Constitutional reforms hit trouble in Parliament

The flagship constitutional reforms of the new coalition government are running into serious parliamentary trouble. They have all been the subject of scathing reports from parliamentary committees: in particular for their haste, and lack of pre-legislative scrutiny or public consultation. Two have been subject to defeat in the Lords, but none has yet completed all its stages. If the Lords share the criticisms voiced by the select committees they will want to make significant changes.

The vanguard bill is the Parliamentary Voting System and Constituencies Bill, which completed all its Commons stages on 2 November, and by Christmas had been in Committee for six days in the Lords. The bill provides for a referendum in May to change the voting system for the House of Commons to AV, and for boundary changes to reduce the size of the House to 600 in time for the next general election planned for 2015. For the AV referendum to be held on 5 May the bill needs to be passed by early February, allowing just three months for the referendum campaign.

The bill was the subject of critical reports by the new Political and Constitutional Reform Committee in the Commons, chaired by Graham Allen MP (HC 437, October 2010), and by the Lords Constitution Committee chaired by Baroness Jay (HL 58, November 2010). Both committees strongly criticised the government for its haste, and for combining in one bill two issues which should have been considered separately. The timetable for the referendum is particularly tight. There was no time for consultation with the devolved administrations, who are dismayed that the referendum is being held at the same time as the next devolved assembly elections. And there was no time for considering alternative approaches, or the option of PR. If the Lords make major amendments, the referendum may have to be postponed. The Lords have already amended the bill to provide for that.

Parliamentary debate on the plans to reduce the size of the House of Commons exposed the absence of any rationale for the new figure of 600 MPs; and the absence of any plan to reduce the number of Ministers, or the payroll vote (the new government had a record 46 PPSs). The government have said there will be a reduction, but not through this bill. Concerns were also expressed at the abolition of local inquiries into the results of boundary reviews (to be replaced by a 12 week written consultation period); at the spurious precision of equal sized constituencies based upon outdated (2010) electoral registers, from which 3.5m voters are said to be missing; and at 18 months being insufficient time for political parties to form new local associations and to choose candidates for the new constituencies.

The Fixed Term Parliaments Bill is next in line. Introduced in July, it had its Commons Second Reading in September, and by Christmas had undergone just two days in Committee (of the whole House). This bill has also been the subject of a quick report from the Commons Political and Constitutional Reform Committee (HC 436, September 2010), and a detailed inquiry by the Lords Constitution Committee (HL 69, December 2010). Both committees suggested a four rather than a five year term. On the wider issue, the Lords Committee were not convinced that a strong enough case had been made for fixed term Parliaments. The Committee also criticised the date clash with the devolved elections in May 2015, and every 20 years thereafter. It also pointed out that the Parliament Acts cannot be applied to the Fixed Term Parliaments Bill, so the Commons cannot override the Lords.

The third bill in trouble is the European Union Bill, which aims to strengthen the UK procedures for agreeing EU decisions and Treaty changes. It provides a sovereignty clause confirming that ultimate legal authority remains with Westminster; and for a referendum lock on any Treaty transferring further powers to the EU. The sovereignty clause was strongly criticised by the Commons European Scrutiny Committee, chaired by Bill Cash MP (HC 633-I, December 2010). After taking evidence from EU and constitutional legal experts, the committee concluded that the legislative supremacy of Parliament was not under threat from EU law; so the sovereignty clause was unnecessary. It was also unlikely to have any effect, not least since it could be repealed by any future parliament. This second argument will also apply to the provisions for a referendum lock, to which the committee will return at a later date.

Finally there is the Public Bodies Bill, which started in the House of Lords in October. Following the Cabinet Office review of public bodies, led by Francis Maude MP, the bill allows Ministers to make orders abolishing, merging or modifying a wide range of public bodies. The Lords Constitution Committee issued a powerful warning in November about the extraordinary scope of the Henry VIII powers in the bill (HL 51, November 2010), repeated by the Lord Chief Justice when he gave evidence before them in December (see page 6). Labour opposition peers are ensuring that the bill makes painfully slow progress: so slow that the government may start all night sittings. The bill’s opponents will be further encouraged by the damning report of the Commons Public Administration Committee, whose chair Bernard Jenkin MP described the government’s bonfire of the quangos as ‘botched’ (HC 537, January 2011).

