

MONITOR

The Constitution Unit Bulletin

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Constitution Unit expands again

From this month the Constitution Unit is back to its original size, and back in full production with a growing list of publications. As before, the main thrust of the Unit's work will continue to be a forward looking programme of research and analysis, consultancy and advice. Details of the work programme are on page 10.

The members of the new Constitution Unit team are:

Robert Hazell, founder and director. Robert plans and guides all the Unit's work, and is writing much of *Constitutional Futures*. This is to be a book which aims to describe the shape of the UK's constitutional and political landscape in 10 years' time. He is co-author of the recent reports on Devolution and Health and Devolution and Higher Education.

Ben Seyd, former researcher and policy analyst at the CBI. Author of the Unit's recent Briefings on Lords Reform and on Open vs Closed Party Lists. Ben will lead the programme of work on new electoral systems and machinery, and political parties.

Richard Cornes, New Zealand lawyer who came to us from the Constitutional Centenary

Foundation in Melbourne.

Author of the Unit's recent work on Single Chamber Parliaments, and project leader for *Constitutional Futures*.

Mads Qvortrup, a Danish journalist and political scientist, who has just completed research on referendums at Oxford. Mads will start by looking at the Nordic Council, to draw out some lessons for the proposed new British-Irish Council. His main task will be a major comparative study of Second Chambers Overseas, to inform thinking about the second stage of Lords reform. This will be done jointly with

Meg Russell, currently national women's officer of the Labour Party, who is to join us in August. In addition to the study of Second Chambers Overseas, Meg will work on gender balance in the selection of party candidates; and on parliamentary reform, and the work of the Modernisation Committee of the House of Commons.

Sara Northey, administrator, who produces the Monitor, maintains the website and database, and deals with all inquiries.

Colin Braggins, volunteer, who handles the orders for all the Unit's publications.

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The Northern Ireland Assembly

by **Brendan O'Leary**

A political rather than a religious miracle occurred in Ireland on Good Friday. An Agreement was reached by the prime ministers of Ireland and the UK, and the leaders of eight political parties in Northern Ireland. Credit for the miracle is being widely claimed, though no one has said that it was God's work. It is, in fact, the product of many hands, and many long and arduous negotiations, and sustaining the miracle will be as difficult as it was to make.

The Agreement could not have happened without the willingness of most republican, and then loyalist paramilitaries, as well as their respective political parties, to change their strategies and shift towards constitutional politics. It could not have happened without a military stalemate in which republicans could not win their long war for Irish unification, and the British Government could not win what it had called its war against terrorism. It could not have happened without the Anglo-Irish Agreement of 1985 that laid the foundations for this new Agreement by establishing 'bi-governmentalism': institutionalised British and Irish co-operation.

That 1985 Agreement spelled a clear message: Northern Ireland could be reformed, and Ulster unionists no longer had a comprehensive veto on the nature of the Union between Great Britain and Northern Ireland, merely a veto on its maintenance as long as they constituted a majority in the region. It also enabled a shift in nationalist politics. Soon after, John Hume, the leader of the largest constitutional nationalist party in Northern Ireland, the Social Democratic and Labour Party, began a dialogue with Gerry Adams, the leader of Sinn Fein, the political party of militant nationalism. Starting in 1988 it eventually bore fruit in 1993, when the British and Irish Governments published a Joint Declaration for Peace in December 1993, paving the way for the IRA's August 1994 cease-fire, soon to be followed by a loyalist cease-fire.

It has taken nearly four years for the local parties and the two governments finally to capitalise on the opportunity opened up the first IRA cease-fire. In the meantime the IRA has broken and renewed its cease-fire, and so has the Ulster Defence Association, the largest loyalist paramilitary organisation. They were not the only ones who had

difficulties in managing the peace process. The largest unionist party forced its leader out of office and elected a hard-liner to replace him, David Trimble, the man who has now done the unthinkable. The UK's Conservative Government, led by John Major dithered, lost its parliamentary majority, and given its right-wing and unionist backbenchers was unable to rise to the challenges of the peace process. It did, however, sign the Framework Documents with the Irish Government in February 1995. These texts, initiated by dynamic Irish officials, provided the intellectual architecture for the Agreement of last week. The role of the New Labour Government in Britain was to pressurise the unionists, as gently as possible, into swallowing the Framework Documents. With minor modifications that has just been accomplished.

The Agreement, as John Hume hoped, addresses three relationships. The first is that between Ulster unionists and Irish nationalists within Northern Ireland. Following the endorsement in referendums in both parts of Ireland on May 22 a local Assembly, with the ability to acquire the same powers as the Scottish Parliament, will be established. It will have multiple imaginative provisions and voting rules to prevent majority tyranny. Its Executive will proportionally represent all political parties pledged to work the Agreement and to support exclusively peaceful political means. It will be a form of what political scientists call 'consociational' or consensus government.

