

**D**EVOLUTION  
**M**ONITORING  
**P**ROGRAMME  
2006-08

---

**Devolution and the Centre Monitoring Report**  
**September 2008**

---

**Akash Paun (ed.) & Richard Murray**

**The Constitution Unit**

[www.ucl.ac.uk/constitution-unit](http://www.ucl.ac.uk/constitution-unit)



## The Devolution Monitoring Programme

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

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

Scotland:	<b>Prof Charlie Jeffery &amp; Dr Nicola McEwen</b> Institute of Governance, University of Edinburgh
Wales:	<b>Prof Richard Wyn Jones &amp; Prof Roger Scully</b> Institute of Welsh Politics, University of Wales, Aberystwyth
Northern Ireland:	<b>Professor Rick Wilford &amp; Robin Wilson</b> Queen's University, Belfast
English Regions:	<b>Prof Martin Burch, Prof Alan Harding &amp; Dr James Rees</b> IPEG, University of Manchester
The Centre:	<b>Akash Paun</b> , 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.



All devolution monitoring reports are published at: [www.ucl.ac.uk/constitution-unit/research/devolution](http://www.ucl.ac.uk/constitution-unit/research/devolution). Contact Akash Paun on [a.paun@ucl.ac.uk](mailto:a.paun@ucl.ac.uk) for further information.

---

**Devolution and the Centre Monitoring Report**

**September 2008**

---

**Akash Paun (ed.) & Richard Murray**

<b>1.</b>	<b>MONITORING THE UNION</b>	<b>6</b>
<b>2.</b>	<b>POLITICAL PARTIES</b>	<b>8</b>
2.1	Labour	8
2.2	Conservatives	10
2.3	Liberal Democrats	12
<b>3.</b>	<b>DEVOLUTION AND WHITEHALL</b>	<b>13</b>
3.1	Towards a single department for devolution?	13
3.2	Ministry of Justice	13
3.3	HM Treasury	14
3.3	Scotland Office	15
3.4	Wales Office	16
3.5	Northern Ireland Office	16
<b>4.</b>	<b>TERRITORIAL LEGISLATION AND MOTIONS</b>	<b>18</b>
4.1	Scotland	18
4.2	Wales	19
4.3	Northern Ireland	20
4.4	Early Day Motions	21
<b>5.</b>	<b>PARLIAMENTARY COMMITTEES AND DEVOLUTION</b>	<b>23</b>
5.1	Justice Committee	23
5.2	Scottish Affairs Select Committee	24
5.3	Welsh Affairs Select Committee	25
5.4	Northern Ireland Affairs Select Committee	26

<b>5.5</b>	<b>Regional Select Committees</b>	<b>28</b>
<b>5.6</b>	<b>Territorial Grand Committees</b>	<b>29</b>
<b>6.</b>	<b>INTER-GOVERNMENTAL RELATIONS</b>	<b>30</b>

## **1. Monitoring the Union**

Gordon Brown's initial emphasis on constitutional reform as his government's 'big idea' appears largely to have vanished beneath the waves of economic bad news. But with devolution policy the reverse is the case, with events keeping the issue onto the agenda despite the government's own relative lack of interest.

In Scotland, spurred by the SNP's electoral success, the three unionist parties established the Commission on Scottish Devolution (Calman Commission) to examine the case for devolution of further powers, particularly over taxation. The Commission started work in April 2008 and will publish an interim report before the end of the year.

Reform of devolution finance is also a live issue in Wales following the creation of the Assembly Commission on Funding and Finance under economist Gerald Holtham. This initiative – part of the Labour-Plaid 2007 coalition deal – starts work in September and is likely to cause further concern in Whitehall, where the Treasury keeps a tight grip on devolution finance.

This instinct is likely to be reinforced as the next general election approaches and attention shifts to the crucial electoral battlegrounds in England, where talk of a new funding settlement risks stirring up resentment at higher public spending in the devolved territories. In this context, a reluctance to rethink the Barnett Formula is understandable. However, this approach may be undermined by the work of the two commissions and the SNP's 'national conversation'. If competing demands for additional resources and/or fiscal powers are made by the various territories, including England, it will surely be the British government that has to act as deal-maker.

Under Gordon Brown, there have been some indications that the need for a more active devolution strategy is taken seriously. After initial scepticism, the PM not only agreed to support Calman with funding and staffing, but also revealed a new open mind on fiscal devolution to the Scottish CBI in September. This followed last year's appointment of a Director General of Devolution, and June's meeting – the first in over five years – of the plenary Joint Ministerial Committee (JMC), bringing together the leaders of the three devolved administrations and senior Cabinet ministers. Issues discussed included funding tensions over SNP plans to abolish council tax in

Scotland and Olympic regeneration spending in London (which does not generate extra funds for the devolved governments). A further meeting of the JMC is expected this autumn, while rumours circulate that the Scotland and Wales Offices will at some point be incorporated into a new Department of Nations and Regions. This would be a significant step towards ending the fragmentation of responsibility for devolution that undermines joined-up thinking. However, machinery of government changes can only do so much. Crafting a mutually acceptable new financial settlement for the UK in a worsening economic climate will be a taller order for the weakened Brown administration, and it may ultimately be an incoming Conservative government that grasps this particular nettle.

*Akash Paun*

*The Constitution Unit*

*September 2008*

## 2. Political Parties

### 2.1 Labour

The Labour Party, dominant across the UK for over a decade, faces serious political and economic challenges in all corners of the country.<sup>1</sup> At the UK level, economic problems dominate, meaning that Gordon Brown's early commitment to constitutional reform, and to strengthening 'Britishness', has been wiped from the political agenda. In Scotland and Wales, however, constitutional debates continue but with Labour on the back foot, nationalist discourses threaten to dominate.

In Scotland, the SNP remains popular, and on 24 July delivered a crushing blow to Labour in the Glasgow East byelection, taking the seat on a 22.5 per cent swing.<sup>2</sup> Labour also lost its Scottish leader in this period, with Wendy Alexander resigning at the end of June after just nine months in the post, as a result of controversy about donations made to her leadership campaign by a Jersey-based businessman (who was therefore not a UK-registered voter with the right to make such donations).<sup>3</sup>

During the course of the leadership contest an interesting debate developed about the position of the party's Scottish leader. Tom McCabe MSP, the former Finance Minister, sparked this by suggesting that the holder of this post – who constitutionally-speaking is merely the leader of the Labour group at Holyrood, not head of the Scottish Party at large – should be given more autonomy from the London-based party leadership. McCabe contrasted Labour's restricted position to the freedom of the SNP: 'In policy terms they [SNP] can go from A to B unfettered with the result that they look and sound clear and sure-footed. Labour...have to deal with all those who have failed to grasp the political consequences of devolution'.<sup>4</sup> Scottish Labour would perform better if it didn't have to concern itself with opposition in London, and that requires a leader with complete control of the organisation who can represent Scots 'no matter who it might upset', he argued.

