints, while the Educational Institute of Scotland (EIS)¹⁵³ claimed that greater control handed to councils through the Concordat had led to damaging education cuts and would continue to do so in 2009. The Scottish Government argued¹⁵⁴ that the Concordat had resulted in a substantial reduction in ring-fenced expenditure, providing more flexibility to councils in their spending decisions and allowing them to keep efficiency savings to reinvest in front-line services for the first time.

Council pay dispute

After a long-running pay dispute involving council employees, members of the three local government unions involved, Unison, GMB and Unite, were urged to accept the 'best deal' on offer¹⁵⁵. This provided for an increase of 3 per cent for 2008-09, backdated to April, and 2.5 per cent for 2009-10. Members of Unison, the biggest local government union, decided (by a narrow majority)¹⁵⁶ to accept the offer. However, it was rejected by GMB and Unite members. This created an impasse in the Joint Negotiating Committee (JNC) which represents COSLA and the three unions involved. As a result, Glasgow City Council, Scotland's biggest local government union, decided independently to pay the amount due in back-pay prior to Christmas. The action was followed by similar decisions by nearly all of Scotland's other local authorities.¹⁵⁷ This resulted in the unusual decision of an offer being paid without agreement in the JNC and without an official circular going out to councils instructing them to pay the award.

5.4 Health Boards

A number of health boards and representatives of nursing and medical professions criticised the Scottish Government's plans to introduce direct elections to health boards.

¹⁵³ Andrew Denholm, December 27 2008, 'School cuts will go on under councils concordat, says EIS' *The Herald*
http://www.theherald.co.uk/news/news/display.var.2477949.0.school_cuts_will_go_on_under_councils_concordat_says_eis.php

¹⁵⁴ As reported in the above newspaper report

¹⁵⁵ Angus Howarth, October 24 2008, 'Accept "best deal" pay offer council leaders urge staff' *The Scotsman*
<http://thescoatsman.scotsman.com/uk/accept-39best-deal39-pay-offer.4626176.jp>

¹⁵⁶ Unison Press release, November 13 2008, 'Scottish local government members accept two year pay deal'
<http://www.unison-scotland.org.uk/news/2008/novdec/1211b.htm>

¹⁵⁷ David Scott, December 12 2008, 'Scottish councils break ranks to pay staff 3 per cent' *Public Finance*

According to the Health Boards (Membership and Election) (Scotland) Bill¹⁵⁸ the future composition of the boards would include directly elected members and provide a statutory basis for the presence of local councillors as health board members. The bill makes provision for the holding of elections to health boards and provides that the plans be introduced on a pilot basis. The age to vote in health board elections would be reduced to 16.

Health board officials in areas including Ayrshire and Arran, Lothian and Tayside¹⁵⁹ warned in evidence to the Scottish Parliament Health and Sport Committee, that the proposals could destabilise the service and 'politicise' the NHS. Nursing and medical representatives suggested¹⁶⁰ that the plans to hold elections would not improve accountability or increase participation. In a report of its inquiry, the health committee¹⁶¹ gave conditional support to the proposals. However, it stated that no decision on the national roll-out of direct elections to health boards should be taken until pilot schemes had been completed and independently evaluated. The committee concluded that, while there was a need to improve public accountability, no 'overwhelming' case for direct elections had been made, nor was there widespread enthusiasm for the proposals. The Scottish Government argued that direct elections should be held for the running of what is a 'publicly owned' service.¹⁶² Nicola Sturgeon, the health secretary, said the NHS is an institution 'people rightly cherish as co-owners'; and she added: 'But we have to make sure people are fully involved and do not feel shut out of decision making as they have in the past.'

¹⁵⁸ Health Board (membership and Elections) (Scotland) Bill (SP Bill 13) Scottish Parliament Health and Sport committee

<http://www.scottish.parliament.uk/s3/committees/hs/HBelectionsbill/index.htm>

¹⁵⁹ "Health board elections attacked", November 12, 2008 BBC Scotland News

¹⁶⁰ Stewart Paterson, November 20 2008, 'Elections would not improve health boards', committee told, *The Herald*

¹⁶¹ Stage 1 report on the Health Boards (membership and Elections) (Scotland) Bill Volume 1 Scottish Parliament Health and Sport committee

<http://www.scottish.parliament.uk/s3/committees/hs/reports-08/her08-07-vol1.htm>

Stage 1 report on the Health Boards (membership and Elections) (Scotland) Bill Volume 2: Evidence Scottish Parliament Health and Sport committee

<http://www.scottish.parliament.uk/s3/committees/hs/reports-08/her08-07-vol2-00.htm>

¹⁶² Scottish Government Press release, June 26, 2008, 'Scotland's health boards'

Audit Scotland

An Audit Scotland report on an overview of the NHS¹⁶³ suggested that the financial position of the NHS continued to improve overall but the service faced challenging times in the near future. The overview found that the health service had an overall underspend of £26m on its £10.1bn budget for the financial year ending March 31 2008. This was the third consecutive financial year that the service had an overall underspend and during 2007-08 NHS bodies were less reliant than previously on non-recurring types of income to meet financial targets. The report pointed out that the coming years would be challenging. NHS bodies would receive smaller funding increases over the next three years than in recent years. At the same time they were expected to increase efficiency savings, although they would be able to re-invest these savings to support the deliver of front-line services. Most NHS bodies were found to have sound governance arrangements in place but Audit Scotland said the auditors of NHS Orkney and NHS Western Isles 'raised governance issues that those boards must address.'

5.5 Quangos

The agenda on abolishing or merging quangos continues, although the overall effect on funding and personnel is unclear.¹⁶⁴ The most newsworthy quango remains Creative Scotland. The Scottish Government's published its plans¹⁶⁵ for the setting up of Creative Scotland, a new national development body for the arts and culture. The new organisation will take over the functions of the Scottish Arts Council and Scottish Screen as well as having a wider set of responsibilities for developing the sector. The Culture Minister, Linda Fabiani, said Creative Scotland would begin life as a company limited by guarantee allowing a new board of directors and chief executive to take forward the final phase of transition.

The Creative Scotland Bill, which provided for the setting up of the new body, was defeated in June 2008 after some MSPs said they were concerned about the financial implications. The new organisation now forms part of the Public Services Reform Bill which is due to be presented to Parliament in 2009. The proposals continue to be

¹⁶³ Audit Scotland, December 4 2008, 'Financial overview of the NHS in Scotland 2007-08' http://www.audit-scotland.gov.uk/docs/health/2008/nr_081204_NHS_financial_overview.pdf

¹⁶⁴ Scottish Government News Release 6.11.08 'Improving scrutiny' <http://www.scotland.gov.uk/News/Releases/2008/11/06103757>; D. Maddox 18.12.08 'Quangos now employing more than a year ago' The Scotsman <http://news.scotsman.com/politics/Quangos-now-employing-more-than.4803570.jp>

¹⁶⁵ Scottish Government Press release, September 3 2008, 'Set up of Creative Scotland' <http://www.scotland.gov.uk/News/Releases/2008/09/03115220>

surrounded by controversy. According to reports¹⁶⁶ the Scottish Artists Union warned that the country faced a mass migration of its artists if the proposed new agency continued on its present course. It was suggested that the union's concerns are due to a lack of public consultation, a cut in public money available for the arts and the prospect of loans being introduced instead of grants.

Members of a national forum and cultural alliance, comprising chairmen and chief executives of arts organisations, in a letter to the First Minister, Alex Salmond¹⁶⁷ voiced their 'deep concern' especially in relation to a recently announced two-year freeze on funding levels. The group sought guarantees that transition costs for the formation of Creative Scotland would not be drawn from 'front-line' arts in Scotland. Despite their concerns, however, the group¹⁶⁸ supported the designing of the 'most imaginative, responsive and supportive new body for the arts in Scotland.' It was pointed out that the company charged with preparing for the setting up of Creative Scotland had been launched and that the board of the company was due to meet in January 2009.

¹⁶⁶ Edd McCracken 13 December 2008, 'Artists warns of mass exodus if bill is passed' *Sunday Herald*
http://www.sundayherald.com/news/heraldnews/display.var.2475088.0.artists_warn_of_mass_exodus_if_bill_is_passed.php

¹⁶⁷ Tim Cornwall, December 23 2008, 'Art attack; call to bring down the curtain over Creative Scotland' *The Scotsman*
<http://news.scotsman.com/opinion/Art-attack-call-to-bring.4817023.jp>

¹⁶⁸ Ruth Wishart, December 31, 2008, 'New arts body needs creative thinking to succeed' *The Herald*
http://www.theherald.co.uk/features/featuresopinon/display.var.2478486.0.New_arts_body_needs_creative_thinking_to_succeed.php

6. Intergovernmental Relations

Alan Trench

6.1.1. Introduction and background

The period since the summer of 2008 has seen relative quiet, at least on the formal front of intergovernmental relations. The overall climate has been overshadowed by three larger issues: the global financial crisis, the developing constitutional debate about Scottish devolution, and the aftermath of the by-elections in the Westminster constituencies of Glasgow East and Glenrothes. The UK Government has been willing to exploit these issues to undermine arguments of the SNP (particularly when related to volatile oil prices and the resources required to intervene in the banking crisis).¹⁶⁹ The SNP has sought to influence the response to the crisis and its effects in Scotland, in particular seeking to mitigate the possible effects of the HBOS/Lloyds TSB merger for Scottish jobs.¹⁷⁰ While generally less eager to attack the UK Government than Labour was to attack the Scottish Government, it has been critical of some aspects of UK Government action.¹⁷¹ That said, there have also been a number of occasions when the two governments have worked together to try to tackle the consequences of the crisis, as with the implications for local authorities that had lost money invested in collapsed Icelandic banks.¹⁷² Overall, however, it has been hard to avoid contrasting the ability of the UK Government to take dramatic, large-scale action in an attempt to tackle the crisis with the much more limited powers of the Scottish Government and the steps it could take as a result (see also section 4.1).¹⁷³

The developing constitutional debate led to the publication of a lengthy submission of evidence from the UK Government to the Commission on Scottish Devolution, on 10 November (see section 1). The submission includes information from most UK Government departments, including the Ministry of Justice and HM Treasury.¹⁷⁴ In introducing the evidence, the Secretary of State for Scotland said that the object of the Calman commission process was to secure greater financial responsibility and

¹⁶⁹ See 'Oil too volatile to underpin independence, insists Brown', *The Herald* 27 October 2008; 'Gordon Brown claims credit for rescuing HBOS' *The Herald* 31 October 2008.

¹⁷⁰ 'Salmond has 'positive and constructive' meeting over HBOS' *The Herald* 28 October 2008.

¹⁷¹ See e.g. 'Salmond implies Westminster indecisive on solution' *The Herald* 8 October 2008.

¹⁷² 'Scottish and UK Governments work jointly on Icelandic banking' *The Herald* 15 October 2008.

¹⁷³ E.g. 'Salmond demands "substantial" interest rate cut' *The Herald* 8 October 2008

¹⁷⁴ Available at <http://www.commissiononscottishdevolution.org.uk/uploads/2008-11-10-hmg.pdf>

autonomy for the Scottish Parliament.¹⁷⁵ However, the generally cautious tenor of the evidence resulted in a lukewarm reception. For example, a leader in the Herald said 'There is reason to conclude from the Westminster Government's submission to the Calman Commission inquiry into the Scottish Parliament's fiscal powers that what Whitehall departments want is the devolution settlement to exist as it did before Calman began its work. ... Unfortunately, the submission published yesterday does not give much in the way of hope that Westminster departments are prepared to think big or be creative and imaginative to help address the Holyrood disconnect. They could, and should, have done better.'¹⁷⁶ Most controversial were suggestions that, following the use by the Scottish Government of devolved planning powers to prevent new nuclear power stations being located in Scotland, such powers should be removed to prevent a recurrence.

6.2. Appointment of new Secretary of State for Scotland, and Parliamentary Under-secretary

Jim Murphy, MP for East Renfrewshire, was appointed as Secretary of State for Scotland, replacing Des Browne, as part of a UK Government reshuffle on 3 October. The junior minister at the Scotland Office had already changed: David Cairns had resigned as Minister of State on 16 September, in order to 'allow a leadership debate to run its course'. He was replaced by Ann McKeichin, MP for Glasgow North, who has the more junior rank of Parliamentary Under-secretary of State.

One early result of the change of ministers was that the UK Government abandoned its insistence on the using the term 'Scottish Executive', and has taken to calling the devolved administration the 'Scottish Government'. It also brought about a number of joint meetings with Scottish Government ministers about matters of concern relating to the economic crisis, and an announcement of an 'alternative to detention' for the children of failed asylum seekers presently held at Dungavel.¹⁷⁷ The new Secretary of State clarified his role in an interview with *The Herald* in early December.¹⁷⁸ He sought to emphasise that his role was not a party-political one, despite the deep differences

¹⁷⁵ 'Murphy: Scottish parliament must be "more accountable"' *The Herald* 9 November 2008.

¹⁷⁶ 'Devolution proposals', *The Herald* 11 November 2008.

¹⁷⁷ See Scotland Office Press Release, 23 October 2008, 'Pilot of alternative to detention for Dungavel children', available at <http://www.scotlandoffice.gov.uk/our-communications/release.php?id=3703>

¹⁷⁸ 'My role is not political ... it's doing the best for Scotland' *The Herald* 10 December 2008.

between Labour and the SNP, and that he was 'Scotland's man in the cabinet rather than the cabinet's man in Scotland'.

6.3. Formal meetings: the Joint Ministerial Committee and the British Irish Council

Despite the start made in June 2008 with the revival of the Joint Ministerial Committee, there have been no further meetings of the JMC (whether in plenary or the 'Domestic' format discussed at the June meeting).

There have been two meetings of the British Irish Council. A summit meeting took place on 26 September 2008 at Hopetoun House, outside Edinburgh.¹⁷⁹ The Scottish Government was represented by Alex Salmond, First Minister, and John Swinney, Cabinet Secretary for Finance and Sustainable Growth, and the UK Government by Paul Murphy, Secretary of State for Wales. According to its communiqué, the meeting discussed a lengthy agenda, including such issues as energy, demography, social inclusion, the knowledge economy, the misuse of drugs, and transport. It considered the work of a strategic review of secretariat arrangements for the BIC, with a view to setting up a standing secretariat, and agreed to consider these further at another meeting in early 2009. It also agreed to conclude work streams on tourism, the knowledge economy, and eHealth, to set up a work stream on early years policy (to be led by Wales), and to consider further setting-up of work streams on energy (as proposed by the Scottish Government), child protection, housing and collaborative spatial planning (proposed by Northern Ireland), and digital inclusion (proposed by the UK Government). The meeting also discussed the global financial crisis, and Ministers noted the value and importance of learning from and co-operating on measures taken and being considered in all BIC member administrations.

The First Minister invited the various leaders present to return to Scotland during 2009 for 'Homecoming' events.¹⁸⁰

A sectoral BIC meeting on the Misuse of Drugs took place in London, at the Home Office, on 20 November. It was chaired by John Curran, Minister of State with responsibility for the National Drugs Strategy in the Irish Government's Department of

¹⁷⁹ The meeting's communiqué is available at http://www3.british-irishcouncil.org/documents/edinburgh_summit.asp

¹⁸⁰ The Scottish Government's press notice for the meeting is at <http://www.scotland.gov.uk/News/Releases/2008/09/26082807>

Community, Rural and Gaeltacht Affairs.¹⁸¹ The Scottish Government was represented by Joe Griffin, Head of the Drugs Policy Unit. According to the communiqué, the ministers were of the view that the sharing of experiences provided a good opportunity to learn from each other, and resolved to continue to do so. They are to meet again in late 2009.

6.4. Litigation and the courts

There have been no 'devolution issues' cases decided by the Judicial Committee of the Privy Council since September 2008.

The impending establishment of the UK Supreme Court, which will assume the jurisdiction of the Judicial Committee of the Privy Council in 'devolution issues' cases, has led the Scottish Government to set up a review of the final appellate jurisdiction in the Scottish legal system. This is to be conducted by Professor Neil Walker, who holds the Regius chair of Public Law and the Law of Nature and Nations in the University of Edinburgh. Walker has been asked to report by 1 November 2009.¹⁸²

6.5. Revisions of the devolution settlement

No orders amending the Scotland Act have been made since September 2008.

6.6. UK Government's Legislative Programme and further proposals

The UK Government's legislative programme for 2008-09 was announced in the Queen's speech on 3 December 2008.¹⁸³ The programme contains 14 bills (and 7 draft bills). Only three of the bills in the programme contain substantive provisions relating to devolved matters (and so are likely to trigger legislative consent motions). These include the Policing and Crime Bill, which contains provisions regarding the seizure of the proceeds of crime which extend to Scotland, and the Local Democracy, Economic Development and Construction Bill which contains provisions regarding construction contracts. Most important, however, is the Marine and Coastal Access Bill which creates new rules for managing the UK's coastline (and therefore mostly applying only to England and Wales), as part of an agreement between the UK Government and

¹⁸¹ The meeting's communiqué is available at <http://www3.british-irishcouncil.org/documents/drugs6.asp>

¹⁸² Scottish Government News Release, 15 December 2008, 'Review of Civil Appeal', available at <http://www.scotland.gov.uk/News/Releases/2008/12/15093413>

¹⁸³ The text of the speech is available at <http://www.commonleader.gov.uk/output/Page2647.asp>

devolved administrations about the management of coastal waters, which will become the responsibility of the devolved institutions.¹⁸⁴

In addition, the UK Government has set out, in a White Paper, proposals for the reform of welfare benefits, with a bill expected to be introduced into Parliament during the coming session.¹⁸⁵ The overall goal of the proposals is to reduce dependence on welfare benefits (notably Job Seekers' Allowance and Incapacity Benefit) and to encourage the movement of claimants into work. The plans rely on extensive collaboration from the devolved governments in providing training services to support claimants in this transition, which it admits have yet to be reached. While the Scottish Government was studiously silent on the issue, Rhodri Morgan (First Minister of the Welsh Assembly Government) was publicly critical of the ideas lying behind these proposals, and their suitability in a Welsh context.¹⁸⁶

6.7. Financial issues: the UK Government's Pre Budget Report

The UK Chancellor introduced the Pre Budget Report to Parliament on 24 November.¹⁸⁷ Given the global financial crisis, this was a further-reaching report than usual. The package included a stimulus package of some £2 billion, bringing capital spending forward from 2010-11 to 2009-10 and 2008-09. The Report notes that, 'in the case of devolved areas of spending, the devolved administrations may reprofile spending in line with the Barnett formula in the normal way' (para. 6.13). According to the 'regional press notice' for Scotland, this will amount to £260 million for the Scottish Government.¹⁸⁸ Of particular importance for the devolved governments is the increased target set for efficiency savings by the UK Government (of £5 billion in 2010-11), which also apply to the devolved governments. Details of these will be set out in full in the 2009 UK Budget, but applying the usual population proportion to the figure of £5 billion (in accordance with the Barnett formula) this would suggest that the Scottish Government's budget will be

¹⁸⁴ See Joint Statement from the Joint Ministerial Committee, 25 June 2008, available at <http://www.scotlandoffice.gov.uk/our-communications/release.php?id=3676>, and Scottish Government News Release 'Devolved Scotland extends out to sea', 27 November 2008, available at <http://www.scotland.gov.uk/News/Releases/2008/11/27105536>

¹⁸⁵ Department of Work and Pensions *Raising Expectations and Increasing Support: Reforming welfare for the future* Cm 7506 (London: The Stationery Office, 2008).

¹⁸⁶ 'Ministers' benefit reform worries' *BBC News Online*, 10 December 2008. Available at <http://news.bbc.co.uk/1/hi/wales/7773960.stm>

¹⁸⁷ HM Treasury *Facing global challenges: Supporting people through difficult times. Pre Budget Report 2008* Cm 7484 (London: The Stationery Office, 2008). Available at http://www.hm-treasury.gov.uk/d/pbr08_completereport_1721.pdf

¹⁸⁸ http://www.hm-treasury.gov.uk/d/pbr08_pn_scotland.pdf

reduced by a further £504 million in 2010-11. In partial mitigation for this, the 'regional press notice' notes that further 'EYF (end year flexibility) drawdown' will be available to the Scottish Government in 2010-11 to mitigate the reduction in its baseline spending consequent on the revision of the Department of Health's capital spending budget that formed part of the 2007 Comprehensive Spending Review.

Rows over the proposed local income tax (with its implications for council tax benefit) and the proposed Scottish Futures Trust have rumbled on, but within Scotland and without an intergovernmental dimension between September 2008 and January 2009, apart from some Labour side-swipes (by both Holyrood and Westminster politicians) at the proposals for a local income tax during the Glenrothes by-election campaign. The proposed replacement Forth Road Bridge has raised more serious issues, especially as this is something that might have been funded by the Scottish Futures Trust had that been established in the way the SNP originally wished. These rather heated discussions have involved a request by the Scottish Government to allocate ('re-profile') the £2 billion capital cost of the bridge over 20 years, rejected by the Treasury inter alia on the ground that it could not allow the Scottish Government to 'borrow' against predicted future revenues from grants from the UK Government. This followed a scaling-down of the proposed size of the bridge, which reduced its cost significantly.¹⁸⁹ The impasse in direct negotiations between the Treasury and the Scottish Government led to a meeting with the Secretary of State for Scotland being arranged for late January 2009 – with the Scotland Office also suggesting it was appropriate for the Secretary of State to interest himself in such detailed matters as the design and size of the bridge.¹⁹⁰

6.8. European Union matters

Scottish Ministers attended a number of meetings of the EU Council of Ministers between September and December. Richard Lochhead, Cabinet Secretary for Rural Affairs and the Environment, attended three meetings of the Agriculture and Fisheries Council in Brussels (on 18–20 November, 27-28 October and 29 September), while Fergus Ewing, Minister for Community Safety attended the Justice and Home Affairs Council in Luxembourg on 24 October, and Frank Mulholland, the Solicitor General, was

¹⁸⁹ 'Salmond goes for cut-price bridge across Forth', *The Scotsman* 11 December 2008.

¹⁹⁰ 'Salmond 'not taking no for an answer' over Forth Bridge funding', *The Herald* 5 January 2009; 'Swinney hopes for Treasury deal to pay for £2bn Forth crossing', *The Herald* 6 January 2009; 'Date set for Westminster summit talks on £2bn Forth road bridge', *The Herald*, 12 January 2009.

at the Justice and Home Affairs Council on 25 September.¹⁹¹ The most notable substantive issue was the annual round of fisheries negotiations in Brussels shortly before Christmas, which resulted in an announcement that 'West coast fisheries [had been] saved from closure' and increases in quotas for a number of important catches including cod and mackerel, and standstills in others including prawns and haddock.¹⁹²

In addition, a number of overseas visits were made by Scottish Ministers, or visiting official delegations received. These included visiting delegations from Ireland, Schleswig-Holstein in Germany, Hungary, Catalonia in Spain, and Iceland, and official visits by the Europe Minister to Poland and the First Minister to Catalonia.¹⁹³

¹⁹¹ For further details, see <http://www.scotland.gov.uk/Topics/Government/International-Relations/Europe/Scotland-in-Brussels/Councils/Councils08>

¹⁹² See Scottish Government News Release ' West coast fisheries saved from closure' 19 December 2008, available at <http://www.scotland.gov.uk/News/Releases/2008/12/19142306>

¹⁹³ For details, see <http://www.scotland.gov.uk/Topics/Government/International-Relations/Europe/Current-European-Affairs/Bilaterals/Visits2008>

The **Constitution** Unit

**DEVOLUTION
MONITORING
PROGRAMME
2006-09**

Scotland Devolution Monitoring Report

May 2009

**Paul Cairney (ed.)
University of Aberdeen**



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: **Dr Paul Cairney**
University of Aberdeen
- 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 Alan Harding & Dr James Rees**
IPEG, University of Manchester
- The Centre: **Prof Robert Hazell**, The Constitution Unit, UCL

The Constitution Unit and the rest of the research network is grateful to all the funders of the devolution monitoring programme.



WALES OFFICE



All devolution monitoring reports are published at: <http://www.ucl.ac.uk/constitution-unit/research/devolution/devo-monitoring-programme.html>

Scotland Devolution Monitoring Report

May 2009

Paul Cairney (ed.)

INTRODUCTION.....	5
1. THE SCOTTISH CONSTITUTIONAL DEBATE	6
2. THE FINANCIAL DEBATE.....	12
3. PUBLIC ATTITUDES AND ELECTIONS.....	15
4. THE SCOTTISH PARLIAMENT AND PARTIES	30
5. SCOTTISH GOVERNMENT AND PUBLIC POLICY	49
6. GOVERNMENT BEYOND THE CENTRE	76
7. INTERGOVERNMENTAL RELATIONS	86

Introduction

Paul Cairney

The report covers a period demonstrating that the SNP remains remarkably popular for a mid-term government and still able to present an image of governing competence during difficult times. However, the political landscape appears to be more testing in 2009 than anything we have seen since 2007. For example, although Alex Salmond is still the most popular leader in the Scottish Parliament, an opinion poll suggests that Labour have taken the lead. This comes on the back of a torrid time for the SNP when it failed to pass its annual budget first time round, dropped its plans to introduce legislation establishing a local income tax and appeared to be forced by the opposition parties to introduce new legislation (rather than existing regulations) to further its aims on alcohol policy. While these examples perhaps demonstrate the harsh realities of minority government, they do not represent a nail in its coffin. The failure of the budget reflected badly on all parties (rather than a successful attempt on their part to embarrass the government), producing a scramble among Labour and the Liberal Democrats to find a way to accept a new bill that differed marginally from the old one. Subsequently, it showed that a political system containing a minority government could deal well with a crisis (assuming that the opposition parties would not welcome an early election), passing a new budget within a week of rejecting the old bill. There is further potential for cross-party cooperation on alcohol policy (there is a lot of common ground between the SNP and Labour on interventionist public health measures) and the issue of fiscal autonomy (given Scottish Labour's new enthusiasm and the SNP pledge, following a budget concession to the Liberal Democrats, to engage with the Calman Commission on this point). Perhaps the more important problem for the SNP is its public image during the policy process. The economic crisis has already damaged its hopes to appear to do a lot with limited powers, since Gordon Brown emerged as the leader most able to intervene and use the types of policy levers unavailable in Scotland. Similarly, a succession of legislative failures presents the image of a government struggling to exert its power. The role of Jim Murphy as Labour's Secretary of State for Scotland may be to further this image. On the one hand the UK Government has accepted Scotland's veto on nuclear power. On the other, Murphy appears determined to block any formal meetings between First and Prime Minister that present the former with a sense of equal status. The strategy may be to equate Salmond on a par with Murphy and therefore less important than Brown.

1. The Scottish Constitutional Debate

Michael Keating

Key Points

- The constitutional debate in Scotland continues along parallel tracks with the National Conversation and the Calman Commission, allowing both sides to avoid difficult questions that might be raised by the other.
- The National Conversation debate lacks serious research and discussion of the economic and social implications of independence. It also gives minimal consideration to the role of the EU and the limited ability of small member states to pick and choose from its framework.
- The Calman Commission does not articulate a clear and consistent idea of what the Union is, and therefore what its continued value might be. Instead, it makes questionable claims about the centrality of British (rather than Scottish) citizenship as a justification for universalist social and human rights policy.
- The further devolution of fiscal powers is a strong possibility, particularly following the SNP obligation to engage with Calman on this matter. However, the overall position of the unionist parties is relatively unclear.

The constitutional debate continues along parallel tracks. On the one hand, there is the SNP Government's National Conversation.¹ This started out promisingly, with the Government upholding its preference for independence but open to other suggestions, including further devolution. It has continued, however, as a series of events around the country and a web-site open to bloggers of all types and there are few signs of progress towards a specific scheme or even a range of choices. If there is research being done or academic work being drawn upon, there is scant evidence of this on the National Conversation web site or in the media in general. This is a remarkable contrast to the situation in Quebec in the run-up to the referendum of 1995, when there was a wave of research, writing, seminars, debates and media coverage of all aspects of the independence prospectus: constitutional; international; economic; social; and political. This did not, of course, mean that the population reached agreement or that the issue was decided on technical grounds but at least the issues were rehearsed.

¹ Scottish Government (2008) Choosing Scotland's Future: A National Conversation <http://www.scotland.gov.uk/Resource/Doc/194791/0052321.pdf>.; <http://www.scotland.gov.uk/topics/a-national-conversation>

In Scotland, there has not been a serious debate on the political economy of independence. On the one hand, the unionists insist that Scotland cannot go it alone, and depends on transfers from Westminster. On the other, the nationalists point to the possibility of cutting business taxes and (until recently) invoked the 'arc of prosperity' of small independent countries in Northern Europe. The unionist jibe about the 'arc of insolvency' was equally uninformative. What is missing is a serious study of exactly how small independent countries fare in the global and European market-place and why some succeed and others fail. We also need to recognize that there are very different models, from the Irish model based on low taxes, inward investment and, in consequence, minimal welfare standards, to the Nordic model of high taxes, high welfare standards and public services and a commitment to social solidarity.

Nor have we had a serious debate about Europe. The independence prospectus is now dependent on the European Union as an external support system for Scotland, securing market access, free movement and common standards. Yet there are very different visions of Europe itself, from the highly integrationist and supranational, to the minimalist and intergovernmental. Similarly, there is a division between those who see Europe as essentially a common market and those who want a stronger social vision. SNP policy seems to envisage a semi-detached relationship with Europe similar to that of Denmark or (ironically) the United Kingdom. Denmark's opt out of common policies, however, is largely fictional. While using the Euro they are in the Exchange Rate Mechanism, meaning that their currency has about the same relationship to the Euro as Scottish banknotes have to Bank of England notes. They have opted out of the common security policy but are in NATO, which is the framework for it; and they adopt the great majority of directives in areas from which they have formally opted out. SNP policy is to decide after independence whether to stick with the Pound or adopt the Euro but this is not something that can be decided casually. A decision to adopt the Euro requires a convergence procedure, with precise goals for economic policy laid out in advance.

On the unionist side, there is the Calman Commission on Scottish Devolution. This was established with a remit that excludes the independence option, reducing its options to reform of the Union. Yet it has struggled to define the value and meaning of the Union, and so to provide a philosophical underpinning for its recommendations. In this they are at one with the Labour Party and its floundering

over the Britishness agenda. In their interim report they take up the idea of social citizenship, which has entered the academic debate recently as T.H. Marshall's² post-war ideas have come back into circulation. The Westminster Government's evidence to Calman reflects this thinking, emphasizing common social citizenship and assumptions about public services, 'All parts of the UK regard the provision of healthcare as a fundamental part of what it means to be a citizen – devolution has responded to local needs, but it has not altered this fundamental feature of our citizenship'.³ The Commission itself comments that 'Devolution, as it currently exists, would in principle allow for a fundamentally different welfare state in Scotland or in England, at least in relation to health or education. But there may be a case for a broadly common social citizenship across the UK. If so, does a common understanding of what that involves need to be more clearly articulated?'⁴

There is a logical problem here, in that the argument for social citizenship is taken automatically to imply *British* social citizenship. The idea that a distinct Scottish or Welsh (or even Northern Irish) social citizenship might be emerging, alongside or in competition with British social citizenship, is not considered. Yet this is precisely one of the things that devolution might encourage and, indeed, is encouraging. Just as universal human rights can be institutionally expressed at different levels (from the local through the state to the European) so social rights can be attached to different collectivities and there is no clinching normative argument to link them to the nation-state as opposed to the stateless nation or any other collectivity. This is a matter of value on which Scots can legitimately disagree while being committed to the same substantive values.

One general argument for common social citizenship in devolved and federal systems, divorced from the charged concept of nationality, arises from a fear that devolved governments, by the will of local majorities or under the pressure of economic competition, will cut social welfare standards. This is the famous 'race to the bottom'. There appears to be no evidence or danger whatever of this among the

² Marshall, T.H. (1950) 'Citizenship and Social Class' in (ed). T.H. Marshall *Citizenship and Social Class and Other Essays* (Cambridge: Cambridge University Press)

³ Scotland Office (2008), *Government Evidence to the Commission on Scottish Devolution*, London: Scotland Office.

⁴ Commission on Scottish Devolution (Calman Commission) (2008), *The Future of Scottish Devolution within the Union: A First Report* <http://www.commissiononscottishdevolution.org.uk/uploads/2008-12-01-vol-1-final--bm.pdf> , 4.60

devolved governments of the United Kingdom. Indeed, their divergences from UK policy have without exception represented an expansion and enhancement of social citizenship. One may disagree with their preference for universalism, but not on the grounds that it undermines social citizenship. On the contrary, a social democrat might favour further devolution precisely on the grounds that the devolved territories provide more fertile territory.

The invocation of social citizenship is then used to justify further unity and limitations on the scope of the devolved institutions, which could, according to the examples given, mean curtailing discretion in presently devolved fields. There would be common standards across the United Kingdom. Again, there is something missing in the argument here. If the argument is that the policy preferences of citizens are in fact the same across the United Kingdom, this still does not make a case for intergovernmental co-ordination, merely for more democratic responsiveness so that each of the nations (including England) get what it votes for.

Nor is it clear how common standards would work or who would enforce them. Given the direction that divergence has taken, it could mean that Scotland, Wales and Northern Ireland would not be allowed to expand social entitlements above those in England, so imposing maximum rather than minimum standards. Alternatively it could mean that UK governments would be prohibited from lowering social entitlements in England but it is not clear how this can be done. There is no parallel here with some federal systems in which the federal level lays down minimal standards binding everywhere, since the Westminster Parliament, doubling as the parliament for England and dominated by English MPs, is not a federal legislature. One might imagine a system in which common standards would be negotiated in intergovernmental forums, but this would present serious problems of accountability. It is also quite unrealistic to imagine that the UK government would in effect allow the Scottish Parliament a veto over matters like increasing prescription charges or university fees in England. There could be a constitutional entrenchment of standards through a binding social charter. This would present the same problems as a UK Charter of Rights. It is in any case an unlikely possibility, since successive UK governments have refused to recognize the idea of social rights. Indeed the UK government has opted out of the EU Charter of Rights, which is essentially about social and labour standards. Finally, common standards could be laid down unilaterally by Westminster. Given the composition of Parliament and the dominance

of UK parties, such common standards would thus be English standards, taking us back to the days before devolution.

Calman also claims that civil rights, through the Human Rights Act are linked to Britishness through the Westminster Parliament. This is factually wrong. Rights in Scotland are secured through the European Convention for the Protection of Human Rights and Fundamental Freedoms which is entrenched in the Scotland Act in a stronger form than in England, since Holyrood, unlike Westminster, does not have an opt-out clause. They are extended through the Human Rights Act to non-devolved matters. Since there seems little prospect of an independent Scotland opting out of the European Convention, protection of human rights does not logically provide an argument for the Union.

One issue that has preoccupied both sides is that of finance.⁵ The nationalist position is clear, that Scotland should control all finance and expenditure, but in the meantime have produced a paper examining the various options, as part of their deal with the Liberal Democrats (see 3.3). There have been improvements in the methodology of calculating existing flows, in GERS (Government Expenditure and Revenues in Scotland) although the parties are still far apart in their interpretation of the data. The unionist parties have appeared at times to be edging towards some sort of fiscal devolution but every hint in this direction seems to be followed by backtracking. It is clear that the Labour Party is deeply divided on the question, the Conservatives have less difficulty with the idea, and the Liberal Democrats are firmly committed to taxing powers for the Parliament. In the meantime, the SNP blames London Labour for 'cutting' its budget, while Labour blames the SNP for 'cutting' services. This strategy may become more difficult as cuts start to bite in England, although Labour may not be in government by then. A future UK government may well decide that devolving tax powers is the best way to deflect criticism away from itself in hard times.

⁵ H. Macdonell 25.2.09 'Holyrood set for new cash powers' *The Scotsman* <http://news.scotsman.com/latestnews/Holyrood-set-for-new-cash.5012374.jp> ; H. Macdonell 25.2.09 'Party's biggest policy change in a decade' *The Scotsman* <http://news.scotsman.com/politics/Party39s-biggest-policy-change-.5012373.jp>; H. MacDonell 5.3.09 'Brown not asked for his view on Scottish Labour's Calman move' *The Scotsman* <http://news.scotsman.com/politics/Brown-not-asked-for-his.5040193.jp>; R. Dinwoodie 25.2.09 'Swinney pushes 'devolution max' as the best way forward' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2491536.0.Swinney_pushes_devolution_max_as_the_best_way_forward.php; R. Dinwoodie 25.2.09 'Salmond aims for a win-win situation' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2491537.0.Salmond_aims_for_a_winwin_situation.php; L. Davidson 24.2.09 'Swinney's stepping stone to independence' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5799603.ece>

The unionists have boycotted the National Conversation and the nationalists have largely avoided Calman, except when forced to interact as a result a budget deal with the Liberal Democrats. This has allowed both sides to avoid difficult questions that might be raised by the other. All the evidence that we have suggests that the Scottish public is not persuaded of the case for independence, but nor do they subscribe to the unionist or Britishness agenda. In Italy in the 1970s there was an effort to overcome the deeply entrenched social and political division between the Christian Democrat and Communist poles of society with the realization that the substantive policy differences between them were rapidly disappearing. The result was a 'historic compromise' on common ground. The two sides, in the obscure language of the Italian political class, would proceed on 'converging parallels' (the expression is taken from Masaccio, the Renaissance discoverer of the vanishing point or perspective in art). The constitutional debate in Scotland is running in parallel but there is little sign of convergence.

2. The Financial Debate

Alan Trench

Key Points:

- Although the SNP has effectively been obliged to engage with Calman on fiscal autonomy, its response also indicates a degree of pragmatism in the absence of independence.
- Evidence from the House of Lords Select Committee on the Barnett Formula suggests that the Labour Government is no closer to a solution than it was in 1979.

The Scottish Government published a paper on *Fiscal Autonomy* on 24 February.⁶ It canvassed five options: full fiscal autonomy in an independent Scotland; 'devolution max', or full fiscal autonomy within the UK; creating enhanced devolution; assigning revenues to the Scottish Parliament; and continuing with or marginally changing the current framework. It expressed a strong preference for full fiscal autonomy through independence, and failing that for full fiscal autonomy within the UK, seeking to ground this in the academic literature on fiscal federalism, emphasising the economic value of localised fiscal and economic decision-making, and pointing to examples such as the Basque Country and Spain to show how this works elsewhere.

This was followed by a submission by the Scottish Government to the Calman Commission on borrowing powers for the devolved administration. On 11 March, the Finance Secretary wrote to Sir Kenneth Calman with a detailed submission making an 'undeniable economic case' for the Scottish Government to be granted borrowing powers similar to those of local government and the Northern Ireland Executive in the UK, and sub-state governments elsewhere, for both the purposes of economic stimulus and infrastructure investment, to enable the Government to manage its own Budget responsibly.⁷

⁶ Scottish Government *Fiscal Autonomy in Scotland: The case for change and options for reform. Taking forward our National Conversation* (Edinburgh: Scottish Government, 2009). Available at <http://www.scotland.gov.uk/Publications/2009/02/23092643/10> See also Scottish Government News Release 24 February 2009 *Fiscal Autonomy*, available at <http://www.scotland.gov.uk/News/Releases/2009/02/24104347>

⁷ 'Borrowing Powers: Information to be Shared with the Calman Commission'. Available at <http://www.scotland.gov.uk/Topics/Government/Finance/calcommmsg>

These two developments, taken together, indicate significant shifts in the SNP's position. Its interest in maximising fiscal autonomy within the UK indicates a pragmatic acceptance that independence may be some way off, if it were to come at all.⁸ This is, of course, consistent with that strand of SNP thinking that views independence as a continuum of degrees of self-government rather than a black-and-white issue. The fact that the Scottish Government is effectively obliged to engage with Calman is a further indication for many that Calman is now the main forum for the debate on Scottish self-government. However, to see this as a simple triumph of one process over the other may be mistaken, as it also serves to raise expectations of what the Calman commission recommends – both the extent to which it will come up with a blueprint for significantly enhanced devolution, and that the UK Government will in fact implement its recommendations.

The House of Lords Select Committee on the Barnett Formula has been taking evidence in London, Edinburgh, Cardiff and Belfast since January (its report should appear before the summer recess). The Committee has narrow terms of reference, limited to consideration of the appropriateness of the Barnett formula to fund the devolved administrations and any alternative to the formula, but barring consideration of the distribution of public spending within England and wider fiscal issues.⁹ The committee has heard from both the Cabinet Secretary for Finance and Sustainable Growth, John Swinney MSP (on 27 February), the UK Secretary of State for Scotland, Jim Murphy MP (along with the Secretaries of State for Scotland and Wales, on 1 April), as well as officials of HM Treasury (on 11 March).¹⁰ During his appearance, John Swinney declined to suggest any revised form of the Barnett formula, as his preference was for fiscal autonomy.¹¹ Jim Murphy defended it as 'fair', and cited as its advantages the relative transparency, predictability and stability that it offers.

It is also worth noting that, in an answer at Prime Minister's Questions on 22 April to David Simpson (DUP MP for Upper Bann), Gordon Brown claimed that 'It has been

⁸ R. Dinwoodie 'Swinney pushes 'devolution max' as the best way forward', *The Herald* 25.2.09

⁹ See House of Lords Liaison Committee *2nd Report of Session 2007–08* HL 142 (London: The Stationery Office, 2008), paras. 3 and 4.

¹⁰ Uncorrected transcripts of oral evidence given to the Committee are available at http://www.parliament.uk/parliamentary_committees/hlbarnettformula/barnettuncorrected.cfm

¹¹ For press coverage, see R. Dinwoodie 'Old foes Forsyth and Swinney clash over fiscal autonomy', *The Herald* 28 February 2009; D. Maddox 'Swinney accused of stirring up Barnett row to boost SNP', *The Scotsman* 28 February 2009.

common ground between all the parties over the last 30 and more years that the allocation of public spending resources in the United Kingdom is based on need. I believe that that is the right formula and the right way to proceed.¹² Since no needs assessment has been undertaken since 1979, and this was never implemented, it is puzzling how the Prime Minister might claim even to know that this is the case.

¹² HC Debates 22 April 2009, column 228.

3. Public Attitudes and Elections

John Curtice

Key Points:

- There is little evidence that the SNP Government or the effect of the financial crisis on small states is affecting levels of support for independence
- While much depends on the wording of the question, the most popular option remains strengthened devolution
- The public supports the idea of holding a referendum (although not during the economic crisis) but the vote would be unlikely to produce support for independence.
- The survey evidence does not suggest that the Scottish or UK populations think that Scotland gets 'too much money'
- There is some public support for raising the minimum age to buy alcohol, but not for minimum alcohol pricing
- Although its support (Scottish Parliament) dipped in March, the SNP's lead over Labour was restored in April.
- Labour's Westminster lead over the SNP also narrowed in April
- Therefore, the battle to come out on top of the European Parliament elections will be close.
- The SNP's by-election gain in Dundee helped oust the existing Labour/Liberal Democrats coalition from power
- Alex Salmond remains, by far, the most popular party leader in the Scottish Parliament. Gordon Brown's relative unpopularity has been restored.

3.1 Attitudes towards devolution

3.1.1 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?'

	July 08	Sept. 08	Oct. 08	Jan. 09	Mar. 09*
	%	%	%	%	%
I would vote YES (i.e. for Scottish independence)	36	34	31	29	33

I would vote NO (i.e. against Scottish independence)	48	50	53	55	53
Don't Know/Would not vote	16	15	16	16	14

* Introduction read 'If there is a referendum, the SNP government's planned referendum would ask voters whether...'

Source: YouGov/Sunday Times, 29-30.1.09 and 12-13.3.09

In the referendum, the Scottish Government intends to ask people whether they think the Scottish Government should negotiate a new partnership with the United Kingdom so that Scotland becomes an independent country. Do you agree or disagree that the Scottish Government should negotiate this new partnership?

	%
I AGREE that the Scottish Government should negotiate a new partnership so that Scotland becomes an independent country	37
I DO NOT AGREE that the Scottish Government should negotiate a new partnership so that Scotland becomes an independent country	52
Don't know	11

Source: YouGov/SNP 21-2.4.09

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	Oct. 08	Jan./Feb. 09
	%	%	%	%	%	%
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	35	38
I do not agree that the Scottish Government should negotiate a settlement with the government of the United Kingdom so that	50	44	40	41	43	40

Scotland becomes an independent state						
---------------------------------------	--	--	--	--	--	--

Source: TNS System Three/Sunday Herald; 28.1-3.2.09

Thinking about Scotland's future, which of the following comes closest to your view?

	%
Scotland should become independent from the rest of the United Kingdom	21
The Scottish Parliament should have more powers than it does now, but short of full independence from the rest of the United Kingdom	41
The Scottish Parliament has the right level of powers and should retain them	26
The Scottish Parliament should have fewer powers than it does now	8

Source: Populus/Times 29-30.4.09 (N=500)

On balance do you think Scotland should...?

	%
Continue to be represented by the UK Government in the European Union	40
Be a member of the European Union in its own right and represented by the Scottish Government	42
Neither of these	9

Source: YouGov/SNP 21-22.4.09

Contrary to the expectations of the SNP, there continues to be little evidence that the experience of having a SNP devolved government is serving to increase support for independence. Equally, however, there is little evidence that the impact of the financial crisis on nearby small independent states such as Ireland and Iceland has had any long-term adverse effect on the attractiveness of the proposition. Meanwhile the level of support for independence measured by opinion polls continues to depend heavily on the wording of the question that is asked.

On two occasions during this period YouGov asked a question that is designed to tap how people would vote in a referendum on independence along the lines proposed by the SNP government and which had been asked on three previous occasions last

year. The results were little different from those that had been obtained previously, with around a third saying they would vote in favour of independence and just over half indicating they would vote against. Moreover, support for independence was only a little higher even when YouGov administered on behalf of the SNP a question on referendum voting intention that presented independence as 'a new partnership' with the rest of the United Kingdom.

Meanwhile, a Populus poll administered for the *The Times* in recognition of the tenth anniversary of devolution in early May, confirmed previous evidence that the most popular single option amongst the Scottish public is for devolution to be strengthened. As many as two in five backed this option, twice as many as favoured independence. Indeed, at 21% support for independence is exactly the same as it was in response to a question that offered much the same options, albeit in a differently worded fashion, in a Populus poll conducted shortly before the May 2007 election. The relatively low level of support for independence, when pitted against the possibility of a strengthened devolution settlement, raises questions about the wisdom of Labour's opposition to any form of multi-option referendum on the grounds that it could result in victory for independence 'by the back door'. Rather such a referendum would seem to minimise the chances of a victory for the independence cause.

However, a differently worded question on referendum voting intentions that was administered during this period by TNS System Three for a sixth time continues to suggest that support for and against independence is much more evenly balanced. It may be that the presentation of independence in this poll as the negotiation of a 'settlement' with the government of the UK serves to make it more attractive. If so, System Three's results will only serve to reinforce Labour criticism of the SNP's proposed wording of its referendum question, as that wording is closely mimicked by System Three's poll question. Nevertheless, even this poll does not suggest that there has been any significant change of public mood since the autumn of 2007.

One of the key issues in the debate about independence is whether an independent Scotland would be better served by being an independent member of the European Union. The potential attractiveness of the idea of Scotland being directly represented in the councils of the EU was revealed by a question included on YouGov's poll for the SNP. Slightly more people backed the idea of Scotland being a member of the EU in its own right than preferred Scotland to be represented by the UK government.

Of course the poll did not make it clear that such direct representation would only be possible if Scotland were to become an independent state.

3.1.2 Perceptions of Devolution

Which of these statements comes closest to your view?

	%
Scotland gets too much money from the rest of the UK	3
Scotland gets too little money from the rest of the UK	41
Scotland gets a fair share of money from the rest of the UK	50

Source: Populus/Times 29-30.4.09 (N=500)

Populus's tenth anniversary survey for *The Times*, which was also conducted south of the border,¹³ attempted to address the continuing debate about the acceptability of Scotland's share of public expenditure. The wording of its question, however, left something to be desired. The use of the term 'money' could be thought to refer to private economic activity as well as public expenditure. Nevertheless, the poll found that rather more people think that Scotland gets its fair share of money than think it secures less than its fair share. In this it would appear to echo the more moderate mood in respect of this subject tapped by the 2007 Scottish Social Attitudes survey.¹⁴

Meanwhile the same poll found that no less than 70% believe that devolution has been good for Scotland, while just 18% believe it has been bad. At the same time only 24% believe that its introduction has worsened relations between Scotland and England. As many as 65% think the relationship is much the same while 8% actually think it has become better. However, in line with the feeling that the Scottish Parliament should have more powers, only 10% believe that the Scottish Parliament has more influence on their lives than the UK Parliament does, while as many as 33% say the opposite is true. Just over half (52%) say they have more or less equal influence.