In addition Northern Ireland will become effectively bi-national, British and Irish. The Agreement is accompanied by detailed legal proposals to establish full-scale equality both for individuals and for the two ethno-national communities, the most comprehensive legal provisions yet granted to a national minority in western Europe. It is also accompanied by detailed proposals to release jailed paramilitaries within two years and to reform the Protestant dominated police force so that both communities can benefit from legitimate policing.

The second relationship is that between Northern Ireland and the Republic of Ireland. The Irish government is proposing to its people that they change their constitutional claim to the whole island of Ireland. It will be changed from a claim of right to a goal of unity by the consent of the Northern Irish majority. This change does not mean that the Irish have abandoned the desire to unify the island, or their conviction that the British partition of the island was wrong. It does mean that they think their

Constitution should state that there is only one way of reversing partition: through consent.

In return unionists have agreed to establish a North-South Ministerial Council in which Northern Ministers and Ministers from the Republic will meet in a manner modelled on the Council of European Ministers. The Council will consult, harmonise and implement agreements in functions with both a cross-border and an all-Ireland character. The Council will operate by consensus but will have the capacity to expand its remit, by agreement.

The last relationship is that between Ireland and Britain. There will be a new British and Irish Council of the Isles - linking the new devolved governments of Wales, Scotland and Northern Ireland with the governments of the UK and the Republic of Ireland. It will be less important than the North-South Ministerial Council but will signify an attempt to heal the remaining antagonisms between the two islands. The Dublin and London governments will retain a standing conference to monitor Northern Irish politics and to discuss functions not devolved to the new Assembly.

It is an impressive piece of political architecture, painfully constructed. It establishes equality, proportionality and power-sharing as operative principles of government in the North, and it links both communities to their preferred nation-state. It combines consociation and co-sovereignty. It corresponds to what is required. It is a model for the management of differences rather than their elimination.

Celebrations should, however, be restrained, even though the Agreement has since been endorsed in the referendums. Restraint is required not just in memory of the victims of the long war, and not just because we know some will try to destroy this new Agreement through further political violence. Restraint is required because there are obvious stress points in the new political architecture.

The rapid release on license of the imprisoned paramilitaries belonging to organisations that have sustained cease-fires, and who support political parties that have sought mandates and negotiated a settlement, is an essential precondition of a sustained peace. But it will cause tension with victims and their families. The disbanding of the mainstream paramilitaries' organisations is also essential, but it is probably best left to themselves or to international observation - and it cannot be expected before there is rapid movement on the

release of prisoners. A voluntary and controlled disbanding is also necessary to limit the resources and personnel that might otherwise accrue to the ultras who oppose the settlement - the LVF, the INLA and the Continuity IRA.

The withdrawal of the British Army to its barracks and its return to bases in Great Britain must be accomplished quickly even though there will be accompanying risks. But the security sticking point in managing the miracle will be the RUC rather than the Army. Policing issues are to be handed to an independent commission. Unless this commission recommends means to ensure that Catholics and Protestants are proportionally represented in local policing services, and unless a British Government delivers unequivocally on its recommendations, then Northern Ireland will never be at peace. Northern nationalists have bitter experiences of commissions attached to treaties - the Anglo-Irish Treaty of 1921 was accompanied by promises of a Boundary Commission.

There will be a downsizing of Britain's financial support over time so the region will have to pull together or suffer severe peripheralisation. Unionists on the new power-sharing executive will have some difficulties living with Sinn Fein should its members choose, as I think they will, to take their seats. The executive will be vulnerable to the withdrawal of support in the assembly - if more unionists join the Reverend Ian Paisley's Democratic Unionist Party in refusing the Agreement. The executive and the assembly may deadlock on the development of the North-South ministerial council.

As nationalist support grows through demographic change hard-line unionists will become a minority in the Assembly - and that will require them to learn a new politics. Much responsibility will accrue to the Alliance and other cross-community parties in bridging a shrinking majority and a rising minority. The establishment and management of the North-South body will have to be meaningful to bind most republicans to the settlement, and both jurisdictions will have to live with the likelihood that Sinn Fein will become the fastest growing party in both locations with concomitant ambitions to unify or at least federalise Ireland. The Secretary of State for Northern Ireland Dr Mowlam, or her successor, will still have a plentiful in-tray in promoting equality and establishing a regime for the protection of human rights. And Irish governments, present and future, will have to prepare their state for the possibility of a federal Ireland in which there will be a very significant British minority.

At the heart of this Agreement lie two calculations by those who have accepted it, or who will accept it. The Unionists calculate it will prevent something worse. They accept it because they fear the demographically expanding minority and they fear alienation from Great Britain and its new government. They accept it because they know it will end the IRA's campaign. They also accept it because they think it the best way, in the long run, to keep the Union safe, and to reconcile Irish nationalists to that Union. The Nationalists calculate that the Agreement offers them an improvement on the status quo. It offers them equality now. But, they also accept it because they believe it opens the door to unification, if not now, later. The new architecture enables both to have good reasons to believe they are right. Whether it can be sustained when we learn who is right no one knows, but that is just as well.