Continued on page 2.

In this issue

Parliament 1-3
Executive 3-4
Devolution 4-5
Courts and the Judiciary 5-6
Information Policy 6
Constitution Unit News 7
Bulletin Board 8
These bills will provide an early test of the extent to which the Lords are willing to vote down legislation of the coalition government. With Lib Dem numbers, which is plainly unworkable. Furthermore, many have pointed out that this would require appointment of large numbers of BNP peers, amongst others. The space for future appointments depends crucially on any future arrangements for retirement from the chamber, and the whole issue of course linked to longer-term Lords reforms. Until at least one of these matters is sorted out, the Unit’s Meg Russell has suggested that there should be a moratorium on Lords appointments. Her article can be found here: http://www.ucl.ac.uk/constitution-unit/constitution-unit-news/221110 Lords reforms: large and small Options for retirement have been much on the political agenda. The Lords’ Leader’s Group on this topic, chaired by Lord Hunt of Wirral, issued an interim report on 3 November, and this was debated in the chamber on 29 November. Options floated in the paper included simple voluntary retirement, or compulsory retirement based on age limits, length of service, level of attendance, or elections to remove a certain proportion of each party. The Group noted that any binding arrangement (even voluntary retirement) would require legislation. One such legislative vehicle is the private member’s bill again moved by Lord Steel of Aikwood, which received a second reading on 3 December. The bill sets out for the House of Lords Appointments Commission on statutory footing, and replacement of hereditary peers when they die, exclude those sentenced to more than a year in prison, permit peers to take permanent leave of absence (i.e. effectively retire), and deem that any peer who had not attended at all during a session had taken such leave. Despite considerable support in the chamber, it is a private bill’s is such a controversial matter is unlikely to ever come to a vote. The final report of the Leader’s Group was published on 13 January. It recommended greater encouragement to take leave of absence, particularly for rare attenders, for which it envisaged a ceremony allowing members to “retire” (which would be legally non-binding). Responding, Lords Leader Lord Strathclyde said he would ask the Procedure Committee to put these recommendations into effect. The report quoted extensively from Meg Russell’s evidence, and while it stopped short of endorsing a moratorium on new appointments, suggested that “retirement should be exercised” in such appointments, and that they should be only for a fixed term. The government has yet to respond.

All of this discussion takes place in the shadow of the coalition’s promised large-scale reform of the House of Lords, to replace it with a largely or wholly elected chamber. A draft bill had been promised by the end of 2010, but this has slipped and is now promised ‘early in the New Year’. The question is being considered by a cross-party committee of frontbenchers. Initially this was (according to evidence from Nick Clegg to the Lords constitution committee in July) to look at ‘the issue of how members arrive in the second chamber, rather than what they do when they get there, on which the Government believes there is no need for change’. But in answer to a question in the chamber on 29 November, Minister Lord Taylor of Holbeach said that the Cabinet Manual the subject of public scrutiny, or suggested it might be modified in light of public comment. Sir Gus O’Donnell has already stated in the Manual’s preface that it may need to be revised in light of the Coalition government programme (fixed term parliament, the AV referendum, etc), but aside from that, in structure and approach the Manual is unlikely to be changed fundamentally.

The Commons Political and Constitutional Reform Committee has already shown a strong interest in the Manual in its inquiry on the 2010 process of government formation, and has now launched a new inquiry on the constitutional implications of the Manual, with Robert Hazard invited to give an evidence session. For the most part, the media has focused on the revised election chapter.

