



Brexit blues

The [previous issue of Monitor](#) was published just after the surprise result of the snap general election. The Prime Minister was back at the helm, but with a reduced number of MPs, and dependent on a confidence and supply arrangement with the Northern Ireland Democratic Unionist Party (DUP). We noted that the road ahead looked rocky.

So it has proved to be – though Theresa May remains in post, and the real parliamentary showdowns seem still to come. The Prime Minister has been dealt an exceptionally difficult hand – managing legislation on Brexit of unprecedented constitutional complexity, alongside the fractious negotiations with the EU, while leading a divided party in a House of Commons in which she has no partisan majority.

Prime Minister Theresa May meets EU Council President Donald Tusk to discuss Brexit, 26 September 2017 © [Number 10](#).

Over the summer, and [particularly during the party conference season](#), her leadership was regularly questioned, but must gain some stability from the fact that few would really want to be in her shoes. Meanwhile [rumours suggest](#) that she has used the threat of a Boris Johnson premiership to coax other EU leaders to the negotiating table.

As discussed on pages 2–3, the official Brexit negotiations have made slow progress. Despite Theresa May's attempted injection of momentum through her Florence speech in September, EU partners have not yet agreed to move on to 'Phase II' (i.e. post-Brexit trade arrangements), and a serious sticking point remains the so-called 'divorce bill'. Partly as a consequence, the prospect of a 'no deal' outcome has [increasingly been talked up](#). This is presented by some in the Conservative Party as a necessary negotiating strategy to get the EU-27 to give the UK what it wants, but others seem to view it with a [degree of relish](#). Meanwhile, [business groups](#) appear to be increasingly concerned.

One thing that remains little-known is the state of public opinion, and how that may develop. While the June 2016 referendum came up with a Leave result, today's question of what Leave should mean is a good deal more complex. As such, it is not readily suited to opinion polling. Here the results of the [Citizens' Assembly on Brexit](#), run by a team led from the Constitution Unit and funded by the ESRC (see page 15), can shed some useful light.

In this edition

Brexit	2–5
Parliament	5–8
Executive	8
Elections and referendums	8–10
Parties and politicians	10
Devolution	10–12
International	12–14
People on the move	14
Constitution Unit news	15–17
News from Constitution Unit Fellows	17
Bulletin board	18–19



Constitution
Unit Blog
www.constitution-unit.com

The Constitution Unit



Assembly members, who included more Leave than Remain supporters, expressed a preference for the kind of bespoke trade deal that the government says it is seeking. But members were very clear that if this cannot be achieved, a ‘no deal’ outcome was undesirable. They preferred that the UK remained a member of the Single Market and Customs Union to this. Politicians should reflect on such findings carefully, because boxing themselves in to no deal could prove electorally dangerous.

A key place for some of the tensions to be played out is during discussions on the government’s EU Withdrawal Bill (see pages 3–4). The bill implements the legal changes needed to make Brexit a reality, and is a particularly harsh first test of the minority Conservative government’s parliamentary prowess. In such delicate circumstances, a government would be well advised to steer clear of controversial legislation, but this one has no choice. Faced with hundreds of [amendments](#), many of them signed by Conservative backbenchers, the government has repeatedly delayed the start of committee stage for this otherwise urgent measure. In line with the findings in Meg Russell and Daniel Gover’s new book, [Legislation at Westminster](#) (see page 16), governments often trim their ambitions to ensure that bills are ‘parliament ready’ – but they normally have more wiggle room than this.

In recent years the risk of parliamentary defeat has been highest in the Lords, and remains so on this bill; but the prospect of Commons defeat is also now very real. On 22 October Labour’s Brexit spokesman Keir Starmer pledged to work with Tory rebels to change the bill, and set down [six key tests](#). These went far beyond reining back ‘Henry VIII powers’ (which the government seems likely to do), and included protecting workers’ rights and environmental standards, as well as giving parliament a vote on the final deal. Although some of these demands will anger Conservative hardliners, present conditions mean that the government may have little choice but to take a bipartisan approach. During the coming months, attention may shift increasingly to what form a parliamentary vote at the end of the process might take, and what its effect would be. [Experts point out](#) that this is far from clear. Meanwhile, the process is exacerbating territorial tensions over devolution arrangements, in ways which will be hard to resolve (see page 4).

Brexit is the toughest constitutional issue facing the new government, but not the only one. Action on the size

of the House of Lords is back on the agenda, following the publication of the Burns report (see pages 6–7). The decision on parliamentary boundaries (see pages 9–10) must soon be returned to. A solution to the collapse of government in Northern Ireland is ever more needed, and efforts to find one have resumed, but few hold out much hope (see pages 11–12). On the Unit’s agenda, a new [Independent Commission](#) (see pages 15–16) is contemplating the prospects for referendums, and how the UK might do them better.



Brexit negotiations

It has been another busy few months for Brexit. Since July the government has published a series of position and ‘future partnership’ papers, Theresa May has delivered a major speech in Florence and there have been five rounds of negotiations.

The position and future partnership papers were at least partly an attempt to address criticism that the government had provided insufficient clarity about its negotiating position. They covered a range of issues including [citizens’ rights](#), [Northern Ireland](#), [customs arrangements](#), and [foreign and defence co-operation](#). In their breadth and scope the papers suggest an emerging recognition of the enormously complex challenges facing the government. However, they offer little real detail on how to resolve them. Taken together, the papers do not seem to reveal a settled government view on the type of Brexit it is seeking.

It was hoped that Theresa May’s [Florence speech](#) on 22 September would finally resolve this, injecting the Brexit process with renewed momentum. A rancorous domestic debate over the summer (particularly [within the cabinet](#)) had, prior to the speech, been matched by the apparent stalling of the negotiations due to a lack of progress on the three Phase I issues – financial obligations, citizens’ rights and Northern Ireland. The Prime Minister’s much anticipated intervention sought to break this logjam and move things forward enough to enable the EU’s Chief Negotiator, Michel Barnier, to recommend that ‘sufficient progress’ had been made to start Phase II talks on the post-Brexit relationship – particularly UK–EU trade relations. To that end, May

adopted a much more conciliatory tone than before, declaring that the UK wanted to be the EU's 'strongest friend and partner'. The most noteworthy elements of the speech, though, were her assurance that the UK would honour the financial commitments 'made during the period of our membership', and her call for a 'period of implementation' for the final agreement, suggesting a new pragmatism in the government's thinking. While the response may not have been as unambiguously positive as May had hoped, Barnier was clear that the speech had created a '[new dynamic](#)'.

The press conferences concluding the [fourth](#) and [fifth](#) rounds of negotiations in September and October were accordingly rather more upbeat than previous such occasions. Following the October talks, Barnier declared that there was a 'new momentum' to the process and said that he hoped for 'decisive progress' on the Phase I issues before the end of the year. However, he spoke of a 'deadlock' over the financial settlement that meant he was not immediately able to recommend proceeding to Phase II. The [indications](#) are that Germany and France are among those unwilling to move forward without more certainty from the UK on this issue. Reflecting this mixed situation, the October EU summit [confirmed](#) that the talks could not yet move on to Phase II, but the leaders of the EU-27 did agree to begin their own preparations for making that move soon.



Michel Barnier, the EU's Chief Brexit Negotiator © [Piotr Drabik](#).

Taken together, the government's position papers and the Prime Minister's Florence speech suggest that the scale of the task is finally being understood. But time is running out. We are already over a quarter of the way through the two-year negotiating period. With six months allotted for ratification, that leaves just a year to agree the terms of the UK's withdrawal and some kind of roadmap for the new post-Brexit relationship, including an implementation period.