¹³ See <http://www.populus.co.uk/the-times-the-times-scotland-poll-anniversary-of-devolution-may-2009-030509.html>

¹⁴ J. Curtice, 'How Firm are the Foundations? Public Attitudes towards the Union in 2007', in T. Devine (ed.), *Scotland and the Union 1707-2007*, Edinburgh: Edinburgh University Press, 2008.

3.1.3 Referendum Timing

Previous surveys have regularly found that there is broad public sympathy for the idea of holding a referendum on independence. This was affirmed by YouGov's poll in March for *The Sunday Times*, which found that 57% supported the idea of a referendum in principle and just 29% were opposed. However this poll then went on to ask, 'In view of the economic recession, would you consider a referendum on Scottish independence being held next year appropriate or inappropriate?'. Just 32% thought it would be appropriate, while as many as 53% stated that it would be inappropriate. Doubtless this result will have been welcome to the Liberal Democrats who in March instigated and won a vote in the Scottish Parliament opposing the holding a referendum in 2010 because of the financial crisis (see 3.4). In any event, it does not seem that the public are anticipating independence happening some time soon, for YouGov also found in March that only 19% expect it to happen in the next ten years.

3.2 National Identity

Nothing to report.

3.3 Other Issues

3.3.1 Alcohol Use

Following a consultation exercise in March the Scottish Government announced revised proposals for dealing with alcohol misuse. These proposals included allowing local licensing boards to increase the minimum age for buying alcohol from an off licence from 18 to 21 and introducing a minimum price per unit of alcohol, a move designed to stop supermarkets being able to sell alcohol at knock down promotional prices (see 4.5). Such measures, which in some respects represented a watering down of the government's original proposals, inevitably aroused considerable controversy. It was argued that the raising of the minimum age for purchasing alcohol from an off licence would mean that soldiers who had returned from service in Afghanistan or Iran might be unable to buy a can of beer to drink at home, while enforcing a minimum price per unit of alcohol would penalise 'responsible' drinkers. It should perhaps come as little surprise that the second of these arguments is the more powerful in the public's mind. Minimum alcohol pricing affects everyone who

buys alcohol, whereas raising the minimum age for buying alcohol only affects a potentially scapegoated minority. Thus, YouGov's survey for *The Sunday Times* found that 55% oppose minimum alcohol pricing, while only 40% are in favour. In contrast 59% support giving local licensing boards the right to raise the minimum age for off sales, while just 37% are opposed.

3.3.2 Renewable Energy and Nuclear Power

One of the key sources of tension between the Scottish and UK Governments concerns the future of nuclear power. The UK Labour Government has indicated that it believes that it is willing to consider proposals to build new nuclear power stations in the UK in order to meet the country's energy needs, not least because many existing nuclear power stations are due to be decommissioned during the course of the next two decades. The SNP Scottish Government, in contrast, opposes the building of new nuclear power stations, arguing that Scotland's energy needs can be met through greater exploitation of renewable sources of energy, most notably wind and wave power.

Public attitudes towards both renewable sources of energy and nuclear power were measured as part of the 2008 *Scottish Environmental Attitudes and Behaviours Survey*, which was commissioned by the Scottish Government, conducted by MORI amongst 3,054 people aged 16 plus between August and November 2009, and published in March.¹⁵

At first glance, there appears to be considerable support for prioritising renewable sources of energy. As many as 48% agree that 'Scotland's energy should only come from renewable sources, not from nuclear power stations or coal and gas', while just 26% disagree. Moreover, as many as 58% disagree that 'windfarms do more damage than good to the natural environment'. But this enthusiasm for renewable energy is a limited one and does not necessarily mean that Scotland should forgo the option of nuclear power. As many as 44% agreed (and only 32% disagreed) that 'new hydro-electric schemes and windfarms should only be allowed if they don't lead to more pylons being built across Scotland', while as many as 53% would be unwilling to pay more for their electricity to be produced in an environmentally more

¹⁵ S. Davidson, C. Martin and S. Treanor, *Scottish Environmental Attitudes and Behaviours Survey 2008*, Edinburgh: Scottish Government Social Research. Available at <http://www.scotland.gov.uk/Publications/2009/03/09083930/15>.

responsible manner. Meanwhile, a majority (53%) of the Scottish public agree that 'we need nuclear power alongside other forms of energy', while only 23% disagreed, in part perhaps because nearly twice as many people (39%) agree that 'nuclear power stations are more environmentally friendly than coal or gas stations' than disagree (21%).

Curiously these last two findings were not deemed worthy of highlighting when the report was published. In any event it seems that public preferences in respect of energy sources are nothing like as strongly held as the various protagonists in the debate presume. It seems that while people are sympathetic towards renewable energy, they only want it if it is neither unsightly nor costly, and if needs be they accept that nuclear power may also have to be part of Scotland's energy mix.

3.4 Party Funding

3.4.1 Holyrood Voting Intentions

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Solidarity	Others
	%	%	%	%	%	%	%	%
30-31.1.09	13/15	32/28	12/11	38/34	-/6	-/4	-/1	5/2
12-13.3.09	14/15	34/32	12/11	35/30	-/5	-/4	-/1	4/2
21-22.4.09	15/15	30/28	13/13	37/37	-/-	-/-	-/-	5/7

Note: Separate figures for Greens etc. only available for regional vote and not for April poll. Constituency vote for Others includes these parties; other than in April regional figure excludes them

Source: YouGov//Sunday Times and YouGov/SNP

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Solidarity	Others
	%	%	%	%	%	%	%	%
22-28.4.09	15/13	29/30	11/10	41/40	-/4	-/-	-/-	3/4

Source: TNS System Three/Sunday Herald

The SNP government has proved remarkably popular since coming to power in May 2007. However, in March it looked as though perhaps its bloom was finally beginning to fade. YouGov's poll for *The Sunday Times* that month was notable for being the first since the 2007 election to suggest that the Labour party might now be ahead of

the SNP on at least one of the two Holyrood votes, and that thus Labour might overhaul the SNP in seats in any early Scottish election. It appeared as though the government's initial failure to secure the passage of its budget bill, followed by the announcement that it had abandoned its plans to introduce a local income tax might have begun to erode public confidence in the government's competence and sense of direction.

However in April, by which time the popularity of the UK Labour government had suffered from the Damien McBride e-mail scandal,¹⁶ a further YouGov poll, this time for the SNP, found that the SNP's lead over Labour had been restored. This was confirmed by a poll conducted a week later by TNS System Three. Meanwhile the polls continue to suggest that the Liberal Democrats are in a relatively weak position, and that the Conservatives are still failing to make any progress as a choice for the Scottish Parliament. Both parties are either running at or below the share of the (relatively low) constituency and list votes they received in 2007.

The Greens played a pivotal and widely criticised role in the downfall of the budget. However, this seems to have at most only had a marginal impact on their popularity. As a result it is far from clear that if the budget crisis had precipitated an early election that it would have altered the configuration of the Holyrood parliament significantly. If the Green party were to secure 5-6% of the list vote, as opposed to the 4% it won last time, it could be expected to pass the de facto threshold for securing seats in a majority of regions, and thus increase its current tally of two seats. Meanwhile, because the nationalists are also heavily reliant on winning list seats, the more successful the Greens are at winning such seats, the more difficult it is for the SNP to turn any poll lead over Labour into a decisive lead in seats.

3.4.2 Westminster Vote Intentions

Fieldwork	Con	Lab	Lib Dem	SNP	Others
	%	%	%	%	%
30-31.1.09	20	37	12	27	4
12-13.3.09	20	37	11	27	4
21-22.4.09	21	32	13	30	6

Source: YouGov/Sunday Times and YouGov/SNP

Fieldwork	Con	Lab	Lib Dem	SNP	Others
	%	%	%	%	%

¹⁶ For further details see http://news.bbc.co.uk/1/hi/uk_politics/7995044.stm.

22-28.4.09	19	36	9	32	4
------------	----	----	---	----	---

Source: TNS System Three/Sunday Herald

Last summer was remarkable for witnessing a number of polls that not only suggested the SNP were ahead of Labour in voting intentions for the Scottish Parliament, but that they were also ahead in voting intentions for Westminster – for the first time since 1976. The nationalists - and not the Conservatives - were apparently the main beneficiaries in Scotland of the unpopularity of the UK Labour government. However, by the autumn Labour had restored its lead in Scotland in the wake of the restoration of its electoral fortunes across the UK.

Labour continued to enjoy a lead over the nationalists during most of this period. However, towards the end of April, as Labour again hit electoral trouble across the UK, that lead had narrowed quite considerably. However, there is some sign that the Conservatives may now be beginning to profit north of the border too from Labour's unpopularity. All three YouGov polls conducted during this period put the Conservatives on 20% or more, as had a previous poll in October. This is the first time since 1993 that a continuous sequence of polls has put the Conservatives at 20% or more in Westminster voting intentions. Meanwhile, even TNS System Three, an organisation not known for overestimating Conservative strength in Scotland, put the party as high as 19% in April. If these figures were to be realised in the ballot box in the UK general election that has to be held by June next year, the Conservatives might well emerge with a handful of Scottish MPs rather than just the solitary figure of David Mundell, as at present.

It is now widely forgotten that the Liberal Democrats came second in votes in Scotland at the last UK general election, with 23% of the vote. There seems to be little prospect of their repeating that performance. It is the party's good fortune that most of its MPs represent relatively safe seats, and thus its parliamentary representation may not be cut heavily should its support decline on the scale currently anticipated by the opinion polls.

3.4.3 European Vote Intentions

Fieldwork	Con	Lab	Lib Dem	SNP	Others
	%	%	%	%	%
12-13.3.09	18	36	11	29	6

Source: YouGov/Sunday Times

Along with the rest of the UK, Scotland goes to the polls on June 4th to elect representatives to the European Parliament. Under the regional party list system used to elect MEPs in Great Britain, Scotland forms one single constituency. However, following the reduction in the UK's representation in the parliament, the number of MEPs to be elected from Scotland is being cut from seven to six. This will make the race for the last seat (allocated under the D'Hondt divisor method) even more competitive.

If the result in 2009 were to be the same as last time, then it would be the Conservatives who would lose out, their representation falling from two seats to one. However, according to the one and only poll of European voting intentions, conducted in March, in practice it could be the Liberal Democrats who lose out. Although that poll only put the party two points below its 2004 tally of 13%, Labour were reported to be doing sufficiently well to secure the sixth and last seat at the expense of the Liberal Democrats. Whether Labour will in practice do that well, given the subsequent decline in its fortunes on other poll measures, is perhaps to be doubted, but the risk this year's election poses to the Liberal Democrats' ability to maintain their representation at Westminster is clear.

The European election will, however, be primarily of interest as a nationwide popularity contest between Labour and the SNP. Labour will wish to come first in votes in order to demonstrate that the wheels have finally come off the SNP bandwagon in Scotland. The SNP will wish to demonstrate that they are still the most popular party north of the border. Historically the nationalists have performed relatively well in European elections – though the last election in 2004 was a notable exception – and thus the battle for first place could well prove to be a close one.

3.4.3 Local Government By-Elections

12/3/09 Dundee/Maryfield	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	6.9	-1.4
Labour	31.1	+0.5
Liberal Democrat	10.9	-2.2
SNP	47.6	+3.2
SSP	1.6	-0.2
Independent (2 cand)	1.9	I
Solidarity	-	W

Turnout 29.4 (-16.8)

23/4/09 Highland/Inverness West	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	4.4	-2.5
Labour	8.3	-7.7
Liberal Democrat	59.6	+34.5
SNP	22.1	-6.7
Scot Christian Party	4.6	I
Solidarity	1.1	I
Independent	-	W

Turnout 38.4 (-13.3)

23/4/09 Aberdeenshire/Aboyne, Upper Deeside & Donside	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	31.5	-18.3
Labour	-	-
Liberal Democrat	26.7	+0.6
SNP	17.0	-3.1
Independent	23.3	I
BNP	1.2	I
Independent	0.5	I

Seat won by Liberal Democrats after redistribution of votes cast for lower placed candidates

Turnout 43.7(-15.4)

30/4//09 Stieling/Bannockburn	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	16.1	-1.2
Labour	39.9	-11.1
Liberal Democrat	2.9	-0.8
SNP	37.6	+4.4
Independent (3 cand)	12.2	+7.3
Green	1.3	I

Turnout 34.7 (-20.4)

I Party did not contest ward in 2007; W Party contested ward in 2007 but did not contest by-election

Sources: www.alba.org.uk; www.gwydir.demon.co.uk/byelections

Two of the four local government by-elections held during this period were of particular interest. First in March the SNP secured what had previously been a Labour seat in Dundee's Maryfield ward. That gain helped the SNP to oust the existing Labour/Liberal Democrats coalition from power. The outcome of the by-election was, however, almost inevitable, as the SNP had been well ahead of Labour on the first preference vote in 2007, and the single Labour councillor was only the second person to have been elected. This is the first time since the introduction of STV that the outcome of a by-election held in circumstances where a seat was almost bound to be lost has helped bring down a local administration.

Second in April the Liberal Democrats gained a seat from the Conservatives in Aberdeenshire. They did so even though their candidate, Rosemary Bruce, the wife of the local MP Malcolm Bruce, came second in first preferences in what in 2007 has been a strongly Conservative ward. Mrs. Bruce's victory rested on her ability to secure substantially more second preferences from those who backed the SNP and Independent candidates. This was the first time that the outcome of a STV by-election in Scotland has been determined by the redistribution of second preferences.

3.5 Attitudes towards Parties and Leaders

3.5.1 Parties

Nothing to report.

3.5.2 Leaders

Which of the following do you think would make the best Scottish First Minister?

[Apr.09] Which ONE, if any, of the following Scottish political leaders do you think would make the best First Minister?

	Apr. 08	Sept. 08	Oct. 08	Jan. 09	Mar. 09	Apr. 09
	%	%	%	%	%	%
Alex Salmond	43	41	38	35	36	36
Iain Gray	11*	3	13	15	17	7
Cathy Jamieson	-	7	-	-	-	-
Andy Kerr	-	5	-	-	-	-
Annabel Goldie	9	8	10	11	11	10
Tavish Scott	5**	5	6	5	6	4
Patrick Harvie	-	-	-	2	1	1
None/Don't Know	31	31	33	34	29	42

Note: Respondents were advised of the party of each leader.

* Figure for Wendy Alexander; ** Figure for Nicol Stephen

Party of leader included in response options except in April poll.

Source: YouGov/Sunday Times 30-31.1.09 and 12-13.3.09/ YouGov/SNP 21-22.4.09

Given the current economic downturn, who would you trust more to make the right decision to help Scottish people in their everyday lives, Alex Salmond or Gordon Brown?

	Sept. 08*	Jan. 09
	%	%

Alex Salmond	36	33
Gordon Brown	26	33
Neither	27	25
Don't Know	11	9

* question began, 'Given the current credit crunch and the problems of rising food and energy prices'

Source: YouGov/Sunday Times 30-31.1.09

Which one do you think is doing a better job?

	%
Alex Salmond	37
Gordon Brown	28
Neither/ Don't Know	26

Source: YouGov/SNP 21-22.4.09

Alex Salmond continues to be a popular First Minister, clearly outstripping all of his rivals. The embarrassment of the banking difficulties in Ireland and Iceland, part of Mr Salmond's 'arc of prosperity', together with the government's difficulties during this period in respect of its budget and on local taxation, seem at most to have had only a marginal impact on the First Minister's popularity. Indeed, YouGov's January poll found that 37% of people rated Mr Salmond's performance 'in relation to the budget process' as 'good', compared with 24% for Annabel Goldie (whose Conservative party voted for the original budget), 15% Iain Gray, 12% Patrick Harvie, and 11% Tavish Scott (all of whom opposed the original budget). Indeed, despite having impressed some commentators with his performances at First Minister's Questions, Iain Gray, the opposition Labour leader, still has to make much impression on the wider public.

Meanwhile, it seems that Mr Salmond's performance may once again be rated more highly than that of the UK Prime Minister, Gordon Brown, whose own rating was boosted in the wake of the financial crisis last autumn. Indeed one poll in October last autumn found that 42% of people in Scotland trusted Mr Brown most to 'steer Scotland through the current financial crisis', and only 23% Mr Salmond (see previous monitoring report). The volatility in the relative rating of the two leaders would appear, however, to have more to do with changes in Mr Brown's popularity than with people changing their mind about how well Mr Salmond is performing.

4. The Scottish Parliament and Parties

Paul Cairney

Key Points:

- Westminster can learn much from the reforms to MSP expenses in 2005 (on transparency) and 2008 (on second homes). Raised UK attention may also accelerate Scottish Parliament reforms.
- The Standards, Procedures and Public Appointments Committee agrees with the Presiding Officer that truthfulness is the responsibility of individual MSPs. An independent advisory panel has also ruled that Alex Salmond did not mislead the Scottish Parliament.
- The annual budget bill process has shown the best and worst aspects of minority politics, reflecting an odd mix of increasing maturity but destructive partisanship
- The Conservatives have most incentive to *support* as well as criticise Scottish Government policy
- The unity of Scottish Labour's opposition continues to be undermined by UK interference.
- The SNP continues to lose votes in the Scottish Parliament, but very few motions put it in a difficult position. A parliamentary motion on the local income tax was one factor of many to explain its withdrawal.
- Although the Scottish Parliament voted against holding an independence referendum, there is some evidence of opposition party division, and Alex Salmond has vowed to press on.
- This period saw a significant rise in committee activity and there is some evidence of cross-party cooperation (most notably when beginning an inquiry into future annual budgets).
- Debate continues about the significance of the relatively low number of Scottish Government bills.
- The SNP Government continues to approve Legislative Consent Motions for the sake of expediency or when the issues are innocuous

4.1 Westminster and Holyrood Expenses

By far the biggest story in the UK in this period is the fallout from continuous revelations about MP expenses. Although some Scotland MPs have been exposed (and, of course, the Prime Minister and Chancellor both have Scottish constituencies), this is part of a UK-wide agenda. Yet, we can detect one interesting difference in party strategy: while the Conservative and Labour parties are fighting to take the lead on penance and payback, the SNP has expressed more confidence about its conduct and ability to wait until the new rules are published before it

reacts.¹⁷ Similarly, although for some the Scottish Parliament may be guilty by association, it has been left largely untouched because it has already reformed its rules following concerns about the transparency of MSP expenses (in 2005, by allowing the public to view MSP expenses online) and the ability of MSPs to profit from the sales of their second homes (in 2008, by voting to effectively make MSPs rent instead of buy).¹⁸ Therefore, much has been made (particularly by Alex Salmond) about the ability of Westminster to learn from Holyrood.¹⁹ This may include reference to the statement expressed in the Langlands Review that allowances are there to reimburse expenses (accompanied by receipts) rather than augment salaries (in the light of Harry Cohen MP's claims that the Thatcher government recommended

¹⁷ B. Ferguson 13.5.09 'Extreme' new rules to curb MP expenses' *The Scotsman* <http://news.scotsman.com/latestnews/39Extreme39-new-rules-to-curb.5259731.jp>; *The Scotsman* 12.5.09 'Cameron to take action over Tories' expenses 'abuse' <http://news.scotsman.com/politics/Cameron-to-take-action-over.5256936.jp>; M. Settle 13.5.09 'Cameron tells Tory 'sinners' to repay expenses or face the sack' *The Herald* http://www.theherald.co.uk/news/news/display.var.2507729.0.Cameron_tells_Tory_sinners_to_repay_expenses_or_face_the_sack.php; P. Wintour 13.5.09 'David Cameron tells Tory MPs: write cheque or face sack' *The Guardian* <http://www.guardian.co.uk/politics/2009/may/12/mps-pay-back-expenses>; P. Webster 13.5.09 'David Cameron rewrites Conservative rules on expenses' *The Times* <http://www.timesonline.co.uk/tol/news/politics/article6276869.ece>; *The Telegraph* 13.5.09 'MP's expenses: Gordon Brown admits 'extreme action' needed to restore public trust in politics' <http://www.telegraph.co.uk/news/newstopics/mps-expenses/5315229/MPs-expenses-Gordon-Brown-admits-extreme-action-needed-to-restore-public-trust-in-politics.html>; R. Winnett and A. Porter 13.5.09 'MPs' expenses: David Cameron orders Tories to pay back claims' *The Telegraph* <http://www.telegraph.co.uk/news/newstopics/mps-expenses/5315053/MPs-expenses-David-Cameron-orders-Tories-to-pay-back-claims.html>; G. Peev 14.5.09 'SNP won't repay a penny until independent audit, says Salmond' *The Scotsman* <http://news.scotsman.com/politics/SNP-won39t-repay-a-penny.5265090.jp>; A. Picken, G. Fraser and A. Morris 13.5.09 'Do Lothian MPs have nothing to fear in expenses row?' *Edinburgh Evening News* <http://news.scotsman.com/politics/Do-Lothian-MPs-have-nothing.5260620.jp>; 13.5.09 'Edinburgh MP to pay back cash claimed for flat legal costs' *Edinburgh Evening News* <http://edinburghnews.scotsman.com/politiciansexpenses/Edinburgh-MP-to-pay-back.5260616.jp>

¹⁸ See Scottish Parliament 'Members Expenses Scheme' <http://www.scottish.parliament.uk/msp/MSPAllowances/index.htm#section2>; M. Earle (2009) *Parliamentary Pay and Expenses 20007-08 and Pay and Expense Rates 2008-09*, SPICE briefing 09/6 <http://www.scottish.parliament.uk/business/research/briefings-09/SB09-06.pdf>; *Scotland Devolution Monitoring Report January 2006*, 2.3, p20 and September 2008, 2.3, pp.16-17 <http://www.ucl.ac.uk/constitution-unit/research/devolution/devo-monitoring-programme.html>; BBC News 13.12.05 'MSP expenses published in detail', <http://news.bbc.co.uk/1/hi/scotland/4522478.stm>; <http://www.rampantscotland.com/let061007.htm>;

¹⁹ BBC 28.4.09 'MPs 'should back' MSP claim rules' <http://news.bbc.co.uk/1/hi/scotland/8022950.stm>;

I. Swanson 30.4.09 'Ian Swanson: Use Holyrood as expenses model' *The Scotsman* <http://news.scotsman.com/politics/-Ian-Swanson-Use-Holyrood.5221067.jp>; I. Swanson 28.10.08 'MSPs Look on With Envy at MPs Expenses', *Edinburgh Evening News*, p.11; although see also J. Hjul 5.4.09 'Holyrood's snouts are no shorter than Westminster's', *The Sunday Times* <http://www.timesonline.co.uk/tol/comment/columnists/article6036140.ece>

using allowances rather than raising MP salaries) (see also 3.5).²⁰ The new rules on transparency also appeared to produce a fall in overall expense claims.²¹ There may also be some pressure from Westminster to Holyrood, as the rise in overall attention puts pressure on MSPs to do more than they agreed – by, for example, accelerating the provisions made in 2008 to phase-out second home ownership by 2011 and pay back any profits from the sale of a second home.²² The issue has certainly eclipsed earlier calls for Salmond to quit as an MP and stories which bemoan his lack of time spent in Westminster.²³ It also puts previous Scottish Parliament scandals in perspective – the SNP's Minister for Parliamentary Business Bruce Crawford suggested recently²⁴ that former First Minister Henry McLeish was harshly treated before his resignation (but would not make the same statement about Wendy Alexander).

4.2 Who Decides If Ministers are Telling the Truth? Part 2

Complaints by opposition parties about the truthfulness of ministerial statements in the Scottish Parliament prompted the Presiding Officer to ask the Standards, Procedures and Public Appointments Committee to conduct a wider inquiry into the use by MSPs of points of order to raise these issues.²⁵ The view of all three Presiding Officers (David Steel, George Reid, Alex Fergusson) is that MSPs are

²⁰ Scottish Parliament (2008) Independent Review of Parliamentary Allowances (the Langlands Review) http://allowancesreview.scottish.parliament.uk/report/AllowancesReviewReport_final.pdf; G. Cordon 29.3.09 'MP says £300,000 claim for home is 'part of salary'', Scotland on Sunday <http://scotlandonsunday.scotsman.com/latestnews/MP-says-300000-claim-for-5119588.jp>

²¹ T. Gordon 6.10.06 'MSPs' expenses fall from GBP1.8m to GBP227,000 in wake of scandals' The Herald

²² P. Hutcheon and T. Gordon 18.5.09 'Hand back any profits on second homes, urges MSP', The Herald http://www.theherald.co.uk/news/news/display.var.2508758.0.Hand_back_any_profits_on_second_homes_urges_MSP.php; I. MacWhirter 17.5.09 'It's payback time' The Herald http://www.theherald.co.uk/features/featuresopinion/display.var.2508702.0.its_payback_time_as_msps.php

²³ H. MacDonell 17.2.09 'Tories tell Salmond to quit as MP over 'poor' Westminster record', *The Scotsman* <http://news.scotsman.com/politics/Tories-tell-Salmond-to-quit.4985958.jp>; S. Paterson 17.2.09 'Salmond should quit as an MP, says Scots Tory leader' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2489682.0.Salmond_should_quit_as_an_MP_says_Scots_Tory_leader.php; *The Scotsman* 28.4.09 'Salmond hits out at 'Thatcher-style cuts' ' <http://news.scotsman.com/politics/Salmond-hits-out-at-39Thatcherstyle.5210951.jp>; T. Crichton 28.4.09 'Salmond takes 'cuts' fight to the heart of Westminster' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2504615.0.Salmond_takes_cuts_fight_to_the_heart_of_Westminster.php

²⁴ BBC Radio Scotland 15.5.09 'Riddoch Questions', recorded at 'Ten Years of the Scottish Parliament' conference, 12 May, Edinburgh – an event to mark the publication of C. Jeffery and J. Mitchell (eds.) *The Scottish Parliament, 1999-2009: The First Decade* (Edinburgh: Luath Press). Note also the claim by Iain Gray that the Scottish Government is undermining Labour's shadow legislative programme.

²⁵ See Scotland Devolution Monitoring Report January 2009, 3.1 pp. 30-1

responsible for the veracity of their own comments and that concerns about ministerial conduct should be referred to the First Minister (to investigate adherence to the Scottish Ministerial Code):

There are, in my view, very good reasons for this ruling. Firstly, I do not believe that any Presiding Officer can make a determination as to the accuracy of comments made. In order to do so, the Presiding Officer would require detailed knowledge of the subject matter at hand including access to all information which Members had used as a basis for their comments. This is simply not possible. Secondly, any attempt to draw the Presiding Officer into such a role would undermine the impartiality of the Office. To have the Presiding Officer conducting an investigation, interviewing Members and requiring the production of documents, would draw him or her into essentially political territory where judgements will often come down to an interpretation of the facts and perhaps even semantics. Finally, Presiding Officers might in practice ultimately be asked to accept the word of one Member over another which would be an invidious position for any Presiding Officer to be placed in. It is for these reasons that the Standing Orders are deliberately silent on such matters and do not furnish the Presiding Officers with any powers in this area.²⁶

The Standards Committee endorses this view. It recommends: (a) that the Scottish Parliament and Scottish Government establish a joint protocol to clarify the rules and their respective roles (note also the willingness of the committee to engage in policy learning on member and ministerial conduct from other legislatures, including Westminster); and (b) that the Committee should produce guidance for MSPs who wish to complain about the inaccuracies of statements made by other MSPs. This may lead to a reduction in, but not prohibition of, points of order in plenary.²⁷ It should also put to bed the wider accusation the idea that Alex Fergusson is a weak Presiding Officer, particularly if we consider the consequences in Westminster of a more interventionist and less aloof Speaker.²⁸ Of course, the First Minister should not rule on her or his own conduct. Instead, Alex Salmond referred a complaint, made by Tavish Scott MSP on statements made by Salmond during FMQs, to his new independent advisory panel (George Reid and David Steel). The panel's report

²⁶ Alex Fergusson 4.2.09, letter to the Convenor of the Standards Committee, Annex A <http://www.scottish.parliament.uk/s3/committees/stanproc/reports-09/stpr09-05.htm#anna>

²⁷ Standards, Procedures and Public Appointments Committee (2009) *Accuracy of contributions in parliamentary proceedings*, 5th Report, SP Paper 254 <http://www.scottish.parliament.uk/s3/committees/stanproc/reports-09/stpr09-05.htm>

²⁸ M. Settle 14.5.09 'Bid to oust Michael Martin as Speaker gathers momentum', *The Herald* http://www.theherald.co.uk/news/news/display.var.2507983.0.Bid_to_oust_Michael_Martin_a_s_Speaker_gathers_momentum.php; A. Sparrow 13.5.9 'Labour MPs join Tory to call for Speaker to resign' *The Guardian* <http://www.guardian.co.uk/politics/2009/may/13/labour-mps-call-michael-martin-resign>

concludes that Salmond did *not* mislead Parliament (although it recommends that, in future, ministers base their statements to Parliament on decisions that are *documented*).²⁹ Yet, the truth agenda is likely to continue as a basis for partisan competition, with some evidence that the SNP is willing to join in (by making similar accusations about Iain Gray).³⁰

4.3 Political Parties and the Annual Budget

The 'new' *Budget (Scotland) (No 3) Bill* was passed, using the emergency bills process,³¹ on the 4th February. This followed a week of intense and negative publicity (which even extended to the UK media) that prompted the parties to change tack and stress the need for consensus. The new tone can be detected to some extent throughout the bill's debate, with (Cabinet Secretary for Finance and Sustainable Growth) John Swinney pointing to the added value of the bill following compromises with the opposition parties (last year he was more likely to suggest that the concessions represented a very small part of the overall budget) but his opposition party counterparts (and MSPs of most parties) using their speeches to criticise each other's part in the downfall of the previous bill.³² The only formal opposition to the bill came from the two Green MSPs who saw their bargaining power diminish as soon as the other parties signalled that they were on board.

²⁹ Scottish Government (2009) *Ministerial Code Inquiry: Complaint From Tavish Scott Msp Regarding Exchanges At First Minister's Questions*, Report by Independent Advisers to the First Minister <http://www.scotland.gov.uk/Resource/Doc/923/0078701.pdf> ; Scottish Government News Release 6.3.09 'Ministerial Code Inquiry'

<http://www.scotland.gov.uk/News/Releases/2009/03/06082650>

³⁰ S. Johnson 4.3.09 'Alex Salmond urged to publish inquiry into claims he lied to MSPs' *The Telegraph* <http://www.telegraph.co.uk/news/newstoppers/politics/scotland/4938926/Alex-Salmond-urged-to-publish-inquiry-into-claims-he-lied-to-MSPs.html>; D. Maddox 27.3.09 'Gray refuses to apologise in flare-up over apprentice' *The Scotsman*

<http://news.scotsman.com/politics/Gray-refuses-to-apologise-5115311.jp> ; B. Currie 27.3.09

'Gray 'misled parliament' in row over apprentice' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2498108.0.Gray_misled_parliament_in_row_over_apprentice.php ; *The Scotsman*.5.5.09 'MSPs demand checks to ensure ministers do not mislead Holyrood'

<http://news.scotsman.com/politics/MSPs-demand-checks-to-ensure.5234842.jp> ; I. Bell 8.5.09 'Active SNP fault lines amid obscure Gray landscape' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2506836.0.Active_SNP_fault_lines_amid_obscure_Gray_landscape.php ; T. Peterkin 10.5.09 'Unionists 'censored' in debate on constitution' *The Scotsman*

<http://news.scotsman.com/politics/Unionists-39censored39-in-debate-on.5251794.jp>

³¹ This allows all three stages to be considered, in plenary, on the same day. See Rule 9.21 Emergency Bills in *Standing Orders of the Scottish Parliament*

<http://www.scottish.parliament.uk/business/so/sto-4.htm#9>

³² Scottish Parliament Official Report 4.2.09 cols. 14646-704 <http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-09/sor0204-02.htm#Col14646> ; Scottish Government News Release 4.2.09 'Budget passed by Scottish Parliament'

<http://www.scotland.gov.uk/News/Releases/2009/02/04164342>

The annual budget bill process has perhaps shown the best and worst aspects of minority politics, reflecting an odd mix of increasing maturity but continuous (and often destructive) partisanship. On the one hand, the process is now more significant than under coalition government when it was rather routine. The main consequence is that there have been concessions to opposition parties, although their overall importance is debatable (they do not contradict SNP policy but do force it to make choices; they may represent less than 1% of the overall budget, but the SNP government also has minimal control of the budget beyond the margins). Thus, the Conservatives secured a town centre regeneration fund (to be administered by the Scottish Government) and a reduction in business rates, Labour secured funding for modern apprenticeships and the Liberal Democrats secured a commitment for the SNP to involve Parliament more in budget planning and engage with the Calman Commission on fiscal autonomy (the Greens lost a larger commitment to fund home insulation when their votes were no longer required). On the other, most parties (bar the Conservatives) have yet to take consistent negotiating positions and the overall impression from the budget's downfall has been one of petty politicking at a time of economic crisis. The process showed *eventually* that the parties could work together very effectively when faced with a crisis, and a new bill (almost identical to the defeated one) was passed very quickly. The crisis showed that there is little appetite among the opposition parties for an impromptu election, particularly while Alex Salmond remains popular. It is also the most significant example of SNP-Labour cooperation which may prove crucial to the long term success of minority government – particularly if Labour chooses minority government when it next wins a plurality of seats in the Scottish Parliament.³³ This may be further buoyed by future agreements on alcohol policy following the SNP's agreement to bring its proposals to the Scottish Parliament and Labour's tentative indication of support (see also 4.5).³⁴

³³ 6.3.09 'Labour has learnt lessons' <http://www.holyrood.com/content/view/3659/10051/>

³⁴ D. Maddox 11.3.09 'SNP crackdown on discount alcohol is delayed by a year' *The Scotsman* <http://news.scotsman.com/politics/SNP-crackdown-on-discount-alcohol.5058108.jp>; S. Paterson 11.3.09 'Alcohol abuse plan faces opposition' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2494697.0.Alcohol_abuse_plan_faces_opposition.php; H. Macdonell 2.3.09 'Alcohol crackdown to be unveiled amid protests on all sides' *The Scotsman* <http://news.scotsman.com/politics/Alcohol----crackdown.5027353.jp>; S. Paterson 2.3.09 'Flawed' alcohol legislation set to be unveiled' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2492624.0.Flawed_alcohol_legislation_set_to_be_unveiled.php; H. Macdonell 25.3.09 'SNP bows to pressure for full scrutiny of proposed alcohol laws' *The Scotsman* <http://news.scotsman.com/politics/SNP-bows-to-pressure-for.5104959.jp>; H. Macdonell 23.2.09 'SNP tries to avoid alcohol crackdown U-turn' *The Scotsman* <http://news.scotsman.com/politics/SNP-tries-to-avoid-alcohol.5004996.jp>; Scottish Government News Release 24.3.09 'Health Bill for alcohol measures' <http://www.scotland.gov.uk/News/Releases/2009/03/24142027>. D Maddox 18.3.09 'Drink-

Overall, the opposition parties are still struggling to balance the need to criticise the government for electoral gain while also supporting it enough to pursue their policy preferences and, more importantly, to not be seen as the main culprit behind the SNP government's downfall. While principled opposition is justifiable, the strategy of opposition merely to embarrass the government may not be popular.³⁵ The most and least likely to take this attitude have been the Conservative and Labour parties respectively (although note that comments by Sir Menzies Campbell may have been used to undermine future coalition talks between the SNP and Liberal Democrats³⁶). In both cases this can be explained by the wider UK picture. For the Conservatives the aim may be to present a reasonable image to mark some contrast with the last time it governed Scotland (during the Thatcher and Major years) and, therefore, to prevent the election of a Tory government becoming a key factor if the Scottish public

price crackdown may depend on Labour MSP rebels' *The Scotsman* <http://news.scotsman.com/politics/Drinkprice-crackdown--may-depend.5081436.jp>; D. Maddox 27.3.09 'SNP and Labour close in on drinks alliance' *The Scotsman* <http://news.scotsman.com/politics/SNP-and-Labour-close-in.5115305.jp>; R. Dinwoodie 27.4.09 'Labour back SNP against Tory motion on alcohol strategy' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2498111.0.Labour_back_SNP_against_Tory_motion_on_alcohol_strategy.php; A. Macleod 27.3.09 'Labour close to deal on alcohol pricing' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5982460.ece>

³⁵ For a broader discussion of the strategies of the four main parties, see Paul Cairney (4.5.09) 'Back In touch', *Holyrood Magazine*; Paul Cairney (20.4.09) 'In the face of little opposition', *Holyrood Magazine*;

Paul Cairney (9.3.09) 'An Opposing Point of View', *Holyrood Magazine* – all at http://www.holyrood.com/component/option,com_magazine/Itemid,10524/

³⁶ D. Maddox 14.3.09 'Spat between Salmond and Sir Menzies forces parties further apart' *The Scotsman* <http://news.scotsman.com/politics/Spat-between-Salmond-and-Sir.5072038.jp>; see also moves by the LibDems to rebrand themselves as the low tax party: *The Scotsman* 20.4.09 'Scottish Lib Dems pledge £700 tax cut for low earners' <http://news.scotsman.com/politics/Scottish-Lib-Dems-pledge-700.5186885.jp>

votes on a referendum on independence³⁷ (although it may also support limiting the power of Scottish MPs).³⁸

For Labour, the spectre of the UK government is much clearer following the installation of a high profile, full-time Secretary of State for Scotland that continues to undermine the image of unified and principled Labour opposition in the Scottish Parliament. For example, the decision by John Swinney to drop local income tax proposals (discussed below), combined with continued SNP difficulties in finding a coherent and effective alternative to public-private partnerships,³⁹ could have represented a big win for the opposition in Scotland. Instead, both issues have been plagued by UK interference, allowing the SNP to produce a story of partisanship and intergovernmental constraint to compete very well with Labour's account of ideological incoherence and the lack of popular and elite support for its measures. While Jim Murphy and Iain Gray have both criticised the SNP of stoking up Scottish-UK Government tensions for party political gain, this is very much the pot calling the kettle black. Labour also seem keen to minimise formal meetings between Salmond and Gordon Brown, to make Salmond appear to be Murphy's (but not Brown's) equal

³⁷ T. Peterkin 10.5.09 'Cameron: Tories will co-operate with SNP' *The Scotsman* <http://news.scotsman.com/politics/Cameron-Tories-will-cooperate-with.5251861.jp>; H. Macdonnell 11.5.09 'Cameron: Tory party will respect Scots if it wins power' *The Scotsman* <http://news.scotsman.com/politics/Cameron-Tory-party-will-respect.5252544.jp>; L. Cameron 'Cameron pledges to 'respect' Scots' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2507301.0.Cameron_pledges_to_respect_Scots.php; A. Macleod 10.5.09 'Cameron to engage SNP and draw sting of cuts' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6261927.ece>; S. Johnson 10.5.09 'David Cameron promises to rule Scotland with respect' *The Telegraph* <http://www.telegraph.co.uk/news/newsttopics/politics/scotland/5303796/David-Cameron-promises-to-rule-Scotland-with-respect.html>; T. Peterkin 22.2.09 'Goldie chosen to join Cameron's Cabinet' *Scotland on Sunday* <http://scotlandonsunday.scotsman.com/politics/Goldie-chosen-to-join-Cameron39s.5004374.jp>

³⁸ T. Crichton 16.2.09 'Cameron bid to limit power of Scots MPs 'pandering to Middle England' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2489391.0.Cameron_bid_to_limit_power_of_Scots_MPs_pandering_to_Middle_England.php; *The Herald* 'Wrong answer' http://www.theherald.co.uk/features/editorial/display.var.2489427.0.Wrong_answer.php; S. Johnson 16.2.09 'Tories will ban Scots MPs voting on England-only law' *The Telegraph* <http://www.telegraph.co.uk/news/newsttopics/politics/conservative/4630299/Tories-will-ban-Scots-MPs-voting-on-England-only-law.html>

³⁹ D. Maddox 1.4.09 'Labour hits out over £4m quango that has met only twice' *The Scotsman* <http://news.scotsman.com/politics/Labour-hits-out-over-4m.5127637.jp>; D. Maddox 2.4.09 'Swinney 'mised parliament' over plans to develop SFT' *The Scotsman* <http://news.scotsman.com/politics/Swinney-39mised-parliament39-over-plans.5132678.jp>; R. Dinwoodie 2.4.09 'Labour: Scottish Futures Trust is a shambles' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2499246.0.Labour_Scottish_Futures_Trust_is_a_shambles.php; D. Maddox 3.4.09 'Finance quango's bitter critic' to be its new chief executive' *The Scotsman* <http://news.scotsman.com/politics/Finance-quango39s-bitter-critic-39to.5138264.jp>

(see 6.2).⁴⁰ This (and other events at UK and local levels⁴¹) undermines Gray's image as Labour's leader in Scotland and distracts from Gray-specific initiatives, such as the appointment of new advisers and push to 'reclaim' the Saltire.⁴²

4.4 The New Politics of Voting⁴³

The constraints of minority government suggest that, although parliamentary motions are technically non-binding on the Scottish Government, it would be unwise for the SNP to dismiss them if it wants the support of other parties in the future. Yet, as previous monitors suggest,⁴⁴ relatively few motions place it in a difficult position. Many motions are proposed by the Scottish Government and backed by most MSPs (often because many are designed to fill parliamentary time with fairly innocuous

⁴⁰ R. Lydall 5.3.09 'Salmond 'put the SNP's needs before country' *The Scotsman* <http://news.scotsman.com/politics/Salmond--39put--5040205.jp>; H. Macdonell 13.4.09 'Brown and Salmond to have dinner as Cabinet row flares' *the Scotsman* <http://news.scotsman.com/politics/Brown-and-Salmond-to-have.5164782.jp>; H. Macdonnell 16.4.09 'Scotland's block grant adds spice to dinner as leaders fight their corner' *The Scotsman* <http://news.scotsman.com/politics/Scotland39s-block-grant-adds-spice.5174758.jp>; M. Settle 13.4.09 'Murphy offers to brief Scottish Cabinet on UK moves to tackle recession' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2501583.0.Murphy_offers_to_brief_Scottish_Cabinet_on_UK_moves_to_tackle_recession.php; I. Gray 26.4.09 'Iain Gray: SNP must grow up and seek solutions not scapegoats' <http://news.scotsman.com/politics/Iain-Gray-SNP-must-grow.5206574.jp>; see also R. Lydall and P. Macmahon 27.3.09 'Darling and Salmond in talks over building society rescue' *The Scotsman* <http://news.scotsman.com/politics/Darling-and-Salmond-in-talks.5115306.jp>; B. Currie 2.4.09 'Salmond demands FSA explanation' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2499245.0.Salmond_demands_FSA_explanation.php; R. Dinwoodie 5.5.09 'SNP: Murphy failed to intervene over whisky tax hikes crisis' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2506049.0.SNP_Murphy_failed_to_intervene_over_whisky_tax_hikes_crisis.php; D. Maddox 2.5.09 'Harman accuses SNP of lack of action over equality' *The Scotsman* <http://news.scotsman.com/politics/Harman-accuses-SNP-of-lack.5229070.jp>

⁴¹ G. Peev 27.4.09 "'Tainted' poll claim rocks Labour chiefs' *The Scotsman* <http://news.scotsman.com/politics/39Tainted39-poll---claim.5207287.jp>; L. Longden 12.4.09 'Activists force Labour to suspend all-female lists' *The Scotsman* <http://news.scotsman.com/politics/Activists-force-Labour-to-suspend.5164392.jp>; *The Herald* 'Departing Reid supports review of all-woman shortlist for seat' http://www.theherald.co.uk/politics/news/display.var.2501585.0.Departing_Reid_supports_review_of_allwoman_shortlist_for_seat.php; E. Barnes 15.3.09 'Labour sparks 'jobs for the girls' row with all-women election shortlist' *The Scotsman* <http://news.scotsman.com/politics/Labour-sparks-39jobs-for-the.5073274.jp>; D. Gunn 18.3.09 'MSP Curran stands down to concentrate on Westminster contest' *The Scotsman* <http://news.scotsman.com/politics/MSP-Curran-stands-down-to.5086174.jp>; BBC 8.3.09 'Council announces £7 minimum wage' <http://news.bbc.co.uk/1/hi/scotland/7931168.stm>

⁴² R. Dinwoodie 9.3.09 'Gray announces experts to shape Labour policy' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2494222.0.Gray_announces_experts_to_shape_Labour_policy.php; T. Peterkin 8.3.09 'Labour moves to reclaim Saltire from Nationalists' *The Scotsman* <http://news.scotsman.com/politics/Labour-moves-to-reclaim.5050076.jp>

⁴³ For a full list of motions and votes, see BBC News 7.5.09 'How MSPs voted in the parliament' <http://news.bbc.co.uk/1/hi/scotland/7616706.stm>

⁴⁴ See in particular *Scotland Devolution Monitoring Report* January 2008, 2.3 pp19-21.

issues) – including motions reinforcing the importance of Scotland’s relationship with the US and Canada, the value of the Gaelic language, supporting policies to increase the supply of affordable homes, reduce NHS waiting times, tackle antisocial behaviour, free up £70m for local authorities willing to freeze the council tax, support the Scottish Government’s new science policy strategy, support Scottish Government plans to introduce a new Marine Bill and support the Scottish Government’s new early years strategy. This leaves few close calls including, most notably, a motion recognising that the Scottish Government’s new national planning framework does not include a commitment to new nuclear power stations in Scotland.

Many others, promoted by opposition parties, seek to reinforce existing Scottish Government policies and place them higher on its agenda – such as the motions to set in stone its targets to reduce greenhouse gas emissions, invest in the west of Scotland’s transport infrastructure, cooperate with the UK government to develop links between the Olympic and Commonwealth Games projects, introduce a ‘whole journey’ national waiting time in the NHS (note that the SNP and Labour also agreed in this motion to criticise the record of the previous Conservative Government), produce a specific figure (17265 police officers) to demonstrate that the SNP pledge to increase police officers by 1000 is met, reinforce the Scottish Government decision to drop its plans to lease 25% of the Forestry Commission estate to the private sector (although note that this would have had more force if the SNP had not already agreed to previous Rural Affairs and Environment Committee recommendation; see also 4.8) and accelerate money for housing – or highlight issues that do not require a direct Scottish Government intervention – such as the issue of redundancies in the Scottish newspaper sector, changes to standing orders referring to MSP pensions and, most significantly, a Liberal Democrat-led (and SNP supported) motion calling for the Scottish Government to have greater borrowing powers.

This leaves a small amount of motions that go against the Scottish Government and, in some cases, may force its hand in the future – including a motion calling on the Scottish Government to reverse its decision to not to establish a new community court in Glasgow⁴⁵ and a motion criticising strongly the Scottish Government’s Strategic Transport Projects Review (and the lack of progress on 5 key A-roads). The issue of healthcare associated infections produced a very

⁴⁵ L. Adams 8.5.09 ‘Ministers lose vote on scrapping of community court plan’ *The Herald* http://www.theherald.co.uk/news/news/display.var.2506866.0.Ministers_lose_vote_on_scrapping_of_community_court_plan.php

unusual signal from the Scottish Parliament – although the Scottish Government's objection to a public inquiry on C difficile in the Vale of Leven was defeated, the overall motion fell (following the Presiding Officer's casting vote for the status quo).

