

# M O N I T O R

Issue 10

The Constitution Unit Bulletin

March 2000

## Devolution Hots Up

For the first time since the elections to the Scottish Parliament and Welsh Assembly, devolution has dominated the news in the early months of this year. Attention has focused, in particular, on the tensions between the centre and the devolved institutions.

### Wales

One personality and one issue has come to symbolise the problems of devolution in Wales. First Secretary Alun Michael's reported autocratic leadership style was widely criticised as contrary to the inclusive politics the Welsh Assembly was supposed to foster. In a speech in January former Welsh Secretary Ron Davies criticised the political culture of the Assembly and called on all parties to foster a more co-operative spirit to make devolution work. Within the Wales Labour Party this speech was interpreted as disloyalty and an attack on Alun Michael himself.

At issue was the Treasury's refusal to confirm that

additional matched funding would be available under the Objective 1 Programme for West Wales and the Valleys. Plaid Cymru had demanded that an assurance of matched funding had to be received from the Treasury by the time the Assembly voted on the budget in early February. When no such assurance was received, a motion of no confidence was tabled. Alun Michael dramatically resigned just before the vote was taken; the vote was carried by 31 votes to 27. Rhodri Morgan, Economic Secretary and Michael's defeated rival for the Labour leadership in February 1999 was appointed acting First Secretary and confirmed a week later by the full Assembly. Morgan reshuffled his cabinet bringing in Sue Essex as Environment Secretary and creating the first female dominated Cabinet in Western Europe (*Guardian*, 23 February).

Morgan's election as First Secretary has created an opportunity to restore the reputation of devolution in

### Contents

<b>Devolution</b>	
Wales	1
Scotland	2
Northern Ireland	3
England	3
Mayor & GLA	4
Devolution at the Centre	4
<b>Parliamentary Reform</b>	<b>5</b>
<b>Elections and Parties</b>	<b>6</b>
<b>Human Rights</b>	<b>7</b>
<b>The Courts</b>	<b>7</b>
<b>Freedom of Information</b>	<b>8</b>
<b>Local Government</b>	<b>8</b>
<b>People on the Move</b>	<b>8</b>
<b>Overseas News</b>	<b>9</b>
<b>Constitution Unit News</b>	<b>9</b>
<b>Unit Project Reports</b>	<b>9</b>
House of Lords Reform	9
Human Rights	9
The English Regions	9
Canadian Courts Visit	10
Voter Attitudes	10
London Election Survey	11
<b>Publications</b>	<b>11</b>
<b>Bulletin Board</b>	<b>12</b>

The Monitor is



## Change to Unit's contact numbers



SCHOOL of PUBLIC POLICY  
29/30 Tavistock Square, London WC1H 9EZ  
email: [constitution@ucl.ac.uk](mailto:constitution@ucl.ac.uk)  
[www.ucl.ac.uk/constitution-unit/](http://www.ucl.ac.uk/constitution-unit/)

Tel: 020 7679 4977

Fax: 020 7679 4978

**Wales cont.**

Wales. An ICM poll in February revealed that half the Welsh sample believed that devolution had achieved nothing for Wales, and two fifths considered it a failure. Big changes are also required to restore the fortunes of the Welsh Labour Party: Labour slipped from second to fourth place in the Ceredigion parliamentary by-election held at the beginning of February.

Changing First Secretary has not resolved some of the deep-rooted problems of the Welsh Assembly. The Treasury has not budged from its position that no commitment to matched funding can be made before the Comprehensive Spending Review in July, despite fears that this might result in Wales losing access to some of the EU funds available. The Labour administration in Cardiff remains a minority administration, though the possibility of a coalition with the Liberal Democrats has not been ruled out altogether. There is controversy and uncertainty over the powers of the Presiding Officer of the Assembly following the vote of no confidence saga; and uncertainty over the powers of the Assembly itself have been exposed over calls by the Agriculture Committee in February to declare Wales a GM-free zone.

**Scotland**

When a leading newspaper runs a front page headline 'Scottish Executive in Disarray', as The Scotsman did towards the end of January, then the executive is in disarray. Perception is all. Just before Christmas John Rafferty, First Minister Donald Dewar's chief of staff, was sacked for reasons which Dewar has been unwilling fully to explain. That silence has left plenty of room for whisper and conspiracy. The sacking was followed closely by the enforced resignation of a second special adviser, following a drink driving conviction, and controversy about two others.

On top of all this, a storm has erupted over the executive's plan to drop Section 28 (section 2A in Scotland) which restricts teachers' treatment of homosexuality in schools. This has embroiled the entire administration and the two coalition parties in endless negotiation on a highly emotive but bizarre choice of issue. The intervention of millionaire businessman Brian Souter, backed by a professional PR company, has made sure the battle to 'Keep the Clause' has overshadowed all other political issues.

Behind this media storm the government's business goes on. The Cubie report on student tuition fees was published, and a compromise hammered out in the executive which both coalition partners could live with. Three of the six bills in the executive's legislative programme (Abolition of Feudal Tenure, Abolition of Poidings and Warrant Sales, Adults with Incapacity, Standards in Schools, Budget, and Integrated Transport) are entering their committee stage. Deputy Convenors have been appointed to all committees, and a number of the Parliament's committees are starting to do good work. The first real test for the political parties will be the Ayr by-election on 16 March: it is a genuine three way marginal, which Labour won last year with a majority of only 25 over the Conservatives.

