



The **Constitution** Unit

# **Nations and Regions: The Dynamics of Devolution**

**Quarterly Monitoring Programme**

## **Devolution and the Centre**

**Quarterly Report  
April 2005**



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**The Leverhulme Trust**

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The monitoring programme is jointly funded by the ESRC and the Leverhulme Trust



# **Devolution and the Centre Monitoring Report**

**April 2005**

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## **Summary of Report**

- Senior Conservatives come out in favour of abolishing the Scottish Parliament, the National Assembly for Wales and the English Regional Chambers.
- Scottish constituency map redrawn by Government order following Boundary Commission for Scotland report; Scottish Westminster seats reduced from 72 to 59
- Arbuthnott Commission on Boundary Differences and Voting Systems in Scotland meets MPs at Westminster as part of consultation exercise.
- Government introduces two pieces of Wales-only legislation – the Transport (Wales) Bill and the Public Services Ombudsman (Wales) Bill – but despite widespread support in Wales only the latter reaches the statute book while the former falls victim to legislative congestion.
- The Railways Act, transferring strategic and financial functions to the devolved administrations, completes its passage through Parliament at the eleventh hour.
- Commons Select Committee reports criticise the Government’s draft Regional Assemblies Bill and its Regional Development strategy, while the Government appears to shift focus to city-regions.
- Territorial Select Committee Annual Reports shed light on their post-devolution divergence in function: Welsh Affairs continues to collaborate with National Assembly committees, Northern Ireland Affairs fills the void in scrutinising devolved areas of policy, and Scottish Affairs conducts ‘short sharp inquiries’.
- Government pushes through university top-up fees in Northern Ireland over the opposition of the Northern Ireland Grand Committee, raising questions about its accountability to the voters in the six counties.

## **Chronology of Key Events at the Centre**

- 23 November 2004 Queen's Speech marks beginning of 2004-05 parliamentary session
- 30 November 2004 Oral Questions to the Secretary of State for Scotland and the Advocate-General for Scotland
- 1 December 2004 Oral Questions to the Secretary of State for Northern Ireland
- 8 December 2004 Oral Questions to the Secretary of State for Wales
- 5 January 2005 ODPM Select Committee publishes report on draft Regional Assemblies Bill
- 11 January 2005 Oral Questions to the Secretary of State for Scotland and the Advocate-General for Scotland
- 19 January 2005 Oral Questions to the Secretary of State for Northern Ireland
- 20 January 2005 Northern Ireland Grand Committee 'negatives' the Higher Education (Northern Ireland) Order 2005
- 25 January 2005 Arbuthnott Commission meets MPs at Westminster
- 26 January 2005 Oral Questions to the Secretary of State for Wales
- 8 February 2005 Oral Questions to the Secretary of State for Scotland and the Advocate-General for Scotland
- 10 February 2005 Parliamentary Constituencies (Scotland) Order comes into force
- 23 February 2005 Oral Questions to the Secretary of State for Northern Ireland

24 February 2005	Electoral Registration (Northern Ireland) Bill receives Royal Assent
2 March 2005	Public Services Ombudsman (Wales) Bill passed by Lords
2 March 2005	Oral Questions to the Secretary of State for Wales
9 March 2005	Delegated Legislation Committee approves Higher Education (Northern Ireland) Order 2005, over-riding Grand Committee
9 March 2005	Westminster Hall debate on 'EU Structural Funds (Wales)' held, proposed by Simon Thomas MP (Plaid Cymru)
15 March 2005	Oral Questions to the Secretary of State for Scotland and the Advocate-General for Scotland
16 March 2005	Westminster Hall debate on 'Water Charging (Northern Ireland)' held, proposed by Peter Robinson MP (DUP)
22 March 2005	Draft Commissioner for Older People (Wales) Bill published by Wales Office.
7 April 2005	Public Services Ombudsman (Wales) Act and Railways Act gain Royal Assent.
11 April 2005	Dissolution of Parliament – End of 2004-05 parliamentary session

## 1. Conservative commitment to devolution called into question

Having opposed devolution at its inception, the Conservatives remain vulnerable to attacks on the sincerity of their conversion to the devolution cause and during this monitoring period (23 November 2004 – 11 April 2005), the party was landed in controversy by senior figures from both Scotland and Wales.

In January, Conservative Welsh Affairs Spokesman Bill Wiggin MP was quoted as saying that he was in favour of abolishing the National Assembly for Wales,<sup>1</sup> which, especially given the fact that Wiggin is an English MP, did nothing for the party's image in the principality. Wiggin's stance is not, however, wholly at odds with current Conservative policy which is apparently to hold a referendum (or what the party is calling a "preferendum") on the future of the National Assembly, offering options including full legislative powers, sticking with the *status quo* and, indeed, outright abolition. With the party split on the issue, the plan is to allow MPs and AMs to campaign as individuals in favour of their preferred option, in the way that senior Labour politicians could be found on either side of the referendum on EEC membership in the 1970s.

Shortly after Wiggin's statement, comments made by the Conservative peer and former Scottish Secretary Lord Forsyth were reported in the Scottish media causing further embarrassment to the Conservative leadership as it fights to re-establish itself as a serious force across Great Britain. Speaking in December 2003, Lord Forsyth had argued that MSPs could be replaced by Scottish MPs working part-time in Westminster and part-time in Holyrood.<sup>2</sup> The long delay between the comments being made and *The Scotsman's* reporting of them was, somewhat ironically, confirmation of a point made more recently in the Lords by Lord Forsyth about the lack of attention paid to events at Westminster by the Scottish press since devolution.<sup>3</sup> In this January 2005 debate Lord Forsyth notably declined to distance himself from his remarks of 13 months previously.

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<sup>1</sup> Quoted in the Western Mail on 21 January 2005 and at: [icwales.icnetwork.co.uk/0100news/newspolitics/tm\\_objectid=15099562%26method=full%26siteid=50082-name\\_page.html](http://icwales.icnetwork.co.uk/0100news/newspolitics/tm_objectid=15099562%26method=full%26siteid=50082-name_page.html)

<sup>2</sup> HL Deb, 10 December 2003, Col. 746

In the wake of the Forsyth revelations, Scottish Affairs Spokesman Peter Duncan MP swiftly distanced the leadership from such anti-devolution sentiments, declaring that “we want to make devolution work”.<sup>4</sup> One might argue, however, that Forsyth’s proposal to send Scottish MPs up to Edinburgh every Monday and Tuesday could dovetail nicely with the Conservative policy of ‘English votes for English laws’, under which Scottish (and Welsh) MPs would be barred from voting on English-only legislation (see section 2).