Further information:

•  Details of the Political and Constitutional Reform Committee inquiry on the constitutional implications of the Cabinet Manual can be found here:http://www.parliament.uk/business/committees/committees-a-z/commons-select/political-and-constitutional-reform-committee/news/constitutional-implications-of-the-cabinet-manual

Join the debate: Constitution Unit Blog www.constitution-unit.com

Putting the Goats amongst the Wolves: Appointing Ministers from outside Parliament

In 2007 Gordon Brown appointed several ministers with no previous political or parliamentary experience, prompting a debate about the desirability of appointing ministers from outside Parliament. The Constitution Unit has published a report on this, thanks to the generous funding of a private donor, Peter Scott QC. Putting the Goats amongst the Wolves explores the arguments for appointing ministers from outside Parliament (‘outsiders’), and studies the experience of such appointments in the UK and the overseas experience, in countries where such appointments are more common. France, Sweden, the Netherlands, and as an ‘outsider’, the United States. Advocates of such ministers point to the limited talent pool in the House of Commons, and argue that outsiders can significantly widen the skills and experience available to the government. The size and complexity of modern government requires ministers with more technocratic skills. Opponents point to the high failure rate of such ministers, measured by their short time in office. Their lack of political and parliamentary skills was said to be a serious handicap.

We found a wide range of views and experience. A few of these new UK ‘outsider’ ministers were regarded as successful, and several as failures. Most were given little or no induction. Some felt that too much emphasis was placed on the parliamentary role. Many were critical of the lack of clear delegation or objectives.

The overseas experience also proved less distinctive than generally supposed. Many of those appointed from technocratic backgrounds turned out to have significant political experience as well, and local and
regional level, or as party officials. One key finding was that ‘hybrid’ appointments who have both technocratic and political skills may be more likely to be successful than purely technocratic appointments.

There were no special problems of accountability at Westminster, since all departments were junior ministerial and so became accountable to the House of Lords. The main complaint arose in relation to Lords Mandelson and Adonis, who were not directly accountable to the House of Commons. The Commons could have devised accountability mechanisms, but chose not to do so, because they did not want to facilitate the appointment of more Secretaries of State.

The report made two sets of recommendations. The first set concerned the appointment and training of ministers, suggesting, amongst other matters, more formalised and comprehensive induction for all ministers; greater clarity in regards to lines of authority and delegation; and a more formalised evaluation process. The second set of recommendations concerned accountability, suggesting the need for an institutional space in which members of both Houses could meet freely, allowing for greater responsiveness.

Further information:
- Full report and more at: http://www.ucl.ac.uk/constitution-unit/research/parliament/ministers-outside-parliament2

Devolution

Northern Ireland

The image of people queueing at stationaries for a day, flashing across the UK media during the period, symbolised the nadir to which devolution in Northern Ireland had come. Tens of thousands of the former Assembly’s members were out of a job. The first minister of the region’s political class had shown remarkably little interest in devolution. The region’s political class had shown remarkably little interest in paying for water, fearful they might pay a price in a political culture still consumed by elite ethnic protagonism.

Many had dodged the issue of paying for water, fearful they might pay a price in a political culture still consumed by elite ethnic protagonism. Yet the region’s political class had shown remarkably little interest in paying for water, fearful they might pay a price in a political culture still consumed by elite ethnic protagonism.

The Northern Ireland Executive eventually met—principally to throw mud at Northern Ireland Water, the government company established in 2007 under direct rule from Westminster with a view to introducing water charges and, many suspected, privatisation of the still public service. Yet the region’s political class had shown remarkably little interest in paying for water, fearful they might pay a price in a political culture still consumed by elite ethnic protagonism.

Northern Ireland Water, the government company established in 2007 under direct rule from Westminster with a view to introducing water charges and, many suspected, privatisation of the still public service. Yet the region’s political class had shown remarkably little interest in paying for water, fearful they might pay a price in a political culture still consumed by elite ethnic protagonism.

The report made two sets of recommendations. The first set concerned the appointment and training of ministers, suggesting, amongst other matters, more formalised and comprehensive induction for all ministers; greater clarity in regards to lines of authority and delegation; and a more formalised evaluation process. The second set of recommendations concerned accountability, suggesting the need for an institutional space in which members of both Houses could meet freely, allowing for greater responsiveness.

Further information:
- Full report and more at: http://www.ucl.ac.uk/constitution-unit/research/parliament/ministers-outside-parliament2

Scotland

There has been a number of stories vying for attention in the latter part of the year, several of which had been covered before. The issue of pay for public service. Yet the region’s political class had shown remarkably little interest in paying for water, fearful they might pay a price in a political culture still consumed by elite ethnic protagonism.