---

<sup>1</sup> 'Gordon Brown's popularity at historic low amid Labour leadership speculation', *Daily Telegraph*, 1 August 2008, at: <http://tinyurl.com/58hksf>

<sup>2</sup> [http://news.bbc.co.uk/1/hi/scotland/glasgow\\_and\\_west/7522153.stm](http://news.bbc.co.uk/1/hi/scotland/glasgow_and_west/7522153.stm)

<sup>3</sup> 'Wendy Alexander quits as Scots Labour Leader', *The Times*, 28 June 2008, at: <http://www.timesonline.co.uk/tol/news/uk/scotland/article4230569.ece>.

<sup>4</sup> 'What do we in Scottish Labour need in our nation's new political landscape? A leader with guts to stand up to Westminster', *Sunday Herald*, 3 August 2008, at: <http://tinyurl.com/5lwu6v>



McCabe's suggestions unsurprisingly provoked a backlash among Labour MPs. Russell Brown (Dumfries and Galloway) and Jim Sheridan (Paisley and Renfrewshire) both rejected his proposal, and emphasised Gordon Brown's status as party leader in Scotland as well as nationally,<sup>5</sup> while Secretary of the Scottish MPs Group, John Robertson, dismissed the ideas as 'the work of a man looking for a job'.<sup>6</sup> However, although the constitutional position of the Scottish Labour leader may remain subordinate, in practice the Labour group at Holyrood already determines its own course in many important regards and will probably come to do so even more. Indeed the eventual victor of the leadership election – Iain Gray – himself argued during the campaign that the leadership post should be 'up-graded'.<sup>7</sup> And like his two defeated rivals – Andy Kerr and Cathy Jamieson – Gray also signalled a willingness to consider replacing the council tax – a key SNP policy that up till now Labour had rejected. However, it remains to be seen whether Gray will be as open to enhancing the powers of the Scottish Parliament as his predecessor (who was instrumental in setting up the Commission on Scottish Devolution).

In Wales too, the devolved Labour Party is seen by some at Westminster as having moved too close to the nationalist agenda. In the Welsh case the accusation is strengthened by the fact that Labour and Plaid are in formal coalition. And to the concern of the more devo-sceptic wing of the party, two key pledges from the coalition agreement are now being implemented, with the All-Wales Convention under way and the Commission on Assembly Finance established under the chairmanship of Gerald Holtham.

The work of the Commission in Edinburgh and the Convention and Commission in Cardiff are all expected to report before the next general election. The cumulative impact of these developments will be significant, with the UK government forced to respond to proposals for reform of the Barnett formula and of the legislative powers of both devolved legislatures. Developing a coherent position on these issues is likely to be an uncomfortable process for Labour, given the continuing splits within the

---

<sup>5</sup> Griffin, Tom 'Calls grow for Scottish Labour Autonomy' Open Democracy, 11 August 2008  
<http://www.opendemocracy.net/blog/ourkingdom-theme/tom-griffin/2008/08/11/calls-grow-for-scottish-labour-autonomy>

<sup>6</sup> 'Scottish Labour Leader must confront arrogant MPs, urges former minister', 4 August 2008  
<http://www.timesonline.co.uk/tol/news/uk/scotland/article4454682.ece>

<sup>7</sup> Telegraph 'Scottish Labour Leader: What's in a name?', 3 August 2008  
<http://www.telegraph.co.uk/news/newstoppers/politics/labour/2494263/Scottish-Labour-leader-Whats-in-a-name.html>

party on devolution issues and the inherent difficulty of crafting a mutually acceptable new settlement in the zero-sum field of territorial finance.

## **2.2 Conservatives**

'This is the broken society election. It comes in a place where the people are shouting 'Gordon Brown, wasn't Labour supposed to end this degrading poverty?'<sup>8</sup>. David Cameron delivered a confident presentation to his Glasgow audience in early July that earned him desirable publicity in the face of Labour's woes, and in spite of his party's non-existent prospects of winning the Glasgow East byelection.

However, the speech was more revealing for what it didn't say directly. Without mentioning the constitutional reform debates, Cameron emphasised that problems in Glasgow East were of nation-wide relevance: 'there is a thread that links us all together. The knife crime. The worklessness. The ill health. Above all, the wasted lives...a twenty-eight year-old woman stabbed in south London; a forty-eight year old woman dying from heart disease in Gallowgate'. The message was a clearly unionist one: the solution to social breakdown was not 'local solutions to local problems', but a nationwide change in cultural attitudes to morality, personal responsibility, and social virtue. 'We understand that the causes of a broken society lie not just in government policies but in national culture.' Further devolution of power under a Conservative government remains a possibility – in particular, greater fiscal autonomy would chime with Tory themes of budgetary responsibility – but this can be expected to occur as part of a broader unionist discourse.

That said, the Conservatives also face siren-like temptations from English nationalism. On 1 July, Ken Clarke MP's Democracy Task Force finally published its paper on the West Lothian Question. Rejecting elected regional assemblies and an English Parliament, the proposed solution was to directly address the constitutional anomaly that sees MPs from the devolved administrations voting on legislation that primarily affects applies only in England, through a form of 'English Votes for English Laws'. The proposal is that:

Bills that are certified as 'English' would pass through the normal Commons process as far as and including Second Reading...The Committee stage, however, would be undertaken by English MPs only, in proportion to English party strengths. At Report Stage, the Bill would similarly be voted on again by the English Members only.

However, at Third Reading the Bill would be voted on again by the whole House.<sup>9</sup>

The innovative aspect of this form of the English Votes idea is that it would permit English legislation to reach the statute book only if it received the support of a majority both of English members (who alone would vote during the amending stages), and of the House as a whole (at Second and Third Readings).

