

## *After Thirty Years, the UK again faces a Referendum*

Tony Blair surprised everyone when he announced in April that the public would be consulted in a referendum over whether or not to accept the new European constitution. The timing of the referendum is unclear, although it is likely that the issue will be put to the people following the next general election, widely anticipated for spring or summer 2005. The Government will provide for a referendum in the Bill being presented to ratify the constitution, expected in the next parliamentary session. The responsibility for deciding the wording of the question put to voters will rest with ministers, although the Electoral Commission will advise on the neutrality and intelligibility of the wording. The Commission will also be responsible for designating, and providing public funding for, the 'yes' and 'no' campaign groups.

The Prime Minister's statement to the House of Commons provided few clues as to why a referendum was now being granted. We might have expected some reference to the changed relationship between the UK and the EU that the constitution might entail. After all, the referendums in Scotland and Wales in 1979 were justified on the basis that devolution involved a transfer of sovereignty away from Westminster. But just last autumn, the Foreign Secretary, Jack Straw, among other government ministers, had argued that the European constitution did not affect parliamentary sovereignty, thus

negating the need for a referendum. What has changed to alter the Government's stance? It is not the nature of the EU constitution itself. True, some commentators argue that the constitution does extend European integration and involves a further transfer of sovereignty. In that case, a referendum would be a perfectly proper constitutional recourse, as with the devolution referendums seven years ago. But if this argument is accepted, why has the referendum been granted only now? And why was this constitutional doctrine absent in 1986 and 1992 when the Single European Act and Maastricht Treaties were ratified, in both cases by parliament with no reference to a popular vote?

It is difficult to argue that the decision to hold a referendum reflects principled constitutional considerations. Rather more convincing explanations point to the June 2004 European elections, and the possibility that a hostile House of Lords might itself have voted in favour of a referendum via an amendment to the ratification Bill. Just as in the European Community poll in 1975—the only other UK-wide referendum—the decision to consult the public appears primarily motivated by political considerations.

The Labour Government remains committed to referendums on the European single currency and on electoral reform. National referendums are becoming a de facto

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convention in cases of constitutional change. But the public are even more likely to be engaged in this way at the local level than at the national one. Since 2001, more than thirty referendums have taken place at the local level. These have almost all been on the Government's proposals for new executive arrangements for local councils, although two have been held on local tax levels. Under the Local Government Act 2000, local councils have been given greater powers to put issues directly before their electorates. As a recent study\* notes, the increased use

of referendums across western countries is not at the national level, but at the local one. It is here, then, that the referendum is becoming entrenched in Britain; for national governments, the referendum is still a tool of political convenience rather than an emerging constitutional convention.

\* *Democracy Transformed?* Edited by Bruce Cain, Russell Dalton and Susan Scarrow, Oxford University Press, 2003 (to be reviewed in the next issue of *The Monitor*).

## *The Constitutional Reform Bill*

The Government's plans for the new Supreme Court continue to be dogged by difficulties. The Constitutional Reform Bill which establishes the new Supreme Court was referred by the House of Lords in March to a Select Committee. The senior law lord, Lord Bingham, has told the committee that it would be intolerable to create the new court without having a new building, leaving the law lords as squatters in their House of Lords corridor. He also rejected Middlesex Guildhall as a new home because it is in the design of a criminal court with tiered benches and a dock, which would be difficult to alter because it is a listed building.

Lord Falconer has undertaken to amend the Bill to say that the new court will not come into being until a building is ready. This could shelve the plan for years, especially if a new building has to be built. Meanwhile, the Commons Select Committee on Constitutional Affairs has returned to the charge, announcing a further inquiry in May into practical issues relating to the Supreme Court. These would include not just the search for a building, but the cost of the new court, how it would be accountable for its budget, how its independence would be secured, and its relationship with Parliament.

The Constitutional Affairs Committee had strongly recommended in their report in February (HC 48) that the bill be published in draft, to enable proper consultation on such a big constitutional change. The government rejected the idea of a draft bill because of the delay, but in its reply in April (Cm 6150) the

government accepted some lesser recommendations, such as the need for the Supreme Court to lay an annual report before Parliament detailing the Court's budget and a description of the work undertaken. The government also accepted that the Supreme Court should be representative of all three jurisdictions in the UK, with an equal sense of ownership in all parts of the country.