Brendan O'Leary is Professor of Political Science at the LSE and a member of the Unit's consultative group on Constitutional Futures. He is the author of the Unit's Briefing The British-Irish Agreement: Power-Sharing Plus.

Northern Ireland: what next?

The British-Irish Agreement was put to a simultaneous referendum on 22 May in Ireland, North and South. In Northern Ireland on an 81% turnout, 71% voted in support of the Agreement. In the Republic the Yes vote was 94% on a turnout of 58%.

The next steps will unfold very quickly. Legislation has already been passed for the holding of the first elections to the Assembly, on 25 June. A Northern Ireland Assembly Bill is to be introduced as soon as possible, with the aim of reaching Royal Assent in October. If necessary, it could be the first bill to benefit from the new provisions for carry over to the next session. The North-South Council and the British-Irish Council will begin operating in shadow form. The intention is that the Northern Ireland Assembly, and the North-South Council and the British-Irish Council will all start operating for real from February 1999. The Northern Ireland Assembly will thus be the first of the devolved assemblies, and should be up and running before the first elections have even been held in Scotland and Wales.

Government of Wales Bill

The Bill was amended in the Commons in March to create a cabinet structure for the Assembly, which should produce clearer accountability and quicker decision taking (the need for a cabinet system was first raised in the Constitution Unit's report *An Assembly for Wales*).

Ron Davies, the Secretary of State, announced his candidacy for the Assembly on 30 March. Rival candidates to be first Leader of the Assembly include Wayne David MEP and Rhodri Morgan MP. At its annual conference in May the Wales Labour Party voted by the narrowest margin for 'twinning' constituencies into pairs to ensure the party fields an equal number of male and female candidates at the Assembly elections next year. Similar procedures are proposed in Scotland. The Lord Chancellor has warned that 'twinning' may be unlawful under the sex discrimination legislation, but that could only be tested if a disappointed candidate is prepared to mount a legal challenge.

Greater London Authority

In the referendum on 7 May Londoners voted by 72% in favour of the new Authority, but on a turnout of only 34%. A bill will be introduced in 1998-99 to create the new Mayor and Assembly. The Mayor will be elected by the Supplementary Vote under which voters mark their first and second choice of candidates, and if no candidate wins more than 50% the second choices are redistributed. The Assembly will have 25 members elected by the Additional Member System. 14 members will be elected by constituencies, being drawn up by the Local Government Commission, and the remaining 11 will be drawn from a London wide top up list to ensure proportionality. The first elections to the new GLA should be held in autumn 1999 or spring 2000.

Regulation of political parties

The law is currently silent about the existence of political parties. This will change with the recent introduction into parliament of a Bill providing for their regulation. The Bill's catalyst is the move to voting systems based on:

- multi-member constituencies (STV in Northern Ireland and lists in Scotland, Wales, London and for the European Parliament), where validation is needed of which candidates represent each party

- votes for parties, rather than individual candidates (closed list systems for Scotland, Wales, London and for the European Parliament), under which system the party name and logo assume a greater importance than under candidate based systems.

The Registration of Political Parties Bill allows parties to register both their name and an emblem with the Registrar of Companies. To apply, a party must provide the Registrar with details of its headquarters, leader and nominating officer (the latter being responsible for submitting the party's candidate lists at elections). Only those parties who have successfully registered will be entitled to party political broadcasts.

The Bill will be rushed through parliament this summer in order to be in place for elections under the new voting systems next year. It is only the first move in regulation of the political parties, which will grow tighter following the report of the Neill Committee due in September into controls on party funding. The Unit will explore the implications of introducing registration of political parties, and compare the registration system introduced here with the regulatory system operating in other European countries.

Contact: Ben Seyd

Parliamentary Reform

The Modernisation Committee of the House of Commons published two reports in March. The first recommended carry over of bills from one parliamentary session to the next (as recommended in the Unit's first report, *Delivering Constitutional Reform*). The second report recommended minor changes to conduct in the chamber (points of order etc). One proposal from *Delivering Constitutional Reform* which remains unimplemented is the recommendation that constitutional bills should no longer have to take their Committee stage on the floor of the House. The government tried to do this with the Government of Wales Bill, but the Opposition stood by the convention. Parliamentary reporters observed that during the subsequent Committee stage there were sometimes fewer MPs in the chamber than would have been present on a Standing Committee.