However, the critique of Professor Robert Hazell, Director of the Constitution Unit, still holds:

No one has yet satisfactorily defined how you identify an 'English' law. The territorial extent of most bills varies in different parts of a bill. Either bills will have to be drafted in a completely different way; or you will have legislative hokey cokey, with MPs being allowed to vote on some amendments but not on others.<sup>10</sup>

A further interesting element of the Conservatives' territorial agenda was revealed in late July in a joint article by party leader David Cameron and his UUP counterpart Sir Reg Empey announcing the establishment of a joint working group to explore deepening co-operation between the parties, 'leading to the creation of a new political and electoral force in Northern Ireland'.<sup>11</sup> Unification of the two parties would reverse the split that took place as a result of the Anglo-Irish Agreement of 1985. If successful, the Tories would become the only major party to be fully represented throughout the UK. A YouGov poll of Northern Ireland voters found that '45% would be Very Likely or Likely to vote Conservative at the next general election if given the opportunity'.<sup>12</sup>

In Wales, Paul Valerio was announced as the Conservative Party nominee on the executive committee of the All Wales Convention. Mr Valerio was on the Richard Commission and announced that he would keep an open mind on the devolution of full law making powers to the Welsh Assembly.<sup>13</sup> The appointment of a member of

---

<sup>8</sup> Conservative Party 'Fixing our Broken Society' Speech by David Cameron, Glasgow, 7 July 2008, [http://www.conservatives.com/tile.do?def=news.story.page&obj\\_id=145626](http://www.conservatives.com/tile.do?def=news.story.page&obj_id=145626)

<sup>9</sup> Conservative Democracy Task Force, *Answering the Question: Devolution, the West Lothian Question and the Future of the Union* (London: Conservative Party, 2008), p.1.

<sup>10</sup> Robert Hazell, 'Hokey cokey votes on English laws', *The Guardian*, letters page, 3 July 2008.

<sup>11</sup> Telegraph 'The Tories want to make a stand in Ulster' Sir Reg Empey and David Cameron 24 July 2008 <http://www.telegraph.co.uk/opinion/main.jhtml?xml=/opinion/2008/07/24/do2405.xml>

<sup>12</sup> <http://conservativehome.blogs.com/torydiary/2008/07/the-conservativ.html>

<sup>13</sup> South Wales Evening Post 'Open Mind on powers for Wales' 8 July 2008 <http://www.highbeam.com/doc/1P2-16832419.html>

the party's pro-devolution wing raises the possibility of all-party consensus on full legislative devolution emerging over the next few years.

### **2.3 Liberal Democrats**

On 26 August, Tavish Scott became the new leader of the Scottish Liberal Democrat party, being elected with 59 per cent (1,450) of the votes and beating rivals Ross Finnie and Mike Rumbles. His predecessor Nicol Stephen had unexpectedly resigned in July for family reasons. In his acceptance speech, Scott targeted Alex Salmond, stating that: 'what looks confident, sure-footed and wily today will be seen as arrogant, misguided and politically dishonest tomorrow.'<sup>14</sup> He went on to confirm that he was in favour of further powers for the Scottish Parliament.

In Wales, Rob Humphreys, former Director for Wales at the National Institute of Adult Education, and current Director of the Open University in Wales, was chosen as the Liberal Democrat member of the All Wales Convention.

---

<sup>14</sup> Brian Taylor, 'Tavish Scott takes to the leadership stage', BBC Online, 26 Aug 2008, at: <http://www.bbc.co.uk/blogs/thereporters/briantaylor/2008/08/26/index.html>

### 3. Devolution and Whitehall

#### 3.1 Towards a single department for devolution?

The Prime Minister's Cabinet reshuffle, announced on 3 October 2008, left the three separate territorial offices intact, and indeed reverted to the situation of having full-time Secretaries of State for all three devolved nations. Prior to the reshuffle Des Browne had been Secretary of State for Defence as well as for Scotland. The new Scottish Secretary is Jim Murphy, while Paul Murphy and Shaun Woodward retain their roles at the head of the Wales and Northern Ireland Offices respectively.

In early August it had been reported that the Scotland, Wales and Northern Ireland Offices were to be merged. This would have created a single centre for devolution that is able to take a more 'joined-up' approach to territorial matters than has been the case so far.<sup>15</sup> However, with economic problems dominating the government's horizons, it seems this was one disruption too many for the Prime Minister. In the long run, however, and particularly once policing and criminal justice functions have been transferred to Belfast, merging the three departments would be a sensible step. It would also make sense to hand a new 'Devolution Secretary' responsibility for managing relations with the devolved institutions (including via the resurrected Joint Ministerial Committee – see section 6).

#### 3.2 Ministry of Justice

##### ***'An Elected Second Chamber: Further reform of the House of Lords'***

In July 2008, the Ministry of Justice published its White Paper on Lords reform.<sup>16</sup> Its vision is for the reformed Lords to be entirely or predominantly (80 per cent) elected, with 12-15-year non-renewable terms for members, a third of whom would be elected every 4 or 5 years. However, a number of unresolved issues remain, some of which relate to territorial political issues.

There have been suggestions made over the years that the reformed second chamber should become a house of the nations and regions, in the way that upper chambers in many federations represent the composite units of the country. This could happen to a limited extent if elections to the new upper chamber were

---

<sup>15</sup> George Parker, 'PM set to axe 'part-time' Scottish role', *The Financial Times*, 4 August 2008.

<sup>16</sup> Ministry of Justice, *An Elected Second Chamber: Further reform of the House of Lords*, CM 7438, 14 July 2008, at: [www.justice.gov.uk/docs/elected-second-chamber.pdf](http://www.justice.gov.uk/docs/elected-second-chamber.pdf).

synchronised with devolved elections (as favoured by the Liberal Democrats), as members from the devolved territories would be elected as part of campaigns that stressed territorially-specific rather than UK-wide issues. The government's view, however, is that this would be impractical, for instance because members would be elected part-way through the Westminster parliamentary year. Its preference (backed by the Conservatives) is that reformed upper chamber elections should coincide with UK general elections, making it more likely that the new body will be similar in outlook and composition to the Commons.

The voting system adopted will have an even bigger impact on the extent to which the upper chamber becomes a territorial chamber. In particular, 'first past the post' or similar plurality-based systems would make it more difficult for the nationalist parties to win seats. More proportional systems, on the other hand, would give a stronger voice to nationalist and other smaller parties, which might enable the reformed second chamber to play a role in resolving tensions between the nations.

