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Legislative Logjam

One year on, one dividend from devolution which has not materialised is an end to the legislative logjam at Westminster. This summer's pile up of bills is the worst that Whitehall insiders can remember. The Scottish Parlhas doubled iament the amount of Scottish legislation, and found time for Scottish Law Commission bills which have waited for years in the queue at Westminster (see Scotland report on p.2). But at Westminster the blockage is worse than ever.

One casualty which illustrates the scale of the problem is the Freedom of Information Bill. It had its second reading in the Lords before Easter, but will not start its committee stage until mid-July. The Lords are struggling to do their bit as a revising chamber by sitting longer and longer hours; but they will increasingly be made the scapegoats for blocking the government's legislative programme as tempers get frayed during the summer. Difficulties are already stacking up (see p.5 on the Transitional House of Lords, below).

Who is really to blame? **Perhaps** the Lords could streamline their procedure, and this is likely to be reviewed in the near future (see p.5). But the originators of the logiam are the government. They plan each session's legislative programme Cabinet committee, which is where collective discipline has broken down. Bills allowed into the legislative programme which are insufficiently prep-ared, and then subjected to rafts of government amend-ments as they go through parliament.

This is nothing new, but the problem has got significantly worse. The spillover session this year may run for all of October and November, so that next year's session will start a month behind schedule. If Mr Blair is serious about joined up government he could start by giving more support and authority to the Legislation Policy Committee of his own Cabinet. That is where collective responsibility and discipline need to be exercised.

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by detecting and blocking inadequately prepared bills; not by leaving the mess to be sorted out later in Parliament.

Devolution Monitoring reports on our website



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Devolution: One Year On

Scotland

The Scottish Parliament passed the anniversary of its election without its First Minister. Donald Dewar had heart surgery on 8 May and is not expected to return to post until the end of the summer. In his absence an initial unseemly rush to take over the reins amongst his wouldbe successors has now died down but only because it has gone underground. The surprise loss of the leader has also caused tension in the coalition Executive, leaving the leader of the Scottish Liberal Democrats Jim Wallace in nominal control of the government. This has caused some unease in both Labour and Lib Dem ranks. Jim Wallace has relished the chance to lead - except perhaps in the debate on Scottish Socialist Tommy Sheridan's private member's bill to end warrant sales. The Executive sought to amend the bill, but whilst Wallace was on his feet pressing their position, the whips concluded that there was insufficient support and the amendment should be withdrawn. This episode shows that backbenchers (even government backbenchers) may be more than lobby fodder in the Scottish Parliament.

Sober assessments of the new institution's performance one year on suggest a mixed scorecard. A number of items of legislation which have been sitting on the Scottish Law Commission's shelves for some years are now statute. The first budget has been passed and the Westminster Budget in March promised large increases in items covered by the Barnett formula so the Scottish budget will also increase. Public debate has however focused on One example is the more emotive issues. proposal to repeal Clause 28, where a referendum privately funded by Stagecoach boss Brian Souter suggested that the public are at odds with their legislators. Another was the debate, exploited by the SNP, on whether the Home Secretary should have allowed Mike Tyson into Scotland for a boxing match. In any event, the Scottish political scene is becoming increasingly opaque to anyone not immersed in it, and especially so to anyone who does not spend time regularly in the Parliament chamber. That is now where reputations are being made. The centre of gravity has shifted.

Northern Ireland

At the time of writing, power had once more been devolved to Northern Ireland, where the institutions established by the Belfast agreement were suspended in February after just 10 weeks existence.

The suspension stemmed from failure of the understanding reportedly arrived November during the review of the implementation of the agreement conducted by George Mitchell: unionist engagement in devolved structures would bring the onset of IRA decommissioning by end January. Now a new approach evolved between the Dublin and London governments - though not without tensions - has seen the focus shifting to the context in which republicans would put arms 'beyond use'. Weeks of preparation and talks with the parties ended with a formula remarkably similar to that proposed by Sinn Fein to the original Mitchell review in January 1996. While not committing itself to the oneyear timescale sought by the governments, in early May the IRA did make the 'beyond use' pledge, conditional on political developments. It agreed meantime to open some arms dumps to international inspection.

There were internal republican rumblings, but Sinn Fein was on a roll, with a council by-election victory and much publicity for expected gains in the next Dáil election. The Social Democratic and Labour Party meanwhile faced a highly critical internal review.