While True Wales, the aspirant No campaign, has been up and running for some time, the Yes side has taken much longer to get its act together. The appointment of Roger Lewis, chief executive of the Welsh Rugby Union, as chairman of what is now called the ‘Yes for Wales’ campaign was announced in mid-December, and the campaign has formally launched on 4 January – less than 2 months before the referendum date. There has been support for a Yes vote from the Labour Party, including Nick Brown, but the attempt to link support for a Yes vote to support for Welsh Labour risks antagonising non-Labour supporters of primary legislative powers.

Whether True Wales and Yes for Wales will be formally designed as the Yes and No campaign organisations (and receive the public funding to which that status entitles them) will be announced between 19 January and 2 February.

Opinion polling continues to show strong support for a Yes vote, though that declines somewhat when only those likely to vote are taken into account. On what may be a low-turnout poll, that could be significant. YouGov polls continue to show a lead for the Yes side of about 20 percentage points. An ICM poll for the BBC published on 1 December showed 57 per cent supporting a Yes vote, 24 per cent for ‘No’, and 18 per cent Don’t Know.

On the financial front, and in the wake of the UK Government’s Spending Review, the Scottish Government published its budget for 2012-11 on 11 November 2010. Despite rhetoric about taking a ‘distinctive Welsh approach’ to cuts, the budget largely delivered the sort of cuts that had been delivered in England, targeted on pensions and snacks, and Ann Budge, the chief executive of the Scottish government, considering the move to single fibre and police services.

Second, Alex Salmond’s threats to resign and force an early election may have a bit more bite this time (although SNP support is not that high) because we are within six months of May (meaning that another election would be unnecessary would operate for over 4 years). Much centres on Finance Secretary John Swinney’s proposal of a ‘supermarket tax’ (or rise in business rates for large businesses) which has been opposed by the three main opposition parties. Swinney has also begun to play hardball with local authorities, linking funding to a commitment to maintain police and teacher numbers and to freeze council tax (or face a reduction in budget settlements).

Dr Paul Calmyre, University of Aberdeen

Wales

The autumn and early winter did not see any dramatic developments, but more preparation for what will be a busy spring and early summer, with the referendum on the National Assembly’s legislative powers following on from the spending limits. The campaign is still trying to grapple with the crisis, with ministers sticking to the traditional quasi-ascriptive that the Treasury provide more while granting Northern Ireland lower corporation tax to pay less.

Meanwhile, the moral economy continued to haemorrhage. The Ulster Bank reported that November had been the worst month for contracting orders since April 2009, sustaining three years of decline (almost to when devolution had been restored)—in contrast to 17 months of modest apparent recovery across the UK as a whole. Yet an economic policy, promised as the priority of the Programme for Government agreed in early 2008, remained in the ministerial pending tray.

The autumn and early winter did not see any dramatic developments, but more preparation for what will be a busy spring and early summer, with the referendum on the National Assembly’s legislative powers following on from the spending limits. The campaign is still trying to grapple with the crisis, with ministers sticking to the traditional quasi-ascriptive that the Treasury provide more while granting Northern Ireland lower corporation tax to pay less.

Dr Rob Wilson is an Honorary Senior Research Associate of the Constitution Unit and Author of The Northern Ireland Experience of Conflict and Agreement: A Model for Export? (Manchester University Press, 2010).

The Northern Ireland Executive eventually met—principally to throw mud at Northern Ireland Water, the government company established in 2007 under direct rule from Westminster with a view to introducing water charges and, many suspected, privatisation of the still public service. Yet the region’s political class had shown remarkably little interest in paying for water, fearful they might pay a price in a political culture still consumed by elite ethnic protagonism.

Further information:
- Full report and more at: http://www.ucl.ac.uk/constitution-unit/research/parliament/ministers-outside-parliament2

Oldham East and Saddleworth Election Declared Void

For the first time in almost 100 years, a specially convened election court has declared an election result invalid. Specifically, the 6 May 2010 election in Oldham East and Saddleworth was declared void by the Returning Officer for that constituency. Labour Immigration Minister Phil Woolas retained his seat after defeating his independent rival, former Home Secretary David Blunkett. The Labour party had been declared void and a by-election scheduled for 13 January 2011. Watkins contested the result of the election under section 120 of the Representation of the People Act 1983 (RPA 1983). The Supreme Court unanimously dismissed the appeals with Lord Justice Toulson stating: ‘The primary purpose of Article 9 is the protection of freedom of speech and debate within Parliament and parliamentary committees. As to the issue of exclusive jurisdiction, the Court ruled that Parliament has not asserted exclusive jurisdiction in relation to criminal conduct which occurs within Parliament. Accordingly, the Court determined that the proceedings did not violate Article 9 or interfere with the exclusive jurisdiction of Parliament. On 7 January, David Chaytor pleaded guilty to falsely claiming parliamentary expenses and was sentenced to 18 months in prison. He has also been expelled from the Labour Party.