### ***Plans for new prison in Wales***

On 6 August the Ministry of Justice published a shortlist of sites for construction of a new prison in Wales. Prisons are a non-devolved matter as far as Wales is concerned (in contrast to Scotland) but it is interesting to note that the Ministry of Justice does make a distinction between decisions relating to England and to Wales. In this particular case, a consultation process has been run involving various key actors in Wales, with the Welsh Assembly Government proposing that the prison should be sited in the Heads of the Valleys area to assist economic regeneration. Although the ultimate decision will be taken in Whitehall, the fact that such decisions are taken in a Welsh (rather than an England-and-Wales) policy context indicates that the foundation may already exist for the eventual devolution of powers in this area.<sup>17</sup>

### **3.3 HM Treasury**

The system for financing devolution (centred on the Barnett Formula) looks increasingly under strain, although the Treasury itself remains tight-lipped about the possibility of reform. In Scotland the Calman Commission and in Wales the Holtham Commission are looking at the issue and expected to recommend changes to the

---

<sup>17</sup> Ministry of Justice, *Shortlist of potential sites for new Welsh prison announced*, 6 August 2008, at: [www.justice.gov.uk/docs/potential-welsh-prison-sites.pdf](http://www.justice.gov.uk/docs/potential-welsh-prison-sites.pdf)

system by which the devolved bodies are funded. The Treasury is committed to producing a 'factual paper' on how the Barnett Formula works, although in July the Chief Secretary, Yvette Cooper, revealed that 'No decision has been made yet on the date of publication',<sup>18</sup> confirming that the Treasury's instinctive preference to keep this sensitive issue off the agenda remains live and well. However, the events elsewhere in the UK are likely eventually to force the Treasury's hand, requiring the centre to intervene in the debate to forge a new deal for territorial finance.

Even at Westminster, events are starting to unfold in this area. In the previous monitoring report,<sup>19</sup> it was reported that the Liaison Committee had rejected a request from Lord Barnett to establish an ad hoc select committee to consider the future of the formula that bears his name. The grounds given were that under the terms of reference he proposed such a committee could stray into the divisive territory of the actual distribution of funding levels throughout the United Kingdom.

In response, Lord Barnett made a second request for a committee, this time with more tightly framed terms of reference, acceptance of which was confirmed by the Liaison Committee in their second report of 2007-08, published on 8 July. These terms of reference place the emphasis on establishing the 'purpose, methodology and application of the Barnett Formula as a means of determining funding', and the extent to which the formula achieves its intended purpose. They explicitly exclude from examination the 'overall system of funding the devolved administrations', 'other political aspects of the devolution settlements' and 'the distribution of funds within the different regions of the United Kingdom'. That said, they do leave the committee open to consider 'alternative mechanisms' to the Barnett Formula, so long as their conclusions steer clear of pronouncements on the political goals a funding mechanism should be aiming to achieve.<sup>20</sup>

### **3.3 Scotland Office**

On 24 June the Scotland Office published its response to the Gould Report on the Scottish elections of May 2007 (and the high number of spoiled ballots). It also

---

<sup>18</sup> Yvette Cooper, House of Commons Hansard (Written Answers), 21 July 2008, Column 729W.

<sup>19</sup> Akash Paun (ed.) and Edward Calow, *Devolution and the Centre Monitoring Report: May 2008*, at: [www.ucl.ac.uk/constitution-unit/files/research/devolution/dmr/Centre\\_May08.pdf](http://www.ucl.ac.uk/constitution-unit/files/research/devolution/dmr/Centre_May08.pdf), p. 19.

<sup>20</sup> House of Lords Liaison Committee, 2nd Report of Session 2007-08, HL Paper 142, at: [www.publications.parliament.uk/pa/ld200708/ldselect/ldliaisn/142/142.pdf](http://www.publications.parliament.uk/pa/ld200708/ldselect/ldliaisn/142/142.pdf)

responded to the Scottish Affairs Committee on the same day, following the committee's inquiry into the same subject.<sup>21</sup>

### 3.4 Wales Office

In July the department succeeded in getting a second legislative competence order (LCO), on domiciliary care, onto the statute book. The Wales Office has also been guiding two LCOs – on vulnerable children and affordable housing – through the legislative process at Westminster. These legislative developments are discussed further in section 4.2 below.

In July a revised Devolution Guidance Note was published setting out how ministers in London and Cardiff should work together on legislation. The notes document a six stage process that should be followed in making a Legislative Competence Order – and re-emphasise that their purpose is to deepen, not widen, the devolution settlement.<sup>22</sup>

### 3.5 Northern Ireland Office

The NIO remains focussed on the outstanding task of transferring control for the police and criminal justice system to the devolved administration in Belfast. This issue, for which the legislative ground has already been laid, is a longstanding obstacle blocking the path to political 'normalisation' in the six counties. The tensions around the issue threatened to spill over in August when Sinn Fein declared a willingness to pull the plug on the power-sharing executive. The party's leader in the Irish parliament stated:

If we are forced to conclude that change will not be forthcoming from the Executive then we will have no option but to pull out our ministers and seek to put pressure where responsibility ultimately lies, which is the British government in London.<sup>23</sup>

This prompted the UUP leader, Sir Reg Empey to call on Sinn Fein's deputy first minister Martin McGuinness to distance himself from the remarks, to avoid a 'full blown crisis' from erupting.

---

<sup>21</sup> BBC Online, 'Westminster rejects election move', 24 June 2008, at:

<http://news.bbc.co.uk/1/hi/scotland/7472077.stm>

<sup>22</sup> Ministry of Justice Devolution Guidance Notes 'Orders in Council under section 95 of the Government of Wales Act 2006' <http://www.justice.gov.uk/docs/dgn16.pdf>

<sup>23</sup> Henry McDonald, 'Northern Ireland: Sinn Fein warns it may abandon power sharing in policing row', *The Guardian*, 26 August 2008.



As noted above, there are suggestions that the three territorial offices should all at some point be merged into a Department for Devolution. However, while devolving policing remains in the in-tray of the Northern Ireland Secretary it remains likely that the NIO at least will retain its separate existence, in order that this important piece of unfinished business receives sufficient political attention.

## 4. Territorial Legislation and Motions

### 4.1 Scotland

A legislative consent motion (LCM) relating to the UK **Energy Bill** was passed by the Scottish Parliament on 18 June 2008. This grants Scotland's approval to clauses of the bill that create a consistent UK-wide licensing arrangement for off-shore carbon storage. Scottish Ministers will undertake licensing authority functions for carbon storage schemes off the coast of Scotland. As previously reported, the Scottish Government did not allow Westminster to extend to Scotland provisions on nuclear waste disposal and decommissioning of future plants.<sup>24</sup> This took to nine the number of LCMs passed under the SNP administration.

