The **Constitution** Unit

MONITOR

Issue 18

The Constitution Unit Bulletin

March 2002

Parliament Awakening?

Parliament is proving more assertive in Blair's second term.

There was the early rebellion last summer over the Whips' attempt to de-select Gwyneth Dunwoody and Donald Anderson as Select Committee chairs. And the New Year has seen comprehensive rejection of the Government's proposals for reform of the Lords, which would create a weak second chamber, still dominated by party patronage (see page 5). This was the general view not just in the Lords, but also in the Commons. The Commons no longer seem to feel threatened by a stronger and more assertive upper house. Rather it is the Government which seems to find the prospect unnerving.

As the Public Administration Select Committee put it in their report, 'Reform is not a zero-sum game in which advances for one chamber are inevitably threats to the other...the real task is rather to increase the effectiveness of both chambers in holding the Government to account.... The focus should be on the capacities of [Parliament] as a whole'.

Both Houses now have reforming Leaders, in Robin Cook and Gareth Williams. Each is busy bringing forward plans for major changes in working practices. So are the Conservatives, in separate proposals for reform of the Commons and the Lords, published in January. The biggest challenge lies in the long awaited proposals to strengthen Select Committees, published by the Modernisation Committee on 12 February. These include a statement of 11 core tasks for Select Committees, and a recommendation that each Committee produce an annual report showing how it has met each core task.

These proposals present a real challenge for Parliament. The first test will be before the Liaison Committee of Select Committee chairmen, who may bridle at the long list of tasks, and the proposal to increase the size of their committees. The next test will be with their members, who may shy away from the sheer hard work involved in more thoroughgoing scrutiny. The final test is one for Parliament as a whole, in realising the aspirations expressed by many in both Houses that they should come together to work more effectively. At present they communicate only through the usual channels. The dialogue needs to be widened beyond the be widened beyond the Govern-

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ment's business managers. A Joint Committee of both Houses to consider revised proposals on Lords reform would be a start; but its work should not stop there.

New Administrator Wanted



The Unit is looking for a committed and experienced administrator. The successful applicant will have particular responsibility for the Unit's finances, research grants and consultancies.

Please see the flyer enclosed.

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Devolution

Wales

A Cabinet mini reshuffle took place at the end of February in an attempt to assuage criticism from back-bench Labour AMs while simultaneously keeping the Coalition on track. Andrew Davies was moved from his position as Business Manager to take over the Economic Development portfolio while Carwyn Jones continued as Minister for Rural Affairs but combined this with Business Manager.

Since July 2001 First Minister Rhodri Morgan had overseen Economic Development while a police investigation into his Coalition partner Mike German remained unresolved. It had been expected that the investigation into allegations concerning the Liberal Democrat leader's former role as Head of the European Unit at the Welsh Joint Education Committee would have been completed by Christmas. However, its continuation well into the New Year forced the First Minister to make some changes to ward off criticism that economic development was failing to receive a Minister's undivided attention. In his announcement Rhodri Morgan left the door open for Mike German to rejoin the Cabinet if cleared by the police. However, the Economic Development portfolio will now be unavailable to him, leaving the prospect of another, more significant reshuffle if he returns later in the year.

The Assembly Government's introduction of a 'Learning Grant' for students in February confirmed the emergence of a distinctive education system in Wales. It followed elimination of league tables for school examination results, the commissioning of a pilot study for a new Welsh baccalaureate qualification, and the publication last September of a 'Welsh White Paper' The Learning Country which separated Welsh from English education policy in a number of key respects. The new 'Learning Grant', worth up to £1,500 per person a year, will provide financial support for students in Higher Education and, for the first time, students in Further Education. It is estimated that it will average around £700 to £800 and will be paid to some 43,000 students at a cost of £41 million during 2002-03. In addition, in January the Education Committee published a comprehensive report on the future of Higher Education in Wales. If implemented this will result in radical and controversial change, not least the potential abolition of the University of Wales as a federal institution. Taken together all these changes mark a significant development of education policy in Wales.

The final report of the Assembly's Review of its procedures, carried out over the past year, was agreed in February. Paving the way for the forthcoming appointment of an independent Commission on the Assembly's powers, the Review recommends:

- Separation of the legislature from the executive and a rejection of the Government of Wales Act's establishment of the Assembly as a corporate body.
- Protection of the scrutiny powers of backbench members to hold the Executive to account.
- Measures to enable the Assembly to influence Westminster primary legislation more effectively.
- A strengthening of the policy development role of the Subject Committees, with ten new expert advisers to help the Subject Committees. One will be allocated to each Subject Committee. This will leave a pool of three, one of which will be a lawyer to monitor Westminster and European Union legislation.

Northern Ireland

It was another quarter of complex and contradictory signals from Northern Ireland.

On the one hand, there was an air of stability at Stormont, with the administration looking for the first time secure as far ahead as the May 2003 assembly elections—an aeon in the politics of the region. The new partnership of Mark Durkan (SDLP) alongside David Trimble (Ulster Unionist) as, respectively, deputy first and first minister bedded down well. The revised Programme for Government and budget were agreed by the assembly.