European Union (Withdrawal) Bill

The 2017–18 parliamentary session seems set to be dominated by debate on the [European Union \(Withdrawal\) Bill](#), the key measure implementing Brexit in UK law. Clause 1 of the bill repeals the European Communities Act 1972, and its remaining 18 clauses and nine schedules seek to deal with the immediate legal consequences. Formerly dubbed the 'Great Repeal Bill', a central aspect is – ironically – to bring a vast corpus of EU law into domestic legislation to ensure continuity post-Brexit, then allowing its subsequent amendment through UK channels.

The bill has been, since its earliest announcement, highly controversial. Not only does it implement the fundamentally contested matter of Brexit, but disentangling UK law from a body of rules built up over more than 40 years raises major practical and constitutional challenges. Among these the most high-profile has been the extent of power delegated to ministers to amend the existing body of EU law with limited parliamentary oversight. The treatment of devolved powers (see below) has also been subject to widespread criticism, including from the Scottish and Welsh governments. Yet the complexity of the exercise, coupled with the uncertainties given the ongoing Brexit negotiations and the need for speedy resolution, makes some imperfections seem inevitable.

The bill had its [Commons second reading](#) on 7 and 11 September. As it is a major constitutional measure, its committee stage will take place 'on the floor'. This will [begin later than originally anticipated](#) – not before MPs return from the autumn recess in mid-November – reflecting the contentious nature of what the government has proposed.

Two key House of Lords committees, unusually, reported before Commons consideration on what they see as its main deficiencies. The [Delegated Powers and Regulatory Reform Committee \(DPRRC\)](#) described this as 'one of the most important Bills in the constitutional history of the United Kingdom', and expressed grave concerns about the extent of power and discretion delegated to ministers. On the clauses allowing ministers to amend existing primary legislation via 'secondary' legislation, the committee suggested that the bill confers 'wider Henry VIII powers than we have ever seen'. It deemed the proposal of such a power *even to amend this bill itself* 'wholly unacceptable'. The [Constitution](#)

[Committee](#) issued an interim report, ahead of a more detailed inquiry, agreeing that the extent of delegated powers was ‘breath-taking’, ‘unprecedented and extraordinary’. It also raised significant concerns about the unclear status of EU law once added to the statute book, claiming the ‘multiple ambiguities in the Bill are deeply problematic’, and expressed concerns about arrangements regarding devolved powers.

Both reports will be taken very seriously by parliamentarians, and the issues they raised figured prominently in the second reading debate. The Commons [Procedure Committee](#) is now conducting an inquiry into improving scrutiny of secondary legislation, on which the [Hansard Society](#) has recently made proposals. Many argue that parliament, not government, should decide the level of scrutiny applicable to each subsequent change to this legal corpus, and hence want some kind of ‘sifting committee’ for the purpose. Various other issues in the bill are more fundamental, and harder to deal with. When it reaches the Lords, probably in the New Year, significant amendment seems likely. Before that its Commons passage can be expected to be lively, and potentially difficult for ministers.

The Constitution Unit is working with the Bingham Centre for the Rule of Law supporting an Expert Working Group exploring the rule of law issues in the Bill – see page 16.

Brexit and devolution

Tensions between the UK and devolved governments over Brexit have escalated in recent months with the European Union (Withdrawal) Bill (see above) a particular source of controversy. The bill proposes reserving to Westminster the new category of ‘retained EU law’, consisting of existing EU measures. This would [have the effect](#) of reserving powers in areas such as agriculture, environmental protection and fisheries that are currently exercised at EU level, but which are not listed among the reserved powers in the existing devolution legislation and therefore in principle devolved. In a strongly-worded [joint statement](#) the Scottish and Welsh first ministers described this as a ‘naked power-grab’ and an ‘attack on the founding principles of devolution’. They confirmed that they would not recommend that their legislatures pass legislative consent motions for the Withdrawal Bill without significant amendments to it, and later each published memoranda ([here](#) and [here](#)) detailing their

reasons. The requirement for consent is a convention, so the effects of this being withheld would be [political rather than legal](#).

The joint working between the Scottish and Welsh governments has extended so far as publishing 38 [amendments](#) to the Withdrawal Bill. These include proposals to remove the controversial reservation on ‘retained EU law’ and so transfer current EU powers to the devolved legislatures. The amendments have been [taken up at Westminster](#) by sympathetic MPs. It is not yet clear whether the government will be willing to reconsider the devolution provisions in the bill, though Theresa May has [proposed talks](#) with both First Ministers on the issue.



Scottish First Minister Nicola Sturgeon and Welsh First Minister Carwyn Jones meet to discuss Brexit, 22 August 2017. © [First Minister of Scotland](#).

As the Institute for Government’s Akash Paun has [argued](#), the underlying cause of the stand-off is a lack of trust between the governments. Strained intergovernmental relations can be traced in part to the failure to achieve anything close to agreement on Brexit. The Joint Ministerial Committee (EU Negotiations) was [set up](#) in autumn 2016 with the ambitious aim of developing a ‘UK approach and objectives’ (see [Monitor 65](#), page 10). But this did not meet between February and October and it has so far been hard to discern any significant devolved influence on the UK government’s negotiating positions. When the JMC (EN) did finally meet on 16 October consensus was reached on principles for the establishment of UK-wide frameworks to replace existing EU frameworks, [raising hopes of a breakthrough](#). However, this has not so far led to any softening of the [Scottish](#) and [Welsh](#) government positions on the Withdrawal Bill.

Northern Ireland, meanwhile, remains without an executive (see pages 11–12) and so without an official

voice at a time when the Irish border has been one of the key issues being negotiated in Brussels. Despite a strong desire on all sides to maintain an open border and free trade throughout the British Isles, it remains far from clear how this will be achieved if the UK leaves the Single Market and Customs Union. The UK government's [position paper](#) on Northern Ireland and Ireland calls for 'imaginative solutions', but this is not the same as actually providing them.

The Public Administration and Constitutional Affairs Committee (PACAC) has announced an [inquiry](#) into the implications of Brexit for devolution. The deadline for submitting evidence is 27 November.



Parliament and the minority government

[Monitor 66](#) (pages 2–3) reported uncertainty as to whether the minority Conservative government would have a majority on House of Commons public bill committees. This issue came to a head in September. After failing to reach agreement with opposition parties on the composition of the Committee of Selection, which is usually responsible for appointing members of such committees, the Leader of the House tabled a [motion](#) to, 'notwithstanding the practice of the House', establish a new body titled the '[Selection Committee](#)' with a government majority. This would appoint committees 'in such a way that where a committee has an odd number of members the Government shall have a majority, and where a committee has an even number of members the number of Government and Opposition members shall be equal'.

The proposal was fiercely criticised by the opposition, with Labour leader Jeremy Corbyn [describing](#) it as an 'unprecedented attempt to rig parliament and grab power'. When the motion was debated on 12 September, however, Leader of the House Andrea Leadsom defended it by citing the government's 'working majority' in the chamber as a result of the confidence and supply agreement with the Democratic Unionist Party (see [Monitor 66](#), page 6). She also drew attention to similar arrangements during previous periods of minority government, including under Labour in the 1970s. The motion was ultimately [agreed by 320 votes to 301](#), with no government rebels.

The minority government's approach to opposition days has also caused some controversy. In July, the Speaker granted an [emergency debate](#) on the scheduling of these after none had been arranged for before the summer recess. The first opposition debates of the parliament eventually [took place on 13 September](#), with Labour tabling motions on NHS pay and tuition fees. Both posed potential difficulties for the government and so the Conservatives [opted to abstain](#). Subsequently it was [reported](#) that the government might routinely take this approach to opposition motions. This provoked a furious response from opposition MPs, who argued that the government was not taking parliament seriously, and led to a further [emergency debate](#) being granted. During this Leadsom said that the government would assess future motions 'case by case'. The government [abstained](#) again in the vote following an opposition day debate on the roll-out of universal credit, held on 18 October.