In the next parliamentary session, starting in November 2008, the UK **Marine Bill** may cause some tensions between Edinburgh and London. A draft of the bill was published in April with the consultation period closing on 26 June. The government is proposing a UK- wide strategic marine planning system, among other changes to the management of fisheries, nature conservation, coasts and estuaries. But, reflecting the complex mix of reserved and devolved powers that affect management of seas and waters, the bill only extends in part to Scotland. For instance, the bill will require the government to publish a Marine Policy Statement with the devolved administrations of Wales and Northern Ireland only.

In mid-July the Scottish Government published a consultation document for its own Marine Bill. The Holyrood bill would create a local planning authority, called Marine Scotland, to implement a statutory marine management system – licensing off shore industries while conserving vulnerable areas of outstanding ecological importance.<sup>25</sup> The potential for confusion and conflict between competing frameworks for marine management was noted by the Joint Committee on the Draft Marine Bill, which stated that:

We regard the production of an agreed Marine Policy Statement that has consensus across the devolved administrations, including Scotland, as an imperative, and consider that the designation of

---

<sup>24</sup> *Devolution and the Centre Monitoring Report May 2008*: p.27

[http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Centre\\_May08.pdf](http://www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Centre_May08.pdf)

<sup>25</sup> *The Times*, 'Marine Bill will try to balance conservation and industry' 14 July 2008

<http://www.timesonline.co.uk/tol/news/uk/scotland/article4333990.ece>

'Sustainable Seas for All' The Consultation on Scotland's First Marine Bill , available at <http://www.scotland.gov.uk/Resource/Doc/231463/0063135.pdf>

machinery to achieve this if at all possible should be placed on the face of the Bill.<sup>26</sup>

## 4.2 Wales

### *Legislative Competence Orders*

A steady stream of Legislative Competence Orders continues to flow from Cardiff to Westminster, though problems with the process continue. For instance, the LCO on **environmental protection and waste management** has still to be referred to Parliament for scrutiny, over a year after it was first proposed in the Assembly.

Meanwhile, the **vulnerable children** LCO has received the backing of the Welsh Affairs Committee, though the committee was critical of the lack of synchronisation in referring the order to Westminster and the Assembly, which prevented joined-up scrutiny (see section 5.3 below).<sup>27</sup>

The scrutiny process for the **affordable housing** LCO has fallen foul of similar accusations from the relevant Assembly committee, which expressed concern that the draft presented to the Commons Welsh Affairs Committee and the Lords Constitution Committee was different from that they had reviewed. The situation was not a demonstration of 'good practice'.<sup>28</sup> The order was being considered at Westminster over the summer of 2008.

A more positive development was the completion of the scrutiny process for the LCO on **domiciliary care**. This order was approved by the Lords on 24 June, the Commons on 1 July, and became law on 9 July. As a result, the Assembly has gained the power to regulate charges levied by local authorities in respect of non-residential social care.

In July the Welsh Assembly Government proposed a new LCO, relating to the Red Meat Industry. Private members' LCOs proposed include orders relating to the **provision of mental health services** and **domestic fire safety**.

### *Framework Powers*

---

<sup>26</sup> Joint Committee on the Draft Marine Bill, *Draft Marine Bill*, HL Paper 159-I HC 552, 30 July 2008, p. 42.

<sup>27</sup> House of Commons Welsh Affairs Committee, 'The Proposed Draft National Assembly for Wales (Legislative Competence) Order in the Field of Social Welfare' June 2008.

<sup>28</sup> National Assembly for Wales 'Report of the Proposed Affordable Housing LCO Committee July 2008 <http://tinyurl.com/5unjij>

Three major bills affecting the legislative competence of the Welsh Assembly continue to progress through the UK Parliament. The **Education and Skills Bill** completed its second reading in the House of Lords on 10 June before going to committee.

With respect to the provisions raising the education and training leaving age to 17 in 2013 and 18 in 2015, the minister, Lord Adonis, clarified that:

While the raising of the education and training age in the Bill applies directly to England only, at the request of my Welsh colleagues, I expect to move an amendment at a later stage to enable the National Assembly to apply similar provisions in Wales in future, should it so desire.<sup>29</sup>

The **Planning Bill** received its second reading in the House of Lords in July and is being considered in committee in October. Jane Davidson, Welsh Minister for Environment, Sustainability and Housing updated the National Assembly for Wales on the progress of the bill, reassuring members that Wales had secured amendments that would ensure that whenever planning applications relating to the region were considered, a minimum of one member on the proposed Infrastructure Planning Commission could be nominated by Welsh Ministers. The Welsh Government is also actively seeking to secure a provision relating to the Development Control System, where a number of changes originally applicable only to England would be enacted under a 'power to apply' provision after consultation in Wales.<sup>30</sup>

The **Local Transportation Bill** completed its House of Commons Committee stage in May, and the proposals to devolve the power to impose charges on truck road users remain in Part 7 of the latest draft of the bill in spite of Conservative opposition. Time would have to be found for Report stage before November's prorogation for the bill not to be lost.

### **4.3 Northern Ireland**

The passage of several public bills affecting Northern Ireland continued to progress through Parliament. The **Dormant Bank and Building Society Accounts Bill** was passed in the House of Lords and is scheduled to return to the Commons for its second reading in early October. There have been no further developments in Northern Ireland as the bill has already received legislative consent.

---

<sup>29</sup> Lords Hansard, 10 June 2008, Col. 490.

The **Health and Social Care Bill**, which obtained consent from the Northern Ireland Assembly in January 2008, obtained Royal Assent on 21 July, but not without amendment in the Lords earlier in the month. Amendment 51 inserts a new clause mandating that where a private or voluntary sector care home provides services under agreement with a local authority or the Northern Ireland Executive, the care provider is required to act compatibly with the Human Rights Act. Amendment 77 will amend the Health Act 1999 to allow the conferral of functions on Northern Ireland Departments. This brings the legislation into line with similar procedures for Scottish and Welsh Ministers.<sup>31</sup>

The **Energy Bill** has completed its consideration in House of Lords committee. Contrary to the rest of the United Kingdom, proceedings for an alleged offence committed under the Act in a 'controlled place' may not be instituted in Northern Ireland, unless authorised by the Secretary of State or the Director of Public Prosecutions for Northern Ireland – reflecting the continuing sensitivities around loosening the centre's grip on policing and criminal justice in Northern Ireland.

The **Pensions Bill** is scheduled to begin Lords Report stage after the summer recess. Chapter 5 of the bill establishes a duty on the Secretary of State to establish a pension scheme, although it must correspond with any corresponding legislation in Northern Ireland.