By far the greatest challenge was to the Ulster Unionist leader, David Trimble, who had narrowly defeated a challenge at the postsuspension meeting of his party's ruling Ulster Unionist Council and failed to stop a motion tying renewed participation in government to preservation of the name of the Royal Ulster Constabulary. Mr Trimble desperately sought concessions from government on policing and on the Sinn Fein-imposed ban on the Union flag over government buildings in Belfast. The Northern Ireland secretary, Peter Mandelson, indicated that the RUC name would appear in the 'title deeds' of the new police service and that he would decide on flags where there was agreement. Mr Trimble postponed a planned UUC meeting by a week to stave off defeat. A by-election defeat by the Democratic Unionist Party did not help confidence and the

support of his deputy, John Taylor, was secured only at the 11th hour. On 27 May, the UUC decided to back the leader. But with his majority whittled down to 53 percent - 47 percent, everyone knew that the war for the soul of unionism was not yet over.

Wales

On the National Assembly's first anniversary, the *Western Mail* carried a front-page photograph of one-year old Joshua Harding, and asked what was the difference between them. The answer: Joshua has teeth.

Within weeks the point was thrown into sharp relief over the issue of genetically modified foods. Although the Assembly had declared Wales a GM-free zone, it was discovered that the Department of Environment, Transport and the Regions had authorised the experimental planting of GM seeds at a Welsh farm near the border, on the mistaken assumption that it was in England. Legal advice to the Agriculture Secretary, Christine Gwyther, indicated the Assembly did not have the power unilaterally ban GM crops in any case. She faced a censure motion tabled by the Conservatives, but this found no support from either the Liberal Democrats or Plaid Cymru. In a further incident the Ministry of Agriculture, Fisheries and Food failed to inform the Welsh for a administration month that contaminated seeds had been distributed to farms across England and Wales by a Canadian-based firm. Gwyther expressed her indignation, telling Radio Wales that, 'the Whitehall machine does not recognise devolution . . . There is a mindset there that needs to be altered.'

The new First Secretary Rhodri Morgan brought a fresh tone. At the Labour Conference in March a new slogan was unveiled, Welsh the True Party of Wales, contradistinction to Plaid Cymru ('The Party of Wales'). The change of leadership and rhetoric did not register immediately with the voters, however. An NOP poll carried out for HTV in May found the positioning of the parties remarkably stable compared with previous months. Voting intentions for an Assembly election gave Labour 41%, Plaid Cymru 32%, Conservatives 14% and Liberal Democrats 10%. The position for a Westminster election was Labour 47%, Conservatives 23%, Plaid Cymru

15%, and Liberal Democrats 12% - confirming that the voters were making a clear distinction between Westminster and Cardiff elections.

Meanwhile, a new basis for cohabitation between the two main parties in the Assembly was being established, which promised to create some stability for the minority Labour administration. Labour asked Plaid Cymru if it would endorse its policy document Better Wales, laying out a set of ambitious aspirations to be achieved by 2010. Plaid Cymru refused, but following detailed negotiations, it endorsed a three-page Introduction to the document including 20 policy commitments. It turned out that Plaid Cymru had succeeded in inserting a number of its own pet projects, including a heightened commitment to renewable energy, a review of the Barnett funding formula, and an 'early study' into the idea of a Welsh baccalaureate.

For all his rhetoric Rhodri Morgan proved notably cautious on the frustrations building up around the Assembly's lack of primary legislative powers, stating the Assembly should 'develop and grow organically'. His main constitutional innovation was to publish, six weeks in arrears, the minutes of his Cabinet on the Assembly's website. The first of these revealed some of the emerging tensions between the Executive and the Office of the Presiding Officer which have marked the first year of devolution and will be a continuing factor in the months to come.

England

Discussion within the Labour Party on English regionalism is intensifying. A paper sent to the members of the party's National Policy Forum in May discussed the options on regionalism for Labour's election manifesto. John Prescott has made it clear that he will be arguing for a commitment to English regionalism to be included, but Downing Street remains cautious and the government are currently committed to nothing more than preparing legislation to enable regional referendums to be held (Guardian 26 May 2000). Government has also announced the revival of the Standing Committee on Regional Affairs to discuss English regional affairs in the Commons (see 'Westminster and the English Regions' p.6 below).

Interest in English regionalism is growing amongst other bodies. The past quarter has seen the publication of related reports by the Local Government Association, Fabian Society, Local Government Information Unit and Joseph Rowntree Foundation (see 'Publications Received'). March saw the launch of the Campaign for the English Regions which will seek to raise the profile of the English regional question in Westminster and Whitehall by combining the lobbying efforts of campaigns in several of the regions. In May it held a meeting in Westminster to discuss the extent of the north-south divide and participated in a reception by the North East and North West Constitutional Conventions. In April the Regional Policy Forum, chaired by David Marquand, was officially launched.