House of Commons select committees

The process of establishing departmental select committees in the new House of Commons was completed in September. The only change to the allocation of chairs between parties compared to 2015–17 was for the Liberal Democrats to gain the Science and Technology Committee from the Conservatives. The chairs of 17 committees took up their positions unopposed, while the remainder were [elected by the whole chamber on 12 July](#). Perhaps the most striking result was the election of Conservative MP Tom Tugendhat to chair the Foreign Affairs Committee, toppling incumbent Crispin Blunt. Tugendhat is the first 2015 intake MP to become a committee chair. Other results included 'soft Brexit' advocate and former cabinet minister Nicky Morgan defeating prominent Brexiteer Jacob Rees-Mogg in the contest for the vacant chair of the Treasury Committee.



Tom Tugendhat © [UK Parliament](#).

As things stand, chairs who have held their positions since 2010 will be required to step down in 2018, under a [standing order](#) stating that no select committee can be chaired by somebody who has been chair for ‘the two previous Parliaments or a continuous period of eight years, whichever is the longer’. This would affect four current chairs, including the Public Administration and Constitutional Affairs Committee’s Bernard Jenkin. In its [final report](#) of the 2015 parliament the Procedure Committee recommended that its successor should review this standing order ‘as a matter of urgency’. At the time of writing no such inquiry has been announced, but [media reports](#) have suggested that the rule will be relaxed.

Ballots to elect other members of committees take place within party groups, and while Labour pointedly held their elections early, Conservative members were not elected until after the summer recess. This resulted in an extended ‘[scrutiny gap](#)’ following the April prorogation, particularly affecting oversight of the Brexit negotiations. Once established, several committees were quick to announce [Brexit-related inquiries](#).

At the time of writing the Liaison Committee, which brings together other committee chairs, has still yet to be set up. As a result Theresa May has not appeared before a select committee since December 2016. The delay in establishing the committee has been [described](#) as ‘absurd and indefensible’ by the Speaker, John Bercow.

English votes for English laws

The English votes for English laws (EVEL) procedures continued to operate during the initial months of the 2017 parliament. As of early October, only one bill has so far been certified by the Speaker – in [that case](#) as containing clauses relating only to England and Wales. Contrary to the [fears of some](#), the [European Union \(Withdrawal\) Bill](#) (see pages 3–4) did not have any provisions certified under EVEL.

A [new website about EVEL](#) has been launched to monitor its operation. ‘Project EVEL’ is a collaboration between researchers at Queen Mary, University of London and the University of Cambridge. In addition to a short explanatory guide to [how EVEL works](#), the website also features a [new publicly accessible database](#) detailing every occasion on which legislation has been certified under EVEL, which will be updated as new cases arise.

The website can be accessed at www.evel.uk, and you can also follow the project on twitter at [@ProjectEVEL](#).

With the prospect of a Labour government looking more likely than it did before June, attention has turned to how the party might respond to EVEL and the English Question. Michael Kenny has [written for the Constitution Unit blog](#) on the available options.

Proposals on shrinking the Lords

On 31 October the [report](#) of the [Lord Speaker’s Committee on the Size of the House](#), chaired by Crossbencher Lord Burns, was published. It proposes fairly radical change, albeit to be delivered incrementally and without legislation (for a longer summary, see [our blog](#), and for Meg Russell’s response see [here](#)).

The growing size of the Lords has been a running sore for years, and [particularly since David Cameron became Prime Minister](#). It now stands at [around 800](#), despite almost universal agreement that the Lords should be no larger than the (650-member) House of Commons. With no regulation of either Lords appointments or departures the chamber’s size is unmanaged, and has become unmanageable.

The Burns committee’s central recommendation is that peerages should in future entitle appointees to a 15-year non-renewable term in the Lords, rather than life membership, and should be distributed between the parties using a formula based on an average of votes and seats at the most recent general election. The size of the chamber would ultimately be fixed at 600, with a transitional phase during which a principle of ‘two out, one in’ would apply, and all groups in the chamber would be required to meet fixed targets to reduce their numbers. The report’s projections suggest that the Lords would reach 600 members in around 11 years. A swifter reduction could be achieved under a stricter system, but the committee emphasised the need for a regular influx of ‘new blood’ into the Lords during the transition. This is also necessary in order to retain party balance, and to ensure that there is a pool of members set to retire automatically in 15 years’ time. Crossbenchers would retain the same share of members as now (around 22%), and once the chamber had reached its target size there would be a steady total of 40 appointments per year.

The proposals are carefully crafted in order to be implemented through House of Lords standing orders, rather than requiring a bill – given the potential difficulties of passing new legislation. However, they will stand or fall on whether the Prime Minister makes a commitment to adhere to the new appointments regime. Notably, since becoming Prime Minister Theresa May has refrained from the kinds of political appointments that have led to the current problem. She has so far appointed just eight peers – three to serve as ministers (one in [June](#) and [two in October](#)), the other [five as non-party peers](#) falling into ‘quasi-automatic’ categories, including the new Lord Chief Justice and the retiring Chief of the Defence Staff and Metropolitan Police Commissioner.

The Burns report is likely to be debated in the Lords fairly soon. In future months the House of Commons Public Administration and Constitutional Affairs Committee may also report on the size of the Lords, following suspension of its inquiry on this topic before the general election.



Question time in the House of Lords, 26 September 2017. This image is subject to [parliamentary copyright](#). www.parliament.uk.

The Salisbury-Addison convention and minority government

On 20 October the House of Lords Constitution Committee [published a short report](#) on the Salisbury-Addison convention, and whether this should be considered to apply in the new situation of minority government. The convention demands that the House of Lords should not block wholesale bills that implement government manifesto commitments, or pass ‘wrecking’ amendments to them. It dates to 1945, when the Labour government had just won a landslide, but faced a

Conservative-dominated second chamber. This report essentially just raised the question of the convention’s status in the current climate, largely comprising an appendix made up of five written submissions – from the main group leaders in the Lords, and the Unit’s Meg Russell.

The submissions provide interesting contrasts of interpretation. Leader of the House of Lords Baroness Evans of Bowes Park stated that the ‘Government is clear that the Salisbury-Addison convention... continues to apply’, while the Labour Shadow Leader Baroness Smith of Basildon stated that it is ‘far from clear that [it]... was ever intended to apply to minority Governments’. Likewise, the Crossbench Convenor Lord Hope of Craighead suggested that ‘it is hard to see why it should apply to a minority government’. All witnesses noted, however, that in practice the Lords rarely blocks any government bill. Meg Russell hence described the convention as something of a ‘red herring’, suggesting that it would be ‘both considerably more accurate and transparent’ to focus on this wider presumption. For now, the Constitution Committee has simply stated that it ‘may return to this subject in the future’, noting that ‘it is valuable to publish these submissions to aid understanding’.

Lords sessional committees

In accordance with the practice of recent years, the Lords Liaison Committee proposed the creation of three ad hoc select committees at the start of the new parliamentary session to inquire into major current issues that cut across departmental boundaries. One of these – on [Artificial Intelligence](#) – is only tangentially related to constitutional affairs. A second – [Citizenship and Civic Engagement](#) – focuses on the rights and responsibilities that should be associated with UK citizenship, with a particular focus on their impact on social cohesion.

The third relates to [Political Polling and Digital Media](#) and is chaired by Lord (David) Lipsey. It has identified five areas of primary interest: polling methods and accuracy; the influence of polls on voters and politicians; media coverage of polls; whether the current system of self-regulation in the polling industry is ‘fit for purpose’; and the impact of social and digital media on ‘the way people interact with opinion polls and their accuracy’. The committee has held several evidence sessions with academics and others. It is due to report by March next year.