Reform of the House of Lords

The new Cabinet Sub-Committee on Lords Reform began meeting in the New Year, and informal talks were opened soon afterwards, between Lord Richard and Lord Cranborne, Government and Opposition Leaders in the House of Lords. Lord Cranborne challenged the Government for proposing to remove the hereditary peers without saying what they would put in their place. This gave rise to a brief flurry of stories in the press about the possibility of a Big Bang reform of the House of Lords; but there was very little prospect of reaching agreement on what form a fully reformed House of Lords should take.

The Government has since reverted to the manifesto plans for a phased approach, beginning with a Bill in the second session to end the voting and sitting rights of hereditary peers. Later this year the Government plans to publish a Green Paper setting out the options for phase two. The paper will focus on the composition of a reformed second chamber, in particular:

- whether the chamber should be nominated, or directly or indirectly elected, or a combination of the two
- how any new appointment system should operate
- if elected, what the basis of representation should be.

The Green Paper will set the agenda for the work of a Joint Parliamentary Committee or whatever other machinery the Government establishes to take forward phase two. The consultation paper should set out a logical agenda for the Committee's discussions. At the head of this agenda, as the Unit sets out in its briefing on *Reforming the Lords: A step by step guide*, should be the role of the second chamber (see below on 'Lessons for the UK from overseas'). The Unit's report identifies a number of areas where a reformed second chamber could play a significant role in relation to the changing constitutional framework in the UK:

- representing the regions, and thus helping to underpin the devolution settlement at the centre
- acting as a constitutional watchdog, for instance by scrutinising legislation to ensure compliance with the European Convention on Human Rights
- taking a greater share of the work relating to EU institutions, particularly in scrutinising EU legislation.

Having clarified what role it believes a reformed second chamber should play, the committee should then consider what powers are appropriate to these

functions. The second chamber will need to have sufficient powers to enable it to fulfil its functions, yet it should not threaten the primacy of the House of Commons. Here, there is a link with the composition of the second chamber, in that a directly elected second chamber may prove too much of a challenge to the legitimacy of the first. It will also need to be elected on a different electoral system; but this could not be determined until after the referendum on the voting system for the House of Commons.

The Unit's briefing sets out a logical and comprehensive agenda for a joint committee to tackle at stage two of the process. In many respects, a reformed second chamber lies at the heart of the UK's changing constitutional framework, in its potential relationship to both the regions and Europe, its work on ECHR and its possible role in scrutinising the executive. It needs to be part of the new constitutional settlement, and not simply patching up the old. As such, second chamber reform might need to wait until the next parliament when the joint committee will be able to take account of how the devolution settlement is bedding down, possible English Regional Chambers and any new voting system for the House of Commons.

Second chambers overseas

Stage two of Lords reform will open the question of why the UK needs a second chamber? The answers put forward usually refer back to the existing functions of the Lords, rather than taking a broader perspective on what role a second chamber should perform in a modern democratic state. To help expand horizons and clarify options, the Unit is undertaking a major study of second chambers of parliament overseas, funded by the Leverhulme Trust.

The study will examine second chambers in Australia, Canada, France, Germany, Ireland, Italy, South Africa and Spain. Research will focus on the role, powers and composition of the upper houses in these countries. The study will not be prescriptive; rather, it will highlight what options exist for reforming the UK's second chamber, and analyse what conditions are necessary for the different models to operate effectively. As well as filling a gap in the current literature, the study will also serve as a vital source of information for stage two of Lords reform.

The study will be undertaken jointly by the Unit's new staff members, Meg Russell & Mads Qvortrup.

PR for the European Parliament elections

The European Parliament (EP) elections in June 1999 will be the first time in which politicians across Great Britain will be elected through a system of proportional representation, via a system of party lists. The Unit has, jointly with Professor Iain McLean of Oxford University, undertaken research examining the implications of this important move, in particular the effect on voter choice and party responsiveness. The results appeared as a briefing, *Elections under regional lists*, and a follow up article in the journal 'Representation'. The briefing's findings were discussed at a seminar of experts held at Nuffield College, Oxford held while the Government was consulting on the key issue in the political debate, whether the new system should use 'open' or 'closed' lists.

Closed lists, used in France, Germany, Portugal and Spain, only allow electors to choose between parties, and not for particular candidates within them. Fully open systems, used in Denmark, Finland, Italy and Luxembourg, allow voters to choose particular candidates; the number of such 'personal' votes is used to determine which candidates are elected. In between the closed and open list variations is the 'flexible' system, used in Austria, Belgium, the Netherlands and Sweden. Under this model, personal votes may again be cast, but party votes are also counted when deciding which candidates should be elected.

In its consultation the Government showed particular interest in the Belgian system. The Unit's briefing paper and the Nuffield College seminar concluded that flexible list systems like that in Belgium rarely result in voting patterns upsetting the party determined order of the lists. Nonetheless, flexible systems do have an element of the safety valve in them, in that a particularly popular candidate ranked low on the party list stands the chance of being elected 'out of order'. More importantly, personal voting allows electors the chance to signal their views on the composition of the parties' lists, and thus encourages parties to choose a balanced slate of candidates. Flexible lists also allow electors to signal their views on particular issues that cut across party lines: Europe is the obvious current example.