Peter Kilfoyle used his resignation speech on 27 March to speak of resentment in Labour's northern heartlands of the economic divide. Labour's poor showing in the local elections in England lent weight to such fears. Labour also performed poorly in London, England's first 'devolved region' (see 'Greater London Assembly Elections', p.7). Both the successful mayoral candidate Ken Livingstone and his Conservative opponent Steven Norris raised the alleged inequity of the Barnett Formula for Londoners during the mayoral campaign. Since becoming mayor Livingstone has attempted to set up the new politicallyinclusive administration he promised. His deputy mayor for the first year is Labour's Nicky Gavron, with a promise to rotate the position to another party after that. Liberal Democrat Susan Kramer and Green Darren Johnson - both mayoral contenders - have been taken into the administration, as transport and environment advisers respectively. As part of the negotiations over the appointment of Nicky Gavron it was agreed that a commission will be established to investigate the funding of the London Underground. This will be chaired by Will Hutton. The Chair of the Assembly will be Labour's Trevor Phillips.

Devolution at the Centre

The Joint Ministerial Committee on devolution (JMC) has met six times in the last six months, twice chaired by the Prime Minister and four times by the Chancellor. The JMC brings together UK ministers with their opposite numbers in the devolved administrations. Tony

Blair's meetings, in April and June, both focused on health as part of his new drive on this agenda. Gordon Brown's meetings focused on poverty and on the knowledge economy. Details were given in press releases issued variously by No 10, the Scottish Executive and the Treasury after the meetings.

So far the JMC has been used to promote the agenda of senior UK ministers. ministerial meetings take place - for example the Agriculture ministers have been meeting roughly once a month - but the Cabinet Office do not count these as meetings of the JMC. The next JMC in late summer or early autumn is likely to be the summit of the Prime Minister and First Ministers, promised as an annual event in the intergovernmental Memorandum of Understanding (Cm 4444, Oct 1999). Before then will be the other summit meetings of the Council and British-Irish British-Irish Intergovernmental Conference, this time to be held in Dublin.

The Cabinet Office series of Devolution Guidance Notes has now reached DGN 13. Five are still to be published (for the full list see www.cabinet-office.gov.uk). The list of bilateral concordats between individual Whitehall departments and the Scottish and Welsh executives now runs to 18 (www.scotland.gov.uk/concordats).

The impact of devolution is also starting to be seen more clearly on Westminster (see p.6 'Westminster and the English Regions').

Parliamentary Reform

Appointments to the House of Lords

On 31 March 33 new life peers were announced. The 20 Labour, nine Liberal Democrat and four Conservative members will help balance further the membership of the House of Lords. With the new members the chamber will include 236 Conservatives, 202 Labour, 63 Liberal Democrats and 198 others. Five of Labour's new appointees had previously sat in the chamber as hereditaries. Seven of the 33 appointees (21%) were women, including only three of Labour's appointees (15%).

A number of controversies surrounded the appointment of the new peers. The inclusion of Conservative Michael Ashcroft, who had been

refused previously by the Political Honours Scrutiny Committee, was allegedly given an unprecedented 'conditional' peerage dependent on his return to residence in the UK from Belize. His major donations to the Conservative Party also resulted in allegations of 'cash for coronets'. The Liberal Democrats in turn claimed government was trading 'seats for votes' and had required 'good behaviour' in return for new Lords seats (Hansard 7 March, col. 926). Even with new appointments the Lib Dems make up just 13% of party-aligned peers. It was widely noted that Tony Blair, after less than three years in office, had made more appointments than Margaret Thatcher did in 11 years (his 214 to her 203). These various difficulties resulted in most newspaper editorials calling for rapid moves to an elected upper house.

In May the new Appointments Commission for selecting crossbench peers was unveiled. The chair is crossbench peer (and chair of Pearson plc), Lord Stevenson of Coddenham. The other independent members are Angela Sarkis, Deirdre Hine and Felicity Huston. The committee will also replace the Political Honours Scrutiny Committee in approving new party peers, and includes two of its members, Labour's Baroness Dean, and Conservative Lord Hurd, along with Liberal Democrat Lord Dholakia.

Under the new arrangements the Prime Minister will continue to control how many appointees each party gets, and the overall size of the House. On 14 April the Lords debated a Private Member's Bill moved by Conservative Lord Kingsland which would put the Appointments Commission on a statutory basis and require a minimum proportion of crossbench peers. Both these proposals were made by the Royal Commission on Lords reform. Lord Kingsland's bill would also require the Commission to report regularly on overall party balance in the chamber. The bill has no realistic chance of becoming law.

Operation of the Transitional House of Lords

Government has now suffered 15 defeats in the transitional House of Lords since November, indicating the chamber's greater confidence since the departure of the hereditaries. Recent defeats have included amendments to the government's mammoth Financial Services and

Markets Bill, the Local Government Bill and Learning and Skills Bill. The most high profile standoff has been over the repeal of Section 28, when the Lords rejected a compromise government had forged with the Bishops in the form of new education guidelines. Government indicated that it would drop the guidelines and may also be forced to drop the clause in the Local Government Bill. Trouble lies ahead with the Sexual Offences (Amendment) Bill, which reduces the age of homosexual consent to 16, and potentially with other measures including the Freedom of Information Bill. Government has indicated its determination to see many of the amendments made by the Lords reversed. But if compromise cannot be reached the time lost through legislative 'ping pong' could have serious implications for the government's programme.

