

# From Devo-max to West Lothian-Max

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*The changes to Westminster politics in Scotland in 2015 are likely to be without historical precedent. In this post, [James Dennison](#) discusses the implications of these changes in the context of the “West Lothian” question. He argues that the election of a large number of SNP MPs is likely to greatly exacerbate tensions that were previously dormant, and could pose a challenge to the democratic legitimacy of the post-election government.*



The recent realisation that any prospective British government will need the support of the Scottish National Party in order to command a majority has been the most prescient issue of the short campaign. The, mostly London-based, media have expressed alarm over three consequences of an SNP-backed government. First, [commentators have claimed](#) that it is incompatible to have a party within or propping up the government of the United Kingdom that is opposed to Scotland's place within the Union. Second, the Conservative Party and its supporters have claimed that including the SNP in any government will lead to chaos as Miliband's government would be liable to a '[daily dose of blackmail](#)' that will result in continuous instability. Third, and related, [some have argued](#) that Scotland will be able to leverage a disproportionate amount of public goods by having a bloc in government.

Though these consequences are plausible, alone they are neither undemocratic nor unusual in countries in which either multi-party government is the norm or regional political parties hold power. What makes the prospect of the SNP playing a role in the British government constitutionally problematic is the soon-to-be greatly expanded devolution of powers to the Scottish Parliament and the resultant exacerbation of the West Lothian Question, which, until now, has been a side point of British politics. Indeed, I argue that the dual outcomes of last year's independence referendum of [devo-max](#) and greater success for the SNP in Westminster elections, coupled with the peculiar current polling arithmetic whereby no government can be formed without the backing of Scottish nationalists, leads to a situation in which the West Lothian Question is maximised to its greatest possible level of inequity between the UK's constituent nations. Whereas the original West Lothian Question was problematic by-and-large in the abstract, the current 'West Lothian max' arrangement will see Scottish nationalist MPs securing majorities on bills that were put forward by a Scottish nationalist-backed government yet will only apply outside of Scotland.

The potential upcoming period of 'West Lothian Max' has a number of crucial differences from the two previous phases of the West Lothian Question that I identify. During the period between the creation of the Scottish Parliament in 1999 and the end of the last Labour government in 2010, the West Lothian Question had few practical ramifications. First, the Labour government commanded a majority of British MPs as well as a majority of non-Scottish MPs. As such, whether or not Scottish MPs had been allowed to vote on non-Scottish legislation rarely affected the outcome of the voting. Second, and related, the partisan makeup of Scotland's MPs was at least 90% non-nationalist, which ensured that they would be whipped by pan-British<sup>[1]</sup> parties to vote, theoretically at least, in pan-British interests. Finally, the extent of Scottish devolution was less before the passage of the 2012 Scotland Act and the likely upcoming 'devo-max' arrangements.

Following the 2010 General Election, the West Lothian Question gained practical significance. Whereas the Conservative Party were 17 seats short of an absolute majority across the entire House of Commons, excluding Scottish MPs would have given David Cameron's party an effective majority<sup>[2]</sup> of 12 MPs. On English-only legislation, without Welsh and Northern Irish MPs, this majority would have been even greater. As such, the formation of a coalition government on English-only legislation was a consequence of the ability of Scottish MPs to vote on English matters but English MPs unable to vote on Scottish matters. The proportion of Westminster legislation affected by West Lothian increased following the passage of the 2012 Scotland Act, which removed more

powers to the Scottish Parliament.

However, whereas the previous effects of the West Lothian Question remained either theoretical or obscure, the outcome of the 2015 general election is likely to result in four circumstances that will maximise West Lothian's practical effects and visibility and are all consequences of the independence referendum. First, it is quite possible that the next government will be able to command a majority of British MPs but not non-Scottish MPs, meaning that Scottish MPs will be needed to pass legislation that only affects non-Scottish constituencies. Second, with the likely passage of 'devo-max', under which most power over Scotland will be removed from the Houses of Parliament, the majority of Westminster activity will cover non-Scottish matters. Third, unlike before, those Scottish MPs will be an almost homogenous bloc of nationalists whose sole electoral imperatives are to secure funds and autonomy for Scotland. Unlike in previous Parliaments, few Scottish MPs will be subject to whips of pan-British parties and, instead, they will be whipped by a Scottish party that is to the left of parties that around 95% of the English electorate will have voted for.

Indeed, despite the undemocratic nature of such a scenario, Nicola Sturgeon has pledged to drag any British government to the left of what Labour would be otherwise. Such an influence may be formalized if the SNP have a policy-making role in any coalition or, more likely, confidence and supply arrangement. Under this fourth consequence of the possible electoral arithmetic, policy for non-Scottish areas of the country would be partially formed by a party that has never received a single vote in those areas, is completely unaccountable to the electorate and has an electoral incentive in ensuring that another part of the country, Scotland, gets as large a slice of the national budget as possible. Furthermore, England may need a super-majority of its own MPs in future to perform one of the basic functions of democracy: getting rid of the incumbent. The consequences of devo-max and the likely outcome of the general election exacerbate the tensions and contradictions that had lain dormant under the devolution settlement but now constitute 'West Lothian Max', as summarised in Figure 1.

	West Lothian	West Lothian Max
Scottish MPs can vote on English matters	✓	✓
English MPs cannot vote on Scottish matters	✓	✓
Government has a majority of British MPs but not English MPs	✗	✓
Minority of legislation not devolved to Scotland	✗	✓
Scottish MPs voting through English bills are Scottish nationalists	✗	✓
England-only bills were drafted by a part-Scottish nationalist government	✗	✓

To conclude, the election of a large number of Scottish nationalists is not necessarily bad for democracy in and of itself. It is because of the West Lothian question, the consequences of which may soon be greatly amplified by the unique current electoral arithmetic and the extension of further powers to Holyrood, that the democratic legitimacy of the post-election governmental arrangement may be questionable. Of course, the circumstances that I define as West Lothian Max are not certain to happen. However, if the support of the SNP is required for the government to command a majority on non-Scottish legislation, the government will be faced with a tough choice: either accept the inevitable barrage of criticism or devise an alternative arrangement for dealing with non-Scottish legislation.

*Notes: This article gives the views of the author, and not the position of the General Election blog, nor of the London School of Economics. Please read our [comments policy](#) before posting.*

[1] Not including Northern Ireland

[2] Excluding Sinn Fein's five MPs who do not take their seat and the Speaker

## About the Author

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