Meanwhile, on the question of regional devolution, the Conservatives remain committed to abolishing the existing Regional Chambers. This was made clear by an EDM on this subject tabled by Shadow Secretary of State for Local and Devolved Government Affairs Caroline Spelman early in the 2004-05 session.<sup>5</sup>

## **2. English Votes for English Laws**

The spectre of the West Lothian Question continues to haunt Westminster. This constitutional anomaly has been recognised since the nineteenth-century Irish home rule debates as the key problem of asymmetric devolution. What it means today is that Scottish MPs can vote on English legislation in devolved areas such as the bill that introduced university top-up-fees, but neither Scottish nor English MPs have the power to determine Scottish policy in the same areas. Although there is little sign of a groundswell of English public concern about this matter, the Conservative Party is again fighting a general election promising ‘English Votes for English Laws’. The proposal is for the Speaker to classify bills or clauses under consideration as ‘England-only’, after which English MPs alone would be able to vote on them.

The result of this year’s general election might serve to push the issue more firmly onto the political agenda. One possible outcome of the election is a narrow Labour majority of, say, 20 seats which is transformed into a minority administration when Scottish MPs are taken out of the picture. In this scenario, the Government would have to regularly

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<sup>3</sup> HL Deb, 1 February 2005, Col. 186

<sup>4</sup> Cited in “Tories in a ‘shambles’ over devolution” at: [www.epolitix.com/EN/News/200501/a2ada6fd-8708-4a1c-838f-481fc3ef021b.htm](http://www.epolitix.com/EN/News/200501/a2ada6fd-8708-4a1c-838f-481fc3ef021b.htm)

<sup>5</sup> The motion can be viewed at: [edm.ais.co.uk/weblink/html/motion.html/ref=427](http://edm.ais.co.uk/weblink/html/motion.html/ref=427)



rely on Scottish MPs to get through legislation in devolved areas, sparking inevitable controversy among opposition parties and potential resentment among English voters too. When it comes to more controversial legislation, moreover, the Government's *de facto* majority is often reduced by backbench rebellions, meaning that the relatively loyal Scots MPs are even more likely to find themselves in the uncomfortable position of determining the outcome of key English-only bills after the election.

### **3. Scottish Boundary Changes Implemented**

A long-running saga relating to constituency boundaries for Westminster seats in Scotland finally came to an end during this monitoring period as both Houses of Parliament approved the Parliamentary Constituencies (Scotland) Order 2005.<sup>6</sup> The effect of this statutory instrument was to cut by 13 the number of Scottish MPs, thereby fulfilling the Government's long-standing pledge to end Scotland's over-representation at Westminster.<sup>7</sup>

The order implemented the recommendations of the 5<sup>th</sup> Annual Report of the Boundary Commission for Scotland, which was presented to the Secretary of State for Scotland on 30 November 2004.<sup>8</sup> Having been 'laid' before Parliament in draft form on 14 December, the order was considered and duly approved by the House of Commons Standing Committee on Delegated Legislation on 24 January and by the House of Lords on 1 February 2005.

MPs and Lords from all parties broadly welcomed the introduction of the order, with no criticism being made of the general principle that the Scottish electoral quota be brought in line with that of England.<sup>9</sup> Some concerns were raised, however, about what one peer, the Duke of Montrose, called the "potential chaos" thrown up by the ending of

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<sup>6</sup> Published as Statutory Instrument 2005 No. 250 (S. 1) and available online at: [www.legislation.hmso.gov.uk/si/si2005/20050250.htm](http://www.legislation.hmso.gov.uk/si/si2005/20050250.htm)

<sup>7</sup> The reduction to 59 Scottish MPs actually still leaves Scotland slightly over-represented: completely removing the imbalance would leave Scotland with 57 MPs but special provision is allowed for remote and sparsely populated parts of the country.

<sup>8</sup> View the 5<sup>th</sup> Periodical Report of the Boundary Commission for Scotland at: [www.bcomm-scotland.gov.uk](http://www.bcomm-scotland.gov.uk)

coterminosity (identical constituency boundaries) for Holyrood and Westminster seats.<sup>10</sup> This problem, as well as the consequences of having four different electoral systems in operation in Scotland,<sup>11</sup> is currently being examined by the Arbuthnott Commission (see section 4), which, as Lord Evans of Temple Guiting, the Scotland Office Spokesman in the House of Lords advised the House, plans to report by the end of the year.<sup>12</sup> Both Lord Evans and Anne McGuire MP, Junior Minister in the Scotland Office, also reassured members that the Parliamentary Constituencies Order would in all likelihood be implemented in time for May's general election.<sup>13</sup> This pledge was swiftly fulfilled as the Order was 'made' on 9 February, coming into the effect the next day.

#### **4. Arbuthnott Commission Consultation Meeting with MPs**

The Arbuthnott Commission on Boundary Differences and Voting Systems, established by Scotland Secretary Alistair Darling last summer (see Devolution and the Centre Monitoring Reports *passim*), began its consultation process in January, publishing a document which set out the scope of its inquiry and invited responses from interested individuals and organisations, and holding meetings with members of the public, local councils, MSPs and MPs, at least those representing Scottish constituencies.<sup>14</sup> About twenty, predominantly Labour, Scottish MPs took the chance to put across their views to the Commission at a meeting at Westminster on 25 January. The particular subjects raised included the problem of confusion on the part of voters about which elected representative they should approach on different matters and tensions between MPs and MSPs, particularly those representing regional lists.

The meeting with MPs confirmed that there is no consensus, even within the Labour Party, about what changes should be made to the electoral system and/or constituency boundaries for the Scottish Parliament. Most people do seem to agree, however, that

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<sup>9</sup> On this point, however, it is worth noting that off the record, some Labour MPs disapprove of what they consider an unnecessary self-inflicted wound, given that most of the thirteen Scottish seats being lost are held by Labour.

<sup>10</sup> HL Deb, 1 February 2005, Col. 182

<sup>11</sup> First Past the Post for Westminster, the Additional Member System for Holyrood, Regional List PR for the European Parliament and (from 2007) the Single Transferable Vote for local elections.

<sup>12</sup> HL Deb, 1 February 2005, Col. 190

<sup>13</sup> HL Deb, 1 February 2005, Col. 179-80; HC Deb, 24 January 2005, Col. 12

returning to a situation of coterminosity would be ideal. The Arbuthnott consultation document sets out four alternative ways to achieve this (see box below) without significantly changing the size of the Parliament. Responses to the consultation document will be accepted until April 15, and the Commission then intends to finish its deliberations and submit its recommendations to the Government by the end of the year.