Further information:
- The full judgment is available at: http://www.supremecourt.gov.uk/decided-cases/docs/UKSC_2010_0195_Judgment.pdf

Parliamentary Privilege Appeal Rejected

On 1 December 2010, the Supreme Court rejected appeals brought by former MPs David Morley, Elliot Chaytor and Jim Devine concerning whether they can be charged for false accounting in relation to parliamentary expenses claims. The former MPs argued that criminal proceedings cannot be brought against them because their actions are protected by parliamentary privilege under Article 9 of the Bill of Rights 1689. They also maintained that filing expenses claims falls within the exclusive jurisdiction of Parliament and is therefore not a matter for the courts.

The Supreme Court unanimously dismissed the appeals with Lord Phillips and Lord Rodger giving the lead judgments. The Court held that the conduct of MPs is not privileged within the meaning of Article 9 simply because it occurs in the House of Commons. The primary purpose of Article 9 is the protection of freedom of speech and debate within Parliament and parliamentary committees. As to the issue of exclusive jurisdiction, the Court ruled that Parliament has not asserted exclusive jurisdiction in relation to criminal conduct which occurs within Parliament. Accordingly, the Court determined that the proceedings did not violate Article 9 or interfere with the exclusive jurisdiction of Parliament. On 7 January, David Chaytor pleaded guilty to falsely claiming parliamentary expenses and was sentenced to 18 months in prison. He has also been expelled from the Labour Party.

Further information:
- The full judgment is available at: http://www.supremecourt.gov.uk/decided-cases/docs/UKSC_2010_0195_Judgment.pdf

Parliamentary Privilege Appeal Rejected

On 1 December 2010, the Supreme Court rejected appeals brought by former MPs David Morley, Elliot Chaytor and Jim Devine concerning whether they can be charged for false accounting in relation to parliamentary expenses claims. The former MPs argued that criminal proceedings cannot be brought against them because their actions are protected by parliamentary privilege under Article 9 of the Bill of Rights 1689. They also maintained that filing expenses claims falls within the exclusive jurisdiction of Parliament and is therefore not a matter for the courts.

The Supreme Court unanimously dismissed the appeals with Lord Phillips and Lord Rodger giving the lead judgments. The Court held that the conduct of MPs is not privileged within the meaning of Article 9 simply because it occurs in the House of Commons. The primary purpose of Article 9 is the protection of freedom of speech and debate within Parliament and parliamentary committees. As to the issue of exclusive jurisdiction, the Court ruled that Parliament has not asserted exclusive jurisdiction in relation to criminal conduct which occurs within Parliament. Accordingly, the Court determined that the proceedings did not violate Article 9 or interfere with the exclusive jurisdiction of Parliament. On 7 January, David Chaytor pleaded guilty to falsely claiming parliamentary expenses and was sentenced to 18 months in prison. He has also been expelled from the Labour Party.

Further information:
- The full judgment is available at: http://www.supremecourt.gov.uk/decided-cases/docs/UKSC_2010_0195_Judgment.pdf
Chief Justice Criticises Public Bodies Bill

The coalition government published proposals to abolish nearly 200 quangos in October. The Public Bodies Bill is intended to give Ministers power to abolish or suspend quangos with the aim of reducing their number and overall cost. The Bill concerns significant Henry VIII-type powers upon ministers. The Lord Chief Justice, Lord Igor Judge, expressed concern about these aspects of the Bill in his appearance before the House of Lords Constitution Committee (HLCC) in December 2010. He said the inclusion of several quasi-judicial bodies in the Bill was a threat to the independence of the judiciary.