The courts have also been busy, with precedent setting cases on the ECHR and on the Parliament. Police questioning about the identity of drivers caught by speed cameras has been held to contravene the Human Rights Act (right not to self-incriminate). On a petition for an interdict brought by the Countryside Alliance against Mike Watson MSP's Protection of Wild Mammals Bill, the appeal court rejected the petition but ruled that the courts have jurisdiction over the Scottish Parliament, as a body created by statute, and with powers limited by statute. In February Lord Hardie resigned as Lord Advocate and became a senior judge. He has been replaced by the Solicitor General Colin Boyd QC; the new Solicitor General is Neil Davidson QC.

**Scotland and Westminster**

The Scottish Parliament has begun to debate matters within Westminster's jurisdiction, and vice versa. The SNP have been accused of using nearly half their chamber debating time on Westminster issues. On 16 December the Parliament debated an SNP motion deploring the discrimination contained in the Act of Settlement 1700. This prevents any Catholic, or anyone marrying a Catholic, from succeeding to the Crown or remaining as Sovereign. The Crown and its succession is a reserved matter under the Scotland Act 1998, so the Scottish Parliament cannot make laws in this area; but it can debate matters lying outside its legislative competence. Not to be outdone, on 2 December Lord Forsyth (former Scottish Secretary Michael Forsyth) moved in the Lords that parliament should consider removing the bar

against Catholics succeeding to the Crown. This would require consultation with the other 15 Commonwealth governments where the Queen is still head of state. Effectively such action can only be taken by government.

In January the Scottish Parliament resolved to allow Westminster to legislate for it on an issue which is now devolved. This is the age of consent for homosexual acts, which Westminster is lowering from 18 to 16 by the Sexual Offences (Amendment) Bill. Westminster has power to legislate even on devolved matters; but under the Sewel convention will not normally do so without the consent of the Scottish Executive and Parliament. This is the first example of the convention being used.

### **Northern Ireland**

Northern Ireland once more went from political beacon to basket-case in little over two months. As with the Belfast agreement of 1998, so with its 1999 review under the same US chair, George Mitchell, supported by the British and Irish governments. It was one thing for the international actors to shoe-horn the parties into a deal; it was quite another for the parties to agree what they had agreed to.

On the one side, the Ulster Unionists, the SDLP and the Northern Ireland secretary, Peter Mandelson, believe the review concluded in November with an understanding. Contrary to the earlier invocation by the Sinn Fein president, Gerry Adams, that his UUP counterpart, David Trimble, and he should 'jump together', the review required Mr Trimble to jump first into a shared devolved government, including Sinn Fein, before any IRA decommissioning. The implicit quid pro quo was that a report due in January from the chair of the independent decommissioning body, Gen de Chastelain, would indicate actual progress in this regard.

No such progress was reported as of the early hours of 1 February, and Mr Mandelson protested 'betrayal'. The IRA insisted, outraged, that no decommissioning commitment had been made, indeed ever made (a claim undermining the 'seismic shift' the Prime Minister detected last summer). The Dublin government sought to stay the hand of Mr Mandelson, set upon suspending the devolved, and intergovernmental, institutions finally established in early December, via days (and nights) of word-smithery with the republican

leadership. As political pressure mounted from formerly friendly Americans, the republicans agreed to a statement on the morning of 11 February, a day before a critical meeting of Mr Trimble's ruling Ulster Unionist Council. To secure a (slim) majority at the UUC in November in support of the review outcome, Mr Trimble had offered a post-dated resignation, to be effected if the January de Chastelain report proved void.

The IRA statement, while interpreted by Gen de Chastelain as a basis for confidence in his mandate (decommissioning of all arms by 22 May), was vague and conditional: 'more context than Semtex'. But it provoked a rift between London and Dublin, the former going ahead with suspension on the evening of 11 February against protests from the latter.

At the time of writing, no one in either capital seemed to have any convincing ideas as to how this particular Humpty Dumpty was going to be reassembled.

### **England**

The new year began with potentially significant developments for the English regions. John Redwood was replaced with Archie Norman as Conservative spokesperson on the Environment, and the party signalled that they may drop their opposition to Regional Development Agencies (*The Times*, 8 February). The Local Government Association held a series of meetings to discuss the implications of regional government for local government and will publish a report in the spring. The new Regional Policy Forum, created to influence the public debate on regional issues and, in its own words, provide 'a platform for learning and dialogue among all interested parties' held its inaugural meeting in February. It is chaired by David Marquand and Paul Hackett, John Prescott's special adviser, is closely involved.

An authoritative analysis of the current functioning of the regional tier of government in England was provided by the Cabinet Office's Performance and Innovation Unit in February 2000. Its report, *Reaching Out: The Role of Central Government at Regional and Local Level* found that 'the tiers of central government that impact on the regional level are highly fragmented, do not deal with cross-cutting issues and generally do not have sufficient influence over central policy design and implementation'. It found that too many of the

area based initiatives announced since May 1997 were narrowly focused, too bureaucratic and had too many separate funding regimes.