#### **Possible Recommendations of Arbuthnott Commission<sup>15</sup>**

- 2 MSPs for each new Westminster constituency (2 X 59), with a top-up of 11 MSPs from a national list
- 60 constituency members and 69 (or 60) list members, from either regions or a national list
- Grouping the new Westminster constituencies to form larger Holyrood multi-member constituencies
- Hybrid system, with rural constituencies the same as for Westminster and multi-member seats in the cities and urban areas

### **5. Welsh Legislation at Westminster – The Problem of Legislative Dependence**

As reported in the previous Devolution and the Centre Monitoring Report, November's Queen's Speech contained reference to two planned Wales-only bills – a Transport (Wales) Bill and a Public Services Ombudsman (Wales) Bill. These two pieces of legislation were duly introduced by the Government three weeks and one day respectively into the new session of Parliament. The histories of these bills reveal much about the ongoing development of inter-institutional relations in the post-devolution era.

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<sup>14</sup> The Consultation Document can be viewed online at:  
[www.arbuthnottcommission.gov.uk/docs/Consultation%20Document.pdf](http://www.arbuthnottcommission.gov.uk/docs/Consultation%20Document.pdf)

<sup>15</sup> *ibid.*, pp. 5-6

**a) Transport (Wales) Bill**

This bill was originally published in draft form in May 2004, and, as previously noted in these reports, was the first piece of legislation to undergo joint scrutiny by the Welsh Affairs Committee at Westminster sitting together with a committee of the National Assembly for Wales (in this case, the Economic Development and Transport Committee). Following its inclusion in the Queen's Speech, the bill was given its first reading in the Commons on 15 December 2004<sup>16</sup> but the bill did not even reach second reading in the Commons before Parliament was dissolved in early April, making it one of several casualties of the legislative bottleneck encountered by the Government.

Given that this bill enjoyed support across the Welsh political spectrum, there is likely to be a good deal of dissatisfaction about the loss of the bill at Westminster. This episode may well also be used as ammunition in the debate over whether to give the National Assembly primary legislative powers, a question the Government has temporarily sidestepped by postponing the publication of its White Paper on the subject until after the election.

**b) Public Services Ombudsman (Wales) Act**

The Public Services Ombudsman (Wales) Bill was introduced to Parliament (in this case the House of Lords), on 24 November 2004 without having been preceded by a draft bill. Its effect is to combine into one office the functions of the Welsh Administration Ombudsman, the Health Service Commissioner for Wales, the Local Commissioner for Wales and the soon-to-be-created Social Housing Ombudsman for Wales, thereby simplifying the redress of grievances suffered by citizens of Wales at the hands of the various branches of public service administration. The bill completed its parliamentary stages and received Royal Assent shortly before dissolution.

The idea of a unified ombudsman service was first formulated in the devolved administration in Cardiff some years ago. The UK Government was brought in at an early stage with the UK and Welsh administrations holding joint consultation processes

on this issue in 2002 and 2003. Officials at the two levels of government then worked together to draw up the bill continued to liaise closely as the bill was navigated through Parliament.

Denied the chance to undertake pre-legislative scrutiny by the non-publication of a draft form of the bill, the Welsh Affairs Committee took the unusual decision of choosing to conduct an inquiry into the bill as it was progressing through its Lords stages. As with the scrutiny of the Transport (Wales) Bill, this inquiry was held jointly with an Assembly committee, on this occasion the Local Government and Public Services Committee.

The Select Committee published its report on 21 February, recommending a handful of amendments on such matters as the length of tenure the holder of the post of Public Services Ombudsman should enjoy.<sup>17</sup> The Government, however, stood by its plan for the Ombudsman to be given a non-renewable seven-year term while the committee would prefer a once-renewable five-year term. Another question addressed during the Committee inquiry was that of the proper role of the National Assembly in the appointment of the Ombudsman. On this point, the Committee's preference for the Secretary of State to have a statutory obligation to consult the Assembly before making an appointment was echoed by members of the House of Lords and accepted by the Government, which introduced an amendment to that effect at Lords Committee Stage.<sup>18</sup>

Officials in the Wales Office, still in close contact with their counterparts in the Welsh Assembly Government, made a formal response to the Welsh Affairs' Committee report, although this had not been made publicly available at time of writing.

In the final analysis, the two Wales-only bills introduced in the 2004-05 session were fundamentally uncontroversial pieces of legislation with cross-party support and related to devolved areas. And yet, their enactment depended on the legislative priorities of the UK Government and the timing of the general election. In the event, one reached the

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<sup>16</sup> HC Deb, 15 December 2004, Col. 1673

<sup>17</sup> The report can be viewed at:

[www.publications.parliament.uk/pa/cm200405/cmselect/cmwelaf/234/234.pdf](http://www.publications.parliament.uk/pa/cm200405/cmselect/cmwelaf/234/234.pdf)

<sup>18</sup> HL Deb, 25 January 2005, Col. GC367

Statute Book and one did not, but the structural dependence of Cardiff on Westminster means that the voices advocating primary legislative powers for the National Assembly are not going to fade.

**c) Bill to Create an Older Persons' Commissioner for Wales**

Appearing in front of the Welsh Grand Committee on 7 December 2004 during its debate on the Government's legislative programme, Secretary of State for Wales Peter Hain announced that there was "space in the legislative programme this year to bring forward a draft Wales-only Bill for an older persons' champion in Wales".<sup>19</sup> The expected draft Commissioner for Older People (Wales) Bill was published on 22 March 2005 and will be the next bill to be scrutinised by the Welsh Affairs Committee, possibly again in conjunction with a National Assembly committee.<sup>20</sup>

**d) Smoking in Public Places (Wales) Bill**

Julie Morgan MP (Labour, Cardiff North) took advantage of her high position in the annual ballot to introduce a private member's bill on smoking in public places in Wales.<sup>21</sup> This bill, if enacted, would have transferred to the National Assembly for Wales the power to ban or restrict smoking in public places. It was presented to Parliament on 12 January 2005 and received its second reading debate on 18 March.