Government has indicated that a review of Lords procedures will be set up, which might ease some of the delays in future. A debate was held on 10 May at the instigation of Labour's Lord Peston, who withdrew his motion when government showed willingness Government speakers Baroness Jay and Lord Carter indicated their interest in facilitating more business by taking committee debates off the floor of the House and looking at sitting hours and electronic voting. Other issues raised included resources for members, the need for new committees and the status of the Salisbury convention. Conservative Lord Strathclyde pressed for any review to strengthen, not weaken, the scrutiny role of the House.

Neill Committee Inquiry into House of Lords

The Committee on Standards in Public Life, chaired by Lord Neill, has begun an inquiry into 'Standards of Conduct in the House of Lords'. The committee will consider the registration of financial and other interests by peers. The outcome of its inquiry could potentially end the situation where registration is compulsory in the House of Commons but voluntary in the House of Lords. The committee will also deal with paid lobbying and conflict of interests amongst peers, and how any new system should be policed. The Lords is in a rather different position to the Commons, given that its members receive no salary and thus many need to pursue paid outside interests. This was recognised by the committee's consultation paper (responses to

which were required by 6 June). Concerns were raised by Conservative peers about the involvement of the Neill Committee, given that the chamber is self regulating. However, the committee's role extends only to making recommendations for the House itself to implement.

Long Term Lords Reform

There is no indication yet of progress to implement the main recommendations of the Royal Commission on House of Lords reform, or moves towards long term reform of the chamber. The joint committee promised by government to discuss the next stage has not yet been established. Government and the other parties are involved in discussions, aimed at reaching greater consensus, before any such committee is set up. The proposals of the Royal Commission have yet to be debated in the House of Commons, having been debated in the House of Lords on 7 March.

Strengthening Commons Select Committees

In March the Commons Liaison Committee issued an unprecedented report, *Shifting the Balance: Select Committees and the Executive* (HC 300, 2 March 2000). All the select committee chairs have come together to protest at the influence of the whips over nomination to select committees, and to propose ways of making the committees more effective. They suggest a new select committee panel of three senior MPs to make the final decision on nominations, working in a non-partisan way.

While stressing that it is up to each select committee to choose their own priorities, the chairs commended recent examples of best practice: scrutiny of secondary legislation, and of draft bills, examination of treaties, holding confirmation hearings for major public appointments, systematic monitoring of follow-up action to their reports. The report offers seven suggestions to improve scrutiny of draft bills, and suggests that the Committee Office should establish a small unit specialising in public expenditure and pre-legislative scrutiny.

The Government's response (Cm 4737, May 2000) was dismissive: 'brutal' in the words of Tony Wright MP. Government rejected the need for any change to the current nomination procedure, and do not believe that select

committees should have a formal role in scrutinising public appointments.

Westminster and the English Regions

In a surprise development on 11 April the Leader of the House introduced a motion to revive the Standing Committee on Regional Affairs. Margaret Beckett had floated the proposal to the Modernisation Committee in February 1999, when it attracted little support. The Regional Affairs Committee last sat in the 1970s, when it provided a forum for English MPs to debate English regional issues. In its revived form it would have 13 voting members, with party strength proportionate to the membership of the whole house (rather than just England). All English MPs would be able to attend and speak. The Conservatives alleged that the proposal was a sop to those Labour MPs who are disappointed by the lack of progress on elected regional assemblies. They voted against the motion, as did the Liberal Democrats.

Elections and Parties

Electoral Regulation

Having passed the Commons, the Political Parties, Elections and Referendums Bill, which implements the recommendations of the Neill Committee, is now in the Lords. During second reading on 3 April, the main concern was government's refusal to grant tax relief on small donations. In committee on 11 May, the focus shifted to the composition of the Electoral Commission. its relationship with Boundary Commissions and the composition of the Speaker's Committee, to which the new Commission will be answerable. government is considering an amendment giving the Commission an advisory role in the wording of referendums. Another amendment, put down by Lords Owen, Healey, Prior and Skidelsky, would provide for a referendum to be held on all bills deemed by the Speaker to be of first class constitutional importance.

The posts of the Electoral Commission's chair and four part-time members have been publicly advertised, with appointments due by November. The government hopes that the Commission will be in place by spring 2001. However, the functions of the Parliamentary Boundary Commissions will not be transferred until the next boundary review in 2005. There is

currently some debate over how the time limit for election expenses will be interpreted. The Bill provides for national spending limits to apply for the year preceding a general election. But should the next election be called within one year of the legislation being on the statute book, section 151(5) of the Bill allows the Home Secretary to make alternative provisions for spending limits. The opposition parties are currently being consulted on these provisions.