The government accepted many of the proposals contained in this report, including:

- The creation of a Regional Co-ordination Unit (chaired by Cabinet Office minister Lord Falconer). This Unit will promote joined-up government on issues such as combating social exclusion.
- Stronger, more flexible and higher profile Government Offices of the Regions.
- Closer central government working with the Regional Development Agencies.

The report concluded by saying that elected regional government would not be either required or precluded by any of these measures, but is in any case not likely to be introduced for some time.

### **Mayor & Greater London Assembly**

Preparations for the election on 4 May are continuing. All three main parties have now selected their candidates, and Ken Livingstone, defeated in the selection for Labour candidate, has announced that he will run as an independent. The difficulties within the Labour Party, and prior to that in the Conservative Party, over the selection of candidates, has so far dominated the news about the Mayor and Assembly.

The government is using the election as a testbed for its reforms of election procedure. Londoners will thus be able to vote up to a week before election day, and in another first for the UK, all the votes will be counted electronically. However, some of the arrangements have been controversial. The first was the government's announcement that there would be no free mailing of candidates' material to voters. They argued that a mailshot would be too expensive, and that, unlike the devolution elections, the GLA contest was a local election, which traditionally does not attract a free mailshot. In a vote in the Lords on 22 February, a motion annulling the government order was passed. The government subsequently announced a compromise by suggesting that all candidates' election pledges be included in a single booklet mailed to voters. The government also backed down on spending limits it originally proposed for the election, in the face of criticism that the high ceilings would benefit the large parties. The

orders limit mayoral candidates to a budget of £420,000, rather than the £990,000 suggested back in December.

### **Devolution and the Centre**

In mid-December the first meetings were held of the intergovernmental bodies to underpin devolution in Northern Ireland. The inaugural meeting of the North-South Ministerial Council was attended by 15 members of the Irish cabinet and 10 out of the 12 members of the Northern Irish executive (it was boycotted by the two DUP ministers). The same week saw inaugural meetings of the British-Irish Council (which includes the Scottish and Welsh executives, and the Channel Islands and the Isle of Man) and the British-Irish Intergovernmental Conference. The next meeting of the Council was scheduled for June 2000 in Dublin, but of the three bodies only one (the British-Irish Intergovernmental Conference) is likely to continue after suspension of the Northern Ireland Assembly.

The one piece of intergovernmental machinery which has not yet met in plenary format is the Joint Ministerial Committee on Devolution. Under the October 1999 Memorandum of Understanding between the UK and devolved governments it is meant to meet once a year to review the devolution settlement. So far the agriculture ministers have been meeting once a month under its umbrella, and Gordon Brown has chaired two meetings: one on poverty issues in December, and one on the knowledge economy held in Edinburgh in February.

Devolution has not produced an overall reduction in the number of UK ministers. Although the number of Scottish and Welsh Office ministers has fallen, from 12 to five, increases in other departments (Cabinet Office, Health, Lord Chancellor's Dept) meant that post-devolution there were still 89 ministers and whips in the Commons, as there were a year before (*The Times*, 2 December 1999).

## **Parliamentary Reform**

### **Royal Commission on the House of Lords**

The Royal Commission on Reform of the House of Lords, chaired by Lord Wakeham, published its report on 20 January (*A House for the Future*, Cm 4534). The report was not well received by the press. The Liberal Democrats condemned

the proposals, calling for a fully elected house. Labour and the Conservatives gave a more cautious response.

Under Wakeham's proposals the new chamber would have around 550 members. The members of the Commission failed to agree on a single composition model, proposing three options with 65, 87 or 195 elected members. The rest would be appointed by an independent commission. Elected members would represent the nations and regions, and serve 12-15 year terms. The Appointments Commission would be a statutory body, and have strict terms of reference. It would ensure the party balance in the chamber mirrored votes cast at the last general election, and 20% of members were not aligned to any of the main parties. Political patronage would end, with the choice of party representatives given to the Commission. There would be a requirement that 30% of upper house members were women, moving to gender balance over time, and that there was a fair ethnic and regional balance. Wakeham proposed little change on the law lords or religious representation. The former would remain, while Church of England representation would be reduced from 26 to 16, with 10 seats reserved for other faiths.

The chamber's powers over ordinary and financial legislation would be unchanged. The veto over delegated legislation would be reduced to three months' delay. No special powers would be given to the upper house over constitutional matters. Instead it would take on a new constitutional focus through establishment of three committees - on the constitution, human rights and devolution - in addition to its current work of detailed legislative scrutiny, committee enquiries and European work. The government has not given a detailed response to the Wakeham proposals. However, when they were debated in the Lords on 7 March Baroness Jay, the Leader of the Lords, welcomed the report and indicated that its principles were accepted. In particular she stated that the new chamber should be 'largely nominated but with a minority elected element and with a particular responsibility to represent the regions'. According to the process set down in the White Paper on Lords reform (Cm 4183), the next stage is to refer the Commission's proposals to a joint committee of both houses. However, Baroness Jay has stated that this will be established 'once more detailed positions have been reached' (*Lords Hansard*, 24

January, col. 1318) and that she hopes to find cross-party agreement on reform.