By taking the unusual step of referring the Constitutional Reform Bill to a Select Committee after its Second Reading on 8 March 2004, the House of Lords has achieved the equivalent of pre-legislative scrutiny. The Committee is chaired by Lord Richard, and has 16 members including Lords Howe, Holme and Goodhart, and unusually, Lord Falconer (the Minister piloting the bill). The Select Committee has enabled Parliament to hear from outside experts and interested parties (in particular the judges) about the implications of the bill, and forced government to rethink some of its proposals in response. The pincer movement from the Commons Select Committee will add to the pressure. Some members of the Lords committee hope to salvage the office of Lord Chancellor, but on the fundamentals the government is unlikely to give way. However, the plans will be changed significantly thanks to the scrutiny from both committees. The Lords Select Committee is due to report by 24 June 2004. The bill will need to be carried over at the end of the session in the autumn, and so will not be passed until early next year.

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# *The House of Lords: Reform Postponed*

Having announced in the Queen's Speech its intention to legislate for House of Lords reform in this parliamentary session, the Government unexpectedly abandoned its Bill before it was published. The Bill, to remove the remaining 92 hereditary peers and put the Appointments Commission on a statutory footing, had been expected since late 2003 and its publication had been rumoured in the press on an almost weekly basis through January and February 2004. In the end the cabinet decided to ditch the proposals on 18 March.

There were a number of reasons for this. Firstly, there were growing concerns about the Government's ability to get the bill through the Lords, and the longer it was delayed the more problematic this got. The government had been unable to secure an agreement with the Liberal Democrats, who remained implacably opposed to removing the hereditaries without a firm promise of further reform to introduce elections. Without their support it was unlikely to pass. The Government had already been hit by significant defeats in the Lords, which is increasingly showing its muscle in its 'semi-reformed' state. Most significantly, it was defeated on 8 March over the Constitutional Reform Bill (see page 2), which the Lords chose to send to a select committee for detailed consideration.

The Government had also been forced to withdraw an 'ouster clause' in the Asylum and Immigration Bill, which would have removed rights of appeal from asylum claimants, following Lords opposition. Lord Chief Justice Lord Woolf had expressed concerns and it was rumoured that former Lord Chancellor Lord Irvine would lead a revolt. The Lords also later defeated the government five times over the Local Elections (Pilots) Bill (see page 9), though it finally backed down. In this climate it was increasingly difficult to envisage a Lords reform bill getting through. Additionally, the Government had realised—at a very late stage—that it would be impossible to draft a bill that would not be amendable to introduce elections. With supporters of a largely elected upper house in all main parties (the proposal for

an 80% elected chamber failed by just three votes in the House of Commons in February 2003) the government could also have been vulnerable to Commons defeat, or at least to a sizeable backbench rebellion.

The loss of the Bill means that some of its more laudable elements—notably the statutory requirement that the balance of appointments to the chamber reflect vote shares at general elections—have also been lost. Had the government wished to it could have stated a commitment to this principle on a non-statutory basis, and indeed could have given greater powers to the non-statutory Appointments Commission to ensure this, but it chose not to do so.

Instead attention has shifted to policy for the next Labour manifesto, and the next parliament. Government ministers are increasingly frustrated with the Lords' interventionism, and there have been suggestions from both Commons Leader Peter Hain and Lords Leader Baroness Amos that the chamber's powers should be cut. It is hard to see, however, how government could win public backing for a proposal to formally weaken parliament, and such a bill would almost certainly be rejected by the Lords. Ministers have taken to stating statistics about the number of Lords defeats under Labour and Conservative governments, to indicate that the Lords retains an innately anti-Labour bias. What this overlooks, of course, is that no Conservative government has yet faced the semi-reformed house. As party numbers are now roughly at parity, the Conservatives would almost certainly face equal problems. Labour, ironically, will see the benefit of its own reforms only when back in opposition.

Labour peers' frustration at the Government's abandonment of the bill, and at this 'anti Lords' rhetoric, has led them to create their own group to consider the role, functions and powers of the upper house. It is chaired by former minister Lord Hunt of Kings Heath, and aims to feed into the manifesto for the next General Election.

The postponement of reform was followed by the government's announcement of a long-awaited new list of peers, after months of rumours that this was about to happen. There were 46 appointees in total: 23 Labour, eight Liberal Democrat, five Conservative, one Ulster Unionist and nine independents. Seven of the independent members were recommended by the House of Lords Appointments Commission (chaired by Lord Stevenson), and the others were direct appointees of the Prime Minister. The announcement, made on the Friday before the May Day bank holiday weekend, attracted relatively little press coverage compared to previous occasions. However, there had been much speculation and controversy beforehand about 'cronyism' due to the large proportion of political appointments. The new appointments will bring numbers in the chamber to approximately 205 Labour, 211 Conservative, 71 Liberal Democrat, and 209 crossbenchers and others.

There has been another by-election amongst hereditary peers, following the death of Conservative Lord Vivian. The electorate of 48

hereditary peers had 37 candidates to choose from. Viscount Trenchard was elected after 10 rounds of voting using the alternative vote. This is the third such by-election in the 2001 parliament, meaning the number of Lords by-elections has equalled that for the Commons.