Local Government Legislation and Elections

Elections to 153 local authorities took place on 4 May. Among these were 32 local authorities trialling new ways of voting, designed to raise turnout. The trials include electronic voting, postal voting and weekend voting. Preliminary results show that only all-postal ballots had a effect consistently positive on turnout. compared with 1999 contests. Each of the pilot local authorities will evaluate its results, and submit these to the Home Office by August. The Local Government Association is planning an overview of the pilots.

The Local Government Bill to introduce new local executive structures is continuing its parliamentary passage. Meanwhile the DETR has issued a consultation paper on the conduct of local referendums on directly elected mayors. The paper seeks views on issues such as the wording of the referendum question and the spending limits for the campaign (which might range from £2,000 in a small local authority to £95,000 in a large one) and for the mayoral candidates. The consultation period ends on 30th June.

Two ICM polls conducted in April, before the London elections, suggest that public support for directly elected mayors has waned. A *Guardian* poll reported only 22% of voters wanting a directly elected mayor, with 61% preferring the existing system. A second poll asked voters whether a directly elected mayor would bring more accountability to local government. Over one half thought it would, although almost a third disagreed. Support was by far the highest among the 18-24 age group, which was also the group that felt it knew least about local government.

Review of European Electoral System

The Home Office has released its review of the 1999 European Parliament elections, held under

the regional list voting system. In addition to the administration of the poll, there is coverage of the election campaign, the ballot paper and official publicity. The review also includes the results from a survey and series of focus groups commissioned by the Home Office immediately after the election. Both pieces of research found that the electoral system played no part in the poor turnout, and that voters found the ballot paper easy to use. For details of the report, see the 'Bulletin Board' on the back page.

Greater London Authority Elections

The ballot for the Greater London Authority was held on 4 May. Voters had four votes: two for the Mayor under the Supplementary Vote method, and two for the Assembly under the Additional Member method. In the mayoral contest, there were two clear front runners on the first preference votes: Independent Ken Livingstone (39%) and Conservative Steve Norris (27%). Labour's Frank Dobson and Liberal Democrat Susan Kramer each polled 12-13% of first preference votes. A total of 83% of voters made use of their second preferences, with Livingstone polling poorly in this section of the ballot. Kramer took by far the largest share of second preferences (28%), with the Green candidate also polling well. Adding together first and second preferences brought Kramer level with Norris (40.4% to 40.3%). But the system used first preferences to eliminate all but the top two contenders, so it was Norris who went forward to the second round. Once second preferences from the eliminated candidates had been distributed, Livingstone polled 776,000 votes (58%) and Norris 564,000 (42%).

Turnout for the mayoral election (34%) was slightly higher than for the Assembly (31%). In the fourteen Assembly constituencies, the Conservatives polled slightly more votes than Labour (33% to 32%), and won eight seats against Labour's six. At the London-wide top up level, the Liberal Democrats won four seats, to three each for Labour and the Greens, and one for the Conservatives. The final seat allocation was thus: Conservative (9), Labour (9), Liberal Democrat (4) and Green (3).

The elections produced a high share of votes classified as 'invalid'. The average level of invalid votes was 8%, reaching 16% in some areas. However, Returning Officer Robert

Hughes indicated that most invalid votes were blank ones, with only 1% being spoilt, suggesting that many Londoners had simply avoided using their second votes, rather than mismarking their ballot.

Human Rights

Human Rights Act

government is making final preparations for implementing the Human Rights Act (HRA). In an unusual step, the Home Office has sought confirmation concerning the readiness of other departments before it issues the order bringing the Act into effect on 2 October. In a parallel move, the Cabinet Office has sought details of all remaining issues where departments consider that a successful challenge might be mounted in an operationally significant or sensitive area. The exercise is said to have provided a degree of comfort that few such areas should remain October assuming that the current legislative programme remains on track.

In March, the Treasury Solicitor's Department issued a substantially revised third edition of the 'Judge Over Your Shoulder' incorporating advice for administrators on the European Convention on Human Rights and HRA. Considerable efforts are also being made to equip prosecution lawyers with the arguments to take Convention points as and when they during the first months introduction of the Act. Elaborate referral channels have been established to two lawyers' committees within the Cabinet Office which will consider the implications and courses of action for the more significant cases. The government expects the Act to double, to around 600 a year, the number of applications for judicial review and to add between 2,300 to 2,800 extra sitting days in cases already before the courts at an annual cost of £60m (including £39m for legal aid).

Professor David Feldman, University of Birmingham, has been appointed as the Legal Adviser to the proposed Joint Parliamentary Committee on Human Rights. The terms of reference for the Committee have still to be finalised. An announcement will need to be made by July if the Committee is to be in place for October.