Restoration and renewal of the Palace of Westminster

Over a year has now passed since a joint committee [reported](#) on restoration and renewal of the Palace of Westminster, recommending a full decant of MPs and peers while the work takes place (see [Monitor 64](#), page 4). Votes in both parliamentary chambers on restoration and renewal have long been promised, but repeatedly delayed. The Leader of the House of Commons, Andrea Leadsom, has [announced](#) that they will finally be held in December. However, instead of asking MPs and peers to endorse the committee's proposals, the motion put before both parliamentary chambers will seek to delegate the final decision to a sponsor board. This body would be invited to examine three possibilities – a full decant, a partial decant (where the Commons and Lords would be renovated one at a time) and a third option that would see parliament retaining a limited 'foothold' in the Palace of Westminster during the work, for example through continuing to hold State Opening there.

The obstacles that may be faced in reaching consensus on restoration and renewal were highlighted by a row over a [separate renovation of the Elizabeth Tower](#). It was announced in August that, during the four years of this work, Big Ben's chimes will be heard only on special occasions such as Remembrance Sunday and New Year's Eve. This decision had been approved by the House of Commons Commission, but its announcement prompted a [backlash](#) from some MPs, [including the Prime Minister](#). Following this, the Commission announced a review.



The Elizabeth Tower surrounded by scaffolding, 1 July 2017. © [Dun.can](#).

Executive



New cabinet committees

The government's updated list of [cabinet committees](#) was published on 20 July. There are just five full committees, with ten sub-committees. Brexit dominates the agenda, and the Prime Minister chairs the EU Exit and Trade Committee, which has three sub-committees, on the Negotiations, International Trade, and European Affairs. There are no longer committees on Public Expenditure or on Constitutional Reform. The Home Affairs Committee has become a sub-committee of the Social Reform Committee, also chaired by the Prime Minister. As an indication of how little spare capacity the new government has for social reform, it has established just four implementation taskforces, compared with ten set up by David Cameron in 2015. They are on Housing, Digital, Modern Slavery and Immigration. Damian Green, the First Secretary of State, chairs a total of eight cabinet sub-committees and taskforces.

PACAC inquiry into the civil service

The Public Administration and Constitutional Affairs Committee (PACAC) has announced that it is to resume its inquiry into the effectiveness of the civil service. The inquiry was unfinished at the time of the general election, resulting in publication of an [interim report](#). The committee is [focusing](#) on the civil service's capacity to deliver Brexit and on the relationship between ministers and officials. The deadline for submitting evidence is 1 December.

Elections and referendums



Electoral Commission reports

The Electoral Commission has begun to report on the administration of the 2017 general election.

Its [first report](#) addressed electoral registration. The number of voters on the register at the time of the election – 46.8 million – was the highest ever. The Commission notes that online registration 'has

significantly improved access to elections in Great Britain since it was introduced in June 2014', and the great bulk of registration applications are now made online. But it also highlights two limitations. First, online registration is not yet available in Northern Ireland: the Commission wants this to change as soon as possible. Second, applications by people who are already registered impose significant administrative burdens on local election officials. Between 30% and 70% (depending on the area) of the applications made in the run up to the general election were from such people. The Commission points out (as it has in the past) that it is now easier to apply to register than to check whether one is already registered. It proposes, among other measures, a system allowing electors to check their status online.

The Commission has also reported on [donations received by political parties](#) during the election period. Counting only donations above the minimum reporting thresholds, the Conservatives in the second quarter of 2017 received £24.9 million, Labour £10.2 million, and the Liberal Democrats £4.9 million.

The Commission's [report on the 2017 Scottish local elections](#) also deserves attention, as it includes the latest research on the impact of enfranchising 16- and 17-year-olds. In line with experience elsewhere, the report finds that 16- and 17-year-olds turn out more and are, at least in the ways measured, better prepared for voting than 18–24-year-olds. It also highlights the Commission's work in schools to raise awareness in advance of the elections.

Voter ID trials

The government [announced](#) in September that trials will be held in certain local authority areas in 2018 requiring voters to show ID at the polling station. The areas – which all volunteered to participate – were initially to be Bromley, Gosport, Slough, Watford and Woking. Slough, however, subsequently (and controversially) [pulled out](#). In addition, Tower Hamlets will test ways of improving the security of postal voting.

The trials follow the [Pickles review](#), published last year (see [Monitor 64](#), page 8), which advocated an ID requirement as one of various changes designed to tackle electoral fraud. Preceding the Pickles review were two reports by the Electoral Commission: the [first](#), published in January 2014, recommended the principle

of requiring ID to vote; the [second](#), in December 2015, explored the details of how this might be done. The announcement of the trials was [welcomed](#) by the Electoral Commission's Chief Executive, Claire Bassett.

Two of the five original trial areas – Slough and Woking – were among sixteen local authorities identified by the Electoral Commission in its 2014 report as being at particularly high risk of fraud. According to the government's announcement, 'The form of identification to be used will be set by the councils, but the pilot will involve trialling both photo ID and non-photo ID to see what is most effective and efficient.'

What will happen after the trials remains unclear. The [Conservative manifesto](#) for the June election said that the party would 'legislate to ensure that a form of identification must be presented before voting'. Amidst a legislative programme packed with contentious Brexit-related measures, however, it appears unlikely that the matter will be high on the government's list of priorities.

Boundary reviews continue

The process of reviewing the boundaries of Westminster parliamentary constituencies took its latest step forward on 17 October, when the Boundary Commissions for [England](#), [Scotland](#), and [Wales](#) published revised proposals taking account of feedback on the initial recommendations that they produced last year. The Boundary Commission for Northern Ireland is expected to set out revised proposals in the spring.

It is now widely assumed, however, that the proposals will never be implemented. They are designed not only to adjust for population shifts over recent years, but also to reduce the number of seats from 650 to 600 and to apply the new, narrower band of permitted variation in constituency sizes that was set out in the 2011 [Parliamentary Voting System and Constituencies Act](#). They therefore have many parliamentary opponents among parties and individual MPs who will lose out. Importantly, the DUP issued a [statement](#) in September saying the changes proposed for Northern Ireland 'would produce an unrepresentative political result that would have the potential to have far-reaching and negative political consequences for the constitutional stability of Northern Ireland'.

A [Times article](#) in September suggested that the government might scrap the current review and initiate a

new review based on 650 constituencies. That, however, would require primary legislation. A completed review before a 2022 election will be possible only if such legislation is passed soon. Given the legislative demands of Brexit, this may be difficult. The alternative is that parliament might simply fail to adopt the proposed new constituencies, so the existing boundaries – based on 2000 population figures – would limp on for yet another electoral cycle.

Fixed-term Parliaments Act

The Conservative commitment to repeal the Fixed-term Parliaments Act, contained in the party's [2017 general election manifesto](#), has been put on hold for the time being. Instead the government has [stated](#) that it will await the recommendations of the committee which must be established under the Act in 2020 to review its operation. The ultimate aim is still repeal: the government has stated that it is right for the committee to review the operation of the Act, before repealing it, to inform decisions about the nature of the repeal. Repeal will not be straightforward: the prerogative power of dissolution was abolished by the Act, and the government will need to decide whether to seek to revive it, or to find some alternative mechanism.

Parties and politicians



CSPL review of intimidation of parliamentary candidates

The Committee on Standards in Public Life (CSPL) is holding a [review](#) of intimidation of parliamentary candidates, following a request from the Prime Minister. A number of MPs from both of the main parties have spoken publicly about abuse received during the 2017 election campaign, including [Diane Abbott](#) and [Sheryll Murray](#). The CSPL's terms of reference are to examine the nature of this problem and consider whether existing measures 'are satisfactory to protect the integrity of public service; and whether such measures are (a) effective, especially given the rise of social media, and (b) enforceable'. It will produce a report, including recommendations for short- and longer-term action, and identify examples of good practice. On 14 September, the [committee](#) took public evidence from representatives

of the three main parties. Academics from the [Parliamentary Candidates UK](#) project, including the Unit's Dr Jennifer Hudson, have provided the committee with [evidence](#) from a survey of 825 candidates who stood at the 2017 election. This found that 68% of Conservative candidates and 36% of Labour candidates reported experiencing some form of harassment, with more female than male candidates reporting harassment.