In the event, the Government decided to opt for closed lists, for the European Parliament elections and for the elections to the new Scottish Parliament and Welsh Assembly. Voters will have no opportunity to express a preference between the list candidates put forward by the parties. The position on the list for each candidate will be crucial. But this may not be the end of the story. The Jenkins Commission is likely to say something about open and closed lists in its discussion of the additional member system in its forthcoming report.

Contact: Ben Seyd

Electoral Commission

An Electoral Commission does not yet feature as part of the government's constitutional reform programme, but it is creeping up the agenda. Three current inquiries all involve a possible role for an Electoral Commission:

- the Neill Committee is likely to propose an Electoral Commissioner to enforce the new controls on party funding (report expected September)
- the Home Affairs Select Committee inquiry into Electoral Law and Administration has received a submission from the Labour Party recommending an Electoral Commission to provide "continuity, a permanent expertise on electoral matters, and ensure that good practice was being followed throughout the country"
- the Jenkins Commission on the Voting System is likely to say something about the need for public information and education before a referendum is held on the electoral system for the House of Commons.

Freedom of information

The Public Administration Select Committee has been conducting an inquiry into the government's Freedom of Information proposals. The Select Committee is critical of the government's White Paper in two respects:

- the total exclusion of all law enforcement information, whether held by the police or other agencies, such as the DSS, Immigration Service or the Environment Agency. This goes much further than in other countries, where law

enforcement information is subject to a normal exemption provision, so that decisions to withhold information can be challenged. Jack Straw, when giving evidence to the committee, implied that a normal exemption would be acceptable so long as it was subject to a simple harm test.

- the overlap between freedom of information and the Data Protection Bill currently going through Parliament. The White Paper proposed that individuals should be able to find out what is held on them by public authorities under either the Freedom of Information or the Data Protection Act. It emerged during the Committee's inquiry that the government now believes that access to personal files (which are likely to form the bulk of FOI requests) should be channelled under the Data Protection Act. This is a fundamental shift. It creates a much more important role for the Data Protection Act, which is not a user or access friendly piece of legislation, and a much more important role for the new Data Protection Commissioner.

Drafting the Freedom of Information Bill has been delayed as a result of this difficulty, which has been exacerbated by the Cabinet Office leading on FOI but the Home Office leading on data protection. The Select Committee hopes to debate the draft bill under the new pre-legislative procedures, but may be left with little time between publication of the draft bill and the summer recess. If the much-heralded Cabinet reshuffle then takes place, responsibility for introducing the Freedom of Information Bill may fall to Peter Mandelson.

Robert Hazell acted as Specialist Adviser to the Select Committee for this inquiry. The Constitution Unit has held a series of six private seminars on government information policy, attended by the main Whitehall departments and invited experts.

Constitution Secretariat

Kenneth Mackenzie, head of the Constitution Secretariat, left the Cabinet Office in April to return to the Scottish Office. He will be succeeded by Quentin Thomas, Deputy Secretary in charge of the Rights, International and Constitutional and Political divisions of the Northern Ireland Office.

Electoral reform in New Zealand: Lessons for the UK

The Jenkins Commission is due to report in the autumn on alternatives to first past the post (FPTP) for elections to the House of Commons. The government is committed to holding a referendum during the current parliament, maybe as early as 1999; but this would require legislation in 1998-99. Referendums on the electoral system were held in New Zealand in the early 1990s, and members of the Jenkins Commission are visiting New Zealand in late May. In their bags they had an early draft of the Unit's new briefing on the lessons of the New Zealand referendums for the UK.

The Commission will mainly be interested in how the German additional member system works in a Westminster-type parliament previously elected by first past the post.

Of equal importance to the UK, however, is the conduct of the New Zealand referendums themselves, in particular:

- their timing
- voter education
- the nature, funding and regulation of the campaigns
- the role of the government and the political parties
- media coverage.

In providing for a referendum on electoral change, New Zealand faced the same problem that will confront the UK: how to encourage an informed response from electors whose baseline knowledge of voting systems is low? The Unit's briefing focuses on this question, and on the effectiveness of the public education programmes initiated in New Zealand prior to both referendums. We hope to obtain some feedback from the Jenkins Commission on these aspects, and to publish a briefing in June.

Contact: Ben Seyd

Voter understanding of electoral systems

Next year, three elections will be held under new voting systems: in Scotland, Wales and for the European Parliament. Without adequate public education and information voters may find these new systems difficult to understand, and unintentionally spoil their ballot papers or stay away from the polls.