The parties, including the Democratic Unionist Party but minus Sinn Féin, came to remarkable agreement in the new Policing Board, on a police emblem and on the traumatic post-mortem on the Omagh investigation. And the SF leadership, which was under increasing US pressure, came closer than ever to endorsing the 'consent principle'.

On a wider canvas, with the lifting of the ban on SF ministers attending north-south meetings, solid

technocratic progress was made on that front. Even the apparently moribund British-Irish Council showed distinct signs of life.

Yet the quarter was also marked by growing unease over deteriorating intercommunal relations on the streets. Research highlighting intense segregation and sectarianism at interfaces was given widespread coverage. Ugly clashes continued in north Belfast, though the protest at the Holy Cross Catholic school was ended. The end-of-year statistics showed 2001 had been the most violent since the paramilitary ceasefires of 1994. A particularly poignant sectarian murder prompted huge protest rallies, organised by the trade unions.

Most of this nihilism stemmed from so-called Protestant 'alienation', and the Northern Ireland secretary warned that the region should not become a 'cold place' for unionists. But there was evidence, too, of a reciprocal hardening of Catholic attitudes, with growing support for a united Ireland. Drama-documentaries on 'Bloody Sunday', 30 years on, plumbed the deep historical reservoirs of minority grievance.

Moreover, a different unease began to be apparent at Stormont, a sense that if hitherto the danger had been that the ship of devolution would be grounded, now it might become becalmed. Executive Committee meetings were few and perfunctory, a major piece of 'home-grown' legislation was postponed and assembly plenary sittings were reduced owing to the paucity of executive business. The inability of the SF health minister, Bairbre de Brún, buried under a plethora of reviews and consultations, to stem the growth of hospital waiting lists symbolised the loss of forward momentum.

Scotland

The last quarter has been quiet in Scottish devolution following Henry McLeish's resignation as First Minister. Much commentary in the media has focussed on Jack McConnell's new cabinet. Generally deemed to be more left-wing, it remains unclear as to the direction it will take. McConnell's emphasis on service delivery chimes well with the New Labour message coming from London, though relations between London and Edinburgh are widely expected to be more fractious, but with little evidence to back this as yet.

McConnell's promise to 'do less better' has been enunciated though his intention to concentrate on five priority areas—health, education, transport, crime and jobs. This suggests a substantial load. Debate in the Parliament and media coverage suggests that health will be central stage come the elections to the Scottish Parliament. McConnell's confrontations with John Swinney, SNP leader, have focussed particularly on health in the last quarter.

A significant development in Executive-Parliament relations occurred when the Parliament, including a number of Labour MSPs, refused to back McConnell's preferred candidate, a Labour MSP, for deputy presiding officer and opted instead for a Tory MSP who had already indicated his intention to stand down at the elections.

English Regions

The English regional question remained dominated by the implications of the Government's forthcoming White Paper and the debates and conflicts surrounding it. A number of issues are worth reporting:

- Downing Street appeared to have agreed to the case for referendums for regional assemblies, but at the price of linking this to a move toward single tier local government.
- Some Whitehall departments continued to resist handing over powers to proposed regional assemblies in debates in the Cabinet Committee on Nations and Regions.
- On the other hand, the Treasury continued to develop its 'new regional policy', publishing a study of 'regional productivity' as part of the 2001 Pre-Budget report and, seemingly, offering an unexpected degree of financial flexibility to proposed elected assemblies.
- The CBI launched a strong attack on elected regional assemblies, mirroring arguments used by the DTI and RDA chairmen, and calling for RDAs to be left under control of government appointed 'business-led' boards.
- Ministers were in two minds about the publication date of the White Paper. The original March publication date appeared to be receding, with some ministers favouring a date in early May after the forthcoming local elections.

The Government published a Green Paper on planning, which, among other things, proposed transferring the planning powers of county councils to the regional level.

Regional Chambers were becoming more active around a wider range of issues. For instance, the South East regional assembly submitted proposals to the Government's inquiry on the future of the House of Lords, calling for regional elections.

The Conservatives announced a review of their policy on the regions. This seems likely to place themselves as the born again champions of England's 'historic' counties. The Conservative proposals for an elected House of Lords advocate counties as constituencies.

As the publication of the White Paper approached, substantially increased attention was paid to the regions at Westminster. Notably, in questions and debates, Conservative members rallied against regionalism, often in defence of the counties.

The wind appeared finally to leave the sails of the government's ambitions for elected mayors. Of seven referendums held between 7th December and 31st January, only one produced an affirmative vote.

The Centre

The Scottish Executive was criticised by the SNP on 30 January 2002 over the use of the Sewel resolution mechanism which allows Westminster to legislate on matters which are technically devolved to the Scottish Parliament. Mike Russell (SNP) charged the Scottish Executive with taking 'away decision making from Scotland' through its ready acceptance of the Sewel procedure. Mr Russell added that Sewel motions were meant to 'be the exceptions, not the rule' and that their continued, and frequent, use demonstrated a distinct lack of ambition on the part of the Executive. Since the Scottish Parliament was established in May 1999 there have been some 30 Sewel resolutions passed at Holyrood.