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### *Project News*

Meg Russell has won funding from the Economic and Social Research Council for research on the House of Lords over the next three years. The project will look at voting behaviour and party discipline in the Lords, particularly at government defeats, and will also explore the attitudes of members of the Lords and Commons, and the public, towards the role of the second chamber. We will trace the actions of the Lords from the removal of most of the hereditary peers in 1999 until 2007. The project will start in the summer.

## *Stop Press: European and Local Elections*

Ken Livingstone retained his position as Mayor of London by what was, by the standards of local election results, a surprisingly good performance for a Labour candidate. He gained 35% of first votes, some 6% more than his nearest challenger, the Conservative candidate Steven Norris. Liberal Democrat Simon Hughes finished third on 15%.

In the London Assembly, attention focused on the UK Independence Party, who capitalised on their surprise nation-wide success to take two seats. Labour lost two Assembly seats, most notably that of Toby Harris, the group leader and chair of the Metropolitan Police Authority. The Greens lost one and Liberal Democrats gained one. The results mean that the Labour group alone can no longer block budget changes, which presages close working with the Liberal Democrats and possibly the Greens. Both the British National Party and the Respect Coalition would have won seats on the Assembly had the 5% threshold not been in place.

In the European elections, attention focused on the UK Independence Party, who won 12 seats. Both Labour and the Conservatives suffered both in vote share and seats, whilst there was a subdued performance from the Greens and some strong vote share for the British National Party

### *London Assembly*

Labour	7
Conservative	9
Liberal Democrat	5
UKIP	2
Green	2

### *European Parliament*

Conservatives	27
Labour	19
Liberal Democrats	12
UKIP	12
Green	2
SNP	2
Plaid Cymru	1

# Devolution

## Scotland

On 9 February Alistair Darling (Secretary of State for Scotland) announced that an advisory commission on Scotland's constituency boundaries would be established. On 25 May Sir John Arbuthnott, former Principal of Strathclyde University, was named chair of the Commission on Boundary Differences and Voting Systems. The Commission will confront unresolved issues around electoral systems. Concern has been expressed that the four different electoral systems operating in Scotland will lead to confusion.

In a related development, the Scottish Executive secured support for its proposals for a new electoral system for Scottish local government. Two Labour MSPs voted against the proposal and six others abstained at Stage 2 of the legislation's progress through the Scottish Parliament. With a majority of 95:19, it was clear that Labour opposition had fizzled out despite the opposition of a significant number of Labour councillors around Scotland including some senior figures. The Single Transferable Vote (STV) is set to become the system adopted in Scottish local elections from 2007.

Meanwhile, in June the European elections will use the 'list system' of proportional representation. Voters will be asked to select from closed party lists, with seven seats (down from eight before the accession of new EU members in May) available on a Scotland-wide basis. Though there has been little media coverage, reflecting the limited effort put into these elections by the parties, there has been speculation as to the implications for the UK general election (which, of course, uses the traditional first-past-the-post system).

EU Fisheries policy has been a recurrent issue this quarter as a consequence of the draft EU Constitution and the European elections. With Tony Blair declaring that there would be a referendum on the new constitution, the SNP has seen this as an opportunity to demand that the Prime Minister include the fisheries element amongst his 'red line' issues in negotiations with EU partners. Relations with the EU are reserved to Westminster, but the issue has persistently been raised in the Scottish Parliament by the SNP in particular. This has

caused discomfort for the Liberal Democrats, who have significant representation in fishing communities in North-East Scotland, Orkney and Shetland.

Law and order has proved a running sore for the Executive despite First Minister Jack McConnell's assertions that it was his first priority. Attention has focused on the privatised prison escort service. The company involved has had a poor record in ensuring that prisoners appear before the courts, releasing a number of prisoners prematurely. This has given rise to concern, and led to demands that the details of the contract agreed with the Executive be released to the public. The Executive's reluctance to do so looks set to become a test of the openness of Scotland's politics.

## Wales: *The Richard Commission*

The National Assembly will gain primary legislative powers along the lines of the Scottish Parliament, with 80 members elected by STV, if the recommendations of the Richard Commission are adopted.

Published at the end of March, the Commission's report highlights the extent to which the relationship between the Assembly and Westminster has evolved over the past five years. As Lord Richard put it, "My feeling is that the Assembly is very rapidly outgrowing the existing structure." The result of an 18 month investigation, the report's main recommendations are:

- There should be a legislative Assembly for Wales, with powers to pass primary legislation in the policy areas in which it took on powers in 1999.
- A new Wales Act could be put through Westminster and the new legislative Assembly could be elected by May 2011—that is, the elections due to be held after those due in 2007.
- In the interim, broad framework powers should be delegated to the Assembly, within the 1998 Government of Wales Act provisions. This should allow the maximum scope for the Assembly Government to exercise its secondary legislative powers to deliver its policies.