The Unit has devised a programme of action research to identify the aspects of the new electoral

systems that cause particular concern and confusion. Together with Social and Community Planning Research we are planning to investigate voters' current understanding, and to trial different forms of ballot papers for the new electoral system. The intention is to design easy to use ballot papers, and to inform a focused and targeted programme of public education.

The research has gained financial support from the Gatsby Charitable Foundation, with contributions from four government departments, and will run between June and November 1998. The initial focus will be on regional lists (European Parliament elections) and additional member systems (Scottish Parliament and Welsh Assembly). The Unit intends that the study will be the first part of a wider programme of research into voter understanding that can inform any further changes to the electoral system: in particular the referendum on the voting system for the House of Commons.

Contact: Ben Seyd

Single Chamber Parliaments

The Unit has completed stage one of a comparative study of six unicameral parliaments for the Scottish Office. The research provides material for use in the planning and design of the Scottish Parliament, which itself will have just one chamber. The study has looked at Quebec, British Columbia, Queensland, Denmark, Sweden and New Zealand. Five of these parliaments began with a second chamber, but all now have only one.

The report has two principal conclusions:

- checks and balances need to be set against the dynamic relationship between the parliament and the executive
- the effectiveness of a parliament is a question of overall design

Unicameral parliaments can be effective if well designed, ineffective if badly designed. A Parliament's procedural arrangements can themselves obviate the need for a second chamber. A comprehensive committee system can take care of the second chamber review function, while the electoral system and a bill of rights can cater for the constitutional watchdog role.

Ineffective parliaments have included Queensland, a state which was rocked in the 1980s by a culture of sleaze that led to four National Party ministers and a

former police commissioner being jailed for corruption and related offences. Another ineffective parliament was British Columbia, which was long subject to one party domination. Until change began to occur in 1972, the Parliament was called for only a few weeks a year and opposition members were not even given permanent office space, making it almost impossible to carry out the task of scrutinising the government.

On the other hand, well designed unicameral systems can produce good government. The two Scandinavian jurisdictions studied, Denmark and Sweden moved to unicameralism at the same time as introducing a range of other constitutional and parliamentary reforms. These two jurisdictions have enjoyed well functioning parliaments, providing balanced checks on the powers of the majorities in their parliaments and their executives.

The Scotland Bill provides a wide range of checks and balances found in other unicameral parliaments. In addition the Bill contains a number of novel checks, such as the powers to refer legislation to the Privy Council for a ruling on *vires*. The range of checks present in the Scotland Bill obviate the need for a second chamber as part of the parliamentary design.

The Unit is now working on stage two of the project which will also cover the German Länder parliaments of Lower Saxony and Bavaria and the Catalonian assembly in Barcelona. The full text of the stage one report is available on the Scottish devolution web page at:

<http://www.scottish-devolution.org.uk/frame.htm>

Australian Constitutional Convention - February 1998

Australians drafted and adopted their Constitution in a series of conventions and referenda during the 1890s. Over two weeks in early February this year 152 delegates met at the old Commonwealth Parliament in Canberra to debate the position of the Australian Head of State. Half of the delegates were appointed: leaders and opposition leaders from the States and Territories, indigenous and youth representatives and Commonwealth Parliamentarians. The rest of the delegates were elected.

The February convention discussed whether there should be a change in the identity of the head of

state, and if there were, who might replace the Queen. Despite majority support for some form of republic the convention almost collapsed because of squabbles over how a head of state should be elected: from popular election, to nomination by the Prime Minister (with community input) and appointment by both houses of the Commonwealth Parliament, to appointment by some sort of 'Council of Elders' of High Court Judges and former Heads of State.

The model approved by a vote of 73 to 57 (with 22 abstentions) was the middle ground. Although public opinion favours a popularly elected head of state, Australian citizens will vote in a referendum in 1999 on a model which allows community input through the parliamentary nomination process, with the Prime Minister putting one name to a joint sitting of both houses of the federal Parliament for approval by a two-thirds majority vote.

Constitution Unit Advisory Committee

To advise on the Unit's new work programme and other activities we have convened an Advisory Committee consisting of the following:

Professor Vernon Bogdanor, Professor in Government, Oxford. Sir John Chilcot, former Permanent Secretary, Northern Ireland Office. James Cornford, Special Adviser in the Cabinet Office. Janet Lewis-Jones, public policy expert and consultant. David Lipsey, political editor, The Economist. Bob Morris, former senior civil servant, Home Office. Professor Dawn Oliver, Professor of constitutional law, UCL. Professor Keith Patchett, Visiting Professor, University of Wales. William Plowden, former Director General, Royal Institute of Public Administration. Peter Riddell, political editor, The Times. William Solesbury, former Secretary, ESRC.

The Advisory Committee will meet 3 times a year.