**The Unit has published a detailed commentary on the Wakeham proposals - see page 11.**

### **The Transitional Upper House**

Events in the 'transitional' House of Lords have been lively following the removal of the hereditary peers. The house is more politically balanced than its predecessor, with 232 Conservative members, 182 Labour members and 252 others. It clearly feels itself more legitimate, and has begun to flex its muscles. There are indications that conventions in the chamber may be breaking down.

The government has now suffered major defeats in the chamber on three issues. The first, on 20 January, was over the Criminal Justice (Mode of Trial) Bill, which sought to limit access to trial by jury. The government was defeated 222 to 126 on a wrecking amendment, with eight Labour peers supporting the amendment. This was a House of Lords bill, and thus not subject to the Parliament Acts. On 22 February the government reintroduced the bill as a Commons bill. The second defeat was over the government's attempt to repeal the controversial 'Section 28' of the Local Government Act, which controls teachers' treatment of homosexuality in schools. Peers voted by 210 to 165 to retain the clause. Most recently the Lords rejected government regulations covering the London mayoral elections (see 'London Mayor' above). The Lords has long had a convention not to reject secondary legislation, which has been broken only once previously, in 1968. However, the Conservative leader in the Lords suggested in December that this convention might end. In addition, pressure from peers led government to amend the Race Relations Bill, on indirect discrimination, and the Representation of the People Bill (see 'Conduct of Elections' below). Government is growing increasingly exasperated with the behaviour of the unelected house, whose actions seem largely to have won public support. If this continues, they may be more inclined to press ahead with further upper house reform.

The Appointments Commission for the transitional chamber, which was announced in the White Paper, has yet to be established. Responsibility for advertising for members has been given to consultants PriceWaterhouse

Coopers. The seven-member Commission is expected to be in place by April. Before then more appointments are expected, designed to bring numbers between the two main parties in the chamber closer to parity. It has been widely reported that the Liberal Democrats are to be given nine new peers, rather than the 15 they requested, whilst Labour will have 19 new peers (eg. *Financial Times*, 29 February). The rift caused a threat to co-operation between the two parties.

### **Other Parliamentary Reform Issues**

In November the Financial Services and Markets Bill was carried over from one session to the next. Carry over was recommended in the first report of the new Modernisation Committee in 1997. This is the first bill to have benefited. The Opposition has not agreed to other attempts to use the carry over procedure.

The Disqualifications Bill was hastily introduced in January to bolster the Northern Ireland peace process. It would allow members of the Irish parliament (Dáil and Seanad) to be members of any UK legislature. Conservatives and Ulster Unionists claimed the bill was likely only to benefit Sinn Fein, but it has passed all its Commons stages. It is unlikely to be advanced by the government in the Lords unless there is further movement in Northern Ireland.

## **Elections and Parties**

### **Regulating Party Funding**

Legislation enacting the recommendations of the Neill Committee was introduced to the Commons on 20 December 1999. The Political Parties, Elections and Referendums Bill provides for, among others, an Electoral Commission, the prohibition of foreign donations, limits on parties' election spending and limited public funding for referendum campaigns. The main shift in government thinking since its July 1999 White Paper is on spending limits for referendums. Initially, the government proposed that referendum spending by each party represented in the Commons would be capped at £5m. In the promised Euro referendum, this would have given the pro-Euro camp a significant advantage, since only the Tories would be likely to oppose entry. To even out the contest, the Bill stipulates spending limits for the

parties of between £0.5m and 5m, depending on their share of the general election vote. The Bill is currently in Commons committee.

### **Electoral Reform**

The government has reaffirmed its commitment to a referendum on electoral reform for the Commons, with the junior Home Office minister, Mike O'Brien, indicating to MPs on 14 February that Labour would honour its manifesto pledge. Doubts had been raised by the party's internal consultation on the Jenkins Commission's proposals. The results, leaked in December, suggested a three to one majority against change, prompting some Labour MPs to press for the referendum commitment to be dropped. However, there is considerable doubt over the veracity of the consultation results; earlier work by Sheffield University researchers showed a small majority of Labour members in favour of PR, although that majority is far slimmer now than in 1997. A February survey by the lobby group Make Votes Count showed that 69% of voters supported a referendum on the electoral system, with 17% opposed.

### **Conduct of Elections**

Legislation to reform voting procedures at the local level, the Representation of the People Bill, has cleared the committee stage in the Lords. The Bill provides for a rolling register of electors, and easier postal voting and pilot schemes to test innovative procedures (eg. electronic voting). In the second reading debate in the Lords, on 31 January, the opposition's main concern was the power conferred on the government to change by order the mechanics of voting (eg. date of poll) for parliamentary elections. The Conservative spokesman, Lord Mackay, also argued that the evaluation of local pilots should be the job of the independent Electoral Commission, rather than the Home Office. At report stage, the government agreed that independent evaluation of the pilots would be desirable, but argued that this was a matter for individual local authorities. It also promised to amend the Bill, so that orders extending local pilots would be limited to local elections, and only on the advice of the Electoral Commission. Changing the mechanisms for parliamentary elections will continue to require primary legislation.

## **Human Rights**

## Human Rights Act

Whitehall is watching closely the impact of the incorporation of the ECHR in Scotland. A new Cabinet Office committee has been set up to share knowledge among UK departments, the Scottish executive and the Welsh Assembly on policy and other issues arising from the Human Rights Act and ECHR.