- To exercise primary powers, the Assembly's members should be increased in number from 60 to 80.
- The present system for electing members—40 first-past-the-post constituency Members and 20 List members elected by the Additional Member System—cannot sustain an increase to 80. Instead, the report says the best alternative is for all 80 members to be elected by the Single Transferable Vote system.
- The corporate body structure in which the Assembly as a whole is a single legal entity, with the members delegating their powers to the First Minister and Cabinet, should be replaced with a separated executive and legislature.
- Tax-varying powers would be desirable but are not essential to the exercise of primary powers.
- The examination of primary legislation would require a change in focus in the work of the Assembly, particularly in the committees, with a stronger culture of detailed scrutiny and challenge.
- The direct increase in costs of an Assembly with primary law-making powers is likely to be £10 million a year, of which around half would be due to the increase in AMs from 60 to 80.

The report gives the following illustrative timetable for the implementation of its recommendations:

- 2005** Possible UK General Election
- 2005** Drafting approval for new Wales Bill
- 2006** Bill published for pre-legislative scrutiny
- May 2007** Assembly election
- November 2007** Wales Bill introduced
- July 2008** Royal Assent
- 2008–2010** Boundary Review
- 2011** Election of new body with 80 members and primary powers

Lord Richard said that at the outset of the inquiry he had been sceptical that enough time had elapsed since 1999 to assess whether any fundamental change was needed. However, the pace of change had been striking: "We felt that this has changed the context for debating the powers. In 1999 the Welsh Assembly was getting to grips with its powers. By 2004 it is recognised as the initiator of policy on devolved matters and its capacity to do this has

developed considerably. We didn't think the status quo was a sustainable option."

The report immediately won the partial endorsement of First Minister Rhodri Morgan. He said he supported the case for primary powers but was sceptical about increasing the number of members and changing the electoral system. A special recall conference of the Welsh Labour Party will decide on its position on the recommendations on 11 September. Thereafter, implementation depends on proposals finding their way into Labour's forthcoming general election manifesto.

### *Northern Ireland*

This quarter the full significance of the polarised assembly election of November 2003 sank in, with a range of indications that power-sharing devolution would not be restored any time soon.

The first was the review of the Belfast agreement: begun in February, it had fizzled out by Easter. Emboldened by their respective election successes, the Democratic Unionist Party claimed its 'fair deal' (for Protestants) while Sinn Féin demanded its 'entitlements' (for Catholics)—these *desiderata* not overlapping at many points. The Ulster Unionist Party sulked in its tent, while a technocratic governmental proposal from the SDLP was dismissed.

The second was the first report from the Independent Monitoring Commission, drawn from north and south, Britain and the USA and originally conceived as a ceasefire monitor by the moderate Alliance Party. The IMC duly called a spade a spade. For the first time since the language of the 'peace process' entered official discourse in 1993, there was no longer any dissembling about the entrenchment of paramilitarism.

The IMC recommended the withdrawal of public funds from the political representatives of the paramilitaries, and warned that had devolution been extant it would have recommended their exclusion from government. Sinn Féin and the UVF-linked Progressive Unionist Party were aghast—and retreated into bluster.

The third was further evidence of the corrosion of the public domain in favour of sectarian dispositions. A ghastly sectarian protest against the presence of a cosmopolitan block of apartments in south Belfast was a telling

instance of a wider souring of Protestant opinion evident in the Northern Ireland Life and Times Survey.

The fourth, also apparent in the NILTS data, was a rather less positive retrospective in the public mind on the devolution experience. Across the board, fewer than before felt the administration had made a difference.

The fifth was unexpected, yet in a way the most telling. It emerged that as part of the failed pre-election ‘choreography’ of last October, Dublin had agreed a side-deal with the republican movement that the IRA killers of Garda Jerry McCabe in 1996 would be released. Outrage among the Gardaí was only assuaged when the justice minister made clear this deal—conditional on an end to IRA paramilitarism—would not be effected for the foreseeable future.

The official view, in London and Dublin, is that progress is on hold until the autumn, following the European elections and the ‘marching season’. It could be a lot longer.