#### **4.4 Early Day Motions**

A number of EDMs tabled in summer 2008 related to devolution:

- Alun Michael (Labour) tabled EDM 2090 commending the position of the Secretary of State for Environment, Food and Rural Affairs for opposing the widespread cull of badgers that would do nothing to prevent the spread of bovine tuberculosis. The Welsh Minister for Rural Affairs was encouraged to set aside her decision to allow the cull. It was signed by 42 MPs.
- Ian Davidson (Labour) tabled EDM 1908, referring to the report of the Scottish Affairs Committee into Employment and Skills for the Defence Industry. The

---

<sup>30</sup> Welsh Assembly Government Cabinet Statements 2008 'Planning Bill Update' 17 July 2008

<sup>31</sup> Health and Social Care Bill, House of Lords Amendments Explanatory Notes 2 July 2008  
<http://www.publications.parliament.uk/pa/cm200708/cmbills/132/en/2008132en.pdf>

motion argued that an independent Scotland would be unable to support the Scottish shipbuilding industry, and stated that 'No Union, No Yards' was an accurate description of the situation. It was signed by 28 MPs.

- Mohammad Sarwar (Labour) tabled EDM 1863 condemning the Scottish Government for cutting the funding of the Glasgow Science Centre from £1.7 million to £1.08 million, and called on the Secretary of State for Scotland to press Edinburgh to reconsider the decision. It was signed by 27 MPs.
- Nigel Griffiths (Labour) tabled EDM 1822 condemning the SNP's decision to cut £10 million from the free bus transport budget for disabled people and those over 60 years, on top of the 10 per cent fare increase enforced in Edinburgh and elsewhere. He deplored attempts to restrict the bus pass to those over 65. It was signed by 24 MPs.
- Angus Robertson (SNP) tabled EDM 1651 welcoming the results of the 2007 Scottish Social Attitudes Survey that found 71 per cent of the population now trusted the Scottish Government to act in the interests of Scotland always or most of the time, but that only 35 per cent trust the UK government to do the same. It was signed by 8 MPs.

## 5. Parliamentary Committees and Devolution

### 5.1 Justice Committee

#### ***Devolution: A decade on***

The House of Commons Justice Committee has continued its inquiry on 'Devolution: A Decade On', holding a further three evidence sessions between May and July 2008.

- On 8 May the committee travelled to Cardiff to discuss devolution in Wales with the four party leaders in the Assembly, the Presiding Officer and two senior officials.<sup>32</sup> One issue discussed was the complex procedures by which powers are devolved to the Assembly under the Government of Wales Act 2006 through legislative competence orders (LCO). Nicholas Bourne AM, Leader of the Welsh Conservatives, described this process as 'convoluted'<sup>33</sup>, while his Liberal Democrat counterpart Mike German called it 'very cumbersome' and 'transitional'.<sup>34</sup> The Presiding Officer, Lord Elis-Thomas, was more sanguine, however, arguing: 'it does not make a difference how the powers come; the important thing is that they are here'.<sup>35</sup> First Minister Rhodri Morgan, for his part, suggested it was too early to make a judgement on the LCO system.
- On 13 May, the committee heard from Justice Secretary Jack Straw and the government's Director General for Devolution, Jim Gallagher on Whitehall's perspective on devolution.<sup>36</sup> Jack Straw argued that the Secretaries of State for Scotland and Wales retained an important role in maintaining the co-ordination of government business between Westminster and the devolved regions.<sup>37</sup> The Secretary of State also defended the success of devolution at protecting the Union, stating that there was:
 

no indication, notwithstanding the elections for the Scottish Parliament last year, [of] any strong sentiment in favour of independence in Scotland, and the British people as a whole believe that you can have multiple identities and that you can, in this case, have profound

---

<sup>32</sup> House of Commons Justice Committee; Uncorrected Evidence, 'Devolution : A decade On', 8 May 2008, at: <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmjust/uc75-viii/uc7502.htm>

<sup>33</sup> Ibid, Q 572

<sup>34</sup> Ibid, Q 604

<sup>35</sup> Ibid, Q 550

<sup>36</sup> House of Commons Justice Committee (Sub- Committee) Uncorrected Evidence 'Devolution; A decade On' <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmjust/uc75-ix/uc7502.htm> 13 May 2008.

<sup>37</sup> Ibid, Q 651

loyalties to your nation and the culture of your nation as well as to the United Kingdom as a whole.<sup>38</sup>

- Finally, on 8 July, former Mayor of London, Ken Livingstone, testified as to the lengthy delays he had experienced in achieving tasks as a result of difficult relations with ministers in the UK Government:

Jacqui Smith had just become Home Secretary, and I was at my second meeting with her when I realised most of the items on the agenda had been at my first meeting, seven years previously, with Jack Straw... I thought there was an unbelievable inability to get a decision out of government, even when it was not controversial.<sup>39</sup>

## 5.2 Scottish Affairs Select Committee

- On 11 June, Sir Kenneth Calman gave evidence to the committee on the early work of the Commission on Scottish Devolution, which he chairs. The commission had asked over 200 organisations for their views on Scottish devolution and would also consult with interested parties outside Scotland.
- The committee's fifth report of the session, on the 'Experience of Scottish Elections',<sup>40</sup> was published in May. The committee expressed its 'deep concern' with the events of 3 May 2007, when over 140,000 ballots were declared invalid. The committee did not support Mr Gould's recommendation that responsibility for Scottish Parliament elections should be transferred to the Scottish Executive, but did suggest that better organisation procedures 'on the ground' in Scotland should be implemented. In light of the poor communication demonstrated between the Scottish Executive and the Electoral Commission, the committee recommended that the government consider the appointment of a Chief Returning Officer for Scotland to assume responsibility for several areas of electoral policy.

The Government's response was published in early July and agreed with a

---

<sup>38</sup> Ibid, Q. 661

<sup>39</sup> House of Commons Justice Committee (Sub-Committee) Uncorrected Evidence 'Devolution; A decade On' <http://www.parliament.the-stationery-office.co.uk/pa/cm200708/cmselect/cmjust/uc75-x/uc7502.htm>, 8 July 2008, Q. 701.

<sup>40</sup> House of Commons Scottish Affairs Committee 'Experience of the Scottish Elections' Fifth Report of Session 2007-08, 18 May 2008 <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmsscota/78/78.pdf>



majority of the recommendations made by the committee.<sup>41</sup> It did not support the full transferal of electoral powers to the Scottish Executive, and will give the establishment of a Chief Returning Officer consideration.