Diane Abbott © [UK Parliament](#).

Devolution



Scotland

Brexit has of course dominated political and constitutional debate in Scotland. Its implications for devolution are covered elsewhere (see page 4), but it has also had reverberations across Scottish politics. One dog that definitely has not barked is any surge in support for Scottish independence. [Polls](#) still have it at over 40%, but, if anything, declining slightly. First Minister Nicola Sturgeon's initial reaction that a second referendum was '[highly likely](#)' now seems ill-judged. Most recently she has said she '[does not know](#)' when another referendum will take place.

The SNP, however, remains in government and retains strong, if [slightly slipping](#), electoral support. After a year in which Holyrood passed no substantive legislation at all, Sturgeon announced a relaunch with a [list of proposed bills](#), and most notably opened a debate on [whether taxation should increase](#). To get their budget through, the government had previously agreed a small adjustment to tax bands (see [Monitor 65](#), page 10); but now changes to tax rates may be on the table.



Kezia Dugdale © [The Scottish Parliament](#).

Labour favours such a change – certainly for top earners. The party is now competing strongly with the SNP to regain left of centre votes in Scotland’s central belt, but was hit by the unexpected [resignation](#) of leader Kezia Dugdale in August. The competition to succeed her is between Richard Leonard and former MP Anas Sarwar, both of whom have been MSPs only since 2016. Leonard, [seen as the ‘Corbynite’ candidate](#), is the favourite. The result will be announced on 18 November.

Wales

At an event celebrating the 20th anniversary of the Welsh devolution referendum, the First Minister, Carwyn Jones, [announced](#) a Commission on Justice in Wales. The Commission will be headed by Lord Thomas of Cwmgeidd, the recently retired former Lord Chief Justice of England and Wales. Its remit is to ‘deal with the unfinished business from the Silk Commission, which made a number of carefully reasoned, evidence-based recommendations, in respect of justice – covering the courts, probation, prisons and youth justice’.

One crucial element that the Commission will focus on is the issue of whether Wales should have a separate legal jurisdiction from England. The possibility of a Welsh jurisdiction has been debated for some time now: since 2010 it has been the subject of a [Plaid Cymru paper](#), a Welsh government [consultation](#) and an [inquiry](#) by the National Assembly’s Constitutional and Legislative Affairs Committee. It was also discussed in a joint Wales Governance Centre and Constitution Unit [report](#). Advocates argue that there are a number of issues that the National Assembly for Wales needs to be able to regulate in order to legislate effectively without affecting England in the process. During the [disagreement](#) that

occurred between the Welsh and British governments over the draft Wales Bill, the Welsh government published its own [‘alternative bill’](#) that included provisions for creating a ‘distinct’ legal jurisdiction. This would be a compromise between the status quo and an entirely separate jurisdiction, and is among the options likely to be examined by the Thomas Commission.

Meanwhile, the [Expert Panel on Assembly Electoral Reform](#) is due to report in November. The Panel was created in February by the Assembly’s Presiding Officer to examine three issues: the number of members that the Assembly needs to perform its role effectively; the electoral system through which it is elected; and the minimum voting age for Assembly elections. It is chaired by Professor Laura McAllister of Cardiff University; the Unit’s Deputy Director, Alan Renwick, is one of its members.

Northern Ireland

Negotiations to form a political Executive in Northern Ireland have resumed since the summer. With no Executive since January, the bureaucracy struggles on without being subject to ministerial authority, local or Westminster. The institutions had not voted a budget for 2017–18 before their [collapse](#), and the funds available under emergency provisions are running out. Without a political deal soon the Secretary of State, James Brokenshire, will need to [intervene](#).

A reversion to direct rule would be highly controversial. The powers to impose this were renounced in 2006 at nationalist behest and any revival would need fresh legislation. This could open the way to a conspicuous Irish role in Northern Ireland affairs and would revive the British government’s [2006 commitment](#) to an Irish Language Act. Brokenshire could call a new Assembly election – but that would if anything entrench division further. The least bad solution, depressingly, may be muddling through without the old direct rule structures, but with essential intervention from London on matters of urgency, while a political way forward is pursued.

All parties say they are committed to finding that, though Sinn Féin’s actual willingness to do a deal in present circumstances (especially given the potential impact of Brexit) is [widely questioned](#). The British and Irish governments, though both eager to see devolution restored, have less influence than before, and the British government’s position as honest broker is compromised

by its Westminster deal with the DUP. Tensions between the two governments have increasingly become evident over Brexit and the unresolved issue of the border.

If a way forward is found on Brexit it might unlock a compromise on resumed devolved government, perhaps even a lasting one. But this seems unlikely at present. Politics has already regressed to a more sectarian model, with the main parties playing essentially to their own constituencies. The danger is that Northern Ireland continues on that downward path, after which resurrecting even the highly imperfect arrangements of the Good Friday Agreement, and the understandings that underlie them, is far from certain. Quite apart from its human consequences, that would mean the reversal of 30 years' intensive effort by British governments, among others. But this prospect as yet seems to be having little impact on thinking at the top levels in London.



James Brokenshire © [UK Parliament](#).

English regional devolution

English regional devolution continues its halting progress in the latter part of 2017. [Media reports](#) have indicated that a 'North Tyne' devolution deal, involving Newcastle, North Tyneside and Northumberland, remains in the offing, and that the government has indicated that two prospective county deals – [Devon and Somerset](#), and [Lancashire](#) – could be concluded without an elected mayor (in line with the Conservatives' [2017 manifesto](#)).

Meanwhile, the Sheffield devolution deal [collapsed](#) in early September. Doncaster and Barnsley opted to leave the deal to pursue a 'One Yorkshire' deal, though ministers have previously indicated that this is not on offer. Initial reports have suggested that the Sheffield metro-mayor election in May 2018 will go ahead in any case, though this remains uncertain.

Discussions are underway regarding the formation of a 'Council of the North', encompassing local political leaders, MPs, business and faith leaders. [Reports](#) indicate that a first meeting is targeted for summer 2018 in Newcastle. The idea was promoted by papers from the [Institution of Civil Engineers](#) in September and from [IPPR North](#) in March. Initial aims include lobbying for increased infrastructure investment and influencing Brexit negotiations.

Little new information on either major party's devolution policy became available at the party conferences in the autumn. Labour leader Jeremy Corbyn did [state](#) that 'Piecemeal devolution to certain parts of the country is not devolution of the sort that we would have ever envisaged as a party', but no explicit line has emerged.

International



Independence referendums in Catalonia and Kurdistan

September and October saw deeply contested independence referendums take place in the Kurdistan region of Iraq and in the Spanish autonomous community of Catalonia. Both were held by regional authorities without the consent of their national governments and both have been deemed 'unconstitutional'. The [Spanish Constitutional Court](#) and the [Iraqi Supreme Court](#) suspended the respective referendums while their constitutionality was assessed, but both polls went ahead regardless.

On 26 September, residents of the three provinces that make up the semi-autonomous Kurdistan Region of Iraq and three disputed areas were asked whether they wanted Kurdistan to be an independent state. According to the region's Election Commission [72%](#) of registered voters cast a vote. Kurdish leaders recognised that the referendum, in which [94%](#) of those participating voted for independence, would not be binding. However, they had hoped that it might mandate secession negotiations with Baghdad. The Iraqi prime minister, Haider al-Abadi, has refused to enter talks with the Kurdistan government unless the result of the referendum is nullified. The Kurdish government has [ruled this out](#).



Pro-independence protests in Catalonia. © [Lohen11](#).