### ***English Regions***

With referendums in the three northern regions now just five months away, Deputy Prime Minister John Prescott continues to press the case for regional assemblies. The three northern regions hosted the ‘Your Say’ hearings, aimed at sounding out the public (along with invited attendees from the regions) on what powers and functions they would like to see held by assemblies. The Opposition has expressed concerns over the cost and reasons behind the hearings. Mr Prescott and his team, Nick Raynsford and Phil Hope, made clear that the hearings were to gather public opinion, not to become more yes/no debates. There is little doubt that Mr Prescott is planning more powers for elected assemblies, with a parliamentary order due in July; he commented at one hearing that there was a “very strong case” for regional passenger transport authorities, similar to Ken Livingstone’s Transport for London body.

Whilst the run-up to the local and European elections took some of the heat out of the referendum campaigns, the pattern of political debate is taking on a different character in each region. In the North West there are now five Labour MPs signed up with the No campaign.

The Boundary Committee for England reported on its recommendations for local government

reorganisation options on 25 May 2004. County councils had previously argued strongly that single, county-wide unitaries would be the most cost-effective option. In each region the Boundary Committee has presented two options for reform, and in each case a unitary county structure is one of those options; the other option is a group of amalgamated districts (in some cases including amalgamations with existing unitary authorities).

Local government is catching on to the implications of elected assemblies, with two reports emerging this quarter, the first from the County Councils Network of the Local Government Association, which suggests that local government must now set out its stall on shaping a local-regional relationship in preparation for the outcome of this autumn’s referendum. The second comes jointly from the Campaign for the English Regions and the Local Government Information Unit, calling for the strengthening of powers and functions of elected assemblies whilst stressing that any new powers should be drawn from central and not local government.

The last quarter also witnessed the publication of certain Government reviews with a distinctly regional dimension. The Lyons report on public sector relocation was greeted with mixed reviews, with the northern and midland regions generally pleased that Lyons recommends the decentralisation of 20,000 jobs away from London and the South East. Emphasis will be on job relocation, but it remains to be seen what level of seniority the relocated posts take. There are concerns that junior posts will do little to meet the aim of reinvigorating regional economies. The Barker Review on housing supply also recommended that influential Regional Planning Executives should be established to oversee housing and planning in each region. With the Core Cities report also published in March 2004, it seems that regional policy is creeping up the agenda, although the real level of support for elected regional assemblies within Government still remains to be seen.

Following the publication of *Making it Happen—The Northern Way* (see March 2004 *Monitor*), the Office of the Deputy Prime Minister (ODPM) and the three northern regional development agencies have established a steering group, chaired by former Yorkshire and the Humber RDA Chair, Sir

Graham Hall. The group also includes the three northern and regional assembly chairs, alongside a university Vice Chancellor, two business leaders, the chair of English Partnerships, and Ed Balls, the Chancellor's Chief Economic Adviser. Richard McCarthy, Director General of Sustainable Communities in the ODPM, is an observer. Having met twice already, the group has come up with 12 initiatives to strengthen the 'Northern Way' plans, in an interim statement, before delivering a final report to the Treasury and ODPM by July 2004. It will feed into the Chancellor's next three-year spending review (2006-08).

### *The Centre*

The English Question continued to generate debate in Westminster as the Government once again relied on the support of its Scottish MPs to pass its Higher Education Bill, which contains controversial provisions to introduce variable tuition fees for universities in England. MPs voted by 316 to 288 to defeat an amendment opposing tuition fees, with 43 Scottish MPs voting with the government. The Conservatives criticised Scottish MPs for voting for a policy that will not apply to Scotland. Speaking at the Scottish Conservative Conference in May, Michael

Howard, Tory leader, confirmed that a Conservative government would ban Scottish MPs from voting on 'English-only' legislation at Westminster.

Responding to the publication of the Richard Commission report, Peter Hain, the Welsh Secretary, said it contained plenty of 'food for thought', although the UK government would wait to see how the National Assembly for Wales responds before formally commenting. While Hain said that it was important to achieve consensus between Westminster and Cardiff Bay, he also laid down the UK government's 'red lines' on any further Welsh devolution. He stated that for the Assembly to acquire primary legislative powers, it would have to be sanctioned by a referendum and that any reforms must be consistent with maintaining the existing number of Welsh parliamentary constituencies. Hain was more supportive of the report's criticism of the Assembly's AMS electoral system, which he has derided several times in the past.

On 27 May, the Wales Office published a draft Transport (Wales) Bill which will transfer some transport functions to the Welsh Assembly. This is the second Wales-only Bill to be published this session.

## *Access to Information*

Only six months remain until the Freedom of Information Act 2000 comes fully into force on 1 January 2005. In the last quarter the Government focused on preparing the public sector for implementation of the Act. The Information Rights Team at the Department for Constitutional Affairs (DCA) has policy responsibility for the legislation. It also leads on implementation of FoI in central government.