- In July, the committee also announced that it will launch a substantial inquiry into Scotland's relationship with the European Union.<sup>42</sup>

### **5.3 Welsh Affairs Select Committee**

WASC continued its scrutiny of draft legislative competence orders (LCOs), publishing a report on the latest proposed LCO which relates to vulnerable children. The order will expand the legislative competence of the Assembly in three 'fields' of schedule 5 to the Government of Wales Act 2006: education and training; social welfare; and sport and recreation. It will allow the Welsh Assembly Government to deliver on its commitment to tackling child poverty. The committee supported the passage of the order but expressed concern that the process of scrutiny for the legislative order had been insufficient, and urged synchronisation of 'the publication and referral of a proposed Order to an Assembly Committee with its referral to Parliament by the Secretary of State'.<sup>43</sup>

In June and July, the committee also conducted scrutiny of the draft legislative consent order on housing. If approved, the Order would give the Welsh Assembly Government the competence to suspend the 'right to buy' in order to ensure sufficient affordable housing is available to rent in areas of need.<sup>44</sup> A report is expected in the autumn.

- July saw the publication of an interim report on 'The Provision of Cross Border Health Services'. The committee's principal concern is to ensure that Welsh patients living close to the border (particularly in north-east Wales) are able to access healthcare services in England where necessary, rather than having to travel south within Wales. As such, the committee is sceptical of the Welsh health

---

<sup>41</sup> House of Commons Scottish Affairs Committee 'Experience of the Scottish Elections: Government Response to the Committee's Fifth Report of Session 2007-08, 2 July 2008

<http://www.publications.parliament.uk/pa/cm200708/cmselect/cmscotaf/830/830.pdf>

<sup>42</sup> House of Commons Scottish Affairs Committee Press Notice 'New Inquiry - Scotland and the European Union', 21 July 2008

[http://www.parliament.uk/parliamentary\\_committees/scottish\\_affairs\\_committee/sac210708.cfm](http://www.parliament.uk/parliamentary_committees/scottish_affairs_committee/sac210708.cfm)

<sup>43</sup> House of Commons Welsh Affairs Committee, 'The Proposed Draft National Assembly for Wales (Legislative Competence) Order in the Field of Social Welfare', June 2008, p. 9

minister's aim 'to secure as many services as can be safely provided within Wales's boundaries...where the Welsh population base is sufficient to support an in-country service'.<sup>45</sup> There is hope on the committee that a joint protocol can be established between the Department of Health and the Welsh Assembly to ensure that patients receive the best care available closest to home, regardless of the side of the border they are on. A full report on the subject is expected in the autumn, and the committee is also taking evidence on cross-border education and transport services.

#### 5.4 Northern Ireland Affairs Select Committee

In June the Northern Ireland Affairs Committee published a report on 'Policing and Criminal Justice in Northern Ireland: The Cost of Policing the Past'.<sup>46</sup> The inquiry leading to the report was held in response to concerns in the Police Service that the cost of holding enquiries into events during the Troubles (1968-98) – by the Historical Enquiries Team (HET) established in 2005 – was hampering the efforts of various agencies to counter present-day crime.

The committee was highly complimentary of the staff and work of HET. It also, however, recommended that HET seek to prioritise cases more in order to curb costs. Making it an independent agency was also considered, in order to reduce the burden on the PSNI and allow it to focus on its core responsibilities of policing the present day.

Related to HET is the Police Ombudsman for Northern Ireland, which investigates complaints made against the former Royal Ulster Constabulary. As of February 2008, there were 983 investigations – of which 116 were historical. The Ombudsman expressed serious concern to the committee about its ability to resource investigations into historic complaints, as it affected its ability to investigate current claims against the PSNI. Shifting the Ombudsman's responsibility to an independent HET is a likely solution.

---

<sup>44</sup> The Wales Office 'Pre-Legislative Scrutiny of the Proposed National Assembly for Wales (Legislative Competence Housing) Order 2008 [http://www.walesoffice.gov.uk/wp-content/uploads/2008/05/cm-7379-wales-na\\_housing.pdf](http://www.walesoffice.gov.uk/wp-content/uploads/2008/05/cm-7379-wales-na_housing.pdf)

<sup>45</sup> National Assembly for Wales, *Official Record*, 4 July 2007 in House of Commons Welsh Affairs Committee Interim Report: 'The Provision of Cross Border Health Services for Wales Sixth Report; 2007-08, pp 19.

<sup>46</sup> House of Commons Northern Ireland Affairs Committee 'Policing and Criminal Justice in Northern Ireland: the Cost of Policing the Past' Third Report 2007-08 <http://www.parliament.the-stationery-office.co.uk/pa/cm200708/cmselect/cmniaf/333/333.pdf>

The most urgent recommendation of the committee's report was that the Northern Ireland Office bring under control the currently unsustainable cost of statutory inquiries into historic events. The Saville Inquiry alone has cost £183 million and is still not complete. It advised that future inquiries should only be established with consent of the Northern Ireland Assembly, and measures should be taken to ensure that PSNI could fulfill its operational responsibilities while still helping with historical enquiries.

On other matters, the Northern Ireland Affairs Committee took evidence on 'Political Developments in Northern Ireland', at which hearing the Secretary of State described the situation in the region as 'robust'.<sup>47</sup> However, he made clear that long term stability depended on 'completing devolution' soon.<sup>48</sup> The DUP's Sammy Wilson MP described the Secretary as 'oblivious' to the situation in Northern Ireland, asking if now was the time for complete devolution, why did the Secretary of State continue to intervene, e.g. in the decisions to fund Irish language films and choosing the location for the national stadium.

On 16 July, the committee took evidence on the Northern Ireland Office Annual Report. Permanent Secretary Jonathan Phillips described the relationship between the NIO and the Executive as developing well, and expressed his hope that the transition of policing and justice to the devolved administration would take place sooner rather than later.<sup>49</sup>

Finally, the committee announced the establishment of a new inquiry into Cross-Border Co-operation between Northern Ireland and the Republic of Ireland, especially between agencies charged with law enforcement responsibilities. Interested parties are invited to make submissions.<sup>50</sup>

---

<sup>47</sup> House of Commons Northern Ireland Affairs Committee Uncorrected Oral Evidence on "Political Developments in Northern Ireland" <http://www.parliament.the-stationery-office.co.uk/pa/cm200708/cmselect/cmniaf/uc914-i/uc91402.htm> ;Q2

<sup>48</sup> Ibid, Q5.