The number of cases where Convention points have been argued in Scotland topped 500 at the beginning of May. Challenges invoking Article 6 (fair trial), especially over delays in the criminal justice process of up to 45 months, have become a recurring theme. An appeal over the decision in *Brown v Stott*, which has put into doubt the police's ability to obtain a driver's identity under S.172 of the Road Traffic Act, will be considered in October by the Privy Council.

EU Charter of Fundamental Rights

A preliminary draft of the proposed European Charter of Fundamental Rights should be available for the June meeting of the European Council. The draft is likely to contain economic and social rights as well as a number of other new rights. The UK government's stance that the exercise should result in no new rights or competencies was strongly criticised for appearing 'extremely negative' at the end of May, by the House of Lords European Union Committee looking at the Charter. (8th report: EU Charter of Fundamental Rights, 24 May 2000)

The Courts

Senior Judicial Changes

It has been announced that Lord Bingham of Cornhill, the present Lord Chief Justice, will be made senior Lord of Appeal in Ordinary upon the retirement of Lord Browne-Wilkinson in June. Sir Richard Scott, the Vice-Chancellor, is also to become a Law Lord. Sir Richard conducted the Arms to Iraq inquiry, and is widely regarded as one of the most capable judges in the field of public law. Lord Bingham's replacement as Lord Chief Justice is to be the present Master of the Rolls, Lord Woolf. Lord Phillips of Worth Matravers, presently a Lord of Appeal in Ordinary, chairing the BSE inquiry, will become the new Master of the Rolls.

The Law Lords have announced a process to recruit 'American style' research assistants to ease the burden of paperwork involved in large and complex appeals. The research assistants are scheduled to begin their work in October of this year, the same month that the Human Rights Act comes into force.

Freedom of Information

The Freedom of Information Bill has left the Commons and had its second reading in the Lords on 20 April. The Bill suffered five backbench revolts during Commons report stage, with government concessions to increase the powers of the Information Commissioner and restrict the use of the veto. Because of the congested legislative programme the Bill will not start its committee stage in the Lords until July, so that report stage in the Lords will not be until October. This will raise the stakes in any ping pong between Lords and Commons at the end of the session, because those seeking to extract further concessions will face the risk of losing the bill altogether.

In Wales the new First Secretary Rhodri Morgan has started to publish minutes of Welsh Cabinet (see 'Wales',p.3) and has issued a consultation paper on a new FoI Code of Practice in Wales. In Scotland the Executive has published a summary of the 119 responses received to its consultation paper on FoI. Keith Connal, head of the Scottish FoI Unit, spoke to a Constitution Unit seminar in March.

Ombudsmen Review

On 13 April the Cabinet Office published the report of its review of the public sector Ombudsmen. The report recommends bringing together in one new Commission the Ombudsmen for central government, local government and the health service. recommendation was welcomed by Ombudsmen, who had called for the review because they wanted complainants to be able to knock on just one door. The government is now consulting on the report. The difficulty will be to find parliamentary time to implement its recommendations, because combining the three schemes will require legislation.

In January Lord Lester QC anticipated a lesser recommendation of the review by introducing a Private Peer's Bill which would remove the MP filter for citizens wishing to approach the Parliamentary Ombudsman. By international standards the UK Parliamentary Ombudsman receives very few complaints. In part that is because of the disincentive of having to

approach him through an MP; in part because of his relatively low profile. Overseas Ombudsmen generally have a higher profile and wider jurisdiction.

Overseas News

France: Statutory Quotas Introduced

The French government has taken radical action to improve women's representation in politics, by introducing statutory quotas. Following an enabling constitutional amendment in 1999, a new electoral law passed in May imposes strict rules on parties for all elections. Parties must now put forward gender balanced lists of candidates for elections using list PR, including local and regional elections. For Senate and European elections the lists must be 'zipped', with alternating male and female candidates. Party lists submitted which do not meet these requirements will be declared invalid. For other elections, including those using single member constituencies for the lower house of parliament, parties must put forward a gender balanced slate, or a financial penalty will be paid. Parties' state funding will be cut by an amount equalling half the percentage difference between male and female candidates. For example a party putting forward 45% women and 55% men - a difference of 10% - will lose 5% of its funding. The new rules will first apply for the local elections in March 2001, and national elections in 2002. Currently women make up just 11% of MPs and 21% of councillors in France.

Italy: Referendum Fails Again

A referendum on changing the Italian electoral once system has failed again. Seven referendum questions were put on 21 May, including one to remove the proportional element from elections to the lower house of parliament. Of those voting, 82% supported a change to the electoral system. However the turnout was only 32%, well short of the 50% needed for the referendum to be valid. This repeated the events of April 1999, when turnout in a similar referendum was 49.6%. This time turnout was a major issue in the with opposition leader Silvio campaign, Berlusconi calling on citizens to abstain.