Constitution Unit work programme 1998-2000

The implementation of constitutional reform continues to provide the core of the Unit's work programme. It combines detailed work on the implementation of individual reforms, coupled with wider ranging studies to explore the connections between them and the way ahead. Many of our

projects also involve comparative work, drawing on the lessons of constitutional change in the Commonwealth and in Europe. Most of the changes being introduced in the UK have been pioneered elsewhere.

The Unit's work programme can be divided under five main headings. The projects listed include those completed this year; those currently under way; and those still in the planning stage. The status of each project is given in brackets. We welcome suggestions for further projects; and offers of help, partnership or advice.

Parliamentary Reform

Legislation to remove the hereditary peers is likely to be introduced in 1998-99, as the first stage in reform of the House of Lords. The Unit has three studies to inform the stages beyond that:

- Reform of the House of Lords: a step by step guide (published January 1998)
- Rebalancing the Lords: the Numbers (published January 1998)
- Study of the role, functions, powers and composition of second chambers in Australia, Canada, France, Germany, Italy, Ireland and Spain (May 1998 - summer 1999).

Contact: Ben Seyd, Mads Qvortrup

Reform of the House of Commons may prove to be as necessary as reform of the House of Lords, but it is not currently seen as integral to the rest of the constitutional reform programme. A range of studies will explore the need for further change in Westminster:

- Monitoring the work of the Modernisation Committee. What should its agenda be? Does it adequately reflect the concerns of MPs? (Autumn 1998-Autumn 1999)
- Impact on Westminster of Devolution (1999-2000)
- Lessons from the new devolved Assemblies for Westminster's own procedures (2000-01)
- Westminster's links with the devolved assemblies and the EU: how to strengthen links with MSPs, MEPs etc. Implications for political careers.
- Job descriptions for MPs. What will be their role in a fully reformed House of Commons?

Contact: Robert Hazell

The new constitutional architecture: Constitutional Futures

Constitutional change is being introduced piecemeal, but surprisingly swiftly: with eight constitutional bills in the first parliamentary session 1997-98. They will transform the political landscape in ways which are not fully understood. Constitutional Futures seeks to assess the cumulative impact of all the reforms currently proposed in the UK: what will the political and constitutional landscape look like in 10 years' time? (March 1998 - January 1999).

Contact: Richard Cornes

Electoral systems and machinery

The next European Parliament elections in June 1999 will be held under a new electoral system, as will the 1999 elections for the Scottish Parliament and Welsh Assembly. The Jenkins Commission on the Voting System will report in autumn 1998 on an alternative voting system for the House of Commons, which may be put to a referendum in 1999. British voters will need to understand the properties of the new voting systems and the consequences of any change. The way parties select their candidates will assume new importance. Topics to be studied include:

- elections under regional lists: open vs closed lists (published January 1998)
- the lessons of electoral reform in New Zealand (March - June 1998)
- public understanding of the new voting systems (May 1998 - summer 1999)
- the case for PR in local government (April - July 1998)
- registration and regulation of political parties (1998-99)
- gender balance and party lists: legal limits and European practice (September 1998 - January 1999)
- the mechanics and dynamics of coalition government in other countries: lessons for the UK (1998)

Contact: Ben Seyd

Devolution

The first elections for the Scottish Parliament and Welsh Assembly will be in summer 1999, with both bodies fully in operation in 2000. They will introduce a quasi federal system into the UK, with intergovernmental agreements to handle business which used to be dealt with between Whitehall departments. In England Regional Chambers working in partnership with the new Regional Development Agencies (from April 1999) may pave the way for Regional Assemblies.

- Checks and balances required in single chamber parliaments (Scottish Office £9k. Interim report published February 1998. Final Report due August 1998)
- Devolution and Health (Nuffield Trust £35k. Final Report to be published June 1998)
- The Council of the Isles: lessons from the Nordic Council (May - July 1998)
- Regional Chambers and Regional Assemblies: role, functions, internal constitutions, external relations (1999 onwards)
- Intergovernmental relations: the new Whitehall Concordats and intergovernmental agreements in federal systems (1999-2000)

Contact: Robert Hazell, Mads Qvortrup

Rights and citizenship

Incorporation of the ECHR will require the introduction of a new rights culture across all three branches of Government. Freedom of Information similarly requires a major change of culture. Lessons can be learnt from Commonwealth and European countries which have already made the change.

- Impact of New Zealand Bill of Rights, Canadian Charter: lessons for the UK (1998-99)
- ECHR and Whitehall (1998-99)
- Comparative study of Information and Privacy Commissioners (1998-99)
- Do we need a constitutional or supreme court?

Contact: Robert Hazell

Constitution Unit publications

The Constitution Unit has consistently underpriced its publications. We were able to do this because in our first two years we were generously funded by six charitable trusts, and we wanted to disseminate our findings as widely as possible. We spent nearly £100k on printing and publishing our reports, which we have sold considerably below cost.