The Spanish government launched a fierce attempt to prevent the referendum on Catalanian independence. Spanish national police [raided regional government buildings](#), confiscating millions of ballot papers and arresting 14 Catalan officials. On the day of the referendum, 1 October, the national police and Guardia Civil [forcibly shut down polling stations](#) and confiscated further ballot papers. The Catalan President, Carles Puigdemont, declared a [result](#) of just under 90% in favour of independence with a turnout of 42.3%. Ten days later Catalan leaders [signed a declaration of independence](#), but asked the Catalan parliament to suspend its implementation to allow time for talks with Madrid. Spain's Prime Minister, Mariano Rajoy, responded by [threatening](#) to bring Catalonia under direct rule using Article 155 of the [Spanish Constitution](#). After the Catalan government failed to back down, he began to [implement that threat](#). In response the Catalan parliament passed a motion [declaring independence](#). Rajoy has ordered that a [fresh election](#) should be held in Catalonia on 21 December.

Irish constitutional referendums

The Irish government has [proposed eight constitutional referendums](#) to take place during 2018 and 2019. Amendments to the 1937 [Constitution](#) are possible only if they are agreed by the *Oireachtas* (the Irish parliament) and then by a popular vote.

Some of the proposed changes will follow recommendations of the [Constitutional Convention](#), which ran from 2012 to 2014. The government intends

there to be votes on removing the offence of blasphemy from the constitution, together with amendment or removal of the provision referring to the role of women in the home. Referendums on divorce, voting rights and elected mayors are also planned.

The most high-profile vote will be on a proposal to amend the almost total constitutional ban on abortion, which the government aims to put to a standalone referendum in May or June 2018. The [Irish Citizens' Assembly](#) (the successor to the Convention) recommended in April 2017 that there should be no restrictions on abortion in the early stages of pregnancy and that terminations should also be allowed in specified circumstances at later stages. The final wording of the proposed constitutional amendment will, however, likely be more conservative, as it will emerge from an all-party *Oireachtas* committee that is currently considering the issue. The *Taoiseach*, Leo Varadkar, has [indicated](#) that he may not vote for the measure if he does not approve of the wording.

Indeed, given the highly contentious nature of the issues and the government's precarious parliamentary position, it cannot be presumed that any of its plans will reach fruition, at least in the form or on the timetable announced.

Judicial reform in Ireland

The Irish *Oireachtas* (parliament) is considering significant reforms to judicial appointments and to the organisation of the judiciary. The [Judicial Appointments Commission \(JAC\) Bill 2017](#) proposes a JAC (based loosely on that for England and Wales) which will conduct selection exercises and recommend three names to the government for each appointment. The bill proposes a lay chair and lay majority on the 13-member JAC, with only three positions allocated to judges. This has been the subject of profound judicial disquiet.

The bill requires only that the government 'first consider' JAC recommendations. Significant restrictions on government discretion in this area are generally thought to be unconstitutional. The JAC's predecessor organisation, the [Judicial Appointments Advisory Board](#), was subject to similar constraints and has been largely ineffective in reducing political influence. Only time will tell if governments are willing to relinquish control over judicial appointments under the new process.

The second measure, the [Judicial Council Bill 2017](#), aims to fulfil a long-standing demand of the judiciary to create a judicial council (modelled on similar bodies in Australia and Canada) that will be judge-led and will take responsibility for education and training, ethics and standards, judicial representation and – most importantly – judicial discipline. There is currently no way of disciplining Irish judges other than impeachment (which has never been used). The need for a Judicial Council and the outline that it should take have been accepted across politics and the judiciary for at least 15 years. Nonetheless, successive bills on the subject have failed to pass through the *Oireachtas*, often (it appears) because of lack of political urgency. The current bill may suffer the same fate.

Electoral reform in Italy

After months of delay, a new electoral law for the Italian parliament has been approved. The proposal is supposedly [based on the 'German-style' mixed system](#). At [first glance](#), it looks like a predominantly proportional system: one-third of seats would be allocated in single-member districts, and two-thirds in multi-member list areas. However, unlike in Germany, electors would be allowed to cast only one vote. Hence, they could not vote for a district candidate from one party and a different party's regional list. Moreover, party lists are closed; the Constitutional Court has previously ruled closed lists to be unconstitutional, as they prevent a choice among individual candidates – though it has said that they may be valid if the regions are small enough and the lists therefore do not contain too many names.

The parliamentary passage of the legislation was eventful: in the Chamber of Deputies the government asked for three separate confidence votes on different articles (a highly controversial practice in the case of an electoral law, which has been [contested in the past](#)). The Chamber eventually passed the proposal by 372 votes to 215 in a final 'secret ballot', with between [30 and 50 'franchi tiratori'](#) (government MPs who voted against the proposal and remained unidentified). On the day of the vote, [public protests](#) led by the populist Five Star Movement took place just outside the Chamber of Deputies. It was [agreed](#) by the Senate on 26 October, meaning that it will be in use for the election that must take place by May 2018.

People on the move

Lord (Martin) Callanan has been appointed as a minister at the Department for Exiting the European Union, replacing **Baroness (Joyce) Anelay of St Johns**, who resigned citing the worsening of an injury.

Sir Vince Cable has become Leader of the Liberal Democrats unopposed, following the resignation of Tim Farron in the aftermath of the general election.

Jo Swinson took up the position of Deputy Leader, also unopposed. **Henry Bolton** was elected as UKIP's third new permanent leader in just over 12 months, succeeding **Paul Nuttall**. **Kezia Dugdale** has stepped down as leader of the Scottish Labour Party.

Lord Blencathra (the former MP David Maclean) has become chair of the House of Lords Delegated Powers and Regulatory Reform Committee (DPRRC), replacing fellow Conservative **Baroness (Janet) Fookes**. Labour's **Baroness (Ann) Taylor of Bolton** has replaced Conservative **Lord (Ian) Lang of Monkton** as chair of the Constitution Committee.

Philip Rycroft has taken over as Permanent Secretary of the Department for Exiting the European Union. His predecessor, **Oliver Robbins**, continues as the lead civil servant in the Brexit negotiating team but now reports directly to **Theresa May**. **Peter Lee** is the new Director of the Constitution Group at the Cabinet Office, succeeding **Lucy Smith**.

Sir Ian Burnett was appointed as Lord Chief Justice of England and Wales on the retirement of **Lord Thomas of Cwmgiedd**. Shortly afterwards he was awarded the customary peerage. In the Supreme Court, **Lady Hale** has succeeded **Lord Neuberger** as President, and is no longer the only female Justice. **Lady Black** is one of three new Justices, the others being **Lord Briggs** and **Lord Lloyd-Jones**.

Murray Hunt has been appointed as Director of the Bingham Centre for the Rule of Law, taking over from **Christina Murray**. Former Clerk of the House of Commons **Sir Malcolm Jack** has become the first President of the Constitution Society. **Cristina Leston-Bandeira** has replaced **Philip Cowley** as co-editor of the journal *Parliamentary Affairs*.

Constitution Unit news

Citizens' Assembly on Brexit

In September and early October, the Constitution Unit led a team, also including the [Centre for the Study of Democracy](#) at the University of Westminster, the University of Southampton, [Involve](#) and the [Electoral Reform Society](#), that hosted a [Citizens' Assembly on Brexit](#). The Assembly was a group of 50 people, selected randomly to be broadly representative of the UK electorate, who met over two weekends in Manchester to consider their priorities for Brexit, learn about and deliberate on the options (focusing on trade and migration), and draw out recommendations.

The Assembly was a huge success. All of those who signed up to attend [did so](#). They engaged in two very rich weekends of constructive and amicable discussions. They heard from a balanced set of experts, all of whose contributions they greatly valued. They reached conclusions that were consistent and provided a coherent vision of the kind of Brexit that most Assembly members would like to see.

The Assembly concluded in favour of a bespoke trade deal between the UK and the EU. If no such deal is possible, however, the substantial majority of members would prefer to stay in the Single Market and Customs Union than to leave with no deal. The members wanted the UK to maintain free movement of labour between the UK and the EU, but to introduce a range of measures permitted within Single Market rules that would limit immigration, particularly by those who cannot support themselves financially. Full details are available in the Assembly's [summary report](#).