The Office of Secretary of State for Scotland came under further fire in February 2002 when an article in the Daily Telegraph suggested that Helen Liddell had such a light workload that she was able to work a three day week with time to spare to take French lessons at Dover House (5 February 2002). Coming only shortly after it had been suggested that the cost of running the Scotland Office had doubled during the last year such claims were likely to be particularly damaging (The Scotsman, 21 January 2002). Despite Liberal Democrat claims that the reduction in workload was a natural consequence of devolution and that it demonstrated the success of the devolution arrangements, the

SNP and Conservatives took a predictably more hostile approach. The Tory MP Teddy Taylor suggested that 'devolution had turned the position of the Scottish Secretary into a "political joke" (Daily Telegraph, 5 February 2002). While the SNP's Pete Wishart (North Tayside) tabled an early day motion on 6 February 2002 calling for the abolition of the Scotland Office. The following day an amendment to the SNP motion was lodged by the Labour MP David Cairns (Greenock and Inverclyde) praising the achievements of the Scotland Office and recognising its necessary role. At the time of writing the SNP motion had gained the signatures of only 4 MPs, while David Cairn's motion had gained the support of 23 MPs.

After a period of inactivity following its inaugural meeting in 2001 the Standing Committee on Regional Affairs met again on 18 December 2001. The Committee has been re-appointed with a new chair, the MP for the Scottish constituency of Clydesdale, Jimmy Hood, and three other new members: Henry Bellingham, Norman Lamb and John Mann. The Committee met on 18 December 2001 to discuss regional governance in England.

Parliamentary Reform

Reform of the House of Lords

The Government's November White Paper had proposed a 600 member second chamber, with 330 political members nominated by the political parties, 120 elected politicians to represent the nations and regions, 120 independent crossbenchers, 16 bishops and 12 law lords. The Commons held a full day debate on the White Paper on 10 January, and the Lords a two day debate on 9 and 10 January. In both Houses the Government's proposals were roundly criticised, but from different standpoints. In the Lords, few of the 80 peers who spoke supported election, which they feared would reduce the House's independence and expertise. In the Commons, most MPs supported election, and no Labour MP could be found to speak in support of the White Paper. Over 300 MPs, including 137 Labour rebels, had signed Fiona McTaggart's Early Day Motion calling for a 'wholly or substantially' elected second chamber. A subsequent loyalist EDM by Eric Joyce MP attracted just 15 signatures.

The Government claimed to be implementing the report of the Wakeham Royal Commission, but even Lord Wakeham criticised the predominance of party political patronage; the much reduced role for the independent Appointments Commission; the short tenure proposed for the elected members; and the failure to entrench the Parliament Acts.

On 14 February the Public Administration Select Committee published a detailed critique in their report The Second Chamber—Continuing the Reform (HC 494, http://www.publications.parliament.uk/ pa/cm200102/cmselect/cmpubadm/494/49402.ht m). The Committee recommended a much smaller second chamber of 350 members, with 60 per cent elected and 40 per cent appointed (of whom half would be independent crossbenchers). The appointed members would all be chosen by a statutory Appointments Commission. To reduce the chamber from its current size of 700 members, life peers who wished to stay on would have to stand for election by their peers, in two stages. The bishops and the law lords would lose their right to sit from 2009: for the law lords, this would allow time for provision of a properly constituted supreme court.

In a dramatic move, the Conservatives came out in support of a House of 300 members, 80 per cent elected by first past the post in 80 county-wide constituencies, with 20 per cent appointed as independent crossbenchers. The Liberal Democrats also support 80 per cent elected and 20 per cent appointed, but with election by proportional representation. The combination of both opposition parties favouring 80 per cent elected will put a lot of pressure on the Government to increase the elected element.

The Government will also come under pressure from its own supporters. Robin Cook has spoken of the need to find a new 'centre of gravity'. If the Government's proposals are to pass the Commons, this will need to be at least 50 per cent elected. The Select Committee hopes the Government will publish revised proposals in April, and then a draft bill to be considered by a Joint Committee of both Houses.

The Lords are unlikely to block a bill which commands a clear majority in the Commons. A strong theme in the parliamentary debates was the need for both Houses to work more effectively together, and for Lords reform to be part of a wider programme of parliamentary reform. Both Houses are thinking hard about their working practices, led by Robin Cook who chairs the Modernisation Committee in the Commons, and in the Lords by Lord

Williams through his new Leader's Group on Working Practices (whose report is overdue). But there is no forum for the two Houses to talk to each other. This was touched on in the report of the Lords Working Group on Management and Services, which issued a strong plea (12 February) for stronger leadership and strategic planning, not least in negotiating accommodation and joint services with the Commons (http://www.publications.parl iament.uk/pa/ld200102/ldselect/ldholoff/79/790 2.htm)

Modernisation Report on Select Committees

The long-expected report from the Modernisation Committee on select committees appeared to a muted press welcome on 6 February

The imprint of the Hansard Society Commission on Parliamentary Scrutiny can be detected in its recommendations-for a new Committee of Nomination under the chairmanship of the Deputy Speaker to allocate places on select committees in a nonpartisan fashion and for an agreed statement of core tasks for each committee to undertake annually. The committees are to be renamed scrutiny committees and generally enlarged to 15, with a small specialist support unit established to give them access to expert staff. Robin Cook, as Leader of the House, and member of the House of Commons Commission is in prime position to ensure rapid implementation of the report after a parliamentary debate expected in March. Full report available

http://www.publications.parliament.uk/pa/cm20 0102/cmselect/cmmodern/224/22402.htm.