In defence of her bill, Morgan pointed out that in a free vote in the National Assembly, a motion calling for Parliament to pass legislation allowing for smoking in public places to be banned was carried by 39 votes to 10, with majorities in all four parties in favour.<sup>22</sup> Arguments against the bill ranged beyond the usual libertarian objections and the claim that a public smoking ban would be counterproductive (for example by encouraging more people to smoke at home, where children might be harmed) to objections on constitutional grounds. For example, Andrew Hunter (the former Conservative MP who joined the DUP in December 2004) challenged the validity of using a private member's bill to amend the devolution settlement by devolving further

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<sup>19</sup> [www.publications.parliament.uk/pa/cm200405/cmstand/welshg/st041207/am/41207s01.htm](http://www.publications.parliament.uk/pa/cm200405/cmstand/welshg/st041207/am/41207s01.htm), col. 4-5

<sup>20</sup> The draft bill and press release can be viewed at: [www.walesoffice.gov.uk/bill\\_20050322.html](http://www.walesoffice.gov.uk/bill_20050322.html)

<sup>21</sup> Bill can be viewed at: [www.publications.parliament.uk/pa/cm200405/cmbills/023/2005023.pdf](http://www.publications.parliament.uk/pa/cm200405/cmbills/023/2005023.pdf)

<sup>22</sup> HC Deb, 18 March 2005, Col. 508-9

powers to the Assembly.<sup>23</sup> Hunter also pointed out that Morgan's bill may well be rendered unnecessary by planned Government action on this issue. On division, the vote was 14 to 7 in favour of the bill, but since less than 40 members voted, the question was declared undecided. A new slot for second reading was not found before dissolution meaning that the bill would have to be reintroduced in the new session for it to make any progress.

## **6. Other Devolution-Related Legislation – The Transfer of Functions Continues**

### **a) Railways Act**

One piece of primary legislation affecting the devolution settlement that did gain Royal Assent before dissolution is the Railways Act 2005, which the Government introduced at the start of the new session (25 November 2004). This act transfers a number of strategic and financial functions to the Scottish Executive and National Assembly for Wales, with both being given increased responsibility for passenger services but only the Scottish administration being given greater control over its railway infrastructure. The Railways Act received Royal Assent on 7 April 2005.<sup>24</sup>

### **b) Electoral Registration (Northern Ireland) (HL) Act**

This act progressed swiftly through Parliament: following its introduction on 9 February 2005, it completed its passage and received Royal Assent just 15 days later. Its effect is to authorise the Chief Electoral Officer of Northern Ireland to re-register several thousand voters removed from the electoral register under a previous act designed to counter electoral fraud.<sup>25</sup>

## **7. Regional Development Agencies Criticised in Commons Report**

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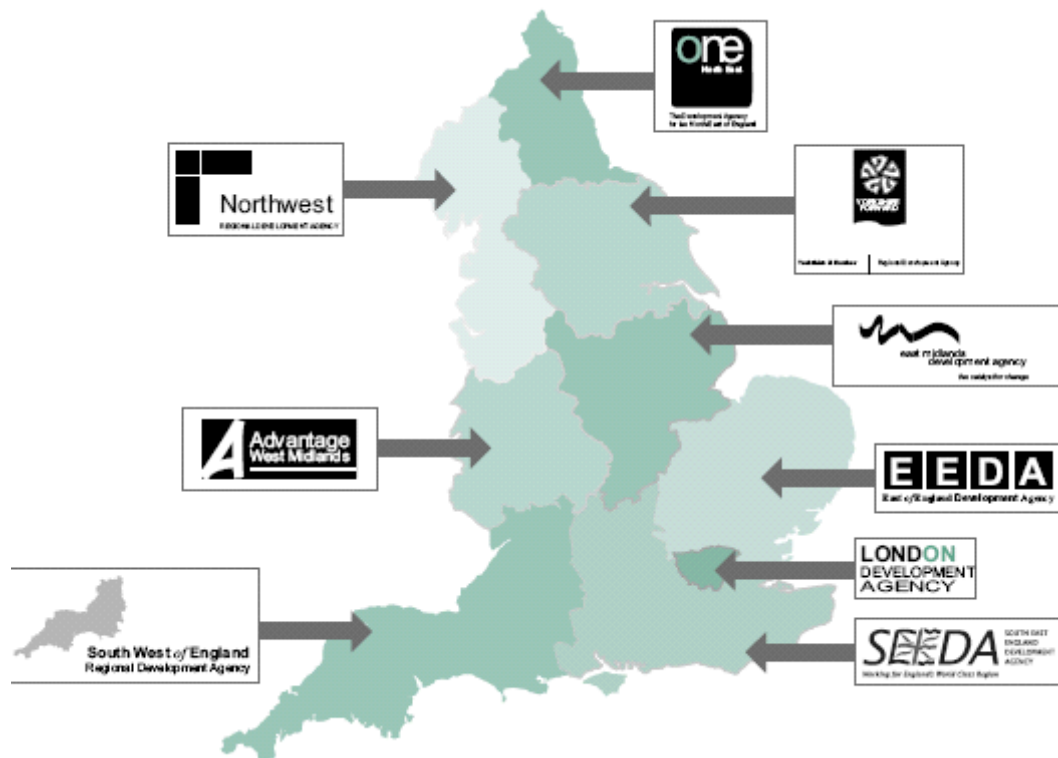
<sup>23</sup> HC Deb, 18 March 2005, Col. 518-20

<sup>24</sup> The text of the act should soon be available at: [www.legislation.hmso.gov.uk/acts.htm](http://www.legislation.hmso.gov.uk/acts.htm)

<sup>25</sup> The final text of the act can be viewed at: [www.legislation.hmso.gov.uk/acts/acts2005/20050001.htm](http://www.legislation.hmso.gov.uk/acts/acts2005/20050001.htm)

On 7 December 2004, the House of Commons Committee of Public Accounts published its fifty-first report of the 2003-04 session. Entitled ‘Success in the regions’, the report was the culmination of an inquiry into the performance of the nine English Regional Development Agencies (RDAs) set up by the Government in 1999 to “make sustainable improvements in the economic performance of all English regions by 2008 and over the long term reduce the persistent gap in growth between regions”.<sup>26</sup>

### The Nine English RDAs<sup>27</sup>



The report cannot have made happy reading in the Office of the Deputy Prime Minister, for whose policy of regionalisation the creation of RDAs will now likely be seen as representing the highwater mark. In the words of committee chairman Edward Leigh MP at the launch of the report, the RDAs were “hampered in their early years by poor relationships with the government departments that fund and oversee their important work”.<sup>28</sup> Leigh, on behalf of the committee, further criticised the “bureaucracy of overly complicated funding and delays in decisions”.<sup>29</sup>

<sup>26</sup> The Report can be viewed at:

[www.publications.parliament.uk/pa/cm200304/cmselect/cmpubacc/592/592.pdf](http://www.publications.parliament.uk/pa/cm200304/cmselect/cmpubacc/592/592.pdf)

<sup>27</sup> The map is from the committee report at: *ibid.*, p. 3

<sup>28</sup> [www.parliament.uk/parliamentary\\_committees/committee\\_of\\_public\\_accounts/pac071204\\_pn51.cfm](http://www.parliament.uk/parliamentary_committees/committee_of_public_accounts/pac071204_pn51.cfm)