Constitution Unit News

New Research Fellows

Welcome to two new Research Fellows. In May Elizabeth Haggett joined us on a 12 month secondment from the Dept of Health, where she was Deputy Section Head of their Constitution Unit working on devolution and human rights. She is conducting a research project on the Human Rights Act 1998 and its implications for policy on access to NHS treatment and services. In July we will be joined by Clare Delap, who is coming to conduct a systematic review of public participation in policy making. This will be the first comprehensive review of all the new techniques (citizens' juries, deliberative polling, focus groups etc) covering all sectors (central and local government, health authorities etc), and also looking at experience overseas.

Website

We are constantly improving and updating our website. You will find it a mine of useful information. In particular look out for *Constitutional Update*, our summary of the latest constitutional developments in the UK; and our *Monitoring Devolution* quarterly reports from Scotland, Wales and Northern Ireland, found on the pages on our *Nations and Regions* programme. (www.ucl.ac.uk/constitution-unit)

Seminar and Lecture Programme

Please refer to the Bulletin Board on the back page, and the enclosed events flier.

Project Reports

What do the Top Courts Do?

Until recently, proposals to reform the United Kingdom's top courts have treated the Appellate Committee of the House of Lords and the Judicial Committee of the Privy Council as distinct entities. The combination of recent legislation in the form of the Human Rights and devolution Acts, increasing case load, and common membership of both courts has prompted the realisation that reform of either court will necessarily have a bearing on the other. This briefing helps to clear the ground by analysing what the top courts actually do and advances ten core arguments as justification for having a second-tier of judicial appeals. Issues dealt with include: quality of judgement and more exhaustive analysis of argument, error correction and supervision of the doctrine of stare decisis, the role of top courts as 'democracy's referees', innovation and development of the law, and the provision of appellate services for overseas jurisdictions by the Judicial Committee of the Privy Council.

The briefing will be available in late June (see publication list for details). *Contact: Richard Cornes (020 7679 4975, email: r.cornes@ucl.ac.uk).*

Electoral Systems

The May 1999 elections to the Scottish Parliament and Welsh Assembly were significant both because they established new institutions, and because they used a proportional voting system. The contests were of interest, then, not only for how far they served to legitimise the devolved bodies, but also for what they told us about attitudes to alternative electoral systems.

Surveys exploring these issues, funded by ESRC, were conducted by the Constitution Unit and CREST immediately after the May elections. A briefing, Wise After the Event? Attitudes to Voting Reform following the 1999 Scottish and Welsh Elections, was published in April. The briefing looks at voters' attitudes towards the current electoral system and proportional alternatives, to the main features of majoritarian and proportional systems and to single party government versus coalition arrangements. It examines attitudes towards the devolved tier of government, and to electoral reform at Westminster.

Among the main findings are:

 A clear majority of voters in both Scotland and Wales support the use of PR for the devolved institutions.

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- Support for the extension of PR to Westminster is lower than that for the devolved bodies.
- Attitudes to PR remain sensitive to the way that survey questions are put; attitudes are not consistent.
- Although voters are not put off by the prospect of coalition government, they remain attached to the idea of a single local MP.
- Voters did not stay away from the polls because they disliked the voting system, or because they could not understand it.

The briefing is now available (see publication list for details). *Contact: Ben Seyd (020 7679 4972, email: b.seyd@ucl.ac.uk).*

Women's Representation in Politics

The Constitution Unit has undertaken a study of women's representation in British politics, focusing on what action may be taken by government and the parties within the confines of the law. Parties have been cautious to adopt positive action measures (quotas) for candidature since the Labour Party lost an industrial tribunal over its all women shortlists policy in 1996. There has been pressure to change the UK's sex discrimination law to allow parties to act, but some lawyers have warned that this could put Britain in breach of European law. This project has been based on a series of interviews with senior lawyers and representatives of the parties both in the UK and other EU countries. The report will be available shortly and a summary of the conclusions will be included in the next issue of *The Monitor*.

The briefing will be available from June (see publication list for details). *Contact: Meg Russell (020 7679 4974, email: meg.russell@ucl.ac.uk).*

Whitehall and the Human Rights Act

This project will be completed in two stages:

- (1) an analysis of the expectations and preparations within government prior to the implementation of the Human Rights Act (HRA) in October 2000, and
- (2) a subsequent review of how far the first year's experience in implementing the HRA has validated or altered perceptions and systems for dealing with the Act.

Interviews with officials in Whitehall for the first stage have been completed and the findings will be published shortly as a Unit briefing. Details in the next edition of *The Monitor*.

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

Publications Received

The Rape of the Constitution, by Keith Sutherland (Imprint Academic: Thoverton, 2000) ISBN: 0907 845 703, £12.95.