The Cook Memorandum

On 12 December Robin Cook published a memorandum to the Committee in December floating various reform proposals, the most important of which, if implemented, is automatic use of the 'carry-over' of bills from one session to another, ending the perennial problem of legislative log-jam. This builds on a Modernisation Committee report of March 1998 (HC 543) recommending its use on selected bills. If carry-over for all public bills is accepted, there will be a profound change in the operation of the parliamentary year, with the ending of 'ping pong' between the two Houses at the close of each session. The Opposition have already signalled their unease in their latest policy paper Delivering a Stronger Parliament: Reforming the Commons.

Press attention, however, focused on the proposals to rearrange the parliamentary week, to make the Commons sit on Wednesday mornings and to schedule ministerial statements for midday, and to change the parliamentary year so that the Commons sat in September. Greater use of the internet and attempts to make the Commons more media and voter friendly were also floated. The Committee will consider these issues, with a full report expected in the spring. For the see http://www.publications.parliament.uk/pa/c m200102/cmselect/cmmodern/440/44002.htm.

Private Members' Bills

A varied constitutional crop of ten minute rule bills were introduced to the Commons, including Matthew Green's Elections (Entitlement to Vote at Age 16) on 18 December, Peter Bradley's Members of Parliament (Employment Disqualification) on 15 January, Graham Allen's Prime Minister (Office, Role and Functions), on 28 November, Kevin McNamara's Treason Felony, Act of Settlement and Parliamentary Oath on 19 December. None stand a chance of passing, but highlight a number of continuing, but controversial, constitutional issues.

The Scottish Boundary Commission

A consultation document on the size of the Scottish Parliament was published in December 2001 by the Scotland Office. Under s86 of the Scotland Act the guarantee to Scotland of a minimum of 71 Westminster seats was removed and the Boundary Commission required to apply the electoral quota for England (approximately 70,000) to Scotland. The Scotland Act also provides that the constituency boundaries for the Scottish Parliament be coterminous with those of Westminster. Consequently, under the Act, the size of the Scottish Parliament would be reduced to just over 100 MSPs.

However, the Scotland Office has stated that this element of the Scotland Act may be open to review should a compelling case be made that the Scottish Parliament maintain its 129 MSPs. Perhaps the most persuasive argument in favour of maintaining the current number of MSPs lies in the well-regarded work of the committee system of the Parliament—the Parliament's committees have been described as 'overworked' and any reduction in the number of MSPs would only serve to compound this problem. In addition it has been suggested that the minor parties would suffer through

having a more slender chance of gaining regional list seats, and that the smaller pool of MSPs would reduce the number of candidates able to fill ministerial office.

The Boundary Commission for Scotland published its review on 7 February 2002., recommending that the number of Westminster constituencies in Scotland should be reduced from 72 to 59. The recommendations are provisional and would see Edinburgh and Aberdeen lose one seat each and Glasgow lose three of its 10 Westminster constituencies. The Dunfermline East seat held by Gordon Brown would be merged into Dunfermline and West Fife, and the seats held by Alistair Darling in Edinburgh and John Reid in Lanarkshire would abolished under the proposals.

Lords Constitution Committee Starts Work

The Lords Select Committee on the Constitution formally started its inquiry into *Devolution: interinstitutional relations in the UK* at the end of February. This will examine relations between the UK's four governments, and also the role of the Parliaments and Assemblies in that process. The inquiry will take evidence until July, with visits to Edinburgh, Cardiff and Belfast to hear from local politicians and experts. Its report is expected to appear in the autumn.

Elections and parties

Women's Representation Bill Becomes Law

The Sex Discrimination (Election Candidates) Bill gained Royal Assent on 26 February. The unusually rapid progress of the Bill (reported in the last issue of the Monitor) continued in the House of Lords. At its second reading, on 20 December, it was welcomed on all sides of the House and passed without a vote. No amendments were tabled and its remaining stages were completed without debate. During the second reading debate Baroness Jay, previously Minister for Women, paid tribute to the research published by Meg Russell of the Constitution Unit which indicated the possibilities for legal change and was influential in the government's decision to introduce the Bill.

The Bill permits political parties to adopt positive action ('quotas') in selection of candidates for public office. Its remarkably smooth passage resulted from the Conservative Party's decision not to oppose its principles, despite their distaste for positive action. The parties must now decide what they will do to take advantage of their new freedoms. At its spring conference in early February there were strong indications that the Labour Party, at least, will reintroduce all women shortlists for the next round of parliamentary selections.