<sup>29</sup> *ibid.*



The committee did concede that improvements in this area had been made, noting the speeding-up of the central departments' decision-making when it comes to approving RDA projects<sup>30</sup> and the advent of 'single pot' funding, whereby resources from the six UK departments and agencies that fund RDAs are combined to give the regional bodies more flexibility in their activities and expenditure.<sup>31</sup> Nevertheless, the committee's conclusions were that much more needs to be done to simplify the bureaucracy RDAs must navigate, for example by "streamlining the array of funding sources available to support regional development" and integrating the various application and monitoring systems. A further criticism levelled at the Government was that RDAs are required to "concentrate too much on short-term Whitehall objectives and too little on longer-term regional impact".<sup>32</sup>

The report concluded by criticising the Government's establishment of yet another regional structure in the shape of the Thames Gateway development area, within which three RDAs, two new urban development corporations (in London and Thurrock) and a number of local and central government bodies must cooperate in boosting economic development.<sup>33</sup> Conservative Party regional spokesman Bernard Jenkin MP responded to the report by labelling Government's regional policy in general and the Thames Gateway regeneration programme in particular a "shambles".<sup>34</sup>

The Government for its part, led by the Department for Trade and Industry which oversees the RDAs, submitted a response to the committee in which it accepted many of the committee's conclusions regarding the problems faced by the RDAs in their early years.<sup>35</sup> The Government argued, however, that it has already instigated changes that address the committee's major concerns. For instance, it pointed out that many areas of responsibility have been devolved to the RDAs in the past two Spending Reviews and that progress is being made towards establishing Regional Skills Partnerships which

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<sup>30</sup> Figures in the report show that between since the beginning of 2002, the average departmental delay in approving projects has declined from about five months to about one month.  
[www.publications.parliament.uk/pa/cm200304/cmselect/cmpublic/592/592.pdf](http://www.publications.parliament.uk/pa/cm200304/cmselect/cmpublic/592/592.pdf), p.13

<sup>31</sup> RDAs are funded by: the Office of the Deputy Prime Minister, the Department of Trade and Industry, the Department for Education and Skills, the Department for Environment, Food and Rural Affairs, the Department for Culture, Media and Sport and UK Trade and Investment.

<sup>32</sup> *ibid.*, p5

<sup>33</sup> *ibid.*, p6. For more information on the Thames Gateway Development Corporation

<sup>34</sup> See Jenkin's press release on this subject at: [www.bernardjenkinmp.com/newsshow.asp?ref=265](http://www.bernardjenkinmp.com/newsshow.asp?ref=265)

will bring together RDAs with Learning and Skills Councils and other regional and local bodies. These changes, it is believed, will enable the Agencies to take a more joined-up approach to promoting regional development. The Government also highlighted the imminent coming into effect of “a new approach to tasking the RDAs” that will be better aligned with regional as well as national goals.<sup>36</sup>

## **8. Government Criticised on Regional Assemblies Strategy**

On 5 January 2005, the Select Committee on the Office of the Deputy Prime Minister (ODPM Committee) published its report on the draft Regional Assemblies Bill, which will not now be introduced to Parliament as a result of the ‘no’ vote in the November 2004 North-East regional devolution referendum.<sup>37</sup>

In its report, the committee made plain its dissatisfaction with the provisions of the draft bill and advised the Government to take a significantly different approach to regional devolution should this issue re-emerge. Indeed, the committee was explicit in its claim that regional devolution would and should return to the political agenda. The argument made was that “with the powers already conferred on unaccountable regional bodies there is a democratic deficit and with the existing devolution of powers and resource allocation to Scotland, Wales and Greater London, devolution in England must be addressed”.<sup>38</sup>

The Committee’s criticisms of the draft legislation included the paucity of specific powers to be devolved to the new bodies, the potential for overlap with local government responsibilities, the likely problem of regional assemblies being given “broadly defined purposes but few resources under [their] direct control”<sup>39</sup>, the fact that the bill was to some extent a ‘framework bill’ leaving much leeway to ministers to change the powers and functions of assemblies at a later date, and the simple fact that several important clauses of the bill had not even been written in draft form thereby

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<sup>35</sup> [www.official-documents.co.uk/document/cm64/6458/6458.pdf](http://www.official-documents.co.uk/document/cm64/6458/6458.pdf)

<sup>36</sup> *ibid.*, p. 1

<sup>37</sup> The draft bill can be viewed at: [www.official-documents.co.uk/document/cm62/6285/6285.pdf](http://www.official-documents.co.uk/document/cm62/6285/6285.pdf) and the committee report at: [www.publications.parliament.uk/pa/cm200405/cmselect/cmopdm/62/62.pdf](http://www.publications.parliament.uk/pa/cm200405/cmselect/cmopdm/62/62.pdf)

<sup>38</sup> ODPM Committee Report, p. 8

<sup>39</sup> *ibid.*, p. 12

preventing effective scrutiny. The Government defended its draft bill in a response to the report which was published by the committee as a ‘special report’ on 24 March.<sup>40</sup>

## **9. City-Regions Back on the Agenda**

On the back foot over its existing regional strategy, the Government recently seemed to be shifting focus towards so-called ‘city-regions’ centred on England’s eight ‘core cities’. The Office for the Deputy Prime Minister published a report on this subject in December 2004 entitled ‘Our Cities Are Back’, which was the third report of the Core Cities Working Group – comprising representation from ODPM, HM Treasury, DTI, the Government Offices for the Regions, the Core Cities, and the Regional Development Agencies. This group argued that “cities effectively determine the performance of regions” and suggested that progress toward the Government’s goal of narrowing the persistent disparities in economic performance between regions depended on improving the economic performance of these core cities. The report was light on policy detail, however, and it remains to be seen how city-regions will fit in with the existing patchwork of regional institutions or even whether they will be given institutional substance at all.<sup>41</sup>

## **11. Territorial Select Committees and the Devolution Settlement**

### **a) Scottish Affairs Committee – searching for a role?**

The Scottish Affairs Committee published two reports in the recently concluded parliamentary session; the first, on 8 March 2005, was on the ‘Work of the Committee in 2004’.<sup>42</sup> All select committees annually produce such a report, in which they detail how they have fulfilled the ten ‘core tasks’ outlined by the Liaison Committee of committee chairs.<sup>43</sup> The Scottish Affairs Committee noted that because of the

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<sup>40</sup> Available at: [www.publications.parliament.uk/pa/cm200405/cmselect/cmodpm/459/459.pdf](http://www.publications.parliament.uk/pa/cm200405/cmselect/cmodpm/459/459.pdf)