Of course, there is also the matter of a referendum on independence: on 5th March the three main opposition parties voted on a motion that declares the first two years of SNP government a failure and then, 'calls on the Scottish Government to concentrate its efforts on economic recovery and abandon its divisive plans for a Referendum Bill for the remainder of its term of office' (see 4.2).⁴⁶ While reported as a measure that effectively kills-off the chances of a referendum in 2010,⁴⁷ there are three factors that leave the door slightly ajar: the wording of the motion arguably suggests that some MSPs would support a referendum after the economic crisis, the parties are not wholly united in their opposition,⁴⁸ and Alex Salmond has vowed to press on.⁴⁹ The issue also differs from the local income tax which was dropped not only because of a lack of opposition party support, but also because of its likely cost

⁴⁶ Scottish Parliament Official Report 5.3.09 col.15580

<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-09/sor0305-02.htm#Col15433>;

⁴⁷ H. MacDonell 5.3.09 'Labour kills off plan for referendum before 2011 elections' *The Scotsman* <http://news.scotsman.com/latestnews/Labour--kills-off-plan.5040204.jp>; D. Maddox 6.3.09 'SNP's 'reality check' as parties reject home rule referendum' *The Scotsman* <http://news.scotsman.com/latestnews/SNP39s---39reality-check39.5045773.jp>; S. Carrell 5.3.09 'Alex Salmond's Scottish independence referendum bill 'dead in the water' *The Guardian* <http://www.guardian.co.uk/politics/2009/mar/05/snp-independence-referendum-plan-rejected>; A. Macleod 5.3.09 'Independence referendum plan rejected by Holyrood' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5854673.ece>

⁴⁸ I. MacWhirter 16.3.09 'Lost tribe of Scottish politics searches for a path to power' *The Herald*

http://www.theherald.co.uk/features/featuresopinon/display.var.2495626.0.lost_tribe_of_scottish_politics_searches_for_a_path_to_power.php; E. Barnes 15.3.09 'Scott won't rule out independence vote' *The Scotsman* <http://news.scotsman.com/politics/Scott-won39t-rule-out-independence.5073230.jp>; 27.2.09 'Lib Dems 'divided' over independence referendum' <http://www.holyrood.com/content/view/3629/10051/>; D. Maddox 16.2.09 'Referendum? Bring it on, says Ashdown' *The Scotsman* <http://news.scotsman.com/politics/Referendum-Bring-it-on-says.4982605.jp>; D. Maddox 16.3.09 'Scott: Bring curtain down on 'independence pantomime' *The Scotsman* <http://news.scotsman.com/politics/Scott-Bring-curtain-down-on.5073832.jp>; *The Scotsman* 28.2.09 'MSP defies party on independence vote' <http://news.scotsman.com/politics/MSP-defies-party-on.5025535.jp>

⁴⁹ S. Paterson 6.3.09 'Salmond stands firm on plan for referendum despite defeat' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2493746.0.Salmond_stands_firm_on_plan_for_referendum_despite_defeat.php; S. Johnson 4.3.09 'Alex Salmond vows to defy Holyrood over expected referendum defeat' *The Telegraph* <http://www.telegraph.co.uk/news/newsttopics/politics/scotland/4938352/Alex-Salmond-vows-to-defy-Holyrood-over-expected-referendum-defeat.html>

(if the UK government refused to budge on the matter of council tax rebates) in the context of expected budget cuts (see 5.1 and 4.3).⁵⁰

4.5 Scottish Parliament Committees

This period saw a significant rise in committee activity, in part as a result of a small rise in government business (including the consideration of seven legislative consent motions). There is also some evidence of cross-party cooperation to highlight issues: Transport, Infrastructure and Climate Change called for 'more robust and realistic annual climate-change targets' (this recommendation was accepted by the Scottish Government – see also 4.8)⁵¹ and for the Scottish Government to lobby the UK Government on Scotland's inclusion on the high-speed rail network (see 4.9); Public Audit called for the Scottish Government to better audit and monitor the cost of major capital projects,⁵² rationalise the non-emergency telephone number for the police force and monitor VisitScotland's business model; Rural Affairs and Environment called for local authorities to end their 'over-cautious planning culture' to further housing development in rural areas;⁵³ Health and Sport published a highly-critical report on the lack of adequate PE in schools, and called for the Scottish Government to refuse to sign-off local authority single outcome agreements until their targets (two-hours physical activity per week for each pupil) are met; and Education, Lifelong Learning and Culture supported Scottish Government amendments to the Education (Additional Support for Learning) (Scotland) Act 2004. Standards, Procedures and

⁵⁰ H. Macdonell 13.2.09 'Explain real reason for ditching local income tax plan, SNP told' *The Scotsman* <http://news.scotsman.com/politics/Explain-real-reason-for-ditching.4977111.jp>; R. Dinwoodie 13.2.09 'Salmond and Gray battle over Budget' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2488908.0.Salmond_and_Gray_battle_over_Budget.php; A. Macleod 12.2.09 'Opposition pounce on tax 'contradiction'' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5720190.ece>; M. Linklater 13.2.09 'Brace yourself, we're ditching SNP policy' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5721381.ece>; *The Scotsman* 12.2.09 'Dropping LIT plan is right, but what now?' <http://news.scotsman.com/comment/Dropping-LIT-plan-is-right.4971665.jp>; S. Carrell 11.2.09 'Alex Salmond drops flat-rate local income tax plan' *The Guardian* <http://www.guardian.co.uk/politics/2009/feb/11/alex-salmond-snp-local-income-tax>; *The Herald* 'Plan full of holes' http://www.theherald.co.uk/features/editorial/display.var.2488645.0.Plan_full_of_holes.php; *The Times* 12.2.09 'Faint-hearted failure of pledge that bit back' <http://www.timesonline.co.uk/tol/news/uk/scotland/article5711613.ece>; Scottish Government News Release 22.4.09 'Finance Secretary responds to Budget statement' <http://www.scotland.gov.uk/News/Releases/2009/04/22160315>

⁵¹ 6.5.09 'Tougher' climate change target set for Scotland' <http://www.holyrood.com/content/view/3918/10051/>

⁵² Note that this is based on Auditor General for Scotland's 2008 report – *Review of major capital projects in Scotland* http://www.audit-scotland.gov.uk/docs/central/2008/nr_080624_major_capital_projects.pdf - covering projects initiated from 2002-7

⁵³ 7.5.09 'Rural planning regulations 'out of date'' <http://www.holyrood.com/content/view/3920/10051/>

Public Appointments also recommended a series of changes to standing orders - to make sure that all committees considered how they furthered the principle of equal opportunities, to address how Scottish Parliamentary pensions are managed, and to bring forward the cut-off date for Members' Bills (to allow enough time for scrutiny) - that were accepted unanimously in plenary on April 22nd, and recommended changes to the Members' Code of Conduct to reflect the shift in 2008 from MSP allowances to the reimbursement of their (more tightly controlled) expenses.

The issue of knife crime took on a government-versus-opposition flavour when the Public Petitions Committee-led debate in plenary (on a 15000-strong petition calling for mandatory sentencing for those caught carrying dangerous weapons) clashed with Justice Secretary Kenny MacAskill's trip to Canada.⁵⁴ The Public Audit Committee also proved to be a controversial arena when it inquired into the resignation of Guy Houston from Transport Scotland.⁵⁵

As part of a Scottish Government/ opposition party commitment to cooperate in a more meaningful sense on the annual budget, the Finance Committee plans to hold an inquiry into the effects of recession and budget pressures on future decisions. The Public Petitions committee is also continuing its inquiry into the value of, and public awareness of, the petitions process (as part of a wider agenda to assess the Scottish Parliament ten years on). This is backed up by an enthusiastic assessment, by the committee's clerk, of the potential for direct involvement, while the occasional story in the press suggests that some petitions do at least grab policymaker attention.⁵⁶

⁵⁴ A. Macleod 23.1.09 'Row as Kenny MacAskill misses knife conference' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5570180.ece>; R. Dinwoodie 3.4.09 'MSPs call for action to deal with knife crime' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2499537.0.MSPs_call_for_action_to_deal_with_knife_crime.php; B. Currie 14.5.09 'Parties want mandatory jail terms for knife thugs' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2507986.0.Parties_want_mandatory_jail_terms_for_knife_thugs.php; D. Maddox 3.4.09 'Knife crime campaigner 'delighted' by report' *The Scotsman* <http://news.scotsman.com/politics/Knife-crime-campaigner-39delighted39-by.5138301.jp>

⁵⁵ M. Gardham 26.3.09 'MSPs blast senior civil servant over controversial £2.5bn rail deal' *The Daily Mail* <http://www.dailyrecord.co.uk/news/scottish-news/2009/03/26/stop-the-bulls-t-and-tell-us-about-2-5bn-train-deal-86908-21228307/>
A. Macleod 26.3.09 'Sir John Elvidge gets dressing down from Hugh Henry, Audit Committee convener' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5976985.ece>
⁵⁶ *The Scotsman* 30.4.09 'Petitions are giving power to the people of Scotland' <http://news.scotsman.com/politics/Petitions-are-giving-power-to.5219868.jp>; *The Herald* 'Leith residents call for change in law to tackle 'Seafield Stench' http://www.theherald.co.uk/politics/news/display.var.2493170.0.Leith_residents_call_for_chan

4.6 Committee Reports and Inquiries (26 January 2009 – 19 May 2009)⁵⁷

Finance:

11 March 2009 [1st Report 2009: The draft Budget \(Scotland\) Acts 2007 and 2008 Amendment Order 2009](#)

Public Audit:

14 May 2009 [4th Report 2009: The 2007/2008 audit of VisitScotland](#)

19 February 2009 [3rd Report 2009: Major Capital Projects](#)

29 January 2009 [2nd Report 2009: Police call management](#)

Public Petitions:

2 April 2009 [1st Report 2009: Knife Crime](#)

Standards, Procedures and Public Appointments:

5 May 2009 [5th Report 2009: Accuracy of contributions in parliamentary proceedings](#)

30 Mar 2009 [4th Report 2009: Review of equal opportunities in the work of committees](#)

2 Mar 2009 [3rd Report 2009: The Scottish Parliamentary Pensions Act 2009 \(asp 1\): Proposed Standing Order Rule Changes](#)

18 Feb 2009 [2nd Report 2009: Changes to the Code of Conduct arising from the Reimbursement of Members' Expenses Scheme](#)

3 Feb 2009 [1st Report 2009: Members' Bills - cut-off date for introduction](#)

Subordinate Legislation:

11 May 2009 [26th Report 2009: Flood Risk Management \(Scotland\) Bill as amended at Stage 2](#)

[ge_in_law_to_tackle_Seafield_Stench.php](#); I. Swanson 6.5.09 'Government faces pressure from MSPs over 'party flats'' *The Scotsman* <http://news.scotsman.com/politics/Government-faces-pressure-from-MSPs.5238209.jp> ; D. Maddox 18.3.09 'Storm in a goldfish bowl as MSPs debate obese pet fish' *The Scotsman* <http://news.scotsman.com/politics/Storm-in-a-goldfish-bowl.5081416.jp>; see also the role of petitions, Parliament and Government in gay rights policy: 6.3.09 'Scotland finally catching up with England on gay rights' <http://www.holyrood.com/content/view/3655/10051/>; S. Macnab 18.3.09 'MSPs told to take a legal lead over same-sex marriages' *The Scotsman* <http://news.scotsman.com/politics/MSPs-told-to-take-a.5081453.jp>; 22.4.09 'Same-sex couples to be allowed to adopt in Scotland' <http://www.holyrood.com/content/view/3856/10051/>

⁵⁷Excluding most annual reports, financial memoranda, budget reports (which are brought together by the Finance Committee's stage 2 report) and reports on subordinate legislation. For the committee issues that the Scottish Parliament chose to publicise, see <http://www.scottish.parliament.uk/nmCentre/news/index.htm>

Economy, Energy and Tourism:

- 20 March 2009 [3rd Report 2009: Report on the Climate Change \(Scotland\) Bill](#)
3 February 2009 [1st Report 2009: Report on the Scottish Government's National Planning Framework 2](#)

Education, Lifelong Learning and Culture:

- 12 March 2009 [3rd Report 2009: Report on the legislative consent memorandum on the Apprenticeships, Skills, Children and Learning Bill \(LCM\(S3\) 19.1\)](#)
10 February 2009 [2nd Report 2009: Stage 1 Report on the Education \(Additional Support for Learning\) \(Scotland\) Bill](#)

Health and Sport

- 14 May 2009 [5th Report 2009: Pathways into sport and physical activity](#)
5 March 2009 [1st Report 2009: Report on the legislative consent memorandum on the Welfare Reform Bill \(UK Parliament legislation\)](#)

Justice

- 07 May [9th Report 2009: Report on the legislative consent memorandum on the Coroners and Justice Bill - LCM\(S3\) 16.2](#)
12 March [7th Report 2009: Report on the legislative consent memorandum on the Coroners and Justice Bill - LCM\(S3\) 16.1](#)
5 March [6th Report 2009: Stage 1 Report on the Offences \(Aggravation by Prejudice\) \(Scotland\) Bill](#)
5 March [5th Report 2009: Report on the legislative consent memorandum on the Borders, Citizenship and Immigration Bill \(LCM\(S3\) 15.1\)](#)

Local Government and Communities:

- 30 April 2009 [8th Report 2009: Stage 1 Report on the Scottish Local Government \(Elections\) Bill](#)
25 February 2009 [5th Report 2009: Report on the National Planning Framework 2: Proposed Framework](#)
10 February 2009 [4th Report 2009: The Legislative Consent Memorandum on the Local Democracy, Economic Development and Construction Bill – LCM \(S3\) 13.1](#)

Rural Affairs and Environment:

- 7 May 2009: [5th Report 2009: Rural Housing](#)

6 March 2009: [Report to the Transport, Infrastructure and Climate Change Committee on Stage 1 of the Climate Change \(Scotland\) Bill](#)

3 March 2009 [3rd Report 2009: Report on the Legislative Consent Memorandum on the UK Marine and Coastal Access Bill - LCM \(S3\) 14.1](#)

Transport, Infrastructure and Climate Change:

24 April 2009 [2nd Report 2009: Stage 1 Report on the Climate Change \(Scotland\) Bill](#)

27 February 2009 [1st Report 2009: Report on the Inquiry into the potential benefits of high-speed rail services](#)

25 February 2009 [Report to the Local Government and Communities Committee on the National Planning Framework 2](#)

4.7 Parliamentary Bills (26 January 2009 – 19 May 2009)

Building on the description of the SNP's first legislative programme as 'legislation lite', Labour's business manager, Michael McMahon, recently labelled Alex Salmond (unfairly) as a 'work-shy First Minister leading a group of idle ministers' because the Scottish Government has passed nine pieces of legislation in two years.⁵⁸ There are now 10 further Scottish Government bills in progress. The headline-grabbing Members' Bill proposal continues to be Margo MacDonald's push for assisted suicide.⁵⁹

Scottish Government Bills Passed:

[Damages \(Asbestos-related Conditions\) \(Scotland\) Act 2009](#) – ensures that people negligently exposed to asbestos can pursue legal actions for damages. It effectively ensures that a House of Lords ruling against the ability of people with pleural plaques, asymptomatic asbestosis or pleural thickening to claim compensation does not apply in Scotland.⁶⁰

⁵⁸ T. Peterkin 19.4.09 'Labour rivals hit out at 'work-shy' First Minister' *The Scotsman* <http://news.scotsman.com/politics/Labour-rivals-hit-out-at.5183893.jp>

⁵⁹ R. Dinwoodie 25.4.09 'MSP wins her fight to bring suicide bill to Holyrood' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2504227.0.MSP_wins_her_fight_to_bring_suicide_bill_to_Holyrood.php; D. Maddox 26.3.09 'Assisted suicide law 'may prolong life' *The Scotsman* <http://news.scotsman.com/latestnews/Assisted-suicide---law.5109945.jp>; R. Dinwoodie 26.3.09 'MacDonald refines assisted suicide bill after consultation' *The Herald* http://www.theherald.co.uk/news/news/display.var.2497894.0.MacDonald_refines_assisted_suicide_bill_after_consultation.php; *The Scotsman* 20.4.09 'Assisted suicide proposals criticised by ethics body' <http://news.scotsman.com/politics/Assisted-suicide-proposals-criticised-by.5186903.jp>

⁶⁰ See SPICE (2008) *Damages (Asbestos-Related Conditions) (Scotland) Bill* <http://www.scottish.parliament.uk/business/research/briefings-08/SB08-40.pdf>; SPICE (2009) *Damages (Asbestos-Related Conditions) (Scotland) Bill: Stage 3* <http://www.scottish.parliament.uk/business/research/briefings-09/SB09-18.pdf> ; Scottish

[Health Boards \(Membership and Elections\) \(Scotland\) Act 2009](#) - establishes pilot elections (in which 16-17 year olds are also eligible to vote) to NHS boards. Two pilots will run for two years using STV (see 5.6).⁶¹

Scottish Government Bills in Progress:

[Arbitration \(Scotland\) Bill](#)

[Climate Change \(Scotland\) Bill](#)

[Criminal Justice and Licensing \(Scotland\) Bill](#)

[Education \(Additional Support for Learning\) Bill](#)

[Flood Risk Management \(Scotland\) Bill](#)

[Marine \(Scotland\) Bill](#)

[Schools \(Consultation\) \(Scotland\) Bill](#)

[Scottish Local Government \(Elections\) Bill](#)⁶²

[Sexual Offences \(Scotland\) Bill](#)

[Tobacco and Primary Medical Services \(Scotland\) Bill](#)

Committee Bill Passed:

[Scottish Parliamentary Pensions Act 2009](#) - introduces new rules to govern the Scottish Parliamentary Pension Scheme and transfers managerial responsibility from the Scottish Parliament Corporate Body to newly-established fund trustees.

Members' Bill Passed:

[Disabled Persons' Parking Places \(Scotland\) Act 2009](#) (Jackie Baillie, Labour) – makes on-street disabled parking spaces legally enforceable (by local authorities) and places a duty on local authorities to audit the disabled spaces in their area and negotiate, with the owners, provisions to make off-street parking spaces legally enforceable.⁶³

Government News Release 1.4.09 'Move to close damages loophole'

<http://www.scotland.gov.uk/News/Releases/2009/04/01140512>

Scottish Government News Release 11.3.09 'Parliament passes Damages Bill'

<http://www.scotland.gov.uk/News/Releases/2009/03/11142050>

⁶¹ SPICE (2008) Health Boards (Membership And Elections) (Scotland) Bill

<http://www.scottish.parliament.uk/business/research/briefings-08/SB08-59.pdf>; *The Scotsman*

13.3.09 '16-year-olds to get vote on health boards'

<http://news.scotsman.com/politics/16yearolds-to-get-vote-on.5068769.jp>; S. Paterson 13.3.09

'MSPs vote for health board shake up' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2495191.0.MSPs_vote_for_health_board_shake_up.php

⁶² Scottish Government News Release 4.2.09 'Local Government Elections Bill'

<http://www.scotland.gov.uk/News/Releases/2009/02/04110613>

⁶³ SPICE (2008) Disabled Persons' Parking Places (Scotland) Bill

<http://www.scottish.parliament.uk/business/research/briefings-08/SB08-31.pdf>; D. Maddox

Members' Bills in Progress⁶⁴

[Offences \(Aggravation By Prejudice\) \(Scotland\) Bill](#) (Patrick Harvie, Green)

4.8 Sewel (Legislative Consent) Motions passed (26 January 2009 – 19 May 2009)⁶⁵

90. Policing and Crime Bill (4.3.09): to establish the cross-border (UK) recognition of football banning orders, give Scottish ministers the power to grant extradition requests to other EU member states and amend the Proceeds of Crime Act 2002 to address 'appointed person' reports relayed by Scottish ministers to the Scottish Parliament. These measures were sought by Kenny MacAskill who justified them on the grounds of expediency.⁶⁶ There was no debate or vote in plenary.

91. Local Democracy, Economic Development and Construction Bill (5.3.09): to remove powers (never used and no longer sought) of Scottish Ministers to transfer any electoral boundary functions of the Local Government Boundary Commission for Scotland to the Electoral Commission and to remove (unused) sections of the Grants, Construction and Regeneration Act 1996 to clarify the payments process regarding construction contracts. There was no debate or vote in plenary.

92. Welfare Reform Bill (18.3.09): to give Scottish Ministers regulation-making powers (in devolved areas such as education) in accordance with the 'right to control' agenda in which disabled people are encouraged to take control of their use of public services (by, for example, introducing direct payments to individuals rather than service providers). There was no debate or vote in plenary.

27.2.09 '£60 fine for parking in disabled bay' *The Scotsman* <http://news.scotsman.com/politics/60-fine-for-parking-in.5022571.jp>; R. Dinwoodie 27.2.09 'MSPs pass bill over misuse of disabled parking bays' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2492102.0.MSPs_pass_bill_over_misuse_of_disabled_parking_bays.php

⁶⁴ For a list of Members' Bill Proposals see

<http://www.scottish.parliament.uk/business/bills/membersBills.htm>

⁶⁵ A full list of motions and links to SPOR discussions is provided by the Scottish Government <http://www.scotland.gov.uk/About/Sewel/SessionThree> (but note that it lists all potential motions rather than those proposed and passed)

⁶⁶ Justice Committee Official Report 10.2.09 col. 1608

<http://www.scottish.parliament.uk/s3/committees/justice/or-09/ju09-0502.htm#Col1606>

93. Marine and Coastal Access Bill (18.3.09): to grant executive devolution (via the UK Marine and Coastal Access Bill) in the area of marine planning and nature conservation between 12 and 200 nautical miles of the Scottish coast. The overall deal was negotiated in part via the JMC.⁶⁷ There was no debate or vote in plenary.

94. Borders, Citizenship and Immigration Bill (19.3.09): to close a legal loophole by applying sections 1 to 4 of the UK Borders Act 2007 (allowing immigration officers at ports to detain for up to three hours someone subject to an outstanding arrest warrant) to Scotland. Some concerns were expressed by the Scottish Refugee Council and Law Society of Scotland about the unintended consequences of the provisions (regarding the complaints procedure about immigration staff and the shift of judicial responsibility from the Court of Session in Scotland to UK tribunals), prompting considerable debate in plenary, the Greens to vote against and Margo MacDonald to abstain (118-2-1).

⁶⁷ See Scotland Devolution Monitoring Report January 2009 6.6. pp 72-3; Scottish Government News Release 30.4.09 'Marine Bill introduced'
<http://www.scotland.gov.uk/News/Releases/2009/04/29162907>

5. Scottish Government and Public Policy

Paul Cairney

Key Points:

- The ten-year anniversary of devolution has produced many negative (and rather unfair) evaluations of its value so far
- The promotion of Mike Russell (February) and his new brief on the constitution suggests that the SNP is beginning a serious push for an independence referendum in 2010. However, the negative parliamentary motion in March, combined with pressure on Justice Secretary Kenny MacAskill, suggests that an impromptu election may be just as likely.
- The economic crisis remains the key focus of public policy decisions and continues to demonstrate the limited economic levers that the Scottish Government enjoys.
- The SNP's focus on publicly funded and provided healthcare was overshadowed by attention to swine flu and its highly-criticised response to the issue of hospital-acquired infections.
- Although Scotland has one of the most restrictive tobacco control regimes in the world, its alcohol strategy (now to be considered fully by the Scottish Parliament) commands the most attention.
- While a decision on the fate of the Lockerbie bomber will be made in Scotland, the same can not be said for drugs classification, firearms or drink-driving. There is continuing government/ opposition debate on issues such as the role of short-term sentences, police numbers, knife-crime and anti-social behaviour.
- Alex Salmond countered a media tendency to blame social workers for the death of children of people monitored by social services.
- The launch of the Curriculum for Excellence and continued controversy over class sizes raises questions about who has, and wants to exercise, power in compulsory education.
- The economic crisis has put further pressure on Scottish Government funding for Universities, prompting calls for the reintroduction of fees, the UCU to call for more funding and Universities to recommend a new economic strategy.
- The UK Government has effectively accepted the SNP's nuclear veto.
- The Scottish Government has strengthened environmental targets and dropped proposals to lease forestry to the private sector.
- The UK Government's high-speed rail link may now extend to Scotland.
- The Scottish Government will not provide further funds for the Edinburgh trams project.
- Agriculture and fishing continues to be dogged by levels of uncertainty that the Scottish Government can only partially address.
- Poverty remains an issue effectively reserved to the UK Government, although the Scottish Government has more of a say on homelessness.

- The Scottish Government continues to lobby its UK counterpart for a larger share of lottery funding and a clearer future for digital broadcasting in Scotland.
- There is 'clear blue water' between the Freedom of Information practices in the Scottish and UK Governments. However, Scotland's Information Commissioner is still pushing for an extension of the legislation to most bodies providing public services.

5.1. Devolution: Past, Present and Future

The anniversary of ten years of devolution has prompted much analysis of the story so far, ranging from a reappraisal of Thatcherism⁶⁸ to the first Labour-liberal Democrat Scottish Executive⁶⁹, the election of the SNP⁷⁰, the overall value of devolution⁷¹ and even some crystal ball gazing into the future.⁷² Much (but not all⁷³)

⁶⁸ C. Mackie 7.5.09 'Thatcher finds that time is a great healer' *The Scotsman* <http://news.scotsman.com/politics/Thatcher-finds-that-time-is.5242486.jp>; I. Swanson 29.4.09 'Thatcher's legacy holds Scottish Tories in an iron grip' *Edinburgh Evening News* <http://news.scotsman.com/politics/Thatcher39s-legacy-holds-Scottish-Tories.5215575.jp>; see also D. Torrance 16.2.09 'Thatcher ordered report on cash cut for Scotland' *The Scotsman* <http://news.scotsman.com/politics/Thatcher-ordered-report-on-cash.4982647.jp>

⁶⁹ R. Edward 2.5.09 'Dewar was set to quit over Holyrood's soaring cost' *The Scotsman* <http://news.scotsman.com/politics/Dewar-was-set-to-quit.5229045.jp>; *The Scotsman* 4.5.09 'Time for talk to stop and action to start' <http://news.scotsman.com/politics/Time-for-talk-to-stop.5230934.jp>; H. MacDonell 6.5.09 'Chance train meeting that unleashed a juggernaut' *The Scotsman* <http://news.scotsman.com/politics/Chance-train--meeting-that.5237281.jp>; R. Dinwoodie 2.5.09 'Free care for the elderly was my greatest achievement' *The Herald* http://www.theherald.co.uk/politics/otherpolitics/display.var.2505578.0.Free_care_for_the_elderly_was_my_greatest_achievement.php; I. Swanson 7.5.09 'Ian Swanson: What a difference a decade makes..' *The Scotsman* <http://news.scotsman.com/politics/Ian-Swanson-What-a-difference.5243507.jp>; H. Macdonell 5.5.09 'Labour divisions follow death of devolution's first helmsman' *The Scotsman* <http://news.scotsman.com/politics/Labour-divisions-follow--5233320.jp>

⁷⁰ H. Macdonell 7.5.09 'Night when SNP dreams of power came true' *The Scotsman* <http://news.scotsman.com/politics/Night-when-SNP-dreams-of.5242590.jp>

⁷¹ See also *The Herald* 'Steel says voting system should be scrapped' http://www.theherald.co.uk/politics/news/display.var.2505829.0.Steel_says_voting_system_should_be_scrapped.php

⁷² M. Horne 10.5.09 'Nats victory, independence and looming nuclear catastrophe – it's Scotland 2014' *The Scotsman* <http://news.scotsman.com/politics/Nats-victory-independence-and-.5251851.jp>; R. Dinwoodie 5.5.09 'Will next 10 years see Cameron out and SNP tested to max?' http://www.theherald.co.uk/politics/news/display.var.2506043.0.Will_next_10_years_see_Cameron_out_and_SNP_tested_to_max.php

⁷³ I. Macwhirter 20.4.09 'It's not perfect, but devolution has changed us for the better' *The Herald* http://www.theherald.co.uk/features/featuresopinon/display.var.2502999.0.its_not_perfect_but_devolution_has_changed_us_for_the_better.php; R. Dinwoodie 4.5.09 'Tragedies and comedies in a decade of devolved power' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2505828.0.Tragedies_and_comedies_in_a_decade_of_devolved_power.php; M. Settle 4.5.09 'Decision gave Scotland the best of both worlds' *The Herald*

of the media coverage has become a forum to describe the failure of devolved bodies to deliver better public services, with many reports criticising the focus on populist policies or bemoaning Scotland's record when compared to England and the decisions made by the UK Government. While often presented as a technical evaluation of the record of successive governments, the use of measures of success is inextricably linked to the wider agenda-setting process. In particular, the records of the devolved territories often appear at their worst when we evaluate success using the UK Government's preferred measures linked to targets – such as NHS waiting times – rather than the wider and unintended consequences of targetry. The agenda has also been dominated by think-tanks which tend to be more sympathetic to the pursuit of new public management in England, although at least one story suggests that the public sector professions do not always take the opposite view,⁷⁴ while other notables – such as former Labour chief adviser John McLaren and Professor Lindsay Paterson - have also questioned the value of devolution so far.⁷⁵ There has also been some discussion of the SNP's half-term record, with Alex Salmond's claims that the Scottish Government had delivered over half of its promises (and that Scotland is 'two-thirds of the way to independence') competing with opposition criticisms about the lack of delivery on issues such as the financing of capital projects, drugs policy, central heating, malnutrition and free swimming.⁷⁶

http://www.theherald.co.uk/politics/news/display.var.2505830.0.Decision_gave_Scotland_the_best_of_both_worlds.php

⁷⁴ L. Moss 4.3.09 'NHS throwing cash at bad ideas, GPs claim

' *The Scotsman* <http://news.scotsman.com/latestnews/NHS-throwing-cash-at-bad.5035050.jp>

⁷⁵ T Critchton 20.4.09 'Devolution architect: Scotland has fallen behind' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2502995.0.Devolution_architect_Scotland_has_fallen_behind.php; K. Bussey 20.4.09 'Public services better without Holyrood, report claims' *The Press and Journal* <http://www.pressandjournal.co.uk/Article.aspx/1177419>; J.

Allardyce 19.4.09 'Devolution 'has harmed Scotland' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article6122746.ece>; S. Johnson 19.4.09

'Devolution is failing Scotland thanks to populist policy agenda, says study' *The Telegraph*

<http://www.telegraph.co.uk/news/newstopics/politics/scotland/5183343/Devolution-is-failing-Scotland-thanks-to-populist-policy-agenda-says-study.html>; L. Moss 10.4.09 'Scots NHS

inferior to England and needs radical surgery – think tank' *The Scotsman*

<http://news.scotsman.com/latestnews/Scots-NHS-inferior-to-England.5161100.jp>; L. Davidson

10.4.09 'Think tank Reform Scotland calls for patients' charter to change NHS' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article6069834.ece>; 6.5.09 'Scotland's

education and health 'failed by devolution' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article6237552.ece>

I. Swanson 5.5.09 'Ian Swanson: So what's Holyrood really done for us?' *The Scotsman*

<http://news.scotsman.com/politics/ian-swanson-so-what39s-holyrood.5233993.jp>; 21.4.09

'Scottish education 'not improved since devolution' '<http://www.holyrood.com/content/view/3852/10051/>

⁷⁶ *The Herald* 'We have delivered on election promises, says SNP'

http://www.theherald.co.uk/politics/news/display.var.2505795.0.We_have_delivered_on_electi_on_promises_says_SNP.php; R. Dinwoodie 4.5.09 'UK defeat for Labour will lead to 'Home

Rule push' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2505848.0.UK_defeat_for_Labour_will_lea

5.2 The Scottish Minority Government: Election or Referendum?

Ministerial developments in this period suggest that an impromptu Scottish Parliamentary election may be as likely as a referendum. Alex Salmond announced in February a reshuffle that saw: Linda Fabiani replaced as Minister for Culture and External Affairs by Mike Russell, who has also been given a brief in relation to 'the Constitution'; Roseanna Cunningham replacing Russell as Minister for Environment; Alex Neil replacing Stewart Maxwell to take on the new post of Minister for Housing & Communities (with the sport portfolio transferred to Public Health Minister Shona Robison); and Maureen Watt replaced by Keith Brown as Minister for Schools and Skills. Although in each case the ministers may have been replaced because of poor performances, the promotion of Russell and addition of the constitutional remit was also taken as a strong signal that the SNP has begun its campaign to hold an independence referendum in 2010.⁷⁷ Yet, the Scottish Parliament passed a motion

[d_to_Home_Rule_push.php](#); D. Maddox 4.5.09 'Labour leader scorns Salmond's 'gaffe' *The Scotsman* <http://news.scotsman.com/politics/Labour-leader-scorns-Salmond39s-.5230981.jp>; D. Maddox 14.4.09 'Labour slams SNP for breaking swimming pool pledge' *The Scotsman* <http://news.scotsman.com/politics/Labour-slams-SNP-for-breaking.5166538.jp>; 7.4.09 'Appointment shows Futures Trust 'PPP by another name' <http://www.holyrood.com/content/view/3794/10051/>; T. Peterkin 8.3.09 'SNP trust branded an 'expensive scandal' *The Scotsman* <http://news.scotsman.com/politics/SNP--trust-branded-.5050097.jp>; S. Macnab 1.4.09 'Shameful' one-year wait for drug addicts seeking help' *The Scotsman* <http://news.scotsman.com/politics/39Shameful39-oneyear-wait-for-drug.5127601.jp>; M. Howie 6.4.09 'Drug advisory body yet to meet – a year after strategy switch' *The Scotsman* <http://news.scotsman.com/politics/Drug-advisory-body-yet-to.5143496.jp>; 31.3.09 'Drug treatment waiting times 'deeply concerning' <http://www.holyrood.com/content/view/3761/10051/>; K. Bussey 23.3.09 'Scots prisons 'awash with drugs' *The Press and Journal* <http://www.pressandjournal.co.uk/Article.aspx/1135549>; 21.4.09 'SNP attacked for 'completely misleading' heating claims' <http://www.holyrood.com/content/view/3851/10051/>; I. Swanson 2.4.09 'Ian Swanson: Half-term report.. broken by promises?' *Edinburgh Evening News* <http://news.scotsman.com/politics/Ian-Swanson-Halfterm-report-broken.5133788.jp>; H. Macdonell 13.5.09 'Malnutrition death rate in hospitals has doubled' *The Scotsman* <http://news.scotsman.com/latestnews/Malnutrition-death-rate-in-hospitals.5259600.jp>. See also: D. Maddox 16.2.09 'Inside Holyrood: A week of hiccups but SNP remains strong' *The Scotsman* <http://news.scotsman.com/politics/Inside-Holyrood-A-week-of.4982635.jp>⁷⁷ *The Times* 11.2.09 'Reshuffle signals SNP referendum route' <http://www.timesonline.co.uk/tol/news/uk/scotland/article5704248.ece>; H. Macdonell 11.2.09 'In from the cold ... Salmond's critics join the team' *The Scotsman* <http://news.scotsman.com/politics/In-from-the-cold-.4966779.jp>; *The Herald* 'Salmond buries hatchet and brings old foes into the fold' http://www.theherald.co.uk/politics/news/display.var.2488427.0.Salmond_buries_hatchet_and_bring_old_foes_into_the_fold.php; R. Dinwoodie 11.2.09 'Top team bolstered for next two years' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2488428.0.Top_team_bolstered_for_next_two_years.php; P. Miller 11.2.09 'The downfall of a Culture Minister' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2488429.0.The_downfall_of_a_Culture_Minister.php; D. Ross 11.2.09 'Cunningham inherits poisoned chalice proposal' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2488430.0.Cunningham_inherits_poisoned_chalice_proposal.php; R. Wishart 11.2.09 'A man who will need to exercise all his arts to

in March calling on the SNP to drop its referendum plans. While this is not the end of the matter (see 3.4), and the first two years have shown that minority government has proved remarkably stable⁷⁸ (defeats on non-binding motions in Parliament are certainly not fatal), the referendum issue puts more pressure than any other on the status of the SNP in office. Further strain has also been caused by the ongoing pressure by opposition parties on Justice Secretary Kenny MacAskill to resign. Suggestions that opposition parties may force a vote of no confidence in MacAskill (following his response to the escape by Brian Martin from prison, coupled with his handling of the plans for a community court in Glasgow and the knife crime debate in April) have prompted Alex Salmond to threaten to resign, arguing that the Scottish Parliament should not determine his ministerial team (see also 3.4 and 3.5).⁷⁹

5.3 The Economy

The essence of economic predictions in this period is that the Scottish economy will continue to shrink (perhaps at a rate comparable to the 1930s) and unemployment will continue to rise, but that the picture is worse in the rest of the UK.⁸⁰ Perhaps

prevail ' *The Herald*

http://www.theherald.co.uk/features/featuresopinon/display.var.2488394.0.a_man_who_will_need_to_exercise_all_his_arts_to_prevail.php; T. Cornwell and H. Macdonell 19.2.09 'Culture minister comes under fire for using arts as a nationalist stage' *The Scotsman*

<http://news.scotsman.com/politics/Culture-minister-comes-under-fire.4995040.jp>; H. Macdonell 2.3.09 'Russell seeks free vote on independence referendum' *The Scotsman*

<http://news.scotsman.com/politics/Russell-seeks-free-vote-on.5027324.jp>; S. Johnson 25.2.09 'Alex Salmond's referendum hopes hanging by a thread after Lib Dem leader says no' *The Telegraph*

<http://www.telegraph.co.uk/news/newstopics/politics/scotland/4805657/Alex-Salmonds-referendum-hopes-hanging-by-a-thread-after-Lib-Dem-leader-says-no.html>; *The Herald*

'Parties challenged on Scots independence vote'

http://www.theherald.co.uk/politics/news/display.var.2492626.0.Parties_challenged_on_Scots_independence_vote.php

⁷⁸ P. Cairney (2009) 'The Scottish National Party and Minority Government in Scotland',

Paper to Study of Parliament Group, London, 22 April (for a copy: paul.cairney@abdn.ac.uk)

⁷⁹ D. Maddox 22.5.09 'Vote against MacAskill and I'll quit, threatens Salmond' *The Scotsman*

<http://news.scotsman.com/latestnews/Vote-against-MacAskill-and-I39ll.5293404.jp>; R.

Dinwoodie 22.5.09 'MacAskill faces call to resign over prison escape' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2509674.0.MacAskill_faces_call_to_resign_over_prison_escape.php; A. Macleod 22.5.09 'Kenny MacAskill threatened with no

confidence vote over jail escape' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article6338586.ece>

⁸⁰ T. Sharp 26.2.09 'Scottish economy braced for two difficult years' *The Herald*

http://www.theherald.co.uk/business/news/display.var.2491801.0.Scottish_economy_braced_for_two_difficult_years.php; P. Jones 26.2.09 'Scotland 'facing worst downturn since war' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article5805103.ece>; T. Crichton 10.2.09 'Slump may be worse than feared warns City watchdog' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2488151.0.Slump_may_be_worse_than_fared_warns_City_watchdog.php

Scottish Government News Release 22.4.09 'Scotland now officially in recession'

<http://www.scotland.gov.uk/News/Releases/2009/04/22101441>; 13.5.09 'Unemployment rising slower in Scotland than across UK' <http://www.holyrood.com/content/view/3942/10051/>;

11.2.09 'Scotland faces unemployment 'challenge''

ironically, Scotland's reputation for having a large public sector that stifles the scope for private sector innovation may have helped dampen the effect of the economic downturn.⁸¹ Debates about how an independent Scotland would have fared during the crisis continues (Dominic Lawson also asks if Scots caused the recession),⁸² and Gordon Brown used the historic meeting of a UK Cabinet in Scotland to reinforce the value of the Union and argue that there can be no 'Scotland-only' solution to economic problems.⁸³ Most Scottish Government attention has focused on how it can criticize the extent of UK budget cuts but also assure its audience that they will not put paid to their flagship policies.⁸⁴ Both debates highlight the lack of policy

<http://www.holyrood.com/content/view/3562/10051/>; 18.3.09 'Unemployment reaches 135,000 in Scotland' <http://www.holyrood.com/content/view/3709/10051/>

⁸¹ H. Macdonell 19.3.09 'Public sector helps Scotland to stave off worst of the recession' *The Scotsman* <http://news.scotsman.com/politics/Public-sector-helps-Scotland-to.5086677.jp>; J. Sherman, G. Gilmore and D. Rose 19.3.09 'Forget the north-south divide, this time it's private sector versus public' *The Times*

<http://business.timesonline.co.uk/tol/business/economics/article5934769.ece>; H. Wallop 24.3.09 'Unemployment hits two million but public sector sheltered' *The Telegraph* <http://www.telegraph.co.uk/finance/jobs/5013524/Unemployment-hits-two-million-but-public-sector-sheltered.html>

⁸² H. Macdonell 9.4.09 'Top Salmond aide knocks independence' *The Scotsman* <http://news.scotsman.com/politics/Top-Salmond-aide-knocks-independence.5156398.jp>; 20.3.09 'Author attacks First Minister's "arc of reckless lending"'

<http://www.holyrood.com/content/view/3719/10051/>; *Independent On Sunday* 17.2.09 'Dominic Lawson: A sorry tale of Scottish shame – and English tolerance' *Independent On Sunday* <http://www.independent.co.uk/opinion/commentators/dominic-lawson/dominic-lawson-a-sorry-tale-of-scottish-shame-ndash-and-english-tolerance-1623819.html>

⁸³ G. Brown 16.4.09 'No Scotland-only or England-only solution to economic problems' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2502269.0.No_Scotlandonly_or_England_only_solution_to_economic_problems.php; T. Crichton 16.4.09 'Brown using Glasgow visit to promote Union' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2502293.0.Brown_using_Glasgow_visit_to_promote_Union.php; D. Maddox 16.4.09 'Cabinet in Scotland for first time in 88 years' *The Scotsman* <http://news.scotsman.com/politics/Cabinet-in-Scotland-for-first.5174760.jp>; see also H. Macdonell 17.4.09 'Mandelson to Scotland: Stop being so darned pessimistic' *The Scotsman* <http://news.scotsman.com/latestnews/Mandelson-to-Scotland-Stop-being.5179518.jp>; D. Maddox 14.5.09 'Taxing times in argument over independence' *The Scotsman* <http://news.scotsman.com/politics/Taxing-times-in-argument-over.5264952.jp>

⁸⁴ B. Currie 29.4.09 'Scottish budget cuts could top £3.8bn' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2504839.0.Scottish_budget_cuts_could_top_3_8bn.php; E. Barnes 15.3.09 'Doomsday budget to cut public spending' *The Scotsman* <http://news.scotsman.com/politics/Doomsday-budget-to-cut-.5073254.jp>; H. Macdonell 22.4.09 'Salmond warns the Chancellor: Hands off our services' *The Scotsman* <http://news.scotsman.com/politics/Salmond--warns-the-Chancellor.5191735.jp>; *The Scotsman* 21.4.09 'Westminster budget "will cost Scotland jobs" – Salmond' <http://news.scotsman.com/politics/Westminster-budget-34will-cost-Scotland.5189941.jp>; *The Daily Mail* 21.4.09 'Scotland must make cuts too, warns Labour leader Iain Gray' <http://www.dailyrecord.co.uk/news/scottish-news/2009/04/21/scotland-must-make-cuts-too-warns-labour-leader-iain-gray-86908-21293797/>; H. Macdonell 23.4.09 'Swinney says cuts will lead to loss of 9,000 jobs' *The Scotsman* <http://news.scotsman.com/politics/Swinney-says-cuts-will-lead.5196809.jp>; Scottish Government News Release 'Case against spending cuts' <http://www.scotland.gov.uk/News/Releases/2009/03/12081230>; 25.2.09 'SNP urges Scottish Labour to get 'heads out the sand' over cuts'

levers that the Scottish Government has to address economic problems independently.⁸⁵ In some cases this leads to an uneasy truce between the SNP and Labour (UK and Scotland) in which, for example, they make joint statements on the need to cooperate to tackle unemployment in Scotland, but then take credit for specific initiatives.⁸⁶ Or, they take similar (but only partially successful) measures to reduce the costs of government administration.⁸⁷ The perennial sticking point is the

<http://www.holyrood.com/content/view/3621/10051/>; H. Macdonell 27.4.09 'SNP refuses to cut back as Westminster squeezes cash' *The Scotsman* <http://news.scotsman.com/politics/SNP-refuses-to-cut-back.5207279.jp>; A. Macleod 26.4.09 'Scotland facing 'budget cuts of billions' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6175933.ece>; J. Swinney 26.4.09 'John Swinney: Labour cuts return Scotland to dark days of Thatcher' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6169107.ece>; 13.2.09 'Economic focus of Scottish Government 'must change'

<http://www.holyrood.com/content/view/3572/10051/>; D. Maddox 29.4.09 'Falling Scots budget will see 'sacred cows' axed to save money' *The Scotsman*

<http://news.scotsman.com/politics/Falling-Scots-budget--will.5214934.jp>; *The Scotsman* 26.4.09 'Alex Salmond wants more tools to fix Scotland's economy – but he could use the Tartan Tax. The question is: should it go up or down?'

<http://news.scotsman.com/politics/Alex-Salmond-wants-more-tools.5206620.jp>

⁸⁵ S. Paterson 12.3.09 'Government calls for extended power to borrow and spend' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2494904.0.Government_calls_for_extended_power_to_borrow_and_spend.php; Scottish Government News Release 8.5.09 'Call for action on exports'

<http://www.scotland.gov.uk/News/Releases/2009/05/08112526>; K. Bussey 17.4.09 'Swinney in £150m levy plea' *The Scotsman* <http://news.scotsman.com/politics/Swinney-in-150m-levy-plea.5179550.jp>

⁸⁶ S. Paterson 10.2.09 'Harmony across the border in push to save jobs' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2488186.0.Harmony_across_the_border_in_push_to_save_jobs.php; T. Peterkin 19.4.09 'SNP unveils £95m fund to create new jobs' *The Scotsman* <http://news.scotsman.com/politics/SNP-unveils-95m-fund-to.5183862.jp>; S.