Lord Judge expressed unease with the fact that about 120 Bills with Henry VIII clauses had been enacted in the 2008-2009 legislative session. He expressed particular concern with Schedule 7 of the Public Bodies Bill in which are included around 150 organisations which may in future be abolished or modified by a ministerial order.

Included in Schedule 7 are a number of quasi-judicial bodies that are important to the judiciary, such as the Judicial Appointments Commission and the Criminal Cases Review Commission. These organisations exist specifically so that they will be independent from the Government of the day. Their inclusion under Schedule 7 of the Bill makes them amenable to abolition by a Government with relative ease, a situation Lord Judge described as extraordinary. The bodies in question have been created by Parliament and their independence is, Lord Judge maintained, part and parcel of the independence of the judiciary. Their abolition should thus be a matter for Parliament and not for a minister exercising power through a Henry VIII clause.

Lord Judge also suggested that responsible engagement between judges and the media could be a positive guarantee of the independence of both journalism and the judiciary. The use of blogs such as Twitter as a journalistic tool in court (as occurred recently in the Tommy Sheridan perjury case) might be appropriate if done responsibly and in appropriate circumstances.

Further Information:

Unit blog: Lord Chief Justice on the Public Bodies Bill and Judicial Independence. A transcript of Lord Judge’s evidence before the HLCC is available at: http://www.parliament.uk/documents/inquiries/constitu/titles/lordchiefjustice/ucNSTIT512120L4e7v.pdf and there is also a video record available at: http://www.parliamentlive.tv/Main/Player.aspx?meetingId=7287

Unit Research Project Launch: the independence and accountability of the judiciary. Lord Phillips, President of the UK Supreme Court Tuesday 8 February, 5.45pm for 6.00pm start Venue: Gustave Tuck Lecture Theatre, Wilkins Building, UCL. Book online at: http://constitution-unit/events/judicial-independence-events/launch

Information Policy

Do MPs and peers use FOI?

The Unit’s FOI team is half-way through a project looking at FOI and Parliament, both how the Act has changed Parliament and its role, and how the Act has been utilised by Parliamentarians. This article looks at the latter point: Do members use FOI?

Members constantly need information in order to seek publicity or news coverage, to support a campaign or as a means to bring accountability, scrutiny and assist the work of opposition. The Freedom of Information Act offers the potential to assist in all these activities.

FOI requests can be used to ask a specific question in a particular area, or be tailored more broadly to obtain a large amount of information that can be examined. Requests can be used simultaneously to examine the same question of many public bodies through ‘round robin’, gathering data to cross-compare or aggregate to give a nationwide picture. FOI requests can generate publicly, controversy or create a nuisance.

There are some notable uses of FOI by backbench MPs, with requests providing information to challenge the government, reveal mistakes or injustice, or contribute to a policy discussion. Justine Greening used FOI to investigate the BBC and found that it was not fully staffed to build a new runway at Heathrow. The All-Party Parliamentary Group used the US FOI Act to investigate claims of torture. Norman Baker investigated the death of Dr David Kelly.

One of the key questions is thus why more MPs and peers are not using FOI. Five years since the Act was enacted, with FOI requests proving an effective check on government, the study so far has found only a small number of MPs, and virtually no peers, make FOI requests. Parliamentarians in the UK seem to make use of the tool less than their overseas counterparts. Half-way through the study, we can offer a number of provisional explanations.

First and most simply, FOI can take more time than other methods of accountability. David Laws MP told the Procedure Committee in 2007 that use of FOI can be a long and frustrating process and that, despite its legal deadline, can take up to six months. You put in an FOI request, and that is almost always the first step, and then you have to go through an appeal. All of this takes a long time. It is designed to wear you down. MPs, working to deadlines may find FOI is not good use of their finite resources. Few peers have a dedicated research assistant, and most have their information needs ably met by the Lords’ Library.

Second, MPs and peers are ‘creatures of habit’ and will habitually use the traditional methods such as PQs. As one interviewee argued, there are ‘many established ways of accessing information. Why do they need FOI?’