The DCA is planning to release the long awaited guidance on exemptions in July 2004. It is now publishing a monthly e-bulletin for practitioners and is planning to launch a FoI homepage and is fostering networks of access to information practitioners. It has also developed a generic user specification for IT systems to support the management of requests for information.

The Information Commissioner has primary responsibility for guiding and assisting the wider public sector. The Information Commissioner's Office is preparing guidance on exemptions and has already published guidance on personal information, confidentiality and the public interest

test. The Office is continuing to liaise with Assistant Commissioners in the devolved administrations (Marie Anderson, Northern Ireland; Anne Jones, Wales) and with the Scottish Information Commissioner Kevin Dunion.

With the approach of January 2005, public awareness and media interest in FoI has intensified. The Campaign for Freedom of Information is co-ordinating a campaign on fees. It supports an all-party motion tabled in Parliament calling on the government to honour its commitment to charge no more than 10% of the marginal cost of finding the information plus copying costs.

Department for Constitutional Affairs:  
<http://www.dca.gov.uk/foi/foidpunit.htm>

Information Commissioner:  
<http://www.informationcommissioner.gov.uk>

Guardian FoI pages:  
<http://politics.guardian.co.uk/foi>

Campaign for FoI: <http://www.cfoi.org.uk>

### ***Project News: Study of Overseas Caseloads for the Information Commissioner's Office***

In this three month study, The Constitution Unit undertook comparative research on five jurisdictions to estimate the likely volume, sensitivity and complexity of his casework under the Freedom of Information Act 2000 and the Environmental Information Regulations for the UK Information Commissioner.

The study is published on the Com-missioner's website, <http://www.ico.gov.uk>

### ***Assessment of Readiness of Countryside Agency***

In this two month study, The Constitution Unit assessed the Countryside Agency's readiness to implement the Freedom of Information Act 2000 (Fol Act) fully in January 2005 and recommended the actions needed to achieve this. We analysed the Agency's policies, planning and practice in fields relevant to Fol implementation and assessed the awareness of Fol and staff attitudes to openness.

## ***Elections and Parties***

### ***Electoral Pilots***

The European and local elections in four regions—the East Midlands, North East, North West and Yorkshire and the Humber—will be conducted using all-postal ballots after the legislation was finally accepted by the House of Lords. The Electoral Commission had originally recommended that all-postal ballots be piloted in two regions—the East Midlands and the North East—and that no pilots of electronic voting take place. The Government accepted the latter recommendation, but made provision for all-postal voting in a further two regions: the North West and Yorkshire. The increased scope of the pilots caused concern at the Electoral Commission, and among peers, who defeated the Government five times in the Lords before the Bill passed.

### ***Voting Age***

The Electoral Commission has recommended that the minimum voting age remain at 18. Although most of the responses to the Commission's consultation supported a reduction in the voting age to 16, the Commission noted that a survey of young people themselves showed a majority preferring to retain the current minimum of 18. There was also a concern that lowering the voting age would have the effect of further depressing electoral turnout. The Commission did, however, recommend that the minimum age for candidacy be reduced to 18.

### ***Elections***

In his third of four speeches on aspects of the UK constitution, Lord Falconer turned to the issue of democratic engagement. The speech, at an event hosted by The Constitution Unit, argued that Britain faced a challenge of democratic engagement, although not a crisis. The main problem identified by the Secretary of State for Constitutional Affairs was the growing social divide between those interested, and participative, in politics and those disengaged from political processes. The speech drew some of its data from a research project involving the Unit, the results of which are reported on page 10.

Researchers are divided about whether more elections might engage or put off voters. One Labour MP—Graham Allen—sought to add to voters' powers by proposing in the Commons a new Bill to allow the direct election of the Prime Minister. This proposal was, unsurprisingly, rejected. At the local level, the new power of voters to select candidates for the next general election continues. The January 2004 Monitor reported two local Conservative associations that were holding primary contests. At least one more constituency is allowing local voters to select its Conservative election candidate. Meanwhile, the first direct elections to the new foundation hospitals produced mixed results. Among the 22 elections, turnout ranged from 19% to 68%, and averaged almost 35%, not far short of average turnout for local council elections.

For a transcript of Lord Falconer's speech see <http://www.dca.gov.uk>

## *Project News: Effective Scrutiny*

Two further outputs of the Effective Scrutiny project have been published. A report on scrutiny in the London Assembly has been produced, and will be launched at City Hall on 30 June. The report concludes that, despite its low public profile, the Assembly is proving an effective scrutineer, having carried out a number of pieces of work which have influenced both national and Mayoral policy, and having attracted considerable national media attention with some high-profile reports.