Reeves 28.4.09 'Funding boost for young jobless' *The Scotsman*

<http://news.scotsman.com/politics/Funding-boost-for-young-jobless.5210893.jp>; *Edinburgh Evening News* 28.4.09 'Apprentices to warm homes' *The Scotsman*

<http://news.scotsman.com/politics/Apprentices-to--warm-homes.5211810.jp>; R. Dinwoodie 3.3.09 'Murphy reveals £600,000 funding for job seekers' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2492944.0.Murphy_reveals_600_00_funding_for_job_seekers.php; *The Scotsman* 29.4.09 'Jobless to be offered work with Scottish Government' <http://news.scotsman.com/politics/Jobless-to-be-offered-work.5217756.jp>; Scottish Government News Release 11.2.09 'New apprentices for Glasgow' <http://www.scotland.gov.uk/News/Releases/2009/02/11111047>; Scottish Government News Release 29.4.09 'Government jobs for unemployed'

<http://www.scotland.gov.uk/News/Releases/2009/04/29114514>; 28.4.09 'New energy apprenticeships announced' <http://www.holyrood.com/content/view/3878/10051/>; S. Reeves 28.4.09 'Funding boost for young jobless Scots' <http://news.scotsman.com/politics/Funding-boost-for-young-jobless.5210893.jp>; *The Daily Record* 27.4.09 'Labour promise to create 15,000 jobs for young Scots' <http://www.dailyrecord.co.uk/news/scottish-news/2009/04/27/labour-promises-to-create-15-000-jobs-for-young-scots-86908-21311969/>;

28.4.09 'UK Government 'funding 15,000 new jobs' in Scotland' <http://www.holyrood.com/content/view/3876/10051/>

⁸⁷ R. Dinwoodie and T. Crichton 'Scottish ministers agree to freeze their pay' *The Herald* http://www.theherald.co.uk/news/news/display.var.2499071.0.Scottish_ministers_agree_to_freeze_their_pay.php; J. Sherman 1.4.09 'Whitehall severance pay slashed and pay rise reduced to 1.5%' *The Times* <http://www.timesonline.co.uk/tol/news/politics/article6011798.ece>; A. Porter and C. Hope

issue of funding and borrowing for large scale capital projects. Experience from the Scottish Futures Trust (5.5) and plans for a 'Scottish Investment Bank' suggests that the Scottish Government will struggle to finance a high proportion of its planned projects in this way.⁸⁸ While this has produced the usual criticism from the UK Government and Scottish Labour regarding the higher delays and uncertainty when compared to PFI, the added twist in this period is heightened attention to the long-term costs of PFI and the higher risks to governments during economic crises.⁸⁹ The fallout from discussions on the Forth Road bridge (in which the UK Government announced its role in providing over £1billion but the Scottish Government argued that no new money or solution was being offered) also gives the impression of point-scoring rather than any serious breakthrough in relations on these matters.⁹⁰ For

31.5.09 'Thousands of senior civil servants, doctors and judges have pay rises capped at 1.5pc' *The Telegraph* <http://www.telegraph.co.uk/news/uknews/5082660/Thousands-of-senior-civil-servants-doctors-and-judges-have-their-pay-capped-at-1.5pc.html>; B. Ferguson 1.4.09 'Outrage over inflation-busting rises for judges, top brass and mandarins' *The Scotsman* <http://news.scotsman.com/politics/Outrage-over-inflationbusting-rises-for.5127650.jp>; J. Sherman 22.4.09 'Civil Service will lose thousands of jobs in Darling's efficiency drive' *The Times* <http://www.timesonline.co.uk/tol/business/economics/budget/article6143823.ece>; H. Macdonell 8.4.09 'Salmond and Swinney only ministers set to miss savings targets' *The Scotsman* <http://news.scotsman.com/politics/Salmond-and-Swinney-only-ministers.5151244.jp>; Scottish Government News Release 2.3.09 'Public sector reform' <http://www.scotland.gov.uk/News/Releases/2009/03/02125701> Secretary John Swinney; 18.3.09 'Swinney welcomes reduction in 'organisational clutter' of public sector' <http://www.holyrood.com/content/view/3707/10051/>; D. Maddox 2.4.09 'Salmond U-turn on pay rise 'hypocrisy'' *The Scotsman* <http://news.scotsman.com/politics/Salmond-Uturn-on-pay-rise.5132729.jp>

⁸⁸ 22.4.09 'Salmond announces 'Scottish Investment Bank' for business growth' <http://www.holyrood.com/content/view/3854/10051/>; B. Currie 22.4.09 'Scottish Investment Bank to help fund innovation' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2503460.0.Scottish_Investment_Bank_to_help_fund_innovation.php; R. Dinwoodie 2.4.09 'Labour: Scottish Futures Trust is a shambles' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2499246.0.Labour_Scottish_Futures_Trust_is_a_shambles.php; S. Johnson 2.4.09 'Labour reveal Alex Salmond's school building chief has attacked SNP funding plans' *The Telegraph* <http://www.telegraph.co.uk/news/newsttopics/politics/scotland/5095828/Labour-reveal-Alex-Salmonds-school-building-chief-has-attacked-SNP-funding-plans.html>; D. Maddox 1.4.09 'Labour hits out over £4m quango that has met only twice' *The Scotsman* <http://news.scotsman.com/politics/Labour-hits-out-over-4m.5127637.jp>

⁸⁹ H. MacDonell 4.3.09 'SNP attacked for stopping public project cash coming to Scotland' *The Scotsman* <http://news.scotsman.com/politics/SNP-attacked-for-stopping-public.5035036.jp>; R. Dinwoodie 4.3.09 'Public cash to help PFIs through credit crisis' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2493166.0.Public_cash_to_help_PFIs_though_credit_crisis.php; S. Macnab 16.3.09 '£30bn cost of paying off PFIs' *The Scotsman* <http://news.scotsman.com/politics/30bn-cost-of-paying-off.5073875.jp>; D. Hencke 3.4.09 'Treasury rescues big building projects with £2bn injection' *The Guardian* <http://www.guardian.co.uk/politics/2009/mar/03/treasury-economy-construction>

⁹⁰ H. Macdonell 6.4.09 'Swinney rejects Treasury proposals to pay for bridge' *The Scotsman* <http://news.scotsman.com/politics/Swinney-rejects-Treasury-proposals-to.5143533.jp>; R. Dinwoodie 6.4.09 'Forth funding dispute' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2500070.0.Forth_funding_dispute.php; A.

both parties the politicking is tricky – while Labour needs to look like it is not blocking the SNP at the same time as being critical (to demonstrate policy failure from faulty policy), the SNP must balance the desire to criticize PPP while lauding the opening of schools and hospitals funded using this method.⁹¹ When the Scottish Government can use its own levers, minority politics proves to be no more straightforward: two of its most prominent measures to boost economic growth and address the economic downturn – tax relief for small business⁹² and the town centre regeneration fund⁹³ – resulted largely from negotiations with the Conservative party on the budget. This leaves relatively little, including the much-lauded decision to involve business more in public procurement and pay businesses quickly⁹⁴, the waiving of business fees by SEPA⁹⁵ and initiatives to part-fund home ownership (for first time buyers and those struggling with mortgages) to protect the housing market and reduce levels of repossession (with some prospect of legal reinforcement).⁹⁶

Macleod 5.4.09 'John Swinney turns down £1.5bn Treasury offer for new Forth crossing' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6041250.ece>

⁹¹ D. Maddox 12.3.09 'SNP government too late to build schools' *The Scotsman*

<http://news.scotsman.com/politics/SNP-government-too-late-to-5063506.jp>; *The Scotsman*

13.3.09 'Salmond bid to claim credit for schools 'shameless'' *The Scotsman*

<http://news.scotsman.com/politics/Salmond-bid-to-claim-credit-5068821.jp>

L. Davidson 19.2.09 'Glasgow schools 'being left to rot by SNP' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article5762818.ece>; I. Bell 13.3.09 'Labour eyebrows raised at SNP schools programme' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2495194.0.Labour_eyebrows_raised_at_SNP_schools_programme.php; D. Maddox 12.3.09 'SNP government too late to build schools' *The Scotsman*

<http://news.scotsman.com/politics/SNP-government-too-late-to-5063506.jp> Scottish Government News Release 25.3.09 '£300 million hospital milestone marked'

<http://www.scotland.gov.uk/News/Releases/2009/03/25134911>

⁹² 1.4.09 'Small firms boosted by full rates relief'

<http://www.holyrood.com/content/view/3764/10051/>; Scottish Government News Release 6.4.09 'Help for businesses' <http://www.scotland.gov.uk/News/Releases/2009/04/06092112>

⁹³ Scottish Government News Release 2.4.09 'Detail of town centre fund revealed'

<http://www.scotland.gov.uk/News/Releases/2009/04/02105433>; Scottish Government News Release 30.4.09 'Town Centre Regeneration Fund'

<http://www.scotland.gov.uk/News/Releases/2009/04/30121733>

⁹⁴ 29.4.09 'Government support for small businesses welcomed'

<http://www.holyrood.com/content/view/3882/10051/>; 24.4.09 'Government 'paying invoices quickly to support economy'' <http://www.holyrood.com/content/view/3862/10051/>

⁹⁵ 12.5.09 'SEPA waives £1.5m of environmental fees'

<http://www.holyrood.com/content/view/3935/10051/>

⁹⁶ Scottish Government News Release 31.3.09 'Help for first time buyers'

<http://www.scotland.gov.uk/News/Releases/2009/03/31102120>; Scottish Government News Release 16.3.09 'Help for struggling home owners'

<http://www.scotland.gov.uk/News/Releases/2009/03/16103352>; Scottish Government News Release 29.4.09 'Helping households through the recession'

<http://www.scotland.gov.uk/News/Releases/2009/04/29124157>; Scottish Government News Release 10.3.09 'Record funding for affordable housing'

<http://www.scotland.gov.uk/News/Releases/2009/03/10101958>; 23.2.09 'Repossessions 'complacency' must stop, says Labour' <http://www.holyrood.com/content/view/3612/10051/>

5.4 Healthcare, Mental Health and Public Health

Health policy in this period was dominated by the spread of infection. As in most countries the extent of, and response to, 'swine flu' received disproportionate media (and therefore government) attention.⁹⁷ This came on the back of the Scottish Government's responses – a new strategy on hygiene, extra cleaning staff and a public inquiry - to the outbreak of *C difficile*⁹⁸ amid calls by Labour for new legislation to create 'an independent commissioner to lead the fight against hospital-acquired infections'.⁹⁹ The SNP's pursuit of a publicly-funded NHS with minimal private sector involvement continued with the phased reduction of prescription charges, a bill to 'effectively ban private GP surgeries' and assurance that co-payments will be managed to ensure there is no 'two-tier NHS'.¹⁰⁰ The numbers game on waiting

⁹⁷ Scottish Government News Release 29.4.09 'Swine Flu outbreak' <http://www.scotland.gov.uk/News/Releases/2009/04/29141844>; Scottish Government News Release 11.05.09 'Update on A (H1N1) virus' <http://www.scotland.gov.uk/News/Releases/2009/05/11152458>; Scottish Government News Release 10.5.09 'A (H1N1) flu virus' <http://www.scotland.gov.uk/News/Releases/2009/05/10154119>; Scottish Government News Release 11.5.09 'Update on A (H1N1) virus' <http://www.scotland.gov.uk/News/Releases/2009/05/11152458>; 5.5.09 'Sturgeon praises NHS staff for flu response' <http://www.holyrood.com/content/view/3912/10051/>; L. Moss, H. Macdonell and D. Maddox 28.4.09 'Swine flu confirmed at Scottish hospital' *The Scotsman* <http://news.scotsman.com/latestnews/Swine-flu-confirmed-at-Scottish-hospital.5210861.jp>

⁹⁸ L. Moss 23.4.09 'Public inquiry to be held into 18 deaths at superbug hospital' *The Scotsman* <http://news.scotsman.com/latestnews/Public-inquiry-to-be-held.5196828.jp>; B. Currie 23.4.09 'Families win fight for probe into C Diff deaths' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2503703.0.Families_win_fight_for_probe_into_C_Diff_deaths.php; M. Reid 22.4.09 'Victory for families as Cdiff inquiry ordered' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6150756.ece>; Scottish Government News Release 17.4.09 'Hospital clean up' <http://www.scotland.gov.uk/News/Releases/2009/04/17115826>; L. Moss 6.3.09 'Plans to take on hospital superbugs stretch staff, say nurses' *The Scotsman* <http://news.scotsman.com/latestnews/Plans-to-take-on-hospital.5045778.jp>; H. Macdonell 17.4.09 'Six hundred new cleaners to fight hospital superbugs' *The Scotsman* <http://news.scotsman.com/latestnews/Six-hundred-new-cleaners-to.5179542.jp>; B. Currie 17.4.09 'Sturgeon: hospital hygiene to be boosted by 600 cleaners' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2502496.0.Sturgeon_hospital_hygiene_to_be_boosted_by_600_cleaners.php; F. Urquhart 14.5.09 'Hospital closes wards after superbug deaths' *The Scotsman* <http://news.scotsman.com/latestnews/Hospital-closes-wards-after-superbug.5265038.jp>; C. Sweeney 13.5.09 'Elgin health board accused of cover-up as two die of C. diff' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6282666.ece>; 10.2.09 "Significant infection progress" made at Vale of Leven <http://www.holyrood.com/content/view/3557/10051/>; 25.3.09 'Hand hygiene campaign to target all hospital staff' <http://www.holyrood.com/content/view/3743/10051/>

⁹⁹ R. Dinwoodie 7.3.09 'Labour plans its own attack on infections from hospitals' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2493971.0.Labour_plans_its_own_attack_on_infections_from_hospitals.php; L. Moss 12.2.09 'Labour wins support for plans to combat superbugs' *The Scotsman* <http://news.scotsman.com/latestnews/Labour-wins-support-for-plans.4971822.jp>

¹⁰⁰ Scottish Government News Release 8.2.09 'Lower prescription charges' <http://www.scotland.gov.uk/News/Releases/2009/02/04133819>; Scottish Government News

times, played most by political parties and governments, continues in the Scottish NHS with a particular focus on cancer (and the positive but variable progress towards the 62-day target for treatment following urgent referral) and the real funding of health boards (see also 3.7 on health board elections).¹⁰¹ The issue of NHS compensation remains in the news following the Scottish Government's continued investigation of historic Hepatitis C contamination of blood products (which helps keep the issue high on the UK agenda)¹⁰² and Labour and BMA calls for a reform of the 'no fault' compensation rules.¹⁰³ Less newsworthy but no less important is the Scottish Government's initiative to shift the balance of mental health policy focus from illness to wellbeing.¹⁰⁴ This is accompanied by plans to improve hospital and mental health provision for under 18s.¹⁰⁵ There has also been sporadic media

Release 25.3.09 'Access to new medicines'

<http://www.scotland.gov.uk/News/Releases/2009/03/25164314>; Scottish Government News Release 8.2.09 'Lower prescription charges';

<http://www.scotland.gov.uk/News/Releases/2009/02/04133819>; Scottish Government News Release 1.4.09 'Reduced prescription charges'

<http://www.scotland.gov.uk/News/Releases/2009/04/01084205>; 26.3.09 'Sturgeon backs co-payments amid 'two-tier NHS' warnings' <http://www.holyrood.com/content/view/3746/10051/>;

L. Moss 13.5.09 'Topping up NHS treatment could put other patients at risk, say MPs' *The Scotsman* <http://news.scotsman.com/latestnews/Topping-up-NHS-treatment-could.5259715.jp>;

J. Horton 25.2.09 'Bid to ban private GP surgeries' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2491547.0.Bid_to_ban_private_GP_surgeries.php

hearing services

¹⁰¹ L. Moss 21.3.09 'Cancer survivor confronts the health secretary on 62-day wait' *The Scotsman* <http://news.scotsman.com/politics/Cancer-survivor-confronts-the-.5095291.jp>;

Scottish Government News Release 27.1.09 'NHS treatment targets' <http://www.scotland.gov.uk/News/Releases/2009/01/27094922>;

Scottish Government News Release 17.2.09 'Best ever cancer waiting times'

<http://www.scotland.gov.uk/News/Releases/2009/02/17101343>; B. Donnelly 18.2.09 'Finnie calls for end to postcode lottery over waiting times' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2489903.0.Finnie_calls_for_end_to_postcode_lottery_over_waiting_times.php;

Scottish Government News Release 24.2.09 'Waiting times targets' <http://www.scotland.gov.uk/News/Releases/2009/02/24105046>;

T. Peterkin 15.2.09 'Jamieson attacks SNP priorities as health boards face £3.6m budget cuts' *The Scotsman* <http://news.scotsman.com/politics/Jamieson-attacks-SNP-priorities-as.4982012.jp>

¹⁰² <http://www.penroseinquiry.org.uk/>; G. Peev 24.2.09 'Toxic blood victims deserve millions, says inquiry' *The Scotsman* <http://news.scotsman.com/politics/Toxic-blood-victims--deserve.5008425.jp>;

M. Taylor 24.2.09 'Scope of inquiry into blood scandal in Scotland 'must be widened' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2491283.0.Scope_of_inquiry_into_blood_scandal_in_Scotland_must_be_widened.php;

S. Lister 24.2.09 'Victims of tainted blood scandal deserve higher damages, inquiry says' *The Times*

http://www.timesonline.co.uk/tol/life_and_style/health/article5792803.ece

¹⁰³ 30.3.09 'No-fault compensation needed' as NHS pay-outs rise'

<http://www.holyrood.com/content/view/3757/10051/>

¹⁰⁴ Scottish Government (2009) *Towards a Mentally Flourishing Scotland: Policy and Action Plan 2009-2011* <http://www.scotland.gov.uk/Publications/2009/05/06154655/2>;

Scottish Government News Release 7.5.09 'Mental health improvement plan'

<http://www.scotland.gov.uk/News/Releases/2009/05/07131017>

¹⁰⁵ Scottish Government News Release 20.4.09 'More help for under-18s mental health'

<http://www.scotland.gov.uk/News/Releases/2009/04/20120247>;

interest in issues such as the links between sun beds and skin cancer (which the Scottish Government addressed in the *Public Health etc. (Scotland) Act 2008*), screening for cervical cancer (the UK Government has been urged to follow devolved government policy) and obesity (and the rise of prescription drugs) and Scottish national standards for the treatment of hearing loss (a UK first).¹⁰⁶

5.5 Cigarettes and Alcohol

It is interesting to note the relative lack of attention given to issues in which there may be a perception that a problem has been solved, or at least a decision has been made. For example, Scotland and the rest of the UK now have one of the most restrictive tobacco control regimes in the world. Yet, measures to control the tobacco trade and consumption further – including restrictions on advertising at point of sale and paying people to give up smoking – may have passed most people by.¹⁰⁷ This contrasts with the relatively sexy issue of alcohol in which almost every aspect has been pored over: the launch of the strategy itself (signalling action to address minimum pricing, sales to under 21s, alcohol promotions, alcohol marketing, wine

Release 5.5.09 'Hospital care for teenagers'

<http://www.scotland.gov.uk/News/Releases/2009/05/05141510>; 21.4.09 'Mental health services for children receive £2m boost' <http://www.holyrood.com/content/view/3848/10051/>

¹⁰⁶ S. Johnson 28.4.09 'Scots warned about using sunbeds as skin cancer rate soars' *The Telegraph* <http://www.telegraph.co.uk/news/newstopics/politics/scotland/5236570/Scots-warned-about-using-sunbeds-as-skin-cancer-rate-soars.html>; D.Maddox 1.4.09 'Obesity drug use soars by 25 times' *The Scotsman* <http://news.scotsman.com/politics/Obesity-drug-use-soars-by.5127641.jp>; Jade Goody effect puts pressure on England NHS to follow rest of UK on age of smear test

Independent On Sunday 17.2.09 'NHS row brews over the Jade Goody effect' <http://www.independent.co.uk/life-style/health-and-wellbeing/health-news/nhs-row-brews-over-the-jade-goody-effect-1623790.html>; *The Scotsman* 28.4.09 'Scotland leads way with standards for hearing services' <http://news.scotsman.com/politics/Scotland-leads-way-with-standards.5210833.jp>

¹⁰⁷ F. Urquhart 24.3.09 'Smokers to get £50 a month 'rewards' for kicking the habit' *The Scotsman* <http://news.scotsman.com/latestnews/Smokers-to-get-50-.5100866.jp>; B. Donnelly 24.3.09 'Smokers to get £12.50 a week as incentive to quit' *The Herald* http://www.theherald.co.uk/news/news/display.var.2497415.0.Smokers_to_get_12_50_a_week_as_incentive_to_quit.php; Scottish Government News Release 26.2.09 'Further action to reduce smoking' <http://www.scotland.gov.uk/News/Releases/2009/02/26091047>; Scottish Government News Release 25.2.09 'Stubbing out illegal cigarettes' <http://www.scotland.gov.uk/News/Releases/2009/02/25113830>; Scottish Government News Release 16.3.09 'Calling time on tobacco displays'

<http://www.scotland.gov.uk/News/Releases/2009/03/16081807>; 25.2.09 'Two-pronged attack' launched on cigarettes' <http://www.holyrood.com/content/view/3620/10051/>; 26.2.09 'Cigarette vending machines set for ban' <http://www.holyrood.com/content/view/3625/10051/>

See also 26.3.09 'Smoking prevention 'needed' to support smoking ban'

<http://www.holyrood.com/content/view/3745/10051/>; L. Moss 13.2.09 'Second-hand smoke heightens dementia risk, say scientists' *The Scotsman* <http://news.scotsman.com/latestnews/Secondhand-smoke-heightens-dementia-risk.4977153.jp>

glass sizes and the 'social responsibility fee' for retailers);¹⁰⁸ successful pressure from the Scottish Parliament to further alcohol policy through legislation rather than regulation (see 3.3); the prospect of legal challenges and the role of the EU;¹⁰⁹ the likelihood of England following Scotland;¹¹⁰ the scale of the alcohol problem;¹¹¹ an

¹⁰⁸ C. Sweeney 2.3.09 'Minimum price plan to curb Scotland's drink problem' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5835438.ece>; 2.3.09 'Scottish Government launches framework to tackle alcohol misuse' <http://www.holyrood.com/content/view/3636/10051/>; *The Scotsman* 9.4.09 "Collective effort needed to tackle alcohol abuse" <http://news.scotsman.com/politics/39Collective-effort39-needed-to-tackle.5157578.jp>; D. Gunn 26.3.09 'Raft of new measures to tackle Scotland's drink problem' *The Scotsman* <http://news.scotsman.com/politics/Raft-of-new-measures-to.5113736.jp>; *The Herald* 'Call for united action on drink problem' http://www.theherald.co.uk/politics/news/display.var.2501061.0.Call_for_united_action_on_drink_problem.php; Scottish Government News Release 3.2.09 'Alcohol sponsorship guidelines' <http://www.scotland.gov.uk/News/Releases/2009/02/03095756>; D. Gunn 26.3.09 'Raft of new measures to tackle Scotland's drink problem' *The Scotsman* <http://news.scotsman.com/politics/Raft-of-new-measures-to.5113736.jp>; 13.5.09 'Alcohol misuse spending 'to rise by half' <http://www.holyrood.com/content/view/3939/10051/>; Scottish Government News Release 3.2.09 'Alcohol sponsorship guidelines' <http://www.scotland.gov.uk/News/Releases/2009/02/03095756>; Scottish Government News Release 2.3.09 'Tackling alcohol misuse' <http://www.scotland.gov.uk/News/Releases/2009/03/02085300>

¹⁰⁹ D. Maddox 3.3.09 'Ministers face legal headache over cut-price alcohol blitz' *The Scotsman* <http://news.scotsman.com/politics/Ministers-face-legal-headache-over.5030779.jp>; A. Macleod 13.3.09 'EU law may block SNP alcohol price plan' *The Times* <http://www.timesonline.co.uk/tol/global/article5897550.ece>; D. Maddox 7.3.09 'Whitehall says SNP's drink price rise is illegal' *The Scotsman* <http://news.scotsman.com/politics/Whitehall-says-SNP39s-drink-price.5048939.jp>

¹¹⁰ D. Maddox 16.3.09 'UK 'to follow Scotland's example' over alcohol prices' *The Scotsman* <http://news.scotsman.com/politics/UK-39to-follow-Scotland39s-example39.5073822.jp>; G. Braiden 16.3.09 'Call to adopt Scots alcohol crackdown south of the border' *The Herald* http://www.theherald.co.uk/news/news/display.var.2495663.0.Call_to_adopt_Scots_alcohol_crackdown_south_of_the_border.php; D. Heckne 16.3.09 'Government to reject proposals to set minimum prices for alcohol' *The Guardian* <http://www.guardian.co.uk/society/2009/mar/16/alcohol-minimum-prices-government-proposals>; P. Webster 16.3.09 'Government to defy top doctor and block calls for minimum alcohol price' *The Times* <http://www.timesonline.co.uk/tol/news/politics/article5912343.ece>; D. Hencke and A. Sparrow 16.3.09 'Gordon Brown rejects call to set minimum prices for alcohol' *The Guardian* <http://www.guardian.co.uk/politics/2009/mar/16/gordon-brown-alcohol-pricing>; B. Carlin 5.4.09 'MPs slammed for going on a £70,000 trip to New Zealand...to investigate binge-drinking' *Daily Mail* <http://www.dailymail.co.uk/news/article-1167548/MPs-slammed-going-70-000-trip-New-Zealand--investigate-binge-drinking.html>

¹¹¹ 23.2.09 'Scotland 'eighth worst' for alcohol consumption in the world' <http://www.holyrood.com/content/view/3613/10051/>; H. Macdonell 23.2.09 'Shameful record on alcohol revealed' *The Scotsman* <http://news.scotsman.com/politics/Shameful-record-on-alcohol-revealed.5004973.jp>; G. Braiden 23.2.09 'Scots eighth on alcohol consumption world league table' *The Herald* http://www.theherald.co.uk/news/news/display.var.2490957.0.Scots_eighth_on_alcohol_consumption_world_league_table.php; L. Davidson 22.2.09 'SNP under pressure to tackle alcohol abuse' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5786639.ece>

audit of existing alcohol and drugs policy;¹¹² the response from business and the industry;¹¹³ and, the likely effect of new proposals.¹¹⁴

5.6 Justice

Although the issue of returning the Lockerbie bomber to Libya represented the first flashpoint between Alex Salmond and then Prime Minister Tony Blair,¹¹⁵ it is now clear that the (likely negative) decision rests with the Scottish Government.¹¹⁶ This perhaps contrasts with other issues – such as drugs classification¹¹⁷, firearms¹¹⁸ and

¹¹² Audit Scotland (2009) *Drug and alcohol services in Scotland* <http://www.audit-scotland.gov.uk/media/article.php?id=103> ; M. Howie 26.3.09 'Billions spent but culture of addiction worsens' *The Scotsman* <http://news.scotsman.com/latestnews/Billions-spent-but-culture-of-5109982.jp>; 20.4.09 'Local drug and alcohol services face overhaul' <http://www.holyrood.com/content/view/3845/10051/>; 26.3.09 'Worsening' alcohol and drug problem costing Scotland £5bn' <http://www.holyrood.com/content/view/3748/10051/>; Scottish Government News Release 20.4.09 'Drug and alcohol services' <http://www.scotland.gov.uk/News/Releases/2009/04/20130938>; Scottish Government News Release 1.4.09 'Reforms to drug and alcohol treatment' <http://www.scotland.gov.uk/News/Releases/2009/04/07144534>

¹¹³ C. Brown 10.3.09 'Changes to Scotland's drinks laws branded 'not acceptable'' *The Scotsman* <http://news.scotsman.com/politics/Changes-to-Scotland39s-drinks-laws-5054060.jp>; Scottish Government News Release 6.4.09 'Edinburgh clubs call time on irresponsible promotions' <http://www.scotland.gov.uk/News/Releases/2009/04/06154417>

¹¹⁴ F. Urquhart 12.3.09 'Good for health, great for the drinks industry – expert backs cut-price alcohol ban' *The Scotsman* <http://news.scotsman.com/politics/Good-for-health-great-for-5063477.jp>; A. Macleod 11.3.09 'Minimum price would boost drink industry profits, says economist' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5891585.ece>; I. Oakeshott 15.3.09 'Price of alcohol could double' *Times Online* http://www.timesonline.co.uk/tol/life_and_style/food_and_drink/drinks/article5909773.ece

¹¹⁵ See *Scotland Devolution Monitoring Report* September 2007 1.5 p18.

¹¹⁶ Scottish Government News Release 6.5.09 'Prisoner transfer agreement' <http://www.scotland.gov.uk/News/Releases/2009/05/06122851>; H. Macdonell, M. Howie and J. Robertso 7.5.09 'Salmond to rule on Lockerbie bomber's return to Libya' *The Scotsman* <http://news.scotsman.com/latestnews/Salmond--to-rule-on-5242562.jp>; R. Dinwoodie 7.5.09 'Libya applies for transfer so Megrahi can go home to die' *The Herald* http://www.theherald.co.uk/news/news/display.var.2506539.0.Libya_applies_for_transfer_so_Megrahi_can_go_home_to_die.php; C. Sweeney 6.5.09 'Libya makes formal plea for return of al-Megrahi' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6237375.ece>; S. Johnson 6.5.09 'Libyans ask for return of Lockerbie bomber Abdelbaset Ali Mohamed al-Megrahi' *The Telegraph* <http://www.telegraph.co.uk/news/newstoppers/politics/scotland/5284462/Libyans-ask-for-return-of-Lockerbie-bomber-Abdelbaset-Ali-Mohmed-al-Megrahi.html> Salmond ; D. Maddox 8.5.09 'Salmond warned over bomber' *The Scotsman* <http://news.scotsman.com/politics/Salmond-warned-over-bomber-5247611.jp>

¹¹⁷ H. MacDonell 20.4.09 'Devolving classification for drugs 'would be problematic' *The Scotsman* <http://news.scotsman.com/politics/Devolving-classification-for-drugs-.5184524.jp>; T. Peterkin 19.4.09 'Tories condemn 'soft touch' approach to Class A drugs' *The Scotsman* <http://news.scotsman.com/politics/Tories-condemn-39soft-touch39-approach-5183896.jp>

¹¹⁸ *The Scotsman* 10.3.09 'Firearms legislation rejected' <http://news.scotsman.com/politics/Firearms-legislation-rejected-5054082.jp>; E. Barnes 15.2.09 'Calman sets sights on gun control power' *The Scotsman* <http://news.scotsman.com/politics/Calman-sets-sights-on-gun-4981990.jp> *BBC News* 27.3.09 'Ministers attack gun 'inaction'' <http://news.bbc.co.uk/1/hi/scotland/7967776.stm>; *The Scotsman* 10.3.09 'Firearms legislation rejected' <http://news.scotsman.com/politics/Firearms-legislation-rejected-5054082.jp>; 27.3.09

drink-driving¹¹⁹ – in which the Scottish Government has sought a wider role, only to be rebuffed or ignored.¹²⁰ If an offender uses a knife instead of a gun then they are firmly in devolved territory. While the Scottish Government has signalled some success in this issue (regarding longer sentences for offences), this has been overshadowed to some extent by the upper hand that opposition parties have following the knife crime debate (4.2).¹²¹ However, no party has explained how to introduce ‘mandatory’ knife-crime sentencing in a system built on judicial discretion. The parties are also divided on the SNP’s shift from short-term prison (a ‘skoosh’) to community sentences, with much of the debate focussed on the extent to which the SNP promotes a ‘soft-touch’ approach. Opposition party criticisms have been buoyed generally by the apparent unpopularity of early-release, the lack of success of the new regime to administer fiscal fines, the response by the Scottish Prison Officers’ Association to Scottish Government plans on needle exchanges within prisons, and suggestions of Scottish Government interference in court proceedings to reduce prison overcrowding (although note that while some papers report that the Sheriffs’ Association supports Labour and Conservative criticisms, its evidence relates more to the prospect of rigid and confusing sentencing rules).¹²² There have

‘New campaign to dispel myth air guns are toys’

<http://www.holyrood.com/content/view/3751/0051/>

¹¹⁹ Scottish Government News Release 23.2.09 ‘Calls to cut drink driving limit’

<http://www.scotland.gov.uk/News/Releases/2009/02/20100842>; 23.2.09 ‘Drink-driving limit ‘must be cut’, says Scottish Government’

<http://www.holyrood.com/content/view/3610/10051/>

¹²⁰ See also 12.5.09 ‘Government ‘hopes’ pilot will end child imprisonment at Dungavel’

<http://www.holyrood.com/content/view/3936/10051/>

¹²¹ B. Currie 29.4.09 ‘Sentences for knife crimes increase by 35% in a year’ *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2504834.0.Sentences_for_knife_crimes_increase_by_35_in_a_year.php; Scottish Government News Release 28.4.09 ‘Courts sending ‘clear message’ on knife crime’

<http://www.scotland.gov.uk/News/Releases/2009/04/28100415>

D. Maddox 3.4.09 ‘Knife crime campaigner ‘delighted’ by report’ *The Scotsman*

<http://news.scotsman.com/politics/Knife-crime-campaigner-39delighted39-by-5138301.jp>; R.

Dinwoodie 3.4.09 ‘MSPs call for action to deal with knife crime’ *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2499537.0.MSPs_call_for_action_to_deal_with_knife_crime.php; D. Maddox 14.5.09 ‘Tories call for 2-year minimum sentence to tackle knife crime’ *The Scotsman*

<http://news.scotsman.com/politics/Tories-call-for-2-year-minimum.5265042.jp>; B. Currie 14.5.09 ‘Parties want mandatory jail terms for knife thugs’

The Herald

http://www.theherald.co.uk/politics/news/display.var.2507986.0.Parties_want_mandatory_jail_terms_for_knife_thugs.php

¹²² Justice Committee Agenda and Papers 12.5.09

<http://www.scottish.parliament.uk/s3/committees/justice/papers-09/jup09-14.pdf>; H. Macdonell

11.5.09 ‘Justice minister: Prison’s a skoosh’ *The Scotsman*

<http://news.scotsman.com/politics/Justice-minister-Prison39s-a-skoosh.5252538.jp>; T.

Gordon 11.5.09 ‘Prison is a ‘skoosh’, says justice secretary’ *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2507302.0.Prison_is_a_skoosh_says_justice_secretary.php; A. Macleod 10.5.09 ‘MacAskill: Manual labour should replace short jail terms’ *The Times*

<http://www.timesonline.co.uk/tol>

also been some calls by Labour to be tougher on youth crime, although a focus on ASBOs (which never caught on in Scotland) may undermine its case.¹²³ The Solicitor General has praised the efficiency of new court proceedings to encourage earlier guilty pleas.¹²⁴ The current *Criminal Justice & Licensing* and *Sexual Offences* bills also include provisions to compensate victims of crime, allow some witnesses to give anonymous evidence and widen the definition of sexual offences to include 'flashers' and voyeurs. There will also be pilots providing public information on sex offenders and giving the victims of crime the chance to influence court decisions.¹²⁵

The Herald 'Scrapping short jail sentences will not save cash, says Baker'
http://www.theherald.co.uk/politics/news/display.var.2505798.0.Scrapping_short_jail_sentences_will_not_save_cash_says_Baker.php

12.5.09 'MacAskill 'out of touch' on short-term imprisonment'

<http://www.holyrood.com/content/view/3938/10051/>; M. Howie 12.5.09 'Short prison sentences go on trial as sheriffs state their case' *The Scotsman*

<http://news.scotsman.com/latestnews/Short-prison--sentences-go.5255881.jp>

M. Howie 28.4.09 'One in five offenders waits three months for punishment to start' *The Scotsman* <http://news.scotsman.com/politics/One-in-five-offenders-waits.5210838.jp>; M.

Howie 5.5.09 'Fast fines scheme 'a failure' as 15,000 go unpaid' *The Scotsman*

<http://news.scotsman.com/latestnews/Fast-fines-scheme-39a-failure39.5233325.jp>; *The*

Herald 'More than half of fiscal fines not paid in full'

http://www.theherald.co.uk/politics/news/display.var.2506053.0.More_than_half_of_fiscal_fines_not_paid_in_full.php; K. MacAskill 5.5.09 'Scots criminal justice 'meltdown' as 50% of fines not fully paid' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article6221762.ece>

The Herald 'More than half of fiscal fines not paid in full'

http://www.theherald.co.uk/politics/news/display.var.2506053.0.More_than_half_of_fiscal_fines_not_paid_in_full.php; Scottish Government News Release 25.3.09 'Fiscal fines'

<http://www.scotland.gov.uk/News/Releases/2009/03/25103845>; M. Williams 30.3.09 'Prison officers ready to revolt over needle exchange plan' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2498577.0.Prison_officers_ready_to_revolt_over_needle_exchange_plan.php; A. Philip 30.3.09 'Scots Tories in call for mandatory drug testing for inmates' *The Scotsman* <http://news.scotsman.com/politics/Scots-Tories-in-call-for.5120006.jp>; see also 1.5.09 'Reforms would radically reduce number of female prisoners'

<http://www.holyrood.com/content/view/3893/10051/>; 22.4.09 'Concerns raised over treatment of 'innocent prisoners' '<http://www.holyrood.com/content/view/3855/10051/>

¹²³ Scottish Government News Release 19.3.09 'Confronting antisocial behaviour'

<http://www.scotland.gov.uk/News/Releases/2009/03/19093149>; Scottish Government News Release 1.3.09 'Criminal age to be raised to 12'

<http://www.scotland.gov.uk/News/Releases/2009/03/27140804>; 9.4.09 'Labour backs youth ASBOs after police curfew plea' <http://www.holyrood.com/content/view/3800/10051/>; *The Scotsman* 8.4.09 'Labour backs youth ASBOs after police curfew plea'

<http://news.scotsman.com/politics/Police-trained-39on-the-cheap39.5152917.jp>; S. Macnab 16.3.09 'SNP under fire over bail 'interference'

The Scotsman <http://news.scotsman.com/politics/SNP-under-fire--over.5073898.jp>

¹²⁴ *The Scotsman* 10.3.09 'Scottish justice more efficient, MSPs are told'

<http://news.scotsman.com/politics/Scottish-justice-more-efficient-MSPs.5054115.jp>; S.

Paterson 10.3.09, More offenders pleading guilty after justice system revamp' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2494469.0.More_offenders_pleading_guilt_after_justice_system_revamp.php

¹²⁵ 20.2.09 'Victims' compensation and witness anonymity included in new bill'

<http://www.holyrood.com/content/view/3599/10051/>; M. Howie 20.2.09 'New powers set to keep victims' IDs secret' *the Scotsman*

<http://news.scotsman.com/latestnews/New-powers-set-to-keep.5000299.jp>; 6.3.09 'Criminal Justice Bill launched' <http://www.holyrood.com/content/view/3654/10051/>; D. Maddox 4.5.09

If there is one promise that the SNP may regret putting a number to, it must be 1000 extra police officers. The continuing debate about the prospect of the Scottish Government meeting its target is now supplemented with criticisms of the unintended consequences on police training and a new agenda on consolidating the police forces to address financial difficulties.¹²⁶ However, there is also some evidence of Scottish success, with its system for finding missing people likely to be adopted UK-wide¹²⁷ and its stance on DNA storage less problematic than in England.¹²⁸ More consensus is also likely to be found in the Scottish Government's plans to find ways

'New law to unmask child sex offenders' *The Scotsman*

<http://news.scotsman.com/latestnews/New-law-to-unmask-child.5230946.jp>; *The Herald* 'Plan to give access to sex offender data'

http://www.theherald.co.uk/news/news/display.var.2505845.0.Plan_to_give_access_to_sex_offender_data.php; L. Davidson 3.5.09 'Parents able to ask if sex offenders have access to their children' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article6216904.ece>; D. Maddox 18.3.09 'Peeping Toms face five years in jail under tough new laws' *The Scotsman*

<http://news.scotsman.com/politics/Peeping-Toms--face-five.5081376.jp>; *The Herald* More victims of crime to be given right to tell court of effects'

http://www.theherald.co.uk/politics/news/display.var.2493171.0.More_victims_of_crime_to_be_given_right_to_tell_court_of_effects.php

Scottish Government News Release 3.5.09 'Child sex offences'

<http://www.scotland.gov.uk/News/Releases/2009/05/02104703>

¹²⁶ Scottish Government News Release 18.3.09 'Police numbers to rise by more than 1000'

<http://www.scotland.gov.uk/News/Releases/2009/03/18100756>; 18.3.09 'SNP 'on target' to recruit 1,000 extra police, says MacAskill' <http://www.holyrood.com/content/view/3708/10051/>

L. Adams 25.2.09 'SNP will fail in pledge to recruit 1000 extra police, says Labour' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2491540.0.SNP_will_fail_in_pledge_to_recruit_1000_extra_police_says_Labour.php; L. Adams 30.3.09 'Police chiefs urge debate on case for single force in Scotland' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2498627.0.Police_chiefs_urge_debate_on_case_for_single_force_in_Scotland.php; M. Howie 20.3.09 'Watchdog champions single Scots police force' *The Scotsman*

<http://news.scotsman.com/latestnews/Watchdog-champions-single-Scots-police.5092240.jp>; L. Adams 25.2.09 'SNP will fail in pledge to recruit 1000 extra police, says Labour' *The*

Heraldhttp://www.theherald.co.uk/politics/news/display.var.2491540.0.SNP_will_fail_in_pledge_to_recruit_1000_extra_police_says_Labour.php; Scottish Government News Release

3.3.09 'Police numbers at record high'

<http://www.scotland.gov.uk/News/Releases/2009/03/03095855>;

D. King 8.4.09 'SNP accused of cutting corners in police training' *The Daily Mail*

<http://www.dailyrecord.co.uk/news/scottish-news/2009/04/08/snp-accused-of-cutting-corners-in-police-training-86908-21262473/>; see also 25.3.09 'Greater police consultation with public

'needed' <http://www.holyrood.com/content/view/3742/10051/>

¹²⁷ L. Adams 4.3.09 'Scottish policeman's system for finding missing children will be' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2493202.0.Scottish_policemans_system_for_finding_missing_children_will_be_used_across_UK.php

¹²⁸ A. Travis 7.5.09 'Ministers keep innocent on DNA database' *Guardian*

<http://www.guardian.co.uk/politics/2009/may/07/dna-database-government-retention>

(such as charging prisoners for lodgings) to recoup compensation payments made to 'slopping out' prisoners (see 6.3) and to keep Scotland's 15-member juries.¹²⁹

5.7 Social Services

Alex Salmond countered to some extent the UK media tendency to blame social workers for the death of children of people monitored by social services (perhaps allowing us to compare levels and types of attention to baby P and Brandon Muir).¹³⁰ While more ire could be reserved for the relevant staff of the Kerelaw Residential School and Secure Unit, the inquiry's recommendations relate largely to performance management, training and better procedures for children to be heard.¹³¹

5.8 Education

Fiona Hyslop's recent support for 'parent power'¹³² raises the wider issue of power in compulsory education policy. For example, the new Curriculum for Excellence¹³³

¹²⁹ L. Adams, S. Paterson and C. Churchill 'Plan to charge prisoners for bed and board' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2496642.0.Plan_to_charge_prisoners_for_bed_and_board.php; A. Macleod 19.3.09 'Compensated inmates 'should get bill for board and lodgings' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5941565.ece>; D. Maddox 20.3.09 'Slopping-out: Bid to stop payouts 'will cost taxpayer even more' *The Scotsman* <http://news.scotsman.com/politics/Sloppingout-Bid-to-.5092277.jp>; *The Scotsman* 19.3.09 '£50m could be saved by move to limit slopping-out claims – MacAskill' <http://news.scotsman.com/politics/50m-could-be-saved-by.5091810.jp>

Scottish Government News Release 19.3.09 'Agreement to end slopping out anomaly' <http://www.scotland.gov.uk/News/Releases/2009/03/19121655>; J. Forsyth and H. Macdonell 11.5.09 'Scotland's unique 15-strong juries will not be abolished' *The Scotsman* <http://news.scotsman.com/politics/Scotland39s-unique-15strong--juries.5252536.jp>

¹³⁰ H. MacDonell 6.3.09 'Salmond: Don't blame social workers for Brandon's death' *The Scotsman* <http://news.scotsman.com/politics/Salmond-Don39t-blame--social.5045738.jp>; L. McIntosh 5.3.09 'Don't blame social workers for death of Brandon, Salmond warns' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5854659.ece>

Data sharing S. Paterson 11.3.09 'Forces to share information to improve child protection' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2494698.0.Forces_to_share_information_to_improve_child_protection.php; J. Beattie 2.12.08 'Baby P social workers are still drawing full pay while on suspension' *The Mirror* <http://www.mirror.co.uk/news/top-stories/2008/12/02/baby-p-social-workers-are-still-drawing-full-pay-while-on-suspension-115875-20939691/>; J. Carvel 27.11.08 'Baby P social worker witch-hunt 'could harm children'' *The Guardian* <http://www.guardian.co.uk/society/2008/nov/27/baby-p-social-workers>

¹³¹ 11.5.09 'Kerelaw abuse inquiry calls for improved training and leadership' <http://www.holyrood.com/content/view/3934/10051>

Scottish Government News Release 11.5.09 'Kerelaw Independent Inquiry' <http://www.scotland.gov.uk/News/Releases/2009/05/11085814>

¹³² A. Denholm 16.4.09 'Minister backs 'parent power' revolution' *The Herald* http://www.theherald.co.uk/news/news/display.var.2502291.0.Minister_backs_parent_power_revolution.php; A. Denholm 16.4.09 "It is important that parent councils seize this opportunity to be heard" *The Herald* http://www.theherald.co.uk/news/news/display.var.2502286.0.It_is_important_that_parent_councils_seize_this_opportunity_to_be_heard.php

may be seen in part as a means to devolve power to local authorities and teachers - although whether or not either called for this greater discretion is another matter. The role of the Scottish Parliament and accountability through ministers for overall Scottish attainment (a perennial source of concern)¹³⁴ may also produce the freedom to conform. A more clear link to power can be found in teacher (and perhaps parent) calls for maximum class sizes. Yet, this may only apply to the principle rather than the implementation, particularly if teacher numbers are falling.¹³⁵ In other words, the Scottish Government may often choose not to exercise the power it has over local authorities – as seems to be the case with the provision of higher and baccalaureate courses.¹³⁶ This contrasts with the (albeit changing) image of control freakery in England.¹³⁷ The new Scottish Government bill to protect rural schools perhaps

¹³³ A. Denholm 3.4.09 'Radical learning reform unveiled' *The Herald* http://www.theherald.co.uk/news/news/display.var.2499572.0.Radical_learning_reform_unveil.ed.php; F. Macleod 3.4.09 'Pupils to get lessons on texting and blogs' *The Scotsman* <http://news.scotsman.com/latestnews/Pupils-to-get-lessons-on.5138265.jp>; L. McIntosh 2.4.09 'New curriculum to change how Scottish pupils study' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6025445.ece>
BBC News 2.4.09 'Teachers schooled on curriculum' <http://news.bbc.co.uk/1/hi/scotland/7979435.stm>; Scottish Government News Release 2.4.09 'Curriculum for Excellence launch' <http://www.scotland.gov.uk/News/Releases/2009/04/02111045>

¹³⁴ H. Duncanson 30.3.09 'Illiteracy time bomb' must be tackled, opposition tell SNP' *The Scotsman* <http://news.scotsman.com/politics/39Illiteracy-time-bomb39-must-be.5120001.jp>; F. Macleod 1.4.09 'Find answers over pupils' poor maths, minister told' *The Scotsman* <http://news.scotsman.com/politics/Find-answers-over-pupils39-poor.5127588.jp>

¹³⁵ F. Macleod 25.2.09 'Promise to reduce class sizes 'will take 87 years to achieve' ' *The Scotsman* <http://news.scotsman.com/politics/Promise--to-reduce-class.5012421.jp>; Scottish Government News Release 24.2.09 'Class size targets' <http://www.scotland.gov.uk/News/Releases/2009/02/24114523>; 24.3.09 'Teacher numbers 'fall by 1,000' in a year' <http://www.holyrood.com/content/view/3737/10051/>

¹³⁶ A. Macleod 5.4.09 'Salmond has laid her bed of nails' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6041219.ece>; L. McIntosh 31.3.09 'Scottish baccalaureate snubbed by education chiefs' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6011656.ece>; T. Peterkin 5.3.09 'Quarter of high schools axe Highers due to cuts' *The Scotsman* <http://news.scotsman.com/politics/Quarter-of-high-schools-axe.5142925.jp>; S. Macnab 6.4.09 'Concerns at Higher course cuts' *The Scotsman* <http://news.scotsman.com/politics/Concerns-at-Higher-course-cuts.5143543.jp>; A. Macleod 5.4.09 'Fiona Hyslop under fire as schools cut courses' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6041209.ece>

¹³⁷ L. Clark 2.4.09 'Ministers should be stripped of their powers to set national curriculum, say MPs' *The Daily Mail* <http://www.dailymail.co.uk/news/article-1166599/Ministers-stripped-powers-set-national-curriculum-say-teachers.html>; L. Clark 26.3.09 'Teachers threaten a mass boycott of SATs' *Daily Mail* <http://www.dailymail.co.uk/news/article-1164930/Teachers-threaten-mass-boycott-SATs.html>; N. Woolcock 7.5.09 'Ed Balls backs experts who undermine future of primary school tests' *The Times* http://www.timesonline.co.uk/tol/life_and_style/education/article6242693.ece; P. Curtis 20.2.09 'Where now after damning indictment of education?' *The Guardian* <http://www.guardian.co.uk/education/2009/feb/20/primary-school-review>; R. Garner 23.3.09 'Teachers 'stricter' than examiners' *Independent On Sunday* <http://www.independent.co.uk/news/education/education-news/teachers-stricter-than-examiners-1651720.html>; see also (unlikely in Scotland?) A. Grice 10.3.09 'Fast-track plan to turn jobless into teachers' *The Independent*

demonstrates the new power of opposition parties (it was a manifesto commitment, but SNP plans were accelerated by a Conservative bill).¹³⁸ We may also see a much wider link between power, class and life chances in the most recent figures on attainment.¹³⁹

In the recent past the concern of most Scottish Universities regarded how to keep up with England while rejecting student fees. The economic crisis has put further pressure on University finances, prompting the Chief Executive of the UK Commission for Employment and Skills to argue that Scotland should reconsider its reliance on state (rather than individual and business) funding.¹⁴⁰ In contrast, the University and College Union has called on the Scottish Government to provide more money to fund the rise in University admissions linked to the recession.¹⁴¹ There is also a strong agenda in Scotland regarding student debt and the need to go *further* than abolishing tuition fees.¹⁴² A report by Universities Scotland serves to remind the Scottish Government about the importance of higher education to the economy by establishing the value of innovation driven by University-educated individuals.¹⁴³ The report also questions the assumption of skill shortages in the policy for more apprenticeships, a factor reinforced recently by the lack of places for work-based

<http://www.independent.co.uk/news/education/education-news/fasttrack-plan-to-turn-jobless-into-teachers-1641009.html>

¹³⁸ BBC 3.3.09 'Plan to save rural Scots schools' *BBC*

<http://news.bbc.co.uk/1/hi/scotland/7920650.stm>; 3.4.09 'New bill to safeguard future of rural schools' <http://www.holyrood.com/content/view/3642/10051/>

¹³⁹ 10.3.09 'New figures reconfirm educational gap between rich and poor'

<http://www.holyrood.com/content/view/3680/10051/>

¹⁴⁰ 17.4.09 'State alone cannot continue to fund education, skills chief warns'

<http://www.holyrood.com/content/view/3826/10051/>

¹⁴¹ *BBC News* 17.2.09 'Cash plea after admissions rise'

<http://news.bbc.co.uk/1/hi/scotland/7893584.stm>

¹⁴² A. Denholm 28.4.09 'Debt worry 'blocking deprived students' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2504621.0.Debt_worry_blocking_deprived_students.php; 27.4.09 'SNP 'failing to solve student hardship crisis'

<http://www.holyrood.com/content/view/3873/10051/>; A. Howarth 28.4.09 'Students slam SNP for lack of support' *The Scotsman* <http://news.scotsman.com/politics/Students-slam-SNP-for-lack.5210863.jp>

¹⁴³ Universities Scotland (2009) *What Was/ What Next?* <http://www.universities-scotland.ac.uk/uploads/Inform/What%20next%20print%20version.pdf>; H. Macdonell 13.2.09

'Academics call for drastic change in direction to boost Scots economy' *The Scotsman*

<http://news.scotsman.com/politics/Academics-call-for-drastic-change.4977123.jp>; A.