Redesigning Democracy: The Making of the Welsh Assembly, by Kevin Morgan and Geoff Mungham (Seren: Brigend, 2000) £8.99.

Urban Regeneration through Partnership: A Study in Nine Urban Regions in England, Scotland and Wales by Michael Carley, Mike Chapman, Karryn Kirk, Annette Hastings and Raymond Young published for the Joseph Rowntree Foundation by The Policy Press (avail from 01235 465500), £14.95 + £2.50 p&p.

Regional Agencies and Area-based Regeneration by Brian Robson, Jamie Peck and Adam Holden is published for the Joseph Rowntree Foundation by The Policy Press and available from 01235 465500, Services, £13.95 + £2.50 p&p.

Young people's politics - Political interest and engagement amongst 14 to 24 year olds by Clarissa White, Sara Bruce and Jane Ritchie, National Centre for Social Research, funded by Joseph Rowntree Foundation, York Publishing Services Ltd, Tel 01904 430033, £13.95.

The English Question, edited by Tony Wright and Selina Chen, available from the Fabian Society, 11 Dartmouth Street, London SW1H 9BN, £9.95.

The Democratic Region edited by Jo Dungey and Ines Newman, LGIU, 2^{nd} Floor, 1-5 Bath Street, London EC1V 9QQ, £15.

Standards of Conduct in the House of Lords: Issues and Questions, Consultation paper from Committee on Standards in Public Life, April 2000 (www.public-standards.gov.uk).

The Local Government Bill [HL]: Electoral Aspects Bill 87 of 1999-2000, by Oonagh Gay, Research Paper 00/45, House of Commons Library, 6 April 2000

Turnout at the Local Elections: Influences on levels of voter registration and electoral participation DETR paper, May 2000 - see 'websites'.

Shifting the Balance: Select Committees and the Executive, Liaison Committee 1st report, 2 March 2000 (HMSO: London) £7.

Bulletin Board

Forthcoming Unit Events

To book a free place at Unit events, please return the events flyer enclosed. A location map for the Constitution Unit can be found at: http://www.ucl.ac.uk/constitution-unit/logos/find.htm

Constitution Unit /Law Faculty Lecture Wakeham in the Long Grass: Can the Lords Guard Democracy?

Lord Alexander of Weedon Q.C.: Visiting Professor, Faculty of Laws, UCL 28 June 2000, 6:00p.m., Gustave Tuck Lecture Theatre, UCL in association with: Faculty of Laws

Summer Seminar Series:

Can the Welsh Assembly Survive?

Rt. Hon Ron Davies AM MP 3 July 2000, **5.00 p.m. please note change of time**The Constitution Unit, UCL

Autumn Seminar Series:

The Commons - Modernisation or Reform? Andrew Kennon: Clerk of Home Affairs Committee, formerly Cabinet Office adviser on Parliamentary procedure 1997-99 20 September, 1-2.30pm, The Constitution Unit, UCL

Further events in the Autumn are listed on the events flier enclosed.

Forthcoming events

Oxford Brookes University

Conference: The New Constitutional Order Lord Wakeham, Dr Peter Edge, Prof. Diana Woodhouse, Ms Evadne Grant, Dr J Black-Branch 26 June 2000, 10 a.m. - 5 p.m.

Contact: Samantha Bannister, Oxford Brookes tel: 01856 484901 or sebannister@brookes.ac.uk

UCL Faculty of Laws

SPTL Annual Conference: Law Future(s)

19th - 21st September

see: www.ucl.ac.uk/laws for further details contact: Lisa Penfold, tel: 020 7679 1514 email: lisa.penfold@ucl.ac.uk

New Publications by the Unit

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

What do the top courts do?, by Andrew le Sueur and Richard Cornes, £5 (June 2000).

Women's Representation in UK Politics: What can be done within the Law?, by Meg Russell, £10 (June 2000).

Wise After the Event? Attitudes to Voting Reform following the 1999 Scottish and Welsh Elections, by Ben Seyd, £5 (April 2000).

'The Constitution', by Robert Hazell, Meg Russell, Ben Seyd and David Sinclair, Parliamentary Affairs, vol. 53 no.2.

'Writings on the Margins: Recent Writings on Welsh Politics', by Dylan Griffiths, *British Journal of Politics and International Relations*, vol. 2 no. 1.

Useful Websites

New government portal: http://www.ukstate.com/portal.asp

Electoral Commission:

htm

 $\frac{http://www.homeoffice.gov.uk/electoralcom}{mission/index.htm}$

London election results: http://www.detr.gov.uk/london/election.

Greater London Assembly and Mayor: http://www.london.gov.uk

Report on European election system: http://www.homeoffice.gov.uk/epelections/review99.pdf.

European Union Charter of Fundamental Rights: http://db.consilium.eu.int/

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

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