State Funding

The Electoral Commission published its report on spending by political parties at the 200l election on its website on 17 December at http://www.electoral-commission.gov.uk/register s.htm. The Conservatives continue to outspend Labour nationally, by £12.7m to £11.1m.

The Transport, Local Government and the Regions select committee has announced an inquiry into the funding of political parties (14 February press notice). The Mittal donation to Tony Blair has taken up several columns in the press in 2002, and the possibility of state funding was floated as a response by Charles Clarke. The subject was last visited by the (then Neill) Committee on Standards in Public Life in its fifth report of 1998 with the resulting Political Parties, Elections and Referendums Act 2000, which disallowed donations from individuals not on the electoral register. For full Neill text, http://www.archive.official-documents.co.uk/doc ument/cm49/4903/4903.htm.

Donations have already been ruled impermissible by the Electoral Commission under the new legislation (Independent 8 February 2002 Tory MP had to return donation). Neill concluded that the arguments on state funding were finely balanced, recommending an increase in Short money and policy development grants as a solution. The statutory instrument implementing policy development grants is due to come into force on 7 March, giving a total of £2m per annum in state aid, allocations being determined mainly by reference to share of vote, weighted by turn-out. (SI No 224 http://www.legislation.hmso.gov.uk/si/si2002/20020224.htm).

The grants apply simply to parties represented in the Commons. Sinn Féin get nothing, as a party which does not take the parliamentary oath. The 4 Sinn Féin MPs will however have access to House of Commons facilities following the decision in December 2001 to allow the Sinn Féin members access to Westminster. The 4 MPs took up their offices on 21 January 2002 and will receive MPs

allowances—their salaries however, will be lost for failure to take the oath of allegiance. The move was widely condemned by members of the Conservative party and the Ulster Unionists. Despite not officially taking their seats in the Commons chamber a report from the Standards and Privileges Committee has recommended a change to the Code of Conduct for Members to ensure that the Sinn Féin MPs register their interests within three months of election. (HC 624 http://www.parliame nt.the-stationery-office.co.uk/pa/cm/cmstnprv.ht m)

Alternative Voting Methods

The Independent Commission on Alternative Voting Methods published its report on 5 February (http://www.electoral-reform.org.uk gives background). It called for much greater experimentation with new technologies before widespread use in UK elections. The pilots of alternative methods of voting for the local elections in May 2002 were announced by the DTLR on 5 February. 30 councils are to take part, with projects ranging from Liverpool's digital TV voting to Swindon's early voting by internet (DTLR News Release 5 February 2002).

The Electoral Fraud (Northern Ireland) Bill

The Electoral Fraud (Northern Ireland) Bill has passed all its stages. It allows for an electoral identity card to be established to counter personation—a reminder that traditional forms of voting also carry risks.

The Civil Service and Government

Another response to the Mittal affair has been a call for an independent Public Standards Commissioner, made by both Tony Wright and the outgoing Commons Standards Commissioner, Elizabeth Filkin (Daily Telegraph 19 February p2 and 16 February, p6). Mittal was eventually eclipsed by the DTLR press office saga, which raises once again the question of a Civil Service Act. The Wicks Committee is about to launch a consultation paper on the boundaries between ministers and civil servants on March 4, inevitably re-visiting some of the territory it last explored in its sixth report, Reinforcing Standards in January 2000. The Public Administration Select Committee has, in turn, launched an enquiry into the relationships between special advisers and civil service press officers (Press Notice 25 February). The timetable for a civil service bill now looks firmer (Times 4 March p. 12) following assurances from No. 10. It is a project associated with the outgoing Cabinet Secretary Sir Richard Wilson, who favoured regulation for special advisers in an appearance before the Public Administration Select Committee on 1 November 2001. Sir Richard is due to make a speech outlining the principles behind a Bill.

Local government

Local Government White Paper

November's Local Government White Paper contained a raft of minor proposals, including Business Improvement Districts (BIDs), to be funded by a localised business rate increase; a more comprehensive performance assessment regime for councils; trialling of e-democracy; and some limited freedoms for high-performing councils, such as greater trading and borrowing freedom, less ring-fencing of capital grant.

A proposal to replace the Standard Spending Allowance (SSA)—the mechanism for allocating local government funding—was also made. Complaints about perceived unfairness, and the undoubtedly arcane calculations involved, have been common for some years.

The elected mayoral referendums held in the last three months have been disappointing for advocates. Only two further authorities—Newham and Bedford—have voted in favour. The single 'imposed' referendum in Southwark attracted a turnout of 11%, being held as a ballot-box election rather than the norm of a postal vote. This was also done for the vote in Bedford, leading to a 15% turnout. Elsewhere, there were decisive rejections in the rural authorities of West Devon and Shepway; in Plymouth, Durham City, Redditch and Harrow the vote was closer. Turnouts have risen slightly: in Plymouth and West Devon they touched 40%.

The elections for the first eight elected mayors will take place on May 2, alongside the local elections on that date.