Denholm 13.2.09 'Universities clash with ministers on 'flawed' slump policy' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2488930.0.Universities_clash_with_ministers_on_flawed_slump_policy.php

experience.¹⁴⁴ On a more positive funding note, more money will be provided for disabled students and Scottish students engaged in study-abroad programmes.¹⁴⁵

5.9 Energy and Environment¹⁴⁶

The UK Government appears to have taken the decision to accept the Scottish Government's nuclear veto (via the refusal of planning permission for new plants) but criticise the SNP policy heavily and relate it to (a) policy advances in England and (b) the public and scientific demand within Scotland to follow England¹⁴⁷ (it is also unlikely to agree to any Barnett consequentials arising from English spending on new

¹⁴⁴ 20.3.09 'Apprenticeship system fundamentally flawed' <http://www.holyrood.com/content/view/3723/10051/>; see also 17.3.09 'Education participation for older adults 'unacceptable' <http://www.holyrood.com/content/view/3702/10051/>

¹⁴⁵ Scottish Government News Release 6.5.09 'Foreign exchange students' <http://www.scotland.gov.uk/News/Releases/2009/05/06100707>; 25.3.09 'Disabled students to receive additional support' <http://www.holyrood.com/content/view/3744/10051/>

¹⁴⁶ For discussion of the Marine bill, see 3.8

¹⁴⁷ P. Jones 11.2.09 'Challenge to SNP on nuclear policy' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article5704932.ece>; J. Haworth 17.2.09 'Murphy: SNP's ban on new nuclear power stations lacks common sense' *The Scotsman* <http://news.scotsman.com/politics/Murphy-SNP39s-ban-on-new.4985895.jp>; S. Paterson 17.2.09 'Murphy rounds on 'ideology' of vetoing nuclear power stations' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2489680.0.Murphy_rounds_on_ideology_of_vetoing_nuclear_power_stations.php; 16.4.09 'Opposing new nuclear a 'huge mistake', claims Labour' <http://www.holyrood.com/content/view/3824/10051/>; J. Haworth 16.4.09 'Minister provokes nuclear war over Scotland's energy future' *The Scotsman* <http://news.scotsman.com/latestnews/Minister--provokes--nuclear.5174773.jp>; T. Crichton and B. Currie 'Miliband calls on SNP to drop opposition to nuclear power' *The Herald* http://www.theherald.co.uk/news/news/display.var.2502289.0.Miliband_calls_on_SNP_to_drop_opposition_to_nuclear_power.php; J. Haworth 17.2.09 'Murphy: SNP's ban on new nuclear power stations lacks common sense' *The Scotsman* <http://news.scotsman.com/politics/Murphy-SNP39s-ban-on-new.4985895.jp>; *The Scotsman* 16.2.09 'SNP's opposition to nuclear power costing jobs says Labour's Murphy' <http://news.scotsman.com/politics/SNP39s-opposition-to-nuclear-power.4984403.jp>; A. Philip 16.2.09 'Nuclear power vital to back up green energy, says Murphy' *The Scotsman* <http://news.scotsman.com/politics/Nuclear-power-vital-to-back.4982611.jp>; S. Paterson 17.2.09 'Murphy rounds on 'ideology' of vetoing nuclear power stations' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2489680.0.Murphy_rounds_on_ideology_of_vetoing_nuclear_power_stations.php; *BBC News* 16.2.09 'Nuclear future 'key for Scotland's *BBC* <http://news.bbc.co.uk/1/hi/scotland/7891130.stm>; T. Macalister 15.4.09 'Possibility of new nuclear power plants in Lake District sparks eco concerns' *The Guardian* <http://www.guardian.co.uk/global/2009/apr/15/nuclearpower-edf>; P. Scruton 15.4.09 'Potential locations for new UK nuclear power stations' *The Guardian* <http://www.guardian.co.uk/environment/2009/apr/15/nuclear-power>; R. Pagnamenta 16.4.09 'All-clear for nuclear plants 'too late to plug power gap' *The Times* http://www.timesonline.co.uk/tol/business/industry_sectors/utilities/article6101502.ece; R. Alleyne 15.4.09 'Mixed reaction to new generation of nuclear power stations' *The Telegraph* <http://www.telegraph.co.uk/earth/energy/nuclearpower/5158636/Mixed-reaction-to-new-generation-of-nuclear-power-stations.html>; E. Barnes 15.3.09 'Blow to SNP as Scots back nuclear power' *The Scotsman* <http://news.scotsman.com/politics/Blow-to-SNP-as-Scots.5073221.jp>; J. Haworth 23.2.09 'Science chief at odds with SNP nuclear policy' *The Scotsman* <http://news.scotsman.com/politics/Science-chief-at-odds-with.5004998.jp>

nuclear plants). The SNP policy places a lot of faith in renewable energy and, therefore, more stress on governance practices when deciding on new projects.¹⁴⁸

The Scottish Government has 'toughened' its overall targets on climate change following interest group and parliamentary pressure (see also 3.5). However, the long-term nature of these targets, combined with the economic effects of each measure, suggests that much is still to be negotiated and announced.¹⁴⁹ It has also dropped controversial proposals to lease Scottish forestry to private companies (see also 3.4).¹⁵⁰

5.10 Transport

The Scottish Government has announced that the UK Government's high-speed rail link will extend to Scotland (perhaps a sexier topic than new contracts on the Airdrie-Bathgate link).¹⁵¹ There is less good news for the Edinburgh trams project following the Scottish Government's decision not to provide more funding than originally agreed with the Scottish Parliament.¹⁵² Recent decisions suggest that the Scottish Government cannot control the price of fuel but can compensate buses for the rise.¹⁵³ The future of Gaelic road signs is uncertain following safety concerns.¹⁵⁴

¹⁴⁸ *BBC News* 13.3.09 'Where the wind farm war is waged'

<http://news.bbc.co.uk/1/hi/scotland/7933154.stm>; B. Currie 11.4.09 'Wind farm inquiries are 'good value' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2501309.0.Wind_farm_inquiries_are_good_value.php;

¹⁴⁹ 9.4.09 'Climate Change Bill criticised by SSE and climate campaigners'

<http://www.holyrood.com/content/view/3802/10051/>; 6.5.09 'Tougher' climate change target set for Scotland' <http://www.holyrood.com/content/view/3918/10051/>; J. Haworth 28.2.09

'Ministers go back on green pledge' *The Scotsman*

<http://news.scotsman.com/politics/Ministers-go-back--on.5025734.jp>

J. Haworth 8.5.09 'Climate bill wins first round of MSPs vote' *The Scotsman*

<http://news.scotsman.com/politics/Climate-bill-wins-first-round.5247604.jp>; Scottish

Government News Release 30.4.09 'Public sector power goes greener'

<http://www.scotland.gov.uk/News/Releases/2009/04/30112053>

¹⁵⁰ 13.3.09 'Forestry leasing plans dropped by Government'

<http://www.holyrood.com/content/view/3690/10051/>; J. Haworth 19.2.09 'Big thumbs-down for 'private' forests' *The Scotsman*

<http://news.scotsman.com/latestnews/Big-thumbsdown-for-39private39-forests.4995016.jp>; J.

Haworth 19.2.09 'Should plan for forests be kicked in to the long grass?' *The Scotsman*

<http://news.scotsman.com/comment/Should-plan-for-forests-be.4994994.jp>

¹⁵¹ A. Dalton 24.4.09 'High-speed rail link will come to Scotland' *The Scotsman*

<http://news.scotsman.com/latestnews/Highspeed-rail-link--will.5202111.jp>; Scottish

Government News Release 28.4.09 'Airdrie-Bathgate rail link'

<http://www.scotland.gov.uk/News/Releases/2009/04/28120018>

¹⁵² *The Scotsman* 27.2.09 'Transport minister calls for deal on city trams dispute'

<http://news.scotsman.com/politics/Transport-minister-calls-for-deal.5022632.jp>; B. Ferguson

28.4.09 'Still no tram track – but workers have £1m bonuses paid on time' *The Scotsman*

<http://news.scotsman.com/politics/Still-no-tram-track-.5210860.jp>

¹⁵³ J. Ross 1.5.09 'Minister backs campaign for cheaper petrol in rural areas'

<http://news.scotsman.com/politics/Minister-backs-campaign-for-cheaper.5225494.jp>; D. Ross

5.11 Agriculture, Fish, Food and Water

The unveiling of the Scottish Government's new days-at-sea scheme for fishing vessels sparked much debate with its opposition counterparts.¹⁵⁵ Much concern relates to uncertainty about the future of fishing, which can also be discerned in agriculture and rural funding.¹⁵⁶ Less controversial, but no less important is its involvement in the UK-wide food strategy.¹⁵⁷

5.12 Housing, Planning, Poverty and Homelessness

Poverty remains an issue effectively reserved to the UK Government,¹⁵⁸ with the Scottish Government only able to seek to influence UK welfare policy,¹⁵⁹ address fuel

1.5.09 'Call to lower petrol prices in rural areas' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2505314.0.Call_to_lower_petrol_prices_in_rural_areas.php; Scottish Government News Release 18.2.09 'Affordable bus fares' <http://www.scotland.gov.uk/News/Releases/2009/02/18115131>

¹⁵⁴ J. Ross 10.3.09 'Lost in translation: Holyrood puts brakes on bilingual road signs after safety fears' *The Scotsman* <http://news.scotsman.com/politics/Lost-in-translation-Holyrood-puts.5054119.jp>

¹⁵⁵ 28.4.09 'New days-at-sea scheme unveiled to criticism' <http://www.holyrood.com/content/view/3874/10051/>

Scottish Government News Release 27.4.09 'Days at sea scheme unveiled' <http://www.scotland.gov.uk/News/Releases/2009/04/27141929>

¹⁵⁶ 8.5.09 'Certainty' over rural funding offered by Government' <http://www.holyrood.com/content/view/3924/10051/>

Scottish Government News Release 7.5.09 'Funding for rural communities' <http://www.scotland.gov.uk/News/Releases/2009/05/07134744>

Scottish Government News Release 9.4.09 'Rural support measures' <http://www.scotland.gov.uk/News/Releases/2009/04/09115829>; 9.4.09 'Rural development fears as changes announced' <http://www.holyrood.com/content/view/3801/10051/>

¹⁵⁷ Scottish Government News Release 8.5.09 'Food and drink summit' <http://www.scotland.gov.uk/News/Releases/2009/05/07142231>; Scottish Government News Release 11.5.09 'Food summit covers global issues'

<http://www.scotland.gov.uk/News/Releases/2009/05/11152153>; see also Scottish Government News Release 24.4.09 'Genetic Modification (GM)'

<http://www.scotland.gov.uk/News/Releases/2009/04/24150325>

¹⁵⁸ T. Crichton 18.2.09 'Labour 'set to fail' in bid to halve child poverty by 2010' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2489901.0.Labour_set_to_fail_in_bid_to_halve_child_poverty_by_2010.php; A. Gentleman 18.2.09 'Majority of children living in poverty have at least one parent in work, says study' *The Guardian* <http://www.guardian.co.uk/society/2009/feb/18/child-poverty-research>; J. Sherman and P. Bahra 18.2.09 'Gordon Brown 'will miss targets on child poverty' *The Times* <http://www.timesonline.co.uk/tol/news/politics/article5755344.ece> ; M. Beckford 18.2.09 'Billions needed to meet child poverty target, warns Joseph Rowntree Foundation' *The Telegraph* <http://www.telegraph.co.uk/news/newstoppers/politics/4679424/Billions-needed-to-meet-child-poverty-target-warns-Joseph-Rowntree-Foundation.html>

¹⁵⁹ K. Bussey 18.3.09 'Ministers urged to do more in battle to eliminate child poverty' *The Scotsman* <http://news.scotsman.com/politics/Ministers-urged--to-do.5081427.jp> M. Williams 18.3.09 'Sturgeon: Westminster benefit reforms would fuel child poverty' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2496153.0.Sturgeon_Westminster_benefit_reforms_would_fuel_child_poverty.php

poverty at the margins (using insulation and central heating programmes),¹⁶⁰ help people claim UK benefits¹⁶¹ and coordinate public services for people living with poverty.¹⁶² It may also be able to ward off homelessness in some cases,¹⁶³ but much also depends on the availability of social housing. To this end it has promised more spending on council housing and housing associations¹⁶⁴ (while also calling on the UK Government to invest more¹⁶⁵) and signalled further restrictions on the right-to-buy (see 5.4).¹⁶⁶ Home reports, requiring sellers to survey their own homes and provide information to potential buyers, are under pressure in both Scotland and England.¹⁶⁷

¹⁶⁰ Scottish Government News Release 7.5.09 'Support for the fuel poor' <http://www.scotland.gov.uk/News/Releases/2009/05/07144645>; Scottish Government News Release 27.2.09 'Help for fuel poor'

<http://www.scotland.gov.uk/News/Releases/2009/02/27103532>

Scottish Government News Release 3.2.09 'Help for fuel poor'

<http://www.scotland.gov.uk/News/Releases/2009/02/03123816>; Scottish Government News

Release 3.5.09 'Heating scheme to help families'

<http://www.scotland.gov.uk/News/Releases/2009/05/03141505>; Scottish Government News

Release 20.4.09 'Record central heating installations'

<http://www.scotland.gov.uk/News/Releases/2009/04/20100249>

¹⁶¹ Scottish Government News Release 26.4.09 'Pounds in pensioners pockets'

<http://www.scotland.gov.uk/News/Releases/2009/04/24144509>

¹⁶² 7.5.09 'Unchanged poverty level 'Scotland's shame'

<http://www.holyrood.com/content/view/3922/10051/>

¹⁶³ Scottish Government News Release 1.4.09 'Early warning on homelessness'

<http://www.scotland.gov.uk/News/Releases/2009/04/01103459>; Scottish Government News

Release 22.3.09 'Children to be at forefront of housing decisions'

<http://www.scotland.gov.uk/News/Releases/2009/03/23142701>

¹⁶⁴ Scottish Government News Release 17.4.09 'More cash for council homes'

<http://www.scotland.gov.uk/News/Releases/2009/04/17114704>; F. Urquhart 11.3.09 'Families thrown a lifeline as 6,500 low-cost homes to be built in year' *The Scotsman*

<http://news.scotsman.com/politics/Families--thrown-a-lifeline.5058106.jp>; 20.4.09

'Government 'must go further' on council housing funding'

<http://www.holyrood.com/content/view/3844/10051/>; 17.3.09 'Housing 'swiftly needed' as Scottish homelessness rises' <http://www.holyrood.com/content/view/3703/10051/>; 11.2.09

'Housing association funding 'too little too late', says Jamieson'

<http://www.holyrood.com/content/view/3563/10051/>; G. Braiden 23.3.09 'Sturgeon launches stinging criticism of GHA over growth plan' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2497161.0.Sturgeon_launches_stinging_criticism_of_GHA_over_growth_plan.php

¹⁶⁵ 2.3.09 'SNP calls for £500m housing investment from Westminster'

<http://www.holyrood.com/content/view/3634/10051/>

¹⁶⁶ Scottish Government News Release 27.4.09 'Right to Buy reforms'

<http://www.scotland.gov.uk/News/Releases/2009/04/24112830>; 27.4.09 'Radical' Right-to-Buy reforms welcomed' <http://www.holyrood.com/content/view/3872/10051/>; A. Howarth

28.4.09 'Ministers may scrap 'right to buy' laws' *The Scotsman*

<http://news.scotsman.com/politics/Ministers-may-scrap-39right-to-5210852.jp>

The Herald 'MSPs reveal proposal to scrap right to buy for social housing'

http://www.theherald.co.uk/politics/news/display.var.2504624.0.MSPs_reveal_proposal_to_scrap_right_to_buy_for_social_housing.php; *BBC NEWS* 26.3.09 'Council suspends 'right to buy' http://news.bbc.co.uk/1/hi/scotland/tayside_and_central/7965385.stm

¹⁶⁷ C. Mackie 10.3.09 'Lawyers deliver damning verdict on 'fatally wounded' Home Reports' *The Scotsman* <http://news.scotsman.com/latestnews/Lawyers-deliver--damning->

5.13 Culture¹⁶⁸ and Media

The Scottish Government has signalled its intention to carry out proposals from the Scottish Broadcasting Commission's (SBC) report, 'where we have the powers to do so'.¹⁶⁹ Much depends on the willingness of the UK Government to fund a new Scottish digital network (and BBC and Channel 4 to support its case), suggesting that the Scottish Government role will be to lobby for 'a fair share of television production in Scotland'. The Scottish Government's role is similarly limited in competition law, suggesting that any appeals to help Scottish newspapers merge will be made in London.¹⁷⁰ The same can be said for lottery funding for arts and sport.¹⁷¹ However, it can control the direction of its *Homecoming Scotland* celebrations (albeit inherited from the previous government) and is therefore the main recipient of criticisms.¹⁷²

5.14 Freedom of Information

Scottish Information Commissioner Kevin Dunion argues that 'clear blue water' is emerging between the Scottish and UK FOI procedures, criticising specific plans (e.g. to give journalists quotas of requests) and a general culture of secrecy in the UK.¹⁷³ Dunion also argues that all senior civil servants should reveal their salaries to

[verdict.5054054.jp](http://www.scotland.gov.uk/Resource/Doc/264161/0079171.pdf); *Daily Mail* 6.4.09 'Sellers 'will be hit' by new rules on Home Information Packs'

¹⁶⁸ For a discussion of Creative Scotland see 5.7

¹⁶⁹ Scottish Government (2009) *Platform for Success: the Scottish Broadcasting Commission Report*. Response from the Scottish Government

<http://www.scotland.gov.uk/Resource/Doc/264161/0079171.pdf>

Scottish Government News Release 18.3.09 'Shaping the future of broadcasting'

<http://www.scotland.gov.uk/News/Releases/2009/03/18151536>

¹⁷⁰ T. Crichton 7.5.09 'Merger rules must be relaxed if newspapers to survive' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2506584.0.Merger_rules_must_be_relaxed_if_newspapers_are_to_survive_says_chief.php

¹⁷¹ 9.3.09 'SNP demands 'return' of Commonwealth Games funding'

<http://www.holyrood.com/content/view/3675/10051/>; P. Miller 14.4.09 'Arts and culture lose out in £44m lottery cash squeeze' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2501798.0.Arts_and_culture_lose_out_in_44m_lottery_cash_squeeze.php; P. Miller 14.4.09 'Lottery: 'Those days of the big cheques are over' *The Herald*

http://www.theherald.co.uk/news/news/display.var.2501785.0.Those_days_of_the_big_cheques_are_over.php; Dr. P. Schlesinger 'London's gain will be Scotland's loss in Lotto shuffle' *The Herald*

http://www.theherald.co.uk/features/featuresopinon/display.var.2501786.0.londons_gain_will_be_scotlands_loss_in_lotto_shuffle.php

¹⁷² D. Maddox 2.4.09 'Homecoming leaves tourist chief cold' *The Scotsman*

<http://news.scotsman.com/politics/Homecoming-leaves-tourist-chief-.5132738.jp>; I. Swanson

4.3.09 'SNP accused of ignoring US market with Homecoming ad' *The Scotsman*

<http://news.scotsman.com/politics/SNP-accused-of-ignoring-.5035934.jp>

¹⁷³ 9.3.09 'FOI moving into 'second phase'

<http://www.holyrood.com/content/view/3673/10051/>

the public (following the lead taken by police chief constables).¹⁷⁴ Former Justice Minister Lord Wallace (responsible for the original FOI legislation) has also backed Dunion's call to extend FOI provisions to most bodies providing public services.¹⁷⁵ FOI became strongly party-political when the SNP criticised the selective release by the UK Government of Cabinet minutes regarding the Iraq War but then refused to release its own Cabinet minutes regarding its decision to drop the local income tax. Labour was also critical of alleged delays in providing information about the Glenrothes by-election.¹⁷⁶ A request under FOI revealed UK Government plans to situate all of Britain's nuclear submarines in Scotland (Faslane) by 2015. This was reported to some extent as undermining the SNP's opposition,¹⁷⁷ particularly since any potential for devolved powers to monitor defence activity have also been rejected.¹⁷⁸

¹⁷⁴ Scottish Information Commissioner News Release (9.3.09) 'Commissioner calls on Scottish public sector leaders to push the boundaries of openness' <http://www.itspublicknowledge.info/home/News/20090309A.asp>; Scottish Information Commissioner (2009) Freedom of Information Annual Report 2008 <http://www.itspublicknowledge.info/nmsruntime/saveasdialog.asp?IID=3098&SID=234> H. Macdonell 9.3.09 'Top civil servants 'should reveal salaries'' *The Scotsman* <http://news.scotsman.com/politics/Top-civil-servants-39should-reveal.5050619.jp>; H. Macdonell 9.3.09 'Top civil servants 'should reveal salaries'' *The Scotsman* <http://news.scotsman.com/politics/Top-civil-servants-39should-reveal.5050619.jp>; R. Dinwoodie 9.3.09 'Call for council and NHS chiefs to publish expenses' *The Herald* http://www.theherald.co.uk/news/news/display.var.2494206.0.Call_for_council_and_NHS_chiefs_to_publish_expenses.php

¹⁷⁵ Scottish Information Commissioner News Release (8.2.09) 'Lord Wallace calls for extension of the FOI Act in Scotland'

<http://www.itspublicknowledge.info/home/News/20090209.asp>

¹⁷⁶ D. Maddox 19.3.09 'SNP 'hypocrisy' as it insists on keeping Cabinet papers secret' *The Scotsman* <http://news.scotsman.com/politics/SNP-39hypocrisy39-as-it-insists.5086668.jp>; 7.4.09 'Labour attacks 'unacceptable delay' on FOI request' <http://www.holyrood.com/content/view/3792/10051/>

¹⁷⁷ D. Maddox 28.4.09 'Snub for SNP's anti-nuclear line as Faslane picked to be sole sub base' *The Scotsman* <http://news.scotsman.com/politics/Snub-for-SNP39s-antinuclear-line.5210837.jp>; H. Macdonell 28.4.09 'Analysis: Westminster ups the nuclear ante and gets First Minister all hot under the collar' *The Scotsman* <http://news.scotsman.com/politics/Analysis-Westminster-ups-the-nuclear.5210862.jp>

¹⁷⁸ R. Dinwoodie and M. Settle 'Only MoD immunity 'has saved Faslane' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2504619.0.Only_MoD_immunity_has_saved_Faslane.php; D. Maddox 28.4.09 'Fears over safety after nuclear waste leaks into Clyde revealed' *The Scotsman* <http://news.scotsman.com/politics/Fears-over-safety-after-nuclear.5210867.jp>; *The Times* 27.4.09 'SNP calls for probe into Faslane failures' <http://www.timesonline.co.uk/tol/news/uk/scotland/article6182381.ece>

6. Government beyond the centre

David Scott

Key Points:

- There is much debate about why the Scottish Government withdrew its plans to introduce a local income tax.
- Although not happy with the funding settlement, local authorities have agreed to freeze council taxes for a second year.
- The Local Government Elections Bill will separate the dates of elections to the Scottish Parliament and local authorities.
- The Concordat remains in place despite financial pressures and implementation problems.
- The Scottish Government has announced further funds for social and council housing and further restrictions on the right-to-buy
- An expert in PPP has been appointed as Chief Executive of the Scottish Futures Trust
- Direct elections to health boards (allowing 16 and 17 year olds to vote) will be piloted
- Mike Russell has taken over responsibility for Creative Scotland
- John Swinney has signalled plans to reduce public bodies by one-quarter

6.1 Local Government Finance

The Scottish Government's decision not to go ahead with its plans for a local income tax (LIT) in the current session of the parliament was seen as the SNP's biggest U-turn¹⁷⁹ since the party came into office in May 2007. In some respects such a decision was not entirely unexpected since the proposal for a nationally-set LIT of 3p in the pound was strongly opposed by opposition parties and was widely regarded as 'unworkable' by a wide range of bodies. However, it was the timing of the

¹⁷⁹ Stewart Patterson and Robbie Dinwoodie 12.02.09 'SNP ditch pledge to scrap council tax', *The Herald* http://www.theherald.co.uk/news/news/display.var.2488702.0.SNP_ditches_pledge_to_scrap_council_tax.php Robbie Dinwoodie 12.02.09 'Salmond gives his opponents own goal with U-turn on local income tax', http://www.theherald.co.uk/politics/news/display.var.2488668.0.Salmond_gives_his_opponents_own_goal_with_Uturn_on_tax.php Angus Macleod 12.02.09 'SNP retreat on flagship policy', *The Times* (Scotland) <http://www.timesonline.co.uk/tol/news/uk/scotland/article5711795.ece>

announcement that caused most surprise. It came during the normally routine statement on the annual finance settlement for local government.¹⁸⁰

John Swinney, the Cabinet Secretary for Finance, told the Scottish Parliament that the financial climate had changed and that the UK Government was planning a reduction of £500 million in the Scottish budget in each of the next two years. Mr Swinney felt it would not be wise to introduce a tax cut that would be made possible by LIT in view of the scale of Westminster cuts. He also pointed to the problems of minority government, saying the parliamentary arithmetic suggested that the government would be unable to put together a stable majority to enable it to steer detailed LIT legislation through the parliament. The minister said the Cabinet had decided not to introduce legislation to abolish the 'unfair' council tax and replace it with a LIT until after the election in 2011.

During the parliamentary debate that followed Mr Swinney's announcement, the Scottish Government was accused by the Labour finance spokesman, Andy Kerr, of not going ahead with a bill on LIT because 'the policy is bad.' Derek Brownlee, of the Scottish Conservatives, said he wholeheartedly welcomed what was a 'long overdue decision'. Jeremy Purvis, of the Scottish Liberal Democrats, claimed the SNP had 'betrayed' the people who had voted in favour of it. Business leaders¹⁸¹ welcomed the change of policy, while Glasgow City Council, Scotland's biggest local authority, said LIT would have 'dire consequences' for the delivery of services.

6.1.1 Finance settlement/council tax

In his announcement to the Parliament¹⁸² Mr Swinney said councils would share £11.8 billion from the Scottish Government during 2009-10 to deliver public services. This is an increase of £658 million, or 5.9 per cent, over the comparable period for 2008-09. The package includes extra resources of £70 million to allow councils to freeze council tax for the second successive year. Mr Swinney also guaranteed to fund a council tax freeze to the end of the current parliamentary session.

¹⁸⁰ Scottish Parliament Official Report 11.02.09 Local government finance Act 1992 (Scotland) Order 2009
<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-09/sor0211-02.htm#Col14893>

¹⁸¹ Hamish Macdonell 12.02.09 'SNP forced to drop its flagship policy,' *The Scotsman*
<http://thescoatsman.scotsman.com/latestnews/SNP-forced-to-drop-flagship.4971846.jp>

¹⁸² Scottish Parliament official report 11.02.09 Local government finance Act 1992 (Scotland) Order 2009
<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-09/sor0211-02.htm#Col14893> Local government funding 11.02.09
<http://www.scotland.gov.uk/News/Releases/2009/02/11162958>

.Additional sums agreed and discussed with the Convention of Scottish Local Authorities (COSLA) included £40 million in response to a report by Lord Sutherland on his review of free personal care; £42 million to meet commitments on police and fire and rescue services pensions; £18 million to support local government with an increase above that which was forecast in employers' pensions contributions by teachers and £12.2 million to finance some of the powers on local regeneration which are being taken on by local authorities. Cllr Pat Watters, president of COSLA¹⁸³, dismissed the suggestion that funding for councils was increasing by more than 5 per cent. He claimed it would mean 'a standstill at best.'

Mr Swinney pointed out in his statement that the finance order confirmed the amount of business rates to be distributed among the local authorities. Through the small business bonus scheme, rates bills for many small businesses had already been cut and from April 2009, when the scheme is fully implemented, many businesses would pay no rates at all. Following the announcement, all 32 councils in Scotland agreed to freeze council tax at 2007-08 levels. Welcoming the decision¹⁸⁴ Mr Swinney said it had been achieved as a result of a stronger, more productive relationship with local government which had freed councils to focus on local priorities without having national government constantly looking over their shoulders.

6.2 Local elections

The Scottish Government published a local government elections bill¹⁸⁵ which will result in the local government elections being held on a separate day from the Scottish Parliament elections. The bill amends the date of the local government elections so that the next council elections are held in 2012 and then 2017. Thereafter the elections will revert to a 4-year cycle.

The issue of holding the two elections on the same day has been the subject of controversy for several years and considered by a number of different local government review groups. Following the parliamentary elections in 2007, the

¹⁸³ COSLA Press release 11.02.09 Line from COSLA on Finance Settlement
http://www.cosla.gov.uk/news_story.asp?leftId=10001EBD8-10766761&rightId=10001EBD8-10771676&hybrid=false&storycode=10001EBDE-16166206

¹⁸⁴ Scottish Government Press release 12.02.09 Council tax freeze
<http://www.scotland.gov.uk/News/Releases/2009/02/13083303>

¹⁸⁵ Local Government Elections Bill 04.02.09
<http://www.scotland.gov.uk/News/Releases/2009/02/04110613>
Scottish Local Government (Elections) Bill (SP Bill 21) 3.02.09
Local government elections bill
<http://www.scottish.parliament.uk/s3/bills/21-SLElections/index.htm>

Scottish Government appointed a committee headed by a Canadian elections expert, Ron Gould to investigate problems in the administration of the 2007 Scottish Parliament elections including the rejection of several thousand ballot papers¹⁸⁶ and claims of electoral confusion. Gould examined whether the two elections should have been combined on the same day. He concluded¹⁸⁷ that combined elections were not only a disservice to local councils and candidates but also to the electorate. His report recommended that the parliamentary and local government elections should be separated, preferably by a period of two years.

The President of the Convention of Scottish Local Authorities (COSLA), Pat Watters¹⁸⁸, welcomed the outcome of the review. He pointed out that COSLA's long stated position that the two elections should be separate would help increase the proportion of valid votes cast particularly with the new complexities of the different PR systems.

In March 2008 the Scottish Government published a consultation paper¹⁸⁹ seeking views on a proposal to decouple the elections. The Scottish Local Government (Elections) Bill¹⁹⁰ was published on February 3 2009. The Local Government and Communities Committee was designated as the lead committee for parliamentary consideration of the Bill.

6.3 Concordat

Controversy has continued over the 'historic' Concordat¹⁹¹ which was signed by the Scottish Government and leaders of the Convention of Scottish Local Authorities (COSLA). While there appears to be general agreement that it has led to improved relations between local and central government and that it is working, some council

¹⁸⁶ Shan Ross 04.05.07 'Tens of thousands of spoiled ballot papers mar poll'. *The Scotsman*
<http://thescotsman.scotsman.com/scotland/Tens-of-thousands-of-spoiled.3282556.jp>

¹⁸⁷ Electoral Commission: Independent review of the Scottish parliamentary and local government elections 3.05.09

<http://www.electoralcommission.org.uk/document-summary?assetid=13223>

¹⁸⁸ COSLA Press release 22.10.07 'COSLA President Welcomes Gould Report'.

http://www.cosla.gov.uk/news_story.asp?leftId=10001C217-10766761&rightId=10001C217-10771676&hybrid=false&storycode=10001C217-16011326

¹⁸⁹ Decoupling the Scottish Parliamentary Local Government Elections – Consultation Paper March 2008

<http://www.scotland.gov.uk/Publications/2008/03/18080302/0>

¹⁹⁰ Scottish Local Government (Elections) Bill as introduced 10.01.08

<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-08/sor0110-02.htm#Col5006>

¹⁹¹ Concordat between Scottish Government and local government', 14.II.08

<http://www.scotland.gov.uk/Publications/2007/11/13092240/concordat>

leaders have warned that the worsening financial climate will make the agreement unsustainable in its current form.¹⁹² It has also been reported¹⁹³ that problems have arisen over the implementation of Scottish Government policies on the provision of free school meals for primary 1-3 children and over plans to reduce classroom sizes.

Under the terms of the Concordat, councils agreed to co-operate with the government by working with it to ensure key policies, like the council tax freeze, and the policies on school meals and classroom sizes were put into effect. This was in return for the relaxation of ring fencing rules, regulation and centralised controls. New outcome agreements have been successfully introduced. These are intended to reflect local needs, circumstances and priorities but should be related to national outcomes agreed in the Concordat.

Some council leaders believe the Scottish Government has failed to provide enough funds for the implementation of the policies and that the agreement will now face its severest test because of the financial pressures facing councils. The President of COSLA, Pat Watters, continues to defend the Concordat¹⁹⁴ stressing that it was in the best interests of member councils to enter into the agreement and that it was time for the development of a new and more positive relationship between local and central government.

In a speech¹⁹⁵ to the annual conference of COSLA in March, John Swinney, Cabinet Finance Secretary, said the Scottish Government had stepped back from macro managing councils, giving them increased flexibility to support local issues and to support the local economy through the economic downturn. He believed the more productive relationship between central and local government was delivering greater efficiencies and better services. .

6.4 Social housing

A series of initiatives aimed at boosting social housing and council houses in particular were announced by the Scottish Government. These included the allocation of £644 million for housing associations this year, a £25 million scheme

¹⁹² Kerry Lorimer 12.01.09 'Financial crisis sparks fears for Concordat', *Holyrood* magazine, Pages 9 and 37.

¹⁹³ David Maddox 16.04.09 'History will decide the success of the Concordat' *The Scotsman* <http://thescotsman.scotsman.com/latestnews/David-Maddox--History-will.5174826.jp>

¹⁹⁴ Mandy Rhodes 'The man from the council' *Holyrood* magazine 23.02.09 P 14-17

¹⁹⁵ Scottish Government Press release 26.01.09 'Councils crucial to economic recovery'. <http://www.scotland.gov.uk/News/Releases/2009/01/26091313>

which aims to help 'kickstart' a new generation of local authority homes and the extension of a £60 million open market share equity pilot to cover the whole of Scotland. The Scottish Government claimed that Scotland's first major council house building programmes in 30 years had come a step closer.¹⁹⁶

Announcing the £644 million Affordable Housing Programme,¹⁹⁷ the Housing and Communities Minister, Alex Neil, said the investment would support approval of at least 6,500 new and improved properties. Mr Neil said the Scottish Government was investing a total of more than £1.5 billion in affordable housing over three years. The housing announcements included an extra £26 million to support the construction of local authority houses.

The Scottish Government announced statistics¹⁹⁸ showing that a record number of almost 5,700 public houses were started in 2007-08 – more than any year since the early 1990s. Local authorities started 432 council houses in 2007-08 compared to a total of six completed in the previous year.

Proposals to end the Right to Buy for new build social housing were published in April.¹⁹⁹ It is estimated that the reforms, which are part of a draft Housing Scotland Bill, will retain between 10,000 and 16,000 homes for low cost rent that would otherwise be lost through Right to Buy sales.

A consultation on the bill proposes that, in addition to ending right to Buy for new build social housing, the Scottish Government would also abolish the scheme for new tenants in all social housing property. It would also devolve and extend the pressure-area designation process which can suspend Right to Buy in certain areas.

Giving details of the changes, Mr Neil said ending Right to Buy for new build houses would safeguard social housing for future generations of families across Scotland. The director of the Chartered Institute of Housing in Scotland, Alan Ferguson, voiced

¹⁹⁶ Scottish Government Press release 09.04.09 'Council house building'

<http://www.scotland.gov.uk/News/Releases/2009/04/09120809>

¹⁹⁷ Scottish Government Press release 10.03.09 'Record funding for affordable housing'

<http://www.scotland.gov.uk/News/Releases/2009/03/10101958>

¹⁹⁸ Scottish government Press release 12.01.09 'Public sector house building'

<http://www.scotland.gov.uk/News/Releases/2009/01/12082103>

¹⁹⁹ Scottish Government Press release 27.04.09 'Right to buy reforms'

<http://www.scotland.gov.uk/News/Releases/2009/04/24112830>

his support²⁰⁰ for the decision but said he hoped the new policy would allow for local needs and circumstances to be taken into consideration.

6.5 Scottish Futures Trust

Controversy continued over the Scottish Futures Trust (SFT), the body set up by the Scottish Government to oversee public infrastructure projects. The Finance Secretary, John Swinney,²⁰¹ argued that another strong step in continuing the implementation of SFT had been taken with the appointment of a chief executive, Barry White, the head of BAM PPP, a company which manages all aspects of PPP projects.

Media reports²⁰² pointed to the irony of the government appointing a leading expert in PFI/PPP models of finance which the SNP had pledged to consign to the history books as it regarded this method of funding as costly to the taxpayer and inefficient. A Labour MSP, Jackie Baillie, was quoted as saying that White's appointment 'shows they have actually accepted PPPs whatever they say publicly.'

The Scottish Government also continued to come in for criticism over alleged delays to planned public sector projects because of uncertainty over the SFT.²⁰³ It was accused²⁰⁴ of preventing capital project cash coming to Scotland by rejecting of £1 million of Treasury funding being made available to Scotland for PFI/PPP infrastructure projects (4.3).

The Scottish Government strongly rejected the accusations. Mr Swinney²⁰⁵ assured the Scottish Parliament there had been no delay to projects. It had signed off an

²⁰⁰ Chartered Institute of Housing in Scotland 27.04.09 CIH responds to Scottish Government's bill to reform Right to Buy' <http://www.cih.org/scotland/news/view.php?id=1043&branch=Scotland&db=news&subcat=NR>

²⁰¹ Scottish Government Press release 06.04.09 Scottish Futures Trust <http://www.scotland.gov.uk/News/Releases/2009/04/06153149>

²⁰² David Maddox 03.04.09 'Finance quango's biggest critic "to be its new chief executive"' *The Scotsman* <http://thescotsmen.scotsman.com/Register.aspx?ReturnURL=http%3A%2F%2Fthescotsmen.scotsman.com%2Flatestnews%2FFinance-quango39s-bitter-critic-39to.5138264.jp>

²⁰³ Erika Askland 10.03.09 'Funding trust has "left gap in projects"' *The Scotsman* <http://thescotsmen.scotsman.com/business/Funding-Trust-39has-left-gap.5054016.jp>
<http://thescotsmen.scotsman.com/latestnews/SNP-attacked-for-stopping-public.5035036.jp>

²⁰⁴ Hamish Macdonell 04.03.09 SNP attacked for stopping public project cash coming to Scotland' *The Scotsman* <http://thescotsmen.scotsman.com/latestnews/SNP-attacked-for-stopping-public.5035036.jp>

²⁰⁵ Robbie Dinwoodie 02.04.09 'Scottish Futures Trust is a Shambles' *The Herald* <http://pqasb.pqarchiver.com/smgpubs/access/1674207421.html?dids=1674207421&FMT=ABS&FMTS=ABS:FT&date=Apr+2%2C+2009&author=ROBBIE+DINWOODIE+CHIEF+SCOTTISH+POLITICAL+CORRESPONDENT&pub=The+Herald&edition=&startpage=10&desc=Labour%3A+Scottish+Futures+Trust+is+a+shambles>

'enormous programme' of infrastructure plans including major road, school and hospital projects. In a significant statement, business leaders who had been previously opposed to the SFT voiced cautious backing for the Trust.²⁰⁶ In a submission to ministers CBI Scotland said it would support the finance model as long as certain conditions were met.

6.6 Health board elections

Direct elections to health boards are to be tested in Scotland following the Scottish Parliament's approval of the Health Boards (Membership and Elections) Bill.²⁰⁷ The legislation means that, for the first time in the UK, young people aged 16 and 17 will be able to take part in the proposed polls.

The Health Secretary, Nicola Sturgeon²⁰⁸ welcomed the parliament's decision as a 'major boost for democracy.' She said elected health boards would give power back to local people and that the elections were the 'best way of ensuring that boards will no longer be able to ride roughshod over community.' She added: 'The voices of people whose taxes pay for the NHS will now have to be listened to and acted upon.'

The bill received Royal Assent on 22 April 2009. It will be some time before the measures can come fully into effect. Two pilot elections will take place next year and will run for two years to test the full range of issues a board might face. In addition to directly elected members, the boards will continue to include elected councillors. While elected members will form a majority on boards, other members, including the chair, will continue to be appointed by ministers. Elections will be on a proportional basis (Single Transferable Vote) and a single ward will cover the health board area.

209

6.7 Creative Scotland

Plans for the setting up of Creative Scotland, a new body responsible for culture and the arts, were announced by the Minister for Culture, Michael Russell.²¹⁰ In a

²⁰⁶ Hamish Macdonell 02.03.09 'Business leaders back SFT' *The Scotsman*
<http://thescotsman.scotsman.com/scotland/Business-leaders-back-SFT.5027249.jp>

²⁰⁷ Health Boards (Members and Elections) (Scotland) Bill
<http://www.scottish.parliament.uk/s3/bills/13-HealthBoards/index.htm>

²⁰⁸ Scottish government Press release: Final vote on health boards bill 12.03.09
<http://www.scotland.gov.uk/News/Releases/2009/03/11143239> Scottish Government Press release: Elected health boards get go ahead 12.03.09
<http://www.scotland.gov.uk/News/Releases/2009/03/12171601>

²⁰⁹ SPICe briefing 5.03.09 Health Boards (Membership and Elections) Scotland Bill: Stage 3:
<http://www.scottish.parliament.uk/business/research/briefings-09/SB09-17.pdf>

²¹⁰ Scottish Government Press release 02.04.-09 'Creative Scotland'

statement to the Scottish Parliament in April he gave details of the progress toward establishing the body and the potential that would be realised 'to better support, sustain, develop and underpin Scotland's creativity.'

Creative Scotland is due to come into operation in the first half of next year subject to the final decision of the Scottish Parliament. As stated in a framework document,²¹¹ its role will be to provide research, intelligence and advocacy across 13 creative industries. It will inherit the functions, responsibilities and resources of the existing Scottish Arts Council and Scottish Screen. Proposals for merging of those bodies will be included in the forthcoming Public Services Reform Bill which will also contain plans to reduce the number of public bodies in Scotland.

Plans for the new arts quango have been the subject of a long-running dispute. The Creative Scotland Bill was defeated in June 2008. Ministers were criticised over their handling of the planned merger of the arts bodies and concern voiced over the costs involved.²¹² Commenting on the new framework document, Linda Fabiani, the then Culture Minister, outlined the roles and responsibilities of key organisations – the enterprise agencies and local authorities – and reiterated the importance of working together to provide complementary services that would maximise economic growth.

In his statement to the parliament, Mr Russell²¹³ (who took over the post from Linda Fabiani, following Cabinet changes made in February) announced that the new body would cost £3.3 million to set up. He emphasised that the money would not come from frontline grants to artists. 'It is, in essence, an establishment cost for a new body and we should see it in that positive light,' he stated. Mr Russell said the culture industries sector made a huge cultural and economic impact on Scotland contributing to more than £5 billion of turnover and supporting 60,000 jobs.

<http://www.scotland.gov.uk/News/Releases/2009/04/02095743>

Statement to Scottish Parliament 02.04.09

<http://www.scotland.gov.uk/News/This-Week/Speeches/Weather-and-Fairer/creative-scotland>

²¹¹ 'Creative Scotland blueprint published by Scottish Government,' 05.02.09 *The Herald*

http://www.theherald.co.uk/news/news/display.var.2487209.0.Creative_Scotland_blueprint_published_by_Scottish_Government.php Press release: 'Promoting Creative talent' 05.02.09

<http://www.scotland.gov.uk/News/Releases/2009/02/05125752>

²¹² Andy Philip 09.01. 'SNP under fire over arts merger "chaos"' *The Scotsman*

<http://news.scotsman.com/scotland/SNP-under-fire-over-arts.4859201.jp> Terry Anderson (Scottish Artists Union 21.01.09 'Rush to set up Creative Scotland could end in tears,' *The Scotsman*

<http://thescotsman.scotsman.com/letters/Rush-to-set-up-Creative.4895652.jp>

²¹³ Statement to Scottish Parliament 02.04.09

<http://www.scotland.gov.uk/News/This-Week/Speeches/Weather-and-Fairer/creative-scotland> Scottish Government Press release 02.04.-09 'Creative Scotland'

<http://www.scotland.gov.uk/News/Releases/2009/04/02095743> Scott Macnab 03.04.09 'Setting up new culture body will cost £3.3m says Russell' *The Scotsman*

<http://thescotsman.scotsman.com/scotland/Setting-up-new-culture-body.5138237.jp>

6.7.1 Public Service Reform

John Swinney, Cabinet Minister for Finance, underlined his desire to press ahead with public sector reform when he said the reform was 'inescapable' in a changing financial climate. Speaking at a conference in Edinburgh²¹⁴ he said the impact of a spending squeeze and the global downturn 'intensify our resolve.' He added: 'Public sector reform is inescapable and the Government will deliver that.'

The minister confirmed that the Scottish Government intends to reduce the number of public bodies by 25 per cent. This would 'deliver more proportionate and focussed public services fit for a country of five million people.' The changes will be delivered in the proposed Public Services Reform Bill.

²¹⁴ Scottish Government Press release 02.03.09 Public sector reform
<http://www.scotland.gov.uk/News/Releases/2009/03/02125701>

7. Intergovernmental Relations

Alan Trench

Key Points:

- The first part of 2009 has seen an increasing level of formal engagement between London and Edinburgh, and an increasing focus on substantive issues where the two governments are in disagreement.
- Some issues have been resolved effectively (such as the 'Somerville' issue, visas for overseas students,²¹⁵ and fatal accident inquiries) while others, mainly financial, have not.
- The period has also seen considerable activity on the part of the UK Secretary of State for Scotland, Jim Murphy, who has raised both his and the UK Government's profile.
- The UK Government has adjusted the devolution settlement further to ensure that defence policy is wholly reserved.
- UK Government 'efficiency savings' may have a greater effect on Scotland than Wales or Northern Ireland.
- Although the SNP dropped its plans for a local income tax, it did not blame the UK Government's refusal to collaborate with the collection of the new scheme (although we can still infer SNP criticism of its position on council tax benefits).

7.1 Formal intergovernmental relations and high-level ministerial meetings

A summit meeting of the British-Irish Council was held in Cardiff on 12 February. The Scottish Government was represented by the First Minister, the Deputy First Minister and Mike Russell, the newly-appointed Minister for Culture, External Affairs and Constitution. The communiqué indicates that a range of issues was discussed, including the strategic review of Council and the review of its work areas, as well as drugs, social inclusion, transport, demography, early years, and indigenous and minority languages.²¹⁶ However, the main issue was the economic crisis and its implications.

²¹⁵ Regarding visas, see Scotland Office News Release 9 March 2009, 'Scotland Office Minister secures visa concession for overseas students'. Generally, see T. Crichton 'When SNP and Labour can agree', *The Herald* 20 March 2009.

²¹⁶ Available at http://www.britishirishcouncil.org/documents/cardiff_summit2.asp

A Ministerial Meeting of the BIC's Sectoral Group on Environment was held in Jersey on 17 April 2009. Its communiqué reports that it discussed the creation of an energy workstream (originally a proposal of the Scottish Government), climate change, Sellafield and radioactive waste, and marine issues.²¹⁷ The Scottish Government was represented by the Minister for Transport, Infrastructure and Climate Change, Stewart Stevenson MSP, and his officials.

A meeting of the devolved first ministers and UK Prime Minister to discuss the economic crisis took place at 10 Downing Street on 25 February. This was outside the JMC framework, and appears to have been the first formal direct meeting between Alex Salmond and Gordon Brown since they respectively became First Minister and Prime Minister. A large part of the regarded Scottish complaints about the efficiency savings required of the Scottish Government, following the Pre Budget Review (PBR) of November 2008.²¹⁸

The first meeting of the JMC (Domestic) took place on 11 March. Again, no communiqué appears to have been issued. It appears that the key topics discussed related to the UK Welfare Reform bill (which requires extensive co-operation from the devolved administrations if it is to work, but for which the Department of Work and Pensions has been at best laggardly in entering into discussions).²¹⁹ The meeting also established a revised version of the Memorandum of Understanding, which will be published following final approval by ministers. Another meeting is planned for late May, in preparation for a further plenary JMC meeting in June 2009.