Sadly that has to change. We now have to price our publications at the same level as other policy institutes. Enclosed with this Monitor is a questionnaire which we hope you will find time to complete, and which will enable us to get the pricing structure right.

The Unit's new work programme (see above) will produce a steady stream of reports and briefings, which we aim to keep of the same high quality and accessibility as the Unit's earlier work. Each year

we plan to bring out at least 10 publications plus the quarterly Monitor.

People will be able to order individual publications as before; but we are also proposing an annual subscription for those who would like to receive all our publications as a matter of course.

Contact: Sara Northey

Constitution Unit website

The Constitution Unit website aims to provide up to date information about the Unit, its staff, work programmes, forthcoming events and publications. It is arranged under the page headings: Home, Info, Research, Publications and Experts.

Visitors can access the full text of the briefings published during the first phase of the Unit, and summaries of the reports published in phase two. The two most recent editions of the Monitor are also available in full, together with a copy of the publications order form which can be printed and faxed direct to the Unit.

Suggestions about the content of the site are welcome. We are looking for a volunteer to help maintain the Unit's mailing list and expert database. If you are interested, please contact Sara Northey.

Bulletin Board

New publications by the Unit

Elections under Regional Lists: a guide to the new system for electing MEPs, (January 1998)

Devolution and Health by Robert Hazell & Paul Jarvis, published jointly with The Nuffield Trust (June 1998)

Devolution and Regional Government in the UK: the Implications for Higher Education, by Robert Hazell and Lindsay Paterson, published in association with CVCP (June 1998)

The British-Irish Agreement: Power-Sharing Plus by Professor Brendan O'Leary (June 1998)

Publications received

Constitutional Reform in the United Kingdom: Practice and Principles, Centre for Public Law, University of Cambridge (Hart Publishing, Oxford 1998)

Democratic Innovation: a Guide to the Local Government (Experimental Arrangements) Bill, Local Government Association 26 Chapter Street, London SW1P 4ND Tel: 0171 834 2222 Fax: 0171 664 3349

Devolution and the British Constitution, edited by Adam Tomkins (SPTL, 1998) Contact Key Haven Publications Plc Tel 0181 780 2522 Fax 0181 780 1693

Electoral Reform: the Risks of Unintended Consequences by Nevil Johnson (March 1998, £5), Centre for Policy Studies, Tel 0171 222 4488 Fax 0171 222 4388 Email mail@cps.org.uk

A Federal Britain: No Longer Unthinkable? by John Barnes (£9), Centre for Policy Studies Tel 0171 222 4488 Fax 0171 222 4388 Email mail@cps.org.uk

Is There Really a Demand for Constitutional Change? by John Curtice and Roger Jowell, CREST, University of Strathclyde, February 1998.

Modernising Local Government by Jack Dromey, Geoffrey Filkin, Paul Corrigan, (February 1998) Fabian Society Tel: 0171 222 8877 Fax 0171 976 7153 Email fabian-society@geo2.potel.org.uk

The Making and Remaking of the British Constitution by Rt Hon Lord Nolan & Sir Stephen Sedley, Legal Research Institute 1997 (Blackstone Press £19.95).

The Operation of Multi-Layer Democracy in Germany: Implications and Insights for Scottish Devolution, written evidence for the Scottish Affairs Committee of the House of Commons, submitted by Dr Charlie Jeffery. Tel: 0121 414 7184 Fax: 0121 414 7329 Email c.a.jeffery@bham.ac.uk

Regional Development Agencies - Progress and Prospects, by Peter Roberts, Julia Rowntree & Greg Lloyd, Centre for Planning Research, School of Town and Regional Planning, University of Dundee, Dundee DD1 4HT.

Response to the Freedom of Information White Paper, Campaign for Freedom of Information (March 1998) £12 plus p&p. Copies can be obtained by sending a cheque for £13 to the Campaign at Suite 102, 16 Baldwin Gdns, London EC1N 7RJ Tel 0171 831 7477.

Websites

Campaign for Freedom of Information at <http://www.cfoi.org.uk>

Joshua Rozenberg's guide to the constitution at <http://news.bbc.co.uk>

Local Government Association at <http://www.lga.uk>

Forthcoming Events

Labour and the House of Lords 8 June

Institute for Constitutional Research Conference in association with the Daily Telegraph at the QEII Centre. Contact Robert Smith at the Institute for Constitutional Research Tel 0171 793 0063 Fax 0171 582 7022.

If you want us to mention a publication, website or forthcoming event in the next issue of the Monitor

(September 1998), or to order a publication, send details by the end of August to Sara Northey, School of Public Policy, Brook House, 2-16 Torrington Place, London WC1E 7HN Tel: 0171 209 6669, Fax: 0171 209 6594, Email: s.northey@ucl.ac.uk.

Constitution Unit Website

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

The Constitution Unit website is funded by The Economist