PQs remain an important tool for MPs – and to a lesser extent, peers - and their usefulness has not been undermined by the introduction of FOI; indeed, the number of PQs made increase every year. MPs that have used FOI seem to see both tools as useful for different things. They feel PQs are quicker than FOI and a more ‘basic’ means of obtaining information; they can serve as ‘a ready made press release’, according to one MP, PQs seek an answer, and generally have a brief one in a short space of time.

FOI requests do have some key advantages over PQs. While the refusal of a PQ is discretionary, FOI has an appeal system to the Information Commissioner (ICO) and beyond. FOI has a wider coverage, covering organisation like local councils, in contrast to the BBC and local councils.

Unlike PQs, answers to FOI requests are not publicly available and so cannot be picked up or used by another member. Researchers have spoken of trailing answers to PQs each day, with simultaneous press releases issued by different parties using PQ material.

Third, use of FOI may depend upon the individual parliamentarian. It may be, as one interviewee suggested, most are not ‘curious, cynical or suspicious’ so do not use FOI above what tools are available.

Fourth, is the issue of context: ‘Some subjects lend themselves to FOI’ as one interviewee put it. Those subjects, the politically sensitive, long term or ‘crusaded’, may be the sort of private investigations undertaken by a small group of MPs.

Of the very few peers who use FOI, the trend is that requests are made with the help of, or in conjunction with, outside parties like NGOs. Some peers present their own policy or research agendas with FOI, wholly separate from the work of the Lords.

The Lords does not carry the same role of representation, or helping the government to account as the Commons. As a consequence, peers, while using FOI less, are more willing to do so. To illustrate, between 2007 and 2008 73,356 written questions were tabled in Commons compared with 6,537 in the Lords. Importantly, peers are not elected and do not need the publicity that MPs are motivated to find. Several peers have noted FOI is tarnished with the perception it is an ‘underhand tactic’, something professionals use to dig dirt. This clashes with the cordial nature of the House. As one peer put it: ‘There is the idea that the Lords operates with courtesy... FOI breaks this clubby bond. The feeling is, why wouldn't you just talk to your colleagues, find out through the usual channels?’

The Unit is continuing to interview parliamentarians and their staff to gather more evidence. We are still asking:

- Why do MPs and peers not use FOI more?

- Can requests be used to formulate policy?

- What use are political researchers or advisers making of FOI?

If you want to help to contribute to the project, please contact Dr Ben Worthy on b.worthy@ucl.ac.uk. If you would like to read more about our project, please visit: http://www.ucl.ac.uk/constitution-unit/research/foi/foi-and-parliament

People On The Move

Sir David Normington has been appointed First Civil Service Commissioner and Commissioner for Public Appointments. The former Permanent Secretary of the Home Office stepped down at the end of December following the expiry of a five year non-renewable term. Uma O’Brien is the new permanent secretary at the Department of Work and Pensions. Sir Bob Kerslake becomes permanent secretary at the Department of Communities and Local Government in succession to Sir Peter hologh. Dame Helen Ghosh is the new permanent secretary at the Home Office. Martin Donnelly is the permanent secretary at the Department of Business Innovation and Skills in succession to John Apter who is now permanent secretary at the Foreign and Commonwealth Office. Robert Devereux takes over from Sir Hugh Taylor as the new permanent secretary at the Department for Work and Pensions. Ursula Brennan is the new permanent secretary at the Ministry of Defence in succession to Sir Bill Jeffrey. Lynden Holder is permanent secretary at the Department of Transport. Sir Peter Housden is permanent secretary to the Scottish Government following the departure of Sir John Elvidge.

Constitution Unit News

Making Coalition Government Work

The Unit has been awarded a 12 month grant from the Nuffield Foundation, starting in January 2011, to examine coalition government in the UK. The project is led by Robert Hazell and Ben Yong, and supported by Honorary Senior Research Associate Peter Waller.

The study has received the approval of Prime Minister David Cameron and Deputy Prime Minister Nick Clegg. Following on from previous reports by the Unit (Coalition Government: Lessons from Overseas; Making Minority Government Work), it will look at how the first coalition government in Britain has performed, and how it has been received by the country.

We hope that it will result in better preparedness for the next coalition government, whatever that comes; better guidance in Westminster and Whitehall; and better understanding of how coalition government works by the media and the general public.