On 12 March, a quadrilateral meeting of devolved finance ministers with the Chief Secretary to the Treasury took place. Again, the main matter discussed was the issue of efficiency savings and their impact on devolved public services and devolved economies more generally – though again no communiqué was issued.²²⁰

²¹⁷ Available at <http://www.britishirishcouncil.org/documents/environment9.asp>

²¹⁸ No communiqué was issued after the meeting, but it was discussed by the Prime Minister's Spokesman at that day's afternoon press briefing: see

<http://www.number10.gov.uk/Page18440> . See also T. Peterkin 'Salmond and Brown to break silence with first meeting in 10 months' *Scotland on Sunday* 15 February 2009.

²¹⁹ For an example of the difficulties that appear to have arisen – where the DWP has failed to ensure co-operation despite the Scottish Government's own policy – see E. Barnes 'Crackdown on addicts "blocked by SNP"', *Scotland on Sunday* 25 January 2009.

²²⁰ However, see Scottish Government News Release 12 March 2009, 'Case against spending cuts' available at <http://www.scotland.gov.uk/News/Releases/2009/03/12081230>

Alex Salmond and Gordon Brown met again, less formally, at a private dinner (with other 'Scottish Parliament leaders') at Brown's constituency home in North Queensferry on 15 April. This preceded the UK Cabinet meeting in Glasgow, and was the UK's preferred alternative to Salmond's suggestion of a joint meeting of the Scottish and UK Cabinets to discuss the economic crisis.²²¹

The UK Government has recently re-established a page about devolution on the Cabinet Office website, which gives details of ministerial meetings etc.²²²

7.2 The Secretary of State for Scotland and Scotland Office

Jim Murphy, the Secretary of State for Scotland, has been involved in a range of matters, including the aftermath of the 'Somerville' case (discussed below), the collapse of the Dunfermline Building Society and its takeover by the Nationwide. He also was involved in the holding of a UK Cabinet meeting in Glasgow (on 16 April), along with related public events, and 'instigated' an economic summit on 11 March in Glasgow, held with the Scottish Government, Scottish TUC and CBI Scotland.

7.3 Human rights claims and the implications of the 'Somerville' case

The implications of the opinion of the House of Lords in the case of *Somerville v Scottish Ministers* [2007] UKHL 44 was discussed in the Scotland Devolution Monitoring Report for January 2008. This concerned a discrepancy between the time limits applying to claims for breaches of human rights under the Scotland Act 1998 compared with the Human Rights Act 1998. The practical effect was to remove a time limit for such claims being brought by prisoners and former prisoners – specifically, ones who had been subject to the 'slopping out' regime. The result was a hefty financial liability for the Scottish Government – estimated at £50 million by the Scottish Government.²²³ After extended behind-the-scenes negotiations between the two governments, a solution was reached to enable the 'loophole' to be closed, by means of an order amending the Scotland Act 1998 and an Act of the Scottish Parliament to introduce a time limit for claims.²²⁴ These are to be followed by a

²²¹ See H. MacDonell 'Brown and Salmond to have dinner as Cabinet row flares', *The Scotsman* 15 April 2009.

²²² At <http://www.cabinetoffice.gov.uk/devolution.aspx>

²²³ See Scottish Government News Release 'Compensation for prisoners' 11 March 2009; L. Adams 'Slopping-out compensation bill continues to escalate', *The Herald* 12 March 2009.

²²⁴ See Scotland Office News Release SO1494 19 March 2009 'Scotland Office moves to close Somerville loophole' available at <http://www.scotlandoffice.gov.uk/scotlandoffice/11542.html>, and the Joint Statement from the First Minister and Secretary of State at

Westminster statute applying also to similar claims under the devolution settlements for Wales and Northern Ireland as well as Scotland.²²⁵

7.4 Disputes and litigation

There have been no judgments or opinions in devolution-related cases in the Judicial Committee of the Privy Council or the Appellate Committee of the House of Lords since January 2009.

7.5 Adjusting the devolution settlement

Five orders have been made revising the devolution settlement since January 2009. Two of these (The Insolvency (Scotland) Amendment Rules 2009, SI 2009 No. 662 and The Building Society Special Administration (Scotland) Rules 2009, SI 2009 No. 806) concern insolvency issues and so only tangentially affect the framework of devolved powers.²²⁶ The Title Conditions (Scotland) Act 2003 (Development Management Scheme) Order 2009, SI 2009 No. 729, deals with aspects of development management schemes made under the Title Conditions (Scotland) Act 2003. The European Parliamentary Elections (Local Returning Officers' Charges) (Scotland) Order 2009, SI 2009 No. 1120, sets out the charges recoverable by local returning officers for the administration of the forthcoming European Parliament elections. The most noteworthy order is the Building (Scotland) Act 2003 (Exemptions for Defence and National Security) Order 2009, SI 2009 No. 822, which exempts buildings used for purposes of defence and national security from the system of ensuring compliance with building standards set out in the Building Standards (Scotland) Act 2003 (see also 4.13).

7.6 The UK Budget and 'efficiency savings'

The question of 'efficiency savings' required or assumed by HM Treasury has been a controversial one. Much of the debate has related to the wave of such savings that were set out in the November 2008 PBR (discussed in section 6.7 of the January 2009 *Scotland Devolution Monitoring Report*). As anticipated there, the savings for 2010-11 required of the Scottish Government appear to amount to £500 million

<http://www.scotlandoffice.gov.uk/scotlandoffice/11541.html> . See also 'Deal struck to close stopping-out claims loophole', *The Herald* 19 March 2009.

²²⁵ As neither Wales nor Northern Ireland currently have responsibility for prisons or criminal justice, this implies a more general approach to eliminating the gap between the rules relating to human rights under the devolution statutes and the Human Rights Act 1998.

²²⁶ The law relating to 'business associations', including companies, is a reserved matter under the Scotland Act 1998, but the law of insolvency is an area in which Scots law differs from that of other parts of the UK.

(according to the Scottish Government; the UK Government considers them to be £367 million, taking into account, among other things, Barnett consequentials leading to increased payments to the Scottish Government).²²⁷

This controversy will only increase following the 2009 UK Budget, which increased the assumed amount of efficiency savings from the £5 billion set out in the PBR to £9 billion. Indeed, consideration of the figures set out in the Budget 'Red Book' shows that the Scottish Government's total Departmental Expenditure Limit spending is to increase by only 1.8 per cent in 2008-09, 4.3 per in 2009-10 and 0.7 per cent in 2010-11 – not only dramatically slower growth than in the last few years, but also significantly slower rates of growth than in Wales or Northern Ireland.²²⁸ (The Welsh Assembly Government's DEL is to increase by 5.8 per in 2008-09, 4.8 per cent in 2009-2010 and 2.6 per cent in 2010-11; that of the Northern Ireland Executive, by 5.8, 3.3. and 3.2 per cent.) Whether this is a manifestation of the 'Barnett Squeeze', or some other factor at work, remains unclear. Nonetheless, the UK Government has been keen to emphasise that Scotland is 'sharing the pain' public spending across the UK is experiencing, and that in other respects – including spending on reserved functions in Scotland – Scotland as a whole is doing fairly if not well out of the Budget.²²⁹

7.7 Intergovernmental financial issues: the local income tax and the replacement Forth Road Bridge

The SNP finally abandoned its proposals for a local income tax on 11 February. In abandoning it, the Finance and Sustainable Growth Secretary blamed the economic downturn, Westminster cuts and Holyrood arithmetic (see 5.1 and 4.3).²³⁰ It is notable that he did not blame the UK Government's refusal to collaborate with the collection of the new scheme, set out in a letter from the chairman of HM Revenue and Customs some two weeks earlier.²³¹ Revenue & Customs said that they had no

²²⁷ See T. Crichton 'Battle over what Budget means for Scotland', *The Herald* 23 April 2009.

²²⁸ See HM Treasury Budget 2009: *Building Britain's future. Economic and Fiscal Strategy Report and Financial Statement and Budget Report* HC 407 (London: The Stationery Office, 2009), Table C.11.

²²⁹ See Scotland Office News Release 22 April 2009 'Secretary of State welcomes a Budget for Scotland' available at <http://www.scotlandoffice.gov.uk/scotlandoffice/11842.html>; 'Budget 2009: Darling warns Scotland must share Budget pain', *The Herald* 23 April 2009.

²³⁰ See S. Paterson and R. Dinwoodie 'SNP ditches pledge to scrap council tax', *The Herald* 12 February 2009.

²³¹ See "'No legal basis" for local income tax' *The Herald* 24 January 2009. The leaking of this letter was itself the subject of some controversy, with an allegation that it was leaked by

power to collect such a tax, only the Scottish variable rate of income tax. This would have meant that administrative arrangements for collection would have to be created within Scotland, hugely increasing the costs of doing so.

Attempts to find a solution to the problems of financing the replacement road crossing across the Firth of Forth have continued, without any conclusion so far. In January the UK Government rejected a Scottish Government request to fund money from future budgets to do so (in effect, to use the present freedom to move money from one spending budget to another within a year, to do something similar between years), saying that the private finance initiative or an accumulated underspend from previous years could be used, but that borrowing from funds that had yet to be allocated was not acceptable.²³² A meeting between the Scottish Finance Secretary and UK Chief Secretary to the Treasury was arranged, taking place on 4 March, but despite a proposed solution (involving the Scottish Government being permitted to use accumulated underspends through a new approach to end year flexibility, the consequential from UK Government spending on the Crossrail scheme, and the proceeds of asset disposal), no resolution has been reached (see also 4.3).²³³

the Treasury itself: see M. Settle 'Fury as leaked letter says SNP council tax plan "illegal"', *The Herald* 26 January 2009.

²³² See BBC News 'Forth bridge payment plan blocked' 4 January 2009, at <http://news.bbc.co.uk/1/hi/scotland/7810315.stm>

²³³ See A. Dalton 'Swinney dismisses £1bn to help build new Forth bridge', *The Scotsman* 5 March 2009; H. MacDonell 'Swinney rejects Treasury proposals to pay for bridge', *The Scotsman* 6 April 2009.

INTRODUCTION.....2

1. THE SCOTTISH CONSTITUTIONAL DEBATE.....5

2. PUBLIC ATTITUDES AND ELECTIONS.....13

3. THE SCOTTISH PARLIAMENT AND PARTIES.....40

4. SCOTTISH GOVERNMENT AND PUBLIC POLICY.....52

5. GOVERNMENT BEYOND THE CENTRE.....63

6. INTERGOVERNMENTAL RELATIONS.....71

Introduction

Paul Cairney

The decision by Justice Secretary Kenny MacAskill to release the Lockerbie bomber, Abdelbaset al-Megrahi, from Greenock Prison on compassionate grounds stands out as the major event in this period. Indeed, it is difficult to think of any other ‘Scottish’ issue that would command such international attention or prompt so much analysis on the SNP’s governing competence on the world stage. The issue is multi-faceted and still unfolding in the public domain. As such, we have witnessed a classic media process in which attention lurches from one aspect of the story to another.¹ In July, when much less was known (and there were rumours that MacAskill was ‘minded’ to release him), an administrative focus on how MacAskill conducted his inquiry was followed by claims that he would struggle to meet the deadline for a decision and that much depended on whether or not al-Megrahi would drop his appeal (al-Megrahi has since protested his innocence). We then had a period considering the extent to which MacAskill would be subject and vulnerable to a wide range of political pressure, from domestic media coverage (of the families of victims, members of the emergency services) to public opinion, opposition parties and international representations (particularly from the US, with figures such as US senators, the FBI director Robert Mueller and Secretary of State Hilary Clinton highly vocal on the issue) against al-Megrahi’s release (with some speculation about reverse pressure from the UK Government to allow his release as a way to foster closer economic and political links between the UK and Libya).

Other periods focused on how this relates to wider forms of parliamentary political pressure on MacAskill following the recent prospect of a vote of no confidence in Parliament (although 3.1 shows that the Scottish Parliament only became involved formally *after* the decision was made) and how Scotland would look on the world stage. Then came the decision and an extended period of discussion on MacAskill’s reasons for al-Megrahi’s release. More could have been made of the Scottish-UK intergovernmental issue had MacAskill agreed to Megrahi’s release under the UK-

¹In the interests of space I have not included references to each media story. Instead, this discussion and further links can be found at <http://paulcairney.blogspot.com/2009/10/release-of-lockerbie-bomber.html>. See also Trench, September 2007: 47 for a discussion of Alex Salmond and the Scottish Government’s criticism of the UK Government decision to sign a prisoner transfer agreement with Libya.

Libya prisoner transfer agreement devised in 2007, particularly since Alex Salmond was highly critical of then Prime Minister Tony Blair's involvement in the agreement and the absence of FCO consultation with the Scottish Government. However, if anything, the lack of Scotland-UK contact seemed the bigger issue. Instead, MacAskill released Megrahi on compassionate grounds, based on a principle in Scots law that prisoners should be eligible for compassionate release if they are terminally ill and close to death. This allowed him and Salmond to present a narrative based Scottish ministerial autonomy, leaving others to explore the degree of external interference. Indeed, a consistent focus throughout was on the extent to which this was a Scottish rather than a UK decision, and it became clear very early on that the UK Government was eager to be seen to take a hands-off role, respecting the principle of executive devolution. This appeared to backfire on Prime Minister Gordon Brown personally when he was roundly criticised for making no comment at all, particularly given the extent of the rumours about deals done ('in the desert') between the UK and Libyan Governments over business contracts (and, to a lesser extent, concerns about links between the decision and terrorism).

So far, although the decision initially appeared unpopular with Scots and potentially damaged the SNP's electoral chances, it has not undermined the status of the minority Scottish Government. Neither has it produced significantly greater pressure for MacAskill (already under parliamentary pressure over such issues as knife crime and court reforms) to resign as Justice Secretary. Much opposition party criticism has focussed on MacAskill's handling of the case, including not only his decision to visit al-Megrahi in prison but also his reliance on particular sources of medical advice to determine the severity of his cancer and the amount of time he had to live, and his rejection of other solutions related to compassionate release (including the prospect of housing and policing al-Megrahi in a care home or hospice in Scotland). Some eyes have also been raised when MacAskill's initial speech made reference to the links between compassion and religion. Yet, there was not a meaningful call for MacAskill's resignation. In part, this is because Alex Salmond went at great lengths to publicly back MacAskill (and because many figures, including Nelson Mandela, supported the decision). The SNP's position was also helped by growing criticism of the role of the UK Government.

Al-Megrahi's welcoming reception in Libya (with much of the crowd waving Saltires) threatened to stoke up the issue further and, for a short period, the international reaction was intense, even extending to some US campaigns to punish Scotland

economically. US President Obama was also said to be 'disappointed' by the decision. Yet, there are now signs that attention has moved on and that initial reactions have been tempered.

Lockerbie has overshadowed the other main issue in this period: the publication of the Calman report which is discussed at length in the next section.

1. The Scottish Constitutional Debate

Paul Cairney

Key Points

- Given its limited remit and the tone of its interim report, the final report of the Calman Commission is surprisingly ambitious.
- Its recommendations on finance, the further devolution of powers, intergovernmental relations and the role of the Scottish Parliament are substantive, providing the potential for further changes in the future.
- Most significant is the proposal to make the Scottish Parliament more accountable for income taxation
- Much of the report is consistent with SNP aims. This includes the call for more formal intergovernmental relations and to devolve responsibility for Scottish Parliament elections, airgun and drink-driving regulations
- While it was received well by its main audience (the Labour, Conservative and Liberal Democrat parties), no party has made any firm commitment to implement its recommendations.
- Indeed, the irony is that the party most critical of the report (the SNP) is also the keenest to see some of it implemented immediately.
- While the national Conversation has been relatively low key, the Scottish Government has reaffirmed its commitment to an independence referendum bill
- The House of Lords Select Committee on the Barnett Formula has recommended Barnett's abolition

1.1 The Calman Report's Recommendations²

The Calman Commission's final report was published on June 15th. While most headlines will be reserved for its substantial recommendations on fiscal accountability and the further devolution of powers, there are also some interesting recommendations to improve intergovernmental relations (IGR) and the legislative process of the Scottish Parliament. The main thrust of the report is that the

² Commission on Scottish Devolution (2009) *Serving Scotland Better: Scotland and the United Kingdom in the 21st Century* <http://www.commissiononscottishdevolution.org.uk/uploads/2009-06-12-csd-final-report-2009fbookmarked.pdf> . To shorten the length of this report, I have not included all references to media coverage of some events described. Instead, these can be found at http://paulcairney.blogspot.com/2009/10/scottish-constitutional-debate_07.html

constitutional side of devolution has been a success but that change can improve the settlement. Of course, the proposed level of change falls short of any prospect for independence because the report was established by the SNP's opposition parties – Labour, Conservative, Liberal Democrat – and the UK Government to provide competition for the National Conversation.

Fiscal Autonomy

The most significant change can be found in its recommendations regarding the funding settlement. It argues that it would be difficult to maintain the Union if the UK Government granted full fiscal autonomy to Scotland. Therefore, macro-economic policy must remain reserved. While this is a defensible unionist position, it presents considerable problems when formulating further fiscal powers. The report also notes the limitations that it faces when making recommendations on the Barnett formula. Overall, we have a half-way house between fiscal dependence and autonomy (supplemented by its argument there should also be a common sense of social citizenship and minimum welfare rights, but only when the UK and Scottish Parliaments agree their scope). Barnett has the advantage of providing stability during devolution's first decade and should be maintained, but only until the UK Government commissions a needs assessment to determine a more equitable system of funding. There should also be more accountability for money spent in Scotland. Therefore, there should be a devolution of certain economic powers – the Stamp Duty on property transactions, the Aggregates Levy, Landfill Tax and the Air Passenger Duty - when differences would not undermine overall macroeconomic policy (in part because they largely affect local populations, with relatively little prospect of exit).

More importantly, the Scottish Parliament should be obliged to make a positive and more visible decision about its level of taxation in relation to the UK rather than benefiting from the relatively hidden status quo position in which it accepts the same levels by not using the tartan tax. Calman therefore recommends reducing UK income tax in Scotland by 10p in the pound (for the lower and higher income tax thresholds, with no ability to tax one but not the other) and reducing Scotland's grant accordingly, meaning that the Scottish Parliament would have to set the Scottish rate at 10p to stay the same as the UK (assuming that this would raise the same amount from a Scottish base). However, the Scottish Government would not be able to make the bigger decisions about the mix of tax bands or the overall structure of taxes set at the UK level. Therefore, this is effectively the introduction of a greater appearance of

accountability but primarily for assigned revenues (this is to be extended to a notional share of income tax on savings, to remove the administrative burden of identifying Scottish savers). There is also not a full link between accountability and economic policy in part because there is still a limited incentive for the Scottish Government to increase its own tax revenue by using economic levers to foster growth. There is a limited ability to compete to attract businesses or individuals through the modification of taxes. Overall, the measures may open up the old north/ south debate on UK macro-economic policy. While Scotland's GDP per capita is higher than most English regions, it is significantly lower than the south-east of England which brings overall English GDP per capita to a level higher than in Scotland. Therefore, the 10p tax rate in Scotland is likely to produce a slightly smaller overall level of revenue, perhaps prompting the Scottish Government to wonder why it should be accountable for the tax when it can not determine the amount fully.

On the other hand, the recommendations may mark the *beginnings* of a substantive shift in fiscal arrangements since the 10p would be based on identified rather than notional Scottish incomes and, for the first time, Her Majesty's Revenue and Customs (the HMRC) would be obliged to work on behalf of Scottish ministers in collecting devolved taxes (Scottish Ministers would also be consulted on appointments of HMRC Commissioners). This comes on top of three further recommendations:

1. To keep benefits such as housing/ council tax reserved but give much more scope for Scottish Ministers to amend their use when developing their own policies. This may be seen as an argument that the UK government should not only not interfere in issues such as the local income tax, but also that the UK Government and HMRC should do all they can to minimise the unintended consequences by cooperating on the effects on benefits (although note its very clear recommendation to keep Attendance Allowance reserved as a gateway to other reserved entitlements).
2. To allow the Scottish Government, like local authorities, to borrow on a Prudential basis (i.e. based on its capacity to repay debt) through the National Loans Fund or Public Works Loans Board. This system would perhaps allow the Scottish Government to fund the Forth Road Bridge in a more straightforward way.

3. To consider further tax devolution – on VAT and a share of fuel duty – when these recommendations have ‘bedded in’. This suggests that, again, the recommendations do not mark the end of the Scottish ‘settlement’.

Devolved and Reserved Powers

Perhaps the most interesting aspect of the report’s recommendations on devolved powers is that it has not avoided issues that could be embarrassing to its UK Government sponsor and advantageous to the SNP Government’s agenda. This includes a recommendation to devolve responsibility of the Scottish Parliament elections to the Scottish Parliament (following SNP criticism of the role of the Secretary of State in the ballot paper fiasco), allow Scottish ministers to appoint the Scottish member of the BBC Trust (although this falls far short of SNP calls for Scottish-specific broadcasting), devolve airgun regulation (an SNP demand which it partly inherited from the previous Scottish Executive) and drink-driving limits (in the context of SNP criticism of UK limits when promoting its overall, divergent, alcohol strategy). It also recommends devolving responsibility for the national speed limits, animal health funding, marine nature conservation (note that the issue of marine control has divided the UK and Scottish governments for some time), the Deprived Areas fund, discretionary elements of the reformed Social Fund and the prescribing of controlled drugs (e.g. heroin) to treat addiction (perhaps signalling, incidentally, a position on the balance between the medical and criminal treatment of illegal drug use).

The report recommends that many issues – such as charity law and regulation, food labelling and regulation, the regulation of all health professions and the UK Insolvency service - should remain reserved to preserve sensible administrative arrangements and levels of policy uniformity. In other cases it merely calls for better working arrangements to solve problems associated with devolved and reserved policy interaction or problems associated with the implementation of reserved issues in Scotland, including: the operation of the Health and Safety Executive; the scope for local variations in immigration law implementation; the issue of the wellbeing of children of asylum seekers; Welfare to work; and, the operation of Crown Estate. It strongly recommends that the UK Government maintains the principle of UK-wide Research Councils (which allow Scottish Universities to ‘punch above their weight’ and remain part of a wider pool of scientific funding) but also establish comparable ‘government-funded’ status for particular Scottish research institutions. Perhaps of most note is the absence of a recommendation to change the constitutional

settlement regarding nuclear power. This may in part follow the UK Government's acceptance of a Scottish veto on new nuclear power stations. It also follows a broader recommendation to accept that there will always be issues regarding devolved/ reserved boundaries and that they should be resolved through better intergovernmental relations.

Intergovernmental Relations

The report is critical of the informality of intergovernmental relations (IGR) between the Scottish and UK Governments and it makes recommendations for ministers, civil servants and the Parliaments. First, it argues that the Joint Ministerial Committee should become a body to foster close working and cooperation relationships (perhaps like the JMC Europe) rather than just dispute resolution. The JMC (Domestic) should meet at least annually, as should a new JMC Finance (to discuss macro-economic policy as well as taxation); and a JMCO (for senior officials). The JMC agendas should be published in advance to parliaments (and there should be an annual report). The JMC Europe should foster earlier and more engagement between Scotland and UK, with Scottish Ministers to be automatically part of UK delegation and to speak more on the agreed UK line. There should also be a greater expectation that Scottish MEPs attend Scottish Parliament committees. Second, it argues that there should be more training for UK civil servants to improve their knowledge of devolution and that the civil service code should be amended to ensure cooperation and mutual respect.

Third, although it suggests that the Sewel convention, in which Westminster will not normally legislate on devolved matter unless given permission by the Scottish Parliament, has been respected and works well, it must be used better to foster meaningful links between Parliaments (Sewel, or legislative consent, motions are primarily addressed through executives). The report makes a wide range of recommendations in this regard: the Sewel convention should be entrenched in standing orders of each House; there should be more parliamentary cooperation and discussion – perhaps by each passing motions for the other's attention; Westminster should debate devolved implications and establish a regular 'state of Scotland' debate; a 'standing joint liaison committee of the UK Parliament and Scottish Parliament should be established to oversee relations'; barriers to sharing information and inviting each other to committee meetings should be removed; the Secretary of State for Scotland should appear annually to a convenors' (committee chairs') group of the Scottish Parliament and in plenary to report on the devolved

implications of the Queen's speech; the First Minister should appear at Scottish Affairs Committee once per year generally and once per year to discuss how its legislation interacts with reserved matters; there should be Scottish MPs on any UK legislation that uses a substantive Sewel motion, followed by the potential for Scottish Parliament committees to invite the MPs to discuss their implications; and Scottish Parliament and Westminster committees should be given an answer on legislation as they would to their own committees. Further, Calman suggests that there should be a Westminster equivalent to the Sewel motion: 'A new legislative procedure should be established to allow the Scottish Parliament to seek the consent of the UK Parliament to legislate in reserved areas where there is an interaction with the exercise of devolved powers'.

Scottish Parliament recommendations

Finally, Calman makes some recommendations to improve the scrutiny role of the Scottish Parliament. To deal with the lack of a second chamber and the relative finality of its stage 3 legislative process, it recommends giving the power to the Presiding Officer to refer novel, substantive amendments at stage 3 back to committee before bill is passed (to give MSPs and stakeholders chance to look at implications). Or, an amendment to proceed to stage 4 can be proposed by MSPs. It also recommends that committees seek to minimise their MSP turnover (although this is still largely the decision of the parties themselves) and that committees should be able to decide themselves when to create sub-committees to deal with scrutiny overload.

1.2 Reactions to the Calman Recommendations

In some respects the overall reaction to the Calman report has been odd. For example, the initial media reception was fairly warm, with many references to the report's boldness.³ Its immediate audience – the Labour, Conservative and Liberal Democrat parties – was also enthusiastic, with Jim Murphy keen to be photographed accepting the report from Calman and both the UK Labour and Conservative parties intimating that the report would find its way into their general election manifestos in some form.⁴ Yet, things have been quiet since, with both parties suggesting that they

³ G. Braiden 16.6.09 'Some reservations, but report widely praised' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2514567.0.Some_reservations_but_report_widely_praised.php; D. Maddox 16.6.09 'Critics confounded by radical reform plans' *The Scotsman* <http://news.scotsman.com/politics/Critics-confounded-by-radical-.5367796.jp>

⁴ A. Macleod and P. Jones 11.6.09 'Labour and Tories to back new tax-raising powers for Scotland' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6482001.ece>; A. Macleod 16.6.09

need more time to digest the report and that its recommendations come as an overall, coherent package that would be difficult to implement incrementally. Of course, the more honest statement would be that constitutional reform in Scotland is way down the list of priorities for a UK Government.⁵ The lack of progress appears to have frustrated Scottish Liberal Democrat leader Tavish Scott who has 'lost patience' with his colleagues in the other parties.⁶ It has also produced an ironic turn of events: the party most critical of the report (the SNP) is now the keenest to see some of it (not surprisingly, the section recommending more devolved powers) implemented immediately.⁷

1.3 The National Conversation

The National Conversation itself (i.e. not including moves to introduce a referendum bill – see 1.4) has been relatively low key in this period, with the most notable development regarding opposition party criticism of its costs. This may arise again during negotiations on the annual budget (see 3.3).

1.4 The Referendum on Independence

The Scottish Government outlined in September its plans for a bill to enable a referendum on independence (as part of its overall legislative programme)⁸. Of course, whether or not this bill will be passed by the Scottish Parliament is another matter. The probability of this event has never been clear and it is no clearer now. While the main opposition parties were very quick to announce that they would not support the bill, whispers continue about various members of various parties being keen to see it go ahead. The parties may also have blundered by placing so much criticism on a discussion of constitutional change during a recession, suggesting that they may be more open to the prospect after an economic recovery.

1.5 The Barnett Formula

'Gordon Brown backs Calman's 'bold' tax-raising proposals for Holyrood' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article6506644.ece>

⁵ A. Macleod 26.6.09 'Scottish Conservatives step back from Calman Commission findings' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article6579498.ece>; J. Allardyce and J. Robertson

12.7.09 'No new powers for Scotland until 2015' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article6689936.ece>

⁶ D. Maddox 18.9.09 'Labour and Tories not pulling their weight on devolution – Scott' *The Scotsman*

<http://news.scotsman.com/politics/Labour-and-Tories-not-pulling.5658851.jp>

⁷ A. Macleod 28.6.09 'Implement Calman proposals now, Salmond urges Brown' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article6597698.ece>

⁸ 3.9.09 'Programme for Scotland' *Scottish Government News Release*

<http://www.scotland.gov.uk/News/Releases/2009/09/02151308>

Media attention to the Barnett formula was raised briefly during the summer following a Lord's report.⁹ The report criticises the fact that a short-term measure has been in place for so long, with no real attempt to adjust the baseline according to population or to allocate money at the margins with reference to need rather than automatically. It recommends a needs assessment exercise followed by a system that provides clarity on how territorial funds are distributed. While David Cameron has in the past expressed similar aims, and the Treasury is in the process of reviewing the system,¹⁰ a major reform is by no means inevitable because both have much higher priorities. Indeed, if there is anything that demonstrates the extent to which Scottish funding is small beer to the Treasury, it is the news that the effect of the recession is to reduce its tax take by more than the Scottish Government's annual budget.¹¹

⁹House of Lords Select Committee on the Barnett Formula (2009) *The Barnett Formula*, HL Paper 139 (London: The Stationery Office)

<http://www.publications.parliament.uk/pa/ld200809/ldselect/ldbarnett/139/139.pdf>

¹⁰ *BBC News* 10.9.09 'Funding rules 'unfairness' claim'

http://news.bbc.co.uk/1/hi/uk_politics/7606907.stm

¹¹ T. Crichton 21.7.09 'Tax take falls by £32bn amid economic downturn' *The herald*

http://www.theherald.co.uk/politics/news/display.var.2521111.0.Tax_take_falls_by_32bn_amid_economic_downturn.php

2. Public Attitudes and Elections

John Curtice

Key points

- There has been no marked movement in favour of independence. In fact, some recent polls record a significant decline.
- However, there is majority support for a referendum on constitutional change (including the implementation of Calman's recommendations).
- Although the SNP's wording would increase the 'yes' vote in a yes/no independence referendum, there is still not enough support.
- The most popular choice in a multi-option referendum would be 'devolution with some tax powers'
- While many more people think devolution has had a positive rather than a negative impact, most believe it has made no difference
- Since the election of the SNP, more people think that they are better represented in the Union and receive a fair share of UK spending. This may be ironic for a party seeking to foster a strong sense of grievance that might provide the basis of increased support for independence.
- People still do not think that independence is likely in the next twenty years.
- Devolution continues not to have any long-term impact on national identity
- Although the release of al-Megrahi was unpopular, it has created fewer difficulties for the SNP than some opposition politicians anticipated.
- The SNP still enjoys a lead over Labour in voting intentions for the Scottish Parliament, while the Greens may again emerge as an electoral force in 2011
- There is some prospect of significant SNP gains in Westminster in 2010 but little sign that the Conservatives are making the gains we see in England
- Labour's showing in the European Parliament elections was disastrous and its vote was down from 2007 in local government by-elections. In contrast, the SNP's share of the vote increased in both.
- Alex Salmond is still the most popular leader in Scotland and more popular than Gordon Brown and David Cameron
- There is little public support for both immigration and nuclear weapons

2.1 Attitudes towards devolution

2.1.1 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	Oct. 08	Jan/Feb. 09	May/June 09
	%	%	%	%	%	%	%
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	35	38	36
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	50	44	40	41	43	40	39

state							
-------	--	--	--	--	--	--	--

Source: TNS-BMRB System Three/The Herald; 27.5-2.6.09

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?

	July 08	Sept. 08	Oct. 08	Jan. 09	Mar. 09*	Aug. 09*
	%	%	%	%	%	%
I would vote YES (i.e. for Scottish independence)	36	34	31	29	33	28
I would vote NO (i.e. against Scottish independence)	48	50	53	55	53	57
Don't Know/Would not vote	16	15	16	16	14	16

* Introduction read '*If there is a referendum, the SNP government's planned referendum would ask voters whether...*'

Source: YouGov/Mail 24-6.8.09

In a referendum on independence for Scotland, how would you vote?

I agree that Scotland should become an independent country

I do not agree that Scotland should become an independent country

	1998						1999		
	Jun(1)	Jun(2)	July	Sep(1)	Sep (2)				
Nov									
Agree	52	56	49	51	48		49		
Do Not	41	35	44	38	37		43		
	Jan.	Feb.	Mar.	Apr.(1)	Apr(2)	Apr (3)	May(1)	May(2)	
Agree	49	44	42	47	41		41	39	38
Do Not	42	47	47	44	48		46	48	50
	Jan 2000	Feb. 2001	Oct 2006	Feb. 2007	Mar. 2007*	Apr. 2007*			
Agree	47	45		51	46	38		33	
Do Not	43	49		39	44	44		46	
	June 2009								
For	38								
Against	54								

Source: ICM/BBC, 22-4.6.09

* Reading by Market Research UK. All others by ICM

Next year, the Scottish Government wants to hold a referendum to ask the people of Scotland 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'

Do you think you would vote for or against this proposal?

	%
For	42
Against	50

Source: ICM/BBC, 22-4.6.09

Who do you think should make most of the important decisions for Scotland about the National Health Service, the Scottish Government in Edinburgh or the UK Government at Westminster?

Ditto - Income tax, Old Age Pensions, Defence and Foreign Affairs

	NHS	Tax	OAP	Defence
	%	%	%	%
Scottish government	78	62	66	35
UK government	19	34	32	63

Source: ICM/BBC, 22-4.6.09

Which of the following comes closest to your view about how Scotland should be governed?

Scotland should become independent of the rest of the UK, with the Scottish Parliament able to make all decisions about the level of taxation and government spending in Scotland

Scotland should remain part of the UK, with the Scottish Parliament able to make some decisions about the level of taxation and government spending in Scotland

Scotland should remain part of the UK, with decisions about the level of taxation and spending in Scotland made by the UK Government.

	%
Independence	28
Devolution with some tax powers	47
Devolution with no tax powers	22

Source: ICM/BBC, 22-4.6.09

Both YouGov and TNS System Three have once again asked questions about attitudes towards independence that they have been asking on a regular basis since the 2007 election. At the same time the BBC Scotland commissioned ICM to undertake an in depth study of attitudes towards independence and devolution on the occasion of the 10th anniversary of devolution at the beginning of July, including asking a number of question that had been asked on previous surveys. We thus have considerable evidence on whether the SNP's expectation that the experience of nationalist government would foster support for independence is now being fulfilled.

It seems not. True, the levels of support for independence vary considerably depending on the question asked. Thus ICM found 38% backing independence in response to one question and 42% another. In contrast YouGov reported just 28% in favour. But none of the poll findings suggest there has been any marked movement in favour of independence.

The first of the two questions asked by ICM was initially asked by that company as long ago as 1998. It uses a wording that mimics the wording used on the ballot paper in the 1997 devolution referendum. It has on various occasions in the past, including as recently as February 2007, found a plurality if not indeed a majority in favour of independence. This time it found just 38% in favour, while 54% were against. This represented the largest lead for the 'No' camp ever recorded by this question. Similarly with 28% in favour and 57% against, YouGov too recorded the largest opposition lead since it first asked the same question in July last year. Meanwhile, although in line with its previous results TNS System Three uncovered only a small opposition lead, at 36% the level of support for independence it identified was the second lowest ever in its time series.

One of the concerns that has been expressed by the Labour party about the SNP's proposal for its independence referendum is that the question it proposes to ask is 'rigged'. Rather than being a straight vote for or against independence, it would be a

vote on whether the Scottish government should enter into independence negotiations. In part the wording is designed to ensure that the referendum complies with the Scotland Act, under which Scotland's constitutional status is a matter reserved to Westminster. But it might be thought to be a softer proposition that would be more likely to attract support.

The ICM/BBC poll attempted to assess the possible impact of this wording by including a question that posed the proposition that the SNP proposes to put on the ballot in as straightforward a manner as possible. The response to this question could then be compared with that to the simple question for or against independence that ICM has asked previously. The question based on the SNP's proposed wording elicited 4% more support for independence (and 4% fewer saying they were opposed), suggesting that the wording proposed by the SNP may indeed be more likely to generate greater support. On the other hand (and in contrast to the rather more complex formulation of the ballot paper question posed by System Three) it still suggested that the SNP's proposition would be defeated in any immediate ballot. At the same time it should also be borne in mind that the precise wording of the question on the ballot paper may make less difference once the subject has been thoroughly aired in a referendum campaign.

The same poll also attempted to elicit what the outcome might be of any 'multi-option' referendum in which voters were asked to choose between independence, devolution with greater taxation and spending powers than at present (as proposed in June by the Calman commission (see 1.1), and the status quo. The SNP have indicated they would be willing to accept such a referendum, rather than one on independence alone, should that be the price of securing the support of one of the opposition parties necessary for the passage of the necessary legislation. It suggested that devolution with more responsibility for taxation and spending than at present would be by far the most popular option in such a vote.

Are you in favour or against the idea of holding a referendum next year on whether Scotland should become independent?

	%
For	58
Against	37

Source: ICM/BBC, 22-4.6.09

Say it was proposed that while Scotland should remain part of the United Kingdom Scottish Parliament should have greater powers over taxation than at present. Do you think this change:

*could only be made after it has been voted on in a referendum, or
could reasonably be made without holding a referendum*

	%
Referendum	56
No referendum	37

Source: ICM/BBC, 22-4.6.09

The constitutional debate between the parties in Scotland centres not only on whether or not the country should become independent but also on whether a referendum on independence should be held in the first place – and especially so, according to the opposition parties, at a time of economic difficulty. The BBC poll found, however, that a clear majority remain in favour of holding a vote, though perhaps not as overwhelming a majority as sometimes suggested by the SNP.

Meanwhile, irrespective of the possibility of a ‘multi-option’ referendum the question has also been raised as to whether the proposals of the Calman commission to give the Scottish Parliament greater responsibility for raising its own finance (see 1.1) ought only to be implemented following a referendum, on the grounds that the proposals constitute a significant change to the devolution settlement that was endorsed by the public in the 1997 referendum. The results of the BBC poll on this subject suggest that public opinion is inclined to support that view.

2.1.2 Evaluations of Devolution

Since the Scottish Parliament was achieved in 1999, do you think it has achieved a lot, a little, or nothing at all?

	Feb. 00	Sept. 00	2001	2009
A lot	5	11	25	20
A little	64	56	56	53

Nothing at all 27 29 14 15

Source: TNS-BMRB System Three/STV, 23-6.09. Previous readings from ICM; wording in previous surveys was, 'From what you have seen or heard, do you think the Scottish Parliament has achieved a lot, a little, or nothing at all?'

Scotland's devolved parliament has been in existence since 1999. Do you think devolution has been a good thing for Scotland, a bad thing, or has it made no difference one way or the other?

	2007	2009
	%	%
Good thing	39	41
No difference	40	46
Bad thing	11	9

Source: ICM/BBC, 22-4.6.09. Previous reading from ICM/Mail 5-9/1/07 (N=545)

Do you think that as a result of having the Scottish Parliament the health service in Scotland has got better, got worse, or has it not made much difference either way?

Ditto – standards in Scotland's schools

	Health	Schools
	%	%
Better	33	29
No difference	52	41
Worse	9	12

Source: ICM/BBC, 22-4.6.09.

A poll conducted for STV at the time of the 10th anniversary of devolution attracted some negative publicity for the parliament on the grounds that it showed that a majority of people in Scotland believe it has only achieved 'a little'. Indeed in that respect the findings of the poll were not dissimilar to those of similarly worded polls conducted in the early years of devolution. Of course the poll could just as easily have been reported as showing that the vast majority of people in Scotland believe that devolution has at least achieved something.

Meanwhile, questions included on the BBC poll suggest that only around in ten people think that devolution has been bad for Scotland or has had a detrimental impact on public services. But, equally, the most popular view is that devolution has not made much difference one way or another, with only between three and four in ten believing that it has had a positive impact. Such findings are in line with the results of previous surveys (see for example May to August 2008 report).

From what you have seen and heard so far, do you think that having a Scottish Parliament is giving Scotland

... a stronger voice in the United Kingdom,

a weaker voice in the United Kingdom,

or, is it making no difference?

	2000	2001	2002	2003	2004	2005	2006	2007	2009
	%	%	%	%	%	%	%	%	%
Made Voice Stronger	52	52	39	49	35	41	43	61	55
No difference	40	40	52	41	55	50	49	32	34
Made Voice Weaker	6	6	7	7	7	6	6	4	9

Source: ICM/BBC, 22-4.6.09. Previous readings from Scottish Social Attitudes

*Would you say that compared with other parts of the United Kingdom, Scotland gets **pretty much** its fair share of government spending, **more** than its fair share, or **less** than its fair share of government spending?*

	2000	2001	2003	2007	2009
Compared with other parts of the UK, Scotland's share of government spending is...					
	%	%	%	%	%
Much more than fair	10	10	11	17	12
Pretty much fair	27	36	35	39	37
Less than fair	58	47	48	35	43

Source: ICM/BBC, 22-4.6.09. Previous readings from Scottish Social Attitudes

On the whole, do you think that England's economy benefits more from having Scotland in the UK, or that Scotland's economy benefits more from being part of the UK, or is it about equal?

	2000	2001	2003	2005	2007	2009
	%	%	%	%	%	%
England	43	38	30	36	27	31
Equal	36	39	40	34	39	43
Scotland	16	18	24	21	25	21

Source: ICM/BBC, 22-4.6.09. Previous readings from Scottish Social Attitudes

One of the intriguing questions about the existence of a nationalist administration in Scotland is what impact it will have on the public's perceptions of Scotland's relationship with the rest of the UK. The current SNP government is markedly more willing than the previous Labour-Liberal Democrat administration to air its disagreements with the UK government in public. On the one hand the claims made by the SNP in these disputes might persuade people in Scotland that they are getting a poor deal out of the Union. On the other hand the sight and sound of an administration defending Scotland's interests within the UK might persuade people in Scotland that their country was now getting a better deal out of the Union.

Survey work undertaken by the Scottish Social Attitudes survey immediately after the 2007 election suggested that the latter proposition might be closer to the truth. After that election more people than ever felt that having a Scottish Parliament was strengthening Scotland's voice in the UK, while fewer than ever believed that Scotland got less than its fair share of government spending or that England's economy received a greater benefit from the Union than did Scotland's economy.

The ICM/BBC poll repeated a number of items on these topics that had previously been asked by the Scottish Social Attitudes survey. It suggested that some of the more favourable impressions of the Union uncovered in 2007 had rubbed off, but that attitudes were still relatively favourable as compared with those in most of the period prior to 2007. Thus 55% said that having the Scottish Parliament strengthened Scotland's voice in the UK, more than on any occasion between 2000 and 2006. Just 43% said that Scotland received less than its fair share of public spending, less than

on any of the three readings taken between 2000 and 2003. Meanwhile, 31% now feel that England's economy gets more out of the Union, a figure only matched on one occasion between 2000 and 2005. It is still far from clear that having a SNP government in power is helping to foster a strong sense of grievance that might provide the basis of increased support for independence.

2.1.3 Expectations of Independence

At any time in the next twenty years, do you think it is likely or unlikely that Scotland will become completely independent from the United Kingdom?

	1997	1999	2001	2003	2009
	%	%	%	%	%
Very likely	18	12	8	4	10
Quite likely	41	39	29	24	28
Quite unlikely	24	33	36	42	34
Very unlikely	15	14	24	27	24

Source: ICM/BBC, 22-4.6.09. Previous readings from Scottish Social Attitudes and Scottish Referendum Study 1997

Perhaps not surprisingly, however, having the SNP in power has made independence appear more likely, certainly as compared with the position after the 2003 Scottish election, when the SNP suffered what was widely regarded as a heavy defeat. Nevertheless, despite currently having a SNP administration in power, it seems that a majority of people still do not expect independence to happen any time soon, and that indeed it still seems less likely in their eyes than it did immediately after the 1997 devolution referendum or at the time of the initial establishment of the parliament.

2.2 National Identity

Which of the following best describes how you feel about your national identity?

	Apr. 1997	Sept. 1997	1998	1999	2000	2006	2007	2009

	%	%	%	%	%	%	%	%
British, not Scottish	7	8	7	11	9	10	10	9
More British than Scottish	3	2	3	3	3	4	5	4
Equally British and Scottish	22	28	26	26	27	29	24	29
More Scottish than British	26	30	33	32	28	29	26	31
Scottish not British	37	29	26	25	32	26	24	26

Source: ICM except 2006, NOP.

The ICM/BBC poll included a version of the 'Moreno' question on national identity that has been asked on numerous other occasions during the last decade or so. Although the proportion who said they were wholly or mostly Scottish was some seven points higher than in 2007, it was no different from what it had been in 1999. It seems that the existence of devolution continues not to have any long-term impact on national identity in a country in which Scottish identity was already far stronger than British identity before the Scottish Parliament was established.

2.3 Other Issues

2.3.1 Lockerbie

On balance do you tend to think that Abdelbaset al-Megrahi, the Libyan convicted of the Lockerbie bombing, is innocent or guilty?

	%
Definitely guilty	32
Probably guilty	28
Probably innocent	7
Definitely innocent	1
Don't Know	32

Source: Cello-MRUK/Sunday Times, 5-11.6.09

Given that he is terminally ill with prostate cancer and wants to spend the rest of his life in Libya with his family, do you think the Scottish government should...

	%
Agree to calls for him to be freed	8
Agree to calls for him to serve the rest of his sentence in Libya	31
Require him to remain in prison in Scotland	38
Don't Know	23

Source: Cello-MRUK/Sunday Times, 5-11.6.09

51% fair trial. 10% not, 39% DK

Do you think releasing Abdelbaset al-Megrahi was the right or the wrong decision to make?

	%	Westminster Vote Intention				Age		
		Con	Lab	LD	SNP	18-34	35-54	55+
	%	%	%	%	%	%	%	%
Right	43	30	39	57	59	37	37	53
Wrong	51	65	54	40	36	60	55	42

Source: YouGov/Mail, 24-6.8.09

Preamble mentioned conviction and cancer.

From what you yourself have seen and heard do you think the Scottish government was right or wrong to release Mr Al-Megrahi?

	%	Age					
		18-24	25-34	35-44	45-54	55-64	65+
	%	%	%	%	%	%	%
Right	32	24	30	27	31	37	42
Wrong	60	75	58	65	60	57	48

Source: ICM/BBC Scotland, 26-7.8.09

Mentioned conviction and release on compassionate grounds

Do you agree or disagree with the Scottish Justice Secretary's recent decision to release the man convicted of the 1998 bombing of the `Pan Am aeroplane over Lockerbie, in which 270 people died?

Vote Intention (unspecified)

			Con	Lab	LD	SNP
	%		%	%	%	%
Strongly agree	22}					
Tend to agree	20}	42	34	32	45	58
Neither	10					
Tend to disagree	8}	45	57	56	44	32
Strongly disagree	37}					

Source: MORI/Thomson Reuters, 20-31.8.09

Do you think the Scottish Justice Secretary Kenny MacAskill was right or wrong to release Abdelbasset Ali Mohamed al-Megrahi on compassionate grounds?

Scottish Constituency Vote Intention									
		Con	Lab	LD	SNP	18-34	35-54	55+	
	%	%	%	%	%	%	%	%	
Right	45	28	39	57	64	39	39	55	
Wrong	45	66	52	34	28	49	49	38	

Source: YouGov/SNP, 1-2.9.09

The announcement by the Justice Secretary, Kenny MacAskill, that the Libyan man convicted of the Lockerbie bombing, Abdelbasset al-Megrahi, was being released on compassionate grounds because he had terminal prostate cancer gave rise to a furious domestic and international row (see the introduction to this monitor). It also produced a blitz of polling, designed to seek the public's views on the merits of the

apparently momentous decision. Overall this evidence suggests that while a majority of people in Scotland were opposed to the decision, that majority was far from overwhelming. Moreover, while the decision was thought to have damaged Scotland's reputation, a potentially serious accusation for a party that claims to be a strong advocate of Scotland's interest, the 'mistake' was not thought sufficiently serious to merit Mr MacAskill's downfall.

Although it played no role in Mr MacAskill's decision, one reason why some people might be willing to accept that Mr al-Megrahi should be released was that they had doubts exist about the safety of his conviction. A Cello-MRUK poll undertaken some weeks before Mr MacAskill's decision was announced found that while most people thought that Mr al-Megrahi was guilty, only one in three were definitely convinced of his guilt. Equally, while only 10% said that they thought that Mr al-Megrahi had not had a fair trial, only 51% said he had. Many evidently simply did not know one way or the other, but the decision to release Mr al-Megrahi was not visited upon a public that was overwhelmingly convinced that justice had previously been done.