A report on scrutiny by select committees in the House of Commons has also been published. This will be launched during July-August 2004. The report concludes that the establishment of 'core tasks' for select committees in 2002 has enabled the committees to become more rigorous about the range of topics they cover. They are, however, still spending much of their time on policy enquiries, whereas more focused hearings on specific subjects might be a more profitable means of holding the government to account. Better use could also be made of external research.

## *Is Britain Facing a Crisis of Democracy?*

This new briefing reports the findings of a four year programme of research, conducted jointly with colleagues from the National Centre for Social Research, and funded by the ESRC under its 'Democracy and Participation' programme. The results were also presented at a seminar for policy makers at Westminster in May, attended by over 40 MPs, peers, civil servants and other policy makers, and reported in the Financial Times.

The briefing focuses on four key issues: the legitimacy of governments, patterns of participation in politics, the impact of constitutional reform, and the explanation for any crisis. On legitimacy, the research shows there has been a decline in levels of trust in government and confidence in the political system. Thirty years ago, two in five people in Britain trusted government to put the needs of the nation above those of their political party; today, just one in five do so. But much of this decline set in during the early 1990s, although trust and confidence have fallen further since 1997.

On participation, the briefing notes that turnout at all elections has declined since 1997, most noticeably at the 2001 general election, when the participation rate was the lowest since 1918. At the same time, levels of non-electoral participation have increased somewhat. Meanwhile, it is not the case that people engage outside the ballot box as an alternative to voting; rather, most people use non-electoral activities as a complement to participating at elections.

One reason why non-electoral participation has not declined is because people generally feel as engaged with the political process as they ever did. Today, people are as likely as previously to believe they possess the skills to participate in politics, to express levels of interest in politics and to believe in the duty to vote. On the other hand, when it comes to identifying with a political party, fewer people today feel a sense of attachment than previously.

The constitutional reforms introduced since 1997 were meant to restore citizens' trust and confidence in government. But they appear to have largely failed in this task. The reforms are not unpopular, but few people believe they have made much of a difference to the way Britain is governed. Even the most radical of the reforms—the creation of the Scottish Parliament—has had only a small effect on citizen attitudes.

When it comes to explanations for the decline in trust, three rationales are frequently offered: the incapacity of governments, the decline in social trust and the role of the media, in particular the tabloid press. We find little evidence for any of these accounts. Instead, trust appears to be driven at least in part by public perceptions of political 'sleaze'.

When it comes to explaining the decline in turnout in 2001, the research finds that participation rates fell particularly sharply among those who had little prior attachment to the political system. Among this group, people were likely to perceive little difference between the two main parties in 2001 than in 1997, and thus have less motivation to vote.

## Publications

### *Review: How Parliament Works— 5th Edition*

**Robert Rogers and Rhodri Walters, Pearson, 2004, 437pp, ISBN 0 582 43744 X**

Now in its fifth edition, 'How Parliament Works' is effectively a guidebook of the UK Parliament. It takes the reader through a tour of both chambers in terms of both their procedures and structures and introduces the reader to Parliament's inhabitants, both members and officials. It also maps Parliament's relations with the devolved institutions in the UK and with the European Union. The fifth edition covers roughly the same ground as the fourth, but it is a total recasting of the work, comprising completely new text. Although concise, 'How Parliament Works' contains an incredibly large amount of detail with well thought out examples and historical context. Its clear style makes it suitable for a wide range of audiences including civil servants, journalists, and students of politics and parliaments at various levels.

One of the most useful and unusual aspects of this volume is its use of graphics. Not only does it explain what the process of deciding the business of the House of Commons, it shows part of an order paper. Not only does it explain

the form of a bill and its passage through Parliament, it shows what a Bill looks like. Together with maps of the Parliamentary estate and seating plans for both chambers, select committees and standing committees, it gives a real taste of Parliament to the reader and a practical way of visualising and understanding how Parliament works.

The final chapter of the book asks 'what do we expect Parliament to do for us, and how could it do those tasks more effectively?'. It explains recent changes to Parliament's structures and procedures and sets out possible ways forward in increasing effectiveness. With the Commons, in the context of declining turnout at general elections, it focuses on reconnecting Parliament with the public, as well as looking at more traditional reform proposals. These include reform of select committees and the introduction of a business committee. In the Lords the focus is on the future of reform of the membership of the House of Lords and the government's proposed abolition of the position of Lord Chancellor, along with the working practices of the chamber. 'How Parliament Works' leaves us with the reminder that no parliament is perfect, but Parliament matters, and it matters that people understand how it works.

### *People on the Move*

**Sir Alistair Graham**, former chair of the Parades Commission in Northern Ireland, has succeeded Sir Nigel Wicks as chair of the Committee on Standards in Public Life. **Prof Elizabeth Vallance**, Professor of Political Philosophy at London, has been appointed to the Committee on Standards in Public Life.