<sup>41</sup> This report can be viewed at: [www.odpm.gov.uk/stellent/groups/odpm\\_urbanpolicy/documents/page/odpm\\_urbpol\\_033602.hcsp](http://www.odpm.gov.uk/stellent/groups/odpm_urbanpolicy/documents/page/odpm_urbpol_033602.hcsp)

<sup>42</sup> [www.publications.parliament.uk/pa/cm200405/cmselect/cmselect/277/277.pdf](http://www.publications.parliament.uk/pa/cm200405/cmselect/cmselect/277/277.pdf)

<sup>43</sup> See the Liaison Committee’s own annual report for a discussion of the core tasks: [www.publications.parliament.uk/pa/cm200405/cmselect/cmselect/419/419.pdf](http://www.publications.parliament.uk/pa/cm200405/cmselect/cmselect/419/419.pdf)

devolution of the bulk of the Scottish Office's responsibilities "many of the objectives and tasks set by the Liaison Committee do not apply to this committee". Without an active legislating department to monitor, the committee has focussed on what it calls "short sharp inquiries of a wide and varied nature".<sup>44</sup>

The committee also published a report on 'Meeting Scotland's Future Energy Needs' and continued its investigation of 'the Implications for Grangemouth of BP's Plans for its Petrochemicals Business'.<sup>45</sup>

#### **b) Welsh Affairs Committee – A bridge between Westminster and Cardiff**

In its own 'Work of the Committee in 2004' report, the Welsh Affairs Committee also noted that due to devolution "many of the core objectives set out by the Liaison Committee are not applicable". The nature of Welsh 'executive devolution', however, means that the committee retains more of a traditional scrutiny role than its Scottish counterpart. In pointing out that in 2004 its reports covered the work of various Whitehall departments, the committee underlined the fact that its role is "greater than merely scrutinising the Wales Office". The Committee further defined its *raison d'être* as "providing a link between the UK Government and the National Assembly for Wales" and has innovatively fulfilled this 'link' function by means of joint inquiries with Assembly committees at both Westminster and Cardiff Bay, most recently on the Public Service Ombudsman (Wales) Bill (see section 5b for a discussion of this bill). This arrangement, known as 'reciprocal enlargement' is due to expire at the end of this parliament, but it is anticipated that steps will be taken early in the new parliament to make it permanent.

The committee also published reports on 'Manufacturing and Trade in Wales' and 'Police Service, Crime and Anti-Social Behaviour in Wales' on 24 February and 23 March respectively.<sup>46</sup>

#### **c) Northern Ireland Affairs Committee – In Place of Devolution**

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<sup>44</sup> *ibid.*, p. 3

<sup>45</sup> View reports and meeting transcripts at: [www.publications.parliament.uk/pa/cm/cmscotaf.htm](http://www.publications.parliament.uk/pa/cm/cmscotaf.htm)

Partly because devolution in Northern Ireland remains suspended and partly due to the priorities and interests of its members, the Northern Ireland Affairs Committee has become significantly busier than its Scottish and Welsh counterparts.

One way the committee has managed its rising workload is by creating, in January 2004, a sub-committee with a remit to undertake scrutiny of previously devolved policy areas, thereby at least partially filling the democratic gap left by the suspension of the Northern Ireland Assembly in Belfast. The membership of the main committee, which continues to hold investigations into reserved matters affecting Northern Ireland, is identical to that of the sub-Committee. Greater flexibility is provided, however, by the fact that the chairs of the committee and sub-committee are filled by two different MPs (Michael Mates and Tony Clarke respectively), which permits a greater number of investigations to be carried out.

Since the start of the current parliamentary session, the main committee had held two evidence sessions on ‘The Functions of the Northern Ireland Policing Board’, publishing its report on this subject on 10 March 2005. The sub-committee, meanwhile, has held eight sessions on the formerly devolved matter of ‘Air Transport Services in Northern Ireland’. A report on this subject is being worked on and, like all reports deriving from sub-committee inquiries, will be published in the name of the main committee. The committee had published a total of seven reports and two special reports (Government responses) by the end of the parliamentary session, most of which relate to investigations conducted in the previous session. Several more reports are due to be published in mid-April.

In its ‘Work of the Committee in 2004’ report, the Northern Ireland Affairs Committee assessed the performance of the new arrangements for scrutinising devolved matters. It argued that the creation of the sub-committee has been a success, “enabling us to scrutinise devolved government in Northern Ireland more effectively than before”.<sup>47</sup> Noting that prior to suspension the Northern Ireland Assembly had begun to scrutinise social housing policy, the committee pointed to its October 2004 report on ‘Social Housing Provision in Northern Ireland’ as “an example of the way in which we are

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<sup>46</sup> All the committee’s bills can be accessed at: [www.publications.parliament.uk/pa/cm/cmwelaf.htm](http://www.publications.parliament.uk/pa/cm/cmwelaf.htm)  
<sup>47</sup> [www.parliament.the-stationery-office.co.uk/pa/cm200405/cmselect/cmniaf/262/262.pdf](http://www.parliament.the-stationery-office.co.uk/pa/cm200405/cmselect/cmniaf/262/262.pdf), p. 4

seeking, where appropriate, to take account of the priorities of the Northern Ireland Assembly, and its committees, in carrying forward our own scrutiny work in devolved areas of government".<sup>48</sup> The expectation of the committee is that if and when devolution is restored, the sub-committee will swiftly be wound up. In the meantime, former Members of the Legislative Assembly are encouraged to participate in the scrutiny process by submitting written and/or oral evidence, both as individuals and as representatives of their parties.

Details of all the committee's publications in the 2004-05 parliamentary sessions can be found in the box below:

#### **Northern Ireland Affairs Committee Publications<sup>49</sup>**

**(Dec 2004 – March 2005)**

##### Committee Reports

- Electoral Registration in Northern Ireland
- The Parades Commission and Public Processions (Northern Ireland) Act 1998
- Northern Ireland Departments' 2002-03 Resource Account
- The work of the Committee in 2004
- The Functions of the Office of the Police Ombudsman for Northern Ireland
- Waste Management Strategy in Northern Ireland
- The Functions of the Northern Ireland Policing Board

##### Special Reports

- Social Housing Provision in Northern Ireland: Government Response to the Committee's Sixth Report of Session 2003-04
- Electoral Registration in Northern Ireland: Government Response to the Committee's First Report of Session 2004-05

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<sup>48</sup> *ibid.*

#### **d) Regional Parliamentary Committees – The Next Step?**

On 15 March 2005, Labour MP Andy Burnham tabled an oral question to the Government (in Leader of the House question time) advocating the establishment of Select Committees for the English Regions. Replying for the Government, Deputy Leader of the House Phil Woolas said that although there were no plans to do so, the Government was “open to suggestions” on this matter. He also pointed out that the currently each Select Committee shadowed a Government Department but again declared an open mind about potential future reform of this. Conservative members argued that there was no appetite for such an innovation and advised against it.<sup>50</sup>

An alternative reform recently mooted at Westminster is that of establishing Standing Committees for each of the English regions. This was proposed in an Early Day Motion tabled on 20 December 2004, which “recognises the English regions' need to be represented adequately in Parliament”.<sup>51</sup> The EDM was signed by 31, mainly Labour, MPs.