The Electoral Commission released a report in January entitled *Reinvigorating Local Democracy: Mayoral Referendums in 2001* (http://www.electoral-commission.gov.uk/publications_pdfs/mayoralref.pdf). It made a number of recommendations, criticising the standard form of question for the mayoral referendum, and the provision that au-

thorities must withdraw publicity 28 days before the referendum vote. Few electorates have become interested in the election by that time. The report also drew attention to the number of spoiled ballots in the referendums of 2001, suggesting that the process of having identification forms signed for postal ballots was confusing. This was not an academic matter: in three authorities, the number of spoiled ballots was greater than the margin by which a 'yes' vote was obtained.

Europe

Debate on the Future of the EU

The European Convention has now started work on considering the EU's constitutional future. The issues it will consider include the adaptation of EU institutions for eastwards enlargement, improving the EU's democratic legitimacy, and the functions the member states and the Union should each discharge. The Convention is chaired by Valéry Giscard d'Estaing, former French President. The UK representatives are Peter Hain, Europe Minister at the FCO, and MPs Gisela Stuart (Labour) and David Heathcoat-Amory (Conservative).

Two aspects of the Convention's agenda have particular ramifications for the UK internally. First, the Convention will look at the role of regional governments in the working of the EU—something encouraged by the 'regions with legislative power' (including Scotland and Wales) in the Liège declaration of November 2001. This may presage the application of the principle of subsidiarity to determining what functions such regions should undertake—although the UK has always sought to limit subsidiarity to relations between member states and the EU.

Second, the Convention will consider the role of the Charter of Fundamental Rights adopted by the EU in 2000, and whether the Union should accede to the European Convention on Human Rights. Again, the UK has always denied that the EU Charter has legal effects, although other member states have disagreed with its view. With the role of the Charter under such scrutiny, however, the UK may find that position hard to sustain.

Human Rights

Anti-terrorism, Crime and Security Act 2001

Following passage of the contentious Antiterrorism, Crime and Security Act 2001, the Government formally derogated from Article 5 of the ECHR on 18 December 2001 to allow for the detention of suspected foreign terrorists who can not be removed or deported from the UK.

At the urging of the Joint Committee on Human Rights, the Government has accepted the need to make fuller statements of the reasoning behind Section 19 statements under the Human Rights Act concerning the compatibility of proposed legislation with the ECHR. The new requirements took effect on 1 January 2002.

The Government is expected to announce shortly that it will conduct a review of its obligations under international human rights instruments. It was promised, back in 2000, that this review would follow the successful 'bedding down' of the Human Rights Act. The review is expected to cover such questions as whether the UK should ratify further protocols under the ECHR (particularly the new Protocol 12 on discrimination).and whether persons in the UK should be allowed to make use of the optional arrangements for bringing individual complaints under a number of the UN's human rights treaties

Human Rights in the Courts

The Court of Appeal upheld, in February, a decision that the systems of fines for hauliers carrying illegal entrants into the UK was incompatible with the requirements of Article 6 of the ECHR (*International Transport and others*). Judgment by the House of Lords is awaited in a critical case concerning the extent to which judges may interpret legislation under Section 3 of the HRA to make it compatible with the Convention. In (1) W & B (Children), (2) B (Children), the Court of Appeal 'read in' new powers of action for judges under the Children Act 1989 to eliminate potential breaches of the Convention. The notion that the courts could use Section 3 to 'write in' new powers into existing legislation has been challenged by the Government.

Freedom of Information

The Information Commissioner invited five public authorities to run pilot publication schemes and invite feedback from users. The pilots allow public authorities to test their readiness for implementation and to offer practical experience to share with other organisations. You can see the schemes at:

- Department for International Development: http://www.dfid.gov.uk
- Health and Safety Executive: http://www.hse.g ov.uk
- Medicines Control Agency: http://www.mca.g ov.uk
- Ministry of Defence: http://www.mod.uk
- Public Record Office: http://www.pro.gov.uk

In February 2002 the Information Commissioner published her Publication Schemes Methodology and Publication Schemes Guidance together with an approval timetable for publication schemes. See http://www.dataprotection.gov.uk.

The Freedom of Information (Scotland) Bill was introduced into the Scottish Parliament on 27 September 2001. The report on the Bill by the Scottish Parliament's Justice 1 Committee was published on 11 January 2002 and debated in Parliament on 17 January. The motion was passed by 90 votes to 17 with one abstention. (http://www.scottish.parliament.uk/official_report/cttee/just1-02/j1ro2-01-01.htm.)

People on the Move

Elizabeth Filkin has stepped down as Parliamentary Commissioner for Standards, and is succeeded by Philip Mawer, Secretary General to the Synod of the Church of England. Mr Justice Toulson is to succeed Lord Justice Carnwath as chairman of the Law Commission in July this year. Jonathan Spencer is the Director General of Policy for the Lord Chancellor replacing Joan McNaughton. Elizabeth France has announced she will not be extending her term as Information Commissioner when it comes to an end in autumn 2002.