After the announcement, four polls addressed the main question of whether the decision was right or wrong. Three found a plurality opposed to the decision. The poll that elicited the most negative reaction was conducted by ICM for the BBC. In it critics outnumbered supporters of the decision by nearly two to one. It might be thought that this result arose because in its introduction to the issue the poll advised respondents of Mr al-Megrahi's conviction but not of his cancer. However, this was equally true of a poll conducted by MORI, in which supporters and critics were almost evenly balanced, albeit with critics firmer in their views than supporters (Indeed the ICM poll found much the same response in answer to differently worded questions it also carried. Thus 57% felt that Mr al-Megrahi should have remained in prison until he died and 52% that he should never have been released rather than transferred to a Libyan prison (29%) or released but required to stay in Scotland (15%).) The MORI poll was conducted over a longer fieldwork period than the ICM poll and together with the result of a YouGov poll for the SNP at the very beginning of September, which found critics and supporters to be evenly balanced, it may indicate that some of the opposition abated as the row continued.

Two features of the variation in attitudes should be noted. First younger people were far more likely to be critical of the decision than older people; the latter's greater sympathy for the decision may reflect a greater awareness of their own mortality and

more experience of the death of others. Second, although a majority of Conservative, Labour and SNP supporters backed the stance on the issue taken by their party leaderships, it is far from clear that the decision of the Liberal Democrats to oppose the decision was in tune with the views of their supporters.

There is, though, little doubt that the decision was thought to have harmed Scotland's reputation. According to the YouGov/Mail poll just 10% thought it had improved Scotland's reputation, while 69% felt it had affected the country's reputation adversely. Similarly the ICM/BBC poll found that just 11% believed Scotland's reputation had been enhanced, and as many as 74% that it had been damaged. Scots seemed to be well aware of the anger that the sight of seeing the saltire waved in apparent triumph as Mr al-Megrahi walked down the steps of Tripoli airport would generate in much of the western world.

However, when the YouGov/Mail poll asked whether Mr MacAskill should resign, just 32% said that he should. As many as 42% said he had made the right decision in the first place, while another 20% said that although he had made the wrong decision it was not a resigning matter. Similarly the ICM/BBC poll found that only 36% thought the Justice Secretary should resign, while 56% felt he should remain in post. This is despite the fact that a majority (52%) also agreed with the opposition criticism that Mr MacAskill should not have visited Mr al-Megrahi in prison during the course of his consideration of Mr al-Megrahi's applications for release. The row undoubtedly caused the SNP political difficulties, but it was perhaps somewhat less explosive domestically than some opposition politicians had anticipated.

2.3.2 Other issues

In future the UK government is to give foreign workers more points towards obtaining UK citizenship if they stay in Scotland. Supporters of this idea say it is required to prevent a shortage of skilled workers in Scotland while critics say it will lead to too many immigrants coming to Scotland. Which view is closest to yours?"

	%
I approve of this idea because Scotland needs more skilled workers	16
I disapprove because Scotland already has too many immigrants	72

Source: Cello-MRUK/Sunday Times 7-13.8.09

The Labour government and the Conservative Party both support plans to replace Britain's nuclear weapon system, Trident, which is nearing the end of its lifetime. The new generation of nuclear weapons are likely to be based in Scotland. Would you support or oppose these nuclear weapons being based in Scotland?

	%
Support	24
Oppose	61
DK/No opinion	15

Source: Cello-MRUK/Sunday Times 7-13.8.09

A question about immigration and one about the location of nuclear weapons was fielded on a Cello-MRUK omnibus survey on behalf of The Sunday Times in August. The first found little support for encouraging immigrants to come to Scotland, the second apparent hostility to the location of British nuclear weapons in Scotland. Other people's workers and what, perhaps, are regarded as other people's weapons are not necessarily warmly welcomed in Scotland. In particular it is noteworthy that the concerns that many devolved politicians have expressed about the implications of a declining population for the health of Scotland's economy are evidently not widely shared amongst the general public.

2.4 Party Fortunes

2.4.1 Holyrood Voting Intentions

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Solidarity	Others
	%	%	%	%	%	%	%	%
2-4.6.09	14/14	26/26	14/13	39/34	-7	-3	-1	7/3
24-26.8.09	16/17	31/28	16/15	33/27	-6	-3	-1	5/3

26-28.8.09	16/16	27/26	16/16	34/30	-/7	-2	-/1	6/2
1-2.9.09	16/17	28/26	14/12	36/30	-/7	-/4	-/1	7/4

Note: Separate figures for Greens etc. only available for regional vote. Constituency vote for Others includes these parties.

Source: YouGov//Sunday Times and YouGov/Mail/Mail on Sunday and YouGov/SNP

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Solidarity	Others
	%	%	%	%	%	%	%	%
23-9.6.09	12/10	32/29	11/12	39/39	-/5	-/2	-/*	7/3

Note: Separate figures for Greens etc. only available for regional vote. Constituency vote for Others includes these parties.

Source: TNS-BMRB System Three 23-9.6.09

Fieldwork	Con	Lab	Lib Dem	SNP	Green	SSP	Solidarity	Others
	%	%	%	%	%	%	%	%
20-31.8.09	15	25	15	38	3	-	-	4

Source: MORI/Holyrood. Only constituency vote asked. Separate figures for SSP and Solidarity not available. Figures based only on those certain to vote.

Two polls taken in June suggested that the SNP continued to enjoy a lead over Labour in voting intentions for the Holyrood parliament, albeit perhaps still not on the scale that seemed to pertain in the summer of 2008 prior to the revival of Labour's fortunes in the autumn of 2008 in the wake of its handling of the financial crisis and its success in the Glenrothes by-election. However, the row about Mr McAskill's decision to release Mr Al-Megrahi led some to speculate that the decision would do serious damage to the SNP's electoral standing. Indeed, the first of a flurry of polls taken at the time of that decision, undertaken by YouGov for the *Daily Mail*, put the SNP narrowly behind Labour on the list vote, only the second time since 2007 that YouGov had done so. However, the result was not replicated by two further YouGov polls conducted shortly thereafter; these suggested that at most the decision had

been followed by a little narrowing of the SNP's lead, while a poll conducted at the same time by MORI suggested that the SNP still enjoyed a large lead.

Most polls suggest that the Greens are more popular than they were in 2007, and in most regions would be likely to pass the de facto threshold of 5-6% of the vote needed under the electoral system to win at least one list seat. It thus appears that the Greens have the potential to emerge as a relatively strong force once more in the next Scottish Parliament. Such an outcome might well, given the relatively weak showing currently of both the Conservatives and the Liberal Democrats, mean that the support of the Greens could still be crucial after 2011 to the ability of any SNP administration to secure the passage of its legislation.

2.4.2 Westminster Vote Intentions

Fieldwork	Con	Lab	Lib Dem	SNP	Others
	%	%	%	%	%
15-20.5.09	11	27	11	43	8

Source: Scottish Opinion/Mail on Sunday (N=650)

Fieldwork	Con	Lab	Lib Dem	SNP	Others
	%	%	%	%	%
2-4.6.09	17	28	16	31	8
24-26.8.09	19	33	16	25	7
26-28.8.09	20	30	18	26	6

Source: YouGov/Sunday Times and YouGov/Mail/Mail on Sunday

Fieldwork	Con	Lab	Lib Dem	SNP	Others
	%	%	%	%	%
20-31.8.09	18	27	14	33	8

Source: MORI/Holyrood. Figures based only on those certain to vote.

Although the SNP continue to be less popular for Westminster than for Holyrood, the party apparently still poses a considerable potential threat to Labour at the next UK general election, which has to be held by June 2010. A YouGov poll in early June put

the SNP narrowly ahead in Westminster vote intentions, the first time it had done so since early September 2009. Meanwhile two further polls taken in May and August put the SNP well ahead. On the other hand two YouGov polls taken immediately after the Lockerbie row suggested that the SNP were trailing Labour once more.

The SNP's hopes of making significant gains of seats at the next UK election would appear to be on a knife edge. The party needs just under a 11% swing from Labour compared with 2005 to emerge as the leading party in votes. Meanwhile there are only two seats that the SNP can hope to capture from Labour on swings much below 10% - while there are plenty that start to fall into the party's lap once the swing increases beyond that figure. In short, if the SNP is behind Labour across Scotland as a whole it may gain no more than a small handful of seats. But if it can establish anything more than a trivial lead nationally, then it could be expected to make significant gains.

Meanwhile, the Conservative party still only appears to be making limited progress in Scotland, and far less progress than it is achieving elsewhere in the UK. All four polls of Westminster voting intentions taken during this period point to only a small increase in its support beyond the 16% the party won in 2005. During the same period the party has recorded an average six point increase in its support since 2005 in Britain-wide polls. Still the party may well avoid coming fourth in votes again, a position that looks likely to be occupied once more by the Liberal Democrats, although the party's readings in YouGov polls during this period have shown some improvement on the 12% or so that has been the typical reading for the party for the last two years or so.

2.4.3 European Parliament Election

	Votes	% Votes	Change in % vote since 2004	Seats
SNP	321,007	29.1	+9.4	2
Labour	229,853	20.8	-5.6	2
Conservative	185,794	16.8	-0.9	1
Liberal Democrat	127,038	11.5	-1.6	1
Green	80,442	7.3	+0.5	0

UKIP	57,788	5.2	-1.5	0
BNP	27,174	2.5	+0.8	0
Socialist Labour	22,135	2.0		0
Christian Party	16,738	1.5	-0.3*	0
SSP	10,404	0.9	-4.3	0
Independent	10,189	0.9		0
No2EU**	9,693	0.9		0
Jury Team	6,257	0.6		0

| Did not contest the 2004 election

Turnout 28.6 (-2.1)

* comparison with Operation Christian Voice in 2004

** included Solidarity

Sources: news.bbc.co.uk; www.europarl.org.uk

As in the rest of the UK, the European Parliament election proved to be a disaster for the Labour party. Following on from its defeat in 2007, the party trailed the SNP in the nationwide vote. Indeed at a little under 21% it was the party's lowest share of the vote in a Scotland wide contest since it first began fighting elections as an independent party in 1918. Labour's only consolation was that, compared with the previous European election in 2004, its vote fell less heavily north of the border than it did in Wales or in six of the nine English regions, while it still did well enough to retain its two European Parliament seats.

The SNP were, of course, delighted in coming first for the first time in a European election. However, the party's performance was far from unprecedented. The 2004 contest apart, the party has typically performed relatively well in European elections, and its share of the vote this time around was still below the 33% it won in 1994. It was short too of the 31% it won on the list vote in the 2007 Scottish Parliament election. The party's success in coming first was more an indication of the weakness of Labour's performance than an indication of any new enthusiasm for the SNP.

The Conservatives, meanwhile, suffered another electoral disappointment north of the border. It was the party's second worst performance in European elections in Scotland; only in 1994, at the height of the unpopularity of John Major's government, had it ever done less well. The one point fall in the party's share of the vote since

2004 contrasted with a two point increase in Wales and a one point increase in England. The party would not have succeeded in retaining its second European Parliament seat even if the number of MEPS elected in Scotland had not been reduced from seven to six.

The Liberal Democrats generally have a poor record in European elections, and this latest contest was no different. Still, at least the party managed to retain its one MEP and the one and half point drop in its vote was little different from the one point drop the party suffered across Britain as a whole. Meanwhile none of the three smaller parties that managed to secure representation elsewhere in Great Britain, and which perhaps profited from the MPs expenses scandal that rocked Westminster in the weeks leading up to the poll, managed to make a breakthrough north of the border. Both the Greens and the BNP secured a smaller increase in support than they did across the UK as a whole. UKIP's vote fell back in Scotland, whereas across Britain as a whole it held steady.

2.4.3 Local Government By-Elections

4/6/09 East Dunbartonshire, Bishopbriggs South	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	14.0	-0.1
Labour	39.2	-2.5
Liberal Democrat	20.6	+9.8
SNP	23.4	+3.3
SSP	2.7	I
Scottish Unionist		W
Independent	-	W

Turnout 44.2 (-14.3)

4/6/09 Glasgow, Drumchapel/Anniesland	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	5.9	+1.2
Labour	48.4	-12.0
Liberal Democrat	6.5	+2.5

SNP	28.3	+6.8
Green	5.1	+2.1
BNP	3.3	I
Independent	2.4	I

Turnout 26.9 (-17.3)

(SNP defending seat)

4/6/09 North Lanarks., Coatbridge North and Glenboig	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	8.8	-1.8
Labour	37.2	-10.6
Liberal Democrat	-	-
SNP	30.5	+1.1
Independent	13.5	+4.5
Independent	5.3	I
Green	2.8	I
SSP	2.0	-1.2

Turnout 29.3 (-19.4)

(SNP defending seat)

18/6/09 Inverclyde, Inverclyde South West	% 1 st preference vote	Change in % 1 st preference vote since 2007
Conservative	7.9	+3.6
Labour	22.6	-7.2
Liberal Democrat	21.0	-2.9
SNP	42.4	+19.2
Independent	3.1	-14.7
UKIP	2.3	+1.3
Free Scotland	0.1	I

Turnout 26.5 (-25.8)

(SNP defending)

I Party did not contest ward in 2007; W Party contested ward in 2007 but did not contest by-election

Source: www.gwydir.demon.co.uk/byelections

Three local government by-elections were held on the same day as the European elections, while a fourth was held just two weeks later. The results provided further evidence of the weakness of Labour's current position. Its vote was down on its vote in the last full local elections in 2007 in all four contests, in three cases by substantial amounts. The party only made two gains from the SNP (in Glasgow and North Lanarkshire) because the election was being held to fill a SNP vacancy in a ward in which Labour had enjoyed a commanding lead on the first preference vote in 2007. In contrast the SNP vote increased everywhere; a particularly strong advance in Inverclyde enabled the party to defend successfully a seat in a ward in which it had trailed behind both Labour and the Liberal Democrats in 2007.

2.5 Attitudes towards Parties and Leaders

2.5.1 Parties

Nothing to report.

2.5.2 Leaders

Which of the following do you think would make the best Scottish First Minister?

	Apr. 08	Sept. 08	Oct. 08	Jan. 09	Mar. 09	Apr. 09	Aug. 09
	%	%	%	%	%	%	%
Alex Salmond	43	41	38	35	36	36	32
Iain Gray	11*	3	13	15	17	7	12
Cathy Jamieson	-	7	-	-	-	-	-
Andy Kerr	-	5	-	-	-	-	-
Annabel Goldie	9	8	10	11	11	10	11
Tavish Scott	5**	5	6	5	6	4	6
Patrick Harvie	-	-	-	2	1	1	1
None/Don't Know	31	31	33	34	29	42	40

Note: Respondents were advised of the party of each leader.

* Figure for Wendy Alexander; ** Figure for Nicol Stephen

Party of leader included in response options except in April poll, when the question asked, 'Which ONE, if any, of the following Scottish political leaders do you think would make the best First Minister?'

Source: YouGov/Mail, 24-6.8.09

How good or bad a job of running Britain do you think Gordon Brown is doing as Prime Minister?

Ditto – David Cameron David Cameron would do as Prime Minister?

Ditto - Alex Salmond is doing as First Minister?

	Brown	Cameron	Salmond
	%	%	%
Very good	9	3	12
Good	28	18	40
<i>GOOD</i>	<i>37</i>	<i>21</i>	<i>52</i>
Neither	29	33	27
Bad	17	20	12
Very Bad	16	16	6
<i>BAD</i>	<i>33</i>	<i>36</i>	<i>18</i>

Source: ICM/BBC, 22-4.6.09.

How satisfied or dissatisfied are you with way Gordon Brown is doing his job?

Ditto – David Cameron

Ditto – Alex Salmond

	Brown	Cameron	Salmond
	%	%	%
Satisfied	38	40	55
Dissatisfied	52	42	37

Source: MORI, 20-31.8.09

Mr Salmond continues to be a highly popular First Minister. Although there was a slight fall in the proportion saying he would be the best First Minister in a Yougov poll conducted at the height of the Lockerbie row, he still outdistanced all of his rivals by a long way. Iain Gray, the Scottish Labour leader, is still struggling to make much impact on the wider public.

Unsurprisingly Gordon Brown is less unpopular in Scotland than he is across Britain as a whole, while Mr Cameron is more popular. (A MORI Britain wide poll in August that asked the same question of these two leaders as did that company's Scottish poll in the same month found that 28% were satisfied with Mr Brown and 65% dissatisfied. The equivalent figures for Mr Cameron were 47% and 38%.) Nevertheless, despite the Conservatives' continuing unpopularity north of the border, the two polls that asked about these two leaders during this period presented inconsistent findings about which was the less popular of the two. But what was clear and consistent is that Mr Salmond trumps them both.

3. The Scottish Parliament and Parties¹²

Paul Cairney

Key Points

- The Scottish Parliament was only permitted to debate the release of al-Megrahi after the decision was made.
- Alex Salmond has again been cleared of misleading the Scottish Parliament.
- The draft annual budget has been published. Although there are many likely flashpoints, previous experience of the budget crisis may reduce conflict this year.
- Most of the major parties have struggled to maintain an image of unity.
- Few motions in the Scottish Parliament have put pressure on SNP policy.
- The Westminster expenses scandal continues to cast a shadow over Holyrood.
- Scottish Parliament committees are not the 'motor of a new politics'. They favour headline-grabbing short inquiries over high-impact long term inquiries. One of the notable exceptions is the agenda on parliamentary scrutiny of the annual budget.
- The number of Scottish Government bills has risen to 15, but many are short and only 6 can be traced directly and meaningfully to the SNP manifesto.

3.1 The recall of the Scottish Parliament

One of many interesting aspects of the Al Megrahi decision is that it was made with no direct reference to the wishes of the Scottish Parliament. Although the Presiding Officer Alex Fergusson did recall the Scottish Parliament for an extraordinary debate in August¹³, and Justice Secretary Kenny MacAskill was no doubt subject to the most stressful parliamentary exchange of his career, the debate took place *after* MacAskill made his decision. Fergusson rejected the option of the debate taking place before the decision, stating that it was 'a matter for Scottish Ministers alone'.¹⁴ While we

¹² To shorten the length of this report, I have not included all references to media coverage of some events described (and 3.2, 3.3, 3.4, 3.6 in particular; see also references to the visit of the Queen to the Scottish Parliament). Instead, these can be found at <http://paulcairney.blogspot.com/2009/10/scottish-parliament-and-parties.html>

¹³ It has only been recalled in two other instances – following the deaths of Donald Dewar and the Queen Mother – Scottish Parliament News Release 20.8.09 'Presiding Officer Recalls Parliament' <http://www.scottish.parliament.uk/nmCentre/news/news-09/pa09-044.htm>

¹⁴ Scottish Parliament News Release 17.8.09 'Presiding Officer's Statement On Request To Recall Parliament' <http://www.scottish.parliament.uk/nmCentre/news/news-09/pa09-040.htm>;

should not make too much of individual cases, it does seem to reinforce the feeling that the famous dictum of 'power sharing' masks a rather traditional Westminster tradition in which the government governs and Parliament reacts. Indeed, given that its European and External Relations committee does not enjoy the same 'scrutiny reserve' afforded to the House of Commons¹⁵, we may be tempted to conclude that the Scottish Parliament is less involved in the policymaking process than its Westminster counterpart.

3.2 Who Decides If Ministers are Telling the Truth? Part 3

Alex Salmond referred a second complaint (this time by Iain Gray) about his conduct in Parliament to the new independent advisory panel (George Reid and David Steel). The panel's report concludes that Salmond did not mislead Parliament when he stated that 16 prisoners had absconded from Scotland's open prison estate in 2008/9.¹⁶ The complaint does little to dispel the notion that opposition MSPs are using any alleged inaccuracies in ministerial statements to question their integrity.¹⁷ This is part of a wider process in which MSPs appear far happier than in the past to question the veracity of statements made by their parliamentary colleagues.¹⁸

3.3 Political Parties and the Annual Budget

Given the events of the last two years, few expect a smooth ride when the Scottish Government attempts to pass its third annual budget bill through the Scottish Parliament. Yet, the unexpected consequence of the spectre of the budget crisis last time could be (touch wood) that the parties become much more willing to cooperate even when this relatively tight budget presents the most potential for conflict. So far, attention has focused on the Scottish Government's decision (in the draft budget) not to fund the £400m Glasgow Airport Rail Link, prompting the suggestion (reported much more in the Herald than the Scotsman) from Glasgow City Council leader Steven Purcell that it was being victimised (even though the Edinburgh equivalent

¹⁵ House of Commons Information Office (2008) *EU Legislation and Scrutiny Procedures* <http://www.parliament.uk/documents/upload/111.pdf>

¹⁶ Independent Advisers to the First Minister (2009) *Scottish Ministerial Code Inquiry: Complaint From Iain Gray MSP About First Minister's Answers On Open Prison Absconds* <http://www.scotland.gov.uk/Resource/Doc/1124/0084819.pdf>; Scottish Government News Release 5.8.09 'Ministerial Code Inquiry' <http://www.scotland.gov.uk/News/Releases/2009/08/05103555>

¹⁷ A. Macleod 5.8.09 'MSPs rapped over point scoring at First Minister's Questions' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6740314.ece>

¹⁸ See for example Scottish Parliament Official Report cols.18410-2 <http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-09/sor0611-02.htm#Col18374>; D. Maddox 6.8.09 'Holyrood as bad as Westminster' – Steel' *The Scotsman* <http://news.scotsman.com/politics/39Holyrood-as-bad-as-Westminster39.5528067.jp>

has already been scrapped).¹⁹ This now pits the SNP Government against Labour at three levels following Iain Gray's claim that a drop in inflation has boosted the Scottish Government budget by £1bn and the UK Government's insistence that the appearance of Scottish funding 'cuts' are caused by 'frontloading' (but not as much frontloading as the Scottish Government has requested) to boost the economy.²⁰ There are also some likely flashpoints regarding the cost of the National Conversation and preparation for a bill on an independence referendum, any costs borne by the Scottish Government (beyond the issue of council tax freezes) in preparation for a local income tax and the adequacy of money put aside for the building of new schools.

3.4. Political Parties and the Conference Season

This is a period in which the main parties seemed determined to shoot themselves in the foot. The SNP undermined its attempts to take the Glasgow-East by-election by struggling to elect a candidate and becoming mired in allegations about misleading campaign literature (which seems par for the course in elections) and using Scottish Government National Conversation and Cabinet meetings to drum up support. Meanwhile, the Labour Government gave the impression that it did not welcome another by-election by rejecting plans to accelerate Glasgow North-East and further delaying the prospect of Jack McConnell giving up his Scottish Parliament seat to become High Commissioner in Malawi. Attempts by Scottish Secretary Jim Murphy and Iain Gray to work together to reclaim ground from the SNP (in part in reference to nationalism and the Saltire, but also by focusing criticism on Salmond) were also overshadowed at times by the bigger issue of Gordon Brown's popularity. Murphy has continued his attempts to equate Salmond on his level (and therefore below Gordon Brown) by challenging him to a debate, while Salmond prefers the prospect of joining the UK leaders in a TV debate before the next general election. In many ways the more interesting party conference comes from the Liberal Democrats, not only because it raised issues of the extent to which the leadership consults the Scottish leader (particularly on the 'mansion tax') and the prospect of Liberal

¹⁹ Similar claims on a different issue were made in 2001, culminating in Glasgow's decision to leave COSLA – see McGarvey, February 2001: 41-2.

²⁰ H. Mcardle 17.9.09 'Purcell claims Glasgow has been snubbed in budget round' *The Herald* <http://www.heraldscotland.com/news/politics/purcell-claims-glasgow-has-been-snubbed-in-budget-round-1.920392>; D. Maddox 25.9.09 'Inflation fall gives Scottish Government '£1bn budget bonus'' *The Scotsman* <http://news.scotsman.com/politics/Inflation-fall-gives-Scottish-Government.5678644.jp>; 24.7.09 'SNP attacks Labour's 'savage' cuts' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2521746.0.SNP_attacks_Labours_savage_cuts.php

Democrat support for an independence referendum (Tavish Scott maintains that the Liberal Democrats are still opposed), but also because it highlighted the party's dilemmas when presenting a unified policy stance. In particular, Nick Clegg's apparent suggestion that the Liberal Democrats would oppose tuition fees in principle but only abolish them when it was financially viable (which, in the eyes of many, may be never) is difficult to maintain when the policy has already been delivered in Scotland. The UK focus of the Conservative conference is in many ways the exception because David Cameron still seems the most keen to assure Scottish voters that he will govern them with respect.²¹

3.5 The New Politics of Voting²²

Voting on parliamentary motions in this period reinforces the point that relatively few place the Scottish Government in a difficult position, many are proposed by the Scottish Government and backed by most MSPs (such as the motions in May praising NHS efforts to tackle swine flu and the 'Cashback for the Communities' scheme; the vote on the SNP's waste strategy was more mixed), and many others promoted by opposition parties seek to reinforce existing Scottish Government policies and place them higher on its agenda (such as the European missing children alert system²³). This leaves a small number of notable debates which seek to change Scottish Government policy. Yet, some of these have been significant in this period. The issue on which the SNP seems most vulnerable is education and several motions in September on compulsory education call into question its record on teacher numbers and class sizes.²⁴ This supplements a Labour motion in May (passed with the help of the Conservatives and Liberal Democrats) to switch funding from student debt to student support (by providing more loans for the poorest students and leave open the reintroduction of the graduate endowment). Perhaps the SNP's defeat on the motion to welcome the Calman Commission²⁵ would have been more significant if backed by UK Labour and Conservative assurances on its implementation. The emergency debate on Al Megrahi was not linked to a motion,

²¹ See, for example, the 28th September 2009 edition of *Holyrood Magazine*.

²² For a full list of motions and votes, see BBC News 24.9.09 'How MSPs voted in the parliament' <http://news.bbc.co.uk/1/hi/scotland/8236304.stm>

²³ J. Allardyce 14.6.09 'Rapid alerts for snatched children' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6493741.ece>

²⁴ Scottish Parliament Official Report 24.9.09 cols.19895-926 <http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-09/sor0924-01.htm>

²⁵ Scottish Parliament Official Report 25.6.09 cols.18835-87 <http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-09/sor0625-01.htm>

but then opposition parties voted in September to criticise MacAskill's 'mishandling' of the case.²⁶

3.6 Expenses

Although it is now much lower down the media agenda, the MP expenses scandal has still not run its course. Indeed, it seems to have provided a window of opportunity for wider constitutional reform (and perhaps a public debate on PR), which Gordon Brown has promoted alongside more focused measures regarding the transparency of MP behaviour. This may not be enough to draw attention from MPs with significant second jobs who employ family members and/ or 'funnel' expenses money to their local parties. As expected, although Holyrood continues to represent a potential source of policy learning,²⁷ the Westminster expenses scandal has prompted the Scottish Parliament to make sure that its own system is robust. A small (since the Langlands Review was only completed last year) independent review by Sir Neil McIntosh will be completed this year²⁸ and it may consider the practicalities of inviting MSPs to pay back any profits from the sale of their second homes.²⁹ The SNP is also seeking to use this window to promote political reforms as part of its National Conversation.³⁰ The expenses scandal has been used by opposition politicians to criticise Alex Salmond, focusing on his Westminster food expenses claims and the cost of his bid to 'impeach' Tony Blair (all in the context of pressure to force Salmond to resign as an MP).

3.7 Scottish Parliament Committees

²⁶ Scottish Parliament Official Report 2.9.09 col.19162

<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-09/sor0902-02.htm#Col19154>

²⁷ M.Russel 7.6.09 'Mike Russell: Holyrood's miles better' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article6445180.ece>; H. Macdonell 23.6.09 'Shamed MPs should have learned from Holyrood' *The Scotsman* <http://news.scotsman.com/politics/Shamed--MPs-should-have.5390286.jp>. Note also the evidence of Holyrood learning negative lessons when forming an agreement with the police on MSP office searches - R. Dinwoodie 26.6.09 'Agreement clarifies operation of Holyrood office searches' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2516556.0.Agreement_clarifies_operation_of_Holyrood_office_searches.php

²⁸ Scottish Parliament News Release 5.6.09 'Independent Examination To Be Carried Out On Holyrood's Expenses System' <http://www.scottish.parliament.uk/nmCentre/news/news-09/pa09-017.htm>

²⁹ P. Hutcheon 8.8.09 'Salmond backs scheme to force MSPs to repay second home profits' *The Herald* <http://www.sundayherald.com/news/heraldnews/display.var.2524605.0.0.php>

³⁰ J. Allardyce 7.6.09 "'Recall' plan could see unwanted MSPs ousted' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6446185.ece>

The experience so far of minority government is that the Scottish Parliament committees have still not become the 'motor of a new politics'. To some extent this could have been predicted because, although the Consultative Steering Group stressed the need for 'power sharing' between the Scottish Parliament and Scottish Executive, there was no equivalent move to share the resources (e.g. the vast majority of civil service resources are held by the Scottish Government) or the responsibility for policy initiation (with committees there to check that the Scottish Government consults with policy participants, scrutinise legislation when presented and, on rare occasions, initiate legislation when there is a perceived gap). From 1999-2007 there were additional reasons for a less-than-anticipated role for committees: the ability of the Labour/ Liberal Democrat coalition to dominate the parliamentary arithmetic in both plenary and committee undermined the ability of committees to pursue inquiries likely to be critical of existing policy, while the scale of legislation coming from the Scottish Executive undermined their ability to do anything but scrutinise government policy. Thus, the rallying cry of the committee legacy reports was for fewer government bills, to ensure that they also had time to set the agenda (although note that there were, of course, no equivalent calls for a reduction in party whipping to ensure that committees were businesslike). Yet, the reduction in legislation (in both numbers of bills and numbers of sections within them) and a consequent rise in free committee time has not produced the predicted results. The high-impact agenda setting inquiry is still a rare beast in the Scottish Parliament. Instead, opposition MSPs have focused on headline-grabbing, short term inquiries. There is also limited evidence to suggest that businesslike committees are making a difference to Scottish Government bills (the climate change bill may be the only exception so far). Instead, we find more examples of convenors using their casting votes along party lines rather than the once revered status quo, coupled with more examples of committee votes being overturned in plenary when the parliamentary arithmetic changes.³¹

As previous monitors have noted, the best bet for committees is to focus on valence issues that brook no realistic disagreement and/ or issues that do not involve poring over former Scottish Executive policies or set out to criticise existing Scottish Government policy. While this does not leave much room to manoeuvre (and the issues may be complicated further by the party affiliations of individual convenors –

³¹ See for example 9.9.09 'Parliament supports state-funded lawyers at children's hearings' *The Herald* <http://www.heraldscotland.com/news/politics/parliament-supports-state-funded-lawyers-at-children-s-hearings-1.918795>

e.g. Finance is SNP-led while Audit is Labour-led), there are some useful examples of reports not subject to division in this period. Perhaps most impressive is the report by Health and Sport which criticises the lack of sufficient *implementation* of widely-agreed policies on child and adolescent mental health services. In other words, this represents an attempt to raise the Scottish Government's (and the Scottish Executive's before it) own policy higher on its own agenda (in part by highlighting the most newsworthy problems).³² Local Government and Communities urges the Scottish Government (as Finance did to the former Scottish Executive) to take a more active role in any local authority attempts to coordinate their responses to Single Status (an agreement between local authorities and trade unions to harmonise the pay and conditions of male and female workers). European and External Relations identifies the problem of EU structural funds during a recession (they rely on matched funding from the private and public sectors which may be less forthcoming) and (among other things) explores the scope to learn from Welsh Assembly Government initiatives (this was also backed by a parliamentary motion in May)³³. Finance (Strategic Budget Scrutiny) considers the adverse effect of recession on future public spending and recommends that subject committees begin to consider how cuts can be made in their areas. Public Audit provides a report which is highly critical of the way that Transport Scotland's chief executive (and Permanent Secretary John Elvidge) dealt with the fact that Transport Scotland's director of Finance and Corporate Services held shares in FirstGroup, the company negotiating with the Scottish Government to extend its rail franchise in Scotland. It has also requested that the Auditor General for Scotland examines the figures given to the committee regarding likely passenger numbers.³⁴ Rural Affairs and Environment also considers how best to support the pig industry in Scotland and ensure that more, affordable, housing is built in rural parts of Scotland (for example, through planning reforms) and that councils are given further powers to maintain stocks of social housing. There are also reports that do not betray much disagreement. For example, while Finance's main bone of contention is whether or

³² Scottish Parliament News Release 23.6.09 'Committee discovers disturbing evidence of under-5s with mental health issues slipping through the net'

<http://www.scottish.parliament.uk/nmCentre/news/news-comm-09/cHandS09-s3-003.htm>

³³ Scottish Parliament Official Report 21.5.09

<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-09/sor0521-02.htm#Col17695>

³⁴ Scottish Parliament News Release 11.6.09 'Transport Scotland Criticised Over Serious Governance Failures' <http://www.scottish.parliament.uk/nmCentre/news/news-comm-09/cau09-s3-005.htm>; Scottish Parliament News Release 24.6.09 'Committee Convener Requests Auditor General Probe Into Rail Franchise Passenger Figures' <http://www.scottish.parliament.uk/nmCentre/news/news-comm-09/cau09-s3-006.htm>

not the Scottish Government's means of negotiating public sector pay with unions should be formalised (the Scottish Government position is that this relationship should be between employee and employer (e.g. the local authorities)), it agrees that a reform of the public sector 'bonus culture' should be reformed.³⁵ This seems less contentious than Economy, Energy and Tourism's internal disagreement over the need for new nuclear power stations to form part of Scotland's energy future. It is therefore all the more impressive that the EET produced such an extensive vision, based on a 12-month inquiry.

There have also been notable attempts by the Parliament to examine how it operates. For example, Public Petitions makes a range of recommendations (to itself) to make sure that the process is more widely known within Scotland, and has a good stab at listing the petitions it thinks have made a difference (see also the developing agenda on knife crime on the back of a petition³⁶). Standards, Procedures and Public Appointments recommends a series of new standing orders to deal with forthcoming Scottish Government 'Hybrid Bills' (public bills which affect private interests – such as the likely Forth Crossing Bill). Most importantly, Finance examined the way that the budget process operates, as part of a broader review by the Standards, Procedures and Public Appointments Committee initiated in plenary in November 2007 (i.e. quickly following the establishment of minority government but before the problems that arose since). It suggests that, although the process compares favourably with budget processes in other countries (and Westminster in particular), it requires some revisions. In particular, while it recognises the basis for stage 1 discussion (to initiate a strategic overview of the budget by expert subject committees who feed into a finance committee report) it suggests that the process does not work effectively. Therefore, there should be a 'new budget strategy phase' to identify the government's aims and priorities and assess the extent to which they have been met. Further, this should be undertaken primarily by the finance committee, to allow more flexibility in the timing of the review and to make it easier to track cross-cutting themes. It also recommends that other committees should 'mainstream' financial considerations into their inquiries and that the Scottish Government should inform Parliament when new policy proposals would trigger significantly new spending

³⁵ B. Currie 23.6.09 'Holyrood call for review of bonuses' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2515859.0.Holyrood_call_for_review_of_bonuses.php; H. Macdonell 23.6.09 'MSPs call for end to big public-sector bonuses' *The Scotsman* <http://news.scotsman.com/politics/MSPs-call-for-end-to.5390287.jp>

allocations.³⁷ Perhaps most significantly, it recommends that significant resources should be available (for the new Financial Scrutiny Unit³⁸) to let committees scrutinise budget plans more effectively. While the Scottish Parliament has always in theory had the power to make alternative budget proposals, it is only with such a resource that any significant suggestions could be reasonably made. Given that the imbalance of resources is the main reason that the Scottish Parliament cannot 'power share' with the Scottish Government, it will be interesting to see if this initiative makes a difference and sets a precedent for 'beefing up' the committee process as a whole (although note that the FSU will draw on existing SPICE staff).

3.8 Committee Reports and Inquiries (20 May 2009 – 28 September 2009)³⁹

European and External Relations:

10 June 2009 [1st Report 2009: The impact of the financial crisis on EU support for economic development](#)

Finance:

29 June [5th Report 2009: Report on the Review of the Budget Process \(Response from the Scottish Government\)](#)

22 June [4th Report 2009: Report on Public Sector Pay \(Response from the Scottish Government\)](#)

9 June [2nd Report 2009: Strategic Budget Scrutiny](#)

Public Audit:

11 June 2009 [6th Report 2009: The First ScotRail passenger rail franchise](#)

³⁶ R. Dinwoodie 12.8.09 'Labour petition on knives goes to Holyrood' *The Herald* [http://www.theherald.co.uk/politics/news/display.var.2525073.0.Labour petition on knives goes to Holyrood.php](http://www.theherald.co.uk/politics/news/display.var.2525073.0.Labour%20petition%20on%20knives%20goes%20to%20Holyrood.php)

³⁷ 30.6.09 'Report recommends Holyrood spending alert' *The Herald* [http://www.theherald.co.uk/politics/news/display.var.2517248.0.Report recommends Holyrood spending alert.php](http://www.theherald.co.uk/politics/news/display.var.2517248.0.Report%20recommends%20Holyrood%20spending%20alert.php)

³⁸ Scottish Parliament News Release 24.9.09 'Parliament Creates Financial Scrutiny Unit' <http://www.scottish.parliament.uk/nmCentre/news/news-09/pa09-049.htm>

³⁹ Excluding most annual reports, financial memoranda, budget reports (which are brought together by the Finance Committee's stage 2 report) and reports on subordinate legislation (which can be tracked more systematically on the committee webpage). From this edition the lists also exclude reports on legislative consent memoranda (these can be tracked more easily from the Scottish Government's own records - <http://www.scotland.gov.uk/About/Sewel/SessionThree>) and stage 1 reports on proposed legislation (these can be tracked more easily in the Scottish Parliament's bills section - <http://www.scottish.parliament.uk/business/bills/index.htm>). In other words, the focus of this list is on non-routine publications such as committee inquiries conducted at their discretion. For the committee issues that the Scottish Parliament chose to publicise, see <http://www.scottish.parliament.uk/nmCentre/news/index.htm>

Public Petitions:

16 June 2009 [3rd Report 2009: Inquiry into the public petitions process](#)

Standards, Procedures and Public Appointments:

16 June 2009 [7th Report 2009: Hybrid Bills](#)

Subordinate Legislation:

29 June 2009 [37th Report 2009: Report of Scottish Statutory Instruments laid in 2008](#)

Economy, Energy and Tourism:

30 June 2009 [7th Report 2009: Determining and delivering on Scotland's energy future](#)

Health and Sport

22 June 2009 [7th Report 2009: Inquiry into child and adolescent mental health and well-being](#)

Local Government and Communities:

10 June 2009 [12th Report 2009: Equal Pay in Local Government](#)

Rural Affairs and Environment:

25 June 2009 [10th Report 2009: The Pig Industry \(Government response\)](#)

7 May 2009: [5th Report 2009: Rural Housing \(Government response\)](#)

3.9 Parliamentary Bills (20 May 2009 – 28 September 2009)

Following a relatively significant flurry of legislative activity, the SNP is more difficult to describe as 'work-shy'. Since anything more than 50 bills in four years is considered excessive by Scottish Parliament committees (assuming that many are fairly complex and require significant scrutiny), particularly since many of the former Scottish Executive's policies did not require legislation, then 15 in just over two years may be approaching a respectable number under minority conditions. Yet, these numbers may be misleading for at least two reasons. First, they may be relatively simple bills with few sections. Second, they may not be bills likely to set the heather on fire. For example, two were budget bills, four – preparing for the commonwealth games, reforming the judiciary and courts, reforming public health law, revising the law on sexual offences – were inherited, and three - on asbestos-related

compensation (which arose unexpectedly following a House of Lords ruling), convention rights (following a Lords ruling on slopping out), decoupling local and Scottish Parliament elections - arose unexpectedly in the course of the Parliament. This leaves six bills – abolishing bridge tolls and the graduate endowment, introducing health board elections, addressing climate change, addressing additional support needs in education, updating flood prevention legislation – that can be traced directly and meaningfully to the SNP manifesto.

Scottish Government Bills Passed:

- [Climate Change \(Scotland\) Act 2009](#) – to set long term (2050) and annual targets for the reduction of greenhouse gases and confer powers on Scottish Ministers to help meet them (e.g. to impose duties on public authorities) (see 4.9).
- [Convention Rights Proceedings \(Amendment\) \(Scotland\) Act 2009](#) – an emergency bill (stages 1 to 3 taken on the same day) to ensure that claims for compensation related to the Human Rights Act 1998 (consistent with the principles of the European Convention on Human Rights) can only be made within one year of the relevant breach of the Act. It was introduced to address compensation claims in Scotland made by prisoners made to ‘slop out’ (see previous monitors).
- [Education \(Additional Support for Learning\) Act 2009](#) - to amend the Education (Additional Support for Learning) (Scotland) Act 2004 to reform the process in which parents of children with additional support needs make requests to place children in schools outwith their local authority area (and any subsequent appeals to the Additional Support Needs Tribunal if a request is refused).
- [Flood Risk Management \(Scotland\) Act 2009](#) - to reform flood management by assigning greater responsibility to SEPA, requiring SEPA to produce flood risk assessments and management plans, and transpose the EU Floods Directive.
- [Scottish Local Government \(Elections\) Act 2009](#) – to decouple local and Scottish Parliament elections following the spoiled ballot paper debacle in 2007 and subsequent Gould investigation.⁴⁰

⁴⁰ The move is also consistent with proposals originally made in the McIntosh, Kerley and Arbuthnott Reports – see S. Herbert (2009) *Scottish Local Government (Elections) Bill*, SPICe briefing 09/21 <http://www.scottish.parliament.uk/business/research/briefings-09/SB09-21.pdf>

- [Sexual Offences \(Scotland\) Act 2009](#) - to consolidate and clarify the law on sexual offences, largely in line with the Scottish Law Commission report (commissioned by the Scottish Executive in 2004, in part to address Scotland's low conviction rates for rape offences). Particular attention is given to the boundary between rape and sexual assault, sexual offences against children, sexual offences committed by young children (and in which venue they should be prosecuted) and consensual sexual activity between older children.

Scottish Government Bills in Progress:

- [Arbitration \(Scotland\) Bill](#)
- [Criminal Justice and Licensing \(Scotland\) Bill](#)
- [Interpretation and Legislative Reform \(Scotland\) Bill](#)
- [Marine \(Scotland\) Bill](#)
- [Public Services Reform \(Scotland\) Bill](#)
- [Schools \(Consultation\) \(Scotland\) Bill](#)
- [Tobacco and Primary Medical Services \(Scotland\) Bill](#)

Members' Bill Passed:

- [Offences \(Aggravation By Prejudice\) \(Scotland\) Act 2009](#) (Patrick Harvie, Green, supported by the Scottish Government) – to extend existing provision for aggravated offences (racial or religious prejudice is already covered) to a victim's actual or presumed sexual orientation, transgender identity or disability.⁴¹

Members' Bills in Progress⁴²

- [Control of Dogs \(Scotland\) Bill](#)

3.10 Sewel (Legislative Consent) Motions passed (20 May 2009 – 25 September 2009)⁴³

None passed.

⁴¹ See G. Ross (2009) Offences (Aggravation by Prejudice) (Scotland) Bill, SPICe briefing 04/41 <http://www.scottish.parliament.uk/business/research/briefings-08/SB08-41.pdf>

⁴² For a list of Members' Bill Proposals see <http://www.scottish.parliament.uk/business/bills/membersBills.htm>

4. Scottish Government and Public Policy⁴⁴

Paul Cairney

Key Points:

- The neutrality and conduct of senior Scottish Government civil servants has come under considerable opposition party scrutiny
- The agendas on public spending and expenses have focused attention to the size and cost of the Scottish public sector
- There is still a clear difference in the UK and Scottish Government approaches to targetry
- The recession (and Diageo affair) has further exposed the limited levers the Scottish Government enjoys over the economy
- The swine flu pandemic has exposed intergovernmental disagreement over treatment funding
- The Scottish Government continues to build on tobacco controls and further the agenda on alcohol regulation
- The parties continue to disagree over short term sentencing and progress made on police numbers, but have worked well together on sexual offences legislation
- The SNP seems at its most vulnerable when defending its record on education
- Blame-avoidance may be more likely than earlier intervention in social work cases
- The Climate Change Act introduces new targets to reduce emissions
- Scottish crofting policy remains unresolved
- New council housing may not be enough to address bigger problems of affordable and social rented housing
- The new 'Scottish Six' may come from the STV, not the BBC

4.1 The Scottish Government

⁴³ A full list of motions and links to SPOR discussions is provided by the Scottish Government <http://www.scotland.gov.uk/About/Sewel/SessionThree> (but note that it lists all potential motions rather than those proposed and passed)

⁴⁴ To shorten the length of this chapter, I have not included all references to media coverage of some events described. Instead, these can be found at <http://paulcairney.blogspot.com/2009/10/scottish-government-and-public-policy.html>

As the introduction to this report suggests, most attention to the Scottish Government in this period was focussed on the release of the Lockerbie bomber. More recently, opposition parties (and Scottish Labour in particular) have explored the chance to criticise the Scottish Government through its civil service. Permanent Secretary John Elvidge has come under particular scrutiny in this period. Elvidge has been on Labour's radar for some time following his statement in 2007 suggesting that the Scottish civil service was effectively operating independently, his involvement in 2008 in debates between the Treasury and the Scottish Government about the adequacy of the Scottish budget and, in 2009, his involvement (criticised by the Public Audit Committee – see 3.7) in the governance of Transport Scotland.⁴⁵ In August, Labour complained about the tone of Elvidge's article to the Commonwealth Parliamentary Association, which suggested that the administrative reorganisation of the Scottish Government represented a marked improvement.⁴⁶ In September it pounced on the suggestion from a leaked Scottish Government minute that senior civil servants favoured using 'conflict and confrontation' as part of their overall strategy when dealing with UK Government departments.⁴⁷ It also alleges that Elvidge is taking the Scottish Government's side over the latest factual debate with the UK Government on the adequacy of the Scottish Government's budget⁴⁸ and on opposition party complaints that the SNP Government is using National Conversation events and holding cabinet meetings outside Edinburgh to further its by-election campaign.⁴⁹ Overall, there is some disquiet that neutral civil servants are supporting the biases of their political masters by, for example, articulating their priorities in relation to National Conversation aims. Yet, this is to present a skewed notion of the relationship between ministers and civil servants based on the unrealistic idea that the latter have some objective higher level of loyalty to the Crown. Rather, civil servants exist to implement the policies of the ministers they serve.

⁴⁵ See previous monitors: Cairney, September 2007: 17; Cairney, January 2008: 10-11; Cairney, May 2009: 41.