### **12. Territorial Standing Committees and the Devolution Settlement**

#### **a) Northern Ireland Grand Committee**

The Northern Ireland Grand Committee met three times in the first four months of the parliamentary session to debate Racially Motivated Attacks, the Draft Higher Education (Northern Ireland) Order 2005 (see section 13 for a discussion of this) and the Draft Budget (Northern Ireland) Order 2005.<sup>52</sup> The Grand Committee meets when ordered to by the Commons; typically beginning with a ministerial question time and ending with an adjournment debate, with the main business sandwiched in between. Although its terms of reference have not been changed by the suspension of devolution, the committee would certainly meet less frequently if the Northern Ireland Assembly was

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<sup>49</sup> All reports can viewed online at: [www.parliament.the-stationery-office.co.uk/pa/cm/cmniaf.htm](http://www.parliament.the-stationery-office.co.uk/pa/cm/cmniaf.htm)

<sup>50</sup> HC Deb, 15 March 2005, Col. 141-2

<sup>51</sup> The EDM's text and signatories can be viewed at: [edm.ais.co.uk/weblink/html/motion.html/ref=427](http://edm.ais.co.uk/weblink/html/motion.html/ref=427)

<sup>52</sup> Transcripts can be viewed at: [www.publications.parliament.uk/pa/cm/cmnirelg.htm](http://www.publications.parliament.uk/pa/cm/cmnirelg.htm)

able to fulfil its scrutiny functions, just as the Scottish Grand Committee was rendered largely obsolete by the creation of the Scottish Parliament.

**b) Welsh Grand Committee**

The Welsh Grand Committee only met on one occasion in the 2004-05 parliamentary session, on 7 December to discuss the government's legislative programme for the year. After a total of over four hours debate, the committee passed the motion moved by Wales Secretary Peter Hain "that the Committee has considered the Government's legislative programme as outlined in the Queen's Speech as it relates to Wales and public expenditure in Wales". During the debate, members welcomed the planned introduction of two Wales-only bills and one draft Wales-only bill (discussed in section 5) but some members, especially those from Plaid Cymru, regretted the fact that no mention was made in the Queen's Speech of other bills with cross-party support in Wales, such as the Housing (Suspension of Right to Buy) (Wales) Bill.<sup>53</sup> This discontent is further evidence of the inevitability of tensions arising between the National Assembly and UK Parliament while the former depends on the latter for primary legislation to implement its policies.

**c) Scottish and Regional Affairs Grand Committees – No meetings held**

As noted above, the Scottish Grand Committee has become largely dormant – not having met for over a year – principally because Scotland-only legislation is no longer passed at Westminster. The inactivity of this committee is therefore seen as a logical consequence of devolution.

More notably, perhaps, the Regional Affairs Committee, which MPs from all English constituencies may attend, did not hold a meeting in the last session either. Established in the 1970s to provide for English-only matters during the first unsuccessful attempt to devolve power to Scotland and Wales, the committee has not found or been given much of a role since devolution finally occurred, suggesting that English members are generally happy to use the all-UK Commons and committees as proxies for English bodies. Some disquiet at Westminster about the constitutional imbalance between



different parts of the UK is evidenced, however, by Lindsay Hoyle MP's EDM calling for regional Standing Committees to be established (see section 10d above).

### **13. Top-Up Fees in Northern Ireland and Ministerial Accountability**

On 20 January 2005, the Northern Ireland Grand Committee met to debate the draft Higher Education (Northern Ireland) Order 2005, which was introduced under the provisions of the Northern Ireland Act 2000 and enables universities in Northern Ireland to introduce top-up fees.<sup>54</sup> The motion to 'consider' the draft order was narrowly defeated, an outcome made possible because of the unique party structure of Northern Ireland, which makes the Grand Committee the only Commons committee where the Government does not enjoy a majority.<sup>55</sup>

Following the Grand Committee's vote to 'negative' the motion, Conservative MP David Lidington tabled an EDM which "notes that all political parties in Northern Ireland oppose such fees; and calls upon the Government to abandon its current policy"; 58 MPs from all major parties signed this motion.<sup>56</sup> However, Grand Committee votes on delegated legislation are not binding on the Government, which proceeded to introduce the order to the Commons on 8 March and the Delegated Legislation Committee the next day, where inbuilt Labour majorities ensured that the motion in favour of the Order was carried.

This development led Lidington to table a second EDM on this issue, criticising Labour MPs who had opposed top-up fees in England and Wales but supported their introduction in Northern Ireland, and bemoaning the "democratic deficit" in the government of Northern Ireland.<sup>57</sup> In Scotland or Wales, such over-riding of local legislators' preferences – where still possible - would likely cause a political storm, but the particularities of politics in the six counties allow the Government to get their way

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<sup>53</sup> The transcript can be viewed at: [www.publications.parliament.uk/pa/cm/cmwelshg.htm](http://www.publications.parliament.uk/pa/cm/cmwelshg.htm)

<sup>54</sup> The text of the order can be viewed at: [www.legislation.hmso.gov.uk/si/si2005/draft/20059095.htm](http://www.legislation.hmso.gov.uk/si/si2005/draft/20059095.htm)

<sup>55</sup> The transcript can be viewed at:

[www.publications.parliament.uk/pa/cm200405/cmstand/nilrelg/st050120/50120s01.htm](http://www.publications.parliament.uk/pa/cm200405/cmstand/nilrelg/st050120/50120s01.htm)

<sup>56</sup> [edm.ais.co.uk/weblink/html/motion.html/ref=567](http://edm.ais.co.uk/weblink/html/motion.html/ref=567)

<sup>57</sup> [edm.ais.co.uk/weblink/html/motion.html/ref=861](http://edm.ais.co.uk/weblink/html/motion.html/ref=861)

relatively smoothly when it comes to making policy for Northern Ireland.