Constitution Unit News

Staff Update

Welcome to Oonagh Gay, a parliamentary and elections expert who joined us in February on secondment from the House of Commons Library; and to Simon King, also an elections expert, who joins us in March. They will jointly support the new Independent Commission on Britain's experience of PR voting, which will be launched in the summer. Farewell to Jeremy Croft, our human rights Research Fellow for two years, who has completed his work on *Human Rights and Whitehall* and *Health and Human Rights* (see Unit reports). Farewell shortly to Rebecca Blackwell, our excellent Administrator, who is planning to move to the West Country: see the vacancy advertised on the enclosed flyer (and please encourage people to apply).

Robert Hazell acted as Special Adviser to the Commons Committee for their inquiry into Lords reform (see page 5). Alan Trench has been appointed Special Adviser to the Lords Constitution Committee for their inquiry into Inter-Institutional Relations post devolution.

Meredith Cook is working closely with our team of experts to develop our work on freedom of information and data protection. The team comprises Jim Amos, Dick Baxter, Patrick Birkinshaw, Andrew McDonald, Bob Morris, and John Woulds. For further details email meredith.cook@ucl.ac.uk.

Project Reports

Confidence in Government

This recently published Briefing examines what impact Labour's programme of constitutional reform has had on attitudes towards the political system. As reported in Issue 17 of *The Monitor*, the Unit, in collaboration with the Centre for Research into Elections and Social Trends (CREST) is working on a major project examining the impact of constitutional reform on public attitudes to government. The Briefing contains a summary of the chapter recently published in the 18th British Social Attitudes volume and asks whether the reforms have, as their designers hoped, 'reconnected' citizens with their government. To answer this question, we draw on various questions asked as part of the British and Scottish Social Attitudes surveys in the summer 2000. The Briefing draws two main conclusions. First, that the decline in confidence in how we are governed that emerged during the last Conservative government was not reversed during Labour's first term in office. And secondly, that while the decline in confidence may have depressed turnout at recent elections, its role must not be exaggerated.

More surveys will be taking place in the summer as the project moves into its second stage of data collection. This project is financed by a grant from the Economic and Social Research Council as part of its 'Democracy and Participation' Programme. Catherine Bromley, John Curtice and Ben Seyd, *Has Constitutional Reform 'Reconnected' Voters with their Government?*, briefing, 8 pp., £3.

To order phone 020 7679 4977

Contact: Catherine Bromley, c.bromley@natcen.ac.uk, tel: 0131 559 5494

Commentary on Lords Reform White Paper

Robert Hazell wrote this briefing while Special Adviser to the Select Committee. The White Paper got a very bad press, but some good things got lost amidst the press hostility: curbing the Prime Minister's powers of patronage; putting the Appointments Commission on a statutory basis; introducing an elected element to represent the nations and regions; breaking the link with the peerage; and removing the remaining 92 hereditary peers.

The government deserves credit for maintaining the momentum on Lords reform. But to fulfil its wish for a House which is sufficiently 'authoritative and confident' the reforms should retain long terms of office, to bolster independence; strengthen the role of the Appointments Commission; and increase the elected element. Elections should be by fully open lists. There is a 10 page Appendix on open and closed lists, showing how semi-open lists (which the Government will probably propose) give little power to voters.

Robert Hazell, *Commentary on the White Paper: The House of Lords: completing the reform*, 38pp., £10. To order phone 020 7679 4977

Contact: Robert Hazell, r.hazell@ucl.ac.uk, tel: 020 7679 4971

Women's Political Participation in the UK

The British Council has published this report edited by the Unit's Meg Russell with contributions from Professor Joni Lovenduski of Birkbeck College and Mary-Ann Stephenson of the Fawcett Society. The report will be used as an educational resource in various countries in which the British Council operates, and there are plans to translate it into Chinese. It will also be of interest to students of politics and general readers within the UK.

The report has three main sections, looking at the background to women's under-representation, women's representation in elected office today, and women's participation in broader political activity. It contains numerous tables, as well as discussion of various forms of positive action used at all levels of government, the role of women's voluntary organisations, women in political parties and as voters and policy-making for women. It tackles the thorny question of whether women in politics 'make a difference' and includes a bibliography and list of useful web sites.

Meg Russell, *Women's Political Participation in the UK*, publications pack for the British Council

Contact: Meg Russell, meg.russell@ucl.ac.uk, tel: 020 7679 4977

Coalition Government in Britain

Following a two year research project, funded by the Nuffield Foundation, the Unit has published a major report on coalition government. The research was based on study visits to four overseas countries—Denmark, Germany, Ireland and New Zealand—in which seventy interviews were conducted with policy makers. The aim of the project was to identify and analyse the way that coalitions are formed and operate in these four cases, with a view to deriving policy lessons for the new coalitions in Scotland and Wales as well as for Westminster should coalitions become the norm at this tier.

The report analyses the following issues:

- The role of elections
- The constitutional rules covering the formation and termination of governments
- Negotiating a coalition
- The coalition agreement
- The political management of coalitions
- Strategies available to minority governments
- Coalitions at the sub-national level.

Ben Seyd, *Coalition Government in Britain: Lessons from Overseas*, report, 151 pp., £15, briefing, 8 pp., £5.