By mid-February, Convention points had been argued in some 370 cases before the Scottish courts. Prominent judgements have brought an effective end to the system of temporary sheriffs and limited the powers compelling vehicle owners to disclose, on threat of prosecution, who was in charge of a vehicle at the time of an alleged offence.

In January, applications were invited for the post of Legal Adviser to the Joint Parliamentary Committee on Human Rights. An announcement has still to be made on the composition and starting date of the committee.

## EU Charter of Fundamental Rights

Following the decision of the European Council at Cologne in June, work began in December 1999 on drafting a Charter of Fundamental Rights for the institutions of the European Union. So far, more questions have been raised than answered over the purpose and effect of the proposed Charter. Will it be purely declaratory or have real legal effect? Is this simply an exercise to consolidate and emphasise existing rights respected within the EU or a harbinger of new rights and a written constitution for a European state?

In January, the Parliamentary Assembly of the Council of Europe expressed concern over the overlapping roles of the proposed Charter and the ECHR. In Britain, the Law and Institutions sub-committee of the House of Lords EU Committee opened an inquiry and sought views, in February, on the proposed Charter. Government spokesmen including Keith Vaz, Minister for Europe, have stressed that it has not been determined that the Charter 'will be a legal document creating a raft of new rights'. A draft of the Charter is intended to be ready before the December meeting in Nice of the intergovernmental conference (IGC) considering voting reforms and EU enlargement.

## ECHR

In the case of *Rowe and Davis v the UK* (16.2.00), the European Court of Human Rights ruled that there had been a breach of the fair trial requirements under Article 6 of the ECHR. This was because the prosecution had withheld relevant evidence from the defence on the ground of public interest immunity without the knowledge or approval of the judge. Two further cases were found not to violate the Convention (by the narrow margin of nine votes to eight) because of subsequent changes in the law which now requires the prosecution to apply to the judge for authority not to disclose such evidence.

In January, the government removed the ban on homosexuals serving in the armed forces in response to last September's ruling of the Court in the case of *Smith and Grady v the UK*. Changes have also been announced to the trial arrangements for children charged with serious offences, in response to the Court's ruling last December concerning the unfair trial of Robert Thompson and James Venables before Preston Crown Court.

## The Courts

### McGonnell Case Throws Doubt on Lord Chancellor's Role

The judgement of the European Court of Human Rights in *McGonnell v the UK* (8.2.00), that the applicant was denied a fair hearing over a planning application in Guernsey because the appeal was heard by a judge who also presided over the island's legislature, is expected to pose a major limitation on the Lord Chancellor's ability to sit as a judge. This will include not sitting in cases arising from the Human Rights Act.

McGonnell's argument before the Court in Strasbourg was based on the fact that the Bailiff of Guernsey, responsible for turning down the planning appeal, had also supervised the passing of the island's development plan - on which the decision to refuse McGonnell's application had been based. McGonnell asserted that this constituted an infringement of his Article 6(1) right to a fair trial.

The Court held unanimously that 'the mere fact that the Deputy Bailiff presided over the States of Deliberation when [the development plan] was adopted . . . is capable of casting doubt on his impartiality when he subsequently

determined ... the applicant's planning appeal'. As a consequence of this ruling it is has been suggested that the position of the Lord Chancellor, and indeed the Law Lords, may be untenable if the case before them deals with legislation that they have previously debated as members of the upper house. However, the Lord Chancellor stated in answer to a parliamentary question on 2 March that 'the position of the Lord Chancellor is unaffected by this decision' although 'When [the law lords] participate in your Lordships' debates, it would, of course, be prudent for them to abstain from concluded views of a judicial character on issues, which might later disqualify them from adjudicating should those issues come before them'.

## Freedom of Information

The Freedom of Information Bill had its second reading on 7 December, and started its committee stage on 21 December. Despite pre-legislative scrutiny of the draft bill last summer, it made slow progress in standing committee, which finished in mid-January. The government has accepted no amendments. Those brought forward at report stage are as likely to reflect points made by the Select Committee last year as from standing committee.

## Local Government

Legislation providing for new forms of local government leadership, the Local Government Bill, is passing through the Lords. The Bill commits local authorities to move to separate executives, which may involve a directly elected mayor. If a local authority wishes to move towards this model, or if 5% of local voters petition the council for a directly elected mayor, a referendum must be held. At report stage (2 March), issues for debate included whether there should be a minimum threshold (of 25%) below which a referendum result would be deemed void. The Government also successfully introduced an amendment to the Bill that, whilst a baseline of 5% of electors would be required for a petition, the government could keep this under review. Thus, if local campaigners find it difficult to muster 5% of their populations, the government has the option of reducing the baseline. The government is hoping that the Bill

will receive Royal Assent in time for local elections in May.

While polls show that few councillors support directly elected mayors, a recent survey found support for this option among voters. A February poll for the New Local Government Network found that 59% of voters would 'like the opportunity' to directly elect their mayor or local authority leader, with 32% against the idea. Outside London, support was highest in the North West and Scotland (61% in favour), and lowest in Wales (45% against) and East Anglia (39% against).