Coalition governments face two sets of difficulties. One is instability: coalition governments in Europe are more short lived than single party majoritarian governments. So procedures to manage conflict and resolve disputes between the coalition partners are vital. The second difficulty is the undistinctiveness dilemma. A coalition must devise means of ensuring its constituent parts remain coordinat and coherent if it is to govern effectively; but must also ensure that different parties’ policies and values are implemented, to satisfy party supporters. These competing considerations are fundamental to understanding how a coalition government operates. Thus our central research questions are how coalition government can retain stable, and how it can reconcile unity in government with the need for the parties to project distinct identities.

The project will engage with politicians and senior officials, through regular private seminars and meetings. On our website we will be publishing regular coalition updates, collecting media reports on the inevitable tensions which arise. In addition we aim to provide basic information on how coalition governments have worked in the UK and overseas. For all this and more information, see: http://www.ucl.ac.uk/constitution-unit/research/coalition-government

Parliament’s Impact on Legislation

A second Nuffield Foundation grant has been awarded to Meg Russell for further work on the project in the year following the time focusing on legislation. The two-year project will start in February 2011, and examine passage of a number of case study bills (both pre- and post-2010) through Parliament. Meghan Bradbeer will work on the project, and two further researchers will be recruited in the spring. Watch the Unit website and the next Monitor for further details.

The parliament team is currently completing its work on impact of House of Commons select committees, for spring publication.

Constitution Unit Staff Update

In January, Patrick O’Brien joined the Unit as a Research Associate working on the Politics of Judicial Independence project and editing the Unit’s newsletter. Meghan Bradbeer will work on the project, and two further researchers will be recruited in the spring. Watch the Unit website and the next Monitor for further details.

Mark Chalmers will be leaving the Unit at the end of January to join a City law firm. Mark joined the Unit in June 2009 as a Research Assistant to work on constitutional research and editing the Monitor and running the Unit’s Public Seminar Series.

Interns

As always, the Unit is grateful for the hard work and diligence of our interns: Meghan Bradbeer, Estelle Levoyer, Neila Fejos, Frank Fogarty and Rachel Heydecker.
### Forthcoming Events

The Constitution Unit Public Seminar Series is funded by her family in memory of Barbara Farbey, late of UCL, who greatly enjoyed them and who died in 2009.

Sign up for all our events on our website, and find videos and presentations from previous seminars [http://www.ucl.ac.uk/constitution-unit/events](http://www.ucl.ac.uk/constitution-unit/events)

- **Wednesday 26 January, 6.00pm.**
  Mark Pack (Co-editor, Liberal Democrat Voice), will discuss the Liberal Democrats and the Coalition
  **Venue:** Council Room, The Constitution Unit (Public Seminar Series, free and open to all)

- **Tuesday 8 February, 5.45 for 6.00pm start.**
  Lord Phillips of Worth Matavera (President of the UK Supreme Court) launches our new Judicial Independence project with a lecture on the accountability of the judiciary from the perspective of the Supreme Court
  **Venue:** Gustave Tuck lecture theatre, Wilkins Building, UCL (free and open to all)

- **Thursday 24 February, 6.00pm.**
  Sir Gus O’Donnell (Cabinet Secretary, head of the Civil Service and Permanent Secretary of the Cabinet Office), discusses the new UK Cabinet Manual
  **Venue:** Council Room, The Coalition and Constitutional Reform, 21 February
  **Government by Parliament and Government by the People, 21 March**
  Each lecture will be held at 12.00 in the Edmond J. Safra Room, King’s College London, Strand, London WC2R 2LS
  Entry free to all – notification of attendance to the Centre’s Senior Research Fellow, Dr Andrew Blick, at [blickandrew@aol.com](mailto:blickandrew@aol.com).

- **Wednesday 15 June, 1.00pm.**
  Jenny Watson, Chair of the Electoral Commission, will talk about issues relating to the AV referendum.
  **Venue:** Council Room, The Coalition and Constitutional Reform (Public Seminar Series, free and open to all)

### Constitution Unit Publications


### Publications Received

- Wilson, R. The Northern Ireland Experience of Conflict and Agreement: a Model for Export? (Manchester University Press, 2010)

Follow the Unit on Twitter & Facebook.