To order phone 020 7679 4977

Contact: Ben Seyd, b.seyd@ucl.ac.uk, tel: 020 7679 4977

Whitehall and the Human Rights Act 1998

The first year following the introduction of the Human Rights Act has gone well for the Government. It has focused mainly on the compliance aspects of the Act. The thoroughness of the Government's preparations has substantially reduced the risk of successful legal challenges in the courts and where these do occur its legal services have been quick to respond in a usually persuasive manner in the higher courts.

The Government has been less successful in developing its proposed 'human rights culture' and in mainstreaming and maintaining respect for human rights within the public sector. During the course of 2001, Whitehall has undergone significant organisational change in its handling of human rights matters and experienced a marked cooling towards the protection of certain individual human rights in the wake of the events of 11 September 2001. While the structures, systems and procedures remain in place, therefore, the sense of purpose that drove the preparation process is missing.

This report examines how the Government has tackled the implementation of the HRA during its first year. It considers how the 'missing' sense of purpose might be rekindled. The report advocates the need for a more active 'centre of knowledge' to champion and act as guardian of the European Convention on Human Rights within Government. It also examines what might be achieved in the human rights sphere through the work of regulatory bodies and a possible UK Human Rights Commission.

Jeremy Croft, Whitehall and the Human Rights Act: The First Year, 79 pp., £10.

To order phone 020 7679 4977

Contact: constitution@ucl.ac.uk, tel: 020 7679 4977

Bulletin Board

Forthcoming Unit Events

To book a free place at Unit events, please contact Matthew Butt on 020 7679 4977. Unless indicated, all events take place at The Constitution Unit, 29–30 Tavistock Square, London, WC1H 9QU. A location map can be found at http://www.ucl.ac.uk/constitution-unit/map/.

Seminar: The Joint Committee on Human rights: Past, Present and Future

Professor David Feldman: Legal Adviser to the Joint Committee on Human Rights 14 March, 6 p.m., The Constitution Unit, UCL

Seminar: Lessons from the First Three Years: the role of the Parliamentary Commissioner for Standards Elizabeth Filkin: Former Parliamentary Commissioner for Standards

15 April, 6 p.m., The Constitution Unit, UCL

Spring Lecture: A New Supreme Court for the United Kingdom

Lord Bingham of Cornhill: Senior Law Lord Supported by UCL Faculty of Laws 1 May, 6 p.m., Gustave Tuck Lecture Theatre, UCL

Conference: Access to Personal Information Keynote Address: Graham Smith: Deputy Information Commissioner In association with CAPITA 27 May, Central London

New Publications by The Constitution Unit

Enquiries: Capita tel: 020 7960 7722

For Constitution Unit publications please refer to the Unit's order form, or phone 020 7679 4977 to order:

- Mark Sandford, Further Steps for Regional Chambers, Constitution Unit report, Dec 2001, 64 pp., ISBN 1– 903903–07–6, £8.
- Robin Cook, *A Modern Parliament in a Modern Democracy*, State of the Union Annual Lecture, Dec 2001, 9 pp., £5.
- Ben Seyd, Coalition Government in Britain: Lessons from Overseas, Constitution Unit report, Jan 2002, 151 pp., ISBN 1-903903-06-8, £15, Constitution Unit briefing, 8 pp., £5.

- Robert Hazell, Commentary on the White Paper: The House of Lords—Completing the Reform, Constitution Unit briefing, Jan 2002 38 pp., ISBN 1-903903-09-2, £10.
- Catherine Bromley, John Curtice and Ben Seyd, *Has Constitutional Reform 'Reconnected' Voters with their Government?* Constitution Unit Briefing, Feb 2002, 8 pp., £3.
- Jeremy Croft, Whitehall and the Human Rights Act 1998: The First Year, Constitution Unit report, March 2002, 79 pp., ISBN 1-903903-08-4, £10.
- Meg Russell, Women's Political Participation in the UK, publication pack for the British Council, April 2002.

Publications Received

- LE CHEMINANT, P., 2001. *Beautiful Ambiguities: An inside view of the heart of government.* London: Radcliffe. ISBN 1–86064–719–7.
- CAMPAIGN FOR AN ENGLISH PARLIAMENT, 2001. The Constitutional Case for an English Parliament. Mansfield: Portshel.
- SLOAT, A, 2002. *Scotland in Europe: A study of multi-level governance.* Bern: Peter Lang. ISBN 3–906766–97–7.
- SCOTTISH PARLIAMENT, 2002. Scottish Parliamentary Statistics 2001. Edinburgh: Scottish Parliament. £11.50.
- ELECTORAL COMMISSION, 2002. *Reinvigorating Local Democracy? Mayoral referendums in 2001* [online]. Available from: http://www.electoral-commission.gov.uk/publications_pdfs/mayoralref.pdf.
- KERMODE, D., 2001. Offshore Island Politics: The constitutional and political development of the Isle of Man. Liverpool: Liverpool University Press. ISBN 0-853237-87-5.
- HOUGH, D., 2002. The Fall and Rise of the PDS in Eastern Germany. Birmingham: Birmingham University Press. ISBN 1-902459-14-8.

Websites

Information on academic and related events across the United Kingdom

http://www.niss.ac.uk/cr/events

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