The question of the Northern Ireland Office's lack of direct accountability to the people it legislates for had previously been raised during Oral Questions on 19 January 2005 by MPs of various parties. Junior Minister John Spellar accepted members' concerns on this point but stressed that development in this area was predicated on finding common ground between the parties. This exchange followed Secretary of State Paul Murphy's suggestion that one way to revive devolution in Northern Ireland might be to have an Assembly without an Executive.<sup>58</sup>

#### **14. Intergovernmental Relations**

##### **a) British-Irish Council**

No meetings have been held of the British-Irish Council (BIC) or any of its sectoral groups since its 6<sup>th</sup> Annual Summit in Guernsey in November 2004. Although the BIC – which comprises the UK and Irish governments, the devolved administrations, Jersey, Guernsey and the Isle of Man – is likely to survive as an institution given its symbolic importance as part of strand 3 of the Good Friday Agreement, some officials increasingly see the Council as delivering little to participants.

##### **b) Joint Ministerial Committee**

The JMC, set up as a forum for intergovernmental discussions and dispute resolution between the UK Government and the devolved administrations, remains largely disused. Only the JMC Europe meets regularly, to coordinate the UK position in EU negotiations but releases no information about its discussions. None of the other JMC bodies (JMC Plenary, JMC Health, JMC Knowledge Economy, JMC Poverty) have met since autumn 2002. Thus far, disputes have predominantly been resolved through informal channels, facilitated by Labour dominance in the various administrations and a general desire to make a success of devolution. Therefore, public disputes may become more common at some point in the future if Labour loses control of one or other administration, or if the

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<sup>58</sup> HC Deb, 19 January 2005, Col. 800-801

Scottish or Welsh Labour Party sees a political advantage in following an openly different course to a UK Labour Government.

#### **14. Commons Delegated Legislation Committee**

Among the mass of secondary legislation going through Parliament, only a fraction is debated by the Commons Delegated Legislation Committee. Of this fraction, the pieces of secondary legislation relating to the devolution settlement and/or the devolved administrations include the following:<sup>59</sup>

Draft Agriculture (Northern Ireland) Order 2004

6 December 2004 (date of consideration by committee)

Draft Financial Provisions (Northern Ireland) Order 2004

9 December 2004

Draft Parliamentary Constituencies (Scotland) Order 2005

24 January 2005

Draft Political Parties, Elections and Referendums Act 2000 (Disapplication of Part IV for Northern Ireland Parties, Etc.) Order 2005

3 February 2005

Draft Scotland Act 1998 (Modifications of Schedule 5) Order 2005

24 February 2005

Draft Drainage (Amendment) (Northern Ireland) Order 2005

24 February 2005

Draft Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005

28 February 2005

Draft Company Directors Disqualification (Amendment) (Northern Ireland)  
Order 2005  
1 March 2005

Draft Insolvency (Northern Ireland) Order 2005  
1 March 2005

Draft Child Benefit and Guardian's Allowance Up-rating (Northern Ireland)  
Order 2005  
7 March 2005

Draft Public Audit (Wales) Act 2004 (Relaxation of Restriction on Disclosure)  
Order 2005  
7 March 2005

Draft Higher Education (Northern Ireland) Order 2005  
7 March 2005

Draft Public Processions (Amendment) (Northern Ireland) Order 2005  
8 March 2005

Draft Northern Ireland Act 2000 (Modification) Order 2005  
9 March 2005

Draft District Policing Partnerships (Northern Ireland) Order 2005  
10 March 2005

Draft Electoral Law (Northern Ireland) Act 1962 (Amendment) Order 2005  
Draft Electoral Law Act (Northern Ireland) 1965 (Amendment No.2) Order  
2005 Draft Electoral Law Act (Northern Ireland) 1962 (Amendment No.3)  
Order 2005  
14 March 2005

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<sup>59</sup> Transcripts of these debates can be viewed at: [www.publications.parliament.uk/pa/cm/cmdeleg.htm](http://www.publications.parliament.uk/pa/cm/cmdeleg.htm)

17 March 2005

**15. Selected Devolution-Related Early Day Motions (EDMs)<sup>60</sup>**

<b>EDM Number</b>	<b>Title</b>	<b>Primary Sponsor</b>	<b>Number of Signatories<sup>61</sup></b>
1032	SINN FEIN PRESIDENT'S ADDRESS TO IRA	John McDonnell	4
1023A	VOTING FOR DEMOCRATIC PARTIES IN NORTHERN IRELAND	Peter Luff	1
1023	VOTING FOR DEMOCRATIC PARTIES IN NORTHERN IRELAND	David Burnside	6
998	CONDUCT OF LIBERAL DEMOCRAT HONOURABLE MEMBERS AND MEMBERS OF THE SCOTTISH PARLIAMENT	Pete Wishart	4
993	FUNDING FOR EDUCATION IN NORTHERN IRELAND	Gregory Campbell	9
968	REGIONAL FIRE SERVICE IN HAMPSHIRE	Mark Oaten	3
959	CONDUCT OF SCOTTISH NATIONALIST (sic) PARTY HONOURABLE MEMBERS DURING PROCEEDINGS ON THE PREVENTION OF TERRORISM BILL	Malcolm Bruce	1
861	UNIVERSITY TOP-UP FEES IN NORTHERN IRELAND AND CONDUCT OF LABOUR HONOURABLE MEMBERS	David Lidington	41
753	HYDROGEN ECONOMY IN WALES	Simon Thomas	39

<sup>60</sup> Information on all EDMs can be viewed at: [edm.ais.co.uk/weblink/html/motions.html](http://edm.ais.co.uk/weblink/html/motions.html)

<sup>61</sup> As of 23 March 2005

738	STORMONT VOLUNTARY COALITION	David Burnside	4
611	NEW LABOURS ECONOMIC POLICY IN WEST WALES AND THE VALLEYS	Adam Price	4
567	UNIVERSITY TUITION FEES IN NORTHERN IRELAND	David Lidington	60
427A1	GRAND COMMITTEES Amdt. line 8:	Roy Beggs	4
427	GRAND COMMITTEES	Lindsay Hoyle	31
346	POST OFFICE RE-INVENTION PROGRAMME IN SCOTLAND	Michael Weir	12
324	ULSTER SCOTS CULTURAL IDENTITY	Gregory Campbell	12
317	HISTORIC COUNTIES OF THE UNITED KINGDOM	Andrew Rosindell	38
306	PARTICIPATION OF HONOURABLE MEMBERS IN THE PARLIAMENT OF THE IRISH REPUBLIC	David Burnside	6
228	ABOLITION OF REGIONAL CHAMBERS	Caroline Spelman	59
185	FLUORIDATION OF WATER IN SCOTLAND	Brian H Donohoe	31
96	WAITING LISTS IN WALES	Bill Wiggin	42
84	OFCOM AND WELSH PUBLIC SERVICE BROADCASTING	Bill Wiggin	43
82	POST OFFICES IN WALES	Bill Wiggin	49