## People on the Move

The Programme Director for the ESRC's Devolution Programme is **Prof Charlie Jeffery**, from the Institute of German Studies in Birmingham. **David Lambert**, former Chief Legal Adviser in the Welsh Office, takes up a new post as Legal Adviser to the Presiding Officer in the National Assembly for Wales. **Winston Roddick QC** remains Counsel General to the Assembly.

**Jonathan Tross** (ex DSS) is the new Head of the Constitution Secretariat in the Cabinet Office, succeeding **Sir Quentin Thomas**, who retired at Christmas. Other new arrivals in the Constitution Secretariat are **Mark Taylor**, in charge of Devolution, and **Donald Henderson**, on secondment from the Scottish Executive. **David Wilkinson** is the new Director of Regional Government at the DETR. His successor as Head of the Central Secretariat in the Cabinet Office is **Sonia Phippard**.

## Overseas News

### New Canadian Chief Justice

On 7 January the first woman Chief Justice of Canada was appointed. A former practitioner and Professor at the University of British Columbia, Beverley McLachlin P.C. was first appointed to the bench in April 1981, in the County Court of Vancouver. She was appointed to the Supreme Court of Canada in 1989. She takes the place of Antonio Lamer, P.C., who has retired. The Supreme Court of Canada has an excellent website and update service which can be accessed at <http://www.scc-csc.gc.ca/new/new.htm>.



# Constitution Unit News

## A Growing Team

The Constitution Unit is now 10 strong. Two new Senior Research Fellows joined us in January. Dylan Griffiths will lead the Unit's work on devolution. A Welsh-speaking Welshman, he comes to us after six years in Newcastle, and so understands regional issues in England. Jeremy Croft is our new Rubin Research Fellow in Human Rights. As a senior civil servant in Hong Kong, he introduced their Bill of Rights, and is an expert in international human rights. Roger Masterman has joined us as a Research Assistant, working mainly on our ESRC Constitutional/Supreme Court project.

## Seminar and Lecture Programme

In the coming quarter the Unit is organising two seminars and two lectures. In May Sir Leon Brittan is giving a lecture on Europe; and in June Lord Alexander is giving one on the House of Lords. The seminars are on the role of Royal Commissions, the work of the Neill Committee and the future of the Welsh Assembly. See back page/enclosed flyer for details.

## Project Reports

### House of Lords Reform

In the last quarter the Unit has organised a major conference on the Wakeham proposals for House of Lords reform, and published a briefing on the proposals. In addition, Meg Russell's book, *Reforming the House of Lords: Lessons from Overseas* (OUP) was published in January.

The new briefing summarises the key elements of the Wakeham proposals, and gives a commentary, informed by UK and overseas experience. The reception given to the proposals is mixed. The Royal Commission's proposals are not, as they claim, a blueprint for the future. Rather they represent a possible next step in the gradualist reform of the chamber which took place throughout the last century. In particular the Commission allowed itself to be too tightly bound by the requirement in its terms of reference to 'maintain the position of the House of Commons as the pre-eminent chamber'. Its interpretation of this clause prevented it from giving the chamber greater constitutional powers, which would have been

sensible, and resulted in proposals for a largely nominated chamber which may lack legitimacy. However, the Commission's design of the proposed Appointments Commission is well thought-through to raise confidence in the chamber, and the proposed new committees on constitutional matters are very welcome. The briefing proposes that these and other recommendations, which do not require legislation, be implemented straight away.

The Unit's conference on the proposals was sponsored by the Royal Commission. Keynote speakers included Lord Wakeham, Lord Hurd and Gerald Kaufman. Many academics, commentators and politicians of all parties were involved in a range of workshops on different topics. These looked at, for example, the human rights role of the new upper house, religious representation in the chamber, the work of the European Union Committee, and representation in the chamber of currently under-represented groups.

*Reforming the House of Lords: Lessons from Overseas* is available from the Unit at the reduced price of £14 (plus £2 p&p). *Commentary on the Wakeham Report on Reform of the House of Lords* is available for £5. The keynote speeches from the conference *The Future of the House of Lords* will also shortly be available as a Unit briefing. See publication list for details.

Contact: Meg Russell  
(020 7679 4974, email: meg.russell@ucl.ac.uk).

### Human Rights Project

The Human Rights Act provides a baseline on which the government aims to build a new culture of rights and responsibilities in Britain. How will this culture be shaped and develop? This project looks at the internal preparations government is making for the implementation of the Act. It will provide guidance for policymakers and managers coming to grips with human rights approaches in their work.

Contact: Jeremy Croft  
(020 7679 4979, email: jeremy.croft@ucl.ac.uk).

### The Future of the English Regions

The Joseph Rowntree Foundation has commissioned the Constitution Unit to examine the current structure of government in the English regions and the possible evolution of English regional government over the next 5-10

years. The study will particularly focus on the steps necessary to move towards a democratically elected tier of government in some or all of the English regions. Other scenarios short of directly elected regional assemblies will also be considered.

The investigators will be Dylan Griffiths, the Constitution Unit's Research Fellow in Devolution and Paul McQuail, a former civil servant who has written extensively on the subject of English regional government both for the Unit and elsewhere. Interviews will be held with key actors and commentators in the North East, Yorkshire and Humberside and the South East as well as in Whitehall and with representatives of relevant national organisations. The study will also include two case-studies of the development of regional government in France and Spain to examine what lessons can be learnt from experience overseas for the English case. Two seminars arising from this research will be held in June and July and a Constitution Unit report and a Joseph Rowntree Foundation briefing paper will also be produced to disseminate the findings of this research.