The next phase of the project seeks to spread awareness of the lessons that can be learnt. The Citizens' Assembly on Brexit has gone further than any previous exercise in illuminating what people want from Brexit when they have had the chance to learn about and discuss the issues in depth. On the principle that policy decisions in a democracy should be rooted in public opinion, and that public opinion should, so far as possible, be informed and considered, Assembly members' views on Brexit hence deserve to be listened to and taken seriously.

In addition, the Assembly shows the value of deliberative approaches to democratic politics. The project team strongly wants to encourage further examination of how a variety of deliberative mechanisms could be used to foster deeper public participation and better policy-making across a range of issues.



The members of the Citizens' Assembly on Brexit. © Cade Hannan.

Independent Commission on Referendums

The Unit has established an [Independent Commission on Referendums](#) comprising twelve senior figures from politics, public service, the media, regulation, and academia, to consider the role that referendums should play in the UK's democratic system and how referendums should be conducted. It is examining, for example, when referendums might or might not be desirable, whether they should be subject to additional safeguards, what role governments should play during campaigns, and how the quality of information available to voters during campaigns could be improved.

The Commission is chaired by former senior civil servant Sir Joseph Pilling. Its members are former Anglican Archbishop of Armagh Lord (Robin) Eames, Conservative MP and former Secretary of State for Wales Cheryl Gillan, Conservative MP and former Attorney General Dominic Grieve, former Head of BBC Political Programmes Sue English, Labour MP Seema Malhotra, senior pollster Deborah Mattinson, media specialist Dr Martin Moore, political theorist Professor David Runciman, former Labour MP and chair of the Vote Leave campaign Gisela Stuart, former Electoral Commission chair Jenny Watson and former SNP MSP Andrew Wilson.

The Commissioners met for the first time on 16 October, and will meet monthly until early next summer. Their diverse expertise on referendums and politics in the UK will be supplemented by detailed comparative research

carried out within the Constitution Unit. We expect that the Commission's final report will be published in June 2018.

The Commission has launched an expert consultation to seek views on the issues within its remit, which will close on 1 December. Any *Monitor* readers who have not been invited to participate but would like to do so are welcome to write to Jess Sargeant, via icreferendums@ucl.ac.uk, explaining their relevant expertise.

EU (Withdrawal) Bill coalition

The Unit is working in collaboration with the [Bingham Centre for the Rule of Law](#) in supporting an [Expert Working Group](#), chaired by former Conservative Attorney General Dominic Grieve MP, exploring the rule of law issues in the European Union (Withdrawal) Bill. Group members include several eminent parliamentarians, legal specialists and senior figures from key organisations such as the [Hansard Society](#), [Justice](#) and the [Institute for Government](#). The Group will publish briefings on the bill, as well as working with parliamentarians on how it might be improved from a rule of law perspective.

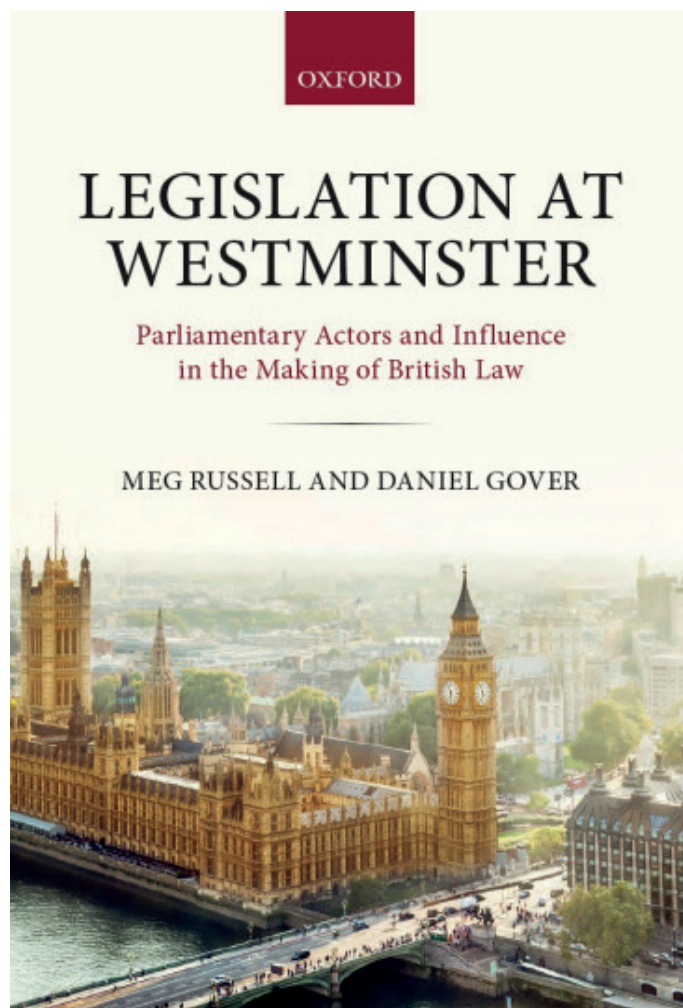
New book: *Legislation at Westminster*

Late August saw publication by Oxford University Press of Meg Russell and Daniel Gover's book [Legislation at Westminster: Parliamentary Actors and Influence in the Making of British Law](#). This is the final scheduled product of the Unit's [Nuffield Foundation-funded project](#) on parliament's impact on legislation. The book is based on careful study of the passage of 12 government bills through both parliamentary chambers, including analysis of over 4000 amendments and more than 100 interviews with key participants. It is structured by different 'actors' in the legislative process (government, government backbenchers, opposition, non-party parliamentarians, select committees and pressure groups) as well as including introductory chapters on the legislative process, an analysis of cross-party working, and a substantial conclusion about the nature of parliamentary influence at and beyond Westminster.

The book's findings (which were summarised on the [Constitution Unit blog](#)) challenge some common assumptions about parliament and its role. Westminster is often seen as relatively non-influential on legislation,

and is even sometimes dismissed as a 'rubber stamp', which simply approves proposals made by government. But close inspection shows this to be simplistic. While most bills agreed are government bills, and most amendments made are also proposed in the name of ministers, many government amendments respond to non-government concerns in parliament. Additionally, government puts significant planning into ensuring that bills are 'parliament-ready' and that likely concerns have been addressed at early stages; parliamentarians also frequently put issues onto the policy agenda, influencing proposals in future government bills. The book proposes that there are six 'faces' of parliamentary power on legislation, only one of which is forcing amendments.

A highly successful launch party was held on Monday 16 October, kindly hosted by the House of Commons Speaker, John Bercow, in his apartments. A [public seminar](#) discussing its contents takes place on 15 November. For details of the book, and to purchase at a 30% discount (applicable until 31 December 2017) visit its dedicated [web page](#).



New report on pre-appointment scrutiny hearings

In July a [new Unit report](#) was published on the impact of parliamentary scrutiny of public appointments. The report, by Robert Hazell, Turan Hursit, Harmish Mehta and Peter Waller, finds that pre-appointment scrutiny hearings, which Commons select committees hold with preferred candidates for the most senior public appointments, can have real impact. Since the system was introduced in 2007, there have been cases where candidates have not been appointed as a result of hearings, and others where they have been forced to resign. The conclusions have been summarised on the [Constitution Unit blog](#).

Research volunteers

The Unit is grateful for the hard work and diligence of our research volunteers in summer 2017: Brad Albrow, Jessica Bryant, Alex Diggins, Linda Hien, Georgina Hill, Aleksei Opacic, Marc Phoon, Naveen Saini and Susanna Smith.