<sup>49</sup> House of Commons Northern Ireland Affairs Committee 'Uncorrected Oral Evidence on NOI Department Annual Report, 16 July 2008, <http://www.parliament.the-stationery-office.co.uk/pa/cm200708/cmselect/cmniaf/uc1005-i/uc100502.htm>

<sup>50</sup> Northern Ireland Affairs Committee Press Notice 'New Inquiry Cross- Border Co-operation', 21 July 2008 [http://www.parliament.uk/parliamentary\\_committees/northern\\_ireland\\_affairs/niac\\_pn19\\_07\\_08\\_.cfm](http://www.parliament.uk/parliamentary_committees/northern_ireland_affairs/niac_pn19_07_08_.cfm)

## 5.5 Regional Select Committees

On 10 July 2008, the Select Committee on Modernisation of the House of Commons ('Modernisation Committee') released its report on 'Regional Accountability', setting out proposals for new regional committees of MPs. The committee identified the presence of a two fold 'accountability gap' at the regional level, with a lack of adequate accountability of regional development agencies (RDAs) and other regional bodies both within the regions and also to Parliament. However, the select committee's remit extended only to considering the role of the House of Commons.

The committee had commenced its inquiry after the government signalled its support for the creation of dedicated parliamentary committees for each region<sup>51</sup> to apply 'formal and consistent parliamentary scrutiny' to the work of regional bodies and the new regional ministers.<sup>52</sup> It had been expected to choose between the select committee and the grand committee model but in the event – somewhat surprisingly – it opted for a combination of the two. Specifically, it was argued that 'the most effective way to strengthen regional accountability to Parliament would be to establish a system of regional select committees' [for the eight English regions outside London]. However, since these would 'offer only a minority of members in a given region the opportunity to exercise regular and detailed scrutiny', up to two grand committee meetings per session for each region would also be held. The select committees would exercise detailed scrutiny while grand committees would be forums for general debate and for questioning of regional ministers.

Conservative members of the Committee gave support for regional grand committees, but opposed regional select committees,<sup>53</sup> with Shadow Leader of the House Theresa May arguing that the latter would 'place intolerable burden on the resources of the House and would be likely to hamper the work of existing select committees',<sup>54</sup> as well as risk duplication, or 'scrutiny overload'. To minimise their adverse impact on the committee system, it was proposed that regional select committees should have no more than 10 members, and should meet less frequently than other committees. They would, however, be expected to travel frequently and to hold some of their

---

<sup>51</sup> As previously recommended by Communities and Local Government Select Committee, *Is there a future for regional government?*, Fourth Report of Session 2006–07, HC 352, March 2007.

<sup>52</sup> Ministry of Justice, *The Governance of Britain*, CM 7170, July 2007, at: <http://www.official-documents.gov.uk/document/cm71/7170/7170.pdf>, p. 38.

<sup>53</sup> L. Maer 'Regional Accountability at Westminster' Standard Note SN/PC/04411, 21 July 2008 <http://www.parliament.uk/commons/lib/research/notes/snpc-04411.pdf>

<sup>54</sup> Select Committee on Modernisation of the House of Commons- Formal Minutes, 2 July 2008, para 45

meetings in the respective regions. Committee chairs would be expected to ensure that unnecessary overlap with the work of departmental committees did not occur.

The Liberal Democrats backed the principle of regional select committees but opposed the final recommendations on the basis that the composition of these bodies ought to reflect the party balance in the region in question. However, the Labour members insisted that regional select committees should be representative of the House as a whole, meaning that Labour would have a majority on all eight. Although this is in line with practice for appointments to other select committees, such an approach may undermine the legitimacy of the committees in regions such as the South West and the South East, where Labour is in the minority.

- The total estimated cost for 8 regional select committees meeting 6 times per year and 8 regional grand committees meeting twice a year is £1,406,912; excluding various additional outlays such as venue cost and security.

## **5.6 Territorial Grand Committees**

On 17 June the Northern Ireland Grand Committee held its first meeting of the parliamentary session, discussing the subject of 'Risk Assessment and Management of Sex Offenders', followed by an adjournment debate on 'Neighbourhood Policing'.

The Welsh Grand Committee also met in this period, holding a debate on 'The Future of Energy in Wales', and holding a brief oral question time with Wales Office ministers on 18 June.

## **6. Inter-Governmental Relations**

On 25 June 2008, the first meeting since 2002 of the plenary Joint Ministerial Committee was held. Established as part of the Memorandum of Understanding between the UK and devolved administrations in 1999, the JMC framework was originally expected to play a significant role in resolving disputes and facilitating coordination between the different governments. However, it soon fell into disuse as the UK government came to find it simpler to negotiate with the devolved administrations informally, and on a bilateral basis. The changes in political complexion of the devolved governments, and in particular the entrance into power of the SNP, changed this, as the devolved governments all came to favour the use of more formal and multilateral mechanisms.

The 25 June meeting was held in London, chaired by the Secretary of State for Justice. In attendance were the Secretaries of State for Scotland, Wales and Northern Ireland, and the First Ministers and one other senior minister from each of the three devolved administrations. According to the joint statement issued subsequently, subjects discussed included renewable energy and the need for intergovernmental coordination in meeting the EU renewable energy target; and the Marine Bill (whose potential to lead to disputes was noted above in section 4.1. The Scottish and Welsh administrations both used the opportunity of these discussions to make a case for further devolution of powers.<sup>55</sup>

The statement further noted that several matters relating to finance were discussed. Extra detail was given on this by Alex Salmond in First Minister's Question Time in the Scottish Parliament. He explained that Finance Minister John Swinney had highlighted the longstanding dispute over attendance allowance, the brewing row over council tax benefit or CTB (and what would happen to money saved from CTB payments to Scottish residents if the SNP succeeds in abolishing council tax), and the question of whether the rest of the UK should be granted 'Barnett consequentials' as a result of spending on the London Olympics. On this matter, the Scottish delegation apparently gained backing from the other two devolved administrations, suggesting that the JMC has already begun to change the dynamics of

---

<sup>55</sup> Joint Statement from the Joint Ministerial Committee, 25 June 2008, at: <http://www.scotlandoffice.gov.uk/our-communications/release.php?id=3676>

intergovernmental relations, by facilitating the formation of coalitions among the devolved governments in negotiations with London.<sup>56</sup>

Agreement was also reached to look into what procedures could be set up to facilitate conflict resolution at the JMC. In addition, it was agreed to hold a further meeting of the JMC in the autumn, potentially in a new format entitled the JMC (Domestic). This forum would be chaired by Paul Murphy (as responsible minister for JMC issues) and would involve a shifting membership of ministers depending on the subject under consideration, akin to the European Council of Ministers.

---

<sup>56</sup> Scottish Parliament Official Report, 26 June 2008.