Contact: Dylan Griffiths  
(020 7679 4973, email [dylan.griffiths@ucl.ac.uk](mailto:dylan.griffiths@ucl.ac.uk)).

### Canadian Courts Visit

In December, Constitution Unit Senior Research Fellow Andrea Loux travelled to Vancouver and Ottawa, Canada, on a Canadian High Commission research grant to investigate judicial assistance, third-party intervenors and the Supreme Court of Canada.

Meetings were held with those who have worked at the Supreme Court as clerks or in other judicial support capacity, and with others who had intervened in both provincial litigation and at the Supreme Court. Those interviewed included intervenors from LEAF (the Women's Legal and Education Action Fund) and Melina Buckley, chair of Court Challenges Program of Canada, a government funded programme that supports equality litigation.

At the Supreme Court of Canada, interviews were held with Justices, clerks and staff from the Registrar. Of particular interest was the changing role of the clerks since the last published material had appeared on their work. Clerks no longer play a significant role in

cases at the Leave to Appeal stage. The Court is also experimenting with revisions to its procedure for hearing applications for leave to intervene. During the visit, the Justices met in an *ad hoc* session with counsel after a hearing to discuss problems of court procedure that were encountered by both parties and interveners. The revision of court procedures to better assist parties, interveners, and the Court is a particular concern of the new Chief Justice, The Right Honourable Beverley McLachlin, P.C.

An article based on this research *Losing the Battle, Winning the War: Litigation Strategy and Pressure Group Organisation in the Era of Incorporation* will be published in the May edition of the King's College Law Journal.

Contact: Andrea Loux  
(020 7679 1478, email: [a.loux@ucl.ac.uk](mailto:a.loux@ucl.ac.uk)).

### Voter Attitudes in Scotland and Wales

The Unit is shortly to publish a report examining voter attitudes to proportional representation in Scotland and Wales. The report, co-authored with Professor John Curtice at Strathclyde University and colleagues at the National Centre for Social Research, assesses three questions:

- Did voters understand the new voting system, or did they find it confusing?
- Did voters approve of the new system, or would they have preferred 'first-past-the-post'? And what features of the new arrangements met with approval or criticism?
- Were voters encouraged to vote or discouraged from doing so by the use of the new system?

The study, funded by the ESRC under its 'Devolution and Institutional Change' initiative, is based on surveys of Scottish and Welsh voters conducted immediately after the elections in May 1999. By reference to attitudinal data from 1997, the study can also explore what change has taken place in attitudes to PR and coalition government since Labour was elected.

The report, *Wise After the Event? Attitudes to Voting Reform Following the 1999 Scottish and Welsh Elections* will be published shortly. See publication order form for details.

Contact: Ben Seyd  
(020 7679 4972, email: [b.seyd@ucl.ac.uk](mailto:b.seyd@ucl.ac.uk)).

## London Election Survey

As part of the 'Nation and Regions' programme funded by the Leverhulme Trust, the Unit is co-operating with Edinburgh University in a survey of London voters around the elections to the Greater London Authority in May. The survey, to be conducted by the National Centre for Social Research, will analyse:

- attitudes to devolution, both towards the Mayor/Assembly in London, and new assemblies elsewhere in the UK;
- Londoners' regional identities, and how these compare with identities of citizens in other UK regions;
- voting behaviour, in particular the issue of parliamentarism v presidentialism in the election of the Assembly and Mayor.

Contact: Dylan Griffiths  
(020 7679 4973, email [dylan.griffiths@ucl.ac.uk](mailto:dylan.griffiths@ucl.ac.uk))

## Publications

### New Publications by the Unit

*Please refer to the Unit's order form for further details:*

Devolution and Health: First Annual Report with the Nuffield Trust (Feb 2000) £10  
Also available to download from the unit's website: [www.ucl.ac.uk/constitution-unit](http://www.ucl.ac.uk/constitution-unit)

Commentary on the Wakeham Report on Reform of the House of Lords by Meg Russell and Robert Hazell (March 2000) £5

A Guide for Business to the planned UK Freedom of Information Act by Jim Amos, with Lovell White Durrant (March 2000)

Wise After the Event? Attitudes to Voting Reform Following the 1999 Scottish and Welsh Elections by Ben Seyd, John Curtice, Alison Park & Katarina Thomson (March 2000) £5/£8

The Future of the House of Lords: Conference papers (April 2000) £5

Reform of the House of Lords: Lessons from Overseas by Meg Russell (Jan 2000) £14 + £2 p&p.