News from Constitution Unit Fellows

Cambridge Institute for Public Policy

Michael Kenny took up the post of Professor of Public Policy at the University of Cambridge in June 2017. He is the inaugural Director of the [Cambridge Institute for Public Policy](#), which will conduct high-level policy research and advanced training (incorporating the well-established M.Phil in Public Policy, which Professor Kenny will direct). It will bring together research and researchers from different parts of the University, and stimulate further research collaboration in three broad areas: place and public policy; science and the future of democracy; and re-inventing government (with a brand-new programme on digital government soon to be launched).

Professor Kenny is also a co-investigator on a new ESRC-funded project, working with colleagues in universities across the UK and the Republic of Ireland – ‘Between Two Unions: The Constitutional Future of the UK and Ireland after Brexit’. Led by Professor

Michael Keating from the University of Aberdeen, this research programme will explore changing constitutional relationships across the UK and Ireland in the context of Brexit.

The institutional representation of parliament

The journal *Political Studies* has published a [new article](#) by Cristina Leston-Bandeira (Constitution Unit Fellow and Professor of Politics at the University of Leeds) and David Judge (Emeritus Professor of Politics at the University of Strathclyde). The article is titled ‘The institutional representation of parliament’ and stems from a [comparative ESRC project](#) led by Professor Leston-Bandeira, which explored how parliaments conceptualise and manage their public image, focusing on five European legislatures.

In the new article the authors explore what they term the second dimension of parliamentary representation: institutional representation. Recent theoretical re-conceptualisations of political representation and contemporary empirical analyses of parliamentary representation have largely neglected the representation of parliaments as institutions. As a consequence, relatively little attention has been paid to what is being communicated to citizens about parliaments and upon the nature of the parliamentary institutions that citizens are expected to engage with.

Using interview data from 39 key actors in the Scottish, Westminster and European Parliaments, the authors analyse who act as ‘claim-makers’ on behalf of parliaments, the nature of these claims in different political contexts, and the ‘symbolic intent’ and claims associated with the architectural design of parliamentary buildings. They identify a basic paradox of institutional representation in that those who ‘speak for’ (most loudly and most persistently) and ‘act for’ parliaments as institutions are not primarily elected representatives but rather non-elected officials. The article’s key findings in relation to the UK parliament have been [summarised on the Constitution Unit blog](#).

Bulletin Board

Events

To sign up for our events, please visit the Constitution Unit [events page](#). Seminars are free and open to all.

Legislation at Westminster: the impact of parliament on government bills

Professor Meg Russell, co-author of *Legislation at Westminster* and Director of the Constitution Unit; **Daniel Gover**, co-author of *Legislation at Westminster* and Research Fellow at Queen Mary University of London; **David Natzler**, Clerk of the House of Commons; **Baroness (Patricia) Hollis**, Labour member of the House of Lords.
15 November 2017, 6pm, Committee Room 16, House of Commons, London, SW1A 0AA. [Register](#)

Organising a snap election: at the centre, on the ground and in parliament

Claire Bassett, Chief Executive of the Electoral Commission; **Frances Biggs**, Deputy Returning Officer at the London Borough of Southwark; **Simon James**, Deputy Director, Elections Division at the Cabinet Office; **Paul Evans**, Clerk of Committees at the House of Commons.
20 November 2017, 1pm, Council Room, Department of Political Science, UCL, 29–30 Tavistock Square, London, WC1H 9QU. [Register](#)

Citizens' Assembly on Brexit: what kind of Brexit do people want?

Speakers to include **Dr Alan Renwick**, Director of the Citizens' Assembly on Brexit and Deputy Director of the Constitution Unit; **Sarah Allan**, Design and Facilitation Lead for the Citizens' Assembly on Brexit; **Professor Anand Menon**, Director of UK in a Changing Europe; **Catherine Barnard**, Professor of EU Law at the University of Cambridge. **13 December 2017, 6pm**, UCL, room tbc.

Unit in the news

Alan Renwick wrote an article setting out the key issues to be considered by the Independent Commission on Referendums ([Daily Telegraph](#), 16 Aug).

The chair of the Independent Commission on Referendums, Joe Pilling, and Alan Renwick were interviewed by various BBC outlets, including Radio Four's *Today* programme, on the day of its launch (see links [here](#), 16–17 Aug).

Alan Renwick argued that a citizens' assembly could play an important role in settling major issues arising from Brexit, ahead of the first meeting of the Citizen's Assembly on Brexit ([Politics.co.uk](#), 29 Aug, and [The Times](#), 4 Sep).

Alan Renwick's research was cited in a BBC Reality Check article on whether referendums bring about change ([BBC Reality Check](#), 26 Sep).

Alan Renwick was quoted in an article that reported the outcomes of the Citizens' Assembly on Brexit ([The Irish Times](#), 2 Oct).

The findings of the Citizens' Assembly on Brexit were reported in a *Financial Times* article ([Financial Times](#), 3 Oct).

Alan Renwick was interviewed about the conclusions of the Citizens' Assembly on Brexit (Jazz FM, 4 Oct).

The first meeting of the Independent Commission on Referendums was mentioned in the Times Red Box daily e-mail (Times Red Box, 16 Oct).

Meg Russell was quoted on how parliament might secure a binding vote on Brexit terms in an article speculating about how a 'no-deal' Brexit might lead to Jeremy Corbyn becoming Prime Minister ([Prospect](#), 18 Oct).

Meg Russell was a guest on the Guardian's Politics Weekly podcast, discussing Theresa May's ability to govern without a majority ([The Guardian](#), 24 Oct).

Bulletin Board

Alan Renwick wrote an article about how the Citizens' Assembly on Brexit's conclusions demonstrated a lack of public support for 'no deal' ([Prospect](#), 25 Oct).

Jennifer Hudson was quoted about Parliamentary Candidates UK research on harassment received by parliamentary candidates at the 2017 election ([Daily Telegraph](#), 28 Oct).

Select committee appearances

Alan Renwick gave evidence to the Home Affairs Committee on the Citizens' Assembly on Brexit's conclusion in relation to immigration (see [here](#), 31 Oct).

Unit publications

Meg Russell and Daniel Gover, [Legislation at Westminster: Parliamentary Actors and Influence in the Making of British Law](#) (Oxford University Press, August).

Robert Hazell, Peter Waller, Turan Hursit and Harmish Mehta, [Improving Parliamentary Scrutiny of Public Appointments](#) (Constitution Unit report, July).

Citizens' Assembly on Brexit, [Summary Report](#) (October).

Petra Schleiter, Valerie Belu and Robert Hazell, '[Hung Parliaments and the Need for Clearer Rules for Government Formation](#)', *Political Quarterly* 88:3 (July), pp. 404–411.

Alan Renwick, '[Electoral Reform: What Do Political Scientists Know That Practitioners Do Not? Lessons from the UK Referendum of 2011](#)', *Electoral Law Journal* 16:3 (September), pp. 341–348.

Publications to note

Geoffrey Evans and Anand Menon, [Brexit and British Politics](#) (Wiley, October).

Hansard Society, [Taking Back Control for Brexit and Beyond: Delegated Legislation, Parliamentary Scrutiny and the European Union \(Withdrawal\) Bill](#) (Hansard Society report, September).

Sarah Ayres, Mark Sandford and Tessa Coombes, '[Policy-making "front" and "back" stage: Assessing the implications for effectiveness and democracy](#)', *British Journal of Politics and International Relations* online advanced access (July).

Sarah Ayres, Matthew Flinders and Mark Sandford, '[Territory, power and statecraft: understanding English devolution](#)', *Regional Studies* online advanced access (September).

David Judge and Cristina Leston-Bandeira, '[The institutional representation of parliament](#)', *Political Studies* online advanced access (September).

Contributors to Monitor 67

Roberta Damiani, Jim Gallagher, Daniel Gover, Robert Hazell, Michael Kenny, Jac Larner, Cristina Leston-Bandeira, Patrick O'Brien, Alan Renwick, Meg Russell, Mark Sandford, Jess Sargeant, Alan Whysall and Nick Wright.

The issue was edited by Jack Sheldon.