**Caroline Spelman MP** to be shadow Secretary of State for devolved and local governance, in succession to David Curry MP.

**Geoff Mulgan**, head of the Prime Minister's Strategy Unit, is leaving No.10 in the autumn to become director of the Institute of Community Studies.

**Pam Giddy**, former director of Charter 88, is to be director of a new Citizens' Inquiry being launched by the Joseph Rowntree Reform Trust and the Joseph Rowntree Charitable Trust. The inquiry is to begin work in June 2004 and report in autumn 2005.

**Oonagh Gay** has been made head of the Parliament and Constitution Centre in the House of Commons Library.

New Chief Executive of New Zealand's Electoral Commission is **Dr Helena Catt**. Helena, a political scientist at Auckland University, replaces Dr Paul Harris.

**Des Browne MP** replaces Beverly Hughes as Minister for Immigration. Consequent changes see **Jane Kennedy MP** moving to the Department for Work and Pensions to replace Mr Browne, and **Barry Gardiner MP** for Brent North, replacing Ms Kennedy at the Northern Ireland Office.

**Antonia Romeo** is to be the new Head of the Information Rights Division in the DCA.

# BulletinBoard

## ***Unit Publications***

*You can now order our publications on line. Visit <http://www.ucl.ac.uk/constitution-unit/publications> for more information.*

Lucinda Maer and Mark Sandford, *Select Committees under Scrutiny*, London, Constitution Unit, 2004, 43pp, £10

Catherine Bromley, Ben Seyd and John Curtice, *Is Britain Facing a Crisis of Democracy?* London, Constitution Unit, 2004, 17pp, £12

Mark Sandford and Lucinda Maer, *Issues of Importance: the scrutiny role of the London Assembly* London, Constitution Unit, 2004, 45pp, £10

Jim Amos, *Delivering Freedom of Information*, available at <http://www.lga.gov.uk/Publication.asp?lsection=0&ccat=28&id= SXAC5C-A7820404>

## ***Constitution Unit Seminar Series***

*Unless otherwise indicated these events are at the unit. Places are free and can be booked on line at <http://www.ucl.ac.uk/constitution-unit/events> or by contacting Matthew Butt, [m.butt@ucl.ac.uk](mailto:m.butt@ucl.ac.uk), 020 7679 4977*

### ***Can Regional Assemblies Deliver?***

Jane Thomas, Director, Yes4Yorkshire  
1pm, Wednesday 8 September 2004

### ***The House of Lords, the Lord Chancellor and the New Supreme Court***

Lord Richard, Chair, House of Lords Select Committee on Constitutional Reform  
1pm, Wednesday 13 October 2004

### ***The Referendum on the EU Constitution***

Sam Younger, Chair, Electoral Commission  
1pm, Wednesday 24 November 2004

### ***Strategic Thinking and Cabinet Government***

Geoff Mulgan, former Director, Prime Minister's Strategy Unit

1pm, Wednesday 8 December 2004

## ***Useful Recent Publications***

Richard Chapman, *The Civil Service Commission, 185–1991: A bureau biography*. London, Frank Cass, 2004.  
ISBN 0 7146 5340 3

Philip Coppel, *Information Rights*. 2004, London, Sweet & Maxwell.  
ISBN 0 421 77470 3

Oonagh Gay and Patricia Leopold, *Conduct Unbecoming: The Regulation of Parliamentary Behaviour*. 2004, London, Politico's Publishing. ISBN 1 842 75055 0

John McFadden and Mark Lazarowicz, *The Scottish Parliament: An introduction* 3rd Ed. 2004, London, Lexis Nexis.  
ISBN 0 406 96957 4

Derek Morgan Ed, 'Constitutional innovation: the creation of a Supreme Court for the United Kingdom; domestic, comparative and international reflections', a special issue of *Legal Studies*, Vol 24 nos 1&2. 2004, London, Butterworths. ISSN 0261 3875

Aharon Nathan, *Total Representation: A new electoral system for representative democracy*. 2004, London.  
ISBN 0 9547786 0 X

Robert Rogers and Rhodri Walters, *How Parliament Works*, fifth edition. 2004, Harlow, Pearson. ISBN 0 582 43744 X

Kelvin Smith, *Freedom of Information: A practical guide to implementing the Act*. 2004, London, Facet. ISBN 1 85604 517 X

Andrew le Sueur, *Building the UK's New Supreme Court: National and comparative perspectives*. 2004, Oxford, OUP.  
ISBN 0 19 926462 7

## ***Events outside the Unit***

### ***Federal Trust Conference on the future of Europe—Towards a European Constitution***

1–2 July, Goodenough College, London  
<http://www.fedtrust.co.uk/conference2004>