⁴⁶ T. Gordon 3.8.09 'Sir John Elvidge in 'bias' row' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article4449102.ece>

⁴⁷ E. Barnes 7.9.09 'Top civil servants plan for break-up of the UK' *The Scotsman*

<http://thescotsmen.scotsmen.com/latestnews/Top-civil-servants-plan-for.5622286.jp>; A. Macleod

8.9.09 'Civil servants accused of stoking conflict with UK' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article6825340.ece> The other, much less newsworthy strategies were competing, co-existing and collaboration

⁴⁸ D. Maddox 22.9.09 'Pressure piles on Scotland's top mandarin over 'Nationalist bias'' *The Scotsman*

<http://news.scotsmen.com/scotland/Pressure-piles-on-Scotland39s-top.5666456.jp>

⁴⁹ A. Macleod 6.8.09 'Salmond accused of using public funds to campaign' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article6741605.ece>

There has also been a miscellany of stories continuing long-term themes: companies can pay the SNP to be in the presence of Scottish Government ministers; ministers do not use enough green transport; and, in this age of austerity (and expenses scandals), the Scottish Government is not doing enough to cut extraneous hospitality and travel costs. More substantively, the prospect of a reduced budget has focused attention on the overall cost of the public sector – in terms of the overall numbers of staff employed, the salaries enjoyed by key executives and the perennial issue of number and cost of quangos. While the Scottish Government line is that the number of quangos in Scotland is falling (see 5.5), we will not have the full picture without examining the number of employees and their costs⁵⁰ or, more ambitiously, a measure of what they deliver at a certain cost.⁵¹

4.2 Public Sector Targets

The UK Government's latest document on public sector reform was portrayed in *The Telegraph* as a U-turn on its previous commitment to stringent targets backed by strong central control.⁵² As such, this would represent significant convergence with devolved government policies and policy styles. Yet, further inspection of this document suggests something else: that adherence to targets (particularly in the NHS) is so accepted in the UK public sector that the process no longer requires strong central direction. As such, they have become 'guarantees' that consumers of public services can count on (and complain about if they are not delivered). No such guarantees are provided by the Scottish Government's targets (although NHS targets are still being met), providing opposition parties with easy headlines (rather than a more mature debate on the effectiveness of targets).⁵³

4.3 The Economy

Although it annoyed the unions when Scottish Enterprise Minister Jim Mather said it, the Scottish economy may be less hard hit (in terms of unemployment and growth)

⁵⁰ D. Maddox 27.6.09 'Quango row blamed on SNP' *The Scotsman*

<http://news.scotsman.com/politics/Quango-row-blamed-on-SNP.5407516.jp>

⁵¹ See also a similar debate regarding the UK Government – e.g. M. Settle 7.6.09 'Whitehall hits back at attack on quangos' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2518550.0.Whitehall_hits_back_at_attack_on_quangos.php

⁵² HM Government/ Cm 7654 (June 2009) *Building Britain's Future*

http://www.hmg.gov.uk/media/27749/full_document.pdf; P. Johnston 29.6.09 'The ultimate turnaround from Labour, the dying Government' *The Telegraph*

<http://www.telegraph.co.uk/comment/columnists/philipjohnston/5681147/The-ultimate-U-turn-from-Labour-the-dying-Government.html>

⁵³ J. Allardyce 21.6.09 'Scottish government missing half of targets' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article6544131.ece>

than the UK average.⁵⁴ However, it also grows more slowly than the UK average and so may take longer to recover from recession. Usually this is not worrying because the UK average masks much higher activity in the south and south east of England and Scotland does well compared to the rest. However, there is now some suggestion that regions with large public sectors (like the devolved territories) are the least well equipped to grow.⁵⁵ Perhaps the more pressing problem for a devolved government is the lack of policy levers to influence economic development (including control over North Sea oil revenues⁵⁶). For example, there is still no resolution to the funding of the Forth bridge (which effectively needs Treasury approval), while the Scottish Futures Trust still does not look like a realistic way to get round Treasury rules on borrowing for capital projects. The Scottish Government's attempts to stop Diageo closing down key operations in Scotland proved unsuccessful⁵⁷ (while Whyte and MacKay cited alcohol policy reform as one reason for its decision to cut jobs in Scotland).⁵⁸ Following its deal with Scottish Labour in the last annual budget, one of its key levers is to fund and subsidise apprenticeships.⁵⁹ It also has the power to reform planning laws to aid building projects, relax the regulations on bankruptcy⁶⁰ and pay businesses promptly⁶¹ and provides funding for employment-based training.⁶² There have also been calls for colleges and universities to make a bigger contribution.⁶³ The recession has also highlighted another interesting connection

⁵⁴ A. Macleod 13.8.09 'Jim Mather rebuked by unions over Scottish unemployment claims' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6793706.ece>

⁵⁵ B. Jamieson 23.7.09 'Scotland 'will fall to 9th' in UK economic league table' *The Scotsman* <http://news.scotsman.com/politics/Scotland-39will-fall-to-9th39.5485838.jp>

⁵⁶ 26.7.09 'Time for oil fund - Finance Secretary' *Scottish Government News Release* <http://www.scotland.gov.uk/News/Releases/2009/07/24154201>

⁵⁷ B. Currie 10.9.09 'Scotland always at the mercy of global firms' *The Herald* <http://www.heraldscotland.com/comment/brian-currie/scotland-always-at-the-mercy-of-global-firms-1.918928>

⁵⁸ D. Maddox 5.8.09 'Whyte & Mackay axes sixth of workforce' *The Scotsman* <http://news.scotsman.com/politics/Whyte-amp-Mackay-axes-.5523075.jp>

⁵⁹ 18.6.09 'Modern Apprenticeships' *Scottish Government News Release* <http://www.scotland.gov.uk/News/Releases/2009/06/18090631>; S. Macnab 11.6.09 'Firms will be offered £2,000 to 'adopt' apprentices' *The Scotsman* <http://news.scotsman.com/politics/Firms-will-be-offered-2000.5354644.jp>

⁶⁰ 23.6.09 'Dealing with debt' *Scottish Government News Release* <http://www.scotland.gov.uk/News/Releases/2009/06/23115155>

⁶¹ 19.6.09 'Prompt payment for businesses' *Scottish Government News Release* <http://www.scotland.gov.uk/News/Releases/2009/06/19131609>

⁶² 19.6.09 'Funding to help people find work' *Scottish Government News Release* <http://www.scotland.gov.uk/News/Releases/2009/06/19105402>

⁶³ 2.6.09 'Help through the downturn' *Scottish Government News Release* <http://www.scotland.gov.uk/News/Releases/2009/06/02153159>; L. McIntosh and J. Sugden 9.7.09 'Colleges must help employers find way through recession' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6677571.ece>

between reserved and devolved issues, following UK Government measures to make sure that those with mental health problems retain their jobs.⁶⁴

4.4 Healthcare and Public Health

The swine flu pandemic has raised an interesting issue regarding Scottish funding. While critical accounts of Scottish financial advantage suggest that the expense of initiatives such as free prescriptions (and the provision of expensive drugs often not provided by English health authorities) is met by the English taxpayer, recent developments suggest that the lack of equivalent policies for England allows the English NHS to maintain a relatively large surplus.⁶⁵ This has come in handy following calls by the Scottish Government for the Treasury to fund swine flu treatment as a national emergency. Instead, the Treasury has argued that the money should come from the NHS budget, knowing that this can be delivered in England.⁶⁶ If not for the swine flu, other issues such as C difficile (the Vale of Leven will now be subject to a public inquiry) and MRSA (a new screening process has been announced) may have received more attention. So too would drugs policy be higher on the agenda, particularly since there is still a battle of ideas taking place between critics of methadone treatments and harm reduction (including most notably the Scottish Conservatives) and those who recommend going further, to emulate pilots in England which prescribe heroin instead (the Scottish Government has announced that it will introduce a HEAT target on drugs in November⁶⁷).⁶⁸ The battle of ideas is also raging in relation to the future of a free NHS.⁶⁹

4.5 Cigarettes, Alcohol and Food

⁶⁴ 24.8.09 'Help to keep the mentally fragile in work' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2526987.0.Help_to_keep_the_mentally_fragile_in_work.php

⁶⁵ R. Smith 27.8.09 'NHS set for record £1.75bn surplus as patients protest over cancer drugs' *The Telegraph* <http://www.telegraph.co.uk/health/2633064/NHS-set-for-record-1.75bn-surplus-as-patients-protest-over-cancer-drugs.html>

⁶⁶ D. Maddox 24.6.09 'Swine-flu row erupts as Westminster rules out vaccination cash' *The Scotsman* <http://news.scotsman.com/politics/Swineflu-row-erupts-as-Westminster.5394263.jp>

⁶⁷ 1.6.09 'Target for drug treatment' *Scottish Government News Release* <http://www.scotland.gov.uk/News/Releases/2009/06/01083004>

⁶⁸ 15.9.09 'Expert in heroin prescribing call' *BBC* <http://news.bbc.co.uk/1/hi/scotland/8256402.stm>; M. Reid 13.8.09 'Scottish government accused of accepting steep rise in drug-related deaths' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6793746.ece>

⁶⁹ A. Pollock 22.6.09 'Rationing and charges would destroy NHS principles' *The Scotsman* <http://news.scotsman.com/politics/Rationing-and-charges-would-destroy.5387033.jp>; L. Moss 22.6.09 'Free NHS cannot survive, doctors told' *The Scotsman* <http://news.scotsman.com/politics/Free-NHS-cannot-survive-doctors.5387065.jp>

The BMA recently praised the Scottish Parliament as a forum to deliver innovative public health laws, citing the smoking ban as the most important policy in its ten years.⁷⁰ The ban has not only opened the door for further tobacco restrictions (the latest is a proposed ban on tobacco displays at point-of sale, while there are calls to criminalise the act of buying cigarettes for children⁷¹), but also other controls justified on public health grounds, such as the proposed (by an MSP) ban on trans fats⁷² and the Scottish Government's agenda on alcohol policy (backed by some damning evidence of alcohol use in Scotland).⁷³ The key development in this period is the introduction of new licensing regulations (based on the Licensing (Scotland) Act 2005 passed by the previous Scottish Executive) giving licensing boards a wider remit when considering the fitness of someone applying to hold a license to sell alcohol, and to review existing license holders (in part by clarifying the rights of individuals and organisations to complain about particular premises).⁷⁴ Some reports have suggested that the regulations will be used to support minimum pricing 'by stealth' because in theory licensing boards could argue that (say) buy-one-get-one-free offers in supermarkets promoted anti-social behaviour. Yet, this has been countered by the Glasgow Licensing Board which argues that the regulations are not strong enough.⁷⁵ In any case, the Scottish Government has already accepted the need for parliamentary support on minimum pricing⁷⁶ (and, ideally, some degree of support from the drinks industry).⁷⁷

4.6 Justice

⁷⁰ 30.6.09 'Praise for Holyrood 'maturity'' *The Scotsman* <http://news.scotsman.com/politics/Praise-for-Hollyrood-39maturity39.5411864.jp>

⁷¹ D. Maddox 25.9.09 'Tobacco display ban moves a step closer with Holyrood vote' *The Scotsman* <http://news.scotsman.com/politics/Tobacco-display-ban-moves-a.5678646.jp>

⁷² C. Sweeney 10.6.09 'Holyrood bid to banish trans fats from Scots diet' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6474478.ece>

⁷³ E.g. 30.6.09 'Alcohol-related deaths' Scottish Government News Release <http://www.scotland.gov.uk/News/Releases/2009/06/30102232>

⁷⁴ 30.8.09 'New licensing laws come into force' *Scottish Government News Release* <http://www.scotland.gov.uk/News/Releases/2009/08/28142140>

⁷⁵ E. Barnes 31.8.09 'SNP accused of drink crackdown by stealth' *The Scotsman* <http://news.scotsman.com/politics/SNP-accused-of-drink-crackdown.5601936.jp>; B. Currie 12.9.09 'Glasgow 'will not go out on a limb' over alcohol promotions' *The Herald* <http://www.heraldscotland.com/news/politics/glasgow-will-not-go-out-on-a-limb-over-alcohol-promotions-1.919379>

⁷⁶ D. Maddox 23.6.09 'Minimum prices for alcohol a step closer as Lib Dems hint at U-turn' *The Scotsman* <http://news.scotsman.com/politics/Minimum-prices-for-alcohol-a.5390329.jp>; 16.8.09 'Labour backing paves way for minimum pricing of alcohol' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2525813.0.Labour_backing_paves_way_for_minimum_pricing_of_alcohol.php

⁷⁷ *Scottish Government News Release* 22.6.09 'Alcohol Summit' <http://www.scotland.gov.uk/News/Releases/2009/06/22102738>

It now seems a very long time ago that Kenny MacAskill was coming under pressure regarding Brian Martin's escape from an open prison (see also 3.2 – this was the subject of a complaint made about Alex Salmond).⁷⁸ The issue of short-term prison sentencing ('one of the most bitterly contested issues since the SNP took power in 2007'⁷⁹) is less likely to be short lived. MacAskill's stance has been bolstered in this period by further complaints about prison overcrowding which undermines rehabilitation efforts and new statistics which suggest that reoffending rates among short-term prisoners is high (3 of 4 reoffend within 2 years) and the continued support of former Labour First Minister Henry McLeish.⁸⁰ However, opposition parties (and Scottish Labour in particular) continue to use his stance as a sign of weakness, particularly when linked to the issue of knife crime.⁸¹ There is similar conflict over the issue of police numbers, with Labour suggesting that the Scottish Government's success at meeting an interim target will be short lived given the financial crisis in the police force.⁸² There is more consensus on the Scottish Government's sexual offences bill (see 3.9), with signs that MSPs are engaging in the details and the Scottish Government is open to amendments.⁸³ See also 3.9 on the resolution to claims made regarding slopping out.

4.7 Education

The SNP seems at its most vulnerable when defending its record on education, particularly when issues such as the number of teachers in work, school class sizes, the curriculum for excellence, the condition of the school estate, free nursery care, student debt and the long-term financing of universities are on the agenda (see also

⁷⁸ R. Dinwoodie 28.5.09 'Inquiry as MacAskill admits escapee should not have been in open prison' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2510828.0.Inquiry_as_MacAskill_admits_escapee_should_not_have_been_in_open_prison.php

⁷⁹ 4.7.09 'Justice secretary has an uphill struggle over short sentences' *The Scotsman*

<http://news.scotsman.com/politics/Justice-secretary-has-an-uphill.5429087.jp>

⁸⁰ 31.8.09 'Reconviction rates' *Scottish Government News Release*

<http://www.scotland.gov.uk/News/Releases/2009/08/31095423> ; 31.8.09 'Most short-term inmates reoffend' *BBC News* <http://news.bbc.co.uk/1/hi/scotland/8230215.stm>; S. Naysmith 17.9.09

'Overcrowded prisons 'not able to offer rehabilitation'' *The Herald*

<http://www.heraldscotland.com/news/crime-courts/overcrowded-prisons-not-able-to-offer-rehabilitation-1.920390>

⁸¹ J. Quinn 12.8.09 'Labour leader accuses SNP of being soft on knife crime' *The Scotsman*

<http://news.scotsman.com/politics/Labour-leader-accuses-SNP-of.5544061.jp>

⁸² L. McIntosh 3.8.09 'Cash crisis could derail SNP plans on policing' *The Times*

<http://www.timesonline.co.uk/tol/news/uk/scotland/article6736830.ece>

⁸³ 10.6.09 'MSPs move to close loophole in new rape bill' *The Herald*

http://www.theherald.co.uk/politics/news/display.var.2513445.0.MSPs_move_to_close_loophole_in_new_rape_bill.php

3.5).⁸⁴ However, in many cases there are understandable problems, such as the choice between training more teachers and making sure that existing trainees can find work and balancing two potentially contradictory policy aims – such as the aim to produce national policies on class sizes and the curriculum, but also to foster local government autonomy which will inevitably produce territorial variations. As 5.1 discusses, there is also some confusion about the primary purpose of the Scottish Government decision to reduce the legal maximum primary 1 class size from 30 to 25 to reduce the ability of parents to appeal to ‘close a legal loophole that has undermined the government’s policy on class sizes’ while giving local authorities some flexibility when trying to meet the target of 18.⁸⁵ Not surprisingly, the agenda on raising top-up fees in England has reignited calls for their introduction in Scotland.⁸⁶ As 3.5 suggests, this would be much more likely under a Labour-led Scottish Government.

4.8 Social Services and Social Work

The cases of Brandon Muir and Baby P have prompted calls for social workers to intervene more and take children into care quicker.⁸⁷ Yet, the main response may actually be what Hood et al call institutionalised ‘blame-avoidance’⁸⁸ as social work departments react to media and political criticism.⁸⁹ A report by the Care Commission suggests that only half of all care homes meet national standards on

⁸⁴ L. McIntosh 25.9.09 ‘Fiona Hyslop battered by universities on teacher training cuts’ *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6847980.ece>; L. McIntosh 8.7.09 ‘New school curriculum ‘complete nonsense’ says its creator’ *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6670559.ece>; S. Johnson 28.9.09 ‘Alex Salmond accused of two years’ ‘paralysis’ over school building’ *The Telegraph* <http://www.telegraph.co.uk/news/newstoppers/politics/scotland/6240734/Alex-Salmond-accused-of-two-years-paralysis-over-school-building.html>; W. Humes 25.9.09 ‘Education crisis a political and professional failure’ *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6847981.ece>; F. Macleod 17.7.09 ‘Increase in free nursery hours not enough for critics’ *The Scotsman* <http://news.scotsman.com/politics/Increase-in-free-nursery-hours.5468792.jp>

⁸⁵ A. Denholm 23.9.09 ‘Hyslop to enforce Primary 1 classes of 25 pupils’ *The Herald* <http://www.heraldscotland.com/news/education/hyslop-to-enforce-primary-1-classes-of-25-pupils-1.921623>

⁸⁶ L. McIntosh 11.9.09 ‘Scotland ‘must bring back tuition fees’’ *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6830010.ece>

⁸⁷ E. Barnes 12.8.09 ‘Call for children at risk to be taken in to care sooner’ *The Scotsman* <http://news.scotsman.com/politics/Call-for-children-at-risk.5544537.jp>

⁸⁸ Christopher Hood, Will Jennings and Brian Hogwood, with Craig Beeston (2007) ‘Fighting Fires in Testing Times: Exploring a Staged Response Hypothesis for Blame Management in Two Exam Fiasco Cases’, Carr Research Paper 42 <http://www.lse.ac.uk/collections/CARR/pdf/DPs/Disspaper42.pdf>

⁸⁹ T. Maxwell 20.8.09 ‘Brandon Muir: media’s obsession with child tragedies a danger, warns peer’ *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6802760.ece>

nutrition.⁹⁰ While the introduction of ‘free’ personal care for older people in Scotland was a flagship policy for the former Scottish Executive it was not a panacea. Thus, the UK Government’s Green Paper on the issue may reignite the agenda in Scotland.⁹¹

4.9 Energy, Transport and Environment

The biggest development in this period is the passing of the Climate Change (Scotland) Act 2009 (see 3.9). Following some negotiation with the Scottish Parliament, the Scottish Government brought forward its interim target from 2030 to 2020 and increased the proposed reduction in emissions from 34% to 42%.⁹² The Scottish Government also has also opened consultation on waste targets.⁹³ The debate over the Beaulieu to Denny line continues despite some (much criticised) attempts by MSPs to speed up the process.⁹⁴ The Scottish Government is still hopeful that the high speed rail link will reach Scotland and that Scotland’s road vehicles will be electric or low carbon within 10 years.⁹⁵ Civil servants in the UK and Scottish Governments have been accused of delaying renewable energy incentives and home lagging respectively.⁹⁶

4.10 Agriculture, Fish, Food and Water

The Scottish Government has followed a long tradition in producing crofting policies not welcomed by crofters’ representatives (or not implementing existing policy).⁹⁷ It

⁹⁰ C. Sweeney 17.9.09 ‘Elderly not fed properly at care homes’ *The Times*
<http://www.timesonline.co.uk/tol/news/uk/scotland/article6838746.ece>

⁹¹ M. Beckford 14.7.09 ‘Care funding: pros and cons of the options’ *The Telegraph*
<http://www.telegraph.co.uk/news/uknews/5827368/Care-funding-pros-and-cons-of-the-options.html>

⁹² K. Wright (2009) Climate Change (Scotland) Bill: Stage 3, SPICe briefing, 09/43
<http://www.scottish.parliament.uk/business/research/briefings-09/SB09-43.pdf>; BBC News 23.6.09
‘Climate change targets ‘tougher’’ <http://news.bbc.co.uk/1/hi/scotland/8114193.stm>

⁹³ F. Urquhart 21.8.09 ‘Minister unveils plans for a ‘zero waste’ Scotland’ *The Scotsman*
<http://news.scotsman.com/politics/Minister-unveils-plans-for-a-5575188.jp>

⁹⁴ D. Ross 1.7.09 ‘MSPs under fire over Beaulieu to Denny line’ *The Herald*
theherald.co.uk/politics/news/display.var.2517421.0.MSPs_under_fire_over_Beaulieu_to_Denny_line.php

⁹⁵ 8.6.09 ‘High speed rail link’ *Scottish Government News Release*
<http://www.scotland.gov.uk/News/Releases/2009/06/08144836>; D. Maddox 29.6.09 ‘Scots vehicles to go electric in next ten years, vow ministers’ *The Scotsman* <http://news.scotsman.com/politics/Scots-vehicles-to-go-electric.5408964.jp>

⁹⁶ A. Seager 12.7.09 ‘Civil servants accused of delaying renewable energy incentives’ *The Guardian*
<http://www.guardian.co.uk/business/2009/jul/12/renewable-energy-feed-in-tariffs>; D. Maddox 28.5.09
‘Home lagging row rolls on’ *The Scotsman* <http://news.scotsman.com/politics/Home-lagging-row-rolls-on.5309418.jp>

⁹⁷ D. Ross 14.7.09 ‘Crofters mobilising against ‘oppressive’ draft reform bill’ *The Herald*
http://www.theherald.co.uk/politics/news/display.var.2519774.0.Crofters_mobilising_against_oppressive_draft_reform_bill.php

remains opposed to GM food.⁹⁸ The role of the EU continues to produce consternation – for example – the Common Fisheries Policy has come under further attack and sheep farmers are unhappy about electronic tagging.⁹⁹

4.11 Housing and Homelessness

Although the SNP promise to build more council houses seemed like the end of an era (with more funding announced this year)¹⁰⁰, a bigger surprise would come from the implementation of Conservative promises to follow suit in England.¹⁰¹ However, the numbers involved would struggle to make up for shortages in affordable and social rented housing allegedly caused by the right to buy, the rise in repossessions during the recession and the lack of funding available.¹⁰² However, some progress has been made on homelessness targets.¹⁰³

4.12 Culture and Media

The SNP has published its plans for broadcasting under an independent Scotland as part of its National Conversation.¹⁰⁴ More pressing is the funding and provision of broadcasting and newspaper services.¹⁰⁵ The longest running media issue since

⁹⁸ 11.8.09 'GM produce is back on the political menu, says minister' *The Scotsman*
<http://news.scotsman.com/politics/GM-produce-is-back-on.5540973.jp>

⁹⁹ A. Philip 21.9.09 'Failing fishing rules need urgent reform' *The Scotsman*
<http://news.scotsman.com/scotland/39Failing---fishing-rules.5663510.jp>; R. Dinwoodie 28.5.09
'Liberal Democrats flock to Holyrood to protest at 'unworkable' electronic tagging of sheep' *The Herald*
http://www.theherald.co.uk/politics/news/display.var.2510829.0.Liberal_Democrats_flock_to_Holyrood_to_protest_at_unworkable_electronic_tagging_of_sheep.php

¹⁰⁰ J. Quinn 27.6.09 '1,300 new council houses to be built in Scottish towns' *The Scotsman*
<http://news.scotsman.com/politics/1300-new-council-houses-to.5407523.jp>

¹⁰¹ M. Butterworth 12.7.09 'New era of council house-building proposed by Conservatives' *The Telegraph*
<http://www.telegraph.co.uk/news/newsttopics/politics/conservative/5810475/New-era-of-council-house-building-proposed-by-Conservatives.html>

¹⁰² 10.7.09 'Right to buy slammed' *Scottish Government News Release*
<http://www.scotland.gov.uk/News/Releases/2009/07/09142119>; 14.8.09 'Repossession figures' *Scottish Government News Release*
<http://www.scotland.gov.uk/News/Releases/2009/08/14105910>; 1.9.09 'Charity calls for an extra £200m a year for housing in Scotland' *The Herald*
http://www.theherald.co.uk/politics/news/display.var.2528487.0.Charity_calls_for_an_extra_200m_a_year_for_housing_in_Scotland.php

¹⁰³ 5.9.09 'Councils on track to meet targets on housing homeless' *The Scotsman*
<http://news.scotsman.com/politics/Councils-on-track-to-meet.5620534.jp>

¹⁰⁴ R. Dinwoodie 25.9.09 'Salmond defends his controversial broadcasting plans' *The Herald*
<http://www.heraldscotland.com/news/politics/salmond-defends-his-controversial-broadcasting-plans-1.922043>

¹⁰⁵ D. Maddox 14.7.09 'Urgent call to safeguard the future of the Scottish newspaper industry' *The Scotsman*
<http://news.scotsman.com/politics/Urgent-call-to-safeguard-the.5455295.jp>; M. Reid 6.8.09
'Culture Minister demands answers from broadcasters' *The Times*
<http://www.timesonline.co.uk/tol/news/uk/scotland/article6741678.ece>

devolution took a new twist when STV announced it would run the 'Scottish Six'.¹⁰⁶ Although the Homecoming appears to be a success, it seems that the SNP and its opposition can not agree on which parts of Scottish history they should celebrate.¹⁰⁷

¹⁰⁶ A. Brown and J. Belgutay 20.9.09 'Do we want all our news to be Scots-centric?' *The Times* <http://www.timesonline.co.uk/tol/news/uk/scotland/article6841307.ece>

¹⁰⁷ R. Dinwoodie 7.8.09 'Campbell pipes up in praise of devolution and Homecoming' *The Herald* http://www.theherald.co.uk/politics/news/display.var.2524295.0.Campbell_pipes_up_in_praise_of_devolution_and_Homecoming.php ; D. Maddox 16.7.09 'SNP under fire for no plan to mark Reformation' *The Scotsman* <http://news.scotsman.com/politics/SNP-under-fire-for-no.5464002.jp> ; D. Maddox 14.9.09 'Homecoming for Bruce 'SNP brainwashing'' *The Scotsman* <http://news.scotsman.com/politics/Homecoming-for-Bruce-39SNP-brainwashing39.5642990.jp>

5. Government beyond the centre

David Scott

Key points

- While relations between Scotland councils and the Scottish Government continue to be positive there is unease over policies like classroom sizes.
- Key proposals have been published on affordable housing. There is concern over the availability of sufficient funding.
- A Bill on local government elections will allow the poll to be held on a separate day from Scottish Parliament elections.
- The Scottish Government has published pilot plans for the first direct elections to health boards.
- Audit Scotland has published reports on public sector purchasing and asset management as well as Best Value audit reports on individual councils.
- A Bill on public service reform aims to reduce the number of public bodies by eight and simplify the structure of the public sector.

5.1 Concordat

Relations between local authorities and the Scottish Government continued to be positive. The body that represents councils, the Convention of Scottish Local Authorities (COSLA), has adopted a low public profile and has publicly resisted criticising the Scottish Government. This is because it is keen to fulfil the partnership agreement it agreed with ministers when it signed the 'historic' Concordat, a document which commits both sides to working together to implement SNP manifesto policies and policies that take account of local priorities.¹⁰⁸ However, a number of individual councils have continued to be concerned about how they can implement key policies in accordance with the Concordat because of tight financial restraints which will become even more severe due to spending restrictions required by the Scottish Government in line with its 2010-11 budget. There are particular concerns in relation to the council tax freeze and the policy of reducing class sizes.

The Scottish Conservatives claimed¹⁰⁹ that more than two-thirds of councils had failed to include the lower class size pledge in their outcome agreements, a new

¹⁰⁸ 'Concordat between Scottish Government and local government', 14.11.08
<http://www.scotland.gov.uk/Publications/2007/11/13092240/concordat>

¹⁰⁹ 'Scottish Tories Slam SNP's class size pledge' 27/07/09 *The Scotsman*

method of assessing whether policies have achieved the desired results. However, ministers denied that they had secretly abandoned the pledge¹¹⁰. It was reported that there was an agreement to end the 'universal delivery' of the policy across Scotland and some political opponents of the government suggested it was no secret that the class-size pledge, first made in the SNP manifesto, had been dropped. There was also controversy over a 'legal loophole' which allowed parents to send their children to schools outside catchment areas in classes with up to 30 pupils. Edinburgh City Council¹¹¹ called on the government to make the target limit of 18 for pupils per class in the first three years of school to be made legally binding.

In his statement on the draft budget,¹¹² the Finance Secretary, John Swinney, confirmed that the resources would again be provided for council tax freeze in 2010-11. It is far from certain whether, in the current economic climate, all councils will be able to maintain a council tax freeze for the third successive year. Those who decide not to increase council tax, however, would suffer the penalty of losing the extra grant which is again being made available for councils who co-operate with the no-increase policy.

5.2 Affordable housing

The Scottish Government, with the support of the Scottish Federation of Housing Associations, COSLA and Homes for Scotland, published a statement¹¹³ on the future of affordable housing investment. Following a consultation on affordable housing, the statement outlined five key proposals shaped by input from the wider housing sector. These included: improving the efficiency and effectiveness of housing association activity across the board, including procurement; setting a standard for development performance; the awarding of three-year budgets to housing associations and groups of associations that are best placed to make use of these; and supporting collaborative groups as a way of bringing local authorities and housing associations together and a new focus on sharing best practice. The

<http://thescotzman.scotsman.com/scottishnationalparty/Tories-slam-SNP39s-classsize-pledge.5495020.jp>

¹¹⁰ David Maddox 27.06.09 'SNP denies abandoning move to cut primary class size' *The Scotsman*

<http://thescotzman.scotsman.com/scotland/SNP-denies-abandoning-move-to.5407692.jp>

¹¹¹ Fiona Macleod 17.06.09 'Demand for legal limit on class sizes' *The Scotsman*

<http://thescotzman.scotsman.com/scotland/Demand-for-legal-limit-on.5371778.jp>

¹¹² Draft Scottish Budget 17.09.09, Finance Secretary's statement to the Scottish Parliament

<http://www.scotland.gov.uk/News/This-Week/Speeches/Weather-and-Fairer/budget>

¹¹³ Scottish Government news release 05/06/09 'Housing investment reform'

<http://www.scotland.gov.uk/News/Releases/2009/06/25172013>

Scottish Government also reacted to a report by Shelter (Scotland)¹¹⁴ referring to the 'growing chasm' between the number of houses needed and the number available. The report, 'Building Pressures' said there were now fewer homes available at any time since 1959. It claimed much of the decline had been as a result of Right to Buy. The survey by Shelter also showed that the number of council houses available to let had dropped dramatically since 2001. At that time there were 3.9 people on council waiting lists for every let. By 2008 it has risen to 6.6 per cent. In a statement,¹¹⁵ the Scottish housing minister, Alex Neil, described the effects of Right to Buy as a 'dreadful legacy' for housing in Scotland. He detailed a number of steps being taken by the government to boost the number of affordable homes. These included investing record amounts in affordable housing – more than £1.5bn over three years; approving grants for a 'record breaking' 8,100 affordable homes and providing £50m to kick-start 'the largest council house building programme for 30 years.'

Official figures published by the Scottish Government showed that, while the number of new builds in the private sector had fallen during the economic down-turn, the number of affordable homes provided by the public sector was at its highest level since the mid-1990s. The number of builds by housing associations and councils now accounted for 23 per cent of new properties compared to just 13 per cent in 2006-07. Plans were also announced for the building of more than 1,343 new council houses with Scottish Government funding of £26m. Housing pressure groups, however, have been voicing concern at the effects of the 2010-11 budget on social housing.¹¹⁶ The money to be spent on affordable housing is due to reduce from £525m this year to £352m next year.

5.2.1 Housing Regulator

¹¹⁴ Shelter (Scotland) news release 10.07.09 'Scotland stares into the housing abyss with fewest number of affordable homes since 1959'

http://scotland.shelter.org.uk/media/press_releases/press_release_folder/2009/scotland_stares_into_housing_abyss_with_fewest_number_of_affordable_homes_since_1959

¹¹⁵ Scottish Government news release 10.07.09 'Right to Buy Slammed'

<http://www.scotland.gov.uk/News/Releases/2009/07/09142119>

¹¹⁶ Katrine Bussey 20.09.09 'Housing Casualty of SNP budget' but fight will go on.' *Scotland on Sunday*, page 11; Shelter (Scotland) Press release 16.09.09 'Battle for housing cash continues'.

http://scotland.shelter.org.uk/news/news/news_folder/2009/september_2009/battle_for_housing_cash_goes_on?SQ_DESIGN_NAME=print

The Scottish Housing Regulator published a report¹¹⁷ which reviewed and commented on the performance of social landlords over the last five years. The review concluded that while 53% of the housing services the Regulator has inspected were good or excellent, just under half, serving 320,000 households, were either poor or only adequate. Scottish Housing Regulator Chief Executive Karen Watt said: 'We recognise that there is much strength and good practice amongst Scotland's social landlords in providing affordable housing. However, over half of tenants are receiving services which are poor or only adequate. Many landlords need to do more to get the basics right and focus on improving services in the future.' The Scottish Housing Regulator also published a progress report¹¹⁸ in which Glasgow Housing Association (GHA) was criticised over its failure to address management weaknesses or set out a 'clear purpose and direction.' The Regulator said GHA, which inherited the city's former council houses, did not effectively lead a review which was ordered by the watchdog 18 months ago following an in-depth inspection. It also failed to consider all the options for its future and did not involve key bodies including tenants, Glasgow City Council and the Scottish Government.

5.3 Elections

5.3.1 Local Government

MSPs passed a Bill¹¹⁹ that will lead to local government elections being held on a separate day from Scottish Parliamentary elections from 2012. Decoupling local government elections from the Scottish Parliament elections was one of the recommendations of the independent review of the Scottish Parliamentary and Local Government Elections 2007 (the Gould Report). Bruce Crawford, Minister for Parliamentary Business said local government elections were an important part of the democratic system in Scotland. He added: 'Our councils do a vital job and it is right that elections to these bodies are given their proper place, rather than

¹¹⁷ Scottish Housing Regulator Press release 22.07.09 'Social landlords in Scotland need to get the basics right' says Scottish Housing Regulator.

http://www.scottishhousingregulator.gov.uk/stellent/groups/public/documents/webpages/SHR_SOCIAL_LANDLORDS_IN_SCOTLAND_hcsp; Scottish Housing Regulator: 22.07.09 'Social landlords in Scotland – Shaping up for Improvement'

http://www.scottishhousingregulator.gov.uk/stellent/groups/public/documents/webpages/shr_shapingup_forimprovement.pdf

¹¹⁸ Scottish Housing Regulator June 2009: 'Glasgow Housing Association progress report'

http://www.scottishhousingregulator.gov.uk/stellent/groups/public/documents/webpages/shr_inspection_reports.hcsp

¹¹⁹ Scottish Parliament official report 17.06.09 Scottish Local Government (Elections) Bill Stage 3

<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-09/sor0617-02.htm#Col18456>

overshadowed by national elections on the same day ... Holding the elections on different dates will help eliminate the voter confusion that was experienced in 2007 and give Scottish local government elections the prominence they deserve.'

5.3.2 Health boards

The Health Secretary, Nicola Sturgeon announced¹²⁰ that NHS Fife and NHS Dumfries and Galloway will pilot the first ever direct elections to health boards. For the first time members of the public will be able to stand for and vote in elections which will see elected members - including council representatives - form a majority on the health board. Also in a Scottish and UK 'first', 16 and 17 year-olds will have the right to stand and vote in a UK election. The minister revealed that two other boards, NHS Lothian and NHS Grampian, will run two non-statutory pilots which will test ways in which we can improve the existing engagement and involvement mechanisms between the public and the NHS. The selection of the pilots follows the Scottish Parliament's unanimous passing of the Health Boards (Membership and Elections) Bill. The choice of Fife and Dumfries and Galloway is designed to ensure that the pilots can test the full range of issues likely to be encountered by a health board in both predominantly urban and rural settings. Elections will take place in spring 2010 and run for at least two years before an independent evaluation. The elections will be carried out as all-postal ballots, along similar lines to elections to Scotland's National Park Authorities, with votes cast on a Single Transferable Vote basis to make sure every vote cast counts.

5.4 Audit Scotland

An Audit Scotland report on public sector purchasing¹²¹ concluded that the public sector in Scotland is improving its purchasing and estimated it had saved more than £300 million since 2006 as a result. It could now make further savings through increased collaboration and better management. The report said the foundations are in place for Scotland's public bodies to further improve their spending on goods and services, worth £8 billion a year. There has been progress in recent years but it has varied across the country and slower than planned. The report considered progress with a programme that was aimed at reforming public procurement and making savings of about three per cent a year. The public sector estimates it has saved a

¹²⁰ Scottish Government Press release 16.06.09 Health board election pilots
<http://www.scotland.gov.uk/News/Releases/2009/06/16100021>

¹²¹ Audit Scotland July 2009 'Improving public sector purchasing' <http://www.audit-scotland.gov.uk/media/>

total of £327 million in the first two years of the programme, which has cost £61 million so far to implement. The public sector should increase the use of collaborative contracts, the report recommended. These are key features of the programme, but were being developed more slowly than expected. According to the report, the health sector had been the most successful in this, introducing 150 new contracts and saving £54 million in the two years to 2007/08.

An Audit Scotland survey on asset management found that many council buildings are in poor condition and others are unsuitable for the services being delivered from them. A report published by the commission¹²² said councils needed better strategies and systems for managing their assets. Audit Scotland found that only around half of the local authorities had a council-wide strategy for asset management and although there was some good management information available it was not always used to support decision-making. The report focused on the 12,400 properties owned by Scotland's councils. In some, over 90% of buildings were in good condition. But across Scotland, one in four council buildings were in poor or bad condition and 23% were unsuitable for the services being delivered from them. Over 1,550 buildings (14%) failed in both respects.

Other reports included an audit of mental health services. In a report¹²³ on the services, Audit Scotland said some people had difficulty in getting the health services they need. Mental health problems caused considerable poor health in Scotland and much had been done to move services from institutions into the community. There now needed to be a better understanding of the care people receive and how resources to support this are best used, the report stated.

A number of Best Value Audit reports were published by Audit Scotland. A progress report on Aberdeen City Council¹²⁴ found that the council had made progress since the publication of a very critical report in 2008. A report on West Dunbartonshire Council¹²⁵ said there had been insufficient progress with key priorities. A report on

¹²² Audit Scotland: 7/05/09 Asset Management in Local Government http://www.audit-scotland.gov.uk/docs/local/2009/nr_090507_asset_management_councils.pdf

¹²³ Audit Scotland: 14.05.09 Overview of Mental Health Services http://www.audit-scotland.gov.uk/docs/health/2009/nr_090514_mental_health.pdf

¹²⁴ Audit Scotland July 2009 'The Audit of Best Value and Community Planning: Aberdeen City Council progress report.' http://www.audit-scotland.gov.uk/docs/local/2009/bv_090730_aberdeen_city.pdf

¹²⁵ Audit Scotland July 2009 'The Audit of Best Value and Community Planning: West Dunbartonshire Council progress report.'

East Dunbartonshire Council¹²⁶ found that although council services had improved, there was positive leadership and good working relationships.

5.5 Public Services Reform

The number of public bodies in Scotland is due to be reduced by eight as a result of the Public Services (Reform) Scotland Bill.¹²⁷ Its main aim will be to 'simplify' public bodies and provide for the transfer of certain functions. It will provide for: the dissolution of certain public bodies; the transfer or delegation of certain specific functions between public bodies and the establishment of new national bodies, for health care and social work scrutiny and for the arts and culture, bringing together and improving the functions of existing separate bodies. New bodies include the arts and culture body, Creative Scotland (as a result of the amalgamation of the Scottish Arts Council and Scottish Screen).

The Bill will provide for the setting up of the Social Care and Social Work Improvement Scotland with scrutiny functions in relation to care services and social services and it will also establish Healthcare Improvement Scotland with scrutiny and other functions concerning services provided in the National Health Services and independent health care services. The Bill also imposes duties on scrutiny bodies in Scotland to co-operate and amends the corporate governance of Audit Scotland.

Many respondents to the finance committee said that the proposals invest too much power in the hands of current and future ministers. For example the Law Society argues that it would be inappropriate to increase ministerial powers over public bodies that require a degree of autonomy.¹²⁸ The view has also been expressed that the Bill represents a missed opportunity for more radical reform. The Chartered Institute of Public Finance and Accountancy (CIPFA) told the finance committee¹²⁹ that the title implies it is a 'tentative step only' towards some elements of reform and the simplification of the public sector landscape. CIPFA also argued that it believed

http://www.audit-scotland.gov.uk/docs/local/2009/bv_090709_west_dunbartonshire.pdf July 2009-09

¹²⁶ Audit Scotland May 2009 'The Audit of Best Value and Community planning: East Dunbartonshire Council'

http://www.audit-scotland.gov.uk/docs/local/2009/bv_090513_east_dunbartonshire.pdf

¹²⁷ Public Services Reform (Scotland) Bill

<http://www.scottish.parliament.uk/s3/bills/26-PubSerRef/index.htm>

¹²⁸ Public Services Reform (Scotland) Bill 08.09.09 Scottish Parliament Finance Committee scrutiny <http://www.scottish.parliament.uk/business/research/briefings-09/SB09-55.pdf>; C. Mackie 11.9.09

'Law Society warns over extra powers for ministers' *The Scotsman*

<http://news.scotsman.com/politics/Law-Society-warns-over-extra.5638414.jp>

¹²⁹ Scottish Parliament finance committee papers 8.09.09

there should be only one overall scrutiny body for Scotland as argued by Professor Lorne Crerar who carried out a major review of the system of regulation, scrutiny and inspection. In a statement, John Swinney, the finance secretary,¹³⁰ stressed that simplification of public services is saving money. He said that, as part of the simplification programme, the Scottish Government had already reduced the number of bodies from 199 to 162. The Public Services Reform Bill and the forthcoming Children's Hearings Bill would shrink that to around 120 bodies by 2011.

<http://www.scottish.parliament.uk/s3/committees/finance/papers-09/fip09-19.pdf>

¹³⁰ Scottish Government news release 17.06.09 'Public Sector Reform

<http://www.scotland.gov.uk/News/Releases/2009/06/17121059>

6. Intergovernmental Relations

Alan Trench

6.1 Introduction

The period between May and September 2009 saw relatively little activity as regards intergovernmental relations in the narrow sense (though there were meetings of the plenary Joint Ministerial Committee and JMC (Domestic)). This is largely because the main areas of activity have been elsewhere. One has been the constitutional debate and issues arising from that (1.1). Another was the row about the release on compassionate grounds of Abdelbaset Ali al-Megrahi (see introduction). What has been notable about that is the lack of intergovernmental liaison: the matter was decided by Kenny McAskill, Justice Secretary, without any evidence of involvement from London (despite claims to the contrary in the press), and with a studious avoidance of comment on the matter by the UK Government.

6.2 Formal intergovernmental relations and high-level ministerial meetings

There were no meetings of the British-Irish Council (whether sectoral meetings or plenary ones) between May and September 2009. A meeting of the JMC (Domestic) took place in late May. Reportedly, it considered migration-related issues including 'Fresh Talent' and Scotland's demographic problems. No communiqué was issued.

The plenary meeting of the Joint Ministerial Committee scheduled for June 2009 was postponed, apparently because of the political difficulties in Westminster following the MPs' expenses scandal. A plenary meeting was, however, held on 16 September. The communiqué indicates that the main matters discussed related to the economic crisis and responses to it, and the co-ordination of intergovernmental relations.¹³¹ A statement issued by the Scotland Office suggests that it also discussed implementation of the Calman commission – a matter of limited interest to the devolved administrations of Wales or Northern Ireland, and also to the Scottish Government which did not take part in the Calman process.¹³²

6.3 The Calman Commission and its consequences

¹³¹ Statement from the Joint Ministerial Committee, 16 September 2009. Available at <http://www.cabinetoffice.gov.uk/newsroom/statements/090916-jmc.aspx>

¹³² Scotland Office News Release, 16 September 2009, 'Murphy: On track for Calman response this Autumn' available at <http://www.scotlandoffice.gov.uk/scotlandoffice/12662.html>

The Calman Commission published its final report on 15 June (see 1.1).¹³³ The report was immediately welcomed by Jim Murphy, Secretary of State for Scotland (who was present at the launch), and Gordon Brown, the Prime Minister (who was not).¹³⁴ Implementation of the report presents considerable practical difficulties, and for that purpose a Joint Steering Group based on members of the Commission was set up, supported by officials (several of whom had been members of the Commission's secretariat). Fiscal autonomy as recommended by the Commission presents particular complexities. The Group met on 7 September, and Murphy subsequently confirmed that further action was expected during the autumn.¹³⁵ Although both the form of such action and timescale remain vague, the intention appears to be publication of a white paper rather than a bill.

The Scottish Government sought to take the initiative on implementation, by laying before the Scottish Parliament orders under sections 30 and 64 of the Scotland Act 1998 to devolve the various matters that Calman recommended (though not those, like the legal definition of charity, that it recommended be returned to UK jurisdiction). This move was, however, rejected by the UK Government.¹³⁶

6.4 Disputes and litigation

There have been no judgments or opinions in devolution-related cases in the Judicial Committee of the Privy Council or the Appellate Committee of the House of Lords since May 2009.

The devolution issues jurisdiction of the Judicial Committee ended on 30 September 2009. Further cases arising as 'devolution issues' will be considered by the new UK Supreme Court, established under the Constitutional Reform Act 2005, which started work on 1 October.

6.5 Adjusting the devolution settlement

¹³³ For further discussion of the Commission's report, see A. Trench 'The Calman Commission and Scotland's disjointed constitutional debates' [2009] *Public Law* (autumn) 686-96.

¹³⁴ Murphy's speech is at <http://www.scotlandoffice.gov.uk/scotlandoffice/12182.html>. See also Prime Minister's Office Press Statement 15 June 2009, 'Government welcomes report on Scottish devolution' available at <http://www.number10.gov.uk/Page19641>

¹³⁵ See Scotland Office News Release, 7 September 2009, 'Joint steering group meeting convened by the Secretary of State for Scotland', available at <http://www.scotlandoffice.gov.uk/scotlandoffice/12601.html>; Scotland Office News Release, 16 September 2009, 'Murphy: On track for Calman response this Autumn' available at <http://www.scotlandoffice.gov.uk/scotlandoffice/12662.html>

Six orders amending the devolution settlement have been made since May 2009:

- The Scotland Act 1998 (Modification of Schedule 4) Order 2009, SI 2009 No. 1380
- The Scottish Parliamentary Pensions Act 2009 (Consequential Modifications) Order 2009, SI 2009 No. 1682
- The Scottish Parliament (Elections etc.) (Amendment) Order 2009, SI 2009 No. 1978
- The Judiciary and Courts (Scotland) Act 2008 (Consequential Provisions and Modifications) Order 2009, SI 2009 No. 2231
- The Adoption and Children (Scotland) Act 2007 (Consequential Provisions) (No. 1) Order 2009, SI 2009 No. 2233
- The Insolvency (Scotland) Amendment (No. 2) Rules 2009, SI 2009 No. 2375

The most significant of these is the Scotland Act 1998 (Modification of Schedule 4) Order 2009, SI 2009 No. 1380. This gives effect to the agreement reached to the problems posed by the Somerville judgment (discussed in previous Scotland Devolution Monitoring Reports). The order amends the 'excepted matters' set out in Schedule 4 to the 1998 Act so that the Scottish Parliament can pass legislation introducing a time limit for claims brought for breaches of rights protected under the European Convention on Human Rights (for which a time limit already exists under the Human Rights Act 1998).

6.6 Debates elsewhere

A number of important reports have been published during this period. The Commons Justice Committee published its report on *Devolution: A Decade On* on 24 May. The report considers Whitehall organisation for devolution, intergovernmental co-ordination and aspects of the English question. It is critical of many Whitehall practices and the lax coordination of intergovernmental relations, concludes that the Barnett formula is unfair, and that the English question presents sufficient complexities that 'English votes for English laws' is not an effective answer to the West Lothian Question.¹³⁷

¹³⁶ See T. Gordon 'Westminster says "no" to SNP over Calman proposals', *Sunday Herald* 26 July 2009.

¹³⁷ House of Commons Justice Committee *Devolution: A Decade On* Fifth Report of Session 2008–09 HC 529 (London: The Stationery Office, 2009).

The Independent Commission on Funding and Finance for Wales chaired by Gerald Holtham published its first report in early July.¹³⁸ It applied methodologies used in England to assess the needs of health authorities and local government to conclude that Wales is appreciably underfunded in comparison with England (it presently receives 112 per cent of what areas with similar needs receive in England, but would receive 114 per cent if the English standards were applied). The Commission's further work will include considering fiscal issues and borrowing powers.

The Lords Select Committee on the Barnett Formula published its report on the Barnett Formula on 17 July.¹³⁹ It concluded that the formula was 'unfair and arbitrary', and recommended an alternative approach to calculating a grant based on relative need, using a small number of 'top-down' indicators, and an independent expert advisory commission to carry out such an assessment (see also 1.5).

¹³⁸ Independent Commission on Funding & Finance for Wales *Funding devolved government in Wales: Barnett & beyond* First Report, July 2009 (Cardiff: National Assembly for Wales, 2009). Available at <http://new.wales.gov.uk/icffw/home/report/?lang=en>

¹³⁹ House of Lords Select Committee on the Barnett Formula *The Barnett Formula* 1st Report of Session 2008–09 HL Paper 139 (London: The Stationery Office, 2009), available at <http://www.publications.parliament.uk/pa/ld/ldbarnett.htm>