## Publications received

Vachers Parliamentary Companion (Vacher Dod: no. 1096, Dec 1999) ISSN 0959 0328 £35

Parliaments and Assemblies of the United Kingdom (Dyson Bell Martin, 2000) ISBN 0 9525 777 63 £20

A House for the Future: Royal Commission on the Reform of the House of Lords (Cm 4534, January 2000) £24 see also: [www.official-documents.co.uk/document/cm45/4534/4534.htm](http://www.official-documents.co.uk/document/cm45/4534/4534.htm)

G. Hassan & C. Warhurst (eds.) A Different Future: A Modernisers' Guide to Scotland (Glasgow: The Centre for Scottish Public Policy and The Big Issue in Scotland, 1999) ISBN 1 899419 04 7 £10.99

Shifting the Balance: Select Committees and the Executive First Report of the Liaison Committee (The Stationery Office, 2 March 2000) £7

O. Gay, The Freedom of Information Bill (House of Commons Library 99/98, Dec 1999)

E. Wood, The Freedom of Information Bill: Data Protection Issues (House of Commons Library 99/99, Dec 1999)

O. Gay, The Representation of the People Bill (House of Commons Library 99/94, Nov 1999)

A. Laird, S. Granville & J. Fawcett, Assessment of the Voter Education Campaign for the Scottish Parliament Elections (The Scotland Office, 2000) ISBN 0 7480 9436 9 £5

J. Curtice & K. Ritchie Electing Scotland's Councillors (Electoral Reform Society: 2000) £3

## Useful Websites

**Local Government Commission for England** [www.lgce.gov.uk](http://www.lgce.gov.uk)

**The Associated Law Societies of Wales** [www.waleslaw.org.uk](http://www.waleslaw.org.uk)

**National Grid for Democracy** [www.margaretmoran.org](http://www.margaretmoran.org) - under construction, but will include database of MP's emails and websites.

**Mayor and Assembly for London** [www.london.gov.uk](http://www.london.gov.uk)

**International Teledemocracy Centre** [www.teledemocracy.org](http://www.teledemocracy.org)

If you would like us to mention a publication, website or forthcoming event in the next issue of the Monitor (June) please send your details by the end of May to email: [constitution@ucl.ac.uk](mailto:constitution@ucl.ac.uk), or fax: 020 7679 4978.

# Bulletin Board

## Forthcoming Unit Events

*To book a free place at Unit events, please return the events flyer enclosed.*

Spring Seminar Series

### What are Royal Commissions Good For?

David Hill: Secretary to the RC on Reform of the House of Lords

Lord Lipsey: former political editor, *The Economist*

3 May 2000, 6.00p.m. The Constitution Unit

Constitution Unit Summer Lecture

### Will the EU's Constitution ever fit Europe's responsibilities?

Rt. Hon Lord Brittan of Spennithorne Q.C.

17 May 2000, 6:00p.m., Clifford Chance, Aldersgate, EC1A 4JJ

**C L I F F O R D  
C H A N C E**

sponsored by:

Summer Seminar Series

### What has the Neill / Nolan Committee achieved so far? What remains to be done?

Peter Riddell: *The Times*

Dr David Hine & Dr Mark Philp: Politics, Oxford University

5 June 2000, 6.00p.m., The Constitution Unit (time and date t.b.c.)

Constitution Unit Lecture

### Wakeham in the Long Grass: Can the Lords Guard Democracy?

Lord Alexander of Weedon Q.C.:

Visiting Professor, Faculty of Laws, UCL

28 June 2000, 6:00p.m.,

Gustave Tuck Lecture

Theatre, UCL

in association with:



Faculty of Laws

Summer Seminar Series:

### Can the Welsh Assembly Survive?

Rt Hon Ron Davies AM MP

3 July 2000, 12.30 p.m.(t.b.c)

The Constitution Unit, UCL

## Forthcoming events

Faculty of Laws, UCL

### New Constitutional Litigation: Senior Practitioner Seminar Series

Various dates in March, April, May & June

Contact: Lisa Penfold, tel. 020 7679 1514,

[lisa.penfold@ucl.ac.uk](mailto:lisa.penfold@ucl.ac.uk)

<http://www.ucl.ac.uk/laws/events>

Public Management and Policy Association

### Lecture: Joining up Accountability

Dr Tony Wright MP

5 April, 5.45 pm, CIPFA Headquarters,

3 Robert Street, London, WC2N 6BH

Tel. 0171 543 5720 Fax: 0171 543 5695

The Westminster Seminars: Democratic

Reform in International Perspective

### Electing a Mayor: The American Experience

Paul Peterson, Harvard University

28 March, 5.30pm, British Academy,

10 Carlton Terrace Tel. 0171 911 5138

CIPFA 2000 The Public Finance Conference

### Governance and the Citizen: How to survive e-government, globalisation and the markets

For further details see:

<http://www.cipfa.org.uk/>

European Institute of Public Administration

### An Efficient, Transparent Government and the Rights of Citizens to Information

O.L. Vrouweplein, 22 - 6201BE, Maastricht

29-30 May 2000

Further details from:

<http://www.eipa.nl/>

Tel. +31-43-3296-222 email: [eipa@eipa-nl.com](mailto:eipa@eipa-nl.com)

Queens University of Belfast

### New Study Group on Constitutionalism & Governance: Constitutionalism and

Governance Beyond the State

Co-organisers: Prof. Jo Shaw, Uni. of Leeds

Dr. Antje Wiener, Queens University Belfast,

For further information, please consult the

group's website to be established at

<http://www.qub.ac.uk/ies/>

Constitution Unit website

<http://www.ucl.ac.uk/constitution-unit/>

